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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TAMARQUIS ANTWAIN WINGATE,

APPELLANT

APPELLATE CASE NO. 2014-002717

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT (DECEMBER 9-10, 2014)	1
OPENING STATEMENT BY MR. RICHARDSON	39
OPENING STATEMENT BY MR. JORDAN	44
MOTION TO SUPPRESS	50
LIMITING INSTRUCTION	50
TESTIMONY	
MINOR #1	52
MINOR #2	93
MARY ANN BROWN	109
SCOTT DANGERFIELD	135
ROBBY STONE	138
RENEA JENCO	146
LIMITING INSTRUCTION	168
TESTIMONY CONTINUED	
SALLY WILLIAMSON	169
MOTIONS	
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	197
CLOSING ARGUMENT BY MR. RICHARDSON	203
CLOSING ARGUMENT BY MR. JORDAN	217
CHARGE ON THE LAW	226

VERDICT	239
MOTIONS	242
SENTENCING	252
INDICTMENT	255
CERTIFICATE OF COUNSEL	257

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	CASE NO. 2014-GS-21-01378
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	TRANSCRIPT OF RECORD
	)	
TAMARQUIS ANTWAIN WINGATE,	)	
	)	
Defendant.	)	
	)	

December 9-10, 2014
Florence, South Carolina

B E F O R E:

THE HONORABLE DONALD B. HOCKER, Judge; and a jury

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

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Attorney for the Plaintiff

DANIEL JORDAN, Esquire
Attorney for the Defendant

KRYSTAL J. SMITH
Court Reporter

	<u>I N D E X</u>	
2	WITNESS/DESCRIPTION	PAGE NUMBER
3	(DECEMBER 9, 2014)	
4	Jury Voir Dire.....	7
5	Jury Seated.....	19
6	Pre-Trial Matters.....	29
7	Limiting Instruction.....	30
8	Jury Sworn.....	31
9	Opening Statements	
10	Mr. Richardson.....	39
11	Mr. Jordan.....	44
12	Motion to Suppress.....	50
13	Limiting Instruction.....	50
14	Minor 1	
15	Direct Examination by Mr. Richardson.....	52
16	Cross-Examination by Mr. Jordan.....	76
17	Redirect Examination by Mr. Richardson.....	87
18	Recross-Examination by Mr. Jordan.....	91
19	Minor 2	
20	Direct Examination by Mr. Richardson.....	93
21	Cross-Examination by Mr. Jordan.....	100
22	Mary Ann Brown	
23	Direct Examination by Mr. Richardson.....	109
24	Cross-Examination by Mr. Jordan.....	120
25	(CONTINUED ON NEXT PAGE)	

1	WITNESS/DESCRIPTION	PAGE NUMBER
2	Redirect Examination by Mr. Richardson.....	131
3	Recross-Examination by Mr. Jordan.....	132
4	Scott Dangerfield	
5	Direct Examination by Mr. Richardson.....	135
6	Robby Stone	
7	Direct Examination by Mr. Richardson.....	138
8	Cross-Examination by Mr. Jordan.....	141
9	(DECEMBER 10, 2014)	
10	Renea Jenco	
11	Direct Examination by Mr. Richardson.....	146
12	Cross-Examination by Mr. Jordan.....	154
13	Limiting Instruction.....	168
14	Sally Williamson	
15	Direct Examination by Mr. Richardson.....	169
16	Proffered Direct Examination by Mr. Richardson.....	176
17	Continued Direct Examination by Mr. Richardson.....	190
18	State Rests.....	195
19	Motions.....	195
20	Defendant's Rights.....	197
21	Defense Rests.....	201
22	Closing Arguments	
23	Mr. Richardson.....	203
24	Mr. Jordan.....	217
25	(CONTINUED ON NEXT PAGE)	

1	WITNESS/DESCRIPTION	PAGE NUMBER
2	Charge on the Law.....	226
3	Verdict by the Jury.....	239
4	Motions.....	242
5	Sentence by the Court.....	252
6	Court Reporter Certification.....	254
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
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4
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(No Exhibits Presented)

1 DECEMBER 9, 2014

2 (WHEREAS this matter was scheduled for a trial, the
3 defendant appeared along with his counsel of record. The
4 proceedings begin at 9:48 a.m.)

5 THE COURT: All right. Good morning, everybody.

6 THE JURY PANEL: Good morning.

7 THE COURT: Nice to see everybody back. We -- we kind of
8 ended the first case a little prematurely and it was just for
9 certain legal reasons that that arose. So we weren't really
10 -- at least as of yesterday weren't thinking we would be
11 starting our second case this morning or sometime today, but
12 we are.

13 So we've got to go through that same process. If you
14 remember the process we went through yesterday, not the whole
15 process because the initial qualification has already been
16 done; so now we go through that process unique to this
17 particular case. So it will be -- it will be familiar to you.
18 We'll go through questions and answers, give an opportunity
19 for people to come down front and talk with me if -- if you
20 need to do that. Okay? And then once that's done, then names
21 will be called out, you'll stand in front of counsel tables,
22 and we'll select the -- the trial jury.

23 This is the case of State of South Carolina versus
24 Tamarquis Antwain Wingate. Mr. Wingate, would you please
25 stand, sir, and face the jury panel for just a moment so they

1 can see you?

2 (Whereupon, the defendant complies.)

3 THE COURT: Thank you very much. You can have a seat.

4 Ladies and gentlemen of the jury panel, the -- the defendant
5 has been indicted with two counts of criminal sexual conduct
6 with a minor in the first degree. And as you remember
7 yesterday, I told you that indictments are not proof of the
8 allegations that the indictments contain. They're not
9 indications in any way whatsoever of guilt on the part of the
10 defendant. The indictment serves as the charging paper to get
11 the case into court where we are today and for no other
12 reason, no other purpose.

13 Now, I would -- I will ask the clerk if -- since this is
14 a new day, if you will swear the jury panel in, please, ma'am.

15 THE CLERK: You want them to stand, Judge, and raise
16 their hands.

17 THE COURT: Yes, please.

18 THE CLERK: If you will, stand and raise your right hand.
19 You shall answer all such questions as propounded to you by
20 this Court and you shall speak the truth, the whole truth, and
21 nothing but the truth, so help you God. You may be seated.

22 THE COURT: Okay. I need to see the lawyers back up here
23 for just one second, please.

24 (Whereupon, a bench conference is held in the presence of
25 the jury panel but out of the hearing of the jury panel

1 off the record.)

2 THE COURT: All right. Ladies and gentlemen of the jury
3 panel, is anyone related by blood or marriage or have been in
4 the past to either Tamarquis Antwain Wingate or **Minor 1**
5 If so, please stand.

6 (Whereupon, no one stands.)

7 THE COURT: Does anyone have a close personal or social
8 relationship either now or previously with either Tamarquis
9 Antwain Wingate or **Minor 1** If so, please stand.

10 (Whereupon, one person stands.)

11 THE COURT: Okay. Just give me your name and your juror
12 number and then what I will ask you to do concerning your
13 response -- if you'll just come down at the end when -- and
14 speak privately with the Court and then I'll talk with you
15 then. But your name and number?

16 JUROR NUMBER 54: Patricia Gaskins, 54.

17 THE COURT: Okay. Thank you very much, ma'am. Now, I'm
18 going to publish a list of possible or potential witnesses in
19 this case: Scott Dangerfield, Renea Jenco, Robbie Stone, Sally
20 Williamson, Jonna Carter, Mary Ann Brown, **Minor 2**
21 **Minor 1** Marvin Graham.

22 Let me see the lawyers again, please.

23 (Whereupon, a bench conference is held in the presence of
24 the jury panel but out of the hearing of the jury panel
25 off the record.)

1 THE COURT: All right. Continuing with the list of
2 potential witnesses: Rose Mary Brown, Tanya McWhite, Kammy
3 McWhite, Alexander Bryant, Fred Watkins, Brandon Shird,
4 Jessica Wingate, Marquette Wingate, Linda McLean, Miranda
5 Evans, Emmanuel Coaxum.

6 Is anyone on the jury panel related by blood or marriage,
7 either now or formerly, to any of those people I've just
8 listed or does anyone have currently or have had in the past a
9 close personal or social relationship with any of those
10 individuals that I have just listed? If so, please stand.

11 (Whereupon, two people stand.)

12 THE COURT: Yes, sir, your name and your jury number?

13 JUROR NUMBER 161: Your Honor, my jury number is 161 and
14 my name is Grady Williamson. I work with a John Carter. I'm
15 not sure if it's the same person as far as one of the
16 witnesses go, but I do work with a John Carter.

17 THE COURT: All right. I think I said a Jonna. J-o-n-n-
18 a. I may not have pronounced it correctly, but a J-o-n-n-a
19 Carter.

20 JUROR NUMBER 161: Okay. That wouldn't be --

21 THE COURT: Okay.

22 JUROR NUMBER 161: -- this person.

23 THE COURT: All right. Thank you. Okay. Yes, ma'am?

24 JUROR NUMBER 54: Patricia Gaskins, 54. Still know the
25 witnesses -- some of the people you named.

1 THE COURT: Okay. You know some of the potential
2 witnesses?

3 JUROR NUMBER 54: Yes.

4 THE COURT: Okay. All right. I'll just speak with you
5 at the conclusion. Okay?

6 All right. I'm going to give at this point in time an
7 opportunity for the lawyers who are involved in this case to
8 introduce themselves and anybody else that they need to
9 introduce. Solicitor?

10 MR. RICHARDSON: Thank you, Your Honor. Good morning,
11 ladies and gentlemen. My name is David Richardson. I'm an
12 assistant solicitor here in the Twelfth Judicial Circuit
13 Solicitor's Office in Florence and Marion County. Sitting
14 with me is John Jepertinger. He's the deputy solicitor for
15 this circuit. Also in our office we have the Solicitor, Ed
16 Clements, Kevin Hope, Catherine Wyse, Todd Tucker, Angel
17 Daniels, and Steven Hill, and Rick Hoefer.

18 THE COURT: Okay. Thank you, Solicitor. All right, Mr.
19 Jordan?

20 MR. JORDAN: Thank you, Your Honor. Good morning. My
21 name is Daniel Jordan and I'm an assistant public defender
22 here in Florence County. Our office includes myself, Jay
23 Jordan, Vick Meetze, Scott Floyd, Emily Crayton, and Will
24 Grove, as well as our investigators, Ron Smith and Thomas
25 McKenzie.

1 THE COURT: Okay. Thank you, sir. Has any member of the
2 jury panel ever been represented by any of the attorneys
3 involved in this case or any of the lawyers that have been
4 mentioned that work in both offices?

5 (Whereupon, two people stand.)

6 THE COURT: Yes, sir, your name and your number?

7 JUROR NUMBER 30: Kenneth Ciccone, Juror Number 30.

8 THE COURT: Yes, sir?

9 JUROR NUMBER 30: Mr. Richardson there -- I know Mr.
10 Richardson. He played ball and everything with my sons.

11 THE COURT: Okay.

12 JUROR NUMBER 30: He grew up with them.

13 THE COURT: All right. The fact that you know Solicitor
14 Richardson -- would that prevent you from being fair and
15 impartial to both the State and the defense in this case?

16 JUROR NUMBER 30: No, sir.

17 THE COURT: Thank you very much, sir. Yes, ma'am?

18 JUROR NUMBER 133: Dail Shaw, 133. I know Ed Clements.

19 THE COURT: Okay. The fact that you know Solicitor
20 Clements -- would that prevent you in any way from being fair
21 and impartial to both the State and the defense in this case?

22 JUROR NUMBER 133: No, sir.

23 THE COURT: Okay. All right. Now, you anticipated the
24 next question. Of course, since y'all are pros at this now, I
25 guess you can anticipate what I'm asking in advance. Is

1 anyone related by blood or marriage, either now or in the
2 past, or have a close personal relationship or social
3 relationship, either now or in the past, with any of the
4 attorneys involved in this case or anyone in their respective
5 offices other than the two who just stood? Anybody else?

6 (Whereupon, one person stands.)

7 THE COURT: Yes, ma'am, your name and number?

8 JUROR NUMBER 119: 119, Emily Pusser. I have a family
9 friendship with Rick Hoefer.

10 THE COURT: Okay. Would that prevent you from being fair
11 and impartial to both the State and the defense in this case?

12 JUROR NUMBER 119: No, sir, it would not.

13 THE COURT: Thank you. Has any member of the jury panel
14 formed already an opinion or expressed an opinion about any
15 issue, fact, matter involved in this case? If so, please
16 stand.

17 (Whereupon, no one stands.)

18 THE COURT: Is any member of the jury panel aware of any
19 bias or prejudice towards either the State or the defendant in
20 this case? If so, please stand.

21 (Whereupon, no one stands.)

22 THE COURT: Is there any member of the jury panel that
23 was a member of the grand jury which issued the indictment in
24 this case? If so, please stand.

25 (Whereupon, no one stands.)

1 THE COURT: Is there any member of the jury panel who is
2 a member of or a contributor to any group which has as its
3 primary concern the promotion of law enforcement or victim's
4 rights? These groups would include but not limited to MADD,
5 SADD, or CAVE.

6 (Whereupon, one person stands.)

7 JUROR NUMBER 119: Is that current or previous?

8 THE COURT: Either one, currently or previously.

9 JUROR NUMBER 119: I was a member of SADD from 1989 to
10 1990.

11 THE COURT: Okay. And give us your name and number
12 again.

13 JUROR NUMBER 119: 119, Emily Pusser.

14 THE COURT: Okay. The fact that you were previously a
15 member -- would that prevent you now from being fair and
16 impartial to both the State and the defense?

17 JUROR NUMBER 119: It would not.

18 THE COURT: Thank you, ma'am. Does any member of the
19 jury panel know of any reason whatsoever why he or she should
20 not serve as a juror in this case with particular emphasis
21 being placed on your ability to be fair and to be impartial to
22 both the State and the defendant in this case? If so, please
23 stand.

24 (Whereupon, no one stands.)

25 THE COURT: All right. At this time, if you want to

1 speak with me privately about any of the questions that I have
2 asked you or any other matters that you need to make the Court
3 aware of, then I'm going to give you an opportunity at this
4 time to form a line like we did yesterday, if you'll remember,
5 and I'll speak with you privately in the presence of the court
6 reporter and the attorneys.

7 I think we do have one lady that had stood previously.
8 And anybody else?

9 (Whereupon, a line forms.)

10 THE BAILIFF: Number 54, Patricia Gaskins.

11 (Whereupon, a bench conference is held in the presence of
12 the jury panel but out of the hearing of the jury panel
13 as follows.)

14 THE COURT: Yes, ma'am?

15 JUROR NUMBER 54: Minor 1 was my client at Child
16 Protective Services, and his mother, Mary Ann Brown, and his
17 brother, Minor 2 was also my clients for years.

18 THE COURT: Okay. All right. So Minor 1 was a
19 client of yours? And you're with DSS?

20 JUROR NUMBER 54: Yes.

21 THE COURT: Okay.

22 JUROR NUMBER 54: When it happened.

23 THE COURT: Okay. All right. Okay. All right. I'm
24 going to excuse you for cause meaning that you're not going to
25 be entitled to sit on this jury. Okay? Remain with us

1 because I'm not sure exactly what else we need to do with the
2 jury panel, but thank you, ma'am.

3 JUROR NUMBER 54: Okay. You want me to go sit down?

4 THE COURT: Yeah. Go sit down. Yes, ma'am.

5 JUROR NUMBER 54: Thank you.

6 THE COURT: Okay. Excused for cause.

7 THE CLERK: Yes, sir.

8 (Whereupon, the bench conference ends.)

9 THE BAILIFF: 161, Grady Williamson.

10 (Whereupon, a bench conference is held in the presence of
11 the jury panel but out of the hearing of the jury panel
12 as follows.)

13 THE COURT: Hey. How are you?

14 JUROR NUMBER 161: I'm good. Your Honor, I understand
15 this is my civic duty and I genuinely -- I genuinely would
16 love to serve. I'm not trying to give you a pity story, but
17 it takes both my wife and I to pay our bills --

18 THE COURT: Yeah.

19 JUROR NUMBER 161: -- working and my company has -- any
20 time missed they force us to use our vacation and I used all
21 of it yesterday.

22 THE COURT: Uh-huh.

23 JUROR NUMBER 161: And I really -- I really need to work
24 --

25 THE COURT: Okay.

1 JUROR NUMBER 161: -- in order to pay my bills.

2 THE COURT: Okay.

3 JUROR NUMBER 161: I mean it's not an excuse, but I'm
4 just telling you how it is.

5 THE COURT: Well, let me ask you this.

6 JUROR NUMBER 161: Yes, sir.

7 THE COURT: If I transfer you to a term of court say in a
8 couple months, would you be able to make whatever arrangements
9 you need to make to where maybe it would not be quite as
10 difficult? Because ordinarily financial reasons do not
11 justify an excuse.

12 JUROR NUMBER 161: Yes, sir.

13 THE COURT: But I'm willing to work with you. If I
14 transfer you to a couple months down the road to where you can
15 do whatever you need to do to where it doesn't affect you
16 quite as much, would that work?

17 JUROR NUMBER 161: Well, I tell you what. You know, if I
18 could -- if you could do it around tax return time, I believe
19 that would work out honestly.

20 THE COURT: All right. Let's transfer him to the first
21 term right after April 15th. Does that work?

22 JUROR NUMBER 161: That would be great.

23 THE COURT: Okay. All right.

24 JUROR NUMBER 161: Thank you so much, Your Honor.

25 THE COURT: Okay. All right. Stay with us though.

1 JUROR NUMBER 161: Okay.

2 THE CLERK: So just transfer him?

3 THE COURT: Yeah. Transfer him to the -- whatever the
4 first term right after April 15th. And you'll be notified just
5 like you were here.

6 JUROR NUMBER 161: All right.

7 THE COURT: Okay. Just have a seat.

8 JUROR NUMBER 161: Okay.

9 (Whereupon, the bench conference ends.)

10 THE BAILIFF: 97, Vincent Matthews.

11 (Whereupon, a bench conference is held in the presence of
12 jury panel but out of the hearing of the jury panel as
13 follows.)

14 THE COURT: Yes, sir?

15 JUROR NUMBER 97: Good morning, Your Honor. I have
16 already formed an opinion on this case. Anything dealing with
17 children I strongly believe that it doesn't matter if they're
18 guilty or not guilty. I do --

19 THE COURT: Okay. You don't believe you could be fair
20 and impartial?

21 JUROR NUMBER 97: No.

22 THE COURT: Okay. All right.

23 JUROR NUMBER 97: I don't mind serving.

24 THE COURT: I understand.

25 JUROR NUMBER 97: That's not a problem, but I dr

1 I --

2 THE COURT: We're going to excuse you for cause. Stay
3 with us though. Okay?

4 JUROR NUMBER 97: Yes, sir.

5 THE COURT: You just won't sit on this jury.

6 JUROR NUMBER 97: Okay.

7 THE COURT: Okay. Thank you.

8 (Whereupon, the bench conference ends.)

9 THE COURT: Anybody else? Okay.

10 THE CLERK: Did you excuse him?

11 THE COURT: Excused for cause. Are there any additional
12 voir dire from the State or any objections or exceptions to
13 the Court's voir dire from the State?

14 MR. RICHARDSON: No exceptions and no objections, Your
15 Honor.

16 THE COURT: Okay. Thank you very much. And from the
17 defense?

18 MR. JORDAN: Nothing, Your Honor.

19 THE COURT: Okay. All right. Ladies and gentlemen, just
20 give us just a moment and we will prepare the list and again
21 if your name is called out, come down to the front, face both
22 counsel tables. As I told you yesterday and I'll tell you
23 again, if you -- if they say excuse this juror or words to
24 that effect and you're not selected, don't -- don't take that
25 personally. Okay?

1 All right. Madam Clerk, if you'll proceed forward.

2 (Whereupon, there is a pause in the proceedings.)

3 THE CLERK: Are you ready, Judge?

4 THE LAW CLERK: Are you ready?

5 THE COURT: Oh, yes. I'm sorry.

6 THE CLERK: Yes, sir. 47, Dennis Fraley.

7 THE COURT: All right. We -- ten and five?

8 MR. RICHARDSON: Yes, sir.

9 (Whereupon, a white male comes forward.)

10 THE CLERK: What say the State?

11 MR. RICHARDSON: Please present Mr. Fraley.

12 THE CLERK: What say the defendant?

13 MR. JORDAN: Please seat Mr. Fraley.

14 THE CLERK: Please have a seat in the jury box. 145,

15 Robin Stoupenos.

16 (Whereupon, a white female comes forward.)

17 THE CLERK: What say the State?

18 MR. RICHARDSON: Please present Ms. Stoupenos.

19 THE CLERK: What say the defendant?

20 MR. JORDAN: Please excuse Ms. Stoupenos from the trial

21 of this case.

22 THE CLERK: You've been excused from this trial only.

23 38, Bruce Eaton.

24 (Whereupon, a black male comes forward.)

25 THE CLERK: What say the State?

1 MR. RICHARDSON: Please excuse Mr. Eaton for the purposes
2 of this trial only.

3 THE CLERK: You've been excused from this trial only,
4 sir. 30, Kenneth Ciccone.

5 (Whereupon, a white male comes forward.)

6 THE CLERK: What say the State?

7 MR. RICHARDSON: Please present Mr. Ciccone.

8 THE CLERK: What say the defendant?

9 THE COURT: Wait one minute, sir. We still have the
10 defendant to --

11 MR. JORDAN: Please excuse Mr. Ciccone --

12 THE COURT: Okay.

13 MR. JORDAN: -- from the trial of this case.

14 THE CLERK: 108, Christopher Myers.

15 (Whereupon, a black male comes forward.)

16 THE CLERK: What say the State?

17 MR. RICHARDSON: Please present Mr. Myers.

18 THE CLERK: What say the defendant?

19 MR. JORDAN: Please seat Mr. Myers.

20 THE CLERK: Please have a seat in the jury box. 147,
21 Ranesha Stuckey.

22 (Whereupon, a black female comes forward.)

23 THE CLERK: What say the State?

24 MR. RICHARDSON: Please present Ms. Stuckey.

25 THE CLERK: What say the defendant?

1 MR. JORDAN: Please seat Ms. Stuckey.

2 THE CLERK: Please have a seat in the jury box. 129,
3 Courtney Roberts.

4 (Whereupon, a white female comes forward.)

5 THE CLERK: What say the State?

6 MR. RICHARDSON: Please present Ms. Roberts.

7 THE CLERK: What say the defendant?

8 MR. JORDAN: Please excuse Ms. Roberts.

9 THE CLERK: You've been excused from this trial only.
10 113, Skyelar Parrott.

11 (Whereupon, a white female comes forward.)

12 THE CLERK: What say the State?

13 MR. RICHARDSON: Please present Ms. Parrott.

14 THE CLERK: What say the defendant?

15 MR. JORDAN: Please seat her.

16 THE CLERK: Please have a seat in the jury box. 60,
17 Kevin Greenwood.

18 (Whereupon, a white male comes forward.)

19 THE CLERK: What say the State?

20 MR. RICHARDSON: Please present Mr. Greenwood.

21 THE CLERK: What say the defendant?

22 MR. JORDAN: Please seat Mr. Greenwood.

23 THE CLERK: Please have a seat in the jury box. 58,
24 Richard Granger.

25 (Whereupon, a white male comes forward.)

1 THE CLERK: What say the State?
2 MR. RICHARDSON: Please present Mr. Granger.
3 THE CLERK: What say the defendant?
4 MR. JORDAN: Please seat Mr. Granger.
5 THE CLERK: Please have a seat in the jury box. 83,
6 Quinnie Jones.
7 (Whereupon, a white female comes forward.)
8 THE CLERK: What say the State?
9 MR. RICHARDSON: Please present Ms. Jones.
10 THE CLERK: What say the defendant?
11 MR. JORDAN: Please seat Ms. Jones.
12 THE CLERK: Please have a seat in the jury box. 52, Ryan
13 Gaines.
14 (Whereupon, a white male comes forward.)
15 THE CLERK: What say the State?
16 MR. RICHARDSON: Please present Mr. Gaines.
17 THE CLERK: What say the defendant?
18 MR. JORDAN: Please seat Mr. Gaines.
19 THE CLERK: Please have a seat in the jury box. 62,
20 James Ham.
21 (Whereupon, a black male comes forward.)
22 THE CLERK: What say the State?
23 MR. RICHARDSON: Please excuse Mr. Ham for the purposes
24 of this trial only.
25 THE CLERK: You've been excused from this trial only,

1 sir. 5, Justin Altman.

2 (Whereupon, a white male comes forward.)

3 THE CLERK: What say the State?

4 MR. RICHARDSON: Please present Mr. Altman.

5 THE CLERK: What say the defendant?

6 MR. JORDAN: Please seat Mr. Altman.

7 THE CLERK: Please have a seat in the jury box. 117,
8 Brandice Powell.

9 (Whereupon, a white female comes forward.)

10 THE CLERK: What say the State?

11 MR. RICHARDSON: Please excuse Ms. Powell for the
12 purposes of this trial.

13 THE CLERK: You've been excused from this trial only.
14 20, Johnny Brand.

15 (Whereupon, a black male comes forward.)

16 THE CLERK: What say the State?

17 MR. RICHARDSON: Please present Mr. Brand.

18 THE CLERK: What say the defendant?

19 MR. JORDAN: Please seat Mr. Brand.

20 THE CLERK: Please have a seat in the jury box. 67,
21 Randy Hartfield.

22 (Whereupon, a white male comes forward.)

23 THE CLERK: What say the State?

24 MR. RICHARDSON: Please present Mr. Hartfield.

25 THE CLERK: What say the defendant?

1 MR. JORDAN: Please seat Mr. Hartfield.

2 THE CLERK: Please have a seat in the jury box. 127,
3 Mark Richardson.

4 (Whereupon, a white male comes forward.)

5 THE CLERK: What say the State?

6 MR. RICHARDSON: Please present Mr. Richardson.

7 THE CLERK: What say the defendant?

8 MR. JORDAN: Please excuse Mr. Richardson from this
9 trial.

10 THE CLERK: You've been excused from this trial only.
11 119, Emily Pusser.

12 (Whereupon a white female comes forward.)

13 THE CLERK: What say the State?

14 MR. RICHARDSON: Please present Ms. Pusser.

15 THE CLERK: What say the defendant?

16 MR. JORDAN: Please excuse Ms. Pusser from this trial.

17 THE CLERK: You've been excused from this trial only.
18 51, David Fuentes Sr.

19 (Whereupon, a white male comes forward.)

20 THE CLERK: What say the State?

21 MR. RICHARDSON: I beg the Court's indulgence one moment.

22 THE COURT: Sure. Take your time.

23 MR. RICHARDSON: Please excuse Mr. Fuentes for the
24 purposes of this trial only.

25 THE CLERK: You've been excused from this trial only.

1 154, Linda Turner.

2 (Whereupon, a white female comes forward.)

3 THE CLERK: What say the State?

4 MR. RICHARDSON: Please present Ms. Turner.

5 THE CLERK: What say the defendant?

6 MR. JORDAN: Please seat Ms. Turner.

7 THE CLERK: Please have a seat in the jury box.

8 THE COURT: Is one alternate sufficient, Solicitor?

9 MR. RICHARDSON: That's fine, Your Honor.

10 THE COURT: Mr. Jordan?

11 MR. JORDAN: Yes, sir.

12 THE COURT: Okay. One alternate.

13 THE CLERK: 93, Thomas Lowry.

14 (Whereupon, a white male comes forward.)

15 THE CLERK: What say the State?

16 MR. RICHARDSON: Please excuse Mr. Lowry for the purposes
17 of this trial only.

18 THE CLERK: You've been excused from this trial only.

19 102, Dustin McRae.

20 (Whereupon, a white male comes forward.)

21 THE CLERK: Does the State wish to challenge this juror
22 for cause?

23 MR. RICHARDSON: The State does not.

24 THE CLERK: What say the defendant?

25 MR. JORDAN: Please seat Mr. McRae.

1 THE CLERK: Please have a seat in the jury box.

2 THE COURT: All right. Ladies and gentlemen, I see -- I
3 see some familiar faces on -- on this jury. I'm going to ask
4 that -- that you go back to your jury room. For those who did
5 not serve on the -- the jury yesterday, get a little familiar
6 with the jury room. I'll give you an opportunity to meet one
7 another and we will bring you back out shortly.

8 As -- as I do with every case and with the jury
9 yesterday, I give the instruction repeatedly throughout the
10 case. Don't start discussing this case among yourselves and
11 we'll get you back out shortly. Okay? Thank you.

12 (Whereupon, the jury exits the courtroom at 10:24 a.m.)

13 THE COURT: Okay. Does the State have any objections or
14 exceptions to jury selection?

15 MR. RICHARDSON: None, Your Honor.

16 THE COURT: And from the defense?

17 MR. JORDAN: None, Your Honor.

18 THE COURT: Okay. Thank you very much. Ladies and
19 gentlemen of the jury panel, again I'll say for those who were
20 not selected on the -- on the jury, if you're disappointed, I
21 just hope that you are given another opportunity sometime
22 either this week or in the future to be selected on a trial
23 jury. I hope thus far the process has been somewhat
24 educational for you.

25 We're not exactly sure what we will have after this case.

1 Hopefully, by the end of the day we may have a little bit
2 better idea. So I need for you to call -- call in with the
3 number that you have been provided after six o'clock this
4 evening with -- with further instructions. If you are -- if
5 you are instructed to not come back for the remainder of the
6 week, it's been certainly a pleasure to have you in this
7 courtroom. If you are instructed to come back, then I look
8 forward to seeing you again.

9 With that said, have a great afternoon and great evening,
10 and don't forget to call after six o'clock. Thank you.

11 (Whereupon, the jury panel is released at 10:26 a.m.)

12 THE COURT: Okay. I think based upon our previous
13 discussion we need -- we need a little bit of time. I'm going
14 to excuse the jury and have them come back at twelve. I know
15 that's not really a good time because they'll kind of start a
16 lunch break, but is that kind of the plan that we want to
17 follow is have them come back at twelve?

18 MR. RICHARDSON: Your Honor, my first set of witnesses
19 are going to be here at twelve.

20 THE COURT: Do you need a little bit more time after
21 that?

22 MR. RICHARDSON: A few minutes to talk with them.

23 THE COURT: Twelve thirty? I mean I'm not trying to --

24 MR. JORDAN: Your Honor, we had -- we had -- or I just
25 proposed to Mr. Richardson that maybe he and I are back at one

1 to discuss any pre-trial matters and the jury back at one
2 thirty so we can start promptly at two. Would that work?

3 THE COURT: I mean that -- that's fine with me.

4 MR. JORDAN: Yes, sir.

5 THE COURT: And let's just -- let's chat back here before
6 y'all take off. So I'll excuse the jury and have them back
7 here at two o'clock.

8 MR. JORDAN: Yes, sir.

9 MR. RICHARDSON: Yes, sir.

10 THE COURT: Okay. All right. Would you bring the jury
11 out, please, Madam Bailiff?

12 (Whereupon, the jury enters the courtroom at 10:29 a.m.)

13 THE COURT: Okay. Let the record reflect the jury is
14 back in. Ladies and gentlemen, what we're going to do --
15 we've got some -- some pre-trial matters that we need to deal
16 with with the lawyers, and then, you know, once that's done
17 we're going to have a lunch break.

18 So what I'm going to do is I'm going to let you leave now
19 and come back at two o'clock. So you're going to have a
20 pretty nice little break there, a little longer than what we
21 normally -- normally give, but once -- like I said, once we
22 deal with the pre-trial matters, then it's going to be about
23 lunchtime and you certainly need to eat lunch before we get to
24 work.

25 So, if you will, promptly be back at two o'clock. Please

1 allow yourself enough time. I know on our jury yesterday we
2 had a juror who said that they had a hard time finding a
3 parking place and that may be true, but allow for that. Allow
4 for unexpected things and be back here so we can get started
5 at two o'clock.

6 Again, you're going to run into some friends, family
7 members, coworkers, whoever over -- over your break. You can
8 tell them that you're on a jury, but that's it. I know you
9 know very little about this case, but don't discuss with them
10 anything that you may have seen or heard today. Certainly
11 don't discuss it among yourselves yet and we'll see you back
12 at -- at two o'clock. Have a good break.

13 (Whereupon, the jury exits the courtroom at 10:31 a.m.)

14 THE COURT: Okay. We'll be in recess until two o'clock.
15 If the lawyers just come back for just a second before we
16 break.

17 (Whereupon, there is a break in the proceedings from
18 10:31 a.m. until 2:05 p.m.)

19 THE COURT: All right. Gentlemen, we -- are we ready to
20 get -- get started? Anything we need to put on the record?

21 MR. RICHARDSON: Nothing from the State at this time,
22 Your Honor.

23 THE COURT: Okay.

24 MR. JORDAN: Your Honor, just briefly. I do want to put
25 on the record that I have conferred with my client regarding

1 any plea offer in this matter.

2 THE COURT: Right.

3 MR. JORDAN: Which was a plea to criminal sexual conduct
4 with a minor second degree.

5 THE COURT: Right.

6 MR. JORDAN: For a negotiated sentence of twelve years.
7 He and I have been through all of the discovery in this case,
8 and he has made the decision freely and voluntarily to move
9 forward with trial here.

10 THE COURT: Okay. All right. Very good. Mr. Wingate,
11 is that a correct statement?

12 THE DEFENDANT: That's correct, Your Honor.

13 THE COURT: Thank you very much. Okay. Let me do note
14 for the record that in light of the Court's ruling that the --
15 the issue of the defendant being on the sex offender registry
16 being an element of criminal sexual conduct with a minor first
17 degree, that being allowed into evidence, that I have prepared
18 a limiting instruction that I will use periodically throughout
19 the -- throughout the case, and both sides have reviewed that
20 limiting instruction and I believe -- I believe everybody is
21 fine with that. Is that correct, Solicitor?

22 MR. RICHARDSON: Yes, sir, Your Honor.

23 THE COURT: Okay. Mr. Jordan, is that correct?

24 MR. JORDAN: It is, Your Honor.

25 THE COURT: Okay. Thank you very much. All right.

1 Madam Bailiff, would you bring the jury out, please?

2 THE BAILIFF: Yes, sir.

3 (Whereupon, the jury enters the courtroom at 2:07 p.m.)

4 THE COURT: All right. Let the record reflect the -- the
5 jury is back in. Good afternoon. Hope you folks had a good
6 extended break and a good lunch. A couple of housekeeping
7 matters. First of all, we need to have you sworn in. Madam
8 Clerk, would you take care of that for me, please?

9 THE CLERK: Members of the jury, if you will, stand and
10 raise your right hand to be sworn.

11 (Whereupon, the jurors comply.)

12 THE CLERK: You shall well and truly try and a true
13 deliverance make between the State of South Carolina and the
14 defendant at the bar, whom you shall have in your charge, and
15 a true verdict render according to the law and evidence, so
16 help you God. You may be seated.

17 (Whereupon, the jurors comply.)

18 THE COURT: Okay. The second item of business and
19 certainly for those who were on the jury yesterday have
20 already heard this, but I have to appoint a foreperson of the
21 -- of the jury. And for those who did not hear this little
22 spiel yesterday, the first thing I want to emphasize is the
23 fact that whoever is appointed as the foreperson of the jury
24 -- their vote carries no greater weight than the vote of the
25 other eleven, but we just need to have someone to serve as

1 spokesperson between the jury and the Court. If there were a
2 concern, a question, an issue, something that needed to be
3 brought to the Court's attention, then we need to have someone
4 to speak on behalf of the -- of the jury.

5 Secondly, I need someone to kind of make sure that the
6 jury follows the instructions that I give either at the
7 outset, which I will do in just a moment, or throughout the
8 course of this trial.

9 And thirdly, the foreperson wears the hat of the one who
10 will get deliberations started. In other words, when you are
11 given the case to start deliberating on your verdict, then I
12 need someone to kind of oversee and organize that. But again,
13 everyone's vote is equal.

14 And I'm confident that all thirteen of you, the alternate
15 and the remaining twelve, any of you would make excellent
16 forepersons, but I can't -- I can't have thirteen
17 quarterbacks. I can only have one.

