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STATE OF SOUTH CAROLINA

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IN THE COURT OF APPEALS

SC Court of Appeals

Appeal from Charleston County

Honorable Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MAURICE M. HARRIS

APPELLANT

APPELLATE CASE NO 2016-000621

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
DEFENDANT’S EXHIBIT 1 (*That’s My Boy*), STATE’S EXHIBIT 2 (DVD, Lowcountry
Children’s Center Interview)

1 STATE OF SOUTH CAROLINA)
 2) COURT OF GENERAL SESSIONS
 2 COUNTY OF CHARLESTON) CASE NO. 2016-10-1320
 3)
 3)
 4 STATE OF SOUTH CAROLINA)
 4)
 5 vs.) Transcript of Record
 5)
 6 MAURICE M. HARRIS,)
 6)
 7 Defendant.)
 7) DATE: February 29th, 2016
 8)

9 B E F O R E:

10 The Honorable Diane Goodstein

11
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1 THE COURT: From the Defense?

2 MR. KOZELSKI: None from the Defense, Your Honor.

3 THE COURT: Ladies and gentlemen, at this time, I'm
4 going to ask that you please draw close as we listen to the
5 State.

6 Ms. Elliott.

7 MS. ELLIOTT: Thank you, Your Honor.

8 Maurice Harris, the defendant, he was like a second
9 father to Complainant, seated right there. Complainant is
10 the middle child of five. Her mom is Genita Brown. And
11 Genita has known the defendant since she was teenager. Their
12 relationship is probably best described as on again/off
13 again. But that's not the best way to describe his
14 relationship with her children.

15 The defendant is the father of Genita Brown's two
16 youngest children, Little Brother and Little Sister. And Complainant is the
17 middle. And the two older are Older Sister and Older Brother. And even when
18 they weren't dating, when Maurice and Genita were not
19 together, Maurice Harris would still visit with the children,
20 all of the children, as would his family. They would spend
21 time together. The kids would go over to his house. He
22 treated them all the same, but that changed. That changed in
23 the summer of 2013.

24 That summer, Complainant was 12 years old. The
25 defendant, Maurice Harris, was living with his parents and

1 his two brothers in the Ponderosa Subdivision of West Ashley.
2 That was the summertime. So the kids obviously weren't in
3 school. There was more availability to go and visit with
4 Maurice. Like I said, it wasn't just his biological
5 children. It was also **Complainant** and ^{Older Brother} The oldest, **Older Sister**,
6 had grown up. She was out of the house at that point. But
7 they would spend time together. They would especially spend
8 time in the back den, because basically with all the other
9 adults already living in the house, they each kind of each
10 took a room.

11 So this back den was where Maurice and the children
12 hung out. There was like an U-shaped couch, a big TV and
13 like a gaming system. They would watch movies. There was a
14 computer. That's even where they slept most of the time.

15 One of those days, in the summer of 2013, a movie
16 was finishing. **Little Sister** was sitting next to Maurice Harris.
17 And his hand started touching her leg. But this wasn't just
18 a glancing blow. His hand started creeping up her leg, up
19 her shorts, until he put his hand into her panties and
20 started rubbing her vagina. This wasn't an isolated
21 incident, ladies and gentlemen.

22 During the course of this trial, you are going to
23 get to hear from **Complainant**, and how the rubbing and
24 fondling became penetration, putting his two fingers into her
25 vagina. And then that even led to defendant forcing the

1 victim to perform oral sex on him in this den, this place she
2 was used to feeling like just another member of the family.

3 During the course of the trial, you are also going
4 to hear about where the adults were during this time,
5 sometimes where the other kids were. I expect that you will
6 hear from Little Sister . Little Sister , I believe, just turned 11, but
7 at that time, she was 8. She will tell you what she
8 witnessed her father do to her sister.

9 Because of this rubbing, this molesting, this
10 fondling, the oral sex, the defendant has been charged with
11 criminal sexual conduct with a minor in the second degree.

12 During the course of the trial, you are going to
13 hear about the elements of that. You are also likely going
14 to hear from an expert in child abuse dynamics, who will talk
15 to you about why children tell when they tell and some of the
16 impact that it has on their behavior.

17 But at this time, I want to talk to you for a few
18 minutes about what the State has to prove to prove to you
19 that the defendant, Maurice Harris, is guilty of criminal
20 sexual conduct with a minor in the second degree, two counts,
21 and criminal sexual conduct with a minor in the third degree.

22 Now, the judge has already instructed you a little
23 bit on the law. But I want you to know what you are looking
24 for. And if anything I ever say contradicts with the
25 instructions she gives you, you defer to her. As she said,

1 she is the judge of the law.

2 But criminal sexual conduct with a minor in the
3 second degree demands that the State show that there was
4 sexual battery. This could mean several things: Sexual
5 intercourse; cunnilingus, which is oral sex a man performs on
6 a woman; fellatio, oral sex of a female performed on a male;
7 anal intercourse; or any intrusion, however slight, into any
8 part of a person's body, or even an object into the genital
9 or anal openings of another person; digital penetration.

10 I want to you bear in mind -- and also, the victim
11 has to be younger than 14 years old. And the defendant has
12 to be older than the victim.

13 Force is not an element. You are not going to have
14 to hear about violence or threats or weapons, not when it
15 comes to criminal sexual conduct with a minor. Also,
16 consent, it's never a defense.

17 The last charge is criminal sexual conduct with a
18 minor in the third degree. Now, the elements sounded a lot
19 more complicated, but what it boils down to is what we've
20 come to know as child molestation. It's touching. I have to
21 show the defendant is over the age of 14 when this happened
22 and that he willfully and lewdly committed or attempted to
23 commit a lewd or lascivious act on or with the body part of a
24 child, and that the child was under the age of 16. And that
25 the intent was to arouse, appeal or gratify to the lust,

1 passions or sexual desires of the defendant or the child.

2 "Willfully" means voluntarily and intentionally,
3 with specific intent to do something the law forbids.

4 "Lewd" means obscene, lustful, indecent or
5 lecherous.

6 "Lascivious" means tending to incite lust, lewd,
7 indecent, obscene or tending to deprave the morals in respect
8 to a sexual relationship.

9 The defendant is charged with sexually abusing the
10 victim in three different ways. During this trial, you will
11 get to hear her tell you from her own mouth what he did to
12 her, how he touched her and what he made her do to him.

13 She didn't tell right away. In fact, DSS became
14 involved in her life, and she didn't tell them right away
15 either. But in October of 2013, after being questioned by
16 DSS, she finally got up the courage to let the secret out.
17 And that's why we are here today, ladies and gentlemen.
18 That's why we are here seeking justice.

19 And I am confident after you have heard all of the
20 testimony in this case, you will return the only just
21 verdict, which is finding Maurice Harris guilty of two counts
22 of criminal sexual conduct with a minor in the second degree
23 and criminal sexual conduct with a minor in the third degree.

24 Thank you.

25 THE COURT: Thank you.

1 Yes, sir.

2 MR. KOZELSKI: Thank you, Your Honor. May it please
3 the Court.

4 THE COURT: Yes, sir.

5 MR. KOZELSKI: Parenting is one of the oldest and
6 probably hardest professions in the world. I say profession
7 because anybody who has a child knows that it's a job to
8 raise that child. It takes a village, is what we always
9 hear. It's not easy being a parent. There's no book you
10 could read or that you go on and make you become a perfect
11 parent. Perfect parent simply doesn't exist.

12 What you can do is try to do the right things and
13 hope and pray that your child listens and that your child
14 learns and they grow up to make the right choices. This is
15 what parenting is. Our goal is to make our child grow up, be
16 productive members of society, have children of their own,
17 then they take care of us.

18 Now, I'm not going to stand up here and preach to
19 you that Maurice Harris is a perfect parent, because he's
20 not. He's made some mistakes. But what I can tell you is
21 that Maurice loves his children as much as any parent could.
22 Maurice has three children. His oldest daughter is Minor 1
23 She's 16 years old. And then you heard Ms. Elliott talk to
24 you about Little Brother , who is 12, and Little Sister , who is 11.

25 Now, Little Brother and Little Sister he shares with Ms. Genita

1 Brown, this companion, this woman he's known for 30 years.
2 Now, Ms. Brown also has three other children from different
3 relationships. Her Older Sister is 22. Older Brother is 20. And Complainant
4 who is 15. Complainant is at the heart of this.

5 Now, over the summer of 2013, Ms. Brown took her
6 children, Older Brother, Complainant, Little Sister and Little Brother, to Maurice's
7 house. She needed a break. Every mother deserves to have an
8 occasional break. And Maurice, as always, was more than
9 happy to see his children. It was a tradition. They would
10 go over there on the weekends during the summertime.
11 Sometimes they would stay for a week. Sometimes some of the
12 children would be gone and others wouldn't. They weren't all
13 his children, but he accepted them as family. He loved them
14 all.

15 And at this time, he was living at his parents'
16 house with his brother and they were taking care of his
17 parents, who are elderly; had some health problems. But the
18 kids loved them. It's the kids' grandparents. So over the
19 summer, they would come and they would do the typical summer
20 activities. They would barbecue. They would go fishing,
21 ride bikes, play video games, watch movies. These were all
22 things that they were going to do. They did them every
23 summer. I'm not saying this was ideal for some of the kids.
24 They are getting into their teens. They are getting into
25 their graduating high school. You know, not everybody wants

1 to go to the other parents' house and deal with that. You
2 know, they want to stay with their friends, close to, you
3 know, who they want to hang out with. But the kids tried to
4 make the best of it as well.

5 On one of these nights that they were at the house,
6 they were all sitting in the den, all the kids and Maurice.
7 And Maurice had a movie on the DVR that he was wanting to
8 watch. It was about nine o'clock. Little Sister was getting
9 tired.

10 And it was a movie that featured Adam Sandler. Say
11 what you will about Adam Sandler, I think a lot of it is
12 hit-or-miss, but this particular movie was a miss. The name
13 of the movie was That's My Boy. And this movie has bad
14 language. This movie has gratuitous sexual viewing. It's
15 about a young kid who gets his teacher pregnant and has to
16 raise his own kid. It's a movie about bad parenting. And
17 this was a bad parenting decision by Maurice. But he didn't
18 think much of it. He thought the kids had seen much worse.
19 And after all, it was an Adam Sandler movie.

20 So he didn't think much of it at the time, but it
21 was a decision that he would ultimately regret, one that
22 started a DSS investigation.

23 So the children went back to school and everything
24 appeared normal, until one day, Little Brother, who was 10 years old
25 at the time, got in trouble on a bus, got in trouble for

1 doing -- making some sexually inappropriate gestures to
2 another student. After a brief investigation, guidance
3 counselors get involved. And Complainant's guidance counselor
4 goes to talk to her about this. And what's revealed to the
5 guidance counselor, Complainant tells her that Maurice had them
6 watch pornographic movies two or three times while they were
7 at the house.

8 So the guidance counselor does what she's supposed
9 to do. She reports this matter to DSS. DSS, the next day,
10 comes to the school, gets Complainant out of class, and asks her
11 about her situation at home. They ask her: Are you safe?
12 What's going on with these movies?

13 And come to find out that it's an Adam Sandler
14 movie. There's no pornography involved. It's like a game of
15 telephone where one child says something to the next and says
16 something to the next and it gets blown out of proportion.

17 But not feeling satisfied with that answer,
18 Ms. Angela Long, the Department of Social Services, asks
19 Complainant specifically: Has Maurice touched you
20 inappropriately? And her answer was no.

21 Has Maurice done anything to make you feel
22 uncomfortable? And her answer was no.

23 And those were the same answers that were given to
24 her by Little Brother and Little Sister, and what should have been the end
25 of the story. But when Complainant got home, Complainant talked to

1 her mother. And Complainant told her mother that Maurice had
2 made a sexual advances towards her, that he was grinding up
3 on her.

4 Ms. Brown, obviously upset by this, called Maurice
5 on the phone and asked him about this. And Maurice was just
6 as surprised, just as outraged by these allegations, and
7 emphatically denied them, told her to look on Complainant's
8 phone, maybe she got something from that. He thought this
9 would work out.

10 But, eventually, Complainant's story evolved, evolved.
11 Law enforcement got involved. And they are what they are to
12 that, but you will hear at trial. And what that will be, I
13 am not too sure, because this story has changed. And it has
14 become sort of confusing and so farfetched that it's
15 unbelievable. And she's told these stories to her little
16 sister, who she spent the last two and a half years with.
17 And her stories have changed and evolved into what they are
18 now.

19 But you are not going to hear anything about any
20 type of physical evidence. There is none. All there is are
21 Complainant's stories she put into her little sister's mind and
22 what she told the police. And they are not to be believed.
23 And that's why at the end of this trial, I'm going to come
24 before you 12 folks again, and I'm going to ask you to find
25 Maurice Harris not guilty.

1 THE COURT: Thank you. Please call your first
2 witness.

3 MS. TRAN: Thank you, Your Honor. The State calls
4 Dinoca Ihrig.

5 DINOCA IHRIG,
6 having been duly sworn, testifies as follows:

7 THE CLERK: For the record, state your first and
8 last name and spell your last name.

9 THE WITNESS: Dinoca Ihrig, I-H-R-I-G.

10 THE COURT: Your witness.

11 DIRECT EXAMINATION

12 BY MS. TRAN:

13 Q. Ms. Ihrig, where do you currently work?

14 A. Middle School.

15 Q. And what do you do there?

16 A. I'm a school counselor.

17 Q. And how long have you been counselor there?

18 A. I've been there for eight years.

19 Q. What are your duties and responsibilities as a
20 guidance counselor?

21 A. I work with students in academic issues, with career
22 and also personal social matters. I do individual
23 counseling, small group counseling, classroom guidance, work
24 with parents.

25 Q. What kind of educational background do you have?

1 A. I have a bachelor's of science degree in psychology.
2 I have a master's degree of education for school counseling.
3 And then I have a Master's Plus 30 designation.

4 Q. And you've already answered this, but in October of
5 2013, were you working as a guidance counselor at ?

6 A. Yes, I was.

7 Q. And do you remember in that year, 2013, when the
8 summer period began and when it ended?

9 A. Summer began May 31st, and school started August,
10 mid-August.

11 Q. Of 2013?

12 A. Correct.

13 Q. As a guidance counselor at Middle, did you
14 have contact with Little Brother and Complainant ?

15 A. I did.

16 Q. What is their relationship to each other?

17 A. Brother and sister.

18 Q. And how would you have had contact with them?

19 A. They were both on my caseload, so I would see them
20 for the reasons -- for personal social reasons, career --
21 every year we do career activities with students -- academic
22 issues.

23 Q. In October of 2013, did you file a DSS report
24 regarding the two children, Little Brother and Complainant
25 ?

1 A. I did.

2 Q. What are the circumstances usually that would
3 require to you file a DSS report?

4 A. Any kind of suspicion of child neglect or abuse, so
5 any kind of suspicion or concern over children being abused.

6 Q. And you are required to do so?

7 A. I am, legally.

8 Q. What date did you file the DSS report in this case?

9 A. October, I believe, 22nd -- 10/24/2013.

10 Q. And what occurred in the day before that October
11 24th and October 24th that caused you to file this report?

12 A. Little Brother had an incident on the bus. He was going
13 home on the bus. And the student that was sitting next to
14 him, who was not his friend, they were playing back and
15 forth, and he took the student, his head, and pushed the
16 student on his lap.

17 There was also some incident -- there's another
18 incident of Little Brother humping himself against a pole. And
19 there was another incident of him taking his face and putting
20 it into a teacher's breasts. So it was collective.

21 Q. And after you filed that DSS report, what did DSS
22 do?

23 A. They came to the school to interview the children.

24 Q. And were you present when they interviewed the
25 children?

1 A. I was.

2 Q. At that time when you were present, was there any
3 disclosure by Little Brother or Complainant about the
4 sexual assault?

5 A. No.

6 Q. And besides the DSS report and being the children's
7 guidance counselor, did you have any other involvement in
8 this case?

9 A. Did I have involvement? No.

10 MS. TRAN: That is all the questions I have for you
11 at this time. Please answer any questions that the Defense
12 has.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MR. KOZELSKI:

16 Q. Ms. Ihrig, you've been a guidance counselor for
17 eight years?

18 A. Correct.

19 Q. And it's all at Middle School?

20 A. Yes.

21 Q. Your job is to make sure the students are safe?

22 A. Yes.

23 Q. Both at school -- is that a yes?

24 A. Yes.

25 Q. And at home?

1 A. As best as I can.

2 Q. Right. If you feel that they are not in a safe
3 environment, you are required to report it?

4 A. Correct.

5 Q. Now, in the time that you've worked as a guidance
6 counselor in , you've seen hundreds of students come
7 through your office?

8 A. Yes.

9 Q. You mentioned the different ways that you do that,
10 through group counseling is one?

11 A. Correct.

12 Q. Classroom setting?

13 A. Yes.

14 Q. Then you could do one-on-ones?

15 A. Right.

16 Q. And whenever you do that, you also enter notes into
17 your log system?

18 A. I do, uh-huh.

19 Q. That is to keep track of each student? Is that a
20 yes?

21 A. Yes.

22 Q. I'm sorry. This court reporter, she's taking down
23 everything you are saying. She can't take down the head
24 nods.

25 So when you've talked to the students, you try to

1 form a bond with them?

2 A. I do.

3 Q. You try to get them to trust you?

4 A. Yes.

5 Q. And every student is different?

6 A. Yes.

7 Q. Different situations at home?

8 A. Uh-huh, correct.

9 Q. Some of them may be in trouble?

10 A. Yes.

11 Q. So not every student trusts you?

12 A. True.

13 Q. But you want every child to tell you the truth and
14 to talk to you?

15 A. Yes. I tell me to be truthful.

16 Q. Some of the students embellish some of the stories
17 they tell you?

18 A. Yes.

19 Q. Some of the students will lie to you?

20 A. Yes.

21 Q. I want to talk to you specifically about Complainant

22 . You saw her throughout her time at Middle?

23 A. Yes. I knew Complainant from when she was in 5th
24 grade, 5th through 8th.

25 Q. You've talked to her about her friendships at

1 school?

2 A. I do.

3 Q. You talk to her about her family?

4 A. Yes.

5 Q. You had the opportunity to talk to her in October of
6 2013?

7 A. I did.

8 Q. And that's when Little Brother got into some of this
9 trouble?

10 A. Yes.

11 Q. Trying to uncover what had happened?

12 A. Uh-huh, correct.

13 Q. And during that talk, Complainant told you that over
14 the summer, she stayed at Little Brother 's father's house?

15 A. Yes.

16 Q. Stayed there for a week?

17 A. Yes.

18 Q. While they were there, she told you that Little Brother 's
19 father put on pornographic movies?

20 A. He put on movies with people that were naked and
21 they were having sex.

22 Q. Okay. Specifically, they put on porn videos?

23 A. Yes.

24 Q. Two or three times?

25 A. Yes.

1 Q. Throughout the week?

2 A. Yes.

3 Q. And that's something that threw up red flags?

4 A. It did.

5 Q. And when you were talking to her, she never
6 disclosed that Little Brother 's father touched her inappropriately?

7 A. She did not.

8 Q. You would have written that down?

9 A. I would have, yes.

10 Q. She never told you that she saw Maurice touch
11 Little Brother inappropriately?

12 A. No.

13 Q. She never told you that she saw Maurice touch her
14 little sister Little Sister inappropriately?

15 A. No.

16 Q. Basically, she only told you that he put on
17 pornographic movies?

18 A. Yes. And she was forced to watch them. She felt
19 uncomfortable and did not want to watch them.

20 Q. And you made this entry into your counselor's log?

21 A. Yes.

22 Q. And then you contacted DSS?

23 A. I did.

24 Q. So they can do an investigation?

25 A. That's their job, correct.

1 Q. Following day, October 24th, DSS came to the school?

2 A. Yes.

3 Q. And they wanted to speak with Complainant?

4 A. Yes.

5 Q. Specifically, Ms. Angela Long came?

6 A. Uh-huh, correct.

7 Q. You met with Ms. Long?

8 A. Yes.

9 Q. You gave her an overview of the situation?

10 A. I did.

11 Q. You explained that Little Brother had been suspended from
12 school --

13 A. Yes.

14 Q. -- for inappropriate behavior on the bus?

15 A. Correct.

16 Q. And you expressed concern about Complainant being
17 exposed to these pornographic movies?

18 A. I had already made the report, so I didn't -- I
19 don't re-go over that information. They just come in and
20 say, can I see the student? And we sit down and we talk.

21 Q. So you were sitting in there with her?

22 A. Yes.

23 Q. Okay. And that's when you found out that this was
24 an Adam Sandler movie?

25 A. Yes.

1 Q. That's My Boy is the name of the film?

2 A. Uh-huh.

3 THE COURT: Is that a yes or no?

4 THE WITNESS: Yes. Actually, I don't remember the
5 title of the movie, but I remember it, yeah, Adam Sandler.

6 BY MR. KOZELSKI:

7 Q. Do you remember it was rated R?

8 A. No.

9 Q. Do you remember it was still inappropriate for kids
10 to watch?

11 A. Yes.

12 Q. And through this conversation, you also found out
13 she wasn't forced to watch the movie?

14 A. That is incorrect. My understanding with her,
15 everything I heard was that she did not feel comfortable, did
16 not want to watch it, and she was forced to stay in the room
17 to watch the movie.

18 Q. In that conversation, she was specifically asked if
19 she felt uncomfortable around Maurice?

20 A. I don't know. I don't remember.

21 Q. Okay. You don't remember if she was asked that?
22 Okay. And during that conversation, you do remember her
23 denying that Maurice touched her inappropriately?

24 A. That question was not specifically asked of her at
25 that time, no.

1 Q. Okay. So your testimony today is when you were
2 talking with **Complainant** and Ms. Long from DSS, Ms. Long did not
3 ask her whether or not she was touched inappropriately?

4 A. The initial interview from DSS when they come to
5 schools to talk to a student is very scripted and very
6 standard. And the questions asked are: Do you know where
7 private parts are? And they say yes or no.

8 Has anybody touched you inappropriately? So at that
9 time, the DSS caseworker would not have said any name of any
10 person. They would just say: Has anybody touched you
11 inappropriately?

12 Q. Okay. And she denied that she had been touched
13 inappropriately?

14 A. Correct, she did.

15 MR. KOZELSKI: Beg the Court's indulgence.

16 THE COURT: All right.

17 MR. KOZELSKI: No further questions for this
18 witness, Your Honor.

19 THE COURT: Redirect.

20 MS. TRAN: Very briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. TRAN:

23 Q. The movie That's My Boy with Adam Sandler that
24 **Complainant** talked about, did she use the word pornography or
25 did you use the word pornography?

1 A. I don't recall. That's not something I would
2 typically write down unless it was a quote, but ...

3 Q. What did she tell you about the movie that she
4 watched?

5 A. She said that there were naked people having sex and
6 she was very uncomfortable watching that in the presence
7 of ...

8 Q. You had noted that in your report?

9 A. Yes.

10 MS. TRAN: Nothing else, Your Honor.

11 THE COURT: All right. Recross?

12 MR. KOZELSKI: No.

13 THE COURT: Is this witness free to leave?

14 MS. TRAN: Yes, Your Honor.

15 THE COURT: Any objection?

16 MR. KOZELSKI: No objection, Your Honor.

17 THE COURT: Thank you. You are free to go.

18 (Whereupon the witness is excused.)

19 THE COURT: Please call your next witness.

20 THE COURT: May I approach?

21 (Whereupon, a bench conference takes place off the
22 record.)

23 THE COURT: Ladies and gentlemen, that will conclude
24 the work that we are going to do today. There is some -- I
25 have some instruction to give to you, and then we are going

1 to begin in the morning at 9:30, 9:30. I'm going to ask you
2 to please be in your jury room ready to go.

3 Ladies and gentlemen, anybody work at night?

4 Not you. Not tonight. And let me tell you the
5 reason for that. The reason for that is that it is
6 absolutely unfair to ask you to go to work at night and then
7 come here during the day and pay attention. The rest of your
8 fellow jurors are missing work. And I need you to miss work
9 so you will be rested.

10 And let me just share with you, if you tell your
11 employer that and they are upset or concerned, you just give
12 me a name and number, and I will be happy to chat. Okay?
13 Because I don't want them to be upset with my jurors. Be
14 upset with me, but not my jurors.

15 Now, ladies and gentlemen, you are going to go home.
16 There's going to be somebody curious about what you have been
17 up to, so we need to talk about that. I don't want you to go
18 home and say, I can't talk to you today, that can be totally
19 uncool. Certainly fine to say you showed up to your jury
20 qualification. Certainly fine to say you have been selected
21 to serve on a juror. And next thing everybody wants to know
22 is what kind of jury. You can certainly say it is a criminal
23 matter as opposed to a civil matter. But beyond that, you
24 cannot discuss that matter or allow anyone to discuss it with
25 you. And at that point you put it on the judge. Don't let

1 them get upset with you. Tell them the judge told you you
2 must not discuss it with them.

3 Now, when you have been discharged from your service
4 on this jury -- and again, there will be no question in your
5 mind when that time has come, because we are going to talk
6 about it -- you will be at liberty to discuss this matter.
7 But that will not come until after deliberations, after your
8 verdict, and after I have really gone over with you about
9 that topic. So, please, until that time, do not discuss this,
10 matter. Do not allow anyone to discuss it with you. Give us
11 a chance to talk about it before you discuss with anyone at
12 home or work or wherever or out in the community, because you
13 must not discuss this matter or allow them to discuss it with
14 you.

15 Ladies and gentlemen, no Columbo, for those of you
16 who know who that is. For those of you who don't, no
17 investigations, no blogging, no tweeting, no going to
18 Facebook. Don't even go to an encyclopedia, even an old
19 book. You must receive all of the information from which you
20 will make up your mind in court while court is in session.

21 Remember about your cell phone. Leave it, please,
22 in your car or at home tomorrow, please. But if you can't
23 because you are so tethered to it that you want to be able at
24 lunch to check it, just remember, please give it to our
25 bailiffs when they arrive in the morning. They will take

1 great care. You don't know anybody in Europe right now?
2 Everybody is here? Your phones are safe. So please just let
3 us know and our bailiffs will take great care. I'm teasing.
4 They will take great care of your cell phones tomorrow, but
5 you must not have a cell phone with you while you are serving
6 on the jury.

7 That concludes my remarks to you. I look forward to
8 seeing you in the morning at 9:30. Please go with the
9 bailiff.

10 (Whereupon, the jury leaves open court at 04:32 PM.)

11 THE COURT: Anything further from the State?

12 MS. ELLIOTT: No, Your Honor, other than a little
13 bit of housekeeping. For however it plays out over the next
14 day or so, at some point, Your Honor, we need to review the
15 minor victim Little Sister 's video. And I didn't know if
16 you wanted to take a copy with you tonight to do that.

17 And also, we have prepared a transcript, in case the
18 audio was not sufficient. I didn't know if you wanted to
19 review that along with it.

20 THE COURT: Okay. And, first of all, let me ask,
21 have you seen the video?

22 MR. KOZELSKI: Yes, Your Honor.

23 THE COURT: How about the transcript?

24 MR. KOZELSKI: Yes, Your Honor.

25 THE COURT: How are you about -- talk to me about

1 the transcript.

2 MR. KOZELSKI: As of this moment, we are okay with
3 the video coming in.

4 THE COURT: Okay. You have no objection to the
5 video?

6 MR. KOZELSKI: No, Your Honor.

7 THE COURT: And how about the transcript of the
8 video?

9 MR. KOZELSKI: As far as placing that into evidence?

10 THE COURT: Or handing it to the jury so the jury
11 can follow along?

12 MR. KOZELSKI: I don't think that it's an official
13 transcript. I think it's a transcript that may be done by
14 one of their law clerks.

15 THE COURT: I'm sure it is.

16 MR. KOZELSKI: I wouldn't feel as comfortable, given
17 that, because I understand the sound quality is somewhat bad,
18 but I think any sort of gaps would be filled in with the
19 testimony of Ms. Strunsky.

20 THE COURT: Okay. You understand the problem?

21 MS. ELLIOTT: I understand the problem. I do have
22 federal case law, and I think it's up to your discretion.
23 And once you hear the video, you could make the judgment
24 call. I would not seek to admit the transcript. I think a
25 limiting instruction saying, if you hear something different

1 on the video than what's written on the page, then you go
2 with what's on the video. And that's kind of where the
3 federal law, including law coming out of Fourth Circuit has
4 landed is. If the audio is questionable or on the line, it
5 is completely appropriate for a judge to allow a transcript
6 not into evidence, but just as an aid during the process.

7 THE COURT: Okay. I just want to see the case law.
8 And with regards to the video, how do you have it, flash
9 drive?

10 MS. ELLIOTT: I have a CD, Your Honor.

11 THE COURT: You have it on a CD?

12 MS. ELLIOTT: Yes, Your Honor.

13 THE COURT: Then, yes, I can take the CD and look at
14 the case law. And you can go ahead and hand me the
15 transcript, but until I take a look at the case law, I don't
16 know that I will look at the limited transcript. You know,
17 I'm concerned about the best evidence rule. So although
18 tremendous respect for the federal court system, I will look
19 at the case law.

20 MS. ELLIOTT: Would you like me to e-mail that case
21 law or --

22 THE COURT: That will be fine. Go ahead and e-mail
23 it.

24 MS. ELLIOTT: Okay. I will do that, Judge.

25 (The proceedings are adjourned for the day.)

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
STATE OF SOUTH CAROLINA,	)	CASE NO. 2014-GS-10-03694,
	)	2014-GS-10-03695,
	)	2016-GS-10-01320
PLAINTIFF,	)	
	)	
VS.	)	TRANSCRIPT OF RECORD
	)	
MAURICE MARSHALL HARRIS,	)	
	)	
DEFENDANT.	)	

March 1, 2016 - March 2, 2016

(2nd and 3rd day of trial)

Charleston, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein; and a Jury.

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I N D E X

(SW) - DENOTES STATE'S WITNESS

(DW) - DENOTES DEFENSE WITNESS

(IC) - DENOTES IN CAMERA

Note: See Separate Transcript for Day One (2/29/16).

Following is Day Two and Day Three, 3/1/16 - 3/2/16):

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Cross-Examination by Mr. Kozelski	--	23
Redirect Examination by Ms. Elliott	--	45
Recross-Examination by Mr. Kozelski	--	48

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(SW) Lauren Russell:

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(SW) Natalie Dixon:

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(SW) Anne Abel:

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(SW) Carrie Strunsky (IC):

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(SW) Carrie Strunsky:

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(SW) Carole Swiecicki:

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(SW) Officer Keisha Thomas:

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If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

A signed and certified transcript will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

S T A T E E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMIT</u>
1	Demonstrative Diagram	2/29/16	---
2	DVD - LCC Interview, Little Sister	150	150
3	DVD - Maurice Harris Jail Call	153/157	243

D E F E N D A N T E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMIT</u>
1	Video - <i>That's My Boy</i>	30	31

C O U R T E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>
1	Jail Call Transcript	235
2	Jury Note	342
3	Jury Note	342
4	Psychiatric Evaluation	360

1 (WHEREUPON, resumed trial 3/31/16, 9:40 a.m., for second day
2 of trial.)

3 THE COURT: Thank you. Anything from the State before
4 we begin this morning?

5 MS. ELLIOTT: No.

6 THE COURT: Anything from the defense?

7 MR. KOZELSKI: No, Your Honor.

8 THE COURT: Let us have our jury.

9 (WHEREUPON, jury enters 3/1/16, 9:42 a.m.)

10 THE COURT: Thank you, ladies and gentlemen. Good
11 morning. At this time we will continue with the State's
12 case.

13 MS. ELLIOTT: At this time we will call Complainant .

14 (WHEREUPON, the witness was duly sworn.)

15 THE CLERK: If you can state you first and last name
16 and spell out your last name, please.

17 THE WITNESS: Complainant

18 THE JUDGE: Your witness.

19 **DIRECT EXAMINATION BY MS. ELLIOTT OF** Complainant :

20 Q Good morning, Complainant. Can you tell us when you were
21 born?

22 A 2000.

23 Q And where you were born?

24 A In Charleston, South Carolina.

25 Q And how old does that make you now?

1 A Fifteen.

2 Q What grade are you in?

3 A Ninth.

4 Q What school do you go to?

5 A

6 Q Do you like going to ?

7 A Yes.

8 Q What do you like to study at ?

9 A Science.

10 Q What do you like about science?

11 A Because we get to do like science experiments and
12 stuff.

13 THE COURT: Can you speak up a little bit, please.

14 Maybe just bring that microphone a little closer.

15 (WHEREUPON, witness complies.)

16 THE COURT: There you go.

17 Q So what did you say you like to study?

18 A Science.

19 Q And why?

20 A Because we get to do fun experiments.

21 Q And what do you like to do for fun?

22 A Watch TV and hang out with my friends.

23 Q And do you know what you want to be when you grow up?

24 A I want to be a NICU nurse.

25 Q I would like you to tell us a little bit about your

1 family. Who all do you live with right now?

2 A My little sister, my little brother, my older brother,
3 my mom, and my grandma.

4 Q Can you tell me your mom's name?

5 A Genita Brown.

6 Q And what about your siblings that live with you, what
7 are their names and ages?

8 A Older Brother , he is 20. Little Sister , she is 11. And
9 Little Brother , he is 12.

10 Q And do you all have the same father?

11 A No.

12 Q Can you tell me who Maurice Harris is?

13 A He is Little Sister and Little Brother 's dad.

14 Q And how long have you known him?

15 A Since I was little.

16 Q Why is that?

17 A Because he was like always around since Little Brother and
18 Little Sister was born.

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

20 A Yes, ma'am.

21 Q Can you point him out and describe something that he is
22 wearing?

23 A He has on a beige jacket and a blue shirt and tie.

24 Q Growing up what was your relationship like with him as
25 a parent?

1 A He was like my second father.

2 Q How did he treat you?

3 A He treated me like he treated his biological children.

4 Q Can you give me some examples of that?

5 A Like he would buy me stuff. Like take me out to eat
6 and stuff like that!

7 Q Just you by yourself?

8 A No, like all my siblings.

9 Q And growing up how often would you get to see him?

10 A About the same amount of time that Little Sister and Little Brother.
11 got to see him.

12 Q And can you give us examples of how much that was?

13 A Like it was mostly during the summer and sometimes on
14 the weekends.

15 Q And would these just be visits for a couple of hours,
16 overnight; did that change?

17 A It was overnights and like sometimes weeks.

18 Q And when you would go to visit him where would you go?

19 A To his mother's house.

20 Q Where was Maurice living in the summer of 2015?

21 A He was living with his parents.

22 Q Do you know where they were living?

23 A They were living in West Ashley, the Ponderosa.

24 Q Who all lived in that house with Mr. Harris and his --
25 Mr. Harris and his parents?

1 A His two brothers.

2 Q And when you would go over to his parent's house where
3 would you and your siblings spend most of your time?

4 A In the den.

5 Q Where would other people -- where would the rest of the
6 family spend a lot of their time?

7 A Well, his mom would mostly like stay in her room. And
8 his dad would mostly stay in his room. And his brothers
9 would stay in the living room.

10 Q In which room? I'm sorry.

11 A The living room.

12 MS. ELLIOTT: Your Honor, may I approach the witness?

13 Q Complainant, I am going to show you what has been marked
14 for identification as State's Demonstrative 1. Do you
15 recognize that?

16 A Yes, ma'am.

17 Q What do you recognize that to be?

18 A The house, the furniture and stuff in the den.

19 Q Is that a perfectly to scale and laid out view of kind
20 of how that room looked; ---

21 A Yes, ma'am.

22 Q --- or is it like a rough estimate?

23 A It is like an estimate.

24 MS. ELLIOTT: Your Honor, at this time the State would
25 publish State's Demonstrative 1.

1 THE COURT: Have you shown it to counsel?

2 MS. ELLIOTT: We have.

3 MR. KOZELSKI: No objection.

4 THE COURT: No objection. Very well.

5 Q And Complainant, can you kind of describe for me a little
6 bit of what all we are seeing in this room?

7 A The sofa, like coffee table, the TV, and the games and
8 stuff. The three doors which is the kitchen door, the
9 washroom door, the door to go outside, a desk that has like
10 a computer on top of it, and a chair.

11 Q What is this thing on the sofa?

12 A It's like --it is a part of a couch. It is like almost
13 like a laid out part.

14 Q Like a lay out part? How would you sit in that spot?

15 A Like you could -- you could lay down, and you could sit
16 up. It is facing the TV. Yeah -- faces.

17 Q So you could be sit -- sit up with your back against
18 something or lay all the way down on it?

19 A Yes, ma'am.

20 Q And what were the things that you and your siblings
21 would do in this room when you would visit Mr. Harris?

22 A Watch TV and play video games.

23 Q Do you still go and visit Mr. Harris at that house?

24 A No, ma'am.

25 Q Why not?

- 1 A Because he did something to me and I told.
- 2 Q Can you tell us the first time that you remember him
3 doing something to you?
- 4 A We had just got finished watching a movie called *That's*
5 *My Boy*. And when it went off he started touching me.
- 6 Q Where were you when he first started touching you? Can
7 you point on that picture?
- 8 A I was right there (pointing).
- 9 Q Was anyone else in the room?
- 10 A My little sister.
- 11 Q Where -- and what is her name?
- 12 A Little Sister .
- 13 Q And where was Little Sister ?
- 14 A She was right there (pointing).
- 15 Q And anyone else in the room?
- 16 A Um
- 17 Q What about Mr. Harris?
- 18 A He was in the room.
- 19 Q Where was he?
- 20 A He was right here (pointing).
- 21 Q Do you know where -- were any of your other siblings in
22 the house that day?
- 23 A Yes, ma'am.
- 24 Q Who came to visit that day with you, and where were
25 they?

1 A There was ^{Older Brother}, but ^{Older Brother} was outside since he was with
2 going -- going with his girlfriend. And ^{Little Brother} he went to
3 the room to be with his granddad.

4 Q So what happened as the movie was ending when it was
5 just the three of you in the room?

6 A He stuck his hands up my pants leg and started touching
7 my vagina.

8 Q How did he get his hand up your pants leg?

9 A He just -- he scooted closer to me and just started
10 touching me.

11 Q Do you remember what type of clothes you were wearing?

12 A I had on basketball shorts and a shirt.

13 Q And so when you said he put his hand up your pants was
14 he going up the leg or down the front or something else?

15 A Up the leg.

16 Q And what did he actually do when he was touching you?

17 A He like he started rubbing my vagina from the front to
18 the back, my butt. And then he started fingering me.

19 Q What do you mean by fingering you?

20 A He stuck his two fingers inside of my vagina.

21 Q Was he saying anything to you while that was happening?

22 A He said you will always be my Little Nasty, and he
23 called me Baby.

24 Q Did you say anything while that was going on?

25 A I told him to stop.

- 1 Q Did he stop?
- 2 A No, ma'am.
- 3 Q Do you know what made him finally stop?
- 4 A No, ma'am.
- 5 Q When he stopped what did you do?
- 6 A I layed down and tried to go to sleep.
- 7 Q Was that the only time that he ever touched you?
- 8 A No, ma'am.
- 9 Q Okay. Let's talk about another time.
- 10 MS. ELLIOTT: I am going to clear this out (ELMO).
- 11 Q What happened the next time?
- 12 A It was Little Sister , my little sister, and^{Older Brother} . We were in
- 13 the room a while and we were watching a stupid show called
- 14 (inaudible), and all the lights were off except for the TV
- 15 light. And he started like touching my vagina again, and he
- 16 made me suck his penis.
- 17 Q All right. So let's break that down. When you -- so
- 18 ^{Older Brother} was in the room and Little Sister was in the room. Where were
- 19 they?
- 20 A Little Sister and^{Older Brother} they were right like there (pointing).
- 21 Q They were both in that part?
- 22 A Yes, ma'am.
- 23 Q What were they facing towards?
- 24 A The TV.
- 25 Q And where were you?

- 1 A I was right here (pointing).
- 2 Q Were you sitting up, lying down, something else?
- 3 A Laying down.
- 4 Q So where would your head have been?
- 5 A My head would have been right there (pointing).
- 6 Q And your feet would have been where?
- 7 A Right here (pointing).
- 8 Q And where was Mr. Harris?
- 9 A He was right there (pointing).
- 10 Q And so tell me how he started touching you?
- 11 A He stuck his hands up my pants leg again.
- 12 Q How is he able to get to your pants from where he was
- 13 sitting?
- 14 A He slid close to me.
- 15 Q And explain for me how he was able to get his hand up
- 16 your pants.
- 17 A Well, I was laying on my side; but -- but my legs they
- 18 weren't like closer. Like up on this part right there
- 19 (pointing).
- 20 Q And what kind of pants were you wearing that night; do
- 21 you remember?
- 22 A Basketball shorts.
- 23 Q So he started touching you?
- 24 A Yes, ma'am.
- 25 Q Was there only touching or anything more?

- 1 A More.
- 2 Q What else happened?
- 3 A He made me suck his penis.
- 4 Q How did he do that?
- 5 A He got -- he got off the couch, got on his knees and
- 6 undid his pants and made me suck his penis.
- 7 Q So when he got on his knees where was he?
- 8 A He was in front of me.
- 9 Q When was all of this happening?
- 10 A In the summer of 2013.
- 11 Q And how old would have been that summer?
- 12 A Twelve.
- 13 Q Was that the only time that he tried to put his penis
- 14 in your mouth?
- 15 A No, ma'am.
- 16 Q That time do you remember anything coming out of his
- 17 penis?
- 18 A Nothing came out at that time.
- 19 Q How many times did he put his penis in your mouth or
- 20 try to put his penis in your mouth?
- 21 A Three.
- 22 Q Can you tell me about another time?
- 23 A It was just me and Little Sister in the room. And Little Sister
- 24 was watching a TV show, and I was laying down on the couch.
- 25 And he came up -- well, he got off the couch and he made me

1 suck his penis.

2 Q Do you know where ^{Older Brother} and Little Brother were?

3 A ^{Older Brother} was outside on the phone with his girlfriend, and
4 Little Brother was in the room with his granddad.

5 Q And where was Little Sister in the room?

6 A Little Sister was right here (pointing) on the couch.

7 Q And where were you?

8 A I was right there (pointing).

9 Q Were you sitting down or laying down?

10 A Laying down.

11 Q Same position as the last time?

12 A Yes, sir.

13 Q I believe the first time you told us that it started
14 with touching. This time did he do any touching?

15 A Yes, ma'am.

16 Q Tell us about that.

17 A Well, he slid close to me and he started touching me.

18 Q He slid close to you from what direction? Where was he
19 sitting?

20 A He was right there (pointing).

21 Q And he started touching you how?

22 A He again he put his hands up my pants leg and he
23 started rubbing on my vagina.

24 Q Was he just rubbing your vagina or did he put anything
25 inside of your vagina?

1 A He was just rubbing.

2 Q And so tell me what happened after he was rubbing.

3 A After he was rubbing he got down on his knees again and

4 he made me suck his penis.

5 Q And did anything come out of his penis that time?

6 A Yes, ma'am.

7 Q Can you describe that for me?

8 A It was like sticky stuff.

9 Q Did he say anything while he was doing that?

10 A He called me Baby.

11 Q Do you know what made him stop?

12 A No, ma'am.

13 Q When he had his penis in his (sic) mouth do you know

14 what he was doing with his hands?

15 A No, ma'am.

16 Q What happened when he finished?

17 A He got back up and sat down on the couch.

18 Q And what did you do?

19 A Then I turned over to try to go to sleep.

20 Q Did anything else like that ever happen again?

21 A Yes, ma'am.

22 Q Can you tell me about that?

23 A It was Little Sister -- just me, Little Sister , and him in the

24 room. And Little Sister was watching TV again. And I was laying

25 down on the couch. He was sitting up.

1 Q Were you in the same positions again, or had those
2 changed?

3 A It was the same positions.

4 Q Do you know if Little Sister was awake or asleep during this
5 time?

6 A She was awake.

7 Q And what was the lighting in the room like this time?

8 A It was light.

9 Q I'm sorry?

10 A It was -- all the lights were on.

11 Q And what happened?

12 A And he made me suck his penis -- made me suck -- well,
13 he tried to make me suck his penis this time.

14 Q Explain that to me.

15 A Well, this time I tried to push him off of me and I
16 told him to stop, stop, stop. And he stopped this time.

17 Q Where was he when you got him to stop; what position
18 was he in?

19 A He was like in -- he was in the front of me.

20 Q Explain that to me.

21 A Like he was on his knees in front of me.

22 Q And after you told him to stop and he did, what did he
23 do?

24 A He sat back down on the couch.

25 Q Was there any touching involved that time?

- 1 A No, ma'am.
- 2 Q And what did you do after that?
- 3 A I tried to go to sleep.
- 4 Q So you have told us about three times that he tried --
- 5 that he either did or tried to put his penis in your mouth.
- 6 Were there any other times that that happened?
- 7 A No, ma'am.
- 8 Q When -- when did all of those times happen; can you
- 9 give me kind of a span of time?
- 10 A It was kind of almost like -- um -- well, it happened
- 11 on like many different visits when I would go over there.
- 12 Q But what time of year?
- 13 A Oh, it was the summer.
- 14 Q And what year?
- 15 A Of 2013.
- 16 Q Now you have told us about the times about the penis in
- 17 the mouth. And you told us about I think it's three
- 18 instances of touching. Was there anymore touching than
- 19 that?
- 20 A He touched me probably about six times.
- 21 Q And where would you be when he would touch you?
- 22 A On the couch.
- 23 Q In what room?
- 24 A The den.
- 25 Q And are there any other times that stick out in your

- 1 mind when that would happen that he would touch you?
- 2 A No, ma'am.
- 3 Q Were they all pretty much similar incidences?
- 4 A Yes, ma'am.
- 5 Q Would he ever say anything to you after he was done
- 6 doing these things?
- 7 A No, ma'am.
- 8 Q Did you tell right away?
- 9 A No, ma'am.
- 10 Q Why not?
- 11 A Because I was scared.
- 12 Q When did you finally tell someone about what all had
- 13 happened to you?
- 14 A Well, when my little brother he had gotten suspended
- 15 from school for doing something on the bus. And then when
- 16 we got in the car - because we were heading to a dentist
- 17 appointment - I told my mom that it happened.
- 18 Q Had anyone -- you told your mom in the car on the way
- 19 to the dentist. Had anyone asked you about anything like
- 20 this before that?
- 21 A Yes, ma'am.
- 22 Q Who all had asked you?
- 23 A The -- the DSS social worker.
- 24 Q Did you tell her what had happened?
- 25 A No, ma'am.

1 Q Why not?

2 A Because I was scared.

3 Q Anyone else ever ask you about that?

4 A No, ma'am.

5 Q As a result of you telling your mom what had happened,
6 what happened?

7 A The -- well, she called him on the phone and she asked
8 him about it. And he told her no, he didn't do it. But the
9 next day she went to the police station and she filed a
10 police report.

11 Q And did you have to go and see anyone after that
12 related to this?

13 A Yes, ma'am.

14 Q Where all did you go?

15 A I went to the Lowcountry Children's Center.

16 Q Did you ever have to see any medical professionals?

17 A Yes, ma'am.

18 MS. ELLIOTT: Court's indulgence, Your Honor.

19 THE COURT: All right.

20 Q If your brother hadn't have gotten in trouble that
21 day -- you know what, I forgot to ask you that -- do you
22 remember when it was in the year that you told your mom?

23 A It was -- I think it was -- almost August; so I think
24 it was at the beginning of fall, I think.

25 Q It was in the fall that you told your mom?

1 A I think, yeah.

2 Q And when -- if your brother hadn't have gotten in
3 trouble would you have told your mom that day what happened?

4 A Maybe not that day. But I would have told her
5 eventually.

6 Q Why do you think you would have told her eventually?

7 A Because what he did to me was wrong.

8 MS. ELLIOTT: I have no further questions at this time,
9 Your Honor.

10 THE COURT: Cross-examination.

11 MR. KOZELSKI: Thank you Your Honor. May it please the
12 court.

13 THE COURT: Yes.

14 **CROSS-EXAMINATION BY MR. KOZELSKI OF Complainant** :

15 Q Complainant, you are 15 years old?

16 A Yes, sir.

17 Q And you said you went -- you go to ?

18 A Yes, sir.

19 Q And you are the middle child?

20 A Yes, sir.

21 Q Older brothers are ^{Older Brother} and Older Sister ?

22 A Older Sister is my sister.

23 Q Oh, yeah, older brother and sister are ^{Older Brother} and Older Sister ?

24 A Yes.

25 Q And then your younger brother and sister are ^{Little Brother}

- 1 and Little Sister ?
- 2 A Yes, sir.
- 3 Q Your real father's name is Kenneth?
- 4 A Yes, sir.
- 5 Q But you don't get to see him that often?
- 6 A No, sir.
- 7 Q You live with your mom and siblings?
- 8 A And grandparents.
- 9 Q And grandparents. Okay. And you also live with --
- 10 with Melvin?
- 11 A No, sir.
- 12 Q Oh, you don't live with Melvin anymore?
- 13 A No, sir.
- 14 Q Okay. At some point you did live with Melvin?
- 15 A Yes, sir.
- 16 Q Okay. And is that who has been sitting with you in
- 17 trial?
- 18 A Yes, sir.
- 19 Q And you consider Melvin to be a father to you?
- 20 A Yes, sir.
- 21 Q Your mom and Melvin cook for you at home?
- 22 A Yes, sir.
- 23 Q Take you shopping?
- 24 A Yes, sir.
- 25 Q That's probably one of your favorite things to do?

