

22422

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Steven H. John, Circuit Court Judge

Appellate Case No. 2014-002241

THE STATE,RESPONDENT

v.

MICHAEL EDWARD WILLIAMS,APPELLANT.

SUPPLEMENTAL RECORD ON APPEAL

LANELLE C. DURANT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense

P.O. Box 11589
Columbia, SC 29211
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Interim Sen. Assist. Dep. Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803)734-3727

W. WALTER WILKINS
Solicitor, Thirteenth Judicial Circuit

305 E. North Street, Suite 325
Greenville, South Carolina 29601
(864) 467-8647

ATTORNEYS FOR RESPONDENT

INDEX

OCTOBER 6 & 8, 2014 TRIAL TRANSCRIPT PAGE 69.....1

OCTOBER 7, 2014 TRIAL TRANSCRIPT PAGE 28.....2

OCTOBER 7, 2014 TRIAL TRANSCRIPT PAGES 115-125.....3

OCTOBER 7, 2014 TRIAL TRANSCRIPT PAGES 135-137.....14

CERTIFICATE OF COUNSEL.....17

1 The bailiff will explain to you how to get back here
2 and get to the jury room or where they want you to assemble.
3 But please show up in time so that you're in the jury room
4 by 9:30, please. With that, retire to the jury room, select
5 your foreperson. Thank you.

6 (Whereupon the jury exited the courtroom at 1:14 pm)

7 **THE COURT:** All right. Counsel, what we'll do is --
8 it's 1:15 now. Y'all be back at 2:30. Be back at 2:30 and
9 we'll start the motions at that point in time. And then
10 we'll start with opening statements in the morning by 9:30.
11 But we'll talk about that then, okay? Y'all can go. Thank
12 you.

13 (Whereupon court was in recess at 1:15 pm)

14 (Whereupon the bailiff informed the Court the
15 foreperson would be juror 34, Richard Bulger)

16 (Whereupon court reconvened at 2:33 pm)

17 **THE COURT:** Thank you very much. You may be seated.
18 Thank you. All right. This is 2012-GS-23-2455 and 2013-GS-
19 23-698, the State of South Carolina versus Michael E.
20 Williams. There's a motion by the State for admission of an
21 out-of-court statement pursuant to section 17-23-175. The
22 State ready to proceed?

23 **MS. BENTLEY:** Yes, Your Honor.

24 **THE COURT:** All right.

25 **MS. BENTLEY:** The State calls Sarah Davis.

TAMMY SUTTON-DIRECT BY MS. BENTLEY

1 you sent?

2 A Yeah.

3 Q Okay. And these are your replies?

4 A Yeah, I'm not sure if those are all my replies
5 but his are deleted.

6 Q Okay. But just going off your replies, do they
7 indicate what you said?

8 A Yes, ma'am. About babysitting and wasn't sure
9 if that was a good idea, him babysitting. And people --
10 at that time nobody really babysat Ciara.

11 Q Was that just a personal belief that you had?

12 A She was always with me. I mean, I don't work so
13 when I did work I only worked for six weeks. My mom,
14 she's grandma so she babysat Ciara, so.

15 Q But you did not allow the Defendant to babysit
16 Ciara?

17 A No, ma'am. But he was pretty persistent via
18 text about me letting him babysit.

19 Q Okay. I want to go back to the weekend of
20 March 31st. Tell me a little bit about the lay out of
21 your home?

22 A When you walk in the front door I have a pool
23 table. It's a bonus room.

24 Q Okay.

25 A Then the next room is supposed to be a dinning

MICHAEL ROBERTSON-CROSS BY MS. MANIGAULT

1 THE COURT: All right, you may step down, sir.

2 Next witness from The State.

3 MS. BENTLEY: The state calls Dr. Nancy
4 Henderson.

5 THE CLERK: Please come forward. Place your
6 left hand on the Bible, raise your right hand.

7 NANCY HENDERSON, after being duly
8 sworn, testified as follows:

9 THE CLERK: Thank you, have a seat, please.
10 Would you, please, state your name for the record.

11 THE WITNESS: Nancy Henderson.

12 THE COURT: Okay, could you scoot the chair up
13 as close to the microphone as you could please,
14 ma'am. Thank you.

15 DIRECT EXAMINATION

16 BY MS. BENTLEY:

17 Q Dr. Henderson, please tell us where you are
18 employed and in what capacity?

19 A I'm employed with the Greenville Health System,
20 I'm the director of the forensic pediatrics there at the
21 hospital.

22 Q Okay. Is your main office at Greenville
23 Memorial Hospital?

24 A That's my employer but I do work in a number of
25 different locations as a part of that job.

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 Q Please tell us where you work?

2 A Right. So, I am at the hospital, I'm involved
3 in inpatient consult when there's a concern about abuse
4 and neglect in evaluating that. I'm also involved with
5 evaluations at the Julie Valentine Center for referrals
6 for usually concerns of sexual abuse and some physical
7 abuse. I also work at the Children's Advocacy Center in
8 Spartanburg at a center similar as the Julie Valentine
9 Center. I work there two days a week and see children
10 there as well as participate in staffings. I also work at
11 the Pendleton Place evaluating the children that come into
12 foster care. Some of the children stay there and some of
13 the children we just evaluate as an outpatient doing their
14 initial medical assessments, developmental assessments.
15 And then do follow up over at the center for pediatric
16 medicine where I also see children.

17 Q All right. Dr. Henderson, can you, please, tell
18 us a little bit about your educational background?

19 A Yes. My undergraduate experience, I graduated
20 with a BS in Pharmacy. It was a five year undergraduate
21 degree from Rutgers University in New Jersey. I then went
22 to medical school in Bowman Gray Medical School which is
23 in Winston Salem, North Carolina and graduated in 1984.
24 And then did my pediatric residency at T.C. Thompson
25 Children's Hospital which is in Chattanooga, Tennessee and

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 became board certified in pediatrics. And then
2 subsequently moved to South Carolina and began working at
3 the hospital in 1991. And in 19 -- in 2009 there became a
4 sub-board in the area of child abuse and neglect so that
5 50 percent of your practice had to be involved with child
6 abuse. And was able to sit for that board and pass that.
7 So, I am sub-boarded in the area of child abuse
8 pediatrics.

9 Q Do you also have any special training in the
10 filed of child abuse pediatrics and special seminars or
11 certifications aside from the. . .

12 A Well, as part of being able to take that board
13 certification like i mentioned, you had to have 50 percent
14 of your practice be a part of it. You have to take this
15 written examine which you have to recertify every 10
16 years. And then we have a statewide child abuse network
17 of nurse practitioners and positions. And with that we
18 have to get a certain number of continuing education
19 credits as well as well as for the general medical degree
20 in South Carolina you have to take ongoing medical
21 education credits.

22 Q All right. Approximately how many hours of
23 special training do you have to have every year to
24 maintain your medical license and sub-board certification?

25 A It is 40 like hours every two years.

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 Q Okay. And are there -- do you keep up with the
2 literature in child abuse pediatrics?

3 A Well, you know, since this is a part of my --
4 the majority of my job, with each case, you know, you're
5 constantly reviewing. We do peer reviews as part of our
6 statewide network as well. So constant review is just a
7 daily part of my job.

8 Q Okay. Are there special methods that you use as
9 a pediatrician and as a child abuse pediatrician?

10 A For review?

11 Q Yes.

12 A Well, there's a lot of different ways to do
13 that. Like I mentioned we have to take an written examine
14 which is a four hour examine. So I have to be able to
15 pass that. There's a list serve that is continually
16 sending information about new articles being published.
17 Each year with all the courses since the majority of my
18 area is with child abuse and neglect, my continuing
19 medical education credits is really focused in on that
20 every year. And then we really also given ongoing
21 trainings, not only to the residence but also to community
22 partners, DSS, law enforcement, guardian ad litem. So,
23 with each of those trainings it's enough to kind of
24 redefine what you're talking about and make sure that
25 you're sharing the latest information to the residence, to

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 other people that are going to be using that information.

2 Q Okay. Dr. Henderson, have you previously been
3 qualified as an expert in General Sessions Court?

4 A Yes, I have.

5 Q And what was your expert qualification?

6 A Well, it's been both in the area of general
7 pediatrics and also and in the area of child abuse
8 pediatrics.

9 MS. BENTLEY: Your Honor, at this time The State
10 wishes to qualify Dr. Nancy Henderson as an expert in
11 child abuse pediatrics.

12 THE COURT: Do you wish to voir dire the witness
13 as a to qualifications or to challenge The State's
14 offer?

15 MS. MANIGAULT: No, sir.

16 THE COURT: All right. I'm going to qualify her
17 to give her opinion in the field of child abuse
18 pediatrics.

19 You may continuing, ma'am.

20 BY MS. BENTLEY:

21 Q Dr. Henderson, did you see a patient by the name
22 of Ciara Sutton-Bell?

23 A Yes, I did.

24 Q When did you see her?

25 A I saw her on May 3rd, 2012.

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 Q By whom was she referred to you?

2 A She was referred by law enforcement.

3 Q And what is the process that someone, I guess,
4 is referred to someone in your speciality?

5 A Yes. So, she was referred to the Julie
6 Valentine for a forensic interview and for a medical
7 evaluation. Which majority of the times happens on
8 different days. So, they will make a call either DSS or
9 law enforcement make a call to make that referral that
10 there's some type of concern for abuse and neglect
11 requesting the medical examine.