18 So I have decided on Ms. Jones and I think you are seated
19 in the correct chair. You will always maintain that same seat
20 as foreperson. The alternate will always maintain that seat,
21 and the remainder of you can sit wherever you want to. Stay
22 in the same seat if you feel comfortable in that or you can
23 switch it up every time you come back into the courtroom.
24 That's entirely left up to -- to you.

25 Now, Madam Forelady and ladies and gentlemen of the jury,

1 we are beginning the case of the State of South Carolina
2 versus Tamarquis Antwain Wingate, and he has already been
3 introduced to you. Now, before we begin this trial, I want to
4 tell you some things.

5 I want to tell you that this trial probably will be
6 different from what you might expect. Many people do not have
7 the chance to attend actual court sessions as you are doing
8 now and may think from watching television or movies or
9 reading books that trials are always full of high drama,
10 intense action, and riveting circumstances. While all of
11 these things may be true at times, this trial is not for
12 entertainment.

13 It is a fundamental part of our democracy, a search for
14 the truth in an effort to make sure that justice is done
15 between the parties before the Court. Searching for the truth
16 and making sure that justice is done is often slow,
17 deliberate, and repetitive, the opposite of what you may have
18 seen on television or seen in movies or read in books.

19 This courtroom is a place of honor dedicated to the
20 protection and preservation of citizens' rights through what
21 many have called the greatest justice system ever created.
22 The attorneys appearing before you are advocates for the
23 parties they represent, but first and foremost, they are
24 officers of the court sworn to uphold the integrity and
25 fairness of our judicial system and to help you in the search

1 for the truth. You should expect them to be professional,
2 competent, and ethical in the representation of their clients'
3 interest, and I'm confident that they will be. These lawyers
4 are excellent lawyers.

5 But you as jurors are expected to be professional,
6 reasonable, and ethical as well. I want to thank you for
7 accepting this important responsibility of jury service and
8 for your contribution today to our justice system.

9 Now, what I have said and will say is intended to serve
10 just as an introduction to the trial of this case. These
11 remarks are not a charge on the law of this case. I will
12 instruct you on the law applicable to this case at the end of
13 the trial before you retire to consider your verdict. This is
14 merely an explanation of the procedure that we will follow in
15 the trial of this case so that you may better understand what
16 may be happening.

17 Now, I will instruct you now that you are not permitted
18 to take notes. Consequently, what that requires of you is
19 that you pay very close and strict attention to everything
20 that goes on during this proceeding.

21 It's anticipated that it may take several days for this
22 trial. I'm not exactly sure of that, but that's kind of my
23 general understanding. So you'll have to rely on memory when
24 it's time to deliberate; so pay very close attention to what
25 goes on.

1 Now, as I told you this morning, the defendant is charged
2 by an indictment filed with this court and charged with two
3 counts of criminal sexual conduct with a minor in the first
4 degree. I will explain the elements of that offense at a
5 later point in time. And again, the indictment is simply the
6 charge by which -- which the case is brought into court and it
7 is not in any sense evidence of any of the allegations it
8 contains.

9 The defendant has pled not guilty to this indictment. He
10 has exercised his constitutional right to plead not guilty.
11 Therefore, the State has the burden of proving each and every
12 element of this charge -- of this charge contained in the
13 indictment beyond a reasonable doubt, and it will be your
14 duty, Madam Forelady and ladies and gentlemen of this jury, to
15 decide whether the State has met that burden of proof.

16 Your purpose as jurors is to find and determine the
17 facts. You are the sole judge of the facts. If at any time
18 during the course of this trial I make any comment regarding
19 the facts, you must disregard it. You are to determine the
20 facts from the testimony you hear and the other evidence
21 introduced in court.

22 It is up to you to determine the inferences which you
23 feel may properly be drawn from the evidence. It is
24 especially important that you perform your duty of determining
25 the facts diligently and conscientiously because ordinarily

1 there is no way to correct an erroneous determination of the
2 facts by a jury.

3 On the other hand and with equal emphasis, the same law
4 that makes you the judges of the facts makes me the judge of
5 the law. The law as given by the Court is the only law you
6 may consider. You must accept and follow it, even though you
7 may disagree with it. I cannot tell you what the facts are
8 and you cannot disagree with me about what the law is or
9 should be.

10 Your job is to take the law as I give it to you and apply
11 it to the facts as you find them from the testimony of the
12 witnesses and any other evidence that is introduced in this
13 trial. After doing that, you will render your verdict, a
14 verdict under the solemn oath that you took as jurors a moment
15 ago.

16 And until you -- until I tell you that you may begin to
17 deliberate, you cannot, again as I've told you previously,
18 discuss this case with anyone, including your fellow jurors,
19 friends, family members, and anyone involved in this case.
20 During your deliberations, you may only discuss the case in
21 the jury room with your fellow jurors because your fellow
22 jurors have seen and heard the same evidence as you have.

23 You must decide this case based solely on the evidence
24 presented here in this courtroom. Therefore, that means that
25 you cannot conduct any independent research when you go home

1 in the evening or during a lunch break. Now, we have access
2 to -- to a wealth of information via the Internet and
3 otherwise and it may be very tempting for you to go on the
4 Internet and try to find out facts about this case or find out
5 facts or what the charges are about.

6 Do not do that. Everything that you base your decision
7 on has to come from this trial, either from the witness stand,
8 any other evidence introduced, and the law as I give it to you
9 at the conclusion of this case.

10 Now, Madam Forelady and ladies and gentlemen of the jury,
11 there may be times during the course of this trial that one of
12 the lawyers may say, "Objection, Your Honor," or may say, "I
13 have a matter of law," and it may require me to excuse you to
14 your jury room. The primary purpose for that is I have to
15 discuss a legal issue with the lawyers and it may require me
16 -- during my discussion of that particular legal issue with
17 the lawyers, I may have to discuss the facts and I do not want
18 to discuss the facts in your presence because, again, you are
19 -- not me, you are the sole judge of the facts in this case.

20 Along with this instruction to not do any independent
21 research, you are not to read -- and I don't know if there's
22 going to be any media accounts about this case, but you cannot
23 consider anything that may appear in the newspaper, on the
24 radio, TV, Internet, anything related to an account of this
25 case, if that exists. You cannot consider that. You cannot

1 look at it or give it any attention.

2 It is extremely important, ladies and gentlemen, that you
3 keep an open mind and not discuss any issue in this case until
4 all of the evidence has been presented, the parties have made
5 their closing arguments to you, and I have instructed you on
6 the law in this case. It is your solemn responsibility to
7 determine the guilt or innocence of the defendant, and your
8 verdict must be based solely on the evidence as presented to
9 you in this trial and on the law as I instruct you during and
10 at the close of this trial.

11 Now, in just a moment, the lawyers will make opening
12 arguments or opening statements to you. They're not evidence
13 in this case. It is just a statement of what they believe the
14 evidence will show and their respective positions in this
15 case. But these arguments, these opening statements, are not
16 in any way to be considered as evidence by you.

17 I will ask the State is there any objection or exception
18 to the Court's preliminary charge to the jury?

19 MR. RICHARDSON: None, Your Honor.

20 THE COURT: And from the defense?

21 MR. JORDAN: None, Your Honor.

22 THE COURT: Thank you very much. Solicitor, you may --
23 are you ready to proceed?

24 MR. RICHARDSON: Yes, sir.

25 THE COURT: Okay. You may proceed.

OPENING STATEMENT ON BEHALF OF THE STATE.

MR. RICHARDSON: Thank you, Your Honor. Mr. Jordan.
Good afternoon, folks.

Back in December 2012, right around in there, **Minor 1** Brown and his younger siblings found themselves in a difficult situation. **Minor 1** was 14 at the time. His little brother, **Minor 2** was about a year or so behind him, and they had a much younger sister, who was about half their age. They lived with their mom up until that time and around December 2012/January 2013, she got sent off to the Department of Corrections for a probation violation and she was going to be gone for a period of about ten months. So that left **Minor 1** and his siblings without anybody to stay with, which would be tough, tough on three little kids in and of itself.

So **Minor 1** mother, Mary Ann Brown, who you'll hear from, she knew that this was coming; so she made arrangements for her children to be taken care of by this defendant's mother, who was a neighbor. Ms. Brown was sent off to the Department of Corrections under the assumption that the deal she made with her neighbor would -- would take place, that she would help her with the children.

That did not take place. Tamarquis Wingate, who is seated over here at the defense table, was, as I mentioned, the son of this neighbor, and he sort of took control after mama went away and he kept those three children in their own

1 home for the entire period of time while Mary Ann Brown was in
2 the Department of Corrections. What Mary Ann Brown and her
3 children didn't know at the time is Tamarquis Wingate is a
4 convicted sex offender.

5 And over that period of months from the time Ms. Brown
6 went off to the Department of Corrections to the time she got
7 back around October of 2013, Tamarquis Wingate pretty much on
8 a nightly basis sexually assaulted 14-year-old **Minor 1**
9 Now, **Minor 1** was 14 when it began; he turned 15 while it was
10 going on.

11 **Minor 1** made it through that situation. His mom finally
12 got out of the Department of Corrections in October of last
13 year, and it took him some time because he was embarrassed and
14 afraid, but eventually he let -- his mom found out some of
15 what had happened to him. I don't believe she still knows
16 everything that happened to him, but he's embarrassed about it
17 and that's, you know, not something you want your mom to have
18 to hear about.

19 But he mustered the strength to tell, and his mom called
20 law enforcement. They actually showed up to the Pamplico
21 Police Department to report it, and the Florence Sheriff's
22 Office got involved.

23 They referred **Minor 1** to the Care House of the Pee Dee,
24 and they did a forensic interview. They interviewed him to
25 get the details of what all took place, and all of that brings

1 us here today.

2 Tamarquis Wingate is charged with two counts of criminal
3 sexual conduct with a minor in the first degree, and the judge
4 at the end of this case is going to read you the law that you
5 have to follow. He's going to give you the official law that
6 you will take back with you in the jury room and apply to this
7 case, but I want to give you a little preview of the elements
8 of the offense for which Mr. Wingate is charged so you'll have
9 an idea of what to look for as you hear testimony from this
10 witness stand.

11 Now, criminal sexual conduct with a minor in the first
12 degree is when the actor, that being Mr. Wingate, engages in
13 sexual battery with a victim who is less than 16 years of age,
14 and the actor has previously been convicted of, pled guilty or
15 nolo contendere to or adjudicated delinquent for an offense
16 that's listed in a separate code section that's basically a
17 list of offenses that would qualify someone for this offense
18 or he's been ordered to be included in the sex offender
19 registry pursuant to the other code section.

20 Let's go back up to the top. The actor engages in a
21 sexual battery. What is a sexual battery? Well, he's charged
22 with two separate counts of sexual -- basically of committing
23 a sexual battery. When you think sexual battery, think of
24 penetration. One of the counts has to do with oral sex; one
25 of the counts has to do with anal sex.

1 And I know this is grotesque subject matter, but, you
2 know, this is kind of the nature of the situation. This is
3 stuff we have to prove in order to -- I have to prove in order
4 to convince you that Mr. Wingate is guilty of these offenses.
5 So those are the two allegations of sexual battery.

6 Of course, that the victim is less than 16 years of age.
7 **Minor 1** will testify he was 14 when this started and 15 when it
8 ended.

9 And lastly, that the defendant has been convicted of or
10 pled guilty, et cetera, to an offense listed in a code section
11 that will be given to you and he -- or has been ordered to be
12 included in the sex offender registry. You'll hear from the
13 stand that Mr. Wingate was placed on the sex offender
14 registry. He was convicted of one count of lewd act upon a
15 minor back in 2003 and was placed on the sex offender registry
16 because of that conviction. You'll hear from Scottie
17 Dangerfield of the Florence Sheriff's Office, who oversees the
18 sex offender registry for Florence County, and he'll explain
19 how that works for you.

20 So those are the things that I have to prove to you and
21 that I intend to prove to you as a part of this case. Now,
22 when we finish these opening statements, **Minor 1** is going
23 to be called to the stand and he's a kid, and in order for us
24 to prove this, he's got to get up there and tell thirteen
25 strangers, people he's never met before, about probably the

1 toughest thing that's ever happened to him in his life.

2 So he may seem embarrassed. He may seem afraid. I may
3 have to ask him to pick his voice up a little bit. I don't
4 know, but I ask you to think about that and take that into
5 consideration what he's having to do, the situation he's
6 having to face to come in here to get justice -- for us to be
7 able to get justice for him and this community, and I ask you
8 to listen to that.

9 You'll also hear from his little brother, Minor 2 who
10 got lucky I guess. He was -- he was not assaulted by this
11 defendant, but he did observe some things that were
12 suspicious, that he thought was odd when it came to his
13 brother and this defendant. And again, you'll hear from some
14 law enforcement witnesses and other individuals who worked
15 closely on this case.

16 At the conclusion of the evidence, I ask you to take all
17 of it, consider it for what it is, and use your good common
18 sense to come to the right conclusion in this case. And I
19 feel that when you get all that evidence, it won't take you
20 very long to realize that Tamarquis Wingate is guilty of these
21 two counts of criminal sexual conduct with a minor in the
22 first degree, and I'm going to ask you to find him guilty. I
23 appreciate it. Thank you.

24 THE COURT: Thank you, Solicitor. Mr. Jordan, are you
25 ready, sir?

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

MR. JORDAN: I am, Your Honor. Thank you. Mr. Richardson.

Good afternoon, ladies and gentlemen. First off, let me thank you all for being here. Lord knows if I had gotten a jury summons for this week, I'd have tried everything I could possibly think of to get out of it.

Your being here and filling these seats helps us fulfill our constitutional duties. It helps insure that Mr. Wingate's constitutional rights are protected. I appreciate you being here. I know you'd much rather be somewhere else. As Mr. Richardson indicated, we both hope that as the trial goes on and the evidence is presented that you keep an open mind, that you use your good common sense, and evaluate the evidence.

Mr. Richardson's opening statement to me seemed to be a pretty succinct summary of the allegations that have been made against Mr. Wingate. He told you the elements of the offense of criminal sexual conduct first degree.

I'm going to help you out. I'm going to tell you Mr. Wingate fully admits that he was convicted of a crime that has placed him on the sex offender registry. However, Mr. Wingate was punished for that crime. He has served his time. Obviously, he remains on the sex offender registry, but I would ask that, merely because he committed that crime back in the early 2000s, don't let that cloud your judgment. Don't

1 let just because he made a mistake when he was younger bring
2 you to the conclusion that he's guilty of these crimes.

3 The other elements that the solicitor brought out must be
4 proven by the State beyond a reasonable doubt. So I ask as
5 you go through this trial and you hear the evidence that you
6 ponder as to whether or not you believe whether or not there
7 is a reasonable doubt as to whether or not the victim or any
8 other witness is telling the truth.

9 When I went to law school, I swore I wouldn't do criminal
10 work or Family Court work, and that's what I do. I grew up in
11 a good Christian household here in Florence and we never
12 discussed money or sex. When I became a public defender, I
13 found out that on occasions you're going to have to do that.

14 You all are going to hear some things that good people
15 don't normally talk about in public. It's up to you all to
16 evaluate the evidence. You heard what the allegations are,
17 but to evaluate the evidence against Mr. Wingate and determine
18 whether or not he's guilty or innocent.

19 I believe that in the end after all the evidence is
20 presented and you all have deliberated, you will come to the
21 conclusion that Mr. Wingate is not guilty beyond a reasonable
22 doubt. Thank you all for your service. I hope you keep an
23 open mind.

24 THE COURT: Thank you, Mr. Jordan. Madam Forelady and
25 ladies and gentlemen of the jury, I have one brief matter of

1 law to take up with the lawyers. I'm going to ask that you go
2 back to your jury room. It shouldn't take long at all. We'll
3 get you back out and we'll start with the State's case.
4 Again, don't begin any discussion about this case among
5 yourselves.

6 (Whereupon, the jury exits the courtroom at 2:35 p.m.)

7 THE COURT: Okay. I want to make sure that we're clear
8 about this third element of this offense. All right?

9 We've got a child under the age of 16, we've got a sexual
10 battery, and the third element can either be an offense
11 enumerated under 430 and/or the person is on the sex offender
12 registry. Now, if he was convicted with -- by -- with a lewd
13 act in '03, lewd act was deleted in 2012 and these allegations
14 took place 2012-2013.

15 So the third element is only going to be the fact that he
16 is on the sex offender registry. I realize that came about as
17 a conviction of a crime, but the crime is not enumerated in
18 430. So the third element is strictly the fact that he is on
19 the sex offender registry?

20 MR. RICHARDSON: Yes, sir.

21 THE COURT: I want to make sure that we're clear on that
22 because, Solicitor, in your opening you alluded to what is in
23 the indictment that it was -- committed an offense that was
24 enumerated in 430 and he's on the sex offender registry. I
25 just want to make sure that we are crystal clear what the

1 third element is.

2 MR. RICHARDSON: Yes, sir. And the reason I brought that
3 up is that -- the title of that offense was deleted and it was
4 subsequently I guess replaced with --

5 THE COURT: Right.

6 MR. RICHARDSON: -- criminal sexual conduct with a minor
7 third degree.

8 THE COURT: Right.

9 MR. RICHARDSON: All the language was the same. So I --
10 if you want me to stay away from that, that's good, but what
11 my intention was was to have my law enforcement witness who
12 does the sex offender registry explain the fact that lewd act
13 was changed to --

14 THE COURT: Right.

15 MR. RICHARDSON: -- criminal sexual conduct and that is
16 listed.

17 THE COURT: Okay. But I want to make sure we have an
18 agreement that the third element of this offense is just the
19 fact that the defendant is on the sex offender registry.

20 MR. RICHARDSON: Yes, sir. I will avoid --

21 THE COURT: Okay.

22 MR. RICHARDSON: -- any further mention --

23 THE COURT: Okay.

24 MR. RICHARDSON: -- of any specific offense --

25 THE COURT: Right.

1 MR. RICHARDSON: -- and just go with --

2 THE COURT: All right.

3 MR. RICHARDSON: -- the registry itself.

4 THE COURT: Okay. Mr. Jordan?

5 MR. JORDAN: Your Honor, I'm fine with that. At this
6 point, I'd like to suppress any further -- make a motion to
7 suppress any further testimony about it. Mr. Richardson has
8 placed on the record and so have I that Mr. Wingate was
9 convicted of a crime --

10 THE COURT: Right.

11 MR. JORDAN: -- that places him on the sex offender
12 registry. I don't feel that there's any need for any further
13 testimony about that issue and I feel that any -- any further
14 testimony would be more prejudicial than probative at this
15 point.

16 THE COURT: Well, in light of the fact -- and it goes
17 back to the initial discussion we've had -- it is an element
18 of the offense that the State is required to prove, just like
19 they're required to prove beyond a reasonable doubt that a
20 sexual battery took place. The State doesn't have to accept a
21 stipulation or agree to a stipulation. So since they're
22 required to prove all of the elements, then it appears to me
23 that it's going to have to be mentioned again in some fashion.

24 MR. JORDAN: Okay.

25 THE COURT: Okay. I just wanted to make sure that we

1 were clear on what the third element was because there's two
2 possibilities: commission of a particular offense that's found
3 in 430 and/or being on the sexual registry.

4 MR. RICHARDSON: Yes, sir.

5 THE COURT: It's either one or the other or both, but in
6 this situation it's just the sex offender registry.

7 MR. RICHARDSON: Sure. We're proceeding like we are now,
8 just going forward on the --

9 THE COURT: Right.

10 MR. RICHARDSON: -- one angle there. That'll eliminate
11 one witness I believe. I had a witness from the Darlington
12 County Clerk --

13 THE COURT: Okay.

14 MR. RICHARDSON: -- of Court's Office coming in tomorrow
15 to put his old sentencing sheet in.

16 THE COURT: Right.

17 MR. RICHARDSON: So I can just cut that --

18 THE COURT: Right.

19 MR. RICHARDSON: -- because my law enforcement witness
20 will cover the rest.

21 THE COURT: Because my limiting instruction that you guys
22 have already reviewed and that I intend to give just as soon
23 as the jury comes back out limits it to just being on the sex
24 offender registry. And I know we're splitting hairs here, but
25 I think we almost have to.

1 MR. RICHARDSON: Yes, sir.

2 MR. JORDAN: And so in regard to the witness that Mr.
3 Richardson is intending to call regarding that issue, are you
4 saying that his testimony should be limited to only testimony
5 regarding whether or not he was on the sex offender registry
6 rather than explaining lewd act was changed to this and --

7 THE COURT: Right. I don't think he needs to go into all
8 that. I think, you know, he was placed on the sex offender
9 registry because of a prior sex offense, period, and without
10 going into about lewd act changing because that will -- that
11 will confuse the jury if we start going and trying to explain
12 that lewd act is now, you know, third degree, you know. I
13 don't think we need to go into that. Okay?

14 MR. RICHARDSON: Yes, sir.

15 THE COURT: All right. So we're clear on all that?

16 MR. JORDAN: Yes, sir.

17 THE COURT: All right. Very good. All right. Madam
18 Bailiff, if you'll bring the jury back out?

19 THE BAILIFF: Yes, sir.

20 (Whereupon, the jury enters the courtroom at 2:40 p.m.)

21 THE COURT: All right. Let the record reflect the jury
22 is back out. Madam Forelady and ladies and gentlemen of the
23 jury, I wanted to provide you with one instruction at this
24 stage before we go into any of the State's witnesses.

25 The elements of first degree criminal sexual conduct with

1 a minor under Section 16-3-655, Subsections (a)(2), are as
2 follows: that the alleged victim is under the age of 16 at the
3 time of the alleged offense; that the defendant committed a
4 sexual battery on the alleged victim; and that the defendant
5 has previously been ordered to be included in the sex offender
6 registry pursuant to 23-4-430, Subsection (d).

7 The existence of the defendant being placed on the sex
8 offender registry is an element of the offense of first degree
9 criminal sexual conduct with a minor. The State has the
10 burden of proof to prove all of the elements of this offense
11 beyond a reasonable doubt standard.

12 You are to consider this evidence of the defendant being
13 on the sex offender registry only for purposes of it being an
14 element of this offense and for no other purposes. It cannot
15 be considered by you as proof of any other element of this
16 offense, nor as proof or evidence of the defendant's character
17 or as proof or evidence that the defendant acted in accordance
18 with any prior conduct.

19 All right. Solicitor, are you ready to proceed with your
20 case?

21 MR. RICHARDSON: Yes, sir, Your Honor.

22 THE COURT: Okay.

23 MR. RICHARDSON: The State calls **Minor 1** **Minor 1**
24 come on up here and have a seat. Well, actually, I think
25 we'll have to swear you in. So stand right there and face

2 THE CLERK: Place your left hand on the Bible and raise
3 your right hand. Do you swear to tell the truth, the whole
4 truth, and nothing but the truth, so help you God?

6 THE CLERK: If you'll have a seat right there in the
7 witness chair.

11 THE WITNESS: Yes, sir.

12 THE COURT: Okay. That's good. Good so far. All right.
13 You may proceed, Solicitor.

14 MR. RICHARDSON: Thank you, Your Honor.

15 Minor 1 being first duly sworn,
16 testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. RICHARDSON:

19 Q: Minor 1 how old are you right now?

20 | A: Sixteen.

21 Q: All right. What's your date of birth?

22 A: [REDACTED] [REDACTED] [REDACTED].

23 Q: [REDACTED]?

24 A: Yes, sir.

25 Q: All right. You have a couple of -- a brother and sister;

Minor 1 - DIRECT BY MR. RICHARDSON

1 is that right?

2 A: Yes, sir.

3 Q: And how many brothers and sisters have you got?

4 A: I got two sisters and one brother.

5 Q: All right. And how old are they?

6 A: My oldest sister is 21 -- I meant 20. My little sister
7 -- she eight, and my brother -- he 14.

8 Q: So he's 14? And your brother -- is that Minor 2

9 A: Yes, sir.

10 Q: Now, back when you -- back in 2012, you would have been
11 14; is that right?

12 A: Yes, sir.

13 Q: Okay. And back during that time, did you and your
14 brother and your little sister live with your mom up to a
15 certain point?

16 A: Yes, sir.

17 Q: All right. Who was your neighbor back then?

18 A: My neighbor was Linda McLean.

19 Q: All right. And who is she in relation to Tamarquis
20 Wingate?

21 A: His mom.

22 Q: All right. Did you know Tamarquis back then?

23 A: No, sir.

24 Q: Okay. So did your mom know Ms. McLean I guess from y'all
25 being neighbors?

Minor 1 - DIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: Okay. So back in 2012, did there come a point where your

3 mom had to go away for a while?

4 A: Yes, sir.

5 Q: Okay. And she got sent off to jail; is that right?

6 A: Yes, sir.

7 Q: Okay. Were you aware at that time what she had planned

8 for you and your little brother and little sister in terms of

9 who y'all would be staying with?

10 A: Well, we were going to stay with our cousin, but Linda

11 McLean said that she was going to take us in.

12 Q: Okay. And she -- does she live next door to you?

13 A: Yeah, next door.

14 Q: All right. Did Tamarquis live with her or did --

15 A: Yes. Yes, sir.

16 Q: He did?

17 A: Yes, sir.

18 Q: And did -- did you know -- had you met Linda McLean?

19 A: Yeah, I met her.

20 Q: All right. Did you kind of know her?

21 A: Yes, sir.

22 Q: Did you feel comfortable staying with her?

23 A: Yes, sir.

24 Q: All right. So your mom went away. Was that around

25 December 2012/January 2013?

Minor 1 - DIRECT BY MR. RICHARDSON

- 1 A: Yes, sir.
- 2 Q: Somewhere in there?
- 3 A: Yes, sir.
- 4 Q: Okay. Do you remember what -- what day of the week it
- 5 was when she went away?
- 6 A: Well, it was -- it was a Thursday night. We had a church
- 7 program at our church.
- 8 Q: So she got sent away on that -- on a Thursday?
- 9 A: Yes, sir.
- 10 Q: And you had a program at church that same night?
- 11 A: Yes, sir.
- 12 Q: Okay. Who did you go to church with that night?
- 13 A: Tamarquis Wingate.
- 14 Q: Okay. And where did y'all go to church?
- 15 A: We go to church in Pamplico, a church called New
- 16 Deliverance Church.
- 17 Q: New Deliverance in Pamplico?
- 18 A: Yes, sir.
- 19 Q: And you lived in Pamplico with your mom next door to --
- 20 A: Yes, sir.
- 21 Q: -- Ms. McLean?
- 22 A: Yes, sir.
- 23 Q: All right. So Tamarquis took you and your brother and
- 24 sister to church that night?
- 25 A: Yes, sir.

Minor 1 - DIRECT BY MR. RICHARDSON

1 Q: How did that come about? Did he just come over and ask
2 y'all to go or what?

3 A: Well, before my mom went -- before the cop came and got
4 my mama, all of us was going to go together, but yeah, we went
5 with him.

6 Q: Okay. And was your mom friends with Tamarquis at the
7 time?

8 A: Yes, sir.

9 Q: So what happened at church that night that you recall?

10 A: Okay. We went to church that night. We had a program
11 and all the men sat in the front row. So I was -- the pastor
12 was preaching and all that, you know. So I was standing up
13 and the preacher -- you know, I wanted to hear the preaching.
14 And Tamarquis Wingate at the church -- he got mad and started
15 fussing and all that. I ain't know why, but then after that I
16 went back in the church and helped the pastor and then went
17 home.

18 When we got home, he said, "Take off all your clothes,
19 I'm going to beat you." I said, "All right," and he said, "Go
20 in the back room." So I went in the back room. So then when
21 he come in, he said, "Pull your clothes up." And then we went
22 back in the front room. I was in the front room. He said,
23 "I'm going to bed probably in five minutes." I said, "All
24 right."

25 So we were back there. Okay. So he called me and he

Minor 1 - DIRECT BY MR. RICHARDSON

1 said, "Minor 1 I said, "Huh?" He said, "Come here." So I
2 went back there and he -- and he told -- he said, "Why you was
3 standing up with those gay dudes?" I said, "What gay dudes?
4 I didn't know we had gay dudes in our churches."

5 Q: Hang on for me a second, Minor 1 You said Tamarquis
6 started fussing at you at church?

7 A: Yes, sir.

8 Q: And when y'all got home, he was still fussing at you?

9 A: Yes, sir.

10 Q: And you didn't understand why?

11 A: No, sir.

12 Q: Okay. And I think you just mentioned why he was fussing
13 at you?

14 A: Yes, sir.

15 Q: Could you clarify that to us? And try to speak a little
16 more clearly.

17 A: Okay. Like, it was two gay dudes at church I didn't know
18 about. So when we got home, he told me to take off my clothes
19 because he was going to beat me and all that. So I say,
20 "Okay." So I went in the back room, took off my clothes, and
21 was waiting. But then he came in the back room and said,
22 "Pull up your clothes. I'm going to call you in five minutes.
23 I'm going on the back porch." I said, "All right."

24 So that's when he called me and I went on the back porch.
25 He said, "Why you was standing up with them gay dudes?" I

Minor 1 - DIRECT BY MR. RICHARDSON

1 said, "What gay dudes? I ain't know we had gay dudes in our
2 church." He said, "You know." I say, "I don't know." And
3 then he said, "Well, one of them was at the piano and one was
4 at the drums." Well, I said, "I didn't know that." He said,
5 "Well, you were standing right there." I said, "I wasn't
6 standing there. I was standing at the pastor the whole time."

7 Then that was when he was going to come out and he said,
8 "You're going to know how it feel." I said, "What are you
9 talking about?" He said, "You'll know how it feel." I said,
10 "What are you talking about?"

11 He asked me that about several times and I said, "What
12 are you talking about?" and he said, "You'll know how it feel.
13 Do you know how it feel to be gay?" I said, "No." And then
14 he said, "Don't play with me. Do you know how it feel?" I
15 say, "No."

16 So then he asked me that about ten times and all that.
17 So after that, I said, "Yeah," because he was getting angry
18 and, you know, there was nothing I could do; so I just say,
19 "Yeah." So I went in the room. So we went back in the house.

20 Q: Hang on for me. You said -- now, he -- he asked you if
21 you wanted to feel how it was to be gay?

22 A: Yes, sir.

23 Q: And you said he asked you, like --

24 A: Ten times.

25 Q: -- ten times or so?

Minor 1 - DIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: And why did you eventually tell him yes?

3 A: Because he was getting mad. Like, he was angry like he
4 was going to do something. So I just said, "Yeah."

5 Q: Okay. And this is still the first night --

6 A: Yes, sir.

7 Q: -- after church; right?

8 A: Yes, sir.

9 Q: All right. So after you said yes, y'all were on the --
10 y'all were on the back porch?

11 A: Yes, sir.

12 Q: When that conversation took place?

13 A: Yes, sir.

14 Q: What happened after you said yes?

15 A: After that, I went in the house and I went in the front
16 room and he said go -- he said, "Go in the house. Go in the
17 front room." He said, "I'm coming." I said, "All right."

18 So it -- my brother -- he was getting undressed and
19 changing his clothes to bedtime clothes and all that. So he
20 came in the front room and we was sitting there. I laid on
21 the couch. Tamarquis Wingate laid on one couch and my brother
22 was sitting on the floor watching TV. So he was on his cell
23 phone texting somebody I ain't know and he said, "Are you
24 ready?" I said, "No."

25 So I watched -- watched TV. He asked me that again. He

Minor 1 - DIRECT BY MR. RICHARDSON

1 said, "Are you ready?" I said, "No." So I went back and
2 watched TV. He asked me that about five times or ten times or
3 something like that. So he asked me again. I said -- he
4 said, "Are you ready?" I said, "Yeah, I guess." He said,
5 "All right, Minor 2 time to go to bed."

6 So that's when we cut the TV off. He laid a pallet on
7 the floor and he said, "Go ahead and take off your clothes."
8 I took off my clothes and I went -- and he took off his
9 clothes and we got next to each other.

10 Q: Now, you said he -- he sent Minor 2 to bed?

11 A: Yes, sir.

12 Q: Where -- was your sister there that night or was she
13 somewhere else?

14 A: Yes, sir. She was with us.

15 Q: Was she already in the bed?

16 A: Yes, sir.

17 Q: All right. Now, you said he -- I think you said he laid
18 a pallet on the floor?

19 A: Yes, sir.

20 Q: All right. Now, as far as the sleeping arrangements in
21 the house --

22 A: Yes, sir.

23 Q: -- who all had -- who all slept where?

24 A: Okay. My brother slept -- slept in that back room, my
25 sister slept in the room beside that one, and I slept in the

Minor 1 - DIRECT BY MR. RICHARDSON

1 front room with Tamarquis Wingate.

2 Q: And by front room, do you mean like a -- like a living

3 room or den?

4 A: Yeah, a living room.

5 Q: Okay. All right. So Minor 2 gets sent to bed and

6 Tamarquis puts a pallet down --

7 A: Yes, sir.

8 Q: On the floor? And what happened then?

9 A: After that, he told me to take off my clothes. I took

10 off my clothes and I laid down. That's when he took off his

11 clothes and he laid down beside me.

12 Q: Okay. And what did he do after that?

13 A: After that, he felt on my butt.

14 Q: He felt on your butt? Is that what you said?

15 A: Yes, sir.

16 Q: Okay. How -- you may not recall, but how -- how long did

17 that go on? Was it just like a brief thing?

18 A: About two minutes or a minute.

19 Q: Okay. And what did he do after that?

20 A: After that, he said, "Touch my butt," and I touched his

21 butt.

22 Q: He asked you to touch his butt?

23 A: Yes, sir.

24 Q: All right. And you -- you went along with that?

25 A: Yes, sir.

Minor 1

- DIRECT BY MR. RICHARDSON

1 Q: Okay. And what happened next?

2 A: After that, that was about it. Everybody went to sleep.

3 Q: So you and Tamarquis -- that was the -- the extent of
4 what happened that first night?

5 A: Yes, sir.

6 Q: It was just mutual touching?

7 A: Yes, sir.

8 Q: After he stopped, did y'all put your clothes back on?

9 A: Yes, sir.

10 Q: Okay. Was there any conversation? Any idea why he
11 stopped?

12 A: No, sir. He didn't -- we just stopped and put on our
13 clothes and went to sleep.

14 Q: Okay. Did he -- did he tell you it was time to stop or
15 did you want to stop or how did that happen?

16 A: I don't know. Well, he said stop; so I stopped. He told
17 me to put on my clothes; so I put back on my clothes and he
18 said go to bed.

19 Q: All right. And did you sleep in that front living room
20 --

21 A: Yes, sir.

22 Q: -- there next to him that night?

23 A: Yes, sir.

24 Q: All right. So were you in school --

25 A: Yes.

Minor 1 - DIRECT BY MR. RICHARDSON

1 Q: -- during this time?

2 A: Yes, sir.

3 Q: So the next morning did y'all get up and go to school?

4 A: Yes, sir.

5 Q: All right. Do y'all ride the bus or how did you get
6 home?

7 A: We ride the bus.

8 Q: Okay. So you got home that afternoon the second day?

9 A: Yes, sir.

10 Q: Now, all this that took place that first night, was that
11 in your house?

12 A: Yes, sir.

13 Q: So you were not in Linda McLean's house?

14 A: No, sir.

15 Q: Were you?

16 A: No, sir.

17 Q: Did you ever spend the night in Linda McLean's house?

18 A: No, sir.

19 Q: So every night while your mom was away, you were in your
20 own house?

21 A: Yes, sir.

22 Q: And Tamarquis Wingate was the only adult?

23 A: Yes, sir.

24 Q: All right. The second day after you get home from
25 school, what happens that day and on into that evening?

Minor 1 - DIRECT BY MR. RICHARDSON

1 A: Okay. The next day, I was taking keyboarding --
2 keyboarding at school. So I got home and I took -- I asked
3 him -- I said, "I need help with keyboarding." He said,
4 "Well, you know, I'm going type something up and you copy it
5 down." So I did that. Then, you know, after I do that, I did
6 my homework and then after that, we ate, and after that, we
7 watched -- sit down and watched TV until it got about -- I
8 forgot what time it got dark, but it got dark and that's when
9 he sent my brother and sister to bed. Then he laid a pallet
10 on the floor again and we took off our clothes and --

11 Q: All right. So he -- at a certain point in the night, it
12 gets dark and he sends your brother and sister back to their
13 bedrooms?

