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ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable John C. Hayes, Circuit Court Judge

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OCT 20 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JONATHAN M. HOLDER

APPELLANT

APPELLATE CASE NO 2015-001185

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 20 – 21, 2015	1
OPENING STATEMENT BY MR. TOOKER	23
OPENING STATEMENT BY MR. CONTRELL.....	29
TESTIMONY	
SAMUEL BYERS	
Direct Examination by Mr. Tooker.....	32
Cross-Examination by Mr. Cantrell.....	37
COMPLAINANT	
Direct Examination by Mr. Tooker.....	44
Cross-Examination by Mr. Cantrell.....	59
Redirect Examination by Mr. Tooker	68
Recross Examination by Mr. Cantrell.....	70
JOHNIECE WOFFORD	
Direct Examination by Mr. Tooker.....	70
MEGHANN HARVEY	
Direct Examination by Mr. Tooker.....	72
Cross-Examination by Mr. Cantrell	98
Redirect Examination by Mr. Tooker	107
Recross Examination by Mr. Cantrell.....	107
KEVIN SOWELL	
Direct Examination by Mr. Tooker.....	108
Cross-Examination by Mr. Cantrell.....	114
Redirect Examination by Mr. Tooker	118
Recross Examination by Mr. Cantrell.....	119
SHAUNA GALLOWAY-WILLIAMS	
Direct Examination by Mr. Tooker.....	120
Cross-Examination by Mr. Cantrell	134
Direct Examination by Mr. Tooker.....	149
Cross-Examination by Mr. Cantrell.....	164
Redirect Examination by Mr. Tooker	167

JUVENILE	171
Direct Examination by Mr. Tooker.....	178
Cross-Examination by Mr. Cantrell.....	
JOHNATHAN M. HOLDER	196
Direct Examination by Mr. Tooker.....	233
Cross-Examination by Mr. Cantrell.....	276
Redirect Examination by Mr. Tooker	
CLOSING ARGUMENT BY MR. CANTRELL.....	285
CLOSING ARGUMENT BY MR. TOOKER.....	298
VERDICT	325
SENTENCING	331
INDICTMENTS AND SENTENCE SHEETS.....	334
CERTIFICATE OF COUNSEL	340

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)
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IN THE COURT OF
GENERAL SESSIONS
2013-GS-39-0957-0958

THE STATE,)
PLAINTIFF)
vs.)
JONATHAN M. HOLDER,)
DEFENDANT)
-----)

TRANSCRIPT OF RECORD

MAY 20-21, 2015
PICKENS, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JOHN C. HAYES, III

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I N D E X

1	OPENING STATEMENTS				
2	BY MR. TOOKER . .	50			
3	BY MR. CANTRELL . .	56			
4	WITNESSES				
5		DIRECT	CROSS	REDIRECT	RECROSS
6	SAMUEL BYERS				
7	BY MR. TOOKER	59			
8	BY MR. CANTRELL		64		
9	Complainant				
10	BY MR. TOOKER	71		95	
11	BY MR. CANTRELL		86		97
12	JOHNIECE WOFFORD				
13	BY MR. TOOKER	97			
14	BY MR. CANTRELL		--		
15	MEGHANN HARVEY				
16	BY MR. TOOKER	99		134	
17	BY MR. CANTRELL		125		134
18	KEVIN SOWELL				
19	BY MR. TOOKER	135		145	
20	BY MR. CANTRELL		141		146
21	SHAUNA GALLOWAY-WILLIAMS				
22	BY MR. TOOKER	147/176		194	
23	BY MR. CANTRELL		161/191		
24	Juvenile				
25	BY MR. TOOKER	198			
26	BY MR. CANTRELL		205		
27	JONATHAN M. HOLDER				
28	BY MR. CANTRELL	223		303	
29	BY MR. TOOKER		260		
30	CLOSING ARGUMENTS				
31	BY MR. CANTRELL . .	312			
32	BY MR. TOOKER . .	325			
33	VERDICT . .	352			

STATE'S EXHIBITS/PAGE:

1. DVD LIBRARY 103
2. GYM DVD 104
3. GYM 2 DVD 104
4. LAUNDRY ROOM PART 1 104
5. LAUNDRY ROOM PART 2 104
6. ID ONLY -- WEEKLY BEHAVIOR RATINGS
7. LAUNDRY ROOM PHOTO 112
8. PHOTO 3 DOORS TABLE AND BENCHES 112
9. PHOTO 1 OPEN DOOR WITH FEMALE 112
10. PHOTO LAUNDRY ROOM 112
11. PHOTO NURSE'S STATION 112
12. PHOTO NURSE'S STATION DESK AREA 112
13. PHOTO LOOKING THROUGH DOOR INTO NURSE'S ST. 112
14. PHOTO DOOR OPEN/ON LEFT SILVER TRAY 112
15. PHOTO OPEN DOOR INTO NURSE'S AREA 112
16. PHOTO MEDICAL/LEFT DOOR/OPEN RIGHT 112
17. PHOTO GREEN TOP TABLE AND OPEN DOOR 112
18. PHOTO GAME ROOM SODA MACHINE 112
19. PHOTO CLOSED DOOR 112
20. PHOTO OPEN DOOR BLACK SHELVES INSIDE 112
21. PHOTO LOOKING INTO PHOTO GAME 112
22. PHOTO SHELVES LEFT INSIDE LIBRARY 112
23. PHOTO SHELVES RIGHT INSIDE LIBRARY 112

DEFENDANT'S EXHIBITS:

NONE

COURT'S EXHIBITS

1. JURY NOTE 352

* * * P R O C E E D I N G S * * *

1
2
3 THE COURT: The first case up today is the case of
4 State v. Holder. We've had a conference -- in chambers
5 conference and an informal motion from Mr. Cantrell to
6 continue. We discussed it a little bit, but I think
7 it's a matter that needs to be on the record.

8 So at this point, first I'll ask the State if --
9 do you have anything that you want to state before I
10 hear what Mr. Cantrell's position is?

11 MR. TOOKER: With regards to Mr. Cantrell's
12 continuance motion, sir?

13 THE COURT: Yes, sir.

14 MR. TOOKER: Yes, sir. So it's my understanding
15 -- and I want to address each of these --

16 THE COURT: Well, I'm going to let him tell me
17 first.

18 MR. TOOKER: Okay.

19 THE COURT: I just want to know if there's
20 anything -- I'm going to let him put on the record
21 first his grounds, and then you address them.

22 MR. TOOKER: Then that's what I'll do, sir.

23 THE COURT: Okay. But I didn't know if you had
24 any preliminary. Okay. Yes, sir, Mr. Cantrell.

25 MR. CANTRELL: Your Honor, if it please the court,

1 this matter before the court -- there's two charges, I
2 believe, as we stand right now -- criminal sexual
3 conduct with a minor. The allegations took place in
4 2012. This case is now on the trial docket for the
5 first time. And the allegations -- or the incident
6 that is alleged in the indictments took place as -- at
7 a residential psychiatric treatment facility for
8 adolescents here in the City of Pickens -- actually
9 less than three or four blocks from the courthouse.

10 In an effort to prepare for this, once it was on
11 the trial docket, I made contact with the facility's
12 director at the Hampton, and had an appointment set up
13 with him to meet with him last Monday, which would be
14 the 11th, in order to prepare.

15 The resident -- the facility's director was
16 unable to meet with me at that time that had been set
17 aside, so that was postponed. Then in the meantime, I
18 was notified the next day -- I believe it was --
19 Tuesday or Wednesday of last week -- I believe Tuesday,
20 that their legal counsel had told them there was
21 specific steps that we would have to go through in
22 order for them to be allowed to speak to us, both
23 myself and the Solicitor.

24 I talked with Mr. Tooker, and we got information
25 from that legal counsel, and prepared an order that we

1 felt addressed their concerns. It was signed on
2 Thursday -- sometime last Thursday -- and presented to
3 the people at the Hampton on Thursday; that got both
4 Mr. Tooker and myself in to talk to -- we were able to
5 talk to the facility's director and the assistant
6 facility's director. We were able to interview them,
7 and at that time were able to determine from them who
8 worked at the facility and who did not work at the
9 facility among those that were possible witnesses to
10 this incident. It was determined that there were
11 several that still worked there, but a good number that
12 did not still work there.

13 Also, it was determined that the two DSS
14 caseworkers that had been involved in this case, really
15 from before the time that the people at Hampton or law
16 enforcement were aware of it, that those two case
17 workers were no longer coming to that facility; and, in
18 fact, were no longer working with DSS.

19 I believe that the Solicitor attempted to locate
20 them. I have made some efforts to locate them since
21 last Friday, and have had no luck. I'm satisfied they
22 could be located, but not prior to today.

23 So we have, by our account, I'm going to say
24 either six or eight -- but approximately that number of
25 witnesses that we believe are very important witnesses,

1 that will testify to certain specific issues that are a
2 part of our defense.

3 THE COURT: I'm not going to -- I'm not going to
4 ask you to tell me all your trial strategy, but since
5 it's in my lap at this point, I need to know a little
6 more with specificity as to what -- what, of relevance,
7 do you expect from these witnesses?

8 MR. CANTRELL: I think it can be paired down to
9 three or four categories of testimony. One will be
10 testimony as to the victim's reputation for
11 truthfulness and veracity, for honesty.

12 And one step removed from that, the State
13 intends to call another resident to seek to submit his
14 testimony as to incidents that occurred with him. We
15 would need not the same staff, but other staff that
16 worked with him, because these two young men were in
17 separate sections of the Hampton.

18 So there would be some individuals that would be
19 able to testify as to his truthfulness and veracity;
20 there would be some other individuals that would
21 testify to this potential witness' reputation for
22 truthfulness and veracity.

23 We do know that two of Mr. Tooker's witnesses
24 will most likely testify to that --

25 THE COURT: And -- as to both?

1 MR. CANTRELL: As to I know at least one. I -- I
2 think they could do the other, and that would be the
3 facility's director and the assistant director, but we
4 have others that would be testifying as to that. And I
5 believe they would be able to supplement or maybe go a
6 step further in how and when they -- they became aware
7 of this. Some of these will be staff members that
8 dealt with these young men, and particularly the
9 alleged victim, on a day-to-day basis more so than the
10 facility's director.

11 Now, this is a hands-on facility, so that I
12 think the facility's director certainly is familiar,
13 and his testimony will be competent. I'm not arguing
14 that. But I'm arguing that these other staff members
15 -- or former staff members, would have more specific
16 and possibly more detailed information. I, in all
17 candor, haven't been able to talk to them.

18 Another area of testimony would be statements by
19 this alleged victim, one -- and these fall into two
20 distinct categories or two different sets of witnesses.
21 And that is that he said words to the effect -- we
22 don't know the exact words -- again, because we haven't
23 talked to the witnesses, but they have -- these
24 witnesses reported that he said I know how to get out
25 of this facility. I know what I've got to do to get

1 out of here, because the evidence will show that he was
2 frustrated and upset and/or angry that he was not
3 getting out when he thought he was. He was on track to
4 get out at one point, and then he regressed, I believe
5 the testimony will show and he became angry. And he
6 was looking for ways out is what I believe his
7 testimony will show.

8 The second set of statements by this young man
9 would be where he indicated that the defendant did not
10 do these things, was not guilty of these allegations.
11 And, again, all of this needs to come from the actual
12 witness or witnesses that heard these statements and
13 can testify as to the circumstances, how they were
14 said; what they were said. That sort of thing. All of
15 those are very instrumental to the defense. Obviously
16 we're here trying it because Mr. Holder has pled not
17 guilty. He denies all of these allegations. He stood
18 by his innocence for the entire time since he was
19 charged, and all of these are going to be instrumental
20 in presenting a proper defense.

21 And, again, due to no fault of anybody -- and
22 certainly in this room -- and I don't think due to any
23 of our fault, we've only been able to know who we
24 needed to track down since last Friday, and it's just
25 not been possible to do that.

1 On a smaller side issue, there has been some
2 evidence that was presented to both the Solicitor and
3 myself just last Friday, a great deal of documentary
4 evidence, records from the Hampton, that was a lot of
5 -- a lot of paperwork, very significant. And in an
6 effort to locate witnesses and to review that, the
7 continuance would provide us adequate time to more --
8 more properly go through all of that.

9 One was a DVD video, which is fairly short and
10 may not even be submitted, so I'm not terribly
11 concerned about that at this stage, I don't believe.
12 But all of this other documentary evidence is very
13 significant, it's handwritten. It's front and back,
14 single spaced a lot of it, and that would be an
15 additional reason that the continuance would be -- I
16 certainly think in the defendant's best interest but I
17 think would serve justice because, again, this is the
18 first time it's been on the trial docket.

19 We have attempted -- made every effort to secure
20 evidence, to meet with the facility's directors and
21 other individuals there, and simply could not until
22 last Thursday, which would be less than a week before
23 this trial started. And that's when we got some of the
24 information. The rest of it we got in the Fall.

25 And to be adequately prepared to defend very,

1 very serious charges where -- where the testimony, the
2 evidence, the allegations and the truthfulness and
3 honesty of the witnesses is of paramount importance, we
4 need to be able to do this with the witnesses -- even
5 though there's been an offer of some stipulations from
6 the State, Your Honor, that just doesn't protect my
7 client's interest, and I believe that's what we need.
8 That's what I need to properly give him his fair trial.
9 I would ask the court to continue it.

10 And I would submit to the court if it has to be
11 the first trial up the next term of court, which is
12 four weeks away, we're good with that. I think if I
13 have that much time, I've got all I could ask for. But
14 we need that time to really get this done. We could be
15 here at 9:00 Monday morning ready to go to trial.

16 THE COURT: Mr. Tooker.

17 MR. TOOKER: Thank you, sir. If it please the
18 court. So, in my mind, his motion for continuance
19 boils down to whether or not there are specific facts
20 that he cannot get out on to the record without the
21 witnesses he says he needs.

22 I'll say, without actually knowing the name of
23 witness and the content that he anticipates eliciting
24 from that witness, it's hard to say, you know, from the
25 State's position, yeah, it seems like, you know, we can

1 stipulate to that or we can't -- my understanding is he
2 has really articulated two things -- two things that he
3 needs, that he thinks these witnesses, that he does not
4 have, can give him. The first is --

5 THE COURT: I -- I can break it down to three.

6 MR. TOOKER: Three? I was going to say --

7 THE COURT: Reputation, denials and way out. "I
8 know a way out" --

9 MR. TOOKER: I put "way out" and denial under two
10 as subheadings, but reputation. So with regard to
11 reputation, there are still currently employed four of
12 the original witnesses, but the employees of the
13 facility who dealt with this case on the front end, who
14 were part of the facility's in-house investigation.
15 The State intends to call two. The State has under
16 subpoena a third. Mr. Cantrell -- I have her contact
17 information -- is free to call her to court.

18 It's the State's understanding that all three
19 witnesses would testify that the victim has a
20 reputation for untruthfulness. That being the case,
21 I'm not sure any prejudice the defense suffers, by
22 virtue of the -- of the appearance of other witnesses
23 to testify to the reputation for untruthfulness of the
24 witness, it's so significant as to warrant a
25 continuance. I think if it's three or 300, I -- the --

1 the information that's elicited and the effect on the
2 jury is the same. If anything, they just keep parading
3 witnesses in to say the guy has a reputation for
4 untruthfulness, all that is -- is piling on with a
5 bunch of cumulative evidence of -- of something that
6 two or three witnesses could easily convince. So I
7 don't think that the reputation for truthfulness or the
8 lack of witnesses that he wants to testify to the
9 reputation for truthfulness, is enough to warrant a
10 continuance.

11 Second, the statements by the victim, "I know
12 how to get out"; that statement was relayed by an
13 employee to Kevin Sowell, the facility's director. And
14 Kevin Sowell, the facility's director, relayed it to me
15 and I relayed it to Mr. Cantrell. That statement was
16 purportedly made several weeks before --

17 THE COURT: You said "that statement", which
18 statement?

19 MR. TOOKER: I apologize, sir. "I know how to get
20 out", that statement -- or "I know what I need to say
21 to get out". So that statement was relayed to Mr.
22 Sowell. The State, to avoid the continuance, is
23 willing to let Mr. Sowell testify to that statement,
24 even though he would not be the proper party for us to
25 ask. But despite that fact, to keep things moving, the

1 state would absolutely -- you know, I would ask the
2 question of him myself. That is not -- well, I
3 certainly wouldn't sacrifice the ability to try this
4 case if it hinged on one witness saying something that
5 the kid said who didn't actually overhear it -- I mean,
6 we could write it down on a piece of paper, do it as a
7 stipulation if the defense would prefer. But whatever
8 it takes to get that information to the jury, I'm
9 willing to do to ensure that we can try this case.

10 The third statement about the victim allegedly
11 having made it up, that's more of a wrinkle inasmuch as
12 I have no information to that effect. That -- that
13 information is contained nowhere in the case file
14 provided by law enforcement; nowhere in the case file
15 provided by the facility with regards to their internal
16 investigation, or the records they made on the victim
17 that Mr. Cantrell and I both have in our possession.
18 So if there are other witnesses to that effect, that
19 information must be coming from the defendant.

20 To facilitate this trial, to ensure that we go
21 ahead, I'd let the defendant testify that so and so
22 told him -- and I wouldn't object to hearsay -- so and
23 so told him that the victim told him he made it up.
24 Now, I would cross examine him on that point, but I
25 would not -- I would not object to the admission of

1 that hearsay testimony.

2 I -- may I ask, Your Honor, are those the three
3 evidentiary issues that --

4 THE COURT: That's the three -- that's how I'm
5 breaking it down. The defendant doesn't have to
6 testify.

7 MR. TOOKER: Of course he doesn't, but I
8 understand --

9 THE COURT: I mean, I'm following up on you saying
10 you'd let him testify to something.

11 MR. TOOKER: Yes, sir. It would be if he elected
12 to take the stand. If they wanted that information
13 out, then the State is okay with him functioning as a
14 conduit for him to introduce evidence that he wouldn't
15 otherwise be able to introduce. So -- and I think
16 that's the only proper way to do it because I -- I do
17 need to cross examine someone about where those
18 statements came from. And as that information is
19 contained nowhere in the reports, I can only imagine
20 that information is coming from the defendant to his
21 attorney. So -- so I think that's the only fair way to
22 go about it.

23 I understand that it is difficult to communicate
24 with the people at this facility. I've had the same
25 difficulties. But nevertheless, I am prepared to go to

1 trial here today. Now, I think it's worth noting, and
2 I would to put a couple of cases on the record for Your
3 Honor.

4 The first is State v. Colden, C-o-l-d-e-n, 372
5 SC 428, 641 SE 2nd 912. In that case, the ruling was
6 that a party asking for a continuance on account of the
7 absence of a witness must show due diligence in trying
8 to procure the testimony of the witness, as well as
9 what the party believes the absent witness will testify
10 to and the basis for that belief. And I don't believe
11 we've actually heard the basis for why it is Mr.
12 Cantrell believes there are witnesses that say the
13 child made it up.

14 And I might be speaking out of turn, but in my
15 mind, this whole argument boils down to whether or not
16 he can introduce statements that the kid made it up.
17 That's -- that's the biggest issue in my mind. I think
18 the other two are easily solved with the reputation and
19 the statement that we could channel through the
20 facility's director, Mr. Sowell. But the statements
21 that he made it up, I can appreciate that that is
22 certainly something that would be necessary for his
23 defense. But we haven't heard tell where those
24 statements came from.

25 So absent that, it's difficult to say -- I mean,

1 it's my supposition that it's coming from the
2 defendant, we would permit the defendant to testify to
3 those things. But it's difficult to say how it is that
4 information came about, and how it is that it would be
5 properly admitted. So -- so then to say we can't find
6 these witnesses, I think, is a little bit premature.

7 You know, the rule is -- and Your Honor alluded
8 to this in chambers, but the rule is -- Rule 7 (b) of
9 the rules of criminal procedure, and that's a
10 continuance because of the absence of witnesses. And
11 that rule, really, just reiterates what I said in that
12 last case.

13 I -- I want to make plain that I have
14 significant concerns about my ability to ensure the
15 appearance of the victim for another trial. That is my
16 paramount concern in this case, as he is turning 18,
17 and potentially leaving DSS custody, I -- I do not have
18 any way of guaranteeing his appearance -- I can serve
19 him certainly, and I will, but I'm not confident that
20 that's enough. I'm not confident that I can make sure
21 that he's here just by having him served.

22 That being the case, I'm opposed -- vehemently
23 opposed to the defense's motion and would very much
24 like to work with the defense and the court to ensure
25 that whatever information he thinks he could get out

1 through these witnesses, that aren't available, that
2 that information maybe we figure out a way to get in
3 otherwise.

4 THE COURT: All right. Mr. Cantrell, any brief
5 response?

6 MR. CANTRELL: Your Honor, just as to reputation,
7 again, I don't know. I realize that we do have two
8 witnesses that will testify as to his reputation. The
9 other witnesses that can be available that -- when we
10 locate them, may have more specific information or
11 different circumstances, we don't know. So I don't
12 know that it would necessarily be cumulative. We do
13 not know.

14 As to him saying there was a "way out", Your
15 Honor, in your charge to the jury, you're going to tell
16 the jury that they judge or make their determination a
17 lot about truthfulness, veracity of witnesses, based on
18 their demeanor on the witness stand.

19 In this situation, were we to only allow the
20 director to say, well, someone said he said this,
21 totally takes away that jury perspective, and that is
22 significant enough that's it charged to every jury in
23 every criminal trial in this state. They need to see
24 the witnesses, but more importantly, they need to hear
25 the specifics of where this witness heard, what they

1 heard, and what it was that was said. So him knowing a
2 "way out", the live witness sitting there, is of
3 paramount importance.

4 The same thing as to the denial. Certainly the
5 only way he knows of anything that's not in this police
6 report is what staff members would have told Mr.
7 Holder, staff members that are no longer there, staff
8 members that may have been there for some time after
9 this incident, but are no longer there. And we cannot
10 tell you specifically where they heard it or how they
11 would say what they say without them being here.

12 And, again, very simply, I -- the fact that this
13 young man turns 18 today is -- I have to -- it just --
14 I don't believe that it's relevant, the availability of
15 witnesses later on. I'm having to contend with that
16 myself and I'm trying to make them available --
17 availability of the alleged victim, who turns 18 today.

18 But quite frankly this case -- this charge came
19 about May -- or the allegations are May 22, 2012. I
20 don't believe his age or his availability -- potential
21 availability is sufficient to override Mr. Holder's
22 need to have witnesses here in order to present his
23 full defense in a proper way, so I would ask the court
24 to grant this continuance. Again, if it's for four
25 weeks, until Monday of the next term, that's all we

1 would ask.

2 THE COURT: The court always hates to find itself
3 in these dilemmas, and they are somewhat of a dilemma,
4 but I'm going to deny the motion to continue.

5 I -- as to the reputation, I don't think -- I
6 think one's reputation is how one is perceived in the
7 community. And if two people say that his reputation
8 for truth and veracity is bad, then that's what his
9 reputation is in the community, and that's enough to
10 convey that to the jury.

11 As to any specific denials, regrettably that's
12 hypothetical. We don't have anything to really bottom
13 -- the court does to provide -- a decision on the fact
14 that there are denials somewhere out there because we
15 don't know. That's -- I'm not going to say wishful
16 thinking -- but at least hypothetical.

17 As to ways out, there -- there appears to be --
18 and if this doesn't transpire then, of course, you
19 would be looking at perhaps a mistrial -- there appears
20 to be testimony that is going to be elicited that the
21 victim did make statements that he needed a "way out",
22 how to get out of the home; and that the witness to
23 whom he made that is not, my understanding, going to be
24 testifying. And I do understand the concern about the
25 demeanor of the witness. But in this particular

1 instance, it's sort of a flip of the usual because
2 regardless of the demeanor of the witness that's
3 testifying to this, the -- the -- it would not appear
4 to be any reason for the defense to be attacking the
5 credibility of the witness who testifies that this
6 statement was related to them, so -- so I have to admit
7 with some reluctance because I -- this is a very
8 important case. But I believe on the rule and where we
9 are now, this case being -- I think someone told me two
10 and a half years old, and we -- we will go forward
11 today.

12 MR. CANTRELL: Thank you, Your Honor.

13 MR. TOOKER: Thank you, sir.

14 MR. CANTRELL: My objection is noted --

15 THE COURT: Oh, certainly, you're on record as --
16 to use Mr. Tooker's word -- vehemently objected.

17 All right, let's get the jury in. Is there any
18 -- any voir dire from The State?

19 MR. TOOKER: I believe it is on your desk, sir.

20 THE COURT: All right; any voir dire from---

21 MR. CANTRELL: I do, Your Honor. I believe some
22 are probably similar, if not the same.

23 THE COURT: All right. Any witness list for the
24 Defense?

25 MR. CANTRELL: Your Honor, at this point no.

1 THE COURT: Okay; that's fine.

2 MR. CANTRELL: There -- there may still be some
3 though.

4 THE COURT: All right, if---

5 MR. CANTRELL: And I will advise Your Honor.

6 THE COURT: Okay.

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
8 CONFERENCE, OFF THE RECORD.)

9 (WHEREUPON, PROCEEDINGS CONTINUED.)

10 THE COURT: I tell you, while the jury's coming in
11 we'll take a five -- five-minute, uh, break.

12 (WHEREUPON, HEARING RECESSED.)

13 BAILIFF: All rise; Court is in session.

14 THE COURT: Thank you, you may take your seats.
15 Good morning.

16 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
17 CONFERENCE, OFF THE RECORD.)

18 (WHEREUPON, PROCEEDINGS CONTINUED.)

19 THE COURT: Members of the jury panel, we're gonna
20 start our second trial for the week here, uh, now. And
21 this is the case of The State versus Jonathan Matthew
22 Holder.

23 Mr. Holder, would you stand so the jury can see
24 who you are?

25 (WHEREUPON, DEFENDANT STOOD AND FACED THE JURY

1 about every hour and a half. But if any of you need a
2 break at any time, simply raise your right hand and
3 we'll take a break.

4 Now, I'm going to turn the case over to the
5 attorneys for their opening statements.

6 MR. TOOKER: Thank you, Your Honor. May it please
7 the court?

8 THE COURT: Mr. Tooker.

9 MR. TOOKER: Mr. Cantrell. Mr. Foreman, ladies
10 and gentlemen of the jury, I sort of briefly introduced
11 myself when I stood up, my name is Sam Tooker, and I'm
12 an Assistant Solicitor here in Pickens County.

13 What that means is I try cases on behalf of the
14 State of South Carolina. I am -- I am the State in
15 this case. And so, ultimately, as the judge instructed
16 you, it's my burden to prove this case today. So the
17 case that is before you today falls on my shoulders,
18 and I accept that burden.

19 I want to go ahead and thank you very much for
20 your service. I think that I can speak both for Mr.
21 Cantrell, his client, and the court when I say we very
22 much appreciate your presence. Without you, we cannot
23 solve our disagreement, and that's what this is. There
24 is a dispute with regards to the facts in this case.
25 And you are here to be impartial fact finders, to be

1 the people that sit and determine the truth in this
2 case.

3 The case before you, and as the judge read the
4 indictments -- his honor read the indictments, they are
5 indictments of a sexual nature. They are indictments
6 of criminal sexual conduct with a minor in the second
7 degree and the third degree.

8 And I told you that as the State, I bear the
9 burden in this case. And what that means specifically,
10 is I have to show you that each one of the elements for
11 each charge has been met. So two charges, it's two
12 sets of elements.

13 Now, they sound similar, the charges do, but
14 they are different. The first, criminal sexual conduct
15 with a minor in the second degree, means that we've got
16 a kid -- a kid less than 16 -- and that kid is sexually
17 abused by someone who is in a position of authority
18 over them. It could be a parent. It could be a
19 teacher. It could be someone who, by virtue of their
20 title or authority, has some -- some degree of control
21 over the child.

22 The allegations in this case that the victim --
23 the victim, I believe, his honor has per policy, read
24 Complainant -- those are his initials -- Complainant His name is
25 Complainant . He turns 18 today as a matter of fact.

1 But several years ago, he was a patient at a
2 facility here in Pickens County. That facility is
3 called Hampton PRTF. It is an in-patient home. It's a
4 place for kids who have problems. And it's a place for
5 them to go to be taken care of. And the victim was a
6 resident of this facility.

7 The defendant, in this case, worked there. He
8 was an employee. The allegations are that the
9 defendant had the victim perform sex acts on him,
10 specifically oral sex; that these events occurred in
11 2012, and they occurred at this facility.

12 The second indictment is for criminal sexual
13 conduct with a minor in the third degree. And what
14 that means is the Defendant touched the victim or he
15 got the victim to touch him in a way that was lewd and
16 lascivious, that was somehow designed to bring about
17 the sexual passions of either the defendant's person,
18 or the victim's person.

19 They are very serious allegations. And it is
20 very important that for the duration of this trial,
21 that you keep an open mind. More than anything else,
22 that's what is important.

23 You don't need to come in and say, I think I
24 know what happened here. Or immediately after one
25 witness takes the stand, decide this is what happened

1 in this case.

2 What you're called to do, and what you're sworn
3 to do by your oath, is to listen to all the facts and
4 evidence. Listen to all of it. And then after you
5 have listened to it all, and you have been instructed
6 by his honor on the law in this case, and then
7 deliberate. Deliberate fairly and deliberate with each
8 other in a way that gives everyone an opportunity to
9 explain what they think and why.

10 At the end of this case, when you do that, when
11 you have your deliberation, you'll be called to render
12 a verdict.

13 Now, verdict comes a Latin phrase veritas
14 dicere. And if any of y'all are Latin experts, I may
15 have mispronounced that, I'm sorry. But my
16 understanding is veritas means the truth, and dicere
17 means to speak. So what you are called to do at the
18 end of the case, is render a verdict that speaks the
19 truth.

20 And that's important inasmuch as that root --
21 that root veritas means truth; right? That comes up
22 again, because in this case -- and I'll say, too, cases
23 like this, criminal sexual conduct, cases of sex -- sex
24 acts against minors, are cases that -- that happen
25 behind closed doors. They are not happening in -- in

1 the open. Nobody takes somebody into County Square and
2 abuses them before a load of witnesses.

3 They are cases that are shameful. They are
4 cases that are secretive. They are acts that are
5 shameful and that are secretive.

6 But we have an interesting situation here
7 because it occurred at this facility. And this
8 facility has tape recording equipment. It's got a
9 closed circuit TV. And that closed circuit TV will be
10 provided to you, that information will be provided to
11 you and entered into evidence.

12 Now, it does not show any sex acts. Nothing is
13 depicted on there, that -- that is an eye witness to
14 the child actually being abused. But what it does show
15 is the defendant and the victim together, together at
16 different places and different points. And that
17 information will be important to you at the end of this
18 trial.

19 Now, I say -- the truth is important,
20 credibility is important. Credibility is the most
21 important thing in this case because, ultimately,
22 despite the fact that we've got this video, and despite
23 the fact that this -- this happened in this home, these
24 cases are cases of word versus word. It's a case where
25 one person said something happened.

1 And you have to determine whether or not you
2 believe that person. So you are called to -- called to
3 determine his credibility. You're called to say, yes,
4 that is something I believe; or, no, that's not
5 something I believe.

6 And you do that the same way you do in any
7 instance, when you're interacting with somebody on a
8 day-to-day basis, when you meet somebody on the street,
9 talk to somebody at school, talk to somebody at work.
10 You talk to folks, and you determine whether or not
11 what they're telling you seems to be true. And that's
12 what we are asking you to do in this case.

13 Again, I think more than anything else, what you
14 should do is try to keep an open mind, pay attention
15 to everything. At the end of this case, I'll stand up
16 again and I'll talk to you about what I think the facts
17 and evidence mean. But until then, please keep an open
18 mind.

19 Again, I -- I thank you. And I know I speak for
20 Mr. Cantrell when I say, I thank you for your service.
21 It is extremely important. And I look forward to
22 talking to you again at the close of this case. Thank
23 you.

24 MR. CANTRELL: May it please the court?

25 THE COURT: Yes.

1 MR. CANTRELL: Ladies and gentlemen, I'll take up
2 where Mr. Tooker left off. Thank you for your service
3 as obviously none of this takes place and nobody has
4 their day in court without jurors doing their service,
5 even though it may well be inconvenient.

6 I'm David Cantrell. I represent Matt Holder,
7 who, first and foremost -- and I think you know at this
8 point -- is he sits there innocent of this charge. And
9 that innocence stays with him throughout this unless at
10 the end of this trial, you're convinced beyond a
11 reasonable doubt that he is guilty. Other than that,
12 he remains innocent, as innocent as he is now.

13 And his innocence shields him throughout the
14 trial. So it is important that you, again, listen to
15 everything the judge has told you. You are the triers
16 of the fact. You decide what, in fact, happened. It's
17 an awesome responsibility. It's a tough
18 responsibility.

19 But the second part is, you use, as you've been
20 told earlier, your common sense, your day-to-day
21 sensibilities; the way you deal when you deal with any
22 human being. The simple fact is, we're dealing with
23 human beings here throughout this and they're all
24 entitled to their day in court.

25 You've heard the nature of the allegations, the

1 charge. You've heard the age of the person who made
2 these allegations. So I will tell you, you're going to
3 be lead -- to a certain degree -- as you would in any
4 day-to-day activity that you begin by -- by various
5 thoughts and emotions, one will be -- will be sympathy.
6 There will be sympathy in the minds and hearts of all
7 of you when you listen to this. Sympathy for Mr.
8 Holder; he's been accused of something that he
9 certainly did not do. You will hear testimony, I
10 believe, of this young man and you will want to
11 sympathize with him -- maybe a lot -- and that is
12 understandable I think. All of us would.

13 But the fact of the matter is, in your
14 day-to-day activities, your day-to-day relationships,
15 you sympathize with people, but you still have to
16 decide what is the truth. What happened, what are
17 these people -- what is this person telling me and did
18 it happen or if it could. The way you do that is by
19 listening to the testimony, hearing everything, and
20 seeing everything that is presented to you.

21 I agree with Mr. Tooker, credibility is
22 everything in this case -- absolutely everything. And
23 hearing what somebody says, and determining if you
24 believe it is everything in this case. And only by --
25 by doing that, do you reach a verdict that speaks the

1 truth.

2 You're going to hear about cameras and potential
3 camera views. You're going to hear testimony from a
4 lot of different people about a lot of different
5 things, and they all must point to guilt beyond any
6 reasonable doubt or Matt Holder remains innocent. It
7 is of paramount importance to all of us. All we ask
8 you to do, and all that you were sworn to do, is to
9 listen, pay attention, and again, use your -- what you
10 use every day, and determine what people are saying,
11 whether it's truth or credible. Based on that, you
12 decide what happened.

13 You're the finders of the fact. The Judge will
14 tell you all about the law. The two attorneys get to
15 tell you maybe our opinion of the law -- or our opinion
16 of what the law says. The Judge is gonna tell you that
17 -- that's not evidence. We can't tell you what to
18 think. We can't tell you what the law is. He tells
19 you what the law is. We can comment on the facts. But
20 you go back in this room and you take everything you
21 have heard and everything that you have taken in, and
22 then you reach a verdict.

23 And, ladies and gentlemen, I would ask you to do
24 that, all of you to determine what is credible, and
25 what is believable, and determine what is truthful and

S. BYERS -- DIRECT BY MR. TOOKER

1 -- and return a verdict that speaks for the jurors. I
2 ask you to return a verdict of not guilty; that Matt
3 Holder will continue to be innocent of this charge.

4 Again, thank you for all of your attention
5 and all of your efforts, and thank you for listening to
6 all of this evidence.

7 THE COURT: Call your first witness.

8 MR. TOOKER: Thank you, Your Honor. The State
9 would first call Detective Sam Byers to the stand.

10 SAMUEL BYERS, having been
11 first duly sworn, testified as follows:

12 THE CLERK: Thank you, sir. If you would have a
13 seat and state your name for the record.

14 THE WITNESS: Samuel Byers.

15 **DIRECT EXAMINATION BY MR. TOOKER:**

16 Q. Detective Byers, where do you work, sir?

17 A. I work for the Pickens City Police department.

18 Q. How long have you worked there?

19 A. I started in February of 2003.

20 Q. Okay. And what is your role or what are your
21 duties with the Pickens Police Department?

22 A. I am currently a Detective with the Pickens
23 Police Department, and I investigate criminal activity
24 among other tasks; a training officer, instructor in
25 certain fields; property and evidence supervisor; a

S. BYERS -- DIRECT BY MR. TOOKER

1 forensic supervisor.

2 Q. Okay. And how is it that you came to be
3 involved in this case?

4 A. I received a fax from a DSS worker from
5 Columbia regarding alleged abuse.

6 Q. Okay. So where did you go?

7 A. The first time -- the first thing I did is
8 upon receiving that, I made arrangements to speak with
9 the victim.

10 Q. Who is the victim in this case, who did you
11 speak to?

12 A. I spoke to Complainant .

13 Q. Complainant . And how old was he at the
14 time?

15 A. Fifteen years of age.

16 Q. Okay. And where did you speak to him?

17 A. I spoke to him at the Hampton PRTF.

18 Q. Okay. And how many times during the course of
19 this investigation did you speak to Mr. McAbee?

20 A. I spoke to him on -- actually I got to
21 interview him on three different occasions, but there
22 was a fourth time also.

23 Q. Okay. Did he want to talk to you at the time?

24 A. Not in the beginning.

25 Q. Okay. Were you able to develop a rapport?

S. BYERS -- DIRECT BY MR. TOOKER

1 A. Yes, I was.

2 Q. Okay. After you developed that rapport, did
3 you have a conversation with regards to the allegations
4 in this case?

5 A. Yes, I did.

6 Q. Without saying any more, did he say when the
7 allegations took place?

8 A. Yes. He gave me an indication as to what
9 times these took place.

10 Q. Okay. And what was that?

11 A. Around the end of May.

12 Q. Okay. Did he tell you where these events took
13 place?

14 A. The alleged events took place at the Hampton
15 PRTF.

16 Q. And specifically where at Hampton PRTF?

17 A. The specific rooms, one instance was in a
18 laundry room; one incident was in a nurse's office
19 restroom; and a third incident was in a library closet.

20 Q. Okay. After you communicated with with him,
21 were you able to gather any kind of physical
22 information?

23 THE COURT: Excuse me for interrupting -- do you
24 want to establish a year?

25 MR. TOOKER: Yes, sir. Thank you, sir.

S. BYERS -- DIRECT BY MR. TOOKER

1 BY MR. TOOKER:

2 Q. Well, with regards to when you said the end of
3 May, the end of May of what year?

4 A. 2012.

5 Q. Okay. Let's go back to Hampton PRTF, where is
6 that exactly?

7 A. It's located at 404 Hampton Avenue, Pickens,
8 South Carolina, within the city limits of Pickens,
9 Pickens County.

10 Q. Okay. And what kind of facility is it?

11 A. It is a rehabilitation home for troubled
12 youth, troubled boys.

13 Q. Okay. How many residents does it have?

14 A. I honestly don't know.

15 Q. Okay. And who was the person in charge of the
16 facility when you went there to talk to Mr. McAbee?

17 A. Kevin Sowell.

18 Q. All right. Were you able to -- to gather any
19 physical evidence in this case?

20 A. The only physical evidence I was able to get
21 was recorded statements.

22 Q. Okay. Did you put together any -- were you
23 able to gather any video evidence in this case?

24 A. Yes. I was able to get that.

25 Q. Okay. That video evidence, you provided to

S. BYERS -- DIRECT BY MR. TOOKER

1 who?

2 A. Mr. Sowell provided that to me.

3 Q. Did you watch the videos in this case?

4 A. Yes, I did watch the videos.

5 Q. Okay. And in the videos in this case, did you
6 observe anything that was inconsistent with what the
7 victim reported?

8 MR. CANTRELL: Your Honor, I would object. The
9 video is the best evidence of that. Otherwise, it
10 requires --

11 THE COURT: I sustain the objection.

12 MR. TOOKER: Okay.

13 BY MR. TOOKER:

14 Q. After you gathered the video evidence, what
15 was your next step in the course of your investigation?

16 A. After I did that, I reviewed the fact -- the
17 statement given to me by Mr. McAbee and the video.

18 Q. Okay. Did you get warrants in this case?

19 A. Yes, I did.

20 Q. And did you get indictments in this case?

21 A. Yes, I did.

22 Q. Okay. Other than -- than talking with folks
23 and gathering evidence, did you do anything else in
24 this case that you haven't testified to for the jury?

25 A. I --

S. BYERS -- CROSS BY MR. CANTRELL

1 Q. Anything else that you're allowed to testify
2 to?

3 A. No.

4 Q. Okay.

5 MR. TOOKER: No further questions.

6 CROSS EXAMINATION BY MR. CANTRELL:

7 Q. Mr. Byers, can you tell us the dates that you
8 talked to Complainant?

9 A. I spoke to him on one instance at -- June 21st
10 2012. I think I spoke to him again on June 29th. And
11 if I recall correctly, there was -- January -- I want
12 to say January 10, 2013.

13 Q. And where did you talk to him?

14 A. The June 21st was at Hampton PRTF. The second
15 time -- like I said I think was June 29th -- was at the
16 Pickens City Police Department. And the third occasion
17 was at a children's home in Duncan, South Carolina.

18 Q. Did -- Complainant said you had to build a rapport
19 with him, did he initially refuse to talk to you?

20 A. Yes, sir.

21 Q. Did he initially refuse to talk to other
22 individuals through other individuals looking into this
23 case?

24 A. I -- I'm not -- I don't know if he did or not
25 initially. I know that he did speak to some persons

S. BYERS -- CROSS BY MR. CANTRELL

1 so.

2 Q. How about a Ms. Few (ph)?

3 A. Yes. He did refuse to speak to her.

4 Q. And that was in your presence?

5 A. It was -- I was at the police department at
6 the time.

7 Q. And that was the interview on the 29th?

8 A. It may have been the one on the 29th. There
9 was a second occasion, it was right around there, that
10 I did speak to Mr. McAbee though.

11 Q. And after the hesitancy on his part, and
12 you're -- you're working on building a rapport with
13 him, did you explain to him that we -- meaning you and,
14 I guess, Complainant -- had to show consistency in his
15 story?

16 A. Yes, I did.

17 Q. You did tell him that?

18 A. Yes, sir.

19 Q. Have you, in your possession, any evidence of
20 any physical injuries?

21 A. No, I do not.

22 Q. And when you went to the Hampton, this -- this
23 was after -- if I understood -- after you received a
24 fax from another agency; is that correct?

25 A. Yes, sir.

1 Q. You went to the Hampton, did you view the
2 areas where Complainant was making these allegations?

3 A. No. I did not go view the other areas at that
4 time.

5 Q. Have you seen them since?

6 A. No. I have not been to those areas since.

7 Q. So, you have never been to the Hampton and
8 eyeball view these areas where these allegations took
9 place?

10 A. No, I did not.

11 Q. And all of your investigation took place and
12 was concluded by January of '13?

13 A. I submitted for the warrants in February,
14 2013.

15 MR. CANTRELL: Your Honor, I have no further
16 questions at this time. I may need to recall him.

17 THE COURT: Mr. Tooker, any redirect?

18 MR. TOOKER: No, sir, Your Honor.

19 THE COURT: You can step down. I appreciate your
20 time. Thank you. Call your next witness.

21 MR. TOOKER: Yes, sir, Your Honor. Our next
22 witness will be Complainant . But before we call him,
23 we do have a motion we need to take up outside the
24 jury's presence.

