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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County
Honorable Roger L. Couch, Circuit Court Judge

ORIGINAL

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ORLANDO MARTINEZ COLEMAN

APPELLANT

APPELLATE CASE NO. 2015-000611

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #2 (RECORDING OF STATEMENTS)**

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) SIXTEENTH JUDICIAL CIRCUIT
 COUNTY OF YORK) CASE NO.: 2014-GS-46-03857
 03858
 STATE OF SOUTH CAROLINA)
) TRANSCRIPT OF RECORD
)
 VS) (DAY 1 - VOLUME I)
)
 ORLANDO MARTINEZ COLEMAN) (PAGES 1 - 65)

March 16, 2015
 YORK, SOUTH CAROLINA

BEFORE THE HONORABLE ROGER COUCH

APPEARANCES:

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SHIRLEY BROOM
 16TH Circuit Court Reporter

1 MS. O'HAYON - May it please the Court.

2 THE COURT - Yes, ma'am, you may call the cases.

3 MS. O'HAYON - Your Honor, we call the State vs.
4 Orlando Coleman, Indictment Number 2014-GS-46-03857 and
5 3858.

6 THE COURT - All right. Counselor, I have been
7 presented with copies of the indictments. The two
8 indictments are both for criminal sexual conduct with a
9 minor in the first degree, and they are, I think, different
10 -- just one second -- (pause) -- they involve the same
11 victim. Is that right?

12 MS. O'HAYON - That is correct, Your Honor.

13 THE COURT - Okay. Now, has your client been
14 arraigned on these indictments?

15 MS. ANDERSON - Yes, Your Honor, he has.

16 THE COURT - And I assume he's pleading not
17 guilty?

18 MS. ANDERSON - That is correct, Your Honor.

19 THE COURT - And demanding a trial by a jury. Is
20 that also correct?

21 MS. ANDERSON - Yes, Your Honor.

22 THE COURT - All right. Now, we had a brief
23 conference in my chambers at which time the attorneys made
24 me aware that this case had been pre-tried earlier by Judge
25 Mark Hayes and that Judge Hayes had made several rulings.

1 MS. ANDERSON - Thank you, Your Honor. Your
2 Honor, the sixth motion, motion to exclude any testimony
3 regarding additional allegations for which the defendant is
4 not presently on trial and within that a motion to exclude
5 testimony of alleged flight evidence intertwined with an
6 un-indicted charge that is not at issue in this trial.
7 Your Honor, Mr. Coleman was originally charged with a
8 resisting arrest. He's not at this point been indicted.
9 The State did not notice me to go to trial on that. At the
10 prior pre-trial the State indicated they would not be
11 seeking to introduce any of that evidence or elicit any
12 testimony about the allegations of the resisting arrest or
13 any potential flight evidence in connection with that.

14 THE COURT - Is that still the case, Ms. O'Hayon?

15 MS. O'HAYON - Yes. Your Honor, we don't intend
16 to put in ---

17 THE COURT - All right, yes, ma'am?

18 MS. ANDERSON - Your Honor, the seventh motion is
19 motion to quash the indictment pertaining to the second
20 alleged incident on the ground the indictment and the
21 information provided by the State regarding this incident
22 fails to provide sufficient notice to adequately and
23 effectively defend against the allegations. I had to
24 phrase it this way as to -- both indictments, Your Honor,
25 as to the same sort of time/date range, so I'm not sure as

1 to which specific one pertains to the second alleged
2 incident. That's the way I phrased it with that. Your
3 Honor, my position would be based on the fact that the
4 initial sort of report in the allegation of the case in
5 which I anticipate -- let me back up that. The initial
6 police report indicated an allegation of two incidents
7 occurring some time around the summer of 2011. During the
8 course of the State's work on the case and preparation of
9 the case, they have turned over to me information from
10 subsequent meeting with witnesses and I think have
11 disclosed all -- any inconsistencies that were disclosed to
12 them. During the course of that, the timeline of when this
13 is allegedly happened has shifted over time. The more
14 recent communications have been that the allegations are
15 now as to -- which I would anticipate would be testified to
16 but do not know for certain until it happens -- is that one
17 incident was alleged to have happened between May 13th, 2011
18 and some time in I believe November of 2011. That would
19 correspond to the time according to a lease obtained by the
20 State that Mr. Coleman and his mother resided at Pace's
21 River Apartment which is the alleged incident site. That
22 then -- that would be the first incident. As to the second
23 alleged incident, that is now being indicated to have
24 occurred some time after Mr. Coleman moved out of Pace's
25 Rivers Apartment some time perhaps within a timeframe I

1 suppose of after November until June 2000 -- June 15, 2012,
2 the end date on indictment which is my understanding of
3 when the Pattersons moved out of Pace's River. Your Honor,
4 based on the sort of recent case law, my argument would
5 just be that as to the shifting of the date puts the
6 defense at difficulty. I understand the limitations of
7 these cases, that it is frequently difficult to date -- to
8 pinpoint a specific day of the week, a specific date, but
9 when it becomes sort of a shifting sort of what year, what
10 season, as a sort of a shifting over the course of the
11 case, that that would arise to a level that the defense
12 cannot or has difficulty comparing a defense because we
13 don't know when we're defending against. If there's
14 potential alibi defense, we couldn't pinpoint that, and
15 we're not exactly sure at this point as to which time range
16 as to the second alleged incident would be.

17 MS. O'HAYON - Your Honor, the -- I've tried to
18 get the nine year old victim to narrow down the timeline,
19 however, she can't remember dates. We've been able to
20 narrow it down based on the fact that the defendant moved
21 in in May, 2011; he moved out some time I believe actually
22 in January of 2012 or maybe the end of December, 2011.
23 That's how far the lease goes. And the victim's family did
24 not leave, did not move out until June of 2012. Her
25 statement was that one incident happened, he went away and

1 came back and then the second incident happened. I'm not
2 certain what he went away and came back means, because she
3 doesn't know where he went away, and so that I have no way
4 of tracking down where it is he went away to, and so I
5 don't -- I can't narrow down the timeline any more than
6 that, so I've asked her before, you know, in an attempt to
7 get any sort of information about season and about, you
8 know, whether she was in school, whether she was not in
9 school, whether -- she doesn't really remember those
10 details consistently. She just remembers that they were
11 outside playing, so the weather must've been nice enough
12 for them to be outside playing.

13 MS. ANDERSON - And, Your Honor, if I could just
14 for the -- I reference -- I have the case in front of me
15 now, just to put on the record, the case I was referencing
16 was State vs. Mark Baker, Opinion No. 27497, which was
17 filed by the Court of Appeals of South Carolina on February
18 the 11th, 2015. I apologize for missing that.

19 THE COURT - 2000 and what? 15?

20 MS. ANDERSON - 15, Your Honor.

21 MS. O'HAYON - And, Your Honor, the defendant's
22 own statement to law enforcement is that he did live there
23 and then that he had went away and came back and had hung
24 out with her after he had gone away and come back.

1 THE COURT - But his statement doesn't give you
2 any indication as to when the second coming was?

3 MS. O'HAYON - He doesn't say when he went away
4 and came back. It's just -- and I don't want to make any
5 assumptions based off his statement. The way his statement
6 sounds is he lived there, they moved out and then he
7 started coming back and hanging out with people there, and
8 then he left again to go to some challenge academy in July.
9 At that point in July, the victim's family has already
10 moved out, so he's definitely there again some time in 2012
11 after he has moved out. He's still hanging out with her.

12 THE COURT - So you're taking the position that
13 the first of the indictments numerically is the first
14 incident?

15 MS. O'HAYON - Yes, and she remembers the first --
16 -

17 THE COURT - And the second numerically is the
18 second incident, both of which occurred at some point in
19 time between May 13th 2011 -- your allegation is -- and June
20 15th, 2012.

21 MS. O'HAYON - Correct.

22 THE COURT - Okay. I think I understand the
23 situation. I'll take a look at the case.

24 MS. ANDRESON - Yes, Your Honor.

1 THE COURT - I'm familiar with the case but hadn't
2 read it in detail as far as this is concerned, so I'll take
3 a look at it. All right, other motions?

4 MS. ANDERSON - Yes, Your Honor, motion eight
5 would be motion to determine the existence and
6 admissibility of any prior bad acts and other bad acts the
7 State may seek to introduce under Rules 403(B) of the South
8 Carolina Rules ---

9 THE COURT - State intend to use any Lyle
10 evidence?

11 MS. O'HAYON - Your Honor, we don't believe that
12 the evidence we tend to introduce will be considered Lyle,
13 because we don't believe it's a prior bad act, and so I did
14 out of an abundance of caution inform the defense attorney
15 this is the type of information that I'm planning to
16 present so you are aware of it. I don't think it's
17 considered a prior bad act, but I don't want there to be
18 any sort of ---

19 THE COURT - So what is it?

20 MS. O'HAYON - Essentially there are two
21 maintenance workers that -- who used to work at Pace's
22 River when the defendant was living there at the time, and
23 they remember observing -- and they don't remember his
24 name, so we can't -- I can't link him to that by his name,
25 but we do believe it's the same defendant based on other

1 Ms. ANDERSON - Yes, Your Honor. Your Honor, 11
2 was motion to restrict any witness from offering testimony
3 that amounts to bolstering and/or vouching for the
4 credibility of the victim. Your Honor, I think that would
5 be dealt with in any sort of proffer as to the expert
6 witness and/or the forensic interviewer ---

7 THE COURT - I think we're planning on doing that
8 in the morning.

9 MS. ANDERSON - Yes, Your Honor. And I think we
10 have already covered in the sort of redaction discussion.
11 regarding the case agent, Detective Thomas. There was some
12 initial vouching or bolstering as to that. I think that's
13 covered in terms of -- my anticipation is that the State is
14 -- he won't be testifying as to anything that was said on
15 the tape. And then, Your Honor, additionally, we said we
16 would handle the admissibility of the out-of-court
17 statement or the forensic video tomorrow, so that would be
18 my motions.

19 THE COURT - That's right. Okay. All right, any
20 other matters that we need to take up pre-trial at this
21 time?

22 MS. O'HAYON - Your Honor, I -- you know, forgive
23 me, I think I missed it. You had made a ruling
24 specifically about the second alleged indictment. Have you
25 made a ruling about ---

1 THE COURT - I'm going to -- my law clerk is
2 reading the case that was quoted to me right now. I think.
3 And he and I are going to talk about it in a second.
4 Anything else?

5 MS. O'HAYON - No, Your Honor. If you want to do
6 the proffers of the maintenance workers, we can ---

7 THE COURT - I want to read this case first.

8 MS. O'HAYON - Okay, that's fine. All right,
9 thank you.

10 THE COURT - All right, I'll take a short recess.
11 Thank you.

12 MS. ANDERSON - Yes, sir, Your Honor.

13 (WHEREUPON, RECESS TAKEN)

14 THE COURT - All right, we're back on the record
15 in the case of the State of South Carolina vs. Orlando
16 Martinez Coleman. I've had an opportunity to review the
17 indictments and question in this case as well as have gone
18 over the case of State vs. Baker, a recent Supreme Court
19 case dealing with the sufficiency of indictments. The
20 Court notes that the two indictments in this case, that is,
21 specifically, they are amended indictments that were in
22 cases 2014-3857 and 3858 are both for the offense of
23 criminal sexual conduct with a minor in the first degree.
24 In reading the two indictments, both indictments read
25 exactly the same. There's no differentiation between the

1 two indictments as to what specific event or allegations
2 are being made as to when they occurred within the
3 timeframe of May 13, 2011 to June 15 of 2012. Now, in
4 reviewing the Baker case and presented with questions
5 concerning the appropriateness of an indictment, the Court
6 is charged with determining whether the offense stated in
7 the indictment is stated with sufficient certainty in
8 particularly so as to enable the Court to know what
9 judgment to pronounce and the defendant to know what he is
10 called upon to answer and whether or not he may a plea
11 (sic) an acquittal or a conviction thereon, and then
12 secondly whether it apprises the defendant in the elements
13 of the offense that is intended to be charged. In doing
14 that, the Court went on to quote from the State v. Gentry
15 and State v. Tumbleston, as well as State vs. Wade, and it
16 said that in determining whether an indictment meets the
17 sufficiency standard, the Trial Court must look at the
18 indictment with a practical eye in view of all surrounding
19 circumstances. In doing so I am to look at the surrounding
20 circumstances that existed pre-trial in order to determine
21 whether a given defendant has been prejudiced or taken by
22 surprise and hence unable to combat the charges against
23 him. So what I'm -- in our discussions earlier, it's clear
24 to me that this case has somewhat morphed, I guess, as it's
25 gone along. There was one indictment that's been replaced

1 by these amended indictments, so I'm going to ask the State
2 to put on the record the process through which the
3 indictment process has proceeded in this case, so as I can
4 take a look at the all surrounding circumstances including
5 pre-trial matters that have gone into the creation of the
6 indictments. So I'll ask the State to go over that with
7 me. Once the State's completed that, I'll be happy to hear
8 from the defense on this matter. Yes, ma'am?

9 MS. O'HAYON - Thank you, Your Honor. The case
10 came in originally as one charge, one warrant. In the
11 incident report it did allege two different incidents, a
12 staircase incident and a tennis court incident. While
13 discussing plea offers, I had offered to the defense that
14 if he pleads to the one charge, I will not indict the
15 second charge; I will not make him plead to a second
16 charge. It would just be the one charge and that's it, but
17 if he were to reject that offer, that I did intend to go to
18 trial on two counts, one for each, the staircase and for
19 the tennis court. When I had originally indicted the case,
20 I indicted it as two indictments. That was back in
21 December. The original indictments were both pretty much
22 essentially the same thing as the amended indictment except
23 that they started back in 2010, and I based the indictment
24 based on the one consistent thing that I knew, was that the
25 victim lived there during both incidents. At the time I

1 didn't know when the defendant had moved into Pace's River,
2 so I could not narrow it down. So the original indictments
3 were for 2010 to 2012. After we attempted to take it to
4 trial the first time on January 12th, I was able to get a
5 hold of a lease that -- for the defendants when he lived at
6 Pace's River and the lease started in May of 2011. At that
7 point I knew that it could not have happened before then,
8 because he was not living then. (sic) So I had amended the
9 indictment in February after, you know, telling the defense
10 attorneys that I was going to amend the indictment to
11 narrow it down. So I've narrowed it down at this point to
12 May of 2011 into June of 2012 from the time that the
13 defendant moved in to the time that the victim moved out.
14 It's always been a possibility that at least one of the
15 incidents happened in 2012. The only thing that I can
16 differentiate in terms of time is that the victim says, one
17 incident happened, the defendant went away for some time,
18 and then he came back and the second incident happened.
19 She's not clear about where he went away, because she
20 doesn't -- she doesn't know where he went away, and so she
21 doesn't know when it is or where he went to and when he
22 came back.

23 THE COURT - Now, as to the two indictments that
24 I'm presented with, you referred to one of them as a
25 staircase incident and one as a tennis court incident.

1 MS. O'HAYON - Correct.

2 THE COURT - Does the victim differentiate it as
3 to which occurred first?

4 MS. O'HAYON - Yes, Your Honor, the victim ---

5 THE COURT - Which occurred first?

6 MS. O'HAYON - The staircase incident.

7 THE COURT - And then the second incident was at a
8 tennis court.

9 MS. O'HAYON - Correct.

10 THE COURT - Okay. So numerically, I think -- you
11 had told me that the first incident would be covered by
12 3857 and that the second incident would be 3858.

13 MS. O'HAYON - Correct, Your Honor.

14 THE COURT - Okay. I'll hear from the defense
15 concerning this matter as far as the lead-up to the issues
16 of the indictments, what knowledge you may have and what,
17 if any, prejudice might exists to the defendant given the
18 status of the indictments.

19 MS. ANDERSON - Yes, Your Honor. May it please
20 the Court. Your Honor, to give the background somewhat
21 from the defense perspective, as the State wrestles, (sic)
22 there was originally one charge, one warrant. That warrant
23 on the top of the warrant stated an alleged incident date
24 of September 11, 2011 -- excuse me -- September 1st, 2011.
25 During the discovery, the incident report that I received,

1 it did allege two different incidents. Those indicated as
2 being during the summer of 2011, and that would've been the
3 sort of discovery back around the time of -- around the
4 case coming in in October or November of 2013. The State -
5 --

6 THE COURT - Now, given that incident report, is
7 that what's been referred to as the staircase incident?

8 MS. ANDERSON - Yes, Your Honor, and the incident
9 report did mention one alleged location date of staircase
10 and one as tennis courts.

11 THE COURT - And the first one in the summer of
12 2011 would've been the staircase incident?

13 MS. ANDERSON - Both are alleged to have taken
14 place during the summer of 2011 in the ---

15 THE COURT - In the incident report.

16 MS. ANDERSON - In the -- I was also provided a
17 copy of the forensic interview, which the date of that
18 interview was September 24th, 2013. In the interview
19 there's an allegation of two different incidents made by
20 the child with the first date being alleged on a stairs and
21 a second being alleged on a tennis court with no discussion
22 of time range, date, year, month, day of the week, anything
23 of that nature. Over the course of this case I was made
24 aware that the State alleged the two different incidents,
25 would particularly look at the two different indictments,

1 however, at this point I was still operating under the
2 assumption that the time range was some time in a range of
3 summer of 2011. Based on that, we began investigating the
4 case in regard to that, looking at any possible defenses,
5 any sort of documentation, witnesses, anything of that
6 nature, and that sort of resulted ultimately in obtaining
7 the lease and that. In September of 2014 the solicitor did
8 disclose to me that she had met with the child in
9 preparation of the case, that there were two incidents
10 alleged, the staircase incident and the tennis court
11 incident is how they were termed, that the child at that
12 point -- I believe I'm citing this correctly -- my notes
13 say that they were around the range of January to June of
14 2012, and that at that point as to the second alleged
15 incident, the tennis court incident, during one meeting the
16 child indicated she had been riding her scooter that day,
17 and during the second that she was pretty sure she was not
18 riding her scooter that day. The State did turn all of
19 that over to me as potential Brady evidence or inconsistent
20 statements. In January of 2015 received more notification
21 from the State that the State believed that the child was
22 saying she believed it happened in 2012, that that was
23 based on her saying she was in first grade and her school
24 year for first was 2011 to 2012, also mentioning some
25 activities around her birthday in April, but that when the

1 State looked into it, it was referenced to a movie -- going
2 to seeing the movie, Hop, but when the State looked into
3 it, that actually was in 2011-2012, so that the State
4 disclosed that the child was alleged (sic) in 2012, but
5 they believed she was actually referencing a time period in
6 2011. So again, still at that point, the defense was
7 operating on the assumption that both the indictments
8 alleged incidents in a time range in the year 2011. There
9 was a statement -- again, a correspondence from the State
10 again in January of this year indicating a reference of the
11 child possibly thinking it happened once before her
12 birthday and one after, that the child could not give any
13 indication of a season when it happened, a day of the week,
14 could not remember whether or not she was in school at the
15 time. There was also information regarding she was not
16 allowed to play outside without I believe adult supervision
17 until her cousins moved in who had moved in, I believe,
18 some time a time period possibly from March to June 2011.
19 And again, at that point my understanding is the State's
20 theory was still both alleged to have happened in 2011. At
21 that point, I believe, Your Honor, and I don't want to be
22 incorrect, that was just prior to the start of the first
23 time we began this trial on January of 2012. We started
24 through the pre-trial; the jury was not sworn; I became ill
25 during the course of that trial and Judge Hayes continued

1 that trial at that time. We were scheduled to start
2 another trial date in February ---

3 THE COURT - That was in 2015.

4 MS. ANDRESON - Of this year, yes, Your Honor.

5 THE COURT - Okay.

6 MS. ANDERSON - That was delayed through Court
7 being cancelled due to weather issues. At some point in
8 course of that -- and I don't have the specific notes as to
9 dates -- I apologize to the Court -- but at some point the
10 State contacted me. We talked again about the two
11 allegations, the two allegations by the child, and that
12 became at this point an allegation of one incident
13 occurring in 2011 and then another incident possibly in
14 2012. That became the sort of the child referencing that
15 Mr. Coleman went away and came back. So at that point the
16 sort of defense's understanding of the case or the
17 allegations changed sort of prior to all of the prior
18 defense work of believing that the allegations were alleged
19 in a -- some sort of six month roughly time period in 2011
20 to the them now being split over the course of two years.
21 The documentation -- the documentation regarding I think
22 utility records, as well as a lease provided by the State,
23 does indicate that the Colemans resided in Pace's River
24 from May of 2011 to November of 2011, so at that point the
25 case changes to put other potential allegations, a second

1 incident as being alleged some time after that, which puts
2 the defense in a different position of where defending
3 against allegations alleged where he's residing there. He
4 was 17 years old at the time. He did not have a driver's
5 license, did not have a vehicle, so to have it some sort of
6 after he's left and no longer lives there is a different
7 situation in terms of preparing a defense when we do not
8 know what month it was alleged to have happened in, what
9 day of the week, whether it was during a school year,
10 whether it was a weekend, whether it was during a time
11 period where Mr. Coleman had access to transportation,
12 whether it was during a time period when his mother was at
13 -- all these sort of variables of even as to potential
14 alibi defense as to whether he was even on the property at
15 the time that the child could have alleged it happened. So
16 that's the basis of my motion as to the second incident,
17 because the second incident is the one that has
18 dramatically changed over the course of the case even after
19 the point of preparing of the defense, and while the State
20 has turned that information on ---

21 THE COURT - Well, there's never been a -- the
22 victim's never claimed a specific date for the second
23 incident. Is that right?

24 MS. ANDERSON - Not a specific date, no. There
25 has been time ranges ---

1 THE COURT - There's been efforts to try to
2 identify what date, ---

3 MS. ANDERSON - Yes, Your Honor.

4 THE COURT - --- and that may have changed given -
5 - her story may have changed. I don't know what changed.

6 MS. ANDERSON - Yes, Your Honor.

7 THE COURT - But something changed. All right.
8 Go ahead. I'm sorry. I just didn't think there had ever
9 been a definite date set for either incident.

10 MS. ANDERSON - No, Your Honor. I think the
11 closest is that there have been given about six month time
12 ranges, some pinpointing through other events I think that
13 the State has relayed as to the cousins moving in, Mr.
14 Coleman's residency there, the Patterson's residency there,
15 her birthday events around there, so I think there -- it's
16 gotten within a certain few months at times has been what's
17 relayed but never a specific date, day of the week, time of
18 day, anything of that nature.

19 THE COURT - All right. I'll hear from the State.

20 MS. O'HAYON - So most -- most of that has gone
21 pretty much exactly as defense has stated, however, I -- we
22 did -- I do want to just pull up the e-mail from September
23 that I had sent her.

24 THE COURT - September of last year?

1 MS. O'HAYON - September of last year. Correct.
2 One moment. The one that she's referencing where I had met
3 with the victim and e-mailed her about the Brady issues of
4 her riding with the scooter, not riding with the scooter
5 and mentioned to her that the victim -- the victim herself
6 keeps saying 2012, but she references incidents that
7 happened in 2011. She referenced a birthday gift in 2011,
8 saying that she had received in 2012, but her mom tells us
9 that she received in 2011. She references to go to see a
10 movie in theaters that was not released in 2012, was
11 released in April around her birthday of 2011. So when I
12 first told defense counsel this, I said, she keeps saying
13 2011, I think -- originally I'd said it happened in 2012.
14 As I continued to investigate I found that those incidents
15 actually happened in 2011, I said, I actually think these
16 incidents she's talking about are 2011 -- some ---

17 THE COURT - Hence you have alleged about a one
18 year period in the indictment.

19 MS. O'HAYON - Yes, it's about a 13 month period.
20 And prior to our first attempt to taking this to trial in
21 January, I had mentioned -- we asked the victim why she
22 keeps saying 2012, and she says, because I was in first
23 grade and her first grade school year was from 2011 to
24 2012. Our indictments have always alleged into 2012. It's
25 always been into June of 2012 since December. That has

1 never changed and it's -- I've never narrowed it down to
2 only 2011 since I've indicted it. So -- and I know the
3 incident report originally says summer of 2011 and
4 originally I may have said something where all of the
5 incidents she's talking about happened in 2011, but the
6 indictment was always into 2012 knowing that a child does
7 not know exactly -- knowing that she says first of 2012 and
8 second of all that she doesn't know dates and times, so she
9 might think to -- you know, to herself 2012 and maybe she's
10 right. So I've always indicted it into 2012 knowing that
11 there's a potential, and as soon as I knew that it happened
12 only after he moved in and I found out when that was, I
13 narrowed it down even more.

14 THE COURT - All right, anything further from the
15 State?

16 MS. O'HAYON - No, Your Honor.

17 THE COURT - Defense?

18 MS. ANDERSON - No, Your Honor.

19 THE COURT - All right. As I stated, I am trying
20 to follow the direction in State vs. Baker, and that is,
21 that in making the determination I do have to determine the
22 sufficiency and the particularity of the indictment, such
23 that the defendant knows what he's called upon to answer
24 and whether he may plead an acquittal or a conviction, and
25 at the same time, I am aware of the concern of the dissent

1 in that case, in that quite often small children are
2 confused as to dates, times, places and are unable to
3 specifically state those matters and statements that they
4 give. I'm making an effort at this time to look at the
5 surrounding circumstances that existed pre-trial, and it
6 does appear that the State has made a good faith effort to
7 try to narrow the timeframe which has been alleged and has
8 done so and has a reasonable basis for doing that. I also
9 need to determine whether or not the nature of the
10 indictment serves in any way to prejudice the defendant or
11 take him by surprise against putting him in a position to
12 where he's unable to combat the charges against him. It's
13 going to be my finding that the indictments as stated are
14 sufficient in that regard given the nature of this
15 particular investigation, the development of the facts as
16 they have been developed in what appears to be a good faith
17 effort on the part of the State to narrow the scope of the
18 allegations. I am concerned with the fact that the two
19 indictments, while the attorneys may be aware of what they
20 refer to, basically are the same indictment. So therefore,
21 I am going to amend the indictments only slightly so that
22 the first in number, that is, case number 3857 -- I'm just
23 going to put in parenthesis under where it says criminal
24 sexual conduct with a minor in the first degree, I'm going
25 to refer to that as the staircase incident, and then under

1 that, the same caption in the second indictment I'm going
2 to put in parenthesis tennis court incident so that there
3 is a clear indication as to which -- given the indictments
4 the way they read, if I presented these to a jury and they
5 were required to write separate verdicts on each
6 indictment, I find them to be confusing as they now exists,
7 and I think there needs to be some identification even for
8 the jury as to which incident we're referring to in each of
9 the indictments. So while the attorneys may be aware of
10 that, I do find that that amendment would not change the
11 allegations themselves or the elements that the defendant
12 is required to meet or the dates, but it would provide some
13 differentiation between the indictments for clarity sake,
14 so I will make that amendment myself. All right, anything
15 further before we go into jury selection from the State?

16 MS. O'HAYON - No, Your Honor.

17 THE COURT - From the defense?

18 MS. ANDERSON - No, Your Honor.

19 THE COURT - All right. You can bring the jury
20 panel around. And I believe I understood that the defense
21 has no separate witness list. Is that correct?

22 MS. ANDERSON - That's correct, Your Honor.

23 THE COURT - All right, thank you. The victim's
24 name, how do you correctly pronounce the victim's name?

25 MS. O'HAYON - Victim

1 Court here in York County. I want to thank you very much
2 for your patience this afternoon. We're about to begin the
3 trial of the case of the State of South Carolina vs.
4 Orlando Martinez Coleman. I have been presented with two
5 indictments in this case. Let me explain to you, an
6 indictment is the document that brings the case into this
7 Court. It informs this Court of the charge to be tried.
8 It informs the defendant of the charge that's been lodged
9 against him. However, it is nothing more than that. It is
10 a notice document. It cannot be used by a jury in any
11 manner whatsoever in determining the guilt or the innocence
12 of a defendant charged in the document. I'm going over
13 these documents with you at this point in time so that
14 you'll know a little bit more about what's been alleged in
15 this case, because in just a few minutes I'll be asking you
16 some questions that pertain specifically to this case and
17 the information that I give you might assist you in more
18 fully answering the questions that I'm about to ask you
19 that pertain to this case. Now, I'm not going to read the
20 indictments in full. Both indictments allege the same
21 offense, different incidents, that is, criminal sexually
22 conduct with a minor in the first degree. The indictments
23 that I have received are in cases number 2014-GS-46-3857
24 and 3858. Now, the indictments allege that on or about or
25 between the dates of May 13 of 2011 and June 15 of 2012 in

1 York County, South Carolina, that the Defendant, Orlando
2 Martinez Coleman, did commit the criminal offense of
3 criminal sexual conduct with a minor in the first degree in
4 that he did engage in a sexual battery with a minor victim
5 who was less than 11 years of age at the time of the
6 incident. It does allege a sexual battery occurred as a
7 result of the defendant's actions with a victim known as
8 Brianna (sic) Patterson, and that allegedly occurred in
9 violation of Code Section 16-3-655(A)(1) of the Code of
10 Laws of South Carolina, 1976, as amended. So those two
11 indictments allege those offenses on those alleged dates,
12 and again, I go over that with you simply so that you'll
13 know a little bit more about what's been alleged, and it
14 may assist you in more fully answering the questions I'm
15 about to ask you. Now, before we begin to question you, I
16 do want the attorneys that are involved in the trial of
17 this case to introduce themselves to you and in the case of
18 the defense I would ask that the defendant be introduced to
19 you as well. So first of all for the State, if you'll
20 introduce yourselves to the jury panel for me.

21 MS. O'HAYON - Sharon O'Hayon for the Solicitor's
22 office.

23 MS. JOYNER - My name is Erin Joyner.

24 THE COURT - And for the defense.

1 you've been waiting. So I want to thank you for your
2 patience this morning with the Court. Now, when you left
3 the courthouse yesterday I gave you some instructions
4 concerning how I wanted you to behave. If anyone had any
5 difficulty in complying with the instructions that I gave,
6 please stand.

7 (NO RESPONSE)

8 THE COURT - The record will reflect then that all
9 jurors have been able to comply with my instructions thus
10 far. Now, I told you that upon your return to the
11 courtroom you would be taking an oath concerning your
12 responsibilities as jurors in this case. And at this time
13 I'm going to ask that the clerk please swear the jury panel
14 in this matter. Madam Clerk.

15 (WHEREUPON, THE JURY IS DULY SWORN BY THE DEPUTY
16 CLERK.)

17 THE COURT - Now, if any of you either failed or
18 refused to take the oath that was just administered by the
19 clerk, please stand.