12 Q Okay. And how old was Ciara when you performed
13 your examine?

14 A She was five.

15 Q Can you, please, explain the process of a
16 forensic medical examine and how it differs from a typical
17 pediatrician visit?

18 A Sure. So, what we have typically do is I work
19 with a child life specialist who just helps to make sure
20 that the child is aware of what's going to happen and the
21 parent or whoever is accompanying them with the examine to
22 just make sure there's no surprises and to understand
23 what's happening. So, that child life specialist will go
24 out to the waiting room and bring the child back and the
25 accompanying adult. She then goes through and just allows

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 the child to have an opportunity to understand about this
2 being a head to toe physical examine just to manipulate
3 the equipment, the stethoscope, orthoscope. Then the
4 other thing that is a very important part of the examine
5 is what's called the colposcope. And it is a big piece of
6 equipment but it just has a lot of intense light and
7 magnification and we use it to look at the genital area
8 and to document our findings. So, we allow the child to
9 look at that so they're not frightened from it.

10 We have -- and then after that the child
11 specialist will also determine what kind of body part
12 names that the child is using to make sure that we are
13 talking about the same things. And then typically I will
14 talk with the parent just to understand, you know, what
15 concerns, problem is going on with the child, any medical
16 problems, headaches, anything like that child. And then
17 try to talk with the child by themselves if they're able
18 to separate. Again, to understand what worries and
19 concerns they may be having with their body. And then we
20 will do the medical examine at that point. We allow the
21 child to with them whoever they would feel comfortable
22 with. We use distractions like lately iPad has become
23 probably the number one distraction with a lot of
24 different games for them so that they don't get so worried
25 and they can relax. Because that cooperation is really

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 very, very important as part of my examine. Especially
2 when we get to the genital area.

3 So, we do a complete head to toe, looking at the
4 genital area. The child will usually put their feet in
5 the feet holders. But it's not like an adult examine so
6 we do use the speculum. Really all the information is
7 very close to the outside and the child is distracted
8 they really can participate very, very easily with it.
9 And then based on the disclosures or symptoms, then I
10 decide what type of testing if anything needs to be looked
11 at for other medical problems or concern about sexually
12 transmitted infections we do that. Then allow the child
13 to get dressed and then complete the examine by making
14 sure they have the appropriate referrals to move forward.

15 Q Did Ciara elect to have her mother with her
16 during her medical examine?

17 A Yes, he did.

18 Q Did Ciara express any concerns about her body to
19 you?

20 A No, she did not.

21 Q Did you specifically asked Ciara whether she had
22 been touched in any type of way?

23 A I do usually ask if there has been any -- has
24 anything ever happened where you've been hurt or anyone
25 touch you on your body and she did not share any

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 information with me.

2 Q Okay. And what were the findings of your
3 forensic medical examine?

4 A Everything on her examine was normal.

5 Q Okay. And tell me what a normal examine means.

6 A So, a normal examine really means when, you
7 know, I looked at just like the ears, chest and the
8 genital examine, there were nothing -- nothing that I saw
9 that was that concerning. So, that's everywhere from
10 redness, discharge, tears, scars, everything. There was
11 just nothing remarkable when I saw her examine that day.

12 Q Okay. It is possible for sexual touching or
13 abuse to occur and there still be a normal examine?

14 A Yes. In fact, that's very, very common in my
15 field. About 90 percent of the children is see have
16 normal examines.

17 Q Why is that?

18 A Well, similar to what you had said, a lot of
19 times when children are referred the allegations are about
20 being touched. Sometimes it can be oral sex, sometimes it
21 can be digital penetration. Even sometimes penile
22 penetration and there are a number of reasons why the
23 examine may be normal. Often children don't disclose
24 right away. So, the abuse can happen, sometimes there's
25 days, weeks and occasionally years before they will feel

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 comfortable coming forward. And that area of the body has
2 a very good blood supply so even small tears can heal
3 very, very quickly. So, it's not uncommon, even when
4 there has been trauma to sometime have normal examine.

5 I Think the other reason that's fairly common is
6 a lot of times when children have those type of things
7 happen, whether that's being touched or oral sex, it's not
8 specifically to the vaginal area or to what was call the
9 outer vulva area. They describe it kind of the same way
10 because they use just one body name to describe their
11 whole genital area they were touched there, whatever that
12 name might be. And so, a lot of times it's not causing
13 trauma what we think to the hymen as that might be to
14 someone having actual intercourse. So, that they say that
15 went inside them but it often is inside their vulva area,
16 not necessarily into their vaginal area. And it may hurt
17 and it may be uncomfortable but it may not be, again, any
18 signs of any visible trauma, scars, tears, things like
19 that. And certainly with those kinds of allegations the
20 risk if STI's is pretty minimal. Not really anything with
21 digital penetration, orals sex, is pretty uncommon but it
22 could happen.

23 Q Okay. And what about -- you spoke about the
24 minimal trauma that could occur from digital penetration,
25 what about oral genital contact? Would there be any signs

NANCY HENDERSON-DIRECT BY MS. BENTLEY

1 of trauma from that?

2 A Well, I think sometimes, you know, anything
3 could cause irritation. If you saw it right away. But
4 sometimes we may not see that on the examine. So, the
5 majority of times they're examines are normal.

6 Q Does it concern you that Ciara did not say
7 that -- that she did not express any concerns about her
8 body to you?

9 A No. You know, it's something I think is really
10 important as part of my examine to ask those questions.
11 But, you know, children are very, very different at
12 different times. Sometimes they feel like if they've
13 already shared, they've already told, then that's it,
14 they're done. And they don't want to keep talking about
15 it. And they know if they say yes, you know, we're going
16 to ask another question. If they say, No, nothing's
17 happened, that kind of cuts it short, that's the end of
18 the conversation. So, kids are pretty smart about that.
19 And really they have full control about what happens in
20 the examine. And so, sometimes kids are really worried
21 and concerned and can really share a lot of detail in the
22 medical examine. And sometimes they cannot. And it's
23 very, very variable. And I document that but I don't
24 think it means, you know, which one's true, which one's
25 not. I think it's just the child deciding whether she

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. BENTLEY

1 family?

2 A No.

3 Q You have no personal knowledge regarding the
4 allegations in this case?

5 A No.

6 Q All right. And can you tell the jury what you
7 understand your purpose of testifying today is?

8 A To provide information and education about the
9 dynamics of child sexual abuse.

10 Q Okay. Do children have to be of a certain age
11 to become a victim of child sexual abuse?

12 A No. Children of any age from infancy up to and
13 through adulthood can be victims of sexual abuse. It's
14 been my experience working at our center that we've seen
15 victims within that age range.

16 Q All right. And is there a general range where
17 children begin to understand what sexual abuse and what
18 inappropriate sexual contact is?

19 A You know, when children -- one of the first
20 things we look at is whether, you know, whether a child
21 can actually verbally communicate with us. We typically
22 do forensic interviews with children who can speak.
23 Whether they're two years old, usually three is the age
24 that we look at. So, a lot of times children that are
25 younger than that just may not have words to describe

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. BENTLEY

1 abuse that's happened. A lot of times in those kinds of
2 cases the abuse is discovered by a behavior, an action,
3 someone asking them a question about something a child
4 said or done that's concerning or looks out of the
5 ordinary. As children get a little bit older and they
6 have more knowledge about their body parts, they may begin
7 to understand that something they experienced or something
8 that's happened to them was not okay or was abusive.
9 There are a lot of other things that play into that too,
10 though. How long the abuse has occurred, the
11 circumstances around it, who has committed it, who has
12 been the person who abused them. Generally, once children
13 do have an understanding of sexuality and sexual
14 knowledge, particularly when children reach the age of a
15 teenager, they have a much better understanding of what
16 has happened to them and really what the impact of that
17 has been on them.

18 Q Okay. What demeanor do children have when
19 discussing sexual abuse in your experience?

20 MS. MANIGAULT: Your Honor -- that's okay.

21 THE COURT: Okay, go ahead, ma'am.

22 THE WITNESS: Well, you know, most children --
23 most children, teenagers, adults are uncomfortable
24 talking about sex in general. Whether it's
25 pleasurable or unpleasurable. For young children who

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. BENTLEY

1 really don't have a frame of reference around them,
2 it can be really embarrassing to them. For those
3 that really don't understand what it really means to
4 talk about sex, they may not be embarrassed about it
5 at all. It may just be that they're talking about
6 something that happened to them. So again, that
7 could really be across the full range of experiences.
8 But most of the time children are embarrassed about
9 it. We teach children to keep their private parts
10 and body parts covered and that's something we don't
11 talk about. People aren't to touch. And so, talking
12 about it to anyone is usually pretty uncomfortable.
13 Unless they're making jokes about it. Which at
14 certain developmental ages we know that's totally
15 developmentally appropriate and kids do that.

16 MS. BENTLEY: All right. I have no further
17 questions for this witness.

18 Please answer any questions Ms. Manigault may
19 have.

20 THE COURT: Cross-examination.

21 MS. MANIGAULT: None, Your Honor.

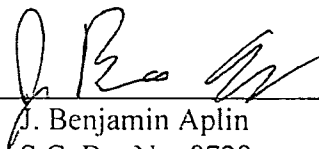
22 THE COURT: Do you wish the witness to be
23 excused, ma'am?

24 MS. BENTLEY: Yes, sir, I do.

25 THE COURT: All right, any objection?

CERTIFICATE OF COUNSEL

Counsel for Respondent certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

BY: 

J. Benjamin Aplin
S.C. Bar No: 8729

January 25, 2016