25 THE COURT: All right. We'll take a break then.

1 We have a matter to take up outside of your presence
2 anyway, and so this will be our morning break. And I
3 don't know how long this will take, but we'll send for
4 you as promptly as we can.

5 The bailiff will show you the jury room.

6 (Whereupon, the jury left the courtroom at 10:58
7 a.m.)

8 THE COURT: All right.

9 MR. TOOKER: Before you, Your Honor, I had a
10 filed -- with the court -- a motion in compliance with
11 the Rape Shield laws.

12 THE COURT: Yeah, I had it. I'm looking for it in
13 my wrath of papers up here. I know I saw it earlier.
14 And I can't put my hands on it now. Do you have an
15 extra copy?

16 MR. TOOKER: I do, sir.

17 THE COURT: Okay.

18 MR. TOOKER: And I just wanted to go on record,
19 that the State is filing the motion. And if Mr.
20 Cantrell has any information on cross examination for
21 the witness, if it does go into any kind of prior
22 sexual history, the State would just request that --
23 that cross examination be proffered in camera for Your
24 Honor to view before it goes in front of the jury.

25 THE COURT: Anything, Mr. Cantrell?

1 MR. CANTRELL: Your Honor, nothing at this time.
2 I have my doubts if that is going to rise. But if it
3 does, obviously, we will not -- request the opportunity
4 to speak outside the presence of the jury.

5 THE COURT: Okay.

6 MR. CANTRELL: But I can say from what I have
7 seen, that we would need to address that issue.

8 THE COURT: Okay. All right. Well, let's take a
9 short break since the jury is taking one, and then
10 we'll get back started.

11 MR. TOOKER: Yes, sir. Thank you, sir.

12 THE COURT: So let's try to be back in about 10
13 minutes. Ten after 11:00.

14 MR. CANTRELL: Thank you, Your Honor.

15 (After a break, Court reconvened.)

16 THE COURT: During the break, it was called to my
17 attention that juror, Mr. Todd, thinks he may have,
18 through his mother's involvement with DSS, met Mr.
19 McAbee before. So I'm going to ask if Mr. McAbee is
20 present?

21 MR. TOOKER: He is, Your Honor.

22 THE COURT: All right. Mr. McAbee, would you
23 please stand just a minute? And I'm going to ask Mr.
24 Todd to come in and see if he -- you are, in fact, the
25 individual he -- he recognizes. So if you would

1 bring -- bring in Mr. Todd.

2 THE BAILIFF: Yes, sir.

3 (Pause.)

4 THE COURT: Mr. Todd, this is Mr. McAbee. And you
5 indicated you may have met him on some other occasion
6 through your mother?

7 JUROR: I think I have met him before. I'm not --
8 I'm not completely sure. I believe we was -- like a
9 festival (ph) up here at Pickens.

10 THE COURT: Uh-huh.

11 JUROR: I believe I had an extended conversation
12 with him. I'm not completely sure. And then the other
13 is -- I just -- I'm trying not to get myself in trouble
14 or get anybody else in trouble from where my mom works.
15 And I'm just trying to be safe.

16 THE COURT: Well, based on that, I'll excuse you
17 from serving. I -- you have done exactly what you were
18 supposed to, so I'm going -- I'm going to excuse you
19 from serving further and let you go. And just call
20 back tonight after whatever time that they told you.

21 THE CLERK: 6:00.

22 THE COURT: After 6:00 and follow those
23 instructions. And thank you for letting us know this.

24 JUROR: Yes, sir.

25 THE COURT: Thank you. Now, we will draw -- I

1 don't need to say we draw --

2 THE CLERK: Oh, I'm sorry.

3 THE COURT: All right. The way -- the way we draw
4 for the alternate in criminal court is that the names
5 are drawn at lot. So what I've done is I have put two
6 alternates' names on slips of paper. And without his
7 ability to see it, I'm going to ask the clerk to just
8 draw one. (Pause.) Who did you get?

9 THE CLERK: Ms. Murray. Ms. Murray.

10 THE COURT: Ms. Murray, Barbara Murray. All
11 right. She'll be seated as the -- on the panel. Ms.
12 Murray is now a member. She will be seated as a juror
13 instead of an alternate. And just one second -- is the
14 State ready to proceed?

15 MR. TOOKER: The State is ready, sir.

16 THE COURT: The defense?

17 MR. CANTRELL: Yes, Your Honor.

18 THE COURT: All right. And before -- any comments
19 on the way we handled Mr. Todd?

20 MR. TOOKER: No objection from the State, sir.

21 MR. CANTRELL: None. None from the defense.

22 THE COURT: All right. Tell Ms. Murray that she's
23 now on the jury and bring -- bring them on in.

24 (Whereupon, the jury entered the courtroom at

25 11:18.)

-- DIRECT BY MR. TOOKER

1 THE COURT: Ms. Murray, you're now on the jury.
2 Mr. Todd did not do anything wrong. In fact, he did
3 right. And based on -- I'm not going to go into
4 detail, but I have excused him and we have seated you.
5 Call your next witness.

6 MR. TOOKER: Thank you, Your Honor. The State
7 would next call Complainant to the stand.
8 Complainant, having been first
9 duly sworn, testified as follows.

10 THE CLERK: Thank you, sir. If you would have a
11 seat, and state your name for the record, please.

12 **DIRECT EXAMINATION BY MR. TOOKER:**

13 Q. State your name for the record, please.

14 A. Complainant .

15 Q. All right. And, Complainant, we've got to make
16 sure that you talk real loud -- so this is super
17 awkward, but it's going to be right by your face. Now
18 only say your name again.

19 A. Complainant .

20 Q. Say it one more time, Complainant .

21 A. Complainant .

22 Q. All right. So, Complainant, what kind of name do
23 you like to go by or be called? Complainant ?

24 A. Complainant .

25 Q. Complainant. And where do you live?

-- DIRECT BY MR. TOOKER

1 A. Anderson.

2 Q. Anderson. Who do you live with?

3 A. I'm in a group home.

4 Q. A group home. How long have you been there?

5 A. A year.

6 Q. Okay. Do you like the home that you're at?

7 A. It's okay.

8 Q. Okay. How old are you?

9 A. Eighteen.

10 Q. When is your birthday?

11 A. .

12 Q. What year were you born?

13 A. '97.

14 Q. 1997. Are you familiar with Hampton PRTF?

15 A. Yes, sir.

16 Q. Okay. Did you ever live there?

17 A. Yes.

18 Q. How long did you live there?

19 A. About 10 months.

20 Q. Okay. Do you know the difference between the
21 truth and a lie?

22 A. Yes.

23 Q. What is something that's true?

24 A. Something that actually happened.

25 Q. And what is something that is a lie?

-- DIRECT BY MR. TOOKER

1 A. Something that's false, made up.

2 Q. Okay. If I were to say this carpet is red, is
3 that true or is that a lie?

4 A. It's a lie.

5 Q. Okay. You lived at Hampton PRTF you said for
6 10 months. Would you describe Hampton PRTF; what it is
7 like living there?

8 A. It's high management for individuals who have
9 issues with certain things, they try to help you with
10 it. It's like lockdown.

11 Q. Okay. And are there staff members there that
12 see to your needs?

13 A. Yes.

14 Q. Okay. How is it that they have you living --
15 do you live in your own room or do you share bedrooms?

16 A. You share a room.

17 Q. Okay. How is it that you interact with other
18 children?

19 A. Gym.

20 Q. Okay. What are the units?

21 A. They have Paladin (ph). That's the one I was
22 at. It's for younger kids.

23 Q. Okay. So the units have different names?

24 A. Yes.

25 Q. And on the units, do you stay with each other

-- DIRECT BY MR. TOOKER

1 or do you intermingle with other kids?

2 A. Everybody is talking to everybody.

3 Q. Okay. So do you get to talk to kids from
4 other units?

5 A. Not really.

6 Q. Okay. And when you were there, how is it
7 that -- how is it they evaluated how well you were
8 doing?

9 A. They score you on certain things that you do,
10 following the rules, and things like that.

11 Q. Okay. And how it is that you're able to
12 reward yourself or make money?

13 A. You go up the level system by following the
14 program rules.

15 Q. Okay. So if you follow the rules, you
16 progress up the system?

17 A. And you get special privileges.

18 Q. Okay. What's an example of a special
19 privilege?

20 A. You can go out into the Commons and play video
21 games, or you can make extra money.

22 Q. Okay. When you say "money", what do you mean?

23 A. Avalons.

24 Q. Is that what they call money at the facility?

25 A. Yes.

-- DIRECT BY MR. TOOKER

1 Q. And how is it that you make Avalons?

2 A. Doing extra chores and things that they ask
3 you to do.

4 Q. Okay. And if you got Avalons, what would you
5 spend them on? How would you use them?

6 A. You get your clothing check, you take that
7 money with you and spend it on what you want.

8 Q. Okay. And what kind of chores? What kind of
9 tasks did you do to earn avalons?

10 A. Sweeping, mopping, folding clothes/towels.

11 Q. Okay. You said you spent about 10 months at
12 Hampton PRTF?

13 A. (Nodded.)

14 Q. Is that a yes?

15 A. Yes.

16 Q. Okay. You've just got to make sure that you
17 say yes or no, so the court reporter can hear you.

18 Okay. Were you always happy to be there?

19 A. No.

20 Q. Okay. Were you sometimes dissatisfied?

21 A. Yes.

22 Q. Okay. Because you were dissatisfied, did you
23 do anything or say anything to try to get removed?

24 A. I made comments because I was angry, but I
25 didn't really try to leave. I waited my time out.

-- DIRECT BY MR. TOOKER

1 Q. Okay. Do you know the defendant in this case,
2 Mr. Holder?

3 A. Yes.

4 Q. How is it that you know him?

5 A. He worked on the pod that I was at part-time.

6 Q. Okay. You say "part-time", day time or night
7 time?

8 A. Both.

9 Q. Okay. And you say "part-time", was he --
10 what -- how is it that you have staff members assigned
11 to each unit?

12 A. I'm not sure.

13 Q. Okay. Do they -- do they rotate or is it
14 usually the same people?

15 A. It's usually the same people.

16 Q. Okay. Are there occasions where other people
17 come and interact with you, other staff members?

18 A. Yes.

19 Q. Okay. So you got to know Mr. Holder?

20 A. Yes.

21 Q. Did anything ever happen between yourself and
22 Mr. Holder?

23 A. Yes.

24 Q. What happened between you and Mr. Holder?

25 A. He asked -- well, he made statements about his

-- DIRECT BY MR. TOOKER

1 privates to me, the first time when we were alone.

2 Q. Okay. Where were you when that happened?

3 A. In the laundry room.

4 Q. In the laundry room. The laundry room, is it
5 a big room or is it a small room?

6 A. It's small.

7 Q. Does it have any windows?

8 A. No.

9 Q. How is it that you get into it?

10 A. A key.

11 Q. Okay. Is there one door or two doors?

12 A. One.

13 Q. Okay. And once you're in the laundry room, is
14 it a big room or is it a small room?

15 A. A small room.

16 Q. You went into the laundry room together?

17 A. Yes.

18 Q. Why did you go into the laundry room together?

19 A. He had to make sure I was doing my job right,
20 not trying to get contraband or anything.

21 Q. And what job were you doing at that point?

22 A. I was folding clothes.

23 Q. In the laundry room?

24 A. Yes.

25 Q. So when is it that he started to make sexual

-- DIRECT BY MR. TOOKER

1 comments to you?

2 A. We were in there for a few minutes. And he
3 looked at a box or whatever. And he said -- he looked
4 at different measurements on the box, and asked me
5 which one I thought was related to his privates on
6 there.

7 Q. Okay. Did he make any other sexual
8 references?

9 A. He didn't say anything else.

10 Q. Okay. Did anything else happen in that room?

11 A. Yes.

12 Q. What else happened in that room?

13 A. He showed me his privates in there.

14 Q. He showed you his privates?

15 A. Yes.

16 Q. Did he ask you to do anything to him or for
17 him, or to show him anything?

18 A. Yes.

19 Q. Okay. What did he ask you to do?

20 A. He asked me to show him.

21 Q. Show him what?

22 A. My privates.

23 Q. Did you do that?

24 A. Yes.

25 Q. Okay. Was there any touching going on at this

-- DIRECT BY MR. TOOKER

1 point?

2 A. Yes.

3 Q. Okay. Did he touch you or did you touch him?

4 A. Both.

5 Q. Okay. How long did this take place?

6 A. A few minutes.

7 Q. Okay. Total?

8 A. In the laundry room.

9 Q. Okay. So in the laundry room, are you talking
10 about both the statements he made and touching, and the
11 showing, all put together was a few minutes worth of
12 time?

13 A. No.

14 Q. Okay. Well, how much time are we talking
15 about?

16 A. Probably 30 minutes I was in there.

17 Q. Okay. For all 30 minutes, was sexual stuff
18 happening, or were you still working --

19 A. Talking and touching.

20 Q. Okay. Did you still work when you were in
21 there?

22 A. Yes.

23 Q. Okay. So you were still folding the clothes?

24 A. Yes.

25 Q. Did you ask to do anything else in there,

-- DIRECT BY MR. TOOKER

1 clean anything?

2 A. No.

3 Q. Okay. After you're in the laundry room, when
4 was the next time -- or was there a next time there was
5 any kind of inappropriate behavior from the defendant
6 to you?

7 A. There -- there was another time.

8 Q. What was the next time?

9 A. In the library.

10 Q. Okay. And before we go to the library, do you
11 recall whether or not you said anything ever happened
12 at the nurse's station?

13 A. Yes.

14 Q. Okay. What happened there?

15 MR. CANTRELL: Your Honor, I would object to
16 leading the witness.

17 THE COURT: I sustain the objection.

18 BY MR. TOOKER:

19 Q. Okay. Did anything happen any places other
20 than the library?

21 A. Yes.

22 Q. What other places?

23 A. The nurse's station.

24 Q. Okay. In there, what happened?

25 A. He -- he touched me, and asked me to put my

-- DIRECT BY MR. TOOKER

1 mouth on him, and I moved away.

2 Q. Okay. How long, total, in the nurse's station
3 did the actual sexual acts take?

4 A. About eight to ten minutes.

5 Q. Is that the whole time you were in the nurse's
6 station, about eight to ten minutes?

7 A. Yes.

8 Q. Any you mentioned the library, was the library
9 on the same day or a different day?

10 A. Different day.

11 Q. Okay. Were the nurse's station and laundry
12 room on the same day or a different day?

13 A. The same day.

14 Q. Okay. So on the -- as far as the library,
15 what happened?

16 A. I was on my pod, and I asked for a staff to
17 come escort me to get a book. Matt showed up and took
18 me, looking for my book. And he asked me to play with
19 myself so that he could watch.

20 Q. Okay. The library, is it a small room or a
21 big room?

22 A. Small.

23 Q. Are there many ways into it or is there just
24 one way into it?

25 A. One door.

-- DIRECT BY MR. TOOKER

1 Q. Are there any windows?

2 A. No.

3 Q. What is it adjacent to? What room is it next
4 to?

5 A. It's right in -- you go in the Commons, it's
6 in the Commons.

7 Q. Okay. And he asked you to play with yourself,
8 so what does that mean?

9 A. Just touch myself.

10 Q. Okay. Do you mean masturbate, is that what
11 you're --

12 A. Yes.

13 Q. Okay. Was he in the room with you or out of
14 the room with you?

15 A. In the doorway.

16 Q. In the doorway. Was the door shut or was the
17 door open?

18 A. It was open until the end.

19 Q. Okay. When you say "open", do you mean wide
20 open or cracked?

21 A. Cracked.

22 Q. And he's standing in the doorway, was he doing
23 anything while you were masturbating?

24 A. Looking out the door.

25 Q. Okay. Would he look at you?

-- DIRECT BY MR. TOOKER

1 A. Yes.

2 Q. Okay. What happened -- did the door ever
3 shut?

4 A. Yes.

5 Q. What happened when the door shut?

6 A. He put his mouth on me.

7 Q. And then what happened?

8 A. Then that was the end.

9 Q. And I hate to be vulgar, but did you
10 ejaculate?

11 A. Yes.

12 Q. Okay. After that happened, what did you do
13 next?

14 A. I grabbed a book and went back to my pod.

15 Q. Okay. Did you tell anybody right then what
16 happened?

17 A. No.

18 Q. Okay. Did you ever tell anybody what
19 happened?

20 A. Yes.

21 Q. Okay. Who did you tell first what happened?

22 A. Mr. Sowell.

23 Q. And do you recall if after you said what
24 happened, you had any kind of behavioral incidents?

25 A. Yes.

-- DIRECT BY MR. TOOKER

1 Q. What happened?

2 A. I ripped up the floors and the sink.

3 Q. Okay. Why did you do that?

4 A. I was angry. No one believed me.

5 Q. Okay. And you did that how many days after
6 that, a day or two?

7 A. More than a day or two.

8 Q. All right. And when you did it, where there
9 any consequences?

10 A. Yes.

11 Q. What were the consequences?

12 A. My privileges.

13 Q. After you did that, did you get back on track?

14 A. Yes.

15 Q. Okay. How much longer were you at Hampton
16 PRTF after you made that allegation?

17 A. About a month or two.

18 Q. Okay. So you were not released immediately?

19 A. No.

20 Q. Okay. On the -- on the day that y'all went to
21 library, do you recall whether or not you had eaten any
22 food?

23 A. Yes.

24 Q. Okay. What food had you eaten?

25 A. Pizza.

-- DIRECT BY MR. TOOKER

1 Q. Okay. Where did you get -- where had you
2 gotten the pizza?

3 A. From him.

4 Q. From the defendant?

5 A. Yes.

6 Q. And why is it that he gave you the pizza?

7 A. For me to let him see me play with myself.

8 Q. Okay. All right. Did he ever do anything
9 else to you?

10 A. No.

11 Q. Did any other staff members do anything to
12 you?

13 A. No.

14 Q. Okay.

15 MR. TOOKER: One moment, Your Honor.

16 (Pause.)

17 BY MR. TOOKER:

18 Q. You said you waited to come forward, why is it
19 that you waited to come forward?

20 A. I guess I was scared in a way.

21 Q. Okay. When you came forward, did anything bad
22 happen to you?

23 A. No. I just was really scared to say anything.

24 Q. Okay. All right. No further questions at
25 this time, sir.

Complained

-- CROSS BY MR. CANTRELL

1 THE COURT: Please answer any questions of -- Mr.
2 Cantrell may ask you.

3 CROSS EXAMINATION BY MR. CANTRELL:

4 Q. Complainant, on the day at the library, where were
5 you when you asked to go get a book?

6 A. My pod.

7 Q. How far is that from the library?

8 A. Like a three minute walk.

9 Q. Okay. Where was the pizza?

10 A. On his -- where he was at, the office.

11 Q. Okay. Where was that?

12 A. On his pod.

13 Q. And how far was that from you?

14 A. Across the hall.

15 Q. And were you given pizza while you were
16 walking?

17 A. Yes.

18 Q. Did you eat all the pizza?

19 A. Yes.

20 Q. Okay. And then you went into the library?

21 A. Yes.

22 Q. And you say the door to the library stayed
23 open until the very end?

24 A. Yes.

25 Q. Now, tell us, the library door opens on to

Exhibit

-- CROSS BY MR. CANTRELL

1 what area?

2 A. The Commons.

3 Q. And the Commons is bigger than this room,
4 isn't it?

5 A. Yes.

6 Q. It's got a lot of seats and people are in
7 there all the time?

8 A. No.

9 Q. Pardon me?

10 A. People aren't always in there. There's no one
11 in there.

12 Q. You're saying there was nobody in the Commons
13 area at this time?

14 A. No.

15 Q. How many people did you pass going there?

16 A. One.

17 Q. Who was that?

18 A. A nurse.

19 Q. What's her name?

20 A. I'm not sure.

21 Q. And you went into the library with -- to look
22 for a book; is that correct?

23 A. Yes.

24 Q. Now, who was it you first asked if you could
25 go get a book?

Complainant

-- CROSS BY MR. CANTRELL

1 A. I asked my staff member.

2 Q. And was he going to take you to the library?

3 A. There was not enough time.

4 Q. So he asked Mr. Holder to take you to the
5 library; correct?

6 A. Yes.

7 Q. So Mr. Holder didn't come to you, Mr. Holder
8 didn't come to your staff member, he went to -- this
9 staff member went to Mr. Holder, to ask him to do him a
10 favor, and take you to the library; is that right?

11 A. Yes.

12 Q. Let me ask you, Complainant, is this a picture of
13 the Commons area?

14 A. Yes.

15 Q. And is this, in fact, a picture of the door to
16 the library?

17 A. Yes.

18 Q. That would be the door on the right hand side?

19 A. I --

20 MR. TOOKER: Your Honor, I would object briefly,
21 just for the purposes of the record, that if Mr.
22 Cantrell refers to any exhibits, he mention the number.

23 THE COURT: Well, are these in evidence?

24 MR. TOOKER: No, sir. They are not in evidence.

25 I don't know if that's his intent --

-- CROSS BY MR. CANTRELL

1 THE COURT: Well, just -- if it's not in evidence,
2 but it does have a number on it -- so refer to it by
3 the number.

4 MR. CANTRELL: Okay.

5 BY MR. CANTRELL:

6 Q. And this is -- it shows number 18 on it; is
7 that correct?

8 A. Yes.

9 Q. Is this also the Commons area?

10 A. Yes.

11 Q. And this is number 21?

12 A. Yes.

13 Q. And, in fact, is this a picture taken from the
14 door just inside the library?

15 A. I'm not sure.

16 Q. Okay. Is this the door to the library?

17 A. Yes.

18 Q. And this is number 20?

19 A. Yes.

20 Q. And do these two pictures, 22 and 23, show the
21 library?

22 A. Yes.

23 Q. It is basically a closet that has been
24 converted to a room with book shelves; is that right?

25 A. Yes.

Complainant

-- CROSS BY MR. CANTRELL

1 Q. And that door was open almost all the time
2 that you were in there, Complainant; is that correct?

3 A. It was cracked.

4 Q. And Mr. Holder was standing at the door, just
5 outside the door?

6 A. In the doorway.

7 Q. In the doorway. So it was open enough for him
8 to stand in the doorway?

9 A. Yes.

10 Q. Okay. And when you were in the nurse's
11 station, which -- there's several rooms in the nurse's
12 area; is that right?

13 A. Yes.

14 Q. And which room are you in?

15 A. The back room.

16 Q. Which room?

17 A. The back, back here.

18 Q. And were there other people in the area?

19 A. No.

20 Q. None whatsoever?

21 A. No.

22 Q. Were there people that were outside the
23 nurse's area nearby?

24 A. The nurse was in there, but she had left.

25 Q. Did she come back?

-- CROSS BY MR. CANTRELL

1 A. No.

2 Q. So you're saying there was one person there,
3 the nurse, and she left and never came back?

4 A. She left while I was cleaning. When I was
5 done, I saw her return.

6 Q. Now, it was -- you were doing jobs that you
7 wanted to do to earn money for Avalons; correct?

8 A. Yes.

9 Q. And it was not unusual for you to do jobs?

10 A. No.

11 Q. It was not unusual for Matt or someone else on
12 staff, to be there while you were doing them?

13 A. No.

14 Q. Because, in fact, it was required to make sure
15 that stuff didn't get gone, or contraband wasn't taken,
16 or you didn't get hurt?

17 A. Yes.

18 Q. All right. Let's talk about Hampton. You've
19 already said that you weren't always happy to be there;
20 is that correct?

21 A. Yes.

22 Q. And you wanted to find ways to get out of
23 there?

24 A. No.

25 Q. You did not?

-- CROSS BY MR. CANTRELL

1 A. No.

2 Q. But you did not want to stay there?

3 A. I did not want to stay either.

4 Q. Okay. Did you ever get angry when you didn't
5 progress well enough to leave?

6 A. Yes.

7 Q. And what did you do then?

8 A. I would act up.

9 Q. Like tearing up floors, that sort of thing?

10 A. Like arguing with staff and being
11 noncompliant.

12 Q. And that was because you were angry that you
13 were not on track to leave the Hamptons?

14 A. Yes.

15 Q. Now, you said after this incident, you acted
16 out and tore things up; is that right?

17 A. Yes.

18 Q. That's not the only time you tore things up;
19 is it?

20 A. That was the first time I tore stuff up.

21 Q. But you had acted out before?

22 A. Being noncompliant, not following the rules.

23 Q. And, in fact, you did leave the Hampton one to
24 two months after this alleged incident; right?

25 A. Yes.

-- CROSS BY MR. CANTRELL

1 Q. Let me ask you, do you remember telling any
2 individuals at the Hampton, or any individuals involved
3 in this case, that you knew how to get out of there?

4 A. No, I do not.

5 Q. You don't remember saying that?

6 A. No.

7 Q. Do you deny saying that?

8 A. Yes.

9 Q. Do you remember saying on several occasions
10 after these allegations, that Matt Holder did not do
11 this?

12 A. No.

13 Q. Do you deny saying that?

14 A. Yes.

15 Q. Was it your belief that if you made
16 allegations against an individual or a staff there,
17 that you would get transferred out?

18 A. No.

19 Q. Did you think you would not get transferred
20 out?

21 A. Yes.

22 Q. So you think you would have to stay no matter
23 what you said?

24 A. Yes.

25 Q. But, in fact, you did get out a month or two

-- CROSS BY MR. CANTRELL

1 later; correct?

2 A. I completed it.

3 Q. You had come close to completing prior to
4 this, but there were some issues that kept you there
5 longer; is that right?

6 A. Yes.

7 Q. Some of that happened right at the time of
8 these alleged incidents; right?

9 A. No.

10 Q. Not at all? Are you sure about that?

11 A. No.

12 Q. You're not sure?

13 A. No.

14 Q. Now, have you testified today to everything
15 that you alleged that Matt Holder did on these
16 instances?

17 A. Yes.

18 Q. Have you added anything that you never said
19 before?

20 A. No.

21 Q. Have you taken away anything that you did say
22 before?

23 A. No.

24 Q. And let's just back up. Everything you've
25 alleged took place at a location in the Hampton that

-- REDIRECT BY MR. TOOKER

1 was at or near one of the bigger areas, bigger rooms,
2 whether it was the Commons or the pod, all of these
3 things took place in rooms where there were doorways
4 leading to these large areas; right?

5 A. Yes.

6 Q. All of the things you are doing at the time
7 were things that you and other kids had done before,
8 cleaning up, trying to earn Avalons --

9 A. Yes.

10 Q. -- is that correct -- and a couple of days
11 later, you said that Matt did this, and then shortly
12 after that, you started tearing up things and being
13 noncompliant; is that correct?

14 A. Yes.

15 MR. CANTRELL: If I could just have one second?

16 (Pause.)

17 MR. CANTRELL: Your Honor, no further questions at
18 this time. We may -- we reserve the right to recall.

19 THE COURT: Redirect?

20 MR. TOOKER: Briefly, sir.

21 **REDIRECT EXAMINATION BY MR. TOOKER:**

22 Q. Mr. Cantrell mentioned the layout of the
23 nurse's station, where is it that the Defendant touched
24 you in the nurse's station?

25 A. The bathroom.

-- REDIRECT BY MR. TOOKER

1 Q. The bathroom?

2 A. Yes.

3 Q. Did the bathroom have a door?

4 A. Yes.

5 Q. Okay. What is the -- if you can describe for
6 the jury, just sort of the physical layout of the
7 nurse's station?

8 A. You would walk in the door, you go to the left
9 of the doorway, turn right, turn right again in that
10 corner.

11 Q. So it's kind of a horseshoe?

12 A. Yes.

13 Q. Now, you said the nurse was in there
14 initially?

15 A. Yes.

16 Q. Okay. But you said at some point she left?

17 A. Yes.

18 Q. Okay. When is it that he touched you? Is it
19 when the nurse was there or when she wasn't there?

20 A. When she wasn't there.

21 Q. Okay. You said that was brief, or it took a
22 long time?

23 A. It was brief.

24 MR. TOOKER: No further questions, sir.

25 THE COURT: Re -- recross?

J. WOFFORD -- DIRECT BY MR. TOOKER

1 **RECROSS EXAMINATION BY MR. CANTRELL:**

2 Q. Just to clarify, you said no one was there but
3 the nurse, only for a short period of time?

4 A. In the nurse's station, yes.

5 Q. You never saw or heard anybody else come in or
6 out?

7 A. No.

8 Q. And that's your full and complete testimony
9 about that?

10 A. Yes.

11 MR. CANTRELL: No further questions.

12 THE COURT: You can step down. Thank you. Call
13 your next witness.

14 MR. TOOKER: Yes, sir. The State next calls
15 Johniece Wofford.

16 JOHNIECE WOFFORD, having been
17 first duly sworn, testified as follows:

18 THE CLERK: If you would, have a seat and state
19 your name for the record, please.

20 THE WITNESS: Johniece Wofford.

21 **DIRECT EXAMINATION BY MR. TOOKER:**

22 Q. All right. Ms. Wofford, where do you work
23 now?

24 A. The Department of Social Services Intensive
25 Foster Care.

J. WOFFORD -- DIRECT BY MR. TOOKER

1 Q. Okay. And how do you know the victim in this
2 case, Mr. McAbee?

3 A. He's on my case load.

4 Q. Okay. How long have you been assigned this
5 case?

6 A. A little over three months.

7 Q. Okay. So you just got it?

8 A. Yes.

9 Q. All right. What is his current situation?

10 A. He currently lives at a group home in
11 Anderson, South Carolina called Pathways.

12 Q. Okay. How long has he been in DSS custody?

13 A. Since the age of 12. So it will be seven
14 years.

15 Q. Okay. Do the parents have any rights to him?

16 A. No. Their rights were terminated.

17 Q. Okay. And his birthday is ?

18 A. Yes.

19 Q. Okay. What does that mean if you're 18 years
20 old and you're in DSS custody?

21 A. Basically what it means is that you have the
22 ability to sign yourself out of care. And at that
23 point, DSS would still be there for you if you needed
24 them. Complainant has decided to remain in care throughout
25 the rest of this school year. And following that, he's

M. HARVEY -- DIRECT BY MR. TOOKER

1 going to try to get into the Marine Corps.

2 Q. Okay. If he up and decided tomorrow that he
3 didn't want to do that, he just wanted to leave?

4 A. Yes, he could.

5 Q. Legally, could you stop him?

6 A. No, we could not.

7 Q. Okay. All right. Thank you. No further
8 questions.

9 THE COURT: Cross?

10 MR. CANTRELL: I have no questions.

11 THE COURT: You can step down and be excused. We
12 appreciate your time.

13 THE WITNESS: Thank you.

14 THE COURT: Call your next witness.

15 MR. TOOKER: Thank you, Your Honor. The State
16 would next call Meghann Harvey to the stand.

17 MEGHANN HARVEY, having
18 been first duly sworn, testified as follows:

19 THE CLERK: Thank you, ma'am. If you would, have
20 a seat and state your name for the record, please.

21 THE WITNESS: Meghann Harvey.

22 **DIRECT EXAMINATION BY MR. TOOKER:**

23 Q. All right. Ms. Harvey, how do you spell your
24 first name?

25 A. M-e-g-h-a-n-n.

M. HARVEY -- DIRECT BY MR. TOOKER

1 Q. Okay. And where are you from originally?

2 A. Hampton PRTF.

3 Q. No. No. I mean --

4 A. Oh.

5 Q. Where -- where do you hail from?

6 A. Hail -- New York.

7 Q. New York. Okay. And you said you work at
8 Hampton PRTF?

9 A. I do.

10 Q. What do you do there?

11 A. I'm the Assistant Facility Director.

12 Q. What does that mean exactly?

13 A. I manage the daily operations of the facility,
14 and the 80 plus direct care staff that we have there.

15 Q. Okay. All right. The facility itself is
16 PRTF, what does that mean?

17 A. Psychiatric Residential Treatment Facility.

18 Q. Okay. And how many kids do you have there?

19 A. Up to 52.

20 Q. Where do they come from?

21 A. North Carolina and South Carolina.

22 Q. And how are they placed in there?

23 A. DSS, DJJ, their parents. It depends.

24 Q. And -- and where does funding usually come
25 from?

M. HARVEY -- DIRECT BY MR. TOOKER

1 A. The State.

2 Q. The State, medicaid or Medicare?

3 A. Yes.

4 Q. And are you familiar with this case, why you
5 have been called to testify today?

6 A. I am.

7 Q. Okay. Who is the defendant, Matt Holder?

8 A. Matt Holder used to be a direct care staff at
9 our facility.

10 Q. Okay. And how long did he work for y'all?

11 A. A little over a year, like a year and two
12 months.

13 Q. Okay. Was he over the age of 14 when he
14 started?

15 A. Yes.

16 Q. Okay. Was he over the age of 18 when he
17 started?

18 A. Yes.

19 Q. Okay. He -- he worked for y'all for a little
20 over a year in what capacity?

21 A. He worked on the unit as a direct care staff.

22 Q. What does that mean?

23 A. I mean, basically, they watch over the kids,
24 make sure that they're being taken care of. They don't
25 run out the doors, things like that.

M. HARVEY -- DIRECT BY MR. TOOKER

1 Q. Okay.

2 A. They are responsible for a small amount of
3 paperwork throughout the day.

4 Q. Do they have the capacity to reward the kids
5 for good behavior?

6 A. They do.

7 Q. Do they have the capacity to punish the kids
8 for bad behavior?

9 A. They do.

10 Q. Okay. In this case, our victim is Complainant
11 ; are you familiar with him?

12 A. I am.

13 Q. Okay. How long did Complainant stay at
14 Hampton PRTF?

15 A. He was there 10 months.

16 Q. When he did come in; do you recall?

17 A. 2011 I think.

18 Q. Okay. And when did he finish?

19 A. 2012. I think it was like April he came in.
20 I don't remember when he finished, but it was 2012.

21 Q. Okay. And in this case, what was it that you
22 were called to do with regards to the preparation of
23 anything for court today? Did you look at any videos?

24 A. I did.

25 Q. Okay. And I'm going to show you a couple of

M. HARVEY -- DIRECT BY MR. TOOKER

1 videos briefly.

2 MR. CANTRELL: No objection, Your Honor.

3 BY MR. TOOKER:

4 Q. I'm going to first show you what's been marked
5 as State's 1; are you familiar with this item?

6 A. Yes.

7 Q. What is that?

8 A. That is a copy of the footage that was taken
9 outside of the library.

10 Q. Okay. And why was this footage preserved?

11 A. Because it shows Matt and Complainant going into
12 the library together.

13 Q. Okay. And have you reviewed this footage?

14 A. I have.

15 Q. Is it a fair and accurate copy of what was
16 preserved in your system?

17 A. Absolutely.

18 MR. TOOKER: At this point, Your Honor, the State
19 would like to enter State's 1 into evidence.

20 THE COURT: I believe that's without objection.

21 MR. CANTRELL: That's without objection, Your
22 Honor.

23 THE COURT: Okay. It's in.

24 (State's Exhibit No. 1 received into evidence.)

25

M. HARVEY -- DIRECT BY MR. TOOKER

1 BY MR. TOOKER:

2 Q. And I'm also going to show you State's 2, 3, 4
3 and 5; do you recognize these items?

4 A. I do.

5 Q. And these items are what exactly? What is
6 State's 2?

7 A. They are of Matt and Complainant in the gym,
8 cleaning the gym one; and then cleaning the gym two.
9 And then of Matt and Complainant in the laundry room on the
10 unit.

11 Q. Okay. Did you preserve these because of this
12 investigation?

13 A. Yes.

14 Q. Okay. With regards to the gym and laundry
15 room, are those items fair and accurate copy of what
16 was in your video system?

17 A. Uh-huh. They are.

18 MR. TOOKER: The State would now like to introduce
19 2 through 5 into evidence.

20 MR. CANTRELL: Without objection.

21 THE COURT: In without objection.

22 (State's Exhibit No. 2, 3, 4 and 5 received into
23 evidence.)

24 BY MR. TOOKER:

25 Q. Okay. In a place like Hampton PRTF, I imagine

M. HARVEY -- DIRECT BY MR. TOOKER

1 there are rules for both staff and for patients; is
2 that true?

3 A. There are.

4 Q. What kind of rules could a staff member expect
5 to follow if he or she were to work for Hampton PRTF?

6 A. Confidentiality, dress code, conduct with
7 patients.

8 Q. Okay. Do y'all have a camera system?

9 A. We do.

10 Q. At PRTF?

11 A. We do.

12 Q. That camera system, is it pretty extensive or
13 is it limited?

14 A. It's very extensive.

15 Q. Okay. Does it cover most of the areas of the
16 facility?

17 A. It does now.

18 Q. It does now. When Mr. Holder worked there,
19 did it cover all the areas of the facility?

20 A. No.

21 MR. CANTRELL: Your Honor, I would -- objection at
22 this time. I would ask that we be heard outside the
23 presence of the jury.

24 THE COURT: All right. Let the jury go to the
25 jury room just for a minute.

M. HARVEY -- DIRECT BY MR. TOOKER

1 (Whereupon, the jury left the courtroom at
2 11:55.)

3 THE COURT: Yes, sir.

4 MR. CANTRELL: Your Honor, I anticipate that -- if
5 there hasn't been a bit of it already -- testimony that
6 after this incident, more cameras were added to these
7 areas. I believe that's irrelevant to this trial.
8 And, in fact, it is inherently prejudicial because it
9 would view to the jury that these were added because of
10 something this man did. That may be why they did it,
11 but that's not, I believe, appropriate --

12 THE COURT: What's -- what's the relevancy of the
13 cameras?

14 MR. TOOKER: Yes, sir. So it's the State's intent
15 to elicit from this witness that there were no cameras
16 in the rooms where the alleged abuse occurred.

17 THE COURT: That's fine. She can testify to that,
18 if that's a fact.

19 MR. TOOKER: Yes, sir. And then after that, we
20 would ask what the policy was with her employees, and
21 what they are instructed to do, remaining on-camera in
22 essence.

23 THE COURT: Well, no, the question was, were
24 cameras added. And that's what he's objecting to.

25 MR. TOOKER: Well --

M. HARVEY -- DIRECT BY MR. TOOKER

1 THE COURT: I don't know if that was your
2 question, but that was her answer.

3 MR. TOOKER: Yes, sir.

4 THE COURT: And -- and whether cameras were added
5 after the incident is not relevant.

6 MR. TOOKER: Yeah. And I'm not concerned with
7 that fact, sir. So I'll gladly --

8 THE COURT: Okay.

9 MR. TOOKER: But I would like to elicit that --
10 that there were not cameras in those rooms at that
11 time.

12 THE COURT: I think she has already testified to
13 that. But I'll -- you can certainly testify to what
14 existed at --

15 MR. TOOKER: At the time.

16 THE COURT: -- as far as surveillance at the time,
17 yes.

18 MR. TOOKER: Okay.

19 THE COURT: I thought she testified to that.

20 MR. CANTRELL: Your Honor, the possibility of
21 overkill -- I would ask that it not be were there
22 cameras in those rooms at that time. Just ask, were
23 there cameras in those rooms. Because, again, why at
24 that time, they brought at least an indication so --

25 THE COURT: No, I don't think -- I follow your

M. HARVEY -- DIRECT BY MR. TOOKER

1 concern. But I don't -- I don't -- my logic is a
2 little different. And that is, I don't think it would
3 lead to them -- to conclude that they were added
4 just -- it is just a question as to the issue of
5 whether or not there were cameras present during that
6 time, and I'll allow that question.

7 Bring in the jury. Bring them in.

8 (Whereupon, the jury entered the courtroom at
9 11:59.)

10 THE COURT: You may proceed.

11 BY MR. TOOKER:

12 Q. Were there cameras present in the library in
13 2012?

14 A. No, there wasn't.

15 Q. Okay. Were there cameras present in the rear
16 of the nurse's station in 2012?

17 A. I don't recall in the nurse's station.

18 Q. Were there cameras present in the laundry room
19 in 2012?

20 A. No.

21 Q. Okay. And what was the policy or what was the
22 staff members instructed to -- to do with regards to
23 the location of those cameras?

24 A. They are told to stay on-camera at all times.

25 Q. Okay. And why is that?

M. HARVEY -- DIRECT BY MR. TOOKER

1 A. To protect themselves and the patients.

2 Q. Okay. Had you ever had to address that with
3 the defendant?

4 A. I did.

5 Q. Okay. What did you have to address
6 specifically with him?

7 A. Making sure that he stayed on-camera when he
8 was with patients.

9 Q. Okay. So that had been an issue in the past?

10 A. Yes.

11 Q. Now, in this case, you said you viewed these
12 tapes, and I would like to play them.

13 (Whereupon, a video was played in open court.)

14 Q. Okay. This tape, this footage -- what is our
15 date?

16 A. 5/31/12.

17 Q. Okay. And you said this is the footage of the
18 defendant and the victim?

19 A. It is.

20 Q. What is this room that we're looking at?

21 A. We call that the game room.

22 Q. The game room?

23 A. I notice the play stations on the right side.
24 And they can watch movies on the -- on the far wall.

25 Q. And for the record, this is State's 1.

M. HARVEY -- DIRECT BY MR. TOOKER

1 Between that Pepsi machine and that table over there,
2 what is that door we are seeing?

3 A. The door that is open is the library.

4 Q. Okay. The library itself, is it a big room or
5 a small room?

6 A. It's a small room.

7 Q. Okay. And what kind of stuff do you have in
8 there, just books, or books and games?

9 A. Books. And we have a TV on a cart and -- you
10 know, with a play station on it.

11 Q. Okay. Now, who is it that's depicted in that
12 door frame, you said that you reviewed this tape?

13 A. Uh-huh. That's -- that's Matt Holder.

14 Q. That's Matt Holder. And as we watch this
15 video, is it fair to say that he's cracking the door?

16 A. Yes.

17 MR. CANTRELL: Your Honor, I would object.

18 THE COURT: I sustain the objection. That speaks
19 to the jury, that's not -- it's up to the jury to
20 determine what it shows.

21 MR. TOOKER: Okay.

22 THE COURT: Please disregard that testimony,
23 members of the jury.

24 BY MR. TOOKER:

25 Q. As the manager of Hampton PRTF, what was it --

M. HARVEY -- DIRECT BY MR. TOOKER

1 or what would it be as an employer that you would want
2 to see your employee doing in the circumstance of a
3 child in the library?

4 A. The door should be completely open with Matt
5 standing on-camera so you can see him on-camera.

6 Q. Okay. Are doors closed ever?

7 A. No, they're not.

8 (Whereupon, the video continued playing in open
9 court.)