14 A: Yes, sir.

15 Q: Did he say anything to you to tell you what was about to
16 happen or what -- what did he actually do?

17 A: No. I mean he sent my brother to bed and he laid a
18 pallet down on the -- back down on the floor again and I said
19 then he told me to lay down and take off your clothes. So
20 that's what I did.

21 Q: Okay. After he told you to do that and you did it, what
22 did he then do?

23 A: He took off his clothes and got alongside me and he
24 feeling on my front part and all that, but then that night he
25 want me to stick it in him.

Minor 1 - DIRECT BY MR. RICHARDSON

- 1 Q: He wanted you to stick it in him?
- 2 A: Yes, sir.
- 3 Q: What do you mean? What -- explain what you mean by that?
- 4 A: He wanted me to stick my penis inside his butt.
- 5 Q: He wanted you to stick your penis in his butt?
- 6 A: Yes, sir.
- 7 Q: And he asked you to do that?
- 8 A: Yes, sir.
- 9 Q: All right. And did you?
- 10 A: Yes, sir.
- 11 Q: Okay. Did he do anything else to you?
- 12 A: No, sir.
- 13 Q: Okay. So the -- the anal sex, for lack of a better term,
- 14 was the only sexual activity that took place that night?
- 15 A: Yes, sir.
- 16 Q: Okay. How often did this kind of thing happen while your
- 17 mom was away?
- 18 A: It was every night.
- 19 Q: Every night?
- 20 A: Yes, sir.
- 21 Q: Was there ever any other kind of sex that took place?
- 22 Like, was there any sort of oral sex or was it just limited to
- 23 the anal sex?
- 24 A: Yes, sir.
- 25 Q: Explain?

Minor 1

- DIRECT BY MR. RICHARDSON

1 A: He just wanted me to stick it in the butt and that was
2 it.

3 Q: Okay. So he never performed oral sex on you?

4 A: No, sir.

5 Q: So as these days would pass, what would the nightly
6 routine be? How would -- how would things happen?

7 A: He -- through the weekdays, you know, we got off the bus
8 and we came in the house and we did our homework, you know,
9 and then he'd check our book bags, but we wouldn't have
10 nothing in there. So we'd do our homework and after that
11 he'll cook and we'll eat and then we'll sit down and watch TV
12 until it got dark and then the same thing happened every day.

13 Q: Okay. So he always wanted you to do things to him, but
14 he never did anything to you?

15 A: No, sir. The only thing he did was felt on me.

16 Q: He would feel on you?

17 A: Yes, sir.

18 Q: Just on your butt? Or you said your front part?

19 A: Yes, the front part and butt. That's it.

20 Q: And would he do that every night as well?

21 A: Yes, sir.

22 Q: Okay. You said it happened every night. Was there ever
23 -- I mean this was -- your mom was gone for, like, ten months.

24 A: Yes, sir.

25 Q: Is that right? Was there any time where there was any

Minor 1 - DIRECT BY MR. RICHARDSON

1 break or anybody came to visit or anything where it gave this
2 a break where you didn't have to do that?

3 A: Well, his cousin I guess. His cousin from Darlington
4 came and spent the night one weekend and we had a break then.

5 Q: But other than that weekend visit when you had a -- when
6 there was a guest in the house, every night this happened to
7 you?

8 A: Yes, sir.

9 Q: Without break?

10 A: Yes, sir.

11 Q: Now, when y'all would do this, would the lights be off up
12 front?

13 A: Yeah. Everything would be off.

14 Q: Okay. The television off?

15 A: Yes, sir.

16 Q: Now, it seems kind of risky, you know, for this kind of
17 behavior when you got two other people in the house.

18 A: Yes, sir.

19 Q: Did either one of your siblings ever come up front or try
20 to --

21 A: Well --

22 Q: -- say anything to y'all while this was going on?

23 A: I don't know, but I think my little brother -- he was
24 trying to come in to see what was going on, but every time he
25 come in, Tamarquis would scream at him and tell him to go back

Minor 1

- DIRECT BY MR. RICHARDSON

1 in -- back in the room.

2 Q: So any time your brother started to head up that way,
3 Tamarquis would yell at him?

4 A: Yes, sir.

5 Q: Did he ever come in there or did he always go back to his
6 room?

7 A: Yes, sir. He would always go back in his room.

8 Q: Okay. While these things were going on on a nightly
9 basis, did -- what would he say to you, you know, while this
10 was going on? Would he, you know, say things of a sexual
11 nature to you or would it just be regular conversation or what
12 would happen?

13 A: After the -- after we got finished, he wouldn't say
14 nothing, but good night.

15 Q: And then where would y'all go to sleep in that front
16 room?

17 A: Sometimes I'd sleep on the -- sometimes I'd sleep on the
18 couch and sometimes I'd sleep on the floor.

19 Q: Where would he be?

20 A: On the couch.

21 Q: Was there two couches?

22 A: Yes, sir.

23 Q: Okay. So y'all would be on -- y'all would go to sleep on
24 separate couches?

25 A: Yes, sir.

Minor 1 - DIRECT BY MR. RICHARDSON

1 Q: What would happen to the pallet that he made on the
2 floor?

3 A: The pallet -- he would -- sometimes he'd leave it there
4 and sometimes he'd fold the covers back up.

5 Q: Okay. Did -- what -- so the pallet was on the floor of
6 the living room. Did any of this sexual activity anywhere
7 else other than the floor in the living room?

8 A: Nothing but the floor in the living room.

9 Q: That was all? That was where it happened every night?

10 A: Yes, sir.

11 Q: All right. So when your siblings would go to bed, did
12 Tamarquis say anything to you to tell you kind of it was time
13 to --

14 A: Yes, sir. Some -- some -- like, some nights he would say
15 that.

16 Q: What would he say?

17 A: He would say, well, you know, go ahead and get ready.

18 Q: And you knew after a period of time what he meant?

19 A: Yes, sir.

20 Q: Okay. So at some point you knew your mom was getting
21 close to getting out?

22 A: Yes, sir.

23 Q: Is that right? And did -- as far as you were aware, did
24 Tamarquis know that your mom -- when she was getting out?

25 A: Yes, sir.

Minor 1 - DIRECT BY MR. RICHARDSON

1 Q: All right. So it stands to reason that you were going to
2 go back to your mom --

3 A: Yes, sir.

4 Q: -- once she got out?

5 A: Yes, sir.

6 Q: All right. Did Tamarquis say anything to you knowing
7 that your mom was about to come home? You know, because
8 obviously y'all had been doing this for quite a few months.

9 A: Yes, sir.

10 Q: Was there any conversation between you and Tamarquis
11 about, you know, you telling your mom or anything like that?

12 A: Well, he said if I tell anybody, you know, he'll --
13 (witness makes blowing sound) -- he made like he was going to
14 kill me or something like that. So --

15 Q: And when -- when did he tell you that? Do you remember?

16 A: No, sir, I don't.

17 Q: You just remember that he said it to you?

18 A: Yes, sir.

19 Q: So did you -- when your mom got out, did you go back with
20 her that day whenever she got out?

21 A: Yes, sir.

22 Q: All right. And is that the -- I guess was the night
23 before she got out, was that the last time --

24 A: Yes, sir.

25 Q: -- you and Tamarquis had any kind of sexual relations?

Minor 1 - DIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: When you got out -- or when your mom got out and you went
3 back with her, did y'all still live in the same place or did
4 y'all move somewhere else?

5 A: We had moved somewhere else.

6 Q: Okay. Now, did you tell your mom initially, like the
7 time she got back, what was happening?

8 A: No, sir.

9 Q: Okay. Why was that?

10 A: Because he -- I was scared, you know.

11 Q: What were you scared of?

12 A: Because, like, he told me, like, if I tell anybody, he
13 was going to kill me, like -- (witness makes blowing noise) --
14 blowing like he was going to beat me up or kill me or
15 something. So I never -- I kept it to myself.

16 Q: Okay. Who did you -- well, tell me what happened that
17 led up to you finally telling somebody? What -- what made you
18 tell somebody?

19 A: Okay. My mama had wanted to get fifty cent to get her a
20 cigarette. So she told me to go to Miranda house, his wife,
21 because she was in the projects. So I went there and I said,
22 "Miranda, my mama said can she borrow fifty cent?" And I
23 didn't know he was there. He was there that night when I went
24 there and I didn't know. And then he was going to come out
25 and say, "If you can't say hey to me, then you ain't getting

Minor 1

- DIRECT BY MR. RICHARDSON

1 nothing." So I got mad and went back home and told mama what
2 happened.

3 Q: Well, did you tell -- was there anybody else living with
4 you and your siblings and your mom at the time or staying
5 there?

6 A: My stepdad.

7 Q: All right. And who was he?

8 A: Marvin Graham.

9 Q: All right. And tell us how it came about that you got
10 home and told. What -- what happened? I mean were you upset
11 or what --

12 A: I was upset.

13 Q: -- took place?

14 A: I was upset.

15 Q: Okay. And so you came home upset and what did you do
16 when you got home?

17 A: I came home. I was upset. Tears was coming out my eyes
18 and mama asked what was wrong. I said, "Don't never send me
19 to Miranda's house again because Tamarquis was there." And he
20 said -- and she said, "What happened?" I said, well, he said
21 -- like, he said something about my mama. I couldn't hear
22 him, but I know he said something and I got mad about that
23 and, you know, I told my mama what happened and then she said
24 no, something else was going wrong. So that's when she said
25 don't tell -- well, you don't got to tell me, tell Marvin; so

Minor 1 - DIRECT BY MR. RICHARDSON

1 I told Marvin.

2 Q: So you told Marvin kind of what had been happening --

3 A: Yes, sir.

4 Q: -- while your mom was away?

5 A: Yes, sir.

6 Q: Have you still not told your mom?

7 A: No. No, sir. She know bits and pieces of it, but she

8 don't know the whole story.

9 Q: All right. And why is that?

10 A: I don't like telling women my problems. I like to keep

11 it to myself.

12 Q: Okay. So once you told Marvin about what happened, then

13 did you tell him everything?

14 A: Yes, sir. I told him everything.

15 Q: And did he go get your mom at that point?

16 A: No. Well, yeah, he got my -- he went and got my mom and

17 told her to call the police. We need to talk to the police.

18 But he never told her what happened.

19 Q: All right. So he just told her we need to call the

20 police?

21 A: Yes, sir.

22 Q: And did y'all go up to the police station?

23 A: Yes, sir.

24 Q: Is that the Pamplico Police Station?

25 A: Yes, sir.

Minor 1

- DIRECT BY MR. RICHARDSON

1 Q: Okay. And did you tell police officers --

2 A: Yes, sir.

3 Q: -- what had taken -- some of what had taken place?

4 A: Yes, sir.

5 Q: Now, when you -- you met with probably a few police
6 officers; is that right?

7 A: Yes, sir.

8 Q: Did you eventually go to the Care House?

9 A: Yes, sir.

10 Q: And you talked to the folks there --

11 A: Yes, sir.

12 Q: -- about what had happened?

13 A: Yes, sir.

14 Q: So the reason why you finally broke down and told
15 somebody was just you ran into Tamarquis that night? Was that
16 the first time you had seen him since your mom got home?

17 A: Yes, sir.

18 Q: Had you been trying to avoid him?

19 A: Yes, sir, I was.

20 Q: Okay. You didn't know that he would be there when you
21 got there?

22 A: No, sir, because my mama told me he don't live there no
23 more. So I thought he wasn't there; so I went there, you
24 know.

25 Q: Okay. And that's what finally led you to tell?

Minor 1 - DIRECT BY MR. RICHARDSON

- 1 A: Yes, sir.
- 2 Q: All right. Hang on one second for me. **Minor 1** you
- 3 mentioned that Marvin, who you called your stepfather at the
- 4 time -- was he actually married to your mother?
- 5 A: No, sir, he wasn't.
- 6 Q: You just kind of knew him as stepfather?
- 7 A: Yes, sir.
- 8 Q: Were they together while your mom was in the Department
- 9 of Corrections or did they get together after she got home?
- 10 A: After they got -- after she got home.
- 11 Q: Okay. So he -- he wasn't somebody you could have stayed
- 12 with while she was gone?
- 13 A: Uh-uh.
- 14 Q: He came into the picture afterwards?
- 15 A: Yes, sir. He came in the picture after she came home.
- 16 Q: Okay. Very good. **Minor 1** did you continue to go to
- 17 church throughout this time?
- 18 A: Yes, sir.
- 19 Q: All right. But you never told anybody at the church --
- 20 A: No, sir.
- 21 Q: -- what had happened?
- 22 A: No, sir.
- 23 Q: Why was that? Just not comfortable talking about it?
- 24 A: No, sir. Yes, sir. It wasn't comfortable at all. So I
- 25 just kept to myself.

Minor 1 - DIRECT BY MR. RICHARDSON

1 Q: Okay. Thank you, sir. Please answer any questions that
2 Mr. Jordan may have for you.

3 A: Yes, sir.

4 THE COURT: Cross-examination.

5 MR. JORDAN: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. JORDAN:

8 Q: **Minor 1** I'm Daniel Jordan. I represent Mr. Wingate here.

9 Okay? I understand you're young and I don't want to scare
10 you. Are you okay with that?

11 A: Yes, sir.

12 Q: All right. I'm just going to ask you some questions.

13 I'm not trying to throw you off or anything. Okay?

14 A: Mm-hmm.

15 Q: **Minor 1** can you tell me when was your mother originally
16 arrested for her probation violation?

17 A: She was arrested on the Thursday night. I can't remember
18 what the date was, but I know the day.

19 Q: Did she ever get out of jail before she went to prison or
20 --

21 A: No, sir.

22 Q: Okay. So there wasn't a bond hearing the following
23 Tuesday?

24 A: No, sir.

25 Q: Okay. So from that Thursday until January 2013, she was

Minor 1 - CROSS BY MR. JORDAN

1 -- or October 2013, she was in prison?

2 A: Yes, sir.

3 Q: Okay. Do you know a gentleman by the name of Alexander
4 Bryant?

5 A: Yes, sir.

6 Q: Who is Mr. Bryant?

7 A: He's -- he's my mama's friend.

8 Q: Did Mr. Bryant ever stay at your house?

9 A: Yes, sir, he did.

10 Q: Okay. How often did Mr. Bryant stay at your house?

11 A: I really can't say. I guess every weekend. I think
12 every weekend.

13 Q: Okay. Now, was this during the time that your mother was
14 incarcerated?

15 A: Yes, sir,

16 Q: Where did Mr. Bryant sleep?

17 A: He slept in -- sometimes in the front room and sometimes
18 in the back room with my brother.

19 Q: Okay. Would you say that the allegations you brought
20 forward are pretty serious?

21 A: Yes, sir.

22 Q: Okay. And I believe Mr. Richardson asked you if close to
23 your mother's release Mr. Wingate had made any sort of comment
24 to you about talking about it; is that correct?

25 A: Yes, sir.

Minor 1

- CROSS BY MR. JORDAN

1 Q: Okay. Now, this went on you're saying from sometime in
2 late 2012 to late 2013?

3 A: Yes, sir.

4 Q: Okay. Did you go to school during that time?

5 A: Yes, sir.

6 Q: Okay. Did you have summer vacation during that time?

7 A: No, sir.

8 Q: Okay. But you went to school every day; correct?

9 A: Yes, sir.

10 Q: All right. At any point in time, did you say anything to
11 anybody at the school about it?

12 A: No, sir.

13 Q: Can I ask why not?

14 A: Because I was scared. I mean I didn't want to tell
15 nobody.

16 Q: I understand. It can be an embarrassing situation;
17 right?

18 A: Yes, sir.

19 Q: Did anybody else come and check on you while your mom was
20 in prison?

21 A: I mean Linda McLean came in our house and would be like,
22 "Is y'all all right?" and stuff like that. She'd come check
23 on us.

24 Q: Okay. Do you have any family or anybody that lives close
25 by?

Minor 1 - CROSS BY MR. JORDAN

- 1 A: Yes, sir.
- 2 Q: Okay. Were you in contact with any of those people?
- 3 A: No, sir.
- 4 Q: Do they live in your same area or --
- 5 A: Not the same area, but they live closer.
- 6 Q: Okay. But I mean you left the house every day; right?
- 7 A: No, sir.
- 8 Q: Okay. You went to school? You went other places; right?
- 9 A: Yes, sir.
- 10 Q: All right. And you didn't think to report this to
- 11 anybody?
- 12 A: No, sir.
- 13 Q: Okay. Minor 1 who is your father?
- 14 A: My father? Well, I really don't know my father, but I --
- 15 but my -- I call him Coop Brown because Coop Brown -- he was
- 16 the one that raised me since I was a little boy. So I call
- 17 him my father.
- 18 Q: In 2010, did you and your brother make any allegations
- 19 against him?
- 20 A: Yes, sir.
- 21 Q: Okay. And what were those allegations?
- 22 A: About the same thing.
- 23 Q: Okay. Were they investigated at all? Do you know?
- 24 A: I really don't know.
- 25 Q: Where is Mr. Brown now?

Minor 1

- CROSS BY MR. JORDAN

1 A: I don't know because sometimes he be at home and
2 sometimes he be gone other places. So I don't know.

3 Q: Okay. Did y'all have a good relationship? Did he
4 provide for you?

5 A: Yes, sir. He did. Yes, sir.

6 Q: Okay. Can you tell me what kind of investigation was
7 done then?

8 A: No, sir, I can't. I really don't know.

9 Q: But it was the same sort of allegations that you're
10 making here; right?

11 A: Yes, sir.

12 Q: So now Mr. Brown is gone; right?

13 A: Yes, sir.

14 Q: Your mother has moved on and is with somebody new; is
15 that right?

16 A: Yes, sir.

17 Q: Are you aware, **Minor 1** that your mother and Mr. Wingate
18 were romantically involved at the time of her arrest?

19 A: No, sir. I didn't know that.

20 Q: All right. At any point in time after she was released,
21 did she indicate that she had romantic feelings for him?

22 A: No, sir.

23 Q: Okay. At any point in time, did she seem upset that he
24 was married?

25 A: No, sir.

Minor 1 - CROSS BY MR. JORDAN

1 Q: Okay. How often, Minor 1 did you see your mother and Mr.
2 Wingate together before she went to jail?

3 A: The most she ever did -- every time I got off the bus,
4 they would be in the yard or on the porch talking, laughing,
5 having fun.

6 Q: Did you see them doing that a pretty good bit before she
7 went to jail?

8 A: Yes, sir.

9 Q: Okay. Would you say they were friends?

10 A: Yeah, I would have said that.

11 Q: Okay. Did you see them talking and laughing?

12 A: Laughing and having a good time.

13 Q: Okay. When did you find out about Mr. Wingate's prior
14 conviction?

15 A: Well, I really don't know him -- like, I really can't
16 say.

17 Q: Okay. Did you tell the folks at the Care House when you
18 found out? Do you remember that?

19 A: Yes, sir. I told them.

20 Q: Okay. Do you remember if it was before or after you made
21 these allegations?

22 A: It was after -- after -- when my mom came back, that's
23 when.

24 Q: Okay. But you said you didn't disclose any of this
25 information to your mom, did you?

Minor 1 - CROSS BY MR. JORDAN

1 A: No, sir.

2 Q: All right. Your stepfather took you to the police
3 station in Pamplico?

4 A: Yes, sir.

5 Q: Okay. Why do you think your mom would tell you about Mr.
6 Wingate's prior record?

7 MR. RICHARDSON: I object to that. It calls for
8 speculation.

9 THE COURT: Sustained. Speculation.

10 BY MR. JORDAN:

11 Q: Do you find it odd that your mother told you about Mr.
12 Wingate's prior record --

13 A: No, sir.

14 Q: -- after these allegations were made?

15 A: No, sir.

16 Q: And you're one hundred percent positive she didn't tell
17 you about this before you made these allegations?

18 A: No. I mean the only thing she told me that he raped a
19 little kid and that's all she told me.

20 Q: Now, **Minor 1** tell me -- the last night or the night that
21 you made these allegations, you'd gone over to Mr. Wingate's
22 wife's house; is that correct?

23 A: Yes, sir.

24 Q: Okay. Prior to that time, when was the last time you saw
25 him?

Minor 1 - CROSS BY MR. JORDAN

1 A: Saw Mr. Wingate?

2 Q: Yeah.

3 A: I really can't say because he used to come to my mama
4 house and they be laughing and talking.

5 Q: Okay. It didn't bother you that he was over there?

6 A: No. He didn't -- when he -- when he was coming, I used
7 to go back in the house and I'd walk around the block.

8 Q: So after prison, it didn't -- after she got out of
9 prison, it didn't bother you when he would come over and hang
10 out?

11 A: No.

12 Q: Okay. But on this particular evening, you and Mr.
13 Wingate got into an argument, didn't you?

14 A: Yes, sir.

15 Q: And you got upset, didn't you?

16 A: Yes, sir.

17 Q: And you were upset directly at him, weren't you?

18 A: Yes, sir.

19 Q: You wanted something bad to happen to him, didn't you?

20 A: Yes, sir.

21 Q: All right. And you made up these allegations then,
22 didn't you?

23 A: No, sir.

24 Q: So is it your testimony here today that you just held
25 this all inside until he decided to make you mad?

Minor 1 - CROSS BY MR. JORDAN

- 1 A: Yes, sir.
- 2 Q: But you had no problem with him after your mom got out of
3 prison?
- 4 A: I ain't had no problem with him.
- 5 Q: All right. It was fine him hanging out with your mom?
- 6 A: Yes, sir. I mean I didn't know him. My mama knew him.
7 They made -- became friends. I didn't know him from Adam to
8 Eve.
- 9 Q: You didn't give these alleged actions a second thought
10 until he made you mad?
- 11 A: I mean I was going to do it, but I said no because I --
12 when I was going to do it, but I remember he said if I told
13 anyone or something like that, he would -- he would --
14 (witness makes blowing noise) -- like, he was going to kill me
15 or something. So I didn't.
- 16 Q: How old were you at the time you made these allegations,
17 Minor 1
- 18 A: Fourteen or 15. I can't remember.
- 19 Q: Do you like hanging out with your buddies?
- 20 A: Yes, sir.
- 21 Q: Do you date girls?
- 22 A: Yes, sir.
- 23 Q: All right. Do you like to go out and have a good time?
- 24 A: Yes, sir.
- 25 Q: Okay. Is that what kind of happened after your mom came

Minor 1 - CROSS BY MR. JORDAN

1 home? You got to go out and have a good time --

2 A: Yes.

3 Q: -- and hang out with your buddies?

4 A: Yes, sir.

5 Q: All right. You didn't tell any of your friends that
6 something was going on --

7 A: No, sir.

8 Q: -- while Mr. Wingate was there?

9 A: No, sir.

10 Q: Okay. **Minor 1** are you sure that the things that you say
11 Mr. Wingate did, he did?

12 A: Yes, sir.

13 Q: Are you one hundred percent sure, **Minor 1**

14 A: Yes, sir.

15 Q: Were you ever examined medically?

16 A: I don't know what you're talking about.

17 Q: Did you ever have anybody kind of examine you or take you
18 to a doctor to see whether or not you had been --

19 A: Yes, sir.

20 Q: You don't know the results of that examination, do you?

21 A: No, sir.

22 Q: Okay.

23 MR. JORDAN: I beg the Court's indulgence.

24 THE COURT: Sure.

25 Q: Just a few more questions, **Minor 1** Okay? How big was

Minor 1

- CROSS BY MR. JORDAN

1 the house that -- that you all were staying in while your mom
2 was in prison?

3 A: How big? I don't know, but I know it was a trailer.

4 Q: Well, tell me about the set-up of it?

5 A: The set-up?

6 Q: The layout.

7 A: The layout? The front room -- it was -- well, the front
8 room and the kitchen were -- like, you go in the front room
9 and walked in the kitchen. So I'd say it was big enough.
10 Like, I can't really tell you how big it was.

11 Q: How many bedrooms were there?

12 A: It was two bedrooms.

13 Q: Okay. And who slept in the bedrooms?

14 A: My brother and my sister.

15 Q: All right. They each had their own bedroom?

16 A: Yes, sir.

17 Q: Okay. Where did Mr. Bryant sleep when he came over?

18 A: Mr. Bryant? He'd just sleep with my brother in the
19 bedroom with him.

20 Q: Okay. And you said he was Mr. Wingate's friend; is that
21 right?

22 A: Yes, sir.

23 Q: Okay. But at no point in time did your brother or sister
24 walk into the room while these alleged events were taking
25 place?

Minor 1 - CROSS BY MR. JORDAN

1 A: Like I said, my brother -- he was -- you know, I think he
2 was coming in the front room to see what was going on, but
3 Tamarquis was telling -- screaming and telling him to go back
4 in the room before he get a beating.

5 Q: All right.

6 MR. JORDAN: One moment. No further questions.

7 THE COURT: Redirect, Solicitor?

8 MR. RICHARDSON: Yes, sir, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. RICHARDSON:

11 Q: **Minor 1** a couple things. Mr. Jordan mentioned or was
12 talking to you about after your mom got home from jail --

13 A: Yes, sir.

14 Q: -- and you were living back with her?

15 A: Yes, sir.

16 Q: Did Tamarquis come around?

17 A: Yes, sir, he did. He used to come to my mama house and
18 him and mama used to -- you know, she'd go outside and talk to
19 him.

20 Q: She'd go outside to talk with him?

21 A: Yes, sir.

22 Q: Would he come inside and interact with you in any way?

23 A: No, sir. He would stay outside and talk.

24 Q: What would you do?

25 A: Me? Like, I'd go to the door and see who it is and then

Minor 1

- REDIRECT BY MR. RICHARDSON

1 I'd just go back in the house.

2 Q: All right. What kind of feelings did you have towards
3 him at that point?

4 A: Okay. When I used to see him, I used to get mad, but I'd
5 never say nothing. I'd just walk off.

6 Q: Why didn't you ever say anything?

7 A: I ain't had nothing to say to him.

8 Q: Okay. Now, earlier I asked you if there was any oral sex
9 involved. It didn't dawn on me to ask you if you know what
10 oral sex is.

11 A: No, sir, I don't.

12 Q: Okay. Did he ever put his mouth on your private or did
13 you ever put your mouth on his private?

14 A: He used to put his mouth on my private.

15 Q: What did you say?

16 A: He used to put his mouth on my private.

17 Q: Okay. How often did that happen?

18 A: Mostly, not -- well, I'd say some nights.

19 Q: Some nights he would do that?

20 A: Yes, sir.

21 Q: All right. So on a nightly basis, I believe you
22 testified that he would touch you --

23 A: Yes, sir.

24 Q: -- and that he would ask you to put your private in his
25 -- in his butt I believe is what you said?

Minor 1 - REDIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: Then on some night, he would put his mouth on your
3 private?

4 A: Yes, sir.

5 Q: On the nights where he would put his mouth on your
6 private, would that happen first or --

7 A: First.

8 Q: And then what would happen after that?

9 A: Then I would stick it inside his butt.

10 Q: Okay.

11 MR. RICHARDSON: All right. I beg the Court's indulgence
12 one moment.

13 Q: **Minor 1** Mr. Jordan briefly mentioned with you a prior
14 allegation that you and I believe your brother had against
15 another -- a guy who I guess was some associate of your mom's,
16 some friend of your mom's back years ago. Do you know what
17 I'm talking about?

18 A: No, sir, I don't.

19 Q: Mr. Jordan mentioned -- I forget his name. It may have
20 been Hamilton. It was another guy that they said that you and
21 your brother said had done something to you sexually?

22 A: Oh.

23 Q: Do you know what I'm talking about?

24 A: Yes, sir, I do.

25 Q: All right. I think he said it was, like, in 2010?

Minor 1

- REDIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: Did you report -- let's see. In 2010, how old were you?

3 A: I'm trying to --

4 Q: Eleven or twelve?

5 A: Somewhere around there.

6 Q: Did you and your brother talk to police --

7 A: Yes, sir.

8 Q: -- on that one?

9 A: Yes, sir.

10 Q: And did you go to the Care House --

11 A: No, sir, I didn't.

12 Q: -- on that one?

13 A: No, sir.

14 Q: You just remember talking to the police?

15 A: Yes, sir.

16 Q: Do you know of anything that -- that came out of that
17 later or --

18 A: No, sir. I don't know.

19 Q: So you just know you told the police what happened?

20 A: Yes, sir.

21 Q: That's the last thing you know?

22 A: Yes, sir.

23 Q: Okay. All right.

24 MR. RICHARDSON: I believe that's all the questions I
25 have, Your Honor.

Minor 1 - RECROSS BY MR. JORDAN

1 THE COURT: Anything in recross, Mr. Jordan?

2 MR. JORDAN: Just briefly, Your Honor.

3 RECROSS-EXAMINATION

4 BY MR. JORDAN:

5 Q: It's my understanding, Minor 1 that -- that you testified
6 in regard to these allegations you kept them bottled up until
7 six months almost later because you were scared of Mr.
8 Wingate; is that correct?

9 A: Yes, sir.

10 Q: Okay. Well, these prior allegations that you made, you
11 said that gentleman was your father basically?

12 A: Yes, sir.

13 Q: All right. Where did he live at the time?

14 A: Me or my father?

15 Q: Where did he live?

16 A: He lived on Old River Road in Pamplico.

17 Q: Okay. How quickly did you report those allegations?

18 A: I don't know. Probably two or three days later.

19 Q: You weren't scared of him?

20 A: No, sir.

21 Q: Okay. But you allege that he assaulted you?

22 A: Yes, sir.

23 Q: So you knew there was something wrong?

24 A: Yes, sir.

25 Q: And you immediately reported the first time?

Minor 1 - RECROSS BY MR. JORDAN

1 A: Yes, sir.

2 Q: But you had to wait --

3 A: Yeah. Because he --

4 Q: -- until Mr. Wingate hurt your feelings to come up with
5 these allegations?

6 A: Yes, sir.

7 MR. JORDAN: No further questions.

8 THE COURT: Okay. Thank you, sir. You can step down.

9 All right. Solicitor, call your next witness.

10 MR. RICHARDSON: Thank you, Your Honor. The next witness
11 is Minor 2 It will be a second to get him.

12 THE COURT: Okay.

13 (Whereupon, there is a pause in the proceedings until the
14 witness enters the courtroom.)

15 THE CLERK: If you will, sir, stop right there. Place
16 your left hand on the Bible and raise your right hand. Do you
17 swear to tell the truth, the whole truth, and nothing but the
18 truth, so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Please be seated right there in the witness
21 chair. And if you will, sir, state your full name for the
22 record.

23 THE WITNESS: Minor 2 Tyrell Brown.

24 Minor 2 being first duly
25 sworn, testifies as follows:

Minor 2

- DIRECT BY MR. RICHARDSONDIRECT EXAMINATION

1

2 BY MR. RICHARDSON:

3 Q: All right. Minor 2 if you'd pull up as close as you can
4 to that microphone in front of you so everybody can hear you.

5 Minor 2 how old are you?

6 A: Fifteen.

7 Q: Fifteen? And are you Minor 1 younger brother?

8 A: Yes, sir.

9 Q: I believe you're about bigger than he is?

10 A: Yes, sir.

11 Q: But you're about a year or so younger than he is?

12 A: Yes, sir.

13 Q: Okay. You and Minor 1 -- y'all have a younger sister that
14 lives with you too; is that right?

15 A: Yes, sir.

16 Q: And y'all have an older sister who is an adult?

17 A: Yes, sir.

18 Q: All right. Back in 2012 -- the end of 2012, do you
19 remember your mom having to go away to the Department of
20 Corrections --

21 A: Yes, sir.

22 Q: -- for a period of time?

23 A: Yes, sir.

24 Q: And do you remember what your living arrangement or, you
25 know, who you stayed with during that time she was gone?

Minor 2

- DIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: And who -- who all was staying with you and where were
3 you located in the house?

4 A: It was me, my brother, my sister, and Marquis. I was
5 located in the back room, my sister was located in her room,
6 and Marquis and my brother was located in the front room.

7 Q: Okay. And by Marquis, do you mean Tamarquis Wingate?

8 A: Yes, sir.

9 Q: All right. How did you know him?

10 A: I really didn't know him until I met him -- well, my mama
11 met him, you know, and that's when I met him.

12 Q: All right. And was his mom a neighbor of y'all -- of
13 yours?

14 A: Yes, sir.

15 Q: What was your understanding of who you were supposed to
16 be staying with while your mom was away?

17 A: Really I didn't have no understanding because I didn't
18 know who was supposed to be there.

19 Q: Okay. So she took care of that and you were just
20 supposed to --

21 A: Yes, sir.

22 Q: -- do whatever when she left?

23 A: Yes, sir.

24 Q: All right. So while she was away, was Tamarquis mainly
25 the only adult who would stay with y'all on a nightly basis?

Minor 2

- DIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: Okay. And you said that Tamarquis and **Minor 1** stayed up
3 in the front room?

4 A: Yes, sir.

5 Q: And by front room, is that like a den or living room?

6 A: It is the front living room. Living room.

7 Q: Okay. What would the -- when your mom first went away,
8 those first few nights, obviously, you know, an adjustment
9 period since mom -- your mom is not there and you've got a guy
10 you barely know in there with y'all, what -- what would --
11 what would the routine be? What would y'all do at night?

12 A: Well, really, I would be in my room watching TV. My
13 sister would be in her room watching TV or just playing with
14 her toys. And then Marquis and my brother would be in the
15 living room watching TV, watching movies.

16 Q: Okay. And did you ever go out in the front room to see
17 your brother or watch any TV with him or try to?

18 A: Yes, sir.

19 Q: Okay. Did y'all have kind of a set bedtime or how did
20 you know when to go to bed?

21 A: Well, we really didn't have no set bedtime. Like, we'd
22 go to bed, like, when we want to.

23 Q: All right. Were there times when you'd be in the front
24 room that Tamarquis would tell you it was time for bed or send
25 you back to your room?

Minor 2

- DIRECT BY MR. RICHARDSON

1 A: Well, like, sometimes when I come in there to watch TV,
2 he tells me to go back in my room.

3 Q: Okay. Was there any time, you know, maybe in the first
4 few days or first few nights where you came out of your room
5 to come up to that front room and you saw anything you thought
6 to be odd or weird?

7 A: Yes, sir.

8 Q: Please tell us what you observed, what you saw?

9 A: Well, like, I comes in the front room, like, and then,
10 like, when I come in there, they kind of, like, move fast, but
11 I can't see what they was doing.

12 Q: So how did you know they were moving fast?

13 A: Because you could tell, like, the covers be moving fast
14 or something.

15 Q: So you -- they would be under some covers?

16 A: No, not really. Like, they, like, have the covers on
17 them, but, like, when I come in there, they take the covers
18 off, like, throw the covers off and they be moving so fast,
19 but I don't know what they were doing.

20 Q: Okay. About how many times did you see that?

21 A: It was, like, a couple nights, like four or five times.

22 Q: Okay. Was that towards the beginning when your mom was
23 away or towards the end or middle?

24 A: It was, like, in the middle.

25 Q: Okay. When you would come up there and see them moving

Minor 2

- DIRECT BY MR. RICHARDSON

- 1 fast, did Tamarquis say anything to you?
- 2 A: No, sir. The only thing he said is go back in the room
- 3 and that's it and I'd just go.
- 4 Q: Okay. So he would just tell you to go back to your room?
- 5 A: Yes, sir.
- 6 Q: And why would you be coming up there? Just to watch TV
- 7 with them?
- 8 A: I was, like, going up there to spend time with them and
- 9 watch TV with them, talk and laugh.
- 10 Q: Okay. So when you would come up, could you just -- could
- 11 you hear them moving fast or you just saw the covers --
- 12 A: I just --
- 13 Q: -- rustling? Or how -- what did you --
- 14 A: -- saw. I couldn't hear nothing. I just saw.
- 15 Q: You saw them both moving?
- 16 A: Yes, sir.
- 17 Q: Quickly? All right. Not taking covers off of them?
- 18 A: Yes, sir.
- 19 Q: Okay. When you -- when your mom finally got home, did
- 20 y'all go back and stay with her when she first got back?
- 21 A: Yes, sir.
- 22 Q: Did **Minor 1** ever say anything to you about what was
- 23 happening to him?
- 24 A: No, sir.
- 25 Q: You had no idea --

Minor 2

- DIRECT BY MR. RICHARDSON

1 A: No, sir.

2 Q: -- what was going on?

3 A: No, sir.

4 Q: What were you thinking when you go up there and you'd see
5 them moving fast and Tamarquis telling you to get back in your
6 room?