- 1 A Yes, sir.
- 2 Q You also got a cell phone?
- 3 A Yes, sir.
- 4 Q So you could -- you text with your friends,
5 communicate?
- 6 A Yes, sir.
- 7 Q You have got a lot of friends?
- 8 A Yes, sir.
- 9 Q On Facebook and in real life?
- 10 A Yes, sir.
- 11 Q So your mom gives you things that you need?
- 12 A Yes, sir.
- 13 Q She cares for you very much?
- 14 A Yes, sir.
- 15 Q Do you enjoy being the middle child?
- 16 A Sometimes.
- 17 Q It is hard sometimes getting along with your brothers
18 and sisters?
- 19 A Yes, sir.
- 20 Q But you care about them?
- 21 A Yes, sir.
- 22 Q And you live with them?
- 23 A Yes, sir.
- 24 Q You see them every day?
- 25 A Yes, sir.

- 1 Q You talk to them every day?
- 2 A Yes, sir.
- 3 Q You share a room with Little Sister ?
- 4 A Yes, sir.
- 5 Q Sometimes Little Sister will come to get in your bed?
- 6 A Yes, sir.
- 7 Q You share a bed with her?
- 8 A Yes, sir.
- 9 Q She loves her big sister?
- 10 A Yes, sir.
- 11 Q Now I know a lot of people have asked you questions
12 about this, Complainant; and I am just going to ask you a few
13 more. And I know it has been three years -- almost three
14 years since this whole ordeal, but you remember talking to
15 your mom about this?
- 16 A Yes, sir.
- 17 Q Do you remember talking to Ms. Ihrig, your guidance
18 counselor?
- 19 A Yes, sir.
- 20 Q She was here yesterday?
- 21 A Yes, sir.
- 22 Q You talked with Ms. Angela Long from DSS?
- 23 A Yes, sir.
- 24 Q Ms. Carrie Strunsky at the Lowcountry Children's
25 Center?

- 1 A Yes, sir.
- 2 Q You talked to Ms. Elliott about this case?
- 3 A Yes, sir.
- 4 Q Now I want to talk to you about your conversations with
- 5 Ms. Ihrig back in October of 2013. You had just started the
- 6 seventh grade?
- 7 A Yes, sir.
- 8 Q You were at Middle School?
- 9 A Yes, sir.
- 10 Q And Ms. Ihrig was your guidance counselor?
- 11 A Yes, sir.
- 12 Q She was also Little Brother 's guidance counselor?
- 13 A Yes, sir.
- 14 Q Little Brother got in trouble on the bus?
- 15 A Yes, sir.
- 16 Q Got suspended from school?
- 17 A Yes, sir.
- 18 Q He was doing inappropriate things?
- 19 A Yes, sir.
- 20 Q Ms. Ihrig asked you about Little Brother ?
- 21 A Yes, sir.
- 22 Q You talked to her about Little Brother 's father, Maurice?
- 23 A Yes, sir.
- 24 Q Told her that you stayed at Maurice's over the summer?
- 25 A Yes, sir.

- 1 Q And that while you were there Maurice put on
2 pornographic movies?
- 3 A I told her that he put on an inappropriate movie.
- 4 Q You didn't tell her pornographic movies?
- 5 A No, I didn't use porn.
- 6 Q You told her that he forced you to watch them?
- 7 A Yes, sir.
- 8 Q Two to three times?
- 9 A Yes, sir.
- 10 Q You didn't tell Ms. Irig that Maurice touched you
11 inappropriately?
- 12 A No, sir.
- 13 Q You didn't tell that Maurice touched Little Brother
14 inappropriately?
- 15 A No, sir.
- 16 Q You didn't tell her that Maurice touched Little Sister
17 inappropriately?
- 18 A No, sir.
- 19 Q The day after you talked to Ms. Ihrig she came in and
20 got you out of class?
- 21 A Yes, sir.
- 22 Q And that was with Ms. Angela Long from DSS?
- 23 A Yes, sir.
- 24 Q And she wanted to ask you a few questions about that?
- 25 A Yes, sir.

- 1 Q She explained to you why she was there?"
- 2 A Yes, sir.
- 3 Q She asked you all types of questions?
- 4 A Yes, sir.
- 5 Q She asked you about Melvin?
- 6 A Yes, sir.
- 7 Q About how he'treated you?
- 8 A Yes, sir.
- 9 Q She asked you about your real father?
- 10 A Yes, sir.
- 11 Q You told her that you only get to see him on occasion?
- 12 A Yes, sir.
- 13 Q She asked you about Maurice?
- 14 A Yes, sir.
- 15 Q And you told her that you would visit him sometimes
- 16 when your other siblings would go over?
- 17 A Yes, sir.
- 18 Q Then she asked you to explain how the movie that you
- 19 watched at Maurice's house came about?
- 20 A Yes, sir.
- 21 Q You told her that everyone -- he asked everyone if they
- 22 wanted to watch a movie?
- 23 A Yes, sir.
- 24 Q Everyone said yes?
- 25 A Yes, sir.

1 Q And then Ms. Long asked you to describe the movie?

2 A Yes, sir.

3 Q You told her that the movie was called *That's My Boy*?

4 A Yes, sir.

5 Q That it had Adam Sandler in it?

6 A Yes, sir.

7 MR. KOZELSKI: Permission to approach, Your Honor.

8 THE COURT: Yes.

9 (WHEREUPON, Defendant's Exhibit Number 1, video, was marked
10 for identification.)

11 Q Complainant, I am going to show you what's been marked as
12 Defense Exhibit 1. You can hold on to that. That is *That's*
13 *My Boy*, right?

14 A Yes, sir.

15 Q It has got Adam Sandler on the cover?

16 A Yes, sir.

17 Q Adam Sandler -- Adam Sandler?

18 A Yes, sir.

19 Q And that is the move that Maurice played?

20 A Yes, sir.

21 Q And you are sure about that?

22 A Yes, sir.

23 MR. KOZELSKI: Your Honor, at this time I would like to
24 enter Defense Exhibit 1 into evidence.

25 MS. ELLIOTT: No objection, Your Honor.

1 THE COURT: Very well.

2 MR. KOZELSKI: Thank you.

3 (WHEREUPON, Defendant Exhibit Number 1 was admitted into
4 evidence.)

5 Q Now you told Ms. Long that this is inappropriate?

6 A Yes, sir.

7 Q Because it has a lot of bad language in it?

8 A Yes, sir.

9 Q People without their clothes on?

10 A Yes, sir.

11 Q And Ms. Long asked you if there was another movie you
12 had to watch?

13 A Yes, sir.

14 Q You told her no?

15 A Yes, sir.

16 Q She asked you if you ever felt comfortable before --
17 uncomfortable before at Maurice's house?

18 A Yes, sir.

19 Q You told her no?

20 A Yes, sir.

21 Q She asked you if anyone had ever touched you
22 inappropriately?

23 A Yes, sir.

24 Q You told her no?

25 A Yes, sir.

1 Q She asked you what your punishment was at home when you
2 got in trouble?

3 A Yes, sir.

4 Q And you told her that your mom takes your phone away?

5 A Yes, sir.

6 Q Or you get grounded?

7 A Yes, sir.

8 Q And she also asked you some stuff about your classes
9 and teachers?

10 A Yes, sir.

11 Q And then you went back to class?

12 A Yes, sir.

13 Q Later on that day you said your mom was taking you to
14 the dentist?

15 A Yes, sir.

16 Q And you talked to her on the ride there?

17 A Yes, sir.

18 Q You told her that Maurice had made sexual advances
19 towards you?

20 A Yes, sir.

21 Q That he was grinding up on you?

22 A I told her that he was touching -- touching me.

23 Q That he was touching you and Little Sister while y'all were
24 sleeping?

25 A I told her that he was touch me like while I was awake.

1 Touching me and Little Sister while we were both awake.

2 Q Okay. You didn't tell her that you were -- that he was
3 touching you and Little Sister while y'all were sleeping?

4 A No, sir.

5 Q Did you tell her that Maurice was trying to make you
6 and Little Sister drink something?

7 A Yes, sir.

8 Q This upset your mom?

9 A Yes, sir.

10 Q She was pretty mad about it?

11 A Yes, sir.

12 Q And she called Maurice?

13 A Yes, sir.

14 Q And then she called the police?

15 A No, she went to the police station the next day.

16 Q The next day?

17 A Yes, sir.

18 Q And when the police got involved they set you up with
19 appointment for to go down to the Lowcountry Children's
20 Center?

21 A Yes, sir.

22 Q And do you remember talking to Carrie Strunsky the next
23 day?

24 A Yes, sir.

25 Q And you went there to talk to somebody about what you

- 1 were telling your mom?
- 2 A Yes, sir.
- 3 Q And Ms. Strunsky told you why you were there?
- 4 A Yes, sir.
- 5 Q And that was a special place to talk to kids?
- 6 A Yes, sir.
- 7 Q That she had a bad memory so she was video recording
- 8 this?
- 9 A Yes, sir.
- 10 Q So you knew there was a recording of this?
- 11 A Yes, sir.
- 12 Q And Ms. Strunsky started talking to you about what you
- 13 learned in school?
- 14 A Yes, sir.
- 15 Q Your favorite teacher?
- 16 A Yes, sir.
- 17 Q Asked you questions about who takes care of you at
- 18 home? ^
- 19 A Yes, sir.
- 20 Q Just wanted to make sure you are safe?
- 21 A Yes, sir.
- 22 Q Asked you if you had enough food to eat at home?
- 23 A Yes, sir.
- 24 Q She asked you about your siblings?
- 25 A Yes, sir.

- 1 Q She asked you to write their -- the names on the board
2 that you had in the room?
- 3 A Yes, sir.
- 4 Q While she was doing that she misspelled Older Brother s name?
- 5 A Yes, sir.
- 6 Q Older Brother ?
- 7 A Yes, sir.
- 8 Q No "Y"?
- 9 A No, sir.
- 10 Q You corrected her?
- 11 A Yes, sir.
- 12 Q And she told you that if she got anything else wrong to
13 let her know?
- 14 A Yes, sir.
- 15 Q You mentioned your favorite food?
- 16 A Yes, sir.
- 17 Q Spaghetti.
- 18 A Yes, sir.
- 19 Q Still your favorite food?
- 20 A No, sir.
- 21 Q You talked about TV shows?
- 22 A Yes, sir.
- 23 Q You told her you -- you like to watch *Law and Order*?
- 24 A Yes, sir.
- 25 Q Do you watch that on a daily basis?

- 1 A Not really. Not anymore.
- 2 Q Not anymore. Ms. Strunsky also asked you about places
3 on the body that it is not okay for someone to touch?
- 4 A Yes, sir.
- 5 Q You labeled them on her little drawings?
- 6 A Yes, sir.
- 7 Q She asked you if anybody had touched you in those
8 inappropriate places?
- 9 A Yes, sir.
- 10 Q And you told her that Little Brother and Little Sister 's dad?
- 11 A Yes, sir.
- 12 Q And when you told her that, she told you that because
13 she wasn't there she wanted to be able to picture it in her
14 mind?
- 15 A Yes, sir.
- 16 Q So she asked you to walk her through exactly what
17 happened?
- 18 A Yes, sir.
- 19 Q From the beginning?
- 20 A Yes, sir.
- 21 Q To the middle?
- 22 A Yes, sir.
- 23 Q To the end?
- 24 A Yes, sir.
- 25 Q You told her Maurice was touching you and Little Sister while

1 you y'all were sleeping?

2 A No, I told her that he was touching us inappropriately
3 while we were awake.

4 Q Okay. So you did not tell her that Maurice was
5 touching you and Little Sister while y'all were asleep?

6 A No, sir.

7 Q Okay. Complainant, have you had an opportunity to review
8 the video; has Ms. Elliott showed you the video?

9 A Yes, sir.

10 Q And this, while he was touching you, everyone was
11 asleep on the couch?

12 A No, sir.

13 Q Okay. You didn't tell her that?

14 A No, sir.

15 Q You said he put his two fingers inside of you?

16 A Yes, sir.

17 Q By sticking his hands up your pants?

18 A Yes, sir.

19 Q And that it hurt?

20 A Yes, sir.

21 Q And that while he was doing this he told you and
22 Little Sister you will always be my Little Nasty?

23 A He told me that I will always be his Little Nasty.

24 Q Okay. You didn't tell Ms. Strunsky that he told you
25 and Little Sister ?

- 1 A No.
- 2 Q You don't remember her asking who did he say that to?
- 3 A Not really.
- 4 Q You don't remember telling her you and -- you and your
5 little sister?
- 6 A I remember him telling -- I remember her -- I remember
7 me telling her that he said it to me.
- 8 Q But you did not say it, that he said that to Little Sister ?
- 9 A I don't remember.
- 10 Q You told her that while this was happening your
11 brothers were asleep on the couch?
- 12 A I told her that ^{Older Brother} was outside on the phone with his
13 girlfriend and that ^{Little Brother} was in the room with his
14 granddad.
- 15 Q That is what you're saying you told Mrs. Strunsky?
- 16 A Yes, sir.
- 17 Q You did not tell her that ^{Little Brother} and ^{Older Brother} fell asleep
18 on the couch?
- 19 A I don't remember.
- 20 Q You don't remember?
- 21 A No, sir.
- 22 Q You also told her about another time you claimed that
23 happened?
- 24 A Yes, sir.
- 25 Q You said that it was in the same place?

1 A Yes, sir.

2 Q But this time ^{Older Brother} was outside talking to his
3 girlfriend?

4 A Yes, sir.

5 Q So he was coming in and out?

6 A Uh-huh. Well, he was -- he wasn't coming in and out.
7 He was staying outside most of the time.

8 THE COURT REPORTER: Could you when you speak speak in
9 front of the microphone. Thank you.

10 Q Little Brother was paying attention to the TV?

11 A Little Brother was in the room with his granddad.

12 Q So you didn't tell Ms. Strunsky that Little Brother was paying
13 attention to the TV on the couch?

14 A No, sir.

15 Q You told her that you would walk past him to go to the
16 kitchen and he would hit you and Little Sister on your butts?

17 A Yes, sir.

18 Q You told her that this time he tried to make you suck
19 his penis?

20 A Not when I was like walking past him, no, sir.

21 THE COURT: I need you to keep your voice up a little
22 bit more, please.

23 Q While you were lying on the couch?

24 A Yes, sir.

25 Q The second time?

1 A Well, it happened more than once; but, it's ---

2 Q The second time do you remember just speaking with Ms.
3 Elliott?

4 A Yes, sir.

5 Q You said Little Sister and Older Brother were sleeping on the couch?

6 A I told Ms. Elliott that Little Sister the second time Little Sister
7 was watching -- like we -- watching TV.

8 Q Okay. That is what you said about the third time. Do
9 you remember what you said about the second time?

10 A I said that -- I said that Little Sister and all of us were
11 watching a TV show.

12 And the third time Little Sister was -- it was just me,
13 Little Sister and him, Maurice, in the room. And Little Sister was
14 watching a TV show.

15 Q But the second time it was Little Sister and Older Brother sleeping on
16 the couch, they were on that long section?

17 A Yes, sir.

18 Q Okay. And that's when he attempted to -- or made you
19 suck his penis?

20 A Yes, sir.

21 Q You said Maurice pulled his penis out of his pants and
22 tried to put it in your mouth?

23 A Yes, sir.

24 Q And you struggled to push him away?

25 A Um -- yes, sir.

- 1 Q But he was moving his body up and down kind of?
- 2 A Kind of.
- 3 Q And she asked you if anything came out of his penis?
- 4 A Yes, sir.
- 5 Q You told her no?
- 6 A Yes, sir.
- 7 Q She asked you what his penis looked like?
- 8 A Yes, sir.
- 9 Q You told her you couldn't really see because all the
- 10 lights were turned off except for the TV?
- 11 A Yes, sir.
- 12 Q So she asked you how you knew it was Maurice?
- 13 A Yes, sir.
- 14 Q And you told her that he was talking to Little Brother ?
- 15 A Yes, sir.
- 16 Q You could hear his voice and he was talking to Little Brother
- 17 about acting up?
- 18 A Yes, sir.
- 19 Q So Little Brother was in the room?
- 20 A Yes, sir.
- 21 Q She asked you if you had ever seen anybody using drugs
- 22 or alcohol?
- 23 A Yes, sir.
- 24 Q You told her no?
- 25 A Yes, sir.

- 1 Q You told this happened all over the summer?
- 2 A Yes, sir.
- 3 Q When she asked you how many times you said probably
- 4 about four?
- 5 A Well, which part are you talking about, the touching or
- 6 the ...?
- 7 Q Well, that is what she tried to clear up. She asked
- 8 you if it was a combination of both or one or the other;
- 9 and you told her that probably about three times trying to
- 10 make -- make you suck his penis; is that correct?
- 11 A Yes, sir.
- 12 Q And probably about six times trying to touch your
- 13 vagina?
- 14 A Yes, sir.
- 15 Q All in the same place?
- 16 A Yes, sir.
- 17 Q All with your siblings on the couch?
- 18 A The other siblings weren't in the room most of the
- 19 time, but.
- 20 Q But that is what you told Ms. Strunsky?
- 21 A Yes.
- 22 Q You never told her that he called you Baby?
- 23 A I think I did.
- 24 Q Okay. Now you have also talked with this -- about this
- 25 stuff with Ms. Elliott?

1 A Yes, sir.

2 Q You met with her a couple of times over the years to
3 talk about this?

4 A Yes, sir.

5 Q Probably about four or five times?

6 A Yes, sir.

7 Q She asked you questions to help you remember certain
8 things?

9 A Yes, sir.

10 Q And it was just recently that you told Ms. Elliott that
11 you remembered something came out of Maurice's penis?

12 A Yes, sir.

13 Q And you didn't remember that when Ms. Strunsky
14 specifically asked you?

15 A I thought that was talking about like maybe just one
16 time. But I didn't know she was talking about like
17 altogether.

18 Q But you didn't tell her?

19 A No, sir.

20 Q So Ms. Elliott's questions helped you remember?

21 A Yes, sir.

22 Q Did Ms. Elliott talk to you about the questions that I
23 would ask you today?

24 A No, sir.

25 Q And since this -- since you told your mom this you

1 haven't had to go see Maurice in West Ashley?

2 A No, sir.

3 Q Little Brother and Little Sister haven't been able to see him
4 either?

5 A No, sir.

6 Q So you get to stay out with your mom?

7 A How do you mean?

8 Q You get to stay with -- you stay with your mom now?

9 A Oh, yeah.

10 Q Okay. And your other siblings?

11 A Yes, sir.

12 Q You get to be close to your friends?

13 A Not anymore.

14 Q Okay. Not anymore, but when you were out in ?

15 A Yes, sir.

16 Q Okay. Because it's been a long time?

17 A Yes, sir.

18 MR. KOZELSKI: Beg the court's indulgence, Your Honor.

19 THE COURT: All right.

20 MR. KOZELSKI: No further questions at this time, Your
21 Honor.

22 THE COURT: Redirect.

23 MS. ELLIOTT: May we approach briefly?

24 THE COURT: Sure.

25 (WHEREUPON, bench conference was had.)

1 **REDIRECT EXAMINATION BY MS. ELLIOTT OF Complainant** :

2 Q Complainant, do you remember what in the movie, *That's My*

3 *Boy*, felt inappropriate?

4 A Why I did feel?

5 Q Uh-huh.

6 A Because of the fact that it had like people having sex

7 and stuff.

8 Q Do you remember any specific scenes?

9 A No, not really.

10 Q Mr. Kozelski asked you a lot about when you went to the

11 Lowcountry Children's Center and you were interviewed by

12 Carrie Strunsky. Do you remember going there?

13 A Yes, ma'am.

14 Q Do you remember all of your answers that you gave her

15 that day?

16 A No.

17 Q Was that the first time that you were interviewed kind

18 of in detail about what had happened to you?

19 A Yes, ma'am.

20 Q Do you remember if Carrie Strunsky asked you to

21 describe every single time the defendant put his penis in

22 your mouth?

23 A No, ma'am.

24 Q How do you remember that question being asked if you

25 remember?

1 A She asked me -- she was -- asked me like what else did
2 he do while I was there.

3 Q So did you describe to her every single incident where
4 the defendant touched you or put his penis in your mouth?

5 A No, ma'am.

6 Q And did you feel like she wanted you to tell her about
7 every single incident?

8 A No, ma'am.

9 Q Mr. Kozelski asked you about your sister, Little Sister .

10 A Yes, ma'am.

11 Q Tell me what you saw the defendant do to Little Sister ?

12 A He touched her vagina.

13 Q I want you to go into some detail about that. When did
14 you see this happen?

15 A It was during the summertime. And Little Sister was
16 laying -- or sitting down on the couch next to -- next to
17 me. And he ---

18 Q I am going to have you wait one second.

19 MS. ELLIOTT: Can you put the diagram back up, please.

20 (WHEREUPON, the clerk complied.)

21 Q So let me know where everyone was in the room, please.

22 A Little Sister , she was right there (marking on diagram). I
23 was right here (marking on diagram). And Maurice was right
24 there (marking on diagram).

25 Q And what happened?

1 A He came -- like he got -- he came close to Little Sister and
2 he put his hands down her pants and he started touching her.

3 Q All right. Now I'm sorry. Because of how quickly you
4 put those x's up, can you actually put like Little Sister 's
5 initial next to where she was sitting and put maybe your
6 initial next to where you were sitting.

7 A (Marked diagram.)

8 Q And so that is where you were.

9 A (Marked diagram.)

10 Q And that is where Little Sister was. Okay. And so he
11 starting putting his hands where on her?

12 A Down her pants and her vagina.

13 Q And was there anyone else in the room?

14 A No; it was just me, Little Sister , and Maurice.

15 Q Do you remember what had been going on before that?

16 A We were watching TV.

17 Q Do you know where your brothers were?

18 A Little Brother , he wasn't in the room. And Older Brother was outside.

19 Q And after he was touching Little Sister and he was done, what
20 happened after that?

21 A He started touching me.

22 Q And was that one of the times that you described for us
23 already?

24 A Um. Yes, ma'am.

25 MS. ELLIOTT: Court's indulgence, Your Honor.

1 Q Do you remember if Little Sister was awake or saying anything
2 while that was going on?

3 A She was awake. She didn't say anything.

4 Q Mr. Kozelski asked you a lot about the fact that you
5 didn't tell Ms. Ihrig about this. You didn't tell your mom
6 right away?

7 A Yes, ma'am.

8 Q You didn't tell the DSS worker right away?

9 A Yes, ma'am.

10 Q You in fact denied it to some of those people?

11 A Yes, ma'am.

12 Q Why should people believe you now?

13 A Because I am an honest person and was scared at first.
14 But I finally like built up the courage to finally tell
15 someone, so like people should believe me.

16 MS. ELLIOTT: No further questions, Your Honor.

17 THE COURT: Recross.

18 MR. KOZELSKI: Just briefly, Your Honor.

19 THE COURT: All right.

20 **RECROSS-EXAMINATION BY MR. KOZELSKI OF Complainant :**

21 Q Complainant, you were just talking about Maurice touching
22 Little Sister .

23 A I saw them.

24 Q You said you saw her -- you saw Maurice put his hands
25 down her pants?

1 A Yes, sir.

2 Q When she was awake?

3 A Yes, sir.

4 Q Now do you remember when you were talking with Ms.
5 Strunsky and she asked you what kind of clothes you guys
6 were wearing?

7 A Yes, sir.

8 Q Do you remember telling her my little sister she had
9 already gotten undressed for bed?

10 A Yes, sir.

11 Q And was sleeping in her shirt and a diaper?

12 A Yes, sir.

13 Q And so she wasn't wearing any pants?

14 A He had on -- she had on pajamas -- pants.

15 Q Okay. But you told Ms. Strunsky she had on a diaper
16 and a shirt?

17 A I may have, yes, sir.

18 Q And you also said she was awake at this time?

19 A Yes, sir.

20 MR. KOZELSKI: Beg the court's indulgence. No further
21 questions, Your Honor.

22 THE COURT: All right. You may come back down. Thank
23 you. Call your next witness.

24 MS. ELLIOTT: The State calls Little Sister

25 (WHEREUPON, the witness was duly sworn.)

1 THE CLERK: If you want to state your first and last
2 name and if you can spell out your last name for us.

3 THE WITNESS: Little Sister

4 THE CLERK: Right into the microphone so we can hear
5 you.

6 THE WITNESS: Little Sister

7

8 **DIRECT EXAMINATION BY MS. ELLIOTT OF Little Sister :**

9 Q Good morning, Little Sister .

10 A Good morning.

11 Q Is your chair scooted as close to that as you can be so
12 you are as close to that microphone? So I am going to need
13 you to use a nice, good, loud voice; okay?

14 All right, Little Sister , can you tell me when your birthday
15 is?

16 A , 2005.

17 Q And that makes you how old right now?

18 A Eleven.

19 Q And what school do you go to?

20 A Elementary School.

21 Q And what grade are you in at school?

22 A Fifth.

23 Q Do you like going to school?

24 A Yes.

25 Q What do you like about school?

- 1 A Reading.
- 2 Q What is your favorite book?
- 3 A The (inaudible.)
- 4 Q And what do you like to do when you are not at school?
- 5 A Read.
- 6 Q Anything else?
- 7 A No.
- 8 Q Can you tell us a little bit about who you live with?
- 9 A My mom, my brothers, and sisters.
- 10 Q And what is your mom's name?
- 11 A Genita Brown.
- 12 Q And what's your dad's name?
- 13 A Maurice.
- 14 Q What is his last name?
- 15 A Harris.
- 16 Q And your brothers and sisters that live with you, what
- 17 are their names?
- 18 A Older Brother , Little Brother , and Complainant .
- 19 Q Do you know their ages?
- 20 A Older Brother is 20. Little Brother is 12. And Complainant is 15.
- 21 Q When you would go and visit your dad, Maurice Harris,
- 22 where would you usually go to visit him?
- 23 A His parent's house.
- 24 Q And what would you all do there?
- 25 A Watch TV.

- 1 Q And where would y'all watch TV?
- 2 A The den.
- 3 Q I'm going to show you a picture. It is going to show
4 up on the screen in front of you. Is that kind of a rough
5 estimate of what that room looked like?
- 6 A Yes.
- 7 Q Okay. What is that thing next to the coffee table?
- 8 A Sofa.
- 9 Q And so when people were watching TV together where
10 would everybody sit?
- 11 A The sofa.
- 12 Q Did everyone have assigned seating, or did you kind of
13 move around?
- 14 A Moving around.
- 15 Q Okay. Do you remember visiting that house in the
16 summer of 2013 when you were eight?
- 17 A Sort of.
- 18 Q Sort of. While you were at that house did you see
19 Maurice Harris ever touch your sister?
- 20 A Yes.
- 21 Q Can you tell me about that?
- 22 A It was nighttime when I saw him try to put his private
23 part in my sister's mouth.
- 24 Q I need you to speak up a little bit louder, okay. What
25 happened?

- 1 A He tried to put his private part in my sister's mouth.
- 2 Q Where were you when you saw that?
- 3 A The couch.
- 4 Q Where on the couch? If you touch that screen it will
- 5 make a mark over it. So why don't you put a "G" where you
- 6 were sitting.
- 7 A (Marked screen.)
- 8 Q And where was your sister?
- 9 A (Marked screen.)
- 10 Q I think you put a dot. Can you show me -- well, tell
- 11 me this. Was she sitting up or lying down?
- 12 A Laying down.
- 13 Q Okay. Can you put a "D" where her head was.
- 14 A (Marked screen.)
- 15 Q And so where were her feet? Put an "x" where her feet
- 16 were.
- 17 A (Marked screen.)
- 18 Q And where was Maurice Harris?
- 19 A (Marked screen.)
- 20 Q What was he doing there?
- 21 A Like he kneeled.
- 22 Q And what position was his body?
- 23 A Kneeling.
- 24 Q What had y'all been doing before he got in the kneeling
- 25 position?

- 1 A Watching TV.
- 2 Q And when he kneeled what did he do?
- 3 A Tried to put his private part in Complainant 's mouth.
- 4 Q What could you see of that?
- 5 A His body.
- 6 Q His body. What parts of his body?
- 7 A His back.
- 8 Q So how do you know he was trying to put his private
- 9 part in her mouth?
- 10 A The shape.
- 11 Q The shape of what?
- 12 A His back.
- 13 Q Did you see him do anything to his clothes before that?
- 14 A No.
- 15 Q What was his body doing while it was kneeling; do you
- 16 remember that?
- 17 A No.
- 18 Q Could you hear anybody saying anything?
- 19 A No.
- 20 Q What happened once he was done kneeling; where did he
- 21 go?
- 22 A The couch.
- 23 Q Where on the couch?
- 24 A I don't remember.
- 25 Q And what did Complainant do?

- 1 A Went to the bathroom.
- 2 Q Do you know where your brothers were during that time?
- 3 A I don't remember.
- 4 Q If they had been in the room do you think you would
- 5 remember it?
- 6 A No.
- 7 Q Did you ever see Maurice Harris touch your sister any
- 8 other time?
- 9 A Yes.
- 10 Q Can you tell me about that?
- 11 A Complainant was walking past and he hit her on the butt.
- 12 Q Say that for me again. I had trouble hearing you.
- 13 A Complainant was walking past him and he hit her on the
- 14 butt.
- 15 Q And where was Complainant then?
- 16 A Walking around the coffee table.
- 17 Q And where was Mr. Harris sitting?
- 18 A The couch.
- 19 Q Did you ever see him touch her in any other way that
- 20 you remember?
- 21 A No.
- 22 Q Now when all this came out did you have to go to a
- 23 place called the Lowcountry Children's Center?
- 24 A Yes.
- 25 Q And do you remember talking to a lady named Carrie

1 Strunsky?

2 A Yes.

3 Q And do you remember talking to her about what you saw
4 happen to your sister at that house?

5 A Yes.

6 Q What do you remember telling her?

7 A My daddy touched Complainant .

8 Q Okay. And can you -- where did you say that he touched
9 her?

10 A Between her legs.

11 Q And where was she when he touched her between the legs?

12 A The couch.

13 Q Was she sitting down or laying down or something else?

14 A I don't remember.

15 Q Do you remember how he was able to touch her between
16 the legs?

17 A No.

18 Q Do you remember if that was on the skin or above the
19 clothes?

20 A I don't remember.

21 Q Where were you when that happened?

22 A The den.

23 Q Do you remember where in the den?

24 A No.

25 Q Do you remember what was going on in the den when that

1 happened?

2 A No.

3 Q Where was Mr. Harris when he was touching her between
4 the legs?

5 A I don't remember.

6 MS. ELLIOTT: Court's indulgence, Your Honor.

7 THE COURT: All right.

8 Q When you saw Mr. Harris trying to put his private part
9 in Complainant's mouth you said she was laying down. How was
10 she laying down; on her back, on her stomach, on her side?

11 A Her side.

12 Q When you went to LCC do you remember talking to them
13 about Maurice Harris touching you?

14 A Yes.

15 Q What did you tell them?

16 A That my sister saw him put his hands -- touch between
17 my legs.

18 Q Do you remember that happening?

19 A Sort of.

20 Q You do remember him touching you, or do you remember
21 telling her about it?

22 A Telling me about it.

23 Q And do you remember telling Ms. Strunsky at the LCC
24 about it?

25 A No. Did you ever tell anyone about what you saw happen

1 there in the den?

2 A Yes.

3 Q Who did you tell?

4 A My mom.

5 Q And do you remember when you told?

6 A No.

7 MS. ELLIOTT: No further questions at this time, Your
8 Honor.

9 THE COURT: Very well. Cross-examination.

10 **CROSS-EXAMINATION BY MR. KOZELSKI OF Little Sister** :

11 Q Hey, Little Sister .

12 A Hi.

13 Q You are the youngest of your siblings; isn't that
14 right?

15 A Yes, sir.

16 Q Me too. I bet you get to learn a lot from your older
17 brothers and sisters.

18 A Yes.

19 Q Do they tell you what to do?

20 A Sometimes.

21 Q You don't always do it, do you?

22 A No.

23 Q Sometimes you just want to be a kid?

24 A Yes.

25 Q Who takes care of you at home?

- 1 A My mom.
- 2 Q Okay. What do you call your mom?
- 3 A Mommy.
- 4 Q Mommy. So you live with her?
- 5 A Yes.
- 6 Q Where do you live with her?
- 7 A Street.
- 8 Q Okay. Your mom cooks for you?
- 9 A Yes, sir.
- 10 Q She buys you clothes?
- 11 A Yes, sir.
- 12 Q Does your laundry?
- 13 A Yes, sir.
- 14 Q You love your mother?
- 15 A Yes, sir.
- 16 Q You don't want anything bad to happen to her?
- 17 A No.
- 18 Q You wouldn't want to get your mom in any trouble?
- 19 A No.
- 20 Q Little Sister , do you understand what the word serious means?
- 21 A Yes.
- 22 Q Okay. Do you think what we are going to talk about
- 23 today regarding your father Maurice do you think this is
- 24 serious?
- 25 A Yes.

1 Q Do you see the judge over there? Okay. And the jury
2 over here. And you know today we are going to talk about
3 the truth. Do you know that?

4 A Yes.

5 Q There's no pretending.

6 A No.

7 Q There's no joking.

8 A No.

9 Q No made-up stories.

10 A No.

11 Q We are not making a movie or anything like that.

12 A No.

13 Q And you know it is okay if you made mistakes in what
14 you said earlier?

15 A Yes.

16 Q You can just tell us that you made a mistake.

17 A Okay.

18 Q Or if you remembered something wrong.

19 A Okay.

20 Q So where you live with your mother you also live with
21 your brothers and sibling -- your sister?

22 A Yes.

23 Q You share a room with Complainant?

24 A Yes.

25 Q She is your big sister?

- 1 A No.
- 2 Q Well, she -- she is a little bit older than you?
- 3 A Yes.
- 4 Q Your big sister is Older Sister ?
- 5 A Yes.
- 6 Q Okay. But you sometimes sleep in the same bed with
- 7 Complainant ?
- 8 A Yes.
- 9 Q How did you get here today?
- 10 A My mom.
- 11 Q Did you know why you were coming here?
- 12 A Yes.
- 13 Q Okay. Did your mom tell you why?
- 14 A Yes.
- 15 Q Did y'all talk about it in the car?
- 16 A No.
- 17 Q But your mom has asked you questions before about what
- 18 happened with Maurice?
- 19 A No.
- 20 Q She didn't ask about this a couple of years ago?
- 21 A No.
- 22 Q When Complainant was saying that he touched her?
- 23 A No.
- 24 Q Okay. So your mom never asked you what happened?
- 25 A Yes.

1 Q She did? Did your mom try to help you remember what
2 happened?

3 A Yes.

4 Q So do you remember stuff about Maurice better now or
5 then when it first came out?

6 A Then.

7 Q And that is because everybody was asking you a lot of
8 questions back then, right?

9 A Yes.

10 Q Did you forget about anything with Maurice until last
11 week?

12 A No.

13 Q Okay. When you were talking with Ms. Elliott?

14 A No.

15 Q Did you talk with anybody else about this?

16 A No.

17 Q Grandparents?

18 A No.

19 Q Teachers?

20 A No.

21 Q Counselors?

22 A No.

23 Q Melvin?

24 A Yes.

25 Q Did you talk to any doctors?

1 A No.

2 Q Did you talk with Ms. Elliott over here?

3 A Yes.

4 Q Did you talk to her about what you were going to say
5 today?

6 A No.

7 Q She didn't -- she didn't talk to you -- she didn't ask
8 you questions?

9 A Yes

10 Q Okay. She did?

11 A Yes.

12 Q She helped you remember things from before?

13 A Yes.

14 Q Did she show you the videotape of your interview?

15 A Yes.

16 Q So you practiced answering questions with her?

17 A Yes.

18 Q And that helped you remember things?

19 A Yes.

20 Q Now I want to go back to October of 2013. You were in
21 the third grade then, right?

22 A Yes.

23 Q And do you remember the first person to come talk to
24 you about Maurice was Ms. Angela Long?

25 A Yes.

- 1 Q Do you remember she came and got you out of class?
- 2 A Yes.
- 3 Q That is with your guidance counselor, Ms. Johnson?
- 4 A Yes.
- 5 Q Asked you if anybody had touched you inappropriately?
- 6 A Yes.
- 7 Q You told her no?
- 8 A Yes.
- 9 Q Asked you if you ever felt uncomfortable around
- 10 Maurice, your father?
- 11 A No.
- 12 Q Okay. You told her no?
- 13 A No.
- 14 Q After school that day did you talk to your sister
- 15 Complainant about it?
- 16 A No.
- 17 Q You didn't talk to Complainant about it at all?
- 18 A No.
- 19 Q You talked to your mother when you got home that day?
- 20 A Yes.
- 21 Q She told you she was going to press charges?
- 22 A Yes.
- 23 Q Meaning Maurice was going to be arrested?
- 24 A Yes.
- 25 Q And you talked to the nurse when you got an

1 examination, right?

2 A Yes.

3 Q And you talked with Mr. Carrie in the room with the
4 board that you got to draw on?

5 A Yes.

6 Q Now I want to talk to you about when you were talking
7 with -- with Ms. Long when they took you out of class, okay?

8 A Okay.

9 Q She asked you a bunch of questions, right?

10 A Yes.

11 Q She asked you if you lived with your mom and brother
12 and sister?

13 A Yes.

14 Q She asked you if you visited the day -- you visited
15 with Maurice over the summer, your dad?

16 A Yes..

17 Q You shook your head yes?

18 A Yes.

19 Q You are pretty shy, aren't you?

20 A (Witness nods head.)

21 Q Is that a yes?

22 A Yes.

23 Q Okay. A lot of times you just shake your head?

24 A Yes.

25 Q Ms. Long asked you if you watched a movie with your dad

CROSS-EXAMINATION BY MR. KOZELSKI OF Little Sister

1 that showed people without their clothes on?

2 A Yes.

3 Q And you told her no?

4 A Yes.

5 Q She asked you if anyone had ever touched you
6 inappropriately in private areas?

7 A Yes.

8 Q And you told her no?

9 A Yes.

10 Q You told her that nobody had touched you?

11 A No.

12 Q She asked you if you ever felt uncomfortable around
13 your real dad, Maurice?

14 A Yes.

15 Q And you told her no?

16 A Yes.

17 Q Did Complainant tell you that Maurice touched her private
18 spot?

19 A Yes.

20 Q So you told your mom?

21 A Yes.

22 Q Before you saw the nurse the next day did you know why
23 you were going there?

24 A No.

25 Q And now after the nurse examined you you went and

1 talked with Carrie in the room with the drawing board?

2 A Yes.

3 Q She asked you questions like how old you were?

4 A Yes.

5 Q And you're eight years old?

6 A Yes.

7 Q She asked you what grade you were in?

8 A Yes.

9 Q You were in the third-grade?

10 A Yes.

11 Q She asked you what you did in the third-grade?

12 A Yes.

13 Q And you learn all sorts of things?

14 A Yes.

15 Q Asked you questions about who you lived with?

16 A Yes.

17 Q Wanted to make sure that you were safe at home?

18 A Yes.

19 Q She had you identify what the private areas on a person

20 are on the drawings?

21 A Yes.

22 Q She asked you if anybody had ever touched you on your
23 private parts?

24 A Yes.

25 Q You told her that your dad touched you while you were

- 1 asleep?
- 2 A Yes.
- 3 Q And you knew this because Complainant told you?
- 4 A Yes.
- 5 Q You said he touched you on the skin?
- 6 A Yes.
- 7 Q And even though you said you were asleep she asked you
- 8 how did he touch you on the skin?
- 9 A Yes.
- 10 Q You said he pulled -- pulled your pants down?
- 11 A Yes.
- 12 Q He never said anything to you; ---
- 13 A No.
- 14 Q --- that's what you told her?
- 15 A Yes.
- 16 Q Eventually you told her Complainant tapped you ---
- 17 A Yes.
- 18 Q --- and that woke you up?
- 19 A Yes.
- 20 Q You told Ms. Carrie that you saw Maurice touch Complainant
- 21 on her private part?
- 22 A Yes.
- 23 Q That she was sleeping at the time?
- 24 A Yes.
- 25 Q And that touched -- touched her on the skin?

1 A Yes.

2 Q You said you saw him pull her pants down?

3 A Yes.

4 Q And you said he didn't -- didn't say anything to
5 Complainant?

6 A No.

7 Q So you are saying he didn't say anything to Complainant?

8 A No.

9 Q Okay. And he never said anything to you?

10 A No.

11 Q You didn't tell Ms. Carrie that you saw Maurice pull
12 his pants down?

13 A No.

14 Q Did Complainant help you remember that?

15 A Yes.

16 Q Did Ms. Elliott help you remember some of those things?

17 A Yes.

18 Q Like specifically when you said he was kneeling down?

19 A Yes.

20 Q Okay. Ms. Elliott's questions helped you remember
21 that?

22 A Yes.

23 THE COURT: Are you at a stopping place? I think we
24 have a juror that needs to take a little break.

25 MR. KOZELSKI: Absolutely.

1 THE COURT: Okay. I know that will give you an
2 opportunity during the break.

3 Ladies and gentlemen, we will take a very short break.
4 Please do not discuss this matter or allow anyone to discuss
5 it with you. We will take about 10 minutes. If you will go
6 to the jury room, please.

7 (WHEREUPON, jury exits the courtroom 3/1/16, 11:00 a.m.)

8 THE COURT: All right. We will take about ten minutes.
9 And who is escorting her?

10 MS. ELLIOTT: I'm going to let her sit in the
11 conference room with my investigator Eric Jordan if that is
12 all right with Your Honor.

13 THE COURT: Any objection?

14 MR. KOZELSKI: No, objection.

15 THE COURT: We are going to take a little break. And
16 you just -- if you need to go to the ladies room you feel
17 free to go, okay.

18 THE WITNESS: (Nods head.)

19 (WHEREUPON, break was had 3/1/16, 11:01 a.m.)

20 (WHEREUPON, trial resumed 3/1/16, 11:31 a.m.)

21 THE BAILIFF: All jurors are present, Your Honor.

22 THE COURT: Thank you so much. All right. You may
23 continue.

24 Q Little Sister , I want to go over a little bit about this area
25 in the den. Now you said Maurice was over here (pointing),

1 your dad?

2 A No.

3 Q Okay. Where did you say he was?

4 A (Marked screen.)

5 Q Okay. But before he was on the ground -- before you
6 said he was on the ground you said he was on the couch,
7 right?

8 A Yes.

9 Q Okay. And he was about where that "x" was?

10 A Yes.

11 Q And that was right in front of the television?

12 A Yes.

13 Q Okay. So he has got the best seat to watch the
14 television?

15 A Yes.

16 Q And sometimes you and Complainant would go to the kitchen?

17 A Yes.

18 Q To get a drink of water?

19 A Yes.

20 Q And when you're sitting on the couch you have to walk
21 across here (pointing)?

22 A Yes.

23 Q Sometimes you might have to climb over your dad to get
24 there?

25 A Yes.

- 1 Q He might playfully push you out of the way?
- 2 A No.
- 3 Q No? You never blocked him from watching the
- 4 television?
- 5 A No.
- 6 Q Okay. Little Sister , when you hurt yourself you want to --
- 7 you want to tell somebody, right?
- 8 A Yes.
- 9 Q For example if you fell and hurt your knee you would
- 10 want to tell the teacher at school?
- 11 A Yes.
- 12 Q If your sister Complainant hit you, you would tell your
- 13 mother?
- 14 A Yes.
- 15 Q If you got an ear infection you would tell you mother?
- 16 A Yes.
- 17 Q It's not fun when you hurt yourself? You don't like to
- 18 get hurt, do you?
- 19 A No.
- 20 Q It helps to tell someone so they can fix it?
- 21 A Yes.
- 22 Q You didn't tell anybody your private part hurt?
- 23 A No.
- 24 Q You never told your mother that your private part hurt?
- 25 A No.

1 Q You never told your teacher?

2 A No.

3 Q And your dad never threatened to hurt you, did he?

4 A No.

5 Q He never told you he was going to hurt your sister or
6 your mother, did he?

7 A No.

8 Q He didn't tell you anything about keeping a secret?

9 A No.

10 Q He didn't say anything about not to tell anybody?

11 A No.

12 Q And he never told you you will always been my Little
13 Nasty?

14 A No.

15 Q You never felt your dad touch your private area?

16 A No.

17 Q And you never saw him do that?

18 A No.

19 Q Complainant told you that?

20 A Yes.

21 MR. KOZELSKI: No further questions, Your Honor.

22 THE COURT: Very well. Redirect.

23 MS. ELLIOTT: Yes, Your Honor.

24 **REDIRECT EXAMINATION BY MS. ELLIOTT OF Little Sister :**

25 Q Little Sister , you just told Mr. Kozelski that you never felt

1 Mr. Harris touch your private area, right?

2 A No.

3 Q And you have never told anyone that you remember him
4 touching your private area, right?

5 A No.

6 Q How did I help you remember things?

7 A By asking the questions.

8 Q And how did Complainant help you remember things?

9 A I don't know.

10 Q When you were talking to Ms. Carrie you told her the
11 things that Complainant told you happened to you, right?

12 A Yes.

13 Q And then you also told her the things that you saw?

14 A Yes.

15 Q And those are two different things, right?

16 A Yes.

17 Q What did you see Maurice Harris do to your sister?

18 A Try to put his private part in her mouth.

19 MS. ELLIOTT: Court's indulgence.

20 THE COURT: All right.

21 MS. ELLIOTT: Nothing further.

22 THE COURT: Recross.

23 **RECROSS EXAMINATION BY MR. KOZELSKI OF Little Sister :**

24 Q Little Sister , just to be clear, you didn't tell Ms. Carrie
25 that, did you?

1 A No.

2 Q Okay. You told Ms. Elliott that?

3 A Yes.

4 Q A week ago?

5 A Yes.

6 MR. KOZELSKI: No further questions, Your Honor.

7 THE COURT: All right. You may come down.

8 And do you want to have someone escort her. And then
9 call your next witness, please.

10 MS. TRAN: The State calls Older Brother .

11 (WHEREUPON, the witness was duly sworn.)

12 THE CLERK: And for the record if you could state your
13 first and last name and then spell out your last name,
14 please.

15 THE WITNESS: My name is Older Brother . Any my last name
16 is Older Brother .

17 THE COURT: Your witness.

18 **DIRECT EXAMINATION BY MS. TRAN OF Older Brother :**

19 Q Older Brother, when is your birthday?

20 A 1995.

21 Q And how old are you?

22 A I am 20 years old.

23 Q How many brothers and sisters do you have?

24 A I have five brothers and sisters, all together.

25 Q And who are they?

1 A It is Little Sister , Complainant , Little Brother , and Older Sister .

2 Q Who do you live with right now?

3 A Well, I originally lived with my grandma who I am
4 living with right now.

5 Q And who all lives with your grandma with you?

6 A It is Complainant , Little Sister , Little Brother , and my mom, and my
7 grandma, and my uncle which lives downstairs.

8 Q Okay. And in October of 2013 who did you live with?

9 A Well, I lived with my mom and my sisters and brothers.

10 Q And who are your sisters and brothers that you lived
11 with?

12 A Little Sister , Little Brother , and Complainant .

13 Q And in October of 2013 how old were you?

14 A I was like 17 or 18.

15 Q Do you know Maurice Harris?

16 A Yes, ma'am, I do.

17 Q And who is he to you?

18 A Well, he is Little Sister and Little Brother 's daddy.

19 Q And what was your relationship with him?

20 A Well, like he was a friend of my moms. And then like
21 he was Little Sister and Little Brother 's dad, like I said -- or like I
22 just stated in the previous statement.

23 Q In the summer of 2013 did you visit Maurice Harris?

24 A Yes, ma'am, we did.

25 Q Where was this at?

- 1 A Well, in the Ponderosa of West Ashley.
- 2 Q Okay. And that was the house?
- 3 A Yes, ma'am.
- 4 Q Who all lived in that house?
- 5 A It was his mom, his dad, him, and his brother.
- 6 Q And when you say we all went, who all went to visit
- 7 Maurice Harris?
- 8 A It was Complainant, Little Sister, Little Brother, and me.
- 9 Q And when you guys would go to visit was it day or did
- 10 you spend the night?
- 11 A Well, it was like some days we would just like go visit
- 12 a day. And then like some days we would spend the night.
- 13 Q And when everyone was there where did they typically
- 14 hang out at?
- 15 A Well, we would hang out in the den area.
- 16 Q Did you spend a lot of time in the den area?
- 17 A Well, yes, ma'am.
- 18 Q Where else would you hang out when you were at the
- 19 house?
- 20 A Well, everybody would be the den area. But I would
- 21 occasionally be outside on my phone like most of the time.
- 22 Q And what would you be doing on your phone?
- 23 A Talk to my ex-girlfriend.
- 24 Q So you're not dating that girl anymore?
- 25 A No, I am not.

1 Q Let's see. Did you -- did you ever see anything
2 inappropriate while you were at that house?

3 A Well, no, ma'am.

4 Q And if you had seen something would you have said
5 something?

6 A Yes, ma'am.

7 Q Where would you -- at some point did you guys stop
8 going over to the house on Ponderosa?

9 A Yes, ma'am.

10 Q Do you remember what year that was?

11 A I think it was the same year, if I'm not wrong.
12 Because like it was the day after we were coming from the
13 dentist. I think like he called or something like that, and
14 my mom told her that we wasn't coming back over like ever
15 again.

16 Q And that was -- do you remember what time of year that
17 was?

18 A No, ma'am, not to be exact.

19 Q Were your brothers and sisters in school at that point
20 in time?

21 A Yes, ma'am, we was all in school at that point in time.

22 Q That's all the questions I have for you.

23 A Okay.

24 THE COURT: Cross-examination.

25 **CROSS-EXAMINATION BY MR. KOZELSKI OF** Older Brother :

- 1 Q Good morning, Older Brother
- 2 A Good morning.
- 3 Q You are 20 years old?
- 4 A Yes, sir.
- 5 Q Okay. You are the oldest brother?
- 6 A Yes, sir.
- 7 Q Older Sister is your older sister?
- 8 A Yes, sir. That is correct.
- 9 Q And y'all's father is Randy?
- 10 A Yes, sir, that is correct.
- 11 Q Maurice isn't your father?
- 12 A No, sir.
- 13 Q Okay. But he has always been in the picture?
- 14 A Yes, sir.
- 15 Q And as you stated, he is Little Brother and Little Sister 's father.
- 16 A Yes, sir.
- 17 Q Your younger brother and sister?
- 18 A Yes, sir.
- 19 Q And they look up to you?
- 20 A Yes, sir, they do.
- 21 Q And you care about them?
- 22 A Yes, sir.
- 23 Q And you would want to protect them?
- 24 A Yes, sir.
- 25 Q Maurice came into your life when you were pretty young?

1 A Yes, sir, because he knew my dad. And his -- my dad's
2 mother. Which is dead now.

3 Q Okay. You were probably about seven, seven or eight?

4 A Yes, sir.

5 Q And he had a good relationship with your mom?

6 A Yes, sir.

7 Q Eventually probably around 2003 y'all moved in
8 together?

9 A Yes, sir.

10 Q That is in West Ashley?

11 A (Nods head.)

12 Q That is a yes?

13 A Yes, sir.

14 Q And that was Older Sister, you, Complainant; and probably right
15 around that time was when Little Brother was born?

16 A Yes, sir.

17 Q Little Sister hadn't been born yet?

18 A No, sir.

19 Q So y'all lived together for about five years?

20 A Yes, sir. To be exact.

21 Q To ...?

22 A Yes, sir, I was just saying that like your question was
23 correct then that -- yeah.

24 Q Okay. Now eventually your mom and Maurice split up?

25 A Yes, sir.

1 Q It was probably around 2008?

2 A Yes, sir.

3 Q But they still have a good relationship with each
4 other?

5 A Yes, sir. There were still friends and they would like
6 talk on and off.

7 Q Right, but they had known each other since they were in
8 middle school?

9 A Yes, sir.

10 Q And at one point after this you even lived with
11 Maurice's mother for a period of time?

12 A Yes, sir.

13 Q And even when not living together y'all would always
14 visit?

15 A Yes, sir.

16 Q And sometimes you wouldn't always go, different
17 siblings would go, just depending on what you had going on?

18 A Yes, sir.

19 Q And while y'all were there y'all would do different
20 activities?

21 A Yes, sir.

22 Q You know, sometime activities, fishing?

23 A Yes, sir, that is correct.

24 Q Ever take you crabbing or anything like that?

25 A Yes, sir.

1 Q Now, Older Brother I know this is a personal question. But
2 during all that time that you lived with Maurice he never
3 tried to touch you inappropriately?

4 A No, sir.

5 Q And you never saw him try to touch any of your sisters
6 inappropriately?

7 A Well, not like when I was in the room; I don't honestly
8 know what happened when I went out of the room.

9 Q Okay. No, but when you were living with him in all
10 that period of time that you have known him ---

11 A No, sir.

12 Q ---- you have never seen him do that?

13 A No, sir.

14 Q Or your brother Little Brother ?

15 A No, sir.

16 Q Now back in the summer of 2013 you said you were 17 or
17 18 around that time?

18 A Yes, sir.

19 Q You were just about to graduate from High
20 School?

21 A Yes, sir.

22 Q And you went to visit with Maurice?

23 A Yes, sir.

24 Q I mean high school senior, probably want to be
25 somewhere else, hanging out with friends ---

- 1 A Yes, sir.
- 2 Q But you tried to make the best of it?
- 3 A Yes, sir.
- 4 Q And everyone you said crowds into the den?
- 5 A Yes, sir.
- 6 Q It is a high-traffic area in Maurice's household?
- 7 A Yes, sir.
- 8 Q And he asked if everybody wanted to watch a movie?
- 9 A No, sir. I mean the TV was on. Like because the TV
- 10 was always on. But I don't remember him asking if we wanted
- 11 to watch a movie.
- 12 Q Okay. Do you remember that he put a movie on?
- 13 A I mean like the movie was already on.
- 14 Q Okay. It was just on the television?
- 15 A Yes, sir.
- 16 Q And y'all were just watching it?
- 17 A Yes, sir.
- 18 Q Do you remember the movie at all?
- 19 A I think it was the newest *Total Recall*.
- 20 Q Okay. Do you remember if y'all watched this movie?
- 21 (WHEREUPON, defense counsel displayed Defendant's
- 22 Exhibit 1.)
- 23 A Yes, I remember us watching that movie, ---
- 24 Q Okay.
- 25 A --- to be exact.

1 Q And that was when Complainant and Little Brother were also on the
2 couch?

3 A Yes, sir.

4 Q Little Sister might have been asleep?

5 A I'm not sure -- pretty sure what Little Sister was doing.
6 But I know we did watch that movie.

7 Q Okay. And it has got some pretty foul language in it?

8 A Yes, sir. It's like a good movie, but like it is
9 totally inappropriate for like any younger viewers.

10 Q Right, it is an Adam Sandler movie?

11 A Yes, sir.

12 Q He didn't make y'all watch this movie?

13 A No. Like it was on the TV. But like nobody made it a
14 motion to turn the TV. So like everybody sat there and
15 watched it.

16 Q Okay. And during this time you were also in and out
17 talking on the phone with your girlfriend?

18 A Yes, sir.

19 Q So you would go outside and talk and then come back in?

20 A Yes, sir.

21 Q And when you were going in and out and when you were in
22 the den you never saw Maurice touch Complainant
23 inappropriately?

24 A No, sir, I didn't see no foul play going on while I was
25 in there. Like I said, I don't honestly know what happened

1 when I was out.

2 Q And you never saw him touch Little Sister inappropriately?

3 A No, sir.

4 Q Little Brother you never saw him touch Little Brother ---

5 A No, sir.

6 Q --- inappropriately? And you never -- you never saw
7 Maurice with his pants off?

8 A Well, no, sir. Not when he was around them.

9 Q Okay. You never saw him expose his penis or anything
10 like that?

11 A No, sir.

12 MR. KOZELSKI: Beg the court's indulgence.

13 THE COURT: All right.

14 MR. KOZELSKI: No further questions, Your Honor.

15 THE COURT: All right. Recross -- redirect I mean.

16 **REDIRECT EXAMINATION BY MS. TRAN OF Older Brother :**

17 Q Older Brother when your brothers and sisters were in the den
18 what would they be doing?

19 A Well, like Complainant would play on her phone. And
20 Little Sister and Little Brother would take turns playing on the computer
21 or if they wasn't playing on a game.

22 Q And the movie, *That's My Boy*, was that the only movie
23 watched that summer?

24 A Well, no, we watched like tons of movies; but that was
25 the only really inappropriate movie that we watched.

1 Q Do you remember specific parts of the movie that you
2 thought was inappropriate?

3 A Well, like they was in like a strip club and then there
4 was like a part where the dude is getting head outside of
5 strip club by like a disabled stripper. Which like the
6 intent is funny, but like it is really inappropriate.

7 Q Anything -- anything else in the movie that was -- that
8 you thought was inappropriate?

9 A Well, like the dude he got out of the hot tub with like
10 a boner and like was playing around. So that's
11 inappropriate.

12 Q In the movie were there naked people?

13 A Yes. And -- well, some scenes were naked but not fully
14 naked. But it was like brief nudity. And then some scenes
15 was like not nudity at all.

16 Q Thank you.

17 A You are welcome.

18 THE COURT: Recross?

19 MR. KOZELSKI: Nothing further.

20 THE COURT: All right. You may come down, sir.

21 Call your next witness, please.

22 MS. ELLIOTT: May we -- may we approach about
23 scheduling?

24 THE COURT: Sure.

25 (WHEREUPON, bench conference was had 3/1/16, 11:50 a.m.)

1 (WHEREUPON, the witness was duly sworn.)

2 THE CLERK: If you could state your first and last name
3 and then spell out your last name, please.

4 THE WITNESS: Genita Brown. My last name B-R-O-W-N.

5 **DIRECT EXAMINATION BY MS. ELLIOTT OF GENITA BROWN:**

6 Q And Ms. Brown, where do you live?

7 A Street.

8 Q And how long have you lived in Charleston?

9 A About 34, 35 years.

10 Q How many children do you have?

11 A Five.

12 Q Can you give me their names and ages?

13 A It is Older Sister ; she is 22. It is Older Brother ; he
14 is 20. Complainant , she is 15. Little Sister , she is
15 11. And Little Brother , he is 12.

16 Q Does Little Brother have any special needs?

17 A Yes, he does.

18 Q Can you tell us a little bit about those?

19 A Little Brother has ADHD. He has special need impairment,
20 intellectual disability; and he has bipolar -- bipolar.

21 Q And because of those -- the intellectually impairment
22 is he in special classes in school?

23 A Yes, he is in a self-contained class.

24 Q Can you explain to me what self-contained means?

25 A He is in a class with eight to ten people and people

1 that, you know, has disability problems like he does.

2 Q How do you know Maurice Harris?

3 A I met Maurice Harris through my cousin when I was a
4 teenager.

5 Q Do you know his date of birth?

6 A His date of birth is 1969.

7 Q And he is the father to which of your children?

8 A He is the father of Little Sister and Little Brother.

9 Q Okay. But he is not the father of your other children?

10 A No, he is not.

11 Q So when you two weren't in a dating relationship what
12 kind of visitation did he have with the children?

13 A Maurice Harris would see the children either on some
14 weekends or, you know, if they were out of school he would
15 take them. Or if they had like long breaks for holidays.

16 Q And how would those visita- -- or visits be planned or
17 arranged?

18 A Either Maurice himself would call me or his parents
19 would call and ask if they could get them.

20 Q And which of the children would go and visit with them?

21 A Well, it started out with just, you know, Little Brother and
22 Little Sister. But then all of them used to go with him.

23 Q All of them being who?

24 A Well, everyone except for Older Sister. It would be
25 Little Brother, Complainant, Little Sister, and Older Brother

1 Q Why not Older Sister ?

2 A When after Older Sister got up in age she just stopped
3 going.

4 Q And before these allegations how -- how well did you
5 and Maurice Harris get along?

6 A We had a good relationship.

7 Q How did he get along with the children?

8 A It was pretty good.

9 Q How did he treat them; can you give us an example?

10 A One time -- sometimes he would spoil them and take and
11 play outside with them like a little child. And then he
12 would, you know, buy them whatever he -- they wanted. Get
13 money from his parents and go buy whatever they wanted.

14 Q Now would that be just his biological children or all
15 of your children?

16 A No, he would do for all of them.

17 Q Do you know where Maurice Harris was living in the
18 summer of 2013?

19 A With his parents if I'm not mistaken. Yes, with his
20 parents.

21 Q Do you know in which part of Charleston that was?

22 A He was living in the Ponderosa on Hoss Road.

23 Q Were y'all in a dating relationship with each other at
24 that time?

25 A No, we weren't.

1 Q I know you talked in general about the kid's visitation
2 schedule with Mr. Harris. Do you remember any specifics
3 about visitation that summer?

4 A During that summer there was an allegation that came
5 up.

6 Q Well, I want to know about -- when were they visiting
7 him that summer; for how long?

8 A Oh, during the part -- during that time. They were
9 visiting him during the summer because they were out of
10 school.

11 Q And how long would these visits last?

12 A Sometimes it would last on the weekend, just the
13 weekend. And then sometimes he would keep them for two to
14 three weeks.

15 Q And he would have them at his parent's house?

16 A Yes.

17 Q How did DSS become involved in your family?

18 A DSS first became involved in our family because of the
19 allegations from Little Brother that, you know, he put a boy's head
20 between his leg on the bus.

21 Q Do you remember when that was in the year?

22 A That was back in October if I'm not mistaken.

23 Q 2013?

24 A Yes.

25 Q I would like to ask you did Complainant ever disclose to

1 you a sexual assault?

2 A Yes.

3 Q Did she tell you where it happened?

4 A Yes.

5 Q Where did she say?

6 A In the den, on Hoss Road.

7 Q And did she say when it happened?

8 A She said it happened when they were watching a movie
9 called *That's My Boy* or something like that.

10 Q Do you remember where you were when she made this
11 disclosure to you?

12 A We were leaving from the dentist office.

13 Q And do you remember who was with you at that time?

14 A At that time it was Complainant , Little Brother , and
15 Little Sister .

16 Q And what did you do as a result of learning about
17 the -- about what she disclosed to you?

18 A First, you know, I talked to her about it. And then I
19 went and phoned Mr. Harris and talked to him. And then I
20 went straight to the police department.

21 Q After the police department were you referred anywhere
22 else?

23 A They referred me down to LCC, Lowcountry Children's
24 Center.

25 Q Prior to Complainant telling you about this had Complainant

1 and Maurice ever had any issues with each other?

2 A No.

3 Q Ever any fighting between them?

4 A No.

5 Q Had she ever accused him of any kind of bad acts before
6 that?

7 A No.

8 Q Were you having any problems with Maurice Harris during
9 that time?

10 A No.

11 MS. ELLIOTT: Court's indulgence.

12 THE COURT: Okay.

13 MS. ELLIOTT: Those are all the questions I have at
14 this time, Your Honor.

15 THE COURT: Cross-examination.

16 **CROSS-EXAMINATION BY MR. KOZELSKI OF GENITA BROWN:**

17 Q Ms. Brown, you have known Maurice for 30 years?

18 A Uh-huh.

19 Q Since y'all were middle school age?

20 A Uh-huh.

21 Q That's when your cousin introduced you?

22 A Yes.

23 Q And eventually you ended up going to the same high
24 school?

25 A Exactly. Yes.

- 1 Q And y'all dated in high school?
- 2 A Yes.
- 3 Q At some point during high school his parents split up?
- 4 A His parents? Or are you talking about me and Maurice?
- 5 Q No, no, his parents.
- 6 A Oh, well, I don't know.
- 7 Q Well, he went to go live with his father in
- 8 Summerville?
- 9 A Oh, yes, he did. Yes.
- 10 Q He left the high school?
- 11 A Yeah, he left the high school and went to I think
- 12 Summerville or whatever.
- 13 Q Okay. And y'all's -- y'all's relationship kind of
- 14 faded?
- 15 A Well, we were talking on and off.
- 16 Q Always talking, but you developed new relationships?
- 17 A If that's what you want to say, yes.
- 18 Q Okay. You met Randy?
- 19 A Yeah.
- 20 Q Okay. That's -- that's Older Sister and Older Brother's father?
- 21 A Yes.
- 22 Q Okay. But eventually down the line y'all rekindled
- 23 things?
- 24 A Yes.
- 25 Q Y'all met in a dancing class in West Ashley?

- 1 A Yes. Yes.
- 2 Q And hit it off again?
- 3 A Yes.
- 4 Q Eventually you moved in with him?
- 5 A Yes. Well, actually he moved in with me then.
- 6 Q Okay. And that was in West Ashley?
- 7 A Yes.
- 8 Q And you had his children?
- 9 A Well, I had his children before we moved in.
- 10 Q Okay. And it was right around that time when Little Brother
- 11 was born when y'all moved in with each other?
- 12 A Uh-huh.
- 13 Q Okay. And then Little Sister was born about two years later?
- 14 A Yes.
- 15 Q So you would say you love Maurice?
- 16 A Yes.
- 17 Q Okay. You trusted Maurice?
- 18 A Yes, I did.
- 19 Q And that is why you would allow your children to go
- 20 stay with him for days at a time.
- 21 A Yes.
- 22 Q They were his children as well?
- 23 A Yes. And I also told Mr. Harris that, you know, when
- 24 he started talking that, you know, that I take my children
- 25 very seriously. With any man I talk to I take my children

1 very seriously.

2 Q And he took -- he took the children seriously as well?

3 A Yeah.

4 Q Okay. And he has his own daughter, Minor 1 ?

5 A Yes.

6 Q And you met her?

7 A Yes.

8 Q And she is about Complainant 's age?

9 A No, she is older than Complainant .

10 Q Like 15; she is about 16 right now?

11 A I think Minor 1 is 18.

12 Q Okay.

13 A Seventeen, eighteen, yeah.

14 Q And as far as you knew he had a good relationship with
15 Minor 1 ?

16 A With Minor 1 ?

17 Q Yes.

18 A As far as I know, yeah.

19 Q Now you said that you had never seen any arguments
20 between Complainant and Maurice at any point?

21 A No. -

22 Q Okay. But you weren't always there to see any -- you
23 know, what happened?

24 A Well, I mean when I dropped them off I would hang
25 around for a good while until it started getting dark and

1 then I would leave and go my way and he would have the
2 children. Him and his parents would have the children.

3 Q Sometimes Complainant wouldn't get along with the other
4 children?

5 A Which other children?

6 Q With Little Brother and Little Sister. I mean it's siblings, you
7 know, being siblings?

8 A Yeah, I mean she really didn't want them to follow her
9 around and stuff like that. But, you know, that is natural
10 with any child.

11 Q She didn't get to see her father very often, her real
12 father?

13 A That's not true. Because her father was always in her
14 life ---

15 Q Okay.

16 A --- back and forth.

17 Q Occasionally back and forth. But Complainant has always
18 been a good child?

19 A Yeah, I've had no problems out of her.

20 Q Okay. She enjoyed shopping?

21 A Uh-huh.

22 Q Watching TV?

23 A Uh-huh.

24 THE COURT: That is a yes?

25 A Oh, I'm sorry. Yes.

1 Q Some of the shows she watched on TV you had a little
2 bit of concern about?

3 A There was like only one show that I had a concern
4 about. But then, you know, she stopped it. It was just *Law*
5 *and Order*.

6 Q That was *Law and Order*?

7 A Yes.

8 Q So she watched that daily almost?

9 A Yeah.

10 Q And your concern was that a lot of these shows have
11 young child rape cases?

12 A No, that wasn't it.

13 Q Okay. You didn't tell any doctor that, that you were
14 concerned about her watching *Law and Order*?

15 A I told the doctor -- I told the doctor that I was
16 concerned about her watching *Law and Order* because of the
17 fact that what she had already went through and I told her
18 it just wasn't appropriate for her to be watching it at that
19 time.

20 Q Okay. But she had watched that before she made these
21 allegations; she enjoyed watching *Law and Order*?

22 A When she had a chance to watch it. But it wasn't like
23 an everyday thing, no.

24 Q I want to take you back to October of 2013 when
25 Complainant first told you about this. You said she told you

- 1 about this when y'all were all in the car?
- 2 A Yes.
- 3 Q And Little Brother and Little Sister were there?
- 4 A Uh-huh.
- 5 Q And she said that Maurice was making sexual passes at
- 6 her?
- 7 A Yes.
- 8 Q Grinding up on her?
- 9 A Yes.
- 10 Q Now you asked her questions about this?
- 11 A Yes. But that was not the first time that, you know,
- 12 it came up about Mr. Harris. Because the first time it came
- 13 up when -- was when Little Brother got in trouble in school. That
- 14 is when the first -- that is when the first it all came up.
- 15 Q Okay.
- 16 A And then ---
- 17 Q And that was -- that was about a day before?
- 18 A That was -- yeah, that week -- that week that he ---
- 19 Q Okay.
- 20 A --- my thinking, yes.
- 21 Q And I mean that -- that concerned you?
- 22 A Yes.
- 23 Q You asked Little Sister about this?
- 24 A Yes.
- 25 Q But she ---

1 A Well, Little Sister had made allegations about, you know,
2 some stuff that Maurice had done to her and stuff like that.
3 And, you know, we talked about it. You know, Complainant was
4 scared to say anything. And then I went to the school, and
5 that is when I first found out.

6 Q Okay.

7 A And Complainant actually came -- actually figured we came
8 out two weeks after I told Complainant I need to know what is
9 going on.

10 Q Do you remember talking to the nurse, the SANE nurse,
11 Nurse Dixon, at that LCC?

12 A So many people.

13 Q Right. You told her that Little Sister -- Little Sister wouldn't
14 really give you details because she's shy?

15 A At that time, yes.

16 Q She just told you that what Complainant was telling her
17 was the truth?

18 A I told her, you know, that Little Sister is like shy, she
19 stays to to herself and she didn't want to really open up
20 and say what she needed to say.

21 Q Okay. But Little Brother, your other son, he is not shy?

22 A At times, yes.

23 Q Okay. But he's -- he is pretty hyper?

24 A Yes.

25 Q And he didn't tell you about any abuse?

1 A He's never, you know, came -- actually came out and
2 said anything about it; but he was like really scared of
3 Maurice.

4 Q Okay. And you told DSS that if you felt that it
5 happened Little Brother would have told?

6 A Well, every time Little Brother goes over and went over to Mr.
7 Harris' house he would not even hardly spend any time, you
8 know, with his daddy. He would go and spend time with
9 Maurice's daddy, be right up underneath him.

10 Q And Maurice's -- Maurice's parents are elderly, getting
11 up in age?

12 A Uh-huh.

13 Q His mom uses a walker?

14 A Uh-huh.

15 Q But they enjoy going over there and spending time with
16 the grandparents and with Maurice?

17 A Yes.

18 Q And never before this time in the periods that you have
19 lived with them, lived with Maurice, or any other time,
20 never made any type of allegation that he tried to sexually
21 molest your kids?

22 A No, but they did make an allegation that, you know,
23 Maurice used to spank the children for no reason and stuff
24 like that. They did make that allegation to me.

25 Because his mom would have called me and tell me to

1 come get them because of the fact that Maurice used to spank
2 them for any old kind of things so.

3 Q And your daughter Older Sister never discussed to you that
4 Maurice tried to touch her inappropriately when y'all lived
5 together?

6 A No. She did make an allegation that her brother did
7 though.

8 Q About Little Brother ?

9 A Huh? No, not Maurice, no.

10 Q Okay. Not Maurice?

11 A No. She -- my oldest daughter she made an allegation
12 that Maurice's brother, Gary, touched her on the butt when
13 she was over there with them.

14 Q Okay. But you never saw anything and you had no clue
15 that Maurice would ever do anything like this?

16 A No.

17 Q And that is why he was the first person that you called
18 when you heard about this?

19 A Well, I called Maurice because I wanted, you know, to
20 get to the bottom of it. Because he knew how I felt about
21 his -- about our children and stuff like that. And he knew
22 I take them seriously and I didn't play with them.

23 Q And you couldn't believe it?

24 A Exactly.

25 Q Any he told you that it wasn't true?

1 A That is what he said. You know, he told me about the
2 movie, the inappropriate movie that he had them watching and
3 stuff like that. He did tell me that.

4 Q He told you -- he told you you might need to look on
5 Complainant's phone?

6 A He didn't tell me nothing about -- about that, you
7 know, looking on Complainant's phone.

8 Q Okay. But he did tell you he had nothing to do with
9 that?

10 A He tell about if it happened. And then he said if it
11 happened, he don't remember. Because he said everybody was
12 in there playing and carrying on.

13 Q Okay. But he -- he denied sexually abusing Complainant?

14 A At that time, yes, he did.

15 Q Okay. And he's never told you that he has sexually
16 abused Complainant?

17 A No.

18 MR. KOZELSKI: Beg the court's indulgence.

19 THE COURT: All right.

20 MR. KOZELSKI: No further questions, Judge.

21 THE COURT: Redirect.

22 MS. ELLIOTT: No redirect, Your Honor.

23 THE COURT: All right. You may come down. Call your
24 next witness, please.

25 MS. TRAN: The State calls Lauren Russell.

1 (WHEREUPON, the witness was duly sworn.)

2 THE CLERK: Have a seat. And for our record if you can
3 state your first and last name and spell your last name,
4 please.

5 THE WITNESS: Lauren Russell, R-U-S-S-E-L-L.

6 **DIRECT EXAMINATION BY MS. TRAN OF LAUREN RUSSELL:**

7 Q Ms. Russell, was your name formerly something else?

8 A Yes, it was.

9 Q And what was that?

10 A Lauren Ryan.

11 Q And is that because you got married?

12 A Yes.

13 Q Where do you currently work?

14 A I work for -- I work in Columbia for Sheland Benefit
15 Services.

16 Q And what do you do there?

17 A I am the executive assistance.

18 Q Now in October of 2013 where did you work?

19 A Charleston County Sheriff's Office.

20 Q And what was your position there at that time?

21 A I was a detective.

22 Q How long had you been working at the Sheriff's Office?

23 A Since about August of 2007.

24 Q And why did you leave the Sheriff's Office?

25 A I decided to move back home to Columbia to pursue a

1 different career.

2 Q In 2013 what were your duties and responsibilities as a
3 detective?

4 A I was assigned to the Special Victims unit. So I
5 investigated cases that involved children, elder, elderly
6 people, kind of any cases that involved those.

7 Q And in October of 2013 did you become involved in the
8 Maurice Harris case?

9 A I did.

10 Q And what was your role in that case?

11 A I was the lead investigator.

12 Q And can you describe what -- what types of duties and
13 responsibilities a lead investigator has in an investigation
14 such as this?

15 A Absolutely. So when it comes to any cases with
16 children needed to be interviewed as lead investigator I
17 contact Lowcountry Children's Center, request medical exams,
18 interviews. I kind of talk hopefully with -- I am usually
19 talking to a mother or father, DSS worker. Get as much
20 information as I can to start, you know, investigating it.

21 Q And how did you become involved in this case?

22 A I was at work a normal day and was told there was
23 someone at the Sheriff's Office that requested to speak to a
24 detective. And I went downstairs.

25 Q And who was that?

1 A That was Ms. Brown.

2 Q And in speaking to Ms. Brown what did you do in regards
3 to this case?

4 A I was obviously taking notes as she was talking to me
5 just getting the basics of who was involved, the children
6 involved, where it happened.

7 And I also while I was sitting there called LCC knowing
8 there was more than one child that needed to be interviewed
9 so we could get interviews set up and medical exams done.

10 Q And what is LCC?

11 A LCC is a child advocacy center. It is a very child-
12 centric area. It has games. It is everything is like child
13 sized. It is a very positive environment.

14 Q And in your investigation did you personally talk to
15 Complainant ?

16 A I talked to her kind of in passing. I was at LCC for
17 her interview. And I don't know if it was when I was going
18 in or coming out, but I had already spoken with Ms. Brown.
19 And so I saw her in the lobby area.

20 Knowing it would be rude for me just to completely
21 ignore her I know I would have said hello to her and said,
22 if Complainant were there, Hello Complainant, how are you.

23 I wouldn't have talked to her about the case. But if I
24 talked to her it was just a little conversation.

25 Q So you did not interview Complainant ?

1 A No, I did not.

2 Q And why is that?

3 A LCC has trained counselors and personnel that all they
4 do is interview children. And that is a great resource.
5 And I -- I was not trained at the time to do that. I was
6 not comfortable doing that. And so it is much easier to let
7 LCC do it the same way every time than me do it one way.

8 Q And so in cases such as this is it routine for LCC to
9 interview children?

10 A Absolutely.

11 Q And during the course of your investigation were you
12 able to determine an address where this -- these incidents
13 took place?

14 A I was.

15 Q And what was that address?

16 A Road.

17 Q And what county is that in?

18 A Charleston County.

19 Q And in the course of your investigation were you able
20 to determine Maurice Harris' date of birth?

21 A I was. 1969.

22 Q And how old would he have been?

23 A Forty-four.

24 Q And were you able to determine Complainant --

25 Complainant 's date of birth?

1 A Yes, I have it as 2000.

2 Q And how old would she have been in 2013?

3 A She would have been 12.

4 Q Was Maurice Harris eventually arrested?

5 A He was.

6 Q And besides doing the initial investigation, arranging
7 for the Lowcountry Children's Center interview, did you --
8 and interacting did you have any other involvement in this
9 case?

10 A No, I did not.

11 Q In the -- I'm sorry, one more question.

12 A That's all right.

13 Q During the course of your investigation were you able
14 to determine a time period where these events took place?

15 A Initially when I spoke with Ms. Brown she was saying it
16 happened within a couple of weeks but before she was talking
17 to me. So initially we thought it was much sooner.

18 But after the -- after Complainant and Little Sister were
19 interviewed, especially Complainant, she informed us more that
20 it was in the summer of 2013.

21 Q And do you know specifically what month that summer --
22 that summer is?

23 A Not off of the top of my head, I do not.

24 Q That's all the questions I have for you.

25 THE COURT: Cross-examination.

1 **CROSS-EXAMINATION BY MR. KOZELSKI OF LAUREN RUSSELL:**

2 Q Detective Russell -- do you mind if I call you -- still
3 call you Detective?

4 A That's fine. I was going to say I am not a detective
5 anymore.

6 Q Back in 2013 you were a detective?

7 A I was.

8 Q And being a detective is a tough job?

9 A Most days.

10 Q Not everybody can be a detective?

11 A Right.

12 Q You've got to get special training?

13 A Yes.

14 Q Go to the Police Academy?

15 A Yes.

16 Q You went to the Police Academy?

17 A I did. Every police officer in South Carolina goes to
18 the Police Academy.

19 Q And what you learned at the -- you learn a lot of stuff
20 at the Police Academy obviously?

21 A Yes.

22 Q And one of the things that you learn how to do is to
23 write reports?

24 A Yes.

25 Q Writing reports is an important part of what you do as

1 an officer?

2 A Yes.

3 Q Because you are investigating crime?

4 A Correct.

5 Q And you are gathering facts?

6 A Correct.

7 Q And you want to be able to communicate those facts to
8 other people?

9 A Yes.

10 Q Are so when you write these reports you want to make
11 sure that they are complete?

12 A Yes.

13 Q And they have all the information that you gathered?

14 A Yes.

15 Q And you want to make sure that these reports are
16 accurate?

17 A Correct.

18 Q Because other people are relying on these reports?

19 A Yes.

20 Q And you give a copy of your report to the Solicitor's
21 Office?

22 A Yes, I do.

23 Q They in turn give it to me?

24 A Yes.

25 Q And eventually those reports, you know, end up where we

1 are now; is that correct?

2 A Yes.

3 Q And these reports help you remember the things that you
4 did back when you started this investigation?

5 A Correct.

6 Q Because there can be a lapse in time, like in this case
7 almost three years?

8 A Right.

9 Q And you want to be able to remember?

10 A Correct.

11 Q So when I ask you a question about something you can
12 look back at your reports.

13 A Got them right here.

14 Q And also there is the occasion where you leave the
15 office?

16 A Right.

17 Q And somebody has to figure out what happened?

18 A Yes.

19 Q And so they rely on those and they want those to be
20 completely accurate; and they want them to be truthful,
21 unbiased?

22 A Correct.

23 Q You don't have a dog in this fight?

24 A No, I don't.

25 Q So as the lead detective you are in charge of this

1 investigation?

2 A Yes.

3 Q And you talked -- talked about on your direct that you
4 were contacted by Ms. Genita Brown?

5 A Correct.

6 Q And she said that this incident had taken place two
7 weeks earlier?

8 A Yes.

9 Q And you've just testified that you came to find out
10 that it took place at Road?

11 A Correct.

12 Q So that would be the crime scene?

13 A Correct.

14 Q And you never went to Road?

15 A Only to arrest Mr. Harris.

16 Q Okay. So you never went inside the residence?

17 A Nope.

18 Q You never did a search warrant?

19 A Huh-uh.

20 Q You didn't take any photos inside?

21 A No.

22 Q Never tried to collect any swabs from the sofa?

23 A That -- I'm not a -- that is not a part of my job as an
24 investigator to collect swabs.

25 Q As a lead investigator you could call out Crime Scene?

1 A I can. Yes.

2 Q Okay. And part of what Crime Scene does is also
3 collect evidence?

4 A Correct.

5 Q And in sexual abuse cases there can often be bodily
6 fluids?

7 A Yes, there can be.

8 Q Okay. So they can test for DNA?

9 A Yes, they can be tested.

10 Q Okay. But in all fairness to you you were never told
11 that there were any bodily fluids?

12 A I -- yeah, initially I was not told that. I did not
13 find that out until during the interviews.

14 Q Okay. And you're talking about the interviews that
15 were done at LCC?

16 A Yes.

17 Q Okay. And nowhere in those interviews was there a
18 mention of bodily fluids?

19 A As far as -- you are going to need to be more specific
20 about that. Because I mean in every sexual assault case --
21 well, in this sexual assault case there's bodily fluids
22 that, you know, that they are going to be on the couch.

23 Q Okay. But that's where all these accusations came
24 from?

25 A Correct.

1 Q On the couch?

2 A Correct.

3 Q But you never went to go see the couch?

4 A No.

5 Q You never saw if there were any blood stains, semen
6 stains?

7 A No.

8 Q You never talked to any of the other adults that were
9 in the house?

10 A No, I did not. Ms. Harris, Maurice's mother, was not
11 very cooperative. But I tried.

12 Q Okay. So you attempted to talk to her?

13 A Correct.

14 Q Did you ever attempt to talk to the father, Maurice's
15 father?

16 A No. Once I got -- once I tried to speak with her I did
17 not try to speak with anyone else.

18 Q Okay. You were arresting her son, right?

19 A Right.

20 Q Okay.

21 A But he was -- he is a grown man. I didn't need her
22 permission to arrest him.

23 Q Right. Absolutely.

24 A So I didn't ---

25 Q You had an arrest warrant ---

1 A Right.

2 Q You took out an arrest warrant based on your
3 investigation?

4 A Correct.

5 Q And basically what you did as a detective you are a
6 facilitator?

7 A Is that a question?

8 Q Yes.

9 A Oh, yes.

10 Q Okay. You set up the interviews?

11 A Yes.

12 Q You set up the medical exam?

13 A Yes.

14 Q You don't -- like you said, you don't actually
15 interview the children?

16 A Correct.

17 Q You didn't speak to her -- in passing, but nothing
18 about the kids?

19 A Correct.

20 Q So your investigation is based on other people's
21 reports?

22 A Well, no, I listened to Complainant 's interview.

23 Q Right.

24 A So I mean I am listening to her words as she is
25 speaking them.

1 Q So other people's interviews is what you go by?

2 A Correct. During the course of that interview Carrie
3 Strunsky knew I was watching it and came out. Stopped --
4 paused her interview with Complainant, came and asked me if
5 there was anything else that she needed to ask for my case?

6 Q Okay. So you wanted to make sure you gathered as many
7 facts as possible?

8 A Everybody wants to make sure all of the information is
9 there.

10 Q And after watching these interviews you said you took
11 out an arrest warrant?

12 A Yes.

13 Q For Maurice?

14 A Yes.

15 Q And you went to his house to serve it on him?

16 A Yes.

17 Q And he didn't attempt to resist you in any way?

18 A Nope.

19 Q But you didn't take out an arrest warrant on the basis
20 of inappropriately touching his daughter Little Sister ?

21 A I don't have my warrants in front of me. So I don't
22 know the details of what my affidavit reported.

23 Q Okay. You served two warrants on him?

24 A I would say -- correct. War- -- yes.

25 Q And you wrote those warrant affidavits?

1 A Correct.

2 Q And in those warrant affidavits they allege criminal
3 sexual conduct, second-degree?

4 A Yes.

5 Q And that was Complainant the victim?

6 A Correct.

7 Q Neither of those listed Little Sister ?

8 A Correct.

9 Q Okay. So you did not take out arrest warrants for
10 inappropriately touching Little Sister ?

11 A Correct.

12 MR. KOZELSKI: Beg the court's indulgence.

13 No further questions, Your Honor.

14 THE COURT: Redirect.

15 MS. TRAN: Nothing further, Your Honor. ?

16 THE COURT: Very well. Is this witness free to leave?

17 MS. TRAN: Yes, Your Honor.

18 THE COURT: Very well. You are free to go.

19 Call your next witness, please.

20 MS. ELLIOTT: The State calls Natalie Dixon.

21 (WHEREUPON, the witness was duly sworn.)

22 THE CLERK: State your full name and last name and
23 spell out your last name, please.

24 THE WITNESS: Natalie Dixon, D-I-X-O-N.

25 THE COURT: Your witness.

1 **DIRECT EXAMINATION BY MS. ELLIOTT OF NATALIE DIXON:**

2 Q Good afternoon, Ms. Dixon. Where are you currently
3 employed?

4 A I am a physician's assistant with Blue Ridge Pediatrics
5 in Seneca, South Carolina.

6 Q And what are your duties and responsibilities as a
7 pediatric physician assistant as you are doing now?

8 A I evaluate patients from birth to 18 years of age for
9 both acute and chronic illness as well as just general
10 physical well-being.

11 Q And how long have you been a physician assistant?

12 A For eight years.

13 Q What type of training and education do physician
14 assistants have?

15 A I had a bachelor's degree and then I have a master's
16 level education in physician assisting from MUSC.

17 Q And were you working up in Seneca in October of 2013?

18 A I was not.

19 Q What was your job at that time?

20 A At that time I was a PA with the Child Abuse Pediatrics
21 Team at MUSC.

22 Q And how long had you been working with the Pediatric
23 Child Abuse Team with MUSC as of October of 2013?

24 A At that time two years.

25 Q And what were your responsibilities in that job?

1 A At the time I evaluated children from birth to 18 years
2 old who were sent to our clinic for any concern in child
3 abuse or neglect.

4 Q And what type of training did you have specifically for
5 that job that might differ from general physician assistant
6 training?

7 A In addition to my master's level training I had
8 specialized child abuse training. I attended the Medical
9 Training Academy at the National Child Advocacy Center in
10 Huntsville, Alabama.

11 Q If you could speak up a little bit more. I am having
12 trouble hearing you.

13 A I'm sorry.

14 Q Do you have any professional certifications?

15 A I am certified through the National Commission on
16 Certification of Physician's Assistants, the NCCPA.

17 Q How many pediatric sexual assault exams do you think
18 you have done in your career?

19 A I would guess somewhere around 600.

20 Q Are there different types of pediatric sexual assault
21 exams?

22 A There are. There are acute exams and non acute exams.
23 What's the difference in those?

24 A An acute exam would be performed if there was history
25 that the contact had been made within 72 hours of exam.

1 Typically that would be performed at the hospital where we
2 would do an evidence collection kit, swabbing the patient
3 for DNA evidence as well as doing a full physical exam,
4 testing for any sexually transmitted infections. And we
5 would actually go ahead and treat prophylactically for
6 sexually transmitted infections.

7 If it was a non-acute exam the history would tell us
8 that there has been no contact within that 72-hour period.
9 So typically we would do that at an outpatient location.

10 We would take a history and do a physical exam, but we
11 would not collect DNA evidence. We would test for sexually
12 transmitted infections, but we wouldn't treat until we got
13 the results back.

14 Q What is the usual process when a child is brought to
15 you for an exam?

16 A Typically a history is taken from the adult present.
17 Sometimes that is a caregiver, a parent. Sometimes that is
18 a DSS worker. Then a history depending on the age of the
19 child. A brief history would be taken from the child. And
20 then we would do a thorough comprehensive medical exam and
21 then test of course test for sexually transmitted infections
22 indicated.

23 Q In the course of your duties did you have occasion to
24 see Complainant ?

25 A Yes.

1 Q Do you know what her date of birth was?

2 A 2000.

3 Q And do you recall when and where you saw her?

4 A I saw her on October 25th, 2013, at the Dee Norton
5 Lowcountry Children's Center.

6 Q And do you recall whether -- what type of exam you
7 performed on her, whether it was acute or non-acute?

8 A It was a non-acute exam.

9 Q And why was that?

10 A Because the history given to us was that there had been
11 no contact within that 72-hour window.

12 Q What kind of explanation would you give to the child
13 prior to starting?

14 A Typically I would ask the child if they knew why they
15 were there for a medical exam that day. Sometimes they did.
16 Sometimes they didn't.

17 If they didn't then I would typically say something
18 like we heard that there may have been something
19 inappropriate or bad that happened to your body, my job
20 today is to do a medical exam on your body just to make sure
21 that you are healthy.

22 If I didn't have, again, any history from the child at
23 that time I might ask something like in order for me to do
24 my job it is important for me to know if there are certain
25 body parts that I should be concerned about or certain body

1 parts that you are concerned about.

2 Q Did you receive a medical history from Complainant ?

3 A I did.

4 Q What was the medical history that you received from
5 her?

6 A She told me that she was there because of something
7 that her sister's father did to her and that it would be a
8 good idea to check her throat for infection.

9 Q And did that help guide your exam?

10 A Absolutely.

11 Q Can you explain to us what the general exam consists
12 of?

13 A The general exam is just kind of general wellness exam
14 looking at height, weight, general wellness and development;
15 looking at eyes, ears, condition of the teeth, listening to
16 heart and lungs; that sort of thing.

17 Q And then what additional kind of exams do you do that
18 make basically child -- pediatric sexual exams different
19 from a regular visit to the pediatrician?

20 A We do detailed genital exams looking at the anus and
21 genital area under magnifications and photo documenting any
22 physical findings.

23 Q Now Complainant had concerns about her throat. Would you
24 have done anything specific related to that?

25 A Other than swab her throat for infection, no.

1 Q During your examination of Complainant were there
2 any physical findings?

3 A No.

4 MS. ELLIOTT: Court's indulgence.

5 THE COURT: All right.

6 MS. ELLIOTT: We have no further questions for the
7 witness.

8 THE COURT: Cross-examination.

9 **CROSS-EXAMINATION BY MR. KOZELSKI OF NATALIE DIXON:**

10 Q Ms. Dixon, you are a physician's assistant?

11 A Correct.

12 Q And you just explained to us that you have to be
13 trained to do this job?

14 A Correct.

15 Q And specifically the job that you were in you had to
16 have special training to do?

17 A Correct.

18 Q And in part you also get trained by the solicitors?

19 A I'm not sure what you mean.

20 Q This isn't the first time you have testified, is it?

21 A No.

22 Q Okay. You testified for the government before?

23 A Yes.

24 Q About how many times have you testified?

25 A Only on one other occasion.

1 Q One other occasion. I want to briefly go over some of
2 the duties that you have as a physician's assistant in this
3 type of work. And you went over some of that. But you said
4 you obtain a history?

5 A Correct.

6 Q You assess psychological functioning?

7 A Correct.

8 Q Perform the physical examination?

9 A Correct.

10 Q You also protect and preserve evidence that you might
11 find?

12 A Correct.

13 Q Document any physical findings?

14 A Correct.

15 Q Collect biological samples for testing?

16 A Correct.

17 Q Provide the prophylactic medication if necessary?

18 A Correct.

19 Q And provide referrals for medical and psychological
20 support?

21 A Correct.

22 Q Also you also interact with the family?

23 A Correct.

24 Q All in all you are like a medical detective trying to
25 find signs of physical or sexual abuse?

1 A I guess you could say that.
2 (WHEREUPON, answer was spoken softly.)
3 Q Okay.
4 THE COURT: Your answer I need audible, please.
5 THE WITNESS: I said I guess you could say that.
6 Q And then you report these findings to the police?
7 A Correct.
8 Q The police rely on your reports?
9 A Okay. Correct.
10 Q They rely on them?
11 A (Nods head.)
12 Q Is that a yes?
13 A Yes.
14 MR. KOZELSKI: She is taking down your answers, and she
15 can't take down a head nod.
16 Q And that is how you were involved in this case?
17 A Yes.
18 Q Detective Ryan, now Detective Russell, contacted you?
19 A Yes.
20 Q Set up an appointment for Complainant?
21 A Yes.
22 Q And Little Sister ?
23 A Yes.
24 Q And they both took place on October 25th?
25 A Yes.

1 Q , Now I want to talk to a little bit about Complainant 's
2 exam. She was referred for allegations of sexual abuse?

3 A Yes.

4 Q Unable to determine when the alleged incident took
5 place?

6 A Correct.

7 Q No history of physical abuse or neglect?

8 A Correct. Not that was given to me.

9 Q While given this history you reported that the children
10 were allegedly exposed to pornography?

11 A Correct.

12 Q Okay. You did not identify any behavioral changes?

13 MS. ELLIOTT: Objection. I'm going to say she lacks
14 personal knowledge.

15 THE COURT: Let me see you a second.

16 (WHEREUPON, bench conference was had.)

17 Q And so specifically you might ask her questions about
18 her behavior?

19 A Possibly.

20 Q Okay. And that is one of the things on your checklist
21 of things to do is to identify behavioral changes?

22 A Usually that would be a question more for the parent I
23 guess.

24 Q Okay. And but that is a question that you ask and you
25 tried to find out in writing these reports?

- 1 A Yes.
- 2 Q And in Complainant's report you did not find any ---
- 3 MS. ELLIOTT: Objection. Hearsay.
- 4 THE COURT: Exception?
- 5 MR. KOZELSKI: Your Honor, I think it is for the
- 6 purpose of medical diagnosis. She has laid a foundation I
- 7 believe for why she asked that question.
- 8 (WHEREUPON, bench conference was had.)
- 9 Q So I want to talk to you about the physical exam. You
- 10 said you did a I guess it is called an anogenital exam?
- 11 A Yes.
- 12 Q And in your report you stated -- you reported a normal
- 13 prepubertal -- prepubertal hymen, correct?
- 14 A Say that again. I'm sorry.
- 15 Q Reported a normal prepubertal -- I'm sorry, I cannot
- 16 say this word for some reason. Prepubertal hymen?
- 17 A Yes.
- 18 Q Okay. Without evidence of acute trauma?
- 19 A Yes.
- 20 Q No discharge or erythema?
- 21 A Yes.
- 22 Q Meaning there was no redness or anything like that?
- 23 A Correct.
- 24 Q No injuries identified?
- 25 A Correct.

- 1 Q You also tested for sexually transmitted diseases?
- 2 A Correct.
- 3 Q All those came back negative?
- 4 A Correct.
- 5 Q All in all the anogenital exam was unremarkable?
- 6 A Correct.
- 7 Q Meaning it was a normal physical exam?
- 8 A Correct.
- 9 Q You also did a physical exam for Little Sister ?
- 10 A Correct.
- 11 Q And this concluded like Complainant, the anogenital exam?
- 12 A Yes.
- 13 Q And you report that this is a normal prepubertal hymen?
- 14 A Yes.
- 15 Q Without evidence of acute trauma?
- 16 A Yes.
- 17 Q No discharge or redness?
- 18 A Correct.
- 19 Q No injuries identified?
- 20 A Correct.
- 21 Q Also negative on sexually transmitted diseases?
- 22 A Correct.
- 23 Q Meaning her exam was also unremarkable?
- 24 A Correct.
- 25 Q A normal physical exam?

1 A Correct.

2 Q So with Complainant you found no evidence of physical
3 sexual abuse?

4 A Correct.

5 Q And with Little Sister you found no physical evidence of
6 sexual abuse?

7 A Correct.

8 Q And you sent this report to the Sheriff's Office?

9 A Yes.

10 Q And just to be clear, you never spoke with Mr. Harris
11 about this?

12 A Correct.

13 MR. KOZELSKI: Beg the court's indulgence.

14 THE COURT: All right.

15 MR. KOZELSKI: No further questions.

16 THE COURT: All right. Yes?

17 MS. ELLIOTT: No further questions from the State, Your
18 Honor.

19 THE COURT: And is this witness free to leave? Any
20 objection?

21 MR. KOZELSKI: No objection.

22 THE COURT: You are free to go. Call you next witness,
23 please.

24 MS. ELLIOTT: Judge, may we approach?

25 THE COURT: Sure.

1 (WHEREUPON, bench conference was had.)

2 THE COURT: We are going to take a lunch break. Do
3 remember don't allow anyone to discuss it with you over the
4 lunch break. We will start back at two o'clock.

5 Remember the phone -- everybody got the phone thing
6 down? Wonderful. Have a good lunch. Don't do any
7 research. No Columbo. No social media. See you at 2:00.
8 Have a good lunch.

9 (WHEREUPON, jury exits the courtroom 3/1/16, 12:47 p.m.)

10 THE COURT: All right. Anything before we take our
11 lunch break from the State?

12 MS. ELLIOTT: Nothing from the State, Your Honor.

13 THE COURT: From the defense?

14 MR. KOZELSKI: Nothing from the defense, Your Honor.

15 THE COURT: Great.

16 (WHEREUPON, lunch break was had 3/1/16 12:48 p.m.)

17 (WHEREUPON, resume following lunch 3/1/16, 2:17 p.m.)

18 THE COURT: Anything from the State before we bring our
19 jury?

20 MS. ELLIOTT: I told the forensic interviewer, Carrie
21 Strunsky to be here at 2:30. We were going to ask her the
22 preliminary questions about her interview regarding Complainant
23 and then we would seek to admit the video of Little Sister 's LCC
24 interview after that.

25 And under Rule -- and I am going to blank on the name

1 of it; 17 -- 17-23-175 there has to be those basically the
2 five findings by the judge on the record.

3 I didn't know if you felt comfortable enough having
4 reviewed the video alone to already make those findings, if
5 you wanted sworn testimony. Whether you wanted to hear that
6 before we got the jury in here. I didn't know how you
7 wanted to do that.

8 We also have an issue with we will be seeking to
9 introduce a jail call. Mr. Kozelski and I have some
10 different opinions on what is and is not admissible on that,
11 and I didn't know when you wanted to review that.

12 THE COURT: Okay.

13 MS. ELLIOTT: And that -- in my perfect world that
14 would be towards my last witness.

15 THE COURT: Gotcha. Gotcha. Okay. So maybe what we
16 can do is when we take the afternoon break for the jury take
17 a little bit longer than maybe we would do otherwise.

18 MS. ELLIOTT: Okay.

19 THE COURT: And do the jail call with that.

20 MS. ELLIOTT: Okay.

21 THE COURT: So -- and so then back to the -- no, I want
22 to hear -- I think for the record I want to hear the
23 testimony ---

24 MS. ELLIOTT: Okay.

25 THE COURT: --- and then make those findings.

1 MS. ELLIOTT: Okay.

2 THE COURT: So and that person is coming at 2:30?

3 MS. ELLIOTT: Yes, Your Honor.

4 THE COURT: Okay. So do you have a witness you can
5 call before that person arrives?

6 MS. ELLIOTT: I do.

7 THE COURT: Okay, great. Terrific. So let's have the
8 jury. Okay. Cool. I should have let y'all weigh in on
9 that. I'm sorry. Cool with that.)

10 MS. ELLIOTT: Judge, I'm sorry, Ms. Strunsky is here if
11 you wanted to do it now before the break. Or if you just --
12 I did not realize that she had arrived early.

13 THE COURT: Good for her, except we have already gone
14 for the jury.

15 MS. ELLIOTT: Okay.

16 (WHEREUPON, pause awaiting jury.)

17 (WHEREUPON, jury enters 3/1/16, 2:20 p.m.)

18 (WHEREUPON, the witness was duly sworn.)

19 THE CLERK: And if you could state your first and last
20 name and spell out your last name, please.

21 THE WITNESS: Yes. Anne Abel, A-B-E-L.

22 **DIRECT EXAMINATION BY MS. ELLIOTT OF DR. ANNE ABEL:**

23 Q Good afternoon, Dr. Abel. Would you mind telling us
24 where you are currently employed?

25 A Medical University of South Carolina.

1 Q And what is your position there?

2 A I am a clinical associate professor of pediatrics.

3 Q And is that in any particular specified division?

4 A Yes. I am in the division of child abuse pediatrics.

5 Q And will you tell us a little about your educational
6 background.

7 A Okay. I have a college degree in biology and
8 chemistry. I have a medical degree from the University
9 Medical School in Indianapolis. I have completed residency
10 in pediatrics. I am board certified in pediatrics. I
11 practiced for a number of years in pediatrics. I did a
12 fellowship in child and adolescent psychiatry at Hall
13 Institute. I practiced some more. I did another fellowship
14 in forensic pediatrics at Brown University.

15 Q And do you have any professional certifications?

16 A Yes. I'm a board certified child-abuse pediatrician
17 which is a subspecialty. And I am also board certified in
18 general pediatrics.

19 Q And how long have you been practicing in the field of
20 pediatrics?

21 A In pediatrics more than 30 years.

22 Q And how long have you been practicing in the field of
23 child abuse pediatrics?

24 A Approximately 15 to 20 years.

25 Q And how many pediatric sexual assault exams do you

1 think you have done in your career?

2 A Thousands.

3 Q And have you ever been qualified as an expert in court
4 before?

5 A Yes.

6 Q Do you know how many times and in which courts?

7 A I don't know how many times. Many courts. District of
8 Columbia, Maryland, Virginia, Rhode Island, South Carolina.

9 Q And have you ever failed to be qualified as an expert?

10 A No.

11 Q Your Honor, at this time I would move that Dr. Anne
12 Abel be accepted as an expert in pediatrics and child sexual
13 assault examination.

14 THE COURT: Is there any voir dire?

15 MR. KOZELSKI: No, Your Honor.

16 THE COURT: Any objection?

17 MR. KOZELSKI: No, Your Honor.

18 THE COURT: All right. She is s qualified.

19 THE COURT: Ladies and gentlemen, let me -- let me
20 explain to you what has just occurred. Normally under our
21 rules of evidence witnesses are not allowed to testify with
22 regards to their opinions or the reasons for those opinions.

23 There is an exception, and that is when by virtue of
24 someone's knowledge, training, profession, experience they
25 have become an expert in a field and they are then allowed

1 to testify regarding their opinions and the reasons for
2 those opinions within that area of expertise. And I would
3 so qualify Dr. Abel in the field of pediatrics and child
4 sexual assault -- examinations?

5 MS. ELLIOTT: Yes, Your Honor.

6 THE COURT: Very well. So qualified. You may proceed.

7 Q Dr. Abel, in the normal course of your duties do you
8 review peer's reports of examinations?

9 A Yes.

10 Q And did you do so in preparation for this case?

11 A Yes.

12 Q And did you use that report to help form some of the
13 basis of the opinions?

14 A I will, yes.

15 Q And who actually performed the sexual assault exam on
16 Complainant ?

17 A The exam on Complainant was performed by our physician's
18 assistant, Natalie Dixon.

19 Q And are you familiar with her?

20 A Yes.

21 Q And do you actually review this report even prior to
22 this case?

23 A Yes, we routinely review the reports and sign them.

24 Q And why is that?

25 A It is for quality control. We are a small division.

1 We want to be very high quality.

2 Q Can you please explain for me a little bit what the
3 general process is when a child comes in for a sexual
4 assault exam?

5 A When they are seen in clinic it means that the alleged
6 sexual abuse has occurred more than three days ago. If, they
7 are seen -- if the alleged sexual abuse was within three
8 days a different procedure occurs and they are seen in the
9 emergency room by our staff.

10 So in the clinic setting the information is recorded by
11 the intake person. And that is at the advocacy centers.
12 There's two of them we work at. And one of them is Dee
13 Norton Lowcountry Children's Center.

14 So the phone call comes in and they record all of the
15 information given about why the child is being referred, and
16 then they schedule the child.

17 So then they come to the clinic with a caregiver,
18 usually a parent, sometimes a guardian or a designated
19 relative. We get the history from the adult, especially for
20 the younger children.

21 And then by history I mean we ask all about why they
22 are there, what the medical background is for the child,
23 like what has happened medically. Social history, where
24 they live, physically how is the child doing, have they had
25 their shots, have they had routine care, have they had any

1 symptoms lately.

2 So we go through the whole review of systems like head
3 to toe, asking about the eyesight, the hearing, the throat,
4 the breathing, the digestion, the whole thing.

5 And if they are girls and they are pubertal we ask if
6 they have started their period and when and if they are
7 having any particular issues with that. Then we do the
8 medical exam.

9 In the room we have another professional with us, so a
10 certified nursing assistant or medical assistant is with us.
11 If the child wants their parent or guardian there they are
12 invited to be there too. And we look at them from head to
13 toe.

14 We start by getting their blood pressure, their height,
15 their weight, their pulse; that kind of thing. We have them
16 in a gown. So they are in a gown. So then we examine them
17 head to toe.

18 We usually end up with the anogenital exam for the
19 purpose of if they are referred for sexual abuse. And we
20 just look at the outside of their genital areas and see if
21 there is any sign of any injury or any diseases.

22 We sometimes do lab specimens looking for any sexually
23 transmitted diseases. Because sometimes a child can have
24 one of those diseases and it not be visible.

25 Q Would it be fair to say that really it is the

1 anogenital exam that differentiates the types of exams that
2 you all do versus just a general pediatric exam?

3 A Well, general pediatricians do examine genitals of
4 children and teenagers. But often if a child comes into the
5 office for a sick visit they may not do that. But in well-
6 child check it is part of a well-child check.

7 We do sometimes take images or pictures of that area
8 and we keep it in an encrypted drive so if there's any
9 questions later there would be a photograph of what the
10 finding was.

11 Q During your review of this exam of Complainant was
12 it found to be normal?

13 A Complainant, yes.

14 Q Does a normal exam rule out the potential for digital
15 penetration of the genital area?

16 A No, it does not.

17 Q Why not?

18 A Digital penetration very rarely results in any kind of
19 injury. I think I know of one published case of a child
20 that the person that put their finger in their vagina had a
21 very long fingernail and it caused a little tear of the
22 tissue. But that is highly unusual. Usually it causes no
23 finding that we can see on the exam.

24 Q Well, wouldn't any kind of penetration do damage to the
25 hymen?

1 A No.

2 Q Can you explain to us first what the hymen is?

3 A The hymen is the most outer part of the vagina. And
4 the vagina being a tube that leads up to the uterus. And
5 it's -- it changes depending on the age of the child.

6 Little female girls their hymen is very fluffy as the
7 result of the estrogen that is in their system from their
8 mother. And then as the child gets a little older some of
9 that fluffiness goes away. And usually by around age six it
10 is quite thin and delicate and tender.

11 Then as one of the first signs of puberty -- and this
12 is something an average person wouldn't know. We know it
13 because we look at children in this area a lot. The hymen
14 becomes thicker again, kind of like when they were a baby
15 except not as much. But it is more thickened. And it is
16 from the estrogen.

17 So that as a child becomes an adolescent of course the
18 child is growing so the diameters of the area are bigger,
19 and it usually becomes quite estrogenized and redundant or
20 bumpy.

21 Q Now you were telling us though that there is a phase
22 for girls - and maybe you can kind of clarify what that
23 is - when it become more fragile?

24 A Yes.

25 Q Why wouldn't you assume that there would be damage with

1 any penetration at that -- during that phase?

2 A I can't explain that. All I know is that we have lots
3 of published data on children from infancy to, you know, 18
4 or so, where they know that there's court finding of sexual
5 abuse. And then they look at the images in retrospect to
6 see well how many of them had physical findings on the
7 genital exam. And it is about five percent definite
8 physical findings.

9 So many many times there is some form of penetration,
10 even penetration between the labia minora and labia majora,
11 which are the outer parts of the genital in a female, that
12 degree of penetration or sometimes there is penetration into
13 the vagina but especially on really young children they are
14 so sexually inexperienced they don't know what is just
15 penetration of the labia majora and what is penetration of
16 the vagina. They don't have that life experience yet.

17 Q But going back to my question, are there commonly
18 accepted ideas as to why there aren't findings of
19 penetration or why there may not be evidence when there --
20 when there has been proof that there was in fact
21 penetration, whether that be by confession, by pregnancy, by
22 something like that?

23 A Well, medical literature doesn't have the explanation
24 other than it is a fact. I don't know if you really want
25 speculation.

1 Q Well, is there a different healing rate in that portion
2 of the body than in other areas?

3 A It heals very fast. Women that know that have given
4 birth except under unusual circumstances that part of the
5 body heals very fast, even when there has been an episiotomy
6 where they had to cut a little bit to let the baby's head
7 come through. So the blood supply is excellent. It heals
8 fast.

9 Q So are physical findings of oral penetration common?

10 A They are rare. But they can occur where there has been
11 forceful penetration of the mouth cavity and the top of the
12 pallet especially in the back part may have tiny little
13 bruises called petechiae. But they fade fast.

14 Q Do you have any idea how fast?

15 A Usually petechiae fade within a day in any part of the
16 body.

17 Q Does the method of penetration impact the likelihood of
18 a physical finding in a sexual assault exam?

19 A By method what do you mean method?

20 Q Does size of what -- does size of the penetrating
21 object affect whether or not there are physical findings?

22 A I think the answer is yes, because we absolutely know
23 that finger penetration almost never leaves anything and
24 penile penetration which is larger than the average fingers
25 of an adult sometimes does leave findings. But it usually

1 doesn't. But it can.

2 MS. ELLIOTT: Courts indulgence, Your Honor.

3 THE COURT: All right.

4 MS. ELLIOTT: No further questions, Your Honor.

5 THE COURT: Cross-examination.

6 **CROSS-EXAMINATION BY MR. KOZELSKI OF DR. ANNE ABEL:**

7 Q Dr. Abel, you are a doctor?

8 A Yes.

9 Q And doctors are medical scientists?

10 A Yes.

11 Q You rely on science to help you diagnose your patients?

12 A Well, I was also taught medicine is science -- is an
13 art and a science.

14 Q Okay. And so you use that science to treat the
15 patients as well?

16 A Yes.

17 Q And as a scientist who are supposed to look at your
18 work objectively?

19 A Yes.

20 Q Meaning you gather as many facts as possible before you
21 make any conclusions or diagnosis?

22 A Yes. As many facts as are available at the time, yes.

23 Q And in medicine you doctors don't like to deal with
24 impossibilities?

25 A Excuse me?

1 Q You don't like to deal with impossibilities; nothing is
2 impossible in medicine?

3 A Well, we like to keep -- the framework of how we are
4 trained is to look at all possibilities. If that is what
5 you're asking.

6 Q Right, nothing -- nothing is impossible; you can't --
7 you are not going to say it is impossible to cure something,
8 it is impossible say to bring somebody back to life; that is
9 not something that you deal with in medicine?

10 A Well, these are very interesting questions. I mean
11 there are some things that are wrong.

12 Q Okay.

13 A That are medically wrong. That they are the wrong
14 answer, they are the wrong diagnosis.

15 Q But you would use -- you would put -- you term a phrase
16 of to a reasonable degree of medical certainty?

17 A That phrase is used ---

18 Q Okay.

19 A --- in court, yes.

20 Q And you have done this you have said for 30 years in
21 pediatrics?

22 A I have been a pediatrician a long time.

23 Q Fifteen to twenty years specializing in child abuse?

24 A Yes.

25 Q Thousands of assaults that you have looked at?

1 A Yes.

2 Q And what you told Ms. Elliott is that even though it is
3 a normal examine it does not rule out the possibility of
4 abuse?

5 A That is true.

6 Q So in these thousands of assaults that you have
7 witnessed you have never ruled out the possibility of abuse?

8 A That's incorrect. I have seen children that someone
9 was worried that they were abused and information came out
10 that there was a straddle injury or there was some other
11 explanation for their injury. So, you know, I've been
12 called to the emergency room to see the children like that;
13 and I've helped determined it is not abuse.

14 Q Okay. But with a normal exam you can never rule out
15 the possibility of abuse?

16 A There are times when there is other information that is
17 so clear in the history of how the information came out that
18 you cannot diagnose sexual abuse. There are times like
19 that.

20 Q So sometime you can get a normal exam and you would say
21 to a reasonable degree of medical certainty that no abuse
22 occurred?

23 A Yes, with -- with the total amount of information there
24 would be times like that.

25 Q Okay. And you have testified you said countless times;

1 I think you testified probably about 275 times in court?

2 A Is that -- yeah, that --- I don't keep a tally, you
3 know, like -- I keep a tally of the number of medical exams
4 I got. But I don't keep a tally list of the number of times
5 I testify. So I do my best to estimate that.

6 Q Okay. And so that may be what you put on your ---

7 A Yeah.

8 Q --- your CV?

9 A Yeah.

10 Q Okay. And 275 times you have done that. Have you ever
11 testified that sexual assault was not possible?

12 A Usually -- I don't recall I have. And usually because
13 the report would say that and then it doesn't come to court.

14 Q Okay, so they ---

15 A But I have testified for the defense. I have testified
16 in cases where the conclusions seemed medically wrong.

17 Q Okay. So you -- so the answer is no, you have never
18 testified that sexual abuse is not possible?

19 A I don't -- I don't -- I -- I've testified for the
20 defense. And I can't remember the exact details of what all
21 those cases were.

22 Q And so the answer is you don't know, or the answer is
23 no?

24 A I don't know.

25 MR. KOZELSKI: Beg the court's indulgence.

1 THE COURT: All right.

2 MR. KOZELSKI: No further questions, Your Honor.

3 THE COURT: All right. Redirect.

4 MS. ELLIOTT: No redirect, Your Honor.

5 THE COURT: All right. Is this witness free to leave?

6 MS. ELLIOTT: No objection from the State.

7 THE COURT: Any objection?

8 MR. KOZELSKI: No ---

9 THE COURT: Very well. You are free to go. All right.

10 MS. ELLIOTT: We have a matter of law, Your Honor.

11 THE COURT: Very well.

12 Ladies and gentlemen, I am going to ask you to step to
13 your jury room. Please do not discuss this matter. Do not
14 allow anyone to discuss it with you. There is a matter of
15 law that I must take up outside of your presence. Step to
16 your jury room, please.

17 (WHEREUPON, jury exits courtroom 3/1/16, 2:42 p.m.)

18 MS. ELLIOTT: Your Honor, we will be bringing up Carrie
19 Strunsky ---

20 THE COURT: Okay.

21 MS. ELLIOTT: --- to testify in camera for Your Honor.

22 THE COURT: Okay.

23 MS. ELLIOTT: Your Honor, the State would call Ms.
24 Carrie Strunsky.

25 (WHEREUPON, the witness was duly sworn.)

1 THE CLERK: If you could state your first and last name
2 and spell out your last name, please.

3 THE WITNESS: Carrie Strunsky, S-T-R-U-N-S-K-Y.

4 THE COURT: You may proceed.

5 **DIRECT EXAMINATION BY MS. TRAN OF CARRIE STRUNSKY (IC):**

6 Q Ms. Strunsky, where do you work?

7 A I work at Dee Norton Lowcountry Children's Center..

8 Q And how long have you worked there?

9 A Since 2011.

10 Q Did you work anywhere else besides Lowcountry
11 Children's Center?

12 A I did. When I graduated with my master's I started at
13 Dorchester Children's Center in Summerville.

14 Q And how long did you work there?

15 A From March 2010 to July of 2011.

16 Q What type of degrees do you have?

17 A I have a bachelor's of science in exercise sports
18 science and a master's in global counseling.

19 Q And do you have any specialized training in
20 interviewing in any specific -- specifically interviewing
21 children?

22 A Uh-huh, I attended the child-first training in Columbia
23 in 2010 to learn the South Carolina protocol for
24 interviewing children. And then I attended the advanced
25 training that they held in 2014. And then I also attended a

1 training in 2015 for the interview protocol NICHD.

2 Q And did you interview Little Sister ?

3 A I did.

4 Q What date did you interview her?

5 A October 29th, 2013.

6 Q And in your interview with Little Sister what type of
7 interview procedure did you use?

8 A The child-first protocol that I was trained in.

9 Q Can you describe that a little bit to us?

10 A Sure. It is a semi-formal interview protocol where you
11 first develop rapport with the child, so you are asking them
12 and assessing their ability to provide narrative related to
13 a neutral event.

14 You then move into the abuse inquiries. So assessing
15 if they have experienced any kind of neglect or abuse. And
16 then it finishes with kind of a neutral closure, a thank you
17 for talking with me today or something like that.

18 Q Okay. And when you were asking Little Sister a question did
19 you use non suggestive questions?

20 A I did.

21 Q And during this interview with Little Sister did she disclose
22 to you the sexual assault she witnessed by Maurice Harris
23 against her sister Complainant ?

24 A She did.

25 Q And was this interview video and audio recorded?

1 A It was.

2 MS. TRAN: May I approach the witness, Your Honor? May
3 I approach the witness?

4 THE COURT: Yes, you may.

5 Q Do you recognize this?

6 A Yes, that is the interview that I brought today.

7 Q Okay. And did you have a chance to review it?

8 A I did.

9 Q When you reviewed it was it a true and accurate
10 depiction of your interview with the Little Sister ?

11 A It was.

12 Q That is all the questions that I have for you. Thank
13 you.

14 A Okay.

15 THE COURT: Cross-examination.

16 MR. KOZELSKI: I have no cross-examination.

17 THE COURT: All right.

18 (WHEREUPON, bench conference was had.)

19 THE COURT: All right. I am going to watch it again.

20 MS. ELLIOTT: Okay.

21 THE COURT: I mean I watched it last evening. But I
22 would watch it again.

23 MS. ELLIOTT: Would you like us to put it on the big
24 screen?

25 THE COURT: Sure.

1 MS. ELLIOTT: Okay.

2 THE COURT: That would be great. Thank you.

3 (WHEREUPON, video played in courtroom 3/1/16, approximately
4 2:50 p.m.)

5 THE COURT: I would be happy to hear from on behalf of
6 the State and on behalf of the defense any comments. Yes?

7 MS. TRAN: May it please the court, Your Honor.

8 THE COURT: Yes.

9 MS. TRAN: Under South Carolina Code annotated
10 17-23-175 it says that a General Sessions Court may admit an
11 out-of-court statement of the child if the statement was
12 given in response to questioning conducted during the
13 investigative interview of the child.

14 Here it was given in response to questioning conducted
15 as a result of the investigation on Maurice Harris.

16 Number two, an audiovisual recording of statements,
17 Which they are on film. Of course we just watched it. The
18 child testifies at the proceeding and is subject to cross-
19 examination. Little Sister testified in this courtroom earlier
20 this morning.

21 And number four, the court finds in a hearing conducted
22 outside the presence of a jury that the totality of the
23 circumstances surrounding the making of the statement
24 provides particularized guarantees of trustworthiness and in
25 order to determine this the court may consider such factors

1 as whether the statement was elicited by leading question.

2 Ms. Strunsky testified that she used non-suggestive
3 questions. Your Honor was able to see that in this video.
4 She testified that she has degrees and further specialized
5 training in interviewing children.

6 Number three, is whether the statement represents a
7 detailed account of the alleged offense. The video shows
8 Little Sister making a detailed account of what she saw between
9 Maurice Harris and her sister Complainant .

10 Number four, whether the statement has internal
11 coherence, we would argue that it does.

12 And then number five of course is the sworn testimony
13 of any participant which may be determined as necessary by
14 the court.

15 Your Honor, we would argue that the State has met the
16 burden and shown that this video should be admitted; and we
17 ask that you do so.

18 THE COURT: Okay.

19 MR. KOZELSKI: No objection from the defense, Your
20 Honor.

21 THE COURT: Very well.

22 (WHEREUPON, State's Exhibit Number 2, LCC interview of
23 Little Sister on DVD, was marked for identification.)

24 (WHEREUPON, State's Exhibit Number 2 was admitted into
25 evidence.)

1 THE COURT: And I would likewise find that based on the
2 total -- certainly the totality of the circumstances there
3 are particularized guarantees for trustworthiness. We can
4 begin -- this was an investigative interview. And I think
5 it was referred to by the at the time detective, now not
6 detective, who requested that this interview be conducted by
7 the Lowcountry Children's Center.

8 And the -- certainly the person at Lowcountry
9 Children's Center gave details about not only her
10 educational advantages but her training and her training in
11 how specifically to question children and that she had
12 received particularized instruction in how to interview a
13 child in accordance with South Carolina protocol.

14 And obviously this witness who is on the tape
15 testified this morning and was subject to cross-examination.
16 And I do with regards to the trust -- the generalized
17 trustworthiness I thought that in terms of observation I
18 thought that the person who was eliciting the testimony --
19 is it Ms. Strunker (ph)?

20 MS. TRAN: Strunsky.

21 THE COURT: Say again.

22 MS. TRAN: Strunsky.

23 THE COURT: Strunsky. Did an excellent job of not
24 asking leading questions and following up in a generalized
25 way. It was quite impressive actually. And not easy to do

1 with a child this child's age at eight.

2 And I would make this observation also that while many
3 times the child would nod, it is preserved in terms of your
4 reiterating what the child's indicating which gave her an
5 opportunity if she wasn't -- if she didn't mean to nod yes
6 then she could have corrected you.

7 MS. TRAN: Right.

8 THE COURT: But it was very clear she is nodding yes or
9 nodding no. She gave -- certainly gave a detailed account
10 of two offenses. The first being what her sister had
11 related to her, **Complainant** had related happened to her. So
12 while she doesn't have any direct knowledge of what had
13 occurred to her, she certainly talks about what her sister
14 **Complainant** told her had happened to her and how. And then is
15 also able to relay what she had seen happen to her sister
16 **Complainant**.

17 And when you talk about internal coherence even though
18 she is eight years old this little girl is very articulate.
19 Even though she may be nodding, she is quite articulate.

20 And clearly these are not the friendliness
21 circumstances for any child to be testifying in court or
22 even at the Lowcountry Children's Center. Although I know
23 there is a tremendous attempt to make it that way, it is
24 just not comfortable.

25 And there was certainly internal coherence. There was

1 consistency. And there were a couple of times I noticed
2 that you would go a little big back over just to be sure
3 that she was being consistent, gently over information. And
4 that happened a couple of times.

5 And I don't think there's any other sworn testimony
6 that is needed. So I can concur with the defense; there is
7 no objection and I would find that this tape certainly has a
8 particularized guarantee of trustworthiness. Okay.

9 MS. TRAN: Thank you, Your Honor.

10 THE COURT: Okay.

11 MS. TRAN: Your Honor, may I get these quickly marked
12 before the jury comes in?

13 THE COURT: Sure.

14 (WHEREUPON, State's Exhibit Number 3, Maurice Harris jail
15 call on DVD, was marked for identification.)

16 MS. ELLIOTT: Your Honor, our next witness of course is
17 going to be Ms. Strunsky. Would you like for her to go back
18 in the audience before the jury comes in or ---

19 THE COURT: Only if she needs to stroll around to wake
20 up.

21 THE WITNESS: I am okay.

22 THE COURT: Okay. Just stand to be sworn in again.

23 MS. ELLIOTT: And just to ask Your Honor just because
24 we are in the middle of a break now, do you want to take up
25 the jail call issue; or is that something you still want to

1 wait?

2 THE COURT: We will go over that again.

3 Yes, jury.

4 (WHEREUPON, break awaiting jury.)

5 (WHEREUPON, jury enters courtroom 3/1/16, 3:29 p.m.)

6 THE COURT: Ladies and gentlemen, we will continue with

7 the State's case. Will you please call your next witness.

8 MS. TRAN: Thank you, Your Honor. The State calls

9 Carrie Strunsky.

10 THE COURT: If you will stand and be sworn again.

11 THE CLERK: Oh, I'm sorry. I didn't realize ---

12 THE COURT: Stand and be sworn rather.

13 (WHEREUPON, the witness was duly sworn.)

14 THE CLERK: Thank you. And for the record again if you

15 would state your first and last name.

16 THE WITNESS: My name is Carrie Strunsky. Do you want

17 me to spell that?

18 THE COURT: Sure.

19 THE CLERK: For the -- sure, for the record again.

20 THE WITNESS: S-T-R-U-N-S-K-Y.

21 THE COURT: Thank you.

22 **DIRECT EXAMINATION BY MS. TRAN OF CARRIE STRUNSKY:**

23 Q Ms. Strunsky, where do you work now?

24 A I work at Dee Norton Lowcountry Children's Center.

25 Q And how long have you worked there?

1 A I have worked there since July of 2011.

2 Q And what are your duties and responsibilities there?

3 A I do interviews with children when there are
4 allegations of abuse and neglect. I do therapy when abuse
5 has occurred. And I also run our program for children with
6 sexual behavior problems.

7 Q And at LCC did you have a chance to interview Complainant
8 ?

9 A I did.

10 Q And when did this interview occur?

11 A October 29th, 2013.

12 Q Who came to the Children's Center with her?

13 A She was brought by her mother, her mother's boyfriend;
14 and then she was also accompanied by her sister and brother.

15 Q When you talked to Complainant did you talk to her alone
16 or with other people?

17 A I talked to her alone.

18 Q And in your interview with her did she disclose to you
19 a sexual assault?

20 A She did.

21 Q When did she say this assault occurred?

22 A She said this summer. So the summer of 2013.

23 Q And where did she say the assault occurred?

24 A In the den on the couch.

25 Q And as -- when you were with LCC did you also interview

1 Little Sister ?

2 A I did.

3 Q Was this interview -- well, when did you interview

4 Little Sister ?

5 A The same day. So October 29th, 2013.

6 Q And was this interview video and audio recorded?

7 A It was.

8 MS. TRAN: Your Honor, may I approach the witness?

9 THE COURT: You may.

10 Q Ms. Strunsky, I am showing you what has previously been
11 marked for identification purposes as State's Exhibit 2. Do
12 you recognize that?

13 A I do. I brought it here today.

14 Q Okay. And what is it?

15 A It is the video and audio recording of the interview I
16 did with Little Sister .

17 Q And how do you know?

18 A I watched it.

19 Q Okay. And is that your signature on there?

20 A It is.

21 Q And when you reviewed it, is this video a true and
22 accurate depiction of your interview with Little Sister on
23 October 29th, 2013?

24 A It is.

25 MS. TRAN: Your Honor, at this time the State would

1 enter exhibit -- State's Exhibit 2 into evidence.

2 THE COURT: Any objection?

3 MR. KOZELSKI: No objection.

4 THE COURT: Very well.

5 MS. TRAN: And permission to publish to the jury?

6 THE COURT: Very well.

7 (WHEREUPON, State's Exhibit Number 2 was again admitted into
8 evidence.)

9 (WHEREUPON, State's Exhibit Number 2, interview of Little Sister
10 at LCC, published for the court.)

11 THE COURT: Any further direct?

12 MS. TRAN: Nothing further, Your Honor.

13 THE COURT: All right. Cross-examination.

14 **CROSS-EXAMINATION BY MR. KOZELSKI OF CARRIE STRUNSKY:**

15 Q Ms. Strunsky, as we just saw, your job is to interview
16 children and teenagers that are referred to the Lowcountry
17 Children's Center?

18 A I'm sorry, could you say that again.

19 Q That is your job is to talk with these kids?

20 A Yes.

21 Q And most of these referrals come from law-enforcement?

22 A Law enforcement or DSS.

23 Q And that is when there are allegations of physical
24 abuse or sexual abuse?

25 A We access for all types of abuse.

1 Q When you get a child into that room you want them to be
2 as comfortable as possible?

3 A Correct.

4 Q You want them to open up to you?

5 A We want them to be comfortable.

6 Q You want them to trust you?

7 A Sure.

8 Q You want to get as much information out of them about
9 these allegations as you can?

10 A Correct.

11 Q And you take notes while you do this?

12 A I don't typically.

13 Q Okay.

14 A Besides the family names and things.

15 Q Did you take -- take notes in this case?

16 A I mean I wrote things on -- the names of the family on
17 the board. But otherwise I didn't take notes.

18 Q And when you ask these questions you want to make sure
19 that these children are safe at home?

20 A Correct.

21 Q From physical abuse, sexual abuse, all types of abuses,
22 neglect?

23 A Right.

24 Q And as we just saw, you tell them that you are
25 recording?

1 A Uh-huh, yes.

2 Q So you don't forget anything that they say at all?

3 A Right.

4 Q You later turn these recordings over to law-
5 enforcement?

6 A If they request them.

7 Q So law-enforcement relies on you getting as much detail
8 as possible to build their case?

9 A Right. The goal is to have children questioned as few
10 times as possible, to be less traumatic to them.

11 Q Ultimately, like now, you could end of being a witness
12 at trial?

13 A Correct.

14 Q Talk about what you observed in the interview?

15 A Correct.

16 Q You have even done training on how to become an
17 effective witness at trial?

18 A I have.

19 Q You have testified in several trials?

20 A I have testified -- this will be my third time.

21 Q And is it always the State that has called you?

22 A Well, I have been subpoenaed by the defense on one
23 case. But I did not end up testifying in that case.

24 Q As we just saw, you interviewed Little Sister . But you also
25 interviewed Complainant?

1 A I did.

2 Q I want to talk to you about Complainant's interview and
3 some of the things she told you. She told you she was at
4 Maurice's house over the summer?

5 A She did.

6 Q Watching a movie called *That's My Boy*?

7 A Yes.

8 Q All the siblings were on the couch watching that movie?

9 A She said all the ---

10 MS. TRAN: Your Honor, objection. Hearsay.

11 THE COURT: Is there an exception?

12 MR. KOZELSKI: Yes, prior inconsistent statement.

13 THE COURT: Come here.

14 (WHEREUPON, bench conference was had 3/1/16, 4:05 p.m.)

15 THE COURT: Go ahead.

16 MR. KOZELSKI: Thank you, Judge.

17 Q Complainant told you that all the siblings were on the
18 couch watching this movie?

19 A She says all the siblings were in the room. And then
20 she said all of them were on the couch. I didn't clarify
21 who that meant.

22 Q You asked her who was watching the movie?

23 A Right.

24 Q And she told you her, her little sister, her little
25 brother, her older brother, and Maurice?

1 A Right.

2 Q After the movie she told you that Maurice was touching
3 her and her little sister while they were sleeping?

4 A She said that her brothers were sleeping.

5 Q Okay. She didn't tell you that he was touching me and
6 my little sister while we were sleeping?

7 A I don't have that information. I don't have that in my
8 record.

9 Q If I showed you a transcript of that video would that
10 refresh your recollection?

11 A I guess so.

12 MR. KOZELSKI: Permission to approach, Your Honor.

13 THE COURT: Okay.

14 (WHEREUPON, document provided to the witness.)

15 Q Does that help you refresh your recollection?

16 A Yes. According to this transcript she said -- do you
17 want me to read that section or ...?

18 Q Just -- not read it verbatim, just did she tell you
19 that Maurice was touching her and her little sister while
20 they were sleeping?

21 A Yes.

22 Q Okay. And you asked her who was in the room?

23 A Uh-huh.

24 Q And she told you her little sister and little brother,
25 older brother, and Maurice?

1 A Correct.

2 Q You asked her where in -- what part of the house he was
3 touching her in?

4 A Uh-huh. She reported the den on the couch.

5 Q The den. And you asked who was in the den?

6 A I don't know if I specifically asked who was in the
7 den. But she had said that all those people were watching
8 the movie in that room.

9 Q Okay.

10 (WHEREUPON, pause for witness to refer to document.)

11 A Yes, according to this transcribed I asked who was in
12 the den. She said me, my little sister and my brother and
13 my -- my older brother and my little brother.

14 Q And she told you her older brother and her younger
15 brother fell asleep?

16 A Correct.

17 Q She also told you that he stuck his hands up her
18 basketball shorts?

19 THE COURT: Counsel, let me see you a second, please.

20 (WHEREUPON, bench conference was had 3/1/16, 4:13 p.m.)

21 Q Complainant never told you that Maurice took off her
22 pants?

23 A That is correct.

24 Q Never told you that he took off Little Sister 's pants?

25 A I will have to look.

1 (WHEREUPON, pause for witness to refer to report.)

2 A I don't know that I asked for as much detail really
3 into what happened to her sister.

4 Q Do you remember the statement: You will always be my
5 Little Nasty?

6 A Yes, she said that Maurice said that to her.

7 Q Okay. Did she say that she said it to her and Little Sister ?
8 (WHEREUPON, pause for witness to refer to notes.)

9 A Yes, to both her and Little Sister .

10 Q She also talked about Maurice tried to put his penis in
11 her mouth?

12 A Correct.

13 Q And you asked her if anything came out?

14 (WHEREUPON, pause for witness to refer to notes.)

15 A I don't have that documented in my summary.

16 Q You don't remember asking her whether anything came out
17 of his penis?

18 A It is a common question, so I may have. I just don't
19 have it in my summary of the interview.

20 Q Let me ask you this: You asked her what his penis
21 looked like?

22 A I did.

23 Q And she told you she couldn't see it because it was
24 dark?

25 A Uh-huh.

- 1 THE COURT REPORTER: I'm sorry, if you could ---
- 2 A Yes.
- 3 Q So you asked her how you knew it was Maurice?
- 4 A Correct.
- 5 Q And that is because she told you because she could hear
- 6 him talking to Little Brother ?
- 7 A Correct.
- 8 Q Who was also on the couch?
- 9 A I didn't ask for his location at that specific
- 10 statement.
- 11 Q No disclosure of any threats made?
- 12 A None that were reported to me that I remember.
- 13 Q No threats of violence?
- 14 A No.
- 15 Q Really the only violence that she disclosed to you was
- 16 from watching *Law and Order*?
- 17 A I don't remember. I mean I guess it depends on what
- 18 your definition of violence is. She did disclose being
- 19 forced.
- 20 Q And there was no disclosure that she had ever seen
- 21 anybody using drugs or alcohol?
- 22 A I don't recall that.
- 23 Q She never -- she never told you that she was made to
- 24 drink something?
- 25 A No.

1 Q Never told you that Maurice made her or Little Sister drink
2 anything?

3 A We would not have asked that. Kids are not asked
4 questions of themselves in these interviews.

5 Q Okay. So you asked her about drugs and alcohol, but
6 she didn't disclose anything about drinking anything?

7 A Not that I remember.

8 MR. KOZELSKI: Beg the court's indulgence.

9 THE COURT: Okay.

10 MR. KOZELSKI: No further questions, Your Honor.

11 THE COURT: Okay. Redirect.

12 MS. TRAN: Your Honor, may we approach?

13 THE COURT: Sure.

14 (WHEREUPON, bench conference was had 3/1/16, 4:19 p.m.)

15 THE COURT: Okay. It is getting to where about the
16 time I finish y'all are going to come back in for about
17 probably 15 minutes more of testimony.

18 I think I ought to let you beat the traffic home. I
19 think that is a better use of your time. I will see you in
20 the morning at 9:30.

21 Please be mindful of all of the admonitions. Do not
22 read anything. Do not listen to anything about this matter,
23 radio, television, internet. Don't blog. Don't tweet.
24 Don't Facebook. No social media regarding this matter. No
25 Columbo. Do not discuss this matter or allow anyone to

1 discuss it with you.

2 If bossman's little temperature is going up, get me --
3 a boss person, get me a name, number. I'm excited to make a
4 phone call. Because I need you rested.

5 I will see all of you in the morning 9:30. Remember
6 about your phone, please. You must not have a phone with
7 you while you are serving on the jury. And have a good
8 evening. See you in the morning at 9:30.

9 (WHEREUPON, jury dismissed for the day 3/1/16, 4:21 p.m.)

10 THE COURT: Okay. Yes. Yes. Listen.

11 MR. KOZELSKI: Your Honor, as to that we ---

12 (WHEREUPON, pause for counselors to confer.)

13 MR. KOZELSKI: We are ---

14 THE COURT: Y'all can talk if you want to. All right.
15 Yeah.

16 MR. KOZELSKI: We are specifically attempting to bring
17 out inconsistent statements that were made in Complainant's
18 testimony.

19 THE COURT: Right.

20 MR. KOZELSKI: Those are the only points of the video
21 that we were attempting -- or the interview with Ms.
22 Strunsky that we were attempting to bring out that were
23 inconsistent with her testimony today -- or yesterday.

24 I don't think we are alleging any type of recent
25 fabrication other than the inconsistency of what her

1 testimony was today.

2 THE COURT: I think that is called pretty recent
3 fabrication. Today -- like earlier today.

4 MR. KOZELSKI: Well, what ---

5 THE COURT: Let me begin by laying the table if you
6 will. And you all tell me if I am in error. Here's -- here
7 is where we are.

8 Where we are is we have a witness who has testified,
9 testified with regards to another tape about what another
10 person, another young lady, witnessed with regards to her
11 sister. And then and obviously the victim has testified and
12 testified what happened to her and has identified the
13 alleged perpetrator. All of that has been testified to.

14 All right. So with this particular witness whose
15 testimony was elicited but the tape not played, the
16 statement if you will, the videotaped statement, not played,
17 just the questions asked in general in accordance with
18 801(d)(1) -- or (d)(2)(D) -- no, (d)(2)(C) -- no, (d)(1)(D).
19 (d)(1)(D). I'm sorry. I will get there.

20 Staying with the time and place, yet there was a whole
21 nother statement. It is my understanding for impeachment
22 purposes that the defense went into that statement and used
23 the transcript rather than the statement itself, without
24 objection, and for the purpose of impeachment and for the
25 purpose of impeaching a statement made earlier today in

1 court, went into the statement that was given earlier to the
2 witness. And at times reading.

3 Obviously she was reading the transcript. Did she say
4 this. Did she say that. Did she say this. Did you say
5 that. Did she say this.

6 And at that point quite frankly I became a little bit
7 concerned because it was my understanding that you wanted a
8 snippet with regards to the statement with regards to
9 impeachment. And I -- at that point I mentioned be careful,
10 you may be opening the door.

11 And then we began this business of reading the
12 transcript. And at one point you handed the transcript to
13 the witness and y'all were reading the transcript together.
14 Didn't you say this. Yep. Didn't you say that. Yes.
15 Didn't you say this. Yes.

16 The problem is is that I think that you have in doing
17 that moved from 801(d)(1)(D) back to plain old 801(d)(1)(A)
18 and (B). Tell me why you haven't done that?

19 MR. KOZELSKI: Well, Your Honor, nothing that I have
20 asked Ms. Strutsky about inconsistent statements are going
21 to be rebutted by putting in this video. They are not going
22 to -- by putting in this video then make her statements
23 consistent with what she said earlier. Because they are
24 very different from what she said earlier.

25 So the only points that I brought out in the video

1 are -- were the statements that were different from the
2 statements that she made on the stand.

3 So putting in that video is not going to show that
4 those statements are now consistent. The statements are
5 still going to be inconsistent. But it will just bring in
6 the rest of the testimony which would be hearsay.

7 THE COURT: Okay. Yes, ma'am?

8 MS. ELLIOTT: Judge, I would point to State v.
9 Jeffcoat. He -- there were several times where he was
10 seeking to impeach Complainant on the stand where her
11 response was I don't remember saying that on the video, I
12 don't remember saying that on the video. She wasn't denying
13 it. She was saying she didn't remember.

14 The entire case has been implications that she has
15 created new fact since the time of this video. This video
16 is memorializing what was said at that time. And it went
17 beyond simply oh she denied this on the stand. He went into
18 things that she said I don't recall.

19 And I think he has opened the door to that video coming
20 in. I think Jeffcoat would say that -- I think there have
21 been implications of recent fabrication and changes ---

22 THE COURT: Oh, oh, erk, erk, erk, erk.

23 (WHEREUPON, Court motioning for counsel to slow down.)

24 MS. ELLIOTT: Oh, I'm sorry. I think there have been
25 implications of recent fabrications since the timing of that

1 statement. And also contextually picking and pulling
2 certain statements.

3 She got on the stand and testified of three instances
4 of fellatio. In the video she only talks about one, and
5 there is no context for that.

6 And so he is impeaching her -- I think the impeachment
7 was unclear and not locked down. And I think that he just
8 opened the door by reading the transcript and asking all of
9 these specific questions about both of their statements
10 throughout it. And I would cite Jeffcoat -- State v.
11 Jeffcoat 350 S.C. 392 and 801(d)(1)(B).

12 THE COURT: And I will look at the video over the
13 evening. How about that?

14 MR. KOZELSKI: That is fine, Your Honor.

15 THE COURT: Go ahead and tell me what you were going to
16 tell me. But I will look at the video.

17 MR. KOZELSKI: The only thing I addressed I believe it
18 is five -- five topics. The fact that they were sleeping
19 and she denied that on the stand. That was a denial. I ---

20 THE COURT: And at that point though -- and you
21 identified in that question your client, yes?

22 MR. KOZELSKI: Yes.

23 THE COURT: . Okay. Go ahead.

24 MR. KOZELSKI: The fact that Little Brother was in the room
25 both times, both of which she denied on the stand that

1 Little Brother was not in the room. And that there was no exposure
2 to alcohol or drugs, when she testified that he made her
3 drink something.

4 So those were the points that I made. I don't think I
5 stepped out of bounds. As far as the transcripts are
6 concerned I did ask her not to read from the transcript.
7 But when I did say her brother, her sister, her little --
8 that was directly from the transcript, but I don't know how
9 I can get off of that line of quoting that. I mean the
10 people are who they are. And those were the people that she
11 stated in the video.

12 THE COURT: Got it. Got it. Very well. Let me
13 just -- I will just take the tape. Ooh, I hate to -- is
14 there only one tape?

15 MS. ELLIOTT: There is only one tape. If you can give
16 me about 15 minutes I think I can get another copy made.

17 THE COURT: Can you just ---

18 THE COURT'S LAW CLERK: I can just put the file on my
19 computer ---

20 MS. ELLIOTT: Like right now -- okay. Perfect. Then I
21 can do that.

22 (WHEREUPON, pause to make a duplicate of the recording.)

23 MS. ELLIOTT: Since we are sitting do you want to
24 listen to the jail call now? It is a timed jail call. And
25 if the court would like, I did produce a transcript of this

1 as well if you wanted to follow along with that. Because
2 that might make it easier for Mr. Kozelski ---

3 THE COURT: I don't think it is fair.

4 MS. ELLIOTT: Well, I think for you since I think we
5 are going to be kind of nitpicky on what we think is
6 admissible and not admissible even if you are not going to
7 show it to the jury then we will -- that would be ---

8 THE COURT: Oh, okay, all right, in other words if some
9 words ---

10 MR. KOZELSKI: My ---

11 THE COURT: --- that require ---

12 MR. KOZELSKI: Your Honor, my biggest objection is
13 throughout the -- throughout the phone call he is talking to
14 his mother and she -- talking to him about getting a year
15 for Family Court for failure to pay child support. And that
16 was the original -- my objection is prior bad acts objection
17 that I made at the pretrial. I just don't want them to hear
18 that he is in jail for a year for failing to pay child
19 support.

20 MS. ELLIOTT: And I don't think that is throughout
21 there. I think it is a brief, short reference in there.
22 I think he is complaining more about the bond in that.

23 And so I don't know that the brief reference in
24 there is sufficient to basically go through the redaction
25 process -- or I -- from my conversations with Mr. Kozelski I

1 got the feeling that he wants me to compact it even more,
2 and I -- I just don't think that it is objectionable.

3 THE COURT: Okay. In other words if it will make him
4 happy to take out the little snippet on child -- on the
5 child support one year -- hello. Pay attention. You will
6 do it, right?

7 MS. ELLIOTT: Yes, I think he ---

8 THE COURT: If that removes the objection to the phone
9 call?

10 MS. ELLIOTT: I think we disagree on how much of that
11 is referenced in here.

12 THE COURT: Oh. Okay. All right.

13 MS. ELLIOTT: Because kind of -- I am looking at my --
14 at my transcript sheet and not necessarily time. I don't --
15 I really kind of feel like it is really only the first page.
16 And there's nine minutes of audio. And I don't think that
17 the rest of it really implicates that.

18 THE COURT: I -- and how much do you think it is?

19 MR. KOZELSKI: I think it is referenced on probably
20 five pages, Your Honor.

21 THE COURT: Okay. Okay.

22 MR. KOZELSKI: Family Court, talking about Family
23 Court. Talking about ---

24 THE COURT: Okay.

25 MR. KOZELSKI: --- getting a year.

1 THE COURT: Okay.

2 MR. KOZELSKI: And the bond I also think is.

3 THE COURT: Okay. Okay. Well, let me see the -- do
4 you mind if I see the transcript; is there any objection to
5 me taking a look at that? Okay. Well, I mean I

6 (WHEREUPON, document presented to the court and pause to
7 review.)

8 THE COURT: All right. So you are okay -- you think
9 the first -- Ms. Elliott, you think the first page has -- is
10 Family Court?

11 MS. ELLIOTT: Not exactly. I mean we have got the
12 first five lines that are, and then he says: And not only
13 that, now I have got to go to court in March because the
14 child got me messed up.

15 THE COURT: Has gotten me messed up. Okay. Yep.

16 MS. ELLIOTT: And then he talks about Complainant for a while
17 in the General Sessions stuff.

18 THE COURT: I have got to go to General Sessions, all
19 that stuff next, yeah. Got me messed up. And then, I mean
20 then I owe Family Court, what, \$1,600.

21 So he is really talking about two different topics.
22 Stuff -- that stuff with Complainant. And then -- okay.

23 THE COURT: This is mine to play with, right
24 (displaying document)?

25 MS. ELLIOTT: Sure.

1 THE COURT: Aren't you having fun?

2 THE WITNESS: It is interesting.

3 THE COURT: Aren't you terrific. You can go.

4 THE WITNESS: Okay.

5 THE COURT: I need to tell you though you can talk
6 about anything other than this case. Because you are on the
7 stand.