10 Q. Your -- your video recording system turns the
11 operation -- how it is that you play files?

12 A. I'm sorry, how does it what?

13 Q. How do you play files in a recorder like this?
14 A video file, like we're looking at right now?

15 A. Just like you're doing.

16 Q. Yeah. But I just want you to explain what I'm
17 doing; does that make sense?

18 A. Okay. It's the -- the actual footage is
19 recorded on to a disc, and then you have to have the
20 file payer to open it up.

21 Q. Okay. So y'all have a specific file player
22 that plays these files?

23 A. Yes.

24 Q. Okay. Now, at the very end of this file, who
25 is the young person we see walking with the defendant

M. HARVEY -- DIRECT BY MR. TOOKER

1 away from the library?

2 A. That's Complainant.

3 Q. Okay. The victim, Complainant

4 A. Yes.

5 Q. Okay. I'm going to show you State's 7 through
6 23.

7 MR. TOOKER: At this time, Your Honor, because I
8 believe there is no objection, the State would seek to
9 admit these into evidence, subject to any objection.

10 MR. CANTRELL: That's correct, Your Honor.

11 THE COURT: In without objection.

12 (State's Exhibits Nos. 7 through 23 received
13 into evidence.)

14 BY MR. TOOKER:

15 Q. Okay. The first thing I'm going to put on the
16 screen is State's 19. I would like you to tell me,
17 ma'am, what this item is? What is that door right
18 there?

19 A. The door leading out to the unit, I believe,
20 yeah.

21 Q. Well, how about one for context, State's 18;
22 what we are looking at there?

23 A. That's the -- the game room.

24 Q. Okay. And is one of those doors the door to
25 the library?

M. HARVEY -- DIRECT BY MR. TOOKER

1 A. The first door on the right.

2 Q. Okay. So looking at that, could that be the
3 door to the library?

4 A. No. That's not the door to the library.

5 Q. That's not the door to the library. Then I'm
6 mistaken, I apologize.

7 A. That's okay.

8 Q. I'm going to show you State's 20 then. Is
9 that the door to the library?

10 A. Yeah. That's the door to the library.

11 Q. Okay. And that library door right there, it
12 -- not the library door -- the room itself, how deep is
13 it?

14 A. As deep as those shelves right there. That's
15 it. It doesn't go back any deeper.

16 Q. Okay. If I'm standing in the door frame, how
17 much distance between myself and the shelves in the
18 library room?

19 A. Myself to here (indicating) probably, a little
20 bit deeper, not much.

21 Q. Three feet, four feet?

22 A. Yeah.

23 Q. Okay. State's 22, what is that?

24 A. That's how long the library is. That's the
25 right side when you first walk in.

M. HARVEY -- DIRECT BY MR. TOOKER

1 Q. Okay. So, that's the interior of the library
2 when you enter?

3 A. Yes.

4 Q. All right. State's 23, what is that?

5 A. That's the left side of the library when you
6 walk in.

7 Q. Okay. How many books do you think y'all have
8 in there?

9 A. Maybe 50.

10 Q. Maybe 50. Okay. Not the most extensive
11 library in the world?

12 A. No.

13 Q. Okay. I'm going to show you what's been
14 marked as State's 6; do you recognize these documents?

15 A. I do.

16 Q. What are those?

17 A. They are behavioral check lists that we do, we
18 score the patients twice a day on different things,
19 like their social skills, their sharing, their
20 language, participation, things like that.

21 Q. And those are the records for which person?

22 A. For Complainant .

23 Q. Complainant ?

24 A. Yes.

25 Q. Okay. Now, is that a copy or are those the

M. HARVEY -- DIRECT BY MR. TOOKER

1 originals?

2 A. They're a copy.

3 Q. Okay. Is it a fair and accurate copy of his
4 records, his daily log record?

5 A. Yes.

6 MR. TOOKER: At this point, Your Honor, the State
7 would seek to move State's 6 into evidence.

8 THE COURT: Any objection?

9 MR. CANTRELL: Your Honor, I think I would need to
10 be heard.

11 THE COURT: Let's -- we -- it's 12:30. We've got
12 a matter of law to take up, so why don't we go ahead
13 and break for lunch until 2:00. I know we're in the
14 middle of a witness, but we're going to be a while. So
15 we've got a matter to take up, and let's come back at
16 2:00. So have a pleasant lunch and we'll see you back
17 at 2:00 and be ready to crank back up.

18 (Whereupon, the jury left the courtroom at
19 12:35.)

20 THE COURT: Yes, sir.

21 MR. CANTRELL: Your Honor, I contend that these
22 may be admissible, but I don't think we have on the
23 record the purpose for which they are being admitted.
24 It is pretty substantial also, it is not all of what we
25 received, it's a portion of what we received. I guess,

M. HARVEY -- DIRECT BY MR. TOOKER

1 I just basically don't know what the purpose for their
2 admission is.

3 MR. TOOKER: I didn't know that was a -- the --
4 the reason I'm seeking to admit these records, Your
5 Honor, is there's been some -- some notion that Complainant
6 was so desperate to get out, that he was doing --
7 willing to do or say anything to escape the facility.

8 Now, what I think the record will show is that
9 initially he got into the facility, and did not do very
10 well for several months. I say several months -- I
11 believe that's November of 2011.

12 He has a period where there are instances of bad
13 conduct, and then he gets on board with the program.
14 And he starts doing better. And as he proceeds through
15 the program, his scores improve and his behavior
16 improves. And that's indicative of, in my estimation,
17 somebody who is doing the right things, the things they
18 need to do to get out of Hampton PRTF.

19 Now, I understand the allegations regarding his
20 motive for falsification was that he was in desperate
21 need to get out as soon as possible. And his testimony
22 was he didn't want to leave.

23 But like his testimony, I think the records show
24 that he was doing what he was supposed to do so that he
25 could matriculate out of the program the way it was

M. HARVEY -- DIRECT BY MR. TOOKER

1 designed, and that he had a slip. And that slip was
2 immediately after he levied the allegations against the
3 defendant, the allegations June 5th and June 6th and
4 June 7th as noted in those records, he performed very
5 poorly. He destroyed some stuff and acted very out
6 badly. And I think that's relevant both to his mental
7 state at the time he had made these allegations. But
8 then also, again, to rebut the notion that he was not
9 doing what he was supposed to do.

10 Because after that slip again, he got back on
11 track and started making full progress. So that's why,
12 in -- in my estimation these documents are important
13 for our case today. They rebut both the defense's
14 allegation and then also our sort of key into a mind of
15 a kid that admittedly has a troubled past.

16 MR. CANTRELL: Your Honor, I'll start with the
17 end, I think it would be troublesome to put the jury in
18 a position of using these voluminous records to get a
19 key into the mind of this child, if that's what their
20 area of expertise is. I don't think that these records
21 will -- are the proper way to do that, to show anything
22 about this young man's progress --

23 THE COURT: Can I see -- can I see the records
24 while he's talking about them?

25 MR. TOOKER: And for Your Honor's benefit, the

M. HARVEY -- DIRECT BY MR. TOOKER

1 scores are based on a total score of 50. So 50 is the
2 maximum amount of points. The records are
3 double-sided. The first set is just --

4 THE COURT: Well, before -- before you get into
5 all that, is she the custodian of records?

6 MR. TOOKER: Yeah.

7 THE COURT: You haven't asked her that.

8 MR. TOOKER: I didn't, Your Honor. I need to lay
9 a foundation.

10 THE COURT: All right. The second thing is in
11 addition to the scores -- the scores are obviously
12 based on hearsay, even if they are matters kept within
13 the records in the regular course of business. But
14 they also contain a lot of -- a ton of hearsay about
15 opinions. "Complainant was observed every 15 minutes."
16 Complainant scored a 40". He completed so and so in a
17 timely manner. "The flex time was spent off campus
18 with a social worker." "100 percent of meals ate" -- I
19 guess that means eaten. "No medical issues." I -- I
20 don't think the -- under the business documents rule
21 and business records rule, that this actually complies
22 with the rules. Is your -- is that your objection?

23 MR. CANTRELL: Yes, Your Honor.

24 THE COURT: All right. Well, I'm not going to
25 allow them in based on -- I don't believe they comply,

M. HARVEY -- DIRECT BY MR. TOOKER

1 number one. You can still ask her if she is the
2 custodian. You can lay the course of business -- but
3 business records have to do with matters that are not
4 subjective. And these are definitely subjective. The
5 whole -- I mean that's the whole purpose of them. So,
6 I'm going to sustain the objection.

7 MR. TOOKER: Okay. And if I may briefly, Your
8 Honor, and I'm certainly not arguing with your ruling.
9 May I approach?

10 THE COURT: Yes, sir.

11 MR. TOOKER: I'm am curious if Your Honor's ruling
12 would be the same if we limited the records to merely
13 the score denotation for each day. I understand that
14 is still a subjective impression by an employee of his
15 performance.

16 THE COURT: My ruling will be the same.

17 MR. TOOKER: Okay.

18 THE COURT: We can get into medical records a lot
19 about a temperature, vital signs and things. The fine
20 line, in my opinion, as to what really falls within the
21 business records act and what is not, and I find
22 even -- even if you try to limit it -- or you limit it
23 to the scores themselves, that's still very subjective.
24 That's some third party -- I don't even -- well, kind
25 of aback -- but I don't know that we know the name of

M. HARVEY -- DIRECT BY MR. TOOKER

1 that third party as to who even entered those. So I
2 sustain the objection.

3 MR. TOOKER: Yes, sir.

4 THE COURT: All right. Let's take a lunch break
5 until 2:00. I hate to kind of break up, but we are at
6 a point where we need to. We'll see you back at 2:00.

7 MR. TOOKER: Thank you, Your Honor.

8 (After a recess, Court reconvened.)

9 THE COURT: Is the State ready to proceed?

10 MR. TOOKER: Yes, sir, Your Honor. Would you like
11 us to --

12 THE COURT: I would like the witness to be on the
13 stand.

14 MR. TOOKER: Yes, sir.

15 THE COURT: Of course, he's still under oath. Is
16 the Defense ready? Mr. Cantrell, are you ready?

17 MR. CANTRELL: Yes, sir.

18 THE COURT: Bring in the jury.

19 (Whereupon, the jury entered the courtroom at
20 2:00.)

21 MR. TOOKER: Thank you, Your Honor.

22 BY MR. TOOKER:

23 Q. Ms. Harvey, I'm going to show you the video
24 that has been admitted as State's 5. And we're not
25 going to watch the whole thing. I just want you to

M. HARVEY -- DIRECT BY MR. TOOKER

1 identify some parties for me.

2 (Whereupon, a video was played in open court.)

3 BY MR. TOOKER:

4 Q. First off, this image we're looking at, what
5 is this room -- or what is this room?

6 A. That's a unit -- it was called, at the time,
7 the Paladin unit. It's where the boys live at.

8 Q. Okay. And the laundry is adjacent to that
9 area?

10 A. It's the corner door on the -- do you see the
11 mop bucket?

12 Q. Is it in this area right here?

13 A. No, that's the staff office. If you keep
14 going, right -- right -- uh-huh, that door by the mop
15 bucket.

16 Q. Okay. Who is that individual in the gray
17 shirt?

18 A. That's Matt Holder.

19 Q. Okay. And who is that individual in the blue
20 shirt?

21 A. Complainant .

22 Q. Okay. And you said you reviewed all these
23 discs?

24 A. I did.

25 Q. Do all these discs contain depictions of both

M. HARVEY -- DIRECT BY MR. TOOKER

1 Matt Holder and Complainant ?

2 A. Yes.

3 Q. Okay. The laundry room itself, State's 8,
4 what are we looking at?

5 A. The door that's open is the laundry room.

6 Q. So that door that is being held open by the
7 gentleman in the blue shirt is the laundry room?

8 A. Yes.

9 Q. Okay. State's 9, is that a different view,
10 same image?

11 A. Yes.

12 Q. State's 7, the same thing?

13 A. Yes.

14 Q. State's 10, is that the laundry room?

15 A. That is the laundry room.

16 Q. Okay. About how big across is it, in terms of
17 width?

18 A. It's very narrow.

19 Q. Okay. You say five feet?

20 A. (Nodded.)

21 Q. How far from the left wall to the dryer and
22 washer on the right hand side?

23 A. Maybe three -- two feet.

24 Q. Okay. And how long would you estimate the
25 length of the entire room is?

M. HARVEY -- DIRECT BY MR. TOOKER

1 A. Seven feet.

2 Q. Okay. Okay.

3 A. Seven feet.

4 Q. Okay. So it's not a particularly big room?

5 A. No.

6 Q. How is it that you were made aware of the
7 allegations in this case?

8 MR. CANTRELL: Objection, Your Honor.

9 THE COURT: I sustain the objection.

10 MR. TOOKER: Okay.

11 BY MR. TOOKER:

12 Q. Did you have occasion to talk to Complainant
13 about what happened?

14 A. I did.

15 Q. When you talked to him, what was his emotional
16 state on June 5th, 2012?

17 A. He was upset.

18 Q. Okay. Was he crying?

19 A. Yes.

20 Q. Okay. In that state, did he tell you what had
21 happened?

22 A. He did.

23 Q. Did he talk about where things happened?

24 A. He did.

25 Q. Where did he say things happened?

1 A. In the laundry room and in the library.

2 Q. Okay. Did he say when these things happened?

3 A. He did.

4 Q. When did he say they happened?

5 A. June -- the exact -- June 5th -- I'm sorry. I
6 don't even know the actual date.

7 Q. So -- so the date he told you about this, did
8 he say it happened a short of period of time --

9 A. It was a very short period, yeah.

10 Q. Okay. All right. And were you the one who
11 was called to -- to pull up these videos initially, or
12 who pulled them up?

13 A. I did.

14 Q. You did?

15 A. Uh-huh.

16 Q. Okay. And after you pulled them up, did you
17 supply them to law enforcement?

18 A. I did.

19 MR. TOOKER: Okay.

20 THE COURT: No further questions, sir.

21 **CROSS EXAMINATION BY MR. CANTRELL:**

22 Q. You said Complainant told you where it happened,
23 when it happened, and he was emotional; is that
24 correct?

25 A. That's correct.

M. HARVEY -- CROSS BY MR. CANTRELL

1 Q. He also said he didn't feel safe in this
2 facility anymore, didn't he?

3 A. He did.

4 Q. Which would imply he wanted to get out of that
5 facility; correct?

6 A. Yes.

7 Q. Let's back up, you showed -- we saw some video
8 of Mr. Holder and Complainant there at the laundry room. It
9 showed them walking there, and that was it. That was
10 about 15 seconds worth of video, is that all, that we
11 just saw?

12 A. What we saw, yes.

13 Q. Let me back up and ask you -- is it the
14 protocol at Hampton to keep different groups segregated
15 from one another?

16 A. It is.

17 Q. If Complainant was out doing chores, and members of
18 another group came around, would it be the proper
19 protocol to make sure that they stayed separate from
20 one another?

21 A. It depends on who the groups are.

22 Q. You saw some other individuals come into the
23 Commons area when Complainant was in the library, did you
24 recognize them or could you tell --

25 A. I -- I couldn't tell who they were.

M. HARVEY -- CROSS BY MR. CANTRELL

1 Q. So it would be entirely possible that that
2 could be a group that Complainant was not to associate with;
3 correct?

4 MR. TOOKER: Judge, I'm going to object. That
5 calls for speculation.

6 THE COURT: I overrule the objection.

7 BY MR. CANTRELL:

8 Q. Is that correct?

9 A. It was -- it was one child, I believe, that I
10 saw on the tape. But, yeah, that is correct.

11 Q. Where there was a child and a staff member
12 probably?

13 A. Uh-huh.

14 Q. So that would mean the child was coming by the
15 staff member?

16 A. Yes.

17 Q. Just like Mr. Holder may have come with
18 Complainant?

19 A. Right.

20 Q. So, it was not unusual for staff members to
21 accompany children from one section to the other?

22 A. Right.

23 Q. Now, were you aware that Matt had bought pizza
24 that night?

25 A. I had been made aware of that after the fact.

M. HARVEY -- CROSS BY MR. CANTRELL

1 Q. And other people had people as well as Complainant ;
2 were you made aware of that?

3 A. I don't recollect that -- who had the pizza.
4 I just remember that he brought pizza.

5 Q. And, in fact, Complainant said he got pizza?

6 A. Yes.

7 Q. Let me ask you, you talked to Complainant about
8 this incident?

9 A. I did.

10 Q. Had you ever heard it stated before today that
11 the pizza was traded for some sort of sexual favor?

12 MR. TOOKER: Judge, I'm going to object. That
13 calls for hearsay.

14 THE COURT: I sustain the objection.

15 BY MR. CANTRELL:

16 Q. Judging by the video, there was pizza -- and
17 Complainant had pizza prior going to clean the laundry
18 room -- I'm sorry -- prior to going to the library;
19 correct?

20 A. I don't remember.

21 Q. I mean, you saw the video. Do you remember
22 seeing him carry the pizza with him?

23 A. No, I don't.

24 Q. The door we saw, is it a pretty heavy door
25 that goes into library?

M. HARVEY -- CROSS BY MR. CANTRELL

1 A. Pretty heavy.

2 Q. Would it be something -- maybe not as wide,
3 but something similar to this door?

4 A. I would say heavier than that.

5 Q. It would be heavier than this one?

6 A. Uh-huh.

7 Q. And it had nothing to keep it from closing.
8 In fact, it automatically closed if you let go of it;
9 is that correct?

10 A. Correct.

11 Q. So, if an individual was to be following the
12 proper protocol, they would stand at the door, as we
13 saw, and hold it open, push it open, whatever, for the
14 almost 20 minutes that we saw on that video; correct?

15 A. Are you asking me --

16 Q. You have to stand there at the door?

17 A. As far as what we consider -- is that -- as
18 far as our policy is?

19 Q. It is your policy?

20 A. No, that's what I'm saying, is that what
21 you're asking me -- what our policy is about the door?

22 Q. Right.

23 A. It's to not ever let it shut. It's to keep it
24 open.

25 Q. So if it was necessary for the staff member to

M. HARVEY -- CROSS BY MR. CANTRELL

1 step in, to get a book, pick up something that fell,
2 anything, the door would automatically close though?

3 A. If you let go of it, yes.

4 Q. Right.

5 A. Yes.

6 Q. Otherwise, you've got your hand on there the
7 entire time, and trying to make sure it doesn't close?

8 A. Yes.

9 Q. Okay. Now, are there not times at the Hampton
10 when staff members are in areas where they're not seen
11 on-camera, but just may be around?

12 A. Sure.

13 Q. So the effort, or the rule to never be seen
14 off -- or never be off camera with one of the kids,
15 cannot be totally enforced, ever; can it?

16 A. No.

17 Q. And there is no rule, there is nothing in
18 place, as you stated earlier, for the protection of the
19 kid or the protection of the staff in those areas?
20 It's just possible for staff and kids to be off camera?

21 A. It's possible. Staff is made aware when they
22 -- when they start at the facility of where the blind
23 spots are in the entire facility. They are shown on
24 the cameras, and shown where those spots are, and told
25 "do not be in those spots with patients".

M. HARVEY -- CROSS BY MR. CANTRELL

1 Q. But if you're traveling from one section to
2 another --

3 A. Sure, there are a few, yes.

4 Q. Now, the picture is not up there now, but you
5 saw the laundry room -- and the jurors, or any of us in
6 here, can look at that picture and see a washer and
7 dryer and see there is a little bit of space left. So
8 if we -- if we are familiar with the washer and dryer,
9 we know about how big the room is. And if we are
10 familiar with the shoes, we can figure out -- like you
11 said -- maybe two feet, or a little bit more, of space
12 in there?

13 A. Right.

14 Q. So that would more or less speak for itself.
15 But you believe that to be an accurate depiction of the
16 laundry room?

17 A. Yes.

18 Q. And the pictures of the -- the laundry, these
19 are both accurate depictions, State's 22 and State's
20 23, accurate depictions of the size of the library?

21 A. The library, yes.

22 Q. All right. Now, you dealt with Complainant ,
23 I assume, the whole time he was there?

24 A. I did.

25 Q. And part of your job or responsibilities there

M. HARVEY -- CROSS BY MR. CANTRELL

1 would be to -- be aware of his progress, be aware of
2 his behavior -- basically be aware of everything that
3 goes on with him, as well as all the other kids there;
4 is that a fair statement?

5 A. Yeah, yes.

6 Q. Based on that, you're in -- you will be in
7 sessions where progress or lack of progress of each
8 individual child would be discussed?

9 A. Yes.

10 Q. And staff, therapist, nurses, administrators,
11 would all, at some point or another, discuss or
12 exchange information about kids in the facility?

13 A. We do that weekly, yes.

14 Q. So, based on that, can you say you have an
15 opinion -- or you know Complainant's reputation for being
16 honest and trustworthy?

17 A. Back in the day, a couple of years ago, I'd
18 probably be able to tell you yes or no, either way.
19 But it's been a while since I've heard the name, read
20 the chart, or anything like that. So, I mean, I don't
21 really remember what his reputation was at the
22 facility, besides the interaction I had after this
23 incident.

24 Q. So you're telling me, you do not know anything
25 about his reputation for truthfulness, honesty, or

1 veracity?

2 A. In the interactions that I had with him, after
3 this incident, absolutely. But prior to that, I don't
4 remember.

5 Q. What do you remember about his reputation or
6 people's opinions of his honesty and truthfulness?

7 A. I remember that he was a handful, I mean, when
8 he first got there. I know he progressed pretty well
9 in the program, but I don't remember him specifically
10 lying about anything of that nature, like I said, until
11 this incident and I had to deal with him a little bit
12 closer than I deal with the boys.

13 Q. Let me ask you very specifically and very
14 directly: Do you remember making any statement
15 contrary to that last Thursday while at the Hampton?

16 A. I don't --

17 Q. To me?

18 A. About?

19 Q. His reputation for honesty, truthfulness, and
20 veracity.

21 A. Once you showed me my statement about what
22 happened at the hospital --

23 Q. What did you say?

24 A. I said, yes, that that was -- that I wrote
25 that statement.

M. HARVEY -- CROSS BY MR. CANTRELL

1 Q. No.

2 A. And that the dealings I had with him at the
3 hospital were not -- he was not truthful with me at the
4 hospital.

5 MR. TOOKER: Judge, may we approach for a --

6 THE COURT: No. No. I'll let you go ahead.

7 BY MR. CANTRELL:

8 Q. Okay. Do you remember making any statements
9 about -- in response to a question about his reputation
10 among the community known as Hampton Facility, his
11 reputation for being truthful, honest, and trustworthy?

12 A. I believe you asked me about all of the boys,
13 and them being there, and if they have a reputation for
14 lying. And a lot of them do, yes.

15 THE COURT: Well, he's asking you now about Complainant
16 --

17 A. I don't remember specifically telling you that
18 I knew Complainant was a liar or a manipulator or anything
19 like that.

20 Q. So you're telling me, we had a conversation
21 about this case and I did not ask you about him
22 specifically; is that your testimony?

23 A. No. You did ask me about him specifically.
24 But I didn't ever remember him ever lying to me until
25 you showed me the statement I had written about him

1 going to the hospital.

2 MR. CANTRELL: I think we have covered that all
3 that we can do. Your Honor, I have no further
4 questions.

5 THE COURT: Redirect?

6 **REDIRECT EXAMINATION BY MR. TOOKER:**

7 Q. There was mention of pizza, is it allowed for
8 staff to bring food from outside of the facility into
9 the facility?

10 A. No, it is not.

11 MR. TOOKER: Okay. No further questions.

12 MR. CANTRELL: One more quick question.

13 **RECROSS EXAMINATION BY MR. CANTRELL:**

14 Q. What was brought in was a huge pizza; is that
15 correct?

16 A. I believe so. It was a large pizza.

17 Q. You're saying nobody else ever brings in food
18 or pizza?

19 A. It's not allowed. I didn't say it didn't
20 happen, I said it is not allowed.

21 MR. CANTRELL: Thank you.

22 THE COURT: You can step down and be excused. We
23 appreciate your time. Thank you. Call your next
24 witness.

25 MR. TOOKER: Thank you, Your Honor. The State

K. SOWELL -- DIRECT BY MR. SOWELL

1 would call Kevin Sowell. May Ms. Harvey be excused?

2 THE COURT: Yes.

3 MR. TOOKER: Thank you, sir.

4 KEVIN SOWELL, having been
5 first duly sworn, testified as follows:

6 THE CLERK: Thank you, sir. If you would, have a
7 seat and state your name for the record, please.

8 THE WITNESS: Kevin Jermain Sowell.

9 **DIRECT EXAMINATION BY MR. TOOKER:**

10 Q. All right. Mr. Sowell, where do you work,
11 sir?

12 A. Hampton PRTF.

13 Q. And this has been covered, but what does PRTF
14 stand for?

15 A. Psychiatric Residential Treatment Facility.

16 Q. Okay. And what kind of folks do you take
17 there?

18 A. We take adolescents from the age of five to
19 21.

20 Q. Okay. And are you familiar with the defendant
21 in this case, Matt Holder?

22 A. I am.

23 Q. What is your familiarity with him?

24 A. He was one of my direct care staffs.

25 (Court reporter interruption.)

K. SOWELL -- DIRECT BY MR. SOWELL

1 A. He was one of my direct care staffs.

2 Q. So he worked for you at Hampton?

3 A. That's right.

4 Q. When you hired him, was he over the age of 14?

5 A. Yes.

6 Q. Was he over the age of 18?

7 A. Yes.

8 Q. What were his duties? What was he supposed to
9 do there?

10 A. Monitor and interact with the patients.

11 Q. Okay. Was he responsible for punishing them
12 if they're bad?

13 A. Yes, sir.

14 Q. Okay. Was he responsible for doing good stuff
15 for them if they were good?

16 A. Yes.

17 Q. Complainant , are you familiar with that
18 name?

19 A. Yes.

20 Q. How are you familiar with that name?

21 A. He was one of my patients.

22 Q. How long was he in your facility?

23 A. Ten months.

24 Q. Do you remember the date these allegations
25 came up?

K. SOWELL -- DIRECT BY MR. SOWELL

1 A. June 5th and June 6th of 2012.

2 Q. After that, how much longer did Complainant stay at
3 your facility before he was released?

4 A. He was discharged on 8/8/2012, so two months.

5 Q. Okay. How long total did he spend in your
6 facility?

7 A. Like I say, 10 months. He was admitted, I
8 believe, on 10/13 of '11, and discharged on 8/8/12.

9 Q. Okay. And Complainant what unit was he on;
10 do you recall?

11 A. He was on Paladin Unit at the time.

12 Q. And he was allowed to use special chores to
13 earn Avalons?

14 A. Yes.

15 Q. What are Avalons again?

16 A. It is part of our token economy that we had
17 back then, where they didn't gain or receive actual
18 physical money. It was based on a reward system that
19 was like money, but not actual money, that they could
20 spend it on things.

21 Q. Okay. And Complainant was -- was permitted
22 to do things in the facility to earn money?

23 A. Yes.

24 Q. What kind of things could you do to earn
25 money?

K. SOWELL -- DIRECT BY MR. SOWELL

1 A. You could do chores. You could do extra
2 chores, chores cleaning bathrooms, mopping the floors
3 in the day area, folding clothes in the laundry room.
4 Things like that.

5 Q. Okay.

6 A. You basically earn back -- back then, you
7 basically earn Avalons just waking up in a good -- good
8 mood.

9 Q. And -- and Complainant , was he interested in
10 earning Avalons?

11 A. Yes.

12 Q. Now, this case, do you remember when it came
13 to your attention as the facility's director?

14 A. I can't remember the exact timeframe, but it
15 happened somewhere around June 5th.

16 Q. Okay. And after it came to your attention,
17 what was your response? What were you called to do?

18 A. We immediately started looking at the tape,
19 doing our internal investigation. And then it was on
20 me to contact Pickens City to -- to inform them of
21 these allegations.

22 Q. Okay. And let's go back -- had Complainant
23 ever said anything to the effect of, I know what I need
24 to do to get out of here?

25 A. Yes.

K. SOWELL -- DIRECT BY MR. SOWELL

1 Q. Something like that?

2 A. Yes.

3 Q. What were the circumstances of that?

4 A. Well, what we have with case workers at the
5 time, they'll come up monthly to assess clients. And
6 during those times, we'll -- you know, they discuss
7 discharge. They discuss behavior for the week or the
8 month. And at that time, Complainant was with me and he was
9 wanting to be discharged. And he wasn't hearing what
10 he wanted to hear from his case worker at the time.
11 And he had made a statement to her, that, well, I know
12 what I've got to do to get out of here.

13 Q. Okay. How long before these allegations came
14 forward, did he make that statement?

15 A. I want it say it was probably -- it was some
16 time. It was not two weeks prior to his -- probably a
17 month, a couple of months before.

18 Q. Okay. All right. And you launched your
19 internal investigation, did you talk to Complainant about
20 what happened pursuant to that investigation?

21 A. Yes.

22 Q. Okay. And you said you reviewed the tapes.
23 The library, did it have video recording equipment in
24 it?

25 A. The library?

K. SOWELL -- DIRECT BY MR. SOWELL

1 Q. Yeah. The library.

2 A. No, not at the time.

3 Q. Okay. What about the back of the nurse's
4 station?

5 A. No.

6 Q. No video --

7 A. In the back of the nurse's office, no.

8 Q. Okay. And what about in the laundry room, any
9 video --

10 A. Not at the time.

11 Q. Okay. You said you did an internal
12 investigation, did you talk to Complainant about these
13 allegations?

14 A. Yes.

15 Q. Did he say where they happened?

16 A. The library, the laundry room, and the back of
17 the nurse's office.

18 Q. Okay. Did he say when they happened?

19 A. Initially, he told me a couple of weeks prior.
20 Then it switched to a couple of days prior of June 5,
21 2012.

22 Q. And with that information, were you able to --
23 to find the video that we have in court today?

24 A. Yes.

25 Q. Okay.

K. SOWELL -- CROSS BY MR. CANTRELL

1 MR. TOOKER: No further questions at this time.

2 CROSS EXAMINATION BY MR. CANTRELL:

3 Q. Let's back up -- excuse me -- Mr. Sowell, you
4 did say that Hampton is a Residential Psychiatric
5 Treatment Facility?

6 A. Psychiatric Treatment Facility, yeah -- the
7 same thing, yeah.

8 Q. I got you. Okay. And what type of -- what's
9 the criteria for the individuals that are admitted?

10 A. Most of our kids are diagnosed with ODD,
11 bipolar, you name it. You have to be diagnosed with
12 some sort of mental diagnosis.

13 Q. And it's sad to say, the simple fact is, they
14 have to be diagnosed and that is -- you're there for
15 that sort of treatment program; is that correct?

16 A. That's correct.

17 Q. Very structured?

18 A. Yes, sir.

19 Q. Very limited from the standpoint of freedoms
20 or that sort of thing?

21 A. To a certain extent, yeah.

22 Q. And they need or have to earn pretty much
23 everything -- not the basic essentials, but they need
24 to earn extra --

25 A. Yes. Yes.

K. SOWELL -- CROSS BY MR. CANTRELL

1 Q. And I've been there. I've seen it. I know
2 y'all -- what y'all do. That being said, most of the
3 kids if they are there, they want to get it done and
4 get out?

5 A. That's right. That's correct.

6 Q. Okay. Which is -- includes Complainant, and why he
7 said he knew what he knew -- he needed to do to get
8 discharged; he wanted to get out?

9 A. That was his statement, that he knew what to
10 do to get out.

11 Q. And I think you also said that the process had
12 not been running as fast as he -- or as quickly as he
13 wanted it to?

14 A. That's true.

15 Q. And even after he said that, whether it was a
16 couple of weeks or a month or so before these alleged
17 instances, it was still several more months before he
18 was able to -- to leave?

19 A. That's correct.

20 Q. And when he first reported it to you, he
21 reported some different times or different lengths of
22 time, that sort of thing? There was some -- some
23 discrepancies in what and how he reported it --

24 A. That's correct.

25 Q. -- is that a fair statement. But you did say

K. SOWELL -- CROSS BY MR. CANTRELL

1 it was not unusual for them to work in the library --
2 or I'm sorry -- to work in the laundry to earn these
3 Avalons at that time?

4 A. That's correct.

5 Q. And that would be something they would want to
6 do, to earn extra credit so-to-speak?

7 A. Yes.

8 Q. So any time he talked to you about something
9 that he was wanting to allege that Matt Holder had
10 done, it was at times where he had already been on
11 certain locations with Matt Holder, and it could be
12 verified by the camera?

13 A. That is correct.

14 Q. But it wasn't the day of or the day after, it
15 was later on? So anywhere from a day -- two days to a
16 week later that he reported it?

17 A. Yeah. Yeah.

18 Q. You reported this to all appropriate agencies,
19 law enforcement, to your superiors, social services,
20 everyone?

21 A. That's right.

22 Q. And let me get specific with you on this:
23 Having worked in the facility, worked with the staff,
24 worked with the therapist and dealt with -- I'm
25 assuming every -- every kid there, and doing that at

1 the time back in 2012, you dealt with Complainant ?

2 A. Yes.

3 Q. On a regular basis?

4 A. Yes.

5 Q. Can you tell us his reputation for
6 truthfulness, honesty, and veracity within your
7 community there within -- in-house with everyone there?

8 A. It's like I explained to you last week, with
9 me, he didn't lie to me, and I would say that would be
10 for the majority of our patients. But specifically,
11 Complainant, he didn't -- he wouldn't lie to me. He would
12 maybe not tell me the whole truth, like I explained, he
13 omitted some things, but he would -- he would have a
14 hard time lying to me.

15 Q. How about to others there, other staff?

16 A. The other staff, yeah, he would -- he would
17 lie and manipulate at times.

18 Q. In fact, did he not lie or manipulate in
19 making statements about staff on occasion?

20 A. Yes.

21 Q. Then you're the one that obviously he confided
22 in, related to, however you want to say it, he would
23 acknowledge to you that he had lied about staff?

24 A. Yes.

25 MR. CANTRELL: I don't think I have anything

1 further at this time. Thank you.

2 MR. TOOKER: Redirect, sir?

3 THE COURT: Yes.

4 **REDIRECT EXAMINATION BY MR. TOOKER:**

5 Q. So, he did have a reputation for being
6 untruthful at Hampton?

7 A. Some -- it -- you know, on occasion, yes, he
8 would be untruthful.

9 Q. Okay. Were there specific instances where he
10 didn't tell the truth?

11 A. You know, I could remember a couple of times
12 where he would make up a lie on a peer. He may have
13 started a fight. He would say the peer started it.
14 You can clearly see on-camera that he was the one that
15 initiated the fight; things like that, which most of
16 our boys do.

17 Q. Okay. But you mentioned that he was honest
18 with you?

19 A. That's right.

20 Q. So, specifically, were there occasions where
21 you talked to him about things, and he would tell you
22 something; and that thing he told you was something you
23 could prove?

24 A. Yes, for the most part, yes.

25 Q. Okay. For instance, in this case, when he

1 said he was at the library, is that on the video?

2 A. That's right.

3 Q. When he said he was in gymnasium, was that on
4 the video?

5 A. That's right.

6 Q. When he said he was in laundry with Matt
7 Holder, was that on the video?

8 A. That's right.

9 MR. TOOKER: Okay. No further questions.

10 MR. CANTRELL: Just one quick.

11 **RECROSS EXAMINATION BY MR. CANTRELL:**

12 Q. Mr. Sowell, I think the -- the short version
13 of this is, sometimes he told the truth, and sometimes
14 he didn't; is that pretty fair?

15 A. Pretty fair, yeah.

16 MR. CANTRELL: No further questions.

17 THE COURT: You may step down and be excused. We
18 appreciate your time.

19 THE WITNESS: Yes, sir.

20 THE COURT: Thank you. Call your next witness.

21 MR. TOOKER: Yes, sir. The State would next call
22 Ms. Shauna Galloway-Williams to the stand.

23 SHAUNA GALLOWAY-WILLIAMS, having
24 been first duly sworn, testified as follows:

25 MR. CANTRELL: Your Honor, can we approach one

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 second before we proceed?

2 THE COURT: Yeah. Come around.

3 (Whereupon, a bench conference was held.)

4 THE COURT: Members of the jury panel, before we
5 do the next witness, we have a legal matter to discuss.
6 So I'm going to let you go to the jury room while we
7 discuss it.

8 (Whereupon, the jury left the courtroom at
9 2:33.)

10 THE COURT: Before we do this in camera hearing,
11 I'm going to exercise my prerogative to step out a
12 minute. If anybody else wants to exercise that same
13 prerogative, they may. Just a couple of minutes.

14 MR. TOOKER: Yes, sir. Thank you, sir.

15 (After a recess, Court reconvened.)

16 THE COURT: Okay. We have Ms. Galloway-Williams,
17 if she'll come forward and take the stand, and be sworn
18 in on the way up.

19 SHAUNA GALLOWAY-WILLIAMS,
20 having been first duly sworn, testified as follows:

21 THE CLERK: Thank you, ma'am. If you would, have
22 a seat and state your name for the record, please.

23 THE WITNESS: Shauna Galloway-Williams.

24 **DIRECT EXAMINATION BY MR. TOOKER:**

25 Q. All right. Ms. Galloway-Williams, where do

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 you work?

2 A. I am the Executive Director of the Julie
3 Valentine Center.

4 Q. And how long have you been employed as the
5 Executive Director of the Julie Valentine Center?

6 A. I have been Executive Director for six years.
7 I have worked with the Center -- well, I was hired by
8 the Center in 2007, but began serving as director in
9 2009.

10 Q. What do your duties consist of on a daily
11 basis?

12 A. As Executive Director, I'm responsible for
13 oversight of the entire agency, physical management,
14 administrative responsibilities. I also still maintain
15 some clinical service provisions, so I conduct
16 assessments with children when there have been
17 allegations of abuse or neglect. I work with -- I'm
18 sorry -- I work with the non-offending caregivers and
19 care facilitating of the non-offender caregiver group,
20 and also do a lot of training in the community.

21 Q. And what is the Julie Valentine Center?

22 A. We are the child abuse and sexual assault
23 recovery center. So that means that we provide
24 prevention and education work for the community. We
25 also provide assessments, exams, counselling,

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 individual, and group therapy.

2 Q. Okay. Before you were the executive director,
3 what was your role with the Julie Valentine Center?

4 A. I was the clinical director.

5 Q. Okay. What did you do as a clinical director?

6 A. I provided clinical oversight for all of the
7 counselors, forensic interviewers, and provided
8 clinical services, direct services with clients.

9 Q. Okay. What is your educational background?

10 A. I have a Masters degree in counselling and a
11 Bachelors in Psychology.

12 Q. Okay. What is your -- are you licensed?

13 A. I am. I am a licensed professional counsellor
14 in South Carolina.

15 Q. Okay. At the Julie Valentine Center, as the
16 clinical director, did you have occasion to interview
17 and/or counsel victims of sexual abuse?

18 A. Yes.

19 Q. How many -- well, did you ever do in forensic
20 interviews?

21 A. Yes.

22 Q. How many of those did you do?

23 A. I have done over 850 interviews.

24 Q. And approximately how many children were
25 victims of sexual abuse that you counseled during the

1 course of your career?

2 A. I don't have an exact number, well over 1,000.

3 Q. Okay. Do you have any kind of specialized
4 training?

5 A. Most of my training has been specifically in
6 the area of child abuse dynamics, and forensic
7 interviewing, assessing, and responding to children and
8 families who have been impacted by child abuse and
9 neglect.

10 Q. Okay. We talked a little bit about this, but
11 do you -- do you counsel any other people, other than
12 victims of sexual assault?

13 A. I work with caregivers and we -- I also
14 interview and provide services for siblings or indirect
15 victims of abuse.

16 Q. Okay. And do you provide any professional
17 training or teach others in your field?

18 A. I do. I'm an adjunct faculty member at USC
19 Upstate in their Child Advocacy Studies Program,
20 specifically teaching a course on child maltreatment.
21 I also do a lot of training in the community. Most
22 recently I have been responsible for training over 900
23 of the administrators in the Greenville County School
24 District, specifically on recognizing and responding to
25 sexual abuse in the educational setting.

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 Q. Okay. Do you know the victim in this case,
2 Complainant ?

3 A. I do not.

4 Q. Did you ever meet him?

5 A. I haven't.

6 Q. Have you given him any counselling services or
7 anything like that?

8 A. No.

9 Q. Okay. Are you familiar with the defendant in
10 this case?

11 A. No.

12 Q. Okay. Have you ever testified as an expert
13 before in either Family Court or General Sessions?

14 A. Yes.

15 Q. Which one?

16 A. I testified in Pickens and Greenville County
17 in the 13th circuit, and General Sessions. I've also
18 testified in Family Court, again, in the 13th circuit.

19 Q. Okay. And how many times have you been
20 qualified as an expert?

21 A. Twenty-seven times.

22 Q. Okay. When you have been qualified as an
23 expert in the past, in what field was it that you were
24 qualified as an expert?

25 A. Child abuse dynamics --

1 Q. Okay.

2 A. Or something related to that. It may have
3 been something -- not specifically that term, but in
4 general, that's what it was related to.

5 Q. When you are qualified as an expert in that
6 field, by and large, what are you called to talk about?

7 A. The dynamics of child abuse, how children
8 disclose or don't disclose; what types of behaviors
9 that may lead up to that, so delayed disclosure.
10 Relationships among family members or those who may
11 abuse a child. I'm really just hoping to educate
12 jurors about child abuse dynamics, which is something
13 that not everyone has a clear understanding of.

14 MR. TOOKER: Your Honor, that -- that would be the
15 extent of the State's voir dire of this witness at this
16 point. We would like to -- to offer her as an expert
17 in the field of child abuse --

18 THE COURT: Let's, I mean, it's voir dire at this
19 point. I -- we've got another step to go before we --
20 right now, we are just deciding whether or not she is
21 qualified.

22 MR. CANTRELL: And if I can beg the court's
23 indulgence?

24 THE COURT: Yes.

25 MR. CANTRELL: Your Honor, something just came up

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 as we speak, or as she was testifying -- is that Mr.
2 Holder advises me that probably seven or eight years
3 ago, that Ms. Williams interviewed his daughter, so
4 there has been some prior connection. We are satisfied
5 seven or eight years ago, she doesn't remember anybody
6 she talked to, and all -- but she did interview his
7 daughter at that point.

8 I told him -- and I think he agrees -- that
9 that, by itself, doesn't inter -- interfere with this.
10 Now, I might have some other objections, but we are not
11 objecting on that basis. But I felt like I had to let
12 the court know that.

13 THE COURT: I understand. And he nodded in the
14 affirmative when you were saying that. So -- all
15 right. Do you want to voir dire Ms. Williams?

16 MR. CANTRELL: Not at this time as to her
17 qualifications at all.

18 THE COURT: Okay. All right. I find that she is
19 qualified in the areas that she has testified about,
20 disclosure, behavior, delayed disclosure.

21 MR. TOOKER: Thank you, sir. And just for the
22 record, when we do do this in front of the jury, my --
23 the language I'm going to use to describe her, would be
24 as an expert in the field of child abuse disclosure
25 dynamics. Because that's what I've seen in the record.

