

ORIGINAL

RECEIVED

DEC 20 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Union County

The Honorable R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CLEVELAND EDWARD YOUNG,

APPELLANT

APPELLATE CASE NO. 2016-000770

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MARCH 28-31, 2016.....	1
MOTIONS	45
OPENING STATEMENT BY MR. ANTHONY	59
OPENING STATEMENT BY MR. DELANEY.....	64
TESTIMONY	
MINOR	67
SARAH ARNOLD	88
BARBARA PALMER.....	98
MARLANDA DEKINE.....	106
KACI TRAMMELL	123
NANCY HENDERSON	145
WILEY GARRETT	178
ROXIE BELUE	205
ANITA KINARD.....	255
MARION BLACK.....	305
ROXIE BELUE	307
CLOSING ARGUMENT BY MR. DELANEY	313
CLOSING ARGUMENT BY MR. ANTHONY	330
CHARGE ON THE LAW	344
VERDICT	365

MOTIONS	371
SENTENCING	378
INDICTMENTS	381
CERTIFICATE OF COUNSEL	385

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2015-GS-44-501
COUNTY OF UNION	)	2015-GS-44-913
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
CLEVELAND EDWARD YOUNG,	)	
DEFENDANT.	)	
	)	

March 28, 29, 30, 31, 2016
Union, South Carolina

B E F O R E:

THE HONORABLE R. KNOX McMAHON, JUDGE, and a jury

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

JOHN CLEVELAND ANTHONY, ESQ
Assistant Solicitor

ERIK DANIEL DELANEY, ESQ.
JENNIFER NICHOLS WILLIAMS, ESQ.
Attorneys for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

INDEX

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

PAGE

Monday, March 28, 2016

Jury Qualification	6
Jury Selection	26

Tuesday, March 29, 2016

Arraignment	43
Stipulations	44
Motions	45
Introductory Remarks by the Court	49
Opening Statement by Mr. Anthony	59
Opening Statement by Mr. Delaney	64

(SW) Minor

Direct Examination by Mr. Anthony	67
Cross-Examination by Mr. Delaney	79
Redirect Examination by Mr. Anthony	86
Recross-Examination by Mr. Delaney	87

(SW) SARAH ARNOLD:

Direct Examination by Mr. Anthony	88
Cross-Examination by Ms. Williams	95

(SW) BARBARA PALMER:

Direct Examination by Mr. Anthony	98
Cross-Examination by Ms. Williams	103

(IC) MARLANDA DEKINE:

Direct Examination by Mr. Anthony	106

(SW) MARLANDA DEKINE:

Direct Examination by Mr. Anthony	113
Cross-Examination by Mr. Delaney	118

(SW) KACI TRAMMELL:

Direct Examination by Mr. Anthony	123
Direct Examination by Mr. Delaney	136

INDEX (CONTINUED)(SW) NANCY HENDERSON:

Direct Examination by Mr. Anthony	145
Cross-Examination by Mr. Delaney	160
Redirect Examination by Mr. Anthony	174
Recross-Examination by Mr. Delaney	177

(SW) WILEY GARRETT:

Direct Examination by Mr. Anthony	178
Cross-Examination by Mr. Delaney	200

(SW) ROXIE BELUE:

Direct Examination by Mr. Anthony	205
Cross-Examination by Mr. Delaney	214

Wednesday, March 30, 2016

(SW) ROXIE BELUE:

Direct Examination by Mr. Anthony	245
Cross-Examination by Mr. Delaney	245
Redirect Examination by Mr. Anthony	247

State Rests	248
Motion	248

(DW) ANITA KINARD:

Direct Examination by Mr. Delaney	255
Cross-Examination by Mr. Anthony	271
Redirect Examination by Mr. Delaney	303

Defense Rests	303
Motion	304

(SW) MARION BLACK:

Direct Examination by Mr. Anthony	305
Cross-Examination by Mr. Delaney	306

(SW) ROXIE BELUE:

Direct Examination by Mr. Anthony	307
Cross-Examination by Mr. Delaney	308

Closing Argument by Mr. Delaney	313
Closing Argument by Mr. Anthony	330
Charge on the Law by the Court	344
Further Charge on the Law by the Court	362
Verdict	365
Motion	371

1

Thursday, March 31, 2016

2

Sentencing by the Court
Certificate of Reporter

378

3

381

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
(State's Exhibits)			
1	Body Diagram	42	75
2	Body Diagram	42	112
3	Photo	42	77
4	Photo	94	95
5	DVD	105	116
6	Child's Body Diagram	105	117
7	Child's Body Diagram	105	117
8	Google Earth View Map	122	130
9	Roche Pharmacy Records	213	213
(Defendant's Exhibit)			
1	Medical Records	240	271
(Court's Exhibits)			
1	Jury Note	361	
2	Jury Note	364	
3	Jury Note	364	
4	Indictments 1987-GS-44-246, 247 and 249 for Burglary	374	
5	Notice of Intention to Seek Life Imprisonment Sentence	374	

P R O C E E D I N G S

Monday, March 28, 2016

THE COURT: All right. Solicitor, you may call your first case for trial.

MR. ANTHONY: Thank you, Your Honor. At this time, the State would call the case of the State vs. Cleveland Edward Young. This is 2015-44-501, which is the indictment for criminal sexual conduct with a minor in the first degree, and 913, which is the indictment for criminal sexual conduct with a minor in the third degree.

These have been true-billed by the grand jury, and I am handing the indictment up at this time.

THE COURT: Thank you. Thank you very much.

Mr. Delaney and Ms. Williams, y'all represent Cleveland Edward Young?

MR. DELANEY: Yes, we do, Your Honor.

THE COURT: Mr. Young is present?

MR. DELANEY: Yes, Your Honor.

THE COURT: Ready for trial?

MR. DELANEY: He is, Your Honor.

JURY QUALIFICATION

THE COURT: Thank you. Thank you very much.

Ladies and gentlemen of the jury panel, if you would, please give me your complete and undivided

1 attention. We're going to begin and go through a
2 procedure whereby we select a trial jury for this
3 specific case.

4 Let me have the sheriff check outside that all of
5 your colleagues are present. I wouldn't want anyone to
6 miss out on this opportunity as far as jury service is
7 concerned.

8 (Pause in proceedings.)

9 THE COURT: All right. Again, ladies and gentlemen
10 of the jury panel, if you would, please give me your
11 complete and undivided attention. The State has now
12 called its first case for trial this week, and we're
13 going to go through a procedure whereby we select a trial
14 jury composed of 12 of your number plus one alternate to
15 serve as fair and impartial jurors in the trial of this
16 case. To complete that procedure adequately, I will ask
17 you a number of questions to determine your eligibility
18 and your qualifications to serve on this specific jury.
19 As part of that process, I will read or publish the
20 indictments to you.

21 The indictments are not evidence. The indictments
22 are the formal charging documents by which an individual
23 is placed on notice of charges that have been brought
24 against him or her. The indictments contain mere
25 allegations and in no way are they evidence of the

1 allegations contained therein. I'll read these
2 indictments to you because of particular questions I will
3 have to ask you to determine your qualifications.

4 Indictment No. 2015-GS-44-0501, the State vs.
5 Cleveland Edward Young, the indictment reads that in
6 Union County, South Carolina between, on or about
7 January 28, 2013, and on or about January 28, 2015,
8 Cleveland Edward Young did commit the crime of criminal
9 sexual conduct with a minor in the first degree in that
10 the defendant did commit a sexual battery upon the
11 victim, **Minor** who was a minor under the age
12 of 11 at the time of the incident by engaging in
13 intercourse, sodomy or fellatio with the victim in
14 violation of 16-3-655 of the Code of Laws of South
15 Carolina, 1976 as amended. That is an indictment for
16 criminal sexual conduct with a minor in the first degree.

17 Indictment 2015-GS-44-0913, the State vs. Cleveland
18 Edward Young, alleges that in Union County, South
19 Carolina between, on or about January 28, 2013, and on or
20 about January 28, 2015, Cleveland Edward Young, a person
21 over the age of 14, did willfully and lewdly commit or
22 attempt to commit a lewd or lascivious act upon or with
23 the body or any part or member thereof of **Minor**

24 , a child under the age of 16 years with the
25 intent of arousing, appealing to or gratifying the lust

1 or passions or sexual desires of himself or of the victim
2 in violation of Section 16-3-655 of the Code of Laws of
3 South Carolina, 1976 as amended. That is a charge of
4 criminal sexual conduct with a minor, third degree.

5 The State is represented by Assistant Solicitor
6 Anthony. If you would, please stand, introduce yourself
7 to the jury panel and any member of the solicitor staff
8 who will assist you during the trial of this case.

9 MR. ANTHONY: I'm John Anthony. I'm the deputy
10 solicitor here in Union. This is Michelle Shugart. She
11 is the victim advocate for Union County. She'll be with
12 me throughout this trial. And this is Investigator Roxie
13 Belue with the Sheriff's Office. She's the investigator
14 who made the charges.

15 THE COURT: Thank you, Solicitor.

16 MR. ANTHONY: Thank you, Your Honor.

17 THE COURT: Mr. John [sic] is represented by
18 Mr. Delaney and Ms. Williams. If you would, please
19 stand, introduce yourselves to the jury panel and your
20 client.

21 MR. DELANEY: I'm Eric Delaney with the Public
22 Defender's Office. This is Jennifer Williams, also a
23 lawyer with the Public Defender's Office, and my client,
24 Mr. Cleveland Young.

25 THE COURT: Thank you, Mr. Delaney, Ms. Williams and

1 Mr. Young.

2 Is any member of the jury panel related by blood or
3 marriage, close personal friends, have any social,
4 business, professional relationship with any of the
5 attorneys involved in the trial of this case, Solicitor
6 Anthony, Mr. Delaney, Ms. Williams or any member of the
7 Union County solicitor's staff? If so please stand.

8 (One juror stood.)

9 THE COURT: Your number and name, please.

10 JUROR 252: 252, Daisy Smith.

11 THE COURT: All right. And, Ms. Smith, do you mind
12 coming up forward for me, please, towards the center
13 aisle. You don't have to come all the way up here, but
14 just tell me who do you know, what is that relationship.

15 JUROR 252: Jenny's my cousin. I don't know how
16 close is too close.

17 THE COURT: Now, who is your cousin? Ms. Williams?
18 And you say you don't know how close.

19 JUROR 252: I think my grandpa and her grandfather
20 were --

21 MS. WILLIAMS: We're distance.

22 THE COURT: Thank you. Thank you very much. Given
23 that fact, let me ask you another question, Ms. Smith.
24 It takes me a while to think. Given that fact, can you
25 be a fair and impartial juror in the trial of this case

1 for both the State and the defense?

2 JUROR 252: Yes, sir.

3 THE COURT: Thank you. You may stay with us.

4 (Pause in proceedings.)

5 THE COURT: Those jurors that just came in -- those
6 jurors that just came in -- again, those jurors that just
7 came in, please come up here on this front row to my
8 front right.

9 I had called for a recess at 3:39 for 15 minutes
10 which would have been 3:54, it now being 4:05. So that's
11 21 plus 5 is 26 minutes.

12 Madam Clerk, would you get the names and numbers of
13 those jurors and transfer them to the next term of court,
14 and perhaps by that time, they will be able to learn how
15 long 15 minutes is.

16 Thank you. Thank you very much. They can be
17 excused for the day once you get their names and numbers.

18 (Pause in proceedings.)

19 THE COURT: Madam Clerk, the juror to my immediate
20 front right is raising her hand.

21 THE CLERK: Were you late coming in, too?

22 JUROR: No, ma'am. I have a question for the judge.

23 THE COURT: All right.

24 JUROR: You asked a question, you know, did anyone
25 know or have a close, personal relationship with any of

1 the people at the tables. Several years ago,
2 Mr. Anthony was the solicitor in a case my daughter was
3 involved in.

4 THE COURT: That was going to be my next question.
5 Thank you very much. That was going to be my next
6 question.

7 All right. Let's get --

8 JUROR: Minor , I was related sort of distantly.
9 It's my nephew's brother's child.

10 THE COURT: I haven't asked that yet. If y'all
11 would wait until I go through the various questions.
12 I'll ask the question, and if you have to respond, please
13 do so.

14 Is any member of the jury panel or any member of
15 your immediate family ever been a party to a lawsuit in
16 which either Mr. Anthony, Mr. Delaney or Ms. Williams
17 represented you or represented the opposing party? If
18 so, please stand.

19 (Three jurors stood.)

20 JUROR 102: He's represented my daughter.

21 THE COURT: If so, please stand so I can identify
22 everybody by number.

23 All right. Your name and number?

24 JUROR 102: Carolyn Gullledge, and I think it's 102.

25 THE COURT: And your name and number?

1 JUROR 293: My name is Shanita Williams, and I'm
2 293.

3 THE COURT: And your name and number?

4 JUROR 166: Shelley Lawson, 166.

5 THE COURT: All right. If y'all would come to the
6 center aisle for me, please.

7 (WHEREUPON, a bench conference was held with Shelley
8 Lawson, Juror 166.)

9 THE COURT: Thank you very much. You may stay with
10 us.

11 (WHEREUPON, a bench conference was held with Carolyn
12 Gullledge, Juror 102.)

13 THE COURT: Thank you very much. You may stay with
14 us.

15 102 is going to stay with us.

16 THE BAILIFF: Your Honor, 293.

17 (WHEREUPON, a bench conference was held with Shanita
18 Williams, Juror 293.)

19 THE COURT: I believe you can stay with us. 293 is
20 going to stay with us, 102 and 166.

21 Is any member of the jury panel related by blood or
22 marriage, close, personal friend or have any social,
23 business, professional relationship with the named
24 defendant in this case, Cleveland Edward Young, who has
25 also been introduced to you? If so, please stand.

1 (No response.)

2 THE COURT: Does any member of the jury panel have
3 any knowledge about the case? If so, please stand.

4 (Two jurors stood.)

5 THE COURT: All right. Yes, ma'am, in the gray.
6 Your number and name, please.

7 JUROR 201: Candace Osborne, 201.

8 THE COURT: All right. And then the young lady in
9 the -- I'm going to take a shot. I'm going to call that
10 coral. And what's your number and name, please.

11 JUROR 53: I'm Tabitha Cooke, and I'm No. 53.

12 THE COURT: All right. If y'all would come forward
13 to the center aisle.

14 THE BAILIFF: 201.

15 (WHEREUPON, a bench conference was held with Candace
16 Osborne, Juror 201.)

17 THE COURT: Thank you Ms. Osborne. No. 201 is set
18 aside for the trial in this case.

19 THE BAILIFF: No. 53.

20 (WHEREUPON, a bench conference was held with Tabitha
21 Cooke, Juror 53.)

22 THE COURT: No. 53 is set aside.

23 Does any member of the jury panel have any bias or
24 prejudice towards the parties, that being Mr. Young or
25 the State of South Carolina, or towards the subject

1 matter? If so, please stand.

2 (No response.)

3 THE COURT: Has any member of the jury panel heard
4 or know anything whatsoever about the case from any
5 source whatsoever, hearsay, news media, if any, radio,
6 television, Internet, any source whatsoever? If so,
7 please stand.

8 (No response.)

9 THE COURT: I'm going to call a list of names of
10 potential witnesses in the trial of this case. I'm going
11 to ask if any of the witnesses are present in the
12 courtroom, when your names are called, if you would,
13 please stand and face the jury panel. I would advise the
14 panel that the witnesses are not required to be present
15 during this proceeding, therefore you may hear names
16 called and no one stand. The question, of course, is, is
17 any members of the jury panel related by blood or
18 marriage, close, personal friends, have any social,
19 business or professional relationship with any of these
20 individuals whose names are called and/or who stand
21 before you. The potential witnesses in the trial of this
22 case are: Minor ; Kaci Trammell. This is
23 Ms. Trammell to my front left. Thank you. Thank you
24 very much, Ms. Trammell. Ricky Silvers; Barbara Palmer;
25 Sarah Arnold. The next five names, Marlanda Dekine,

1 D-E-K-I-N-E.

2 (One juror stood.)

3 THE COURT: Yes, sir, your name and number, please.

4 JUROR 103: 103, Michael Guyton.

5 THE COURT: All right. And you know?

6 JUROR 103: Marlanda.

7 THE COURT: Marlanda. How do you pronounce her last
8 name?

9 JUROR 103: Guyton. Oh, Dekine.

10 THE COURT: I was about to say I really missed that
11 one, if that's how you pronounce it.

12 And you're a friend? professional relationship?

13 JUROR 103: Professional relationship.

14 THE COURT: All right step up in front.

15 (WHEREUPON, a bench conference was held with Michael
16 Guyton, Juror 103.)

17 THE COURT: I believe you can stay with us.

18 All right. Again, ladies and gentlemen, additional
19 names as far as potential witnesses in the trial of this
20 case: Wiley Garrett, G-A-R-R-E-T-T; Dr. Nancy Henderson;
21 Lieutenant Roxie Belue, Union County Sheriff's Office.
22 Lieutenant Belue to my front left. Thank you,
23 Lieutenant. Lieutenant Al Black, Union County Sheriff's
24 Office; Anita Kinard.

25 Again, ladies and gentlemen, as to any of those

1 names I called or those individuals who also stood before
2 you, is any member of the jury panel --

3 (Three jurors stood.)

4 THE CLERK: You've got somebody back there.

5 THE COURT: All right. Number and name, please, to
6 my front right.

7 JUROR 48: 48, Eleanor Clarkson.

8 THE COURT: Yes, sir, in the middle.

9 JUROR 270: Trevor Strom, 270.

10 THE COURT: Yes, ma'am.

11 JUROR 119: Tracy Hill, 119.

12 THE COURT: All right. If y'all would come to the
13 center aisle and come forward for me, please.

14 All right. Yes, sir.

15 THE BAILIFF: 270, Your Honor.

16 (WHEREUPON, a bench conference was held with Trevor
17 Strom, Juror 270.)

18 THE COURT: Thank you very much. I believe No. 270,
19 Mr. Strom, can stay with us, Madam Clerk.

20 Thank you, Mr. Strom.

21 THE BAILIFF: Your Honor, 119.

22 (WHEREUPON, a bench conference was held with Tracy Hill,
23 Juror 119.)

24 THE COURT: No. 119 is going to stay with us.

25 THE BAILIFF: Your Honor, No. 48.

1 (WHEREUPON, a bench conference was held with Eleanor
2 Clarkson, Juror 48.)

3 THE COURT: No. 48 is going to stay with us, Madam
4 Clerk.

5 Is any member of the jury panel presently employed
6 by or in the past been employed by a law enforcement
7 agency or a prosecutor's office? If so, please stand.

8 (Two jurors stood.)

9 THE COURT: Yes, sir. Your number and name, please.

10 JUROR 131: Greg Israel, 131.

11 THE COURT: And were you employed or you're now
12 employed?

13 JUROR 131: Retired law enforcement.

14 THE COURT: And where are you retired from, sir?

15 JUROR 131: Spartanburg County.

16 THE COURT: And how long did you work with
17 Orangeburg County?

18 JUROR 131: Spartanburg County.

19 THE COURT: I'm sorry. Spartanburg County.

20 JUROR 131: 15 years.

21 THE COURT: All right. And when did you retire?

22 JUROR 131: 2001.

23 THE COURT: Given those facts, can you be a fair and
24 impartial juror in the trial of this case for both
25 Mr. Young and the State?

1 JUROR 131: Yes, sir.

2 THE COURT: Any doubt in your mind about that?

3 JUROR 131: No, sir.

4 THE COURT: All right. Thank you. I believe you
5 can stay with us.

6 Yes, sir. Your number and name, please.

7 JUROR 22: Michael Blizzard, No. 22. Union County
8 -- I mean, I'm sorry, Greenwood County Sheriff's Office
9 mostly as a reserve deputy. It's been -- it was back in
10 2000 when I stopped doing that.

11 THE COURT: For how many years?

12 JUROR 22: A couple years.

13 THE COURT: Given those facts, can you be a fair and
14 impartial juror in the trial of this case for both
15 Mr. Young and the State?

16 JUROR 22: Yes, sir.

17 THE COURT: Thank you. Thank you very much. You
18 may be seated.

19 Is any member of the jury panel in the past been
20 employed as or presently employed as a member of a victim
21 witness assistance program? If so please stand.

22 (No response.)

23 THE COURT: Has any member of the jury panel ever
24 been a victim of a crime of personal violence --

25 JUROR 48: Excuse me.

1 THE COURT: -- or of a --

2 JUROR 48: -- witness program.

3 THE COURT: I apologize. I cannot hear,

4 Ms. Clarkson.

5 JUROR 48: The one before that? The witness what?

6 THE COURT: Have you ever been employed by presently
7 or in the past as a member of a program, a victim witness
8 assistance program?

9 JUROR 48: I did a case once and put somebody away
10 sort of like what you're talking about, but they're still
11 in jail.

12 THE COURT: I'm going to say "yes" because you think
13 it is. And tell me, what agency was that with?

14 JUROR 48: Gaffney.

15 THE COURT: All right. And you were working as a
16 victim witness assistant? Or explain that to me.

17 JUROR 48: I was the one that pressed charges and
18 filed it through -- against the criminal.

19 THE COURT: Given those facts, can you be a fair and
20 impartial juror in the trial of this case for both
21 Mr. Young and the State?

22 JUROR 48: Yeah.

23 THE COURT: Thank you. You may be seated.

24 MR. ANTHONY: What was her number?

25 THE COURT: 48.

1 Have any members of the jury panel ever been a
2 victim of a crime of personal violence, whether sexual in
3 nature or not? If so, please stand.

4 (One juror stood.)

5 THE COURT: Your number and name, please.

6 JUROR 10: No. 10, Jessica Smith.

7 THE COURT: All right. Would you step up in here in
8 front of me, young lady?

9 THE BAILIFF: Juror No. 10, Your Honor.

10 (WHEREUPON, a bench conference was held with Jessica
11 Smith, Juror No. 10.)

12 THE COURT: I'm going to set No. 10 aside, Madam
13 Clerk.

14 Please do not say anything in front of the jurors.

15 All right. Has any member of the jury panel, any
16 member of your immediate family or close, personal,
17 friend ever been a victim of or investigated as a
18 perpetrator of a crime involving sex abuse? If so,
19 please stand.

20 (Five jurors stood.)

21 All right. Let's see. This is Ms. Gullledge?

22 Number and name, please, ma'am.

23 JUROR 205: Mary Page, 205.

24 THE COURT: Yes, ma'am.

25 JUROR 147: Barbara Johnson.

1 THE COURT: And behind Ms. Johnson?

2 JUROR 43: Wendy Cash, 43.

3 JUROR 22: Michael Blizzard, 22.

4 THE COURT: All right. If y'all would come to the
5 center aisle for me, please.

6 (Seven jurors came forward.)

7 THE BAILIFF: Your Honor, 102.

8 (WHEREUPON, a bench conference was held with Carolyn
9 Gulleddge, Juror 102.)

10 THE COURT: Ms. Gulleddge may remain with us. Thank
11 you very much..

12 THE BAILIFF: 232.

13 (WHEREUPON, a bench conference was held with Kacie Rice,
14 Juror 232.)

15 THE COURT: All right. No. 232, Ms. Rice, will
16 remain.

17 THE BAILIFF: 147.

18 (WHEREUPON, a bench conference was held with Barbara
19 Johnson, Juror 147.)

20 THE COURT: No. 147 is going to remain with us.

21 THE BAILIFF: No. 43.

22 (WHEREUPON, a bench conference was held with Wendy Cash,
23 Juror 43.)

24 THE COURT: 43 is set aside.

25 THE CLERK: Your Honor, No. 22.

1 (WHEREUPON, a bench conference was held with Michael
2 Blizzard, Juror 22.)

3 THE BAILIFF: 205.

4 (WHEREUPON, a bench conference was held with Mary Page,
5 Juror 205.)

6 THE COURT: I'm going to set No. 205 aside.

7 THE BAILIFF: No. 159.

8 (WHEREUPON, a bench conference was held with Christopher
9 Kinard, Juror 159.)

10 THE COURT: I'm going to set No. 159 aside for the
11 trial of this case.

12 Does any member of the jury panel have any religious
13 or moral views or beliefs that would prevent you from
14 rendering a judgment in a criminal case? If so, please
15 stand.

16 (No response.)

17 THE COURT: Is any member of the jury panel a member
18 of any organization that does not recognize the
19 government of the United States of America or the State
20 of South Carolina? If so, please stand.

21 (No response.)

22 THE COURT: Any additional question voir dire from
23 the defense, Mr. Delaney?

24 MR. DELANEY: No, Your Honor.

25 THE COURT: From the State, Solicitor?

1 MR. ANTHONY: No, sir.

2 THE COURT: All right. And, finally, ladies and
3 gentlemen, you know yourselves best. I have read the
4 indictments do you, I have asked numerous questions, I
5 have called out names of potential witnesses in the trial
6 of the case. As I say, you know yourselves best. Does
7 any member of the jury panel know of any reason why you
8 feel like you could not be a fair and impartial juror in
9 the trial of this case for both Mr. Young and the State
10 of South Carolina? If so, please stand.

11 (No response.)

12 THE COURT: If it concerns you, I need to know it
13 now, not when you're sitting over here in this jury box.

14 All right. No one stands. I find our panel is
15 qualified with the exception of those I set aside.

16 Madam Clerk, the panel has run my pen out of ink.
17 May I borrow a pen until I get -- thank you. Thank you
18 very much.

19 Give us a jury please.

20 And, Mr. Delaney, the strikes are what?

21 MR. DELANEY: I believe five and ten, Your Honor.

22 THE COURT: Five for the State, ten for the defense.
23 Do you agree with that, Solicitor?

24 MR. ANTHONY: Yes, sir. I do.

25 THE COURT: All right. And if you would, give us a

1 panel, Madam Clerk, and instruct the jurors what they're
2 to do.

3 It takes that computer longer than it does to roll
4 that wheel, doesn't it, Madam Clerk?

5 THE CLERK: You're right. It sure does.

6 THE COURT: We never rolled the wheel in Edgefield
7 County. We had a cigar box.

8 THE CLERK: I had that, too.

9 (Pause in proceedings.)

10 THE COURT: Yes, sir.

11 JUROR 168: I've got to pick my child at school at
12 5:30, and I had no way of knowing exactly what time it
13 was. I can make it every other day, but I didn't know
14 today.

15 THE COURT: All right. What time do you need to
16 leave by to get to the school by 5:30?

17 JUROR 168: It takes about five minutes. Five,
18 maybe ten.

19 THE COURT: What's your number and name?

20 JUROR 168: 168, Jeff Lawter.

21 THE COURT: 168?

22 JUROR 168: Yes, sir.

23 THE COURT: All right. Give me just a moment.

24 All right. Juror No. 168, I'm going to release you
25 for the remainder of the day to go pick up your child.

1 Please call -- y'all have the juror information, Madam
2 Clerk?

3 THE CLERK: We do.

4 THE COURT: Please call your juror information
5 number after 6 p.m. tonight.

6 JURY SELECTION

7 THE CLERK: As I call your name and number, please
8 come and stand In front of my desk, face the attorneys
9 and just stay there. They'll tell you what they want you
10 to do.

11 No. 269, Audrea B. Stroble. Bring your things with
12 you, please.

13 (WHEREUPON, Audrea B. Stroble, a black female, came
14 forward.)

15 THE CLERK: Just come right here and stand in front
16 of my desk and turn and face the attorneys and let's see
17 what they say.

18 What say the State?

19 Just stay right there.

20 MR. ANTHONY: Please present the juror.

21 THE CLERK: What say the defense?

22 MR. DELANEY: Please seat the juror.

23 THE CLERK: Take your place over there in the jury
24 box right over there.

25 THE COURT: Right over to your -- yes, ma'am. Right

1 over to your left.

2 THE CLERK: No. 177, Brandy L. Lyles.

3 (WHEREUPON, Brandy L. Lyles, a black female, came
4 forward.)

5 THE CLERK: What say the State?

6 MR. ANTHONY: Please present the juror.

7 THE CLERK: What say the defense?

8 MR. DELANEY: Please excuse Ms. Lyles.

9 THE CLERK: You can go back to your seat.
10 No. 88, Janice L. Gist.

11 (WHEREUPON, Janice L. Gist, a black female, came
12 forward.)

13 THE CLERK: What say the State?

14 MR. ANTHONY: Please present the juror.

15 THE CLERK: What say the defense?

16 MR. DELANEY: Please seat Ms. Gist.

17 THE CLERK: Take your seat in the jury box, please.
18 No. 205, Mary E. Page.

19 (WHEREUPON, Mary E. Page, a white female, came
20 forward.)

21 THE CLERK: What say the State?

22 MR. ANTHONY: May we approach, Your Honor?

23 THE COURT: I thought, Madam Clerk, I set her aside.

24 THE CLERK: Okay. That's a possibility. You can go
25 back to your seat.

1 THE COURT: 205 is set aside. Thank you,
2 Mr. Anthony.

3 THE CLERK: No. 161, Amy L. Knox.

4 (WHEREUPON, Amy L. Knox, a white female, came forward.)

5 THE CLERK: What say the State?
6 Turn around.

7 MR. ANTHONY: Please present the juror.

8 THE CLERK: What say the defense?

9 MR. DELANEY: Please excuse Ms. Knox.

10 THE CLERK: You can be excused. Return to your
11 seat.

12 No. 128, Kenneth Hunter.

13 (WHEREUPON, Kenneth Hunter, a black male, came forward.)

14 THE CLERK: What say the State?

15 MR. ANTHONY: Please excuse the juror.

16 THE CLERK: Go back to your seat.

17 No. 91, Terricka D. Glenn.

18 (WHEREUPON, Terricka D. Glenn, a black female, came
19 forward.)

20 THE CLERK: What say the State?

21 MR. ANTHONY: Please present the juror.

22 THE CLERK: What say the defense?

23 MR. DELANEY: Please excuse Ms. Glenn.

24 THE CLERK: Go back to your seat.

25 No. 5, Dustin S. Austin.

1 (WHEREUPON, Dustin S. Austin, a white male, came
2 forward.)

3 THE CLERK: What say the State?

4 MR. ANTHONY: Please present the juror.

5 THE CLERK: What say the defense?

6 MR. DELANEY: Please seat the juror.

7 THE CLERK: Take your place in the jury box.

8 No. 288, Marvin R. White, Junior.

9 (WHEREUPON, Marvin R. White, Junior, a white male, came
10 forward.)

11 THE CLERK: What say the State?

12 MR. ANTHONY: Please present the juror.

13 THE CLERK: What say the defense?

14 MR. DELANEY: Please seat the juror.

15 THE CLERK: Take your place in the jury box, please.

16 No. 147, Barbara E. Johnson.

17 (WHEREUPON, Barbara E. Johnson, a black female, came
18 forward.)

19 THE CLERK: What say the State?

20 MR. ANTHONY: Please excuse the juror.

21 THE CLERK: Go back to your seat.

22 No. 255, Jessica L. Smith.

23 (WHEREUPON, Jessica L. Smith, a white female, came
24 forward.)

25 THE CLERK: What say the State?

1 MR. ANTHONY: Please present the juror.

2 THE CLERK: What say the defense?

3 MR. DELANEY: Please seat Ms. Smith.

4 THE CLERK: Take your seat in the jury box, please.

5 No. 235, Crystal R. Bryant.

6 (WHEREUPON, Crystal R. Bryant, a white female, came
7 forward.)

8 THE CLERK: What say the State?

9 MR. ANTHONY: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. DELANEY: Please excuse Ms. Bryant.

12 THE CLERK: You're excused.

13 159, Christopher C. Kinard.

14 THE COURT: I believe I set Mr. Kinard aside.

15 THE CLERK: I believe you did, too.

16 THE COURT: Mr. Kinard has been set aside.

17 THE CLERK: No. 166, Shelley M. Lawson.

18 (WHEREUPON, Shelley M. Lawson, a white female, came
19 forward.)

20 THE CLERK: What say the State?

21 MR. ANTHONY: Please excuse the juror.

22 THE CLERK: Go back to your seat.

23 No. 273, D

24 (WHEREUPON, D , a white male, came
25 forward.)

1 THE CLERK: What say the State?

2 MR. ANTHONY: Please present the juror.

3 THE CLERK: What say the defense?

4 MR. DELANEY: Please seat Mr. Thomason.

5 THE CLERK: Take your place in the jury box.

6 No. 298, Leah M. Yager.

7 (WHEREUPON, Leah M. Yager, a white female, came forward.)

8 THE CLERK: What say the State?

9 MR. ANTHONY: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. DELANEY: Please seat Ms. Yager.

12 THE CLERK: Take your place in the jury box, please.

13 THE COURT: Madam Clerk, did I set that next one
14 aside?

15 THE CLERK: We wondered about that. We think so.

16 THE COURT: 43. Did I set 43 aside, Solicitor,
17 Mr. Delaney?

18 THE CLERK: Okay. No. 22, Michael J. Blizzard.

19 (WHEREUPON, Michael J. Blizzard, a white male, came
20 forward.)

21 THE CLERK: What say the State?

22 MR. ANTHONY: Please present the juror.

23 MR. DELANEY: Please excuse Mr. Blizzard.

24 THE CLERK: No. 258, Randy W. Smith.

25 MR. ANTHONY: I'm sorry. What was that number?

1 THE CLERK: No. 258.

2 (WHEREUPON, Randy W. Smith, a white male, came forward.)

3 THE CLERK: What say the State?

4 MR. ANTHONY: Please present the juror.

5 THE CLERK: What say the defense?

6 MR. DELANEY: Please excuse the juror.

7 THE CLERK: Go back to your seat.

8 No. 146, Wanda M. Jeter.

9 (WHEREUPON, Wanda M. Jeter, a black female, came
10 forward.)

11 THE CLERK: What say the State?

12 MR. ANTHONY: Please present the juror.

13 THE CLERK: What say the defense?

14 MR. DELANEY: Please seat Ms. Jeter.

15 THE CLERK: Take your seat in the jury box.

16 No. 4, Jeffry E. Atkinson.

17 (WHEREUPON, Jeffry E. Atkinson, a white male, came
18 forward.)

19 THE CLERK: What say the State?

20 MR. ANTHONY: Please present the juror.

21 THE CLERK: What say the defense?

22 MR. DELANEY: Please seat Mr. Atkinson.

23 THE CLERK: No. 80, James R. Garner.

24 (WHEREUPON, James R. Garner, a white male, came forward.)

25 THE CLERK: What say the State?

1 MR. ANTHONY: Please present the juror.
2 THE CLERK: What say the defense?
3 MR. DELANEY: Please seat Mr. Garner.
4 THE CLERK: No. 252, Daisy W. Smith.
5 (WHEREUPON, Daisy W. Smith, a white female, came
6 forward.)
7 THE CLERK: What say the State?
8 MR. ANTHONY: Please present the juror.
9 THE CLERK: What say the defense?
10 MR. DELANEY: Please excuse the juror.
11 THE CLERK: Okay. No. 111, Laura B. Hembree.
12 (WHEREUPON, Laura B. Hembree, a white female, came
13 forward.)
14 THE CLERK: What say the State?
15 MR. ANTHONY: Please present the juror.
16 THE CLERK: What say the defense?
17 MR. DELANEY: Please excuse the juror.
18 THE CLERK: No. 12, David Beaty.
19 (WHEREUPON, David Beaty, a black male, came forward.)
20 THE CLERK: What say the State?
21 MR. ANTHONY: Please excuse the juror.
22 THE CLERK: You're excused.
23 No. 149, Kathy G. Johnson.
24 (WHEREUPON, Kathy G. Johnson, a black female, came
25 forward.)

1 THE CLERK: What say the State?

2 MR. ANTHONY: Please present the juror.

3 THE CLERK: What say the defense?

4 MR. DELANEY: Please seat the juror.

5 THE CLERK: No. 61, Mary Davis.

6 (WHEREUPON, Mary Davis, a black female, came forward.)

7 THE CLERK: What say the State?

8 MR. ANTHONY: Please present the juror.

9 THE CLERK: What say the defense?

10 MR. DELANEY: Please seat the juror.

11 THE CLERK: Okay. No. 82, Shanna D. Garner.

12 (WHEREUPON, Shanna D. Garner, a white female, came
13 forward.)

14 THE CLERK: And this will be for the alternate.

15 MR. ANTHONY: Strikes one and two on the alternate,
16 Your Honor.

17 THE COURT: One and two. Thank you, Solicitor.

18 THE CLERK: What say the State?

19 MR. ANTHONY: Please present the juror.

20 THE CLERK: What say the defense?

21 MR. DELANEY: Please seat Ms. Garner.

22 THE CLERK: Take your place in the jury box.

23 THE COURT: Will one alternate be sufficient,
24 Mr. Delaney? Solicitor?

25 MR. ANTHONY: I would suggest picking two.

1 THE COURT: All right. The next one on the list,
2 201, was set aside.

3 THE CLERK: Yes, we realize that. Okay. One more
4 then.

5 103, Michael A. Guyton.

6 (WHEREUPON, Michael A. Guyton, a white male, came
7 forward.)

8 THE CLERK: What say the State?

9 MR. ANTHONY: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. DELANEY: Please excuse Mr. Guyton.

12 THE CLERK: No. 47, Gwendolyn L. Clark.

13 (WHEREUPON, Gwendolyn L. Clark, a black female, came
14 forward.)

15 THE CLERK: What say the State?

16 MR. ANTHONY: Please present the juror.

17 THE CLERK: What say the defense?

18 MR. DELANEY: Please seat the juror.

19 THE CLERK: Take your place in the jury box, please.

20 THE COURT: All right, any motion regarding the jury
21 selection process from the State, Solicitor?

22 MR. ANTHONY: No, sir.

23 THE COURT: From the defense, Mr. Delaney?

24 MR. DELANEY: No, Your Honor.

25 THE COURT: All right. No. 4, Mr. Atkinson?

1 JUROR 4: Yes, sir.

2 THE COURT: When y'all come in tomorrow, I would
3 like you to take the foreperson's seat and serve as our
4 foreperson.

5 JUROR 4: Yes, sir.

6 THE COURT: Thank you. Thank you very much for
7 volunteering for that very important position.

8 All right. I'm going to ask you momentarily to step
9 to your new temporary home, your jury room. I need to
10 give some instructions to your colleagues. I will have
11 you right back out here. Please do not discuss the case
12 with your fellow jurors at this time or anytime until
13 you've heard all the evidence, testimony, closing
14 arguments by the attorneys, instruction on the law by the
15 Court and directed by the Court to begin your jury
16 deliberations with your fellow jurors.

17 Upon your return from the jury room, Mr. Atkinson,
18 if you'd take this seat closest to the bench. Ms. Clark,
19 you may always maintain that seat. And Ms. Gardner is
20 our alternate. Ms. Gardner, if you would always maintain
21 that seat. The others may sit anywhere within the jury
22 box, wherever you would like.

23 If you'd go with your bailiff at this time.

24 (WHEREUPON, the jury exits the courtroom at 5:26 p.m.)

25 THE COURT: All right. Solicitor, as to the

1 remainder of the jury panel?

2 MR. ANTHONY: We just ask that they call back after
3 6:00 tomorrow evening. They don't need to call tonight.
4 They just call tomorrow.

5 THE COURT: All right. Thank you. Thank you very
6 much.

7 Ladies and gentlemen of the jury panel, momentarily
8 I'm going to release you from your jury service for the
9 remainder of the day, although I took up most of your
10 day, of course. I will ask you if you'd please call back
11 your juror information number after 6:00 tomorrow night,
12 after 6:00 Tuesday, 29 March '16.

13 Any questions? It's been my pleasure and privilege
14 to be with you today in Union County. You're now
15 excused.

16 (WHEREUPON, the remaining jury panel exits the courtroom
17 at 5:27 p.m.)

18 THE COURT: All right. Solicitor, I'm, intending to
19 bring the panel out and give them instruction, release
20 them until 10:00 in the morning.

21 MR. ANTHONY: Yes, sir. That will be fine. That's
22 fine with the State.

23 THE COURT: All right. Mr. Delaney?

24 MR. DELANEY: I'm sorry, Judge?

25 THE COURT: I'm going to bring the jury out, give

1 them some instructions and release them until 10:00 in
2 the morning.

3 MR. DELANEY: Yes, Your Honor.

4 THE COURT: All right. Thank you. Bring us our
5 jury panel in, please.

6 (WHEREUPON, the jury entered the courtroom at 5:29 p.m.)

7 THE COURT: Mr. Foreman, ladies and gentlemen of the
8 jury panel, momentarily I'm going to release you from
9 your jury service for the remainder of the day. I will
10 preface my remarks by realizing I kept my promise to you.
11 I did not leave you or hold you captive back there but
12 for a brief period of time. As you go through the trial,
13 you will find that most circuit judges do not know how to
14 tell time. 15 minutes become 30, become 45, so I
15 apologize and ask you for your patience throughout the
16 course of this trial.

17 I must give you these instructions which will apply
18 throughout your service during the trial of this case.
19 You may not, you shall not discuss this case with others.
20 That includes your fellow jurors, family, friends or
21 anyone else except as authorized by the Court. If anyone
22 tries to talk with you about the case, please notify me.

23 You may not read, listen to, watch any news reports
24 about the case, should there be any. Nothing on radio,
25 television, Internet or in the newspapers or otherwise.

1 You may not use a computer, cellular phone or any
2 other electronic device with communication capabilities
3 while in attendance at trial or during deliberations.
4 These devices may be used during lunch breaks but may not
5 be used to obtain or disclose information which is
6 prohibited.

7 Information which is prohibited includes, but it is
8 not limited to the following: information about a party,
9 a witness, an attorney or a court officer; news accounts
10 about the case, should there be any or should there have
11 been any present or past; information collected through
12 juror research on any topics raised or testimony offered
13 by any witness; or information collected through juror
14 research on any other topic the juror might think would
15 be helpful in deciding the case.

16 Remember, you decide the case based on the evidence
17 and the testimony you hear from the witnesses testifying
18 before you from this witness stand under oath, any
19 physical items of evidence that may be presented, and any
20 reasonable inferences you may think may properly be drawn
21 from the evidence and you apply the facts as you find
22 them to be to the law as I tell you the law is, and then
23 you reach that verdict, a true and just verdict.

24 Keep an open mind. Do not begin your deliberations
25 until you've heard all the evidence, all the testimony,

1 closing arguments by the attorneys and instruction on the
2 law by the Court.

3 I have a pretrial matter to take up outside of your
4 presence in the morning, so I'm going to ask you to
5 please be back promptly at 10:00 in the morning. If you
6 would, please be back promptly at 10:00 in the morning.

7 Any questions?

8 If no questions, it's been my pleasure and privilege
9 to be with you today. You are now excused for the
10 evening. I'd ask you to please be back promptly at 10:00
11 and hope you all have a pleasant evening.

12 (WHEREUPON, the jury exits the courtroom at 5:33 p.m.)

13 THE COURT: All right. Any objections to anything I
14 told the jury from the State?

15 MR. ANTHONY: No, sir.

16 THE COURT: Defense?

17 MR. DELANEY: No, Your Honor.

18 THE COURT: Anything further, Solicitor?

19 MR. ANTHONY: We were -- I know that Mr. Young, I
20 believe, wants to be arraigned on the CSC third. We can
21 do that right now or we can do it in the morning,
22 whatever the Court would like.

23 THE COURT: I would probably like to do it in the
24 morning.

25 MR. ANTHONY: That will be fine.

1 THE COURT: Will that be all right? Anything
2 further?

3 MR. DELANEY: No problem, judge.

4 THE COURT: All right. Thank you. Thank you very
5 much. The Court will be in recess until 9:30 in the
6 morning.

7 (WHEREUPON, the proceedings were concluded at 5:34 p.m.,
8 to be reconvened on Tuesday, March 29, 2016.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Tuesday, March 29, 2016

2
3 (WHEREUPON, State's Exhibits 1, 2 and 3 were pre-marked
4 for identification.)

5 (Jury not present.)

6 THE COURT: All right. Mr. Delaney, it's my
7 understanding that you request that Mr. Young be
8 arraigned formally?

9 MR. DELANEY: That's correct, Your Honor.

10 THE COURT: All right. If you would, come around to
11 the rail for me, please, Mr. Young.

12 Do you have the indictment?

13 MR. ANTHONY: I've made another copy of it, Your
14 Honor, I can hand up.

15 THE COURT: Madam Clerk, do you want me to arraign
16 him or do you want to?

17 THE CLERK: Please. I'll have to find my oath on
18 that.

19 THE COURT: And that's just the arraignment on the
20 criminal sexual conduct, third?

21 MR. ANTHONY: Yes, sir.

22 THE COURT: All right. I have it here.

23 (Pause in proceedings.)

24 THE CLERK: I found the oath.

25 THE COURT: All right. Do you want to arraign him,

1 Madam Clerk?

2 THE CLERK: That will be fine.

3 THE COURT: All right. Thank you very much.

4 Here's the criminal sexual conduct, third degree
5 indictment.

6 THE CLERK: Would you please raise your right hand.
7 Cleveland Edward Young, the defendant at the bar, if you
8 answer in the name of Cleveland Edward Young, please
9 raise your right hand. And you did. You stand indicted
10 in this court for the crime of criminal sexual conduct
11 with a minor, third degree, in that this indictment
12 alleges that you, Cleveland Edward Young, to this
13 statement, to this indictment, how do you plead?

14 DEFENDANT YOUNG: Not guilty.

15 THE CLERK: How will you be tried?

16 DEFENDANT YOUNG: By jury.

17 THE CLERK: May God give you the good deliverance
18 and you're ready for trial. Are you ready for trial?

19 DEFENDANT YOUNG: Yes, ma'am.

20 THE CLERK: All answered in the affirmative.

21 THE COURT: Thank you very much, Madam Clerk. May I
22 have that indictment back?

23 All right. Anything further, Solicitor?

24 MR. ANTHONY: Not as to the arraignment, Your Honor.

25 THE COURT: All right. Any other matters?

1 MR. ANTHONY: I just have a couple things to take
2 up. I know Mr. Delaney's got a list of motions.

3 One thing he didn't cover that I'll just mention is
4 that there are -- we've entered into a number of
5 stipulations in this case, and I'll just go ahead and
6 mention those. We have agreed that testimony as to the
7 result of the victim's chlamydia test may be introduced
8 without chain of custody evidence. We've basically
9 stipulated there could be evidence admitted as to the
10 results of that test without objection.

11 We've agreed that there will be -- evidence of
12 Mr. Young's chlamydia test may be entered into evidence
13 without objection.

14 There are a number of pharmacy records from the
15 defendant's housemate, Ms. Kinard, that we have agreed
16 may be entered into -- we have stipulated may be entered
17 into evidence without further authentication.

18 And there are certain of Ms. Kinard's medical
19 records that we agree may be entered into evidence
20 without authentication.

21 THE COURT: Is that correct, Mr. Delaney?

22 MR. DELANEY: That is correct, Your Honor.

23 THE COURT: All right. Any other matters from the
24 State, Solicitor?

25 MR. ANTHONY: I know No. 1 on his list is to put on

1 the record that we've complied with Rule 5 and Brady.
2 I'll just say that we have complied with Rule 5 and Brady
3 and would ask if the defense has complied with the
4 reciprocal request the State made.

5 THE COURT: All right. Thank you.

6 MR. DELANEY: And we have, Your Honor.

7 THE COURT: All right. Any other motions from the
8 State, Solicitor?

9 MR. ANTHONY: No, sir.

10 THE COURT: Mr. Delaney?

11 MR. DELANEY: Yes, Your Honor. Just to put a few of
12 these on the record. I have a motion to determine the
13 existence and admissibility of any prior ---

14 THE COURT: I'm sorry. Speak up a little bit for
15 me.

16 MR. DELANEY: Sorry, Your Honor. I have a motion to
17 determine the existence and admissibility of any Lyle
18 evidence in this case. It's my understanding that
19 there's not, but I just want to put it on the record to
20 make sure of that at this time.

21 MR. ANTHONY: That's correct. We don't have any
22 Lyle evidence to introduce.

23 THE COURT: All right.

24 MR. DELANEY: I have a motion, Your Honor, to
25 sequester the witnesses both for the State and the

1 defense in this case.

2 THE COURT: My position on sequestration is I follow
3 State vs. Carmack, Judge Goode's Fairfield County case.
4 If the witnesses have given sworn statements, they may
5 remain because they can be cross-examined as to their
6 sworn statements. The chief investigating officer may
7 remain. Also under victim witness, those individuals
8 that are victims or members of the victim's immediate
9 family may remain.

