

ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Greenville County

MAR 13 2017

Honorable R. Keith Kelly, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RODNEY MICHAEL ALEXANDER,

APPELLANT.

APPELLATE CASE NO. 2016-000112

RECORD ON APPEAL

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2 County of Greenville In the Court of General Sessions

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4 State of South Carolina,)
5) 2013-GS-23-07631-33
6 -vs-) October 6, 2015
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8 Defendant.) Pages 1-146
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12 B E F O R E:

13 The Honorable R. Keith Kelly, Judge;
14 and a jury.

15

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E x h i b i t s

For the State:

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15	1	Map	87	88

For the Defendant:

17	Marked	Description	I.D.	Admitted
18		None offered.		

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1 MS. HODGE: Ladies and gentlemen of the jury, as
2 you can probably tell from some of the judge's
3 questioning during jury qualification and selection,
4 you have been seated on a case that deals with child
5 sexual abuse. There are different kinds of abuse out
6 there, and I think what we all hear on the news or
7 through the media or what makes movies are the types of
8 abuse that's very salacious. It's a snatching or an
9 abducting. It's a kidnapping and then there's some
10 violent type of sexual abuse that occurs.

11 Ladies and gentlemen, that's about one percent of
12 all sexual abuse cases. The kind of case that you're
13 sitting on today is a chronic sexual abuse case where a
14 child is sexually abused by someone they know, they
15 love, and they trust. It's the secretive kind. It's
16 the insidious kind that goes on. That child is
17 groomed. The abuses escalates. That's the kind of
18 case that you are sitting on. And the person that is
19 charged with committing that type of sexual abuse,
20 chronic sexual abuse, is the defendant, Rodney Michael
21 Alexander.

22 This defendant was in a position of love, trust,
23 and authority over his victim. The victim in this case
24 is Complainant Some of the witnesses will
25 call her Complainant, some call her Complainant, and she's now

1 16. And she will testify, and you will hear from her
2 about this abuse that occurred between the time she was
3 around two to four are some of her earliest memories
4 until she finally was brave enough, had enough strength
5 and support to say, "I've got to tell. It's got to
6 stop," and that was when she was actually 13. So we're
7 talking about an extended period of time here.

8 During that time, the defendant was the boyfriend
9 and then became the husband of her grandmother. The
10 defendant, being in that position, obviously, had a lot
11 of contact with her, showed her a lot of attention and
12 love, and also was in a position to know that she had a
13 very rocky home life.

14 She lived with her mother. Her mother was a very
15 young mother. And Complainant was actually taken in to DSS
16 custody almost as early as three to six months. And
17 she ended up living with the defendant's wife, her
18 grandmother, until she was about five.

19 The defendant and the grandmother started dating
20 during that time period, ended up living together and
21 ended up getting married, so he's consistently been in
22 grandmother's life through most of Complainant life, and
23 he knew that she had a hard time in the moment, that
24 her mother had a hard time being a mother, that she was
25 actually in and out of DSS custody numerous times over

1 those 13 years and, in fact, been continued in DSS
2 custody after she finally disclosed this abuse.

3 He capitalized on that. He was very affectionate
4 towards her, gave her gifts, things that kids like and
5 need. Nothing big. Toys, candy, treats, attention.
6 And he favored her, if you will. You'll hear testimony
7 from family about that, that she was the favorite
8 grandchild of this mother's children.

9 So he knew her. She trusted him. She loved him.
10 He was in authority, had authority over her, and he
11 began grooming her, grooming meaning starting to get
12 her comfortable with what he was going to do. The
13 evidence will show that the grooming started with the
14 gifts, with the special attention, and then it also
15 became inappropriate touching, blurring the lines of
16 what's acceptable, what are good touches and what are
17 bad touches. And for a young child who doesn't know
18 any better, they're not quite sure unless someone is
19 teaching them what's appropriate and what's not.

20 The evidence will show he started asking her or
21 started touching her genital area, her vaginal area,
22 over and under clothes, asking her to touch his. This
23 all started, again, at a very early age. And she will
24 testify she didn't even really know that was wrong, and
25 that it was presented almost as a game, and she'd get a

1 prize or a toy or something after.

2 The evidence will show that she didn't tell anyone
3 for a while, and around eight or nine she started
4 realizing this isn't right. But she will tell you that
5 she did not tell, that she was afraid to tell.

6 The abuse then escalated. When he didn't get told
7 on, he then stepped it up a notch. Around the age of
8 nine or ten, she will testify that he began doing
9 digital penetration. I'm sorry. I talk about this a
10 lot, and it seems very mechanical for me, but that's --
11 I know it's uncomfortable for all of us, and we're
12 going to use some words that are uncomfortable, and
13 you're going to hear some things uncomfortable, but
14 that, obviously, means he was using his finger,
15 inserting it into her vagina, and this happened
16 repeatedly. And she will testify that the abuse
17 continued to escalate around the age of 11, 12, and 13,
18 that he committed full-on vaginal-penile penetration
19 intercourse, and that that happened somewhere between
20 two and four times, and at that point she ended up
21 disclosing the abuse.

22 So all of that seems pretty sad in and of itself.
23 When she finally got the nerve and the courage to tell
24 her grandmother, her grandmother chose the defendant.
25 And during this time, September 14th of 2012, Complainant

1 was living with these grandparents. So once she told
2 her grandmother, her grandmother chose the defendant's
3 side over hers, and it devastated her because she
4 really thought her grandmother loved her and would
5 support her, but that didn't happen.

6 And while the grandmother and the defendant were
7 talking about this, she opened up her bedroom window
8 and she ran. She ran away. And she'll tell you that.
9 She didn't know where she was going or what she was
10 going to do, but she couldn't stay there.

11 The evidence will show she asked her grandmother,
12 "Can I call my dad? Can I call my aunt? Can I call
13 somebody," and that the grandmother said no. So she
14 ran. And she ended up at a friend's house in Mauldin.
15 And the evidence will show that that friend's mother
16 was going to take her back to the grandparents because
17 she didn't really know what had happened, but she knew
18 that she needed to go home. And that's when Complainant
19 told this woman, Christine Farner. And Ms. Farner and
20 her husband talked about it, and they knew they had to
21 call the police, and that is how the police got
22 involved. And that is how the defendant became
23 investigated and why he is charged today with lewd act
24 on a minor and criminal sexual conduct with a minor
25 second degree. Lewd act on a minor, we actually don't

1 have that law anymore. It was repealed and it's called
2 something else. But back in 2012, the law was unlawful
3 touching of the private parts of another in a lewd and
4 lascivious manner for sexual gratification, and the
5 person being touched has to be under 16. So what does
6 all that mean? That's basically fondling, fondling of
7 a child. All right. It has to be for sexual
8 gratification. It can't be you're bathing them and you
9 touch the private part. It's something specifically
10 sexual.

11 The second charge is -- there's two counts of
12 criminal sexual conduct with a minor second degree.
13 That is where the child has had a sexual battery
14 committed on them. It does not mean a physical act of
15 violence. These types of crimes do not usually have
16 beating down or forcing at gunpoint or any of that kind
17 of stuff. It's a very, very sublime kind of
18 manipulation. And that is where a sexual battery
19 occurs on a child. Digital penetration is a sexual
20 battery. Vaginal-penile penetration is a sexual
21 battery. If there were other kinds, it's any orifice
22 being penetrated, mouth, vaginal area, anal area. In
23 this one we have digital and penile penetration.

24 Now, you're going to hear the evidence that the
25 State has to prove the defendant guilty of these

1 charges beyond a reasonable doubt. Our evidence is
2 going to come in the form of testimony. These kinds of
3 cases are testimony heavy. We don't have a lot of CSI
4 fancy forensic stuff. Is it because we don't try?
5 Because we don't want to? Because we're slack?
6 Because we're lazy? No. It's because in these kind of
7 cases, it just doesn't exist. When you have a delay in
8 the reporting or a delay in disclosing, the evidence
9 that you may could have had at the time the crime was
10 committed is gone. If there was any DNA left behind by
11 the defendant, the first time the child used the
12 bathroom or took a shower, gone. So if that happened
13 months before the disclosure, obviously, we can't get
14 that information. We can't get that kind of evidence.

15 So our case is going to be testimonial. Testimony
16 is evidence. Anything that witnesses say from the
17 stand is evidence for you to consider. And you'll hear
18 the judge saying or you will hear the State, or even
19 the defense, we're going to use those words
20 interchangeably: "Did you hear the testimony? Did you
21 hear the evidence?" Same thing.

22 So we will have an eyewitness testify and tell you
23 exactly what happened here. And that will be Complainant
24 There are only two people there. And she is going to
25 testify exactly -- well, to the best of her ability. I

1 shouldn't even say exactly because over that length of
2 time, there's going to be some memories that aren't
3 crystal clear. Some stuff is very clear, some stuff
4 meshes with other stuff. You guys will be the judge of
5 that as you hear the testimony go along. But she will
6 tell you as best she can the humiliating, embarrassing,
7 shameful, anxiety provoking stuff that she endured as a
8 child. And she's still a child.

9 So once you hear all the State's evidence because
10 it will come in the form of other officers, other
11 healthcare providers, mental health care provider,
12 physical doctor, then you will or possibly could hear
13 from the defense. They are entitled to put up a
14 defense but they do not have to do so. The entire
15 burden is on the State to prove its case beyond a
16 reasonable doubt.

17 If the defense does choose to put something up or
18 maybe even in their cross-examination of the State's
19 witnesses, I submit to you they will try, as I've seen
20 in the past -- I'm not sure what Mr. Stalvey is doing,
21 but it will be a flipping around. It will be a trial
22 of the victim. Not of the defendant, of the victim.
23 They will try to portray her probably in a bad light or
24 make her have some credibility issues. So just know
25 that the State understands where that's going. I'm

1 assuming that's what's going to happen. That's a
2 general defense tactic. But you were all selected for
3 your own common sense, for your ability to judge
4 someone's believability or your ability to determine
5 what's credible, what's not, and why you feel it's
6 credible or not based on your own personal experience
7 in dealing with people. So I'm going to ask that you
8 just use your common sense as you listen to this case
9 as the evidence is presented and that you use that
10 common sense to render the truth in the case, what
11 really happened in this case.

12 The word "verdict" comes from a Latin word
13 "veredictum," and that means to speak the truth. So
14 your verdict at the conclusion of this case shall speak
15 the truth, and we submit that that would be a verdict
16 of guilty on all charges. Thank you.

17 THE COURT: Thank you.

18 Yes, sir.

19 MR. STALVEY: Thank you, your Honor. May it
20 please the court.

21 THE COURT: Yes.

22 MR. STALVEY: Ladies and gentlemen, as I've told
23 you earlier today, this is Rodney Michael Alexander.
24 This is my client in this case. Mr. Alexander is
25 married to Nora Alexander, and they are the

1 grandparents of Complainant , who is the
2 victim.

3 Ladies and gentlemen, they're not the biological
4 grandparents, but as you'll hear, Complainant considered
5 them her grandparents. She called him papa and she
6 had -- I agree with the State, she had a close personal
7 relationship with them. She had a relationship like
8 any of us would normally have with our grandparents.

9 Now, just to give you some history of what was
10 going on here, I know the solicitor told you a little
11 bit about the background of this case. But I'm going
12 to tell you a little bit more. Complainant was in seventh
13 grade in 2012. She's 13 years old. She started the
14 seventh grade at Middle School. And as you heard
15 earlier, she had a troubled life, okay. She had been
16 in and out of DSS custody multiple times, and like the
17 judge told you, these aren't the facts. You will hear
18 the facts from the testimony and the evidence in the
19 case, but I believe she was in and out of DSS custody
20 13 times in her 13 years when all this came about. So,
21 she had had a troubled past.

22 When she started her seventh grade year, she was
23 actually back living with her mom. The shift, and I
24 don't know how much ya'll are familiar with DSS and
25 family court, but, really, when DSS opens a case

1 against you as a parent or a caretaker over a child,
2 DSS, I mean, their goal is to reunify the child with
3 the parents. Maybe you're familiar with it, but there
4 are a lot of cases where children are taken away from
5 their parents, their parents go do parenting classes
6 or, you know, if they have a drug problem, they go to
7 drug classes. They do whatever they have to do, and
8 DSS eventually will place them back, place the children
9 back with their parents.

10 That is what had gone on in Complainant life, okay.
11 And she has, I believe, five sisters and brothers that
12 are all younger than her. Maybe four. But she has a
13 bunch of siblings. The same thing happened to them.
14 It was a chaotic life for a 13-year-old. She was a lot
15 of times asked to take care of her brothers and sisters
16 when she was, you know, eight or nine years old while
17 her mother went out clubbing, went out drinking.

18 Again, it was a very tough life for Complainant. And
19 Rodney and his wife Nora, her grandparents, they knew
20 about all this. Rodney and Nora got married in 2008.
21 That was when Complainant was ten years old. And they
22 dated for a couple years before that. Complainant -- they
23 had seen Complainant go from living with her mom to living
24 with foster parents, different foster parents, stay
25 with one, go back to her mom, go stay with another

1 foster parent. So they knew how troubled her life was.

2 And so in 2012, when Complainant started seventh
3 grade, she was back with her mom, and things had kind
4 of stabilized, okay. But everything started going
5 downhill quickly, and Complainant was having trouble at
6 home. Her mother was having the same problems that she
7 had had her entire life as a mother. And so Complainant
8 and her grandparents became closer. In fact, Complainant
9 switched schools and went from to, I believe,

10 Middle School, same year, seventh grade, and
11 gave the middle school her grandparents as her
12 emergency contact. The reason she did that is because
13 the school, whenever something would happen with
14 Complainant, they couldn't get in touch with her mother.
15 They didn't have a reliable person to call if they
16 needed to have her get picked up or if something
17 happened or if there was a problem at school with
18 Complainant. Her mother was not reliable enough for her to
19 be the first contact.

20 But despite the problems that her mother had, and
21 I don't think anybody will deny this during this trial,
22 her mother loved her, okay. And her mother cared about
23 her. And her mother was -- I mean, I know her actions
24 don't -- don't portray this, but her mother was looking
25 out for her best interests. And she wanted to protect

1 Complainant, but she went about it the wrong way. And
2 there was some physical abuse that was going on in
3 Complainant life. The extent of that physical abuse, we
4 don't really know. We got what Complainant says her mother
5 did to her. Her mother would say that it wasn't that
6 extensive. But we do know there was some physical
7 abuse, okay.

8 Everything came to a head in April 2012. Complainant
9 was home with her mother. There was a disagreement.
10 Her mother thought she was doing something she was not
11 supposed to be doing, thought she was doing something
12 inappropriate, and they had an argument. And the
13 argument escalated. In fact, as the argument started
14 escalating, her mother called Mr. Alexander and his
15 wife Nora and said, "Y'all better come over here quick
16 and get this girl or something is going to happen."

17 MS. HODGE: Your Honor, I really hate to object
18 during people's opening, but this is a lot of highly
19 specific information that I'm not sure is going to come
20 into evidence or not. It sounds a lot like testifying.

21 THE COURT: Well, I'm going to allow him to
22 continue this.

23 MR. STALVEY: Thank you, Judge.

24 THE COURT: Go ahead.

25 MR. STALVEY: So she calls the grandparents, says,

1 "You better come over here quick." Well, by the time
2 they get over there, Complainant and her mother are engaged
3 in a physical fight out in the front yard of the home.
4 And they -- Nora, the grandmother, breaks up the fight
5 and is trying to keep them away. Rodney calls the
6 police and says, "Y'all got to get over here."

7 Police arrive. Complainant is taken back in to DSS
8 custody, and she's placed at a children's home called
9 Pendleton Place. When Complainant gets to Pendleton Place,
10 she meets with DSS caseworkers. She meets with social
11 workers at Pendleton Place. She's interviewed and
12 examined by a medical doctor. And she basically tells
13 them about the type of abuse that she's been
14 experiencing with her mother. She also tells all these
15 people -- you got DSS, you got Pendleton Place, you
16 have social workers, you've got a guardian ad litem
17 that's been appointed to represent Complainant best
18 interests that's going to speak for her or speak to her
19 and make sure, you know, she's safe. She tells all of
20 these people that she wants to go live with her
21 grandparents. Okay. She begs to go live with her
22 grandparents. She pleads with them. She says, "That's
23 where I want to be." She acknowledges the fact that
24 her grandparents are going to be strict with her. They
25 know -- you know, they're not going to let her just

1 kind of run wild, but she knows that they love her and
2 they would never do anything to hurt her.

3 And after about a month at Pendleton Place, she
4 gets her wish. And she -- the grandparents, Rodney and
5 Nora, get temporary custody of her. Okay. Now, her
6 mother still -- her mother hadn't given up custody, her
7 mother is still fighting for her. So Rodney and Nora
8 begin the process of trying to change the temporary
9 custody into a permanent custody situation. And you
10 will hear that during this time, after about a week and
11 a half after she left Pendleton Place then had moved in
12 with the Alexanders, she goes to the Julie Valentine
13 Center and is interviewed. Okay.

14 She's interviewed by a woman named Christine
15 Carlsberg. And the purpose of that interview is for
16 Christine Carlsberg -- and the Julie Valentine Center
17 is a child abuse center here in Greenville. She is
18 asked by Christine Carlsberg questions about what was
19 going in the home with her mother about the physical
20 abuse, and Complainant describes the physical abuse and
21 describes some neglect, describes pretty much what has
22 happened her entire life with her mother.

23 At the end of the interview, Christine Carlsberg
24 asks Complainant, she actually pulls out a diagram of a
25 little girl with no clothes on and says, Complainant, do

1 you know these body parts?" Complainant is 13 at the time.
2 And she says yes and she identifies, you know, the
3 breasts, the vaginal area, behind. And she is asked,
4 "Do you know these are the spots that you're not
5 supposed to be touched as a little girl?" Complainant
6 says, "Yes. Yes, I know that. I know that." Complainant
7 is then asked, "Has anybody ever inappropriately
8 touched you in these spots?" And she says no. Complainant
9 is asked, "Would your" -- I mean, she's actually asked,
10 "Have you ever had sexual intercourse with anyone?"
11 And she says no.

12 Christine then leaves the room, goes out and talks
13 to somebody, comes back in and asks her, "Complainant,
14 would your grandparents ever do anything to hurt you?"
15 And she says no. She's asked, "Would your grandmother
16 ever hurt you or touch you?" She says no. She's asked
17 specifically, "Has your grandfather ever done anything
18 to hurt you?" She says no. She's then asked, "Do you
19 know what to do if anybody ever touches you or hurts
20 you?" And she says, "Yes, tell an adult." She's
21 asked, "Who would you tell?" And she says, "My
22 grandmother and my grandfather." Okay. That interview
23 took place in May of 2012.

24 Complainant then spends the rest of the summer with
25 her grandparents. She starts the next fall, eighth

1 grade -- she's still 13, turns 14 in October -- and her
2 behavior is a problem with the Alexanders. She
3 continues to get in trouble, and they're strict on her.
4 And they won't let her out of the house. They won't
5 let her out of their sight. They won't let her have a
6 phone based on some things that have happened
7 previously. And by September 14, 2012, Complainant had had
8 enough.

9 Now, I'm going to talk to you about this week, the
10 week that led up to her running away. She was
11 actually -- she was not at school. She went back to
12 school on Thursday. On Friday, Friday morning, she met
13 with a DSS caseworker who came to her school. She was
14 at a different school by this time,

15 School in Met with the DSS caseworker the
16 morning of September 14th and was specifically asked,
17 "How is everything going at home with the Alexanders?"
18 And she responds, "Everything is fine."

19 The caseworker was there to talk to her about the
20 ongoing case that had continued from the previous
21 spring with her mother. She says, "Everything is going
22 fine." That afternoon, Complainant has a meeting with DJJ,
23 which is the Department of Juvenile Justice, for some
24 trouble she had gotten into the previous year. And in
25 the meeting -- she's driven to the meeting by her

1 grandparents. Rodney is sitting out in the car while
2 she and her grandmother go into the meeting. And
3 during the meeting, she's kind of showing an attitude.
4 She's -- the DJJ worker is trying to talk to her and
5 she's got a book open. She's not paying any attention.
6 And her grandmother says, Complainant you need to pay
7 attention. Come on, act right." And Complainant was
8 defiant. This is late Friday afternoon. Okay.

9 So she takes her grandmother in the bathroom and
10 tells her grandmother, "Papa has been inappropriately
11 touching me since I was a little girl." Now, what
12 happened after that was -- I mean, whether her
13 grandmother believed her or didn't believe her doesn't
14 really matter. What her grandmother said to her in the
15 bathroom after she told her this was, "Nobody is going
16 to ever touch you again." Okay. So her grandmother
17 really didn't know what to believe, but they left DJJ,
18 Complainant left DJJ that day and got in the car with her
19 grandfather and her grandmother and drove home.

20 When they got home, her grandmother said,
21 "Complainant, go up to your room and close the door." And
22 the grandmother came down and talked to Rodney and
23 confronted him about it and said, "What is this all
24 about?" Rodney was shocked, just like the grandmother
25 was. He said, "I would never do anything to hurt

1 Complainant." And what they were really concerned with, as
2 would anyone, is that not only did she accuse her
3 grandfather of doing this, but that she would even
4 accuse anyone of doing this. This is a 13-year-old
5 girl that has accused somebody of inappropriately
6 touching them when it didn't happen. So they were
7 concerned. And they really weren't that concerned that
8 it was Rodney because that wasn't true. And he knew it
9 and Nora knew it. Their concern was that she made the
10 allegation in the first place.

11 So Complainant is upstairs. They come back upstairs.
12 They say, "Complainant, you know this is serious. You know
13 this could get somebody in a lot of trouble when you
14 accuse them of something like this." You know, "This
15 isn't right."

16 Rodney goes back downstairs. Then Complainant and
17 Nora are talking, and you heard the solicitor say she
18 wanted to call somebody that night. What she said was,
19 "I want to go. I want to leave this house tonight."
20 Okay. Remember, Friday night. She wanted to get out.
21 Nora said, "Nope, you're staying in this room." Okay.
22 "We've got to talk about this some more."

23 She goes downstairs. She and Rodney are talking
24 about it some more. Minutes later, they hear the
25 window break upstairs. They go upstairs, and Complainant

1 is gone. They immediately call the police. Police
2 come out, start looking for her. They can't find her.
3 They call the Alexanders, gave them a number of this
4 boy, an older boy that she had been talking to who they
5 had told her not to have anything to do with. They
6 said, "We have an idea she might have called this boy."
7 The police call the boy. He says, "I hadn't heard from
8 her." Then he calls the deputy right back and says,
9 "She just called from a number I've never heard of, but
10 here's the number."

11 Police call that number. A girl answers the
12 phone, won't give her name, won't identify herself, but
13 says, "Oh, yeah, Complainant was just here. She used my
14 phone and she just walked off. She said she's walking
15 to So she goes to She's picked up
16 by her friend. She tells them about the allegations.

17 The police start the investigation. As you will
18 hear, Complainant story about what she says Mr. Alexander
19 did to her has changed. Okay. The first night she
20 makes the allegations, she gives one story. She's
21 interviewed for a second time by the same person at the
22 Julie Valentine Center in October of 2012. She gives a
23 slightly different story. In 2015, which is three
24 years after all this happened, she gives a different
25 story. Her story has changed.

1 As you have heard and as you will hear in this
2 case, there's no physical evidence. There's no medical
3 evidence. There's no recordings. There's no
4 eyewitness statements. All you have is Complainant word.
5 And, ladies and gentlemen, I submit to you that what
6 she told Christine Carlsberg in her first Julie
7 Valentine Center interview, what she told Christine
8 that day was true. Her grandfather would never do
9 anything to hurt her. It was the truth back in
10 April or May of 2012, and it's the truth today. Thank
11 you.

12 ALEX PAYNE,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 THE COURT: Officer, once you get situated there,
15 pull the microphone up, tell us your full name, spell
16 your last name for my court reporter, please.

17 THE WITNESS: Alex Payne. Last name P-a-y-n-e.

18 THE COURT: Thank you.

19 Ms. Solicitor.

20 MS. PATTERSON: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MS. PATTERSON:

23 Q Deputy Payne, where do you work?

24 A Greenville County Sheriff's Office.

25 Q And in what capacity do you work with the

1 sheriff's department?

2 A Currently I work for the traffic division, and in
3 the past I worked in uniform patrol.

4 Q When you say in the past, how long have you been
5 in traffic?

6 A I've been in traffic since March of this year.

7 Q How long have you been with the sheriff's office
8 this year?

9 A Going on six years.

10 Q So for about six years you were with uniform
11 patrol?

12 A About five and a half.

13 Q Thank you. And what do you do while in uniformed
14 patrol where you worked five and a half years?

15 A We respond to calls that are given to us through
16 our dispatch.

17 Q And any type of calls?

18 A Any type of calls, 911 hang-ups, disturbances,
19 anything.

20 Q And were you on duty in your capacity as a
21 uniformed patrol officer on September 14th of 2012?

22 A Yes, ma'am, I was.

23 Q And did you respond to a call at Pinehurst
24 Drive in Mauldin?

25 A Yes, ma'am, I did.

1 Q About what time was that call?

2 A I arrived at 9:30 p.m., so the call was probably
3 dispatched within an hour before that.

4 Q And what county is Pinehurst Drive located in?

5 A It's in Greenville County.

6 Q And how were you assigned to that call?

7 A Dispatch gave it to me.

8 Q So can you explain to the jury how that works when
9 a call comes in to dispatch, how you're sent out to the
10 scene?

11 A Sure. Somebody either calls our nonemergency
12 number or 911. It goes through dispatch to find out
13 what kind of call it is, and then they send it to a
14 deputy that is working that area of town.

15 Q And what type of call was the type that you
16 responded to that night?

17 A I responded to a possible criminal sexual conduct
18 call.

19 Q And who did you meet on scene when you arrived?

20 A When I arrived on scene, I met with the
21 complainant, a Christina Farner. That's who called
22 dispatch.

23 Q And did you meet with the victim in this case?

24 A Yes, ma'am, I did.

25 Q And when you met with the victim, what was her

1 demeanor at the time?

2 A Her demeanor was basically a typical 13-year-old.

3 Q What do you mean by that?

4 A She used the body language, talked typical of a
5 13-year-old, but she was very clear in what she was
6 telling me.

7 Q Did the victim disclose some sort of sexual --

8 MR. STALVEY: Objection, your Honor. Asking for
9 hearsay.

10 MS. PATTERSON: Your Honor, this is clearly an
11 exception under hearsay 801(d)(1), I believe. He can
12 speak to time and place.

13 MR. STALVEY: Okay.

14 THE COURT: All right. Objection is withdrawn,
15 then.

16 Okay. Go ahead.

17 MS. PATTERSON: Thank you, your Honor.

18 Q Officer, did the victim disclose sexual abuse to
19 you?

20 A Yes.

21 MR. STALVEY: Objection, your Honor. That's
22 hearsay. Is she asking -- I'm sorry, I'll withdraw it
23 again. Let me hear what he's going to say.

24 THE COURT: All right.

25 MS. PATTERSON: Should I ask again, your Honor?

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Alex Payne - Direct by Ms. Patterson

1 THE COURT: Ask again.

2 MS. PATTERSON: Thank you.

3 Q Deputy, did the victim disclose sexual abuse to
4 you?

5 A Yes, ma'am.

6 Q And when and where did she state this abuse
7 occurred?

8 A She informed me that the abuse had occurred since
9 she was around two years old and it had occurred in a
10 bedroom at her grandparents, Nora and Rodney
11 Alexander's, home.

12 Q And did the victim give you the address where she
13 said the abuse occurred?

14 A Yes, ma'am, she did.

15 Q What was that address?

16 A Second Avenue in Greenville, South Carolina.

17 Q And what county is that located in?

18 A In Greenville.

19 (WHEREUPON, State's Exhibit Number 1 was marked
20 for identification.)

21 BY MS. PATTERSON:

22 Q Deputy, I'm going to show you what has been
23 premarked as State's Exhibit 1. Can you tell me what
24 that is?

25 A It's a minimized map of the area of Greenville

1 County.

2 Q And are you familiar with that area?

3 A Yes, ma'am, I am.

4 Q Would you say that this is an accurate
5 representation of that area?

6 A Yes, ma'am.

7 Q Is this within your jurisdiction as a deputy?

8 A Yes, ma'am it is.

9 Q And are the addresses at that are listed on here
10 within Greenville County?

11 A Yes, ma'am.

12 MS. PATTERSON: Your Honor, at this time we would
13 move State's Exhibit 1 into evidence evidence.

14 MR. STALVEY: No objection.

15 THE COURT: It's without objection.

16 (WHEREUPON, State's Exhibit Number 1 was admitted
17 into evidence.)

18 BY MS. PATTERSON:

19 Q Deputy Payne, what did you do after the victim,
20 Complainant, disclosed abuse to you?

21 A I informed our on-call investigator, which is
22 investigator Perry, and I also informed DSS.

23 Q And then what happened next?

24 A Eventually DSS arrived, a worker arrived, and took
25 custody of the child under EPC.

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1 Q And were other officers then called to the scene
2 as well?

3 A Yes, ma'am.

4 Q Did you have any further involvement in this case?

5 A No, ma'am, I did not.

6 MS. PATTERSON: Thank you, Deputy Payne. If you
7 will answer any questions Mr. Stalvey may have for you.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Yes, sir.

10 MR. STALVEY: Thank you, your Honor.

11 CROSS-EXAMINATION

12 BY MR. STALVEY:

13 Q Deputy, Complainant told you that all this or the
14 abuse started when she was around two years old; isn't
15 that correct?

16 A Yes, sir.

17 Q And she told you that the last incident was
18 earlier that week, correct?

19 A Give me one second. Yes, sir.

20 Q I'm sorry, go ahead.

21 A Yes, sir, she did.

22 MR. STALVEY: I don't have any further questions.

23 THE COURT: Okay. Anything at all?

24 MS. PATTERSON: Nothing further, your Honor.

25 THE COURT: Thank you, Officer. You can step

1 down. Please be careful.

2 MS. PATTERSON: Your Honor, can we excuse him from
3 his subpoena?

4 THE COURT: Any objection?

5 MR. STALVEY: No objection.

6 THE COURT: Sir, you may stay or go, whichever you
7 choose.

8 MS. HODGE: State calls Christina Farner.

9 CHRISTINA FARNER,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 THE COURT: Once you get situated, pull that
12 microphone up and tell us your full name and spell your
13 last name for my court reporter, please.

14 THE WITNESS: My name is Christina Farner. F, as
15 in Frank, a-r-n, as in Nancy, e-r.

16 THE COURT: Thank you.

17 Yes, ma'am.

18 DIRECT EXAMINATION

19 BY MS. HODGE:

20 Q Ms. Farner, tell us a little bit about yourself.
21 Are you married? Do you have children?

22 A Yes. I'm married, been married for 24 years. I
23 have two children, 17 and 14, and I'm a working mom.

24 Q Where do you work?

25 A I work at Michelin. I've been there 21 years.

1 Q And what type of work do you do at Michelin?

2 A I am in a department called supply chain, so I
3 deal with manufacturing all the way down to sales. So
4 basically making the tires, getting it to the customer.

5 Q And your two children, where are they in school
6 currently?

7 A My son is a senior and my daughter is a freshman.

8 Q And do you know the victim in this case, Complainant
9 Complainant

10 A Yes, I do know her.

11 Q And what do -- what name do you call her, Complainant
12 or Complainant?

13 A I call her Complainant.

14 Q And how do you know Complainant

15 A I know her because my son used to date her like in
16 middle school. I never had met her, though. I had
17 talked to her maybe once on the phone but had met her
18 the evening that we picked her up.

19 Q Okay. So start back a little bit. You said your
20 son and she dated. Now, using that term loosely, I
21 mean, did they actually go out places on dates?

22 A No. He was 14. She was maybe 13. I mean, eighth
23 grader or seventh grader, dating in middle school is
24 maybe texting and talking on the phone. They never
25 went anywhere.

1 Q So you knew her through your son by saying, "This
2 is a girl I'm talking to," or whatever?

3 A Correct.

4 Q And was Complainant -- okay. Let's go to the day we're
5 talking about, September 14, 2012. So what happened,
6 if anything, unusual happen that night?

7 A My son received a phone call from Complainant She was
8 upset. She had run away from home, and she was scared.
9 He said, "Mom, we have to go help her." They hadn't
10 talked in about a year so. I mean, he was a freshman
11 in high school. So we went and picked her up in a bad
12 part of town, in my opinion, in a park. It was getting
13 dark out, and she was scared. She had borrowed someone
14 else's cell phone and called from that, and so we
15 picked her up, and we went through the McDonald's drive
16 through, got her something to eat. She hadn't had
17 anything, although I don't think she ate anything, then
18 took her to my house.

19 Q Did you ever talk to her on the phone before
20 picking her up, or was that just your son?

21 A I think it was just my son. I don't recall
22 talking to her.

23 Q Did your son go with you to pick her up?

24 A Yes, my son and my daughter.

25 Q Was your husband at home? Was he aware of what

1 was going on?

2 A Yes, he was at home. He was aware.

3 Q And you live in Mauldin. Is it city limits or in
4 the county in Mauldin?

5 A City limits.

6 Q When you picked her up, did you say anything to
7 her or try to figure out what was going on at that
8 point?

9 A I think I just hugged her and said, "Let's get in
10 the car and get out of here," because I was a little
11 bit scared and figured I'd get her home and then, okay,
12 "Let's talk about what happened. Why did you run
13 away?" And I asked her to call, you know, her parents
14 or grandparents so that they knew she was safe.

15 Q So you knew where she was living from her telling
16 you?

17 A Yeah. I didn't know physically where she was
18 living, but I knew whom she lived with.

19 Q All right. And you asked her to call them?

20 A Correct.

21 Q At this point had she disclosed anything to you
22 about sexual abuse by her grandfather?

23 A No.

24 Q If that had come out first, would you have said to
25 call them?

1 A No, I would -- no. We would have called the
2 police directly.

3 Q So kind of take us through, I guess, what
4 happened. Did she call them?

5 A She called her grandmother and said she was safe,
6 and I don't think the grandmother was too happy with
7 what had happened.

8 MR. STALVEY: Judge, I have an objection to that
9 response as hearsay if she wasn't on the phone with the
10 grandmother.

11 THE WITNESS: Okay. But I did speak to the
12 grandmother --

13 THE COURT: Hang on.

14 Yes, ma'am.

15 MS. HODGE: Let me retract that question.

16 THE WITNESS: Okay.

17 BY MS. HODGE:

18 Q Did you talk to the grandmother after Complainant
19 called?

20 A I did.

21 Q And based on your conversation with the
22 grandmother, not necessarily what she said, but what
23 did you gather about how grandmother was feeling about
24 this?

25 A The tone that the grandmother had was she was

1 upset, not happy that Complainant had run away from home,
2 and we had agreed to meet at McDonald's. And I think
3 it was like 9 o'clock. She was going to drive over
4 there, but she was clearly not happy with the
5 situation.

6 Q And when you say "upset," are we talking crying,
7 sad, upset?

8 A Angry. She had told me she had called the police
9 and said that --

10 MR. STALVEY: Objection, your Honor. That's
11 hearsay.

12 THE WITNESS: She told me --

13 THE COURT: Hold on, ma'am. You can't say what
14 somebody said. Listen to your lawyer.

15 BY MS. HODGE:

16 Q Just how her tone sounded to you. She was not
17 crying on the phone; is that correct?

18 A No, she was not crying.

19 Q Angry was more the tone?

20 A Angry, correct.

21 Q And at that point did you learn of any sexual
22 abuse allegations at that point?

23 A Not from the grandmother.

24 Q Then what happened after you made the plan to go
25 meet at McDonald's to return Complainant

1 A I asked Complainant "Okay. Why did you run away?"

2 And she told me --

3 MR. STALVEY: Objection, your Honor hearsay.

4 BY MS. HODGE:

5 Q Let me break it down so we don't violate the
6 hearsay rule.

7 A Okay.

8 Q Did she tell you that she was sexually abused?

9 A Yes, she did.

10 Q And did she tell you where this sexual abuse took
11 place?

12 A Yes, she did.

13 Q Where was that?

14 A She told me it occurred in a bedroom in the house.

15 Q Okay. And did she say whose house it was?

16 A Hers or her grandparents' house.

17 Q Where she was living?

18 A Where she was living.

19 Q Did she tell you when this sexual abuse took
20 place?

21 A It was either the day before or very recent. I
22 don't think it was that same day. I can't recall. It
23 was three years ago.

24 Q But something close in time?

25 A Something close in time, correct.

1 Q All right. Did you prod her for more information?

2 A I just asked, "Exactly what do you mean by what
3 you're saying?"

4 Q Okay. And without telling me what she said, did
5 she give you more detail?

6 A She gave me some specifics.

7 Q And how long do you think that conversation
8 lasted, or how much information did you try to get?

9 A I didn't try to press too much, but she had told
10 me --

11 Q Don't tell me any details other than that she was
12 sexually abused.

13 A Maybe five, ten minutes, if that.

14 Q What was her demeanor like while she was telling
15 you this?

16 A Serious. She started crying and so did I.

17 Q Is this the first time you have ever had to deal
18 with a child or friend of a child, anyone coming
19 forward with this?

20 A Yes, it is.

21 Q And what did you do, based on what she told you at
22 that point?

23 A I talked to my husband, and I called the police.
24 I called the Mauldin police first because I didn't know
25 who I was supposed to call, then they referred me to

1 Greenville County, and that's who I called.

2 Q Okay. And at this point, about how long do you
3 think it took for an officer to come out there?

4 A Maybe 30 minutes. It wasn't very long.

5 Q Do you recall, was it the deputy that just came
6 into the courtroom?

7 A Correct. He was one of them.

8 Q And as far as did they take a statement from you
9 or just speak to you at that point?

10 A They did.

11 Q And how about Complainant did they talk to her?

12 A Yes.

13 Q Was that in your presence or somewhere away?

14 A I think they removed her.

15 Q And then was anyone else called out to the scene?

16 A Yes. DSS was called.

17 Q And who -- did the grandparents ever come to your
18 house?

19 A No. We had agreed to meet at McDonald's, and then
20 I was advised not to go there, so we did not go there,
21 and -- no, they never came to my house.

22 Q Did they ever call back to your house?

23 A Many times.

24 Q All right. Did you speak to them?

25 A No. I was advised not to talk to them.

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Christina Farner - Cross by Mr. Stalvey

1 Q Did anyone talk to them at that point that you
2 know of?

3 A Not that I'm aware of.

4 Q So just the phone was ringing?

5 A Right.

6 Q You would not answer?

7 A Correct.

8 Q And then who took Complainant out of your house that
9 day, that night?

10 A The DSS woman. I don't remember her name.

11 Q All right. And do you know where she was going to
12 go?

13 A No. She didn't tell me. I mean, I had asked to
14 have contact information because I wanted to support
15 Complainant and keep in contact, but I guess the rules are
16 you can't do that.

17 Q Okay. And after that night, did you have any
18 other involvement in anything regarding this case other
19 than having to come to court --

20 A No.

21 Q -- and testify?

22 A No.

23 Q Okay. All right. Thank you. Please answer any
24 of Mr. Stalvey's questions.

25 THE COURT: Mr. Stalvey.

1 MR. STALVEY: Thank you, your Honor.

2 THE COURT: Yes.

3 CROSS-EXAMINATION.

4 BY MR. STALVEY:

5 Q Ms. Farner, just to clarify, did you give a
6 written statement to Deputy Payne?

7 A No, I did not.

8 Q Okay. So you just told him what happened and he
9 wrote it down?

10 A Correct.

11 Q So you do remember him writing it down?

12 A I -- do I -- I remember somebody taking notes, but
13 I couldn't tell you who it was.

14 Q Okay. And I can't remember if you testified to
15 this or not, but did you say you had met Complainant prior
16 to that night?

17 A No. I talked to her on the phone. I had never
18 met her before face-to-face.

19 Q Okay.

20 MR. STALVEY: I don't have any further questions.

21 THE COURT: All right.

22 Anything at all?

23 MS. HODGE: No, your Honor.

24 THE COURT: Thank you. Ma'am, you may step down.
25 Please be very careful.

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1 MS. HODGE: May she be excused, your Honor?

2 THE COURT: Any objection?

3 MR. STALVEY: Judge, I don't have any objection to
4 her being excused.

5 THE COURT: Ma'am, you are excused from your
6 subpoena, which means you can stay or go, whichever you
7 choose.

8 THE WITNESS: Thank you.

9 THE COURT: Thank you.

10 Next witness would be?

11 MS. PATTERSON: Next witness would be LaQunita
12 Smith.

13 THE COURT: Would that be --

14 MS. PATTERSON: It will certainly be lengthier
15 than the last two.

16 THE COURT: I thought it might be.

17 Let's do this. Mr. Foreman, ladies and gentlemen
18 of the jury, we're going to take a good, solid
19 15-minute break. I'll try not to keep you sitting
20 there longer than an hour and 15 minutes, something
21 like that. Watching the clock here, you've been in
22 here about an hour and five minutes, but we've been
23 here since right at 2:00, so it's also my job to take
24 care of staff here as well. So having said that, we're
25 going to take a break.

1 Now, when we take a break, you're at work here, so
2 when you're at work, you don't talk about work. So
3 don't go back there and start talking about the case
4 because it would not be proper, number one, the case is
5 if far from over, it's not the time to deliberate, and
6 number two, why on Earth would you talk about work on
7 your break? Don't do that. Talk about the football
8 game, talk about a baseball game, talk about
9 grandchildren, anything you want to talk about, but
10 don't talk about the case.

11 Mr. Foreman, if you will take the jury out.

12 (WHEREUPON, the jury exited open court at
13 3:23 p.m.)

14 THE COURT: Okay. Sir, once again I remind you
15 that I'm going to allow you to remain free, use the
16 facilities, be wherever your lawyer needs you to be,
17 but we'll resume this trial in about 15 minutes with or
18 without you. All right, sir?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. We'll be in recess.

21 (WHEREUPON, a recess was taken from
22 3:24 p.m. to 3:40 p.m.)

23 MR. STALVEY: Judge, just for planning purposes,
24 and this is something we're talking about now. I had
25 to get something fixed on this computer, but we've got

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LaQuinta Smith - Direct by Ms. Patterson

1 some photos that they say that they provided me. I'm
2 not doubting that that's true, but I want to check the
3 discovery correspondence, make sure that those were
4 included in that. But I will tell you I have not seen
5 them, and I would just like a minute to review them
6 with my client. I don't think there's anything --
7 they're photos of his shop, so it's nothing
8 objectionable, but I would like to at least --

9 THE COURT: Do you want to take a minute now?

10 MR. STALVEY: If that would be okay.

11 THE COURT: Great.

12 (WHEREUPON, recess taken from 3:41 p.m.
13 to 3:49 p.m.)

14 (WHEREUPON, the jury entered open court at
15 3:49 p.m.)

16 THE COURT: Mr. Foreman, any issues from the jury?

17 JURY FOREMAN: No, sir.

18 THE COURT: Okay. Thank you.

19 Solicitor.

20 MS. PATTERSON: Thank you, your Honor. The State
21 would call LaQuinta Smith.

22 THE COURT: Ms. Smith, come up and be sworn,
23 please.

24 LaQUINTA SMITH,

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 THE COURT: Ms. Smith, whenever you get situated,
2 pull that microphone up close to you there. Tell us
3 your full name and spell your last name, please.

4 THE WITNESS: My name is LaQuinta Denise Smith,
5 S-m-i-t-h.

6 THE COURT: Thank you, Ms. Smith.
7 Solicitor.

8 MS. PATTERSON: Thank you, your Honor.

9 DIRECT EXAMINATION

10 BY MS. PATTERSON:

11 Q Ms. Smith, do you know the victim in this case,
12 Complainant ?

13 A Yes, ma'am, I do. She's my daughter.

14 Q And when was Complainant born?

15 A She was born 1998.

16 Q And how old were you when Complainant was born?

17 A 16 years old.

18 Q Was she your first child?

19 A She was.

20 Q How many children do you have?

21 A Eight children.

22 Q And how old are your other children?

23 A 13, 12, eight, seven, five, four and one years
24 old.

25 Q Does Complainant know her father?

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1 A She does.

2 Q Is that her biological father?

3 A He's not.

4 Q And so tell us a little bit about that.

5 A Her father that she knows, the biological, and her
6 other father. The one that she called dad on a regular
7 basis, me and him, we grew up together. We was
8 childhood friends. And when I got pregnant with her,
9 things happened between, you know, me and her dad. And
10 he just came in and partake as her father, he was gave
11 all rights to her by the family court here in
12 Greenville, South Carolina.

13 Q And what's his name?

14 A His name is Alerton Blandin.

15 Q And so Mr. Blandin acts as her father; is that
16 correct?

17 A Yes.

18 Q And has since she was born?

19 A Since months before she was born.

20 Q And who is Mr. Blandon's family?

21 A Nora Johnson is his mother. Mr. Alexander is his
22 mother's husband.

23 Q So when you say "Nora Johnson," is she now Nora
24 Alexander?

25 A She's now Nora Alexander.

1 Q And that is the person who is married to the
2 defendant?

3 A Yes, ma'am.

4 Q So can you describe a little bit the relationship
5 between Ms. Alexander and your daughter?

6 A She was her first grandchild. She's the closest
7 grandmother to her out of my mother and her. They were
8 inseparable up until 2013 -- 2012. I apologize.

9 Q So Ms. Alexander has been involved in Complainant
10 life since she was born?

11 A Since she was born.

12 Q I want to switch gears. Tell me a little bit
13 about DSS. Has DSS been involved in Complainant life?

14 A Since she was a week old.

15 Q When was -- so a week old. That would be about
16 when?

17 A It was November the 1st, 1998.

18 Q And how old were you at that time?

19 A I was 16 years old.

20 Q And describe what happened on November 1st of
21 1998.

22 A They have nurses that come to your house when you
23 have a baby, especially young moms. And I was living
24 with my mother and my stepdad. And the nurse came out,
25 did what she regularly does, and she sent DSS out

1 because we used to have these barrels from the plant
2 that my parents worked at in the front of the yard, and
3 they were filled with beer cans. They drank. My
4 stepfather and everybody in the neighborhood would come
5 to my house to drink. So the social worker came out,
6 and she said -- she was just talking to me, and I was a
7 little rough around the edges because I didn't want to
8 talk to her. And so she told me that my daughter looks
9 like she could be any race, and if I don't take care of
10 her, that the system would love to have her, somebody
11 else could raise her. And I threw her off the porch
12 physically that day, and DSS has been in my life ever
13 since then.

14 Q And was Ms. Alexander involved in that situation?

15 A She was not at first, but, you know, they wanted
16 to talk the her dad and stuff like that, so they spoke
17 with who we could be with, who they could place us with
18 as a whole, me and Complainant And we went to stay with
19 them. And she didn't want me after she got me as well,
20 so I was emancipated over the time. I was almost 17,
21 and I got emancipated. And so we took our daughter
22 with us, and we moved. And she told them that, you
23 know, we couldn't take care of her and stuff, so DSS
24 got back involved. They gave her dad custody and his
25 mother because he was over 18 and she gained custody of

1 her November the 7th, I believe, 1999.

2 Q So just to be sure that we're all clear, DSS is
3 called and you, because you were a minor, and Complainant
4 you go where at that point?

5 A We go live at Coolidge Avenue with Nora.

6 Q And where had you been living prior to that?

7 A Self Street with my parents.

8 Q And so after you go and you get emancipated, tell
9 the jury exactly what happened to Complainant and where she
10 was living.

11 A She was living on Coolidge Avenue with Nora, and
12 that's -- well, she was with us, too, but her -- her
13 guardian was Nora and then her dad.

14 Q And what years did Ms. Alexander have custody,
15 from 1998 --

16 A 19 -- until -- really up until June of 2004.

17 Q And what happened in June of 2004?

18 A Well, January 2004, my -- well, she's 12. She was
19 six months old. She got shaken, and they told Nora
20 that if you give Complainant back to her mother, we will
21 hold you in contempt of court because she came to live
22 back with me, but just hand to hand between me and her.
23 And then in June when school let out, she took Complainant
24 to DSS and told that she was going to spend the night
25 with her sister, but she dropped her off because I

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1 jumped on her because I saw...

2 Q So in 2004 Complainant goes to DSS with Nora and you
3 jumped on Nora?

4 A I jumped on Nora at her house.

5 Q And what was the situation there?

6 A Because I seen her sitting in Michael's lap, and I
7 told her that she didn't need to be in his lap, you
8 know, when I walked up on the porch.

9 Q When you say "Michael," who are you talking about?

10 A Talking about Mr. Alexander.

11 Q Mr. Alexander, the defendant in this case?

12 A Yes, ma'am.

13 Q And do you see him in the courtroom today?

14 A I do.

15 Q Where is he sitting?

16 A Sitting right there.

17 Q So describe that situation to us. You went to
18 visit Complainant at Nora's house?

19 A Yes, ma'am, I did. And I walked up on the porch,
20 and they have a glassed-in porch, and then they had
21 their front door. And she was in a little yellow
22 nightgown, and she was sitting in his lap, and he was
23 rocking my baby back and forth and like she was sitting
24 on his crotch and he was rocking her back and forth.

25 Q And was that strange or concerning to you in any

1 way?

2 A Yes, ma'am, it was.

3 Q Why was that?

4 A Because I knew that it was inappropriate, and I
5 knew that it wasn't nothing that you, you know, do to a
6 child.

7 MR. STALVEY: Judge, I have an objection at this
8 point. And I think this is something we need to take
9 up outside the presence of the jury.

10 THE COURT: Okay.

11 Mr. Foreman, ladies and gentlemen, I previously
12 told you there would be times I would have to excuse
13 you from the courtroom. This is one of those times.
14 Please do not discuss the case when you're out.

15 Mr. Foreman, if you would take the jury.

16 (WHEREUPON, the jury exited open court at
17 3:59 p.m.)

18 THE COURT: Okay. The door is closed.

19 MR. STALVEY: Judge, I don't want to waste the
20 court's time, but I have never been made aware of this
21 particular situation that the witness has just
22 testified to, which is basically she was an eyewitness
23 to inappropriate behavior between my client and the
24 victim in this case. It's never -- it's never been
25 provided to me, as far as I know, that she ever

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1 witnessed anything like that. And if they've provided
2 it to me and I've missed it, which, you know, then I'd
3 like to see it. But I think that is a critical,
4 critical part of this case. And if it's something that
5 the solicitor's office was aware of, I certainly should
6 have been entitled to have it under Brady and Rule 5.
7 So -- and I know it's not exculpatory, but it is
8 certainly material to my clients' guilt or innocence.
9 So I should have been provided this information prior
10 to this trial.

11 THE COURT: Ms. Patterson.

12 MS. PATTERSON: Your Honor, the indictment on lewd
13 act alleges that the events took place between 2001 and
14 2007, so we would certainly contend that the defense
15 was on notice that during this time period this was a
16 continuing course of conduct. I don't see how in any
17 way this would be Brady material, not exculpatory, and
18 you know, Mr. Stalvey is certainly entitled to reach
19 out to witnesses, has been aware of Ms. Smith's
20 involvement in this case.

21 THE COURT: Mr. Stalvey.

22 MR. STALVEY: Judge, it's -- so, I mean, if
23 they're acknowledging that they did have information,
24 then my motion is I should have been provided it under
25 Brady, Rule 5, Kyles. I mean, it's material to my

1 client's innocence or guilt. It would be a critical
2 point and critical piece of information that I would
3 have liked to have discussed with my client before
4 we're in the middle of the trial.

5 Your Honor, I should have been provided the
6 information. If they're acknowledging that they had
7 this information and they knew this witness was going
8 to testify that she witnessed my client rocking the
9 child on his crotch, as she said, when she was six
10 years old, I believe that should have been provided to
11 me. So, I mean, that's my objection to the testimony.

12 MS. PATTERSON: Your Honor, we're certainly not
13 trying to hide anything from Mr. Stalvey. We have
14 provided copious discovery in this case, reports. This
15 is not in a report. This came out just through our
16 discussions with the witness. Again, the indictment is
17 a notice document. It has informed them of the time
18 period and of the inappropriate touching that went on
19 from 2001 to 2007. Ms. Smith testified this was in
20 2004. It's certainly not exculpatory, so the State's
21 position is there was no violation here.

22 THE COURT: But the State does acknowledge it had
23 this information some time ago.

24 MS. PATTERSON: Probably within a couple months
25 during preparation for trial when we met with

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1 Ms. Smith, yes, your Honor.

2 THE COURT: Okay. All right. Well, let's just
3 take a quick break here. Let me go think a minute.
4 Bring that magic computer right there.

5 (WHEREUPON, a recess was taken from
6 4:04 p.m. to 4:10 p.m.)

7 MR. STALVEY: My fault, Judge. I had missed this.
8 It had been provided and I sincerely apologize.

9 THE COURT: No problem.

10 MR. STALVEY: It was in a police report that I had
11 just not looked at in a while, so I apologize for the
12 inconvenience.

13 THE COURT: No inconvenience at all.

14 MR. STALVEY: Withdraw any objection to her answer
15 to that particular question.

16 (WHEREUPON, the jury entered open court at
17 4:11 p.m.)

18 THE COURT: All right.

19 Mr. Foreman, any matters from my jury?

20 JURY FOREMAN: No, sir.

21 THE COURT: Thank you very much.

22 Yes, sir, Solicitor -- yes, ma'am.

23 MS. PATTERSON: That's fine. Thank you, your
24 Honor.

25 BY MS. PATTERSON:

1 Q Ms. Smith, before we broke, you were describing an
2 incident that you found to be inappropriate that caused
3 you concern. What did you do as a result of what you
4 saw?

5 A Me and Nora got into an altercation, and I tried
6 to fight her, and police and stuff got called. So I
7 left, you know, the scene because I didn't want to be
8 arrested. And I taunted her for some time. And when
9 school let out, she took my daughter to DSS because my
10 12-year-old, she was one at the time, she took her and
11 told her that she was going to be with her, and so she
12 turned her in to DSS and gave up her custody.

13 Q Just to clarify the "shes" and "hers."
14 Ms. Alexander took Complainant to DSS?

15 A Ms. Alexander took Complainant to DSS and told she was
16 going to spend the night -- spend the weekend with her
17 sister.

18 Q So Ms. Alexander relinquished custody at this
19 point?

20 A Yes, ma'am.

21 Q And did you get custody back?

22 A I got custody back in August -- no, no, no. I'm
23 sorry. I got custody back in August 2005.

24 Q So where was Complainant between June of 2004 and
25 August of 2005?

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1 A She was in foster care with foster parents.

2 Q And I want to take you back a little bit. You
3 mentioned with the incident in 2004 that Mr. Alexander
4 was involved in Complainant life at that point. When did
5 he become involved in Complainant life?

6 A He became involved in her life around, I want to
7 say 2002 or -3, somewhere in that. Me and her dad had
8 split up maybe 2000, 2001, and so I was kind of not
9 really in Nora's life, per se, like I wasn't at her
10 house. So I'm not sure what year he came into play,
11 but it was around between 2001 and 2003.

12 Q And where was Complainant living between 2001 and 2003?

13 A She was with me but up under the custody of Nora.
14 Like she came back to live with me. In January 2003
15 when I moved back from California, she came back to
16 stay with me, but it wasn't legal. She just came back
17 to stay with me.

18 Q If she was staying with you, was she also spending
19 time at the Alexander home?

20 A Yes, ma'am, she was.

21 Q Was she spending the night there?

22 A Yes, ma'am, she was or whenever she wanted to go
23 back to grandma's house.

24 Q Was the defendant living with Ms. Alexander at
25 that point?

1 A Yes, ma'am. He moved in right away.

2 Q And how old would Complainant have been between 2001
3 and 2003?

4 A She would have been three, in between three and
5 four.

6 Q Okay. So you said you got custody back in August
7 of 2005?

8 A Yes, ma'am.

9 Q And how many children did you have at that point?

10 A I had three.

11 Q And how old were the children in 2005?

12 A They were four -- I'm sorry. Three, two, and
13 Complainant was eight. Let me see. Complainant was almost
14 eight. Well, she was going to be eight. She was seven
15 at the time when I got her back.

16 Q So you got custody in August 2005. And how long
17 did you have custody at that point?

18 A I had custody until July the 29th, 2007.

19 Q So between August 2005 and July 2007, were the
20 Alexanders still involved in Complainant life?

21 A Yes, ma'am.

22 Q And how were they involved? What was their
23 relationship?

24 A They were just the grandparents. She used to want
25 to -- she loved Nora and Michael, and she used to want

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1 to go and spend the weekend with them or summer. Like
2 some days in the summer, if her dad lived in town, she
3 would go. If he was out of town, when him and his wife
4 come into town, she would go over there and stay then
5 as well.

6 Q How often would you say -- how many times a month
7 would you say that she went and stayed at their house?

8 A Oh, in between two and four times. Like if it
9 wasn't every other weekend, it was every weekend.

10 Q And would she go for the day or would she spend
11 the night?

12 A She'd spend the night.

13 Q And you said you lost custody July 29th of 2007.
14 What happened then?

15 A Well, I went to work, and I left Complainant and Tania
16 at home, and Nora told her prior to the situation --
17 allegedly told, you know, her that, "If you call the
18 police when your mom leaves y'all at home, I can get --
19 you can come stay with grandma."

20 Q And so what happened?

21 A Complainant she called while I was sitting in the
22 parking lot getting my one-year-old in the car. She
23 called.

24 Q How old was Complainant at that point?

25 A She was almost nine.

1 Q So Complainant called the police. And then what
2 happened after that?

3 A They stayed on the phone with her for 30 minutes
4 because they have to be alone at home for at least
5 30 minutes. And once the 30 minutes was up, the police
6 showed up, and my friend, she came over and told them,
7 "Hey, I forgot to get them," whatever, whatever. And
8 then my aunt, she came and she got them. The lady just
9 gave them straight to her because the cop was saying to
10 me he didn't want to call DSS because they had air and
11 there was food, but they were at home alone. So my
12 aunt got custody of the three children that I had. I
13 had four, but, you know, my son lives out of town with
14 his dad. And so they were gone for four months until I
15 completed a parenting class.

16 Q So when you say they were home alone, who do you
17 mean?

18 A Complainant and my daughter, Tania.

19 Q And how old was Tania?

20 A Tania was four and Complainant was going to be nine.

21 Q So where did Complainant live between 2007 and when she
22 returned to your custody -- when did she return to your
23 custody?

24 A Oh, they returned like November, December they
25 returned home.

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1 Q And she was with who?

2 A Patricia Gambrell.

3 Q And what's Ms. Gambrell's relationship to Complainant

4 A They call her nana, but she is my aunt.

5 Q And during that time period, did Ms. Alexander
6 continue to see Complainant

7 A She did.

8 Q And would Complainant spend time at the home, at the
9 Alexanders' home, during that time?

10 A Yes, ma'am, she did.

11 Q So Complainant came back to live with you in November
12 of?

13 A 2007.

14 Q And how long did you have custody after November
15 of 2007?

16 A Until July 2008.

17 Q Okay. And what happened in July of 2008?

18 A Well, I'm sorry. I apologize. In July 2007, a
19 nurse at Greenville Memorial, she asked me -- I was
20 getting released from my fourth child. She was in
21 NICU, and we was coming home. And, you know, you have
22 to spend the night, know the baby's sleep habits, and
23 we was getting to be released July 2007 -- 11, 2007,
24 and the nurse asked me, she said, "I see you have an
25 autistic and deaf baby." And I said, "Yes, ma'am."

1 She said, "I see you have a shaken baby. I have a
2 question." I said, "Yes, ma'am." "Did you shake your
3 autistic and deaf baby -- did you shake your autistic
4 and deaf baby? Did you make him that way? Did you
5 shake him that way?" And I put my baby in the
6 incubator, the little crib thing, and I told her that I
7 would shake her -- I cursed. You know, I cursed her
8 out. I told her I'd shake her that way. And we came
9 home two days later, July 13, 2007. They came and took
10 that baby. And two weeks after that, they asked me to
11 turn in Tania and Complainant to DSS.