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 THE COURT: Okay. That would be -- I find that to
2 be appropriate.

3 MR. TOOKER: Thank you, sir.

4 BY MR. TOOKER:

5 Q. Do you know why you have been called here to
6 testify today?

7 A. To provide educational information on child
8 abuse dynamics.

9 Q. And who subpoenaed you?

10 A. The State.

11 Q. Okay. And are you being paid by our office to
12 be here today?

13 A. No, I'm not.

14 Q. Did you ever have any contact with the victim
15 at all?

16 A. No.

17 Q. Where does your funding come from?

18 A. At the Julie Valentine Center?

19 Q. Yes, ma'am.

20 A. We are funded by the Greenville County United
21 Way. That's about a third of our funding. Another
22 third of our funding comes from federal grants,
23 Violence Against Women Act, Victims of Crime Act,
24 National Children Alliance, DHEC, grants like those.
25 And the other third of our funding comes from

1 foundations and fundraising.

2 Q. Okay. And is that funding in any way
3 contingent upon what you do or do not do, or say or do
4 not say here today?

5 A. No, it's not.

6 Q. Okay. Have you spoken to the victim or seen
7 any kind of information or seen any case files in this
8 case?

9 A. No, I haven't.

10 Q. What does the term delayed disclosure or
11 delayed reporting mean?

12 A. It's a term that we used to refer to the
13 timing of a child disclosing abuse, not disclosing
14 right away, which is the case with most children. Most
15 children do not tell right after an abuse incident
16 occurs. And we refer to that as delayed disclosure,
17 whether that be days, weeks, years; and sometimes never
18 telling about an abuse incident.

19 Q. Okay. In your experience, as an expert in the
20 field of sexual -- or excuse me -- child abuse
21 disclosure dynamics, how common is delayed reporting
22 among victims of childhood sexual abuse?

23 A. It's more common, the delayed disclosure,
24 rather than a child telling right away. Most children,
25 again, don't tell right away for numerous reasons.

1 Q. And you said "numerous reasons", what kind of
2 factors play into a child's either disclosing
3 immediately or not disclosing?

4 A. One of the main reasons that children don't
5 tell right away is because of fear; fear of
6 consequences that they may experience; fear that they
7 won't be believed; fear of what may happen to the
8 alleged offender.

9 One of the other reasons that children don't
10 disclose right away is that most times the person that
11 has abused them, is someone they know, they love, and
12 they trust. And that dynamic, in and of itself, makes
13 it very difficult for children to disclose. Many times
14 that person may be someone that they are really bonded
15 to, have a very close relationship with, and that
16 sometimes makes it challenging for them to decide, you
17 know, what exactly they need to do as far as
18 disclosing.

19 Q. Okay. What role does guilt or shame play in
20 disclosure?

21 A. Well, you know, children often, when they are
22 abused, feel guilty. They feel a lot of shame about
23 what's happened, particularly with sexual abuse. It's
24 something that's still a very taboo subject. It's not
25 something that most adults want to talk about or

1 disclose. And it's even more uncomfortable often for
2 children.

3 Children also sometimes feel responsible for
4 what's happened. They may feel responsible for it
5 because they feel, in some way, they didn't stop it
6 from happening. They may have been told by the person
7 that's committing the act that they are responsible for
8 it. Sometimes children's bodies respond in a
9 biological way to the sexual act, and they may feel
10 responsible for that as well.

11 Q. Okay. What role would the abuser having been
12 in a role of authority over an abused person play?

13 A. Well, generally, what we say is that the more
14 dependent a child is on the offender, or the more power
15 that that person has over them, the more difficult it
16 is then for them to disclose. Because they are, in
17 many ways, that child is dependent on them for, you
18 know, caregiving; meeting some type of need for them.
19 And if they are an authority figure, then they do have
20 a sense of power and control over them.

21 Q. Okay. Is disclosure a process sometimes?

22 A. Disclosure is almost always a process.
23 Meaning that when a child does tell about what's
24 happened, we don't generally expect that they're going
25 to tell every single detail about what's happened at

1 one time. What we can expect is that they may tell
2 bits and pieces of it over time. They may tell
3 different parts of it to different people, depending on
4 the type of questions that have been asked, who's
5 asking the questions. And it could be very dependent
6 on what type of, you know, how safe they feel in their
7 environment and what type of counselling or other
8 services they may have had.

9 Q. Okay. How would the passing of time effect a
10 disclosure?

11 A. Meaning?

12 Q. Well, two and a half years after an initial
13 disclosure, what would you expect to see in terms of
14 progress or regression in the person who made the
15 initial disclosure?

16 A. Well, with time, someone may be able to share
17 more information. You know, initially they may not
18 have shared everything. And they need more time to
19 retest the waters and see how people are going to
20 respond, or whoever they disclose to responds to what
21 they say.

22 You know, sometimes there may be pieces of
23 information that are lost or that they may not
24 remember, so there may be less detail over time. But
25 what we would expect is that they would remember the

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 core details, the who; the what; the what happened;
2 and, in general, when it happened.

3 Q. Okay. And grooming, what is grooming?

4 A. Grooming is the term that we use to describe
5 the developing trusting relationship with a potential
6 victim, maybe testing the waters with them to see if
7 this child may be a victim, or may be someone who an
8 offender could commit an act with. Sometimes this
9 involves -- or most times -- this involves gaining the
10 child's trust by establishing a relationship with them.

11 It may involve providing special attention,
12 special favors, treats, gifts. Oftentimes, not just
13 grooming the child, but many times grooming the
14 caregivers, and other important people in the child's
15 life.

16 Q. Okay. And what do we mean when we talk about
17 risk factors in a case of juvenile sexual abuse?

18 A. We're talking about things that may make a
19 child more vulnerable to abuse. And there are certain
20 risks factors that are -- that are present. Some of
21 those could be children who have disabilities,
22 developmental, or intellectual disabilities. They are
23 at higher risk of abuse.

24 Younger -- the younger the child is, the higher
25 risk they are for abuse for many reasons. They may not

1 be able to tell after it's happened. They may be more
2 dependent on a caregiver.

3 Previous abuse is a risk factor for abuse later
4 on; substance abuse; single parent households; children
5 with behavior problems. Those are risk factors. And
6 often those types of things, the offender may use them
7 to convince the child that they played a role in what's
8 happened. And they may appear to others that -- that
9 this child has played a role in what's happened as
10 well, going back to the whole idea of responsibility
11 and guilt.

12 Q. And then finally, what is a compliant victim?

13 A. We use the term compliant victim to refer to a
14 victim who does feel as if they were engaging in the
15 abuse, or they maybe -- they may appear to have
16 consented to the abuse rather than say no, or trying to
17 stop it; when, in actuality, the victim is a child and
18 the child is unable to consent, particularly in a case
19 of where the person that's committing the abuse is
20 someone who's in authority over the child.

21 Q. Okay. And how do compliant victims differ
22 from victims of say forcible encounter?

23 A. Well, compliant victims tend to see themselves
24 more responsible and more -- not partners, but more
25 engaged in the abuse itself. They tend to see

1 themselves as someone who played a role in it. Maybe
2 they even initiated the abuse or may have done
3 absolutely nothing to stop it, and would in some way
4 say that they were responsible for it.

5 MR. TOOKER: No further questions.

6 MR. CANTRELL: If it please the court?

7 **CROSS EXAMINATION BY MR. CANTRELL:**

8 Q. When you talk about relationship or position
9 of authority, would that be impacted by a -- a child
10 who has dozens of authoritative figures around them all
11 the time, such as in this case?

12 A. I'm not sure if I understand what you're
13 asking me.

14 Q. Okay. You talk about the relationship of the
15 alleged perpetrator and the child?

16 A. Yes.

17 Q. In that being one of authority or fear based
18 on authority or relationship, how is that impacted by
19 the -- the young person who is in a facility where
20 there are dozens of people with authority over them?

21 A. Well, I mean, each of those workers or
22 employees are figures of authority. And it's
23 ultimately their responsibility to maintain, you know,
24 appropriate roles and boundaries with the children.

25 A child in that type of environment, I imagine,

1 would see all of those figures as authority figures,
2 you know, because there's a hierarchy there, and
3 they're not at the top of that.

4 Q. That is not the norm -- most children do not
5 have dozens of the authority figures close at hand, do
6 they?

7 A. Well, I would disagree. You know, children
8 see all adults as authority figures in one way or
9 another; or, you know, we teach our children that they
10 are to respect adults and do what adults tell them. So
11 a lot of times, children view all adults, no matter
12 what role they're in, as an authority figure.

13 Children have, if they are in school, they have
14 teachers, principals, guidance counselors, anyone that
15 works in the school. Those are really authority
16 figures. If they play athletics, sports, then they
17 have coaches. And so whether a child is in --
18 certainly the type of authority and the hierarchies and
19 structure of a residential treatment facility is
20 different from that of living at home with mom and dad.
21 But I would say that there are authority figures all
22 over in a child's world.

23 Q. But in the world of these children, the
24 authority figures do not come into their homes?
25 Coaches, police officers, teachers, that sort of thing,

1 do not come into their residence as do the residential
2 care staff; is that a fair statement?

3 A. Meaning they don't share residency with the --
4 the family?

5 Q. Not even live together, but these people that
6 we're talking about, come into the residence of these
7 young people. They can come into their bedrooms. They
8 can come into their bathrooms. They can come into
9 their play areas, lunch room, all of that on a regular
10 basis. And, in fact, do. That would be somewhat
11 different from the coach, the teacher, the police
12 officers, that all children are taught to respect as
13 authority figures, so there would be a difference in
14 that relationship, or that sense of authority as
15 opposed to -- for lack of a better word, I'll call it a
16 normal sense of authority. So there is a difference
17 there; is there not?

18 A. Again, I really see that as the same in the
19 sense that, you know, children can develop those same
20 type of relationships and authority, and controlled
21 relationships with a coach or a teacher or someone
22 else, in the same way that they would someone who is
23 their caregiver in a residential treatment facility or
24 hospital, or something like that.

25 Q. You see no difference at all in those?

1 A. Unless I'm misunderstanding your question, I
2 mean, just in general of what you're asking about is
3 if -- if children perceive someone's level of authority
4 and power over them in a residential treatment facility
5 as different than how a child would perceive a coach or
6 a teacher or parent, or other adult's authority over
7 them, I really don't think that there's a difference
8 there.

9 Q. All right. What about the age of the child?
10 The younger as opposed to 14 years old, what the
11 difference is there?

12 A. Differences in...?

13 Q. In how they they would be perceived, how they
14 would perceive and/or react to perceived threats of
15 abuse?

16 A. Okay. So resay that one more time, just so I
17 make sure I understand. I'm sorry.

18 Q. I guess if we're -- maybe I'll make more sense
19 to all of us -- what are the differences -- how -- how
20 does age effect an alleged sexual abuse victim?

21 A. So as I stated previously, the younger the
22 child, the more vulnerable they are to abuse. You
23 know, very young children are much higher risk of abuse
24 because they're much less likely to tell. And they're
25 much more dependent on others for caregiving.

1 However that's not to say that older children
2 are not also victims of abuse. You know, really age is
3 not necessarily a determining factor as to whether
4 there is, you know, higher or lower risk, other than
5 the fact that we know that much younger children are at
6 very high risk because they, you know -- we have
7 caregivers who are changing their diapers and going to
8 the bathroom with them. And the more primary care or
9 direct care that a child needs, the higher risk that
10 they are going to be for abuse, or for abuse to occur,
11 and the child not disclose.

12 Q. And by direct care, do you mean those with
13 physical --

14 A. I mean any sort of direct care meaning, you
15 know, if a child needs assistance with bathing,
16 toileting, you know, even -- you know, those are high
17 risks situations -- well, yes, that's what I mean.
18 Personal care.

19 Q. And grooming is by nature -- sorry, strike
20 that. Grooming, would it not have a different effect
21 at a residential treatment facility where everybody is
22 in charge of certain things for these young people?

23 A. Well, I would see that it would be very
24 similar because if someone is in charge and could offer
25 more favors, or more free time, or something that they

1 might not be able to offer to another, or if they were
2 to be able to allow a child to get away with a
3 particular behavior, that they may not normally allow
4 them to get away with. I'm just using, you know,
5 examples of how I think that grooming could be
6 different.

7 The other thing that's really important about
8 grooming is sometimes the grooming is directly related
9 to that relationship, which is something that's not
10 really tangible, just really developing that trusting
11 relationship between the child and the alleged
12 offender.

13 Q. But is it your opinion that there will be no
14 difference in the impact or -- the impact to that,
15 whether it's grooming, authority, all of those, there's
16 no difference in a residential care facility as opposed
17 to a child that's in the home and going to school?
18 You're saying there's no real difference?

19 A. I think the dynamics are the same. When we're
20 talking about grooming behavior, and when we're talking
21 about relationship dynamics between children and
22 alleged offenders, or children and adults.

23 So I think, to answer your question, yes, I
24 don't see that it's any -- I don't see that there would
25 be a difference between the dynamics, whether they are

1 at play in a residential treatment facility, or in a
2 school, or in a community, or in the home.

3 MR. CANTRELL: I don't think I have anything
4 further. Thank you.

5 MR. TOOKER: No redirect, sir.

6 THE COURT: All right. What -- since you're the
7 expert, and I'm not, how do you define delayed
8 disclosure?

9 THE WITNESS: A disclosure that is not made
10 directly -- directly after an abuse incident.

11 THE COURT: When you say "directly after", no --
12 when you say "directly after", what do you mean?

13 THE WITNESS: Well --

14 THE COURT: Is there a time period? What amount
15 of time?

16 THE WITNESS: There is not a specific timeframe.
17 We are just saying that it's not, you know, at -- not
18 disclosing the soonest possible time that a child
19 could.

20 So, you know, if -- if the child could -- you
21 know, if -- if the abusive event happens and they have
22 an opportunity to tell someone two hours after, and
23 they don't tell, and then there's another four hours
24 that go by, or another six hours, that's a delay in
25 disclosure. So not telling right after an incident has

1 occurred.

2 And that can be hours. It can be -- I mean,
3 generally, you think of it as being, you know, over a
4 day, two days, weeks, months, years. But in general, I
5 guess you could say not telling right after the first
6 opportunity the child might have to tell someone. Does
7 that make more sense?

8 THE COURT: It does. All right.

9 MR. CANTRELL: I have two very quick questions in
10 follow-up to that.

11 THE COURT: All right.

12 MR. TOOKER: No objection to that, sir.

13 MR. CANTRELL: Two very quick.

14 BY MR. CANTRELL:

15 Q. Would delay in disclosure, whether it is by
16 two hours, two days, or two weeks, be impacted by the
17 alleged victim being in a residential care facility,
18 where there are all these authority figures around
19 them -- or do you have any opinion on that?

20 A. I mean, I certainly think that it could have
21 an impact, you know, for the same reasons that children
22 delay disclosure in other settings, for fear of
23 disbelief. This child is already in a residential
24 treatment facility. Do they already have a reputation
25 as being someone who is a troublemaker, is a liar, and

1 who's going to believe them if they tell. I think that
2 might impact delayed disclosure.

3 The fact that there are so many other authority
4 figures around might impact a child's ability to tell
5 for fear that there may be consequences; or, again,
6 that no one would believe them. So I think it's
7 similar dynamics that we're talking about.

8 And, again, you know, if this child has
9 developed a trusting and close relationship with the
10 alleged offender, they may feel that it is risky to
11 tell. They may actually, you know -- a lot of times
12 children are willing, or really appreciate the
13 relationship that they have with the offender so much
14 that they, you know, they just want the abuse to stop,
15 but don't want to give up the relationship with that
16 person.

17 And one of the ways I describe that is, you
18 know, you have a really close friend, or your spouse,
19 and you love this person. And you love almost
20 everything about them except this one thing that drives
21 you nuts, and yet you continue to maintain that
22 relationship with them. You don't end that
23 relationship because of that one thing. And not to
24 minimize sexual abuse to that, but that's really what
25 it's like.

1 Q. The other very quick question, would the
2 desire by the alleged victim to -- if the alleged
3 victim has an ulterior motive for reporting or stating
4 whatever they are saying, does that impact your opinion
5 of their statement or how they would react? If they
6 are attempting to gain something by making a statement,
7 whether true or untrue?

8 A. So, is your question, are there -- children
9 sometimes make disclosures for some type of gain?

10 Q. False disclosures for some type of gain?

11 A. So if -- is the question do children sometimes
12 make false disclosures?

13 Q. Yes.

14 A. Yes. It's a very small percentage, but
15 statistically a very low number of children do make
16 false disclosures. The risk that a child faces when
17 making a disclosure far outweighs any benefits that
18 they may gain.

19 MR. CANTRELL: That's all I have. Thank you.

20 THE COURT: You can remain there. So you proffer
21 her as an expert, to testify as she has?

22 MR. TOOKER: Yes, sir. That would be the State's
23 position.

24 THE COURT: What is the defense's position?

25 MR. CANTRELL: Your Honor, I just don't think in

1 this case the testimony that we have heard, the
2 allegations that have been made, rise to the standard
3 of need for expert testimony. Expert testimony should
4 take the jury to a place, essentially, beyond their
5 normal knowledge. Also, that it would be within a
6 place to analyze the evidence that is not readily
7 apparent, according to the case law, to the average lay
8 person.

9 This is all evidentiary or factual. There has
10 been very little discussion of delay in disclosure. We
11 don't know if it was a -- more than a couple of days,
12 certainly no more than I believe --

13 THE COURT: Well, I thought June 5th was the first
14 day, if I remember the date. The 4th, the 1st, and the
15 video showed the last incident on the 31st of May, so
16 five days.

17 MR. CANTRELL: We -- we believe the first
18 disclosure now, I'm not sure if that is totally
19 accurate based on all the witnesses -- or quite
20 candidly, some of the witnesses who aren't here, as to
21 when the first disclosure was made, but very little
22 possible delay in disclosure.

23 We have got, again, just factual direct evidence
24 that does not rise to the level of the jury needing an
25 expert to tell them how to interpret what they have

1 seen up here or heard from the witness stand.

2 THE COURT: Mr. Tooker.

3 MR. TOOKER: Yes, sir. And I think there's a case
4 directly on point. And unfortunately I did not print
5 it off of West Law. I printed it off of the judicial
6 department's website. So I don't have a South Carolina
7 or Southeastern cite. I do have the South Carolina
8 Court's opinion number. But it is the State vs. Damon
9 T. Brown. Opinion number 5288, filed January 7th of
10 2015. If I may approach, and tender it to Your Honor.

11 THE COURT: Have you given a copy of that to Mr.
12 Cantrell.

13 MR. TOOKER: I neglected to bring two, Your Honor.
14 I do apologize. I think I can summarize it for the
15 record. And it's particularly telling in as much as it
16 was a case tried here in Pickens.

17 THE COURT: Okay.

18 MR. TOOKER: Ms. Shauna Galloway-Williams was the
19 expert proffered. And she was proffered as an expert
20 in the field of child abuse disclosure dynamics. Took
21 the stand, and talked about delayed disclosure and
22 grooming, if memory me serves correctly.

23 That issue went before the South Carolina Court
24 of Appeals. And on appeal, the primary issue was
25 whether or not that was something an expert was

1 necessary for, or was something within sort of the
2 scope of your average lay person -- your average lay
3 person could understand what it's like, indicated as
4 abuse.

5 So in that case, our Court of Appeals concluded
6 that an expert can be necessary to help the jury
7 understand why it is that a child would behave the way
8 a child behaves after having been sexually abused.

9 THE COURT: I'll allow the testimony over
10 objection. Looking at the opinion just handed up, I do
11 find that the subject matter is beyond the ordinary
12 knowledge of the jury. It's certainly beyond the
13 ordinary knowledge of me, because of the questions I
14 asked. I think an expert is required to explain this
15 particular matter, that is delayed disclosure.

16 I find, and already found, that she is -- the
17 witness is an expert in the field involving delayed
18 disclosure and sex -- sexual abuse, or sexual related
19 incidents.

20 And I'm not sure I completely understand this
21 last prong that they have here, which the court must
22 evaluate the substantive testimony in terms of whether
23 it's viable. I'm not sure what that means, but to the
24 extent I do understand, I certainly evaluate the
25 substantive testimony and find it to be -- convince me

1 of the soundness, if that's what they're really talking
2 about. And it appears to me to be reliable. A lot of
3 that has to do -- and this is why -- why that language
4 it kind of confusing to me. It seems to me that once
5 you have found somebody to be an expert, that prong
6 is -- is covered.

7 So based on my finding that Ms.
8 Galloway-Williams is an expert in the area of delayed
9 disclosure and child abuse dynamics, I have evaluated
10 the substantive of -- of her testimony, and determined
11 that it is reliable and so affirmatively find.

12 I do find that the testimony that she has
13 presented at this time will assist the jury in
14 evaluating the behavior patterns of adolescent victims
15 of sexual assault, and provide understanding of some of
16 the aspects of behavior of victims, and provide insight
17 into an abused child -- well, they use the word here
18 "strange demeanor" -- and I don't think that applies
19 here, but the abuse's child behavior.

20 MR. TOOKER: Thank you, sir. Before the jury
21 comes back, Your Honor, just a scheduling matter. Our
22 last witness that we propose to call, as I mentioned
23 this to Your Honor and Mr. Cantrell in chambers, he is
24 coming from North Carolina. He's to be here tomorrow
25 morning at 9:00.

1 THE COURT: Okay.

2 MR. TOOKER: I don't imagine I will spend more
3 than about 30 minutes with Ms. Galloway-Williams. I
4 know that puts us -- with Mr. Cantrell cross
5 examining -- maybe 4:15. But I wanted to request of
6 Your Honor leave at the -- the termination of this
7 witness until tomorrow morning.

8 THE COURT: You want me to leave the termination
9 --

10 MR. TOOKER: Well, no. I would request of Your
11 Honor that we could then break at the close of the
12 witness.

13 THE COURT: I think what you've told me, we've got
14 to.

15 MR. TOOKER: Well, it is always up to Your Honor.

16 THE COURT: I understand that. But we've already
17 discussed, and I thought I had at least given leeway to
18 allow your witness to be here at 9:00, coming all the
19 way from North Carolina -- the State line is 20 miles
20 away I think.

21 MR. TOOKER: He's in Asheville, so.

22 THE COURT: Okay. In any event, we will start
23 back at 9:00 in the morning. So if you're ready for
24 the jury?

25 MR. TOOKER: Yes, sir.

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 THE COURT: Anything about timing other than we
2 brought up?

3 MR. CANTRELL: No, sir. I had my shot at changing
4 times yesterday, and that's gone.

5 THE COURT: It does mean we will leave -- start a
6 little early today -- if we will get cranked up at
7 9:00, we should be okay. Bring in the jury.

8 (Whereupon, the jury entered the courtroom at
9 3:18.)

10 THE COURT: We already have a witness on the
11 stand. She will now be sworn.

12 SHAUNA GALLOWAY-WILLIAMS,
13 having been first duly sworn, testified as follows:

14 **DIRECT EXAMINATION BY MR. TOOKER:**

15 Q. What is your name, ma'am?

16 A. Shauna Galloway-Williams.

17 Q. And where do you work?

18 A. I'm the Executive Director of the Julie
19 Valentine Center.

20 Q. What does that mean exactly?

21 A. The Julie Valentine Center is the child abuse
22 and sexual assault recovery center that serves
23 Greenville and Pickens County. We provide prevention,
24 education, investigative and treatment services to
25 children, families and adults who have been impacted by

1 child abuse and sexual assault.

2 Q. Okay. And what do you do as the Executive
3 Director? What are your responsibilities?

4 A. Well as the Director, I'm responsible for the
5 oversight of the entire agency, all of its programs;
6 the fiscal responsibilities associated with that. I
7 also continue to provide clinical services, so that
8 means that I provide direct services to children as
9 well as their caregivers.

10 Q. Okay. And have you had any other roles at the
11 Julie Valentine Center?

12 A. Prior to serving as Executive Director, I was
13 Clinical Director. Prior to that, I was a forensic
14 interviewer that was employed by the Department of
15 Mental Health.

16 Q. Okay. How many -- well, what's a forensic
17 interviewer?

18 A. Interviews assessments with children where
19 there are allegations of abuse or neglect.

20 Q. How many forensic interviews have you
21 conducted in your career?

22 A. Over 850.

23 Q. Okay. And do you do any counselling?

24 A. I don't currently do counselling, but I have
25 previously. The only counselling I do will be grief

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 counselling with caregivers of children who have been
2 abused. But previously, I provided counselling
3 services to children who had been impacted by abuse and
4 neglect.

5 Q. And are you licensed?

6 A. I am.

7 Q. Okay. What is your licensure?

8 A. I am a licensed professional counsellor in the
9 State of South Carolina, and have been licensed since
10 2004.

11 Q. Okay. You said you counseled victims of
12 abuse?

13 A. Yes.

14 Q. How many victims of abuse do you think you
15 have counseled during the course of your career?

16 A. I don't have an exact number, but it is well
17 over 1,000.

18 Q. Okay. Do you counsel anybody else other than
19 victims?

20 A. Well, I work with the caregivers, siblings,
21 what we call indirect victims of abuse.

22 Q. Okay. And in total, you've been at it since
23 when?

24 A. I have been providing clinical services since
25 2001, so over 14 years.

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 Q. Okay. What is your educational background?

2 A. I have a Bachelors Degree in Psychology and a
3 Masters in Counselling.

4 Q. Okay. And like you said, you are licensed as
5 an L.P.C.?

6 A. I am.

7 Q. Okay. Do you have any kind of specialized
8 training?

9 A. Most of my training has specifically been in
10 the area of child maltreatment or child abuse. I have
11 over 150 skills based hours in assessing and
12 interviewing children who have been -- where there are
13 allegations of abuse and neglect. As a part of my
14 licensure, we are required to continue with continuing
15 education credits each year. And most of my training
16 has focused in the area of sexual abuse, recognizing
17 and responding to child maltreatment in those areas.

18 Q. Okay. You answered a lot of my questions just
19 then. Have you -- have you ever provided any kind of
20 specialized training for other people, or any training
21 at all for other people in your field?

22 A. I do. I provide training to both
23 professionals and to students. I'm an adjunct faculty
24 member at the University of South Carolina Upstate in
25 their Child Advocacy Studies program. I teach a course

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 on child maltreatment there.

2 I also provide training, as part of my work,
3 with the Julie Valentine Center. I do a lot of
4 training on mandated reporting, recognizing and
5 responding to child abuse. And most recently, I have
6 been part of the training team that trained over 900
7 administrators with the Greenville County School
8 District, specifically on recognizing and responding to
9 child sexual abuse in the educational setting.

10 Q. Okay. Have you ever been qualified before in
11 court as an expert witness?

12 A. I have.

13 Q. And in what field were you qualified as an
14 expert witness?

15 A. In the area of child maltreatment.

16 Q. Okay. Child abuse disclosure dynamics?

17 A. Yes.

18 Q. Okay. How many times before have you been
19 qualified as an expert witness?

20 A. Twenty-seven times.

21 Q. Okay. Is that both in General Sessions and in
22 Family Court?

23 A. Twenty-seven times in General Sessions. I
24 have also been qualified as an expert in Family Court.
25 And I really don't know how many times over -- over 27

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 times in Family Court.

2 Q. Okay.

3 MR. TOOKER: At this point, Your Honor, the State
4 would request that Ms. Galloway-Williams be qualified
5 as an expert in the field of child abuse disclosure
6 dynamics.

7 THE COURT: Any voir dire?

8 MR. CANTRELL: No, Your Honor. I would stipulate.

9 THE COURT: I find she is qualified.

10 BY MR. TOOKER:

11 Q. Okay. Do you know why you have been called
12 here today to testify?

13 A. Yes. To provide information, education on the
14 dynamics of child abuse.

15 Q. Okay. Who were you subpoenaed by?

16 A. The State, the Solicitor's Office.

17 Q. Okay. And have you received any kind of money
18 to be here today; have you been paid?

19 A. No.

20 Q. Okay. Your facility, the Julie Valentine
21 Center, how -- how do they get their funding?

22 A. About a third of our funding comes through the
23 United Way, the Greenville County United Way. Another
24 third comes from Federal funds that includes the
25 Victims of Crime Act, Violence Against Women Act, DHEC;

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 National Children Alliance. And another third of our
2 funding comes from fundraising and foundational grants.

3 Q. Okay. So based on your testimony today, are
4 you going to be paid or not be paid, or will your
5 facility get funding or not get funding?

6 A. Based on my testimony today?

7 Q. Yes.

8 A. No.

9 Q. How do --

10 A. It's of no relevance.

11 Q. Is your testimony somehow contingent upon the
12 funding you receive?

13 A. No, not in any way.

14 Q. Okay. Are you familiar with the victim in
15 this case, Complainant ?

16 A. No.

17 Q. Okay. You have never met him before?

18 A. I have not.

19 Q. Have you reviewed his case file or looked at
20 any materials in this case?

21 A. I have not.

22 Q. Okay. Have you spoken to anybody other than
23 myself about this case?

24 A. No.

25 Q. Okay. What does the term "delayed disclosure"

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 or the term "delayed reporting", what do those terms
2 mean?

3 A. In general, delayed disclosure means not
4 reporting an act of abuse right away. And that could
5 mean not reporting within hours, within days. Really
6 it means not reporting within the first opportunity
7 that a child might have to report. And we use that
8 term often, when we're talking about child maltreatment
9 because most children do not tell right away after an
10 abuse incident occurs.

11 Q. And you cut me off -- I was going to say -- in
12 your experience, how common is it for a child to delay
13 their disclosure?

14 A. It's more common for children not to disclose
15 right away.

16 Q. Okay. What are -- well, what kind of factors
17 commonly play a role in a child's delay or failure to
18 disclose?

19 A. Well, one of the main reasons that children
20 don't tell is because of fear. They fear what will
21 happen to them if they tell. They fear what will
22 happen to the offender if they tell. Many children
23 fear they're not going to be believed.

24 Children also fear telling because they're often
25 abused by someone they know, they love, and they trust,

1 whether that is a family member, a family friend,
2 someone that they have developed a relationship with.
3 And often that relationship has many positive aspects
4 to it, too, in addition to the abuse itself.

5 And many times, children have a difficult time
6 with how to tell, and how to get help because of those
7 reasons.

8 Q. Okay. What role would guilt or shame play in
9 the child's delay or failure to disclose?

10 A. Well, guilt and shame is something that is
11 directly associated with child sexual abuse. You know,
12 sex is something that is still a very taboo subject,
13 sexual abuse even more so. You know, it's not
14 something that adults go around talking about, even if
15 they're talking about positive experiences.

16 So children often feel a significant amount of
17 shame and guilt and responsibility for the abuse that
18 they may have endured. That shame and guilt and
19 responsibility may make it even harder for them to tell
20 about what's happened. It's a subject that's really
21 hard for them to talk about.

22 Q. What kind of role with the abuser having been
23 in a role of authority over the victim in a case, play
24 on any kind of delay in disclosure?

25 A. Well, we generally say that the more power and

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 authority that an individual has over a child, the more
2 difficult it is for them to be able to tell. You know,
3 we'll see that it will make it even harder for them to
4 tell.

5 And we do -- you know, we teach children that,
6 you know, they are supposed to respect adults and do
7 what adults tell them. And children do that a lot more
8 than -- than we even think they do, which is why we see
9 so many delayed disclosures with children.

10 Q. Okay. What kind of role would the victim's
11 fear of punishment or retribution play with their
12 disclosure -- delayed disclosure?

13 A. Along with the fears that we've already -- or
14 that I've already talked about, the fear of what would
15 happen to them or someone else is one of those fears
16 that may keep them from telling. And those may be
17 fears of things that they have sort of made up in their
18 mind, or there may be fears of things that they've been
19 told will happen to them.

20 Sometimes children fear what will happen based
21 on things that they have seen the offender do with
22 others. For example, if a child is living in a home
23 where there is a violent offender, who has also been
24 abusive to them, maybe sexually abused them, the child
25 may fear that they may be physically abused if they

1 tell just by virtue of seeing that. So it's sort of an
2 indirect threat, rather than a direct threat and fear.

3 Q. Okay. What would the role -- or what role
4 would the normalization of sexual activity play in
5 failure to disclose?

6 A. Well, that kind of goes right in line with
7 grooming, which is the idea of developing a trusting
8 relationship with a child or sort of testing the waters
9 with a child. And oftentimes offenders will introduce
10 children to sexual behavior in a very nonchalant or
11 very casual way.

12 They may begin with touching. It may be in a
13 caregiving role, in a way that they're introducing
14 children to sex and getting them more comfortable with
15 it.

16 They may show them movies, pictures, things like
17 that, so that the child is more engaged or begins to be
18 more of a part of what is actually happening.

19 Q. Okay. And back to sort of the different
20 factors that would play a role in delayed disclosure,
21 what kind of role would a victim's fear that he would
22 not be believed play in delayed disclosure?

23 A. Well, children often fear that they're not
24 going to be believed. We really train our children
25 that way, whether we mean to or not. You know, often

1 children will say something. And the first thing that
2 comes out of our mouth is "really", indicating that we
3 don't necessarily believe them.

4 And particularly when children may have already
5 lied in the past about other things, and children have
6 behavior problems, and they're sort of known for those
7 kind of things, then even more so they fear that if
8 they do tell, that they won't be believed.

9 Q. Okay. Is disclosure sometimes a process? And
10 if so, why?

11 A. Disclosure is almost always a process. And
12 what we mean by that is, is that we don't expect that a
13 child is going to tell us every single detail about
14 everything that's happened to them the very first time
15 that they tell. We can expect that over time they may
16 tell us more details, they may tell about more
17 incidents. They may tell different pieces of
18 information to different individuals depending on who's
19 asking the questions, and the type of questions that
20 are asked about them, or asked of them.

21 Q. Okay. And how would the passing of time,
22 specifically a long period of time, between the initial
23 disclosure and a subsequent disclosure, how would that
24 affect the disclosure, if at all?

25 A. It could -- a couple of different things. It

1 could allow the individual more time to be able to
2 process, to get help, to be able to tell more clearly
3 what's happened. With the passage of time, they may
4 lose some of the details about what's happened. But we
5 would expect that they would still remember the core
6 details, the who; the what; the when; the how of
7 what -- what they've described.

8 Q. Okay. And what are risk factors in your
9 field? What are we talking about when we talk about
10 risk factors?

11 A. When we talk about child maltreatment, we've
12 identified that there are certain risk factors that
13 make a child at higher risk of being abused or
14 re-victimized. Children who are very young are the
15 most vulnerable victims. They are the ones who are the
16 most vulnerable. They require the most care from
17 adults, and often are the ones who don't have the words
18 to describe what's happened.

19 Children who have previously been abused or have
20 been in abusive situations are at high risk for being
21 re-victimized. Children who have behavior problems,
22 who are known behavior problems, who have a history of
23 those type of behaviors, are at high risk. Because
24 oftentimes they will be told that if they tell, no one
25 is going to believe them because they're already

S. WILLIAMS -- DIRECT BY MR. TOOKER

1 troublemakers. And kids internalize that, and adults
2 often do behave that way as well.

3 Q. Okay. And you mentioned grooming before, but
4 would you -- if you would, what exactly is grooming?
5 What does that term mean specifically?

6 A. It really means developing a trusting
7 relationship with the potential victim and even the
8 victim's family in the community. So, really,
9 establishing a relationship with a victim prior to or
10 during and after the abuse incident. And that can
11 involve providing special attention, special favors,
12 doing things that make the child feel really special.
13 Anything that really cultivates that trusting
14 relationship with the child and -- and oftentimes with
15 their family.

16 Q. Okay. And you said that the normalization of
17 sexual activity would be considered grooming?

18 A. Yes.

19 Q. Okay. What does the term "compliant victim"
20 mean?

21 A. Well, that really refers to a victim appearing
22 as if they are engaging in or an active and willing
23 participant in an abuse act. So, a child who -- it may
24 appear that they initiated this sexual abuse in some
25 way -- maybe they went to the offender's room and

1 initiated this, or maybe they said something or did
2 something that led this to happen. So it's the
3 appearance of being a compliant victim or that they
4 willingly participated in the event.

5 Q. Okay. Let's reiterate, a juvenile -- is a
6 juvenile capable of consent?

7 A. No.

8 Q. I do want to go back real quick, when we
9 talked initially about delayed disclosure, you said it
10 is not disclosing immediately. Is there some period of
11 time that has to be met for disclosure to be a delayed
12 disclosure? Or specifically -- I mean, when is it --
13 at what point after a child does not say what happened
14 to him, does the disclosure become a delayed one?

15 A. Well, it would be delayed if the child doesn't
16 tell at the first opportunity they had to tell someone.
17 So if there's another adult around or someone else
18 after the incident has occurred, that's the first
19 opportunity that a child would have to tell someone.
20 Not telling then would be a delay in their disclosure.

21 Q. So would waiting a day be a delay?

22 A. Yes.

23 Q. Waiting two days be a delay?

24 A. Yes.

25 Q. Waiting a week be a delay?

1 A. Yes.

2 Q. And anything more than that is, of course, a
3 delay?

4 A. Yes.

5 MR. TOOKER: Okay. No further questions.

6 **CROSS EXAMINATION BY MR. CANTRELL:**

7 Q. Very quickly. You said delayed disclosure
8 requires they don't disclose at their first
9 opportunity; is that correct?

10 A. Yes.

11 Q. What if the first opportunity is seven days
12 later, that would not be a delayed disclosure; would
13 it?

14 A. So assuming that the child wouldn't have had
15 an opportunity to interact with anyone in a seven day
16 period of time?

17 Q. I didn't say interact with anyone, I'm saying
18 their first opportunity to disclose under your
19 definition, what if it didn't occur for seven days?

20 A. What I mean by opportunity is, you know, if
21 the incident occurs, and then the child interacts with
22 another person, or is somewhere else at school, or
23 somewhere else in the home, and has an opportunity to
24 disclose and doesn't, that's a delay in disclosure.
25 They are not telling right after it happened.

1 So, if the incident happens, the child is not
2 leaving the room or the incident location, and going
3 directly a parent, a caregiver, a family member, or law
4 enforcement or someone else to tell -- or even a
5 friend.

6 Q. So if they're not leaving their location, that
7 can be part of it?

8 A. Not necessarily, no. Because the abuse could
9 be happening in the child's home, and often is
10 happening in a setting where the child lives and
11 engages in social behavior.

12 Q. Everything that you have discussed or
13 presented in response to Mr. Tooker's questions, has to
14 do with your -- your area of expertise and your
15 knowledge of this subject matter; is that right?

16 A. Yes, that's correct.

17 Q. You have no knowledge of the specifics of this
18 case?

19 A. No.

20 Q. You have no knowledge of the circumstances,
21 the people involved, what happened when? You simply
22 have no knowledge of the circumstances in this case?

23 A. No, no specific knowledge, no.

24 Q. And, quite candidly, not to sound like I'm
25 trying to overly compliment you, but you are the -- the

1 expert in this area on this subject matter. Hopefully,
2 you can agree to that -- or you are certainly one of
3 the foremost authorities in this -- in this area; is
4 that correct?

5 A. Yes.

6 Q. Okay. You have not been asked to give any
7 information or asked to be involved in the specifics of
8 this case, to investigate, to review, to recommend
9 treatment, to provide specific testimony -- you have
10 not been asked to do anything specific to this case
11 other than present this expert opinion testimony here
12 today; is that right?

13 A. Right. What I have been asked to do is to
14 provide general information about the dynamics of child
15 sexual abuse and child maltreatment.

16 MR. CANTRELL: That's all I have. Thank you.

17 THE COURT: Redirect?

18 MR. TOOKER: Just one question.

19 **REDIRECT EXAMINATION BY MR. TOOKER:**

20 Q. It was mentioned opportunities to disclose,
21 what is an opportunity to disclose?

22 A. A -- a chance to tell someone what's happened.
23 So being outside of the presence of the offender that
24 just committed the act, interacting with another person
25 outside of that, any opportunity to show or tell

1 someone what's happened.

2 Q. Okay. So any time the person, the victim were
3 around someone other than the defendant -- or the
4 offender?

5 A. Yes.

6 Q. That would be an opportunity?

7 A. That would be an opportunity. You know, if
8 they're around their parent, or their friends, or some
9 other caregiver, that would be an opportunity. That
10 could be someone they could tell.

11 MR. TOOKER: Okay. No further questions.

12 THE COURT: Mr. Cantrell?

13 **RECROSS EXAMINATION BY MR. CANTRELL:**

14 Q. So, now, you're saying it would be as soon as
15 they're outside of the presence of the alleged
16 offender, they have an opportunity to disclose?

17 A. They don't have to be outside of the presence
18 of the offender. The offender could be there with
19 other people around, the child could potentially have
20 an opportunity to show or tell what's happened to them.

21 MR. CANTRELL: Thank you.

22 THE COURT: All right. You may step down and be
23 excused. We appreciate your time.

24 THE WITNESS: Thank you.

25 THE COURT: Thank you. I understand that's the

1 last witness for the day?

2 MR. TOOKER: Yes, sir. The last witness for the
3 day.

4 THE COURT: Members of the jury panel, we have
5 another witness that's unavailable until the morning,
6 so we're going to break for the evening. We are going
7 to start back at 9:00 in the morning. Keep in mind my
8 admonitions about not discussing the case, or trying to
9 make up your own mind, or being exposed to news
10 coverage, or using any electronic means or use media to
11 obtain any information about this case or anything
12 related to it.

13 So have a pleasant evening, and we'll see you
14 back at 9:00 in the morning.

15 (Whereupon, the jury left the courtroom at
16 3:39.)

17 THE COURT: Has Mr. Holder been out on bond?

18 MR. CANTRELL: Yes, he is. And I apologize to
19 address --

20 THE COURT: I'll allow him to remain on bond --
21 out on bond. Mr. Holder, I'm not going to have you --
22 generally, once a trial starts, a defendant may be
23 required to remain incarcerated until the jury
24 deliberates and returns a verdict.

25 I'm not -- not going to require that of you.

1 I'm going to let you go home, but you need to return by
2 9:00 in the morning, or earlier if your lawyer wants
3 you here.

4 I want you to understand that if you were to
5 some reason not appear, this case would not stop. It
6 would go forward. The case would be tried. The case
7 would be submitted to a jury. The jury would
8 deliberate. The jury would return a verdict.

9 Of course, if the verdict is not guilty, that
10 would end the matter. If the verdict were guilty, I
11 would impose a sentence, seal it up, file it with the
12 clerk, issue a bench warrant, and your arrest will be
13 sought on that bench warrant.

14 And if you -- not if, but when you were arrested
15 on that bench warrant, you would be brought back before
16 the court, and a judge -- not necessarily me -- but a
17 judge would impose -- read that sentence and impose it
18 on you at that time; do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. Thank you.

21 MR. CANTRELL: Thank you, Your Honor.

22 THE COURT: Counsel, if we can kind of have a
23 charge conference, and chat a little bit, maybe we'll
24 be ready to move in the morning.