10 With that being said, tell me specifically who it is
11 you would like to have sequestered.

12 MR. DELANEY: Well, with your ruling and, you know,
13 citing that case, Your Honor, you know, there's -- I
14 understand there's going to be some allowances, as you
15 said, for certain individuals to stay. So I don't have
16 anybody specific at this time.

17 THE COURT: I also exclude expert witnesses from
18 sequestration because -- I'm not sure if there are
19 competing experts in this case, but when they are, one
20 can listen to one's testimony and form one's opinion
21 based on that, also.

22 So with that being said, I don't deny the motion,
23 but I do follow Carmack.

24 MR. DELANEY: And just for clarification, if I have
25 -- if my witness gave a sworn statement in this case,

1 then she would be allowed under that to sit in as well?

2 THE COURT: Yes, sir. Yes, sir.

3 MR. ANTHONY: I'll just say, for the record, the
4 sequestration, I expect to have Investigator Belue in
5 here for the whole trial.

6 THE COURT: Correct.

7 MR. ANTHONY: And I expect to have Ms. Trammell,
8 who's the mother of the victim, in here for the whole
9 trial. I think my witnesses, basically, the rest of them
10 will probably testify and then I'll ask to have them
11 excused, so I don't perceive anybody else sitting here in
12 here during the case.

13 THE COURT: All right. Thank you, Solicitor.

14 MR. DELANEY: Let's see here. And just the motion
15 to determine existence and admissibility of any
16 statements that the defendant may have made in this case.

17 THE COURT: Any statements being any custodial
18 statements?

19 MR. DELANEY: Yes. Statements through law
20 enforcement. My understanding that there's not. There
21 isn't any. But I just wanted to clarify that at this
22 time.

23 MR. ANTHONY: That is correct.

24 THE COURT: No statements given by the defendant to
25 law enforcement, custodial interrogation; is that

1 correct, Solicitor?

2 MR. ANTHONY: That's correct. Yes, sir.

3 MR. DELANEY: And I have a motion to determine the
4 prior record of any lay witnesses that the State would
5 intend to call in this case.

6 MR. ANTHONY: I have not -- I have one NCIC
7 available. I don't have the rest of them, but I can make
8 that available to Mr. Delaney.

9 THE COURT: All right. At least make it available
10 for Mr. Delaney to have the opportunity to review it
11 before a witness takes the stand.

12 MR. DELANEY: And my last motion, Your Honor, would
13 be just a motion to determine the prior record of
14 Mr. Young should he choose to testify in this case. I
15 think that's something we can discuss when it gets closer
16 to that time.

17 MR. ANTHONY: That's fine. We'll do it at the end.
18 That's fine with me.

19 THE COURT: Say again, Solicitor?

20 MR. ANTHONY: I think Mr. Delaney said he would be
21 fine with just discussing that when it gets -- at the
22 close of the State's case, which is agreeable to the
23 State.

24 MR. DELANEY: And that's all I have, at this time,
25 Your Honor. That's all I have, at this time, Your Honor.

1 MR. ANTHONY: That's everything from the State.

2 THE COURT: Say again?

3 MR. ANTHONY: That's everything from the State.

4 THE COURT: Thank you, Solicitor.

5 MR. ANTHONY: May we approach?

6 THE COURT: Of course.

7 (WHEREUPON, a bench conference was held off the record.)

8 THE COURT: All right. We'll be at ease about ten
9 minutes for the attorneys. Thank you.

10 (WHEREUPON, a recess is taken at 9:57 a.m.)

11 THE COURT: All right. Anything additional from the
12 State before we bring in our jury, Solicitor?

13 MR. ANTHONY: No, sir.

14 THE COURT: Defense, Mr. Delaney?

15 MR. DELANEY: No, Your Honor.

16 THE COURT: All right. Would you bring in our jury,
17 please.

18 (WHEREUPON, the jury entered the courtroom at 10:12 a.m.)

19 THE COURT: Madam Clerk, would you swear in our
20 jury, please.

21 (Whereupon, the jury was sworn at 10:14 a.m.)

22 INTRODUCTORY REMARKS BY THE COURT

23 THE COURT: Good morning, ladies and gentlemen of
24 the jury panel. I hope you all had a pleasant evening.

25 The case we are about to try is the case of the

1 State vs. Cleveland Edward Young, the defendant seated to
2 my front right. What I will now say is intended to serve
3 as an introduction to the trial in this case. These
4 remarks are not an instruction on the law in the case. I
5 will instruct you on the law that applies to this case at
6 the end of the trial before you retire to consider your
7 verdicts. This is merely an explanation of the procedure
8 that we will follow in the trial so that you may better
9 understand what may be happening.

10 The defendant is charged by indictments filed in
11 this court with the crimes of criminal sexual conduct
12 with a minor, first degree, and criminal sexual conduct
13 with a minor, third degree, the elements of which will be
14 explained to you later. Again, ladies and gentlemen, the
15 indictments are simply the formal charging documents by
16 which the cases are brought before this court, and they
17 are not in any sense evidence of the allegations that are
18 contained therein.

19 The defendant has pled not guilty to these
20 indictments. The State, the party to my front left,
21 therefore has the burden of proving each of the elements
22 of the indictments beyond a reasonable doubt, and it will
23 be your duty, ladies and gentlemen, to decide whether or
24 not the State has met that burden. Your purpose as
25 jurors is to find and determine the facts.

1 You, ladies and gentlemen, are the sole judges of
2 the facts in the case. If, at any time, I make any
3 comment regarding the facts, you must disregard this.
4 You are to determine the facts from the testimony you
5 hear and any other evidence introduced in court. It is
6 up to you to determine any inferences which you feel may
7 properly be drawn from the evidence.

8 It is especially important that you perform your
9 duty of determining the facts diligently and
10 conscientiously, because ordinarily, there is no way to
11 correct an erroneous determination of the facts by a
12 jury.

13 On the other hand and with equal emphasis, the same
14 law that makes you the judges of the facts make me the
15 judge of the law. The law as given by the Court is the
16 only law you may consider. You must accept it and follow
17 it even though you may disagree with it. I cannot tell
18 you what the facts are, and you cannot disagree with me
19 about what the law is or what the law should be. Your
20 job is to take the law as I give it to you and apply it
21 to the facts as you find them from the testimony of the
22 witnesses and any other evidence that is introduced.
23 After doing that, you will render your verdicts -- true
24 and just verdicts under the solemn oath that you have
25 just taken as jurors.

1 Until I advise you to begin your deliberations, you
2 must not discuss this case with anyone. That includes
3 your fellow jurors, friends, family members and anyone
4 else involved in the case. After the case is submitted
5 to you, you must discuss it only in the jury room with
6 your fellow jurors.

7 During the trial, do not read, listen to or watch
8 any news reports about this case, should there be any.
9 This includes anything that may be in the newspaper or on
10 the Internet, radio or television.

11 You must not consider anything you may have read or
12 heard about the case outside of this courtroom whether
13 before or during the trial. It is important that you
14 keep an open mind and not decide any issue in the case
15 until all of the evidence has been presented, the parties
16 have made their closing arguments to you, and I have
17 instructed you on the law in this case and advise you to
18 then begin your deliberations with your fellow jurors.
19 It is your solemn responsibility to determine the guilt
20 or the innocence of the defendant, and your verdict must
21 be based solely on the evidence as it is presented to you
22 in this trial and on the law that I instruct you during
23 and at the close of the trial.

24 Now, in just a moment the solicitor will make what
25 is called an opening statement in which the solicitor

1 will explain to you the issues in this case, or at least
2 what the solicitor thinks the issues are in this case.
3 Mr. Delaney or Ms. Williams, one of the attorneys for the
4 defendant, may also make an opening statement, although
5 he or she is not required to do so.

6 A criminal defendant in South Carolina is always
7 presumed to be innocent and has no burden to prove
8 himself or herself innocent. The burden is upon and
9 always remains upon the State of South Carolina to prove
10 its case beyond a reasonable doubt.

11 What the attorneys tell you during their opening
12 statements is not evidence in the case. It is only their
13 contention of what the issues are. What the attorneys
14 tell you in their closing arguments is not evidence in
15 the case.

16 The questioning by the attorneys is not evidence in
17 the case. That is the framework whereby the testimony,
18 the evidence is extracted from the witnesses that have
19 sworn under oath to testify truthfully before you. That
20 is where the evidence will be presented and how the
21 evidence will be presented by the testimony of these
22 sworn witnesses from the witness stand and any exhibits
23 that may be introduced into evidence.

24 From time to time during the trial, you may hear one
25 of the attorneys say something like, "Your Honor, I

1 believe we have a question of law or a matter of law to
2 discuss with you," or "Your Honor, may we approach the
3 bench," or sometimes I, myself, might find it necessary
4 to excuse you from the courtroom for a short while so the
5 attorneys and I can discuss a matter of law. This is not
6 to hide anything from you. The reason for this is
7 because you are the judges of the facts in this case, and
8 sometimes, when I am discussing matters of law with the
9 attorneys, it may be necessary for me to make some
10 comment as to the facts in connection with ruling whether
11 a particular law applies or not. I'm not supposed to
12 tell you what I think the facts are, so I will excuse you
13 from the courtroom while these discussions take place so
14 that, in no way, will you be influenced by anything that
15 I might say or do in connection with the facts.

16 In determining what the true facts are in the case
17 in using your individual and collective good judgment and
18 common sense, you must decide whether or not the
19 testimony of the witnesses is believable. It will be my
20 responsibility to rule as a matter of law as to whether
21 certain testimony is admissible at all or not, in other
22 words, whether you hear it or not. But once the
23 testimony is admitted, whether or not you believe it is
24 solely for you the jury to determine.

25 In deciding whether to believe a witness, you have a

1 right to consider the interest of any witness, the bias
2 of any witness, the prejudice of any witness, the
3 opportunity for the witness to have seen the matters and
4 things about which the witness may testify, and the
5 demeanor, the way the witness acts on the witness stand.
6 You may also consider whether the witness -- testimony of
7 the witness is corroborated or made stronger by the
8 testimony of other witnesses, or whether or not it is
9 weakened by other witnesses' testimony. You may consider
10 whether or not the witness has given any prior
11 inconsistent or prior consistent statements. You may use
12 anything which, in your good judgment and your common
13 sense, will assist you in determining the true facts, the
14 believability, the credibility of the witnesses. That
15 means it will be your duty to pay close attention to the
16 witnesses, to observe the witnesses, to listen to the
17 witnesses, and to pay close attention to the attorneys
18 and to the Court.

19 Don't let your thoughts wander, but give strict
20 attention to the testimony in this case so that at the
21 end of all the testimony, after the closing arguments of
22 the attorneys and the restriction on the law by the
23 Court, you will then be in that position to determine
24 what the true facts are and apply the law to those facts
25 as you find them to be and thus render true and just

1 verdicts.

2 It will be your added responsibility, Mr. Foreman,
3 to preside in the jury room during deliberations and be
4 the spokesperson for the jury in the courtroom. It will
5 also be your duty to write the verdicts, but I will give
6 you further instructions about that at the conclusion of
7 the trial.

8 Just a few administrative issues, ladies and
9 gentlemen. Obviously, there is a speaker system in the
10 courtroom. However, if you cannot hear a witness for
11 some reason, particularly those of you further away from
12 the witness stand, please get my attention, the attention
13 of one of our fine bailiffs and court staff, and I will
14 have that person sit up and speak up.

15 If any item is introduced into evidence, I don't
16 know what may be introduced, a document or the like,
17 sometimes it is handed to our foreperson and passed among
18 members of the jury while you're out here in your jury
19 box. If I allow an item into evidence, you will also
20 have that item with you in your jury room at the time of
21 your deliberations. You may look at it all you wish in
22 the courtroom, in your jury box. Just keep it in mind.
23 That will not be the only opportunity you will get to
24 review that particular item of evidence.

25 From time to time, you may see me on my computer. I

1 don't tweet, I don't repeat, I don't e-mail, I don't know
2 what snap talk is. These are good trial attorneys. I
3 may see a legal issue lurking or what I think may be a
4 legal issue down the dusty trial, and I will do research.
5 I stay focused on the case. The reason I tell you that,
6 imagine some juror complained about me being on the
7 computer. If it annoys you -- not if I annoy you. If
8 that particular behavior annoys you in any way, please
9 let me know. I do not want you to divert your attention
10 from the testimony in any way.

11 As far as seating, and I indicated this to you
12 yesterday, if our foreperson would always maintain that
13 seat, this young lady and this young lady are alternates,
14 will always maintain those two seats, those others,
15 members of the jury, you may sit anywhere you like within
16 your jury box.

17 Having observed jurors for many years now, I have
18 found that jurors can be territorial, very territorial.
19 They like to sit in the same seat each and every time
20 with the same view of the courtroom and the witness
21 stand. I like it. If you wish to do that, you may
22 certainly do so. The other of your number, however, you
23 may sit anywhere you like in the jury box.

24 And finally, ladies and gentlemen, what am I really
25 in charge of? In charge of taking breaks. That's what

1 I'm in charge of. I have a real simple rule about taking
2 breaks. When I want to take a break, we take a break.
3 It works for everybody. This is not some type of
4 judicial marathon. This is an important case to
5 Mr. Young, it is an important case to the State of South
6 Carolina. As I have said, this is not any type of
7 judicial marathon. If, at any time, any member of the
8 jury needs a break, please raise your hand.

9 Do you need a break?

10 JUROR: I need some water.

11 THE COURT: You need some water? Can you get Madam
12 Juror some water for me, please. I didn't realize they
13 put a six pack up here on the bench for me this morning.

14 Again, ladies and gentlemen, this is not a judicial
15 marathon.

16 I've got some, Mr. Bailiff. I had some up here. I
17 didn't realize it.

18 THE BAILIFF: Well, I'll take that.

19 THE COURT: All right. Yes, sir. Well, I made two
20 people happy today. That's probably going to be my
21 limit.

22 If, at any time, you need a break, please raise your
23 hand. If you sit out here too long, your thoughts may
24 wander. You're probably not the only one that needs a
25 break. Y'all will take y'all a break, we'll take ours.

1 Any objections to anything I've told the jury from
2 the State?

3 MR. ANTHONY: No, sir.

4 THE COURT: Defense?

5 MR. DELANEY: No, Your Honor.

6 THE COURT: All right. Thank you.

7 Solicitor, you may address the jury.

8 OPENING STATEMENTS

9 MR. ANTHONY: Thank you very much, Your Honor.

10 Good morning. My name is John Anthony, and I'm the
11 deputy solicitor here in Union, and I'm the man that will
12 be representing the State in this case.

13 If somebody walked down that aisle right there and
14 they were -- they had their leg in a cast and they were
15 on crutches, you'd know something about that person,
16 wouldn't you? You'd know some way or another their leg
17 was messed up, it's broke or something's twisted, that
18 something's wrong with their leg. If somebody came in
19 and walked down that aisle and they had a patch over
20 their eye, you'd know that something was the matter with
21 their eye. Because sometimes you can see things and you
22 can immediately know that there's a problem, you can
23 immediately know that somebody has been hurt.

24 Well, in a few minutes you're going to hear from a
25 lady named Sarah Arnold. And Ms. Arnold used to be a

1 teacher at . She taught
2 second grade, and she taught the little girl who's the
3 victim in this case whose name is Minor .

4 And back on January 28th of 2015, it was a pretty
5 regular day at . Ms. Arnold was taking her
6 class back from the lunch room, and she looked and she
7 saw Minor . And Minor had a yogurt
8 stick. And she had that yogurt stick at her waist and
9 she was moving that yogurt stick like a penis, like an
10 ejaculating man. And then she looked, and Minor had
11 that yogurt stick in her mouth. And she had it in her
12 mouth like she was performing oral sex.

13 Well, Ms. Arnold knew something was wrong because
14 that's not the kind of behavior you'd expect to see out
15 of little 7-year-old girls in the second grade. So she
16 began to talk to Minor , and it was at that
17 time that people began to learn about some of the things
18 that were going on with Minor down in Whitmire
19 at a house where Minor's Aunt Anita lived, where she
20 lived with her boyfriend, Minor will call him her
21 husband, BB. That's what Minor called him. And his
22 name is Cleveland Young.

23 Minor lives in Union. She lives with her mama and
24 her daddy, and Minor's mama's people are from Whitmire.
25 And that's where Minor's grandma and grandpa still

1 lives, down in Whitmire.

2 And for several years before this came out, Minor
3 would go to Whitmire. She'd go to Whitmire, see her
4 grandparents, and then she would also go to Whitmire and
5 see her grandfather's sister whose name is Anita Kinard.
6 And sometimes she'd go down there and she would -- her
7 grandparents would take her over to Anita's and she'd
8 spend some time over there that way, and then sometimes
9 her mama would just take her down there and Anita would
10 keep her. And sometimes she was there for a few hours
11 during the day, and then there are also times where she
12 spent the night there. So she spent a lot of time at
13 this house with Anita and with Cleveland Young.

14 And during the investigation of this case after the
15 things that happened at , Minor was
16 interviewed. She went to Spartanburg to a place called
17 the Children's Advocacy Center where they talk to kids
18 who made disclosures. And during those interviews, she
19 said that on those trips down to Aunt Anita's house, that
20 she and Cleveland would go outside -- and this was a --
21 this was a fun place for Minor to go in a way because
22 it was in the country, it was outside. They had a lot of
23 dogs. She'd go down there. She could play with the
24 dogs, she could ride her bicycle. But she began to tell
25 about how, when she would go down there, she and

1 Cleveland would go outside, and there were times when she
2 was outside with Cleveland when Cleveland would penetrate
3 her anally, he would penetrate her vaginally, and he
4 would have her perform oral sex on him. And that's what
5 she told, and in a few minutes, that's what she'll come
6 in here and she'll tell you what she remembers about
7 that.

8 But there's a little more evidence of damage in this
9 case, because as part of the investigation, Minor went
10 to Spartanburg, and she had a physical examination. And
11 during that physical examination, it was found that
12 Minor had contracted rectal chlamydia. Now, rectal
13 chlamydia is a disease -- or it's an infection that is
14 spread through sexual contact. It takes some sort of
15 sexual contact to get rectal chlamydia.

16 Now, Mr. Young was tested for rectal chlamydia, and
17 he was negative for it. But the doctor who will come
18 testify this afternoon will tell you that chlamydia is
19 not something that you necessarily have to be treated
20 for. People can get cases of chlamydia, and it can just
21 resolve itself. Your body can just fight off the
22 infection. He wasn't tested until over two months after
23 Minor told about it, and he did have access to some
24 antibiotics that could have treated it. But you can get
25 rid of a case of chlamydia just your body healing itself.

1 You don't have to necessarily get treatment.

2 So in this case, you're going to hear from Minor

3 , you're going to hear from her mom, you're going

4 to hear from a couple people from School who

5 were there that day when they saw this behavior from her,

6 you're going to hear from the interviewer up in

7 Spartanburg who she talked to a couple times about what

8 happened, you're going to see the videotape of her

9 talking to that interviewer, you're going to hear from

10 the doctor who examined her, you're going to hear from a

11 counselor who deals with kids who have been sexually

12 abused and that can tell you some of the behaviors you

13 can expect from those kids, and then you're going to hear

14 from Investigator Belue with the Sheriff's Office who is

15 the Sheriff's Office investigator who worked on this

16 case.

17 And we believe that once you've heard all the

18 evidence in this case, you're going to know that Minor's

19 been hurt, and that Cleveland Young is the man

20 who hurt her, the man she said hurt her. BB, Cleveland

21 Young, is the man who hurt her. And we believe that once

22 you've heard all the evidence, that you're going to find

23 Mr. Young guilty. You're going to convict him of

24 first-degree criminal sexual conduct with a minor, and

25 you're going to convict him of third-degree criminal

1 sexual conduct with a minor.

2 Thank y'all very much.

3 THE COURT: Thank you, Solicitor.

4 Mr. Delaney?

5 MR. DELANEY: Good morning. My name is Erik Delaney
6 with the Public Defender's Office. My client, as you
7 know, is Cleveland Young.

8 The first thing that I'm going to ask all of you to
9 do this morning is just to take a couple of seconds and
10 to take a deep breath. Just take a deep breath, because
11 at this point, as the judge told you, starting yesterday
12 with telling you what these indictments in the case were
13 about, allegations, he told you just a little bit ago our
14 opening statements are not evidence, to give you an
15 outline of what we think you're going to expect to see in
16 this trial, give you a little information about important
17 legal concepts, those type of things.

18 But right now this morning, it's important for this
19 system to work. And this system is the best. It's the
20 best in the world because there's not a rush to judgment.
21 You 14 -- ultimately it's going to be 12 people
22 collectively -- are going to go into your jury
23 deliberation room at the end of this case, and you're
24 going to talk, and I hope you talk a lot, about what's
25 been presented in this trial. There can't be a rush to

1 judgment in this case.

2 Obviously, we've heard things already in this case:
3 why, why, some serious stuff. Some serious stuff. I'm
4 not going to deny that. But that's where everybody just
5 needs to pump the brakes just a little bit and take a
6 deep breath.

7 My client is presumed innocent. My client,
8 Cleveland Young, walks into this courtroom with a
9 presumption of innocence. He is veiled in a cloak of
10 innocence, and that veil is not removed throughout this
11 trial.

12 As you've heard, your job, ladies and gentlemen, is
13 to determine the facts of this case. That's your job,
14 that's your duty. And, obviously, it's an important one.
15 It's the most important one in this courtroom. We all
16 have important roles to play, the attorneys, the judge,
17 but determining the facts in this case, analyzing the
18 evidence in this case, it's the most important job.

19 And I'm just asking you, ladies and gentlemen, to
20 just wait and do that at the end of this trial after
21 you've heard everything. Because what we have right now
22 is allegations, allegations that I will submit, these
23 allegations, this story, what I expect you to hear,
24 ladies and gentlemen, is a story that's going to change,
25 and it's going to change, and it's going to change. And

1 then what you're going to have to look for is what
2 evidence corroborates these allegations. You've heard a
3 little bit already.

4 The alleged victim in this case tested positive,
5 from what we've heard, for chlamydia. What have we heard
6 as well? My client has tested negative for chlamydia.
7 You're going to hear that in this trial. And what I want
8 you to pay attention to is testimony that's going to try
9 to excuse things, try to explain why we have
10 inconsistencies, why we have things that don't make
11 sense, that don't add up. That's going to be important,
12 and I want you to pay close attention to that.

13 I want you to pay close attention to the
14 investigation that we've done in this case, and does that
15 investigation corroborate the allegations. Does the
16 medical evidence corroborate the allegations? Does
17 witness testimony corroborate the allegations? That's
18 going to be important. That's going to be important,
19 because at the end of this trial, Judge McMahon, as he
20 told you, is going to instruct you as to the law that you
21 must apply to this case, and for y'all 12 collectively to
22 find my client guilty, you must be convinced beyond a
23 reasonable doubt of his guilt. That is the burden that
24 the State has in this case. They must prove this case to
25 you beyond a reasonable doubt.

1 What is reasonable doubt? You're going to hear that
2 reasonable doubt has been defined as the kind of doubt
3 that would leave a reasonable person hesitant to act, the
4 kind of doubt that would leave a reasonable person not
5 firmly convinced. That's going to be so important in
6 this case, ladies and gentlemen. It's are you convinced,
7 are you not hesitant to act at the end of this case. And
8 I submit that what you're going to hear at the end of
9 this trial after everything you've heard, I'm just going
10 to say, ladies and gentleman, no way.

11 Thank you for your time.

12 THE COURT: Thank you, Mr. Delaney.

13 Solicitor, you may call your first witness.

14 MR. ANTHONY: Thank you, Your Honor.

15 The first witness will be Minor

16 THE CLERK: Put your left hand on the Bible and
17 raise your right hand.

18 WHEREUPON,

19 Minor

20 After having been duly sworn, testified as follows:

21 THE CLERK: Come around here on the witness stand.

22 DIRECT EXAMINATION

23 BY MR. ANTHONY:

24 Q Would you tell me your name, please.

25 A Minor .

1 Q And what's your last name?

2 A .

3 Q And, Minor , how old are you?

4 A 9.

5 Q And where do you go to school?

6 A .

7 Q What grade are you in at ?

8 A Second grade.

9 Q Who's your teacher there?

10 A Ms. Halstead [phonetic].

11 Q What do you like to do in school?

12 A Math and reading.

13 Q And what kind of things do you like to do for fun?

14 A Ride my bike and play outside.

15 Q Now, you just said that you would tell the truth; is
16 that right?

17 A Yes.

18 Q Okay. Do you know what that means?

19 A Yes.

20 Q Okay. If I say, "My tie is red," is that the truth
21 or a lie?

22 A No.

23 Q Which is it? The truth or a lie?

24 A A lie.

25 Q That's a lie. Okay.

1 And you see the judge over there? If I said, "His
2 robe is black," is that the truth or a lie?

3 A The truth.

4 Q Okay. All right. Well, Minor , where do you live?

5 A In Union.

6 Q Okay. And who do you live with?

7 A My mom and dad.

8 Q And what's your mom's name?

9 A Kaci.

10 Q And what's your dad's name?

11 A Thomas.

12 Q Now, is there anybody else that stays with y'all
13 sometimes?

14 A My mom's friend.

15 Q And what's your mom's friend's name?

16 A Tracy.

17 Q And do you have any grandparents that you get to
18 see?

19 A My granny and papa.

20 Q Okay. And what are their names?

21 A Rick and Rose.

22 Q What's their last name?

23 A Silvers.

24 Q And where do they live?

25 A In Whitmire.

1 Q Now, did you used to have an aunt you would go see
2 in Whitmire?.

3 A Yes.

4 Q And what was her name?

5 A 'Nita.

6 Q And did anybody live with your Aunt 'Nita?

7 A BB.

8 Q And what was BB's -- how did he know your Aunt
9 'Nita? How were they kin?

10 A Them two was married.

11 Q And when you would go see your Aunt 'Nita, how would
12 you get there?

13 A My papa and nanny sometimes drive me over there in
14 the car.

15 Q Okay. And would anybody take you over there besides
16 your papa and your nanny?

17 A No.

18 Q Okay. Did your mom ever take you over there?

19 A Sometimes.

20 Q Okay. And when you would go over there, how long
21 would you be there?

22 A About sometimes 30 minutes, or sometimes stay the
23 night, or just stay over there about an hour or so.

24 Q Okay. And did you like going to 'Nita's back when
25 you went?

1 A Yeah. Sometimes.

2 Q Okay. And what kind of things would you do when you
3 go over there?

4 A I would play with the dog, Deuce, and Cricket and
5 play.

6 Q What was the dogs' name?

7 A Deuce and Cricket.

8 Q Okay. And was there anything about Deuce that made
9 you like him?

10 A He -- he was nice and playful.

11 Q Okay. And did Deuce have a problem?

12 A Yeah. His two eyes, he couldn't see.

13 Q Okay. What was that again?

14 A He couldn't see. Both of his eyes was out and he
15 couldn't see.

16 Q And when you would go over there, what kind of
17 things would you and BB do together?

18 A Sometimes we'd play.

19 Q Okay. And did you ever -- when you were over there,
20 did you and BB ever feed the dogs together and work with
21 the dogs?

22 A Yeah. We would pet the dogs sometimes and stuff.

23 Q Okay. And when you were over there at your Aunt
24 'Nita's with BB, were there ever some bad things that
25 happened with BB?

1 A Yeah. BB started -- he -- he humped me.

2 Q You said he humped you?

3 A Yes.

4 Q Okay. Where would he do that?

5 A Behind the building sometimes.

6 Q Behind the buildings?

7 A Yes.

8 Q All right. And where were the buildings?

9 A Back there where the "carporch" is.

10 Q And when you say that he would hump you, what part
11 of his body would go into what part of your body?

12 A My back part and front part.

13 Q Okay. Now, when you say "back part," whose back
14 part?

15 A Mine.

16 Q Yours. Okay. When you say "front part," whose
17 front part?

18 A Mine.

19 Q Okay. All right. And what part of him was going
20 into your back part and your front part?

21 A His wiener.

22 Q Okay. And when he would hump you, what would
23 happen? What would he do to your clothes before he
24 humped you?

25 A One time he tried to take them off.

1 Q Okay. And when you say "take them off," what
2 clothes in particular of yours did he try to take off to
3 do this?

4 A My pants.

5 Q Okay. All right. And did he try to take any other
6 -- anything under your pants off?

7 A And try to take my panties off.

8 Q Okay. All right. And when you talk about him
9 humping you, what was his body doing when he would do
10 this?

11 A It was going front and backwards.

12 Q Okay. And you said that it was his -- you called it
13 his wiener in you; is that right?

14 A (Nods head affirmatively.)

15 Q You need to say "yes" or "no."

16 A Yes.

17 Q Okay. All right. And after he would hump you,
18 would he do anything -- would you see him do anything to
19 his weenie?

20 A He got a wet rag and wiped it off.

21 Q Okay. And would he put -- aside from putting a
22 wiener in your front part, in your back part, did he put
23 his wiener anywhere else?

24 A I don't remember.

25 Q Do you remember ever tasting anything?

1 A No.

2 Q All right. And the times -- the things that you
3 just told us about happening when he would hump you, how
4 many times did that happen?

5 A More than I can count.

6 Q Okay. Do you remember if you were in school when it
7 started?

8 A I don't remember.

9 Q Okay. I'm going to show you a couple of pictures,
10 Minor . Hope you can hold on one second. All right.
11 I'm going to show you what we've got marked here as
12 Exhibit 1. I will just put that up in front of you. And
13 can you look on that picture? And I'm going to give you
14 a pen. I'll give you my book here to bear down on. Can
15 you look on that picture and see if you can tell me where
16 his wiener is, where a wiener is? No, no. Just tell me
17 if you see where it is.

18 A Yes.

19 Q All right. Can you draw a circle around it?

20 A (Witness complies.)

21 Q Okay. And what do you call that part?

22 A Wiener.

23 Q All right. Well, can you write that right beside?

24 A (Witness complies.)

25 Q Okay. And how are you spelling that?

1 A A wiener.

2 Q Okay. Okay. And that's how you would spell it?

3 A (Nods head affirmatively.)

4 MR. ANTHONY: Okay. All right. We move No. 1 into
5 evidence.

6 MR. DELANEY: Without objection, Your Honor.

7 THE COURT: State's 1 is in evidence without
8 objection.

9 (WHEREUPON, State's Exhibit No. 1 was admitted into
10 evidence.)

11 BY MR. ANTHONY:

12 Q And then I'm going to show you Exhibit 2. And this
13 is a picture of a little girl. That is a front and back.
14 And I'd ask, can you look at that picture? Can you tell
15 me where his wiener touched you?

16 A In my front part and back part.

17 Q Okay. So can you draw a circle on that picture
18 there to show where you were touched?

19 A (Witness complies.)

20 Q Okay. Now, what do you call your front part?

21 A Wiener -- I mean, my LL.

22 Q Okay. Well, can you write what that is on there?

23 A (Witness complies.)

24 Q All right. LL. Okay.

25 And then what do you call your back part? Well, no

1 just tell me what you call it first.

2 A My butt.

3 Q Okay. Just right "butt" on there.

4 A (Witness complies.)

5 Q Okay. And talking about your front part now, okay,
6 talking about your front part, where did his wiener go on
7 your front part?

8 A Inside.

9 Q Okay. And where did his wiener go on your butt?

10 A Inside.

11 Q Okay. And how did that make you feel when he did
12 those things, Minor ?

13 A Scared and nervous.

14 Q Now I'm going to show you what's been marked as
15 Exhibit 3, ask you, can you tell me what that's a picture
16 of?

17 A 'Nita's house.

18 Q That's a picture of 'Nita's house?

19 A (Nods head affirmatively.)

20 Q Okay. You need to say "yes" or "no."

21 A Yes.

22 Q Okay. And that's how 'Nita's house looked back ---

23 A Yes.

24 Q Okay. And does that picture show the buildings you
25 were talking about?

1 A Yes.

2 Q Okay. Can you take that pen and just draw an arrow
3 to show where the buildings are that you're talking
4 about, or two arrows to show where the buildings are?
5 You got the pen up there?

6 A (Shakes head negatively.)

7 Q I guess I need to give you the pen. Sorry about
8 that.

9 A (Witness complies.)

10 Q Okay. Draw me something -- draw me a little --
11 let's draw something out a little bit bigger, if you
12 would, just so we can know for sure what you're talking
13 about.

14 A (Witness complies.)

15 Q Okay. Draw it all the way up, okay? Just run it --
16 run the arrow all the way up to the top. I'll hold it
17 for you.

18 A (Witness complies.)

19 MR. ANTHONY: We move No. 3 into evidence.

20 MR. DELANEY: Without objection.

21 THE COURT: State's 3 is in evidence without
22 objection.

23 (WHEREUPON, State's Exhibit No. 3 was admitted into
24 evidence.)

25 ///

1 BY MR. ANTHONY:

2 Q And, Minor , when -- these things that BB did to
3 you, who did you tell about?

4 A I was at . I told the principal, and
5 then I told my mama, and then my mama told 'Nita.

6 Q Okay. Well, when you -- after you told your mom,
7 did you go anywhere and talk to anybody about this?

8 A Ms. Brook, and then I went to Spartanburg.

9 Q Okay. Okay. And do you remember seeing the doctor
10 in Spartanburg, too?

11 A Yes.

12 MR. ANTHONY: All right. If I could just have one
13 moment.

14 BY MR. ANTHONY:

15 Q You talked about him cleaning his wiener off with a
16 rag?

17 A Yes.

18 Q Okay. What was -- what kind of stuff was on the
19 rag?

20 A It was yellow stuff.

21 Q I'm sorry?

22 A It was yellow stuff.

23 Q Okay. And did the yellow stuff go anywhere besides
24 the rag?

25 A No.

1 Q Did the yellow stuff ever go anywhere on you?

2 A On my butt and my LL.

3 Q Did it go anywhere on you besides there?

4 A No.

5 MR. ANTHONY: Okay. If I could just have one
6 moment.

7 BY MR. ANTHONY:

8 Q Just one more question. Do you remember ever
9 tasting anything while this was going on?

10 A No.

11 MR. ANTHONY: Okay. All right. Thank you.

12 THE COURT: All right. Mr. Delaney?

13 CROSS EXAMINATION

14 BY MR. DELANEY:

15 Q Hey, Minor .

16 A Hey.

17 Q My name's Erik. I'm just going to ask you a few
18 questions, okay?

19 A Okay.

20 Q All right. So if you don't -- if you can't hear me
21 or understand me, just ask me to repeat that question,
22 okay?

23 A Yes.

24 Q Okay. Now, Minor , you would go over to Anita's a
25 lot with your mom; is that right?

1 A Yes.

2 Q And Tracy would come a lot of times, too, your
3 friend Tracy?

4 A Yes.

5 Q Okay. And as we heard and you talked about, you
6 liked going over to Anita's; is that right?

7 A Yes.

8 Q Okay. Anita has a lot of dogs over there?

9 A Yes.

10 Q And you had a dog that you really liked by the name
11 of Deuce, right?

12 A Yes.

13 Q And you really like -- and Deuce was -- he was a
14 little different because Deuce didn't have any -- doesn't
15 have any eyes, does he?

16 A No.

17 Q And you helped name Deuce?

18 A Hu-uh.

19 Q No? Okay.

20 And when you'd go over there, you would help feed
21 the dogs; is that right?

22 A Yes.

23 Q Okay. And you would do that with BB; is that right?

24 A Yes.

25 Q Okay. And you and BB would do that, and your mom

1 and Tracy, they'd be at the house, right?

2 A Yes.

3 Q Okay. And your Aunt Anita, she would be there as
4 well, right?

5 A Yes.

6 Q Okay. And you were looking at a picture.

7 Mr. Anthony was showing you a picture, right?

8 A Yes.

9 MR. DELANEY: May I approach, Your Honor?

10 THE COURT: Yes, sir.

11 BY MR. DELANEY:

12 Q And, Minor , if you could, just look at this
13 picture for a minute. Now, you drew some lines by a
14 building there; is that right?

15 A Yes.

16 Q Okay. Now, that building is not -- that building is
17 not by the carport, is it?

18 A No.

19 Q Okay. That's on the other side of the yard, right?

20 A Yes.

21 Q Okay. Thank you. And, Minor , you would go to --
22 what do you call your grandfather?

23 A Rick..

24 Q You call him your grandpa or do you have a different
25 name for him?

1 A My grandpa.

2 Q Okay. Your grandpa.

3 You would go over to your grandpa's house; is that
4 right?

5 A Yes.

6 Q And did he live pretty close to where Anita lives?

7 A No.

8 Q Okay. Closer than where your mom lives. Does your
9 grandfather live closer to Anita than, say, where your
10 mom lives?

11 A Yes.

12 Q Okay. And, Minor , when you would go over to your
13 grandfather's, you would call Anita when you were over
14 there, wouldn't you?

15 A Yeah.

16 Q Okay. Because you'd want to go over there to Anita
17 and BB's place, right?

18 A Yes.

19 Q Okay. And you'd do that a lot, wouldn't you? You'd
20 call -- you'd get over there and you'd call Anita, right?

21 A Yes.

22 Q Okay. And you never -- you never told your mom that
23 you didn't want to go over to Anita or BB's place, right?

24 A Yes.

25 Q You told your mom that?

1 A No.

2 Q Okay. And you never told -- you never told your
3 grandfather anything like that, did you?

4 A No.

5 Q Okay. And what about your dad? Did you say
6 anything to your dad about that?

7 A No.

8 Q Okay. And let's talk about your mom and dad for a
9 minute, Minor . You live with your mom and dad; is that
10 right?

11 A Yes.

12 Q Okay. And does Tracy, does she live there as well?

13 A Sometimes.

14 Q And she's been living there sometimes for a few
15 years now; is that right?

16 A Yes.

17 Q Okay. And Tracy, that's a close friend of your
18 mom's?

19 A Yes.

20 Q Okay. And you go a lot of places with Tracy?

21 A Yes. Sometimes.

22 Q Okay. And as we already talked about, you, your mom
23 and Tracy would go over to Anita's and BB's a lot, right?

24 A Yes.

25 Q Okay. And, Minor , do you have a -- is there a

1 computer at your house?

2 A No.

3 Q No computer?

4 A Hu-uh.

5 Q No? Do you have a computer at school?

6 A Yes.

7 Q Yeah. Do you use the computer at school?

8 A Yes.

9 Q Yeah. Do your friends, do any of your friends have
10 computers?

11 A No.

12 Q No? None of your friends have computers?

13 A No.

14 Q No. Do your parents have phones?

15 A Yes.

16 Q Yeah. Do you play with their phones sometimes?

17 A Yeah. Sometimes.

18 Q Yeah. Okay. Does Tracy have a phone?

19 A Yes.

20 Q Okay. And are there times where you see things on
21 the phone or the computers that you shouldn't be seeing?

22 A No.

23 Q No? You've never seen any pictures of anybody
24 without their clothes on on the phone or the computer?

25 A No.

1 Q No? Okay.

2 And have you seen any movies at the house with Tracy
3 that maybe you shouldn't be seeing with people with their
4 clothes off?

5 A No.

6 Q No?

7 And you said a little earlier, Minor , that this --
8 that BB did some bad things to you behind the building by
9 the carport; is that right?

10 A Yes.

11 Q Okay. Any other places?

12 A No.

13 Q No? Okay.

14 And you told your Aunt Anita about this; is that
15 right?

16 A No. My mama did.

17 Q Your mama did? You never -- you never told your
18 Aunt Anita about what BB was doing?

19 A Me and my mama did.

20 Q You and your mom did?

21 A Yes.

22 Q But you didn't tell your Aunt Anita about this
23 happening every time?

24 A No.

25 Q No? You'd tell your mom?

1 A Yes.

2 MR. DELANEY: All right. Thank you, Minor .

3 THE COURT: Redirect, Solicitor?

4 MR. ANTHONY: Just briefly.

5 REDIRECT EXAMINATION

6 BY MR. ANTHONY:

7 Q When Tracy -- you said Tracy and your mom would
8 sometimes be there at 'Nita's?

9 A Yes.

10 Q Okay. Would there be other times when it would just
11 be you and 'Nita and BB?

12 A Yes. Sometimes when I stayed the night, my papa,
13 he'd take me over there.

14 Q Okay. All right. And the place where these things
15 happened, there's a carport at 'Nita's house; is that
16 right?

17 A Yes.

18 Q Okay. And then there's two buildings over on the
19 other side of the carport?

20 A Yes.

21 Q Okay. And I showed you the picture of the two
22 buildings over on the other side of the carport.

23 A Yes.

24 Q All right. Are those two buildings where it
25 happened or was it someplace else?

1 A It was right there -- right there at the
2 "carporch."

3 MR. ANTHONY: Thank you. That's all.

4 THE COURT: Recross?

5 MR. DELANEY: Judge, just briefly.

6 RE CROSS EXAMINATION

7 BY MR. DELANEY:

8 Q And also at the house, Minor , you said your mom
9 and your dad, right?

10 A Yes.

11 Q Okay. Sometimes Tracy?

12 A Yes.

13 Q Okay. And your dad doesn't like --

14 MR. ANTHONY: Objection. That's beyond the scope of
15 redirect.

16 THE COURT: All right. I'll sustain the objection.
17 Anything further, Mr. Delaney?

18 MR. DELANEY: No, Your Honor.

19 THE COURT: Thank you very much, Minor . You may
20 step down.

21 MR. ANTHONY: The next witness is Ms. Arnold.

22 THE CLERK: Come right here to be sworn, please.

23 WHEREUPON,

24 SARAH ARNOLD

25 After having been duly sworn, testified as follows:

DIRECT EXAMINATION

1

2

BY MR. ANTHONY:

3

Q Would you state your name, please.

4

A My name is Sarah Richardson Arnold.

5

Q And, Ms. Arnold, you can move that microphone up
just a little bit.

6

7

A Back?

8

Q Well, you can move it up.

9

A Okay. That's fine.

10

Q Yeah. That might be a little better.

11

Okay. Ms. Arnold, how are you currently employed?

12

A I teach at in Spartanburg.

13

Q And when did you start teaching there?

14

A This past fall in 2015, August.

15

Q And before that, who did you -- where did you work?

16

A For the past three years, I was here in Union County
at

17

18

Q And how much teaching experience do you have all
together?

19

20

A This is my 32nd year.

21

Q And back in January of 2015, were you working at
at that time?

22

23

A Yes, sir.

24

Q And what grade were you teaching there?

25

A Second.

1 Q And was Minor in your class?

2 A Yes, sir.

3 Q And what had been Minor's situation as far as
4 being in your class that year?

5 A She had a very difficult time with behavior. Some
6 days were good, some days were not good, but it had been
7 an issue from the first of the year.

8 Q Well, just as far as her being in your class as
9 opposed to being in somebody else's, when had she been
10 with you and when had she been with somebody else? You
11 can just give us a rough time frame.

12 A I had her for several days the first week of school,
13 and the decision was made to move her into another room
14 hoping to settle things down with her behavior. And she
15 was with another teacher until November. She was
16 transferred to another school and stayed one day and came
17 back to and was placed back in my room.

18 Q And so she had been going into -- on January 28,
19 2015, she'd been back in your class for a couple of
20 months?

21 A Yes, sir.

22 Q Okay. And during that two-month period, how would
23 you have characterized Minor's behavior?

24 A At first it was pretty much the same. After
25 Christmas when she came back, she had settled a little

1 bit and was doing a little better.

2 Q Okay. And I want to take you now to January 28th of
3 2015. Was there an incident that day involving Minor
4 after lunch?

5 A Yes, there was..

6 Q Okay. And what was happening that day after lunch?

7 A We were leaving the cafeteria walking down the
8 hallway, and she had a long yogurt stick that she brought
9 out of the cafeteria and had it dangling below her waist
10 and was emulating a sexual act with it.

11 Q And when you saw her doing this, how did you
12 respond?

13 A I looked at her with my teacher look to stop what
14 she was doing, and I actually said "stop."

15 Q Okay. And what happened after that?

16 A We walked back to the classroom, and as I turned
17 around, I saw it again. And I looked at her and gave her
18 a look to stop, which she did. We got back to the
19 classroom. I got my children settled, and I pulled her
20 out in the hallway to question ---

21 Q Well, just backing you up, though. Before you
22 pulled her out to the hallway, did you see her doing
23 anything besides dangling the stick?

24 A Yes, I did.

25 Q Okay. What was the next thing you saw her do?

1 A She had it in her mouth, and she was pulling and
2 pushing it in and out of her mouth.

3 Q And did you hear her say anything?

4 A I did. She made a comment of "mmm, mmm," when she
5 was doing that.

6 Q Okay. And how did you respond to her doing that?

7 A I ignored it, but told her to stop.

8 Q Okay. And then once you got back to class and got
9 the class settled, what did you do then?

10 A I pulled her out into the hallway to question what
11 was going on and why was she acting the way she was
12 acting.

13 Q Okay. And then did you also -- did she give you a
14 response at that time?

15 A She did.

16 Q And after getting that response, what -- did you get
17 anyone else to be there?

18 A I went next door for another teacher to be my
19 witness when I questioned her because of the nature of
20 what she was saying to me.

21 Q Okay. And was Minor asked any particular question
22 by you and the other teacher?

23 A Yes. She told us what she was doing.

24 Q Well, what -- first of all, what did y'all ask her?
25 What was she asked?

1 A The question that was asked of her was how would she
2 know to do something like that. And she had called it a
3 wienie.

4 Q Okay.

5 A And the question was asked how she would even know
6 about a male body part. And she answered ---

7 MR. DELANEY: Your Honor, I would object at this
8 time as far as hearsay.

9 MR. ANTHONY: Well, there's a certain amount of
10 victim corroboration that rule allows, and that's what
11 I'm attempting to elicit.

12 THE COURT: All right. As long as it's limited to
13 State vs. Alton -- Alcrat [phonetic], all right?

14 MR. ANTHONY: Yes, sir.

15 BY MR. ANTHONY:

16 Q Did she report to you -- once you asked her that
17 question about how she'd know what a wienie was, did she
18 report to you that she'd been subject to sexual conduct?

19 A Yes.

20 Q Okay. And did she tell you where that conduct had
21 occurred?

22 A At her aunt's home.

23 Q And did she tell you who else lived at that home?

24 A Her aunt and BB.

25 Q Okay. And did she tell you anything concerning how

1 many times this had happened?

2 A That it had happened several times.

3 Q And when you -- while you were talking to her about
4 this and she was telling you about it, what did you
5 observe about her demeanor?

6 A She was embarrassed, she was very upset, and she had
7 tears in her eyes.

8 Q And could you observe -- did you make any other
9 observations about how this seemed to be affecting her to
10 finally be able to tell about it?

11 A Relieved.

12 Q Okay. Well, after she had talked to you about these
13 things, what did you do next?

14 A I assured her that she was not in trouble. I
15 assured her that it would be taken care of and reported
16 to the proper authorities, which it was.

17 Q Okay. And who did you go talk about it?

18 A I went straight to my principal.

19 Q And who was that?

20 A Ms. Barbara Palmer.

21 Q And did you do anything to document the conversation
22 you had with **Minor** and what you had seen that day?

23 A Yes, I did. Before I went to Ms. Palmer.

24 Q Okay. And did you speak to anybody from law
25 enforcement or any other agency about what had happened

1 that day?

2 A I got a call from DSS later that afternoon.

3 Q Okay. And did you tell them basically what had
4 happened?

5 A Yes, sir.

6 Q All right. And after this incident, what -- how did
7 Minor do in your class the rest of that school year?

8 A She had her good days, she had her bad days. She
9 constantly sought my approval and would ask me if I
10 thought she was a bad child. And, of course, I told her
11 no, that what happened was not her fault. And ---

12 Q And -- go ahead. I'm sorry.

13 A --- and that she did the right thing by coming
14 forward.

15 (WHEREUPON, State's Exhibit No. 4 was marked for
16 identification.)

17 BY MR. ANTHONY:

18 Q I'm handing up what's been marked for identification
19 as State's Exhibit No. 4, and I'd ask, if you could, just
20 tell the jury what that's a picture of.

21 A A picture of a yogurt stick.

22 Q Okay. And is that the kind of item that she had
23 taken out of the lunchroom that day?

24 A It's similar.

25 MR. ANTHONY: Okay. We move 4 into evidence.

1 MR. DELANEY: Without objection, Your Honor.

2 THE COURT: State's 4 is in evidence without
3 objection.

4 (WHEREUPON, State's Exhibit No. 4 was admitted into
5 evidence.)