8 THE WITNESS: Okay.

9 THE COURT: Is that all right?

10 THE WITNESS: Okay.

11 THE COURT: Have you got that?

12 THE WITNESS: Got it.

13 THE COURT: Do I need to clarify in any way?

14 THE WITNESS: Do I need to be back tomorrow?

15 THE COURT: Thank you for clarifying that. Oh, yeah.

16 THE WITNESS: Okay.

17 THE COURT: Oh, you are -- yeah. You are like the
18 star. Yeah, I need you here by probably about 9:20.

19 THE WITNESS: 9:20. Okay.

20 THE COURT: About 9:20.

21 THE WITNESS: I will be here.

22 THE COURT: Okay. Thank you now.

23 THE WITNESS: Thank you.

24 THE COURT: And, you know, what that means is that if
25 somebody says tell me about testified today, you can't talk

1 about it.

2 THE WITNESS: Not a worry. Okay.

3 THE COURT: Can we talk about what your testimony is
4 going to be tomorrow, how did I do. None of that.

5 THE WITNESS: Okay.

6 THE COURT: Do I need to -- I brought the tape of
7 Little Sister today and signed it. Do I need to bring that
8 tomorrow? Because I will have to ask our record's
9 department for a copy?

10 THE WITNESS: Yeah, probably do.

11 MS. ELLIOTT: Or should we send this one with her and
12 she can sign it and bring it back with her tomorrow? That
13 is typically how we do it with their record's custodian.

14 THE COURT: Well, I am not going to tell you how to run
15 your case.

16 MS. ELLIOTT: Okay.

17 (WHEREUPON, witness dismissed for the evening to return
18 Wednesday.)

19 (WHEREUPON, break was had 3/1/16, 4:43 p.m.)

20 (WHEREUPON, resumed 3/1/16, 4:51 p.m.)

21 THE COURT: Okay. Let me tell you what I think and
22 then you can tell me what you think. And this is my view of
23 it and then tell me -- then I will hear from you. It is
24 just a little backwards, but it's -- I have looked at it.
25 All right.

1 Ooh, I wish we had -- I wish -- it is not numbered, but
2 that is okay. Page one, from hello, to oh, oh, okay. One,
3 two, three, four, five, six lines, out. And the first part
4 of the next line where it says: And not only that now.

5 So that you would begin: I have got to go to court in
6 March because um that child got me messed up. Okay. Huh,
7 that child got me messed up. Yeah, I heard that is Complainant .
8 Complainant um, got me messed up. I got to go General Sessions,
9 all that stuff next year. My Lord. Got me messed up. End.

10 Take out from the next word: I mean then, to the rest
11 of that page.

12 And then beginning on Page 2 it is just easier to take
13 out the top of the page to: I'm not going to cook, I don't
14 feel like no cooking.

15 Which is one, two, three, four, five, six, seven,
16 eight, nine, ten -- six teen lines down. And then you will
17 start with: And that Little Sister is the one started all that.

18 See what I'm talking about? Okay. The rest of that
19 page is in. The next pages is in. The next page about half
20 way down. And I would -- I think it's appropriate to stop
21 it with: I try. I can't. I can't speak to her right now.

22 The rest of that statement: Because I am going to be
23 messed up here in a couple of months.

24 Got that? I don't think the next line adds anything.

25 MS. ELLIOTT: So, I'm sorry, you want us to stop at the

1 word now?

2 THE COURT: Months.

3 MS. ELLIOTT: At the end of that clause ---

4 THE COURT: Yeah, that -- in. I try. I can't. I
5 can't speak to here -- right on through that first statement
6 where it ends: I'm going to be messed up here in a couple
7 months.

8 MS. ELLIOTT: And stop there?

9 THE COURT: Stop.

10 MS. ELLIOTT: Stop at the end of months?

11 THE COURT: In other words, the next statement doesn't
12 add anything.

13 MS. ELLIOTT: Okay.

14 THE COURT: That's terrible doesn't add anything.
15 Okay? And then the rest of that page, beginning: I know
16 that that that oh that is terrible, beginning with that to
17 the end of the page is out.

18 And then the top of the next page: Got me messed up.

19 Because I am convinced that -- while he uses that term
20 a lot, got me messed up, some of the time he is referring to
21 Family Court. Some of the time he is referring to other
22 matters. Sometimes it is kind of mixed. Because what he is
23 concerned about really is his bond at this point. Got me
24 messed up.

25 And that is really the top of Page -- Page 5. Okay.

1 Now beginning with inaudible, Little Sister going and getting
2 involved in that -- do you see that line, that -- that is
3 in. Beginning there. Then turn over to the next page which
4 is Page 6. See where it says: I can't call em anyway.
5 Do you see that? Stop there. All right.
6 MS. ELLIOTT: I don't see that. I'm sorry.
7 MS. TRAN: I don't see it.
8 (WHEREUPON, State's counsels confer.)
9 THE COURT: That is okay. Let's have a conversation.
10 Because it is a little confusing. Now are you on Page 6?
11 MS. ELLIOTT: I am on Page 6.
12 THE COURT: All right. This is getting a little bit --
13 it is a little bit confusing, all right. Let me tell you
14 what is in. The first line: I can't call em anyway.
15 That is in.
16 MS. ELLIOTT: Okay.
17 THE COURT: Okay is out.
18 I can't do nothing on this phone over here, out.
19 Yeah because I, I, I can't talk to them either is out.
20 Because that is referring to the jail, and I don't want that
21 in here.
22 Now the next line: I thought you usually call her on
23 her cell phone. In.
24 Down to -- let me stay -- let me count. Thirteen where
25 it is em, you know that all you -- all she got to do is drop

1 it and that's it. Stop there.

2 And that's it. The rest of it is out.

3 Do you want to review?

4 MS. ELLIOTT: I think I have everything, Judge. I
5 think what I am foreseeing as being a potential difficulty
6 is these files are very different from most of the other
7 files we deal with in the fact that -- unless your clerk is
8 as magic as you have made him out to be, you can't pull them
9 off the CD and edit them. Which we can kind of do with the
10 LCC videos and cut stuff and hem stuff together. The way
11 that we have typically done that in the past is mute it.
12 And so we mute for those sections. Move ahead, mute. Move
13 ahead.

14 And just to put the court on notice, that I think is as
15 technologically advanced as we can get with these. And so
16 what I would be doing is getting timestamps for all of those
17 spaces and clicking in and out that way.

18 THE COURT: Once you have done that why can't you just
19 copy that onto another CD without the spaces so that it
20 is ---

21 MS. ELLIOTT: We will give that a shot. We will give
22 that a shot.

23 The only other thing that we have, Your Honor, is I may
24 have an addition to the witness list. The person that I
25 think comes in to authenticate this CD which is going to

1 have to be an authentication of the original CD is I believe
2 going to be Keisha Thomas.

3 She's actually the one who sits there and presses
4 record once they are pulling it off their system. I was
5 under the impression it was the sergeant, and it is not.
6 And so that is in addition to our witness list.

7 She also wanted to let the court know that she believes
8 she went to middle school with the defendant. Which if I
9 understand the timeline correctly it means she also might
10 have gone to middle school with Genita Brown. She did not
11 recognize Genita Brown's name, but she did recognize Maurice
12 Harris'.

13 THE COURT: Do y'all need to caucus? Is that new
14 information?

15 MR. KOZELSKI: Well, I -- I am not sure how that makes
16 a difference. I am assuming she is calling a different
17 witness to identify Mr. Harris' voice?

18 MS. ELLIOTT: Yes.

19 MR. KOZELSKI: I thought -- she is not going to try to
20 use that custodian as well to -- because of that
21 relationship? I am not sure. It doesn't bother me that she
22 went to middle school.

23 THE COURT: Oh, I see what you are saying.

24 MR. KOZELSKI: Yeah.

25 THE COURT: Oh. Oh.

1 MS. ELLIOTT: Well, in fact let me propose this: Since
2 we are editing this so much I think it is going to be very
3 difficult for -- well, it is going to be the legal fallacy,
4 yes, this is a fair and accurate copy of everything because
5 it is going to be highly redacted what they are
6 authenticating.

7 I would ask that the defense stipulate to the
8 authenticity of the redacted copy, that that is a record
9 kept at the jail by the defendant and then we will put
10 Genita Harris to identify the voices of -- that she hears in
11 there and identify Maurice Harris' voice.
12 (WHEREUPON, break was had.)

13 THE COURT: What are we doing?

14 MS. ELLIOTT: The defendant's preference and basically
15 what the State says is actually going to be easier, they
16 would actually would prefer for us to do a start and stop
17 method and not edit and just get time stamps. And so that
18 is what we would do.

19 THE COURT: Okay. All right. And if you can reproduce
20 it I think that would be very very helpful.

21 MS. ELLIOTT: They don't want it reproduced.

22 MR. KOZELSKI: I don't think she's -- what she is
23 telling us is that they don't have the capability of
24 reproducing it.

25 THE COURT: Okay.

1 MR. KOZELSKI: So.

2 THE COURT: Seems that that would be pretty easy.

3 MS. ELLIOTT: Well, Ms. Ford's argument to us was she
4 doesn't want something that is a nine-minute phone call to
5 sound like a two-minute phone call.

6 And so instead of playing the in theory the two minutes
7 that would be admissible, acknowledging that there are
8 greater parts, I am going to play from a minute fifteen to a
9 minute and thirty-two, from 2:36 to 4:05, in that manner.

10 MS. FORD: I just think it might be misleading to the
11 jury to portray that this is -- they had a two-minute call
12 instead of a nine-minute call.

13 It is like a written statement we may redact, but the
14 jury was unable to see what was blacked out but they would
15 be able to see that something was taken out. And so I just
16 think that it would be inappropriate to ---

17 THE COURT: If it suits y'all, it plum tickles me half
18 to death. Okay. All right.

19 MS. ELLIOTT: All right.

20 THE COURT: Yes?

21 MS. ELLIOTT: Yes. Thank you, Judge.

22 THE COURT: So we did the call. I am taking the tape.
23 I have got the tape. In the morning.

24 MS. ELLIOTT: Yes, Judge.

25 THE COURT: Have a lovely evening.

1 MS. ELLIOTT: Thank you.

2 MR. KOZELSKI: What time would you like us here?

3 THE COURT: I don't know. About 9:20.

4 (WHEREUPON, recessed for the day at 3/1/16, 5:12 p.m.)

5 (WHEREUPON, resumed trial 3/2/16, 10:04 a.m.)

6 THE COURT: So just to be clear, tell me how the State
7 wishes to proceed with regards to the video.

8 MS. ELLIOTT: Your Honor, the State thinks that the
9 defense really throughout the trial but also especially
10 through Ms. Strunsky's testimony has raised the specter of
11 recent fabrication.

12 And some of the ways in which he has done that has
13 literally been by asking the children, you only said that
14 recently, you only said that recently.

15 He asked Ms. Strunsky some very specific questions
16 about statements that the victim made. I think some of
17 those are out of context.

18 Like one of the parts that I heard that -- and this is
19 from my recollection of the video. When asking them about
20 where the siblings were in the room, as a recall that on the
21 video, that question was related to the movie and there was
22 no clarification as to after the movie had ended, which is
23 when she says the assault happened.

24 I think that implicates 801(d)(1) and Jeffcoat in that
25 he is saying that these are recent fabrications and that in

1 the video by watching it they will be able to say that some
2 of these questions weren't clarified and weren't asked of
3 her at all.

4 So he is impeaching her with things that she was never
5 given the opportunity to answer or ask. And for that reason
6 the video should be admissible under -- under both that
7 case, Jeffcoat, and under 801(d)(1)(D).

8 THE COURT: Got it.

9 Yes?

10 MR. KOZELSKI: Your Honor, I am not alleging -- well,
11 let me be clear. And I don't think I was as clear yesterday
12 at the end of the day. I couldn't think of a way of saying
13 this without using a double negative.

14 But while we are alleging that, you know, our -- the
15 entire theory of our case are saying that these allegations
16 are fabricated, we are not saying that this allegations of
17 sexual molestation are a recent fabrication. Which is was
18 the case in Jeffcoat.

19 They are saying that this is you're being coached to
20 say this, you never said this before.

21 I am not saying that she never -- that -- that Complainant
22 has never told these forensic interviewers she has not been
23 sexually molested.

24 I am saying what she testified to on the stand
25 yesterday is different from what she told the LCC

1 interviewer. Which is I think an entirely different concept
2 of the hearsay exception that they are trying to employ.

3 I think even if they -- even if they could show some
4 type of prior consistent statement - which I don't think
5 they can do in this case - I think it would be limited to a
6 certain portion of the video where they show that she was
7 consistent with her testimony.

8 But to put in the whole 30-minute video because I have
9 somehow opened the door by revealing these inconsistencies I
10 think would be grave error.

11 THE COURT: Why?

12 MR. KOZELSKI: Well, Your Honor, because I think it
13 would undermine the entire theory of our case that these
14 allegations are made up and they are made up by Complainant and
15 then to replay her testimony would be hearsay and that it
16 would bolster that testimony that she gave. And considering
17 that is barely the entire evidence but there's no physical
18 evidence ---

19 THE COURT: Let me ask you this question. Let's stop
20 about the video for a second and let's think about a written
21 statement. You have a written statement by a victim in a
22 case and you wish to impeach that witness with regards to a
23 prior inconsistent statement, right; and you use that prior
24 inconsistent statement with law-enforcement as opposed to
25 with the victim. You choose to interrogate the law-

1 enforcement officer who took the statement, right. And you
2 go through it and you ask law-enforcement. You get into it
3 and law-enforcement says yes, this was said; yes, this was
4 said; that is correct; yes, this was said; yes, that is in
5 the statement; yep; yep; you have got it; yep, that is in
6 the statement.

7 Are you then taking the position that once that happens
8 that the State then, on really two basis, number one, of
9 completeness if nothing else, but under 801 that the State
10 then can't come back and either publish the statement or
11 certainly publish portions of the statement?

12 MR. KOZELSKI: No, I don't believe that they can. I
13 think that they -- she can address that in redirect.

14 THE COURT: Okay. Yes.

15 MR. KOZELSKI: If she wants to.

16 THE COURT: Yeah.

17 MR. KOZELSKI: But for a prior inconsistent statement
18 it would be, for example, Your Honor, if I -- a recent
19 fabrication, if I told Complainant while she was on the stand
20 you never told anybody that he called you you will always be
21 my Little Nasty or he told you you will always be my Little
22 Nasty, then I think in that case Ms. Elliott would be
23 allowed to play a portion of the video in which she tells
24 Ms. Strunsky he told me and Little Sister you will never be my
25 Little Nasty.

1 I don't think that opens the door to the entire video,
2 but I do think it opens the door to that. And that is what
3 the Jeffcoat case was about, and it says they allowed the
4 mother to testify that she had said he put his something in
5 my tooti.

6 It was just very limited circumstance. What she is
7 trying to do is to enter the entire LCC video to bolster
8 Complainant's testimony.

9 And it ---

10 THE COURT: Yep?

11 MR. KOZELSKI: It was only questions that I asked which
12 she specifically denied when I asked her on the stand. I
13 don't know of any other way to ask those questions in an
14 impeachment form other than to ask Ms. Strunsky didn't she
15 tell you something other than what she testified to on the
16 stand.

17 And, Your Honor, and I believe I said this yesterday;
18 but I think I didn't limit my questions to the interview of
19 the -- only the inconsistent statements, primarily where
20 Little Brother was, that they were sleeping, that she told -- she
21 said you will always be my Little Nasty to both Little Sister and
22 herself. And I believe the other one was -- the second one
23 for Little Brother, because both times she said Little Brother was not in
24 the room. And I think the last one was the --- ejaculate in
25 the matter.

1 There were other things that I think she did say. I
2 asked her did you tell Ms. Strunsky that he called you Baby?
3 She said I don't know.

4 I didn't ask that question. Because she wasn't
5 equiv- -- or unequivocal about that answer.

6 So I stayed away from those. I only talked about the
7 specific denials that she gave me on the stand. And for
8 that reason it was only impeachment purposes. I don't think
9 she can rebut this with any sort of consistent statement
10 that she said earlier before these charges were brought.

11 THE COURT: Gotcha. Okay. I'm going to let you play
12 the portions of the statement that she gave on the basis
13 that you are entitled under Jeffcoat, I believe, now to play
14 the -- her statement.

15 Now the whole video where it is talking about what you
16 do in school and -- it is difference. I mean you do that
17 for different purposes and under different rules.

18 This is -- this happens to be a statement that was
19 videotaped. I see it no different than a statement that is
20 written. And I am going -- and I treat it the same way.

21 But the statement that she gave in so far as when
22 events happens, how they happened, her description, I
23 believe are admissible. Okay.

24 Now if there were any other objections with regards to
25 hearsay, you know, which are -- within the statements,

1 because it is videotaped I will certainly hear any
2 objections to hearsay within hearsay if you will; but I
3 think it is admissible under 801.

4 MR. KOZELSKI: Your Honor, for the purposes of the
5 record I would ask that Ms. Elliott first put on -- or first
6 state for the record the recent fabrication that I am
7 alleging, that I asked Ms. Strunsky about, and then
8 demonstrate pursuant to what Jeffcoat has pursuant -- well,
9 to demonstrate that the prior consistent statement was made
10 prior to the time the proposed motive to falsify arose.

11 I am not sure any of the questions that I asked are
12 going to somehow show that what Complainant said on the stand
13 is now consistent with her LCC video. It is just not.

14 I didn't ask her any questions about any consistent
15 statements said that she made in the video. So I think as
16 part of Jeffcoat says, the proponent must demonstrate the
17 prior consistent statement was made prior to the time the
18 proposed motive to falsify arose.

19 So I am not sure what I said she allegedly falsified
20 prior to this. As I stated, I think the clearest example of
21 this would be if I had asked Complainant or told Complainant she
22 had never told LCC or she had never told anybody that
23 Maurice told her you will always be my Little Nasty. And if
24 that were the case, Ms. Elliott should be allowed to play
25 that; but that is not the question that I asked.

1 I think I asked her -- she -- she told Ms. Strunsky you
2 -- Maurice told that to both me and my sister; which is
3 different from her testimony, which said no he only told it
4 to me. And it is different from Little Sister 's testimony which
5 said she didn't hear it.

6 So I don't know playing the video is going to make
7 anything of what she said more consistent by playing the
8 video.

9 THE COURT: Gotcha.

10 MR. KOZELSKI: And I just ask that Ms. Elliott put that
11 on the record.

12 THE COURT: Okay. All right, Ms. Elliott, yes, do you
13 want to speak to that?

14 MS. ELLIOTT: I mean if I am understanding Mr.
15 Kozelski's argument correctly what he is saying is that he's
16 not bringing up at all that there has been any recent
17 fabrication, he -- from what I have heard throughout the
18 entire trial and from his opening was we know that this is a
19 fabrication because there have been changes.

20 So he is saying that there have been fabrications since
21 the initial statement. And then he is taking things, but my
22 position, out of context.

23 The example that I can think of is I believe that when
24 Ms. Strunsky was asking about the initial touching when she
25 was saying who all was in the room and Complainant is

1 describing well we were all watching the movie, talks about
2 people falling asleep, and then she talks about the
3 touching. There is no clarification of where was everyone
4 after the movie ended. Which on the stand she clarified.

5 THE COURT: So that -- so really it is twofold. It is
6 not on -- in my mind it is not only 801; it is also
7 completeness. In other words, if there is a statement that
8 is alleged to be a prior inconsistent statement, there is
9 also the position of the proponent, if you will, of the
10 statement, that it ought be published for the purpose of
11 completeness as well.

12 This is a -- I mean the reason that it came in
13 admonishio is because this is a prior inconsistent
14 statement -- alleged to be a prior inconsistent statement.
15 And I'm treating it as -- as one would treat a prior
16 inconsistent statement. And the ways that you would do
17 that, one is completeness; the other is under 801. I think
18 it comes in.

19 Let me be clear though, because I am treating it as a
20 statement -- it could be in writing. It happens to be
21 video. It is a statement. And so that is the reason that
22 the statement alleging what occurred gets -- it would be
23 played.

24 Am I clear with everybody about that? Because we find
25 ourselves in a little bit different position than we did

1 with the earlier statement where you have to prove the --
2 the ages are different. This child is 12. This child is
3 not under the age of 12 at the time of the statement. So it
4 is a little bit different. It is being used in a different
5 way.

6 It is, if you will, you are in a defensive mode now
7 with the statement as opposed to an offensive mode as you
8 were with your earlier statement.

9 And I am treating it as -- it is a response to a prior
10 inconsistent statement. Okay.

11 MS. ELLIOTT: And, Judge, just from a little -- I heard
12 what you said at the beginning. Is it -- it is my
13 understanding that you want us to skip to the part of the
14 video that talks about this is what happened to me?

15 THE COURT: Yep. It is the statement of what occurred.

16 MS. ELLIOTT: Yes, Your Honor.

17 THE COURT: Yes. Yes.

18 MR. KOZELSKI: And just to be clear for the record,
19 Your Honor, we would object as to being -- we think that it
20 would be hearsay, not fitting within any exception of the
21 rule, and impermissible for bolster.

22 THE COURT: Gotcha. Okay.

23 MS. ELLIOTT: If we could have a brief moment to kind
24 of cue it up to that section ---

25 THE COURT: Yeah ---

1 MS. ELLIOTT: --- if that is all right.

2 THE COURT: Yeah, absolutely.

3 And again, I don't know that there is -- I don't know
4 if there is any hearsay within the hearsay, but those would
5 be objections that I am certainly not keeping you from
6 making.

7 (WHEREUPON, break was had for the State to cue audio.)

8 THE COURT: Are you ready?

9 MS. ELLIOTT: After listening to the video and hearing
10 Mr. Kozelski's argument and on he being concerned about the
11 record in the long run, one of my biggest concerns was I
12 thought that some of his representations had misplaced some
13 statements by the victim, namely I didn't think that they
14 had clarified where the brothers were during the time of
15 abuse. In prepping this to publish it to the jury he is
16 right that it is later and it is after that and she does
17 clearly say that the brothers were in the room during that
18 time, which I think would have been proper impeachment. We
19 are not going to see to admit the video at this time, Your
20 Honor.

21 THE COURT: Okay. Okay. All right.

22 MS. ELLIOTT: Now we do still have some redirect
23 questions for Ms. Strunsky.

24 THE COURT: Okay.

25 MS. ELLIOTT: But I think out of an abundance of

1 caution it is dangerous to play the video.

2 THE COURT: Okay. All right. Very well. Let's have
3 the jury.

4 MS. ELLIOTT: Should we go ahead and put Ms. Strunsky
5 back on the stand?

6 THE COURT: Yes. Where is she?

7 (WHEREUPON, break was had.)

8 (WHEREUPON, jury enters courtroom 3/2/16, 10:36 a.m.)

9 THE COURT: Good morning, ladies and gentlemen. At
10 this time we will continue with the State's case and the
11 redirect. Yes, ma'am.

12 MS. TRAN: Thank you, Your Honor.

13 **REDIRECT EXAMINATION BY MS. TRAN OF CARRIE STRUNSKY:**

14 Q Good morning, Ms. Strunsky.

15 A Good morning.

16 Q Ms. Strunsky, if a child indicates multiple assaults to
17 you in an interview what is the process or protocol for
18 getting details about each one individually?

19 A We try to get as much detail about one particular
20 incident. So usually the one that they remember the best.
21 That can at times be the first or the last.

22 Q Okay. So you try to get the one with the best detail
23 but you don't ask them specifically about each time?

24 A Unless they are different. So we will ask, you know,
25 did anything happen differently. And then we would try to

1 get details about that incident.

2 Q In your interview with Complainant did you ask her to give
3 you details about each incident of the defendant putting his
4 penis in her mouth or just one incident specifically?

5 A I only asked her to give details about one incident.

6 Q Okay. And in your interview did you ask her for each
7 specific time and details about each specific time where she
8 was fondled or vaginally penetrated, or did you ask for just
9 a specific time?

10 A A specific time.

11 MS. TRAN: No further questions.

12 THE COURT: Very well. Recross.

13 MR. KOZELSKI: Briefly, Your Honor.

14 **RECROSS-EXAMINATION BY MR. KOZELSKI OF CARRIE STRUNSKY:**

15 Q You asked about multiple cases?

16 A I asked her to -- yes -- well, yes, I asked how many
17 times it had happened.

18 Q And you asked her to describe the first incident?

19 A Uh-huh.

20 Q And you asked her ---

21 THE COURT: That is a yes?

22 A That is a yes.

23 Q And you asked her to describe the second incident?

24 A I asked her to describe if it had ever been different.
25 And then she described the oral penetration.

1 Q Okay. So you did ask about specific incidences?

2 A Right. I just said that.

3 Q Okay. But on different occasions?

4 A I am trying to think back to the interview. I am not
5 sure if I clarified that the two events happened on
6 different days.

7 Q Okay. But you asked her if it happened again?

8 A Right, and she described a guesstimate of how many
9 times it had happened.

10 Q Okay. And you asked her about that incident?

11 A Right. But I didn't ask her about each individual time
12 that she had been assaulted.

13 Q Right, but you asked her about multiple incidents?

14 A Right.

15 MR. KOZELSKI: No further questions.

16 THE COURT: All right. Is this witness free to leave?

17 MS. TRAN: Yes, Your Honor.

18 THE COURT: Any objection?

19 MR. KOZELSKI: No objection.

20 THE COURT: Very well. You are free to go. Call your
21 next witness, please.

22 MS. ELLIOTT: The State would call Carol Swiecicki.

23 (WHEREUPON, the witness was duly sworn.)

24 THE CLERK: And if you will state your first and last
25 name and then spell out your last name, please.

1 THE WITNESS: Carole Swiecicki. First name is Carole,
2 C-A-R-O-L-E. Last name Swiecicki, S-W-I-E-C-I-C-K-I.

3 **DIRECT EXAMINATION BY MS. ELLIOTT OF DR. CAROLE SWIECICKI:**

4 Q Would you mind telling us where you work.

5 A I work at the Dee Norton Lowcountry Children's Center.
6 I am the executive director there.

7 Q I'm sorry, I called you Ms. Swiecicki; but you are
8 actually a doctor?

9 A Correct.

10 Q Can you tell me a little bit about your educational
11 background?

12 A I received my bachelor's degree from the University of
13 Florida in psychology and my master's and doctorate in
14 clinical psychology from St. Lewis University.

15 Q And can you tell us a little bit about your
16 professional background?

17 A Sure. I went to a clinical internship at the Medical
18 University of South Carolina where I specialized in working
19 with child victims of abuse and neglect and other forms of
20 trauma and then did a specialized postdoctoral fellowship at
21 St. John's University in New York again working on children
22 who have experienced different types of traumatic events,
23 and have since worked in the field of child abuse and
24 neglect.

25 Q And what about your professional background?

1 A So I am currently a licensed psychologist and the
2 executive director of the Dee Norton Lowcountry Children's
3 Center. I have essentially worked with child victims of
4 neglect.

5 And professionally I am currently working on becoming a
6 trainer in two of the evidence based treatments for children
7 who have experience sexual abuse, physical abuse, or
8 witnessing domestic violence.

9 I am on the Board of Directors of the National
10 Children's Alliance which accredits children's advocacy
11 center which is what the Dee Norton Lowcountry Children's
12 Center is; it is a children's advocacy center. And also I
13 am on the state chapter of Children's Advocacy Centers.

14 Q And I know you have touched on some of this, but can
15 you explain just a little bit what your duties specifically
16 at the Dee Norton Lowcountry Children's Center are?

17 A Sure. So I provide overall oversight to the program.
18 We have several different departments. They involve finance
19 and clinical operations, community education and outreach,
20 and development and fundraising, marketing.

21 My role is essentially to make sure that all of the
22 departments are working in the same shared goals. My
23 background as a clinical psychologist involves research and
24 making sure that children are receiving evidence-based
25 practices.

1 So part of what I do is try to help each of the
2 departments understand what the current state of research is
3 in each of those areas so that they are applying things that
4 are known to be having the highest level of research and
5 support in each of those areas.

6 Q And how long have you been working at the Dee Norton
7 Lowcountry Children's Center?

8 A I have been the executive director since January of
9 2014. So just over two years.

10 Q And in general how long have you been working in the
11 field, general child abuse and child neglect?

12 A Approximately ten 10 years. Since 2005.

13 Q Aside from the training you have already gone into do
14 you have any other specialized training in the area of child
15 abuse?

16 A Yes. So part of what I have done is obtained a
17 certificate as a therapist and supervisor in trauma-focused
18 cognitive behavioral therapy, which is considered the best
19 practice for treating child victims of abuse and neglect.

20 Every year as a psychologist I have to obtain
21 continuing education credits. Because I have specialized in
22 child abuse I typically attend conferences that have
23 continuing education in that area on various aspects of
24 working with child victims of abuse and/or trauma.

25 Q And do you have any specific professional affiliations

1 related to this type of work?

2 A I am a member of the Association for Behavioral and
3 Cognitive Therapists which is a group that provides
4 cognitive behavioral therapy and other types of behavioral
5 therapy. I also am a member of APSAC which is the American
6 Professional Society on the Abuse of Children. And then I
7 mentioned the boards that I am a part of with national
8 organizations.

9 Q Have you ever testified before in the area of child
10 abuse dynamics?

11 A I have.

12 Q Do you know about how many times and in what courts?

13 A I know the courts. And it is approximately ten times.
14 The courts prior to coming here to South Carolina I worked
15 for six-and-a-half years at a similar children's advocacy
16 center in Norfolk, Virginia, and testified in Norfolk
17 Criminal Court, Norfolk Family Court, Virginia Beach
18 Criminal Court, and military court-martial. And then I have
19 also been qualified as a witness here in Charleston County
20 court.

21 MS. ELLIOTT: Your Honor, at this time we would
22 offer Carole -- Dr. Carole Swiecicki as an expert in child
23 abuse.

24 THE COURT: Any voir dire?

25 MS. FORD: No, Your Honor. No objection.

1 THE COURT: Very well. She is so qualified.

2 Q Dr. Swiecicki, have you ever had any meetings with any
3 of the children or family members involved in this case?

4 A No.

5 Q Have you discussed this case with any of the
6 professional staff that have testified or worked with the
7 family?

8 A No.

9 Q Have you reviewed any of the files in this case?

10 A No.

11 Q Have you reviewed really any materials directly related
12 to this case?

13 A No.

14 Q In your field is there a term called disclosure?

15 A There is a term called disclosure. It typically refers
16 to a child talking about something that has happened to
17 them.

18 Q Is there also a term called delayed disclosure?

19 A Yes.

20 Q Can you tell us a little bit about that?

21 A Delayed disclosure is the essentially the time between
22 when the reported event happened and when the child told
23 someone about that event.

24 And so a delayed disclosure they talk about as being
25 more than a month from when the event happened and when the

1 child told somebody about it.

2 They consider between 24 hours after it happened and up
3 to a month as an immediate disclosure, and in anything
4 beyond that month is a delayed disclosure.

5 Q And is that a phenomenon commonly seen in your -- by
6 professionals in your area?

7 A Yes, it is actually very common. There have been a
8 couple of studies that have really looked at that
9 phenomenon. And over half of children do delay beyond the
10 month.

11 Somewhere between a quarter and forty- -- forty-eight
12 percent of children tell within a month. And then about a
13 quarter of children actually don't tell anyone until they
14 are adults. And actually until they participate in these
15 studies they said that they have not told anyone before.

16 Q Do you know from your clinical background or from the
17 research kind of what the average time for disclosure is
18 when someone is delaying disclosure?

19 A The averages, they tend not to report those in the
20 studies because the range is so broad. In a couple of these
21 studies it has been 20 years since the incident happened and
22 the person talked about it. So that would actually make the
23 average -- you know, that would make the average a lot
24 longer.

25 So they really tend more to talk more about what

1 percentage of children tell within a month, what percentage
2 of children tell before they are adults, and then what
3 percentage of children tell not until adulthood, rather than
4 averages. The averages they tend not to actually report.

5 Q But you did say that about half of all children delay
6 some -- for some length of time in disclosure?

7 A At least over a month. More than half of children
8 delay for more than a month.

9 Q Is there any research as to why kids don't tell right
10 away?

11 A There's a lot of research as to why children don't tell
12 right away. So a big part of that what has been found
13 pretty frequently is that older children are more likely to
14 delay.

15 The relationship to the offender is something that is
16 also very consistently been found to be related to delaying.
17 So children who are abused by somebody that is in their
18 family or somebody that is very close to their family or in
19 a parental role to them they are more likely to delay.

20 And then children who expect consequences, negative
21 consequences, are much more likely to delay telling.

22 Q Has there been any research as to why kids tell?

23 A There's been a little bit of research about why
24 children tell. Not as much about why they don't tell. But
25 some of the studies that have talked about why children do

1 tell have to do with wanting the abuse to stop is one of the
2 reasons. Feeling upset about what is happening is another
3 reason.

4 One of the things that has come out in research is that
5 children sometimes tell by accident. They talk about a time
6 that they were maybe with the offender and the parent, you
7 know, figured -- they didn't know that they were with the
8 offender, so they kind of accidentally tell. Or somebody
9 walks in on abuse happening. And it just kind of happens by
10 accident.

11 Q In your clinical experience on in the research that you
12 know does sometimes it simply take someone asking a child?

13 A It does sometimes take someone asking the child. And
14 there has been a little bit of research about the ways that
15 people ask. But they don't always have to ask directly if
16 the abuse happened. Although that is one way that children
17 wind up telling, because sometimes parents who are asking,
18 you know, questions like you have been really upset lately,
19 what is going on, will prompt a child to tell.

20 Q What are some of the barriers to a child telling?

21 A The barriers that children talk about in the research
22 have a lot to do with fear that they are going to get in
23 trouble or that they are not going to be believed, fear that
24 they will be hurt or that someone that they love is going to
25 be hurt, and which sometimes is based on actual threats by

1 the offender that they are going to be hurt or that someone
2 they love will be hurt.

3 Shame and feeling embarrassed about what has happened
4 because sometimes -- especially for older kids talk about
5 those things of being ashamed of talking about it and kind
6 of just afraid in general to talk about something that they
7 feel upset about.

8 Q Does a child have to be subject to a specific threat of
9 harm to internalize such abuse?

10 A No. In the literature that is talked about, some of
11 these expectations that children have, most of the time
12 children are saying these things that it was just something
13 that they thought might happen. So, you know, they don't
14 necessarily -- one of the fears that they have is that
15 someone is not going to believe them.

16 Sometimes people threaten that they won't be believed.
17 Other times it is just something that they -- that they had
18 a fear about because kids sometimes have fears about just
19 various things that kind of come to their mind.

20 Q In your clinical experience do children typically try
21 to fight off their perpetrators?

22 A That is not a typical response. More so -- and this is
23 in response to either a perpetrator of abuse but a
24 perpetrator of any type of trauma when you are faced with a
25 traumatic event, which is something in our diagnostic manual

1 that is considered a possible or actually threat to your
2 physical safety and harm the body responds with fight,
3 flight, or freeze.

4 You guys might have heard of the fight or flight
5 response. So fight is one of those things. Children tend
6 to not do that particularly because offenders are most
7 frequently adults that they know so children are kind of
8 taught not to fight or argue with adults in authority
9 figures. So they are more likely to freeze or try to flee.

10 And if they can't actually flee sometimes they try to
11 do that in their mind. It is something called
12 disassociation where they just kind of imagine they are not
13 there.

14 Q Disassociation, can you explain that a little bit more
15 and how that demonstrates itself?

16 A So disassociation really is, like I said, a child in an
17 instance of abuse where they just kind of go somewhere else
18 in their mind. They imagine that they are in a different
19 place.

20 The best example that we kind of can think of is that
21 if you have a routine of driving home from work you kind of
22 have that same routine and sometimes you just all of a
23 sudden you are at the third stoplight and you maybe were
24 thinking about something else as you are driving home. That
25 is the biggest peril that people have in their day-to-day

1 lives is you weren't paying exact attention to what car was
2 next to you at the light before because you kind of had
3 other things on your mind.

4 Children will sometimes do that as an adaptive response
5 to a traumatic event to not be there. So it is a more
6 conscious decision to think about something else and not
7 focus on what is in your immediate environment.

8 Q When a child is disclosing a traumatic event are there
9 ever any indicators or signs that they perhaps were
10 disassociating during the abuse or the trauma?

11 A The cluster of symptoms that children have that are
12 associated with disassociation it is part of avoidance and
13 numbing. So they are trying in the moment to avoid kind of
14 being there, and that is associated with numbing. So kind
15 of flat and of not feeling really happy, not feeling really
16 sad, just kind of feeling very number.

17 Q And that can present during disclosures?

18 A Yes. And beyond the disclosures too.

19 Q Well, let's talk about when someone appears flat. Is
20 there a -- is there a common behavioral reaction to sexual
21 abuse?

22 A There is not one common behavioral reaction. Children
23 who have been sexually abused are at risk for other -- for
24 certain types of behaviors. But not all children absolutely
25 exhibit all of those things. They are just a higher risk.

1 Q Are there any telltale signs that would indicate to an
2 outside observer that a child was being abused?

3 A No one tell-tale sign. I mean again, there are
4 clusters of symptoms that children are at higher risk for.
5 But not all children who have been abused will exhibit those
6 things.

7 Q So is it fair to say that it shouldn't be expected that
8 if a child was abused there is going to be a huge behavioral
9 change difference, highly emotional or catatonic or any --
10 basically anything that we have seen on TV?

11 A Right. That is correct.

12 Q In your clinical experience do most children cry and
13 sob when they are initially disclosing about abuse?

14 A Not initially, no.

15 Q In your work is there a term called flat affect?

16 A Yes, the flat ---

17 Q Can you explain that for us?

18 A Uh-huh. Flat affect is very similar to that numbing.
19 It is -- it is kind of monotone voice, not showing a lot of
20 emotion on your face.

21 All those things, -- you know, we play games like
22 emotional charades and you are trying to demonstrate facial
23 expressions, happy, smiling. Flat affect would be really
24 just giving no indication of emotion in your body expression
25 or facial expression or tone of voice.

1 Q Is it fair to say that flat affect is a coping
2 mechanism?

3 A A lot of times we consider it actually a symptom. So
4 flat affect is sometimes a symptom of depression. When
5 people are very say they have this flat affect. When
6 someone has experienced a traumatic event if they have post-
7 traumatic stress disorder the flat affect is considered a
8 symptom of that numbing cluster.

9 Q Are there any common coping skills that you can think
10 of that occur -- let me rephrase this. I understand that
11 you have done a lot of work in actual therapy and working
12 with children and helping them develop coping skills. But
13 are there any common coping skills that kids tend to kind of
14 develop on their own prior to therapy that are common to
15 see?

16 A Particularly prior to therapy the theory of how post-
17 traumatic stress disorders is developed is that children
18 avoid talking and thinking about the event that happened
19 because it is upsetting to talk and talk -- or talk about it
20 and think about it. So they avoid it.

21 And that is actually that avoidance is believed to be
22 what perpetuates a child symptoms because they wind up
23 avoiding things even that are just related to the abuse.

24 An example, I saw a client who had experienced abuse in
25 a bathroom and she was so upset about being in that bathroom

1 that she then was avoiding the bathroom which led to her not
2 taking care of herself, you know, in terms of showering and
3 bathing properly.

4 So the avoidance kind of generalizes to these other
5 things that are not dangerous, but then those things wind up
6 becoming upsetting.

7 And that's how PTSD is believed to be developed,
8 through that avoidance. Which avoidance can actually be
9 adapted in the moment, you know, in terms of maintaining
10 your own safety.

11 Q Now you talked about avoidance. But is it unusual for
12 a child victim to still love and want to spend time with a
13 family member that's abused them?

14 A That is very common, particularly because children are
15 often abused the vast majority by somebody that they know,
16 so the abuse experience is not the only thing that they do
17 with that person.

18 A lot of times it is somebody who is maybe in a
19 child-caring role like a parent who has done things like
20 take care of the child. And a lot of times they will
21 form -- you know, they will form what they call special
22 relationships with the child to give them opportunities to
23 be alone with the child and so the child sometimes enjoy
24 those things and actually think that they have a special
25 relationship and doesn't want to get rid of that special

1 things, but maybe just doesn't want the abuse to happen.

2 Q So when you're talking about these special
3 relationships is that -- is that a part of what is known as
4 grooming?

5 A Grooming is one of the titles that they -- yes, that
6 they include with that.

7 Q Can you define first what grooming is?

8 A So grooming is considered activities that an offender
9 does before the actual abuse or that kind of lead to abuse
10 happening.

11 Q Can you give us some examples?

12 A Uh-huh. So an example would be giving -- giving gifts
13 to the victim. Again saying that they have special time,
14 taking them on outings that are just the two of them
15 together. Those things are not abuse, but they then would
16 be contacts like being alone with the victim would be a
17 context where an abuse -- an abuse could happen later.

18 Grooming can also be things like the offender touching
19 the child but not necessarily in an abusive way but then the
20 child gets used to that and having touches and it again
21 gives a context to where farther touches would not be quite
22 as shocking.

23 Q Can showing sexually suggestive things to a child be a
24 form of grooming?

25 A It could be a form of grooming. It also is considered

1 a form of abuse in some states statues on child abuse in
2 Child Protective Services.

3 Q But when it is used for grooming it can be a form to
4 desensitize a child to the activity?

5 A Yes. And again, that is part of what grooming really
6 is that it's little things that wind up becoming exactly
7 that. The child becomes used to those things happening so
8 that if the abuse were to happen later it doesn't seem so
9 out of the ordinary because it is just a little bit farther
10 from what is going on.

11 Q A few more questions about disclosure. Is disclosure
12 an event or a process?

13 A Disclosure in a process. The literature is very clear
14 and there have been several interviews in the literature
15 with children that children say things like it is one of the
16 quotes from the literature that it is never done. It is
17 something that -- that happens over time.

18 Q And why is that?

19 A What the literature talks about is that children -- one
20 of the first things, first they need to feel safe in order
21 to talk about what happened. And they don't always feel
22 safe at first.

23 Particularly at my programming we do forensic
24 interviews which are typically by somebody that didn't know
25 the child. so children are often told don't talk to

1 strangers. So they come in and they are often times talking
2 about something that they maybe have fears that somebody is
3 not going to believe them.

4 So -- so sometimes they will talk about it but it is
5 not everything related to what happened.

6 And we don't always ask them questions about everything
7 that happened. That is another thing that children say in
8 the literature is that they only told about this part of it
9 because that's what they were asked about.

10 And as they are asked questions later on about other
11 parts of it they talked about those things.

12 MS. ELLIOTT: Court's indulgence, Your Honor.

13 THE COURT: All right.

14 MS. ELLIOTT: I have no further questions at this time,
15 Your Honor.

16 THE COURT: All right. Cross-examination.

17 **CROSS-EXAMINATION BY MS. FORD OF DR. CAROLE SWIECICKI:**

18 Q So Dr. Swiecicki, is that -- Dr. Swiecicki, you are not
19 -- you testified you were not actually involved in this
20 particular case, correct?

21 A Correct.

22 Q But you are the director of the Lowcountry Children's
23 Center, correct?

24 A Correct.

25 Q And that is the center that actually was involved in

1 interviewing the minor in this case, correct?

2 A That is my understanding.

3 Q And you told us LCC is a member -- or I'm not sure if
4 you said this, but LCC is a member of the National
5 Children's Alliance?

6 A The National Children's Alliance is an accrediting
7 body, and so there are national organizations that have
8 standards of accreditation for children's advocacy center.
9 We are a fully accredited member of the National Children's
10 Alliance.

11 Q And this center, to be clear, it advocates for
12 children; correct?

13 A That is one -- one of the ten standards is advocacy.
14 There are ten standards, and advocacy is just one.

15 Q And you told us that you yourself are on the Board of
16 Directors for the South Carolina Network of Children's
17 Advocacy Centers?

18 A Correct.

19 Q And on the National Children's Alliance board as well?

20 A Correct, National Children's Alliance, yes.

21 Q At Lowcountry Children's Center y'all try to make the
22 place as appealing as possible to the children, correct?

23 A So another one of the standards is a child friendly,
24 safe location. And that's -- that is one of those standards
25 that we meet in terms of being child friendly and safe.

1 Q And one way y'all do, that is you decorate the place to
2 be appealing to children, correct?

3 A We have like child-friendly paintings on the walls as
4 they enter.

5 Q And you want children to feel as comfortable as
6 possible there?

7 A Children and adults.

8 Q And you also provide counseling services at LCC?

9 A Yes.

10 Q And medical services?

11 A We have on-site child pediatricians that are actually
12 employed by the Medical University of South Carolina that
13 provide medical exams on site. But they're not my staff
14 members.

15 Q LCC is pretty much an all-inclusive place for the
16 advocacy of kids?

17 A Yes.

18 Q When you come into the picture you are not an actual
19 witness yourself to sexual abuse, correct?

20 A Me personally?

21 Q Yes.

22 A Correct.

23 Q And so you are mostly going off what people tell you
24 happened, correct?

25 A I'm not -- my role is not so much a direct services.

1 At my current agency I provide supervision, but I am not as
2 involved in the direct services where children or families
3 are talking about their experiences.

4 Q In your experience in general working with children,
5 you told us you have worked with a lot of children of abuse.
6 And so you come into the picture after there has been a
7 disclosure, correct, generally?

8 A Not necessarily. So part of -- our service delivery,
9 you know, one of the reasons why children or families are
10 referred is to receive a forensic interview, which is a
11 neutral fact-finding interview when there is a concern for
12 abuse. So sometimes children have made a disclosure before
13 that. Sometimes they have not.

14 Q Okay. And you told us that some children delay
15 disclosure?

16 A Yes.

17 Q Okay. But some don't?

18 A Approximately a quarter to forty-eight percent disclose
19 within a month of the event.

20 Q And your studies they are basically based on assuming
21 the allegations actually occurred, correct?

22 A That study was with children who had a founded case
23 with Child Protective Services. So there had been a
24 determination by Child Protective Services that abuse had
25 happened.

1 And these -- this is really based on the literature. I
2 just don't have any dealing with children disclosure
3 patterns. That was another researcher's study looking at
4 rates of disclosure at the time patterns with children who
5 had a finding from Child Protective Services.

6 Q A finding. And in your experience you know that a
7 finding in Family Court is a fairly low standard, correct;
8 much lower than criminal ---

9 A There is a different standard for criminal court.

10 Q Right. So the studies are based on that standard ---

11 A That ---

12 Q --- to your knowledge?

13 A --- one study was. There is a study that was looking
14 at children whose cases were in criminal court, but it
15 didn't involve whether there was a guilty finding. I think
16 that about 60 percent of children whose cases were in
17 criminal court had disclosed within that month.

18 Q Okay. So if someone tells right away though, that
19 doesn't mean it didn't happen; correct?

20 A I don't know of any studies that have looked at the
21 disclosure time and whether or not it happened, you know,
22 yes, no. It has more been looking at of children with a
23 finding what was the timeframe.

24 Q Well, basically, if someone tells right away or not,
25 that doesn't mean it did happen or didn't happen,

1 necessarily?

2 A I don't think any studies have really looked at that.

3 Q You talked about the reasons for delay. I just want to
4 go over some of those again. Sometimes the child may be
5 afraid they won't be believed?

6 A Uh-huh.

7 Q Sometimes they might be worried they would be taken
8 away from their family?

9 A Uh-huh.

10 Q Sometimes they might be worried that they themselves
11 might be hurt ---

12 A Uh-huh.

13 Q --- or someone else like a sibling might be hurt?

14 A Or a parent.

15 Q And you talked about some kids are actually -- you
16 talked about grooming and a child might be given a bribe.
17 Is that a gift?

18 A A gift is typically what they are called, you know, by
19 the offenders.

20 Q Or possibly they were given special treatment by the
21 offender?

22 A Uh-huh.

23 THE COURT REPORTER: I'm sorry, is that ---

24 A Yes.

25 THE COURT REPORTER: Thank you.

1 Q When you talked about grooming you talked a lot about
2 the two spending special time together and things of that
3 nature?

4 A Uh-huh, that is one form of grooming.

5 Q In Charleston County police agencies are generally
6 trained to take child witnesses to LCC, correct?

7 A So part of what we do with that forensic interview is
8 the goal really across the nation is to reduce the number of
9 duplicative interviews by children.

10 So law-enforcement if they do bring the child to our
11 center for that interview are able to watch live via a
12 closed circuit system. That way if they have follow-up
13 questions they can tell the interviewer about that and the
14 interviewer can ask the question in a non-leading way so
15 that the child has one interview. So law-enforcement is
16 able to do that. They don't always bring the child.

17 Q But that is why that part of LCC it says to have
18 forensic interviewers for that propose?

19 A Yes. And that is another one of those ten standards of
20 children's advocacy centers is to have forensic
21 interviewers.

22 Q And LCC has a working relationship with many of the
23 detectives in the county who work these types of cases,
24 correct?

25 A Another standard, multi-disciplinary team, is to have

1 signed memorandum of agreement with law-enforcement and
2 child protective services to reduce the duplication of
3 interviews and to make sure that everybody is working
4 together. Because we each play different roles. But that
5 each person can receive information they need.

6 Q And one reason it is ideal for a place like LCC to do
7 an interview first as opposed to a police officer is because
8 the officer may not be trained properly in how do interview
9 children, correct?

10 A Different jurisdictions do it differently. Some law-
11 enforcement officers have obtained training. The real goal
12 has to do with minimizing the number of times that a child
13 would need to to receive a duplicative interview. And the
14 standard in the field is that the child have a video
15 recorded interview that is not duplicative.

16 Having multiple interviews isn't necessarily harmful,
17 but having duplicative interviews is not best practice. So
18 the goal would be -- you know, we are equipped with video
19 recording equipment to do those things. And all of our
20 forensic interviewers have met the basic standard in
21 forensic interviewing in terms of training and having
22 ongoing peer-review.

23 Q And one reason for of this is because when a child
24 comes to y'all to be interviewed and they've talked to
25 numerous other people you have no clue what those people

1 have said to the child, correct?

2 A Unless it has been recorded.

3 Q And children -- the -- y'all are trained at LCC to ask
4 questions in a particular way, correct?

5 A Correct.

6 Q For example, the question should not be leading; is
7 that fair?

8 A In forensic interviews, absolutely, yes.

9 Q Because leading puts words into their mouths?

10 A Depending on the leading question. But it absolutely
11 could.

12 Q And that's because children are different than adults
13 developmentally, correct?

14 A Uh-huh.

15 Q And the age of the child may make a difference too;
16 younger children are obviously different than older
17 children?

18 A Uh-huh. Particularly pre-school children
19 developmentally with interviewing are different from six and
20 older children, school-age and older.

21 Q So interviewer would interview them differently than
22 older children typically?

23 A The techniques themselves in the interviewing
24 training are the same. The goal is to be non leading, to
25 ask open-ended questions to get a child to tell details or

1 talk about what has happened. Those actually are the same
2 for young children and older children.

3 But older children are more capable of answering
4 things. Like they have a better sense of timeframes. And
5 particularly teenagers might be able to answer questions
6 about how many times something has happened whereas
7 preschoolers aren't really capable developmentally of
8 answering questions like that, so you wouldn't really ask
9 that with younger children. Even you typically don't ask
10 that up to age ten even.

11 Q But also a child's memory can work different than an
12 adult's memory?

13 A The basic premises of memory are the same across age.

14 Q But they are affected by different things potentially,
15 especially younger children; correct?

16 A I'm not sure what you're asking.

17 Q A child -- there are many, many, many psychological
18 studies where younger children in particular can be
19 suggestible; correct?

20 A Okay. Preschool age, uh-huh.

21 Q Yes?

22 A Yes.

23 Q And things like repeating words can affect how -- what
24 goes into their memory, correct?

25 A Not necessarily what goes into their memory. The study

1 really has more to do with if they are suggestible to what
2 they -- what they -- what they say.

3 So repeated -- repeating the exact same questions
4 especially if you are repeating a leading question preschool
5 children are more suggestible than older children to that.

6 Q And one thing you wouldn't want to do possibly in an
7 interview is ask the same question multiple times because
8 that could suggest to the child that they are giving the
9 wrong answer, correct?

10 A Typically in the interviewing protocol part of what you
11 talk about is that you might ask multiple questions and if
12 you did that it doesn't mean that the first answer was
13 wrong. Because children can sometimes think that.

14 The goal -- the best standard would be not to ask
15 repeated, you know, asking a question unless you have
16 rephrased it in a different way and particularly not to ask
17 multiple leading questions.

18 Q One concern that when LCC is evaluating a child
19 sometimes they note concerns in their report of just
20 possible things to be of concern. And one might be if they
21 have been interviewed multiple times, correct?

22 A I've not seen that in one of the reports. But I
23 don't -- my role in the agency is not directly to review the
24 reports. But that would be a concern if they have had
25 multiple duplicative interviews just in general.

1 Q And that is possibly because it could affect their
2 testimony later on?

3 A It is for multiple reasons. I mean again best practice
4 in the field is for children not to have repeated
5 duplicative interviews. Not necessarily in related to
6 testimony but also because children have reported that that
7 is emotionally distressing to them to be asked the same
8 thing over and over again by multiple different people.

9 The goal of our children advocacy model started out
10 because of the emotional impact of telling your story. On
11 average children were interviewed by seven different people,
12 because school people were interviewing them -- this was
13 back in the '80's, the 1980's.

14 So the goal isn't necessarily just about that multiple
15 duplicate interviews can lead to children being more
16 suggestible but also because it can be emotionally
17 distressing.

18 Q Okay. But the only basis is not because it is
19 traumatic to the children, it is because there are concerns
20 based on studies that they can be influenced by how they are
21 asked questions?

22 A Yes. If they are duplicative, yes.

23 Q And something also LCC might look at is if someone told
24 them what to say or told them what not to say?

25 A So again I'm not quite sure what you are asking. But

1 we do look at something called source monitoring which is
2 looking at kind of what is the source of a child's knowledge
3 so how do you know that happened.

4 In a forensic interview we might ask something along
5 the lines of if there is a concern about coaching or
6 something like that we might ask about source monitoring,
7 how do you know this. And typically a child whose has been
8 told what to say would say well I know this because my mom
9 told me.

10 Children who there are not concerns about that might
11 say I know this because I was there. Things like that.

12 Q You told us that a disclosure could be a process, so it
13 doesn't always come out everything all at one time; correct?

14 A The literature -- yes, calls it kind of as a standard
15 phrase, a disclosure is a process.

16 Q And a process with things like that more information
17 comes out over time, correct?

18 A Really in the literature where they are talking about
19 disclosure as a process they are talking about it as like it
20 is not a one-time event, like okay now a disclosure has
21 happened. It is that disclosure happens over time. And
22 that is just the process.

23 Q But it is referring to additional information coming
24 out, correct?

25 A Typically.

1 Q Not necessarily different information?

2 A There is really -- there is a lot of literature about
3 not just different information like additional, but, you
4 know, sometimes in the disclosure process there is also
5 children retract information.

6 Again, you know, some of these studies that have been
7 children where there is medical evidence or there has been a
8 finding in child protective services, you know, 20 percent
9 of those children actually take back some of the details.
10 Which is again one of those things that they look at in
11 delayed disclosure that it is a process.

12 You know, sometimes those kids will -- there has been
13 medical evidence so there is a standard that something
14 happened but for some reasons -- and typically it has to do
15 with a non-supportive caregiver, and older children are more
16 likely to take back some of the things that they said.

17 Q You are referring to recanting, correct?

18 A Correct.

19 Q So sometimes they may add information or detract
20 information, but that doesn't necessarily refer to giving
21 different information altogether? Changing like for example
22 who may have been in a room?

23 A Sometimes that is possible. And really it depends
24 again on whether there have been multiple incidences of
25 abuse. So it could be that, you know, a child is talking

1 about a new incident of abuse so they would talk about
2 something that is in a different room from something that
3 they said before they are talking about a different time.

4 So really when people are referring that -- to the
5 disclosure as a process it really has to do with there can
6 be new information, there could be information that kids
7 take back, but the disclosure isn't just kind of that one-
8 time things but that it happens over -- over time.

9 Q Okay. So you're -- a process means they may add
10 information or sometimes they may recant and possibly they
11 may add it back after they recant?

12 A Uh-huh.

13 Q Sometimes they may not have a good handle -- is this
14 what you are saying, they may -- because if it happened
15 numerous times in different places it may be difficult for
16 them to distinguish one time from another?

17 A Well, or just that you were asking, you know, would
18 they add new information about a new room. If they are
19 talking about a different incident because there had been
20 multiple incidents then that absolutely might happen.

21 Q So different places you are saying that could change if
22 it happened a lot?

23 A Right.

24 Q And behavioral issue, the solicitor asked you some --
25 some children display behavioral issues, correct?

1 A Yes.

2 Q And some don't?

3 A Yes.

4 Q And some issues can be from other trauma?

5 A The rates of post-traumatic stress disorder are around
6 40 percent. So 40 percent of sexually abused kids
7 experience post-traumatic stress disorder.

8 When there's multiple forms of abuse like physical
9 abuse and sexual abuse it is about 75 percent of children
10 who have post-traumatic stress disorder.

11 So definitely rates are higher when children have
12 experienced multiple types of abuse.

13 Q And not everyone even has post-traumatic stress
14 disorder?

15 A Correct. So children who have had both physical and
16 sexual abuse that means 25 percent of those children do not
17 have post-traumatic stress disorder.

18 Q So some kids act out, and some kids don't; correct?

19 A Yes.

20 Q And some kids delay disclosure, and some kids don't?

21 A About -- a little over half delay disclosure.

22 MS. FORD: Beg the court's indulgence.

23 THE COURT: Okay.

24 Q Just one other question. You are not here to say it
25 happened or it didn't happen, correct?

1 A Correct.

2 THE COURT: Redirect.

3 MS. ELLIOTT: Yes, Your Honor.

4 **REDIRECT EXAMINATION BY MS. ELLIOTT OF DR. CAROLE SWIECICKI:**

5 Q I want to make sure that I understood some things that
6 you told Ms. Ford correctly. When you were talking about
7 source monitoring, is that kind of the safeguard against
8 suggestibility?

9 A It's not typically tied to suggestibility. It is
10 typically -- although it -- although it could be, because
11 one of the things is if you have just asked these multiple
12 questions of a child and they were suggested to say
13 something and you say well how do you know it happened, if
14 they said well because you just asked me so many times I
15 thought you wanted to know something else, that would be the
16 source of their knowledge. So it could safeguard against
17 that.

18 Typically when people are doing source monitoring in
19 their forensic interviews it is because there has been a
20 concern that somebody was coaching the child or if the child
21 is not giving a lot of clear details, you know, they are
22 saying that maybe sex happened but when you ask a question
23 like well tell me what exactly happened they can't describe
24 what that means in any behavioral way then you would say
25 well how do you know this happened.

1 It is one of those things it is tied typically to a
2 concern that there has been coaching or that there are --
3 that the details they can't describe kind of behaviorally
4 what happened.

5 Q So it would be fair to say that its for the details
6 that kind of give the red flags towards suggestibility?

7 A Yes.

8 Q Okay. And you kept talking about a distinction between
9 repeatedly asking a child a question and a duplicative
10 interview. Can you explain that for us a little bit?

11 A Yes. So a du- -- the interview protocols kind of --
12 they are pretty standardized. So you ask things following
13 that protocol. What is not best practice is doing that full
14 protocol multiple times with all of the same questions in
15 it, asking all those same questions again.

16 There is growing literature that some children actually
17 do better with multiple interviews but that are not
18 duplicative. So you might go through the first third of
19 that interview protocol in the first interview and then the
20 next time it is the same interviewer, it is not a new
21 person; and they are not asking the same questions again,
22 they are just proceeding with the second third. And some
23 children have reported that that helps them to feel more
24 comfortable just feeling safe and knowing this person when
25 they are going to talk about something that has happened to

1 them.

2 Q So it seems that for many parents it is common practice
3 to ask kind of body safety questions, has anyone ever
4 touched you, has anyone ever hurt you. Are those bad
5 questions for parents to ask?

6 A No. It would be -- what is harder is if they are
7 asking leading questions like I think the teacher has
8 touched you, right; you know, where they are actually
9 leading as opposed to has something happened which is much
10 more open-ended and gives a child if something has happened
11 the chance to tell.

12 Q So sporadically asking a child if they been touched
13 inappropriately, sexually abused, would not necessarily
14 increase the rate of suggestibility?

15 A There is not any literature on that that says
16 increasing suggestibility. It is actually one of the
17 factors that is related to shorter delays is a parent who is
18 asking, you know, questions about whether, you know, whether
19 something has happened.

20 Q So kids being asked in an open-ended way more often,
21 leads to a faster disclosure?

22 A There is a little bit of literature that says that that
23 is true.

24 Q Okay.

25 A And I mentioned that earlier that sometimes the

1 questions, again not leading, are something like you have
2 seemed really upset lately, what is going on.

3 That is not leading anything -- it is not asking
4 anything specific to abuse. But that is considered one of
5 those things of a parent's asking a question that prompted a
6 disclosure.

7 Q You were talking a little bit about -- about how
8 multiple incidents sometimes impact disclosure. Could you
9 explain what you were saying about that a little bit more?

10 A So when children have experienced a lot of multiple
11 different types, you know, abuse many times they tend to not
12 separate them out unless something unusual has happened.GS

13 It is again something that kind of happens to all of
14 us. We all maybe drive to work or drive somewhere and
15 unless something unusual happens you don't necessarily
16 remember exactly every time that you have driven to work,
17 you just kind of remember what typically happens unless
18 something unusual happened.

19 And that is the same thing when children are talking
20 about abuse. They don't typically remember specific ones
21 unless -- in treatment we will have them talk about the
22 first time because that tends to stand out, the most recent
23 time which tends to stand out, and maybe the most upsetting
24 time which was for certain reasons which are very unique to
25 the child stand out. A lot of times the others times just

REDIRECT EXAMINATION BY MS. ELLIOTT OF DR. CAROLE
SWIECICKI

1 kind of blend together.

2 MS. ELLIOTT: Court's indulgence, Your Honor.

3 THE COURT: Okay.

4 MS. ELLIOTT: No further questions.

5 THE COURT: All right. Recross.

6 MS. FORD: Just briefly.

7 **RECROSS-EXAMINATION BY MS. FORD OF DR. CAROLE SWIECICKI:**

8 Q You spoke about going to work every day like people may
9 have a hard time remembering something that they do
10 everything day like that.

11 A Not that they have a hard time remembering but that
12 thinks kind of blend -- those incidents blend together. So
13 they remember what happens but might not remember the color
14 of the car next to them.

15 Q Okay. And that is something like driving to work that
16 happens almost every day of the week ---

17 A Something that happens a lot.

18 Q --- for years?

19 A Or ---

20 Q Yes?

21 A --- multiple times, yes.

22 MS. FORD: No further questions.

23 THE COURT: All right. Is this witness free to leave?

24 MS. ELLIOTT: No objection.

25 THE COURT: Any objection?

1 MS. FORD: No, Your Honor.

2 THE COURT: Very well. You are free to go.

3 Ladies and gentlemen, we are going to take our morning
4 break. We are going to take about 15 minutes. Please step
5 to your jury room. Do not discuss this matter. Do not
6 allow anyone to discuss it with you. We will take about 15.
7 (WHEREUPON, jury exits courtroom and break was had 3/2/16,
8 11:27 p.m.)

9 (WHEREUPON, resumed 3/2/16, 11:54 p.m.)

10 MS. ELLIOTT: Judge, before we start back, our last two
11 witnesses are going to be regarding the jail tape. What I
12 did kind of for record purposes is I took the transcript
13 that we had developed and basically highlighted the sections
14 that you told us to take out, added the time marks for what
15 I will be playing.

16 I am going to ask that you put that in as a Court
17 exhibit mostly for appellate purposes since just the whole
18 tape is going to be going in and it might not be clear to
19 any further courts what was and wasn't played.

20 THE COURT: Okay. Any objection to that?

21 MR. KOZELSKI: No objection, Your Honor.

22 THE COURT: Okay. Have you had a chance to look at it
23 too?

24 MR. KOZELSKI: I have, Your Honor.

25 (WHEREUPON, Court's Exhibit Number 1, jail phone call

1 transcript, was marked for identification.)

2 (WHEREUPON, jury enters courtroom 3/2/16, 11:57 a.m.)

3 THE COURT: We will continue with the State's case.

4 Call your next witness.

5 MS. TRAN: Thank you, Your Honor. The State calls

6 Officer Thomas.

7 (WHEREUPON, the witness was duly sworn.)

8 THE CLERK: If you could state your first and last name
9 and spell out your last name, please.

10 THE WITNESS: My name is Keisha Thomas, T-H-O-M-A-S.

11 THE COURT: Your witness.

12 MS. TRAN: Thank you, Your Honor.

13 **DIRECT EXAMINATION BY MS. TRAN OF OFFICER KEISHA THOMAS:**

14 Q Officer Thomas, where do you work?

15 A Charleston County Detention Center.

16 Q Okay. And how long have you worked there?

17 A Eight years.

18 Q What are your duties and responsibilities there?

19 A My responsibility is to assist the attorneys with
20 getting their client down to the booth and doing the
21 subpoenas, the formal subpoenas that they request.

22 Q As a part of your duties do you also handle Detention
23 Center phone calls?

24 A I do.

25 Q And do you also respond to subpoenas for those phone

1 calls?

2 A I do.

3 Q Can you explain what you do when you receive a subpoena
4 for a Detention Center phone call?

5 A When I receive the subpoenas I read it all thoroughly,
6 look up the inmate name, the request, information that they
7 request, match it. Go to the computer and pull it up and
8 record it.

9 Q Okay. And can you just briefly explain to the jury how
10 when a person makes a phone call from the Detention Center
11 how each call is matched to that specific person?

12 A When you pull up the inmate name you pull up all the
13 calls that they make. When they get on the phone they have
14 to do their pin number. So when the recording comes on it
15 lets them know that it is being recorded.

16 Q And each person there has an individual pin number ---

17 A Yes, ma'am, everybody has their own pin number.

18 THE COURT: Can you do me a favor. Let her finish the
19 question before you begin to answer. Even if you know what
20 the answer is. It just makes ---

21 THE WITNESS: Yes, ma'am,

22 THE COURT: --- my court reporter's life ---

23 THE WITNESS: Yes, ma'am.

24 THE COURT: --- easier.

25 Q To be clear, does each individual person have -- has --

1 have a pin number assigned to them specifically?

2 A Yes, ma'am, every inmate has their own pin number.

3 Q And when they are on a phone call do they identify
4 themselves?

5 A Yes, ma'am.

6 MS. TRAN: May I approach the witness, Your Honor?

7 THE COURT: You may.

8 Q Officer Thomas, I am handing you what has previously
9 been marked for ID purposes as State's Exhibit 3. Do you
10 recognize that?

11 A Yes, ma'am.

12 Q And what is it?

13 A This is the CD disc that I burned for Mr. Maurice
14 Harris.

15 Q And how do you know that?

16 A When I burn it in I get the inmate name and number and
17 the date that it is recorded.

18 Q And it has got your handwriting on the disc?

19 A Yes, ma'am,

20 Q Did you receive a subpoena for Mr. Harris?

21 A I did.

22 Q And what date range was this subpoena for?

23 A It was November 27, 2013.

24 Q And how do you know that what is on this disc is what
25 is reflected, what was on the subpoena?

1 A Because I matched the date with -- the request on the
2 subpoena with the date on the disc.

3 Q Thank you, Officer Thomas. That's all the questions I
4 have for you.

5 (WHEREUPON, witness stands to leave.)

6 THE COURT: Hold on. There is a thing called cross-
7 examination.

8 THE WITNESS: Oh.

9 THE COURT: Don't know if there is going to be any, but
10 hold on.

11 THE WITNESS: Okay.

12 THE COURT: Cross-examination.

13 **CROSS-EXAMINATION BY MS. FORD OF OFFICER KEISHA THOMAS:**

14 Q Officer Thomas, did you actually when you burned the CD
15 did you listen to the call as you were burning it?

16 A No, ma'am.

17 Q Okay. So you just clicked a button?

18 A When I look it up I look it up by inmate number and
19 name and it matches.

20 Q Okay. But you didn't actually listen to the call as
21 you were downloading or burning or ---

22 A No, ma'am.

23 Q --- whatever? So have you since listened to the call?

24 A No, ma'am.

25 Q So you don't know what is on this tape then?

- 1 A I know the date that I recorded from the -- the
2 inmate's name matched with his number and it records his
3 conversation that he makes on the phone number.
- 4 Q Okay. But you didn't listen to the conversation ---
- 5 A No, I didn't listen to the conversation.
- 6 Q And so you don't know who the conversation was with?
- 7 A Yes, ma'am. As far as who made the call?
- 8 Q Correct. The other person?
- 9 A Oh, no, I don't know -- no, ma'am.
- 10 Q Okay. So your -- you weren't an actual witness to the
11 conversation yourself?
- 12 A No, ma'am.
- 13 Q And did you listen to any other calls?
- 14 A No, ma'am.
- 15 Q And I think --
- 16 MS. FORD: Beg the court's indulgence.
- 17 THE COURT: All right.
- 18 MS. FORD: No further questions.
- 19 THE COURT: All right. Redirect.
- 20 **REDIRECT EXAMINATION BY MS. TRAN OF OFFICER KEISHA THOMAS:**
- 21 Q Officer Thomas, are these phone calls kept in the
22 regular course of business?
- 23 A It is kept behind our desk in the lobby area.
- 24 Q Are these phone calls kept as a regular course of what
25 the Detention Center does? Does the Detention Center keep

1 these phone calls as records?

2 A No, once we record it whoever requests it gets the CD.

3 Q Correct. But when an inmate -- when a person, any
4 person in the jail, makes phone calls does the Detention
5 Center keep these phone calls as a course of what they do
6 at ---

7 A Yes, ma'am,

8 Q --- the Detention Center?

9 A Yes, ma'am.

10 Q Okay. And are you a person that keeps up with these
11 phone calls?

12 A Yes, ma'am,

13 Q That's all the questions I have for you. Thank you.

14 THE COURT: Recross.

15 MS. FORD: Nothing further at this time, Your Honor.

16 THE COURT: Is this witness free to leave?

17 MS. TRAN: Yes, Your Honor.

18 THE COURT: Any objection? You are free to go. Call
19 your next witness, please.

20 MS. ELLIOTT: The State calls Genita Brown.

21 (WHEREUPON, the witness was duly sworn.)

22 THE CLERK: If you could state your first and last name
23 and then spell out your last name.

24 THE WITNESS: Genita Brown, B-R-O-W-N.

25 **DIRECT EXAMINATION BY MS. TRAN OF GENITA BROWN:**

1 Q Ms. Brown --

2 MS. ELLIOTT: Your Honor, may I approach the witness?

3 THE COURT: You may.

4 Q Ms. Brown, I am going to show you what has been marked
5 for identification purposes as State's Exhibit 3. Do you
6 recognize that?

7 A Yes, I do.

8 Q How do you recognize it?

9 A By my initials and the date.

10 Q Have you listened to what is on this CD?

11 A Yes, I have.

12 Q Do you recognize the voices on this CD?

13 A Yes, I did.

14 Q Who do you recognize those voices to be?

15 A Mr. Maurice Harris and Ms. Leola Harris.

16 Q How do you know their voices?

17 A I've known them for 30-plus years.

18 Q Have you had conversations with them in the past?

19 A Yes, I have.

20 Q Have you had telephone conversations with them in the
21 past?

22 A Yes, I have.

23 Q And this sounds like their voices?

24 A Yes.

25 MS. ELLIOTT: Your Honor, at this time we would move

1 State's Exhibit 3 into evidence.

2 THE COURT: Any objection?

3 MS. FORD: Yes, Your Honor, we object based on
4 authentication and foundation. Which we probably need to
5 approach. And relevancy as far as the content.

6 THE COURT: Okay. Very well.

7 (WHEREUPON, bench conference was had 3/2/16, 12:06 p.m.)

8 THE COURT: All right. And this is Exhibit 3; am I
9 correct?

10 MS. TRAN: Yes, Your Honor.

11 MS. ELLIOTT: Yes, Your Honor.

12 THE COURT: Exhibit 3 is admitted over the objection of
13 the defense. And who will -- you all will help me remember
14 the -- a little bit more -- talk about that a little bit
15 more.

16 MS. FORD: Yes, Your Honor.

17 THE COURT: Later. Thank you. All right.

18 (WHEREUPON, State's Exhibit Number 3 was admitted into
19 evidence.)

20 MS. ELLIOTT: Thank you. Your Honor, at this time the
21 State would publish State's Exhibit 3 pursuant to your
22 previous rulings.

23 THE COURT: Okay.

24 MS. ELLIOTT: If we could not put the screen on, Your
25 Honor.

1 (WHEREUPON, display screen turned off by the clerk.)

2 MS. ELLIOTT: Judge, the first portion will be Section
3 1 to 120.

4 (WHEREUPON, pause for equipment setup.)

5 MS. ELLIOTT: Judge, we are having some kind of
6 technical difficulty. I don't know why it is not coming
7 through the speakers.

8 THE COURT: Okay. So do you want to unplug and
9 re-plug? No, yes? If that doesn't work we will go ahead
10 and take an early lunch and give you an opportunity to work
11 on it and play it when we return from lunch.

12 (WHEREUPON, pause for equipment setup.)

13 THE COURT: Okay. Ladies and gentlemen, while we
14 attempt to repair the snafu, technologically speaking, I
15 think it is probably appropriate for you all to go ahead and
16 take your lunch. Please be mindful over the lunch break
17 to not discuss this matter or allow anyone to discuss it
18 with you. Do not do any social media, research or
19 communication regarding this matter.

20 You must receive all of the information from which you
21 will make up your minds here in court while court is in
22 session. Please keep that in mind.

23 Yes, it is freezing. It had me looking for a hot
24 flash. But we are warming up. We are going to continue to
25 warm up over -- I am so glad somebody else it cold. That

1 was nice. So we are going to try to warm it up a little bit
2 for you so hopefully when you return it will be warmer.

3 Remember the admonition regarding cell phones. But do
4 not have a cell phone with you while you are serving on the
5 jury. And if you have it with you when you return please
6 remember to give it to our bailiffs and they will take good
7 care of it until we adjourn for -- or until we adjourn.

8 Ladies and gentlemen, have a good lunch. Let's
9 reconvene at let's say at 1:30. That gives you an hour and
10 fifteen minutes. Thank you. Have a good lunch.

11 (WHEREUPON, jury exits the courtroom at 3/2/16, 12:13 p.m.)

12 MS. ELLIOTT: I think we got it to work during the
13 break.

14 THE COURT: Huh?

15 MS. ELLIOTT: We had it working during the break.

16 THE COURT: I've got it. So -- all right, so you will
17 work on it during lunch and get it ready to go.

18 Anything before we take our break else from the State?
19 Nope?

20 MS. ELLIOTT: Nothing, Your Honor.

21 MS. FORD: Your Honor, this may be a good time for me
22 to put the objection on the record.

23 THE COURT: It is.

24 MS. FORD: Your Honor, first of all we would object to
25 the phone call based on relevance just stating the phone

1 call talks a lot about like that child got me messed up and
2 I want them to see if they will drop the charges. I don't
3 think that is relevant to go into his innocence or guilt at
4 all.

5 And there is one comment about and she crawled on me.
6 But I don't think there is any indication - no contest, and
7 he is talking to his mom - that it was sexual in nature or
8 anything of that.

9 And as far as the authentication and foundation, Your
10 Honor, Officer Thomas testified that she never at any point
11 listened to the call to make sure it matched up with what
12 she was downloading from the system. And because of that I
13 don't think it is authenticated as first of the date and
14 time.

15 You know, it -- there wasn't any -- it was kept in the
16 normal course of business; however, if someone, for example,
17 is making a copy of something they would need to make sure
18 that the copy didn't cut something off.

19 And there is just no testimony about her doing anything
20 to make sure the call on the CD is the call that she
21 downloaded, so to speak.

22 In addition, no testimony that -- about how the system
23 works other than how they find things with the inmate
24 number, but no testimony about how this system actually
25 technically works to make sure that everything is

1 authenticated and legitimate.

2 THE COURT: Absolutely. Thank you so much for that.

3 And I am going to handle them in reverse order. My
4 ruling is that I do believe that there is sufficient
5 authenticity -- or authentication, for this reason -- and
6 Ms. Ford, I am having a bit of a Yogi Berra moment. It is
7 like déjà vu all over again.

8 Because when I was here last and we had a similar issue
9 that arose and one of the concerns that I had - and I think
10 we had an opportunity to really examine it in that case, and
11 the same is for this case - is that what happens -- what you
12 have is is that you have as I understand it the jail issues
13 phone numbers or pin numbers to each detainee and when those
14 folks make phone calls they cannot make those phone calls
15 without putting in their ID.

16 And I think she has talked about the fact that that is
17 how you know who is on the phone call because the detainee
18 has entered the detainee's pin number.

19 And so what you have at the end of the day with the
20 jailer is that you have testimony from the jailer -- and Ms.
21 Tran did an excellent job of eliciting that testimony
22 ultimately that this was a records that the jail kept and
23 that it was part of the business of the jail to keep these
24 phone calls and that -- and that they are -- if you will,
25 they are kept pursuant to those identification numbers.

1 So at the end of the testimony by the jailer, here is
2 what we have: We have numbers of a particular inmate that
3 is connected to a particular -- or a particular phone calls
4 or a particular phone call. And I -- clearly this
5 particular jailer cannot identify the voice.

6 So what we have is we have the connection between the
7 electronically pulled phone call made by a person with that
8 particular pin number. And that is all you have.

9 I don't think that is sufficient authentication. I
10 think the next piece is required, and that is the piece that
11 we just heard. And that is when the witness can identify in
12 fact that -- the voices on that particular phone call. I
13 think that when you have both then that certainly is
14 sufficient authentication.

15 And I note your exception for the record.

16 Now with regard to the relevancy, as you know we went
17 over this yesterday and I took out all the references to the
18 Family Court and all the references to the bond matter. And
19 there were even some places that I took out where there was
20 a little bit mixing of the bond in the General Sessions
21 matter. I just took those out so that the jury wouldn't
22 know that.

23 And the rest of it I do think is relevant. In other
24 words, what is relevancy. Relevancy is elicited
25 information, elicited testimony, that tends to make an issue

1 which is of consequence to the litigation more probable or
2 less probable. And I believe that what remains in fact does
3 that.

4 And the specific phrase that we are concerned about
5 whether or not it is an admission of some sort or not -- and
6 I will just state for the record what it is. It says:
7 Little Sister , Little Sister, going, going, and getting involved in
8 that. Man.

9 And then you cannot -- it is inaudible. And then it
10 says: They lying.

11 And then that was the first with whom he is speaking.

12 And then the defendant says yeah, and I ain't even
13 touch her.

14 And that the person with whom he is speaking goes:
15 Hum.

16 And then I think the next statement is the one that you
17 are concerned about. And the defendant says: And as far,
18 um, as the other one go.

19 And earlier he is talking about Complainant . I pronounce
20 that Complainant But I believe that to be Complainant . I think
21 there is an inference that he is intending to speak of
22 Complainant . And he goes on to say: And as far, um, as the
23 other one go, she started with me. She climbing all over
24 me. That's another thing.

25 And then he goes on to say there are two stories or two

1 tails to every story, et cetera.

2 So I believe that -- I believe that there is a
3 reasonable inference that the jury could draw from that
4 statement such that it -- this jury could consider that to
5 be in the nature of an admission. And that is --
6 irrespective of whether it is or it isn't in the nature of
7 an admission it certainly is relevant. I

8 It makes an issue which is of consequence to this
9 litigation more probable or less probable. Which is all I
10 must be concerned with is whether or not it is relevant or
11 whether or not there are reasonable inferences which can be
12 drawn from that which would also I believe could make it and
13 does make it relevant.

14 So and again I think there is a reasonable inference
15 that when he is talking about Complainant , or however he
16 pronounces that, there is a reasonable inference that he is
17 actually referring to Complainant .

18 With that in mind I do believe that what I have allowed
19 to remain to be published to this jury is relevant, and I
20 would respectfully deny your motion noting your exception
21 thereto. And really on two different grounds. Again,
22 authenticity. Secondarily, relevancy. Particularly this
23 particular section.

24 MS. FORD: And one more thing, Your Honor.

25 THE COURT: Yes.

1 MS. FORD: And I think you basically have probably
2 covered it with your explanation; but just for the record, I
3 did state probably I would need to 403 that it is more
4 prejudicial than probative because it is just that one line
5 because the other person he is talking to is not present to
6 explain context or anything we would argue 403 as well.

7 THE COURT: Thank you so much. I note that and would
8 respectfully deny your motion with regard to 403 as well.
9 Really for the same basis's that I have already discussed.

10 Now -- I am trying to think. Anything else in that?
11 One thing we talked about yesterday and there was some
12 conversation. I just wanted our record to be very clear
13 about it.

14 Because -- and I think first of all I want to thank
15 counsel for having some conversation yesterday about this
16 particular publishing of the portions of this call that are
17 going to be allowed to be published.

18 And we had a little bit of a technical issue that is
19 very difficult, as I understand it for the Solicitor's
20 Office to redact this particular kind of tape or -- or
21 whatever -- I don't know if you have a flash drive or
22 whatever you got from the jail. And there was a
23 conversation that was ongoing between the defense and the
24 State.

25 And as I understand it, the defense was concerned about

1 any redacting that might occur. Because my suggestions was
2 don't worry about it, once you -- once you have got the
3 piece that you are going to play just re-record it and then
4 you will have them together.

5 And the defense expressed some concern about that.
6 That the defense believed that it was appropriate and
7 closer, if you will, to the best evidence to let it be as it
8 was and to stop it and start it; and the State said okay, we
9 will stop it and start it.

10 I just wanted to put that interchange on the record.
11 If y'all need to add anything to that. Because obviously
12 that is my -- that is my memory and my understanding of that
13 exchange. But anything else y'all need to put on the record
14 about that.

15 MS. ELLIOTT: I would note I was able to do a piecemeal
16 one that would have let us play it all the way through. I
17 informed defense of that, and they said that they said would
18 elect for the stop-start method.

19 THE COURT: Okay. Good. Okay. Good. Very well. I
20 just -- I just wanted -- just -- I think all those
21 discussions for whatever reason just need to be a part of
22 the record.

23 And I want to thank both of you for, you know, having
24 that interchange about it. I think that is very good and
25 very helpful. And I appreciate that.

1 So have a lunch. Have a good lunch. And we will
2 reconvene. We are probably a little bit -- I don't know.
3 Probably in about an hour.

4 However, if -- I would like to know if we have a snafu
5 that is unfixable. And y'all just come on back and let me
6 know. Both sides just come on back and let's chat about it
7 and let me know. Thank you.

8 THE COURT: Oh, and how are you? Would you like to get
9 some lunch? Since you are on the stand I am going to have
10 to ask you to not discuss your testimony with anybody. That
11 doesn't mean you can't talk about the weather. Or you can
12 talk about anything else.

13 MS. BROWN: Yes, ma'am,

14 THE COURT: But just don't talk about the -- your
15 testimony at all, even to include did I do okay. You know,
16 and that is a normal reaction that people want to have.

17 MS. BROWN: Yes, ma'am,

18 THE COURT: But I need to ask you to hold all of that
19 until you are no longer on the stand.

20 MS. BROWN: Yes, ma'am,

21 THE COURT: Can you do that for me?

22 MS. BROWN: Yes, Your Honor.

23 (WHEREUPON, break was had for lunch 3/2/16, 12:27 p.m.)

24 (WHEREUPON, resumed 3/2/16, 1:45 p.m.)

25 THE COURT: Anything from the State?

1 MS. ELLIOTT: Nothing from the State.

2 THE COURT: Anything from the Defense?

3 MR. KOZELSKI: Nothing from the Defense.

4 (WHEREUPON, jury enters courtroom 3/2/16, 1:47 p.m.)

5 THE COURT: Ladies and gentlemen, we will now continue
6 the State's case.

7 MS. ELLIOTT: Thank, Your Honor. We will now begin
8 publishing what has already been admitted as State's Exhibit
9 3. The first portion being time-marked 1:00 through 1:20.

10 (WHEREUPON, Exhibit Number 3, Section 1 of audio played.)

11 MS. ELLIOTT: Judge, the next section that the State
12 will move to publish will be Sections 2:29 through 4:27.

13 THE COURT: Okay.

14 (WHEREUPON, Exhibit Number 3, Section 2 of audio played.)

15 THE COURT: Judge in the next section will be 5:29
16 through 6:55.

17 (WHEREUPON, Exhibit Number 3, Section 3 of audio played.)

18 MS. ELLIOTT: And, Judge, the last section for
19 publication will be 7:03 through 7:38.

20 (WHEREUPON, Exhibit Number 3, Section 4 of audio played.)

21 MS. ELLIOTT: Your Honor, with the admission of State's
22 Exhibit 3 and the publication of the same, the State has no
23 further questions for this witness.

24 THE COURT: Very well. Cross-examination.

25 **CROSS-EXAMINATION BY MR. KOZELSKI OF GENITA BROWN:**

1 Q Ms. Brown, Viola Harris is Maurice's mother?

2 A Yes, she is.

3 Q That is Little Brother and Little Sister 's grandmother?

4 A Yes.

5 Q Okay. No further questions.

6 THE COURT: Very well. Redirect.

7 MS. ELLIOTT: None, Your Honor.

8 THE COURT: All right. You may come down.

9 THE WITNESS: Thank you.

10 THE COURT: Call your next witness, please.

11 MS. ELLIOTT: Your Honor, at this time the State rests.

12 THE COURT: Ladies and gentlemen, you have now heard
13 the witnesses and received the evidence which you will from
14 the State and the State's case in chief.

15 That signifies to me that there are matters that I
16 must take up outside of your presence; therefore, I am going
17 to ask you to please step to your jury room. Remember, do
18 not discuss this matter or allow anyone to discuss it with
19 you.

20 (WHEREUPON, jury exits courtroom 3/2/16, 1:53 p.m.)

21 THE COURT: Okay. All right. Motions?

22 MR. KOZELSKI: Your Honor, at this time we would move
23 for a directed verdict specifically on the count of the
24 criminal sexual conduct with a minor in the third degree.

25 The only testimony at this trial that I believe that

1 the solicitor was attempting to get at this charge was that
2 Little Sister and Complainant would walk by Mr. Harris and he slapped
3 them or hit them on the butt.

4 I don't think there was any testimony of anything he
5 said while doing this or whether it was purposely done or
6 unintentionally done. Nothing to suggest that it was done
7 in a lewd and lascivious manner and that was intended to
8 arouse, appeal or gratify the lust, passion, sexual desires
9 of Mr. Harris or -- or Complainant .

10 So we think the State has failed to meet its burden of
11 showing that any evidence exists that Mr. Harris would have
12 committed this act in the third degree.

13 This is also one of those charges that came late in the
14 game. It was a night last month in February, sort of tacked
15 on there. And I think it is somewhat prejudicial to add
16 that on in this fashion.

17 And given the testimony as to what it was, I don't
18 think that a jury could take that to mean any other way but
19 other than to have it back there as simply another charge.

20 I don't think there was enough evidence or any evidence
21 to suggest that that would constitute CSC with a minor in
22 the third degree.

23 THE COURT: Thank you so much.

24 MS. ELLIOTT: Thank you, Your Honor. As to the CSC in
25 the third degree there was specific touching -- testimony by

1 Complainant in regards to touching that did not include
2 penetration even to the point that she was describing a
3 rubbing back and forth from her bottom to the front of her
4 vagina.

5 I would say that that is sufficient evidence to
6 sustain. That in addition to some -- further testimony
7 regarding touchings at other times. And that those would
8 fall under -- as opposed to just slapping on the butt that
9 all those touchings would factor into a criminal sexual
10 conduct with a minor in the third degree and to sustain that
11 as to a directed verdict.

12 MR. KOZELSKI: Your Honor, it is my understanding that
13 those charges were incorporated into the criminal sexual
14 contact in the second degree.

15 I don't know if you can have a second degree without
16 having some sort of a third degree incorporated in that.
17 Me, I don't know how you could have some sort of penetration
18 without an actual touching. And that is why ---

19 THE COURT: I think what the solicitor is saying is
20 there was testimony where there was the -- there was the
21 rubbing without the pene- -- there was an episode of rubbing
22 without the penetration.

23 In other words, there was discussion obviously about ,
24 the digital penetration and as well as the fellatio. But
25 there was some testimony regarding that. And I think that

1 is what she is referring to. It is a different act from the
2 act of penetration.

3 Isn't that correct, an episode where that was -- that
4 occurred -- that act occurred without penetration?

5 MS. ELLIOTT: Yes, Your Honor.

6 THE COURT: Okay. Note your exception for the record.

7 MR. KOZELSKI: Yes, Your Honor. And then we would just
8 renew all of our previous objections.

9 THE COURT: Very well. I would respectfully deny your
10 motion. All right. Now counsel, tell me how many witnesses
11 you think you will have.

12 MR. KOZELSKI: Your Honor, at this time we only intend
13 to call Mr. Harris.

14 THE COURT: Okay.

15 MR. KOZELSKI: I would ask the court for a very
16 brief -- I know they just came back from lunch, but maybe a
17 five-minute ---

18 THE COURT: Of course.

19 MR. KOZELSKI: --- break to talk with Mr. Harris with
20 Ms. Ford just so he has -- I have gone over this with him
21 before, but ---

22 THE COURT: I would go over it with him also.

23 MR. KOZELSKI: Right.

24 THE COURT: And then you most assuredly may take that
25 break.

1 MR. KOZELSKI: Thank you.

2 THE COURT: Not a problem at all.

3 And if you would stand for me, please, Mr. Harris.

4 (WHEREUPON, the witness complied and then was duly sworn.)

5 THE COURT: And you are Mr. Maurice Harris; is that
6 correct?

7 MR. HARRIS: Yes, Your Honor.

8 THE COURT: All right. Now, Mr. Harris, I am going to
9 go over some matters with you. And I am going to explain
10 some things to you. If you do not understand my explanation
11 or what we are talking about, please let me know. There are
12 many ways to explain any one thing, Mr. Harris; so you just
13 let me know, okay?

14 Now it is very important that you understand what I am
15 about to go over with you, okay. And I want to say that
16 even as we begin that I'm going to be discussing with you
17 certain of your rights; and we would talk about this in just
18 a moment, but at the end of the day you need to understand
19 this is your decision and your decision only.

20 And I always like to tell folks before I go over these
21 rights I need to go over them with you so that I know you
22 understand your rights; but I respect that the decision is
23 your decision.

24 So I don't want you to take anything that I say to you
25 in just a moment that I'm secretly advising you to do one

1 thing or the other, because I am not. I just need to know
2 that you know your rights, okay?

3 MR. HARRIS: (Nods head.)

4 THE COURT: Very well. Thank you. And I am going to
5 ask you -- if you would be so kind, I know what you mean and
6 we are having a conversation. I know exactly what you mean
7 when you nod your head, but would you be so kind as to just
8 answer with your voice just so our record is clear.

9 MR. HARRIS: Yes, Your Honor.

10 THE COURT: Very well. I am not fussing. I just need
11 to have your verbal response, okay?

12 MR. HARRIS: I understand.

13 THE COURT: Thank you, Mr. Harris. All right. At this
14 time I am going to explain to you certain of your rights.
15 If you do not understand anything I say, I want you to let
16 me know. And if you need me to explain anything in more
17 detail, let me know. Because I am happy to do that. Do you
18 understand?

19 MR. HARRIS: Yes, Your Honor.

20 THE COURT: We have now reached the stage of the trial
21 where you may present your defense. You have the right to
22 claim the protections given to you by the Fifth Amendment to
23 the Constitution of the United States. We also -- our state
24 constitution also has a Fifth Amendment. And the Fifth
25 Amendment states in part that no person shall be compelled

1 in any criminal case to be a witness against himself.

2 This means that you cannot be required to testify in
3 this case. You have the right to testify on your own
4 behalf; however, no one can make you testify. This is a
5 personal right, and no one can waive that right except you.

6 If you decide to testify you will be subject to the
7 same rules that govern other witnesses and you may be
8 examined and cross-examined on any relevant issue in this
9 case.

10 In addition, if you have any convictions involving
11 dishonesty or false statement or for crimes punishable by
12 imprisonment for more than one year and this court
13 determines that the probative value of admitting the
14 evidence outweighs its prejudicial effect to you the
15 solicitor will be able to introduce your record to attack
16 your credibility.

17 But as I understand there is no such record; is that
18 correct?

19 MS. ELLIOTT: Unless he opens the door there is nothing
20 that I can bring on the front end, Your Honor.

21 THE COURT: Okay. Very well.

22 And do you understand that?

23 MR. HARRIS: Yes, Your Honor.

24 THE COURT: Very well. If you decide not to testify I
25 will instruct the jurors that they cannot give the fact that

1 you did not testify any consideration whatsoever and that
2 there is to be absolutely no prejudice to you because you
3 did not testify.

4 In fact, I will tell them they can't even talk about it
5 in the jury room. However, it is left entirely up to you
6 whether or not you testify.

7 You may talk -- and I urge you to of course continue
8 your conversations with your attorneys. There may be family
9 members or friends whose judgment, whose opinion, that you
10 value or anyone else.

11 But you need to know that the final decision, the final
12 decision, Mr. Harris, is left up to you entirely. Do you
13 understand that?

14 MR. HARRIS: Yes, Your Honor.

15 THE COURT: Do you have any questions of me about what
16 we have just been over?

17 MR. HARRIS: No, Your Honor.

18 THE COURT: All right. Now -- now here is what -- oh,
19 yes, now if you decide to testify, this decision on your
20 part, your decision to testify, must be freely, voluntarily,
21 and intelligently made with knowledge of the protections
22 given to you by the Fifth Amendment and the consequences of
23 your decision to testify.

24 In other words, that is why I am going over this with
25 you. In other words, first and foremost it is your

1 decision; completely left up to you.

2 Consult with your lawyers. I hope you have been
3 speaking with family or friends, people whose judgment you
4 value as you make that determination.

5 But you have to know that ultimately the decision is
6 your decision. You must make that decision for yourself.
7 And you must make that decision under the law, understanding
8 your rights with regards to the Fifth Amendment. And
9 that's -- it is really very -- in a sense it is very simple.
10 But very important.

11 Now, again, do you have any questions of me about what
12 we have just been over?

13 MR. HARRIS: No, Your Honor.

14 THE COURT: All right. Now we are going to take a
15 little bit of a break. And when we return -- and we will
16 take about seven minutes.

17 When we return, Mr. Harris, I am not going to ask you
18 your name, but I will ask you at that time if you wish to
19 testify. And again, the decision is yours.

20 If you -- is there a place that y'all are going -- is
21 there a place for y'all to chat?

22 THE DEPUTY: We can take them from the courtroom.

23 THE COURT: Fantastic. Take about seven minutes,
24 y'all.

25 MR. KOZELSKI: Thank you.

1 (WHEREUPON, break was had 3/2/16, 2:06 p.m.)

2 (WHEREUPON, trial resumed 3/2/16, 2:13 p.m.)

3 THE COURT: Anything further from the State before we
4 bring the jury out?

5 MS. ELLIOTT: Nothing from the State, Your Honor.

6 THE COURT: All right. And from the defense?

7 MR. KOZELSKI: None from the defense, Your Honor.

8 THE COURT: Very well. Please let us have the jury.

9 (WHEREUPON, break awaiting jury.)

10 (WHEREUPON, jury enters courtroom 3/2/16, 2:15 p.m.)

11 THE COURT: Please come in. At this time we will turn
12 to the defense.

13 MR. KOZELSKI: Your Honor, at this time the defense
14 calls Maurice Harris.

15 THE COURT: Very well.

16 (WHEREUPON, the witness was duly sworn.)

17 THE CLERK: And if you could state your first and last
18 name and spell out your last name, please, sir.

19 THE WITNESS: Maurice Harris, H-A-R-R-I-S.

20 THE COURT: Mr. Kozelski, your witness.

21 MR. KOZELSKI: Thank you, Your Honor.

22 **DIRECT EXAMINATION BY MR. KOZELSKI OF MAURICE HARRIS:**

23 Q Maurice, did you ever molest Complainant ?

24 A No, sir.

25 Q Did you ever touch her inappropriately?

1 A No, sir.

2 Q Did you ever molest your daughter Little Sister (sic)?

3 A No, sir.

4 Q Did you ever touch Little Sister inappropriately?

5 A No, sir.

6 Q Have you ever touched any of your children
7 inappropriately?

8 A No, sir.

9 Q Maurice, I want to talk to you about that phone call
10 that you were having with your mom while you were at the
11 jail. Do you remember what day that was?

12 A No, I am not clear at all. That phone call -- that was
13 like several calls that were made. We had conversations;
14 but, you know, I didn't really have a date on it.

15 Q Okay. Does the date November 27th, 2013, mean anything
16 to you?

17 A Yeah, the second day I got here.

18 Q Okay. So it was the day after you got arrested?

19 A Yes, sir.

20 Q And did you know everything that was going on?

21 A No, I was -- everything happened so fast it just -- you
22 know, I couldn't cope with it.

23 Q What were you talking about with your mother when you
24 said Little Sister went and ran to the teacher?

25 A I had a conversation before me and my mother spoke,

1 with my brother. And he was telling me -- I was asking what
2 was going on.

3 Because I -- you know, they just grabbed me at my house
4 and locked me up. I didn't know anything that was going on.
5 All I knew it could have been another issue.

6 And he was just telling me he said, you know, something
7 about school, maybe something happened to one of the
8 children and Little Sister had went to the school and, you know,
9 told -- told them that something happened. And I wasn't
10 clear on it. And I just -- that's all I could remember.

11 Q And this is your brother Brian?

12 A Yeah. He is deceased now. He died the day after I got
13 here.

14 Q So he died on ---

15 A He died the next day?

16 Q The 27th?

17 A The 27th.

18 Q Did you know that at the time?

19 A No, I was -- no, they didn't tell me until six or seven
20 months down the line. I wasn't sure -- lockup. Because I
21 had such a mental breakdown.

22 Q When you were talking to your mom you said you didn't
23 touch Little Sister. But what were you talking about when you said
24 Complainant was climbing all -- climbing all over you?

25 A I -- I could vaguely remember an incident when we was

1 watching TV in the daytime. And she sometimes likes to grab
2 the remote. Because I like to control the TV, you know,
3 like a man cave thing.

4 And, you know, she was acting strange and she just came
5 at me and -- I don't know. She -- I don't -- I didn't take
6 it as a sexual thing. She just came at me in a weird way
7 and just kind of climbed on me and everything.

8 But that's the only thing I could think of that she
9 would do -- you know, consider me even being physically
10 involved with her. I just couldn't -- you know, I didn't
11 understand that.

12 Like I said, that is the only thing I could think of at
13 the time I was locked up. I was like well maybe it was an
14 incident with -- with, you know, her jumping on me, you
15 know, wrestling or whatever she was doing. And that's all.

16 Q And Complainant is not your biological daughter?

17 A No, sir.

18 Q But you treated her like one?

19 A Yes. I treat them all that way.

20 Q Okay. How many -- how many biological children do you
21 have?

22 A I have three.

23 Q Okay. What are their names?

24 A Little Sister , Little Brother and Minor 1 .

25 Q Okay. And how old are they?

- 1 A Sixteen, twelve, and ten.
- 2 Q And who is Minor 1 's mother?
- 3 A Sharon Williams.
- 4 Q Okay. And Little Brother and Little Sister ?
- 5 A Those are Genita Brown's children.
- 6 Q And how long have you known Ms. Brown?
- 7 A Oh, I guess I will say a little over 30 years. Because
- 8 I have known her since I was a teenager. We met in high
- 9 school.
- 10 Q Okay. How did y'all come to meet?
- 11 A Her cousin had a birthday party or something and she --
- 12 her cousin was going to my school at the time. And she was
- 13 going to private school. And they invited me to the
- 14 birthday party. And Genita was there. And I guess, you
- 15 know, we met and, you know, we danced, and, you know, we
- 16 started talking after that.
- 17 Q Okay. Did y'all date?
- 18 A Eventually we dated. Once she transferred over to our
- 19 school in West Ashley we started seeing each other more. I
- 20 would come by the house every now and then when time
- 21 allowed.
- 22 Q How long -- how long did that go on for?
- 23 A All through high school. All through most -- mostly
- 24 through high school up until around about 11th year, 11th
- 25 grade. Because I had a family situation. My parents

1 separated and I moved to Summerville.

2 Q Okay. And that is when y'all kind of split up?

3 A Yes, sir.

4 Q What did you do after that?

5 A It was like in 1988. My sister was in the military. I
6 decided to help her out. She had a baby and I moved up to
7 Indianapolis to take care of -- help her with the children.

8 Q Did you work while you were up there?

9 A Yes, I worked at a warehouse a couple of months. And
10 up to a year or two they made me supervisor.

11 Q When did you come back to South Carolina?

12 A I would say it would be like '91, '92.

13 Q And did you get up with Genita when you got back?

14 A Slightly. Yeah, I think at that time she was dating
15 the father of her two older children, Complainant and -- I mean

16 Older Sister and Older Brother

17 Q Okay. And who is Older Sister and Older Brother father?

18 A Randy Houston. He is a guy that lives in my
19 neighborhood. Me and him are real close.

20 Q Okay. So you are familiar with Randy?

21 A Oh, very familiar.

22 Q And you didn't have any opposition to him dating your
23 old girlfriend?

24 A No, not at all.

25 Q How did you and Genita get back together?

1 A Time went on. We kept in contact. You know, I had to
2 go back to Indianapolis one more time for a short stint
3 until my sister got transferred to another base. And we
4 talked and just kind of just time flew on.

5 We just eventually connected to each other. But that
6 was after about a year or so after I returned to Charleston.

7 Q Okay. And do you remember around what time this was?

8 A She -- well, we -- it was in between off and on. She
9 was still dating Randy a little bit. Just kind of -- I am
10 vague -- I am vague on it. We really didn't get back --
11 back together steadily until around '97, you know.

12 Q Okay.

13 A Because I was dating before then.

14 Q And was Complainant in the picture at this time?

15 A No, Complainant didn't come around until like I guess
16 early --- two thousand -- early 2000, around there. I
17 didn't see her until, you know -- I was living in Goose
18 Creek and I was with Minor 1 's mother. So at that time I
19 didn't see Complainant until mid 2000.

20 Q Okay. But eventually y'all reconnected?

21 A Correct. That's right.

22 Q How did that happen?

23 A We -- we talked for a while, and Genita was moving
24 over to my side of town in West Ashley. And eventually
25 we -- she -- she asked me to move in with her and help her

1 move.

2 I think she was dating somebody at the time, so it was
3 kind of sketchy about me going there. And we got together
4 and I moved in with her and all the children came.

5 So that is when I was with all five of them. And my --
6 well, actually my child was born -- Little Brother came along
7 around about 2003, 2004. So then when Little Sister came a little
8 bit around -- we were living in the same house together for
9 a while.

10 Q Okay. All five of the kids?

11 A Everybody.

12 Q At any point while y'all were living together did
13 anybody ever accuse you of touching the children
14 inappropriately?

15 A No, no, not at all.

16 Q Did you treat those kids as if you were their father?

17 A Yes, I did.

18 Q Okay. Did you know Complainant's father?

19 A Slightly. But it was a weird -- it was -- he was -- it
20 was -- there was a problem there. It was problematic.

21 Q Why?

22 A Because he -- I guess they were still finishing up
23 whatever they had in their relationship and then -- him
24 finishing up whatever they had, a relationship, and he
25 didn't like it. I

1 He was coming around the house where we were staying at
2 and stalking and threatening. And the police had to come a
3 couple of times. Yeah, we didn't never connect. We did
4 talk on one occasion. But other than that not.

5 Q How did you and Ms. Brown breakup?

6 A Time went on. I had a few problems adjusting to some
7 things that happened to me along the way. And I guess she
8 just kind of wanted to do things, you know, on her own and,
9 you know, take care of what she had to take care of. But
10 she asked me if she could go her own, and I -- you know, I
11 just let it go, give her space. We had -- we had a few
12 problems in between in our relationship. It just faded
13 away.

14 Q Did y'all stay on good terms or ---

15 A Yeah, we were on pretty good terms. You know, I kept
16 in contact with her.

17 Q Did you still get to see the kids?

18 A We -- we had a stint at my -- we had a stint at one
19 time where she did -- we -- you know, they were staying, you
20 know, at my mother's house. But we -- we still -- just
21 really periodically when we would see each other and the
22 children. Not on a scheduled basis.

23 Q All right. So whenever she needed a break she would
24 call you up?

25 A Correct.

1 Q Did you ever have a problem with this?

2 A Not at all.

3 Q When the kids would come to your house did you plan
4 activities or what would y'all do?

5 A Yeah, we -- well, like at my house was pretty -- had a
6 lot of everything that children could imagine. It's
7 technology city in there. And they had internet. They had
8 PlayStation. And they had Wi-fi. They had, you know, big
9 screen TV.

10 They had a park around the corner they could ride their
11 bikes to ride. I always take the car and follow them around
12 the corner so they can get there safely. It was just -- you
13 know, they had -- they were never bored.

14 Q Did you feel like the kids always wanted to be there?

15 A I think they like being with me because I was so, you
16 know, fun with them. I mean I'm not perfect; but, you know,
17 just they just -- like if I was entertaining for them or
18 any, you know, they felt it was a comfortable environment.

19 Q I want to take you back to the summer of 2013, what we
20 have been talking about. Do you remember the summer that
21 well?

22 A It was quite a while ago, but it is a little sketchy.

23 Q Okay. Do you remember the children coming to visit you
24 during the summer?

25 A Yes, off and on.

1 Q Okay. And who came to visit you?

2 A It was Complainant, ^{Older Brother}, Little Brother and Little Sister .

3 Q Older Sister stopped coming?

4 A She -- you know, she got grown. You know, she grew up
5 and went and got out of high school and she went out and did
6 her own thing. So, you know, that is understandable.

7 Q Okay. Did you get along with all of the children?

8 A Yeah, pretty -- pretty good.

9 Q Okay. What about ^{Older Brother}

10 A Me and ^{Older Brother} was -- we were good friends. You know, we
11 were close. Because me and him could relate because there
12 are certain things in his life that I had went through in
13 life as I was a youth, you know. We got along very well.

14 Q What about Little Brother ?

15 A Me -- Little Brother , he -- real active. I couldn't keep up
16 with him. We got along pretty good. You know, I like
17 taking him out there and, you know, do some activities
18 outside. Like I'd try to talk to him and he, you know, he
19 came along pretty good.

20 Because he, you know, has a hyper real real bad. A
21 hyper problem. And, you know, he kind of grew out of it a
22 little bit. So I worked with him on that. I made sure I
23 had a good relationship with him.

24 Q And your relationship with Little Sister was good?

25 A Yes. You know, she's real quiet and stuff. She

1 just -- I just let her -- on her own.

2 Q When the kids came over they would stay in your -- stay
3 on the couch in the den?

4 A Right, stay -- the large sectional.

5 Q Okay. I'm going to show you what is State's Exhibit 1,
6 State's Exhibit 1. Okay. Maurice, and if you touch that
7 screen in front of you, you can make a mark.

8 Is that what the den looked like back in 2013?

9 A That is incorrect on this part (pointing).

10 Q Well, can you draw what you would -- what would correct
11 it?

12 A Yeah, there is a washroom right here, (pointing). This
13 is the corner right here against the washroom (pointing).
14 Right there all the way to the door. And this kitchen door
15 is right here (pointing). This is the kitchen door.

16 Q Okay.

17 A And this is the washroom.

18 Q So it is even -- it is even smaller than ---

19 A Correct.

20 Q Okay. And would y'all watch movies in there?

21 A Yeah, I had a DVR player in there as far as, you know,
22 satellite and DVR; and you could just rent and you pick
23 movies, record. And so we had all the channels.

24 Q Did you when you looked at those movies did you, you
25 know, make sure that they were suitable for every --

1 children?

2 A Yeah, I did. I did check over them.

3 Q Okay.

4 A Not all of them. Because most of the movies that they
5 were watching would be Nickelodeon. If there was a TV
6 channel they would be watching it would be Nickelodeon or
7 something like that. But the other movies we watched were
8 all, you know, PG or better.

9 Q What about this movie, Maurice?

10 (WHEREUPON, defense counsel displaying Defendant's Exhibit
11 Number 1.)

12 A That movie we watched, and I really saw it off and on.
13 Actually I still to this day I have never seen it fully.

14 Q Okay. Did you force your children to watch this movie?

15 A No. No, I didn't.

16 Q Did you put this movie on especially for Complainant and
17 Little Sister ?

18 A No. Definitely not. No.

19 Q Is this a movie that you should have shown to your
20 kids?

21 A No. After knowing what I know now, no, definitely not.
22 No.

23 Q Do you remember where you were sitting when this movie
24 was going on?

25 A Yes, I do.

1 Q Can you mark that on the couch with an "M".

2 A (Witness complied.)

3 Q Okay. What about the other kids, where were ---

4 A It varied. I really couldn't tell you. You know, I
5 would say on occasion and to say most of the time it would
6 be up in this area (pointing). Complainant might have been
7 here (pointing). Older Brother (pointing). Well, there is a TV right
8 here (pointing). So the TV is further over this way than it
9 actually is in this diagram.

10 Q You can draw it on there.

11 A Okay. All right. Well, Little Brother -- it -- it varied.
12 Sometimes Little Brother would be here (pointing). Sometimes be over
13 there (pointing). Little Sister might be -- I would say right
14 there (pointing). It varied.

15 Q Okay. You can't -- you can't remember ---

16 A I can't remember.

17 Q --- all the locations? Do you remember when this movie
18 ended?

19 A No, not really. Just I tried to watch it so many
20 times, and it just kept -- something always comes up. So I
21 never really had any time to fully watch the movie.

22 Q Do you know if the children fell asleep when that movie
23 ended?

24 A I remember watching movies with them, and I don't
25 remember that particular one that they fell asleep on.

1 Sometimes they did. Sometimes they did fall asleep. But I
2 wouldn't know, because I am always focusing this way
3 (pointing).

4 Q Would you sleep on that couch?

5 A No. No, there wasn't enough room. Because my legs
6 would stretch all the way over here (pointing), and they
7 would be cluttered up over here by the corner (pointing).
8 And there in a table right here (pointing) that the TV was
9 on. No.

10 Q Okay. Where would you sleep?

11 A I would sleep in the living room further out toward the
12 kitchen ---

13 Q Okay.

14 A --- with my brother who is deceased.

15 Q Your brother would sleep out there too?

16 A Yeah, we had -- he had like a sectional. He is going
17 and his TV -- his flat-screen was in front of him, and I
18 would -- there is a couch behind his flat-screen there I
19 would sleep on.

20 Q What about your parents, where did they sleep?

21 A They had -- my father had a room down the hall. And my
22 mother's room was on the left side down the hall.

23 Q Okay. Did they ever come out of their room?

24 A Yeah. My mother was always coming around snooping and
25 seeing what's going on in the den. She would come to this

1 door here (pointing) and look out and walk through here
2 (pointing). And my dad would come through here (pointing)
3 and, you know, go ---

4 Q You can mark it on there.

5 A Yeah.

6 Q I think the jury is having a little ---

7 A This is the carport here (pointing). This is where the
8 car is parked. So everybody comes through this door here in
9 an out instead of going through the front door which is up
10 in the area outside (pointing).

11 Q Did the kids ever go upstairs to visit with the
12 grandparents?

13 A We didn't have upstairs.

14 Q Oh, okay, so it is just one -- one -- one level?

15 A One level, yes, sir.

16 Q Okay. Would they ever go to their grandparent's room?

17 A Yeah, my -- my -- Little Brother would go in there sometimes.

18 Little Sister would go down there. Dad would sit there and talk
19 to him. He just, you know, praised by the grandchildren.

20 Q Okay. Maurice, on any of these occasions when you were
21 done watching these movies did you ever put your hands on
22 Complainant or Little Sister ?

23 A No, never.

24 Q Did you ever touch their vaginas?

25 A No. Absolutely not.

1 Q Did you ever tell them you will always be my Little
2 Nasty?

3 A No.

4 Q I have got to ask this question, Maurice. Why do you
5 think that **Complainant** would tell you -- tell that you -- you
6 did this?

7 A Just I don't -- I really don't know. I just -- not --
8 and I just -- she always had a territorial thing going on
9 with me and her mother. You know ---

10 Q What do you mean by that?

11 A That she didn't care too much for me being with her
12 mother. You know, all the time she wanted all of her
13 attention, her mother's attention at all times. I think
14 she -- she just had an issue, you know, with me. Just
15 something she just didn't tolerate.

16 And then I guess the lifestyle she was living out- --
17 when they separated from me I guess the lifestyle they were
18 living was better than what I could offer them, so she
19 didn't want to give that up.

20 Q At any point did you expose yourself to your children?

21 A No.

22 Q Take out your penis out of your pants?

23 A No.

24 Q Pull down your pants?

25 A No.

1 Q Did you ever pull down your children's pants?

2 A No.

3 MR. KOZELSKI: Beg the court's indulgence.

4 Q Maurice, do you love your children?

5 A Very much. With all my heart.

6 Q Would you ever do anything to hurt your children?

7 A Never.

8 MR. KOZELSKI: No further questions, Your Honor.

9 THE COURT: All right. Cross-examination.

10 **CROSS-EXAMINATION BY MS. ELLIOTT OF MAURICE HARRIS:**

11 Q Mr. Harris, so it seems like a pretty big sectional.

12 A It is.

13 Q Could easily seat five people comfortably?

14 A I would say that.

15 Q Six or seven?

16 A I'm not sure.

17 Q Well, you have got on that you marked spots where at
18 least five people can sit; and then it looks like there
19 would be two pretty good seats next to that?

20 A Yeah, it is pretty -- a pretty good size.

21 Q So maybe six or seven, but seven would be pushing it?

22 A Yeah, I think that would be the max.

23 Q And when you were living in the house with your -- with
24 your family, it was your mom and dad?

25 A Correct.

- 1 Q Your brother Brian?
- 2 A Uh-huh.
- 3 Q Yourself?
- 4 A Yes.
- 5 Q So that is four adults?
- 6 A That is four adults, yes.
- 7 Q Okay. And your mom and dad had a room?
- 8 A Right.
- 9 Q You and your brother slept in the living room?
- 10 A Correct.
- 11 Q And then there was a den?
- 12 A Right.
- 13 Q And the kids slept in the den when they came over?
- 14 A Yeah.
- 15 Q All of them together?
- 16 A Yes.
- 17 Q Except for sometimes Little Brother , right?
- 18 A Right.
- 19 Q Because while you said you had a good relationship with
- 20 Little Brother , Little Brother really loves your father a lot; right?
- 21 A Right.
- 22 Q They have a great relationship?
- 23 A Right.
- 24 Q Hang out all the time, thick as thieves?
- 25 A Yeah.

1 Q And with the way that you are describing that den it
2 sounds like just a kid playground.

3 A No.

4 Q I mean you said that there is a game system?

5 A Right.

6 Q And a TV?

7 A Right.

8 Q Lots of electronics?

9 A Yes.

10 Q Computer; they have full rein of all that stuff?

11 A That's right.

12 Q And then during the day you would do stuff with them?

13 A Yeah, but they were occupied with all that stuff. I
14 just kind of let them have their way. Because I know how it
15 was being a child and out of school and just ---

16 Q So you kind of just let them ---

17 A Not do ---

18 Q I don't want to say run loose, ---

19 A Right.

20 Q --- but they could go and come as they please, ---

21 A I gave them ---

22 Q --- hang around the neighborhood?

23 A I gave -- well, no, they couldn't go out there; because
24 I would not let them leave the yard without letting me know
25 something. Especially if they were riding a bicycle down

1 the road. Because cars are coming through there fast.

2 Q Okay. So they could do anything within the yard?

3 A Within the yard and in the -- there is a cul-de-sac
4 right where I live.

5 Q And they could play with other kids in the
6 neighborhood?

7 A If they chose to. But not likely.

8 Q And did I hear you say something about taking them
9 fishing?

10 A Yeah, we do that on occasion.

11 Q Taking them crabbing?

12 A Yeah.

13 Q Good summertime activities for kids?

14 A Right.

15 Q And the kids were always welcome at your house?

16 A Always.

17 Q That movie you showed them, you tried to watch it
18 several times?

19 A Yeah, I just -- just couldn't -- I -- I actually had
20 misconceived the movie. I thought it was -- since it was an
21 Adam Sandler movie I automatically took -- thought the
22 assumption that it was just one of those comedies he always
23 has acting silly
24 in the movie. That is the way I ---

25 Q So you tried to watch it several times with the kids?

1 A Right -- no, I didn't watch -- I didn't watch it
2 several times with my kids, no.

3 Q So they only watched it one time?

4 A When I -- when they -- when I decided to watch it they
5 might have been outside or something or somewhere else. I
6 always just clicked on there and watched TV ---

7 Q But you know your kids watched that movie?

8 A Yeah, they -- they saw ---

9 Q At your house?

10 A They saw parts of it maybe.

11 Q Complainant you sometimes called Complainant, right?

12 A That is -- that is what they call her sometimes, yeah.

13 Q And Little Sister you sometimes called Little Sister?

14 A On occasion.

15 Q And in the telephone call that we played earlier you
16 are not -- you don't have a clear memory of what you were
17 talking about when you were talking about Little Sister?

18 A Well, I do remember about saying about Little Sister. But,
19 like I said, at that time I had just came to jail. So I'm
20 not really clear, it was so long ago.

21 Q So is it that you don't remember what you said or you
22 don't remember what you were talking about?

23 A Well, I -- I just didn't -- I just couldn't really -- I
24 was going through so much at the time. I mean I just --
25 some things I could remember. Some things I couldn't.

- 1 Q You couldn't or you can't?
- 2 A Couldn't.
- 3 Q Okay. So you remember what you were talking about now?
- 4 A Vaguely.
- 5 Q And that was about her maybe getting in trouble at
- 6 school about something?
- 7 A Right, my brother.
- 8 Q And you got along well with Older Brother
- 9 A Yes, I did.
- 10 Q And you got well along with Little Sister?
- 11 A Yes, I did.
- 12 Q But Little Sister is quiet?
- 13 A Right.
- 14 Q She likes to keep to herself?
- 15 A Right.
- 16 Q Do quiet kind of solitary things?
- 17 A Right.
- 18 Q And with all the fun activities you have to do at your
- 19 house that is during the daytime, right, when they can run
- 20 out and play in the yard, play with friends; stuff like
- 21 that?
- 22 A That's right.
- 23 Q So at night the kids spent most of their time in the
- 24 room?
- 25 A Sometimes. Mostly at the computer if they -- you know.

- 1 Q But the computer is in that den?
- 2 A Right.
- 3 Q And they would -- y'all would watch TV together?
- 4 A Right.
- 5 Q And you could -- the point of them coming over was you
- 6 spending time with them?
- 7 A That's right.
- 8 Q And seeing them?
- 9 A Right.
- 10 Q And you didn't force them to come?
- 11 A No.
- 12 Q You didn't make them stay?
- 13 A No.
- 14 Q If they wanted to call their mom they could?
- 15 A Right.
- 16 Q The summer of 2013 you and Genita Brown weren't in a
- 17 relationship?
- 18 A No.
- 19 Q She was living with Melvin Reid?
- 20 A I -- I -- no, I didn't know anything about that until I
- 21 got my information through my paperwork.
- 22 Q So you didn't know that she was in a relationship with
- 23 someone else?
- 24 A No. I guess this was something that was new -- new
- 25 news to me. I just knew that she knew him and through work

1 or whatever and they were -- I don't know if they were
2 seeing each other. I'm very unclear on that point.

3 Q But you knew you weren't dating her?

4 A Right.

5 Q And you knew that y'all weren't getting back together
6 right then?

7 A Yeah, aware of that.

8 MS. ELLIOTT: Court's indulgence, Your Honor.

9 THE COURT: All right.

10 Q You love your kids?

11 A Yes, I do.

12 Q And your kids love you?

13 A Yes, they do.

14 MS. ELLIOTT: Nothing further, Your Honor.

15 THE COURT: Very well. Redirect.

16 **REDIRECT EXAMINATION BY MR. KOZELSKI OF MAURICE HARRIS:**

17 Q Maurice, are you a perfect parent?

18 A No, definitely not.

19 Q Do you try to be a good parent?

20 A I strive to do it; yes, I do.

21 Q That's all the questions I have.

22 THE COURT: Recross.

23 MS. ELLIOTT: None, Your Honor.

24 THE COURT: Well, you can come back down to counsel
25 table, sir.

1 Call your next witness, please.

2 MR. KOZELSKI: Your Honor, at this time the defense
3 rests.

4 THE COURT: All right. Will there be any reply
5 rebuttal?

6 MS. ELLIOTT: There will not, Your Honor.

7 THE COURT: All right. Ladies and gentlemen, you have
8 now heard the witnesses and received the evidence which you
9 will in this case.

10 What remains before us are the arguments of counsel and
11 then my charge or instruction on the law. It also signifies
12 to me that there are matters that I must take up outside of
13 your presence.

14 We are also going to use this as our afternoon break.
15 Please step to your jury room. You have not heard the
16 arguments of counsel, you have not heard my charge or
17 instruction on the law. You are not prepared to deliberate.
18 So please be mindful, do not discuss this matter or allow
19 anyone to discuss it with you. And we will be with you in
20 just a little bit. So step to your jury room.

21 (WHEREUPON, jury exits courtroom 3/2/16, 2:45 p.m.)

22 THE COURT: Motions?

23 MR. KOZELSKI: Your Honor, at this time we would just
24 renew our motion for a directed verdict as to the last
25 count, the third count, third degree.

1 THE COURT: Very well. And for the same reasons as
2 before I would respectfully deny your motion noting your
3 exceptions thereto.

4 Anything further? Because I would appreciate so much,
5 counsel, an informal charge conference. And then we will
6 get right into closing arguments and the charge.

7 If y'all would be so kind as to step back into chambers
8 with me I would be most appreciative. And if you have any
9 suggested charges.

10 (WHEREUPON, break was had for an informal charge conference
11 3/2/16, 2:47 p.m.)

12 (WHEREUPON, resumed 3/2/16, 3:19 p.m.)

13 THE COURT: All right. First of all, counsel, I want
14 to thank you so much for the informal charge conference. It
15 was most helpful, and I am grateful to you for the time.
16 Anything from the State before we bring the jury out?

17 MS. ELLIOTT: No, Your Honor.

18 THE COURT: From the defense, yes?

19 MR. KOZELSKI: No, Your Honor.

20 THE COURT: No. Very well.

21 MR. KOZELSKI: I just -- are you talking specifically
22 to the jury charges or ...?

23 THE COURT: Or anything else.

24 MR. KOZELSKI: Oh, I didn't know if you wanted me to
25 put my objection on the record.

1 THE COURT: I don't. Because here is my problem, if
2 you put them on the record now then they -- you put them on
3 at the wrong time, and I don't want you to have a problem.

4 MR. KOZELSKI: That is fine. I didn't know if we were
5 going to do closings and then we were going to go directly
6 into the charge.

7 THE COURT: Yes. And then after I deliver the charge
8 then you will do your objections, okay?

9 MR. KOZELSKI: That's perfect.

10 THE COURT: As I understand the proceeding, that is the
11 way you preserve it.

12 MR. KOZELSKI: Yes, ---

13 THE COURT: And I don't want you to not have it
14 preserved. Okay. Cool? Good? Good. Okay.

15 MS. ELLIOTT: Before we get them can I see if my
16 PowerPoint will come up there since we had the little
17 computer glitch earlier?

18 THE COURT: Oh, sure.

19 (WHEREUPON, break to prepare technology.)

20 (WHEREUPON, jury enters 3/2/16, 3:23 p.m.)

21 THE COURT: Thank you very much. I want to tell you
22 all is that you are going to hear from counsel for the State
23 in the closing argument. I believe that will -- the first
24 closing argument will be primarily on the law, as I
25 understand it.

1 And then you're going to hear from the defense and
2 their closing argument. Then you are going to hear a reply
3 argument from the State in that closing argument. That will
4 then conclude the closing arguments.

5 After that there is going to be a very short break
6 which will be self-explanatory at that moment. And then I
7 am going to deliver the instruction on the charge to you on
8 the law.

9 And then, ladies and gentlemen, there will be another
10 very short break which I will explain to you when we reach
11 that point. And then you are going to receive this case for
12 your deliberations.

13 So, ladies and gentlemen, I ask that you please draw
14 close as we listen to the closing arguments.

15 Ms. Elliott.

16 MS. ELLIOTT: Thank you, Your Honor.

17 **CLOSING ON THE LAW BY MS. ELLIOTT:**

18 Ladies and gentlemen, this is the portion of the trial
19 that we typically call the closing on the law. And it is an
20 opportunity where I get to talk to you at first just about
21 the law.

22 And I know I touched on it some in my opening. And the
23 judge will give you a full and lengthy explanation of the
24 law. But right now I just want to talk about it in a
25 narrative context in what you saw and heard today and

1 through the whole trial.

2 The defendant is charged with criminal sexual conduct
3 in the second degree. To prove that the State has to prove
4 about a sexual battery. Now in this case you have heard
5 about two sexual types of sexual battery. You have heard
6 about fellatio which as I explained was oral sex.

7 Complainant got on the stand and talked about how the
8 defendant on two occasions forced his penis into her mouth.
9 One time where there was ejaculation, and another time he
10 attempted it. That is when he became guilty of sexual
11 battery.

12 It can also encompass any intrusion, however slight, of
13 any part of the person's body or of any object into the
14 genitals or anal openings of another person.

15 Remember when Complainant was talking to you about how
16 that he was rubbing on her vagina and then she felt him
17 penetrate her with two fingers? That is when the second
18 criminal sexual conduct charge was -- or sexual battery was
19 proven.

20 The State also has to prove to you that the victim was
21 under the age of -- the victim was younger than 14 years of
22 age. Complainant was 12 at the time. She told you how old she
23 was. And we've also talked about her date of birth being in
24 2000.

25 And finally, we have to show you that the defendant is

1 older than the victim. He was born in 1969 and at the time
2 was 44 years old.

3 Remember, force is not an element. And consent is
4 never a defense. In that jail tape he seems to think that
5 that is going to be a defense, she started it. But it is
6 not. It never is. Not when we are talking about a child.

7 Next up we have criminal sexual contact with a minor in
8 the third degree. This is where the law gets as wordy as we
9 expect it typically to. I have to prove to you that the
10 defendant was over the age of 14. Which one again, we did
11 by bringing in his date of birth. And that he willfully and
12 lewdly committed or attempted to commit a lewd or lascivious
13 act on or with the body part of a child.

14 Willfully means to voluntarily and intentionally with
15 specific intent to do something the law forbids. In other
16 words, it wasn't an accidental touch; he meant to touch her;
17 he meant to rub her.

18 Lewd means obscene, lustful, indecent or lecherous.
19 Lascivious means tending to incite lust, lewd, indecent,
20 obscene, or tending to deprave the morals in respect to
21 sexual relations.

22 You will always be my Little Nasty. He proved his
23 intent when he said those words to Complainant.

24 We also have to prove that the victim was under the age
25 of 16. Once again, she was 12 years old.

1 Now what is our burden of proof as the State? Now if
2 you have ever served on a civil jury you know it is
3 preponderance of the evidence.

4 But it is different -- different in criminal court.
5 And the judge will totally go into that. Here the State
6 must prove all of these elements beyond a reasonable doubt.

7 But what is a reasonable doubt? A reasonable doubt
8 would be a doubt that would cause a prudent person to pause
9 in making a major life decision.

10 There is nothing that we expect you -- well, that is
11 not true. I think there are maybe two things that most
12 people know beyond a reasonable doubt in life. And that is
13 their mom loves them and that they are going to have to pay
14 taxes. Those things always happen.

15 Well, you know what, there are few other things you can
16 know without any other doubt. We don't expect that to be
17 the burden. You just have to be firmly convinced. Firmly
18 convinced that what **Complainant** said happened happened. There
19 doesn't need to be any other corroboration.

20 If the State has proved each of the elements that I
21 have discussed and you are firmly convinced at the end of it
22 then you have a duty as a jury to return a verdict of guilty
23 on all charges.

24 Ladies and gentlemen, that simply -- that is simply the
25 opening of the law. You will now get to hear closing

1 arguments from Mr. Kozelski, and then I will stand up and
2 address you one more time. Thank you for your attention.

3 THE COURT: Thank you.

4 Mr. Kozelski.

5 MR. KOZELSKI: Thank you, Your Honor.

6 **CLOSING BY MR. KOZELSKI:**

7 I told you at the beginning of the trial Maurice is not
8 on trial for being a bad parent. Even though most of the
9 testimony that you heard is which he was a pretty good
10 parent. The children like him. He took them to dinner. He
11 was always there and he was always happy to give Genita a
12 break.

13 And it is easy for us to criticize decisions that
14 parents make in regards to what they do with their kids.
15 But making bad parenting decisions and molesting a child are
16 two wildly different things.

17 Maurice did not molest Complainant . He didn't touch
18 her inappropriately. He didn't put his penis in her mouth.
19 Maurice did not molest Little Sister . He didn't touch her
20 inappropriately. He didn't molest any of his children.

21 Now I suspect that Ms. Elliott will come up here after
22 I speak and talk with you again and tell you well why would
23 Complainant be making this up if it didn't happen, why would
24 Complainant lie.

25 Now it is not our job to try to prove to you what

1 Complainant's motives would be. We don't have to prove to you
2 anything. We don't have to put on a case.

3 Mr. Harris didn't even have to get up on that stand and
4 talk to you today. And if he hadn't, the judge would have
5 told you not to consider that coming back with your verdict.
6 But he wanted to be there.

7 And when I asked him why Complainant is making this up he
8 said he really didn't know but the only thing it might be
9 his relationship with her father and his relationship with
10 her mother.

11 And that makes sense. Because Ms. Brown's older
12 children, Older Sister and ^{Older Brother}, had their father. Maurice had a
13 good relationship with them. Little Sister (sic) and Little Brother had a
14 good relationship with Maurice.

15 Complainant, her father wasn't around. She had Melvin.
16 Melvin was around to comfort her. And she liked that
17 attention. She gets that attention.

18 But that's not the only motive. You heard from Ms.
19 Ihrig, the guidance counselor. She was the first person up
20 here. I asked her about all the students she talks to. She
21 told us that some of her students embellish, some of her
22 students lie.

23 Now I didn't need to ask those questions in order for
24 y'all to understand that children lie. Anybody who is a
25 parent knows that children lie from time to time.

1 And we know that Complainant lied or in the very least
2 exaggerated when she was talking with Ms. Ihrig when she
3 said that Maurice forced her to watch pornographic movies
4 two to three times when they stayed over there last summer.

5 Ms. Ihrig told you she wouldn't have written that down
6 and she wouldn't have put that in her counseling notes and
7 her log had it not been said that way.

8 And we heard from Older Brother Said nobody forced them to
9 watch that movie. Maurice barely even remembered it.
10 Nobody was making Complainant watch this movie.

11 But it sparked an investigation. DSS came. They asked
12 questions. They asked the right questions. And they got
13 negative responses. And they found out that it was this
14 movie, *That's My Boy*.

15 And what is this movie about? A young boy had sex with
16 a teacher and it becomes the talk of the town. All the
17 while the teacher gets sentenced to prison for 30 years.
18 And trying desperately to reconnect with his son, Donnie is
19 now forced to deal with the repercussions of his bad
20 parenting skills. It's truly irony.

21 So you say to yourself that she was descriptive of what
22 she said. She talked about Maurice putting his penis in her
23 mouth, moving up and down. You heard from Older Brother that was
24 also in the movie.

25 But she said that he told her and Little Sister (sic), or it

1 was just her, you will always be my Little Nasty. In the
2 movie we have a character telling Adam Sandler do you
3 remember all those nasty things we did, you will always be
4 my Dirty Boy.

5 And you will have this movie back with you. This was
6 the only thing that we put into evidence. And you can watch
7 it. You can watch the whole movie if you want to. It is
8 there at your disposal. But I think you probably only need
9 to watch the first ten minutes to get the gist of it.

10 Complainant's favorite TV show was *Law and Order*. She
11 watched the show all the time. Her mom had to make her stop
12 watching it. She knows what she is doing. Maybe she
13 wanted to stay out in Hanahan with her friends instead of
14 going to West Ashley to be with her other parent's time.
15 She had her reasons. And she had her opportunity.

16 Her opportunity came up when Little Brother got suspended.
17 But she didn't tell Ms. Irhrig. She didn't tell Angela
18 Long. She denies both statements.

19 But then she did tell her mother. And once that story
20 comes out of her mouth it is hard to put it back in. You
21 can't put the genie back in the bottle. Law enforcement
22 gets involved. Nurses get involved. Professional
23 interviewers get involved. They are asking questions. They
24 are repeating the questions back to them. They want to get
25 to the bottom of it. It is full steam ahead.

1 And Complainant doesn't want to be alone in this, so she
2 confides in her little sister. She says Dad touched you too
3 while you were sleeping. And even though Little Sister didn't
4 feel her father touching her, allegedly; she felt Complainant
5 tap her awake. Little Sister, the youngest sister, the most
6 malleable of the siblings. That is why this story is not to
7 be believed I think in big part is because of Little Sister.

8 Even the police didn't believe Maurice of Little Sister.
9 They didn't put out warrants, even though Complainant told them
10 I saw Maurice Harris touch Little Sister while she was sleeping.

11 You saw the video of Little Sister while she was talking to
12 Ms. Strunsky. She said my daddy touched me. How do you
13 know that? My sister told me.

14 And her stories matched similarly to what Complainant had
15 said, except for the pants and where they said that took her
16 pants off. Complainant said he put his hand up my leg. Little Sister
17 said he took the pants off of her. Didn't have everything
18 together.

19 And then two-and-a-half years later, a week before
20 trial, after questioned numerous times she finally remembers
21 that she saw Maurice put her (sic) penis in Complainant's
22 mouth.

23 That is a weird phrase for a young girl to use,
24 especially in the way that she described it saying that she
25 could tell because of the way that it -- she could see his

1 back. She saw his back.

2 I don't know how you jump from seeing somebody's back
3 to seeing somebody put their penis in another person's
4 mouth. It just doesn't make sense to me.

5 None of the story makes sense to me. Because all of it
6 happened in this very small room. It is a big couch but a
7 small room with four adults, four children, people going in
8 and out constantly.

9 You saw what Maurice drew for you up there, a better
10 rendition of the house. We don't have any pictures of it
11 because police didn't take any pictures of it. Police
12 didn't take any evidence from it.

13 When I talked to Detective Russell, you know, I
14 explained that why didn't you try to get any DNA swabs. She
15 didn't know there was any DNA because Complainant didn't say
16 that. She didn't say that until later on down the line when
17 it helped corroborate her story.

18 This is a high traffic area. All the kids sleep there.
19 In and out. In and out. Adults coming in. ^{Older Brother} would have
20 seen something. ^{Older Brother} -- nothing. I think he spoke
21 honestly, cares about her sister. And he likes Maurice. He
22 didn't see anything.

23 You didn't hear from ^{Little Brother} . You didn't hear anything
24 about Maurice trying to take them to a private place. No
25 testimony that Maurice was grooming them.

1 And Ms. Elliott brought up all these experts. All
2 these experts to tell you just because there's no evidence
3 doesn't mean it didn't happen.

4 I mean it is a scary thing to think about if you can
5 take a child in and have an exam, even though it is normal,
6 that doesn't mean you didn't do it.

7 So all it takes is for a child to say you molested
8 them. Because they don't rule out sexual abuse. It just
9 doesn't happen.

10 And they tell you, well, it is a memory thing; it is
11 like driving your car to work; you do this everyday so you
12 might not remember all the details.

13 That is not what Complainant tried to explain. It wasn't
14 like driving to work. This wasn't, you know, an everyday
15 occurrence. This happened over one summer. And they had
16 been there probably hundreds of times. They would go to
17 visit Maurice.

18 And she says this happened on four occasions, touched
19 her six times, three times, two times. However many. Each
20 time the story would change. And that's why it is not to be
21 believed.

22 When there is no physical evidence and the people that
23 you have to rely on have not been truthful to the process,
24 you do not convict. You do not take away Mr. Harris'
25 liberty on the basis of this child's.

1 Mr. Harris didn't do this. And there is no evidence to
2 suggest that he did do this. He might have made a poor
3 parenting decision. But he did not molest his daughters.

4 THE COURT: Thank you.

5 Ms. Elliott.

6 MS. ELLIOTT: Thank you, Your Honor.

7 **CLOSING BY MS. ELLIOTT:**

8 Maurice Harris was like a father to Complainant . No
9 one contests that. What he did for one of his children he
10 did for all of the children.

11 She trusted him. And in the summer of 2013 he violated
12 that trust. Not by showing her some movie but by sexually
13 assaulting her.

14 It started out simply enough. They were just watching
15 movies. Just like they always did, in the evenings. Lots
16 of parents calm everything down, playing around together
17 watching the movies.

18 And in the quiet and in the stillness of that time
19 Maurice Harris starts touching Complainant 's leg and
20 running it up her leg. She doesn't scream. She doesn't
21 flinch. So he keeps going until he reaches her vagina. He
22 starts rubbing her vagina back and forth, ending up
23 penetrating her.

24 She is frozen. He's put two fingers inside of her.
25 How was she to cope with this. How was she to deal with

1 this. This is a man who has been there for her probably
2 more than any other man in her life. And he is assaulted
3 her. And she as a 12-year-old little girl has to deal with
4 that.

5 Dr. Swiecicki talked about how children struggle to
6 cope with the wrong that someone has done when they have to
7 compare that to all of the good they have done for them.

8 What we do know is she remained silent. She stayed
9 silent like so many other children do. Maybe she hoped it
10 would just be a one-time thing. But it wasn't. It happened
11 again. It started going further. It went from touching and
12 rubbing her vagina to kneeling in front of her while she is
13 laying on the couch and forcing his penis in her mouth.
14 Forcing her to perform fellatio, oral sex on him.

15 What can she say now. What can she do now. She didn't
16 tell the first time. Who is going to believe her now.
17 There was probably guilt. There was probably shame. But
18 you know she -- she was scared to tell. Who would believe
19 her now.

20 She kept it secret all summer. She kept it secret
21 every time he forced his penis in her face. She kept his
22 secret every time he touched and penetrated her vagina. She
23 kept it secret until someone started asking questions.
24 Until DSS started investigating an inappropriate movie that
25 all of the children admit that they watched, that the

1 defense admits that the defendant showed the children.

2 It is just an Adam Sandler movie. It is just an Adam
3 Sandler movie. It is an Adam Sandler movie that ridicules
4 child sexual abuse.

5 Mr. Kozelski has asked you to watch the movie. Says
6 you will probably get it in the first ten minutes. Watch
7 the first ten minutes. And you will watch a teacher solicit
8 sex from a junior high boy, a boy who looks prepubescent.

9 This continues on through the movie until she ends up
10 getting impregnated by him. And it goes to court and the
11 judge is standing there saying I know that most of you don't
12 think this boy is a victim; some of you are calling this a
13 teenager dream. And there is laughter and people start
14 high-fiving and fist bumping.

15 They make a joke out of a teacher having sex with a
16 student. Because it is boy versus a girl. That is not a
17 joke. In the same way is it not a joke when a grown man
18 forces a middle school girl to have sex with him. But it is
19 all a punch line in here.

20 Watch this movie. In fact I suggest skipping ahead to
21 an hour and watch the stripper scene where it is nothing but
22 bare breasts the whole time and then they walk into a
23 parking lot and you see a disabled woman, a woman who hurt
24 her neck somehow, performing fellatio on him.

25 Mr. Kozelski talked about I don't know how you get

1 putting a private part in someone's mouth when all you can
2 see is the back. You get it in an hour, five. It is very
3 obvious what happened. It's very obvious. The same way
4 that it was obvious to Little Sister what she was seeing that day.

5 Any child describing the facts of what are in this
6 movie, talking about the nudity, talking about the graphic
7 sex scenes, any adult would have labeled that a porno unless
8 they knew the name. Because we are desensitized to Adam
9 Sandler. We are desensitized when we make it a joke.

10 But it doesn't mean that it is not grooming. It
11 doesn't mean that it was a way to desensitize Complainant
12 to the activities that Maurice Harris was going to subject
13 her to. Watch the movie.

14 Complainant said this happened in the summer of 2013. And
15 she does struggle with the dates. Few people can remember
16 the exact dates of any given instance. Now I know there are
17 some that can. My boyfriend is one. He remembers our first
18 date. He remembers where we went to eat. He probably
19 remembers how much the bill was.

20 I know I went on a first date. And I can tell you what
21 I wore. I am so much more graphic like that. But he is all
22 about numbers.

23 From what we know this probably happened between May --
24 late May to mid August. Those were the time spans that Ms.
25 Ihrig gave us for being the summer. Complainant didn't

1 disclose until mid October.

2 The doc- -- the physician assistant and Dr. Abel
3 explained to you that to collect DNA evidence that you have
4 to do that within 72 hours. We are well outside of that
5 window.

6 And they also explained to you how during physical
7 exams normal is normal, that penetrative trauma usually
8 doesn't actually leave any trauma or any damage.

9 I mean full grown men will penetrate small children and
10 there will be no evidence of it. It is hard to believe, but
11 it is the truth.

12 And so when she talks about that he just put in two
13 fingers, you wouldn't expect to see anything else. When she
14 talks about how he forced his penis into her mouth, Dr. Abel
15 said at best you could look for some petechiae that would be
16 gone in a day.

17 There is no physical evidence. I understand that. But
18 this isn't -- this also isn't CSI. And it is not CSI
19 because in cases like these a child's silence is a child
20 abuser's best ally.

21 What evidence do we have of the sexual assault? We
22 have the testimony of **Complainant** and **Little Sister** . And this case
23 boils down to credibility like so many other sexual assault
24 cases, do you believe that what **Complainant** says happened
25 happened. You don't need any other further corroboration

1 to -- for a conviction.

2 But you know what, judging credibility is something
3 that you do every day. You have developed a lifetime of
4 experiences that make you experts at that.

5 When someone walks up to you on the street and says hey
6 I am in a tough spot, can I borrow five dollars, you use
7 your credibility skills to decide whether he is being honest
8 or is he is being dishonest.

9 When your five-year-old tells you I didn't eat that
10 last cookie, you know how to judge that credibility. Or
11 when your coworkers is telling you about this new piece of
12 gossip, you know how to analyze them and decide whether or
13 not what they are saying is the truth.

14 We expect you to use your lifetime of experience in
15 judging people's credibility when you go back into that jury
16 deliberation room.

17 Now when evaluating someone's credibility we often look
18 for motive in saying what they say. What could Complainant's
19 motive possibly have been?

20 Maurice Harris was her second father. And if she
21 didn't have a good relationship with her biological father,
22 he is the man that has been there the longest. His house is
23 always open. It is a playground. The kids can watch TV,
24 they can play on the computer. There are video games. And
25 he is not making them come. They can come and go as they

1 want. There's no motive.

2 She wanted to hang out with her mom, she could have
3 gone and hung out with her mom. And if it was to get out of
4 the house, then why not tell this story in the summer right
5 when she first started going over to his home? Why?

6 There's no reason for her to make this up in October.
7 At that point they are in school. Visitation's left. She's
8 not having visitation.

9 And his story about her not liking him getting with her
10 mom, Complainant knew that her mom was in a relationship with
11 another man. That wasn't a worry. There's no reason for
12 her to lie. No reason to make this up.

13 And Little Sister . The defense has suggested again and again
14 and again that Complainant put her up to say this. Do you
15 really think Complainant for one minute that she would have
16 stuck to this story of three years, that she would have
17 stayed away from her father for three years, if this wasn't
18 true?

19 I mean they are sisters. They get along. They love
20 each other. But sisters fight. Don't you think that in
21 that -- that in this time of three years they would have
22 gotten in some kind of fight that if this wasn't true she
23 would have ratted her sister out? That's was sisters do.

24 Would Little Sister have forfeited all the good things with
25 her father for Complainant who can't really give her anything?

1 Do you truly believe that?

2 When evaluating credibility you look at demeanor.

3 Little Sister 's demeanor, she is 11. She is a very young 11. You
4 got the benefit of seeing her at eight in her LCC interview.
5 She is clearly painfully shy.

6 When she was one-on-one with Carrie Strunsky she starts
7 off barely giving one-word answers. Especially when she
8 talks about magnets. When do you get them, what did they
9 look like, what time of day is it. I mean she literally is
10 like my teacher, the classroom, end of the day. That is how
11 she starts off answering. Slowly she calms down and is
12 able to give more of a narrative response. How nervous was
13 she up there? With all these people looking at her. She
14 was terrified. And yet she stayed consistent.

15 She knows that there is a very big difference between
16 the two things that she told Carrie. She knows that her
17 sister told her about abuse. And she tells Carrie that. My
18 sister told me my dad touched me. I don't remember it. I
19 have no recollection of it.

20 But then she talks about what she saw, what she saw her
21 father do to Complainant. There is no wavering in that. She
22 is so much more comfortable talking about the abuse that she
23 witnessed than the abuse that Complainant told her about.

24 Ladies and gentlemen, the reason that Maurice Harris is
25 only charged with the abuse of Complainant is because Little Sister

1 can't or won't talk about abuse.

2 And if her sister really is this coach who has been
3 putting her up to this all this time wouldn't she have been
4 able to convince her over the last two-and-a-half years to
5 say oh I do remember that Daddy did that to me and I
6 remember what it feels like now. No, she doesn't say that.

7 Now it was recent that she finally told about seeing
8 her father kneeling in front of her sister and putting the
9 penis in her mouth. No one had ever asked her before all.

10 She is not one to volunteer information. You see that
11 in the video. And watch her video. Carrie Strunsky never
12 asked the question did you see Maurice do anything else to
13 your sister. No one ever asked her that. She was asked
14 about touching. She answered about touching.

15 No one's memory is perfect. We don't expect it to be
16 perfect. Mr. Kozelski also asked Little Sister about people who
17 helped her remember, myself and Complainant. When asked how I
18 helped her remember, her response was you asked me
19 questions. I finally asked. That's when she finally told.

20 What about Complainant's demeanor? You heard Dr.
21 Swiecicki talk about flat affect, how many people expect the
22 child to have a certain emotional response; maybe a sob,
23 maybe a cry, maybe a shake, maybe to look traumatized.

24 We wish that children who are sexually abused look
25 traumatize so then we could help them. Then we would

1 automatically be able to find them in the world and step in
2 and hopefully stop some of what is going on. But they don't
3 do that. They develop coping mechanisms.

4 A lot of times disclosure to me I think they look like
5 ripping off a Band-aid. Just get it out there. If I just
6 say it they will stop asking about it and I will be done.

7 How many times did I have to slow Complainant down on that
8 stand and get her to go into details. When she just wanted
9 to lump it all together and get it over with. Was she lying
10 or was she coping? That is for you to decide when you are
11 judging credibility.

12 And I know that Mr. Kozelski is going to point out that
13 some -- or that he did point out some things that he said
14 were inconsistencies.

15 Complainant struggles with where everyone is in the room.
16 She is pretty distracted during that time. Isn't that
17 expected? The man she cares about is fondling her and
18 putting his penis in her mouth. She is probably not making
19 sure that her brothers are still asleep or that Little Brother is
20 in Grandpa's room. She is trying to remember. But this
21 happened for her at least nine times. Nine times over a
22 summer.

23 John Kozelski talked to you about -- he used examples
24 that Carole Swiecicki talked about riding in your car. I
25 mean you do that every day, every day, every day, and that

1 this wouldn't have been an everyday experience.

2 But that is not exactly what she was saying. What she
3 kept saying -- she -- she used that example. But she said
4 but when events happen multiple times they can start to
5 blend together. The details can blend together and
6 sometimes it's hard for people to pull them apart.

7 This is the example that I use: When I was six, seven,
8 eight and nine all of my birthday parties were at Chuckie
9 Cheese. I know that I would have had pizza. I would have
10 had friends there. There would have been presents. For
11 sure I would have played Skee-ball, gotten some tickets and
12 gotten some prizes. I cannot differentiate any of those
13 birthdays. They are all the same to me.

14 I know generally what happened, but I can't tell you
15 who was there. I can't tell you what presents I got. Nowⁿ
16 there is one that sticks out in my head. They gave me a
17 voucher for like a hundred extra tickets. And that was like
18 the Holy Grail for me. And I was going to redeem that and
19 get something amazing. And I got this plastic bowl. And
20 that plastic bowl sat in my mother's house until she
21 recently moved out of my childhood home.

22 I can tell you all about how excited I was and what
23 that bowl looks like. I can't tell you what birthday that
24 is. That doesn't mean I am lying.

25 Complainant got up there and she talked about three

1 instances when the defendant either forced or tried to force
2 his penis in her mouth. The touchings very much were
3 similar and they blended together. Do we expect her to know
4 all of the details of each one especially when she has been
5 probably trying to forget this for three years.

6 Or think about it this way: A coworkers goes on a
7 dream vacation. They come back and of course they are going
8 to talk about it, and they are going to talk about it a lot.
9 They are going to talk about where they went, who they saw,
10 how great it was, what they loved, what they did.

11 And when they talk to one person who maybe likes food
12 they are going to talk all about the restaurants and the
13 amazing things that they ate.

14 And then the next person they are going to go talk to
15 they are going to talk about this great beach that they
16 found and how they laid out and got a great tan.

17 And then maybe that other co-workers that they don't
18 like so much, maybe they are just going to gloss over the
19 facts so that they can get away.

20 Does that mean that that person talking about their
21 vacation is lying? No. Because while we talk about
22 disclosures and abuse being a process, disclosures and
23 talking about is overall a process. We never tell the exact
24 same story twice.

25 But Complainant, a child, is expected not only to remember

1 exactly what she said on the tape but also to remember
2 exactly what she told every other adult she ever talked to.

3 It's not possible. No human can do that. There are
4 going to be small differences. But are the big facts the
5 same? Yes. Is there stuff to corroborate it? Yes.

6 Little Sister .

7 If she had gotten up there and every time she's ever
8 talked to everyone and said everything the exact same way,
9 you would think she was a robot. Because as human being
10 people know that they tell stories, they tell events, in a
11 different way.

12 Why would we expect a child to be any more precise than
13 an adult?

14 Now I am confident that there is a question going
15 through your head of we got to see Little Sister 's video, where is
16 Complainant 's. The judge at the beginning of this trial
17 instructed you that this is a formal process and there are
18 rules and laws we have to follow.

19 And the simple answer is the law doesn't allow us to
20 admit a video when it is taken from a child who is 12 years
21 or older. Little Sister (sic) was 12 at the time of her video.
22 That is why you are not going to see it. You have to rely
23 on her testimony.

24 But what does Complainant have to gain by lying? Nothing.
25 What does Little Sister have to gain by going along with this lie?

1 Nothing.

2 But even if you doubt them why should you doubt the
3 defendant's own words and what he said.

4 Genita Brown got on the stand and told you about what
5 her daughters first told her about these allegations. She
6 called Maurice Harris. And Maurice initially denied it.
7 And then he says if it happened, I don't remember. If it
8 happened, I don't remember.

9 How do you forget whether or not you sexually assaulted
10 a twelve-year-old? You don't. And we know that because of
11 the jail calls.

12 He is talking to his momma saying Little Sister got into this.
13 Little Sister never should have talked about it. Little Sister shouldn't
14 have gone to the teachers. Blaming Little Sister all over the
15 place.

16 Little Sister who now the defense says has been put up to all
17 of it by Complainant. And then when he talks about Complainant:
18 She started it. She started with me. She's climbing all
19 over me. That's another thing.

20 He remembers what happened with Complainant now. And he
21 is blaming her in that phone call. He makes it her fault.
22 Isn't that the message of this movie? The teenage kid who
23 wants to get with a grown-up, it is all their fault; why
24 hold them responsible.

25 To Maurice Harris, Complainant started it. But he

1 finished it. He finished it when he sexually abused her.

2 And let's talk about him on the stand today. His
3 memory was even fading then of I mean I kind of know what --
4 I know what I was talking about with Little Sister but I didn't know
5 then what I was talking about with Little Sister.

6 Does that make any sense? It doesn't make any sense.

7 He talks about every reason in the world why the kids
8 should love coming to his house. But then when he sketched
9 out that couch you notice he didn't put a single kid near
10 him, not one.

11 He has no incentive to get on there and tell you that
12 he did it. Complainant has no incentive to get up there and
13 lie to you. In this case you don't only have Little Sister and
14 Complainant's words to go by; you have the defendant's own
15 words backing up what they say.

16 What he says when he thinks no one is listening
17 supports what Complainant said he did when he thought no one
18 was watching. Maurice Harris sexually abused Complainant. He
19 fondled her vagina. He penetrated her vagina with his
20 fingers. And he forced her to perform fellatio, oral sex on
21 him.

22 He did it while other people were in the room or
23 nearby. First five minutes of video, that teacher
24 seduction, there are others present. Desensitizing.
25 Normalizing behavior.

1 Maurice Harris is guilty of both counts of criminal
2 sexual conduct in the second degree. He is also guilty of
3 criminal sexual contact in the third degree. And ladies and
4 gentlemen, that is why you must find him guilty.

5 Complainant , she didn't deserve for this to happen
6 to her. And Maurice Harris, he doesn't deserve to get away
7 with it.

8 THE COURT: Thank you very much.

9 Ladies and gentlemen, that first break, just stand up
10 where you are. How about that. Feels good. And the reason
11 I ask jurors to do that, ladies and gentlemen, is that I
12 need you to be able to listen to you when I deliver the
13 charge to you.

14 And I find that it is a good thing to let the oxygen
15 move a little bit in your bodies. Does anybody need to take
16 a comfort break? Because is so, I want you to do it. All
17 right. Move around a little bit. And when you are ready to
18 be seated, please be seated.

19 Ladies and gentlemen, there are three indictments
20 involved in this matter. And they charge the defendant with
21 criminal sexual conduct with a minor in the second degree,
22 criminal sexual conduct with a minor in the second degree,
23 and criminal sexual conduct with a minor in the third
24 degree.

25 Ladies and gentlemen, each of these indictments charges

1 a separate and distinct offense. You must decide each
2 indictment separately on the evidence and on the law
3 applicable to it uninfluenced by your decision as to any
4 other indictment.

5 Ladies and gentlemen, the defendant may be convicted or
6 acquitted on any or all of the offenses charged. You will
7 be asked to write a separate verdict of guilty or not guilty
8 for each indictment.

9 I remind you that the fact that the defendant, Mr.
10 Harris, was arrested, charged and indicted in this case, is
11 not evidence in this case and cannot be considered by you as
12 evidence of guilt in this case nor does it create any
13 presumption or inference of guilt.

14 These documents, these indictments, are simply the
15 formal written instruments. They are the notice documents
16 which contain the charges made against the defendant, one
17 charge for each indictment. They are the formal documents
18 by which this case is brought into this court.

19 Now, ladies and gentlemen, Mr. Harris has pled not
20 guilty to these indictments, and that places the burden on
21 the State to prove the defendant guilty. And this is true
22 as to each indictment.

23 A person charged with committing a criminal offense in
24 South Carolina is never required to prove himself not guilty
25 or innocent.

1 I charge you that it is an important rule of the law
2 that a defendant in a criminal trial, no matter what the
3 seriousness of the charge or charges may be, that that
4 defendant will always be presumed to be innocent of the
5 crime or crimes for which the indictment or the indictments
6 were issued unless guilt has been proven by evidence
7 satisfying you of that guilt beyond a reasonable doubt.

8 This presumption of innocence does not end when you
9 begin your deliberations, but it accompanies the defendant
10 throughout the trial until you reach a verdict of guilt
11 based on evidence satisfying you of that guilt beyond a
12 reasonable doubt. You will do this analysis for each of
13 these charge, for each of these indictments, separately and
14 independently.

15 Ladies and gentlemen, the presumption of innocence is
16 like a robe of righteousness placed about the shoulders of
17 the defendant which remains with the defendant until it has
18 been stripped from the defendant by evidence satisfying you
19 of the defendant's guilt beyond a reasonable doubt.

20 The presumption of innocence is not a mere legal
21 theory. It is not just a little phrase. It is a
22 substantial right to which every defendant is entitled
23 unless you the jury are satisfied from the evidence of the
24 defendant's guilt beyond a reasonable doubt. And again I
25 say you will do this analysis for each charge in each

1 indictment independently and separately.

2 What then is reasonable doubt in the law. A reasonable
3 doubt is the kind of doubt that would cause a reasonable
4 person to hesitate to act. The State has the burden of
5 proving the defendant guilty beyond a reasonable doubt.

6 Some of you may have served as jurors in civil cases
7 where you were told that it is only necessary to prove that
8 a fact is more likely true than not true, such as by the
9 greater weight or the preponderance of the evidence.

10 In criminal cases the State's proof must be more
11 powerful than that. It must be beyond a reasonable doubt.
12 Proof beyond a reasonable doubt is proof that leaves you
13 firmly convinced of the defendant's guilt.

14 There are very few things in this world that we know
15 with absolute certainty, and in criminal cases the law does
16 not require proof that overcomes every possible doubt.

17 If based on your consideration of the evidence you are
18 firmly convinced that the defendant is guilty of the crime
19 that you are considering, you must find the defendant
20 guilty.

21 If on the other hand you think there is a real
22 possibility that the defendant is not guilty, you must give
23 the defendant the benefit of the doubt and find him not
24 guilty.

25 Now I remind you that during this trial you and I have

1 had certain duties to perform. As the trial judge it is my
2 responsibility to preside over the trial of this case. And
3 I also had the duty to rule on the admissibility of the
4 evidence offered during this trial. You of course are to
5 consider the evidence before you.

6 I have the additional duty to charge you regarding the
7 law applicable to this case. As the presiding judge I am
8 the sole judge of the law of this case, and it is your duty
9 as jurors to accept and to apply the law as I am now stating
10 to you.

11 If you already have an idea as to what the law is or
12 what it ought to be and it does not agree with what I now
13 tell you the law is, you must abandon your preconceived idea
14 because you are now sworn to accept and to the -- and to
15 apply the law exactly as I state it to you.

16 In every case tried in this court before a jury the
17 jury becomes the sole and exclusive judge of the facts. A
18 trial judge cannot animate, state, comment on, or make any
19 statement to a trial jury about the facts in the case.

20 Since you, the jury, are the sole judge of the facts in
21 this case you are not to infer from what I may have said
22 during the progress of this trial in ruling on the
23 admissibility of evidence or otherwise or anything that I
24 say now during the course of this instruction to you that I
25 have an opinion about the facts in this case. The law does

1 not allow me to have an opinion about the facts in this
2 case. This is a matter solely for you, the jury, to
3 determine.

4 As jurors it is your duty to determine the effect, the
5 value, the weight, and the truth of the evidence presented
6 during this trial.

7 Ladies and gentlemen, there are two types of evidence
8 which are generally presented during a trial. One is called
9 direct evidence. The other, circumstantial evidence.

10 Ladies and gentlemen, direct evidence is the testimony
11 of a person who claims to have actual knowledge of a fact
12 such as an eyewitness. Circumstantial evidence is proof of
13 a chain of facts and circumstances indicating an existence -
14 - the existence of a fact.

15 Now, ladies and gentlemen, I want to -- I am going to
16 give you an example and then I am going to come back and
17 describe it. I think the words are certainly helpful, but I
18 think they are more helpful if I give you an example. So I
19 am going to give you an example and then I am going to come
20 back to the charge.

21 Ladies and gentlemen, I want you to go back a couple of
22 days to February. We had some cold days in February. I
23 want you though to imagine that it is extremely cold, that
24 snow is forecast, and you walk outside and you look up and
25 you are hit smack in the face with snow.

1 You go back inside and you say it is snowing outside.
2 You literally are an eyewitness to the fact that it is
3 snowing. You felt it. You saw it. You experienced it.
4 You have just given direct evidence, direct evidence.

5 Now let's go back to the same -- our same day in
6 February. Snow is forecast. It is very cool. You look
7 outside just before you go to bed. You know that snow is
8 forecast. But you're sort of looking. Kind of waiting for
9 your employers to say don't come in tomorrow. Waiting on a
10 snow day.

11 So you are paying attention. You look outside before
12 you turn in for the night and all you see is your poor,
13 pitiful, brown, crunchy grass.

14 When you awake in the morning snow covers everything.
15 Here is what you know. It is February. It is cold. Snow
16 is forecast.

17 When you went to bed you saw only brown, crunchy grass;
18 and in the morning you see snow covering everything. Those
19 are the things that you know.

20 But by inference, by inference, you know that it snowed
21 overnight. That is circumstantial evidence. You know facts
22 which point to the fact that it snowed overnight.
23 Circumstantial evidence is a matter of inference rather than
24 of direct evidence.

25 Now, crimes may be proved by circumstantial evidence.

1 And the law makes no distinction between the weight or value
2 to be given to either direct or circumstantial evidence.

3 However, to the extent the State relies on
4 circumstantial evidence the circumstances all must be
5 consistent with each other and when taken together point
6 conclusively to the guilt of the accused beyond a reasonable
7 doubt. If these circumstances merely portray the
8 defendant's behavior as suspicious, the proof has failed.

9 And our law, ladies and gentlemen, makes absolutely no
10 distinction between the weight or value to be given to
11 either direct or circumstantial evidence. Nor is a greater
12 degree of certainty required of circumstantial evidence than
13 of direct evidence.

14 You should weigh all of the evidence in the case. And
15 after weighing all of the evidence if you are not convinced
16 of the guilt of the defendant beyond a reasonable doubt you
17 must find the defendant not guilty. And again, you will do
18 this analysis for each indictment independently standing on
19 its own.

20 Ladies and gentlemen, the State has the burden of
21 proving the defendant guilty beyond a reasonable doubt, and
22 this burden rests with the State regardless of whether the
23 State relies on direct evidence, circumstantial evidence, or
24 some combination of the two.

25 Now, necessarily you must determine the credibility of

1 the witnesses who have testified in this case. What does
2 that mean credibility. It simply means believability.

3 It becomes your duty as jurors to analyze and to
4 evaluate the evidence and determine which evidence convinces
5 you of its truth.

6 In determining the believability of witnesses who have
7 testified in this case you may believe one witness over
8 several witnesses or several witnesses over one witness.
9 You may believe a part of the testimony of a witness and
10 reject the remaining part of the testimony of that same
11 witness. You may believe the testimony of a witness in its
12 entirety or you may reject the testimony of a witness in its
13 entirety.

14 You may consider whether any witness has exhibited to
15 you any interest, bias, prejudice or other motive in this
16 case. You may also consider the appearance of the witness,
17 the manner of the witness while on the witness stand.

18 Ladies and gentlemen, these are examples. Obviously
19 this is not an exhaustive list. And you did not drop your
20 common sense at the courthouse door.

21 Now, ladies and gentlemen, in this matter, in this
22 case, you have heard the testimony of a witness deemed to be
23 an expert witness. Our rules of evidence ordinarily do not
24 permit witnesses to testify regarding opinions or
25 conclusions.

1 An exception to this rule exists for witnesses we call
2 expert witnesses. A witness who by education and experience
3 has become an expert in some art, science, profession or
4 calling, and those witnesses, those expert witnesses, may
5 state an opinion as to relevant and material matter in which
6 the witness claims to be an expert and may also state the
7 reasons for the opinion or opinions.

8 You should consider any expert opinion received in
9 evidence in this case and like any other evidence give it
10 the weight you think it deserves.

11 If you decide that the opinion of an expert witness is
12 not based on sufficient education and experience or if you
13 conclude that the reasons given in support of the opinion
14 are not sound or that the opinion is outweighed by other
15 evidence you may disregard the opinion entirely.

16 An expert witness's testimony is to be given no greater
17 weight than any other witness simply because the witness is
18 an expert. Further, you are not required to accept an
19 expert's opinion even though it is not contradicted.

20 Now, ladies and gentlemen, during this trial you have
21 heard testimony from children. Where a witness is a child
22 you must determine, as with any witness, whether that
23 testimony is believable.

24 In deciding believability you may consider not only
25 matters that I have already discussed with you, but you may

1 also consider the age of the child, the child's ability to
2 observe and remember facts, and the child's ability to
3 understand and answer questions.

4 Because young children may not fully understand what is
5 happening here, it is up to you to decide whether the child
6 understood the seriousness of opinions of a witness at this
7 criminal trial, whether the child understood the questions,
8 whether the child has a good memory, and whether the child
9 understands the difference between lying and telling the
10 truth.

11 In addition, young -- these things, ladies and
12 gentlemen, of course you may consider with regards to
13 children. And in addition, young children may be influenced
14 by the way the questions are asked. It is up to you to
15 decide whether the child or children understood the question
16 or questions asked.

17 Now, ladies and gentlemen, there has been evidence
18 presented and alleged that witnesses have made prior
19 statements which are not consistent with the witness's
20 present testimony.

21 You may use this evidence to decide whether to believe
22 the witness. You may also use evidence of the earlier
23 contradictory statements to determine the truth of those
24 statements.

25 It is up to you to decide whether to believe the

1 earlier statements or the testimony given at trial. If a
2 witness has shown to have knowingly testified untruthfully
3 concerning any material matter, you may consider this in
4 determining whether to trust the witness's testimony as to
5 other matters. You may reject all testimony of that
6 witness or give all or part of the testimony the weight you
7 think it deserves.

8 Now, ladies and gentlemen, I further charge you that
9 the testimony of a victim need not be corroborated in
10 prosecutions under Section 16-3-652 through 16-3-658. And,
11 ladies and gentlemen, these three indictments lie within
12 these sections.

13 Now, ladies and gentlemen, I'm going to read to you
14 each of the three indictments and then I am going to charge
15 you the elements of the offenses.

16 Ladies and gentlemen, Indictment 2014-GS-10-03695
17 alleges that Maurice Marshall Harris, date of birth
18 , 1969, did in Charleston County between
19 May the 1st, 2013, and September the 1st, 2013, engage in
20 sexual battery upon Complainant , date of birth
2000, to wit fellatio. This is in violation of
22 Section 16-3-655(B) of the South Carolina Code of Laws, 1976
23 as amended.

24 Ladies and gentlemen, with regards to Indictment 2016-
25 GS-10-01320 this indictment alleges that in Charleston

1 County, South Carolina, between May 1st, 2013, and September
2 the 1st, 2013, the defendant, Maurice M. Harris, date of
3 birth 1969, who is over 14 years of age
4 did willfully and lewdly commit or attempt to commit a lewd
5 or lascivious act upon or with the body or its parts of
6 Complainant , date of birth 2000, a
7 child under 16 years of age, with the intent of arousing,
8 appealing to, or gratifying the lust, passions or sexual
9 desires of the defendant or the child in violation of
10 Section 16-3-655(c) under the South Carolina Code of Laws,
11 1967, as amended.

12 And, ladies and gentlemen, Indictment 2014-GS-10-03694
13 alleges that Maurice Marshall Harris, date of birth
14 1969, did in Charleston County between
15 May 1st, 2013, and September the 1st, 2013 engage in sexual
16 battery upon Complainant , date of birth
17 , 2000, to wit digital, vaginal penetration. This is in
18 violation of Section 16-3-655(b) of the South Carolina Code
19 of Laws 1976 as amended.

20 Ladies and gentlemen, those are the three indictments.
21 And again, I tell you that to each allegation in each of
22 these indictments the defendant has pled not guilty which
23 places the burden of proof on the State to prove guilt
24 beyond a reasonable doubt. And that is guilt beyond a
25 reasonable doubt as to each element of each of these

1 indictments. They stand independently. They stand
2 separately one from the other.

3 Ladies and gentlemen, I am now going to define for you
4 the two offenses raised. One is criminal sexual conduct
5 with a minor in the second degree, and the other is criminal
6 sexual conduct with a minor in the third degree.

7 I am first going to talk to you all about criminal
8 sexual contact in the second degree and then criminal sexual
9 in the third degree.

10 Ladies and gentlemen, the defendant Mr. Harris is
11 charged by two indictments, each charging him with second-
12 degree criminal sexual conduct with a minor.

13 The State must prove beyond a reasonable doubt that the
14 defendant engaged in a sexual battery with the victim.

15 Ladies and gentlemen, a sexual battery is sexual
16 intercourse, cunnilingus, fellatio, anal intercourse, or any
17 intrusion however slight of any part of a person's body or
18 of any object into the genital or anal openings of another
19 person's body except when the intrusion is accomplished for
20 medically recognized treatment or diagnostic purposes.

21 The State must the prove beyond a reasonable doubt that
22 the victim was at least 11 years old but not more than 14
23 years old at the time of the sexual battery.

24 Ladies and gentlemen, consent, willingness,
25 indifference or ignorance on the part of the minor if any as

1 to what was taking place does not in any way affect the
2 charge of criminal sexual conduct with a minor because an
3 unmarried woman under the age of 14 cannot legally consent
4 to sexual intercourse.

5 Ladies and gentlemen, I am now going to discuss with
6 you the offense of third-degree criminal sexual conduct with
7 a minor. The defendant is charged in an indictment, in one
8 indictment, with third-degree criminal sexual conduct with a
9 minor.

10 The State must prove beyond a reasonable doubt that the
11 defendant is over the age of 14 and the defendant willfully
12 and lewdly committed or attempted to commit a lewd or
13 lascivious act on or with the body or its parts of a child
14 under the age of 16 years old with the intent to arouse,
15 appeal to, or gratify the lust, passions or sexual desires
16 of the defendant or the child.

17 Willfully means voluntarily and intentionally with the
18 specific intent to do something the law forbids. Lewd means
19 obscene, lustful, indecent, or lecherous.

20 Lascivious means tending to incite lust, lewd,
21 indecent, obscene or tending to deprave the morals in
22 respect to sexual relations.

23 Now, ladies and gentlemen, I now want to talk to you
24 about the verdict form. And I am going to come down there
25 to do it.

1 Ladies and gentlemen, because there are two charges of
2 criminal sexual conduct with a minor in the second degree
3 and because they each stand separate and independent of each
4 other and because the State has the burden of proving the
5 elements of each of these indictments beyond a reasonable
6 doubt as far as the verdict form what I have done is I have
7 attached the indictments to the verdict form so that the
8 verdict form that you will fill out on behalf of the jury
9 when the jury has concluded its deliberations as presiding
10 juror is with regards to the indictment that is attached to
11 the verdict form. That way you can keep them straight.

12 There are two possible verdicts. And before I go over
13 the two possible verdicts I want to say to you there is no
14 hidden meaning in the order in which these possible verdicts
15 have been put on paper.

16 It is just reality. If I am going to put two things on
17 paper, one has got to be first and the other has got to be
18 second. There's no hidden meaning. And please don't take
19 any hidden meaning in the order in which the possible
20 verdicts have been put on paper.

21 Ladies and gentlemen, the indictment number in the
22 event that you just learned of which I -- the indictment
23 number of course is placed on the verdict form. And the
24 indictment that corresponds is attached. You can certainly
25 verify it by matching the number on the verdict form along

1 with the number of the indictment on the indictment itself.

2 Ladies and gentlemen, I also want to mention this to
3 you. Your -- I am going to jump over you guys. Your
4 verdict must be unanimous. This verdict, your verdict, you
5 know will be a verdict as to each of these indictments. It
6 is not by the majority. And it is not to be controlled by
7 any one person. But your verdict must be the verdict of
8 each and every one of you. Your verdict must be unanimous.

9 Now, ladies and gentlemen, I'm looking at 2014-GS-10-
10 03695. And the verdict form reads as follows: As to the
11 charge of criminal sexual conduct with a minor, second
12 degree, we the jury unanimously find the defendant -- and
13 you will make your decision, and it must be unanimous. And
14 it will either be guilty or not guilty. Irrespective of
15 what your verdict is I want you to circle it. I want it to
16 be very clear what is the verdict of this jury.

17 Now, with regards to Indictments Number 2006 -- well,
18 let me to do it this way. Let me do it the other way.

19 With regards to Indictment 2014-GS-10-03694 likewise
20 the indictment is also attached to the verdict form. And
21 the verdict form says: As to the charge of criminal sexual
22 conduct with a minor, second degree, we the jury unanimously
23 find the defendant -- and you will indicate the unanimous
24 verdict of this jury irrespective of if it is not guilty or
25 guilty you will circle that verdict and make it very clear

1 what is the unanimous verdict of jury.

2 And then lastly I will go over with you the third
3 indictment. And that is Indictment 2016-GS-10-01320 which
4 is the indictment for criminal sexual conduct with a minor
5 in the third degree and ask that, number one, state as to
6 the charge of criminal sexual conduct with a minor third
7 degree, we the jury unanimously find the defendant -- and
8 again, irrespective of the verdict of the jury whether it is
9 guilty or not guilty you will circle that verdict so it is
10 very clear what is the verdict of the jury.

11 When you have completed your deliberations you will
12 sign, Mr. Presiding Juror, where it says Charlie L. Murray.
13 You, presiding juror, and you know who you are. And you
14 will date the verdict form.

15 Just for your reference purposes, today is March the
16 1st -- 2nd. March the 2nd. Today is Wednesday, not
17 Tuesday. March -- that was yesterday. Today of course, if
18 March the 2nd, 2016. And you will date -- you will also
19 date the verdict form. But again, for your reference
20 purposes, today is March the 2nd.

21 Now there is some more information that I need to give
22 to you. All 12 of you all must be present for you to
23 deliberate. If you need to take a comfort break, stop your
24 deliberations, take your comfort break, then reconvene your
25 deliberations when all 12 of you are together again.

1 That is a hint that when the jury leaves me if y'all
2 will remain with me as my alternate. Stay in the courtroom
3 with me.

4 Now, there is going to be a break in just a moment. I
5 am going to ask you to step to your jury room and I am going
6 to give you this instruction: Do not discuss this matter or
7 allow anyone to discuss it with you.

8 And you ought to be in a position well wait a minute,
9 wait a minute, we have been listening to you now, you have
10 told us this is when we are going to deliberate.

11 So I am going to tell you exactly what is going to
12 happen. When you step to your jury room on this next
13 occasion I am going to turn to these lawyers and I am going
14 to ask them two questions: Have I given the jury all off
15 the law that they may need for the deliberations and have I
16 stated it for them correctly.

17 And these lawyers help me know whether or not there is
18 additional law that I need to give to you that you may need.
19 And sometimes I need to bring juries back out to do that, to
20 give them that additional part of the law. And I ask you in
21 advance in the event that I need to do that please do not
22 consider that charge or that instruction with any emphasis.
23 I just need to give it to you.

24 Sometimes goodness knows that is unintended. But
25 sometimes something will come out wrong and I need to invite

1 jurors to come back out because I need to correct my error
2 in your minds. And in the event that I need to invite you
3 back out for that reason, I ask you in advance to please
4 allow me to correct my error in your minds.

5 Now in the event that I do not need to bring you back
6 out, you will be brought the verdict forms with the
7 indictments which are stapled in front of the verdict form.
8 That way you will know which indictment the verdict form is
9 attached to.

10 And you will be brought the exhibits, and you will be
11 brought an instruction to begin your deliberations.

12 Now, we have been doing this a while. If my baliffs --
13 and I don't think they will, but if they do not tell you
14 begin your deliberations, if you have your verdict form and
15 your exhibits it is time for you to begin your
16 deliberations.

17 Now, I would mention to you that once you have
18 concluded your deliberations, you have filled out your
19 verdict forms, you will knock on the door. You will return
20 to the courtroom and you will hand the verdict forms over to
21 one of our bailiffs who give that to me or to our clerk who
22 will give that to me. You do not publish the verdict.

23 And I will leave you with this last thought, and it is
24 this: The word verdict, the word verdict, comes from the
25 Latin phrase dicto which means to speak the truth. To speak

1 the truth. Which is now your task.

2 Please step to your jury room. Do not discuss this
3 matter or allow anyone to discuss it with you.

4 (WHEREUPON, jury exits courtroom 3/2/16, 4:46 p.m.)

5 (WHEREUPON, alternate jurors enter courtroom.)

6 THE COURT: All right. Gentlemen, this is what I am
7 going to ask you to do for me because we have come a ways.
8 You would be surprised, but sometimes we lose a juror when
9 deliberations begin.

10 So when -- after the deliberations begin I am going to
11 ask you guys to give me about 15 more minutes. And there is
12 a question about how long I can stop the deliberations, seat
13 one of you and then continue the deliberations; but I know I
14 can do 15 minutes.

15 So here is what is going to happen. Our bailiff is
16 going to take you and put you in a different location than
17 the jury. I am not going to place you with the jury. But
18 in a different location.

19 And they will -- they will be mindful of the timing and
20 come and find you when the 15 minutes is up after the jury
21 has begun its deliberations, okay.

22 ALTERNATE JUROR: Okay.

23 THE COURT: Thank you so much.

24 (WHEREUPON, alternate jurors exit the courtroom 3/2/16, 4:46
25 p.m.)

1 THE COURT: Any exceptions or additions from the State?

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

3 THE COURT: From the defense?

4 MR. KOZELSKI: Your Honor, our earlier objection to the
5 charge would be the one on the victim corroboration, the
6 statutory charge. We do think that is a comment on the
7 facts.

8 THE COURT: Thank you so much. Thank you very much.
9 All right. It is a statement of the law. I note your
10 exception for the record.

11 Now I would ask that you do this for me please,
12 counsel. I need you to please put your eyes on the verdict
13 forms and the exhibits.

14 Because I am the judge that had the pair of pants go
15 back to the jury with the confession in the back pocket. So
16 from that moment until this I always ask my lawyers to
17 please look at the exhibits that are going back to the jury.
18 So please come on and take a look at them.

19 And then I am going to ask -- are you going to take --
20 you will take the verdict forms, exhibits, and their
21 instructions to begin their deliberations?

22 THE CLERK: I will.

23 THE COURT: Good.

24 MR. KOZELSKI: Our understanding, Judge, is that three
25 would not go back and if they wanted to listen to it they

1 could come back into the courtroom.

2 THE COURT: It suits me.

3 MS. ELLIOTT: Okay.

4 (WHEREUPON, court reporter reviews exhibits with
5 counselors.)

6 THE COURT: Let me ask you this question, because that
7 is a good point. Obviously there is no equipment back there
8 for them to run it, right?

9 MS. ELLIOTT: There is ---

10 MR. KOZELSKI: I think there should be a DVD player.

11 MS. ELLIOTT: Actually I think it is a computer ---

12 MR. KOZELSKI: Oh, yeah ---

13 MS. ELLIOTT: --- that is not connected to the
14 internet or anything like that. So there is a computer.
15 There is supposed to be. We have been told that. We don't
16 get to ---

17 MR. KOZELSKI: I know that there is a TV back there
18 that could be hooked up. I'm not sure.

19 MS. ELLIOTT: My understanding -- we are under the
20 impression there is some kind of technology ---

21 THE CLERK: There is.

22 MS. ELLIOTT: --- back behind --

23 MR. KOZELSKI: Yeah.

24 MS. ELLIOTT: --- the curtain.

25 THE CLERK: There is a laptop.

1 you will please retire to your jury room and continue your
2 deliberations.

3 (WHEREUPON, jury exits the courtroom 3/2/16, approximately
4 6:33 p.m.)

5 THE COURT: Any objection from the State?

6 MS. ELLIOTT: None from the State.

7 THE COURT: From the defense?

8 MR. KOZELSKI: None from the defense.

9 THE COURT: Very well. We will continue in recess
10 until we hear from the jury.

11 (WHEREUPON, break was had awaiting jury.)

12 (WHEREUPON, resumed 3/2/16, 7:26 p.m.)

13 THE COURT: All right. Thank you so much. Please be
14 seated. It is our understanding that the jury has reached
15 its verdict.

16 Anything from the State before we bring the jury out?

17 MS. ELLIOTT: Nothing from the State, Your Honor.

18 MR. KOZELSKI: Nothing from the defense.

19 THE COURT: All right. Thank you. Let's have the
20 jury, please.

21 (WHEREUPON, jury enters courtroom 3/2/16, 7:27 p.m.)

22 THE CLERK: All jurors are present, Your Honor.

23 THE COURT: Thank you so much. All right.

24 Mr. Presiding Juror, it is my understanding that the
25 jury has reached its verdict; is that correct?

1 PRECIDING JUROR: Yes, ma'am.

2 THE COURT: If you would please pass it to our bailiff.
3 She will pass it to me.

4 (WHEREUPON, presiding juror complied.)

5 THE COURT: Thank you, ma'am.

6 All right. I find that the verdict it in due form.
7 If you would please publish it for us, please, ma'am.

8 THE CLERK: In the State of South Carolina, County of
9 Charleston, the Circuit Court of General Sessions Ninth
10 Judicial Circuit, Indictment Number 2016-GS-10-1320, we the
11 jury unanimously find the defendant guilty. Indictment
12 Number 2014-GS-10-3695, we the jury unanimously find the
13 defendant guilty. Indictment Number 2014-GS-10-3694, we the
14 jury unanimously find the defendant guilty.

15 Signed foreperson, dated March 2nd, 2016.

16 Mr. Foreman, ladies and gentlemen of the jury, if this
17 is your verdict please raise your right hands.

18 (WHEREUPON, jurors complied.)

19 THE CLERK: Please let the record reflect that all
20 jurors raised their right hands.

21 THE COURT: Very well. Ladies and gentlemen -- or I
22 should ask first, anything further from the State before we
23 dismiss the jury?

24 MS. ELLIOTT: Nothing from the State.

25 THE COURT: From the defense.

1 would bring them forward, Ms. Elliott, and Ms. -- Ms. -- if
2 you -- yeah. I would like to see the girls.

3 (WHEREUPON, bench conference was held off the record.)

4 THE COURT: All right. Mr. Harris, while I am so sorry
5 that you have suffered under mental health issues -- and I
6 truly mean that. I am so sorry for that. I am so sorry
7 that you have found yourself the victim of someone addicted
8 to substances.

9 I must say that you are an adult. And I must also say
10 that in our communities, in all of our communities,
11 particularly in this community, there are resources that as
12 an adult that you could have and I so wish had have availed
13 yourself of, and you may not have found yourself here this
14 day.

15 But yet you do find yourself here this day. And you
16 have caused much sadness. You have caused much damage. And
17 I do want you to know that going forward though I am going
18 to call upon the South Carolina Department of Corrections to
19 follow you, to be mindful of your mental health issues and
20 give you treatment. So I do want you to know that.

21 And with having said that, with regards to Indictment
22 Number 16-GS-10-1320, which is all the indictment for
23 criminal sexual conduct in the -- with a minor in the third
24 degree, first of all I find that the conduct was non, non,
25 not consensual, which therefore makes it a most serious

1 offense. And I commit you to the South Carolina Department
2 of Corrections for a period of 15 years.

3 With regards to Indictment Number 14-GS-10-3694 which
4 is the indictment for criminal sexual conduct with a minor
5 in the second degree I likewise find that this conduct was
6 non, not consensual, and I commit you to the South Carolina
7 Department of Corrections for a period of 20 years.

8 With regards to 2014-GS-10-3695 which is an indictment
9 for criminal sexual conduct with a minor in the second
10 degree I find that the conduct was nonconsensual, was not
11 consensual, and I commit you to the State Department of
12 Corrections for a period of 20 years.

13 I am ordering that the South Carolina Department of
14 Corrections be mindful of your mental health issues and
15 provide you with adequate and appropriate care for your
16 conditions.

17 These sentences will run concurrent, and you are to be
18 given credit for the time that you have served. Good luck
19 to you, sir. And I believe that will conclude these
20 matters.

21 My jurors, you have given us so much of your time. If
22 you have lingering questions I am nearly -- my work here is
23 nearly finished.

24 If you have questions if you will return to your jury
25 room I am happy to answer questions that I can and have any

- 1 discussions that you would like if you wish otherwise.
- 2 Again, thank you so much for all that you have given to our
- 3 system.
- 4 (WHEREUPON, the trial concluded 3/2/16.)

Jail Phone Call Transcript:

*Shaded portions redacted from publication in court.

M: Hello?

W: Yeah.

M: Yeah, I'm with the Family Court and they gave me a year.

W: Oh, they gave you a year. For what?

M: For not paying child support.

W: Ohh ohh ok.

M: And not only that now, I gotta go (1:00) to court in March because umm that child got me messed up.

W: Huh?

M: That child got me messed up.

W: Yeah, I heard that it's ^{Complainant}

M: ^{Complainant}

W: Mmmhmm.

M: Got me messed up. I got to go General Sessions all that stuff next year.

W: My Lord.

M: Got me messed up (1:20). I mean then I owe Family Court what sixteen hundred dollars.

W: What you don't have. You not working... you told them you wasn't working?

M: Yeah they know that!

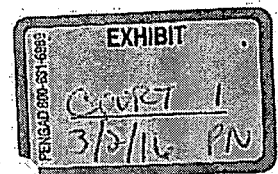
W: What they expect you to do?

M: I don't know. And not only that, umm for that stuff with ^{Complainant}

W: Mhmmm.

M: That stuff with ^{Complainant} they gave me a hundred thousand dollar bond.

W: What?!



M: Yup! And then the other one, I ain't got no bond on!

W: My Jesus!

M: Yup! Messed up!

W: That's awful!

M: So that's why try to call you... yeah yeah they they got me messed up!

W: Yeah because I know Vonn... Yvonne called me today... Yvonne called but twice... two or three times... and you, she said you was pposed supposed to be coming over for Thanksgiving dinner tomorrow!

M: Yeah, I ain't comin nowhere!

W: Yeah, well anyway, I know you not because... but I you know, we not gonna have... I'm not havin... I'm not I'm not cookin here tomorrow!

M: Well, I know!

W: I'm not gonna cook tomorrow!

M: Yeah!

W: I'm gonna go onto the heights (?) to Eric... to Eric and Jennifer in them!

M: Yeah!

W: They have a dinner over there on the Heights (?).

M: Yeah, I hear you!

W: So... Harris Harris and I are going over there!

M: I hear you! (inaudible)

W: I'm not gonna cook. I don't feel like no cookin!

(2:29) M: And that... ^{Little Sister} is the one started all that... all this mess here. I wouldn't be here right now if ^{Little Sister} didn't run to them people at that school.

W: Mhmm.

M: ^{Little Sister} started that.

W: Who did?

M: ^{Little Sister}

W: Oh really?

M: ^{Little Sister} the one that started that. Goin to her teacher.

W: Huh?

M: Yeah, she went to her teacher and all that.

W: Who ^{Little Sister} ?

M: Yeah! That's how it all started.

W: From ^{Little Sister} ?!

M: ^{Little Sister} .

W: What she did?

M: She went to the teacher and tell her I did somethin to her.

W: Oh no!

M: Yup and that's how it all started. And then she said, then she mentioned ^{Compla} ^{inant} too and that's how it all started. Next thing...

W: Ohhh, that's awful.

M: Next thing you know, next thing you know...people at my door and I'm gone.

W: (Inaudible) Yeah...I was wondering what was happening...I was wondering what was happening.

M: Got me messed up.

W: Cause I know that wasn't so. Cause-I knew it wasn't so.

M: Got me messed up.

W: Mhmmm.

M: Got me messed up bad in here.

W: And ^{Little Sister} in with that mess too.

M: She should not have dang gone...she should not gone to the people like that.

W: My God....and and and and and and and and and and her and the Momma shouldn't have went along with that either.

M: She she shouldn't... she shouldn't umm you know, she shouldn't said nothing to them people.

W: ^{Little Sister} shouldn't went along with that mess either.

M: Yeah and, she shouldn't said nothing to them people. Shouldn't said nothing to them people.

W: My Lord.

M: Yeah, shouldn't say nothing. I don't know why, I don't know why she did that.

W: That's awful!

M: Why she said that to them people. Got me messed up.

W: I don't know why Genita calling me. I haven't heard from her in a long time and you know, I bought the children clothes and everything. I said, "what bein goin on?!"

M: Yeah but don't call the house, now. Don't call, you can call Genita on her phone or whatever, but don't call the house.

W: Oh no, I'm not gonna call the house... (inaudible) you know better than that (inaudible) momma them. I don't...

M: But the rules, but like I said... you can talk to Genita, but don't call the house.

W: Oh no uh uh mhm. I'm not gonna do that. (4:27)

M: I try... I can't, I can't speak to her right now but I'm tryin to get I'm tryin to get them to drop this thing right here, man because I'm gonna be messed up here in a couple months.

W: I know that that that! Ohh, that's terrible!

M: I gotta year here or two already... yup!

W: You gotta do a year here?

M: Yup! Or pay sixteen hundred dollars. Mhm and that's Family Court.

W: And how does this pay... ohh Jesus Lord, I don't want to tell you. No, I can't tell you...

M: Alright, well anyway... but yea, she got me messed up man. Got me a year and stuff and I got that hundred thousand dollar dag gone umm bond or warrant... hundred thousand dollar warrant and I got no bond on the other one!

W: That's awful!

M: I can't go nowhere.

W: That's terrible.

M: Till I go to the judge for the other one.

W: Mhmhm.

M: Can't go nowhere.

W: That's terrible.

M: Got me messed up.

(5:29) W: (Inaudible) ^{Little Sister} going and getting involved in that. Man, (inaudible) they lying.

M: Yeah! And I ain't even touch her!

W: Hmm.

M: And as far umm as the other one go, she started with me. She climbin all over me. That's another thing.

W: My Jesus.

M: Yup! There's two stories...there...there's two tales to every story now. Two sides to every story.

W: Mhmhmhm.

M: Yup but ^{Little Sister} ...^{Little Sister}'s the one that started that.

W: Oh no...that little thing she need to stop that bunch of madness.

M: Yup! She's the one that started that. Ran to her teacher.

W: Mhmhmhm.

M: Now, why she did that?

W: You know...you know what I paid \$39 dollars for ^{Little Sister} umm coat...jacket..I paid \$39 dollars and I saw umm and Target had the same thing for \$19 dollars and some change.

M: Ohh...

W: \$19 something at Target and I paid \$39 for ^{Little Sister} one.

M: Umm you can price match it. They probably match the price...

W: I know! I saw the prices match. I saw it...

M: Yeah...

W: but I'm still gonna give it to her.

M: ^{Little Sister} s got me messed up. You can talk to ^{Little Sister} about that. But like I said, I'm trying to get these to drop it. The dag gone man said if they drop it, I'll be... they will let me go.

W: Right...you ain't pposed...you didn't speak to Genita?

M: No. I ain't pposed to call them.

W: Ok.

M: I can't call em anyway. (6:55)

W: Ok

M: I can't do nothing on this phone over here

(7:03) W: Yeah because I I I can't talk to them either.

M: I thought you usually call her on her cell phone.

W: Uh uh! I've been call her and I wasn't gettin no answer.

M: Ohh...

W: I even went down there...to the to the you know to momma house twice...then the city... because I went to the doctor.

M: Yeah.

W: I went down there twice!

M: Oh, like I said.

W: And and and and the only thing I saw in the car...in the yard...was that little the little car.

M: Yeah.

W: That's it!

M: Like I said...

W: And I ring that doorbell and nobody came.

M: You know that...all you...all she gotta do is drop it and that's it. (7:38)

W: Whnrom

M: Then I gotta then I gotta deal with the all this other stuff

W: Yeah I know

M: This Family Court stuff with sixteen hundred

W: (Inaudible) won't give you (Inaudible) for Family Court but you ain't got no Family Court money

M: Yeah

W: That's terrible.

M: I'm all jammed up!

W: Mhmm.

M: Yeah, but I meant to tell you umm... see if you (inaudible) can bring me down some change. I still have fifteen dollars in this... this little account here. Some of you bring me down some change before Sunday so I can order some stuff.

W: Well, you know the funeral... Oh excuse me honey.

M: What funeral?

W: So you need some more money in that account?

M: Yeah, I need some money in my account. I got fifteen in it and I ain't use it yet.

W: (inaudible) was letting you umm use (inaudible) account.

M: Yup.

W: Mhmm.

W: I bet bet bet bet... that girl... hold on.

W: Maurice!

M: Yeah.

W: I'm about to go because it's (audible).

M: Alright.

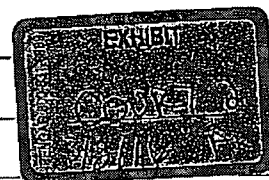
W: Ok.

M: Alright.

May We please hear the Audio
Recording Again?

March 2, 2016

Charlie J. Mump



May We please have more
Clarification on Criminal Sexual
Conduct with a Minor, Third Degree

Charlie Murray

3/2/16



384

SNE/0230944/20131108993
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER
2013015811B

ARREST WARRANT NUMBER

2016-GS-10-01320

DATE OF ARREST

11/27/2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-01320

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
FEBRUARY TERM 2016

THE STATE

VS.

MAURICE M HARRIS

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR, THIRD DEGREE**

SC Code: § 16-03-0655(C)
CDR Code: 3661

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened February 2016, the Grand Jurors of Charleston County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, THIRD DEGREE

That in Charleston County, South Carolina, between May 1, 2013 and September 1, 2013, the defendant, Maurice M Harris, date of birth 1969, who was over fourteen (14) years of age, did wilfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of Complainant , date of birth 2000, a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the defendant or the child; in violation of Section 16-3-655(C), South Carolina 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.



SHANNON ELLIOTT
ASSISTANT SOLICITOR

386

SEL20131108993

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER

2013015811B

ARREST WARRANT NUMBER

2013A1010206309

DATE OF ARREST

November 26, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: *Cynthia Galt*

JUL 08 2014

VERDICT

Guilty

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1003695

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

July Term 2014

THE STATE

vs.

MAURICE M HARRIS

Indictment for

Criminal Sexual Conduct With A Minor
2nd Degree

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on July 7, 2014 the Grand Jurors of Charleston County present upon their oath:

Criminal Sexual Conduct With A Minor 2nd Degree

That MAURICE MARSHAL HARRIS, date of birth _____, did in Charleston County between May 1, 2013 and September 1, 2013, engage in sexual battery upon Complainant _____, date of birth _____ 2000, to wit: fellatio. This is in violation of Section 16-3-655(B) of the South Carolina 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.

JM Byrd FOR
SHANNON ELLIOTT
ASSISTANT SOLICITOR

388
SEL 20131108993

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER

2013015811B

ARREST WARRANT NUMBER

2013A1010206307

DATE OF ARREST

November 26, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

JUL 08 2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1003694

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

July Term 2014

THE STATE

vs.

MAURICE M HARRIS

Indictment for

Criminal Sexual Conduct With A Minor
2nd Degree

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on July 7, 2014 the Grand Jurors of Charleston County present upon their oath:

Criminal Sexual Conduct With A Minor 2nd Degree

That MAURICE MARSHAL HARRIS, date of birth 1969, did in Charleston County between May 1, 2013 and September 1, 2013, engage in sexual battery upon Complainant , date of birth 2000, to wit: digital-vaginal penetration. This is in violation of Section 16-3-655(B) of the South Carolina Code of Laws (1976) as amended.

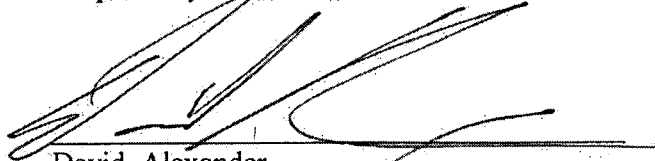
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Shannon Elliott FOR
SHANNON ELLIOTT
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "David Alexander", is written over a horizontal line.

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

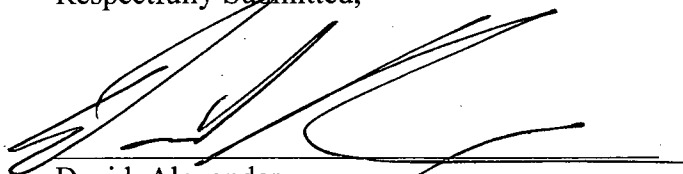
This 26th day of May, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED
MAY 26 2017
SC Court of Appeals

Respectfully Submitted,



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 26th day of May, 2017.