20 (NO RESPONSE)

21 THE COURT - The record then will reflect that all
22 jurors have now been sworn concerning your responsibilities
23 in this case. Before we begin the trial of the case
24 there's some things that I would like to discuss with you.
25 I'm going to approach this from the perspective that I

1 believe that for most of you this is the first time that
2 you've ever been in the situation that you find yourself
3 in, that is, serving on a jury in the trial of a criminal
4 case in an actual court of law, and where that doesn't
5 happen to people very often in their lives, so I'd expect
6 that some of you this is your first experience in this
7 regard. So I'm going to talk to all of you as if this is
8 your first time in being involved in this type of a trial.
9 Many people don't have the chance to even attend actual
10 Court sessions, so I wouldn't expect you to know a great
11 deal about what actually goes on in courts during a trial
12 of a case. I would think that most of what you might know
13 or believe about what goes on in courtrooms you would've
14 learned from such sources as television shows you've
15 watched or movies you've seen or maybe books that you've
16 read, and, you know, while all of those sources of
17 information are interesting, they're full of high drama and
18 interesting plots and twists and turns. In a case of
19 television it's always amazing to me that they can have an
20 event occur and the case can be tried and everything
21 wrapped up in the space of an hour and they can still stop
22 about five times during that time to put on some
23 commercials for you. Now, if you think about that you
24 might realize that what they do with television shows and
25 movies, they sometimes twist what goes on in courtrooms so

1 it will fit the story line so it stays interesting so that
2 you'll keep watching the show. It's there for your
3 entertainment. They want you to watch those commercials.
4 That's how they sell them by the number of people that
5 watch. So those -- while those sources of information are
6 very entertaining, that's what they're intended for
7 primarily. I'm going to tell you that what you're engaged
8 in at this time in this trial is intended for anything but
9 your entertainment. I hope you realized that you're
10 engaged in a fundamental part of our governmental
11 structure. You know, if you were to take the time to look
12 around the world today at the different countries that
13 exist in the world and you were to look at the justice
14 systems that exist in most of those countries, you would
15 find that most of those justice systems did not allow
16 citizens to directly participate in the decision-making
17 process that goes on in those courts. You see, because
18 most countries in this world don't have a system such as
19 ours that is based on one of the constitutional rights that
20 all of us have, is the right to a trial by a jury of one's
21 peers. That right to a trial by a jury was -- the first
22 time it was guaranteed to someone, it was guaranteed in a
23 document known as the magna carta. That document was
24 signed in England. It was signed in the year 1215. So if
25 you do the math, you'll realize that that document is

1 having its 800th anniversary this year. So it's a long
2 tradition that we have in our system of justice, that is
3 the right of every citizen to have a trial by a jury of
4 one's peers. You see, this courtroom is a place of honor.
5 It's dedicated to the preservation of citizens' rights
6 through the Constitution of this State and of the United
7 States and that guarantee of a right to a trial by a jury.
8 I want to thank you very much for your willingness to
9 participate in that process today. The right to a trial by
10 a jury is the right that we fought for for many years.
11 Many people have died to preserve the Constitutions and the
12 rights that we have in this country. I hope it's a right
13 we never lose in this country. Now, the attorneys that are
14 involved in this trial are here to represent their client's
15 interest. I'm sure they'll do an excellent job in
16 presenting the cases that their clients have before you
17 during this trial. I want to point out something to you,
18 however. Those attorneys that'll be appearing during the
19 trial are first and foremost officers of this Court. You
20 see, at some point in time they appeared in front of a
21 Judge such as myself or some other Judge in this State and
22 they took an oath. It's an oath prescribed by the rules of
23 the Courts, and that oath includes a promise that they will
24 assist you during this trial in your search for the truth.
25 For that reason you can expect the attorneys will act in a

1 reasonable and ethical and a professional manner in the
2 presentation of their clients' cases before you during this
3 trial. By the same token, I want to point out to you that
4 you come in front of this Court this morning and you took
5 an oath. Your oath is to decide the issues joined in this
6 case based upon the law and the evidence presented during
7 the trial. I expect you then to act in a reasonable, a
8 professional and an ethical manner in the discharge of your
9 duties as jurors in this case. Now, what I'm telling you
10 now is not intended to be a charge on the law that you're
11 going to apply in the case. Later on at the close of
12 trial, once you've heard all the arguments and all the
13 evidence I'll charge you concerning the law that you're to
14 apply in this case. What I am going to try to go over with
15 you is the procedure that we'll follow and the duties that
16 we all have in trying this matter. Now, yesterday I did go
17 over with you the fact that there are two indictments in
18 this case. The two indictments charge the offense of
19 criminal sexual conduct with a minor in the first degree.
20 I'm not going to go over those with you in detail right
21 now. Later on when I charge you on the law, I'll go over
22 those indictments with you in much greater detail. I will
23 again remind you, however, that the indictments in this
24 case are simply the charges that bring the case into this
25 Court. It's not in any sense evidence of any allegations

1 contained in the indictment, and the defendant has pled not
2 guilty to those indictments, and under the law and the
3 Constitution of this State and of the United States, that
4 plea places the burden of proof in this case solely upon
5 the State, and that burden is to prove the allegations
6 contained in the indictment to you by proof beyond a
7 reasonable doubt. At the close of the trial, it'll be your
8 responsibility to make a determination as to whether or not
9 the State has met its burden of proof in this case. Now,
10 your purpose as jurors in this case is to find and
11 determine the facts. In every case tried in this Court
12 before a jury, the jury is always the sole and exclusive
13 Judge of the facts in this case. I'm going to serve as the
14 presiding officer. It'll be my job to rule on certain
15 questions that might come up during the trial, such as the
16 admissibility of evidence or the appropriateness of
17 questions that are being asked of the witnesses. I'm going
18 to caution you now, you should not take from anything that
19 I do in the discharge of my duties as the presiding officer
20 in this trial to indicate to you that I have an opinion one
21 way or the other as to how you determine the facts in this
22 case. You see, you are the sole and exclusive Judges of
23 the facts. For that reason I'm not allowed an opinion
24 concerning the facts, and I'll assure you, I have no
25 opinion as to how you should determine the facts in this

1 case. But, you know, the same law that makes you the sole
2 Judge of the facts makes me the sole Judge of the law in
3 this case. That means at the close of the trial when I go
4 over the law to be applied in this case, that's the only
5 law that you can use in determining the outcome of this
6 matter. So if you came into the courtroom today with a
7 notion as to what the law is or you've got an idea or an
8 opinion as to what the law ought to be, I will tell you
9 that you should leave those notions outside of the jury
10 room before you begin deliberations. I cannot disagree
11 with you concerning your determination in the facts; you're
12 not allowed to disagree with me concerning the law that's
13 to be applied to the facts as you determine those facts to
14 be. Now, I've already gone over with you the fact that you
15 should not try to gather any information outside of this
16 courtroom. I will tell you, the only place you will hear
17 evidence and law -- and that's what you're sworn to decide
18 this case on -- the only place you'll hear evidence is from
19 this witness stand during the trial from witnesses who've
20 been sworn to tell the truth who will testify from that
21 witness stand and whatever evidence goes into the record of
22 the case through that testimony. The only other additions
23 to the record of the case will be evidence that the
24 attorneys agree on and are placed into the record by
25 agreement or by stipulation. So that's the evidence that

1 you're going to be presented with during the trial of the
2 case. The law will be presented to you by me at the close
3 of the evidence. So that's the only place that you will
4 hear law or evidence in this case, and for that reason you
5 should not attempt to gather any information outside of the
6 courtroom about this case, and again I'll caution you, I
7 want you to keep an open mind until such time as I ask you
8 to begin deliberations. For that reason, don't discuss the
9 case with anyone, family, with family, friends or anyone
10 else until such time as I tell you to begin your
11 deliberations, and then you'll only discuss it with your
12 fellow jurors in the jury room during those deliberations.
13 Now, at the close of this trial it's going to be your
14 solemn responsibility to determine the guilt or the
15 innocence of the defendant, and your verdict must be based
16 solely upon the evidence presented to you during the trial
17 and the law as I instruct it. Now, in a few minutes we're
18 going to start the trial of the case, and I'm going to let
19 the attorneys address you directly, talk to you directly.
20 They're only allowed to do that twice during the trial.
21 Once at the beginning of the trial they'll have an opening
22 statement where they'll tell you what the case is about,
23 perhaps, what they expect to prove. Then at the close of
24 the trial, once you've heard all of the evidence, they'll
25 do a summation or a closing argument and at that time

1 they'll go over with you the evidence that you've heard;
2 they'll ask you to draw certain inferences from that
3 evidence, they'll argue that evidence to you. So those are
4 the two times lawyers are allowed to talk to you during the
5 trial directly. Now, I'm going to caution you though,
6 statements made by lawyers at any time during the trial,
7 those statements in and of themselves are not evidence.
8 Again, the only evidence in the case is the testimony of
9 witnesses testifying from the witness stand and what goes
10 into the record through that testimony. Again, the
11 attorneys will make arguments, but that information does
12 not in and of itself constitute evidence in the case.
13 Also, from time to time there may be an issue, as I've told
14 you, that I'm asked to rule upon. If it's my belief that
15 the discussion about that question might lead to a
16 discussion about some matter that's not admissible in
17 evidence under the rules that govern the admission of
18 evidence, if I think the discussion is going in that
19 direction, I may ask you to step outside the courtroom
20 while I have that discussion with the lawyers. Please
21 don't take from the fact that I've asked you to leave the
22 courtroom during that discussion to indicate that I've got
23 an opinion as to how you decide the facts in this case.
24 I've told you the law doesn't allow me an opinion on that
25 subject, but what I am doing when I'm doing that is doing

1 my job. My job is to see that you decide this case based
2 solely upon evidence that has been properly admitted into
3 the record under the rules that govern those matters. So
4 if I think the discussion may lead to an inadmissible
5 matter being discussed, I'll ask you to leave while that
6 occurs. Now, when you come back to the courtroom, I'll
7 make a ruling, we'll proceed with the trial, but don't take
8 that as an effort on my part somehow to influence your
9 decision on the evidence in this case. It is not such an
10 effort. Now, in deciding the facts in this case, I'm going
11 to tell you it's going to be necessary, it's going to be
12 part of your job to determine the credibility or the
13 believability of every witness you hear in this case. And
14 that's what credibility means. It means believability, and
15 it's your job to decide which evidence convinces you of its
16 truth. I'm going to urge you to use your good, ordinary,
17 common sense in making those decisions. Every single day
18 of your life you make decisions as to what you choose to
19 believe and what you choose not to believe using your good
20 common sense, and we've not asked you to leave it outside
21 of the courtroom during this trial, so pay attention to
22 what the witnesses say. Try not to let your thoughts
23 wander during the trial. Pay attention with an idea toward
24 the fact that you're going to have to decide what evidence
25 convinces you of its truth, what evidence you choose to

1 believe. Now, using your good common sense, you have the
2 right to consider such factors as whether or not you think
3 a witness as a stake in the outcome of the trial, whether
4 or not you think a witness might have a bias or prejudice
5 one way or the other, either for or against one side or the
6 other. You have the right to determine whether or not you
7 think the witness actually has the ability to know the
8 facts about which the witness is testifying, and we always
9 put the witness stand in plain view of the jury box so that
10 you can observe the witnesses as they testify, as they
11 speak. Again, use your good common sense, but pay
12 attention to what's going on in the courtroom, what's being
13 said. Be in a position to make a determination as to what
14 evidence convinces you of its truth and what evidence does
15 not convince you of its truth. Be in a position to discuss
16 that with your fellow jurors at the close of the trial when
17 I ask you to begin your deliberations. Now, I will tell
18 you that I do not appoint a Foreperson of the jury until I
19 charge you on the law. I know on television they appoint
20 the Foreperson at the beginning of the trial. I do that
21 for a reason. That allows me at this time to emphasize to
22 you that at the close of the trial your verdict must be
23 unanimous. Each and every one of you must agree upon the
24 verdict before it becomes the verdict of the jury.
25 Therefore, no one juror is more important than any other

1 juror. You all have to agree before you can reach a
2 verdict in the case. I don't want to appoint a Foreperson
3 and have someone on the jury think, well, that must be
4 smartest person or the most important person, I'll just let
5 them listen and I'll go along with whatever they say. I
6 want you to think that you might be appointed as the
7 Foreperson of the jury. You might be the person who's
8 required to lead the discussions of the jury at the close
9 of the trial, so you should be paying attention just like
10 you're going to be leading those discussions throughout the
11 trial. I'll make a decision at the close of the trial as
12 to who I'll appoint as the Foreperson, but until then, if
13 you have a problem or some issue that you think the Court
14 should be aware of, inform the bailiff, they'll let me know
15 and I'll be glad to take care of those issues, so there's
16 no need to have a Foreperson until we actually begin
17 deliberations, and I'll appoint that person at that time,
18 so don't think I've forgotten it. I haven't forgotten it.
19 I do that on purpose, and that's the purpose that I have.
20 Now, I want to be sure that I haven't violated anyone's
21 rights in what I've told you thus far. Does the State have
22 any objection to my opening comments?

23 MS. O'HAYON - No, Your Honor.

24 THE COURT - Does the defense have any objection?

25 MS. ANDERSON - No, Your Honor.

1 THE COURT - All right, now, ladies and gentlemen,
2 I have told you that the State has the burden of proof in
3 this case and the only burden of proof. A defendant is
4 never required to prove himself or herself innocent in a
5 court of law, and so for that reason the State is allowed
6 to go first during the opening arguments, followed by the
7 defense, then the State is allowed to go first in calling
8 witnesses, again followed by any witnesses the defense
9 chooses to put up. Once the sides have put up all the
10 evidence that they intend to put up, we'll have the closing
11 arguments by lawyers. Once those arguments have been
12 completed, I'll charge you concerning the law to be applied
13 in the case. Once I've completed that charge on the law,
14 I'll turn the case over to you for your deliberations and
15 ultimate verdict, so that's the steps that we'll go through
16 in the case. So at this time we'll begin with the opening
17 statements by the State. You may proceed.

18 MS. O'HAYON - Thank you, Your Honor. In the
19 summer of 2013 Delissa Patterson was living with her
20 children at Cedarview Apartment, and for approximately two
21 months she noticed some behavior from her then eight year
22 old daughter, Victim , that was really puzzling
23 to her. Instead of going outside to play, Victim was
24 fearful, withdrawn, had nightmares, wanted to stay inside
25 and alone. After about two months of this very puzzling

1 behavior in September of 2013, it all came pouring out.
2 When they lived in Riverview -- in Pace's River Apartments,
3 one of Victim older brother's friends known as OJ had
4 touched her vagina on two separate occasions. Finally, all
5 of the pieces of the puzzle fell together and it all made
6 sense why Victim was acting so fearfully all of a sudden.
7 They had just moved to Cedarview Apartments when her
8 behavior became odd, and it just so happened that OJ was
9 living there. He was Orlando Coleman, the defendant, and
10 he was their neighbor. You'll hear from Victim that when
11 they lived in Pace's River Apartments between May of 2011
12 and June of 2012, that her cousins had moved in at some
13 point in 2011 and that's when she was allowed to go outside
14 and start to play, and that while she was outside and
15 allowed to play, she was playing with one of her brother's
16 older friends, OJ, and on two of those incidents he had
17 touched her vagina. You'll hear from her that on one time
18 by a staircase in one of the buildings when her brother and
19 cousins had left her alone with OJ, OJ asked her to sit on
20 his lap and he put his finger inside of her vagina. You'll
21 hear another time she'll tell you that when they were by
22 the tennis courts of the apartment complex when they were
23 playing with her cousins, OJ again asked her to sit on his
24 lap, and when she did, he again put his finger inside her
25 vagina. Both times the victim will tell you she was

1 digitally penetrated by the defendant. The defendant is
2 charged with two counts of criminal sexual conduct with a
3 minor in the first degree, which requires the State to
4 prove beyond a reasonable doubt that the defendant is
5 guilty for engaging in a sexual battery with a victim who's
6 under 11 years of age. A sexual battery means a lot of
7 different conduct, sexual intercourse, cunnilingus,
8 fellatio, anal intercourse, or as in this case, any
9 intrusion however slight. At the end of this case I will
10 return to you and I will ask you to return a verdict of
11 guilty for two counts of criminal sexual conduct in the
12 first degree for the defendant digitally penetrating

13 Victim when she lived at Pace's River on two
14 separate occasions. Thank you.

15 THE COURT - Ms. Anderson, for the defense.

16 MS. ANDERSON - May it please the Court.

17 THE COURT - Yes, ma'am.

18 MS. ANDERSON - Ladies and gentlemen, I realize
19 you don't know very much about this case at this point, but
20 I realize that the subject matter of this case may be
21 difficult for you. I realize it's not the type of thing,
22 type of subject that you probably talk about on your daily
23 basis, whether it's in the course of your day or your job,
24 your conversations with other people, and I realize that,
25 but this case is vitally important. This case is vitally

1 important to Orlando Coleman who is here being charged of
2 alleged offenses that happened allegedly back when he was a
3 teenager. And in doing that, in the vital importance of
4 this case, it's necessary for us, perhaps, to talk about
5 difficult things. It's necessary perhaps for you to hear
6 awkward things said, awkward questions asked and subjects
7 that may be difficult to talk about, but they're important
8 because they have to be asked in this case. Those
9 questions have to be asked; those things have to be talked
10 about, because again Orlando Coleman is here being charged
11 with this crime. And the Judge talks to you a little bit
12 about the law in the case, and he'll give you the
13 instructions at the end, but I bring up some of those
14 concepts because like you may have heard them in TV and
15 movies and maybe they seem like just words or abstract
16 concepts, but here in the courtroom they're real, and the
17 concept of the presumption of innocence is real, and it is
18 strong and it is powerful in our system, and as he sits
19 here in the courtroom, Orlando is resumed innocent. He
20 doesn't have to prove anything. He's never required to
21 prove anything. He's never required to prove his
22 innocence. He sits here innocent before you and throughout
23 the course of this trial. And that's a powerful thing and
24 it's a real thing. And then we talked a little bit about
25 beyond a reasonable doubt, and again, I bring that up

1 because those aren't just words. They're not just a
2 concept of hearing TV lawyers talk about. They're real and
3 they're vitally important in this case. And that means
4 that the State must prove each and every element beyond a
5 reasonable doubt, and that's a high burden and the Judge
6 will charge you as to that at the end of this case, but
7 I'll give you this illustration that a friend of mine in my
8 office once used, has used before. And he talked about if
9 you've ever seen one of those carnival games at a fair or a
10 carnival and that there's this sort of mallet when you hit
11 a target and there's a light that goes up to a sort of long
12 piece of wood or plastic or this sort of score. And when
13 you hit that, to win a prize the light has to go all the
14 way up to the top. Doesn't matter if you get close, you
15 get 40 percent, 50 percent of the way, 60 percent, even 99
16 percent of the way. If it doesn't go all the way up the
17 top, then the chart -- then you haven't won. How that
18 applies here is that that's the burden of proof of the
19 State. That beyond a reasonable doubt is that top aspect
20 of that score, and if that light doesn't go all the way to
21 the top, then the State hasn't proven their case, and that
22 means that your verdict should be not guilty. Ladies and
23 gentlemen, I ask you to look carefully in this case; look
24 carefully at the evidence, put aside emotion, sympathy,
25 passion, prejudice, all those things you were instructed to

1 put aside when you step into the jury box, to listen
2 carefully, to look at this case analytically, because I
3 think you'll see when you do that, when you examine this
4 closely, that the State has not proven this case, that
5 Orlando Coleman who's presumed innocent is not guilty of
6 these charges. And at the end of this case I'll talk to
7 you again, but I ask you to keep those concepts in mind as
8 you look at this case, and at the end of this case I'll
9 stand up again and ask you to return a verdict on both of
10 these charges of not guilty.. Thank you.

11 THE COURT - All right, ladies and gentlemen of
12 the jury, that completes the opening statements by the
13 attorneys. I know we haven't been going very long as far
14 as you're concerned, but we're going to stop at this time
15 for lunch. It's 12:15 looks like on the clock back there.
16 I'm going to ask that you be back in the jury room by 1:30.
17 We should be in a position to start shortly thereafter. We
18 should be ready to start pretty quickly after 1:30, so
19 please be there at that time. As you leave I'm going to
20 give you the same instructions I gave you when you left
21 earlier. Don't try to gather any information on your own,
22 don't listen to, watch or read media reports; don't discuss
23 this case with anyone; don't allow anyone to discuss it
24 with you, and please report to the Court any contact you
25 might have from anyone about this case while you're not

1 here. I'll check on those instructions when you come back.
2 Again, 1:30 back in the jury room. Thank you very much.
3 We should start shortly thereafter.

4 (WHEREUPON, JURY EXITS THE COURTROOM)

5 THE COURT - All right, we're in recess until that
6 time. Thank you very much.

7 MS. ANDERSON - Thank you, Your Honor.

8 (WHEREUPON, COURT IN RECESS FOR LUNCH)

9 THE COURT - Thank you very much. You can be
10 seated. All right, State ready to proceed?

11 MS. O'HAYON - Yes, Your Honor. We have the
12 expert available now if you want to do the proffer for the
13 expert, or do you want to proceed with the trial?

14 THE COURT - Well, how long do you think that's
15 going to take?

16 MS. O'HAYON - I'm not sure. We do hope to have
17 the expert testify this afternoon, so we ---

18 THE COURT - That's your call, not mine. Do you
19 want her to testify this afternoon?

20 MS. O'HAYON - Yes, Your Honor.

21 THE COURT - All right, then I suppose we better
22 take that up. Your objection to the expert is?

23 MS. INGERILLO - Your Honor, we would have
24 numerous objections to the expert, and those would be on --
25 objections as to her qualifications under Rule 702, we have

1 a 403 objection, a 608 improper bolstering objection and
2 vouching objection.

3 THE COURT - All right, you may call her to
4 testify.

5 MS. O'HAYON - Your Honor, the State calls Laurie
6 Caldwell.

7 THE COURT - Come forward, ma'am, right here to be
8 sworn.

9 LAURIE CALDWELL, AFTER BEING FIRST DULY SWORN,
10 TESTIFIES AS FOLLOWS -

11 THE COURT - If you'll step around to the witness
12 stand, please, ma'am and state your name for the record,
13 please.

14 MS. CALDWELL - My name is Laurie Varnadoe
15 Caldwell.

16 THE COURT - Thank you. Your witness, counselor.

17 MS. O'HAYON - Thank you, Your Honor.

18 PROFFERED TESTIMONY:

19 DIRECT EXAMINATION

20 BY MS. O'HAYON -

21 Q What is your educational and training background?

22 A In 1984 I graduated from the University of South
23 Carolina with a bachelor's degree in interdisciplinary
24 studies, and from there I continued on at University of
25 South Carolina and obtained my master's degree in social

1 work and from there I did not go into social work; I went
2 into law enforcement and began training starting with the
3 basic law enforcement police academy which at that time was
4 an eight-week course, and I graduated from it in February
5 of 1987. From there the majority of my training has been
6 focused in the field of child sexual abuse and child
7 physical abuse and investigations. And that included
8 training from the Federal Bureau of Investigation, the
9 Federal Law Enforcement Training Center, The National
10 Children's Advocacy Center, University of South Carolina
11 Children's Law Center, The National Center for Missing and
12 Exploited Children and many seminars offered by different
13 organizations locally and nationally, such as some of the
14 technical colleges would offer -- sponsor training in the
15 field of investigations of child abuse.

16 Q Where are you currently employed?

17 A I'm currently employed at the State Law Enforcement
18 Division.

19 Q And what services do you provide?

20 A At this time I do social security disability fraud
21 investigations.

22 Q And where did you work before?

23 A Prior to that I was an agent, as I am now, with the
24 State Law Enforcement Division, and I did criminal
25 investigations, primarily involving children and vulnerable

1 adults. And I retired from SLED in February, 2011 and
2 began full-time employment at The Dickerson Center for
3 Children, which is a community-based child advocacy center
4 located in West Columbia, and there I spent three years and
5 two months, and I made the decision in April of 2014 to
6 step down from that role and return as a contract employee
7 at SLED doing the social security disability fraud
8 investigations.

9 Q What courses, seminars and other training have you
10 taken in the field of forensic interviews?

11 THE COURT - In the field of forensic what?

12 MS. O'HAYON - Interviews.

13 THE COURT - Interviews? Okay, I'm sorry, excuse
14 me. I didn't hear her. You may proceed.

15 A I attended the course at the Criminal Justice Academy
16 offered. That was a long time ago. I believe at that time
17 it was just one week. I believe it's two weeks now unless
18 something's changed. I have also attended the Federal Law
19 Enforcement Training Center reference child forensic
20 interviewing, then other seminars, but also the most recent
21 would have been through the Children's Law Center at the
22 University of South Carolina when South Carolina decided a
23 particular model of child forensic interviewing.

24 Q And briefly you had previously testified about
25 different courses and seminars and other training that you

1 had taken in related to just child sexual and physical
2 abuse in general. Correct?

3 A (Indicating yes)

4 Q Okay. And have you taught any courses or led any
5 trainings?

6 A Yes. I have taught all over South Carolina in the
7 field of child forensic interviewing. I've spent many
8 years as a guest instructor at the North Carolina Criminal
9 Justice Academy teaching child forensic interviewing. I
10 have taught nationally in Virginia, Nevada, Florida; also I
11 trained some of the royal bohemian police in child forensic
12 interviewing.

13 Q Are you a member of any professional organizations or
14 affiliations related to children's issues?

15 A I was but I have to admit that I have let those
16 memberships lapse and have not been quick to renew them
17 lately.

18 Q What were you a member of?

19 A The American Professional Society on the Abuse of
20 Children, the South Carolina American Professional Society
21 of the Abuse of Children, and I am a member of the South
22 Carolina Law Enforcement Association.

23 Q Approximately, how many years of experience do you
24 have in child sexual and physical abuse investigations?

25 A Twenty-eight.

1 MS. O'HAYON - One moment. I beg the Court's
2 indulgence.

3 THE COURT - Yes, ma'am.

4 Q Have you previously been qualified as an expert and
5 provided testimony for specifically about the topics of
6 delayed disclosure?

7 A Yes, I have.

8 Q Okay, and what about the topics for chronological --
9 about children not being able to tell dates and times or
10 remember dates and times?

11 A Yes.

12 Q And what about for behavioral issues of children who
13 have been victims of sexual abuse?

14 A Yes.

15 MS. O'HAYON - Your Honor, at this time the State
16 would like to offer this witness as an expert in the field
17 of delayed disclosure, with children not being able to
18 remember dates and times and behavioral issues of children
19 with sexual assaults.

20 THE COURT - Do you wish to cross examine her on
21 her qualifications?

22 MS. INZERILLO - I do, Your Honor.

23 THE COURT - You may do so.

24 MS. INZERILLO - Thank you, Your Honor. May it
25 please the Court, Your Honor.

1 THE COURT - Yes, ma'am.

2 CROSS EXAMINATION

3 BY MS. INZERILLO -

4 Q Ms. Caldwell, you testified that your experience was
5 in the field of forensic interviewing?

6 A Yes, in child abuse investigations in general.

7 Q Okay. The experience that you've just relayed to the
8 Court was predominantly in forensic interviewing. Is that
9 correct?

10 A A large majority of it, but in my previous role at
11 SLED I conducted criminal investigations from the beginning
12 to the end of allegations. So my role varied. Sometimes
13 it was the lead investigator on those, and sometimes it was
14 the assisting investigator with local law enforcement and
15 just depending on what their need was, so it varied.
16 Sometimes I was through the case the whole way and
17 sometimes just the interview.

18 Q Okay. So sometimes you would actually go out and find
19 witnesses and that kind of thing, and ---

20 A Yes.

21 Q --- then sometimes you would just be the forensic
22 interviewer ---

23 A Correct.

24 Q --- and just interview the child. Okay. But always
25 in a law enforcement capacity is your ---

1 A Yes, except for the last three years, from February --
2 well, March 17th, 2011 until I stepped down in April 23rd,
3 2014. That was through a child advocacy center.

4 Q Okay. In your prior experience in terms of the -- in
5 regards to the forensic interviewing, did you publish any
6 papers ---

7 A No.

8 Q --- in regards to forensic interviewing?

9 A No.

10 Q Do you know what your error rate was?

11 A No, ma'am, I do not.

12 Q And you used the RATAC method?

13 A Beginning in -- some time in 2000 -- and I'm sorry I
14 don't recall the month -- but I began using the RATAC
15 method in 2001. Prior to that I did not have a particular
16 model per se. I used the guidelines that I had been
17 trained in through the years.

18 Q Okay. Did you have any peer review of your interviews
19 under the RATAC method?

20 A Yes, I did.

21 Q And were any of those published?

22 A No, ma'am.

23 Q And were they able to evaluate your error date?

24 A No, ma'am.

1 Q With your masters of child -- social work, is there a
2 subspecialty in regards to forensic interviewing?

3 A No, not at all.

4 Q Is there a subspecialty for delayed disclosure?

5 A No, ma'am. That just falls under -- all the training
6 in child forensic interviewing investigations you're going
7 to be trained in the area of the delayed disclosure abuse.

8 Q Is there a subspecialty for dynamics of children not
9 being able to tell time?

10 A No.

11 Q Is there a subspecialty for any -- I apologize -- say
12 what the State said -- behavioral issues regarding
13 children?

14 A No, not a subspecialty, no.

15 Q Have you published any research papers at all?

16 A No, ma'am.

17 Q You indicated that when you trained folks, you trained
18 in forensic interviewing. Is that correct?

19 A That is correct. And one thing I did fail to say is
20 that does include delayed disclosures and behavioral
21 indicators.

22 Q So your training involved teaching people how to do a
23 forensic interview?

24 A Correct.

25 Q It wasn't doing research and applying that research.

1 A No, ma'am, but the training was based on much of the
2 research such as on delayed disclosure.

3 Q Okay. The -- you said your training was based on the
4 research for delayed disclosure?

5 A Some of it, yes. That segment of it, yes.

6 Q Okay. You never did any research and then had a
7 hypothesis and trained based on that?

8 A No, absolutely not.

9 Q The --

10 MS. INZERILLO - May I beg the Court's indulgence
11 for one moment?

12 THE COURT - Yes, ma'am.

13 MS. INZERILLO - Your Honor, at this time I have
14 no further questions for this witness.

15 THE COURT - State wish to ask any questions
16 concerning ---

17 MS. O'HAYON - One moment, Your Honor.

18 THE COURT - --- her qualifications on the issue
19 for which she's been offered.

20 MS. O'HAYON - Just a few questions, Your Honor.

21 RE-DIRECT EXAMINATION

22 BY MS. O'HAYON -

23 Q How many forensic interviews have you conducted?

24 A Over 2000.

1 Q And when did you first learn about the term delayed
2 disclosure?

3 A In 2001 when I went through the RATAC training through
4 the Children's Law Center at USC.

5 Q And you'd previously testified that your training was
6 based on research, the RATAC training that you led was
7 based on research. What kind of research was that?

8 A The RATAC training was based on research?

9 Q I'm sorry, the forensic interview training that you
10 led was based on research.

11 A That was -- that I provided or -- oh, okay.

12 Q Yes.

13 A Yes, I was basing it on the trainings that I had been
14 through and my experience. Now, my experience was not
15 research, but the materials I was exposed to during all
16 those trainings, yes.

17 Q Okay. So you have also been trained on some peer
18 review articles. Correct?

19 A Yes, yes.

20 Q Okay, what kind of -- what articles were those? Like
21 what sort of articles were -- what topics did they discuss?

22 A The child sexual abuse accommodation syndrome and
23 delayed reporting, how children tell.

1 Q Okay. And in your specialized training, did you do a
2 training called Trauma-Focused Cognitive Behavioral
3 Therapy?

4 A Yes, I completed that and that was through the Medical
5 University of South Carolina.

6 Q And what was that training about?

7 A That is a evidence-based therapy treatment program for
8 children that have experienced trauma to include sexual
9 abuse.

10 Q And you previously testified that you worked at the
11 Dickerson Center for Children. Correct?

12 A Yes.

13 MS. O'HAYON - I have no further questions, Your
14 Honor.

15 THE COURT - Anything further from the defense?

16 MS. INZERILLO - Your Honor, I would have more
17 questions, but I think at this time I'd like to state my
18 objections at this point and then ---

19 THE COURT - Yes, ma'am.

20 MS. INZERILLO - --- be able to reserve the right
21 to ask more questions based on the Court's ruling. I think
22 at this point my threshold concern would be the
23 qualifications as has been presented. The State wishes to
24 enter Ms. Caldwell as an expert based on delayed
25 disclosure, children not being able to tell on behavioral

1 issues, but what's been presented so far in terms of
2 qualifications for that don't seem to support those three
3 areas of purported expertise, and quite honestly, Your
4 Honor, that's where I'm having a little struggle in going
5 forward. Her qualifications all seem to stem around
6 forensic interviewing. There's been no qualifications put
7 forth as to what would make her a particular expert in the
8 field of delayed disclosure. She does no particular
9 research; she has not had any peer review on that outside
10 of any forensic interviewing capacity. She has not looked
11 into that particular field of particularly delayed
12 disclosure. She does have a master's degree in social work
13 but there is no subspecialty in any of these -- in any of
14 these fields of delayed disclosure. What I am quoting as
15 the inability of children to not tell time and behavioral
16 issues of children -- at this point, Your Honor, I am not
17 seeing a connection between her experience in terms of
18 forensic interviewing and her extensive law enforcement
19 experience and how that correlates with any particular
20 expertise in the field of delayed disclosure, how any of
21 the prior experience and any of that education gives her
22 particularized expertise in children not being able to tell
23 time or anything in particular in terms of behavioral
24 issues. Your Honor, that would be my threshold objection
25 at this time. If the Court does feel that that has been

1 met, I would have further objections, and I would ask the
2 Court permission to further question her on those areas of
3 expertise for other objections.

4 THE COURT - I'll hear from the State.

5 MS. O'HAYON - One moment, Your Honor.

6 THE COURT - Yes, ma'am.

7 MS. O'HAYON - Your Honor, would the Court permit
8 the State to ask a few more questions of the forensic
9 interviewer -- I'm sorry -- of the expert witness at this
10 time about some of her qualifications and specifically
11 regarding delayed disclosure?

12 THE COURT - Yes, I'll allow you to do that.
13 Let's -- we've got to get to the point here. We haven't
14 called the first witness in this case. I understand these
15 issues have to be fleshed out, but let's get to the point.

16 MS. O'HAYON - Yes, Your Honor.

17 RE-DIRECT EXAMINATION

18 BY MS. O'HAYON (CONTD.) -

19 Q Just going back on your experience, you said that you
20 had done over 2000 forensic interviews?

21 A That's correct.

22 Q Okay. And you stated in 2001 you had some -- you had
23 taken a RATAC training course?

24 A Yes.

1 Q And in that course that you took, did they discuss
2 delayed disclosure?

3 A Yes. That was the first time I had ever head the
4 terminology, but it was not the first time I had recognized
5 the actual delay of children reporting.

6 Q Okay. What is delayed disclosure mean exactly?

7 A It means that contrary to what most people think, that
8 when a child's been victimized that they tell right away.
9 Most children in my experience, and also based on research,
10 that children do not tell right away. It could be a month
11 later; it could be a year later; it could be in a -- as an
12 adult. I've had many parent sit across the table from me
13 when they brought their child in as a possible victim of
14 abuse, disclosed for the first time that they were victims
15 of sexual abuse.

16 Q And is there a consensus among the community, the
17 research in clinical community that delayed report --
18 delayed reporting is common?

19 A Yes.

20 Q And you didn't conduct any research about delayed
21 disclosure. Correct?

22 A That is correct. It was not my role.

23 Q But have other people conducted research on delayed
24 disclosure?

25 A Yes.

1 Q And have you been trained on this research?

2 A Yes.

3 Q And have you read these articles and these -- and this
4 research?

5 A Yes.

6 Q And have you used that research in your -- when you
7 were training others for forensic interviewing?

8 A Yes, I have.

9 Q And how common -- based on your training and
10 experience, how common is delayed reporting among victims
11 of child sexual abuse?

12 A More common than not. The majority of the children
13 that I came in contact with over the 28 years, the majority
14 of them there was a delayed report.

15 Q And the articles that you've been trained with and
16 you've used in your training, are they -- have they been
17 subject to peer review?

18 A Yes.

19 Q And have they been accepted in the peer review
20 community?

21 A Yes.

22 Q And those studies, do they involve confirmed cases of
23 sexual abuse?

24 A Yes. Not all, but ---

25 Q But do some of them?

1 A Yes. Yeah.

2 Q And is the prevalence of those cases with confirmed
3 sexual abuse similar to that with those cases that are not
4 confirmed sexual abuse?

5 A Yes, they're finding a lot of similarities, that there
6 is that delay of disclosure.

7 Q Okay, and through your -- through your training and
8 experience, have you had the opportunity to study the
9 developmental roadblocks in the trauma that affect children
10 of sexual abuse?

11 A Yes.

12 Q Okay. And is that a component of the trauma-focused
13 cognitive behavioral therapy training that you did at MUSC?

14 A Is the developmental roadblocks?

15 Q Yes.

16 A I don't believe so.

17 Q What training did you take that discussed the
18 development roadblocks and the trauma in how it affects
19 children?

20 A The various child abuse investigative trainings I
21 attended, some of -- frequently they had that involved in
22 the curriculum. Um -- I'm not sure which ones, to be
23 honest with you, because there are so many, but we always
24 talked about that, you know, whether children can tell

1 because of their age in what they've experienced and
2 cognitively where they are.

3 Q And did that training -- or what training did you take
4 that -- what sort of training did you have in terms of
5 children and their developmental -- (pause) In your trauma-
6 focused cognitive behavioral training, did that training
7 cover at all the way trauma affects a person's ability to
8 tell chronologically time or when certain events happened?

9 A No, not in the cognitive -- I mean the trauma-focused
10 cognitive behavioral therapy. No, that would -- we were
11 focused on treatment in that particular training, but
12 through child abuse training -- the investigations as well
13 as the forensic interviewing, we are trained to know kind
14 of what to -- in age frames what we can expect a child is
15 able to tell.

16 Q In terms of chronological dates and times or in terms
17 of disclosure?

18 A About chronological, about what they can tell. For
19 example, a three year old we could probably expect that
20 most three year olds -- there have been exceptions to the
21 rule -- could tell you who and what, maybe where, but
22 timeframe, no.

23 MS. O'HAYON - I have no further questions at this
24 time, Your Honor.

1 THE COURT - Do you wish to ask any additional
2 questions.

3 MS. INZERILLO - If I may, Your Honor.

4 THE COURT - Sure.

5 MS. INZERILLO - Thank you, Your Honor.

6 RE-CROSS EXAMINATION

7 BY MS. INZERILLO -

8 Q Your understanding of delayed disclosure has been what
9 you have learned in classes and then any -- any articles
10 you've read. Is that right?

11 A The articles and based on my experience of
12 interviewing children.

13 Q Okay.

14 A I just didn't have a name for it until 2001.

15 Q Okay. So really it's more experience-based what
16 you've seen. It just kind of jived in your mind. They
17 gave it a name of what you have been seeing.

18 A Right, but since 2001 I have read several articles and
19 it's included in the multiple trainings I've been to since
20 2001.

21 Q Okay. And so you're aware that delayed disclosure
22 comes from Dr. Summit's article from the child sexual abuse
23 accommodation syndrome.

24 A He's one of the ones, but there's several others, yes.

25 Q He was the seminal author. Right?

1 A He kind of started it, yeah.

2 Q Okay. And since then -- he came up with this theory,
3 and then since then people have been tested against that.
4 Right?

5 A Yes.

6 Q Okay. And his subject sample was rather small and it
7 dealt with chronic abuse. Is that right?

8 A I believe that's correct, yes.

9 Q Okay. And so his theory upon looking at it was that
10 after chronic abuse children tended to be unable to relay
11 back to the time that things happened due to chronic abuse.

12 A They do have -- yes, his conclusion was that they do
13 have -- experience difficulty with that.

14 Q Okay. And he also laid out several steps in his
15 syndrome, I believe it was five steps, one of which was
16 delayed disclosure.

17 A Yes.

18 Q Okay. And there have been several studies since then
19 testing his syndrome. Is that correct?

20 A Yes.

21 Q Okay. And those studies have actually been very
22 inconsistent in determining the reliability of this area of
23 the syndrome.

24 A The controversy that I was aware of that he actually
25 went back and addressed later was that his study was not to

1 be used as a diagnostic tool of child sexual abuse. He was
2 saying that this is -- in my research this is what I --
3 these children that have been possible victims of sexual
4 abuse have same similarities, same characteristics, they're
5 experiencing some of the same things, but he said it is not
6 diagnostic of sexual abuse.

7 Q So he was alerting against grouping children and
8 making generalizations against abuse of children.

9 A Correct. Right.

10 Q Okay. And I think you touched on this, but he did
11 write a second paper I believe in the early 90s cautioning
12 against that very ---

13 A Yes.

14 Q Okay. In fact, I think the -- I think that paper
15 cautioned against using it in a courtroom setting. Is that
16 your recollection?

17 A No, I don't recall that.

18 Q The -- I believe you relied on several articles that
19 you talked with the State about, Sorenson & Snow and some
20 other articles, and you're aware of well (sic) of London,
21 Bruck, Wright, and I believe it's Ceci, where they do
22 indicate the unreliability of some of the literature
23 surrounding the -- the literature surrounding and showing
24 the unreliability of this syndrome.

1 A Yes, the problem being that the study samples have --
2 cannot come -- they can't go and abuse a child just to see
3 how they will have disclosed, so they're taking their
4 samples from what we call retrospect research where adults
5 that have later come forward and said, hey, I'm a victim of
6 sexual abuse, and then also taken them from research where
7 children have disclosed, then that includes those that
8 there's been a conviction, there's been a confession,
9 there's maybe been a -- some type of evidence like sexually
10 transmitted disease or might be some pornography and other
11 corroborating evidence.

12 Q And in -- those studies are inherently reliant and for
13 the most part on the child's disclosure. Is that right?

14 A As well as, hopefully, some other -- if any other
15 corroborating evidence exists, such as, you know, if
16 there's an eye-witness or -- to the crime or a confession.

17 Q But there are several studies where that's not
18 present. Correct?

19 A Right.

20 Q And, in fact, in some studies that they have looked
21 at, there's been some false allegations.

22 A Yes. Yes.

23 Q Okay. And in the study that I've cited, London,
24 Bruck, Wright and Ceci, they've indicated that the general

1 pattern of inconsistency holds to the point that it
2 provides no strong evidence to support CASAS which is ---

3 A That's the child, ---

4 Q --- Summit's theory

5 A --- yes. Yes.

6 Q Or any other theory regarding disclosures ---

7 THE COURT - Which is what? What did you say that
8 was?

9 MS. INZERILLO - The -- Summit's theory of the
10 child ---

11 A Child abuse -- child sexual abuse accommodation
12 syndrome.

13 THE COURT - Thank you.

14 MS. INZERILLO - Thank you, Your Honor.

15 Q Or any other theory regarding children's disclosure of
16 child sexual abuse.

17 A I'm sorry, now I forgot the question.

18 Q That's okay. That that study by London, Bruck --
19 which I'll call London, Bruck, but there's four names on it
20 -- does go so far as to say that that general pattern of
21 inconsistency provides no strong evidence to support that
22 syndrome or any other theory regarding children's
23 disclosure of child sexual abuse.

24 A Right, but it does still indicate that there is the
25 common element of delayed disclosure.

1 Q Okay. And in delayed disclosure, again, that comes
2 from his original theory dealing with chronic abuse. Is
3 that right?

4 A But it's also based on other people's research, such
5 as their own and Sorenson & Snow, April Bradley and James
6 Wood, Thomas Lyon -- so it's other research, and some of
7 their -- their methodologies are sometimes different, but
8 they still come out with similar -- a similar conclusion
9 that children delay in disclosing.

10 Q Okay. And Sorenson & Snow, for example, in their
11 methodology they determine that -- I believe it's about 84
12 percent of the reported cases were not supported; 16
13 percent turned out to be supported abuse, but the remainder
14 did not.

15 A Right.

16 Q Okay.

17 A Not substantiated at that time.

18 Q Not substantiated. Thank you.

19 A Yes.

20 Q That's why you're -- um -- okay. So unlike in a
21 scientific method, there is no control versus -- like you
22 say, you can't ---

23 A Right. Can't ---

24 Q --- abuse a child and then ---

25 A Right.

LAURIE CALDWELL - RE-CROSS BY MS. INZERILLO

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1 Q Okay. In this case -- what is your knowledge of this
2 case?

3 A I don't have any knowledge of this case whatsoever. I
4 don't even know if the victim's a girl or a boy.

5 Q Okay. So you did not interview the victim?

6 A No, no, no.

7 Q Have you been told anything by the State?

8 A No, I have not.

9 Q Okay. The -- did you counsel the victim in any way to
10 determine if there was presence of trauma?

11 A No.

12 Q So you're not here in any way in a role as a
13 counselor?

14 A No.

15 Q Okay. You did no evaluations in this case of anyone?

16 A None whatsoever.

17 MS. INZERILLO - Your Honor, I have no further
18 questions.

19 THE COURT - Anything further from the State of
20 this witness?

21 MS. O'HAYON - Just one question, Your Honor.

22 THE COURT - Yes, ma'am.

23 RE-DIRECT EXAMINATION

24 BY MS. O'HAYON -

1 Q The defense attorney asked you a question about --
2 where she phrased something 6 -- only 16 percent were
3 supported in the study, in the Sorenson & Snow study. Is
4 that -- do you recall that question?

5 A Yes, I do.

6 Q Okay. Can you please clarify -- the defense attorney
7 used the word only 16 percent were supported. Can you
8 please clarify of that 16 percent -- the 116 studies that
9 were taken from the 630 cases, were they taken because they
10 were the only ones that were supported or the only ones
11 that were found to have corroborating evidence?

12 A One was (sic) that had been with the corroborating
13 evidence.

14 Q So the remaining 84 percent, they were not necessarily
15 false allegations.

16 A Correct. That's true.

17 MS. O'HAYON - Okay, that's it. Thank you, Your
18 Honor.

19 MS. INZERILLO - Your Honor, at this time we would
20 object to Ms. Caldwell on several points, and I will ---

21 COURT REPORTER - Your Honor, could I ask that she
22 speak up a little bit?

23 MS. INZERILLO - I apologize, Your Honor, I don't
24 usually get that request, but I'll comply. Your Honor, the
25 -- my first objection would be in terms of the vouching

1 nature of the testimony in this case. Ms. Caldwell is
2 being put on the stand essentially to testify as to a class
3 of victims, essentially a class of -- I shouldn't say
4 victims -- of people that would delay -- have delayed
5 disclosure. I believe there's going to be some testimony
6 as to trauma, as well they can't tell time, and certainly
7 the State I believe sort of where this is heading is
8 probably in closing going to connect that to Ms. Patterson,
9 the victim in this case. I think that even though she is
10 being portrayed as a neutral person, that that will
11 essentially result in a vouching. I think that is improper.

12 THE COURT - Say that again. She's going to do
13 what?

14 MS. INZERILLO - She essentially will be vouching
15 for a class of people that by her own testimony is not
16 allowed for in the -- in the -- the use of this particular
17 theory, that he -- that the theory was put forth to
18 essentially vouch for -- the theory was put out essentially
19 assessing that there was a class of people that would
20 generally under chronic abuse situations would react in
21 this particular way, that that theory has since been sussed
22 out by further experience, but that -- further -- further
23 experiments and studies, that that's essentially the point
24 of her testimony here and vouching for not only that, but

1 in relation to the victim, that that will vouch -- her
2 testimony ---

3 THE COURT - Let's stop right there. Let me just
4 ask the State a question.

5 MS. O'HAYON - Yes, Your Honor.

6 THE COURT - We never got there, but I think I
7 know where we're going. You intend to just ask her whether
8 it is common for children of the age - about the age of the
9 victim I assume to disclose - delayed disclosure?

10 MS. O'HAYON - That is correct, Your Honor.

11 THE COURT - But she has not interviewed that
12 child.

13 MS. O'HAYON - No, she has not, Your Honor.

14 THE COURT - You're not going to ask her anything
15 about what the child said ---

16 MS. O'HAYON - No, Your Honor.

17 THE COURT - --- did not say, who did what ---

18 MS. O'HAYON - No, Your Honor.

19 THE COURT - --- who did anything. Okay. So
20 you're saying simply by saying that, somehow she would be
21 vouching for the ---

22 MS. INZERILLO - That essentially in the
23 purporting to being neutral that she is saying she falls
24 into this class of victims, that not knowing that this
25 victim, that she would fall into a delayed disclosure

1 situation. I think that sort of piggy-backs on the
2 bolstering, because my anticipation is at closing this will
3 all be tied in very neatly, that there's been this expert
4 testimony and you see how it applies to Victim in this
5 case who's the victim, and so put those together in that --
6 make a vouching objection as well as bolstering objection,
7 that it would be improper in this case. I believe the
8 testimony you will hear that Victim will be the bulk of
9 the State's case and so that would unfairly and improperly
10 bolster the State's case.

11 THE COURT - Well, let me hear what the State has
12 to say about that. Well, let me back up. Let me back up,
13 just be sure I get it all on the table. You're objecting
14 to that just simply saying that someone that -- that quite
15 often there are delayed disclosure in cases such as this
16 one, that somehow that's bolstering. Then are you
17 objecting to the -- her being qualified as an expert at
18 all?

19 MS. INZERILLO - I am, Your Honor.

20 THE COURT - Let's talk about that too. Let's get
21 it all out.

22 MS. INZERILLO - Absolutely, Your Honor. I would
23 make an objection under Rule 702, specifically as to her
24 credentials and for the purposes for which the State wishes
25 to put her before the jury in terms of delayed reporting,

1 the children's inability to tell time as well as behavior
2 of children. She does not have any subspecialty or
3 credentials specifically to that. Her expertise in the
4 past is more towards forensic interviewing. She has not
5 done any independent research, anything to support that --
6 delayed reporting. The only prior training that she has is
7 essentially been to relay training in that area but not
8 anything of independent means. She has not conducted any
9 peer review studies or anything along those lines. So for
10 those reasons, Your Honor, we would object to -- with her
11 particular credentials that that does not rise to the level
12 of making her an expert in this case. We would also object
13 to that subject matter in terms of under the reliability of
14 prong under State v. White. As the Court has heard, there
15 are several studies on this subject matter. The manner in
16 which those studies are taken, they are taken all different
17 methodology. Several studies since Dr. Summit's initial
18 that positive delayed disclosure has actually disproven his
19 theory, and so the reliability is inherently -- the theory
20 is inherently unreliable, and so we would object to the
21 subject matter as well. And I believe I touched earlier on
22 the prejudicial nature under Rule 403 in terms of the type
23 evidence the jury may hear and that the victim would be ---

24 THE COURT - Let me ask you now. My understanding
25 of her opinion is that her opinion is being asked -- in

1 fact, I think she said that in the majority of the cases
2 there are late disclosures and that's with her experience
3 and her years in practice, that the majority of her cases
4 was, so -- I don't think that I've heard anything about her
5 opinion going to the quality of those disclosures or
6 whether or not they were founded or unfounded. In fact, I
7 think she acknowledged in some of the studies that the
8 majority of them were unfounded cases. Is she simply being
9 offered for the purpose of offering an opinion that in the
10 majority of cases that she's dealt with in the literature
11 there are late disclosures, period, whether they're right
12 or wrong or indifferent? That's unreliable?

13 MS. INZERILLO - I think in -- she's relying on a
14 theory that positive delayed disclosure -- I think on the
15 theoretical side the theory's unreliable in that ---

16 THE COURT - Theory -- what theory?

17 MS. INZERILLO - The child sexual abuse
18 accommodation syndrome posited by Dr. Summit has been
19 subsequently either disproven or has had mixed methodology
20 and mixed results, and so for that reason it's unreliable.
21 I think if we look at the part of her testimony involving -
22 --

23 THE COURT - Just one second. (Brief pause) Go
24 ahead.

1 MS. INZERILLO - Your Honor, in terms of the part
2 of her testimony relying on her personal experience, she
3 cannot testify as to what her error rate was, how many of
4 those cases resulted in false accusations, how many of
5 those had been corroborated, so it's hard to determine,
6 what, if anything, the reliability of those -- that --
7 those cases were. So I would argue that on that end it's
8 inherently unreliable and the State has not shown
9 reliability on this.

10 THE COURT - Yes, ma'am.

11 MS. O'HAYON - Your Honor, State vs. Weaverling
12 states that the State can have a blind expert -- if you'd
13 like me to hand this up to you, Your Honor?

14 THE COURT - Yes, what's the date on that?

15 MS. O'HAYON - I'm sorry?

16 THE COURT - What's the date on that?

17 MS. O'HAYON - 1999.

18 THE COURT - Pass it up.

19 (WHEREUPON, DOCUMENT IS HANDED UP TO THE COURT.)

20 THE COURT - Go ahead.

21 MS. O'HAYON - I beg the Court's indulgence.

22 THE COURT - Yes, ma'am.

23 MS. O'HAYON - Your Honor, just to clarify, the
24 term -- the concept of delayed reporting has existed before
25 Summit has done his -- his research on it, before he used

1 it in his study. So it wasn't -- the idea was not invented
2 by Summit; it was incorporated by Summit, and studies show
3 consistently that the delayed reporting does exist and it
4 is a phenomenon that does exist amongst -- especially
5 amongst children who are sexually abused. We're not
6 offering Summit's theory of child sexual -- I'm sorry --
7 child sexual abuse accommodation syndrome. We're just
8 offering the delayed disclosure portion that Summit
9 incorporates into his research. As to her credentials and
10 her experience, I think she's testified about all of her
11 experience and all of her credentials. She's -- has a
12 masters of social work. There is no subsection, and
13 defense had asked her if there even was a subsection for
14 delayed disclosure, and there isn't one, but she's been
15 trained on it; she's conducted over 2000 interviews with
16 children. She's had -- she's conducted trainings on it as
17 well, and she's done the research on the peer reviewed
18 articles that are widely accepted amongst the community for
19 delayed disclosure, and this will assist the triers of
20 fact, because the jury may feel like this is not common,
21 may not know how common delayed disclosure actually is.
22 Most lay witnesses will feel like the victim would -- would
23 do an immediate disclosure and this would be contrary to
24 their thought process, and they should be informed about --
25 about that, that it is actually more common than not for

1 there to be delayed disclosure. Oh, and just that it's not
2 vouching for the witness, just it's a -- this is a blind
3 witness. She's never spoken to the victim. She doesn't
4 know anything about the case. She doesn't know -- we're
5 not going to ask her specifics about this case. We're only
6 going to ask her in general about delayed disclosure, and
7 if the Court will allow, about children's inability to
8 remember dates and times and sort of -- some behavioral
9 issues of children who have been subject to child sexual
10 abuse. We're not going to ask her anything specifically
11 about this case, and she doesn't know anything about this
12 case.

13 THE COURT - All right, anything further?

14 MS. INZERILLO - Not at this time, Your Honor.

15 THE COURT - I'm going to step down for just a few
16 minutes. Thank you.

17 (WHEREUPON RECESS IS TAKEN)

18 THE COURT - I'd like to ask counsel just a couple
19 of questions. Maybe I can bring this thing to a close. My
20 understanding is you're offering the witness for the
21 following testimony: You're going to put her up and
22 establish the fact that she has had extensive experience in
23 conducting forensic interviews with children over a long
24 period of time, 2000 interviews I think is what she
25 testified to. And then you're to ask her if during that

1 process if the majority of those interviews involved delay
2 reporting?

3 MS. O'HAYON - No, Your Honor, a part -- her 2000
4 interviews as part of her experience, however, we're going
5 to ask her to base her answers of whether there's a
6 majority of delayed reporting based on the peer review
7 articles that she's studied, been trained on and uses in
8 her training.

9 THE COURT - What opinion are offering asking her
10 all that? I guess, I'm getting at bottom line of my
11 question. What opinion is she offering?

12 MS. O'HAYON - That delayed reporting is common.

13 THE COURT - Again, isn't that a statistical fact?

14 MS. O'HAYON - The peer review articles talk about
15 how common delayed reporting is, so they -- and there are
16 different -- they -- there is not one statistic that says
17 this is how common delayed reporting is, but the general
18 consensus is that delayed reporting is common.

19 THE COURT - Well, again, isn't that a statistical
20 fact?

21 MS. O'HAYON - Your Honor, I'm sorry, I'm just a
22 little unclear what you mean by when you say isn't that a
23 statistical fact.

24 THE COURT - I have -- I've gotten at least one of
25 the articles up here. We've been looking over it. It

1 appears that they report that in certain percentage of the
2 cases that there is delayed reporting, and they talk about
3 the various reasons why that could occur. I know they go
4 into a lot more detail, but if the only purpose you're
5 putting her up there for is to establish the fact that in
6 the majority of these cases it appears there is delayed
7 reporting according to the statistics -- if you add up the
8 reports, 70 percent of them, whatever of them, are late
9 reports. If that's what you're trying to get her to say --
10 I'm just trying to find out if that's an opinion or simply
11 a fact that's been established scientifically or
12 statistically. And she said from her reports that she has
13 2000 cases, the majority of which were late reports.

14 MS. O'HAYON - Yes, Your Honor. The -- yes.

15 THE COURT - Well, okay, well, I'm trying to find
16 out what her opinion -- what is she -- she start -- when
17 you do an opinion, you take a set of facts and you draw
18 some conclusion or inferences from that. What are the
19 conclusions or inferences she's going to bring from that,
20 or are there any? I didn't hear her testify to any, but
21 I'm trying to find out if there are. (Brief pause) Let me
22 ask the defense if they can tell me. What conclusions are
23 you objecting to if her testimony is that in the majority
24 of her cases of delayed reporting and the articles that
25 she's read, the majority of the cases involved there?

1 MS. INZERILLO - Your Honor, I'm -- I am objecting
2 to that -- to -- well, if she can make that assertion, ---

3 THE COURT - I was first told she was only being
4 offered for the purpose of establishing that late reporting
5 occurs.

6 MS. INZERILLO - Right.

7 THE COURT - Isn't that what you told me you were
8 putting her up for?

9 MS. O'HAYON - Yes, Your Honor.

10 THE COURT - Okay.

11 MS. INZERILLO - More of a -- my understanding is
12 that was more of an educative situation, so my objection
13 went to ---

14 THE COURT - Well, you went into bolstering and
15 all that other stuff.

16 MS. INZERILLO - Absolutely, and so ---

17 THE COURT - I understand what you said, but ---

18 MS. INZERILLO - If she's in a position to make
19 that assertion, which I would object to and say that she is
20 not, and too that that educative part of that, the
21 application of that in this case would be a secondary,
22 Judge.

23 THE COURT - I didn't hear her apply it to this
24 case, but she said she'd never talked to the child, didn't
25 know if it was a boy or a girl, didn't know the child's

1 age. I didn't hear any application of those facts to this
2 case from what I heard from that witness stand.

3 MS. INZERILLO - Well, and I think ultimately
4 that's -- what's going to happen is that the entry of this
5 testimony will then be used I believe at a later time,
6 approximately at the closing argument to be applied to this
7 case, and that would be the objection.

8 THE COURT - All right, any evidence can -- you
9 can argue it in -- I understand that. I'm trying to get
10 down to the opinion -- I'm supposed to judge whether I let
11 her be qualified as an expert based on several criteria,
12 whether she has the sufficient education, training,
13 experience, then I've got to look at the reliability of the
14 opinions that she offers. So when I got to that second
15 point that I'm trying to determine the reliability of the
16 opinions she's offered, I can't discern what the opinion is
17 in order for me to judge its reliability, so I'm trying to
18 get to the point as to what is this opinion that she's
19 offering and then is it a reliable opinion or not. But it
20 seems to me that she is simply -- her testimony was that
21 she was reporting that in the majority of her cases there
22 was late reporting, then when she looked at the articles or
23 the peer reviewed articles on that subject, that -- those
24 articles confirmed that there is -- the majority of cases
25 are late reported. Now, they got into some questions about

1 then whether or not those cases ended up being founded
2 cases or not founded cases and -- but I didn't hear her
3 testimony would be that, well, it's 20 percent of them
4 they're founded and -- I didn't think you were going to go
5 that far with her is the way I understood it. I think they
6 drew it out on the cross examination, but I didn't hear you
7 go that far in your direct, so that's the reason -- I'm
8 trying to get to the point where I can judge the
9 reliability of the opinions that she intends to offer. So
10 maybe I should've started off with that point and try to
11 get to what is her opinion and what is it -- and tell me
12 then what it's based on, and according to Chavez there's
13 got to be some type of indicia of reliability as to the
14 opinions that the -- or the conclusions that an expert
15 gives in a case. So I'm trying to follow Chavez. That's
16 the only guidepost I've got right now, and it's not a very
17 clear one.

18 MS. O'HAYON - Your Honor, the opinion that we're
19 asking her to make is that delayed reporting is common, and
20 although the statistics vary throughout the different
21 articles, all of the articles agree that it is common for
22 there to be delayed reporting, and the application of it
23 is, is it unusual for there to be delayed reporting. The
24 reliability portion of it is that all the studies that she
25 uses to determine that, in addition to her own experience,

1 but mostly all the studies that even despite the different
2 statistics all say that delayed reported is common, and the
3 ones that they use, the ones that have corroborating
4 evidence which she testified about, that some of them have
5 corroborating evidence to them. So that would be the
6 application and the reliability.

7 THE COURT - What does corroborating evidence have
8 to do with it?

9 MS. O'HAYON - She had testified that some of the
10 studies were based -- some of them were not based on
11 corroborating evidence, but some of them were based on
12 corroborating evidence, so it wasn't just on the victim
13 disclosing that there was sexual abuse, but there was other
14 evidence corroborating that there actually was sexual abuse
15 and in those studies ---

16 THE COURT - And you want her to testify to that.

17 MS. O'HAYON - Well, that's just the reliability
18 of her -- of the studies ---

19 THE COURT - Is that what you want her to -- I'm
20 trying to find out what you're going to put her up there
21 for, and if you ---

22 MS. O'HAYON - I want her to ---

23 THE COURT - You need to be able to tell me that
24 now.

1 MS. O'HAYON - I want her to testify to the fact
2 that it is common for there to be delayed disclosure, that
3 children have difficulty remembering dates and times and
4 the chronological order of events and the certain
5 behavioral issues that they have when they have been
6 victims of child abuse. Those are the -- the questions
7 that I specifically want to ask her is, is it common for
8 their to be delayed disclosure, can children remember dates
9 and times, why not, why is it common for there to be
10 delayed disclosure and what sort of behavioral issues or
11 differences are seen in children of victims of sexual
12 abuse.

13 THE COURT - You just stretched it out a little
14 further. It's a moving target. All right. Now, is there
15 any evidence that you have been able to discern that would
16 indicate that delayed reporting is not common? Where is
17 the scientific evidence on the other side of that question
18 that would indicate that that statement's not a reliable
19 statement?

20 MS. INZERILLO - Give me moment to think about
21 that. Because I think in the studies that I read, they got
22 into the leads about the type of disclosure -- the study
23 that I read that I cited in my cross examination is called
24 review of the contemporary literature on how children
25 report sexual abuse to others, findings, methodological

1 issues and implications for forensic interviewers. The
2 lead author being Kamala K-a-m-a-l-a London, and this
3 article questions the commonality of the proposition that
4 it is common to disclose.

5 THE COURT - It's common to disclose what?

6 MS. INZERILLO - The -- common to delay the
7 disclosure.

8 THE COURT - Right.

9 MS. INZERILLO - The article, however, goes into
10 the factors underpinning that, so it doesn't -- I want to
11 accurately answer your question. It doesn't come out and
12 say, we find that this wrong, there is no delayed
13 disclosure. It just goes into, these are the factors
14 commonly associated with it and --

15 THE COURT - Again, my -- I'm trying to judge the
16 reliability. If this witness gets up and gives the --
17 makes the statement as someone who's done a large number of
18 forensic interviews and has examined children and makes the
19 statement that the majority of these cases are involved
20 late disclosure, so it's not uncommon for that to happen,
21 is there any research that indicates that's not a
22 reliability study?

23 MS. INZERILLO - (No response)

24 THE COURT - You're making the motion; I'm going
25 to put the burden on you.

1 MS. INZERILLO - The article I cited questions the
2 factors underpinning that ---

3 THE COURT - It doesn't question -- I think it
4 doesn't question that there are a large number or a
5 majority of cases involving late disclosure.

6 MS. INZERILLO - That do involve delayed
7 disclosure, yes, Your Honor.

8 THE COURT - So is there anything -- if this
9 witness is being offered to give that opinion that in the
10 majority of cases it does involve late disclosure by
11 children, is there any scientific evidence that disputes
12 that statement?

13 MS. INZERILLO - I will say not that I have found.

14 THE COURT - Okay, that was I gathered from what I
15 read up here.

16 MS. INZERILLO - And I would venture to say, Your
17 Honor, if that's the standard, I would question if she --
18 if we need an expert to testify about her prior as being a
19 forensic interviewer ---

20 THE COURT - Well, I was trying to lead the State
21 into just saying we won't even offer her as an expert,
22 we'll just offer her as somebody that can testify from her
23 experience as to what she's found in her interviews. They
24 didn't bite on the bait, so I can't go there. They want
25 her to be an expert.

1 MS. INZERILLO - And I would offer that ---

2 THE COURT - And I'd say that's probably a
3 dangerous way to go, but that's okay. That's where we are.

4 MS. INZERILLO - I would -- I would offer that. I
5 don't know with her -- expertise is probably similar to a
6 forensic interviewer in this case, but I would have some --
7 -

8 THE COURT - Well, except she did not interview
9 the child, and I will not let her testify as to anything
10 that would relate to the interview, how it was conducted,
11 whether it was done properly or improperly. We're not
12 going there with this witness.

13 MS. INZERILLO - Absolutely. No, Your Honor, we
14 are not. I would note with Your Honor looking at the State
15 vs. Chavez, with the State sort of fleshing out a little
16 bit more than what they now explain to the Court is the --
17 I believe the second prong that they've laid out, that
18 children can't do -- can't understand time. I believe
19 that's in a general understanding of any adult that's ever
20 been around a child. I'm not quite sure that's necessarily
21 within her particular expertise. She doesn't ---

22 THE COURT - What? You talking about timings ---

23 MS. INZERILLO - The time -- children not
24 understanding time and I'm looking at through Your Honor's
25 lens of Chavez since that's what the Court has cited.

1 THE COURT - Well, that's -- that came out about
2 two weeks ago. It's pretty recent law.

3 MS. INZERILLO - Absolutely.

4 THE COURT - And it is our Supreme Court.

5 MS. INZERILLO - Absolutely. And certainly to
6 kind of track with Your Honor, I've not heard anything to
7 indicate why she has a specialized opinion on that and if
8 looking at that is whether this would assist in the trier
9 of fact, I think any adult would have that in their
10 understanding. With the third prong, Your Honor, I'll go
11 ahead and note my objection.

12 THE COURT - All right, I'm going to make a
13 ruling. I'll allow the witness to testify from her
14 experience and she'll be qualified as an expert. I suppose
15 you can as to the fact that there are late disclosures in
16 the majority of the cases she's dealt with and the
17 literature supports that determination by her. Now, as to
18 the timeframe for children, I'll again allow her to testify
19 from her experience that children do have difficulty
20 relating times and dates. Now, as to the reliability of
21 any of that information concerning disclosures or the
22 reliability of the reports, I'm not going to allow any
23 evidence or testimony concerning those issues. She said
24 she had not been peer reviewed. She had no way of knowing
25 her success rate, her accuracy rate. I will not allow any

1 testimony as to her accuracy rate or that of others unless
2 there is some type of scientific evidence that has been
3 peer reviewed to establish those facts or figures. As long
4 as you limit it to late reporting does occur in a large
5 number of majority of the cases and that children do have
6 difficulty relating time and dates during interviews, if
7 it's limited to those two facts I'll let her testify.
8 Anything outside of that will be objectionable.

9 MS. O'HAYON - Your Honor, just so that I'm clear
10 when I'm asking her, does that mean that she can or cannot
11 cite the articles or she can only cite to articles that
12 have used -- have been corroborated?

13 THE COURT - Any article that has been peer
14 reviewed and established. I have not read them all, so I
15 don't know what -- I'm not going to try to tell you which
16 ones have or haven't been but anything that has been peer
17 reviewed and is considered to be reliable by people in that
18 field, but again if we start getting into the numbers of
19 those late reports that were founded or unfounded or in her
20 case how many of the ones she reported were accurate
21 reports or inaccurate reports, there's no statistics on
22 that; there's nothing that's been established as to the
23 reliability of those, so I'm not going to allow that
24 testimony.

25 MS. O'HAYON - Thank you, Your Honor.

1 THE COURT - Very limited scope for her testimony.

2 MS. O'HAYON - Understood, thank you, Your Honor.

3 THE COURT - Now, State ready to proceed?

4 MS. O'HAYON - Yes, Your Honor.

5 THE COURT - Defense ready to proceed?

6 MS. ANDERSON - Yes, Your Honor.

7 THE COURT - Bring the jury in.

8 (WHEREUPON, JURY ENTERS TO THE COURTROOM)

9 THE COURT - All right, the record will reflect
10 the jury has returned to the courtroom. I've spent most of
11 my time apologizing to you, and I'll apologize again; I had
12 you come in too soon. An issue came up that I had to deal
13 with, and we have done that now, and again I'm sorry you
14 had to sit back in the jury room while we did it, but it's
15 been taken care of, and we are now ready to proceed with
16 the testimony in the case. I told you the State would be
17 going first, so the State may call its first witness.

18 MS. O'HAYON - Your Honor, the State calls

19 Victim , please.

20 THE COURT - Vict , if you would come
21 forward, please, right down here to this lady to be sworn.

22 Victim , AFTER BEING FIRST DULY SWORN,

23 TESTIFIES AS FOLLOWS

24 THE COURT - Please have a seat in the witness
25 stand. State your name, please.

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Victim

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Victim

- DIRECT BY MS. O'HAYON

180

1 Q Is that what you're currently reading?

2 A Yes, ma'am.

3 Q Let's talk a little bit about who you live with now.

4 Who currently lives with you?

5 A My brother and my big -- and my little brother and my
6 mom.

7 Q Okay, what is your -- what are you brothers' names?

8 A B.P. , B.J.P.

9 Q What's your mom's name?

10 A Delissa Latrelle Patterson.

11 Q How old is -- how old are your brothers?

12 A Fifteen and five.

13 Q Is B.P. fifteen?

14 A Yes.

15 Q Do you remember where you lived in 2011 and 2012?

16 A Pace's River.

17 Q Do you remember who you lived with?

18 A My aunt, my cousins and my big brother and my little
19 brother.

20 Q Did you always live with your aunt and your cousins?

21 A No.

22 Q Do you remember when they came in and lived with you?

23 A 2011.

24 Q You said that's your aunt. Is that your mom's sister
25 or your dad's sister?

1 A My mom's sister.

2 Q When you lived in Pace's River, did you go outside and
3 play?

4 A Yes, a little bit.

5 Q A little bit. Were you always allowed to go outside
6 and play?

7 A No, only with my brother.

8 Q I'm sorry?

9 A Only with my brother.

10 Q Only with your brother. Were you allowed to go
11 outside and play before your cousins moved in?

12 A No, not really.

13 Q So some time in 2011 your cousins moved in with you,
14 and then you were allowed to go out and play?

15 A Yes.

16 Q When you went outside to play, who was out there with
17 you?

18 A My big brother and my cousins.

19 Q When you say your big brother, is that B.P. ?

20 A Yes.

21 Q What are your cousins' names?

22 A Amazhanee, Arkevious and Sanadia.

23 Q And those are the cousins you go outside and play
24 with?

25 A (No response)

Victim

- DIRECT BY MS. O'HAYON

182

1 Q Did you go outside and play with any of your friends?

2 A Yes, I had a couple in my complex.

3 Q Okay. Do you remember someone by the name -- actually
4 sorry, withdrawn. When you went out and played with

5 B.P. and your cousins, did B.P. and your cousins have
6 any friends that they played with?

7 A Yes.

8 Q Who did B.P. play with?

9 A B.P. had a couple of friends in that complex.

10 THE COURT - Ma'am, can I interrupt just for one
11 second?

12 MS. O'HAYON - Yes, sir.

13 THE COURT - Ladies and gentlemen of the jury, I'm
14 going to ask you to step back to the jury room for just a
15 moment while I go some things with the attorneys. I'll ask
16 you not to discuss the case during your absence from the
17 courtroom. If you'll step back to the jury room. Thank
18 you very much.

19 (WHEREUPON, JURY EXITS THE COURTROOM)

20 THE COURT - I want to inquire of the defense as
21 to whether or not the defense is requesting to conduct --
22 the Court conduct a competency hearing concerning this
23 minor's testimony. Generally, there's no fixed age for a
24 child to be competent to testify, however, if you request,
25 the Court will conduct a questioning of the witness to

1 THE COURT - All right, the jury has returned to
2 the courtroom. I apologize for my interruption. You may
3 proceed with your examination.

4 MS. O'HAYON - Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. O'HAYON (contd.) -

7 Q We were just talking a little bit about your brother,
8 B.P. , and the friends that he would hang out with in the
9 apartment complex. Do you remember their names?

10 A No, not all of them, but he had friends from his
11 school that he played with and friends from my school he
12 played with.

13 Q Okay. Do you remember what some of the names -- you
14 said you don't remember all of them but you remember some
15 of them. Which names do you remember?

16 A Noah and John, Veronica and Juliana.

17 Q Okay, do you remember anyone else that he used to play
18 with?

19 A No, ma'am.

20 Q Do you remember anyone by the name of OJ that he used
21 to play with?

22 A Yes, ma'am.

23 Q Okay. What do you remember about OJ?

24 A He was in high school; he used to go to the pool and
25 come to the complex.

Victim

- DIRECT BY MS. O'HAYON (CONTD.)

187

1 Q Was that one of B.P. ---

2 THE COURT - Ma'am, speak up. I think some of
3 them are having trouble hearing you. Could you repeat that
4 last answer for us, louder.

5 A He was in high school, and he came to play with other
6 kids, and he went to the pool, and he came over to hang out
7 in the other complex.

8 Q Okay, so do you remember B.P. -- do you remember OJ
9 being one of B.P. friends?

10 A Yes, ma'am.

11 Q Okay. I'm going to ask you to look around the
12 courtroom, and if you're not able to see ---

13 MS. O'HAYON - I'm going to ask the Court if the
14 witness would have permission to stand up so she could look
15 around?

16 THE COURT - Yes, ma'am, you can stand up if you
17 need to see everyone.

18 Q Okay, do you see OJ in the courtroom today?

19 A Yes, ma'am.

20 Q Okay. Can you point out what he's wearing?

21 A Tuxedo and a tie.

22 Q I'm sorry?

23 A A tuxedo and a tie.

24 Q What color tie?

25 A Navy blue.

1 MS. O'HAYON - Let the record reflect that the
2 witness is identifying the defendant.

3 THE COURT - Can you tell me which gentleman
4 you're pointing to?

5 A Right here.

6 THE COURT - The one on the far right or the one
7 on the left?

8 A Far right.

9 THE COURT - One on -- which one, now, the one
10 against the wall or the one in the center?

11 A One against the wall.

12 THE COURT - The one against the wall. Okay. I
13 will indicate then that she indicated the defendant.

14 MS. O'HAYON - Thank you, Your Honor.

15 THE COURT - You may proceed.

16 Q Did OJ ever do anything to you that made you feel
17 uncomfortable?

18 A Yes, ma'am.

19 Q About how many times did he do some that made you feel
20 uncomfortable?

21 A Two.

22 Q Let's talk about the first time. Do you remember the
23 first time that he made you feel uncomfortable?

24 A Staircase.

Victim

- DIRECT BY MS. O'HAYON (CONTD.)

189

1 Q Okay. So if it's okay with you, we're going to refer
2 to the first time that he made you feel uncomfortable as
3 the staircase time. Is that okay?

4 A (Indicating yes)

5 COURT REPORTER - She needs to answer verbally.

6 MS. O'HAYON - I'm sorry?

7 COURT REPORTER - She was nodding her head.

8 Q You have to answer verbally.

9 A Yes.

10 Q Okay. Talking about the staircase time, tell us what
11 happened that day?

12 A I was sitting at the staircase, and he told me to get
13 on his lap, uh, my brother left with my cousins.

14 Q Okay, so let's backtrack a little bit. You mentioned
15 that there -- your brother and your cousins -- were you out
16 with your brother and your cousins?

17 A Yes, ma'am.

18 Q Okay. And then you said they left?

19 A (Indicating yes)

20 Q Okay. Where did -- do you remember where they went?

21 A I think they went home or somewhere. I don't really
22 know -- remember.

23 Q Okay. When you said that you were by the staircase,
24 is that the staircase in Pace's River?

25 A Yes, ma'am.

1 Q Okay. Do you remember which building that was?

2 A It was -- it was this building right here, because my
3 complex is right here.

4 Q Okay. So it wasn't the building that you lived in?

5 A No.

6 Q It was another one of -- do you know anybody who lived
7 in that building? If you don't remember, that's okay.

8 A No, I didn't really know anybody.

9 Q Okay. So now you mentioned that your brother and your
10 cousins left. Right?

11 A (No response)

12 Q So were you alone with OJ?

13 A Yes, ma'am.

14 Q Okay, what happened when you were left alone with OJ?

15 A He put his hands in my pants.

16 Q Okay. Where were you in relation to OJ? Were you
17 both standing? Were you both sitting?

18 A I was sitting.

19 Q Where were you sitting?

20 A On his lap.

21 Q Did you sit on his lap? Was that your decision to sit
22 on his lap?

23 A I really don't recall.

Victim

- DIRECT BY MS. O'HAYON (CONTD.)

191

1 Q Okay. When you said that he put his hand in your
2 pants, -- when he put his hand down your pants, did he put
3 it inside your underwear or was it over your underwear?

4 A Inside my underwear.

5 Q Okay. And did he touch anything when he was inside
6 your underwear?

7 A Yes, ma'am.

8 Q What did he touch?

9 A My vagina.

10 Q Okay. Did he touch you inside of your vagina or
11 outside your vagina?

12 A Inside.

13 Q Okay. Do you remember how long that lasted?

14 A Til my brother came back.

15 Q Okay. So your brother and your cousins came back,
16 too, or just your brother?

17 A My brother and my cousins.

18 Q Okay, when they came back, you said it -- that's how
19 long it lasted. What did the -- what did OJ do when your
20 brother and your cousins came back?

21 A He took his hands out of my pants.

22 Q Okay. How did that make you feel?

23 A Uncomfortable.

1 Q Okay. You said there was a second time that he made
2 you feel uncomfortable. Do you remember where that second
3 time was?

4 A Tennis court.

5 Q Okay. So talking about the tennis court time, tell us
6 a little bit about what happened that day?

7 A I was sitting at the tennis court and he came over and
8 I was sitting by my cousins.

9 Q Okay, so you were sitting by your cousins and he came
10 over to you? Did say anything to you?

11 A I don't remember.

12 Q Okay. And what happened after he came over to you?

13 A I think I sat on his lap.

14 Q So you sat on his lap?

15 A (No response)

16 Q Okay. And what happened when you sat on his lap?

17 A He put his hands in my pants.

18 Q Did he put his hands -- when he put his hands in your
19 pants, did he put inside your underwear or outside your
20 underwear?

21 A Outside my underwear.

22 Q That was outside your underwear?

23 A (No response)

24 Q Okay. So did he touch your vagina on that time?

25 A Yes, well, -- I'm sorry -- inside my underwear.

Victim

- DIRECT BY MS. O'HAYON (CONTD.)

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1 Q Okay. So it was inside your underwear. Did he touch
2 your vagina at that time?

3 A Yes, ma'am.

4 Q I'm sorry?

5 A Yes, ma'am.

6 Q Was it inside your vagina or outside your vagina?

7 A Inside.

8 Q Okay. Other than these two times, did he ever do
9 anything else like this to you?

10 A I don't remember.

11 Q You don't remember any other times.

12 A No.

13 Q Okay. Did you see him again after this second time?

14 A No, I don't think so.

15 Q You eventually moved out of Pace's River. Right?

16 A Yes.

17 Q Okay. And do you remember where you moved to?

18 A Yes, I moved into with my mom's friends ---

19 COURT REPORTER - I'm having trouble understand
20 her and hearing her. I'm sorry, Judge.

21 A We moved into my mom's friend's house.

22 Q Okay. And did there come a point when you moved into
23 Cedarview Apartments?

24 A Yes. That's (sic) was before we moved into a condo.

1 Q Okay. If you could speak loudly, because I'm having a
2 little trouble hearing you. Okay?

3 A That was before we moved into another condo.

4 Q Okay. So you lived at some point in Cedarview
5 Apartments.

6 A (Indicating yes)

7 Q Do you remember if OJ lived at the apartments there?

8 A Yes, ma'am.

9 Q Okay. Do you remember ---

10 THE COURT - Let's try -- move as close as you can
11 to that microphone. Can you move your chair?

12 COURT REPORTER - Your Honor, I don't think that
13 chair moves. She'd have to lean up. I don't think the
14 chair moves.

15 THE COURT - Talk as close as you can to it.
16 Thank you, ma'am.

17 Q Do you remember seeing him when you moved into
18 Cedarview Apartments?

19 A Yes, ma'am.

20 Q Okay. And what -- how did you feel when you saw him
21 at that point?

22 A I was kind of scared.

23 Q Okay. And did you tell anyone?

24 A No, I didn't tell anybody til September.

25 Q Til September?

Victim

- DIRECT BY MS. O'HAYON (CONTD.)

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1 A (No response)

2 Q Do you remember what year that was?

3 A 2003. I mean 2013.

4 Q 2013. Who did you tell in September of 2013?

5 A My mom.

6 Q Okay. The two times that OJ touched you that made you
7 feel uncomfortable, the staircase time and the tennis court
8 time, did both of those happen when you lived at Pace's
9 River?

10 A Yes, ma'am.

11 Q Okay. Do you remember if OJ lived at Pace's River?

12 A Yeah.

13 Q Do you remember if he lived there the entire time?

14 A Um, no, because I -- we moved there 2010, and I don't
15 recall seeing him around the complex.

16 Q Okay. So you recall him moving in after you moved in.

17 A Yes, I think so.

18 Q And of the two times that happened, do you remember,
19 were they both the same day?

20 A No.

21 Q Do you remember how long in between each of the times?

22 A How long it lasted?

23 Q No. I'm sorry. Do you remember how long between the
24 first time and the second time? Do you remember how many
25 days or weeks or months between those two incidents?

1 A I really don't remember the dates or the times, but
2 the tennis court was kind of like, kind of late noon.

3 Q Okay. The first time was the staircase time.
4 Correct?

5 A (Indicating yes)

6 Q Okay. Do you remember when that happened? You said
7 you don't really remember dates and times. Do you know
8 around maybe what grade you were in or anything like that?

9 A Run around?

10 Q Do you remember around maybe what grade you were in?

11 A Yes, first.

12 Q You were in first grade. Okay, what year were you in
13 first grade?

14 A 2012.

15 Q Was it 2011 into 2012?

16 A Yes.

17 Q And do you remember -- do you remember seeing OJ there
18 on a regular basis between the time of the staircase time
19 and between the time of the tennis court time, or was there
20 a time when you didn't see him for a little while?

21 A Yes, when he was at school, because we got out at 2:00
22 and we used to come home and we went to ---

23 Q Okay. Would you hang out with him when you were out
24 in the -- in the neighborhood and with your cousins and
25 your brother, would you play with OJ very often?

Victim

- CROSS BY MS. INZERILLO

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1 A No, not often, but my brother did.

2 Q Your brother did. Okay. Did you ever tell anyone
3 other than your mom?

4 A No, ma'am, I don't remember.

5 Q Do you remember ever trying to tell B.P. ?

6 A Yes, ma'am.

7 Q Okay. What do you remember about trying to tell

8 B.P.

9 A He told me that he didn't believe that I -- that it
10 happened.

11 Q Okay.

12 MS. O'HAYON - The State has no further questions.

13 Please answer any questions that the defense attorney may
14 have.

15 THE COURT - You may cross examine.

16 MS. INZERILLO - May it please the Court, Your
17 Honor.

18 THE COURT - Yes, ma'am.

19 CROSS EXAMINATION

20 BY MS. INZERILLO -

21 Q Victim , my name is Melissa. Can I ask you some
22 questions, too?

23 A Yes, ma'am.

24 Q Okay. You talked to your mom about what you just
25 talked about?

1 A Yes.

2 Q Okay. And you remember talking to these ladies about
3 what you just talked about?

4 A Yes.

5 Q Okay. And you remember talking a long time ago to a
6 lady named Puja?

7 A Yes.

8 Q Okay. And did you ever talk to this man sitting right
9 here in the green tie?

10 A No, I don't remember.

11 Q Okay. And do you remember way long time ago when you
12 told your mom what you told her?

13 A (Indicating yes)

14 Q Okay. When you talked to her about it at first, you
15 told her it happened in the summertime. Do you remember
16 that?

17 A Yes.

18 Q Okay. And the first thing -- when you first told her,
19 you only told her about the staircase. Is that right?

20 A (Indicating yes)

21 COURT REPORTER - She needs to answer verbally.

22 MS. INZERILLO - Oh, I'm sorry.

23 Q You have to say yes.

24 A Yes.

Victim

- CROSS BY MS. INZERILLO

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1 Q And then after that you told her about the staircase
2 and the tennis court. Right?

3 A Yes.

4 Q Okay. And you remember it was summer, because you
5 weren't in school?

6 A No, we really wasn't in school.

7 Q Right, because you don't go to school in the summer.

8 A Yes.

9 Q Okay. And do you remember if you had started first
10 grade in that summer?

11 A No, I -- I started first grade in the beginning of
12 August, 2011.

13 Q Okay. And did you tell your mom way back then that OJ
14 pulled you onto his lap?

15 A I didn't -- I didn't tell her ---

16 COURT REPORTER - She needs to speak up a little
17 bit, Judge. I'm having trouble hearing her.

18 A I didn't tell she -- he pulled me on his lap.

19 Q Okay. Do you remember what you told her?

20 A That he touched me somewhere he wasn't supposed to.

21 Q Okay. And do you remember telling your mom that he
22 only stopped once some other kids walked by?

23 A Yes.

1 Q Okay. And do you remember telling your mom that one
2 time you were wearing pants and another time you were
3 wearing shorts?

4 A I don't remember.

5 Q And do you remember that time that you talked to your
6 mom about it, you didn't tell her that B.P. was there or
7 that your cousins were there?

8 A I told her that they weren't all together.

9 Q Okay. So you told your mom that they were there.

10 A Yes.

11 Q Okay. Just B.P. or your three cousins, too?

12 A My cousins were -- the second time they were here, but
13 the other -- the first time they weren't here.

14 Q The first time they weren't, but the second time they
15 were?

16 A No, the second time they were. The first time they
17 weren't.

18 Q First time they weren't. Okay. And that's Arkevious
19 and Sanadia and tell me the third one.

20 A Amazhanee.

21 Q Amazhanee. And how old are your cousins?

22 A My first one, I think he's 11, and my second one's 9
23 and my third one is 13.

24 Q Is 13. So all about -- almost about your age.

25 A Yes.

Victim

- CROSS BY MS. INZERILLO

201

1 Q Okay. And you -- and when you first talked to your
2 mom about it, did you tell her that you had told B.P.
3 what happened?

4 A Yes.

5 Q Okay. And did you tell her that B.P. said it
6 couldn't have happened?

7 A Yes. Yes.

8 Q Okay. And so after that was when you had to go talk
9 to Puja?

10 A Actually I went to my family members and we talked
11 about it, then I went to Puja.

12 Q Then you went to Puja. Okay. And did you tell your
13 family members the same thing?

14 A Yes.

15 Q Okay. And when you went to talk to Puja, did you
16 remember telling her that you were wearing shorts?

17 A No.

18 Q Don't remember telling her that? Okay.

19 A (No response)

20 Q Do you remember telling Puja that you crawled into
21 OJ's lap?

22 A No, ma'am.

23 Q Don't remember telling her that.

24 A (No response)

1 Q The -- I think that you had told her that you told
2 B.P. about it after the tennis court time. Is that
3 right?

4 A I don't remember.

5 Q You don't remember? Okay. And if you don't remember
6 something, just tell me. Okay?

7 A (No response)

8 Q And then after you talked with Puja, you talked to
9 these ladies. Is that right?

10 A No, I had therapy. I went to therapy.

11 Q You went to therapy. Okay. And then after therapy,
12 did you talk to these ladies?

13 A Yes, ma'am.

14 Q Okay. All right, correct me if I say something wrong.
15 Okay?

16 A (Indicating yes)

17 Q All right. Do you like talking to these ladies?

18 A Huh?

19 Q Do you like talking to these ladies?

20 A Yes, ma'am.

21 Q They're kind of nice, aren't they?

22 A Yes, they are.

23 Q Yeah. And you came up and you talked to them a couple
24 of times. Right?

25 A Yes.

1 Q Okay. And they wanted to talk with you about -- have
2 you tell them what happened, too. Right?

3 A Yes, I did.

4 Q And so when you talked to them, you told them one time
5 at the tennis court that you were riding your scooter. Is
6 that right?

7 A Yes.

8 Q Okay. And then when you met with them again, you said
9 you weren't riding your scooter.

10 A No, ma'am.

11 Q No, you weren't riding it or no you didn't tell them?

12 A I was riding my scooter.

13 Q You were riding your scooter the whole time, but you
14 never told them that you weren't.

15 A I wasn't riding my scooter the whole time.

16 Q (Indicating yes)

17 A Uh ---

18 Q Did you ever tell them you weren't riding your
19 scooter?

20 A I was riding my scooter.

21 Q Okay. But you never told them that -- you didn't ever
22 say, Ms. Sharon or Ms. Erin, I wasn't riding my scooter?

23 A I wasn't riding my scooter -- my scooter the second
24 time.

25 Q You weren't riding your scooter the whole time.

1 A Not the whole time it happened.

2 Q Okay. But do you remember telling them one time, I
3 was riding my scooter, and then when they asked you another
4 time, you said, no, I wasn't riding my scooter?

5 A I don't remember.

6 COURT REPORTER - If she could maybe move up to
7 the mic. I think the jury's probably having trouble
8 hearing her, too. If you could scoot up to the mic.

9 Q Did you ever tell your mom you were riding the
10 scooter?

11 A No.

12 Q Okay. Did you ever tell Puja you were riding your
13 scooter?

14 A No.

15 Q Do you remember telling these ladies here that
16 Amazhanee and Sanadia and your other cousin admitted that
17 they were playing hand games ---

18 A Yes.

19 Q --- when they were out there?

20 A Yes, I did.

21 Q What are hand games? Like this? (Indicating)

22 A Like Lemonade or Miss Mary Mack.

23 Q Oh, you'll have to teach me that one. Okay. And then
24 that they were -- the two cousins were sitting next to you?

25 A Yes.

Victim

- CROSS BY MS. INZERILLO

205

1 Q Okay, and you told that to these ladies. Right?

2 A Yes, I did.

3 Q Okay. And you remembered that because you couldn't go
4 outside until your cousins moved in. Right?

5 A Yes, I really didn't go outside.

6 Q Okay. Do you remember telling them that this happened
7 around your birthday?

8 A No.

9 Q You don't remember telling them that?

10 A I don't really remember.

11 Q Okay. When's your birthday?

12 A .

13 Q Okay. Do you remember telling them that one time
14 happened before your birthday and one time happened after?

15 A Yes.

16 Q Okay. So do you remember that, telling these ladies
17 that.

18 A Yes.

19 Q Okay. Now, I think today -- and I want you to tell me
20 if I'm saying something wrong -- okay -- that today you
21 said that your cousins and your brother were there, but
22 they walked away, and that's when he wanted -- OJ wanted
23 you to sit on his lap. Is that right?

24 A (Indicating yes)

25 Q You didn't say that to ---

1 MS. INZERILLO - Oh, I'm sorry. You have to say
2 yes or no.

3 A Yes.

4 Q Okay. But you didn't say that to Puja, did you?

5 A No, ma'am.

6 Q Okay. Did you tell that to these ladies here?

7 A Yes, ma'am.

8 Q Okay. Do you remember when you told them that?

9 A It was -- I remember the temperature was hot. It was
10 real -- couple of months ago.

11 Q Okay. And -- and then you said that it stopped when
12 they came back.

13 A Yes, I did.

14 Q Okay. But you didn't tell that to Puja either. Is
15 that right?

16 A Yes, I didn't -- no, I didn't tell her.

17 Q Didn't tell you that. Okay, but you told that to
18 these ladies. Is that correct?

19 A Yes.

20 Q Okay.

21 MS. INZERILLO - I have no further questions, Your
22 Honor.

23 THE COURT - Re-direct.

24 MS. O'HAYON - I have no questions, Your Honor.

RYAN THOMAS - DIRECT BY MS. JOYNER

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1 THE COURT - All right, you may step down. Thank
2 you very much. State may call its next witness.

3 MS. O'HAYON - State will call Detective Thomas.

4 RYAN THOMAS, AFTER BEING FIRST DULY SWORN,
5 TESTIFIES AS FOLLOWS -

6 THE COURT - Have a seat, please, sir, and once
7 you're seated, state your name.

8 MR. THOMAS - My name is Detective Ryan Thomas.

9 THE COURT - Thank you. Counselor, your witness.

10 MS. JOYNER - Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MS. JOYNER -

13 Q Detective Thomas, which law enforcement agency are you
14 employed?

15 A The Rock Hill Police Department.

16 Q How long have you been with the Rock Hill Police
17 Department?

18 A Just finishing up eight years.

19 Q And how long have you been a detective for the Rock
20 Hill Police Department?

21 A Not quite two years.

22 Q And so then you were a detective with the Rock Hill
23 Police Department in September of 2013?

24 A Yes.

1 Q Directing your attention back to September of 2013,
2 did you become involved in an investigation of the
3 Defendant, Orlando Coleman?

4 A Yes, I was.

5 Q And how did that -- how did that case come to the
6 attention of the Rock Hill Police Department initially?

7 A I believe Ms. Delissa Patterson, the mother, called us
8 to report that. There was an initial report taken, I
9 believe, by Detective Sims at the time that just happened
10 to be there, you know, to take the report and then it was
11 passed up to me.

12 Q Okay, so the case was then assigned to you after the
13 phone call came in from Ms. Patterson?

14 A Yes.

15 Q Okay. And the initial phone call gave you a general -
16 - the allegations of a sexual-type assault upon Victim
17 at Pace's River Apartments?

18 A The -- I don't know what she said her initial phone
19 call to the police, but her initial reporting there at that
20 time was, yes, the allegations of sexual assault.

21 Q And during that initial report, did you become aware
22 that Victim was a minor?

23 A Yes.

24 Q And do you remember how old she was at the time the
25 report was made?

RYAN THOMAS - DIRECT BY MS. JOYNER

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1 A Six. Oh, at the time the report was made?

2 Q Yes.

3 A Eight, I believe.

4 Q Now, as part of your law enforcement general way that
5 you would investigate an allegation regarding a sexual
6 assault of a minor victim of this age, did you personally
7 interview Victim ?

8 A No.

9 Q Okay. Did you then schedule an interview to be
10 conducted at Safe Passage?

11 A I did.

12 Q Okay. Safe Passage, a child advocacy center here in
13 Rock Hill?

14 A Yes. Yes.

15 Q Okay. And so you -- is it correct you did not conduct
16 that interview?

17 A No.

18 Q Is it correct that you observed that interview
19 conducted from another room?

20 A Yes, through a TV monitor.

21 Q Okay. And did you, in fact, schedule that interview
22 for Victim at Safe Passage?

23 A I did.

24 Q Okay. Did that occur on September 24th of 2013?

25 A Yes.

1 Q Did you -- were you present to observe that interview?

2 A I was.

3 Q Okay. Now, let me ask you, detective, Pace's River
4 Apartments, are those apartments located within the city
5 limits of Rock Hill?

6 A Yes, they are.

7 Q Is that within York County, South Carolina?

8 A It is.

9 Q Okay. On September 25th of 2013, -- in September 25th
10 of 2013, did you make contact with the Defendant in this
11 case, Orlando Coleman?

12 A I did.

13 Q Okay. And how did you come to make contact with him?

14 A At first I went by the residence and left my business
15 card on the door requesting that he call me, because no one
16 was home at that time, then he called me back.

17 Q And did you -- were you able to schedule a meeting in
18 which you went to Mr. Coleman's house to meet with him?

19 A Yes, on -- when he called back I asked if it would be
20 okay if I could come to his house for an interview.

21 Q And at that time did you go there with the intention
22 of placing him under arrest?

23 A No.

24 Q Okay. What was your intention in going there?

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1 A To interview him to gather information and evidence
2 about the case.

3 Q Okay. Was there anybody -- on September 25th, do you
4 remember the address that you went to?

5 A It's Cedarview, the apartments there. I don't
6 remember the specific numbers of his building. It's an
7 upstairs unit on the right-hand corner.

8 Q Okay. Was there anybody else there besides Mr.
9 Coleman?

10 A No.

11 Q Did you -- were you aware at that time of who else
12 maybe lived at the apartment?

13 A I believe I was aware that he lived with his mother
14 there. I asked him before the interview started if anyone
15 else was home, and he said his mother had just left.

16 Q Okay. And did Mr. Coleman agree to speak with you?

17 A He did.

18 Q Okay. Now, in that initial meeting with Mr. Coleman,
19 did you record the interview?

20 A Yes.

21 Q Okay. And did he -- and did you record it with a
22 device that he could see that you were recording it?

23 A It's a small silver recorder about that big, and it's
24 -- there was a coffee table in front of us in the living

1 room area, had my paperwork out there, and it was just
2 laying there on top of the paperwork.

3 Q And in order to get Mr. Coleman to agree to speak with
4 you or continue to speak with you, did you threaten him in
5 any way?

6 A No.

7 Q Promise him anything?

8 A No.

9 Q Ever draw your service weapon?

10 A No.

11 Q Did you in any way place him under duress at all?

12 A No, ma'am.

13 Q And did he agree to speak with you on September 25th of
14 2013?

15 A Yes, ma'am.

16 Q Okay. And on that day -- and he was not in custody,
17 was he?

18 A No.

19 Q Now -- and at the conclusion of that -- of that
20 meeting on September 25th, did you leave and Mr. Coleman was
21 free, he had not been placed under arrest? Is that
22 correct?

23 A Correct. I left his residence.

24 Q Now, did you subsequently seek warrants, seek a
25 warrant for Mr. Coleman?

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1 A I did.

2 Q And on October 8th of 2013, was he placed under arrest?

3 A He was.

4 Q And was he brought to the Rock Hill Police Department?

5 A Yes, he was.

6 Q And at that time -- well on October 8th of 2013, did
7 you -- did you have an occasion to interview Mr. Coleman?

8 A I did.

9 Q And do you recall where that interview took place?

10 A Yes, in our building in the law center itself. The
11 detective division has an interview room that's along the
12 hallway. It's very close to our jail, and it was in that
13 interview room.

14 Q Okay. And again, how big is that interview room would
15 you say?

16 A You can almost touch both walls if you reach your
17 hands out. I mean seven feet by seven feet maybe. It's
18 small.

19 Q Okay. And is there furniture in those rooms?

20 A In -- there's a triangle-shaped corner desk in one
21 corner. There's two doors leading into the detective
22 division or the hallway and then two small chairs here for
23 the suspect, and one chair for the officer.

24 Q Okay. When you spoke with him on October 8th of 2013,
25 was there anybody else in the room?

1 A No.

2 Q Did you have your service weapon on you at that time?

3 A No.

4 Q Detective, I'm showing you what's been marked for
5 exhibit purposes as State's Exhibit 1. Do you recognize
6 that document?

7 A I do.

8 Q Is that a copy of the Miranda warnings, the warnings
9 that you gave to Mr. Coleman on October 8th of 2013?

10 A Yes, it is.

11 Q Okay. And how are you able to tell that those are the
12 warnings that you gave to him on October 8th?

13 A Because Mr. Coleman signed it at that time, and I
14 witnessed it.

15 Q Do you recall, did you read it aloud to him, or did
16 you give him the opportunity to read it?

17 A What I do is I set it on the desk between myself and
18 any suspect I'm interviewing -- I did this with Mr. Coleman
19 -- and I read it out loud. If he feels free to look along,
20 he can.

21 Q And there's two different paragraphs on that sheet.
22 Is that correct?

23 A There are.

24 Q Okay. But that, again, is that a truthful copy of the
25 form that you showed him and he signed on October 8th?

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1 A Yes, it is.

2 MS. JOYNER - Your Honor, we'd move State's
3 Exhibit 1 into evidence?

4 THE COURT - Any objection?

5 MS. INZERILLO - Your Honor, we renew the
6 objections incorporated into this record.

7 THE COURT - All right, your previous objections?

8 MS. INZERILLO - Yes, Your Honor.

9 THE COURT - All right. They are noted. The
10 Court would make the same ruling. It'll be admitted.

11 MS. JOYNER - Thank you, Your Honor.

12 Q Could you please read ---

13 THE COURT - Has it been marked?

14 MS. JOYNER - It has been marked, Your Honor.

15 THE COURT - It's admitted as marked. You may
16 proceed.

17 (WHEREUPON, DOCUMENT IS ENTERED INTO EVIDENCE AS
18 STATE'S EXHIBIT NUMBER 1.)

19 Q If you could please read the first paragraph.

20 A Before we ask you any questions, you must understand
21 your rights. You have the right to remain silent.
22 Anything you say can be used against you in Court. You
23 have the right to talk to an attorney for advice before we
24 ask you any questions and have him with you during
25 questioning. You have this right to the advice and

1 presence of an attorney even if you cannot afford to hire
2 one. We have no way of appointing you an attorney, but one
3 will be appointed by the Court for you if you wish. If you
4 wish you may answer questions without the presence of the
5 attorney, and you may stop answering any time you desire
6 until an attorney is present.

7 Q And did you read that word-for-word to Mr. Coleman on
8 October 8th of 2013?

9 A Yes, I did.

10 Q And did Mr. Coleman appear to understand what you were
11 saying to him?

12 A Yes, he did.

13 Q On October 8th, was Mr. Coleman under the -- did he
14 appear to be under the influence of anything?

15 A He did not appear to be under the influence.

16 Q Did you feel like he was of average intelligence?

17 A Yes.

18 Q And, again, did he sign that -- that ---

19 A He signed it.

20 Q Okay. And again, if you could read then the second
21 paragraph.

22 A Sure. I have read or had read to me the statement of
23 my rights shown above. I understand what my rights are and
24 I am willing to make a statement. I do not want an
25 attorney at this time. I understand and know what I am

1 doing. I know that the person talking to me is a police
2 officer, and I understand what he is talking about.

3 Q Okay. Did you read that word-for-word to Mr. Coleman?

4 A Yes.

5 Q And did he, again, acknowledge by signing?

6 A He signed it.

7 Q Okay. And so then did he agree to speak with you?

8 A He did.

9 Q Was he threatened in any way in order to coerce him to
10 speak with you?

11 A No.

12 Q Was he promised anything?

13 A No, ma'am.

14 Q How long -- do you -- let me kind of ask you --
15 there's a few questions that I forgot to ask you about
16 September 25th, so I'm going to ask the same questions as to
17 each. But going back, I think I forgot to ask you. As to
18 the first interview in his home on September 25th of 2013,
19 did Mr. Coleman at that time appear to be under the
20 influence of anything that would affect his ability to
21 understand who you were or what was going on?

22 A No, ma'am.

23 Q And, again, was he under the influence of anything on
24 October 8th when he was in custody in giving you a
25 statement?

1 A He did not appear to be.

2 Q Okay. Do you recall how long it was -- on the first
3 interview in his home on September 25th, 2013, do you recall
4 how long that interview lasted?

5 A Approximately, 45 minutes, around that timeframe?

6 Q And was the entire interview recorded?

7 A Yes.

8 Q Okay. So however long that recording is, is -- would
9 that be fair to say is the approximate length of the
10 interview?

11 A Correct.

12 Q And at any point during that first interview on
13 September 25th, 2013, did he say stop it, leave, I want you
14 to -- I want you -- I want to stop?

15 A Never anything like that.

16 Q Okay. Now, going back to -- and on that first
17 interview on September 25th, was he given Miranda warnings?

18 A No.

19 Q And why was that?

20 A Because he was not in custody for anything.

21 Q Okay. And so going back to October 8th, 2013, do you
22 recall how long that interview lasted?

23 A I believe that one was right at an hour or just over.

24 Q Was that interview recorded as well?

25 A Yes.

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1 Q Okay. Was the entire interview recorded such that
2 length of the recording can tell us how long the interview
3 lasted?

4 A Yes, it was.

5 Q Okay. At any point during that interview -- I think
6 I've already asked you -- you didn't threaten him.

7 A No.

8 Q Or promise him anything.

9 A No.

10 Q Did he ask at any point to stop?

11 A Never.

12 Q Did he ask for a lawyer?

13 A Never.

14 Q Did he ever say I need to use the restroom or I'm
15 hungry or thirsty?

16 A No.

17 MS. INZERILLO - Your Honor, may we approach?

18 THE COURT - You may.

19 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
20 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
21 WHICH WAS NOT REPORTED.)

22 THE COURT - All right, you may proceed.

23 Q Detective Thomas, just to correct a previous question,
24 going back in September 25th, 2013 interview in his home,
25 again, approximately how long was it?

1 A My guess is about 45 minutes or so.

2 Q Okay. Now, going to the October 8th of 2013 interview
3 when he was in custody, approximately, how long did that
4 interview last?

5 A Approximately an hour.

6 Q Now, I'm showing you what's been marked as State's
7 Exhibit 2. Do you recognize that State's Exhibit 2?

8 A I do.

9 Q And what do you recognize that exhibit as?

10 A This is a CD. It has the two recordings you just
11 mentioned on it with my initials and date.

12 Q Okay. And other than some rulings of the Court
13 regarding the contents and the admissibility of some of the
14 statement, is this a truthful and accurate representation
15 of the interrogations or the questionings that you gave the
16 defendant on September 25th of 2013 and October 8th, 2013?

17 A Yes, it is.

18 Q Okay.

19 MS. JOYNER - Your Honor, we move State's Exhibit
20 2 into evidence, and we'd ask to publish it at this time?

21 THE COURT - Any objections?

22 MS. INZERILLO - We just renew previous
23 objections, Your Honor.

24 THE COURT - All right, previous objections would
25 be noted. It'll be admitted pursuant to Court's previous

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1 rulings, so you may publish. And, ladies and gentlemen of
2 the jury, let me make you aware, there have been some
3 issues that came up concerning the admissibility of some of
4 the information on that disk. Based on rulings made by
5 this Court, as I indicated to you earlier outside of your
6 presence, you may notice places where that tape or that
7 recording appears to be altered. That is based on Court
8 rulings as to that information. So those are matters that
9 the Court may have altered or changed.

10 MS. JOYNER - Your Honor, we're first going to
11 play the interview from September 25th. That would be the
12 interview in his home.

13 THE COURT - All right, thank you.

14 (WHEREUPON, STATE'S EXHIBIT 2 MARKED INTO
15 EVIDENCE AND PORTION IS PLAYED FOR THE JURY.)

16 Q I want to stop the recording for just a minute,
17 Officer Thomas, and ask you about something that you just
18 told Mr. Coleman. You told him that there had been
19 allegations against multiple people?

20 A That's what I told him.

21 Q Was that the truth?

22 A No.

23 Q So what was the reason there that you told him that
24 Victim had made allegations against multiple people?

1 A One technique that we are trained on for interviewing
2 is -- especially in cases of sexual assault -- is to
3 present a fabricated story to the possible suspect, one
4 that you know yourself is not true, and you present it to
5 them as if it is true, and if the suspect is willing to go
6 along with that story to answer questions about it and to
7 adopt it as if it is true, you know for a fact that they're
8 lying to you about that. It's a technique to ease into --
9 you know, rather than just direct accusations and
10 confrontation, and to get a feel for the believability of
11 the suspect and whether or not, you know, he'll be honest
12 with you throughout the interview.

13 MS. JOYNER - All right, we'll continue to play.
14 Thank you.

15 (WHEREUPON, THE CD IS CONTINUED)

16 Q All right, Detective Thomas ---

17 MS. JOYNER - Actually, Your Honor, the next
18 recording we're going to play is from October 8th, 2013.

19 THE COURT - Do you know how long that one is?

20 MS. JOYNER - Well, it's 35 minutes with
21 redactions, Your Honor.

22 THE COURT - All right, well, why don't we take
23 just a short break and let everybody stretch their legs,
24 and I'll let you step back to the jury room and let us make
25 you comfortable. It shouldn't be long, and then we'll

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1 resume shortly. As you leave the courtroom, please don't
2 discuss the case even among yourselves until I ask you to
3 do so. You may retire to the jury room.

4 (WHEREUPON, JURY EXITS THE COURTROOM)

5 THE COURT - Court will be in recess for about
6 five or ten minutes. You can step down. Please don't
7 discuss your testimony during the break.

8 MR. THOMAS - Yes, sir.

9 (WHEREUPON, RECESS TAKEN)

10 THE COURT - Thank you very much. You can be
11 seated. State ready to proceed?

12 MS. JOYNER - The State's ready, Your Honor.

13 THE COURT - Defense ready?

14 MS. INZERILLO - We just need our client.

15 THE COURT - As soon as he's here.

16 (WHEREUPON, DEFENDANT ENTERS THE COURTROOM)

17 THE COURT - Bring the jury in.

18 (WHEREUPON, JURY ENTERS THE COURTROOM)

19 THE COURT - All right, the record will reflect
20 the jury has returned to the courtroom. You may proceed in
21 the publication of the second ---

22 MS. JOYNER - Thank you, Your Honor. This next
23 recording is from October 8 of 2013.

24 (WHEREUPON, RECORDING OF CD IS PLAYED FOR THE
25 JURY).

1 Q Just a few brief follow-up questions, Detective
2 Thomas. The end of the interview you're receiving consent
3 to search the phone?

4 A Yes.

5 Q Is that a standard part of any police investigation?

6 A Yes, it is.

7 Q And nothing of evidentiary value was located as to
8 this case. Is that correct?

9 A No.

10 Q Okay. And you weren't requesting that based upon any
11 statements from the victim regarding the phone. Is that
12 correct?

13 A No. I mean that -- correct, it was not based on any
14 statements.

15 Q Just a standard procedure?

16 A Yes.

17 Q Okay. Now, the individual that you were meeting with
18 both on September 25th of 2013 and October 8th of 2013,
19 Orlando Coleman, do you see that person that you met with
20 here in the courtroom?

21 A I do.

22 Q Can you please point him out to the jury?

23 A Mr. Coleman's sitting here to the left close to that
24 easel.

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1 MS. JOYNER - Okay. Let the record reflect he's
2 identified the defendant in this case.

3 THE COURT - It'll so reflect. You may proceed.

4 MS. JOYNER - Thank you, Your Honor.

5 Q And is there anything different about Mr. Coleman
6 today than was on October 8th of 2013?

7 A Yes, there is.

8 Q And what is that difference?

9 A He's lost a significant amount of weight since his
10 arrest.

11 MS. JOYNER - No further questions for Detective
12 Thomas.

13 THE COURT - You may cross examine.

14 MS. INZERILLO - May it please the Court, Your
15 Honor.

16 THE COURT - Yes, ma'am.

17 CROSS EXAMINATION

18 BY MS. INZERILLO -

19 Q Detective Thomas, ultimately you were the case agent
20 for this case. Is that right?

21 A Yes, ma'am.

22 Q And that means that you are the detective that is
23 responsible for the case.

24 A Yes.

1 Q And so when you conducted these interviews with Mr.
2 Coleman, you did it as the case agent.

3 A Yes.

4 Q When you interviewed Mr. Coleman, that was in 2013?

5 A Yes.

6 Q He was 18 at the time?

7 A I believe so.

8 Q Okay. And you were asking him about events that took
9 place, in your belief, at the time during the summer of
10 2011. Is that correct?

11 A Correct.

12 Q And he indicated to you that during that time he was a
13 junior in high school?

14 A I believe -- yes, I believe he said junior.

15 Q Yes, and I think he says like a year before graduating
16 or something, but that would be a junior.

17 A Right, roughly that time period.

18 Q Okay. So he's a teenager then in September of 2011.

19 A '11, yes.

20 Q Okay. And you got that timeframe based on Delissa
21 Patterson's relaying of events to Detective Sims that was
22 relayed to you.

23 A Correct.

1 Q Okay. And I want to walk through that a little bit.

2 Essentially your job as case agent is to take the case from
3 its inception and take it all the way through to the end.

4 A Yes.

5 Q Is that fair? Okay. So even though you may not be
6 the person that picked up the phone in this case and took
7 the initial report, you're the one that kind of picked it
8 up and then reviewed all the information that came in.

9 A Right. Rarely would I take the initial report.

10 Q So that's pretty common.

11 A Yes.

12 Q Okay. And so -- and that's what happened in this
13 case.

14 A Yes.

15 Q Okay. So Delissa Patterson calls Rock Hill PD and
16 ultimately the initial report is taken by Detective Sims.

17 A Correct.

18 Q Okay. And in that initial report -- and you've
19 reviewed that initial report.

20 A Yes.

21 Q Okay. And then based on that initial report, you
22 then, I believe in this case then picked up the phone and
23 talked to Delissa Patterson to get more information.

24 A Yes, that was the first I believe I spoke to in the
25 case was Ms. Patterson.

1 Q And that's pretty common, because the complainant in
2 this case was a child.

3 A Absolutely.

4 Q Okay. And so up until that point that's pretty
5 standard, because in these kind of cases you do generate
6 and refer the child to essentially a place like Safe
7 Passage so that they can interview.

8 A I mean I have no formal training in interviewing
9 children, so I defer to experts on that.

10 Q Absolutely. Okay. So your initial information in the
11 case came from Ms. Patterson and then Detective Sims report
12 and then your phone conversation with her.

13 A Correct.

14 Q Okay. And then from there you watched the forensic
15 interview and then you done all that prior to speaking to
16 Mr. Coleman in the first interview.

17 A Right.

18 Q Okay. All right, so -- and then based on all of that,
19 you're sort of on the case, you're the guy in charge and so
20 from there you're making all the decisions about where we
21 go from here, warrants, I think at issue, that kind of
22 thing.

23 A Yes.

24 Q Okay. So the initial information that you got -- that
25 -- from Detective Sims was -- and I believe -- I want to

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1 make sure I get the language correct -- that Orlando,
2 quote, pulled her -- being Victim -- onto his lap and
3 held her there. Is that right?

4 A I personally didn't have it memorized exact word in
5 the report, but that sounds correct, yes.

6 Q Okay. And Ms. Patterson indicated that Victim was
7 only able to get away because children playing outside
8 started walking past Orlando. Is that correct?

9 A Right.

10 Q And she indicated to Detective Sims, and then I think
11 ultimately to you as well, that all of this happened in
12 2011.

13 A That was the -- her understanding of the timeframe
14 that she could put together.

15 Q From Victim recitation to her.

16 A Account to her, right.

17 Q Okay. And the incident date from your warrant that I
18 think you were kind of working off of was September 1st,
19 2011, and I think you were also working around sort of a
20 summer timeframe of 2011.

21 A Yes, we picked a generic month and day, because we
22 didn't have a specific one, so we just picked one that was
23 relatively close.

24 Q So you -- and then you were kind of operating at that
25 time under the summer of 2011.

1 A Right.

2 Q Okay. Because you were questioning Orlando about
3 summer of 2011.

4 A Right.

5 Q And you had indicated to him you'd gone so far as to
6 pull utility records for summer of 2011 ---

7 A Correct.

8 Q --- when he had called you in between these two
9 interviews and said, look, I don't think we lived there at
10 the time you think we lived there.

11 A Yes, he called me and left a voicemail stating that.

12 Q And then you pulled the utility records to see if he
13 lived there.

14 A Yes.

15 Q Okay. And you recall from those utility records he
16 lived from there May to November of 2011.

17 A Brenda Coleman.

18 Q Okay. Brenda is his ---

19 A Mother.

20 Q Okay. Now, at that point in the case, there was
21 nothing discussed about any incidents happening around
22 Victim birthday.

23 A No.

24 Q No information you had specifically noting an incident
25 date around May 13th, 2011.

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1 A May -- could've been close -- I mean that's close
2 enough to the summer. Again, it was just this general --
3 it was warm out; kids were out playing regularly outside.

4 Q Okay, but that wasn't a date you were working off of
5 specifically.

6 A Not a specific date, no.

7 Q Okay. And there was no date range that you were
8 working off of of January to June 2012.

9 A January to June ---

10 Q 2012.

11 A No.

12 Q Okay. Or any information that you had of anything one
13 incident happening in 2011 or another incident happening in
14 2012.

15 A Well, that -- that was the initial understanding of
16 mine was that they could've been a year apart, as far as a
17 year apart in two different summers, and then he began to
18 go into, well, I was at school during this time, we had
19 already moved by that time, so my -- my opinion after that
20 was that Victim just couldn't sort out how far apart the
21 incidents where.

22 Q So when the Delissa tells you when she talked to
23 Victim that she narrowed it down to the summer of 2011,
24 is that incorrect or is that correct?

1 A To the best of my recollection that's -- she felt that
2 they were in 2011.

3 Q Okay. And that was the information she gave Detective
4 Sims and that she ultimately gave you. Was that correct?

5 A I don't remember specifically what she told Sims
6 about; I'm pretty sure that's what she relayed to me.

7 Q Okay. When you spoke to Ms. Patterson yourself, you
8 spoke to her on the phone?

9 A Yes, ma'am.

10 Q You didn't have her come in and write a statement?

11 A No, ma'am.

12 Q You didn't have her -- you didn't audio-record a
13 statement?

14 A No, ma'am.

15 Q Okay. And Ms. Patterson indicated on the summer of
16 2011 that she narrowed it down because -- and I want to
17 make sure I'm correct -- that ---

18 MS. JOYNER - Your Honor, I'm going to object to
19 the repeated reference as to what Ms. Patterson said. If
20 she could ask the officer what his understanding was,
21 perhaps, but Ms. Patterson hasn't -- Ms. Delissa Patterson
22 hasn't testified.

23 THE COURT - He indicated he did not conduct any
24 of the interviews.

25 MS. INZERILLO - He spoke with ---

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1 THE COURT - So perhaps you should lay a
2 foundation for any knowledge he might have of what Ms.
3 Patterson might've said.

4 MS. INZERILLO - Your Honor, I believe he's
5 testified he spoke to Ms. Patterson over the phone, and
6 that's how he got this information. And if that's
7 sufficient, I can continue to ask ---

8 MS. JOYNER - But I think that he's -- she's
9 inquiring -- or can we approach?

10 THE COURT - PLEASE DO.

11 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
12 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY,
13 WHICH WAS NOT REPORTED.)

14 THE COURT - You may proceed.

15 MS. INZERILLO - Thank you, Your Honor.

16 Q Ms. Patterson had the timeframe of summer of 2011
17 based on the fact she thought it was a summer school break.
18 Is that the information she gave you?

19 A Correct.

20 Q Okay. And then as we indicated after that, you sat in
21 on the forensic interview in this case.

22 A I did.

23 Q Okay. And that was at your request that the forensic
24 interview be held.

25 A Correct.

1 Q And from your perspective, a forensic interview can be
2 an investigative tool. Would you agree with that?

3 A In my opinion is, yes.

4 Q Okay. Sometimes in those interviews you can get a
5 fact or something that may assist in your independent
6 investigation of the case.

7 A It could lead to that.

8 Q Okay. In this case, Victim told the interviewer
9 that her brother was present for one of the incidents, the
10 alleged incidents. Is that correct?

11 A My understanding is she told her brother that it had
12 happened.

13 Q Okay.

14 A I don't believe she said he was a witness to it.

15 Q Okay. You don't recall her telling the investigator
16 that?

17 A That he witnessed the assault?

18 Q That he -- that he was present; that he was there.

19 A She -- if she said that her brother was there, she
20 wasn't saying that he was a witness to the assault. She
21 was saying her brother was in that area at that time that
22 day.

23 Q Okay. Do you recall her telling Puja that there were
24 other -- that the cousins were there?

25 A Yes.

1 Q Okay. Did you interview the cousins?

2 A No, ma'am.

3 Q Okay. Did you interview her brother?

4 A No, ma'am.

5 Q At that point you then went and inter -- went to Mr.
6 Coleman's house, the left the card in order to interview
7 him.

8 A Right.

9 Q Okay. And you testified on direct that the point of
10 that September interview was to essentially get evidence
11 and to get more information about the case. Is that
12 correct?

13 A Correct.

14 Q But you went in there essentially with a lie.

15 A Part -- parts of lies, not everything.

16 Q Okay. So your way of getting evidence and of getting
17 information was to lie to an 18 year old about this -- what
18 you knew about the case.

19 A Standard technique.

20 Q Okay. So and the lie that you chose was to say that a
21 six year old was coming on to multiple guys.

22 A That was one aspect of it, yes, ma'am.

23 Q Okay. And in interviewing Mr. Coleman, at one point
24 you eventually do ask him directly, did you put your hands
25 down her pants and he said no.

1 A I believe I asked him did he sexually touch her in any
2 way or sexually assault her in any way.

3 Q And he said no.

4 A He said no.

5 Q And you said, did you put your hand under her clothing
6 and he said no.

7 A He said -- yes, he answered no to all those questions.

8 Q Okay. So when you actually got to the actual fact of
9 your case, he said no. Is that correct?

10 A To that specific point of it.

11 Q Okay. The point that's actually the crux of the case,
12 not the made-up part.

13 A The aspect of him sexually touching her, but again we
14 did discuss her crawling on him or being in his lap and
15 things like that.

16 Q Okay. So you go with the intention of talking to an
17 18 year old kid to try to get evidence, and he is talking
18 with you about the victim, alleged victim, in this case.
19 Would you agree with that?

20 A Just to clarify, an 18 year old is an adult in South
21 Carolina, not a kid, and that was -- yeah, obviously, you
22 know, I needed to question him about the allegations
23 against him.

24 Q Okay. So he tells you that some of these cousins are
25 vulgar around her.

1 A Correct.

2 Q Okay. Did you look into that?

3 A No, ma'am.

4 Q Okay. He tells you that um -- that um the brother was
5 around, that she'd see him since -- well, let me back up --
6 that she had seen him since then. Did you look into that?

7 A That Victim had ---

8 Q She had seen Orlando since then. Did you look into
9 that?

10 A That's what Ms. Patterson had already relayed to me.

11 Q Okay, but you didn't look into that.

12 A What do you mean look into it?

13 Q Do any follow-up investigation into that.

14 A She had already told me that's what happened.

15 Q Okay. Did you -- when he told you that -- give me one
16 second, because I want to make sure I get the language
17 right. When he told you that Victim always hung out with
18 -- well, let me back up -- that when he went back, she
19 would walk up to him and she came up and she gave him a
20 hug? Did you follow-up on that?

21 A Specifically about a hug, no.

22 Q Okay. You did tell him though that you would continue
23 to look into, that you would get back to him, and that if
24 he had any other questions he could call you.

25 A Yes.

1 Q And he did.

2 A He -- he did call?

3 Q He left a voicemail about trying to help you with the
4 investigation.

5 A That was after the first interview, yes.

6 Q Okay. And he -- you asked him questions specifically
7 about this girl and her -- these alleged allegations
8 against all these guys. Is that right?

9 A Against Niyah, yes.

10 Q Right. Okay. You didn't tell him in that first
11 interview that it was lie.

12 A No.

13 Q No.

14 A That would defeat the purpose of it.

15 Q So -- but you do tell him that you're a detective with
16 the Rock Hill Police Department.

17 A Yes.

18 Q Okay. And you're there -- are you dressed similarly
19 the way you are today?

20 A Shirt and tie. Probably not a suit jacket, but ---

21 Q You had a badge on you?

22 A Yes.

23 Q Okay, do you have your gun on you?

24 A Yes, I usually have gun on my hip.

1 Q Okay. So you don't pull your gun, but you're
2 obviously a pretty authoritative-looking guy.

3 A That'd be your opinion. I ---

4 Q All right. I'm going to say pretty authoritative-
5 looking guy.

6 A Thank you.

7 Q You've got your badge, you got your gun, pretty clean-
8 cut, you come into 18 year old guy's home and you tell him
9 you're a detective. Is that right?

10 A Correct.

11 Q Okay. And then you proceed to spin a lie to him about
12 this girl and these guys, and you ask him a series of
13 questions about that.

14 A Well, you say spin a lie -- I say -- I use techniques
15 that I've been trained in to determine his believability,
16 his credibility, his truthfulness.

17 Q Okay. It's a lie, though; Right?

18 A You can call it a lie, sure.

19 Q You told him a lie. You told him in the second
20 interview it was a lie.

21 A Aspects of it. Not everything, just to clarify.

22 Q But it was a lie.

23 A Aspects of it were.

1 Q Okay. And so the 18 year old kid is trying to answer
2 your questions. You asked him a question about Niyah and
3 he tries to answer your question. Is that right?

4 A He answered everything.

5 Q He answered your questions. You testified on direct
6 he never once said I don't want to talk to you anymore.
7 Right?

8 A Correct.

9 Q Right?

10 A True.

11 Q He's trying to be helpful; we can hear that on the
12 tape. Is that right?

13 A I would -- you could say helpful, yes.

14 Q Okay. He didn't kick you out of the house, tell you
15 to leave, ---

16 A No.

17 Q --- cut off the interview at that point.

18 A No.

19 Q In fact, in this sort of month-long period, he
20 actually calls with information saying, look, I think this
21 might help you, I may not have lived there during that
22 time.

23 A Well, certainly he wants to help his case out.

1 Q Okay. On the second interview, you go in, knowing
2 you've spun this lie, but he doesn't know that. Is that
3 fair?

4 A That's accurate.

5 Q Okay. And then you proceed to go through all of
6 these, quote, unquote, details that he shouldn't have
7 remembered about that time-frame.

8 A To me he remembered a lot of specific detail about one
9 young girl that I thought was out of character for a normal
10 18 year old.

11 Q Okay. So the details that you focus in on is that he
12 remembered that a six year old girl wore revealing
13 clothing, had a bad temper, called other girl b's and had
14 vulgar cousins.

15 A Those were some of those, yes.

16 Q Okay. Those to you are unusual details for someone to
17 remember about a six year old child?

18 A Absolutely. In his case specifically because of his
19 testimony that he hung out with all the kids, this was a
20 regular, normal thing, everyday-event, well, for the summer
21 or what may it be, and to be able to single out one child
22 two years ago, that -- that is very specific, things that
23 he mentioned about her.

24 Q So he hangs out with a bunch of children and one of
25 them curses all the time. That wouldn't stand out to him?

1 MS. JOYNER - Objection. I don't know that there
2 was any statement that one of them curses all the time.

3 MR. THOMAS - No.

4 MS. INZERILLO - Says she calls girls b's, Your
5 Honor.

6 THE COURT - That's a characterization. I'd ask
7 for you to stay within the proof.

8 MS. INZERILLO - Yes, Your Honor.

9 THE COURT - Thank you.

10 Q So he hangs around with children all the time and he
11 would remember that one six year old calls girls b's. That
12 would be unusual for him to remember?

13 A That's a very specific point.

14 Q Okay. It wouldn't be unusual for him to remember that
15 cousins around her own age were vulgar?

16 A Again, you're recalling what specific children used to
17 say while out at play in the summertime. I personally
18 believe that's specific.

19 Q Okay. Vulgar children would not stand out to you.

20 A Vulgar children, that's -- that's a detail that he's -
21 - he can recall.

22 Q Okay. The -- you never asked him about the cousins,
23 did you?

24 A No.

25 Q Okay. You only asked him about a girl named Niyah.

1 A Correct, the victim.

2 Q Okay. And those are the details he gave you.

3 A Yes.

4 Q Multiple times from that interview he denied touching
5 Niyah. Is that correct?

6 A Yes.

7 Q Okay.

8 A In a sexual way, to clarify.

9 Q Okay. In fact, he numerous times he tells you I did
10 not do what you're saying that I did. Is that right?

11 A I don't remember how many times, but at least -- at
12 least once or twice he did say that.

13 Q Okay. When you asked him specifically about a six
14 year old coming on, he tells you, who would expect a six
15 year old to do that.

16 A Right.

17 Q Is that correct?

18 A Which validated my point in saying that.

19 Q Okay. Because it's not a normal response for someone
20 to disbelieve a six year old would come on to an adult?

21 A No, because it's irrational to think a six year old
22 would be sexually promiscuous toward an adult. That was my
23 whole point in presenting that lie.

24 Q Right. And he had that reaction.

25 A Right, he agreed with the fact that it didn't happen.

1 Q He agreed with you that it's clearly irrational that a
2 six year old would come on to an adult. Right?

3 A Right.

4 Q Okay. At the time that you interviewed him the second
5 time, he was under arrest for the warrant that's sworn out.
6 Is that correct?

7 A Yes, ma'am.

8 Q So this interview was the last thing you did in the
9 case.

10 A I believe -- yes, you know, except for compiling
11 paperwork and things, yes, I believe that was it.

12 MS. INZERILLO - Okay. No further questions.

13 THE COURT - Re-direct?

14 MS. JOYNER - Just a few questions briefly.

15 RE-DIRECT EXAMINATION

16 BY MS. JOYNER -

17 Q Do you recall, Detective Thomas, during the course of
18 your investigation, your interaction with the defendant,
19 did you learn what his date of birth was?

20 A Yes.

21 Q Do you remember that off the top of your head, or
22 would you need to see it?

23 A Not today. I would need a refresher.

24 Q Okay. If I were to show you the incident report,
25 would that refresh your recollection?

RYAN THOMAS - RE-DIRECT BY MS. JOYNER

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1 A Yes, it would.

2 THE COURT - You may approach the witness.

3 MS. JOYNER - Thank you, Your Honor.

4 Q Can you please let the jury know what Mr. Orlando
5 Coleman's date of birth is?

6 A September 23rd, 1993.

7 Q Okay. So correct my math if I'm wrong, but would that
8 make him a 19 year old adult at the time of your first
9 interview with him on September 25th of 2013?

10 A By two days.

11 Q Would he then have been a 20 year old adult on October
12 8th of 2013 when you interviewed him the second time?

13 A Yes, 20; 20, 20 years old.

14 Q Okay. Oh, I'm sorry. Let me correct that. If you
15 interviewed him for the first time November (sic) 25th, was
16 he actually 20 then?

17 A As I say by two days he had just ---

18 Q Yes, by two days he was ---

19 A Right.

20 Q --- 20. I'm sorry. I misstated.

21 MS. JOYNER - That's it. No further questions,
22 Your Honor.

23 THE COURT - Re-Cross.

24 RE-CROSS EXAMINATION

25 BY MS. INZERILLO -

1 Q But you still lied to him?

2 A Again, you keep putting it like that. This is a
3 technique that we are regularly trained to use and employ
4 to see if a defendant will admit to a crime, to see if he
5 will lie about a crime. It's -- it's normal.

6 Q So on the second tape when you said, I'm going to be
7 honest with you, Mr. Coleman, when I told you all that
8 stuff about Victim coming on to people, I was lying ---

9 A Well, I use a vernacular he would understand, of
10 course.

11 Q Okay. So it was a lie.

12 A The way you're presenting it is incorrect. This is a
13 technique that we are trained to use in order to see if he
14 will lie, and then at the end after it's fulfilled its
15 purpose, then we can explain to them which parts weren't
16 true, which parts were.

17 THE COURT - Ma'am, you're on re-cross. This
18 needs to be new matters that were raised by the re-direct.
19 This has already been asked and answered in your cross
20 examination.

21 MS. INZERILLO - You know what, I have no further
22 questions.

23 THE COURT - Thank you. All right, ladies and
24 gentlemen of the jury -- sir, you may step down. Thank you
25 very much.

1 (WHEREUPON, STATE'S EXHIBIT 3 MARKED FOR
2 IDENTIFICATION)

3 THE COURT - All right, State ready to proceed?

4 MS. O'HAYON - Yes, Your Honor.

5 THE COURT - Defense ready to proceed?

6 MS. ANDERSON - Yes, Your Honor.

7 THE COURT - Bring the jury in, please.

8 (WHEREUPON, JURY ENTERS THE COURTROOM.)

9 THE COURT - Good morning. I hope everyone had a
10 good evening. The record should reflect that the jury is
11 now back in the courtroom. Yesterday afternoon, as always,
12 when you left the courthouse I gave you some instructions
13 concerning your behavior. If there was any member of the
14 jury panel who was unable to follow my instructions, please
15 stand.

16 (NO RESPONSE)

17 THE COURT - The record then will reflect that all
18 jurors have been able to follow my instructions thus far.
19 When we stopped yesterday afternoon, the State was in the
20 process of calling witnesses. At this time the State may
21 call its next witness.

22 MS. O'HAYON - State calls Laurie Caldwell.

23 THE COURT - Would you get her, please? Thank
24 you. Come forward, please ma'am, and be sworn by the
25 clerk.

1 LAURIE CALDWELL, AFTER BEING FIRST DULY SWORN,
2 TESTIFIES AS FOLLOWS -

3 THE COURT - Please have a seat in the witness
4 stand, and once seated, state your name. Thank you.

5 MS. CALDWELL - My name is Laurie Varnadoe
6 Caldwell.

7 THE COURT - Thank you. Counselor, your witness.

8 MS. O'HAYON - Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. O'HAYON -

11 Q What is your educational and training background?

12 A I graduated from the University of South Carolina with
13 a bachelors in interdisciplinary studies and continued on
14 and graduated in 1986 with a masters in social work, and
15 from there I found myself at the South Carolina Police
16 Academy, and I graduated from basic law enforcement
17 training, and at that point in my career I began
18 specialized training in child abuse and neglect
19 investigations. So most of that -- the early training
20 started at The Criminal Justice Academy in child abuse
21 investigations and medical aspects of child abuse, and
22 continued training throughout the years through the
23 governor's office, the Federal Law Enforcement Training
24 Center. I've attended numerous national conferences
25 concerning child abuse and neglect, -- excuse me -- and

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1 through the Forensic Mental Health Association. I attended
2 the Southern Police Institute which is part of the
3 University of Kentucky on a week-long class on
4 investigations of sex crimes that also included children.
5 I have attended numerous training conferences on
6 interviewing children, one in particular that kind of
7 changed the way South Carolina started approaching child
8 abuse and neglect, is in 2001 I attended a week-long
9 training through the University of South Carolina
10 Children's Law Center in forensic interviewing. I have
11 attended the advanced classes for forensic interviewing,
12 especially concerning the class that started in 2001, which
13 was a model that South Carolina adopted in interviewing
14 children. I've been trained through the Federal Law
15 Enforcement Training Center, the Federal -- excuse me --
16 yes, the Federal Law Enforcement Training Center. It's
17 located in Brunswick, Georgia, and also through the Federal
18 Bureau of Investigation, as well as national organizations
19 such as National Children's Advocacy Center.

20 Q Where are you currently employed?

21 A I'm currently employed at State Law Enforcement
22 Division, which is more commonly known as SLED.

23 Q And where have you worked before?

24 A I'm a little bit of an odd duck, in that I retired
25 from SLED in 2000 -- February of 2011, and I was an agent

1 there where I worked crimes against children, as well as
2 other type of investigations. From there I went full-time
3 at a child advocacy center called the Dickerson Center for
4 Children, and that's a community-based child advocacy
5 center located in West Columbia, and I was there three
6 years and a couple of months, and April of last year I made
7 a personal decision to step down from being involved in
8 child abuse investigations, and I returned to SLED where
9 I'm at now, and I'm a contract agent where I investigate
10 Social Security Disability fraud investigations.

11 Q And what did you do while you worked with Dickerson
12 Center for Children?

13 A I wore several hats, but I was the Director of
14 Forensic Services, and what that means is I was over the
15 forensic interview program, the interview of children. I
16 was the chief interviewer, as well as supervise the other
17 social workers there that have the responsibility of
18 interviewing children. I also was over the Victim Advocate
19 Program, as well as I coordinated and facilitated the
20 multidisciplinary team for Lexington County, and what that
21 is, it was a monthly case review there law enforcement,
22 social services, mental health, the Dickerson Center staff,
23 victim advocates and our prosecutor came together once a
24 month and staffed child abuse cases, and then I did a
25 little bit of therapy. I am trained to do trauma-focused

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1 cognitive behavioral therapy, but I did very little of it,
2 because that was not my primary job. My primary job was
3 working with the forensic interviews.

4 Q Have you taught any courses or led any trainings?

5 A Yes. I have trained all over South Carolina over the
6 past 20 years in the area of child abuse, more specifically
7 with child forensic interviewing. I have -- for several
8 years was a guest instructor at The North Carolina Justice
9 Academy where I taught interviewing children. I have
10 taught through the Office of Victims Crime Training and
11 Technical Assistance Center where I've taught nationally up
12 in Virginia, Nevada; I've taught in Florida and had the
13 privilege to train the Bohemian law enforcement officers in
14 child abuse and neglect in interviewing.

15 Q Have you previously been qualified as an expert in
16 delayed disclosure in child abuse cases and provided
17 testimony in Court?

18 A Yes, I have.

19 MS. O'HAYON - Your Honor, at this time the State
20 would like to offer this witness as an expert in delayed
21 disclosure?

22 THE COURT - In what?

23 MS. O'HAYON - Delayed disclosure.

24 THE COURT - Subject to your prior objections?

25 MS. INZERILLO - Yes, Your Honor.

1 THE COURT - All right. The Court will qualify
2 this witness as an expert within that field. Ladies and
3 gentlemen of the jury, let me explain to you what we're
4 going through right now, so that you'll have a little
5 better understanding of the process. Generally, witnesses
6 who testify in Court, lay witness, are limited to testify
7 to facts within their knowledge. They're not allowed to
8 offer opinions or draw conclusions from the facts that they
9 testify as to. There's an exception to that general rule.
10 That exception is for a witness who is declared by the
11 Court to be an expert within some profession or calling or
12 field of endeavor. As to those witnesses that are
13 designated as experts, they are allowed to give their
14 opinions within the area of their expertise, and they are
15 allowed to state the reasons they have those opinions.
16 Later on when I charge you concerning the law, I'll go over
17 expert testimony and how you have a right as the finders of
18 fact to receive or analyze that testimony. So suffice it
19 to say I've qualified the witness as an expert within the
20 field requested, and that will allow her to state her
21 opinions within that field and the reasons why she holds
22 those, and again I'll give you further instruction later
23 concerning that. You may proceed, counsel.

24 MS. O'HAYON - Thank you, Your Honor.

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1 Q Can you explain to the jury what is meant by the term
2 delayed reporter?

3 A Just like it sounds. It means they're -- someone has
4 waited to report something and in the child -- in the field
5 of child abuse and neglect it means when a child does not
6 report an incident immediately.

7 Q Is there a consensus among the research and clinical
8 community that delayed reporting is common?

9 A Yes, it is more common than not.

10 Q And what factors commonly play a role in a child's
11 delayed reporting?

12 A In the cases of child sexual abuse, what often delays
13 a child, it could be -- one, it's a secret and then
14 depending on how the perpetrator ---

15 MS. INZERILLO - Your Honor, I'm going to object.
16 May we approach?

17 THE COURT - You may.

18 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
19 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
20 WHICH WAS NOT REPORTED.)

21 THE COURT - You may proceed.

22 MS. O'HAYON - One moment. I beg the Court's
23 indulgence.

1 Q So in your training and experience, specifically with
2 sexual assault cases involving children, would it be common
3 for a six year old victim to delay report?

4 A It is more common for a six year old, and all other
5 ages of children, to delay in reporting their sexual abuse.

6 MS. INZERILLO - Objection, Your Honor. May we
7 approach?

8 THE COURT - Well, why don't we do this, ladies
9 and gentlemen of the jury, I'm going to ask you to step
10 back to the jury room. I've got some matters I need to
11 discuss with the attorneys. As always, I'll ask you not to
12 discuss anything about the case until I've asked you to do
13 so. Thank you very much.

14 (WHEREUPON JURY EXITS THE COURTROOM)

15 THE COURT - The objection is?

16 MS. INZERILLO - Your Honor, my objection to that
17 question is, that is a specific reference to a fact in this
18 case, and my objection would be that that is now moving
19 into impermissible vouching or bolstering in this case,
20 because she's been specifically asked about a -- whether a
21 six year old -- it's common for a six year old to delay
22 reporting. We've moved from being a generalization about
23 delayed reporting to now commenting on a specific fact in
24 this case.

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1 MS. O'HAYON - Your Honor, the witness testified
2 that it is -- her answer to that question was that it's
3 common for children of all ages to delay reporting, so I
4 can rephrase that question for children ---

5 THE COURT - Well, again, I think my ruling was
6 that the -- this witness indicated that she had done some
7 two thousand interviews of children who have allegations or
8 some concern about them having sexual abuse, and her
9 testimony was previously that in the majority of those
10 cases it involved delayed reporting, so it's not unusual
11 for children -- and I don't know that the age group is that
12 she interviewed. You have the right to ask her about that
13 age group, what ages are included in that age group, and I
14 agreed to allow her to testify as to the fact that within
15 the age group that she has handled in her practice, some
16 two thousand interviews, that it was not unusual, in fact,
17 it was more common for that group to delay reporting. You
18 specifically asked about a specific age that just happens
19 to be the age of the complaining party or the victim in
20 this case.

21 MS. O'HAYON - Thank you, Your Honor.

22 THE COURT - And that's not what I ruled, so I'm
23 going to sustain the objection and ask that you ask the
24 question as it relates to her experience and her practice.
25 That's what makes her an expert, besides her training, and

1 it doesn't apply just to one age group; it applies to
2 whatever age group she has handled in her practice.

3 MS. O'HAYON - Okay. Thank you, Your Honor.

4 MS. INZERILLO - Your Honor, for the record can we
5 move to strike that question ---

6 THE COURT - If you wish for me to call attention
7 to it in that manner I will.

8 MS. INZERILLO - If we could just, I guess, for
9 the record outside the presence just ---

10 THE COURT - Well, the only reason I would do that
11 is for the jury's benefit. I'm ruling in your favor ---

12 MS. INZERILLO - Okay, well, we'll ---

13 THE COURT - If you wish for me to call attention
14 to the fact that I'm striking that particular question to
15 the jury and that they're to disregard it, I'll be more
16 than happy to do that.

17 MS. INZERILLO - I just want to make sure the
18 record is preserved for that.

19 THE COURT - Okay. I have sustained your
20 objection. I'm asking her to rephrase the question.

21 MS. INZERILLO - Thank you, Your Honor.

22 THE COURT - You may bring the jury back.

23 (WHEREUPON, JURY ENTERS THE COURTROOM.)

24 THE COURT - All right, the record will reflect
25 that the jury has returned to the courtroom. During your

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1 absence I have reaffirmed previous rulings that I have made
2 in regard to this witness's testimony and instructed the
3 State to proceed in accordance with those rulings. You may
4 proceed.

5 MS. O'HAYON - Thank you, Honor.

6 Q Have you conducted forensic interviews as part of your
7 job previously?

8 A Yes, for over 20 years.

9 Q Okay. About how many forensic interviews have you
10 conducted?

11 A Over two thousand.

12 Q Can you briefly explain to the jury what a forensic
13 interview is?

14 A Forensic interview -- the terminology is really just a
15 -- fancy words for a fact-finding interview designed for
16 children, to meet them on their developmental level.

17 Q And what is the purpose of a forensic interview?

18 A To solicit uncontaminated information about a possible
19 crime.

20 Q And what is the age group of the people that you
21 interviewed during those forensic interviews?

22 A The youngest is three and the oldest, as far as
23 definition of a child, 17, though I use forensic interviews
24 with adults that were developmentally delayed.

1 Q Okay. In your experience with conducting those
2 interviews, was delayed reporting more or less common?

3 A It is much more common.

4 MS. O'HAYON - Thank you. I have no further
5 questions.

6 THE COURT - You may cross examine.

7 MS. INZERILLO - Thank you, Your Honor. May it
8 please the Court.

9 THE COURT - Yes, ma'am.

10 CROSS EXAMINATION

11 BY MS. INZERILLO -

12 Q Ms. Caldwell, do you have any specific information
13 about this case?

14 A No, I have no information about this case.

15 Q Did you conduct a forensic interview in this case?

16 A I did not interview this child.

17 MS. INZERILLO - Your Honor, I have no further
18 questions.

19 THE COURT - Re-direct?

20 MS. O'HAYON - No, Your Honor.

21 THE COURT - You may step down. Thank you, ma'am.
22 Wish to excuse the witness?

23 MS. O'HAYON - Please, Your Honor.

24 THE COURT - Any objections?

25 MS. INZERILLO - No, Your Honor.

ALYSSA PRUITT - DIRECT BY MS. O'HAYON

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1 THE COURT - You're free to go if you'd like,
2 ma'am. Thank you very much for coming. The State may call
3 its next witness.

4 MS. O'HAYON - The State calls Alyssa Pruitt.

5 THE COURT - Come forward, please, to be sworn.
6 (Pause) Come forward, please, ma'am, and be sworn. Thank
7 you.

8 ALYSSA PRUITT, AFTER BEING FIRST DULY SWORN,
9 TESTIFIES AS FOLLOWS -

10 THE COURT - Once you're seated, please state your
11 name for me.

12 MS. PRUITT - My name is Alyssa Pruitt.

13 THE COURT - Counselor, your witness.

14 MS. O'HAYON - Thank you, Your Honor.

15 THE COURT - Yes, ma'am.

16 DIRECT EXAMINATION

17 BY MS. O'HAYON -

18 Q Where do you work?

19 A Pace's River Apartments.

20 Q And what is your job there?

21 A I'm the assistant manager.

22 Q How long have you been working there?

23 A I've been there since 2010. I started as a leasing
24 consultant.

1 Q Do you remember somebody by the name Brenda and
2 Orlando Coleman living at Pace's River?

3 A Yes.

4 Q And do you remember approximately what the dates were
5 that they were living there?

6 A They lived there beginning in 2011.

7 Q Do you remember which month?

8 A I think it was May?

9 Q If you don't remember, you can just say that you don't
10 remember but ---

11 A Don't remember specifically, yes.

12 Q Okay, is there something you have to help you refresh
13 your recollection? Would looking at something help you?

14 A A lease contract.

15 MS. O'HAYON - May I approach the witness, Your
16 Honor?

17 THE COURT - You may.

18 Q If you could just take a look at that and when your
19 recollection is refreshed, if you could please look up
20 answer the question of when they moved in, when they moved
21 out.

22 A The move-in date was May 13th, 2011, and per the
23 statement of deposit account, they moved out November 14th,
24 2011.

ALYSSA PRUITT - DIRECT BY MS. O'HAYON

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1 Q And do you remember what apartment they were living
2 in?

3 A .

4 Q What does that mean, ?

5 A Building , apartment . So the actual physical
6 address would've been Pace's River Avenue, Apartment

7 .

8 Q And Pace's River, is that located in Rock Hill?

9 A Yes.

10 Q Is that within York County, South Carolina?

11 A Yes.

12 MS. O'HAYON - Thank you. I have no further
13 questions. If you could please answer any questions
14 defense counsel may have.

15 THE COURT - You may cross examine.

16 MS. INZERILLO - Your Honor, we have no questions
17 for this witness.

18 THE COURT - You may step down, ma'am. Thank you
19 very much. Do you wish to excuse this witness?

20 MS. O'HAYON - Please, Your Honor.

21 THE COURT - Any objections?

22 MS. INZERILLO - No, Your Honor.

23 THE COURT - You're free to go at this time.

24 Thank you, ma'am. State may call its next witness.

1 MS. JOYNER - Thank you, Your Honor. The State
2 calls B.P.

3 THE COURT - Come forward, sir, and be sworn,
4 right here at the clerk. Right here, sir. Right here.

5 B.P. , AFTER BEING FIRST DULY SWORN,
6 TESTIFIES AS FOLLOWS -

7 THE COURT - State your name, please.

8 MR. PATTERSON - B.P.

9 THE COURT - Thank you. Counselor, your witness.

10 MS. JOYNER - Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MS. JOYNER -

13 Q B.P. , can you tell me how old you are, please?

14 A 15.

15 Q What's your date of birth?

16 A , 1999.

17 Q And what is your mother's name?

18 A Delissa Patterson.

19 Q And is your sister Victim ?

20 A Yes.

21 Q Is she your older sister or younger sister?

22 A Younger sister.

23 Q How much older are you than she?

24 A (No response)

25 Q You're 15 and she's 9. Is that right?

B.P. - DIRECT BY MS. JOYNER

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1 A (Indicating yes)

2 Q So about six years?

3 A (Indicating yes)

4 MS. JOYNER - You have to say yes or no.

5 THE COURT - Sir, you have to answer verbally.

6 A Yes, ma'am.

7 Q Now, I want to ask you to kind of think back, and back
8 in 2010, 2011, 2012, do you remember living at Pace's River
9 Apartments in Rock Hill?

10 A Yes.

11 Q Okay. And who lived with you at Pace's River
12 Apartments?

13 A Me, my mom, my sister and my brother and my aunt and
14 my other three cousins.

15 Q Did your aunt and your three cousins live there the
16 whole time or just part of the time?

17 A The whole time.

18 Q Are you sure it was the whole time?

19 A (Indicating yes)

20 COURT REPORTER - I need a verbal answer.

21 THE COURT - Sir, you have to answer verbally.

22 You have to say an answer; you can't shake your head or nod
23 your head.

24 A Yes, sir.

1 THE COURT - So say either yes or no, but say
2 something. She's taking that down on a tape, and she can't
3 record you shaking your head, so please answer verbally.
4 Okay?

5 A Okay.

6 THE COURT - Okay.

7 Q Now, while you were living at Pace's River Apartments,
8 did you ever meet a person named OJ?

9 A Yes.

10 Q And did you become friends with OJ?

11 A Yes.

12 Q How did -- do you remember how you met him?

13 A It was -- it was at the pool.

14 Q At the pool?

15 A Yes.

16 Q And did you -- do you know what OJ's real name is?

17 A Owen.

18 Q Okay. I want you to look around the room and can you
19 tell me if you see in the room -- okay, do you see in the
20 room the person you know as OJ?

21 A Yes.

22 Q Okay. Can you tell me where that person is?

23 A Right there.

24 Q Okay. Are you pointing -- can you please tell me what
25 the person you're pointing out is wearing?

B.P. - DIRECT BY MS. JOYNER

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1 A White shirt and a tie.

2 Q Okay.

3 MS. JOYNER - Your Honor, if the record can
4 reflect he's identified the defendant.

5 THE COURT - The record shall so reflect. You may
6 proceed.

7 MS. JOYNER - Thank you, Your Honor.

8 Q And so you said you met him at the pool. Is that
9 right?

10 A Yes.

11 Q And you guys became friends. Is that right?

12 A Yes.

13 Q Would you hang -- would you spend time together around
14 the complex?

15 A Yes.

16 Q Was OJ older than you or the same age?

17 A Older.

18 Q Older. So do you remember how old about approximately
19 you were when you were friends with him?

20 A 12.

21 Q 12? Okay. And what kind of things would you guys do,
22 just walk around the complex, hang out?

23 A Yes.

24 Q Okay. Did you ever go to the pool together?

25 A Yes, whenever it was open.

1 Q Okay. Did they have like basketball courts or tennis
2 courts or anything like that in the complex?

3 A They had a tennis court.

4 Q Did kids like to hang out at the tennis courts?

5 A Yes.

6 Q Did you guys ever hang out in the tennis courts?

7 A Yes.

8 Q Were there other places that you would hang out around
9 the complex?

10 A In the field and park.

11 Q There was a park there as well?

12 A (Indicating yes)

13 Q Did you guys ever spend any time in stairwells or the
14 breezeways?

15 A Yes.

16 Q Okay. Now, you said your cousins lived there as well?

17 A Yes.

18 Q Could you give me the names of your cousins?

19 A Arkevious, Amazhanee and Sanadia.

20 Q Okay, who was the oldest amongst those three?

21 A Amazhanee.

22 Q Amazhanee. Is Amazhanee a girl or a boy?

23 A Girl.

24 Q Okay. How old is she?

25 A I think 10 or 11.

B.P.

- DIRECT BY MS. JOYNER

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- 1 Q Right currently 10 or 11?
- 2 A Or 12 ---
- 3 Q I'm sorry?
- 4 A 12.
- 5 Q 12? That's her current age?
- 6 A Yes.
- 7 Q So she's younger than you?
- 8 A Yes.
- 9 Q Are all of your cousins that you mentioned younger
- 10 than you? Are any of them the same age as you?
- 11 A They're younger.
- 12 Q Okay. So Amazhanee's the oldest and then Arkevious,
- 13 is he the next?
- 14 A Yes.
- 15 Q And that's a boy. Correct?
- 16 A (Indicating yes)
- 17 Q And so the youngest is named ---
- 18 A Sanadia.
- 19 Q Do you know how young Sanadia is?
- 20 A No, ma'am.
- 21 Q Okay. So was it correct then that you were the oldest
- 22 kid in the house?
- 23 A Yes.
- 24 Q Okay. And did -- was Victim closer in age to the
- 25 cousins than you?

- 1 A Yes.
- 2 Q Did she play with the cousins?
- 3 A Yes.
- 4 Q Did she ever go outside with the cousins?
- 5 A Yes.
- 6 Q Okay. Were there ever times that you were also
- 7 outside?
- 8 A Yes.
- 9 Q Okay. Did you spend a lot of time with OJ at Pace's
- 10 River?
- 11 A Yes.
- 12 Q Okay. At some point did OJ move out?
- 13 A Yes.
- 14 Q And did you see him again after he moved out?
- 15 A Around the time when we moved -- we was about to move
- 16 out, so it was like a -- at the end of the -- beginning of
- 17 summertime.
- 18 Q Okay. So around the time that you were going to move
- 19 out you saw him again?
- 20 A (Indicating yes)
- 21 Q Where did you see him?
- 22 A He was with a friend; they was walking around.
- 23 Q Walking around where?
- 24 A I think they was walking towards the pool.
- 25 Q At Pace's River?

B.P. - DIRECT BY MS. JOYNER

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- 1 A (Indicating yes)
- 2 Q Okay, you have to say or no.
- 3 A Yes, ma'am.
- 4 Q Okay, thank you. Now, going back to those times where
- 5 you would be outside walking around with OJ, did that
- 6 happen a lot or a little bit?
- 7 A A little bit.
- 8 Q Okay. And when the time -- so did you spend a lot of
- 9 time with OJ or a little bit of time with OJ?
- 10 A A lot of time.
- 11 Q Okay. So -- let me say hanging out. When you were
- 12 hanging out with OJ, would you hang out inside your
- 13 apartment or would you hangout outside?
- 14 A Outside.
- 15 Q Okay. And did -- were there ever times where your
- 16 sister was around OJ?
- 17 A Yes.
- 18 Q Okay. Now, back during that period of time, did you
- 19 ever see anything that made you concerned about OJ behaving
- 20 any particular way towards your sister?
- 21 A No.
- 22 Q Okay. Now, B.P., I'm going to ask you a difficult
- 23 question. Okay? Back when you lived at Pace's River, did
- 24 Victim -- do you ever remember a time that Victim tried
- 25 to tell you something about OJ being inappropriate?

1 A Yes.

2 Q I'm sorry?

3 A Yes.

4 Q Okay. Do you remember telling your mom before -- when
5 the case first started, when the police were first called,
6 that you didn't remember that?

7 A Yes.

8 Q Was that true when you told your mom that?

9 A Yes.

10 Q It was -- I'm sorry?

11 A Yes.

12 Q It was true, you didn't remember. Is that correct?

13 A Yes.

14 Q Okay. Do you -- do you remember Victim tried to
15 tell you something?

16 A Yes.

17 Q Do you remember what words she used?

18 A She kept trying to -- she kept calling out my name,
19 but I wouldn't listen.

20 Q She -- I'm sorry, say again.

21 A She kept calling out my name, but I wouldn't listen.

22 Q Okay. Where -- where was this?

23 A We were walking home. It was during nighttime and we
24 was coming back to the apartment complex.

25 Q From where?

B.P. - DIRECT BY MS. JOYNER

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1 A The tennis court.

2 Q Okay. And do you remember what -- did she say
3 anything to you besides your name?

4 A Not that I could hear of.

5 Q I'm sorry?

6 A Not that I could hear of. I didn't -- all she -- all
7 I heard was her calling my name.

8 Q Okay, if -- okay, if you don't -- if she didn't really
9 saying anything, B.P., how do you know this was
10 something she was trying to tell you about OJ?

11 A Because she kept mentioning his name, but I just
12 wasn't listening at the time.

13 Q So she was saying his name to you when you weren't
14 listening.

15 A (Indicating yes)

16 COURT REPORTER - He needs to answer verbally.

17 A Yes, ma'am.

18 Q Now, I want to kind of fast-forward. When you moved
19 from Pace's River, you moved somewhere different than -- at
20 some point did you move to apartments at Cedarview?

21 A Yes, ma'am.

22 Q Okay. Do you remember when that was?

23 A During the summertime.

24 Q Okay. Were you living at Cedarview at the time that
25 your mom called the police?

1 A Yes.

2 Q Okay. And back when you moved into the apartment --
3 or let me ask you this. After you moved from Pace's River,
4 did you see OJ?

5 A No, ma'am.

6 Q When you moved into the apartments at Cedarview, did
7 you see OJ?

8 A Yes.

9 Q Okay. Were you glad to see him?

10 A Yes.

11 Q Okay. And did you guys strike up your friendship
12 again?

13 A Yes.

14 Q Okay. How long -- well, let me ask you this. When
15 you moved to Cedarview, did you notice anything different
16 about Victim ?

17 A Yes.

18 Q What did you notice about her?

19 A Any time that OJ would be waiting on me outside, she
20 would walk -- run into the other run, just stand there. I
21 kept asking her why she was standing there, but she just
22 said she didn't want to go in the other room.

23 Q Okay, I want to -- you do a little bit of mumbling.

24 Okay? So I want you to speak loud. Okay.

25 A She would go ---

B.P. - CROSS BY MS. INZERILLO

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1 Q So tell me again. What did you observe -- was O --
2 what you were talking about -- was OJ in your house?

3 A Yes.

4 Q Okay. How many times did OJ come into your house?

5 A Twice.

6 Q Twice. Now, at both times did you observe her have a
7 bad reaction?

8 A Yes.

9 Q Okay, tell me -- tell the jury again, what was that
10 reaction?

11 A She would go into my mom's room, but it wasn't a bed.
12 in there. She was just standing there, and I would wonder
13 why she was just standing there in the dark in a dark room,
14 and she said she didn't want to come out.

15 MS. JOYNER - Thank you very much. Please answer
16 any questions these nice ladies have for you. Okay?

17 MR. PATTERSON - Yes, ma'am.

18 THE COURT - You may cross examine.

19 MS. INZERILLO - Thank you, Your Honor. May it
20 please the Court.

21 THE COURT - Yes, ma'am.

22 CROSS EXAMINATION

23 BY MS. INZERILLO -

24 Q Good morning, B.P. .

25 A Good morning.

1 Q My name is Melissa, and I'd like to ask you some
2 questions, too. Is that okay?

3 A Yes, ma'am.

4 Q Okay. You met OJ at the pool. Is that what you said?

5 A Yes, ma'am.

6 Q Okay. And you met him in the summertime when you
7 lived at Pace's River?

8 A Yes, ma'am.

9 Q Okay. And you and he were friends. Is that right?

10 A Yes, ma'am.

11 Q Okay. And you would kind of -- you had your cousins
12 living in the house with you. Is that right?

13 A Yes, ma'am.

14 Q Okay, and they were all younger than you?

15 A Yes, ma'am.

16 Q And Victim younger than you?

17 A Yes, ma'am.

18 Q Okay. So you're kind of the big younger as they all
19 kind of hang around with you. Is that right?

20 A Yes, ma'am.

21 Q Okay. The -- Ms. Erin asked you about the time that
22 Victim -- you tried to remember when Victim tried to
23 tell you something. Do you remember that?

24 A Yes, ma'am.

25 Q Okay. And tell me again what you remember about that.

B.P.

- CROSS BY MS. INZERILLO

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1 A She would call out my name multiple times and mention
2 OJ's most of the time.

3 Q Okay. You don't remember her telling you anything
4 more than that.

5 A Yes, ma'am.

6 Q Okay. And when you -- did you talk to a detective in
7 this case?

8 A No, ma'am.

9 Q Okay. At any point did you talk to the detective in
10 this case?

11 A No, ma'am.

12 Q So the only people you talked to was these nice ladies
13 right here?

14 A Yes, ma'am.

15 Q Okay. Did you talk to your mom about this case?

16 A Yes, ma'am.

17 Q Okay. And did you tell your mom that Victim had
18 never told you anything?

19 A No, ma'am.

20 Q You didn't tell your mom that.

21 A (No response)

22 Q Did you tell your mom that she did you something?

23 A Yes, ma'am.

24 Q Okay. When did you tell your mom that?

25 A It was around when we just got moved into Riverview.

B.P.

- RE-DIRECT BY MS. JOYNER

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1 Q Okay. And -- but you couldn't remember anything that
2 she said.

3 A Yes, ma'am.

4 Q Okay. The -- your mom never told you -- or took you
5 to meet with any detectives or anything like that?

6 A No, ma'am.

7 MS. INZERILLO - Your Honor, I have no further
8 questions.

9 THE COURT - Re-direct?

10 RE-DIRECT EXAMINATION

11 BY MS. JOYNER -

12 Q B.P. just to clarify, did you originally tell your
13 mother you did not remember Victim telling you anything?

14 A Yes, ma'am.

15 Q Do you remember when the first time you told your
16 mother that you did remember?

17 A Yes, ma'am.

18 Q When was that?

19 A It was in the living room. It was around when
20 Victim was acting funny, she wouldn't come out of the
21 room or nothing.

22 Q Are you sure you told your mom all the way back then?

23 A (Indicating yes) That's the only time I remembered it.

24 MS. JOYNER - No further questions.

25 THE COURT - Does the defense wish to re-cross?

B.P. - RE-CROSS BY MS. INZERILLO

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1 MS. INZERILLO - May I beg the Court's indulgence
2 for one moment, Your Honor?

3 THE COURT - Yes, ma'am.

4 RE-CROSS EXAMINATION

5 BY MS. INZERILLO -

6 Q B.P. , at -- I'm old and I have a little hard of
7 hearing (sic) -- and I need you to say one more time what
8 you just told her about when you said that you first
9 remember telling somebody about what Victim tried to tell
10 you.

11 A It was in the living room. We had just got moved in,
12 and OJ was sitting right there in the living, but we were
13 about the leave to go back to the other apartment complex
14 next door, and I told mom that Victim was acting funny;
15 she wouldn't come out of her -- my mother's room.

16 Q Okay. And then that's when you told your mom she
17 tried to tell you something ---

18 A Yes, ma'am.

19 Q --- earlier on. Okay. And that's when you had your
20 suspicion.

21 A Yes, ma'am.

22 MS. INZERILLO - Okay.

23 THE COURT - All right, sir, you may step down.

24 Thank you very much.

25 MR. PATTERSON - You're welcome.

1 THE COURT - Wish to excuse the witness?

2 MS. O'HAYON - Please, Your Honor.

3 THE COURT - Any objections?

4 MS. INZERILLO - No, Your Honor.

5 THE COURT - You're free to go, sir. The State
6 may call its next witness.

7 MS. O'HAYON - State calls Delissa Patterson.

8 THE COURT - Come forward, please, ma'am.

9 DELISSA PATTERSON, AFTER BEING FIRST DULY SWORN,
10 TESTIFIES AS FOLLOWS -

11 THE COURT - Once you're seated, please state your
12 name, ma'am.

13 MS. PATTERSON - Delissa Latrell Patterson.

14 THE COURT - Thank you. Counselor, your witness.

15 MS. O'HAYON - Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. O'HAYON -

18 Q Delissa, is your daughter Victim ?

19 A Yes.

20 Q And how old is Victim ?

21 A She's nine.

22 Q And where are you living right now?

23 A I live in Lancaster, South Carolina.

24 Q Where were you living in 2013?

DELISSA PATTERSON - DIRECT BY MS. O'HAYON

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1 A I lived at Cedarview Apartments off of Riverview in
2 Rock Hill, South Carolina.

3 Q And where did you live in 2011 and 2012?

4 A I lived at Pace's River in Rock Hill.

5 Q How old was Victim in 2011?

6 A She was six.

7 Q And how old was she in 2012?

8 A She turned 7.

9 Q Who all was living in the apartment with you at Pace's
10 River in 2011 to 2012?

11 A It was me, my son, B.P. , and Victim , and I have a
12 little boy. His name's Braydon and then my sister and my
13 two nieces and my nephew.

14 Q Did your sister and your niece and nephew, did they
15 always live there with you at Pace's River?

16 A No, they did not. We moved in in August of 2010, and
17 they did not come and move in until May of 2011.

18 Q And between the time of August, 2010 to May 2011, was
19 Victim allowed to go outside and play?

20 A No. At that time when we moved in, they were still
21 going to school in Fort Mill, so I didn't immediately
22 transfer them in, and we didn't know any kids in the
23 neighborhood. B.P. would sometimes go out by himself
24 because he knew more of the kids there, but Victim didn't

1 know any of the little girls that played over there, so she
2 was never allowed outside until my nieces moved in.

3 Q Okay, so May of 2011 -- is that your sister that moved
4 in and your nieces and nephews.

5 A And my nieces, yes.

6 Q And that's when Victim was allowed to start going
7 outside to play?

8 A Yes, yes.

9 Q And who all would go outside and play together?

10 A My oldest son, my nephew, Arkevious, and Amazhanee,
11 Sanadia and Victim .

12 Q When you said your older son, is that ---

13 A B.P. .

14 Q B.P. . When did you move out of Pace's River?

15 A June 15th, 2012.

16 Q And did you immediately move into Cedarview Apartments
17 from there?

18 A No, ma'am.

19 Q Okay, then when did you move into Cedarview
20 Apartments?

21 A July 1st, 2013.

22 Q When you lived in Cedarview Apartments starting in
23 July 1st, 2013, did you notice anything about Victim that
24 summer?

DELISSA PATTERSON - DIRECT BY MS. O'HAYON

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1 A Not immediately. We had lived in a hotel prior to
2 moving there, and we were there for a significant amount of
3 time, so when I got the news that the apartment was mine,
4 it was a pretty joyous occasion for us, because we had been
5 staying in a hotel, so um the first couple of days there
6 she was overjoyed; it was great; we were in our own place,
7 and then all of a sudden she left to go to her grandparents
8 house in Clover and um, I kind of knew something was wrong
9 when she left, but I -- I couldn't understand it, she just
10 changed all of a sudden, and then they brought her back,
11 and the day that they brought her back, it was raining; I
12 remember having to go down to the car to kind of like pull
13 her out of the car, because she was upset, and OJ had
14 pulled up on his bike and he was going upstairs, and she
15 was hysterical, and I didn't understand it in my mind. I
16 just kept saying why is she crying? I mean I know she like
17 to be with her grandparents, but she'd never acted like
18 that. So they left and she continued to cry and cry and
19 cry. I could never get her calmed down, so they came back
20 and they picked up her and she ended up going back there
21 for a couple more days, but it kind of threw me, because
22 she had never acted like that. It was supposed to be a
23 good thing, because we'd just moved into a brand new place.

24 Q Okay. You mentioned that OJ was there. Do you
25 remember who OJ was?

1 A Yes.

2 Q Who was OJ to you?

3 A His name is Orlando. He -- at the time when I knew
4 him before he was one of those kids that lived in the
5 neighborhood when we stayed at Pace's River.

6 Q Looking around the courtroom today, do you see the
7 person that you know as OJ?

8 A Yes, ma'am.

9 Q Okay, if you can point him out and describe an article
10 of clothing that he's wearing.

11 A That's him over there in the white shirt and tie.

12 MS. O'HAYON - Let the record reflect that the
13 witness has identified the defendant.

14 THE COURT - It'll so reflect. You may proceed.

15 MS. O'HAYON - Thank you, Your Honor.

16 Q Was that the only thing that you noticed about
17 Victim was her crying and not wanting to get out of that
18 car that day, or was there anything else that you noticed
19 about her?

20 A My building and the building that OJ and his mom
21 stayed in were probably not a feet apart, and at the time
22 my mom actually lived at the bottom apartment under them,
23 so I could stand on my apartment and if I wanted to yell my
24 mom's name and she could hear me. That's how close we
25 were. And there was a time I was sitting at my mom's and

DELISSA PATTERSON - DIRECT BY MS. O'HAYON

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1 I said, Victim , go to the apartment and get me a popsicle
2 and she freaked out, and I couldn't understand -- it's just
3 right there, you don't have to go -- it was during the
4 daytime, but she would not move, and me thinking, okay,
5 she's just acting like a brat, never even paid -- never
6 knew why. She would never go outside by herself. She
7 would not step in the front door by herself. She did --
8 she just -- she just changed. She -- at night the boys --
9 my condo was two bedrooms, so the boys slept in one bedroom
10 and Victim shared a room with me, and at night she would
11 cry in her sleep. Like she would just -- she would cry to
12 the point to where she was waking me up, and I would shake
13 her and I would wake her up, and I would say, baby, what's
14 wrong, and she would just shake her head, she said she had
15 a nightmare and she would go back to sleep. She -- she was
16 really mean. She was aggressive. If I had my little one -
17 - they're five years apart, and just the little slightest
18 thing would set her off. She -- she -- to get off the bus
19 when school started -- it wasn't a long distance for her to
20 get off the bus and walk down to the condo. She would
21 never do that. I would have to meet her at the top of the
22 hill, and all these things would go on, and I never knew
23 what was wrong. I just -- me, I took it, okay, she's
24 getting older, maybe she's going through some changes.
25 Q Okay. Did you ever figure out what was going on?

1 A Not at first. I didn't put two and two together until
2 one night we laid down. It was a Sunday and um ---

3 MS. INZERILLO - Your Honor, I'm going to object.
4 If we can approach just very briefly.

5 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
6 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
7 WHICH WAS NOT REPORTED.)

8 THE COURT - We're going to take a short break at
9 this point in time. I'm going to ask you to step back to
10 the jury room. As always, I'll ask you not to begin any
11 discussions about the case until I've asked you to begin
12 your deliberations. You may retire to the jury room.
13 Thank you very much.

14 (WHEREUPON, JURY EXITS THE COURTROOM)

15 THE COURT - I'll ask defense to express their
16 concerns concerning the possible direction of the
17 testimony.

18 MS. INZERILLO - Your Honor, the nature of my
19 objection, my concern is the witness after describing her
20 perception of the behavior of the child, I believe was then
21 going to link that up with the child's recitation of the
22 alleged abuse by the defendant, and I was afraid that that
23 connection would be improper and so I just wanted to --
24 before we got into that, that bell had been rung, wished to

DELISSA PATTERSON - DIRECT BY MS. O'HAYON

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1 MS. O'HAYON - Thank you, Your Honor. The State's
2 going to withdraw the last question.

3 Q Delissa, at some point in 2013 did you call the
4 police?

5 A Yes, ma'am.

6 Q Why did you call the police?

7 A To report that Victim -- that -- a sexual assault.

8 Q And without saying what was said -- without ever
9 saying what was said, did Victim ever tell you where or
10 when that happened?

11 A Yes.

12 Q Where or when did that happen?

13 A She told me that it happened when we lived at Pace's
14 River. She didn't give me a round-about time, but she told
15 me around the summer of 2011.

16 Q And do you recall your son, B.P., ever trying to
17 tell you that Victim told you -- told him something
18 inappropriate happened?

19 A I asked him around the same time that I had the talk
20 with her, and at first he said he didn't remember. He
21 actually said that, no, I didn't -- you didn't tell me, and
22 they kind of argued back and forth and um, I asked him
23 again he said he didn't remember.

1 Q You talked a little bit about how Victim behavior
2 changed, she was crying in her sleep. Is her behavior
3 still like that today?

4 A No, ma'am. Once everything got started and I found
5 out what was going on, I put her in therapy.

6 MS. INZERILLO - Objection, Your Honor.

7 THE COURT - Objection is?

8 MS. IZERILLO - May we approach?

9 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
10 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
11 WHICH WAS NOT REPORTED.)

12 THE COURT - All right, you may proceed with the
13 question.

14 MS. O'HAYON - Thank you, Your Honor.

15 Q Can you describe Victim behavior as of today?

16 A She's back to being my Niyah. She started a new
17 school this year and um she's laughing, she's smiling. She
18 recently started playing softball, and she's really good at
19 it. She um -- she has her moments, but she's my baby
20 again, and she's my Niyah.

21 (WHEREUPON, WITNESS CRYING DURING HER ANSWER)

22 MS. O'HAYON - I have no further questions.

23 Please answer any questions these ladies have for you.

24 THE COURT - You may cross examine.

DELISSA PATTERSON - CROSS BY MS. INZERILLO

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1 MS. INZERILLO - May it please the Court, Your
2 Honor.

3 THE COURT - Yes, ma'am.

4 CROSS EXAMINATION

5 BY MS. INZERILLO -

6 Q Ms. Patterson, you lived at Pace's River for a couple
7 of years, I think between 2010 and 2012?

8 A Yes, ma'am.

9 Q Okay. And you reported this to Rock Hill PD in 2013?

10 A Yes, ma'am.

11 Q And your recollection was that you -- the timeframe
12 was in the summer of 2011 ---

13 A Yes, ma'am.

14 Q --- that it allegedly happened. Okay. The -- the --
15 your nieces and nephews, your sister's children, lived with
16 you while you lived at Pace's River.

17 A Yes.

18 Q Okay. And they lived with you for the whole time or
19 part of the time that you lived at Pace's River?

20 A They -- part of the time.

21 Q Part of the time. And you still keep in contact with
22 your sister?

23 A Yes, she's here.

24 Q Did -- and those nieces and nephews that you refer to
25 are Amazhanee, Sanadia and Arkevious. Is that right?

1 A Yes.

2 Q Okay. I just wanted to make sure we're all talking
3 about the same group of people. And you indicated that
4 Victim was allowed to go outside and play once those
5 cousins moved in.

6 A (Indicating yes)

7 COURT REPORTER - She needs to answer verbally.

8 A I'm sorry. Yes, ma'am.

9 Q Okay, I'm sorry. And you described moving away from
10 Pace's River and moving to Cedarview. Is that right?

11 A Yes, ma'am.

12 Q Okay. And I know there was -- I think a stop in
13 between, but eventually moved to a new apartment complex.

14 A Yes, ma'am.

15 Q Mr. -- Orlando already lived there when you guys moved
16 in. Is that right?

17 A Yes, ma'am.

18 Q And when -- you described her -- Victim behavior
19 that you noticed.

20 A Yes.

21 Q Is that right? You never indicated to Detective
22 Thomas or anything that you noticed any of that behavior
23 when you lived at Pace's River.

24 A No. No, ma'am.

DELISSA PATTERSON - CROSS BY MS. INZERILLO

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1 Q Okay. And you spoke to your son, B.P. , about this
2 situation. Is that right?

3 A Yes, ma'am.

4 Q Okay. And initially he indicated that he -- and I get
5 the impression it was like a sibling argument, no, you
6 didn't tell me, yeah you did, that kind of situation.

7 A Yes, ma'am.

8 Q I'm sure you hear it all the time being a mom.

9 A Yes, ma'am.

10 Q Okay. And then after that he denied saying that she
11 said anything or denied to you that she said anything or he
12 admitted that she something to him?

13 A To me?

14 Q To you.

15 A I only asked him that one time, ---

16 Q Okay.

17 A --- and that time he told me he didn't remember her
18 saying anything to him about it.

19 Q Okay. Has he said anything else to you since then?

20 A No.

21 Q No. Did you make Detective Thomas aware that he had
22 made those comments to you?

23 A Yes.

24 Q Okay.

1 MS. INZERILLO - I have no further questions of
2 this witness.

3 THE COURT - Re-direct?

4 MS. O'HAYON - One moment, Your Honor. No
5 questions, Your Honor.

6 THE COURT - All right, ma'am, you may step down.
7 Thank you very much. State may call its next witness.

8 MS. JOYNER - May we approach for a schedule
9 issue?

10 THE COURT - You may.

11 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
12 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
13 WHICH WAS NOT REPORTED.)

14 THE COURT - Ladies and gentlemen, I have some
15 scheduling matters I have to take up with the attorneys, so
16 I'm going to ask you to step back to the jury room one more
17 time. Don't begin discussions until I ask you to do so.
18 Thank you very much.

19 (WHEREUPON, JURY EXITS THE COURTROOM)

20 THE COURT - All right, yes, ma'am.

21 MS. JOYNER - Thank you, Your Honor. At this time
22 we'd like to proffer regarding admissibility of the
23 forensic interview under Section 17-23-175. And we'd --
24 I'd call Ms. Puja Amin to the stand.

25 COURT REPORTER - I'm sorry, I didn't hear you.

1 THE COURT - Court will be in recess for a short
2 period of time. Thank you.

3 MS. O'HAYON - Thank you.

4 MS. INZERILLO - Thank you, Your Honor.

5 (WHEREUPON, RECESS TAKEN)

6 THE COURT - Thank you very much. You can be
7 seated. All right, State ready to proceed?

8 MS. JOYNER - The State's ready, Your Honor.

9 THE COURT - Worked out our technical issue?

10 MS. O'HAYON - I think so, Your Honor.

11 THE COURT - Okay. All right, defense ready?

12 MS. INZERILLO - Yes, Your Honor.

13 THE COURT - Bring the jury in. Oh, wait a
14 second. Don't bring the jury in.

15 MS. JOYNER - The way that the redaction was done,
16 is it was a splice where several seconds were cut out, and
17 so I don't know if any jurors will be paying close enough
18 attention to that time to see that, but I would wonder if
19 the Court might ---

20 THE COURT - Why don't I just say that by
21 agreement of counsel a portion of the interview has been
22 taken out?

23 MS. JOYNER - Thank you, Your Honor.

24 THE COURT - All right. Bring the jury in.

25 (WHEREUPON, JURY ENTERS THE COURTROOM.)

PUJA AMIN - DIRECT BY MS. JOYNER

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1 THE COURT - All right, the record will reflect
2 that the jury has returned to the courtroom. The State may
3 proceed at this time.

4 MS. JOYNER - Thank you, Your Honor. The State
5 calls Puja Amin.

6 THE COURT - Come forward, please, and be sworn.

7 PUJA AMIN, AFTER BEING FIRST DULY SWORN,

8 TESTIFIED AS FOLLOWS -

9 THE COURT - Have a seat, and once seated, please
10 state your name, please.

11 MS. AMIN - My name is Puja Amin.

12 THE COURT - Thank you. Counselor, your witness.

13 MS. JOYNER - Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MS. JOYNER -

16 Q Ms. Amin, where are you employed?

17 A Safe Passage.

18 Q Can you please explain to the jury what Safe Passage
19 is?

20 A Yes. Safe Passage is a non-profit agency located here
21 in York County. We provide assistance to law enforcement
22 and the Department of Social Services in child abuse
23 investigations.

24 Q And, specifically, at Safe Passage, what is your
25 occupation?

PUJA AMIN - DIRECT BY MS. JOYNER

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1 A I'm a forensic interviewer.

2 Q And what does the term forensic interviewer mean?

3 A A forensic interview is a non-leading, sort of,
4 neutral interview process that we engage in with a child
5 where there are allegations of abuse. We ask questions in
6 a sort of neutral, mostly open-ended way.

7 Q How many years have you been employed as a forensic
8 interviewer?

9 A Almost four years.

10 Q And do you have to have any specialized training in
11 order to do that job?

12 A Yes.

13 Q What specialized training do you possess?

14 A It's a forty-hour course put on by the National Child
15 Protection Agency. The courses range from child abuse
16 dynamics, child development in the actual administration of
17 the interview process.

18 Q And over the course of your four years -- and are all
19 four years at Safe Passage? All of your years of forensic
20 interview experience have been at Safe Passage. Is that
21 correct?

22 A Yes.

23 Q And in your four years at Safe Passage, how many
24 forensic interviews have you conducted?

25 A I've conduct over three hundred forensic interviews.

1 Q Now, is there a particular -- I'm asking for back in
2 2013. Was there a particular format or protocol that you
3 would follow in conducting a forensic interview?

4 A Yes, we utilize the RATAC protocol.

5 Q What is RATAC protocol? Please explain it to the
6 jury.

7 A RATAC is an interview protocol. It's semi-structured.
8 RATAC is an acronym, R-A-T-A-C. The R stands for rapport
9 building. So during that time in the interview with the
10 child, we establish communication, competency levels and
11 comfort. We want to make the child feel comfortable in the
12 interview. The A stands for anatomical identification, so
13 during that time we do an anatomical ID exercise where the
14 child sees a male and a female cartoon drawing without any
15 clothes on, and then identifying, kind of tell the
16 interviewer what they call different body parts so we can
17 be sure that we understand, as well as they understand,
18 because we don't want to assume that they use adult
19 language. The T stands for touch inquiry, so during that
20 time we assess the child's knowledge of appropriate touches
21 and inappropriate touches. The A stands for abuse
22 scenario, so if the child does make a disclosure of an
23 inappropriate touch, the interviewer gathers details
24 surrounding what the child has said, and then the C is sort

PUJA AMIN - DIRECT BY MS. JOYNER

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1 of closure. So we thank the child for talking with us. We
2 review safety strategies and close the interview out.

3 Q Kind of going back, you talked about competency. Why
4 is it important to assess a child's competency?

5 A We want to be sure that the child fully understands
6 the questions that the interviewer is asking.

7 Q And can you explain to the jury a little bit about the
8 measures that you would take in order to assess competency?

9 A Yes, we often, sort of, observe the child's responses
10 to questions, so if the child is providing age-appropriate
11 responses, responding in a narrative fashion, we can
12 establish a level of competency that way.

13 Q And the formatting of the questioning -- when you're
14 asking the child questions, what type of format are those
15 questions supposed to be?

16 A They typically start at open-ended, neutral, non-
17 leading questions.

18 Q Now, when you begin the interview with the child, do
19 they -- are they given any guidelines to follow during the
20 interview?

21 A Yes.

22 Q And what are those guidelines?

23 A They're made aware of the camera in the room, because
24 the actual interview is video-recorded. They're made aware
25 of why it's in there and the purpose of it. The

1 interviewer also elicits a promise from the child to tell
2 the truth during the interview there in the room with the
3 interviewer.

4 Q When you conduct a forensic interview, other than
5 yourself and the child, is there anybody else in the room?

6 A No.

7 Q Is there anybody else that's able to observe the
8 interview?

9 A Yes.

10 Q And who could -- who would be allowed to observe the
11 interview?

12 A Just the investigating parties.

13 Q Where do they observe the interview from?

14 A In another room through a closed-circuit television.

15 Q Now, back on September 24th of 2013, did you conduct a
16 forensic interview for Victim ?

17 A Yes.

18 Q Do you remember how old Victim was at the
19 time of that interview?

20 A She was eight.

21 Q And do you remember who -- what agency or what
22 individual within that agency referred her for an
23 interview?

24 A Detective Ryan Thomas from Rock Hill PD.

PUJA AMIN - DIRECT BY MS. JOYNER

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1 Q Was she referred because of allegations of sexual
2 abuse?

3 A Yes.

4 Q You had just testified for the jury about some things
5 that you do, sort of a standard as part of a forensic
6 interview. Did you follow the RATAC protocol in this case?

7 A Yes.

8 Q Did you take steps to assess Victim competency?

9 A Yes.

10 Q And did she appear to be competent to you?

11 A Yes.

12 Q Did she appear to be answering questions in a age-
13 appropriate fashion?

14 A Yes.

15 Q In what way -- did you take as part of the RATAC
16 protocol steps in identifying or assessing her knowledge of
17 anatomy?

18 A Yes.

19 Q And ultimately during the course of the forensic
20 interview, did Victim make a disclosure to you regarding
21 sexual abuse?

22 A Yes.

23 Q Was that done in response to non-leading questions?

24 A Yes.

1 Q And you mentioned earlier a video camera. Was that
2 functional and operational that day?

3 A Yes.

4 Q And did it, in fact, audio and video-record your
5 interview with Victim ?

6 A Yes.

7 Q I am showing you what's been marked for exhibit
8 purposes as State's Exhibit 3. If you could, please, take
9 a look at that exhibit and tell me if you recognize it.

10 A Yes.

11 Q And how are you able to recognize this?

12 A My signature's on it.

13 Q And what does this disk represent?

14 A That is Victim forensic interview.

15 Q Victim ?

16 A Victim

17 Q Now, other than a redaction that was made at the
18 agreement of the parties, does this recording truthfully
19 and accurately reflect your entire interview with Victim
20 ?

21 A Yes.

22 MS. JOYNER - Your Honor, at this time we'd offer
23 State's Exhibit 3 into evidence and publish it to the jury.

24 THE COURT - Subject to your prior objections?

25 MS. INZERILLO - Yes, Your Honor.

PUJA AMIN - CROSS BY MS. INZERILLO

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1 THE COURT - All right, I'll make the same ruling.
2 I'll admit it. You may publish it.

3 (WHEREUPON, VIDEO IS MARKED INTO EVIDENCE AS
4 STATE'S EXHIBIT NUMBER 3.)

5 THE COURT - Now, ladies and gentlemen of the
6 jury, as it's being played and has been mentioned
7 previously, there has been a redaction. A portion of that
8 recording has been removed, because by agreement of the
9 parties it did not comply with the rules of evidence and
10 should not have been presented, so if you see a place where
11 it appears that it has been edited, it has been for that
12 reason.

13 (WHEREUPON, VIDEO IS PUBLISHED TO THE JURY.)

14 MS. JOYNER - Thank you very much, Ms. Amin. We
15 have no further questions for this witness, Your Honor.

16 THE COURT - All right. You may cross examine.

17 MS. INZERILLO - Thank you, Your Honor. May it
18 please the Court.

19 THE COURT - Yes, ma'am.

20 CROSS EXAMINATION

21 BY MS. INZERILLO -

22 Q Ms. Amin, you were the -- you interviewed Victim on
23 September 24th, 2013. Is that right?

24 A Yes.

25 Q And that was about 18 months ago?

1 A Yes.

2 Q And that was about -- well, let me put it this way.

3 To your knowledge you were the first person to do the
4 actual interview of the child. Is that right?

5 A I would have to review the entire file. I'm not quite
6 sure.

7 Q Okay. But you were referred by Detective Thomas in
8 your role as forensic interviewer. Is that right?

9 A Yes, typically I am the first to do the interview.

10 Q Okay. And that's because of your training as a
11 forensic interviewer.

12 A Right.

13 Q Okay. And essentially that training is because you
14 know how to talk to children.

15 A Right.

16 Q And when you met with Victim that day, she didn't
17 appear to you to be angry?

18 A No.

19 Q Okay. And I believe you indicated that she appeared
20 to understand your questions?

21 A Yes.

22 Q Okay. Her responses I think you said were age
23 appropriate?

24 A Yes.

25 Q And she didn't appear to be fatigued or tired?

1 A No.

2 Q Okay. You didn't have any concerns about any impaired
3 memory on her behalf?

4 A No.

5 Q Now, when you interviewed her, she indicated she was
6 not sure when any -- any of the incidents that she
7 described to you when they happened.

8 A Yes.

9 Q Okay. And she couldn't give you any timeframes or
10 dates or anything like that.

11 A No.

12 Q Okay. She doesn't mention to you being on a scooter
13 or anything like that?

14 A No.

15 Q I think at some point she mentions to you that she's
16 wearing shorts.

17 A Yes.

18 Q Okay. She does describe in her mind that there were
19 two incidents, one that she describes a location, a
20 staircase and a tennis court.

21 A Yes.

22 Q Okay. At one point you are asking her questions about
23 any alleged touching sort of about mid-way through the
24 interview. Do you recall that?

25 A Can you ask that question again?

1 Q Sure. About sort of when you get through the initial
2 part of the questioning where you're talking to her about
3 the ice cream and you're talking about that, you asked her
4 about any of this, and she says she doesn't want to talk
5 about. You recall that?

6 A Right.

7 Q Okay. And then at that point you -- you asked her who
8 touched her. Is that right?

9 A Right.

10 Q Okay. And then there's a series of questions after
11 that where you are eliciting answers in terms of where were
12 you touched, inside or outside. Is that right?

13 A Right, once she indicated something had happened.

14 Q Okay. And the only answers she gave were either
15 inside or outside. Is that correct?

16 A Right.

17 Q You didn't ask her at that point how, how did this --
18 tell me what happened, give me your own details, at that
19 point in the interview. Is that correct?

20 A Right. Right.

21 Q And so at the -- the only recitation of her account of
22 any alleged abuse is your questioning of her, did he touch
23 you on the inside or the outside of your underwear, inside
24 or outside of your vagina. Is that correct?

25 A Right.

1 Q Okay. At a later point in the interview, you leave
2 the room and you come back in. Is that right?

3 A Yes.

4 Q Okay. And that's pretty standard, where you kind of
5 step outside, take a break, maybe touch base with someone
6 who's watching the interview. Is that ---

7 A Yes.

8 Q --- normal? Okay. And you indicated that a forensic
9 interview is partly a law enforcement tool. Right?

10 A Right.

11 Q And so in this case Detective Thomas was watching the
12 interview.

13 A Yes.

14 Q Okay. The -- so when you stepped back in, at that
15 point you did ask her some more open-ended questions, how
16 did he touch you.

17 A Right.

18 Q And she was unable to give you any details.

19 A Right.

20 Q Right? The -- in fact, when you asked her, she was
21 unable to tell you details like, he told her to get into
22 her lap (sic) or into his lap. She didn't ever tell you
23 that.

24 A No.

1 Q Okay. Or that that happened when her brothers and
2 cousin -- her brother and cousins left; they went home or
3 something like that. She never relayed those details.

4 A No.

5 Q Okay. The -- when you asked her to -- in any sort of
6 open-ended way about any incident, she never relayed to you
7 that any of the touching stopped when the brother and the
8 cousins came back; she didn't relay those details to you.

9 A No.

10 Q Okay. And that that was the only time in which he
11 took his out -- out essentially. She never relayed that to
12 you.

13 A No.

14 Q Okay. The -- when -- so the only time that she gives
15 any recitation of facts or any sort of, I guess, quote,
16 unquote, details about anything is when you're kind of
17 walking her along saying, who touched you, did he touch you
18 here, did he put his hand there, that's when she's
19 answering your questions. Is that correct?

20 A Yes.

21 Q Okay. Chronologically, your interview is closer in
22 time to any alleged event than today.

23 A Yes.

1 Q Is that a fair -- okay. The -- when she talks with
2 you, she tells you that her brother is -- at least in the
3 picture there and some cousins. Is that correct?

4 A Yes.

5 Q Now, your job as a forensic interviewer, you can
6 interview all kinds of children. Right? I mean you
7 interview children.

8 A Yes, three to 17 years old.

9 Q Okay. So you can interview any possible alleged
10 victims, but you can also interview child witnesses. Is
11 that right?

12 A Yes.

13 MS. INZERILLO - Okay. I have no further
14 questions, Your Honor.

15 THE COURT - Re-direct.

16 MS. JOYNER - No re-direct, Your Honor.

17 THE COURT - You may step down. Thank you very
18 much. Do you wish to excuse the witness?

19 MS. JOYNER - Yes, sir.

20 THE COURT - Any objections?

21 MS. INZERILLO - No, Your Honor.

22 THE COURT - You're free to leave. Thank you very
23 much. All right, ladies and gentlemen of the jury, it's
24 about 12:30; we'll break for lunch at this time. I'll ask
25 that you be back in the jury room at about 15 minutes until

1 THE COURT - All right, now, I'm going to call
2 upon the State -- ma'am, I'll call upon you to call any
3 additional witnesses. They did not hear you rest; they had
4 left. That'll give you a chance to say that you have
5 completed your evidence, then I'll call upon the defense if
6 you have any witnesses. I assume you'll answer that you
7 don't, and then we'll proceed right into the arguments.
8 Bring the jury in. I'd ask the attorneys to approach
9 briefly. I don't think you've seen how I amended the
10 indictments.

11 (WHEREUPON, BENCH CONFERENCE IS HELD OUT OF THE
12 PRESENCE OF THE JURY PRIOR TO THE JURY ENTERING THE
13 COURTROOM WHICH WAS NOT REPORTED.)

14 THE COURT - Make a note that I went over the
15 indictments as amended and there were no objections.

16 (WHEREUPON, JURY ENTERS THE COURTROOM)

17 THE COURT - All right, the record will reflect
18 the jury has returned to the courtroom. I trust everyone
19 had a good lunch, and if you had any difficulty in
20 complying with my instructions while you were away from the
21 courthouse, I'd ask that if anyone had that problem, please
22 stand.

23 (NO RESPONSE)

24 THE COURT - It appears that all jurors have been
25 able to comply with my instructions. Now, when we took our

1 lunch break, the State was in the process of calling its
2 witnesses. At this time the State may call its next
3 witness.

4 MS. O'HAYON - The State rest, Your Honor.

5 THE COURT - All right, ladies and gentlemen, that
6 completes the presentation of evidence in this case by the
7 State. At this time the defense has the right to call
8 witnesses if the defendant chooses to. The defense may
9 call its witnesses.

10 MS. ANDERESON - Your honor, the defense rests.

11 THE COURT - All right, that concludes then the
12 presentation of evidence in the case altogether. Now, I
13 told you at the beginning of the trial when we had reached
14 this stage of the proceedings, the attorneys would be given
15 the opportunity to give their summations or their closing
16 arguments, their second opportunity to directly address
17 you. In this case the State will be going first. You may
18 proceed.

19 MS. O'HAYON - Thank you, Your Honor. Delissa
20 didn't know what it was, but she knew something wasn't
21 right. When she moved in with her family to Cedarview
22 Apartments it was puzzling her, and it didn't make sense
23 and then it all did. These cases are difficult because the
24 subject matter is uncomfortable. It was probably
25 uncomfortable for you to hear. It was uncomfortable for

1 Victim to say it, but that doesn't mean that this case is
2 any less important. The defendant is charged with two
3 counts of criminal sexual conduct with a minor in the first
4 degree. That means the State has to prove beyond a
5 reasonable doubt that the defendant engaged in a sexual
6 battery with a child under the age of 11 here in York
7 County, South Carolina. A sexual battery is sexual
8 intercourse, cunnilingus, fellatio, anal intercourse or any
9 intrusion however slight of any part of a person's body of
10 any object into the genital or anal openings of another
11 person's body. The Judge told you that you probably have
12 some expectations of what a sexual assault case is like
13 based on your experience with TV shows, but they build up
14 expectations and they're not reality. This case does not
15 have the flash of a TV show. It won't get wrapped up and
16 it didn't get wrapped up in an hour. Cases of delayed
17 reporting do not have that same flash, but they bring us
18 back to the most basic question. As the jurors, you are
19 the finders of fact and the Judges of credibility and you
20 are to find the facts from the words of the witnesses.

21 Your verdict at the end comes down to whether you believe

22 Victim . What factors do you use to determine
23 credibility? Bias, demeanor, prejudice, motive to lie.

24 What did Victim have to gain out of this? You
25 heard her say that she had to tell her mom. She had to

1 tell Puja Amin. She had to come into the solicitor's
2 office and talk to the solicitors, and then she had to come
3 in here and tell a courtroom full of strange adults that
4 that man digitally penetrated her. What does she have to
5 gain from that? Let's talk about some of the statements
6 that you heard. Let's talk about the defendant's
7 statements. You may have found that the way that the
8 detective asked the defendant the questions a little bit
9 distasteful. You may have found the story he chose or the
10 tactic he chose was distasteful, and that's fine. The
11 defense attorney was trying to get you to focus on the way
12 Detective Thomas asked his questions. She was trying to
13 get you to remove your focus from what the defendant
14 actually said. I'm asking you to focus on his statement.
15 You probably asked yourself, why am I listening to this
16 hour-long statement. I want you to think about his
17 statement and how the subtle changes in his statements
18 were, that the changes happened so slowly that they may
19 have been imperceivable. At first he states, I know I
20 ain't did none of that, because I was in the house. Well,
21 when I came outside, I saw them, it was a quick thing.
22 Well, I saw Victim in the neighborhood. Well,
23 I may have played with her cousins; I may have picked her
24 up. No, I may have picked her cousins up, and then finally
25 she was on his lap. How many times was she on your lap? I

1 don't know how many times, but she did -- was. (sic) Isn't
2 that a long way from start to finish? What else does the
3 evidence show? The defendant is friends with B.P. ; he
4 knew Victim . We don't know exactly when this happened.
5 The indictment alleges May 13th, 2011 to June 24th, 2012. We
6 know that it happened when the Pattersons lived in Pace's
7 River; we know that it happened when they all lived at
8 Pace's River together up until the Pattersons moved out; we
9 know that they all lived at Pace's River together at one
10 point. Alyssa Pruitt came in here and testified that he
11 moved in in May 13, 2011, moved out at the end of November,
12 2011, and Alyssa told you that she was living at Pace's
13 River up until June 24th, 2012. B.P. told you, and the
14 defendant's own statement to the detective told you, that
15 after he moved out, he came back and he still hung around
16 with them before they -- before the Pattersons moved away.
17 We know that Victim didn't go outside to play until her
18 cousins moved in. The defendant's own statement was that
19 he only saw her either inside the house or with her
20 cousins. So we know that it happened some time after the
21 defendant moved in, May 13, 2011 and up until the
22 Pattersons moved out. Now we know that Victim was on his
23 lap by the defendant's own admission that she would get up
24 on his lap, he would brush her off. He doesn't know how
25 many times that happened. He says she's in his lap. That

1 gives him the opportunity to commit the crime. He puts her
2 in his lap. You had the opportunity to see Victim for
3 yourself take the stand, and the Victim you saw was a
4 different Victim from the Victim back in 2013 that
5 Delissa had to deal with. You met Victim at the end of
6 this process, but Delissa told you about the Victim back
7 in the summer of 2013, the Victim who cried in her sleep,
8 the Victim who was afraid to go outside, the Victim who
9 would cry all the time, who was easily agitated. Delissa
10 told you that this behavior all started when they moved
11 into the Cedarview Apartments where the defendant was
12 living, and you heard from B.P. who told you that he
13 remembers the defendant coming over and Victim going to
14 hide while he was there. You were able to see for yourself
15 Victim's body language and demeanor as she took that
16 stand, the cues of her discomfort about the subject as she
17 sat here and told the courtroom full of strangers what had
18 happened to her. You saw her start to fidget in her seat.
19 You saw her voice change and get lower. You saw her face
20 change, her brow furloughed. You saw her get sad. When
21 the defense attorney first spoke to you in her opening, she
22 compared proof beyond a reasonable doubt to a carnival
23 game. And the Judge will instruct you on what proof beyond
24 a reasonable doubt is, but a reasonable doubt is a doubt
25 that will cause you to hesitate to act. It is not proof

1 beyond all doubt. I wouldn't compare that legal standard
2 to a carnival game, because it's not proof beyond all
3 doubt. You don't have to get to the hundred percent. You
4 have to get to proof beyond a reasonable doubt, not all
5 doubt. Your job as the jury is to deliberate, and
6 hesitating and deliberating are not the same thing. This
7 case comes down to Victim and whether you believe her.
8 To come back to the deliberation room -- your job as a
9 juror is to go back to the deliberation room to talk about
10 all the what ifs, all the maybes and all the could bes and
11 at the end of that process, if you still believe in your
12 heart and in your mind that Victim was
13 digitally penetrated by the defendant, then the State has
14 met its burden, and you are to find the defendant guilty of
15 criminal sexually conduct in the first degree with a minor.
16 Thank you.

17 THE COURT - For the defense. Ms. Anderson?

18 MS. ANDERSON - May it please the Court.

19 THE COURT - Yes, ma'am. You may proceed.

20 MS. ANDERSON - Ladies and gentlemen, the
21 solicitor just talked to you about -- a little bit about
22 credibility of the witnesses and essentially pointing out
23 to you that essentially the only evidence in this case is
24 what Victim said. And that is, because there's
25 no physical evidence; there's no forensic evidence, no

1 medical evidence, no other eye-witnesses to these alleged
2 events, so it does become critical to look at credibility
3 of witnesses. It becomes critical to look beyond any
4 emotion that may be elicited, beyond an awkwardness that
5 may be elicited and to look critically and logically and
6 analytically at the testimony that you heard over the
7 course of this case, because it's in looking at that
8 testimony and looking at details and looking at
9 inconsistencies that you see that this case does not add up
10 to proof beyond a reasonable doubt. If you think about
11 these details, they may seem insignificant in isolation or
12 on their own, but if you think about an illustration of an
13 ice storm -- we had some winter weather a few months ago,
14 and if you were in an area that you saw ice, the individual
15 sleet or precipitation that comes down looks small in of
16 itself. Sometimes it's hard to see it looking out the
17 window. And in the individual it may seem like a small
18 piece of ice, a small bit of frozen rain, but when more of
19 that comes down and when it keeps having that precipitation
20 and it hits the ground, all of a sudden you see a big
21 effect from that. An ice storm is created by small bits of
22 precipitation, and in this case reasonable doubt is created
23 by small inconsistencies, small things that don't match up
24 and small things that are different today than they were
25 months or even years ago. Let's talk about some of those.

1 You heard Victim testify, and you heard her
2 testify as to some specific details that she says were in
3 connection with these allegations, and you heard her
4 indicate that these weren't things that she had told Puja
5 Amin, the forensic interviewer, who did an interview back
6 in September of 2013. You heard some testimony that the
7 forensic interview is an investigative tool. It's to aid
8 law enforcement in their investigation of the case. It's
9 certainly not the end-all and be-all of all investigation,
10 but we'll talk a little bit more about Detective Thomas's
11 investigation later. But it's done by an individual
12 trained in dealing with children. It's generally in the
13 normal course of things designed to be the first time that
14 information is elicited from a child. And you heard the
15 testimony regard (sic) that and you watched the video, and
16 you saw in the course of that video that when Victim
17 provides any sort of specific information, it's
18 in response to Ms. Amin asking her something specific,
19 inside or outside, give me one of those choices. Was it
20 inside or outside your underwear? Was it inside or outside
21 of your vagina? And so when there's two options, both of
22 which those options contemplate it happened, that's when
23 she gives details about it. But in the portion of the
24 interview when Ms. Amin comes in and asked her, how did it
25 happen, how did it happen essentially when you were sitting

1 on his lap, she can't provide you any details. That's
2 significant. When asked to give the details on her own
3 without an interviewer prompting her, without an
4 interviewer sort of giving her the idea of give me
5 information and you're doing a good job at this, she can't
6 provide those details. Think about other things she didn't
7 mention in the forensic interview. You didn't hear
8 anything about this testimony that the first time that she
9 refers to as the staircase time, that she says she's out
10 with her brothers and cousins; they left; she doesn't
11 remember where they left, but that she -- they left her
12 alone. And she testifies when she's alone with OJ, she's
13 sitting on his lap, he touches inside of her underwear,
14 touches her vagina, and that he stopped when her brother
15 and cousins come back. You don't hear anything about that
16 in the forensic interview. What you do hear in the
17 forensic interview is her saying that the cousins are
18 there; I believe it's the second time. And again, it's
19 significant, because that's a more specific allegation of
20 events. The forensic interview is in September of 2013.
21 You heard testimony from Delissa Patterson that she calls
22 the police in September of 2013. So the forensic interview
23 is taking place right after this allegation is made,
24 essentially, the sort of first interview in connection with
25 her allegations. Today it's March 15th -- or excuse me --

1 March, 2015. Today you're hearing details that have never
2 been mentioned in all of that time. Call upon your life's
3 experiences, ladies and gentlemen, your logic, your common
4 sense. Do you think it likely that children's memory gets
5 more specific and more detailed over a year's time, that
6 things that can't be remember earlier, close in time to
7 when things are supposed to have happened, those memories
8 get better as time goes by? I submit to you it's difficult
9 even for adults' memory to get better over the course of
10 year and a half, but certainly for an eight year old, nine
11 year old that it's going to get more difficult. Is it
12 likely then or is it questionable? Is there some question
13 then about how those details get specific? And you'll
14 remember she's still in the forensic interview or either in
15 Court this week can't give you any specifics of how this
16 happened, never able to offer those. And I call that to
17 question and I bring that up, because you heard in the
18 interview with Detective Thomas of Orlando -- Orlando in
19 that interview doesn't deny knowing who Victim or Niyah
20 is, doesn't deny knowing her, doesn't deny ever having any
21 contact with her, doesn't deny ever being around her,
22 doesn't deny her ever sitting on his lap. What he does
23 deny is anything in appropriate ever happened. And you
24 heard even Detective Thomas say, there's nothing illegal
25 about playing with kids; there's nothing illegal about a

1 teenager playing with kids; there's nothing illegal about a
2 kid sitting on someone else's lap. That in and of itself,
3 which the State wants to make out as very suspicious, is
4 not illegal. What he denies is that when she's sitting on
5 his lap, anything inappropriate happened. And what

6 Victim , either in September of 2013 or here in
7 March of 2015, can't say is how anything illegally happened
8 when she's there. Just an admission that she had sat on
9 his lap at some point doesn't amount to anything
10 inappropriate happening. The State wants to talk about
11 these subtle shifts of what Mr. Coleman said. Well, the
12 State's witnesses have subtle shifts or shifts that aren't
13 subtle themselves. Detective Thomas and the State sort of
14 made a pact about the -- talking about only one specific
15 girl and Orlando answering these questions about one
16 specific girl. Ladies and gentlemen, that's the only
17 person Detective Thomas ever asked him about. He answered
18 the questions that were asked of him, and he repeatedly
19 denied that he ever did anything inappropriate to her.
20 Detective Thomas's interrogation techniques of lying about
21 the allegations in order to try to elicit a confession --
22 what they elicited is a denial that anything illegal
23 happened, denial that he ever touched Victim
24 inappropriately, which actually is consistent with B.P.

testimony that he didn't ever see anything that

1 would cause him to worry about his sister being around
2 Orlando. B.P. testimony was also that the time after
3 OJ had moved out, that the time he saw him again was in
4 June. I think around -- don't know if he specifically said
5 June, but he said around the time they moved out, and Ms.
6 Patterson testified they moved out in June, 2012. And what
7 he said about when he saw OJ again, was that OJ was with a
8 friend walking toward the pool. B.P.
9 testimony wasn't anything about when they saw him again,
10 him playing with them, him being around Victim , him being
11 unaccompanied around Victim . The only mention B.P.
12 made when they saw Orlando again, was Orlando with a friend
13 going to a pool -- going to the pool. B.P. also said,
14 he told his mom about Victim supposedly saying something
15 to him before September of 2013. Delissa Patterson says he
16 never told her anything before 2013. Victim , I believe
17 in her forensic interview, claims that she did tell her
18 brother, said OJ touched me, and her brother said he
19 couldn't have done it. Well, maybe he couldn't have done
20 it, because B.P. never saw anything that would've said
21 it happened. You heard the testimony about their cousins,
22 Amazhanee, Sanadia and Arkevious. You heard their names
23 brought up several times. You heard that for part of the
24 time that the Pattersons lived at Pace's River, part of the
25 time that was initially Delissa Patterson gave as the time

1 that this was alleged to have happened in the summer of
2 2011, that the cousins lived there, the cousins and their
3 mother, Ms. Patterson's sister lived in the apartment with
4 them. So you heard that they were there, and you heard
5 even from Victim that when she said the tennis courts'
6 time allegedly happened that her cousins were sitting right
7 there playing, playing hand games, sitting right there.
8 You heard Delissa Patterson was in -- still in contact with
9 her sister, heard her say they're here, but you didn't hear
10 them testify; you didn't hear from them here in Court, even
11 though they were there at the time period when this was
12 supposed to have happened, and that their cousins who were
13 the ages somewhere around 11, 13, 9 years old, I think in
14 between Victim and B.P. , that they were there. Older
15 than Victim , I would say old enough to tell you what they
16 saw or what they didn't see. Does that raise a question, a
17 doubt about this happening the way that Victim
18 testified? Since that all you have to go on is what
19 Victim said here in Court today. (sic) You
20 heard from Laurie Caldwell, the State called, but you also
21 heard she doesn't know anything about this case. She
22 didn't talk to anyone in connection with this case. She
23 doesn't know. She doesn't know the facts of it or the
24 allegations. You heard that the detective's investigation,
25 the case agent, the detective assigned to work on this case

1 was essentially to get assigned the case after Detective
2 Sims made the initial report to speak to Delissa Patterson
3 via telephone, to be present and watch via video the
4 forensic interview, to look up some utility records as to
5 when the Colemans were living at Pace's River and to swear
6 out a warrant and speak to Mr. Coleman.. Didn't interview
7 any other witnesses, even though he knew about B.P. ; he
8 knew Victim had a brother. I think Delissa Patterson
9 testified about telling Detective Thomas about B.P. , her
10 talking with B.P. . Knew about the cousins. Could've
11 gotten that either from information from Delissa Patterson
12 or remember, he watched the forensic interview. He knew
13 what information was relayed there. He didn't do any other
14 investigation whatsoever. But what he's called to do is to
15 do an independent investigation. It's not just a matter of
16 relying solely on a forensic interview. It's a tool. It's
17 a gathering of information, to take that and investigate
18 further, but he didn't do any further investigation.
19 Ladies and gentlemen, the Judge is going to you talk to
20 all, instruct you as to the standard you apply to this
21 case, and I brought them up a little bit in opening,
22 because they are important. As I said, they're not just
23 concepts on TV; they're real; they're concrete, and they're
24 vitally important to our justice system, and they're
25 vitally important to this case. And that is that the

1 burden of proof is always on the State, that Orlando
2 Coleman even now is presumed innocent, and that the State
3 must prove their case beyond a reasonable doubt, and that's
4 usually referred to as the kind of doubt that would cause a
5 person to hesitate to act, the kind of doubt that would
6 cause a person to hesitate to step forward, to feel
7 reassured that something happened. And, yes, the State
8 said -- talked about that it doesn't have to be a hundred
9 percent, but it's a strong burden, ladies and gentlemen.
10 You must be firmly convinced of that. And when you look at
11 this case analytically, when you look at the little details
12 that just don't match up, the witnesses that their
13 testimony doesn't match, they're testifying differently
14 from each other, when you look at the fact that the details
15 suddenly for a young child get better over a year and a
16 half later and details emerge that didn't emerge back in
17 September of 2013, and coincidentally they're details that
18 helps make her version of events stronger and helps make it
19 to where this could've happened and no one testifying else
20 (sic) of seeing either of these events happening -- it's
21 like the ice storm. These are small little bits in
22 isolation, but added up together they make a big effect,
23 and the effect, ladies and gentlemen, is that there's
24 reasonable doubt in this case. The effect is that the
25 State has not proven its burden beyond a reasonable doubt.

1 The effect of this case is that your verdict in this case
2 should be a verdict of finding Orlando Coleman not guilty.
3 Thank you.

4 THE COURT - Ladies and gentlemen, that concludes
5 the closing arguments by the attorneys. I told you that
6 when we reached this stage of the proceeding it would be my
7 responsibility to charge you concerning the law that you're
8 to apply in this case. We began this case by going over
9 with you the indictments in this matter. There are two
10 indictments in the case. The indictments state the cases
11 and are for the same offense, criminal sexual conduct with
12 a minor in the first degree. The indictments are contained
13 in cases number 2014-GS-46-3857 and 3858. The indictments
14 will go with you back into the jury room. You'll have an
15 opportunity to look over them in detail. I have made a
16 notation on those indictments so that we can clarify the
17 allegations that are being made. Case number 3857 I have
18 indicated on that indictment is for the alleged staircase
19 incident. The allegations contained in case number 3858
20 are allegations that have to do with the alleged tennis
21 court incident. So there's two separate indictments in
22 this case. I want to remind you, however, the fact that a
23 defendant has been arrested, charged and indicted in the
24 case is not evidence in this case, and it cannot be
25 considered by a jury as evidence of guilt in this case, nor

1 does the fact that an indictment has been issued create any
2 presumption or inference of guilt. These documents are
3 simply the formal written instruments that inform this
4 Court of the charges to be tried. It informs the defendant
5 of the charges made against him. In other words, it's the
6 formal document by which the case has been brought into
7 this Court. Now, in cases in which there are more than one
8 indictment, the charges are separate and distinct. Each
9 indictment charges a separate and distinct offense. You
10 the jury will be called upon to decide each indictment by a
11 verdict separately on the evidence and the law that applies
12 to that indictment uninfluenced by your decision as to the
13 other indictment. In other words, the defendant can be
14 convicted or acquitted on either or both of the indictments
15 in this case. And again, you'll have to write a separate
16 verdict as to each indictment as to guilty or not guilty on
17 those indictments. The defendant has pled not guilty to
18 the indictments. Under the Constitution of this State and
19 of the United States, that plea places the burden of proof
20 solely upon the State to prove the defendant guilty. A
21 person who's charged with the commission of a criminal
22 offense in this state is never required to prove himself
23 innocent. I charge you that it's an important rule of law
24 that a defendant in a criminal trial -- and it doesn't
25 matter how serious the crime might be -- is always presumed

1 to be innocent of the crime for which an indictment has
2 been issued until and unless guilt has been proven to you
3 the jury by evidence that satisfies you of that guilt
4 beyond a reasonable doubt. Now, the presumption of
5 innocence doesn't end when you begin your deliberations.
6 It accompanies the defendant throughout the trial and into
7 your deliberations. Some people describe the presumption
8 of innocence somewhat like a robe that a Judge wears into
9 the courtroom. The defendant has that robe or that
10 presumption of innocence about his shoulders at the
11 beginning of the trial. It remains about his shoulders
12 throughout the trial. It accompanies the defendant into
13 your deliberations and remains about his shoulders until
14 such time as it has been stripped from him by evidence that
15 satisfies you of the defendant's guilt beyond a reasonable
16 doubt. So the presumption of innocence is not just a legal
17 theory; it's not just a legal phrase. It's a substantial
18 right that every defendant is entitled to until and unless
19 you the jury are satisfied from the evidence of the
20 defendant's guilt beyond a reasonable doubt. Now, you
21 notice that I've used that phrase proof beyond a reasonable
22 doubt about three or four times in my charge at this point
23 in time, and you may ask yourself, well, just what do you
24 mean by a reasonable doubt, what is a reasonable doubt, and
25 I'll tell you the cases that have defined what a reasonable

1 doubt is describes a reasonable doubt as that kind of doubt
2 that would cause a reasonable person to hesitate to act,
3 and the State has the burden of proving the defendant
4 guilty beyond a reasonable doubt. Now, I want to clear up
5 one thing that might confuse you, be sure we've got a good
6 understanding on this point. Some of you may have been
7 involved in cases in courts where civil matters were
8 involved, and civil matters are where somebody's seeking
9 monetary damages. That can be because they got injured in
10 an accident; it can be because somebody didn't pay their
11 bills or their debts; it can be because somebody breached a
12 contract that they had, didn't fulfill their obligations.
13 Those are the kinds of cases where people seek monetary
14 damages. They're referred to as civil cases. And in civil
15 cases the standard of proof is different than the standard
16 of proof in this court, a criminal court. In a civil court
17 the standard of proof is by the greater weight of the
18 evidence, sometimes call the preponderance of the evidence,
19 and that means the scales of justice have tilted ever so
20 slightly either in favor of a plaintiff or in favor of a
21 defendant, and whichever way those scales slightly tilt,
22 that's the side that's entitled to a verdict. That's in a
23 civil case. In a criminal case the standard of proof is
24 more powerful than that. It's proof beyond a reasonable
25 doubt. Proof beyond a reasonable doubt is that kind of

1 proof that leaves you firmly convinced of the defendant's
2 guilt. Now, I'm going to tell you that there's very few
3 things that go on in this world that can be proven beyond
4 any doubt whatsoever, and that's not the standard of proof
5 that the State is put to. The State does not have to prove
6 its case beyond any possible doubt. What I will tell you,
7 that if after your consideration of the evidence, if you
8 are firmly convinced of the defendant's guilt beyond a
9 reasonable doubt, you must find the defendant guilty.
10 However, on the other hand, if you think there's a real
11 possibility that the defendant is not guilty, then you must
12 give the defendant the benefit of the doubt and find the
13 defendant not guilty. Now, I'm going to remind you, at the
14 beginning of the trial I stressed to you that you and I
15 have different functions in this case. As the trial Judge
16 it's been my responsibility to rule on issues that have
17 come up concerning the proof that's presented, the
18 appropriateness of questions that are being asked, and it's
19 my responsibility now to charge you concerning the law.
20 I'm going to caution you again. Don't take from anything
21 that I may have said or done in the trial of this case to
22 indicate to you that I have an opinion one way or the other
23 as to how you determine the facts in this case. I told you
24 earlier, and it remains true right now, the law does not
25 allow me an opinion concerning the facts. I have no

1 opinion as to how you should determine the facts in this
2 case, because you see, the law that makes me the sole Judge
3 of the law makes you the sole Judge of the facts in this
4 case. You must take only the evidence that was put into
5 the record of this case. So if there is anything that I
6 ruled out of order or anything that I didn't allow to come
7 into evidence, you should not consider those factors or
8 those matters at all in reaching a verdict. You should
9 only consider the evidence that was admitted into the
10 record of the case during the trial in reaching a verdict
11 in this case. I have the additional duty of charging you
12 on the law at this time, and I told you earlier, just as
13 I'm not allowed to disagree with you concerning the facts,
14 you're not allowed to disagree with me concerning the law
15 to be applied in this case. Under your oath it's your
16 responsibility to take the law as I now give it to you,
17 apply this law to the facts as you determine those facts to
18 be and that -- for you'll be in a position to render a just
19 and a true verdict. And again, if you have an idea as to
20 what the law is or you have an opinion as to what the law
21 ought to be, leave those notions outside of the jury room
22 before you begin your deliberations and take the law
23 exactly as I give it to you and apply it to the facts as
24 you determine the facts to be. The determination of the
25 facts is a matter solely for you the jury to determine. As

1 jurors it's your duty to determine the effect, the value,
2 the weight and the truth of the evidence that's been
3 presented during this trial. Now, in deciding a case, you
4 have the right to consider two types of evidence. And I'll
5 try to explain to you what I mean by two types of evidence.
6 One type of evidence the law calls direct evidence. That's
7 when someone testifies directly on the fact that they're
8 seeking to prove. That can be someone who's actually --
9 claims to have actually experienced or been present or been
10 an eye-witness to the facts about which they've testified,
11 that's someone testifying directly on the fact they're
12 seeking to prove. Now, the other type of evidence is what
13 we refer to as circumstantial evidence. Circumstantial
14 evidence is proof of a chain of facts or circumstances that
15 indicate the existence of another fact. It's been
16 described as proof of collateral facts from which a main
17 fact might be reasonably inferred. Now, that's a lot of
18 fancy lawyer-talk, and I like to use a very simple example
19 as to what I mean by proof of a fact by circumstantial
20 evidence. Let's say that last night before you went to bed
21 you looked outside your window, the stars were shining, it
22 was a beautiful night, and you went to bed and you slept
23 well all night, didn't wake up at all, the next morning you
24 got up, you walked over to that same window in your
25 bedroom, but the sun shining, but when you looked a little

1 closer, you noticed that there was water dripping off all
2 the trees, the road in front of your house was wet, there's
3 puddles in the driveway that weren't there the night
4 before. Now, you know you slept all night; you didn't see
5 it rain; you didn't hear it rain, but from the facts that
6 you know to be true, you could reasonably infer that at
7 some point in time during the night it rained. So that's
8 what we mean by proof of collateral facts from which a main
9 fact could be reasonably inferred or proof of a chain of
10 facts from which another fact might be inferred. Now, the
11 law doesn't make a distinction between the weight or the
12 value that can be given to either direct or circumstantial
13 evidence. There's not a greater degree of certainty
14 required of circumstantial evidence than that of direct.
15 You the jury decide the weight that you choose to give to
16 all of the evidence in the case, and after weighing all of
17 the evidence, if you are not convinced of the guilt of the
18 defendant beyond a reasonable doubt, you must find the
19 defendant not guilty. On the other hand, if you're firmly
20 convinced of the defendant's guilt beyond a reasonable
21 doubt, you must find the defendant guilty. Now, in doing
22 your job as a juror, it's going to be necessary for you to
23 determine the credibility or the believability of the
24 testimony you've heard in this case, and that's what
25 credibility means. It means believability. And you may

1 recall at the beginning of the trial I asked you to use
2 your good common sense as you listened to the evidence that
3 came into the record to make a determination as to the
4 credibility or the believability of the testimony that you
5 heard. It's your duty as a juror to analyze and evaluate
6 the evidence and make a determination as to which evidence
7 convinces you of its truth. In determining the
8 believability of witnesses who've testified, you have the
9 right as the sole Judges of the facts to believe one
10 witness against all the others. You have the right to
11 believe all the others against one. As the sole Judges of
12 the facts you can believe all of, none of or part of what
13 any witness has testified to in this trial. You have the
14 right to consider whether or not a witness has exhibited to
15 you any interest, any bias, any prejudice or any other
16 motive in testifying in this case. You can consider the
17 appearance and the manner in which a witness has delivered
18 that witness's testimony. You're the sole Judges of the
19 facts. That makes you the sole Judges of the credibility
20 or believability of the witnesses who've testified in this
21 trial. Now, I told you that I'd talk to you a little bit
22 more about expert witnesses. I explained to you when that
23 witness testified that the rules of evidence ordinarily do
24 not allow a witness to state opinions or conclusions. The
25 exception of that rule is made for an expert witness, and

1 that's a witness who because of education or experience has
2 become an expert in a field, science or profession, and as
3 to those witnesses they may state opinions within the area
4 of their expertise and the reasons why they hold those
5 opinions. You should consider testimony given by an expert
6 just like any other evidence in the case. You give it the
7 weight you think it deserves. Should you decide that the
8 opinion of an expert's not based on sufficient education or
9 experience or you conclude the reasons given for holding
10 those opinions are outweighed by other evidence are not
11 sufficiently sound, you may disregard that testimony even
12 in its entirety if you choose to do that. You're not to
13 give the opinion or the testimony of an expert witness any
14 greater weight simply because that person was declared to
15 be an expert. In other words, you're to weigh that
16 evidence like you weigh any other evidence. You're not
17 required to accept an expert's opinion even though it might
18 not be contradicted. Now, I'm going to instruct to you and
19 I want to emphasize to you that the fact that the defendant
20 did not testify in this case is not a factor that can be
21 considered by you in any way in reaching your verdict. It
22 must not be considered by you in any manner whatsoever,
23 because you see, a defendant has a constitutional right to
24 remain silent. The assertion of that right must not be
25 considered by you in your deliberations. I repeat, under

1 your oath you are to draw no conclusions whatsoever from
2 the fact that the defendant did not testify. The fact that
3 the defendant did not testify should not even be discussed
4 by you in your deliberations. As I have stated to you, the
5 defendant is not required to prove his innocence. The
6 burden of proof in this case is solely upon the State, and
7 the State's burden of proof is to prove guilt beyond a
8 reasonable doubt. Now, the charge in both indictments is
9 the charge of first degree criminal sexual conduct with a
10 minor, and that's the charge that's been presented in the
11 indictments. In order for the State to prove those
12 allegations, the State must prove beyond a reasonable doubt
13 that the defendant engaged in a sexual battery with the
14 victim. Now, sexual battery is sexual intercourse,
15 cunnilingus, fellatio, anal intercourse or any intrusion
16 however slight that might be of any part of a person's body
17 or of any object into the genital or anal openings of
18 another person's body except when the intrusion is
19 accomplished for a medically recognized treatment or
20 diagnostic purpose. The State must then prove beyond a
21 reasonable doubt -- once that's been proven, the State must
22 further prove that the victim was less than 11 years old at
23 the time that the sexual battery took place. Now, I will
24 tell you that consent, willingness, indifference or
25 ignorance on the part of the minor involved, if any, as to

1 what was taking place does not in any way affect the charge
2 of criminal sexual conduct with a minor, because in this
3 State an unmarried woman under the age of 14 cannot legally
4 consent to sexual intercourse. Now, Mr. Ezell Long, juror
5 138, raise your hand, please.

6 (JUROR COMPLIES)

7 THE COURT - You are going to be the foreperson of
8 the jury. That means you'll be the person who will be
9 leading the discussions of the jury. You will also be the
10 person who will take care of a couple things for me. If
11 during the deliberations, if the jury has a question, it
12 will be your responsibility to write that question to me
13 down on a piece of paper, knock on the door, hand it to the
14 bailiff, the bailiff will bring me the question for me to
15 consider. Also, I'm going to give you a verdict form in
16 just a few minutes, and I'll explain it to you, but once
17 the jury's reached a unanimous verdict, it will be your job
18 to write that verdict on that form as I instruct you, sign
19 the form once it's been completed, knock on the door and
20 inform the bailiff that a verdict's been reached. The jury
21 then will be brought back into the courtroom for the
22 verdict to be announced. Now, there can be no verdict in
23 this case unless all of you agree upon the verdict. It
24 must be unanimous. All 12 of the sitting jurors must agree
25 on the verdict before it is the verdict of the jury, so you

1 would not write any verdict down until all 12 jurors have
2 agreed on the appropriate verdict in the case. Now, I've
3 gone over a great deal with you. There's some evidence
4 that needs to go back into the jury room with you, and I
5 want to be sure only the proper evidence goes back. This
6 may be the last time I tell you to do this, to go back to
7 the jury room, don't discuss anything about this case.
8 I'll bring you back in just a couple of minutes and give
9 you your final instructions, and then I'll ask you to begin
10 your deliberations. You may retire to the jury room.

11 (WHEREUPON JURY EXITS THE COURTROOM)

12 THE COURT - Objection, exceptions to the charge
13 from the State?

14 MS. O'HAYON - Your Honor, correct me if I'm
15 wrong, but I didn't catch that you charged them on
16 confessions and statements, and a statement was put in by
17 the State by the defendant. Did you do any charges about
18 statements?

19 THE COURT - I will be glad to charge that.
20 Anything else?

21 MS. O'HAYON - I think that's it, Your Honor.

22 THE COURT - I'm not sure it was a confession, but
23 I will ---

24 MS. ANDERSON - That was my concern about how it
25 was going to be charged.

1 THE COURT - Yes, I'll charge it as a statement
2 not a confession. Any exceptions from the defense?

3 MS. ANDERSON - No, Your Honor.

4 THE COURT - All right. I'm going to ask you to
5 come forward; let's get the exhibits and be sure that we
6 have those separated. I have a verdict form for you to
7 review. Please do so, and we'll discuss that in just a
8 moment.

9 (WHEREUPON, COUNSEL REVIEWS EXHIBITS AND VERDICT
10 FORM; BENCH CONFERENCE HELD WHICH WAS NOT REPORTED.)

11 THE COURT - All right, let's bring the jury panel
12 back in, please.

13 (WHEREUPON, JURY ENTERS THE COURTROOM)

14 THE COURT - All right, ladies and gentlemen of
15 the jury, there is one matter that I did not go over with
16 you, but I will at this point in time. During the trial of
17 this case, a statement alleged to have been made by the
18 defendant was admitted into evidence. I will tell you that
19 while this Court made a determination that the statement
20 was admissible, that it's up to you the jury to make the
21 ultimate decision as to whether or not the defendant did
22 make the statement. If the defendant did make the
23 statement, you must determine whether the statement was
24 made by the defendant voluntarily and of his own free will.
25 This means that the statement was not caused by pressure,

1 force, fear, threats, coercion or intimidation or by hope
2 or promise of leniency or a reward of any kind. In
3 determining whether the statement was voluntarily made, you
4 should consider both the characteristics of the defendant
5 and the details of the questioning. Some of the factors
6 that you may consider or must consider are, the age of the
7 defendant, the defendant's lack of education or education,
8 the defendant's mental ability or capacity, the defendant's
9 intelligence, the defendant's background or environment,
10 the place and the length of the detention at the time of
11 the interrogation, the nature of the questioning and the
12 advice or lack thereof to the defendant of his
13 constitutional rights including but not limited to the
14 right to remain silent, that any statement could be used
15 against him in a court of law, the right to have a lawyer
16 present, that if he could not afford a lawyer, a lawyer
17 would be appointed to represent him without any cost and
18 that he could stop making the statement at any time. You
19 must carefully consider all of the surrounding
20 circumstances before you give any weight to the alleged
21 statement. The State has the burden of proving beyond a
22 reasonable doubt that the alleged statement was voluntary.
23 If you determine that it was, you may give the statement
24 any further consideration that you deem proper. You must
25 decide the weight, if any, that should be given to the

1 alleged statement. If you determine the alleged statement
2 was not the free and voluntary statement of the defendant,
3 then you should not consider that statement at all. Now, I
4 have here the verdict form and the indictments. Mr.
5 Bailiff, if you'll pass this over to Mr. Ezell for me.

6 (WHEREUPON, DOCUMENTS HANDED TO THE FOREPERSON)

7 THE COURT - Mr. Ezell, that top paper there is
8 the verdict form. If you'll look at it, at the top it has
9 the state and county that we're in. It has the name of the
10 case, that's the State against Mr. Coleman. There are two
11 questions, one for each indictment. The indictments are
12 stated by number and also they are identified as the tennis
13 court incident and the stairwell incident, so -- and that
14 is true on the two indictments. In each case there is a
15 choice of verdicts, either not guilty or guilty. Depending
16 on the verdict of the jury, either not guilty or guilty,
17 you'll put an x or a check by the appropriate verdict once
18 a unanimous verdict has been reached. Once both questions
19 have been answered, you'll sign the document, let the
20 bailiff know that a verdict's been reached, and we'll bring
21 you back to the courtroom to receive the verdict. Now,
22 again, it must be unanimous. I'll also tell you that in
23 the evidence we're sending back, there are some recordings
24 in there. You have the right, if you wish to, to hear or
25 watch those recordings if you wish to do so. Now, if you

1 do wish to do that, let the bailiffs know, we'll make
2 arrangements for you to either come into the courtroom,
3 watch those recordings or listen to those recordings, or if
4 possible, we may get something -- some means for you to do
5 that in the jury room. So again, if you do wish to listen
6 to or watch the recordings that are in evidence, that
7 information is available to you if you wish to do that.
8 Now, again, you're going to step back and begin your
9 deliberations at this time, and when a unanimous verdict
10 has been reached on the indictments, it'll be recorded, and
11 when both verdicts are reached, let the bailiffs know and
12 we'll return you to the courtroom for the verdict. Now, at
13 this time I'm going to ask that the two alternates remain
14 seated. Do not leave the courtroom with the jury. The
15 members of the jury are now instructed to return to the
16 jury room to begin your deliberations. Thank you very
17 much.

18 (WHEREUPON, JURY EXITS THE COURTROOM TO BEGIN
19 DELIBERATIONS AT 2:55 P.M.)

20 THE COURT - All right, you should be Ethan Wagner
21 and Shedricka Heyward. Is that right?

22 JUROR - Yes.

23 JUROR - Yes, sir.

24 THE COURT - All right, and you have been serving
25 as alternates in this case, and I will tell you that had

1 THE COURT - Pass the form to the bailiff for me.

2 Thank you, sir.

3 (WHEREUPON, VERDICT IS HANDED UP TO THE COURT.)

4 THE COURT - Madam Clerk, you may publish the
5 verdict.

6 DEPUTY CLERK - In the State of South Carolina vs.
7 Orlando Martinez Coleman with Indictment 2014-GS-46-3857,
8 we the jury unanimously find the Defendant, Orlando
9 Martinez Coleman, concerning the offense of criminal sexual
10 conduct with a minor first degree staircase incident
11 guilty. We the jury unanimously find the defendant
12 concerning the criminal sexual conduct with a minor first
13 degree tennis court incident guilty, both signed by the
14 foreperson this day. If this so be your verdicts, so say
15 you all by raising your right hand.

16 (WHEREUPON, JURORS AFFIRM)

17 DEPUTY CLERK - Let the record show all affirm.

18 THE COURT - Thank you. Anything further from the
19 State before I release the jury?

20 MS. O'HAYON - No, Your Honor.

21 THE COURT - Anything further from the defense
22 before I release the jury?

23 MS. ANDERSON - No, Your Honor.

24 THE COURT - All right, ladies and gentlemen of
25 the jury, I want to thank you very much for your attention

1 perspective, Your Honor -- in investigating this case and
2 for the -- for the prior trial, in looking at any possible
3 alibis and piecing together the housing situation of Mr.
4 Coleman, he's -- essentially from my view, he moves almost
5 every two or four months, and I know from our perspective
6 those of us in the system that have been working in the
7 system, especially in our capacity, you know, that's not a
8 very stable living lifestyle, and certainly from someone as
9 young as Mr. Coleman, moving schools -- you've heard lots
10 of testimony that he was going to, you know, different
11 schools -- despite having a -- moving around all that often
12 -- we've pulled up utility records and some other
13 information -- moving that often and having that lack of
14 stability, still always tried to find it within himself to
15 try to make himself better. You heard reference to a
16 school called The Youth Challenge. That is put on by the
17 South Carolina National Guard. He had wishes to go into
18 the military, and that is a program put on by South
19 Carolina National Guard for young men such as himself who
20 do wish to transition into the military. That is
21 something, despite the instability in his life, that he did
22 -- a program he did go through. It's a six month program.
23 It's a residency program outside Columbia that he did put
24 himself into in an attempt to try to get a military career.
25 Your Honor, in -- I point this out because, I think -- and

1 MS. COLEMAN - And I'd like to ask the Judge to
2 please let me hug him or something.

3 THE COURT - Thank you, ma'am. You can be seated.
4 Mr. Coleman, do you wish to address the Court? This is
5 your opportunity.

6 MR. COLEMAN - Yes. Even though I've been charged
7 guilty of this crime, that doesn't mean I actually did it,
8 and that despite all this stuff, I forgive the Patterson
9 family and Victim .

10 THE COURT - Prior record from the State?

11 MS. O'HAYON - Your Honor, he just has a previous
12 shoplifting charge, a magistrate level offense. That's all
13 he has.

14 THE COURT - Does the victim or the victim's
15 family wish to be heard on the sentences?

16 MS. O'HAYON - I don't believe so, Your Honor.

17 THE COURT - Check and be sure.

18 (WHEREUPON, MS. O'HAYON COMPLIES)

19 MS. O'HAYON - They do not.

20 THE COURT - Thank you. (Pause) Mr. Coleman, it
21 is the sentence of this Court that you be confined to the
22 State Department of Corrections in each case to run
23 concurrently for a period of time of 25 years. I have
24 given you credit for the 527 days that you have served., I

1 am requiring electronic monitoring, and I'm requiring sex
2 offender registration. Good luck to you, sir.

3 MS. INZERILLO - Thank you, Your Honor.

4 THE COURT - All right, Court's adjourned. Thank
5 you very much.

6 MS. ANDERSON - Thank you, Your Honor.

7 (WHEREUPON, DOCUMENT MARKED AS COURT'S EXHIBIT
8 NUMBER 3.)

9 (COURT IN RECESS AT 4:45 P.M.)

10 (END OF TRANSCRIPT)

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WITNESSES

RHPD\Thomas

DOCKET NO. 2014-GS-46-03857

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

December 11, Term 2014

ARREST WARRANT NUMBER

Direct Indictment in re: 2013A4620303620

ACTION OF GRAND JURY

VERDICT

Foreperson of Grand Jury

Date: 12/11/14

VERDICT

Foreperson of Petit Jury

Date:

THE STATE

vs.

ORLANDO COLEMAN

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR, FIRST DEGREE**

SC Code: 16-3-655 (A)(1)

CDR Code:0385

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on December 11, 2014 the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE

That on or about and between August 24, 2010 and June 15, 2012, in York County, South Carolina, the Defendant, Orlando Coleman, did commit the criminal offense of Criminal Sexual Conduct with a Minor in the First Degree, in that the Defendant, Orlando Coleman, did engage in a sexual battery with a minor victim who was less than eleven (11) years of age at the time of the incident, to wit: the Defendant Orlando Coleman (Date of Birth: 1993) did commit the sexual battery upon and with victim, (Date of Birth: 2005), by digitally penetrating her vagina with his finger. All in violation of Section 16-3-655(A)(1), South Carolina Code of Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

RHPD\Thomas

DOCKET NO. 2014-GS-46- 03858

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

December 11, Term 2014

ARREST WARRANT NUMBER

2013A4620303620

ACTION OF GRAND JURY

VERDICT

VERDICT

Shirley A. Meares
Foreperson, of Grand Jury
Date: 12/11/14

Foreperson of Petit Jury
Date:

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ORLANDO COLEMAN

vs.

THE STATE

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR, FIRST DEGREE**

SC Code: 16-3-655 (A)(1)
CDR Code:0385

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on December 11, 2014 the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE

That on or about and between August 24, 2010 and June 15, 2012, in York County, South Carolina, the Defendant, Orlando Coleman, did commit the criminal offense of Criminal Sexual Conduct with a Minor in the First Degree, in that the Defendant, Orlando Coleman, did engage in a sexual battery with a minor victim who was less than eleven (11) years of age at the time of the incident, to wit: the Defendant Orlando Coleman (Date of Birth: , 1993) did commit the sexual battery upon and with victim, (Date of Birth: , 2005), by digitally penetrating her vagina with his finger. All in violation of Section 16-3-655(A)(1), South Carolina Code of Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

RHPD / Thomas

ARREST WARRANT NUMBER

DI2013A4620303620

ACTION OF GRAND JURY

/s/ Rebecca W. Mears

TRUE BILL

12-11-2014 True Billed

Shirley Bowman Sanders
Foreperson of Grand Jury
Date: *2/26/15*

VERDICT

Guilty

E. G. ...
Foreperson of Grand Jury
Date: *March 18, 2015*

**AMENDED
DOCKET NO. 2014-GS-46-03857**

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

FEBRUARY 26, TERM 2015

THE STATE

VS.

ORLANDO MARTINEZ COLEMAN

INDICTMENT FOR

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR, FIRST DEGREE**

SC Code: § 16-03-0655(A)(1)
CDR Code: 0385

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on February 26, 2015, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE

(Staircase incident.) RSC

That on or about and between May 13, 2011, and June 15, 2012, in York County, South Carolina, the Defendant, Orlando Martinez Coleman, did commit the criminal offense of Criminal Sexual Conduct with a Minor in the First Degree, in that the Defendant, Orlando Coleman, did engage in a sexual battery with a minor victim who was less than eleven (11) years of age at the time of the incident, to wit: the Defendant, Orlando Coleman (Date of Birth: _____, 1993) did commit the sexual battery upon and with victim, _____ (Date of Birth: _____ 2005), by digitally penetrating her vagina with his finger. All in violation of 16-03-0655(A)(1), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SHARON J. OHAYON
ASSISTANT SOLICITOR

WITNESSES

RHPD / Thomas

ARREST WARRANT NUMBER

2013A4620303620

ACTION OF GRAND JURY

/s/ Rebecca W. Meares

12-11-2014 True Billed

Shirley Bowman Sanders
Foreperson of Grand Jury

Date: *2/26/15*

VERDICT

Guilty

E. L. G. J. Jr.
Foreperson of Grand Jury

Date: *March 18, 2015*

**AMENDED
DOCKET NO. 2014-GS-46-03858**

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

FEBRUARY 26, TERM 2015

THE STATE

VS.

ORLANDO MARTINEZ COLEMAN

INDICTMENT FOR

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR, FIRST DEGREE**

SC Code: § 16-03-0655(A)(1)
CDR Code: 0385

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on February 26, 2015, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE

(Tennis Court Incident) RZC

That on or about and between May 13, 2011, and June 15, 2012, in York County, South Carolina, the Defendant, Orlando Martinez Coleman, did commit the criminal offense of Criminal Sexual Conduct with a Minor in the First Degree, in that the Defendant, Orlando Coleman, did engage in a sexual battery with a minor victim who was less than eleven (11) years of age at the time of the incident, to wit: the Defendant, Orlando Coleman (Date of Birth: _____, 1993) did commit the sexual battery upon and with victim, _____ (Date of Birth: _____, 2005), by digitally penetrating her vagina with his finger. All in violation of 16-03-0655(A)(1), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SHARON J. OHAYON
ASSISTANT SOLICITOR

COUNTY OF YORK
STATE VS.

ORLANDO MARTINEZ COLEMAN

AKA: _____
 Race: Black Sex: M Age: 21
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL# _____ SID# _____

INDICTMENT/CASE#: 2014GS4603857
 A/W: D12013A4620303620
 Date of Offense: 09/01/2011
 S.C. Code §: 16-03-0655(A)(1)
 CDR Code #: 0385

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADSTO: Criminal Sexual Conduct in the First Degree with a MinorIn violation of § 16-3-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Sharon J. Ohayon 100713
 Sharon J. Ohayon, Assistant Solicitor SC Bar #

Defendant

E. P. P. P. 72492
 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
 are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 3/18/15☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 527 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: 1. Electronic monitoring required2. Sex offender registry is required☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk during probation.

Recipient: _____

*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$
TOTAL		\$ <u>130.00</u>

Clerk of Court/Deputy Clerk: David HamelCourt Reporter: Shirley Broom

SCCA/217 (03/2011)

Presiding Judge: _____

Judge Bar ID: 1418Judge Code: 2135Sentence Date: 3-18-15

ORLANDO MARTINEZ COLEMAN

AKA:

Race: Black

Sex: M

Age: 21

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADS

TO: Criminal Sexual Conduct with a Minor in the First Degree

In violation of § 16-3-655(a)(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☒ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Sharon J. Ohayon, Assistant Solicitor

100713

SC Bar #

Defendant

Attorney for Defendant

72492

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 3/18/15☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 527 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: see 14-GS-46-2857

for requirements

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk during probation.

Recipient: _____

*Fine: _____

\$

§14-1-206 (Assessments 107.5%)

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$

§56-5-2995 (DUI Assessment)

\$12

\$

§56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$

§14-1-213 (Drug Court Surcharge)

\$150

\$

§50-21-114 (BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCJA Surcharge)

\$5

\$

3% to County (if paid in installments)

\$

\$

TOTAL

\$130.00

Clerk of Court/Deputy Clerk: David HamiltonCourt Reporter: Shirley Bloom

SCCA/217 (03/2011)

Presiding Judge: [Signature]Judge Bar ID: 1418Judge Code: 2135Sentence Date: 3-18-15

ARREST WARRANT

2013A4620303422

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
 ROCK HILL

THE STATE

against

COLEMAN, ORLANDO MARTINEZ

Address: _____

Phone: _____

SSN: _____

Sex: M Race: B Height: 511 Weight: 230DL State: SC DL #: 93DOB: 09/01/1993 Agency ORI #: 460300Prosecuting Agency: RHPDProsecuting Officer: RYAN E THOMASOffense: CRIMINAL SEX. COND W/MINOR 2ND

Offense Code: _____

Code/Ordinance Sec. 16-3-655This warrant is **CERTIFIED FOR SERVICE** in the
☐ County/ ☐ Municipality of

 The Accused
 is to be arrested and brought before me to be
 dealt with according to law

 _____ (L.S.)
 Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant ORLANDO COLEMANon 10-8-13

 Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ISSUING JUDGE

120 E. BLACK STREET
ROCK HILL SC 29730

STATE OF SOUTH CAROLINA)

☐ County/ ☒ Municipality of
 ROCK HILL)

AFFIDAVIT

 Form Approved by
 S.C. Attorney General
 April 21, 2003
 SCCA 618

 Personally appeared before me the affiant Ryan Thomas who
 being duly sworn deposes and says that defendant COLEMAN, ORLANDO MARTINEZ
 did within this county and state on 09/01/2011 violate the criminal laws of the

 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL)
 in the following particulars:

DESCRIPTION OF OFFENSE:

CRIMINAL SEX. COND W/MINOR 2ND DEGREE - 16-3-655

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:
 THE DEFENDANT DID WILLFULLY AND UNLAWFULLY VIOLA CODE OF LAW 16-3-655 (B) BY INSERTING HIS
 FINGERS INTO THE VAGINA OF THE VICTIM (JUVENILE DOE 05) WHILE IN THE 1900 BLOCK OF PACES RIVER AVE
 WHICH IS WITHIN ROCK HILL CITY LIMITS. THIS DID OCCUR ABOUT SEPTEMBER 1, 2011 WHEN THE
 DEFENDANT WAS 17 YEARS OLD AND THE VICTIM WAS 6 YEARS OLD.
 1309100425

POLICE INVESTIGATION**RECOVERED EVIDENCE

Signature of Affiant _____

STATE OF SOUTH CAROLINA)

☐ County/ ☒ Municipality of
 ROCK HILL)

 Affiant's Address 120 E. BLACK STREET
ROCK HILL SC 29730
Affiant's Telephone - -

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
 on 09/01/2011 defendant COLEMAN, ORLANDO MARTINEZ
 did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE:

CRIMINAL SEX. COND W/MINOR 2ND DEGREE - 16-3-655

 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
 the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)

on 10/8/2013)
 _____ (L.S.))
 Signature of Issuing Judge

Signature of Issuing Judge

Judge Code: 616
 Judge's Address 120 E. BLACK STREET
ROCK HILL SC 29730
Judge's Telephone 803-329-5695
 Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

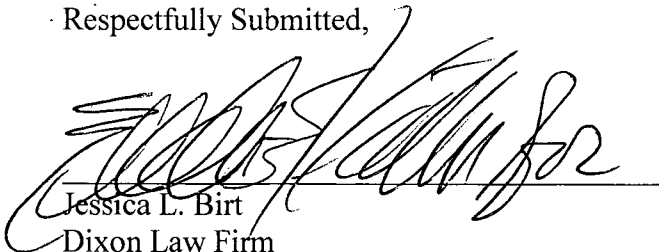
DEFENDANT COPY

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Jessica L. Birt

Dixon Law Firm

105 Wappoo Creek Drive, Street 3-B

Charleston, SC 29412

(843) 637-4695

Robert Dudek

Chief Appellate Defender

South Carolina Commission on Indigent Defense

Division of Appellate Defense

PO Box 11589

Columbia, S.C. 29211-1589

ATTORNEYS FOR APPELLANT

This 9th day of November, 2016.

RECEIVED

NOV 09 2016

SC Court of Appeals