12 Q So in July 2007 you have an incident in the NICU,
13 and DSS got involved at that point?

14 A Yes, ma'am. They said that they felt like I would
15 flip if the baby cried. You know, I would get angry
16 and hurt her if she cried.

17 Q And then two weeks later is when --

18 A They took Tania and Complainant I had a 72-hour
19 hearing on the 16th of July at family court, and they
20 said they was going to keep the baby until I do anger
21 management and all that. Well, they gave her to
22 Patricia Gambrell. And two weeks later, they said,
23 "Well, you have to" -- well, they asked me to turn them
24 in on that day, but I promised them that they wouldn't
25 go back to foster care, so I ran with them until they

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1 said they were going the put me on kidnapping charges,
2 and then I turned them in. But Complainant stayed with Nora
3 and Michael for those four weeks. I kept her a week,
4 and then when they was looking for me, I let her go
5 over there for a week, and I turned -- we turned them
6 in, her and Tania, we turned them in to DSS. I got
7 them back in November of 2007, and in July 2008, the
8 29th, that's when they were at home and Nora told her,
9 "You can come stay -- I'll come get you if you call the
10 police on your mom." And she did. But she didn't go
11 stay with her. She went to stay with my aunt, Patricia
12 Gambrell, and they was there until I completed a
13 parenting class and the knowledge of not leaving
14 children at home. But I went to work for three hours,
15 and they got gone within 35 minutes of being home
16 alone.

17 Q I just want to be sure I have my dates straight.
18 That was in July of 2008?

19 A 2008.

20 Q And in July of 2007 is when the prior incidents
21 happened?

22 A Yes, ma'am.

23 Q So tell us again just so we're clear, in July of
24 2007, where did Complainant live?

25 A She lived at -- with me, but they got taken and

1 had to go with Patricia Gambrell.

2 Q And they also lived with Patricia Gambrell in
3 2008?

4 A Yes, ma'am.

5 Q And during those two time periods did Complainant stay
6 with the Alexanders in any way?

7 A She did.

8 Q Okay. So after that happened in July of 2008,
9 when did Complainant come back to your custody?

10 A She came back January the 30th, 2009.

11 Q And who was she -- was she with your aunt
12 throughout that entire time?

13 A Yes, ma'am. She was spending weekends with the
14 Alexanders.

15 Q And how long did she stay with you after
16 January 30th of 2009?

17 A Up until April the 11th, 2011 -- I mean 2012. I
18 apologize.

19 Q So during that about three-year period?

20 A Yes, ma'am.

21 Q Did Complainant visit the Alexanders?

22 A She did.

23 Q And what was their relationship like at that
24 point?

25 A It was -- it was great. They would go out of

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1 town, just her alone, no other grandchildren. Michael
2 Alexander would take her \$50 and \$60 to the middle
3 school just for no reason. She would just come home
4 and say, "Hey, I got this from papa for sweeping the
5 floors," or whatever at the shop.

6 Q So did Mr. Alexander have a different relationship
7 with Complainant than he did with your other children?

8 A With their other grandchildren. With her dad's
9 children and his granddaughter by his daughter, his
10 biological daughter. She was the pick out of
11 everybody. She got to go places with just them two, no
12 other grandchildren went, and she stayed over there all
13 the time. No other grandchildren really stayed as much
14 as her. She was the one that was there every weekend
15 or at least two weekends out of the month.

16 Q And were there special ways or special gifts that
17 they would give or anything along those lines?

18 A MP3 players, hand-held game systems. I think she
19 got a necklace or something one time. Just gifts all
20 the time, you know.

21 Q And who were you in contact with at this point?
22 Were you talking to -- who were you talking to in the
23 Alexander household?

24 A I was talking to both of them, Michael Alexander
25 and Nora Alexander. I talked to both of them.

1 Q And were you talking to Complainant at this point as
2 well?

3 A Oh, yes. Yes, ma'am.

4 Q And how often would you say she was going to the
5 Alexander home?

6 A Two to three -- at least two weekends out of the
7 month, but it usually was every weekend, unless she had
8 to baby-sit my other children, you know.

9 Q And did Complainant spend time alone with
10 Mr. Alexander?

11 A When I would call Nora to check on her, she would
12 be like, "She's with Michael. She's with Michael.
13 She's" --

14 MR. STALVEY: Objection, your Honor. Hearsay.

15 THE COURT: Yes, ma'am.

16 MS. PATTERSON: I'll rephrase the question, your
17 Honor.

18 THE COURT: Okay.

19 BY MS. PATTERSON:

20 Q So during this time period, Complainant was spending
21 time, significant time, with both the defendant and
22 Ms. Alexander?

23 A Yes. Michael would bring her home, though. He
24 would be the one that transported her back home.

25 Q And when he brought her home, would -- who would

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1 be in the car?

2 A Just him and her, Mr. Alexander and Complainant

3 Q You mentioned that you lost custody in April of
4 2012. Tell us what happened then.

5 A I came home. I'm a hair dresser as well. I came
6 home from doing my client's hair around the corner, and
7 I came in, and my 12-year-old, Tania, she was holding
8 the baby, and I said, "Where Complainant at?" She said,
9 "Mama, she been in the bathroom for a long, long time.
10 She been in there a long time, mama." So I went -- we
11 had a downstairs bathroom. I went in the bathroom. I
12 tried to get the door back open, but it forced back on
13 me. So when I did get the door open, she had a little
14 piece of her hair, and she had my flat iron. She was
15 like, "I'm curling my hair," and her hair was bone
16 straight. I said, "Girl, you ain't curling your damn
17 hair. What are you dong?" And I looked down, and I
18 seen four legs. And I pushed the door open, and the
19 little boy was sitting on the toilet. I said, you
20 know -- I'm sorry. I was like, "What the hell y'all
21 doing?" And we came out of the hallway, and we were
22 standing in the living room. And I said -- I said,
23 "Complainant I said, "What are you doing?" And the little
24 boy ran out the door. I said, "Oh, no." I said, "Go
25 pack your stuff, and I'm calling your grandma. You're

1 going to go over to your grandmother's house because
2 you're not going to do this to me."

3 And so I called her, but I told them, I said, "Can
4 you come whoop her?" Because I knew, you know, I
5 didn't want to get in no trouble. I said, "Come whoop
6 her right now. Y'all come whoop her right now." So
7 when the Alexanders got there, she called her dad.
8 Nora called her son, Complainant dad, and she talked to
9 him for a little while outside. Me, Michael, and
10 Complainant were sitting in the house. And I went outside
11 and talked to the dad on the phone for a little while,
12 and I come back in. Then Nora went back out and talked
13 to her dad. And so me, Complainant and Michael were
14 sitting there talking. I told her, I said, "I take
15 care of you 95 percent of your life, your dad one
16 percent, your grandparents two percent, and the
17 government give us this apartment, that's two percent.
18 But the rest of your life, I take care of you
19 95 percent of your life. And Michael says, "We take
20 care of her. I buy her stuff and we do this and we do
21 that for her. And I said, "You out your damn mind."
22 So Nora is coming in at this time. I said, "Would you
23 please tell your husband and your grandchild that I
24 take care of my daughter 95 percent of her life?" And
25 Michael started saying something, and she said, "What

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1 the hell you talking about? We take care of her." And
2 I said, "Oh, no. Get out of my house." And we were
3 standing -- Nora and Michael were standing in front of
4 me, and I was standing on the other side, but the
5 doorway was open freely between us, and Complainant ran out
6 the door. And I ran behind her, and I grabbed her by
7 the back of her pants and her belt, and I was bringing
8 her down the street. She got away from me again, ran
9 up to the mailbox, and I grabbed her face. I told her,
10 I said, "Do not embarrass me in front of these bitches
11 out here." I'm sorry. And that's what I told her.
12 Then I bring her back down the street, she dropped
13 down, and so she was swinging like, "Get off me." My
14 neighbor and my cousin, they was trying to help me.
15 They lived in the complex, so they was trying to help
16 me. She was swinging, so I stepped on her hand. I got
17 her back in the door. I stepped on her hand on purpose
18 because she was swinging and hitting grown people. So
19 I stepped on her hand. We got back in the apartment.
20 Mauldin police came. I opened the door. I said, "You
21 can't come in. We're afraid of you," you know. And
22 they was like, "Well, we can come in because she's
23 crying." I said, "She's at the back door and I'm
24 standing here." She went out the back door, and she
25 ran towards her grandparents, and the ambulance came,

1 and they went to the hospital and said I beat her and
2 just jumped on her, whatever.

3 So she went to the Pendleton Place. And then a
4 couple months later, after DSS did their backgrounds
5 and stuff, she went to stay with Nora and Michael maybe
6 around the end of May, first of June 2012.

7 Q And how long did she stay with them?

8 A We got a phone call -- I got a phone call from
9 Nora and Michael -- well, Nora, September 2012, around
10 like the 13th or somewhere around in there, and she
11 said, "Where is Complainant?" I said -- well, "Where is
12 Complainant?" I said, "I don't know. What do you mean?"
13 "Where is she? Where is she?" And she said, "She done
14 ran away," and she was ranting and raving. And I said,
15 "Where you at?" "I'm at McDonald's in Mauldin." So I
16 go up there, and she's outside the car and ranting and
17 raving. Michael is sitting in the car with the window
18 rolled up. And I said, "What's wrong?" She said, "She
19 won't never tell me," so she got on the phone with --

20 MR. STALVEY: Objection, your Honor. That's
21 hearsay.

22 MS. PATTERSON: Your Honor, we'll move on.

23 Q So in September of 2012, that is when Complainant
24 stopped living with the Alexanders?

25 A Yes, ma'am. Forever.

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1 Q I want to take you back a little bit to your
2 relationship with Mr. Alexander. How often would you
3 see him and talk to him?

4 A I would talk to him every time he dropped Complainant
5 off.

6 Q And did you know what he did for a living?

7 A Yes, ma'am, I did.

8 Q What did he do?

9 A He worked on cars.

10 Q And where did he work on cars?

11 A He had different little shops. I know one that he
12 rented and one that, I believe -- well, I guess they
13 were all rentals, but they were his personal little
14 spaces and sometime at his home.

15 Q And was he a mechanic for the entire time that you
16 knew him?

17 A Yes, ma'am. When I learned to know what he does,
18 he was a mechanic.

19 Q Did you -- do you know the name of his businesses?

20 A M&N.

21 Q M&N?

22 A Yes, ma'am.

23 Q And do you know where those businesses were
24 located?

25 A Yes, ma'am, I do.

1 Q There is a map that has been introduced as State's
2 Exhibit 1. Can you point out the various locations
3 that you know that Mr. Alexander had an automobile
4 shop?

5 A Yes, ma'am. Anderson Road. I know about
6 that shop. Green Avenue, that's the shop they had
7 M&N on the top of it. And Second Avenue, I believe
8 that was their house, one of their homes that they
9 rented. And I don't know about the other three. I
10 don't know the names of those three streets, but I'm
11 familiar with this area because I grew up around this
12 area.

13 Q Did you visit those shops?

14 A He actually worked on -- well, my car sat on
15 Anderson Road for several months.

16 Q Do you remember about what date your car got
17 worked on there?

18 A Oh, yes, ma'am. I had that car in 2008. Probably
19 between September and December. My car, I got that
20 car, and so in between those dates because it broke
21 down shortly after I got it.

22 Q And did you visit Second Avenue?

23 A Yes, ma'am. That's one of their homes that I went
24 to.

25 Q And when did they live there?

1 A Probably '07. Maybe '07, I believe.

2 Q When did you get custody of Complainant back this final
3 time?

4 A November the 26, 2015 -- 2014.

5 Q And do you have custody of her today?

6 A Yes, ma'am, I do.

7 Q Looking back on everything you've testified about,
8 would you say that Nora and Rodney Alexander were a
9 stable presence in Complainant life?

10 A Financially, yes. But mentally and physically,
11 no, ma'am, I don't.

12 Q And without getting into specifics, did Complainant
13 disclose sexual abuse to you?

14 A In our family counseling she did.

15 Q And when and where did she say that abuse
16 occurred?

17 A At several of their homes, at Anderson Road,
18 Second Avenue, and Green Avenue.

19 Q And when did she say that happened?

20 A Be more pacific (sic).

21 Q Did she tell you how old she was when that
22 happened?

23 A Yes, ma'am, she did. Anderson Road, she was
24 probably about seven or eight. And Green Avenue, eight
25 or nine. Those were back to back. And Second

1 Avenue, she was about -- all of them were very close
2 together. They happened between seven, eight, nine and
3 ten, all three spots, because he rented them back to
4 back like year, year, year.

5 MS. PATTERSON: Your Honor, may I have just a
6 moment?

7 THE COURT: Certainly.

8 MS. PATTERSON: Thank you.

9 Q Ms. Smith, just a couple more questions.

10 Prior to what you just described, has Complainant ever
11 disclosed to you that defendant had abused her?

12 A No, ma'am. I would ask her, and she told me no,
13 that he didn't. But me and her dad, we always felt
14 like he was. I knew, since I say, that time.

15 Q So when the inappropriate incident that we
16 discussed earlier that caused you concern, you
17 continued to let Complainant see the Alexanders?

18 MR. STALVEY: Objection; leading.

19 BY MS. PATTERSON:

20 Q After the inappropriate incident that you
21 mentioned earlier, did Complainant continue to have a
22 relationship with the Alexanders?

23 A She did. She would be upset if I told her no.

24 Q And is that why you allowed her to continue to see
25 them?

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LaQuinta Smith - Cross by Mr. Stalvey

1 A And because her grandmother told her I used her to
2 baby-sit if she didn't get to go.

3 MS. PATTERSON: Thank you, Ms. Smith. Please
4 answer any questions Mr. Stalvey may have for you.

5 THE COURT: Mr. Stalvey.

6 MR. STALVEY: Thank you, your Honor.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. STALVEY:

10 Q Ms. Smith, you've testified about the incident
11 that happened in April of 2012. That was the physical
12 altercation that you got into with Complainant, correct?

13 A Yes, sir, it was.

14 Q And she was 13 years old at that time?

15 A No, sir, she wasn't.

16 Q Okay.

17 A She was 12.

18 Q She was 12?

19 A Yes, sir.

20 Q And was she in seventh grade at that time?

21 A She was.

22 Q And because of that incident, she was taken to
23 Pendleton Place after the police got there, correct?

24 A She went to the hospital and then the Pendleton
25 Place, yes, sir.

1 Q Okay. And the -- a new DSS case was opened
2 against you, correct?

3 A Yes, sir.

4 Q And it was your understanding, during that DSS
5 case, that the Alexanders were trying to get custody of
6 Complainant, correct?

7 A Yes, sir.

8 Q And you met -- you objected to that, correct?

9 A I sure did. Yes, sir, I did.

10 Q And you wanted to actually get custody of Complainant.
11 You wanted custody back, correct?

12 A I wanted custody to go to Patricia Gambrell.

13 Q Okay. But you didn't want her to live with the
14 Alexanders, right?

15 A I did not.

16 Q And you met with DSS several times during this
17 period, right?

18 A Yes, sir, I did.

19 Q And you met with them on -- you went to a DSS
20 family meeting plan in April of 2012; is that right?

21 A I don't believe it was April.

22 Q Okay. Did you go to a DSS family meeting plan
23 after the physical altercation?

24 A Yes, sir, I did.

25 Q And they asked you about -- or y'all discussed

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LaQuinta Smith - Cross by Mr. Stalvey

1 Complainant threat to run in front of a car, correct?

2 A Yes, sir, we did.

3 Q And isn't it true that you said at that time that
4 Complainant threatened to kill herself as a plot to go live
5 with the Alexanders?

6 A Yes, sir, I did. And I also said that Nora and
7 Michael is helping her come up with these ideas.

8 Q Okay.

9 A Did you have that in there?

10 Q Ma'am?

11 A Did you have that?

12 Q Let me explain how this works. I ask you the
13 questions and then you provide the response. Do you
14 understand that?

15 A That was a response. Yes, sir.

16 Q You met with DSS again in October of 2012,
17 correct?

18 A Yes, sir.

19 Q And that was with a DSS caseworker; is that right?

20 A It was with all of us.

21 Q Okay. And at that time you stated that the
22 incident where you drug Complainant by the hair, which led
23 to DSS involvement, was a lie on Complainant's part; is
24 that correct?

25 A Yes, sir.

1 Q Okay. Did you ever pull her and grab her by the
2 hair and yank her down?

3 A No, sir. Belt and her pants.

4 Q So if Complainant had said that you grabbed her by the
5 hair and pulled her with the ponytail, that would have
6 been a lie on her part?

7 A Yes, sir.

8 Q When these allegations first came to your
9 attention, you agree with me that was in September of
10 2012, right?

11 A The allegation on which part, sir, myself?

12 Q The allegations against Rodney Michael Alexander.

13 A Yes, sir, September.

14 Q And isn't it true that you met with DSS to talk to
15 them about these allegations?

16 A It is.

17 Q And you discussed with DSS whether Complainant would
18 need mental health treatment, correct?

19 A How would you like me to respond, sir?

20 Q Did you talk to DSS about Complainant receiving mental
21 health treatment?

22 A I talked to them about, whether it was true or
23 not, she was going to need some help, some counseling.

24 Q So you told DSS that you weren't sure whether it
25 was true or not, correct?

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LaQuinta Smith - Cross by Mr. Stalvey

1 A I told them I knew it was true. I told them I
2 thought and I knew that it was true. That was my
3 correct words, and I told them in the family meeting
4 with myself, Michael, and Nora and the guardian ad
5 litem and the DSS worker that I believe that it was
6 true, and whether they thought it was true or not, my
7 baby needed psychological counseling. That's what I
8 told them.

9 Q Did you use the words "if she has been abused" or
10 "if she is lying about it"?

11 A Yes, sir.

12 Q Thank you.

13 A Uh-huh.

14 Q Did you also tell DSS in September of 2012 --

15 MS. HODGE: Your Honor, I'm going to object at
16 this point. If he wants to use statements of hers, can
17 he let her see what he's reading from because at this
18 point there's no reference that she can look at and
19 say, "Yeah, I did say that." I don't know what he's
20 reading from. I don't know how she's supposed to be
21 able to answer whether she did say it.

22 What are you reading from and can the witness have
23 a copy, is what I'm asking.

24 THE COURT: Mr. Stalvey.

25 MR. STALVEY: Judge, I'm reading from -- if you

1 want to know, I'm reading from the DSS case dictation
2 from September, 19, 2012.

3 MS. HODGE: That was not produced by this witness,
4 correct? It was produced by a DSS agent; is that
5 correct?

6 THE COURT: Well, I'm going to overrule at this
7 time. He can ask the questions, and then if we need to
8 make it more complete, we can certainly do that.

9 MS. HODGE: Let her be able to read it.

10 MR. STALVEY: I don't have any objection to that.
11 That's correct. She didn't prepare DSS's case
12 dictation, just to respond to the question.

13 Q Ma'am, again, back to one of these meetings in
14 September of 2012 after Complainant made the allegation
15 against Mr. Alexander, isn't it true that you told the
16 DSS caseworker that you didn't want the allegations to
17 be brushed off because of Complainant's prior incidents of
18 not being truthful?

19 A That's what the guardian ad litem said. I said --
20 oh.

21 Q You didn't say that?

22 A I'm sorry. What I said was just because she lied
23 with my incident doesn't mean what she was saying with
24 Michael's incident wasn't true.

25 Q Okay. So -- but you admit that she had lied about

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LaQuinta Smith - Redirect by Ms. Patterson

1 something you did to her, correct?

2 A Right, with the help of Michael and Nora.

3 Q And you'll agree with me that -- at that point she
4 was 12, 13 -- in those 13 years she did spend most of
5 her life with you, correct?

6 A She did.

7 Q Okay. So out of anybody that ever took care of
8 her, you would know her the best, correct?

9 A Correct.

10 Q Okay.

11 MR. STALVEY: No further questions.

12 THE COURT: All right.

13 Anything from the State?

14 MS. PATTERSON: Sorry, your Honor.

15 THE COURT: It's okay.

16 MS. PATTERSON: Just a few questions.

17 THE COURT: All right.

18 REDIRECT EXAMINATION

19 BY MS. PATTERSON:

20 Q Ms. Smith, just want to clarify, in April of 2012,
21 the incident that Mr. Stalvey was just asking you
22 about, did you have a physical altercation with your
23 daughter?

24 A I stepped on her hand when she was on the ground
25 swinging because we were trying to pick her up off the

1 ground.

2 Q And Mr. Stalvey just asked you questions and said
3 you know her best. Do you believe her?

4 A I do believe my child.

5 MS. PATTERSON: Thank you. I have no further
6 questions.

7 THE COURT: Anything, Mr. Stalvey?

8 MR. STALVEY: No, sir, your Honor.

9 THE COURT: Okay. Thank you, ma'am. You may step
10 down. Please be careful.

11 THE WITNESS: All right. Thank you.

12 THE COURT: Let me see the lawyers, please, while
13 she's stepping down.

14 MR. STALVEY: Judge, before Ms. Smith leaves, I'd
15 ask that she stick around the courthouse, and I'll
16 discuss this with you.

17 THE COURT: Ms. Smith, you are still under
18 subpoena. Don't be discussing your testimony. You may
19 be recalled. Okay?

20 THE WITNESS: Yes, sir.

21 (WHEREUPON, a bench conference was held off the
22 record in the presence of the jury, but out of the
23 hearing of the jury.)

24 THE COURT: Mr. Foreman, ladies and gentlemen of
25 the jury, it's a quarter 'til 5:00. I generally go

1 until 5:30, so you can plan on that for the rest of our
2 time together, but I try not to ever do that on the
3 very first day because you have no way of knowing that,
4 and you may have a child to pick up or a grandchild or
5 something of that nature and counting on, well, if I
6 get off work at 5:00, I'll get out of the courthouse at
7 5:00, but we generally run until 5:30.

8 Having said that, I understand the next witness
9 would be longer than 15 minutes. I don't know how
10 long, but certainly the lawyers, that's why I consult
11 with them, and they say it will be longer than
12 15 minutes, and I don't want to cause any problems for
13 anyone. So having said that, we're going to knock off
14 early a little bit, as they used to say when I worked
15 in the cotton mill many years ago trying to go to
16 school. So we're going to knock off a little bit early
17 today.

18 Now, you are not free to discuss this case with
19 anyone, not even a family member. Don't try to do any
20 research. Don't do anything of that nature. You have
21 to get all of your information from this courtroom from
22 the witnesses that testify and the exhibits that are
23 being put in evidence, such as the one you have already
24 seen.

25 So with that, I'm going to release you for the

1 evening, wish all of you a good evening,, have a good
2 meal at home and relax, do whatever you enjoy doing.
3 Again, with all the sincerity I can muster up, please,
4 please do not try to discuss this case with anyone and
5 don't try to do any research on that.

6 I will tell you ahead of time that there are
7 certain programs that are used to see, that tracks
8 Facebook and those sorts of things, to see if a case
9 pops up from time to time. So from time to time I have
10 to then talk to a juror privately, and I don't want to
11 have to do that in this case. So please don't do it.

12 Mr. Foreman, with that, if you will take your
13 jury -- oh, let me tell what you time to be back. The
14 lawyers will meet me here in the morning about 8:15 or
15 thereabouts. It's about an hour drive for me over with
16 the traffic, but I'll be here about 8:15ish and they
17 will be here as well. We'll discuss any nuts-and-bolts
18 matters we have, if any, and I'll take the bench
19 promptly at 9 o'clock a.m. And the only thing that
20 would change that, and I would have no way of knowing,
21 nor would you, is you occasionally I have something --
22 judges have something that a solicitor needs ASAP. And
23 if that were the case and Solicitor Wilkins needed me,
24 we would take care of that before you would come into
25 the courtroom. Very seldom does that happen, but it

1 happens. It happened last week in my trial.

2 So with that, we're going to release you to be
3 back here in the morning about 8:50. We're all adults.
4 Be here about 8:50 or thereabouts, get your last drink
5 water. Again I remind you if you have cell phones,
6 smart phones, tablets, that sort of thing, please, when
7 you come back into the courthouse tomorrow, please
8 don't have them with you at all. Okay? Okay.

9 Need something, Mr. Foreman?

10 JURY FOREMAN: She was asking whether or not she
11 could take notes here.

12 THE COURT: We do not take notes. In state court
13 we do not take notes. I think it might be permissible,
14 but in 27 years I have never seen anybody allow that.
15 And the reason for that, quite honestly, is we want
16 your undivided attention, not taking notes but paying
17 attention to what is said. And we have Madam Court
18 Reporter taking down every word. So I tell you ahead
19 of time, when you're deliberating, if you need
20 something, we have that for you. She's taking every
21 word right here.

22 All right. With that, and I will also tell you
23 coffee is great around here. Always has been and was
24 this morning, and Mr. Bailiff was helping me with that.
25 So get here in the morning, you can get a good cup of

1 coffee.

2 Mr. Foreman, if you will take your jury out.

3 (WHEREUPON, the jury exited open court at
4 4:52 p.m.)

5 THE COURT: Okay. Anything from the State or the
6 defense concerning my comments to the jury?

7 MS. HODGE: No, sir.

8 MR. STALVEY: No, sir, your Honor.

9 THE COURT: Anything we need to take up this
10 evening or just take it up in the morning? I know you
11 made a --

12 MS. HODGE: Hopefully Erica should be here. I'm
13 hoping -- Erica Wagner is the therapist with the
14 continuing motion that's on hold. She has been at the
15 beach. This was her week at the beach vacation. Bad
16 week. She and I had contact or e-mail contact on
17 Monday, and they were looking for routes through North
18 Carolina to come back home because I understand 26 in
19 Columbia is just nonexistent. I haven't got
20 confirmation back from her. I was going to touch base
21 with her tonight, make sure she's actually physically
22 able to be here, and I would have her probably come
23 probably around 11:00 tomorrow, if that's okay with
24 you. I mean, if she's back in town or coming back in
25 town. And we can address this maybe at a break, the

1 first morning break or something.

2 THE COURT: That sounds like good planning right
3 there because we'll be taking a break close to that,
4 and if she's a little later than that, we might take --
5 let me know and then we might take a little earlier
6 break and then take another break so the jury
7 doesn't --

8 MR. STALVEY: Yes, sir, your Honor.

9 THE COURT: I don't want them to sit too long. I
10 don't like to sit too long myself. Anything? If I can
11 help anybody with the case, let me know. I'll be happy
12 to give all the lawyers, if you will come up, I'll be
13 happy to give you my cell phone number if you need me
14 tonight. Don't ex parte me, but if you need me to
15 assist you in anything. Ya'll just come on up.

16 Madam Court Reporter, we'll be off the record.

17 (WHEREUPON, proceedings adjourned at 4:54 p.m.)

18

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24

25

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 6th day of October 2015.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

February 23, 2016

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

1 State of South Carolina
2 County of Greenville In the Court of General Sessions

3
4 State of South Carolina,)
5)
6 -vs-) 2013-GS-23-07631-33
7 Rodney M. Alexander,) October 7, 2015
8 Defendant.) Volume 2
9) Pages 147-389
) Transcript of Record
)

10
11 B E F O R E:

12 The Honorable R. Keith Kelly, Judge;
13 and a jury.

14
15 A P P E A R A N C E S:

16 Kristie Bjorndal Hodge, Esquire
17 Katherine Weaver Patterson, Esquire
18 Attorneys for the State

19 Alex R. Stalvey, Esquire
20 Attorney for Defendant
21
22

23 Diane L. Marcengill, RPR, CRR
24 Circuit Court Reporter
25

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E x h i b i t s

For the State:

16	Marked	Description	I.D.	Admitted
17	2	Photograph	182	184
18	3	Photograph	"	"
18	4	Photograph	"	"
19	5	Photograph	174	177
19	6	Photograph	"	"
20	7	Photograph	"	"
20	8	Photograph	"	"

For the Defendant:

22	Marked	Description	I.D.	Admitted
23		None offered.		

24

25

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:07 a.m.)

4 THE COURT: Yes, sir. Come right up here, please,
5 where we can hear. We're on the record now with our
6 juror.

7 Sir, it's been explained to me that you have
8 recognized someone in the trial; is that right?

9 JUROR 212: Yes, sir.

10 THE COURT: Does that affect your ability to be
11 fair and impartial to both sides in this case?

12 JUROR 212: No, sir.

13 THE COURT: Okay. You hesitated, though. Let me
14 ask you, who is it that you know?

15 JUROR 212: The defendant.

16 THE COURT: The defendant?

17 JUROR 212: Yes, sir.

18 THE COURT: All right. Do you know him well? I
19 mean, did you go to school with him, do you work with
20 him?

21 JUROR 212: No. Business acquaintance. My former
22 employer.

23 THE COURT: Former employer. But does that affect
24 your ability -- can you set that aside and be fair and
25 impartial to both sides? Do you think it does?

1 JUROR 212: Yeah, I would say.

2 THE COURT: That's what we need to know. Sir, I'm
3 going to excuse you from the trial of this case. We'll
4 move the alternate to your position in this case. I
5 appreciate your honesty there, I really do. Both sides
6 are entitled to a fair trial.

7 JUROR 212: Yes, sir. And I apologize.

8 THE COURT: No problem. Thank you.

9 Does he need to turn a badge in?

10 THE BAILIFF: We'll take his button, and I assume
11 he will go back into the pool.

12 THE COURT: He was a former employee, I believe he
13 said.

14 JUROR 212: Not of him. By former employee, I
15 used to do business with him.

16 THE COURT: And he's hesitant as to he can be fair
17 and impartial.

18 MR. STALVEY: I understand, Judge. No objection
19 from the defense.

20 MS. HODGE: Or from the State.

21 THE COURT: None from the State, none from the
22 defense.

23 Thank you, sir.

24 MS. HODGE: Your Honor, the victim is my next
25 witness, and she and her mom are in traffic. They

1 called my victim advocate probably 20 minutes ago.
2 They were on I-85, so they should be here any second.
3 If we can give a few seconds, I would prefer to let her
4 be first instead of go out of order, if that's okay.

5 THE COURT: You know, in the United States Army,
6 they said you should have just got up and left earlier.
7 Isn't that what they say?

8 MS. HODGE: Your lack of planning is not my
9 emergency. Is that the other one?

10 THE COURT: We'll be off the record, then.

11 (WHEREUPON, a recess was taken from
12 9:09 a.m. to 9:23 a.m.)

13 MR. STALVEY: Your Honor, before the jury comes
14 in, Ms. Hodge and I -- before we start, Ms. Hodge and I
15 discussed this. Ms. LaQuinta Smith is in the courtroom
16 right now. I've got her under subpoena to possibly
17 testify in my case. I'd ask that the sequestration
18 motion apply and that she not be allowed to be in the
19 courtroom or hear any further testimony.

20 THE COURT: Sure.

21 MS. HODGE: Your Honor, she did testify yesterday.
22 She was cross-examined. This is her daughter. This
23 is -- her daughter's 16, the victim is 16. She's still
24 a minor. She's her support person. She's getting
25 ready to testify about some really difficult matters,

1 and I think that, in fairness to her, obviously, it
2 could be pointed out that if mom has to be recalled,
3 "Well, you were sitting in here and you heard the
4 child's testimony. Now you're changing your story," or
5 something to that effect as a remedy, but I would just
6 ask your Honor to please allow her to be able to be
7 here for her daughter.

8 THE COURT: I appreciate that. And I understand
9 your concern both as a solicitor and as a parent. But
10 at this point Mr. Stalvey, and I remember he did not
11 release her from subpoena yesterday, so I would have to
12 ask her to leave, please. We have other people that
13 can be here. She has -- is this the victim advocate?

14 MS. HODGE: Our victim advocate.

15 THE COURT: Okay.

16 Are we ready to go?

17 MR. STALVEY: Yes, sir, your Honor.

18 MS. HODGE: Yes, sir.

19 THE COURT: Okay. We'll have the jury.

20 (WHEREUPON, the jury entered open court at
21 9:39 a.m.)

22 THE COURT: Good morning, Mr. Foreman, ladies and
23 gentlemen.

24 Mr. Alternate, you have now been moved to part of
25 the 12, which also at this point makes you a Rotarian,

State vs. Rodney M. Alexander 2013-GS-23-07631-33
Complainant - Direct by Ms. Hodge

1 so you can move around now. So you don't have to sit
2 in the same seat all the time.

3 But, Mr. Foreman, you have to stay in the same
4 seat, if you don't mind. Thank you.

5 Any issues for the jury?

6 JURY FOREMAN: No, sir.

7 THE COURT: Ready to go.

8 MS. HODGE: Thank you, your Honor. May it please
9 the Court.

10 THE COURT: Yes, ma'am.

11 MS. HODGE: State calls Complainant

12 Complainant

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 THE COURT: Ma'am, tell us your full name and
15 spell your last name, please.

16 THE WITNESS: I'm Complainant, Complainant.

17 THE COURT: Thank you, ma'am. Listen to the lady.

18 DIRECT EXAMINATION

19 BY MS. HODGE:

20 Q What do you prefer to be called, Complainant or
21 Complainant?

22 A I go by Complainant.

23 Q And, Complainant, if you will pull that microphone just
24 a little bit closer. We want to make sure that
25 everybody, the last juror back here, can hear you.

1 Okay?

2 All right. So tell us how old you are.

3 A I'm 16. I turn 17 this month.

4 Q You're coming away from the mic just a little bit.

5 A I'm 16. I turn 17 this month.

6 Q Okay. Almost 17. And are you in school?

7 A Yes, ma'am.

8 Q Where are you going to school?

9 A I go to High School.

10 Q What grade are you in?

11 A I'm a junior.

12 Q And do you have any thoughts or plans what might
13 happen once you graduate?

14 A I already have it planned. I want to be a child
15 psychologist.

16 Q So do you have an idea where you might go to
17 school?

18 A I want to go to USC because I heard they have a
19 really good like psychology department.

20 Q And how about your grades, how are you doing with
21 grades this year?

22 A For the most part, they're good. I'm not doing
23 well in chemistry at all. I think it's my teacher.
24 I'm going to blame it on my teacher.

25 Q Well, I guess you don't need chemistry for

1 therapy; is that right? Maybe? All right. So let's
2 talk about who are your parents. Who did you grow up
3 knowing, believing were your legal parents?

4 A My father's name is Alerton Blandin, and my
5 mother's name is LaQuinta Smith.

6 Q Do you have any brothers or sisters?

7 A I'm the oldest of eight. Well, on my mom's side,
8 I'm the oldest of eight, and on my father's side, I'm,
9 I guess could you say, the middle child. I have a
10 stepsister and I have three under me.

11 Q Okay. And where does your dad, Mr. Blandin, live?

12 A He lives in North Carolina.

13 Q How long has he been in North Carolina?

14 A Honestly, I can't give you a like specific amount
15 of time, but a couple years, actually.

16 Q Did he live in Greenville before he moved to North
17 Carolina?

18 A He did. They go back and forth, like they will
19 all live down here and move back up there and move
20 back.

21 Q And that's who you have considered your father and
22 still consider your father; is that right?

23 A Yes, ma'am.

24 Q But he's not your biological father?

25 A No, ma'am.

1 Q Do you know who your biological father is or have
2 any relationship with him?

3 A I don't have a relationship with him. I've spoke
4 with him a few times. I have a sister by him, and I
5 had a set of twin brothers, and one of them passed away
6 when he was like two. I'm closer to my sister. I've
7 never spoke with my brother. But I've spoke to my --
8 well, my biological father a few times.

9 Q Okay. All right. And was he ever in your life
10 growing up, though?

11 A He says he was. I don't remember him at all. I
12 don't remember meeting him, so.

13 Q Okay. Did you ever live with him or anything?

14 A No, ma'am.

15 Q All right. And so who -- you know the defendant?

16 A Yes, ma'am, I do.

17 Q All right. And how was he related to you, by
18 blood or marriage?

19 A He's related to me by marriage. My grandmother
20 married him.

21 Q And your grandmother, is that --

22 A Nora Alexander.

23 Q All right. And Nora is the mother of who?

24 A Alerton.

25 Q Which is your father?

1 A Yes.

2 Q So do you have aunts or uncles on that side, too?

3 A On my father's side?

4 Q Right. On your father's side.

5 A My uncle Marcus. That's my grandmother's other
6 son.

7 Q And is there a Myra Blandin; is that her sister?

8 A That's her sister-in-law, my uncle Albert's wife.

9 Q And growing up, were you close with your
10 grandmother?

11 A Very. She's my everything.

12 Q How about on your mom's side, did you know that
13 grandmother very well?

14 A I do. Me and her are close as well, but it's
15 nothing compared to my grandmother Nora. I mean, I was
16 close to her, but not as close.

17 Q All right. Do you recall -- well, tell us when
18 your birthday is.

19 A

20 Q What year were you born?

21 A 1998.

22 Q And who were you living with when you were a baby,
23 toddler, up to preschool?

24 A I have a pretty good memory for the most part. I
25 do remember living back and forth between my

1 grandmother and my mom, but I -- I believe my first
2 foster parent, I was in kindergarten, so I was probably
3 like five or so. Her name was Michelle Pembry.

4 Q Before that, were you with either your grandmother
5 or your mother?

6 A Yes, ma'am.

7 Q And back in that time, before you went to that
8 first foster care family, was the defendant dating your
9 grandmother?

10 A Yes, ma'am.

11 Q All right.

12 A He used to baby-sit me like when she went to work
13 and stuff.

14 Q Do you remember how old you might have been, like
15 your first memory of him being involved in your life?

16 A I remember -- I don't know what year it was, but
17 my grandma, when she lived on Hale Street, that's when
18 I remember like first meeting him, and I believe I was
19 a toddler. In my memory, I was a toddler. And I just
20 remember like when I woke up in the morning, I would
21 always run to their room because their room was
22 connected to my room by a door, and they never closed
23 the door because I had like the weirdest nightmares, so
24 I would always run in there.

25 Q So from what you recall, he was there from like a

1 toddler age?

2 A Yes, ma'am.

3 Q And looking back on that time frame when you were
4 young, like five and under, did you -- what was your
5 relationship like with your grandma and what was it
6 like with the defendant?

7 A I've always been close to my grandma. She's
8 always been like my go-to person. If anything
9 happened, she was always the first person that I
10 called. And him being with her, he was like a
11 grandfather to me. Like I loved him just as much as I
12 loved my grandma. He was a very good grandfather to
13 me.

14 Q Did he treat you special?

15 A I mean, he did. I had a new toy every day. Every
16 day.

17 Q Were you the only grandchild living in the home
18 with him?

19 A Yes, I was. I don't believe Tania was born, which
20 is his other granddaughter. I don't believe she was
21 born yet, so yes.

22 Q And during that time -- well, again, talking five
23 and under-ish, did the defendant ever start to do
24 anything, from your memory, that you then later learned
25 was inappropriate?

1 A Yes, ma'am. He just started touching me in my
2 genital area, you know, and getting me to touch him.
3 And, to me, at that point in time, it was kind of
4 normal like because I -- I didn't know any better. And
5 when my grandma got home, I would have a new toy, like
6 he would take me to the toy store before she got home.
7 So I wouldn't, you know, be thinking about, you know,
8 what just happened. You know, that wouldn't cross my
9 mind. I would be like, "Grandma, look at my new toy."
10 That's all I would be worried about, my shiny new
11 object that I just got. Yeah.

12 Q Was it anything that physically hurt you or that
13 kind of stuff so that you felt like you needed to tell?

14 A No, well -- it didn't hurt me. It wasn't painful,
15 you know. It was nothing that I would remember to tell
16 her when she got home.

17 Q And do you have any idea how often that occurred
18 back when you were that young?

19 A I wouldn't say every day, but probably four times
20 a week maybe -- when he was there, like when he was
21 there, so.

22 Q Okay. So there would be times, obviously, you're
23 at home or with someone else?

24 A Yes.

25 Q And then were there times when you would be alone

1 with him?

2 A Yes. When my grandmother would get up to go to
3 work in the morning, either I would wake up from her
4 getting up and I would come get in the bed because I
5 didn't want to be in there by myself or he or she would
6 come get me and bring me in there because I was so
7 young.

8 Q Did you go to a preschool or anything like that or
9 somebody baby-sit you?

10 A I remember going to a preschool. I don't remember
11 how long I attended that preschool. But I do remember
12 a preschool, going to one. And I remember I used to
13 spend a lot of time with my aunt Myra and my cousins
14 when I was younger, and we used to play together and
15 stuff.

16 Q Okay. And when you say he was touching your
17 genital area, what specifically are you referring to?

18 A My vagina.

19 Q Would that have been on top of your clothes or
20 were your clothes on or --

21 A Sometimes it was both because when I was younger,
22 I didn't really wear -- like I would wear either a
23 shirt or something like -- nothing covering everything
24 when I was younger, but, I mean, I still did it as I
25 got older, too, so.

1 Q So over the top of your clothing on your vaginal
2 area?

3 A Yes, both.

4 Q And then underneath your clothing?

5 A Yes.

6 Q Do you recall where this would happen?

7 A In the room. I don't remember any of his shops
8 that early on. And he was a paramedic for quite a
9 while, so.

10 Q When you say "in the room," what room are you
11 talking about?

12 A The room that was next to my room where the door
13 was connected, that room.

14 Q The bedroom?

15 A Their bedroom.

16 Q In their house?

17 A Yes.

18 Q And that was, when you think, at Hale Street
19 maybe?

20 A Uh-huh.

21 Q And you said he wanted you to touch him. Where
22 did he want you to touch him?

23 A In his private area. I mean, he would just ask.
24 It was like -- it was like a game. Like the farther I
25 went, the more points that I got. And then like the

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1 higher my points built up, that's how much money I got
2 to spend when we went to the store.

3 Q And would he have you touch him on the outside of
4 his clothes, under his clothes, how would that be?

5 A I remember touching him on the outside of his
6 clothes. I do remember touching him on the inside of
7 his clothes, but I'm not exactly sure how old I was
8 when that started, so.

9 Q All right. Did you ever tell anybody about the
10 touching game back then? Let's start back then.

11 A No, ma'am, I didn't.

12 Q And you eventually went into foster care around
13 five or somewhere after there?

14 A Yes, ma'am, I did.

15 Q And DSS becomes involved in your life. I guess
16 there's somebody that works with you and helps put you
17 in the foster place and checks up on you; is that
18 right?

19 A Yes, ma'am.

20 Q Did you ever think you needed to tell any of those
21 people during this time?

22 A I didn't think about it as being something bad. I
23 thought about it as a game that me and my grandfather
24 played.

25 Q And did you still love your grandfather and want

1 to be around your grandfather?

2 A Of course. He's my grandfather. And being with
3 him means being with my grandma. So it wasn't like a
4 one-person thing. It was like a whole thing. It was
5 like my family. Like I had family, my mom, and then
6 when I went over to my grandma's house, I had family
7 with my grandma. So they were like an extra set of
8 parents. Except with my mom, it was only my mom, but
9 with them, it would be like I had a mother and a father
10 together.

11 Q At some time, let's say once you went into foster
12 care, were you ever allowed to go back over there and
13 just visit?

14 A I got to spend the night -- well, I don't remember
15 getting to spend the night when I lived with Michelle,
16 my first foster parent, but I do remember they came to
17 visit me a lot. They came to visit me on my birthday,
18 and that would be like -- I don't know exactly what
19 it's called. It's like to visit where they watch you
20 through this little glass thing. Yeah, we had those
21 kind of visits, and they would bring me presents and
22 stuff and sit and talk to me. Pretty fun.

23 Q So maintained the relationship. And then at some
24 point you went back into your mom's home, I guess?

25 A Yes, ma'am.

1 Q When you were back into your mom's home, were you
2 allowed to go visit them, spend the night with them, or
3 just hang out?

4 A Every weekend. And then sometimes they would
5 surprise me and pick me up from school and stuff like
6 that. Mom never told me no, really, that I couldn't go
7 see my grandma.

8 Q So it helped her out, too, and you liked to go
9 there, I guess?

10 A Yes, I did.

11 Q Back when you were young, let's say the five, six,
12 whatever age we're talking about right now, what was
13 home life like with mom?

14 A Honestly, I was very close to my mom, I guess
15 because when I was -- it's like, I don't know. We go
16 through this with my little sisters now. Like when
17 they're one place, they want to be back with my mom,
18 and when they're with my mom, they want to be back
19 where they are. I guess it's just the whole not
20 wanting to stay in one place for a long time type
21 thing. So when I was in foster care, I just wanted to
22 be with my mom so bad. Like she was the only person I
23 ever thought about. And when I was with my mom, I was
24 like, "Oh, my God. I don't want to be here." But me
25 and my mom are really close. Despite what happened, my

1 mom and I are always close.

2 Q By that point had she had some other children?

3 A Yes. I have a 13-year-old brother. He's autistic
4 and deaf. I haven't seen him in five years, maybe,
5 because he's with his dad, and it's kind of hard to
6 locate him sometimes. And I have a sister who's 12,
7 and I believe they were the only two that were around
8 during that time.

9 Q And then -- so during this time, you're able to go
10 back and forth as much as your mom is allowing you
11 between your grandmother's house?

12 A Yes, ma'am.

13 Q And did you -- when you would visit, did this type
14 of touching continue?

15 A Yes, ma'am. There was one point in time, I don't
16 really -- it was like when my grandmother got shot
17 because my grandmother had an incident where she got
18 shot, and my dad came to visit. And we were all
19 staying in the house together, so I slept in the room
20 with Mr. Alexander, and everybody else slept in my room
21 because it was a two-bedroom house. So during that
22 entire time, he was doing stuff to me. I never really
23 said anything, as much as I wanted to, but it was just
24 like -- I don't know. It's like at a very young age I
25 had to -- I had to decide in my mind whether me telling

1 was worth all the things that could happen. Like
2 either my grandma could choose me or she could choose
3 him. And in this case, she chose him. So, I mean, I
4 had to realize that at a young age that you never know.

5 Q Right. So you didn't want to risk that is what
6 I'm hearing when you were younger. You didn't want to
7 take that risk?

8 A Yeah, because I didn't have anybody else. When I
9 went into foster care, my grandmother was always the
10 person who saved me. And that's why I was so close to
11 her because she was always that person that came and
12 she saved me. And it's like because I didn't have any
13 other family members who really accepted me into their
14 home. They chose the people that they wanted, and I
15 was never that person. And even when I was there with
16 them, I didn't feel like I was accepted. My little
17 sister stay with my nana now, and even when I went to
18 go live with her, I didn't feel like I was accepted. I
19 was there, but I was only there because I had to be.
20 And when I was with my grandma, I was there because she
21 wanted me. And so even after I told, it's like
22 everything that I thought bad could happen happened. I
23 went back into foster care. I didn't have family
24 members that wanted to get me. They made up excuses as
25 to why they couldn't get me, either their house was too

1 full or something. Something was always an excuse as
2 to why I couldn't come stay with them and be with the
3 rest of my family and why I had to go live with
4 strangers that I didn't know. So it was like either
5 way, something bad was going to happen. My grandma was
6 going to lose her happiness if she left him because he
7 makes her happy, or I was going to lose her. In this
8 case, she still have me and she's with him, which makes
9 me happy, but I just miss her. I'm not upset at him
10 for what he did to me and I forgive him. I forgive
11 him. The only thing that I'm upset about is he took
12 the one person who taught me how to love. My grandma
13 taught --

14 (Witness crying.)

15 THE WITNESS: I'm sorry.

16 BY MS. HODGE:

17 Q That's okay. Do you need a little break or are
18 you okay?

19 A I got it.

20 My grandma taught me what unconditional love was,
21 and my grandma taught me no matter what happened
22 between you and someone, you can always find it in your
23 heart to forgive them and love them. And it's like the
24 person who taught me to love unconditional doesn't even
25 love me anymore, so I don't know what love is. And I

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1 have a hard time dealing with it because I don't know
2 when someone tells me they love me, I have a hard time
3 believing them because it's like the woman who raised
4 me and loved me doesn't love me anymore. So it's like
5 who are you to tell me that you love me if she doesn't
6 love me?

7 Q Does that make you angry and upset?

8 A It doesn't make me upset, it confuses me. It
9 confuses me. I don't want to be a hateful person. I
10 don't want to be one of those people who walk around
11 and are like, "Oh, well, this happened to me, so I'm
12 going to be mad at the world." I'm not an angry
13 person. I'm a happy person, and I'm going to continue
14 to be happy person. What he did to me does not dictate
15 who I am, and it doesn't affect who I'm going to be
16 when I get older. It just gives me a story to help
17 people and to let them realize it can be worse. It
18 could have been worse.

19 I had my period when he was molesting me, and I
20 could have got pregnant. It could have got worse, but
21 it wasn't worse. And I thank God for that, and I
22 forgive him for everything that he did to me.

23 Q That would have to be hard. Obviously, you're
24 letting us know those were the things that were going
25 through your mind --

1 MR. STALVEY: I object to the form of that
2 question.

3 BY MS. HODGE:

4 Q Were those the things that were going through your
5 mind when you were growing up through this process
6 like, "This could happen. I could lose my grandma"?

7 A It was.

8 MR. STALVEY: Object; leading.

9 THE WITNESS: Those things went through my mind
10 because I found out that she wasn't my biological
11 grandmother when I was eight years old. And the way
12 that I found out was just like, "What?" Like I was at
13 my father's house, and my sister was crying. And I'm a
14 very empathetic person. If you're crying, I'm crying.
15 I don't even know why you're crying, I'm just crying
16 because you're upset, and I was crying with her. And
17 finally I look at her, and I'm like, "Why are we
18 crying?" And she was like, "Everybody in the house
19 looks like daddy except for me." And I'm like, "I
20 don't look like daddy. I look just like my mom. It's
21 okay." And she was like, "That's because he's not your
22 dad." And I was like, "What?" And she's like, "He's
23 not your father." I'm like, "Yes, he is." She's like,
24 "No, he's not."

25 MR. STALVEY: Judge, sorry to interrupt. I have

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1 to object to the hearsay involved in this testimony.

2 THE COURT: Yes, ma'am.

3 Answer Ms. Hodge's question.

4 THE WITNESS: Okay.

5 BY MS. HODGE:

6 Q So you learned at around age eight --

7 A Yes.

8 Q -- that Alerton Blandin was not your biological
9 dad?

10 A Yes.

11 Q Did that change how you looked at him as your
12 father?

13 A It didn't change how I looked at him as my father.
14 It just made me feel not -- I mean, I don't know the
15 word for it. Not necessarily like an outcast. It just
16 made me feel, once again, like I was somewhere that I
17 didn't belong.

18 Q Okay. Did that also -- did that make you feel the
19 same way about, I guess, your grandmother since that
20 was his mother?

21 A It did. I mean, she's -- she was always there for
22 me, and she never told me, and she said they were never
23 going to tell me. And I wish they hadn't, but she said
24 they were never going to tell me.

25 MR. STALVEY: Object; hearsay.

1 BY MS. HODGE:

2 Q Just tell me what you felt about that towards your
3 grandmother. How did that make you feel?

4 A It just made me feel a little bit lost. I just
5 felt -- I mean, I knew she wasn't going to leave me
6 because, I mean, she loved me. It just made me feel
7 like I wasn't as close to her as I had been my whole
8 life.

9 Q So this, you find out, was -- were you still being
10 touched or abused by the defendant during that time?

11 A I was, and that's around the same time I found out
12 when -- I mean, not exactly what sex was, but the
13 concept of hunching. I found out what that was around
14 that age. People in my school talking about it and
15 stuff, and I was just like, "That's not right. That's
16 a game that me and my grandfather plays." Like, "What
17 are you talking about?" And they're, you know, not
18 explaining to me, but basically giving me the idea of
19 what sex is, and that it's supposed to happen between a
20 man and a woman. And in my mind, I'm like not a child
21 and a full-grown man.

22 Q So you would you say you learned that was wrong?

23 A I did.

24 MR. STALVEY: Objection, your Honor. Leading.

25 BY MS. HODGE:

1 Q Did -- did you go back into your grandmother's
2 home for a period of time to live after you found out
3 about your grandmother then you learned about these
4 things at school?

5 A Yes, ma'am. And I learned how to cope with -- not
6 necessarily deal with it, but I learned how to put it
7 off as if it wasn't happening to me, as if it was just
8 happening to somebody else and I was just watching the
9 movie as it happened. When he would come in my room
10 and touch me or like when I was at the shop with him,
11 because he usually had couches or cars or something
12 where I could sit down in his shop. And I would
13 just -- if I knew he was coming or something, I would
14 zone out. I would pretend I was asleep most of the
15 time, and I would just tense my body up so if he came
16 in, I wouldn't move myself. He would have to move me
17 or move my arm or, you know, do whatever, and I would
18 just lay there. And, you know, if it hurt, I would
19 move, but I would just act like it wasn't happening.
20 And then right after it happened, he would either pull
21 my clothes back up and leave or just like leave me how
22 I was and, you know, leave. And then he'll come back
23 like 20 minutes later and be like, "Wake up, sleepy
24 head." And I'm like, "Hey, Papa." It was like it
25 never happened, and we never discussed it. We only

1 talked about it one time, and that was it. And so, I
2 mean, it wasn't -- I don't know how to explain it.

3 Q Let me ask you a couple of questions since what
4 you've said -- you mentioned shops. What are you
5 talking about when you say "shops"?

6 A His car shops. He's a mechanic.

7 Q Was that what he was all through his life or --

8 A I mean, he was a paramedic also. I just can't
9 remember how long he was a paramedic. But, yes, ma'am.
10 He fixes cars.

11 Q Fixes cars, okay. Did he have an actual place of
12 business, when you say "shop"?

13 A Yes, ma'am. He had multiple shops. Yeah.

14 Q All right. Do you remember all of the shops or --

15 A I remember all of the ones that I went to. When I
16 was in foster care, I'm not really sure about any shops
17 that he had other than one. I was with my nana on
18 Anderson Road. My nana -- well, her husband is a
19 pastor, and he had a shop -- I mean he had a church on
20 the road like probably less -- I mean, not even a mile.
21 Probably half a mile. And in eye distance. I could
22 see his shop from the church, yeah.

23 (WHEREUPON, State's Exhibit Numbers 5 through 8
24 were marked for identification.)

25 BY MS. HODGE:

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1 Q I'm going to show you what's been marked as
2 State's Exhibit 5, 6, 7 and 8. I'll just have you look
3 at these. Do you recognize these photographs?

4 A Yeah. That's the shop on Anderson Road.

5 Q Did you ever go to the shop with your papa or the
6 defendant?

7 A I did.

8 Q Okay. Do you know about how old you might have
9 been during this time frame?

10 A He lived in -- well, lived in two houses, I
11 believe, when he was working at that shop, but I'm
12 trying to think of what school I might have attended
13 when I went there because that will give me my age.

14 Q Okay.

15 A He lived in a house on Second Avenue, white with
16 blue shutters, I believe. Something on it was blue. I
17 can't -- I can't remember.

18 Q Do you think you were in middle school?

19 A No, no, no. It was --

20 MR. STALVEY: Judge, Judge, Judge. I have an
21 objection. She's answered the question. She said "I
22 don't remember."

23 THE WITNESS: I remember --

24 MS. HODGE: Hang on one second.

25 THE COURT: Go ahead, Mr. Stalvey.

1 MR. STALVEY: So my first objection is she's
2 answered the question that was asked. Second objection
3 would be the leading nature of the solicitor's
4 follow-up question to that and ask that it be struck.

5 THE COURT: Okay. Let's don't be leading. We've
6 been doing some of that. Let's don't be leading and
7 ask your next question.

8 BY MS. HODGE:

9 Q Okay. Can you tell -- were you in high school?

10 A No, ma'am.

11 Q Okay. Younger, older?

12 A I was -- it was around the time they got married,
13 so I probably was -- I think they got married in 2007,
14 so I probably was eight or nine.

15 Q Okay. So 2007 or 2008 or were you saying your
16 age? I couldn't understand.

17 A I was probably around eight or nine.

18 Q Okay. I'm going to publish what's been marked as
19 State's Exhibit Number 5. Let me pull this screen
20 down. I know it's kind of awkward. If you want to
21 turn a little bit.

22 MR. STALVEY: Judge, can I have one moment?

23 THE COURT: Yes.

24 (WHEREUPON, an off-the-record discussion was
25 held between the attorneys.)

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1 BY MS. HODGE:

2 Q Are these true and accurate representations of
3 that shop that you recall being at -- I'm sorry -- the
4 ones I showed you up on the stand?

5 A It is. I don't remember exactly which door it is,
6 but I know that it was near that black shop because
7 that's the barbershop.

8 Q And this is the shop -- did you go to this shop
9 ever?

10 A Yes, ma'am, I did.

11 Q All right. You're saying you don't know which
12 door was his bay; is that what you're saying?

13 A Yes, ma'am.

14 Q But the building as a whole, are these true and
15 accurate pictures of the dwelling as a whole?

16 A Yes, ma'am.

17 MS. HODGE: At this time we would move to admit 5,
18 6, 7 and 8.

19 MR. STALVEY: No objection.

20 THE COURT: Okay. State's 5, 6, 7 and 8.

21 (WHEREUPON, State's Exhibit Numbers 5 through 8
22 were admitted into evidence.)

23 BY MS. HODGE:

24 Q All right. State's 5. All right. So is this the
25 shop?

1 MS. HODGE: Can we turn one light off, sir?

2 Thank you.

3 Q And how often do you think you went to this shop?

4 A I went to this shop quite a lot. I remember one
5 time getting sick, and I had to go there. That's just
6 the main time that I had a specific day that I remember
7 going there because I was really sick. Like when my
8 grandma was busy or doing something. Or, really, even
9 when I just wanted to, you know, be with papa or I
10 wanted to get out the house because he would take me
11 everywhere he went, so.

12 Q And I'm showing you State's Number 6. There were
13 several doors; is that right?

14 A Yes, ma'am.

15 Q And you're not sure -- did he rent all of the
16 bays?

17 A No, ma'am. There was -- I know there was a tire
18 shop at the end, and then I believe his shop -- I think
19 it's like three garage-looking doors, and then there's
20 one black door at the end that's -- I don't know if you
21 want to say bolted in or whatever. I believe his door
22 might have been the one beside the black door. I
23 believe that one was his.

24 Q Okay. Did this have an office space in it as well
25 or was this just --

1 A It was just like a garage, like it didn't even
2 have a bathroom in it, so.

3 Q Okay. Showing you State's Number 7. Is this the
4 tire that you're referencing? Can you see behind you?

5 A Yes.

6 Q Did anything ever -- did he ever touch you
7 inappropriately at that shop?

8 A He did. That's the shop that I -- well, he's
9 going to say this is hearsay, but that's the shop I
10 asked him, "Could we just have a normal
11 grandfather-granddaughter relationship?" And that's
12 the first time I ever spoke with him about anything
13 related to the subject.

14 Q Okay. Well, you can tell us what you said and
15 what the defendant said. How did that come about?

16 A Because he was touching me, and it hurt me, and he
17 had a -- I can't remember whether I was laying in the
18 backseat of the car or he just had one of his seats of
19 his car -- of the car out because he fixes cars, so he
20 has to sometimes gut the inside of the car. I do
21 remember the seat of a car. And you know what, no. He
22 had the seat of the car out because it was inside of a
23 van. And the car seat thing was laying on the floor or
24 whatever. And he had touched me and stuff, and then I
25 asked him, I started crying and I said, "Can we stop

1 this?" And I said, "I don't want to do this." And I
2 said, "It hurts me." And he just like held me while I
3 cried, and he was like, "It will never happen again."
4 And then after that I thought it was over, so I just --
5 I didn't, you know, say anything. But it wasn't over,
6 so.

7 Q When you say he touched you and it hurt you, where
8 was he touching you then?

9 A In my vagina.

10 Q What was he touching you with?

11 A Just his hands.

12 Q And was it -- where on your vagina, on or in or --

13 A Both. Both.

14 Q Do you recall how old you were?

15 A Probably nine.

16 Q All right. Was that the first time that had ever
17 happened, when he put his finger inside?

18 A It wasn't the first time, but it was -- I wouldn't
19 say it was the first time it hurt because it did hurt,
20 but it was the first time that it really affected me, I
21 guess. Like I was just at my point of, you know,
22 breaking, so.

23 Q Okay. Did you think to tell anybody at that point
24 when it was starting to hurt?

25 A No, because he was my grandfather, and I didn't

1 want him to get in trouble because at that point in
2 time I knew it was wrong, and I knew what could happen
3 to him. When I lived with my nana for that period of
4 time, she got me hooked on Law & Order, like hooked. I
5 still watch it. So I knew it was not right. And I
6 wanted it to stop, but I didn't want to tell on him, so
7 I just had to build up courage to ask him, you know, to
8 stop because, I mean, I -- in my mind, I mean, even
9 though he was doing that stuff to me, he still -- he
10 was still a good man. Like he was -- I don't know if
11 humble is the word, I don't know. But he was a good
12 person. I mean, he still is a good person. Everybody
13 has their flaws and problems and stuff, so.

14 Q You still loved him and wanted to be with your
15 grandmother and him regardless?

16 A Yes.

17 Q Did it ever escalate beyond him doing that kind of
18 thing to you?

19 A Yeah, it did. I was at -- I can't remember what
20 road it's called, but it's near Hale Street. And this
21 is the first time that I remember. We were at his
22 shop, and I was like, "I'm sleepy," because we had been
23 there for quite a while, and I said, "I'm sleepy," and
24 he said, "Go, you know, lay down." And he said, "Your
25 grandma's car" -- because he was fixing my grandma's

1 car. He had a red Jimmy. And he was like, "Your
2 grandma's car is outside. You can go lay in her car."
3 So I went, and I was in her car, and I wasn't quite
4 asleep yet, but I was getting there. And he came
5 outside to the car. And -- and he like walked up to
6 the car, he opened the door, and he slid me to the edge
7 of the seat. And I was on my stomach. And then he
8 pulled my pants down, and he just started touching me,
9 and then he penetrated me and -- and, obviously, I knew
10 it wasn't his finger because I had felt that before,
11 and I knew that wasn't what I was feeling. And then
12 after he finished, like I squirmed a little bit, but I
13 just tried my best not to move. And after he finished,
14 he just like -- as he pulled my pants up, slid me back
15 inside of the car. So I just rolled over. I buckled
16 my pants. I mean, he left me in the car for I don't
17 know how long. It felt like an eternity. And he came
18 back and got me out the car, and he was like, "Hey, you
19 want to go get something to eat?" And I was like,
20 "Sure, Papa. Why not," so.

21 (WHEREUPON, State's Exhibit Numbers 2 through 4
22 were marked for identification.)

23 BY MS. HODGE:

24 Q Okay. Let me show you what's been marked as
25 State's Number 2, 3 and 4. Let me show you each of

1 these, State's Number 2, State's Number 3, State's
2 Number 4. Are you familiar with these pictures?

3 A Yes.

4 Q Okay. And what are these pictures of?

5 A Those are pictures of the shop.

6 Q I'm going to ask you to speak a little louder.

7 A Those are pictures of his shop where the events
8 that I just told you happened.

9 MR. STALVEY: Judge, I apologize for interrupting.
10 I'm having trouble hearing the witness, and the
11 solicitor is blocking my view of --

12 THE WITNESS: I apologize.

13 MR. STALVEY: No, ma'am. It's not your fault. I
14 can't see her to read her lips, and I'd just ask that
15 she speak up. And I'd ask the solicitor to position
16 herself somewhere where she's not right in front of the
17 witness.

18 THE COURT: Ms. Hodge.

19 MS. HODGE: I will. I'd like to be able to take
20 the photos.

21 THE WITNESS: Those are pictures of the shop where
22 the events I just told you happened.

23 BY MS. HODGE:

24 Q Okay. Are these true and accurate
25 representations?

1 A Yes.

2 Q That's --

3 A That's the shop, yes.

4 Q Let me put these --

5 MS. HODGE: At this time we move to admit 2, 3 and

6 4.

7 MR. STALVEY: No objection.

8 THE COURT: Okay. Without objection, they're
9 admitted.

10 (WHEREUPON, State's Exhibit Numbers 2 through 4
11 were admitted into evidence.)

12 BY MS. HODGE:

13 Q State's 2. And you're saying -- tell me again
14 where you think this was located.

15 A It's near Hale.

16 Q Speak into the mic.

17 A It's near Hale Street.

18 Q Okay. And what are we looking at here, what part
19 of the shop?

20 A That -- the front part, this room right here is
21 like an office room. That's where my grandma kept her
22 computer and stuff. This little area right here, it
23 was a greenish-yellowish-looking couch right there.
24 That's really the only thing I remember being right
25 there. And then farther back on, it's like -- it was

1 like a big like open space. But over back that way.

2 Q Let me show you State's 3.

3 A Yeah. There's two like little shop things, and
4 that's where he kept some of the cars.

5 Q Where was your grandma's Jimmy?

6 A It was parked inside of there.

7 Q Okay. I'm showing you State's Number 4. Same
8 thing?

9 A Yes.

10 Q Okay. All right. Do you know how old you were
11 when that incident happened?

12 A I was 11.

13 Q Were you living in their home at that time or just
14 visiting? What was the situation?

15 A Honestly, I can't remember because sometimes I
16 would go weeks staying with my grandma, and then I
17 would go back to my mom's house, and it wasn't really
18 like -- it wasn't really like who I was staying with
19 type thing. It was just I didn't want to go back home
20 type thing.

21 Q Sure. Why would you have been at the shop that
22 day, do you recall?

23 A I always went with him when he went to the shop or
24 somewhere. Yeah.

25 Q Did any other things happen at that shop, similar

1 or anything?

2 A I mean, yeah. He would touch me a lot and stuff,
3 but I honestly don't remember him doing like full-on
4 except that one time. Like in my memory, yeah.

5 Q At that shop?

6 A Yes.

7 Q Okay. Did that ever happen again?

8 A Yes. It happened once at their house and then at
9 his other shop.

10 Q Can you tell us about which house was that that it
11 happened at?

12 A It's another house on Second Avenue. It's
13 actually right beside the house that he was in when he
14 was in that shop on Anderson Road because my dad came
15 down here, and they moved into the house that they were
16 staying in, and then they moved into the house beside
17 them, if that makes sense. They kind of just swapped
18 houses, I guess.

19 Q Okay. And so where in that house did anything
20 happen?

21 A He would touch me like in my room, but not like --
22 I mean, not as often as he would do stuff at his shops.
23 He rarely did stuff at the house because my grandma, at
24 first she didn't work, so she was always at home. And
25 then in their room, when she started working. And he

1 like called her. Like he would call her, "Hey, how
2 close are you?" Or like, "How's work going?" So she
3 would be like, "Oh, it's fine. I'll be home" --

4 MR. STALVEY: Objection.

5 BY MS. HODGE:

6 Q You don't have to tell me what she says, but he
7 would call her; is what you're saying?

8 A Yes. Yes.

9 Q And after he talked to her, what, if anything,
10 happened?

11 A Either he would stop or keep going. It just
12 depends on what she said.

13 Q When you say "stop or keep going," what are you
14 talking about?

15 A He would either stop touching me and say, "Hey, go
16 get a shower," or, "We're going to go somewhere," or he
17 would just keep touching me. And then when he
18 finished, he finished. Like, I guess, whatever he was
19 done doing, whatever he was doing, then he just
20 stopped. Or he would walk away or pull my clothes back
21 up.

22 Q Did your grandma work at Coop's?

23 A Yeah, she worked at Coop's gym.

24 Q Was there anything that happened when she worked
25 at Coop's?

1 A Yeah. That time in the house, in the room, she
2 was at work. And I remember him calling her and asking
3 her like, you know, "How was work," and stuff.

4 Q Okay. And I hate to ask you, but you've got to
5 tell me what happened.

6 A I was actually in my room, and he came in my room
7 and was like, "Hey, come to the room. We're going to
8 watch a movie." And he reached over and he started
9 touching me. And at that point I just was like, "Oh,
10 it's that time." And I just, you know, clocked out,
11 basically. And, once again, he slid me to the edge of
12 the bed, and like he would try to kiss me on the mouth
13 and stuff, and I would just turn my head and just move
14 somehow to -- I mean, because I wasn't going to speak
15 to him, so I just like move my head somehow to show him
16 like, "No." And he would stop, you know, trying to
17 kiss me on the mouth and stuff. And then he like
18 penetrated me, and I moved a little bit, but I just
19 tried my best not to move so I didn't have to like hear
20 his voice say anything. I didn't want to speak. And,
21 I mean, I didn't look down to see if he, you know.
22 Yeah. I didn't look down or anything. I didn't open
23 my eyes, so.

24 Q When you say he penetrated you, what was he doing?

25 A He -- well, first he was using his hands, and then

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1 he was using his penis, yeah.

2 Q And do you know about how old you were at that
3 time?

4 A Probably 12 if not about to turn 12. I know I
5 was -- every time that he like had full intercourse
6 with me, I was between 11 and 12 because he didn't do
7 anything until I had my period, so.

8 Q Okay. And when did you start your period?

9 A I started my period November 5th, I think. Yeah
10 like right after I turned 11.

11 Q And can you say how many times he had full
12 intercourse with you?

13 A Times that I like really remember, probably three
14 or -- well, probably two or three. Possibly four,
15 though. I try not to remember.

16 Q Okay. Was there ever a time that -- let's skip
17 ahead. When did it stop? When did the touching and
18 everything stop?

19 A It stopped September 14th.

20 Q Of what year?

21 A 2012.

22 Q And how old were you then?

23 A I was 13 about to turn 14.

24 Q And what happened to make it stop?

25 A We were at DJJ, the defendant, my grandmother, and

1 I. And we had went inside -- because I had wrote her
2 letters. When I -- I'm not good at speaking on
3 something, and I even do it with my mom and my foster
4 parents, I write letters. And I wrote her letters, but
5 I just felt like I couldn't give it to her. I just
6 felt -- I felt like -- I don't know. I just felt like
7 I couldn't do it. And because he had did it three days
8 prior to when I told.

9 Q Okay. Let's stop there. What did he do three
10 days prior?

11 A We were at his shop. It's one Near Pendleton
12 Street. And I was laying on the couch, and he didn't
13 have full intercourse with me. He just touched me with
14 his hands. I was sitting on a couch in his shop
15 because in this shop, he had like an office part, and
16 then he had like the shop part. And they had two
17 different door openings. And he just like took off my
18 pants, he slid them down, and he was just touching me
19 and stuff, and that's it. And then I -- like that's
20 when I got back to their house, and I was writing my,
21 grandmother letters and stuff because I was suspended
22 during that time. That's the only reason that I was
23 home because I got into a physical altercation with a
24 guy at my school. He threw a book at my face, and that
25 just didn't go too well. But, yeah, so we had to go to

1 DJJ for a fight that I had previously gotten into the
2 year before. And my grandmother -- it was me, him, my
3 grandmother. My grandmother was sitting to this side
4 of me. He was sitting to this side of me, and we were
5 in there talking. And the lady, like my grandmother,
6 was defending me because during that fight, I was
7 standing next to my principal, and the girl walked up
8 and hit me in the face. So my grandmother was
9 basically telling the woman, you know, "This isn't her
10 fault." You know, "You should get a statement from the
11 principal because the principal was standing beside
12 her," and stuff like that, and she was defending me.
13 And he was defending me also, but my grandmother was
14 like really on it, like she was on my side. And I felt
15 like this is my moment, like I see that she's on my
16 side, you know, whether I'm right or I'm wrong. And
17 I'm not going to lie. I kind of instigated that fight.
18 It was like I was in the wrong, so she's on my side
19 whether I'm right or I'm wrong, and she's going to be
20 there for me. And he was with us everywhere we went.
21 If it was me and my grandma going somewhere, he was
22 with us. So if I did find the courage to tell her, I
23 couldn't tell her because he was always with us. So I
24 asked her, "Hey, can you come to the bathroom with me,
25 you know, after, you know, this is over?" And she said

1 yes. And so we went to the bathroom, and I told her.
2 I said, "Papa has been touching me." She said, "He's
3 been touching you?" Like, "Yes, he's been touching
4 me." And my grandma, she didn't even cry. Not that I
5 remember. Like she just looked at me. And I was
6 crying and because I didn't know how she was going to
7 react. And she just -- she held me and she told me
8 everything was going to be okay and that he would never
9 do it again and that nobody would ever touch me again.
10 And we left. And my grandma was like holding me like
11 walking out, and he was standing behind us. And I
12 guess he thought she was upset because of all the stuff
13 that had just happened inside of the room with the
14 lady. But really she was upset because of what I had
15 just told her. So we had gotten in the car, and we
16 drove back to the house. And she was pushing 90. I'm
17 surprised she didn't get pulled over because she was
18 going fast. And she told me to go to my room. As soon
19 as we got there, she said go to my room and shut the
20 door. I went to my room. I didn't shut the door. I
21 wanted to hear everything. And I just heard him
22 saying, "No. That's crazy. I would never do that."
23 And she came back into my room, and she looked me dead
24 in the face and she said, "He says you're lying, so
25 you're lying." And I didn't know what to do. I

1 just -- at that moment I was just like everything that
2 I possibly could have imagined going wrong with this
3 situation just went wrong, and I didn't know what to
4 do. I just wanted to get out of their house because
5 he -- both of them have guns, and my grandma carries a
6 gun because of what happened to her when she was --
7 well, when she had got shot, that incident. So she
8 carries guns with her. And I've seen a lot of CSI
9 Miami shows, and I seen all kind of stuff, and I didn't
10 want to be the evidence he was getting rid of -- no.
11 So I just wanted to get out. I was like, "I can't stay
12 here overnight with him here." Like, "Can you" -- at
13 first I asked her could she call my father and tell him
14 to come get me, and she said, "He's not going to drive
15 all the way from North Carolina to come get you without
16 me telling him what happened, so" --

17 MR. STALVEY: Judge, pardon the interruption.
18 Hearsay.

19 THE COURT: Yes, ma'am. That's hearsay.

20 BY MS. HODGE:

21 Q Let me back you up a little bit. Your grandmother
22 came into the room after speaking with the defendant.
23 Did the defendant ever come into your room?

24 A He did. He did. He sat on my bed and just looked
25 at me like, you know -- I mean, I can't really tell you

1 what he said because that would be hearsay.

2 Q You can tell us what the defendant said.

3 A He sat on my bed. And he looked me dead in my
4 face. And at this point I just wanted to chop him in
5 half. Like he said -- he said, "Why would you lie
6 about something like this? I could go to jail for a
7 very long time." And I just looked at him. And I went
8 blank. I don't remember what I might have said or
9 threw at him, but I was very upset because even
10 though -- I mean, I don't know why. Now that I think
11 about it, my thinking was pretty stupid back then. But
12 I don't know why I thought that he would come forward
13 and tell, you know, what he did because I just knew
14 that the man that -- basically he helped raise me, that
15 he was man enough to admit that he was wrong, you know.
16 I just -- in my mind, I just knew that he was going to,
17 "I did it, and I'm sorry, and I'm not going to do it
18 anymore." But he didn't. So it really hurt me that he
19 basically made my grandmother choose between me and
20 him.

21 Q So when you told your grandmother, what was the
22 reason for telling her?

23 A I told her because I didn't want it to happen
24 anymore. I told her because I wanted to be normal.
25 I -- I wanted to be -- I -- I didn't want to have to

1 worry about anything. I was of age where girls my age
2 were getting pregnant. I didn't want to have to be
3 that person that had the story, "I got pregnant by my
4 grandfather." Like I didn't want to be that person. I
5 didn't want to be that person who had to wake up every
6 morning and pretend everything is okay. I didn't want
7 to have to be that person like to want to -- I don't
8 know. I didn't want to have to be that person to grow
9 up and actually have children and be afraid for them to
10 be around anybody like I am with my siblings now. I'm
11 terrified for them to be around anybody that I don't
12 know. I don't bring my friends, my guy friends, I
13 don't bring them home around my siblings because I'm
14 afraid. I don't want anything to happen to them to
15 where they have to wake up in the middle of the night
16 scared or they have to -- I don't want anything to
17 happen to them because, yeah, I did help my mom take
18 care of them a lot. So in a way they're my babies. I
19 love them, and I want to protect them. I just -- I
20 didn't want to be that person.

21 Q Did you think that you needed to tell this or did
22 you tell this, disclose this abuse, because you wanted
23 him to get this trouble?

24 A I didn't want him to get in trouble. I don't want
25 him to get in trouble now. I just want him to be

1 castrated so he can't hurt anybody else.

2 Q Did you tell this, about him abusing you, because
3 you had just gotten in trouble with DJJ?

4 A No. I always got in trouble -- I was a troubled
5 kid. I stayed getting in trouble. I stay getting in
6 trouble now. I'm not going to lie. I -- I do stuff.
7 I'm a teenager. That's what we do. Yeah, I was 13, so
8 I had just become a teenager, but I wore that teenager
9 belt just right. I fit right in with the rest of the
10 teenagers, so yeah, I got in trouble all the time.

11 And, honestly, yeah, when I got in trouble with my
12 grandparents, my grandma might have gave me a couple
13 slaps, but after she slapped me, she hugged me and
14 asked me was I okay and told me to stop crying. So it
15 was like I was her baby. My grandma told me many
16 times, "I always wanted a little girl, and you were my
17 little girl that I never got." So my grandmother
18 babied me. She cherished me. So it was like even if I
19 got in trouble, they didn't really take anything from
20 me. I still got to watch TV and do everything that I
21 normally did, so it wasn't really trouble.

22 Q So it wasn't that you needed to bail yourself out
23 of some big hole?

24 A No. I wasn't in a big hole. My grandmother went
25 to DJJ to defend me, not to, you know, make anything

1 worse. She went there to defend me, and that's what
2 she did. When we were there, she defended me, and she
3 said --

4 MR. STALVEY: Objection, your Honor. Hearsay.

5 THE COURT: Yes.

6 BY MS. HODGE:

7 Q She was defending you?

8 A Yes. She defended me.

9 MR. STALVEY: Well, another objection. This calls
10 for speculation as to what was in another witness' mind
11 as to why the grandmother was there.

12 MS. HODGE: Your Honor, I think she can testify
13 how she felt what her grandmother was doing was
14 defending her.

15 THE COURT: She testified to what she perceived.

16 MS. HODGE: Thank you.

17 Q So let's back up just a little bit, one last
18 piece.

19 A Yes.

20 Q The April of 2012, you're in the bathroom, and I'm
21 just kind of setting that stage for that altercation.

22 A Yes.

23 Q Tell us about that, what happened and what
24 happened that night, and then just -- let's start with
25 that. What happened?

1 A Okay. Something I thought was harmless, which now
2 that I think about it, it looked really bad. My
3 friend, he was actually -- I use dating kind of -- not
4 really dating. He was infatuated with my little
5 sister. Well, my god sister. They were both the same
6 age. I'm older than him, and we're still friends to
7 this day. But he was outside with my sisters playing,
8 and a neighbor called me inside her house to help her
9 move her furniture around. So I said, "Sure. Why
10 not." And when I went inside to move her furniture and
11 I came back outside, and my little sisters weren't
12 outside. So I went back to my apartment, and him and
13 this guy that's like my brother. He's my mom's best
14 friend's son. He took them inside the house, her best
15 friend's son did. And he told them to, you know, get
16 in the bathtub and stuff and that I would be home in a
17 minute. So when I came home, I'm like, "Where are they
18 at?" He's like, "They're inside, you know, getting
19 ready for bed." And I was like, "Okay. Cool." So I
20 sat outside talking to them. And then his friend,
21 which is my little sister's boyfriend or whatever at
22 the time, he said, "Hey, I have to go" --

23 Q You don't need to tell me everything, what the
24 boys were saying, but just kind of what happened.

25 A Basically my mom came home, and me and him,

1 because I let him use our bathroom, and he sat there
2 talking to me about my little sister. He was sitting
3 on the toilet, and I was in the bathroom flat-ironing
4 my hair. My mom took it -- you know, she seen it as a
5 parent would have seen it. And I got in trouble for
6 it. And then my mom called my grandparents over, and
7 my grandparents and my mom got into an argument about
8 who takes care of me and who does stuff for me and
9 stuff like that. And my mom is a fighter. She was a
10 fighter. My grandmother doesn't fight anymore. She
11 carries a gun, like I said before. So it was either I
12 sat there and seen my grandma, who I loved oh so dearly
13 get beat up, or I sat there and seen my mom get shot,
14 which I wanted to see neither, so I left. I walked out
15 of the house, and I said, "I cause too many problems,"
16 and I said I was about to kill myself, which I love
17 myself too much. So I was just -- I don't know what I
18 was thinking in that moment. I'm very conceited. But
19 I started walking up the street, and I was going to
20 walk in front of a car. That's what was going through
21 my head at that point in time. And then my mom grabbed
22 me, and she brought me back to the house, and I ran out
23 the back door. And I ran to my grandma because that's
24 who I wanted. I ran to my grandma, and then we went to
25 the hospital, and they put me back inside the Pendleton

1 Place.

2 Q So who put you back in Pendleton Place?

3 A DSS did.

4 Q And when your mom grabbed you --

5 A I think that was my first time in Pendleton Place.

6 I can't remember actually, but yeah.

7 Q Were your -- were the defendant and your

8 grandmother present when your mom grabbed you?

9 A I think she was -- I mean, I think they were
10 standing next to their car because that's where I
11 remember seeing them. When I like got out the back
12 door, that's where they were standing. So I'm not sure
13 where they were standing -- like where they walked out
14 to because I was already up the street when they came
15 out of the house.

16 Q And what is Pendleton Place?

17 A It's a children's home. Yeah, it's terrible.

18 Q Is it a group home, individual?

19 A Oh, it's a group home.

20 Q And did you care for Pendleton Place?

21 A I absolutely despise Pendleton Place. I still rub
22 my eyes when we drive past the building. I can't stand
23 Pendleton Place. I don't think any child likes
24 Pendleton Place. I don't think any child should be
25 there.

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1 Q And is that where you were going to have to be
2 because of this?

3 A It was. It was.

4 Q Do you get the choice in where you end up as far
5 as placement?

6 A Probably now I would, but back then, since I was
7 so young, they would have to -- they wouldn't just
8 place me anywhere. They would actually have to go and
9 evaluate where I said I wanted to be placed and see if
10 it was suitable and stuff like that for me. So they
11 would just place me at a group home or something until
12 they knew where I should be placed.

13 Q And where did you tell them you wanted to be
14 placed?

15 A I told them I wanted to be with my grandmother and
16 my grandfather.

17 Q Even with all that other stuff that happened?

18 A Yeah. But it was like I said before, it wasn't --
19 it wasn't like it was -- I don't know. Like he was
20 still a good grandfather. Despite all the things he
21 did, he was still a good grandfather because it was
22 like when he was done doing it, it was like it never
23 happened. It was like a dream. It didn't happen to
24 me. If that makes any sense.

25 Q And how long had you been -- did you end up going

1 to your grandmother and the defendant?

2 A I did. I don't remember exactly when it was, but
3 I did end up going there after -- well, while I was at
4 Pendleton Place, they came to pick me up from Pendleton
5 Place.

6 Q Okay. Were you glad to be out of Pendleton Place
7 and there?

8 A Yes. Yes, so much.

9 Q And were you there when you told your grandmother
10 in the bathroom at DJJ about what's been going on?

11 A Yes, I was.

12 Q What did you think was going to happen to you,
13 once you told your grandmother, as far as where you
14 will live?

15 A I don't know. I didn't think that through. I did
16 not. I mean, like when all of that first happened, I
17 felt like -- I don't know. I felt like it was my fault
18 that she left me. I felt like if I would have just
19 dealt with it until I got old enough to leave, that I
20 could come back and visit my grandma and he wouldn't
21 have been able to do anything to me because I would
22 have been grown, and I would have been able to leave.
23 I wouldn't be staying there overnight and stuff like
24 that. I would have had the choice whether to be around
25 him or not, you know. And like I say, he's not a bad

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1 person, so, I mean, it wouldn't have been -- I just
2 felt like I could have dealt with it. I felt like I
3 could have stuck through it because, yeah, it hurt me,
4 but it was worth it to be with my grandmother.

5 Q Tell us about that night. Did you leave the house
6 that night?

7 A I did. I left the house that night. I ran away,
8 and I was actually talking to this guy that they hated
9 at the time. They didn't hate him, but I was 13. And
10 to me, talking to a 17-year-old dude, I felt like the
11 coolest person in the world because we went to the same
12 school because I went to So when I was in the
13 eighth grade, he was in the eleventh grade at my
14 school. So I seen him quite often because we're on the
15 same hallway. So I just thought it was the coolest
16 thing. My friends thought he was the cutest guy at the
17 school. So I'm like yes.

18 And so I called him. I don't think he was driving
19 at the time. I'm not sure. But I called him, and I
20 told him what happened. And what he said to me was
21 very, very like the stupidest thing anybody could
22 say --

23 Q Don't tell us what he said.

24 A Yeah, but he --

25 Q Did he come get you or help you?

1 A No. He told me --

2 MR. STALVEY: Objection.

3 MS. HODGE: Don't tell us what he said.

4 THE WITNESS: Well, I don't know how to respond to
5 this.

6 BY MS. HODGE:

7 Q You don't to have tell me what he said. After you
8 talked to him --

9 A No, he didn't pick me up or anything of the sort,
10 and we didn't talk again.

11 Q After that, did you call anybody else, or what did
12 you do?

13 A Yes, I did. There is this guy that I was really
14 close to, and I'm still very close to him. His name is
15 Garrett. And I hadn't talked to him in forever, but I
16 remember his number by heart. He's the only other
17 number that I like remembered by heart at the time, so
18 I called him. And he thought I was joking at first.

19 MR. STALVEY: Judge?

20 THE COURT: Yes.

21 MR. STALVEY: Objection. I believe that's
22 hearsay.

23 MS. HODGE: It's her interpretation.

24 MR. STALVEY: I understand that. And I'm fine
25 with her testifying to this, but, I mean, it has to be

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1 based on her observations. And I just, at this point,
2 I'd just like to raise an objection and ask the court
3 to possibly caution the witness as to what she can
4 actually testify to.

5 MS. HODGE: Your Honor, I believe that she said
6 what she says, "He thought I was joking." I think she
7 can interpret that from the tone of their conversation.
8 I don't believe that in and of itself is objectionable,
9 but we'll keep that to specifics, what she said.

10 THE COURT: Ma'am, I know this is hard for you. I
11 really do.

12 THE WITNESS: It is. I'm making it.

13 THE COURT: But I tell you, if you -- Ms. Hodge is
14 going to ask you these questions, and if you just kind
15 of answer the question without going too far off the
16 path. How about that?

17 THE WITNESS: Okay.

18 THE COURT: Don't tell us what other people said.

19 Ms. Hodge, if that's proper, she'll kind of help
20 you with that. Okay?

21 THE WITNESS: Okay.

22 THE COURT: All right.

23 BY MS. HODGE:

24 Q Did you have your own phone out there?

25 A I didn't.

1 Q Okay. How did you get out of the house?

2 A Through my bedroom window.

3 Q Well, how did you do that?

4 A I lifted up the window. I took the screen out,
5 and then I just dropped through the window.

6 Q Was it first floor, second floor?

7 A There was a -- not really a basement but like a
8 cement level under the house, so it was a good drop,
9 yeah.

10 Q Did you break the window to get out?

11 A No, ma'am. That would have definitely made too
12 much noise. I just opened it.

13 Q Okay. And where did you go?

14 A I just started walking. I didn't know where I was
15 going to go.

16 Q What time of day was this?

17 A We got out of DJJ probably 4:00 -- I don't know.
18 The sun was -- it wasn't going down just quite yet, but
19 it was probably the middle of the day.

20 Q Okay. And I think you were saying you called
21 Garrett?

22 A Yes.

23 Q What happened after you called Garrett?

24 A His mom came to get me.

25 Q Who is his mom?

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1 A Christina Farner.

2 Q Did she -- did you see her here in the courtroom
3 yesterday?

4 A Yes.

5 Q Had you ever met her before?

6 A I had talked to her on the phone like probably
7 years before this.

8 Q Okay. But did you ever see her or meet her
9 face-to-face before?

10 A No.

11 Q And what did you tell her about why you were
12 getting her to pick you up?

13 A I didn't tell her anything. I thought Garrett
14 might have told her because I told him. But when she
15 came, she didn't really ask me any questions.

16 Q Okay. Did you offer up right away, "This is why
17 I'm calling," to her?

18 A No. I didn't really talk to her like a lot.
19 She -- I mean, Garrett handed her the phone, but I
20 didn't really have a long conversation with her.

21 Q Okay. How about where did she take you?

22 A She took me to McDonald's first, and she bought me
23 some food, and I didn't eat it because I wasn't in the
24 mood to eat. Then we went to her house.

25 Q I'm going to ask you to keep your voice up.

1 You're trailing off a little bit.

2 What happened after McDonald's?

3 A She took me to her house, and me, Garrett, and his
4 sister, we were playing some type of video game. I
5 can't remember. And then we went into the kitchen, and
6 we were sitting there, and Garrett started asking me
7 questions. And she told him don't --

8 Q Don't say anything she said.

9 A Garrett started asking me questions, and then that
10 led to her asking me questions.

11 Q Okay. Did you call your grandmother at any point
12 during this evening?

13 A Yes, I did. I called her and told her I was okay.

14 Q All right. And what was she like on the other
15 end? Don't tell me what she said, but --

16 A She wasn't happy. I don't -- I feel that she
17 wasn't necessarily upset about me running away. I feel
18 like she was upset about the situation and that other
19 people were going to find out about the situation.

20 MR. STALVEY: Judge, let me object --

21 MS. HODGE: Did that come from a conversation?

22 MR. STALVEY: Let me object to that question. It
23 calls for speculation. The answer, therefore, should
24 be struck.

25 THE COURT: Ms. Hodge.

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1 MS. HODGE: Again, your Honor, this is her -- that
2 is her interpretation of the conversation and how she
3 feels it went.

4 THE COURT: I'm going to sustain that and strike
5 that part of it.

6 Ma'am, don't tell us what other people said and
7 don't tell us how they feel necessarily. Just answer
8 Ms. Hodge's question.

9 BY MS. HODGE:

10 Q Before you ran away from the house that night?

11 A Yes.

12 Q Did you ask your grandmother to call somebody to
13 come get you?

14 A Yes, I did.

15 Q Who was that?

16 A First I said my dad, and then I said my aunt Myra.

17 Q Your aunt Myra?

18 A And then I asked her could she -- I asked her
19 could she just let me leave and call DSS and tell them
20 I ran away, and I would wait on them at the end of the
21 street.

22 Q So you asked three different things?

23 A Yes.

24 Q Did she let you do any of those three things?

25 A No, she did not.

1 Q All right. Back to Garrett's house. Were you
2 supposed to go back and meet your grandmother at some
3 point?

4 A Yes, I was. His mother was going to take me to
5 McDonald's to meet my grandmother.

6 Q And did that ever happen?

7 A No, ma'am.

8 Q And why didn't that happen?

9 A Because, really, I just -- well, she asked me
10 first what happened, and I told her, so.

11 Q Okay. And you told her everything you've told us
12 today or --

13 A I didn't tell her everything. I gave her kind of
14 a summary of what was happening.

15 Q Okay. And after you told her that, what did she
16 do?

17 A She called the police.

18 Q Did you ever ask her to call the police?

19 A No.

20 Q Was that something you wanted to happen?

21 A I didn't want her to. I just wanted to really
22 like, not necessarily stay there, but I just wanted to
23 feel safe.

24 Q And did the police come out and meet with you that
25 night?

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1 A They did.

2 Q Did you tell them what had been going on with your
3 grandfather?

4 A Yes.

5 Q Where did you go from that point? Where did you
6 live from that point?

7 A I went back to Pendleton Place.

8 Q And kind of give us where you went from that point
9 on.

10 A I went to Pendleton Place, and I made a new
11 friend, and she didn't want to be there. I didn't want
12 to be there. So we left, and then they brought us
13 back, and we left again and --

14 Q When you say "left," you mean like ran away?

15 A Yeah. We ran away, and I went to a family
16 member's house. And she knew the family member also,
17 so we just went to her house. And then the second time
18 we went to her mother's house. And then after
19 Pendleton Place, I went to -- I'm trying to think. I
20 believe I went to the Fowlers.

21 Q Is that an individual?

22 A Yes, ma'am. It's a foster home.

23 Q How long -- did you move from the Fowlers' place
24 eventually?

25 A I did. I stayed there -- not too long because I

1 was -- I went to three schools when I was in the eighth
2 grade. I was at then when I stayed with the
3 Fowlers, I went to Then I moved from the
4 Fowlers before the school year was over, and I went to
5 and I finished out my year at

6 Q Did you have to continue on to other foster homes
7 and places?

8 A I went to Ms. Davis' house. She's a pastor. And
9 I'm still very close with her. I went to her house,
10 and then I stayed there for -- I think almost a year,
11 and then I went to -- where did I go after that? I
12 went to a group called Southeastern, and I stayed there
13 a year, and then I went to Columbia, and I stayed in
14 Columbia with this foster family, then I came back home
15 to my mother.

16 Q So after two-plus years, you came back to your
17 mom?

18 A Yes, ma'am.

19 Q Is that where you're living currently?

20 A Yes, ma'am.

21 Q All right. Is there any reason, Complainant that you
22 would make up these allegations about your grandfather
23 sexually abusing you?

24 A No, ma'am. I've told stories, but I've never,
25 ever told a story that I know could ruin somebody's

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1 life. I would never do that.

2 Q Do you have a relationship with your grandmother
3 at this point?

4 A No. She doesn't talk to me. She won't even look
5 at me. And when she does, it's not a pleasant look. I
6 want to have a relationship with her. I hope that
7 gaining truth out of this situation will help me and
8 her have a relationship again because it's something I
9 really want.

10 Q Okay. Thank you. Please answer any of
11 Mr. Stalvey's questions.

12 THE COURT: We're going to take our morning break,
13 ladies and gentlemen, before we begin the
14 cross-examination.

15 Please do not talk about the case at all. Do not
16 consider anything during your break. Don't discuss it
17 with each other. Don't talk about it or even think
18 about it. The case is certainly not at an end. I'm
19 sure there's plenty more to come.

20 With that, Mr. Foreman, if would you take the jury
21 out for a morning break. This will be a good solid 15,
22 18-minute break, something like that.

23 (WHEREUPON, the jury exited open court at
24 10:55 a.m.)

25 (WHEREUPON, the witness is speaking to the judge.)

1 THE COURT: For the record, the witness has told
2 me she liked my tie yesterday. And I have thanked her.
3 I'll wear another one for you tomorrow.

4 Ma'am, I'm going to let you leave the stand so you
5 can refresh yourself, get some water, go to the
6 restroom, do whatever you need to do, but you cannot
7 talk to anyone -- no one -- about the case, okay, while
8 you're there.

9 THE WITNESS: Okay.

10 THE COURT: And then if you will come back, and
11 Ms. Hodge will make sure you get back up on the stand
12 here before we begin. All right?

13 THE WITNESS: Yes.

14 THE COURT: All right. We'll be in recess.

15 (WHEREUPON, a recess was taken from
16 10:56 a.m. to 11:13 a.m.)

17 THE COURT: Everybody ready?

18 MS. HODGE: Yes, sir.

19 MR. STALVEY: Yes, sir, your Honor.

20 THE COURT: Ready for the jury.

21 (WHEREUPON, the jury entered open court at
22 11:16 a.m.)

23 THE COURT: Okay.

24 Mr. Foreman, everybody get some coffee and water
25 and snacks, whatever you need?

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1 JURY FOREMAN: Sure did. Thank you.

2 THE COURT: Anytime you let us know what you need.
3 We're happy to accommodate you.

4 Everybody ready to go?

5 JURY FOREMAN: Yes, your Honor.

6 MR. STALVEY: Thank you, your Honor. May it
7 please the Court.

8 CROSS-EXAMINATION

9 BY MR. STALVEY:

10 Q Complainant my name is Alex Stalvey. You have been in
11 the courtroom for the trial, so you know who I am. I'm
12 going to first start off by pointing out a white binder
13 that's in front of you. I'm going to ask you some
14 questions. And you testified at a previous hearing
15 about this situation, correct?

16 A Yes, sir.

17 Q I'm going to ask you some questions, and to
18 refresh your recollection, if you need to, some of the
19 things you previously said are in that binder. I'm
20 going to direct you to the page if you need it, so I'm
21 just letting you know that that's what that is. Okay?

22 A Yes, sir.

23 Q And the solicitor's office understands that that's
24 what we're doing. So I'm just bringing that to your
25 attention.

1 Complainant, I'm also going to ask and hope you
2 understand I'm going to ask you some questions just
3 like the solicitor did.

4 MS. HODGE: Your Honor, I think this is a little
5 bit -- there's no question here. This is just him
6 talking. Can we get to the questions?

7 THE COURT: I think he's just explaining this a
8 little bit, what his process is going to be.

9 Okay. Go ahead.

10 BY MR. STALVEY:

11 Q Complainant, if I ever ask you a question that you
12 don't understand during this, can you and I agree that
13 you'll just ask me to repeat the question or clarify
14 the question?

15 A Yes, sir.

16 Q Okay. And I hope you understand -- tell me if you
17 don't -- that I'm going to also be asking some
18 questions about some very uncomfortable things, and I'm
19 not doing that to embarrass you, but I hope you
20 understand that as well. And if you ever need a break,
21 please just let us know. We'll take a break. Okay?

22 A Yes, sir.

23 Q All right. You had a DSS hearing about the
24 allegations of sexual abuse against Mr. Alexander,
25 correct?

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1 A Yes, sir.

2 Q And at that hearing, you were asked questions by
3 an attorney for Mr. Alexander, correct?

4 A Yes, sir, I was.

5 Q And I'm going to go ahead and get this out of the
6 way, but some of those questions involve some fairly
7 graphic information, correct?

8 A Yes, sir.

9 Q And I'm going to ask you the same questions.
10 Okay?

11 A Okay.

12 Q All right. So during any of these incidents,
13 you've testified before that you don't remember
14 Mr. Alexander's penis was erect or not, correct?

15 A Yes, sir.

16 Q And you still don't remember, correct?

17 A No, sir, I do not.

18 Q And you don't remember, or you didn't remember
19 back then, that he had ever ejaculated; is that
20 correct?

21 A Yes, that's correct.

22 Q And you don't have any memory of any ejaculation
23 today, correct?

24 A Yes, sir.

25 Q Let's move -- and you've said that these -- that

1 he started touching you inappropriately when you were
2 two years old?

3 A Yes, sir, as far as I remember.

4 Q Okay. And you've told that to -- correct me if
5 I'm wrong -- you initially told that to police the
6 night you ran away?

7 A Yes, sir.

8 Q And you told DSS caseworkers it started when you
9 were two?

10 A Yes, sir.

11 Q And did you tell the Julie Valentine Center lady,
12 Christine Carlsberg, that it started when you were two?

13 A I don't recall that name, but -- well, at the
14 Julie Valentine Center, yes, sir, I did tell someone.

15 Q So you told several people that it began when you
16 were two years old, correct?

17 A Yes, sir.

18 Q And you also, I believe, testified that you didn't
19 realize that it was wrong until you were around eight
20 years old; is that correct?

21 A Yes, sir.

22 Q And you've said before that you actually told
23 somebody about it, correct?

24 A When I was eight. I mean, I mentioned it to one
25 of my friends, but I don't think that she took me

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1 seriously because we were both very young, so.

2 Q Right.

3 A And I'm still friends with her, but she's never
4 brought it up ever, so.

5 Q I'm sorry?

6 A I said I'm still friends with her, but she's never
7 brought it up.

8 Q You're still friends with her?

9 A Yes.

10 Q And her name is Diamond, right?

11 A Yes, Diamond W

12 Q Did you ever -- just so we understand it, I mean,
13 you've talked about telling Diamond W back when
14 you testified in the family court hearing, correct?

15 A Yes, sir.

16 Q And at this time, when you were eight, is the
17 reason that you didn't -- one of the reasons you say
18 you didn't say anything to your grandmother about it
19 was because you didn't feel like or you found out that
20 she was not your biological grandmother and didn't feel
21 like you were as close to her as you used to be,
22 correct?

23 A Yes, sir.

24 Q But you told Diamond, right?

25 A Yes, I did.

1 Q Has Diamond ever spoken to any law enforcement
2 agency about what you said?

3 A No, sir, I don't believe she has.

4 Q Has she ever talked to DSS?

5 A I don't believe she has.

6 Q Has she spoken with the solicitor's office about
7 it?

8 A I don't believe she has, not to my knowledge.

9 Q When you -- let's kind of fast forward to when you
10 moved back with your mom. And I'm going to refer it to
11 as the fight with your mom. Is that okay? Physical
12 altercation. I'm talking about what happened in
13 April of 2012.

14 A I prefer you to say "the incident" because I would
15 never fight with my mother.

16 Q Fair enough. The incident before the incident
17 that happened with your mother in 2012, where were you
18 going to school?

19 A I believe Middle.

20 Q All right. And your mom at some point -- well, we
21 know that your mom was concerned that you were in the
22 bathroom with a boy; is that correct?

23 A Yes, sir.

24 Q And before that time, was she also concerned about
25 you and boys enough to take you to a doctor?

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1 A Yes. There was an allegation that I was doing
2 something that I wasn't supposed to be doing, and she
3 took me to the doctor.

4 Q And where did she take you to the doctor?

5 A Greenville Hospital.

6 Q Did you see a doctor?

7 A I did see a doctor.

8 Q And did you talk to the doctor about what your mom
9 suspected?

10 A Yes.

11 Q And I assume you talked to the doctor about sexual
12 activity?

13 A Yes, I did.

14 Q And you didn't say anything to the doctor at that
15 time about being sexually abused, correct?

16 A No, sir, I did not.

17 Q And you didn't say anything to the doctor at that
18 time about being touched inappropriately, correct?

19 A No, sir, I did not.

20 Q How old were you when that happened?

21 A 12, I believe. Yes, 12.

22 Q Complainant the incident with your mother that
23 happened in April --

24 A Yes.

25 Q -- isn't it true that she called your grandparents

1 and was -- she was upset when she called your
2 grandparents, correct.

3 A Yes, sir she was.

4 Q Did she use any profanity when she called your
5 grandparents?

6 A Probably the word "ass," as far as I remember,
7 yes.

8 Q Do you remember her saying, "Y'all better come
9 over and get this person out of here," but used an
10 expletive instead of "person"?

11 A Are you referring to the B word?

12 Q Yes, ma'am.

13 A I've never heard my mom call me that, so no, sir.

14 Q Okay. But your grandparents came over there,
15 right?

16 A Yes, sir, they did.

17 Q And they called the police, correct?

18 A Yes, sir, they did.

19 Q And isn't it true you that your grandmother was
20 actually the one that called the police?

21 A Yes, sir, she did.

22 Q And it's fair to say that they called the police
23 because they were scared about what your mother may do
24 to you?

25 A Yes, sir.

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1 Q They were scared that your mother may hurt you,
2 correct?

3 A Yes.

4 Q And isn't it true that your mother had actually
5 hurt you?

6 A Yes, she did.

7 Q Okay. So they were there to protect you, correct?

8 A Yes.

9 Q And that's what they did, right?

10 A Yes, sir.

11 Q You went to Pendleton Place right after that
12 incident happened, correct?

13 A Yes, sir.

14 Q And you didn't run away from Pendleton Place at
15 all during that time, right?

16 A No, sir.

17 Q And you were there at Pendleton Place for about a
18 month, right?

19 A I don't know the exact time period, but I was
20 there.

21 Q Okay. But that happened. You got taken away from
22 your mom because of the incident?

23 A Yes, sir.

24 Q You went to Pendleton Place for -- we can't
25 remember, but you know it wasn't more than two months,

1 right?

2 A I don't think so.

3 Q But after that, you went to live with your
4 grandparents, correct?

5 A Yes.

6 Q And while you were at Pendleton Place, you were
7 allowed to use their telephone, correct?

8 A Yes.

9 Q And they keep track of all your phone calls,
10 correct?

11 A Yes, sir.

12 Q Do you remember making a phone call maybe once
13 every couple of days?

14 A Yes, sir.

15 Q And did you call your grandmother while you were
16 there?

17 A Of course. Yes, sir.

18 Q Wasn't that the only person that you called?

19 A I believe I made contact with my mother also, but
20 my grandmother might have been the only person I
21 called.

22 Q Okay. I'm going show you something. Again, this
23 is to refresh your recollection. Okay?

24 A Thank you.

25 Q I'm going to let you look at that. After looking

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1 at that telephone log, isn't it true that you called
2 your grandma ten times while you were at Pendleton
3 Place during that time period?

4 A Yes, sir.

5 Q And isn't it true that the only people you spoke
6 to on the phone were either your grandmother or your
7 grandfather?

8 A Yes.

9 Q Ma'am?

10 A Yes, sir. Sorry.

11 Q And isn't it true that the only visitor other than
12 DSS or the guardian ad litem that you had at Pendleton
13 Place was your grandmother?

14 A Yes, sir.

15 Q So it's fair to say that you knew your grandmother
16 cared about you?

17 A Yes, sir.

18 Q And you knew your grandmother wanted what was best
19 for you?

20 A Yes, sir.

21 Q And you knew your grandmother would protect you?

22 A Yes, sir.

23 Q And that was in April of 2012?

24 A Yes, sir.

25 Q Before April -- before the incident, weren't your

1 grandparents somewhat involved in your school?

2 A They were very involved.

3 Q Okay. Would they come up to the school and visit
4 you at the school?

5 A Not -- I mean, my grandmother may have came, but
6 she didn't come as much as Michael did.

7 Q And that's your grandfather?

8 A That's her husband.

9 Q Okay. Let's agree on what you want to call him.

10 A The defendant.

11 Q The defendant?

12 A Yes.

13 Q That's fine. The defendant came and visited you
14 at school more than your grandmother did?

15 A Yes, sir.

16 Q And would he come and eat lunch with you?

17 A No, sir.

18 Q But he would come up there. Would he meet with
19 your teachers?

20 A No, sir.

21 Q Would your grandmother meet with your teachers?

22 A No. My mom did that.

23 Q All right. Was there ever a period of time where
24 your -- you gave your school your grandparents' contact
25 information as an emergency contact?

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1 A I don't remember doing that because my mom was
2 very active in my school, PTA and all kind of stuff.

3 Q Did the school -- while you were living with your
4 mom before the incident, did the school ever contact
5 your grandparents directly?

6 A They might have. If they called my mom and she
7 was at work or something and my mom couldn't come get
8 me, they did.

9 Q So they had your grandparents' number?

10 A Yes.

11 Q Okay. Before the incident, did your grandparents
12 ever come to the school and talk to any of the teachers
13 about any behavior issues with you?

14 A They came to the school and talked to -- well,
15 when I lived with them, not when I lived with my mom.
16 When I lived with my mom, my mom was the main person
17 who came to my school and talked to my teachers and all
18 kind of stuff.

19 Q Okay. Complainant while you were at Pendleton Place
20 the first time after the incident, isn't it true you
21 told the people at Pendleton Place you wanted to go
22 live with your grandparents?

23 A Yes.

24 Q And isn't it true that you told the DSS
25 caseworkers that you wanted to go live with your

1 grandparents?

2 A Yes, sir.

3 Q Just so everybody understands, after the incident
4 with your mother, DSS opened a new case against your
5 mother --

6 A Yes, sir.

7 Q -- correct? So they're doing an investigation
8 into what happened with your mother, correct?

9 A Yes, sir.

10 Q And they're also looking into -- and when I say
11 "they," I mean DSS -- they're investigating past
12 physical abuse or neglect on the part of your mother,
13 correct?

14 A Yes, sir.

15 Q Okay. And your mother, you knew your mother
16 wanted to have custody back of you, correct?

17 A Yes, sir.

18 Q And -- but you wanted to go stay with your
19 grandparents, correct?

20 A Yes, sir.

21 Q So when DSS would come talk to you about where
22 were you going to live, you told them your
23 grandparents, correct?

24 A Yes, sir.

25 Q And that's where you went to live after you left

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1 Pendleton Place?

2 A Yes, sir, it is.

3 Q Okay. Do you remember having an interview at the
4 Julie Valentine Center a couple weeks after you left
5 Pendleton Place?

6 A Yes, sir, I believe so.

7 Q Okay. Do you remember what the Julie Valentine
8 Center is, or was?

9 A Yes. It's basically a place for sexually abused
10 people.

11 Q And physically abused as well. It's children,
12 right?

13 A Yes.

14 Q And their job is to investigate any physical or
15 sexual abuse against a child?

16 A Yes.

17 Q And you went there -- I don't know -- it was a
18 week and a half or two weeks. It was shortly after
19 moving in with your grandparents, correct?

20 A Yes, sir.

21 Q And the purpose of that interview at the Julie
22 Valentine Center was to talk about what was going on or
23 what had gone on with your mother; is that correct?

24 A Yes, sir.

25 Q And so that's what you did. You talked to the

1 woman there about some of the things your mother had
2 done to you in the past, correct?

3 A Yes, sir.

4 Q And you agree with me that some of those things
5 were incredibly personal to you, correct?

6 A Yes, sir.

7 Q Some of those things involved your mother using
8 drugs around you, correct?

9 A Yes, sir.

10 Q And some of those things involved your mother
11 physically abusing you, correct?

12 A Yes, sir.

13 Q And you understood that you -- that the lady
14 interviewing you was looking out for your best
15 interest, correct?

16 A Yes, sir, I do.

17 Q And you knew you were safe there at the Julie
18 Valentine Center, correct?

19 A Yes, sir.

20 Q And you had some understanding that that's the
21 purpose of the Julie Valentine Center, correct?

22 A Yes.

23 Q To keep kids safe. Do you understand that?

24 A Yes, sir.

25 Q And you agree with that?

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1 A Yes, sir.

2 Q Okay. At some point during the interview, you
3 were asked about inappropriate touching, correct?

4 A Yes, sir.

5 Q And is it fair to say that the reason that the
6 conversation went in that direction was because of what
7 your mother thought you were doing the day of the
8 incident?

9 A Yes, sir.

10 Q So -- and you were shown a diagram of a little
11 girl, correct?

12 A Yes, sir, I was.

13 Q And the little girl did not have any clothes on,
14 correct?

15 A It was a drawing figure, so no, sir.

16 Q I'm sorry. I didn't understand that.

17 A I said it was a drawing, so no, sir, she did not.

18 Q Right. It was a drawing, but it was a diagram?

19 A Yes.

20 Q And you were asked -- actually, you were asked,
21 can you tell us what these areas on a girl's body were,
22 right?

23 A Yes, sir.

24 Q And how old were you at the time, 13?

25 A I believe so.

1 Q So you're 13. I mean, you knew that, right?

2 A Yes.

3 Q But you told the lady, you know, "These are the
4 breasts" -- correct me if I'm wrong -- "These are the
5 breasts, this is the vagina, and this is the" -- I
6 think you used the word "gluteus maximus." Do you
7 remember that?

8 A I did.

9 Q And she asked you, "Have you ever been touched in
10 those areas," correct?

11 A Yes, sir.

12 Q And you said no, correct?

13 A Yes, sir.

14 Q Then you talked to her about had you ever seen any
15 sexual movies or something like that?

16 A Yes.

17 Q She started asking you what kind of movies you
18 have watched and if you have ever seen sex on movies?

19 A I believe so.

20 Q Did y'all talk about movies?

21 A I think so. I'm not sure.

22 Q Did you talk about seeing inappropriate stuff on
23 the TV?

24 A Honestly, I don't remember, but --

25 Q Okay. It's fine if you don't remember. Do you

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1 remember telling her about seeing a movie over at a
2 cousin's house that involved sexual intercourse?

3 A No, sir.

4 Q Okay. Do you remember her asking you if you had
5 ever had sexual intercourse?

6 A Yes, sir, I remember that.

7 Q And you told her no, correct?

8 A Yes, sir.

9 Q Do you remember her, after that point, leaving the
10 room?

11 A I honestly don't remember because I don't even
12 remember what she looks like.

13 Q That's fine. All right. Let me ask a different
14 way. Do you remember at some point during the
15 questioning, did she take a break and walk outside the
16 room and then come back in and ask you a few more
17 questions?

18 A I think so. She stepped out to talk to my
19 caseworker.

20 Q Okay. And when she came back in, she asked you
21 some questions about your grandparents, correct?

22 A I don't recall.

23 Q Okay. Do you recall her asking you, "Has your
24 grandfather ever hurt you?"

25 A No, sir.

1 Q Do you recall her asking you if your grandmother
2 ever hurt you?

3 A No, sir. I -- well, do you have a question?

4 Q I'm sorry?

5 A I was going to say something, but you can
6 continue.

7 Q No. I want you to respond to the questions.

8 A No, sir, but I do recall her asking has anybody
9 hurt me. She didn't ask specifics. She just said has
10 anybody hurt me, and then she asked me where was I
11 happy at. I remember that.

12 Q Say that again.

13 A She asked me where was I happy at, and I recall
14 that.

15 Q You recall telling her where?

16 A My grandparents' house.

17 Q Do you remember her asking or do you remember
18 talking to her about if you were ever touched or ever
19 hurt, or if anybody ever did anything inappropriate to
20 you, you knew who to call? Do you remember her asking
21 you about that?

22 A Yes, sir.

23 Q Okay. And do you remember telling her that you
24 could call your grandmother, your grandfather, or
25 another person?

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1 A No, sir. I said my mother and my grandmother.

2 Q Okay.

3 MR. STALVEY: Beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 MR. STALVEY: May we approach, Judge?

6 THE COURT: Yes, sir.

7 (WHEREUPON, a bench conference was held off the
8 record in the presence of the jury, but out of the
9 hearing of the jury.)

10 THE COURT: Mr. Foreman, ladies and gentlemen,
11 this is one of those times I'm going to have to excuse
12 you because I have to take up something with the
13 lawyers outside of your presence. That will give you
14 another chance to get more coffee. They made some
15 fresh, they told me in the hallway. I've already had
16 enough, but they do have some more coffee made. I
17 don't think this is going to take very long. Don't
18 talk about the case while you're out, and we'll have
19 you back in just a few minutes. Mr. Foreman.

20 (WHEREUPON, the jury exited open court at
21 11:41 a.m.)

22 MR. STALVEY: Okay. If we're back on the record.

23 Q Complainant, I'm going to show you a video from your
24 first Julie Valentine interview that I believe was on
25 May 2nd of 2012.

1 MS. HODGE: I think it's May 23rd.

2 MR. STALVEY: We're going to clarify which date it
3 was on, but --

4 MS. HODGE: It was on May 23rd.

5 BY MR. STALVEY:

6 Q On May 23rd of 2012. I'm going to show you this
7 video in order to refresh your recollection as to the
8 conversation you had with Christine Carlsberg, who is
9 doing the interview with you. Do you understand that?

10 A Yes, sir.

11 Q And I've asked you some questions about your
12 conversation during this interview, and your response
13 was that you did not recall certain aspects of it?

14 A Okay.

15 Q And I'm going to play it for you and for the
16 purposes of refreshing your recollection. Do you
17 understand?

18 A Yes, sir.

19 Q Okay.

20 (WHEREUPON, video playing.)

21 BY MR. STALVEY:

22 Q All right. At this point I'm going to pause it
23 and fast forward it. You're welcome to watch it, but
24 I'll just point out for the record and for you, Complainant
25 that there's some more questions that I'm not going to

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1 ask you anything about. And I'm going to fast forward
2 it about six minutes -- I'm sorry, two minutes. To
3 2443. And see, she leaves the room?

4 A I look really bored.

5 Q Okay. I'm resuming the video at 24 minutes and
6 41 seconds. Sorry.

7 Okay. That concludes the portion of the video
8 that I wanted to show Ms. Smith to refresh her
9 recollection.

10 THE COURT: Okay. Are we ready for the jury?

11 MS. HODGE: Your Honor, just one thing from the
12 State. I believe, as we watched that video, I do not
13 believe that the witness asked -- excuse me, the
14 interviewer asked the witness, "Can you tell your
15 grandfather," which was the last question they left off
16 on. I believe the interviewer, she says, "You know you
17 can tell somebody," and the child volunteers, "I could
18 tell my grandma. I could tell my granddad." But she
19 didn't specifically say. Because that was the question
20 to her. The last question you posed to the witness
21 before the break was, "Did she say you can tell your
22 grandmother? Did she say you can tell your
23 grandfather?" And I believe the witness said, "My
24 grandmother, yes," and then you wanted to stop and
25 refresh her memory. Am I right?

1 MR. STALVEY: I thought -- I can't remember what
2 my specific question was, but I am pretty sure I asked
3 or she testified -- I know I said grandmother and
4 grandfather. I can't remember the form of how I asked
5 her.

6 MS. HODGE: Then you went to specifically break
7 out. I just want to know where the next question is
8 going because that's not what the video showed. I
9 don't know if that refreshed your -- change your
10 question or what.

11 MR. STALVEY: I mean I can change my question.

12 MS. HODGE: I just hadn't seen that in a while
13 either, and when I saw that, I'm like, that's not the
14 question you asked her. So I don't know if that
15 refreshed your memory as well. Do I need to make an
16 objection? Do we need to hear it again? I don't know.

17 MR. STALVEY: I can rephrase my question to
18 reflect what's on here.

19 MS. HODGE: Perfect.

20 MR. STALVEY: That's fine with me.

21 THE COURT: Okay.

22 Ready for our jury?

23 MR. STALVEY: Yes, sir.

24 THE COURT: Okay. We'll have the jury.

25 (WHEREUPON, the jury entered open court at

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1 11:57 a.m.)

2 THE COURT: Mr. Foreman, any matters for the jury?

3 JURY FOREMAN: No, sir.

4 THE COURT: Very good.

5 Yes, sir.

6 MR. STALVEY: Thank you, your Honor. May it
7 please the Court.

8 THE COURT: Yes, sir.

9 BY MR. STALVEY:

10 Q Complainant back to this, your first interview at the
11 Julie Valentine Center on May 23rd, 2012. Is your
12 recollection refreshed?

13 A Yes, sir.

14 Q And, Complainant first, were you asked by Christine
15 Carlsberg if you were touched or hurt, do you know who
16 to tell or that you can tell someone?

17 A Yes.

18 Q And do you remember or now that your recollection
19 is refreshed, do you agree that you said, "My grandma
20 and my grandpa"?

21 A I said, "My grandma or my grandfather or a
22 teacher."

23 Q Okay. And I asked you before about were you asked
24 has anyone had sexual intercourse with you.

25 A Yes.

1 Q After refreshing your recollection, do you
2 remember that question being asked?

3 A Yes, sir.

4 Q And do you remember your response being "no"?

5 A I responded "no," yes.

6 THE COURT: Ma'am, I'm going to ask you to speak
7 up just a little bit.

8 THE WITNESS: I'm sorry. This chair is really
9 uncomfortable.

10 THE COURT: Okay.

11 BY MR. STALVEY:

12 Q One more thing in that Julie Valentine Center
13 interview. Do you remember talking to the interviewer
14 about this threat to hurt yourself?

15 A Yes, sir.

16 Q The day of the incident with your mom?

17 A Yes, sir.

18 Q And do you remember telling her, you know, you
19 threatened to run out in front of a car?

20 A Yes, sir.

21 Q Okay. And do you remember talking to her and
22 expressing to her that you didn't really mean that,
23 right?

24 A Yes, sir.

25 Q And you didn't really mean that, correct?

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1 A No, sir.

2 Q And I think you testified earlier you would never
3 do anything to hurt yourself, right?

4 A Yes, sir.

5 Q And do you remember saying in the Julie Valentine
6 Center interview that you said that out of anger?

7 A Yes, sir.

8 Q And is that true, you said that out of anger?

9 A Yes, sir, it is true.

10 Q That you threatened to run out in front of a car?

11 A Yes, sir.

12 Q Was there somewhere where -- just say no if this
13 isn't true. Was there something where you had a knife
14 or something like that during the incident?

15 A I picked it up, but I wasn't going to hurt myself.
16 I was just using it like I was holding it up like
17 towards myself to try to get my mom to let me leave,
18 but she wouldn't let me leave because she knew I
19 wouldn't hurt myself. My mom knows me better than
20 anybody else, so she didn't really go for that.

21 Q All right. So that was -- you weren't ever going
22 to stab yourself or cut yourself, right?

23 A No, no.

24 Q And that was said out of anger as well?

25 A Yes, sir. Well, in that moment I felt like I

1 could have, but I didn't.

2 Q Right. Because you -- you testified before that
3 you would never -- you would never do anything like
4 that, right?

5 A Yes, sir.

6 Q Okay. Let's talk about this boy, this
7 17-year-old.

8 A Yes.

9 Q All right. Do you remember what his name was?

10 A Yes. I'm still friends him.

11 Q What's his name?

12 A Quan Chappel.

13 Q And did you -- and I know you've said before that
14 you and Quan were, quote, talking, right?

15 A Yes.

16 Q All right. Tell the people on the jury what you
17 meant by, quote, talking.

18 A Well, it's kind of like when someone sees me, they
19 know that -- I mean, he wasn't my boyfriend, but we
20 were on that stage, if that makes sense, like yeah.

21 Q So it's fair to say that it was a
22 boyfriend-girlfriend-type situation?

23 A Yes. In my mind, yes.

24 Q Okay. And was this situation with Quan going on
25 after you had moved in with your grandparents?

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1 A Yes.

2 Q And isn't it true that your grandparents, your
3 grandmother and your grandfather, found out about it?

4 A It wasn't really a situation where they had to
5 find out because I told them. I didn't tell them his
6 age at the time, but then when my grandmother came to
7 pick me up from like a little cookout that they had
8 after my school, she seen me standing with him. And
9 since I was in middle school, I wore a purple shirt,
10 and he was in high school, so he wore a white shirt,
11 and she asked me what grade he was in.

12 Q And did you tell her what grade he was in?

13 A Yeah. I told her he was a junior.

14 Q And is it fair to say that both your grandmother
15 and grandfather didn't think that was appropriate?

16 A They didn't say that it wasn't appropriate. They
17 didn't really -- they didn't really have a problem with
18 it at first.

19 Q Did they have a problem with it when they found
20 out he was 17 years old?

21 A Yeah. My grandmother just told me not to -- that
22 we should just be friends, like just friends.

23 Q Did your grandfather or anybody in your family
24 call Quan's family?

25 A Yeah, afterwards, like to speak with them about

1 our age difference. I think he called -- I think the
2 defendant called Quan's grandmother, I believe, but it
3 wasn't serious because me and Quan never went out
4 anywhere together or anything. We only saw each other
5 at school.

6 Q But the understanding from that phone call from
7 both families was that y'all shouldn't be involved due
8 to the age difference, correct?

9 A Yes.

10 Q Okay. And was that -- what school were y'all
11 going to?

12 A Charter School.

13 Q And that's where you were going when you were in
14 eighth grade, right?

15 A Yes.

16 Q And you were -- then in seventh grade were you at
17

18 A I was at

19 Q Where did you go before

20 A

21 Q So it was Middle School in seventh
22 grade, then you went to Middle School in
23 seventh grade, right?

24 A Yes, sir.

25 Q And that's where you finished out your seventh

1 grade year, correct?

2 A No, sir. I finished -- where did I finish out my
3 seventh grade year? It might have been I'm
4 not really sure. No, it wasn't I finished
5 out my seventh grade year at -- I can't remember what
6 school I went to. I just know I didn't finish out my
7 seventh grade year in because I left in
8 seventh grade.

9 Q But we agree that you started the eighth grade at
10 Charter School?

11 A Yes.

12 Q And that's in Mauldin, right?

13 A No, sir.

14 Q Where is it?

15 A It's in Greenville. It's near -- what is it near?
16 It's near Pendleton Street, off Pendleton Street.

17 Q And that's when this situation with Quan happened.
18 Okay?

19 A Yes, sir.

20 Q And by the fall of 2012 when you started eighth
21 grade, you had been staying with your grandparents
22 since the previous spring, correct?

23 A I'm not exactly sure, but I know that I stayed
24 with my grandparents.

25 Q Okay. Was there also an incident when you were

1 living with your grandparents at Middle
2 involving a boy named Devon.

3 A Yeah. I wasn't staying with my grandparents. I
4 was staying with my mother.

5 Q And did that -- was Devon an older boy?

6 A He was also 17.

7 Q And were there some inappropriate text messages
8 being sent between you and Devon?

9 A Yes.

10 Q And did the people at Middle School find a
11 phone in your locker?

12 A They didn't find a phone in my locker. They found
13 a phone on me. It was my phone, but my mom had took it
14 from me, and I just got it back, so.

15 Q So your mom had taken the phone from you?

16 A Yes.

17 Q Why did she take the phone from you?

18 A Honestly, I don't even remember. I have had my
19 phone taken so many times, I don't even remember.

20 Q Was it --

21 A It was nothing serious. It was probably just
22 something I forgot to do. When I get off task, my mom
23 takes my phone until I get my mind back right, like
24 cleaning my room.

25 Q But your grandparents knew about this Devon

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1 situation, too, right?

2 A Yes.

3 Q And they knew that there were these text messages
4 that were inappropriate, correct?

5 A Yes.

6 Q You also had a school resource officer at
7 Middle named Kelly Hamilton. Do you remember her?

8 A Yes, I did.

9 Q And she knew about the phone and the text
10 messages, right?

11 A Yes.

12 Q And she came and talked to you about it, right?

13 A Yes, sir, she did.

14 Q And you and her had a pretty close relationship;
15 is that fair to say?

16 A I got in trouble a lot. We were pretty close.

17 Q I understand, but you knew that she was looking
18 out for you, right?

19 A Yes.

20 Q Okay. And she was -- she's actually a police
21 officer, right?

22 A Yes. I still am in contact with her.

23 Q Okay. And you say you got in trouble a lot. You
24 saw Officer Hamilton a lot?

25 A Yes.

1 Q You had a lot of conversations with Officer
2 Hamilton?

3 A Yes, sir.

4 Q And she was telling you, "Complainant you need to do
5 right"?

6 A Yes.

7 Q Okay. And you didn't -- you didn't say anything
8 to Officer Hamilton about anything that was going on
9 inappropriately with your grandfather at that time,
10 right?

11 A No, sir, I didn't.

12 Q Okay.

13 Fast forward to September. I guess we're already
14 there. You're at Charter School living with
15 your grandparents. The week you ran away. Okay?

16 A Yes, sir.

17 Q That was a Friday night?

18 A Yes, sir. I think. I believe so.

19 Q And you've already testified that you had been
20 suspended earlier that week, correct?

21 A Yes, sir.

22 Q Okay. Do you recall if you were suspended Monday,
23 Tuesday, and Wednesday?

24 A I was suspended for -- I got three days, and he
25 got five days, so I was probably suspended on a Tuesday

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1 because I believe that I went back to school -- well,
2 yeah, I was probably suspended on Tuesday because I
3 believe I went back to school that Monday.

4 Q Okay. Either way, the weekend before, do you
5 remember going to your aunt Myra's house?

6 A I know I had went to my aunt Myra's house around
7 that time, but I don't remember exactly when it was.

8 Q Before but around whenever it was, it was close to
9 the time that -- or close to the week before you ran
10 away, right?

11 A Yes.

12 Q Okay. And when you went to your aunt Myra's
13 house, were you under a restriction by your
14 grandparents not to have a phone?

15 A Yeah. They just told me -- I mean, they told my
16 cousins that I couldn't use their phones. And, of
17 course, they're my age, and they're my cousins, so
18 they're not going to be like, "No, don't touch my
19 phone."

20 Q But they didn't -- your grandparents didn't want
21 you using a cell phone; is that correct?

22 A No, they didn't.

23 Q And when you say "cell phone," we're talking about
24 a smart phone, right?

25 A Cell phone in general.

1 Q Okay. And you got around your cousins that night,
2 right?

3 A Yes.

4 Q They're your same age, and you used one anyway,
5 right?

6 A Yes.

7 Q And your aunt Myra caught you with it, and you
8 denied having it, right?

9 A No, I didn't -- if she caught me with it, there
10 was no reason to deny having it, so I didn't deny it.

11 Q All right. The next week at school -- you're not
12 sure when you were suspended, but let me ask you, do
13 you remember meeting with a DSS caseworker later in the
14 week at Charter School?

15 A I don't believe so. I might have, though.

16 Q Let me ask this question. Let me make this easier
17 by asking you a better question. Did you meet with DSS
18 caseworker Tammy Childs on September 14th, which was
19 the night you ran away?

20 A I believe so.

21 Q And you met with her at right?

22 A Yes, sir. I think so. I don't know, honestly,
23 because --

24 Q And this is important. If you don't know --

25 A No. There's no way that I could have met with her

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1 because I wasn't in school the day that I ran away, so
2 there was no possible way I could have met her at
3 school if I was suspended.

4 Q Okay. So you're denying that you met with --

5 A You're saying I met her at school. I was
6 suspended, and I went to DJJ that day, that morning --
7 well, earlier that day, so I didn't go to school.

8 Q All right. Complainant I'm going to show you
9 something and see if it refreshes your recollection.
10 Okay? I'm going to show you something real quick. I
11 want you to read from where I've put these parenthesis.

12 A Read out loud?

13 Q No, no, no. I want you to read it and see if this
14 refreshes your recollection. Okay? Then I want you to
15 pay attention to that. All right. So look at that.

16 A Okay.

17 Q All right. After reading that, do you now
18 remember or does that refresh your recollection as to a
19 meeting with DSS on September 14th?

20 A I honestly don't remember meeting with her at
21 school because I don't remember going to school that
22 day, but I might have met with her. But I don't
23 remember meeting with her at school.

24 Q Okay. So -- but you may have met with Tammy
25 Childs that day?

1 A Yeah, because I seen her a lot.

2 Q Okay. And she's with DSS, right? And you
3 remember meeting with her. It was the same day that
4 you ran away, later that night, right?

5 A Like I just said, I don't remember if I met with
6 her that day. I met with her a lot, but I didn't go to
7 school that day. So just stating I met with her at
8 school, I don't remember meeting with her at school.

9 Q Forget about where you met with her. Do you
10 remember meeting with her at all the same day you ran
11 away?

12 A I don't, really.

13 Q Okay. All right. Complainant the afternoon -- we
14 agree that the night you ran away was September 14,
15 2012?

16 A Yes, sir, it was.

17 Q That afternoon you went to DJJ for a meeting with
18 your -- it was, I mean --

19 A I don't know.

20 Q But it was somebody that worked for DJJ, right?

21 A Yes.

22 Q Some kind of caseworker, someone --

23 A Yes.

24 Q Do you remember the reason for the meeting?

25 A I had gotten into a fight previously with a girl

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1 at my school at yes, sir.

2 Q And that happened the year before, right?

3 A Yes, sir.

4 Q And was this kind of a check-in with DJJ to figure
5 out how you have been doing?

6 A No, sir. We were going because they wanted me to
7 do 30 hours of community service or something. And my
8 grandma was like -- I guess she thought that community
9 service was something way different, I guess. And she
10 was like she didn't want me to do community service.
11 So we went, she explained, you know, and the woman was
12 talking about how -- well, everything that happened and
13 stuff, so yeah.

14 Q Right. Okay. And you went to this DJJ meeting
15 with both the defendant --

16 A Yes.

17 Q -- and your grandmother, right?

18 A Yes.

19 Q Did the defendant and your grandmother actually
20 sit in the meeting with you?

21 A Yes, sir, they did.

22 Q And I know you've testified to this. That's when
23 you took your grandmother to the bathroom and made the
24 allegations for the first time?

25 A Yes, sir.

1 Q Okay. Where is -- is the DJJ office, is that over
2 at the family court?

3 A Basically. It's -- well, basically the same
4 building. It's like right across where the DSS office
5 is, but it's behind that. It's walking distance.

6 Q Sure. It's in the same -- it's across the parking
7 lot, right?

8 A Yes, sir.

9 Q Do you remember you have to walk through a metal
10 detector?

11 A I don't think I had to walk through a metal
12 detector.

13 Q Okay. That's all right. But you left DJJ that
14 day with both the defendant and your grandmother,
15 right?

16 A Yes, sir.

17 Q And that's when you went home, and y'all had the
18 conversation about the allegations, right?

19 A Yes, sir.

20 Q And you went out the window, right?

21 A Yes, sir.

22 Q Where did you go exactly?

23 A I started walking, and then I seen two girls that
24 attended with me. I asked one of them to use
25 their phone. She let me use her phone. The first

1 person I called was Quan. And then I called -- well, I
2 didn't use her phone to call Garrett. I walked to the
3 park that was near there, and then I can't remember
4 whether it was the same girl or a different girl, but I
5 used somebody's phone at the park and it was a female.

6 Q Is this -- what park was this?

7 A I think the park is called Shoeless Joe Jackson
8 Park, I believe, so I'm not really sure. I think
9 that's what it's called. It's like off -- I mean, it's
10 like in the middle of houses, like I don't know how to
11 explain it.

12 Q No. That's all right. I mean, this isn't a park
13 down close to the baseball stadium, is it?

14 A No, sir, but it's like the street across from
15 where my grandma lived. It's like a road, and if you
16 go down that road and you turn like -- it's like --
17 there's houses right around it, basically. I don't
18 really know how to explain it, but there's houses
19 around it.

20 Q I understand. And is this the park that you've
21 been told not to go to by your grandparents before?

22 A No. My grandparents never told me I couldn't go
23 to a park. I never left the house. I never asked to
24 leave the house. I didn't have any friends that really
25 lived in our neighborhood other than the girl that

1 lived beside us, and she lived right beside us.

2 Q So your grandparents were never concerned about
3 you going to a park because there were drugs and people
4 that you shouldn't be around down there?

5 A No. I didn't have any friends. I don't have any
6 friends where I live now.

7 Q All right. Well, let me ask you this. You said
8 you saw two girls you went to with?

9 A Yes, sir.

10 Q You've testified before that those were actually
11 your friends, right?

12 A Loosely, yes.

13 Q All right. Let me show you -- I'm going to try to
14 make this quick. I'm just going to show you what is
15 your transcript, and I'm going to point you to this.
16 Can you read line 2? Don't read it aloud, but just
17 read line 2 and line 3. Tell me when you're done.

18 A Yes.

19 Q Do you remember previously stating that those were
20 your two friends?

21 A Yes.

22 Q And after this you called -- well, you called
23 Quan, then you called Garrett, and his mother came and
24 picked you up, right?

25 A Yes, sir.

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1 Q And that's when everything pretty much started as
2 far as the allegations, right?

3 A Yes, sir.

4 Q Let me ask you this. Again, I'll show you to
5 refresh your memory. You remember previously stating
6 that when asked about Quan, that you never wanted to
7 talk to Quan again?

8 A Yes.

9 Q Do you remember the reason was that, "He had a
10 girlfriend other than me, I guess, that he was in love
11 with or something. I don't know, but I was really,
12 really mad at him and did not ever want to talk to him
13 again at that point." Do you remember saying that?

14 A Yes.

15 Q Okay. But you called him that night, right?

16 A Yes.

17 Q All right. After you made the allegations, you go
18 to Pendleton Place for the second time, right?

19 A Yes, sir.

20 Q And you -- isn't it true that a day after you got
21 there, you ran away?

22 A I don't know how long it was, but I definitely ran
23 away.

24 Q And it wasn't long, right?

25 A Yes, sir.

1 Q And then they found you in Anderson, right?

2 A Not the first time.

3 Q They found you somewhere, and they brought you
4 back?

5 A Yes, sir.

6 Q And then after that, you met with Investigator
7 Perry, right? Do you remember him? That's him back
8 there.

9 A Yes, sir.

10 Q Okay. And you also met with Nell Stewart who was
11 your guardian ad litem, right?

12 A Yes, sir.

13 Q And Nell Stewart has been your guardian ad litem
14 since before the incident with your mom, right?

15 A Yes, sir.

16 Q And you knew Nell Stewart. She's a nice lady,
17 right?

18 A Very.

19 Q And you knew she's looking out for you, right?

20 A Yes, sir.

21 Q You knew Investigator Perry was investigating the
22 allegations against the defendant, right?

23 A Yes, sir.

24 Q So you knew he was looking out for you, right?

25 A Yes, sir.

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1 Q And he was there to protect you, right?

2 A Yes, sir.

3 Q And you agree with me that both Ms. Stewart and
4 Investigator Perry told you that you needed to behave
5 while you were at Pendleton Place and follow the rules,
6 right?

7 A Yes, sir. I know Ms. Stewart told me that
8 multiple times.

9 Q And did you follow the rules?

10 A No, sir.

11 Q Did you run away again?

12 A I did.

13 Q Back to -- well, after you left Pendleton Place,
14 did you go to live with the Fowlers?

15 A I did.

16 Q And the Fowlers were -- I don't know. Are they an
17 elderly couple?

18 A No, sir. They're not elderly.

19 Q When you moved in with them, did they tell you not
20 to get in any more trouble at school?

21 A No, not really. I mean, they were -- they were
22 strict as any parents would be, and they were -- well,
23 her husband was a deacon, so.

24 Q So they talked to you about staying out of
25 trouble; is that fair to say?

1 A Everybody did.

2 Q Do you remember them telling you -- you got into a
3 fight right before you moved over there, right?

4 A Not that I recall.

5 Q Did you get into a fight while you were living
6 with them?

7 A With the Fowlers (nodding).

8 Q You have to answer yes or no because she's taking
9 it down.

10 A Yes, sir.

11 Q Did you get into a fight when you were over at the
12 Fowlers?

13 A Yes, sir.

14 Q And do you remember them telling you, "Complainant
15 don't get in any more fights or you're going to have to
16 leave here"?

17 A No, sir.

18 Q Did you get in any more fights while you were
19 there with them?

20 A I got into one fight while I was there.

21 Q You moved on to -- you eventually went to
22 Southeastern Children's Home, correct?

23 A Yes, sir.

24 Q And while you were at Southeastern Children's
25 Home, you continued to get in trouble there, right?

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1 A Actually, my caseworker told me that I would only
2 be there until December and that I need to be on my
3 best behavior so she could place me back home with my
4 mother. I did not get into any trouble. I got into
5 one fight with a girl that was living there. And it
6 was written in the report that she instigated that
7 fight, so I -- I believe that's mainly the only trouble
8 that I really got into when I was at Southeastern up
9 until the time she told me I was leaving. And then
10 after that, I just lashed out because I did not feel
11 like it was fair that I had to stay there and the rest
12 of my sisters were with family.

13 Q And what did you do when you lashed out?

14 A Just little stuff like yelling at the faculty and
15 stuff like that. Nothing major. I apologized every
16 time. I mean, apologizing doesn't always fix
17 everything, but I apologized.

18 Q Did you run away from the Southeastern Children's
19 Home while you were there?

20 A No, I didn't run away. I went to the park after
21 school. I mean, I guess if you want to count that as
22 running away, but I didn't run away from Southeastern.

23 Q Did they have to call the police that night?

24 A To come like get me, but I called and told them
25 where I was. I called the people who were working

1 towards getting me, and I told them where I was. And
2 they came and picked me up and they took me home, and
3 there was no problem.

4 Q You're just saying you would get in trouble, you
5 would apologize, but that didn't make it better. What
6 about the fact that you kept breaking the rules? That
7 didn't make it better, did it?

8 A No, it didn't make it better, but I wasn't -- I'm
9 not going to say I was -- I mean, I'm still a child,
10 but I'm not going to say I was a bad child, but yes, I
11 did have problems. I still do have problems. They're
12 not as bad as they were, but I was angry. I was very
13 angry, and that's why I said I'm not going to let my
14 anger control me anymore and make me do stuff that I'm
15 not proud of.

16 Q I understand. But you would tell people you were
17 sorry and you would tell staff at the children's
18 home --

19 A Only if I meant it. Only if I meant it.

20 Q I understand. But we can agree that you would
21 apologize and basically try to get them to understand
22 that you wouldn't break the rules again, right?

23 A No. I would apologize for that action that I had
24 just did because I knew I was going to break the rules
25 again.

1 Q Okay. And I think we've already talked about it.
2 You told Investigator Perry and Nell Stewart at
3 Pendleton Place that you wouldn't break the rules
4 again, and that's what you did, right?

5 A I was 13 years old. I'm a child. That's what we
6 do. I'm not justifying anything that I've done to
7 break rules or anything, but I am a child. I'm sure
8 you broke many, many rules when you were my age. Not
9 justifying anything, but I believe this is my time to
10 make mistakes.

11 Q I totally understand what you're saying. I'm just
12 asking you if you told Nell Stewart --

13 A Yes --

14 Q -- one thing and did --

15 A Yes, but --

16 THE COURT: Hang on, ma'am. I'm sorry. My court
17 reporter can only take down one person talking at a
18 time, so please let him finish before you start. He'll
19 do likewise.

20 MR. STALVEY: Judge, I'll move on.

21 Q Again, fast forward to Southeastern Children's
22 Home. They had video cameras there, right?

23 A Yes.

24 Q And do you remember getting in trouble and trying
25 to hide outside the view of the video camera? Do you

1 remember doing anything like that?

2 A Sounds like something I would have done probably.

3 Q Well, try to remember. I mean, is that something
4 you did?

5 A I can't recall.

6 Q Okay. How about did you ever accuse one of the
7 staff members of abusing another staff member?

8 A That wasn't just -- I don't really know how to
9 explain that situation.

10 Q Let me -- I'm sorry to interrupt. I want you to
11 answer the question "yes" or "no" and then feel free to
12 explain your answer.

13 A Yes, I did.

14 Q Okay.

15 A It was me and multiple girls. We were all in my
16 room doing what girls do, nails and stuff like that.
17 We heard loud noises coming from the staff members'
18 bedroom where both of them slept. They were married.
19 And we looked for our house parent. We could not find
20 her.

21 Q Complainant I'm sorry to interrupt you again. I'm
22 only asking you what you did personally.

23 A I'm getting to that part.

24 Q I know, and I don't mean to be rude, but you're
25 saying "we," "we did this," "we did that." I want you

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1 to say what you did.

2 A I heard noises that sounded like abuse coming from
3 their bedroom. I was under the assumption that she was
4 in there because I looked around the house and I could
5 not find her. And when I finally seen her and got to
6 lay eyes on her, she had red blotches on her chest, and
7 I believed that her husband was hurting her. So I told
8 someone about it. And our -- the person that was over
9 them, he came and they investigated it, and it turned
10 out that he was in the room fighting with the dog,
11 trying to give the dog their medicine. I still don't
12 believe that it's true. But I'm a child, so then
13 again, who's going to believe me?

14 Q Okay. As you say, it was investigated. It was
15 actually investigated by the Duncan Police Department,
16 correct?

17 A Yes. Yes.

18 Q And part of their investigation, they found video
19 evidence that proved what you said was not true; is
20 that correct?

21 A Okay. Yes.

22 Q All right. We're almost done, Complainant Let me go
23 through this, and I'll try to be as quick as possible.
24 You agree that your story about what the defendant did
25 to you has changed over time?

1 A I don't believe that my story has completely
2 changed. It probably may have altered. It was three
3 years ago. Maybe if this trial would have, you know,
4 closed very quickly, our court dates would have been
5 faster without all the unnecessary continuances, then
6 maybe my stories might have been better. This is not
7 something I want to remember every day. I don't want
8 to have to wake up every day, "Oh, I remember when he
9 did this to me." It's not something I want to
10 remember.

11 Q Okay. And not to be rude, but the answer to my
12 question --

13 A I answered your question.

14 Q -- has it changed, the answer would be "yes,"
15 right?

16 A If that's the word that you would like to use,
17 yes.

18 THE COURT: Ma'am, I'm just going to direct you to
19 answer his questions. Okay?

20 THE WITNESS: I said yes.

21 BY MR. STALVEY:

22 Q And, Complainant the initial story that you told
23 police involved -- do you recall telling the police
24 that he had had, the defendant, sexual intercourse with
25 you three days prior to running away?

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1 A I said that he touched me. I believe I said that
2 he touched me because that's what happened, yes, sir.

3 Q Do you recall saying it was sexual intercourse
4 three days before to anybody that investigated the
5 case?

6 A I don't really recall.

7 Q But you talked to DSS, you talked to law
8 enforcement, you talked to your guardian ad litem, you
9 went to the Julie Valentine Center. Do you agree that
10 all the stories that you told up until the fall or
11 winter of 2012 involved inappropriate touching with his
12 hand, correct?

13 A Yes, sir.

14 Q And sexual intercourse, correct?

15 A Yes, sir.

16 Q And in 2015 you spoke to investigators with the
17 sheriff's office again, correct?

18 A Can you -- well, can you give me a date or
19 something?

20 Q Let me ask you a different way. Do you remember
21 meeting with sheriff deputies or the investigators
22 again and saying that the touching involved oral sex as
23 well?

24 A No, sir. I never said that.

25 Q Okay. Can we agree that you said that to multiple

1 DSS workers, Julie Valentine Center, Investigator
2 Perry, that this all started when you were two?

3 A Yes.

4 Q Okay. And do you remember when you testified at
5 the DSS hearing that you said it actually started when
6 you were three or four?

7 A I said when I testified, because he asked me about
8 the years. I said I might have been three or four
9 because between the ages of two and five, your memory
10 is very jumbled together, so I might have been three or
11 four. I mean, I don't believe there is a big
12 difference between two, three, and four.

13 Q Okay. Do you believe there is a big difference
14 between oral sex and --

15 A He made me give him oral sex when I was four years
16 old, if you would like me to say that.

17 Q No, no, no. I mean, and that's -- that's fine
18 because --

19 A Okay.

20 Q -- I just asked you --

21 A I thought you meant did I disclose that to the
22 officer that came to speak with me. Can you please
23 make your questions more clearly?

24 Q I'm doing my best, and I apologize if they're not
25 clear. You just testified that you never told any of

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1 the officers --

2 A I thought you meant the cops at the time. I
3 apologize.

4 Q All right. But you agree that you never said
5 anything about oral sex when you first met with
6 investigators in 2012?

7 A I don't believe I did. I'm not sure.

8 Q And you never said anything about oral sex when
9 you went to the Julie Valentine Center the second time,
10 correct?

11 A I don't believe I did.

12 Q Okay. And will you agree that it was years later
13 that you said anything about oral sex to any law
14 enforcement officer?

15 A Yes, I agree.

16 Q Okay. And you actually met with Investigator
17 Perry at least once or twice and never said anything
18 about oral sex to him on those occasions, correct?

19 A Yes, sir.

20 Q And you never said anything to Nell Stewart about
21 oral sex, correct?

22 A No, sir. I don't think so.

23 Q Do you remember telling somebody at Southeastern
24 Children's Home that if you were going to get in
25 trouble, it was going to be all the way? Do you

1 remember making that statement?

2 A No. No, sir.

3 Q Okay. Thank you.

4 MR. STALVEY: No further questions.

5 THE COURT: Okay. Anything from the State?

6 MS. HODGE: I do have a few questions. Do you
7 want me to -- just a few. It won't be very long.

8 REDIRECT EXAMINATION

9 BY MS. HODGE:

10 Q So this incident of oral sex when you were four?

11 A Yes.

12 Q Why didn't you tell anybody about that --

13 A I mean --

14 Q -- in the beginning of the investigation when you
15 started talking about this stuff?

16 A I believe that any sexual act towards a child,
17 whether it be touching or anything, it's wrong. And if
18 I even said, "Oh, he made he take my clothes off so he
19 could look at me," it's still wrong. And I think it's
20 humiliating that I have to tell people, "Oh, he did
21 this to me when I was such-and-such age." It makes me
22 feel nasty. I don't know about you. I rushed home
23 yesterday to take a shower after I seen him. So I
24 don't think it matters what he did. To know that he
25 did something to me, anything to me, that was wrong to

1 do for a 50-something-year-old man to do to a child.

2 It's wrong.

3 Q So that part of it was much more shameful to you?

4 A Yes.

5 Q Okay. Now that we've got it out there, can you
6 tell us about that -- did that happen a lot?

7 A I only remember once.

8 Q And that's all you told to the investigator more
9 recently. Not Investigator Perry, but --

10 MR. STALVEY: Objection; leading.

11 THE COURT: Okay.

12 BY MS. HODGE:

13 Q Is that what you told to the last officer that you
14 talked about this with?

15 A Yes.

16 Q Can you tell us about that time when you were
17 four?

18 A He told me that it was candy, that I could not
19 bite, that I could only suck like a lollypop, so.

20 Q How does that make you feel to have to say that?

21 A Makes me feel disgusting.

22 Can I have a break?

23 THE COURT: Yes, ma'am. You may.

24 Tell you what. Let's break for lunch. Hang on
25 right there.

1 Mr. Foreman and ladies and gentlemen of the jury,
2 we're going to break for lunch here. Let's see, it's
3 about 12:40. We're going to give her a little break.
4 Let's make it 2:15. That's going to be a little extra
5 lunchtime, but we're going to make it 2:15 today.

6 Don't discuss the case whatsoever. It's not time
7 to do that. We haven't heard all of the evidence. So
8 you're going to lunch and you're at work, and you don't
9 want to be thinking about work while you're on lunch.

10 Mr. Foreman, if you will take the jury to the --
11 you want them to go to the jury room and be excused
12 from there? Do you want their badges or do you let
13 them keep it?

14 Well, if anybody needs anything from the room,
15 otherwise you can be excused from right here. Be back
16 in the room 2:05, 2:07 or something like that. I'm not
17 going far. We're going to walk to lunch, myself and my
18 law clerk. We'll be ready to go around 2:15. Thank
19 you.

20 (WHEREUPON, the jury exited open court at
21 12:41 p.m.)

22 THE COURT: Ma'am, you can leave the stand and you
23 can spend some time with your mom, but you can't talk
24 about your testimony. Okay?

25 THE WITNESS: Okay.

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1 THE COURT: All right. Thank you, ma'am. We'll
2 be in recess until 2:15. I'll be back before then if
3 y'all need me.

4 (Lunch recess was taken from 12:42 p.m.
5 to 2:17 p.m.)

6 THE COURT: Ma'am, come on back up.

7 (WHEREUPON, the jury entered open court at
8 2:17 p.m.)

9 THE COURT: Mr. Foreman, any matters from the
10 jury?

11 JURY FOREMAN: No, sir.

12 THE COURT: Thank you.

13 Yes, ma'am.

14 MS. HODGE: Thank you, your Honor.

15 Q Just one last question, Complainant Is the person
16 that sexually abused you, that did the things you
17 talked about here in court today, is that person
18 present in courtroom?

19 A Yes, ma'am.

20 Q And where is he?

21 A Right there.

22 Q All right. What is his name?

23 A Michael Alexander.

24 Q Thank you.

25 THE COURT: Thank you.

1 Anything at all, Mr. Stalvey?

2 MR. STALVEY: No, sir, your Honor.

3 THE COURT: Okay.

4 Ma'am, you may step down. Please be careful.

5 MS. HODGE: Thank you, your Honor. The State
6 would call Sharon Wegner.

7 SHARON WEGNER,

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 THE COURT: Ma'am, once you're situated, tell us
10 who you are and spell your last name for my court
11 reporter.

12 THE WITNESS: Sharon Wegner, W-e-g-n-e-r.

13 THE COURT: Thank you.

14 Yes, ma'am.

15 MS. HODGE: Thank you, your Honor.

16 DIRECT EXAMINATION

17 BY MS. HODGE:

18 Q Ms. Wegner, who do you work for?

19 A I work for the Greenville County Department of
20 Social Services.

21 Q How long have you been with them?

22 A 23 years.

23 Q What kind of jobs or duties have you had while
24 working at DSS?

25 A I was a child abuse investigator for 19 years, and

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1 I have moved into my current role. I'm the alternate
2 caregiver liaison.

3 Q What does that liaison do?

4 A I just support the families caring for children
5 who are not in foster care.

6 Q And the child abuse investigator, what types of
7 cases, what types of abuse cases did you work?

8 A Physical abuse, sexual abuse, and physical
9 neglect.

10 Q Approximately how many sexual abuse cases do you
11 think you worked?

12 A I don't know an exact amount, but I would guess
13 probably maybe ten a year, so maybe 190, give or take
14 some.

15 Q Are there more than just one investigator for sex
16 abuse cases?

17 A Yes, there is. We did have a unit that did sex
18 abuse cases and then we handled the overflow.

19 Q So your numbers were really the overflow numbers?

20 A Yes, ma'am.

21 Q Did you have an occasion to investigate an
22 allegation of sex abuse involving the defendant?

23 A I did.

24 Q And when did you receive this case or this
25 allegation?

1 A In September, September 14th of 2012.

2 Q All right. How did that come to you?

3 A We received -- the call was initiated
4 September the 14th, and that was when Complainant was
5 placed into protective custody by the police.

6 Q And Complainant, can you tell me her full name?

7 A Complainant

8 Q And you call her Complainant or --

9 A I call her Complainant.

10 Q Did you know Complainant prior to her being placed in
11 protective custody on this night?

12 A I did not.

13 Q Okay. That was your first involvement with her --

14 A Yes, ma'am.

15 Q -- and these allegations? All right.

16 Do you know where she was currently living when
17 she made these allegations?

18 A She was living with Mr. and Ms. Alexander.

19 Q And was she in DSS custody at that time?

20 A Not at that time.

21 Q So was she in the custody of the Alexanders?

22 A She was in the custody of the Alexanders, she ran
23 away that night and then was placed into DSS custody.

24 Q And what did you do as your role as the
25 investigator in this case? What is the first thing you

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1 did?

2 A I met with Complainant at Pendleton Place and took
3 some of her belongings to her.

4 Q Where did the belongings come from?

5 A The Alexanders.

6 Q And what is Pendleton Place?

7 A It's an emergency shelter for children that are
8 placed in protective custody.

9 Q Is it meant to be a long-term residence or --

10 A No. It's just an emergency facility.

11 Q And then where would she have gone or where do
12 children go after Pendleton Place?

13 A Preferably to a foster home, if they're not
14 returned home.

15 Q And did you speak to her -- or when did you speak
16 to her at Pendleton Place, if you did?

17 A That was on September 17th of 2012.

18 Q And during -- what was your purpose in speaking to
19 her that day?

20 A To meet her and let her know, you know, that I was
21 the investigator on the case and talked to her about
22 some things, about what had happened, and checking to
23 see how she was doing.

24 Q And your role as a DSS investigator, what exactly
25 is your piece of it? I know that it's different from

1 law enforcement, correct?

2 A Yes. We focus more on the actual safety of the
3 child, and, you know, their statements we take into
4 account. That's our focus.

5 Q Child safety?

6 A The child's safety.

7 Q All right. And then looking for suitable
8 placement for the child, is that part of it, too, or is
9 that not the investigator's role?

10 A No, that's not the investigator's role.

11 Q And when she was at Pendleton Place, did she
12 disclose to you that she had been sexually abused?

13 A She did.

14 Q And did she disclose to you when she was sexually
15 abused?

16 A She said from the age of two until three days
17 prior to the time that she disclosed.

18 Q Did she tell you where the sexual abuse took
19 place?

20 A She said it happened at the Alexanders' home in
21 their bedroom or at Mr. Alexander's office. I think it
22 was M&M Roadside Repair.

23 Q Did you get real detailed with her in this
24 meeting?

25 A I did not.

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1 Q What generally happens with those kind of cases?
2 How do you normally get statements about those kind of
3 cases?

4 A They are referred to the Julie Valentine Center
5 for a forensic interview.

6 Q And do you use that interview to assist you in
7 your investigation?

8 A I do. And I go and observe that interview as
9 well.

10 Q Okay. So there is a place for you to watch what's
11 going on?

12 A Law enforcement and DSS are allowed to observe
13 through closed circuit TV.

14 Q All right. And did you do that in this case?

15 A I did.

16 Q When you were talking with -- well, let me strike
17 that.

18 In part of your investigation, do you look up and
19 see if the child has a DSS history or any placement
20 histories?

21 A Yes, ma'am.

22 Q Okay. And can you tell us, according to DSS
23 records, when Complainant or Complainant was placed with the
24 Alexanders as far as through her lifetime?

25 A I have to refer back to some dates.

1 Q Okay.

2 A The first time, actually, that we have recorded
3 was 1999, I believe. October 5, 1999, was one of the
4 occasions. And then again in August of 2007 a home
5 study was completed at that time, and she was placed
6 there. They were given physical and legal custody at
7 that time.

8 Q Okay. In 2007. All right. And did your notes
9 indicate when those times would have ended or when the
10 child went back to her mom?

11 A Not in these notes. I know she, sometime between
12 that August 29th of '07 and then again in 2008, another
13 report was made, and she was with her mom at that time.
14 So sometime during that time she went back to her mom.

15 Q Okay. All right. So during those times, that's
16 when the grandparents actually had physical or legal
17 custody that you've been able to document through those
18 records?

19 A Yes, ma'am.

20 Q Okay. Did you speak to Complainant about where she
21 might want -- or Complainant about where she might want to
22 go from Pendleton Place after these allegations were
23 made?

24 A She -- she wanted to go back to her mom, but if
25 not, there was a friend that she had, the friend's

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1 parents in Mauldin.

2 Q And is part of your investigation to locate the
3 place for her to go, or is that another person in DSS's
4 job?

5 A Someone else. We have a court hearing and they --
6 once they're in protective custody, we have a probable
7 cause hearing, and once the case is transferred, then
8 they look for placement after that.

9 Q What else do you do in your investigation, your
10 piece of it?

11 A Reviewing any records, spoke with law enforcement
12 and attended the probable cause hearing.

13 Q And the purpose of your job, what conclusion do
14 you come to or what conclusion did you come to in this
15 case?

16 A We indicate our case for sexual abuse.

17 Q And do you have a parallel investigation running
18 with law enforcement, is that how it works?

19 A We did. Yes, we did at that time.

20 Q So you discuss some pieces of the case with them?

21 A Yes.

22 Q Share information?

23 A Yes.

24 Q And once you've had your hearing, I guess, on that
25 case, is it closed, the DSS case?

1 A Sometimes. Not always. But that's the end of my
2 involvement.

3 Q You don't do any other investigative steps through
4 the rest of the process?

5 A No.

6 Q You don't do any treatment work or follow-up with
7 Complainant or Complainant during any of the placement periods?

8 A No, ma'am.

9 MS. HODGE: Thank you. Please answer any of
10 Mr. Stalvey's questions.

11 CROSS-EXAMINATION

12 BY MR. STALVEY:

13 Q Ms. Wegner, let me ask you, you say you met with
14 her on September 18th of 2012?

15 A 17th.

16 Q I'm sorry, 17th. I'm going to show you what is --
17 I mean, you don't need to read this. This is just to
18 refresh your recollection. Those are the, I guess,
19 your case notes. She told you who she called that
20 night that she ran away, correct?

21 A Yes.

22 Q And that was Garrett F , correct?

23 A Yes.

24 Q Did she, according to your notes, tell you anybody
25 else that she called that night after she had run away?

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1 A No.

2 Q There's nothing in your notes about her calling
3 somebody named Quan?

4 A No.

5 Q When you spoke with her, did you make it clear to
6 her that it was important she tell you all the
7 important facts about what had happened?

8 A Well, I don't actually get into all the details at
9 that initial conversation because the forensic
10 interview had been scheduled, and that's usually where
11 it gets more intense.

12 Q Right. In this, I mean your meeting with her, I'm
13 just looking at your notes. I mean, a lot of that
14 dealt with what was going on around that day, right? I
15 mean, how she was doing as far as her running away; is
16 that correct?

17 A Yes.

18 Q Okay. And there's nothing in there about Quan,
19 correct?

20 A No, sir.

21 Q Okay. Well, do you remember her telling you that
22 she wanted to be adopted by the Farners?

23 A Yes.

24 Q Okay. Do you remember her specifically telling
25 you that she was going to behave while at Pendleton

1 Place so she could be adopted by the Farners?)

2 A I remember her telling me she was going to behave
3 at Pendleton Place, but I don't recall that last
4 statement.

5 Q But do you recall she said she was going to behave
6 while she was at Pendleton Place?

7 A Yes.

8 MR. STALVEY: I don't have any further questions.

9 THE COURT: Anything?

10 MS. HODGE: No, sir.

11 THE COURT: All right.

12 Ma'am, you may step down. Please be careful.

13 THE WITNESS: Thank you.

14 MS. HODGE: May this witness be excused?

15 THE COURT: Any objection?

16 MR. STALVEY: Your Honor, I've got her under
17 subpoena as well. If you give me -- can I answer that
18 question after this next witness?

19 THE COURT: Sure.

20 Ma'am, you're not excused at this time. You can
21 wait outside.

22 THE WITNESS: Okay. Thank you.

23 MS. HODGE: State calls Investigator Bob Perry.

24 ROBERT PERRY,

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

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1 THE COURT: Sir, tell us your full name and spell
2 your last name for the court reporter, please.

3 THE WITNESS: First name is Robert. Last name is
4 Perry, P-e-r-r-y.

5 DIRECT EXAMINATION

6 BY MS. HODGE:

7 Q Investigator Perry, who do you work for?

8 A I work for the Greenville County Sheriff's Office.

9 Q How long have you been with Greenville County?

10 A Since July of 2006.

11 Q Did you have law enforcement experience prior to
12 that?

13 A I did. I'm actually retired out of the state of
14 Florida.

15 Q And what agency were you with or agencies?

16 A I was assigned to an agency called the Venice
17 Police Department and worked across the entire state,
18 including with our local county, as an investigator.

19 Q All right. And what are your duties with the
20 sheriff's office currently?

21 A Currently work as master deputy in the crimes
22 against children's unit.

23 Q And what types of crimes, obviously against
24 children, do you investigate?

25 A Primarily sex crimes that are committed on a child

1 under the 16 and below, physical abuse, obviously
2 sexual abuse, unlawful neglect cases, things of that
3 nature.

4 Q And approximately how many child sex abuse cases
5 do you think you've worked while you've been in
6 Greenville?

7 A 4- or 500, I guess, somewhere around there.

8 Q About how many reports get filed maybe like a
9 month?

10 A I think we average -- there's seven investigators
11 in our unit, and I think we will average somewhere
12 about 140 cases apiece a year. Some of us range a
13 little higher, but out of those 140, probably
14 20 percent are some type of unlawful neglect, and the
15 others are primarily dealing with some type of sexual
16 abuse.

17 Q All right. Were you assigned to investigate the
18 case against the defendant, Mr. Alexander?

19 A Yes, I was.

20 Q When did you get involved in this case and how did
21 you get involved?

22 A We actually formed our unit in August of 2012. We
23 formed it with four investigators, and all the
24 investigators start filtering through all the reports
25 that were sent from uniformed patrol. We had been

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1 doing that for several weeks. Came across this report
2 dealing with a young girl who said that she was
3 sexually assaulted by her -- I think her
4 stepgrandfather that what was referred to, so we got
5 the report, started looking at it and started an
6 investigation.

7 Q Now, you said your unit was formed in August.
8 There were police officers investigating sex abuse
9 before the unit, correct?

10 A Correct.

11 Q It was just under a different name or heading?

12 A We actually had -- I wasn't part of the criminal
13 investigations division at that time, but we actually
14 had officers and investigators who worked not only
15 adult sex crimes but juvenile sex crimes, and they kind
16 of split the two since the juvenile sex crimes and
17 sexual abuse were an astronomical number compared to
18 the adults.

19 Q Just making sure that was still going on before
20 you came around. All right. And so you were assigned
21 to be lead investigator in this case?

22 A That is correct.

23 Q All right. And what was your -- the first thing
24 you did in your investigation?

25 A I basically review and report, kind of gathering

1 information from the report of who's involved, doing
2 some real simple local background checks through the
3 computer and then try to find out where the victim is
4 because I knew she wasn't at the residence where she
5 was staying. So a phone call was placed to Department
6 of Social Services, DSS, what we refer to them. They,
7 in turn, told me that she was over at Pendleton Place.

8 Q And did you go over the Pendleton Place to talk to
9 her?

10 A I did.

11 Q And what happened then?

12 A Seems like I'm over at Pendleton Place. I'm a
13 regular over there, so I went back and talked to the
14 ladies over there, and they said that she's in school
15 and she's at I had some other things going on
16 in the afternoon, and I didn't have the opportunity to
17 go speak to her that day, so I spoke to her my next
18 opportunity, which was a couple days later.

19 Q All right. And did you go to the school to speak
20 to her?

21 A I did.

22 Q Did you go by yourself or did anyone accompany
23 you?

24 A Actually, I got a call from her guardian ad litem,
25 a Ms. Nell Stewart, and she said that she's been

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1 involved with this family for, I want to say a number
2 of months, but I'm not sure exactly what she told me.
3 And I advised her that I was going to swing by and talk
4 to Complainant who is the victim in this case. And she
5 said that she also wanted to speak to her, and we just
6 decided to meet at I believe it was on the 24th
7 of September.

8 Q All right. And how does that work when you go to
9 school? They put you in a private room or where does
10 this happen?

11 A We usually use -- in this particular case we used
12 an assistant principal or principal's office. They
13 don't really have a conference room like a lot of
14 schools do, kind of a middle/high school. And middle
15 schools, almost all their space is taken, so we were
16 able to use one of the back rooms. I don't remember
17 the principal's name. I think it was Mr. Powell. We
18 used his office, and we asked them to bring Complainant down
19 to us, and we ended up speaking to her 30, 45 minutes,
20 maybe an hour.

21 Q And would Complainant have had some kind of warning
22 that you were coming, or was this just kind of a pop-in
23 thing?

24 A You know, I'm not sure if I told the personnel
25 over at Pendleton Place if I was going to swing by the

1 school. I usually do so they're not surprised to see
2 the police show up to talk to them. So she may have
3 been told. I just don't remember.

4 Q Okay. All right. And so how did that
5 conversation go? Did -- tell me what you asked her,
6 what you were asking her about, and just kind of her
7 demeanor, those kind of things.

8 A She -- she was kind of difficult that day, I would
9 say. I think that she could be difficult, period. So
10 I was taking everything she was saying with kind of a
11 little bit of a grain of salt, realizing that she, in
12 my opinion, I felt like she was very distrustful of
13 police, maybe because, you know, the police had placed
14 her where she was at. I don't know.

15 MR. STALVEY: Judge, objection. Speculation.

16 MS. HODGE: Okay.

17 THE WITNESS: So we started off just talking
18 about, you know, where she was staying, how's school
19 going. Asked her why she took off, why she left
20 Pendleton Place. I mean, I knew a lot of the personnel
21 over there, and, you know, talked to her about why she
22 was doing the things she was doing. And I explained
23 where I was at in the department, what I did, why I was
24 speaking to her, why I was investigating this incident.
25 And I asked her specifically to tell me about what's

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1 been going on dealing with her stepgrandfather, who she
2 identified as Michael Alexander.

3 Q And did she tell you that she was sexually abused
4 by Mr. Alexander?

5 A She said she was inappropriately touched, and it
6 began when she was about two or so.

7 Q Did she give you many details during this
8 conversation?

9 A No.

10 Q Were you trying to get details?

11 A I was.

12 Q Did that give you cause for concern that she
13 wasn't forthcoming?

14 A Yes. And I think that at the time I did not know
15 her very well, so I didn't realize that she had such a
16 tremendous history, so I may have misperceived her at
17 the time.

18 Q So she was not as forthcoming as you had hoped?

19 A Correct.

20 Q And did you, at some point, terminate the
21 interview, or would you even call it an interview?
22 What would you call that?

23 A Yeah, it was -- I call it an interview, kind of
24 get to know who you're going to be talking to probably
25 more than once. I want her to be able to put a face to

1 a voice. If I call her on the phone or I talk to her
2 mother on the phone, they at least know, you know, who
3 I am and what I do. So it was kind of a
4 get-to-know-each-other kind of interview more than get
5 down to details of what occurred and what's happening
6 and when it happened and all this stuff. After
7 speaking to her, I realized that it's probably not the
8 best thing for, one, a male investigator to interview
9 her about this incident and, two, for, really, the
10 police didn't go into great detail when they
11 interviewed her about this incident. So I asked her if
12 she would be willing to talk to me later or talk to one
13 of my friends later, and she said she was. And I told
14 her, you know, I have a lot of friends at the Julie
15 Valentine Center, would she be willing to go over
16 there, and she said she would. So I set up an
17 interview at the Julie Valentine Center.

18 Q And in the meantime, did you end your talk with
19 her at the school?

20 A I did.

21 Q And was Nell, the guardian ad litem, was she
22 present during y'all's discussion?

23 A She was.

24 Q And what was -- other than Complainant not being as
25 forthcoming, was there any other thing about her

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1 demeanor or how she appeared or acted?

2 A Obviously, she was dressed appropriately. They
3 have school uniforms. She was very emotional by the
4 end of our conversation. That's about all I remember.

5 Q So what was your next step? I guess you're
6 waiting for this interview to happen at Julie
7 Valentine. What's your next step?

8 A Correct. Very next thing I did is I wanted to
9 contact Mr. Alexander and kind of get his side of
10 what's going on and try to contact the grandmother,
11 Nora Alexander, and the mother. They seemed to be the
12 three main players in her life at that time. So I
13 reached out to those particular people.

14 Q All right. And did she tell you where this -- the
15 incidences of sex abuse took place? Did you have
16 incident locations?

17 A She gave me very vague incident locations. Said
18 nothing occurred outside Greenville County. She wasn't
19 sure if some of it may have occurred in the city or in
20 the county or jurisdictional things like that, and I
21 said, you know, that's not an issue with me. An
22 incident that happened in the city, it's all right.
23 It's still Greenville County. We can still keep it
24 right in-house. She did say that things happened in
25 his shops or his garages and at his house where he was

1 currently living.

2 Q Do you recall what the current address was?

3 A Yeah. It was Second Avenue in Greenville.

4 Q Can you see what's marked as State's Number 1 over
5 there? I don't know if you can see it from where
6 you're sitting. Let me put it on the easel. Is that
7 better?

8 A Yes.

9 Q Okay. And is the address you just spoke, is that
10 on our map?

11 A It is. It's marked with a green pin over to the
12 left.

13 Q So that was the residence of whom? Whose house
14 was it?

15 A Mr. and Mrs. Alexander, Nora and Michael.

16 Q Is that where Complainant was living at the time, I
17 guess, that she disclosed the abuse?

18 A Correct.

19 Q So you said you attempted to talk to Nora
20 Alexander, Michael Alexander, and LaQuinta Smith?

21 A Correct.

22 Q Who were you able to speak to first, if anybody?

23 A I spoke to -- I actually went by their house at
24 Second Avenue. I wanted to talk to them in person.
25 It appeared there was somebody home, but nobody came to

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1 the door. So I don't know if they were in the far back
2 rooms or what, but I left a card in the door, asked
3 them to call me back, and I called LaQunita Smith by
4 phone.

5 Q And when you went by the residence and put your
6 card in the Alexanders' residence, did you have an
7 arrest warrant at that time or --

8 A No.

9 Q What was your main purpose at that time?

10 A Just to speak to them in person, get his side of
11 the story. I would never want somebody to accuse me of
12 doing something and the investigator never take the
13 opportunity to go and talk to me, so that was the main
14 purpose.

15 Q So after you leave the card, I think I cut you
16 off. You said someone called you?

17 A Mr. Alexander called me, I believe, the same day.
18 I think it was later that day.

19 Q And tell us about that conversation between you
20 and Mr. Alexander.

21 A He was very agitated over the phone when he spoke
22 to me. His voice tone was up, his rate of speech was
23 up --

24 MR. STALVEY: I'm sorry. Sorry for the
25 interruption. Judge, I have an objection. If I

1 understand his testimony correctly, he said that he's
2 talking to him over the phone, then I would object to
3 him saying he seemed agitated. I mean, if he didn't
4 personally observe that. I understand that, if his tone
5 was agitated. I understand that, but I was not sure
6 what the testimony was, and I just want to make sure if
7 this is something he observed, then that's fine, but I
8 think if it's over the phone, then I think his
9 testimony should be limited.

10 THE COURT: Ms. Hodge.

11 MS. HODGE: Your Honor, I believe there are
12 various tones in people's voices, their pattern of
13 speech, their volume that can lead you to believe they
14 might be agitated.

15 THE COURT: Yes, ma'am. It's overruled, but lay a
16 foundation for it.

17 MS. HODGE: All right.

18 Q Investigator Perry, when you spoke to him, what
19 did you notice about his tone and his volume and his
20 cadence?

21 A Mr. Alexander was speaking very fast, very loud,
22 his tone was going up and down, things of that nature.

23 Q What did that lead you to believe as far as what
24 you could hear on the phone?

25 A Right. According to, you know, experience and

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1 training, it was indicative of somebody who seemed
2 agitated or angry.

3 Q All right. And had you told him why you had put
4 the card there yet, or how did this kind of start?

5 A No. That conversation didn't come up until I let
6 him talk for a few minutes. And then I finally got
7 into why I was on scene or I was at his house, why I
8 wanted to talk to him, things of that nature.

9 Q All right. And what did you tell him as far as
10 why you wanted to talk to him?

11 A I told him that, I mean, straight-up that he was
12 accused of inappropriately touching Complainant and that
13 was the gist of the scenario that I told.

14 Q Did you get into a whole lot of detail about the
15 allegations or just that?

16 A No, I did not.

17 Q All right. And so what did he say when you told
18 him that?

19 A He never denied it. He just started calling her a
20 liar. I think his exact words was, "She's a liar.
21 She's a liar," things of that nature.

22 Q Did he ever flat-out say, "I didn't do that"?

23 A No.

24 Q Did he ask questions back to you?

25 A Oh, yes.

1 Q How did that go?

2 A He was questioning me about her, questioning me
3 about things that were unrelated, questions totally not
4 associated with what I was trying to talk to him about.
5 So it was kind of a task to keep him -- try to keep him
6 focused and back on what we were actually talking
7 about.

8 Q And did you ever ask him flat-out, "Did you
9 inappropriately touch Complainant

10 A That was one of the questions.

11 Q Okay. And did he answer you yes or no?

12 A No. He never said yes or no.

13 Q What would he do? What did he do?

14 A Divert the question, tell me I need to be looking
15 at her, something of this nature. She's bad. She's
16 done all these things, and he would go into a
17 conversation about all the bad things she's done, you
18 know, in her 13 years of existence, you know.

19 Q Were you able to ask him how long he had been in
20 Complainant life or --

21 A I did. I asked him, since that was something that
22 maybe I could corroborate from her statement from him,
23 asked him how long that, you know, he had known Nora,
24 been with Nora, how long he had known Complainant And I
25 think -- I don't think he ever answered the question

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1 about him and Nora's relationship, but he said that he
2 had only known Complainant since she was four or five.

3 Q And is that pretty much the end of the
4 conversation regarding the allegations in the case?

5 A That's correct.

6 Q All right. After ending your conversation with
7 him on the phone, what did you do next?

8 A Went ahead and contacted Julie Valentine Center,
9 set Complainant up for not only a forensic interview, but a
10 medical evaluation. After speaking to the personnel
11 over there, that was one of the things that we decided
12 was probably a good thing to do. And that was set up
13 for October 22nd. And then I think the medical was
14 actually a week or so before that, before the actual
15 forensic interview. Medical came first and then the
16 forensic.

17 Q Is that somewhat standard in child sex abuse
18 cases?

19 A Yes, it is. Even though it may have been a
20 delayed disclosure, there is a possibility, however
21 slight, sometimes that there could be some type of
22 evidence or some type of something the doctors, one of
23 the forensic pediatricians, could detect.

24 Q In your experience in the cases that you have
25 worked regarding child sex abuse, could you ballpark a

1 percentage or a number of cases that had a medical exam
2 that actually had some type of physical evidence?

3 MR. STALVEY: Your Honor, I would object to the
4 question. I don't believe that the foundation has been
5 laid for him to offer this opinion, and I hadn't
6 been -- I mean, I understand he could generally speak
7 to what his experience is as an investigator of these
8 types of cases, but if he's going to get into specific
9 statistics, then I don't think that would be proper.

10 MS. HODGE: No, your Honor. I believe my question
11 was in his experience with his cases, what was his
12 percentage of cases that he investigated where he
13 requested a medical that they actually had medical
14 evidence for him for his case.

15 THE COURT: His case.

16 MR. STALVEY: I don't object to that.

17 THE COURT: Objection withdrawn. Answer the
18 question. Answer the questions.

19 THE WITNESS: In my particular cases, I have not
20 had any come back with some type of physical finding.

21 BY MS. HODGE:

22 Q All right. Were you ever able to talk to Ms. Nora
23 Alexander?

24 A No, I wasn't.

25 Q Had you attempted contact other than by going by

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1 the house that time?

2 A I think I called them back later. I don't know if
3 she answered or he answered, but I ended up talking to
4 them one more time, I think.

5 Q But you never were able to speak with or
6 interview --

7 A Correct.

8 Q When you left your card on the door, was it
9 addressed to both of them or did it ask both of them to
10 contact you, or was it just a plain, old business card
11 in hopes that somebody will call?

12 A I always write on the back of it. I think it said
13 "Please call me, thanks," or something with my phone
14 number.

15 Q How about were you able to talk to Ms. LaQuinta
16 Smith?

17 A Yes. Ms. LaQuinta Smith, I was able to speak to a
18 few times.

19 Q What was your purpose for talking to her and what
20 were the questions you were going to ask her about?

21 A Once again, I kind of wanted to corroborate some
22 of the information that Complainant had said, such as
23 something as simple as, you know, has she ever gone to
24 one of his mechanical shops or his garages. So she was
25 able to -- we were able to sit down and talk, and she

1 actually kind of -- I believe I went on to Google maps
2 to see if she could point out to me approximately where
3 she thought one of the shops might have been and things
4 of this nature. And I was going to -- I actually did,
5 later on, travel by and see if there's anything that
6 says M&M or N&M or whatever was on the one shop, so it
7 was more of an evidence gathering conversation with
8 her.

9 Q In your conversation, were you able to establish
10 that Complainant had, in fact, been living with the
11 Alexanders for various periods of time?

12 A That is correct.

13 Q I think you said you tried to locate a shop or --
14 early on, what were your efforts in that?

15 A There were two. She said one was off Pendleton
16 Street, and the other one, I thought she told me White
17 Horse, but I don't remember exactly. She gave me just
18 a vague description of these places. It wasn't until
19 much later that I fully, physically put her and four
20 kids into my car, all strapped into their car seats,
21 and drove her around that we physically went to spots
22 that she said he did have a garage or a shop at.

23 Q And would one of those locations have been
24 Anderson Road?

25 A That is correct.

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1 Q And that's on the map as well?

2 A Correct.

3 Q And Greene Avenue; is that another shop
4 location?

5 A That's another location, that's correct.

6 Q And then there are two addresses up top. Do you
7 recognize those?

8 A I don't remember the addresses, per se. I
9 remember driving by those residences and Ms. Smith
10 telling me that Mr. Alexander had, like I want to say,
11 you know, like a temporary shelter or temporary
12 covering in the yards of some of those houses that he
13 would work on the cars under to keep them out of the
14 sun and the rain and stuff like this, and she said
15 those houses, he had lived in or rented at one time or
16 used them at one time.

17 Q But there were no actual shops that looked like
18 the Anderson Road and Green Avenue locations?

19 A No. It was more like a residence, and he had one
20 of those \$199 portable carports put up in the backyard
21 that he was working out of.

22 Q All right. And you said that came a little bit
23 later --

24 A Correct.

25 Q -- mapping of that. So let's bring you back to

1 your initial investigation after you talked to
2 Ms. Smith. What was the next thing you did in this
3 case?

4 A I believe after talking to her, we waited for the
5 forensic interview. A forensic interview was about --
6 not quite a month after or maybe a little bit more than
7 a month after, I had received the report. - Julie
8 Valentine Center, we're usually at a two-week delay
9 when we put an intake request for a child to be
10 interviewed. It's usually about two weeks before you
11 can get a child in there. I think some logistical and
12 some other issues were going on, and we had to put this
13 one off a little longer, but I attended the forensic
14 interview and watched through closed circuit TV.

15 Q What is the purpose of the forensic interview, or
16 what is a forensic interview?

17 A It's just a fancy term for friendly way of talking
18 to a child without using specific terms, using the
19 child's terms for body parts, not using leading
20 questions. A forensic interview uses a certain
21 protocol.