7 A: Really, I don't know what to think. I didn't know what
8 to think.

9 Q: So while your mom was away, was Tamarquis kind of the
10 primary person who took care of y'all, bought stuff for you?

11 A: Yes, sir.

12 Q: All that kind of stuff?

13 A: Yes, sir.

14 Q: Did you notice him treat **Minor 1** any differently than he
15 treated you and your sister as far as what he bought for you
16 or how he treated you?

17 A: Yes, sir.

18 Q: Explain that?

19 A: It's like -- like he treats **Minor 1** better than me and
20 Carolyn, like he buys him better stuff.

21 Q: Did he ever tell you why? Did you ever ask why?

22 A: No, sir.

23 Q: You just noticed that **Minor 1** was getting better things?

24 A: Yes, sir.

25 Q: Was there any other treatment that you could remember

Minor 2

- DIRECT BY MR. RICHARDSON

1 that Minor 1 got better than what you and your little sister
2 got?

3 A: No, sir.

4 Q: So mainly it was just he would buy nicer things for him?

5 A: Yes, sir.

6 Q: Okay. As far as Tamarquis' relationship with your mom,
7 did you notice -- did he come over -- before she went to jail,
8 did he come over to the house some?

9 A: Yeah. He come over to the house to speak and say hey and
10 then he just leaves.

11 Q: Okay. Did y'all -- did you have any problems with him --

12 A: No, sir.

13 Q: -- before that?

14 A: No, sir.

15 Q: All right. After your mom got out of jail and y'all went
16 back with your mom, did you see Tamarquis come around --

17 A: No, sir.

18 Q: -- as much after that?

19 A: No, sir.

20 Q: Okay. Did you see him come around at all that you
21 remember?

22 A: No, sir.

23 Q: Okay.

24 MR. RICHARDSON: I beg the Court's indulgence one moment.

25 THE COURT: Sure.

Minor 2

- CROSS BY MR. JORDAN

1 MR. RICHARDSON: All right. No more questions at this
2 time, Judge. Thank you.

3 THE COURT: All right. Cross-examination.

4 MR. JORDAN: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. JORDAN:

7 Q: Minor 2 my name is Daniel Jordan and I represent Mr.
8 Wingate. Okay? And I'm just going to ask you some questions.
9 I don't want to try to throw you off or anything or scare you.
10 All right?

11 A: All right.

12 Q: You said you're 15 years old now?

13 A: Yes, sir.

14 Q: All right. And how old were you when Mr. Wingate was
15 staying with you?

16 A: I was 14.

17 Q: All right. How was your house furnished when Mr. Wingate
18 moved in there? Do you remember?

19 A: What do you mean by furnished?

20 Q: Like, did you have TVs, couches?

21 A: Oh, yes, sir.

22 Q: That stuff?

23 A: Yes, sir.

24 Q: Okay. Did you have a TV in your room when he moved in?

25 A: No, sir.

Minor 2

- CROSS BY MR. JORDAN

1 Q: All right. Did you have a bed in your room when he moved
2 in?

3 A: Yes, sir.

4 Q: Okay. Did he buy you a TV?

5 A: He got a TV from his house -- his mama house.

6 Q: So he put a TV in your room?

7 A: Yes, sir.

8 Q: All right. How did you learn about what is alleged to
9 have happened to your brother? Do you remember?

10 A: I learned because he -- my brother -- my brother had told
11 Marvin Graham and that's when it just came out.

12 Q: Okay. Do you ever recall a conversation between your
13 brother and your mother about this?

14 A: No, sir.

15 Q: Do you recall telling the folks at the Care House that's
16 how you learned about this?

17 A: Yes, sir. Like, I wasn't there. He used to go over
18 there by hisself and I'd stay with my cousin.

19 Q: Okay. But you remember telling folks that you heard a
20 conversation between your mother and your brother about these
21 allegations?

22 A: Yes, sir.

23 Q: Okay. And that's how you initially learned about it;
24 right?

25 A: Yes, sir.

Minor 2

- CROSS BY MR. JORDAN

1 Q: Okay. Now, Minor 2 when Mr. Richardson asked you, you
2 know, after you went to bed would you ever come up front and
3 you said sometimes you did, were there any lights on or
4 anything like that?

5 A: The kitchen light was on.

6 Q: Okay. But you didn't see any sort of sexual activity
7 going on, did you?

8 A: No, sir.

9 Q: Okay. Do you understand what I mean by sexual activity?

10 A: Yes, sir.

11 Q: Okay. So you didn't see anything going on personally,
12 did you?

13 A: No, sir.

14 Q: Okay.

15 MR. JORDAN: One minute, Your Honor.

16 THE COURT: Sure.

17 Q: Minor 2 do you know a guy named Alexander Bryant?

18 A: Yes, sir.

19 Q: All right. Would he come to your house from time to
20 time?

21 A: Yes, sir.

22 Q: All right. How much time would you say Mr. Bryant spent
23 at your house while your mother was in prison?

24 A: He would come, like, spend, like, a couple hours and then
25 just go back to his house.

Minor 2

- CROSS BY MR. JORDAN

1 Q: Okay. Was he there every day?

2 A: It's not, like -- it's, like, every other day.

3 Q: Okay. Did he ever stay overnight?

4 A: No, sir.

5 Q: Okay. You don't remember him ever staying overnight?

6 A: No, sir.

7 Q: Okay. Do you remember anybody else staying overnight at
8 your house?

9 A: No, sir.

10 Q: You don't remember having a cousin or anyone come to your
11 house overnight?

12 A: No, sir.

13 MR. JORDAN: One last second, Your Honor.

14 Q: Minor2 just briefly -- and I hate to bring this up.

15 Okay? But do you remember making some allegations against a

16 Mr. Brown back in 2010?

17 A: You talking about my brother?

18 Q: Did you not make any allegations at that time?

19 A: No, sir.

20 Q: Okay. But you remember your brother making some
21 allegations though?

22 A: Yes, sir.

23 Q: Okay. How did you find out about those allegations?

24 A: About -- okay. I found out because, like, when he first
25 told Marvin and I, like, overheard that conversation. They

Minor 2

- CROSS BY MR. JORDAN

1 had the door closed, but I heard that conversation in the
2 room.

3 Q: I'm talking about some allegations back in 2010.

4 A: I don't know what you're talking about.

5 Q: You don't remember --

6 THE COURT: Mr. Jordan, you may just want to help this
7 witness and ask him -- to tell him what the allegations that
8 you understand them to be and maybe he can relate better.

9 Q: It's my understand that back in 2010 either you and your
10 brother or just your brother made some allegations that a Mr.
11 Brown, who was kind of a father figure to you all, had
12 sexually assaulted you.

13 A: Oh, no, sir.

14 Q: You don't remember that at all?

15 A: No, sir.

16 Q: You don't remember your brother making any allegations?

17 A: No, sir.

18 Q: All right. Where is Mr. Brown now? Do you know who I'm
19 talking about?

20 A: No, sir.

21 MR. JORDAN: Hang on one second and let me get that, Your
22 Honor.

23 THE COURT: Yes.

24 Q: You don't know a Coop Brown?

25 A: Yes, sir.

Minor 2

- CROSS BY MR. JORDAN

1 Q: All right. Do you know where he is now?

2 MR. RICHARDSON: I'd object to any further questioning.
3 He's already -- the witness has already denied making any
4 allegations. So I don't know that it would be proper to go
5 any further into it.

6 THE COURT: Well, I'm not exactly sure what Mr. Jordan is
7 going to do. So let's wait, and ask your next question. Mr.
8 Witness, don't answer until we give the solicitor an
9 opportunity to offer an objection if he wants to.

10 BY MR. JORDAN:

11 Q: Were your mother and Coop Brown involved in a romantic
12 relationship in 2010?

13 A: Yes, sir.

14 Q: All right. After Mr. Brown left, did she become involved
15 in a relationship with someone else?

16 A: Yes, sir.

17 Q: And it was -- so you don't remember any allegations;
18 correct?

19 A: No, sir.

20 Q: Okay. Who did she become involved with then?

21 A: Marvin Graham.

22 Q: Who?

23 A: Marvin Graham.

24 Q: Okay. And from then on she's -- it's just been she and
25 Mr. Graham? Is that what you know?

Minor 2

- CROSS BY MR. JORDAN

1 A: (No verbal response.)

2 Q: Okay. Do you remember her having a romantic relationship
3 with Mr. Wingate?

4 A: No, sir.

5 Q: All right. But you do remember them talking and hanging
6 out; right?

7 A: Yes, sir.

8 Q: Okay. How often would you say that you saw them talking
9 and hanging out?

10 A: Like, every other day.

11 Q: Okay. Are you and your brother close?

12 A: Yes, sir.

13 Q: All right. Y'all talk about a lot of stuff together?

14 A: No, sir.

15 Q: Do you talk about girls and video games and TV shows,
16 that kind of stuff?

17 A: Just probably about girls. That's it.

18 Q: Okay. But y'all are pretty close in age; right? You're
19 just a year apart?

20 A: Yes, sir.

21 Q: Okay. Did you notice anything strange about him while
22 your mom was in prison?

23 A: No, sir.

24 Q: Okay. There wasn't any change in his attitude or his
25 demeanor?

Minor 2

- CROSS BY MR. JORDAN

1 A: No, sir.

2 Q: All right. It didn't seem like there was anything going
3 on with him?

4 A: No, sir.

5 Q: All right. He didn't -- did he ever tell you he had a
6 problem with the sleeping arrangements at the house?

7 A: No, sir.

8 Q: All right.

9 A: He does have -- like, he really doesn't tell me, like,
10 nothing that goes on with him.

11 THE COURT: You need to speak up, sir.

12 A: He doesn't really tell me nothing that goes on with him.

13 Q: But he'll tell you about girls; right?

14 A: Yes, sir.

15 Q: All right. Okay.

16 MR. JORDAN: Your Honor, I don't have any further
17 questions.

18 THE COURT: Redirect, Solicitor?

19 MR. RICHARDSON: None, Your Honor.

20 THE COURT: Did you say none?

21 MR. RICHARDSON: Yes, sir.

22 THE COURT: Okay. You can step down, sir. All right.

23 Madam Forelady and ladies and gentlemen of the jury, we're
24 going to take an afternoon break about ten or fifteen minutes.
25 You can go ahead and step down, sir. Again, I caution you not

1 to begin discussing anything related to this case and we'll
2 get you back out shortly.

3 (Whereupon, the jury exits the courtroom at 3:45 p.m.)

4 (Whereupon, there is a break in the proceedings from 3:45
5 p.m. until 4:10 p.m.)

6 THE COURT: Okay. Are you ready to bring the jury out?

7 MR. RICHARDSON: Yes, sir, Your Honor.

8 THE COURT: Okay. All right. Madam Bailiff?

9 (Whereupon, the jury enters the courtroom at 4:10 p.m.)

10 THE COURT: All right. Let the record reflect the jury
11 is back in. Solicitor, are you ready to proceed?

12 MR. RICHARDSON: Yes, sir, Your Honor.

13 THE COURT: Okay.

14 MR. RICHARDSON: We'd call Mary Ann Brown.

15 THE CLERK: If you will, ma'am, place your left hand on
16 the Bible. Stop right there. Place your left hand on the
17 Bible and raise your right hand. Do you swear to tell the
18 truth, the whole truth, and nothing but the truth, so help you
19 God?

20 THE WITNESS: Yes.

21 THE CLERK: Please be seated and state your full name for
22 the record.

23 THE WITNESS: Mary Ann Brown.

24 MR. RICHARDSON: Thank you, Your Honor.

25 MARY ANN BROWN, being first duly sworn,

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 testifies as follows:

2 DIRECT EXAMINATION

3 BY MR. RICHARDSON:

4 Q: Ms. Brown, would you please tell us how old you are?

5 A: I'm 38.

6 Q: Okay. And how many children do you have?

7 A: I have four kids.

8 Q: All right. And **Minor 1** and **Minor 2** are the two middle
9 ones; is that right?

10 A: Yes.

11 Q: Okay. And it's my understanding you have some twins on
12 the way; is that right?

13 A: Yes, sir.

14 Q: Okay. And there was an event that has been discussed
15 about you having to go to the Department of Corrections some
16 time ago?

17 A: Yes, sir.

18 Q: Do you recall what I'm talking about?

19 A: Yes, sir.

20 Q: Back in December 2012/January 2013, you had a violation
21 of probation --

22 A: Yes, sir.

23 Q: -- that got you sent off to the Department of Corrections
24 for about ten months or so?

25 A: Yes, sir.

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 Q: All right. And the offense that you had -- the offense
2 that put you on probation was an assault and battery high and
3 aggravated nature; is that right?

4 A: Yes, sir.

5 Q: All right. And that's the only conviction that you've
6 gotten; is that correct?

7 A: No, sir.

8 Q: It's not?

9 A: Arson.

10 Q: You had the arson as well as part of that?

11 A: Yes, sir.

12 Q: Okay. Arson third degree?

13 A: Yes, sir.

14 Q: All right. So you were put on probation and then had
15 that violated and then you got sent to the Department of
16 Corrections?

17 A: Yes, sir.

18 Q: Okay. Did you -- I guess you knew ahead of time that
19 going to the Department of Corrections was a possibility?

20 A: Yes, sir.

21 Q: Did you make arrangements with somebody to watch your
22 three youngest children while you were away?

23 A: Yes, sir.

24 Q: And who was that person?

25 A: Linda McLean.

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 Q: How did you know her?

2 A: I know her from staying beside me when I was living in
3 the trailer.

4 Q: All right. And what -- what was -- what was the address
5 of that place, if you remember? Where was it?

6 A: [REDACTED]? I think it was [REDACTED].

7 THE COURT: Sit up a little closer to the microphone,
8 please, ma'am.

9 Q: Somewhere on Old River Road?

10 A: Yes, sir.

11 Q: Was that near Pamplico?

12 A: Yes, sir.

13 Q: All right. Is that in Florence County?

14 A: Yes, sir.

15 Q: Okay. So she was a neighbor?

16 A: Yes, sir.

17 Q: And that's how you knew her?

18 A: Yes, sir.

19 Q: Okay. So what was your conversation like with her? You
20 know, did you approach her and ask her to watch your kids
21 while you were going away?

22 A: Yes, sir.

23 Q: Okay. And she agreed to do that?

24 A: Yes, sir.

25 Q: And what was your understanding of where your kids would

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 be staying while you were away?

2 A: With her.

3 Q: In her house?

4 A: Yes, sir.

5 Q: That's what y'all agreed to?

6 A: Yes, sir.

7 Q: Did you know Tamarquis Wingate before you went to jail?

8 A: Yes, sir.

9 Q: And how is he related -- or is he related to Ms. McLean?

10 A: That's his son -- that's her son.

11 Q: Okay. Did he stay with her at the time or did he stay
12 somewhere else?

13 A: He stayed with her.

14 Q: Okay. Did you have any idea when you went away that
15 Tamarquis Wingate would be taking your kids and keeping them
16 in your old house with no other adult?

17 A: No, sir.

18 Q: Okay. Would -- would you have agreed to that?

19 A: No, sir.

20 Q: All right. Now, y'all -- were you and Tamarquis friends
21 before?

22 A: Yes, sir.

23 Q: Okay. What was the nature of your relationship? Did
24 y'all have any romantic involvement?

25 A: No, sir.

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 Q: All right. Were y'all just friends?

2 A: Yes, sir.

3 Q: Okay. Give us an example. Like, would he come over the
4 house or did you go over to his house or what happened?

5 A: He'd come over to the house. We'd sit there and we'd
6 talk and laugh and joke and whatnot, but I never thought, you
7 know --

8 Q: Okay. Did you have any knowledge that -- that he was on
9 the sex offender registry?

10 A: No, sir. None.

11 Q: Okay. So since you didn't know that, were you -- you
12 were comfortable with leaving your children with his mother?

13 A: Yes.

14 Q: Okay. Now, you go off to the Department of Corrections
15 for --

16 A: Yes, sir.

17 Q: -- ten months or then come back?

18 A: Yes, sir.

19 Q: Is that right?

20 A: About eight months.

21 Q: About eight?

22 A: Yes, sir.

23 Q: When you got out -- or let me ask you this. While you
24 were in there, did you have any contact with Tamarquis Wingate
25 or Ms. McLean?

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 A: Yes, sir, with Tamarquis Wingate about twice and, after
2 that, I couldn't get back in touch with him.

3 Q: At this point in time, did you know that he was keeping
4 your kids in your house with no other adult?

5 A: No, sir, not at the time.

6 Q: When did you find that out?

7 A: I found that out when I had talked to him.

8 Q: While you were --

9 A: The first time I had talked to him when I was in Columbia
10 on Broad River.

11 Q: While you were in jail?

12 A: In prison.

13 Q: What was your feelings about it when he told you that he
14 had your kids alone in your house and Ms. McLean was not
15 involved?

16 A: I was angry.

17 Q: Why -- why would that be upsetting to you?

18 A: Because at first I thought he was a good friend until I
19 found out after the fact what was going on and what happened.

20 Q: Well, why did it make you angry when you first -- because
21 when you -- when you were in jail, you didn't know what was
22 happening to **Minor 1** right?

23 A: No, sir. No, sir.

24 Q: So why -- why were you not comfortable with him keeping
25 them? Was it just because you had agreed with Ms. McLean?

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 A: Yes. I had agreed to -- with his mama to keep my kids.

2 Q: Okay. So the day comes where you get out of jail?

3 A: Yes, sir.

4 Q: And you come back to Pamplico?

5 A: Yes, sir.

6 Q: And what happens?

7 A: When I came back to Pamplico, I came and got my kids from
8 school and there was a whole bunch of stuff about when I got
9 my kids, he didn't want me to get my kids. He didn't want me
10 to do this. And then when I went and got my kids, he brought
11 a phone for whatever for **Minor 1** and then when he brought the
12 phone for **Minor 1** he started tripping about the phone. So
13 that's when he texted **Minor 1** and say how you mama do me like
14 that, how you do me like that, but that's all right. So he
15 came and took the phone back from **Minor 1** He got mad with
16 **Minor 1** and took the phone back.

17 Q: So when you got home and picked your kids up from school,
18 after that Mr. Wingate brought **Minor 1** a phone?

19 A: Well, he brought it way before I got out -- must be got
20 out of prison.

21 Q: So he gave **Minor 1** a phone before you got out?

22 MR. JORDAN: Objection, Your Honor.

23 A: Yes.

24 THE COURT: Okay. We've got an objection. Nature of
25 your objection?

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 MR. JORDAN: Your Honor, I don't believe this line of
2 questioning is relevant. I don't think it has anything to do
3 with the allegations that have been made here. I just -- I
4 don't understand the line of questioning, Your Honor.

5 THE COURT: Okay. All right. Let me see the lawyers for
6 just a second.

7 (Whereupon, a bench conference is held in the presence of
8 the jury but out of the hearing of the jury off the
9 record.)

10 THE COURT: Objection overruled.

11 BY MR. RICHARDSON:

12 Q: Ms. Brown, you said when you got home, you found out that
13 Tamarquis had given **Minor 1** a phone?

14 A: Yes, sir.

15 Q: Had he given **Minor 2** a phone?

16 A: I don't know that, sir. I just know for **Minor 1** Well,
17 **Minor 1** showed me the phone.

18 Q: Okay. And you would -- did you find out that Tamarquis
19 would be contacting **Minor 1** on that phone?

20 A: Yes, sir.

21 Q: Okay. You mentioned that you were friends with Tamarquis
22 before you went off to jail; right?

23 A: Yes, sir.

24 Q: What was -- how did he react or treat you when you got
25 out of jail?

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 A: He treated me differently. He wouldn't say nothing to me
2 or nothing. He just like -- he was acting different. After I
3 had done got out and got my kids, he just started acting
4 different towards me. He wouldn't speak or nothing.

5 Q: Was he still living next to you?

6 A: No, sir. Not at that -- no. No, sir.

7 Q: But you'd run into him?

8 A: Yeah. I ran into him. Yes, sir.

9 Q: What did he say?

10 A: When I got out, he -- I didn't have a place to stay. He
11 moved out of the trailer I was in and when he went and got
12 this other -- he move in this other trailer and that's when he
13 gave us the trailer.

14 Q: Okay. So he gave you a trailer?

15 A: Yes, sir. That's -- yeah. He move out and I had -- I
16 move in the trailer, but the landlord was Diane Brown.

17 Q: Oh, so he didn't -- he wasn't the landlord. He moved out
18 of a place and you moved in it?

19 A: Yes.

20 Q: Okay. So before you went off to jail, would you -- would
21 you see him on a -- see Tamarquis on a -- on a daily basis?
22 Weekly basis? How often would you see him?

23 A: I wouldn't see him at all when I went to jail.

24 Q: No. Before you went to jail.

25 A: Every day. Yes, sir.

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 Q: Every day?

2 A: Yes, sir.

3 Q: Just to sit on the porch and talk or whatever?

4 A: Yes, sir.

5 Q: After you get home from jail, how often did you see him?

6 A: When I got home from jail, I had to stay with somebody in
7 Florence because my house -- I ain't had no place to stay when
8 I got out of prison.

9 Q: Right. But you ended up back in Pamplico around there;
10 right?

11 A: Yes, sir.

12 Q: But the daily visits did not continue?

13 A: No, sir.

14 Q: And you said he treated you differently. How did he
15 treat you differently?

16 A: He wouldn't speak to me. He wouldn't too much say
17 nothing to me. He'd get a attitude with **Minor 1** when **Minor 1** go
18 and talk to his -- talk to his wife. He'd get a attitude. He
19 didn't want **Minor 1** around her or nothing like that. So that's
20 -- and then that's the night that **Minor 1** did brought it up,
21 that night when it happened when he told. I asked him why he
22 was so angry. Why you got so much animosity with him? He was
23 telling -- then that when he told Marvin Graham about the
24 situation about what happened with him.

25 Q: All right. So that -- that night when **Minor 1** finally

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 told what was happening --

2 A: Yes, sir.

3 Q: How did that come about? Did he run into Tamarquis or
4 what?

5 A: Yes. He went to Tamarquis'. I told him to go over there
6 and ask him -- ask her did she have fifty cent to get me a
7 cigarette with.

8 Q: Ask who?

9 A: His wife.

10 Q: Okay.

11 A: So when he went and did that, he came back. He said,
12 "Mama, don't send me back over there no more. Marquis just
13 said something to me. Marquis done said something to me."
14 I'm like, "What Tamarquis done said to you?" So I asked him
15 why. What you crying for? Why you got so much animosity?
16 And then that when he came to the house and he told me -- he
17 told Marvin Graham what happened. And when I find out, I
18 didn't want to know about it. I didn't want to know because
19 it hurt me. I didn't want to know about it.

20 Q: Okay. So he had -- he and Marvin sat down together?

21 A: And talked about it because I left them in the room
22 together.

23 Q: All right. And then once they finished talking, they
24 came to you?

25 A: Yes, sir.

MARY ANN BROWN - DIRECT BY MR. RICHARDSON

1 Q: And is that when --

2 A: And that's when I went to Mr. Stone, the police officer,
3 and told him about it and that's when I -- we had to go
4 outside and he talked to Mr. Stone by himself.

5 Q: So even to this day, do you know exactly what happened?

6 A: I really don't know what happened. I'm --

7 Q: Do you even want to know?

8 A: Not right now. Not right now.

9 MR. RICHARDSON: I beg the Court's indulgence.

10 THE COURT: Sure.

11 MR. RICHARDSON: Thank you, ma'am. Please answer any
12 questions Mr. Jordan may have for you.

13 THE COURT: Okay. Cross-examination?

14 MR. JORDAN: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. JORDAN:

17 Q: Ms. Wingate [sic.], do you remember exactly when you were
18 arrested for violating your probation?

19 A: On January 2013 I got arrested.

20 Q: Were you arrested -- were you actually arrested before
21 that in December?

22 A: Yeah, in December 2012.

23 Q: Okay. Did you get out of jail at any point in time
24 between December --

25 A: He bonded me out on -- he bonded me out on a \$300 bond.

MARY ANN BROWN - CROSS BY MR. JORDAN

- 1 Yes, sir.
- 2 Q: Who bonded you out?
- 3 A: Tamarquis Wingate.
- 4 Q: Okay. And you went back home then?
- 5 A: Yeah, I went back home, sir.
- 6 Q: Okay.
- 7 A: Yes, sir.
- 8 Q: And so you didn't go to prison until January?
- 9 A: January. Yes, sir.
- 10 Q: Okay. How many days did you spend in jail before he
- 11 bonded you out?
- 12 A: Six days, sir.
- 13 Q: All right. Where did your children stay? Do you know?
- 14 A: My children was with Linda McLean.
- 15 Q: Now, how do you know that?
- 16 A: Well, we got -- I got a letter saying that he was with --
- 17 he signed -- me and him signed -- we signed it together. And
- 18 he -- Marquis -- Tamarquis Wingate was there. He -- he put
- 19 Linda McLean's name on the paper. He signed his -- her name
- 20 on the paper saying she would get the kids.
- 21 Q: But this is while you were in jail for six days?
- 22 A: Yes, sir. When -- no. This was when I went to prison.
- 23 Q: All right.
- 24 A: This was when I was going to prison.
- 25 Q: Where were they for the six days?

MARY ANN BROWN - CROSS BY MR. JORDAN

1 A: They was at their house. They was at Tamarquis' and them
2 house for the six days.

3 Q: Okay.

4 A: Uh-huh.

5 Q: And you didn't have any -- any problem with that?

6 A: No, sir. No problem because that's before I knew.

7 Q: All right. So as far as you know, they weren't staying
8 at your house when you went to jail in December?

9 A: No, sir.

10 Q: Okay. And Tamarquis bonded you out?

11 A: Yes.

12 Q: Okay. And who drove you to court in January?

13 A: Tamarquis and his brother.

14 Q: Okay.

15 A: Tavaris.

16 Q: During your probation violation hearing, did anybody
17 testify on your behalf?

18 A: Yes. Tamarquis Wingate.

19 Q: Okay. So it's fair to say the two of you were really
20 close, weren't you?

21 A: Yes, sir.

22 Q: Okay. You spent a lot of time together?

23 A: Yes, sir.

24 Q: Go clubbing together?

25 A: Yes, sir.

MARY ANN BROWN - CROSS BY MR. JORDAN

1 Q: All right. Go drinking and hanging out with friends?

2 A: Yes, sir.

3 Q: Okay. How long did you know Tamarquis before you went to
4 jail?

5 A: I know Tamarquis when I move in. The trailer was next
6 door to them.

7 Q: How -- how long was that?

8 A: That was in I guess November or whenever I move in. I'm
9 not quite sure because it been a while since I moved from
10 there.

11 Q: So you moved in in November and you all formed such a
12 good friendship --

13 A: Yes, sir.

14 Q: -- that he voluntarily took your children and bonded you
15 out and spoke on your behalf at your probation violation?

16 A: Yes, sir.

17 Q: And y'all were just friends?

18 A: Yes, sir. Just friends, nothing else.

19 Q: Uh-huh. And he -- but he spoke on your behalf; right?

20 A: Yes, sir.

21 Q: Okay. You didn't have any sort of beef with him at that
22 time?

23 A: No, sir, none.

24 Q: All right.

25 A: No, sir.

MARY ANN BROWN - CROSS BY MR. JORDAN

1 Q: Did he have any interaction with your children before you
2 went to prison?

3 A: No, sir, not like -- no. No, sir..

4 Q: But I mean did he talk with them or anything?

5 A: Oh, yeah, he talked with them.

6 Q: Did he talk to them?

7 A: Yeah, he talked with them.

8 Q: Okay.

9 A: Yes, sir.

10 Q: And you didn't have any problem with him talking with
11 your children, did you?

12 A: No, sir.

13 Q: No problem with --

14 A: Not at that time, no, sir.

15 Q: -- him spending time with your children?

16 A: No, sir, not at that time.

17 Q: Okay. I'm going to ask you a question I guess Mr.

18 Richardson asked. Why were you upset with your children

19 spending time with Tamarquis when you found out he was the one
20 keeping them while you were in prison?

21 A: I didn't know he was keeping them at the time, but he
22 ain't supposed to have them. His mom was supposed to have
23 them. His mom is the one that's supposed to have
24 responsibility of taking care of them while I was in prison.

25 Q: Okay. But my question is why were you upset? If you

MARY ANN BROWN - CROSS BY MR. JORDAN

1 didn't know about his past -- you didn't; right?

2 A: I didn't know about his past. No, sir, I didn't know.

3 Q: Why were you upset?

4 A: Because I was upset because he had them and which his mom
5 was supposed to have them and I was away in Columbia.

6 Q: But you'd seen him interact with your children; right?

7 A: Yeah, I seen him talk to my kids. We went to church
8 together and all.

9 Q: And you didn't have any problem with the way he
10 interacted with them, did you?

11 A: No, sir, not then.

12 Q: You didn't have any reason to suspect him of doing
13 anything to your children?

14 A: No, sir. Not to my kids, no, sir.

15 Q: So you just got upset when you found out he was staying
16 there taking care of your kids?

17 A: Yes, sir.

18 Q: Like a good friend would?

19 A: Yes, sir.

20 Q: Okay. Now, when you got out of prison, you've told me
21 things were different; is that right?

22 A: Yes. Things was different when I got out of prison.

23 Q: Was he a little distant?

24 A: Yes, sir.

25 Q: All right. Was he seeing anybody at that time?

MARY ANN BROWN - CROSS BY MR. JORDAN

- 1 A: Who?
- 2 Q: Was Mr. Wingate dating anyone or engaged?
- 3 A: Yes. He was -- he was seeing his wife.
- 4 Q: Okay. But they weren't married at the time?
- 5 A: No, sir.
- 6 Q: All right. But they were dating at that time?
- 7 A: Yes, sir.
- 8 Q: He wasn't dating anyone before you went to prison, was
- 9 he?
- 10 A: No, sir.
- 11 Q: Okay. But when you came home, that's when you found out
- 12 he was in the relationship with --
- 13 A: Yes, sir.
- 14 Q: -- his current wife?
- 15 A: Yes, sir.
- 16 Q: All right. And y'all's relationship changed quite a bit,
- 17 didn't it?
- 18 A: Yes, sir.
- 19 Q: All right. Did that change upset you?
- 20 A: No, not that change. That change didn't upset me.
- 21 Q: Okay. You didn't have a problem with --
- 22 A: No, sir.
- 23 Q: -- not hanging out or anything?
- 24 A: No, sir.
- 25 Q: Okay. Tell me who Coop Brown is?

MARY ANN BROWN - CROSS BY MR. JORDAN

1 A: Coop Brown is their stepdaddy.

2 Q: Okay. Were you ever married to Mr. Brown?

3 A: No, sir.

4 Q: Okay. Did you ever get taken to court regarding child
5 support by Mr. Brown?

6 A: Yes, sir.

7 MR. RICHARDSON: I object, Your Honor, to the relevance
8 of that.

9 THE COURT: This is cross-examination. I'll allow it for
10 a little while. Overruled.

11 BY MR. JORDAN:

12 Q: Did you take him to court?

13 A: Yes, sir.

14 Q: All right. Was he DNA tested?

15 A: No. Yes, sir. For -- for child support, yes, sir.

16 Q: Was he found not to be your children's father?

17 A: Yes, sir, he was.

18 Q: And was this in 2010?

19 A: Yes, sir.

20 MR. JORDAN: One moment, Your Honor.

21 Q: And was this in the summer of 2010?

22 A: I'm not sure, Your Honor. That been a while.

23 Q: Okay. What happened after Mr. Brown was found not to be
24 your children's -- did y'all live together at that time?

25 A: Yes, sir. We was living together. Yes, sir.

MARY ANN BROWN - CROSS BY MR. JORDAN

1 Q: And once he was found not to be the father, did he kick
2 y'all out?

3 A: No, sir, he did not.

4 Q: All right. Did y'all continue living together?

5 A: Yes, sir. We continued living together. He continued
6 giving the kids money. Yes, sir.

7 Q: When did you all -- when did you all separate?

8 A: I separated from him in 2001.

9 Q: But he took you --

10 A: Wait a minute. 2010.

11 Q: All right.

12 A: Yeah. I've been separated from him.

13 Q: Okay. But you don't remember when in 2010? Was it --

14 A: No, sir.

15 Q: Okay. Do you remember the same sort of allegations being
16 filed against Mr. Brown?

17 A: Yes, sir.

18 Q: All right. Was that, in your opinion, sometime around
19 August of 2010?

20 MR. RICHARDSON: I'd object to that request of opinion
21 testimony.

22 THE COURT: I think she can testify when she learned of
23 these allegations. I'll overrule.

24 BY MR. JORDAN:

25 Q: Did you learn of these allegations sometime around

MARY ANN BROWN - CROSS BY MR. JORDAN

1 August/September 2010?

2 A: Yes, sir.

3 Q: Okay. And was this after the court date where he was
4 found not to be the father?

5 A: No, sir. We didn't never went to court for that.

6 Q: For what? The DNA testing that showed he was not the
7 father?

8 A: Yes, sir. We went to court for that.

9 Q: All right. But this was after that; correct?

10 A: Yes.

11 Q: Okay. And once these allegations were brought, the two
12 of you were separated?

13 A: Yes.

14 Q: All right. You've never gotten back together, have you?

15 A: No, sir.

16 Q: All right. But it was the same sort of allegations,
17 wasn't it?

18 A: Yes, sir.

19 Q: And I would assume -- did your relationship with Mr.
20 Brown change a little bit after he was found not to be your
21 children's father?

22 A: No, not at all.

23 Q: Okay.

24 A: No, sir.

25 Q: Did he continue to support you?

MARY ANN BROWN - CROSS BY MR. JORDAN

1 A: He continued to give the kids money. He still -- he
2 still do.

3 Q: All right. So why did you all separate?

4 A: We separated because I left him because he was abusive.

5 Q: Okay. Was he not abusive before?

6 A: No, sir, not before.

7 Q: All right. So you're telling me your relationship had
8 changed, hadn't it?

9 A: Yes, sir. It changed a little bit.

10 Q: And then these allegations came up?

11 A: Yes, sir.

12 Q: Isn't that eerily similar to the change in your
13 relationship with Mr. Wingate?

14 A: Yes, it changed. Yeah, it changed. Yes, sir.

15 Q: Six months after you were released -- approximately six
16 months after you were released from prison and your
17 relationship changed, these same sort of allegations creep up?

18 A: It's not no relationship, sir.

19 Q: I didn't say there was a relationship. The two of you
20 were friends, weren't you?

21 A: Okay. Yes, sir.

22 Q: All right. And he -- and you were good friends before
23 you went to prison, weren't you?

24 A: Yes, sir.

25 Q: All right.

MARY ANN BROWN - CROSS BY MR. JORDAN

1 A: Before I knew what happened.

2 Q: And then --

3 A: Yes, sir.

4 Q: And then your relationship changed after you got out of
5 prison?

6 A: Yes, sir.

7 Q: All right. And because of that relationship change,
8 these allegations came forward, didn't they?

9 A: Yes, sir.

10 MR. JORDAN: I don't have any further questions, Your
11 Honor.

12 THE COURT: Redirect, Solicitor?

13 MR. RICHARDSON: Thank you, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q: Ms. Brown, what y'all were just talking about, the 2010
17 thing with the Coop Brown fellow, did you put your kids up to
18 making any false allegations against him --

19 A: No, sir.

20 Q: -- or did you make any?

21 A: No, sir. They came and told me. The same way they told
22 me about Tamarquis Wingate, they came and tell me about him.

23 Q: Did you report that incident to the law?

24 A: Yes, sir, I sure did.

25 Q: All right. And this -- this 2013/'14 with **Minor 1** --

MARY ANN BROWN - REDIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: Did you put him up to --

3 A: No, sir. He came and told me hisself and I went to the
4 police station. Yes, he came and told Marvin Graham. He told
5 Marvin Graham, and I went to the police station that next
6 morning.

