

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Lexington County

FEB 24 2017

Honorable Doyet A. Early, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

AUGUST BYRON KREIS, III,

APPELLANT

APPELLATE CASE NO. 2015-002340

RECORD ON APPEAL

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT (dated November 2-5, 2015)	1
OPENING STATEMENT BY MS. MAYES.....	11
OPENING STATEMENT BY MR. SHEALY	14
TESTIMONY	
MINOR 1	
Direct Examination by Ms. Mayes	17
Cross-Examination by Mr. Shealy.....	41
Redirect Examination by Ms. Mayes	72
MINOR 2	
Direct Examination by Ms. Mayes	81
Cross-Examination by Mr. Shealy.....	94
Redirect Examination by Ms. Mayes	100
MINOR 3 (IN-CAMERA)	
Examination by Ms. Mayes	102
E.K. (IN-CAMERA)	
Examination by Ms. Mayes	115
MINOR 3	
Direct Examination by Ms. Mayes	136
Cross-Examination by Mr. Shealy.....	150
Redirect Examination by Ms. Mayes	153
Re-cross Examination by Mr. Shealy	155
E.K.	
Direct Examination by Ms. Mayes	156
Cross-Examination by Mr. Shealy.....	159
Redirect Examination by Ms. Mayes	160
TRACI BARR	
Direct Examination by Ms. Mayes	161
LAURIE VARNEDOE CALDWELL	
Direct Examination by Ms. Mayes	171

OBJECTION BY MR. SHEALY	173
RESPONSE BY THE COURT	176
TESTIMONY	
LAURIE VARNEDOE CALDWELL	
In-Camera Examination by Ms. Mayes	176
Direct Examination Continued	179
BROOK WYMER	
Direct Examination by Ms. Mayes	181
COLLEEN CORBIN	
Direct Examination by Ms. Mayes	185
SHANNON DYKES	
Direct Examination by Ms. Mayes	191
Cross-Examination by Mr. Shealy	209
Redirect Examination by Ms. Mayes	211
Re-cross-Examination by Mr. Shealy	211
AUGUST KREIS, III (IN-CAMERA)	
Examination by the Court	214
PRIOR RECORD BY MS. MAYES	215
OBJECTION BY MR. SHEALY REGARDING A WITNESS	219
RESPONSE BY THE COURT	221
TESTIMONY	
HEATHER SMITH	
Direct Examination by Ms. Mayes	223
Examination by Mr. Shealy	227
Examination by Ms. Mayes	231
Continued Direct Examination by Ms. Mayes	233
Cross-Examination by Mr. Shealy	240
Redirect Examination by Ms. Mayes	247
STATE RESTS	248
TESTIMONY	
AUGUST KREIS, III	
Direct Examination by Mr. Shealy	250
Cross-Examination by Ms. Mayes	275
Redirect Examination by Mr. Shealy	289

CHARGE CONFERENCE	291
CLOSING ARGUMENT BY MR. SHEALY	299
CLOSING ARGUMENT BY MS. MAYES	317
OBJECTION BY MR. SHEALY	320
CONTINUED CLOSING ARGUMENT BY MS. MAYES	320
JURY CHARGE	328
RENEWED OBJECTION ON CORROBORATION ISSUE BY MR. SHEALY	342
RULING BY THE COURT	342
JURY QUESTION	343
RESPONSE BY THE COURT	343
JUROR ISSUE	346
VERDICT	356
MOTION FOR A DIRECTED VERDICT BY MR. SHEALY	361
RULING BY THE COURT	362
MOTION TO VACATE THE JURY DECISIONS AND ORDER A NEW TRIAL BY MR. SHEALY	363
RULING BY THE COURT	363
STATEMENT BY MS. MAYES	364
STATEMENT BY MINOR 1	365
STATEMENT BY MS. MAYES	371
STATEMENT BY MR. SHEALY	372
STATEMENT BY THE DEFENDANT	375
SENTENCING	376

STATE'S EXHIBIT NO. 14 (Letter from Appellant)	379
COURT'S EXHIBIT NO. 1 (Jury Question)	386
COURT'S EXHIBIT NO. 2 (Jury Question)	387
COURT'S EXHIBIT NO. 3 (Jury Question)	388
COURT'S EXHIBIT NO. 4 (Jury Question)	389
COURT'S EXHIBIT NO. 5 (Jury Question)	390
INDICTMENTS AND SENTENCING SHEETS	391
CERTIFICATE OF COUNSEL	400

State of South Carolina
County of Lexington

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2015-GS-32-2030
	)	2015-GS-32-2034
August Byron Kreis, III	)	2015-GS-32-2036
	)	
<u>Defendant.</u>	)	

November 2-5, 2015
Lexington, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge; and a jury.

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

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Christopher Samellas, Assist. Solicitor
Attorneys for the State

Thomas Shealy, Assist. Public Defender
Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

1 Ms. Mayes?

2 MS. MAYES: Yes, sir, Your Honor. And
3 Mr. Shealy and I have discussed this: He is not
4 objecting at all to the expanded timeframe that is
5 in the indictments currently before the Court. I
6 believe those indictments cover timeframes between
7 the years 2005 and 2008, and the Defense elects to
8 go forward on these indictments with the expanded
9 timeframes as opposed to us bringing 9, 10, multiple
10 indictments against the defendant.

11 THE COURT: And you discussed that with your
12 client?

13 MR. SHEALY: I have, Your Honor.

14 THE COURT: And, obviously, the effect of that
15 is, if there were multiple indictments and he was
16 found guilty on multiple indictments, then he could
17 have consecutive sentences on each one; whereas
18 where it stands now, it's only three indictments.
19 It still could be consecutive, but it's not nine
20 consecutive or whatever it was.

21 MR. SHEALY: Correct, Your Honor.

22 THE COURT: And you've explained all that to
23 your client?

24 MR. SHEALY: Yes, Your Honor.

25 THE COURT: Any questions about that,

1 Mr. Kreis?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: Thank you.

4 THE DEFENDANT: But if you find me guilty, I
5 want life.

6 THE COURT: Well --

7 THE DEFENDANT: I don't want all this playing
8 with numbers --

9 THE COURT: -- I won't find you guilty. That's
10 up to the jury to find you guilty or not. And --

11 THE DEFENDANT: I know. I'm just saying.

12 THE COURT: I can't give you life though. The
13 statute doesn't allow it.

14 The maximum charge, Mr. Kreis, is 20 years on
15 the criminal sexual conduct in the second degree;
16 the maximum charge on the lewd acts is 15 years
17 each. Of course I have to look at all of the
18 circumstances, if, in the event, we come to that.
19 And I'll certainly listen to your input on it.
20 You'll be allowed to give me what your thoughts are,
21 if that happens. It may be that they find you not
22 guilty. Who knows?

23 THE DEFENDANT: Stranger things have happened.

24 THE COURT: Now, what other motions do we have?

25 MR. SHEALY: Your Honor, most of them have been

1 of us, and he can put the doors where they're
2 supposed to be so it will be an accurate depiction.

3 That should cure that, should it not,
4 Mr. Shealy?

5 MR. SHEALY: Yes, Your Honor.

6 THE COURT: All right.

7 MR. SHEALY: I'll go over it with him in just a
8 moment, Your Honor.

9 THE COURT: Sure.

10 MR. SHEALY: The next big issue is, the State's
11 requested to do -- have Lyle evidence on Minor 3 ,
12 which we oppose, Your Honor.

13 THE COURT: All right. Let's go over that.
14 Have you explained to your client what that entails?

15 MR. SHEALY: I have, Your Honor.

16 THE COURT: Under our rules of evidence, under
17 Rule 404 in Lyle, if they want to get into testimony
18 of the third daughter alleging that there are
19 charges similar that occurred outside of this
20 jurisdiction -- have you explained that to him?

21 MR. SHEALY: I have, Your Honor. I'm not sure
22 that he fully understand it. But he does understand
23 that the State intends to call Minor 3 as a
24 witness, even though there's not a charge.

25 THE COURT: All right. Ms. Mayes, you want to

1 make that -- I don't know if I can make a ruling on
2 that until we take some testimony and make a
3 proffer. But you can tell me where we're going.

4 MS. MAYES: Yes, sir, Your Honor. As to
5 Minor3 , Your Honor, her charges are nearly
6 identical to the situation involving both Minor 1
7 and Minor 2 .

8 THE COURT: Well, tell me, succinctly, what are
9 the allegations against Minor 1 and Minor 2 ?

10 MS. MAYES: While they were living in Lexington
11 County at , Your Honor, he -- there
12 were multiple occasions in which he fondled the
13 vaginal area of his oldest daughter Minor 1 , and
14 also had Minor 1 engage in fellatio with him. There
15 were multiple incidents with her that escalated as
16 well to him performing oral sex on Minor 1 .

17 And, secondly, as to Minor 2 , Your Honor,
18 very similar in that he fondled her vaginally and
19 also attempted to have her perform oral sex on him.

20 And then thirdly, Your Honor, as to Minor 3 ,
21 again, fondled her vaginally and attempted to have
22 her perform oral sex on him. But she resisted and
23 turned away.

24 In all of these situations, Your Honor, he is
25 in the role of biological father. He has shared the

1 family home with him for years. I think,
2 ultimately, when the family was living in Kershaw,
3 he had moved out of the residence, but still would
4 visit on a very frequent basis and had access to the
5 children in the home as a result of that frequent
6 visitation. So there are strong similarities, Your
7 Honor.

8 In addition to that, all of the girls have been
9 around the same age group when these acts occurred.
10 As to Minor 1 , this is going on -- it includes
11 the time period she would have been 11, 12, 13; as
12 to Minor 2 , it includes the time period she
13 would have been 10 or 11, so early preadolescence or
14 early adolescence; and as to Minor 3 , it covers the
15 time period she would have been around 11, and then
16 it stopped when she was 12 because that's when the
17 crime was reported. So as to all of the girls, it's
18 very early preadolescence time period.

19 And then, Your Honor, he also is finding
20 opportunities when the girls are alone and no one
21 else is around in order to engage in these acts with
22 the children. So under the existing case law, which
23 there is significant case law that covers the
24 scenario where a parent is acting out against
25 children, and it's a similar situation occurring

1 over a period of time with those children. Some of
2 the cases that I've passed up to the Court for
3 consideration is State v. Wallace, State v. Hubner,
4 State v. Clasby, State v. Wingo, State v. Holmes,
5 and State v. McClellan and State v. Blanton and,
6 also, State v. Kirton, Your Honor.

7 But, without doubt, the Supreme Court has
8 created a recognized exception for common scheme or
9 plan when it's a scenario like this where a father
10 is repeatedly engaging in a pattern of behavior with
11 his daughters in the family home.

12 THE COURT: All right.

13 Mr. Shealy?

14 MR. SHEALY: Thank you, Your Honor.

15 Your Honor, first and foremost, all the
16 commentary I've found on the Lyle issues, including
17 the Prosecutor's Guide to Prosecution of Child Abuse
18 in South Carolina, mainly for solicitors and
19 investigators, when they talk about Lyle evidence,
20 they talk about prior bad acts.

21 The case law implies prior bad acts and a lot
22 of times in dicta, they talk about prior bad acts.
23 But our position, Your Honor, is that while whatever
24 happened to Minor 1 -- whatever allegedly happened
25 to Minor 1 or Minor 2 may be used in Minor 3's case.

1 Since this came afterwards, it certainly can't be
2 evidence of a plan or a scheme or absence of mistake
3 or any of the other bases, because it happened
4 later, not before. That would be our first
5 argument, Your Honor.

6 The next argument is, I've looked through the
7 stuff I have on Minor 3, and what I can see is that
8 her allegations are that he touched her both under
9 her clothes and over -- above her clothes. I
10 believe it was above her clothes. But, certainly,
11 under her clothes. She also said he only used his
12 hand, and that he apparently allegedly fondled
13 himself and ejaculated and she saw that. But I
14 cannot find any reference to any attempt to or
15 actual oral sex on Minor 3, that that would be just
16 fondling -- not just fondling -- and the issue --
17 the circumstances are less graphic than what's
18 alleged in the first two cases. Thank you, Your
19 Honor.

20 THE COURT: Ms. Mayes?

21 MS. MAYES: Yes, sir, Your Honor. I don't
22 believe that there is any distinction concerning
23 prior bad acts that occur over the course of time.
24 The prior bad acts relates to -- and the prior bad
25 acts relates to -- it's a prior bad act at the time

1 of the trial which, certainly, the Minor³ trial
2 would be. But it's really about common scheme or
3 plan and what makes more or less probable that the
4 acts occurred against both Minor² and Minor¹
5 is that it also occurred against the third daughter.

6 There's no restriction and I've never seen any
7 restriction in the case law that because one
8 continues on later or occurs later, that that
9 somehow prevents it from being a prior bad act.
10 It's all part of the same common scheme or plan
11 involving all three daughters.

12 THE COURT: Well, let's do it this way: I'm
13 not going to rule before the trial starts. I'll ask
14 that you not mention the third daughter outside of
15 Lexington County in your opening. Obviously, you'll
16 put up the two victims before her, I would
17 suspect -- or however you try your case.

18 But when you get to the third daughter outside
19 of Lexington County, we'll do a proffer to see
20 exactly what she's going to say and what we've got
21 already in evidence, and I'll make a ruling on it at
22 that time. So don't mention it in opening that you
23 have a third daughter -- that you're attempting to
24 get it in under Lyle. We'll make that independent
25 finding after the proffer has been made.

1 Anything else?

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

3 MR. SHEALY: Yes, Your Honor. There is one
4 matter that I have mentioned, the transportation and
5 housing of my client. The -- my concern is that, as
6 I understand it, Lexington County does not have a
7 handicap-capable van. My client doesn't have any
8 legs. I'm concerned for both his safety and for
9 humanitarian reasons that he be transported in a
10 handicap-accessible van, that seatbelts -- since he
11 doesn't have legs for the seatbelts to be around,
12 we'd would be ineffective in providing safety should
13 there be an accident, also the bodily handling -- the
14 handling of him in and out of the van, we don't
15 believe is proper.

16 THE COURT: What's the answer to your solution?
17 How do you solve it?

18 MR. SHEALY: How do I solve it?

19 THE COURT: How do you suggest I solve it? I
20 normally have absolutely no control over the SCDC or
21 the local jails. That's entirely -- I mean, I can't
22 control the safety and security and all of that
23 other than asking them to be as cognizant of your
24 client's handicap as possible. But I don't know
25 that I can get involved in how they handle people

1 MS. MAYES: What this case is really about is
2 broken trust. In this world, nothing is more sacred
3 than the bond between a parent and a child. A child
4 should be able to trust their parent, their father,
5 to protect them from harm, to protect them from
6 anyone or anything that could potentially hurt them.
7 And in this case, the trust of this defendant's two
8 daughters, Minor 1 and Minor 2, was
9 violated in the most terrible way imaginable. They
10 were sexually assaulted in their own home at the
11 hands of this man, their own father, the defendant,
12 August Kreis.

13 I ask you to keep in mind throughout the
14 testimony in this case, at times when we talk about
15 sexual assault, the details of it, the reality of
16 it, it is something that, at times, may make you
17 feel uncomfortable. But keep in mind, it's
18 absolutely necessary as proof of the elements and
19 the facts of this case, the testimony that you'll
20 hear from the girls, from this witness stand.

21 And by that same token, when we talk about
22 sexual abuse, we ask you to keep in mind that it's a
23 secret crime, especially when it happens in the
24 home, incest; when it happens at night with no other
25 witnesses, only their father in the room. So we ask

1 you again to keep in mind that sexual abuse, sexual
2 assault, is a secret crime. It's a crime of silence
3 and it's a crime of shame, but in this case, Minor 1
4 and Minor 2 have overcome that shame and all
5 the stigma that goes along with it, and have found
6 the courage to tell the truth about what happened to
7 them when they lived here in Lexington County at
8 between the years 2005 and 2008.

9 And back then, they weren't even teenagers. Minor 1
10 Minor 1 was 11, 12 years of age; Minor 2 was 9, 10, 11
11 years of age when these events occurred here in
12 Lexington County.

13 You'll also hear the testimony in this case
14 from this detective, Shannon Dykes of the Lexington
15 County Sheriff's Department who conducted the
16 investigation in this case. You'll hear about a
17 letter that was written by this defendant in his own
18 handwriting once the investigation began in which he
19 acknowledged that he harmed his daughters and, as I
20 stated before, harmed them in the most terrible way
21 imaginable.

22 Now, the law in this case is actually very
23 simple. And right now is really not even the time
24 to concern yourself with it, because at the close of
25 this case, Your Honor will charge you on exactly

1 what the law is and he'll do it in a much more
2 detailed way than I could possibly do now. But when
3 we talk about criminal sexual conduct with a minor
4 in the second degree, it's a fancy term for,
5 basically, a crime against the child who is between
6 the ages of 11 and 14, and it involves what we call
7 sexual battery.

8 Sexual battery can be one of many things but,
9 basically, it includes fellatio, which is oral sex
10 between the defendant and Minor 1 , it includes
11 any intrusion, however slight, of the genital
12 opening of Minor 1 , which includes what we call
13 digital penetration, in placing his finger in his
14 child's vagina, and then we also have the charges of
15 what we call attempting or committing a lewd act
16 upon a child. That, basically, again, is a fancy
17 term that the Legislature used for improper touching
18 or fondling of a child. It could be attempted
19 touching or completed touching, but it's when an
20 improper touching of a sexual nature occurs with a
21 child under the age of 16 years.

22 Ladies and gentlemen, I submit that when all is
23 said and done, the State will meet its burden of
24 proof, proof beyond a reasonable doubt, that the
25 defendant has committed these crimes against his

1 daughters, Minor 2 and Minor 1 . Thank you.

2 THE COURT: Mr. Shealy.

3 MR. SHEALY: May it please the Court, Your
4 Honor.

5 We've already met, but I'll introduce myself
6 again. I'm Tommy Shealy. I'm the defense counsel
7 here. And there's August Kreis sitting there at the
8 defense table. The -- if I'm looking familiar to
9 you, I've been told I look a like Colonel Sanders.
10 So there's that.

11 August Kreis right now, as the Judge told you,
12 is presumed innocent. He is innocent. He's sitting
13 there right now. This is a trial involving an
14 innocent man. And he stays that way unless and
15 until the Solicitor brings evidence to convince
16 y'all beyond a reasonable doubt of what the State
17 claims happened. The Judge has told you a little
18 bit about reasonable doubt. And by the time we get
19 to the end of this trial, he will charge you on the
20 law as to reasonable doubt.

21 You've heard the allegations from the
22 Solicitor. August denies it. You've heard the talk
23 about broken trust. August feels that his trust in
24 his children has been broken, because he doesn't
25 know what they're talking about. You've heard

1 comments about this letter. August admits writing
2 that letter, he's stipulated to the letter. It's
3 not a problem. And you'll get a chance to read the
4 letter, and you can determine -- it speaks for
5 itself. You can determine what the letter says and
6 why it says whatever it says.

7 Now, we have had investigations in this matter.
8 There's been reports made and things like that, so
9 we have an idea of what's going to be said today.
10 But we don't know for sure. I've been doing this a
11 pretty long time, and I find that the testimony
12 sometimes is different than what we expect. But
13 whatever the testimony is, that is what you'll base
14 your decision on, what comes out at -- from the
15 witness stand.

16 Now, when you're listening to the witnesses, I
17 ask that you be skeptical, all of the witnesses,
18 because all of the witnesses want your approval.
19 Every one of the witnesses will want your approval.
20 They will want to phrase things that will gain your
21 approval, so they have a reason to want to spin
22 their testimony; not a particularly malicious reason
23 but, nevertheless, that's human nature. Your job is
24 to determine what's spin and what's the truth.

25 The reason we have 12 jurors is because each

1 one of you have a different experience in life.
2 Each one of you deal with people on a daily basis,
3 and you determine what you trust, what you believe
4 in, whether that person is telling you the truth.
5 We ask that you listen closely to all of the
6 testimony, that you be skeptical, you use your
7 collective knowledge, all of you join in whenever
8 it's time to join in to discuss the testimony, look
9 at whether or not there's reasons to tell false
10 information, to testify -- if there's any motives to
11 lie. Listen to -- is there any self-interest that's
12 being perceived here?

13 We want you to get to the truth and we feel
14 confident that once you do get to the truth, you'll
15 find that there is reasonable doubt. We're
16 confident that you will find August Kreis not guilty
17 of all the charges he's facing here today. Thank
18 you.

19 THE COURT: You may call your first witness.

20 MS. MAYES: The State calls Minor 1

21 Minor 1

22 being first duly sworn, testified as follows:

23 THE WITNESS: I do.

24 THE COURT: Once you're seated, state your full
25 name, spelling your last, on the record, please.

1 THE WITNESS: Minor 1 , Minor 1

2 DIRECT EXAMINATION

3 BY MS. MAYES:

4 Q. All right. And, Minor 1 , we'll need you to
5 try and talk into the microphone, if you can. And
6 that's so that even this last juror here will be
7 able to hear your testimony.

8 How old are you today?

9 A. Twenty-one.

10 Q. And, Minor 1 , what is your mother's name?

11 A. Karley Hollis.

12 Q. Where do you currently reside?

13 A. At , Bethune.

14 Q. And who do you live with at that address?

15 A. My fiance Ryan Stephens.

16 Q. And do you and Ryan live alone together at that
17 residence?

18 A. Yes, ma'am.

19 Q. And is Ryan -- Ryan is employed?

20 A. Yes, ma'am.

21 Q. Now, before you moved into the residence that
22 you live in now with Ryan, who did you live with?

23 A. Actually, we had another place in Camden. And
24 for a little bit, I did stay with my mom. We did
25 stay there in between the moves.

1 Q. And prior to that? Is it possible to remember
2 how many different homes you've lived in with your
3 family?

4 A. No, ma'am.

5 Q. Minor 1, how is it that you know the defendant
6 in this case, August Kreis?

7 A. He's my father.

8 Q. Is he your biological father?

9 A. Yes, ma'am.

10 Q. Was there ever a period of time that you
11 resided in the same home with him?

12 A. Yes, ma'am.

13 Q. How many children does your mother, Karley
14 Hollis, and your father, August Kreis, have? How
15 many siblings do you have between them?

16 A. Six younger.

17 Q. Okay. What I'd like to do is have you, if
18 possible, kind of tell us a little bit about your
19 siblings in the chronological order in which you
20 were born. We're going to start here with August
21 Kreis. Now, does your father have a nickname?

22 A. Chip.

23 Q. So he goes by Chip?

24 A. Yes, ma'am.

25 Q. And your mother is, I believe you said, Karley

1 Hollis.

2 A. Yes, ma'am.

3 Q. And who is the oldest child?

4 A. I am.

5 Q. All right. So you're the oldest. And what is
6 your date of birth?

7 A.

8 Q. And who is the next oldest child?

9 A. Minor 2 .

10 Q. And who is the next child after that?

11 A. J.K. . It's actually J.K. . Does that matter?

12 Q. Okay. J.K. , but your family calls him
13 J.K. ?

14 A. Yes.

15 Q. All right. And who is next?

16 A. G.K. .

17 Q. And is G.K. a boy or a girl?

18 A. Boy.

19 Q. Who is next?

20 A. Minor 3 .

21 Q. And who is next?

22 A. E.K. .

23 Q. All right. And then who is the youngest child?

24 A. A.K. .

25 Q. A.K. . Now, you have six siblings. There are

1 seven children all together?

2 A. Yes, ma'am.

3 Q. Are all of you the biological children of your
4 father, Chip Kreis, and your mother --

5 A. Yes, ma'am.

6 Q. -- Karley Hollis?

7 Now, I know I was asking you about the
8 different locations in which your family has lived.
9 How many states has your family lived in?

10 A. Like, six.

11 Q. To your recollection, what are those states?

12 A. There's Pennsylvania, New York, Florida,
13 Tennessee, Kentucky, and South Carolina.

14 Q. Okay. And while living in South Carolina, can
15 you tell us whether or not you ever lived here in
16 Lexington County?

17 A. Yes, ma'am.

18 Q. What is the location you recall living at here
19 in Lexington County?

20 A. , Lexington, South Carolina.

21 Q. Okay. So that's . And can
22 you tell us what ages you recall or what approximate
23 ages you recall being when your family lived here on

24 ?

25 A. 10, 11, 12, 13.

1 Q. Okay. And, Minor 1, after you left
2 where did your family go to live?

3 A.

4 Q. In the house, what county was
5 that in?

6 A. Lexington County.

7 Q. So that was also here in Lexington --

8 A. Yes, ma'am.

9 Q. -- that you went to live in --

10 A. Yes, ma'am.

11 Q. -- after ?

12 A. Yes, ma'am.

13 Q. And then what county did your family move to
14 after you left Lexington County?

15 A. Kershaw County.

16 Q. All right.

17 A. Richland and then Kershaw, I think. So
18 Richland.

19 Q. So from Lexington County to Richland County,
20 and then from Richland County to Kershaw County; is
21 that correct?

22 A. It was actually from Lexington County to
23 Kershaw County and then to Richland County and then
24 back to Kershaw.

25 Q. Okay. Now, during this period of time when

1 your family resided in multiple locations, was your
2 father working during that period of time?

3 A. No, ma'am.

4 Q. And I want to ask you specifically about when
5 you lived at in Lexington
6 County. Was your father working during that period
7 of time?

8 A. No, ma'am.

9 Q. Was he normally home during day and night --

10 A. Yes, ma'am.

11 Q. -- while you were growing up there at
12 ?

13 A. Yes, ma'am.

14 Q. And today your father is in a wheelchair.
15 While living in Lexington County at
16 was he in a wheelchair then?

17 A. No, ma'am.

18 Q. Was he mobile? And by that I mean able to
19 stand, able to walk.

20 A. Yes, ma'am.

21 Q. I'm going to show you several pictures and ask
22 you whether or not you recognize them and, if so,
23 how. This will be State's Exhibits 5, 10, 4, and 3.

24 A. Yes. That's the mailbox.

25 Q. Okay. And if you could, take a look at 4, 5,

1 and 10.

2 A. Yes, ma'am. That's the house on

3

4 Q. Okay. The house that you already talked
5 about --

6 A. Yes, ma'am.

7 Q. -- that you lived in when you were
8 approximately 11, 12, 13 years of age?

9 A. (Nods head.)

10 Q. Okay. And do you know whether or not you were
11 living there between the years 2005 and 2008?

12 A. Yes, ma'am.

13 MS. MAYES: Your Honor, at this time we'd offer
14 3, 4, 5 and 10 as evidence.

15 THE COURT: Any objection?

16 MR. SHEALY: No objection.

17 (State's Exhibit Nos. 3, 4, 5, 10 admitted in
18 to evidence.)

19 BY MS. MAYES:

20 Q. Minor 1, as the oldest child, how would you
21 describe your relationship with your father while
22 growing up here in Lexington County?

23 A. My father and I actually didn't have a horrible
24 relationship during the day. It was like nothing
25 happened. And this is something that -- it wasn't

1 just -- didn't just start all of a sudden. It's
2 been going on since I remember. And while it was
3 going on there, it was -- by that time, it was
4 normal. It was -- it was normal. It happened so
5 repeatedly that it just -- I don't know. It just...

6 Q. When you say that during the day it was as if
7 nothing happened, what do you mean by that?

8 A. I mean, when he would do stuff at night, the
9 next morning it was like nothing ever happened. It
10 was never acknowledged. This is the first time that
11 I've been in his presence and talked about this.
12 And, yeah, that's it.

13 Q. Okay. When you say this is the first time that
14 you've been in his presence and talked about it,
15 have you seen your father at all since the time he
16 was arrested?

17 A. No, ma'am.

18 Q. Have you had any communication with him?

19 A. No, ma'am.

20 Q. And you said it had been going on for a long
21 period of time. Did anyone else ever see what was
22 happening, to your knowledge?

23 A. No, ma'am.

24 Q. What were the occasions in which your father
25 would find an opportunity to be alone with you for

1 these things to happen in your home?

2 A. It was always in the middle of the night,
3 especially with living at . There
4 wasn't a lot of opportunity during the daytime.
5 And, you know, at night when everybody is sleeping,
6 he would come in either -- if I was in the bedroom,
7 he would come in and pick me up and take me to the
8 couch while nobody was in the living room, or if I
9 was sleeping on the couch that night, he would just
10 come out of his bedroom and on the couch.

11 Q. All right. And your mother normally slept in
12 what room in the house?

13 A. The master bedroom.

14 Q. And did the girls have a room?

15 A. Yes, ma'am.

16 Q. Did the boys have a room?

17 A. Yes, ma'am.

18 Q. If you were in the girls' room, would that stop
19 him from --

20 A. No, ma'am.

21 Q. -- coming in?

22 A. No, ma'am.

23 Q. And you mentioned that if he did, he'd move
24 you. Where would he move you to?

25 A. The couch.

1 Q. And what room was the couch in?

2 A. The living room.

3 Q. And if you didn't sleep in the girls' room,
4 where did you normally sleep?

5 A. The couch.

6 Q. Is that the same couch in the living room that
7 you mentioned earlier?

8 A. Uh-huh.

9 Q. What rooms in the house, Minor 1, do you recall
10 something happening with your father?

11 A. The living room, the master bedroom, and the
12 master bedroom bathroom, and the girls' room.

13 Q. Okay. And you mentioned the master bedroom.
14 Would your mother be in that room when this would
15 happened?

16 A. No, ma'am.

17 Q. These would be opportunities when he was alone
18 with you?

19 A. Yes, ma'am.

20 (State's Exhibit No. 13 marked for
21 identification.)

22 Q. This would be State's Exhibit 13. I'll show
23 you this exhibit and ask you whether or not you
24 recognize it.

25 A. Yes, ma'am.

1 Q. Can you tell us whether or not that is a fair
2 and accurate representation of your home at
3 ?

4 A. It is.

5 Q. And you mentioned before, the living room. Can
6 you show us where the living room is here?

7 A. (Indicating.)

8 Q. And then the master bedroom you mentioned --

9 A. There, bathroom (indicating).

10 Q. And that's the girls' room here?

11 A. Yes, ma'am.

12 Q. If you were moved from the girls' room, you'd
13 be moved to the couch in what location?

14 A. The living room.

15 MS. MAYES: Your Honor, this would be State's
16 Exhibit 13 for evidence.

17 THE COURT: Any objection?

18 MR. SHEALY: No objection, Your Honor.

19 (State's Exhibit No. 13 admitted in to
20 evidence.)

21 BY MS. MAYES:

22 Q. Minor 1 , what are -- let me ask you this: What
23 are some of the things that you recall happening
24 with your father while at ? And by
25 that I'm asking specifically what -- how did he have

1 contact with you?

2 A. It was always oral. He would put his mouth on
3 my vaginal area and --

4 Q. Did that happen one time or more than one time?

5 A. All the time. That was the one reoccurring
6 thing that was like every time, do that.

7 Q. And what else?

8 A. He would try to put his penis in my mouth. He
9 would touch me, touch my breasts, touch my vagina.
10 Yeah.

11 Q. When you said put his private part in your
12 mouth. Did his private part ever actually ever go
13 in your mouth?

14 A. Yeah.

15 Q. Was that one time or more than one time?

16 A. That was more than once.

17 Q. When he put his private part in your mouth, do
18 you know whether or not that happened after you
19 turned 11 years of age?

20 A. I do not.

21 Q. Okay. Let me ask you this: Where did you have
22 your 12th birthday?

23 A.

24 Q. And you had your 12th birthday at

25 Did what you're talking about continue happening?

1 A. Yes.

2 Q. And did that include him putting his mouth on
3 your private part?

4 A. (Nods head.)

5 Q. And the reason we need you to say yes or no is
6 so that the court reporter can get all of your
7 responses.

8 A. Yes.

9 Q. You mentioned your private part was touched.
10 What part or parts of his body did he touch your
11 vaginal area with?

12 A. His mouth and his hands.

13 Q. Did that happen after your 12th birthday?

14 A. It did.

15 Q. You said with his hands. Do you know whether
16 or not he ever touched inside your vagina?

17 A. Yeah.

18 Q. And was that one time or more than one time?

19 A. More than once.

20 Q. Did anything more than that ever occur or did
21 he ever attempt anything more than that?

22 A. The very last time something happened, I was 13
23 years old and I was sleeping on the couch. And
24 instead of the usual where he would just perform
25 oral and touching, he had a condom with him. And I

1 struggled, turned to the side. I would always
2 pretend like I was sleeping and just let it happen.
3 Like I said, it was a normal occurrence. And that
4 time he was going to go all out. And it didn't get
5 that far. And that was actually the very last time
6 it happened.

7 Q. And you mentioned you would turn away.
8 Describe how it was that your body would turn away
9 from him.

10 A. I would roll over on my side, you know, bring
11 my knees up in the fetal position.

12 Q. Why would you do that?

13 A. Because he'd be trying to touch me or put his
14 face in my vagina.

15 Q. And this last time that he had the condom, was
16 he able to actually to put his private part in your
17 vagina?

18 A. He did not.

19 Q. How did you prevent him from doing that?

20 A. It didn't work. It wouldn't work. And then I
21 struggled and he just gave up.

22 Q. When you say it didn't work, did he attempt
23 to --

24 A. Uh-huh.

25 Q. -- put it in your vagina when you were 13 years

1 of age?

2 A. Yes.

3 Q. Did that occur on ?

4 A. It did.

5 Q. What room or location in the house did that
6 happen at?

7 A. On the couch in the living room.

8 Q. Was anyone else there in the living room when
9 that occurred?

10 A. No, ma'am.

11 Q. Back then, Minor 1 , when those things were
12 going on in your home, did you tell your mother?

13 A. No, ma'am.

14 Q. Why or why not?

15 A. I never imagined having, you know, a split
16 family. My mother didn't have a job and my father
17 was living off of his pension off of the government.
18 And he would never allow her to go back to school or
19 go get a job because that would interfere with his
20 government pension. So she was never allowed to do
21 any of that.

22 Q. Was your mom financially independent?

23 A. On my father? Yes. And if -- you know, my
24 little 13-year-old self was like, hey, this is going
25 on, I was always, you know, terrified that my family

1 would be split up, my brothers and sisters would be
2 taken away from my mom, and I couldn't do that.

3 Q. Was telling about it back then a valid option
4 for you?

5 A. Not really. It was -- like I said, it was
6 normal by then. It wasn't -- it wasn't something --
7 it's disgusting. I mean, to go to somebody and tell
8 them that your -- that your father, the man that is
9 supposed to love and protect you is doing these
10 things, it's just...

11 Q. Were you able to tell anyone outside of the
12 home back then?

13 A. No. It's embarrassing. It's disgusting.

14 Q. And during that time, did you have any personal
15 knowledge that anything had happened between your
16 father and your sister Minor 2 ?

17 A. No, I did not.

18 THE COURT: Are you okay?

19 Q. If you had known that then, would you have
20 told?

21 A. I would have.

22 Q. But you thought you were the only one?

23 A. Yes, ma'am.

24 Q. Minor 1 , what made you finally be able to tell
25 someone when you were 19?

1 THE COURT: You okay? You need a break?

2 THE WITNESS: No, sir. I'm fine.

3 My father, I -- as you can tell, he doesn't
4 have any legs. He --

5 BY MS. MAYES:

6 Q. Let me ask you about that. You said when you
7 lived on that he was mobile back then --

8 A. Yes.

9 Q. -- and not in a wheelchair. Was it after
10 that your father had surgery?

11 A. It was.

12 Q. And what was his condition that led the loss of
13 his legs?

14 A. He's diabetic.

15 Q. Were you involved in caregiving for your father
16 after --

17 A. Yes, ma'am.

18 Q. -- his surgery when you were still home?

19 A. Yes, ma'am. I was his little nurse. I took
20 care of his PICC line. He had to have antibiotics
21 twice a day. I was changing his bandages. I mean,
22 he had amputations. It started with toes and worked
23 their way up. There were so many of them. I was
24 the only one in the house that could stomach any
25 kind of medical things like that, so I took care of

1 him for most of my teenage years. I would get calls
2 saying that I needed to come home because he needed
3 his medicine.

4 Q. And did you continue living with your family at
5 the various locations after , when you
6 lived on and then Kershaw and then
7 Richland and then back to Kershaw again?

8 A. I didn't live in Richland with them.

9 Q. You were 17 at that point?

10 A. No, ma'am; 18.

11 Q. So you moved out at 18?

12 A. Yes, ma'am.

13 Q. And when you first moved out, were you working
14 anywhere?

15 A. Waffle House.

16 Q. All right. So that allowed you to live out on
17 your own for the first time?

18 A. Actually, it was -- we -- I was still with my
19 mom for a little bit. And then when I met -- well,
20 not when I met. When Ryan and I got our own place
21 is when I moved out and we lived together.

22 Q. All right. Now, your mother and father, did
23 they live together at the address?

24 A. Yes, ma'am.

25 Q. So your mother and father stayed together until

1 approximately when? What house was it when they
2 separated?

3 A. It was in Tennessee.

4 Q. Okay. And eventually then your mother and
5 father were no longer living together in your late,
6 late teens; would that be fair?

7 A. Yes, ma'am.

8 Q. Okay. I want to take you specifically to
9 January of 2014 when you were 19 years old. Who was
10 the first person that you told that something
11 happened with your father?

12 A. My mom.

13 Q. And after you told your mom, did she support
14 you?

15 A. Yes, ma'am.

16 Q. And this was after your father was no longer
17 living in the residence?

18 A. (Nods head.).

19 Q. And that would be yes or no?

20 A. Yes, ma'am. He was visiting the residence on a
21 regular basis though.

22 Q. And, ultimately, did you meet with a law
23 enforcement -- a female officer, Sergeant Barr, to
24 also make a statement about these crimes?

25 A. Yes, ma'am. I spoke with Detective Dykes at

1 the Lexington office and made my statement there
2 with him.

3 Q. Okay. And, ultimately, did you also
4 participate in what's called a forensic interview
5 during this investigation?

6 A. Yes, ma'am.

7 Q. Minor 1, how would you describe your
8 relationship with your father, how it progressed
9 over time?

10 A. Like I said, it was -- I was like his little
11 buddy.

12 Q. What do you mean by that?

13 A. I mean, he -- he would -- I --

14 Q. Did he ever take you places with him?

15 A. Yes, he would take me places with him.

16 Q. Would he involve you with his activities?

17 A. Yes.

18 Q. And how old were you when he started doing
19 those things, involving you with his activities?

20 A. Like, since I started walking.

21 Q. All right. And did that include up through
22 that time you lived at ?

23 A. Yes, ma'am.

24 Q. And when you lived at here in
25 Lexington, did you play any sports?

1 A. Yes, ma'am.

2 Q. What sport?

3 A. I played soccer for about six and a half years.

4 Q. Was there an occasion where he came to one of
5 your soccer games?

6 A. He only came to one soccer game, never any
7 practices. And the first soccer game he came to, he
8 ended up passing out and needing to go to the
9 hospital.

10 Q. Okay. And during that time, you had not yet
11 disclosed what had taken place?

12 A. No, ma'am.

13 Q. What if any -- let me phrase it like this: How
14 would you describe your father's personality during
15 that time period that he lived with you at

16 ?

17 A. My father has always been a very, angry violent
18 man. He -- one of the infamous sayings of his was
19 violence solves everything. And so I'd go to school
20 and get in a lot of trouble because, you know,
21 violence solves everything.

22 Q. Can you tell us whether or not that -- whether
23 or not that affected your decision to tell someone
24 about what was taking place?

25 A. No, ma'am.

1 MS. MAYES: I beg the Court's indulgence.

2 BY MS. MAYES:

3 Q. And when I was asking before about your
4 involvement in any of his activities, did you ever
5 go places with him outside the home?

6 A. Yes, ma'am.

7 Q. All right. And did he have conversations with
8 you as well?

9 A. Yes, ma'am.

10 Q. All right. So to an outside observer, did
11 anything appear abnormal about your relationship
12 with him?

13 A. No, ma'am.

14 Q. I'm going to show you two photos and ask you if
15 you recognize them, State's Exhibit 1 and State's
16 Exhibit 2.

17 A. Yes, ma'am.

18 Q. Who is in State's Exhibit 1?

19 A. That's my father and I.

20 Q. And who is in State's Exhibit 2?

21 A. That's my father and all of his children.

22 Q. Okay. And where was this photo, State's
23 Exhibit 2, taken?

24 A. That was taken in the driveway of.

25

1 Q. Okay. The same address that we've been talking
2 about where these events occurred?

3 A. Yes, ma'am.

4 MS. MAYES: Your Honor, this would now be
5 State's Exhibit 1 and 2 for evidence.

6 THE COURT: Any objection?

7 MR. SHEALY: No, Your Honor.

8 (State's Exhibit Nos. 1 and 2 admitted in to
9 evidence.)

10 BY MS. MAYES:

11 Q. In this photo here, State's Exhibit 2, that you
12 said was taken in the driveway there at

13 , tell us who is shown in the photograph.

14 A. That's my father, that's me, my little brother
15 E.K. , Minor 2 , Minor 3 , J.K. , G.K. and A.K. .

16 Q. All right. And, again, during this point, did
17 your father have any health difficulties whatsoever
18 that precluded him from being mobile?

19 A. No.

20 Q. Minor 1 , when is the first time that you found
21 out that something had happened with your sister
22 Minor 2 ?

23 A. The night I told my mom, she went ahead and
24 asked my sister Minor 2 if anything had happened, and
25 she said yes.

1 Q. And did you observe Minor 2 on that night?

2 A. I was -- I was there. Yes, ma'am.

3 Q. Where did you see her at?

4 A. She actually took off to the neighbor's house
5 and then came back; and we sat on the porch outside
6 the house and talked briefly.

7 Q. And that was after she had disclosed or
8 informed your mother that something had happened
9 with her also?

10 A. I believe so, yes, ma'am. I was not around
11 when my mom spoke to her. But...

12 Q. What do you recall about your sister Minor 2
13 that night?

14 A. She was really upset.

15 Q. Had you and she ever talked about this before?

16 A. No, ma'am. We still haven't. This is a first.

17 Q. Is this something that you can talk openly
18 about to other people?

19 A. No.

20 Q. Or would ever want to talk openly about with
21 other people?

22 A. No, ma'am.

23 Q. And to clarify, Minor 1, while living at the
24, after you turned eleven and while you
25 were 12 and before you moved out, were there

1 occasions during that timeframe in which either he
2 put his mouth on your vagina or his private part in
3 your mouth?

4 A. Yes, ma'am.

5 Q. And the incident that you mentioned before
6 about touching your vaginal area, that also occurred
7 at ?

8 A. Yes, ma'am.

9 Q. How did your clothes get off?

10 A. He would take them off. Sometimes I would wake
11 up in the morning with backward panties.

12 Q. And did he ever touch your body anywhere else
13 besides your vaginal area?

14 A. My breasts.

15 Q. And, again, that occurred during what time of
16 day or night?

17 A. Night.

18 MS. MAYES: Nothing further, Your Honor.

19 THE COURT: Mr. Shealy.

20 MR. SHEALY: May it please the Court.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. SHEALY:

24 Q. Minor 1 , where were you living when you were
25 playing soccer?

1 A. , and also.

2 Q. And when he came to watch you playing that
3 soccer game, where were you living?

4 A. The 160 -- no. It was at . It was
5 after he had his leg amputated, I believe.

6 Q. Are you sure?

7 A. Not sure -- yes, sure. Yes, I'm sure. Because
8 he had to be ambulated out and everything. Yeah,
9 sorry.

10 Q. I'm sorry?

11 A. He had to be ambulated out and they had to do
12 all this big thing. It was actually embarrassing.

13 Q. Did he have diabetes when you lived in
14 ?

15 A. Yes.

16 Q. Okay. And when did they start amputating his
17 toes?

18 A. They started, actually, with just taking the
19 bones out. And the first surgery wasn't even here;
20 it was when we were in Florida. And that's when the
21 surgeries started. And then they progressed into
22 taking pieces of his foot. And that was -- that all
23 started -- well, like, the pieces started when we
24 were at .

25 Q. All right. So they started taking bones out in

1 Florida?

2 A. Yeah. Like, that was one of his first few
3 surgeries.

4 Q. And that was before y'all moved to --

5 A. Yes.

6 Q. So he had diabetes well before then?

7 A. He's always had diabetes -- well, ever since I
8 can remember.

9 Q. And the bones they removed, do you know what
10 bones they were?

11 A. No. It was just -- he gets ulcers on the
12 bottom of his feet, and it's an open wound. And
13 because he's diabetic, the circulation isn't right.
14 And they tried to take bones out to relieve
15 pressure. So it wasn't -- I'm not a doctor.

16 Q. So it's bones in his foot they took out?

17 A. Yes.

18 Q. All right. Now, so how old were you when you
19 lived in Florida?

20 A. Young. It was before -- I was, like, ten.

21 Q. So you were around ten years old?

22 A. Yes, sir.

23 Q. And then from Florida, where did you move?

24 A. South Carolina?

25 Q. I don't know. You tell me.

1 A. Yeah, it was South Carolina. Florida to South
2 Carolina, I think.

3 Q. Okay. And then your testimony was that --
4 let's see. After you left , you moved
5 where?

6 A. .

7 Q. And where was that?

8 A. In Lexington County.

9 Q. Okay. And then after , where did
10 you move?

11 A. Tennessee, Kentucky.

12 Q. Okay. You didn't mention Tennessee before.
13 But you actually from to Tennessee?

14 A. We moved from to and then
15 from to Tennessee, from Tennessee to
16 Kentucky. And then my father left and came back to
17 South Carolina and my family and I stayed there.
18 And then my family left to come back to South
19 Carolina so my father could help support the
20 children and my mother. And when everybody left
21 Tennessee, I stayed for a couple months and then
22 went to Pennsylvania and then came back to South
23 Carolina to stay with my mother.

24 Q. Okay. Now, when y'all came back to South
25 Carolina, where did y'all go?

1 A. I went to , a trailer park off of --
2 I think it's in Lexington, White Knoll.

3 Q. And then from there where did you go?

4 A. We went to -- we actually got evicted and were
5 staying in hotels. And then my boyfriend -- my
6 fiance -- at that time, he was my boyfriend -- he
7 had a trailer in Kershaw County that we moved into.

8 Q. All of you moved into the trailer?

9 A. Yes. My fiance and I took my family to live in
10 that trailer.

11 Q. And then where did you move to?

12 A. My family, my mom and six brothers and sisters,
13 went to stay in Richland with my father in an
14 apartment complex. And that's when I moved in with
15 my fiance in an apartment in Camden. And they were
16 all living in Richland.

17 Q. Okay. And then how did the family wind up in
18 Kershaw County?

19 A. The apartment complexes were -- it was a bad
20 area. They weren't -- they just were ready to move
21 back to the country. They weren't digging the city
22 life.

23 Q. So where did they move?

24 A. Kershaw County.

25 Q. Where in Kershaw?

1 A. Cassatt. That's the address they're at now.

2 Q. Now, when you were -- you mentioned doing
3 forensic interviews and writing statements and stuff
4 like that. You've always said that your father
5 never threatened you at all; is that correct?

6 A. Yes.

7 Q. And you also testified he would take you
8 places.

9 A. Yes, sir.

10 Q. And the -- and he never warned you not to say
11 anything or anything like that; is that correct?

12 A. Correct.

13 Q. Okay. Now, the -- so when y'all were living in
14 , there's eight of you; is that correct?

15 A. Define eight of us.

16 Q. Well, let's see. There's August, one, Karley,
17 two, Minor 1 , three, Minor 2 , four, J.K. is five,
18 G.K. , six, Minor 3 , seven, E.K. , eight -- well,
19 I'm sorry. There's nine of you living in that
20 house.

21 A. Yes, sir.

22 Q. And I'll show you what's been marked as State's
23 Exhibit 4. Do you recognize that?

24 A. Yes, sir. That's

25 Q. And would you characterize that as a big house

1 or a small house?