25 (Whereupon, a jury charge conference was held.)

1 (Whereupon, the hearing adjourned until May 21.
2 2015.)

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Juvenile

-- DIRECT BY MR. TOOKER

* * * P R O C E E D I N G S * * *

MAY 21, 2015

THE COURT: Good morning.

MR. TOOKER: Good morning, sir.

THE COURT: Is the State ready?

MR. TOOKER: Yes, sir, Your Honor. I didn't know if you would prefer to proffer this witness' testimony before we had the jury come in.

THE COURT: I think that's -- makes sense, yes.

MR. TOOKER: Okay.

THE COURT: And this is the common scheme of plan issue?

MR. TOOKER: Yes, sir.

THE COURT: So call -- call your witness.

MR. TOOKER: The State would call Juvenile to the stand.

Juvenile, having been first duly sworn, testified as follows:

THE CLERK: If you would, have a seat. State your name for the record. You'll have to speak up where everybody can hear you.

DIRECT EXAMINATION BY MR. TOOKER:

Q. What's your name?

A. Juvenile.

Juvenile

-- DIRECT BY MR. TOOKER

1 Q. I'm going to put this right in front of your
2 face, so we can hear you nice and clear. I know that's
3 kind of awkward, but -- all right. So say that again,
4 what's your name?

5 A. Juvenile .

6 Q. And how old are you, Juvenile

7 A. I'm 16, sir.

8 Q. What is your date of birth?

9 A. .

10 Q. Are you familiar with Hampton PRTF?

11 A. Yes, sir.

12 Q. Did you ever live there?

13 A. Yes, sir.

14 Q. How long did you live there?

15 A. About 30 days, sir.

16 Q. Okay. And I might be getting ahead of myself
17 a little bit. Do you know the difference between a
18 truth and a lie?

19 A. Yes, sir.

20 Q. What's the difference between the truth and a
21 lie?

22 A. A lie is something that did not happen or
23 something that is false.

24 Q. Okay. What's something that is true?

25 A. Something that actually did happen.

1 Q. Okay. So if I were to point to the wall, and
2 say the walls are green, would that be true or would
3 that be a lie?

4 A. False.

5 Q. Okay. Now, you said you lived at Hampton PRTF
6 for how long?

7 A. About 30 days, sir.

8 Q. All right. Do you remember what unit you were
9 on?

10 A. Phoenix, sir.

11 Q. Okay. On the Phoenix unit, did you have your
12 own room or did you sleep in a room with other people?

13 A. I had my own room, sir.

14 Q. Where would you eat your meals?

15 A. Separate from the other kids.

16 Q. Okay. You ate by yourself?

17 A. Yes, sir.

18 Q. Did you have a lot one-on-one time with staff
19 or were you often with a group?

20 A. It was a mix of both.

21 Q. Okay. And at Hampton PRTF, did you get any
22 kind of counselling or treatment?

23 A. Yes, sir.

24 Q. What kind of counselling did you get?

25 A. I had therapy sessions once a week.

Juvenile

-- DIRECT BY MR. TOOKER

1 Q. Okay. Were those individual sessions or group
2 sessions?

3 A. They were individual.

4 Q. Okay. Do you remember your therapist's name?

5 A. Kayla.

6 Q. Okay. Do you know the defendant in this case,
7 Matt Holder?

8 A. Yes, sir.

9 Q. How do you know the defendant, Matt Holder?

10 A. He was a staff on the unit that I was on at
11 the time.

12 Q. Did anything inappropriate ever happen between
13 you and the defendant?

14 A. Yes, sir.

15 Q. What inappropriate thing happened?

16 A. It was inappropriate touching, sir.

17 Q. Okay. You say "inappropriate touching", what
18 does that mean?

19 A. Being brought into a blind spot on the unit
20 and coerced into touching his private parts.

21 Q. You said "blind spot on the unit", what does
22 that mean?

23 A. There were certain spots on the unit where the
24 cameras couldn't see everything.

25 Q. Okay. And you said he brought you there, how

1 did he bring you?

2 A. I was going out of the bathroom to get towels.

3 Q. Okay. And when you left the bathroom to get
4 towels, what happened?

5 A. I was going back into my room, to go back and
6 get in the shower, and that's where it happened at.

7 Q. Okay. Did he approach you or did you approach
8 him?

9 A. We just happened to be in the same spot.

10 Q. Okay. Was it a large area or a small area?

11 A. Fairly small.

12 Q. Okay. And when you happened to be in the same
13 spot together, who initiated contact?

14 A. He did.

15 Q. How did he initiate contact?

16 A. Using my hands to touch his private parts.

17 Q. Okay. And how is it that he used your hand to
18 touch his private parts?

19 A. More so grabbing my wrists and putting it
20 there.

21 Q. You say "more so grabbing your wrists", did he
22 actually grab your wrists?

23 A. Yes, sir.

24 Q. And you said "putting it there", what did he
25 put and where did he put it?

Juvenile

-- DIRECT BY MR. TOOKER

1 A. He put my hand on his groin area.

2 Q. Okay. Was that on top of the clothes or
3 underneath?

4 A. On top, sir.

5 Q. Okay. When he did that, could you tell
6 whether or not he had an erection?

7 A. Yes, sir.

8 Q. He did have an erection?

9 A. Yes, sir.

10 Q. Okay. About how long did he hold your hand
11 there?

12 A. About five seconds, sir.

13 Q. Okay. And what did you do in response to
14 that?

15 A. I threw my hands up and said that wasn't cool.

16 Q. Okay. And what did he say to you?

17 A. I don't know if I should quote that.

18 THE COURT: Please, you can do it. We are all
19 adults.

20 THE WITNESS: Quote, unquote "I'll kick
21 your..." -- you know.

22 BY MR. TOOKER:

23 Q. Kick your what? You can say it. Nobody is
24 going to get mad.

25 A. Quote, unquote, "I'll kick your ass".

1 Q. If what?

2 A. If I tell anybody.

3 Q. Okay. So he threatened you if you told
4 anybody, he would beat you up?

5 A. Yes.

6 Q. Did you tell anybody?

7 A. No.

8 Q. Okay. When did you encounter law enforcement
9 in this case?

10 A. When I was in Grandfather.

11 Q. What is Grandfather?

12 A. It's the placement that I was at after I left
13 Hampton.

14 Q. Where is that located?

15 A. Banner Elk, North Carolina.

16 Q. Who came to talk to you?

17 A. Detective Byers, sir.

18 Q. Okay. When he came and talked to you, had you
19 reached out to him?

20 A. No.

21 Q. Okay. Did you know he was coming?

22 A. No.

23 Q. When he came and talked to you, did you know
24 what he was coming to talk to you about?

25 A. No, sir.

Juvenile

-- CROSS BY MR. CANTRELL

1 Q. Okay. Were you surprised at all by his
2 questions?

3 A. Yes, sir.

4 Q. When he asked you about what happened, did you
5 tell him what you told the court here today?

6 A. Yes, sir.

7 Q. Okay. No further questions.

8 THE COURT: Please answer questions that the other
9 gentleman has.

10 **CROSS EXAMINATION BY MR. CANTRELL:**

11 Q. Juvenile, you were in the shower at your unit?

12 A. Yes, sir.

13 Q. And you just happen to run into Matt when you
14 were going out to get a towel?

15 A. Yes, sir.

16 Q. So you didn't plan to meet him; he did not
17 plan to meet you?

18 A. No, sir.

19 Q. And if you're in the shower area, I assume
20 almost all of the shower area has no cameras; is that
21 correct?

22 A. No, sir.

23 Q. That is not correct or that --

24 A. No. They didn't have a camera.

25 Q. So the place where you were, was a blind spot

1 all together, because nobody was going to be -- no
2 cameras were going to be focused in that area; is that
3 right?

4 A. No, sir.

5 Q. And this entire matter took about five
6 seconds?

7 A. The whole incident lasted 45 seconds to a
8 minute.

9 Q. From the time you saw him to the time --

10 A. That I left.

11 Q. Y'all went separate ways?

12 A. Yes.

13 Q. Now, did you say that Matt worked in your
14 area, your unit there?

15 A. He was in my shift.

16 Q. So he was supposed to be there?

17 A. Yeah.

18 Q. In the area. And you were supposed to be
19 there in that area?

20 A. Yes, sir.

21 Q. Were there other -- other kids in that area at
22 the time?

23 A. Not in the area we were in.

24 Q. Other kids in the shower area?

25 A. Each room had its own shower area. And I was

Juvenile

-- CROSS BY MR. CANTRELL

1 in a room by myself, so I had my own.

2 Q. So you were not surprised that Matt was there,
3 because that was -- he was supposed to be in that unit?

4 A. Yeah -- or yes, sir.

5 MR. CANTRELL: I beg the court's indulgence?

6 THE COURT: Certainly.

7 BY MR. CANTRELL:

8 Q. Now, when you talked to Mr. Byers, did you --
9 how long had you been there when this happened at -- at
10 Hampton?

11 A. I don't remember, sir.

12 Q. Did you tell the officer, when talking to him,
13 that people at the Hampton would turn off cameras at
14 certain times?

15 A. Yes, sir, I did.

16 Q. Was that a true statement?

17 A. Not at the time, sir, no.

18 Q. So you told him something that was not true
19 when you talked to the officer about this incident?

20 A. Detective Byers?

21 Q. Yes.

22 A. Yes, sir.

23 Q. You told him that you knew more about
24 technology than people at the Hampton knew; didn't you?

25 A. I don't remember.

1 Q. Did you tell him that they would turn off the
2 cameras and do whatever to you?

3 A. I remember them saying turning off the
4 cameras.

5 Q. I'm asking, did you say that they, at the
6 Hampton, would turn off the cameras and do whatever to
7 you?

8 A. Yes, I said that at the time.

9 Q. Okay. Was that true?

10 A. No, sir.

11 Q. You say you did not tell anybody about this?

12 A. No, sir.

13 Q. Did you tell Detective Byers that you told
14 Kayla about it?

15 A. I told Kayla about it. She did not believe
16 me.

17 Q. Okay. So previously when you said you didn't
18 tell anybody, that was not true, was it? You did tell
19 someone -- or is it your testimony that you told
20 someone?

21 A. I said let law enforcement -- there was no law
22 enforcement or anybody brought in. From what I heard,
23 the investigation was done by the facility itself.

24 MR. CANTRELL: I'm sorry, Your Honor. Just a
25 little bit longer.

Juvenile

-- CROSS BY MR. CANTRELL

1 THE COURT: Okay. Take your time.

2 (Pause.)

3 BY MR. CANTRELL:

4 Q. Did you report to Detective Byers that you had
5 been assaulted on other occasions at the Hampton?

6 A. I don't remember.

7 Q. You don't remember. Did you tell Mr. Byers
8 that a Mr. Darius had assaulted you?

9 A. I don't remember.

10 Q. If you did tell Detective Byers that, was it
11 true?

12 A. I don't remember saying that.

13 Q. If you said it, was it true?

14 A. No.

15 Q. Were you assaulted by Mr. Darius?

16 A. No.

17 Q. Were there times when you would pass out and
18 then find yourself in your bedroom with nothing but
19 your underwear on; did that happen?

20 A. No, sir.

21 Q. Did you tell Detective Byers that that sort of
22 thing happened?

23 A. I don't remember.

24 Q. If you told Detective Byers that, that was not
25 true, was it?

1 A. No, sir.

2 Q. Did you ever make a statement or tell
3 Detective Byers anything about being assaulted and
4 being pile driven into the floor or thrown up against
5 the wall?

6 A. I don't remember, sir.

7 Q. Do you remember telling Detective Byers about
8 another young man there being restrained or assaulted,
9 and that Mr. Darius said that he would kicked them in
10 crotch, put them in a choke hold, and put them to
11 sleep; do you remember telling Detective Byers all of
12 that?

13 A. Yes, sir.

14 Q. Was that true?

15 A. Yes, sir.

16 Q. That happened?

17 A. Yes, sir.

18 Q. And you reported it?

19 A. I can't remember.

20 Q. Okay. Now, a while ago I asked if you --
21 Darius had assaulted you. You're saying that he never
22 assaulted you, but you reported him assaulting other
23 people?

24 A. The restraints were done in an unorderedly
25 fashion.

Juvenile

-- CROSS BY MR. CANTRELL

1 Q. What about kicking him in the crotch or
2 throwing him up against the wall; did any of that
3 happen?

4 A. That usually happened to the other kids. That
5 wasn't me. I wasn't violent enough.

6 Q. Did you report kids being drug across the
7 asphalt?

8 A. I don't remember, sir.

9 Q. If you did -- if you said that, was it true or
10 untrue?

11 A. Yes, sir.

12 Q. Yes, sir? It wasn't true?

13 A. True.

14 Q. So you did see that; that's your testimony?

15 A. Yes, sir.

16 Q. Are you having trouble remembering a lot of
17 what you told Detective Byers; is that true?

18 A. Yes, sir.

19 Q. And you did tell him some things that were not
20 true?

21 A. At the time, sir, yes.

22 Q. In fact, when you talked to Detective Byers,
23 you reported all sorts of things about staff members at
24 the Hampton?

25 A. Yes, sir.

1 Q. And you reported some things that were not
2 true by your own admission?

3 A. Yes, sir.

4 MR. CANTRELL: I don't have any further questions.

5 THE COURT: Redirect?

6 MR. TOOKER: Nothing on redirect, sir.

7 THE COURT: You can step down. Anything from the
8 State? I've read and looked over your memo and the
9 Curtin (ph) case, very well drawn by Judge Anderson.
10 Mr. Cantrell, do you have any comments?

11 MR. CANTRELL: Your Honor, only that I don't
12 believe the State has met the burden as to whether
13 the -- the incident alleged actually happened by clear
14 and convincing evidence. I don't believe the
15 connection would be sufficient.

16 And going beyond that, if you get beyond that --
17 the connection, the circumstances under the case law to
18 warrant the admission of this evidence, let alone the
19 prejudicial value. I don't believe it, in any way,
20 outweighs the prejudicial value -- the prejudicial
21 effect, I should say, as to the defendant. So I do
22 believe -- we would ask this court to deny the -- deny
23 this evidence, suppress it.

24 THE COURT: Mr. Tooker.

25 MR. TOOKER: Thank you, sir. With regards to the

1 initial standard, of course, which is clear and
2 convincing evidence, part of that -- the Curtin case
3 talks about how it is that the State met that burden in
4 that case, and that case was merely testimony of the
5 victims.

6 I understand in this case, our victim -- or our
7 common scheme or plan witness, admitted to saying
8 things to the officer that weren't true. In my
9 estimation, that makes what he did say more credible.
10 And as much as he clearly knows the difference between
11 the truth and a lie, he admits to things that are lies,
12 and then acknowledges the things that he said are true.

13 THE COURT: Well, I disagree with you on that. I
14 I think that stands truth on its head, credibility.
15 But go ahead.

16 MR. TOOKER: Yes, sir. That being said, I -- you
17 know, the standard is not beyond a reasonable doubt,
18 which is clear and convincing. I think he articulated
19 things in a way that indicates the realities, as
20 opposed to being sort of a blind allegation of
21 touching. He describes it. And then it very much does
22 seem real.

23 Assuming Your Honor were to find that standard
24 met, the bigger issue in this case, in my estimation,
25 is whether -- whether the acts were sufficiently

1 similar to warrant admissibility under a common scheme
2 or plan.

3 Like I said in that memo, this is pursuant to
4 State vs. Wallace -- excuse me -- State v. Hallman 298
5 SC 172. We're looking for age of the victims when the
6 abuse occurred; relationship between the parties;
7 location where the abuse occurred; use of force or
8 threats, and the manner of the occurrence. For
9 instance, the type of sexual battery.

10 Now, I don't think we check off every box. But
11 we do have a similar relationship between the parties.
12 We have similar ages of the victims. We have a
13 circumstance where, based on the alleged perpetrator's
14 role, he's in a position over them at this facility.

15 And the acts themselves, I think, this is why I
16 put in that Curtin case, indicate to me at least, there
17 is a progression. The initial act rebuffed by this
18 witness, while not rebuffed by our victim, led to
19 ultimately sexual abuse. So that is why I think that,
20 in this case, it's indicative of that common scheme or
21 plan, to isolate kids in an area where they are not on
22 the camera. And in that environment, then making
23 advances, sexual advances.

24 And having made a sexual advance, to see whether
25 or not the kid is interested. One kid participates,

1 the other kid rebuffs. So that's why I do think that
2 it is relevant, and I think that it meets the
3 definition of common scheme.

4 THE COURT: Well, I'm -- I'm not going to allow
5 it. The memorandum is very well done, but for one
6 important key, I agree with everything the State has to
7 say. But based on my determination that the
8 credibility of this witness is shaky at best, I cannot
9 go so far as to find by clear and convincing evidence
10 that the incident occurred, so I'm not going to allow
11 it.

12 MR. TOOKER: Thank you, sir.

13 THE COURT: Is the State ready?

14 MR. TOOKER: Yes, sir, one moment. Yes, sir, at
15 this point, Your Honor, the State would rest its case.

16 THE COURT: All right. Well, I'll let you rest
17 formally in front of the jury. But in order to keep
18 them from coming in and out, we will treat this at the
19 point where the State has rested. Any motions?

20 MR. CANTRELL: Yes, Your Honor. At this time, I
21 would move for directed verdict, in that the testimony
22 taken in the light most favorable to the State, the
23 State has not sufficiently met its burden.

24 I do realize that, quite candidly, I am arguing
25 a great deal on credibility. And that generally

1 speaking, that's not an argument for a directed
2 verdict. But, Your Honor, I believe in this case, with
3 all of the issues as to credibility, or lack of
4 credibility, without asking you to evaluate the
5 evidence of the videos and that sort of thing, but the
6 credibility itself.

7 We have heard several statements by the State's
8 witnesses themselves as to the alleged victim's -- for
9 truthfulness and veracity. Statements that he knew how
10 to get out if there was -- for lack of a better way, a
11 common scheme or plan on his part as to how to get out
12 of the facility. And by his own testimony, he said
13 that.

14 I believe that to that point, the lack of
15 credibility rises to the point that the State has not
16 sufficiently met its burden. Then add to that, the
17 fact that the evidence is insuf -- insufficient --
18 excuse me. I would ask the court to direct a verdict.

19 THE COURT: I deny the motion. Credibility is, as
20 you observed, for the jury. While it was on me
21 regarding the rule 404 issue, it's on the jury
22 regarding the guilt or not -- or not guilty
23 determination. I find that there is direct evidence.
24 And I'm not going to comment a lot on it, but there is
25 at least corroboration of -- to give some credibility,

1 the video of the 31st certainly showed the door being
2 manipulated by someone.

3 The testimony was that it was the defendant and
4 the same sort of manner as the victim testified the
5 event occurred. So I'm not saying that's the only
6 evidence, obviously, because I can't. But there is at
7 least enough evidence for this to go to the -- to the
8 jury.

9 MR. CANTRELL: Thank you, Your Honor. Note my
10 objection for record.

11 THE COURT: Okay. Yes, sir. All right, Mr.
12 Holder, can you hear me?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: We have reached a point of the trial
15 where you have a right to present a defense if you
16 wish, but you do not have to present any defense. You
17 don't have to call any witnesses and you don't have to
18 testify.

19 You may call witnesses, if you have any
20 witnesses or -- you certainly have a -- have a right to
21 present a defense. However, you are presumed innocent
22 of this charge as you might have heard me say already,
23 and the State must prove your guilt beyond a reasonable
24 doubt before the jury could convict you of this
25 offense.

1 You have a right to testify -- does he have any
2 impeachable record?

3 MR. TOOKER: He has a prior conviction for 2004
4 that is outside the 10 year limit, that would be
5 impeachable otherwise. Because it's outside the 10
6 year, the State doesn't intend to use it.

7 THE COURT: Okay. If you -- if you testify, you
8 will be under oath, and have to answer questions of
9 course, which you have a right to testify if you wish.

10 If you exercise your constitutional right to
11 remain silent, I will tell the jury that that is what
12 you have done. That you have exercised your
13 constitutional right to remain silent. I will tell
14 them that they cannot use that against you in any way
15 whatsoever. I will remind them that you are presumed
16 innocent and need not prove your innocence.

17 I will tell them they cannot discuss among
18 themselves your exercise of your right to remain
19 silent. And I will tell them they cannot even factor
20 it into their independent, own evaluation of the
21 evidence to make a determination. That is, they cannot
22 in any way use your -- exercise your right to remain
23 silent against you.

24 Do you do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you have any questions about it?

2 THE DEFENDANT: (Nodded negatively.)

3 THE COURT: You have to answer yes or no.

4 THE DEFENDANT: No. No, sir.

5 THE COURT: All right. Mr. Cantrell, you have
6 explained that to him?

7 MR. CANTRELL: Yes, sir. We've had some detailed
8 discussions about that. I do believe he understands it
9 fully.

10 THE COURT: Okay. Mr. Holder, this is your right.
11 It's not your attorney's. It's certainly not mine or
12 the State's. You -- we're at the point where hopefully
13 you have discussed whether or not that is what you wish
14 to do.

15 And at this point, do you plan to testify or
16 exercise your right to remain to remain silent?

17 THE DEFENDANT: Yes, sir. I plan to testify.

18 THE COURT: Okay. All right. Then -- yes, sir.

19 MR. CANTRELL: And, Your Honor, with that in mind,
20 I know that we've had the jury here for a little while,
21 but I would ask for as much as 10 minutes to review or
22 to talk to him, but also I have a couple of witnesses
23 that were going to be here that I haven't spoken to
24 yet.

25 THE COURT: All right. Now, I didn't have a

1 witness list.

2 MR. CANTRELL: I -- I talked to Mr. Tooker about
3 that. Some of them, I did not have names or weren't
4 sure who would be here. But I can get names and bring
5 that in.

6 THE COURT: Okay. All right. Well, yeah, I -- it
7 would be nice to have, but Mr. Tooker you --

8 MR. TOOKER: Yes, sir. The State's requests would
9 be just to ensure that we don't have any jurors that
10 are familiar with these folks. Maybe, even to send a
11 note back --

12 THE COURT: No. I would rather do it on the
13 record. So if you'll hand me up their names and some
14 sort of other -- if there is identifying information.

15 MR. CANTRELL: I will get those names and bring
16 that in. And then if I can have, just like I said, a
17 few minutes to communicate with these people.

18 THE COURT: Okay. We will take about a 10 minute
19 break.

20 MR. TOOKER: The State would requests also, dates
21 of birth, if you can get them, so that I can run a NCIS
22 --

23 THE COURT: Right. Okay.

24 MR. CANTRELL: Sure. I don't think that will be a
25 problem. I -- nobody is too concern about it.

1 THE COURT: Okay. We'll take about a 10 minute
2 break.

3 MR. CANTRELL: All right. Thank you, Your Honor.

4 (After a recess, Court reconvened.)

5 THE COURT: All right. Is the State ready?

6 MR. TOOKER: I do have one request, Your Honor.

7 THE COURT: Okay. Well, let's see, we've got a
8 bailiff talking.

9 (Pause.)

10 MR. TOOKER: The investigator is going to run a
11 NCIC on each of them. So my request would just be that
12 -- for their case, that they call the Defendant, so we
13 can get the NCIC -- I know we can't force them. It's
14 just my request.

15 THE COURT: I'm not going to make them do that.
16 Your staff is, I'm sure, is nimble I believe. All
17 right. Let's bring in the jury.

18 (Whereupon, the jury entered the courtroom at
19 10:00.)

20 THE COURT: Good morning. And I know now that you
21 are convinced that I missed that class in kindergarten,
22 when they taught you how to tell time. But we had some
23 matters to take up again, outside your presence, so we
24 have been working since shortly after nine, and we're
25 just now ready to move forward.

1 We -- the defendant -- the posture -- the
2 posture of the case now is that the State has presented
3 all of its witnesses, and I'm going to let them
4 formally rest on the record in just a moment. Then the
5 defense has the right to present witnesses if it
6 wishes. There is no requirement.

7 Along those lines, it's anticipated that the
8 following three individuals may testify. I did not
9 have these names when I went over that list the other
10 day, so if any of you are related by blood or marriage,
11 or are close personal friends of one -- any -- one or
12 more of these individuals, please stand. Mareen Thorny
13 Rickerd or Rickard; Katrina Jones; and Josh Huckabee.
14 No one stands. Thank you.

15 All right. And we are now -- it's Thursday, I
16 realize that. So we are going to order lunch today, so
17 instead of having a long lunch hour, we can move along
18 a little quicker.

19 MR. CANTRELL: Thank you, Your Honor. If it
20 please the court, I would call Jonathan Matthew Holder
21 to the stand.

22 THE COURT: Please come up and be sworn.

23 (Pause.)

24 THE COURT: And the Clerk is reminding me that I
25 said I was going to let the State rest on the record,

J. HOLDER -- DIRECT BY MR. CANTRELL

1 and then I didn't let them.

2 MR. TOOKER: Yes, sir. At this point, the State
3 rests.

4 THE COURT: Okay. Thank you. All right, if you'd
5 put your left hand on the Bible and raise your right.

6 JONATHAN MATTHEW HOLDER, having
7 been first duly sworn, testified as follows:

8 THE CLERK: If you would you have a seat and state
9 your name for the record.

10 THE WITNESS: Jonathan Matthew Holder.

11 **DIRECT EXAMINATION BY MR. CANTRELL:**

12 Q. You go by Matt; is that correct?

13 A. Yes, sir.

14 Q. All right. I'm going to hand you your water
15 without objection. I think you said some allergy
16 issues?

17 A. Yes, sir. Thank you.

18 Q. Let's keep that nearby. If I ask you
19 questions, and you don't understand them, or don't hear
20 them tell me before --

21 A. Okay.

22 Q. -- you even try to answer. And, Matt, where
23 do you live?

24 A. I live in -- currently live in West Minister,
25 South Carolina.

1 Q. And are you originally from this area?

2 A. Yes, sir, I am. From Pickens.

3 Q. Born and raised in the Pickens County area?

4 A. Yes, sir.

5 Q. How old are you? How old are you?

6 A. I'm 33.

7 Q. And are you married?

8 A. Yes, sir.

9 Q. What your wife's name?

10 A. My wife's name is Misty.

11 Q. Is Misty right here in the courtroom?

12 A. Yes, sir. She's in the courtroom.

13 Q. And do you have any children?

14 A. Yes, sir, I have five. Three girls -- excuse
15 me -- two girls and three boys, and possibly one on the
16 way.

17 Q. All right. Well, I was going to say, this is
18 a test, but you've already failed the first step with
19 the numbers of girls. But tell me -- tell me their
20 names and ages?

21 A. My oldest is Child1 . She is 11. And then my
22 next, Child2 . She turned seven in November. And
23 then my oldest son, Child3

24 He'll -- he'll be six next month on the 10th
25 of June. And this past week, we had two birthdays. My

J. HOLDER -- DIRECT BY MR. CANTRELL

1 middle son, Child4 , he turned three on the 19th. And
2 my youngest, Child5, he just turned one on the 15th so
3 that is --

4 Q. Well, you past that test.

5 A. Thank you.

6 Q. Okay. Matt, let me ask you, have you ever
7 been employed at the Hampton Residential Treatment
8 Facility here in Pickens?

9 A. Yes, sir.

10 Q. And when were you employed there?

11 A. I was employed there from March of 2011
12 through June of -- I was actually still working there
13 through June. I'm not sure the date I was actually
14 terminated, but the last day I was working was June
15 5th.

16 Q. And what was your job description?

17 A. I was a Direct Care Staff was my title. But
18 my description, I did like daily operation for taking
19 care of the kids, making sure they took their bathes,
20 making sure they ate right. Took their medicine. We
21 had to take them to the doctor. We have to take them
22 on, you know, different outings if they had to leave
23 the facility. Their daily -- their gym time. You
24 know, they had some time they had to get in -- you
25 know, they had daily -- as you heard some of the

J. HOLDER -- DIRECT BY MR. CANTRELL

1 facility directors say, there was a daily check list we
2 had to go by and that we had to do. And then we had to
3 do a moderate amount of paperwork, you know, just a
4 daily journal on each one, and their progress and their
5 score.

6 Q. Now, would you be assigned to a particular
7 group on -- on your shift?

8 A. Yes, sir.

9 Q. How many kids are usually in the Hampton?

10 A. In -- on a group or in the whole?

11 Q. In the whole facility.

12 A. Anywhere -- around 50, I think, 52 one -- 51
13 is the max possibly.

14 Q. And how many individual groups did they have?

15 A. I think there's five, currently five units.

16 Q. And we've heard different names, one of them
17 is Paladin?

18 A. Yes, sir.

19 Q. And that sort of thing?

20 A. Yes, sir.

21 Q. They would name the groups?

22 A. Yes, sir.

23 Q. When you would come on shift, would you be
24 assigned to one particular group?

25 A. Yes, sir, unless they needed, you know,

J. HOLDER -- DIRECT BY MR. CANTRELL

1 some -- somewhere else, but primarily yes.

2 Q. Was it always the same group or would you be
3 assigned possibly to different groups, some different
4 groups?

5 A. It was always the same.

6 Q. What was the name of the group was were you
7 assigned to?

8 A. The Paladin unit.

9 Q. Is that the group that Complainant was
10 assigned to?

11 A. Yes. He was actually on two different units,
12 but that was -- that was -- at the time --

13 Q. They move from group to group --

14 A. -- as they progressed.

15 Q. -- as needed there?

16 A. Yes.

17 Q. Now, did they train you? Did you have to have
18 specialized training before you came there? Tell us
19 about that.

20 A. Yes. Our training consisted of a week to two
21 weeks. We had to learn the basics like CPR, first aid,
22 you know, how to take care of them in the event they
23 were choking, or their hearts stops, you know, or --
24 you know, that they need to CPR, things like that. And
25 we also -- part of the job was -- was called TCI. It's

J. HOLDER -- DIRECT BY MR. CANTRELL

1 a tactical crisis intervention. When we were working
2 with kids with psychiatric problems, a lot of times, as
3 you heard there, when they would act out, they would
4 have to be restrained. And there was a certain way --
5 for their safety and ours, we had to do that. That
6 took close to a week just for that.

7 And then a lot of privacy laws, you know,
8 different things like that. We have, you know, working
9 with children in state custody and all, it was a whole
10 lot of things of that nature.

11 Q. Now, you were Direct Care Staff. There were a
12 fair number of people that would be considered Direct
13 Care Staff; is that correct?

14 A. Yes, sir. Approximately 80.

15 Q. Eighty on staff?

16 A. Yes, sir.

17 Q. How many would be assigned on a -- on a shift
18 to an unit?

19 A. To each unit would have roughly four, four
20 staff.

21 Q. And how many kids would be in the unit?

22 A. Depending on radio of, you know, just anywhere
23 around dozen or so, you know, 10 -- 10 to 12.

24 Q. So we are talking --

25 A. Certain units were bigger than other ones.

J. HOLDER -- DIRECT BY MR. CANTRELL

1 Q. So we are talking two or three kids per staff
2 member?

3 A. Yes.

4 Q. Generally?

5 A. Yes, sir.

6 Q. Now, this is -- as the name would imply, a
7 psychiatric facility; is that correct?

8 A. Yes, sir, it is.

9 Q. And you've already heard that there are
10 certain requirements or diagnosis or indications for
11 each kid that comes into that facility; is that your
12 understanding?

13 A. Yes, sir.

14 Q. And just -- did these kids require fairly
15 significant monitoring or attention or care?

16 A. Yes, sir. They -- they were under 24 hour
17 watch. We had to do 15 minute checks of them. You
18 know, they were on -- under doctor's and nurse's care.

19 Q. Now, we're not talking about physical
20 limitations or anything, are we; or was it all --

21 A. It was all mental.

22 Q. Psychiatric?

23 A. Yes, sir, psychiatric.

24 Q. And what shift did you normally work?

25 A. I worked night shift.

J. HOLDER -- DIRECT BY MR. CANTRELL

1 Q. What time would you go in?

2 A. At -- from 6:00 at night to 6:00 in the
3 morning.

4 Q. And while there, would you on occasions have
5 opportunity to be at -- at any place in the facility?

6 A. Yes, sir. As ratio -- like I said, it
7 depended a lot of times on ratio, or the staff had
8 called out, you know. We had to -- someone always had
9 to be there, you know.

10 Q. Now, once there and on shift, would your
11 duties require you to go to various --

12 A. Yes, sir.

13 Q. -- areas in the facility?

14 A. Yes, sir, a lot of times.

15 Q. If a kid were to be going from one place to
16 other in a facility, was it required that he have staff
17 with him?

18 A. Yes, sir. They have to be accompanied at all
19 times.

20 Q. And also certain units could not intermingle
21 with each other?

22 A. Yes, sir. No units are allow to mingle
23 together.

24 MR. TOOKER: Judge just briefly, as this is his
25 witness, I would object to these leading questions.

J. HOLDER -- DIRECT BY MR. CANTRELL

1 MR. CANTRELL: Okay.

2 BY MR. CANTRELL:

3 Q. So, you're in a normal shift. How many parts
4 of the facility might you go to?

5 A. Anywhere from three to four in a shift at
6 least.

7 Q. Was there ever any time on your shift when you
8 would not be with other staff, or with some of the
9 kids? Would there be times when you would have to do
10 work alone or by yourself, whether it's paperwork or
11 whatever?

12 A. Yes, sir.

13 Q. The majority of the time would be with kids or
14 not with kids?

15 A. With kids.

16 Q. Okay. And you -- you already heard, but there
17 were cameras in this facility, surveillance type
18 cameras; is that correct?

19 A. Yes, sir.

20 Q. And were you given instructions on whether to
21 make efforts to always stay on-camera?

22 A. Yes, sir. It's our -- we're supposed to try
23 to stay, but it's really impossible to know because we
24 don't have access to what cameras see what, you know.
25 You're surrounded by things on the ceiling, the little

1 globes, so.

2 Q. Do you operate while on shift as though all
3 cameras are functional and all cameras are on?

4 A. Yes, sir.

5 Q. Observing. For lack of a better way of
6 putting it, would each child there be considered, in
7 your opinion, high maintenance or require a lot of
8 attention?

9 A. Yes.

10 Q. If you were with a -- a child, in any location
11 in the facility and his needs or his actions required
12 you to be right there, if it took you off camera, were
13 you allowed to go off camera?

14 A. Yes.

15 Q. And where there areas where there were no
16 cameras? By definition, I would have to say the shower
17 area would not have cameras. Were there other areas
18 that would not have cameras?

19 A. Yes, sir.

20 Q. Let's talk about Complainant . You -- you
21 know Complainant?

22 A. Yes, sir.

23 Q. Do you remember him being at the Hampton?

24 A. Yes, sir.

25 Q. Do you remember when he came there?

J. HOLDER -- DIRECT BY MR. CANTRELL

1 A. He -- he came roughly in the Fall, October,
2 November, 2011.

3 Q. And you had already began employment there?

4 A. Yes, sir. I had been there for close to a
5 year, eight months or so.

6 Q. Was he immediately assigned to your unit or do
7 you remember?

8 A. I'm not 100 percent -- I believe so. When he
9 first came, I believe he was on my unit.

10 Q. Was there a time when he was moved to another
11 unit?

12 A. Yes, yes, sir. I think towards the end. And
13 I also was different -- different units as well, so.

14 Q. In -- during the time that Complainant was there,
15 was it necessary for you to occasionally accompany him
16 places inside the facility?

17 A. Yes, sir.

18 Q. Would the same be true with every other young
19 man on the unit that you were assigned to?

20 A. Yes, sir.

21 Q. No individual was assigned to any particular
22 child, it was assigned to the whole unit; is that
23 correct?

24 A. Yes, sir. That's correct.

25 Q. Now, let's jump ahead, Matt, to an occasion

1 where you would have been involved with Complainant cleaning
2 in the laundry room. Why would Complainant want to clean
3 the laundry room?

4 A. It was part of his daily chores. He had to --
5 he had to do the laundry as part of his chores. But in
6 addition, with his level that he was on, he -- in order
7 to earn extra money, that was a thing for him to do.

8 Q. So, he could earn money not to go out to -- to
9 a convenience store, but to use there in the facility?

10 A. Somewhat. We -- they have like clothing
11 allowances. And if they had field trips, you know, we
12 would take them shopping, things like that.

13 Q. Now, whose idea was it for him to earn money
14 by working in the laundry?

15 A. It's one of the options for -- for them to do.

16 Q. Did he choose that option?

17 A. Yes, sir, he did.

18 Q. So, it was -- was it his decision, I want to
19 earn these extra points or this money, so can I do
20 laundry?

21 A. Yes.

22 Q. Had he ever done it before to your knowledge?

23 A. He had -- he had did laundry, as far as I
24 know. He had, you know, folded clothes and all.

25 Q. But as far as doing laundry, like you were

J. HOLDER -- DIRECT BY MR. CANTRELL

1 doing this day, has he ever done that before?

2 A. No. He had no knowledge of how to operate the
3 washers or dryers or anything.

4 Q. So this was something new or something
5 different?

6 A. Yes, sir.

7 Q. But he asked for the opportunity to do this?

8 A. Yes, sir.

9 Q. If a young man was going to be doing a job
10 like that, was it required that you stay with him?

11 A. Yes, sir.

12 Q. Could -- were you allowed at any point to
13 leave him alone?

14 A. No, sir.

15 Q. Now, in the laundry area, were there any
16 particular reasons that you could not leave him alone?

17 A. Due to chemicals, you know, electrical things,
18 you know, with suicide risk, stuff like that, you know.
19 And self harm, you know, especially with the detergent
20 -- you know, any cords, wires.

21 Q. All of those are considerations that you on
22 staff had to make with all of the kids there?

23 A. Yes, sir.

24 Q. So on the day that we're talking about, did
25 you, in fact, take him to the laundry room?

J. HOLDER -- DIRECT BY MR. CANTRELL

1 A. Yes, sir.

2 Q. And while there, what sort of jobs did he do?

3 A. While he was in there, he did -- you know, he
4 learned how to work the washer and did loads of clothes
5 or towels in -- in the washer. And then also dried
6 those. I'm not sure if he was able to finish the loads
7 drying, you know. It's a time process. But I believe
8 so, at least one. But we did -- the laundry room was
9 also in a mess, too. You know, shoes and stuff kind of
10 scattered around. Housekeeping is kind of a hard thing
11 for us having to watch them, so that was why we gave
12 them the chores, you know.

13 So cleaning up in there, wiping down the walls.
14 Wiping down the washers, dryers. Cleaning up lint, any
15 papers, things like that.

16 Q. Was he, in fact, relatively busy or active or
17 doing something the entire time he was there?

18 A. Yes, sir, he was.

19 Q. Not just throwing clothes in the washer and
20 starting it up?

21 A. No.

22 Q. Okay. I hand you State's Exhibit No. 7; is
23 that the doorway into the laundry room?

24 A. Yes, sir.

25 Q. Now, we can't tell by this, but to the sides

J. HOLDER -- DIRECT BY MR. CANTRELL

1 and behind the washer and dryer, was there any room or
2 space, or did they pretty well fill up that space of
3 the laundry room?

4 A. May be a tiny -- tiny --

5 MR. TOOKER: Again, I'm going to object real
6 quick. I know a little leading is okay, but when he --

7 THE COURT: Just rephrase your question.

8 BY MR. CANTRELL:

9 Q. How much space would be left around the washer
10 and dryer in that room?

11 A. Virtually no space.

12 Q. And what are these items along the floor?

13 A. Those are shoes of the clients.

14 Q. Is that a fairly common practice for the shoes
15 to be in there?

16 A. Yes. They -- due to suicide reasons, they
17 can't have their shoes or shoe strings.

18 Q. Is there any space in that room, other than
19 what is shown on that picture?

20 A. No, sir.

21 Q. And is this the doorway to the laundry room
22 also?

23 A. Yes, sir.

24 Q. The same one. What is this area in front of
25 the doorway?

J. HOLDER -- DIRECT BY MR. CANTRELL

1 A. In front of the doorway is what we call the
2 dining area, with the picnic tables, or the Common area
3 for the pod.

4 Q. And what pod was that?

5 A. That is the Paladin Unit.

6 Q. Okay. Is this another closer picture of the
7 laundry room?

8 A. Yes, sir.

9 Q. All right.

10 THE COURT: I've been remiss in not requiring you
11 to tell us what numbers.

12 MR. CANTRELL: I apologize.

13 BY MR. CANTRELL:

14 Q. The picture showing the picnic area is State's
15 Exhibit No. 8; is that correct?

16 A. Yes, sir.

17 Q. And the larger picture of the laundry room is
18 State's Exhibit No. 10; is that correct?

19 A. Yes, sir.

20 Q. So that would be the area where Complainant would
21 be doing laundry and working in the laundry room?

22 A. Yes, sir.

23 Q. And approximately how long did y'all stay
24 there?

25 A. It -- you know, we were in and out of there,

J. HOLDER -- DIRECT BY MR. CANTRELL

1 having to get cleaning supplies, bringing clothes out
2 to fold. I'm not sure the whole time just spent on
3 laundry. But we were never in there long at all, you
4 know, other than the time to start the washers and
5 things like that.

6 Q. So when the washer was going, what -- the
7 washer and dryer were both going, what else would
8 Complainant be doing?

9 A. He was cleaning. Like -- like I said, we were
10 spraying down the washer and the dryer, cleaning all
11 the dust, sweeping out. He also mopped, I think, in
12 there.

13 Q. Would he have mopped the other area or just
14 that one -- just the small floor in the laundry room?

15 A. What do you mean by the other area, the unit?

16 Q. Outside the unit itself?

17 A. Yes, sir.

18 Q. So would you and Complainant have been outside in
19 that picnic or Commons area also?

20 A. Yes, sir.

21 Q. And if you can remember, about how long would
22 you have stayed -- and you can relate it to a cycle on
23 the washer and dryer for that matter. That would be
24 fine. About how long did you and Complainant stay in this
25 whole area working for him to earn money?

1 A. The whole process was at least probably an
2 hour or so maybe. It's roughly, what, 30 or 45 minutes
3 for a load, so maybe an hour or an hour and a half
4 total cleaning, laundry, mopping, you know, the whole
5 area.

6 Q. Now, did you say to your knowledge Complainant had
7 not done those specific jobs before?

8 A. Yes, sir. Not to my knowledge.

9 Q. Had other kids in the units done those jobs
10 before to your knowledge?

11 A. Yes, sir.

12 Q. And would that be a common procedure and a
13 common amount of time for them to work doing laundry?

14 A. Yes, sir.

15 Q. During that time, was there anything
16 inappropriate done between you and Complainant ?

17 A. No, sir.

18 Q. During that time, were you touched or was
19 Complainant touched in any inappropriate -- in any
20 inappropriate way?

21 A. No, sir.

22 Q. Now, that pod area, is that an area where kids
23 presumably with staff could or would walk through at
24 any given time?

25 A. Yes, sir. They were there the whole time.

J. HOLDER -- DIRECT BY MR. CANTRELL

1 Q. Is that close to the actual residential area
2 where they sleep, where they have their bedrooms?

3 A. Yes, sir.

4 Q. Now, do they all have individual bedrooms?

5 A. No, sir.

6 Q. Okay, so they -- how many beds are in the
7 unit?

8 A. In the unit total, a bed for each -- you know,
9 each child. So, I think Paladin maybe had 10 to 12
10 beds in it.

11 Q. Were they all in one room?

12 A. No, sir.

13 Q. How many --

14 A. I think four rooms of three, if I remember
15 right.

16 Q. Do you remember what -- what time of day this
17 was?

18 A. Well, I go to work at 6:00. And we do the
19 dinner and showers and gym time. It would have been at
20 least roughly eight something, 9:00, around in there,
21 maybe a little later.

22 Q. Would it be uncommon for a young man to go do
23 laundry or do chores at 8:00 at night?

24 A. No, sir.

25 Q. And after his chores were done, did he earn

1 his points?

2 A. Yes, sir.

3 Q. And after his chores were done, did he go back
4 to the residential portion of the pod?

5 A. Yes, sir.

6 Q. Did you have any more interaction with him
7 before you left shift the next morning?

8 A. At some point, he went to bed, you know. So
9 then I was there doing checks all night. So -- but
10 eventually, him and the rest of the kids went to bed.

11 Q. Do you remember anything out of the ordinary,
12 unusual from that night after the chores were done?

13 A. No, sir, not at all.

14 Q. And did Complainant finish his tasks, did he finish
15 the laundry or do you know?

16 A. Maybe all but the last load in the dryer.
17 Because I think I did -- me and the other staff
18 members, and myself, we ended up folding the last load
19 of towels probably. They took the longest, so we
20 usually did those last.

21 Q. So that was going to be my next question.
22 Sometimes staff has to finish attending to some of
23 these tasks?

24 A. Yes, sir.

25 Q. And to the best of your knowledge, how many

J. HOLDER -- DIRECT BY MR. CANTRELL

1 staff would have been in that pod that night?

2 A. There was at least two other staff that night.

3 Q. Do you remember approximately what month that
4 was? When that was?

5 A. It was in May of 2012.

6 Q. In fact, you've heard the dates discussed.
7 You don't disagree with those dates?

8 A. No. I had actually just came back to work
9 from my son being born.

10 Q. Had you been out -- how long had you been out
11 with your son being born?

12 A. I was out total like two weeks when he was
13 born. And then just before that, I was out on a
14 leave -- we lost our house in a fire, and my mom four
15 days later. So I was out for an extended period. My
16 wife had went into early labor, and so I was trying to
17 do too much.

18 Q. So a lot of things going on?

19 A. Yes, sir.

20 Q. How many days had you been back on duty?

21 A. Maybe two or three days.

22 Q. So you had been absent for several weeks prior
23 to this?

24 A. At least, like I say, a week or two weeks just
25 from the birth.

J. HOLDER -- DIRECT BY MR. CANTRELL

1 Q. Had you had any contact with Complainant in the
2 couple of days or so before this incident? Had you
3 been on that pod or had any contact with Complainant before
4 this day?

5 A. I'm not 100 percent. I believe I had been on
6 that -- on that pod, whether it be for kitchen duty,
7 you know, or just having to go over there.

8 Q. Okay. Now, let's talk about -- at some time,
9 as best you remember, when in relation to the laundry
10 room would you have taken Complainant to the laundry?

11 A. Will you ask that one more time?

12 Q. When did you take Complainant to the library?

13 A. I took Complainant to the library on a -- I was
14 actually on another unit that night. And I took him to
15 the library. I was asked by my supervisor to take him
16 because he needed -- he wanted to pick up some books.
17 But it was on a night shift as well.

18 Q. So it would have been at night after 6:00?

19 A. Yes, sir.

20 Q. But you were not working the Paladin Unit that
21 night?

22 A. No, sir.

23 Q. And do you remember who his staff -- the staff
24 member was that asked you to take him to get a book?

25 A. It was our supervisor, Tony Duncan.

J. HOLDER -- DIRECT BY MR. CANTRELL

1 Q. And do you remember why they needed your
2 assistance?

3 A. I think maybe with the ratio. We were having
4 problems on our unit. So the supervisor had to be over
5 there anyway, so he wasn't able to go and take him. So
6 he asked me to take him.

7 Q. Was that uncommon?

8 A. No, sir.

9 Q. Now when you went in that night, did you have
10 any idea you would be asked to take -- get from one --
11 from another unit to do anything?

12 A. No, sir.

13 Q. So it -- how far was it from the first time
14 you and Complainant started going to the library, how far
15 was it to the library from there?

16 A. From his unit?

17 Q. Yes. Uh-huh.

18 A. Maybe 30 or 40 yards, maybe, a minute walk.

19 Q. Did you have to walk from your unit to his
20 unit to get him?

21 A. Yes, sir.

22 Q. Okay. And this was something that was done at
23 his request?

24 A. Yes, sir.

25 Q. Just like the laundry room was at his request?

J. HOLDER -- DIRECT BY MR. CANTRELL

1 A. Yes, sir.

2 Q. And tell us about the pizza, is that the night
3 there was some pizza?

4 A. Yes, sir. I had -- it was like I had been
5 given a gift card. And I went to Miabes Pizza (ph) in
6 Easley -- actually my wife did, and brought the pizza
7 up there, and so we can have it that night. And I had
8 brought -- it's a pizza the size of this desk here. To
9 call it a large would be an understatement. It is a
10 table size.

11 Q. Had you ever done that sort of thing before?

12 A. Yes, sir, many times.

13 Q. And had other staff done it before?

14 A. Yes, sir.

15 Q. Even if there might have been some protocol
16 that said don't bring food, do people bring food
17 anyway?

18 A. Yes, sir.

19 Q. Do they share it with staff and kids in their
20 pod --

21 A. Yes, sir.

22 MR. TOOKER: Again, Judge. It's leading.

23 THE COURT: Yeah. Try not to lead.

24 MR. CANTRELL: All right, sir.

25

J. HOLDER -- DIRECT BY MR. CANTRELL

1 BY MR. CANTRELL:

2 Q. Had you ever brought pizza before?

3 A. Yes, sir.

4 Q. Had other people brought pizza?

5 A. Yes, sir.

6 Q. Who -- who was this shared with?

7 A. It was shared with the Phoenix Unit and other
8 employees. And, you know, I gave him -- Complainant some
9 pizza that night as well.

10 Q. So you said Phoenix Unit, that night you were
11 working with the Phoenix Unit; is that correct?

12 A. Yes, sir.

13 Q. And Complainant was not with the Phoenix Unit?

14 A. No, sir.

15 Q. But you did -- did you bring it to him or did
16 y'all go get it after you got with him to go to the
17 laundry room?

18 A. We had went and got the pizza.

19 Q. Okay. Why did you go get pizza?

20 A. He had asked for it. It was kind of --
21 everybody in there knew. He said he knew I brought a
22 big pizza in, and was complaining about food. And --

23 Q. Did anybody else in the Paladin Unit get any
24 of that pizza?

25 A. No, sir.

J. HOLDER -- DIRECT BY MR. CANTRELL

1 Q. Just Complainant?

2 A. Yes, sir. He was the only one I interacted
3 with.

4 Q. And was that the reason -- he's the one that
5 got the pizza?

6 A. Yes, sir.

7 Q. Because he was -- because you were taking him
8 to the library?

9 A. Yes, sir.

10 Q. Are you sure about it?

11 A. Yes, sir.

12 Q. And you walked this distance to the library.
13 I'm showing you State's Exhibit No. 19; is that the
14 door to the library?

15 A. Yes, sir.

16 Q. And it is in -- we've seen a picture, but is
17 that the doorway that's in this larger Commons area?

18 A. Yes, sir.

19 Q. That is not a pod Commons area, that's the
20 Commons area for the entire facility; is that right?

21 A. Yes, sir.

22 Q. And is that where people congregate or walk
23 through?

24 A. Yes, sir.

25 Q. Routinely. And is this a picture of the door

J. HOLDER -- DIRECT BY MR. CANTRELL

1 that -- once it's open?

2 A. Yes, sir.

3 THE COURT: What's the number?

4 MR. CANTRELL: I'm sorry.

5 BY MR. CANTRELL:

6 Q. Number 20?

7 A. Yes, sir.

8 Q. Okay. And here on State's Exhibit 22, is this
9 a picture of one side of the library?

10 A. Yes, sir. The right side, I believe.

11 Q. And on State's 23, is this the left side of
12 the library?

13 A. Yes, sir.

14 Q. Do those two pictures depict the entire area
15 of the library?

16 A. Yes, sir.

17 Q. And does this picture depict the door -- the
18 door, this being State's 20; this picture depicts the
19 door open?

20 A. Yes, sir.

21 Q. And does this automatically stay open or
22 automatically close?

23 A. It automatically closes.

24 Q. You heard it described as heavy, maybe heavier
25 than this door; would you agree with that?

J. HOLDER -- DIRECT BY MR. CANTRELL

1 A. Yes, sir. It's way heavier. It's a big metal
2 door.

3 Q. And is that the area that Complainant went to, to
4 look for a book?

5 A. Yes, sir.

6 Q. Now, we've seen video of that. And you saw
7 the video. Does that pretty well accurately depict
8 what happened that night?

9 A. Yes, sir.

10 Q. We see a little bitty room, and shelves with
11 some number of books. Did it take Complainant a while to
12 decide what he wanted to do or what he wanted to get?

13 A. Yes, sir.

14 MR. TOOKER: Judge, again, he's leading.

15 THE COURT: Yes. Rephrase the question.

16 BY MR. CANTRELL:

17 Q. Did it take Complainant a while in the library?

18 A. Yes, sir. It took him a good while.

19 Q. What was he doing while he was in there?

20 A. He was sorting through books and magazines.

21 Q. And again, Matt, let me just ask you, was
22 Complainant, when you consider him -- when you were with
23 him, relatively high maintenance? Were you required to
24 stay close by and be attentive to him?

25 A. Yes, sir.

J. HOLDER -- DIRECT BY MR. CANTRELL

1 MR. TOOKER: Again, he's leading, Judge.

2 THE COURT: Wait.

3 MR. TOOKER: It's leading. If he wants to ask how
4 the child behaved, he can ask how the child behaved,
5 but not was he like this.

6 THE COURT: All right. Rephrase the question.

7 BY MR. CANTRELL:

8 Q. Were you required to focus on or keep
9 attention focused --

10 A. Yes. Constantly.

11 Q. And why was that?

12 A. Due to his safety, there is a -- as it was
13 stated by our facility director, there was a TV cart
14 there with a long extension cord, you know. There's --
15 there's a lot of safety issues. So he has to be -- we
16 constantly have to have eyes on them.

17 Q. And what was he doing this 18 minutes or so
18 that he was in there?

19 A. He was -- like I say, he was sorting through
20 different books. He ended up getting a few books,
21 magazines.

22 Q. Was it unusual for a kid to take that long in
23 the library?

24 A. They didn't get to go there a lot. So usually
25 when they did, they tried to get as much as they could,

1 you know.

2 Q. And let's back up, is he -- who requested that
3 he go to the library?

4 A. He requested to go.

5 Q. What time of day or night was this?

6 A. Roughly maybe eight something, 9:00 at night.

7 Q. What else would be going on back in the pod at
8 that point in time?

9 A. At that point, showers, and, you know, they
10 had already finished their meals. Maybe a little TV
11 time, just depending on what level they're on.

12 Q. So whether --

13 A. Group time.

14 Q. So whether they got to watch TV or how much,
15 depended on their level, and I guess their conduct; is
16 that true?

17 A. Yes, sir.

18 Q. But he has to go to the library; is that
19 correct?

20 A. Yes, sir.

21 Q. When did he get this pizza?

22 A. When did he eat it or when --

23 Q. When did he get it?

24 A. He got the pizza on the way to the library.

25 Q. And then when did he eat it?

J. HOLDER -- DIRECT BY MR. CANTRELL

1 A. He ate maybe a couple of bites on the way
2 there. And then ate the remainder of the pizza in the
3 library.

4 Q. Was he eating while he was looking for books
5 and magazines?

6 A. The first part, he was just eating pizza.

7 Q. Was he in the library by himself with no other
8 kids in there?

9 A. Yes, sir. There was no other kids.

10 Q. And we saw for the full 18 minutes to 20
11 minutes of this video, we saw you standing at the
12 door -- well, you saw it. But, I mean, the door going
13 back and forth, opening and close. There were times
14 when it would be closed for a short period of time.
15 Who was the person standing at that door, holding it
16 open, moving it?

17 A. I was holding the door.

18 Q. And was that you the entire time of the video?

19 A. Yes, sir.

20 Q. And it's opening and closing, or it's moving
21 further and sometimes it's -- just barely open,
22 sometimes it's wide open. Even a couple of times when
23 it appeared to close, you were the one in control of
24 the door; is that right?

25 A. Yes, sir.

J. HOLDER - - DIRECT BY MR. CANTRELL

1 Q. Was there any way to make it stay open other
2 than you holding it open?

3 A. No, sir.

4 Q. And, you know, and do you know what the
5 protocol is for keeping it up with kids in there?

6 A. The door has to remain open.

7 Q. And we see it moving and all that, what were
8 you attempting to do?

9 A. Whenever the door was open?

10 Q. Yes.

11 A. Basically holding -- the door was really heavy
12 for the most part. But a couple of times, I had to
13 help him look through books, you know, or he would ask
14 me questions about books. You know, if I read this,
15 what I thought, things like that.

16 Q. If he is in the library at the far end, and
17 he's asking you about a book, is there any way for you
18 to hold the door?

19 A. No, sir.

20 Q. Like you do that -- did he bring the books to
21 you at times, or what was he doing that you had to walk
22 over to where he was?

23 A. He asked me a question about the book. And I
24 went in there and looked at the book.

25 Q. I believe if you walked away from the door,

J. HOLDER -- DIRECT BY MR. CANTRELL

1 what would happen?

2 A. The door would close.

3 Q. Were you cognizant of the fact that the door
4 would be closing?

5 A. Yes, sir.

6 Q. What did you do?

7 A. I -- I would immediately -- that's why I would
8 try to go back. I never wanted to be off camera long,
9 you know. But if he was too far away, you know, I
10 obviously had to. And whenever I -- the door was
11 completely closed is when another client was there.

12 Q. Okay. Tell us about that one time we saw some
13 individuals come in, what -- what was happening here,
14 there?

15 A. It was from the Pinnacle Unit, I believe. It
16 was a staff, Josh Carrington, had brought a client,
17 Cedric -- I won't use his last name. But he brought
18 him -- he brought him out, it looked like, to get a
19 video. I think it was a video game. And that's why I
20 looked at them, you know, I had -- Complainant had to be
21 separated from him. We couldn't let them interact.

22 Q. They were -- because of the units they were
23 on?

24 A. Yes, sir.

25 Q. And are the videos not in the library, they're

J. HOLDER -- DIRECT BY MR. CANTRELL

1 in another area? Or are the videos --

2 A. No, it was actually left in a DVD or a Play
3 Station, the video that they got off the -- that Common
4 area is a big game room with TVs and things like that.

5 Q. And when they walked in, that's -- what did
6 you do? When they walked in the Common areas?

7 A. I took Complainant into the library and waited for
8 them to leave.

9 Q. Was there ever any time when anybody else
10 walked in?

11 A. There was. You can -- you couldn't see it.
12 It was on the video from that angle y'all had -- I'm
13 not sure what other -- the whole place is under
14 surveillance. But I'm not sure who it was. You can
15 see their shadows. But anytime people came by --
16 because we were right adjacent to the nurse's station
17 as well, so that was really a busy area.

18 Q. And -- well, this night, when you were at the
19 library with Complainant, if other people walked in, what
20 did you do?

21 A. I would have to close the door.

22 Q. Also, how long did it take to finish his
23 pizza?

24 A. A few minutes. I mean, I'm not 100 percent of
25 the time -- a couple of big, you know, large pieces of

J. HOLDER -- DIRECT BY MR. CANTRELL

1 pizza. I don't think he had a drink, so it was kind of
2 hard.

3 Q. And the other people that walked in, had they
4 had pizza that night to your knowledge?

5 A. Not that I know of, no. Because they were
6 from Pinnacle.

7 Q. So you had one young man that had pizza, and
8 these were people walking in that didn't?

9 A. Yes.

10 Q. While you were in, at, or around this library
11 area shown in the pictures, did anything inappropriate
12 happen?

13 A. No, sir.

14 Q. Was there any -- any inappropriate language?

15 A. No, sir.

16 Q. Was there any suggestive behavior or language?

17 A. No, sir.

18 Q. Was there any inappropriate touching of any
19 sort?

20 A. No, sir.

21 Q. Once Complainant had gotten the materials that he
22 wanted from the library, what did you do?

23 A. I took him back to his unit, and then I
24 returned to my unit following that.

25 Q. Did Complainant say anything to you going back to

J. HOLDER -- DIRECT BY MR. CANTRELL

1 his unit about being in the library?

2 A. No, sir.

3 Q. Did you end up back on his unit after that, a
4 few days after that, or did you stay in your unit?

5 A. If I was on overtime or if I -- like I say,
6 with kitchen duty, I was -- you know, I have would been
7 there.

8 Q. Okay.

9 MR. CANTRELL: Just one minute, Your Honor.

10 (Pause.)

11 BY MR. CANTRELL:

12 Q. One other thing. Would you -- were you
13 required to accompany Matthew -- I'm sorry -- accompany
14 Complainant to the nurse's area?

15 A. Yes, sir.

16 Q. Was he cleaning up in there?

17 A. Yes, sir.

18 Q. During that period of time, were there other
19 people present?

20 A. Yes, sir, there were.

21 Q. And was this one individual or more than one?

22 A. More than one.

23 Q. And were these people in and out or was there
24 anyone there the whole time?

25 A. I think the nurse was gone for like a minute

J. HOLDER -- DIRECT BY MR. CANTRELL

1 at one point. And the other guy, he was in and out,
2 another staff member.

3 Q. Other than those two, do you remember other
4 people being in and out?

5 A. Not to my knowledge.

6 Q. But they -- the nurse was there how long?

7 A. She was there --

8 Q. Can you tell me the time?

9 A. She was there 99 percent of the time. Like I
10 say, she was gone maybe a minute or so.

11 Q. And the other individual?

12 A. He was just there briefly. He had came to get
13 an ice pack for another staff member.

14 Q. At any point in time, did you say or do
15 anything inappropriate with him, Complainant

16 A. No, sir.

17 Q. Once you found out that something had been
18 alleged, did you talk to Detective Byers?

19 A. Yes, sir, I did.

20 Q. What was your statement to him about whether
21 anything happened?

22 MR. TOOKER: Objection, as to the out of court
23 statement, Judge. It's hearsay.

24 THE COURT: I sustain the objection.

25 MR. CANTRELL: I don't have anything further.

1 Answer any questions Mr. Tooker has.

2 A. Okay. Thank you.

3 MR. TOOKER: May it please the court?

4 THE COURT: Yes.

5 **CROSS EXAMINATION BY MR. TOOKER:**

6 Q. So let's start with the library. The door
7 shut several times as we saw on the tape; correct?

8 A. I think completely once for a period. I'm
9 not -- but it did shut, yes, sir.

10 Q. Mr. Cantrell asked you about two separate
11 times that the door shut on the video; do you recall
12 just now testifying to that?

13 A. Yes, sir. He said several.

14 Q. Okay. So two?

15 A. Yes, sir.

16 Q. Two times. So on those two occasions, you
17 said the door shut because you didn't want other staff
18 members -- or excuse me -- other residents to see
19 Complainant?

20 A. Yes. It's not so much to see Complainant, but they
21 can't interact.

22 Q. Okay. So you're saying it's policy then to
23 shove a child in a room with yourself when another
24 child comes around?

25 A. Well, his unit was all the way to the other

J. HOLDER -- CROSS BY MR. TOOKER

1 side. It was -- it's policy just to get him away from
2 the other child.

3 Q. He is away from the other child; right? On
4 that video, what we saw was him in the library;
5 correct?

6 A. Yes, sir.

7 Q. The other kid, on the other side of the room;
8 correct?

9 A. Yes, sir.

10 Q. You standing in the door frame; correct?

11 A. Yes, sir.

12 Q. With the door cracked; correct?

13 A. Yes, sir.

14 Q. And you found it necessary at that point, upon
15 seeing those people, to shut the door completely; is
16 that correct?

17 A. Yes, sir, until they left.

18 Q. And you're saying that's policy?

19 A. Yes, sir.

20 Q. You're saying that Meghann Harvey and Kevin
21 Sowell will come in here and say, yes, that's what we
22 want them to do?

23 MR. CANTRELL: Your Honor, I would object. He
24 can't testify to what anyone would say once they get in
25 here.

J. HOLDER -- CROSS BY MR. TOOKER

1 MR. TOOKER: I'm asking if that's what his
2 understanding of the instruction was; how about that?
3 I'll rephrase, sir.

4 THE COURT: Rephrase.

5 BY MR. TOOKER:

6 Q. Is that your understanding of what you were
7 instructed to do?

8 A. My understanding is to just keep him away from
9 the other client.

10 Q. And despite your standing instruction not to
11 close a door and go off camera with a child, you
12 thought the best way to keep him away from another kid,
13 all the way across the room with another staff member,
14 was to close the door to a small room with yourself and
15 your ward inside; is that correct?

16 A. I mean, it's not a standing instruction to do
17 that. You know, we don't have to just immediately
18 run -- you know, we have to get them away from them.
19 It's not a rule that we can't be off camera. There's
20 many times that we are.

21 Q. And -- and two times it happened; right? Two
22 times that door shut; correct?

23 A. Yes, sir.

24 Q. And each of those times, you said you did it,
25 so as to keep him away from someone else; is that

J. HOLDER -- CROSS BY MR. TOOKER

1 correct?

2 A. Well, one time I went for the book. Like I
3 said, I went to --

4 Q. Okay. So one time the door shut because you
5 went to look at a book that he had -- he had to show
6 you; is that correct?

7 A. Yes, sir. And he was on the end.

8 Q. Okay. Do you recall reviewing the tape with
9 Kevin Sowell, the facility director?

10 A. Yes, sir.

11 Q. Okay. And do you recall telling him why it is
12 --

13 MR. CANTRELL: Your Honor, I would object. We
14 don't have the individual that was involved in the
15 entire conversation with -- with Mr. Holder here.

16 MR. TOOKER: This is impeachment, sir.

17 THE COURT: What's the question again?

18 MR. TOOKER: The question is going to be: Did he
19 not tell that person the door shut for another reason.
20 So he said that the door shut for a particular reason.
21 I'm saying, was his story not different two years
22 before.

23 MR. CANTRELL: Your Honor, I think he's entitled
24 to question the statements, but not with -- with a
25 second or third --

J. HOLDER -- CROSS BY MR. TOOKER

1 THE COURT: Let me let the jury go to the jury
2 room just a minute.

3 (Whereupon, the jury left the courtroom at
4 10:44.)

5 THE COURT: If I'm following what's going on,
6 you're trying to impeach him with a prior inconsistent
7 statement?

8 MR. TOOKER: Yes, sir. So I'm going to ask him
9 about the statement, where it was made, when it was
10 made. Give him the opportunity to affirm or deny
11 making the statement. If he denies making the
12 statement, then I'll impeach him. That's my intent.

13 THE COURT: Okay. How do you intend to impeach
14 him?

15 MR. TOOKER: On rebuttal.

16 THE COURT: All right. If the State can lay the
17 proper foundation, which he just indicated he was, I'll
18 allow it.

19 MR. TOOKER: Thank you, sir.

20 MR. CANTRELL: And I'll just note the objection
21 for the record.

22 THE COURT: And while the jury is out, I believe I
23 was wrong in sustaining the State's objection as to
24 what Mr. Holder said to Mr. Byers. And I don't believe
25 that constitutes hearsay, because this is the witness

J. HOLDER -- CROSS BY MR. TOOKER

1 who made the statement. So I -- I was wrong. And,
2 therefore, I'll allow -- do you want to say something,
3 Mr. Tooker?

4 MR. TOOKER: Yes, sir. And this is an issue that
5 comes up frequently. And I -- I do find my
6 interpretation of the hearsay rule oftentimes differs
7 from members of the judiciary. But my understanding of
8 the rule is hearsay is a statement made by the
9 declarant on the stand -- the person on the stand
10 outside of court, being offered for the truth of the
11 matter asserted.

12 THE COURT: By a third party?

13 MR. TOOKER: Let me pull it --

14 THE COURT: Well, we don't have time to argue
15 about that. I -- I have visited this before, and
16 that's why I -- after further reflection, I don't
17 believe what he said -- he is subject to cross
18 examination on it. He's sitting here on the stand, so
19 you can certainly cross examine him on it.

20 MR. TOOKER: Yes, sir.

21 THE COURT: And that's the main purpose -- the
22 main protection of hearsay is, so that -- because
23 you're talking about somebody who is not subject to
24 cross examination. So I'm finding that I was wrong.

25 MR. TOOKER: Okay.

J. HOLDER -- CROSS BY MR. TOOKER

1 THE COURT: And I invite counsel, if he wants to,
2 even though that technically would not fall under
3 redirect -- I'm going to allow him to explore that if
4 he desires.

5 MR. TOOKER: Yes, sir.

6 THE COURT: Okay.

7 MR. TOOKER: And one more thing while the jury is
8 out, and I hate to delay it any further, I've consumed
9 a lot of water this morning already, could I run out
10 real quick?

11 THE COURT: Well, let's -- while the jury is out,
12 I bet they're taking care of that same event. So let's
13 take about a five minute running out. And the witness,
14 if he needs to use the restroom, he can certainly take
15 care of that.

16 But if you do, don't talk to anyone about your
17 testimony. Your wife, who is present; your attorney;
18 anybody. Just -- you're on the stand, so you can't --
19 you're subject to cross examination, so you can't be
20 having a dialogue with anybody about -- about anything
21 at this point.

22 But you can certainly use the restroom if you
23 need to. Let's take five minutes.

24 (After a recess, Court reconvened.)

25 THE COURT: I have a note that juror number 58 --

J. HOLDER -- CROSS BY MR. TOOKER

1 and I don't have my list right at hand -- is ill, and
2 does not feel like she can continue. We do still have
3 one alternate. Let me find my list. Ms. Hart, juror
4 number 34. So any comment on that from the State?

5 MR. TOOKER: Is she the juror that served on the
6 first jury?

7 THE COURT: I -- I don't know.

8 MR. TOOKER: I'll defer to Mr. Cantrell. I'm a
9 little concerned that we're down to zero, and we're
10 still not done.

11 THE COURT: Well -- would you bring her in first.
12 Let's do that and see.

13 (Whereupon, the juror entered the courtroom.)

14 THE COURT: You are not feeling well?

15 JUROR: No, sir.

16 THE COURT: Do you think can you make it?

17 JUROR: No.

18 THE COURT: Okay. I'll excuse you.

19 (Whereupon, juror number 58 was excused.)

20 THE COURT: She -- she did not appear to be
21 feeling very well, and I -- she sat through and I don't
22 think she's trying to avoid her duty. I know this puts
23 us out of alternates, but that's just where we find
24 ourselves in the scheme of things.

25 So if you'll tell number 34, the last juror, Ms.

J. HOLDER -- CROSS BY MR. TOOKER

1 Devol, she is now on the panel.

2 All right. Is the State ready?

3 MR. TOOKER: Yes, sir.

4 THE COURT: Is the defense ready?

5 MR. CANTRELL: Yes, sir.

6 THE COURT: Bring in the jury.

7 (Whereupon, the jury entered the courtroom at
8 11:01.)

9 THE COURT: Mr. Clerk, would you hand that to
10 Vivian. That needs to be a part of the record.

11 (Whereupon, Court's Exhibit 1 one was marked.)

12 THE COURT: I excused Ms. Hart. She was not --
13 she said she didn't feel well. And I hate to talk
14 about how people look, but she didn't look liked she
15 felt well. So, Ms. Devol, you're now on the jury, full
16 panel.

17 MR. TOOKER: May it please the court?

18 THE COURT: Yes, sir.

19 MR. TOOKER: All right.

20 BY MR. TOOKER:

21 Q. So, where we left off was, you said that the
22 door closed for two specific reasons; correct?

23 A. Yes.

24 Q. Closed for one reason, so you could look at a
25 book; right?

J. HOLDER -- CROSS BY MR. TOOKER

1 A. Yes, sir, I believe so.

2 Q. Okay. And the other reason it closed is
3 because you didn't want Complainant to be near some other
4 kid who walked in?

5 A. Yes, sir.

6 Q. Okay. Did you talk to Kevin Sowell,
7 facility's director, on 6/5 of 2012 about what's in
8 that video?

9 A. I'm not sure of the date, but I did see the
10 video with Kevin.

11 Q. And you did that at Hampton?

12 A. Yes, sir.

13 Q. Okay. And when you talked to him about that,
14 he asked you about why the door shut; isn't that right?

15 A. I believe so. I'm not 100 percent. It's been
16 so long ago.

17 Q. And your response to him was you didn't want
18 anybody else to know that Complainant got pizza; isn't that
19 right?

20 A. Yes, sir. Another client, yes, sir.

21 Q. So your response to him as to why the door
22 closed was different than what your response on the
23 stand today is; isn't that corrects?

24 A. No, sir. It's virtually the same. It's going
25 to start a fight with the two clients in there. They

1 can't -- especially if they saw the pizza.

2 Q. It was going to start a fight. What we saw on
3 that video, you're saying, was the beginning of a
4 fight?

5 A. No, but it could lead to that.

6 Q. Uh-huh.

7 A. It is a psychiatric facility.

8 Q. Sure thing. So there was images captured or
9 there was video captured from the 27th as well, in
10 addition to the 31st. That's a question.

11 A. The whole place is under surveillance. I'm
12 not sure what --

13 Q. Have you had occasion to watch those videos?

14 A. I saw some videos, yes. I'm not sure which
15 videos.

16 Q. Okay. So --

17 MR. CANTRELL: Your Honor --

18 MR. TOOKER: And, Your Honor, this is --

19 MR. CANTRELL: Your Honor, I'm going to have to
20 object until I know what video and what circumstance --

21 THE COURT: What number?

22 MR. TOOKER: One second, Your Honor. This is
23 State's 4.

24 MR. CANTRELL: If I could have just one second?

25 MR. TOOKER: It's in evidence.

J. HOLDER -- CROSS BY MR. TOOKER

1 MR. CANTRELL: Your Honor, I'm going to have to
2 object. I don't think it's irrelevant.

3 THE COURT: Well, I hadn't -- we'll have to see
4 where we go. At this point, it's in evidence. He's
5 got the right to show it, and we'll see where we go.

6 BY MR. TOOKER:

7 (Whereupon, a video is played in open court.)

8 Q. All right. Up there in that right hand
9 corner, you and Complainant are entering the laundry
10 room; isn't that correct?

11 A. I'm sorry.

12 Q. Right above "S", that's the laundry room door;
13 right?

14 A. Yes, sir. That's the laundry room.

15 Q. And when we started that video, you and Complainant
16 entered the --

17 A. I didn't see the first part.

18 Q. Well, let's rewind it. Let's try this again.

19 In the top left corner -- or excuse me -- above the
20 "S", that's you and Complainant ; is that correct?

21 A. I can't see his head. I'm not 100 percent.

22 Q. Okay. Is that your shirt? That gray shirt?

23 A. Yes, sir.

24 Q. So is that you?

25 A. Yes, sir.

J. HOLDER -- CROSS BY MR. TOOKER

1 Q. Okay. And you're saying you don't know that
2 that's Complainant in that room with you?

3 A. No. I'm not saying 100 percent. I don't -- I
4 can't see the person's face.

5 Q. Again, do you recall talking to Kevin Sowell
6 in this case?

7 A. In this whole case in general?

8 Q. On 6/5/2012, do you recall talking to Kevin
9 Sowell and reviewing video footage?

10 A. Okay.

11 Q. When you talked to Kevin Sowell on 6/5 of
12 2012, and reviewed this video footage, do you recall
13 telling him that you went into that room with Complainant to
14 show him what to clean, and how to clean, and how to
15 wash clothes?

16 A. Yes, sir.

17 Q. So then that is Complainant that you went into the
18 laundry room with?

19 A. Yes, sir. I'm not denying that it's not him,
20 I just didn't see -- from that film, you can't see the
21 top.

22 Q. Okay. And so you're sitting in there in that
23 laundry room for the duration of this tape; isn't that
24 right?

25 A. I'm not sure.

J. HOLDER -- CROSS BY MR. TOOKER

1 Q. And at some point, he washes clothes; right?

2 A. Yes, sir.

3 Q. So you had to show him how to wash the
4 clothes; is that why you shut the door at that point?

5 A. The door is still open.

6 Q. Okay. Do you shut the door at some occasion?

7 A. Yes, sir. I mean, you have seen on the
8 pictures how far the washer is from the --

9 Q. What I'm asking you, is when the door shut,
10 was that so that you could show him how to use the
11 washer and dryer?

12 A. Yes, sir. That's part of the reason why.

13 Q. Well, tell us the whole reason. What's the
14 reason?

15 A. I told you earlier, there's -- we had to
16 clean the -- we had to fold stuff. We had -- I had to
17 go in there and clean stuff, various things.

18 Q. And I suppose maybe --

19 A. Or I had to get client's clothes.

20 Q. -- I'm not artfully asking this question -- is
21 the reason that the door shut the first time, so that
22 you could show him how to wash the clothes; would that
23 happen first?

24 A. Possibly or to sort them. I'm not -- I'm not
25 100 percent. It's been so long.

1 Q. My question to you -- well, you had a lot of
2 specific remembrances during direct examination; didn't
3 you?

4 A. I mean, I remember what we did, but I don't
5 remember --

6 Q. So I'm asking you --

7 A. At that second, I didn't, you know -- I can't
8 say.

9 Q. What I'm asking you, is would you have shown
10 him how to use the washer --

11 A. Yes.

12 Q. -- and dryer first -- that's the question.

13 A. Possibly, yes.

14 Q. Possibly yes. And that's why the door would
15 shut. Does the door shut in this video; that's what
16 I'm asking you?

17 A. Yes, the door closes.

18 Q. Does it shut one time?

19 A. It probably closes a second time.

20 Q. Two times, several times?

21 A. I don't know.

22 Q. Okay. And would you have used the first time
23 to show him how to do the washer and dryer; that's what
24 I'm asking --

25 MR. CANTRELL: Your Honor, that's been asked and

J. HOLDER -- CROSS BY MR. TOOKER

1 answered three times now.

2 MR. TOOKER: I feel like he's evading the
3 question, sir.

4 MR. CANTRELL: He's answered possibly.

5 THE COURT: I -- I -- I think he has answered the
6 question. Move on.

7 MR. TOOKER: Okay. I'll move on.

8 BY MR. TOOKER:

9 Q. All right. And so if we watch the rest of
10 this video, what we see is you in that door frame, and
11 kids coming to and from, oftentimes coming up to that
12 door; is that right?

13 A. Right.

14 Q. Okay.

15 A. And the staff was Remona Foster.

16 Q. Okay. Now, just try to answer the questions I
17 ask you.

18 A. Okay.

19 Q. And toward the end of this tape, you were
20 in -- well, excuse me -- I want to stop there. Complainant
21 is in the room the whole time; is that right?

22 A. Yes, sir.

23 Q. Okay. Cleaning, doing whatever he's doing?

24 A. Yes, sir.

25 Q. So this tape starts at 20:50, and I'm not

1 super great on military time, but is that about 8:50?

2 Is that 8:50?

3 A. I'm not sure.

4 Q. You're not sure?

5 A. I don't know military --

6 Q. It's 20 minus 12.

7 A. I don't know military time.

8 Q. Okay. So -- so about 8:50, they go in
9 there -- or he goes in there, and he stays in there?

10 A. He's out of there now, at eight --

11 Q. No, that's this thing not working. Yeah, at
12 8:50, that's when y'all are standing right there. And
13 then he entered shortly thereafter; right? That's a
14 question.

15 A. Is that the beginning of the tape? I'm not
16 sure. Did you just rewind it?

17 Q. Okay. Let's -- let's start from the
18 beginning. Is 8:50 when the tape starts, and you guys
19 are standing right there?

20 A. Okay.

21 Q. Is that right?

22 A. Yes, sir.

23 Q. Okay. And then y'all go in -- does he stay in
24 that room for the remainder of this tape?

25 A. No. He comes out of this room, I'm sure.

J. HOLDER -- CROSS BY MR. TOOKER

1 Q. You're sure -- no, I'm asking -- do you know?

2 A. I'm not 100 percent. It's been three years.

3 Q. Okay. At 21:19, would he still be in that --
4 in that room?

5 A. Yes.

6 Q. Okay. And that 21:19, you're standing in the
7 door frame, it cracks, and it shuts; is that correct?

8 A. Yes, sir.

9 Q. Someone comes up to the door. What do you do?
10 Stand in the door frame?

11 A. Yes, sir.

12 Q. Do you let that kid go into the room?

13 A. I don't know. I have not seen the video.

14 Q. You have not seen this? Is that your
15 testimony?

16 A. No, that's not -- I'm not -- I'm watching it
17 as you're watching it.

18 Q. Who's that fellow in the green shirt; do you
19 remember? It looks like a tall African American kid?

20 A. I think it is Devonne Twitty, if I remember
21 right.

22 Q. Okay.

23 A. I'm not 100 percent.

24 Q. And you sent him away. And then that door
25 shuts. And we're sitting here at 21:21. And then when

J. HOLDER -- CROSS BY MR. TOOKER

1 the tape picks back up, we're at 21:21 till 21:22 --
2 you just opened the door again; right?

3 A. Yes, sir.

4 Q. And then it shuts again. And how long do you
5 think it stays shut?

6 A. I have no idea.

7 Q. You don't remember? You come out at 21:24,
8 you crack the door; is that right?

9 A. Yes, sir.

10 Q. How many kids are in that room, that main room
11 right there? That's a question.

12 A. Six or seven possibly.

13 Q. Seven kid. One kid in the laundry room. And
14 you've got one and sometimes two staff members in the
15 little control room right there; does that sound right?

16 A. There is one -- this is during bath time. So
17 the other staff is in the door of the shower. You're
18 not seeing the angle. That's the towels, where they
19 come in the door to get their clothes.

20 Q. Okay. So all of those kids are running around
21 that big floor there, and it looked like someone was
22 chasing each other, rough housing, stuff like that.
23 And it was -- it was your decision that your time would
24 be better spent with the door spent to a small laundry
25 room with one boy; is that right?

1 A. He had to do his chores. That was part of my
2 job.

3 Q. And the other part of your job is watching
4 these other kids; right?

5 A. We have two other staff to seven kids.

6 Q. Uh-huh.

7 A. And I'm technically still there though.

8 Q. Sure. And then you come out again at
9 21:26.38; is that right?

10 A. Yes, sir.

11 Q. Complainant is in there all the while?

12 A. Yes, sir.

13 Q. And that door is shut again; is that right?

14 A. Yes, sir.

15 Q. And you and Complainant then come back out at
16 21:27.43?

17 A. Yes, sir.

18 Q. And from there, y'all leave to go do more
19 chores together; right?

20 A. Yes, sir. That the janitor's closet.

21 Q. Yeah. Y'all are going to get a broom to go
22 sweep the gym; is that correct?

23 A. I'm not sure.

24 Q. Well, maybe I can refresh your recollection.

25 I'm going to show you what's been marked State's 2. So

J. HOLDER -- CROSS BY MR. TOOKER

1 you're saying you don't have an independent
2 recollection of going to the gym with Complainant?

3 A. No. I didn't say that. I said I don't know
4 if we got a broom right then to go.

5 Q. Okay. Then I'll ask a question. Maybe it's a
6 little clearer. Did you go to the gym with Complainant to
7 sweep after you left the laundry room?

8 A. I know we went to the gym that night and other
9 cleaning. I'm not 100 percent if that's where we went
10 straight to.

11 Q. Okay. So you just don't know if it was
12 immediately there or somewhere else?

13 A. Yeah. I'm not sure of that.

14 Q. Okay. So we're at 21:54. And y'all sweep the
15 gym together; right?

16 A. Right.

17 Q. And that's all that would be depicted in this
18 video; right?

19 A. I have no idea.

20 Q. Y'all cleaning. And it actually took a while
21 to clean the gym; right?

22 A. It's a pretty big gym.

23 Q. Yeah. So y'all actually were in there until
24 well into 22:00 hours; is that right?

25 A. I'm not 100 percent, the time we left.

J. HOLDER -- CROSS BY MR. TOOKER

1 Q. Well --

2 A. If it's on there, it will show you.

3 Q. I'm going to show you State's 3, and see if
4 you can't refresh your recollection.

5 A. Okay.

6 (Whereupon, a video was played in open court.)

7 Q. So y'all are there until about -- I think my
8 time was wrong, but 22:12; does that sound right,
9 8:22.13. From there, you went to the laundry room --
10 or excuse me -- the nurse's station; right?

11 A. I believe so.

12 Q. Okay.

13 A. I don't know if we went back to the unit
14 first, I think.

15 Q. And after you went to the nurse's station, you
16 went back to the unit and back to the laundry room; is
17 that right?

18 A. I believe so to finish the laundry.

19 Q. Okay. So when you went to the nurse's
20 station, you talked to -- excuse me -- on 6/5, you
21 talked to Kevin Sowell about going to the nurse's
22 station; right?

23 A. Yes, sir.

24 Q. Okay. And when you talked to him, you talked
25 to him at Hampton?

J. HOLDER -- CROSS BY MR. TOOKER

1 A. Yes, sir.

2 Q. Okay. And when you talked about it, you
3 acknowledge that the nurse left for a period of time;
4 right?

5 A. Yes, sir.

6 Q. Okay. And you acknowledge that -- that you
7 went into an area of the nurse's station that was not
8 on-camera; is that correct?

9 A. Yes, sir, I believe. I'm not sure where
10 cameras are in there and where they're not.

11 Q. Okay. So you're saying that you didn't
12 recognize to Mr. Sowell that you went to an area --

13 A. No. I know like the bathroom or something
14 like that, obviously, yes.

15 Q. And that's where Complainant was; right?

16 A. Yes, sir.

17 Q. Okay. So Complainant was in the back cleaning
18 where there was no camera; right?

19 A. Yes, sir. When he cleaned the bathroom, but.

20 Q. And that's away from where the nurse is;
21 right?

22 A. Yes -- I mean, it's from me to you.

23 Q. Yeah. But the layout is one where if I'm in
24 the back, where the bathroom is, and the nurse is in
25 the front, where the nurse is, it's not like a direct

J. HOLDER -- CROSS BY MR. TOOKER

1 line of sight; isn't that correct?

2 A. Yes, sir. Correct.

3 Q. So if he's back in the back corner, and you go
4 back in that back corner, even if somebody is there,
5 they can't see you; that's correct?

6 A. Yes, sir.

7 Q. Okay. And you acknowledged to Mr. Sowell that
8 you did go off camera with Complainant in the nurse's
9 station; is that correct?

10 A. Yes, sir.

11 Q. Okay. And you were in the nurse's station
12 until -- until about 23:20; is that right?

13 A. Do you have the video -- I don't -- I'm not
14 100 percent.

15 Q. About 11:00?

16 A. Maybe -- yeah.

17 Q. Okay. So you stayed in the nurse's station
18 until about 11:00 with Complainant. You acknowledge that
19 the nurse left and came back; is that right?

20 A. Yes, sir.

21 Q. So she was gone for a period of time?

22 A. Yes, sir, maybe a minute.

23 Q. And it was just he and -- he and you who were
24 in there; is that right?

25 A. While she was gone, another staff came in.

1 I'm not sure of the time -- the timeline or whatever it
2 may have been.

3 Q. Well, again, you talked to Mr. Sowell; right?
4 You told Mr. Sowell about when the nurse left?

5 A. Yes, sir.

6 Q. Okay. And you talked to him about going to
7 the back with Complainant; right?

8 A. Yes, sir.

9 Q. And about how y'all were away from the video
10 for a -- a not insubstantial period of time; is that
11 right?

12 A. Yes, sir. I'm not sure how long exactly.

13 Q. Okay. And then after you left there, you went
14 back to the pod; is that right?

15 A. I believe so, yes, sir.

16 Q. And when you got back to the pod, you went
17 back to the laundry room; is that right?

18 A. I think so.

19 Q. Okay. And I'm going to show you what's been
20 marked as State's 5. So, you left the nurse's station
21 around 11:20, and you came back to the pod. And on
22 that video, is that Complainant who just walked through the
23 screen?

24 A. I think so.

25 Q. Okay. And which door -- when we're looking

J. HOLDER -- CROSS BY MR. TOOKER

1 back here at the rear wall, is that the door to the
2 laundry room?

3 A. The one to the left, like the half door you
4 can see.

5 Q. Uh-huh. Is that you right there with the gray
6 shirt?

7 A. Yes, sir.

8 Q. Again, with the stripe across the front?

9 A. Yes, sir.

10 Q. And y'all go back in the laundry room; right?

11 A. I believe so.

12 Q. And again the door shuts?

13 A. I think so.

14 Q. Do you remember for how long?

15 A. I'm not 100 percent.

16 Q. So that's Complainant, and that's you, and that's a
17 third staff member; right?

18 THE COURT: Did you answer that?

19 THE WITNESS: I can't see -- it's real...

20 BY MR. TOOKER:

21 Q. Complainant is going down the hall, maybe doing a
22 little mopping?

23 A. He's in the janitor's closet.

24 Q. Janitor's closet. Putting up -- putting up
25 the stuff that y'all took to the gym with you?

J. HOLDER -- CROSS BY MR. TOOKER

1 A. Yes, sir.

2 Q. And it's -- it's 11:23 on a Sunday night.

3 Does Complainant often do chores until 11:23 on a Sunday
4 night?

5 A. This here was Memorial Day the next day, so
6 there was no school.

7 Q. Okay. So it was good to keep them up late?

8 A. Well --

9 MR. CANTRELL: Objection, Your Honor, that's --

10 THE COURT: Yeah. Let's don't have any editorial
11 comments.

12 MR. TOOKER: I withdraw.

13 (Whereupon, a video was played in open court.)

14 BY MR. TOOKER:

15 Q. Y'all just talking?

16 A. Yes, sir.

17 Q. Was Complainant a real chatty kid?

18 A. Somewhat.

19 Q. And who's that fellow with the beard?

20 A. His name is Josh. He's another staff member.

21 Q. Is he Rosinberger (ph) or somebody else?

22 A. I'm not for sure of his last name.

23 Q. Okay. So then y'all are in the janitor's
24 closet together; is that right?

25 A. Yes, sir.

J. HOLDER -- CROSS BY MR. TOOKER

1 Q. You guys are standing pretty close together;
2 aren't you?

3 MR. CANTRELL: Objection, Your Honor.

4 THE COURT: I sustain the objection.

5 BY MR. TOOKER:

6 Q. Now, is that Complainant going into the laundry
7 room?

8 A. I don't think so. He's standing in front of
9 the office.

10 Q. And he's taller now, but about how tall was he
11 back in 2012?

12 A. I have no idea.

13 Q. Is he shorter than you?

14 A. Probably so.

15 Q. How tall are you?

16 A. Six foot.

17 Q. And that door you're standing next to, is that
18 the laundry room?

19 A. Yes, sir.

20 Q. And Complainant just entered that laundry room?

21 A. Yes, sir.

22 Q. And you're standing there in the door frame
23 apparently?

24 A. Yes, sir. I believe so.

25 Q. And that door shuts; is that right?

J. HOLDER -- CROSS BY MR. TOOKER

1 A. Yes, sir.

2 Q. Do you recall Complainant's demeanor that night?

3 A. He was -- he was really upset supposedly
4 because he was supposed to be going home. I know that
5 much. That's what we were -- a lot of our conversation
6 was about.

7 Q. So -- so you say looking at him right now, is
8 the demeanor of a kid that's upset?

9 A. More, you know, anxious.

10 Q. And, so, he wanted to stay up all night with
11 you doing chores because he was mad about not going
12 home?

13 A. No. The supervisor is who gave him permission
14 to do chores and who asked me to let him do them.

15 Q. What I'm asking is, he did, what, three and a
16 half hours or four hours worth of chores with you?

17 A. Yeah. He hadn't made a lot of money lately.
18 That was one of his complaints. He wanted to make
19 money.

20 Q. So --

21 A. Avalons.

22 Q. So for three and a half, four hours, y'all did
23 chores on this night that he said he was anxious,
24 because he wanted to go home?

25 A. Yes, sir.

J. HOLDER -- CROSS BY MR. TOOKER

1 Q. Where are all the other kids at this point?

2 A. I'm pretty sure they're in bed. He was the
3 highest level.

4 Q. Because he has done really well; right?

5 A. Yes, sir, at that point.

6 Q. He had done very well in the program.

7 THE COURT: You can ask questions.

8 BY MR. TOOKER:

9 Q. Is that true, he had done very well in the
10 program?

11 A. At times, yes.

12 Q. Would you say it was most of the time or a
13 small point in time?

14 A. Towards the end, you know, it was up and down.
15 So maybe not the whole time -- I'm not for sure the
16 percentage of it.

17 Q. How is it that you would know how well he was
18 doing if you weren't always with him?

19 A. Say that one more time.

20 Q. Well, my question to you is, you seem to have
21 some knowledge of how well he was progressing. So my
22 question to you is, how would you know that unless you
23 were with him all the time -- and weren't, of course,
24 right?

25 A. I'm sorry?

1 Q. You were not with him all the time?

2 A. No, not at this point. He started out on my
3 unit. And then we're all -- like I say, we're always
4 intermingling with other units, you know, the staff
5 are. And I was working overtime on this particular
6 time. The fact that he's on the level he's on and the
7 supervisor is giving him the privileges speaks for
8 itself, that he's doing better at that point.

9 Q. Okay. So what I'm asking you is, you said
10 that he was having up and downs. And what I'm asking
11 you is, isn't it true that he was doing exceptionally
12 well up until the point he made the allegation?

13 A. I'm not -- I'm not for sure if he was doing
14 exceptionally well or not. He was doing better than he
15 was at certain times.

16 Q. I'm sorry. I'm talking scoring 40s and 50s on
17 his daily reports.

18 A. I'm not sure. I would have to -- I wasn't on
19 that unit.

20 Q. You weren't on that unit. So how is it that
21 you would have independent knowledge of him having up
22 and downs?

23 A. It's common knowledge. It's not that big of a
24 place. The supervisor just told us that.

25 Q. So what I'm asking is, you say it's common

J. HOLDER -- CROSS BY MR. TOOKER

1 knowledge that he has up and downs, but it's not common
2 knowledge that he's doing really well. This is what
3 I'm asking you -- do you understand? Maybe I'm not
4 asking it well. You're saying that you have
5 independent knowledge, based on what y'all talk about
6 at your facility, that he's up and down in terms of his
7 behavior?

8 A. Right.

9 Q. You're saying that you do not have any kind of
10 common knowledge -- or it's not common knowledge at the
11 facility that he was doing really well up until the
12 point that he made the allegation?

13 A. I'm -- I'm not 100 percent of his daily, you
14 know, like I say -- if I wrote in his book or something
15 like that, I would have saw the scores for that week.
16 But I don't know what -- based on the fact that he's
17 getting privileges, I'd say that he's doing --

18 Q. He's doing really well?

19 A. Somewhat better, yeah.

20 Q. Okay. And just for the sake of brevity, we'll
21 hit fast forward. Complainant comes back, doesn't he? And
22 that lady that just left is that Romona?

23 A. I believe so.

24 Q. Y'all are again off camera for a period of
25 time; is that right?

J. HOLDER -- CROSS BY MR. TOOKER

1 A. I'm not sure where we are. But there's other
2 cameras. The angle you have -- every room has --
3 bedrooms and everything have cameras.

4 Q. And, again, you two go into bathroom -- excuse
5 me -- the laundry room at 23:35.58; does that sound
6 right?

7 A. I think so.

8 Q. The door shuts, and you peak out about 50
9 seconds later; is that right?

10 A. I'm not sure how many seconds it was.

11 Q. Okay. Then y'all both go back in there at
12 23:38; is that right?

13 A. Yes, sir.

14 Q. And then you peak out again at maybe 23:39.30?

15 A. I don't know if you call it -- where I'm
16 standing at, the dryer is right there, so there's not a
17 lot of room -- that's why the couple of times -- he's
18 doing the dryer, you'll kind of see him in the door
19 because I can't really -- I'd have to go all the way to
20 the back side.

21 Q. Try to answer my questions. And we'll talk
22 about the room in a moment; okay?

23 MR. CANTRELL: Your Honor, I would object. He's
24 responding the best he can.

25 MR. TOOKER: I don't believe I asked anything

J. HOLDER -- CROSS BY MR. TOOKER

1 about the lay out of the room.

2 THE COURT: Well, just -- just go ahead.

3 BY MR. TOOKER:

4 Q. Okay. So, on that tape, we see you in that
5 room with him with the door closed for like three
6 occasions for -- for extensive -- more than a minute;
7 does that sound?

8 A. I believe so, yes.

9 Q. Okay. And that room itself, as I believe you
10 articulated during direct, is a small room; is that
11 correct?

12 A. Yes, sir. It's a narrow room.

13 MR. TOOKER: Do you know where they went?

14 THE COURT: There is some on there.

15 MR. TOOKER: Oh, Thank you.

16 BY MR. TOOKER:

17 Q. So, into State's 9, you went with Complainant
18 ; is that right?

19 A. Yes, sir.

20 Q. And then you spent several minutes behind a
21 closed door with Complainant in a room this size in
22 State's 10; is that right?

23 A. Yes, sir.

24 Q. Okay. And Complainant said that he spent
25 that same time with you; is that correct?

1 A. Yes, sir.

2 Q. So, he said, I was with Matt Holder on these
3 occasions. And we pulled up the video, and sure enough
4 that's true; is that correct?

5 A. Yes, sir.

6 Q. Okay. That -- you mentioned restraints; what
7 are restraints?

8 A. There's different forms of restraints. You
9 have a physical restraint which involves the -- a hold
10 of sorts where you -- you know, you physically put
11 someone in a hold. We have chemical restraints which
12 is medicine. We also have a straight jacket.

13 Q. Okay. How is it that you get them subdued
14 enough to put a hold on them?

15 A. Say that again.

16 Q. How is it that you subdue them enough or get
17 them into a position whereby you can put a hold on
18 them?

19 A. Well, you don't just put it on them for no
20 reason. It's usually in the middle of a fight or in
21 the middle of a self harm. You have to take them down
22 in a safe way.

23 Q. Okay. "Take them down in a safe way", what
24 does that mean?

25 A. What does it mean?

J. HOLDER -- CROSS BY MR. TOOKER

1 Q. Yeah, what does it mean?

2 MR. CANTRELL: Your Honor, I object --

3 THE COURT: I sustain the objection.

4 MR. CANTRELL: I object to this line of question.

5 I don't --

6 THE WITNESS: As safe as it can be.

7 THE COURT: I sustain the --

8 MR. CANTRELL: How it would be relevant?

9 THE COURT: I sustain the objection.

10 MR. TOOKER: Okay. Thank you, sir.

11 BY MR. TOOKER:

12 Q. And you were with Complainant, like we said, for
13 maybe about four hours that night, had you asked about
14 him to anybody before that?

15 A. To who?

16 Q. Specifically, do you recall talking to Ms.
17 Shelly Byers?

18 A. About Complainant?

19 Q. About Complainant .

20 A. I'm not for sure because she doesn't work on
21 his -- you know, on his unit. She was on the Preserve
22 Unit.

23 Q. Preserve Unit?

24 A. I talked to Shelly that night. She was one of
25 the staff when we were cleaning. You have videos of

1 that, so.

2 Q. So my question to you is, do you recall
3 talking to her, asking her about Complainant's whereabouts
4 that night when you weren't around him? Do you have
5 independent recollection of that?

6 A. That night, I was around him the whole time.
7 I was there.

8 Q. The entire night you were there --

9 A. That was the unit I was assigned to.

10 Q. Okay. So you're saying that you never talked
11 to Shelly before you were around Complainant, about, hey,
12 where is Complainant at or something to that effect?

13 A. I was put on his unit that night.

14 Q. So is that a no? That's what I'm asking.

15 A. I don't see why I would have asked her that.
16 I would not have been around her.

17 Q. So it's a no? That's a yes or no. That's all
18 I need.

19 A. To my knowledge, it's a no.

20 Q. Okay.

21 MR. TOOKER: And -- one moment, Your Honor.

22 BY MR. TOOKER:

23 Q. So are you gay?

24 A. No.

25 Q. Are you interested in young boys?

J. HOLDER -- CROSS BY MR. TOOKER

1 A. No.

2 MR. CANTRELL: Your Honor, again, I object.

3 THE COURT: I sustain the objection.

4 MR. CANTRELL: There's no foundation.

5 THE COURT: I sustain the objection.

6 MR. TOOKER: Okay. All right.

7 MR. CANTRELL: Your Honor, could I be heard
8 outside the presence --

9 THE COURT: Yeah. Let the jury go to the jury
10 room just for a minute.

11 (Whereupon, the jury left the courtroom at
12 11:41.)

13 THE COURT: All right. Before I hear from Mr.
14 Cantrell, Mr. Tooker, I'm sure it's just a habit, but
15 you don't have to comment after I rule. Once I've
16 ruled, that's it.

17 MR. TOOKER: Yes, sir.

18 THE COURT: So you can't say, okay, or make --
19 anyway, that's enough said. All right. Yes, sir.

20 MR. CANTRELL: Your Honor, I'm going to move for a
21 mistrial. Regardless of opinions about gay, not gay,
22 that sort of thing, that's irrelevant. But to ask a
23 question, with no basis, no foundation whatsoever, if
24 there is some -- there are allegations obviously in
25 this case. This incident occurred between two males,

J. HOLDER -- CROSS BY MR. TOOKER

1 but that still does not lay a foundation for just
2 asking the witness if he is gay.

3 The same could have been done with the alleged
4 victim, but it wasn't. And it would be -- again, it
5 would be inappropriate and irrelevant.

6 And, I guess, to be perfectly candid with Your
7 Honor, we don't know the predisposition of members of
8 the jury. If there is no foundation for such a
9 statement or allegation, we don't know the effect it
10 could have. It was unnecessary. I believe it's
11 grounds for a mistrial.

12 I'm not satisfied that Mr. Holder can get a fair
13 trial when we don't have any idea of a foundation. We
14 don't know why it was asked. We don't know how it
15 could affect any member of the jury, anymore than if
16 hypothetically if the alleged victim in this case had
17 been a minority, you couldn't ask him of his opinion of
18 the minority. And, again, it would be prejudicial.
19 It's just --

20 THE COURT: He didn't ask about his opinion about
21 people who are gay. He didn't ask his opinion about
22 it. Go ahead.

23 MR. CANTRELL: Just basically to ask that question
24 with no foundation or no basis. And, quite candidly,
25 to take a step further, so what. I mean, why ask that.

J. HOLDER -- CROSS BY MR. TOOKER

1 It just serves to bring up issues that should not be
2 brought up.

3 There is no foundation for it. I think it can
4 be prejudicial, and I don't think it can be undone at
5 this stage.

6 THE COURT: Mr. Tooker?

7 MR. TOOKER: On direct, Mr. Cantrell elicited from
8 the defendant that he's married, that he does have
9 several children. He's expecting another child.
10 Candidly, and this is just my personal theory in the
11 case, but it seems to me like these things happen by
12 virtue of some sort of repression.

13 THE COURT: Some sort of what?

14 MR. TOOKER: Repression. Repressed -- if these
15 things are true -- and I'm not --

16 THE COURT: Well, you're not a psychiatrist or a
17 psychologist.

18 MR. TOOKER: No, I'm not.

19 THE COURT: And have you had your theory bedded by
20 someone who has expertise to tell you whether you are
21 going down the right rabbit trail or not?

22 MR. TOOKER: Absolutely not, sir. But I -- again,
23 ultimately, what we have got to do is make our case in
24 close --

25 THE COURT: Well, but your case -- kind of a case

J. HOLDER -- CROSS BY MR. TOOKER

1 that is based on fact.

2 MR. TOOKER: Yes, sir. Yes, sir.

3 THE COURT: Did you have any basis to ask that
4 question, other than your theory of some kind of
5 repression?

6 MR. TOOKER: It's in response to his questions on
7 direct.

8 THE COURT: Which questions?

9 MR. TOOKER: He --

10 THE COURT: He was never asked --

11 MR. TOOKER: His questions initially -- or not
12 initially -- his questions, in essence, revealed or
13 developed that he is a heterosexual. That he is
14 married, that he's got kids. And so I want to know if
15 the opposite is not true.

16 Because I -- I'll tell you my theory personally.
17 The jury goes back there. There's this married guy
18 with several kids. He couldn't do this. He's married.
19 He's got kids. Clearly, this isn't something that's an
20 issue. He's attracted to women. So that's the reason
21 for the question.

22 THE COURT: Well, I think -- I think it was an
23 inappropriate question, quite candidly, because there
24 is nothing without foundation to throw that in. It
25 is -- it is just inappropriate. I'm not going to go

J. HOLDER -- CROSS BY MR. TOOKER

1 any further than that.

2 However, I do not feel that it manifests a
3 necessity to grant a mistrial. I'm going to ask the
4 jury to disregard that. If we -- if we have another
5 episode like that, then we will bring this two and a
6 half day -- or two day trial to a screeching halt. And
7 I think I have said enough on that, too. I tend to
8 ramble. I think have rambled enough. So I'm not going
9 to grant it. I don't think it manifests the necessity
10 to grant a mistrial.

11 I will give, even though the defense has not
12 requested it, I want the record to be clear that I'm
13 doing this sua sponte, to give the correct -- curative
14 instructions and we'll proceed.

15 MR. CANTRELL: Thank you, Your Honor.

16 MR. TOOKER: Thank you, sir.

17 THE COURT: Bring in the jury.

18 (Whereupon, the jury entered the courtroom at
19 11:47.)

20 THE COURT: Members of the jury panel, shortly
21 before you went out, the -- Mr. Tooker asked the
22 witness whether or not he was gay. That was not an
23 appropriate question. There is no evidence in this
24 record to support that question. The question is not
25 relevant -- the question nor the answer.

1 So please disregard the fact that the question
2 was asked. Mr. Holder answered it no, so you can
3 disregard that, too. But just disregard -- that's not
4 an issue in this case to any degree whatsoever. So
5 disregard the fact that that question was asked. You
6 may proceed.

7 MR. TOOKER: Thank you, Your Honor. May it please
8 the court.

9 BY MR. TOOKER:

10 Q. I'm going to finish up real quick. So
11 ultimately in this case, it boils down to his word vs.
12 your word; is that right?

13 A. That and the facts.

14 Q. Okay. And the facts in this case are that he
15 made these allegations that you guys did this stuff
16 together when you were alone; is that right?

17 A. That's what he alleged, yes.

18 Q. Okay. And on that video that we watched,
19 there are instances where you guys are alone; is that
20 right?

21 A. Yes, sir.

22 Q. So ultimately, what things boil down to, is
23 does what he says make sense or does what you say make
24 sense; is that right?

25 MR. CANTRELL: Your Honor, I'm going to --

J. HOLDER -- REDIRECT BY MR. CANTRELL

1 THE COURT: I sustain the objection. That's for
2 the jury.

3 MR. TOOKER: Okay.

4 THE COURT: That's why we've got these 12 people
5 over there.

6 MR. TOOKER: Excuse me, sir.

7 THE COURT: I said that's why we have these 12
8 individuals sitting here.

9 MR. TOOKER: Absolutely. And no further
10 questions.

11 THE COURT: All right. Redirect?

12 **REDIRECT EXAMINATION BY MR. CANTRELL:**

13 Q. Matt, let me start maybe at the end. We've
14 watched -- and I lost track of trying to do the
15 totals -- but we watched I don't know how many minutes
16 of video from the -- the laundry room to the gym, and
17 then I think back to that area; do you remember seeing
18 those videos here?

19 A. Yes, sir.

20 Q. And would it be accurate to say they were
21 somewhere between 21:20 --

22 MR. TOOKER: Objection, leading.

23 THE COURT: Yeah. He is your witness.

24 BY MR. CANTRELL:

25 Q. Do you have any estimate as to how much time

J. HOLDER -- REDIRECT BY MR. CANTRELL

1 we saw on the videos after you left the -- the laundry
2 area the first time?

3 A. A couple of hours.

4 Q. And this reflected you being in the gym; is
5 that correct?

6 A. Yes, sir.

7 Q. And were there areas of the gym where people
8 in the gym may not be on-camera?

9 A. Yes, sir.

10 Q. Then you're back in the pod area; is that
11 correct?

12 A. Yes, sir.

13 Q. And that was -- was that centered around the
14 laundry room and working in there?

15 A. Yes, sir.

16 Q. First of all, did Complainant get credit for all of
17 this time he was working?

18 A. Yes, sir.

19 Q. Did that accumulate points or money for him?

20 A. Yes, sir, it did.

21 Q. What had he asked for earlier in the day? Had
22 he asked to be able to do that?

23 A. Yes, sir. He asked the supervisor if he could
24 earn Avalons.

25 Q. Do -- have other clients worked for several

J. HOLDER -- REDIRECT BY MR. CANTRELL

1 hours at a time to earn Avalons?

2 A. Yes, sir. As I stated, we saw several other
3 clients also.

4 Q. During the time in the gym, during the time in
5 the pod, the laundry room, the janitor's closet, all of
6 those sort of things, there would be times when you may
7 not be on-camera; correct?

8 A. Yes, sir.

9 Q. Throughout that time, was Complainant working?

10 A. Yes, sir.

11 Q. If the door was closed, was Complainant working in
12 the laundry room or wherever he may be?

13 A. Yes, sir.

14 Q. Have you ever been made aware of any
15 allegations about those times of inappropriate
16 behavior?

17 A. No, sir.

18 Q. So from the time you left the laundry room,
19 you've stated two or three hours; correct?

20 A. Yes, sir.

21 Q. Mr. Tooker has pointed out that there were
22 times when you were off camera; correct?

23 A. Yes, sir.

24 Q. During that two to three hours, was there
25 ever any -- have you ever been made aware of any

J. HOLDER -- REDIRECT BY MR. CANTRELL

1 allegations of any inappropriate conduct by you, by
2 Complainant, either one after leaving the laundry room the
3 first time and going to the gym, and coming back to the
4 pod?

5 A. No, sir.

6 Q. Was Complainant working during that time?

7 A. Yes, sir.

8 Q. Were you doing your job in allowing him to
9 work?

10 A. Yes, sir.

11 Q. Did your job require you to stay right with
12 him?

13 A. Yes, sir, it did.

14 Q. Were you required to make sure he was
15 protected or did not harm himself?

16 A. Yes, sir.

17 Q. You were asked about a statement you may have
18 made to Ken Sowell. Let's go back. Who is Ken Sowell?

19 A. Kevin Sowell is --

20 Q. Kevin Sowell. I'm sorry.

21 A. He's the facility director of Hampton
22 Psychiatric Residential Treatment Facility.

23 Q. And you were asked if you told him the reason
24 the door closed was because there was someone else in
25 the pod area, and asked you -- I'm sorry -- Complainant did

J. HOLDER -- REDIRECT BY MR. CANTRELL

1 not want them to see him eating pizza?

2 A. Yes, sir.

3 Q. Is that -- that was what you told Kevin?

4 A. Yes, sir.

5 Q. The video shows someone else in the pod area
6 at the time; right?

7 A. Yes, sir, it did.

8 Q. Was, in fact, Complainant still eating pizza at
9 that time?

10 A. Yes, sir.

11 Q. You were also asked to confirm that you told
12 Kevin three years ago that the other time was when you
13 had to go look at a book that Complainant had picked up?

14 A. Yes, sir.

15 Q. Is that what you told this jury a while ago?

16 A. Yes, sir.

17 Q. The first time I asked you?

18 A. Yes, sir, it is -- or was.

19 Q. You were also asked about the nurse's area and
20 the timeline there; is that correct?

21 A. Yes, sir.

22 Q. When you talked to Kevin, did you review the
23 timeline and see that Maureen, the nurse, was there
24 when you and Complainant walked in?

25 A. Yes, sir.

J. HOLDER -- REDIRECT BY MR. CANTRELL

1 MR. TOOKER: Judge, I've let a lot go, again, he's
2 leading.

3 THE COURT: All right.

4 MR. TOOKER: Every single one of these questions
5 has been leading.

6 THE COURT: Just rephrase your question.

7 BY MR. CANTRELL:

8 Q. All right. Who was in the nurse's area when
9 you and Complainant walked in?

10 A. The nurse, Maureen Rickerd.

11 Q. Did she stay there?

12 A. She stayed 99 percent of the time.

13 Q. When you talked to Kevin and reviewed the
14 minutes, did you see that she walked out?

15 A. Yes, sir. I saw on the video, the same video
16 you guys have, that she was gone for like a minute.

17 Q. While she was out, was anyone else around?

18 A. Yes, sir, another staff, James Hayes, came in.

19 Q. Was there any time that you and Complainant were in
20 the nurse's area, when there was not Maureen or James
21 Hayes there, but for a few seconds?

22 A. No, sir.

23 Q. And you reviewed all of that with Kevin
24 Sowell?

25 A. Yes, sir.

1 MR. CANTRELL: I don't think I have anything
2 further.

3 THE COURT: Recross?

4 MR. TOOKER: No recross, sir.

5 THE COURT: All right. You can step down and have
6 a seat with your counsel. Call your next witness.

7 MR. CANTRELL: Can I have about two minutes with
8 just -- not with the jury.

9 THE COURT: All right. Yes, sir.

10 MR. CANTRELL: Your Honor, I'm sorry. Can I ask
11 for about a five minute break --

12 THE COURT: All right. I'll let the jury go to
13 the jury room for a couple of minutes -- well, five
14 minutes is what he's asking.

15 (Whereupon, the jury left the courtroom at
16 11:58.)

17 THE COURT: Me too. We'll take about a five
18 minute break.

19 MR. CANTRELL: Thank you, Your Honor.

20 THE COURT: Okay. Now, we -- I was told by off --
21 off the record, that there's no more, that the defense
22 is resting; is that correct?

23 MR. CANTRELL: That is correct, Your Honor.

24 THE COURT: All right. Mr. Tooker, you indicated
25 you may have some reply or rebuttal?

1 MR. TOOKER: I thought so, Your Honor. The one
2 that we were really waiting on, she won't be here for
3 another hour at least. So I'm prepared to just argue
4 the charge.

5 THE COURT: Because I think we've reached the
6 point where it is time to go forward with arguments and
7 charges.

8 Any motions on be behalf of the defense?

9 MR. CANTRELL: Your Honor, I would renew all
10 previous motions, including a motion for a directed
11 verdict at this time.

12 THE COURT: The motions are denied. I believe
13 there is enough evidence for the case to be submitted.
14 So about how long, Mr. Tooker -- how long do you
15 usually take to wrap up?

16 MR. TOOKER: And close?

17 THE COURT: Yeah, I mean, I don't usually set time
18 limits.

19 MR. TOOKER: The longest I've ever gone is 45 or
20 50 minutes.

21 THE COURT: Don't try to set any records today.

22 MR. TOOKER: Okay.

23 THE COURT: The same -- about the same?

24 MR. CANTRELL: Your Honor, my first answer to that
25 question would be probably too long. But I can't

1 imagine that I'm going to talk more than 10 or 15 -- if
2 I --

3 THE COURT: Well, I don't -- I don't structure any
4 time. It just helps me kind of to see where we go from
5 here. All right. And we might not get the charge
6 until after lunch, but we might get through arguments
7 before lunch, and then the charge after.

8 MR. TOOKER: And, Your Honor, my only request
9 would just be that if Mr. Cantrell, you know, starts
10 his argument, that I'm able to argue my case too before
11 we break for lunch.

12 THE COURT: Okay. All right. Well, we'll
13 finish -- we'll do that. Bring in the jury.

14 (Whereupon, the jury entered the courtroom at
15 12:08.)

16 THE COURT: All right. Members of the jury, while
17 you were out, the defense tells me they are resting, so
18 I am going to let them do that on the record now.

19 Mr. Cantrell, the defense rests?

20 MR. CANTRELL: Yes, Your Honor. The defense does
21 rest its case.

22 THE COURT: All right. So we have reached the
23 point where all the evidence is in the record, all the
24 exhibits and all the testimony. So at this time, the
25 attorneys have the opportunity to make their closing

1 arguments -- their closing statements.

2 Unlike the ones they made yesterday, where they
3 were simply outlining the trial and not trying to
4 convince you of anything, at this time, they will be
5 presenting their arguments along the lines of what the
6 evidence -- tying the evidence to the law, and telling
7 you why you should, based on those arguments, based on
8 the facts in the record and the law, your verdict
9 should be a certain verdict.

10 The defense will go first and then the State
11 will follow.

12 MR. CANTRELL: Thank you, Your Honor, may it
13 please the court?

14 THE COURT: Yes, sir.

15 MR. CANTRELL: Ladies and gentlemen, just briefly,
16 thank you. Again, it's not an easy task. You're here
17 serving as jurors and we do appreciate that, and thank
18 you. And it may sound a little hollow right now simply
19 because you've got to be here and you've got to listen
20 to me for a few minutes. But -- but please understand
21 that that is a sincere thank you from myself, from Mr.
22 Holder, and I think everyone in here.

23 A couple of things that first come to my mind
24 when I try to stand back and think about this case. I
25 don't know what to put first. Very simply, it's not

1 easy -- this is not easy for participants. It's not
2 easy for you as jurors, because we do have issues of
3 credibility. And part of that is based on
4 circumstances, those of Complainant that otherwise --
5 and but for being here in this trial, and but for there
6 being allegations made, it wouldn't be appropriate, I
7 think, for me to comment on. It wouldn't be
8 appropriate for us to discuss. They are his issues.
9 And that makes this uncomfortable -- at least for me --
10 and I have to think it is for you.

11 But the fact of the matter is, that having been
12 said, it is totally and completely relevant and I'm
13 required to present to you things and the issues that I
14 believe affect the credibility of the testimony you
15 have heard. So please understand, there's no great
16 pleasure in doing that in a case like this, but there
17 is a real desire to do the right thing.

18 Secondly, another thing to put out before you is
19 in our day and age, TV, social media -- you name it --
20 it can almost get to the point that presumed innocent
21 and must be proven beyond a reasonable doubt, that
22 those words just get washed away.

23 You hear them all the time, if you watch
24 anything. I don't care what network -- even the news,
25 you are going to hear the words "presumption of

1 innocence" and "reasonable doubt" thrown around. But
2 what is so extremely important is right here, right
3 now, in this place, those are real, real issues. Those
4 are real, real rights that our constitution gives
5 everybody in this case, especially to Matt Holder.

6 So you're going to hear those things, but try
7 the best you can to put out of your mind what you hear
8 on TV or any place else.

9 And what you will do is this Judge will tell you
10 what those terms mean. And please take them and
11 appreciate them as real, real rights that were handed
12 down hundreds of years ago to each and every one of us.
13 And they're real -- and they're important. Because
14 Matt Holder sits there innocent. He is presumed
15 innocent. He's innocent now. He's innocent when you
16 walked into the courtroom. And unless there has been
17 proof by competent and believable evidence to you,
18 beyond a reasonable doubt, he is innocent when you walk
19 out of that courtroom.

20 That's where your job really gets cranked up.
21 You've heard testimony. We both told you, you're going
22 to hear testimony. You use your common sense. You use
23 your every day sensibilities and render a decision
24 which speaks the truth, render a verdict. That's where
25 this -- we're at that point, as soon as you listen to

1 Mr. Tooker and myself, and you take the law from the
2 judge, you go back and you've been told, you will
3 determine what the true facts are. And that's what you
4 will do back there in your room.

5 You've heard how this thing all got started,
6 right at almost exactly three years ago now. And you
7 heard the law enforcement officer receive information
8 and investigated a case. So Detective Byers goes out
9 and investigates. Based on his investigation, he goes
10 and has Matt Holder arrested for these charges.

11 But you go back and look at the statements he
12 received from , and they are inconsistent.
13 That may not be uncommon, but it is a fact in this case
14 that they are inconsistent, and you have to take that
15 into account. Why they are and where these
16 inconsistencies are.

17 But he took Complainant statements and he
18 looked at some video -- and you've seen those. We'll
19 talk about that in just a second. But I won't beat you
20 over the head with it, because you've seen them also.
21 And he secured a warrant. He didn't go to the facility
22 itself, but secured a warrant.

23 Then what you heard also was testimony from
24 Complainant himself. And some of the things he did say in
25 his testimony was, yeah, he was dissatisfied with being

1 at the Hampton. Well, you might say that nobody would
2 want to be there. But I think we heard that it was
3 more than that. We heard from him and other witnesses,
4 not defense witnesses, but State witnesses that he was
5 dissatisfied. He was not happy with his progress, so
6 that he could get out of there. And he told you he
7 would act out.

8 He had different terminology, clinical
9 terminology for it, but the fact of the matter is, it
10 was acting out, up to and including tearing up and
11 destroying property. Not just once -- and his acting
12 out was not just once, he would -- could make progress
13 and do well, and then he would regress, and not do
14 quite as well.

15 Then there are other inconsistencies in what he
16 told you on the witness stand. For the first time,
17 based on everybody else you heard from here in the
18 courtroom, he says, well, I got the pizza for sexual
19 favors. Well, that had never been said based on what
20 Detective Byers or Kevin Sowell told you, but it was
21 said in here. Another inconsistency in a story that
22 I'm afraid he's kind of stuck with now, that they -- he
23 made allegations, so he's stuck with that, even now
24 three years later.

25 He would testify about the lack of presence or

1 presence -- or lack of presence of other individuals.
2 You saw that there were people all over the place when
3 he worked in the laundry room. You have heard that
4 there was a nurse in the nurse's area virtually the
5 entire time that Complainant and Matt were there. And that,
6 in fact, someone else came there.

7 And that's the other thing about all these
8 locations. All of these locations are in a facility
9 where anybody can come up at any time. All of that
10 should be weighed in determining the believability of
11 these statements and these allegations.

12 I would submit to you that there is nothing
13 valuable in the video -- to the State in the video of
14 the nurse's station, because you haven't seen it.
15 There's nothing there.

16 I would submit there at the end, you saw a lot
17 of video, two to three hours of stuff going on, trying
18 to show doors closed, doors opened. When, in fact,
19 it's admitted, acknowledged, that there are no
20 allegations whatsoever. That, in fact, occurs after
21 the point in time when some other allegations were
22 made. But then you watch video for three hours and you
23 see nothing that leads to any allegations of any
24 inappropriate conduct that's inconsistent that's --
25 that leads to believability of what the allegations

1 are, I believe, and I would ask you to consider that.

2 And then, again, very simply, you heard
3 testimony from two of the State's witnesses that -- and
4 these were denied by Complainant but you heard two
5 State's witnesses testify; one, that he said, yeah, I
6 know how to get out of here. I know what I need to do
7 to get out of this place. He was already agitated
8 about not getting out. And he said he knew what he
9 needed to do to get out. That shows his agitation.
10 And that was not when he was apparently doing well, but
11 it was prior to these allegations. So it shows his
12 state of mind, which is terribly important.

13 And also you heard that he had a reputation for
14 not telling the truth. Again, there's nothing
15 comfortable about coming in and telling you this young
16 person doesn't tell the truth. But it is something
17 that you heard from the State's witnesses, that it is
18 terribly relevant to the allegations in this case. And
19 I would ask that you do place significant weight on
20 that. He had ulterior motives for making the
21 allegations. He wanted to get out of this place. He
22 also didn't always tell the truth. And, in fact, was
23 known to not tell the truth.

24 And, in fact, one witness said that, yeah, he
25 had made allegations previously against staff and then

1 come back to say they were not true. When you're
2 deciding proof beyond a reasonable doubt of somebody
3 that is presumed innocent, you have got to take that
4 into account. It's not a nonfactor.

5 Meghann Harvey talked to you about the cameras
6 and the use of cameras, and that sort of thing. But I
7 would submit to you, the videos you have seen show you
8 what the cameras can show you, and show you -- as you
9 determine it, the weight of the evidence or weight of
10 that testimony.

11 She, in fact, testified, yes, Complainant had a
12 problem with telling the truth. In fact, when he was
13 at the hospital -- or in the examination after this
14 incident, he outright lied to her. She said so. It's
15 relevant. It is relevant that those things happened
16 when you're making allegations against someone.

17 Kevin Sowell confirmed that it was not uncommon
18 for somebody to earn points like this. They didn't say
19 it was -- had to be for 30 minutes or an hour, but it
20 wasn't uncommon for a kid to earn points, and that they
21 all truly wanted to.

22 Nobody has denied that on the evening of these
23 allegations of the -- the library allegations, that
24 Matt Holder was not even supposed to be working with
25 Complainant. But that by a set of circumstances, he did.

1 And that happened to be the night that it was pizza --
2 none of this was planned. All of this spontaneous.
3 And they went to the library.

4 The doors closed on occasion, but those were
5 explained. And when Mr. Holder was asked about, well,
6 you told Kevin Sowell, this actually turned out to be
7 almost spot on. Well, he didn't want the other kids to
8 see them. I couldn't let them interact, but he had
9 this piece of pizza with him, and that would have made
10 a kid out of a different pod with no pizza angry. So,
11 yes, I closed the door. Either that or run him out
12 into a different area, which would have only made
13 matters worse.

14 He told Kevin Sowell that. He told the
15 Solicitor that. And then that the door closed another
16 time when he was looking at a book that -- that Complainant
17 was asking about. And if you look at the doors,
18 heavier than this, look at the pictures to see what the
19 layout is, all of that is absolutely believable. Not
20 ideal for being off or on-camera. But, again, we've
21 already heard, it is not ideal but there are places
22 that aren't on-camera.

23 You do the best you can when you're working in
24 an area like this, working with people who need help
25 and have issues. You do the best you can. But if the

1 absolute only thing you care about is being on-camera,
2 you're not going to do your job and you're not going to
3 protect people. You do the best you can.

4 You did hear from an expert, Shauna
5 Galloway-Williams, who is absolutely an expert, a
6 wonderful expert. But what did she tell you. Well,
7 the studies will tell you this. The reports will show
8 you that. She gave you that information, which I
9 certainly am not going to question her on. Because,
10 again, she's an expert in her area. And she told you
11 that.

12 But I would submit to you that studies and
13 reports, and that sort of thing, have to be taken with
14 a grain of salt, applying your common sense;
15 particularly when you've got a situation like we have,
16 where this alleged incident took place in such a unique
17 facility, a unique community if you will.

18 But she gave you her professional opinion on her
19 area of expertise. But she did not, could not tell you
20 one single thing about this case. She was not called
21 in to analyze this case, to review this case, to give
22 you an opinion about this case. So she couldn't. She
23 was not asked. So you take information about studies,
24 but you take it whatever emphasis you feel is
25 necessary.

1 Matt Holder testified fully, openly put himself
2 out there for you, and certainly put himself out there
3 for Mr. Tooker to cross examine. And he answered all
4 of the questions that were asked of him. He didn't
5 deny doors were closed. He didn't deny that, well,
6 it's usually best not to close the doors.

7 He did explain how and why the doors could or
8 would have been closed. He did explain, most
9 importantly, that no -- nothing happened. We're in
10 this laundry room. And I -- you saw the video. There
11 were kids out everywhere. I didn't see any kids
12 fighting, getting hurt, getting into trouble, so they
13 didn't need three guys watching them. But there were
14 kids everywhere.

15 I would submit to you that Complainant , if he
16 wanted to work and earn his points, did not need that
17 door open for people to come in and out, to make
18 comments, or distract -- in fact, a couple did come up
19 to the door once or twice. But if Complainant , who
20 -- yes, it may have been a little high maintenance. He
21 wanted to earn his points. He wanted to get back on
22 track, or wanted to continue on track -- depending on
23 how you look at it. He didn't need -- he needed to
24 earn the points in laundry. That's what he had been
25 assigned. I don't know how he could have done it with

1 that door wide open.

2 Then, even though that's where the allegations
3 supposedly took place for the next three hours, they
4 are together, doors are closed. And no allegations
5 ever came about. It doesn't make a whole lot of sense.
6 It applies to credibility, believability.

7 You've got to take everything that you have
8 heard. You've got to decide what is believable, what
9 is credibility. I have told you at the very beginning,
10 there's a lot of room for sympathy in the circumstances
11 presented to you. And I would be shocked if you and
12 maybe everybody in this courtroom didn't have some
13 sympathy for individuals that have a need for special
14 attention, special placement like at the Hampton.

15 I quite candidly think there should be some
16 sympathy for someone who is doing his job, denies, and
17 has continued to deny forever anything happened. There
18 should be sympathy for someone who is confronted with
19 allegations under these circumstances. But I
20 understand there is room for sympathy for Complainant
21 Quite frankly, I feel that, too.

22 But the simple fact is, that does not equate to
23 anything regarding credibility, believability; did this
24 happen. Are these facts substantiated. That's when
25 you get into your responsibilities as a juror.

1 You use -- as a judge years ago used to always
2 tell the jury, use good old common horse sense. You
3 apply what you've heard with good old common horse
4 sense to determine whether the State has proven Matt
5 Holder guilty beyond a reasonable doubt.

6 In the end, when you sit down, there might be
7 the gut check -- or the gut test. Did I hear enough?
8 Did I see enough to convict Matt Holder of criminal
9 sexual conduct? Am I convinced beyond a reasonable
10 doubt? Do I know this beyond a reasonable doubt? How
11 can I convict him based on these allegations, these
12 circumstances, and the questions that I have?

13 If you answer all of those, and you decide it's
14 guilty, then that's the verdict you are going to
15 return. But if you cannot say that, look each other in
16 the eye, and look yourself in the eye and say, yeah, I
17 know it, then you don't know it. The reasonable doubt
18 is there.

19 It can be only one -- one thing can give you
20 reasonable doubt, several things. Witnesses can give
21 you reasonable doubt, several witnesses can. But if
22 you can't say that, then Matthew remains innocent. And
23 you should return a verdict and find him not guilty,
24 which is what we're going to ask you to do. Thank you.

25 THE COURT: All right.

1 MR. TOOKER: Thank you, Your Honor. May it please
2 the court?

3 THE COURT: Yes, sir.

4 MR. TOOKER: Mr. Cantrell. Mr. Foreman, and
5 ladies and gentlemen of the jury, nobody is asking you
6 for sympathy. Nobody wants sympathy. What we want is
7 your attention and we want justice. This case is not
8 about sympathy. This case is about what you think as
9 reasonable people happened in those rooms when Complainant
10 says he was molested. That's what this case is
11 about.

12 I say that, molestation is not a crime. A crime
13 in this case is criminal sexual conduct with a minor in
14 the second degree, and criminal sexual conduct with a
15 minor in a third degree.

16 Mr. Cantrell is absolutely right, I have the
17 burden of proving these things to you. And like I told
18 you in opening, it means showing you that certain
19 elements have been met.

20 So what I want to first do -- and let me say
21 this too. His honor will charge you on the law. And
22 if anything I say differs from what his honor says,
23 then you have to -- I mean, you are bound by your duty
24 to go with what his honor says. This is -- this is my
25 best recollection. My best understanding of what the

1 law is in this case.

2 All right. Criminal sexual conduct with a minor
3 in the second degree requires three things in essence.
4 You have got a child between 14 and 16 years of age at
5 the time. The Defendant is in a position of authority
6 or has some capacity to control or limit or do
7 something for or against the kid by virtue of being a
8 parent, a guardian, a custodian, something to that
9 effect; and that a sexual battery occurs.

10 And a sexual battery has a specific definition.
11 And his honor will charge you about sexual battery, but
12 it's penetration of any kind, oral sex. I believe the
13 term is fellatio and cunnilingus are used. And that
14 just means oral sex on a man or a woman.

15 So the allegations in this case with regards to
16 criminal sexual conduct with a minor in the second
17 degree, that Complainant , who was 15 years of age,
18 was abused by the defendant, Matt Holder, who is in a
19 position of authority over him by virtue of his role in
20 Hampton PRTF, and that oral sex occurred. And that
21 oral sex is enough to constitute a sexual battery. So
22 the elements are met if you conclude that the testimony
23 was credible. If you determine ultimately what -- you
24 believe Complainant; right?

25 The second charge we have is criminal sexual

1 conduct with a minor third degree. Again, basic
2 summary, the child has got to be less than 16. He was
3 15. The defendant has to be over 14. That's not an
4 issue in this case. And the lewd or lascivious act
5 that occurred -- touching, fondling, oral sex, lewd or
6 lascivious act.

7 So this issue in this case is not whether or not
8 the elements are covered. The issue in this case is
9 whether or not you believe the victim when he says
10 these things happened. That's why, in opening, I told
11 you, credibility is paramount in any case, but
12 particularly in this case. Credibility is paramount
13 because you have to figure out what story is the true
14 story. What story is the real story. And so you do
15 that by applying your common sense.

16 And Mr. Cantrell mentioned horse sense and
17 common sense are the same thing. You're reasonable
18 people. That's why we use jurors, as a reasonable set
19 of folks. So you have to use what you use on a daily
20 basis to determine what you believe and why.

21 One thing I like to think about, when I think
22 about credibility, is what -- what benefit is someone
23 going to get from telling a story; or what detriment --
24 how will they suffer if they say the truth. Right? So
25 it's why do I get something if I lie, or how do I --

1 how do I suffer if I tell the truth.

2 Now, Complainant is here currently. He's been
3 here throughout this trial. He testified. He is 18
4 years old, and a day today. He's been out of Hampton
5 PRTF since he was 15 years of age. He has maintained
6 that this happened since leaving. He came in. Took
7 the stand, and told you, like Mr. Cantrell said, three
8 years after the fact, that this happened.

9 The defendant had him expose himself to the
10 defendant. That the defendant exposed himself to the
11 victim. That after they did that, there was some
12 touching in the nurse's station. And a day later,
13 there was oral sex. Those are the things that he told
14 you three years after he left the Hampton PRTF.

15 Now, the defense wants to say, well, he's got a
16 motive. He's got a motive to lie. He wanted to get
17 out of that home. He felt like he had been doing well,
18 making steady progress, and he wants to get out. And
19 that's the best they have in this case.

20 The best they have is this is why he would say
21 this thing. So, he says on June 5th, five days after
22 the second incident, that I was molested. He tells a
23 staff member. They launch an internal investigation;
24 tells them this stuff. And what happens, does he
25 leave? Is he immediately taken out of the home? What

1 was the testimony? What does Kevin Sowell say? August
2 8th is when he finally left -- when he finally
3 matriculated out of the program; right? August 8th --
4 two months later. Two months later.

5 So if his whole scheme, his whole aim was to get
6 out of the home by making a false allegation against
7 Mr. Matthew Holder -- well, that failed. That failed.
8 So why not say it against somebody else?

9 Why not say, well, I was also abused by staff
10 member "x", or staff member "y", or staff member "z",
11 why not throw everybody under the bus that he can so
12 that he can get out, if for no other reason, they're
13 sick of him accusing people of sexual abuse. No. He
14 says these things happened to me. And he stays.

15 And what did we hear from Meghann Harvey? He
16 told her about what happened on June 5th, and he cried.
17 He cried. We're talking about whether he's lying.
18 That's what this case is about. Did he lie?

19 People fake words. People -- people are good at
20 faking words. Anybody can tell a story. Faking
21 emotion is something different. Faking emotion is
22 something actors do; right? An actor or actress can
23 make you believe that they believe something by virtue
24 of their performance. So not only are you being asked
25 to believe that he lied, but you're also being asked to

1 believe that he's an actor. That he's able to pull
2 tears on command, to cry in front of Meghann Harvey
3 when revealing abuse.

4 In addition to that, he tells people what
5 happened. He's not believed. And Mr. Cantrell
6 mentioned that he had behavior outbursts, tearing up a
7 floor and a sink. When did that happen? That happened
8 after the -- the allegations. He makes the
9 allegations. And then following that, tears up the
10 floor and tears up the sink. Why? Again, this goes to
11 emotion.

12 If you're a 15 year old child, particularly a 15
13 year old child in a facility like Hampton, you say, I
14 have been sexually abused and you feel like nobody
15 believes you. You act out. You behave in a way that
16 is destructive, because that is emotion. That's what's
17 happening to you in your heart.

18 If you're a liar, you say these things happened.
19 You say, I was abused. You say, I was touched. And
20 you're saying it because you want to escape, and nobody
21 believes you, and you go on your merry way.

22 You don't maintain it. You don't freak out.
23 You don't cry. You don't have a fit of rage. You're
24 the same. When you lie, you don't change inside when
25 something like this really happens to you.

1 The -- the video, of course, and I mentioned
2 that in opening, wasn't going to show a sex act
3 occurring. We don't have the sex acts captured on
4 video. So why is it that I wasted all of your time
5 showing you those videos, particularly when some of the
6 videos were just of the defendant and the victim
7 cleaning. Why show y'all that?

8 Well, what did Shauna Galloway-Williams talk
9 about? Shauna Galloway-Williams talked about grooming.
10 Do you recall that? She said there was something
11 called grooming, whereby a perpetrator cultivates a
12 relationship with a victim. The perpetrator does
13 things to expose the victim to ideas that maybe the
14 victim wouldn't have otherwise.

15 The perpetrator talks about stuff. The
16 perpetrator ingratiates himself with the victim. The
17 perpetrator makes small moves in one direction to see
18 if the kid will reciprocate.

19 What are the allegations in this case? Text
20 book grooming. Initially it's not just, wham, we're in
21 the laundry room, and oral sex happens; right?

22 Initially, the allegation are, well, there was
23 exposure. There's first first joking about penises.
24 And then, hey, let me see yours. How big is yours.
25 Oh, let me see yours. How big is yours. And then

1 there is exposure.

2 So all of a sudden, sexual activities, sexual
3 talk, and the exposure sure of genitalia has been
4 normalized. And it's been normalized by virtue of this
5 process of grooming. Then what happens.

6 Then they're in the nurse's station. Again,
7 what is requested is exposure. And while the exposure
8 is happening, what did Complainant say? The Defendant
9 attempted to put his mouth on Complainant genitalia. So
10 it's the next step.

11 Now, Complainant said he -- he wasn't comfortable
12 with that. It wasn't completed. He didn't do it. So
13 -- so we've got exposure; exposure and then an attempt
14 at oral sex. And then two days later when they are --
15 or three days later when they are again around each
16 other, what happens? At this point, the Defendant
17 requests exposure, requests masturbation. After
18 requesting masturbation, then performs oral sex on the
19 victim.

20 And what does the victim say -- and this, I
21 think, is particularly telling. He says, he did
22 ejaculate. If you're making this up, and you're a guy,
23 and you're saying to yourself, okay, I want to get out
24 of here. I am going to say these things. And I am
25 going to get out of here. You are not going to be

1 like, okay -- and, yeah, I did ejaculate. I did have
2 an orgasm. You're going to say, yeah, he tried to do
3 these things to me. I was like, whoa, Bro, I'm not
4 into that. That's not what I'm about. That's not
5 cool; right?

6 What's reasonable to you as reasonable people.
7 Is it that you say, yes, I participated and ejaculated;
8 or is that you say, oh, no, no, I wasn't into that, so
9 I got him off of me as soon as I could; right?

10 The videos, too, are important inasmuch as they
11 corroborate what Complainant says. Complainant goes to the staff
12 members. He goes to Meghann Harvey and says, I was
13 inappropriately touched by the defendant. These things
14 happened to me in these places.

15 So what does she do? What, they launched their
16 internal investigation. And fortunately, they have
17 these cameras up on the the ceiling, and the cameras
18 can capture the conduct of parties. The cameras
19 capture the defendant on the 27th, was with the victim
20 for four hours.

21 The victim says these -- these things happened
22 in these places. Sure enough, what do the cameras
23 capture? That the defendant and the victim were in
24 these places together.

25 What else does the victim say? Well, the door

1 shut and these things happened; or the nurse left, and
2 these things happened. And what was the testimony?

3 Well, first we saw the video where the door is
4 shut, corroborating what he says. He doesn't -- if
5 he's a liar -- and let me say this, too -- y'all have
6 been around kids. Y'all have been around 15 year olds.
7 I mean, y'all have been around 14 year olds. Are they
8 sophisticated liars? When a 14 year old or a 15 year
9 old lies to you, is it a sophisticated lie? Do they
10 tell you something that you say to yourself, oh, man,
11 that -- that really sounds true. And you look into it,
12 and you actually find evidence corroborating it. Does
13 that sound reasonable, or is it more reasonable that
14 kids like that are not sophisticated when they lie.

15 When they lie, like Kevin -- Kevin Sowell said
16 when he was on the stand, lie about being the one who
17 started a fight. I'm not the one who started the
18 fight. That other kid started the fight. They checked
19 the video and it's rebuffed. It is rebutted, because
20 kids aren't sophisticated. They can't think through
21 those kind of things when they concoct a lie.

22 Now, Complainant says these things happened. And --
23 and what do we find out when they pull the tape? Sure
24 enough, they are together. They're off camera and the
25 door shuts. Then what do we have? We have an

1 allegation on the 31st. The same thing, together.
2 Complainant says we went, we got pizza. We went to this
3 room. We got in a room. And then once I was in the
4 room, he requested that I start masturbating. And then
5 the door shut toward the end of the time that we're
6 there, he put his mouth on me, and I ejaculated; right?

7 What do we see in the video? They go to the
8 library together. He has pizza in his hand, if I
9 remember correctly. They get into the library. While
10 they are there together, the defendant -- and this is
11 why I showed you that during Ms. Harvey's testimony, if
12 it's me, it's me -- I'm that staff member. I'm
13 standing in the door, and my instructions are to make
14 sure that I'm on camera at all times, and doors don't
15 shut, and I'm not behind a closed door with a -- a
16 child or a ward. I'm standing there with an open
17 doorframe here, with my back against the door, leaning
18 against it. Checking my watch, saying hurry up, dude.
19 Come on, we need to get back on the ward.

20 But what do we see in this video? In this
21 video, we see him standing in the doorframe, peeking
22 out, and then it shuts to a sliver. To a crack; right?
23 He peeks out again, and then it shuts to a sliver. To
24 a crack. He peeks out again. And that goes on for
25 some 25 minutes; right?

1 And it goes on until the door shuts. And the
2 door shuts twice. The door shuts as people enter the
3 room. There are other people in the room. The
4 defendant says, well, I had to shut the door because it
5 was another child in there and I thought there could
6 have been a fight over pizza. Well, that other child,
7 if you look at the video, is with a staff member. Does
8 that sound reasonable to you?

9 If you're that staff member, you're employed at
10 this place, and your instructions are don't go
11 off-camera, don't go behind closed doors. Do you say
12 to yourself, when someone enters at the opposite end of
13 the room, what I need to do is shut myself into that
14 tiny little closet of a library with this kid; or do
15 you say to yourself, hey, maybe I'll just stand here.
16 And if I have to take some sort of preventative
17 measures, I'll wait and see what happens. Heavens
18 forbid I put myself in a position where someone can
19 accuse me of doing something I didn't do.

20 Ms. Shauna Galloway-Williams, she talked about
21 grooming. She talked about that process, but she also
22 talked about other things. She talked about delayed
23 disclosure and how common delayed disclosure is in
24 victims of sexual abuse.

25 Andrew didn't immediately say, after having been

1 approached or abused, hey, Meghann, hey Kevin, hey some
2 other staff member, guess what happened to me. This
3 terrible thing happened to me. No, he didn't say that.
4 He waited. He kept it inside.

5 Again, these things happen. He doesn't
6 immediately come forward and say, hey, guess what just
7 happened to me. If his plan is, I'm going to get this
8 guy, I'm going to tell the authorities that he is
9 molesting me, and that's going to get me out of this
10 facility, then would he not been immediately -- after
11 having been around that man -- go to Kevin, or go to
12 Meghann, or go to another staff member and say, hey,
13 listen to what just happened. No, he doesn't. He
14 doesn't come forward until June 5th, six days later;
15 right?

16 June 5th, he comes forward and says, I was
17 sexually abused. I was sexually abused. I was
18 sexually abused in these locations. And they are able
19 to verify that he was with the defendant at those
20 locations on those dates, at those times; right?

21 Shauna says delayed disclosure is common. It is
22 more common than someone saying they have been abused
23 immediately. And what we have in this case is delayed
24 disclosure.

25 Why? Why is it that people delay disclosure?

1 What did she say? She said, out of fear. Out of fear
2 that they might get in trouble, out of fear that
3 somebody else might get in trouble, out of concern that
4 they won't be believed. And imagine -- imagine a
5 child, a child in a facility like Hampton, that doesn't
6 have parents. He can't get on the phone and call mom
7 and dad. He's in this facility and something like this
8 happens. Who's going to protect him? Who's going to
9 protect him? His rights? They're voided. There's no
10 one to take care of him. Who will protect him.

11 There's fear. There's trepidation. There's
12 concern that if I go forward, maybe I won't be
13 believed. And Mr. Cantrell was talking about how these
14 kids have problems, and of course they do. You don't
15 end up in the facility if you don't have problems. But
16 does that mean that any child who makes an allegation
17 from there cannot be believed?

18 Does that mean any time that someone from that
19 place says they were wronged by a staff member, that
20 you can't believe what they say? Of course not.
21 Again, when we talk about credibility, we talk about
22 whether or not what the person says makes sense, and
23 what makes sense in this case.

24 Shauna Galloway-Williams, she also talked about
25 risk factors. When kids are more likely to be exposed

1 to abuse. She said real little kids, because they
2 can't say what happened. But she also said kids with
3 problems. Kids with problems are more likely to be
4 abused.

5 Why are they more likely to be abused? Because
6 abusers know that no one will believe them when they
7 come forward, and how sad is that? How sad is that?
8 That somebody is targeted because they're already
9 affected, because they've already got problems.

10 Ultimately, in my mind, this case comes down
11 really to two things -- or to two stories. It's what
12 you have to determine. Right? You have to determine
13 what happened in this case.

14 We talked about the verdict and the verdict
15 speaking the truth. What is the truth in this case?
16 The defense wants you to believe that the truth in this
17 case is that the defendant is -- is a criminal -- or
18 excuse me, the defendant -- the victim is a criminal
19 mastermind. That he -- that he decided I want to get
20 out of this facility. And what I'm going to do is, I'm
21 going to get around one staff member. I'm going to
22 make sure that that staff member goes off camera with
23 me, preferably behind close doors; right? Not only
24 will I do that on one occasion, I'll do it on multiple
25 occasions.

1 And then another day, I'll make sure I'm again
2 around that same staff person and I'm going to make
3 sure again, we are behind closed doors because I know
4 that if I get him off camera, and that door shuts,
5 boom, I got him I got him. Does that make sense? Does
6 that make sense to you based on what you saw of Complainant
7 on the stand? Does that seem like the kind of
8 person who comes up with that elaborate of a plan?

9 And what did Mr. Cantrell say, it was
10 spontaneous. That Matt had him on the 31st. The kid
11 wants to go to the library. It's just so happens that
12 Matt comes to pick him up; that Matt takes him to the
13 library.

14 So if this is an extraordinary and elaborate
15 plan to frame the defendant, well, he's got some sort
16 of clairvoyance. He's figured out how it is, and when
17 it is that this person is going to be around him, and
18 how it is that person is going to act on a camera on a
19 particular day, before he even goes there.

20 So -- so it's either that -- it's either that or
21 it's true. It's either that he is the most
22 sophisticated liar I've ever heard of, or it's true.
23 And what's reasonable? What's reasonable to you? We
24 ask you for the only reasonable thing; that is a
25 verdict of guilty.

1 THE COURT: Members of the jury panel, I
2 appreciate the attention that you've given to the
3 attorneys and the witnesses and myself. We do have
4 lunch for you. And what I'm going to do now is charge
5 you the law, then we'll let you go start deliberating.
6 And I'll tell you a little bit more about that in just
7 a moment. But first I'm going to charge you the law
8 that you are to apply to the facts as you determine
9 them to be.

10 This case has two charges against Mr. Holder.
11 They are criminal sexual conduct with a minor in the
12 second degree; and criminal sexual conduct with a minor
13 in the third degree. The elements of those offenses
14 I'll talk to you about later.

15 The fact that there are two charges is of no
16 importance; that is, there is no weight to be given
17 since there is more than one charge. That is, the fact
18 that there are two charges, doesn't make any -- any
19 difference. You would have -- you have to analyze the
20 evidence regarding each charge independently and
21 determine whether or not the state has proven beyond a
22 reasonable doubt Mr. Holder's guilt of that particular
23 charge. And what you find on one charge, does not
24 necessarily have to be found on the other. They stand
25 separate and apart.

1 Mr. Holder, you heard me say already, is
2 presumed innocent of these two charges. This
3 presumption of innocence that's in his favor, attached
4 to him at the time of his arrest, and remained with him
5 as his case is processed through out court system.

6 The presumption of innocence in Mr. Holder's
7 favor exists at this moment, and continues to exists as
8 you deliberate. Presumption of innocence is removed if
9 and when, and only if and when you determine that the
10 State has proven his guilt beyond a reasonable doubt.
11 And the State is not required to prove his guilt beyond
12 every doubt, but beyond a reasonable doubt.

13 Our court has described a reasonable doubt as a
14 kind of doubt that would cause a reasonable person to
15 hesitate to act. Proof beyond a reasonable doubt is
16 proof that leaves you firmly convinced of someone's
17 guilt.

18 If, based on your consideration of the evidence,
19 you are firmly convinced that Mr. Holder is guilty of
20 one or both of the charges, you would find him guilty.
21 If, on the other hand, you think there is a real
22 possibility that he is not guilty, you would give him
23 the -- give him, Mr. Holder, the benefit of that
24 reasonable doubt, and find him not guilty. He is
25 entitled to any reasonable doubt you have as to any

1 issue in this case.

2 I remind you that I am the sole judge of the law
3 in this case, and you must take, accept, and apply the
4 law as I charge it. You're not to infer from anything
5 I have said or done during this trial, or now say and
6 do, that's indicating an opinion of mine on the facts.
7 Our law does not allow a trial judge to formulate or
8 express to you, as the trial jury, any opinions on the
9 fact. That is solely your job.

10 It is solely your job to examine the evidence,
11 and give to the evidence the effect, the value, the
12 weight and the truth you believe it should have.
13 During this, you may believe one as opposed to several;
14 several witnesses as opposed to one. You may believe
15 all, part, or none of a witness' testimony.

16 Use your common sense, your sense of logic, your
17 sense of reason. Use your experiences in life as you
18 analyze the evidence. As judges of the facts, you
19 necessarily must judge the credibility, that is the
20 believability of the witnesses who have testified.

21 Assessing believability, use the things that
22 I've just talked about. Use the things that you, in
23 your day-to-day, life find to be indicators of
24 truthfulness in an individual. And you can use certain
25 evaluators, the witness' demeanor, how they act on the

1 stand. Are they hesitant or straight forward? Is
2 there testimony consistent or inconsistent. Do they
3 have any bias or prejudice, that is, any reason to help
4 or hurt one side or the other. Consider the
5 opportunity the witness had to know those things about
6 which the witness testified.

7 Examine the facts, determine the credibility,
8 determine the true facts and apply the law, and you'll
9 be in a verdict -- be in a position to return a verdict
10 that speaks the truth.

11 In this case, we had a witness who was qualified
12 as an expert, Ms. Galloway-Williams. Generally
13 individuals can only testify to something that they
14 have seen with -- or observed, something that they
15 experienced with one of their five senses. Usually
16 it's something they've seen or heard, but it could be
17 taste, touch or smell.

18 However, when someone has certain training,
19 experience and knowledge in a particular area, that
20 person can be qualified by the court to testify as an
21 expert and give expert opinions. That is, take facts
22 from those facts, and reach opinions.

23 Now, those opinions are allowed into evidence to
24 assist you. They are not binding on you. You look at
25 the testimony of an expert witness like Ms.

1 Galloway-Williams, just as you look at the testimony of
2 every other witness.

3 In addition to her, as to an expert witness, you
4 can -- even though I allowed her to testify as an
5 expert, you determine whether you believe she had the
6 qualifications to testify about the things that she
7 testified to.

8 In addition, you also can analyze and look at the
9 reasons she reached the opinions she reached to
10 determine how to use her testimony, if at all. You can
11 accept or reject in whole or in part the expert's
12 testimony in this case.

13 Now, in cases such as this, there are generally
14 two types of evidence which are presented, direct and
15 circumstantial evidence. Direct evidence is evidence
16 which directly proves the existence of a fact, and does
17 not require any deduction.

18 Circumstantial evidence is proof of a chain of
19 facts and circumstances which indicate the existence of
20 a fact. Crimes may be proven by circumstantial
21 evidence. Our law makes no distinction between the
22 weight or value to be given either to direct or
23 circumstantial evidence.

24 However, to the extent the State relies on
25 circumstantial evidence, all of the circumstances must

1 be consistent with each other, and when taken together,
2 point to the guilt of the accused beyond a reasonable
3 doubt.

4 If these circumstances merely portray one's
5 behavior as suspicious, then the proof has failed. The
6 State has the burden of proving the defendant guilty
7 beyond a reasonable doubt. This is true regardless of
8 whether the State relies on direct evidence,
9 circumstantial evidence, or a combination of the two.

10 The first charge I'm going to go over is
11 criminal sexual conduct with a minor. Here, Mr. Holder
12 is charged with that offense. Here, the State must
13 prove beyond a reasonable doubt that the defendant, Mr.
14 Holder, engaged in a sexual battery with the victim.

15 A sexual battery is sexual intercourse,
16 cunnilingus, fellatio, anal intercourse, or any
17 intrusion, however slight of any part of the person's
18 body, or any object into the genitalia or anal openings
19 of another person's body, except when that is
20 accomplished for medical recognized purposes.

21 In addition to proving a -- a sexual battery in
22 order to convict Mr. Holder, the State must also prove
23 beyond a reasonable doubt that the victim was less than
24 16 years of old at the time, was at least 14 years of
25 age, and that the defendant was either in a position of

1 familial, custodial, or official authority to coerce
2 the victim to submit, or that the defendant was at the
3 time, older than the victim.

4 Consent, willingness, indifference or ignorance
5 on the part of the minor, if any, as to what was taking
6 place, does not in any way effect the charge of
7 criminal sexual conduct. As to criminal sexual conduct
8 in the second degree, the State must prove that beyond
9 a reasonable doubt.

10 As to criminal sexual conduct with a minor in
11 the third degree, the State must first prove beyond a
12 reasonable doubt that the defendant was over the age,
13 at the time of the incident -- alleged incident -- of
14 14.

15 Next, the State must prove that the defendant
16 willfully and lewdly committed or attempted a lewd or
17 lascivious act on or with the body, or its parts, of a
18 child under the age of 16 years, with the intent to
19 arouse, appeal, or gratify the lusts, passions of
20 sexual desires of himself, the defendant, or the child.
21 Willfully means voluntarily and intentionally.
22 Something is wilful if it's done with a specific intent
23 to do something the law forbids.

24 Lewd means obscene, lustful, indecent or
25 lecherous. Lascivious means tending to incite lust,

1 lewd, indecent, obscene, or tending to deprave the
2 morales in respect to sexual relations.

3 As to these two charges, the testimony of the
4 victim need not be corroborated. Now, the State must
5 prove before you can convict Mr. Holder as to either of
6 these -- those charges beyond a reasonable doubt.

7 When you go in to deliberate in just a moment,
8 when you first go into the jury room, do not start
9 deliberating. I have to go over my charge with the
10 attorneys. If I have made an error, I have to bring
11 you back in and correct it. If that is the case, that
12 will be done fairly promptly, so don't start on your
13 lunch, make yourself available, so if I have to send
14 for you -- it'll be within two or three minutes, if I
15 have to.

16 If not, I will send in to you the verdict forms
17 that I'm going to go over with you in just a moment,
18 and the exhibits and the bailiff will tell you to start
19 deliberating.

20 If, while you're deliberating, you have
21 questions, please write them down, Mr. Foreman. Knock
22 on the door; give them to the bailiff. The bailiff
23 will bring them to me. I will consult with the
24 attorneys. I may be able to write an answer to your
25 note on -- on the paper.

1 If I do return a written note, keep that note
2 and turn it in with the exhibits, because it has to be
3 a part of the record. It may be that I'll have to
4 bring you back in open court to answer your question.

5 We can have testimony replayed if you wish.
6 I'll have to know from -- this is the first time I've
7 held court in Pickens. I'll have to find out what
8 accommodations the court, the Solicitor and the Defense
9 and the Clerk has for your viewing the videos, but I
10 will make those available.

11 Do we have a way to send something into the
12 jury? (Pause.) Well, if you want to see any part or
13 all of the video, let us know and we'll bring you back
14 here in open court, play the video, with no comments,
15 just let you watch it.

16 Now, your verdict must be unanimous. All 12
17 jurors must agree on a verdict before you authorize
18 your foreperson to write the verdict on your behalf.

19 Your verdict cannot be based on sympathy,
20 passion, public opinion, or matters outside the record.

21 When you've reached a verdict, Mr. Foreman,
22 knock on the door and tell the bailiff. I may be doing
23 some other work, but I'll send for you as promptly as I
24 can.

25 Now, the verdict forms are the same for each

1 basically, because they have two lines on there, and
2 the order of the lines, as set forth on the paper, is
3 of no importance. I have -- have to set them out in
4 some fashion. I usually set them out in this fashion,
5 but that has no importance.

6 If the State has, as to one or both of these
7 charges, found -- or convinced you beyond a reasonable
8 doubt of Mr. Holder's guilt as to either criminal
9 sexual conduct with a minor second degree or third
10 degree; if you would, as to that charge, put an "X" or
11 a check in the line before the sentence that says, "we
12 find the defendant guilty of criminal sexual conduct
13 with a minor, second degree". And then the other
14 indictment says "third degree".

15 If you find that the State has failed to prove
16 Mr. Holder guilty beyond a reasonable doubt of either
17 of these offenses, you would put a mark on the first
18 line of the verdict line that says "we find the
19 defendant not guilty of criminal sexual conduct with a
20 minor second degree", and on the other, third degree.

21 So I'm going to allow you to go to your jury
22 room now, but do not start deliberating until -- until
23 you hear back from me. And while you're having your
24 lunch, you can be at ease and just eat; or you can work
25 while you're eating. That's your call.

1 So, I'll let you go to the jury room, but don't
2 start deliberating quite yet.

3 (Whereupon, the jury left the courtroom at 1:02
4 p.m.)

5 THE COURT: Anything from the State regarding the
6 charge?

7 MR. TOOKER: Did Your Honor say consent is no
8 defense? I'm trying to remember.

9 THE COURT: I had it on my -- I had it here. I
10 think I said it. I have got on my notes, "consent,
11 willingness, indifference or ignorance on the part of
12 the minor, if any, as to what was taking place does
13 not, in any way, effect the charge of criminal sexual
14 conduct".

15 MR. TOOKER: Okay.

16 THE COURT: I think I said it, but I got it here.

17 MR. TOOKER: And you very well may have, Your
18 Honor. I'm sorry.

19 THE COURT: Anything from the defense?

20 MR. CANTRELL: Not a thing, Your Honor.

21 THE COURT: Okay. All right. Can you verify real
22 quick that I did, in fact, say that?

23 (Whereupon, court reporter checked the record.)

24 (Discussion off--record concerning exhibits.)

25 (Whereupon, the jury began deliberations at 1:11

1 p.m.)

2 (Whereupon, the court was in recess.)

3 THE COURT: Counsel is present, and I understand
4 we have a verdict. Bring in the jury.

5 (Whereupon, the jury entered the courtroom at
6 2:17 p.m.)

7 THE COURT: Mr. Foreman, I understand the jury has
8 reached verdicts?

9 MR. FOREMAN: Yes, sir.

10 THE COURT: If you would hand it to the clerk.

11 THE CLERK: This is indictment number
12 2013-GS-39-957, the State of South Carolina vs.
13 Jonathan Matthew Holder. We find the defendant guilty
14 of criminal sexual conduct with a minor second degree.

15 THE COURT: Are you sure that's what it says --

16 THE CLERK: Yes. This is indictment
17 2013-GS-39-958, the State vs. Jonathan Matthew Holder.
18 We find the defendant guilty of criminal sexual conduct
19 with a minor third degree.

20 Is this your verdict, and still your verdict,
21 say so y'all by raising your right hands?

22 (All jurors raised their hand.)

23 THE CLERK: Thank you very much.

24 THE COURT: Anything from the State before the
25 jury is dismissed?

1 MR. TOOKER: No, sir.

2 THE COURT: Anything from the defense before the
3 jury is dismissed?

4 MR. CANTRELL: Not before.

5 THE COURT: All right. Members of the jury panel,
6 we appreciate your help with this, and I'm going to
7 allow you to leave at this time. You are through for
8 the week and you will be mailed a check.

9 Mr. Foreman, on the way out, if you'll just step
10 over here --

11 THE CLERK: I'll go back there.

12 THE COURT: Oh, okay. Actually he's coming back
13 there.

14 (Whereupon, the jury left the courtroom at 2:19
15 p.m.)

16 THE COURT: Mr. Tooker, do you have sentencing
17 sheets?

18 MR. TOOKER: Yes, sir, Your Honor. I'm just --

19 THE COURT: Okay. Now, the jury has been
20 dismissed. Anything further from the defense?

21 MR. CANTRELL: Your Honor, only that I would renew
22 all prior motions. Again, my motion for a directed
23 verdict and -- directed verdict, but renew my motions
24 and a motion for a directed verdict.

25 THE COURT: All right. The -- those motions are

1 denied. As I found at the end of the case, the
2 evidence was sufficient to submit the case to the jury
3 for consideration. So I deny those motions.

4 Bring Mr. Holder up.

5 MR. TOOKER: Your Honor, if I can have just one
6 quick -- I'm sorry.

7 THE COURT: I've got the penalties on this.

8 MR. TOOKER: I wanted to make sure --

9 THE COURT: The codes --

10 MR. TOOKER: No, if it was violent and serious. I
11 have that with regards to CSC minor second degree,
12 which is violent and most serious. I do not have that
13 information for CSC minor third degree.

14 THE COURT: Does the victim want to say anything?

15 MR. TOOKER: Your Honor, the victim advocate is
16 Brittney Roper. She would like to address the court.
17 The victim has indicated to her that he would like her
18 to speak on his behalf.

19 THE COURT: All right.

20 VICTIM ADVOCATE: Yes, Your Honor. Complainant
21 did ask me to address the court on his behalf. Your
22 Honor, he would just like for Your Honor to take into
23 consideration the facts of this case, and respectfully
24 ask Your Honor that you do sentence this defendant to
25 some jail time, as he feels like that is appropriate in

1 this case. Thank you.

2 THE COURT: Anything else from the State -- you
3 said he had a prior record, you mentioned, but we
4 didn't get into what it was.

5 MR. TOOKER: I actually -- I went through the NCIC
6 again, and didn't see a conviction. So I don't think
7 there's anything on his record. I saw a charge, but it
8 was an acquittal.

9 THE COURT: All right.

10 MR. CANTRELL: Excuse me, Your Honor, and I won't
11 try to revisit the facts or the trial itself, and that
12 sort of thing. You have heard everything that Matt had
13 to say in his testimony, that he -- and he gave that
14 testimony in earnest, so I won't revisit that.

15 I would tell you that Matt is -- is 33 years of
16 age, I'm sorry. You've already heard about him. He
17 has a wife and five children. He regained employment
18 after -- after this incident, and was employed.

19 Now, since January of this year, he's been on
20 short term disability from -- from a staffing service
21 through -- at BMW. So he is employed, but he's not
22 working because of disability at this time. He's under
23 doctor's care for some gastrointestinal issues and
24 other matters that he's had some procedures as recently
25 as April regarding that.

1 But like I said, he -- he's -- and like he said,
2 he's a resident of Pickens County, lifelong. He's
3 currently living in West Minister. He's employed, has
4 a family, has a wife, has a stable home.

5 And, Your Honor, just very simply, without
6 minimizing the gravity of the charges at all, but
7 taking into account all circumstances and his
8 circumstances, I would certainly ask the court to be as
9 lenient as possible.

10 THE COURT: Does anyone else want to speak on his
11 behalf?

12 MR. CANTRELL: I don't think so, Your Honor.

13 THE COURT: Mr. Holder, anything you want to say?
14 She can speak if she wishes to.

15 MRS. HOLDER: Can I say anything that I want to
16 say?

17 THE COURT: Of course.

18 MRS. HOLDER: Matt and I have been married for
19 almost ten years. And when we first got together, my
20 daughter -- my oldest daughter was 18 months old, and
21 he took her in as his daughter.

22 Her dad signed over her rights -- or his rights.
23 And Matt has stepped in and been -- I can't even
24 explain to you the father and the other half of me that
25 he is.

1 And just like when -- you know, when the
2 allegations came up, I -- you know, even seeing the
3 taped video, I have never once thought any different of
4 Matt because I've known him. We've grown in -- we're
5 starting our ministry together. You know, we have
6 bonded together as, you know, just as a power couple.
7 And God -- I know that God knows that.

8 And I know beyond a shadow of a doubt, you know,
9 I look at my children. And they love their daddy. He
10 has such a heart for children. He'd come home and, you
11 know, we'd make Easter baskets for these kids in this
12 home. We do, you know, special Christmas things for
13 these kids, write cards.

14 I've spent many hours, you know, in prayer for
15 these kids. And it just -- I don't know -- I don't
16 understand because I need him -- I need him to help me
17 with the kids, to help me raise our family. I know
18 that God is calling us. I just -- I don't know what
19 else to say. He's just -- he's my best friend. I just
20 -- I don't live my life -- or the majority of my life
21 without him.

22 THE COURT: I understand that and I appreciate it.
23 Thank you. Mr. Holder, anything you want to say?

24 MR. HOLDER: Yes, sir. I stand by that I'm
25 innocent. I did my job as I was told. I've never had

1 any problems there with anybody this whole -- I've
2 tried to impact any of these kids. I -- I don't know
3 what to say.

4 I have a family. I have a wife and five kids,
5 and my family needs me more than ever right now. And I
6 -- I've always tried to be the model citizen and do
7 everything that I can to stay out of trouble and work.
8 I've never not worked. Even after these allegations
9 were made against me, I -- how hard it was to get a
10 job. I busted my butt and I've had perfect attendance
11 up until now.

12 And I've just -- I just feel like I've been
13 wrongfully done. I -- I have no other say -- no other
14 stance than that. I just -- I don't feel like that --
15 it's just a lot of different circumstances, but I just
16 don't feel like that -- that justice was served here
17 today.

18 THE COURT: Did Mr. Holder serve any time in jail
19 already on these?

20 MR. CANTRELL: No, sir.

21 THE COURT: All right. The sentence on each of
22 these are both the same, they are both to run
23 concurrent. And it requires enrollment on the sex
24 offender registry. The sentences, again, are to run
25 concurrent. They're each for ten years.

1 MR. CANTRELL: Thank you, Your Honor.

2 (Whereupon, the hearing adjourned.)

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1 CERTIFICATE OF REPORTER

2

3 I, SHARON D. JONES, CERTIFIED COURT REPORTER, DO
4 HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
5 AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS
6 HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE
7 CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF
8 GENERAL SESSIONS FOR PICKENS COUNTY, SOUTH CAROLINA, ON
9 THE 20TH AND 21ST OF MAY, 2015.

10 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
11 COUNSEL NOR INTEREST TO ANY PARTY HERETO.

12

13 9.29.15

14 ***Sharon D. Jones***

15

16 SHARON D. JONES,
17 CERTIFIED COURT REPORTER

18

19

20

21

22

23

24

25

WITNESSES

Samuel Byers

Pickens Police Department

2/7/2013

ARREST WARRANT NUMBER

Ref 2013A3920700016

ACTION OF GRAND JURY

TRUE BILL

Date: _____

MAY 12 2015

[Signature]
Foreperson of Grand Jury

VERDICT

GUILTY

[Signature]
Foreperson of Petit Jury

Date: _____

DOCKET NO. 2013-GS-39-957

SBT

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

MAY 12 2015

TERM 2013

THE STATE

vs.

JONATHAN MATTHEW HOLDER

Amended Indictment for

0397

**CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE (14-15)**

VIOLATION § 16-03-0655(B)(2)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)

AMENDED INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT WITH A MINOR 2ND DEGREE
 (14-15)

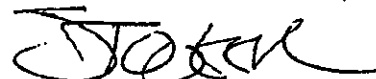
At a Court of General Sessions, convened on **MAY 12 2015** the Grand Jurors of Pickens

County present upon their oath:

That JONATHAN MATTHEW HOLDER did in Pickens County, between the dates of April, 2012 and June, 2012, engage in sexual battery with who was at least fourteen years of age but who was less than sixteen years of age, and that he did so in a position of familial, custodial, or official authority to coerce the victim to submit, and/or he was older than the victim. This is in violation of § 16-3-655(B)(2) [formerly 16-3-655(3)] of the South Carolina Code of Laws (1976) as amended.

Certified Copy
 Thaddeus P. Walker
 Clerk of Court
 Pickens County, SC
 Dated 5/28/15

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
STATE VS.

INDICTMENT/CASE#: 2013GS3900957

Jonathan Matthew Holder

A/W#: 2013A3920700016

AKA:

Date of Offense: 5/27/2012

Race: Sex: M Age: 33

§ 16-03-0655(C)

DOB: SS#:

CDR Code# 0397

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree

in violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 0397

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Joel Baker
Clerk

70997
SC Bar#

Jonathan Matthew Holder
Defendant

Joel Baker
Attorney for Defendant

70997
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive, weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund.

Other: _____

☐ Appointed PD or appointed other counsel § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

RECEIVED

JUN 02 2015

SENTENCE SHEET

SC Court of Appeals

0-20

#1

Certified Copy
Clerk of Court
Pickens County, SC
5/27/15

Harold P. Walker
Clerk

John C. Hays
Presiding Judge
2049
5/21/15

WITNESSES

Samuel Byers

Pickens Police Department

2/7/2013

ARREST WARRANT NUMBER

Ref 2013A3920700018

ACTION OF GRAND JURY

TRUE BILL

Date

MAY 12 2015

Foreperson of Grand Jury

VERDICT

GUILTY

Jeff G. Kelly
Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-958

SBT

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

MAY 12 2015

TERM 2013

THE STATE

vs.

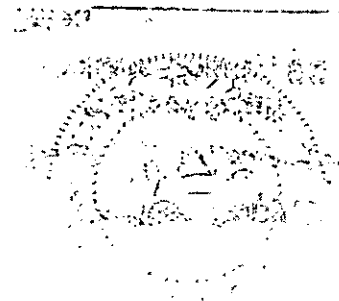
JONATHAN MATTHEW HOLDER

Amended Indictment for

3661

CRIMINAL SEXUAL CONDUCT WITH A MINOR
3RD DEGREE

VIOLATION § 16-03-0655(C)



STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)

AMENDED INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT WITH A MINOR 3RD DEGREE

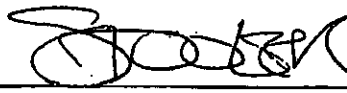
At a Court of General Sessions, convened on **MAY 12 2015** the Grand Jurors of Pickens

County present upon their oath:

That JONATHAN MATTHEW HOLDER did in Pickens County, between the dates of April, 2012 and June, 2012, being over the age of fourteen years, willfully and lewdly commit or attempt a lewd and lascivious act upon or with the body, or its parts, of , a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or such child. This is in violation of §16-03-0655(C) of the South Carolina Code of Laws (1976) as amended.

Certified Copy
 Clerk of Court
 Pickens County, SC
 Dated 6/28/15

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

COUNTY OF Pickens
 STATE VS.
Jonathan Matthew Holder

INDICTMENT/CASE#: 2013GS3900958A/W#: 2013A3920700018Date of Offense: 5/27/2012S.C. Code § 16-03-0655(C)CDR Code #: 3661

AKA:

Race:

Sex: M

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 yrs)

in violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 3661

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Handwritten Signature

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
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Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund.

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Handwritten Signature

SCCA/217 (03/2011)

Presiding Judge

Judge Code: Handwritten SignatureSentence Date: 5/21/15

Certified Copy
 Clerk of Court
 Pickens County, SC
 Date: 5/21/15

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "David Alexander", is written over a horizontal line.

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of October, 2016.

RECEIVED

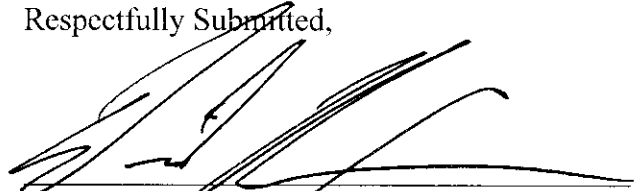
OCT 20 2016 340

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

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David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of October, 2016.