7 Q: Did that have anything to do with you having some spat
8 with Tamarquis because he went with another lady?

9 A: No, sir. It wouldn't have nothing to do with that
10 because I ain't never went with Marquis. So it wouldn't have
11 nothing to do with no relationship. I didn't want no
12 relationship anyway. You know what I mean? So it wasn't, you
13 know.

14 Q: All right.

15 MR. RICHARDSON: That's all, Your Honor.

16 THE COURT: Recross?

17 MR. JORDAN: One moment, Your Honor.

18 RECROSS-EXAMINATION

19 BY MR. JORDAN:

20 Q: Ma'am, you said you didn't have a relationship with Mr.
21 Wingate?

22 A: No, sir, I did not.

23 Q: You didn't have a romantic relationship?

24 A: No, sir.

25 Q: All right. But you didn't mind taking his money, did

MARY ANN BROWN - RECROSS BY MR. JORDAN

1 you?

2 A: No, sir. I ain't never took his money.

3 Q: All right. He never helped you out by bonding you out of
4 prison?

5 A: Okay. That -- he ain't bonded me out of no prison.

6 Q: I'm sorry. Bonded you out of jail?

7 A: No, sir. Yeah. You say did he bond me out?

8 Q: Yes.

9 A: Yes, he bonded me out.

10 Q: Okay.

11 A: But -- go ahead.

12 Q: You didn't have a problem with him helping you out
13 financially there, did you?

14 A: No, sir, because I help him out too.

15 Q: You appreciated that, didn't you?

16 A: Yes, sir.

17 Q: Okay. Isn't that quite similar to what Mr. Brown was
18 doing? Helping you out financially? Giving the kids money
19 and all?

20 A: Yes, sir.

21 Q: All right. And then when he became abusive, some
22 allegations of sexual abuse came up?

23 A: No, sir. This was after the fact.

24 Q: Okay.

25 A: Okay.

MARY ANN BROWN - RECROSS BY MR. JORDAN

1 Q: But so he was abusive and then the allegations came up;
2 right?

3 A: Yes, sir.

4 Q: All right. And here, your relationship changed with
5 Tamarquis and then the allegations come up; correct?

6 A: Yes. After -- after I find out what happened, yes.

7 Q: Okay.

8 A: Yes, sir.

9 Q: But just to be clear, they're quite similar allegations,
10 aren't they?

11 A: Yes, sir.

12 MR. JORDAN: No further questions, Your Honor.

13 THE COURT: All right. Thank you, ma'am, for your
14 testimony. You can step down.

15 THE WITNESS: Okay.

16 THE COURT: Solicitor, are you going to call the next
17 witness?

18 MR. RICHARDSON: Yes, sir, Your Honor. We'd call Scottie
19 Dangerfield.

20 THE CLERK: If you will, sir, place your left hand on the
21 Bible and raise your right hand. Do you swear to tell the
22 truth, the whole truth, and nothing but the truth, so help you
23 God?

24 THE WITNESS: I do.

25 THE CLERK: Please be seated and state your full name for

SCOTT DANGERFIELD - DIRECT BY MR. RICHARDSON

1 the record.

2 THE WITNESS: It's Scottie Lee Dangerfield.

3 MR. RICHARDSON: Thank you.

4 SCOTT DANGERFIELD, being first duly
5 sworn, testifies as follows:

6 DIRECT EXAMINATION

7 BY MR. RICHARDSON:

8 Q: Officer Dangerfield, where do you work?

9 A: At the Florence County Sheriff's Office.

10 Q: What are your job responsibilities there?

11 A: I'm the lieutenant assigned to the sex offender registry.

12 Q: And what do you -- what do you do as part of that job?

13 A: I see all of the registered sex offenders who live and
14 work in the Florence County area, and I'm also assigned to a
15 task force with the Attorney General's Office that incurs all
16 of that.

17 Q: Okay. How do you know Tamarquis Wingate?

18 A: He is a registrant that he reports to me on a 90-day
19 schedule. Every -- every 90 days, he reports to my office.

20 Q: All right. When did you first have contact with him or
21 when did he first register as a sex offender with you?

22 A: His first report date with me was October of 2012,
23 October the 9th of 2012.

24 Q: All right. How do people go about registering? Would
25 you please explain that process to us?

SCOTT DANGERFIELD - DIRECT BY MR. RICHARDSON

1 A: If a person is convicted of a crime which puts them on
2 the sex offender registry, they are either incarcerated or
3 they're sent to Probation and Parole. Upon their release,
4 they are notified that they have to register as a sex
5 offender. They would then at that point in time, if they're
6 released from a prison, they would have one business day where
7 they would respond to the jurisdiction in which they are
8 residing in and they report to the Sheriff's Office. And
9 then, of course, the required paperwork is filled out and the
10 individual completes all of his requirements, and then they're
11 put on that schedule where they'll keep returning for life
12 because South Carolina is a lifetime registry state.

13 Q: All right. And what was Tamarquis Wingate's
14 circumstances? Was he one that got released and came to you
15 one business day later?

16 A: That's correct. He -- he made contact with the office
17 appropriately and he -- he was released I think from the
18 Department of Corrections.

19 Q: In October 2012?

20 A: I'm not sure what his release date would have been
21 because he could have been to another jurisdiction prior to,
22 but I know he reported to me in October of 2012. Now, whether
23 he was registered prior to that, I don't think so. I'm
24 believing that was his release date.

25 Q: Okay. And as you mentioned, South Carolina is the

SCOTT DANGERFIELD - DIRECT BY MR. RICHARDSON

1 lifetime registry deal. So when he registered with you in
2 October 2012, he's remained on that registry from October 2012
3 until now?

4 A: That's correct.

5 Q: Okay.

6 MR. RICHARDSON: I beg the Court's indulgence. No
7 further questions, Your Honor.

8 THE COURT: Any cross?

9 MR. JORDAN: No cross, Your Honor.

10 THE COURT: Okay. Thank you very much for your
11 testimony, sir. You can step down. Call your next witness.

12 MR. RICHARDSON: We'd call Robby Stone, Your Honor. Your
13 Honor, may the previous witness be released from his subpoena?

14 THE COURT: Certainly. All right. Without objection,
15 sir, you're free to stay with us or you're free to leave,
16 either way.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: Thank you.

19 THE CLERK: Place your left hand on the Bible and raise
20 your right hand. Do you swear to tell the truth, the whole
21 truth, and nothing but the truth, so help you God?

22 THE WITNESS: I do.

23 THE CLERK: Please be seated and state your full name for
24 the record.

25 THE WITNESS: My name is Officer Robby Deleon Stone with

ROBBY STONE - DIRECT BY MR. RICHARDSON

1 the Pamplico Police Department.

2 MR. RICHARDSON: Thank you.

3 ROBBY STONE, being first duly sworn,
4 testifies as follows:

5 DIRECT EXAMINATION

6 BY MR. RICHARDSON:

7 Q: Officer Stone, you mentioned you work for the Pamplico
8 Police Department. What do you do there?

9 A: I work patrol.

10 Q: All right. How long have you been with them?

11 A: I've been there seven years.

12 Q: Seven years?

13 A: Yes, sir. Twenty years all together.

14 Q: All right. So you've been in law enforcement 20 years?

15 A: Yes, sir.

16 Q: Did you work with the Sheriff's Office previous --

17 A: Yes, sir.

18 Q: -- to the Pamplico PD? Back in the early part of --
19 early part of this year, back in I believe March, did you have
20 an opportunity to meet with Mary Ann Brown and **Minor 1**

21 A: Yes, sir.

22 Q: Explain to us how that came about?

23 A: They were at the Department when I come into work and
24 they said they needed to talk to me about filing a report in
25 reference to a criminal sexual conduct they believe had

ROBBY STONE - DIRECT BY MR. RICHARDSON

1 happened. I took them inside and obviously -- I believe it's

2 Minor 1 He was kind of nervous about talking with his mama
3 around; so I asked her to step outside so I could kind of find
4 out what was going on.

5 And that's when he told me about Mr. Wingate and possible
6 criminal sexual conduct that had happened with him. I believe
7 it was December or January, somewhere around there. He wasn't
8 exactly sure the exact date, but it was about the time his
9 mama had went to prison.

10 Q: Okay. And you wrote a report?

11 A: Yes, sir.

12 Q: As part of -- part of that? And did he explain to you
13 when and where the sexual things took place?

14 A: Yeah. He stated -- I believe it was [REDACTED],

15 [REDACTED] It's in Pamplico in Florence County. That he
16 was staying there with Mr. Wingate, and he said Mr. Wingate
17 had asked him several times did he know what it felt like to
18 feel gay. And he said, you know, no, and he said, well, do
19 you want to know, and he said after a few times he finally
20 just told him yes because he was scared of him. And he had
21 fondled him several times and had had oral sex with him.

22 MR. JORDAN: Your Honor, I object. I mean this is
23 hearsay I mean.

24 THE COURT: Okay. Let me see the lawyers for just a
25 minute.

ROBBY STONE - DIRECT BY MR. RICHARDSON

1 (Whereupon, a bench conference is held in the presence of
2 the jury but out of the hearing of the jury off the
3 record.)

4 THE COURT: Okay. The -- the last objection made by the
5 defense is sustained except as to time and place. Any of the
6 testimony from this witness as to what **Minor 1** said
7 except as to time and place is stricken from the record and
8 the jury is instructed to completely disregard that. You may
9 proceed.

10 MR. RICHARDSON: Thank you, Your Honor.

11 BY MR. RICHARDSON:

12 Q: Officer Stone, you mentioned that **Minor 1** told you that
13 the sexual allegations took -- or the allegations took place
14 at that apartment in Pamplico?

15 A: Yes, sir.

16 Q: Where he was staying with Tamarquis; is that right?

17 A: Yes, sir.

18 Q: And I believe you also mentioned that -- that he told you
19 it started sometime around December or January?

20 A: December or January. Yes, sir.

21 Q: Whenever his mom went off to prison?

22 A: Yes, sir.

23 Q: Is that accurate? All right. So once you got this
24 information, what ended up happening to the case? Did y'all
25 keep it and work it or did it get referred somewhere?

ROBBY STONE - DIRECT BY MR. RICHARDSON

1 A: We referred it to the Sheriff's Office. They're much
2 better equipped to handle it and had some more help for him
3 that he could get, you know, along with it.

4 Q: Okay.

5 A: We usually do.

6 Q: So once you referred that case off to the Sheriff's
7 Office, did you have any further action with it?

8 A: No, sir. That was -- after I referred it, that was the
9 last I dealt with it.

10 Q: Okay. Thank you, sir. Please answer any questions that
11 defense counsel may have for you.

12 THE COURT: Okay. Any cross-examination?

13 MR. JORDAN: Just briefly, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. JORDAN:

16 Q: Officer Stone, you said that you met with -- originally
17 with -- with Mary Ann and Minor 1 is that correct?

18 A: Yes, sir.

19 Q: All right. And she had brought him to the police
20 station?

21 A: Yes, sir. She had brought him to the station.

22 Q: Around what time do you come to work in the morning?

23 A: I think that was Saturday and I come in at twelve to
24 twelve on Saturday. They were there when I got to work.

25 Q: Twelve p.m.? Noon or --

ROBBY STONE - CROSS BY MR. JORDAN

1 A: Twelve noon to midnight --

2 Q: Okay.

3 A: -- on Saturday and Sunday.

4 Q: As far as you know, they didn't call 9-1-1 or anything
5 like that?

6 A: I can't swear to it. I don't remember. They was there
7 whenever I got to the office; so I just got out with them and
8 called them and got the report number and filed the report.

9 Q: You didn't -- you didn't see a gentleman with them, did
10 you?

11 A: I -- there was. I don't know who he was. There was a
12 male that was there with them, but it was Ms. Brown and **Minor 1**
13 that I talked to.

14 Q: The only -- the only people you talked to were Ms. Brown
15 and **Minor 1**

16 A: Yeah.

17 Q: Okay.

18 MR. JORDAN: I don't have any further questions.

19 THE COURT: Okay. Thank you, sir, for your testimony.

20 THE WITNESS: Thank you.

21 THE COURT: You can step down.

22 MR. RICHARDSON: Your Honor, we'd ask that he be excused
23 from his subpoena as well.

24 THE COURT: All right.

25 MR. RICHARDSON: Your Honor, may we approach?

1 THE COURT: Certainly. Officer Stone, you are free to
2 leave. You're free to stay with us. Either way.

3 (Whereupon, a bench conference is held in the presence of
4 the jury but out of the hearing of the jury off the
5 record.)

6 THE COURT: Madam Forelady and ladies and gentlemen of
7 the jury, the State has not completely finished with their
8 case, but I understand they have a couple more witnesses. It
9 may take a little while; so I think this would be a good time
10 to break for the -- for the day -- for the afternoon.

11 So I'm going to excuse you until in the morning. We're
12 going to start at nine o'clock; so please be prompt. Again,
13 allow yourself enough time to take care of anything
14 unexpected, and I would remind you and caution you once again
15 don't talk about this case among yourselves or with anybody
16 that you come into contact with.

17 People always get really curious, especially when they
18 find out that somebody is on a jury, and they want to find out
19 all about the case. Just tell them that the judge has
20 instructed me I can't talk to you about it, and I'm going to
21 keep you at your word and I believe you'll follow my
22 instruction and I expect you to at least.

23 So we'll see you in the morning bright and early at nine
24 o'clock. Hope you have a great evening.

25 (Whereupon, the jury exits the courtroom at 4:49 p.m.)

1 THE COURT: Okay. We'll be in recess until nine o'clock
2 in the morning. Y'all have a good evening as well.

3 MR. RICHARDSON: Thank you, Your Honor.

4 MR. JORDAN: Thank you, Your Honor.

5 (Whereupon, the proceedings adjourn for the day at 4:50
6 p.m.)

7 DECEMBER 10, 2014

8 (Whereupon, the proceedings resume at 9:03 a.m.)

9 THE COURT: All right. Okay. We're on the record and,
10 Solicitor, I think you've got two more witnesses; is that
11 correct?

12 MR. RICHARDSON: Yes, sir.

13 THE COURT: Who do you have?

14 MR. RICHARDSON: I have the investigator --

15 THE COURT: Okay.

16 MR. RICHARDSON: -- and Sally Williamson will be here any
17 minute. She's the Care House forensic interviewer.

18 THE COURT: Okay. All right. Now, because of the age of
19 the -- the child, it would not fit into that forensic
20 interview statute. So we're getting that -- that interview in
21 under what?

22 MR. RICHARDSON: We won't be able to put the interview
23 in. I'll just ask her about the forensic interview process,
24 what she does, what the purpose of it is, about her meeting
25 with him.

1 THE COURT: Okay.

2 MR. RICHARDSON: How he --

3 THE COURT: But nothing that was discussed?

4 MR. RICHARDSON: No hearsay.

5 THE COURT: Right?

6 MR. RICHARDSON: No.

7 THE COURT: Okay. All right.

8 MR. RICHARDSON: Time and place.

9 THE COURT: Right.

10 MR. RICHARDSON: That kind of thing.

11 THE COURT: Okay. All right. Okay. Very good. Let's
12 -- let's get the jury out, Madam Bailiff.

13 THE BAILIFF: Yes, sir.

14 (Whereupon, the jury enters the courtroom at 9:05 a.m.)

15 THE COURT: All right. Let the record reflect the jury
16 is back in. Good morning, everybody.

17 THE JURY: Good morning.

18 THE COURT: I hope you had a good, restful evening and
19 are ready to get back to work today. We're still in the
20 State's case. So, Solicitor, I turn it over to you, sir.

21 MR. RICHARDSON: Thank you, Your Honor. We'd call
22 Investigator Renea Jenco.

23 THE CLERK: If you will, ma'am, place your left hand on
24 the Bible and raise your right hand. Do you swear to tell the
25 truth, the whole truth, and nothing but the truth, so help you

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 God?

2 THE WITNESS: I do.

3 THE CLERK: Please be seated and state your full name for
4 the record.

5 THE WITNESS: Margaret Renea Jenco.

6 MR. RICHARDSON: Thank you.

7 RENEA JENCO, being first duly sworn,
8 testifies as follows:

9 DIRECT EXAMINATION

10 BY MR. RICHARDSON:

11 Q: Investigator Jenco, where do you work?

12 A: I work at the Florence County Sheriff's Office as an
13 investigator.

14 Q: And how long have you been in law enforcement?

15 A: This January will be 23 years.

16 Q: And have you been with the Sheriff's Office that whole
17 time or how long have you been there?

18 A: In July of 2015, I will have been there 15 years --

19 Q: Okay.

20 A: -- at the Sheriff's Office.

21 Q: And how long have you been an investigator?

22 A: I've been in the criminal investigations division since
23 2007.

24 Q: So seven years? All right. Do you investigate whatever
25 comes in the door or do you -- are you given certain kinds of

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 cases to investigate?

2 A: I am one of three investigators assigned to investigate
3 special victim cases, which include child death, child
4 homicide, children that have been sexually abused or
5 physically abused, all rape cases, including adult rapes, and
6 elder victim abuse.

7 Q: So based on the subject matter of this case, it was
8 assigned to you because of the type things that you get
9 assigned?

10 A: That's correct.

11 Q: Okay. And how long have you been investigating those
12 types of offenses?

13 A: Ever since 2007.

14 Q: So you see sort of a narrow field of criminal cases I
15 guess that allows you to sort of specialize in some -- in some
16 way?

17 A: That's correct.

18 Q: In child sexual assault cases when you get a call about a
19 case like that, what kind of things do you do? What do you
20 look for?

21 A: Certainly, every case is different. There's never one
22 case that's always the same. So you have to take every case
23 and -- and research and investigate it in detail. And it's
24 according to the time frame also. Children don't always
25 report and they usually hardly ever report right after it

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 happens. Certainly, they're scared. They're scared of what
2 might happen to them. They have to go through counseling a
3 lot of times and, you know, I've even known people that have
4 waited until their 40s to -- to come forward and tell what
5 happened to them. So it's not unusual for a child not to tell
6 right off the bat.

7 Certainly, if there has been a lapse of time frame, as in
8 this case there was, I meet with the victim and the family,
9 and then I schedule them for a forensic interview at a
10 children's center, and we have the Durant Center and the Care
11 House here, and they do a forensic interview and tell the
12 interviewer what happened to them and that interview is
13 recorded and documented and typed out for the investigator and
14 for court purposes.

15 Certainly, as far as evidence collection, that if -- if
16 it's something that's extremely fresh, we could go ahead and
17 have them seen by a specialist, a medical specialist, and
18 right now there isn't one in our area, but that can check the
19 children and collect evidence for court purposes. In this
20 case, since time had lapsed so much, I did have the victim
21 seen just to have his blood checked for any diseases that he
22 might have contracted, but there wouldn't have been any
23 evidence to collect because certainly with the time lapse you
24 can always run into evidence being contaminated, and you
25 wouldn't want to go collect evidence that may be on the floor

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 or sheets that someone else has slept in during that time.

2 And also, this suspect in this case -- he had the victim
3 put his penis inside of him and he performed --

4 MR. JORDAN: Objection, Your Honor.

5 A: -- oral sex --

6 THE COURT: Okay. Nature of your objection?

7 MR. JORDAN: Your Honor, I mean this is hearsay. She has
8 --

9 THE COURT: Okay.

10 MR. JORDAN: -- no personal --

11 THE COURT: Sustained. Be stricken from the record and
12 the jury is admonished not to -- or instructed rather, but
13 admonished too, not to consider that -- that line of
14 testimony.

15 MR. RICHARDSON: Thank you, Your Honor.

16 BY MR. RICHARDSON:

17 Q: Investigator, let me ask you when you talk about going to
18 a scene to try to collect evidence, are you talking about DNA
19 evidence?

20 A: That's correct.

21 Q: Okay. And typically, if you have a case that is fresh as
22 you call it --

23 A: That's right.

24 Q: -- where something just happened and you've got a victim
25 who is in the hospital or something, you can attempt to try to

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 collect DNA evidence?

2 A: That's correct.

3 Q: Based on your experience investigating these cases for a
4 number of years, where does the DNA evidence come from,
5 whether it be if you're looking for DNA of a defendant or a
6 victim? Where does that DNA emanate from?

7 A: Evidence from cases like this should be collected within
8 no less than, like, 72 hours. That's your pushing max limit.
9 And we would collect that from the victim.

10 Q: Right. But when you look at a -- a victim -- say you
11 have a lady who goes to the hospital, you know, reporting that
12 she got raped the night before or something like that, and
13 y'all would do what is commonly called a rape kit or something
14 like that to search for --

15 A: That's correct. A sexual assault kit.

16 Q: -- DNA for a suspect; is that right?

17 A: Right.

18 Q: What substance are you looking for from the suspect?

19 A: Semen, blood, saliva, hair.

20 Q: That would all contain the DNA?

21 A: That's correct.

22 Q: All right. But I think you mentioned in a case like this
23 I think where the testimony was a number of months -- four --
24 five -- six months had passed since the allegations -- you
25 know, the alleged incidents took place --

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 A: That's correct.

2 Q: -- that would have made it sort of futile to go to that
3 scene and try to collect?

4 A: That's correct.

5 Q: All right. So in this particular case, did you receive a
6 call from the Pamplico Police Department?

7 A: I did. It was the following Monday morning. Chief Bowen
8 with Pamplico -- he knows me personally. He knows that I work
9 these cases and he had called me and stated that Pamplico
10 would need assistance working this case.

11 Q: Okay. And did you respond?

12 A: I responded. I went straight there, met with Chief Bowen
13 and Ms. Mary Brown, the mom, and the victim, **Minor 1**

14 Q: And did you have an opportunity to speak with the victim?

15 A: I did.

16 Q: Okay. Did he tell you the time period in which --

17 A: He did.

18 Q: -- these incidents took place?

19 A: He did. He -- he spoke to me about his mother going --

20 MR. JORDAN: Objection.

21 THE COURT: Okay.

22 MR. JORDAN: Your Honor, I think this is hearsay as well.

23 THE COURT: Okay. Let me see the lawyers for just a
24 minute.

25 (Whereupon, a bench conference is held in the presence of

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 the jury but out of the hearing of the jury off the
2 record.)

3 THE COURT: All right. The objection is sustained and,
4 Solicitor, if you'll just repeat the question and with what we
5 just discussed on -- at sidebar.

6 MR. RICHARDSON: Yes, sir, Your Honor.

7 BY MR. RICHARDSON:

8 Q: Investigator, what was the time period that **Minor 1**
9 gave you in terms of when he was sexually assaulted?

10 A: Between the times that his mother was out of the home and
11 the time that she was released.

12 Q: Okay. Very good. Now, there was discussion yesterday
13 about a set of -- a set of allegations in 2010 --

14 A: That's correct.

15 Q: -- made by **Minor 1** and **Minor 2** against another individual.

16 A: That's correct.

17 Q: Were you familiar with that?

18 A: Yes.

19 Q: That set of allegations? Did you have anything to do
20 with that case when it came in -- came in the door back in
21 2010?

22 A: Yes. Actually, I was assigned that case and I was
23 training another investigator during that time. And when the
24 case came in, it was reported on the report that they stated
25 that they had been touched on their private. And so I was

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 training another female investigator during that time, and she
2 and I started working on the case. That report was just
3 touching and it could have even been on the outside of the
4 clothing. I mean we don't -- we don't really know if there
5 was anything further there. They didn't -- the children did
6 not divulge anything more than that.

7 But during that time, I had to leave the state because my
8 mother-in-law had passed away in Pennsylvania. So I left the
9 state and the case was turned over to the investigator that I
10 was training and then I -- well, she ended up not staying with
11 the department and so that case was closed out and there was
12 no arrest or anything further made in that case.

13 Q: All right. So you left -- you had to leave for a death
14 in the family?

15 A: Right.

16 Q: The other investigator kind of inherited that case
17 because of that?

18 A: That's correct.

19 Q: Then that -- did that investigator -- she kind of left
20 under controversy a short time thereafter?

21 A: Right.

22 Q: And as far as you know, was that 2010 allegation ever
23 even followed up after you left?

24 A: Not that I'm aware of. I don't even have the file on
25 that.

RENEA JENCO - DIRECT BY MR. RICHARDSON

1 Q: So we don't -- there was really no conclusion to that?

2 A: Right.

3 Q: We don't know what happened. Very good. Please answer
4 any questions that Mr. Jordan may have for you.

5 THE COURT: Okay. Cross-examination?

6 MR. JORDAN: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. JORDAN:

9 Q: Good morning, Investigator Jenco.

10 A: Good morning.

11 Q: Some of this may be a little repetitive; so I apologize
12 for that. But let's just kind of get into your -- you say
13 you've been with the Florence County Sheriff's Office for
14 almost 15 years?

15 A: That's correct.

16 Q: And you've been an investigator since 2007?

17 A: That's correct.

18 Q: What did -- what was your title before you became an
19 investigator?

20 A: School resource officer.

21 Q: Okay. And from school resource officer you went into
22 investigation?

23 A: That's correct.

24 Q: Was there any sort of training program or anything like
25 that that you had to go through?

RENEA JENCO - CROSS BY MR. JORDAN

1 A: Oh, yes. We have to go through training at the academy
2 for investigation, detective training, and I also did just
3 like the female that I was training. I was under another
4 investigator for some time.

5 Q: And they teach you how to basically investigate I would
6 assume; right?

7 A: Yes, sir.

8 Q: Make reports, interview witnesses, collect evidence,
9 things of that nature?

10 A: Yes, sir.

11 Q: Okay. In terms of the 2010 case, so you had been an
12 investigator for about three years at that time?

13 A: That's correct.

14 Q: Okay. And those allegations involved a Mr. Brown; is
15 that correct?

16 A: Right. That's correct.

17 Q: You talked with Mr. Richardson a little bit about a fresh
18 case. What do you consider a fresh case to be?

19 A: A case that occurs that we are made aware of within 24 to
20 72 hours.

21 Q: Okay. If the case is fresh, how do you go about
22 investigating that? Do you talk with the victim? Do you talk
23 with the potential offender? I mean how do you investigate
24 that?

25 A: With child cases, I say very little to the child because

RENEA JENCO - CROSS BY MR. JORDAN

1 I want them to give a clean interview -- forensic interview
2 with the Care House or the Durant Center, whichever one might
3 do their forensic interview. I speak to whoever the
4 complainant is, whoever the person is that's giving us the
5 information and -- and go from there.

6 Q: But you don't speak with the accused at all, do you?

7 A: I do speak with the accused whenever I'm able to get in
8 touch with them and schedule an appointment, but my first main
9 priority is always the victim and the victim's family. And so
10 in investigations, I can't really speak to the suspect until I
11 know what's going on and what the victim has to say and -- and
12 the complainant.

13 Q: Now, in talking -- I believe your testimony about the
14 2010 allegations were you believed that -- I mean it may have
15 been as -- as light a crime as just merely touching, no sort
16 of --

17 A: That's correct.

18 Q: -- sexual acts, just touching, but now that's still a
19 crime; correct?

20 A: It's according to how the touching was done and if it was
21 on the inside of the clothing or the outside of the clothing
22 and what manner the touching was done, and I can't really
23 answer that because, like I said, I was out of state; so I
24 don't know.

25 Q: But that case was assigned to you; correct?

RENEA JENCO - CROSS BY MR. JORDAN

1 A: In the beginning.

2 Q: Okay. And I believe you said part of your protocol once
3 you've done some investigating is to refer it to the Care
4 House or the Durant Center; correct?

5 A: That's correct.

6 Q: And that was done there in that case; correct?

7 A: That case was referred.

8 Q: Okay. But nothing further came of that?

9 A: That I'm aware of, no.

10 Q: Okay. Do you recall how soon -- and I understand it was
11 2010, but how soon after the alleged touching took place that
12 was reported?

13 A: I don't, and I don't have that --

14 Q: Okay.

15 A: -- report in front of me. I'm -- like you said, that has
16 been a long time.

17 Q: Well, now, in your investigation of this case that we're
18 here on today, initially you met with the chief, **Minor 1** and
19 his mother; correct?

20 A: That's correct.

21 Q: All right. And from there you contacted the Care House
22 for a forensic interview?

23 A: I did, and I also contacted DSS, which is standard.

24 Q: All right. Now, prior to you contacting the Care House,
25 had you done anything else in the 2010 case? Did you even

RENEA JENCO - CROSS BY MR. JORDAN

1 worry about that case?

2 A: That case was reassigned to another investigator.

3 Q: Okay.

4 A: And she had it and then I'm assuming when she left, the
5 captain took it and then he left. So I have --

6 Q: Okay.

7 A: -- no idea.

8 Q: Well, did the folks at the Care House -- do you remember
9 if they indicated to you that they remembered **Minor 1** and

10 **Minor 2**

11 A: Yes.

12 Q: All right. From this 2010 case?

13 A: Yes.

14 Q: Okay.

15 A: They -- they did. They did remember the names, that they
16 --

17 Q: Now, other than --

18 A: -- had been there before.

19 Q: Other than your talking with the chief and meeting with
20 the mother and **Minor 1** you didn't go to the house that this
21 allegedly took place in?

22 A: No, I did not.

23 Q: You didn't take any pictures or anything like that?

24 A: No.

25 Q: You didn't talk to anybody else who may have lived in the

RENEA JENCO - CROSS BY MR. JORDAN

1 house during that time?

2 A: I did not.

3 Q: You didn't talk with the defendant?

4 A: I tried to contact him several times and when -- he never
5 would return my calls and when I finally did get a chance to
6 speak with him and ask him to come in, they were going out of
7 town.

8 Q: Did you talk with his mother?

9 A: I don't believe I did.

10 Q: Did you talk with any neighbors?

11 A: No. I did not talk to any neighbors.

12 Q: I believe you said you didn't take any pictures or
13 anything like that. You just talked with --

14 A: And with our department, we have our own evidence
15 division that responds out with us to these cases. So I'm not
16 the person that takes photographs or collects evidence anyway,
17 but had I needed evidence collected, I would have contacted
18 forensics, our evidence --

19 Q: Well --

20 A: -- department.

21 Q: I appreciate that. I understand that that's not your --

22 A: Well, I just -- you kept -- you kept saying you didn't
23 take them; so I just wanted them to understand that --

24 Q: The --

25 A: -- I wouldn't take them anyway.

RENEA JENCO - CROSS BY MR. JORDAN

1 Q: Well, let's get back to what you did do. You talked with
2 the chief, you talked with **Minor 1** and his mom, and you talked
3 with the Care House?

4 A: That's correct.

5 Q: And they remembered **Minor 1** and **Minor 2** at the Care House?

6 A: That's correct.

7 Q: All right. And they reminded you about the 2010 case,
8 didn't they?

9 A: Mm-hmm.

10 Q: Do you remember sending an email back to the Care House?

11 A: Yes.

12 Q: Do you remember in that email indicating that this case
13 may be different because the defendant was on the sex offender
14 registry?

15 A: I did tell them that this -- the defendant was a
16 registered sex offender.

17 Q: All right. I mean is that something that you normally
18 do?

19 A: I usually always tell them who my suspect is.

20 Q: Okay. Well, I mean do you normally give some sort of
21 information like that or do you give a name? I mean you --

22 A: Yes. If it's pertinent to the investigation.

23 Q: But --

24 A: I mean certainly him being a registered -- a previous
25 registered sex offender is definitely important in my

RENEA JENCO - CROSS BY MR. JORDAN

1 investigation.

2 Q: Well, I mean -- and you say it's important. Why is it
3 important?

4 A: They may have interviewed the child from the last case.
5 I don't know. See? All of that's important. They may
6 already have some knowledge.

7 Q: Well, why -- why is it more important that he's a
8 registered sex offender and Mr. Brown wasn't?

9 A: If there's a previous case of a child being sexually
10 abused by a suspect, it's -- in my opinion, it's very
11 important.

12 Q: So does that mean that you're somewhat biased or
13 potentially biased?

14 A: No. That just means I think I need -- it needs to be
15 investigated even more. It's definitely important to me.

16 Q: So the allegations of the children being touched by
17 someone who wasn't on the sex offender registry, let's say on
18 a scale of one to ten, that was about a two, but these
19 allegations because he was on the sex offender registry rose
20 to the level of let's say an eight?

21 A: The allegations of the children being touched was
22 indicated as touched. As I said, it could have even been on
23 the outside of their clothing. The allegations in this is
24 definitely more in depth in the report where he puts his penis
25 inside of the victim --

RENEA JENCO - CROSS BY MR. JORDAN

1 Q: I --

2 A: -- and gives --

3 Q: I understand --

4 A: -- him oral sex.

5 Q: I understand what --

6 A: So --

7 Q: -- the allegations are.

8 A: -- there --

9 Q: Investigator Jenco, my question is --

10 THE COURT: All right. Let me just stop you all. Mr.
11 Jordan and Madam Witness, don't talk at the same time.

12 MR. JORDAN: Yes, sir.

13 THE COURT: We've got a court reporter who is excellent
14 at her job and very capable. However, we need to make sure
15 that she gets everything down. Talking together makes it more
16 difficult.

17 MR. JORDAN: Yes, sir.

18 BY MR. JORDAN:

19 Q: Investigator Jenco, I understand what the allegations
20 are. I'm just -- to me, it would seem -- and I'm going to
21 pose this to --

22 A: Yes.

23 Q: -- the question. Would it not --

24 A: All cases --

25 Q: -- sort of bias --

RENEA JENCO - CROSS BY MR. JORDAN

1 A: All cases are important, if that's what you're getting
2 at. I mean --

3 Q: Well, I'm --

4 A: Certainly.

5 Q: I'm asking about you giving the information to the Care
6 House up front before an interview is ever done.

7 A: Right. And I always do tell them who my suspect is.

8 Q: Does that not bias their investigation?

9 A: I don't believe it is. They could have had a case
10 previously on -- with the suspect.

11 Q: But giving --

12 A: And we --

13 Q: But giving them the name wouldn't allow them to search
14 their records to figure out whether or not they had another
15 case?

16 A: Yes, it should.

17 Q: Okay.

18 A: And --

19 Q: But it --

20 A: -- we also have had meetings. We have multi-disciplinary
21 meetings where we as a team -- we work as a team. It's not
22 just me. We work as a team. It's the Care House. It's DSS.
23 It's the Solicitor's Office. We need to know. We discuss
24 these cases. We need to know if there has been previous
25 history with the children, with the suspect, and all of that

RENEA JENCO - CROSS BY MR. JORDAN

1 is taken into consideration when we investigate a case. So
2 no, it wouldn't be. It would not harm the case in any way.

3 Q: But didn't you earlier testify that it makes a big
4 difference to you whether or not a potential defendant has
5 been or is on the sex offender registry?

6 A: I didn't say it makes a big difference, but it certainly
7 brings attention to the case to know that I am investigating
8 another case of someone who has already been convicted or pled
9 guilty to sexually abusing a child in the past.

10 Q: And you don't think that's bias at all?

11 A: I think that's part of my investigation. I should know
12 that.

13 Q: I'm not saying you shouldn't know that. I'm just saying
14 -- I'm trying to figure out why more weight is given to a case
15 like this versus a case like the 2010 allegations which
16 weren't followed up on.

17 A: And like I said with the 2010, I was starting that case
18 and ended up out of state and that case was reassigned.

19 Q: All right.

20 A: So I can't answer questions from that case because I
21 didn't have it anymore after that.

22 Q: Okay.

23 MR. JORDAN: One moment, Your Honor.

24 THE COURT: Sure.

25 BY MR. JORDAN:

RENEA JENCO - CROSS BY MR. JORDAN

1 Q: Investigator Jenco, just a couple more questions.

2 Through your interview with **Minor 1** and his mother, were you
3 able to ascertain who was living in this house with the
4 defendant and the children while their mother was
5 incarcerated?

6 A: I did not go in -- like I said earlier, I did not go into
7 in-depth interview with the victim or his mom because I wanted
8 it to be a clean interview when they go to the Care House.

9 Q: Okay.

10 A: So the Care House would be able to obtain all of that
11 information in their forensic interview.

12 Q: So you didn't even compile a list of people that
13 potentially could have been there through your interview?

14 A: I did not go into all of that. No, I did not. The Care
15 House -- when they do the forensic interview, they get all of
16 that information.

17 Q: So you haven't interviewed anybody who can corroborate
18 these charges or nobody has given you any information that
19 would corroborate these allegations?

20 A: The victim is the one that gave the statement to the Care
21 House and a lot of times, especially with child cases, there
22 -- it's based on the child's testimony alone. It a lot of
23 times comes out in the end do you believe the child or do you
24 believe the suspect.