22 MR. STALVEY: Judge, may we approach?

23 THE COURT: Yes.

24 (WHEREUPON, a bench conference was held off the
25 record in the presence of the jury, but out of the

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1 hearing of the jury.)

2 BY MS. HODGE:

3 Q All right. Investigator Perry, as you were going
4 to describe, forensic interviewers are just actually
5 regular people, can I say that?

6 A Correct. They're not police officers. They can
7 be, I mean.

8 Q At the Julie Valentine Center?

9 A Correct.

10 Q They are not employed as police officers?

11 A They're civilians, third-party civilians.

12 Q And it's just a community partner agency; is that
13 correct?

14 A That is correct.

15 Q The interviewers have training in how to speak to
16 children; would that be correct?

17 A That is correct.

18 Q And they are to use nonleading questions with the
19 children?

20 A Correct.

21 Q Child friendly terminology; is that correct?

22 A Correct.

23 Q And is their location more -- when I say

24 "location," I mean the actual interview room and the

25 center. It's more child friendly than, say, the police

1 department or DSS offices?

2 A Definitely.

3 Q And is part of the purpose so that the child does
4 not have to give multiple interviews to all of the
5 investigating parties?

6 A Correct.

7 Q Okay. So when you say you have sent the child
8 over for a forensic interview, that's what you're
9 doing?

10 A Yes, ma'am.

11 Q Okay. And that interviewer is attempting to get
12 as much detail as possible from the child; is that
13 correct?

14 A Correct.

15 Q And once that happens, do you think you need to go
16 back and interview a child, or do you let that
17 generally stand?

18 A It's rare, if ever, we go back and do a secondary
19 interview unless there's new information come out such
20 as one child saying something to another child or
21 whatever, so we may go back and talk to them about a
22 new scenario. But for that particular scenario with
23 us, the initial forensic is done. Their conversation
24 kind of stops there. Their interviewing stops there.

25 Q And you're allowed to watch the interview as it is

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1 happening; is that correct?

2 A That is correct.

3 Q And if you had questions, are you allowed to send
4 them in to the interviewer to let the interviewer ask?

5 A Part of the Julie Valentine Center is they will
6 take a break almost at the very end of the interview,
7 and during that break is when I'll catch them in the
8 hallway, and if I have a list of something that I need
9 them to talk about in a little bit more detail, or, "Go
10 back to this particular area," or, "I missed something
11 here, I'm confused, I didn't understand what she said,"
12 then the interviewer will take that and go back in and
13 speak to the child.

14 Q Okay. So you did observe this forensic interview
15 in October of 2012?

16 A That is correct.

17 Q After reviewing that, and are you provided a
18 couple of -- a copy of the medical exam also by --

19 A I am.

20 Q Okay. And you reviewed that as well?

21 A I did.

22 Q And what did you do after reviewing those two
23 things?

24 A I think -- I think contact was tried again with
25 Mr. Alexander. And I can't remember any other contact

1 that was attempted with him or Nora. I think I talked
2 to the mom a few more times, but eventually we ended up
3 speaking with the solicitor's office and placing him
4 under arrest eventually for some active warrants that
5 we signed.

6 Q And what warrants did you seek against the
7 defendant?

8 A Well, the way she describes, she described a
9 continuing -- continual cycle of, you know, sexual
10 abuse that occurred basically in around the age of two
11 or three all the way up until, you know, the week
12 before she ran away. It would be almost impossible to
13 go back and try to determine specific dates or times or
14 locations, so the two main ones that stuck out that she
15 gave me, in my opinion, the most detail about was an
16 incident that happened at one of his garages where he
17 had sexual intercourse with her and then another
18 incident that happened at Second Avenue where she
19 had sexual intercourse. So on those two particular
20 incidents, he's charged with criminal sexual conduct
21 second degree. And then for the incidents that kind of
22 dealt with him inappropriately touching her over, you
23 know, a number of years, he was charged with something
24 called lewd act with a minor, and it kind of just
25 encompassed that whole time frame.

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1 Q And when was the defendant actually arrested? Do
2 you know that date?

3 A I don't know the exact date. I know it was in
4 2012, but I don't know the exact date.

5 Q All right. And after he was arrested, did you
6 have any more pieces of your investigation to do?

7 A Not at that time. I would eventually later talk
8 to the mother, and like I said, her and her children,
9 put them in my car and drove them around and tried to
10 better define the garages that Complainant had spoken about.

11 Q All right. And at some point later on, did Complainant
12 want to come back and talk to law enforcement again?

13 A She did.

14 Q And when was that?

15 A That was this year, first part of this year, she
16 wanted to come back and speak to law enforcement again.
17 And she spoke to one of my partners, who I work with on
18 a fairly regular basis.

19 Q And who was that officer?

20 A Investigator --

21 MR. STALVEY: Judge, I have an objection. May we
22 approach?

23 THE COURT: Yes, sir.

24 (WHEREUPON, a bench conference was held off the
25 record in the presence of the jury, but out of the

1 hearing of the jury.)

2 BY MS. HODGE:

3 Q All right. So earlier this year, Complainant wanted to
4 come back and speak with law enforcement again?

5 A That's correct.

6 Q And was it a female officer that you put her in
7 touch with that she could talk to about this?

8 A That is correct.

9 Q Okay. After she spoke to that officer and you
10 drove Ms. Smith to these various locations -- did you
11 snap -- take these photographs that are State's Number
12 2 through, I believe it's 7 -- excuse me, 2 through 8?

13 A That is correct.

14 Q Okay. Did that end your involvement in
15 investigating this case?

16 A It did.

17 Q All right. Thank you. Please answer any of
18 Mr. Stalvey's questions.

19 MR. STALVEY: Thank you, your Honor.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. STALVEY:

23 Q Investigator Perry, I'm going to show you and --
24 I'm going to show you a copy of your September 19,
25 2012, report. And this is the only copy I've got, so

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Robert Perry - Cross by Mr. Stalvey

1 if you don't mind, I'm going to stand up here next to
2 you.

3 A Certainly.

4 Q Let me first ask you, this was the first time that
5 you spoke to Complainant about the allegations against
6 Mr. Alexander, correct?

7 A Was this at the school?

8 Q Yes, sir.

9 A Yes, that is correct.

10 Q And this report reflects your notes from that
11 conversation, correct?

12 A That is correct.

13 Q And would you say that she provided direct answers
14 to your questions?

15 A No.

16 Q Would you say that she provided specific answers
17 to your questions?

18 A No.

19 Q Would you say that she -- well, I'll ask you, did
20 you -- well, would you say that she made sense when she
21 provided responses to your questions? If you need to
22 refresh your recollection, please refer to --

23 A I don't think so. I think she was kind of all
24 over the place, almost like a flighty 13-year-old or
25 something.

1 Q But would you say she did not make sense when she
2 was answering your questions?

3 A That is correct.

4 Q Okay. Would you say that she contradicted her
5 story when she was answering your questions?

6 A It depends. We talked about several stories, her
7 running away story, her physical abuse, sexual abuse.
8 Are you talking about with Mr. Alexander?

9 Q I'm talking about when you met with her on --

10 A The 19th.

11 Q On the 19th, did you find that she contradicted
12 her story? Or did she contradict anything that she
13 told you?

14 A Yeah. I think she -- she had issues with the
15 running away portion, like why she ran away and things
16 of that nature. She gave me such little amount of
17 information on the actual -- the allegation I was
18 there, that I don't think she contradicted herself
19 there.

20 Q But there were some contradictions as to why she
21 ran away?

22 A Oh, yeah.

23 Q This same day when you met with her, did you talk
24 to her about behaving at Pendleton Place?

25 A You know, I actually heard that testimony earlier,

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Robert Perry - Cross by Mr. Stalvey

1 and I don't recall that conversation, but I mean, it's
2 possible.

3 Q Let me, sir, just direct you to paragraph five,
4 the last line or sentence of paragraph five. Does that
5 refresh your recollection?

6 A No.

7 Q It doesn't? Okay. Did you tell her she needed to
8 stay at Pendleton Place?

9 A Yes.

10 Q Did she agree to stay at Pendleton Place?

11 A Well, I think that conversation, she wanted to go
12 somewhere else. And I said, "No. Right now you're not
13 going with me, you're not going with Ms. Stewart, and
14 you're not going with DSS. You need to stay at
15 Pendleton Place." I think that's the context of that
16 particular statement.

17 Q Sure. But she told you she would stay at
18 Pendleton Place?

19 A Oh, yeah.

20 Q And was one of the reasons you said, "You need to
21 stay at Pendleton Place," is because you knew that she
22 had already run away from Pendleton Place before you
23 got there?

24 A And I figured she'd be probably ready to run away
25 again.

1 Q And did she?

2 A She did.

3 Q And was Nell Stewart in this meeting with you and
4 Complainant

5 A Yes. Yes, sir.

6 Q And did she assure Nell Stewart that she was going
7 to stay at Pendleton Place?

8 A I don't recall. I mean, it's been a few years.
9 They spoke very little. I don't remember speaking to
10 her an awful lot, so it's possible.

11 Q Investigator Perry, when you -- do you ever
12 remember using -- I'm going to withdraw that.

13 You were there for the Julie Valentine Center
14 interview after Complainant made the allegations, correct?

15 A That is correct.

16 Q And Complainant spoke about where these things -- she
17 said where they happened, correct?

18 A Correct.

19 Q And she provided some detail. As far as you know,
20 one incident happened on a couch; is that correct?

21 A Yes.

22 Q Okay. And she was pretty specific in the details
23 of the couch, correct? Do you remember she told you
24 what color it was and where it was?

25 A Yeah. I think she did describe the couch.

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Robert Perry - Cross by Mr. Stalvey

1 Q And you went -- this was back in 2012 when she had
2 the interview, correct?

3 A Yes, sir.

4 Q And was there ever a search warrant executed at
5 any of the locations where she says this abuse took
6 place?

7 A No, sir.

8 Q So there's no search for any kind of DNA that may
9 be at any of these locations?

10 A For like the actual crime DNA or -- I'm not sure.

11 Q I'm thinking if she said that she had intercourse
12 with him on a specific-colored couch, did anybody go
13 and try to get a DNA sample from an orange-colored
14 couch from the sheriff's office?

15 A No.

16 Q Did -- you heard her give these statements that
17 she had written to her grandmother and then she
18 couldn't give them to her grandmother for some reason.
19 You were in here during that testimony, correct?

20 A Correct.

21 Q Was a search ever done of Complainant room at the
22 Alexanders' to see if there were any notes or anything
23 like that?

24 A I don't remember her telling me about the letters.

25 Q I understand that, but you were in here for the

1 previous --

2 A Yes.

3 Q You heard her say that?

4 A Yes.

5 Q I'm assuming you didn't do a search warrant for
6 the house?

7 A Correct.

8 Q Are you aware of anybody in the sheriff's office
9 doing a search warrant for the house --

10 A Not that I know of.

11 Q -- trying to find anything like that? Did you
12 ever interview or -- well, did you ever interview any
13 of -- did you ever interview somebody named Diamond?

14 A No.

15 Q Did you ever interview -- do you know if anybody
16 in the sheriff's office ever interviewed somebody named
17 Diamond that she supposedly talked to?

18 A Not that I know of.

19 Q And she gave Diamond's last name today, correct?

20 A Yeah. I think that's the first time I've ever
21 heard her full name.

22 Q But she did at one point say, "It was somebody
23 named Diamond that I went to Middle School
24 with," correct?

25 A Today or previous?

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Robert Perry - Cross by Mr. Stalvey

1 Q Based on your investigation of the case, were you
2 aware that she had --

3 A I don't remember. I thought she told me that she
4 had said something to one of her little friends when
5 she was like seven or eight years old. I don't
6 remember her giving me the child's full name or
7 actually going into detail about what she said occurred
8 to her at that time, so I didn't -- I don't think I saw
9 the need to go back and try to hunt down this child,
10 you know, from five years prior to try to ask her about
11 something that was said in the playground or something.

12 Q I understand that. But that was Diamond, correct?

13 A Well --

14 Q I mean what she told you. She gave you the first
15 name Diamond, correct?

16 A That's what I gathered.

17 Q You became aware of these allegations in
18 September of 2012, correct?

19 A Yes, sir.

20 Q And you understand that -- you were involved in
21 DSS's investigation of the case? Did you have any
22 contact with DSS while this was going on?

23 A Oh, yeah, throughout the case.

24 Q Did -- do you recall being sent a subpoena for the
25 final DSS hearing in the case?

1 A No, I don't remember -- I saw you give Complainant a
2 transcript or something of the hearing. I was trying
3 to wrack my mind thinking if I was there or not. I
4 don't remember if I was there or not. I've gone to so
5 many over the years, I don't remember.

6 Q Well, let me ask you do, you remember going to
7 that DSS hearing?

8 A I don't. I don't remember at all.

9 Q Do you remember ever testifying about this case
10 before?

11 A No. I hate to say it, I don't.

12 Q Do you -- do you remember who the lawyer was for
13 DSS during the final hearing?

14 A I have no clue. Sorry.

15 Q No. That's fine. Did you ever do any kind of
16 business record search to establish when
17 Mr. Alexander's shop was open?

18 A Yeah. I actually contacted our economic crimes
19 guys because they're a little bit more computer savvy
20 in that particular area. They directed me back to a
21 bunch of different resources including a bunch of old
22 phone books. I did go through a bunch of old phone
23 books back through the years and some computer
24 searches. We weren't able to locate a business by that
25 name.

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Robert Perry - Cross by Mr. Stalvey

1 Q Investigator Perry, do you have, as part of your
2 investigation, were you ever made aware of a fire at
3 551 North 6th Street that occurred in 2008?

4 A Seems to me when I was talking to someone, it may
5 have been Mr. Alexander, that there were several
6 incidents that were told to me kind of in quick
7 succession, and one of them dealt with some type of
8 fire, but I don't remember a whole lot of details about
9 it.

10 Q Okay. Did you do any kind of follow-up
11 investigation on that?

12 A No.

13 MR. STALVEY: I don't have any further questions.

14 THE COURT: Anything from the State?

15 MS. HODGE: Nothing further from the State.

16 THE COURT: Officer, you may step down. Please be
17 careful.

18 MS. HODGE: May we approach briefly?

19 THE COURT: Yes, ma'am.

20 (WHEREUPON, a bench conference was held off the
21 record in the presence of the jury, but out of the
22 hearing of the jury.)

23 THE COURT: Mr. Foreman, ladies and gentlemen of
24 the jury, we're going to send you out for just a few
25 moments. I've got something I've got to take up with

1 the lawyers. But to try to keep from shuffling back
2 and forth, we may just combine this with our little
3 afternoon break anyway. I don't think it will take
4 very long to do what I've got to do here, but I don't
5 want you to go out and then four minutes later I'm
6 bringing you back in, and then it's going to be after
7 that person testifies, it would be time for a break, so
8 let's just do it all at one time.

9 Don't talk about the case whatsoever. It's not
10 time to do that. If you need some more coffee, they
11 will make some. If you need whatever it is you need,
12 snack or whatever, but let Mr. Bailiff know and he'll
13 accommodate you with that.

14 Mr. Foreman, if you will take your jury out.

15 (WHEREUPON, the jury exited open court at
16 3:23 p.m.)

17 THE COURT: Okay. So Ms. Stewart is on her way
18 in.

19 MS. HODGE: Yes, your Honor.

20 MR. STALVEY: Judge, Sharon Wegner was one of the
21 earlier witnesses. I do not need her to testify. I
22 told her that she was released from my subpoena.

23 THE COURT: Have you already told her?

24 MR. STALVEY: I told her.

25 THE COURT: All right. So she's released.

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Nell Stewart - Voir Dire by Ms. Patterson

1 MS. PATTERSON: Judge, would you like her to go
2 ahead and get on the stand?

3 (Ms. Stewart took the stand.)

4 MS. PATTERSON: Thank you, your Honor.

5 VOIR DIRE EXAMINATION

6 BY MS. PATTERSON:

7 Q Ms. Stewart, can you please state your name for
8 the record.

9 A Nell Watson Stewart.

10 Q And do you know the victim in this case, Complainant
11 ?

12 A Yes, I do.

13 Q And in what capacity do you know her?

14 A I was appointed volunteer guardian ad litem in her
15 case when it first came into DSS care in April of 2012.

16 Q And are there certain confidentiality concerns
17 that you have as her guardian?

18 A Yes, there are. I'm not allowed to give any
19 information about it without being ordered to do so by
20 the judge.

21 Q Okay.

22 MS. PATTERSON: Your Honor, at this time the State
23 would request that you order Ms. Stewart, who is under
24 subpoena, to testify in this case.

25 MR. STALVEY: Judge, no objection. I've got her

1 under subpoena. Join in the motion.

2 THE COURT: Okay. Ms. Stewart, the Court is now
3 ordering you to testify in this case.

4 THE WITNESS: Sure.

5 THE COURT: Yes, ma'am.

6 MS. PATTERSON: Thank you, your Honor.

7 THE COURT: We're going to take a break here. So
8 we have got the jury out, we're going to take a break,
9 and then we'll bring you right back to the stand.

10 THE WITNESS: Do I have to move?

11 THE COURT: You don't have to. We're going to
12 take a break. If you want to sit right there, you're
13 welcome to. Sure.

14 Let's take about 15 minutes.

15 (WHEREUPON, a recess was taken from 3:26 p.m.
16 to 3:54 p.m.)

17 THE COURT: Ready for the jury.

18 (WHEREUPON, the jury entered open court at
19 3:57 p.m.)

20 THE COURT: Any matters for the jury, Mr. Foreman?

21 JURY FOREMAN: We're ready.

22 THE COURT: Will you swear this witness.

23 NELL STEWART,

24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

25 THE COURT: Ma'am, tell us your name and spell

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Nell Stewart - Direct by Ms. Patterson

1 your last name for my court reporter, please.

2 THE WITNESS: My name is Nell Watson Stewart,
3 S-t-e-w-a-r-t.

4 THE COURT: All right, Ms. Stewart.

5 Yes, ma'am.

6 MS. PATTERSON: Thank you, your Honor.

7 DIRECT EXAMINATION

8 BY MS. PATTERSON:

9 Q Ms. Stewart, do you work right now?

10 A Pardon?

11 Q Do you work?

12 A I did work. I'm retired now. I retired as public
13 and government affairs manager for the subsidiary of
14 the Dow Chemical Company.

15 Q And in your retirement, do you volunteer in some
16 capacity?

17 A I do. I volunteer in a lot of capacities.

18 Q Do you volunteer with the guardian ad litem
19 program?

20 A Yes, I do.

21 Q Can you tell the jury a bit about what that
22 program is?

23 A That program is to represent children who have
24 been abused or neglected, to be the voice of those
25 children in the family court proceedings.

1 Q And how long have you been a guardian ad litem?

2 A In January, it will be 26 years.

3 Q About how many children have you represented?

4 A I have no idea. I wish I had kept a record over
5 the years, but probably at least a thousand.

6 Q And what duties are involved in being a guardian
7 and being that voice?

8 A The first thing that I do is look at the parents
9 and see what I can find out about the parents and then
10 look at the court records as to why they were brought
11 into -- why the children were brought into the system.
12 And then meet with the children, talk to the parents,
13 talk to anybody else who has been involved, has any
14 knowledge of how the parents have done with their
15 parenting of these children to see what I believe to be
16 the situation with the children, whether the parents
17 have something that they can correct right away or
18 whether it cannot be corrected, the children need to be
19 removed, whatever I think is best for the children. I
20 also am required by the state to ask the children
21 where they want to live.

22 Q And who do you report that information to?

23 A The court.

24 Q And which court?

25 A Family court.

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Nell Stewart - Direct by Ms. Patterson

1 Q And what agencies do you work with throughout your
2 investigation?

3 A I work with the Department of Social Services.
4 They have responsibility in the case, the same as I do,
5 looking to see whether it's appropriate to return those
6 children to the home or to take them out temporarily or
7 to keep them away from the parents forever. And we
8 work with other agencies as needed, whether it's mental
9 health or social activities, whatever it may be that
10 the children need.

11 Q And were you appointed a guardian for the victim
12 in this case, Complainant ?

13 A Yes.. Yes, I was.

14 Q And when were you appointed her guardian?

15 A As best I recall, let me make this statement.
16 When my case closes, I have to destroy my records, so
17 my memory is what has to take effect here. But it's --
18 best as I recall, it was April of 2012. And I think
19 it's close to that. If it wasn't April, it was May,
20 but I think it was April.

21 Q And what was the situation that caused you to be
22 brought into Complainant life?

23 A The situation was that this child had been abused
24 by her mother. And the report that came to me when I
25 took the case was there was a specific situation where

1 the mother came home and found the child in the
2 bathroom with a young boy who was a little bit younger
3 than she was. There was a verbal and physical battle
4 of sorts that ensued, and it spilled over into the
5 street. And the mother was being violent, physically
6 violent, with the child in the street, pulled her hair,
7 pulled her down the street, stepped on her hand, caused
8 some severe damage to her hand, and in the process,
9 these pseudo grandparents were called and the police
10 were called, and the child was taken to the hospital.
11 And then I entered the picture at that point.

12 Q And so once you entered picture, you began
13 conducting an investigation into Complainant mother?

14 A I looked at Complainant mother. I looked at the
15 other children. There were five younger sisters in the
16 home. Looked at if there had been any previous contact
17 with the Department of Social Services. There had
18 been. I didn't get all the details of why there had
19 been, but the children had been out of the home
20 previously. And I looked into the background of the
21 mother, what people that she came into contact with
22 work-wise, et cetera, knew about the family situation,
23 whether she had a criminal record, all of those kinds
24 of things about the mother, and found that Complainant was
25 pretty much a glorified, I guess is the right word,

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1 babysitter for her sisters while the mother was out of
2 the home. And to my knowledge she did not have a
3 regular well-paying -- regular paying job at that time.
4 She was out, according to the words I heard most often,
5 partying.

6 Q So based upon your investigation, did you conclude
7 that Complainant mother was providing a stable environment
8 for her?

9 A At that time, no.

10 Q And after the incident with her mother, did you
11 determine whether or not you -- what was your
12 recommendation as to where Complainant lived?

13 A That Complainant be permanently removed from the home.
14 And when I got in the case, she was in a foster home, a
15 group home, rather. And that Complainant be permanently
16 removed from that home because I found no real reason
17 that it would be to her benefit for her to go back
18 home.

19 Q And during the course of your investigation, did
20 you meet with Complainant and discuss with her where she
21 would like to live?

22 A Yes, I did.

23 Q And where did she tell you she would like to live?

24 A I met with her several times, and every time I met
25 with her, she pled to me to let her go live with

1 this -- the people she called her grandparents.

2 Q And what were those people's names?

3 A Nora and Rodney Alexander.

4 Q And did you approve of that placement?

5 A After visiting with them, I did. And it was
6 interesting because Complainant gave me a lot of details
7 about how they treated her. And when I visited with
8 them, they gave me the same kind of details as to how
9 they treated her.

10 Q So you did an investigation into Mr. and
11 Mrs. Alexander's home?

12 A Yes, I did.

13 Q And that included meeting with them?

14 A Yes.

15 Q And so you met with the defendant in this case?

16 A Yes.

17 Q Did he talk to you about his employment history?

18 A Yes, he did.

19 Q And what was that history?

20 A He said he was an automobile mechanic, and best of
21 my knowledge, my memory, he had two shops at that time.
22 One I believe was on Augusta Road, and one was -- I
23 don't remember the name of the street, but it was
24 pretty much behind where he lived over in the Judson
25 Community area.

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1 Q When you say at that time, when were you meeting
2 with the Alexanders?

3 A Pardon?

4 Q When were you meeting with the Alexanders, about
5 what date?

6 A August or September of 2012.

7 Q And so at that time Mr. Alexander informed you
8 that he was currently employed as a mechanic?

9 A It may have been a few months earlier than that.
10 I'm thinking about the time other incidents happened.
11 But it was May or June at the earliest of that time.
12 During that time frame is when I met with them.

13 Q So in May or June of 2012, Mr. Alexander told you
14 that he was currently employed as a mechanic?

15 A That's what I understand from him.

16 Q And you also spoke with Ms. Alexander and
17 determined, based on those interviews, that the
18 grandparents would be a stable home for Complainant

19 A Yes.

20 Q Did you receive a phone call that the police had
21 been called on September 14th of 2012?

22 A I believe it was September the 14th. I looked
23 back at my calendar to update my thinking on this, and
24 I did receive a call one evening from Nora. And we had
25 visited many times before that. But I received a call

1 from Nora saying that Complainant had run away, and in that
2 call, she was telling me about problems she was having
3 in school. And I think she had been expelled or
4 suspended from school a day or two at that particular
5 time, and that she had run away. And as best I
6 remember, it was somewhere between 7:00 and 8 o'clock
7 in the evening.

8 Q And Nora was the one who called you?

9 A Nora was the one who called me.

10 Q So had you maintained fairly constant contact
11 throughout this period from, you said about May to
12 September?

13 A Yes, definitely.

14 Q And during those conversations, did you get the
15 impression from the Alexanders that they were having
16 trouble with Complainant

17 A Nothing of any real significance. She was getting
18 into some trouble at school, which she had done prior
19 to my becoming involved in the case and having some
20 difficulties in the school system. And nothing that
21 created severe circumstances until that night when she
22 told me that she had gotten in trouble in school that
23 day or the day before.

24 Q And had they ever indicated during that period of
25 time that they did not want Complainant in the home?

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1 A None whatsoever. They describe -- she -- Complainant
2 described the discipline they gave her, and Nora
3 described it to me, and it was exactly the same kind of
4 discipline, the type that I would certainly approve of.

5 Q So going back to September 14th of 2012, you
6 received a call from Nora. Can you describe exactly
7 what you discovered during the course of that call?

8 A When she told me she had run away, she said that
9 she was being disciplined because of what had happened
10 at school and that she had sent her to her room, and
11 she broke the window out of her room and ran away.
12 Well, I have lots of contacts with law enforcement, so
13 the first -- she had already called law enforcement.
14 And I called some people I knew that were on duty that
15 night to help see if we could find her before something
16 happened to her, and I was in constant contact for
17 several hours with Nora and the law enforcement back
18 and forth to see where we were, what was happening.

19 Q And did you find out during those phone calls why
20 Complainant had run away?

21 A The only thing I knew was the discipline because
22 of what had happened in school at that time.

23 Q So Nora did not tell you that she had --

24 MR. STALVEY: Objection, your Honor. Hearsay.

25 MS. PATTERSON: I'll rephrase, Judge.

1 BY MS. PATTERSON:

2 Q At any time during the conversations, did you
3 discover sexual abuse allegations?

4 A Not with Nora. I discovered it later in the
5 evening, but not with Nora.

6 Q After you received the phone call on
7 September 14th, what happened to Complainant

8 A After speaking with Nora for some time, I got a
9 call from law enforcement that they had located her,
10 and she did not want to go back home. And at that
11 point was when I learned that she was saying to the law
12 enforcement people that there had been sexual abuse,
13 and the law enforcement people had already, when they
14 called me, they had already called the Department of
15 Social Services, and someone came to take custody of
16 her. And after that -- during that night, after
17 talking with the social worker, we agreed that she
18 should not go back there, she should go back to a group
19 home where she had been previously.

20 Q So when you say she did not want to go back home,
21 you mean that she did not want to go back?

22 A To the grandparents.

23 Q Thank you. So after Complainant was taken by the
24 social worker, where was she placed?

25 A At a group home here in Greenville.

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1 Q And how did that go?

2 A Not well. She did not want to be there at all,
3 and she ran away twice. The first time was a few days
4 after I had talked to her and she told me some places
5 she wants to live. And I said, "You have to give me
6 time to research this and see if that's an appropriate
7 place for you," then she ran away. And then a few days
8 later, I was talking with her about 6:00 or 7 o'clock
9 in the afternoon, early evening, and she said she
10 wanted to live somewhere else. And I said, "We talked
11 about that. We've got to have some time." And she
12 promised me she would stay where she was and be fine,
13 and within 30 minutes she had run away again.

14 Q So did your involvement with Complainant continue past
15 the week of the disclosure the initial week?

16 A I'm sorry?

17 Q How long after September 14th did you remain
18 involved with Complainant

19 A How long after that did I remain involved? For
20 years. I don't remember exactly when the case closed,
21 but until it closed, which was in, I guess, within the
22 last year.

23 Q And did you ever go and speak with Complainant about
24 the allegations she had made?

25 A Oh, yes.

1 Q And where and when did you do that?

2 A Many times. Immediately after she revealed that
3 information when she had run away, when she got back to
4 the group home, I visited with her there within a day
5 of the time she had gotten found and replaced in that
6 home, and she talked about it then. We talked about it
7 the whole time she was in the group home. We talked
8 about it off and on for a long period of time after the
9 running away and until the case was closed -- was
10 brought to trial in family court.

11 Q And did you go with Investigator Perry to meet
12 with Complainant at

13 A Yes, I did. After he was assigned to the case, we
14 went to the school to meet with her.

15 Q And what was her demeanor during that interview?

16 A What was her?

17 Q Her demeanor.

18 A She -- she's a very bright girl, and she has ways
19 of saying things that you can understand where she's
20 coming from, but you realize she thinks she is more
21 mature and more knowledgeable about what's best for her
22 than anybody else does. And that was her demeanor at
23 that point in time, that she wanted to live somewhere
24 else. She did not want to live with her grandparents
25 anymore. And she did not want to live with her mother.

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1 Q So over the course of these meetings that you had
2 with Complainant did she disclose sexual abuse to you?

3 A Yes.

4 Q And when and where did she say that abuse took
5 place?

6 A She said it had been occurring since she was about
7 two years old and that it had occurred in various
8 places. Most of the time in the grandparents' home.
9 And let me qualify that by saying these are not her
10 biological grandparents, but she thought of them as
11 grandparents, and they treated her, to begin with, as
12 if she were. She said it happened in the home, and it
13 happened in his shop more than once.

14 Q And you mentioned when she went to Pendleton
15 Place, the group home in Greenville, that that did not
16 go well. In your experience in 25 years as a guardian,
17 is it typical for a child not to do well in a group
18 home?

19 A It depends on the child most of the time. Depends
20 on the group home. But in the 25-plus years that I've
21 been doing this, as I said earlier, I have to ask the
22 child where they want to live. And until last year I
23 had never had a child tell me they didn't want to go
24 back home no matter how bad the abuse was.

25 Q So you have never had a child say they wanted to

1 enter foster care or a group home?

2 A No.

3 MS. PATTERSON: Please answer any questions
4 Mr. Stalvey may have for you.

5 THE WITNESS: Thank you.

6 THE COURT: Yes, sir.

7 MR. STALVEY: Thank you, your Honor.

8 CROSS-EXAMINATION

9 BY MR. STALVEY:

10 Q Ms. Stewart, I'm going to show you, and I don't
11 know if you remember or not, but I'm going to show you
12 the April 2nd, 2014, guardian ad litem report. I'm
13 going to direct you to page 2 of that. I'm going to
14 ask you a question about -- I need to refresh my
15 recollection.

16 A All right.

17 Q I'm going to ask you about some information that's
18 on paragraph or in paragraph 5 of page 2. Do you
19 remember meeting with Complainant -- do you refer to her as
20 Complainant or Complainant?

21 A Complainant

22 Q Okay. Do you remember meeting with her at some
23 point and talking to her about a park that was close to
24 her?

25 A Yes. Very clearly I remember that because at that

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1 time, I had a law enforcement officer with me to help
2 me physically in and out of the house. And both
3 grandparents were present, and the law enforcement
4 officer was there. And she was giving a normal
5 complaint as a teenager would do about being -- the
6 people being too strict on her. They were not letting
7 her do things she really wanted to do and thought she
8 should be able to do, and one of those things was going
9 to a nearby park. And the minute she said the name of
10 that park, the law enforcement officer came to
11 attention and so did I, and we said, "They're right.
12 You do not need to go to that park. There are too many
13 things that happen there that are not good for you, and
14 you should not be resentful of their being objective to
15 that because they're looking out for your best
16 interest."

17 Q And did you testify -- do you remember testifying
18 at the DSS -- previous DSS hearing in this case? I'm
19 sorry. That's a bad question.

20 A I was in all the hearings.

21 Q I understand that, and I know there have been
22 several hearings and several cases involving this
23 situation. Let's see. I'm going to show you -- do you
24 remember a July 25th, 2013, final hearing that involved
25 these allegations against Mr. Alexander?

1 A Yes.

2 Q And do you remember who the attorney for DSS was?

3 A Not right off the top of my head. Looking at
4 this, yes, Rosemary Mann.

5 Q And Rosemary is a female, correct?

6 A Right.

7 Q Thank you.

8 MR. STALVEY: I don't have any further questions,
9 Judge.

10 THE COURT: Okay. Anything?

11 MS. PATTERSON: Just one quick question, your
12 Honor.

13 THE COURT: Okay.

14 REDIRECT EXAMINATION

15 BY MS. PATTERSON:

16 Q Ms. Stewart, with the incident with the park or
17 any other disciplinary matters, did you ever get the
18 sense from Complainant that she wanted to live elsewhere
19 from her grandparents 'house until the allegations of
20 sexual abuse were made?

21 A No. The only thing was that she objected to some
22 of the things they would not let her do, but she never
23 said that she wanted to be taken away from there,
24 never. And she was so sold on being there, that in the
25 beginning I was shocked at the charges she made, but

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1 after talking with her numbers of times, she was always
2 consistent in what she said about the charges as well
3 as consistent in saying how they treated her when she
4 was there, so it was confusing to begin with.

5 MS. PATTERSON: Thank you.

6 THE COURT: Anything?

7 MR. STALVEY: No, sir, your Honor.

8 THE COURT: Ma'am, you may step down.

9 MS. PATTERSON: Your Honor, may this witness be
10 released from her subpoena?

11 MR. STALVEY: Judge, no objection to her being
12 released. I had her under subpoena as well, and she's
13 released from mine.

14 THE COURT: Ma'am, you may stay or go, whichever
15 you choose.

16 Yes, ma'am.

17 MS. HODGE: Your Honor, I believe the next witness
18 is going to require an in-camera hearing before she can
19 testify.

20 THE COURT: Yes. Okay.

21 Mr. Foreman, ladies and gentlemen of the jury, the
22 next witness, before that person can testify, I need to
23 take up some legal matters before she testifies.
24 Having said that, it is 4:15 in the afternoon. I'm
25 advised by the lawyers that this process will take

1 roughly an hour; therefore, there is no reason for the
2 12 of you to sit back here in this room until 5:15 and
3 then be released at 5:30 or 5:20. That just makes
4 absolutely no sense whatsoever. So we're not going to
5 do that. We're going to release you for the evening.
6 We're going to continue to work. This is an open
7 courtroom in the United States, and certainly in South
8 Carolina, but because you're on the jury, I'm going to
9 ask you not to come into the courtroom during this
10 process because it would not be proper for you to be
11 here. Now, other people can come and go. We have an
12 open courtroom, but I can't allow you to be here.

13 I'll remind you not to discuss the case with
14 anyone at this point. The case has not ended. We have
15 another day tomorrow and maybe another day, I don't
16 know. It just depends on how many witnesses come up,
17 but nonetheless, certainly we will be back tomorrow.
18 We're going to take the bench at 9:00 in the morning.
19 I'm going to ask you to be here five minutes 'til,
20 seven minutes 'til, something of that nature. Again,
21 they will have hot coffee for you. We can have the
22 snacks already there for you, if you like something
23 first thing in the morning, and whatever we can do to
24 accommodate you, happy to do so. With that, please,
25 again, I charge you with all sincerity, do not discuss

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1 the case with anyone. It's not at an end.

2 And with that, Mr. Foreman, if you will take your
3 jury out. We're going to continue to work. See you in
4 the morning.

5 (WHEREUPON, the jury exited open court at
6 4:21 p.m.)

7 THE COURT: Okay. The jury is out.
8 Solicitor.

9 MS. HODGE: Your Honor, we call Erica Van Wagner.

10 ERICA VAN WAGNER,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE COURT: Ma'am, tell us your full name and
13 spell your last name for the my court reporter, please.

14 THE WITNESS: It's Erica Van Wagner, V-a-n,
15 W-a-g-n-e-r.

16 THE COURT: Thank you.
17 Solicitor.

18 MS. HODGE: Thank you.

19 VOIR DIRE EXAMINATION

20 BY MS. HODGE:

21 Q Ms. Van Wagner, what is your current occupation or
22 employment?

23 A I am a mental health therapist and work at the
24 Greenville Mental Health Center.

25 Q How long have you been a mental health therapist?

1 A For 15 years.

2 Q Tell me about your educational background and then
3 work experience that have led you up until today.

4 A I have a bachelor's degree in social work from
5 1999, and in 2002 I got a master's degree in social
6 work. Then I am a licensed master social worker as
7 well since 2007 in the state of South Carolina. I've
8 been employed with the Department of Mental Health
9 since the year 2000, and 2007 I transferred from
10 Columbia to Greenville mental health.

11 Q All right. And tell me what type of clients do
12 you see through Greenville mental health.

13 A I supervise our DSS program, so I work primarily
14 with clients that are involved with DSS due to some
15 sort of abuse or neglect. I specialize in the
16 treatment of trauma.

17 Q All right. So you specialize in the treatment of
18 trauma. And does sexual abuse fall in the category of
19 trauma?

20 A Yes, it does.

21 Q Approximately how many clients do you think you
22 counseled in your career, in the 15-plus years that you
23 have treated for sexual abuse or allegations of sexual
24 abuse?

25 A Oh, I think total I've treated approximately 2,000

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1 clients. I would say, you know, a good 80 percent of
2 those have been victims of sexual abuse.

3 Q And what ages do you normally see?

4 A Anywhere from age three to age 17 or 18.

5 Q And as far as making you qualified to treat these
6 people, do you have to -- do you rely on certain
7 literature or journals or anything to that effect?

8 A Yes. I read articles and journals as well as
9 attend like continuing education trainings and other
10 sort of conferences.

11 Q And do those specialize or focus in child sexual
12 abuse?

13 A Yes. Most of them do. We -- as a social worker,
14 I can get just general continuing education credits.
15 Most of mine tend to be focused on the treatment of
16 trauma or sexual abuse.

17 Q In your career, do you also have any peer review
18 that happens as far as your counseling? Is there a
19 peer review segment to --

20 A I participate in like multidisciplinary team
21 staffing as well as interagency team meetings, and then
22 we have a weekly treatment team staffing at the office
23 with other clinicians and the psychiatrist for staffing
24 cases and reviewing cases.

25 Q So you'll talk -- each person will talk about

1 their cases and get --

2 A Do clinical supervision surrounding the treatment
3 of trauma, yes.

4 Q And are you trained in a specific area or specific
5 type of treatment, or is there a preferable type of
6 treatment for sex abuse cases?

7 A I am. I am rostered in the state for
8 trauma-focused cognitive behavioral therapy, which is a
9 treatment for related to trauma, the treatment of
10 trauma.

11 Q And were you involved in Project Best?

12 A Yes, I was.

13 Q What is Project BEST?

14 A Project BEST is a state initiative to train most
15 clinicians in the state of South Carolina in how to do
16 trauma treatment for children age three to 17. I went
17 through that training as a clinician and got rostered
18 in the state approximately three years ago. Despite
19 having been using that treatment, I just got the
20 rostering criteria met, and then I went through this
21 last year as a senior leader with a group of about 28
22 clinicians from the mental health center as the leader
23 of that group of 28 clinicians.

24 Q And was that through Medical University in
25 Charleston?

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1 A Yes, it was, the MUSC.

2 Q All right. Is that method also, what, a national
3 standard or the standard --

4 A Yes, it is.

5 Q -- professionals use?

6 A Yes, that's being used actually internationally as
7 well.

8 Q And to be a licensed therapist, or is that what we
9 have -- is that how -- a licensed social worker; is
10 that right?

11 A Correct.

12 Q And to be able to conduct individual therapy or
13 therapeutic services, do you have to have a background
14 in child sex abuse dynamics? Do you have to know the
15 underlying psychology --

16 A Yes, correct.

17 Q -- involving child sexual abuse?

18 A Yes.

19 Q And where would you get information like that
20 from? How did you learn about that?

21 A I have learned -- I took courses in college, but
22 in addition to that, the ongoing trainings that I've
23 attended as well as through Project BEST, there's a lot
24 of education about dynamics of child sexual abuse and
25 the most appropriate way of treating that. Also based

1 on, you know, clinical experience over the course of
2 15 years, learning my client base and understanding the
3 dynamics they present with has helped to shape my
4 experience and knowledge about that.

5 Q All right. Do you review journals such as *Child*
6 *Abuse & Neglect*, the international journal, is that
7 something you review periodically?

8 A Correct.

9 Q *Child Maltreatment* journal?

10 A Yes.

11 Q And *Child Welfare Review*?

12 A Yes.

13 Q Have you ever been qualified as an expert in the
14 field of the treatment of children with sexual abuse
15 and in sex abuse dynamics in court before?

16 A Yes.

17 Q And what courts have you been qualified in?

18 A In general sessions court as well as family court.

19 Q And do you have any idea how many times that may
20 have happened?

21 A I think it's about eight times.

22 MS. HODGE: At this time, your Honor, we would
23 move to qualify her as an expert in the treatment of
24 children of sex abuse and in child sex abuse dynamics.

25 MR. STALVEY: Judge, I think she's established

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1 that she fits the qualifications, and I don't have any
2 objection to her qualification as an expert in this
3 field.

4 THE COURT: Okay. Then she's so qualified as an
5 expert.

6 MR. STALVEY: Thank you, your Honor.

7 MS. HODGE: All right. At this point are you
8 wanting to --

9 MR. STALVEY: Sure. Judge, at this point I have
10 an understanding of what Ms. Van Wagner -- I'm told by
11 Investigator Perry that I've been mispronouncing
12 somebody else's name for the last three days. Is it
13 Van Wagner?

14 THE WITNESS: Van Wagner.

15 MS. HODGE: He's giving it a little German flare.

16 MR. STALVEY: I have an idea of what Ms. Van
17 Wagner is going to testify to, and she hasn't,
18 obviously, proffered any testimony, so I would ask that
19 she proffer that testimony with the expectation I'm
20 going to move or I'm going to move to have that or have
21 the Court rule that inadmissible, but I guess we need
22 to proffer her testimony for the record.

23 MS. HODGE: All right. Okay.

24 Q Ms. Van Wagner --

25 MR. STALVEY: Judge, one moment, please.

1 MS. HODGE: I'm good with her testimony.

2 He doesn't know what to object to because he
3 hasn't heard her testimony yet is what I understand
4 Mr. Stalvey is saying.

5 MR. STALVEY: So let's hear what she's going to
6 testify to, and then I probably will have another
7 motion after that.

8 THE COURT: Okay. All right. She's going to make
9 a proffer then.

10 MS. HODGE: All right.

11 BY MS. HODGE:

12 Q Let's start, Ms. Van Wagner. Before you can treat
13 children, you've got to have the understanding of
14 sexual abuse and the dynamics of sexual abuse, correct?

15 A Correct.

16 Q And can you tell us, I think you started off to
17 tell us about trauma and how sexual abuse fits in with
18 the definition of trauma.

19 A Yes.

20 Q Okay. Tell us that part first.

21 A Okay. So, basically, trauma is an experience that
22 someone may have that causes lasting emotional effects
23 or distress that is difficult for them to manage. And
24 the treatment of trauma requires knowledge about what
25 that is, what those symptoms may be that a client may

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1 present with and how to assist them in managing those
2 symptoms or emotions that they feel.

3 Q Can trauma be from something like a car accident
4 or witnessing a violent crime, something of that
5 nature?

6 A Yes. It could be any type of experience where
7 someone feels their life has been threatened, someone
8 else's life has been threatened, where they felt
9 extreme fear or helplessness or hopelessness in the
10 situation. So, yes, a car accident, a fall, a fire,
11 physical abuse, sexual abuse, even sometimes severe
12 neglect can be considered traumatic.

13 Q And what are common symptoms of a person who is
14 experiencing trauma or a person who has been sexually
15 abused? What are some trauma symptoms that might be
16 red flags or might be evident in these people?

17 A There is a wide range of responses or reactions
18 that clients could have. Some have what's called like
19 internalizing symptoms, so that would be things like
20 depression or anxiety or symptoms that they feel on the
21 inside. Some clients have what's called externalizing
22 symptoms which would be things like acting out
23 behaviors, anger control problems, inappropriate sexual
24 behaviors or sexual concerns. Oftentimes signs or
25 symptoms that are consistent with PTSD, that would be

1 like flashbacks or re-experiencing some of the same
2 feelings or emotions when triggered by reminders of the
3 trauma.

4 Q Okay. And part of your treatment, do you give
5 your clients a trauma checklist or something of the
6 sort? How does that work?

7 A Yeah. I administer a standardized screening tool
8 for a trauma -- a trauma screening to determine whether
9 or not they have had a trauma, and then based on the
10 results of that, we move to a standardized tool that is
11 a symptom checklist to get an idea of how elevated
12 their symptoms are and what symptoms the client
13 presents with.

14 Q And then do you make some type of determination or
15 is there some kind of calculation that then leads you
16 to say what type of treatment you might need or things
17 like that?

18 A Yes. The standardized assessment is then scored,
19 depending on which assessment tool is used, and then it
20 either prints out a profile to indicate which scores
21 are elevated, or some of the newer standardized tools
22 use, you know, just a hand scoring method to get an
23 idea of which symptoms are the most elevated and which
24 need to be focused on as a priority.

25 Q And that's necessary in your therapy for you to

1 know what this child needs in relation to, let's say,
2 flashbacks and anxiety?

3 A Because it's such an individualized response, we
4 assess what this particular individual, what their
5 response to the event is and then base treatment around
6 their symptoms that they're reporting.

7 Q You just said it's an individualized response. Is
8 it fair to say, in your experience, that children who
9 have been sexually abused may have very differing
10 trauma symptoms?

11 A Yes.

12 Q Just because one experiences certain things,
13 another might not?

14 A Correct.

15 Q Now, let's talk a little bit about sexual abuse
16 and the dynamics involved in that. Can you tell the
17 difference for us between chronic sexual abuse and
18 maybe single-episode abuse?

19 A A single episode would be an incident that took
20 place only one time as opposed to something that's
21 chronic that appears -- I mean occurs over time, so it
22 could be repeated or escalating over the course of a
23 time period.

24 Q All right. In chronic abuse, would you say in
25 your experience and training, is it more common or is

1 it common for the perpetrator to be someone the child
2 knows, loves, and trusts?

3 A Yes, it is common.

4 Q And why would that be common in chronic cases?

5 A In cases of chronic sexual abuse, the perpetrator
6 generally has to establish trust or already have a
7 trusting relationship that allows them availability or
8 access to the victim in order to gain the trust of the
9 caregivers. You know, typically it is someone that is
10 more familiar to the family or even a family member.

11 Q So not only do they have to gain the trust of the
12 actual victim, but then they need to have the trust of
13 the caregiver of the victim?

14 A Correct.

15 Q And are you familiar with the term "grooming"?

16 A Yes.

17 Q And does grooming occur in chronic sex abuse
18 cases?

19 A Yes.

20 Q And can you explain what that term means in terms
21 of sexual abuse?

22 A It is the process by which a perpetrator would
23 identify the victim, gain the trust of the victim and
24 move towards the abusing of the victim, things like
25 buying gifts or kind of maybe trying out a certain

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1 behavior to see how somebody responds and moving maybe
2 towards more escalated events, doing things that will
3 help to gain the trust of that victim.

4 Q In grooming, is it common for a perpetrator to
5 start to blur the lines between what's appropriate
6 touch and inappropriate touch?

7 A Right. It might start out as like, for example, a
8 tickle that then, you know, could maybe be easily
9 explainable if the hand is in an appropriate spot,
10 gauging a client's response or the victim's response,
11 and that's part of the grooming process.

12 Q So escalation of abuse, is that also, I guess,
13 prevalent in grooming?

14 A Right. That's in chronic sexual abuse.

15 Q In chronic sexual abuse also. Is it common or
16 uncommon in your experience for children to disclose
17 immediately when they have been abused sexually?

18 A There are cases where someone may disclose
19 immediately, but it is not -- it is more common for a
20 delayed disclosure or disclosure that happens sometimes
21 after the abuse takes place.

22 Q What are the reasons for that being the more
23 common thing that happens?

24 A Fear of what might happen after it's disclosed.
25 Oftentimes if there's concern about the impact this may

1 have on the family or the child themselves, that could
2 lead to a delayed disclosure. Sometimes people have
3 been threatened, and that will be a reason to not
4 disclose a report. Anxiety about what may happen.

5 Q Would it matter if maybe the perpetrator was maybe
6 a strong influence inside the family, more of the
7 leader, per se, of the family?

8 A Yes. The influence that that person has within
9 the family and also the impact that that would have on
10 the family. If that person is identified and they're
11 the leader of the family or the breadwinner of the
12 family, if you will, then the breakdown of what happens
13 to this relationship is often a fear for the victim to,
14 you know, tear a family apart or to potentially end up
15 in foster care or not knowing what's going to happen
16 with their siblings or, you know, just kind of the
17 unknown of what may happen if they let somebody know.

18 Q Do tell? And is it also possible that children
19 don't tell because they don't want to hurt --

20 MR. STALVEY: Objection; leading.

21 BY MS. HODGE:

22 Q All right. So let's say it this way. In
23 nondisclosure, would a child continue to remain in an
24 abusive situation if they thought they would go into
25 foster care? Would you say that? Would they rather

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1 stay in the abusive situation versus go in foster care?

2 A Yeah. Oftentimes the fear of being in foster care
3 could influence whether or not someone would report.
4 Foster care can be a scary experience for a kid that
5 don't know -- it impacts their stability, and, you
6 know, that may be a reason that someone would hesitate
7 to report because of not knowing the impact that would
8 have.

9 Q What about if the other caregiver would be upset
10 by this discovery?

11 MR. STALVEY: Objection; leading.

12 MS. HODGE: Well, I think I can ask very specific
13 questions of the expert.

14 MR. STALVEY: Actually, Judge, that's the whole
15 point. She's got to testify to it. That's what I want
16 to hear. I mean -- and I understand Ms. Hodge, and I
17 understand she's got a ton of experience and knows
18 exactly what she's doing, but the point of this hearing
19 is we have to hear the testimony of this expert
20 witness. I mean, that's why it's so important that we
21 can't have leading questions that establishes her
22 opinion. I'm not trying to be difficult, but this
23 expert has to explain -- I mean, it's got to be her
24 opinion, not the opinion of the solicitor through
25 leading questions.

1 THE COURT: Okay.

2 MS. HODGE: I would call this structuring my
3 questions. I believe that they're dovetailing on her
4 responses. But I will do whatever the Court says,
5 obviously. I did not believe that was a leading
6 question. That's my position.

7 THE COURT: I understand.

8 MS. HODGE: Move along?

9 THE COURT: Move along.

10 BY MS. HODGE:

11 Q What do children feel, what's going on in a
12 child's mind when they're being sexually abused?

13 A I think there is a lot of pressure. I think there
14 can be a lot of confusion. I think that --

15 MR. STALVEY: Judge, I'm sorry. I think if that
16 question was phrased a little differently. She's
17 asking to speculate what's going on in a child's mind.
18 Based on her experience, she can testify to that, but
19 that was not how she answered the question, so.

20 THE COURT: Based on her experience.

21 BY MS. HODGE:

22 Q Based on your training and experience, literature,
23 2,000 kids you have dealt with, what in your experience
24 do children relay is going on in their mind or does
25 literature relay is going on in their minds regarding

1 sexual abuse and the family dynamics?

2 A I think they're -- in my experience, I have had
3 kids explain how confusing it is and how conflicting it
4 is, and how in situations where the perpetrator is
5 known to the victim, part of that confliction is, you
6 know, I know this person and I care for this person,
7 yet at the same time, there's this thing that's
8 happening that I'm not okay with. So it does create
9 some confusion. The blurred boundaries and role
10 confusion is often confusing for the kid. And, again,
11 the pressure that they may feel about how what's
12 happening to them could affect the whole entire family,
13 whether or not the family stays together or not,
14 whether or not the kid is stable in their current
15 placement or ends up having to move to foster care, for
16 example, or live with an alternative caregiver, that
17 instability can be very, very scary. There's also fear
18 of the perpetrator and what else can happen. There can
19 often even be sometimes shame and embarrassment and
20 feelings of guilt, and sometimes there's confusion as
21 well for not really understanding what these acts mean,
22 depending on what age it is when the sexual abuse
23 begins. You know, a kid could be young enough where
24 developmentally they don't understand this is an
25 inappropriate act or a criminal act and, therefore,

1 they're engaging in a behavior that doesn't even really
2 make sense to themselves.

3 Q I think you started talking about kids might feel
4 shame or guilt. Why would they feel that way?

5 A You know, sex is a very taboo subject. It's not
6 something that, you know, people publicly speak about
7 or talk about. And then to be having, you know, having
8 to engage in certain behaviors, they may feel
9 embarrassed that it happened. Sometimes they feel like
10 they have done something wrong. Sometimes they don't
11 understand why this bad thing would happen to them, and
12 they do feel ashamed of that. Whether or not that was
13 their fault, they still own some of the responsibility
14 for that.

15 Q All right. In your experience, how may a child's
16 ability to disclose be affected if the perpetrator's a
17 family member or caregiver?

18 A Like I was saying before, if the perpetrator is a
19 family member, the ability to disclose can be impacted
20 by the concerns about the impact that disclosure makes.
21 If they are concerned that that will tear up the
22 family, if the non-offending caregiver, whether they're
23 supportive or not, whether they believe the kid or not,
24 whether they -- if a kid is trying to gauge how
25 somebody might react to their disclosure, it can affect

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1 whether or not they disclose at all.

2 Q In your experience, can you give us some time
3 frames of disclosure? Is there just one common time
4 frame?

5 A You know, it does vary widely. There are some
6 kids that disclose, again, right away. Some kids wait
7 a couple of weeks, couple of months. I have had an
8 experience where in treating a 14-year-old that was
9 sexually abused, her grandmother, who was 85, disclosed
10 her own childhood sexual abuse and indicated she had
11 never told anybody, so she made her first disclosure
12 after a good -- wow, more than 50 years -- quite a lot
13 of years to be disclosing at the age of 50 -- 85. I'm
14 sorry.

15 Q And disclosure. Is disclosure a process?

16 A It is a process.

17 Q Can you explain that?

18 A There are what are called stages of disclosure.
19 So early on kids can be in denial. If someone asks
20 them about it, they may deny it. They may be in their
21 own self-denial and just not saying anything. Then
22 often they move into like a tentative disclosure.
23 Sometimes that can be an accidental disclosure like a
24 sexual act or something that somebody else notices or
25 observes, or it can be kind of testing the waters and

1 identifying something to gauge the response of the
2 person they're disclosing to. Then they move into a
3 more active stage of disclosure where they're actually
4 giving details or information about what happened.
5 There can be another stage of recanting where a kid
6 might report it and then take that story back based on
7 the effect of their disclosure or the response. And
8 then, you know, a lot of those kids often go on to
9 retell or redisclose what had happened because it had
10 been true.

11 Q So is denial of abuse common, in your experience,
12 by children initially?

13 A Yes. Yes.

14 Q And if children are denying they're sexually
15 abused, they're lying about it, they're lying about not
16 being abused?

17 A Not being abused, yes.

18 Q And if a child tentatively discloses and does not
19 get positive feedback, what happens?

20 A They often stop their disclosure or could even
21 recant at that time, go back on what was said to
22 protect the family, to protect their siblings or their
23 caregivers, or to kind of regain what stability they
24 had before the disclosure.

25 Q And so in your training and experience, what are

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1 things that give children the reason to finally
2 disclose? What has to be in place for kids to finally
3 disclose?

4 A I think a trusting relationship often helps a kid
5 be able to formulate the courage to make the
6 disclosure, a stable environment and support; you know,
7 primarily from a caregiver in their life that is going
8 to believe them and help to protect them.

9 Q Does the age of the child have anything to do with
10 it?

11 A Yes. Often if a kid is, again, abused early on
12 and they're not developmentally or socially
13 understanding the experience that they're having, the
14 older they get, the more likely they are to understand
15 it in a different context and recognize the, you know,
16 it being inappropriate and will often make a disclosure
17 as well.

18 Q In your training and experience, when kids
19 disclose, what is it they want when they finally
20 disclose? What is it they want?

21 A They want it to stop.

22 Q All right.

23 A They want to be safe.

24 Q Are you familiar with the term "piecemeal" or
25 "incremental" or "partial disclosure"?

1 A Yes.

2 Q Can you explain what that is?

3 A That's where a victim may give pieces of a
4 disclosure. They may focus on some details during one
5 encounter and other details in a different encounter,
6 or they may be gradually providing all of the details
7 of what happened to them.

8 Q And is that something in your training and
9 experience that is common, piecemeal or partial
10 disclosure?

11 A Yes.

12 Q I think you stated there was the stages of
13 disclosure?

14 A Correct.

15 Q And then we got past the tentative to the full
16 disclosure. In full disclosure mode, can it still be
17 piecemeal disclosure?

18 A Yes, it can.

19 Q Is there any certain timeline, in your training or
20 experience, for someone to get their entire story out?

21 A Through the course of TFCBT treatment, there is
22 the writing of a trauma narrative. But even in the
23 writing of a trauma narrative, you may not get every
24 single detail of every single experience that a client
25 had. We usually focus on the most distressing, the

1 first, the worst, the most recent. But specifically in
2 chronic sexual abuse or cases of chronic sexual abuse,
3 it's hard to give, you know, every single detail of
4 every single experience because of the sheer number of
5 times that it could have happened.

6 Q Okay. Now, the term non-offending caregiver, we
7 used that. Who is that and what does that mean in the
8 dynamics of disclosure?

9 A So the non-offending caregiver is someone in the
10 child's life that is providing care. Typically the
11 person that the child lives with. It doesn't have to
12 be someone they're living with, but the person or the
13 caregiver that is not the one that is abusing the
14 child. So that they're the caregiver that is not the
15 offender.

16 Q And how important is that person in the disclosure
17 of sexual abuse, of child sexual abuse, in your
18 experience?

19 A It's very important because that is another person
20 or another person that the client relies on for
21 support. And depending on their level of support, that
22 impacts whether or not the kid feels safe enough or
23 trusts enough to make the disclosure.

24 Q And what experiences can the child have if the
25 non-offending caregiver is nonsupportive?

1 A Typically a negative experience for the person
2 disclosing. That increases oftentimes the symptoms
3 that the client presents with, whether they're, you
4 know, having more of those internalizing symptoms or
5 sometimes even more of the externalizing symptoms when
6 they feel like they have opened up and shared and then
7 aren't getting the support that they need, then it can
8 exacerbate the symptoms that they experience.

9 Q In your training and experience, what are common
10 responses from non-offending caregivers? Are there a
11 variety of responses?

12 A Right. They can be supportive or they can be
13 nonsupportive. Sometimes non-offending caregivers can
14 be kind of caught in the middle, if you will, or not be
15 sure whether to believe or not to believe. But the
16 non-offending caregiver oftentimes is also impacted by
17 the client's disclosure, and based on the relationship,
18 based on the dynamics of that relationship, it can also
19 impact their level of support because it also affects
20 them as well.

21 Q So is it, in your experience, common or uncommon
22 for a non-offending caregiver or have you seen it in
23 your experience for a non-offending caregiver to then
24 remain with the perpetrator even after a disclosure has
25 been made?

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1 A Yes. That definitely happens.

2 Q All right. Okay. Moving to some coping skills, I
3 guess. Children who have been sexually abused, in your
4 experience, have you ever heard children say they were
5 asleep or pretending to be asleep during sexual abuse?

6 A Yes.

7 Q Is that something that's common in your
8 experience?

9 A It's fairly common, yes.

10 Q All right. And in your experience, why do they
11 say that or why do they report like that?

12 A I think sometimes to kind of test the waters or to
13 protect themselves in a way. If they were asleep, then
14 that removes some sort of accountability or
15 responsibility on their part. Sometimes they feel
16 ashamed, and to kind of distance themselves from what
17 they're reporting or disclosing, they may indicate that
18 they were asleep or had been asleep.

19 Q And the term "disassociation" in regard to sexual
20 abuse, can you explain disassociation by a victim
21 during sexual abuse?

22 A That is where you kind of go away in your mind,
23 and so your mind isn't necessarily connected with your
24 physical self. So, you know, as a way to cope, then
25 you might pretend you're somewhere else or kind of have

1 a fantasy going on in your head while your physical
2 self is present and there's not a connection between
3 the two.

4 Q Is that common or uncommon in your experience for
5 children to have symptoms of disassociation when
6 they're alleging abuse?

7 A It's very common.

8 Q All right. Now, let's move specifically to your
9 treatment of Complainant. You know the victim in this case?

10 A Yes.

11 Q Was she a client of yours?

12 A Yes, she was.

13 Q When did she first come to you for treatment?

14 A In April of 2012.

15 Q And how many sessions did you have with her?

16 A Over the course of all of our treatment, I met
17 with her approximately 20 times.

18 Q And what was she seeing you for initially?

19 A She initially came to me for assessment because
20 she was placed in foster care due to allegations of
21 physical abuse by mom, and I provided treatment to her
22 while she was placed at a group home in Greenville.

23 Q And then during the course of your treatment for
24 the physical abuse, was a disclosure of sexual abuse
25 eventually made known to you?

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1 A Yes, it was.

2 Q Okay. And did you hear that allegation of abuse
3 from the victim or through DSS first?

4 A I actually heard it from the victim first. She
5 had been removed or been moved from the group home
6 placement into the home of her grandparents, and they
7 had been bringing her for a couple of sessions. And
8 then she showed up for a session to see me and was
9 accompanied by the group home staff, so I was confused
10 as to why she would have been back with the group home
11 staff. And she explained to me that she had disclosed
12 sexual abuse. She had explained to me what she had
13 disclosed to the police, and that she was now back in
14 foster care.

15 Q Let's back up just a little bit. When she was in
16 the care of the Alexanders and you saw her for
17 treatment, was there ever some discussion between you
18 and the Alexanders about her continuing treatment?

19 A There was. At the first appointment that they
20 came to after she had been returned home, it seemed to
21 be the family's decision that she didn't need
22 treatment, and they had been meeting with the
23 psychiatrist. And the psychiatrist asked me to come
24 in, and we kind of talked about all that had been going
25 on, her having been the victim of physical abuse and

1 not really having much treatment um until that point.

2 And it was the recommendation of myself and the
3 psychiatrist to continue ongoing therapy to aid in the
4 transition and to address the history of physical
5 abuse.

6 Q All right. Did Complainant seem to or was she
7 agreeable to continue to come to therapy?

8 A She was agreeable.

9 Q And were the Alexanders agreeable?

10 A They did agree.

11 Q And did they continue to bring her until she was
12 removed from their home?

13 A Yes. I think there was two sessions they came to.

14 Q During the sessions while they were there, she
15 never disclosed sexual abuse, did she?

16 A No.

17 Q And in the session that you had with her after she
18 was removed, she did disclose sexual abuse?

19 A Correct.

20 Q And did she tell you when it occurred and where it
21 occurred?

22 A Yes.

23 Q Okay. If you will tell us those two things.

24 A At that point I did another trauma screen with her
25 since she had a new allegation of trauma, and she

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1 indicated that the abuse had been taking place since
2 close or around age two up until 14 or just prior to
3 her disclosure.

4 Q Did she tell you where it was happening?

5 A She indicated it was multiple locations that it
6 had happened. She referenced some of her grandfather's
7 shops and also I believe at the house as well.

8 Q And when you did this trauma assessment with her,
9 what were your findings?

10 A They were inconsistent with the initial, so I had
11 done a trauma screening and assessment with her when
12 the grandparents had brought her in. At that point she
13 scored really high for disassociation, but that was the
14 only symptom that was in the clinically significant
15 range. All the other ones were elevated but not
16 clinically significant. And based on that new
17 disclosure, we did a new trauma assessment, and at that
18 time she had indicated that she did not answer honestly
19 in the first assessment because her grandparents were
20 there in the room with her when she completed the
21 assessment. That second assessment, her scores were
22 elevated for sexual distress and sexual concerns,
23 general sexual concerns.

24 Q I meant to ask you this in the earlier phase. In
25 your training and experience, if a non-offending

1 caregiver doesn't believe the child, can that be a
2 traumatic event in and of itself to the child in
3 addition to the actual abuse?

4 A It can be very hard for a kid, absolutely, that if
5 a kid is disclosing and then they're not supported, you
6 know, that stability has been shaken, then, you know,
7 not knowing where they stand or having support for
8 something after having gone through the difficult task
9 of making the disclosure.

10 Q And I think you may have testified to this in the
11 beginning. I can't recall. What are some of the
12 things that children may do -- or do children act out
13 after, let's say, a disclosure that's nonbelieved or
14 even after they have been sexually abused, is there an
15 acting out that's common or uncommon in your
16 experience?

17 A Yes. I was kind of talking about the
18 internalizing versus the externalizing. Oftentimes
19 kids have difficulties with behaviors, difficulties
20 managing emotions. They may be acting out. Oftentimes
21 kids are angry about what's going on or the response,
22 and they have difficulties managing their anger which
23 can lead to other behavioral concerns. They oftentimes
24 have sexual concerns or sexualized behaviors which are
25 concerns for the child's safety as well.

1 Q And in your role as the therapist, how do you
2 address those concerns with the child?

3 A We start out doing psychoeducation with the kids,
4 so we assist the client and their caregiver in
5 understanding the connection between the symptoms
6 they're presenting with and the abuse that took place.
7 And the more awareness the kid has, the better they are
8 able to kind of understand what's going on with them.
9 Then we teach coping skills. So we might teach
10 relaxation techniques or other ways of managing their
11 emotions which decrease the incidents which may occur.
12 For example, a kid that has anger control problems, if
13 we teach them how to manage that anger or calm
14 themselves, they're less likely to get into arguments
15 or fights or things with other people. They manage it
16 more effectively.

17 Q Were you able to do any of those types of
18 treatment or I guess that portion of treatment with
19 Complainant

20 A We did do some of that. Unfortunately, based on
21 Complainant inconsistent placements within foster care, we
22 had a lot of inconsistency with treatment. So
23 ultimately we did not complete treatment and always
24 kind of stayed in the early stages of treatment based
25 on, you know, her placement instability.

1 Q When was your last session with her?

2 A It was approximately two years ago. I can't
3 remember the exact date. It was shortly before the
4 family court hearing back in --

5 Q 2013 or 2014?

6 A Yes. 2013, I think.

7 Q Did Complainant ever get the opportunity with you to
8 complete a trauma focused -- to complete a trauma
9 narrative in the TFCBT?

10 A We did not complete a trauma narrative.
11 Throughout the course of TFCBT, we're talking about the
12 trauma. But as far as producing an actual trauma
13 narrative, we did not get to that stage of treatment
14 based on the inconsistencies.

15 Q And would you say that at the time you were -- the
16 time you stopped seeing Complainant was she -- in your
17 opinion, was she still in need of more treatment in
18 regard to the sexual abuse and pretty much everything
19 else in her life as well?

20 A Yes, I think so.

21 Q All right. Thank you. That's all I have.

22 THE COURT: Mr. Stalvey.

23 MR. STALVEY: Yes, sir, your Honor.

24 VOIR DIRE EXAMINATION

25 BY MR. STALVEY:

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1 Q Ms. Van Wagner, let's start off by talking about
2 your experience in these types of cases. Let me ask
3 you, do you remember exchanging e-mails with me?

4 A Yes.

5 Q Okay. There were two articles that you gave me
6 as, I guess -- how would you characterize those
7 articles? It was Sorenson and Snow and Olufsen -- you
8 tell me. You know, I'm not good with names, obviously.
9 What were the two articles?

10 A One article was about delayed disclosure, and the
11 other article was about the stages of disclosure.

12 Q Okay. Sorenson and Snow was one. And let's just
13 talk about that one. This article was based on
14 research that was done by two therapists or
15 psychiatrists, psychologists. Would you agree that
16 their research was based on what they considered
17 substantiated cases of sexual abuse?

18 A Yes.

19 Q And when I say "substantiated," would you agree
20 with me that these would be cases in which there was a
21 confession from the defendant or medical evidence or
22 sometimes videotaped evidence, but that's how they
23 considered those cases substantiated; is that correct?

24 A Yes.

25 Q And they took a group of cases that were

1 substantiated and looked for these characteristics in
2 children that we call delayed or that you called
3 delayed disclosure, correct?

4 A The stages of disclosure.

5 Q Right. Yes, ma'am.

6 A Yes.

7 Q Okay. And is it -- based on the research that
8 you've, I guess you're relying on, these substantiated
9 cases, in having a confession or video or medical
10 evidence, to start with that group and put that group,
11 wouldn't you agree that that's how they get the most
12 reliable research on this topic?

13 A That is. They did get reliable research, yes.

14 Q Right. And it's based on the fact they know these
15 are sexually abused children?

16 A Right.

17 Q Do you -- and you say you've been doing this for
18 15 years, right?

19 A Correct.

20 Q And you say that you've treated -- and remind me.
21 I think over how many children?

22 A Around 2,000.

23 Q 2,000, okay. Of those 2,000, do you keep any type
24 of records of which cases would be considered by
25 Sorenson and Snow to be substantiated?

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1 A No.

2 Q Do you keep any records of the cases that are
3 determined to be false allegations?

4 A I don't keep records of that, no.

5 Q But if you find out that it's an actual false
6 allegation, I mean, are you made aware of that?

7 A It depends on whether or not law enforcement is
8 involved in a case or it's something that has been
9 investigated, whether it was investigated and disclosed
10 years before that person becomes my client. There are
11 variables that impact that.

12 Q Just so I can be clear, let's consider a false
13 allegation to be a child discloses sexual abuse -- and
14 this is a hypothetical. Child discloses sexual abuse
15 and says it happened last Thursday at this place, you
16 know, in Columbia, South Carolina at the McDonald's on
17 Gervais Street. And they get the videotape from the
18 McDonald's at Gervais Street on that date and time and
19 discover that neither the child nor the person, you
20 know, the accused was there, or the child was there and
21 the accused was in California. Okay? That would
22 clearly be a false accusation for that specific
23 instance, right?

24 A Correct.

25 Q So what I'm asking you and I think you've answered

1 this. When you become aware of a false allegation or
2 an allegation that's determined to be false by
3 videotape or any other evidence, whether it's provided
4 by law enforcement, solicitor's office, you don't keep
5 any records of that; is that correct?

6 A I document in clinical service notes and in the
7 record, the medical record with the mental health
8 center. I don't keep a tally of how many, but those
9 sort of things are documented in record.

10 Q So there's no -- when you say you don't keep a
11 tally, we don't have any idea what percentage of the
12 cases that you look at that involve delayed disclosure
13 turned out to be -- turned out to be false allegations?

14 A No.

15 Q Okay. If -- I'm calling it false allegations, but
16 however you want to refer to it is fine with me. But
17 what about cases that are like the one we're in now
18 that actually go to a jury trial and the jury
19 determines that the defendant is not guilty, do you
20 keep any records of those types of cases?

21 A I don't keep records for the purpose of giving
22 percentages and things like that. Honestly, in all of
23 the cases that I have worked with that have gone to the
24 point of trial, there have been no not guilty, you
25 know. So that's not been an issue for me to keep

State vs. Rodney M. Alexander 2013-GS-23-07631-33
Erica Van Wagner - Voir Dire by Mr. Stalvey

1 record of.

2 Q I understand. Okay.

3 MR. STALVEY: Judge, if you give me 30 seconds, I
4 might be able to conclude this.

5 THE COURT: You can have a minute and 30 seconds
6 if you like.

7 MR. STALVEY: Thank you, Judge.

8 Q And, Ms. Van Wagner, just going back to the false
9 allegations, I forgot to mention, if there were some
10 type of DNA evidence that exonerated the accused, you
11 don't keep any records or tallies of that, correct?

12 A I don't personally. There is a statistician at
13 the Department of Mental Health that can run reports on
14 different things. That isn't something that we
15 typically report for the purpose of treatment. So I
16 don't have a number, no.

17 Q But there is somebody at the Department of Mental
18 Health that keeps those records?

19 A Not of those sort of details. There's someone
20 that does keep records of how many cases each clinician
21 has. They can run reports on different things that are
22 all entered into our electronic records, but that isn't
23 one of the things that is necessarily tracked by that
24 person.

25 Q Would cases that would be unsubstantiated be

1 tracked by that person?

2 A No, not things involving the criminal justice
3 system. Caseload numbers and diagnoses and things like
4 that.

5 Q Okay.

6 A But --

7 Q Go ahead. I'm sorry.

8 A I was just going to say, those aren't things we
9 keep track of for the purpose of treating a client at
10 the mental health center. You know, our focus is on
11 the clinical needs, and so they don't have a system by
12 way of keeping track of which ones are litigated or not
13 litigated.

14 Q I understand.

15 MR. STALVEY: I don't have any further questions,
16 Judge.

17 THE COURT: Okay. Anything from the State?

18 MS. HODGE: No, sir.

19 THE COURT: Okay.

20 Ma'am, you may step down.

21 Yes, sir.

22 MR. STALVEY: Judge, at this time I would make a
23 motion to exclude any testimony being offered from
24 Erica Van Wagner, and I would make the motion first
25 based on Rule 702 of the South Carolina Rules of

1 Evidence.

2 Your Honor, clearly, I did not object to her being
3 qualified as an expert. However, at this time, after
4 hearing her testimony, I would object based on the
5 fact -- well, based on my opinion that her proffered
6 testimony is not reliable to the extent that it should
7 be admissible and the jury should hear it.

8 Your Honor, as Ms. Van Wagner just testified to,
9 she bases or part of her opinion is based on some
10 research done by two psychiatrists, and I believe that
11 was done almost 25 years ago. Nevertheless, that
12 research involved them compiling records of
13 substantiated records of sexual abuse cases in which
14 they actually knew a child had been sexually abused. I
15 think she acknowledges that other research and other
16 articles and peer reviewed materials involve that base
17 of information to basically form an opinion, at least
18 the opinion of the people she cited and she's
19 acknowledged to me that she relies upon.

20 Your Honor, what -- she then went on to testify
21 that she, herself, and nobody that she is aware of
22 keeps records of which cases are, as we categorized it,
23 substantiated, so we don't really have a base of
24 information for us to know these are actually cases of
25 substantiated sexual abuse to then take the delayed

1 disclosure theory and everything else that she
2 testified and substantiate -- well, not substantiate --
3 invalidate it, Judge. So we've got a non-scientific
4 expert who is essentially basing her opinion on studies
5 that use the scientific method. It's my opinion that
6 her opinion should not be offered to this jury without
7 going through the same scrutiny that a scientific
8 expert would have to go through before it would be
9 admissible.

10 Judge, if she's going to rely on scientific
11 research as a basis of her opinion, then it should be
12 her -- this should be evaluated under *State v.*
13 *Council*. If she's going to rely on her experience but
14 keeps no records of individuals that are exonerated
15 either through DNA or any other type of evidence and
16 keeps no records of individuals that are found not
17 guilty in which a jury has determined that the victim
18 may not be telling the truth, then her testimony is
19 simply not reliable.

20 Your Honor, the second objection and basis of my
21 motion to exclude her testimony would be based on the
22 fact that she actually treated this child beginning in
23 April of 2012 which was five or six months -- five
24 months prior to the allegations being made. I don't
25 think there's any way, and I don't -- it's my

1 understanding that the State is not intending to keep
2 that away from the jury. So the jury is going to have
3 that information, and even if the State agreed that
4 they wouldn't bring that up, I would still have the
5 opportunity to talk to her about that. Either way it
6 serves to improperly bolster the credibility of the
7 witness. I understand that the State is going to argue
8 that Ms. Van Wagner is not going to directly vouch for
9 the credibility of this witness, and I have no problem
10 with that. However, Judge, the fact that she's
11 counseled, provided therapy to this witness, that she
12 established a relationship with this witness and then
13 that relationship extended five months up until these
14 allegations and the fact that she is then going to say
15 that these types -- this type of behavior is commonly
16 seen in victims of child sexual abuse, Judge, it
17 indirectly bolsters the victims' credibility. It's
18 improper.

19 Your Honor, the *State v. Brown* case that I've
20 mentioned earlier in this trial, I understand that was
21 a forensic -- actually, that was a blind expert who
22 testified, Shauna Galloway-Williams, to the same
23 information that this witness is going to testify to
24 tomorrow if you don't grant my motion.

25 Your Honor, there is -- one of the factors in that

1 Brown case was that Shauna Galloway-Williams had never
2 interviewed this child -- and this is on the bolstering
3 issue in that case -- that she had never interviewed
4 the child. The fact that she was a blind expert, and
5 the fact -- and the Court notes in that opinion the
6 fact that the solicitor, in her closing -- I don't know
7 if it was -- the solicitor, in the closing argument,
8 acknowledged that and brought that to the jury's
9 attention, that this is a blind expert. She has never
10 interviewed these children, supported the Court's
11 opinion that, you know, that wouldn't be improper
12 bolstering. That's not going to be the situation in
13 this case, Judge. So I believe that this would be an
14 indirect or this witness would be indirectly vouching
15 for the credibility of the victim in the case.

16 Your Honor, finally, my third objection would be
17 based on Rule 403. Your Honor, the probative value of
18 Ms. Van Wagner's testimony, in my opinion, is
19 outweighed by the prejudicial effect of it. Judge,
20 she's -- I understand that part of our defense is the
21 child didn't disclose it at a certain point. I mean --
22 and that the child's disclosure was inconsistent.
23 However, Judge, the fact that she was the child's
24 therapist, I mean, it kind of goes back to my previous
25 argument that she was -- that she's going to be

1 qualified as an expert in front of the jury, and I
2 guess this kind of blends in with the bolstering
3 argument. But either way, that would be extremely
4 prejudicial to my client when it comes to the jury
5 weighing the evidence and weighing the testimony.

6 So based on those three factors, I would request
7 that she not be allowed to testify. Thank you.

8 THE COURT: Thank you.

9 Yes, ma'am.

10 MS. HODGE: Your Honor, I was just -- as I've
11 already handed, I believe, the Court has copies of
12 *State vs. Stephen Douglas Berry*, court of appeals case
13 that was filed July 15th of this year and then the case
14 that Mr. Stalvey referenced, *State vs. Damon Brown* from
15 January of this year, another court of appeals case.

16 It's the State's position that -- first of all, I
17 have a question, then I'll state my position. I
18 believe that during our hearing, Mr. Stalvey conceded
19 and the Court found that Ms. Van Wagner was, in fact,
20 an expert, so I'm not sure what we're -- we're not
21 discussing her qualifications as an expert anymore; is
22 that correct, because I thought your argument started
23 that now you don't agree to that?

24 MR. STALVEY: No, no, no. My argument is she may
25 be an expert --

1 MS. HODGE: But she shouldn't testify.

2 MR. STALVEY: Right.

3 MS. HODGE: I'm sorry. At the beginning I thought
4 he was backing out on that.

5 MR. STALVEY: No, no, no.

6 MS. HODGE: Okay. So as far as why we believe her
7 testimony is proper and probative falls squarely under
8 the guise of the most recent court of appeals cases.
9 In those cases, specifically *Berry*, which is our most
10 recent case, the witness was actually a person that had
11 treated and had contact with the victim. That witness
12 was qualified as an expert. That witness was allowed
13 to talk about child sex abuse dynamics in addition to
14 specific things they observed while treating or being
15 with the victim. The Court did not find that that was
16 improper bolstering. In fact, the Court went through a
17 very good analysis and cited *Kromah* and cited what
18 improper bolstering is. And to have that, it states
19 that the expert must give their opinion as to whether
20 the witness is telling the truth. That would be
21 improper bolstering. The State proffered the testimony
22 of this witness. She was never asked and would never
23 respond that she believed this victim was sexually
24 abused. The State concedes that is completely
25 improper, and we are not introducing her testimony for

1 that purpose. We are introducing her testimony for the
2 purpose of educating the jury, for proving the events
3 in our case. The Court has been -- stated this type of
4 evidence is admissible back to *State vs. Weaverling* and
5 *State vs. White*, finding that it is probative
6 information for the State to put forth in its case,
7 that when you are dealing with something such as sexual
8 abuse, it is uncommon to jurors and, in fact, we had
9 voir dire questioning and we screened all those jurors
10 to make sure if they did have that kind of background,
11 then if they could be fair and impartial. And my
12 recollection of the jury qualification and striking the
13 jury, none of the three that stood up actually made it
14 onto the jury. So that leads us to believe no one on
15 the jury has any firsthand knowledge about these
16 dynamics that occur in child sex abuse. And the courts
17 have said in, I believe, *State vs. Brown*, I believe
18 they go into several different areas and different
19 cites that discuss what a perplexing thing child sex
20 abuse is and why it is extremely uncommon for people to
21 understand that unless they have experienced it or
22 possibly worked within that type of environment such as
23 prosecutors, DSS, law enforcement and the like. And
24 that information is going to be extremely helpful to
25 the jury in determining the verdict in this case

1 because, as Mr. Stalvey said, they have repeatedly
2 attacked the victim's delayed disclosure, the fact that
3 she was presented with opportunities and denied the
4 abuse and delayed in her disclosing. They have
5 basically made their case that she's a bad kid and
6 she's done bad things. And I think it's important for
7 the jury to understand that some of that is because or
8 what the experts will say can be because she's acting
9 out from processing the emotions of being sexually
10 abused. So those are two very important pieces that
11 the State believes we are entitled to present and,
12 again, we do not believe this at all is any comment on
13 the child's credibility. It is merely the type of case
14 it is, the kind of information that would be helpful to
15 the jury in reaching their verdict.

16 THE COURT: Okay.

17 Yes, sir.

18 MR. STALVEY: Brief reply, Judge. All I would
19 point out is a blind expert could have been called to
20 testify in this case which would have -- I think the
21 case law is clear that that would have been allowable
22 and proper. But that's not what we have here. We have
23 the child's therapist who had treated her for five
24 months prior to these allegations.

25 THE COURT: I was thinking I was right here. My

1 fellow colleague, Judge John Hayes out of the 16th
2 Circuit, was on that Berry case. And I'm happy to call
3 him a friend. Judge Lockemy wrote the opinion in the
4 Berry case, but it will be under advisement until in
5 the morning. But I'll have a ruling first thing for
6 you in the morning at 9 o'clock. Then we'll proceed
7 from there, whichever way it goes. I want to take
8 these and read them again tonight.

9 Anything else?

10 MS. HODGE: No, sir.

11 MR. STALVEY: No, sir, your Honor.

12 THE COURT: All right. Okay.

13 Mr. Alexander.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: I remind you again, sir, that this
16 trial will proceed with you or without you in the
17 morning at 9 o'clock. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You have always been where your lawyer
20 needs you to be, and I appreciate that very much. And
21 as long as you cooperate with your lawyer, I'm going to
22 allow you to stay out.

23 THE DEFENDANT: Okay.

24 THE COURT: But, again, if you're not here, we
25 will proceed tomorrow with this trial.

1 THE DEFENDANT: Yes, sir. I'll be here with bells
2 on.

3 THE COURT: Just be here whatever time he asks you
4 to be here.

5 THE DEFENDANT: Yes, sir.

6 (WHEREUPON, proceedings adjourned at 5:29 p.m.)
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Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

STATE OF SOUTH CAROLINA	) COURT OF GENERAL SESSIONS
	)
COUNTY OF GREENVILLE	) Case No(s) : 2013GS2307631,
	) 2013GS2307632,
State of South Carolina,	) 2013GS2307633
	)
Plaintiff,	)
	)
-VS-	) TRANSCRIPT OF RECORD
	)
Rodney Michael Alexander,	) DAY 2 OF 3
	)
Defendant.	)
	)

October 08, 2015
Greenville, South Carolina

B E F O R E:

HONORABLE R. KEITH KELLY, Judge.

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

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(No exhibits offered.)

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 8th day of October, 2015 at approximately 9:14 a.m.)

THE COURT: Okay. Before the jury comes in, I took a motion under advisement yesterday. I now want to put a ruling on the record. The court held an in camera hearing to determine the admissibility of testimony from a state's expert witness. The defense does not challenge the witness' knowledge, skill, experience, training or education to be qualified as an expert witness, but the defense does object to the witness' testimony as being admissible on the basis that such testimony is unreliable.

The court acts as a gatekeeper with respect to all evidence sought to be admitted under Rule 702. The court must assess the threshold foundational requirements of qualification, reliability and further find the proposed evidence will assist the jury. All expert testimony must meet the requirements of Rule 702.

The defense argues that witnesses -- that the witness' testimony is based on scientific principles and this court should apply the State

Ruling of the Court

1 versus Council standard. This court finds that
2 State v. White is applicable because the
3 testimony is nonscientific. Under White, two
4 determinations must be made. One,
5 qualifications of the expert witness and, two,
6 the testimony will be reliable.

7 As in State versus Chavis, the defense does
8 not challenge the first prong but focuses on the
9 second prong. The defense argues that there is
10 no peer review of the witnesses work, no records
11 kept or false allegations and no records of not
12 guilty verdicts. First and foremost, not guilty
13 verdicts would not be -- would not be equal to
14 false reports.

15 As to peer reviews and records, the witness
16 stated she has 15 years of experience and cases
17 are routinely staffed with her peers. It is the
18 protocol. She is not testifying from a report
19 by a fellow coworker but from her own
20 observations in her professional capacity.
21 Again, she testified to meeting -- she testified
22 to meeting with disciplinary, multidisciplinary
23 staffing reviews and clinical supervision of her
24 work.

25 Expert witnesses testifying concerning

1 common behavioral characteristics of sexual
2 assault victims and the range of responses to
3 the assault by the experts is admissible and
4 relevant because it is helpful in explaining to
5 the jury typical behavior patterns of adolescent
6 victims of sexual assault. Here, her testimony
7 is based on her personal observations.

8 The defense also argues because the witness
9 was treating the complaining witness prior to
10 the disclosure, her testimony is bolstering in
11 violation of Cromer. Improper bolstering occurs
12 when the expert witness is allowed to give her
13 opinion as to the truthfulness of the
14 complaining witness. Here, the expert witness
15 is testifying to her personal observations and
16 interactions with the complaining witness, not
17 her truthfulness.

18 The court finds the subject matter of the
19 testing is beyond -- is beyond the ordinary
20 knowledge of the jury. As our appellate courts
21 have said, unique and perplexing behavior
22 exhibited by a child sex abuse victim does not
23 fall within the ordinary knowledge of a juror
24 with no prior experience directly or indirectly
25 where it concerns sex abuse. None of the three

1 jurors who have such experience as related in
2 the voir dire is seated on this jury. The court
3 finds that proffered expert witness has acquired
4 the knowledge and skill to qualify as an expert
5 and the defense does not disagree and the court
6 -- and the court has -- the court finds that it
7 is reliable.

8 Lastly, the defense argues the probative
9 value of evidence is outweighed by the
10 prejudicial effect of the defendant. Under Rule
11 403, relevant evidence may be excluded if its
12 probative value is substantially outweighed by
13 danger of unfair prejudice. The court finds the
14 high probative value of the witness' testimony
15 outweighs any prejudicial effect to the
16 defendant. The testing -- the testimony will
17 assist the jury in understanding various aspects
18 of the complaining witness' behavior and the
19 demeanors of sexually abuse children. It will
20 help explain psychological effects of sexual
21 abuse victims that a lay witness or a child
22 cannot explain. It also explains to the jury
23 why sex abuse victims are unable to effectively
24 relay the abuse. Therefore, the court find that
25 the testimony is proper under Rule 403.

1 Anything?

2 MS. HODGE: No, sir. Thank you.

3 MR. STALVEY: No, sir, Your Honor. Just one
4 quick matter --

5 MS. HODGE: Now that you have allowed Ms.
6 Van Wagner to testify, she's going to be our
7 last witness and then we're going to rest.

8 THE COURT: Okay.

9 MR. STALVEY: Judge, I don't know if I'm
10 supposed to put it on the record in front of the
11 jury or if I could just do it right now. Since
12 they are calling Erica Van Wagner --

13 I guess you can call her and then I will
14 renew my objection based on --

15 THE COURT: Do it that way. Anyway you
16 want to do it. She can call her and you can
17 object ---

18 MR. STALVEY: Yes, sir.

19 THE COURT: --- as previously stated.

20 MR. STALVEY: Yes, sir.

21 THE COURT: Okay. Ready for the jury?

22 MR. STALVEY: Yes, sir.

23 (WHEREUPON, the jury enters at approximately
24 9:25 a.m.)

25 THE COURT: Mr. Foreman, any matters from

1 the jury?

2 **THE JUROR:** No, sir.

3 **THE COURT:** Okay. Ready to go. All
4 right.

5 Yes, ma'am.

6 **MS. HODGE:** Thank you, Your Honor. May it
7 please the court.

8 **THE COURT:** Yes, ma'am.

9 **MS. HODGE:** The state calls Erica Van
10 Wagner.

11 **MR. STALVEY:** Judge, at this time, we would
12 object based on our pretrial motion.

13 **THE COURT:** Yes, sir. That motion is
14 overruled based on prior ruling.

15 **THE CLERK:** Please place your left hand on
16 the Bible and raise your right hand.

17 **ERICA VAN WAGNER**

18 having first been duly sworn, testifies as follows:

19 **THE CLERK:** Thank you. Please be seated.

20 **THE COURT:** Ma'am, once you are seated,
21 will you pull that microphone up close to you
22 there. Once you are comfortable, tell us your
23 full name and spell your last name for my court
24 reporter.

25 **THE WITNESS:** Erica Van Wagner, V-A-N,

1 W-A-G-N-E-R.

2 THE COURT: Thank you.

3 Solicitor.

4 MS. HODGE: Thank you.

5 DIRECT EXAMINATION

6 BY MS. HODGE:

7 Q Ms. Van Wagner, what is your occupation?

8 A I am a mental health therapist.

9 Q Where do you work?

10 A I work for Greenville Mental Health Center.

11 Q How long have you been with Greenville
12 Mental Health?

13 A I've been at Greenville Mental Health since
14 February of 2007.

15 Q Tell us your educational background and
16 your work experience up until this point.

17 A I have a Bachelor's degree in Social Work
18 as well as a Masters degree in Social Work and I have
19 a license in the state of South Carolina. I worked
20 for the Department of Mental Health for 15 years.
21 Half of that time was in Columbia and the other half
22 was in Greenville.

23 Q What type of clients to you service at
24 Greenville mental health?

25 A I supervise the DSS program. Most of my

1 clients are involved with DSS, having a history of
2 physical abuse, sexual abuse or some sort of neglect.

3 Q What are the ages of your clients? What do
4 they range?

5 A Somewhere between the ages of three and 18.

6 Q That's what you been doing since 2007?

7 A For 15 years.

8 Q For 15 years, you been doing that?

9 A Yes.

10 Q Okay. Part of it in Columbia and then in
11 Greenville?

12 A Correct.

13 Q About how many children do you think that
14 you have counseled that have been sexually abused
15 over those 15 years?

16 A Somewhere close to 1500 in the last 15
17 years.

18 Q And in your career, did you have an
19 occasion to consult with other therapists or mental
20 health workers doing any type of case reviews or peer
21 reviews?

22 A Yes, I participate in a weekly
23 multidisciplinary team staffing, as well as
24 interagency teen staffings, also weekly treatment
25 team staffings with the psychiatrist and weekly

1 clinical supervision of the clinical supervisor.

2 Q What is staffing? What does that mean?

3 A We basically kind of address concerns with
4 cases, get consultation, like peer consultation,
5 whenever anyone is having a difficult time with their
6 case or understanding the best medical treatment.

7 Q And there is a psychiatrist or a physician
8 that is also part of some of these staffings?

9 A Yes.

10 Q And you seek counsel from them as well?

11 A Correct.

12 Q Okay. And as part of your job is mental
13 health worker or social worker, are you required to
14 keep up your education or continuing education
15 courses?

16 A Yes, as part of my license, I am required
17 to get a number of continuing education hours each
18 year.

19 Q And what do you focus on when you take
20 these continuing education hours?

21 A They're primarily related to the treatment
22 of trauma and the dynamics of sexual abuse.

23 Q How many hours do you need to get each
24 year?

25 A 40.

1 Q Are you trained in any particular method of
2 treatment?

3 A Yes.

4 Q There are different methods to treat
5 trauma?

6 A I am state-rostered in a treatment called
7 Trauma-Focused Cognitive Behavioral Therapy or TF-
8 CBT. It's a -- an evidence-based treatment for
9 victims of trauma.

10 Q When you say victims of trauma, what are
11 you speaking of there?

12 A Trauma is basically an incident or an
13 experience that someone has that creates a lasting
14 emotional effect, causing someone to have a
15 difficulty managing emotions or distress surrounding
16 memories of the event.

17 Q What are some examples of traumatic events?

18 A It could be anything from a car accident, a
19 fall, a fire to physical abuse or sexual abuse.

20 Q Okay. So this Trauma-Focused Cognitive
21 Behavior Therapy, that is the therapy that you
22 practice primarily with these types of sexual abuse
23 cases?

24 A Yes.

25 Q Were you a participant in a Project BEST

1 program?

2 **A** Yes, I was. I did the clinical track. I
3 got rostered as a therapist doing TF-CBT. Then I
4 went and was also rostered as a senior leader that
5 oversaw the training of 28 additional clinicians
6 wanting to do the therapy.

7 **Q** Who is Project BEST -- what organization
8 was that through

9 **A** It's through MUSC out of Charleston.

10 **Q** All right. Is that type of therapy used in
11 our state?

12 **A** It is used in our state. It is used
13 nationally as well as internationally as a primary
14 treatment for trauma.

15 **Q** As part of your profession for your job, do
16 you have to review various articles or literature in
17 regard to trauma and sexual abuse specifically?

18 **A** Yes.

19 **Q** Are there any specific journals that you
20 continue to reference and read and keep up with?

21 **A** I read the Child Welfare Review, the
22 International Journal as well as other abstract
23 journal articles related to sexual abuse or dynamics.

24 **Q** Are those relied on by child abuse
25 professionals across the country?

1 **A** Yes, ma'am.

2 **Q** Have you ever been qualified as an expert
3 in a court before today in regard to treatment of
4 children or sexual abuse or trauma?

5 **A** Yes.

6 **Q** Have you been qualified as an expert in the
7 dynamics of child sexual abuse before?

8 **A** Yes.

9 **Q** And what courts have you been qualified as
10 an expert?

11 **A** In Family Court as well as General Sessions
12 Court.

13 **Q** Approximately how many times have you been
14 previously qualified?

15 **A** Eight.

16 **MS. HODGE:** At this time, Your Honor we
17 would move to admit Erica Van Wagner as a expert
18 in the treatment of child sexual abuse or
19 childhood trauma and an expert in child sexual
20 abuse dynamics.

21 **MR. STALVEY:** Your Honor, I raised my
22 previous objection.

23 **THE COURT:** Yes, sir. Okay. That's
24 overruled.

25 Ladies and Gentlemen, normally, a person

1 cannot give opinion testimony. When a person
2 testifies, they must testify to what they have
3 either seen or heard or sensed or smelled or
4 something of that nature. But there is an
5 exception when someone is qualified due to their
6 education, experience, knowledge, skill or
7 training, they are permitted to give their
8 opinion in certain areas if they are so
9 qualified. This witness is now qualified as an
10 expert witness in the treatment of child sex
11 abuse and trauma and sex abuse -- what was that?

12 **MS. HODGE:** Dynamics.

13 **THE COURT:** Sex abuse dynamics. That does
14 not mean that you must accept the opinion given
15 by the expert, but it is evidence for you to use
16 in any way that you see fit and give whatever
17 weight or credibility you deem appropriate.

18 Yes, ma'am.

19 **MS. HODGE:** Thank you, Your Honor.

20 **BY MS. HODGE:**

21 **Q** Ms. Van Wagner, in treating children who
22 have been sexually abuse, do you have to have an
23 underlying basis about sexual abuse in general?

24 **A** Yes.

25 **Q** Was that any part of what you studied in

1 school or any part of what the literature that you
2 continue to study and these training education
3 programs you continue to go to?

4 **A** Yes, ma'am. Because I specialize in the
5 treatment of trauma, that is typically the research
6 that I review and trainings that I attend.

7 **Q** All right. Can you tell us about -- first
8 of all, you already talked to us about trauma what
9 is. Does sexual abuse fall under the umbrella of
10 trauma?

11 **A** Yes, it does.

12 **Q** Okay. Can you tell us the difference
13 between chronic sexual abuse versus single episodes
14 of sexual abuse?

15 **A** A single episode of sexual abuse would be a
16 onetime incident as opposed to chronic sexual abuse
17 which is something that occurs over the course of
18 time. It occurs more than one time.

19 **Q** Is there a certain length of time for it to
20 be deemed chronic?

21 **A** No, any multiple incidents would fall under
22 chronic sexual abuse.

23 **Q** All right. And in your experience, is
24 chronic abuse, is that -- is it more common for the
25 perpetrator to be known by the victim in a chronic

1 sexual abuse case?

2 A Yes.

3 Q Why is that?

4 A Because in cases of chronic sexual abuse,
5 the perpetrator has to develop a relationship. There
6 has to be access to the victim. There has to be trust
7 with the victim's caregivers as well as with the
8 victim themselves in order to establish chronic
9 abuse.

10 Q And in chronic sex abuse, how -- are you
11 familiar with the term grooming?

12 A Yes.

13 Q Is that a part of what you are kind of
14 describing to us?

15 A Yes, ma'am. Grooming is a term used to
16 describe the process that the perpetrator identifies
17 the victim, uh, establishes that trust through
18 different techniques like giving gifts or, you know,
19 kind of talking about things or saying things, uh,
20 gauging the victim's response in order to build that
21 relationship allowing them increased access.

22 Q Is there any portion of grooming that
23 involves touching?

24 A Yes. Examples could be, you know, tickling
25 or things and allowing the hand to move into a spot

1 to gauge the victim's response and to see how they
2 respond in order to be able to feel comfortable with
3 what they're doing.

4 Q In grooming, is there an escalation of
5 abuse?

6 A Yeah, with chronic sexual abuse, that
7 grooming allows that abuse to escalate from something
8 -- a smaller incident on up to more intrusive sexual
9 acts.

10 Q In your experience and training and
11 treatment of children, have you had children that
12 have been chronically sexual abused that have
13 discussed with you grooming or grooming habits that
14 have happened to them?

15 A Yes.

16 Q Is that common or uncommon?

17 A It is common.

18 Q Tell us about disclosure. What does the
19 word disclosure mean to you in the context of child
20 sex abuse cases?

21 A Disclosure is the identification of the
22 reporting of an experience of sexual abuse.

23 Q Are there stages or phases of disclosure?

24 A Yes. The stages of disclosure commonly for
25 children, there may be some initial denial of any

1 sort of abuse and then kids move into what is called
2 a tentative stage of disclosure where they may be
3 given some information or telling some people to
4 gauge a response. Then they move into a more active
5 stage of disclosure where they are actively reporting
6 what happened. Some kids move into a phase of
7 recanting where they pull back or change their story.
8 But often, those kids move then into the next stage
9 which is the retailing or reporting of the abuse that
10 took place.

11 Q In your experience, is it common for
12 children to initially deny that they have been
13 sexually abuse?

14 MR. STALVEY: Judge, just objection based on
15 pretrial objection or pretrial motion that
16 applies to that question.

17 THE COURT: It's overruled.

18 Yes, ma'am. Go ahead.

19 THE WITNESS: Yes, it is common to deny --
20 to not report it. But then when someone ask
21 them, they may not say that it has been
22 happening the whole time.

23 BY MS. HODGE:

24 Q You say tentative disclosure. What kind of
25 responses would a child get from that?

1 **A** Depending on who they're disclosing to.
2 You know, a kid may disclose or may say something to
3 a friend and see how they respond or what their
4 response is. They may say something and, based on
5 the response that they get, it will determine whether
6 or not they move into the further stage of actually
7 disclosing.

8 **Q** If they get a non-supportive response, what
9 happens?

10 **A** They are not likely to continue to the next
11 stage.

12 **Q** Would they be, in your experience, likely
13 to go try and tell somebody else or does that end it?

14 **A** If they are getting a non-supportive
15 response, they are less likely to go let somebody
16 else know or to retell that to somebody else because
17 of the lack of response that they got initially.

18 **Q** Do children delay in disclosing abuse or
19 sexual abuse?

20 **A** Yes.

21 **Q** Is that common?

22 **A** It is common. That is part of those phases
23 of disclosure is if the abuse is taking place, they
24 are not reporting during the initial phases. They
25 are delaying in the response.

1 Q What are some factors or some reasons why a
2 child made delay reporting sexual abuse?

3 A Most of the time, it's fear, fear of what
4 would happen if they do report, fear of the impact
5 that it has on them, fear of the impact that it has
6 on their family and just general anxiety of not
7 knowing what might happen.

8 Q What could possible -- what possible impact
9 could there be to a family by disclosing?

10 A It could impact the family. The kid could
11 end up going into foster care. The kid could leave
12 and go to another caregiver. It could disrupt the
13 relationship between the perpetrator and the non-
14 offending caregiver that's in the relationship.
15 There are lots of unknowns and how that might affect
16 a family. Not knowing what response they may get is
17 also a fear. If there is concerned they are not
18 going to be supportive and they never disclosed that
19 sexual abuse, that's a situation that could impact
20 the kid's stability.

21 Q How in your experience and training does
22 sexual abuse make the child feel about themselves?

23 A Commonly, kids that are being sexually
24 abused have a low self-esteem. They have general
25 anxiety about their needs being met, about just their

1 place in this world. So there are a lot of
2 questions.

3 Q How would it make them feel in regard to
4 any participation they may have in it?

5 A They may feel guilt or shame based on the
6 experience that they've had.

7 Q Would those be reasons not to disclose?

8 A Yes. Embarrassment as well. A lot of
9 times, it is a difficult thing to talk about and
10 someone may feel embarrassed that it's happened.
11 That can also cause them to not disclose.

12 Q Regarding young children, children under
13 school age, what is their ability to be able to
14 disclose sexual abuse?

15 A Younger children, depending on what age the
16 kid is when the abuse begins may not be
17 developmentally capable of understanding this is a
18 behavior that's wrong or inappropriate or something
19 that they need to be reporting.

20 Q In your experience about what age do you
21 know that children become aware that an improper
22 touching is wrong?

23 A Usually, in late elementary school. There
24 are educational programs in the schools that, you
25 know, began sometime around third grade, fourth grade

1 teaching kids about inappropriate or unsafe touches.

2 Q Can disclosure of sexual abuse be a
3 traumatic event as well as the sexual abuse?

4 A Yes, there is so much fear connected to the
5 disclosure. Making the disclosure can also be
6 traumatic because of the impact that it has on the
7 child, the family and the dynamics of their
8 relationships.

9 Q Can you give us examples of time spans that
10 you have observed in your career as far as how long
11 it might take someone to disclose sexual abuse?

12 A There are some situations where it happens
13 right away. But in regards to delayed disclosures,
14 there are -- it is way more common for there to be a
15 period of a couple of weeks, a couple of months,
16 even, you know, a number of years. An example in
17 treating a teenage victim of sexual abuse, her 85-
18 year-old grandmother disclosed childhood sexual abuse
19 in the context of her granddaughter's treatment
20 indicated she had never told anybody up until that
21 point. So this particular person was, you know, 85
22 years old when she told about her childhood sexual
23 abuse.

24 Q Based on your training and experience, what
25 ultimately gets children to disclose if they are

1 going to disclose?

2 **A** A good trusting relationship, a sense of
3 stability, the belief that they are going to be
4 supported and provided for are mutually what factors
5 into a disclosure.

6 **Q** In your training and experience, have you
7 found that children who have been sexually abused by
8 family member or someone close continue to still love
9 and care about their abuser in spite of the abuse?

10 **A** Yeah, it's a relationship. Particularly
11 when it is a close family member or friend that there
12 are people who have good times and bad times. So, it
13 is -- it's conflicting where they may love the person
14 and not love was happening.

15 **Q** Would that be a factor in delaying
16 disclosure as well?

17 **A** Yes, not wanting to hurt somebody or damage
18 those relationships.

19 **Q** Are you familiar with the term piecemeal
20 disclosure or incremental disclosure?

21 **A** Yes.

22 **Q** Can you tell us what those terms mean
23 please?

24 **A** Incremental or piecemeal disclosure is
25 where there are parts of the story that are reported

1 over the course of time. The disclosure may not be
2 -- at one time, every detail of every incident is
3 provided but over the course of time, there are
4 different parts of the story that are revealed.

5 Q In your opinion, is that a common
6 experience of children who have been sexually abuse?

7 A Yes.

8 Q In your treatment of children, have you
9 personally experienced partial or incremental
10 disclosure while you are treating kids?

11 A Yes. Particularly in cases of chronic
12 sexual abuse, it's difficult to remember every single
13 detail of every single thing that happened. There
14 are different times where different aspects are
15 focused on and reported.

16 Q I believe you use this term, but can you
17 tell us what the term non-offending caregiver means
18 and its importance in this context?

19 A The non-offending caregiver is a caregiver
20 to a child that is not the person that offended or
21 sexually abused the child. It's someone in the kid's
22 life that is providing care but is not the one that
23 abused them.

24 Q In your experience, would the non-offending
25 caregiver have some type of relationship with the

1 offender, some close relationship usually?

2 **A** Yes, usually it is a paramour or someone
3 else living in the home with the family unit.

4 **Q** And what types of responses have you seen
5 in your training and experience from non-offending
6 caregivers when a child finally does disclose?

7 **A** It can range from full support to not
8 supporting at all or not believing to maybe somewhere
9 in the middle where they may have feelings of belief
10 but also continue to support the perpetrator.

11 **Q** Why would a non-offending caregiver
12 continue to support a perpetrator in your opinion?

13 **A** It's a relationship that those people have
14 been involved in for some time. While that person may
15 believe, it has an impact on their relationship as
16 well, their stability as well and their future. So
17 it's a difficult position to be in.

18 **Q** In your experience, have you found it
19 common or uncommon for a non-offending caregiver to,
20 in fact, stay with the perpetrator even in light of
21 disclosure of sexual abuse?

22 **A** Yes, it happens frequently.

23 **Q** How does that impact the child that has
24 been sexually abuse?

25 **A** That definitely has a negative impact on

1 the child that's been abused. The amount of support
2 from the non-offending caregiver impacts the child's
3 disclosure as well. And so if the child is disclosed
4 and the non-offending caregiver is supporting or
5 staying with the offender, then that certainly has a
6 negative impact on the victim.

7 Q Let's go back and talk about trauma a
8 little bit. In your experience, treating children
9 with trauma, specifically sexual abuse -- excuse me --
10 -- are there symptoms or signs or possible red flags
11 that these children might exhibit as a result of this
12 trauma?

13 A Yeah, there are common signs or symptoms of
14 sexual abuse or responses to sexual abuse. There are
15 what's called externalizing symptoms which would be
16 things that people can see on the outside, behavioral
17 concerns, often kind of poor anger control, attitude,
18 just negative behaviors. They are also internalizing
19 symptoms which are things on the inside like anxiety
20 or fear or depression also feelings of anger on the
21 inside.

22 Q In your experience, do all children who
23 have been sexually abused show the same trauma
24 symptoms?

25 A No, not necessarily. There is a common set

1 of symptoms but each individual responds in a
2 different way and exhibits a different set of
3 symptoms.

4 Q How about coping with sexual abuse? In your
5 experience, what are some ways that children have
6 coped with abuse while it's been going on?

7 A One of the ways is something called
8 dissociating. That is where a victim kind of goes
9 away in their mind as a way to not deal with the
10 current experience of their physical self. So often
11 times, we might daydream or kind of go off in our
12 mind. That's kind of like what's happening when a
13 victim may separate their mind with their physical
14 self.

15 Q In your experience, have you had children
16 report that they were asleep during sexual abuse or
17 pretending to be asleep?

18 A Yes.

19 Q Why would they do that in your opinion?

20 A That is another way of coping, another way
21 of, you know, maybe kind of separating themselves
22 from what happened, a way of kind of testing the
23 waters to see, you know, what their response would
24 be.

25 Q If they were sleeping -- what the

1 perpetrator response would be?

2 **A** Correct.

3 **Q** How about regarding the participation? What
4 would the pretending to be asleep do?

5 **A** It makes them not accountable or not
6 responsible for what was happening at the time.

7 **Q** Again, would children who have been
8 sexually abuse, are there a variety of coping
9 mechanisms that you experienced in your career?

10 **A** Yes.

11 **Q** That's one of them?

12 **A** Correct.

13 **Q** Could you give us an example of another
14 one? Is there anything else that's common?

15 **A** I'm sorry. Can you repeat that?

16 **Q** Are there any other ones that are common --
17 any other coping mechanisms that are common for kids
18 that are being sexually abused?

19 **A** Like the dissociating?

20 **Q** Yeah, like dissociating. You said
21 something about fantasies or something like that. Is
22 that a different kind?

23 **A** Yeah, there's an overt, kind of looking
24 spaced out or not really kind of being connected,
25 fantasies like going away, pretending you're

1 somewhere else. That's all kind of part of that
2 dissociating.

3 Q So you can check out?

4 A Correct, create a fantasy, right.

5 Q Let's talk about this case specifically.

6 Shift gears a little bit. Have you treated or seen
7 the victim in this case Complainant ?

8 A Yes.

9 MR. STALVEY: Judge, I raise my previous
10 objection.

11 THE COURT: Yes, sir. It's overruled.

12 Go ahead.

13 BY MS. HODGE:

14 Q What she a client?

15 A Yes.

16 Q Where was she a client?

17 A She was a client at Greenville Mental
18 Health Center.

19 Q When did you first see her for treatment?

20 A I met her for the first time in April 2012.

21 Q And approximately how many sessions did you
22 have with her over the entire course of time you
23 treated her?

24 A About 20 times.

25 Q What was she initially coming to you for?

1 What kind of circumstance or treatment?

2 **A** She was referred for an assessment because
3 she had just been placed in foster care due to
4 physical abuse by mom. I did the assessment and
5 began treatment at that time.

6 **Q** When you say assessment, what are you
7 speaking of?

8 **A** The initial appointment with a client is
9 gathering a lot of information about family history.
10 There are several domains of things that we explore,
11 mental health history, family history, physical
12 health, educational history. It's gathering all the
13 information about what the concerns are in an effort
14 to plan treatment.

15 **Q** Part of your treatment or one of your
16 sessions or maybe the first, I'm not sure, do you go
17 over a trauma symptom type checklist with the child?

18 **A** We do with trauma screening at the onset of
19 treatment, yes.

20 **Q** Did Complainant do that in this case?

21 **A** She -- we did a trauma screen. In the very
22 first assessment, we asked -- she reported the
23 physical abuse and we planned treatment surrounding
24 that.

25 **Q** Approximately how many times did you see

1 her over the course of -- for the physical abuse?

2 **A** I met with her about two times before she
3 -- when she was in foster care and then she was
4 placed with the grandparents. After she was placed
5 with her grandparents and they came in, I did a more
6 in depth trauma symptom checklist at that time.

7 **Q** So during any of your sessions with Complainant
8 or the defendant, was Nora Alexander present?

9 **A** Yes, once Complainant had been placed with them,
10 they bought her in for about two sessions.

11 **Q** Were they wanting her to continue on with
12 mental health treatment since she was placed with
13 them?

14 **A** At their first appointment, it was with a
15 psychiatrist. They were suggesting that she not come
16 back for treatment. The psychiatrist recommended and
17 bought me in to discuss it. We determined that we
18 would continue treatment to address the physical
19 abuse as well as to aid in the transition out of
20 foster care and back into relative placement.

21 **Q** Was Complainant agreeable to also continuing
22 treatment?

23 **A** She was.

24 **Q** All right. So you did a trauma assessment
25 with her, a more in-depth one?

1 **A** Correct.

2 **Q** Is that a test that can be scored or what
3 is the purpose of that test?

4 **A** That involves, once the trauma screen has
5 been done, basically asking questions about whether
6 or not there has been a trauma. Then we move to a
7 standardized assessment to assess what symptoms are
8 present. So Complainant completed that questionnaire. Her
9 answers were put into a computer system and it gives
10 us a profile of the symptoms that she is presenting
11 with, giving us, you know, the most elevated symptoms
12 or the ones that we need to start with in treatment.

13 **Q** So that's kind of your roadmap for how your
14 treatment is going to go?

15 **A** Correct. It prioritizes those.

16 **Q** Okay. What was the result of her
17 assessment?

18 **A** During that particular trauma assessment,
19 she scored in the clinically significant range for
20 dissociating or dissociation.

21 **Q** Were you able to start any treatment
22 program with her that addressed dissociation at that
23 time?

24 **A** She was inconsistent in her treatment. I
25 did come in and we made efforts to begin the TF-CBT,

1 Trauma-Focused Cognitive Behavioral Therapy. But
2 because of inconsistencies, we struggled to make
3 significant progress.

4 Q At some point, did Complainant come to you in a
5 session and disclose sexual abuse?

6 A Yes.

7 Q When did that happen?

8 A Shortly after, you know, we had the couple
9 of sessions with the grandparents, she came in for
10 another scheduled appointment and was with a group
11 home staff that she had been with prior -- when she
12 was in foster care. Because I was confused about the
13 change in caregiver, we met. It was at that time
14 that she reported that she had recently disclosed
15 sexual abuse and that she had been returned to foster
16 care at that time.

17 Q Was she able to tell you where and when the
18 sexual abuse took place?

19 A Yes.

20 Q What did she say about those two things?

21 A At that time, we did another trauma
22 assessment based on her new disclosure of trauma.
23 She reported that the abuse had been taken place
24 somewhere around age two up until age 14.

25 Q Did she say where the abuse had taken

1 place?

2 **A** She indicated that it took place primarily
3 at her grandfather's shops.

4 **Q** Did she indicate any residence?

5 **MR. STALVEY:** Objection, leading.

6 **BY MS. HODGE:**

7 **Q** Did she indicate any other place?

8 **A** She also indicated that her grandparent's
9 house.

10 **Q** You said you did another assessment or
11 trauma checklist. What were the results of that?

12 **A** At that time, part of the decision to redo
13 the trauma symptom checklist was that she indicated
14 she didn't answer authentically in the previous
15 assessment because her grandparents were present. In
16 readministering the assessment, she scored high for
17 posttraumatic stress symptoms. Anger was certainly
18 high. But the most clinically significant at that
19 time was sexual concerns, uh, just general sexual
20 concerns and sexual distress.

21 **Q** Did she continue treatment with you after
22 this new disclosure of sexual abuse?

23 **A** She did. They continued to be inconsistent
24 but she did continue to come in.

25 **Q** When was your last session? What date was

1 your last session?

2 **A** The date of the last session was -- it was
3 shortly before the Family Court hearing, I think, in
4 2013.

5 **Q** When you say inconsistent, was that because
6 of her doing or something else?

7 **A** No, she was very engaged in treatment when
8 she was present for treatment. She, in foster care,
9 ended up being in multiple placements and had several
10 placement changes which impacted her consistency and
11 treatment, you know, getting new caregivers engaged
12 in the process and consistently keeping appointments
13 was a challenge.

14 **Q** Did she -- do you know why she was in
15 several different placements?

16 **A** There were different behavioral concerns at
17 different times that cost her to disrupt the
18 particular placement and need to be moved.

19 **Q** In your experience and training with
20 children who disclose sexual abuse, is acting out or
21 doing bad things common or uncommon?

22 **A** It's very common. She talked a lot about
23 her anger. Most of the behavioral concerns that were
24 occurring were related to poor anger control and her
25 feelings of being angry about her situation.

1 Q When she finally stopped coming to you the
2 last time you saw her, was it your opinion that she
3 needed to continue on treatment after that?

4 A It was. She was moved to a placement that
5 was outside of the Greenville area. I had requested
6 to continue providing the treatment. But it was my
7 understanding there was a provider at her new
8 placement that would continue.

9 Q Thank you. Please answer any of the
10 defense questions.

11 THE COURT: Yes, sir.

12 **CROSS-EXAMINATION**

13 **BY MR. STALVEY:**

14 Q Ms. Van Wagner, when did you say you began
15 treating Complainant

16 A In April of 2012.

17 Q Okay. I'll, uh, I'll start by asking you,
18 you and I have communicated prior to this case about
19 some of your qualifications, correct?

20 A Yes.

21 Q And you have cited -- you cited two
22 articles, research articles to me that you, I'll use
23 your words, are the main ones that you use as the
24 basis of your own opinion along with your
25 professional opinion and other research, correct?

1 **A** Correct.

2 **Q** And one of those articles, the first
3 article is how children tell? The process of
4 disclosure in child sexual abuse. That's by Sorenson
5 and either -- Snow?

6 **A** Snow.

7 **Q** Snow. Okay. Correct?

8 **A** Correct.

9 **Q** The second one is the stated debate about
10 children's disclosure patterns in child abuse sexual
11 cases, correct?

12 **A** Correct.

13 **Q** That's by Sorenson and somebody else -- I'm
14 sorry. That's by Olafson and Judge Cindy Lederman,
15 right?

16 **A** Yes.

17 **Q** You'll agree with me that these research
18 articles dealt with cases in which they had
19 established that these children were actually
20 sexually abused, correct?

21 **A** Yes.

22 **Q** They established the children -- they call
23 these substantiated cases, correct?

24 **A** Yes.

25 **Q** The reason they called them substantiated

1 cases is because the children -- there is either
2 medical evidence or video evidence or a accused that
3 actually admitted sexually abusing the kids, is that
4 correct?

5 A Yes.

6 Q Those would be substantiated cases based on
7 the research and these articles, correct?

8 A Yes.

9 Q You are familiar with this case, correct?

10 A Yes.

11 Q We don't -- Mr. Alexander has never
12 admitted doing anything, correct?

13 A As far as I understand.

14 Q Okay. There's no medical evidence in this
15 case, correct?

16 MS. HODGE: Objection, Your Honor, to the
17 form of the question. He asked if she knows if
18 there is. I don't believe this is within her
19 scope of her knowledge.

20 BY MR. STALVEY:

21 Q Well, okay. Do you know if there is any
22 medical evidence?

23 A I don't know.

24 Q Let me ask -- I mean I guess I got ahead of
25 myself. You met with Complainant on July 16th, 2013. Do

1 you remember that?

2 A I'm sure --

3 Q Well, let me show you a note from -- this
4 is one of your clinical service notes, correct?

5 A Yes.

6 Q Okay. And if you want to read I guess the
7 third paragraph, I want to ask you another question.

8 A Okay.

9 Q You do remember meeting with her on July
10 16th, 2013, right?

11 A Yes.

12 Q In that meeting, you actually discussed
13 with her her upcoming Family Court case, correct?

14 A Yes.

15 Q Did you discuss with her her, I guess,
16 concerns about it, correct?

17 A Yes.

18 Q You discussed with her what her testimony
19 may be, correct?

20 A I didn't discussed her testimony
21 specifically. We discussed that she could
22 potentially be testifying.

23 Q Okay. At that point, you had -- did you
24 say, did you earlier testify that you treated her 20
25 times?

1 **A** Over the course of time, I met with her
2 approximately 20 times, yes.

3 **Q** You talked with her about dissociation, the
4 delayed disclosure, you basically told her these were
5 symptoms that children or victims of sexual abuse
6 have experienced in the past, correct?

7 **A** Part of TF-CBT treatment is
8 psychoeducation, which is the beginning phase where
9 we do give education to the client about signs and
10 symptoms that are common. So yes, we did provide
11 education.

12 **Q** Just so we're clear, you talked to her
13 about what you just previously testified to under
14 direct examination, is that correct?

15 **A** Specifically?

16 **Q** Well, the patterns of disclosure and
17 reasons kids may not tell at first. You talked to
18 Complainant about all of these things during your
19 treatment of her, correct?

20 **A** We did talk about that. As she gave
21 examples of those, we -- I provided education to her
22 about what those, uh, -- giving her labels or terms
23 for those things.

24 **Q** Okay. Did you talk to her -- I guess back
25 to my original question. So you were familiar with

1 the facts of this case before she went to Family
2 Court, correct?

3 A Yes.

4 Q And you were familiar with them based on
5 the fact you treated the child since April of 2012?

6 A Right.

7 Q Did you end your treatment of her close to
8 July of 2013?

9 A Yes. I can't remember the date of Family
10 Court. I remember Family Court was the last time I
11 saw her.

12 Q Okay. Going back to the articles that we
13 identified earlier, would you agree with me that the
14 Lederman article where they took substantiated cases
15 of child sex abuse, the delayed disclosure was not
16 applicable in most of those cases, correct?

17 A In which article?

18 Q The Lederman article, the 2006 article.

19 A Repeat your question. I'm sorry.

20 Q Let me rephrase it and see if you agree
21 with this. Weren't the results of their studies that
22 this delayed disclosure, uh, -- let me -- I'm sorry.
23 Let me back up. Would you agree in that Lederman
24 article they said most cases involved disclosures
25 when the child reached adulthood? Would you agree

1 with that?

2 A Yes.

3 Q Would you agree that out of the cases that
4 they determined to be valid, those with medical
5 evidence, confessions, video evidence, the
6 corroborating sexual abuse, the number of children
7 that did not disclose at a formal interview was close
8 to 42 percent?

9 A Yes.

10 Q You would agree that that's less than that?

11 A That, yes.

12 Q Would you agree that the conclusion in that
13 article were that there were many unanswered
14 questions about children's disclosure patterns and
15 that further research was warranted?

16 A Yes.

17 Q Tell me what research you personally do,
18 based on the children that you've treated. Do you
19 keep records of the cases that you -- when I say
20 records, do you keep records of the cases that are
21 substantiated as Sorenson and Snow would define it?

22 A No.

23 Q Okay. So you don't have any records of the
24 cases of sexual abuse where there is video evidence,
25 medical evidence, defendant or suspects confession,

1 you don't have any records of that?

2 A No.

3 Q You have no idea of how many of the cases
4 that you've looked at that involve delayed disclosure
5 and the other symptoms that you testified to. You
6 have no idea how many of those cases were actually
7 substantiated, do you?

8 A No, I don't.

9 Q Okay. Uh, you'll agree with me that in
10 certain cases, the child's allegations of sexual
11 abuse are not true? Would you agree that that
12 happens?

13 A That does happen.

14 Q Would you agree that one way of
15 establishing that the child's allegations are not
16 true would be through evidence? Would you agree with
17 that?

18 A Yes.

19 Q Probably the most common example is when a
20 child would say that they were touched or raped by an
21 individual and DNA evidence proves it was another
22 individual. Would you agree that's one way that a
23 potential suspect could be exonerated?

24 A Yes.

25 Q And in all of your records that you keep

1 personally, do you keep track of any cases that end
2 up like that?

3 **A** I don't.

4 **Q** So, in your experience, based on all the
5 children that you've interviewed, there is no record
6 or you don't keep any records or any way of knowing
7 what cases may fall in that category, do you?

8 **A** I don't. I provide clinical services and
9 I'm not a researcher. I don't keep records of those
10 things for the purpose of research.

11 **Q** So you have no way of knowing if a child
12 who doesn't disclose at a formal interview or who
13 delays disclosure or who exhibits these symptoms of
14 what you, I guess, would say would be child sexual
15 abuse dynamics, you have no way of knowing which of
16 those cases would technically be unfounded based on
17 DNA evidence?

18 **A** Based on DNA evidence, no.

19 **Q** Okay. And you don't have any way of knowing
20 which of those cases may be unfounded based on any
21 other types of evidence, correct?

22 **A** Through my involvement in the case, I get
23 that information through either DSS. Or if law
24 enforcement is involved, there is follow-up. But I
25 don't keep records of those things outside what is in

1 the clinical record.

2 Q Do you keep records of cases of sexual
3 abuse that actually go to trial like we are in today
4 and a jury is --

5 MS. HODGE: Your Honor, I'm going to
6 object to this question. If we could approach
7 the bench?

8 THE COURT: Please, yes.

9 (WHEREUPON, a bench conference is held off the
10 record.)

11 BY MR. STALVEY:

12 Q Ms. Van Wagner, as far as the -- I will go
13 back to the Olafson and Lederman research. Wouldn't
14 you agree that they concluded that school-aged
15 children and adolescents are more likely to disclose
16 when questioned than younger children?

17 A Yes.

18 Q And, based on your understanding of this
19 case, wasn't Complainant questioned for the first time
20 when she was 13 years old about this?

21 A Yes.

22 Q That was at her first Julie Valentine
23 Center interview?

24 A Yes.

25 Q And that was after you had begun treating

1 her, correct?

2 **A** It was -- yeah, a couple of weeks.

3 **Q** That occurred in May of 2012 and I believe
4 you began treating her in April of 2012?

5 **A** I don't remember the exact date in April
6 but I did the assessment of her, the mental health
7 assessment. And shortly after that, within a couple
8 of weeks, I think she had the forensic interview at
9 the Julie Valentine Center. She had become an open
10 client but we had not yet started treatment.

11 **Q** Do you remember how many times you treated
12 her from April to September 2012? If you treated --
13 well, actually, I'll let you answer the question.
14 You don't need to look at your records. If you
15 treated her 20 times, when were most of those
16 meetings that you had with her? Was that before or
17 after September of 2012?

18 **A** Most of those were after.

19 **Q** Okay. Do you remember how many times you
20 met with her before September of 2012?

21 **A** It would be hard for me to guess without
22 looking.

23 **Q** You're welcome to look.

24 **A** (Reviewing.)

25 You said before September?

1 Q Yes, ma'am, before September of 2012.

2 A It looks like there were approximately six
3 different sessions.

4 Q Okay. I believe you testified previously
5 that the reason that children don't disclose is
6 because they don't understand what's going on and
7 don't know that it's wrong. Is that correct?

8 A If the kid is not developmentally able to
9 understand that. When the kids are very young and
10 they are being abused, they may not have that
11 knowledge at that age.

12 Q Okay. You previously testified that one
13 thing that you looked at when -- during an assessment
14 is sexualized behavior, correct?

15 A Uh, that is not necessarily a question that
16 we ask directly. If that's something that comes up
17 in the assessment, we will explore it further.

18 Q Okay.

19 A For the trauma assessment. I'm sorry. Yes.

20 Q Right. You would agree that most children
21 who are victims of sexual abuse exhibit some type of
22 sexualized behavior in that first -- well, in any
23 assessment, correct?

24 A Say that again?

25 Q What's your opinion of sexualized behavior

1 in children who are victims of sexual abuse.

2 **A** Not all kids present with sexualized
3 behaviors. Some do. There can be a variety of
4 examples of that sexualized behavior. That could
5 mean acting out sexually. It could be being
6 promiscuous. It could be being reactive or sexually
7 inappropriate with another person.

8 **Q** You -- I mean, there's a way of keeping a
9 record of this and that would be on the trauma
10 checklist that you testified about, correct?

11 **A** If it's the TF-CBT that you're referring
12 to, that's the trauma symptom checklist for children,
13 it asks standardized questions exploring any sort of
14 sexual concerns or distress or preoccupation. There
15 are categories for types of sexual concerns.

16 **Q** Let me do this a different way. Do you
17 remember testifying in a Family Court hearing?

18 **A** Yes.

19 **Q** I'm going to ask you some questions. This
20 is a copy of the transcript. If you need to refresh
21 your recollection, you can tell what page and line
22 it's on. You'll agree that you previously testified
23 that commonly when children are sexually abused, they
24 do exhibit sexualized behavior?

25 **A** Yes.

1 Q The trauma center assessment or checklist,
2 you noted that there were clinically significant
3 concerns regarding disassociation symptoms, correct?

4 A Correct.

5 Q You also look at other areas for concern
6 that may be clinically significant, correct?

7 A Correct.

8 Q Those areas include anger, anxiety,
9 depression and posttraumatic stress, correct?

10 A Yes.

11 Q You also look at sexual concerns, correct?

12 A Correct.

13 Q That would include sexualized behavior,
14 correct?

15 A Yes.

16 Q And you noted or previously testified that
17 none of these other areas were considered to be in
18 the clinically significant range, correct?

19 A Correct. They were elevated, indicating
20 some levels of distress, but not in the clinically
21 significant range.

22 Q Okay. And the areas that were elevated --
23 feel free to look at Page 69 line 18 through 19 if
24 you need to refresh your recollection. But the areas
25 that were elevated, those were areas of anxiety,

1 depression, anger, posttraumatic stress,
2 dissociation, overt fantasy. Those were the elevated
3 areas, correct?

4 **A** Yes.

5 **Q** And sexualized behavior was not in the
6 elevated range?

7 **A** It's not labeled sexualized behavior.
8 There are three categories. One is sexual concerns,
9 one is sexual concerns preoccupation and then one is
10 sexual concerns distress. In the sexual concerns
11 preoccupation, that was the one that was not
12 clinically significant.

13 **Q** Did you previously testify that any of
14 those were not in the elevated range?

15 **A** I can't remember if I did that or not.

16 **Q** Look at the transcript that's in front of
17 you, page 69 line 18 -- lines 18 through 19.

18 **A** What page are you on?

19 **Q** Page 69.

20 **A** No.

21 **Q** And I've already asked but you testified
22 the only thing that was in the clinically significant
23 -- your only clinically significant concern was the
24 dissociation, right?

25 **A** That was from a different assessment. It

1 was an assessment done, uh, 7/19. Then there was an
2 assessment done on 7/23.

3 Q Okay.

4 A The one that was done in the presence of
5 her grandparents is the one where disassociation was
6 the only one that was, uh, in the clinically
7 significant range. Then when it was readministered,
8 that's the one where the sexual concerns and sexual
9 concerns distress were the ones in the clinically
10 significant range.

11 Q I understand. But when was the -- are you
12 referring to some notes up there?

13 A The assessments.

14 Q Okay. Can I see what you're ---

15 A Yes.

16 Q --- referring to as far as the --

17 A This is the profile where the dissociation
18 -- I apologize. This is the one that was
19 readministered where the sexual concerns and sexual
20 concerns distress were in the clinically significant
21 range.

22 Q Okay. But the one where the sexual
23 distress -- forgive me for oversimplifying. But the
24 sexual stuff, you didn't see that until July 23rd,
25 2013, right? Isn't that the date on that?

1 **A** Yes.

2 **Q** And --

3 **A** I'm concerned. That is actually the wrong
4 date. That should actually be 2012.

5 **Q** Okay. You did your original assessment on
6 Complainant in -- was that in April of 2012?

7 **A** Yes. I guess just to be clear the
8 assessment in April of 2012 was just a general mental
9 health assessment. That's the intake appointment for
10 a client coming in for mental-health services. These
11 other assessments that you are referring to is a
12 standardized trauma assessment which is a tool used
13 for the purpose of assessing certain symptoms.

14 **Q** One of the reasons that you testified that
15 a child may not say anything was that they have fear,
16 correct?

17 **A** Yes.

18 **Q** Fear that they would be harmed, correct?

19 **A** That could -- to be afraid, yes.

20 **Q** Fear that they would go into foster care?

21 **A** Possibly.

22 **Q** Fear that they would lose the breadwinner
23 of the family? I think that's what you testified to.
24 Is that one of them?

25 **A** Yes.

1 Q You will agree that some of these
2 inconsistencies that a child may have in their story
3 could be due to the fact that the story is not true.
4 Is that a possibility?

5 A That is a possibility.

6 Q And you'd agree that the fact that a child
7 never discloses the abuse when they say it's actually
8 or when they eventually say it was going on is
9 because it wasn't going on, is that a possibility?

10 A Yes.

11 Q Okay. And do you say that the reason that
12 they would ask to go and be with the person that's
13 abusing them -- would it be possible that that could
14 be because they actually love their grandparent or
15 loved the person and no abuse had ever taken place?

16 A That is possible.

17 Q Okay. All right, I don't have any further
18 questions.

19 THE COURT: Anything?

20 MS. HODGE: Yes, sir.

21 REDIRECT EXAMINATION

22 BY MS. HODGE:

23 Q In your experience in your 1500 plus cases
24 of dealing with children who had been sexually
25 abused, is it common that children who don't tell

1 that they're sexually abused don't disclose it is
2 because, in fact, they are being sexually abused and
3 they are afraid to tell?

4 **MR. STALVEY:** Objection, leading question.

5 **MS. HODGE:** Your Honor, I'm not sure how
6 I'm going to get these questions out without
7 directly stating the specific hypothetical.

8 **THE COURT:** It's overruled. Go ahead.

9 **MS. HODGE:** Thank you.

10 **THE WITNESS:** Yes, that is.

11 **BY MS. HODGE:**

12 **Q** Is that more common?

13 **A** More common, yes.

14 **Q** Is it more common in your experience that
15 children who are being sexually abused actually do
16 love their perpetrator?

17 **A** Yes.

18 **Q** Is it more common in your experience and
19 your cases that children who have inconsistent or who
20 have piecemeal disclosures are actually abused and
21 they're working through the disclosure process?

22 **A** Yes.

23 **Q** And in your experience and your 1500 cases
24 -- let's back off a little. Do you ever get to know
25 all of the evidence in a case, uh, are there certain

1 times that you are aware of what the evidence is in a
2 case?

3 A There are sometimes, yes, but not always.

4 Q Not always. So you wouldn't know in
5 certain cases if a case had even been charged or had
6 a criminal aspect to it?

7 A Not necessarily, no.

8 Q When you are aware of that, do you become
9 aware of what possible evidence there are in the
10 case?

11 A Sometimes, yes.

12 Q From your memory and your recollection,
13 have you ever treated a child where they have had
14 physical DNA as a part of the case against the
15 perpetrator?

16 A No.

17 Q And in your treatment of children where you
18 are aware of what the evidence is, has there ever
19 been a medical finding of sexual physical abuse on
20 children?

21 A Not in my cases, no.

22 Q So, in your opinion, would that be -- would
23 it be common that you do not have DNA and you do not
24 have medical evidence in the cases that you are aware
25 of the evidence?

1 A Yes, it's rare to have medical evidence.

2 Q That's another way to say it. Thank you.

3 All right. Uh, let's see. When you were, uh, --
4 when you first saw -- do you have your notes in front
5 of you, your clinical notes?

6 A Yes.

7 Q When you, I think, first saw the victim,
8 was that 4/19/12?

9 A Yes.

10 Q Okay. And if I can get you to -- what am I
11 showing you? What is this that I am showing you?

12 A That's the initial clinical assessment.

13 Q Okay. Would you have produced this page?

14 A Yes.

15 Q Okay. And is there on the second page a
16 Number 3 in these questions?

17 A Yes.

18 Q Are you familiar with that?

19 A Yes.

20 Q Okay. Who did Complainant say that she wanted to
21 live with at this time?

22 A Janie Thompson who she said was mom's ex-
23 best friend.

24 Q If she would have said grandma and grandpa,
25 would it have been put there?

1 **A** Yes.

2 **Q** All right. And that was on the first day
3 she came in after the physical abuse with mom?

4 **A** Correct.

5 **Q** So grandma and grandpa were not the first
6 choice?

7 **A** Correct.

8 **Q** At that time. All right. And I believe Mr.
9 Stalvey asked you about the Julie Valentine Center
10 interview regarding the physical abuse with mom?

11 **A** Correct.

12 **Q** Are you privy to those interviews? Do you
13 ever get an opportunity to see those or discuss
14 those?

15 **A** Sometimes I do get those. I think, in this
16 particular case, I was not involved with the Julie
17 Valentine Center.

18 **Q** At that time?

19 **A** Right.

20 **Q** In your discussions with Complainant do you
21 know who brought her to the Julie Valentine interview
22 on that first time when she was living with grandma
23 and grandpa?

24 **A** I don't know.

25 **Q** Okay. Who brought her to the sessions with

1 you when she was living with the defendant and Nora?

2 A The grandparents.

3 Q Okay. And in a later session, did she
4 report that she wasn't honest about things because
5 the defendant was there?

6 A Yes.

7 MR. STALVEY: Objection. Your Honor, that's
8 hearsay.

9 MS. HODGE: I believe it was gone into on
10 cross-examination.

11 MR. STALVEY: Well, I disagree.

12 THE COURT: It's overruled.

13 MS. HODGE: Thank you, Your Honor.

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

15 THE COURT: Anything, Mr. Stalvey?

16 MR. STALVEY: Just one question.

17 THE COURT: Okay.

18 **RECROSS EXAMINATION**

19 **BY MR. STALVEY:**

20 Q Just so I heard you right. In all the
21 sexual assault cases that you have ever had any
22 experience with, there has been no DNA evidence? I'm
23 not talking about just children. I think you said
24 you've done over 2000 of them.

25 A Not that I'm aware of, no.

1 Q Okay. No further questions.

2 THE COURT: All right. Ma'am, you may step
3 down. Please be careful.

4 THE WITNESS: Thank you.

5 MS. HODGE: Your Honor, the state rests.

6 THE COURT: The state rests? All right.

7 Mr. Foreman and Ladies and Gentlemen of the
8 jury, the state has now rested its case meaning
9 they do not intend to call any more witnesses at
10 this time and they do not intend to put up
11 anymore evidence whatsoever, whether it's a
12 document or whatever. That means it is time for
13 me to take up some legal matters outside of your
14 presence.

15 It's also a good time for the break. It's
16 about 10:35 right now or thereabouts. We have
17 been in here since about 9 o'clock or so. So
18 it's a good time to take a break. This would be
19 a good solid, about a 20-minute break or a
20 little more because I'm going to take up these
21 matters that require my attention but not yours
22 and then I want to give my staff and myself a
23 break as well. I need some more coffee. They
24 have good coffee here. I told you that.

25 So we're going to take a good morning break

1 here. Do not discuss this case. The state has
2 rested, but the case is not over. Okay. The
3 state has rested, but the case is not over so it
4 is not proper for you to be discussing the case.

5 Mr. Foreman, if you would, take your jury
6 out with the bailiff please.

7 (WHEREUPON, the jury exits at approximately
8 10:35 a.m.)

9 **THE COURT:** Okay. The jury is out.
10 Anything from the state?

11 **MS. HODGE:** Nothing from the state, Your
12 Honor.

13 **THE COURT:** From the defense?

14 **MR. STALVEY:** Your Honor, at this time, we'd
15 move for directed verdict based on the fact that
16 we don't believe there's been any credible
17 evidence or testimony that would support a
18 verdict of guilty.

19 **THE COURT:** Thank you.

20 From the state, any response?

21 **MS. HODGE:** Your Honor, we believe that
22 there is sufficient evidence to go forward to
23 the jury on both charges. And taking the light
24 in the -- taking the evidence in the light most
25 favorable to the state, we believe the victim's

1 testimony alone is substantial evidence.

2 **THE COURT:** Thank you. Yes, the motion is
3 denied. The court is required to review the
4 evidence or any evidence, not weigh the evidence
5 but also look at it in the light most favorable
6 to the nonmoving party which is the state.
7 There is evidence in this case of the
8 defendant's guilt. So as long as there's any
9 evidence, it goes to the factfinder. So the
10 motion is denied.

11 **MR. STALVEY:** Thank you, Your Honor.

12 **THE COURT:** Anything else?

13 **MR. STALVEY:** No, sir, Your Honor. If I
14 could have maybe -- I couldn't remember what you
15 told the jury as far as how long the break would
16 be.

17 **THE COURT:** I told them we were going to
18 take a good 20 minutes or so because I thought
19 we also got another little preliminary thing. I
20 want to read about this hearsay issue. She has
21 pulled up a couple of cases for me while we were
22 -- they were testifying.

23 **MR. STALVEY:** Yes, sir, judge. So we'll
24 take 20 minutes? I've got some people that
25 probably are outside right now.

1 **THE COURT:** All right. We will use this
2 clock in the back since my clock is different.
3 How about that? We will start back at five
4 till.

5 **MR. STALVEY:** Yes, sir, Your Honor.

6 **THE COURT:** Okay.

7 (WHEREUPON, a recess is taken.)

8 **THE COURT:** Mr. Stalvey, your client
9 before we -- I need to have a colloquy with him.
10 But is he going to testify or is he going to not
11 testify or is he going to put up a defense?

12 **MR. STALVEY:** Judge, we have -- we have not
13 made that decision.

14 **THE COURT:** Okay.

15 **MR. STALVEY:** We are going to call some
16 witnesses ---

17 **THE COURT:** Okay.

18 **MR. STALVEY:** --- some defense witnesses.
19 But as far as whether he's going to testify, we
20 are still deciding that. So if you want to have
21 a colloquy with him, I don't see any problem
22 with doing that right now.

23 **THE COURT:** Let's do that while we've got
24 the jury out just so that he understands. I
25 know you told him, but I want to make sure we've

1 got that on the record. I will not ask him to
2 make a decision. How about that?

3 **MR. STALVEY:** Yes, sir, Your Honor. That's
4 fine.

5 **THE COURT:** Sir, if you will stand please
6 and be sworn.

7 Madam Clerk.

8 (WHEREUPON, the Defendant's first duly sworn.)

9 **THE CLERK:** Thank you.

10 **THE COURT:** Mr. Alexander, you are not in
11 custody. Have you taking any prescription
12 medication, drugs or any substance that affects
13 your reasoning or thinking ability?

14 **MR. ALEXANDER:** No.

15 **THE COURT:** You are clear-minded and
16 understand what you are doing here today?

17 **MR. ALEXANDER:** Yes.

18 **THE COURT:** Mr. Stalvey represents you in
19 these matters?

20 **MR. ALEXANDER:** Yes.

21 **THE COURT:** Sir, I want to explain to you
22 certain rights that you have. If you do not
23 understand anything that I say, if you will let
24 me know, and I will stop and you can talk with
25 your lawyer. We have reached a stage in the

1 trial where you may present your defense. You
2 have the right to claim the protections given to
3 you by the Fifth Amendment to the Constitution
4 of the United States which states, in part, no
5 person shall be compelled in any criminal case
6 to be a witness against himself.

7 Also, you have the right to claim the
8 protections given to you by Article 1, Section
9 12 of the South Carolina Constitution which
10 states, in part, no person shall be compelled in
11 any criminal case to be a witness against
12 himself. This means that you cannot be required
13 to testify in this case. You have the right to
14 testify on your own behalf, but no one can make
15 you testify. This is a personal right and no
16 person can waive this right except you.

17 If you decide to testify, you will be
18 subject to the same rules that govern other
19 witnesses. You may be examined and cross-
20 examined on any relevant issue in this case.
21 Additionally, if you have any convictions
22 involving dishonesty or false statement or for
23 crimes punishable by imprisonment for more than
24 one year and this court determines that the
25 probative value of admitting the evidence

1 outweighs the prejudicial effect to you, the
2 solicitor will be able to introduce your record
3 to attack your credibility.

4 If you decide to testify, this decision of
5 your part must be freely, intelligently and
6 voluntarily made with knowledge of the
7 protections given to you by the Constitution of
8 the United States and the state of South
9 Carolina and the consequences of your decision
10 to testify.

11 If you decide not to testify, I will
12 instruct the jurors that they cannot give the
13 fact that you did not testify any consideration
14 whatsoever and that there is to be absolutely no
15 prejudice to you because you did not testify.
16 It is entirely up to you as to whether or not
17 you testify. You may speak with your lawyer,
18 family members, friends or anyone else but the
19 final decision must be your decision. Sir, do
20 you understand what I have to explain to you?

21 **MR. ALEXANDER:** Yes, sir.

22 **THE COURT:** Do you have any questions at
23 this time?

24 **MR. ALEXANDER:** No, sir.

25 **THE COURT:** Okay. Thank you.

1 Ready for the jury? Solicitor, ready for
2 the jury?

3 **MS. HODGE:** Yes, sir.

4 **THE COURT:** Mr. Stalvey, for the defense?

5 **MR. STALVEY:** Yes, sir. Your Honor.

6 **THE COURT:** Okay. We'll have our jury.

7 **(WHEREUPON, the jury enters at approximately**
8 **11:12 a.m.)**

9 **THE COURT:** Mr. Foreman, any matters for
10 the jury?

11 **THE JUROR:** No, sir.

12 **THE COURT:** Okay. Yes, sir, Mr. Stalvey.

13 **MR. STALVEY:** Your Honor, the defense would
14 call Tammy Childs.

15 **THE COURT:** Ms. Childs.

16 **THE CLERK:** Ms. Childs, if you will,
17 please come forward. If you would, pause at the
18 end of the bench. Please place your left hand
19 on the Bible and raise your right hand. Left
20 hand on the Bible. There you go. Raise your
21 right hand.

22 **TAMMY CHILDS**

23 having first been duly sworn, testifies as follows:

24 **THE CLERK:** Thank you. Please be seated.

25 **THE COURT:** Ms. Childs, whenever you get

1 situated, pull that microphone close and tell us
2 your full name and spell your last name for my
3 court reporter please.

4 **THE WITNESS:** Tammy Childs, C-H-I-L-D-S.

5 **THE COURT:** Thank you.

6 **THE WITNESS:** Tammy ---

7 **THE COURT:** Yes, sir.

8 **THE WITNESS:** Tammy with a Y.

9 **DIRECT EXAMINATION**

10 **BY MR. STALVEY:**

11 **Q** Tammy with a Y. Ms. Childs, are you
12 familiar -- are you familiar with Complainant

13 ?

14 **A** Yes.

15 **Q** How are you familiar with her?

16 **A** I work for the Department of Social Service
17 and I was the foster care worker during the time that
18 she was in foster care.

19 **Q** Okay. Do you remember -- do you remember
20 meeting with her back in September of 2012?

21 **A** I met with -- I had the case from -- I was
22 involved with her from April of 2012 up until
23 February the 13th. So yes. But specifically --

24 **Q** That's all I --

25 **A** Oh okay.

1 Q Do you remember how originally you got
2 involved with her in April of 2012?

3 A Yes. The reason I got involved was because
4 she had entered foster care previously, uh, during
5 the incident with her mother.

6 Q Was that -- did that involve a physical
7 altercation with her mother?

8 A Yes.

9 Q Is it your understanding that she went from
10 Pendleton Place -- is it your understanding she went
11 directly to Pendleton Place after she was taken from
12 her mother?

13 A Yes.

14 Q Okay. And that was after the physical
15 altercation with the mother, right?

16 A Yes.

17 Q Do you know -- did you meet with her while
18 she was at Pendleton Place the first time?

19 A Yes.

20 Q And did she tell you about her
21 grandparents?

22 A Yes, she did.

23 Q And had you ever met her grandparents?

24 A I met them -- I think the first time I met
25 them was at the probable cause hearing.

1 Q Okay. Did she expressed to you any desire
2 to go live with the grandparents?

3 A Yes.

4 Q Okay. And that was while she was at
5 Pendleton Place?

6 A I don't remember exactly when it was, but
7 she did express that desire.

8 Q Did you remain the caseworker for Complainant
9 after she moved in with her grandparents?

10 A Yes.

11 Q Okay. Did -- do you do remember meeting
12 with her at Charter School?

13 A Yes.

14 Q Do you recall if that was on -- if that was
15 in September of 2012?

16 A Yes.

17 Q And you went and met with her at the
18 school. Did you ask her how things were going with
19 the Alexanders?

20 A I did.

21 Q Did she give you any -- express any
22 concerns on how things were going?

23 A No, she didn't have any concerns.

24 **MR. STALVEY:** I don't have any further
25 questions, Judge.

1 **THE COURT:** All right, solicitor.

2 **MS. HODGE:** Nothing from the state, Your
3 Honor.

4 **THE COURT:** Okay. Ma'am, you may step
5 down. Please be careful.

6 **MR. STALVEY:** Judge, the defense is next
7 witness will be Vicki Stidham.

8 **THE COURT:** Okay.

9 **THE CLERK:** Ma'am, if you would, please
10 come forward. If you will, pause at the end of
11 the bench please place your left hand on the
12 Bible and raise your right hand.

13 **VICKI STIDHAM**

14 having first been duly sworn, testifies as follows:

15 **THE CLERK:** Thank you. Please be seated.

16 **THE COURT:** Ma'am, once you're situated,
17 if you will, pull that microphone up there and
18 tell us who you are and spell your last name for
19 my court reporter.

20 **THE WITNESS:** Okay. My name is Vicki
21 Stidham, S-T-I-D-H-A-M.

22 **THE CLERK:** Thank you. Yes, sir.

23 **DIRECT EXAMINATION**

24 **BY MR. STALVEY:**

25 **Q** Thank you. Ms. Stidham, if you could,

1 where do you work?

2 A Southeastern Children's Home.

3 Q How long have you worked there?

4 A This time, eight years.

5 Q And what is your role there?

6 A I am the Director of Residential Services.

7 Q Are you familiar with Complainant ?

8 A Yes, sir.

9 Q Do you remember when she -- was she ever a
10 resident at Southeastern Children's Home?

11 A Yes, sir.

12 Q I'm sorry. She was?

13 A She was.

14 Q Do you remember the time period that she
15 lived there?

16 A She came in 2013. She left in June 2014 at
17 the very beginning of the month, the end of the
18 school year.

19 Q How would you characterize her stay there?

20 A Difficult.

21 Q Why was it difficult?

22 A A great deal of time, Complainant had conflicts
23 with other residents. She had conflict at school,
24 differently conflict with authority figures.

25 Q Okay. Based on her time there, do you have

1 an opinion as to Complainant truthfulness?

2 A Yes.

3 Q And if you could, tell us what that opinion
4 is?

5 A Complainant is very intelligent. When she has
6 an agenda for something that she wants, she will
7 manipulate and lie to make sure that it furthers her
8 agenda.

9 Q Can you give the jury any specific
10 examples --

11 MS. HODGE: Objection, Your Honor. I
12 don't believe specifics are admissible. It's
13 her opinion as to truthfulness. I believe
14 that's the --

15 THE COURT: Mr. Stalvey?

16 MR. STALVEY: Judge, I'm offering it for the
17 basis of her opinion. I believe it is
18 admissible.

19 MS. HODGE: Specific incidences of conduct
20 are not admissible.

21 THE COURT: I believe under -- let me see
22 the lawyers.

23 (WHEREUPON, a bench conference is held off the
24 record.)

25 THE COURT: The objection is sustained

1 under Rule 608.

2 MR. STALVEY: Judge, I don't have any
3 further questions of this witness.

4 THE COURT: Okay.

5 MR. STALVEY: You can step down.

6 THE COURT: No.

7 MR. STALVEY: Excuse me. Answer any
8 questions the prosecutor may have.

9 THE COURT: I appreciate you trying to
10 move it along though.

11 MR. STALVEY: My apologies.

12 THE COURT: Solicitor.

13 MS. PETERSON: Thank you. Just
14 briefly.

15 CROSS-EXAMINATION

16 BY MS. PETERSON:

17 Q Ms. Stidham, did I say that correctly?

18 A Yes.

19 Q Did -- what was Complainant demeanor while she
20 was at the Southeastern Children's Home?

21 A It truly depended on the day and time.

22 Q Would you say she was angry at times?

23 A Yes.

24 MS. PETERSON: Thank you. I have no
25 further questions.

1 **THE COURT:** Anything further?

2 **MR. STALVEY:** No, sir, Your Honor.

3 **THE COURT:** Sir, you may -- ma'am, you may

4 step down. Please be careful.

5 **MR. STALVEY:** Judge, may this witness be

6 excused?

7 **THE COURT:** Any objection?

8 **MS. HODGE:** No objection, Your Honor.

9 **THE COURT:** Ma'am, you may stay or leave,

10 whichever you choose. You're released from your

11 subpoena.

12 **MR. STALVEY:** Your Honor, I hate to ask for

13 a break this soon after returning from one but

14 I'm going to anyway. So may we have a short

15 break?

16 **THE COURT:** Okay. All right. Mr.

17 Foreman, Ladies and Gentlemen, counsel has asked

18 for a break. I don't know what's going on but

19 we will find out here. With that, we will take

20 a short break and have you back momentarily.

21 Don't discuss the case at all at this time.

22 Okay?

23 **(WHEREUPON, the jury enters at approximately**

24 11:23 a.m.)

25 **THE COURT:** All right, Mr. Stalvey.

1 **MR. STALVEY:** Your Honor, just so that the
2 record is clear, I was seeking to introduce
3 specific instances of conduct through the
4 testimony of Mrs. Stidham under 405(b) South
5 Carolina Rules of Evidence. It was my position
6 that this is a case where the victim's
7 truthfulness is an essential element of my
8 defense. So I sought to introduce that
9 testimony under 405(b). I understand the ruling
10 of the court that it would not be admissible
11 under 608, but I just wanted to put that on the
12 record.

13 Your Honor, my next witness and based on --
14 based on your ruling on that, my next witness,
15 I'm going to have to talk to her a little bit
16 and change some things so that's why I asked for
17 the break.

18 **THE COURT:** Okay. Does the state want to
19 be heard on the 405 argument?

20 **MS. HODGE:** No, Your Honor. We objected
21 under 608 specific instances of conduct are not
22 admissible as far as going to truthfulness and
23 that the witness can certainly give opinion
24 testimony but I believe it ends there.

25 **THE COURT:** Okay. How much time do you

1 need, Mr. Stalvey?

2 **MR. STALVEY:** Judge, if I can have just 10
3 minutes. And Your Honor, just so that we can --
4 you know, I guess for planning purposes, the
5 next witness is probably not going to take that
6 long. Uh, I mean -- and then I've got to talk
7 to my client some more about whether he's going
8 to testify. I don't imagine that the case that
9 we put up is going to take that long but, I
10 mean, I ask that we be able to break for lunch
11 after this next witness if that's okay.

12 **THE COURT:** Sure.

13 **MR. STALVEY:** Or we can break for lunch. I
14 don't -- I don't -- however you want to do it, I
15 just want to give you an idea.

16 **THE COURT:** It's a little early to break
17 now.

18 **MR. STALVEY:** Sure.

19 **THE COURT:** If it were closer to noon, I
20 would go ahead and break. Why don't we take --
21 why don't we take 10 or 15 minutes or what you
22 need there. Then we will handle the next witness
23 and then we will break.

24 **MR. STALVEY:** Yes, sir.

25 **THE COURT:** Okay. All right. We'll be in

1 recess for about 10 minutes or so.

2 (WHEREUPON, a recess is taken.)

3 THE COURT: Yes, sir?

4 MR. STALVEY: Judge, we're ready to call our
5 next witness. It's going to be a short one.
6 Your Honor, while the jury's out, I've got a
7 request -- this has never happened before but my
8 client and his wife has brought it to my
9 attention that the victim in the case posted
10 something on a social networking site yesterday
11 afternoon while she was here at the courthouse.
12 They've got a screenshot of the photo as well as
13 the text that was, uh, accompanied the photo.
14 So the only way I could -- and it was on her
15 mother's account. I believe her mother is still
16 under my subpoena.

17 But at this time, I guess, the only way I
18 can authenticate that this was actually
19 something that they did, that either Complainant or
20 her mother did, I would ask that Complainant be -- I
21 don't know -- subpoenaed from the bench. She
22 may be a necessary witness if I can establish
23 that this photo was authenticated. Again, this
24 was brought to my attention this morning so I
25 hadn't really quite --

1 **THE COURT:** Complainant is here. You may not
2 have seen her but she is in the courtroom.

3 **MR. STALVEY:** I understand but she's under
4 no obligation to remain here because I don't
5 have her under subpoena. I wasn't planning on
6 calling her as a witness. Right now, based on
7 new information that I've got, I may have to
8 call her as a witness. I'd ask that she be made
9 available for me to speak to and possibly call
10 as a witness in this trial.

11 **THE COURT:** She'll be here. Where is she?

12 **MS. HODGE:** She went to the bathroom.

13 **THE COURT:** Okay. All right. Well, she is
14 not to leave. Whether or not she talks to you or
15 not, I'm not ordering that.

16 **MR. STALVEY:** I understand. Yes, sir.

17 **THE COURT:** Nonetheless, she's not to
18 leave. You're right. You did not release her
19 mother. So is she here?

20 **MS. HODGE:** She's here.

21 **THE COURT:** They're both here, Mr.
22 Stalvey.

23 **MR. STALVEY:** Thank you, Your Honor. I'm
24 ready to call my next witness.

25 **THE COURT:** Ready for the jury?

1 **MR. STALVEY:** Yes.

2 **THE COURT:** All right.

3 (WHEREUPON, the jury enters at approximately
4 11:38 a.m.)

5 **THE COURT:** Mr. Foreman, anything from the
6 jury?

7 **THE JUROR:** No, sir.

8 **THE COURT:** All right. We are ready.
9 Mr. Stalvey?

10 **MR. STALVEY:** Your Honor, the defense calls
11 Dorothy Fowler.

12 **THE CLERK:** Ms. Fowler, please come
13 forward. If you will, place your left hand on
14 the Bible and raise your right hand. Left hand.
15 Other way.

16 **DOROTHY FOWLER**

17 having first been duly sworn, testifies as follows:

18 **THE CLERK:** Thank you. Please be seated.

19 **THE COURT:** Ms. Fowler, once you are
20 situated, tell us your full name and spell your
21 last name.

22 **THE WITNESS:** Dorothy Ann Simmons Fowler.
23 F-O-W-L-E-R.

24 **THE COURT:** Thank you. Yes, sir.

25 **DIRECT EXAMINATION**

1 BY MR. STALVEY:

2 Q Ms. Fowler, do you know Complainant

3 ?

4 A Yes, I do.

5 Q Okay. And how do you know her?

6 A By being a foster parent.

7 Q Did she live in your home at some period of
8 time?

9 A Yes, she did.

10 Q Do you remember when that was?

11 A I don't remember the exact time, you know,
12 like the date. But she was there for a short period
13 of time.

14 Q Do you remember approximately how many
15 weeks she was with you?

16 A Uh --

17 Q Or how many days?

18 A Probably between three to four weeks at the
19 most.

20 Q All right. Did she -- tell me who were you
21 living with at the time.

22 A My husband and I.

23 Q And who else was in the house with y'all?

24 A There was another younger child, which was
25 a foster child, within the home.

1 **Q** Would you -- would you say it is fair to
2 categorize you and your husband as Complainant foster
3 parents?

4 **A** That is correct.

5 **Q** And you took care of her, took her where
6 she needed to go, picked her up from school, she
7 spent the night at your house. She lived with y'all,
8 right?

9 **A** Yes.

10 **Q** Based on your experience as her foster
11 parent, do you have an opinion as to her
12 truthfulness?

13 **A** Yes. At times, she was not truthful.

14 **Q** Do you have an opinion as to whether she
15 would lie under oath?

16 **MS. HODGE:** Objection, Your Honor.

17 **THE COURT:** Mr. Stalvey?

18 **MS. HODGE:** Opinion asked truthfulness or
19 untruthfulness. That's a very specific
20 instance. He is asking this woman to speculate
21 what she would -- what the victim would do. I
22 don't think that's admissible.

23 **THE COURT:** I don't know if there's a
24 basis for it or not.

25 **MR. STALVEY:** I'll withdraw it.

1 **THE COURT:** You want to lay the
2 foundation?

3 **MR. STALVEY:** I'll withdraw the question.

4 **THE COURT:** Okay.

5 **MR. STALVEY:** Thank you, ma'am. I don't
6 have any further questions.

7 **THE COURT:** Solicitor?

8 **CROSS-EXAMINATION**

9 **BY MS. PETERSON:**

10 **Q** Ms. Fowler, can you give us a year when
11 Complainant lived with you?

12 **A** No, I didn't keep track of that. Because
13 normally, once they leave my home, there is no more
14 contact with them.

15 **Q** So you don't know if this was 2011, 2012?
16 You can't give us any sort of date range?

17 **A** No, I did not try to find that out. I did
18 not know I needed to know the time frame.

19 **Q** But you did state that Complainant was only with
20 you between three and four weeks?

21 **A** Yes.

22 **Q** And did she act out during this time?

23 **A** Yes.

24 **Q** Was she angry during this time?

25 **A** At other people. She got to fighting at

1 school. She always fighting. That was the reason
2 she left our home because she was fighting all the
3 time at school.

4 **MS. PETERSON:** Thank you.

5 **THE COURT:** Yes, sir?

6 **REDIRECT EXAMINATION**

7 **BY MR. STALVEY:**

8 **Q** Ms. Fowler, the solicitor asked you about
9 her fighting. Isn't it true that you had a
10 conversation --

11 **MS. HODGE:** I'm going to object to the
12 form of the question. This is his witness and
13 that was a leading question. Isn't it true
14 that.

15 **BY MR. STALVEY:**

16 **Q** Okay. Did you talk to her about her
17 fighting at school?

18 **A** Yes.

19 **Q** And did she tell you --

20 **MS. HODGE:** Objection to anything she says
21 is hearsay, the victim's answers.

22 **THE COURT:** Mr. Stalvey?

23 **BY MR. STALVEY:**

24 **Q** Was it your understanding that Complainant was
25 not going to get into any more fights at school?

1 **A** Yes.

2 **Q** And did she?

3 **A** Yes.

4 **Q** Thank you.

5 **THE COURT:** Anything, solicitor?

6 **MS. PETERSON:** Just one further question,
7 Your Honor.

8 **RECROSS-EXAMINATION**

9 **BY MS. PETERSON:**

10 **Q** Ms. Fowler, as to the timeline, do you know
11 if this was after Complainant alleged sexual abuse that
12 she was in your home?

13 **A** (No audible response.)

14 **Q** Had Complainant alleged sexual abuse when she
15 was in your home?

16 **A** Yes.

17 **MS. PETERSON:** Thank you.

18 **THE COURT:** Okay. Thank you, ma'am. You
19 may step down.

20 All right. Mr. Foreman, Ladies and
21 Gentlemen, when you were out, we were discussing
22 nuts and bolts about how timewise here it's a
23 little bit early. But I understand the next
24 witness could be longer. I don't want to run us
25 -- I don't want to run another hour or an hour

1 and a half and put you kind of late for lunch
2 there. I'd rather break early on the beginning
3 end. So with that, everybody'll be ready to go
4 at 1:00? 1:15?

5 **MR. STALVEY:** 1:15.

6 **THE COURT:** Okay. All right. We'll do
7 1:15. How about that? We'll be ready to go at
8 1:15 and probably ready to go before that. If
9 you would be back about 1:10 or 1:05, something
10 like that from your lunch break, we'll be ready
11 to proceed this afternoon. And we're moving
12 right along with our case here.

13 With that, do not discuss the case
14 whatsoever with anyone. I keep having to say
15 that but I'm required to do so. Don't discuss
16 the case. Don't talk about it. It's not to you
17 yet, but it's getting closer with every passing
18 hour. Okay. Mr. Foreman, if you would, take your
19 jury out and be excused for lunch. 1:15.

20 **(WHEREUPON, the jury exits at approximately**
21 11:46 a.m.)

22 **MR. STALVEY:** Judge, -- this doesn't need to
23 be on the record -- but I keep getting confused.
24 What time does your watch say?

25 **THE COURT:** I'm going to use the clock on

1 the wall. That's what I used this morning but
2 I'm actually five minutes ahead of that clock.

3 **MR. STALVEY:** Okay.

4 **THE COURT:** But we'll use the one on the
5 wall back there so everybody understands. All
6 right.

7 **MR. STALVEY:** Thank you, Your Honor.

8 **THE COURT:** 1:15.

9 Sir, I'm going to allow you to remain free
10 because you've been very good about being where
11 you're supposed to be according to your lawyer.
12 But in the event you are not here, we will
13 continue this afternoon. You understand?

14 **MR. ALEXANDER:** Yes, sir.

15 **THE COURT:** All right. We'll be in recess
16 for lunch.

17 (WHEREUPON, a lunch recess is taken.)

18 **MR. STALVEY:** He would testify that there
19 was some question as to how old Complainant was and
20 whether or not it was appropriate or how
21 appropriate it would be for them to be talking.
22 Somebody -- they were going to ask and find out
23 how old she was. She responded it's going to be
24 my word against yours. That would be the
25 statement. We would offer the context of how

1 the statement was made essentially the way I
2 just described it to you. I'd take a limiting
3 instruction on that as well. The statement is,
4 it will be my word against yours, that we're
5 going to introduce.

6 **THE COURT:** Solicitor?

7 **MS. HODGE:** Thank you, Your Honor. I don't
8 know if our objections were noted on the record
9 before but at the bar, we discussed that the
10 state would be opposed to that motion or that
11 statement coming in because it is hearsay. It
12 is what the victim said. The victim was offered
13 up to testify and to be cross-examined. She was
14 never asked about anything like this. It
15 appears it's an impeachment type of witness,
16 impeaching the character of the victim. Again,
17 the victim was never given an opportunity to
18 either accept, yes, I made that statement or
19 deny it.

20 In addition, it is very loose context. We
21 don't know when the statement was made, what the
22 context of it was, was it five years ago, 10
23 years ago, who was this other boy. There's just
24 a lot of stuff that seems very outside of the
25 scope of this case. It seems extrinsic. We

1 feel it should not be admissible.

2 **THE COURT:** Okay. Well, from the limited
3 part that I know about it, we have had at least
4 two discussions about this, one in chambers and
5 one here at the bench. But if this witness is
6 going to testify that he overheard that limited
7 conversation, then that is not hearsay under
8 Rule 801. Okay. That is not being offered for
9 the truth of the matter asserted.

10 I don't know what I did with my notes but I
11 have some and I have the case, two cases
12 actually. They may be on my desk. I will put
13 that on the record. But it is not hearsay. In
14 the case that I will be referring to, a witness
15 was allowed to testify to a telephone
16 conversation and even the content of that
17 telephone conversation because it was not
18 hearsay under the definition. It was not being
19 offered for the truth of the conversation
20 itself. This is not being offered, as I
21 understand it, for the truth of that
22 conversation or even if the conversation
23 occurred. Certainly, she can be called back to
24 the stand to refute it if she chooses to do so.

25 **MS. HODGE:** Thank you, Your Honor. Again,

1 in regard to your ruling, I'll just have to add
2 one other part to my objection just for the
3 record. But if the defense is not offering it
4 for the truth of the matter asserted ---

5 **THE COURT:** Right.

6 **MS. HODGE:** --- to show that she was
7 making some kind of statement regarding
8 veracity, then we would object on the relevance.
9 Because if it was not offered for that purpose,
10 then what's the whole point of having this in.

11 **THE COURT:** And I've considered that as
12 well, Solicitor.

13 **MS. HODGE:** Yes, sir.

14 **THE COURT:** I will say that it's thin but
15 the cardinal rule of relevant evidence as taught
16 to me by the judicial College is if it is thin,
17 let it in. I will let it in on the relevance.

18 **MS. HODGE:** Yes, sir.

19 **THE COURT:** The case I want to cite is
20 State versus Vick, that's 384 S.C. 189. Judge
21 Huff from our Court of Appeals offered that in
22 2009. Also State versus Rice at 375 S.C. 302.
23 That's a 2007 case.

24 And also, Mr. Stalvey, it has nothing to do
25 with this motion, but I wrote this down for you

1 as to that Rule 405, State versus Mizell, M-I-Z-
2 E-L-L, 332 S.C. 273, a 1998 opinion offered by
3 Judge Ralph King Anderson. Call your attention
4 to Headnote 4. I wrote it down for you. If you
5 want it, it's right here.

6 **MR. STALVEY:** Yes, sir, Your Honor.

7 **THE COURT:** Okay. So if the witness is
8 going to testify of that, it will be for that
9 limited purposes. But make sure you confine
10 that and lay the foundation.

11 **MR. STALVEY:** Yes, sir, Judge.

12 **THE COURT:** Okay. Anything else?

13 **MR. STALVEY:** Judge, just so we're clear, I
14 don't want to start questioning the witness and
15 we go back through this. I'm going to ask --
16 I'm going to ask the witness did you overhear a
17 conversation between Complainant and
18 another male individual; what was the context of
19 that conversation; was there -- did the context
20 of the conversation include whether their ages,
21 whether there was an inappropriate, some kind of
22 inappropriateness of the age difference between
23 the two; uh, and was there a question posed to
24 Complainant or was Complainant questioned about the --
25 how old she was; and did she make the statement

1 it's your word against mine or my word against
2 yours. I'm just trying to figure out --

3 **THE COURT:** Sure. How about this? We
4 don't even need to go to what the subject of the
5 conversation was about. What you are trying --
6 what you are bringing in is the it's your word
7 against mine. I'll let you fashion that --
8 craft it how you choose but we don't even need
9 to touch on the appropriateness whatsoever.
10 It's just was there a conversation. She said
11 she was X amount of years of age. He said I'm
12 going to verify it with her grandparent. It
13 could be that simple.

14 **MS. HODGE:** Yes, sir. I was going to
15 object to him characterizing the conversation as
16 inappropriate.

17 **THE COURT:** The thrust of where you are
18 going is her lying. She admitted that she lies.
19 Is that okay?

20 **MR. STALVEY:** Yes, sir, Your Honor.

21 **THE COURT:** Anything else?

22 **MR. STALVEY:** Nothing else from the defense.

23 **THE COURT:** Anything from the state?

24 **MS. HODGE:** No, sir.

25 **THE COURT:** Okay. We will have our jury.

1 (WHEREUPON, the jury enters at approximately
2 1:32 p.m.)

3 THE COURT: Mr. Foreman, any matters from
4 the jury?

5 THE JUROR: No, sir.

6 MR. STALVEY: The defense's next witness
7 will be Nora Alexander.

8 THE CLERK: Ms. Alexander, please come
9 forward. If you will, please pause at the
10 bench, place your left hand on the Bible and
11 raise your right hand.

12 NORA ALEXANDER

13 having first been duly sworn, testifies as follows:

14 THE CLERK: Thank you. Please be seated.

15 THE COURT: Ms. Alexander, once you get
16 situated, pull that microphone close to you
17 there and tell us your name and spell your last
18 name please.

19 THE WITNESS: My name is Nora Alexander,
20 A-L-E-X-A-N-D-E-R.

21 THE COURT: Thank you, ma'am. Yes, sir.

22 MR. STALVEY: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. STALVEY:

25 Q Ms. Alexander, are you married to Rodney

1 Michael Alexander?

2 A Yes, sir.

3 Q When did y'all get married?

4 A October 22, 2008.

5 Q How long did you know Mr. Alexander prior
6 to the date you got married?

7 A I met him in 2005.

8 Q Okay. You also the grandmother of Complainant
9 ?

10 A No.

11 Q What's your relationship or what was your
12 relationship with Complainant or Complainant ?

13 A My son said that he was her father. And
14 through three years, I found out that was not true.

15 Q Did you have a grandmother-granddaughter
16 type relationship with Complainant ?

17 A Yes, I did.

18 Q Did you treat her as if she was your
19 granddaughter?

20 A Yes, I did.

21 Q What did she -- did she call you grandma?

22 A Grandma.

23 Q Grandma. I'm sorry. How do you -- what
24 did you call Complainant growing up? Did you call her
25 Complainant or Complainant ?

1 **A** Bug.

2 **Q** Bug?

3 **A** Bug.

4 **Q** I just want to be able to reference her.

5 **A** Complainant .

6 **Q** Complainant . . When did your husband first meet
7 Complainant ?

8 **A** Complainant was six years of age.

9 **Q** From that time until September 2012, did
10 you personally witness any inappropriate behavior --

11 **A** No, sir, I did not.

12 **Q** Let me finish asking the question. This
13 lady is taking down everything that we are saying.
14 So I am going to ask the question. I know I talk
15 slow but be sure to let me finish asking the question
16 and then you provide a response so everything is
17 clear on the record. I'm going to ask you that
18 question again. During the time that you have known
19 Complainant and you been married or in a relationship
20 with Mr. Alexander, have you ever personally
21 witnessed any inappropriate behavior between Mr.
22 Alexander and Complainant ?

23 **A** No.

24 **Q** Have you ever witnessed, personally
25 witnessed or been made aware of any inappropriate --

1 I'm sorry -- any harmful behavior between Mr.
2 Alexander and Complainant?

3 A No.

4 Q Was Complainant living with you and Mr.
5 Alexander sometime in 2012?

6 A Yes.

7 Q Was that in the spring of 2012?

8 A We got her April 12th of 2012.

9 Q Can you tell me what led to you -- to
10 Complainant coming to live with y'all?

11 A I witnessed her mother beating her, abusing
12 her. We had to testify for the Mauldin Police
13 Department for that reason. That is what the reason
14 we ended up -- we got her.

15 Q Let me ask you the question more
16 specifically. Did you go out to LaQuinta Smith's
17 house in April of 2012 because of an altercation?

18 A Yes.

19 Q That altercation was between Complainant and
20 LaQuinta?

21 A Yes.

22 Q Just so we're clear, how are you related to
23 LaQuinta?

24 A I'm not.

25 Q What -- tell me how you know her.

1 **A** When she was, uh, pregnant with Complainant ,
2 she told my son that it was his child. And she --
3 uh, her and her mom were going through a similar DSS
4 situation. And, uh, after Complainant was born, her mom
5 put her out. My son came to me and asked me if they
6 could come -- if she could come and live with me.
7 This before DSS or anything and I told him yes. Then
8 when they end up going to court -- excuse me -- when
9 they end up going to court, uh, I took custody of
10 Quinta and Complainant. And, uh, that's how I meant
11 Quinta through my son.

12 **Q** Okay. Were you involved -- well, is it
13 fair to say that LaQuinta, as the mother of Complainant ,
14 was involved with DSS several times during her life?

15 **A** Yes.

16 **Q** Did -- besides April 2012, were you ever
17 given custody of Complainant by DSS?

18 **A** Yes.

19 **Q** Okay. Do you remember when the first time
20 you were given custody?

21 **A** She was with my son.

22 **Q** It was Mr. Alexander --

23 **A** No, he was not.

24 **Q** When -- let me finish my question. When
25 she was three months old, was Mr. Alexander ever in

1 the picture?

2 A No.

3 Q Did you know him?

4 A No.

5 Q Did -- when was the next time that you got
6 custody of Complainant or that Complainant came and lived
7 with you?

8 A She was about five. And, uh, her mom was
9 threatening me, calling me all kinds of names, saying
10 that she was going to blow up my house, saying that
11 she was going to burn down my --

12 MS. HODGE: I'm going to object to
13 anything that Ms. LaQuinta Smith would say.
14 That would be hearsay.

15 THE COURT: Mr. Stalvey?

16 BY MR. STALVEY:

17 Q You can't say anything that she said. My
18 question was she came and lived with you or Complainant
19 came to live with you when she was how old at that
20 time?

21 A About four or five.

22 Q Okay. You can't tell me anything that
23 LaQuinta said. That would be hearsay. What was the
24 -- what was the nature of -- can you characterize how
25 your relationship with LaQuinta was during that

1 period of time? Was it good? Was it volatile?

2 A It was bad.

3 Q And in your opinion, why was it bad?

4 A Because, uh, the DSS had instructed me not
5 to let her have any contact with the child
6 unsupervised.

7 Q So it was your understanding from DSS that
8 their instruction or court order that LaQuinta was
9 not supposed to be around Complainant, correct?

10 A Yes.

11 Q In your opinion, she resented you for that?

12 A Yes.

13 MS. HODGE: Your Honor, I'm going to
14 object. There is some leading questions here.

15 MR. STALVEY: I am trying to develop the
16 testimony, Judge.

17 THE COURT: I gave a little leeway to the
18 state. I'm going to give a little leeway to
19 them. Go ahead.

20 MR. STALVEY: Thank you, Your Honor.

21 BY MR. STALVEY:

22 Q Did -- were there any other reasons you
23 felt that LaQuinta resented your relationship with
24 Complainant?

25 A Yes. She felt like that I had more of a

1 mother-daughter relationship with her then she did.

2 Q And did after the time that Complainant came
3 and lived with you, when did she start -- did she
4 ever come live with you after that?

5 A No, sir.

6 Q Okay. But she did come to live with you in
7 2012, right?

8 A Yes.

9 Q That was after this altercation with her
10 mother?

11 A Yes.

12 Q And before the altercation with her mother,
13 were you involved in Complainant's life?

14 A I would talk to her on the phone. That's
15 about it.

16 Q Okay. All right. Did you -- but you had
17 some type of relationship with her, didn't you?

18 A Yes, we still had the grandmother-
19 granddaughter relationship.

20 Q She felt safe with you, correct?

21 A Yes.

22 Q And you were called during the altercation
23 to come over there and intervene, correct?

24 A Yes.

25 Q Tell me what you observed during that

1 altercation between LaQuinta and Complainant .

2 A I observed, uh, Quinta --

3 Q Let me stop you. I already asked you that
4 question. Tell me what happened after you observed
5 that altercation.

6 A They took her to the hospital. I went to
7 the hospital.

8 Q When you say they took her to the hospital?

9 A They took Complainant to the hospital.

10 Q Okay.

11 A And they called JVC. I sat there with her
12 until the DSS worker showed up. They let me know
13 where they were going to place her.

14 Q Did the police respond to the location of
15 the altercation?

16 A Yes.

17 Q Where did Complainant go after that
18 altercation?

19 A She went to the Pendleton Place.

20 Q And DSS was involved -- is it fair to say
21 DSS opened a new case because of that incident?

22 A Yes.

23 Q Did you express interest at that point of
24 getting custody of Complainant?

25 A Yes, I did.

1 Q You and Mr. Alexander had been married for
2 four years?

3 A Yes, sir.

4 Q He was supportive in that decision?

5 A Yes, sir.

6 Q There was nothing that would indicate to
7 you that he had any, uh, inappropriate motive for
8 that, correct?

9 A Yes, sir.

10 Q You -- at that point, had you ever see him
11 do anything inappropriately with Complainant?

12 A No, sir.

13 Q Had she indicated to you that anything
14 inappropriate ever happened?

15 A No, sir.

16 Q Did she act in anyway like Mr. Alexander
17 was hurting her?

18 A No, sir.

19 Q Was their relationship unusual in any way
20 to you?

21 A No, sir.

22 Q You've got a big family, right?

23 A Yes, sir.

24 Q You would -- I don't want to put words in
25 your mouth, but would you --

1 Do we have any tissue? Thank you.

2 You feel -- Ms. Alexander, I know this is
3 tough. But you, based on being around your family,
4 you had a bunch of kids in your family, right?

5 A Yes, sir.

6 Q A bunch of nieces and little nephews,
7 children?

8 A Yes, sir.

9 Q You've seen them interact with adults in
10 your family?

11 A Yes, sir.

12 Q Was there anything unusual or inappropriate
13 in your opinion about the relationship between
14 Complainant and Mr. Alexander?

15 A No, sir.

16 Q So after Complainant went to Pendleton Place,
17 did you continue to communicate with her?

18 A Yes.

19 Q How did y'all communicate?

20 A By phone.

21 Q Did you ever go up to visit with her?

22 A Yes, sir.

23 Q Did Mr. Alexander ever go up to visit with
24 her?

25 A Yes, he did.

1 Q Did Complainant -- did y'all talk about where
2 she was going to live next?

3 A Yes, we did.

4 Q Based on those conversations, was it your
5 understanding Complainant wanted to come live with y'all?

6 A Yes, sir.

7 Q Did Complainant come live with y'all after
8 Pendleton Place?

9 A Yes, she did.

10 Q Did she live with you after she left
11 Pendleton Place until September of 2012?

12 A Yes, she did.

13 Q During that time, did you ever see anything
14 inappropriate between Mr. Alexander and Complainant?

15 A No.

16 Q There has been -- you wouldn't know because
17 you haven't been in here. Did Mr. Alexander used to
18 have a car shop?

19 A Yes.

20 Q Okay. It was a garage?

21 A Yes.

22 Q Did you ever work at one of these car
23 shops?

24 A Yes.

25 Q What kind of work did you do there?

1 **A** I was the secretary.

2 **Q** Okay. Did -- when you were the secretary,
3 did you have a desk there? What was the setup of the
4 car shop?

5 **A** Uh, I had a desk in the very back. There
6 was no room for much.

7 **Q** Okay. So you -- you had a desk there,
8 right?

9 **A** Yes.

10 **Q** Did you have a computer there?

11 **A** Yes.

12 **Q** How often would you work there when Mr.
13 Alexander was there?

14 **A** I would be there all day.

15 **Q** Did you ever see Mr. Alexander do anything
16 inappropriate with Complainant while you were working
17 there?

18 **A** No.

19 **Q** Okay. Did Complainant ever come home from the
20 car shop and appear upset to you or anything?

21 **A** No.

22 **Q** Okay. Did she ever go to the car shop?

23 **A** Yes, with me.

24 **Q** Okay. He worked on cars all day, right?

25 **A** Yes, he did.

1 Q So his hands got -- you know, is it fair to
2 say he got his hands dirty?

3 A Yes.

4 Q Grease or anything like that?

5 A Yes.

6 Q Did you ever notice during the time Complainant
7 was either staying with you or living with you that
8 she would have grease or anything, dirt or anything
9 on her clothes?

10 A No.

11 Q If Mr. Alexander had done something to her
12 while he was at the shop working, would it be fair to
13 say that --

14 MS. HODGE: Objection, Your Honor. These
15 are extremely leading.

16 THE COURT: Yes, sir. Yes, sir.

17 MR. STALVEY: I'm sorry.

18 BY MR. STALVEY:

19 Q So you never noticed -- did you wash
20 Complainant's clothes?

21 A Yes.

22 Q And nothing like that stood out to you?

23 A No.

24 Q Would you have seen it if it were there?

25 A Yes.

1 Q The night that Complainant jumped out of the
2 window, you went to DJJ with her earlier that
3 afternoon, correct?

4 A Yes. Was this the first time -- let me
5 back up. You went to DJJ. Do you remember why you
6 were there?

7 A Yes, I do.

8 Q Was it because of -- let me --

9 MR. STALVEY: Judge, permit me to lead just
10 a little bit right here. It has already been
11 testified to. Just a little bit, Judge..

12 BY MR. STALVEY:

13 Q Were y'all at DJJ because of some trouble
14 that Complainant had gotten into the previous year?

15 A Yes.

16 Q During that meeting -- well, tell me what
17 happened during that meeting?

18 A We were there with Ms. Shay. Complainant was
19 reading a book. Ms. Shay asked her to put the book
20 down because you are being real -- how can I put
21 this? She was being unresponsive to what we were
22 doing there. She asked her to put the book down.
23 She told her that your grandparents are here trying
24 to help you and you're not paying any attention. She
25 put the book down and she seemed like she has sort of

1 an attitude. We sit there and we talked.

2 After we was leaving her office, Complainant
3 asked me to go to the restroom with her which she had
4 never done. I thought that was weird. I told her
5 okay. I go in the bathroom with her. She starts
6 pacing and pacing and pacing, and pacing. I asked her
7 what was wrong with her several times. She kept
8 pacing and pacing. Then, she paced a little bit
9 more.

10 I'm like what is wrong, tell me. Then she
11 says I don't want you to get mad at me. Whatever it
12 is, tell me. Then she goes and says Papa been
13 messing with me. I said what do you mean messing
14 with you? What do you mean? He been touching me.
15 What do you mean? Touching you where? She says all
16 over. I said all over? What you mean all over. She
17 said grandma, she's been doing it since I was two. I
18 said, honey, he didn't even know you when you was two
19 years old so how is you going to stand here and tell
20 me that lie.

21 Q All right. Before that meeting -- and
22 that's -- she ran away later that night, right?

23 A Yes.

24 Q Before that meeting, had she been having
25 some behavior problems?

1 **A** Yes.

2 **Q** Was she getting in trouble?

3 **A** Yes.

4 **Q** Did you have to -- did you and Mr.
5 Alexander have to be strict with her?

6 **A** Yes.

7 **Q** Describe to the jury what you had to do to
8 try to keep her out of trouble.

9 **A** Punish her basically. I would take her
10 phone away. She couldn't watch TV. Uh, I basically
11 punished her.

12 **Q** Okay. How about letting her -- how would
13 y'all deal with where she went and who she hung out
14 with?

15 **A** Because Complainant had a problem of not doing
16 what she was supposed to do, I never really let her
17 go anywhere. Every time I did let her go somewhere,
18 she would always get into something. It was always
19 something. She was always doing something.

20 **Q** Okay. Uh, the night that she ran away,
21 what did you -- how did you know that she had run
22 away?

23 **A** After she told me what she told me, we got
24 home and I was so shocked. I was just beside myself
25 to hear her bring that out of your mouth. I was so

1 shocked. I was beyond words. When we finally got
2 home, I told her to go to your room. And I took my
3 husband in our room and I asked him I said, oh, so
4 you like messing with little girls. And he broke down
5 and he started crying and he said I did not do
6 nothing to her. I don't know why she is telling
7 these lies. I didn't do nothing to her. He said
8 call the police --

9 **MS. HODGE:** I'm going to object to anymore
10 that the defendant said. That's hearsay.
11 Especially the denials.

12 **MR. STALVEY:** It's under the excited
13 utterance exception. I would ask the court to
14 consider that. This is a highly emotional
15 conversation. There may be an exception to it.

16 **MS. HODGE:** Your Honor, I don't believe
17 that this qualifies under excited utterances.

18 **THE COURT:** The objection is overruled.
19 It's admitted as an excited utterance.

20 Go ahead.

21 **BY MR. STALVEY:**

22 **Q** What happened after you had the
23 conversation with Mr. Alexander?

24 **A** I left out of the room. I went to
25 Complainant's room. I called her in the kitchen. I sit

1 down and had a conversation with her. I was telling
2 her again than he did not know her when she was two
3 years old. She said she didn't care.

4 Q Did you go back downstairs and talk to Mr.
5 Alexander?

6 A I went -- told her to go back to her room.
7 I asked him to come outside with me.

8 Q Okay. How soon after that did you realize
9 -- how did you become aware after that that she had
10 left the house?

11 A We were sitting on the porch. The way her
12 room was set up, it's a glass window. We were
13 sitting on the porch and we heard glass breaking.
14 That's how I know she was gone.

15 Q Did -- what did you do after you heard the
16 glass break? Did you go and discover that she was
17 not in her room?

18 A Yes, sir.

19 Q Okay. What did you do after that?

20 A I got in my car and I went two blocks this
21 way, two blocks that way, two blocks the other way
22 and she was nowhere in sight.

23 Q Did, uh, -- did y'all -- did you call the
24 police?

25 A Yes, I did.

1 Q Did the police respond --

2 A After -- excuse me -- after I got back home
3 from looking for her.

4 Q The police came out, correct?

5 A Yes.

6 Q Do you remember the deputy's name?

7 A No, sir, I don't.

8 Q Okay. Was it Investigator Perry?

9 A No, sir, it was not.

10 Q Okay. Uh, did y'all eventually find
11 Complainant ?

12 A Yes.

13 Q The deputy that responded, did y'all give
14 that deputy any information on how to locate her?

15 A Excuse me?

16 Q Did you give the deputy any information --
17 did you tell him how he might find her?

18 A No, because I didn't know where she was.

19 Q Okay. All right. Ms. Alexander, I'm going
20 to show you two photos. Are those -- do you
21 recognize those photos?

22 A Yes, I do.

23 Q What are those photos of?

24 A Of the shop on Anderson Road that we had.

25 Q Okay. Did you take those photos?

1 **A** Yes, I did.

2 **Q** Those photos fairly and accurately
3 represent the shop on Anderson Road?

4 **A** Yes, they do.

5 **Q** Were those one of the shops that Mr.
6 Anderson worked at?

7 **A** Yes, it was.

8 **Q** Obviously, you took the photos, so you had
9 gone into the shop. Is that right?

10 **A** Yes, sir.

11 **MR. STALVEY:** Your Honor, at this time I
12 moved to introduce these two photos as
13 Defendant's 1 and 2.

14 **MS. HODGE:** No objection, Your Honor.

15 **THE COURT:** Without objection, they are
16 admitted.

17 **(WHEREUPON, Defendant's Exhibits 1 and 2 are**
18 **marked and admitted into the record.)**

19 **MR. STALVEY:** Your Honor instead of messing
20 around with that overhead, I'm going to ask to
21 publish them to the jury the old-fashioned way.

22 **(WHEREUPON, there is a pause.)**

23 **MS. HODGE:** Your Honor, if we may have a
24 moment. I've never seen these before. He's
25 trying to explain to me what they are.

1 **MR. STALVEY:** That's fine, judge.

2 **MS. HODGE:** We can take it -- if he and I

3 can just have a moment off the record.

4 **THE COURT:** Sure.

5 **(WHEREUPON, there is a pause.)**

6 **MS. HODGE:** Your Honor, I'm going to

7 object to all three of these.

8 **THE COURT:** Okay.

9 **MR. STALVEY:** Judge --

10 **MS. HODGE:** May we approach the bench?

11 **THE COURT:** Sure.

12 **(WHEREUPON, a bench conference is held off the**

13 **record.)**

14 **THE COURT:** Mr. Stalvey.

15 **MR. STALVEY:** Yes, sir, Your Honor.

16 **THE COURT:** You are offering them?

17 **MR. STALVEY:** Judge, at this time, I will

18 offer -- I will mark these for identification

19 purposes. They are three photos that I move to

20 introduce.

21 **THE COURT:** Well, --

22 **MS. HODGE:** I think there should be a

23 foundation for them.

24 **THE COURT:** I was going to say. You want

25 to lay the foundation for them?

1 **MR. STALVEY:** Sure, Judge.

2 **BY MR. STALVEY:**

3 **Q** Ms. Alexander, are you in that photo?

4 **A** Yes, I am.

5 **Q** And all three of these photos, I'm going to
6 ask -- tell me what those photos are.

7 **A** This photo is of my son's wedding. This
8 photo is Complainant at age 2 at Christmas. This photo
9 is of me at Christmas.

10 **Q** Back to this first one, the wedding, who is
11 in that photo?

12 **A** The little girl that is on the left side of
13 the picture is Complainant. The one in the middle, that
14 is Raven. The one with her back turned is Renée.
15 The one that my son is holding is Rihanna.

16 **Q** Do all of these photos fairly and
17 accurately represent what was going on at the time
18 they were taken?

19 **A** Yes.

20 **MR. STALVEY:** Your Honor, at this time, I
21 move to introduce the three photos into
22 evidence.

23 **THE COURT:** Okay. From the state?

24 **MS. HODGE:** Your Honor, I object. First
25 of all, I don't think the dates were published

1 as to when the picture was taken. I understand
2 from communications with Mr. Stalvey, these are
3 well beyond the scope of this case. Not
4 relevant.

5 **THE COURT:** Okay. They are admitted over
6 the objections of the state.

7 **MR. STALVEY:** Thank you, Your Honor. Judge,
8 I'd mark these as Defendant's 3, 4 and 5.

9 (WHEREUPON, Defendant's Exhibits 3, 4, 5 are
10 marked and admitted into the record.)

11 **MR. STALVEY:** Your Honor, just so the record
12 is clear, these exhibits are in evidence?

13 **THE COURT:** They are.

14 **BY MR. STALVEY:**

15 **Q** Just to make sure the record is clear, Ms.
16 Alexander, Defendant's Exhibit 3, that is the photo
17 of you --

18 **A** Me and Charles.

19 **Q** Defendant's Exhibit 4 is a photo of?

20 **A** Me and Complainant when she was five -- two --
21 five -- excuse me, two.

22 **Q** When was that photo taken?

23 **A** December 25th of 2000 -- 2000.

24 **Q** What is Defendant's Exhibit 5 a photo of?
25 You already described it. Just tell me.

1 **A** Of my son's wedding.

2 **MR. STALVEY:** Permission to publish to the
3 jury?

4 **THE COURT:** Yes, sir.

5 **BY MR. STALVEY:**

6 **Q** At the time these photos were taken, were
7 you in a relationship with Mr. Alexander?

8 **A** No, sir, I was not.

9 **Q** I'm going to take you back to April of
10 2012, the night that, the night that Complainant ran
11 away. Before that night, were you aware of Complainant
12 talking to a boy named Quan?

13 **A** Yes, I was.

14 **Q** Tell the jury about that situation.

15 **A** We were called to the school. She was at
16 We were called to the school several times.
17 This particular day, she was up on the 12th grade
18 floor where she wasn't supposed to be.

19 **Q** Let me stop you right there. Let me ask
20 you more directly, did Complainant get in trouble for
21 talking to an older boy named Quan?

22 **A** Yes.

23 **Q** Was that the fall of 2012? Was that within
24 a month before she ran away?

25 **A** Yes.

1 Q How soon before she ran away did y'all talk
2 to her about this?

3 A We talked to her before she ran away.

4 Q I understand that. That was in the same --
5 was that in a close period of time before she ran
6 away?

7 A A couple of days.

8 Q Okay. Please answer any questions one of
9 the solicitors may have for you.

10 THE COURT: Yes, ma'am.

11 MS. HODGE: Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 BY MS. HODGE:

14 Q Ms. Alexander, you previously testified in
15 a Family Court hearing, is that correct?

16 A Yes, I did.

17 Q What I'm going to show you is a transcript
18 of the Family Court hearing. Are you familiar with
19 what a transcript is?

20 A Yes, I am.

21 Q What I have here is the beginning of your
22 direct examination, the questions that were asked and
23 the answers provided.

24 A Yes.

25 Q All right. I'm going to let you hold that

1 and I'm going to reference page numbers if we need
2 to. We may not need to. All right. You started off
3 your testimony with Mr. Stalvey saying you met the
4 defendant in 2005, is that correct?

5 A Yes.

6 Q All right. I would like for you to turn to
7 page -- let's see here. I'm a little bit unorganized
8 at this point. Let me find my page for you. Page 86
9 up at the top. I'd like for you to look at line 9.
10 You were asked when did you start dating Rodney.
11 What was your answer then?

12 A It says 2002. But I don't remember this.

13 Q Are you disputing what the transcript says?

14 A Yes, because I --

15 Q You answered in Family Court in 2002
16 according to that transcript?

17 A Yes, that's what it says.

18 Q So that would be a three-year difference,
19 is that correct?

20 A Yes, ma'am. I was wrong.

21 Q If, uh, -- you remember when Complainant's
22 birthday was?

23 A Yes, ma'am.

24 Q When was it?

25 A , 1998.

1 Q So in 2002, she would have been four years
2 old, is that correct? 2002 -- 98/99, 99/2000,
3 2000/2001, 2001/2002. Four years old.

4 A Right.

5 Q I have to do that with my fingers because
6 it is hard to get all of the dates straight. So
7 according to your Family Court testimony, you would
8 have been dating Rodney when she was four, right?
9 Going by the Family Court transcript. Do you agree
10 with me?

11 A Right.

12 Q Then, today, you said that the defendant
13 did not even meet Complainant until she was six years
14 old, is that correct?

15 A Yes.

16 Q That is directly in opposition to what we
17 just discussed, is that right? The Family Court
18 transcript, she would've been four but you're saying
19 six, right?

20 A Right.

21 Q Mr. Stalvey asked you a bunch of questions
22 about you never witnessed any inappropriate behavior
23 on the part of the defendant towards Complainant, is that
24 right?

25 A Right.

1 Q If you would have witnessed something like
2 that, would you have done something about it? J

3 A Yes, I would have.

4 Q Okay. And then you were finally made aware
5 of it in September, on September 14th, 2012, correct?

6 A September 14th, yes.

7 Q That's when Complainant told you that he had
8 been inappropriately touching her or messing with
9 her?

10 A Right.

11 Q What you did about it was you asked him.
12 He cried. He denied. And you said done. You
13 believed him, correct?

14 A Yes, ma'am. I believed him because when we
15 were in the bathroom at the courthouse and me and
16 Complainant was having this conversation, I didn't
17 believe her because of what she said at the beginning
18 when she said was he was messing with her ever since
19 she was two years old.

20 Q Ma'am, did you think maybe a child has a
21 difficult time remembering exactly that age? Did you
22 say are you sure it wasn't three, are you sure it
23 wasn't five?

24 A No, ma'am.

25 Q No. Would it be fair to say that it is hard

1 to hear that about your husband? Would it be fair to
2 say it would be hard to hear someone make a sexual
3 abuse allegation towards your husband?

4 A Yes, ma'am.

5 Q And get your head wrapped around that.

6 A Like I said, I was in shock.

7 Q Right. It would be hard to process that,
8 correct?

9 A It was.

10 Q And to believe that would certainly cost
11 you a lot of personal angst, wouldn't it?

12 A Yes, ma'am, and it still does.

13 Q But you chose to stay with him versus
14 believe in your granddaughter?

15 A I didn't believe her at the beginning
16 because --

17 Q Because she said it started at age --

18 A Yes, ma'am.

19 Q That's your whole basis?

20 A Yes, ma'am.

21 Q If she would've said it started at age 5,
22 you would have believed her?

23 A No, ma'am, because he didn't know her. He
24 didn't meet her until she was 6.

25 Q All right. Even though that is not what

1 you testified to in Family Court, correct?

2 A Like I said, I was still in shock.

3 Q In Family Court, you were still in shock?

4 A Yes, ma'am. I'm still in shock right here
5 sitting here now.

6 Q Isn't it true, Ms. Alexander, while you
7 were in the bathroom, in fact, you told her he will
8 never hurt you again?

9 A Yes, I told her that.

10 Q Okay. So there must have been something to
11 that to make you think he actually did hurt her,
12 correct?

13 A No, ma'am, there was not. I was trying to
14 calm her down.

15 Q You say you had custody of Complainant from
16 birth, really, three months old?

17 A Yes.

18 Q Until she was about five; is that accurate?

19 A Yes.

20 Q Then you state that she never came to live
21 with you after that.

22 A No, ma'am, she did not.

23 Q All right. Do you recall testifying in
24 Family Court, again, I'm going to direct you to Page
25 87 in the transcript, line number 8. Are you there?

1 The question was, all right, when Complainant came back
2 to you for about a month or two at age six and a
3 half, were you dating Rodney then.

4 A Yes.

5 Q And your answer was yes?

6 A Yes.

7 Q So Complainant did come back and live with you
8 when she was six and a half according to your
9 testimony?

10 A Yes.

11 Q Just now you said she never came back after
12 age 5, correct?

13 A I didn't -- I'm sorry. I didn't actually
14 understand the first question.

15 Q Which question didn't you understand?

16 A You said she never came back and lived with
17 me?

18 Q I'm actually rephrasing the question Mr.
19 Stalvey asked you. You stated that after she was
20 about four or five, she never came back and lived
21 with you after that. Y'all talked on the phone.
22 That's what you stated in your direct. I'm asking
23 you that same thing again. Your testimony today is
24 she never came and stayed with you after age 5,
25 that's your testimony today, correct?

1 **A** Yes.

2 **Q** Now I'm directing you to your previously
3 sworn testimony in Family Court where you did say she
4 did come and stay with you when she was six and a
5 half or about a month or two and Rodney was in your
6 life at that point?

7 **A** Yes.

8 **Q** Is it true that she did come and stay with
9 you?

10 **A** She came to stay with me, yes, when she was
11 six and a half for couple of months because DSS lady
12 called me and said that she needed somewhere for --
13 to put her for a couple of months until she found
14 placement.

15 **Q** So you do remember that?

16 **A** Yes.

17 **Q** When Mr. Stalvey asked you that question,
18 you knew that?

19 **A** I didn't remember it.

20 **Q** You didn't remember it. Okay. Did she come
21 back and live with you anytime after that?

22 **A** Not until April.

23 **Q** Of 2012?

24 **A** Right.

25 **Q** Okay. Let me ask you some questions. Back

1 in May of 2012, after Complainant came to live with you,
2 you guys had to take her to the Julie Valentine for
3 forensic interview, is that correct?

4 A Yes.

5 Q You and the defendant drove her over to
6 this interview at their center, correct?

7 A Yes.

8 Q The interviewer asked for background
9 information about the child, is that correct?

10 A Yes.

11 Q You and Mr. Alexander provided information,
12 correct?

13 A Yes.

14 Q All right. And isn't it true that at that
15 time, you told her, the interviewer, you again got
16 Complainant when she was nine years old and she stayed
17 for almost one year?

18 A No.

19 Q That's not correct?

20 A No, it's not correct.

21 Q Are you familiar with DSS and that they
22 actually keep records of when people get custody of
23 children? You understand there is a process and
24 records are kept and it is noted when you're given
25 custody of a child?

1 **A** Yes.

2 **Q** Isn't it true that you, in fact, got her
3 back August 29th of 2007 per DSS custody? They came
4 into the home study on you and Rodney and you were
5 given custody back of her?

6 **A** For a month. Yeah, I remember that now.
7 For a month.

8 **Q** Okay.

9 **A** And the same deal applied that they needed
10 somewhere to put her for a month. And I agreed. The
11 lady came and picked her up within a month and put
12 her wherever she put her.

13 **Q** So now we got two times that you actually
14 do remember but you did not testify to, correct, when
15 asked point blank, correct?

16 **A** I didn't remember it.

17 **Q** Is it fair to say that it would not be good
18 for the defense to show that the child was repeatedly
19 living in your home? Is that why you been denying
20 these answers?

21 **A** No, ma'am. I didn't remember it.

22 **Q** If you didn't remember it, how did you know
23 the details when I asked you now?

24 **A** I remembered just when you asked me. I
25 didn't remember it.

1 Q I asked you the same question twice.

2 A I'm still in shock.

3 MR. STALVEY: Objection to the form. That
4 statement is not a question.

5 THE WITNESS: I'm still in shock.

6 THE COURT: Hold on, ma'am. We've got an
7 objection.

8 MS. HODGE: I'll rephrase that.

9 THE COURT: Okay, rephrase.

10 BY MS. HODGE:

11 Q Ms. Alexander, isn't it true, that Complainant
12 or Complainant -- she came to your house in and out a
13 good bit. Maybe it wasn't under DSS regulation but
14 she was in and out of your house over the years,
15 maybe a night, maybe week, isn't that true?

16 A No, ma'am.

17 Q That's not true?

18 A No.

19 Q If it was true, maybe you just don't
20 remember it. Is that possible?

21 A Yeah, that's possible.

22 Q All right. Uh, you -- let's see. There
23 were some photographs.

24 Thank you.

25 Defense Number 2 and 1 -- 1 and 2, I

1 believe. Did you take these photographs of the shop
2 or are you just familiar with it?

3 A I took those.

4 Q Okay. And this is the shop on Anderson
5 Road, is that correct?

6 A Yes.

7 Q Let me show you State's 5, 6, 7 and 8.
8 Take a look at those. State's Number 5, what is
9 that?

10 A The shop.

11 Q Is this the shop that your husband used to
12 operate?

13 A No.

14 Q This is not the shop located --

15 A No.

16 Q I apologize. There's several things in this
17 one that individual people rent individual-based?

18 A Yes.

19 Q This one, does it still have some stickers
20 on State's Number 6 up at the top?

21 A Yes.

22 Q Was left on there?

23 A An N and -- it might be --

24 Q Okay. Would that have said M&N Roadside
25 Service?

1 A Yeah.

2 Q Would you agree with me that that is the
3 same one that you had the smaller photographs of, at
4 least that bay from the outside?

5 A Yes, ma'am.

6 Q What was the name of y'all's business?

7 A M&N Roadside Service.

8 Q M as in Michael, N as in Nora?

9 A Yes.

10 Q I think I been hearing M&M and
11 misunderstanding. So it's M and N. Did it stand for
12 y'all's names?

13 A Yes.

14 Q So this is just more -- State's Number 7
15 just continuing on from the bay and then there were
16 other people's bays?

17 A Yes.

18 Q So your photographs show a portion of the
19 shop but not the entire building, is that correct?

20 A Right.

21 Q Okay. Is that the shop that's located on
22 this map, the Anderson Road?

23 A Yes.

24 Q That would've been the shop we're talking
25 about?

1 **A** Yes.

2 **Q** When did you -- what years did you work at
3 that shop?

4 **A** Uh, we opened the shop in about 2005. I
5 worked there for about three or four years.

6 **Q** Okay. Did he continue to maintain that shop
7 when you weren't working there or when did the shop
8 close?

9 **A** The shop closed in 2010.

10 **Q** Did you have other jobs outside of working
11 in that shop?

12 **A** No. I had one job at Coops gym.

13 **Q** When was that job?

14 **A** It was a cleanup job.

15 **Q** Yes, ma'am. When? What date?

16 **A** June, I started June 1st of 2012. I ended
17 July 28th or something like that of 2012.

18 **Q** Okay. All right. Did Mr. Alexander only
19 have one shop during the time that y'all been
20 together?

21 **A** Yes.

22 **Q** That was the one and only place that he
23 ever fixed cars?

24 **A** He had another shop but he didn't fix cars.
25 He used it as a music place.

1 Q Do you recall -- do you know Nell Stuart,
2 the guardian ad litem for Complainant

3 A Yes.

4 Q Do you recall her coming and speaking to
5 you and Mr. Alexander after the April incident in
6 2012, doing the home check and talking to you guys?
7 Do you remember meeting with her?

8 A Yes.

9 Q Do you recall Mr. Alexander saying he was a
10 mechanic and that he worked on cars?

11 A Yes.

12 Q That was in 2012, correct?

13 A Yes.

14 Q How did -- what other job did Mr. Alexander
15 have after that shop closed in 2010?

16 A He had his knees done. He has two
17 prosthetic knees. He had one knee done in, uh, I
18 think it was 2009. He had one did in May of 2012.

19 Q Okay. He worked on cars still after he had
20 the first one?

21 A I guess. But he couldn't get on his knees
22 at all and that kind of stuff.

23 Q Okay.

24 A And it was top stuff, not bottom stuff.

25 Q Sure. Yes, ma'am. What about -- what did he

1 do outside of cars to make money?

2 **A** Played drums.

3 **Q** In a band?

4 **A** Yes, music.

5 **Q** Where -- what was the name of his band or
6 where did he play?

7 **A** He played with other bands. He never had
8 his own band.

9 **Q** Was that how he helped pay the bills in the
10 house?

11 **A** Yes.

12 **Q** And that supported --

13 **A** We both on disability.

14 **Q** You're both on disability. What are you on
15 disability for?

16 **A** I got shot in my face, uh, 2007.

17 **Q** Okay. Was Complainant living with you during
18 that time?

19 **A** No.

20 **Q** Staying with you during that time?

21 **A** No.

22 **Q** Were you in the hospital for that, I'm
23 assuming?

24 **A** Yes.

25 **Q** How long were you in the hospital?

1 A I was in the hospital about a month.

2 Q Uh, and that was in 2007, is that right?

3 A Yes.

4 Q What is he on disability for?

5 A Excuse me?

6 Q What is Mr. Alexander on disability for?

7 A I didn't hear you.

8 Q What is he on disability for?

9 A Uh, he has a lot of ailments.

10 Q All right. I believe Mr. Stalvey asked you
11 if you had seen grease or things on her clothing when
12 she was living with you, which according to you was
13 one week -- one month in 2007 and one month when she
14 was six and a half. So during those two months, did
15 you ever notice any grease or anything on her close?

16 A No, but she wasn't at the shop.

17 Q I don't know if that was the question I
18 asked you. You ever noticed any grease on her
19 clothing?

20 A No.

21 Q Did you give her baths when she was --

22 A Yes.

23 Q At six and a half, you'd give her a bath?

24 A Yes, I sit in the bathroom with her.

25 Q Every time she took a bath?

1 **A** Most of the time, yes.

2 **Q** Okay. And then in 2007, she would have been
3 nine. Did you sit in the bathroom with her while she
4 took a bath well?

5 **A** I had the door open.

6 **Q** Okay. Did you observe her body?

7 **A** I did, yes.

8 **Q** Every time she took a bath or shower?

9 **A** Yes.

10 **Q** All right. Do you do that for all
11 children?

12 **A** All small children. I have other grandkids
13 and I do it for them too.

14 **Q** What age do you think it's okay for you to
15 stop looking at them in the shower or bath?

16 **MR. STALVEY:** Objection. Judge, I object on
17 relevancy. I don't understand the line of
18 questioning.

19 **THE COURT:** Ms. Hodge?

20 **MS. HODGE:** Your Honor, I'm just wondering
21 why would she be looking specifically at this
22 child at age 9 unless there maybe were some
23 concerns that something might be there.

24 **THE COURT:** Ask her if she had any
25 concerns.

1 **BY MS. HODGE:**

2 **Q** Did you have any concerns about anything
3 happening with Complainant that you needed to be watching
4 her take a shower or bath?

5 **A** No. Complainant didn't like to clean behind
6 her ears. She missed spots. I just wanted to make
7 sure she got them all.

8 **Q** Would it be fair to say you do that for
9 other children too then?

10 **MR. STALVEY:** Objection, Your Honor,
11 relevancy.

12 **THE COURT:** Let's move along.

13 **BY MS. HODGE:**

14 **Q** Moving on. All right. Let's move forward
15 to the day that Complainant told you the defendant had
16 been messing with her. All right. There was a lot
17 of testimony about her being in trouble with talking
18 to a boy, Quan, correct, who was too old, in your own
19 opinion, for her, correct?

20 **A** Yes.

21 **Q** Having to go to DJJ for getting in a fight
22 the year before, is that correct?

23 **A** Yes.

24 **Q** And just in general, I believe, you didn't
25 let her go many places because she always gotten into

1 something, is that correct?

2 A Yes.

3 Q So you testified about a lot of less than
4 favorable things about Complainant, is that correct?

5 A Say it again?

6 Q You testified about a lot of things that
7 sound like not good things about this child, is that
8 correct?

9 A Yes.

10 Q What kind of punishment were you giving her
11 for these not good things?

12 A Uh, like I said earlier, I would take --
13 she couldn't watch TV. I'd make her sit in her room.
14 I'd make her write sentences.

15 Q Okay. The punishment fit the crime
16 basically. I mean, the worst the behavior, the worse
17 the punishment? Is that fair to say?

18 A No, it's not fair to say.

19 Q So that was the standard punishment, take
20 away TV or electronics ---

21 A Yes, ma'am.

22 Q --- and make her write stuff. All right.
23 When you did that, when you gave those punishments,
24 did she ever run away before this night?

25 A No.

1 Q Like I said, we've been talking about
2 things that weren't good. But Complainant, you loved
3 her, didn't you?

4 A I still do.

5 Q What were the good things about Complainant?

6 A She was fine. We'd sit and talk, we watch
7 TV, we eat popcorn.

8 Q Was she loving?

9 A Yes, she was loving.

10 Q Did she love you very much?

11 A Yeah, she told everybody that she loved
12 both of us, not just me.

13 Q But I'm asking you. Did you feel like she
14 loved you?

15 A Yes.

16 Q Would she be kind and caring to you?

17 A Yeah.

18 Q Did she look up to you?

19 A Yes.

20 Q Did she look to you as the person that
21 saves her, takes care of her when she needs it?

22 A Yes.

23 Q You were loving to her by imposing some
24 restrictions on her, correct?

25 A Yes.

1 Q When you punish children, it's out of love,
2 correct?

3 A Yes.

4 Q So they don't get in further trouble, they
5 don't hurt themselves, right?

6 A Yes.

7 Q So there was a lot of good about Complainant
8 also, isn't there?

9 A Yes, a lot of bad too.

10 Q And a lot of bad too?

11 A Yes, ma'am.

12 Q This is the child that you raised up from a
13 baby, from a baby till about five, right?

14 A Yes.

15 Q Do you know that -- in your opinion, were
16 you kind of the rock in her life? You and your
17 husband really?

18 A Yeah. She would talk to him more than she
19 would talk to me.

20 Q Okay. So did they have a close relationship
21 too?

22 A Yes.

23 Q Did she seem to get along?

24 A Yes.

25 Q And he seemed to like her?

1 **A** Yes.

2 **Q** Did he treat her just like his own,
3 grandchild of his own?

4 **A** Yes.

5 **Q** Would he pay special attention to her?

6 **A** Not more than he did all the other
7 grandchildren.

8 **Q** Would he buy her gifts?

9 **A** Just like he would buy all the other
10 grandchildren.

11 **Q** Would he take money and put on her school
12 account or something?

13 **A** Uh, she would call him when she couldn't
14 get the money from her mother for a field trip. Me
15 and him would take the money to the school.

16 **Q** Okay. So you guys were providing stability
17 for her, providing finances for her, is that correct?

18 **A** Yes.

19 **Q** You knew home life was unstable, let's say,
20 at the minimum?

21 **A** Yes.

22 **Q** You guys -- she could count on you both to
23 help her if needed?

24 **A** Yes.

25 **Q** All right. On this night that she gave --

1 told you about the allegations of sexual abuse, after
2 you got her home, you sat her down in the kitchen I
3 believe you testified, is that right?

4 A Yes.

5 Q At that time, I believe your testimony to
6 Mr. Stalvey was you confronted her again about not
7 knowing him because at age 2, that wasn't possible,
8 right?

9 A Yes.

10 Q Your testimony was she told you I don't
11 care?

12 A Yes.

13 Q That was it. You left it like that,
14 correct?

15 A I was in shock. I sent her back to her
16 room.

17 Q Okay. Bear with me one second. I'm going
18 to ask you to look back into the transcript again.
19 One second. (Pause.)

20 Beg the court's indulgence just one second.
21 (Pause.)

22 All right. I have got it now. I'm sorry.
23 Page 90. If you will look at Page 90, I've got a
24 reference line number 5. Line number 6 is being your
25 response. Isn't it true in Family Court from line 6

1 down to 10 that you sat down -- you sat her down,
2 which would be Complainant or Complainant, and explained to
3 her that this is wrong and I know you're lying. Is
4 that what you told her? According to the Family
5 Court transcript line 7 --

6 **MR. STALVEY:** Judge, I object to the form of
7 that question. She can ask her what was said
8 and refresh your recollection. But she is
9 testifying --

10 **THE COURT:** She is on cross. Go ahead.

11 **MS. HODGE:** Thank you, Your Honor.

12 **BY MS. HODGE:**

13 **Q** Isn't that true? You told her she was
14 lying?

15 **A** Yes.

16 **Q** Okay. If it is true and we don't have to
17 refresh that, that's fine. Isn't it also true that
18 you told her -- that she told you, grandma, I'm not
19 lying.

20 **A** Yes.

21 **Q** She maintained that she was not lying about
22 this, correct?

23 **A** Yeah. I can say I know her. Complainant has a
24 way of telling stories to make you believe beyond a
25 shadow of a doubt that it is true what she is saying.

1 I will give you an example of that.

2 Q No.

3 THE COURT: Just answer her question.

4 Okay.

5 BY MS. HODGE:

6 Q That would be your experience of her that
7 she can tell a lie, correct?

8 A Yes, ma'am.

9 Q And that she has lied to you in the past,
10 correct?

11 A Yes, ma'am.

12 Q She ever accuse anybody of sexually abusing
13 her?

14 A Not that I know of.

15 Q She, on this day, continued to tell you she
16 was not lying about this, correct?

17 MR. STALVEY: Objection, hearsay.

18 BY MS. HODGE:

19 Q According to the Family Court --

20 MR. STALVEY: Hold on. Hold on. Is she
21 going to testify to what the Family Court
22 transcript said? Let me be clear. The
23 solicitor is going to testify to what the
24 transcript said?

25 MS. HODGE: I would not do that, Mr.

1 Stalvey.

2 **MR. STALVEY:** I didn't think you would.

3 **BY MS. HODGE:**

4 **Q** So Ms. Alexander, in Family Court, did you
5 tell the attorney there, did you go on record and say
6 Complainant maintained she was not lying, is that true?

7 **A** No.

8 **Q** No, Complainant did not tell you that she was
9 saying the truth?

10 **A** She kept saying she wasn't lying but I knew
11 she was.

12 **Q** She was telling you she wasn't lying,
13 correct?

14 **A** Right.

15 **Q** She was pleading with you in fact, correct?

16 **A** Yes.

17 **Q** She was upset?

18 **A** So was I.

19 **Q** I'm asking about her.

20 **A** Yes.

21 **Q** A child that just reveal possible sexual
22 abuse, she was upset. Complainant was upset, correct?

23 **A** Yes.

24 **Q** You, as her grandmother, are telling her
25 you're lying? Is that how this went?

1 **A** Yes.

2 **Q** Then she said something along the lines of
3 you must hate her or you hate her. Do you recall
4 that?

5 **A** Yes.

6 **Q** Then you sent her up to your room, is that
7 correct?

8 **A** Yes.

9 **Q** She asked you if you could contact or call
10 her father, is that correct?

11 **A** She -- I let her use the phone. He didn't
12 answer.

13 **Q** What about her aunt?

14 **A** What aunt?

15 **Q** I believe that she asked you if she could
16 also call another -- I thought it was an aunt. Did
17 she asked to call anyone else other than the father?

18 **A** Huh-uh.

19 **Q** Did she want to stay in the house that
20 night?

21 **A** No.

22 **Q** She wanted to go?

23 **A** She wanted to go but her -- the way Complainant
24 was, she would always -- if she knew that she's done
25 something and she's trying to get out of it, she

1 would always wait until after 6:00 when everything
2 was closed and you couldn't really contact anyone.

3 Q Okay. So what would -- I'm confused. What
4 was she going to need to call anybody about on this
5 night?

6 A You telling me that she saying she's upset
7 and she wanted to call somebody. She called her
8 father and she didn't answer. Well, the person that
9 she claims to be her father.

10 Q Correct. I think that's well-established
11 that that's not her biological father. If you want
12 to keep saying that, that's fine. She attempted to
13 call her father to come get her, to take her away, is
14 that correct? Take her away from the home that
15 evening, is that correct?

16 A No. She told me that she wanted to talk to
17 him.

18 Q Did she call anybody or want to leave the
19 house?

20 MR. STALVEY: I believe that's already been
21 asked and answered.

22 MS. HODGE: I'm still confused, Your
23 Honor.

24 MR. STALVEY: I'm not confused. I heard her
25 ask and I heard the witness answer the question.

1 **THE COURT:** Okay. We're going to ask one
2 more time.

3 **BY MS. HODGE:**

4 **Q** Two questions. Did Complainant want to leave
5 the home that night after telling you that she was
6 sexually abused and you telling her that she was
7 lying? Did she want to leave the house that night?

8 **A** Yes.

9 **Q** Did you give her permission to leave the
10 house that night?

11 **A** No.

12 **Q** Did you instruct her that no you will not
13 call anyone because then we'd have to tell them why
14 they're coming to get you?

15 **A** No.

16 **Q** Did she, in fact, tell you call DSS and
17 tell them I'm running away, but she did not want to
18 stay, isn't that true?

19 **A** No, she didn't say that.

20 **Q** Is it possible that you could have
21 forgotten that?

22 **A** No.

23 **Q** Is possible you could forget when she lived
24 with you but you don't forget -- you couldn't forget
25 that possibility?

1 **A** I forgot the part where she lived with me
2 but that was more new then when she was staying with
3 me and not staying with me.

4 **Q** Then I'm going to ask you about Defense
5 Number 3, 4 and 5. I believe you said these were
6 different photographs with your family and some with
7 Complainant in them as well. State's 4 and State's 5.
8 Which one -- let's see, 2003. So this is the one
9 where she is about four years old, is that correct?

10 **A** Yeah, she was five.

11 **Q** She was five.

12 **A** Yeah.

13 **Q** Okay. Which one is she?

14 **A** Right here.

15 **Q** This one right here?

16 **A** Uh-huh.

17 **Q** So that's what she looked like at at age 5?

18 **A** She was a big five.

19 **Q** She was a tall five? Okay. And about the
20 same -- around age six she looked close to like that?

21 **A** Uh-huh.

22 **Q** Let's see. That was in 2003. So according
23 to your mistake in Family Court, the defendant would
24 have been in her life in 2003 according to the Family
25 Court transcript?

1 **A** No, ma'am. He was incarcerated in 2003. I
2 didn't know him. He was incarcerated. I learned
3 that from her -- his daughter, which is now my
4 stepdaughter.

5 **Q** Okay. In 2003, October of 2003.

6 **A** Yeah, October the 18th.

7 **Q** That's about what Complainant would have looked
8 like though when she lived with you when she was six
9 and a half. You admit that he was in your home?

10 **A** Yeah, she was staying with her mother when
11 that picture was taken.

12 **Q** Okay. She would have looked like that
13 roughly when she came back to you and the defendant
14 was in the home, correct?

15 **A** Yes.

16 **Q** Okay. Just to clarify, we were talking
17 about her staying with you. I believe your answer to
18 me and to Mr. Stalvey, I think, was that she never
19 came back and spent nights or spent any time in and
20 out of your home ---

21 **A** No.

22 **Q** --- outside of those two times that you
23 forgot about, right?

24 **A** Right.

25 **Q** I'm going to direct you to Page 95 of the

1 Family Court transcript. Let's see, line 16. Isn't
2 it true that in Family Court they asked you that same
3 question and you answered that she was in and out of
4 your home, is that correct?

5 A Yeah. For the time that the DSS had her
6 there, yeah.

7 Q Let me direct you to line 18. Sometimes
8 you keep her when you didn't necessarily have custody
9 of her. You answered yes, isn't that correct?

10 A That's only because her mother didn't have
11 anybody else to get her.

12 Q She would be in and out of your home, is
13 that correct, Ms. Alexander?

14 A I said yes.

15 Q You said no to me at least two times, did
16 you not, until I pointed you to the line where it
17 said yes?

18 A Like I said, I'm so devastated right now.
19 I'm just really in shock. This is just crazy.

20 MS. HODGE: I don't have any more
21 questions for you then. Thank you.

22 THE COURT: Mr. Stalvey, anything?

23 REDIRECT EXAMINATION

24 BY MR. STALVEY:

25 Q Real quick. Ms. Alexander, you said he was

1 incarcerated. Mr. Alexander was incarcerated, is
2 that right?

3 **A** Yes, I learned that from his daughter.

4 **Q** Is it your understanding that he was --

5 **MS. HODGE:** I'm going to object to
6 anything else about that. I'd like to ---

7 **THE COURT:** Well, let's see the lawyers.

8 **MS. HODGE:** --- approach on that.

9 **(WHEREUPON, a bench conference is held off the**
10 **record.)**

11 **THE COURT:** Mr. Foreman, Ladies and
12 Gentlemen of the jury, we're going to talk about
13 a little matter. But more importantly, we are
14 about five or six minutes late in taking our
15 break. I have been watching that clock and I was
16 thinking as soon as she finished, I'm going to
17 take a break. We are going to be a minute or
18 two longer, but we're going to take a good solid
19 15 to 20-minute break right now. If you need
20 snacks, if you need some fresh coffee, if you
21 need some fresh water or whatever you might
22 need, Mr. Bailiff is your man. Okay.

23 Don't talk about the case. The case is
24 certainly not over at this point in time. But
25 with that, Mr. Foreman, if you would, take the

1 jury out.

2 (WHEREUPON, the jury exits at approximately
3 2:52 p.m.)

4 THE COURT: I'll tell you what we would
5 do, Mr. Stalvey, if you want to proffer her
6 testimony with the jury out or what do you want
7 to do on this issue?

8 MR. STALVEY: Judge, you know what? I am
9 fine leaving it the way it is.

10 THE COURT: Okay.

11 MR. STALVEY: I don't need to ask her any
12 questions.

13 THE COURT: You don't need to proffer?

14 MR. STALVEY: That's right.

15 THE COURT: All right, ma'am, you may step
16 down.

17 When we come back, do you want me to bring
18 her to the stand and you say, ma'am, no
19 questions and then she step down? You want to
20 do it that way?

21 MR. STALVEY: Sure.

22 THE COURT: Ma'am, when the break is over
23 here, which is going to be -- by that clock on
24 the wall, it's going to be 10 after. At 10
25 after, you come back and sit down right there.

1 Then we'll going to bring the jury in. Then,
2 Mr. Stalvey is going to say he has no further
3 questions and I'm going to let you step down. I
4 just don't want the jury to wonder what went on.
5 Okay?

6 All right. We'll be in our afternoon break.
7 10 after by that clock which is going to be 15
8 after by my wristwatch.

9 (WHEREUPON, a recess is taken.)

10 **THE COURT:** Anything before we bring them
11 back? We're good?

12 **MR. STALVEY:** We're good. Yes, sir, Your
13 Honor.

14 (WHEREUPON, the jury enters at approximately
15 3:19 p.m.)

16 **THE COURT:** All right. Anything from the
17 jury, Mr. Foreman?

18 **THE JUROR:** No, sir.

19 **THE COURT:** All right. Very good.
20 Mr. Stalvey?

21 **MR. STALVEY:** Thank you, Your Honor. The
22 defense calls LaQuinta Smith.

23 **THE COURT:** You have any more questions?

24 **MR. STALVEY:** Oh, I'm sorry. Excuse me. No
25 more questions.

1 **(WHEREUPON, Defendant's Exhibit 6 is marked and**
2 **admitted into the record.)**

3 **BY MR. STALVEY:**

4 **Q** Ms. Smith, you know how -- you know how I
5 came to obtain that photo?

6 **A** Not sure.

7 **Q** Okay. Are you aware that the photo was
8 posted on Instagram?

9 **A** And Facebook, yes, sir.

10 **Q** And that was posted when?

11 **A** It was posted yesterday evening.

12 **Q** Okay. And who posted it?

13 **A** My daughter did.

14 **Q** From your phone?

15 **A** Yes, sir. It says hacked by your daughter
16 on there.

17 **Q** So your daughter hacked into your phone and
18 posted this yesterday?

19 **A** Yes, sir. It just pops right up. You don't
20 need a code.

21 **Q** Thank you. No further questions.

22 **THE COURT:** Yes, ma'am.

23 **CROSS-EXAMINATION**

24 **BY MS. HODGE:**

25 **Q** Ms. Smith, were y'all having to wait

1 **THE COURT:** No more questions.

2 Ma'am, you may step down. Thank you for
3 being here.

4 All right.

5 **(WHEREUPON, the witness steps down from the**
6 **witness stand.)**

7 **LAQUINTA SMITH**

8 having previously been sworn, testifies as
9 follows:

10 **THE COURT:** Ms. Smith, you were previously
11 sworn in this case and you remain under oath.
12 You will not be resworn. You understand?

13 **THE WITNESS:** Yes, sir.

14 **THE COURT:** All right. Have a seat.

15 **THE WITNESS:** All right. Thank you.

16 **THE COURT:** Tell my court reporter your
17 name.

18 **THE WITNESS:** My name is LaQuinta Smith,
19 S-M-I-T-H.

20 **THE COURT:** Thank you.

21 All right, Mr. Stalvey.

22 **MR. STALVEY:** Thank you, Your Honor.

23 **DIRECT EXAMINATION**

24 **BY MR. STALVEY:**

25 **Q** Ms. Smith, you been here with your

1 daughter, Complainant the entire trial, correct?

2 A Yes, sir.

3 Q Did you take a photo of your daughter in
4 one of these rooms up here at the courthouse during
5 the trial?

6 A Yes, sir.

7 Q Did you take that with your phone?

8 A Yes, sir.

9 Q Did you take the photo on Tuesday of this
10 week?

11 A Yes, sir.

12 Q And that's been during this trial?

13 A Yes, sir.

14 Q Does this fairly and accurately represent
15 the photo that you took? Or is this the photo that
16 you took?

17 A Yes, sir.

18 MR. STALVEY: Your Honor, I'd mark this as
19 Defendant's 6 and move to introduce it into
20 evidence. I believe the State's seen it.

21 THE COURT: All right. Any objection from
22 the State?

23 MS. HODGE: No objection, Your Honor.

24 THE COURT: Defendant's 6 is admitted into
25 evidence.

1 outside of this courtroom during pretrial things?

2 **A** Yes, sir -- yes, ma'am.

3 **Q** And during jury selection as well?

4 **A** Yes, ma'am.

5 **Q** Okay. Was that several hours that y'all
6 were sitting in a front conference room outside these
7 doors?

8 **A** Yes, ma'am.

9 **Q** And in fact, you have been here the entire
10 time but have not been allowed to be in the courtroom
11 because you were a potential witness, correct?

12 **A** Yes, ma'am.

13 **Q** So you also been sitting and waiting out
14 there?

15 **A** Yes, ma'am.

16 **Q** For hours?

17 **A** Yes, ma'am.

18 **Q** And the first day of court, which was
19 Tuesday, is that right?

20 **A** Yes, ma'am.

21 **Q** Your daughter did not testify that day, did
22 she?

23 **A** No, ma'am. She didn't.

24 **Q** And while you two were sitting out there
25 waiting for court to begin, were y'all keeping each

1 other occupied?

2 **A** We were.

3 **Q** And is part of that playing on your phones?

4 **A** Yes, ma'am. We were taking lots of
5 pictures..

6 **Q** All right. And, uh, why were you not just
7 sitting in there obsessing about this case?

8 **A** Well, the judge told us don't discuss it or
9 whatever when we first came in that morning, for one.
10 And two, she been through a state of depression, on
11 medicine, behind this situation. So I just try to
12 keep her up-spirited. And we love pictures. We like
13 to take pictures.

14 **Q** So is it fair to say you were acting silly
15 to lighten your mood?

16 **A** Yes, ma'am.

17 **Q** Is there anything in that photograph or in
18 that Facebook post or Instagram that had anything to
19 do with this court case?

20 **A** No, ma'am, not even the inside of this room
21 right here.

22 **Q** Did it mention being at the courthouse?

23 **A** No, ma'am.

24 **Q** Did it mention anything about the
25 defendant?

1 **A** It did not.

2 **Q** Did it mention anything at all about
3 anything involving court or this case?

4 **A** No, ma'am.

5 **Q** Okay. So what was the Instagram and the
6 Facebook post with it?

7 **A** On Instagram, it says hacked by your
8 favorite child. Instagram said --

9 **MR. STALVEY:** I object to what it says.

10 **MS. HODGE:** To what it says?

11 **MR. STALVEY:** Judge, if that's what I put
12 into evidence --

13 **THE COURT:** It's in evidence.

14 **MR. STALVEY:** If she didn't make the post,
15 I would object to her testifying to what her
16 daughter meant when she posted it yesterday
17 afternoon on Instagram or Facebook.

18 **THE COURT:** She's not testifying to what
19 it meant; she's just testifying to what it says.

20 **BY MS. HODGE:**

21 **Q** There are two different things, correct? Is
22 this the Instagram one?

23 **A** Yes, ma'am. This is Instagram. It has the
24 sign. So far, what I can see is it says hacked by
25 your favorite kid and this is the exact face I made

1 while hacking you.

2 Q . Okay.

3 A I don't know what the bottom part says.
4 But Facebook says since I hacked your Instagram, I
5 came to show y'all love on Facebook. Your favorite
6 child. And that was it.

7 Q Okay. And then that's a silly face in the
8 photograph, is that right?

9 A Yes, ma'am.

10 Q Ms. Smith, has this entire experience --
11 let's talk about court --

12 MR. STALVEY: Objection, Your Honor.

13 MS. HODGE: Let's talk about court.

14 MR. STALVEY: I think it's outside the
15 scope.

16 MS. HODGE: Do we need to approach? Your
17 Honor, my position is the only reason he's
18 introduced that photograph is to somehow make it
19 appear that the victim is not taking it
20 seriously because it's a silly face and it was
21 during court time. And I would like to ask this
22 witness how the victim has been emotionally
23 during this court time.

24 THE COURT: Mr. Stalvey?

25 MR. STALVEY: Judge, I'm introducing it for

1 the fact that it was taken on her phone. It's
2 her phone. There's no other way I can get it
3 introduced. When it was taken and when it was
4 posted. If she's going to -- I don't know what
5 she's about to get into.

6 **THE COURT:** All right. Well, she's on
7 cross.

8 Go ahead.

9 **BY MS. HODGE:**

10 **Q** During this court proceeding when y'all
11 were sitting in that room and up until this point
12 today, how has Complainant or Complainant been emotionally
13 about this case?

14 **A** We've had some down times. I try to keep
15 her uplifted. When the down times came, I called
16 people that I think are staying close to God to pray
17 for us as a human, for me as well. We've had up and
18 down times. We try to keep her in good spirits. I
19 tried to keep her not even thinking that she's here.
20 It was not posted during the 5:30 -- 8:45 to 5:30
21 hour. It was not posted then.

22 **Q** She wasn't on there posting?

23 **A** No, I took the picture of her.

24 **Q** Okay.

25 **A** It wasn't posted until after I was in the

1 Family Dollar store and we had left here.

2 Q Okay. And, uh, you said y'all had some down
3 time. You were not able to be present during her
4 testimony, correct?

5 A No, ma'am. I was not.

6 Q You were in the room outside after she
7 finished testifying?

8 A Yes, ma'am.

9 Q And was her demeanor the same as it was in
10 that photograph?

11 A She was on the ground. I think you were
12 trying to get her up. She was crying really bad. I
13 held her in my lap like a small child, a 16-year old,
14 to get it together.

15 Q Was she able to get it together after a
16 little while?

17 A Yes, ma'am. After we got somebody to pray
18 for her -- called somebody to pray for her.

19 Q And today, she's being upbeat again?

20 A She's being upbeat, yes, ma'am.

21 Q Okay. Thank you.

22 THE COURT: Mr. Stalvey?

23 REDIRECT EXAMINATION

24 BY MR. STALVEY:

25 Q Ms. Smith, she posted this yesterday about

1 5:30, correct?

2 A Yes, sir.

3 Q And you didn't know she had your phone? You
4 didn't know she was posting it; did you?

5 A No, I was in the Family Dollar store.

6 Q You probably wouldn't let her do that
7 because you knew this was supposed to be treated
8 seriously, correct?

9 A I would have let her post it if she wanted.
10 She thought the picture was cute.

11 Q But you wouldn't have let her post it?

12 A I would have let her post it.

13 Q Thank you.

14 THE COURT: All right. Ma'am, you may step
15 down. Please be careful.

16 THE WITNESS: You want me to leave this
17 here?

18 THE COURT: Yes, ma'am. It's in evidence.

19 MS. HODGE: Your Honor, may she be excused
20 from subpoena now?

21 MR. STALVEY: No objection.

22 THE COURT: No objection.

23 Ma'am, you may stay or go, whichever you
24 choose.

25 THE WITNESS: Okay. All right.

1 **MR. STALVEY:** Your Honor, the defense's
2 next witness is Myra Blandin.

3 **THE COURT:** Okay.

4 **THE CLERK:** Ms. Blandin, if you will,
5 please come forward. If you will, pause at the
6 end of the bench. Please place your left hand on
7 the Bible and raise your right hand. There you
8 go. Right hand up please.

9 **MYRA BLANDIN**

10 having first been duly sworn, testifies as follows:

11 **THE CLERK:** Thank you. Please be seated.

12 **THE COURT:** Ms. Blandin, pull that
13 microphone up close to you and tell us your name
14 and spell your last name for my court reporter
15 please.

16 **THE WITNESS:** Myra Blandin, B-L-A-N-D-I-N.

17 **THE COURT:** Thank you.

18 Yes, sir.

19 **MR. STALVEY:** Thank you, Your Honor.

20 **DIRECT EXAMINATION**

21 **BY MR. STALVEY:**

22 **Q** Ms. Blandin, tell me how you are related --
23 are you related to Nora Alexander?

24 **A** Yes, I am.

25 **Q** How so?

1 A Uh, my sister-in-law.

2 Q So you are married to her brother?

3 A Yes.

4 Q What's your husband's name?

5 A Albert Blandin.

6 Q Okay. And it's Blandin, right?

7 A B-L-A-N-D-I-N.

8 Q Okay. Do you mind if I call you Myra?

9 A Nope. You can call me Myra.

10 Q Thank you. Myra, are you familiar with
11 Complainant ?

12 A Yes.

13 Q And did you ever have -- did she ever live
14 with you?

15 A No, she didn't live with me. When she was
16 about two, when she was small, I kept her while Nora
17 would work when she was about two to five.

18 Q Okay. So she would stay?

19 A Yeah.

20 Q And that would -- that happened, you said,
21 from when she was two to about five?

22 A (No audible response.)

23 Q And you have to answer yes or no.

24 A Yes. She was a cute little old lil child.

25 Q Okay. When did, uh, -- when did you first

1 get introduced to Rodney Michael Alexander?

2 **A** Uh, it might have been like four or five
3 years after Nora had took Complainant.

4 **Q** You remember how old Complainant was when you
5 first met Mr. Alexander?

6 **A** No, because I didn't even have dealings
7 with Complainant so I don't know. After she took her,
8 that was it.

9 **Q** Was it after she was five years old?

10 **A** After she was five, when I stopped keeping
11 her.

12 **Q** Okay. And why would you keep Complainant?

13 **A** Because Nora had her and she worked. When
14 she was a baby, Nora worked at the gas station and
15 she used to have to take her when she was a baby. I
16 couldn't keep her then.

17 **Q** Right.

18 **A** So my job where I worked when she was
19 small, I worked at Poinsett Club. So on my break -- I
20 worked two shifts. So on my break, I would go to
21 Nora's house, you know, and stay there til my break.
22 So that's how I knew her when she was a baby. So
23 after that, when she was back and forth with Nora,
24 when she was like two, Nora was still working but she
25 was having a problem keeping her on her job. So she

1 asked me to help. And I asked my mom to help. She was
2 staying with me. Would she help go pick her up and we
3 would pick her up, have her at the house until Nora
4 got off from work.

5 Q Okay. Let me ask you about the period of
6 time after Complainant had gone to live with Rodney and
7 Nora. Do you remember that time?

8 A I don't remember exactly when she went, but
9 I knew she was there.

10 Q Was it after she was 12 or 13? Do you
11 remember that?

12 A I don't remember. It might have been. I
13 knew she was staying off of Judson, somewhere around
14 there. Judson.

15 Q Do you remember at time she came over to
16 your house -- do you remember when she ran away from
17 the Alexander's house?

18 A She did that a week -- she came to my house
19 a week before.

20 Q Okay. And what was she at your house for?

21 A When they were going to a funeral -- I have
22 four grands. Every other weekend, we have a girl's
23 weekend. So she usually wanted to come with me when I
24 have my girls. So that particular weekend, they said
25 that she was on punishment. We had to knock out going

1 downtown and everything. When they brought her, they
2 told me that she was on punishment and no phone. So I
3 had to tell my girls that we had to stay at home that
4 day because Complainant was on punishment. So they were
5 in the room and we had movies and stuff.

6 When I went to open the door, she had the
7 phone. I just asked her. I didn't see the phone, but
8 she jumped like this. I'm like, Complainant, what you
9 got? Nothing. I'm like you sure you ain't got no
10 phone? No. So the four of them, everybody just
11 started looking at one another then they looked at
12 her. And I'm like, Complainant, do you have the phone.
13 She said, yeah, I was just -- I'm like you know what
14 they said. You know what your grandparents said. So
15 she gave the phone back to my granddaughter. After
16 that, I told her, I said, you know that I'm going to
17 have to tell them. So I let them know when they came
18 to pick her up that night.

19- Q All right. Myra, when -- do you remember
20 when Complainant was in -- do you remember when Rodney
21 came into Nora's life?

22 A Well, they got married in 2008 because I
23 did their wedding. I met him after they start living
24 together. That was like a couple of years before they
25 got married. Exactly what date, I don't.

1 **Q** Okay. But it was a couple of years before
2 they got married. No further questions.

3 **THE COURT:** Solicitor?

4 **MS. PETERSON:** Just a moment, Your Honor.
5 Thank you. (Pause.)

6 We have no questions for this witness,
7 Judge.

8 **THE COURT:** All right. Thank you.

9 Ma'am, you may step down. Please be
10 careful.

11 **MR. STALVEY:** Your Honor, may this witness
12 be excused?

13 **THE COURT:** Any objection?

14 **MS. HODGE:** No objection, Your Honor.

15 **THE COURT:** Ma'am, you're excused. You may
16 stay or go, whichever you choose.

17 **MR. STALVEY:** Your Honor, the defense's
18 next witness is Albert Blandin.

19 **THE CLERK:** Sir, if you will, please come
20 forward. Up here please. If you will, pause at
21 the end of the bench. Please place your left
22 hand on the Bible and raise your right hand.

23 **ALBERT BLANDIN**

24 having first been duly sworn, testifies as follows:

25 **THE CLERK:** Thank you. Please be seated.