6 MR. ANTHONY: And I'd ask to publish this to the
7 jury.

8 BY MR. ANTHONY:

9 Q Is that -- for those of us who did not grow up in
10 the day of yogurt sticks, is that a yogurt stick?

11 A It is a type of a yogurt stick, yes.

12 Q Okay. What would you say would be the difference
13 between the kind of stick Minor had that day and the
14 one in this picture that's Exhibit No. 4?

15 A The one that was served in the cafeteria that day
16 was much longer.

17 MR. ANTHONY: Okay. All right. Thank you.

18 That's everything on direct.

19 THE COURT: Mr. Delaney?

20 CROSS EXAMINATION

21 BY MS. WILLIAMS:

22 Q Good morning, Ms. Arnold.

23 So you had Minor actually at the beginning of the
24 school year?

25 A For about three days.

1 Q And her behavior was an issue, and so she was
2 transferred to another teacher?

3 A Yes. Not by my request.

4 Q And then she -- you said she went to a different
5 school?

6 A She was in our school until November, and her mother
7 withdrew her and took her to another school.

8 Q But she was ultimately placed back in your
9 classroom?

10 A Yes.

11 Q And this all had to do with behavioral issues that
12 Minor was having?

13 A Yes.

14 Q You've been a teacher for, you said, 32 years. And
15 technology has advanced since you started teaching,
16 correct?

17 A (Nods head affirmatively.)

18 Q And nowadays in classrooms, there's computers; would
19 that be correct to say?

20 A Yes. Some.

21 Q Some. Some even have iPads nowadays; would that be
22 correct to say?

23 A Some.

24 Q So students have access to a lot more technology
25 than, I guess, 32 years ago when you started teaching?

1 A I would say yes.

2 THE COURT: Speak up for me a little bit,
3 Ms. Arnold.

4 THE WITNESS: Yes.

5 BY MS. WILLIAMS:

6 Q And nowadays, I guess when you started teaching
7 32 years ago, I guess there -- you know, the students
8 didn't carry cell phones around; would that be correct?
9 Because we didn't even carry cell phones around.

10 A Right.

11 Q And I guess now, almost everybody has a cell phone.

12 A I suppose. I still teach children that don't have
13 them.

14 Q But I would say their parents would have cell
15 phones ---

16 A Uh-huh.

17 Q --- correct?

18 MS. WILLIAMS: Just one moment, Your Honor.

19 THE COURT: Yes, ma'am.

20 MS. WILLIAMS: That's all, Your Honor.

21 THE COURT: Thank you, Ms. Williams.

22 Any redirect, Solicitor?

23 MR. ANTHONY: No. No redirect.

24 THE COURT: Thank you, Solicitor.

25 Thank you, Ms. Arnold. You may step down.

1 THE COURT: All right. Solicitor, you may call your
2 next witness.

3 MR. ANTHONY: The next witness will be Ms. Palmer.
4 Your Honor, we'd ask that the witness be excused.

5 THE COURT: Oh, yes. Any objection?

6 MR. DELANEY: No objections.

7 MS. WILLIAMS: No, Your Honor.

8 THE COURT: Thank you. Yes, ma'am. You may be
9 excused; Ms. Arnold. Thank you for being with us this
10 morning.

11 WHEREUPON,

12 BARBARA PALMER

13 After having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ANTHONY:

16 Q Would you state your name, please.

17 A My name is Barbara Palmer.

18 Q And, Ms. Palmer, how are you employed?

19 A I'm employed with Union County Schools.

20 Q And what's your position there?

21 A I'm currently coordinator of teacher quality and
22 effectiveness.

23 Q And how long have you worked with the Union County
24 Schools?

25 A This is actually my 14th year. This is my first

1 year as teacher coordinator.

2 Q I'm sorry?

3 A This is my first year as the coordinator of teacher
4 effectiveness.

5 Q Okay. And going back now to January of 2015, what
6 was your job?

7 A I was principal at

8 Q And how long were you principal with ?

9 A Ten years.

10 Q And I want to take you back now to January 28th of
11 2015. Did you have a conversation with Sarah Arnold that
12 day about an incident involving Minor ?

13 A Yes, sir.

14 Q And after Ms. Arnold and you had had that
15 conversation, what did you ask Ms. Arnold to do to try
16 and document the incident?

17 A I asked her to write -- write up the incident,
18 exactly what she was told.

19 Q And then did you contact any outside agencies about
20 the conduct that had been reported?

21 A Yes, sir. I did. Ms. Arnold and I contacted DSS
22 and had a phone conference.

23 Q All right. And then did you talk to anybody else?

24 A Yes, sir. I talked to Officer Dean Allen
25 [phonetic].

1 Q And the day this happened, did you do anything to
2 notify Minor's parents about what had happened?

3 A No, sir. Usually, when I turn it over to DSS or the
4 police, I leave that up to them.

5 Q Okay. All right. And then going on to the next
6 day, January 29th of 2015, did you meet with anybody from
7 Union Public Safety that day?

8 A I had two officers come out. Officer McGee and
9 Officer Gregory came out to speak with me. I gave them
10 the written statement from Ms. Arnold, and I also
11 notified them that Minor had asked to speak with me at
12 lunch that day.

13 Q And did you have a conversation with Minor at
14 lunchtime that day?

15 A Yes, sir. I did.

16 Q All right. And where did you talk with her?

17 A In my office.

18 Q And when you talked to her, what was her demeanor
19 when she spoke to you?

20 A She seemed a little nervous, but she talked freely.
21 And she basically told me the same things that were in
22 the statement from Ms. Arnold. And do you want me to
23 tell you more?

24 Q No. Let me just ask you a few things.

25 When you talked to her, did she make a report to you

1 that she'd been subject to sexual conduct?

2 A Yes, sir.

3 Q And did she tell you where this had happened?

4 A She said at a house in Whitmire. It was near a
5 church, and it had a carport.

6 Q Okay. And did she tell you whose home -- who
7 resided at that home?

8 A She said it was her Aunt 'Nita and BB.

9 Q And did she tell you anything about the time when
10 this conduct had occurred?

11 A Yes, sir. She would -- she said sometimes it
12 happened behind the house, sometimes behind the carport.
13 Mostly outside behind the house area.

14 Q And did she tell you any activity that was going on
15 as far as an occasion when things would happen?

16 A Yes, sir. She -- she said that sometimes he would
17 ask her to pull her pants down. She ---

18 Q Well, no.

19 A Oh, I'm sorry.

20 Q I'm sorry. I mean -- I mean just as far as a time
21 when -- as far as a time when it would happened,
22 somewhere that the two of them would be -- that she would
23 be doing when ---

24 A Sometimes when they would go feed the dogs she would
25 be with -- that would be a time that she was with him.

1 Q Okay. And then after you had this conversation with
2 Minor , did you do anything to document it?

3 A Yes, sir. I wrote my statement, and then I
4 proceeded to contact the two officers again and give them
5 my statement.

6 Q All right. And did you have any further involvement
7 in the investigative part of the case?

8 A No, sir.

9 Q And how would you characterize -- Minor was a
10 student at in first grade as well?

11 A Actually from 4K.

12 Q 4K? Okay.

13 And how would you characterize Minor , any change
14 in Minor's behavior from the time she was in the first
15 grade until the time she was in the second grade?

16 A Second grade started off very rocky with some just
17 social issues and some behavior -- classroom behaviors.
18 It started out pretty rocky.

19 Q Okay. And how was that as opposed to first grade?

20 A She had typical, you know, behavior sometimes, not
21 following directions, and, you know, talking out or, you
22 know, things like that, you know. Typical stuff. But as
23 far as any social issues . . .

24 Q And then after the disclosure, after January 28th of
25 2015, how would you characterize her behavior?

1 A It got progressively worse: more social issues,
2 some aggression, making, you know, harsh statements.

3 Q And then this school year, how would you -- what
4 changes have there been in her behavior, if any?

5 A Well, I haven't really had any contact with her but
6 other than she is going to , I believe, Elementary
7 School, and I think she's had one write-up this entire
8 school year. Or one documented.

9 MR. ANTHONY: All right. Thank you very much.

10 THE COURT: Thank you, Solicitor.

11 Ms. Williams?

12 CROSS EXAMINATION

13 BY MS. WILLIAMS:

14 Q Ms. Palmer, Minor also told you that her dad
15 didn't like BB.

16 MR. ANTHONY: Objection.

17 THE COURT: Sustained.

18 MR. ANTHONY: Move to strike.

19 MS. WILLIAMS: No further questions, Your Honor.

20 THE COURT: All right. Thank you very much. Thank
21 you.

22 Redirect? Well, she didn't really ask cross, so
23 there's no redirect.

24 MR. ANTHONY: No.

25 THE COURT: Thank you very much for being with us,

1 Ms. Palmer. You may step down. You may be excused.

2 Mr. Foreman, ladies and gentlemen of the jury, as to
3 the last question which there was no response to, the
4 question is stricken from the record, although, a
5 question is not evidence. Again, as I told you
6 initially, the evidence is actually the response of a
7 witness. However, that would not be evidence in the
8 case, the question, so that would not be part of your
9 deliberation, your determination of the verdicts in this
10 case.

11 All right. Solicitor, you may call your next
12 witness.

13 MR. ANTHONY: May we approach a minute?

14 THE COURT: Yes, sir.

15 (WHEREUPON, a bench conference was held off the record.)

16 THE COURT: Perhaps, Mr. Foreman, ladies and
17 gentlemen, now would be a good time to take our morning
18 recess. I will remind you during this recess, do not
19 discuss this case with your fellow jurors or anyone.

20 We'll take about a 20 minute recess. Thank you.
21 Thank you very much. You may now go with your bailiff.

22 (WHEREUPON, the jury exits the courtroom at 11:36 a.m.)

23 THE COURT: As to the first three witnesses that
24 testified, Minor , Sarah Arnold and Barbara
25 Palmer, I would like the record to reflect that none of

1 those witnesses were in the courtroom pretrial opening or
2 otherwise, none of them were in the courtroom at the same
3 time, one with the other. They each testified separately
4 and distinctly. After Minor testified, she left
5 the courtroom. Ms. Palmer was -- excuse me. Ms. Arnold
6 was called in. Neither Ms. Palmer nor Minor were
7 in the courtroom during Ms. Arnold's testimony. After
8 her testimony, she left the courtroom, and Ms. Palmer
9 came in and testified. And Ms. Arnold and Minor
10 were not in the courtroom.

11 All right. We'll be at recess for about 15 minutes.
12 Thank you.

13 (WHEREUPON, a recess is taken at 11:38 a.m.)

14 (WHEREUPON, State's Exhibit Nos. 5, 6 and 7 were marked
15 for identification.)

16 THE COURT: All right, Solicitor.

17 MR. ANTHONY: Your Honor, the State's next witness
18 will be Ms. Dekine, and she is the interviewer. And
19 we're going to seek to introduce the forensic interview
20 through her. So at this time, I am prepared to call her
21 to lay the foundation for her testimony in front of the
22 jury.

23 THE COURT: All right. Thank you. You may call
24 that witness.

25 MR. ANTHONY: Ms. Dekine.

1 WHEREUPON,

2 MARLANDA DEKINE

3 After having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. ANTHONY:

6 Q Would you state your name, please.

7 A Marlanda Dekine.

8 Q And, Ms. Dekine, how are you employed?

9 A I am an independent contractor with the Children's
10 Advocacy Center in Spartanburg. I work as a forensic
11 evaluator for them.

12 Q And what do you do in that capacity?

13 A I am trained to perform non-leading interviews with
14 children where there's suspected allegations of abuse.

15 Q And could you tell the Court what your training is
16 in the field of forensic interview?

17 A I'm trained in the National Children's Advocacy
18 Center model for forensic interviewing.

19 Q Okay. And how long have you been a forensic
20 interviewer?

21 A For three years and three months.

22 Q Okay. And what -- the training that you are -- the
23 National Advocacy Center model of training, how do you
24 get that? What do you do to get that level of training?

25 A You travel to the National Center for Child Abuse

1 Training located in Huntsville, Alabama, and you're there
2 for a 40-hour-week training period.

3 Q Okay. All right. And then could you just tell the
4 Court what your other educational background is?

5 A I have a bachelor's in psychology from Furman
6 University and a master in social work from the
7 University of South Carolina.

8 Q And how long -- how many -- well, how long have you
9 been a forensic interviewer? I think you said three
10 years and three months?

11 A Three months. That's correct.

12 Q Sorry about that.

13 How many kids have you interviewed during that time?

14 A 346.

15 Q All right. And did you interview Minor
16 back in February of 2015?

17 A Yes, I did.

18 Q And on what days in February?

19 A February 12th and February 25th.

20 Q And how did you come to interview her?

21 A The Children's Advocacy Center received a referral
22 from the Union County Sheriff's Office.

23 Q Okay. And the Children's Advocacy Center in
24 Spartanburg, is that part of their area that they cover,
25 Union County?

1 A Absolutely. We serve Spartanburg, Cherokee and
2 Union counties.

3 Q Okay. And when you interviewed Minor these two
4 times, where did you talk to her?

5 A At the Children's Advocacy Center.

6 Q Okay. And what kind of an area does the advocacy
7 center have to conduct these interviews?

8 A We utilize forensic interviewing rooms that are
9 prepared for children to come and get those interviews.
10 There's a camera located in the wall, and it's for that
11 purpose only.

12 Q Okay. And at the time of that interview, who was
13 present?

14 A Myself and Minor

15 Q Okay. And what can you tell the Court about the
16 general method and approach you use when you do an
17 interview with a child?

18 A We use a narrative practice along with building
19 rapport, and we're using non-leading questions to get an
20 accurate understanding of what happened based on what
21 that child has to tell us.

22 Q Okay. And when you say "narrative practice," what
23 exactly is that?

24 A Allowing the child to tell the story without us
25 leading them to the story.

1 Q Okay. All right. And how old was Minor when you
2 interviewed her?

3 A 7 years old.

4 Q And, in your opinion, based on the conversations you
5 had with her during these two interviews, did she
6 demonstrate an ability to you to give an account of the
7 incident?

8 A Yes.

9 Q And did you consider the account of the incident she
10 gave you coherent, considering her age?

11 A Yes.

12 Q And have you watched the interview again?

13 A Yes.

14 Q Okay. And when did you watch it?

15 A I watched it more than one time. I watched it last
16 week and also today.

17 Q Okay. And based on just watching it again a year
18 after the fact, is it still your opinion that this is a
19 coherent interview given by a child who can -- who's
20 demonstrated an ability to communicate about the
21 incidents?

22 A Yes.

23 MR. ANTHONY: All right. Thank you. That's
24 everything on the record for the proffer.

25 THE COURT: Thank you, Solicitor.

1 Mr. Delaney?

2 MR. DELANEY: Your Honor, I do not have any
3 questions for the witness at this time.

4 THE COURT: All right. Thank you, Ms. Dekine. You
5 may step down.

6 All right. Under 17-23-175, I find that in this
7 General Sessions court, the out-of-court statement of a
8 child is admissible if the statement was given in
9 response to questioning conducted during an investigative
10 interview with the child and there is an audio and video
11 recording; that the child, Minor , has testified at
12 these proceedings and has been subject to
13 cross-examination on the elements of the offense and the
14 making of the out-of-court statement.

15 I further find that the circumstances -- the
16 totality of the circumstances surrounding the making of
17 the statement provide particularized guarantees of
18 trustworthiness, that Ms. Dekine is trained in conducting
19 investigative interviews by the National Child Advocacy
20 Center in Huntsville, Alabama, that she follows the
21 National Child Advocacy model, she has been a forensic
22 interviewer for in excess of three years and has
23 interviewed 346 children, she has both a bachelor's
24 degree in psychology from Furman and a master's in social
25 work, University of South Carolina. She has opined that

1 the statement was an account, and a coherent account of
2 the alleged offense, and that she allowed the child to
3 give her statement without leading questions. Therefore,
4 it would comply and would possess particularized
5 guarantees of trustworthiness, and it is therefore
6 admissible.

7 Anything further before we bring out our jury,
8 Solicitor?

9 MR. ANTHONY: I guess there's one thing we ought to
10 put on the record is that there was a part of this
11 interview -- or a part of the two interviews where the
12 interviewer did tell the child that it was important that
13 she be truthful and asked questions about knowing the
14 difference between what was real and what was not real
15 and truth and a lie, and those parts of both interviews
16 have been redacted out of the exhibit we intend to submit
17 for the jury.

18 THE COURT: All right. Is that correct,
19 Mr. Delaney?

20 MR. DELANEY: That is correct, Your Honor.

21 THE COURT: All right. Thank you.

22 Anything further, Solicitor?

23 MR. ANTHONY: Just one other thing. The court
24 reporter pointed out to me that when Minor was
25 testifying, I did not move No. 2 into evidence, which is

1 her drawing -- the drawing of the female body where I
2 had her mark her private area and her rear end, had her
3 draw circles around that. I just move that in at this
4 time.

5 THE COURT: All right. Mr. Delaney?

6 MR. DELANEY: No objection, Judge.

7 THE COURT: State's 2 is in evidence without
8 objection.

9 (WHEREUPON, State's Exhibit No. 2 was admitted into
10 evidence.)

11 THE COURT: All right. Ready for the jury?

12 MR. ANTHONY: Yes, sir.

13 (WHEREUPON, the jury entered the courtroom at 12:05 p.m.)

14 THE COURT: All right. Welcome back, ladies and
15 gentlemen. We're continuing the trial of the case by the
16 presentation of evidence and testimony by the State in
17 its case in chief. If you will, please continue to give
18 the parties your complete and undivided attention.

19 Solicitor, you may call your next witness.

20 MR. ANTHONY: Thank you, Your Honor. The State's
21 next witness is Ms. Dekine.

22 WHEREUPON,

23 MARLANDA DEKINE

24 After having been duly sworn, testified as follows:

25 ///

DIRECT EXAMINATION

BY MR. ANTHONY:

Q Would you state your name, please.

A Marlanda Dekine.

Q And, Ms. Dekine, how are you employed?

A I'm employed with the Children's Advocacy Center.

Q And what do you do there?

A I provide forensic evaluations for children where abuse has been suspected.

Q And could you tell the jury your educational background?

A I have a bachelor's degree from Furman University in psychology, and my master's in social work was received at the University of South Carolina.

Q And what training do you have specifically in the field of forensic interview?

A I'm trained as a forensic evaluator with the National Children's Advocacy Center located in Huntsville, Alabama.

Q And what did you have to do to receive that training through the Children's Advocacy Center?

A We participated in a 40-hour training involving interviewing real-life children as well as evidence-based practice and research.

Q And how long have you been working with the

1 Children's Advocacy Center in Spartanburg as an
2 interviewer?

3 A Three years and three months.

4 Q And approximately how many kids have you interviewed
5 during that time?

6 A Approximately 346 children.

7 Q All right. Now I want to take you to February of
8 last year. Did you interview Minor in
9 February of last year?

10 A Yes, I did.

11 Q And how many times did you talk to her?

12 A I talked to her twice.

13 Q And on what days?

14 A February 12th and February 25th.

15 Q And how is it that the advocacy center in
16 Spartanburg would come to interview a child from Union?

17 A The Children's Advocacy Center serves Spartanburg,
18 Cherokee and Union counties.

19 Q And what agency requested that you perform these
20 interviews of Minor ?

21 A The Union County Sheriff's Office.

22 Q And where did you interview Minor ?

23 A At the Children's Advocacy Center.

24 Q And what kind of facilities do y'all have at the
25 advocacy center to conduct an interview?

1 A We have a room specialized for forensic interviewing
2 that are for the child.

3 Q And when you did these interviews, who was present
4 in the room?

5 A Myself and Minor .

6 Q And what kind of approach do you take in doing an
7 interview?

8 A Utilize narrative practice which involves allowing
9 the child to tell the story without involving leading
10 questions.

11 Q And was that the approach you took doing these
12 interviews of Minor ?

13 A Yes, it was.

14 Q And were the interviews you did of Minor
15 videotaped?

16 A Yes, they were.

17 Q I'm going to show you what's been marked for
18 identification as State's Exhibit No. 5. And I'm handing
19 up a DVD in a sleeve. I'd ask if you recognize that DVD.

20 A Yes, I do.

21 Q And how do you know that you have seen that DVD
22 before?

23 A I've initialed and dated when I -- when I saw it.

24 Q Okay. And what files are contained on that DVD?

25 A The videotaped interviews.

1 Q Okay. With Minor

2 A Yes.

3 Q And do those DVDs fairly and accurately depict the
4 two conversations you had with Minor on
5 February 12th and February 25th of last year?

6 A Yes.

7 MR. ANTHONY: Okay. Your Honor, we move No. 5 into
8 evidence and ask to publish it for the jury.

9 MR. DELANEY: No objection, Your Honor.

10 THE COURT: All right. State's 5 is in evidence
11 without objection. You may publish it.

12 (WHEREUPON, State's Exhibit No. 5 was admitted into
13 evidence.)

14 MR. ANTHONY: Can y'all get the lights, please.

15 (WHEREUPON, State's Exhibit No. 5, a video, was played in
16 open court.)

17 MR. ANTHONY: For the record, I just played the 2/12
18 interview for the jury, and at this time, will publish
19 the 2/25 one.

20 (Whereupon, State's Exhibit No. 5, a video, was played in
21 open court.)

22 MR. ANTHONY: You can go ahead and turn the lights
23 back on.

24 BY MR. ANTHONY:

25 Q Ms. Dekine, I just have a few other questions for

1 you. I'm going to show you -- I'm going to show you
2 what's been marked as Exhibit 6 and 7 for identification
3 and just ask if you recognize those two exhibits.

4 A Yes.

5 Q And what are those?

6 A These are the images that Minor identified the
7 parts of the body.

8 Q Okay. And those are from the 2/12 -- the
9 February 12th interview?

10 A Yes.

11 Q Okay. All right. Do they appear to be in the same
12 condition as they were in while you were interviewing
13 her, at the conclusion of your interview with her?

14 A Yes.

15 MR. ANTHONY: All right. We move 6 and 7 into
16 evidence.

17 MR. DELANEY: Without objection, Your Honor.

18 THE COURT: May I see them? May I see the pictures?

19 All right State's 6, 7 and 8 [sic] are in evidence
20 without objection.

21 (WHEREUPON, State's Exhibit Nos. 6 and 7 were admitted
22 into evidence.)

23 BY MR. ANTHONY:

24 Q And on these exhibits, on 6 and 7, there are some
25 circles, two on the little girl drawing and then there's

1 also some circles on the male drawing, on the front of
2 the male drawing, No. 7. What are those?

3 A Those are her identifying where the parts of his
4 body touched her body.

5 Q Okay. All right. And just one last thing. I
6 noticed that during the interviews, especially during the
7 second interview, Minor was drawing a picture. Is that
8 a common thing to do in these forensic interviews?

9 A Yes, it is.

10 Q Okay. So it's not unusual for you to have a child
11 go into a forensic interview and you give them the
12 opportunity to color or draw pictures while they talk?

13 A No, it's not.

14 MR. ANTHONY: All right. Thank you.

15 That's everything on direct.

16 THE COURT: Cross, Mr. Delaney?

17 MR. DELANEY: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MR. DELANEY:

20 Q Ms. Dekine, I notice during the interviews you had
21 stated a few times that you were confused. You were
22 going -- you had some confusion, is that correct, as far
23 as what was being reported?

24 A That I said I was confused.

25 Q Well, I heard you had said multiple times that you

1 were a little confused, needed some more clarification,
2 those type of things, correct?

3 A Yes.

4 Q And that was due to things not adding up, correct?

5 A Yes.

6 Q Things not necessarily making sense, correct?

7 A No. That we -- we say that as a prompt whenever
8 we're getting more detailed and clarification.

9 Q It wasn't due to inconsistencies that were being
10 reported to you?

11 A Yes.

12 Q It was or it wasn't?

13 A It was.

14 Q It was. Okay.

15 And, also, what you learned is that this abuse was
16 reported to Minor's aunt every time that it occurred,
17 correct?

18 A That's what Minor told me, yes.

19 Q And that's something that you tried to clarify; is
20 that correct?

21 A Yes.

22 MR. DELANEY: Okay. Thank you, Ms. Dekine. No
23 further questions.

24 THE COURT: Redirect, Solicitor?

25 MR. ANTHONY: No, sir.

1 THE COURT: Thank you very much, Ms. Dekine, for
2 being with us. You may step down.

3 MR. ANTHONY: I'd ask that the witness be excused.

4 THE COURT: Any objection, Mr. Delaney?

5 MR. DELANEY: No, Your Honor.

6 THE COURT: All right. Thank you, again;
7 Ms. Dekine. You may be excused.

8 All right. Perhaps now would be a good time to take
9 our lunch and recess. I remind you during this recess,
10 you're not to discuss this case with others. That
11 includes your fellow jurors, lunch mates, family and
12 friends, anyone else. You may not read, watch or listen
13 to any news reports about the case should there be any.
14 You may not use your cellular phone or any other device
15 with communication capabilities to research any
16 prohibited material. Prohibited material includes but is
17 not limited to the following: information about the
18 party, an attorney, a witness, a court officer; news
19 accounts of the case, if any, past or present.

20 Do not do any research on any topics raised during
21 the course of the trial, nor do not do any research on
22 any topic that you think might be helpful in deciding the
23 case. Remember, you decide the case based on the
24 evidence and the testimony presented before you in the
25 courtroom and the law as I tell you the law is.

1 I would ask you to please be back promptly at 2:30.
2 If you'd please be back promptly at 2:30. I hope y'all
3 have a pleasant lunch. Thank you very much. You may now
4 be excused.

5 (WHEREUPON, the jury exits the courtroom at 1:08 p.m.)

6 THE COURT: All right. Anything further from the
7 State before we take our lunch and recess?

8 MR. ANTHONY: No, sir.

9 THE COURT: Mr. Delaney, anything further?

10 MR. DELANEY: No, sir.

11 THE COURT: All right. Mr. Delaney, in reviewing
12 the forensic interview, were the redactions that were
13 agreed upon apparent? Was it redacted appropriately?

14 MR. DELANEY: It was, Your Honor.

15 THE COURT: Consistent with the agreement between
16 the defense and the State?

17 MR. DELANEY: Yes, Your Honor. It was.

18 THE COURT: In reviewing it or watching it during
19 the course of its publication to the jury, any other
20 areas on the tape of the 12th and the 26th [sic] that you
21 consider should be redacted?

22 MR. DELANEY: No, Your Honor.

23 THE COURT: And you think it complied with Kromah,
24 Jennings and that line of cases?

25 MR. DELANEY: I do, Your Honor.

1 THE COURT: And there was no -- no -- within the
2 tape by the interviewer on the tape, any discussions of
3 truthfulness or bolstering the witness's testimony or
4 believability or any similar like issues?

5 MR. DELANEY: I don't believe so, Your Honor.

6 THE COURT: All right. Thank you very much. The
7 Court will be in recess until 2:30.

8 (WHEREUPON, a recess was taken at 1:10 p.m.)

9 (WHEREUPON, State's Exhibit No. 8 was marked for
10 identification.)

11 THE COURT: Good afternoon. Please be seated.

12 All right. Anything from the State before we bring
13 in our jury, Solicitor?

14 MR. ANTHONY: No, Your Honor.

15 THE COURT: Defense?

16 MR. DELANEY: No, Your Honor.

17 THE COURT: All right. Thank you very much.

18 Who's your next witness, Solicitor?

19 MR. ANTHONY: Our next witness is Kaci Trammell.

20 THE COURT: Thank you.

21 (WHEREUPON, the jury entered the courtroom at 2:46 p.m.)

22 THE COURT: Welcome back, ladies and gentlemen of
23 the jury panel. Hope you had a pleasant lunch.

24 We're continuing the trial of the case by the
25 presentation of testimony by the State. If you'd please

1 continue to give the parties your complete and undivided
2 attention as you have throughout the trial in this.

3 All right. Solicitor, you may call your next
4 witness.

5 MR. ANTHONY: Thank you, Your Honor. Our next
6 witness will be Ms. Trammell.

7 THE COURT: All right. If you'd come around,
8 please, Ms. Trammell, and be sworn in.
9 WHEREUPON,

10 KACI TRAMMELL

11 After having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. ANTHONY:

14 Q Would you state your name, please.

15 A Kaci Trammell.

16 Q And, Ms. Trammell, what is your relation to Minor
17 ?

18 A My daughter.

19 Q And where do you live?

20 A Union.

21 Q And who lives with you?

22 A My husband.

23 Q And what's his name?

24 A Thomas.

25 Q And who else?

1 A That's it.

2 Q Where does Minor live?

3 A Oh, my daughter.

4 Q Okay. All right. She lives with you?

5 A Yes.

6 Q You and Mr. Trammell?

7 A Yes, sir.

8 Q Okay. And are you employed?

9 A Yes, sir.

10 Q Okay. Where do you work?

11 A Midway Barbecue.

12 Q What do you do there?

13 A I'm a cook, prep work.

14 Q And what is Minor's birthday?

15 A 2007.

16 Q And who are your parents?

17 A Ricky and Rosemary Silvers.

18 Q And where do they live?

19 A Whitmire.

20 Q And does your father have any siblings?

21 A Yes, sir.

22 Q And who is that?

23 A Anita Kinard.

24 Q And where does Ms. Kinard live?

25 A Whitmire.

1 Q Now, going back to January of 2015, did anybody live
2 with Ms. Kinard at that time?

3 A Yes.

4 Q And who was that?

5 A Cleveland.

6 Q Mr. Young?

7 A Uh-huh.

8 Q Okay. And when did the two of them, Cleveland and
9 Anita, start living together?

10 A Around 2008.

11 Q And after -- well, after Minor reached a certain
12 age, did she start spending some time at Anita's house?

13 A Yes, sir.

14 Q Okay. About how old was she when she'd start going
15 to Anita's house?

16 A About 3 1/2, 4.

17 Q Okay. And how would she come to be at Anita's
18 house?

19 A She would either go from my mom and dad's to her
20 house, or either I would take her to visit with her.

21 Q And when did these -- well, how long did these
22 visits normally last?

23 A Sometimes it would be spend the night or spend the
24 day.

25 Q All right. And once Minor started school, was

1 there a difference in the frequency of her visits between
2 when she was in school and during the summertime?

3 A Just weekends.

4 Q Just weekends when?

5 A Through the school year.

6 Q Through the school year? Okay.

7 And then in the summertime, how often might she be
8 there?

9 A Maybe some through the week.

10 Q Okay. All right. And what did Minor call
11 Mr. Young?

12 A BB.

13 Q And did that stand for anything?

14 A Just Butterball.

15 Q Butterball?

16 A Uh-huh.

17 Q And that was Mr. Young's nickname?

18 A Yeah.

19 Q All right. Did Minor ever call him anything --
20 did Minor ever call Mr. Young anything except BB?

21 A No.

22 Q And did she ever call anybody else BB besides
23 Mr. Young?

24 A No.

25 Q What was Minor's attitude about going to see

1 Mr. Young and Anita?

2 A She liked going there. She liked where she could
3 see their dogs and go play and visit with them.

4 Q Okay. What kind of things? You said she'd go play.

5 A She would ride her bike, play with the dogs, help
6 feed them.

7 Q And what was the difference between, say, where
8 Anita lived in Whitmire and where you live in Union that
9 would make it fun for a girl to go down to Whitmire?

10 A I'd say where I live in the city, she lives in the
11 country, and she has more room to play and, you know, be
12 free.

13 Q All right. Now, I want to ask you about some
14 things. A lot of things were referenced in the tapes
15 that the jury saw before lunchtime. On -- was there a
16 day that you got home and there was a card from the
17 police in your door?

18 A Yes.

19 Q Okay. And what else happened that day?

20 A I spoke with Investigator Roxie Belue.

21 Q Okay. And was that the day that you learned about
22 the allegations?

23 A No.

24 Q Okay. I mean, when you spoke with Roxie Belue, did
25 she tell you about the allegations?

1 A Oh, yes, yes, yes.

2 Q Okay. And after you talked to Roxie, what did you
3 do next in regards to Minor ?

4 A What do you mean?

5 Q Did you talk to Minor after you talked to Roxie?

6 A Oh, yes.

7 Q Okay. All right. And without going into the
8 specifics of what Minor told you, did she report to you
9 that she had been sexually assaulted?

10 A No.

11 Q Minor ? Minor didn't?

12 A Oh, yes, yes.

13 Q Okay. Minor reported she'd been sexually
14 assaulted?

15 A Yes.

16 Q Okay. And, once again, without -- just solely
17 limited to the location, did she tell you where these
18 assaults had occurred?

19 A Behind the building at Anita's.

20 Q Okay. And did she say anything as to how many times
21 they'd occurred?

22 A She said it happened more than once.

23 Q Okay. All right. And there was a reference to
24 someone named Tracy. Can you tell the jury who Tracy is?

25 A She's a friend that works with me at Midway

1 Barbecue.

2 Q And what has been Tracy's situation as far as
3 staying with you from time to time?

4 A She didn't have running water and power, and she
5 stayed with us from time to time until she got that
6 handled.

7 Q Okay. All right. Did Minor have a birthday party
8 at ?

9 A Yes, sir.

10 Q Okay. And for what age -- what age did she turn
11 when she had that -- had she turned when she had that
12 party?

13 A 7.

14 Q Okay. And between Anita and Mr. Young, who came to
15 the party and who didn't?

16 A Anita came, BB did not.

17 Q Okay. And what was Mr. Young's roll down at Anita's
18 house? What were some of the things he would do down
19 there?

20 A Just take care of the house and take care of the
21 animals and yard work.

22 Q All right. And were you familiar with the bedroom
23 situation at Anita's house?

24 A Yes, sir.

25 Q Okay. Did Mr. Young have his own room there?

1 A Yes.

2 Q I'm going to show you what's been marked for
3 identification as State's Exhibit No. 8. I'd ask if you
4 recognize this photo I'm showing you.

5 A Yes, sir.

6 Q And what is that?

7 A It's an overview look of Anita's house.

8 Q All right. And aside from Anita's house itself,
9 what else can you see on that picture?

10 A There's buildings and the carport.

11 Q Okay. And does that shot depict the location of
12 those buildings?

13 A Yes.

14 MR. ANTHONY: All right. Your Honor, we move 8 into
15 evidence.

16 MR. DELANEY: Without objection, Your Honor.

17 THE COURT: We did not have an 8? State's 8's in
18 evidence without objection.

19 (WHEREUPON, State's Exhibit No. 8 was admitted into
20 evidence.)

21 MR. ANTHONY: And I'd ask to publish.

22 THE COURT: You may publish.

23 BY MR. ANTHONY:

24 Q I'm going to hand you a pointer, put this picture on
25 the screen.

1 Okay. And what road does Anita live on?

2 A Alexander Road.

3 Q All right. And I'll just -- I'm going to zoom out
4 just to get the jury -- okay.

5 Now, can you take that pointer, and what I'd like
6 you to do -- this isn't a great picture, but I think it
7 will work. Just show the jury where her house is.

8 A (Indicating.)

9 Q Okay. That's the house?

10 A Yes.

11 Q Okay. And now where is the carport?

12 A There (indicating).

13 Q Okay. And then what is that structure behind the
14 carport?

15 A That's the building.

16 Q Okay. And what was kept in that building?

17 A Just animal food and just other household stuff.

18 Q Okay. All right. And then where are the dogs kept?
19 If you would, use the pointer and show the jury.

20 A (Indicating) In behind where the buildings are.

21 Q Okay. Just kind of across the backyard?

22 A Yeah. Across the back (indicating).

23 Q And then are there any other buildings there
24 adjacent to the house?

25 A There's two more on the side, on this side

1 (indicating).

2 Q Okay. All right. And what was kept in those
3 buildings?

4 A Some of Anita's belongings and flowers.

5 MR. DELANEY: Okay. All right. Thank you. You can
6 turn the light back on now. Thank you.

7 BY MR. ANTHONY:

8 Q Now, just a few more things about some things that
9 were said on the tape. The day of the interview at the
10 Children's Advocacy Center where you took Minor up
11 there, where did you tell her she was going?

12 A The dentist.

13 Q And why did you do that?

14 A I didn't really know what to say to her. I took a
15 gamble, you know. I kind of left it in their hands, you
16 know, like I was told.

17 Q Okay. All right. And when she -- Minor would
18 have had that interview on February 12th. Did you have
19 any kind of problem with your leg, any kind of condition
20 going on?

21 A Yeah. From work.

22 Q What had happened at your job?

23 A It was a slip.

24 Q Okay. And does Minor have any -- any other half
25 siblings or siblings?

1 A No.

2 Q Okay. At one point in time, was there a child that
3 she would refer to as her brother?

4 A Yes.

5 Q Okay. And who was that?

6 A D .

7 Q Okay. And what was y'all's family relationship to
8 D ?

9 A Just friends.

10 Q Okay. All right. Where did Minor go to the first
11 grade?

12 A .

13 Q And what was her behavior like during the first
14 grade?

15 A It went well.

16 Q And the summer -- well, when would she have finished
17 first grade?

18 A At the end of 2014 into '15.

19 Q Okay. Like May of 2014 ---

20 A Yes.

21 Q --- would have been the end of her first grade year?

22 A Uh-huh.

23 Q Okay. And that summer after she finished first
24 grade, how often would she have been at 'Nita's?

25 A A few times through the week and weekend.

1 Q Okay. And how many times would you say she would
2 have spent the night that summer?

3 A Maybe four or five.

4 Q And then after she started second grade in the fall
5 of 2015, what happened with her behavior?

6 A It kind of changed a little bit.

7 Q And now -- where is she in school now?

8 A .

9 Q Okay. What grade is she in now?

10 A She's back in second.

11 Q Okay. And so she's repeating the second grade?

12 A Yes, sir.

13 Q And what has her behavior been at relative
14 to what it was like at last year?

15 A She -- she started doing a little bit better as time
16 went on. She still had her good days and had her bad
17 days.

18 Q Okay.

19 A She's had a lot of better days recently from talking
20 to her therapist.

21 Q Okay. All right. And as far as her behavior at
22 home, what kind of behavioral issues after -- after she
23 disclosed in January of last year, what kind of
24 behavioral issues did y'all have to deal with at your
25 home with Minor ?

1 A She was really sad and emotional, kind of wouldn't
2 mind for a while.

3 Q And were there any -- did y'all have issues with her
4 as far as sleeping?

5 A Yes, sir.

6 Q And what kind of issues did you have?

7 A She was having nightmares.

8 Q I'm sorry?

9 A She was having dreams.

10 Q Okay. And where did she start wanting to sleep?

11 A She started wanting to come to bed with her dad and
12 I.

13 Q And was that typical of her before then?

14 A No, sir.

15 Q Okay. Were there any issues, any kind of urine
16 control issues that y'all had to deal with?

17 A There for a while, there was.

18 Q All right. When was that and what was happening?

19 A That was during school she would have problems about
20 wetting herself, and then I would have to take her --
21 change her clothes from time to time.

22 Q And how did she -- just what was her -- after she
23 told about this, what did you notice as far as just a
24 change in her overall attitude and how she related to
25 people around you?

1. A Could you repeat that?

2. Q Yeah. Just as far as her attitude, what did you
3. notice about a change in it?

4. A She wouldn't like to go around others for a while.
5. She kind of stayed to herself.

6. Q And you said -- you said something about her seeing
7. a therapist?

8. A Yes, sir.

9. Q Okay. What's the therapist's name?

10. A Brooke Thompson.

11. Q And in the past, say, since she started back to
12. school this year, what have you observed about her
13. behavior at home?

14. A It's gotten better.

15. MR. ANTHONY: If I could just have one moment.

16. THE COURT: Yes, sir.

17. MR. ANTHONY: All right. That's everything on
18. direct.

19. THE COURT: Mr. Delaney?

20. MR. DELANEY: Yes, Your Honor.

21. CROSS EXAMINATION

22. BY MR. DELANEY:

23. Q Good afternoon, Kaci.

24. Police left a card for you in your door; is that
25. correct?

1 A Yes, sir.

2 Q Okay. And that was the end of January 2015,
3 correct?

4 A Yes, sir.

5 Q Okay. So you get home that day, find a card just
6 inside the front door; is that accurate?

7 A Yes, sir.

8 Q Was that a school day?

9 A Yes, it was.

10 Q Okay. Minor was at school that day?

11 A Yes, sir.

12 Q Okay. And that particular day, Minor did not go
13 over, did not see Anita, did not see Cleveland ---

14 A No, sir.

15 Q --- on that particular day, correct?

16 A No, sir.

17 Q Okay. And you gave a written statement in this
18 case; is that correct?

19 A Yes, sir.

20 Q Okay. And that was the beginning of February 2015;
21 is that right?

22 A Yes.

23 Q Okay. Did you have an opportunity to -- before
24 testifying here today, did you have an opportunity to
25 review your statement?

1 A Yes, sir.

2 Q Okay. And according to the statement that you gave,
3 Minor would go or was going over to Anita and Cleveland
4 from 2011 through 2014; is that what you put in the
5 statement?

6 A Yes, sir.

7 Q Okay. And since she was about 4 years old?

8 A Yes.

9 Q Okay. And in the statement, you had said she had
10 been there to visit with them, I think you said,
11 sometimes; is that right?

12 A Yes.

13 Q Okay. And I think we heard a little bit earlier,
14 safe to say a little more than several times; is that
15 correct?

16 A Yes, sir.

17 Q Okay. And, in fact -- well, go back -- strike that.
18 Minor liked going over to -- as we heard, she
19 liked going over to her Aunt Anita's, correct?

20 A Yes.

21 Q Okay. And Anita Kinard, is that your aunt or ---

22 A That's my aunt. That's Minor's great aunt.

23 Q Great aunt. Okay.

24 And you were close with Anita as well, correct?

25 A Yes.

1 Q Okay. You liked going over there, correct?

2 A Yes.

3 Q Okay. And you would go over there with Minor ,
4 right?

5 A Yes.

6 Q Okay. Your friend Tracy would come a lot as well,
7 right?

8 A Yes.

9 Q Okay. And, on average, would it be safe to say you
10 all would go over there a couple times a month?

11 A Yeah.

12 Q Okay. And that spanned over since 2011 into 2015.
13 We're talking three, four years; is that correct?

14 A Yes.

15 Q Okay. And you're saying about twice a month?

16 A Yes.

17 Q Okay. And when you would go over there, you would
18 go over there to visit with your aunt?

19 A Yes. I would go visit with my aunt.

20 Q Okay. And Minor would go over there to play with
21 the dogs?

22 A Yes.

23 Q Okay. She had -- we heard she had a dog that she
24 liked over there?

25 A Yes, sir.

1 Q Okay. When you were over there, would you be in the
2 house or would you be outside?

3 A Both.

4 Q Both. Okay.

5 And we saw and you talked a little bit about the
6 layout of the house; is that correct?

7 A Yes.

8 Q Okay. From the aerial photograph that you were
9 shown?

10 A Yes, sir.

11 Q Okay. And you talked about where the carport was;
12 is that right?

13 A Yes.

14 Q And we saw where the dogs were in the back?

15 A Yes.

16 Q Okay. There's windows, kitchen windows that look
17 into the carport area; is that correct?

18 A Yes.

19 Q Okay. And there's also windows that look out the
20 back of the house; is that correct?

21 A Yes.

22 Q Okay. And there's houses around. It's hard to tell
23 in the aerial view, but there's actually a house directly
24 across the street from Anita's, correct?

25 A Yes. There's a trailer. Yes, sir.

1 Q Okay. A guy named Gary lives there?

2 A Yes.

3 Q Okay. At any time, did you ever see anything
4 inappropriate going on between Cleveland and Minor ?

5 A No, I did not.

6 Q Never saw any type of inappropriate behavior,
7 correct?

8 A No, I did not.

9 Q Okay. Nothing was reported to you, correct?

10 A No, sir.

11 Q Never heard from anyone that anything inappropriate
12 was going on, correct?

13 A No, sir.

14 Q Not anything from Anita, right?

15 A No, sir.

16 Q Not anything from your friend Tracy, right?

17 A No, sir.

18 Q Not anything from Minor , correct?

19 A No. Not at the time, no.

20 Q Okay. And we've heard Tracy is a close friend of
21 yours; is that right?

22 A Yes.

23 Q Okay. And she stays at the house a lot; is that
24 right?

25 A She did.

1 Q Okay. She doesn't anymore?

2 A No.

3 Q Okay. But she had been staying there on and off for
4 years; is that right?

5 A About three and a half years on and off.

6 Q Okay. And you would go with Tracy and Minor other
7 places together than just to Anita's and Cleveland's; is
8 that correct?

9 A Yes.

10 Q You would go a lot of times down to the Tyger River
11 community; is that correct?

12 A That's where Tracy was staying at the time.

13 Q Okay. She has family that lives down there?

14 A Yes, sir.

15 Q Okay. So you would go down there?

16 A Yeah. I would take her from work there. She had no
17 transportation.

18 Q Your husband, Thomas, he lives at the house as well,
19 correct?

20 A Yes.

21 Q With you and Minor, correct?

22 A Yes.

23 Q And we heard testimony that Minor would call --
24 Minor had a name for Cleveland; is that correct?

25 A Yes.

1 Q Okay. And what would she call Cleveland?

2 A BB.

3 Q Okay. And would she ever call him any other type of
4 names?

5 A No.

6 Q Not any names that weren't very nice?

7 A No.

8 Q You've never witnessed any or overheard anything
9 like that?

10 A No.

11 Q Okay. Your husband, he didn't go over to Anita and
12 Cleveland's place with you and Minor ; is that correct?

13 A Not often.

14 Q Okay. That's because he didn't like Cleveland,
15 right?

16 A It wasn't that he didn't like him.

17 Q He'd say some not very nice things about him, right?

18 A No.

19 Q No?

20 A No.

21 Q You never heard anything like that?

22 A No.

23 Q And Minor never heard anything like that as well?

24 A No.

25 Q None of the views that he had?

1 A No. Not until after all this had took place.

2 Q You never had an issue with Minor not wanting to
3 go over to Anita's, correct?

4 A No, sir.

5 Q She never told you she didn't want to go over there,
6 right?

7 A No, sir.

8 Q Never cried to you, right?

9 A No, sir.

10 Q Never threw a fit?

11 A No, sir.

12 Q She wanted to go over there, correct?

13 A Yes.

14 Q Okay. And that never changed, correct, up until
15 these allegations come out?

16 A Yeah. That never changed up until all this
17 happened.

18 Q Because she would go stay at your father's place; is
19 that right?

20 A Yes, sir.

21 Q Okay. And when she went over there, a lot of times
22 she wouldn't want to stay over there, right?

23 A Sometimes.

24 Q You had testified a little earlier Anita, your aunt,
25 never reported to you any type of abuse that was going

1 on, correct?

2 A Yes, sir.

3 Q Okay. And there was never a situation in the
4 driveway of Anita's with your friend Tracy where you were
5 told about abuse?

6 A No, sir.

7 Q Never a situation where a guy drove by in a car and
8 saw some things and Anita reported that to you?

9 A No, sir.

10 MR. DELANEY: Okay. Thank you, Kaci.

11 THE COURT: Redirect, Solicitor?

12 MR. ANTHONY: If I could just have a moment. No
13 redirect.

14 THE COURT: Thank you. Thank you very much,
15 Ms. Trammell. You may step down.

16 All right. Solicitor, you may call your next
17 witness.

18 MR. ANTHONY: We call Dr. Henderson.

19 WHEREUPON,

20 NANCY. HENDERSON

21 After having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. ANTHONY:

24 Q Would you state your name, please.

25 A Nancy Henderson.

1 Q And, Dr. Henderson, how are you employed?

2 A I'm employed with Greenville Health System.

3 Q And what is your position there?

4 A I'm director of the Division of Forensic Pediatrics
5 there in the hospital.

6 Q And could you tell the jury your educational
7 background, please.

8 A Yes. I went to Rutgers College of Pharmacy which is
9 in New Jersey and got a BS in pharmacy as my
10 undergraduate degree, and then I went to Bowman Gray
11 School of Medicine which is in Winston-Salem, North
12 Carolina and got my medical degree, and then I did my
13 pediatric residency at TC, Thompson Children's Hospital
14 which is in Chattanooga, Tennessee.

15 Q And you are a pediatric specialist?

16 A Yes, sir.

17 Q Okay. And as a pediatric specialist, do you have
18 any kind of certifications in that particular field of
19 medicine?

20 A Yes. Board certified in pediatrics, and then in
21 2009 they developed a sub-board in the area of child
22 abuse and neglect. So you had to have a large portion of
23 your practice to be able to sit for that exam, which I
24 did, and pass the exam, and then you have to recertify
25 every ten years. So I'm sub-boarded in child abuse

1 pediatrics.