25 Q: But you didn't compile a list of any other potential

RENEA JENCO - CROSS BY MR. JORDAN

1 witnesses, did you?

2 A: Just the children. Once I had the victim, which is
3 **Minor 1** interviewed, then I followed up with getting the other
4 children interviewed.

5 Q: Now -- and you say most of the time these cases are just
6 based on the children's allegations. Once this case came up
7 and you were reminded about the 2010 case, did you do any
8 other investigative work on that case? Is that case still out
9 there or is it not high priority?

10 A: Well, I remember when I did speak to the Care -- I didn't
11 remember that until they reminded me. Certainly, the death in
12 the family and years gone by, I didn't remember. I see a lot
13 of cases. And -- and I did say, well, you know, I would look
14 at that and see. But I did check my system and the only thing
15 that's in there is my notes, and then I left. So I don't know
16 what happened after that and I don't have the file.

17 Q: But those -- those allegations were similar to this in
18 that they were just made by the children; correct?

19 A: Those allegations were not similar at all.

20 Q: Well, I mean I'm not talking about the terms of the
21 allegations, but they were made by the children?

22 A: The children.

23 Q: Right?

24 A: Right.

25 Q: Okay. And so you went through the same process there as

RENEA JENCO - CROSS BY MR. JORDAN

1 you would here?

2 A: Referred them to the Care House.

3 Q: All right. In that case, the guy wasn't a sex offender,
4 it wasn't pushed, and nothing has happened on that case?

5 A: And I don't know if he -- like I said, I don't know if he
6 was a sex offender because I didn't get into full
7 investigation of that case. When this case came to me, I
8 didn't know he was a sex offender.

9 Q: But when you made the referral to the Care House and
10 through your emails with the Care House --

11 A: Right.

12 Q: -- you informed them that he was a sex offender?

13 A: Right. But I didn't know at the time when it first came
14 in.

15 Q: But you're telling me in 2010 you made a referral to the
16 Care House; correct?

17 A: Right.

18 Q: So you wouldn't have done any background investigation to
19 find out if there was any --

20 A: I didn't --

21 Q: -- any sort of lightbulb should have been going off that
22 you should give this case any more attention?

23 A: Like I said, I referred it and right after that I was
24 gone out of state for a funeral. So no, I wouldn't have known
25 anything on that case.

RENEA JENCO - CROSS BY MR. JORDAN

1 Q: Okay. But as far as you know, nothing happened,
2 nothing's going to happen on that one?

3 A: As far as -- I don't -- I don't know. You could subpoena
4 Captain Brett Camp or Jody Lynch and ask them. Neither one
5 are employed at the department anymore; so I -- I have no
6 idea.

7 Q: Okay.

8 MR. JORDAN: I don't have any further questions.

9 THE COURT: Redirect, Solicitor?

10 MR. RICHARDSON: None, Your Honor.

11 THE COURT: Okay. Madam Forelady -- you can step down,
12 ma'am. Madam Forelady and ladies and gentlemen of the jury, I
13 want to instruct you once again the existence of the defendant
14 being on the sex offender registry is an element of this
15 offense. The State has the burden of proof to prove all of
16 the elements of this offense beyond a reasonable doubt
17 standard.

18 You are to consider this evidence of the defendant being
19 on the sex offender registry only for purposes of it being an
20 element of this offense and for no other purpose. It cannot
21 be considered by you as proof of any other element of this
22 offense, nor as proof or evidence of the defendant's character
23 or as proof or evidence that the defendant acted in accordance
24 with any prior conduct.

25 Solicitor, are you going to call your next witness?

SALLY WILLIAMSON - DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Thank you, Your Honor. We would call
2 Sally Williamson.

3 THE CLERK: If you would, ma'am, place your left hand on
4 the Bible and raise your right hand. Do you swear to tell the
5 truth, the whole truth, and nothing but the truth, so help you
6 God?

7 THE WITNESS: Yes, ma'am, I do.

8 THE CLERK: Please be seated and state your full name for
9 the record.

10 THE WITNESS: My name is Sally Williamson.

11 SALLY WILLIAMSON, being first duly
12 sworn, testifies as follows:

13 DIRECT EXAMINATION

14 BY MR. RICHARDSON:

15 Q: Ms. Williamson, where do you work?

16 A: I am employed at the Care House of the Pee Dee, a
17 children's advocacy center here in Florence.

18 Q: And what do you do at the Care House?

19 A: I am a forensic interviewer and also a therapist, which
20 are two vastly different roles.

21 Q: Okay. Could you explain to the jury kind of what the
22 Care House is and why it exists?

23 A: The Care House is a children's advocacy center and we
24 provide a variety of resources for children and families in
25 suspected cases of abuse or neglect. Those resources include

SALLY WILLIAMSON - DIRECT BY MR. RICHARDSON

1 therapy, forensic interviewing, and advocacy for children and
2 families.

3 Q: Okay. And you mentioned that part of your job duties
4 include being a forensic interviewer?

5 A: That's correct.

6 Q: All right. Could you explain what a forensic interviewer
7 is?

8 A: A forensic interviewer is a trained professional trained
9 to conduct forensic interviews, which are fact-finding, semi-
10 structured interviews. A forensic interviewer has a variety
11 of training and experiences in order to conduct those
12 interviews. A forensic interview is done for the purposes of
13 investigative reasons, typically for law enforcement and
14 criminal investigations or Social Services investigations, to
15 gather information about possible abuse or neglect that
16 children have experienced.

17 Q: And how long have you been a forensic interviewer?

18 A: I have been a forensic interviewer for just over three
19 years, about three-and-a-half years now.

20 Q: Okay. And what kind of background or training and
21 education did you get to be able to do that?

22 A: I have a master's degree in counseling from Webster
23 University, which I obtained in 2011. I have a bachelor's
24 degree in psychology, which I obtained in 1998. And I've had
25 a great deal of training as well, including a 40-hour basic

SALLY WILLIAMSON - DIRECT BY MR. RICHARDSON

1 training course in forensic interviewing, a 24-hour advanced
2 forensic interviewing course, and about 30 additional hours
3 involving interviewing special needs children with
4 disabilities and understanding other dynamics in forensic
5 interviewing.

6 Q: Approximately how many forensic interviews have you
7 conducted over the last three plus years? Do you have any
8 idea?

9 A: I do. As of yesterday, it was 1,184.

10 Q: Okay. When you -- now, I imagine -- you know, you said
11 that as a forensic interviewer you sit down and talk with
12 children who there are, you know, some allegation of abuse or
13 sexual assault or neglect, something of that nature. I
14 imagine when you say children that kind of covers a, you know,
15 pretty good-sized age or pretty good age gap there. Would
16 that be accurate?

17 A: Yes, that's correct. Typically, children between the
18 ages of three and 17, and occasionally special needs adults
19 that are obviously over the age of 18.

20 Q: Okay. So did you have an opportunity to speak with

21 **Minor 1** and **Minor 2** as part of this case?

22 A: Yes, I did.

23 Q: And were they referred to you by the Sheriff's Office?

24 A: Yes, they were, by Investigator Jenco.

25 Q: Now, at the time you spoke with **Minor 1** and **Minor 2** they

SALLY WILLIAMSON - DIRECT BY MR. RICHARDSON

1 were kind of early teenagers; is that right?

2 A: Yes, that's correct.

3 Q: When you talk with teenagers, you know, teenage boys, how
4 do you approach that as opposed to a little child or a special
5 needs person? What do you -- what do you look for? What do
6 you do when you're going in to talk to a 15-year-old boy?

7 A: Well, certainly, one of the important skills of a
8 forensic interviewer is understanding the child's
9 developmental level. And so with a teenaged child, for
10 example, obviously they're going to typically, unless they
11 have a delay, be able to understand more advanced questioning.

12 MR. JORDAN: Your Honor, I'm -- I'm going to object. May
13 we approach for a moment?

14 THE COURT: Sure.

15 (Whereupon, a bench conference is held in the presence of
16 the jury but out of the hearing of the jury off the
17 record.)

18 THE COURT: Madam Forelady and ladies and gentlemen of
19 the jury, it looks like I have a matter of law to take up with
20 the lawyers; so we'll take a short break. Hopefully, it will
21 be short. And I'll remind you, as I have throughout this
22 proceeding, not to discuss this matter, not to discuss
23 anything related to this case among yourselves and hopefully
24 we'll get you back shortly. Okay?

25 (Whereupon, the jury exits the courtroom at 9:44 a.m.)

1 THE COURT: Okay. All right. Mr. Jordan, you want to go
2 ahead and state on the record exactly what your objection is
3 and your position and see if we can flesh this out a little
4 bit?

5 MR. JORDAN: I will, Your Honor. Based on the Kromah
6 case, I believe -- again, I'm objecting to any sort of
7 testimony from the witness here that would indicate or hint
8 that she believes the child or the children were truthful,
9 that provides any sort of direct opinion as to the child's
10 veracity or tendency to tell the truth or that she makes any
11 statement that indirectly vouches for the child's credibility,
12 making any statement that indicates to the jury that the
13 interviewer believes the child's allegations in the current
14 matter or offering opinion that the child's behavior indicated
15 the child was telling the truth.

16 In short, Your Honor, I believe that her testimony should
17 be limited to the time, date, and circumstances of the
18 interview, any personal observations regarding the child's
19 behavior or demeanor at that time and place, and a statement
20 of events that occurred within the personal knowledge of the
21 interviewer.

22 THE COURT: Okay. And I think -- and before I turn it
23 over to the solicitor, I think in our brief discussion at
24 sidebar it was your position that the line had not been
25 crossed yet, but that you felt like it was -- they possibly

1 were getting -- were getting close to it?

2 MR. JORDAN: Yes, sir.

3 THE COURT: Okay. All right. And, of course, we all
4 agree and we know what Kromah and a couple cases after Kromah
5 tells us what can be done and cannot be done. Solicitor, what
6 -- and I took this -- this line of questioning as how she
7 approached conducting a forensic interview with respect to a
8 teenaged boy, but help -- help us understand, Solicitor,
9 exactly where you -- where you're headed and why you may
10 believe that you're not getting close to what Kromah
11 prohibits.

12 MR. RICHARDSON: Yes, sir. My line of questioning right
13 before the objection was just to let the jury understand what
14 she does, you know, why -- because she talks with very young
15 children, you know, all the way up to late teenagers, and I
16 just want them to get an idea of what she does -- you know,
17 what she does for a living, why it's, you know, I guess
18 different than --

19 THE COURT: Yes.

20 MR. RICHARDSON: -- what the investigator does, and give
21 them an idea of what she's looking at when she sees --

22 THE COURT: Okay.

23 MR. RICHARDSON: -- a particular aged child come in front
24 of her.

25 THE COURT: Okay.

1 MR. RICHARDSON: You know, what is she -- what is she
2 assessing? You know, what --

3 THE COURT: Right.

4 MR. RICHARDSON: It's based on her job.

5 THE COURT: Okay.

6 MR. RICHARDSON: Not -- you know, not to determine --

7 THE COURT: Right.

8 MR. RICHARDSON: -- if that person is telling the truth.

9 THE COURT: Right. I think probably the best course of
10 action for us to take is let's conduct an in-camera interview.
11 You examine Ms. Williamson outside the presence of the jury
12 and let's see exactly what you intend to ask her and what she
13 intends to say and see if -- if that's going to create an
14 issue for the defense or not.

15 MR. RICHARDSON: Yes, sir.

16 THE COURT: Okay.

17 MR. RICHARDSON: Yes, sir.

18 THE COURT: All right. Madam Bailiff, would -- could I
19 have another cup of coffee before we --

20 THE BAILIFF: Yes, sir.

21 THE COURT: Thank you very much.

22 THE BAILIFF: And also, some of the jurors have informed
23 me that they can't hear her.

24 THE COURT: Okay. All right. So when the jury comes
25 back out, Ms. Williamson, if you would, speak up a little

SALLY WILLIAMSON - PROFFERED DIRECT BY MR. RICHARDSON

1 louder.

2 THE WITNESS: Yes, sir.

3 THE COURT: Maybe getting a little closer to the
4 microphone may be of some help. Okay. Solicitor, all right,
5 let's -- let's conduct an in-camera interview outside the
6 presence of the jury. And if you will, kind of start with
7 this last question, if you remember basically what you asked.

8 MR. RICHARDSON: Yes, sir.

9 THE COURT: Let's start from there.

10 MR. RICHARDSON: Yes, sir.

11 PROFFERED DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q: Ms. Williamson, in this case you spoke with **Minor 1** and
14 **Minor 2** who were both teenage boys; is that right?

15 A: Yes, that's correct.

16 Q: All right. Now, we've established that you talk to
17 children from I think you said age three up to seventeen?

18 A: Yes.

19 Q: There's a lot of changes that a child undergoes through
20 that time period; is that correct?

21 A: Absolutely.

22 Q: All right. So **Minor 1** walks in your office based on
23 a Sheriff's Office referral and, you know, he's 15 at the
24 time, a 15-year-old boy. How do you approach your interview
25 with a 15-year-old boy based on his age or age and sex,

SALLY WILLIAMSON - PROFFERED DIRECT BY MR. RICHARDSON

1 whatever you consider?

2 A: I would say that I utilize my knowledge of child and
3 adolescent development and apply that knowledge and balance it
4 in that rapport phase of the forensic interview to determine
5 is this child at the developmental level that they should be
6 for that chronological age. And so that's something that I
7 take into consideration so that I can modify the interview to
8 meet their developmental level.

9 Q: Okay. And with **Minor 1** when he came in to see you, what
10 was the atmosphere like? Was it just the two of you? Where
11 were you located?

12 A: Yes. A forensic interview is always conducted with just
13 the forensic interviewer in the room and the victim child or
14 alleged victim child.

15 Q: Okay. And while you're in -- in there with the child,
16 does anybody else -- like, would his mother be able to hear
17 what was going on or is it just you at that time?

18 A: No, she would not. The interview is recorded and if an
19 investigator is present, they are able to watch through a
20 closed circuit television system in another room. So the
21 investigator, for example, would have the ability to listen
22 and to hear the interview live, but no one else is permitted
23 in that observation room. So no, his mother would not be able
24 to hear any part of his interview and is not shown the
25 interview post-interview either.

SALLY WILLIAMSON - PROFFERED DIRECT BY MR. RICHARDSON

1 Q: Okay. Now, when you talk to a child, what kind of
2 information are you trying to elicit? What are you trying to
3 develop when you -- when you talk to that child?

4 A: A forensic interview is consisted of several different
5 stages, the beginning stage of which is rapport. And so I'm
6 initially trying to help the child to be comfortable, to
7 understand my role as an interviewer, and understand the rules
8 of the room, as well as providing a respectful explanation
9 about the recording of the interview. And then to establish a
10 bit of rapport with them so they help to be more comfortable
11 in talking with me. So that's the first stage.

12 Q: Okay. And once you -- I guess that's sort of the
13 introductory phase where you, you know, I guess tell the child
14 who you are and why you're there?

15 A: That's correct.

16 Q: Try to make the child a little comfortable talking to
17 you?

18 A: Yes.

19 Q: All right. Once you've gotten past that, what do you do
20 next in terms of the questions you ask?

21 A: At the time of this particular interview, we were still
22 following the RATAC protocol and so the next step would have
23 been to provide anatomy identification, and the purpose of
24 that is to determine and establish a common language. So the
25 child is shown a male and a female drawing that is age and

SALLY WILLIAMSON - PROFFERED DIRECT BY MR. RICHARDSON

1 developmentally appropriate according to their age; so for in
2 this particular situation, a teenage drawing of male and
3 female teenage figures. And the child is asked to identify
4 and give names to various body parts.

5 Q: Okay. And in this particular phase of the interview, was
6 **Minor 1** able to accurately identify body parts on that drawing?

7 A: He was. And rather than accurately, I inform the child
8 that it's not a test. It's not an anatomy test and so they
9 don't have to give actual anatomical names, but rather just a
10 name that they feel comfortable giving, for example to the
11 private parts, that informs me of what name they will use for
12 those parts should those words come up during the interview so
13 I understand what parts they are referring to.

14 Q: Okay. And once you establish the anatomy identification
15 portion, what do you do next?

16 A: The next section would be to inquire about different
17 touches that the child may or may not have received at any
18 point. With a teenager, I modify that. That's why a forensic
19 interview is considered semi-structured. Depending on their
20 developmental label -- level, we can modify the interview. So
21 in this situation, I would ask the child to identify where
22 what they consider private parts on a body, and then I would
23 inquire have they ever received touched in those areas of
24 their body.

25 Q: All right. So when you ask about whether they've been

SALLY WILLIAMSON - PROFFERED DIRECT BY MR. RICHARDSON

1 touched in those particular areas, would this be like the
2 abuse scenario where they start to get into what -- what
3 happened, what they're alleging?

4 A: It would move into. It's considered touch inquiry, but
5 in this situation it's really kind of meshed with the abuse
6 scenario section as well.

7 Q: Okay.

8 A: With a younger child, for example, we would talk more in
9 terms of hugs and kisses and tickles and touches that younger
10 children consider okay. In this situation, it moves more
11 rapidly from the touch inquiry into abuse scenario.

12 Q: And that's just simply based on the development of the
13 child?

14 A: That's correct.

15 Q: Now, in this particular case when you got into the abuse
16 scenario where you're asking questions about, you know, the
17 specifics of what happened, did you have an opportunity to
18 observe **Minor 1** demeanor when he was telling you what
19 took place?

20 A: Yes, I did.

21 Q: And what was your observation?

22 A: I observed that throughout the interview, **Minor 1** was
23 rather shy and reserved, and throughout the interview failed
24 to make eye contact.

25 Q: Okay. And also during the abuse scenario portion of the

SALLY WILLIAMSON - PROFFERED DIRECT BY MR. RICHARDSON

1 interview, did **Minor 1** give you a time period in which these
2 incidents of abuse took place?

3 A: Yes, he did.

4 Q: And what was that time period?

5 A: He explained that the abuse began shortly after his
6 mother became incarcerated, which was approximately January of
7 2013, and it continued until just before she was released in
8 October of 2013.

9 Q: Okay. And did you have an opportunity to ask him about
10 the place where the alleged abuse occurred?

11 MR. JORDAN: Your Honor, can I ask you for some
12 clarification here? I -- I believed that date, time, and
13 place testimony would be about the date, time, and place of
14 this interview rather than the date, time, and place of things
15 that the witness -- the victim, who has already testified,
16 disclosed to --

17 THE COURT: Well -- and as I indicated earlier, I'll be
18 glad to look at the rule concerning that, if you'll pull that
19 up. Prior consistent statements --

20 MR. JORDAN: Right.

21 THE COURT: -- as to time and place would be the time and
22 place of the -- of the allegations or the meat of the case as
23 opposed to whenever they had the interview, but I'll be glad
24 to look at again if you believe that even under the prior
25 consistent witness statement rule would not permit this. I'll

1 look at it again. Do you want me to?

2 MR. JORDAN: Well, I'll admit I mean it's a prior
3 consistent statement.

4 THE COURT: Right.

5 MR. JORDAN: And so I --

6 THE COURT: Let's -- let's -- because we're talking about
7 it, let's -- let's pull it up here and see.

8 (Whereupon, there is a pause in the proceedings as the
9 Court and law clerk confer.)

10 THE COURT: You guys may need to -- to help the Court.
11 There is -- there is a rule dealing with it -- we can't find
12 it yet -- and that specifically indicates time and place. So
13 you fellows --

14 MR. JORDAN: Yes, sir.

15 THE COURT: -- may need to help me.

16 MR. RICHARDSON: I have my electronic device to search
17 that kind of stuff. Is that all right for me to use?

18 THE COURT: By all means.

19 MR. RICHARDSON: Okay.

20 MR. JORDAN: And, Your Honor, while we're looking for
21 that, based on the testimony that -- that she's given thus
22 far, I mean I don't necessarily have a problem with it so much
23 as I feel that it should be limited to just the date, time,
24 and circumstances of the interview, her personal observation
25 of the child's behavior and demeanor, and events that occurred

1 within her personal knowledge, rather than all this testimony
2 about, you know, how she modifies the -- modifies the
3 interview based on the child's educational level and age and
4 that sort of thing. I mean I'm just trying to --

5 THE COURT: Okay.

6 MR. JORDAN: -- get into what is relevant.

7 THE COURT: Whether or not I'm going to allow that, I
8 think probably what the State is doing is just trying to lay
9 some sort of groundwork or foundation for how forensic
10 interviews are conducted generally.

11 (Whereupon, there is a pause in the proceedings as the
12 Court and law clerk confer.)

13 THE COURT: I think -- look at 801, Rules of Evidence.

14 MR. JORDAN: Your Honor, I --

15 THE COURT: Just hold that thought, Mr. Jordan, just a
16 minute, please.

17 (Whereupon, there is a pause in the proceedings as the
18 Court and law clerk confer.)

19 THE COURT: Okay. Look at 801(d)(1) -- (d)(1)(D).

20 MR. RICHARDSON: Yes, sir. That clearly says statements
21 limited to the time and place of the incident, which --

22 THE COURT: Right.

23 MR. RICHARDSON: -- I interpret as the --

24 THE COURT: Right.

25 MR. RICHARDSON: -- subject matter of the trial.

1 (Whereupon, there is a pause in the proceedings as the
2 Court and law clerk confer.)

3 THE COURT: Okay. Mr. Jordan, what -- all right. So far
4 with what the witness has testified to in camera -- okay?
5 What, if any, do you have a problem with?

6 MR. JORDAN: Your Honor, the only thing that I have a
7 problem with is I just don't think that it's relevant to have
8 her go into -- this is what a forensic interview is and this
9 is how I modify it based on the age of the children and --
10 and, you know, the Supreme Court has -- has basically held
11 that the RATAC style of interviewing is not scientific. It
12 somehow tries to convert the interviewer into a human truth
13 detector and -- and -- and so I don't feel like those kinds of
14 things --

15 THE COURT: Right.

16 MR. JORDAN: -- need to be --

17 THE COURT: Right. And -- and I probably agree with you,
18 and I mean we're dealing with a very fine line here. What we
19 want to avoid based upon Kromah is for this witness to -- to
20 testify as to anything that would suggest to the jury that she
21 is vouching for the credibility --

22 MR. JORDAN: Right.

23 THE COURT: -- and veracity of the child. Okay? So I
24 guess you could argue that her method in -- in modifying the
25 interview based upon the developmental age of the child, she

1 would modify it, therefore, to increase the likelihood of the
2 child being credible or being honest with the responses to her
3 questions. So even though it's not a direct statement, yeah,
4 I believed **Minor 1** when I conducted my forensic interview, it's
5 not that, but it's -- it's the insinuation that she's going to
6 to -- which she has to do in her job.

7 I mean I'm not being critical -- okay? -- of what you do
8 and how you do it. She wants to get truthful answers and
9 she's going to do whatever she has to do within her area of
10 expertise to acquire truthful answers. But the Rules of
11 Evidence and Kromah and the later cases prevent this lady from
12 doing anything that would suggest to the jury that, yeah, she
13 -- she believed that **Minor 1** was true. So I think even
14 creating insinuations we probably need to stay away from.
15 Okay?

16 Now, Mr. Jordan, up to the point we sent the jury out,
17 you were not objecting to anything that she had said, but
18 because you believed that things were getting close to where
19 you believe it was objectionable; is that correct?

20 MR. JORDAN: That's correct, Your Honor.

21 THE COURT: Okay. All right. Okay. I think to be on --
22 on -- just to err on the side of caution, Solicitor, I would
23 -- would not allow any questioning concerning how she modifies
24 her interviewing technique to -- to match up with the
25 developmental age of the child.

1 I think basically you just need to -- and I don't know
2 exactly where -- what the -- where the last question was
3 before we sent the jury out, but you probably just need to --
4 I mean if you want to kind of refresh the jury's mind as far
5 as what she testified to before we sent them out and then
6 basically just get into time and place and that's going to be
7 about it.

8 MR. JORDAN: But -- and I will say this, Your Honor. The
9 only other thing that -- I wasn't being untruthful when I said
10 I didn't have a problem with what she already testified to,
11 but now that I'm thinking back on it, the testimony regarding
12 her education and her qualifications and things like that
13 lends credibility. While he hasn't asked that she be
14 qualified as an expert --

15 THE COURT: Right.

16 MR. JORDAN: -- the jury has now heard that.

17 THE COURT: Yeah. But now, that I don't see -- I don't
18 have a problem with that. I mean, you know, they've got to
19 know a little something about this lady; that she's not just
20 off the street somewhere conducting over 1,000 interviews.
21 That's a lot of interviews.

22 MR. JORDAN: Right.

23 THE COURT: But I think just to let this jury know that
24 she, you know -- you know, why she is with the -- the Care
25 House because she's -- she's gone to school to -- to do this

1 type of work. So I don't have a problem with that. You know,
2 I don't have a problem with that.

3 MR. RICHARDSON: But, Your Honor, just for clarification,
4 I think the last question I asked before the jury went out
5 was, you know, in this particular case you had two teenage
6 boys coming in. What is her approach when she has that? So I
7 would just stay away from that?

8 THE COURT: I think stay away from that. If you want to
9 kind of cover back and just kind of bring the jury back up to
10 speed where we are before we sent them out, I don't have a
11 problem with that, but then I think you pretty much need to
12 get kind of straight into the meat of it, time and place, and
13 be done with that.

14 MR. RICHARDSON: Should I skip over the different phases
15 of the interview, like the anatomical identification, and then
16 going on to where she asked specific questions about the abuse
17 incident?

18 THE COURT: I mean that's -- and, Madam Witness, I'm -- I
19 would imagine that is pretty standard for all interviews apart
20 from your modification process. Every time you interview a
21 child that there's allegations of some sort of abuse, sexual
22 abuse, you're going to pretty much conduct the interview
23 basically the same as far as an introductory part, going into
24 an anatomical identification part, and then into the meat of
25 the allegations. Is that a fair statement or --

1 THE WITNESS: Yes, sir.

2 THE COURT: -- fair question?

3 THE WITNESS: Sexual -- actual sexual and physical abuse.

4 THE COURT: Okay.

5 THE WITNESS: Yes.

6 THE COURT: I mean I don't have really a problem with
7 that. Would you, Mr. Jordan?

8 MR. JORDAN: The only thing I would -- I don't have a
9 problem with her testifying that that's the --

10 THE COURT: That's just standard.

11 MR. JORDAN: That's the standard.

12 THE COURT: Right.

13 MR. JORDAN: I would ask that she be prohibited from
14 talking about -- and I think she testified a little bit to
15 telling him this isn't a test, you can label it any way you
16 want to, and things like that. I mean I don't have a problem
17 with her talking about the standard procedure.

18 THE COURT: Right. And I think her standard procedure
19 when she's in the anatomical part of it is to, you know, call
20 it whatever you, you know, want to --

21 MR. JORDAN: Sure.

22 THE COURT: -- want to call it, but I mean the forensic
23 interviews that I've had in cases -- I mean that's all -- I
24 mean they're always told, you know, there's no one certain
25 term for it. Use what you normally call it.

1 MR. JORDAN: Okay. And I guess the only other thing that
2 we've got out there is in terms of any sort of testimony about
3 the actual interview, is that going to be limited to **Minor 1**
4 prior statement about the time and place?

5 THE COURT: Right. I mean that's -- yeah. That's what
6 we've been -- under 801(1)(d) -- or 801(d)(1)(D) would allow
7 this witness to testify as far as what **Minor 1** has said
8 concerning the time frame of the -- the -- when the
9 allegations allegedly took place and the place where the --
10 where it took place.

11 MR. JORDAN: And that's all?

12 THE COURT: Right. Right. Yeah.

13 MR. RICHARDSON: I think the only thing that I did was
14 ask her about her personal observations of his demeanor while
15 she spoke with him.

16 MR. JORDAN: I don't have a problem with that. That's --

17 THE COURT: Right.

18 MR. JORDAN: -- not under the rule.

19 THE COURT: All right. So hopefully we're --

20 MR. JORDAN: We're good.

21 THE COURT: -- all on the same page and certainly I mean
22 if you think that -- that the solicitor is still getting close
23 or crossing the line, I mean, you know, you can still object.

24 MR. JORDAN: Yes, sir.

25 THE COURT: But I think -- I think we have an

26

SALLY WILLIAMSON - CONTINUED DIRECT BY MR. RICHARDSON

1 understanding.

2 MR. JORDAN: The only other thing, Your Honor, can we
3 take five minutes? I think my client needs to use the rest
4 room.

5 THE COURT: Okay. Sure. Yeah. We'll take a five-minute
6 break. I'm going to stay on the bench.

7 (Whereupon, there is a break in the proceedings from
8 10:12 a.m. until 10:18 a.m.)

9 THE COURT: Okay. Madam Bailiff, would you bring the
10 jury back out?

11 THE BAILIFF: Yes, sir.

12 (Whereupon, the jury enters the courtroom at 10:18 a.m.)

13 THE COURT: Okay. Let the record reflect the jury is
14 back in. Solicitor, you may proceed.

15 MR. RICHARDSON: Thank you, Your Honor.

16 CONTINUED DIRECT EXAMINATION

17 BY MR. RICHARDSON:

18 Q: Ms. Williamson, before the break I think we were talking
19 about what you did at the Care House and we got up to the
20 point where you got this case referred to you by the Sheriff's
21 Office; is that right?

22 A: Yes, sir.

23 Q: All right. And you met with **Minor 1** and his
24 brother, **Minor 2** is that right?

25 A: That's correct.

SALLY WILLIAMSON - CONTINUED DIRECT BY MR. RICHARDSON

1 Q: Okay. Now with **Minor 1** who is the alleged victim in the
2 case, when -- as a matter of protocol when you meet with an
3 alleged child victim and you bring them in, what's the
4 atmosphere like? Who all is involved in this interview
5 process and where are you located?

6 A: It's a small interview room and only myself and the
7 alleged victim child are present in the room, and we are
8 recording the interview, and a closed circuit television
9 system permits an investigator to watch from a nearby room.

10 Q: Okay. So it's just you and the child in a room?

11 A: Yes, that's correct.

12 Q: What is the first phase of the -- of an interview when
13 you -- when you meet with a child?

14 A: Typically, the first phase is to establish rapport with
15 the child. So to introduce myself, help the child to
16 understand my role, explain the room and that I'm recording
17 the interview, and to establish -- like I said, establish
18 rapport. So help them to be comfortable. So initially I'll
19 talk to them about their family and things that they enjoy,
20 help them to feel comfortable in the room and in talking with
21 me.

22 Q: Okay. After you get that part established, what do you
23 move on to?

24 A: The next phase is to identify anatomy and so I show the
25 child a drawing of a male and a female figure, and I ask them

SALLY WILLIAMSON - CONTINUED DIRECT BY MR. RICHARDSON

1 to label the body parts so I know the words that they use to
2 identify various body parts; so if those parts come up during
3 an interview, I will understand what areas they're referring
4 to.

5 Q: Okay. And did you do that in this case with **Minor 1**

6 A: Yes, I did.

7 Q: All right. After you go over the anatomical drawings,
8 what's the next phase that you get into?

9 A: The next phase is to move into discussing various types
10 of touches that the child may or may not have experienced and
11 to ask the child to identify on the drawings what areas they
12 consider private parts on males and females.

13 Q: All right. And does that kind of transition into a more
14 specific discussion about the abuse in a particular case?

15 A: Yes. In some cases it does, yes.

16 Q: Okay. Now, when you were talking with **Minor 1** in this
17 case, did you have an opportunity to observe his demeanor
18 while you were talking with him?

19 A: Yes, I did. I found **Minor 1** to be rather reserved and
20 shy, and **Minor 1** made very little eye contact with me
21 throughout the interview.

22 Q: Okay. And as part of this abuse scenario portion of the
23 interview, did **Minor 1** give you or tell you a time period in
24 which the alleged incidents of abuse took place?

25 A: Yes, he did.

SALLY WILLIAMSON - CONTINUED DIRECT BY MR. RICHARDSON

1 Q: And what was that time period?

2 A: He estimated approximately -- well, shortly after his
3 mother became incarcerated, which would have been
4 approximately January of 2013, until -- up until her release,
5 which was October of 2013.

6 Q: Okay. And did he tell you about the place where the
7 incidents of abuse took place?

8 A: Yes, he did.

9 Q: All right. And what was that location?

10 A: He identified the family home as the location.

11 Q: Okay. His family home?

12 A: His family home.

13 Q: Okay. Once you get through the abuse portion of the
14 interview, is that kind of the wrap-up or is there anything
15 else that happens after that?

16 A: After we discuss abuse, if abuse has occurred or not with
17 that particular child, then the ending is what we consider a
18 closure phase. And so we thank the child for talking to us.
19 The purpose is to give a respectful closure. Thank the child
20 and at times asking the child if they have any questions and
21 then escorting them out of the room.

22 Q: Okay. And once you finish the interview, do you
23 memorialize it in, like, a report?

24 A: We do. We provide a written report based on what --
25 based on the video. A staff member watches the video and

SALLY WILLIAMSON - CONTINUED DIRECT BY MR. RICHARDSON

1 transcribes the report in written form.

2 Q: Okay. And is that given to law enforcement for their
3 consideration as far as whatever they want to do with the
4 case?

5 A: Yes, it is. It's provided to investigative entities,
6 whether it's law enforcement or Social Services that's
7 involved.

8 Q: Okay. And was that the extent of your involvement in the
9 case?

10 A: Yes, it was.

11 Q: Thank you.

12 A: You're welcome.

13 MR. RICHARDSON: Please answer any questions that Mr.
14 Jordan may have for you.

15 THE COURT: Any questions? Cross-examination?

16 MR. JORDAN: One moment, Your Honor. No questions, Your
17 Honor.

18 THE COURT: Okay. Thank you for your testimony, ma'am.
19 You can step down.

20 THE WITNESS: Thank you.

21 MR. RICHARDSON: Your Honor, if she may be excused from
22 her subpoena?

23 THE COURT: Certainly.

24 THE WITNESS: Thank you.

25 THE COURT: You're free to stay with us or you're free to

1 leave, ma'am.

2 THE WITNESS: Thank you, sir.

3 MR. RICHARDSON: That's the State's case, Judge.

4 THE COURT: Okay. All right. Madam Forelady and ladies
5 and gentlemen of the jury, we're at a stage -- since the State
6 has rested, there's some legal matters that need to be
7 discussed with the lawyers; so I'll need to send you back to
8 your jury room once again.

9 And I told you last time when I'm sending you out I'm
10 hopefully bringing you back shortly and not -- you didn't
11 quite follow up with that, but when you have excellent lawyers
12 like I've got here, they -- they present a lot of legal issues
13 to the Court and I have to deal with them. So -- but
14 hopefully we can bring you back shortly.

15 Again, I remind you not to discuss this case among
16 yourselves and hopefully I'll see you in a few minutes.

17 (Whereupon, the jury exits the courtroom at 10:25 a.m.)

18 THE COURT: Okay. Are there any motions from the
19 defense?

20 MR. JORDAN: Your Honor, at this point, I'd like to move
21 for a directed verdict. Your Honor, I don't believe that the
22 State has presented enough evidence to -- to support their
23 allegations here beyond a reasonable doubt and, as such, I
24 believe the defendant is entitled to a directed verdict.

25 THE COURT: Okay. All right. Well, of course, as you

1 know, Mr. Jordan, what the Court is concerned with at the
2 directed verdict stage is there any evidence, not the weight,
3 but viewing the evidence in a light most favorable to the
4 State, is there any evidence concerning this offense.

5 Basically, the -- the elements are a child under the age
6 of 16, sexual battery, and in this particular case the
7 defendant being on the sexual registry. There does exist
8 evidence on those three elements and I will respectfully deny
9 your motion.

10 I need to -- Mr. Jordan, at this stage you may want to
11 explain this to your client while I'm pulling it up. I have
12 to advise him as to his rights to testify or not testify, and
13 there's a colloquy that -- that I go through. So if you'll
14 just explain what I'm going to do here in just a second. I
15 need to pull it up.

16 MR. RICHARDSON: Your Honor, while that's taking place, I
17 think we mentioned while we were having the discussion about
18 the time and the place, there was a case. I think Jolly v.
19 State.