2 A. It's a doublewide.

3 Q. Doublewide trailer?

4 A. I think one of those bigger doublewides.

5 Q. And there was how many bedrooms in there?

6 A. Three.

7 Q. Okay. And you testified one was the girls'
8 room and one was the boys' room and one was a master
9 bedroom.

10 A. Uh-huh.

11 Q. Is that correct?

12 A. Yes, sir.

13 Q. Okay. So you had three girls living in one
14 bedroom; is that right?

15 A. Yes, sir.

16 Q. And four guys living in the other bedroom?

17 A. My youngest brother A.K. was in a crib in my
18 parents' bedroom.

19 Q. So you had three girls in a bedroom, three boys
20 in a bedroom, and one boy in the master bedroom with
21 your mom and your --

22 A. Yes, sir.

23 Q. Okay. Now, the -- and sometimes you would
24 actually sleep on a couch in the living room; is
25 that correct?

1 A. Yes, sir.

2 Q. Okay. Why would you do that?

3 A. Well, three girls in one bedroom just wasn't
4 awesome. I always wanted my own room. And they
5 were just there, man.

6 Q. Okay. How many beds were in the girls'
7 bedroom?

8 A. Do what? Three.

9 Q. So each of you had your own bed?

10 A. Yeah.

11 Q. So you would sleep by yourself in your bed?

12 A. Yes. There were bunk beds.

13 Q. But sometimes you'd sleep on the couch?

14 A. Uh-huh.

15 Q. And why was that? Say that again.

16 A. Actually, there was usually a dog in the
17 bedroom. And my sister slept on the bottom bunk
18 and -- I liked sleeping on the couch.

19 Q. Did you sleep on the couch a whole lot of
20 times?

21 A. Not a whole lot. I mean, it was pretty even.

22 Q. Okay. So you slept there often?

23 A. Uh-huh.

24 Q. That's a yes?

25 A. Yes, sir.

1 Q. Okay. And nobody forced you to sleep on the
2 couch, did they?

3 A. No, sir.

4 Q. Did your sister ^{Minor 2} sleep on the couch?

5 A. I'm not sure.

6 Q. You're not sure?

7 A. I'm not sure, sir.

8 Q. Did she ever sleep on the couch with you?

9 A. No, not with me.

10 Q. So as far as you know, if she ever slept on the
11 couch, you don't know anything about it?

12 A. I don't remember.

13 Q. You don't recall?

14 A. I don't recall.

15 Q. Any idea why you don't recall? That wasn't
16 just a habit of y'all's, taking turns sleeping on
17 the couch?

18 A. No, it wasn't.

19 Q. Okay. Did she sleep in the bunk bed?

20 A. She did.

21 Q. So y'all had two sets of bunk beds or one set?

22 A. One set.

23 Q. Okay. And then, what, a single bed or --

24 A. I honestly don't remember. I don't think there
25 was -- I think there was just two bunk beds in

1 there.

2 Q. Two bunk beds?

3 A. Or one, top and bottom bunk.

4 Q. So now you're saying there's only two beds in
5 there?

6 A. I'm pretty sure there was.

7 Q. Earlier you said there was three and each of
8 you had your own bed.

9 A. I understand that.

10 Q. Okay. So when you slept in the girls' bedroom,
11 what bed did you sleep in?

12 A. The top -- well, it was both, actually. We'd
13 sleep on the top and bottom. We'd swap.

14 Q. Did you sleep with a particular person?

15 A. No.

16 Q. You always slept by yourself?

17 A. I did.

18 Q. So the other two girls would be sleeping in the
19 other bed?

20 A. Uh-huh.

21 Q. All the time?

22 A. Not all the time. I'm not going to say all the
23 time.

24 Q. Okay. The -- so now we got -- just -- now
25 we've just got two beds in the girls' room. Were

1 there only two beds in the boys' room too?

2 A. Yes.. There was one set of bunk beds.

3 Q. So they had to double up as well?

4 A. Uh-huh.

5 Q. And so sometimes, even though you got a bed all
6 by yourself and the other two girls had to sleep
7 together, you would go sleep on the couch?

8 A. Uh-huh.

9 THE COURT: You have to say yes or, please.

10 THE WITNESS: Yes.

11 THE COURT: Thank you.

12 Q. And what would the other girls do?

13 A. They'd be in the bedroom.

14 Q. In the same bed?

15 A. No; one on the top, one on the bottom.

16 Q. Okay. So even though you weren't in the
17 bedroom, you would know that one would be on the top
18 and one would be on the bottom?

19 A. Yes, sir.

20 Q. But you don't know whether or not Minor 2 ever
21 slept on the couch?

22 A. Not with me, she didn't. She's fallen asleep
23 on the couch.

24 Q. Okay. And whenever you were sleeping in the
25 girls' room, you don't know if she was ever sleeping

1 on the couch?

2 A. She was usually in the bottom bunk underneath
3 me.

4 Q. Usually on the bottom bunk underneath you?

5 A. Uh-huh.

6 Q. Okay. Now, it's been your testimony that your
7 father would come out when you were sleeping on the
8 couch and do these things to you; is that correct?

9 A. Uh-huh.

10 THE COURT: Yes or no?

11 THE WITNESS: Yes, sir.

12 Q. And that would happen often?

13 A. Yes, sir.

14 Q. Well, let me ask you this: If your father
15 would come out to the living room often and do the
16 things you said he did to you on the couch, why
17 would you sleep alone on the couch in the living
18 room?

19 A. Because of the sleeping arrangements in the
20 house. If my father would have bought -- you know,
21 I always wanted a futon. I hated sleeping in a bed.
22 I liked sleeping on a couch. He would actually
23 always comment on how I sleep with my head cocked so
24 sideways. He doesn't understand. But, yeah, I
25 preferred sleeping on a couch. I always have.

1 Q. Despite what was happening to you sleeping on
2 the couch?

3 A. What was happening to me was normal. It was --
4 honestly, I couldn't even give you an exact age as
5 to when it started. My earliest memories are of him
6 secluding me. When I was younger, it was a lot
7 easier for him because he could take me off
8 somewhere and go ahead and do it.

9 But then with being at , it
10 was opportunities where I was sleeping alone
11 somewhere. And I'm terribly sorry I did not make
12 sure that I was not sleeping with all of my brothers
13 and sisters so they could protect me from what he
14 was doing.

15 Q. You said that's normal?

16 A. It was normal for me. It was something that
17 had been happening so often that it...

18 Q. All right. Well, earlier when the solicitors
19 were questioning you, you started to cry?

20 A. Uh-huh.

21 Q. You cry about things that are normal?

22 A. What I mean by normal is it had happened so
23 often and for so long that there was no coming out
24 with it. There was -- it was really, like,
25 difficult for me to deal with the fact that these

1 things go on in the middle of the night and then I
2 wake up the next morning and it's like nothing ever
3 happened. My father never said anything, never did
4 anything that would, you know, hint towards any
5 wrongdoing in the middle of the night.

6 Q. So it's your testimony that your father never
7 did anything that was wrong in the middle of the
8 night?

9 A. No --

10 THE COURT: Take your time and just answer the
11 questions.

12 A. Could you repeat that, please?

13 Q. Is it your testimony that your father -- and
14 correct me if I'm wrong. I may not be recalling
15 what you said right. Is it your testimony that your
16 father never did any wrongdoing in the middle of the
17 night?

18 A. No, that is not my testimony. During the day
19 he didn't act like, you know, somebody that's
20 molesting their daughters at night.

21 Q. All right. Well, when these things would
22 happen, would you get upset?

23 A. The very last time it happened with the condom,
24 I actually went outside and sat in the car and cried
25 and cried and cried. And I sat there and I

1 contemplated calling one of his friends who actually
2 happens to be in this room to tell him that I needed
3 to go to the hospital to have a rape kit done. But
4 I could not bring myself to do that. I couldn't go
5 through with going to a hospital and telling them
6 that, you know, my father is doing these things and
7 there's evidence right now, please get them.

8 And, like I said, there was -- it was a big
9 secret. And I didn't -- I didn't want to have
10 nobody believe me, I didn't want to have to go
11 through all of this, I didn't want to have to sit
12 here and tell so many strangers what happened,
13 because it's disgusting, man, and it's really hard
14 for me to talk about.

15 Q. Okay. So you said that you wanted a rape kit
16 done because now you had evidence that you'd been
17 raped; is that --

18 A. And I --

19 Q. Is that correct?

20 A. I don't have regrets in life. But if I did,
21 that would be one thing I regret not doing. If I
22 had done that, we wouldn't be sitting here and we'd
23 actually have hardcore evidence.

24 Q. So it's your testimony that he raped you --
25 that he penetrated you --

1 A. No, sir, he did not. He performed oral and had
2 plenty of enough saliva down there that I guarantee
3 you would have popped up on a rape kit.

4 Q. So you know about rape kits?

5 A. Yes. What I've seen on TV, CSIs.

6 Q. You realize that's not reality?

7 A. No, sir. I figured they'd swab, get saliva off
8 the swabs. I wanted to, like -- like I said, see --
9 you're pruning me, right? If I would have went to
10 have that done, would anything have come out of
11 that? I don't know. I was scared.

12 Q. But you didn't call the friend?

13 A. I did not. I pretended like nothing happened
14 like I always had.

15 Q. When you left the house, did your father follow
16 you?

17 A. No, he did not. He was gone at that point,
18 back to his bedroom.

19 Q. How did you get in the car?

20 A. Well, I walked out the door.

21 Q. Okay. And you had a telephone?

22 A. No, I didn't have a telephone.

23 Q. So how --

24 A. I sat in the car crying contemplating on what
25 to do, whether or not I should run across the street

1 and talk to the old couple across the street or call
2 somebody or do something. And I just couldn't bring
3 myself to do it.

4 Q. You originally said you contemplated calling
5 your father's best friend.

6 A. Uh-huh.

7 Q. But you didn't have a phone?

8 A. No.

9 Q. So now you're testifying that you contemplated
10 running across the street to talk to the old couple?

11 A. Uh-huh.

12 Q. Is the old couple your father's best friend?

13 A. No, they're not.

14 Q. So that's different.

15 A. Yes, it is. There was different options; I
16 could have run across the street, I could have
17 called somebody. No, I did not have a phone, but I
18 had access to a phone.

19 Q. And your mother slept in the master bedroom
20 with your father?

21 A. She did.

22 Q. And the -- or he would often get up and visit
23 you in the living room or --

24 A. Yes, he would.

25 Q. And she wouldn't wake up?

1 A. No, she wouldn't.

2 Q. Nobody else ever heard anything?

3 A. No, sir, not to my knowledge.

4 Q. Nobody ever came out to get a glass of water or
5 anything like that?

6 A. No, sir.

7 MR. SHEALY: Okay. Your Honor, if I may just
8 have a moment.

9 BY MR. SHEALY:

10 Q. All right. I'm going to show you what's been
11 marked as State's Exhibit 13. Would you refresh the
12 jury's memory of what that is?

13 A. That's a diagram of

14 Q. That's what the house -- the floor plan of the
15 house?

16 A. Yes, it is.

17 Q. Okay. Now, there's no wall here between the
18 living room and the dining room?

19 A. No, sir.

20 Q. Okay. And between the fireplace and the
21 laundry room, there's no wall there and between the
22 kitchen?

23 A. No, sir.

24 Q. Okay. So this is a very open space; right?

25 A. I forget what it's called. But I think it's

1 like a galley kitchen or something.

2 Q. Okay. And then there's a doorway without a
3 door between the kitchen and living room?

4 A. Yes.

5 Q. Now, this hallway, this is the boys' room;
6 correct?

7 A. Uh-huh.

8 Q. And this is the girls' room?

9 A. Uh-huh.

10 Q. This hallway goes all the way to the wall;
11 correct?

12 A. No.

13 Q. Okay. Where does this stop?

14 A. I don't remember exactly. But I'm pretty sure
15 the boys' room turns in -- like, the hallway goes to
16 the boys' bedroom door.

17 Q. So maybe there's a wall here and part of it
18 is --

19 A. Yeah, it's a closet.

20 Q. All right. Now, the door for the girls' room,
21 is it on the hallway or is it in the living room?

22 A. Hallway.

23 Q. And the boys' room door is also in the hallway;
24 is that correct?

25 A. It is.

1 Q. And this bathroom, y'all call that the main
2 bathroom, don't you?

3 A. It was just the bathroom -- the kids' bathroom.

4 Q. And where was the door?

5 A. That was in the hallway.

6 Q. Now, was there a doorway from the boys' room to
7 the bathroom?

8 A. No.

9 Q. And the master bedroom, the door was to the
10 living room?

11 A. Uh-huh.

12 Q. Yes?

13 A. Yes, it was.

14 Q. Okay. And the couch that we've been hearing so
15 much about, where was it in relation to the
16 fireplace?

17 A. There was a chair in front of the fireplace,
18 and then it was to the left.

19 Q. Okay. Why don't you, if you don't mind, come
20 up and point to it, that general area where the
21 couch would be.

22 A. It was a sectional that wrapped around here
23 (indicating).

24 Q. Okay. So it's in the middle of the living
25 room?

1 A. Uh-huh.

2 Q. Okay. And the hallway, was that open or was
3 there a door between --

4 A. It was an open hallway.

5 Q. No door there, no wall there?

6 A. No.

7 Q. Okay. Now, the -- and it's your testimony that
8 sometimes your father would come in this doorway to
9 the girls' room and pick you up out of bed --

10 A. Yes, sir.

11 Q. -- and take you into the living room?

12 A. Yes, sir.

13 Q. And you were on the top bunk?

14 A. Yes, sir.

15 Q. So he'd have to lift up and pick you up?

16 A. Yes, sir.

17 Q. And this is after he's had a bone removed from
18 his leg -- or foot. I'm sorry. After he had bones
19 removed from his foot.

20 A. There was absolutely -- the picture you see is
21 of my father standing there perfectly healthy. The
22 couple bones that they took out of his foot were to
23 help him to be able to walk so he could have, you
24 know, use of that foot so they didn't have to take
25 it. He was walking around fine.

1 Q. So he didn't limp or --

2 A. No. No, he did not.

3 Q. So he would come -- and if the boys wanted to
4 go to the bathroom, they'd have to come into the
5 hallway and go into the bathroom; is that correct?

6 A. Uh-huh.

7 Q. And if they wanted to get some water from the
8 kitchen, they had to go through the hallway, through
9 the living room, dining room, to the kitchen?

10 A. Uh-huh.

11 Q. Same thing with the girls?

12 A. Yes.

13 Q. And if your mom wanted something from the
14 kitchen, she would have to go through the living
15 room?

16 A. Yes.

17 Q. So the living room is the central room of this
18 place?

19 A. Yes, it was.

20 Q. And we've got nine people staying there,
21 counting you and your father?

22 A. Yes.

23 Q. So we got seven people staying here night after
24 night after night; correct?

25 A. Yes, sir.

1 Q. And this, what you said happens to you, happens
2 on a very often basis, not only when you slept on
3 the couch, but also when you slept in the girls'
4 room; is that correct?

5 A. Yes, sir.

6 Q. So this happened many, many, many times;
7 correct?

8 A. Yes, sir.

9 Q. How is it that no one in such a small house
10 that is so open, the floor plan so open, no one ever
11 stumbled in on y'all?

12 A. He had plenty of years to get his timing down.

13 Q. What does that mean?

14 A. He would take, you know, like,
15 super-middle-of-the-night trips, and it would never
16 be long. And just -- I honestly can't even tell you
17 where my family was when these things were going on.

18 Q. He would take super-middle-of-the-night trips?

19 A. Yeah, like 3:00 in the morning.

20 Q. He would do what?

21 A. He would come out, he would either go to -- I
22 would always wake up to it and pretend I was
23 sleeping and roll over, you know, squirm around. It
24 was in the middle of the night when everybody else
25 was sleeping. My family has never been one of those

1 get up in the middle of the night to get a drink of
2 water. Like, the kids, when they're in bed, they're
3 in bed.

4 Q. So he gets up in the middle of the night to go
5 on a trip, you wake up -- he goes somewhere, you
6 don't know where he goes, and then he comes back?

7 A. I'm sorry. What?

8 Q. You said middle-of-the-night trips. You said
9 he's had years to prepare --

10 A. That's his
11 molest-his-daughters-in-the-middle-of-the-night
12 thing.

13 Q. You said middle-of-the-night trips. You said
14 that he had many years to get his timing down
15 because he would take middle-of-the-night trips.

16 And then you testified that sometimes you'd wake up
17 as he was leaving. Did you know where he went?

18 A. I didn't mean trips by, like, he would leave to
19 take trips. I meant he would, in the middle of the
20 night, sneak into the other bedrooms or into the
21 living room and do what he did. Does that make
22 sense?

23 Q. So how did he get his practice over a number of
24 years?

25 A. Because, like I said, this is something that

1 had been happening to me since I can remember, like,
2 since I was a very small child.

3 Q. Right. But practicing would indicate that
4 he's -- from the very start, he was expert at
5 avoiding people waking up and --

6 MS. MAYES: Objection, Your Honor. May we
7 approach?

8 THE COURT: You may.

9 (Sidebar conference.)

10 MS. MAYES: Objection is that it's been asked
11 and answered, Your Honor.

12 THE COURT: All right.

13 Mr. Shealy, I'm not cutting you off, but we've
14 covered this ground a number of times. Please move
15 along.

16 MR. SHEALY: Thank you, Your Honor.

17 BY MR. SHEALY:

18 Q. Now, the evening that you informed your mom of
19 what happened, do you recall that?

20 A. Yes, sir.

21 Q. There was a dispute that evening involving some
22 members of your family. Would you tell us about
23 that?

24 A. I honestly don't remember what the dispute was
25 over. But I remember I was at a point with my

1 father where we weren't on good terms at all. And I
2 believe it's because I was with my fiance and he
3 would refer -- he's always referred to my boyfriends
4 as my F word buddy.

5 He has always had a problem with me being with,
6 you know, boyfriends. And I don't think he liked
7 the fact that I was so serious with my now fiance.
8 And I completely lost where I was going with that.
9 Could you --

10 Q. The argument that --

11 A. The dispute. Yeah.

12 Q. -- you had with your family members.

13 A. Yes. Like I said, we were not on good terms,
14 and I was just fed up with it. He would not allow
15 my fiance and I to come to the house and have
16 Thanksgiving with my family.

17 Q. All right. The night of the revelation, you
18 father was not there; right?

19 A. No, he wasn't.

20 Q. Okay. So he was not part of the argument?

21 A. No, he was not.

22 Q. All right. There was an argument regarding
23 your brothers, wasn't it?

24 A. Yes.

25 Q. Tell the jury about that argument.

1 A. By brother J.K. has some anger issues. And he
2 was picking on one of my younger -- well, his little
3 brother. And my husband stepped in and tried to
4 intervene and be like, hey, man, you're huge
5 compared to this kid, you don't need to put your
6 hands on him. Then there was an argument between
7 them and an argument between me and my brother
8 because of the way he was talking to my fiance.

9 And that's when I just had it and I was done
10 with feeling like there was a problem -- like, the
11 family -- we weren't a family. We weren't a family
12 because of him. And it was like he was treating me
13 like I did something wrong.

14 Q. You're talking about J.K. ?

15 A. No. My father was treating me like I did
16 something wrong.

17 Q. Okay. But he wasn't there that night.

18 A. No. And I just got to the point where I was
19 tired of it. And right now, I -- I'm not that
20 little girl anymore, the little girl that he would
21 molest in the middle of the night. I'm not --

22 Q. All right. I want you to listen to my
23 question --

24 THE COURT: Hold on. She's not finish
25 answering.

1 Finish your answer.

2 A. I'm not the scared, quiet little
3 keep-this-a-secret little girl anymore. And I was
4 at a point in my life where I was growing up and
5 moving on. Like I said, I'm engaged to be married.
6 And my father was in no way supportive. He didn't
7 care, he was rude, nasty, mean, and he was unfair.

8 He came at my mother with it's either me or
9 her, and I was tired of feeling like that because --
10 over nothing. And he --

11 Q. All right.

12 A. Yeah. Go ahead.

13 Q. There was a fight between J.K. , your brother,
14 and your fiance?

15 A. Yes.

16 Q. Okay. And your mom told you to leave?

17 A. Yes. I believe so.

18 Q. And before that, you knew that your father had
19 been in touch with your mother about the lack of
20 discipline in the household.

21 A. Could you --

22 Q. Your father had been in touch with your mother
23 about the lack of discipline in the household; is
24 that correct?

25 MS. MAYES: Objection; calls for speculation.

1 THE COURT: Rephrase the question.

2 BY MR. SHEALY:

3 Q. Were you told that your father was going to
4 move back in?

5 A. I was not.

6 Q. Did you know that he was running out of money?

7 A. I did not. I knew that he got paid \$1,500
8 every month to go to school.

9 Q. But he wasn't living in the house there with
10 you?

11 A. No. He was staying in Columbia.

12 Q. But you were never told that you and J.K. --
13 that he would not support you?

14 A. No.

15 Q. So you didn't know about that?

16 A. No.

17 Q. And it didn't get you angry that your mom told
18 you that you had to leave?

19 A. No, it did not. I had my own apartment with my
20 fiance. My problem was the fact that I was not
21 allowed at family gatherings or get-togethers, such
22 as Thanksgiving, because my father would not allow
23 me there. My fiance and I were not allowed while he
24 was there.

25 MR. SHEALY: I beg the Court's indulgence, Your

1 Honor.

2 THE WITNESS: Am I allowed to say anything?

3 THE COURT: You just have to answer the
4 questions, please, ma'am.

5 BY MR. SHEALY:

6 Q. You mentioned that you were the caregiver for
7 your father whenever he had the diabetes and started
8 losing his feet. When did that start?

9 A. I cannot give you a start date. He's always
10 been sick, in and out of the hospital with health
11 problems stemming from his diabetes and not taking
12 care of himself. He's got all of the health
13 problems that go along with diabetes, blood pressure
14 problems, heart problems. There's a list.

15 Q. And this is even before ?

16 A. Yes.

17 Q. Okay. And during the time he was at ?

18 A. Yes.

19 Q. Now, it's been your testimony that you would
20 clean the wounds. He started losing toes, and then,
21 eventually, he wound up losing his leg, and now we
22 see that he's lost both legs. At what point did you
23 start doing the nursing, the cleaning of the wounds,
24 that sort of thing?

25 A. Right off the bat. I mean, the -- he -- they

1 took toes first. And then after that wasn't
2 working, it would get infected, the infection would
3 run up his groin, get really bad. And, actually,
4 while we were living in , he was almost
5 in the hospital more than he was home. And I would
6 sit there and wait on that phone call saying that,
7 you know, he didn't make it because he was so sick.

8 Q. Okay. That's at right y'all lived
9 at ?

10 A. Yes.

11 Q. All right. Did you do any nursing of him, at
12 ?

13 A. Yeah. He got toes taken off and they did a
14 shark bite --

15 Q. What's a shark bite?

16 A. It's a -- they take a little pizza cut out of
17 the toes. I think that one was at . And
18 then they took toes on . Yeah.

19 Q. So, essentially, he started losing his toes,
20 started losing -- eventually lost his leg. He had
21 all these other health issues. Why were you still
22 scared of him?

23 A. Could you --

24 Q. Were you still scared of him?

25 A. He was my father. I mean, it's not -- it's not

1 I'm, you know, scared to death of my father. It
2 wasn't -- no, sir, I wasn't.

3 Q. You were his caregiver?

4 A. Yes, sir.

5 MR. SHEALY: May I just have a moment, Your
6 Honor?

7 Thank you, Your Honor. That's all I have.

8 REDIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. All right. To clarify, did -- his diabetes,
11 ulcers, problems with toes, did that prevent him
12 from walking into your room and carrying you out of
13 your room onto the couch in the living room?

14 A. No, it did not.

15 Q. During that time at , was he still
16 able to carry items?

17 A. Yes, he was. It was -- his health started --
18 like, his feet started getting worse right before we
19 moved out. And then it was shortly after we moved
20 into when he lost half the leg.

21 Q. All right. And you were at for a
22 period of over three years; correct?

23 A. Yes, ma'am.

24 Q. And to clarify here while we're looking at the
25 diagram, this is the living room, this is the girls'

1 room. Now, I believe your testimony earlier during
2 cross-examination was that there were times that you
3 recall someone else falling asleep on the couch that
4 wasn't you. Who was that person?

5 A. . . Everybody would kind of sleep on the couch
6 sometimes.

7 Q. All right. And do you recall whether Minor 2
8 would fall asleep on the couch in the living room?

9 A. I don't recall. But I'm sure she did sleep on
10 the couch.

11 Q. Okay. And where the girls' room is concerned,
12 can you tell us whether or not there were times that
13 Minor 2 was in the girls' room and you were not in
14 there?

15 A. There were times.

16 Q. Can you tell us whether or not there were times
17 that you did sleep in the girls' room and not on the
18 couch in the living room?

19 A. Yes, ma'am.

20 Q. And Mr. Shealy was asking you why you would
21 sleep on the couch if he would come in there. Were
22 there times that you slept in the girls' room and
23 something still happened?

24 A. Yes, ma'am. It didn't matter where I was, it
25 would happen anyway.

1 Q. How so?

2 A. If I was not alone, he would move me. So I
3 don't see a point in trying to, you know, sleep with
4 everybody when there's -- he's just going to move me
5 anyway.

6 Q. Did it ever prevent it from happening
7 regardless of where you were sleeping in the home?

8 A. No, ma'am.

9 Q. And he was asking you about in the living room,
10 that there's no wall here in the kitchen or wall
11 here in the dining room. But was there ever a time
12 in the middle of the night that something is
13 happening to you in the living room and people are
14 up and about in the kitchen and the dining room?

15 A. No, ma'am.

16 Q. And you testified during cross-examination that
17 this started at a young age, even before ;
18 correct?

19 A. Yes, ma'am.

20 Q. And as a young child, did you know what to do
21 to protect yourself?

22 A. No, ma'am.

23 Q. What was the way you could protect yourself or
24 stop it while it was happening?

25 A. I couldn't.

1 Q. And on cross-examination Mr. Shealy was asking
2 you about a time when you were 13 and you wanted to
3 tell someone. Do you recall that testimony?

4 A. Yes, ma'am.

5 Q. Could you drive at 13?

6 A. No, ma'am.

7 Q. Did you have your own mobile phone at 13?

8 A. No, ma'am.

9 Q. You said on cross-examination that you
10 pretended like nothing happened, quote, like I
11 always had. What did you mean by that?

12 A. I mean, ever since I can remember, my father
13 had been doing those things to me, and the next
14 morning it was like nothing ever happened. And it
15 was -- it -- the last time it happened is the time I
16 was talking about where he tried to have a condom.
17 And so for 13 years of my life, that had been going
18 on.

19 And I -- Mr. Shealy pointed out that it's not
20 normal. And by normal, I don't mean it's normal.
21 But for me it was -- I can't think of a better word
22 other than normal. It was just...

23 Q. Had you ever known any other life other than
24 that life?

25 A. No, ma'am.

1 Q. And when Mr. Shealy was asking you about why
2 you didn't tell at 13 when you were sitting in that
3 car, what reasons went through your mind that you
4 couldn't or shouldn't tell at that age?

5 A. You -- after he would do what he did, the
6 feelings that I would get were overwhelming. I
7 was -- I'd be disgusted, upset. This is my father
8 and he's doing these things, and it's really
9 confusing and upsetting.

10 And he is supposed to be the man in your life
11 that takes care of things and takes care of the
12 family and provides for the family and handles
13 everything. And he did that in his own way. But I
14 was always afraid that if I came forward and said
15 anything that, you know, my six little brothers and
16 sisters, who -- they drive my crazy, but I love them
17 more than anything.

18 And if -- if I could have came out with it
19 sooner, you know, maybe I could have protected them
20 from that. But I didn't. And because I didn't go
21 through and tell somebody about what happened, I now
22 have to sit here and not only talk about what
23 happened to me, but I have to think about the fact
24 that I know that it wasn't just me and it was my
25 sisters too.

1 Q. All right. Did you feel responsible for
2 keeping your family together?

3 A. I did. Because, you know, if I would have said
4 something, I wouldn't have a family anymore. And,
5 like I said, my father and I, we didn't have an
6 awful relationship. And, yeah, I just never thought
7 of the fact that I could be one of those kids that
8 didn't have a mom and a dad in the house. I didn't
9 want a broken family, I didn't want my little
10 brothers and sisters in foster care. I didn't know
11 what would happen. And I was scared and ashamed and
12 embarrassed.

13 Q. Did you think you had a way out back then at
14 13?

15 A. I didn't --

16 MR. SHEALY: Objection, Your Honor; leading
17 question.

18 MS. MAYES: Nothing further.

19 THE COURT: All right. You may step down.

20 All right. Let's take a short afternoon break
21 for about ten minutes. Please don't discuss the
22 case, don't deliberate. We'll come back and go til
23 about 5:00. If you can, select me a foreperson out
24 of the 12 of you. We'll be back in about ten
25 minutes.

1 (The jury exits the courtroom at 3:49 PM.)

2 THE COURT: Anything from the State before we
3 take a break?

4 MS. MAYES: Your Honor, in terms of scheduling,
5 I believe we have one more witness, which would be
6 Minor 2, and then we could proffer the
7 testimony of Minor 3, if Your Honor wanted to
8 go ahead and hear that this afternoon.

9 THE COURT: Well, we'll go til about 5:00. I'm
10 pretty cognizant of courthouse personnel. We'll go
11 til about 5:00 and see how we get.

12 MS. MAYES: Yes, sir, Your Honor.

13 THE COURT: Anything, Mr. Shealy?

14 MR. SHEALY: I'm just a little surprised. Your
15 Honor, just my own comment: I would expect Minor 2
16 to last longer than 5:00. But I've been wrong
17 before.

18 THE COURT: Anything for the record before we
19 break?

20 MR. SHEALY: Thank you, Your Honor.

21 THE COURT: Thank you. We'll stand at ease for
22 about ten minutes.

23 (Short break.)

24 THE COURT: All right. It's been brought to my
25 attention that there's been some untoward behavior

1 out of the defendant and out of some of the
2 witnesses in the audience, some remarks made back
3 and forth. I will not stand any, any outbursts, any
4 interaction between the defendant and the family
5 members. If I find it again, hear of it again,
6 you'll be subject to contempt, as well as other
7 punishments. So if you can't control yourselves
8 ladies, sir, these signs, if I see that one more
9 time --

10 THE DEFENDANT: I was just scratching my neck,
11 sir.

12 THE COURT: I don't believe you. I'm telling
13 you, don't push me.

14 Anything else for the record before we begin?

15 MS. MAYES: Yes, sir, Your Honor. Mr. Shealy
16 and I spoke before Your Honor took the bench. I
17 believe that the comment was by someone who is not a
18 witness, not a family member. We do not need that
19 person in the courtroom, and we've requested that
20 person not be in the courtroom.

21 THE COURT: Who was it?

22 MS. MAYES: It is -- I don't know the name.
23 But it is an adult female wearing black. And my
24 understanding is that there's also another spectator
25 in the courtroom who is not an essential person.

1 And a lot of these people are affiliated with the
2 former Aryan Nation. Our request to the Court is --
3 and we do realize it is a public forum. But due to
4 the volatile nature of these --

5 THE COURT: Well, this young man back here, I'm
6 going to ask him to be removed because he's been
7 back here nodding and making facial gestures the
8 whole time, and I won't handle that.

9 So you can leave voluntarily or I'll get the
10 cops to remove you. Thank you.

11 MS. MAYES: And that was our request that
12 Mr. Shealy and I were going to make, that unless
13 they're a family member, they do not need to be in
14 the courtroom.

15 THE COURT: Anything else?

16 MS. MAYES: Nothing from the State, Your Honor.

17 THE COURT: Bring the jury in, please.

18 (The jury enters the courtroom at 4:06 PM.)

19 THE COURT: Congratulations, Ms. George. Your
20 first elected position?

21 THE FOREWOMAN: (Nods head.)

22 THE COURT: All right. You may call your next
23 witness.

24 MS. MAYES: The State calls Minor 2.

25 Minor 2

1 being first duly sworn, testified as follows:

2 THE WITNESS: I do.

3 THE CLERK: Have a seat, please, ma'am. Once
4 you're seated, speak up loud and clear, stating your
5 full name and spelling your last, please.

6 THE WITNESS: Minor 2 , Minor 2

7 DIRECT EXAMINATION

8 BY MS. MAYES:

9 Q. All right. Now, Minor 2 , I'm going to move
10 this a little bit forward. If you could, speak into
11 it as well as you can -- you'll probably want to
12 keep your mouth maybe about two inches away from
13 it -- and that's so that the last juror can hear
14 your testimony.

15 Minor 2 , how old are you today?

16 A. I'm 19.

17 Q. And how is it that you know Minor 1 who
18 previously testified in this case?

19 A. She's my sister.

20 Q. And how is it that you know the defendant in
21 this case, August Kreis?

22 A. He's my father.

23 Q. Is he your biological father?

24 A. Yes.

25 Q. Minor 2 , you stated that you're 19 today?

1 A. Yes, ma'am.

2 Q. Is it possible for you to remember how many
3 different homes your family has lived in through the
4 years?

5 A. Most of them.

6 Q. Do you remember whether or not your family
7 lived here in Lexington County?

8 A. We did.

9 Q. Do you remember where you were living when you
10 were 9, 10, and 11 years of age?

11 A.

12 Q. All right. And is that the
13 that is shown in State's Exhibit 4?

14 A. Yes, ma'am.

15 Q. And also the diagram that's over there.

16 THE COURT: 13, right?

17 MS. MAYES: Yes, sir, Your Honor.

18 BY MS. MAYES:

19 Q. During that time, Minor 2, when you were 9, 10,
20 and 11 years of age, who all do you remember living
21 in your home at ?

22 A. My six siblings and me and my mother and
23 father.

24 Q. And during that point in time, did your father
25 work?

1 A. No.

2 Q. Can you tell us whether he was normally home
3 during the daytime?

4 A. He was.

5 Q. Can you tell us whether he was normally home
6 during the nighttime at that location?

7 A. He was.

8 Q. Minor 2, how would you describe your
9 relationship with your father while growing up there
10 on ?

11 A. I mean, he's my father. But I never really
12 liked being around him much.

13 Q. All right.

14 A. Because of what happened.

15 Q. Did you feel comfortable around him?

16 A. No.

17 Q. Did you feel safe around him?

18 A. No.

19 Q. And we see that today he's in a wheelchair.
20 What happened when y'all were living at that

21 ? What do you recall about his
22 ability back then to be mobile and walk around?

23 A. Oh, he could walk around fine then.

24 Q. You said there were times that you didn't feel
25 safe or comfortable around your father.

1 A. I never did.

2 Q. I'm going to ask you specifically about

3 , at that residence. What, if

4 anything, do you recall happening that made you feel
5 uncomfortable or not safe?

6 A. One night I was sleeping on the couch and he
7 came out of his room and pulled me on the floor.

8 Q. All right. And you said that you were on the
9 couch. In what room was the couch?

10 A. The living room.

11 Q. What else do you remember being in the living
12 room?

13 A. A coffee table and a chair.

14 Q. Do you know whether or not there was a
15 television?

16 A. There was a flat screen.

17 Q. So the living room was a place where you could
18 watch TV?

19 A. Yes.

20 Q. And was anyone else in there other than you
21 that night?

22 A. No. It was just me.

23 Q. What's the first thing you remember?

24 A. I remember him trying to put his privates in my
25 mouth.

1 Q. And at that point in time, was his private --
2 when you say private, you're referring to -- let me
3 show you a diagram. I'm going to show you what's
4 premarked as State's Exhibit 12. Do you see on this
5 diagram, looking at both the front and back, the
6 part or parts of the body you're talking about?

7 A. There (indicating).

8 Q. Okay. Let me give you a marker and ask you to
9 specifically mark the location that you're talking
10 about when you say his private.

11 A. (Witness complies.)

12 Q. And at this point in time, Minor 2, was his
13 private part inside or outside his clothing?

14 A. Outside his clothing.

15 Q. And now looking at the female diagram, which is
16 premarked as State's Exhibit 11, where on your body
17 did he attempt to touch with his private part that
18 was outside of his clothing?

19 A. My mouth.

20 MS. MAYES: Your Honor, we'd ask that State's
21 Exhibits 11 and 12 be offered as evidence at this
22 point.

23 THE COURT: Any objection?

24 MR. SHEALY: No, Your Honor.

25 (State Exhibit Nos. 11 and 12 admitted in to

1 evidence.)

2 BY MS. MAYES:

3 Q. When he tried to put his private part that was
4 outside his clothing in your mouth, what did you do
5 in response to that happening?

6 A. I didn't open my mouth, I kept it shut.

7 Q. And what happened next?

8 A. I could feel it on my lips and my teeth.

9 Q. And when you felt it on your teeth, were you
10 still trying to keep your mouth closed?

11 A. Yes, ma'am.

12 Q. And what was he doing?

13 A. Trying to get it open.

14 Q. And that's when it touched your teeth?

15 A. Yes, ma'am.

16 Q. Did you cooperate with him?

17 A. Not -- no. No, ma'am.

18 Q. What happened next?

19 A. He touched my private area.

20 Q. And what part or parts of your body are you
21 talking about when you say your private area?

22 A. My vagina.

23 Q. Was that inside your clothing or outside your
24 clothing?

25 A. Inside my clothing.

1 Q. In what way did he touch it? What did he do,
2 if anything?

3 A. Put his finger inside me.

4 Q. How did you respond to that?

5 A. I would always keep my eyes closed and pretend
6 I was sleeping.

7 Q. Why would you pretend like you were sleeping?

8 A. Because that's my father and I can't deal with
9 that.

10 Q. Did you know what to do in that situation?

11 A. No.

12 Q. Did you know how to protect yourself?

13 A. No, ma'am.

14 Q. You had your eyes were closed. What, if
15 anything, about this person allowed you to know this
16 was your father?

17 A. His beard.

18 Q. Where did you feel his beard?

19 A. On my face and...

20 Q. Was he the only one in the house with a beard?

21 A. Yes, ma'am.

22 Q. Did anything else happen while you lived there
23 at ?

24 A. There was this time, it was during the day, and
25 him and I were the only ones home. I don't remember

1 where everyone else went. But I was in his room and
2 he tried to get me on the bed. But I remember
3 struggling with him and getting away and running out
4 the door. And I heard him laughing as I ran out the
5 door.

6 Q. And that happened in which room?

7 A. The master bedroom.

8 Q. All right. The master bedroom. Was there a
9 bed in that master bedroom?

10 A. Yes.

11 Q. And what happened as he tried to pull you onto
12 the bed?

13 A. I got away from him.

14 Q. Let me ask you this: In that situation you're
15 in the master bedroom, there's a bed, and no one
16 else is home, did you feel safe at that moment?

17 A. No, ma'am.

18 Q. Why did you resist him?

19 A. Because I knew what he was trying to do.

20 Q. What you've told us about, Minor 2, around what
21 time did it happen when you were living at

22 ? Was it in the very, very beginning?

23 A. The middle.

24 Q. The middle of when you lived there at

25 ?

1 A. Yes, ma'am.

2 Q. All right. Of that time period between 2005
3 and 2008?

4 A. Yes, ma'am.

5 Q. Minor 2, did you tell your mother, Karley
6 Hollis, what had happened?

7 A. No, ma'am.

8 Q. Did you think about telling her?

9 A. Yes.

10 Q. What are some of the reasons, if any, that you
11 did not tell her?

12 A. Because he was the one paying the bills. I
13 mean, what would happen to us if he was gone?

14 Q. Did you ever confide in your sister Minor 1 ?

15 A. No.

16 Q. Did you know that anything happened with your
17 sister Minor 1 ?

18 A. No.

19 Q. And what you've told us about that happened to
20 you in the living room when you had been asleep on
21 the couch, did anyone else witness that?

22 A. No, ma'am.

23 Q. Was anyone in the kitchen or dining area when
24 that occurred?

25 A. No, ma'am.

1 Q. What time of day or night was that?

2 A. I don't remember exactly.

3 Q. Minor 2 , what, if anything, allowed you to
4 finally tell someone?

5 A. My sister brought it up first and then my
6 mother just asked me.

7 Q. Were you there when your sister brought it up?

8 A. No.

9 Q. And you're referring to your sister Minor 1 ?

10 A. Yes.

11 Q. Okay. So you weren't home. What happened when
12 you got home that day?

13 A. My mother just straight-out asked me if he
14 touched me too.

15 Q. And how did you react to that?

16 A. At first I said no. But then she just -- then
17 I just told her the truth that he did.

18 Q. Why did you say no at first?

19 A. Because I was scared.

20 Q. And then you said you told her the truth. How
21 did you react after you told her?

22 A. I went out the front door and sat on the porch.

23 Q. Why did you do that?

24 A. Because I had to get away -- get away from
25 them.

1 Q. How did you feel about being with your mom and
2 your siblings after you were told this?

3 A. I felt numb, like I didn't want to face
4 anybody.

5 Q. When this was going on, did you ever confront
6 your father or ask him why he did these things?

7 A. No.

8 Q. And why or why not? And I'm talking about when
9 you were 10 or 11 at

10 A. I was scared.

11 Q. How would you describe your relationship with
12 during that time period when you said you were
13 scared?

14 A. I didn't like being around him. I, like, tried
15 to avoid him most of the time.

16 Q. Had he ever said anything that made you scared?

17 A. No.

18 Q. You were scared -- let me ask you this: What
19 was it that made you scared?

20 A. Him. He was always violent and mean.

21 Q. And you had witnessed that or observed that
22 yourself?

23 A. Yes.

24 Q. Now, once this happened where your mother
25 started to ask you and you gave her an answer, you

1 told her yes, and then you went outside and sat on
2 the porch, when is the first time that you learned
3 something had happened with your sister Minor 1 ?

4 A. That same night.

5 Q. And, Minor 2 , did you go and meet with the
6 police, particularly this detective, Shannon Dykes,
7 with the Lexington County Sheriff's Department?

8 A. Yes, ma'am.

9 Q. And do you remember a female detective as well,
10 Sergeant Traci Barr?

11 A. Yes, ma'am.

12 Q. And can you tell us whether or not you
13 participated in what's called a forensic or an
14 investigative interview as well?

15 A. Yes, ma'am.

16 Q. Ultimately, Minor 2 , from the point your father
17 was arrested on, have you had any contact with him?

18 A. No, ma'am.

19 Q. Any phone calls or personal contact whatsoever?

20 A. No, ma'am.

21 Q. Is today the first day you've seen him since
22 then?

23 A. Yes, ma'am.

24 Q. And where do you currently reside?

25 A. . . . I live with my

1 mother and five younger siblings.

2 Q. So you're the second oldest. And you are
3 living at home with your mom and your other siblings
4 except Minor 1 ?

5 A. Minor 1 has her own place with her fiancé.

6 Q. And the rest of you are residing in Kershaw
7 County with your mother?

8 A. Yes, ma'am.

9 MS. MAYES: I beg the Court's indulgence.

10 BY MS. MAYES:

11 Q. Minor 2 , what is your date of birth?

12 A. , .

13 Q. So you're about two years younger than Minor 1 ;
14 is that fair to say?

15 A. Yes, ma'am.

16 Q. And when you said that your father was always
17 violent, what, if anything, do you recall him saying
18 in terms of violence?

19 A. He'd always be fighting with Minor 1 or yelling
20 a lot.

21 Q. How did that make you feel to witness those
22 things?

23 A. I don't like violence.

24 Q. Minor 2 , did you live with your family -- have
25 you always lived with your family from the time

1 y'all left on to live in Richland
2 County and Kershaw County?

3 A. Yes, ma'am.

4 Q. Were you always living at home with your family
5 members throughout -- well, really, throughout your
6 entire life?

7 A. Yes, ma'am.

8 MS. MAYES: Nothing further.

9 THE COURT: Mr. Shealy?

10 CROSS-EXAMINATION

11 BY MR. SHEALY:

12 Q. Minor 2, at the time that you lived at
13, how many people were living in that
14 house?

15 A. Nine.

16 Q. And who slept in the master bedroom?

17 A. My parents.

18 Q. Anybody else?

19 A. A.K.

20 Q. Okay. And who slept in the boys' room?

21 A. The boys, the three boys.

22 Q. Except A.K. ?

23 A. Yes.

24 Q. And who slept in the girls' room?

25 A. Me and my sisters.

1 Q. Okay. Now, were you here in the courtroom when
2 your sister testified?

3 A. Yes, sir.

4 Q. So did you hear her testimony?

5 A. Yes, sir.

6 Q. Okay. Now, the couch in the living room, tell
7 me what happened there.

8 A. What happened to me there?

9 Q. Yes.

10 A. My father came out of his room and pulled me
11 off the couch and tried to put his private part in
12 my mouth. But I wouldn't open my mouth, but it
13 touched my teeth and my lips.

14 Q. Okay. Well, were you on your knees?

15 A. I was on the floor.

16 Q. Okay. And where was he?

17 A. Right next to me.

18 Q. He was beside you?

19 A. Yes.

20 Q. Okay. Were you on your side?

21 A. No. I was on my back.

22 Q. Okay. Was he on his side?

23 A. No. I -- no.

24 Q. He wasn't on his side?

25 A. No, sir.

1 Q. Okay. The -- and you said that he tried to
2 force your mouth open. Did he use his fingers to
3 try to force your mouth open?

4 A. No. He used his private to try to get my mouth
5 open.

6 Q. Okay. That's all he used?

7 A. Yes.

8 Q. Okay. How often did you -- did this happen
9 more than once?

10 A. That's the only time I recall that he tried to
11 do that.

12 Q. Okay. And Minor 1, did she -- to your
13 knowledge, did she often stay in the living room?

14 A. I don't -- I don't remember.

15 Q. You don't remember if she often slept in the
16 living room?

17 A. She wasn't there when I was there.

18 Q. All right. Well, let's talk about the girls'
19 room. How many beds were in the bedroom?

20 A. One set of bunk beds.

21 Q. Okay. And two people would double-up on them
22 when all three of you were sleeping in there?

23 A. Not all the time, no.

24 Q. Where would the third one sleep?

25 A. The couch, usually.

1 Q. And who would that be?

2 A. It would always be different.

3 Q. Okay. So all of you knew that each of you took
4 turns sleeping out on the couch at different times?

5 A. Yes, sir.

6 Q. Okay. The -- and the other incident you
7 mentioned took place in the master bedroom?

8 A. Yes.

9 Q. Why were you in the master bedroom?

10 A. He called me in there.

11 Q. Okay. And you remember talking to the forensic
12 interviewer about that situation?

13 A. Yes.

14 Q. Okay. Do you remember telling that lady
15 that -- and I'm -- I remember last time. But it
16 wasn't, like, sexual. He -- no one was there. He
17 grabbed my leg and he tried to pull me on the bed
18 and I ran outside and just walked for a while. He
19 just sat on the bed and laughed. Is that correct?

20 A. Yes.

21 Q. Okay. And that was the incident in the master
22 bedroom?

23 A. Yes.

24 Q. Okay. The -- excuse me. Do you recall when
25 your father was going to Midlands Tech?

1 A. Yes.

2 Q. Okay. Did he live at home with y'all then?

3 A. We did live in the apartments for a while.

4 Q. Okay. But he wasn't living with you at that
5 time, was he?

6 A. He was, I believe.

7 Q. Okay. While he was going to Midlands Tech?

8 A. I think so. Yes.

9 Q. Okay. There wasn't any discussion about him
10 moving back in with y'all?

11 A. When? Can you rephrase --

12 Q. Towards the revelation, was he living with you
13 then?

14 A. No.

15 Q. And you said that that was a result of an
16 argument; is that correct?

17 A. What was the --

18 Q. When Minor 1 told about what happened to her,
19 that was -- what happened right when that revelation
20 took place?

21 A. What happened? A big fight broke out and I
22 took off to the neighbor's house with my younger
23 siblings. And when I got back, my mother asked me
24 if he touched me too. And I tried to play it off
25 that he didn't, but then she kept asking me and I

1 couldn't -- I had to tell her because -- because he
2 did.