2 Q And, basically, to get that kind of certification,
3 you have to pass a test, basically?

4 A Correct.

5 Q Okay. All right. And in your job, what do you do
6 in particular in regards to child abuse investigations?
7 What role do you fill?

8 A Well, my job is pretty varied. About half of the
9 month I'm on call, so I'm involved with children that
10 might come into the hospital when there's a concern about
11 abuse and neglect, and I may get consulted when there's a
12 child comes in with a fracture or head injury.

13 I also work at the two advocacy centers, the
14 Children's Advocacy Center in Spartanburg and the Julie
15 Valentine Center in Greenville. And we are referred
16 children from primarily DSS and law enforcement, and it's
17 just children, there's concerns of child sexual abuse.
18 And I do the medical evaluations over there.

19 I'm also involved at Pendleton Place which is in
20 Greenville. It used to be a children's shelter, but now
21 it's an assessment center for children coming into foster
22 care. So I'm involved with evaluating the children
23 coming into foster care from a medical standpoint, and I
24 also do a follow-up clinic, a foster-care clinic for
25 them.

1 I'm also involved with teaching the pediatric
2 residents and medical students that rotate through our
3 area.

4 Q And you said that you have this roll in Greenville
5 and Spartanburg where you do the child abuse
6 examinations; is that correct?

7 A Yes, sir.

8 Q Okay. And how long have you been doing this?

9 A At the centers?

10 Q Yes.

11 A I've been doing the examinations in Spartanburg
12 since it opened up, which is in like 1994.

13 Q Okay. All right. And approximately how many child
14 abuse examinations have you done?

15 A I probably see about three or 400 a year at the
16 centers, outpatient evaluations.

17 Q And then I take it a number of those are specific
18 examinations that involve allegations of child sexual
19 abuse?

20 A The majority of the outpatient evaluations are
21 related to that. Yes, sir.

22 Q Okay. And have you been qualified as an expert
23 before in the field of child sexual abuse or some field
24 closer related -- closely related to that?

25 A Right. Sometimes it's child abuse and neglect,

1 child sexual abuse, which is kind of a sub-portion in the
2 area of child abuse. Yes, I have.

3 Q And approximately how many times?

4 A I'm probably either in Family Court or criminal
5 court probably a couple times a month.

6 Q So approximately 24 times a year?

7 A Approximately.

8 Q Something like that?

9 A Something like that.

10 Q That goes back over 20 years?

11 A Probably a lot more now, but I've been doing it for
12 quite some time.

13 MR. ANTHONY: All right. Your Honor, at this time,
14 we would submit Dr. Henderson as an expert in the field
15 of child sexual abuse.

16 THE COURT: Voir dire, Mr. Delaney?

17 MR. DELANEY: No, Your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Foreman, ladies and gentlemen of the jury,
20 normally, a person cannot testify to opinion testimony.
21 Normally, when a person testifies, they must testify as
22 to either what they saw, heard or sensed by smell or
23 something of that nature. However, there is an exception
24 for someone who, by training, experience, education has
25 become an expert in a particular field, art, science,

1 profession or craft, if the Court qualifies them that
2 way.

3 This witness, Dr. Nancy Henderson, will be qualified
4 as an expert in the field of child sexual abuse to give
5 opinion testimony in that area and also the basis of
6 those opinions. That does not mean that you must accept
7 the opinions or the basis of the opinions, but it is
8 evidence for you the jury to use in any way you deem fit
9 and appropriate. Thank you.

10 Thank you, Solicitor. You may continue.

11 MR. ANTHONY: Thank you, Your Honor.

12 BY MR. ANTHONY:

13 Q Okay. I want to ask you specifically about
14 March 10, 2015. Did you come to perform a sexual abuse
15 examination on Minor on that day?

16 A Yes, I did.

17 Q And where did you do that?

18 A That was at the Children's Advocacy Center in
19 Spartanburg.

20 Q Okay. And when you initially began the examination,
21 did you have a conversation with Minor ?

22 A Yes, I did.

23 Q Okay. And without going into any of the specific
24 details, did she report to you that she had been sexually
25 assaulted?

1 A Yes, she did.

2 Q Did she tell you when this had occurred?

3 A Yes, she did.

4 Q What time frame did she give you?

5 A She said it had happened at ages 5, 6 and 7.

6 Q Okay. And did you do -- well, if you would, just
7 tell the jury, when you do these types of examinations,
8 what exactly do they involve?

9 A Okay. The actual physical exam involves a complete
10 head to toe exam. So I look in the eyes, the ears,
11 listen to the heart and lungs, the abdomen. And the
12 children actually get to look at the equipment ahead of
13 time so that they can become more comfortable with the
14 examination.

15 I use a piece of equipment called a culpascope which
16 just allows for a really good light source and
17 magnification of the genital area to get a better look.
18 The child puts her legs -- we call it feet holders, but
19 the stirrups like an adult GYN examination position.
20 It's not like an adult exam. We don't use a speculum
21 because all the things that we need to see are very, very
22 close to the outer part of the genital area.

23 So I look at that area. Depending on the concerns
24 and allegations, I will do specific tests related to
25 that.

1 And that is what her exam consisted of.

2 Q Okay. And did she report any kind of condition to
3 you that would be related to either rectal or vaginal
4 trauma?

5 A Well, during -- when we did talk, she did share that
6 she had had some rectal bleeding.

7 Q All right. And when you examined -- first of all,
8 I'll ask you about the rectum. When you examined the
9 rectum, did you note any inquiries to Minor's rectum?

10 A There was not any injuries.

11 Q And in your experience, how common is it to find
12 rectal damage when you do one of these examinations?

13 A It is very uncommon to find any kind of residual
14 trauma in the rectal area.

15 Q And why would that -- what would be the reason for
16 that? Even if there had been trauma, what would be the
17 reason that you wouldn't find ---

18 A There's a -- there's a good number of reasons for
19 that. That area, one, has a very good blood supply, so
20 if there was a small tear to that area, it healed very,
21 very quickly and then not be able to be picked up on a
22 later exam.

23 Children don't have an injury one day, then get to
24 the medical exam the next day, so their body's ability to
25 heal happens very, very quickly. A lot of times for

1 children, these kind of things happen, and it never
2 leaves any trauma to that area.

3 When you think about what that area does normally,
4 which is allow, you know, stool to pass out and get
5 bigger and then get smaller is what its normal job
6 function is, and we do that on a daily basis without any
7 trauma often to that area. So when things going in the
8 opposite direction, it often can happen without any
9 specific trauma to that area.

10 Q And did you also do an examination of Minor's
11 vaginal area?

12 A Yes, I did.

13 Q And did you note any injuries to her vaginal area?

14 A She did not have any injuries to that area.

15 Q And in your experience, is it common for trauma to a
16 child's vaginal area to leave injury?

17 A In my experience and in the literature, about
18 95 percent of the time, children also have normal exams
19 to their genital area, vaginal area as well.

20 Q Okay. And what would be -- how would that be if a
21 child's vaginal area has been penetrated that there would
22 not be medical evidence of that?

23 A Well, a lot of times, when we talk to children,
24 especially young children, we ask them what -- their
25 names for that body area, and they give us one name for

1 the entire area. So a lot of times when they describe
2 what has happened, someone's private part going into
3 their whatever the name is, we think of it in more adult
4 terms that it might have gone into the vaginal area,
5 therefore, trauma, that there should be evidence.

6 But a lot of times, what happens, it just goes into
7 the outer genital area. It would be the same description
8 that they would describe. It hurts, goes inside in
9 between their legs. So a lot of times, it's just
10 different terminology and perceptions, and that would
11 make perfect sense why it might hurt. They may have
12 irritation or burning, but they often don't have any
13 long-lasting medical evidence.

14 Another reason, just like in the rectal area, if
15 there were small tears there, they can also heal very,
16 very quickly, and then if you see a child subsequently
17 even within weeks, it can be -- they can look totally
18 normal.

19 Q And aside from just the examination, did you do any
20 kind of lab work or order any kind of lab work related to
21 Minor ?

22 A Yes, I did.

23 Q Okay. What did you order?

24 A We did -- I did -- she went to the bathroom in a
25 cup, and we did a urinalysis, a urine culture. And we

1 can also do what we call a NAAT which is a way that they
2 can test for STIs, specifically gonorrhea and chlamydia
3 off the urine. I also did that similar test from a
4 rectal swab for gonorrhea and chlamydia.

5 Q Okay. What were Minor's results from those swabs
6 that you took?

7 A The urine test came back totally negative, but the
8 rectal swab was negative for gonorrhea but was positive
9 for chlamydia.

10 Q And then once you received this test result, did you
11 do anything to make sure it was accurate?

12 A Right. So the -- because the science has changed
13 quite a bit over the time that I've been involved, we
14 used to do cultures for that area which was actually
15 pretty hard. It used to be kind of the gold standard,
16 but it was really hard to take that Q-tip, do the culture
17 and then have it travel back to the lab. And it really
18 turned out to not be so sensitive.

19 So what we do now is from the swab, they do an
20 initial test off of the swab. And if it comes back
21 positive, they automatically do a reflex test looking at
22 another site to check to make sure that initial screening
23 test that was positive, is it positive at that other site
24 as well. And that's what we did for her, and both of
25 those tests were positive.

1 Q And I want to ask you a few questions about
2 chlamydia.

3 A Yes, sir.

4 Q How do people get chlamydia?

5 A In the pediatric population, it's not a very common
6 infection. So we'll see it sometimes during the first
7 couple of years of life that a mom, who was infected, can
8 pass it to baby, and they can present. And they don't
9 present with chlamydia in the genital tract. They'll
10 present with chlamydia in the respiratory tract. And so
11 we'll see it then.

12 And then we see chlamydia again in the preadolescent
13 period, and that is related to sexual abuse.

14 Q And how is chlamydia spread? When you said through
15 sexual abuse, what specifically has to happen?

16 A Well, it has to spread from someone who has the
17 infection to that particular orifice is one way it could
18 spread. So if someone has chlamydia and there is
19 penetration to the genital area, it could spread that
20 way. It is possible that sometimes in wiping, a child
21 could spread the infection also to the rectal area as
22 well because of the close proximity to the area, but also
23 it can just be introduced into the rectal area directly
24 from penetration.

25 Q And on a male, assuming you have a situation where a

1 female child has chlamydia, that would have to come from
2 a male private organ ---

3 A Yes.

4 Q --- to enter the rectum; is that correct?

5 A Yes, sir.

6 Q Okay. And if a person, child, adult either way has
7 rectal -- has a rectal chlamydia infection, is it
8 possible for them to have that and not know it?

9 A Yes. That is one of the things about chlamydia. It
10 is the No. 1 sexually transmitted infection. About maybe
11 a million cases a year that we know of.

12 But somewhere between 50 percent are not -- people
13 are not symptomatic so it's very easy for that type of
14 infection to pass from one person to the other because
15 they don't know they have the infection so they don't
16 seek treatment. So asymptomatic infection is very
17 common, but also can be very serious, especially in women
18 because it can lead to more systemic type problems.

19 Q Okay. And when you use the word "asymptomatic,"
20 what do you mean by that?

21 A Asymptomatic, meaning that you don't even know that
22 it's there, you don't have any burning, any discharge,
23 any bleeding. It's only there because we did the test
24 and it came back positive. I guess it would be like you
25 had -- you're going in and a doctor did a test for like

1 strep throat and you had a strep infection, but you
2 didn't go in because you had a fever or a sore throat but
3 they just did the swab and it came back positive. That
4 would be an asymptomatic infection.

5 Q And if you find that somebody has a case of
6 chlamydia, how do you treat it?

7 A It actually is very easily treated with antibiotic
8 Zithromax, azithromycin, which is a very common
9 antibiotic that we use in children and in adults. And it
10 could be taken 1 gram, which is four tablets, just as a
11 one-time dose.

12 Q And is there any information in the medical
13 community about the possibility of chlamydia -- rectal --
14 well, any type of chlamydia cases clearing without
15 treatment?

16 A Right. We -- I had looked at this one particular
17 study that came out in 2005 that was in the Journal of
18 OB/GYN and looked at pregnant women that were --
19 submitted their urine for other reasons, not because they
20 were having problems. So they submitted the urine test
21 for another reason, and then these tests, the urine's got
22 kind of declassified so they weren't actually associated
23 back with the person, and they followed a number of
24 these. About 1,500 came back positive for chlamydia and
25 then were rechecked about eight weeks later, and they

1 were found to be negative. And they were followed in
2 this particular OB clinic, so they weren't going
3 anywhere. If these people had symptoms or had been
4 treated with something like azithromycin, they were
5 removed from the study.

6 So only people that had totally asymptomatic
7 infections were continued, and they did find about
8 40 percent in this particular study were able to clear
9 the infection without any treatment.

10 Q And was there also a finding in that study about the
11 likelihood of older people to clear the infection as
12 opposed to younger people?

13 A They did look at that, and they did see some
14 similarity with women who were a little bit older in
15 maternal age, pregnant, obviously did seem to clear the
16 infection more commonly. And I think the suggestion from
17 one particular article was maybe their -- that they had
18 some previous exposure to it and so they were able to
19 mount a response, an immune response themselves and were
20 able to clear the infection. I haven't seen any
21 follow-up studies kind of looking at that, but I thought
22 that was -- makes sense to me that that really could
23 happen.

24 Q And then was that -- was the percentage 42?

25 A It was like 44 percent in this one study. Yes, sir.

1 Q 44. Okay. Thank you.

2 And as far as -- going back to Minor , as far as
3 the case she had, what did you do as far as treating her
4 particular case in dealing with that result?

5 A So we -- she was put on antibiotics, and then she
6 did come back and resubmit that same urine test again
7 just to make sure that she had cleared the infection,
8 which she did. It came back negative.

9 MR. ANTHONY: If I could just have one moment,
10 please.

11 THE COURT: Yes, sir.

12 MR. ANTHONY: All right. Thank you. That's
13 everything on the record.

14 THE COURT: All right.

15 Mr. Delaney?

16 MR. DELANEY: Thank you, Your Honor,

17 CROSS EXAMINATION

18 BY MR. DELANEY:

19 Q Good afternoon, Doctor.

20 As we heard, Doctor, you did the forensic medical
21 exam on March 10, 2015; is that correct?

22 A Yes, sir.

23 Q Okay. And that was an exam that was done from a
24 referral that was made, it looks like, in the beginning
25 of February; is that correct?

1 A From law enforcement.

2 Q Okay. And there can be a wait, I guess, sometimes
3 to get in?

4 A But they usually go through the forensic interview
5 that they have there first. And sometimes the forensic
6 interviewer may see them a couple of times, and then I
7 often will see them. Subsequently, they'll make a
8 medical appointment.

9 Q Sure. And the reason for the referral was an
10 allegation of sexual abuse; is that correct?

11 A That is correct.

12 Q Okay. And specifically, what we heard was a report
13 of anal penetration, correct?

14 A Correct.

15 Q Happened -- the report was that it happened a lot,
16 correct?

17 A Correct.

18 Q Some bleeding, correct?

19 A Correct.

20 Q Vaginal penetration, correct?

21 A That is not what she had shared with me, but I know
22 she has shared that during the forensic interview.

23 Q So you're at least aware, and it wasn't shared to
24 you specifically. I guess what was reported to you that
25 day was just anal penetration happening more than once

1 with some bleeding, correct?

2 A Correct.

3 Q But you were aware of the allegation of vaginal
4 penetration, correct?

5 A Correct.

6 Q Okay. And because of that, you performed a medical
7 exam, correct?

8 A Correct.

9 Q Okay. And you used, as we heard, culpascope?

10 A Yes, sir.

11 Q Okay. Did I say it right?

12 And that is -- as we've heard, that's a special,
13 essentially magnifying glass that you use; is that right?

14 A And light source, yes.

15 Q Okay. And as we've heard, using that equipment,
16 light source, magnifying glass, you identified no
17 injuries; is that correct?

18 A That is correct.

19 Q Okay. And that would include no tears, right?

20 A Correct.

21 Q No bruising?

22 A Correct.

23 Q No redness?

24 A Correct.

25 Q No marks?

1 A Correct.

2 Q Okay. No scars?

3 A Correct.

4 Q Okay. And if something does tear and heal up,
5 that's something that could cause -- leave a scar,
6 correct?

7 A Sometimes, but not necessarily.

8 Q Did not find any type of discharge; is that correct?

9 A That's correct.

10 Q Okay. And that was to -- did not find any of those
11 things while looking through the culpascope at the anus;
12 is that correct?

13 A Correct.

14 Q Okay. Nothing -- now, you also -- as we've heard,
15 you've also examined the vagina; is that correct?

16 A Correct.

17 Q Okay. And there were no injuries noted there as
18 well?

19 A That's correct.

20 Q Okay. And that would include no injuries to the
21 hymen, correct?

22 A That's correct.

23 Q Okay. And the hymen, there's a membrane,
24 essentially, I guess it's referred to as concentric, a
25 membrane that surrounds the vaginal opening, correct?

1 A It's partially. But it's called concentric because
2 it's like a moon shaped and it goes -- it's kind of on
3 the lower part of the vaginal opening.

4 Q Okay. And you found no damage, no injuries to this
5 particular membrane; is that correct?

6 A That's correct.

7 Q Okay. And yet you said that -- I think you
8 testified that 95 percent of the time, there's going to
9 be no evidence of vaginal penetration; is that correct?

10 A That's correct.

11 Q With a small child and an adult man, 95 percent of
12 the time you're going to find no evidence to the --
13 injuries to the vagina?

14 A That's correct.

15 Q Okay. And no study -- you said you referred to
16 certain studies on that?

17 A Probably the best study is back in 1994 by Joyce
18 Adams who's out of San Diego, child abuse pediatrician.
19 And the title of that article is "It's Normal to be
20 Normal."

21 So they looked at thousands of children where there
22 had been court cases where there had been confessions,
23 and these children had normal exams and there was
24 disclosures of penetration. I think a lot of it is based
25 on what I had said earlier that, again, when we talk

1 about penetration, it may not necessarily be into the
2 vagina, but it would be into the whole genital area. But
3 we're just allowing a child to use one word to describe
4 that.

5 Q Right. Because if there's actual penetration into
6 the vagina, there's going to be some things you're going
7 to be looking for as far as an intact hymen, those type
8 of things, correct?

9 A Those are things that I look for.

10 Q Okay. And as we've heard, this exam, Minor
11 Minor exam was normal, correct?

12 A That's correct.

13 Q Okay. Now, Doctor, I would like to talk to you for
14 a few minutes about the chlamydia testing that went on in
15 this case.

16 A Yes, sir.

17 Q You -- it was a nucleic acid amplified test that was
18 used ---

19 A Yes.

20 Q --- is that correct?

21 A That's correct.

22 Q Am I saying that right?

23 A Yes.

24 Q Okay. Also referred to, I guess, as a NAAT?

25 A Correct.

1 Q Okay. With these type of tests, positive test
2 results should also be evaluated along with the physical
3 examination, is that correct, and any other type of
4 diagnostic tools or findings that you have?

5 A I'm not sure I understand the question that you're
6 asking.

7 Q Well, you have a positive test result. You want to
8 have some type of corroboration of that test result; is
9 that right?

10 A Well, not necessarily. I mean, there's a lot of
11 push to do these type of tests in schools because they
12 know that adolescents are very sexually active, they're
13 not really disclosing, and it's a really excellent way to
14 check for sexually transmitted infections without, you
15 know, getting a positive or negative history with the
16 availability to treat them and really decrease their risk
17 for more severe infections related to chlamydia.

18 So yes. You know, yes, we certainly do that, but
19 the test is a very accurate test. And so sometimes the
20 history doesn't necessarily corroborate with it, but
21 without doing the follow-up test, it is certainly a very
22 high -- high testing ability.

23 Q In going back to I think you had just testified as
24 far as the accuracy of these tests, and that's what I'm
25 asking this for is if there's any type of follow-up exam

1 that's done or testing that's done that can confirm this
2 positive chlamydia test. Because we heard testimony that
3 she gave a urine sample, correct?

4 A Correct.

5 Q And that urine sample was negative, right?

6 A No.

7 Q No?

8 A Well, the urine sample was negative ---

9 Q Right.

10 A --- but the rectal swab ---

11 Q Right.

12 A --- which was a separate NAAT test ---

13 Q Right.

14 A --- was positive.

15 Q Right. So one of the tests said negative, one of
16 the tests said positive.

17 A One was negative from the urethra ---

18 Q Okay.

19 A --- and the other one was positive from the rectal
20 area.

21 Q Okay. And there's also swabs done of the throat; is
22 that correct? Or the throat that ---

23 A Not with chlamydia. We don't check chlamydia of the
24 throat. That's just for gonorrhea.

25 Q Okay. And would you do a swab of the vagina or is

1 that through the urine?

2 A We just, in this age, because they don't have a lot
3 of estrogen effect, and so those -- they're very, very
4 sensitive to those swabs, so we just check it through the
5 urine.

6 Q Okay. Now, going back to the accuracy of these
7 tests, false positive test results can occur. With a
8 nucleic acid amplified test, false positives occur,
9 correct?

10 A And that is why we -- they automatically do the
11 reflex test on that so that we make sure that we're not
12 just getting a false positive. So they -- the hospital
13 sends from that same urine -- from the same rectal -- and
14 if the urine was positive or with the rectal sample, they
15 send it, and they check the nucleic acid amplification at
16 a totally separate site, at a different lab, so that it's
17 two tests on one sample to make sure that it's just not
18 an isolated false positive test.

19 Q Okay. And you -- I have some test results. Would
20 that be ---

21 MR. DELANEY: May I approach, Your Honor?

22 THE COURT: Certainly. Yes, sir.

23 BY MR. DELANEY:

24 Q Doctor, I have a few things from, it looks like, the
25 Greenville Memorial Hospital as far as some of the test

1 results. And in there, in that -- is that where it was
2 double-checked?

3 A Yes.

4 Q Okay. Now, it still says in there, that first page,
5 it says that false positives may occur, correct?

6 A Correct.

7 Q Okay. And you did -- another test was done --
8 Minor was tested again, what, a month later;
9 does that sound right?

10 A After -- a month after treatment.

11 Q Right. And she -- and it was negative. She tested
12 negative.

13 A Correct.

14 Q And as we've heard, you testified that an antibiotic
15 is used to treat chlamydia; is that correct?

16 A That's correct.

17 Q Azithromycin, Zithromax; is that correct?

18 A Yes, sir.

19 Q Okay. That is a very -- as you said, a very common,
20 very popular antibiotic, right?

21 A Yes.

22 Q Okay. Popular for children, popular for adults?

23 A Yes.

24 Q Okay. Can be prescribed -- is prescribed for a
25 variety of different ailments; is that correct?

1 A That's correct.

2 Q Okay. One of those ailment issues someone could be
3 prescribed azithromycin would be bronchitis, upper
4 respiratory infection. That would be something that
5 could be prescribed for that; is that correct?

6 A Yes.

7 Q Okay. And you testified that it would be a single
8 dose, a one-time -- it would be a gram or 2 grams is
9 what's given?

10 A Yes.

11 Q Okay. And azithromycin, it comes -- basically, when
12 you get it, you can get it in those dosage amounts,
13 correct? 1 gram or 2 grams?

14 A No. It doesn't come as like a gram, but you can get
15 it like 250 milligrams in four tablets to equal a gram.

16 Q Well, I'm saying when you're -- a Z-Pak would not be
17 used to treat -- you would not prescribe a Z-Pak to treat
18 chlamydia, correct?

19 A I would not.

20 Q Right. That would be -- because that's something
21 that's taken over multiple days, four days. Doctors
22 would give you one dose; is that correct?

23 A Typically, that is the correct treatment for that.

24 Q Okay. And that's what you prescribed Minor
25 ; is that correct?

1 A Yes.

2 Q Now, I'd like to talk a few minutes about a few of
3 the studies that you had referenced about the spontaneous
4 resolution of asymptomatic chlamydia, okay? That's the
5 study; is that correct?

6 A Yes.

7 Q Okay. And that's a study that you had referenced
8 that happened back in 2005, Obstetrics and Gynecology
9 Journal; is that right?

10 A Yes, sir.

11 Q Okay. And I think it was your testimony that this
12 study had shown that, I think you said, up to 44 percent
13 of people could become asymptomatic without any
14 treatment?

15 A They were already asymptomatic, but they cleared the
16 infection without ---

17 Q Cleared the infection.

18 A Yes, sir.

19 Q Okay. Now, that study had some flaws, right?

20 A I'm not sure what you're referring to.

21 Q Well, with cell culture techniques being used in the
22 study, that can be a major flaw to the study.

23 A Well, this study, I think that's what made the study
24 in particular very helpful because they were not using
25 cell cultures. That was from prior studies. This study

1 was using the NAAT testing, which is the same type of
2 testing we now use and have been using for quite some
3 time.

4 So I think before when they used cultures to look at
5 it, you never knew if the follow-up test was negative,
6 was it negative because you didn't culture it very well,
7 it got lost in transmission before it got to the lab.
8 There were a lot of problems.

9 Chlamydia is very hard to actually take it from the
10 actual swab and culture it out in the lab. It's very
11 temperature sensitive. So the NAAT testing, which this
12 particular study is what they look at, I think it kind of
13 eliminated that concern.

14 Q This study was all pregnant women, right?

15 A Yes.

16 Q Okay. And this was a small study using all pregnant
17 women. In the 44 percent, you're sure it was that high?
18 There wasn't anything that said it could be as low as 28
19 -- 25 to 28 percent?

20 A I think when they were referring to a prior study
21 that looked at this, and that was the result of that
22 study. But in this particular study, this one in 2005,
23 the result was about 44 percent.

24 Q And you haven't reviewed any studies since then; is
25 that correct?

1 A I tried to look at -- you know, to answer this
2 question, it's not one that you can really look at very
3 easily because, obviously, if someone has an infection,
4 we just don't wait and see if it's going to clear by
5 itself. We treat it.

6 So I thought it was very interesting to be able to
7 have a study where they weren't actually looking to treat
8 people, but to just kind of follow it up subsequently and
9 were able to gather this information. So it's really
10 hard to do a study like this and gather this kind of
11 data.

12 Q Are you aware of any studies that say that chlamydia
13 never truly goes away?

14 A I am not.

15 Q No studies that shows that it actually can live in
16 the stomach, the gut? Never reviewed any studies
17 regarding that?

18 A No. I mean, I am aware you can have asymptomatic
19 infections that can cause problems so you don't have
20 discharge, but you can get other problems within your --
21 like pelvic inflammatory disease and things like that.
22 But I have not learned where you can -- it can just have
23 negative cultures and just kind of stay somewhere in your
24 body and not culture positive -- not test positive.
25 "Culture" is not the right word.

1 Q And are you aware -- because I know that you had
2 testified a little earlier about wiping and the
3 transmission through potentially wiping. Are you aware
4 of any studies where that was the issue as far as
5 washcloths go, wiping in that regard?

6 A No. There -- I have not heard about that with
7 chlamydia. Every now and again there are these isolated
8 test cases with gonorrhea where it had lived, you know,
9 when an adult had used a washcloth and had significant
10 discharge, and then the child used that same washcloth to
11 the genital area and the infection was transmitted within
12 rapid fashion. And so there are some isolated cases that
13 can support that for -- for gonorrhea.

14 Q Doctor, were there any other medical records that
15 you reviewed in anticipation of this case that the
16 solicitor had you review?

17 A Nothing. No, sir.

18 MR. DELANEY: Okay. All right. Thank you.

19 THE WITNESS: You're welcome.

20 THE COURT: Redirect, Solicitor?

21 MR. ANTHONY: Yes, sir.

22 REDIRECT EXAMINATION

23 BY MR. ANTHONY:

24 Q Okay. You were asked a few questions about the
25 retesting.

1 A Yes, sir.

2 Q And you said that the retest is a NAAT test as
3 well ---

4 A Correct.

5 Q --- is that correct?

6 But, once again, what is the difference between the
7 first test and the second test that's supposed to allow
8 us to know that the second test really confirms what the
9 first test found?

10 A It uses like a DNA complex model, and so they do --
11 once they're able to test it -- the way I understand,
12 able to test it at one part of the molecule and it comes
13 back positive, and then when they do the subsequent
14 tests, they're looking at a totally different site and
15 see if that tests positive. So there are two different
16 -- they're the same type of tests, but of two different
17 loci on -- on the molecule.

18 Q And when you say "site," that's what you mean? You
19 mean the place on the molecule?

20 A Yes, sir.

21 Q Okay. And you said that Minor had a negative
22 rectal chlamydia test. But that was after you prescribed
23 antibiotics; is that right?

24 A Correct.

25 Q Okay. And would there be anything unusual about a

1 patient having a negative urine stream for chlamydia but
2 a positive rectal screen for chlamydia?

3 A I think what it means to me is that the infection
4 was isolated to her rectal area.

5 Q It would just mean that you have it in your rectum,
6 you don't have it in your urethra, that part of your
7 anatomy?

8 A Correct.

9 Q Okay. And some of the studies, you were talking
10 about how the 44 percent study is more reliable because
11 they used that in a -- the NAAT test to do that; is that
12 correct?

13 A Correct, correct.

14 Q And then some of the other studies had rates as high
15 as 50 percent?

16 A Right. There's a pretty good range. One study was
17 about 27 percent, one even higher than this particular
18 study. But I felt this was the best study that I saw to
19 really try to help answer the question about, at least in
20 this one population, are they able to clear it when they
21 have an asymptomatic infection without getting the
22 appropriate treatment for it.

23 MR. ANTHONY: If I could have one moment. All
24 right. That's everything on redirect.

25 THE COURT: Recross?

RECROSS EXAMINATION

BY MR. DELANEY:

Q And, again, the study that you're relying on is a study that was used -- that used all pregnant women, correct?

A That's correct.

MR. DELANEY: Thank you.

THE COURT: Thank you very much, Doctor, for being with us this afternoon. You may step down.

Any objections to the doctor being excused?

MR. ANTHONY: No, sir.

MR. DELANEY: No, Your Honor.

THE COURT: And you may be excused. Thank you very much, Doctor.

MR. ANTHONY: May we approach a moment?

THE COURT: Yes, sir. Of course.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Ladies and gentlemen, why don't we take about a 15-minute afternoon recess. Please do not discuss the case during this brief recess. Thank you.

(WHEREUPON, the jury exits the courtroom at 3:59 p.m.)

(WHEREUPON, a recess is taken at 3:59 p.m.)

THE COURT: Anything from the State before we bring in our jury?

1 MR. ANTHONY: No, sir.

2 THE COURT: Defense?

3 MR. DELANEY: No, sir.

4 (WHEREUPON, the jury entered the courtroom at 4:23 p.m.)

5 THE COURT: All right. Solicitor, you may call your
6 next witness.

7 MR. ANTHONY: Our next witness will be Mr. Garrett.

8 THE COURT: All right. If you'd come around and be
9 sworn for us, please.

10 WHEREUPON,

11 WILEY GARRETT

12 After having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ANTHONY:

15 Q Would you state your name, please.

16 A My name is Wiley Garrett.

17 Q And, Mr. Garrett, how are you employed?

18 A I work with the Children's Advocacy Center in
19 Spartanburg. It's actually the Children's Advocacy
20 Center of Spartanburg, Union and Cherokee counties.

21 Q Okay. And what do you do there at the advocacy
22 center in Spartanburg?

23 A I'm a child interviewer and also a therapist.

24 Q And then do you also contract with any other
25 organizations?

1 A I do. I actually live in North Carolina, and I'm
2 contracted with the Child Family -- Child Medical
3 Evaluation Program out of the University of North
4 Carolina, Chapel Hill, Department of Pediatrics.

5 Q And could you tell -- what do you do with that
6 program?

7 A I interview children.

8 Q Interview. Okay.

9 And could you tell us what your educational
10 background is?

11 A Yes. I have a bachelor of arts from High Point
12 College in 1972, a master of divinity degree from Duke
13 University in 1975, and a master in social work from the
14 University of South Carolina in 1994.

15 Q And then do you have any licenses as a social
16 worker?

17 A Yes, sir. I do. I'm licensed as a licensed
18 independent social worker in clinical practice in South
19 Carolina which is the highest level of clinical social
20 work practice in the State of South Carolina. I'm also a
21 clinical social worker supervisor for the State of South
22 Carolina in supervising folks who want to become
23 LISW-CPs, and I'm also licensed in the State of North
24 Carolina as a licensed clinical social worker.

25 Q And what exactly do you have to do to become a

1 licensed independent social worker and clinical
2 practitioner here?

3 A Correct.

4 Q What do you have to do?

5 A First of all, you have to have an undergraduate
6 degree, and then you have to have a master's in social
7 work from an accredited university, then you have to pass
8 an exam to become a licensed master social worker, and
9 during the next two to four years, you have at have at
10 least 100 hours of supervision from an LISW-CP, and then
11 you have to take another exam to be licensed as a
12 clinical social worker, and then you have requirements
13 for continuing education every two years thereafter.

14 Q And when did you get that license?

15 A 1994, I believe.

16 Q And just talking about the advocacy center in
17 Spartanburg, how long have you worked there?

18 A I began work there about, I believe it was, 14 years
19 ago.

20 Q Okay. And in that capacity, what do you do?

21 A I interview children. And I also work with children
22 who experience symptoms of trauma, so I'm a trauma
23 therapist.

24 Q Okay. And currently -- well, how often -- say, in a
25 year, how many kids will you see to interview?

1 A Well, that would be anywhere between 100 to 150 a
2 year. That was for interviews. And then I also do
3 therapy.

4 Q Okay. And how many kids are you providing therapy
5 services for?

6 A I tend to average about ten children at a time.

7 Q And have you testified and been qualified as an
8 expert witness before in fields related to child sexual
9 abuse?

10 A Yes, sir. I have.

11 Q And approximately how many times have you been
12 qualified as an expert witness?

13 A I would say that's probably in the range of 50
14 times.

15 MR. ANTHONY: Okay. Your Honor, at this time, we
16 would submit Mr. Garrett to the Court as an expert in the
17 field of child sexual abuse dynamics and disclosure.

18 THE COURT: Mr. Delaney, any voir dire?

19 MR. DELANEY: No, Your Honor. No objection.

20 THE COURT: Thank you very much.

21 Mr. Foreman, ladies and gentlemen of the jury, you
22 heard me say this previously. Normally, a witness cannot
23 give opinion testimony. Normally, when a witness
24 testifies, they must testify as to either what they saw,
25 heard or sense by smell or something of that nature.

1 However, there is an exception for a witness who, by
2 training, education, experience, has reached a level in a
3 particular craft, art, science or profession if the Court
4 qualifies them as an expert, if the Court qualifies them
5 that way.

6 This witness, Mr. Garrett, will be qualified as an
7 expert in child sexual abuse and child sexual abuse
8 dynamics and disclosure to give opinions in that area and
9 also the basis of those opinions. Ladies and gentlemen,
10 that is evidence for you the jury to use in any way you
11 deem fit and appropriate.

12 Thank you. Thank you very much, Solicitor. You may
13 continue.

14 MR. ANTHONY: Thank you.

15 BY MR. ANTHONY:

16 Q Mr. Garrett, do you know anything about the
17 particulars of the case against Mr. Young that we're here
18 on today?

19 A I know nothing about this.

20 Q Have you ever met with Minor , the victim
21 in the case?

22 A I have never met.

23 Q And have you reviewed any reports from the case?

24 A I have not.

25 Q And in your work with the advocacy center both as a

1 forensic interviewer and also as a therapist, and also
2 just based on the training you've had, have you become
3 familiar with common characteristics of disclosure in
4 cases involving child sexual abuse?

5 A Can you repeat that question one more time?

6 Q I'm sorry. It's a long question, wasn't it?

7 Just, basically, in your experience, are you
8 familiar with any common characteristics of disclosure in
9 cases of child sexual abuse?

10 A I am -- I am familiar with the characteristics that
11 are common in children who have been sexually abused.
12 Yes, sir.

13 Q Okay. And I want to start off asking you, first of
14 all, about the term "delayed disclosure." Could you tell
15 the jury what that is in the field?

16 A The term "delayed disclosure" simply means that the
17 child did not disclose or tell what happened to them
18 immediately.

19 Q And in your experience, how common is that in cases
20 involving child sexual abuse?

21 A That is the more common experience that I have. In
22 fact, when I have a child who discloses immediately and
23 is interviewed soon after, that tends to be the exception
24 to the rule rather than the rule. And, in fact, in many
25 cases in the interviewing of these children, it's not

1 uncommon to find that there are adults in the family who
2 themselves may have been abused and had not even as
3 adults disclosed.

4 Q And are there any common factors that can be found
5 in situations where children delay disclosure of sexual
6 abuse?

7 A I'm sorry. Again, you lost me there.

8 Q Are there any common factors that are present in
9 cases where children would delay disclosures of sexual
10 abuse?

11 A So what are the common reasons?

12 Q Yes, sir. Common reasons. Yes, sir.

13 A Okay. I've got you. The most common reason that
14 I've seen over my career is simply the fear of the child.
15 This is the most common thing that children tell me when
16 I ask them, "Well, why didn't you tell? Who did you
17 tell? When did you tell? Why did you not tell sooner?"
18 They will commonly -- most commonly, that is the answer I
19 get, I would say 99 percent of the time, "I was afraid."

20 The things that they're afraid of, if you'd like me
21 to go into that ---

22 Q Sure.

23 A --- we can.

24 They're afraid of the things that you would expect
25 children to be afraid of. I didn't want my mother to

1 cry, I didn't want her to be upset, I didn't want my
2 family to be angry, I didn't want to get in trouble.

3 One of the common things that children say -- have
4 said to me many times is, you know, this is a very
5 unfamiliar experience for them, and so they -- they --
6 many times, this is the thing that victims most commonly
7 do is blame themselves, and so they believe, in some
8 level, that they -- they are to blame, they did something
9 wrong. They've been told -- we're always telling our
10 kids, "Don't do anything wrong." They have a sense that
11 this is wrong and that they were involved, and they're
12 afraid that they will be blamed. So it may be fear of
13 rejection, fear of, you know, not being believed, fear of
14 whatever the consequences would be in their particular
15 family of origin.

16 Q Okay. And do you find attachment of the child to
17 the perpetrator sometimes being a factor in a child not
18 disclosing immediately?

19 A It can be attachment. And I guess I would phrase
20 that more it is the presence of that person than the role
21 of that person in their life and the presence of that
22 person in their life, because, again, if you're a child,
23 then the most powerful, you know, beings for you are your
24 parents or the caretakers or family members. And for you
25 as a, you know, child to be able to -- you know, be able

1 to face them or, you know, come to them or be able to
2 tell about somebody in your family, somebody else is
3 going to be likely upset. So it's very difficult is just
4 the presence of a caregiver where -- whatever their
5 relationship who's present in their lives that would
6 prevent them from feeling free or comfortable disclosing.

7 Q And what kind of time spans have you seen in cases?
8 How long have you seen children go and then disclose
9 sexual abuse from the time of abuse to the time of
10 disclosure?

11 A My most common experience with adults is that they
12 waited until adulthood to disclose. But in children, it
13 could be any length of time. It could be any length of
14 time, really.

15 And one of the things that causes them to disclose
16 is that they often -- and I see this very commonly, that
17 they feel safe. They come to a point in their life for
18 whatever reason, they're older, they're bigger, they've
19 -- their family dynamics or the people in the family have
20 changed, they feel comfortable, and so they feel safer.
21 So, again, the feeling safe and not feeling afraid is one
22 of the most powerful dynamics.

23 Q And is it -- do you find it common for children to
24 disclose or to do what, in their mind, is making a
25 disclosure in ways that would not necessarily be

1 interpreted that way by an adult?

2 A Well, that's one of the ways that things that are
3 told to me by parents is that they saw their child would
4 be able to begin to act out. They didn't want to go to
5 school, they didn't want to go up -- get up, they had
6 trouble going to sleep, staying asleep, nightmares,
7 restlessness, not doing their homework, anger, fighting
8 on the bus, fighting at school, talking back to adults,
9 all kinds of oppositional behaviors that they've had,
10 sadness, withdrawing into themselves, not making friends.
11 All these things parents tell me were behaviors they saw
12 at a certain point and then -- then the child is then
13 come in for the interview.

14 Q Okay. And do children sometimes think they have
15 made disclosures to adults in their lives that parents or
16 other adults might not see as being that?

17 A Well, I can say that I've had quite a few children
18 know when I've asked them -- you know, this is one of the
19 common questions: Who did you tell and when did you tell
20 them?

21 And then talking with the parent, the parent saying,
22 "Well, no, I didn't know that. I didn't hear that," and
23 the child then in the follow-up interview says, "But, you
24 know, they saw that I was unhappy. I tried to say, 'I
25 don't want to go there. I don't want to be with this

1 person," or whatever it is, and they -- children often
2 expect their parents are mind readers. I mean, we tell
3 them sometimes we are. We tell them, you know, we know
4 what they're thinking, and we know. And many times they
5 do believe that. As parents, we have magical abilities,
6 particularly when they're younger, and they will -- they
7 think that because of their behavior, we should be able
8 to read their behavior.

9 But adults do that, too. We do that all the time.
10 We have behaviors where we think that somebody knows
11 what's going on, and maybe they do and maybe they don't.

12 Q And is it common for children to disclose what I
13 think in the field might be a partial disclosure where
14 they tell some of what happened but not everything or
15 they tell it in pieces? Is that something you run into?

16 A It is. And, again, we go back to the critical issue
17 of fear, being afraid, being scared, as most kids will
18 say. And many times, you know, children will do that
19 with all the adults. They'll tell you a little
20 something, and they want to see how you respond before
21 they -- if they feel safe, if they feel like they're not
22 in any trouble, if they feel like it's okay, if they're
23 not disapproved of, if they're not going to be rejected,
24 then they'll tell you more and more. That's one of the
25 keys to being a therapist, that you don't react, you

1 know, you don't get upset, you don't give them lectures,
2 you don't -- you know, that sort of thing.

3 So, again, children -- that's what children do. We
4 see children do that who are not sexually abused calmly
5 testing the waters. So I'm going to tell you this, see
6 how you react, and if you don't overreact or if you react
7 in a kind way, then I'll tell you some more.

8 Q And what is the effect -- if a child has been
9 subject to repeated abuse, how does that tend to affect
10 their ability to give an accurate disclosure about the
11 event?

12 A Well, again, I would use common sense example. You
13 know, if you ask me what I had for lunch today, you know,
14 I can pretty easily tell you that. But when an event has
15 happened many, many times in the more distant in the past
16 and it gets more difficult to be able to sort out the
17 times, that's one of the most difficult issues.

18 One of the more difficult issues in interviewing
19 children who have been abused multiple times is I can
20 say, "Tell me about the first" or "Tell me about the
21 last" or "Tell me about the worst," but that's really
22 hard for them to do, because, you know, tell me about the
23 last time exactly what that person was wearing, they may
24 not remember. They may remember what they were wearing
25 at some point, but they may not remember like the last

1 time or the first time. So, again, those all get
2 compiled together.

3 Like I said, I can tell you what I had for lunch
4 today, but I can't tell you what I've had for lunch for
5 the last -- actually, I don't know if I could tell you
6 what I had for lunch yesterday, let alone for -- you
7 know, when you multiply, when you add all these things
8 together.

9 Q And is it common, in your experience, for kids to
10 make an accusation and then subsequently not be able to
11 remember the facts that they have relayed earlier?

12 A In my experience as a therapist working with
13 children on a weekly basis, I have kids come in, and I
14 start to review what we talked about last week. And I
15 said, "So do you remember what we talked about last
16 week?" Well, no. Remember we did these activities?
17 Because often these are things that we -- you know, when
18 we're -- any of us, it's human if we're asked to think
19 about things we don't want to think about, we're going to
20 be hesitant. We may be resistant.

21 Sometimes I may ask the child, "Is it" -- they'll
22 say, "I don't know," or "I don't remember, and I'll say,
23 "Is it that you don't know or you don't remember or is it
24 hard to talk about?" and many times I'll get the answer,
25 "Well, that's hard to talk about. Yes, I know, but it's

1 hard to talk about."

2 Q I want to ask you just a couple of things about the
3 specific forensic interview context. Do you find it
4 common for children when you begin an interview, start
5 trying to talk to them to find -- did you find them
6 initially hesitant or resistant to talk about abuse and
7 then later on give a disclosure?

8 A I'm not sure I understand exactly what your question
9 is.

10 Q Well, is it common in a forensic interview setting
11 for children who initially deny anything has happened and
12 then subsequently say something has happened?

13 A Well, I think when -- my experience is when a child
14 comes to an interview, this is not something they want to
15 do. They would rather be -- do something else, for one
16 thing, and they don't want to be here, and they don't
17 want to be talking about this issue, and they don't want
18 to be answering the question. So that's part of the
19 process to help them slowly become comfortable to begin
20 with some questions they know the answer to to help them
21 feel comfortable, to not be afraid. Again, going back to
22 the fear of being scared, get them comfortable with the
23 situation and then begin with questions that are easier
24 to answer, and then after a while, move into those harder
25 questions.

1 And generally, in an interview, I can tell what that
2 is. It will be a certain point at which children talk.
3 They'll answer questions pretty easily. We'll ask that
4 -- as we get closer to the incident, I'll ask them a
5 question and they'll pause. They're quiet. They don't
6 say anything. And so at that point, I know that that's
7 going to be -- you know, this is a very difficult thing.

8 So I've got some choices, you know. I can, you
9 know, press ahead or I can say -- you know, usually what
10 I want to do is recognize and talk about what's going on,
11 what's going on now. You were answering my questions,
12 but now you've stopped. What happened? What's
13 different? What's changed? So give them an opportunity
14 to talk about that, maybe sometimes even ask them what
15 would help, what would make it more -- easier. And
16 sometimes that's where we ask a question and I'll say,
17 "Well, would you rather write it?"

18 Sometimes kids will say "yes."

19 "Or would you rather draw it?"

20 Sometimes kids will say "yes."

21 "Would you like to act it out?"

22 Sometimes they'll say "yes."

23 So it's a critical moment in an interview that
24 happens quite often is, you know, when you really get
25 down to talking about the incident that's unpleasant,

1 that's embarrassing, it's difficult, that you're afraid,
2 and that's part of the interview process is to make that
3 as easy as possible for them and even saying -- I've said
4 to many kids, "I can tell this is hard. Would you like
5 to come back and tell me next week?"

6 And they're, "Yes. Absolutely. Anything as long as
7 I can get out of here right now. I'll come back. I'll
8 make this contract. I'll agree to tell you next week,
9 but not today." That's fine. I have no trouble with
10 that.

11 Q And is it kind of along the same lines that you find
12 in forensic interviews that it's common for children to
13 want to just change the subject to start talking about
14 something else? Does that happen in those interviews?

15 A Well, again, in verbal kids, that's a very common
16 thing. I mean -- and you could ask a question, and they
17 go off on a different tangent, talk, talk, talk, talk,
18 talk. They want to talk about all these subjects, and
19 each time you come back to the question or the direction
20 in which you're seeking to go, they get really quiet.
21 Same dynamic. They've gotten quiet.

22 And so, you know, I'm thinking as the interviewer,
23 there must be some reason. I need to be sensitive to
24 their feelings, sensitive to their safety. When do they
25 -- when do -- that's the key question. What do they need

1 to be okay to be able to say what they've seen, heard and
2 experienced, because that's what it's all about. An
3 interview is just for them -- an opportunity for them to
4 see -- say what they've seen, heard and experienced.
5 Nothing more than that. And the better job I get out --
6 the better job I do getting out of the way as the
7 interviewer or a therapist, then the better. It's all
8 about them. It's not about me.

9 Q All right. I want to ask you a few questions about
10 behavioral characteristics of kids that have been
11 subjected to sexual abuse. How does sexual abuse tend to
12 affect the child's tendency to act out in a sexual way?

13 A You just asked a very complex question with a very
14 complex answer. Because as many -- as many behaviors as
15 you can probably think of that parents and teachers don't
16 want to see, that's -- that's probably it. But, again,
17 we're going to start with the ones related to anxiety.
18 And that's going to be trouble going to sleep, staying
19 asleep, nightmares, all kinds of displays of anxiety or
20 depression, withdrawal.

21 One of the ways that a lot of things -- a lot of
22 parents ---

23 Q Let me just -- I'm sorry to interrupt, but let me
24 just -- first of all, I want to ask you about all of
25 those kind of symptoms in a minute. But as far as a

1 sexual behavior part of the child, how does a child being
2 subjected to sexual abuse affect their tendency to act
3 out, and specifically in a sexual way?

4 A Okay. In a sexual way, again, it's -- I think it's
5 difficult to simply, you know, answer that and say this
6 is what everybody does, because that's not the way you
7 were made as human beings. Human beings respond in
8 different ways.

9 But some kids, their anxiety, whatever gets them to
10 the point that they don't want to be around people, they
11 don't want to touch other people, they don't want to hug
12 other folks, so they go to that extreme where they avoid
13 contact, they avoid other people.

14 With other kids, they go entirely the other
15 direction. Because the central issue here is boundaries,
16 healthy boundaries, and, again, that you live in a family
17 or you've had experiences. And maybe this is cumulative
18 where, you know, being sexually abused also is an
19 expression of an unhealthy boundary in a family or in any
20 setting. And so many times, they are going to then --
21 that's going to multiply into other unhealthy boundaries.
22 And so they're going to lie -- tell lies at school and
23 home, they're going to steal, they're going to be doing
24 sexual behaviors as they understand them.

25 The most common word that I hear from kids is they

1 use the word "humping." And, of course, I have to ask
2 them what that means because it could mean a lot of
3 different things. But they talk about all these
4 different kind of behaviors.

5 The ones I'm working with currently, many times
6 you'll see that, that they are sexually -- they're
7 sexually acting out often with others maybe their age or
8 younger doing what we call very inappropriate touching
9 other people's private parts, that sort of thing. We see
10 -- I have kids who do a lot of that, but not all kids do
11 that.

12 Q All right. And then in a broader kind of spectrum,
13 just when a child is being sexually abused, what kind of
14 behavioral symptoms would you expect to see outside of
15 increased sexual conduct by that child?

16 A Did you say while they're being sexually abused or
17 after?

18 Q Well, let's start with while and then we'll move to
19 after.

20 A Well, again, that's going to have various answers,
21 depending on the person. Again, we have the same thing.
22 When some children are, you're going to see that drop in
23 the grades, lack of focus, not doing their schoolwork,
24 anger. And there's feelings coming out in anger, getting
25 into fights at school, talking back to teachers, not

1 following rules at school. The same at home. Problems
2 on the bus, bullying other kids. We see all these
3 behaviors come out because, again -- again, as we often
4 think of depression is simply, you know, sad and by
5 yourself, but one of the ways that depression comes out
6 in children and adolescents is through anger. So they --
7 you see -- you can see a very angry child, an aggressive
8 child, or you can see a very withdrawn, depressed child.

9 Q And then after disclosure has been made, in your
10 experience, what kind of behavior do you tend to see
11 then?

12 A Again, I don't think I can make a generalization
13 about that. I can tell you, for instance, I mean, give
14 you an example, you see changes. One of the most common
15 I see in therapy when a child's in therapy, many times
16 their problems get worse. Why? Well, because they're
17 going on a weekly basis thinking about these issues,
18 sitting down working on those with a therapist on a
19 weekly basis.

20 So sometimes -- and the sort of things I have to
21 tell parents, you know, parents say, "Well, I want their
22 behavior to improve."

23 Well, I have to say, "Well, before therapy is
24 through, they might have to get a lot worse in their
25 behavior before they get better in dealing with the

1 trauma symptoms." So that's one of the things that can
2 happen.

3 Again, as far as making just broad generalizations,
4 it's difficult. Each child has their own way of
5 manifesting, but it's usually going to be in one way --
6 one direction or another.

7 Q But have you found that after a period of
8 counseling, that there is a possibility that a child's
9 behavior can be improved?

10 A Oh, absolutely. Yes. Absolutely. That's why --
11 otherwise, we wouldn't do therapy. We see that after
12 they've been able to -- first of all, one of the things
13 I've had kids say, you know, in the disclosure, "I felt
14 like I got this weight off my chest." But then the
15 pressure begins to build up again as they begin to think
16 about the pressure of, you know, why is -- you know, am I
17 at fault? Was this my fault? Did I contribute to it
18 some way? Was I a bad person? You know, my family's all
19 upset because -- you know, some people are telling me
20 it's my fault that my family's upset or my mother's upset
21 for something that's going on. That's not an uncommon
22 thing. It could be very difficult.

23 But at a certain point, you know, with the support
24 of caregiver working through therapy, yes, I see kids --
25 and that's the whole point of therapy: to teach skills,

1 to teach the skills about, first of all, you know, you
2 have bad feelings, recognizing the feelings, knowing what
3 to do, practicing those skills so that you have the power
4 to make those bad feelings go away. You can't forget.
5 You probably won't forget what happened to you in the
6 long run.

7 That's one of the questions I ask mothers in the
8 terms of we have any emotion -- any experience that we
9 have that strong emotion, we're more likely to remember
10 that. So I ask mothers, "Do you think you'll ever forget
11 the day your child was born?"

12 And they say, "No. Of course not."

13 Well, that's the way we work. If it's a strong
14 positive or negative emotion, that's something we're not
15 going to forget, but we can learn how to deal with the
16 negative feelings and emotions and learn not to blame
17 ourselves.

18 MR. ANTHONY: If I could just have a moment.

19 THE COURT: All right. Thank you, Solicitor.

20 MR. ANTHONY: If I could just have a moment.

21 THE COURT: All right. Yes, sir.

22 BY MR. ANTHONY:

23 Q Just going back briefly to the delayed disclosure
24 aspect, do you find that the fact that a child would
25 associate positive experiences with a perpetrator to be a

1 factor that would contribute to delayed disclosure?

2 A I guess I would answer it this way. One of the most
3 common, you know, things as we explore how that child
4 feels about a close caregiver who may sexually abuse
5 them, the most common thing I hear from children is, "I
6 like that person. I want to be with them. I just don't
7 want them to do that." Because, again, they're going to
8 be concrete in their thinking, and they're just thinking,
9 I don't want them to do that. I still care about them, I
10 still love them, but I don't want them to do that.

11 And so that conflict, which sometimes we as adults
12 would think, well, that person did a bad thing to me so I
13 don't like them, the children get attached in a very
14 innocent way. So that's one of the most common things
15 that kids tell me that I hear from children directly.

16 MR. ANTHONY: Thank you. That's everything on
17 direct.

18 THE COURT: Thank you, Solicitor.

19 Mr. Delaney?

20 MR. DELANEY: Thank you, Judge.

21 CROSS EXAMINATION

22 BY MR. DELANEY:

23 Q Good afternoon, Mr. Garrett.

24 A Good afternoon, sir.

25 Q Are you being paid to be here today?

1 A I was told that I would, yes. I was told that. I
2 haven't been paid, but I was told that.

3 Q Okay. How much are you charging to be here today?

4 A I charge a standard fee which is \$60 an hour. I do
5 that for -- I do that for DSS, I've done it for DSS, and
6 that's what they pay me for my time.

7 Q So the State's paying you to be here today?

8 A I don't know where he's getting the money. He just
9 said he'll pay me. But I'm assuming so.

10 Q When you say "he," who's "he"?

11 A Mr. Anthony.

12 Q He's paying you to be here today?

13 A That's what he told me.

14 Q Okay. And we heard you work for the Child Advocacy
15 Center, correct?

16 A That's correct.

17 Q 14 years, right?

18 A Yes, sir.

19 Q Sometimes, Mr. Garrett, time frames are off or don't
20 make sense because they're based on untruths, correct?

21 A I'm not sure how to respond to that question, I
22 guess. I'm not sure. It sounds like you've got a little
23 more -- I don't quite get the question yet.

24 Q Well, sometimes a time frame -- you were talking
25 about time frames and how these time frames can be mixed

1 up, and I think you used the example of what you had for
2 lunch today versus the past week. Do you remember that?

3 A I do.

4 Q Okay. Now, these time frames, sometimes they can be
5 off because kids, children, they don't tell the truth,
6 correct?

7 A You know, I could certainly see that that can
8 happen. That hasn't been my experience.

9 Q So your experience is children don't lie, they tell
10 the truth?

11 A Oh, no, no, no. Again, I look at what is the lie,
12 what is the motivation. That comes up. I mean, I had --
13 I've had parents tell me, "My daughter's lying. This
14 can't be true."

15 And I'm trying to think this through. And I'm
16 saying, "Well, what's the payoff? Why would they do
17 this?"

18 I mean, I certainly understand kids lying about
19 stealing at school because there's a feeling that they're
20 going to get in trouble. There's other things that
21 children lie about for a reason. Took somebody's
22 something, there's usually a payoff. But in these
23 instances over the last -- actually, I've been
24 interviewing kids for, actually, 27 years before because
25 I started before the CAC, but usually there's a payoff.

1 And so when a child has gone through the process of
2 talking to caseworkers, to police officers, the
3 interviews, all of this, we're down to a certain point.
4 And I'm like I don't understand the payoff.

5 So if they're telling a lie, what are they hoping to
6 gain? Because, you know, they're having to go through
7 all these things. That part just doesn't make sense.

8 Do I think that all kids tell the truth all the
9 time? No. Do I think that all people tell the truth all
10 the time? Absolutely not.

11 Q Well, and sometimes, if you have inconsistencies, if
12 you have things that don't add up, that don't make sense,
13 those particular things, what can be a reason for that is
14 it can be not -- it can be based on a lie; is that
15 correct?

16 A Well, again, you kind of caught me over a barrel.
17 All I can tell you is about my experience.

18 Again, we have to look at it -- if you look at it
19 individually, again, sometimes inconsistencies that seem
20 like inconsistencies have to do with the questions we're
21 asking the child that maybe we ask them questions that
22 maybe they weren't prepared to answer.

23 For instance, you know, I don't know how old this
24 child is, but let's say if you ask a 4-year-old about the
25 time, the dates, really, you're not supposed to do that

1 because they can't tell -- they can't tell time and they
2 don't know -- can't -- you know, they don't carry a
3 calendar. Or let's say even older kids, if you ask them
4 how many times, that would be inappropriate because they
5 -- the question I'm most asked is was it -- you know, if
6 they tell me it happened, was this something that
7 happened one time or more than that.

8 But I really try to avoid -- avoid the times and
9 also avoid, you know, exactly how many or the time
10 frames. When we try to come to time frames, I feel more
11 comfortable when kids tell me a time based on something
12 specific they remember. We moved into this house, mama
13 had a baby, things like that. But, otherwise, I'm very
14 suspicious of specific times that are given me, they just
15 give me a time like a calendar day or something.

16 I don't know if that answers your question. I'm
17 trying to --

18 Q I'll move on. A couple, just briefly.

19 And specifically, to this case, you never talked to
20 Minor , correct?

21 A I have no idea who that is.

22 Q You have no idea who Minor is?

23 A No, I don't.

24 Q Okay. And I think to quote what you said earlier,
25 you know nothing about this case, correct?

1 A I -- other than the sheet of paper that Mr. Anthony
2 sent to me, that's all I know.

3 MR. DELANEY: Thank you Mr. Garrett.

4 THE COURT: Redirect, Mr. Anthony?

5 MR. ANTHONY: If I could just have a moment. Thank
6 you. That's everything.

7 THE COURT: Thank you, Solicitor.

8 Thank you, sir. Thank you for being with us this
9 afternoon.

10 THE WITNESS: Yes, sir. Thank you.

11 THE COURT: You may step down. You may be excused.

12 THE WITNESS: Thank you.

13 THE COURT: All right. Solicitor?

14 MR. ANTHONY: Our next witness is Investigator
15 Belue.

16 THE COURT: All right. If you'd come around to be
17 sworn, for us, please.

18 WHEREUPON,

19 ROXIE BELUE

20 After having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ANTHONY:

23 Q Would you state your name, please.

24 A Roxie Belue.

25 Q And, Ms. Belue, how are you employed?

1 A Through the Union County Sheriff's Office.

2 Q How long have you worked for the Sheriff's Office?

3 A 12 years, I think.

4 Q All right. And what is your position there now?

5 A An investigator.

6 Q And how long have you been an investigator there?

7 A Since early 2010.

8 Q Okay. And do you have any kind of special crimes
9 that you're assigned to in that job?

10 A Abuse cases.

11 Q And when you say "abuse cases," you mean -- you mean
12 any particular type victims? Or how do y'all assign
13 those cases out?

14 A Child cases, child victims of assault, abuse, sexual
15 abuse, adult elderly abuse, animal abuse. Any kind of
16 abuse.

17 Q And did you come to report -- we're going back to
18 January of last year. Did you come to report or come to
19 investigate a report of sexual assault against Minor

20 ?

21 A I did.

22 Q And when did you get assigned that case?

23 A January of 2015.

24 Q Yes. What day?

25 A It was the 28th, if I'm not mistaken. 28th.

1 Q Are you sure about that?

2 A (Reviews document) The 29th was when I -- was when I
3 had it. The 29th.

4 Q Okay. And how was it -- how was it that you came to
5 be involved in this incident?

6 A City investigators came to the Sheriff's Office
7 after determining that a case that they received a report
8 on from, I believe, DSS was out of their jurisdiction, so
9 they turned it over to the Sheriff's Office.

10 Q And so once you met with them, what did you do in
11 regards to beginning to investigate the incident?

12 A Well, the first thing I did was contact the --
13 Minor's mother, Kaci, and advised her of what was going
14 on. I was not 100 percent sure that the city had
15 contacted her or not. I know they left a card, but that
16 was it. So I contacted her.

17 Q All right. And what did you tell her?

18 A I explained what happened and what the case would
19 be about and that there would be an investigation, and
20 also the most important thing is that the child is not
21 subject to the person being accused during the
22 investigation.

23 Q All right. And did you do anything -- after having
24 that initial conversation with Ms. Trammell, did you do
25 anything to begin the investigative process as to the

1 disclosure Minor had made?

2 A I did. I did a report based off of the information
3 that I had available at the time. And I spoke with the
4 victim's advocate who normally does our referrals to the
5 Children's Advocacy Center, and that's where the
6 investigation began.

7 Q And so what did you specifically ask the victim's
8 advocate to do for you?

9 A I asked her to send a referral to the Children's
10 Advocacy Center for a forensic interview.

11 Q For Minor ?

12 A Yes.

13 Q Okay. And when y'all have a situation where a young
14 child needs to be interviewed, how does the Sheriff's
15 Office normally handle that?

16 A Through a referral to the Children's Advocacy
17 Center.

18 Q Okay. So that's y'all's standard practice is to
19 have somebody at the advocacy center in Spartanburg
20 interview them rather than doing it here in Union, is
21 that correct, or rather than having, say, yourself do it
22 or somebody local do it?

23 A Yes. In some -- in some instances, depending if a
24 road officer answers the call, there might be --
25 depending on the age of the child, again, enough

1 information gathered to do a report to make sure that
2 there's something to work with and an allegation. But
3 outside of that, they're never interviewed here.

4 Q And so did you, based on your knowledge of the case,
5 either yourself or anybody from Union Public Safety
6 interview Minor ?

7 A No.

8 Q Okay. Well, after you made arrangements to set up
9 that interview, what was the next thing you did?

10 A I met with Kaci, Minor mom, and I took a
11 statement from her.

12 Q Okay. And then when did you do that? When did you
13 meet with Kaci?

14 A (Reviews document) February the 5th.

15 Q Okay. And then when were the forensic interviews of
16 Minor ?

17 A (Reviews document) February 12th of 2015, and
18 February the 25th of 2015.

19 Q And between those two interviews, did you do
20 anything else to help Ms. Dekine?

21 A I was asked by Ms. Dekine to take pictures of the
22 property or the residence at Alexander Road where Minor
23 said these incidents occurred, and I -- I did that
24 between the interviews so that she would have them for
25 the 25th interview.

1 Q Okay. And that Alexander Road location, that's
2 Ms. Kinard's address; is that correct?

3 A Correct.

4 Q And what's the address?

5 A Alexander Road in Whitmire.

6 Q And is that in Union County?

7 A It is.

8 Q All right. And then after the forensic interviews
9 were done, was there anything, any other CAC involvement
10 with Minor ?

11 A She was put into therapy and also medical.

12 Q When was the medical?

13 A The 10th of March.

14 Q Okay. All right. And then did you -- as part of
15 your investigation of the case, did you take a statement
16 from Ms. Kinard?

17 A I did.

18 Q All right. When did you do that?

19 A (Reviews document) On the 5th of March.

20 Q Okay. And after the interviews had been conducted
21 with Minor and you conducted this investigation, did
22 you do anything concerning charging Mr. Young with any
23 crimes?

24 A I did.

25 Q And when did you do that?

1 A (Reviews document) On March the 10th.

2 Q Okay. And what crime did you charge him with?

3 A Criminal sexual conduct with a minor in the first
4 degree.

5 Q Okay. All right. And then later on after you made
6 that charge, did you receive any other follow-up
7 information from Minor's medical examination?

8 A We did.

9 Q And what was that information?

10 A That she had tested positive for rectal chlamydia.

11 Q And in response to that, was there any effort made
12 to have a test secured for Mr. Young?

13 A Yes.

14 Q And when was that test?

15 A (Reviews document) I have the 8th of April.

16 Q Okay.

17 A No. He's got the month the 10th, the victim was
18 tested, and then it was hard for me to read this date,
19 but I've got the 8th of April.

20 Q I'm going to show you a document and ask if that
21 refreshes your recollection about when the test was done,
22 ask you to review that document.

23 A (Reviews document.)

24 Q After reviewing that document, when was the test
25 done?

1 A April the 15th.

2 Q Okay. And how did Mr. Young's chlamydia test come
3 back?

4 A Negative.

5 Q Okay. All right. And then did you contact any
6 state health agencies in regards to seeing if Mr. Young
7 had ever had a reported case of chlamydia?

8 A We did. We contacted DHEC.

9 Q And was there any record provided pertaining to
10 Mr. Young ever having a reported chlamydia test?

11 A Reported, no.

12 Q All right. Did you do anything as far as trying to
13 obtain any prescription records for Mr. Young or for
14 Ms. Kinard?

15 A I did.

16 Q All right. And what did you do?

17 A I sent a subpoena to Roche's Pharmacy in Whitmire,
18 which is closer than Union Pharmacy, Roche Pharmacy to
19 obtain the prescriptions.

20 Q All right. And what was the purpose of doing that?

21 A The purpose of doing that was to see if there was
22 any antibiotics prescribed that could be for the
23 treatment of chlamydia.

24 Q All right. And had Mr. Young been prescribed any of
25 that type of antibiotic, at least that had been filled at

1 Roche Pharmacy?

2 A No.

3 Q Had Ms. Kinard?

4 A Yes.

5 (WHEREUPON, State's Exhibit No. 9 was marked for
6 identification.)

7 BY MR. ANTHONY:

8 Q All right. I'm showing you State's Exhibit 9 for
9 identification. I'd ask if you can identify those two
10 pages I've handed up.

11 A (Reviews document) It's prescription records from
12 Anita Kinard's file.

13 Q Okay. All right. And are those two pages that you
14 were provided by Roche Pharmacy?

15 A Yes.

16 Q All right. And what drug is indicated that she had
17 filled prescriptions for on those pages?

18 A Azithromycin.

19 MR. ANTHONY: All right. We move State's 9 into
20 evidence.

21 MR. DELANEY: No objection, Judge.

22 THE COURT: State's 9 is in evidence without
23 objection.

24 (WHEREUPON, State's Exhibit No. 9 was admitted into
25 evidence.)

1 BY MR. ANTHONY:

2 Q Is Mr. Young here present in the courtroom?

3 A He is.

4 Q All right. Could you point him out, please.

5 A (Indicating.)

6 Q What color of shirt is he wearing?

7 A Blue checkered, dark blue/lighter blue.

8 Q Okay. And where is he sitting in the courtroom?

9 Who is he sitting behind?

10 A Mr. Delaney.

11 MR. ANTHONY: Okay. All right. We just ask that
12 the record reflect she's identified Mr. Young.

13 And that'll be all on the record.

14 THE COURT: So reflected.

15 Mr. Delaney?

16 MR. DELANEY: Thank you, Judge.

17 CROSS EXAMINATION

18 BY MR. DELANEY:

19 Q Good afternoon. It's getting into the early
20 evening.

21 It's sergeant; is that correct?

22 A It is.

23 Q Okay. And, Sergeant, you have received quite a bit
24 of training in your law-enforcement career, correct?

25 A Ongoing training, yes.

1 Q Okay. But you -- to become an officer, you received
2 a whole lot of training through the South Carolina Law
3 Enforcement Academy; is that correct?

4 A Yes.

5 Q Okay. And you received a lot of ongoing training;
6 is that correct?

7 A Yes.

8 Q Okay. You've been trained in the importance of
9 writing, filling out incident reports, correct?

10 A Yes.

11 Q Okay. Training in the different types of evidence;
12 is that correct?

13 A Yes.

14 Q Okay. And then I guess an example of that would be
15 you have -- we have physical evidence, evidence you can
16 reach out and touch, correct?

17 A Yes.

18 Q There is what they refer to as forensic evidence ---

19 A Yes.

20 Q --- is that correct?

21 And that's more into DNA; is that right?

22 A Correct.

23 Q Okay. Now, you've been trained in also the
24 importance of these different types of evidence; is that
25 correct?

1 A Yes.

2 Q Okay. And you've been trained in the importance of
3 gathering, obtaining evidence, correct?

4 A Yes.

5 Q Okay. And in a case, Sergeant, when you get a case
6 where allegations are being made, you want to try and
7 obtain, gather evidence that's going to corroborate the
8 allegations, correct? You want to try to get ---

9 A Yes.

10 Q -- evidence that's going to corroborate allegations,
11 correct?

12 A Yes.

13 Q Okay. And evidence that can corroborate someone's
14 allegations are other witnesses who may have observed
15 what that particular person is reporting, correct?

16 A Yes.

17 Q Okay. Statements can corroborate someone's
18 allegations, right?

19 A Yes.

20 Q Okay. Physical evidence can corroborate someone's
21 allegations, correct?

22 A Yes.

23 Q Medical evidence can do that, correct?

24 A Sometimes, yes.

25 Q Okay. Well, medical evidence can back up what

1 someone's saying, their allegations, right?

2 A Right.

3 Q Forensic evidence, DNA evidence, that can
4 corroborate, back up someone's allegations, correct?

5 A If it's available, yes.

6 Q And there's different types of what's referred to as
7 circumstantial evidence. That can be used as well to
8 corroborate someone's allegations, correct?

9 A Yes.

10 Q Okay. And as a detective, investigator, sergeant,
11 you're trained -- you have training in interviewing
12 suspects; is that right?

13 A Yes.

14 Q Okay. Trained in the different types of
15 interrogation techniques; is that correct?

16 A Yes.

17 Q Okay. And you're trained in the importance of
18 trying to get information out of a potential suspect; is
19 that correct?

20 A That's part of the training, yes.

21 Q Huh?

22 A It is part of the training.

23 Q Okay. And when you have a case, when you're
24 talking to somebody, interviewing a witness, you're
25 looking for inconsistencies in someone's story; is that

1 correct?

2 A Yes.

3 Q Okay. You look for things that don't make sense in
4 someone's story, correct?

5 A Yes.

6 Q You look for things that don't add up in someone's
7 story, correct?

8 A Yes.

9 Q And you do this when you have allegations in the
10 case, correct?

11 A Yes.

12 Q Okay. And you do this because, in your experience,
13 allegations ultimately can prove untrue, correct?

14 A Yes.

15 Q Can be false, correct?

16 A Yes.

17 Q So you want corroboration, right?

18 A Yes.

19 Q You want evidence that's going to back up those
20 allegations, correct?

21 A Yes.

22 Q Now, you were the lead investigator -- you are the
23 lead investigator on this case, correct?

24 A Correct. The only investigator on the case.

25 Q Say it again?

1 A The only investigator on the case, yes.

2 Q There were some city officers that were involved
3 originally, Detectives Gregory, McGee, very briefly,
4 correct?

5 A Yes.

6 Q They found out these allegations were outside of
7 their jurisdiction ---

8 A Yes.

9 Q --- and turned it over to you, correct?

10 A Yes.

11 Q Okay. And as the lead investigator, you prepared
12 some reports in this case; is that right?

13 A Yes.

14 Q You prepared, it appears -- do you have those
15 reports with you, Sergeant?

16 A I do.

17 Q Okay.

18 A Or at least I think I have all of them.

19 Q It appears you made an initial report, Union County
20 Sheriff's Office incident report dated 1/29/2015; is that
21 correct?

22 A (No answer.)

23 MR. DELANEY: Your Honor, this may help. May I
24 approach?

25 THE COURT: Yes, sir.

1 BY MR. DELANEY:

2 Q If you could, take ---

3 A Yes.

4 Q If you -- did you have a chance to look through
5 those?

6 A Yes.

7 Q Okay. I'm going to let you hang onto this for a
8 minute, okay?

9 A Okay.

10 Q Now, Sergeant, you prepared a Union County Sheriff's
11 Office incident report dated January 29, 2015, correct?

12 A Yes.

13 Q You also prepared a supplemental report dated the
14 same day, correct?

15 A Yes.

16 Q Okay. And you prepared a supplemental report dated
17 March 9, 2015, correct?

18 A Yes.

19 Q A supplemental report dated March 17, 2015, correct?

20 A Yes.

21 Q And then the final one was one -- incident report
22 supplemental dated April 27, 2015, correct?

23 A Yes.

24 Q Okay. So those are documents that you prepared in
25 this case; is that right?

1 A Yes.

2 Q Okay. And you also had -- as the lead investigator,
3 you also had an opportunity to review the city police
4 reports that were done in this case as well, correct?

5 A I don't recall if I had theirs or not.

6 Q You don't recall if you ---

7 A I don't know that they -- yes. They did have one.
8 I was trying to think of the day before, but yes, I did.

9 Q Yes. I think in one of your first reports ---

10 A Yes, I did.

11 Q --- you said you used -- you relied on those to
12 start gaining some information about this case, correct?

13 A With these -- yes. The information specifics, yes.

14 Q Okay. And as the lead investigator, anything that's
15 important, material to this case, you're going to have,
16 you're going to review; is that correct?

17 A Yes.

18 Q Okay. You're going to have that in your file,
19 right?

20 A Yes.

21 Q Okay. And that can include documents, records,
22 reports; is that right?

23 A Yes.

24 Q Okay. Now, at the start of your investigation, you
25 learned of allegations of sexual abuse being made by a

1 student at ; is that correct?

2 A Yes.

3 Q Okay. And this was January 29, 2015, right, when
4 you got involved?

5 A Yes.

6 Q Okay. And on that particular day, you left a card
7 at the house of Kaci Trammell, correct?

8 A (Reviews document.)

9 Q Did you leave a card at Ms. Trammell's house?

10 A I believe the city left a card at their house.

11 Q Okay. Somebody from law enforcement ---

12 A Somebody from law enforcement.

13 Q --- left a card.

14 A But I'm -- it wasn't me. It wasn't me.

15 Q That's it. Okay.

16 You took a written statement in this case from Kaci
17 Trammell, from what we've heard, on February the 5th,
18 2015, correct?

19 A Right.

20 Q And this was to get an -- you did this to try to get
21 an idea of a time frame; is that correct?

22 A Yes.

23 Q Okay. And that time frame purpose -- Trammell --
24 Kaci Trammell's statement that you got was 2011 until
25 2014, correct?

1 A Correct.

2 Q Okay. And did you interview, talk to anyone else
3 that resides at the Trammell residence?

4 A (No answer.)

5 Q Let me get more specific. Did you interview Thomas
6 Trammell in this case?

7 A No.

8 Q Did you interview anybody by the name of Tracy in
9 this case?

10 A No.

11 Q Were you aware of any dislike towards Cleveland
12 Young by Thomas Trammell or the Trammell family?

13 A No.

14 Q Not aware? Your investigation did not uncover any
15 of that; is that correct?

16 A The Trammell family itself, no.

17 Q Specifically Thomas Trammell.

18 A My -- my concern probably would have been more was
19 there anything that Minor had against anybody there.
20 That would have been a question I would ask, but I didn't
21 interview her. So -- but no. Did I -- that I recall, I
22 don't recall having a discussion about the family not
23 liking him.

24 Q You never looked into that?

25 A I don't think I had a reason to.

1 Q Okay. You're not aware ---

2 A That I recall, I didn't have a reason to ask that.

3 Q You're not aware of any bias by the Trammell family,
4 specifically Mr. Thomas Trammell, towards Cleveland
5 Young?

6 A No.

7 Q You were aware -- you were aware that Tracy was
8 residing at this residence as well?

9 A Not living there.

10 Q Now, Anita Kinard, she gave a written statement to
11 you in this case; is that correct?

12 A Yes, she did.

13 Q That was in March -- March 5, 2015; is that right?

14 A Yes, yes.

15 Q And you met with Ms. Kinard at least on one
16 occasion; is that right?

17 A Yes.

18 Q And did you talk to her over the phone on at least
19 another occasion? Is that correct?

20 A Yes. I've talked to her on the phone probably more
21 than once.

22 Q Okay. And when you met with her, when you talked to
23 her on the phone, at that point, no one was charged yet,
24 right?

25 A Correct.

1 Q Okay. And you had told her not to tell Mr. Young
2 about the investigation, correct?

3 A I did.

4 Q Okay. And -- or about the allegations being made,
5 correct?

6 A Correct.

7 Q Okay. And you told her not to tell him about
8 y'all's conversation, right?

9 A Correct.

10 Q Or anything that y'all talked about, right?

11 A I'm pretty sure I covered that.

12 Q Right. You didn't want her going back and saying
13 anything to him, correct?

14 A Correct.

15 Q Okay. And you have no evidence that she did that,
16 correct?

17 A Correct.

18 Q Okay. And, in fact, you told her ultimately that
19 she needed to evict Mr. Young from the residence; is that
20 correct?

21 A I don't recall that.

22 Q You don't recall having that conversation with
23 Ms. Kinard?

24 A I recall her asking me how she was going to get him
25 out of the house, but, see, he was in jail at the time.

1 So I said she would have to evict him. That's his
2 residence. And that could have been served while she
3 [sic] was in jail.

4 Q Do you know if she did any eviction proceedings?

5 A I have no idea.

6 Q And she talked to you voluntarily, correct?

7 A She did.

8 Q Okay. And there's nothing in any of the reports
9 that you made in this case that Anita was trying to hide
10 something from you or being deceptive or anything like
11 that, correct?

12 A I don't feel that she did.

13 Q And sexual abuse was supposedly reported to Anita
14 Kinard every time it occurred, correct?

15 A According to the CAC video, yes.

16 Q And this was not corroborated by Anita Kinard,
17 correct?

18 A It wasn't.

19 Q She never witnessed any inappropriate conduct or
20 contact involving Cleveland Young and Minor
21 correct?

22 MR. ANTHONY: Objection.

23 THE COURT: Sustained.

24 MR. DELANEY: I'll withdraw.

25 ///

1 BY MR. DELANEY:

2 Q Now, you -- we heard that you subpoenaed some -- you
3 got some pharmacy records in this case; is that correct?

4 A Yes.

5 Q Okay. You got Mr. Young's pharmacy records from a
6 Roche Pharmacy and also Anita Kinard's; is that correct?

7 A I subpoenaed for Anita's.

8 Q Huh?

9 A I subpoenaed for Anita's.

10 Q Okay. But then, ultimately, Mr. Young's as well,
11 correct?

12 A The records were subpoenaed.

13 Q Okay. As the lead investigator, you're aware that
14 records from Mr. Young were subpoenaed as well, pharmacy
15 records?

16 A Yes.

17 Q Okay. And these are the records here for
18 Ms. Kinard?

19 A That's some of them.

20 Q Okay. And did you -- did you get any -- did you get
21 any medical records for Ms. Kinard?

22 A I did not.

23 Q Are you aware that Ms. Kinard's medical records were
24 subpoenaed?

25 A I'm not sure if they were or not.

1 Q You're not sure if her medical records were
2 subpoenaed?

3 A Actual physical medical records, I'm -- I'm not
4 sure.

5 Q Okay. So as the lead investigator, you never
6 reviewed any of her medical records?

7 A I did not.

8 Q Okay. And according to your reports, March 17,
9 2015, you learned that Minor tested positive
10 for rectal chlamydia, correct?

11 A Yes.

12 Q Okay. And that other confirmation tests --
13 confirmation tests were being performed according to
14 Dr. Henderson; is that correct?

15 A Right.

16 Q Okay. And on April 8, 2015, there was a court order
17 done in this case; is that correct?

18 A Yes.

19 Q Okay. And that was a court order requiring
20 Cleveland Young to provide a urine sample for a chlamydia
21 test; is that right?

22 A Yes.

23 Q Okay. And that was to determine if Cleveland Young
24 has or had chlamydia, correct?

25 A Yes.

1 Q Okay. Now, do you have a copy of that warrant for
2 that order with you?

3 A (Reviews document).

4 MR. ANTHONY: May I approach, Your Honor?

5 BY MR. DELANEY:

6 Q Does that look like the order?

7 A Yes.

8 Q And that order was consented to by my client and
9 myself; is that correct?

10 A Yes.

11 Q Okay. And that order would ultimately, if Mr. Young
12 tested positive for chlamydia, that would corroborate the
13 victim's statement that she was sexually assaulted --
14 sexually abused by the defendant, correct?

15 A It could be used as corroborating evidence. It
16 could be.

17 Q And that's what the order says in the order, right?

18 A It could be. If it was present at the time, it
19 could be, yes.

20 Q Okay. It could -- or it would, and that could be.
21 It would corroborate her, correct?

22 A Yes.

23 Q I mean, that's what it says in the order, right?

24 A Yep.

25 Q Okay. And we heard just a little earlier

1 approximately one week after this order was consented to
2 by my client, he tested negative for chlamydia, correct?

3 A That's correct.

4 Q Now, my client also consented, gave authorization
5 for the South Carolina Department of Health and
6 Environmental Control to release any info or records they
7 had on him, correct?

8 A Yes.

9 Q Okay. DHEC?

10 A Yes.

11 Q And you checked. And you did -- you checked DHEC,
12 right?

13 A Yes.

14 Q And the thing about DHEC is, if there is -- if
15 someone goes to the doctor and gets diagnosed with an
16 STD, that doctor has to report that to DHEC, correct?

17 A They're supposed to.

18 Q That's the law of the State, correct?

19 A (Nods head affirmatively.)

20 Q Okay. And so that's why you wanted to find out.
21 You wanted to check if DHEC had any record of that,
22 correct?

23 A Yes.

24 Q Okay. And they had absolutely no record of my
25 client ever having an STD, correct?

1 A No.

2 Q Now, you went a step further than that where you
3 also went in and got -- went back -- it looks like you
4 subpoenaed or requested records from Mr. Young that went
5 back ultimately over 30 years; is that correct?

6 A Yes.

7 Q Nothing that would be -- nothing in those records
8 would say that he ever had any type of an STD, correct?

9 A Nothing in the records, right.

10 Q And, Sergeant, before charging Cleveland Young with
11 criminal sexual conduct with a minor, first degree, did
12 you ever talk to him?

13 A I attempted to interview him, but he didn't want to
14 talk.

15 Q You tried to interview him. My question is -- and
16 we'll get to the other ---

17 A I'm sorry. Prior to his arrest, no.

18 Q Before you charged him, did you ever talk to him?

19 A No, I did not.

20 Q Okay. Now -- and that was -- and you never tried to
21 get his side of the story, correct, before you charged
22 him?

23 A That's correct.

24 Q Okay. Now, you say that you tried to interview him
25 or get his side of the story once you arrested him?

1 A I attempted -- I attempted to speak with him after
2 he was arrested, and he refused to talk.

3 Q He refused to talk?

4 A Uh-huh.

5 Q Are you sure about that?

6 A He said he didn't want to discuss it. He just
7 wanted medicine for his back.

8 MR. DELANEY: May I approach, Your Honor?

9 THE COURT: Yes, sir.

10 BY MR. DELANEY:

11 Q What is that?

12 A Interrogation of -- this is Advice of Rights.

13 Q Okay. And what else does that say? What's that
14 piece of paper say?

15 A It's signed that he would waive his rights.

16 Q Who signed it?

17 A Cleveland and myself.

18 Q Okay. What's the date on it?

19 A The date is 3/11/2015.

20 Q And it says in there that he agrees to be
21 interviewed and to talk to you, correct?

22 A He agreed -- he waived his rights to talk to me, but
23 it also says in here that he has the right to stop
24 answering or he doesn't have to say anything. And he
25 chose not to say anything.

1 Q He did?

2 A He signed the Waiver of Rights, but he still didn't
3 have to say anything.

4 Q Well, isn't it actually true that the reason the
5 interview was cut short that day is that you weren't
6 feeling well, and you left, right?

7 A I'm not sure. I wouldn't remember that far back.

8 Q Well, you just said that he refused to talk to you.

9 A He did. He said he didn't have anything to say
10 about it and he just wanted medicine for his back.

11 Q Where did you -- where did you -- where is that in
12 any report that you made in this case that he refused to
13 talk to you?

14 A It tells me that on this list right here. He didn't
15 say anything. There's no -- he signed the Waiver of
16 Rights, and it was that brief that he didn't want to talk
17 about it.

18 Q It looks like there is a -- on that sheet you have,
19 it looks like there's a time on there, 10:14 at the top
20 and then 10:17 at the bottom, correct?

21 A Right.

22 Q Three minutes, right?

23 A Three.

24 Q That looks like that's the amount of time that you
25 would have spent with him, three minutes?

1 A Correct.

2 Q Okay.

3 A If somebody says that they don't want to talk, the
4 end.

5 Q Right. And you've been trained -- we talked a
6 little earlier, you're trained in the importance of
7 writing a report, correct?

8 A Yes.

9 Q Okay. And one of the big things that you take away
10 from writing incident reports is you're trained to put in
11 a report what's important to the case, correct?

12 A Yes.

13 Q Okay. And you did not document that he refused to
14 talk to you, he didn't want to talk to you anywhere in
15 this case, correct?

16 A In that official report, it may not be there.

17 Q In the what report?

18 A In the report, it may not be documented.

19 Q Do we have other reports that I'm not aware of?

20 A If there were -- I may have made a note, but I don't
21 -- I don't see it in the report, no.

22 Q Do you have that note anywhere?

23 A Well, I'll look and see. (Reviews documents) No. I
24 don't have it.

25 Q And you never went back, tried to talk to him after

1 March 11th, correct?

2 A No, sir.

3 Q Not when you were feeling better, right?

4 A No.

5 MR. ANTHONY: Objection. That assumes facts not in
6 evidence.

7 THE COURT: Rephrase your question, please.

8 BY MR. DELANEY:

9 Q You didn't go back when you --

10 MR. DELANEY: I think her testimony was, Your Honor,
11 that she didn't recall if she wasn't feeling well or not.
12 My question was did she go back when she was feeling
13 better, when she was feeling well.

14 THE WITNESS: I didn't ---

15 THE COURT: No. So she never testified that --
16 well, I'm not going to comment on that, but I sustain the
17 objection.

18 THE WITNESS: That's not why the interview was that
19 short. I didn't leave because I didn't feel well, if I
20 didn't, which I don't remember that day. But I still
21 wouldn't have left in the middle of an interview. Once
22 they say they don't -- they don't want to talk, I don't
23 go back unless they call me.

24 BY MR. DELANEY:

25 Q But, again, you have a piece of paper right there

1 that's signed by my client saying he wants to talk,
2 correct?

3 A He signed the waiver, but he didn't say anything.
4 He didn't want to talk after that.

5 THE COURT: Let me see that document.

6 MR. DELANEY: And I'll move on, Judge.

7 THE COURT: All right. Move on then, Mr. Delaney.
8 Thank you.

9 BY MR. DELANEY:

10 Q Okay. Sergeant, you gave sworn testimony on
11 March 10, 2015, that resulted in a warrant being issued
12 against Cleveland Young for CSC first degree with a
13 minor, correct?

14 A Yes.

15 Q Okay. And this warrant was based on allegations
16 Cleveland Young did penetrate the vagina and anus of the
17 victim, correct?

18 A Correct.

19 Q And also had the victim perform oral sex on him,
20 correct?

21 A Correct.

22 Q Okay. And this warrant you swore out was based on
23 allegations being made by Minor , correct?

24 A Yes.

25 Q Okay. And these allegations were that she was being

1 sexually assaulted, abused by Cleveland Young, correct?

2 A Yes.

3 Q Okay. And these allegations were not corroborated
4 by Anita Kinard, correct?

5 A It wasn't.

6 THE COURT: I thought I sustained an objection to
7 that same line of questioning earlier. Ask your next
8 question, please.

9 MR. DELANEY: Your Honor, Ms. Kinard ---

10 THE COURT: No. That's hearsay. That's negative
11 hearsay. Ask your next question. I sustained an
12 objection earlier on that same line of questioning. Ask
13 your next question, please, Mr. Delaney.

14 BY MR. DELANEY:

15 Q The allegations were not corroborated by Cleveland
16 Young's chlamydia test results, correct?

17 A Correct.

18 Q Allegations not corroborated by any witness or any
19 type of inappropriate -- any -- these allegations were
20 not corroborated by any witness observing any type of
21 inappropriate behavior between Ms. Trammell and
22 Mr. Young, correct?

23 A Correct.

24 Q Allegations not corroborated by any type of medical
25 evidence, correct?

1 A Correct.

2 Q Not corroborated by any type of forensic or DNA
3 evidence, correct?

4 THE COURT: Haven't all of these questions been
5 asked and answered?

6 THE WITNESS: Forensic interview ---

7 THE COURT: Excuse me, please, Officer.

8 Haven't all these questions been asked and answered?

9 MR. DELANEY: I don't think so, Judge.

10 THE COURT: I do. Move on from those questions.

11 BY MR. DELANEY:

12 Q Just the last questions I have. As the lead
13 investigator, we heard you never interviewed Cleveland
14 Young, correct?

15 A I went to, but he didn't want to talk.

16 Q And you never talked to Minor , correct?

17 A Not during the investigation period, other than I
18 will say that she was at the park when I went to speak
19 with her mother one time playing. That's the only time
20 I've seen her.

21 MR. DELANEY: Thank you.

22 THE COURT: Redirect, Solicitor?

23 MR. ANTHONY: I just have one on redirect. All
24 right. No -- no redirect.

25 THE COURT: All right. Thank you very much.

1 All right. From what I understand, ladies and
2 gentlemen, it would be a good time to take our evening
3 recess.

4 I remind you during the recess, do not discuss this
5 case with others. That includes your fellow jurors,
6 family, friends or anyone else. Do not read, watch or
7 listen to any news account about the case. Do not do any
8 independent investigation or any investigation on the
9 Internet.

10 I would ask you to, please, be back promptly at 9:30
11 in the morning. Would you, please, be back promptly at
12 9:30 in the morning. Hope y'all have a pleasant evening.
13 Thank you.

14 (WHEREUPON, the jury exits the courtroom at 5:44 p.m.)

15 THE COURT: All right. Solicitor, I have released
16 the remainder of the jury panel for the remainder of the
17 week.

18 MR. ANTHONY: Okay.

19 THE COURT: All right. The Court will be in recess
20 until 9:30 in the morning.

21 (WHEREUPON, the proceedings were concluded at 5:44 p.m.,
22 to be reconvened on Wednesday, March 30, 2016.)
23
24
25

Wednesday, March 30, 2016

(Jury not present.)

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

THE COURT: Mr. Young?

DEFENDANT YOUNG: Yes, sir.

THE COURT: Would you and your attorney come around
here to the microphone for me, please...

Madam Clerk, would you place Mr. Young under oath
for me.

WHEREUPON,

CLEVELAND EDWARD YOUNG

After having been duly sworn, testified as follows:

THE COURT: You're Cleveland Edward Young?

DEFENDANT YOUNG: Yes, sir.

THE COURT: Mr. Young, I need to go over some things
with you. I do this with everyone who is on trial. I
require their responses to be under oath. That's why I
had the clerk place you under oath.

Shortly we will reach the stage of the trial where
the State rests, and your side, the defense, will have
the opportunity to present evidence for the jury to
consider. Do you understand that?

DEFENDANT YOUNG: Yes, sir.

1 THE COURT: In that regard, your side, the defense,
2 may call witnesses to testify on your behalf. If you
3 choose to testify yourself, you may do so. Do you
4 understand?

5 DEFENDANT YOUNG: Yes, sir.

6 THE COURT: No one can force you to testify. You
7 have the absolute right to remain silent. And if you
8 choose not to testify, I will tell this jury that they
9 cannot hold your silence against you in any way. I will
10 tell them they are not to even discuss the fact that you
11 do not testify in the jury room. Do you understand?

12 DEFENDANT YOUNG: Yes, sir.

13 THE COURT: If your side offers no evidence at all,
14 in other words, if neither you nor anyone on your behalf
15 testifies or offers any exhibits, then your attorney or
16 either Mr. Delaney or Ms. Williams will get to make the
17 last argument to the jury; otherwise, the prosecutor gets
18 to make the last argument to the jury. Do you
19 understand?

20 DEFENDANT YOUNG: Yes, sir.

21 THE COURT: Mr. Delaney, Solicitor, does Mr. Young
22 have a criminal record that would subject him to
23 impeachment under Rule 609?

24 MR. ANTHONY: Yes, sir, he does. He had three
25 first-degree burglary convictions in 1987, and he

1 received a 36-year sentence on those convictions, and he
2 was released on February 1, 2007. So the State's
3 position would be that, under Rule 609, all three of
4 those convictions would fall within the 10-year period as
5 the release date falls within the 10-year period, and
6 that he would be subject to impeachment for those
7 convictions.

8 THE COURT: All right. Mr. Delaney, do you agree
9 with that?

10 MR. DELANEY: I do, Your Honor.

11 THE COURT: All right. And it's three burglary
12 first convictions?

13 MR. ANTHONY: Yes, sir.

14 THE COURT: If you are to testify, Mr. Young, then
15 the prosecutor could ask you if you have convictions for
16 burglary first degree, three counts, and he could ask you
17 that in front of the jury. The prosecutor cannot go into
18 the details of the prior offenses, but they can ask you
19 if you have those convictions. If that happened, I would
20 tell the jury that they can only consider that evidence
21 against you, if they consider it at all, only on the
22 issue of whether or not your testimony is believable or
23 not and for no other purpose. Do you understand?

24 DEFENDANT YOUNG: Yes, sir.

25 THE COURT: Now, the decision about whether you

1 testify or not, I suspect you have conferred with your
2 attorneys and perhaps others whose opinions you value on
3 life's very important decisions, but that decision is
4 your decision to make. It's your call. Do you
5 understand?

6 DEFENDANT YOUNG: Yes, sir.

7 THE COURT: Has anyone exercised any undue influence
8 over you to get you to choose to testify or not to
9 testify?

10 DEFENDANT YOUNG: No, sir.

11 THE COURT: Today are you under the influence of any
12 medication, drugs or alcohol that negatively affects your
13 thinking ability?

14 DEFENDANT YOUNG: No, sir.

15 THE COURT: Do you suffer from any physical,
16 emotional or nervous condition that affects your thinking
17 ability today?

18 DEFENDANT YOUNG: No, sir.

19 THE COURT: Do you have any questions you would like
20 to ask me about your right to testify or not testify?

21 DEFENDANT YOUNG: No, sir.

22 THE COURT: All right. I find that Mr. Young
23 understands his right to testify or not to testify
24 intelligently, voluntarily.

25 I will not ask you your decision at this time. We

1 will continue on with the trial and give you some more
2 time to think about it and perhaps have the opportunity
3 to speak with your attorney before you advise the Court
4 of your decision.

5 Thank you very much, Mr. Young.

6 MR. DELANEY: Thank you, Judge.

7 THE COURT: All right. Anything from the State
8 before we bring in our jury, Solicitor?

9 MR. ANTHONY: No, sir.

10 THE COURT: From the defense?

11 MR. DELANEY: No, Your Honor.

12 THE COURT: And I believe, Mr. Delaney, these are
13 the documents that were handed to Dr. Henderson yesterday
14 and left up here. And they were not marked.

15 All right. Bring us our jury, please.

16 (WHEREUPON, the jury entered the courtroom at 9:54 a.m.)

17 THE COURT: Good morning. I apologize for the
18 delay. I assure you, it has nothing to do with the
19 parties. The parties were not on time. They were early.
20 They were out here diligently working to continue the
21 trial of the case in an efficient manner.

22 I have noticed, as have most jurors in South
23 Carolina, there's two traits for Circuit Court judges.
24 None of us can tell time. I'm sure you all have observed
25 that also. And it's been my observation, very few of

1 them have personalities. I'll allow jurors to make that
2 decision themselves. If you ever see another Circuit
3 Court judge, please don't tell him or her I said that.

4 All right. Solicitor, you may call your next
5 witness.

6 MR. ANTHONY: Your Honor, we would just briefly
7 recall Investigator Belue.

8 THE COURT: All right. Since we're on a different
9 day, Madam Clerk, would you place the lieutenant under
10 oath?

11 WHEREUPON,

12 ROXIE BELUE

13 After first having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ANTHONY:

16 Q Investigator Belue, can you tell us Mr. Young's
17 birthday?

18 A 1964.

19 THE COURT: Thank you. That's everything.

20 MR. DELANEY: A few questions, Judge.

21 THE COURT: All right. Yes, sir.

22 CROSS EXAMINATION

23 BY MR. DELANEY:

24 Q Sergeant, you testified yesterday that you gave
25 sworn testimony on March the 10th of 2015 on this case

1 regarding the charge of criminal sexual conduct, first
2 degree with a minor; is that correct?

3 A (No audible answer.)

4 Q Well, you gave sworn testimony to -- you swore out a
5 warrant on this case on March 10, 2015, correct?

6 A Yes.

7 Q And you also gave sworn testimony in this case
8 approximately four and a half months later; is that
9 correct? July 30, 2015?

10 A That sounds correct.

11 Q And that would be regarding a new charge of criminal
12 sexual conduct, third degree, with a minor; is that
13 correct?

14 A Yes.

15 Q And this new charge doesn't allege vaginal
16 penetration, correct?

17 A Can I see that? I didn't bring the whole file with
18 me.

19 Q What would you like to see?

20 A What you're asking me about, the second charge.

21 Q Now, that particular charge does not allege vaginal
22 penetration, correct?

23 A (Reviews document) No.

24 Q It doesn't allege anal penetration, correct?

25 A No.

1 Q It doesn't allege oral sex, correct?

2 A Not specifically, no.

3 Q And from -- Sergeant, from March 10th until when you
4 gave sworn testimony regarding that charge on July 30th,
5 did you do any additional investigation in this case?

6 A None other than what I had as far as -- no. Nothing
7 than what I already had.

8 MR. DELANEY: Thank you. No further questions.

9 THE COURT: Any redirect, Solicitor?

10 MR. ANTHONY: Just briefly.

11 REDIRECT EXAMINATION

12 BY MR. ANTHONY:

13 Q That additional testimony you provided, what body
14 did you provide it to? When you made that -- when you
15 did that additional testimony, who were you in front of?

16 A The preliminary?

17 Q Well, what testimony did you have to give to get the
18 indictment?

19 A Oh, the magistrate.

20 Q Who do you go in front of to get an indictment?

21 A The grand jury.

22 MR. ANTHONY: Okay. Thank you. That's everything.

23 THE COURT: Recross?

24 MR. DELANEY: No, Your Honor.

25 THE COURT: Thank you. Thank you very much,

1 Lieutenant. You may step down.

2 All right. Solicitor, you may call your next
3 witness.

4 MR. ANTHONY: Your Honor, that would be the State's
5 case.

6 THE COURT: All right. Thank you. Thank you,
7 Solicitor.

8 Mr. Foreman, ladies and gentlemen of the jury, you
9 heard the State has rested. You heard all the evidence,
10 all the testimony you're going to hear from the State in
11 its case in chief. The law requires I meet with the
12 attorneys at this juncture outside of your presence. So
13 I know you've only been out here just a few minutes. I'm
14 going to ask you to please step back in your jury room.
15 Do not discuss the case during this brief recess.

16 (WHEREUPON, the jury exits the courtroom at 10:01 a.m.)

17 THE COURT: Motions, Mr. Delaney?

18 MR. DELANEY: Yes, Your Honor. At this time, the
19 defense would make a motion for a directed verdict in
20 this case, also renew any objections, motions that we
21 made earlier in this trial.

22 THE COURT: Thank you. Thank you very much.
23 Solicitor?

24 MR. ANTHONY: We'd just argue that there's been
25 evidence presented from which any reasonable juror could

1 find Mr. Young guilty of these two charges beyond a
2 reasonable doubt. There's been evidence laying a
3 foundation for all of the -- for the elements of both
4 crimes.

5 THE COURT: All right. Thank you. Thank you very
6 much.

7 Well, at this stage of the proceeding, in looking at
8 the standard that I must apply in the light most
9 favorable to the nonmoving party, that would be in the
10 light most favorable to the State, I think there is both
11 direct and sufficient circumstantial evidence as to both
12 criminal sexual conduct with a minor in the first degree
13 and criminal sexual conduct with a minor in the third
14 degree based on initially the testimony of the victim,
15 Minor , concerning the events as a not only
16 victim but witness to those events occurring, her age,
17 sexual battery, locations in Union County.

18 Additionally, as to the criminal sexual conduct
19 third with a minor, also there is sufficient
20 circumstantial evidence based on the fact that you have a
21 7-year-old child that has been affected with a sexually
22 transmitted disease being chlamydia, that being from
23 rectal swabs, I think there is sufficient evidence, and I
24 would respectfully deny the motion for the directed
25 verdict as to both indictments.

1 Any other motions?

2 And I would reaffirm all my previous trial and
3 evidentiary rulings.

4 Any additional motions, Mr. Delaney?

5 MR. DELANEY: No, Your Honor.

6 THE COURT: Any matters from the State, Solicitor?

7 MR. ANTHONY: Not -- I have one matter I'd like to
8 take up before Mr. Delaney talks to his witness, but I
9 don't have anything right now.

10 THE COURT: All right. Mr. Delaney, do you want a
11 brief period of time now to discuss with Mr. Young his
12 right to testify or not testify?

13 MR. DELANEY: Your Honor, at this time, I do not
14 believe that we do need any additional time to discuss
15 that.

16 THE COURT: All right. Would you step back around
17 here, please, Mr. Young. Mr. Young, you're still under
18 oath. You heard your attorney say that he does not
19 believe that he needs any additional time to discuss your
20 right to testify or not to testify. He doesn't need
21 additional time to talk with you about that. Do you
22 agree?

23 DEFENDANT YOUNG: Yes, sir.

24 THE COURT: Have you made your decision?

25 DEFENDANT YOUNG: Yes, sir.

1 THE COURT: And what is your decision?

2 DEFENDANT YOUNG: I won't testify.

3 THE COURT: And is that your decision?

4 DEFENDANT YOUNG: Yes, sir.

5 THE COURT: Made of your own free will and accord?

6 DEFENDANT YOUNG: Yes, sir.

7 THE COURT: Anyone exercise any undue influence over
8 you to get you to make that decision?

9 DEFENDANT YOUNG: No, sir.

10 THE COURT: Do you have any questions you would like
11 to ask me about the decision you have made and your
12 choice being not to testify?

13 DEFENDANT YOUNG: No, sir.

14 THE COURT: All right. Thank you. Thank you very
15 much. You may return to your seat.

16 I find the defendant, although the Court would be
17 delighted to give him an additional opportunity to talk
18 with his defense counsel, neither he nor his defense
19 counsel believes that is necessary. I make a finding
20 that the decision he has made to not testify is his own
21 decision made freely, voluntarily and knowingly.

22 All right. Who will your first witness be,
23 Mr. Delaney?

24 MR. DELANEY: The first witness will be Anita
25 Kinard.

1 THE COURT: All right. And you have a matter as to
2 Ms. Kinard?

3 MR. ANTHONY: Yes, sir. I do. I just want to go
4 ahead and just put on the record, this is a bit unusual
5 but this is the only way I can think to deal with it.

6 Ms. Kinard took --

7 THE COURT: Is it Kinard or Kinard? It's pronounced
8 two different ways, depending on the individual. And
9 they say an individual can't mispronounce his or her own
10 name.

11 MR. DELANEY: Kinard, Your Honor.

12 THE COURT: Kinard. Thank you.

13 MR. ANTHONY: Ms. Kinard, back during the
14 investigation of the case, she took a polygraph
15 examination. And during cross-examination, depending on
16 how she responds to some questions, I may ask her about
17 statements that she made to the polygraph examiner. I
18 just want to go ahead and make it clear that none of my
19 questions will be designed to elicit any response that
20 would require her to say that she took -- was taking a
21 polygraph test. I have no intention of having any
22 mention made of a polygraph in the courtroom. It will
23 just solely be on such-and-such a date that you talked to
24 Investigator Black and tell him such and such. And I
25 just want to -- I just want to make that clear to

1 everybody. I'm not seeking -- I'm not going to be
2 seeking to elicit testimony concerning a polygraph. I do
3 not intend to phrase my questions in ways where that
4 would need to be part of any answer she'd give.

5 THE COURT: Thank you, Solicitor.

6 Mr. Delaney?

7 MR. DELANEY: I'm good with that, Your Honor.

8 THE COURT: All right. Then make sure the witness
9 understands not to, at any time, bring up the issue of a
10 polygraph. If, during her testimony, she thinks that she
11 should bring it up, all she has to do is turn to me, I'll
12 send the jury out, and we'll flesh that out then. But
13 she is not -- I don't want to hear the word "polygraph"
14 uttered by her or anyone else in front of this jury
15 panel.

16 MR. DELANEY: Yes, Your Honor.

17 THE COURT: All right?

18 MR. ANTHONY: Yes, sir. Thank you.

19 THE COURT: Are you ready for the jury?

20 MR. DELANEY: Yes, Your Honor.

21 (WHEREUPON, the jury entered the courtroom at 10:09 a.m.)

22 THE COURT: Ladies and gentlemen of the jury panel,
23 as you heard before that brief recess, the State has
24 rested. As I had stated to you, you've heard all the
25 evidence, all the testimony you're going to hear from the

1 State in its case in chief. The defendant may now
2 present evidence and testimony if the defendant chooses
3 to do so.

4 As I've told you previously, a criminal defendant in
5 South Carolina is always presumed to be innocent unless
6 and until the jury finds from the evidence that the
7 defendant is guilty beyond a reasonable doubt. The State
8 always bears the burden of proving its case beyond a
9 reasonable doubt. A defendant is not required to prove
10 himself or herself innocent. However, a defendant may
11 present evidence and testimony before the trial jury if
12 the defendant chooses to do so.

13 So we will now turn our attention to Mr. Delaney and
14 ask, does the defendant intend to present any evidence or
15 testimony, Mr. Delaney?

16 MR. DELANEY: Yes, Your Honor.

17 THE COURT: All right. If you would, please call
18 your first witness.

19 MR. DELANEY: At this time, Your Honor, the defense
20 would call Anita Kinard.

21 THE COURT: All right. Ms. Kinard, if you would,
22 come around and be sworn for us, please.

23 WHEREUPON,

24 ANITA KINARD

25 After having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DELANEY:

Q Good morning.

A Good morning.

Q Could you please state your name for the jury.

A Anita Kinard.

Q And, Ms. Kinard, where do you live?

A I live on Alexander Road, Whitmire, Union County.

Q And how old are you?

A 49.

Q Do you know Cleveland Young?

A I do.

Q How do you know Cleveland Young?

A I had hired a contractor to do some work at my house.

Q How long ago was that?

A About nine years ago.

Do some painting, gutter work, things like that.

And Mr. Young was working with the contractor, but the contractor, I was not satisfied with his work at all.

And it wasn't long after my mother had passed, and I got the feeling that he was trying to like milk the insurance money that I had left over, which I was not going to let him do. So anyway, I fired him.

And Mr. Young called me back a couple -- a few days

1 later and apologized for how they had done their work and
2 offered to come back on his off days or spare time and do
3 the job that I was promised. And so I thanked him and I
4 agreed, and so that's what he did. He came back as he
5 could and finished the job I was promised.

6 Q And that's how you got to know him initially?

7 A It is.

8 Q And did a friendship start at that time?

9 A Yeah. Absolutely. I had nobody to do yard work,
10 things like that, so he started to do yard work. And I
11 had several dogs and two cats at the time. I take in
12 abused, abandoned and neglected animals, and actually
13 have an actual state-recognized rescue.

14 Q How many dogs do you have at your residence?

15 A Right now I have nine.

16 Q What type of dogs?

17 A Out of the nine, seven are pit bulls. And every one
18 has a story, but they've all been socialized. He helped
19 with that.

20 Q Most of the dogs -- are any of the dogs that you
21 take care of, have they been the victims of any type of
22 abuse?

23 A Oh, absolutely.

24 And I discovered how much Mr. Young loves animals.

25 And then I witnessed how good he was with the ones that I

1 had brought in, and a little at a time it just sort of
2 started happening that, you know, somebody would call me
3 and another one would come in.

4 Q Do you get help? Do you get any help with your --
5 are you licensed for this?

6 A Yes, yes.

7 Q And you get -- how were you able to care for these
8 dogs? Do you get money from anybody to do that? Feed
9 them? take care of them?

10 A I would love to have donations. However, you know,
11 Whitmire is a small community. The economy is not real
12 good. And it's hard for me to ask for donations anyway.

13 However, one morning when I was having a puppy mill
14 mother delivered to me, just accidentally met a lady at
15 the little -- some sort of Mother's Day yard sale that
16 Whitmire had, and she was selling items. Anyway, she
17 discovered I had a rescue when she saw the dog come --
18 the lady bring the dog to me, and it came out of
19 Newberry, actually.

20 Q Okay.

21 A And so anyway, she started providing dog food.

22 MR. ANTHONY: Your Honor, I object. I just don't
23 see the relevance of this.

24 THE WITNESS: Well, he asked me -- I'm sorry.

25 THE COURT: Let me rule, Ms. Kinard.

1 There had been some testimony in the record about
2 the dog issue. It's just background. You can certainly
3 move on.

4 MR. DELANEY: I'll move on, Your Honor.

5 THE COURT: All right. Thank you. Thank you very
6 much.

7 Thank you, Solicitor.

8 BY MR. DELANEY:

9 Q Ultimately, did Mr. Young move into the residence
10 with you, move into your residence?

11 A Yes. Ultimately, he did.

12 Q And what was your relationship at the beginning?
13 Was it just friends? Were you all intimate?
14 boyfriend/girlfriend? How did that work?

15 A Well, we started out, of course, he as an employee,
16 sort of, of mine doing housework, yard work, dog care.
17 And we developed a very strong friendship. And we did
18 have a couple of intimate encounters very early on.

19 And in moving in my house, he has his own and I have
20 my own room. And, you know, we just neither one ever
21 invaded either space. It was just sort of always
22 understood.

23 Q And yourself and Mr. Young, are you married?

24 A No.

25 Q Would you classify yourselves as

1 boyfriend/girlfriend?

2 A I would classify us as rescue partners.

3 Q And that's rescue for the dogs?

4 A Yes.

5 Q Now, Kaci Trammell, who is she to you?

6 A That is my niece, my brother's daughter.

7 Q How long have you known Kaci?

8 A Oh, goodness, since she was in the womb. Her entire
9 life.

10 Q And you know her daughter?

11 A Absolutely.

12 Q And who is her daughter?

13 A Minor

14 Q How would you describe your relationship in the past
15 with Kaci?

16 A We've always been close. I never had children, so
17 my brother's two kids have always meant the world to me.
18 Just always tried to be there for her and she's always
19 been there for me, and I love her.

20 Q Would Kaci, would there be times that she would come
21 out to your house and visit with you?

22 A Yes.

23 Q Would she bring anybody with her?

24 A At times.

25 Q Who would come with her?

1 A A lot of times she would come by with Minor , times
2 she would have her friend Tracy with her. Tracy is her
3 coworker and friend, and a lot of times she would be with
4 her.

5 Q Would there be times that Minor -- and let me ask
6 you this. What is your -- what's your relationship with
7 Minor -- or was your relationship with Minor ?

8 A Well, she's my great niece.

9 And are you asking how we were interacting or how we
10 were as family?

11 Q As her -- as her aunt, I just want you just briefly
12 to describe, I guess, the relationship that you had with
13 Minor .

14 A A good one.

15 Q Okay.

16 A Fun watching her grow. Love picking out little
17 outfits and surprising her with them, her little games or
18 whatever. It's always been a fun relationship.

19 Q And did you like it when she came over and spent
20 time with you?

21 A Most of the time, yeah.

22 Q And there were times that it would just be Minor
23 that would come over and stay with you; is that correct?

24 A Yes.

25 Q Okay. And would she call to come over? Or would

1 you call to request her to come over? How would that
2 work?

3 A She would always call my house and ask if she could
4 come over.

5 Q And where was she normally at when she made those
6 calls?

7 A Most of the time is when she would be in Whitmire
8 rather than Union. Most time at my brother's house.

9 Q And who is your brother to Minor ?

10 A Her grandfather.

11 Q And how far away does your brother live from where
12 you stay, approximately?

13 A Two miles.

14 Q So a lot closer than where Minor stays with her
15 parents in Union?

16 A Oh, yes. Uh-huh.

17 Q Now, you live on Alexander Road; is that correct?

18 A That is correct.

19 Q Okay. And Alexander Road is -- would it be a couple
20 miles before you get into the town of Whitmire?

21 A Yes.

22 Q Okay. How long a road is Alexander Road,
23 approximately?

24 A The road itself, it's not a mile long. I'm going to
25 just guess and say about half a mile.

1 Q How many -- again, approximately how many houses on
2 that road?

3 A 14.

4 Q Neighbors, do you have any neighbors to -- if you're
5 walking out to your front steps, do you have any
6 neighbors to your immediate right?

7 A I have a neighbor to my right, but not right next to
8 me. Yeah. There's a little patch of -- a little
9 field-like area between us.

10 Q And is this the same thing to your left as well if
11 you walk out your front door?

12 A Yeah. If you walked out the front door, there's a
13 space probably as wide as from me to the wall over there
14 between myself and what is my uncle's house.

15 Q Does anybody live directly across the street from
16 you?

17 A Yes.

18 Q Who is that?

19 A His name is Gary.

20 Q Okay.

21 A He's been there probably about 12 years, I think.

22 Q And I just want to ask you a few questions,
23 Ms. Kinard, about the layout of your house. How many
24 bedrooms?

25 A Three.

1 Q Okay. And I think you had testified a little
2 earlier, you had said you and Cleveland have separate
3 bedrooms?

4 A Yes.

5 Q One-story house?

6 A Yes.

7 Q Do you have a carport?

8 A Yes.

9 Q Okay. Where is your kitchen in relation to the
10 carport?

11 A Right next to the carport.

12 Q Okay. Is there windows that look out into the
13 carport?

14 A There are.

15 Q Is there windows in the back of the house?

16 A Yes.

17 Q And what's in the backyard?

18 A Okay. Well, you have yard, and then you have dog
19 kennels from like one end of the property all the way
20 down to the other end.

21 Q And is there a couple of buildings?

22 A There are.

23 Q Okay. And what are those buildings? What are they
24 used for?

25 A Just storing items from household. There's things

1 in there from other family members. My nephew has a lot
2 in one building. One particular building's mine. One
3 was my mom's. And just stuff, you know. You do spring
4 cleaning, you box things up, you have a yard sale, and
5 what doesn't sell you put it back up and you should
6 really donate. But that kind of thing.

7 Q Thank you. What type of -- when Minor would come
8 over and visit, what type of things would y'all do, would
9 she do?

10 A Well, she loves being outdoors. I had gotten her a
11 little scooter, and she liked to ride that. And I've
12 gotten her a bicycle. She liked riding that. I actually
13 believe that she learned how to ride without her training
14 wheels in the driveway there. She finally took off with
15 them.

16 And planting flowers, Cleveland and I always did a
17 lot of flowers and we got -- we got a lot of compliments
18 on the yard. And Minor enjoyed going out there with me
19 or him or us and helping plant the flowers or water them
20 or pull the weeds or anything, you know. When she was a
21 little younger, I bought her own little shovel and bucket
22 set and everything. That kind of thing. Be a kid.

23 Q Would there be -- behind your house, is there a
24 bunch of woods?

25 A Behind the dog kennels, yes.

1 Q Behind the dog kennels.

2 Minor would stay the night at your place?

3 A Sometimes.

4 Q When she slept, where would she sleep?

5 A With me.

6 Q Who is with you in that room?

7 A Her dog, Deuce. She's kept inside. She doesn't
8 have any eyes, and she was such a humble little puppy
9 that I decided that would be Minor's dog, and Minor
10 loves her. So me, Minor and Deuce would all sleep in
11 the bed, Deuce on the foot.

12 Q Where would -- where would Cleveland sleep?

13 A In his room.

14 Q Now, did you ever witness, see anything, I guess
15 I'll start with unusual, between Minor and Cleveland?

16 A Never.

17 Q Did you ever witness, see anything that didn't seem
18 right?

19 A Not once.

20 Q Did you ever have knowledge or see -- did you ever
21 see or witness Minor in Cleveland's bedroom?

22 A No.

23 Q Would there be a reason that she would be in his
24 bedroom?

25 A Absolutely not. He always kept his door closed

1 anyway. But no. Little girls just don't go in men's
2 bedrooms.

3 Q Was anything ever reported to you about anything,
4 any type of abuse or inappropriate contact between
5 Cleveland and Minor ? Did Minor ever report anything
6 to you?

7 A Absolutely not.

8 Q What would you have done if she did?

9 A. Well, there's no doubt if Minor had ever came to
10 me and told me that he or anybody else was violating her,
11 we'd be having a different trial. And I've known that
12 from day one of all of this. As much as I care for a
13 stray dog, how much more do I care for a child, my blood?
14 I would pull off on the side of the road, get a turtle
15 out of the highway and put him in the grass.

16 MR. ANTHONY: Objection. That's not responsive.

17 THE COURT: Just move along.

18 MR. DELANEY: Yes, Your Honor.

19 THE COURT: Thank you.

20 Thank you, Solicitor.

21 BY MR. DELANEY:

22 Q Now, you talked to Sergeant Belue about this case,
23 right?

24 A I did.

25 Q How many times did you talk to her?

1 A Several. Maybe half a dozen total.

2 Q Were you informed not to disclose, say anything to
3 Cleveland about the allegations?

4 A Yes, I was.

5 Q Did you say anything to him about the allegations?

6 A Not a word.

7 Q Were you advised, at some point, to consider
8 evicting Mr. Young from your residence?

9 A Yes. It was suggested.

10 Q And did you initially take those steps?

11 A Well, yeah. I found out that it cost \$65, and once
12 I was able to get that worked out, I went to the
13 magistrate's office and filled out the paperwork and paid
14 the fee and had him officially evicted.

15 Q Now -- and you gave a statement in this case,
16 correct?

17 A I did.

18 Q And that was to Sergeant Belue?

19 A Yes, it was.

20 Q And in that statement, you had told her that this
21 was never reported to you, correct?

22 A Absolutely.

23 Q And that you never witnessed any type of
24 inappropriate sexual conduct towards Minor ?

25 A That's correct.

1 Q Now, Anita, who is your -- who is your doctor?

2 A My family doctor is Dr. Garcia. He's out of
3 Newberry.

4 Q Okay. You said that's your family doctor?

5 A Yes.

6 Q And did you -- at some point, did you give me
7 permission to talk to, get records from Dr. Garcia?

8 A I did.

9 Q Okay. And are you familiar with an antibiotic
10 called azithromycin?

11 A I am.

12 Q Okay. What do you know about it?

13 A I just know that I have seasonal allergies, and
14 typically I get what they call a Z-Pak ---

15 Q Okay.

16 A --- five or six tablets on a card rather than
17 something in a bottle.

18 THE WITNESS: I'm sorry. Can I have a minute,
19 please. One minute, Your Honor.

20 THE COURT: Yes, ma'am.

21 THE WITNESS: This is the hardest thing I've ever
22 gone through in my life. I apologize.

23 THE COURT: Yes, ma'am.

24 And disregard that statement. I understand the
25 emotion, but please disregard that last statement, ladies

1 and gentlemen of the jury. That's not to be evidence in
2 the case.

3 BY MR. DELANEY:

4 Q Now ---

5 A I'm ready. I'm good. I'm sorry.

6 MR. DELANEY: That's okay.

7 May I approach, Your Honor?

8 BY MR. DELANEY:

9 Q Anita, I'm handing to you what's been marked as
10 Defendant's Exhibit 1.

11 A Okay.

12 Q What are those?

13 A They are from my doctor's office, and it looks like
14 reports from dates that I visited the doctor, why I went
15 in and what he gave me, what my symptoms were, that sort
16 of thing.

17 Q And let me -- and do you have another copy of
18 these?

19 A I do right here.

20 Q Okay. You can use those.

21 Are there -- the first date on these records is
22 what?

23 A Be sure I'm in the front order, not back order.
24 June 12, 2012.

25 Q Okay. So one's dated June 12, 2012. Is there one

1 visit that's dated prior to that?

2 A Yes. April 27, 2011.

3 Q Okay. And then is there one visit that takes place
4 after June the 12th?

5 A Yes.

6 Q And what's that date?

7 A April 17, 2013.

8 Q And all of these dates, these three different dates
9 here that you went and saw Dr. Garcia, your doctor,
10 according to these records marked Defendant's Exhibit 1,
11 what were you seeing the doctor for? What was the, I
12 guess you could say, chief complaint? Or what was going
13 on with you at the time, according to those records?

14 A Right. Allergy symptoms, cough, congestion,
15 bronchitis-type symptoms, runny nose, coughs, sinus
16 issues for each of the visits.

17 Q Okay. And according to these records, at that time,
18 what were you prescribed for the bronchitis and
19 respiratory issues?

20 A Zithromax.

21 MR. DELANEY: At this time, Your Honor, defense
22 would offer into evidence Defendant's Exhibit No. 1.

23 MR. ANTHONY: Without objection.

24 THE COURT: Defendant's 1 is in evidence without
25 objection.

1 (WHEREUPON, Defendant's Exhibit No. 1 was admitted into
2 evidence.)

3 BY MR. DELANEY:

4 Q Let me ask you this, a couple more follow-up
5 questions. Did a man ever come up to your house and
6 approach you and say something was going on in your yard
7 or in the side of the yard, that he had witnessed
8 something? Did that ever occur?

9 A No.

10 MR. DELANEY: Thank you, Anita. Please answer any
11 questions the Solicitor has.

12 THE COURT: Thank you, Mr. Delaney.
13 Solicitor?

14 CROSS EXAMINATION

15 BY MR. ANTHONY:

16 Q All right. Good morning, Ms. Kinard.

17 A Good morning.

18 Q You said that Minor liked coming to your house?

19 A Yes.

20 Q And that's because she had a lot of stuff she could
21 do there, correct?

22 A Yeah.

23 Q She could ride her bicycle; is that right?

24 A That's right.

25 Q And have scooters she could ride on ---

1 A That's right.

2 Q --- down there?

3 And she had her dog, Deuce, the blind dog for her to
4 take care of; is that correct?

5 A That's correct.

6 Q Okay. And then you had these other dogs as well; is
7 that right?

8 A Yes.

9 Q And did she also go out and help take care of the
10 other dogs?

11 A She would go out, but because those dogs were so big
12 -- they're well-socialized, but because of their size and
13 her being, you know, small, he or I, neither one --
14 Cleveland or I, either one, would ever allow her to
15 actually go inside a kennel. But, you know, she may
16 carry a food bowl or something, you know, just something
17 to help out.

18 Q Okay.

19 A She enjoyed it a lot.

20 Q All right. And taking care of the dogs, that was
21 primarily Mr. Young's responsibility?

22 A Typically, yes.

23 Q Okay. So when she would help take care of the dogs,
24 she'd normally be doing that with Mr. Young?

25 A Yes.

1 Q And so that would involve a situation where she'd be
2 out in the backyard with Mr. Young, correct?

3 A Yes.

4 Q Okay. And a lot of the time, it would just be
5 Minor and Mr. Young in the backyard together; is that
6 right?

7 A There are -- there were times, absolutely, that --
8 I'm not going to say a lot of times, but, yeah, there are
9 times that it's just the two of them out there.

10 Q Okay. And you would be in the house?

11 A Sometimes, yes.

12 Q And maybe you wouldn't even be there; is that
13 correct?

14 A Oh, no.

15 Q That never happened?

16 A Never.

17 Q There was never an occasion where you were gone to
18 run an errand or something and Mr. Young and Minor were
19 there at your house by themselves?

20 A Not once.

21 Q Okay. Over a four-year period, you're saying that
22 never happened?

23 A Never happened. She always wanted to go to the
24 store or wherever, you know, anyway.

25 Q And you operate this dog rescue ---

1 A Yes, sir.

2 Q --- service?

3 And so I take it that you -- you have a lot of dogs
4 at your house; is that correct?

5 A That's correct.

6 Q Okay. And just so I have a little better idea how
7 this works, do people bring you dogs? Is that how you
8 typically get one? Like if somebody in Whitmire has a
9 stray dog, do they just know they can take it, snatch it
10 up and take it over there to your road and drop it off at
11 your house? How does that work?

12 A I hope that doesn't start. No. That's not
13 typically how it works. Normally, people call me. And
14 just like right now, I'm currently filled to capacity.
15 And if I cannot take an animal, I -- for instance, if
16 it's a boxer, I know a lady who works with a boxer
17 rescue, I would send them to her. The poodle rescue in
18 Gaffney, if it's a poodle, I'll try to send the poodle to
19 them. That sort of thing.

20 Q Well, do people come to your house sometimes to get
21 dogs or bring dogs?

22 A Nobody ever just comes to drop one off.

23 Q Well, I know. But do people sometimes have an
24 appointment to, say, bring you a dog at 4:00 in the
25 afternoon or go get a dog at 4:00 in the afternoon? Does

1 that ever happen?

2 A Oh, yeah.

3 Q Okay. So it's not like you just don't ever have
4 anybody come to your house.

5 A No.

6 Q Okay. So there's -- it's certainly conceivable that
7 there would have been a time where Minor might have
8 been in the backyard with Mr. Young and saw somebody
9 drive up.

10 A Give that to me a little ---

11 Q Well, isn't it conceivable, out of all the times
12 that Minor visited your house ---

13 A Right.

14 Q --- that she could have been in the backyard with
15 Mr. Young and seen someone drive up in a car and stop --
16 and stop at your house?

17 A I suppose so, yeah.

18 Q Okay. And she might have seen that person coming
19 into your house.

20 A Typically, if anyone comes, I know they're coming
21 ahead of time, and I go outside and meet them.

22 Q Okay.

23 A The indoor dogs may be out front ---

24 Q Okay.

25 A --- and I can't have somebody just pulling up with a

1 dog and setting my entire pack off.

2 Q Okay.

3 A And I don't let anybody pull up, open the door and
4 just bring a dog out, you know. A dog has to be checked
5 for all types of diseases and worms and things like that.
6 And even though mine have shots against it, I don't just
7 bring a dog in and put it with mine.

8 Q Okay. So ---

9 A And I wouldn't have brought it in the house, and I
10 wouldn't leave it in the car.

11 Q Okay. So going back to what we were talking about,
12 it's possible that Minor could have been in the
13 backyard with Cleveland, see somebody pull up in your
14 driveway and see you go out and actually talk with that
15 person, correct?

16 A Yes, yes.

17 Q Okay. And then what Minor might have thought that
18 person was saying, you don't know, correct?

19 A Yeah.

20 Q Because you don't know what would have been in
21 Minor head at the time.

22 A That's right.

23 Q And did Mr. Young have a car?

24 A No.

25 Q Okay. Did he ever -- how long -- how long had he

1 lived with you? Seven years? Is that what we're roughly
2 talking about?

3 A Yeah.

4 Q Okay. From 2008 to 2015?

5 A Yes.

6 Q Okay. Did he ever go off anywhere from your house?

7 A Go off?

8 Q Yeah. I mean, like, say ---

9 A Did he leave the residence?

10 Q Yes.

11 A Yeah.

12 Q Okay. How would he leave your residence?

13 A He would leave the residence with someone.

14 Q Okay. So somebody would go pick him up?

15 A Occasionally.

16 Q Okay. Well, like, say, at Christmastime, did he
17 have family he'd go see at Christmas or would he just
18 stay at your house with you the whole time?

19 A We stayed at home the whole time.

20 Q Okay. But there were occasions where he would --
21 somebody would pick him up and he would leave and go
22 places?

23 A Yeah.

24 Q Okay. He wasn't just -- he didn't just stay at your
25 house for seven years and never go anywhere ---

1 A No.

2 Q --- with anyone except you?

3 A No.

4 Q Okay. I mean, did you know any of those people that
5 he was going places with?

6 A Oh, absolutely.

7 Q And would he leave and be gone for days sometimes?
8 Or would -- I mean, was it always just, you know, like
9 there, gone for a couple hours, and back? How did that
10 work with him?

11 A Typically, when he would leave, he would like go cut
12 somebody's grass or something like that.

13 Q Uh-huh.

14 A Be gone, yeah, two, three hours, cut grass, make
15 money to help toward the dogs.

16 Q Okay. Well, did he ever, say, just take off for two
17 or three days to go see some family or do anything like
18 that?

19 A No.

20 Q Okay. So basically, as far as any kind of social
21 contact with anybody, you're saying it was just
22 exclusively you?

23 A He and I, some people would call homebodies. I just
24 about call it recluse. We -- we don't go out and
25 interact. We don't attend gatherings and social events

1 and things like that. It's a much tougher job than
2 anybody realizes managing what we manage. And you also
3 fall in love and don't want to leave your babies.

4 Q When you talk about falling in love, are you talking
5 about being in love with the dogs or with him?

6 A The dogs.

7 Q Okay. All right. So basically, what you're saying
8 is he didn't really have any friends that he hung out
9 with?

10 A No. He wasn't one to go hang out.

11 Q Okay. And was there -- do you remember in 2014
12 there being a birthday party for Minor ?

13 A In 2014?

14 Q '14 for her seventh birthday?

15 A Yes.

16 Q Where was that?

17 A At .

18 Q Okay. And did you go to that birthday party?

19 A I did.

20 Q Okay. And did Cleveland go?

21 A No.

22 Q And was he taking care of the dogs so you could go?
23 Was that the idea? He had to stay home and take care of
24 the dogs so you could go to the party?

25 A Well, he -- he stayed home and did not leave them

1 unattended.

2 Q All right. Because, basically, it sounds like your
3 situation is y'all don't want to leave the dogs. You
4 wouldn't want to leave the dogs by themselves ---

5 A Pretty much.

6 Q --- is that correct? Okay.

7 A And, like I say, we don't really do a lot of social
8 stuff. I went because it's my niece.

9 Q Okay. And you -- it would be fair to say you love
10 Minor ?

11 A Absolutely.

12 Q And you value your relationship that you have with
13 Minor , correct?

14 A Yes.

15 Q And she valued -- to your knowledge, she valued the
16 relationship she had with you; is that right?

17 A Yeah.

18 Q And that is gone now, correct?

19 A It's forever changed, I'm sure.

20 Q Minor does not have that anymore?

21 A No.

22 Q And you said that when you first met Mr. Young, that
23 the two of you were intimate; is that correct?

24 A No. Not when we first met.

25 Q Well, okay. Well ---

1 A Over a period of time, as the friendship grew ---

2 Q Okay.

3 A --- we were intimate a couple of times.

4 Q All right. Were you intimate before he moved in
5 with you or after?

6 A After.

7 Q All right. When would have been the last time you
8 would have been intimate?

9 A Give me just a second. This end of July, early
10 August would have been -- will be six years.

11 Q All right. But since then, y'all have developed
12 this relationship that I take it is not sexual at all?

13 A No. It's what I would call an asexual
14 relationship ---

15 Q Okay.

16 A --- a relationship between two people that they do
17 not require sexual activity to remain together.

18 Q Okay. Because you said y'all have separate
19 bedrooms; is that correct?

20 A Yes. Uh-huh.

21 Q Y'all basically have separate living spaces in the
22 house ---

23 A Yes..

24 Q --- is that correct? Okay.

25 And to your knowledge, you're saying you don't have

1 any knowledge of Mr. Young being sexually active with
2 anybody else?

3 A No. Not to my knowledge.

4 Q And you just went through some of those medical
5 records, Ms. Kinard. Would it be fair to say that you
6 are on a lot of medication?

7 A That's fair to say.

8 Q Okay. You take Neurontin; is that right?

9 MR. DELANEY: Your Honor, at this time, I would have
10 an objection as far as going into what medications she's
11 taking. I know azithromycin, it was asked about her
12 taking that, but as far as other medications she's on, I
13 would just argue that it doesn't have relevance to this
14 case.

15 THE COURT: What's in the exhibit Defense 1?

16 MR. DELANEY: Your Honor, may we approach?

17 THE COURT: Yes, sir. Of course.

18 (WHEREUPON, a bench conference was held off the record.)

19 THE COURT: Thank you, Solicitor. You may ask your
20 next question.

21 BY MR. ANTHONY:

22 Q What is Neurontin for?

23 A Neurontin is a neurological medication. It's
24 prescribed to me for peripheral neuropathy.

25 Q And then you take Cymbalta?

1 A Yes, I do.

2 Q What is that for?

3 A Depression.

4 Q And you take Lamictal?

5 A I do.

6 Q All right. What is that for?

7 A It -- it aids the Cymbalta.

8 Q Okay. All right. So they're both kind of for the
9 same thing, for depression?

10 A Yeah, yeah. They work together.

11 Q All right. You take Xanax?

12 A Yes, I do.

13 THE WITNESS: Your Honor, may I ask a question?

14 THE COURT: Step out momentarily please, ladies and
15 gentlemen. Do not discuss the case.

16 (WHEREUPON, the jury exits the courtroom at 10:57 a.m.)

17 THE COURT: All right. Yes, ma'am, Ms. Kinard.

18 THE WITNESS: I apologize, first of all.

19 THE COURT: No, no. That's the proper way to do it
20 if you have a question to ask me.

21 THE WITNESS: Thank you. Thank you so much.

22 Okay. I totally understand questions about any
23 antibiotics that I have taken. I mean, that's been
24 relevant ever since the trial started. However, HIPAA
25 laws are designed to protect my privacy. I feel violated

1 for half a roomful of people over here to know every
2 medication I take. What does that have to do with
3 anything? It's very embarrassing. That's very intimate
4 information.

5 THE COURT: All right. Well, again, hand me Defense
6 No. 1, please.

7 THE WITNESS: Anything even that was on a list, Your
8 Honor, I was hoping would be stricken out that's not
9 relevant. I mean, my Neurontin has nothing to do with
10 Mr. Young.

11 THE COURT: Well, there's two responses I would
12 have. Defendant's No. 1 was offered into evidence and
13 accepted into evidence without objection. When an item
14 is in evidence, a person can be questioned about it both
15 on direct and cross-examination. For example, on page 2
16 of this, it lists Xanax, Lamictal, Mucinex, azithromycin.
17 And on page 4 there's a list of ---

18 THE WITNESS: Numerous, yes.

19 THE COURT: --- 11 various medications. On page 3
20 there's numerous medications listed on here. This entire
21 document was accepted into evidence without objection,
22 number one.

23 Number two, if there are any medications that a
24 witness may be taking that may affect their ability to
25 perceive, that would be an issue for the jury to

1 determine. No one has the purpose or intent of violating
2 an individual's privacy; however, when a witness takes
3 the stand, they are subject to direct and
4 cross-examination and must answer the questions that are
5 put to them that are ruled admissible. So that -- that
6 is my response.

7 Mr. Delaney?

8 MR. DELANEY: Yes, Your Honor. I understand your
9 rationale.

10 THE COURT: Anything you'd like to say? I know you
11 objected when the solicitor asked about the Neurontin.

12 MR. DELANEY: Right. I objected initially because I
13 had a conversation with Mr. Anthony before we started out
14 this morning. I had a concern about what he put into
15 evidence yesterday, the pharmacy reports and records and
16 there being a bunch of other medications listed. We had
17 a conversation this morning about redacting these other
18 medications. And that's something that, from my
19 understanding, he was going to be agreeable to doing.
20 And just so Your Honor knows, that was my thought process
21 as far as putting in medical records today. I thought
22 the same thing would apply to that.

23 Now, I also heard Mr. Anthony tell Your Honor that
24 he was going from the polygraph examiner's notes as far
25 as what medication, you know, Ms. Kinard was on. And I

1 understand that argument there.

2 I would ask that the Court consider, you know,
3 limiting these questions as far as she's not a doctor,
4 you know. She can say "yes," "no," "I'm on this
5 medication."

6 I understand it's her medication, but as far as the
7 solicitor going on to further questions, what it's for,
8 those type of things, I -- I understand it's her
9 medication, but, again, she's not a doctor.

10 THE WITNESS: And I'm coherent, totally.

11 THE COURT: I understand and I concur that you are
12 -- within my presence you are coherent. I'm not
13 questioning any competence. I'm not questioning that at
14 all.

15 I think the relevancy -- what is the relevance,
16 Solicitor?

17 MR. ANTHONY: It goes to her perception. I mean,
18 she's testified, essentially, that she was with the --
19 she never left Minor alone with Mr. Young. She's
20 testified she's been there at the house every time they
21 were together, and she's trying to convey to the jury the
22 impression that she wouldn't have let this happen. And I
23 think the jury is entitled to know if she's medicated and
24 if there's a possibility that might be -- that might not
25 be accurate. And so, you know, I can just consider this

1 basic impeachment. Before you can be a witness, you've
2 got to be competent. And if you ---

3 THE COURT: Well, I don't know that it's so much
4 impeachment as it is the opportunity and the ability to
5 perceive. That's not necessarily impeachment that she
6 did or did not see a certain thing. And I certainly
7 understand an individual, not just Ms. Kinard solely, but
8 an individual wanting to protect one's privacy; however,
9 I think it is relevant.

10 Now, if there are medications on there that have no
11 effect on the central nervous system or something of that
12 nature, if y'all can decide that. I don't know what all
13 those medications are. I take medications, but they're
14 all for my ticker. You know what I'm saying? And I
15 don't care who knows it, quite frankly, personally, but I
16 don't tell anybody. But at the same time, if there are
17 medications on there that have no effect on the central
18 nervous system, I'm not a doctor, I don't even know if
19 that's the exact terminology, but if there's like
20 medication for reflux or something of that nature, I
21 don't know why we'd go into that.

22 What medications are you going to ask her about?

23 MR. ANTHONY: I think probably the only -- the only
24 other medication, given what the Court just told me,
25 would be the Percocet.

1 THE COURT: All right. And you've asked her already
2 been Neurontin, Cymbalta ---

3 MR. ANTHONY: Lamictal.

4 THE COURT: --- Lamictal and Xanax.

5 MR. ANTHONY: Yes, sir.

6 THE COURT: And the last would be Percocet?

7 MR. ANTHONY: Yes, sir.

8 THE COURT: So there are a number on here that y'all
9 can certainly -- I'll leave that up to y'all's
10 discretion. In my review, you can redact those that you
11 don't ask her about prior to it going to the jury, and
12 I'll give them a charge on what redaction you made.

13 MR. ANTHONY: And, Your Honor, I'm not -- the
14 questions that I'm asking do not come from her medical
15 records. They come from what she told the polygraph
16 examiner on March 7th of last year -- March 9th of last
17 year.

18 THE COURT: Well, at the same time, they're also
19 listed on Defense 1.

20 MR. ANTHONY: I'm sure there's some overlap. Yes,
21 sir.

22 THE COURT: Lamictal is listed, Cymbalta is listed,
23 Xanax is listed. Well, I'll allow those five. Because
24 as you say, you've already asked her about Neurontin,
25 Cymbalta, Lamictal, Xanax in that question and Percocet.

1 All right. Anything further?

2 MR. ANTHONY: No. No, sir.

3 THE COURT: Do you have any other questions,
4 Ms. Kinard?

5 THE WITNESS: Yes, sir. That means that both on
6 this that has that, that has been submitted as evidence,
7 and wherever -- well, the polygraph is where he said he
8 was getting my list from. I wouldn't think that has been
9 submitted into evidence. But anything else, as you said,
10 would be stricken through so that everybody ---

11 THE COURT: Right. I'm going to leave that up to
12 the attorneys to consent to the redaction of that, and
13 I'll be delighted to review it thereafter.

14 MR. ANTHONY: All right. I don't -- I don't think
15 the State -- obviously, we'll respect whatever ruling the
16 court makes, but I don't think the State will consent to
17 redact her records. I mean, they were moved in and we
18 don't -- I don't see any reason the jury shouldn't know
19 what she was prescribed back then. I would -- I agreed
20 to consent to the pharmacy records because at the time
21 they were entered, the only issue really in question was
22 her access to antibiotics. So the record I entered
23 yesterday, I would agree that could be redacted just to
24 show her access to antibiotics. But as far as what
25 defense entered today, I didn't object to that. I just

1 don't see why the jury shouldn't see it.

2 THE COURT: Mr. Delaney?

3 MR. DELANEY: Well, I hear the Solicitor's argument,
4 and he did agree as far as earlier, you know, we had the
5 conversation about the pharmacy records. My assumption,
6 that was going to apply to the records that I had today
7 as well. But ---

8 THE COURT: All right. Well, to quote the late
9 Honorable Walter Brisco, "I've heard enough." I want
10 Defense No. 1 redacted because I think it would give the
11 jury -- they're not doctors either -- the ability to say,
12 "Gosh, look at all these medications. There must be" --
13 well, obviously, when you take a lot of medications, A,
14 there should be something wrong with you. That's why you
15 take the medication. But, B, if they don't know what
16 it's about, they've got no foundation for relevancy.

17 So whether it is or is not, you give me --
18 Mr. Delaney, you make a copy, you give me a proposed
19 redaction ---

20 MR. DELANEY: Yes, Your Honor.

21 THE COURT: --- of the medications; however, it
22 should not include Neurontin, Cymbalta Lamictal, Xanax or
23 Percocet. Those will remain on there. And, of course, I
24 can't pronounce that other one. The zero [phonetic] will
25 remain on there..

1 All right. Anything further, Solicitor?

2 Mr. Delaney?

3 MR. ANTHONY: No, sir.

4 MR. DELANEY: No, sir.

5 THE COURT: Bring us our jury, please. Oh, one
6 moment.

7 Do you have any other questions?

8 THE WITNESS: No, Your Honor. But I appreciate that
9 very much.

10 (WHEREUPON, the jury entered the courtroom at 11:10 a.m.)

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen, thank you. Thank you very much for your
13 patience with the Court. We continue with the
14 cross-examination by the solicitor.

15 Solicitor, you may proceed.

16 MR. ANTHONY: Thank you very much, Your Honor.

17 BY MR. ANTHONY:

18 Q Ms. Kinard, on March 15th of last year, you did an
19 interview with Lieutenant Black with the Sheriff's
20 Office; is that correct?

21 A That's correct.

22 Q All right. And as part of that interview, he asked
23 you what medications that you were taking at that time;
24 is that right?

25 A That's right.

1 Q And the medications that I just asked you about in
2 front of the jury, you told him you were taking those
3 medications.

4 A I did.

5 Q Okay. And in addition to that medication, you told
6 him that you were taking Percocet.

7 A Correct.

8 Q All right. And what are you taking Percocet for?

9 A Pain.

10 Q Okay. And percocet is a narcotic; is that right?

11 A I think so.

12 Q Okay. And so it's a pretty powerful drug if you
13 take it?

14 A Well, it depends on the milligram of the pill and I
15 would have to say how long -- I'm not a doctor, but for
16 me personally, I would have to say a lot of that depends
17 on how long you've had to take pain medication as to your
18 tolerance to the pain or to the medication.

19 Q But you were prescribed all this medicine, right?

20 A I'm prescribed all that medication, yes.

21 Q Okay. And does that medicine not affect you
22 sometimes during the day?

23 A It all affects me.

24 Q Okay.

25 A It's all there to affect me.

1 Q Okay.

2 A Each individual medication has an effect that it's
3 given to me for.

4 Q Okay. Does that medicine not sometimes make you
5 sleep?

6 A No.

7 Q It doesn't make you sleep?

8 A No, it doesn't.

9 Q Okay. It doesn't make it hard for you to stay awake
10 during the day?

11 A No.

12 Q Taking Xanax and Percocet and Cymbalta, all of that
13 doesn't do -- doesn't have any effect on your physiology?

14 A No, it doesn't.

15 Q And you operate through the day just like you think
16 you would if you weren't taking it.

17 A Repeat that.

18 Q As far as your perception and alertness, you think
19 you're just as alert through the day taking that medicine
20 as you would be if you weren't.

21 A Oh, I'm incredibly more alert taking that medication
22 than if I was not. If I did not take that medication, I
23 probably could not get out of the bed.

24 Q Okay. Taking a narcotic makes you more alert?

25 A Absolutely. It makes me more mobile.

1 Q Okay. And when you were talking to Investigator
2 Black that day, do you -- well, I'll -- just strike that.
3 Let me put it another way. Do you remember any incidents
4 when Minor would come in the house crying while she was
5 over there visiting you?

6 A Yeah.

7 Q Okay. And when -- she'd come in the house crying
8 and she would tell you that BB had just whipped her;
9 isn't that correct?

10 A She came in the house one time crying, and I -- most
11 of the time he would come in the house before her, but
12 this particular time she came in and said that BB and
13 popped her. And I questioned him about that.

14 Q You questioned him about that?

15 A Yes, I did.

16 Q Okay. And ---

17 A Of course I listened to her and then I questioned
18 him about it.

19 Q And what did he tell you?

20 A He said that he did not -- that he had torn a switch
21 off of a little tree out there in the yard and said, "I'm
22 going to tell 'Nita," because what she had done was
23 gotten mad and got out into the road and would not get
24 out of the road.

25 Q All right. So your testimony is that she came in

1 crying saying that BB had whipped her and that BB came in
2 after her; is that right?

3 A Yeah.

4 Q Okay. And BB denied whipping her.

5 A The neighbor across the street was out in the
6 yard ---

7 Q I didn't ---

8 A --- and he also ---

9 MR. ANTHONY: I move to strike as not responsive.

10 THE COURT: That's not responsive.

11 THE WITNESS: I apologize.

12 THE COURT: You have to respond to the solicitor's
13 questions.

14 THE WITNESS: Okay.

15 THE COURT: Go right ahead. Repeat your question.

16 THE WITNESS: Please repeat.

17 BY MR. ANTHONY:

18 Q BB denied whipping her.

19 A Yes, he did.

20 Q And he claimed that he was just going to get a
21 switch, and that's what caused her to run in the house.
22 That's what he told you.

23 A No. He told me that he was getting a switch off of
24 the tree ---

25 Q Okay.

1 A --- and told her that he was coming in to tell me,
2 which he would do if she got kind of out of hand, as all
3 children do at times.

4 Q Okay. And you only remember this happening one
5 time?

6 A Yes.

7 MR. ANTHONY: If I could just have one moment.

8 THE COURT: Of course.

9 BY MR. ANTHONY:

10 Q And that's the only incident that you're testifying
11 to today where Minor came in saying she'd been whipped
12 by BB.

13 A She said he popped her.

14 Q She said he popped her.

15 A Yeah.

16 Q Okay.

17 A And, yes, that's the only time.

18 Q Okay. Do you remember talking to Investigator Black
19 on March the 9th?

20 A I only remember talking to him one time, off the top
21 of my head ---

22 Q Okay.

23 A --- which would have been the 15th, I think you
24 quoted.

25 Q All right. You remember having a conversation with

1 him at the Sheriff's Office in March of 2015?

2 A I do.

3 Q And is it not true that in that conversation, you
4 told him that she had come in a couple of times crying,
5 saying that BB had whipped her?

6 A No. I don't -- I don't recall that. I don't know
7 if that's documented that way, but all I recall is the
8 one time she came in stomping and crying.

9 Q And you said that BB came in right after her; is
10 that right?

11 A Yes.

12 Q And that BB had told you that he had -- he had
13 popped her; is that correct?

14 A No.

15 Q Was it possible that it was two times?

16 A No.

17 Q Okay. You're saying today there was just one
18 incident of that.

19 A Yeah. I pretty well try to keep my house in
20 check. And we have rules and boundaries, and she knows
21 that.

22 Q And Mr. Silvers is your brother; is that correct?

23 A That's correct.

24 Q All right. Do you remember a time back, a phone
25 conversation you had with him back in the early part of

1 2015 where you asked -- you called him and asked him if
2 he had any antibiotics?

3 A No.

4 Q You don't remember that?

5 A No. Not offhand.

6 Q You don't remember making a phone call to him asking
7 him if he had any antibiotics, that you needed some
8 because Mr. Young had a toothache?

9 A I don't remember it, but I'm not going to say I
10 didn't because I do remember him having a toothache.

11 Q Okay.

12 A And we got the Orajel and then the cement stuff to
13 put in his tooth.

14 Q Okay. So it's possible you might have done that as
15 part of trying to help him get over the toothache?

16 A I don't -- let me think about that. And the reason
17 I say that is the only thing I ever knew him to take was
18 an 81 milligram aspirin daily, which doctors recommend
19 for your heart.

20 Q Well, my question is just did you -- I'm not asking
21 what he used to take. I'm just asking did you make a
22 phone call to your brother trying to ask him if there was
23 -- if they had any antibiotics you could give him.

24 A Maybe, but I don't specifically recall it. But if
25 my brother said I did, then we'll take his word on that.

1 Q So that's a possibility?

2 A Yes.

3 Q Okay. Is it possible that there were other times
4 that you might have called around for people, if
5 Mr. Young had some kind of ailment, you might have called
6 around trying to see if anybody had any medicine they
7 could give him?

8 A No. Like I say, he's not a medicine taker or a pill
9 taker. And there is a free clinic available that he had
10 gone to when he had a real issue. So that's probably
11 what I would have done is taken him to a doctor.

12 Q So you're saying that this would have been the only
13 time in the eight years he lived with you you would have
14 done this?

15 A Yeah. I would think so. And I don't specifically
16 remember that because I don't call people and hunt down
17 medications.

18 MR. ANTHONY: All right. Okay. If I could just
19 have a moment, please.

20 THE COURT: Of course, Solicitor.

21 BY MR. ANTHONY:

22 Q I have just a few more questions Ms. Kinard.

23 A Okay.

24 Q The situation where he had that toothache ---

25 A Yes, sir.

1 Q --- was that before you knew about him being
2 investigated or after?

3 A You're asking me before I called my brother and
4 asked if he had any antibiotics?

5 Q Well, I'm just -- the situation with the toothache
6 in general, was that before you knew he was under
7 investigation or after?

8 A It would have had to have been before because that
9 would have had to have been a long time ago for me to not
10 even remember really calling to check for something.

11 Q And you had -- is it true -- do you remember having
12 a conversation with Investigator Belue about these
13 allegations and being told what Mr. Young was being
14 accused of doing?

15 A Yes.

16 Q Okay. And in those -- in that conversation, did you
17 tell her that you had never had sex with Mr. Young?

18 A I don't think she asked had we ever had sex. I
19 think the way the conversation went was were we having
20 sex, which we were not.

21 And when she found out about the chlamydia, she
22 called and told me that, and I got very happy, actually,
23 because going along with the investigation ---

24 Q Well, there's not a question in front of you right
25 now.

1 A Okay.

2 Q Okay. So you do not recall telling her that you had
3 never had sex with Mr. Young?

4 A No.

5 Q Okay. All right.

6 A I told her we were not having sex.

7 Q And you testified about evicting Mr. Young; is that
8 correct?

9 A Yes.

10 Q But, I mean, the fact is that you still talk to
11 Mr. Young all the time; isn't that correct?

12 A I do.

13 Q How many times in the past week have you talked to
14 Mr. Young?

15 A In the past seven days?

16 Q Yes, ma'am.

17 A Today is Tuesday. I think three times this
18 particular week.

19 Q And you've actually told Mr. Young that you need him
20 home; isn't that correct?

21 A I probably told him that the pack needs him at home.
22 That's what we affectionately call our rescue.

23 Q Okay.

24 A But sure, I need him at home to help, you know. I
25 have a wonderful volunteer, but, of course, Mr. Young

1 living there did -- you know, took up all the slack.

2 Q So he'd be welcome back at your home?

3 A Well, that's something that we would have to
4 discuss.

5 Q Okay. But you made a statement to him that you need
6 him back at home, correct?

7 A As I said, I feel like I've probably told him the
8 pack needs him.

9 Q Okay.

10 A But, as I said, I have a volunteer who helps me
11 tremendously. He's in the courtroom today. But with
12 Cleveland living there, yes, he took up all the slack.
13 As far as if you're asking me, well, he can just come
14 back in the door, you know, things are forever changed
15 with my family.

16 Q That's right. That's right. And so ---

17 A Yes, it really is. So ---

18 Q So he'd be back at home -- he could come back to
19 home with the pack, but Minor won't be back at your
20 home; isn't that correct?

21 A That depends on my family.

22 MR. ANTHONY: If I could just have one moment.

23 That's everything on cross.

24 THE COURT: Mr. Delaney?

25 MR. DELANEY: Briefly, Your Honor.

REDIRECT EXAMINATION

1

2

BY MR. DELANEY:

3

Q Did you take your medication this morning?

4

A Yes.

5

Q Feeling okay today?

6

A Yeah. Actually, I feel a lot better than I thought

7

I would after sitting in that bench all day yesterday.

8

Yeah. I'm fine.

9

MR. DELANEY: Thank you. No further questions.

10

THE COURT: Recross, Solicitor?

11

MR. ANTHONY: No. No recross.

12

THE COURT: Thank you. Thank you very much,

13

Ms. Kinard. You may step down.

14

THE WITNESS: Yes, sir. Thank you.

15

MR. DELANEY: Your Honor, at this time, the defense
would rest.

17

THE COURT: Thank you, Mr. Delaney.

18

Solicitor, is the State going to have any evidence
or testimony in reply?

19

20

MR. ANTHONY: Yes, sir. I suspect we will have some
brief reply. Yes, sir.

21

22

THE COURT: All right. Let's take about a 15-minute
recess. During this recess, ladies and gentlemen, do not
discuss the case. Thank you. Thank you very much.

24

25

(WHEREUPON, the jury exits the courtroom at 11:29 a.m.)

1 THE COURT: All right. Motions, Mr. Delaney?

2 MR. DELANEY: Your Honor, just at this time to renew
3 any motions, objections we made throughout the trial.

4 THE COURT: All right.

5 Solicitor?

6 MR. ANTHONY: We just stand on our argument for a
7 directed verdict.

8 THE COURT: All right. I will respectfully deny the
9 motion for a directed verdict and renew all my previous
10 trial and evidentiary rulings.

11 All right. The Court will be in recess for
12 15 minutes.

13 (WHEREUPON, a recess is taken at 11:30 a.m.)

14 THE COURT: All right. Anything from the State
15 before we bring in our jury, Solicitor?

16 MR. ANTHONY: No, sir. Well, we will have two reply
17 witnesses. It will be pretty brief, at least the direct
18 on them will.

19 THE COURT: All right. And then we'll decide if we
20 have surreply.

21 But anything from the defense, Mr. Delaney?

22 MR. DELANEY: No, Your Honor.

23 (WHEREUPON, the jury entered the courtroom at 11:58 a.m.)

24 THE COURT: All right. Ladies and gentlemen, as
25 you've heard, the defense has rested. The State may call

1 witnesses in reply. So we'll direct our attention back
2 to the solicitor.

3 Solicitor, do you have any witnesses to call in
4 reply?

5 MR. ANTHONY: Yes. We do, Your Honor.

6 THE COURT: All right. Will you call your first
7 witness, please.

8 MR. ANTHONY: We call Lieutenant Black.

9 THE COURT: All right. Lieutenant, if you'd come
10 around and join us.

11 WHEREUPON,

12 MARION BLACK

13 After having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ANTHONY:

16 Q Would you state your name, please?

17 A It's Lieutenant Marion A. Black, sir.

18 Q And, Lieutenant Black, how are you employed?

19 A I work for the Union County Sheriff's Office.

20 Q And how long have you worked for the Sheriff's
21 Office?

22 A Just a little more than ten years.

23 Q And what is your role with the Sheriff's Office?

24 A I'm an investigator for the Union County Sheriff's
25 Office.

1 Q And I want to take you back now to March the 9th of
2 2015. Did you have an interview with Anita Kinard -- or
3 Anita Kinard on that day?

4 A Yes, sir. I did.

5 Q All right. And during the course of that interview,
6 did you question her regarding any possible disclosure
7 that Minor might have made?

8 A Yes, sir. We talked about that at length.

9 Q Okay. And did she give you any information about
10 Minor running into the house crying?

11 A Yes, sir. She said on a couple of occasions that
12 Minor had ran into the house crying, and that -- saying
13 that Mr. Young had "whooped" her, and that Mr. Young was
14 right behind her when he came in -- or when she came into
15 the house.

16 MR. ANTHONY: All right. Thank you. That's
17 everything.

18 THE COURT: Mr. Delaney?

19 MR. DELANEY: Yes, Your Honor.

20 CROSS EXAMINATION

21 BY MR. DELANEY:

22 Q Lieutenant, you stated that you talked to Ms. Kinard
23 at length in this matter; is that correct?

24 A That's correct.

25 Q Okay. And she denied that -- throughout your

1 interview with her, she denied that Minor made
2 any type of disclosure of sexual abuse to her by
3 Cleveland Young, correct?

4 A That's correct.

5 MR. DELANEY: Thank you.

6 THE COURT: Redirect, Solicitor?

7 MR. ANTHONY: No, sir.

8 THE COURT: Thank you. Thank you very much for
9 being with us this morning, Lieutenant. You may step
10 down.

11 Any objection to Lieutenant being excused?

12 MR. ANTHONY: No, sir.

13 MR. DELANEY: No, sir.

14 THE COURT: All right. And you may be excused.

15 All right. Solicitor, you may call your next
16 witness.

17 MR. ANTHONY: The next witness is we recall
18 Investigator Belue.

19 THE COURT: All right. Lieutenant Belue, if you'd
20 come around. You're still under oath.

21 DIRECT EXAMINATION

22 BY MR. ANTHONY:

23 Q Investigator Belue, during the course of your
24 investigation into this case, did you have a conversation
25 with Anita Kinard?

1 A I did.

2 Q All right. And did you speak to her about the type
3 of relationship that she had with Mr. Young?

4 A I did.

5 Q And what did she tell you in regards to how many
6 times she and Mr. Young had been intimate?

7 A She stated never, that he had never touched her.

8 Q That they had never had sex?

9 A Never had sex.

10 MR. ANTHONY: All right. Thank you. That's
11 everything.

12 THE COURT: Mr. Delaney?

13 CROSS EXAMINATION

14 BY MR. DELANEY:

15 Q And, Sergeant, did you document that anywhere?

16 A No. That was a verbal conversation that we had.

17 Q I understand that. My question is, did you document
18 that?

19 A That's not documented.

20 Q Okay. And per your testimony yesterday, you've been
21 trained to document important conversations you have,
22 correct?

23 A Some things I document, some things I don't.

24 Q Okay. It's your testimony to this jury that you
25 just happen to keep this in your head? You remember

1 this?

2 A I certainly did.

3 MR. DELANEY: Thank you.

4 THE COURT: Redirect?

5 MR. ANTHONY: No, sir.

6 THE COURT: Thank you. Thank you, Lieutenant. You
7 may step down.

8 All right. Any other witnesses in reply?

9 MR. ANTHONY: No, sir. That's the State's reply
10 case.

11 THE COURT: All right. Thank you. Thank you very
12 much.

13 Also, ladies and gentlemen, in South Carolina, there
14 is a surreply, in other words, a reply to a reply. So
15 we'll turn our attention to Mr. Delaney.

16 Do you have any witnesses that you intend to present
17 in surreply?

18 MR. DELANEY: I do not, Your Honor.

19 THE COURT: All right. Thank you. Thank you very
20 much.

21 Ladies and gentlemen of the jury panel, you've now
22 heard all the evidence, all the testimony you're going to
23 hear from the parties in the trial of this case. We're
24 now at the point of the closing arguments by the
25 attorneys and the instruction on the law by the Court.

1 It is very hard to estimate the amount of time the
2 attorneys will need to present their closing arguments to
3 you and then thereafter me instruct you on the law that
4 is to apply. It could take -- well, y'all know how well
5 I can tell time so I'm not even going to pin myself down.
6 But I think the best approach we should take is take an
7 early lunch. I would ask you to be back -- can you be
8 back by 1:15? That gives you about an hour and 15
9 minutes. About 1:15. Take about an hour and 15 minute
10 lunch.

11 Do not discuss the case with anyone during this
12 recess. Do not read, watch, listen to any news accounts
13 of the case. Do not do any independent investigation or
14 any investigation on the Internet. Remember to keep an
15 open mind. Do not begin your deliberations until you've
16 heard the closing arguments by the attorneys, the
17 instruction on the law by the Court and then directed by
18 the Court to begin your deliberations with your fellow
19 jurors in your jury room.

20 With that being said, you're now excused for your
21 luncheon recess. I'd ask you to please be back at 1:15.

22 Thank you. Thank you very much.

23 (WHEREUPON, the jury exits the courtroom at 12:05 p.m.)

24 THE COURT: Anything from the State before we take
25 our recess?

1 MR. ANTHONY: No, sir.

2 THE COURT: Defense?

3 MR. DELANEY: No, Your Honor.

4 THE COURT: All right. 1:15. Thank you. Thank you
5 very much.

6 (WHEREUPON, a recess is taken at 12:06 p.m.)

7 THE COURT: All right. Anything from the State
8 before we bring in our jury, Solicitor?

9 MR. ANTHONY: Just checking with the Court. I
10 assume the only charges that are going to be submitted
11 are the two indicted charges.

12 THE COURT: Yes, sir. Criminal sexual conduct with
13 a minor in the first degree and criminal sexual conduct
14 with a minor in the third degree.

15 MR. ANTHONY: Yes, sir. And just for the record,
16 I'm not going to open on the law unless required.

17 THE COURT: Say that again?

18 MR. ANTHONY: I will not open on the law.

19 THE COURT: Waive opening?

20 MR. ANTHONY: I waive opening on the law.

21 THE COURT: All right. So the order we proceed is,
22 Mr. Delaney, you would close first, followed by the
23 Solicitor.

24 MR. DELANEY: Yes, Your Honor.

25 THE COURT: All right. Those in the audience, I do

1 not allow movement in or out of the courtroom while the
2 attorneys are addressing the jury. You may certainly
3 leave between the closing arguments, in other words,
4 after Mr. Delaney finishes and before the solicitor
5 starts. Also, I do not allow movement in and out of the
6 courtroom when I'm instructing the jury. So if you can't
7 remain for the duration, I would ask you to please leave
8 now.

9 All right. Bring them in.

10 (WHEREUPON, the jury entered the courtroom at 1:19 p.m.)

11 THE COURT: All right. Welcome back, ladies and
12 gentlemen. I hope y'all had a pleasant lunch.

13 We are now at the point in the trial of the closing
14 arguments by the attorneys. The procedure we follow is
15 Mr. Delaney will close on behalf of his client,
16 Mr. Young, first, followed by the solicitor on behalf of
17 the State of South Carolina. After the closing arguments
18 by the attorneys, I will then instruct you on the law
19 that you are to apply to the facts of the case as you
20 find them to be.

21 If you would, please give the attorneys your
22 complete and undivided attention as you have done
23 throughout the trial in this case.

24 Solicitor, you may address the jury. Excuse me.
25 You waived opening.

1 MR. ANTHONY: Yes, sir.

2 THE COURT: Mr. Delaney, you may address the jury.

3 MR. DELANEY: Thank you, your Honor. May it please
4 the Court.

5 THE COURT: Yes, sir.

6 CLOSING ARGUMENT

7 MR. DELANEY: The case that has been presented
8 throughout this trial against Cleveland Young has been
9 full of inconsistencies, full of things that just don't
10 add up, full of things that just don't make sense. And,
11 ladies and gentlemen, as I said to you in opening
12 statements, this system demands more.

13 This started from the very beginning of this trial.
14 We've heard a story that has changed and has changed and
15 has changed. Yesterday we heard testimony from the very
16 first witness in this case, Minor . And she
17 testified that she never told her aunt Anita Kinard
18 anything -- about anything happening to her or any type
19 of sexual abuse, sexual assault, anything inappropriate
20 that Mr. Young is allegedly doing to her. She testified
21 yesterday that she never said anything to her aunt about
22 that.

23 Now, we also had an opportunity yesterday to view
24 two interviews that she gave: one on February the 12th,
25 one on February the 25th. And what we heard in both of

1 those interviews again and again and again was that she
2 reported this abuse to Ms. Kinard every time it happened.
3 And I would submit the video that we saw yesterday, there
4 was no confusion, no hesitation about that. She was
5 adamant she told her aunt every time that it happened.

6 It changed a little bit yesterday when she
7 testified, though. We heard in one of the interviews
8 that was played yesterday, no testimony about it
9 yesterday from Ms. Trammell, but we heard on the video
10 this situation, incident where this car came by and saw
11 what was going on, and the guy got out and told Ms.
12 Kinard about what was going on. We heard about that
13 report in the interview. Now, that was never mentioned
14 yesterday during her testimony. What happened to this
15 man? Where is this guy? Well, you know why we never
16 heard from this man, ladies and gentlemen? He doesn't
17 exist. He was made up just like a majority of these
18 allegations against Mr. Young. Made up.

19 And what did we also hear about this situation with
20 this mystery man stopping by and seeing stuff going on in
21 the car? We heard Minor tell Ms. Dekine, the
22 forensic interviewer, that on that particular day when
23 that supposedly occurred, when she was supposedly being
24 assaulted by my client at his home and this guy witnessed
25 it, what did she say happened on that same day?

1 Ms. Dekine asked her about this multiple times. Did this
2 happen on the same day? Yes. What did she say happened
3 on the same day? She said that same day she was with her
4 mom, Kaci, and they were at their house. And when they
5 got home, there was a card in the door from the police.

6 Now, remember when I asked Kaci about that on that
7 day that a card was left for you to contact police about
8 this matter, was Minor ever at Anita's and Cleveland's
9 place that day? And what was her testimony? No, she
10 wasn't.

11 It doesn't add up. It doesn't add up like a
12 majority of these allegations against my client.

13 We heard on the forensic interview that there was an
14 occasion where Anita Kinard was telling -- reporting to
15 Kaci Trammell that abuse was going on, and that Minor
16 was there and was with her friend Tracy when this
17 occurred. Now, we heard Kaci testify, we heard Anita
18 testify that never happened.

19 Minor said the first time that this
20 happened, she was 3 years old. She was asked, "How do
21 you know that?"

22 "Because my mama told me."

23 She told the forensic interviewer when she was 3 it
24 happened in her bed -- it happened in the bedroom; 4, the
25 "carporch"; 5, the bedroom; 6 back in the room again; 7,

1 that's when the man came by. She was 7 years old, and
2 that's when the man came by and saw these things.

3 Now, she was pretty detailed when she said that back
4 in February of 2015. She came in and testified yesterday
5 she didn't remember when this happened, she didn't
6 remember how old she was. There was no mention
7 yesterday, no testimony yesterday about anything going
8 on, anything happening in Cleveland Young's bedroom. No
9 testimony about that yesterday.

10 Ms. Dekine -- we heard on the tapes and I questioned
11 her about it, a few quick questions about her stating
12 that she was confused when she was talking to Minor .
13 I'm confused. Can you help me make sense of this? I'm
14 still confused. And I asked her because there would be
15 inconsistencies and because of the things that aren't
16 making sense, is that why you were confused, Ms. Dekine?
17 Yes. And I will submit that confusion was never cleared
18 up ever by the forensic interviewer. It stayed there.
19 It's still there. It doesn't add up.

20 Now, you're going to hear, I'm sure, from the
21 solicitor in just a little bit, and we heard during this
22 trial, well, at the time, she was 7. And they called and
23 they paid this gentleman to come here yesterday, a
24 Mr. Wiley Garrett, and explain these inconsistencies,
25 explain these things that didn't make sense. And I'll

1 submit he did that. He gave a lot of explanations. He
2 gave a lot, in my opinion, of excuses why this was going
3 on.

4 But what did he also say that I find very
5 interesting? What did Mr. Garrett say, the individual
6 that the State of South Carolina paid to come here and
7 testify, what else did he say? He said he knew nothing
8 of this case. He didn't even know who Minor
9 was. Knew nothing of this case. Never -- didn't even
10 know who she was. But he's going to come in here and, I
11 submit, make excuses for why the State's got problems
12 with their case and problems with these allegations.
13 Because, remember, at the beginning of the case I talked
14 to you about corroboration. When you have allegations
15 like this and they're not adding up and they're not
16 making sense, what do we need? What do we want? It's
17 corroboration.

18 Well, let's talk about that. What type of
19 corroboration is there in this case? Well, we heard from
20 Kaci Trammell, and Ms. Trammell testified that
21 approximately for the last four years, on average she was
22 going over seeing her aunt, bringing Minor with her, a
23 friend would come with her she said about two times a
24 month. And this was over about a four-year period. Now,
25 I'm not a mathematician, but two times a month, 12 months

1 a year is 24 times. Times that by four years, you're
2 looking at roughly 100 times, approximately, over the
3 last four years or so that Kaci Trammell was over at this
4 house with her daughter and a friend.

5 And you heard what she said. She never witnessed
6 any inappropriate conduct going on. Nothing. You heard
7 what she said. Minor wanted to go over there. Minor
8 liked going over there. Minor never told her she
9 didn't want to go over there.

10 Now, the State's going to say, I expect, "Well, it
11 was fun for her over there. She wanted to go over there.
12 It was fun. It was in the country. There were things
13 for her to do over there." Well, with what they're
14 saying, it wasn't a whole lot of fun, it sounds like, if
15 that's the case of her going over there. But she would
16 go to her grandfather's, and she would be the one to call
17 to want to come over. And this isn't something that just
18 happened a couple times. We're talking over years.
19 Never once did she say to anybody, "Grandfather, mother,
20 father, Tracy, don't take me over there. I don't want to
21 go over there." Anita, nobody. 100 times. Nothing.

22 The State's going to -- you heard some of the
23 conversations with Ms. Kinard today, and, Ms. Kinard,
24 you're on this medication, and, you know, I suspect
25 you're going to hear something, well, she's taking these

1 medications. She don't know what's going on. As far as
2 Ms. Kinard, she says she didn't witness anything, but who
3 knows? She's taking these medications. She could be out
4 of it.

5 Well, you heard me ask her today, "Did you take your
6 medications this morning?"

7 "Yes."

8 "Are you feeling okay today?"

9 "Yes."

10 It's going to be your job as jurors to evaluate
11 that, how she was today, how she appeared to you, was she
12 coherent, was she competent, was she awake, was she
13 aware.

14 But you heard what she said. She took her
15 medications this morning. So if the State wants to jump
16 up and down and make a big deal, well, she's taking this
17 medication or she's taking that medication, well, you
18 heard her. She took her medications this morning. You
19 got a chance to evaluate her, to see her. But also
20 remember Kaci Trammell and the number of times she was
21 over there, ladies and gentlemen.

22 Now I want to talk to you for a few minutes about
23 the doctor that testified yesterday, Dr. Nancy Henderson,
24 and specifically, some of the -- first the exam that she
25 did on March 10, 2015. We heard testimony that it was

1 reported at the doctor's office of anal penetration,
2 happened a lot, there was some rectal bleeding. The
3 doctor said she was also aware of a report of vaginal
4 penetration as well.

5 Now, the doctor said because of that, she used what
6 they call a culposcope which is a special magnifying
7 glass that she uses to look for any type of injuries.
8 And what did we hear yesterday? There weren't any
9 injuries. No injuries to the anus. No injuries to the
10 vagina. And that would include any scarring, tears, any
11 injuries to the hymen.

12 Now, you know, we heard that, well, in a lot of
13 these cases, there isn't evidence of that. And there's a
14 study I think she cited from, I don't know, the -- 1994
15 that 95 percent of cases -- but she also said those are
16 -- a lot of those cases where there's no penetration. I
17 just ask you to use your common sense, ladies and
18 gentlemen, in this regard. There were absolutely no
19 injuries in this case, no scars, no tears, no bruising,
20 no redness, no marks, no discharge. There's no medical
21 evidence that there was any type of penetration that
22 occurred.

23 Now, you heard the doctor testify a little bit about
24 a drug called azithromycin, and you heard it's a very
25 popular antibiotic, very common antibiotic that is used

1 to treat, yes, chlamydia, but it's also used to treat a
2 number of different illnesses. And one of those that you
3 heard her specifically say would be bronchitis, upper
4 respiratory infection. Azithromycin would be used to
5 treat that. And she said there's different dosages as
6 far as how it could be given.

7 I asked her about something that's referred to as a
8 Z-Pak and would a Z-Pak normally be prescribed to treat
9 chlamydia. And she said no, she would not prescribe
10 that. And what you're going to be looking at and what's
11 been submitted into evidence in this case is going to be
12 a pharmacy record where you're going to see azithromycin
13 that was prescribed on -- it was prescribed in April of
14 2011 to Ms. Kinard, June of 2012, April of 2013. Okay.
15 So you're going to hear that. But what else? And on
16 those prescriptions, you can look at it and you'll see
17 what it says: Pak, Z-Pak.

18 Now, in addition, we brought in today her medical
19 records to show why she was getting that particular
20 medication, and you will see on each one of those days,
21 each one of those months she was being treated for
22 bronchitis or some type of upper respiratory infection,
23 and she was prescribed a Z-Pak. Not 1, not 2 grams, not
24 a one-time dose, how they would treat chlamydia. It was
25 over days, and she was given a Z-Pak for this. That is

1 what she prescribed ultimately to Minor .

2 We've also heard -- because a big thing in this case
3 is we can talk about azithromycin, we can talk about
4 chlamydia, but a big thing is our client doesn't have
5 chlamydia. My client did not test positive for
6 chlamydia.

7 So what did you hear from Dr. Henderson yesterday?
8 That she cited a study that was done in 2005 from the
9 Obstetrics and Gynecology Journal. And she had said that
10 there had been several small studies done where she had
11 threw some different percentages out to us, I think as
12 high as 50, as low as 28 and then she settled on the
13 44 percent that she said, "Well, in several small
14 studies, I haven't seen any done since 2005, but this
15 study in 2005 said that in 44 percent of the cases, it
16 can just go away."

17 Well, what did we also hear about this study? It
18 was done with all pregnant women. It doesn't make a lot
19 of sense to me, ladies and gentlemen. We heard she
20 doesn't agree with the 50 percent because you heard me
21 question her about some of these cell culture techniques
22 and problems there. She's, "Well, I didn't go with the
23 50. I went with the 44, the study where -- that was --
24 used only pregnant women."

25 I asked her if she was aware of any cases where

1 chlamydia or any studies -- I said studies first where
2 chlamydia could be transferred through sharing, using the
3 same washcloth. Now, she had said as far as specific
4 studies for chlamydia, she wasn't aware of. Now, she
5 also testified, though, that she's aware of some studies
6 for other STDs where it can be transferred from using the
7 same washcloth. And you also heard her testimony that
8 with a wiping, it can be -- could be transferred from
9 front to back or back to front through wiping. You heard
10 that as well.

11 Now, who did we also hear from in this case, ladies
12 and gentlemen? We heard from the lead investigator,
13 Sergeant Roxie Belue. She was, and we heard that she was
14 -- she was the officer that handled this investigation.
15 She initially got a little bit of info from a few city
16 officers, but this was her case. She was the lead
17 investigator.

18 And we heard about the training she's received to
19 investigate crimes, what she has at her disposal, what's
20 important in the case. We talked about that because when
21 you heard her and I questioned her in a case where we had
22 allegations that are being made, what she wants to do or
23 what any investigator or detective wants to do is they
24 want to try to corroborate -- corroborate those
25 allegations. That's -- that's her focus, that's her job,

1 to try to obtain and gather evidence that's going to
2 corroborate allegations.

3 And we talked about the different types of evidence
4 that could be used from physical evidence, forensic
5 evidence, witnesses, statements. Talked about some of
6 the things she's learned with interrogation and
7 interviewing people, trying to get to the truth, trying
8 to extract information from people. We talked about
9 that. We heard her and we talked about that it's
10 important to look for inconsistencies in someone's
11 statement or version when she's interviewing someone,
12 look for things that don't make sense, look for things
13 that don't add up are all things that are extremely
14 important in an investigation. And you do this because
15 you heard what she said, because allegations, they can be
16 false. They can be untrue. That's why you want
17 corroboration. That's why you want evidence to back it
18 up, ladies and gentlemen.

19 We talked -- did she interview -- who did the
20 sergeant interview in this case? We heard that she
21 interviewed Kaci Trammell, took a statement from her. We
22 heard she interviewed Anita Kinard, took a statement from
23 her. From what I was -- from what we heard, she did not
24 interview, talk to Thomas Trammell, did not talk to
25 anybody else in the house, did not look into, was not

1 aware of any bias there could be there. That was not
2 investigated.

3 Now, in going back to when she talked to Anita
4 Kinard, we heard when she talked to Ms. Kinard both from
5 the sergeant and Ms. Kinard, that when she talked to her,
6 Anita Kinard was told not to tell anything -- not to
7 report anything back to Cleveland Young about their
8 conversation, about their allegations. You heard that.
9 Nothing about the conversation. We heard that she didn't
10 do any of that. She went voluntarily, talked to Roxie
11 Belue, talked to Al Black, was not reporting anything
12 back to Cleveland Young.

13 We heard from the sergeant there was nothing
14 deceptive, nothing suspicious, nothing that she was
15 hiding anything. We heard that from the lead
16 investigator that there was nothing there. Yet, at the
17 same time, the State wants to say there's some type of
18 conspiracy going on. Anita Kinard is trying to cover for
19 Cleveland Young. That doesn't make sense. That's not
20 consistent, not consistent with someone that's trying to
21 cover something up.

22 Sexual abuse, when Roxie Belue talked to Anita
23 Kinard, it was supposedly reported to her every time.
24 She did not corroborate that. She did not corroborate,
25 she did not say that she witnessed any type of

1 inappropriate conduct.

2 As we heard, on April the 8th, my client submitted
3 -- my client was ordered, consented to give a urine
4 sample to be tested for chlamydia. We heard, on April
5 the 15th, test results came back. He was negative.

6 Now, what else was done to check into that, to check
7 into his background? Well, we heard the statement back
8 over 30 years into his medical history to see if there
9 was anything there that would support him having an STD
10 or him having chlamydia over 30 years. Nothing. We also
11 heard he consented to them checking with DHEC. And what
12 did we hear about DHEC? The rule is, the law is if the
13 doctor is treating someone and diagnosis someone with an
14 STD, that has to be reported to DHEC. And nothing. What
15 did we hear came back from DHEC? Nothing, ladies and
16 gentlemen.

17 Before charging my client with criminal sexual
18 conduct, first degree, with a minor on March 10, 2015,
19 leading up to that, before that, Sergeant Belue never
20 talked to my client, never even tried to talk to my
21 client. Didn't even try. Didn't try to interview him,
22 didn't try to get a statement from him, get his side
23 regarding the allegations. Didn't even try before she
24 went and swore out a warrant.

25 Now, after charging Mr. Young, you heard testimony

1 yesterday that she spent three minutes with him the next
2 day at the jail. Three minutes. Now, she was given a
3 form that was signed, per her testimony, by her and by my
4 client where he agreed to talk. She said that wasn't the
5 case. But I would submit, ladies and gentlemen, three
6 minutes, that's what was spent with my client. Nothing
7 before he was arrested.

8 Now, do you know who she also didn't talk with in
9 this case before charging my client? The alleged victim.
10 Never even talked to her. We heard something, well,
11 that's their protocol. Didn't talk to the suspect,
12 didn't talk to the alleged victim, but we're bringing
13 these charges.

14 A warrant was sworn out based on allegations that
15 were made by Minor that she was sexually
16 abused by Cleveland Young, allegations that we've heard
17 that have not been corroborated by Anita Kinard, by
18 Cleveland Young's negative chlamydia test, 30 years of
19 medical records, any witnesses of any type, of anyone to
20 any inappropriate conduct or contact, allegations not
21 corroborated by that, not corroborated by any medical
22 evidence, not corroborated by any forensic or DNA
23 evidence. Never talked to my client before making this
24 charge, never talked to the alleged victim in this case
25 before making this charge.

1 But then what happens? From March the 10th, about
2 four and a half months go by, and from what we've heard
3 from the stand, there's no additional investigation going
4 on. Four and a half months later on July 30th, Sergeant
5 gives some more sworn testimony to -- as we heard to
6 ultimately a grand jury for a new charge of criminal
7 sexual conduct with a minor, third degree. This charge,
8 I would submit, contradicts the first charge because the
9 first charge says there's penetration anally, vaginally,
10 oral sex. Now this other charge doesn't require all
11 that. What's changing? What's going on? It doesn't
12 make sense. It doesn't add up. Are they now not
13 believing what the allegations are?

14 I talked to you a little bit yesterday about some
15 things you're going to hear in just a little bit from the
16 judge. Because the judge, when I get done talking, when
17 the solicitor gets done talking, he's going to be
18 instructing you as to the law that you must apply to this
19 case. He's going to tell you what you've got to do after
20 you determine what the evidence is, what the facts are.
21 It's going to be your job to determine -- to apply this
22 law, these legal standards.

23 And what you heard the other day, the State, they
24 have the burden of proof. They must prove this case to
25 you all. Their standard is beyond a reasonable doubt.

1 That is what they must prove. They must prove my client
2 guilty beyond a reasonable doubt with these charges.

3 And you're going to hear this standard, it's not
4 some low standard. It's got to be -- if it's the type of
5 doubt that causes you to hesitate, if it causes you to
6 hesitate, ladies and gentlemen, if you're not firmly
7 convinced, they have not met their burden. And I would
8 submit throughout this case it is riddled with that, with
9 things that are going to leave you hesitant, leave you
10 not firmly convinced. And if that's the case, ladies and
11 gentlemen, you must find my client not guilty.

12 I don't know what happened to Minor . I
13 don't know what happened. But we can't get caught up in
14 emotion. We can't get caught up in it. Your verdict
15 cannot be based upon that for feeling sorry, for feeling
16 bad. I don't know what happened.

17 I don't know what she's been subjected to. We heard
18 some testimony, we heard on the interview that there's
19 some movies that she's got to -- when these certain type
20 of movies come on, she always leaves the room and goes
21 watches her own. I don't know what she's seen, but we
22 can't get caught up in that, ladies and gentlemen, just
23 because she has an injury.

24 And the solicitor stated in his opening, well,
25 someone's got a cast, they walk in in a cast, they walk

1 in with something on their arm, you know something's
2 wrong with that person. I'm not saying she's fine. I'm
3 not saying everything's perfect, everything's great.
4 What I'm saying is where is the proof? Where is the
5 evidence that's going to leave you firmly convinced of
6 that man's guilt? Where is that evidence? Where is it?
7 We don't have it, ladies and gentlemen. We just don't
8 have it in this case.

9 And as I told you, and I've said it a few times
10 already, the system we have, it's a good one. It's not
11 perfect, but it's good. It demands more. My client,
12 Cleveland Young, he deserves more. I'm going to ask you,
13 ladies and gentlemen, at the end of this case, in that
14 room, they have not met their burden. You're going to be
15 hesitant. You're going to be not firmly convinced. And
16 if that's the case, you must find my client not guilty.

17 Thank you.

18 THE COURT: Thank you, Mr. Delaney.

19 Solicitor?

20 MR. ANTHONY: Thank you, Your Honor.

21 If you're at home or somewhere and a kid runs in a
22 room crying, somebody about Minor's , well, you're
23 going to ask that kid, "What happened?" you know. "Did
24 you wreck your bicycle? Did you get hit in the head with
25 a ball? Did you fall out of a tree? Did you get in a

1 fight with somebody? What happened?" And you're going
2 to believe what the kid says because you know the kid's
3 been hurt, and there's no reason to think that the kid is
4 going to be making up why they got hurt.

5 Well, this case has its own version of a crying
6 child: the way Minor had been acting during
7 the school year before she told, the way she was acting
8 the day she told, the fact that she had chlamydia. All
9 these things let you know that Minor got hurt
10 just like a crying child who comes running into a room.
11 There are all these factors in this case that are
12 examples of Minor crying out. Look at the behavior
13 changes during the school when she told. Something had
14 changed during that second grade year. Something was
15 going on with her. That's what her teacher, Ms. Arnold,
16 knew. That was a cry, Ms. Arnold seeing her swinging
17 that yogurt stick and sticking it in her mouth. You
18 know, normal 7-year-olds do not do that. That's a cry.

19 And having chlamydia, you know, there's no
20 reasonable explanation for that. Dr. Henderson told you
21 yesterday the only explanation for that is that
22 somebody's penis went into Minor's rectum. To be
23 graphic about it, that's what had to happen to give her
24 chlamydia. That is a conclusive sign of a hurt child.

25 The other medical findings in this case are all to

1 be expected. You know, Dr. Henderson told you you don't
2 normally have rectal injury, you don't normally have
3 vaginal injury. But those findings aren't trouble at all
4 because in this case, you've got injury. You've got
5 chlamydia. That's injury. That's a sign that somebody
6 penetrated Minor . So Minor got hurt, and
7 just like a crying child, she told what happened. She
8 said, "BB did it."

9 Now, there's a few things I want to just point out
10 about Minor . First of all, this is very important, she
11 never said anybody else did it. There is no evidence in
12 this case that she ever once said anybody else did it.
13 From the day that Sarah Arnold saw her swinging that
14 yogurt stick, all you ever heard was that she had named
15 one person.

16 She liked going to her Aunt 'Nita's. She got to
17 play with dogs, she got to ride her bike, she got to be
18 outside. And, you know, she doesn't get to do that
19 anymore. She had a good relationship with her aunt. She
20 doesn't have that anymore. She lost that. So ask
21 yourself, why would she give that up for a lie? That
22 just doesn't make any sense. The only reason she would
23 have named BB and she would have lost that relationship
24 that she had with him and with her aunt is because he was
25 doing the things that she said she [sic] was.

1 You know, the defense kept asking questions about,
2 well, she liked going down there, didn't she? She liked
3 being down there. Well, yeah. She did like being down
4 there. That's why she waited so long to tell because she
5 liked to go down there, and she wouldn't have given that
6 up if Cleveland Young hadn't have been assaulting her.

7 And it's kind of like what Mr. Garrett said
8 yesterday. And I want to just say a word real quick
9 about Mr. Garrett. The defense attorney just talked
10 about how we called Mr. Garrett and he didn't know
11 anything about the case. Well, that's right. We did.
12 We called him. He didn't know anything about the case.
13 And you need to know there's a reason we did that. The
14 reason we did that is because the South Carolina Supreme
15 Court has told us, told prosecutors that if we're going
16 to put people up to testify about child sexual abuse and
17 the dynamics of it and how kids react and that type
18 thing, we have to call somebody who doesn't know anything
19 about the case. By not -- that's more than what I wanted
20 to do, but that's what I was told by the South Carolina
21 Supreme Court I had to do.

22 And the way these things work is that if I'm going
23 to call somebody who doesn't know anything about the
24 case, I'm going to have to pay it. Now, Mr. Garrett,
25 I've seen a lot of people charge a whole lot more than

1 what Mr. Garrett does, but the way this works is if you
2 bring somebody in who's not working on the case, they are
3 going to ask for a fee, and to present this evidence to
4 you that we presented yesterday, we're going to have to
5 pay a fee.

6 So Mr. Garrett gave y'all what I hope you will find
7 to be some very useful information yesterday. And one
8 thing that he says is that kids generally like a lot of
9 things about perpetrators. That's how perpetrators work
10 their way into the kids' lives. It's -- you know, it's
11 just the anal sex part they want to stop, you know. It's
12 just having to perform fellatio on BB that was the
13 problem for Minor. She liked being down there with the
14 dogs and the bicycle and having a good time, but the way
15 she saw the world, there was just this one thing that she
16 wanted to stop. And she liked going down there except
17 for what BB was doing to her. And in a 7-year-old's
18 mind, that's why she didn't tell.

19 But then you see all this other evidence from people
20 at the school and you see that not telling was what was
21 tearing her apart. And when Mr. Garrett, who didn't know
22 anything about the case, did not know anything about it,
23 got to talking yesterday and he got to describing about
24 how abused kids behave, you know, he could have been
25 describing Minor when he got to talking about anger,

1 fighting, talking back. All of that kind of thing is
2 going to be going on when you've got an abused kid. I
3 mean, Minor just fit the exact profile that Mr. Garrett
4 gave of an abused kid. And now -- now that she's in --
5 moved onto the next school year and she's gone to see a
6 counselor and she's gotten through it, she's doing
7 better. And, once again, that's what you'd expect from a
8 kid who's disclosed, who's trying to move past what
9 somebody did to them is they're starting to get better.
10 And you heard that from the people at the school, and you
11 also heard that from Kaci, from Minor's mom.

12 You know, when she talked about this, she did get
13 some stuff confused. But it's just like Mr. Garrett
14 said, when this kind of thing happens to a kid over and
15 over and over, they're not going to be able to keep it
16 all straight, you know. An adult couldn't keep it all
17 straight. And it's not surprising that she's going to
18 remember everything she said in that interview. She was
19 7 years old when she gave that interview. She testified
20 yesterday, a year later -- over a year later. So it's
21 not a surprise that she's not going to remember
22 everything she said when she gave that interview.

23 The kind of things that the defense lawyer just got
24 up and talked about as far as the stuff that's wrong with
25 her, her disclosure and how you can't rely on her and all

1 that kind of thing, those are really good arguments if
2 you're talking about a 20-year-old. And they're probably
3 pretty good arguments if you were talking about a
4 15-year-old or maybe even a 13-year-old. But they are
5 not good arguments, and they don't affect your judgment
6 when you're talking about a 7-year-old. Because as y'all
7 know, 7-year-olds are not 12, they're not 15, they're not
8 20. They operate at a different level. And when you sit
9 as a jury, you have to -- you have to consider that.

10 So let's talk about some of the stuff Minor did
11 know. Because she knew a lot, you know. Just think of
12 all that stuff that she described on that tape. Remember
13 how she used that word "humping" which Mr. Garrett said,
14 "Yeah, that's the word I normally hear. I hear that more
15 than anything is people talk about humping, kids talk
16 about humping"? And she knew exactly how you hump. She
17 even gave a little demonstration on the tape for
18 Ms. Dekine. How she talked about how Mr. Young wipes --
19 wipes off his wiener with a rag, how she sees yellow
20 stuff coming out of his wiener, which is an interesting
21 description of a man who's got chlamydia, yellow stuff.
22 Then how he puts his wiener in her mouth.

23 Well, a 7-year-old is not going to know about all
24 that unless something has been done to them. And she's
25 not going to make up all that stuff about BB if it's

1 really something -- somebody else. Yet this little girl
2 can't spell, okay? You'll have those sheets I gave you
3 -- I had her fill out when she testified, the little
4 drawings back there in the jury room. Look how she
5 spelled those words. She can't spell. And they want you
6 to think that she's sophisticated enough to make up this
7 story to get a man in trouble that she liked, that she
8 liked. And that's what you have to believe to find him
9 not guilty. You have to think she just made up this
10 story to get a man in trouble that she liked in the first
11 place when she's in the second grade, when she's 7 years
12 old. Really? How believable is that. You know somebody
13 hurt this child, and there's no possibility it's anybody
14 except Cleveland Young.

15 One of the things about Minor , yesterday
16 Mr. Garrett testified about perception, and he talked
17 about how kids sometimes perceive things differently than
18 adults do. And one thing that Ms. Kinard admitted this
19 morning is that, well, people come to her house. You
20 know, she's got this animal rescue service or whatever it
21 is, and people come to her house. And it's entirely
22 possible if you're 5 or 6 years old and you're outside
23 with BB, just imagine Minor's outside with BB, and BB's
24 humping her or he's making her perform fellatio on him,
25 and she sees a car drive up. And she sees Aunt Anita

1 come out of the -- out of the house and go talk to the
2 man in the car. And maybe she thinks, Oh, this guy --
3 this guy sees what BB's doing to me. Maybe this guy's
4 going to call the police. That is not an odd thing.
5 That is not something that, you know, a 5, 6, 7-year-old
6 kid's necessarily going to -- not going to do.

7 And there's another thing in this case kind of along
8 those lines that I think is very important. You remember
9 Ms. Kinard admitted to Investigator Black that there were
10 a couple of times when Minor came running in the house
11 saying BB whipped me. Remember that? That's what she
12 told Investigator Black. She tried to minimize it today
13 and say there was just one time, but she told him there
14 were a couple.

15 Now, just think about a 6 or 7-year-old girl who's
16 being anally raped or vaginally raped or forced to
17 perform oral sex on a man and she wants to get help but
18 she just doesn't quite know what to say, she doesn't
19 quite know how to explain it, what does that little girl
20 do? That little girl runs in the house and says, "Aunt
21 'Nita, Aunt 'Nita, BB whipped me."

22 What did Aunt 'Nita do? What did Mr. Young do?
23 Well, Mr. Young did what you'd expect somebody doing what
24 he's up to would do. He follow her right on in there
25 himself. He's got to get in there, too. Because some

1 way or another she's got away from him and run off to
2 'Nita and told 'Nita what happened.

3 But, of course, 'Nita doesn't take Minor aside and
4 talk to her, you know. She doesn't ask Cleveland, "Hey,
5 what are you doing whipping my niece?" She just wanted
6 to get back to socializing pit bulls, you know. She just
7 wanted to get back to whatever medication, her Xanax and
8 her Percocet and her Cymbalta and whatever else it is she
9 stays on. Because that woman -- you heard this morning,
10 ladies and gentlemen, that is a woman who has chosen
11 Cleveland Young and dogs over her niece and her family.
12 That's who you heard this morning.

13 But that's Cleveland Young's biggest fan. That's
14 Cleveland Young's biggest supporter. And she's admitting
15 that at least two times the victim in this case came into
16 her house crying, crying followed by Mr. Young. That was
17 a child crying out. And that was Cleveland Young
18 assaulting that little girl that was available for him to
19 exploit, because he's not having sex with her, and he's
20 not going anywhere, you know. He doesn't go anywhere.
21 So where is he going for sexual gratification? He's
22 going to a little 5, 6, 7-year-old girl. He's going to a
23 little girl who is getting brought to him, being brought
24 to him for him to do whatever he wants to do with her.

25 That chlamydia let you know that Minor was

1 assaulted. But some of y'all may be troubled that
2 Cleveland didn't have it. And I would just refer you
3 back to Dr. Henderson's testimony, because she went on
4 about this for a good little while yesterday. There was
5 nothing that would cause you to think, there's nothing
6 from that -- him being negative that would cause you to
7 think that Minor is lying about Cleveland Young doing
8 this. That chlamydia test does not mean that he's not
9 guilty. He could have never known he had chlamydia
10 because chlamydia doesn't have to have symptoms.

11 Now, we did our job, you know. We checked and we
12 went to see if he'd ever gotten treatment. But Mr. Young
13 might not have gotten treatment for chlamydia because he
14 might not have known that he had it. Dr. Henderson told
15 y'all that chlamydia can just come and go naturally. It
16 can clear up like a lot of other infections. And he
17 could have gotten an antibiotic, you know. He had his
18 personal antibiotic shopper, Ms. Kinard, out, you know.
19 She had antibiotic prescriptions. She was calling around
20 trying to get him antibiotics. So it's possible that she
21 got him an antibiotic.

22 And the other thing you have to remember is that he
23 wasn't tested for chlamydia until April of 2015, okay?
24 That's when the test was, in April of 2015. We're
25 talking about assaults that occurred back, you know, over

1 a year, you know, months before that, years before that.
2 We're talking back into 2014, maybe 2013, you know.
3 There's a long time passed between the time he could have
4 given Minor chlamydia and the time he got tested for
5 it, a long time passed, a lot of time for that chlamydia
6 case to clear up that he had.

7 I want to talk to you just a minute about the
8 charges in this case. Mr. Young is charged with two
9 crimes. He's charged with first-degree criminal sexual
10 conduct with a minor, and he's charged with third-degree
11 criminal sexual conduct with a minor.

12 When he was initially charged, Investigator Belue
13 got a warrant for one crime, for criminal sexual conduct,
14 first degree, with a minor. And I decided, after
15 reviewing the case, that there was a basis for charging
16 another crime. So our office, the Solicitor's Office,
17 did an indictment, and we asked Investigator Belue to go
18 in front of the grand jury and present that case to the
19 grand jury, which is quite common. Now, our office is
20 entitled to bring any charge in a case that we think is
21 appropriate.

22 So first-degree criminal sexual conduct requires
23 sexual battery of some type. And the judge will instruct
24 you that -- he'll give you a definition of sexual
25 battery. But, basically, if you have vaginal sex, oral

1 sex, anal sex, any of those amount to a sexual battery.
2 And, of course, Minor has said, either testifying or in
3 her interview, that all three of those happened.
4 Obviously, anal sex had to happen for her to have
5 chlamydia. So if you find that there is a sexual battery
6 during that period in the indictment, just any -- any
7 type of sexual battery, doesn't have to be all three,
8 just any type of sexual battery during the time period
9 alleged in the indictment, then Mr. Young is guilty of
10 first-degree criminal sexual conduct with a minor.

11 Third-degree criminal sexual conduct with a minor
12 does not require a sexual battery. It just requires a
13 lewd touching. And Minor, in the tape, talks about
14 Mr. Young licking her and squeezing her bottom and
15 pulling off her clothes and touching her breast. And so
16 all of those, they're not -- they're not acts that
17 involve sexual battery, but all of those are lewd acts.
18 And so all those amount to third-degree criminal sexual
19 conduct.

20 So you have two different charges. And if you find
21 that both of them occurred, you can convict him of both.
22 Sometimes juries have a choice of charges, like if you
23 were hearing a murder case, you might have a choice
24 between murder and voluntary manslaughter. Well, here,
25 this is not a choice. This is two different charges.

1 And so you can find him guilty of both crimes.

2 Your verdict as to each crime has to be unanimous.
3 But if you go to the jury room and you get to talking
4 about this and you can't agree on a verdict, that does
5 not mean that you have to find Mr. Young not guilty,
6 okay? If you get back there and there's a difference of
7 opinion on the jury and you can't agree on a verdict, all
8 you need to do is send a note out to the judge, and at
9 that point in time, the judge will give you some more
10 instructions.

11 I just want to close by saying that after hearing
12 this case, you might be like a man who lived a long time
13 ago. And that man had heard some evidence from some
14 people about another man, but he wasn't sure that what
15 he'd heard was true. He had some doubt. And that man,
16 his name was Thomas. And he has gone down in history as
17 a man who was known for his doubt until one day he saw
18 the man he'd been hearing about, and that man showed him
19 something. That man showed him some scars. And when
20 Thomas saw those scars, he knew that what the man had
21 said was true.

22 This case is full of Minor's scars: her
23 behavior, her sexual acting out, her case of chlamydia.
24 All of these things are things that let you know that
25 Minor told you the truth about what Cleveland Young did

1 to her.

2 And when you go back to that jury room, I want you
3 to come back and give a verdict that lets Minor

4 know, let her know, let her go the rest of her
5 life knowing, let Union County know and let Cleveland
6 Young know that you've seen Minor scars, and
7 you know what they mean, and you know what he did. Do
8 not let him get away with this. Do not let him. Y'all
9 find him guilty, first-degree criminal sexual conduct
10 with a minor and third-degree criminal sexual conduct
11 with a minor.

12 Thank y'all.

13 CHARGE ON THE LAW

14 THE COURT: Thank you very much.

15 Mr. Foreman, ladies and gentlemen of the jury panel,
16 if you would, please give me your complete and undivided
17 attention. I am now going to instruct you on the law
18 that you are to apply to the facts of the case as you
19 find them to be.

20 The way I instruct a jury is I charge or instruct on
21 the general criminal law that applies to all criminal
22 cases in South Carolina. Thereafter, I will charge you
23 on the specific charges in the indictment. First would
24 be criminal sexual conduct with a minor in the first
25 degree, and next would be criminal sexual conduct with a

1 minor in the third degree. Finally, I will instruct you
2 on the form of the verdict.

3 Generally, what I will do is when I move from one
4 topic, one subject matter to the next, I will give you a
5 heading of the topic that I'm fixing to cover.

6 Charge or arrest indictment not evidence: The
7 indictments charge the defendant with criminal sexual
8 conduct with a minor in the first degree, and criminal
9 sexual conduct with a minor in the third degree. I
10 remind you that the fact the defendant was arrested,
11 charged and indicted in this case is not evidence and
12 cannot be considered by you as evidence of guilt, nor
13 does it create any presumption or inference of guilt.
14 These documents, these indictments are simply the formal
15 written instruments which contain the charges made
16 against the defendant. They are the formal documents by
17 which this case is brought before this court.

18 Multiple charges: The indictments in this case
19 allege two different and distinct offenses against the
20 defendant. The charges, again, are criminal sexual
21 conduct with a minor, first degree, and criminal sexual
22 conduct with a minor, third degree.

23 Each indictment charges a separate and distinct
24 offense. You must decide each indictment separately on
25 the evidence and the law applicable to it uninfluenced by

1 your decision as to other -- the other indictment.

2 The defendant may be convicted or acquitted on any
3 or all of the offenses charged. You will be asked to
4 write a separate verdict of guilty or not guilty as to
5 each indictment.

6 Presumption of innocence: The defendant has pled
7 not guilty to these indictments, and that plea puts the
8 burden on the State to prove the defendant guilty. A
9 person charged with committing a criminal offense in
10 South Carolina is never required to prove himself
11 innocent.

12 I charge you that it is an important rule of the law
13 that a defendant in a criminal trial, no matter what the
14 seriousness of the charge may be, will always be presumed
15 to be innocent of the crime for which the indictment was
16 issued unless guilt has been proven by evidence
17 satisfying you the jury of that guilt beyond a reasonable
18 doubt. This presumption of innocence does not end when
19 you begin your deliberations, but it accompanies the
20 defendant throughout the trial until you reach a verdict
21 of guilt based on evidence satisfying you of that guilt
22 beyond a reasonable doubt.

23 The presumption of innocence has been said to be
24 like a robe of righteousness placed about the shoulders
25 of the defendant which remained with the defendant until

1 it has been stripped from the defendant by evidence
2 satisfying you of the defendant's guilt beyond a
3 reasonable doubt.

4 The presumption of innocence is not a mere legal
5 theory. It is not just a legal phrase. It is a
6 substantial right to which every defendant is entitled
7 unless you the jury are satisfied from the evidence of
8 the defendant's guilt beyond a reasonable doubt.

9 What is a reasonable doubt in the law? A reasonable
10 doubt is the kind of doubt that would cause a reasonable
11 person to hesitate to act.

12 The State has the burden of proving the defendant
13 guilty beyond a reasonable doubt. Some of you may have
14 served as jurors in civil cases in the past where you
15 were told that it is only necessary to prove that a fact
16 is more likely true than not true such as by the greater
17 weight or the preponderance of the evidence. In criminal
18 cases, the State's proof must be more powerful than that.
19 It must be beyond a reasonable doubt.

20 Proof beyond a reasonable doubt is proof that leaves
21 you firmly convinced of the defendant's guilt. There are
22 very few things in this world that we know with absolute
23 certainty, and in criminal cases, the law does not
24 require proof that overcomes every possible doubt.

25 If, based on your consideration of the evidence, you

1 are firmly convinced that the defendant is guilty of the
2 crimes charged, you must find the defendant guilty. If,
3 on the other hand, you think there is a real possibility
4 that the defendant is not guilty, you must give the
5 defendant the benefit of the doubt and find him not
6 guilty, again, separate and distinctly as to each charge
7 that has been presented.

8 Duties of jury and trial judge: I remind you that
9 during this trial, you and I have certain distinct duties
10 to perform. As the trial judge, it is my responsibility
11 to preside over the trial of this case, and I also have
12 the duty to rule on the admissibility of evidence offered
13 during the trial. You are to consider only the competent
14 evidence before you. If there was any testimony ordered
15 stricken from the record in this case during the trial,
16 you must disregard that testimony. You are to consider
17 only the testimony which has been presented from the
18 witness stand, any exhibits which have been made a part
19 of the record in this case, and any stipulations by the
20 attorneys.

21 I have the additional duty to instruct you the law
22 applicable to this case. As the presiding judge, I am
23 the sole judge of the law of this case, and it is your
24 duty as jurors to accept and apply the law as I now state
25 it to you. If you already have any idea as to what the

1 law is or what the law ought to be and it does not agree
2 with what I now tell you the law is, you must abandon,
3 you must set aside your idea because you were sworn, you
4 have taken an oath to accept and apply the law exactly as
5 I state it to you.

6 In every case tried in this court before a jury, the
7 jury becomes the sole and exclusive judge of the facts in
8 a case. A trial judge cannot intimate, state, comment on
9 or make any statement to a trial jury about the facts in
10 a case. Since you the jury are the sole judge of the
11 facts, you are not to infer from what I have said during
12 the progress of this trial in ruling upon the
13 admissibility of evidence or otherwise or anything that I
14 say now during the course of this instruction to you that
15 I have any opinion about the facts in this case. The law
16 does not allow me to have an opinion about the facts in
17 the case. That is a matter solely for you the jury to
18 determine. As jurors, it is your duty to determine the
19 effect, the value, the weight and the truth of the
20 evidence presented during this trial.

21 Direct and circumstantial evidence: There are two
22 types of evidence which are generally presented during a
23 trial: direct evidence and circumstantial evidence.
24 Direct evidence is the testimony of a person who claims
25 to have actual knowledge of a fact such as an eyewitness

1 or an ear witness. It is evidence which immediately
2 establishes the main fact to be proved.

3 Circumstantial evidence is proof of a chain of facts
4 and circumstances indicating the existence of a fact.
5 Circumstantial evidence is evidence which immediately
6 establishes a collateral fact from which the main fact
7 may be inferred. Circumstantial evidence is based on
8 inference and not on personal knowledge or observation.

9 The law, our law makes absolutely no distinction
10 between the weight or the value to be given to either
11 direct or circumstantial evidence, nor is there a greater
12 degree of certainty required of circumstantial evidence
13 than of direct evidence.

14 You should weigh all of the evidence in the case.
15 After weighing all of the evidence, if you are not
16 convinced of the guilt of the defendant beyond a
17 reasonable doubt, you must find the defendant not guilty.
18 If, on the other hand, after weighing all of the evidence
19 you are convinced of the guilt of the defendant beyond a
20 reasonable doubt, you must find the defendant guilty.

21 Credibility of witnesses: Necessarily, you the jury
22 must determine the credibility of the witnesses who have
23 testified in this case. Credibility, as you all know,
24 simply means believability. It becomes your duty as
25 jurors to analyze and to evaluate the evidence and

1 determine which evidence convinces you of its truth.

2 In determining the believability of the witnesses
3 who have testified in this case, in using your individual
4 good judgment and your individual and collective good
5 judgment and common sense, you may believe one witness
6 over several or several witnesses over one; you may
7 believe the part of the testimony of a witness and reject
8 the remaining part of the testimony of that same witness;
9 you may believe the testimony of a witness in its
10 entirety or reject the testimony of a witness in its
11 entirety; you may consider whether any witness has
12 exhibited to you any interest, bias, prejudice or other
13 motive in this case; you may also consider the appearance
14 and manner of the witness while on the witness stand; you
15 may consider if there were prior inconsistent statements
16 or prior consistent statements; you may consider if there
17 was corroboration, a witness's testimony was made
18 stronger or a lack of corroboration.

19 You have no friends to reward, nor enemies to
20 punish. Your search is the search for the truth based on
21 the evidence as you determine the facts to be and the
22 believability of the witnesses that you the jury
23 determine that to be.

24 Expert witnesses: And you've heard me say a version
25 of this throughout the trial. As you recall, the rules

1 of evidence ordinarily do not permit witnesses to testify
2 to opinions or conclusions. An exception to this rule
3 exists for witnesses which we call expert witnesses.

4 A witness who, by education and experience, has
5 become expert in some art, science, profession, craft or
6 calling may state an opinion as to relevant and material
7 matter in which the witness claims to be an expert and
8 may also state the reasons for that opinion. You should
9 consider any expert opinion received in evidence in this
10 case, and like any other evidence, you give it the weight
11 you think it deserves.

12 If you decide that the opinion of an expert witness
13 is not based on sufficient education or experience, or if
14 you conclude that the reason given in support of the
15 opinion are not sound, or that the opinion is outweighed
16 by other evidence, you may disregard the opinion in its
17 entirety. An expert witness's testimony is to be given
18 no greater weight than that of other witnesses simply
19 because the witness is an expert. Further, you are not
20 required to accept an expert's opinion even though it is
21 not contradicted.

22 Ladies and gentlemen, I instruct you and emphasize
23 the fact that the defendant did not testify is not a
24 factor to be considered by you in any way in your
25 deliberations and in your consideration of the guilt or

1 innocence of the defendant. It must not be considered by
2 you in any manner whatsoever.

3 A defendant has the constitutional right to remain
4 silent, and the assertion of that right must not be
5 considered by you in your deliberations. I'll repeat.
6 Under your oath, you are to draw no conclusions
7 whatsoever from the fact that the defendant in this case
8 did not testify. Mr. Foreman, ladies and gentlemen, the
9 fact that this defendant did not testify should not even
10 be discussed in the jury room. The burden of proof, as I
11 have stated to you, is on the State. The defendant is
12 not required to prove his innocence. The burden of proof
13 remains on the State to prove guilt beyond a reasonable
14 doubt.

15 Intent: In order to establish criminal liability,
16 criminal intent is required. For example, the mental
17 state required of the particular crime might be purpose,
18 intent, knowledge, recklessness or criminal negligence.

19 Criminal intent must be proven by the State beyond a
20 reasonable doubt. Criminal intent is always a matter
21 that must be determined by the jury from the
22 circumstances surrounding the situation.

23 There is no way to prove intent to a mathematical
24 certainty. There is no way medical science can dissect a
25 person's brain and determine what the person had in mind,

1 so the law says that criminal intent may be inferred from
2 the circumstances shown to have existed. This is how you
3 make your determination of whether or not the element
4 requiring intent is present.

5 It is not necessary to establish intent by direct
6 and positive evidence, but intent may be established by
7 inference in the same way as any other fact by taking
8 into consideration the acts of the parties and all the
9 facts and circumstances of the case.

10 Criminal intent, ladies and gentlemen, is a mental
11 state, a conscious wrongdoing. It is up to you to
12 determine what the defendant intended to do based on the
13 circumstances shown to have existed.

14 Ladies and gentlemen, that concludes my instruction
15 to you on the general criminal matters that apply to all
16 criminal cases in South Carolina, that being charge,
17 arrest, indictment not evidence; multiple charges;
18 presumption of innocence; reasonable doubt; duties of
19 jury, trial judge; direct and circumstantial evidence;
20 credibility of the witnesses; expert testimony;
21 defendant's right to remain silent; and intent. I'm
22 going to now charge you specific charges in the
23 indictment. If you'd please continue to give me your
24 complete and undivided attention, I assure you, the end
25 of my instruction is in sight, ladies and gentlemen.

1 The first charge under indictment 2015-GS-44-0501,
2 criminal sexual conduct with a minor in the first degree,
3 the defendant is charged with first-degree criminal
4 sexual conduct with a minor. The State must prove beyond
5 a reasonable doubt that the defendant engaged in a sexual
6 battery with the victim. The term "sexual battery" is
7 also defined by the Criminal Sexual Conduct Statute.

8 A sexual battery is defined as sexual intercourse,
9 cunnilingus, fellatio, anal intercourse or any intrusion,
10 however slight, of any part of a person's body or of any
11 object into the genital or anal openings of another
12 person's body except when the intrusion is accomplished
13 for medically recognized treatment or diagnostic
14 purposes.

15 The State must also prove beyond a reasonable doubt
16 that the victim was less than 11 years of age at the time
17 of the sexual battery. Consent, willingness,
18 indifference or ignorance on the part of the minor
19 victim, if any, as to what has taken place does not, in
20 any way, affect the charge of criminal sexual conduct
21 because an unmarried woman under the age of 14 cannot
22 legally consent to a sexual intercourse or battery.

23 That is the charge of criminal sexual conduct with a
24 minor in the first degree, that an individual committed a
25 sexual battery as I have previously defined on a victim

1 less than 11 years of age.

2 Criminal sexual conduct with a minor, third degree,
3 is also in our Statute 16-3-655(C). The defendant is
4 charged with third-degree criminal sexual conduct. The
5 State must prove beyond a reasonable doubt that the
6 defendant was over the age of 14. Next, the State must
7 prove beyond a reasonable doubt that the child was under
8 the age of 16. Finally, the State must prove that the
9 defendant willfully and lewdly committed or attempted to
10 commit a lewd or lascivious act on or with the body or
11 its part of a child under the age of 16 years with the
12 intent to arouse, appeal to or gratify the lust, passions
13 or sexual desires of the defendant or of the child.

14 The term "willfully" means voluntarily and
15 intentionally, with the specific intent to do something
16 the law forbids. The term "lewd" means obscene, lustful,
17 indecent or lecherous. The term "lascivious" means
18 tending to incite lust, lewd, indecent, obscene or
19 tending to deprave the morals in respect to sexual
20 relations.

21 That is the charges, ladies and gentlemen, on
22 criminal sexual conduct with a minor in the first degree
23 and criminal sexual conduct with a minor in the third
24 degree.

25 And finally, ladies and gentlemen, the form of the

1 verdict: As to the charges of criminal sexual conduct
2 with a minor in the first degree and criminal sexual
3 conduct with a minor in the third degree, again,
4 considering those charges separately and distinctly,
5 there are two possible verdicts which you may find as to
6 each charge: guilty or not guilty. There is absolutely
7 no significance whatsoever in the order in which I just
8 stated those potential verdicts, nor in the order in
9 which I have them listed on the form of the verdict which
10 you will have with you in your jury room, Mr. Foreman,
11 ladies and gentlemen of the jury. It's simply that one
12 must be stated first.

13 Ladies and gentlemen, your verdicts must be a
14 unanimous one. All 12 of you must agree. Your verdict
15 cannot be based on bias, passion, prejudice, emotion,
16 sympathy or any other consideration not in the record in
17 this case.

18 Mr. Foreman, as the jury deliberates and you
19 determine what the facts are, the jury determines what
20 the facts are as to the charge of criminal sexual conduct
21 with a minor in the first degree, and the jury takes
22 those facts, applies them to the law as I told you the
23 law is and your decision is the State has met its burden
24 of proof beyond a reasonable doubt as to that charge, you
25 will have this verdict form in there with you. And it

1 has criminal sexual conduct with a minor first degree and
2 the word "guilty" and then the two words "not guilty."
3 If your unanimous verdict, based on your determination of
4 facts, is guilty, I would ask you to check to the left of
5 the word "guilty," circle your check mark and the word
6 "guilty."

7 If, after your determination of the facts, applying
8 those facts to the law you find the State has failed to
9 meet its burden of proof beyond a reasonable doubt as to
10 first-degree criminal sexual conduct, I would ask you to
11 check to the left of the two words "not guilty," circle
12 your check mark, then the two words "not guilty."

13 And it is the same as to criminal sexual conduct
14 with a minor in the third degree. Again, based on your
15 determination of the facts as to whether or not the State
16 has met its burden of proof beyond a reasonable doubt as
17 to criminal sexual conduct with a minor, third degree, if
18 they have, verdict guilty, if they have not, verdict not
19 guilty. Again, those are separate and distinct. You
20 could find the defendant guilty of both of those charges,
21 you could find the defendant not guilty of both of those
22 charges, you could find the defendant guilty of one and
23 not guilty of the other based on your determination of
24 the evidence.

25 Once you have reached those two unanimous verdicts,

1 you've signed and dated the verdict form, if you would,
2 please knock on the jury room door, inform the bailiff.
3 We will receive you back out here for your verdict.

4 If you have any question during the course of your
5 deliberations, Mr. Foreman, you or any member of the
6 jury, if you would, write me a note, please, knock on the
7 jury room door. The bailiff will bring it to my
8 attention and I will respond timely, as you know. But if
9 you need anything whatsoever during the course of your
10 deliberations, please, please advise and send me a note.

11 You're not to begin your deliberations yet. I have
12 to meet one final time outside of your presence with the
13 attorneys in case I have forgotten to charge something to
14 you in any manner whatsoever. I would ask you not to
15 begin your deliberations until you have received all of
16 the evidence and have been instructed by the clerk to
17 begin your deliberations.

18 Thank you. Thank you very much. You may now go to
19 the jury room.

20 (WHEREUPON, the jury exits the courtroom at 2:46 p.m.)

21 THE COURT: Any exceptions, Solicitor?

22 MR. ANTHONY: No, sir.

23 THE COURT: Mr. Delaney?

24 MR. DELANEY: No, Your Honor.

25 THE COURT: All right. Thank you very much.

1 Would y'all check the evidence? Also check that
2 Defense 1 was properly redacted. Let me look at it,
3 please. Here is the form of the verdict, Solicitor and
4 Mr. Delaney, if y'all want to review it.

5 (Pause in proceedings.)

6 THE COURT: All right. Solicitor, all exhibits,
7 State and defense, are present and accounted for and
8 redacted properly?

9 MR. ANTHONY: Yes, sir.

10 THE COURT: Mr. Delaney?

11 MR. DELANEY: Yes, sir.

12 THE COURT: And each of you approve the form of the
13 verdict?

14 MR. ANTHONY: The State does.

15 MR. DELANEY: Defense does.

16 THE COURT: All right. Madam Clerk, would you
17 please present the exhibits to the jury and the form of
18 the verdict, and please have the alternates report right
19 back here in the courtroom, please.

20 Thank you.

21 (Pause in proceedings.)

22 THE COURT: All right. This is Ms. Clark and
23 Ms. Garner. All right. Thank you. Momentarily I'm
24 going to release you from your jury service for the
25 remainder of the day and the remainder of the week. Very

1 often we have to fall back on our alternates. Someone
2 may have an issue come up during the course of the trial.
3 However, we did not have to do that in this case.

4 I want to thank you very much for your service this
5 week, for your participation in our system. Without
6 folks like yourselves, we would not be able to give out
7 the very important business of administering your and our
8 criminal justice system. So, again, thank you very much.

9 Madam Clerk, they're excused for the day and for the
10 remainder of the week?

11 THE CLERK: Yes, sir.

12 THE COURT: All right. Thank you. Thank you very
13 much.

14 All right. We'll be awaiting our jury's verdict.

15 (WHEREUPON, Court's Exhibit No. 1 was marked for
16 identification.)

17 (WHEREUPON, a recess is taken at 3:01 p.m.)

18 THE COURT: All right. I received a note from the
19 jury that reads, "We can't reach a verdict," signed by
20 our foreperson.

21 I intend to bring them out and Allen charge them.

22 Anything from the State before I bring the jury out,
23 Solicitor?

24 MR. ANTHONY: No, sir.

25 THE COURT: Defense?

1 MR. DELANEY: No, sir.

2 (WHEREUPON, the jury entered the courtroom at 4:17 p.m.)

3 THE COURT: Mr. Foreman, ladies and gentlemen of the
4 jury, I received your note which reads, quote, we can't
5 reach a verdict. I take that, although it is singular,
6 as plural.

7 JURY FOREMAN: Yes, sir.

8 FURTHER CHARGE ON THE LAW

9 THE COURT: All right. Ladies and gentlemen, having
10 stated you've been unable to agree on a verdict or
11 verdicts in this case, as I have instructed you earlier,
12 the verdicts of the jury must be unanimous. When a
13 matter is in dispute, it isn't always easy for even two
14 people to agree. So when 12 people must agree, it
15 becomes even more difficult. In most cases, absolute
16 certainty cannot be reached or expected. However, you
17 have a duty to make every reasonable effort to reach
18 unanimous verdicts in this case.

19 In doing this, you should consult with one another,
20 express your own views, and listen to the opinions of
21 your fellow jurors, tell each other how you feel and why
22 you feel that way, discuss your differences with open
23 minds.

24 Although the verdicts of the jury must be unanimous,
25 every one of you have the right to your own opinion. The

1 verdicts you agree to must be your own verdicts, the
2 results of your own convictions, and you should not give
3 up your firmly held beliefs merely to be in agreement
4 with your fellow jurors.

5 And I don't want to know any numbers whatsoever
6 split among the jury. The majority should consider the
7 minority's position, and the minority should consider the
8 majority's position. You should carefully consider and
9 respect the opinions of each other and evaluate and/or
10 re-evaluate your position for reasonableness, correctness
11 and impartiality. You must lay aside all outside matters
12 and re-examine the questions before you based on the law
13 and the evidence in this case.

14 Ladies and gentlemen, if you do not agree on
15 verdicts in this case, I must declare a mistrial. In
16 that case, it does not mean that anybody wins. It just
17 means that at some future time, I or some other Circuit
18 Court judge will try this case with some other jury
19 sitting where you now sit. The same participants will
20 come and the same lawyers will ask basically the same
21 questions and get basically the same answers, and we will
22 go through this entire process again.

23 You were selected by the parties as fair and
24 impartial jurors and that you could serve as such for
25 both Mr. Young and the State. You were selected in the

1 same manner and from the same source as any future jury
2 will be, and there is no reason for me to suppose or
3 suspect that the case will ever be submitted to 12 more
4 intelligent, impartial, conscientious and competent
5 jurors than you, or that more or clearer evidence will be
6 produced on one side or the other. I therefore ask that
7 you return to your deliberations with the hope you can
8 arrive at unanimous verdicts within a reasonable time.

9 Thank you. Thank you very much, Mr. Foreman, ladies
10 and gentlemen of the jury. You may return to your jury
11 room and continue your deliberations.

12 (WHEREUPON, the jury exits the courtroom at 4:22 p.m.)

13 THE COURT: All right. Any objections from the
14 State?

15 MR. ANTHONY: No, sir.

16 THE COURT: Defense?

17 MR. DELANEY: No, sir.

18 THE COURT: Thank you very much. We'll be awaiting
19 our jury's verdicts.

20 (WHEREUPON, Court's Exhibit No. 2 was marked for
21 identification.)

22 (WHEREUPON, a recess is taken at 4:24 p.m.)

23 (WHEREUPON, Court's Exhibit No. 3 was marked for
24 identification.)

25 THE COURT: All right. I understand we have a

1 verdict. I would remind those in the gallery that many
2 times the taking of the verdict can be very emotional for
3 one side, the other or both. I'll allow no show of
4 emotions in the courtroom in that regard. The jury has a
5 tough enough job to do as it is. I consider any show of
6 emotion verbally or by physical mannerisms to be a
7 contempt of court. I'd ask the sheriff to take those
8 individuals into custody. I will thereafter hold a
9 contempt hearing for which I can sentence a person of up
10 to six months and a fine of up to \$1,500 without a jury
11 trial. If you remain, I then consider you have consented
12 to control your demeanor and decorum in the court.

13 All right. Bring us our jury.

14 (WHEREUPON, the jury entered the courtroom at 6:25 p.m.)

15 VERDICT

16 THE COURT: Madam Clerk?

17 All right. Would you please stand, Mr. Young. The
18 verdict appears to be signed by our foreperson dated
19 30 March 2016. State of South Carolina vs. Cleveland
20 Edward Young, indictment 2015-GS-44-0501, indictment
21 2015-GS-44-0913. As to indictment 2015-0501 as to
22 criminal sexual conduct with a minor in the first degree,
23 we the jury unanimously find the defendant guilty.

24 (WHEREUPON, there was an interruption in the
25 proceedings.)

1 THE COURT: I have just finished stating no one show
2 any motion in any way. Please take that individual into
3 custody for me, Sheriff.

4 Indictment 2015-GS-44-0913, criminal sexual conduct
5 with a minor, third degree, we the jury unanimously find
6 the defendant guilty.

7 It is signed by our foreperson today's date.

8 Mr. Foreman, ladies and gentlemen of the jury, if
9 this be your verdict or verdicts, so indicate by raising
10 your right hands. If this be your verdict, so indicate
11 by raising your right hands.

12 (WHEREUPON, all members of the jury raised their right
13 hands.)

14 THE COURT: All hands are raised. Thank you. Thank
15 you very much. You may put your hands down.

16 Anything further for the jury from the State?

17 MR. ANTHONY: No, sir.

18 THE COURT: From the defense?

19 MR. DELANEY: Would Your Honor be inclined to poll
20 the jury at this time?

21 THE COURT: All right. Madam Clerk, would you
22 conduct that?

23 THE CLERK: I will.

24 THE COURT: Or would you explain -- and explain that
25 procedure to the jury, please.

1 THE CLERK: As I call your name, I'll ask you the
2 question, "If this is your verdict and it's still your
3 verdict," and you just raise your right hand. -

4 Audrea Stroble, is this your verdict? Is it still
5 your verdict?

6 THE COURT: And say "yes" or "no" for me, please.

7 JUROR 269: Yes.

8 THE CLERK: All right. Thank you.

9 Janice Gist, is this your verdict?

10 JUROR 88: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR 88: Yes.

13 THE CLERK: Dustin Austin, is this your verdict?

14 JUROR 5: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR 5: Yeah.

17 THE CLERK: Marvin White, Junior, is this your
18 verdict?

19 JUROR 288: It is.

20 THE CLERK: Is it still your verdict?

21 JUROR 288: Yes.

22 THE CLERK: Jessica Smith, is this your verdict?

23 JUROR 255: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR 255: Yes.

1 THE CLERK: D , is this is your verdict?

2 JUROR 273: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR 273: It is.

5 THE CLERK: Leah Younger [sic], is this your
6 verdict?

7 JUROR 298: Yes.

8 THE CLERK: Is it still your verdict?

9 JUROR 298: Yes.

10 THE CLERK: Wanda Jeter, is this your verdict?

11 JUROR 146: Yes.

12 THE CLERK: Is it still your verdict?

13 JUROR 146: Yes.

14 THE CLERK: Jeffry Dickerson ---

15 JUROR 4: Atkinson.

16 THE CLERK: Atkinson. Yes. Is this your verdict?

17 JUROR 4: Yes.

18 THE CLERK: Is it still your verdict?

19 JUROR 4: Yes.

20 THE CLERK: James Comer, is this your verdict?

21 JUROR 80: It's Garner.

22 THE CLERK: Garner. I'm sorry. Is this your
23 verdict?

24 JUROR 80: Yes.

25 THE CLERK: It is still your verdict?

1 JUROR 80: Yes.

2 THE CLERK: And, Kathy Johnson, is this your
3 verdict?

4 JUROR 149: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR 149: Yes.

7 THE CLERK: And, Mary Davis, is this your verdict?

8 JUROR 61: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR 61: Yes.

11 THE CLERK: All answered in the affirmative.

12 THE COURT: Thank you. Thank you very much, Madam
13 Clerk.

14 Anything further for the jury, Mr. Delaney?

15 MR. DELANEY: No, Your Honor.

16 THE COURT: Thank you. You and Mr. Young may be
17 seated.

18 Momentarily, ladies and gentlemen of the jury panel,
19 I'm going to release you from your jury service for the
20 remainder of the day and the remainder of the week. You
21 do not have to call back, you do not have to come back.
22 I thank you for your service this week. It's my pleasure
23 and privilege to be with you in Union County.

24 I would advise you that I've never criticized nor
25 commended a jury for its verdict. However, I will say if

1 you ever find yourself a part of the system, and I hope
2 you do not, in the future by way of a witness or
3 otherwise, I hope the parties, the citizens selected to
4 sit on that panel are as focused, attentive, as
5 hard-working and as patient as you have been, and with
6 the work ethic that you have shown and the attention
7 you've shown to all the parties.

8 As I've told you in the beginning, our goal is to
9 select a jury that will be fair and impartial in the
10 trial of this case for both Mr. Young and the State. I
11 know by your efforts both in your questioning and your
12 review of the evidence and the testimony, that you have
13 been true to your oath and return verdicts based on the
14 facts as you find them to be and the law as I have told
15 you the law is.

16 I have held court in about 40 of the 46 counties in
17 South Carolina. My goal is not necessarily to hold court
18 in the 46 counties. I just basically do what I'm told.
19 Wherever they tell me to go, that's where I go.

20 I notice throughout South Carolina, we read so much
21 about the divisiveness sometimes. We see it on the news
22 in our country. I do not find that among the citizens of
23 South Carolina that sit on our civil and criminal juries.
24 They're always able to come together and make what can be
25 very tough decisions under very trying circumstances. I

1 basically trust the American people.

2 Again, it's my pleasure and privilege to be with
3 y'all this week. You're now excused. You do not have to
4 call back, you do not have to come back.

5 Any further instructions, Madam Clerk?

6 THE CLERK: I'd like for them to just lay their name
7 tags there on the counter. Thank you for your service.

8 THE COURT: You may be excused. You may remain if
9 you'd like to. But if you want to leave at this time,
10 you may do so.

11 (WHEREUPON, the jury exits the courtroom at 6:33 p.m.)

12 THE CLERK: Can we get the foreman to sign this?

13 THE COURT: Mr. Foreman, would you meet the clerk
14 and sign the indictments?

15 Motions, Mr. Delaney?

16 MR. DELANEY: Yes, Your Honor. Just renewing
17 motions that we made as far as at the end of the State's
18 case, the motion for the directed verdict. And any other
19 motions made, just renew those at this time, Your Honor.

20 THE COURT: Thank you. Thank you very much. I
21 would respectfully deny those motions. I think there was
22 adequate both direct and circumstantial evidence for a
23 reasonable jury to return the verdicts which they have
24 returned. And I would affirm all my previous trial and
25 evidentiary rulings.

1 Anything further, Mr. Delaney?

2 MR. DELANEY: No, Your Honor.

3 THE COURT: Anything from the State, Solicitor?

4 MR. ANTHONY: Not as to the trial aspect, Your
5 Honor. No, sir.

6 THE COURT: All right.

7 And Mr. Young is incarcerated, correct?

8 MR. DELANEY: That's correct, Judge.

9 THE COURT: Any objection if I sentence Mr. Young
10 tomorrow, Solicitor?

11 MR. ANTHONY: If I could just check with the
12 victims.

13 THE COURT: All right. Thank you.

14 MR. ANTHONY: Would you plan on doing it first thing
15 tomorrow morning, Your Honor? Or when would you like to
16 do it?

17 THE COURT: 2:00.

18 MR. ANTHONY: Yes, sir. That's ---

19 THE COURT: Any objection to that, Mr. Delaney?

20 MR. DELANEY: No, Your Honor.

21 THE COURT: All right. He shall remain in custody,
22 and I'll impose sentence on him tomorrow at 2:00.

23 Thank you, Mr. Delaney. Thank you.

24 (WHEREUPON, the proceedings were concluded at 6:36 p.m.,
25 to be reconvened on Thursday, March 31, 2016.)

1 Thursday, March 31, 2016

2
3 THE COURT: All right, Solicitor.

4 MR. ANTHONY: Your Honor, the next case is the State
5 vs. Cleveland Young. Mr. Young was before the Court
6 yesterday in a trial on 15-44-913, criminal sexual
7 conduct with a minor in the third degree, and 15-44-501,
8 criminal sexual conduct with a minor in the first degree.
9 He was convicted by the jury yesterday evening, and the
10 Court deferred sentencing until this afternoon.

11 I have -- I believe someone from the victim's family
12 would like to be heard.

13 And I have copies of three indictments. I'll just
14 go ahead and put the numbers in the record. It's
15 87-GS-44-247, 249, and the number is cut off on the other
16 one. I'm assuming it is 248. But these are all
17 first-degree burglary indictments from 1987 where
18 Mr. Young was convicted of first-degree burglary, and he
19 was sentenced to 36 years on these indictments. And I
20 will -- I'll ask the court reporter to make these Court's
21 exhibits and make them part of the record.

22 But it's the State's position that these are most
23 serious offenses under the two-strike statute. Also,
24 it's our position that criminal sexual conduct with a
25 minor is a most serious offense.

1 We did serve a notice of intention to seek life
2 imprisonment on Mr. Young personally on March 11, 2016.
3 That has been filed. And also one was served on
4 Mr. Delaney on March 11, 2016. That has also been filed.
5 So it's the State's position that, given the fact that
6 he's been convicted of a most serious offense, has three
7 prior most serious offenses, and given the fact that the
8 State served notice on him of an intent to seek a life
9 without parole sentence, that life without parole would
10 be the mandatory sentence on these two charges.

11 THE COURT: All right. Would you hand me up the
12 notices, Solicitor, and the copies of the convictions.

13 (WHEREUPON, Court's Exhibit Nos. 4 and 5 were marked for
14 identification.)

15 MR. ANTHONY: It was 87-246, 247 and 249 were the
16 three indictment numbers on those first-degree burglary
17 convictions.

18 Thank you, Mr. Fowler.

19 THE COURT: Give me just a minute. I'll be glad to
20 hear from anyone you want me to hear from, Solicitor.

21 (Pause in proceedings.)

22 THE COURT: All right. I will be happy to hear from
23 anyone with you from the solicitor.

24 All right. Yes, ma'am. Tell me your full name for
25 the record, please.

1 MS. TRAMMELL: Hello, Judge. My name is Jamie
2 Trammell.

3 THE COURT: All right.

4 MS. TRAMMELL: I'm the paternal aunt of Minor
5

6 On behalf of our family, Your Honor, we request that
7 Mr. Young be sentenced to the maximum sentence guaranteed
8 by the law.

9 Your Honor, as the solicitor stated yesterday in his
10 closing arguments, all scars are not visible. I agree
11 with that. But I'm going to tell you, there's a glint
12 and a light that's missing from that baby's eyes that was
13 there before. We've watched this child change from the
14 person she was to who she is now. We have behavior
15 issues in school, at home. Your Honor, she's forever
16 changed, and we can't get those things back. We can't
17 replace it. We can't rewind the clock. And we just ask
18 that Mr. Young pay for what he's done to this child.
19 What he's taken, nobody can put back.

20 Thank you.

21 THE COURT: Thank you. Thank you, Ms. Trammell.

22 Anything further, Solicitor?

23 MR. ANTHONY: No, sir. That's everything on behalf
24 of the State.

25 THE COURT: Thank you. Thank you very much.

1 Mr. Delaney?

2 MR. DELANEY: Thank you, Your Honor.

3 I've talked to Mr. Young about this. He does not
4 wish to say anything at this time. I've -- you know,
5 we've -- as you've heard, March 11th we were served with
6 the life notice in this case. There's not a whole lot
7 for me to say here today.

8 I have, you know, researched and seen what Mr. Young
9 was convicted of in the past. And, you know, we --
10 obviously, Your Honor sat through the trial, and the jury
11 came back with their verdict yesterday. And I don't have
12 any more to say at this time.

13 THE COURT: All right. Thank you, Mr. Delaney.

14 I have reviewed the documentation, both the notice
15 of intent to seek life imprisonment and the certified
16 copies of the indictments, the three separate indictments
17 for burglary in the first degree. In reviewing the
18 statute, as the solicitor pointed out, each of those
19 indictments are a most serious offense.

20 When I look at the dates of the indictments, the
21 offenses occurred February 14, 1987, February 14, 1987,
22 and February 14, 1987, in other words, all three occurred
23 on the same date; however, even if I were to consider
24 those closely related offenses as one offense, he would
25 still have a conviction for at least one most serious

1 offense. You agree with that, Solicitor?

2 MR. ANTHONY: I do, Your Honor.

3 THE COURT: And as you track -- or as I track
4 through the statute, it's clear 16-3-655, criminal sexual
5 conduct with a minor, is listed as a most serious
6 offense. There is an exception to that that does not
7 apply in this particular case in the statute, so he would
8 be subject to that notice.

9 And the -- what's the potential punishment --
10 maximum punishment for criminal sexual conduct, third
11 offense -- excuse me -- third degree?

12 MR. ANTHONY: Third degree is up to 15.

13 THE COURT: That's what I was thinking.

14 Now, let's see. I don't have those indictments in
15 front of me. Which indictment is 15-501, Solicitor?

16 MR. ANTHONY: 501 is the first degree.

17 THE COURT: All right. I'll tell you, Solicitor,
18 fill out this sentencing sheet -- not the sentence, of
19 course, but the charge and such. This would be the
20 criminal sexual conduct with a minor, third degree --
21 while I do the first-degree one. In fact, do y'all need
22 to sign these documents, Solicitor? Mr. Delaney?

23 (Pause in proceedings.)

24 THE COURT: Thank you.

25 (Pause in proceedings.)

SENTENCING

1
2 THE COURT: All right. Prior to imposition of the
3 sentence, I would like to comment for the record that a
4 7-year-old on the mere fact of being 7 years old does not
5 equate to not being able to tell the truth. The fantasy
6 was not made up.

7 I consider the most serious crime that a person can
8 commit is stealing, being a thief. And murder steals
9 somebody's life. A burglar steals items from a person
10 whose house they've burglarized. An individual that
11 commits criminal sexual conduct on a minor steals that
12 person's innocence and purity.

13 A child -- children should be allowed to be children
14 and be able to go into teenagers and puberty with their
15 virginity, not having those childhood factors taken from
16 them by an adult, any adult, for selfish, self-centered,
17 gratification and reasons. There's a reason for the
18 recidivist statute, which is very valuable.

19 I agree some scars are not visible. I further would
20 say that some wounds never heal.

21 With that being said, 2015-GS-44-0501, Cleveland
22 Edward Young, criminal sexual conduct with a minor, first
23 degree, having been convicted by the jury, the defendant
24 is committed to the State Department of Corrections for a
25 determinate term of life without parole.

1 As to 2015-GS-44-0913, Cleveland Edward Young,
2 criminal sexual conduct with a minor, third degree, the
3 defendant is committed to the State Department of
4 Corrections for a determinate term of 15 years.

5 Those sentences are consecutive.

6 I have noted on the bottom of both sentence sheets
7 sex-offender registry. I do realize that a sex-offender
8 registry does not kick in until such time as an
9 individual is released from the Department of
10 Corrections. However, should the law ever change, at
11 least they would see the intent of the sentencing judge
12 at the time.

13 Life without parole means life without parole. I
14 put that down there in an abundance of sentencing
15 precaution should our legislature ever change that
16 statute.

17 Thank you. Thank you very much, Solicitor,
18 Mr. Delaney. Good luck to you, Mr. Young.

19 MR. ANTHONY: Your Honor, if I could just be heard.
20 Is it the Court's position that the third-degree criminal
21 sexual conduct is not mandatory life as well? Because
22 from reading the statute, it appeared to me that any
23 conviction under criminal sexual conduct with a minor
24 would be -- would trigger a life sentence. It appears to
25 me that third-degree criminal sexual conduct with a minor

1 is a most serious offense, just like first degree is.

2 THE COURT: All right. That is not my position,
3 Solicitor.

4 As to the criminal sexual conduct, third degree, the
5 defendant is committed to State Department of Corrections
6 for a term of life without parole. And that is
7 consecutive.

8 Thank you. Thank you, Solicitor.

9 MR. ANTHONY: Thank you, Your Honor.

10 *****END OF TRANSCRIPT OF RECORD*****
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESSES

Belue/UCSO

MA Black UCSO

ARREST WARRANT NUMBER

2015A4410100152

ACTION OF GRAND JURY

TRUE BILL

Elizabeth Sauls

Foreperson of Grand Jury

Date:

JUL 30 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO 2015-GS-44-0501

The State of South Carolina

County of Union

COURT OF GENERAL SESSIONS

AUGUST 03 TERM, 2015

THE STATE

vs.

CLEVELAND EDWARD YOUNG

Indictment for

**CRIMINAL SEXUAL CONDUCT
WITH A MINOR, 1ST DEGREE**

SC Code: 16-03-655

CDR Code: 385

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 UNION)

INDICTMENT

At a Court of General Sessions, convened on July 30, 2015, the Grand Jurors of Union County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, 1ST DEGREE

That in Union County, South Carolina, between on or about January 28, 2013 and on or about January 28, 2015, Cleveland Edward Young did commit the crime of Criminal Sexual Conduct with a Minor in the First Degree, in that the Defendant did commit a sexual battery upon the Victim,

, who was a minor under the age of eleven (11) at the time of the incident, by engaging in intercourse, sodomy, or fellatio with the Victim, in violation of Section 16-03-655, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

WITNESSES

Belue/UCSO

MA Black ucso

ARREST WARRANT NUMBER

DI2015A4410100152

ACTION OF GRAND JURY

TRUE BILL

Elizabeth Saylor

Foreperson of Grand Jury

Date:

JUL 30 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-44-0913

Direct Indictment

The State of South Carolina

County of Union

COURT OF GENERAL SESSIONS

AUGUST 03 TERM, 2015

THE STATE

vs.

CLEVELAND EDWARD YOUNG

Indictment for

**CRIMINAL SEXUAL CONDUCT
WITH MINOR, 3RD DEGREE**

SC Code: 16-03-0655

CDR Code: 3661

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)

INDICTMENT

COUNTY OF UNION)

At a Court of General Sessions, convened on July 30, 2015, the Grand Jurors of Union County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH MINOR, 3RD DEGREE

That in Union County, South Carolina, between on or about January 28, 2013 and on or about January 28, 2015, Cleveland Edward Young, a person over the age of fourteen, did willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or any part or member thereof, of Minor , a child under the age of sixteen (16) years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of the Victim, in violation of Section 16-03-0655, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

RECEIVED

DEC 20 2016

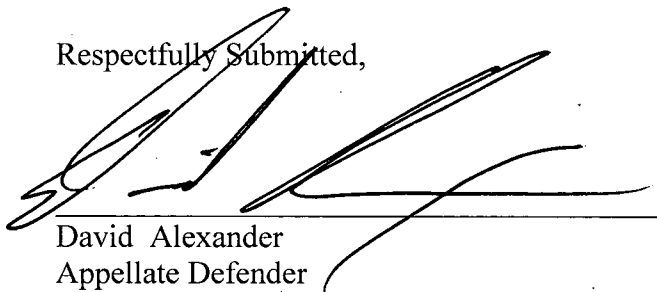
SC Court of Appeals

385

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,



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of December, 2016.