20 THE COURT: Jolly v. State. That's -- that's on point.
21 That supports that -- that Rule 801. Just put that on the
22 record. Thank you for reminding me of that.

23 (Whereupon, there is a pause in the proceedings.)

24 THE COURT: All right. Madam Clerk, would you swear Mr.
25 Wingate in? Please stand, sir.

1 THE CLERK: Raise your right hand. Do you swear to tell
2 the truth, the whole truth, and nothing but the truth, so help
3 you God?

4 THE DEFENDANT: I do.

5 THE COURT: Okay. Mr. Wingate, at this time, I'm going
6 to explain to you certain of your rights. If you do not
7 understand anything I say, please let me know. If you want me
8 to explain anything in more detail, please let me know that as
9 well. Do you understand, sir?

10 THE DEFENDANT: I understand, Your Honor.

11 THE COURT: We have now reached the stage of the trial
12 where you may present your defense. You have the right to
13 claim the protections given to you by the Fifth Amendment to
14 the Constitution of the United States. This amendment states
15 in part no person shall be compelled in any criminal case to
16 be a witness against himself. This means that you cannot be
17 required to testify in this case.

18 You have the right to testify on your own behalf.
19 However, no one, including myself, can make you testify. This
20 is a personal right and no one can waive this right except
21 you, sir.

22 If you decide to testify, you will be subject to the same
23 rules that govern other witnesses, and you may be examined and
24 cross examined on any -- excuse me -- on any relevant issue in
25 this case. In addition, if you have any convictions involving

1 dishonesty or false statement or for crimes punishable by
2 imprisonment for more than one year and this Court determines
3 that the probative value of admitting this evidence outweighs
4 its prejudicial effect to you, the solicitor would be able to
5 introduce your record to attack your credibility.

6 If you decide to testify, this decision on your part must
7 be freely, voluntarily, and intelligently made with knowledge
8 of the protections given to you by the Fifth Amendment and the
9 consequences of your decision to testify. If you decide not
10 to testify, this decision as well must be freely, voluntarily,
11 and intelligently made with full knowledge of your rights.

12 If you decide not to testify, I will instruct the jurors
13 that they cannot give the fact that you did not testify any
14 consideration whatsoever and that there is to be absolutely no
15 prejudice to you because you did not testify. It is left
16 entirely up to you whether or not you testify. You may talk
17 with -- and I'm sure you already have -- with your attorneys,
18 your family and friends or anyone else, but the final decision
19 will be left entirely up to you.

20 Do you understand what I have explained to you, sir?

21 THE DEFENDANT: I do understand, Your Honor.

22 THE COURT: Do you have any questions about what I have
23 explained to you?

24 THE DEFENDANT: I have no questions.

25 THE COURT: Okay. Have you had sufficient time to talk

1 with your lawyers and anybody else concerning this issue?

2 THE DEFENDANT: I have.

3 THE COURT: Okay. Are you in a position now to inform
4 the Court whether or not you want to testify or not?

5 THE DEFENDANT: I'm not ready at this time, Your Honor.

6 THE COURT: Okay. All right. Well, what we will do when
7 -- before we conclude your case, I will need to go back and
8 ask you, you know, what your decision is going to be. Okay?

9 THE DEFENDANT: I understand.

10 THE COURT: Okay. Thank you very much. You can have a
11 seat. Okay. Mr. Jordan, you have some other witnesses you
12 plan to call or not?

13 MR. JORDAN: Your Honor, I would ask that we take about a
14 15-minute recess so that I can discuss that matter with the
15 defendant, as well as whether or not he intends to testify.

16 THE COURT: Okay. All right. Let's go ten minutes.

17 MR. JORDAN: That will be fine.

18 THE COURT: Okay. All right. We'll be in recess for
19 about ten minutes.

20 (Whereupon, there is a break in the proceedings from
21 10:31 a.m. until 10:48 a.m.)

22 THE COURT: Okay. Mr. Wingate, would you please stand,
23 sir? It's my understanding from talking with your lawyer that
24 you have decided not to testify in this case; is that correct?

25 THE DEFENDANT: That's correct, Your Honor.

1 THE COURT: Okay. And have you made this decision not to
2 testify with ample time to talk with your lawyers, any
3 friends, family members?

4 THE DEFENDANT: I have.

5 THE COURT: Okay. Has this decision not to testify been
6 freely, voluntarily, and intelligently made?

7 THE DEFENDANT: It was, Your Honor.

8 THE COURT: Okay. Thank you very much, sir. You can
9 have a seat.

10 THE DEFENDANT: Thank you.

11 THE COURT: All right. And, Mr. Jordan, you indicate
12 that the defense does not plan to put up a case; is that
13 correct?

14 MR. JORDAN: That's correct, Your Honor.

15 THE COURT: Okay. All right. What we will do then when
16 the jury comes back out, if you'll indicate on the record that
17 the defense rests, and we're going to cut them loose and have
18 them back at one. That will give us enough time to get the
19 charge put together and discussed with you folks.

20 All right. If you will, bring the jury out, please,
21 Madam Bailiff.

22 THE BAILIFF: Yes, sir.

23 (Whereupon, the jury enters the courtroom at 10:49 a.m.)

24 THE COURT: Okay. Let the record reflect the jury is
25 back in. Mr. Jordan?

1 MR. JORDAN: The defense rests, Your Honor.

2 THE COURT: Okay. Thank you very much. Madam Forelady
3 and ladies and gentlemen of the jury, the evidentiary record
4 in this case is now closed. In other words, all of the
5 evidence that you're going to have available for your
6 consideration is already -- is already in. Consequently, with
7 that, that leaves us at the stage of this trial where the
8 lawyers will make closing arguments and the Court gives you
9 the final charge on the law of the case.

10 In preparing the charge, what I typically do is once I've
11 prepared the charge, I give the lawyers an opportunity to
12 review the charge and make sure that -- that they agree with
13 what I'm going to charge and if there's any additions that
14 they want to add to it, and that will take a little while. I
15 don't want to leave you back in the jury room any longer than
16 I have to or any longer than is necessary.

17 Therefore, we're going -- I'm going to give you an early
18 lunch break, and it's about ten until eleven. I'm going to
19 give you until one o'clock. So you'll be free to go.
20 Promptly be back here in time for us to start back at one.
21 Again, as I've told you, allow yourself enough time to take
22 care of anything that's unexpected that may arise.

23 Don't discuss this case among yourselves or anybody that
24 you come into contact with. Have a great lunch and we'll see
25 you at one o'clock.

1 (Whereupon, the jury exits the courtroom at 10:51 a.m.)

2 THE COURT: Okay. We're going to be in recess until one
3 o'clock. Are you folks going to be around to where I -- so we
4 can get -- as soon as we get the charge where I want it, we
5 can go ahead and get it to you. I don't want to wait until
6 one o'clock for you folks to look at it. So are y'all going
7 to be close around?

8 MR. RICHARDSON: Yes, sir. I'll be right down there in
9 the Solicitor's Office.

10 THE COURT: Okay. All right.

11 MR. JORDAN: Your Honor, I'll be around the Public
12 Defender's Office.

13 THE COURT: Okay. All right. We'll -- we'll track you
14 down. How about that?

15 MR. RICHARDSON: Thank you, Judge.

16 THE COURT: Okay.

17 MR. JORDAN: Thank you.

18 THE COURT: Thank you.

19 (Whereupon, there is a break in the proceedings from
20 10:51 a.m. until 12:57 p.m.)

21 THE COURT: Okay. We're on the record and I understand
22 that everybody has had an opportunity to review the jury
23 charges. Solicitor, are you okay with those?

24 MR. RICHARDSON: Yes, sir. No objections.

25 THE COURT: Okay. Defense?

1 MR. JORDAN: I've reviewed it and I don't have any
2 objections.

3 THE COURT: Okay. Certainly, you have every right after
4 I charge to -- if a light comes on and you think of something
5 that you want to take exception or objection to, certainly you
6 -- you're not waiving any rights right now. Okay? And the
7 verdict form is also okay?

8 MR. JORDAN: It is, Your Honor.

9 THE COURT: Okay.

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: Okay. All right. Bring the jury out,
12 please, Madam Bailiff?

13 THE BAILIFF: Yes, sir.

14 (Whereupon, the jury enters the courtroom at 12:58 p.m.)

15 THE COURT: All right. Let the record reflect the jury
16 is back in. Ladies and gentlemen of the jury, as I told you
17 before we broke for lunch, the -- what we have left to do in
18 this trial are the closing arguments and the charge on the law
19 by the -- by the Court. So please give these lawyers your
20 very close and strict and undivided attention. Solicitor, are
21 you ready?

22 MR. RICHARDSON: Yes, sir, Your Honor.

23 CLOSING ARGUMENT ON BEHALF OF THE STATE

24 MR. RICHARDSON: Good afternoon, folks. Now is the time
25 where we're going to tie this all together here and go through

1 the evidence that you've heard and take a look at the law
2 after I -- after we finish and let you get back there and make
3 your decision.

4 Now, as I mentioned in the opening statement, **Minor 1** and
5 his siblings were put in a really bad spot. It sounds like
6 from the development of the testimony they have been put in a
7 few bad spots in their lives.

8 **Minor 1** is not -- is not the oldest child. They said they
9 have an older sister who is an adult, but of the ones still
10 remaining in the home, he's the oldest child. He's the victim
11 in this case. He testified in front of you, obviously very
12 difficult for him, and in his testimony he let you know kind
13 of the grisly details of what happened to him over a period of
14 almost a year, a lot of months.

15 Now, his testimony lets you know what you need to in
16 terms of proving certain elements of the offenses that this
17 defendant is charged with. He's charged with two counts of
18 criminal sexual conduct with a minor in the first degree.
19 Okay?

20 The first thing we need to establish is that a sexual
21 battery occurred. Okay? And a sexual battery, which the
22 judge will tell you here in a few minutes, is basically a
23 penetration. Okay? There's more words to it than that, but
24 that's the way I think of it. And we have two counts of that.
25 One is oral penetration and the other one is anal penetration.

1 Now, **Minor 1** first talked about that his mom got sent off
2 to the Department of Corrections. She knew it was coming.
3 She had violated her probation. So she made some arrangements
4 for her three younger children to go stay with Tamarquis
5 Wingate's mother. We then find out that they never spent a
6 night with Tamarquis Wingate's mother. They were kept in
7 their own house by Tamarquis Wingate. According to **Minor 1**
8 testimony, no other adult supervision in there.

9 The very first night that Tamarquis had those children
10 under his control, **Minor 1** testified they went to a church
11 program. Tamarquis accused him of looking at a couple of gay
12 guys that were in the church. They get back to **Minor 1** --
13 **Minor 1** house and he feels -- you know, he says Tamarquis is
14 fussing at me, fussing at me, and then starts asking me you
15 want to know how it feels, you want to know how it feels, and
16 **Minor 1** kind of intimated he didn't really understand what that
17 meant that Tamarquis was saying this to him.

18 So Tamarquis elaborates. Tamarquis elaborates. You want
19 to know what it feels like to be gay? **Minor 1** is 14 at this
20 time. He said first he says no, but Tamarquis keeps asking
21 him and keeps asking him, and **Minor 1** testified he's finally at
22 the point Tamarquis is angry and **Minor 1** can tell he's
23 obviously angry with him. So **Minor 1** finally says yes because
24 of that.

25 The first night now. **Minor 1** testifies here that the

1 first night was touching. He said that Tamarquis laid a
2 pallet down on the floor and sent the two little kids to --
3 the two younger kids to bed and basically told **Minor 1** it's
4 time. He kept asking him ahead of that are you ready, are you
5 ready, are you ready. **Minor 1** would say no and finally gave
6 in.

7 So he lays a pallet down on the living room floor of this
8 two-bedroom house. The other two kids are in the back in
9 their respective bedrooms. Clothing is removed from both
10 **Minor 1** and Tamarquis, and what we would call, you know,
11 inappropriate touching takes place is what **Minor 1** -- **Minor 1**
12 talked about, you know, touching him on the butt and stuff
13 like that, and that was it the first night. And we'll get
14 back to that.

15 The second night -- it didn't take long. The second
16 night, all out. The second night **Minor 1** testifies it goes
17 past the touching to the anal sex, but keep in mind what he
18 said. This is important and we'll tie this up a little later.
19 With respect to the anal sex, maybe intuitively you would
20 think when he said that that it would be the defendant
21 performing anal sex on the child, but that's not what **Minor 1**
22 said. **Minor 1** said that Tamarquis asked **Minor 1** for **Minor 1** to
23 put his penis in Tamarquis' backside. Think about that.
24 We'll get to it in a minute.

25 I also asked **Minor 1** if any other stuff happened over this

1 period of time. I asked him when I was originally questioning
2 him if oral sex took place and I got a quick "no, sir." You
3 know, I then asked him again. "Do you know what oral sex
4 means?" And I got another "no, sir." So I clarified and
5 asked him, you know, about a mouth on a penis and that, you
6 know, a lightbulb goes off then and he understood what I was
7 asking him about. And he says that Tamarquis put his -- put
8 Tamarquis' mouth on **Minor 1** penis. That's oral sex. Okay?

9 So as far as the sexual battery is concerned, we've got
10 the anal sex, which **Minor 1** said happened every night after
11 that first night except for two nights when another adult
12 individual came to stay. I think he was related to Tamarquis.
13 So, you know, **Minor 1** got two nights of a break in that length
14 of time his mother was gone. So the anal sex happens on a
15 nightly basis. So that's one of your sexual batteries.

16 **Minor 1** testified that the oral sex took place not every
17 night, but, you know, somewhat regularly. That's your second
18 sexual battery. So we've got Count I and we've got Count II.
19 So that section -- that part is satisfied.

20 We've got another element that the victim child must be
21 under the age of 16. That's clear. **Minor 1** was 14 when it
22 started, 15 when it ended. There's plenty of testimony on
23 that.

24 And the last element that we have here is that the
25 defendant, Tamarquis Wingate, is a convicted sex offender.

1 He's required to register as a sex offender pursuant to
2 whatever statute, and the judge will tell you that. And we
3 had Scottie Dangerfield from the Sheriff's Office. He
4 supervises that whole deal down there. He controls that and
5 he said that, you know, upon an inmate's release from
6 incarceration, that person has one business day to go down
7 there to the Sheriff's Office and meet with him and register
8 as a sex offender, and that took place with Mr. Wingate here
9 in October of 2012, about two months before these incidents
10 started.

11 All right. So back to **Minor 1** He tells you about all
12 these specific things, you know. Every night, **Minor 2** and
13 Carolyn would get sent to bed and Tamarquis would say
14 something to the effect of get ready. The pallet would go
15 down and off we'd go.

16 **Minor 1** mentioned that he never told anybody while this
17 was happening. He never -- he didn't tell his brother, you
18 know, didn't tell his sister, didn't tell anybody at school,
19 what have you. He testified -- well, obviously, you know,
20 that's an embarrassing situation in and of itself. But he
21 testified that Tamarquis made comments to him to the effect of
22 if you tell anybody, I'm going to kill you. All right?

23 Now, an adult who hears something like that may or may
24 not take it seriously. Who knows? But this is a 14- or 15-
25 year-old kid, and Tamarquis Wingate is an adult who has got

1 control of him for a period of time. And this person who is
2 living with him and has basically care, custody, control, so
3 to speak, is telling him this.

4 So you heard Renea Jenco testify she's been doing this
5 for seven years. She said it's not unusual in cases for the
6 disclosure of the sexual abuse to come after the fact -- a
7 little while after the fact, and that's what we've got here
8 some four or five months after it stopped.

9 So I believe **Minor 1** testified that, you know, the night
10 before his mom got home was the last time that this happened
11 to him. His mom gets home and he goes back to stay with her,
12 as does his siblings, and things kind of move on for a few
13 months. Ms. Brown, Mary Ann Brown, told you she was trying to
14 find a place to stay and trying to get situated. She was just
15 coming out of the Department of Corrections.

16 A few months passes by. Ms. Brown sends **Minor 1** to see
17 Tamarquis' wife to borrow some money for some cigarettes or
18 something. **Minor 1** said Tamarquis -- his understanding was
19 Tamarquis was not supposed to be there. Well, he was. **Minor 1**
20 and Tamarquis -- I guess some words were exchanged. Tamarquis
21 said something to **Minor 1** goes home. He is visibly
22 upset. His mom notices it and she wants to know why he's so
23 angry or so upset.

24 And we can tell by **Minor 1** testimony and his mom's
25 testimony this was kind of a breaking point where, you know,

1 it's I'm afraid, I'm embarrassed, but I've got to tell what
2 happened to me. So he does, and he's not comfortable telling
3 his mother. Who would ever want to tell their mom that?
4 That's fine.

5 So he tells the fellow that his mother is dating at the
6 time. He sits down with him and tells him the deal. They
7 then come out of the room and they just tell the mom we can
8 call the police. Okay?

9 So they go meet with the Pamplico police officer, Robby
10 Stone, who testified. Of course, Pamplico PD is a pretty
11 small agency; so they call in the Florence County Sheriff's
12 Office to help them with this investigation. That's how Renea
13 Jenco got involved and then subsequently the Care House got
14 involved. And the Care House met with **Minor 1** and you heard
15 Sally Williamson talk about that.

16 So **Minor 1** is really the key figure here in this case and
17 I'll tell you why that is. It's pretty obvious. Now, his
18 brother, **Minor 2** testified that, you know, he did not see the
19 actual -- you know, any actual sexual activity that he could
20 identify, but what he did see is important for a couple of
21 reasons. He wants -- you know, he says a few times that, you
22 know, he gets tired of sitting in his room or whatever and he
23 wanted to come out front and hang out with **Minor 1** and
24 Tamarquis. So he comes walking out. It's post-bedtime now.
25 He walks out and he sees fast moving, covers rustling, and

1 Tamarquis yelling at him to get back to your room. I mean he
2 didn't see the penetration, but come on.

3 And I tell you that, you know, it's important for that
4 reason. I mean it's pretty obvious what he sees, but it's
5 also important because we start to get into the -- the smoke
6 and, you know, the red herring over here, this 2010 allegation
7 that was brought up.

8 Renea Jenco testified about that one. That case came in
9 in 2010 and was assigned to her. There was some allegations
10 of some inappropriate touching that had to do with another guy
11 that mom was dating and, you know, hearing all this and to
12 hear what happened in this incident, you know, what we're
13 dealing with, you think mom is making some poor relationship
14 choices in this situation and subjecting these kids to a lot
15 that they probably should not be subjected to, but that's
16 neither here nor there.

17 In 2010, this other fellow is alleged -- or the kids say
18 he -- you know, he touched them. Renea Jenco gets the case.
19 She has a death in the family. It gets kicked to some other
20 investigator who then, you know, has to leave the Sheriff's
21 Office under whatever circumstance. Then it goes to a captain
22 who also happens to leave the Sheriff's Office after that.
23 She said all that and basically what that amounts to to me is
24 the Sheriff's Office dropped the ball big time on that 2010
25 case.

1 We don't know what happened or what could have happened
2 because nothing ever happened, like they never did anything
3 with it to develop it. I mean I think they said there was a
4 Care House referral, but, you know, the Care House can only do
5 so much.

6 So I guess basically the inference that Mr. Jordan may
7 have been making in that line of questioning was, well, you
8 know, mama was upset with this fellow back in 2010 and these
9 kids happened to accuse him of something. Maybe she's upset
10 with Tamarquis in 2014 and **Minor 1** happened to accuse him of
11 something. So they must -- you know, these kids must be full
12 of it. You know, either mama is putting them up to it or the
13 kids are upset because mom is upset so they're going to get
14 this guy.

15 That falls apart and here's why. They would have to be
16 simultaneously extremely poor planners and extremely great
17 planners at the same time in order to pull that off and here's
18 why. If **Minor 2** is in on this thing and he wants to get that
19 guy, why didn't he come up here and tell you, yeah, I walked
20 in and I saw them going at it in flagrante delicto, having at
21 it. I saw it with my own two eyes. No question.

22 But he didn't tell you that. He just told you he walked
23 in and saw some fast moving and some covers rustling. Okay?
24 So **Minor 2** must have dropped the ball up there because he
25 could have done a lot better if he was making that up.

1 **Minor 1** On one hand, why would a 15-year-old kid come in
2 here in front of a room full of people he's never seen and
3 basically out himself and admit that he engaged in these
4 activities with this older man? For what? I mean over some
5 hurt feelings? I mean he's got to go through the fear of
6 public speaking and, you know, saying all this stuff, the
7 embarrassment that goes along with it. What does he get? I
8 mean that's like a Pyrrhic victory. You know, that's the
9 whole thing where, you know, every soldier you got gets
10 killed, but you won, you know.

11 Okay. What does he -- what does he accomplish by going
12 through all this hell? What's in it for **Minor 1** Nothing. So
13 he just -- he came in here and laid it out for you best as a
14 15-year-old kid could. I mean you could look at him and tell
15 he was just like Sally Williamson said: a shy kid, reserved.
16 I don't know if it's the first time he's ever spoken in public
17 or not, but, you know, he gave you all he could give you and
18 that's -- that's important to remember because in these kind
19 of cases a lot of times all we have to go on is what the
20 victim says.

21 Why is that? I mean we had **Minor 2** here who adds a
22 little bit to it, which is good, but primarily we've got

23 **Minor 1** You know, he gave some -- he gave the details, the
24 nightly basis details about the God-awful things that happened
25 to him, when they happened to him, where they happened to him,

1 stuff that was said to him.

2 And why that is is because no -- no child predator is
3 going to stick a neon sign out in the yard and say, hey, I'm
4 in here messing with a kid. Nobody is advertising that, but I
5 mean think about it. By the very nature of the activity,
6 they're going to secrete that kid away, hide him, no
7 witnesses. It's my word versus your word, hoss. You know,
8 we're not leaving anything to chance. And that's what was
9 happening in that living room every night for all those
10 months. You know, Minor 2 could not come watch TV. Why is
11 that?

12 So I don't think that was all that Tamarquis Wingate had
13 going on there, but sure that's obvious behavior. Keep the
14 kid separate. Keep him away from witnesses. Put -- you know,
15 put his credibility at issue.

16 But think about this. Remember when I talked to you at
17 the beginning about how the sexual acts were described. Now,
18 we've talked so far about how if -- if these kids made this
19 thing up, poor planning. They could have come up with
20 something better. Now we're getting to the part where I don't
21 -- I would be extremely surprised if these kids could have
22 thought of this, but humor me.

23 Renea Jenco testified that in these types of cases she's
24 been working so long that if one comes in pretty quickly, like
25 right after it happens, they've got a team that goes out to do

1 evidence collection and that kind of stuff. She talked about
2 DNA. DNA is in semen. Okay? That's what she says. We
3 didn't have that in this case because it was delayed
4 disclosure. Stay with me.

5 When Tamarquis is doing this stuff to **Minor 1** every night,
6 you know, the first night is just a little bit, you know, put
7 a little toe in the water. He's got no guarantees that the
8 next day **Minor 1** isn't going to school and be like, help, but
9 that day came and went and nothing happened. So we dive off
10 the deep end.

11 Tamarquis has no way of knowing that at any point in
12 time, any day, that **Minor 1** isn't going to tell. ~~isn't~~ isn't going
13 to tell. What if he does? He might have to go to the
14 hospital to get some kind of examination. They might search
15 him for DNA. Where does DNA come from? Semen. Okay?

16 Now, think about what **Minor 1** described to you. Tamarquis
17 asked **Minor 1** to put **Minor 1** penis in Marquis' backside. Think
18 about that. Tamarquis' semen would never come into play in
19 that scenario, in that penetration.

20 The other count. **Minor 1** said that Tamarquis would put
21 Tamarquis' mouth on **Minor 1** penis. Tamarquis' semen never
22 comes into play. They ain't getting any semen of Tamarquis'
23 off of **Minor 1** He's been down this road before. Scottie
24 Dangerfield let you know that.

25 So Tamarquis is in a situation where the envelope has

1 gone too far at some point, but he gets that -- you know, he
2 gets to Scottie Dangerfield in October 2012, registers. Two
3 months later, he got **Minor 1** He's got him like a bass on the
4 line, but we've got to keep this envelope -- we've got to keep
5 it on the table. We can't push it all the way off. So he has
6 **Minor 1** commit the anal sex on him and he perpetrates the oral
7 sex on **Minor 1** He's not going to risk any DNA. He's not
8 having that and we don't want that envelope just to go flying
9 off that table.

10 You think **Minor 1** thought of that? The kid who didn't
11 know what oral sex meant? I submit that he did not. But now
12 you know.

13 So **Minor 1** and **Minor 2** and Mary Ann Brown -- these are
14 either the poorest planners or the greatest planners of all
15 time. They can't be both and that's Tamarquis Wingate's
16 problem in this case and that's a hard one to overcome.

17 So that is why the theory that the kids were in on it,
18 the mom was in on it, and it's just some petty -- you know, I
19 got home from prison and Tamarquis had gone with another lady;
20 so let's get him. That's a bit -- a bit far to take that,
21 don't you think?

22 So you know what happened. I mean it's clear from the
23 testimony when you think about it piece by piece by piece and
24 you tie it all together at the end, this man is guilty as all
25 get out on both Counts I and II. There ain't no getting

1 around it.

2 So I'm going to ask you when we finish up here and the
3 judge gives you the law, I want you to listen carefully to
4 that law that he gives you because you've got to apply it to
5 these facts as you heard from this witness stand. One of the
6 things he's going to charge you is it's the law of this state
7 that in a case like this the victim's testimony need not be
8 corroborated, meaning nobody else needs to say what **Minor 1**
9 said to prove this man's guilt.

10 There are other things in there that you will need to
11 hear and listen to and take them all into consideration, and
12 when you get back in that jury room, you've got all you need.
13 You've got all the facts from that witness stand. You've got
14 all the law from that bench. You put them together. Guilty
15 times two. Thank you very much.

16 THE COURT: Okay. Thank you, Solicitor. Mr. Jordan, are
17 you ready, sir?

18 MR. JORDAN: I am, Your Honor.

19 THE COURT: Okay. You may proceed.

20 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

21 MR. JORDAN: Mr. Richardson. Good afternoon, ladies and
22 gentlemen.

23 I told you all before this case really got started I hate
24 these kind of cases. As Mr. Richardson just pointed out and
25 as Renea Jenco pointed out, these cases come down to whether

1 or not you believe the victim or whether or not you believe
2 the other witnesses, and that's tough, folks. Any one of us
3 could be in that position.

4 It's amazing to think that somebody can come up with
5 these allegations and that's all they have to have. There
6 doesn't need to be any physical evidence. There doesn't have
7 to be a corroborating witness. Amazing.

8 And Mr. Richardson told a good story. He told what he
9 believes the evidence that was given to you shows. I think
10 he's wrong. I don't think that the 2010 incident is a red
11 herring at all.

12 You heard testimony from both of the boys and their
13 mother that up and until 2010 they thought the man named Coop
14 Brown was the boys' father. They lived with Mr. Brown. He
15 supported those children. And at some point in time, Ms.
16 Brown took him to Family Court for child support.

17 Through that process, Mr. Brown was DNA tested to insure
18 that he was these children's father. He wasn't. Ms. Brown
19 testified that things changed after that between she and Mr.
20 Brown and those children. Now, they lived with this man.
21 They thought this man was their father. The children's mother
22 testified that they separated when Mr. Brown started beating
23 on her.

24 And yet in 2010, Mary Brown takes both of her sons down
25 to the police station two days after Coop Brown allegedly

1 commits a criminal act upon them and makes a report. Now,
2 they make a report at a younger age than they are now two days
3 after it happens. They tell their mother. They didn't say
4 that they were embarrassed to tell their mother. They told
5 their mother and she takes them down to the police station.
6 They make the report against a man that they know was beating
7 their mother. They go to the Care House. A forensic
8 interview is done.

9 But mom and Mr. Brown are separated. Mr. Brown is gone.
10 They don't know where Mr. Brown is anymore. He got run off
11 because of this investigation.

12 Now, the issue with that case was that Investigator Renea
13 Jenco and the others at the police department didn't follow up
14 on it. I don't know whether they believed the allegations or
15 not, but when questioned, Investigator Jenco said that the
16 allegations that were made -- they were just made by **Minor 1**

17 and **Minor 2** Those allegations should have been investigated
18 as a crime. What they alleged that Mr. Brown did was a crime.

19 They ran him off. The money stopped coming. Mr. Brown
20 stopped paying mama, they separated, and mama wants to get rid
21 of him. She marches her kids down to the police station and
22 makes a report. Mr. Brown is gone. They don't have to mess
23 with him anymore. They don't know that the ball is going to
24 get dropped. Mr. Brown doesn't know the ball is going to get
25 dropped.

1 Fast forward to 2012. Mr. Wingate and Ms. Brown strike
2 up a friendship. They live next door to each other. And six
3 weeks later, she's arrested for violating her probation.
4 She's placed on probation for a charge of assault and battery
5 of a high and aggravated nature, and she violates this
6 probation six weeks or so after meeting Mr. Brown -- or Mr.
7 Wingate. He bonds her out. He takes care of her children for
8 six days while she's in jail. She doesn't have a problem with
9 that. He bonds her out. When her probation violation hearing
10 comes up, he drives her to the courthouse, speaks on her
11 behalf.

12 She never testified -- Ms. Brown never testified that she
13 had any sort of interaction other than allegedly asking Linda
14 McLean to watch her children. She never had any other
15 interaction with her. She moved into this trailer park in
16 November. Linda McLean was her neighbor. That would be Mr.
17 Wingate's mother. But she never talks about hanging out with
18 Linda, having a good relationship with Linda.

19 What does she talk about? She testified that she and Mr.
20 Wingate had a good friendship. I would submit to you it was
21 far more than a friendship. They went clubbing together.
22 They went to church together. The children testified when
23 they came home from school, they would see Mr. Wingate and Ms.
24 Brown hanging out and talking and having a good time.

25 She goes to prison, and what does Mr. Wingate do? He

1 takes care of her children. He pays the rent on the trailer
2 that she was living in. He makes sure that those children are
3 fed, that the lights are on, that they have what they need,
4 and that they go to school, that their clothes are clean, that
5 they're healthy. They're doing what they're supposed to do.

6 But also during that time, Mr. Wingate begins dating one
7 of her friends. And when Ms. Brown comes out of prison, she
8 finds out that Mr. Wingate is engaged to one of her friends.
9 She testified that their relationship changed significantly
10 when she came out of prison, that she didn't see Mr. Wingate
11 nearly as much.

12 Mr. Wingate helped her out an awful lot before she went
13 to prison. He helped her out an awful lot while she was in
14 prison. But now, that support is gone, much like Mr. Brown's
15 support was gone. She's angry. She gets out of prison. She
16 stewes on this and she's angry. I submit to you that **Minor 1**
17 was probably angry as well. He didn't want to see his mama
18 upset.

19 But **Minor 1** during the time that Mary Ann Brown was in
20 school -- or was in prison, went to school every day. He
21 interacted with any number of adults. He didn't report this.
22 **Minor 1** testified that it wasn't until -- or he alleges that it
23 wasn't until almost time for his mom to be released from
24 prison that Mr. Wingate made a threat of harm against him if
25 he told anybody.

1 Minor 2 wasn't afraid of Mr. Wingate. We didn't hear
2 from Carolyn. But Minor 1 was. If I were Minor 1 I'd be more
3 afraid of the man that I thought was my father, the man that
4 raised me, the man that was beating on my mama, the man that I
5 reported two days later, not Mr. Wingate. He didn't beat on
6 anybody. He wasn't going to beat on Minor 1 had every
7 opportunity to stop -- if this was going on, to stop it. He
8 chose not to. He chose not to report it because it didn't
9 happen.

10 Ms. Brown gets out of prison in October. It's not until
11 sometime in March when she sends Minor 1 over to Mr. Wingate's
12 home to get fifty cents to buy some cigarettes. At no point
13 in time did she testify that there's any change in Minor 1
14 demeanor or attitude. Minor 1 testified that Mr. Wingate had
15 been around their home and he didn't have a problem with him
16 being around there.

17 But Minor 1 gets upset on this occasion and Mary Brown is
18 already upset. Mary Brown has found out after -- she claims
19 after she was released from prison, she finds out that Mr.
20 Wingate was previously convicted of a crime which landed him
21 on the sexual offender registry.

22 Now, folks, there are any number of crimes from petty to
23 very serious that can land you on the sex offender registry.
24 We don't know which crime placed Mr. Wingate on the registry.
25 We know he did what he was supposed to do when he got out of

1 prison. He reported and otherwise it appears he lived his
2 life and helped these children. See, Mary Brown knows this.
3 Mary Brown is upset. Mary Brown is upset that the man that
4 she loved, that she had a relationship with, is now married to
5 her friend. Mary Brown is upset that the money has stopped,
6 the support has stopped.

7 And so when **Minor 1** comes home and he's upset, they talk.
8 Now, she claims or they allege that **Minor 1** disclosed these
9 allegations to a Mr. Marvin Graham. At no point in time did
10 Renea Jenco talk to Marvin Graham, did the Pamplico police
11 talk to Marvin Graham or did you hear from Marvin Graham. But
12 **Minor 1** they allege, tells basically a complete stranger about
13 this sexual abuse rather than his mother.

14 Now, he's already supposedly confessed that he was
15 sexually abused by his father to his mother. Why would he be
16 embarrassed now? If this went on, why didn't he tell her
17 immediately after she was released? Why didn't he tell
18 someone at school? Why didn't he tell any number of the other
19 adults that came over to the house? Explained it to a
20 neighbor? Why didn't he talk to Linda McLean, who was
21 supposed to be watching him? Because it didn't happen, folks.

22 A wise person once told me if you're in a room full of
23 people and one person is a thief and you have two pieces of
24 paper sitting in front of you, you step out of the room for a
25 little while and come back and there's only one piece of paper

1 were you once had two, you're automatically going to assume
2 that the person who was a thief stole it. That's what the
3 State wants you to do here.

4 We have admitted since the outset that Tamarquis Wingate
5 is on the sex offender registry. They want you to convict
6 this man having no physical evidence, no corroborating
7 evidence, based on the fact that in the past he was convicted
8 of a crime that landed him on the sex offender registry.

9 Folks, everybody has a past. I'm not proud of some of
10 the things that I've done. If they were dragged up, I'd be
11 embarrassed. But just because I did those things doesn't mean
12 that I should be held accountable for them here today. I'm
13 not that same person.

14 Just because Mr. Wingate is on the sex offender registry
15 doesn't automatically mean he did this, folks. Yet this case
16 was given a higher priority because Renea Jenco found out Mr.
17 Wingate was on the sex offender registry. In her emails back
18 and forth with the Care House, she made sure that the folks
19 there knew that he was on the sex offender registry.

20 This case was prosecuted based on the word of **Minor 1**
21 because Mr. Wingate is on the sex offender registry. In 2010,
22 when both **Minor 1** and **Minor 2** claimed a crime was committed
23 against them, that case is in the weeds, folks, and the only
24 reason it's in the weeds is because Coop Brown wasn't on the
25 sex offender registry.

1 The State has got to prove that Tamarquis Wingate is
2 guilty of these crimes beyond a reasonable doubt. I asked an
3 attorney one time how do you explain what reasonable doubt is,
4 and he said, well, think of it this way. Say you have a
5 headache and I offer to give you some Tylenol. Before I give
6 you the Tylenol, I tell you that one of the capsules may have
7 cyanide in it. That's going to make you stop and think before
8 you take that Tylenol.

9 If you've heard anything over the past two days that
10 makes you stop and think, and I believe there's been plenty
11 ample evidence that should make you stop and think about
12 whether or not the story that **Minor 1** sat on that witness
13 stand and gave is truthful, you must find Tamarquis Wingate
14 not guilty. Folks, there's been ample, ample evidence that
15 these are untrustworthy, vengeful, spiteful people that Mr.
16 Wingate went out of his way to help after knowing them for
17 only six weeks and this is how he's repaid, folks.

18 Ms. Brown has been through this system. She knows how it
19 works. It's unfortunate that when charges are brought on
20 criminal sexual conduct cases, there's already a bias, folks.
21 I know there is, especially when it's criminal sexual conduct
22 with a minor. There's a bias. Nobody wants to see a child
23 get hurt. Nobody wants to see a child get assaulted. So it
24 would be real easy for Ms. Brown to take her son to the police
25 station, have him tell the police this is what happened, and

1 get rid of Tamarquis Wingate for good, and that's what
2 happened here, folks.