3 Q. Okay. Do you have any pets?

4 A. Yes.

5 Q. What do you have?

6 A. I have rabbits and cats.

7 Q. Do you have a dog?

8 A. Yes.

9 Q. Okay. And those are your pets; is that
10 correct?

11 A. Family pets, really.

12 Q. Okay. Now, when your father was losing his
13 toes and his feet, did you help take care of him?

14 A. No.

15 Q. No --

16 MR. SHEALY: May I have just a moment, Your
17 Honor?

18 BY MR. SHEALY:

19 Q. And these two times that this occurred, are
20 those the only two times you recall?

21 A. Can you repeat that?

22 Q. Are these the only two times that you recall,
23 the master bedroom and the couch?

24 A. Yes, that's the only two times.

25 Q. That that ever happened to you?

1 A. No. It's happened before, that's just the only
2 two times that I remember that much.

3 MR. SHEALY: Thank you, Your Honor. That's all
4 I have.

5 REDIRECT EXAMINATION

6 BY MS. MAYES:

7 Q. And just to clarify, those are the only two
8 times you recall at what address or location?

9 A.

10 Q. And that's the residence here in Lexington
11 County.

12 Okay. Mr. Shealy was asking you about when you
13 spoke in the forensic interview and you said the
14 last time in the master bedroom, that it wasn't
15 sexual. What did you mean by that?

16 A. That he didn't touch me in inappropriate
17 places, he just tried to grab me and get me on the
18 bed.

19 Q. All right. And what stopped it from becoming
20 sexual?

21 A. I got away.

22 MS. MAYES: Nothing further.

23 THE COURT: You may step down.

24 Madam forelady, ladies and gentlemen, we're
25 going to go ahead and break now for today. I have

1 about another 45 minutes with the lawyers on
2 something I have to do outside of your presence.

3 I have a 9:30 in the morning that will probably
4 take us at least 15 or 20 minutes. We've got a
5 posttrial motion in a case that's going to starting
6 at 9:30. So why don't we start our trial at 10:00?
7 I don't want you to wait on us to finish that up.
8 We'll start at 10:00 in the morning. Please don't
9 discuss the case, don't let anyone discuss it with
10 you, don't start any deliberations. I'll see you in
11 the morning at 10:00. Everybody have a pleasant
12 evening.

13 (The jury exits the courtroom at 4:37 PM.)

14 THE COURT: Let's use this next 25 or 30
15 minutes for the proffer, please.

16 MS. MAYES: Yes, sir, Your Honor. The State
17 calls Minor 3

18 Minor 3

19 being first duly sworn, testified as follows:

20 THE WITNESS: Yes.

21 THE CLERK: Once you're seated, speak up loud
22 and clear and state your full name and spell your
23 last.

24 THE WITNESS: Minor 3 , Minor 3
25

1 EXAMINATION

2 BY MS. MAYES:

3 Q. Minor³, how old are you today?

4 A. Fourteen.

5 Q. You're 14. Okay. And what county is it that
6 you currently live in?

7 A. Cassatt.

8 Q. Okay. Cassatt. And you live in a town called
9 Cassatt; is that right?

10 A. Yes.

11 Q. Okay. I'm going to show you a picture and ask
12 you whether or not you recognize the house in that
13 picture.

14 A. Yes.

15 Q. State's Exhibit 7. Which house is that?

16 A. -- -- no. That's the current house we
17 live in.

18 THE COURT: I can't hear her.

19 Q. What I'm going to need you to do, Minor³, is --
20 we'll move this so that it comes really close to
21 your mouth. And maybe lean into it so that way the
22 Judge can hear everything you're saying. Okay?

23 A. That's the house we live in now.

24 Q. This is the house you live in now?

25 A. Yes.

1 Q. In the town called Cassatt?

2 A. Yes.

3 Q. That's State's Exhibit 7.

4 Now I'm going to show you what's State's
5 Exhibit 8.

6 A. That's the apartment.

7 Q. Have you ever lived in that place?

8 A. Yes.

9 Q. You called it the apartment?

10 A. Yeah.

11 Q. Okay. Now, there's been some
12 testimony in this case about

13 And you might have been little, but do you know
14 whether or not you ever lived in that house with
15 your family?

16 A. Yes.

17 Q. The house that's shown in that picture right
18 there?

19 A. Yes.

20 Q. Okay. So 8 and 7, the house in Cassatt and
21 that apartment in , did you live there
22 before or after ?

23 A. That one after, and then -- both after, I
24 think. I don't remember.

25 Q. All right. But you remember living in these

1 places?

2 A. Yes.

3 Q. Minor 3, when you lived here at

4 , who all lived in that house with you?

5 A. Everyone except Minor 1 .

6 Q. Okay. That's your oldest sister?

7 A. Uh-huh.

8 Q. And when you say everyone, how is it that you

9 know the defendant in this case, Mr. Kreis?

10 A. That's my father.

11 Q. All right. And did he live there too?

12 A. Yes.

13 Q. All right. Now, when you lived at this house,

14 has he ever been to this house?

15 A. Yes.

16 Q. When would he come to this house?

17 A. On occasions, I don't know, like weekends.

18 Q. Okay.

19 THE COURT: And that's number 7?

20 MS. MAYES: Yes.

21 Q. When he would come to the house in Cassatt, can

22 you tell us whether or not he was ever alone with

23 you?

24 A. Yes.

25 Q. So I'm going to ask you now, Minor 3, what grade

1 are you in right now?

2 A. 8th.

3 Q. You're in 8th grade and you're 14. I'll take
4 you back to when you were 12. And when you were 12
5 and living at that house in Cassatt, did you ever
6 have a time to tell your mom about something that
7 had happened with your father?

8 A. No.

9 Q. And by that, I mean -- who is the first -- has
10 anything ever happened with your father?

11 A. Yes.

12 Q. That made you uncomfortable?

13 A. Yes.

14 Q. What are the place or places you remember
15 something happening that made you feel
16 uncomfortable?

17 A. That house and the apartment.

18 Q. Okay. The apartment I showed you in the
19 picture, ?

20 A. Yes.

21 Q. And then that house meaning the house where?

22 A. At Cassatt.

23 Q. Okay. Who is the first person that you told
24 that something happened?

25 A. My mom.

1 Q. All right. And after you talked to your mom,
2 can you tell us whether or not you talked to the
3 police?

4 A. Yes.

5 Q. And what about a lady who did an interview with
6 you where it was just you and her in the room?

7 A. Yes.

8 Q. ^{Minor 3}, what is it that happened that made you
9 feel uncomfortable?

10 A. We were up on the bed together and all the
11 sudden, the movie was over, the Wizard of Oz, and he
12 tried to grab me up onto the bed, like, next to him,
13 next to him, and he starts touching me.

14 Q. Okay. Was that on your clothing or underneath
15 your clothing?

16 A. Underneath.

17 Q. All right. And what part or parts of your body
18 did he touch?

19 A. My lower part.

20 Q. Okay. And what part or parts of his body did
21 he use to touch you with?

22 A. His hand.

23 THE COURT: His what?

24 THE WITNESS: His hand.

25 Q. And where do you remember that happening at?

1 A. At the house now.

2 Q. Okay. In Cassatt. ^{Minor 3}, when you said lower
3 part, do you see the part you're talking about on
4 this?

5 A. Yes.

6 Q. Okay. I'm going to ask you, if you can, to
7 point to the part on this diagram, the front and the
8 back of the girl.

9 A. (Indicating.)

10 Q. All right. And, again, point for the record so
11 that this lady right here can see you.

12 A. (Indicating.)

13 Q. All right. And when you said under your
14 clothes, what part or parts of your body did he
15 touch under your clothes?

16 A. (Indicating.)

17 Q. Okay. So when you say lower part, you're
18 referring to the private part of the girl?

19 A. Yes.

20 Q. And you said he used his hand to touch you
21 there?

22 A. Uh-huh.

23 THE COURT: Yes or no?

24 THE WITNESS: Yes.

25 THE COURT: Thank you.

1 BY MS. MAYES:

2 Q. You said that y'all were in bed and you had
3 been watching a movie. What movie do you remember
4 watching?

5 A. The Wizard of Oz.

6 Q. Okay. And was anyone else in the room with you
7 and your father?

8 A. Yes.

9 Q. Do you know if anyone else has ever seen
10 anything happen?

11 A. I didn't know at first. But, yes, now I know.

12 Q. Okay. Where were you when someone else saw
13 something happen?

14 A.

15 Q. Okay. I want to back up to what you said about
16 the Wizard of Oz. Did anyone else see your father
17 touch your private part on that occasion?

18 A. No not that I know of.

19 Q. Okay. You said at , which is what's
20 in this photo number 8, that you think somebody saw
21 something.

22 A. E.K.

23 Q. Who is E.K. ?

24 A. My brother.

25 Q. Okay. What was happening that you think E.K.

1 saw something?

2 A. We were in the room together and he was
3 touching my lower area and --

4 Q. When you say he, you're talking about who?

5 A. Chip.

6 Q. And you say Chip, but you're referring to the
7 defendant, August Kreis?

8 A. Yes.

9 Q. And when you say lower area, again, is that a
10 different area than you showed us before or the same
11 area?

12 A. The same.

13 Q. Okay.

14 A. That's what I mean by lower area.

15 Q. Okay. And where were y'all at at the
16 apartment when he did that?

17 A. Up in the master bedroom, his bedroom.

18 Q. What you call his bedroom, meaning the
19 defendant's bedroom?

20 A. Yes.

21 Q. Was anyone else in there at first?

22 A. No.

23 Q. Okay. And what, if anything, was happening
24 when he, as you said, touched your lower part?

25 A. What do you mean?

1 Q. Okay. What were y'all doing in the bedroom?

2 Was anything going on?

3 A. No.

4 Q. Okay. Do you know if the television was on or
5 anything like that?

6 A. Oh, yeah. He had his phone and he was showing
7 me, like -- like you said, it was -- you didn't see
8 anything up on his phone, so it had to be a movie or
9 something.

10 Q. Okay. Did you look at the phone for a long
11 time?

12 A. No.

13 Q. All together, how long do you think you looked
14 at his phone?

15 A. Like probably about a second.

16 Q. Okay. Now, when you were in there with the
17 defendant, what happened? What happened that made
18 you think E.K. saw something?

19 A. He came in the room.

20 Q. How did he get in the room?

21 A. He opened the door.

22 Q. Okay. What did you do when E.K. walked in?

23 A. I didn't do anything. He, like, stopped.

24 Q. Okay. When you say he stopped, again, I got to
25 ask --

- 1 A. Yes.
- 2 Q. -- you, who is he?
- 3 A. My father.
- 4 Q. Your father stopped. Okay. Stopped doing
- 5 what?
- 6 A. Like, touching me and everything. He just
- 7 stopped.
- 8 Q. Okay. When E.K. walked in?
- 9 A. Yes.
- 10 Q. Okay. How did that make you feel?
- 11 A. What do you mean? Whenever E.K. came in?
- 12 Q. Yes.
- 13 A. I don't know. Nervous.
- 14 Q. ^{Minor 3}, has that happened one time or more than
- 15 one time?
- 16 A. More than one.
- 17 Q. Okay. What about when you were living at
- 18 ? Was it one time or more than one?
- 19 A. More than one.
- 20 Q. What about at the house in Cassatt that you
- 21 told us about with the Wizard of Oz movie?
- 22 A. Once.
- 23 Q. Okay. And that's the time you told us about
- 24 with the Wizard of Oz movie?
- 25 A. Yes.

1 Q. So you've told us about him touching your lower
2 part with his hand. Can you tell us whether or not
3 he has ever tried to touch your body with another
4 part of his body? Do you understand my question?

5 A. Not really.

6 Q. Okay. Has he ever tried to do anything else?

7 A. Yes. He's tried to make me -- man...

8 Q. Just take your time.

9 A. Put my mouth on his thing.

10 Q. Okay. And when you say on his thing, you're
11 talking about what part of his body? Do you see it
12 on this diagram that I'm going to show you of a man?
13 And look at the front of the man and the back of the
14 man. Where would it be?

15 A. On that (indicating).

16 Q. Okay. Can you point so --

17 A. (Indicating.)

18 Q. Okay. So that's the part you're talking about
19 when you said thing?

20 A. Yes.

21 Q. Okay. And how did you react to that, Minor 3?

22 A. I rolled over. I didn't open my mouth.

23 Q. Okay. Was he able to do that?

24 A. No.

25 Q. And can you tell us whether or not he's ever

1 taken your hand and make your hand touch him
2 somewhere?

3 A. He's tried to, but I wouldn't let that happen.

4 Q. Okay. What part did he try to make your hand
5 touch?

6 A. His lower area that --

7 Q. That you showed us on the diagram?

8 A. Yes.

9 Q. When that was going on, did you tell your mommy
10 about it?

11 A. No.

12 Q. Why or why not?

13 A. Because he was the one in charge. He was
14 paying everything. And -- yeah.

15 Q. When you said he paid everything, do you know
16 who paid your rent that --

17 A. Him.

18 Q. -- allowed you to live at that apartment?

19 A. Him.

20 Q. And you knew that?

21 A. Yes.

22 Q. When you say he was in charge, has he been in
23 charge your whole life?

24 A. Yeah.

25 Q. So, ^{Minor 3}, how old were you when all of this

1 came out and you finally told when you were at that
2 house in Cassatt?

3 A. Probably 11.

4 Q. Okay. Do you know if you might have been 12?

5 A. I might have been. I'm not for sure.

6 Q. Okay. You think you were 11 or 12?

7 A. Yeah.

8 Q. Okay. But it was about two years ago, does
9 that sound right --

10 A. Yes.

11 Q. -- that it all came out?

12 And what was it that made you tell?

13 A. The fight between J.K. and Minor 1 and all them.

14 Q. Were you there when that happened?

15 A. No. I was at my grandma's.

16 Q. When you came back from your grandma's, did
17 someone ask you?

18 A. Yes.

19 Q. And who asked you?

20 A. Mom.

21 Q. And she asked you what?

22 A. Did that ever happen.

23 Q. And what did you say?

24 A. Yes.

25 Q. How did you feel about telling your mom?

1 A. Sad. I cried.

2 Q. If your mom wouldn't have asked you, do you
3 think you would have told her?

4 A. No.

5 MS. MAYES: I beg the Court's indulgence.

6 Your Honor, I believe that's all from this
7 witness at this time on this pretrial matter.

8 THE COURT: Any questions you want to ask on
9 the proffer?

10 MR. SHEALY: No, Your Honor.

11 THE COURT: Thank you. You may step down.

12 MS. MAYES: State calls E.K. . He's in
13 the sequestration room.

14 E.K.

15 being first duly sworn, testified as follows:

16 THE WITNESS: Yes.

17 THE CLERK: Have a seat, please. Once you're
18 seated, state your full name, spelling your last.

19 EXAMINATION

20 BY MS. MAYES:

21 Q. What's your full name?

22 A. E.K.

23 Q. And what's your nickname that you go by?

24 A. E.K.

25 Q. And how old are you right now?

1 A. Twelve.

2 Q. All right. I'm going to show you, E.K., a
3 picture. What is State's Exhibit 8? Have you ever
4 seen that place before?

5 A. Yes.

6 Q. What is that place?

7 A. The apartment that we used to live in.

8 Q. Okay. That's an apartment that you used to live
9 in. And can you tell us whether your -- all your
10 sisters lived there except Minor 1 ?

11 A. Yes.

12 Q. What about your mom?

13 A. (Nods head.)

14 Q. And the reason we need you to give an answer
15 with your mouth is, this lady types down everything
16 that's said. Did your mom live there too?

17 A. Yes.

18 Q. What about your father, August Kreis?

19 A. He -- yes.

20 Q. Okay. And what about all of your brothers?

21 A. Yes.

22 Q. Okay. So that house, is it one floor or more
23 than one floor?

24 A. Two.

25 Q. Two floors. Okay. What was on the second

1 floor that you remember?

2 A. The master bedroom.

3 Q. Okay. Who stayed in that master bedroom?

4 A. My dad.

5 Q. Okay. E.K., when y'all were living at this
6 house or this apartment, did anything -- did you
7 ever see anything in the master bedroom that seemed
8 unusual?

9 A. Yes.

10 Q. What was that?

11 A. When I walked in, my dad and my sister was on
12 the bed.

13 Q. All right. And when you said when you walked
14 in, how did you get to the master bedroom?

15 A. Walked up the stairs.

16 Q. Okay. And who was in the master bedroom?

17 A. My dad and ^{Minor 3}.

18 Q. Okay. And when you said my sister, you're
19 talking about your sister ^{Minor 3}?

20 A. Yes.

21 Q. Is ^{Minor 3} older than you or younger than you?

22 A. Older.

23 Q. Tell us about when they were on the bed. Did
24 they have anything over them?

25 A. A blanket.

1 Q. All right. What did you see happening with the
2 blanket?

3 A. Moving.

4 Q. All right. Who did you see moving under the
5 blanket?

6 A. It was covered up.

7 Q. Okay. What could you see moving?

8 A. I don't know.

9 Q. All right. When you said moving, what did you
10 mean by that?

11 A. Like, the blanket was just moving.

12 Q. Okay. And when you walked in, what, if
13 anything, happened next? Do you understand that
14 question?

15 A. (Shakes head.)

16 Q. Okay. Let me ask you this way: You walk in
17 and you see a blanket, and you can see moving under
18 the blanket. Who is under the blanket?

19 A. My dad and ^{Minor 3}.

20 Q. All right. And then what happened?

21 A. I walked back out of the room.

22 Q. Why did you do that?

23 A. Because something was strange.

24 THE COURT: Because why?

25 THE WITNESS: Something was strange.

1 THE COURT: What do you mean by that?

2 THE WITNESS: Like, not right.

3 BY MS. MAYES:

4 Q. Did that seem strange or unusual to you to see
5 your dad and ^{Minor 3} with someone moving under the
6 blanket?

7 A. Yes.

8 Q. Do you know if the moving ever stopped?

9 A. No.

10 Q. Okay. And was anyone else in the room other
11 than the two of them?

12 A. No.

13 Q. Okay. And you said you left the room?

14 A. Yes.

15 Q. Did you tell your mom about what you saw?

16 A. Yes.

17 Q. Do you remember what -- when it was that you
18 told your mom or what made you tell your mom?

19 A. That it was, like, not right?

20 Q. Yes.

21 Do you remember talking to a lady at a place
22 where you got an interview?

23 A. Yes.

24 Q. And it was only that lady and you?

25 A. Yes.

1 Q. Did you tell that lady what you saw?

2 A. Yes.

3 Q. And from all the houses that you lived in,
4 E.K. , your whole life, which house or place or
5 apartment was this? Does that question make sense
6 to you?

7 A. (Shakes head.)

8 Q. Okay. Where was it y'all were living when this
9 happened?

10 A. The apartment.

11 Q. Okay. And when you say the apartment, you mean
12 which one?

13 THE COURT: Does it have a name?

14 THE WITNESS: I don't know the name.

15 THE COURT: Is it the same apartment in the
16 picture you just saw, number 8?

17 THE WITNESS: Yes.

18 MS. MAYES: Nothing further, Your Honor.

19 THE COURT: Mr. Shealy, anything you want to
20 ask him on the proffer?

21 MR. SHEALY: No, Your Honor.

22 THE COURT: All right. Young man, you may step
23 down. Thank you.

24 Any additional witnesses on the proffer?

25 MS. MAYES: No, Your Honor.

1 THE COURT: Mr. Shealy, do you want to reserve
2 your argument until the morning so you can have a
3 chance to digest what was said and review the cases?

4 MR. SHEALY: Please, Your Honor.

5 THE COURT: All right. I'll allow that. We'll
6 do that at 9:15 AM. Be here at 9:15 to do that
7 argument.

8 Anything for the record before we break for the
9 evening?

10 MS. MAYES: No, sir, Your Honor.

11 THE COURT: Mr. Shealy, anything for the record
12 before we break?

13 MR. SHEALY: No, nothing for the record.

14 THE COURT: Mr. Kreis, they've got
15 arrangements, as we've heard. I hope things will
16 accommodate your needs tonight.

17 All right. We'll stand at ease until 9:15 in
18 the morning.

19 (Court in recess for the evening at 5:02 PM.)

20 THE COURT: Good morning, E.K.

21 THE DEFENDANT: Good morning.

22 THE COURT: All right. What we have left this
23 morning is the ruling on the proffered testimony
24 yesterday of Minor³ and E.K. I've
25 received the memo from the State in support of

1 these -- introduction of this evidence under Rule
2 404(b), Lyle, subject to a 403 analysis. I've read
3 the cases that were submitted to me, including State
4 vs. Carl Wallace, which I think is probably the one
5 that's probably -- 2009 case. And it's a recitation
6 of all the other cases dealing with the similar type
7 requests. So I know what the State's position is.

8 Mr. Shealy, any argument in connection with
9 this?

10 MR. SHEALY: Your Honor, prior to starting my
11 argument, I'd like to put it on the record that my
12 client has asked me not to contest the children
13 testifying.

14 THE COURT: Not to contest it?

15 MR. SHEALY: Yes, Your Honor. But I'm the
16 attorney here, and I feel that --

17 THE COURT: Let me just hang tight.

18 Mr. Kreis, good morning. You heard yesterday,
19 late in the afternoon, what we call proffered
20 testimony, which means testimony outside the
21 presence of the jury, offering evidence that's
22 alleged events that occurred which are not part of
23 the three indictments here; i.e., the testimony of
24 your daughter who alleges that she had some
25 inappropriate involvement with you in the house of

1 Cassatt and the apartment at _____ , and your
2 son E.K. who allegedly saw some untoward activities
3 under the bedsheets or bed covering in the
4 _____ apartment.

5 Obviously, that's not facts that are the basis
6 for the three indictments that you're being charged
7 it, but they're being offered under certain rules
8 that if I make certain findings that show what we
9 call -- the law calls a common scheme or plan,
10 actions of prior bad acts or other prior bad acts,
11 you understand where all of this is going and what
12 that means?

13 THE DEFENDANT: Yes, Mr. Early.

14 THE COURT: And understanding that, sir, you
15 have no objection to that coming in?

16 THE DEFENDANT: No, I don't.

17 THE COURT: You understand that it could be
18 prejudicial towards you if the jury believes it?

19 THE DEFENDANT: I don't care. I'd rather have
20 it all come out now.

21 THE COURT: I understand.

22 Mr. Shealy?

23 MR. SHEALY: Your Honor, just for my protection
24 on the record, I'd like it to go on record that I
25 disagree with that decision, and that I'm prepared

1 to continue to argue --

2 THE COURT: Well, why don't you put your
3 argument on the record?

4 MR. SHEALY: Thank you, Your Honor.

5 Your Honor, the basis of Lyle is that it's got
6 to be a prior bad act. The cases that I've
7 researched use the term prior bad act and the
8 context of the cases deal with acts that happened
9 before the alleged crimes, the alleged allegations.
10 The -- and they're used, just as you pointed out, to
11 show scheme, plan, intent, lack of mistake or
12 accident. But the act has to be prior, to show
13 these things in a later incident.

14 Here, the acts are subsequent to the charge of
15 misconduct, not prior to. And they do not fall
16 under Lyle or 404. Remember, this is a rule of
17 exclusion, not inclusion. The State argues that
18 prior means before trial. If that was true, Your
19 Honor, then there would be no need to use the word
20 prior because the only acts they could talk about
21 would be acts that took place prior to trial. So
22 there has to be some significance to the word prior.

23 Your Honor, as to the specific allegation s,
24 first, I'd like to talk about the incident on the
25 bed, E.K. 's testimony and that portion of ^{Minor 3} 's

1 testimony that dealt with the blanket on the bed.
2 Your Honor, we'd submit that's factually dissimilar.
3 Here we have a bed -- laying on the bed, they're
4 covered by a blanket, it's happening when someone
5 else is in the house, and it's not late at night, no
6 one is asleep, or at least there's no testimony that
7 everybody was asleep. All of the other testimony in
8 the prior two crimes were totally dissimilar. In
9 those, either no one was at home or it was late at
10 night and everyone was asleep, and that there were
11 measures taken that nobody could walk in.

12 So, Your Honor, I believe the crux of the Lyle
13 principle is that the facts have to be similar. And
14 the courts, particularly the Supreme Court, are
15 very, very strict on the similarity of the
16 incidents.

17 Your Honor, as to the incident that happened as
18 they watched The Wizard of Oz, it's also dissimilar.
19 Once again, they're on the bed, this time they're
20 watching a movie. There's no movie in the
21 allegations against August. They -- she alleged --
22 and, Your Honor, this is my notes. And I want you
23 to rely on your recollection of the testimony as
24 making your decision. But my notes and my
25 recollection is that she testified someone was there

1 with them, that that person -- I think it was one of
2 her brothers, but that person didn't see him grab
3 her, the -- her lower extremity with her [sic]
4 hands. Your Honor, once again, that's dissimilar to
5 what the allegations are against my client.

6 For those reasons, Your Honor, we'd submit that
7 this is not admissible under Lyle or 404. Thank
8 you, Your Honor.

9 THE COURT: Ms. Mayes?

10 MS. MAYES: Yes, sir, Your Honor. The Court
11 has admitted both prior acts and subsequent bad acts
12 on multiple occasions, Your Honor. There is --
13 there are numerous cases where that has been upheld,
14 and I'm going to go ahead and submit those cases to
15 the Court. I provided these earlier this morning to
16 Mr. Shealy.

17 Most recently, Your Honor, is State vs.
18 Barry -- that's a 2015 case that just came out this
19 June -- which supported the admission of both prior
20 and subsequent bad acts in a criminal sexual conduct
21 prosecution. Also, one of the prevailing cases is
22 State v. Weaverling from 1999, and State v. Taylor
23 from 2011. And then, Your Honor, among the cases
24 that were passed up to you yesterday is State v.
25 McClellan. State v. McClellan is also a prevailing

1 case that supported the admission of subsequent bad
2 acts in addition to prior bad acts to show an
3 ongoing course of conduct. And that's really what
4 we're dealing with here. It is a common scheme or
5 plan, and that proceeds on past the prior bad acts
6 to include subsequent bad acts.

7 On the topic of 404(b), Your Honor, the first
8 criteria for admissibility would be that the crimes
9 are substantially similar. Mr. Shealy points out,
10 well, in one of these cases, the child was watching
11 a Wizard of Oz movie. Your Honor, I can't imagine
12 any scenario where every possible single detail is
13 the same. And that's not the requirement of the
14 court in admitting common scheme or plan evidence.
15 It's certainly never going to be absolutely
16 identical.

17 But what we know are similarities are that all
18 three girls are the biological daughters of August
19 Kreis; as a result, he shared the same relationship
20 with all three girls them. He had access to them in
21 the family home as a result of that relationship,
22 and he abused his parental role and authority in
23 each of these cases by carrying out these planned
24 sexual assaults against his three daughters.

25 Your Honor, specifically, all three girls were

1 what we would classify as preadolescent or early
2 adolescent during this timeframe. All of them
3 report assaults during the timeframe of 11 and 12,
4 including Minor 3. Your Honor, as stated
5 previously, all of them were assaulted in the family
6 home, but specifically in the master bedroom.

7 When Minor 1 testified about the various
8 locations in the home in which she was assaulted,
9 she included the living room and master bedroom.
10 Minor 2 testified that there was an attempted assault
11 in the master bedroom at which she resisted and was
12 able to get away from the defendant. And, finally,
13 Minor 3 reported an assault in the master
14 bedroom.

15 Your Honor, all of the victims report that
16 there was vaginal touching, unwanted vaginal
17 touching. And perhaps most significantly, all three
18 victims have reported fellatio or attempted
19 fellatio, which is a very specific type of assault
20 that clearly was part of the defendant's common
21 scheme or plan in this case to carry out these
22 sexual assaults against his three daughters
23 including both prior bad acts or subsequent bad acts
24 as they pertain to Minor 3.

25 Your Honor, the second criteria would be that

1 it's clear and convincing. There was testimony by
2 Minor 3 . We know that there are pending charges in
3 both Richland and Kershaw County as a result of her
4 disclosures. We also know that that crime was
5 witnessed or at least partially witnessed by her
6 brother E.K. who received a forensic interview and
7 reported that he had witnessed this event. His
8 testimony corroborated what took Minor 3 reported
9 what took place in the master bedroom when she was
10 alone with the defendant. E.K. reported that he
11 saw them underneath the blanket, that he saw
12 movement underneath the blanket, that it just didn't
13 look right. It didn't strange, were his words,
14 enough to make him turn around and leave the room.

15 And, Your Honor, finally, as to probative value
16 outweighing prejudicial effect, here there's no
17 physical evidence in this case, there's no medical
18 evidence, there's no forensic evidence. It's a case
19 that simply comes down to the testimony of these
20 three children who -- at least they were children at
21 the time, who all experienced nearly identical
22 assaults by the father in the family home.

23 And, Your Honor, the supporting evidence would
24 be a letter that the defendant wrote in which he
25 apologized for harming his daughters or harming his

1 children. And what is significant is he wrote that
2 letter while at the Alvin S. Glenn Detention Center
3 where he was being detained for his Richland County
4 charges. So it all ties together, and that makes
5 Minor3 's testimony even more probative to the
6 State's case.

7 THE COURT: Anything in response, Mr. Shealy?

8 MR. SHEALY: Yes, Your Honor. First off, I
9 neglected to mention the prejudicial value
10 outweighing the probative value. The Solicitor
11 spoke to that, but I'd like to go on record that I
12 raise that issue. And we believe this third young
13 girl with substantially different facts, to admit
14 all that, along with the son, the prejudicial value
15 there would outweigh any probative value.

16 But, also, Your Honor, I'd like to distinguish
17 State v. Barry. It appears, from my reading of
18 State v. Barry, is that the subsequent -- so-called
19 subsequent bad acts involve the same victim. And
20 all it did -- the activity went beyond the dates of
21 the indictment, but that it was a single course
22 of -- single relationship with the same person over
23 a period of time. I think that would distinguish
24 Barry. Thank you, Your Honor.

25 Your Honor, my client also wishes to comment.

1 THE COURT: Yes, sir.

2 THE DEFENDANT: I'd like to know why they
3 weren't taken to a medical doctor. I mean, when
4 something like this -- what I'm being accused, why
5 didn't they have them examined? I mean, that I'm
6 really fit to be tied about.

7 THE COURT: I understand that. I cannot answer
8 that. Obviously, I'm the Judge; I don't control the
9 prosecution or the development of the case or the
10 investigation that goes on. I cannot answer that.
11 I don't know.

12 THE DEFENDANT: Well, I mean, to me, all the
13 rest of this forensic stuff, I mean, that's a
14 pseudoscience; it's not even real.

15 THE COURT: I understand.

16 THE DEFENDANT: You know, so trying to accuse
17 me with words, that's all this is. So I'm going to
18 protect myself with the jury with my words. And I'm
19 going to say what I want to say to that jury.

20 THE COURT: And, obviously, at the conclusion
21 of the State's case, you will have to opportunity to
22 do one of two things; you can exercise your
23 constitutional right to remain silent, and I'll
24 explain that right to you, or, obviously, you have
25 the absolute right to take that witness stand and

1 tell your side of the story.

2 THE DEFENDANT: Okay.

3 THE COURT: That comes at the conclusion of the
4 State's case. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Okay.

7 All right. Obviously, when a question comes
8 before the Court to have evidence of other bad acts
9 introduced which are not part of the facts
10 surrounding the indictment itself, the analysis
11 begins with the consideration under Rule 401 as to
12 whether or not the evidence is relevant. And I find
13 that the evidence is relevant. Obviously, it goes
14 to the heart of the -- the facts surrounding the
15 allegations in the indictment.

16 Then, obviously, since it's bad acts that
17 aren't included in the indictment, I must determine
18 whether or not these bad acts or the evidence of bad
19 acts or alleged bad acts fits within an exception
20 under Rule 404(b) or, as often stated, under State
21 vs. Lyle. And in doing that, I have to find out
22 whether it's admitted as a common scheme or plan
23 under 404(b), and I must analyze that in determining
24 the similarities and dissimilarities between the
25 crimes charged in the indictments and the bad act

1 evidence to determine whether or not there's a close
2 degree of similarity. And when the similarities
3 outweigh the dissimilarities, our courts have held
4 that the bad act evidence is admissible under 404(b)
5 and/or Lyle.

6 Our courts have given -- appellate courts have
7 given the trial court certain factors that I must
8 look at in determining whether there's a close
9 degree of similarity between the bad act and the
10 crime charged; one is the age of the victims when
11 the abuse occurred, two is the relationship between
12 the victim and the perpetrator, three is the
13 location where the abuse occurred, four is the use
14 of coercion or threats, and five is the manner of
15 occurrence; in other words, the type of sexual
16 battery that was involved. And when there is a
17 close degree of similarity, obviously, between the
18 acts and the bad acts and the acts that are the
19 subject of the indictment, then they're admissible.

20 So what all I have to look at here is,
21 obviously, the age of the victims. They were all
22 close in age, they were young children at the time
23 it occurred. The relationship is the same, they
24 were all biological, natural children. The alleged
25 perpetrator is their dad. The location is all in

1 the home; different homes, but in the home where the
2 children lived. I don't think there's any evidence
3 of any coercion or threats other than -- no evidence
4 of threats. The manner of occurrence, all are
5 similar in that it was digital penetration,
6 attempted or forced fellatio, oral sex. The
7 children's descriptions were pretty much mirror
8 images of each other. So I find that the
9 similarities outweigh the dissimilarities, and that
10 the bad acts or the testimony of Minor3 and E.K.
11 E.K. should be admitted under a 403 analysis, which
12 is required.

13 Once I find that it is admissible, I find that
14 the probative value outweighs the prejudicial effect
15 in this case. As argued by the solicitor, this is a
16 case where we have no physical evidence, we have no
17 medical evidence, we have no forensic evidence. We
18 have, as we have in so many of these cases, it's a
19 he said/she said. The jury has to judge the
20 credibility of the witnesses who testify. And I
21 find that the probative value of Minor3 and E.K.
22 outweigh any prejudicial effect to the defendant.

23 And, even though this is not part of my
24 analysis, the defendant is -- has consented to the
25 testimony of Minor3 and E.K. He's advised me

1 that he wishes to take the witness stand. He
2 advises me he wishes, you know, the whole story come
3 out and tell his side, and wants any allegations
4 that Minor³ or E.K. may testify, he consents to
5 their testimony. So I'll allow the testimony with
6 that ruling.

7 All right. If y'all would step aside just a
8 second. Let me handle this other matter that was
9 scheduled at 9:30, and we'll start this case right
10 at 10:00.

11 (Brief pause in the proceedings.)

12 THE COURT: All right. Anything from the State
13 before we proceed?

14 MS. MAYES: Nothing further, Your Honor.

15 THE COURT: Mr. Shealy?

16 MR. SHEALY: Yes, Your Honor. My client has
17 elected to wear his jail clothes as opposed to the
18 street clothes. We've talked about it, I've advised
19 him how I felt about it. He appreciates that, but
20 he prefers to wear the jail clothes.

21 THE COURT: Is that correct, sir?

22 THE DEFENDANT: That's correct.

23 THE COURT: All right. Anything before we
24 bring the jury in?

25 MS. MAYES: Your Honor, I believe we're ready.

1 I just need to make sure all of the parties are
2 here.

3 Yes, sir, Your Honor.

4 THE COURT: All right.

5 (The jury enters the courtroom at 10:11 AM.)

6 THE COURT: Good morning.

7 THE JURY: Good morning.

8 THE COURT: Everybody have a pleasant rainy
9 evening?

10 THE JURY: Yes.

11 THE COURT: Ms. Mayes, you may call your next
12 witness.

13 MS. MAYES: The State calls Minor 3

14 Minor 3

15 being first duly sworn, testified as follows:

16 THE WITNESS: Yes.

17 THE CLERK: Have a seat. Once you're seated,
18 state your full name, spelling your last please,
19 please.

20 THE WITNESS: Minor 3 , Minor 3

21 DIRECT EXAMINATION

22 BY MS. MAYES:

23 Q. I'm going to scoot this kind of close to you.

24 And maybe keep your mouth about two inches away.

25 And, Minor 3 , we'll need to you speak up so that even

1 this last lady on the jury can hear you. Okay?

2 A. Okay.

3 Q. What is your full name?

4 A. Minor 3 , Minor 3 .

5 Q. And how old are you right now, Minor 3 ?

6 A. Fourteen.

7 Q. What grade are you in?

8 A. 8th.

9 Q. Minor 3 , how is it that you know the defendant in
10 this case?

11 A. He's my father.

12 Q. Okay. Now, yesterday there was some testimony
13 about all of your brothers and sisters. Do you see
14 your name up here?

15 A. Yes.

16 Q. Okay. And, Minor 3 , what is your date of birth?

17 A. , .

18 Q. All right. And, Minor 3 , there's a place here
19 called . You would have been
20 about four or five years old back then, but can you
21 tell us whether or not you remember living there?

22 A. Yes.

23 Q. Okay. Where did you go -- where do you
24 remember living the last two places that you've
25 lived?

1 A. The apartment, which is , and...

2 Q. Where do you live right now?

3 A. Cassatt, which is

4 Q. Okay. So right now you live at Cassatt. And

5 I'm going to show you a photograph and ask you

6 whether or not you recognize what's in the

7 photograph. And this one is marked State's Exhibit

8 7.

9 A. Yes.

10 Q. What is that place?

11 A. The house we live in now.

12 Q. Okay. The house you live in now. And this is

13 the house in Cassatt, South Carolina?

14 A. (Nods head.)

15 MS. MAYES: Your Honor, we'd offer this as

16 State's Exhibit 7.

17 THE COURT: Any objection?

18 MR. SHEALY: No objection, Your Honor.

19 (State's Exhibit No. 7 admitted in to

20 evidence.)

21 BY MS. MAYES:

22 Q. So this is the house that you live in now in

23 Cassatt. Do you know whether or not this is Kershaw

24 County?

25 A. Yes. I think so.

1 Q. Okay. And you said that there was also an
2 apartment. I'm going to show you what's marked
3 State's Exhibit 8.

4 A. That's . Yes.

5 Q. Okay. And is that a house or an apartment?

6 A. Apartment.

7 Q. Is that the apartment you used to live in, ?

8 A. Yes.

9 MS. MAYES: Your Honor, at this time we'd offer
10 State's Exhibit 8.

11 MR. SHEALY: No objection.

12 (State's Exhibit No. 8 admitted in to
13 evidence.)

14 BY MS. MAYES:

15 Q. Okay. So, Minor 3, this is the house you live in
16 now in Cassatt. And what place did you live right
17 before you lived in Cassatt?

18 A.

19 Q. This place, . And this
20 would be in Richland County; is that right?

21 A. Yeah.

22 Q. Okay. So you are now how old, 14?

23 A. Yes.

24 Q. Okay. I want to take you back, Minor 3, to around
25 two years ago when you were 12. All right? You

1 mentioned that the defendant is your father.

2 A. Yeah.

3 Q. Can you tell us whether or not he lived with
4 your family here at the ?

5 A. He did.

6 Q. Okay. And once you moved to Cassatt, who all
7 lived in the Cassatt house, the same house you live
8 in now?

9 A. My mom and siblings.

10 Q. Okay. What about your oldest sibling Minor 1 ?

11 A. No. She had her own.

12 Q. Okay. So it's all your other siblings and your
13 mom. Now, did your father ever come visit this
14 place?

15 A. Yes.

16 Q. Okay. And when he came to visit this place,
17 were you ever alone with him?

18 A. Yes.

19 Q. And you testified that your father lived here,
20 apartment?

21 A. Yes.

22 Q. Can you tell us whether or not you were ever
23 alone with him here?

24 A. Yes.

25 Q. Minor 3, has there ever been a time that something

1 made you feel uncomfortable?

2 A. Yes.

3 Q. Where did those things happen?

4 A. That apartment that you're showing me and the
5 house we live in now.

6 Q. Okay. So this place,
7 and this place, Cassatt?

8 A. Yes.

9 Q. Can you tell us what you recall happening that
10 made you feel uncomfortable? And I want to ask you
11 about the Cassatt place first.

12 A. I was in the master bedroom and we were
13 watching The Wizard of Oz. And once it was over, my
14 brothers and sisters left the room -- no. It was
15 just my brothers. And we -- I was on the floor
16 because my other brother was laying next to Chip.
17 And he pulled me up on the bed and then he touched
18 my lower area.

19 Q. All right. When you say he touched your lower
20 area, what part or parts of your body are you
21 talking about?

22 A. Hmm.

23 (State's Exhibit No. 15 marked for
24 identification.)

25 Q. All right. Let me ask you like this: Do you

1 see on this girl --

2 A. Yes.

3 Q. -- the part or parts that you're talking about
4 when you say lower area?

5 A. Yes.

6 Q. Okay. Can you use this to draw a circle and
7 tell us exactly what you mean?

8 A. (Witness complies.)

9 Q. Okay. And what part or parts of his body did
10 he use to touch you with?

11 A. His hand.

12 Q. Was that inside your clothing or outside your
13 clothing?

14 A. Inside.

15 Q. Was anybody else able to see what was happening
16 at that time?

17 A. No.

18 Q. And how did that make you feel?

19 A. Uncomfortable.

20 Q. Had anything happened before that time?

21 A. Yes.

22 Q. Where did that happen at?

23 A.

24 Q. Did something happen at one time or
25 more than one time?

1 A. More than once.

2 Q. Okay. I want to ask you about this
3 apartment --

4 THE COURT: Exhibit, please?

5 MS. MAYES: 8, Your Honor.

6 THE COURT: Are you going to introduce that
7 sketch?

8 MS. MAYES: Yes, sir, Your Honor. This would
9 be State's Exhibit 15 for evidence.

10 THE COURT: Any objection?

11 MR. SHEALY: No objection, Your Honor.

12 (State Exhibit No. 15 admitted in to evidence.)

13 BY MS. MAYES:

14 Q. This apartment, State's Exhibit 8, is it one
15 floor or more than one floor?

16 A. More than one.

17 Q. Okay. What floors does it have?

18 A. Upstairs and downstairs.

19 Q. Okay. Where do you remember something
20 happening here at the --

21 A. Master bedroom.

22 Q. Was that upstairs or downstairs?

23 A. Upstairs.

24 Q. And who stayed in the master bedroom?

25 A. Chip.

1 Q. When you say Chip, you're talking about who?

2 A. My father.

3 Q. The defendant. When you were in the -- let me
4 go back. So the master bedroom -- he stayed in the
5 master bedroom?

6 A. Yes.

7 Q. How did you get in the master bedroom?

8 A. I walked upstairs and opened the door.

9 Q. Okay. And what happened when you were up
10 there?

11 A. He grabbed me on to the bed and then he started
12 touching me.

13 Q. Okay. When you say that he started touching
14 you, let me ask you this: Was anyone else in the
15 room at that point when he first started touching
16 you?

17 A. No.

18 Q. And what part or parts of your body did he
19 touch that time?

20 A. The lower area where I said the other time.

21 Q. Okay. So looking at State's Exhibit 15, you
22 mean the same lower area?

23 A. Yes.

24 Q. Okay. Was that outside your clothing or inside
25 your clothing?

1 A. Inside.

2 Q. And what part or parts of his body was he using
3 to touch you there?

4 A. His hand.

5 Q. Okay. And what, if anything, happened while
6 this was going on?

7 A. What do you mean?

8 Q. Did anything happen or do you know whether or
9 not anybody might have seen anything?

10 A. Yes.

11 Q. Who was that person?

12 A. My second younger brother, E.K.

13 Q. Your second younger brother, E.K. And he's
14 the one that's on the list as being right below you?

15 A. Yes.

16 Q. What happened to cause E.K. to maybe see
17 something?

18 A. He walked in the door.

19 Q. Okay. And where were you at when E.K. walked
20 in?

21 A. On the bed.

22 Q. With who?

23 A. Chip, the defendant.

24 Q. Okay. And what was the defendant doing when
25 your younger brother E.K. walked in?

1 A. Touching me.

2 Q. Okay. How did it make you feel when E.K.
3 walked in?

4 A. Nervous.

5 Q. Why were you nervous?

6 A. Because he walked in.

7 Q. Up to that point, did anybody ever know that
8 anything had happened with your father?

9 A. No.

10 Q. Had you ever told your mom?

11 A. No.

12 Q. Why or why not?

13 A. Why? Because he was paying the bills and I
14 wondered what would happen to us after.

15 Q. Okay. Had you ever told either of your older
16 sisters, Minor 2 or Minor 1 ?

17 A. No.

18 Q. And I want to ask you -- you said that some
19 things happened more than one time at
20 What, if anything, can you tell us about whether or
21 not the defendant ever wanted you to touch him?

22 A. Yes, he did.

23 Q. How so?

24 A. What do you mean?

25 Q. What did he do to --

1 A. He yanked my hand out of my -- where -- he
2 yanked my hand and I yanked it back.

3 Q. Okay. When he yanked your hand, did he try to
4 put it anywhere?

5 A. Yes.

6 Q. Where did he try to put it?

7 A. His private spot.

8 Q. Okay. And has he ever tried to -- can you tell
9 us whether or not he's ever tried to touch you with
10 his private spot?

11 A. He tried to, but I didn't let that happen.

12 Q. Okay. Where did he try to touch you with
13 his --

14 A. In my private spot.

15 Q. Can you tell us whether or not he tried to do
16 anything else with his private spot, touch any other
17 part of your body?

18 A. My mouth.

19 Q. What did you do then?

20 A. I didn't let that happen.

21 (State's Exhibit No. 16 marked for
22 identification.)

23 Q. I'll show you a diagram of a man, and this is
24 front and back. Do you see, looking at this
25 diagram, what you mean when you say private spot?

1 A. Yes.

2 Q. Can you show us exactly where with this marker?

3 A. (Indicating.)

4 MS. MAYES: Your Honor, this would be State's
5 Exhibit 16 for evidence.

6 THE COURT: Any objection?

7 MR. SHEALY: No objection.

8 (State Exhibit No. 16 admitted in to evidence.)

9 BY MS. MAYES:

10 Q. ^{Minor 3}, you said that when he tried to touch your
11 mouth with his private spot, that you didn't let
12 that happen. How did you stop that?

13 A. I kept my mouth shut and I yanked away.

14 Q. Who was the first person that you ever told
15 about --

16 A. My mom.

17 Q. And what caused you to tell your mom?

18 A. An argument between my sister and mom and
19 everybody.

20 Q. Were you there when that argument happened?

21 A. No. I was at my grandma's.

22 Q. Okay. And what happened when you came home
23 from Grandma's?

24 A. My mom asked me and I said yes.

25 Q. Okay. Your mom asked you what?

1 A. If he ever did the stuff he did.

2 Q. Okay. And what made you tell her?

3 A. She said that Minor 1 had already said yes
4 and -- yeah. So I just said yes.

5 Q. Okay. And would you have told your mom if
6 Minor 1 hadn't told first?

7 A. No.

8 Q. Did you want anybody to know this was
9 happening?

10 A. No.

11 Q. Minor 3, after you told your mom, did you talk to
12 the police?

13 A. Yes.

14 Q. Okay. And did you go at any point to talk to a
15 lady where it was just you and her in the room?

16 A. Yes.

17 Q. And back then when you were 12, how did you
18 feel talking to strangers about it?

19 A. Uncomfortable.

20 Q. Have you had any contact with your father since
21 he was arrested?

22 A. No.

23 MS. MAYES: I beg the Court's indulgence.

24 BY MS. MAYES:

25 Q. When the time happened at in the

1 apartment and you said E.K. walked in, where were
2 you and your father at that point in time?

3 A. On the bed, underneath the covers.

4 MS. MAYES: Nothing further.

5 THE COURT: Mr. Shealy?

6 MR. SHEALY: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. SHEALY:

9 Q. Hey, ^{Minor}₃. How are you doing?

10 A. Good.

11 Q. You told the solicitor that you talked to the
12 police. Is that correct?

13 A. Yes.

14 Q. And did you write a written statement?

15 A. Yes.

16 Q. Okay. Did they give you all the time you
17 needed to write the statement?

18 A. Yeah, a good amount of time.

19 Q. Now, the -- did you need any more time to write
20 the statement?

21 A. No.

22 Q. Do you have a copy of your statement?

23 A. No.

24 Q. All right. I have a copy, but I got
25 highlighters on it. Would you like to see my copy?

1 A. No.

2 Q. Okay. Do you recall what you said in the
3 statement?

4 A. Yes.

5 Q. Okay. Now, you never mentioned him trying to
6 put his private parts in your mouth, did you?

7 A. I don't remember.

8 Q. Would you like to look?

9 A. (Nods head.) I don't think I did.

10 Q. Do you still want to look?

11 A. Yeah.

12 THE COURT: She said she didn't think she did.

13 Q. Done?

14 A. Yeah.

15 Q. Did you mention that?

16 A. No.

17 Q. Can I have it back, please? Thank you.

18 But your testimony is that he did and you
19 fought him off?

20 A. Yeah.

21 Q. And you were 12 years old?

22 A. Yeah.

23 Q. And he was determined to do this to you, and
24 yet you were able to fight him off?

25 A. Yeah.

1 Q. Okay. And how did you fight him off?

2 A. I was tossing and turning.

3 Q. And you were 12 years old when this happened?

4 A. Yes.

5 Q. And the -- you seem to be very concerned about
6 him paying the bills. Why is that?

7 A. Because my mom didn't have any money and he was
8 paying for everything.

9 Q. Okay. And Minor 1, what's your relationship
10 with Minor 1? I know she's your older sister. But
11 is she a leader?

12 A. Yes.

13 Q. You'd follow Minor 1, wouldn't you?

14 A. Yes.

15 Q. If she told you to do something, you would do
16 it?

17 A. No.

18 Q. Oh, you won't do it? So you won't follow her?

19 A. It depends on what it is.

20 Q. Well, do you listen to her?

21 A. Sometimes.

22 Q. Okay. But in this case, you weren't going to
23 tell anybody about what happened unless Minor 1
24 already told; is that correct?

25 A. Yes.

1 Q. So why is that one time that you would listen
2 to Minor 1 , but other times you won't?

3 A. Because this is serious.

4 Q. So on serious things, you would listen to
5 Minor 1 ?

6 A. Yes.

7 Q. Okay.

8 MR. SHEALY: If I may just have a moment, Your
9 Honor.

10 Thank you, Your Honor. That's all I have.

11 MS. MAYES: Yes, sir, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. Now, ^{Minor 3} , when Mr. Shealy was asking you about
15 the statement that you wrote, where were you at when
16 you wrote the statement?

17 A. My bedroom.

18 Q. Okay. And who asked you to write a statement?

19 A. My mom and...

20 Q. A police officer?

21 A. Yes.

22 Q. Okay. So how did you feel about -- what's the
23 most -- let me ask it this way: What's the most
24 embarrassing thing out of everything that happened?

25 A. That that's my father and he would do that.

1 Q. All right. Did you want to talk about what
2 happened when he tried to put it in your mouth?

3 A. No.

4 Q. Mr. Shealy was asking you about Minor 1 telling
5 first. How come you didn't decide to tell first?

6 A. Because I was not home.

7 Q. All right. And you said that you were away at
8 your grandma's?

9 A. Yes.

10 Q. And when you came back and your mom asked you
11 about it, was Minor 1 there or not there?

12 A. She wasn't there.

13 Q. Okay. And I know I asked you before, if
14 Minor 1 wouldn't have told, would you have told on
15 your own when you were 12?

16 A. No.

17 Q. How old do you think you would have had to be
18 before you felt brave enough to tell?

19 A. Probably this age.

20 MS. MAYES: Nothing further.

21 THE COURT: You may step down.

22 MR. SHEALY: Your Honor, may I have recross?

23 THE COURT: You may.

24 MR. SHEALY: Thank you, Your Honor.

25 RE CROSS-EXAMINATION

1 BY MR. SHEALY:

2 Q. You just said that you weren't there when
3 Minor 1 told. But if you had been there, you would
4 have told first; is that what you said?

5 A. No.

6 Q. So, in fact, you would not have told unless
7 Minor 1 would have told first?

8 A. Say that again.

9 Q. Your testimony is that you would not have told
10 about what happened to you, except for the fact that
11 Minor 1 told your mom.

12 A. Okay.

13 Q. Is that correct?

14 A. Yes.

15 Q. Okay. And you also said that you were away
16 when Minor 1 told, and yet if you had been there,
17 you would have told first. Do you remember saying
18 that?

19 A. Yes.

20 Q. So which one is true?

21 A. Well, both of them are true, because I didn't
22 have the courage to tell at that time, but now I do.

23 Q. Okay. But if you would have been there at the
24 time of the argument --

25 MS. MAYES: Objection, Your Honor; asked and

1 answered.

2 THE COURT: Overruled.

3 Go ahead.

4 BY MR. SHEALY:

5 Q. If you had been there at the time of the
6 argument, would you have waited for Minor 1 to tell
7 or would you have told first?

8 A. I would have waited and then I would have said
9 I did too.

10 Q. So you followed Minor 1 's lead on that
11 particular thing?

12 A. Yes.

13 MR. SHEALY: Thank you, Your Honor.

14 THE COURT: All right. You may step down.

15 Next witness, please, ma'am.

16 MS. MAYES: The State calls E.K.

17 E.K.

18 being first duly sworn, testified as follows:

19 THE WITNESS: Yes.

20 THE CLERK: Have a seat, please. Once you're
21 seated, state your full name, spelling your last.

22 THE WITNESS: E.K. , E.K.

23 DIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. Okay. And, E.K. , you talk pretty loud. I'll

1 scoot this forward just a little bit more, okay, and
2 maybe down just a little bit so it will catch your
3 voice.

4 And you said your full name is E.K. . What
5 nickname do you go by?

6 A. E.K. .

7 Q. How old are you now, E.K. ?

8 A. Twelve.

9 Q. And how is that you know the defendant in this
10 case? How do you know August Kreis?

11 A. Because he's my dad.

12 Q. Okay. E.K. , I'm going to show you a picture,
13 which is State's Exhibit 8, and ask you whether or
14 not you've ever seen this place before.

15 A. Yes.

16 Q. Where have you seen that place before?

17 A. We used to live in it.

18 Q. Okay. And is this a house or an apartment?

19 A. Apartment.

20 Q. And how many floors were on this apartment?

21 A. Two.

22 Q. All right. And what do you remember being on
23 the upstairs floor?

24 A. My dad and ^{Minor 3} was in the same room.

25 Q. Okay. And what room was that?

1 A. The master bedroom.

2 Q. Okay. And did your father live here with you
3 and your siblings?

4 A. Yes.

5 Q. What about your mom?

6 A. Yes.

7 Q. You said that your dad and ^{Minor 3} were in the
8 master bedroom?

9 A. Yes.

10 Q. How do you get to the master bedroom?

11 A. Go up the stairs.

12 Q. Okay. And what happened when you went up the
13 stairs?

14 A. I opened the door.

15 Q. Okay. And the door had been shut?

16 A. Yes.

17 Q. What did you see when you opened the door?

18 A. My dad and ^{Minor 3} was under the cover.

19 Q. Okay. Where at in the room?

20 A. On the bed.

21 Q. Was anybody else in the room other than your
22 dad and ^{Minor 3} ?

23 A. No.

24 Q. What did you see happening?

25 A. The blanket was moving.

1 Q. Okay. Who was underneath the blanket?

2 A. My dad and ^{Minor 3}.

3 Q. What did you do next?

4 A. I went downstairs and told my mom.

5 Q. You say you went downstairs. What caused you
6 to go downstairs?

7 A. Because something wasn't right.

8 Q. When you say something wasn't right, what do
9 you mean by that?

10 A. There was something wrong with that.

11 Q. Okay. Had you ever seen anything like that
12 before with your dad and ^{Minor 3} ?

13 A. No.

14 MS. MAYES: I beg the Court's indulgence.

15 Nothing further.

16 THE COURT: Mr. Shealy?

17 CROSS-EXAMINATION

18 BY MR. SHEALY:

19 Q. E.K., why was that not right?

20 A. That the blanket was moving.

21 Q. Okay. The -- you have your brother G.K.
22 He's older than you?

23 A. Yes.

24 Q. Okay. But it's not unusual for y'all to go up
25 in the master bedroom or any bedroom and get on the

1 bed and get under the covers and either sleep or
2 watch movies or things together, is it?

3 A. We do sometimes.

4 Q. All of you do that?

5 A. Yes.

6 Q. Okay. And sometimes y'all would tickle each
7 other and kid around and things like that; is that
8 correct?

9 A. Yes.

10 Q. Okay. And that wouldn't be unusual, would it?

11 A. No.

12 Q. And if that was going on under the covers, the
13 covers would be moving, wouldn't it?

14 A. Yes.

15 MR. SHEALY: Okay. Thank you, Your Honor.

16 Just a moment.

17 THE COURT: Redirect?

18 MS. MAYES: Yes, sir, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. MAYES:

21 Q. When you say that something didn't seem right,
22 let me ask you this: Had you ever seen anything
23 before that didn't seem right until that day?

24 A. Yes.

25 Q. What do you mean by that?

1 A. That it wasn't right.

2 Q. Okay. And whatever you saw that day --
3 whatever you saw that day made you think something
4 wasn't right. If you saw ^{Minor 3} and your dad playing
5 games or doing something normal, would you have left
6 the room?

7 A. No.

8 Q. But what you saw that day made you leave the
9 room?

10 A. Yes.

11 MS. MAYES: Nothing further.

12 THE COURT: All right. You can step down, son.
13 Next witness, please.

14 MS. MAYES: The State calls Sergeant Traci
15 Barr.

16 TRACI BARR

17 being first duly sworn, testified as follows:

18 THE WITNESS: I do.

19 THE CLERK: Have a seat, please. Once you're
20 seated, state your full name, spelling your last.

21 THE WITNESS: Traci, T-R-A-C-I, Barr, B-A-R-R.

22 DIRECT EXAMINATION

23 BY MS. MAYES:

24 Q. All right. And, Sergeant Barr, where are you
25 currently employed?

1 A. With the Lexington County Sheriff's Department.

2 Q. All right. In what capacity?

3 A. I'm a major crimes sergeant and I supervise the
4 special victims unit for the sheriff's department.

5 Q. All right. And you say the special victims
6 unit, what is that?

7 A. It's a specialized unit of detectives who
8 investigate child homicide, physical and sexual
9 abuse of children, elder abuse, and sexual
10 exploitation and child pornography cases.

11 Q. All right. And how long have you been involved
12 the investigation of child abuse and/or sexual
13 assault cases?

14 A. Roughly, 12 years.

15 Q. And can you tell us whether or not that
16 includes any specialized training?

17 A. Yes. Over the course of 12 years, I've
18 attended 21 specialized different training hosted by
19 various agencies; Department of Justice, FBI, Fox
20 Valley Technical College, things of that nature.

21 Q. All right. And can you tell us specifically,
22 as to the field of child abuse, sexual assault
23 investigation, does it require updated training and
24 specialized training?

25 A. It's always best practice. Yes.

1 Q. Okay. So I want to take you forward to this
2 investigation and ask you, specifically, how you
3 became involved in this case involving State vs.
4 August Kreis?

5 A. On January 21st, 2014, at the request of
6 Sergeant Lent, I assisted Detective Dykes with
7 interviewing two individuals who had come in to the
8 sheriff's department to file a report.

9 Q. Okay. And who were those two individuals?

10 A. Minor1 and Minor2

11 Q. And can you tell us, when you're conducting an
12 interview with witnesses or potential witnesses in a
13 sexual assault investigation, is anyone else
14 normally present in the room?

15 A. It's been my common practice over the past 15
16 years when conducting interviews to most often keep
17 everyone separate as to not taint their statements
18 or confuse statements.

19 THE COURT: Ma'am, pull that mic closer,
20 please.

21 THE WITNESS: Okay.

22 BY MS. MAYES:

23 Q. Please continue.

24 A. Like I said, it's my common practice to conduct
25 interviews separately with individuals one on one so

1 to avoid tainting any of that information.

2 Q. Can you tell us in this situation whether or
3 not Minor 1 was interviewed alone by yourself?

4 A. She was.

5 Q. Can you tell us whether or not Minor 2 was
6 interviewed alone by yourself?

7 A. She was.

8 Q. Now, specifically as to Minor 2 -- I'm
9 sorry. Let me back up. Specifically as to Minor 1
10 Minor 1, were you able to determine whether something
11 happened with her in one jurisdiction or more than
12 one jurisdiction?

13 A. Could you repeat that question?

14 Q. Were you able to determine whether this
15 involved one jurisdiction or more --

16 MR. SHEALY: Objection, Your Honor.

17 THE COURT: Hold on. What's the basis of the
18 objection?

19 MR. SHEALY: The basis is that it appears to be
20 hearsay.

21 THE COURT: Hearsay?

22 MR. SHEALY: Yes, sir, Your Honor. She's about
23 to relay as to what she was told.

24 MS. MAYES: This would be a time-and-place
25 exception, Your Honor, under Rule 801(d).

1 THE DEFENDANT: All right. I'll allow it.

2 BY MS. MAYES:

3 Q. I'm going -- let me rephrase it and ask you
4 like this. And this is a yes-or-no question:
5 During your investigation and interview of Minor 1
6 Minor 1, can you tell us whether or not she disclosed
7 sexual assault?

8 A. Yes.

9 Q. Can you tell us whether or not she was able to
10 provide a time or timeframe for this occurrence?

11 A. Yes.

12 Q. And, specifically, can you tell us whether or
13 not it involved Lexington County?

14 A. Yes, it did.

15 Q. Specifically, what, if anything -- did you make
16 notes regarding your interview with Minor 1 ?

17 A. I did.

18 Q. And what format were your notes developed into?

19 A. A supplemental report.

20 Q. Okay. Do you have a copy of that supplemental
21 report with you today?

22 A. Yes, I do.

23 Q. I'm going to ask you to refer to your
24 supplemental report.

25 A. Okay.

1 Q. And specifically what, if anything, did Minor 1
2 Minor 1 report to you concerning the time or timeframe
3 of events in Lexington County?

4 A. When I was speaking with Minor 1, she
5 indicated that this was something that occurred over
6 a period of time through multiple incidents.

7 Q. So this is an ongoing timeframe?

8 A. Yes, an ongoing situation. And I apologize for
9 having to refer back to my supplemental. I asked
10 her if she specifically remembered anything about
11 the last event. She stated that this was something
12 that occurred that in the Lexington
13 County jurisdiction, ongoing for about approximately
14 six years.

15 Q. And did she give you an approximate age range?

16 A. This was something that happened when she was
17 around 12 or 13 years old.

18 Q. All right. And specifically where, if at all,
19 in was she able to tell you something
20 occurred?

21 MR. SHEALY: Objection, Your Honor; getting
22 close to hearsay.

23 THE COURT: Overruled.

24 A. She indicated that the last incident was while
25 sleeping on the couch.

1 Q. All right. And while sleeping on the couch at
2 what location?

3 A. This was at

4 Q. All right. What, if anything, did you note
5 regarding her demeanor during the course of the
6 interview?

7 A. While speaking with Minor 1 -- this was my
8 first time ever meeting her -- she was very visibly
9 upset. She appeared to be embarrassed.

10 Q. Did you make a notation concerning her being
11 visibly upset?

12 A. I did in my supplemental.

13 Q. I'm going to ask you whether or not you also
14 conducted an interview with Minor 2

15 A. Yes.

16 Q. Was your interview with Minor 2 also
17 documented in the form of a supplemental report?

18 A. Yes, it was.

19 Q. And do you have that with you today?

20 A. I do.

21 Q. And this is a yes-or-no question: Can you tell
22 us whether or not Minor 2 reported sexual
23 assault?

24 A. Yes.

25 Q. And what, if anything, did she report regarding

1 the place or location of that assault?

2 A. Minor 2 stated that this occurred at

3 in --

4 Q. Okay. Can you tell us what jurisdiction that
5 is in?

6 A. Lexington County.

7 Q. All right. Please continue whether or not
8 anything else was noted concerning the place or
9 location.

10 A. I asked about an incident. She stated she
11 believed it was around 13 or 14 years old. Everyone
12 was at the house asleep on . And this
13 occurred while she was on the couch and then also on
14 the floor.

15 Q. All right. So on the couch and on the floor?

16 A. Yes.

17 Q. And what, if anything, did you note concerning
18 her demeanor?

19 A. When I met with Minor 2 , she was also visibly
20 upset. She was nervous, appeared to be more
21 withdrawn than Minor 1 , just seemed very
22 uncomfortable having to talk with me about this
23 situation.

24 Q. What, if any, referrals were made after your
25 interview with the girls pursuant to protocol or

1 recognized practice?

2 A. It's always best practice after an interview to
3 conduct a forensic interview with a child advocacy
4 center. And that was done, I believe, at the
5 Dickerson Center in West Columbia.

6 Q. All right. And the Dickerson Center is a child
7 advocacy center?

8 A. Yes.

9 MS. MAYES: Thank you. Nothing further.

10 THE COURT: Mr. Shealy?

11 MR. SHEALY: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. SHEALY:

14 Q. Now, you said that there were two people in the
15 lobby. Were there actually three people in the
16 lobby?

17 A. I'm not sure about the lobby. I met with
18 Minor 1 alone in the interview room, which is
19 separate; it's down the hall.

20 Q. Did you meet with Karley Hollis?

21 A. I believe if -- from memory, they were all in
22 the lobby. And when I finished the interview, I
23 escorted -- Minor 2 was the last one I interviewed.
24 I escorted her out. And I believe that's where they
25 were, was in the lobby, but not specifically in the

1 interview room at the time of the interview.

2 Q. And Minor 1 and Minor 2 were both there, the
3 same time, same day. I understand you interviewed
4 them separately --

5 A. Yes.

6 Q. -- but it was the same day, and you just
7 interviewed one right after the other?

8 A. Correct.

9 MR. SHEALY: Thank you, Your Honor. That's all
10 I have.

11 THE COURT: Anything on redirect?

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

13 THE COURT: You may step down.

14 May she be excused?

15 MR. SHEALY: Yes, sir.

16 MS. MAYES: Yes, sir, Your Honor.

17 THE COURT: Next witness, please.

18 MS. MAYES: The State calls Laurie Caldwell.

19 She's sequestered, Your Honor.

20 LAURIE CALDWELL

21 being first duly sworn, testified as follows:

22 THE WITNESS: Yes.

23 THE CLERK: Have a seat. Once you're seated,
24 state your full name, spelling your last on the
25 record, please.

1 THE WITNESS: My name is Laurie Varnedoe
2 Caldwell, C-A-L-D-W-E-L-L.

3

4

5

DIRECT EXAMINATION

6

BY MS. MAYES:

7

Q. Where are you currently employed?

8

A. I'm an agent with State Law Enforcement
9 Division.

10

Q. All right. And tell us a little about your
11 educational career background and training.

12

A. In 1984 I graduated from the University of
13 South Carolina with a bachelor's in
14 interdisciplinary studies, and completed my master's
15 degree in social work in 1986. At that time, I
16 began full-time employment at State Law Enforcement
17 Division and was assigned to the missing person and
18 missing and exploited children's unit, which was a
19 fairly new at that time.

20

And from there, I started training specifically
21 in the field of child physical abuse, child sexual
22 abuse, and exploitation, and ended up, after about
23 five years, working that on a statewide level. I
24 transferred to what we refer to as the Midlands
25 Region, which is about ten counties. So I spent 20

1 years there and primarily investigated child abuse,
2 child exploitation, and exploitation of vulnerable
3 adults.

4 And through those years, I had specialized
5 training through the Criminal Justice Academy, the
6 Federal Law Enforcement Training Center, University
7 of Louisville, the Children's Law Center in the
8 field of child sexual abuse and child forensic
9 interviewing.

10 Q. All right. Now, Agent Caldwell, in between
11 where you're working now at the State Law
12 Enforcement Division and your prior work as an agent
13 with the State Law Enforcement Division, can you
14 tell us whether or not you were ever employed in any
15 other capacity?

16 A. Yes. I actually retired from SLED February of
17 2011 and began full-time employment at the Dickerson
18 Center for Children. And that's a community-based
19 child advocacy center here in Lexington County, and
20 it serves all the jurisdictions in Lexington, as
21 well as other counties. And that, again, is a
22 child-based -- that is a child advocacy center.

23 There, I was the director of forensic services,
24 which meant I was the chief child forensic
25 interviewer, as well as I oversaw the other forensic

1 interviews. And I facilitated and coordinated the
2 Lexington County multidisciplinary team, and that's
3 when every agency that would be involved in
4 allegations of child maltreatment come together and
5 staff cases just to make sure everyone's needs are
6 being met.

7 Q. All right. So let me ask you this: What is
8 meant by the term forensic interview?

9 A. Forensic interview is really just a fancy word
10 terminology for a factfinding interview designed for
11 children so that it meets a child on their
12 developmental level. And we're looking for
13 uncontaminated information.

14 Q. All right. And can you tell us whether or not
15 law enforcement, for example, can make a referral
16 for forensic interview at a child advocacy --

17 MR. SHEALY: Objection, Your Honor. May we
18 approach?

19 THE COURT: Certainly.

20 (Sidebar conference.)

21 THE COURT: All right. Madam forelady, ladies
22 and gentlemen, let's take our morning break about 15
23 minutes. Don't discuss the case, don't deliberate.
24 We'll come back and go til about 12:30, quarter to
25 1:00, and then take our lunch break.

1 (The jury exits the courtroom at 11:01 AM.)

2 THE COURT: Let the record reflect we had a
3 sidebar. Mr. Shealy was concerned that the response
4 of uncontaminated evidence, that that may show some
5 indication of the witness vouching for the
6 credibility of the people she's interviewing.
7 Obviously, we have to be very cognizant that
8 forensic interview witnesses cannot, cannot, cannot
9 bolster or vouch for the credibility of any of the
10 witnesses, and use of the word uncontaminated
11 certainly may give that inference.

12 It was your request that I give a curative
13 instruction and strike that from the record,
14 Mr. Shealy?

15 MR. SHEALY: Yes, Your Honor. As to the -- I
16 don't want it to draw unnecessary -- I'm caught
17 between a rock and a hard place, Your Honor. I
18 don't want to draw unnecessary attention to it by
19 the jury, but I think the jury needs to know it's
20 been struck. As to the curative instruction, I
21 leave that in your discretion.

22 THE COURT: Okay.

23 Now, tell me where we're going, Ms. Mayes.

24 MS. MAYES: Yes, sir, Your Honor.

25 THE COURT: You know, there's just a number of

1 cases recently on forensic interviews and,
2 obviously, the Court has to walk the
3 straight-and-narrow with these and be cognizant of
4 them.

5 MS. MAYES: Yes, sir, Your Honor. The --

6 THE COURT: Of course the first rule is, she
7 cannot, under any circumstances, attempt to say she
8 believes what the children are saying, she told the
9 children to tell the truth, any type of bolstering
10 or any type of vouching for their credibility. So
11 where are we going with Ms. Laurie Caldwell?

12 MS. MAYES: Yes, sir, Your Honor. This refers
13 to the time and place reported by the child, and
14 also the demeanor as it was noted in -- based on her
15 observations. And these are all permissible areas
16 of testimony for a forensic interviewer under State
17 vs. Kromah. She's not testifying as to any opinion
18 regarding the child's veracity, and she is not
19 providing any details of the assault that may have
20 been given to her beyond time and timeframe or place
21 and location.

22 Also, pursuant to --

23 THE COURT: All right. Let's go to Kromah,
24 please, ma'am. You got the case with you? Tell me
25 where you want to me to look at it. In Kromah, the

1 forensic interviewer stated, quote, she found
2 compelling finding and there was -- the victim was
3 telling the truth and so forth and so on.

4 Ms. Mayes, I asked you to show me in Kromah what
5 you're talking about.

6 MS. MAYES: Yes, sir, Your Honor. I do not
7 have a copy of the case, but I do have a reference
8 to the case that time and date and circumstances are
9 permissible, as well as observations regarding the
10 child's demeanor.

11 THE COURT: Tell me what you're trying to get
12 out of Ms. Caldwell. Just give me a little quick
13 proffer.

14 MS. MAYES: Yes, sir, Your Honor.

15 EXAMINATION

16 BY MS. MAYES:

17 Q. Agent Caldwell, what, if anything, did
18 Minor 1 report concerning the place and location
19 of sexual assault?

20 A. She said it happened at in
21 Lexington, South Carolina.

22 Q. All right. Specifically, in your report, did
23 you note where at that location?

24 A. Yes. She named four locations.

25 Q. What were those locations?

1 A. Two different bedrooms, a bathroom, and a
2 living room on the couch.

3 Q. And then what, if anything, did you note
4 concerning her demeanor?

5 A. I noted several different --

6 MS. MAYES: Actually, as to this witness, Your
7 Honor, I don't believe there is a notation. That's
8 one of the other witnesses. That was also a
9 reference in the Kromah case regarding --

10 THE COURT: I see that. But go ahead and
11 finish your proffer with --

12 MS. MAYES: That would be the extent of it,
13 Your Honor.

14 THE COURT: Mr. Shealy, any objection to that
15 part of her testimony? Obviously, Kromah says a
16 forensic interviewer may properly testify regarding
17 the following: Time, date, circumstance of the
18 interview, any personal observations regarding the
19 child's behavior or demeanor, or a statement as to
20 events that occurred within the personal knowledge
21 of the interviewer. So she's just asking about time
22 and date, et cetera; she's not asking to -- any
23 opinions about whether the children are telling the
24 truth or whether she believes the or whether it's
25 compelling or --

1 MR. SHEALY: Yes, Your Honor. The only
2 objection is cumulative. We've already established
3 all of this.

4 THE COURT: You have objection as to
5 cumulative?

6 MR. SHEALY: Yes, sir, except for demeanor.
7 Obviously, what her observations as to demeanor was
8 not testified previously.

9 THE COURT: All right. I'll allow her to
10 testify to that which was right here in the proffer.

11 Ms. Mayes, you understand that?

12 MS. MAYES: Yes, sir, Your Honor.

13 THE COURT: And as to her use of the word --
14 what was it?

15 THE WITNESS: Uncontaminated.

16 THE COURT: Uncontaminated. I may just tell
17 the jury that, obviously, they are the finders of
18 the fact, they determine the credibility and
19 believability of the witness, and even though this
20 witness has not given an opinion about whether she
21 did or didn't believe the children, the use of the
22 word uncontaminated may give some inference and
23 they're not to consider that. Or would you rather
24 me stay away from it all together, Mr. Shealy?

25 MR. SHEALY: Your Honor, I think I'd rather you

1 stay away from it all together.

2 THE COURT: All right. Please bring the jury
3 back in.

4 (The jury enters the courtroom at 11:14 AM.)

5 THE COURT: You may continue.

6 MS. MAYES: Yes, sir, Your Honor.

7 DIRECT EXAMINATION

8 (Continued)

9 BY MS. MAYES:

10 Q. Now, Agent Caldwell, can you tell us whether or
11 not you conducted a forensic interview in this case?

12 A. Yes, I did.

13 Q. All right. And that was in the presence of
14 who, if anyone?

15 A. Well, the people watching the interview were
16 not in the room; they were watching through the
17 videocamera that was transmitting through the TV.

18 But Detective Shannon -- Shannon Dykes with the --

19 Q. You can refer to your report.

20 A. Shannon Dykes with the Lexington County
21 Sheriff's Department and, at that time, Steve
22 Knafelc with the Kershaw County Sheriff's
23 Department. Possibly some of the staff members at
24 the Dickerson Center may have been in and out of the
25 room, but I'm not sure of that.

1 Q. All right. And just to clarify, are they
2 physically present in the same room with you and the
3 person you're interviewing?

4 A. No. It's just me and the person I'm
5 interviewing.

6 Q. And in this particular case, who was that?

7 A. That was Minor 1

8 Q. And on what date was that interview conducted?

9 A. February 3rd, 2014.

10 Q. Okay. And can you tell us whether or not
11 Minor 1 -- and this is a yes-or-no question -- made
12 a disclosure concerning sexual assault?

13 A. Yes, she did.

14 Q. What, if anything, did you note concerning her
15 disclosure regarding the place or locations of
16 sexual assault?

17 A. She spoke about -- she disclosed that it
18 happened at [sic] in Lexington
19 County.

20 Q. And if you could, refer directly to your
21 report.

22 A. Yes.

23 Q. Do you have the report with you?

24 A. Yes.

25 Q. And, again, what address?

1 A.

2 Q. All right. And specifically as to any place at
3 that location?

4 A. In the house, and she named two bedrooms, a
5 bathroom, and the living room.

6 Q. And specifically where in the living room?

7 A. On a couch.

8 MS. MAYES: Nothing further.

9 THE COURT: Cross, if any?

10 MR. SHEALY: No questions, Your Honor.

11 THE COURT: Thank you, Ms. Caldwell.

12 May she be excused?

13 MS. MAYES: Yes, sir, Your Honor.

14 THE COURT: You're excused, ma'am.

15 Next witness, please.

16 MS. MAYES: State calls Brooke Wymer.

17 BROOKE WYMER

18 being first duly sworn, testified as follows:

19 THE WITNESS: I do.

20 THE CLERK: Have a seat, please, ma'am. Once
21 you're seated, state your full name, spelling your
22 last, please.

23 THE WITNESS: Brooke Wymer, W-Y-M-E-R.

24 DIRECT EXAMINATION

25 BY MS. MAYES:

1 Q. Where are you currently employed and in what
2 capacity?

3 A. I have two employers right now; I'm employed at
4 Columbia College as the director of social work
5 field experiences and a lecturer in social work, and
6 I'm also employed with Firm Foundations Counseling &
7 Wellness, and I provide counseling services there
8 and supervision to counselors.

9 Q. All right. Are you an instructor or professor
10 at Columbia College?

11 A. I am.

12 Q. And prior to joining the faculty at Columbia
13 College, where were you employed?

14 A. At the Dickerson Children's Advocacy Center.

15 Q. All right. That would be the child advocacy
16 center located in what county?

17 A. Lexington County.

18 Q. Now, Ms. Wymer, can you tell us whether or not
19 you were involved in conducting a forensic interview
20 of any person in the case of the investigation of
21 State vs. August Kreis?

22 A. I was.

23 Q. And do you have with you a record or a document
24 reflecting that interview?

25 A. I do.

1 Q. And who did you interview in this case?

2 A. I interviewed Minor 2

3 Q. What was the date of that interview?

4 A. That was February 3rd, 2014.

5 Q. Now, is anyone else present in the room when
6 you conduct a forensic interview?

7 A. No.

8 Q. And why is that?

9 A. It's important that the child have an
10 environment where they're not influenced by anyone
11 else. So it's important that nobody else be in the
12 room but the interviewer and the child.

13 Q. Does your document or notes reflect whether or
14 not anyone else was able to observe the interview
15 from a remote location?

16 A. One person observed the interview.

17 Q. Who was that person?

18 A. That person was Erica Arojas [phonetic], which
19 was one of our interns at the time.

20 Q. All right. And do you have any notes
21 concerning specifically the disclosure made by

22 Minor 2 ?

23 A. I do.

24 Q. Can you tell us whether or not -- and this is a
25 yes-or-no question -- Minor 2 reported a sexual

1 assault?

2 A. Yes.

3 Q. Ms. Wymer, does your record or report reflect
4 what, if anything, she reported to you about the
5 time or timeframe in which this occurred?

6 A. Yes.

7 Q. What do you have in that regard?

8 A. She stated that it occurred approximately
9 around the age of 10 or 11 or younger.

10 Q. Okay. And specifically as to the place or
11 location in which the assault occurred?

12 A. She stated that it occurred at
13 in Lexington.

14 Q. And what, if anything, else did she state
15 specifically regarding the location or place at
16 ?

17 A. She reported two locations of incidence; one
18 was on a bed in bedroom and the other was on the
19 floor in the living room, both at

20 Q. All right. So one is on the floor in the
21 living room and then one is in a bedroom?

22 A. Yes.

23 Q. Do you also make any notations concerning the
24 demeanor that you observe?

25 A. Yes.

1 Q. What, if anything, did you note regarding
2 Minor2 's demeanor?

3 A. That she was fearful.

4 MS. MAYES: Nothing further.

5 THE COURT: Cross, if any?

6 MR. SHEALY: Nothing, Your Honor.

7 THE COURT: Thank you. May she be excused?

8 MR. SHEALY: No objection.

9 MS. MAYES: No objection, Your Honor.

10 THE COURT: You're excused, ma'am.

11 Next witness, please.

12 MS. MAYES: The State calls Colleen Corbin.

13 COLLEEN CORBIN

14 being first duly sworn, testified as follows:

15 THE WITNESS: I do.

16 THE CLERK: Have a seat, please. Once you're
17 seated, state your full name, spelling your last,
18 please.

19 THE WITNESS: Colleen Corbin, C-O-R-B-I-N.

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. Ms. Corbin, where are you currently employed?

23 A. Dickerson Children's Advocacy Center.

24 Q. All right. And the child advocacy center
25 serves what counties?

1 A. Lexington and surrounding areas.

2 Q. And how long have you been an employee at the
3 Dickerson Children's Advocacy Center in Lexington?

4 A. January 2nd will be three years.

5 Q. And can you tell us whether or not you're
6 involved in conducting forensic interviews with
7 children at that location?

8 A. Yes.

9 Q. And, specifically, can you tell us whether or
10 not you conducted a forensic interview with any
11 child or children in the case of State vs. August
12 Kreis?

13 A. Yes, I did.

14 Q. Who were those children?

15 A. Minor³ . And we had two interviews.

16 Q. All right. And Minor³ , you said you had two
17 interviews. So I'll start with the first interview.
18 How old was Minor³ at the time of your first
19 interview?

20 A. Twelve years old.

21 Q. And what was the date of your first interview
22 with her?

23 A. It was February 2nd, I believe -- February 3rd
24 of 2014.

25 Q. Do you comprise a report that has the details

1 that are disclosed during the course of the forensic
2 interview?

3 A. Yes, I do.

4 Q. And you have that with you today?

5 A. Yes, ma'am.

6 Q. During that first interview on February 3rd,
7 2014, I want to ask you what, if anything, did
8 she -- can you tell us whether or not she reported a
9 sexual assault? And that's a yes-or-no question.

10 A. Yes.

11 Q. All right. And does your report reflect what,
12 if anything, she told you regarding the place that
13 that occurred?

14 A. I'm sorry. You said the report reflect --

15 Q. Does your report reflect what if anything she
16 told you about the place or location where that
17 occurred?

18 A. Yes, it does.

19 Q. What does it reflect?

20 A. Just regarding the place?

21 Q. Right.

22 A. Her current home, which was determined to be in
23 Kershaw County at the time of the interview, in a
24 bedroom while watching The Wizard of Oz when the
25 movie ended.

1 Q. All right. And what, if anything, else did she
2 report regarding location?

3 A. That it occurred everywhere she lived.

4 Q. Specifically, did she give you another
5 location?

6 A. Specifically, she talked about a
7 apartment in Columbia and a Kershaw County
8 home.

9 Q. All right. So apartment and
10 Kershaw County?

11 A. Yes, ma'am.

12 Q. Now, what, if anything, did you note regarding
13 her demeanor that you observed during that first
14 interview?

15 A. I observed that she shut down, no longer wanted
16 to talk. And I noted in my report that she was very
17 fearful and scared.

18 Q. When you use the term shut down, what do you do
19 if you're conducting an interview and the
20 interviewee shuts down?

21 A. It varies. Sometimes if it's severe enough, we
22 end the interview. Sometimes we'll give them a
23 break. Sometimes we just kind of say some
24 encouraging words to calm them down.

25 Q. All right. So in this particular case, as you

1 noted that she shut down, did you continue with the
2 interview or end it?

3 A. Shortly thereafter, we ended it.

4 Q. Okay. As a result, can you tell us whether or
5 not a second interview was scheduled for a later
6 day?

7 A. Yes. A second interview was conducted --
8 scheduled and conducted.

9 Q. And what was the date of the second interview?

10 A. The second interview was February 18th of 2014.

11 Q. So about 15 days later?

12 A. Uh-huh.

13 Q. In the second interview, can you tell us
14 whether or not -- again, is anyone else present in
15 the room other than you and Minor 3 ?

16 A. No; just Minor 3 and myself.

17 Q. Can you tell us whether or not Minor 3
18 disclosed sexual assault?

19 A. Yes.

20 Q. Can you tell us what, if anything, you denoted
21 concerning her demeanor during the course of this
22 second interview?

23 A. She became very distressed, started crying,
24 curled into a fetal position, buried her head into
25 her chest. And then shortly thereafter, I ended the

1 interview.

2 Q. When you say she curled into the fetal position
3 and buried her head into her chest, is that in your
4 report?

5 A. Yes.

6 Q. When you observe a child responding that way
7 during a forensic interview, do you continue it?

8 A. Not usually. Interviews are child-friendly, so
9 we let the child lead to what they need. And in
10 cases of chronic abuse, sometimes more than one
11 interview is needed.

12 MS. MAYES: I beg the Court's indulgence.

13 BY MS. MAYES:

14 Q. Can you tell us whether or not the interview
15 ended when you -- as you put it, when you noted that
16 she was very distressed?

17 A. Uh-huh. Shortly thereafter, I ended it. I
18 think I gave her some time to calm down and then
19 ended it.

20 MS. MAYES: Nothing further.

21 THE COURT: Cross?

22 MR. SHEALY: No questions, Your Honor.

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

24 THE WITNESS: Thank you.

25 THE COURT: Next witness please.

1 MS. MAYES: I beg the Court's indulgence.

2 May we approach?

3 (Sidebar conference.)

4 THE COURT: Next witness, please.

5 MS. MAYES: The State calls Detective Shannon
6 Dykes.

7 SHANNON DYKES

8 being first duly sworn, testified as follows:

9 THE WITNESS: I do.

10 THE CLERK: Have a seat, please, sir. Once
11 you're seated, state your full name, spelling your
12 last, please.

13 THE WITNESS: Shannon Dykes, D-Y-K-E-S.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. Detective Dykes, where are you employed?

17 A. Lexington County Sheriff's Department.

18 Q. And how long have you been with the Lexington
19 County Sheriff's Department?

20 A. Going on six years.

21 Q. All right. I need you to pull that microphone
22 down and towards you a little more.

23 And what type of work are you currently doing
24 with the sheriff's department?

25 A. I'm assigned to the fugitive task force,

1 specifically assigned to the State Law Enforcement
2 Division and U.S. Marshals for fugitive
3 apprehensions.

4 Q. And prior to your involvement with the U.S.
5 Marshals task force, can you tell us what division
6 you were working in at the Lexington County
7 Sheriff's Department?

8 A. The major crimes division.

9 Q. And how long were you a member of the major
10 crimes division?

11 A. Approximately a year and two months.

12 Q. Can you tell us whether or not your involvement
13 in the major crimes division included the
14 investigation of cases of sexual assault and child
15 abuse?

16 A. They did.

17 Q. Can you tell us whether or not that included
18 specific training in the field of sexual assault and
19 child abuse?

20 A. It did.

21 Q. In this particular case involving the
22 defendant, August Kreis, what date did Lexington
23 County Law Enforcement first be advised of this
24 report?

25 A. I completed the incident report on January

1 21st, 2014.

2 Q. All right. So January 21st, 2014, the report
3 was made to the Lexington County Sheriff's
4 Department. And who came in to make that report?

5 A. Karley Hollis.

6 Q. And she's related to the victims how?

7 A. She's their mother.

8 Q. All right. And, specifically, which victims
9 came to the sheriff's department? And we've heard
10 previously from Sergeant Barr. But who specifically
11 was present at the sheriff's department?

12 A. Minor 1 , Minor 2 , Minor 3 ,
13 and Ryan Stephens who is Minor 1 's fiance.

14 Q. Now, during the course of this investigation,
15 can you tell us whether or not any additional
16 agencies became involved?

17 A. They did. Richland County Sheriff's Department
18 and Kershaw County Sheriff's Department.

19 Q. How or why did those agencies also become
20 involved in this investigation?

21 A. It was determined at the time of the report
22 from the mother that their jurisdictions --

23 MR. SHEALY: Objection, Your Honor. This is
24 irrelevant as to the other sheriff's departments as
25 to why they got involved.

1 THE COURT: Rephrase the question -- state the
2 same question again.

3 MS. MAYES: Yes, sir, Your Honor.

4 BY MS. MAYES:

5 Q. Why did other agencies become involved with the
6 sheriff's department?

7 A. Because I'm a mandated --

8 THE COURT: Hold on, hold on, hold on.

9 I'll sustain that objection. Move along.

10 MS. MAYES: Yes, sir, Your Honor.

11 BY MS. MAYES:

12 Q. In this particular case, can you tell us
13 whether or not any jurisdictions in Lexington County
14 were determined to be a location of sexual assault?

15 A. Yes.

16 Q. What was that location in Lexington County?

17 A.

18 Q. All right. In particular with
19 , what victims had reported an assault at that
20 location?

21 A. Minor 1 and Minor 2 .

22 Q. All right. So Minor 1 and Minor 2
23 the two oldest daughters. Can you tell us,
24 Detective Dykes, in a case such as this with a
25 delayed report, where several years have passed

1 before a victim comes forward, is what's known as a
2 rape kit or a sexual assault evidence collection kit
3 conducted?

4 A. It was not.

5 Q. Why or why not?

6 A. Due to the degradation of evidence over a
7 period of time, there's no need for it.

8 Q. What is the general timeline for recovering
9 forensic evidence such as DNA?

10 A. Generally, 72 hours is -- unless there's a
11 specific situation that warrants extension. But 72
12 hours is generally what we go by.

13 Q. So 72 hours from the time of assault?

14 A. Correct.

15 Q. Can you tell us whether or not you would refer
16 a victim for a rape kit medical examine after six
17 years?

18 A. No, I would not.

19 Q. Now, based upon the information you obtained
20 during the course of this investigation, did you
21 obtain warrants in this case?

22 A. I did.

23 Q. And those warrants pertained to which victims?

24 A. Minor 1 and Minor 2

25 Q. And that concerns Lexington County; is that

1 correct?

2 A. That's correct.

3 Q. Specifically, ?

4 A. That's correct.

5 Q. What was the next step in the case in terms of
6 actually -- you mentioned that you got warrants.
7 How do you go about making contact with the suspect,
8 in this case being August Kreis?

9 A. Received information that he was attending
10 school at Midlands Technical College at the Beltline
11 campus in Richland County. Myself and Detective Joe
12 Clarke from the Richland County Sheriff's Department
13 went to that location to arrest him --

14 Q. All right. Let me stop you right there.
15 Specifically, the campus that you mentioned,
16 Midlands Tech Beltline campus, what county is that?

17 A. Richland County.

18 Q. So did you have another officer or detective
19 with you?

20 A. I did.

21 Q. Who was that person?

22 A. Detective Joe Clarke.

23 Q. Okay. And he's with what agency?

24 A. Richland County Sheriff's Department.

25 Q. So you and the detective from Richland County

1 went to Midlands Technical College. Can you tell
2 us, at that time had you actually obtained warrants
3 from the magistrate?

4 A. I have.

5 Q. What was the date of that contact with August
6 Kreis at Midlands Tech?

7 A. Let me refer to my notes. February 19th, 2014.

8 Q. So on this date, February 19th, you and a
9 Richland officer go to Midlands Tech. What, if
10 anything, happened once you were at Midlands Tech?

11 A. Detective Clarke introduced himself and the
12 charges to Mr. Kreis. A short time after, I
13 introduced myself and also the warrants that we had
14 at Lexington County Sheriff's Department for him.

15 Q. Can you tell us whether or not you advised him
16 that Lexington County had warrants?

17 A. I did.

18 Q. And, ultimately, was Mr. Kreis detained on that
19 day?

20 A. He was.

21 Q. As a result of being detained on that day, what
22 facility was he taken to?

23 A. He was taken to the Alvin S. Glenn Detention
24 Center.

25 Q. All right. So once he's at the Alvin S. Glenn

1 Detention Center, he is detained at that location.

2 Can you tell us whether or not you had the
3 opportunity to recover any physical evidence of the
4 case?

5 A. I did. After he was detained, Karley Hollis
6 notified me days later that --

7 MR. SHEALY: Objection, Your Honor; hearsay.

8 THE COURT: Sustained.

9 BY MS. MAYES:

10 Q. Let me ask you this way: Who is Karley Hollis?

11 A. The victims' mother.

12 Q. Did you recover any item from her?

13 A. I did.

14 (State's Exhibit No. 14 marked for
15 identification.)

16 Q. I'm going to show you several documents which
17 are marked as State's Exhibit 14 and ask you whether
18 or not you recognize these documents.

19 A. Yes, I do.

20 Q. How so?

21 A. This is the letter provided to me from Karley
22 Hollis.

23 Q. All right. And when you say it was provided to
24 you, what did you do once you retrieved that letter?

25 A. I submitted it to evidence.

1 Q. When you say to evidence, at what department?

2 A. At the Lexington County Sheriff's Department.

3 Q. All right. So this item then went into
4 evidence at the Lexington County Sheriff's
5 Department?

6 A. That's correct.

7 Q. And this includes -- I know you mentioned a
8 letter. What else is with the letter?

9 A. An envelope addressed to Karley Hollis.

10 Q. All right.

11 MS. MAYES: Your Honor, at this time this would
12 be State's Exhibit 14 as evidence. We would offer
13 this item as evidence along with the stipulation.

14 THE COURT: Any objection as to number 14?

15 MR. SHEALY: No, Your Honor.

16 (State Exhibit No. 14 admitted in to evidence.)

17 THE COURT: All right. Now, madam forelady,
18 ladies and gentlemen of the jury, there's been a
19 stipulation entered between the Defendant and the
20 State. In almost all cases you determine the
21 believability or the credibility of the witnesses
22 and what is true. A stipulation is a non-contested
23 fact; everybody agrees that that is the fact in the
24 case and is the truth.

25 And it is stipulated in this case that State's

1 Exhibit 14, including a letter and envelope, were
2 authored or written by the defendant, Mr. Kreis.

3 Is that the correct stipulation, Mr. Shealy?

4 MR. SHEALY: Yes, Your Honor.

5 THE COURT: Ma'am?

6 MS. MAYES: Yes, sir, Your Honor.

7 THE COURT: So it's an uncontested fact. That
8 does not need to be proven by any additional
9 witnesses, it's uncontested.

10 BY MS. MAYES:

11 Q. Now, Detective Dykes, I'm going to again show
12 you this document, which is now in evidence, the
13 letter and envelope written by the defendant, August
14 Kreis. Can you unseal this document?

15 A. (Witness complies.)

16 Q. Have you had the opportunity to review that
17 document prior to today?

18 A. I have.

19 Q. Can you tell us whether or not at any point
20 during the course of the letter August Kreis
21 addresses or discusses his children?

22 A. He does.

23 Q. And can you tell us whether or not he addresses
24 or discusses the current situation involving his
25 detainment pursuant to this investigation?

1 A. He does.

2 Q. Detective Dykes, I'm going to start by asking
3 you about the envelope. All right. This particular
4 envelope is addressed to who?

5 A. Karley D. Hollis.

6 Q. At what address?

7 A. , Cassatt, South
8 Carolina.

9 Q. What county is that in?

10 A. Kershaw County.

11 Q. Okay. Can you tell us whether or not that's
12 the location of the children and the mother's
13 current address depicted in State's Exhibit 7, the
14 Cassatt house?

15 A. That's correct.

16 Q. Now, what is the notation in the upper
17 left-hand corner concerning who's writing and
18 sending the envelope?

19 A. August B. Kreis, III.

20 Q. And the letter is sent from what location?

21 A. Alvin S. Glenn Detention Center, 201 John Mark
22 Dial Drive, Columbia, South Carolina 2- --

23 Q. And what is the postmark on the letter?

24 A. March 6th, 2014.

25 Q. All right. And specifically on the back of the

1 letter, is there any type of warning or notation
2 that is standard when a letter or correspondence is
3 sent from the Alvin S. Glenn Detention Center?

4 A. Yes.

5 Q. What does it state?

6 A. The Alvin S. Glenn Detention Center has neither
7 censored nor inspected this item; therefore, the
8 department does not assume responsibility for the
9 contents.

10 Q. All right. And then in addition to the
11 envelope, how many pages does the letter consist of?

12 A. Two pages, but four total pages because they're
13 written front to back. So two pages total, but four
14 pages of written documentation.

15 Q. I'm going to ask you to start at the beginning,
16 Detective Dykes, and if you could very slowly, for
17 the benefit of the court reporter, she's going to
18 need you to go slowly as you read that letter or
19 publish that into evidence. And if you could start
20 at the top or the beginning of the correspondence.
21 Is it typed or handwritten?

22 A. It's handwritten.

23 And before the letter starts, there's one
24 sentence above. I'll read that: Please read this
25 and don't throw away.

1 Karley, just have a few things I need to tell
2 you. Hopefully by the time you receive this letter,
3 you've already heard from Jack or Nelson. I wrote
4 and mailed Jack a letter on Tuesday, 2/25, and have
5 not recovered a response yet -- excuse me, received
6 a response yet.

7 As you're already aware, I was arrested on
8 campus where my bookbag and carry bag was left with
9 campus security. Bookbag had books and --

10 Q. You want to spell that word?

11 THE DEFENDANT: Dinar, D-I-N-A-R.

12 MS. MAYES: And we would stipulate, Your Honor.

13 THE COURT: What does it say?

14 MS. MAYES: Dinar.

15 THE COURT: What?

16 MS. MAYES: Foreign currency, dinar.

17 A. -- and dinar in it. If Jack does what I've
18 asked, the dinar and some more foreign currency are
19 yours and the children's, just in case it happens.
20 Hopefully you didn't send the Higher One, in
21 quotations, card and have drained it already. If
22 not, do it ASAP. Should be two grand or better
23 which, along with your 516, if you're careful,
24 should last you at least four months while you're
25 working on getting SSI.

1 Check from VRAP will be next to nothing with
2 snow days and last day being the 18th. Don't even
3 know yet if Jack will help me. If not, I told him
4 to hand my letter to Nelson. All my usual carry bag
5 things were left there, phone, charger, ID cards and
6 all debit cards. I'm writing this on borrowed paper
7 and pen.

8 I realize you most likely regret even knowing
9 me now. If by chance my SSI continues until charged
10 and prison, I'll continue to help out when school
11 loan runs out. What you need to do is set up a bank
12 account that money can be transferred into when the
13 time comes. When speaking to the court-appointed
14 attorney, he told me the state of South Carolina
15 recognizes common-in-law marriage. If that's the
16 case, when I'm dead, you'll be able to apply for
17 death benefits through Social Security.

18 In case someone other than my wife is reading
19 this, no, I'm not considering suicide. Five days
20 marked in a cell with lights on 24/7 was enough to
21 make me not want to go back there. Just for your
22 knowledge, I'm not asking for bail and have already
23 told the lawyers that they gave me it's not going to
24 trial. I'll stay here until sentenced to prison.
25 If I'm gone before the children turn 18, you can

1 apply for SS for them also. If I can't be with or
2 even see our children again, I'd rather be dead.

3 Don't want to get off track of why I'm
4 contacting you. Hopefully I hear back from Jack
5 prior to being able to send this to you. I'm going
6 to see if I can trade my hardboiled eggs for another
7 envelope this week. You need to really take care of
8 yourself and get your health back.

9 3/5: Unsure if Jack's going to help me or not.
10 Haven't heard from him. If I don't hear from him
11 today I'm putting this in the mail tomorrow. You
12 should get the number for Alston Wilkes and get
13 Nelson Postin's cell number and call him. Find out
14 if Jack's picked up my belongings from school and if
15 he plans to do what I asked him in my letter. I
16 believe I should write to Nelson's from the
17 beginning, but didn't want to bother him because
18 he's still going to school at Fortis. Figured Jack
19 had more time.

20 A man named E.K. usually answers the phone at
21 Alston Wilke's, but explain that you need to get in
22 touch with my roommate. But if he won't give you
23 the number, ask for Michael Morris. You know him
24 and I'm sure he'll give it to you.

25 Although I'm sure you want nothing to do with

1 me, I'd like to know you got my things from the
2 house. Use the computer to go back to school, and
3 the hard drive has all the movies and cartoons you
4 wanted for A.K. I hate myself more than anyone
5 else could, but if you find it in your heart, I'd
6 appreciate it if you let me know if you're able to
7 get ahold of Nelson or Jack and if they are going to
8 see that you get my things from the house.

9 Maybe I'm just not giving it enough time on my
10 end, but time passes very slowly here. This is the
11 third letter I wrote you and threw the other two
12 away because I stayed off course of what I wanted to
13 say, not mentioning what brought me here where I'll
14 be for a long time, if not til the end of my life.

15 No letter from Jack so I'm starting to believe
16 that he's not planning on helping me out. Like I've
17 said, he may be, but slowly. If he does do what
18 I've requested of him, I'm going to have him mail
19 Jim my debit and 10 cards and have him take care of
20 my finances. I want to get my SSI direct-deposited
21 into my Wells Fargo account, and in a few months
22 have WF start sending you or Liz the \$500 rent at
23 least until I lose it when finally sentenced.

24 I believe it will continue while I'm waiting,
25 which the public defender said could be one to three

1 years of which would count toward my time received.
2 I deserve whatever happens to me, but I'm so sorry I
3 hurt the only ones I love and love me, you and our
4 children.

5 If you know when you clean out my room I'm
6 going to write Nelson next whom I should have
7 written from the beginning and see if he'll keep my
8 leg, shoe, walker, and socks for my stump there.
9 I'm going to work with a VA liaison here at the jail
10 and see if I can get them brought here through the
11 proper channels. I'm the only one with a power
12 wheelchair here at this facility. They put it in
13 the back of a pickup truck when I was arrested. The
14 only time it was taken from me was when they had me
15 on suicide watch the first five days.

16 I hope everything goes right and you're able to
17 get my things. There's an envelope from Jim with
18 some more foreign currency in my nightstand drawer
19 to be put with the rest from my bookbag. Even if it
20 goes for .86 or less cents, cash in for it will be a
21 blessing for you and the children.

22 Wednesday 3/6: Not planning to wait for mail
23 call today because they pick it up prior to handing
24 out mail. I'm going to write Nelson today and try
25 to find out what's going on. If you find out,

1 please drop me even a one-liner and let me know.

2 The printer, CB mobile radio, laptop, hard
3 drive, 3.0 USB, couch mouse are the electronics in
4 my room. Already told you what was taken from me at
5 school. Sure pray they let you have everything from
6 my room and you let me know or someone does.

7 Whatever you think of me, I want you to know
8 that I still love you all and will be worried all
9 the time what's happening outside my cage. Lastly,
10 please find a church in the area and have the
11 children attend. Even if it's not exactly what we
12 believe in, it's better than nothing at all. Be
13 safe and may Yahweh bless you and our children.
14 With love, Chip.

15 Q. So it's signed, with love, Chip?

16 A. Yes.

17 Q. Now, the portion of the letter that states, I
18 deserve whatever happens to me, is that handwritten
19 as well?

20 A. Yes.

21 Q. Detective Dykes, do you have with you a copy of
22 the warrant that you obtained in this case?

23 A. I do.

24 Q. What is the defendant's date of birth?

25 A. of .

1 Q. Can you tell us whether or not he would have
2 been over the age of 14 at the time these offenses
3 occurred?

4 A. Yes.

5 Q. And all of the events that occurred or have
6 been testified to at the , can
7 you tell us whether or not that has remained in the
8 jurisdiction of Lexington County?

9 A. Yes.

10 MS. MAYES: I beg the Court's indulgence.

11 BY MS. MAYES:

12 Q. Can you tell us whether or not, based upon your
13 contact with August Kreis at Midlands Technical
14 College, he was aware that this investigation was
15 for criminal sexual conduct with a minor?

16 A. Yes.

17 MS. MAYES: Nothing further.

18 THE COURT: Cross?

19 MR. SHEALY: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. SHEALY:

22 Q. Detective Dykes, just a couple minor things
23 about the letter. The second page, about the sixth
24 line down, you said five days -- I think you said
25 marked in a cell. Would you look at that and tell

1 me if that says naked in a cell?

2 A. It could possibly.

3 Q. Okay. And also, when you mentioned about
4 mailing Jim my debit and 10 cards, could that also
5 be ID cards?

6 A. What page?

7 Q. I'm sorry. That's the third page, just below
8 halfway. I just wanted to clarify that.

9 A. It could possibly. It looks like a 10.

10 Q. Could go either way?

11 A. Yes, sir.

12 Q. All right. You commented on the -- there was
13 no rape kit. Was there any medical examinations
14 ordered for these children?

15 A. Not in my case.

16 Q. Okay. Well, why wouldn't there be a medical
17 examination?

18 A. Because it wasn't needed due to delay of the
19 reporting being years prior.

20 Q. But there's possibility there could be injuries
21 or even diseases or anything of that nature still
22 evident at that time; correct?

23 A. Correct.

24 Q. But still, there was no medical exam done?

25 A. Correct.

1 MR. SHEALY: Thank you, Your Honor. That's all
2 I have.

3 REDIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Detective Dykes, the reference to being naked
6 in a cell, can you tell us whether or not that's
7 part of policy with suicide watch?

8 A. It is not.

9 Q. Okay. Are you aware of what policy would be in
10 place if someone is under suicide watch?

11 A. Not verbatim.

12 Q. Nothing further.

13 THE COURT: You may step down.

14 MR. SHEALY: Your Honor, could I just --

15 THE COURT: You know I don't normally allow
16 recross, but in this case, I will allow it.

17 MR. SHEALY: Thank you, Your Honor.

18 RECROSS-EXAMINATION

19 BY MR. SHEALY:

20 Q. All right. Detective, you don't know what the
21 protocol is at Alvin S. Glenn Detention Center, do
22 you, as to suicide watch?

23 A. I do not.

24 Q. And this is where this took place? You
25 testified that's where he was taken?

1 A. Correct.

2 MR. SHEALY: Thank you.

3 THE COURT: All right. You may step down, sir.

4 Next witness, please.

5 MS. MAYES: Your Honor, may we approach?

6 THE COURT: Yes, ma'am.

7 (Sidebar conference.)

8 THE COURT: Madam forelady, ladies and
9 gentlemen of the jury, let me tell you where we are.

10 The State has one more witness left.

11 About a 30-minute witness, Ms. Mayes?

12 MS. MAYES: Correct, Your Honor.

13 THE COURT: And then the Defense, I think, has
14 one or two witnesses. And the witness who is coming
15 had some scheduling problems. We finished a little
16 earlier this morning than we thought because I've
17 been pushing them a little bit.

18 We're going to break until 2:00. During the
19 break, I've got several things I need to do outside
20 of your presence anyway, so I'll have all that taken
21 care of. When you come back, we'll go straight into
22 the final testimony.

23 Now, we'll probably end up finishing today
24 around 3:30 or 4:00. That's just a guesstimate.
25 Then what's left after that is the final arguments

1 by the lawyers, and then I have to instruct you on
2 the law. And if we finish testimony at 4:00, that
3 would probably put us to 5:00 or 5:30 before you
4 would receive the case. So what I'll probably do,
5 because of court personnel and security and
6 everything else is, if we finish around the 4:00
7 hour, come back in the morning and finish it up, if
8 that's okay. If you'd rather stay the night, I can
9 make some arrangements. Y'all talk about that. But
10 that would take us into the night. And probably the
11 best thing, unless that's an imposition on you, I'll
12 start it in the morning whatever time you want to,
13 whatever suits y'all.

14 But tomorrow, if you continue to deliberate
15 through the lunch hour, we'll order lunch in so you
16 don't have to leave. So that's probably the better
17 way to do it.

18 All right. We'll break till 2:00. Don't
19 deliberate, don't discuss the case, don't let anyone
20 discuss it with you, and please don't do any
21 independent research. We'll come back at 2:00
22 finish up and then see where we are.

23 (The jury exits the courtroom at 12:04 PM.)

24 THE COURT: Okay. Mr. Kreis, if you don't
25 mind, let me swear you in, please. If you'd raise

1 your right hand, please.

2 AUGUST KREIS

3 being first duly sworn, testified as follows:

4 THE DEFENDANT: I so affirm.

5 THE COURT: All right, sir. I normally do this
6 at the conclusion of the State's case, but we've got
7 a few minutes here. And instead of breaking when
8 they put up their last witness, let me just go over
9 one matter with you that I'm required to do in a
10 trial.

11 The State, as I'm told, has one last witness.
12 When that witness is finished, then, obviously, your
13 lawyer has a right to make certain motions. And if
14 I rule against him on those motions, then we'll be
15 reaching the stage of the trial where you can
16 present your defense; in other words, your side of
17 the story, as they may say. And included in that
18 defense, you have the right, obviously, to take the
19 witness stand and testify and give your version of
20 what happened or what didn't happen or what didn't
21 happen.

22 If you do that, obviously, you'll be, like any
23 other witness, subject to cross-examination on all
24 relevant points.

25 Does he have a record, ma'am, that would be --

1 MS. MAYES: Yes, sir, Your Honor. He does have
2 a 2001 [sic] federal conviction for false statements
3 to authorities, and that resulted in a sentence of
4 24 months. And because it is false statements to
5 federal authorities, Your Honor, it would go to his
6 credibility and honesty.

7 THE COURT: There's a rule that says that if
8 you have a prior conviction involving crimes of
9 dishonesty, that that prior conviction can be
10 testified about and given to the jury. But I would
11 give an instruction that they can only use that in
12 judging your credibility. They can't use the
13 conviction of a prior crime involving dishonesty
14 in convicting you, they can just use that in judging
15 your credibility.

16 THE DEFENDANT: I was planning on telling them
17 anyway.

18 THE COURT: Fine. Of course I have to make a
19 determination as to whether or not it's more
20 prejudicial than probative, but if you were going to
21 tell them, we'll just cross that bridge. So that
22 can come out.

23 MR. SHEALY: Just for the Court's edification,
24 my understanding is that that was in 2011.

25 MS. MAYES: Yes, 2011.

1 THE COURT: What did I say? Did I say
2 something different?

3 MR. SHEALY: Suzanne said 2001.

4 THE COURT: All right. So you understand that.

5 Now, you have the absolute right to invoke your
6 right to remain silent under the Fifth Amendment to
7 the Constitution, which says that any defendant in
8 any case has the right to remain silent. You have
9 absolutely no burden of proving anything. You don't
10 have to prove your innocence; the State has to prove
11 your guilt beyond a reasonable doubt.

12 And if you exercise your constitutional right
13 to remain silent, when I instruct the jury, I will
14 tell them that you have the absolute right to remain
15 silent and that they're not to infer anything from
16 the fact that you did not testify.

17 And I would further instruct them that they
18 could not even mention the fact that you didn't
19 testify when they deliberate your guilt or
20 innocence. It would not be a matter that they can
21 consider when they deliberate, they couldn't talk
22 about it, they can't do anything about it. That's
23 your absolute right, and you have the right to that.

24 If you take the stand, obviously, you can
25 testify, as I said, to any relevant information,

1 subject to cross-examination. So do you understand
2 your rights to remain silent?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you wish to exercise that right?

5 THE DEFENDANT: No.

6 THE COURT: You wish to testify?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. Now, I think -- I've
9 never tried a case in this courtroom. We have a
10 handicap accessible -- is that working?

11 THE CLERK: Yes, sir.

12 THE COURT: All right. Anything else we need
13 to put on the record concerning his right to remain
14 silent, Mr. Shealy?

15 MR. SHEALY: No, Your Honor. I think you've
16 covered it.

17 THE COURT: Anything else we need to do -- I
18 suspect if we go to 3:30 or 4:00, we're going to
19 come back tomorrow and argue and charge. But before
20 we leave tonight, we'll probably need to talk about
21 the charge. It's a pretty straightforward charge.
22 It's just three indictments and a regular charge.
23 But we'll talk about that. If there's anything in
24 particular you want charged other than my regular
25 charge, let me know so I can consider that.

1 Anything else before we break for lunch by the
2 State?

3 MS. MAYES: So, sir, Your Honor, not on this
4 case.

5 THE COURT: Mr. Shealy?

6 MR. SHEALY: Your Honor, we've already
7 discussed this in chambers and we already know
8 that -- you've already informed me that you have
9 little or no authority over this. But my client
10 asks that I tell you last night they kept him in a
11 place called the tank and kept the light on. He
12 stayed in his wheelchair til about 11:30 last
13 night and --

14 THE COURT: All right. I'll make a special
15 request that --

16 THE DEFENDANT: It wasn't handicap accessible.
17 I had to get on my knees to use the facility.

18 THE COURT: I'll once again do all I can to
19 encourage them, ask them to --

20 THE DEFENDANT: Well, they lied. They stood in
21 here and lied.

22 THE COURT: I'll, once again, talk to them.

23 All right. We'll stand at ease until 2:00.

24 (Luncheon recess 12:11 PM - 2:00 PM.)

25 THE COURT: Anything from the State before we

1 start back?

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

3 THE COURT: Mr. Shealy?

4 MR. SHEALY: Yes, sir, Your Honor. I
5 understand that the State intends to call Heather M.
6 Smith. I don't know if she's a doctor. But at any
7 rate, I believe -- and I've mislaid my witness list.
8 But I believe she's going to testify to child abuse
9 dynamics along the lines of what was discussed in
10 State v. Brown. And State v. Brown, in that case,
11 they --

12 THE COURT: Mr. Shealy, I read a million cases
13 a year. What is State v. Brown? B-R-O-W-N?

14 MS. MAYES: Yes, sir, Your Honor. State vs.
15 Damon Brown. I'll pass up a copy.

16 THE COURT: All right. First of all,
17 Ms. Mayes, what is your witness, Ms. Heather Smith,
18 going to testify about?

19 MS. MAYES: Yes, sir, Your Honor. She's a
20 blind expert. And that's one of the
21 issues addressed in State vs. Brown --

22 THE COURT: A what kind of expert?

23 MS. MAYES: A blind expert, where the expert
24 doesn't have any relationship to the children and is
25 not -- doesn't have a pre-existing relationship

1 where she would be vouching for their credibility or
2 anything of that nature. She's coming in clearly as
3 a neutral expert to educate the jury about delayed
4 reporting.

5 In this case, that would include delayed
6 reporting, the disclosure process, and things of
7 that nature in child sexual abuse cases. But it
8 eliminates the possibility of anyone vouching for
9 the child's credibility or doing anything that would
10 be considered bolstering, because she's had no
11 previous contact with the child or children.

12 THE COURT: And what's your objection,
13 Mr. Shealy?

14 MR. SHEALY: Your Honor, my objection is that I
15 believe she's going to talk about delayed
16 disclosure. And there's plenty of basis for that,
17 assuming she qualifies under your scrutiny. But
18 then she goes on and -- I'm assuming she's going to
19 talk about the difficulty of the children to sort
20 the timing of individual incidents and the order in
21 which they occurred. And she's also going to, I
22 believe, testify that victims who tolerate sexual
23 abuse to maintain a relationship.

24 And those, Your Honor, because of the testimony
25 that's taken place, we argue that that would be

1 vouching for the victims' credibility, even if she
2 didn't know what the victims said. It's still an
3 expert coming in and saying this is believable
4 because this is what children do.

5 Now, I want to point out that in State vs.
6 Brown, they admitted it. But our argument is that
7 it's improper.

8 THE COURT: Well, State vs. Brown reiterates
9 cases going back as far as State vs. Schumpert,
10 which was, I think, a case tried out of Newberry
11 back in the early '90s, which says that expert
12 testimony concerning common behavioral
13 characteristics of sexual assault victims and the
14 range of responses to sexual assault encountered by
15 experts is admissible.

16 Such testimony is relevant and helpful in
17 explaining to the jury the typical behavior patterns
18 of adolescent victims of sexual assault. It assists
19 the jury in understanding some of the aspects of the
20 behavior of victims and often provides insight into
21 the abused child's strange demeanor.

22 So they have said if she's duly qualified, that
23 this is the type of the testimony that can be used
24 or can be offered through expert testimony.
25 However, in that case, it goes on to caution both

1 bench and bar that, as in all of those cases, not
2 withstanding the fact that experts are permitted to
3 give an opinion, they cannot -- and I've said this
4 several times throughout this trial. But they
5 cannot offer any opinion or any hint as to the
6 credibility of children who testified in this case.

7 Obviously, witness credibility is for the jury,
8 and I have been cognizant of that throughout the
9 trial and I don't think we've had any of that. And
10 I'm sure if Ms. Mayes tries to go into any that,
11 I'll stop her if you don't, but we'll both stop her.
12 And I don't think she's going to do that anyway
13 because I think we're all aware of all of the cases
14 that have come down recently about bolstering
15 children's testimony in these forensic interview
16 cases.

17 So with that in mind, Ms. Mayes, I caution you
18 not to get into any areas where this witness opines
19 as to the believability of these children. She can
20 testify as to common behavioral responses to someone
21 who has been sexually abused as a child, including
22 delayed disclosure and things of that nature, which
23 the Courts have allowed in other cases. Understand?

24 MS. MAYES: Yes, sir, Your Honor.

25 THE COURT: Mr. Shealy, anything else?

1 MR. SHEALY: No, Your Honor.

2 THE COURT: All right. Bring my jury in.

3 (The jury enters the courtroom at 2:10 PM.)

4 THE COURT: You may call your next witness.

5 MS. MAYES: The State calls Heather M. Smith.

6 HEATHER SMITH

7 being first duly sworn, testified as follows:

8 THE WITNESS: I do.

9 THE CLERK: Have a seat, please, ma'am. Once
10 you're seated, state your full name, spelling your
11 last, please.

12 THE WITNESS: My name is heather Marie Smith.

13 DIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. All right. Ms. Smith, can you tell us some
16 information about yourself. Where are you employed?

17 A. I work at the Assessment & Resource Center.

18 It's the Richland County Child Advocacy Center.

19 Q. All right. And how long have you been working
20 in that capacity?

21 A. I've been there 13 years.

22 Q. What, if anything, can you tell us about your
23 educational background and training?

24 A. I have a master's degree in counseling from the
25 University of South Carolina School of Medicine, I'm

1 a licensed professional counselor in state of South
2 Carolina.

3 Q. And in order to become a licensed professional
4 counselor, do you have to have any type of testing
5 or certification that goes along with that?

6 A. You do. You take an exam, and then for two
7 years following that, you have direct supervision
8 while you work with clients.

9 Q. How many clients do you maintain in the course
10 of an ordinary year, if you could estimate?

11 A. Well, I conduct forensic interviews with
12 approximately 200 clients. And then I provide
13 treatment services, therapy, with approximately 50.

14 Q. All right. And I want to ask you specifically
15 about the treatment services or therapy that you
16 provide. Are those adult patients or primarily
17 children?

18 A. Children.

19 Q. Including children and adolescents?

20 A. Yes.

21 Q. And, specifically, can you tell us whether or
22 not that includes children and adolescents who are
23 victims of sexual assault and child abuse?

24 A. Yes.

25 Q. During your career, Ms. Smith, how many years

1 do you think have been devoted to working and
2 counseling with children who you were treating for
3 child abuse or sexual assault?

4 A. Okay. So prior to my 13 years working at the
5 child advocacy center, I worked at residential
6 treatment facilities with children who often had
7 histories of sexual abuse and assault. So in a
8 total career, thousands.

9 Q. All right. And you mentioned forensic
10 interviewing. Can you tell us whether or not the
11 forensic interviews you conduct in Richland County
12 are primarily focused on assessing child abuse and
13 sexual assault?

14 A. Yes. Those are investigative interviews for
15 law enforcement or the department of social
16 services.

17 Q. Now, in addition to your own clinical
18 experience treating patients and providing therapy
19 to patients, can you also tell us whether or not
20 you've also received education and training in the
21 field of child abuse and sexual assault?

22 A. Yes. In order to conduct forensic interviews
23 in South Carolina, you must undergo an intensive
24 training, at least 40 hours, and learning an
25 interview protocol and then practicing it with peer

1 review and getting supervision on that.

2 I currently teach the state in forensic
3 interviewing and I also provide a lot of training in
4 trauma-focus therapies, working with children who
5 have sexual abuse trauma, and then working with
6 adolescents and children in mental health services.

7 Q. All right. You mention that you train other
8 interviewers in the state. What program is that
9 through?

10 A. Through our interviewing protocol program that
11 we use in our state. It's called Child First. But
12 I also train -- and so during that training, I'm
13 training law enforcement, department of social
14 services, doctors that work in the field of child
15 abuse. But I also do trainings for the FBI, for the
16 department of justice, for their interviewing
17 specialists.

18 Q. All right. And again, this pertains to the
19 field of child abuse and sexual assault?

20 A. Yes.

21 Q. Ms. Smith, have you testified previously as an
22 expert in a court in this state in the field of
23 child abuse assessment and/or treatment?

24 A. I have.

25 Q. Is it possible to estimate how many such times

1 you've been qualified as an expert witness?

2 A. It's over 50.

3 THE COURT: I'm sorry. What?

4 THE WITNESS: Over 50.

5 MS. MAYES: Your Honor, at this time, the State
6 would offer Ms. Smith as an expert in the field of
7 child abuse assessment and/or treatment.

8 THE COURT: Any cross-examination as to her
9 qualifications?

10 MR. SHEALY: Yes, Your Honor, please.

11 EXAMINATION

12 BY MR. SHEALY:

13 Q. Could you tell us what child abuse assessment
14 is?

15 A. So child abuse assessment tends to refer to the
16 forensic investigative interviewing. But any time
17 that you work in the field of mental health
18 treatment, you are assessing for -- also, you know,
19 you're conducting mental health assessments for
20 children; to look at symptoms, how they're
21 functioning, home, school, and their developmental
22 level.

23 Q. Can you define it without using the word
24 assessment? I'd like to know exactly what you mean
25 by assessment.

1 A. So in forensic interviewing, it's a factfinding
2 interview for law enforcement and DSS to just gather
3 information so that investigation can be done. And
4 then in mental health assessment, you're, again,
5 looking at symptoms, how often the symptoms are
6 present. And this could be anything; trauma
7 symptoms, could also be sleeping, eating, how
8 they're functioning at school and home. That's
9 considered assessment at well.

10 Q. Okay. And the -- what is child abuse
11 treatment?

12 A. So the treatment is actually using best
13 practice therapy models to work with children who
14 have validated or disclosed some type of child
15 abuse.

16 Q. And what is child abuse dynamics?

17 A. Child abuse dynamics refers to certain types of
18 behaviors that children may express who have been
19 abused.

20 Q. Okay. Now, I haven't heard you comment on your
21 experience in that area. Do you have any experience
22 in that area?

23 A. Well, as part of training, the intensive
24 training that you receive to work with children who
25 have been abused, you do receive training in that

1 field. That really covers a wide range of topics of
2 how children may respond when they're being -- you
3 know, when they have been abused or express some
4 type of child maltreatment. That could be neglect,
5 witness to a domestic violence incident, witness to
6 violent crime. It really covers a wide, wide range
7 of dynamics of child abuse.

8 Q. Okay. But what's your training in child abuse
9 dynamics?

10 A. So all trauma training, any type of trauma, you
11 read a lot of trauma research, you read a lot of
12 research from therapists who work in the field of
13 child abuse, you read -- you read a lot of research
14 about best practice therapy models of how to treat
15 children that have been through something like that.

16 Q. And this research that you're speaking of, this
17 would be something that you would undertake in
18 addition to your 40 hours?

19 A. That's correct. Specialized training and
20 different training opportunities that are out there
21 in the community.

22 Q. Okay. And this research, it would deal with
23 things about -- and child abuse, why children say
24 what they say and when they say it; is that
25 essentially --

1 A. Or -- yes, that would be one. Or how they're
2 affected behaviorally, what kind of behaviors you
3 might see in a child who had suffered trauma -- not
4 necessarily just child abuse, but trauma -- how to
5 treat those symptoms, and then how to include the
6 family in treating that.

7 Q. I guess what my question comes down to is the
8 reliability of the research. How is the research
9 tested to show that this child is doing this because
10 of this as opposed to something else? Do you --

11 A. Yes, I do understand that. So in terms of
12 reliability, it always -- the research is based on
13 children where there is some type of indication of
14 abuse. So that would be a medical evidence of
15 abuse, that could be a, you know, conviction in
16 court, that could be a confession, a sexually
17 transmitted disease. And so of those children, what
18 they look for is a pattern of how those children
19 behave.

20 It's not always that it's diagnostic of abuse,
21 but that's where that research comes from. It's --
22 of course, you know, it's not ethical to abuse a
23 child and then see how they respond. So the
24 reliability studies is always children where abuse
25 has been indicated in that manner that I just

1 described.

2 Q. Sort of an indirect type of --

3 A. No. It's called a -- qualitative studies is
4 what they call them.

5 Q. And the --

6 MR. SHEALY: Thank you, Your Honor. That's all
7 of the questions I have.

8 THE COURT: Well, do you object to her
9 qualification as an expert in this field of child
10 abuse assessment?

11 MR. SHEALY: Your Honor, I do not object -- I
12 accept her as an expert. I do object to the
13 reliability.

14 THE COURT: All right.

15 Ma'am, any response to that?

16 MS. MAYES: Yes, sir, Your Honor.

17 EXAMINATION

18 BY MS. MAYES:

19 Q. Regarding the reliability, you've already
20 stated on the record the basis for qualitative
21 studies in this field. Are we talking about more
22 than one study?

23 A. Yes.

24 Q. Are we talking about years of study?

25 A. Yes.

1 Q. Can you tell us whether or not these
2 qualitative studies that have followed victims of,
3 as you stated, indicated cases of child abuse
4 through the years, are they accepted among peers in
5 your field?

6 A. Yes, they are.

7 Q. Can you tell us whether or not they are
8 commonly used as training and research guides among
9 peers in your field?

10 A. Yes, they are.

11 Q. And have you, yourself, through your own
12 clinical experience, seen similar behaviors in
13 children that you were treating?

14 A. Yes, I have.

15 Q. And as a result, have you found, through your
16 own clinical experience, such research to be
17 reliable?

18 A. Yes, I have.

19 MS. MAYES: That's all from the State at this
20 time.

21 THE COURT: All right. I'm going to qualify
22 her as an expert in the field of child abuse
23 assessment and forensic interview. I find that
24 based on her training and experience that she's
25 qualified to give opinions in this field.

1 Now, ladies and gentlemen of the jury, Madam
2 Forelady, our rules of evidence normally do not
3 allow a person to give opinion testimony. You can
4 only testify about what you hear or see or smell or
5 taste and things that you have direct knowledge of.
6 As an exception to that rule, someone who has the
7 education, training, and skill in a certain
8 scientific field or a field that's not normally in
9 the ordinary province of a layperson, they can give
10 opinion testimony. And I'll tell you how you judge
11 opinion testimony at the conclusion of the trial.
12 But she will be allowed to give opinion testimony in
13 the field of child abuse assessment and forensic
14 interviewing.

15 You may proceed.

16 MS. MAYES: May it please the Court.

17 THE COURT: Yes, ma'am.

18 DIRECT EXAMINATION

19 (Continued)

20 BY MS. MAYES:

21 Q. Now, Ms. Smith, I want to start by asking you,
22 do you have any pre-existing relationship with
23 Minor 1 or Minor 2 in this case?

24 A. No, I do not.

25 Q. Do you have any pre-existing bias or personal

1 interest in this case concerning August Kreis?

2 A. No.

3 Q. Can you tell us whether or not you had any
4 pre-involvement in the investigation of this case?

5 A. I did not.

6 Q. All right. Now, in general, does your training
7 and clinical experience include various aspects of
8 the disclosure or reporting process among victims of
9 child sexual abuse?

10 A. Yes, routinely.

11 Q. In discussing the disclosure process, what is
12 meant by the term delayed reporting or delayed
13 disclosure in child sexual abuse?

14 A. So research has found and my experience has
15 also indicated that in cases where children are
16 being molested or there's some type of child abuse,
17 sexual abuse, that it's often in a secretive
18 environment, it's not happening where people know
19 about it, and that children, even often when asked
20 directly, will deny it initially and they will say
21 it's not happening.

22 And then over time, they may disclose
23 throughout -- you know, throughout time. It's a
24 process. It doesn't happen all at once. And there
25 are reasons, you know, why children don't disclose

1 right away...

2 Q. In your training and experience, how common is
3 delayed reporting among victims of child sexual
4 abuse?

5 A. It's very common. It's more typical for
6 children to delay disclosure, to not disclose, to
7 deny when asked than it is for a child to be what we
8 call in an active state of disclosure where they're
9 ready to tell and just telling everything all at
10 once.

11 Q. What is meant by the term chronic sexual abuse?

12 A. So chronic sexual abuse is when children have a
13 history of years of sexual abuse. And it's not what
14 we'd call an acute case where it happened one or two
15 times; where it happens, really, over years for the
16 child. And it can impact their development and, you
17 know, it's usually occurring, again, within a
18 secretive environment.

19 Q. In terms of chronic sexual abuse, what factors
20 may commonly play a role in a child's delayed
21 reporting of abuse?

22 A. In general, when children have delayed
23 disclosure in a case of chronic sexual abuse,
24 typically it's because it's a family member. If a
25 child has been abused by a stranger or someone that

1 they don't know very well, a friend, they tend to
2 tell sooner than children who have undergone years
3 of abuse. And then it's a family member, someone
4 that they love, that they trust, then they will not
5 disclose.

6 They have -- children, especially, are taught
7 to -- that the home environment is, you know, their
8 safety net. So they often don't know that they can
9 tell. Sometimes children don't even know that it's
10 wrong. They just think that's a part of reality for
11 them, that's just how every family is, until they
12 realize that it's not, and then there's a lot of
13 shame, guilt, and embarrassment.

14 They also want to protect the family.
15 Sometimes it's hard for people who have not been
16 through that experience to understand why you would
17 protect someone that's hurting you or harming you.
18 But because your family unit is your safety net,
19 that you will do everything you can to just, what we
20 often call, just accommodate to it, to just find a
21 way to survive within it.

22 So, typically, if it's a family member, someone
23 who is paying the bills, you know, then oftentimes
24 kids know that in the family system, so they don't
25 want that person to get in trouble. Sometimes there

1 are direct threats to a child that if they tell,
2 someone will get in trouble, either them or the
3 person that they're trusting and loving, their
4 family member that's doing it. And then also; if
5 they have siblings, they're going to want to protect
6 their siblings, their brothers and sisters.

7 Q. Based upon your training and experience, is
8 delayed reporting by a child common or uncommon if
9 the perpetrator is a family member?

10 A. It's more common.

11 Q. Have you observed that in your own clinical
12 experience?

13 A. Yes.

14 Q. Now, what is meant by the term partial
15 disclosure of abuse?

16 A. So partial disclosure refers to when children
17 tell a little bit. Sometimes children initially
18 will tell -- will, what we call, test the waters.
19 They're tentative in their disclosure and they may
20 say somebody was messing with them or somebody is
21 bothering them, making them uncomfortable. But they
22 don't come out and say exactly what's going on with
23 someone.

24 And so sometimes also children will use what we
25 call qualifiers in their language. So they may say

1 something like, someone probably hurt me, someone
2 may have touched me. It's very tentative. And
3 oftentimes when children say things like that,
4 people aren't sure what to -- you know, whether to
5 pursue it further, or just to drop it, to look
6 further to it. So when children are in a tentative
7 state of disclosure, usually they're just testing
8 the waters to see what response they may get.

9 Q. Now, do you necessarily expect a child to make
10 a complete disclosure of abuse in an initial
11 statement or during an initial interview?

12 A. No. Again, children are still testing those
13 waters to see how people are -- what's going to
14 happen to the family, what's going to happen to me,
15 am I going to get in trouble, so they wait and see
16 what happens.

17 Q. What is meant by the phrase disclosure is a
18 process?

19 A. Just that children don't tell everything all at
20 once right away. It could take weeks, it could take
21 months, it could take years before everything is
22 told.

23 Q. Now, based upon your training and experience,
24 why may a child accept sexual abuse, especially
25 chronic sexual abuse, or consider it normal?

1 A. Well, it depends on the age when the sexual
2 abuse started. If it starts at a very young age,
3 children under ten often don't know it's wrong.
4 They don't know what that's something that you're
5 not supposed to do with family members or that
6 family members are supposed to do you.

7 But also if it starts after age 10, they,
8 again, want to protect that family unit and they
9 want to make sure everybody is taken care of,
10 everybody stays together, people aren't going to
11 jail, people aren't being separated, put in foster
12 care, which is what happens sometimes when children
13 tell because families might get split up, siblings
14 might get split up, put into foster care, and it's a
15 really scary time.

16 Q. All right. Your opinion that you've given
17 throughout your testimony as an expert, can you tell
18 us whether it's supported by your research of
19 literature and publications in this field?

20 A. Yes, it is.

21 Q. And is it supported by your own clinical
22 experience as a therapist and child abuse
23 professional?

24 A. Yes, it is.

25 MS. MAYES: I beg the Court's indulgence.

1 Nothing further at this time, Your Honor.

2 THE COURT: Mr. Shealy?

3 CROSS-EXAMINATION

4 BY MR. SHEALY:

5 Q. When you say secretive environment, what do you
6 mean?

7 A. So when child abuse happens, when child sexual
8 abuse, particularly, happens, it's a secret, there's
9 a secret to keep. People in the home don't know
10 about it. It usually occurs when no one else is
11 around. And sometimes children are taught or asked
12 to keep a secret about it.

13 Q. And asked by the perpetrator, this is a
14 secret --

15 A. Yes.

16 Q. -- or even threatened by the perpetrator that
17 if you tell anybody, this will happen?

18 A. Yes.

19 Q. And the -- you also testified when they're over
20 10 -- when they're 10 or under, that they don't know
21 it's wrong, but when they're over 10, they're
22 worried about the family unit staying together.
23 Now, why would a 10-year-old or an 11-year-old be
24 concerned or even know about DSS and the possibility
25 of a family being broken up and that sort of thing?

1 A. It's more about by age 10, children have
2 learned what we call moral development. So between
3 age 9 and 10, that's when they're really learning
4 what's right, what's wrong, what choices to make.
5 So between 9 and 10, with the moral development,
6 becomes embarrassment, guilt, shame, particularly
7 they're learning about body parts, they're learning,
8 you know, okay/not okay touch.

9 And so when they -- often when they realize at
10 that time that it's not correct for someone to do
11 that to them, on top of just worrying about the
12 family and not wanting the family to be split up,
13 they also then have shame, guilt, embarrassment,
14 another kind of reason not to tell.

15 Q. Okay. Now, with delayed reporting, you said
16 that they will often deny if asked directly. What
17 about if they don't deny when they're asked
18 directly?

19 A. Well, oftentimes, it depends on who is doing
20 the asking. You know, typically, before children
21 have a formal interview about abuse, they're asked
22 by people in their family, people around them,
23 friends, siblings. So when I say that, I'm
24 referring to a professional, formal questioning.

25 Q. Okay. But it's more common than uncommon for

1 someone with delayed reporting -- it's more common
2 for them to deny if they're asked directly?

3 A. Yes.

4 Q. Okay. It's less common to admit it if asked
5 directly?

6 A. Yes.

7 Q. And it's more common for them to go through
8 this disclosure process; is that correct?

9 A. Yes.

10 Q. So that would indicate more than one interview?

11 A. They may tell, like, family members -- they may
12 tell people in their family first, they may tell
13 people at church first, and then someone makes a
14 report and then interviews start to happen.

15 Q. All right. And over this time, it would
16 gradually -- more disclosure would be made?

17 A. Yes, depending on the response that they get
18 from their family system. Maternal support is very
19 important to children. When they're talking or
20 telling about things that happened, if their mother
21 or someone in their family is supporting them, they
22 have an easier time telling. But then over time,
23 they do -- with more favorable response, if the
24 child is feeling supported, taken care of, they will
25 disclose more.

1 Q. Okay. But generally speaking, where you have a
2 delayed reporting, that you would expect the
3 therapist or counselor or forensic interviewer or
4 whoever to have to hold more than one interview;
5 correct?

6 A. So best practice is that you only forensically
7 interview by a trained professional. So a therapist
8 really shouldn't be doing the investigative part.
9 Children may disclose to their therapist over time,
10 but in terms of the investigation, there should be
11 one or two interviews, no more -- three, maybe.

12 Q. Okay. So the -- if there's a disclosure
13 process and they're not disclosing immediately, when
14 should the forensic interview take place? Would it
15 be after the therapist has talked to them and taken
16 them through this disclosure process or should it be
17 immediately after the report is made?

18 A. So in terms of that, when a report comes out of
19 either a child tells a family member or someone that
20 they know and trust, a trusted adult, and then a
21 report gets made to an investigative agency,
22 attempts should definitely be made to have trained
23 professionals interview.

24 If therapy is going to take place within that,
25 it really needs to be a forensically sensitive

1 therapy in the sense that knowing that the child may
2 need to go back and get a forensic interview if they
3 disclose anything.

4 Q. Okay. I guess what I'm struggling with is,
5 you've testified that after delayed reporting, that
6 there's a disclosure process, and over time more and
7 more information becomes available. And my question
8 is, if that's true, then what good is a forensic
9 interview immediately upon or shortly after the
10 report is made? How does that time element fit in?

11 A. It's important to attempt a forensic interview
12 because law enforcement and the department of social
13 services need information to investigate, otherwise,
14 they don't have much to go on to try to investigate
15 a case.

16 But if a child -- it depends on if a child is
17 in a tentative state of disclosure. If they're
18 testing the waters, it may be that supportive
19 therapy is needed, and then you revisit the forensic
20 interview within months.

21 Q. And you said delayed reporting is more common.
22 But I didn't hear, more common than what?

23 A. So delayed disclosure is more common than
24 children who disclose everything right away all at
25 once. So, typically, with adults, we -- if someone

1 is hurting us, we run out and find someone who will
2 stop it, you know, the police, someone in authority.
3 Children don't do that. Children -- particularly
4 children who are being sexually abused where there's
5 secrecy, shame, guilt, and embarrassment, they tend
6 to find ways to survive within it instead of running
7 out right away and going to the police. So that's
8 what the term delayed disclosure -- more typical
9 than children who run out and tell the police right
10 away.

11 Q. Okay. I'm going to ask you a question that's a
12 hybrid of what you just said.

13 A. Okay.

14 Q. The child -- how common is it for a child to
15 delay disclosure, but the moment they're asked to,
16 immediately admit everything and participate in a
17 forensic interview and reveal everything?

18 A. It's not common, but it could happen. I mean,
19 there are a small percentage of children who may do
20 that. It would depend on their age, their family
21 system. Oftentimes we find that children, when
22 asked, will tell, if the perpetrator of the abuse
23 has, for some reason, left the home. Sometimes
24 children will tell everything then, even though
25 they've waited five years to do something.

1 Q. Okay. But the -- so that's -- it's less common
2 for them to -- for a delayed reporter to immediately
3 start saying what happened?

4 A. Right. I mean, they -- telling right away is
5 right when it happened. So if they've delayed
6 disclosure, there are reasons for that. And
7 that's -- you know, that's the reason.

8 But in some cases, after a delayed disclosure,
9 when asked, if the timing and circumstances are
10 right, they may tell.

11 Q. All right. Now, in some of these situations,
12 may those disclosures or what they say happen, could
13 they be not truthful?

14 A. Yes.

15 Q. Is that common?

16 A. In terms of the -- you know, the research that
17 I have based my experience and testimony and
18 training on are those where there's some kind of
19 indication of sexual abuse. Do children lie? Yes.

20 Q. Okay. And just to reiterate, your earlier
21 testimony was that the research is based on -- since
22 it's illegal to go and abuse a child and then gauge
23 the treatment, that the research is based on things
24 that are indicated by other means, and I called that
25 indirect; you recall all that? That's sort of an

1 indirect verification.

2 A. That's the way that cases are indicated for
3 sexual abuse, whether there's medical evidence, a
4 sexually transmitted disease, a confession, a
5 conviction.

6 MR. SHEALY: Thank you, Your Honor. That's all
7 I have.

8 REDIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. And just to clarify, Ms. Smith, all of the
11 behaviors and characteristics that you've described
12 in the research is based on validated cases of
13 sexual abuse; correct?

14 A. Correct.

15 Q. Not false reports?

16 A. Correct.

17 Q. And you mentioned during cross-examination that
18 maternal support can often be an important factor.
19 Why is that an important factor?

20 A. So research has shown that particularly
21 mother -- when the mother believes, supports, takes
22 care of the child, protects the child after a child
23 comes to them and tells them or tells someone
24 else -- it doesn't always have to be the mother that
25 they tell -- that level of support allows children

1 to feel safe and ready to even tell more and
2 further.

3 So in a case where you do have high maternal
4 support, when they do have a formal forensic
5 interview or if they're interviewed by the
6 department of social services, they tend to be able
7 to tell and disclose more.

8 Q. All right. And if a child has not previously
9 disclosed but they have a supportive and protective
10 mother, may they make that disclosure to the mother
11 in that situation?

12 A. Yes, they may.

13 MS. MAYES: Nothing further.

14 THE COURT: Ma'am, you may step down.

15 Next witness, please.

16 MS. MAYES: Your Honor, that's all from the
17 State. At this time, the State rests.

18 THE COURT: All right. Madam forelady, ladies
19 and gentlemen, that concludes the State's
20 presentation. I need about five minutes with the
21 lawyers. Let's take a quick five- or ten-minute
22 break. Please. Don't discuss the case and do not
23 deliberate.

24 (The jury exits the courtroom at 2:45 PM.)

25 THE COURT: Any motions by the State?

1 MS. MAYES: None from the State, Your Honor.

2 THE COURT: By the Defendant?

3 MR. SHEALY: Your Honor, ordinarily I'd make a
4 motion for directed verdict. But I don't see the
5 grounds to make an argument for that. Thank you.

6 THE COURT: All right. Of course in this stage
7 of the game, I'm concerned with the existence of the
8 evidence, not the weight. There's obviously
9 testimony in the record by the three -- the two
10 ladies who were the victims in this case and other
11 evidence corroborating it that, if the jury believed
12 it, would support a verdict. So I respectfully deny
13 the motion.

14 Okay. Any change in the decision to take the
15 stand?

16 THE DEFENDANT: No, sir.

17 THE COURT: All right. Let's go ahead and get
18 everything ready to go. Let's take a short break.

19 (Short break.)

20 THE COURT: Anything from the State before we
21 start back?

22 MS. MAYES: No, Your Honor.

23 THE COURT: Mr. Tommy Shealy?

24 MR. SHEALY: No, Your Honor.

25 (The jury enters the courtroom at 2:55 PM.)

1 THE COURT: Mr. Shealy, you may call your first
2 witness.

3 MR. SHEALY: The Defense calls August Kreis.

4 AUGUST KREIS, III

5 being first duly sworn, testified as follows:

6 THE WITNESS: I so affirm.

7 THE CLERK: Thank you. Please state your full
8 name, spelling your last.

9 THE WITNESS: August Byron Kreis, III,
10 K-R-E-I-S.

11 DIRECT EXAMINATION

12 BY MR. SHEALY:

13 Q. Mr. Kreis, you're the defendant in this case;
14 is that correct?

15 A. Yes.

16 Q. Okay. And --

17 MR. SHEALY: Sorry, Your Honor.

18 THE COURT: No problem.

19 BY MR. SHEALY:

20 Q. Mr. Kreis, tell me about your family. Who is
21 in your family?

22 A. Well, my ex-wife Karley, and seven of my
23 children.

24 Q. All right. And are these names accurate on
25 this list?

1 A. Yes, sir.

2 Q. So there's seven of them; is that correct?

3 A. Uh-huh.

4 Q. And did you in fact at one time live at
5 with them?

6 A. Yes, I did.

7 Q. And at the ?

8 A. Yes; three and a half months.

9 Q. Okay. Now, tell me about your relationship
10 with your family before these allegations were made.

11 A. Well, I thought it was a lot better than what I
12 found out. I never heard any of my children call me
13 Chip before; that was an experience. I thought
14 pretty good. I mean, I -- we had our ups and downs
15 like any other family, but I didn't know that my
16 daughters hated me.

17 I mean, Minor 2 said she was always afraid of
18 me, and we were pretty close. I was close with all
19 of my children. I was home 24/7 their whole life, I
20 mean, because I had diabetes and the rest, you know.

21 Minor 1 did take care of me, she really did. And
22 she did -- and the nurses told her she did a good
23 job.

24 Everything was fine until 2011. They haven't
25 been -- they haven't told you the whole story. I'm

1 planning on telling you the whole story. In 2011, I
2 got arrested for fraud and embezzlement against the
3 U.S. government. And what it was, was it was a lie
4 by omission. I didn't tell them about money that
5 was coming into my household because I had seven
6 children and they take out dollar per dollar.

7 So at that time, I was on a
8 nonservice-connected pension. We had about \$2,600
9 coming in a month. I was just making it. Property
10 sold up in Pennsylvania and a couple other things
11 and I put the money in the bank. Well, when the
12 FBI, for reasons we'll get into when I have a
13 chance, has been looking into me for many years.

14 Well, they did a full financial investigation
15 and determined that I had money coming in. They
16 used VA to come after me. And now I'm on the
17 Treasury watch list for, like, \$193,000. So my
18 relationship with the government has been rocky for
19 many years. So -- and when I get the chance, I'll
20 tell you why.

21 Q. And were you convicted of this charge?

22 A. I was -- it was a closed indictment and I found
23 out about it. I had to turn myself in. They wanted
24 me to fly back here to Columbia. I said, no way. I
25 said, if you want me, you come get me. So that's

1 what they did; they sent the Marshals and I turned
2 myself in to the sheriff's department. We were
3 living in South Fulton, Tennessee at the time.

4 I turned myself in, came back here. I wound up
5 doing 25 weeks in solitary confinement here at LCDC,
6 and took a plea agreement in October of 2011. And
7 my pension was shut off, my family went homeless in
8 Tennessee, they wound up going into a HUD
9 development in Kentucky where they were the only
10 white family and -- and I've been constantly in the
11 newspapers and stuff over the years. And they went
12 and told the people in that development who my
13 family was. So they were under constant
14 bombardment. And when I say bombardment, I mean
15 beating on the house and -- you know.

16 What I'm trying to get at is I always have been
17 very concerned about my family. But worrying about
18 them going homeless again, you know, I --

19 Q. All right. Mr. Kreis --

20 A. Okay.

21 Q. -- when you were convicted, you pled guilty to
22 that charge; is that correct?

23 A. Yeah, because I did it.

24 Q. Because you did it. Why are you -- you're
25 pleading not guilty to these charges?

1 A. Yeah, because I didn't do it.

2 Q. You didn't do these things that they said?

3 A. No.

4 Q. Okay. Now, when you --

5 A. And the zero-to-20 offer is stupid. I'm 61
6 years old yesterday.

7 Q. Mr. Kreis, after you got out of prison for this
8 charge, what -- where did you go? What did you do?

9 A. When I got out of jail, I went to a former --
10 the former friend that was here yesterday, I went to
11 his house and stayed and there several for months.
12 Then I wound up going with the Alston Wilkes Society
13 here in Columbia.

14 Q. And what is the Alston Wilkes Society?

15 A. It's a veterans advocacy group. I mean, it's a
16 group home with 18 -- it's an 18-bed man facility.

17 Q. And you were eligible for that because of your
18 service in the Navy during Vietnam?

19 A. Yes.

20 Q. Now, while you were living there, what did you
21 hear about your family up in, I believe it was,
22 Tennessee?

23 MS. MAYES: Objection to hearsay.

24 BY MR. SHEALY:

25 Q. Based on what you learned about your family,

1 what did you do?

2 A. I talked to another veteran there, and we left
3 the facility and took a road trip to get my family
4 and bring them back.

5 Q. And that's how they wound back here in South
6 Carolina?

7 A. Correct.

8 Q. All right. Now, the -- were you going to
9 school?

10 A. Yes. I was going to VRAP, a government program
11 for unemployed vets.

12 Q. Okay. And at what point --

13 A. And underemployed.

14 Q. And at what point did you start going to
15 Midlands Tech?

16 A. What was I going for?

17 Q. At what point did you start going? Was that
18 part of this VRAP?

19 A. Yeah.

20 Q. Okay. And what were you studying?

21 A. Computer science.

22 Q. Okay. And while you were living -- while you
23 were going there, where did you continue to live or
24 where did you live?

25 A. I was living with Alston Wilkes' home, and then

1 left there and went to Palmetto State Base Camp,
2 which is another part of Alston Wilkes, which has
3 about 20 homes in the Columbia area. And I stayed
4 in one of the base camp units.

5 And then when I left there, I moved with a
6 couple of guys -- a couple of veterans up to
7 Hollywood Hills. That was interesting.

8 Q. All right. And the meanwhile, when you came
9 out of prison, did you have any income?

10 A. Well, they took my pension away. And I applied
11 for my SSI, and I got that back.

12 Q. Okay. And you received some money for school?

13 A. Yes. I was getting around 1,500 a month. And
14 that's how I look -- when I left -- I'm sorry. When
15 I left Alston Wilkes, I went to -- Alston Wilkes to
16 one of the state base camp homes. Then I went to
17 the apartments for three and a half months,
18 with my family.

19 And then I went from there -- I found them a
20 place out in Cassatt to get them back out into a
21 country. I had to stay to go to school, so I went
22 to Hollywood Hills.

23 Q. Okay. Now -- and up to this point, as far as
24 you knew, what was your relationship with your
25 children like?

1 A. We were living apart, but only because of the
2 situation of what happened. I didn't know anything
3 about being -- being in a bad position with the
4 family. I didn't know anything about that.

5 Q. Okay. The -- at any point -- let me start.
6 Were you continuing to support the family when they
7 moved to Cassatt?

8 A. Yes. Yes.

9 Q. And was anybody else supporting the family?

10 A. Well, my ex-common-law wife was getting
11 five-something a month through family services.
12 Yeah.

13 Q. And other than that?

14 A. No.

15 Q. The -- and did you go visit them up in Cassatt?

16 A. Yes, whenever she would come get me on
17 weekends.

18 Q. Did you ever improperly touch or --

19 A. No.

20 Q. -- do anything sexually with Minor 3 ?

21 A. No.

22 Q. Do you know where she could have possibly
23 gotten that from -- scratch that. I'm sorry.

24 At some point while you're going to school, was
25 there any discussion of you moving back in with

1 them?

2 A. Yes.

3 Q. And why were you going to have to move back in
4 with them?

5 A. Because there was no way that we could keep up
6 my rent on the renting the house with my roommates
7 plus keep up the payments on paying for the rental
8 and utilities and everything then.

9 Q. And what had you noticed about the discipline
10 of the children or the behavior of the children
11 while you were away?

12 A. Well, when I was sick, things kept getting
13 worse and worse. And it's a lot my fault too. But
14 the discipline was going down the drain, you know,
15 just was getting worse and worse. And the mistake I
16 made was I sent them to public school. But
17 hindsight is 20/20.

18 Q. Okay. And as a result, Minor² dropped out of
19 school; is that correct?

20 A. Yeah. She dropped out of school at 17.

21 Q. Okay. Now, when you started to -- when you
22 started making plans or -- who did you talk to about
23 moving back to the house?

24 A. Well, I talked to my wife about it.

25 Q. This would be Karley?

1 A. Karley. And see, we got to go jump back in the
2 past a minute. Karley's folks didn't like me
3 because I'm 20 years older than she is. She was 18
4 and I was 36 when we got together. Do the math.
5 She didn't -- they didn't like me, I didn't care for
6 them very much.

7 And I started telling my ex that when I got
8 back, discipline was going to be a lot different;
9 they were going to listen to me, do what I say, or
10 they were going to hit the highway. I'm one to
11 believe that when you turn 18, you're on your own,
12 you know, otherwise, you don't make it in life.
13 Some people my age got the 30-year-olds still at
14 home, you know. Maybe I'm a little harder than
15 most.

16 But do I have a temper? You darn tootin', yes,
17 I do. Did I ever use it on them? No. No. They
18 knew when I wasn't kidding. And all I can say -- I
19 mean, I don't have any regrets that way, you know,
20 but there's some things I've done wrong, you know,
21 that you can't change.

22 Q. All right. Let's get back to this when you
23 turned 18. Minor 1 was turning 18; is that correct?

24 A. No. Minor 1 was already 18. It was Minor 2 .

25 Q. What did you let be known about Minor 1 ?

1 A. Well, I didn't want Minor1 or her boyfriend --
2 I didn't call him that -- or her boyfriend on the
3 property at all. And I told my wife and my children
4 if they go on the property at all and you don't tell
5 them to get off and you let them stay, then I'm not
6 paying anything in this house anymore, not paying
7 the bills anymore. And since I'm disabled, not much
8 they can do to me, you know. So I wasn't going to
9 pay for it anymore. So the next thing I heard was
10 there was a big argument, and now I'm Chester the
11 molester.

12 Q. Okay. So all of this disclosure that you told
13 happened before anyone ever charged you with
14 molesting any girl -- any of your daughters?

15 A. Oh, yeah.

16 Q. Okay. Now, the boyfriend, what was his name?

17 A. Ryan.

18 Q. Okay. And --

19 A. He's --

20 Q. Go ahead.

21 A. The reason why I didn't want them on the
22 property wasn't, you know, to do -- it was to do
23 with her and him were stealing -- my son E.K. that
24 you met, they were stealing his hyperactivity, HDHD
25 [sic] drugs or whatever. And every time that Karley

1 told me that when she went to find them --

2 MS. MAYES: Objection to hearsay.

3 THE COURT: Don't say what somebody else said.

4 As a result of what Karley said, what did you do?

5 THE WITNESS: I put down the mandate that they
6 weren't allowed on the property anymore.

7 BY MR. SHEALY:

8 Q. And did they still come onto the property; do
9 you know?

10 A. Not to the best of my knowledge. Not until
11 that day that they said there was a big argument.

12 Q. Now, before your arrest, was alcohol allowed in
13 your home?

14 A. No.

15 Q. Have you since learned whether or not it's now
16 allowed in your home?

17 A. Well --

18 MS. MAYES: Objection. Objection to hearsay
19 and speculation.

20 MR. SHEALY: Withdraw the question, Your Honor.

21 THE COURT: Sustained.

22 BY MR. SHEALY:

23 Q. Well, you've heard the testimony of Minor 1 and
24 Minor 2 and Minor 3

25 A. Uh-huh.

1 Q. How did that testimony make you feel?

2 A. Like shit. Plain English.

3 Q. Do you -- do you --

4 A. Mad. Mad, because if they would have told me
5 they didn't want anything to do with me or didn't
6 want me there, I would have left along time ago.
7 And I could have started enjoying myself a lot
8 earlier.

9 Q. But they didn't tell you, did they?

10 A. No.

11 Q. Have you ever threatened Minor 1 , Minor 2 , or
12 Minor 3 --

13 A. No.

14 Q. -- with any type of bodily harm or anything
15 like that?

16 A. No. No.

17 Q. Have you ever harmed them physically?

18 A. No; never had any reason.

19 Q. And did all these -- did you routinely, on a
20 weekly basis, abuse -- sexually abuse these
21 children?

22 A. No, I did not.

23 Q. And did you have any indication that these
24 allegations would be made prior to your arrest at
25 Midlands Tech?

1 A. I had a feeling.

2 Q. How did you have that feeling?

3 A. Because back in 1996, my 36-year-old daughter,
4 during the course of a divorce in -- you know, in
5 the '90s, she accused me of something similar. And
6 there was no -- there was no -- it didn't go any
7 further than accusations.

8 But when Minor 1 and her boyfriend went up to
9 visit my eldest daughter, I thought this was well
10 over -- over and done with a long time ago. And we
11 were -- Je. K. and I get along -- were getting
12 along good. And she went and told Minor 1 the
13 story. And Minor 1 came back and told her mother
14 and her mother told me. And that's the way I found
15 out about it. And I said, here we go again.

16 And I didn't know if anything was going to
17 happen. I was hoping not. But the madder I got at
18 Minor 1, the more words that we had, the more I
19 cussed out her boyfriend and told her she wasn't
20 welcome on the property anymore and told her that if
21 she wanted to talk to her mother, she could call her
22 or go meet her at McDonald 's.

23 I wasn't -- I thought about what could be the
24 ramifications of that. But I just said to hell with
25 it; otherwise, I'd have that hanging over my head

1 forever.

2 Q. Okay. Now, you've heard the letter read into
3 evidence.

4 A. (Nods head.)

5 Q. You have to say yes or no.

6 A. Yes.

7 Q. Okay. And you've always, from day one, even
8 against my advice, have admitted that you wrote that
9 letter?

10 A. Yes. I wrote that letter and I meant every
11 word.

12 Q. All right. And --

13 A. You know, they wanted me to do a handwriting
14 sample and all that. I said no. I said, why don't
15 you just let me say, yes, it's my letter, yes, I
16 wrote it?

17 MR. SHEALY: Is this possible to be open?

18 MS. MAYES: No objection.

19 THE DEFENDANT: I have a copy.

20 BY MR. SHEALY:

21 Q. I'll give you the original. Is this the letter
22 you sent?

23 A. Yes.

24 Q. And this is State's Exhibit 14. All right.
25 Let's take you through the letter.

1 All right. The -- this letter was, in fact,
2 written to Karley?

3 A. Yes.

4 Q. And what was your intent in writing the letter?

5 A. Giving up.

6 Q. Well, at the very start, you start telling them
7 about your personal property and --

8 A. Well, I was worried about them going homeless
9 again. That was my biggest concern, was the
10 financial stability of the family and what would
11 they do if I wasn't there and I wasn't getting the
12 money coming in, you know, because nobody else
13 worked. I mean, I didn't know what was going to
14 happen. So I was very fearful of that.

15 Q. So Minor² didn't work either, even though she
16 dropped out of school?

17 A. No. No.

18 Q. Now, going back to things that you said about
19 when you moved in -- we'll get back to the letter.
20 Did Minor² have several pets?

21 A. Yes.

22 Q. What kind of pets did she have?

23 A. Well, the last I -- three cats and a dog. And
24 the dog growled at me every time I went over there
25 and the dog was leaving.

1 Q. Is that what you told her is that she was going
2 to lose the dog?

3 A. Yeah, and all the cats. But I let her keep
4 one. I was paying for them.

5 Q. Did that make her unhappy?

6 A. I don't know. It didn't really make any
7 difference.

8 Q. Okay. Going back to the letter, the first part
9 you're talking about the Higher One card. What is
10 that?

11 A. That's money that you get from the government
12 to go to school. They put it on a card.

13 Q. Okay. And you told her what to do with that
14 and what to do with your debits cards and things of
15 that nature?

16 A. Yeah.

17 Q. All right. Now, what was your understanding
18 about the money you were receiving from the
19 government for -- was it SSI or social security?

20 A. You know, I was under the assumption that SSI
21 continues until you get sentenced to prison. Well,
22 I was mistaken. Until you get sentenced to jail or
23 kept in jail, the money stops.

24 Q. Okay. And what was your instructions to Karley
25 about the bank account and the money coming from

1 SSI?

2 A. That I was sending my debit card to a former
3 friend, pastor, up in Michigan and that he was going
4 to set up an account for me. And I was going to
5 take care of the rent, 500 bucks a month, to
6 probably write to the -- write to the landlady.

7 Q. Okay. And you also talked about on the second
8 page that you were not considering suicide. What
9 was that about?

10 A. Well, they had me -- I made the comments when I
11 got arrested and got to the jail. And they --
12 they -- I got arrested with my electric wheelchair,
13 and they acted like there could be a bomb or
14 something in it. So I said, if there was, I'd push
15 this button just like this and we'd go boom. Well,
16 that put me on suicide watch, because I was
17 threatening homicide.

18 So I spent five days naked. And I don't care
19 what they say, I mean, I was naked in a cell with
20 the light on 24/7. It was more like psychological
21 warfare. That's what it reminded me of. If I
22 wasn't crazy, any more of that -- I mean, I went
23 more than two weeks. And I told them, if you don't
24 get me out of here, I'm going to be crazy. So --

25 Q. And didn't --

1 A. -- that's what that was about, naked in a jai
2 cell.

3 Q. And then when you -- after --

4 A. And I don't know if they read the letters, so I
5 just put in there if anybody is reading.

6 Q. After that you also added, just for your
7 knowledge, I'm not asking for bail and have already
8 told the lawyers they gave me it's not going to
9 trial, I'll stay here until sentenced to prison.

10 A. Well, I gave up. I mean, this has happened so
11 many -- not this particular thing. But the Feds
12 trying to get me into prison so many other times
13 that I just said screw it, you know, that's it for
14 me.

15 Q. Okay. But that's the only time you've been to
16 prison?

17 A. I said I'm 61, arts and crafts sounds cool.

18 Q. And that's the only -- the only time you've
19 ever been to prison was --

20 A. Was 2011. Yeah.

21 Q. So the government --

22 A. But that turned me into a felon and I lost all
23 my weapons and everything.

24 Q. Okay. Now, the -- and then after you had a --
25 are you there admitting that you're guilty of these

1 allegations?

2 A. No way.

3 Q. So why did you say that?

4 A. Why did I say what I said?

5 Q. Why did you say it's not going to trial, I'll
6 stay here until sentenced to prison?

7 A. Because I really had -- this was a few days
8 after I was arrested, and I had given up and just
9 said to heck with it, I don't care anymore. I had
10 enough, you know, all these years. I mean, I -- I'm
11 on a domestic terrorist watch list, I'm on -- when
12 you go to fly in a plane you have to be taken
13 through Homeland Security and everything.

14 It just got to be me telling the government
15 where to go for so many years and it got to be
16 enough. And I just said I couldn't take it anymore.

17 Q. Okay. And the -- and it --

18 A. And I still feel the same way.

19 Q. And it was also after you were kept five days
20 naked in a cell, is that correct, with the light on
21 24/7?

22 A. Yeah.

23 Q. Now, then you said, if I'm gone before the
24 children turn 18, you can apply for SS for them
25 also.

1 A. Well, if I -- I have social security. And when
2 I die -- when you die and your children did not turn
3 18 yet, you can collect social security on them. So
4 that's what I was telling her.

5 Q. So that's what you mean by if I'm gone?

6 A. Well, if I'm dead before they turn 18, yeah.

7 Q. And then you said if you couldn't be with your
8 children, you'd rather be dead.

9 A. Well, yeah. I was despondent. That's the way
10 I always felt, and I've told Karley that.

11 Q. And then later --

12 A. Now I'm over it.

13 Q. The letter expressed concerned about her health
14 and her need to get her health back.

15 A. Well, yeah. She kept getting -- I mean, I
16 loved her as the mother of my children, but I wasn't
17 in love with her anymore. And I just -- I couldn't
18 get past that the time that I did not see her, she
19 got bigger and bigger and bigger, you know. I just
20 couldn't deal with it. And I always said I'd never
21 let that happen to my children. Well, they eat
22 well.

23 Q. And right before the -- to the top of page 3,
24 you comment that I'm sure you want nothing to do
25 with me. What's that all about?

1 A. Say that again. I'm sorry.

2 Q. At the very end of page 2, the back of the
3 first page, at the top of page 3, you talk about
4 Karley -- that you're sure, you, meaning Karley,
5 don't want anything to do with me?

6 A. Well, so many years of going through what we
7 went through -- I mean, my children were constantly
8 getting picked on and stuff with other children when
9 their father's face was on the front page of the
10 newspaper; when they went to school, their teachers
11 would say, negative -- to be nice, negative things
12 about be. And they were my children.

13 I put them -- I been a part of antigovernment
14 groups since back in the mid '70s. So I've always
15 had my very strong feelings and I voiced my opinion
16 everywhere.

17 Q. Okay. And you told them that on your computer
18 hard drive, you had movies for A.K. and cartoons.
19 And then you said that you hate -- or, I hate myself
20 more than anyone else could. What would --

21 A. Well, I was just having regrets that I put them
22 through all this for so many years and then had it
23 come to this.

24 Q. Were you admitting that you had done anything
25 physically wrong?

1 A. No. No.

2 Q. Okay. And the rest of the letter, you talk
3 about you deserve what happens to you. You think
4 all that is just --

5 A. Well, I put my family through everything I did
6 so many years. And it seems like since I don't seem
7 very much hopeful for what I believe in, it seemed
8 like I wasted a lot of my years spinning my wheels
9 over nothing, you know, nothing that I could see
10 making changes for by myself. It would take --

11 Q. But despite all this, at the time you wrote
12 this letter, you stated that you still loved them;
13 is that correct?

14 A. Yeah. And I do.

15 Q. Now, the --

16 MR. SHEALY: Pardon me for a moment, Your
17 Honor.

18 BY MR. SHEALY:

19 Q. Now, you heard E.K.'s testimony about the
20 covers and leaving the room and all that. Do you
21 recall that incident taking place?

22 A. No. I'd be lying if I did.

23 Q. Okay. Was it unusual for your children to be
24 together with you on the bed or under covers?

25 A. No. No, because three of them usually slept

1 with me.

2 Q. Was there ever anything sexually going on?

3 A. No.

4 Q. Have you ever placed your mouth on their
5 private parts?

6 A. No. No.

7 Q. Have you ever with your fingers touched their
8 private parts either over or --

9 A. No. I've never touched them, period, not that
10 way. I mean, I used to give them baths and stuff
11 like that. But no.

12 Q. Okay. Now, getting back to Karley, after you
13 sent this letter, what happened to your SSI?

14 A. Oh, she got it. She took the card. She
15 went to -- she went -- she went to the courthouse,
16 got herself -- got them to say that she was my legal
17 wife. And she went and picked up my personal
18 belongings, along with everything that I was worried
19 about that I had in the bag too.

20 And she got ahold of the card and spent the
21 money for a year. I don't know whether she told
22 welfare about it, but she spent -- I got a bill a
23 couple months back for \$8,600.

24 Q. Did you receive that \$8,600?

25 A. No. I was in Alvin S. Glenn.

1 Q. So was this the first you heard that this
2 \$8,600 --

3 A. Well, when I started getting the bills, yeah.

4 Q. That's the first you learned about this?

5 A. That she spent the money or that she was taking
6 the money out of the account?

7 Q. Well, that she was receiving money from SSI.

8 A. Yeah.

9 Q. And did she get your permission for that?

10 A. Well, in the letter I told her -- no, she did
11 not get my permission.

12 Q. All right. In the letter you told her that it
13 would go to your bank account and that you'd pay the
14 rent; right?

15 A. Yes. I said a lot of things to Karley though
16 because I was trying to get her -- I was trying to
17 get her to get her parents to cover the money that
18 she needed so I didn't have to move back to the
19 house, because my children didn't want to listen to
20 me anymore without a leg. So I couldn't chase them
21 anymore. So --

22 Q. So Karley's parents are well off?

23 A. Yeah.

24 MR. SHEALY: Thank you, Your Honor. That's all
25 I have.

1 THE COURT: Ma'am.

2 MS. MAYES: Yes, sir, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. MAYES:

5 Q. Mr. Kreis, you have gone into a lot of detail
6 here about your antigovernment beliefs. And your
7 testimony is that those antigovernment beliefs put
8 you on, I believe what you called, a domestic
9 terrorist watch list?

10 A. Uh-huh.

11 Q. Why is that?

12 A. Why is that?

13 Q. Why is that?

14 A. Because the government feels that the
15 organizations are a threat to the security of the
16 United States.

17 Q. What organizations?

18 A. The -- to begin with, the Ku Klux Klan for 13
19 years, the Posse -- the Sheriff's -- it's called the
20 Christian Sheriff's Posse Comitatus, antigovernment
21 group for 12 years, and then Aryan Nations.

22 Q. Aryan Nations?

23 A. Yeah. And I took over Aryan Nations for Pastor
24 Butler.

25 Q. You took it over?

1 A. Yes; international leader.

2 Q. International leader --

3 A. Yeah.

4 Q. -- of Aryan Nations?

5 A. Yeah.

6 Q. And the KKK in this state?

7 A. In this state? No. I don't have anything to
8 do with the Klan in this state.

9 Q. What state?

10 A. That was in Pennsylvania.

11 Q. Those are all groups you chose and elected to
12 be a part of; correct?

13 A. Absolutely.

14 Q. So the government isn't out knocking on your
15 door, tracking you down because you're sitting there
16 watching TV, they're tracking you down because
17 you're the leader of the Aryan Nations; correct?

18 A. Yeah.

19 Q. There's a reason that you're on a domestic
20 terrorism watch list; correct?

21 A. In their mind.

22 Q. And just as you chose to become part of those
23 groups, you chose all of the media attention that
24 you could find to make yourself a public spectacle;
25 correct? The Jerry --

1 A. A public spectacle? No.

2 Q. The Jerry Springer show?

3 A. Not a public spectacle. I used whatever means
4 I had to my advantage to spread the word.

5 Q. All right. So when you went on the Jerry
6 Springer show by your own choice, that was to spread
7 the word?

8 A. That was to spread the word, that's right.

9 Q. The word of the Aryan Nation?

10 A. The word of white segregation, period.

11 Q. And, ultimately, you were kicked off even of
12 the Jerry Springer?

13 A. Even? I called him a hook-nosed bastard.

14 THE COURT: You called him what?

15 THE WITNESS: I called him a hook-nosed
16 bastard. And I told that I had his mother in the
17 trunk of my car, she was a piece of luggage.

18 THE COURT: What do you mean by that?

19 THE WITNESS: Well, the Jews said to the
20 Germans, turned them into lampshades and soap and
21 all kinds of stuff, so I was advertising.

22 BY MS. MAYES:

23 Q. So you made derogatory statements to the host,
24 Jerry Springer, and as a result, you were kicked off
25 that show; is that correct?

1 A. And paid to come back the following week.

2 Q. And then in 2005, you spoke with the media
3 about, quote, joining forces with Al Qaeda; correct?

4 A. Yes.

5 Q. And under your proposition, your group, the
6 Aryan Nation, would join forces with Al Qaeda?

7 A. Only to the extent that we have a common enemy.
8 Now, I've since rescinded that because the -- it
9 just wouldn't work. I mean, it's not the way for
10 our folk. But I did contemplate that for a while,
11 yes.

12 Q. And, again, you spoke to the media about that
13 to express that viewpoint; correct?

14 A. Correct.

15 Q. So just to clarify, we're not talking about a
16 situation where you're minding your own business
17 there at . . . or there at that
18 apartment on . . . You're out seeking
19 as much public attention you could find to draw
20 yourself to the attention of the federal
21 authorities; correct?

22 A. No, that's not what you do it for. I used the
23 media just like they used me. But that's not what I
24 was doing it for. I mean --

25 Q. Well, you're not surprised you'd be on a

1 domestic terrorism watch list; correct?

2 A. That's pretty funny, because I know the truth,
3 you know. I know what I've done and not done. And,
4 you know --

5 Q. So let's talk about --

6 A. -- they've wasted a lot of time watching me.

7 Q. Let's talk about your federal conviction.

8 A. Let's.

9 Q. Federal conviction for false statements to
10 federal authorities, and that was in 2011; correct?

11 A. It wasn't false statement, it was a false
12 omission.

13 Q. Which resulted in your conviction; correct?

14 A. Correct.

15 Q. And your statement during direct examination
16 there with Mr. Shealy, is that when you wrote that
17 letter, that letter that you just testified you
18 meant every word of, where you're begging for the
19 forgiveness of your wife and your children, and you
20 state: I deserve whatever happens to me. I'm so
21 sorry I hurt the only ones I love and loved --

22 A. I know what I said, ma'am.

23 Q. -- me, you, and our children. Correct?

24 A. Correct.

25 Q. Now, you were sitting in that detention center

1 at Alvin S. Glenn because of criminal sexual conduct
2 with a minor; correct?

3 A. That's what you say --

4 MR. SHEALY: Your Honor, this isn't -- he's
5 accused of.

6 A. I was sitting there because I was arrested on
7 February 19th and taken away from my family and not
8 given any -- not given a bond because I was a flight
9 risk, supposedly. No, I was there because you
10 people took me away --

11 Q. I will rephrase --

12 A. -- and your ZOG.

13 Q. You were arrested --

14 THE COURT: I'm sorry. What was that last
15 thing?

16 THE WITNESS: ZOG.

17 THE COURT: What?

18 THE WITNESS: Zionist Occupational Government.

19 THE COURT: Thank you.

20 BY MS. MAYES:

21 Q. All right. You were arrested for criminal
22 sexual conduct with a minor; correct?

23 A. Correct.

24 Q. Okay. So you're sitting there in that
25 detention center, arrested for criminal sexual

1 conduct with a minor, and you state: I hate myself
2 more than anyone else could. I deserve whatever
3 happens to me. And your testimony is, oh, you only
4 said those things because you, quote, gave up?

5 A. Correct.

6 Q. Because the feds, as you put it, are out to get
7 you; correct?

8 A. Pretty much.

9 Q. Your daughter Minor³ , your daughter Minor² ,
10 your daughter Minor¹ , they're not feds, are they;
11 they're your children?

12 A. No. But they've been taken through a bunch of
13 psychobabblists, pseudoscientist pieces of shit that
14 don't know anything but to -- couldn't find their --
15 no. They're being used. They're being used. In my
16 eyes, they're being used, ma'am.

17 Q. Mr. Kreis, your daughters went to the Lexington
18 County Sheriff's Department --

19 A. I know what happened, ma'am.

20 Q. Your daughters spoke to this detective and to
21 Sergeant Barr before they ever met any, as you put
22 it, psychobabblists. You're aware of that, aren't
23 you?

24 A. Well, no, I was in jail. Nobody told me
25 anything.

1 Q. You've seen the discovery in this case, haven't
2 you?

3 A. Oh, yeah, now I have.

4 Q. Now, let's talk about

5 While you resided there with the girls, we're

6 talking 2005 through 2008, Minor 1 was 11 and 12

7 years old, Minor 2 was 9, 10, and then turned 11 in

8 that house. Do you remember that?

9 A. Yeah.

10 Q. You remember Minor 2 -- you remember the little

11 things? You remember Minor 2 breaking her arm on her

12 bike around the time of Minor 1 's 12th birthday?

13 A. I can remember when she broke her arm, yeah.

14 Q. And then you remember that the family, after

15 you resided there, moved on to, eventually,

16 apartments and you lived there?

17 A. Yes.

18 Q. And the house in Cassatt, as you put it, you

19 weren't living there?

20 A. No.

21 Q. You were coming to visit --

22 A. Yes.

23 Q. -- but you weren't actually living there day in

24 and day out with the children anymore, were you?

25 A. No. I was paying the bills, but I was not

1 living there. No.

2 Q. And the fact that you paid the bills, to say
3 that you're the financial provider of your family,
4 that's an understatement. You're the only provider
5 for the family, aren't you?

6 A. Well, I mean, in the capacity of my SSI check,
7 I was, yeah.

8 Q. And it had been the case --

9 A. But they were getting -- they were getting a
10 thousand dollars a month in food stamps and 571, I
11 believe, in welfare.

12 Q. The SSI, as you just put it, I believe, is when
13 you said you found the house in Cassatt; correct?

14 A. Yes.

15 Q. And you getting arrested certainly doesn't help
16 the financial situation, does it? Your SSI has been
17 terminated because you've been arrested, hasn't it?

18 A. It's been terminated because I'm in jail, yes,
19 after a year of getting it.

20 Q. That's right. You don't receive that money
21 anymore, do you?

22 A. No. And you're getting at?

23 Q. It's a question, sir. You don't receive the
24 SSI money anymore, do you?

25 A. I got the bill.

1 Q. And as to the house in , you weren't
2 working. You were getting that SSI check, but you
3 weren't working. So you're home during the day?

4 A. No. I was getting my pension back then.

5 Q. Well, you were getting a pension back then
6 because you had not yet been convicted of a federal
7 crime, the felony that took your pension away. So
8 you were getting a pension, but you weren't
9 physically working outside of the home. So you were
10 there during the daytime; correct?

11 A. Correct.

12 Q. And you were there during the nighttime;
13 correct?

14 A. Correct.

15 Q. Now, you mentioned your involvement in the
16 Navy. Tell us, how long were you in the Navy?

17 A. Ten months.

18 Q. So you were in the Navy ten months. And once
19 you left the Navy, it still --

20 A. I got an early out. Navops 113.

21 Q. And even decades later, it qualifies you for
22 the financial assistance such as the VRAP that
23 allows you to attend Midlands Technical College;
24 correct?

25 A. Correct.

1 Q. And your testimony during direct examination is
2 that when Minor 1 was helping care for you after
3 your surgery due to the diabetes -- and it's the
4 diabetes that led to you becoming a disabled vet;
5 correct?

6 A. Correct.

7 Q. That when Minor 1 cared for you, you said, she
8 took care of me, she did a good job.

9 A. And she did.

10 Q. And your testimony was that the reason you put
11 those particular excerpts in that letter is because
12 you, quote, gave up. You said, the feds had been
13 trying to get me in prison, and it's happened so
14 many times, you gave up?

15 A. Oh, yeah. Because now I figured they were
16 behind my children coming out and saying what they
17 did.

18 Q. Mr. Kreis, you're testifying in this courtroom
19 that you think the feds have anything to do with
20 your daughter --

21 A. Yes, I do. Yes, I do. That's my intention.

22 Q. So your testimony is that whatever has happened
23 in the courtroom is the result of the feds having
24 something against you; correct?

25 A. It's the result of the government getting

1 involved with my family. Yes. That's my
2 contention.

3 Q. Mr. Kreis, in this state, in this country, you
4 agree that feds get involved when children -- the
5 State gets involved, the government gets involved,
6 the feds get involved when children are abused;
7 correct?

8 A. Correct.

9 Q. Especially when it's sexual abuse; correct?

10 A. I guess.

11 Q. That's no surprise to you, is it?

12 A. No.

13 Q. That it becomes a police matter?

14 A. Yeah, when it's for real.

15 Q. And let's go back to what you were saying
16 earlier during your direct examination concerning, I
17 believe you said her name is, ^{Je. K.} . Who is ^{Je. K.} ?

18 A. My eldest daughter.

19 Q. Your eldest daughter?

20 A. The one I did the TV shows with.

21 Q. All right. Well, we know about the children
22 that you have with Karley Hollis --

23 A. Would you like to know why that was said?

24 Q. Let me finish my question.

25 The oldest of your children with Karley Hollis

1 being Minor I and then six younger siblings.

2 A. Uh-huh.

3 Q. So Je. K. would be a child with another
4 person?

5 A. Correct; my first wife.

6 Q. And you say that Je. K. also made allegations
7 of sexual abuse against you; correct?

8 A. Yes.

9 Q. But you said they were only allegations.
10 Mr. Kreis, you're aware that case was reported and
11 investigated by the Pennsylvania state police;
12 correct?

13 A. Correct.

14 Q. And it didn't only involve your daughter
15 Je. K., but also your daughter ^{Am.}_{K.}; correct?

16 A. Yes. Yes. She said she was laying on the
17 floor in the living room and he touched my breasts.
18 Yeah.

19 But now for the rest of the story, like Paul
20 Harvey says, I was in a very bad divorce with my
21 wife. I got the children, including my
22 eight-year-old son at the time. What she did was
23 she used the government to get them to put a PFA
24 against me without any evidence or anything. And
25 they put a PFA against me and they kidnapped my son

1 from school.

2 THE COURT: What's a PFA?

3 THE DEFENDANT: Protection from abuse.

4 THE COURT: Go ahead.

5 THE WITNESS: Yeah. And that was the rest of
6 it.

7 BY MS. MAYES:

8 Q. All right. That protection from abuse was
9 actually a restraining order; correct? And, in
10 fact, there's a restraining order that prevents you
11 from having any contact with the parent of those
12 daughters, Je. K. and ^{Am.}_{K.} ; correct?

13 A. Well, there was. I mean, she got a PFA against
14 me, yes, back then. I mean, we're talking, you
15 know, in the '90s.

16 Q. Okay. And you're the one that brought it up on
17 direct examination is why I'm following up on
18 exactly who ^{Je. K.} is and what that was --

19 A. I don't care. I don't mind.

20 Q. Now --

21 A. My whole life is on the internet.

22 Q. If your whole life is on the internet,
23 Mr. Kreis --

24 A. Yeah, except for this. Well, maybe even this
25 now.

1 Q. You chose, again, to put your life on the
2 internet and make your viewpoints public; correct?

3 A. Well, somebody has to.

4 Q. And those words, I'm so sorry, I hurt the only
5 ones I love and loved me, you and our children,
6 those are your words; correct?

7 A. Correct.

8 MS. MAYES: Nothing further.

9 THE COURT: Redirect, if any.

10 MR. SHEALY: Thank you, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. SHEALY:

13 Q. The investigation involving ^{Je. K.} and ^{Am.}_{K.}, did it
14 result in criminal charges against you?

15 A. No. No.

16 Q. Were you --

17 A. The only way I found out was that she made out
18 about four or five affidavits and some antiracist
19 action people got ahold of it and started making
20 copies and sending it around the country trying to
21 demean me, just like all this is doing.

22 Q. Right before all these allegations, did you
23 become aware that ^{Minor 1} visited ^{Je. K.} ?

24 A. (Nonverbal response.)

25 Q. Did ^{Minor 1} visit ^{Je. K.} before these allegations?

1 A. Yes. Yes. Probably about -- well, I don't
2 know now. I've been in jail almost two years.

3 Q. Okay.

4 A. Probably a year before this supposedly
5 happened.

6 MR. SHEALY: Thank you, Your Honor. That's all
7 I have.

8 THE COURT: Thank you.

9 MR. SHEALY: Your Honor, if I may, I need to
10 confer with my client just a second.

11 Your Honor, the Defense rests.

12 THE COURT: The Defense rests?

13 MR. SHEALY: Yes, Your Honor.

14 THE COURT: Anything in reply?

15 MS. MAYES: Nothing from the State, Your Honor.

16 THE COURT: All right. Madam forelady, ladies
17 and gentlemen, that concludes all of the testimony
18 in the case. What we have left is, as I discussed
19 with you prior to the lunch break, is final
20 arguments my charge. I have to spend, I don't know,
21 15, 20 or 30 minutes with the lawyers on the charge,
22 so that takes us to about 4:30 after the break. And
23 I got word from the bailiff that y'all would like to
24 come back in the morning and finish it up. All
25 we'll have left in the morning is the final

1 arguments and my instructions. Is 9:45 okay?

2 THE FOREWOMAN: Yes, sir.

3 THE COURT: All right. We'll plan to start
4 right at 9:45. I want you to have a very pleasant
5 evening. Please do not -- even though there's been
6 some mention in here about internet and so forth,
7 don't do any type of research on the internet or
8 discuss the case or let anybody discuss it with you.
9 Do not start any deliberations. Y'all have paid
10 wonderful attention. I appreciate everything.
11 We'll finish it up tomorrow, and then that will
12 conclude your service this week. Thank you very
13 much. Have a pleasant evening.

14 (The jury is excused for the evening at
15 3:53 PM.)

16 THE COURT: Anything for the record before we
17 break for the evening?

18 MS. MAYES: Nothing from the State, Your Honor.

19 MR. SHEALY: No, Your Honor.

20 THE COURT: All right. I intend to charge my
21 normal standard charge on multiple indictments;
22 presumption of innocence, reasonable doubt, judge
23 and jury, credibility of witnesses, prior record of
24 the defendant, and then the three statutes on
25 criminal sexual conduct with a minor second degree,

1 lewd act, or attempted lewd act.

2 Anything else requested by the State?

3 MS. MAYES: Your Honor, the State would request
4 the Court's standard charges on both expert
5 witnesses and then direct and circumstantial
6 evidence.

7 THE COURT: I left those out. That's correct.
8 I have standard expert witness charge and the direct
9 and circumstantial.

10 Mr. Shealy, anything in particular you want?

11 MR. SHEALY: Just a couple questions, Your
12 Honor. First, if I'm -- the circumstantial
13 evidence, would that be the blanket issue or is
14 there some other circumstances I'm not aware of? I
15 don't know what other circumstantial evidence there
16 is.

17 THE COURT: Well, it's the normal one that
18 they've asked us to -- the direct and
19 circumstantial, give it same weight. But if you
20 come back in my chambers, I'll let you read it
21 verbatim.

22 MR. SHEALY: I'm sorry, Your Honor. I wasn't
23 clear. As to the trial, I was not aware that --
24 other than the blanket issue --

25 THE COURT: Oh, what circumstantial evidence

1 there is in this trial? I don't know.

2 MS. MAYES: The State's position is that he has
3 now denied the intentions of the letter. I believe
4 the letter would amount to circumstantial evidence
5 or, arguably, the jury could consider that as
6 circumstantial evidence in light of his testimony
7 and then in light of the content of the letter.

8 MR. SHEALY: I think the letter speaks for
9 itself, Your Honor.

10 THE COURT: I'll think about it. It's not a --

11 MR. SHEALY: The other question I have, Your
12 Honor, is if you could briefly outline your charge
13 on -- well, let me ask you. On reasonable doubt, is
14 it the charge about hesitating to act?

15 THE COURT: The kind of doubt that would cause
16 a reasonable person to hesitate to act, and then
17 there's very few things in this life that we know
18 with absolute certainty, but if you're firmly
19 convinced -- that charge.

20 MR. SHEALY: Thank you, Your Honor.

21 THE COURT: You can come back into my chambers
22 and read it.

23 MR. SHEALY: I've heard it before, Your Honor.
24 I just wanted to make sure it was the same.

25 THE COURT: Verdict form. There will be three

1 verdict forms; we find the defendant not guilty, we
2 find the defendant guilty, as to each indictment.
3 I'll have three separate verdicts forms. They're to
4 decide each indictment separate and apart from the
5 others. Anything else?

6 MS. MAYES: No, sir, Your Honor.

7 THE COURT: There's a charge sometimes they
8 give in criminal sexual conduct about corroboration.
9 You know the one I'm talking about?

10 MS. MAYES: Yes, sir, Your Honor.

11 THE COURT: I can't remember that code section.
12 If you give me that code section, I'll look at that
13 one as well.

14 MS. MAYES: I'll do so, Your Honor. And then
15 also, I believe, in the Court's standard charge on
16 criminal sexual conduct, it includes the language
17 that consent by the victim is not a defense.

18 THE COURT: That's correct. It's part of the
19 statute.

20 MR. SHEALY: The -- as to the corroboration
21 instruction, Your Honor, we do object as being a
22 comment on the evidence.

23 THE COURT: A comment on the evidence?

24 MR. SHEALY: Yes, Your Honor.

25 THE COURT: Do you have any case law to support

1 that? Because that's a statute, that's law. How
2 can that be a comment on the evidence?

3 MR. SHEALY: You're commenting that there's no
4 corroboration --

5 THE COURT: I'm not saying there's none. I
6 said that there's a statute -- statute such-and-such
7 says -- hand me the statute.

8 MS. MAYES: I believe that's going to be
9 16-3-650- -- 658 -- 16-3-657, Your Honor.

10 THE COURT: It simply says this: The testimony
11 of the victim need not be corroborated in
12 prosecutions under Section 16-3-652 through 658
13 which includes criminal sexual conduct with a minor
14 second degree.

15 I don't know how in the world charging that
16 statute would be a comment on the facts. But if you
17 give me some law on that, I'll be glad to look at it
18 over the evening.

19 MR. SHEALY: Your Honor, the --

20 THE COURT: I'll call your attention to maybe
21 State vs. Schumpert, that old case from 1993 out of
22 Newberry.

23 MR. SHEALY: Your Honor, that is one of the
24 cases. And I believe that -- well, I'm also looking
25 at State v. Rayfield, 369 SC 106, a 2006 case.

1 However, it held that you're not required to charge
2 that statute.

3 THE COURT: That's correct, I'm not required
4 to.

5 MR. SHEALY: But if you do charge it, it's
6 impermissible error from the instructions, not duly
7 emphasized, and charge as a whole comports with the
8 law. Your Honor, we're asking that you not charge
9 it. Realizing under Rayfield that that's purely
10 within your discretion.

11 THE COURT: Well, at the present time, I will
12 charge it. But I will invite you to give me any
13 additional case law by tomorrow that would support
14 your position on that.

15 MR. SHEALY: Thank you, Your Honor.

16 THE COURT: Anything else, ladies and
17 gentlemen?

18 MS. MAYES: Nothing from the State, Your Honor.

19 THE COURT: We'll do the verdict forms and let
20 you look at them in the morning. They're very
21 simple.

22 Anything else by anybody?

23 MS. MAYES: Nothing from the State, Your Honor.

24 MR. SHEALY: Nothing from the Defense, Your
25 Honor.

1 THE COURT: All right. Everyone have a
2 pleasant evening. We'll stand at ease until 9:45 in
3 the morning.

4 (Court in recess for the evening at 4:01 PM.)

5 THE COURT: Anything by the State before we
6 start final arguments and charges?

7 MR. SAMELLAS: Just one quick thing, Your
8 Honor. When I was walking into the courtroom, one
9 of the jurors walked by me and talked to me. I just
10 kept my head down and kept going. I just wanted you
11 to be aware of that, and I let Mr. Shealy know as
12 well. I did not say a word.

13 THE COURT: Thank you. It's hard to pass in
14 the halls sometimes.

15 MR. SAMELLAS: Yes, sir.

16 THE COURT: All right.

17 Mr. Shealy, anything for the record?

18 MR. SHEALY: No, Your Honor. And -- well, just
19 so you know, I would have done the same thing.
20 That's the only way I know of to handle that.

21 THE COURT: Thank you.

22 Mr. Kreis, good morning.

23 THE DEFENDANT: Good morning.

24 THE COURT: All right. Are you going to open
25 on the law or waive opening?

1 MS. MAYES: The State waives opening, Your
2 Honor.

3 THE COURT: Mr. Shealy, are you ready?

4 MR. SHEALY: I am, Your Honor..

5 (The jury enters the courtroom at 9:57 AM.)

6 THE COURT: Madam forelady, ladies and
7 gentlemen, good morning. I hope everyone had a
8 pleasant evening. What we have left, as I told you
9 yesterday, we got everything done that we had to so
10 we could go straight into the arguments this
11 morning.

12 Mr. Shealy will start the closing arguments,
13 followed by the State. Once they've completed their
14 arguments, then I will instruct you on the law, and
15 then you'll be given the case to start your
16 deliberations.

17 Please bear in mind that the closing arguments
18 is simply like the opening statements; that is not
19 evidence in the case. You've heard all of the
20 evidence from which you'll make your decision.
21 Obviously, the attorneys will be advocating their
22 respective sides and arguing the evidence in the
23 light most favorable to their client. But the
24 argument is not evidence. You've heard the
25 evidence, as I've said. This is simply their

1 argument to you.

2 Mr. Shealy.

3 MR. SHEALY: Thank you, Your Honor. May it
4 please the Court.

5 THE COURT: Yes, sir.

6 MR. SHEALY: Good morning.

7 THE JURY: Good morning.

8 MR. SHEALY: As the Judge has told you, the
9 evidence portion of this case is over with. We've
10 done -- well, as soon as we get done with the
11 arguments, the lawyers are done. And the Judge's
12 part -- well, Judge has been working all throughout
13 the trial. But he will charge you and then he'll be
14 done. Then it all comes to you. And that's where
15 the rubber meets the road.

16 Before I get started, what, obviously, I'm
17 going to be talking about are the facts that came
18 out on the witness chair, and also the evidence.
19 Now, those facts as I relate them to you may or may
20 not be right, they may not be correct. Remember,
21 I'm an advocate. And sometimes I hear it the way I
22 want to hear it, and sometimes I hear it the way it
23 hurts us the most. It doesn't matter how I hear it.
24 What matters is what y'all recall of the facts that
25 came out and how y'all -- when y'all deliberate, how

1 y'all arrive at the truth and what facts are true
2 and what facts are not. So if I do misstate
3 something, I ask that you keep that in mind and that
4 you not hold that against my client, August.

5 Now, the burden of proof in this case is beyond
6 a reasonable doubt. And we'll talk about beyond a
7 reasonable doubt. But the burden of proof solely
8 rests on the State, on the solicitor. She and her
9 assistant, they're charged with proving my guilt --
10 my client's guilt beyond a reasonable doubt by
11 introducing witnesses and evidence.

12 August doesn't have to do a thing; he can just
13 sit there. We don't have to ask questions, we don't
14 have to present evidence, he didn't have to testify,
15 because he has the right to remain silent under the
16 Constitution, but he didn't. He readily admitted he
17 wrote this letter. And you've heard the letter.
18 You've heard the letter probably more than you
19 wanted to hear the letter. But you'll be able to
20 take that in and be able to read it. But the letter
21 is there and August has explained that to you --
22 that letter and what the circumstances and
23 backgrounds was.

24 He took the stand. He didn't have to. He took
25 the stand. He testified, he denied any confession

1 in the letter, and gave you the background and
2 circumstances of writing the letter and what the
3 context was. He also testified about his past,
4 about things that a lot of people may or may not
5 agree in, and may actually, when you heard that
6 testimony about the Ku Klux Klan and Aryan Nation,
7 the -- that might have gotten you upset, that might
8 have enraged you, that might have said, well, gee, I
9 don't like this guy, I want to hurt him for his
10 views. Well, that has nothing to do with what he's
11 charged with.

12 And that's what you've got to decide, is
13 whether or not he's guilty or not guilty of what
14 he's charged with, not of what his personal beliefs
15 were or are now. But, nevertheless, he told you
16 what they were. And when the solicitor asked him,
17 he went into great detail. He did not try to hide
18 any of the facts from you.

19 Now, remember in opening argument I asked you
20 to be skeptical. I asked you to use the demeanor of
21 the witnesses, to use your individual life
22 experiences as a group to determine what the truth
23 was and what testimony you believed and what
24 testimony you didn't believe. And this is important
25 because there is no other evidence other than the

1 testimony. I mean, we've got pictures and we've got
2 diagrams and things like that, we've got a letter.
3 But we don't have medical evidence, we don't have
4 the rape kit, whatever that is, we don't have any
5 independent evidence other than the testimony, both
6 for the State and for the Defense. So it's crucial
7 for you to consider credibility. That's what this
8 whole case boils down to.

9 And when August testified, he looked you in the
10 eye. He didn't mince words, he was very plain
11 spoken. He told you exactly what he knew and what
12 he did. He admitted his affiliations in the past,
13 and he also denied, several times, ever touching his
14 children inappropriately, to include placing his
15 penis in their mouth. He's denied having any sexual
16 contact with them.

17 He did tell you that he believed that he was
18 being pursued by the federal government because of
19 his beliefs, and he went into some detail about that
20 along with the solicitor asking him questions. Once
21 again, he did not hide that from you.

22 He told you that Minor I did a good job taking
23 care of him, tending his wounds. He didn't have to
24 tell you that. He could have trashed Minor I
25 Because of the things he said about him, he could

1 have easily retaliated. But he told you the truth
2 and that she was effective in taking care of him and
3 his wounds, the wounds arising from his diabetes.

4 He told you about his regrets raising the
5 children exposing them to the things he believed in
6 while they were growing up, and yet he always
7 supported them. Every person that testified talked
8 about him paying the bills. Every person. He
9 didn't have much money; in fact, he told you about
10 being convicted and losing his pension. He didn't
11 have much money, but he still supported his family.

12 When they were persecuted in Tennessee, he went
13 up there and got them. He was a student. He didn't
14 have a job. He was -- by that time -- at that time,
15 he was handicapped. But he still went and did his
16 fatherly duty to his family; he went up and he
17 brought them down here and set them up a place to
18 live. And the children all acknowledged that.

19 He also told you that he loved his children.
20 And I'll show you what's been marked as State's
21 Exhibit 2, a picture of that family. And you'll get
22 to look at that. That's a picture of a very proud
23 father of his family. And they're all sitting there
24 looking at the camera. And they're -- for all
25 intents and purposes in this picture, appear to be

1 very, very happy. And that's the description of the
2 family life that he gave you when he testified. He
3 was totally unaware that Minor² was scared of him,
4 didn't like him; he was totally unaware of all these
5 other feelings that his daughters testified to.

6 Now, let's look at the testimony. Minor¹ . I
7 ask you to observe her demeanor. Throughout her
8 testimony, she rolled her eyes, she moved her hands,
9 she bounced in the seat, she was back and forth, she
10 rambled on answering the questions. Sometimes she
11 didn't even answer the questions; she said something
12 different. A lot of times it appeared she was
13 making things up as she went along and then she
14 would correct herself. There were three beds and
15 then there were two beds. It was normal, but by
16 normal, I don't mean normal, but it was normal. At
17 points in time, although there were times that she
18 cried, there were also times she appeared to be
19 really enjoying herself.

20 The testimony, she talks about these sexual
21 encounters happened many, many times, a whole bunch
22 of times, but she could only recount two. One dealt
23 with the penis that she said that he tried to put
24 his penis in her mouth, and she resisted, he failed,
25 and she got away from him and he didn't pursue. And

1 the other was touching her private parts -- I'm
2 sorry, about the failed attempt with the condom.

3 Minor2 , she testifies almost exactly like her
4 sister about many, many times, but she could only
5 recall two events. The two events, one of them
6 involved him trying to place his penis in her mouth,
7 but she resisted and he failed and he didn't pursue
8 it. Then she talks about him touching her. But
9 those are the only two incidents. And they sound
10 awfully close to what Minor1 testified. A
11 relationship --

12 THE COURT: All my jurors with me? Young ma,
13 you with me? Open your eyes. Thank you.

14 MR. SHEALY: The relationship with her father.
15 Minor1 said she was his little buddy. Everything
16 was okay back then. He never threatened her to keep
17 quiet, never told her not to tell. His health was
18 failing, he started having bones taken out of his
19 feet. She complained that he never took care of
20 himself, that his diabetes got worse and worse, and
21 she implied, at least that's what I thought, that
22 she was concerned about his health. She said that
23 he went to one soccer game and that it became about
24 him because he fainted from what I took to be
25 diabetes, but his health gave out on him.

1 She cared for him. She dressed his wounds,
2 gave him medications. I submit to you, at that
3 point, she was the dominant one. He was at her
4 mercy. She could have revealed things then. She
5 was older. We're not talking about a 12-year-old
6 child now. But she didn't reveal anything.

7 Now, Minor2 told you she was scared of him,
8 claimed he yelled and was violent. August told you
9 he didn't realize that. But she never testified a
10 single time that he ever yelled at her or was ever
11 violent with her or that he ever hurt her, other
12 than the allegations that she made, which August
13 denied. There were no threats, even with Minor2 .
14 Never threatened, never told to keep quiet.

15 Both girls at very early ages, according to
16 their testimony, was concerned about bills. They
17 both viewed August as their sole source of support.
18 And they acknowledged that he met that goal. And he
19 did that even when he was not living with them.

20 They also talked about the family being broke,
21 not have -- broken up, not having a father or a
22 mother, yet they didn't explain, why would this
23 affect the mother? If this incident took place, why
24 would the mother leave? I could understand about
25 the father leaving, but why would the mother leave?

1 There's no basis for that.

2 The reasons they gave for not telling, I submit
3 to you, are not reasons formulated by 10-, 11-, 12-,
4 13-year-old girls. I submit to you that these
5 reasons were developed after this revelation by
6 Minor 1 after the argument with her mother. And
7 they knew they had to justify the delay in talking,
8 so they came up with reasons. And because the
9 reasons are so close, I mean, they use virtually the
10 same words, I submit to you that they have discussed
11 it, what they testified to.

12 Now, Minor 3's testimony also flowed very well,
13 and it tracked Minor 1's and Minor 2's. It was like
14 the same two incidents with all three girls, and yet
15 all of them had multiple incidents that none of them
16 could recall they couldn't tell you about
17 specifically. So now we have three girls saying the
18 exact same thing, the -- and saying it happened more
19 times, but they can't recall.

20 Now, remember, the proof is on the State to
21 prove my client guilty. And I submit to you the
22 proof is in the details of the testimony of the
23 facts that were presented. And the burden is on the
24 State to bring those details out; not the burden of
25 August, not the burden of the Defense.

1 And all three girls would testify that one
2 moment August was touching their private parts.
3 Then all of a sudden, there's movement -- I'm sorry.
4 The next moment, he's trying to put his penis in
5 their mouth. They never talked about how that was
6 done, except Minor2 . And who asked Minor2 the
7 question? The Defense did. The State didn't ask
8 her. Minor2 , how did he do this?

9 What do you mean?

10 Well, how were y'all situated?

11 Well, that caught her by surprise, and
12 eventually she said, well, I was on my back.

13 Well, how was August situated?

14 Well, he was on his -- he was beside me on his
15 side.

16 I submit to you that any configuration where
17 she's on the back and he's on the side, any
18 configuration, there's no way you're going to get
19 his penis in her mouth that way. One of them would
20 have to be on top of the other or have to straddle
21 one. It would have to be a different way. So
22 that's just simply not believable.

23 Also, they resist. This is a pretty aggressive
24 act, a very aggressive act. And yet all three of
25 them resist. All three of them very small, very

1 young, and he doesn't pursue it, he stops. That's
2 just not believable either. If it's gotten to that
3 point, he obviously would have wanted satisfaction.
4 I mean, he's already gambled, but he doesn't pursue
5 it. That just doesn't make any sense. The State
6 never asked how they were situated, the State never
7 asked how he put the penis in their mouth.

8 Minor 3's testimony is just like her sister, with
9 that one exception, the issue with the blanket, the
10 blanket when E.K. supposedly came in. Again, we
11 have no details there. Were they clothed? Where
12 were their hands? He didn't said there was movement
13 under the blanket, but he didn't testify whether he
14 saw their hands. He didn't testify if they were
15 clothed, he didn't testify if they were laughing or
16 talking, he didn't testify to any of that. All he
17 said was he felt uncomfortable. And yet it was --
18 and he admitted it was not unusual for all of them
19 to be in bed together watching a movie or whatever.
20 And August testified that that was true, that they
21 would often all spend time like that, just like a
22 father would with his children.

23 Both Minor 3 and E.K. were coached. Remember I
24 asked you to watch as they testified. They would
25 answer the questions before they were asked. There

1 would be yes, ma'am, no, ma'am before -- they were
2 anticipating the question. They knew what the
3 question was and, in fact, the answer did line up
4 with the question by the solicitor. So they must
5 have known, they must have talked about it. And you
6 may or may not, and it's what y'all saw, not what I
7 believe I saw, but when I was questioning them,
8 often -- and sometimes when the solicitor was
9 questioning them, often they would look either at
10 the solicitors' table or at the people behind the
11 solicitors' table. I don't know why. I submit
12 that -- and when I say I submit, I'm arguing. I'm
13 arguing that they're looking for reassurance,
14 they're looking for guidance.

15 Now, E.K. testified that he told his mom what
16 happened with the blanket. Okay. Well, what
17 happened then? Nothing. All of a sudden that whole
18 line of questioning dried up. And where was she?
19 Where was Karley, the children's mother, during this
20 trial? Where -- August's wife. But she didn't
21 testify. Why not? Why didn't she explain why
22 didn't something happen whenever E.K. told her? I
23 submit to you that as to the facts, that she did not
24 testify and that you should draw whatever conclusion
25 from that that you feel is appropriate.

1 Now, let's look at Ms. Smith's expert
2 testimony. What did she testify to? The State
3 presented her; we did not. She testified children
4 can lie. She said that. I submit to you adults can
5 lie too. The -- she also went into a lot of
6 technical stuff. She talked about studies,
7 disclosures. At first she talked about delayed
8 reporting, and then she brought it along about when
9 there's delayed reporting, usually, if asked,
10 initially they will deny anything happened. That
11 didn't happen here. Then she said -- and then they
12 will tentatively say things that indicate something
13 did happen because they want to gauge the reaction,
14 and that over -- she called it a process, a
15 disclosure process, that over a length of time, that
16 they would eventually elicit or give out facts as
17 they grew more confident or more secure and they
18 understood what was happening, they would eventually
19 make those disclosures. They're going to start off
20 tentative, be partial, until the child got more
21 comfortable.

22 Here, we have delayed disclosure, we have the
23 question -- even though Karley wasn't here to
24 testify to it, there was testimony that probably was
25 hearsay but that wasn't objected to that Karley

1 said, has he done anything to you? Yes. And then
2 the story comes out. There's no denial, there's no
3 tentativeness, there's no disclosure process. And
4 that, she testified, is unusual.

5 She also talked about secretive environment.
6 The children will be told not to tell, they will
7 fear the person who told them not to tell, there
8 would be threats or something like that. Every
9 single witness testified that he never told anybody
10 not to tell. He never threatened them. So that's
11 inconsistent.

12 Now, as a practical matter, this is State's
13 Exhibit 13. This is the house that August -- that
14 the charges that y'all are deliberating on in just a
15 little bit, this is the house where those charges
16 allegedly took place. Now, August denies that they
17 took place, and y'all have heard his denial. But,
18 nevertheless, now we've got to get to the practical
19 side of this case. This is a small house.
20 Everybody admits that it's a small house. There's
21 pictures in evidence. You can look at the house and
22 see how small it is. I believe the testimony is it
23 was like a doublewide, meaning a doublewide trailer.
24 The floor plan of the house is open. It's
25 open. You can see throughout most of the house.

1 It's open to the dining room, it's open to the
2 kitchen, except for where the fireplace is. The
3 doors -- the hallway door goes into the living room.
4 The master bedroom door goes into the living room.
5 It's open. There are nine people living in a
6 three-bedroom house, nine people. And maybe, maybe
7 this could happen once without all one or more of
8 the nine stumbling in on it; maybe it could happen
9 twice, maybe it could happen four times. But I'd
10 submit to you it couldn't happen many, many, many
11 times, times two, and nobody know about it, nobody
12 ever find out about it.

13 And what reinforces that? Well, what
14 reinforces it is when they live in . If
15 you're living nine people in a small place -- E.K.
16 said he walked in on some. Well, how is it that
17 August could make that simple mistake then and never
18 make that mistake in this house? And this house is
19 much more open than their two-story apartment.

20 So why are they making these allegations? He's
21 been away. He told you the discipline was slipping;
22 that, for financial reasons, he was going to have to
23 go back and live with them. And he let them know
24 that Ryan, the boyfriend, had to go. He told you he
25 suspected Ryan and Minor 1 of stealing E.K. 's

1 medicine, and he's got to go. And Minor 1 , since
2 she's over 18, she needed to leave the house as
3 well, get a job, and support herself. Up until
4 then, he believed that the money he was sending them
5 was going to their support. And he wanted it
6 stopped and he wanted Ryan to go. Minor 1 has an
7 argument that we never really got to what the
8 argument was about. But there's an argument, and
9 then Minor 1 all of a sudden reveals this, talks
10 about Je. K. -- that came from my client's testimony
11 and the solicitor jumped on it, and that got
12 explained to you. The -- and then all these other
13 allegations came out. And that's because Minor 1
14 was now in control and did not want August back in
15 the household.

16 Also, I have pets, people have pets, people are
17 very fond of their pets. And that -- I know that --
18 that when one of my dogs died, I cried as much as
19 when my family member died. So I know what it means
20 to be attached to pets. And there was testimony,
21 both from Minor 2 and August, about her pets. She
22 had three cats and a dog. And August didn't like
23 the dog because the dog growled at him. He let it
24 be known they couldn't afford these pets. They had
25 to go. They didn't have the money and he didn't

1 like the dog. The pets had to go. So now Minor 2
2 has a reason to try to keep August from moving back
3 in.

4 Also, Minor 2 had dropped out of school, but yet
5 she was unemployed. He wanted to tighten up on this
6 discipline, he wanted to get the house in some sort
7 of financial situation, and there was a rebellion,
8 and it wound up in an argument, the allegation.
9 Once the allegation is made, everybody is locked in.
10 Minor 1 said it, Minor 3 told you that she said it.
11 Between that time, Minor 2 came along.

12 And that brings us down to, is August Kreis
13 guilty of what he's charged with? There's three
14 charges, and he told you that he's not. They say
15 he's -- I've gone over all of the testimony that I
16 know to go over. So what it boils down to is
17 reasonable doubt.

18 If there's reasonable doubt, regardless of how
19 you feel about August's background, the issue is
20 whether he did these things. And if there's
21 reasonable doubt that he did them, then you have a
22 duty to acquit him and find him not guilty of each
23 and every charge. You can find him guilty of one
24 charge, you can find him guilty of all three, you
25 can find him not guilty of all three. It's up to

1 you. Each charge is separate. But we submit that
2 he's not guilty of any of these charges.

3 And the Judge is going to tell you what
4 reasonable doubt is. Because reasonable doubt is a
5 curious concept. It's the highest proof known to
6 the law. It doesn't mean beyond all doubt, but it
7 means beyond any doubt a reasonable person would
8 have. One of the ways to describe reasonable doubt
9 is it's that doubt that makes one hesitate to act in
10 the normal affairs -- of his own personal affairs.
11 So what does that mean?

12 Well, I submit to you that it means a customer
13 goes into a grocery store. He wants to buy a steak,
14 but he doesn't have a whole lot of money. So he
15 goes over to the meat department, and he looks and
16 there's, what I call, distressed meat. It's meat
17 that's past it's sell-by date. But it's marked
18 down. It looks a little funny color, not too sure
19 about it. He picks it up, he looks at it, and he
20 thinks to himself, is this still good, should I
21 spend the money on this? The price is good, but
22 should I buy it?

23 The result is, it doesn't matter. It doesn't
24 matter if he buys it or doesn't buy it. It doesn't
25 matter what the decision is whether to buy it or

1 not. What matters is that he hesitated to act. Not
2 that he acted, but he hesitated to act. We submit
3 to you that there's more than enough here to
4 hesitate to act. And we're convinced that when you
5 go back and deliberate and you discuss all these
6 things, that you, too, will see that hesitation and
7 come back and find -- is there reasonable doubt
8 here? You bet. We strongly believe that you will
9 come back and acquit August Kreis. Thank you.

10 MS. MAYES: May it please the Court.

11 THE COURT: Yes, ma'am.

12 MS. MAYES: So now we no longer have to
13 imagine, but have seen firsthand what it's like to
14 live a life where day after day you're betrayed by
15 your own father, you're under his manipulation and
16 control. And now, along with that voice, three
17 voices of his children, comes a mountain of
18 evidence, undeniable evidence in this case.

19 And what do we know about this defendant,
20 August Kreis? This is a man who spent his whole
21 life trying to manipulate and control others; to
22 manipulate others on the outside, those who are
23 weak-minded, those who are vulnerable, those who
24 might buy into his message of hatred and bigotry.
25 And just as he tried to manipulate weak-minded

1 people on the outside, he spent just as much effort
2 manipulating and controlling his own children in
3 their own home where he kept them in a prison of
4 silence.

5 They've broken that silence, as you saw here on
6 this witness stand. And as we talk about that, I
7 want to address, first of all, one of the primary
8 pieces of evidence in this case, his own words, his
9 own letter, where, again, he's trying to manipulate
10 and control them. And you heard -- as Detective
11 Dykes read that letter, you heard exactly what he
12 stated.

13 Here's what we know: When he wrote that
14 letter, where is he at? He's at the Alvin S. Glenn
15 Detention Center. Why is he there? Because this
16 officer and another officer go to Midlands Technical
17 College, where we know he's antigovernment, but
18 he'll sure take their money, thousands and thousands
19 and thousands of dollars through the years. And
20 he's at Midlands Technical College where he's living
21 off of government money to get an education.

22 And when Detective Dykes goes to Midlands
23 Technical College and makes contact with him, he
24 knows full well this is an investigation for
25 criminal sexual conduct with a minor. He's arrested

1 for criminal sexual conduct with a minor, and he's
2 sitting in jail for criminal sexual conduct with a
3 minor and he writes this letter to his wife Karley
4 at the home she lives in with the children: I
5 realize you most likely regret even knowing me now.

6 And here's where it really gets interesting:
7 I'm not asking for bail and I've already told the
8 lawyer they gave me it's not going to trial. Does
9 that sound like the words of an innocent man? Of
10 course not. He knew full well he'd been caught.
11 It's not going to trial. I'll stay here until
12 sentenced to prison. I deserve whatever happens to
13 me. But I'm so sorry I hurt the only ones I love
14 and loved me. He comes first, me, you and our
15 children.

16 And here's where it gets interesting: We know
17 he wrote this letter when he'd been caught. He knew
18 all three girls were talking. He knew he couldn't
19 overcome that, because he knew they told the secret
20 he thought they'd never tell. So he says: I'm not
21 going to trial until, as he testified from the
22 witness stand -- until -- what was it? Oh, he
23 didn't like the plea offer. He didn't like the plea
24 offer. And now, all of a sudden, his own words
25 where he acknowledges his guilt --

1 MR. SHEALY: Objection, Your Honor. May we
2 approach?

3 THE COURT: Yes.

4 (Sidebar conference.)

5 MS. MAYES: The defendant's own words: The
6 plea offer was stupid. So now where are we? All of
7 a sudden his acknowledgment of guilt and it's not
8 going to trial, he decides he's going to use that as
9 a weapon. And why is that? Because in his mind,
10 these are still little girls.

11 And you heard Minor 1 's testimony: But I'm not
12 that scared little girl anymore, that scared little
13 girl that he remembers. But in his mind, he sees
14 Minor 3 . Remember Minor 3 when she was 12 years old and
15 she went for that forensic interview and you heard
16 the forensic interviewer say she had to stop the
17 interview because Minor 3 was so scared she curled up
18 in the fetal position, too afraid to talk? That's
19 who he thought he was dealing with, and that all
20 those old tactics would still work.

21 He thought that he could use a trial as a
22 weapon to keep them silent, because they'd never
23 come in a courtroom full of people, in front of 12,
24 13, 14 strangers, and talk about something so
25 shameful and embarrassing. He thought that like a

1 bullet, it would silence them. But he failed.
2 Fear, oppression, and weakness died, and in its
3 place came strength, hope, and courage. And that's
4 what has brought us here today. That's what this
5 case is really about.

6 So let's look at the evidence and let's look at
7 the law. Criminal sexual conduct with a minor in
8 the second degree, this crime applies to Minor 1
9 Kreis. And you may wonder, well, we know we have
10 charges here on Minor 1 and we know we have charges
11 on Minor 2, but what about Minor 3? And that's the way
12 the law is devised so that it's done
13 jurisdictionally.

14 So we know in Lexington County at
15 when Minor 1 was around 11 or 12, she was
16 assaulted in the home here in Lexington County. We
17 know that Minor 2 was around 10 or 11 here at
18 when she's assaulted in the home.
19 But Minor 3 is outside of Lexington County; she's in
20 Richland County at the apartment in and
21 she's in Kershaw County at the home in Cassatt. So
22 that's why Minor 3's charges are not before you, but
23 the ones in Lexington County involving Minor 1 and
24 Minor 2.

25 We know these kids lived in about 12 different

1 houses in six different states before Minor 1 was
2 even 14 years old. They've moved all around. Why
3 is it that he plucks that family up and moves them
4 before they can get many contacts on the outside?
5 And Mr. Shealy spoke about the house. As Minor 1
6 and Minor 2 both explained, these are happening in
7 the middle of the night. The girls are all cramped
8 together in a small room where three girls have two
9 bunk beds. And then he says to Minor 1 , well, why
10 in the world would you sleep in the living room if
11 your father can get you there? Because, as she
12 explained, it doesn't matter where she is, he'll get
13 her anywhere. He's come in her bedroom and moved
14 her from that place. She's been assaulted in
15 basically every room of that house.

16 And Minor 1 is the oldest, and then Minor 2 is
17 the second degree oldest, so all of the kids in that
18 house are under the age of 10. What are they
19 supposed to know or see in the middle of the night?
20 And even if they do, who is in control in that
21 house?

22 So when we talk about the crimes against
23 Minor 1 , criminal sexual conduct with a minor in the
24 second degree includes sexual battery with a minor.
25 Now, the term sexual battery will be defined by the

1 Judge when I'm done speaking and when he charges you
2 on the law. But sexual battery is defined as any
3 intrusion, however slight, into a bodily opening.
4 So some of the things that she described that are
5 defined as sexual battery under our statute are
6 fellatio, which is when he is performing oral sex on
7 her; also, him putting his mouth on her private
8 part, him putting his private part in her mouth.
9 And then she also talked about vaginal penetration
10 being the insertion of his finger into her vagina,
11 and that that also occurred in that home when she
12 was between the ages of 11 and 14. So as to the
13 first element, sexual battery on a minor, I submit
14 the State has proven that element beyond a
15 reasonable doubt.

16 As to this element, 14 years of age, but at
17 least 11 years of age, we know that is Minor 1's age
18 when she was in the home and that she testified it's
19 occurring repeatedly. And then here, finally, the
20 age of Minor 1 is the final element. And we know
21 that she fits within the age of 11 to 14. So as to
22 this charge, criminal sexual conduct with a minor in
23 the second degree, the State has met its burden of
24 proof beyond a reasonable doubt as to this offense.

25 Now, also before you are two counts of lewd act

1 upon a child. And this offense, these indictments,
2 apply to both Minor1 and Minor2 . So we have two
3 separate counts; Minor2 and Minor1 . What the law
4 sets forth for lewd act upon a child is that the
5 defendant must be over the age of 14. Well, we know
6 that, so that' has been proven beyond a reasonable
7 doubt.. Next, that he willfully, lewdly committed or
8 attempted a lewd and lascivious act upon or with the
9 body of a child under the age of 16 years. Well,
10 it's not in any dispute whatsoever that both girls
11 were under the age of 16 while living at 160
12 . And then finally, that the touching is
13 done with the intent of arousing, appealing to, or
14 gratifying the sexual desires of the person. What
15 other reason would he commit these crimes? They
16 were clearly sexual in nature.

17 But we ask you to keep in mind, these are more
18 than just crimes against the body; these are crimes
19 against a child's mind and a child's soul. He spent
20 his whole life trying to poison the mind of these
21 children with his beliefs and his actions. And then
22 he carries out the worst crime of all, these crimes
23 that are unspeakable.

24 One thing Mr. Shealy said is, well, it doesn't
25 make sense to me. And I submit, his recount of the

1 testimony is absolutely erroneous. He's the one
2 that asked Minor2 , where were you?

3 I was on my back.

4 Where was he? Was he on his side?

5 No.

6 She made it absolutely clear what was happening
7 when she was on her back and he was attempting to
8 put his private part in her mouth. And, as she
9 stated, she held her lips together, she would not
10 cooperate, and he still pressed against her and she
11 felt it touching her teeth. Those are the details
12 of a child that experienced it firsthand.

13 At the close of this case, the Judge will
14 charge you on exactly what the types of evidence
15 are. But as to direct evidence, we're talking about
16 something that a child or a witness experienced
17 firsthand; they saw it, they felt it. And the
18 testimony of Minor1 and Minor2 on these crimes is
19 undeniable.

20 So you may wonder, well, why did you hear from
21 Minor3 ? And it's because under the law, it's
22 recognized as what we call common scheme or plan;
23 that he carried out a similar pattern against all
24 three of those children. It's a method of attack
25 that worked with Minor1 and then it worked with

1 Minor 2 . And once Minor 1 was out of that house, as
2 we know she was at the time they were living at
3 and at Cassatt, we know Minor 2
4 wasn't cooperating with him anymore, so that only
5 left Minor 3 . And she's right there about the same age
6 group; she's right there at 11 or 12 when he's doing
7 those crimes against Minor 1 at and about
8 the same age that Minor 2 was when he moved on to her
9 at

10 And what is so similar about this pattern?
11 He's got the same relationship with all three girls.
12 He's in the position of father, and he abuses that
13 position to carry out these crimes. They all occur
14 in the family home, they all occur when no one else
15 is around, and it's all the same or similar type of
16 touching, vaginal touching. We know he committed
17 fellatio against Minor 1 and attempted it with
18 Minor 2 and then attempted it with Minor 3 . You heard
19 Minor 3 talk about how he would take her hand and then
20 make her hand touch his private part and she'd yank
21 it away.

22 Let us not believe for one minute that his
23 current condition makes him any less of a danger.
24 This crime against Minor 3 was committed as the little
25 girl just lay in bed next to him, just laying there.

1 And yet he's still able to carry out this crime
2 against her. He will always be a danger to the
3 community and he'll always be a threat to children,
4 because he's a sex offender.

5 E.K. talked about walking in on it. And when
6 he walked in, as soon as he did, he knew it didn't
7 look like -- something was strange, and so he left.
8 Even as young as he was -- he would have been about
9 ten at the time -- he knew that what he was seeing
10 didn't add up and didn't feel right.

11 And we may never know by that point how many
12 signs were in that house, how many hints or signs
13 their mom may have known or seen from that point
14 along the way. But what we do know is that on
15 January 21st, 2014, by the time Minor 1 laid the
16 truth bare, not just for her own sake, but she also,
17 by that action, saved her sisters. And by that
18 point, it's like the floodgates. How can they keep
19 it a secret anymore? They can't.

20 And so from that point on, we know that their
21 mother took them to the police. We know the girls
22 have been consistent over and over again about what
23 happened. And, as I stated before, their testimony,
24 their credibility is paramount. Everything they
25 testified to has been corroborated by each other, by

1 his own words in that letter, and by little E.K.

2 What about his credibility? What we know about
3 him is he's a convicted felon, a convicted felon for
4 lying, false statements to federal authorities. He
5 has no credibility. But what was true were his own
6 words in that letter when he still thought he could
7 control those girls. But he was wrong.

8 You have before you the most noble of
9 opportunities; the chance to strike back against
10 injustice and deliver a verdict that speaks the
11 truth. Let this be the last time that August Kreis
12 commits this crime or these offenses in this state
13 and in this county. It must be the last time. The
14 correct verdict is guilty of criminal sexual conduct
15 with a minor and guilty of two counts of lewd act
16 upon a child. Thank you.

17 THE COURT: Madam forelady, ladies and
18 gentlemen of the jury, my charge is 12, 15, 18
19 minutes long. Everybody okay bathroom-wise?

20 All right. First of all, let me remind you in
21 this case that the fact that the defendant was
22 arrested, charged, and indicted on these three
23 indictments, as I told you a couple times, is not
24 evidence in the case and cannot be considered by you
25 as evidence of guilt in the case and does not create

1 any presumption or inference of guilt. These
2 indictments are simply the legal formal written
3 instruments which contain the charges made against
4 the defendant; it's the way these cases come into
5 the courtroom. So don't infer anything from the
6 fact that he has been indicted and charged and
7 arrested. That's simply how we get into the
8 courtroom.

9 Each of the three indictments carries a
10 separate and distinct offense, and you must decide
11 each indictment separately on the evidence and the
12 law applicable to it uninfluenced by your decision
13 as to any other indictment. He can be convicted or
14 acquitted or found not guilty on any or all of the
15 charges, and you'll be asked to write a separate
16 verdict of guilty or not guilty for each indictment.
17 In other words, he can be guilty on one indictment,
18 not guilty on the other two, not guilty on all,
19 guilty on all, guilty on two, not guilty on one, any
20 combination. You have to decide each indictment
21 separate and apart from the other.

22 The defendant has pled not guilty to the
23 indictments. And a plea of not guilty, obviously,
24 as I told you earlier, puts the burden on the State
25 to prove the defendant guilty to you beyond a

1 reasonable doubt. A person charged with committing
2 a criminal offense in our state or criminal offenses
3 is never required to prove himself innocent. I
4 instruct and charge you that it is an important
5 constitutional rule of law that a defendant in a
6 criminal trial, no matter how serious the charges
7 may be, will always be presumed to be innocent of
8 the crime for which the indictments were issued,
9 unless guilt has been proven to you beyond a
10 reasonable doubt.

11 This presumption of innocence does not end when
12 you begin your deliberations, but it stays with the
13 defendant throughout the trial until you reach a
14 verdict of guilt based on evidence satisfying you of
15 that guilt beyond a reasonable doubt. The
16 presumption of innocence is not a mere legal theory,
17 it's not just a legal phrase; it is a substantial
18 right to which every defendant is entitled unless
19 you, the jury, are satisfied from the evidence of
20 the defendant's guilt beyond a reasonable doubt.

21 What is a reasonable doubt? Our appellate
22 courts have defined the term reasonable doubt many
23 times in the past. A reasonable doubt is the kind
24 of doubt that would cause a reasonable person to
25 hesitate to act. It's the kind of doubt that would

1 cause a reasonable person to hesitate to act. Proof
2 beyond a reasonable doubt is proof that leaves you
3 firmly convinced of the defendant's guilt. There
4 are very few things in this world that we know with
5 absolute certainty. And in criminal cases, the law
6 does not require proof that overcomes every possible
7 doubt.

8 If, based on your consideration of the
9 evidence, you are firmly convinced that the
10 defendant is guilty of the crimes charged, you must
11 find him guilty; however, on the other hand, if you
12 think there's a real possibility that he is not
13 guilty, you must give him the benefit of that doubt
14 and find him not guilty.

15 Let me remind you -- as I did when I started
16 the case and when I first selected the jury and told
17 you what your responsibilities were and what my
18 responsibilities, let me remind you once again that
19 during the trial of this case, I've had certain
20 responsibilities to perform and, obviously, you have
21 certain responsibilities to perform.

22 My position as judge makes me the judge of the
23 law in this case. So you have taken an oath to
24 accept the law as I give it to you. You are the
25 most important judge, the judges of the facts. And

1 because you're the judge of the facts and I'm the
2 judge on the law, I have no right to invade your
3 province. So I can't have any opinion on the facts.
4 I try cases all over the state. So I cannot have an
5 opinion about the facts.

6 So if I've done anything throughout the trial
7 of this case, smile, frown, raise my eyebrows, took
8 my glasses off, whatever, I can't have an opinion
9 about the facts. So disregard anything that I may
10 have done which makes you think I have an opinion
11 about the facts, because I can't have it. So you're
12 the factfinders, you determine what the true facts
13 are, and you accept the law from me. So if you
14 think I've displayed anything that would indicate
15 that I've got some opinion about the facts, please
16 set that aside.

17 When we try cases, there are two types of
18 evidence which are generally presented during a
19 trial. One is called direct evidence, and that's
20 the testimony of the person who claims to have
21 actual knowledge of a fact such, as something they
22 see as an eyewitness. And then the other type of
23 evidence is circumstantial evidence, which is a
24 proof of chain of facts and circumstances indicating
25 the existence of a fact. It is evidence which

1 immediately establishes collateral facts from which
2 the main fact may be inferred.

3 The law makes absolutely no distinction between
4 the weight or value given to either direct or
5 circumstantial evidence nor is any greater degree of
6 certainty required of circumstantial evidence than
7 of direct evidence. You should weigh all of the
8 evidence in the case. And after weighing all of the
9 evidence, if you're not convinced of the guilt of
10 the defendant beyond a reasonable doubt, you must
11 find the defendant not guilty.

12 A lot of times we explain direct evidence and
13 circumstantial evidence by an example. I walked
14 outside yesterday afternoon and it was pouring down
15 rain. I got wet, I could see the rain, that's
16 direct evidence that it's raining. I got up this
17 morning, got the paper about 5:30, mud puddles
18 everywhere, still cloudy. It's not raining, but I
19 can infer from the circumstances that it had rained.
20 The circumstantial evidence, the puddles, the
21 cloudy, the wet leaves, everything in the yard, that
22 it had rained last night. So that's sort of the
23 difference. But give it both the same weight you
24 think it deserves. There's no rule or distinction
25 between the two types of evidence.

1 Now, as I told you when we started, by being
2 the judges of the facts or the finders of the facts,
3 you have to determine and judge the credibility of
4 the witnesses who have testified in this case. And
5 I told you when we started that if this case is like
6 most cases I try, you can hear testimony that will
7 be from one side of the prism to the other side.
8 And we had that in this case; we've got two distinct
9 stories being told in this case. That's not
10 unusual. You hear that in everyday life when you
11 talk to people. But in this case, we've got,
12 obviously, one version of the facts and another
13 version of the facts, and they're very far apart.
14 So you have to determine who is telling the truth.

15 Credibility simply means believability. It
16 becomes your duty as the judges of the facts to
17 analyze and to evaluate the evidence and determine
18 which evidence convinces you of its truth. Now, in
19 determining the believability or the credibility of
20 the witnesses who have testified in this case, you
21 have the right to believe one witness over several,
22 several over one; you can believe everything a
23 witness says, you can disbelieve everything a
24 witness says, you can believe a part of what he or
25 she says and disregard the other part. You may

1 consider whether a witness has exhibited to you any
2 interest, bias, prejudice, or other motive in the
3 case, and you can also consider the appearance and
4 manner of a witness while in the witness stand.

5 As I told you when we started, all of you
6 throughout life have dealt with children, family,
7 friends, husbands, wives, employees, employers,
8 strangers, and friends. You know how to judge when
9 someone is telling the truth. Use that same common
10 sense in judging the credibility and the
11 believability of the witnesses who have testified in
12 this case.

13 And once you have determine what the true facts
14 are, you are to take those true facts and apply it
15 to the law as to the various charges in the
16 indictment, and you'll be in a position to render a
17 true and just verdict. That's what the word verdict
18 means, from the Latin word *verdicto*, to speak the
19 truth. So that is what you have to do. You have to
20 determine who you believe, what the true facts are,
21 and apply it to the law as I give it to you.

22 We had -- as I told you earlier, we had a
23 witness or two that I qualified as an expert
24 witness. Normally our rules of evidence do not
25 allow witnesses to testify as to opinions or

1 conclusions. There's an exception to that rule for
2 witnesses we call expert witnesses. A person, who
3 by education and experience, has become an expert
4 in some art, science, or profession or calling may
5 state an opinion as to relevant and material matter
6 in which the witness claims to be an expert, and may
7 also state the reasons for an opinion. You should
8 consider any expert opinion received into evidence
9 in this case and, like any other evidence, give it
10 the weight, if any, you think it deserves.

11 If you decide that the opinion of an expert
12 witness is not based on sufficient education or
13 experience, or if you conclude that the reason given
14 in support of the opinion is not sound or that the
15 opinion is outweighed by other evidence, you can
16 disregard that opinion in its entirety. An expert
17 witness' testimony is to be given no greater weight
18 than that of any other witness simply because I
19 qualified he or she as an expert. Further, you're
20 not required to accept an expert's opinion even
21 though it is not contradicted.

22 In this case you heard evidence that the
23 defendant had been convicted of a crime in the past
24 other than the one for which he's on trial for here
25 today. The evidence may be considered by you if you

1 conclude it as true, only in deciding whether the
2 witness' testimony is credible and believable, and
3 for no other purpose. You cannot consider his prior
4 record as any evidence of the defendant's guilt of
5 the charges we are trying here today. So the
6 evidence that he has a prior record can only be
7 considered by you if you decide to -- in judging his
8 credibility. It cannot be used as evidence against
9 him for the crimes charged. Does that make sense?

10 Likewise, you heard testimony that the
11 defendant committed other bad acts, which were not
12 subject of these criminal charges currently here
13 today, the testimony from outside of Lexington
14 County. This testimony, if you conclude it as true,
15 may only be considered by you on the question of
16 common scheme or plan and for no other reason and no
17 other purpose.

18 You may give this evidence the weight and
19 value, if any, which you find it should have on the
20 sole issue of the common scheme or plan. And you
21 can't consider that evidence, the other bad acts, in
22 the charges currently pending against him today. It
23 can only be for the common scheme or plan on that
24 evidence concerning the Kershaw County and Richland
25 County. It can't be used to convict him on the

1 charges in Lexington County. Use it for determining
2 common scheme or plan or credibility.

3 Now, madam forelady, ladies and gentlemen, I
4 charge what just I charged in most all cases we try.
5 Those are propositions of criminal law that go to
6 all cases. Those are general propositions of
7 criminal law. Let's now go to the second part of
8 the charge which we'll talk about the three
9 indictments. I'm going to talk about -- I have to
10 select some order, so I'll talk to you about them in
11 the order they come in the code book.

12 In one indictment, the defendant is charged --
13 that's indictment -2034. He's charged with the
14 offense of criminal sexual conduct with a minor in
15 the second degree. In order to convict the
16 defendant of this charge, the State must prove to
17 you beyond a reasonable doubt that the defendant
18 engaged in a sexual battery with the victim in this
19 case, Minor 1

20 Sexual battery is defined by our state
21 legislature as sexual intercourse and/or cunnilingus
22 and/or fellatio and/or anal intercourse and/or any
23 intrusion, however slight, of any part of a person's
24 body or of any object into the genital or anal
25 openings of another person's body.

1 And the State must prove beyond a reasonable
2 doubt that the victim was less than 16 years old,
3 but at least 14 years old, and that the defendant
4 was either in a position of familial, custodial, or
5 official authority to coerce the victim or the
6 victim was at least 11 years old, but not more than
7 14 years old, at the time of the sexual battery.
8 Consent, willingness, indifference, or ignorance on
9 the part of the victim, if any, as to what was
10 taking place does not affect in any way the charges
11 of the crime of criminal sexual conduct in the
12 second degree.

13 I might add there's a statute also that says,
14 enacted by our legislature, that in a prosecution
15 under this particular section, 16-3-655, II and III,
16 that the testimony of the victim need not be
17 corroborated in prosecutions under these code
18 sections.

19 The other two indictments deal with the lewd
20 act on a minor or the attempting to perform a lewd
21 act on a minor. Those also deal with Minor 1
22 and Minor 2 . That is codified in section
23 16-15-140. In that, the defendant is charged with
24 committing a lewd act on a minor. The law defines a
25 minor as a person under the age of 18.

1 The State must first prove beyond a reasonable
2 doubt that the defendant was over the age of 14.
3 Next, the State must prove beyond a reasonable doubt
4 that the defendant willfully and lewdly committed or
5 attempted to commit a lewd or lascivious act on or
6 with the body or its parts of a child under the age
7 of 16 with the intent to arouse, appeal to, or
8 gratify the lust, passions, or sexual desires of the
9 defendant or the child.

10 Willfully means voluntarily and intentionally
11 with the specific intent to do something against the
12 law. Lewd means obscene, lustful, indecent or
13 lecherous. Lascivious means tending to incite lust,
14 lewd, indecent, obscene or tending to deprave the
15 morals in respect to sexual relations. And the word
16 attempt is defied by the laws -- our morals in our
17 state and legislature. An attempt is simply what it
18 is; it's an effort to accomplish a crime which does
19 not succeed. An attempt includes a specific act to
20 do a particular criminal act along with an act
21 falling short of the act intended.

22 Now, when you go to your jury room, I told you
23 you'll have all three indictments to decide separate
24 and apart from the other. You will have three
25 verdict forms as to each indictment. And it's a

1 simple formula; it's either not guilty or guilty.
2 Your decision has to be unanimous, all 12 of you
3 must agree. Once you've reach a unanimous decision,
4 whether it be not guilty or guilty, then you check
5 the appropriate box, Madam Forelady, and sign your
6 name. You do all three of them separate and apart.

7 You have an awesome civic responsibility in
8 this case. We're not here to reward any friends or
9 punish any enemies. You're to deliberately evaluate
10 the evidence, determine what evidence you are
11 convinced is true, apply those true facts to the
12 law, and then reach a verdict that speaks the truth.

13 I'll let you go back in your jury room in just
14 a few minutes. I ask that you do not start
15 deliberating. I have to ask the lawyers if I've
16 left anything out. Once I do that, we'll gather the
17 evidence, we'll send it back to the jury room for
18 you to look at, along with the verdict forms, and
19 then you may start your deliberations. I think your
20 lunches will be here about quarter to 12:00, so when
21 your lunch comes, you can sit right there and eat
22 your lunch and talk or if you want to take a break,
23 that's up to y'all.

24 Once you've reached a decision, knock on the
25 door, and the bailiff will receive the verdict,

1 bring you back into the courtroom and we'll publish
2 the verdict. If you have any questions during your
3 deliberations, the protocol is this: Write the
4 question out and knock on the door and the bailiff
5 will hand it to me. Sometimes I can answer it,
6 sometimes I can't, depending on what the question
7 is. But I'll let you know where we stand with that
8 question when you send it out.

9 I'm going to send you back to the jury room.
10 Don't start deliberating quite back until we send
11 everything back.

12 Please, Mr. Bailiff, separate my two
13 alternates.

14 (The jury retires to the jury room at
15 11:08 AM.)

16 THE COURT: All right. Any objections,
17 requests to delete, additions, or any complaint on
18 the charge from the State?

19 MS. MAYES: None from the State, Your Honor.

20 THE COURT: Mr. Shealy?

21 MR. SHEALY: Just to reiterate my objection to
22 the corroboration issue. But other than that, none.

23 THE COURT: You're protected on the record on
24 that. Respectfully denied.

25 All right. Please come forward, y'all agree on

1 the exhibits, review the verdict form, so I can send
2 it back to the jury, please.

3 MS. MAYES: Yes, sir, Your Honor.

4 THE COURT: Let the record reflect both sides
5 have reviewed all evidence and the proposed verdict
6 form and are in agreement. Is that correct?

7 MS. MAYES: Yes, sir, Your Honor.

8 MR. SHEALY: Yes, Your Honor.

9 THE COURT: All right. I'm sending the
10 exhibits and verdict forms back to the jury. They
11 can commence their deliberations. Please separate
12 out the two alternates and tell them to sit tight.

13 (The jury begins deliberations at 11:14 AM.)

14 (Court Exhibit No. 1 marked for
15 identification.)

16 (The jury enters the courtroom at 3:59 PM.)

17 THE COURT: Sorry it took us a little long. I
18 was in the middle of a witness with that second
19 jury. They came back at 1:00. So I had to get them
20 out and find the testimony on the playback.

21 Now, I think Minor 1 's is about an hour and a
22 half and Mr. Kreis' is about an hour. You got
23 notepads that you wanted. If you get to where
24 you've heard everything you need without having to
25 listen to all of it, raise your hand; however,

1 you're in control of this I'm going to start playing
2 it. And if we get to the point where you've heard
3 what you want to hear, let me know; if not, we'll
4 listen to it all. Fair enough?

5 (The testimony of Minor 1 was played back
6 for the jury.)

7 THE COURT: The next one is about an hour.
8 Let's take a quick bathroom break before we start
9 that one.

10 (Short break.)

11 THE COURT: All right. Bring the jury back in,
12 please.

13 (The jury enters the courtroom at 4:08 PM.)

14 THE COURT: All right. Let's play the second
15 part of the testimony you wanted.

16 (The testimony of August Kreis, III was played
17 back for the jury.)

18 THE COURT: That's not good conduct.

19 THE DEFENDANT: I just said vote Trump.

20 THE COURT: This is not the appropriate forum.
21 Thank you.

22 All right. Madam forelady, ladies and
23 gentlemen of the jury, the fact that I had to call
24 down the defendant for displaying a Trump political
25 sign in the courtroom, please don't hold that

1 against him at all in your deliberations. Your
2 deliberations should only concern evidence that was
3 presented in this courtroom. I just don't allow
4 untoward behavior in my courtroom, and this is
5 certainly not the correct place for that. But don't
6 hold that against him in your deliberations, because
7 that has nothing to do with this trial.

8 We've had a long day. It's 5:00. Normally I
9 would let you continue on with your deliberations,
10 but I've got court personnel with children in
11 daycare and other things, so we'll have to come back
12 tomorrow. What time would suit y'all to start in
13 the morning? My other jury is coming in at 9:00, so
14 I'll probably ask you to come in at 9:30. That
15 gives me a chance to get in here early, get them
16 going, then y'all can come in behind them. Is that
17 fair enough?

18 THE FOREWOMAN: Yes, sir.

19 THE COURT: Please put your name on your notes
20 and leave them in your chair. They'll be collected
21 by the bailiff and put under lock and key tonight.
22 No one will look at them. Tomorrow morning when you
23 come back, they'll be in the jury room to be
24 dispersed. Obviously, using notes, you can look at
25 your notes and refer to them. Please be cognizant

1 of everyone else's views and their notes, and y'all
2 have full deliberations. I'll see you in the
3 morning at 9:30.

4 Don't discuss the case with anyone, don't let
5 anyone discuss it with you. Don't do any internet
6 research. Thank you. Have a pleasant evening.

7 (The jury is excused for the evening at 5:03
8 PM.)

9 THE COURT: All right. We'll stand at ease
10 until 9:30 in the morning.

11 MS. MAYES: Thank you, Your Honor.

12 (Court in recess for the evening at 5:03 PM.)

13 (Juror 78, William Fort, enters the courtroom
14 at 10:05 AM.).

15 THE COURT: All right. It has come to my
16 attention, Mr. Fort, William Owen Fort --

17 JUROR: Yes, sir.

18 THE COURT: Do you have a social security
19 number ?

20 JUROR: Correct.

21 THE COURT: Were you arrested and convicted in
22 February of 2070 [sic] in Richland County for drugs?

23 JUROR: No. No, sir.

24 THE COURT: That's not you?

25 JUROR: No, sir. That's my son.

1 THE COURT: 1970?

2 JUROR: 1970. Oh, I thought you said 2007.

3 Yes, sir.

4 THE COURT: Why didn't you tell me that when I
5 asked that question?

6 JUROR: Because you said if it had not been
7 expunged or pardoned.

8 THE COURT: Have you --

9 JUROR: Governor Riley --

10 THE COURT: Sir?

11 JUROR: Yes, sir. Governor Riley pardoned it.

12 It was a youthful offender sentence and Governor
13 Riley issued a pardon. It's been 48 years.

14 THE COURT: I know how long it's been. But
15 I -- can we check the pardon?

16 MS. MAYES: Beg the Court's indulgence.

17 JUROR: I've still got it.

18 THE COURT: Still got your --

19 JUROR: Paperwork.

20 THE COURT: You got it at home?

21 JUROR: Yes, sir.

22 THE COURT: We're not being -- it's just come
23 to our attention that you had the record that would
24 disqualify you.

25 JUROR: Right. I thought about that at first,

1 but then you said that if it has not been pardoned
2 or expunged.

3 THE COURT: Well, if it has been pardoned or
4 expunged, it would not disqualify you.

5 JUROR: Yes, sir. That's why I did not say
6 anything.

7 MS. MAYES: May we approach?

8 (Sidebar conference.)

9 JUROR: I live ten minutes away. I can run
10 home and get it. I have the original papers, all
11 signed by Governor Riley.

12 THE COURT: How long will it take you to get
13 it?

14 JUROR: Ten minutes.

15 THE COURT: How about take him, that way you
16 can get back.

17 (Juror 78, William Fort, exits the courtroom at
18 10:08 AM.)

19 THE COURT: All right. While we're on the
20 record, yesterday, at the conclusion of court, the
21 custodian, the janitor -- I have not read this nor
22 looked at it other than this looks like something
23 that was left on defense counsel's table, and the
24 very top just simply says those people. I have not
25 read it. The custodian gave it to Ms. Hope; she's

1 not read it. I assume it's Mr. Kreis'.

2 MR. SHEALY: It probably is, Your Honor. He's
3 been writing some prayers lately.

4 THE COURT: It was just handed to me this
5 morning. All I've looked at was the very beginning,
6 read those people, realized, obviously, it's not
7 mine.

8 MR. SHEALY: Thank you, Your Honor.

9 THE COURT: And I am returning it to Mr. Kreis.
10 It was unread by anyone --

11 MR. SHEALY: And I apologize for not policing
12 up our table.

13 THE COURT: -- other than maybe the custodian.
14 But we've not read it up here.

15 Is that yours, Mr. Kreis?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Let's get my jury panel
18 up here --

19 THE DEFENDANT: I'll refrain from any outbursts
20 today. I apologize.

21 THE COURT: Your apology is accepted.

22 THE DEFENDANT: Thank you.

23 THE COURT: Now, what are we going to do if
24 he's not been pardoned?

25 MS. MAYES: Unfortunately, Your Honor, by

1 statute, he'd be disqualified. In conferring with
2 Mr. Shealy this morning -- we actually attempted to
3 discuss it last night when we became aware of it
4 after court proceedings. And we were unable to
5 reach him by phone.

6 But we've conferred with him this morning. He
7 has conferred with his client, and our understanding
8 is that the client wishes to go forward with 11
9 jurors.

10 THE COURT: Well, the rule allows that. But
11 let's cross that bridge if we have to.

12 Let's get the jury in and talk to them.

13 (The jury enters the courtroom at 10:13 AM.)

14 THE COURT: Good morning.

15 THE JURY: Good morning.

16 THE COURT: We've got a matter that we need to
17 resolve before you can continue deliberating. I'll
18 tell you all about it when we finish up. And we
19 should have it resolved within about 15 or 20
20 minutes. So I'm going to ask you to go back to your
21 jury room, but don't continue any deliberations
22 until I send word. It will be about 15 or 20
23 minutes.

24 So if any of you want to walk out and get a
25 breath of fresh air, you're welcome to do that. But

1 I should have it done in about 15 minutes. But I'll
2 send word as to continue, stop, or what to do. It's
3 something beyond everybody's control. We've got a
4 little situation we've got to resolve. So don't
5 continue deliberating until I let you know.

6 Don't discuss the case with anybody, don't
7 deliberate, don't let anybody discuss the case with
8 you.

9 (The jury retires to the jury room at
10 10:15 AM.)

11 THE COURT: All right. We're going to continue
12 on with our other trial. If he brings in his pardon
13 papers, I'm going to let him go on back down with
14 the jury and continue on; if he does not have them,
15 I'm going to disqualify him, and then I'll have to
16 go on the record with Mr. Kreis as to whether or not
17 he wishes to go -- I don't know why we can't do that
18 now.

19 THE DEFENDANT: I agree to go forward with it
20 anyway.

21 THE COURT: Mr. Kreis, the rules allow, if
22 we -- the rule says that the jury shall be composed
23 of 12 members, but at any time before the verdict,
24 the parties may agree in writing with my approval
25 that it consist of a number less than 12. So if

1 he's not pardoned, he'll disqualified and that
2 leaves us with 11. Obviously, we dismissed the
3 alternates.

4 So we'd have to do one of two things; number
5 one, it could be mistried and it would have to start
6 all over again from fresh, or we could agree to go
7 to verdict with less than 12; i.e., 11. I'll give
8 you an opportunity to talk with Mr. Shealy about it
9 so y'all can make an intelligent decision --

10 MR. SHEALY: Your Honor, we've already had the
11 discussion. I've advised him of all the
12 ramifications and that the safe thing to do would be
13 to ask for a mistrial. I also pointed out that we
14 may get a better or worse jury. This jury is
15 obviously considering everything very, very
16 carefully. He's agreed with me. In fact, he's
17 pointed out some of these things himself. And it's
18 been his hope to get this matter over with.

19 THE COURT: So he's agreeable to go with 11?

20 MR. SHEALY: Yes, sir.

21 THE COURT: All right. We need to get that
22 reduced to writing, and I'll approve it. But we
23 don't need to cross that bridge until we get there.

24 MR. SHEALY: Yes, sir.

25 THE COURT: All right. Let's stand at ease.

1 I'm going to continue on with the other trial, but
2 everybody stay on standby.

3 MS. MAYES: Thank you, Your Honor.

4 (The jury continues deliberations at 10:36 AM.)

5 THE COURT: Okay. We've got a verdict. Are
6 y'all ready to receive the verdict?

7 MS. MAYES: Yes, sir, Your Honor. We'll have
8 to bring the victims in. And we'll have to have the
9 Court advise once again, as you did Monday,
10 regarding any behavior from --

11 THE COURT: Where are they?

12 MR. SAMELLAS: They're out in the hallway, Your
13 Honor. We have them with some deputies. I was just
14 wanting you to address them because we've been
15 having some issues this morning --

16 THE COURT: With them?

17 MR. SAMELLAS: Yes, sir. What we're going to
18 do -- there's a bunch of people, Your Honor, that
19 want to hear the verdict. The victims that are in
20 the case, what we'd like to do is have them seated
21 up here like we have been. The other people -- but
22 we'd like you to address them --

23 THE COURT: Who are the other people?

24 MR. SAMELLAS: Family members. His daughter
25 Je.K. is down here from Pennsylvania. We've

1 already told them that the only two who would be
2 allowed to speak would be Minor 1 and Minor 2 --

3 THE COURT: Hold on a second. Now, what kind
4 of problems are you having out in the hall?

5 MR. SAMELLAS: They've just never been happy
6 with us because they -- like he says, there's anger,
7 violence. But we just want you -- we know you
8 control the courtroom. But I'm going to put the
9 other ones in the very back.

10 THE COURT: Bring them in.

11 All right. While they're bringing them in, let
12 me put on the record that I received -- that we
13 discussed it in -- I'm going to put on the record as
14 a Court's exhibit, a Certificate of Pardon signed by
15 Grady Wallace, who was the head of Probation Pardon
16 & Parole Corrections Board January 6th, 1982,
17 pardoning Mr. Fort from the offenses that we talked
18 about in here today. So he'd be a qualified juror.
19 I've shared that with y'all in the hall. So I just
20 want to make that part of the record and make it a
21 court exhibit.

22 MS. MAYES: Yes, sir, Your Honor.

23 (Court's Exhibit Nos. 1-6 marked for
24 identification.)

25 THE COURT: All right. Bring the jury in.

1 (The jury enters the courtroom at 11:03 AM.)

2 THE COURT: Is the State ready to receive the
3 verdict?

4 MS. MAYES: Yes, sir, Your Honor.

5 THE COURT: Mr. Shealy, are you ready to
6 receive the verdict?

7 MR. SHEALY: Yes, Your Honor.

8 THE COURT: All right. Ladies and gentlemen,
9 first of all this is not lover's lane, so get your
10 hands from around that lady. Listen very carefully,
11 the jury has informed me that they've reached a
12 verdict in the case. I have no idea what it is.
13 Obviously, it's one of two things, either guilty or
14 not guilty.

15 I have had nothing but excellent behavior
16 throughout this trial, except for one small
17 incident, which did not include any of the family
18 members or the defendant or alleged victims, and he
19 was removed from the courtroom.

20 Now, fair warning: If you are unable to
21 control your emotions, please leave now. Fair
22 warning: If I have anyone who exhibits any behavior
23 that is not dignified and acceptable in this
24 courtroom, such as an outburst, crying, screaming,
25 clapping, shouting, cussing, anything, you'll be

1 immediately apprehended and I'll hold you in con
2 tempt of court and you'll be subject to a six-month
3 incarceration.

4 You're welcome to be here. It's an open
5 courtroom. But no, no untoward behavior will be
6 allowed or tolerated. So if you cannot comply with
7 those instructions, fair warning, leave now.

8 Bring the jury in.

9 And, officers, if there's any exhibits of any
10 untoward behavior, immediately apprehend the person,
11 escort them out of the courtroom, hold them in the
12 holding cell until I can deal with them.

13 (The jury enters the courtroom at 11:07 AM.)

14 THE COURT: Madam Forelady, have y'all reached
15 a verdict?

16 THE FOREWOMAN: Yes, Your Honor, we have.

17 THE COURT: Hand it to the bailiff, please.

18 Madam Clerk, You may publish the verdict.

19 THE CLERK: The State of South Carolina vs.
20 August Byron Kreis, III, Indictment 2015-GS-32-2034,
21 as to the offense of criminal sexual conduct with a
22 minor second degree with Minor I we the jury
23 find the defendant guilty.

24 Indictment 2015-GS-32-2030, the State vs.
25 August Byron Kreis, III, as to the offense of

1 attempting or committing a lewd act upon a child
2 with Minor 1 , we the jury find the defendant
3 guilty.

4 Indictment 2015-GS-32-2036, State of South
5 Carolina vs. August Byron Kreis, III, as to the
6 offense of lewd act upon a child with Minor 2 ,
7 we the jury find the defendant guilty.

8 Ladies and gentlemen of the jury, if this is
9 still your verdict, please indicate so by raising
10 your right hand.

11 All hands are raised.

12 THE COURT: Anything further for the jury
13 before I dismiss them by the State?

14 MS. MAYES: Nothing from the State, Your Honor.

15 THE COURT: Mr. Shealy?

16 MR. SHEALY: No, Your Honor.

17 THE COURT: Mr. Shealy, I'm going to hold
18 sentencing in abeyance until later on this afternoon
19 at the conclusion of this trial that I'm trying.

20 MR. SHEALY: Thank you, Your Honor.

21 THE COURT: Ladies and gentlemen of the jury, I
22 can't thank you enough on behalf of the court system
23 in Lexington and the state of South Carolina. It's
24 not a pleasant task to sit on a jury. It's an
25 awesome task, awesome civic duty. I'm proud of the

1 jurors that I have throughout the state. They all
2 pay close attention and take responsibility very
3 serious, and y'all have certainly upheld that
4 standard that they have set throughout the state.

5 I thank you for your service. And I agree with
6 your decision. You know, I have to sit up here and
7 not be a finder of fact, but this was an interesting
8 situation.

9 This morning we had a little hitch. The juror
10 that I had to speak with, we had some questions
11 about his qualification, but he cleared that right
12 up immediately. So there was no problem with that.
13 He's good to go and it was just a little
14 technicality. That was the hold-up on that.

15 So I'll release you now. You will not have any
16 further service this week. A check will be mailed
17 to you. And I thank you from everyone involved for
18 your service and the time that you've devoted to
19 this case, your punctuality, your professionalism.
20 And I thank you. At this time, my jury will be
21 excused. If anyone needs a work excuse --

22 THE BAILIFF: I'll hand it to you outside.

23 THE COURT: Thank y'all very much.

24 (The jury is excused at 11:12 AM.)

25 THE COURT: I'll impose sentencing on the three

1 indictments at the conclusion of the testimony in
2 the case I'm currently trying. It will be sometime
3 this afternoon. And I'll be able to give you a good
4 45 minutes leeway so you can inform the family
5 members. I thank you for your behavior. I give
6 that same instruction to everyone. I do that in all
7 emotional cases. You were wonderful. I thank you.

8 We will notify the victims and give you about a
9 45-minute leeway on when we impose sentence. I've
10 got to continue on with that other trial. So you
11 can leave now and you'll be notified when the
12 sentencing is. It'll be sometime this afternoon.

13 MS. MAYES: Thank you, Judge.

14 (Pause in the proceedings 11:13 AM - 3:11 PM.)

15 THE COURT: All right. Once again, I will give
16 the same admonishment that I gave when the verdict
17 was rendered. I once again compliment everyone in
18 the courtroom at that time for their wonderful
19 behavior. I expect it to last throughout the
20 sentencing phase.

21 Mr. Shealy, does he not want to sign the
22 sentence sheets?

23 MR. SHEALY: No, Your Honor. He declined. We
24 talked about that. I did --

25 THE COURT: You have. I see.

1 MR. SHEALY: We had that conversation.

2 THE COURT: Very well.

3 All right. I will hear from the State.

4 Obviously, we've heard all of the facts in the case.

5 I need prior records, any victims, victim impact, as

6 well as anything in connection with what the State

7 needs to put on the record.

8 MS. MAYES: Yes, sir, Your Honor. May it

9 please the Court.--

10 MR. SHEALY: Your Honor, before we get started,

11 can I do my posttrial motions?

12 THE COURT: I'm sorry. Well, I'll tell you

13 what. I'll be glad to let you do them now or I'll

14 give you ten days to file written motions. It's

15 your choice.

16 MR. SHEALY: Your Honor, I'll just do them now.

17 THE COURT: All right. I'll be glad to hear

18 from you.

19 MR. SHEALY: First off, I'm precluded from

20 doing a motion for directed verdict even after our

21 case because I did not do a motion for directed

22 verdict, and I explained that, I believe. But,

23 nevertheless, you found there was adequate evidence

24 for it to go --

25 THE COURT: Well, I'll let you make it nunc pro

1 tunc, if that will protect you on the record.

2 MR. SHEALY: Thank you, Your Honor. We would
3 ask for a directed verdict based on -- the evidence
4 as a whole, the evidence presented by the State, was
5 not sufficient to prove my client's guilt beyond a
6 reasonable doubt.

7 I understand that it did not have to be
8 corroborated by the statutes of South Carolina.
9 There was no other independent evidence other than
10 what was testified to and, in fact, we submit that
11 the standard -- the items that the jury was asked to
12 view and determine credibility and, specifically,
13 the expert witness who testified, indicated that the
14 testimony against my client was not believable.

15 And based on that, Your Honor, we would submit
16 that the -- we're entitled to have a directed
17 verdict on the evidence that was presented. Thank
18 you, Your Honor.

19 THE COURT: Well, a couple things: Number one,
20 obviously, we had a trial where we had two victims
21 and an alleged victim of bad acts who all testified.
22 And if you believe their testimony, obviously, it
23 would support a verdict of lewd act and/or criminal
24 sexual conduct with a minor in the second degree.

25 Against that, you had your client's testimony

1 who told a different story; he denied the conduct
2 and, therefore, it was a question of credibility,
3 who the jury believed. And they did their jury as
4 the finders of fact in determining what evidence
5 convinced them of its truth.

6 We had several pretrial matters where it was my
7 rule; and everybody agreed, that this case would be
8 tried simply on what was going on with these
9 children and their dad, and that your client's
10 previous involvements in various activities were
11 precluded from being testified in this courtroom,
12 that that was not part of this case. However, as
13 under the rules of evidence, when that door is open,
14 obviously that can be subject to cross-examination.

15 Your client chose to take the stand, he chose
16 to reveal his prior activities and, obviously, was
17 cross-examined on it properly. That may or may not
18 have had something to do with the decision on
19 credibility. I don't know.

20 But it was simply a case of jury being the
21 factfinders in determining the credibility of
22 witnesses, and the testimony and evidence is there
23 to support the verdict; therefore, I respectfully
24 deny the motion.

25 MR. SHEALY: Thank you, Your Honor. I have one

1 other motion that I think you've already anticipated
2 in your comments. But the argument would be to --
3 the motion would be to vacate the jury decision and
4 order a new trial, based on both what I've already
5 said about the credibility, but also, as you
6 indicated, the information that was testified to,
7 plus the incident involving the presidential
8 election; that those matters, we would submit,
9 inflamed the prejudices of the jury and did
10 improperly influence their verdict.

11 THE COURT: Well, your client is the one who
12 chose to display the Donald Trump sign in the middle
13 of replaying the testimony that was required by the
14 jury. That was towards the end. I did admonish him
15 for that type of behavior in the courtroom.

16 But at the conclusion or before the jury
17 started their deliberation, I made it clear that the
18 fact that he did that and the fact that I had to
19 admonish him was not to be considered by them at all
20 in their deliberations, that it had nothing to do
21 with the case, that was something outside of the
22 evidence presented. And I don't think I could have
23 given a more curative or stronger curative
24 instruction that -- your client just sort of decided
25 he wanted to display his presidential preferences

1 right now with the presidential election. And this
2 isn't the proper place to do it. I told him it
3 wasn't, and I told the jury not to consider that. I
4 don't know what else I could have done.

5 And the fact that your client was very nice
6 this morning, he said, Judge, you won't have to
7 worry about me displaying any requests for votes
8 today. He was good-natured about it.

9 THE DEFENDANT: I've been known to lie though;
10 right?

11 THE COURT: I'm not going to comment on that.

12 MR. SHEALY: Thank you, Your Honor.

13 MS. MAYES: Yes, sir, Your Honor.

14 As you've heard during the course of this
15 trial, the facts of this case are extremely
16 disturbing. The defendant had assaulted his oldest
17 daughter, Minor 1, for as long as she can
18 remember, beginning as a very small child. In
19 Lexington County, there were numerous assaults of
20 sexual battery that left her traumatized. As she
21 stated in her testimony, the emotions were
22 overwhelming; feelings of shame, confusion, and
23 disgust.

24 Essentially, Your Honor, these crimes amounted
25 to psychological warfare. Crimes committed against

1 the child physically, mentally, and emotionally that
2 will affect her for years in the future.

3 As for his daughter Minor 2 , she stated
4 during testimony that she did not feel safe in her
5 own home. She did not feel safe at any time she
6 could remember with her father. Once again, we see
7 that although these crimes were committed in the
8 past, these scars will remain for years.

9 At the outset of court proceedings on Monday,
10 Your Honor, the defendant made a request for the
11 Court to give him a life sentence, if convicted of
12 these charges. He has been convicted by the jury of
13 all three charges, and the State would ask for the
14 maximum sentence, pursuant to his request, and which
15 is fitting of these crimes.

16 Your Honor, as for victim impact statements,
17 the victim Minor 1 who is now 21 years of
18 age -- as the Court heard during testimony, these
19 offenses occurred in Lexington County when she was
20 between 11 and 13 years age. Minor 1 does
21 wish to address the Court at this time, Your Honor.

22 THE COURT: Minor 1

23 Minor 1 : Yes, Your Honor. A lot of
24 this is just emotions and thoughts. And it starts
25 out with -- I was going to read it in pieces because

1 it's all over the place, but I'm just going to go
2 ahead and throw it all out there. There's a poem
3 that I'm going to start with that my oldest sister
4 wrote and --

5 THE COURT: Wait a minute. Your oldest sister.
6 I thought you were the oldest.

7 Minor 1 : I'm sorry. Je. K.

8 MS. MAYES: And, Your Honor, just to clarify,
9 she is the oldest child with Karley Hollis. The
10 defendant has two older daughters, who are Je. K.
11 and ^{Am.}_{K.}, with another partner.

12 Minor 1 : We sat together and added a
13 little onto the end. And I'm going to go ahead
14 and --

15 THE COURT: Sure.

16 Minor 1 : I break down and hit my
17 knees, cry for what I never had and hope no one
18 sees. Pretend the memories are flashes of fake,
19 protect my soul so it's not his to take. Days turn
20 into months and months into years, and every night
21 is full of this child's worst fears. Looking to the
22 stars and wishing for a different life, this pain
23 pierces through me like a jagged-edged knife.

24 As the years pass by and time attempts to heal,
25 the wounds continue to bleed and the pain is still

1 so real. Put on a smile but can't feel the
2 happiness inside, tell everyone I'm fine and hope
3 they don't know that I just lied. Trust no one is
4 my motto, especially a man. Go through life
5 watching behind me and hold onto my heart with one
6 hand.

7 Still not able to feel peaceful at night, only
8 able to fall asleep when the sun turns the dark to
9 light. My soul cries at the mention of your name.
10 Why did you have to hurt me with your sick and
11 perverted games?

12 My head held high, chin up, don't cry. We all
13 knew he'd sit on the witness stand and lie.
14 Watching the clock pass, the time with my sister,
15 strong, brave and by my side, no longer allow you,
16 monster, to steal her pride. After 37 years of
17 victimizing your daughters, the nightmare is finally
18 over. The five of us will now move on and heal and
19 consider this victory as our closure.

20 And now, Chip, I don't know what to call you
21 anymore. I remember when I was younger, I could
22 never imagine calling you anything other than Daddy.
23 I've been having a lot of feelings lately due to
24 this trial. I could make a huge list of how I feel,
25 but I don't think you deserve to know how I feel.

1 I have a lot of questions for you, but I feel
2 like they would be pointless to ask you. I wonder
3 why constantly, but I have come to terms with the
4 fact that why doesn't matter. It happened, and now
5 this is where we are.

6 I need you to know anymore that I'm not that
7 little girl anymore. I need you to know that. And
8 I think you should know that if you hadn't done the
9 things that you did, you would have been proud to
10 see the incredible woman I'm becoming, the
11 phenomenal women we are becoming.

12 I can't help but to feel sorry for you,
13 honestly. We lost a father because of the things
14 you did. You lost your whole family. And,
15 actually, I never really lost a father because I
16 never really had one, did I? A father is supposed
17 to love and protect his little girls, which you
18 ruined all of that, and you know it. You have to
19 know how horrible the things you did were.

20 What I'm having the hardest time trying to
21 figure out is why after so long you can't just
22 man-up for once in your life. Your disgusting
23 little secret is out. I can't imagine how you're
24 feeling about that either. I honestly can't
25 understand why after doing what you did for so long

1 you would try to deny it.

2 Je. K. , Am. , Minor 2 , Minor 3 and I all know that
3 you know how true it is. You molested not just me,
4 but all five of your daughters; the five girls that
5 were supposed to be your world. You were supposed
6 to be our protector, a man that we could look up to,
7 the one that would always be there. I can't
8 understand why you would try to deny it, why you
9 felt the need to go through with a trial, why you
10 would you want to even try to lie. Why don't you
11 realize that after all this time, it's time to come
12 clean? It's time for everyone to know what you did
13 to me and your other four daughters, because what
14 you did was wrong, and I believe you have to know
15 that.

16 I added this because I have flashbacks. And I
17 remember when you would stop doing what you were
18 doing, and you would cry and you would beat your
19 hands against your head. You can't not know that
20 you're not supposed to do those kinds of things to
21 your little girls, which is why you are exactly
22 sitting where you are now. I know it's not where
23 you want to be, but you know it's where you belong.
24 You can't deny what you did any longer and you can't
25 take it back. But it's time to be honest about it.

1 And I guess that was my feelings, a little
2 unfinished, a little all over the place. My sister
3 and I sat and talked, and this is more that we
4 wanted for him to hear: You know what you did to
5 all five of your daughters. When you got away with
6 it after Je. K. and ^{Am.}_{K.} reported you, you just
7 continued your sick mission. We knew that you would
8 not ever admit to the truth because that's who you
9 are. Turning sister against sister was your way of
10 trying to ensure your secrets remained just that.
11 But, guess what, it didn't work. What you did to us
12 made us closer. You did not destroy us. You are
13 not the victor, but rather the man that will now
14 have day after day and night after night to think
15 about his sins. If you believe in hell, know that
16 is -- that there is a place waiting for you.

17 I also want you to know that you have not
18 destroyed my mother. You may have controlled her,
19 scared her before, but not anymore. My siblings and
20 I have now broken the cycle of abuse and racism.
21 Nightly molestations of all five of us is now
22 something of our past. However, I can only hope
23 that you are haunted until the day you die for the
24 things you've done.

25 Consider this justice served for hurting all

1 five of your daughters. Your secret is out you'll
2 never be able to do this again.

3 THE COURT: Thank you. You're a brave young
4 lady.

5 Minor 1 : Thank you.

6 THE COURT: Anyone else?

7 MS. MAYES: Your Honor, his daughter Minor 2
8 Kreis who is now 19 years of age -- she was 10
9 through 11 years of age when these offenses occurred
10 in Lexington County -- we've spoken with her, Your
11 Honor. She does not wish to address the Court at
12 this time.

13 As for prior record, false statements to
14 federal authorities. Your Honor, that conviction is
15 from December of 2011. He was convicted in federal
16 court and sentenced to 190 days. I believe that was
17 ultimately suspended to supervised release for 24
18 months, of which he was on U.S. federal probation.

19 THE COURT: Thank you. Anything else on behalf
20 of the State?

21 MS. MAYES: Nothing further, Your Honor.

22 THE COURT: Mr. Shealy?

23 MR. SHEALY: Thank you, Your Honor.

24 THE DEFENDANT: No.

25 MR. SHEALY: Let me go ahead and say this.

1 Okay?

2 THE DEFENDANT: All right.

3 MR. SHEALY: Your Honor, August Kreis is 61
4 years old. He turned 61 on Monday when this trial
5 started. He was a cabinetmaker by trade when he
6 could work. And, obviously, he's in poor health.
7 He has diabetes, Minor I told you this, high blood
8 pressure and the things that go along with it. He's
9 lost both of his legs. Your Honor, he did serve in
10 the Navy, and there was a lot of talk about his
11 service. He served off the coast of Vietnam in the
12 when destroyer Bainbridge.

13 Your Honor, he is a very interesting person.
14 He has testified as to his past, and a lot of people
15 would find that repulsive. But, nevertheless, he's
16 one of the most interesting people that I've ever
17 met. I started off with some preconceived notions
18 about him because I inherited this case. And when I
19 received this case, it was full of things about
20 being in the Aryan Nation and things like that.

21 And I thought I was going to run into a very
22 closed-minded, very difficult person to deal with.
23 And we had our difficulties; that became evident
24 when he testified. I told him not to talk about
25 certain things, and he talked about them and it

1 opened the door. And he understood that. But he
2 understood it and he made those decisions knowingly
3 and intelligently.

4 Despite his publicized past, people tend to
5 think that Mr. Kreis is firmly rock-steady in his
6 beliefs. And yet in talking to him, I've found that
7 over the years, his beliefs have adjusted and
8 they've changed. I'm not saying that he's renounced
9 everything that he's believed, I'm saying that he's
10 a thinking person. He has considered new evidence
11 on some things, and some things he's changed his
12 mind on; for instance, this thing about Al Qaeda,
13 which he testified to.

14 There's other things about racism. He's -- in
15 talking to him that -- huge conversations, Your
16 Honor. You heard testimony about him going up and
17 getting his family from Tennessee when they were
18 being persecuted because of his views that were
19 leaked to the neighbors. There was one person that
20 went with him, and he was fellow veteran, a black
21 man, a friend.

22 You also heard where he moved to -- forgot the
23 name of the neighborhood. But the neighborhood that
24 he lived in, not only was it predominantly black,
25 but it was heavily black. When I went and did my

1 interviews with the Alston Wilkes representative, it
2 turns out he was very well liked in that community.
3 He also expressed, at least indirectly, a hatred for
4 Jews, yet one of his best friends is Jewish. And
5 this friend's child associates with his children, or
6 at least they did at one point.

7 So he's a very, very complicated, I believe, a
8 very, very intelligent man. I think it's a shame
9 that he started to achieve his education so late in
10 life. But, nevertheless, I don't understand --
11 Mr. Kreis, he doesn't fit any of my stereotypes.
12 And I wish I didn't have stereotypes, but I do. But
13 he's a thinking person.

14 The entire time I have represented him, he has
15 maintained his innocence. And we've gone round and
16 round about that letter. And everything that you
17 heard on the stand is consistent with everything
18 that he told me.

19 The -- you also heard him testify. He was very
20 plain spoken and he did not mince words. And he
21 knew when he said things that hurt him, and yet he
22 went ahead and said them because they were -- well,
23 I submit to you they were the truth. Whenever the
24 cross-examination came, he knew he opened the door,
25 because we had discussed that. But he felt like the

1 jury needed to know who he was, what he was, and
2 get, as he put it, the whole truth. In fact, I
3 think he told the jury that as he started the trial.

4 Your Honor, he is very to the point. He called
5 things as he saw them, and he held nothing back. I
6 can tell you that he has consistently told me about
7 his love for his family. That love, I think, was
8 demonstrated by his care for them and support for
9 them even when he had little or nothing.

10 And, Your Honor, we'd ask that you be as
11 lenient as you possibly can. We'd also ask that
12 because -- well, for other reasons. But this is --
13 we're talking about the same period of time that you
14 would consider concurrent sentencing.

15 Thank you, Your Honor.

16 THE COURT: Mr. Kreis, anything you want to
17 tell me?

18 THE DEFENDANT: I want to thank Mr. Shealy for
19 his best efforts. And I pretty much knew how it was
20 all going to come out. I had my say. And I -- and
21 even though he doesn't agree, I'm -- they want to
22 put me away for the rest of my life. Even if you
23 gave me 16 or 20 years, it's still going to be the
24 rest of my life. So I'd rather hear you say life
25 than listen to them.

1 You know, to me, they're the enemy, they'll
2 always be the enemy. That's ZOG sitting at that
3 table. I hate the Jew. I'll always hate the Jew
4 until my death, period. This government is run by
5 an evil group of people. And, please, vote for
6 Trump.

7 THE COURT: I can't give you life. The statute
8 will not allow me.

9 THE DEFENDANT: Well, give me enough that it
10 will mean life anyway.

11 THE COURT: I can do that.

12 THE DEFENDANT: I mean, I don't have any legs.

13 THE COURT: I can do that.

14 THE DEFENDANT: I'm happy with it.

15 THE COURT: Very well. I'll go along with your
16 wishes.

17 As to Indictment 2015-GS-32-2034, an indictment
18 for criminal sexual conduct with a minor in the
19 second degree, the sentence of the Court is that you
20 be committed to the state department of corrections
21 for a period of 20 years.

22 As to indictment 2015-GS-32-2036, lewd act upon
23 a child, committing or attempting, the sentence of
24 the Court is that you be committed to the state
25 department of corrections for a period of 15 years.

1 As to indictment 15-GS-32-2030, lewd act upon a
2 child, the sentence of the Court is that you be
3 committed to the state department of corrections for
4 a period of 15 years. They're all to run
5 consecutive. You'll be required to register on the
6 sex offender registry. If you ever get out,
7 mandatory GPS. Mr. Kreis, good luck to you.

8 THE DEFENDANT: Thank you.

9 MS. MAYES: Your Honor, can we also ask for the
10 DSS Central Registry of Abuse and Neglect? That was
11 at the request of DSS.

12 THE COURT: Yes, ma'am.

13 THE DEFENDANT: What difference does all that
14 make if I'm going to die in prison anyway? What
15 difference?

16 Have a good life. I will.

17 MR. SHEALY: Thank you, Your Honor.

18 THE DEFENDANT: Fuck you.

19 MS. MAYES: Thank you, Your Honor.

20 THE COURT: Kreis family, I appreciate your
21 behavior. And, young lady, that's quite a
22 statement. And if it's not an imposition in your
23 personal matter, I'd like to have a copy of that
24 poem. If you'll let Ms. Mayes make a copy of it,
25 please.

1 Minor 1 : Yes, Your Honor.

2 THE COURT: I wish the best for you and your
3 family and hope --

4 Minor 1 : I also wanted to thank the
5 Court and everybody that has, you know, done their
6 job in this trial. Ms. Suzanne, Kevin, Chris,
7 Detective Dykes, you've all -- it means so much to
8 the family. And thank you.

9 THE COURT: Well, I hope you can get peace now.
10 And you're a very bright, smart young lady, you and
11 your sisters. And use that intelligence in a good
12 way, a positive way. And I think you can overcome
13 your childhood. Good luck.

14 MS. MAYES: Thank you, Your Honor.

15 -- END OF TRANSCRIPT OF RECORD --

16

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18

19

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24

25

C E R T I F I C A T E



PR#: 78188

Bldg: WW Room: CCR Bin: C080

Grp: 1 Item: 1

Case #: 14001168

LCSD



LETTER FROM AUGUST KREIS

Bag 1

Item 1

2008

USPS 2012

THIS ENVELOPE IS REPROducible AND SHOULD NOT BE REPRODUCED WITHOUT PERMISSION



Please read this and don't throw away.

Karley,

Just have a few things I need to tell you. Hopefully by the time you receive this letter you've already heard from Jack or Nelson. I wrote and mailed Jack a letter on Tues 2/25 and have not received a response yet. As you're already aware I was arrested on campus, where my bookbag and carry bag was left with Campus Security. Bookbag had book and Diner in it. If Jack does what I've asked the Diner and some more foreign currency are yours and the childrens, just in case it happens. Hopefully you didn't send the "Higher One" card and have drained it already. If not, do it a.s.a.p. Should be two grand or better which along with your 516, if you're careful, should last you at least four months, while you're working on getting 551. Check from WRAP will be next to nothing with snow days and last day being the 18th. Don't even know yet if Jack will help me if not I told him to hand my letter to Nelson. All my usual carrybag things were left there phone, charger, id cards, and all debit cards. I'm writing this on borrowed paper and pen. I realize you most likely regret even knowing me now. If, by chance, my 551 continues until charged and prison I'll continue to help out when school loan runs out. What you need to do is set up a bank account that money can be transferred into when the time comes. When speaking to the

Court appointed attorney he told me the state of S.C. recognizes common-in-law marriage. If that's the case when I'm dead you'll be able to apply for death benefits through Social Security. In case someone other than my wife is reading this - no, not considering suicide. Five days naked in a cell w/ lights on 24/7 was enough to make me not want to go back there. Just for your knowledge I'm not asking for bail and have already told the lawyer they gave me it's not going to trial. I'll stay here until sentenced to prison. If I'm gone before the children turn 18 you can apply for SS for them also. If I can't be with or even see our children again I'd rather be dead. Don't want to get off track of why I've contacted you. Hopefully I hear back from Jack prior to being able to send this to you. I'm going to see if I can trade my hard boiled eggs for another envelope this week. You need to really take care of yourself and get your health back. 3/5 Unsure if Jack's going to help me or not haven't heard from him. If I don't hear from him today I'm putting this in the mail tomorrow. You should get the number for Austin Wilkes and get Nelson Pastor's cell number and call him. Find out if Jack's picked up my belongings from school and if he plans to do what I asked in my letter. I believe I should write to Nelson from the beginning but didn't want to bother him because he's still going to school at Fortis. Figured Jack had more time. A man named Eddie usually answers the phone at Austin Wilkes but explain that you need to get in touch with my roommate but if he won't give you the number ask for Michael Morris, you know him and I'm sure he'll give it to you. Although I'm sure you want

nothing to do with me. I'd like to know you got my things from the house. Use the computer to go back to school and the hard drive has all the movies and cartoons you wanted for

A.K.

I hate myself more than anyone else could. But if you find it in your heart I'd appreciate it if you let me know if you were able to get a hold of Nelson or Jack and if they are going to see that you get my things from the house. Maybe I'm just not giving it enough time on my end, but time passes very slowly here. This is the third letter I wrote you and threw the other two away because I strayed off course of what I wanted to say not mentioning what brought me to where I'll be for a long time if not till the end of my life. — No letter from Jack so I'm starting to believe that he's not planning on helping me out. Like I've said he may be but slowly. If he does do what I've request of him I'm going to have him mail Jim my debit and 10 cards and have him take care of my finances. I want to get my SSI direct deposited into my Wells Fargo account and in a few months have us start sending you or Lig the 500.00 rent, at least until I loose it when finally sentenced. I believe it will continue while I'm waiting which the public defender said could be 1-3 years, of which would count toward my time received. I deserve whatever happens to me but I'm so sorry I hurt the only ones I love and

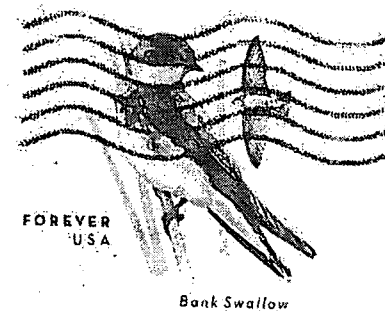
Loved me, you and our children. — If you. No, when you
 out my room I'm going to write Nelson next whom I should
 have written from the beginning and see if he'll keep my leg-
 shoes, walker and socks for my stumps there. I'm going to work
 with a VA liason here at the jail and see if I can get them
 brought here through the proper channels. I'm the Only one
 with a power wheel chair here at this facility. They put it in
 the back of a pickup truck when I was arrested. The only
 time it was taken from me was when they had me on suicide
 watch the first five days. I hope everything goes right and
 you're able to get my things. There's an envelope from Jim w/
 some more foreign currency in my nightstand drawer to
 be put with the rest from my book bag. Even if it goes for
 .86 or less cents, cash in, for it will be a blessing for you and
 the children. *Wed. 3/6 Not planning to wait for mail call today
 because they pick it up prior to handing out mail. I'm going to
 write Nelson today and try to find out what's going on. If you
 find out please drop me even a one liner and let me know. The
 printer, CB mobile radio, laptop, hard drive, 3.0usb hub, couch mouse are the
 electronics in my room. Already told you what was taken from me at
 school. I sure pray they let you have everything from my room and
 you let me know or someone does. Whatever you think of me
 I want you to know that I still love you all and will be worried
 all the time what's happening outside my cage. Lastly, please
 find a church in the area and have the children attend. Even if
 it's not exactly what we believe it's better than nothing at all.
 Be safe and may Yaweh Bless you and our children — With love, Chip

 415-10997
 2.48

AUGUST B. KREIS III #620498
Alvin S. Glenn Detention Center
201 John Dial Mark Drive
Columbia, SC 29209

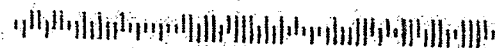
COLUMBIA SC 29209

06 MAR 2014 PM 4 1



Karley D. Hollis
1932 Throughfare Branch Road
Cassatt, SC

29032



L 15-10997
1 8

THE ALVIN S. GLENN DETENTION
CENTER HAS NEITHER CENSORED NOR
INSPECTED THIS ITEM; THEREFORE,
THE DEPARTMENT DOES NOT ASSUME
RESPONSIBILITY FOR THE CONTENTS.



THIS ENVELOPE IS RECYCLABLE AND MADE WITH 30% POST CONSUMER CONTENT 

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* Forelady: Please save #1
 Dates requested

1 List reported to police

1-21-14
 January 21st, 2014

2 Forensic Interviews

Minor 1

Minor 2

Minor 3

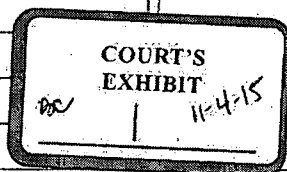
Will attempt
 to get
 if it
 was in
~~the~~ the
 record.

3 Date arrested in campus.

2-19-14

February 19th, 2014

Judith Grady



Testimony per Court Record

Minor 1

- date of forensic interview -
February 3rd, 2014

Minor 2

- date of forensic interview -
February 3rd, 2014

Minor 3

- dates of forensic interviews
1st interview - February 3rd, 2014
2nd interview - February 18th, 2014

Madam Forelady

Please see

COURT'S
EXHIBIT

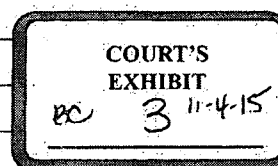
EX 2 11-4-15

#2

Are we allowed to
know who back is?

Justh beagle

You have to rely on what
is in the record -
I can't make any
comment



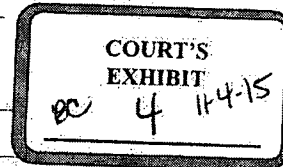
Do you need to
hear all of the
testimony or just
a portion?

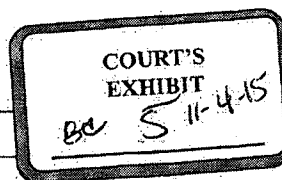
Minor 1

's is 1.5 hours

August's is 1 hour

- 1) yes, all of it.
- 2) Can we take notes?





We would like to see
 Minor 1 is testimony
 and August's testimony.

Judith Breach

We can replay the audio from
 the Court Reporter for Minor 1
 and August but we don't
 have a video or a fully
 typed transcript.

we would like to re-hear this.

can we take notes

391

WITNESSES

Lexington County Sheriffs Department

S Dykes

Law Enforcement Case #: 14001168

LSM

ARREST WARRANT NUMBER

15-STR-00179

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 8/10/2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS3202030

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2015

THE STATE

vs.

August Byron Kreis III

CDR #: 2468

Indictment for

Attempting or committing a Lewd Act
Upon a Child

§ 16-15-0140

DONALD V. MYERS, SOLICITOR

Lex Co. C.C.P., G.S. § EC.

TRUE COPY

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

INDICTMENT FOR
Attempting or committing a Lewd Act
Upon a Child

§ 16-15-0140

At a Court of General Sessions, convened on August 2015, the Grand Jurors of Lexington County present upon their oath:

That **August Byron Kreis III**, date of birth _____, being a person over fourteen years of age, did in Lexington County, South Carolina, on or about May 8, 2005 through October 1, 2008 willfully and lewdly commit or attempt to commit a lewd and lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of the child, to wit: fondling and/or inappropriate touching of

Minor 1

_____, date of birth _____, in violation of Section 16-15-140, Code of Laws of South Carolina, 1976, as amended, and subsequently codified as S.C. Code Section 16-3-655 (C), 1976, as amended. 16-3-655(C), 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Suzanne Mayer
ASSISTANT SOLICITOR

(0-15) Sex offender Registry and mandatory GPS 393

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE VS.

August Byron Kreis III

AKA:

Race: White

Sex: M

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Lewd Act upon a child, committing or attempting 1 - child under 16 (June 4, 1996)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS3202030

A/W#: 15-STR-00179

Date of Offense: 5/8/2005 - 10/1/2008

S.C. Code § : 16-15-0140

CDR Code #: 2468

SENTENCE SHEET

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC

w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47:9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCA Surcharge) \$5 \$5

3% to County (if paid in installments) \$

TOTAL \$130

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

MT Earls
0130
Nov 3, 2015

WITNESSES

Lexington County Sheriffs Department

S Dykes

Law Enforcement Case #: 14001168

LSM

ARREST WARRANT NUMBER

2014A3210800039

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 8/10/2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS3202034

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2015

THE STATE

vs.

August Byron Kreis III

CDR #: 0396

Indictment for

Criminal Sexual Conduct With a Minor
Second Degree

§ 16-03-0655(B)(1)

DONALD V. MYERS, SOLICITOR

Lex. Co. C.C.P., G.S. & F.C.

A TRUE COPY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Criminal Sexual Conduct With a Minor
 Second Degree

§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on August 2015, the Grand Jurors of Lexington County present upon their oath:

That **August Byron Kreis III**, date of birth _____ on or about May 8, 2005 through March 26, 2008, willfully and unlawfully commit criminal sexual conduct with a minor in the second degree by engaging in sexual battery with a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: including but not limited to genital intrusion and/or cunnilingus and/or fellatio upon

Minor 1

, date of birth _____, in violation of Section 16-3-655(B)(1),

S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Suzanne Mayes
 ASSISTANT SOLICITOR

(0-20) - No Parole offense
Mandatory sex offender Registry
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.
August Byron Kreis III

AKA:

Race: White Sex: M Age: DOB: SS#: Address: City, State, Zip: DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Criminal sexual conduct with minor - 2nd degree - victim 11 to 14 yrs of age

INDICTMENT/CASE#: 2015GS3202034A/W#: 2014A3210800039Date of Offense: 5/8/2005 - 3/26/2008S.C. Code § 16-03-0655(B)(1)CDR Code #: 0396

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

J. Smay
Solicitor64191
SC Bar#Thomas E. Sherry
Defendant5048
Attorney for Defendant5048
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%) \$ § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 47.9 (Public Def/Prob) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114 (BUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 53% to County (if paid in installments) \$ TOTAL \$ 130Clerk of Court/ Deputy Clerk Beth CarriganCourt Reporter: B. Criggin

SCCA/217 (03/2011)

days/hours Public Service Employment

Obtain GED TRUE COPY

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning Substance Abuse Counseling ☐ C.O.P. C.S. & F.C.Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: DSS registry☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk during probation.Presiding Judge: J. B. EarlyJudge Code: 0136Sentence Date: Nov 5, 2015

WITNESSES

Lexington County Sheriffs Department

S Dykes

Law Enforcement Case #: 14001168

LSM

ARREST WARRANT NUMBER**15-STR-00177**

ACTION OF GRAND JURY

Pamela Baker
Foreperson of Grand Jury

Date: 8/10/2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS3202036**The State of South Carolina****County of Lexington**

COURT OF GENERAL SESSIONS

AUGUST TERM 2015

THE STATE**vs.****August Byron Kreis III**

CDR #: 2468

Indictment for**Lewd Act Upon a Child****§ 16-15-0140**

DONALD V. MYERS, SOLICITOR

AT TRUE COPY
LET. 08.00 P.M. G.S. & F.O.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Lewd Act Upon a Child

§ 16-15-0140

At a Court of General Sessions, convened on August 2015, the Grand Jurors of Lexington County present upon their oath:

That **August Byron Kreis III**, date of birth _____, being a person over fourteen years of age, did in Lexington County, South Carolina, on or about May 8, 2005 through October 1, 2008 willfully and lewdly commit or attempt to commit a lewd and lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying a lust or passions or sexual desires of himself or of the child, to wit: fondling and/or inappropriate touching of

Minor 2

, date of birth _____, in violation of Section 16-15-140,

Code of Laws of South Carolina, 1976, as amended, and subsequently codified as S.C. code Section 16-3-655(C), 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Suzanne Mayo
 ASSISTANT SOLICITOR

(0-15) sex offender Registry 399
mandatory GPS

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS.
August Byron Kreis III
AKA: _____
Race: White Sex: M Age: _____
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL#: _____ SID#: _____
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2015GS3202036
A/W#: 15-STR-00177
Date of Offense: 5/8/2005 - 10/1/2008
S.C. Code §: 16-15-0140
CDR Code #: 2468

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Lewd Act on a child, committing or attempting - child under 16 (June 4, 1996)

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 64191 [Signature] 5044723
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years;
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2015-GS-32-02034
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100-

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25-

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5-

3% to County (if paid in installments) \$ _____

TOTAL \$ 130

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA/217 (03/2011)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. ☐

May serve VDE beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge [Signature]

Judge Code: 0136

Sentence Date: Nov 5, 2015

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,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 24th day of February, 2017.

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,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

FEB 24 2017

SC Court of Appeals

This 24th day of February, 2017.