3 I want you to listen to the judge as he gives you the
4 law. I want you to keep in mind not only what Mr.
5 Richardson's story is, but all of the testimony that was given
6 on that witness stand. And if there is anything, anything at
7 all and, like I said, I think there's plenty, that gives you
8 pause as to whether or not Tamarquis Wingate did what is
9 alleged that he has done, I believe you'll find Tamarquis
10 Wingate not guilty times two.

11 THE COURT: Okay. Thank you, Mr. Jordan.

12 CHARGE ON THE LAW

13 THE COURT: Madam Forelady and ladies and gentlemen of
14 the jury, I now will charge you the law applicable to this
15 case. You must consider the charge as a whole and not focus
16 on some portion to the exclusion of other portions.

17 Now, we have one indictment that charges the defendant
18 with two counts of the same offense, criminal sexual conduct
19 with a minor, first degree. One count deals with the
20 allegations of oral sex and the other with respect to anal sex.

21 Now, I remind you that the fact the defendant was indicted
22 -- arrested, charged and indicted in this case is not evidence
23 in this case and cannot be considered by you as evidence of
24 guilt in this case, nor does it create any presumption or
25 inference of guilt. The indictment is simply the formal

1 written instrument which contain the charges made against the
2 defendant. It is the formal document by which this case is
3 brought into this court.

4 Now, I will remind you that during this trial you and I
5 have had certain duties to perform. As the trial judge, it is
6 my responsibility to preside over the trial of this case, and
7 I also have had the duty to rule on the admissibility of the
8 evidence offered during this trial. You are to consider only
9 the competent evidence before you.

10 If there was any testimony ordered stricken from the
11 record in this case during this trial -- and I believe that
12 there was on a couple of occasions -- you must disregard that
13 testimony. You are to consider only the testimony which has
14 been presented from the witness stand -- there's no exhibits
15 that have been offered into evidence -- and any stipulations
16 of counsel, which I do not believe that there were any.
17 Consequently, the evidence consists of the testimony from the
18 witness stand.

19 I have the additional duty to charge you the law
20 applicable to this case. As the presiding judge, I am the sole
21 judge of the law of this case, and it is your duty as jurors
22 to accept and apply the law as I now state it to you. As I
23 told you in the opening instructions to you yesterday, if you
24 already have any idea as to what the law is or what the law
25 ought to be and it does not agree with what I now tell you the

1 law is, you must abandon this idea because you are sworn to
2 accept the law exactly as I state it to you.

3 In every case tried in this court before a jury, the jury
4 becomes and is the sole and exclusive judge of the facts in a
5 case. A trial judge cannot intimate, state, comment on, or
6 make any statement to a trial jury about the facts in a case.
7 Since you, the jury, are the sole judge of the facts of this
8 case, you are not to infer from what I have said during the
9 progress of this trial in ruling upon the admissibility of
10 evidence, or otherwise, or anything that I say now during the
11 course of this instruction to you that I have any opinion
12 about the facts in this case.

13 I do not have an opinion about the facts in this case.
14 The law does not allow me to have an opinion about the facts
15 in this case. This is a matter solely for you, the jury, to
16 determine. As jurors, it is your duty to determine the
17 effect, value, weight, and truth of the evidence presented
18 during this trial.

19 Now, Madam Forelady and ladies and gentlemen of the jury,
20 the defendant has exercised his constitutional right and pled
21 not guilty to this indictment. Consequently, that plea of not
22 guilty puts the burden on the State to prove the defendant
23 guilty. A person charged with committing a criminal offense
24 in South Carolina is never required to prove himself innocent.

25 I charge you that it is an important rule of the law that

1 the defendant in a criminal trial, no matter what the
2 seriousness of the charge may be, will always be presumed to
3 be innocent of the crime for which the indictment was issued
4 unless guilt has been proven by evidence satisfying you of
5 that guilt beyond a reasonable doubt. This presumption of
6 innocence does not end when you begin your deliberations, but
7 it accompanies the defendant throughout the trial until you
8 reach a verdict of guilt based upon evidence satisfying you of
9 that guilt beyond a reasonable doubt.

10 The presumption of innocence is like a robe of
11 righteousness placed about the shoulders of the defendant
12 which remains with the defendant until it has been stripped
13 from the defendant by evidence satisfying you of the
14 defendant's guilt beyond a reasonable doubt.

15 This presumption of innocence is not mere legal theory.
16 It is not just a legal phrase. It is a substantial right to
17 which every defendant is entitled unless you, the jury, are
18 satisfied from the evidence of the defendant's guilt beyond a
19 reasonable doubt.

20 Again, the State has the burden of proving the defendant
21 guilty beyond a reasonable doubt. Some of you may have served
22 as jurors in civil cases, where you were told by the judge
23 that it is only necessary to prove that a fact is more likely
24 true than not true, such as by the greater weight or
25 preponderance of the evidence. In criminal cases, the State's

1 proof must be more powerful than that. It must be beyond a
2 reasonable doubt.

3 Proof beyond a reasonable doubt is proof that leaves you
4 firmly convinced of the defendant's guilt. Now, there are
5 very few things in this world that we know with absolute
6 certainty, and in criminal cases the law does not require
7 proof that overcomes every possible doubt. If, based on your
8 consideration of the evidence, you are firmly convinced that
9 the defendant is guilty of the crime charged, you must find
10 the defendant guilty. If on the other hand, you think there
11 is a real possibility that the defendant is not guilty, you
12 must give the defendant the benefit of the doubt and find him
13 not guilty.

14 Now, there are two types of evidence which are generally
15 presented during a trial, that being direct evidence and
16 circumstantial evidence. Direct evidence directly proves the
17 existence of a fact and does not require deduction.
18 Circumstantial evidence is proof of a chain of facts and
19 circumstances indicating the existence of a fact.

20 Crimes may be proven by circumstantial evidence. The law
21 makes no distinction between the weight or value to be given
22 to either direct or circumstantial evidence. However, to the
23 extent the State relies on circumstantial evidence, all of the
24 circumstances must be consistent with each other, and when
25 taken together point conclusively to the guilt of the accused

1 beyond a reasonable doubt. If these circumstances merely
2 portray the defendant's behavior as suspicious, the proof has
3 failed.

4 The State, again, has the burden of proving the defendant
5 guilty beyond a reasonable doubt. This burden rests with the
6 State regardless of whether the State relies on direct
7 evidence, circumstantial evidence, or some combination of the
8 two.

9 Necessarily, you must determine the credibility of
10 witnesses who have testified in this case. Credibility simply
11 means believability. It becomes your duty as jurors to
12 analyze and to evaluate the evidence and determine which
13 evidence convinces you of its truth.

14 In determining the believability of witnesses who have
15 testified in this case, you may believe one witness over
16 several witnesses or several witnesses over one witness. You
17 may believe a part of the testimony of a witness and reject
18 the remaining part of the testimony of that same witness. You
19 may believe the testimony of a witness in its entirety or
20 reject the testimony of a witness in its entirety. You may
21 consider whether any witness has exhibited to you any
22 interest, bias, prejudice, or other motive in this case. You
23 may also consider the appearance and manner of a witness while
24 on the witness stand.

25 In addition, the testimony of the alleged victim need not

1 be corroborated in a prosecution under section 16-3-655, Code
2 of Laws for South Carolina.

3 Now, during this trial, you have heard testimony from a
4 child. Where a -- or children actually. Where a witness is a
5 child you must determine, as with any witness, whether that
6 testimony is believable. In deciding believability, you may
7 consider not only matters that I have already discussed with
8 you, but you may also consider the age of the child, the
9 child's ability to observe and remember facts, and the child's
10 ability to understand and answer questions.

11 Sometimes because young children may not fully understand
12 what is happening here, it is up to you to decide whether the
13 child understood the seriousness of appearing as a witness at
14 this criminal trial, whether the child understood the
15 questions, whether the child has a good memory, and whether
16 the child understands the difference between lying and telling
17 the truth. In addition, young children may be influenced by
18 the way that questions are asked. It is up to you, the jury,
19 to decide whether the child understood the questions asked.

20 Now, Madam Forelady and ladies and gentlemen of this
21 jury, I instruct you and emphasize that the fact that the
22 defendant did not testify is not a factor to be considered by
23 you in any way in your deliberations and in your consideration
24 on the question of the guilt or innocence of the defendant.
25 It must not be considered by you in any manner whatsoever.

1 A defendant has the constitutional right to remain
2 silent, and the assertion of this right must not be considered
3 by you in your deliberations. I repeat, under your oath, you
4 are to draw no conclusion whatsoever from the fact that the
5 defendant in this case did not testify. The fact that this
6 defendant did not testify should not even be discussed in the
7 jury room. The burden of proof, as I have stated to you, is
8 on the State. The defendant is not required to prove his
9 innocence. The burden of proof remains on the State to prove
10 guilt beyond a reasonable doubt.

11 Criminal intent is a necessary element of each crime that
12 must be proven by the State beyond a reasonable doubt.
13 Criminal intent is always a matter that must be determined by
14 the jury from the circumstances surrounding the situation.

15 There is no way to prove intent to a mathematical
16 certainty. There is no way medical science can dissect a
17 person's brain to determine what he or she had in mind; so the
18 law states criminal intent may be inferred from the
19 circumstances shown to have existed, both before and after the
20 fact. This is how you, the jury, makes a determination of
21 whether or not the element requiring an intent was present.

22 Criminal intent is a state of mind that operates jointly
23 with an act or omission in the commission of a crime.
24 Criminal intent is a mental state of conscious wrongdoing; so
25 it is up to you, the jury, to determine what the defendant

1 intended to do based on the circumstances shown to have
2 existed. I tell you that the State must prove criminal intent
3 beyond a reasonable doubt just as the State must prove every
4 element of the criminal offense beyond a reasonable doubt as I
5 have stated to you previously.

6 The defendant is charged with first degree criminal
7 sexual conduct with a minor. The State must prove beyond a
8 reasonable doubt that the defendant engaged in a sexual
9 battery with the victim.

10 The elements of first degree criminal sexual conduct with
11 a minor under Section 16-3-655(a)(2) are, number one, the
12 alleged victim is under the age of sixteen; secondly, the
13 defendant committed a sexual battery on the alleged victim;
14 and thirdly, the defendant has previously been ordered to be
15 included in the sex offense registry pursuant to Section 23-4-
16 430(d).

17 The existence of the defendant being on the sex offender
18 registry is an element of this offense. The State has the
19 burden of proof to prove all of the elements of this offense
20 beyond a reasonable doubt standard. You are to consider this
21 evidence of the defendant being on the sex offender registry
22 only for the purposes of it being an element of this offense
23 and for no other purpose. It cannot be considered by you as
24 proof of any of the other elements of this offense nor as
25 proof or evidence of the defendant's character or as proof or

1 evidence that the defendant acted in accordance with any prior
2 conduct.

3 A sexual battery is either sexual intercourse,
4 cunnilingus, fellatio, anal intercourse, or any intrusion,
5 however slight, of any part of a person's body or of any
6 object into the genital or anal openings of another person's
7 body, except when the intrusion is accomplished for medically
8 recognized treatment or diagnostic purposes.

9 The State must also prove beyond a reasonable doubt that
10 the victim was less than 16 years old at the time of the
11 sexual battery.

12 Consent, willingness, indifference, or ignorance on the
13 part of the minor, if any, as to what was taking place, does
14 not in any way affect the charge of criminal sexual conduct
15 with a minor.

16 Now, Madam Forelady and ladies and gentlemen of this
17 jury, your verdict must be a unanimous among the twelve of
18 you. And as I indicated to you previously, the indictment
19 contains two counts of criminal sexual conduct with a minor
20 first degree. One relates to the allegations concerning oral
21 sex and the other relates to the allegations concerning anal
22 sex.

23 I have a verdict form. It is divided into two sections.
24 Section one says as to the first count of Indictment Number
25 2014-GS-21-01378, which charges the defendant with first

1 degree criminal sexual conduct with a minor (oral sex), we,
2 the jury, find the defendant -- and either mark guilty or not
3 guilty. Guilty is written out with a line right before it and
4 the same for not guilty.

5 The order of placing guilty before not guilty is of no
6 significance. One just has to go before the other, but it is
7 of no significance that guilty appears first.

8 And then part two, as to the second count of Indictment -
9 - the same indictment number, which charges the defendant with
10 the same criminal offense relating to the anal sex
11 allegations, we, the jury, find the defendant either guilty or
12 not guilty. And, Madam Forelady, there's a place for you to
13 sign and also date it today if your verdict is reached today.

14 Now, I have to discuss the Court's charge with the
15 lawyers to make sure that I have charged you accurately and
16 completely with respect to the law in this case to make sure
17 that there are no additions or corrections that need to be
18 made to my charge. Therefore, I will send you to your jury
19 room, all 13 of you.

20 Do not start your deliberations yet. When the bailiff
21 brings to you the verdict form -- there are no exhibits for
22 you to take back in this case; so the only piece of paper that
23 you will have is the verdict form. When she brings you the
24 verdict form, that will be your indication for two things to
25 happen. One, to begin your deliberations to reach a verdict

1 in this case as to both counts, and the alternate would then
2 leave the jury room and will come here for further
3 instructions.

4 So with that being said, I ask all 13 of you to go to
5 your jury room. Do not begin your deliberations yet.

6 (Whereupon, the jury exits the courtroom at 2:06 p.m.)

7 (Whereupon, a bench conference is held with the clerk off
8 the record regarding scheduling.)

9 THE COURT: Okay. Any exceptions of objections to the
10 Court's charge by the State?

11 MR. RICHARDSON: Nothing from the State, Judge.

12 THE COURT: And from the defense?

13 MR. JORDAN: Nothing from the defense.

14 THE COURT: Okay. Thank you very much. All right.

15 Madam Bailiff, if you would, take the verdict form back to the
16 jury. Make sure that the alternate comes out here and I will
17 give him further instructions.

18 (Whereupon, jury deliberations begin at 2:09 p.m.)

19 (Whereupon, the alternate juror enters the courtroom.)

20 THE COURT: Okay. Mr. McRae, we appreciate very, very
21 much your jury service. You are -- you're welcome to stay
22 with us if you'd like and wait on the -- the verdict of the
23 jury. I don't know when that would be, but you also are free
24 to leave and you're free for the rest of the week. So you
25 don't need to call in and you don't need to come back.

1 So sometimes lawyers like to talk with jurors about --
2 about the case. You're free to talk with them. You're free
3 to talk with anybody about the case. That's to your choosing.
4 If you don't want to talk with anybody, then that's your
5 choosing too. Okay?

6 THE JUROR: Okay.

7 THE COURT: But we thank you very much for your jury
8 service. Hopefully, it's been educational for you and maybe
9 see you next time.

10 THE JUROR: Yes, sir. Thank you.

11 THE COURT: Okay. Thank you, sir.

12 THE CLERK: Come this way, sir.

13 THE COURT: Okay. We'll be at ease. Okay. Both lawyers
14 did an excellent job. Thank you very much.

15 MR. RICHARDSON: Thank you, Your Honor.

16 MR. JORDAN: Thank you.

17 (Whereupon, there is a break in the proceedings from 2:10
18 p.m. until 2:52 p.m.)

19 THE COURT: Okay. Gentlemen, I understand the jury has
20 reached a verdict. Anything we need to put on the record
21 before we bring the jury out?

22 MR. RICHARDSON: Not from the State, Your Honor.

23 MR. JORDAN: Nothing from the defense, Your Honor.

24 THE COURT: Okay. All right. Madam Bailiff, what I do
25 is I -- I ask the forelady have you reached a verdict. Yes.

1 Was it unanimous? And then I say please hand the verdict form
2 to the bailiff. You'll hand it to me. I'll look at it and
3 hand it over to the clerk. Okay?

4 THE BAILIFF: Yes, sir.

5 THE COURT: Bring them out, please.

6 THE BAILIFF: Yes, sir.

7 (Whereupon, the jury enters the courtroom at 2:53 p.m.)

8 THE COURT: Okay. Let the record reflect the jury is
9 back in. Madam Forelady, it's my understanding that the jury
10 has reached a verdict.

11 THE FORELADY: Yes, Your Honor, we have.

12 THE COURT: Okay. And without telling me what the
13 verdict is, was the verdict or is the verdict unanimous?

14 THE FORELADY: Yes, sir.

15 THE COURT: Okay. Would you hand the verdict form to the
16 bailiff, please?

17 (Whereupon, the verdict form is delivered to the Court.)

18 THE COURT: Madam Clerk, would you publish the verdict,
19 please? Mr. Wingate, if you would, please stand.

20 VERDICT

21 THE CLERK: State of South Carolina versus Tamarquis
22 Antwain Wingate. Indictment 2014-GS-21-01378.

23 As to the first count of Indictment 2014-GS-21-01378,
24 which charges the defendant with the first degree criminal
25 sexual conduct with a minor, oral sex, we, the jury, find the

1 defendant guilty.

2 As to the second count of Indictment 2014-GS-21-01378,
3 which charges the defendant with first degree criminal sexual
4 conduct with a minor, anal sex, we, the jury, find the
5 defendant guilty.

6 Signed, Foreperson, Quinnie Jones. Dated December the
7 10th, 2014.

8 Members of the jury, if that is your verdict, please
9 raise your right hand.

10 (Whereupon, all jurors raise right hand.)

11 THE CLERK: That is everyone, Judge.

12 THE COURT: Okay. Thank you very much, Madam Clerk.

13 Does either side wish to have individual polling of the jury?

14 MR. RICHARDSON: Not from the State, Your Honor.

15 MR. JORDAN: Not from the defense, Your Honor.

16 THE COURT: Okay. All right. You can have a seat.

17 Madam Forelady and ladies and gentlemen of the jury, we
18 appreciate your jury service. We appreciate your service in
19 this trial.

20 I think I told this to the panel on Monday. Service on a
21 jury is considered by many to be the second highest
22 responsibility -- civic responsibility that we have, second
23 only to serving in the military. So it is a very, very
24 important responsibility. It's very important what a jury
25 does in any given case and so we appreciate your service this

1 week.

2 We have no further need for a jury. We have no other
3 trials scheduled. Everything has been resolved.

4 Consequently, you will be free for the rest of the week.

5 Now, you are free now to discuss this case with anybody
6 that you wish to, but if someone contacts you and wants to
7 talk about the case and you don't want to talk with them, then
8 that is your right as well. If someone insists -- and I'm not
9 suggesting that this will happen. I think it's very rare that
10 it happens, but nonetheless, if someone insists on talking to
11 you about this case and is just overly persistent, you let the
12 Court know because we will take care of that. We want to
13 protect our jurors and so you let the Court know immediately
14 if that were to happen, even though I don't think it will, but
15 if it does.

16 But it's great being in Florence. They are still going
17 to work me two more days on some other stuff; so I won't be
18 going home until Friday, but it's great being with y'all and
19 you're free for the rest of the week. Best of luck to all of
20 you.

21 We'll take about ten minutes before sentencing. You're
22 free to stay for the sentencing phase of this matter if you
23 care to.

24 (Whereupon, the jury is released at 2:56 p.m.)

25 (Whereupon, there is a pause in the proceedings from 2:56

1 p.m. until 3:05 p.m.)

2 MR. JORDAN: Judge, before we go into sentencing, can I
3 make a couple motions?

4 THE COURT: Oh, sure. Okay. You want to go on the
5 record now?

6 MR. JORDAN: I do, Your Honor.

7 THE COURT: Okay.

8 MR. JORDAN: At this point, I'd like to renew my motion
9 for directed verdict and make a motion for a new trial based
10 upon all of the --

11 THE COURT: Okay.

12 MR. JORDAN: -- objections made during the course of this
13 trial.

14 THE COURT: Okay. Thank you, Mr. Jordan. And after
15 consideration and certainly in anticipation of those motions
16 having been made, I've given it some thought and would
17 respectfully deny your motions.

18 MR. JORDAN: Thank you, sir.

19 THE COURT: Okay. Have you got a sentencing sheet,
20 Solicitor?

21 MR. RICHARDSON: I do, Your Honor, and I also have a form
22 to lift a bench warrant. He's incarcerated on a bench warrant
23 for two warrants, not on -- not on this indictment, but the
24 original charges.

25 THE COURT: Okay.

1 MR. RICHARDSON: I re-indicted the case for what's he'
2 been convicted of, but I'll hand that up --

3 THE COURT: All right. Very good.

4 MR. RICHARDSON: -- as well.

5 THE COURT: Okay. Let me go ahead and sign it and I'll
6 hand it right back to you. Oh, give it to the clerk? Okay.

7 Okay. This is the sentencing phase of the proceeding of
8 the State of South Carolina versus Tamarquis Antwain Wingate.

9 Let me first make on the record two findings. One,
10 pursuant to Section -- Section -- pursuant to Section 16-23-
11 500, I find that both counts of criminal sexual conduct with a
12 minor first degree are violent felonies. Therefore, that is
13 applicable and relevant to future ownership and possession of
14 firearms.

15 Secondly, pursuant to Section 44-48-30, I find that both
16 counts of criminal sexual conduct with a minor first degree
17 are sexually violent offenses, and that's all related to
18 future sexually -- sexual violent predator proceedings. I
19 don't know why I'm tongue-tied.

20 Okay. I will hear from the State first concerning
21 sentencing. I want to hear of prior record. And then I'll
22 turn it over to -- to the defense, and then allow the State to
23 conclude with any reply comments. So, Solicitor, I'll be glad
24 to hear from you, sir.

25 MR. RICHARDSON: Thank you, Your Honor. As for prior

1 record, there is a criminal domestic violence first offense in
2 2003, a resisting arrest in 2003, simple assault and battery
3 in --

4 THE COURT: All right. Slow down just a little bit,
5 please.

6 MR. RICHARDSON: Yes, sir.

7 THE COURT: All right. Resisting arrest in '03?

8 MR. RICHARDSON: Yes, sir.

9 THE COURT: Okay.

10 MR. RICHARDSON: Simple assault and battery in '02.

11 THE COURT: Okay.

12 MR. RICHARDSON: Lewd act on a minor in '06 it appears.

13 THE COURT: Okay.

14 MR. RICHARDSON: He received a Youthful Offender sentence
15 not to exceed five years on that one. There was a driving
16 under suspension in '04.

17 It appears he was received in the Department of
18 Corrections in April of '06 on the lewd act. His parole was
19 revoked in 2008 on the lewd act.

20 He had a fraudulent check, five counts, in 2010. Giving
21 false information in 2012. It looks like his parole was
22 revoked again in 2012 -- in August of 2012.

23 And actually, Judge, this just reminded me when I looked
24 at it. When I got this case, I had some concernment, as Judge
25 Anderson used to say, because I saw where his parole was

1 revoked on August 21st, 2012, and I knew by reading the
2 incident report that the incident was supposed to have started
3 in December of 2012.

4 THE COURT: Right.

5 MR. RICHARDSON: Just based on my experience on a parole
6 revocation for a YOA or YOA sentence, you typically go for
7 about a year.

8 THE COURT: Right.

9 MR. RICHARDSON: And then get out. So I actually
10 contacted the Department of Corrections because I figured if
11 this was a regular old parole revocation, there's no way he
12 could have done this.

13 THE COURT: Sure.

14 MR. RICHARDSON: And what they told me was basically he
15 had been revoked to the point where he maxed the whole
16 sentence out in two months.

17 THE COURT: Okay.

18 MR. RICHARDSON: So he got out in October --

19 THE COURT: Okay.

20 MR. RICHARDSON: -- of 2012, which is what Investigator
21 Dangerfield testified to.

22 THE COURT: Okay. All right.

23 MR. RICHARDSON: So that was that. And the only other --
24 there are other charges listed, but no dispositions.

25 THE COURT: Okay.

1 MR. RICHARDSON: So I won't get into those.

2 THE COURT: All right. Okay. Anything else the State
3 wants to tell me as it relates to sentencing?

4 MR. RICHARDSON: Your Honor, as has been firmly
5 established, this is kind of the second swing at the piñata on
6 sex offenses for this defendant; so I'd ask that the Court
7 sentence accordingly.

8 THE COURT: Okay. Thank you, Solicitor. Mr. Jordan,
9 I'll be glad to hear from you. I'll be glad to hear from any
10 of the --- I assume family members. They may not be. They
11 may be friends. I'm not sure. But anyone that you would like
12 to address the Court, I'll be glad to hear from them.

13 MR. JORDAN: Thank you, Your Honor. May it please the
14 Court. Your Honor, Mr. Wingate was I guess released from
15 prison or the YOA facility back in October of 2012. He moved
16 home to live with his mother. After that, he met Mary Brown
17 and became involved in her life and her children's lives.

18 The case that we presented we still believe, Your Honor.
19 You know, I understand what the jury has found, but not
20 withstanding that, Mr. Wingate still maintains that he did
21 everything that he could to help these children, to help raise
22 these children, to provide for these children while their
23 mother was in prison.

24 While he was out of prison -- well, I guess between the
25 time he was out of prison and then arrested on this charge, he

1 cared for these children and he attended church. He was an
2 adult Sunday school leader. He tells me he went to church
3 daily, Your Honor. He also got married. Miranda has four
4 children -- I'm sorry -- three children, which he considers to
5 be his children.

6 Your Honor, his prior conviction for a lewd act was in
7 Darlington County. He pled guilty to that. He owned up to
8 it. He understands he was found guilty here today, but he --
9 he still maintains his innocence, Your Honor.

10 He has good family support in this area. I understand
11 that there's a mandatory minimum that goes along with this
12 charge and I understand it's his second bite of the apple.
13 Obviously, I feel, based on the case I presented, the jury got
14 it wrong, but I would ask that you sentence Mr. Wingate to the
15 minimum allowed by the law here. And I understand there are
16 two charges; so I would ask that any sentence be of concurrent
17 time versus consecutive time. He's done 127 days in the
18 county detention center on these charges and I would ask that
19 he be given credit for those, Your Honor.

20 THE COURT: Okay.

21 MR. JORDAN: Standing here with him are his wife,
22 Miranda, and his mother, Linda, and they're here for support.

23 THE COURT: I'll be glad to hear from them if they would
24 like to address the Court. If they do, they'll need to be
25 sworn in, but --

1 MS. WINGATE: Yes, sir.

2 THE COURT: Okay. If you'll --

3 THE CLERK: If you will, ma'am, raise your right hand.
4 Do you swear to tell the truth, the whole truth, and nothing
5 but the truth, so help you God?

6 MS. WINGATE: Yes, ma'am.

7 THE COURT: Okay. Ma'am, would you just step up to the
8 podium where Mr. Jordan is? I'll be glad to hear from you.
9 Would you state your name, please?

10 MS. WINGATE: Miranda Denise Evans Wingate.

11 THE COURT: Okay. Yes, ma'am, I'll be glad to hear from
12 you.

13 MS. WINGATE: Yes, sir. Well, I'm up here for support of
14 my husband. I know that he is not guilty of these charges
15 that's been presented to you, sir. I'm up here to support him
16 to the fullest because I know that he is a changed man just by
17 being around my kids and other kids being that he was a Sunday
18 school teacher and all other areas that he completed while he
19 recovered from this previous charge, this old charge.

20 I just ask that you have mercy upon him knowing that, you
21 know, he has a wife out here and he has changed his life. I
22 would not lie to you in any type of way. He has not, you
23 know, done anything harmful to these people because we used to
24 help them, sir, and I'm sorry that they took it upon
25 themselves to make it feel as if my husband harmed them, but

1 it hurts me because I know that we tried to help them to the
2 best of our ability.

3 But I just ask that you have mercy upon him with the
4 sentencing and that you show mercy towards him.

5 THE COURT: Okay. All right.

6 MS. WINGATE: Thank you.

7 THE COURT: Thank you, ma'am. Does this lady wish to --
8 all right. You need to be sworn in, ma'am. You can just come
9 up to the podium.

10 THE CLERK: Do you swear to tell the truth, the whole
11 truth, and nothing but the truth, so help you God?

12 MS. MCLEAN: Yes.

13 THE COURT: Okay. Will you state your name, please,
14 ma'am?

15 MR. MCLEAN: My name is Linda Wingate McLean. Tamarquis
16 is my son and I just want y'all to have mercy on him because
17 me and him took those kids in and we did what we can for those
18 kids. He never harmed those kids. I mean we was just a
19 family to them. We gave them things and took them places. We
20 did everything. We went to church together. We did
21 everything, and everybody loves him and I'm just asking you to
22 have mercy on him because he did help me during the time of my
23 sickness because I'm on dialysis and he was there for me and
24 he went with me to my appointments and other stuff.

25 He was really the backbone to our family, but I just ask

1 you today just to have mercy on him because he is not guilty.
2 He did not harm those kids in no time and way. What he did in
3 the past in his younger days, that was then, but God has
4 changed his life and we just want you to just have mercy on
5 him so he can come home to his family and his kids, as well as
6 me. Thank you.

7 THE COURT: Okay. Thank you, ma'am. Does Mr. Wingate
8 wish to address the Court?

9 THE DEFENDANT: Please, Your Honor. Do I got to raise my
10 right hand?

11 MR. JORDAN: I think you're already under oath.

12 THE COURT: Right.

13 THE DEFENDANT: Your Honor, number one, you did an
14 excellent job on that; so I have to thank you on that. I just
15 -- God have his way, you know. At the same time, I tried my
16 best to --

17 THE COURT: Take your time.

18 THE DEFENDANT: This -- this makes you not want to help
19 nobody. This make you don't want to help nobody, you know,
20 but I don't regret helping those children and I forgive them.
21 Lord knows I forgive them. I forgive them because they don't
22 know what they're doing, but at the same time I'm -- Daniel
23 Jordan did an excellent job, you know, and the jury did got it
24 all wrong. They went off of my path and I paid my debt to
25 society and I mean I know it was public, but it should have

1 never came back up to bite me like this.

2 And, you know, when I was out there and all those charges
3 he read, I was not a follower of Jesus Christ and I didn't
4 care to be in prison because before God changed my life, I was
5 a homosexual, you know, but when he got my attention and I
6 came to him and I heard his voice and he changed me because I
7 had a reprobate mind. He gave me a wife and kids, and I try
8 my best to stay in the will of God and, you know, the joy of
9 the Lord is my strength and at the same time there is nobody
10 mad but the devil, you know.

11 But God's will going to prevail and I ask that you please
12 have mercy and be very lenient with me, Your Honor.

13 THE COURT: Okay. Thank you, Mr. Wingate. Mr. Jordan,
14 is there anything further you would like to --

15 MR. JORDAN: Nothing further, Your Honor.

16 THE COURT: Okay. Thank you very much. Anything from
17 the State?

18 MR. RICHARDSON: Nothing further.

19 THE COURT: Okay. Everybody be at ease for just a
20 moment.

21 (Whereupon, there is a pause in the proceedings.)

22 THE COURT: Okay. Mr. Wingate, when -- when a jury
23 returns a verdict, whether it's guilty or not guilty, I accept
24 that verdict one hundred percent without question and, of
25 course, that's my position in this case, notwithstanding your

1 position, sir, that you are not guilty.

2 The -- the use of the prior conviction for lewd act, the
3 fact that it put you on the sexual offender registry, was an
4 element of this offense; so it had to be brought out in that
5 sense. Now, you maybe didn't pick up on this and really
6 wouldn't expect for you to, but on I think three separate
7 occasions, I specifically instructed the jury to consider that
8 for one purpose and one purpose only, that being an element of
9 this offense, and not to have any influence whatsoever on the
10 -- the other elements of the offense.

11 But the fact that you do have a history which caused you
12 to be placed on the sexual offender registry is -- is
13 important to this Court. As I'm sure your lawyer has already
14 told you, this offense carries a mandatory minimum of ten
15 years all the way up to 30 years.

16 In light of this prior offense that you have and the fact
17 that you are currently on the sex offender registry, I can't
18 in good conscience give you the mandatory minimum as requested
19 by -- by your attorney. However, I'm not going to give the
20 maximum either.

21	SENTENCE
----	----------

22 THE COURT: These sentences as to both counts on this
23 same indictment will run concurrent. Mr. Wingate, the
24 sentence of the Court is you be committed to the State
25 Department of Corrections for a period of 20 years. You'll be

1 given credit for 127 days that you have been in jail.

2 Good luck to you, sir.

3 MR. JORDAN: Thank you, Judge.

4 MR. RICHARDSON: Thank you, Your Honor.

5 THE DEFENDANT: Your Honor, is there a way I can hug my
6 -- my family?

7 THE COURT: I'm going to -- that's -- that's left up to
8 the -- to the officers. Let me see the lawyers in chambers
9 for just a moment, please.

10 (Whereupon, the proceedings end at 3:24 p.m.)

11

12 --- END REQUESTED TRANSCRIPT ---

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1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF FLORENCE)
4

5 I, the undersigned, Krystal J. Smith, Notary Public and
6 Official Court Reporter for the Twelfth Judicial Circuit of
7 the State of South Carolina, do hereby certify that the
8 foregoing pages, numbered 1 through 253 constitute a true,
9 accurate, and complete Transcript of Record of all the
10 proceedings had and evidence introduced in the hearing of the
11 above captioned case, relative to appeal, in the Court of
12 General Sessions for Florence County, South Carolina, on the
13 9th and 10th days of December, 2014.

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

16

17 s/ Krystal J. Smith

18 Court Reporter

19

20 Florence, South Carolina

21 February 24, 2015

22

23

24

25

WITNESSES

Renea Jenco Florence County Sheriff

David A Richardson

ARREST WARRANT NUMBER

2014GS2101378 2014GS2101378A

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

Wendy L Sindus
11/20/2014

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-21-01378

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

THE STATE

vs.

TAMARQUIS ANTWAIN WINGATE

Indictment for

CRIMINAL SEXUAL CONDUCT WITH
MINOR FIRST DEGREE
(TWO COUNTS)

2014-11-20 AM 11:41

means true/genuine
Proposed law

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT
 WITH MINOR FIRST DEGREE
 (TWO COUNTS)

At a Court of General Sessions, convened on NOVEMBER 20, 2014 the Grand Jurors of FLORENCE County present upon their oath:

lesser offense

COUNT ONE- CRIMINAL SEXUAL CONDUCT WITH MINOR FIRST DEGREE

CDR: 3022

16-03-0655(A)(2)(D)(2), 16-03-0656

That TAMARQUIS ANTWAIN WINGATE did in Florence County, during a time period between December 13, 2012 and October 01, 2013, willfully and unlawfully commit, or attempt to commit, a sexual battery in and upon a child who is less than sixteen (16) years of age (DOB [REDACTED]) by performing oral sex upon the child, and said TAMARQUIS ANTWAIN WINGATE has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in Section 23-03-0430(C), and/or has been ordered to be included in the sex offender registry pursuant to Section 23-03-0430(D), in violation of Sections 16-03-0655(A)(2)(D)(2) and 16-03-0656, S. C. Code of Laws, 1976, as amended.

COUNT TWO- CRIMINAL SEXUAL CONDUCT WITH MINOR FIRST DEGREE

CDR: 3022

16-03-0655(A)(2)(D)(2), 16-03-0656

That TAMARQUIS ANTWAIN WINGATE did in Florence County, during a time period between December 13, 2012 and October 01, 2013, willfully and unlawfully commit, or attempt to commit, a sexual battery in and upon a child who is less than sixteen (16) years of age (DOB [REDACTED]) by having the child perform anal sex upon the defendant, and said TAMARQUIS ANTWAIN WINGATE has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in Section 23-03-0430(C), and/or has been ordered to be included in the sex offender registry pursuant to Section 23-03-0430(D), in violation of Sections 16-03-0655(A)(2)(D)(2) and 16-03-0656, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

E.L. Clements III

E.L. Clements, III
 TWELFTH CIRCUIT SOLICITOR

[S. C. Code of Laws]
 16-03-0655(A)(2)(D)(2)

\$

CSC w/m 1st Degree

Code- 16-3-655(A)(2)

CDR. Code- 385, 3022 ← (?)

GOT TO FIGURE OUT.

*23-03-0430(C)
 4
 23-03-0430(D)*

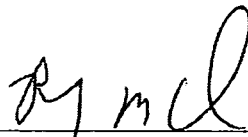
ALSO

Judge law was WRONG

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."

October 23, 2015



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT