

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County

Honorable Carmen T. Mullen, Circuit Court Judge

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JUL 25 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

STANLEY MILLER,

APPELLANT

APPELLATE CASE NO. 2016-001086

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 3 (FORENSIC INTERVIEW)**

STATE OF SOUTH CAROLINA)

COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON)

DOCKET NO. 2015-GS-10-3249
2015-GS-10-3250

STATE OF SOUTH CAROLINA)

vs.)

STANLEY MILLER)

Defendant)

TRANSCRIPT OF RECORD

May 16, 2016

Charleston, South Carolina

VOLUME 1 (OF 3)

B E F O R E:

THE HONORABLE CARMEN T. MULLEN, JUDGE

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Proceedings
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1 testimony?

2 THE COURT: How long do you think it is going to
3 take?

4 MS. ELLIOTT: I don't know that my direct of her
5 will be longer than 20 minutes. I don't know how long
6 the cross would be.

7 THE COURT: Okay. I do need to probably hear some
8 Lyle testimony as far as any Dorchester County issue and
9 I apologize; it kind of slipped my mind. So why don't we
10 make sure everyone is here by quarter till and be ready
11 to go and put up some Lyle testimony and then hopefully
12 we can get through that and be with the jury by quarter
13 after or so, okay?

14 MS. ELLIOTT: Yes, Your Honor.

15 THE COURT: Okay. Fine with y'all?

16 MR. COCHRAN: Yes, Your Honor.

17 THE COURT: Thank you.

18 THE BAILIFF: Your Honor, may I approach?

19 THE COURT: Yes, please.

20 [Whereupon, the court confers with the bailiff]

21 THE COURT: Very quickly apparently one of our
22 jurors' states that he may know the witness that is
23 Andrea Smalls. Who is that?

24 MS. ELLIOTT: That is the mother of the victim.

25 THE COURT: Okay. Do you want me -- I can bring

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1 MS. ELLIOTT: Thank you, Your Honor. The State is
2 going to call Child

3 THE COURT: Okay. Come on up.

4 [Whereupon, Child comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 CLERK OF COURT: For our record just state your
8 first and last name and spell out your last name, please.

9 THE WITNESS: Child

10 THE COURT: Good afternoon. They probably told you
11 that you just need to answer some questions for me and
12 both the attorneys. Ms. Elliott is going to ask you some
13 questions and then maybe the other attorney and then I
14 might ask you some questions. Do you understand that?

15 THE WITNESS: Uh Huh.

16 THE COURT: If there is anything you don't
17 understand just ask me, okay. Also, I'm going to have to
18 tell you Child the one other thing you have to do you
19 have to say yes or no because the court reporter can't
20 take down a head bob or a this or an Uh Uh, okay. Is
21 that all right?

22 THE WITNESS: Yes.

23 THE COURT: All right, go ahead.

24 - - -

25 - - -

State v Stanley Miller
Pretrial Motion-Child
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Direct Examination by Ms. Elliott

1 Child

2 Having been first duly sworn,

3 Was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. ELLIOTT:

6 Q. Okay Child we're going to talk about specifically
7 some stuff that happened at Hunter's Ridge, okay. So can
8 you tell me who all lived with you at your Hunter's Ridge
9 house?

10 A. Me, my Mom, Stanley, my brother and my other
11 brother.

12 Q. Okay. And how many rooms were in that house, how
13 many bedrooms?

14 A. Two.

15 Q. And who did you share a room with?

16 A. My brother.

17 Q. What would happen at night at the Hunter's Ridge
18 house?

19 A. [No response]

20 Q. Why don't you do this for me first? Describe what
21 your bedroom was like at Hunter's Ridge.

22 A. I had a bunk bed. I was at the top and my brother
23 was at the bottom.

24 Q. Okay. And at night who would be watching you?

25 A. Stanley.

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-Direct Examination by Ms. Elliott

- 1 Q. Where was your Mom?
- 2 A. At work.
- 3 Q. Do you know where she worked at that time?
- 4 A. No, ma'am.
- 5 Q. And so when you would be in your room in your bed
- 6 what would happen?
- 7 A. Stanley would come and take me out of my bed and put
- 8 me inside my Mom's bed.
- 9 Q. And when he would put you in your Mom's bed -- well,
- 10 tell me this. How would he take you out of your bed?
- 11 A. He would pick me up by my waist.
- 12 Q. And he would take you where?
- 13 A. In my Mom's bed.
- 14 Q. How would he put you in your Mom's bed?
- 15 A. I would be laying on my side.
- 16 Q. And then what would happen?
- 17 A. Then he would pull down my pants.
- 18 Q. What about were you wearing underwear?
- 19 A. Yes.
- 20 Q. What would happen to your underwear?
- 21 A. He would take them off.
- 22 Q. And what about his clothes? What would happen to
- 23 his clothes?
- 24 A. He would take his clothes off.
- 25 Q. And where was he in relation to the bed?

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-Direct Examination by Ms. Elliott

- 1 A. Beside me.
- 2 Q. Was he sitting down, laying down, something else?
- 3 A. He was laying down.
- 4 Q. And was he laying in front of you or behind you?
- 5 A. Behind me.
- 6 Q. What would happen then?
- 7 A. [No response]
- 8 Q. Child , what would happen to your body?
- 9 A. He would be on top of me.
- 10 Q. How would he get on top of you?
- 11 A. My body would be laying flat and then his body would
- 12 be on top of me.
- 13 Q. Laying flat on your stomach or flat on your back?
- 14 A. My stomach.
- 15 Q. And what position would you legs be in?
- 16 A. They would be open.
- 17 Q. How did they get open?
- 18 A. He would open them.
- 19 Q. Okay. Was any part of his body touching your body?
- 20 A. Yes.
- 21 Q. What part of his body was touching your body?
- 22 A. His private part.
- 23 Q. And his private part was touching which part of your
- 24 body?
- 25 A. Butt.

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Direct Examination by Ms. Elliott

- 1 Q. And was there any movement going on?
- 2 A. Yes.
- 3 Q. Can you describe that for me?
- 4 A. [No response]
- 5 Q. What did it feel like Child ?
- 6 A. It hurt.
- 7 Q. Where did it hurt?
- 8 A. On my butt.
- 9 Q. Did you feel anything else?
- 10 A. Yes.
- 11 Q. What else did you feel?
- 12 A. -- closer to my butt.
- 13 Q. What would happen after it hurt?
- 14 A. He was finished and he would get a cold rag and wipe
- 15 me off.
- 16 Q. What was he wiping off?
- 17 A. He was wiping off my butt.
- 18 Q. Did he wipe off anything else?
- 19 A. He wiped off the bed.
- 20 Q. After he was done wiping you off and the bed off
- 21 what did he do then?
- 22 A. He put my clothes back on and then he would put me
- 23 back in my bed.
- 24 Q. Would he ever say anything to you?
- 25 A. He told me not to tell no one.

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Direct Examination by Ms. Elliott

1 Q. Once he put you to bed would he do anything else?

2 A. No, ma'am.

3 Q. Child, can you tell me where was the last house that
4 you lived in that Stanley Miller lived with you?

5 A. Reed Street.

6 Q. And how old were you when you were living on Reed
7 Street?

8 A. Nine.

9 Q. You think you were nine? And at Reed Street what
10 was your room like?

11 A. I shared a room with my brother and my brother was
12 on the right and my bed was on the left.

13 Q. So you weren't in bunk beds anymore?

14 A. No, ma'am.

15 Q. And how many bedrooms were there in that house?

16 A. Two.

17 Q. And what happened in that house?

18 A. He did the same thing that he did on Hunter's Ridge.

19 Q. Where would your Mom be when that would happen?

20 A. Inside her room.

21 Q. How do you know that?

22 A. Because I could hear her snoring.

23 Q. And so where would Stanley go to do those things to
24 you?

25 A. In my bed.

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- 1 Q. In your room?
- 2 A. [Nods affirmatively]
- 3 Q. What would happen when he would come into your room?
- 4 A. He would pull down my pants.
- 5 Q. Where were you in the room?
- 6 A. In my bed.
- 7 Q. Do you remember how you were laying in your bed?
- 8 A. I was laying on my side.
- 9 Q. And so he would come to your bed and do what?
- 10 A. He would pull down my pants.
- 11 Q. Okay. And do you know what would happen to his
- 12 clothes?
- 13 A. He would pull his pants down.
- 14 Q. And where was he in relation to your bed? Was he
- 15 sitting down, laying down, something else?
- 16 A. He was laying down.
- 17 Q. And was he facing you or behind you?
- 18 A. He was behind me.
- 19 Q. And once your pants were down and his pants were
- 20 down what would happen then?
- 21 A. His private would rub against my butt.
- 22 Q. And what would that feel like?
- 23 A. It would hurt.
- 24 Q. And did he say anything to you while that was going
- 25 on?

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Direct Examination by Ms. Elliott

1 A. No, ma'am.

2 Q. Once he was done rubbing on you what would happen
3 after that?

4 A. He would wipe me with a cold rag and pull his pants
5 up and then he would leave the room.

6 Q. Would he say anything to you?

7 A. He told me not to tell no one.

8 Q. Would he do anything else?

9 A. No, ma'am.

10 MS. ELLIOTT: Beg the court's indulgence.

11 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

12 Q. [Ms. Elliott] Did he ever kiss you goodnight?

13 A. No, ma'am.

14 Q. No? Okay.

15 MS. ELLIOTT: Judge, I think those are all the
16 questions I have for Child at this time.

17 THE COURT: Okay.

18 MR. COCHRAN: May it please the court, Your Honor?

19 THE COURT: Yes, sir.

20 MR. COCHRAN: Thank you.

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Cross-Examination by Mr. Cochran

1 CROSS-EXAMINATION

2 BY MR. COCHRAN:

3 Q. Child, you said that when you lived at Hunter's
4 Ridge you slept in a bunk bed right?

5 A. Yes.

6 Q. And you were on the top bunk?

7 A. Yes.

8 Q. Okay. But then that was different on Reed Street;
9 you and your brother had beds that were side by side?

10 A. Yes.

11 Q. Okay. And there was like a space between the two
12 beds?

13 A. Yes.

14 Q. Okay. And you said that at Hunter's Ridge your Mom
15 was working during the night so she was not at home when
16 you went to bed?

17 A. Yes.

18 Q. But she was at home when you lived at Reed Street at
19 night?

20 A. Yes.

21 Q. And tell me was your bedroom and her bedroom were
22 they close together?

23 A. No, her bedroom was across from me and my brother's
24 bedroom.

25 Q. Okay. So the bedrooms were across the hallway from

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Cross-Examination by Mr. Cochran

1 each other?

2 A. Yes.

3 Q. And were they like directly across the hallway so
4 you walk out one door and you walk right in the other
5 door?

6 A. No, you have to pass the bathroom --

7 Q. So it was down the hall a little ways too?

8 A. Yes.

9 Q. And you had -- you shared your bedroom with your
10 little brother but you also had a baby brother at the
11 time right?

12 A. Yes.

13 Q. Okay. And what room did he stay in?

14 A. He slept with my Mom.

15 Q. Okay. And he was still a baby sleeping in a Pack n
16 Play at that time?

17 A. Yes.

18 Q. Child do you remember the very first time you told
19 your Mom about all this stuff?

20 A. Yes.

21 Q. And that day you had been at school and there had
22 been some kind of an issue with you dancing with another
23 boy do you remember that ---

24 MS. ELLIOTT: --- objection, Your Honor. That's
25 beyond the scope of this hearing.

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Cross-Examination by Mr. Cochran

1 MR. COCHRAN: Your Honor, it does go towards --
2 well, I can move on.

3 THE COURT: Okay.

4 Q. [Mr. Cochran] Child, do you remember being
5 interviewed by a woman at Lowcountry Children's Center?

6 A. Yes.

7 Q. Okay. And the day that you told your Mom about all
8 this the very first you also spoke with a police officer
9 right?

10 A. Yes.

11 Q. And both the police officer and the woman at
12 Lowcountry Children's Center asked you about whether or
13 not what Stanley was doing hurt do you remember that?

14 A. Yes.

15 Q. And do you remember telling them that it didn't
16 hurt?

17 A. No.

18 Q. Okay. Do you remember telling them that it felt
19 more like a tickle or a rub?

20 A. Yes.

21 Q. And do you remember telling them nothing went in
22 your butt?

23 A. Yes.

24 Q. And Child you lived -- between the time that you
25 lived at Hunter's Ridge and Reed Street you lived in

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Cross-Examination by Mr. Cochran

1 another place too right?

2 A. Yes.

3 Q. Okay. But you said that nothing like this ever
4 happened with Stanley at that house?

5 A. No.

6 Q. At the Reed Street apartment when Stanley would come
7 into your room would he close the door or would he leave
8 it open?

9 A. I don't remember.

10 Q. How about at Hunter's Ridge? Do you remember if he
11 closed the door or left it open?

12 A. No.

13 Q. And when he went to go get a rag did you say that
14 did he leave the room or did he already have it in there
15 with him?

16 A. He already had it in the room.

17 Q. Okay. Child, you said that when these things would
18 happen that it hurt is that right?

19 A. Yes.

20 Q. And who was the first person you ever told that
21 these things would hurt?

22 A. [No response]

23 Q. Was the first person you ever told the Solicitors,
24 Ms. Elliott and Ms. Herring-Lash?

25 A. No.

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-Cross-Examination by Mr. Cochran

1 Q. Do you remember telling somebody before that?

2 A. Yes.

3 Q. Who do you remember telling that?

4 A. The lady at the Children's Center.

5 Q. At Lowcountry Children's Center?

6 A. Yes.

7 Q. Okay. So you remember telling her that it hurt?

8 A. Yes.

9 MR. COCHRAN: Beg the court's indulgence.

10 [Whereupon, Mr. Cochran and Ms. Ehrlich confer]

11 MR. COCHRAN: Your Honor, may we approach?

12 THE COURT: You may.

13 [Whereupon, an off the record bench conference is
14 held]

15 MR. COCHRAN: Your Honor that is all the
16 questioning I have.

17 THE COURT: Okay. Do you have anything further
18 Solicitor from her?

19 MS. ELLIOTT: Beg the court's indulgence.

20 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

21 MS. ELLIOTT: Your Honor, we don't have any further
22 questions.

23 THE COURT: Okay. You can step down sweetie.

24 [Whereupon, the witness is excused and exits the
25 witness stand]

State v Stanley Miller
Pretrial Motion-Remarks by Ms. Elliott
May 16, 2016

1 THE COURT: Do you have any other witnesses?

2 MS. ELLIOTT: I do not, Your Honor.

3 THE COURT: Okay. Why don't you let them just go
4 ahead and go out of the courtroom? I just want to hear
5 arguments and I don't think she needed to be here to hear
6 arguments so. Thank you.

7 MS. ELLIOTT: Yes, Your Honor. The case law on
8 admissibility of prior bad acts is an historic case in
9 South Carolina going back to 1911. The burden really is
10 in comparing analyzing whether a continuous course of
11 conduct and whether or not the similarities outweigh the
12 dissimilarities when it comes to whether or not this is
13 evidence of common plan or scheme.

14 As Child testified, Your Honor, it was between the
15 same actors. She was obviously still a female, this was
16 happening at night. It would happen while people were
17 sleeping around her. It was always anal penetration
18 beginning in the spoon position. He would end it with
19 telling her not to tell and as well she was prepubescent
20 at that time, Your Honor. I don't know if the rest of my
21 argument would be more appropriate as a response to
22 something that the defense would have.

23 THE COURT: Okay.

24 MS. ELLIOTT: Your Honor, I'm sorry and he would
25 always wipe her at the conclusion of that. I think the

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Pretrial Motion-Remarks by Ms. Elliott
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1 case law is pretty clear that when balancing those
2 similarities with the dissimilarities of the different
3 addresses and the fact that in one house it was in the
4 mother's bedroom and one house in hers then this is
5 clearly admissible for common plan or scheme.

6 THE COURT: Okay. Yes, sir?

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State v Stanley Miller
Pretrial Motion-Remarks by Mr. Cochran
May 16, 2016

1 MR. COCHRAN: . Thank you, Your Honor. So I guess I
2 would just start by saying our biggest issue with this
3 coming in in a case like this is that common scheme or
4 plan and the rule that it a subsection of that comes from
5 Lyle or is adjudicated in Lyle and they describe the
6 reasons why it comes in and under what circumstances it
7 comes in and the requirements of it. And the
8 requirements of it primarily if it's not a conviction it
9 has to be proven by clear and convincing evidence, which
10 is the case here; it is not a prior conviction. It is
11 its primary requirement is similarity.

12 And the reason for that requirement is because
13 common theme or plan is basically a restatement of an
14 earlier part of the rule. Common scheme or plan is
15 something that the State can use in an effort to prove
16 identity. So if you go back to the original case with
17 Lyle he is writing bad checks in a very specific way that
18 tends to point to the person who is committing these
19 crimes. They are proving his identify.

20 That is the original reason for this or the classic
21 example of a cat burglar who leaves some sort of specific
22 calling card. In this case identify is not the issue.
23 Whether or not the accusations occurred is the issue. So
24 to use common scheme or plan in that sense is completely
25 inappropriate because it is only being used, it can only

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Pretrial Motion-Remarks by Mr. Cochran
May 16, 2016

1 be used for the specific reason that it is not admissible
2 under the general rule that prior bad acts are not
3 admissible which is to prove that this guy did it because
4 he's done something like it before.

5 So we don't have another person that we can point
6 this to. There is no third party guilt defense in this
7 case. There is no -- this is not a stranger sexual
8 assault. This is a girl who knows her mother's boyfriend
9 who is the father of her half-brothers. Identify is just
10 not an issue and that is the entire point of common
11 scheme or plan so that would be my first argument.

12 Second I would have to say that the most troubling
13 thing about this is that this is not arising out of a
14 conviction. This has never been proven in court; it
15 hasn't been proven in any way shape or form so I don't
16 think the State can prove this by clear and convincing
17 evidence just by having their witnesses say it. I think
18 in effect allowing testimony like this would be to
19 effectively say that if a victim says it that is proof by
20 clear and convincing evidence, which I don't think is the
21 case.

22 There is absolutely nothing to support these
23 accusations; no physical evidence, no injuries, no
24 nothing. They are alleging anal penetration that
25 occurred less than a week prior to disclosure. There is

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Pretrial Motion-Remarks by Mr. Cochran
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1 no physical evidence recovered from the bed. There is no
2 physical evidence recovered from the sexual assault exam.
3 So we would argue that this has not and cannot be proven
4 by clear and convincing evidence. We would also then
5 move on to the next requirement of similarity. There is
6 the basic accusation of sexual abuse particularly some
7 sort of anal penetration. That is the similarity. Other
8 than that the similarities stop.

9 And they say that one of the similarities is it's
10 the same defendant with a minor child. Well yes, it's
11 the same victim and the same defendant. The
12 dissimilarities begin with first of all where I think the
13 defendant would be enormously prejudiced by these
14 Dorchester County accusations coming in to try to prove
15 his guilt in Charleston County because what they are
16 doing in effect is bootstrapping the Dorchester context
17 of the abuse with a much weaker case here in Charleston
18 County.

19 So in Charleston County the mother is said to have
20 been home this entire time in a tiny apartment on Reed
21 Street in North Charleston; a two bedroom one bathroom
22 apartment where the bedrooms are cattycornered to each
23 other from across the hall. This is by all accounts;
24 from the State's witnesses and the defense witnesses that
25 this was a very small apartment. And what could give a

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Pretrial Motion-Remarks by Mr. Cochran
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1 juror pause in a case like this is opportunity. So what
2 they're doing by trying to enter this Dorchester County
3 scenario in is to basically say that he was sexually
4 abusing her in Dorchester County with tremendously more
5 opportunity. He was home alone with the kids all night
6 long. The mother was working the night shift.

7 He was taking the victim out of the bedroom that she
8 was sharing with another potential witness and sexually
9 abusing her in a different room. In Charleston County
10 he's going into her room where she is sharing a room with
11 side-by-side beds with her brother who was also
12 interviewed by LCC and the mother is sleeping with an
13 infant who could awaken at any moment across the hallway
14 in Charleston County.

15 So where the prejudice lies is for the jury to say
16 well I've got a problem with all these opportunities for
17 other people to wake up and potentially witness this and
18 that never happened and yes that gives me a reasonable
19 doubt here in Charleston County. But look at Dorchester
20 County where he was home alone constantly with her and he
21 had all this opportunity to groom her; sexually abuse her
22 while he was home alone with her and babysit her
23 basically. In an accusation like this that's all that
24 matters for most jurors; if he did it somewhere that's
25 all that matters. They're not going to say well I think

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1 there is reasonable doubt here in Charleston County and
2 they will probably convict him in Dorchester. They're
3 going to convict him if they think he did it. And this
4 is a piling on of the stronger evidence from Dorchester
5 County into a case in Charleston County where that should
6 have no influence whatsoever.

7 They can prove their case by putting the alleged
8 victim on the stand and having her give her accusations
9 because that's what their case is. There is no doubt
10 about they are trying to strengthen the weaknesses in
11 this case with Dorchester County accusations improperly;
12 not to prove his identify and not to prove any common
13 scheme or plan.

14 It doesn't prove in any way that it is more or less
15 likely. It's just piling on accusations. He has pending
16 charges up there. He has a different attorney up there.
17 He has a different prosecutor up there. He's got a day
18 in court up there. Those accusations should be tried
19 separately than these.

20 THE COURT: Okay. You want to respond?

21

22

23

24

25

State v Stanley Miller
Pretrial Motion-Response by Ms. Elliott
May 16, 2016

1 MS. ELLIOTT: Thank you, Your Honor. As to his
2 argument about clear and convincing, Your Honor, to
3 follow his argument would be to overturn a century's
4 worth of case law. It says that when it comes down to
5 clear and convincing it is up to the Judge to decide
6 whether or not the child has a compelling disclosure
7 about both allegations. And that that is sufficient.
8 There doesn't need to be DNA, there doesn't need to be
9 further; it is up to the Judge is their viewpoint on
10 whether the child made a clear and convincing disclosure
11 of sexual abuse.

12 When we're talking about the similarities we're not
13 just simply talking about anal penetration but the whole
14 process with body positioning, the wiping afterwards, the
15 reminder not to tell. Those were all portions that go to
16 similarities and it's not just simply anal penetration in
17 two separate locations, Your Honor.

18 Also, Your Honor, we were looking at the rule. It
19 does go to motive and knowledge as well in that because
20 of his prior sexual abuse he knows that she doesn't
21 scream, that she doesn't run away, that she doesn't
22 fight. That's why he is able to brazenly go into a room
23 where there is another person present and sexually
24 assault her again. For that reason this is very
25 probative. It's far more probative than it is

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1 prejudicial and it's admissible under all applicable case
2 law. And Your Honor, State v I believe it's pronounced
3 Schept [phonetic] 606 S.E.2d 508 also further supports
4 the proposition that the act need not be necessary to the
5 State's case in order to be admissible.

6 THE COURT: Can you again articulate for me the
7 purpose that you are using this other evidence.

8 MS. ELLIOTT: Your Honor, I think it does go to
9 common scheme or plan and also it goes to his knowledge
10 and that his process was the same. I think it is
11 difficult for jurors to believe that someone especially
12 in this case that someone would be so bold as to sexually
13 assault a little girl with her mother present in the
14 house.

15 And I think with this testimony knowing about the
16 prior allegations it is going to open the door for an
17 explanation of he knew he could because he had done it
18 before and that she didn't fight, and that she didn't
19 scream and she didn't cry out in the night. And that she
20 had been conditioned for this.

21 I think it also -- I expect that with some medical
22 testimony that there is going to be evidence of the more
23 often this happened the even less likely that there is
24 going to be evidence of it because the body becomes
25 accustomed to it. And I think that is going to be very

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1 probative of this information in setting the stage for
2 why they are not going to see necessarily what they
3 expect to see.

4 [Whereupon, the court reviews documents]
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Pretrial Motion-Ruling by the Court
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1 THE COURT: I've just given myself an opportunity to
2 go through and just look back at some of the case law
3 where we're talking about common scheme or plan. I do
4 think that certainly the incidents are more similar than
5 dissimilar clearly.

6 I would absolutely agree that it does show a common
7 course of conduct wherein he entered the bedroom, how the
8 sexual assault occurred, that he took off her clothing in
9 both of them, that following it he wiped her and himself
10 and the bed and told her not to tell.

11 We're both just looking at the same thing which was
12 part of Wallace in considering whether or not something
13 is admissible and obviously it's the defendant's
14 relationship to the victim, which anticipates in some
15 cases that identity may not be an issue; a relationship
16 may be an issue, the place where the abuse occurred,
17 where other family members were at the time, admonishment
18 not to tell.

19 In my view and certainly I am the person judging the
20 creditability and whether or not the alleged victim's
21 testimony has been proved or whether or not I believe it
22 by clear and convincing evidence I do believe it by
23 clearly and convincing evidence that she was assaulted at
24 both places and by him. And respectfully I am going to
25 allow the Lyle evidence.

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1 THE COURT: All right what other pretrial motions
2 do we need to take up? Obviously I think you both would
3 agree to sequestering witnesses is that correct?

4 MS. ELLIOTT: We would ask for an exception for the
5 case agent, Your Honor.

6 THE COURT: Who is the case agent?

7 MS. ELLIOTT: Detective Bailey.

8 THE COURT: Thank you. Good to know who you are.
9 And correct me; who was here with the girl earlier? Was
10 it an aunt and a victim's advocate maybe or?

11 MS. ELLIOTT: Yes, it was her aunt and the victim
12 advocate, Your Honor.

13 THE COURT: All right. What other pretrial
14 motions do we have? Oh, I did have an opportunity to
15 look at the video. And why don't you go ahead for the
16 record, Mr. Cochran, put just what your objection is to
17 the video.

18 MR. COCHRAN: Your Honor, our problem with the
19 video is first of all there is a portion in the video
20 that I guess it would depend on the testimony of the
21 victim because she did not testify to it just now so
22 there is a chance that it may not come in and it may not
23 be an issue so I'll move on from that and bring it up
24 later if the objection is warranted. Our primary
25 objection to the video is as you heard from the testimony

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1 just now there is an accusation of pain which the
2 Solicitor will be using to overcome her burden to get
3 past directed verdict in terms of proving penetration for
4 the first degree. This case started out and for over a
5 year was a CSC third degree with a minor. And the
6 alleged victim denied pain or penetration to the
7 responding officer and to the LCC interviewer.

8 She did not disclose any kind of pain or any
9 indication of penetration whatsoever and flatly denied it
10 and then reversed and gave an indication of pain behind
11 closed doors with the Solicitors. So the Solicitors in
12 terms of their witness list are the only witnesses to
13 this disclosure, which is the only proof that they have
14 of CSC first degree with a minor.

15 Now our problem with the as it relates to the video
16 then the video comes in based on her age and based on the
17 types of allegations unless it's reliability is called
18 into question. And in this case I think the reliability
19 of the video is called into question by the State itself
20 because they are basically saying believe everything that
21 is said in this video except for the part where she says
22 it didn't hurt it felt like a tickle.

23 So they are going to be claiming that that part is
24 unreliable while also speaking out the other side of
25 their mouth and saying it is reliable enough to come in

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1 as evidence. So what we would say and our agreement
2 would be is they can either go forward with the video
3 just on the CSC third degree or go forward on both
4 accusations with no video. To do otherwise I don't think
5 makes sense.

6 THE COURT: Ms. Elliott?

7 MS. HERRING-LASH: I will respond to that, Your
8 Honor.

9 THE COURT: Thank you.

10 MS. HERRING-LASH: The State has proven all of -- I
11 guess Your Honor has to look at the video and yourself
12 decide whether there was suggestibility, whether the
13 questions were leading, whether the interview was done by
14 a trained person, and we will put that person up to
15 introduce the video, and the statement has a detailed
16 account of the offense and it is interpretatively
17 coherent. Those are the requirements.

18 THE COURT: I can tell you having viewed the video
19 I think it is definitely coherent and I think it is fine.
20 I don't see anything suggestive in any way. I did not
21 find it leading. I think what she did, which is a common
22 technique is that when the child testified to something
23 she just repeated it to say is this what you said and are
24 you sure and is this it? And I thought the child in it
25 was certainly not confused in any way and gave a good

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1 recitation of what had occurred and I don't think it was
2 leading so.

3 MS. HERRING-LASH: Your Honor, the only thing I
4 would say to address the issue about there is an
5 inconsistency the most recent case that came out
6 regarding interviews State v Lay [phonetic] I don't think
7 it has a cite yet; it came out April 20th of 2016. They
8 were trying to make a confrontation clause argument and
9 what the court said is the defense made perfect use of
10 this video because they used it to impeach the victim
11 with prior inconsistent statements, which is exactly what
12 he is talking about. And the court is saying that is one
13 of the uses that the defense makes of it so it actually
14 kind of lends itself to being more admissible as far as
15 his argument because of that.

16 THE COURT: If he wanted to put it in?

17 MS. HERRING-LASH: Yes, he could and it helps the
18 defense and it just shows the court has looked at
19 inconsistencies in testimony and the video and found that
20 in fact that does not impede the admissibility of the
21 interview at all.

22 THE COURT: Okay.

23 MR. COCHRAN: If I could be heard just for one ---

24 THE COURT: --- can I ask just a quick question?
25 I'm a little bit more concerned about you stated the

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1 first time there was disclosure of pain and anal
2 penetration was just to the Solicitor's office. Explain
3 that to me and was a report supplemented and was the
4 officer brought in and how did all of that occur.

5 MS. HERRING-LASH: Well, I guess first of all I can
6 address the question during the interview, which was not
7 asked her regarding pain. The question was most of the
8 time tickles make you laugh or feel happy. When he put
9 his thing in your butt does that make you feel happy?

10 THE COURT: She said sad and bad.

11 MS. HERRING-LASH: And the child said sad and bad.

12 THE COURT: Sad and bad.

13 MS. HERRING-LASH: And the interviewer then goes
14 sad or mad. You said it tickles so it doesn't -- I'm
15 sure she's going to say hurt but she gets cut off and the
16 child says it feels like he's rubbing me. Your Honor,
17 the first time I think she was questioned about her
18 feelings but I was not there but Ms. Elliott talked to
19 her along with the victim advocate who could testify if
20 she had to about how it felt physically and not
21 emotionally and she said it hurt [phonetic] it tickled
22 then hurt [phonetic]. And what Ms. Elliott did was let
23 the defense know that she had added to that allegation.
24 THE COURT: Sir, I didn't mean to cut you off. You
25 said you wanted to respond earlier and then -- go ahead.

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1 MR. COCHRAN: Well, I don't know that the Solicitor
2 necessarily answered your question. The answer is yes;
3 the only accusation of pain was made to the Solicitor's
4 office and that was it. And there was no follow up with
5 the detective. There was no follow up at LCC so that was
6 never verified through the way that they usually verify
7 these things in their cases.

8 Now as to the potential leading or suggestive
9 questions I would like to point out that in one portion
10 of the interview the alleged victim says I believe the
11 original question is do you feel anything else or do you
12 see anything else and the alleged victim says he spits on
13 his thing. And the interviewer follows that up with what
14 is essentially questioning that description. She does
15 not say like you said with all the other questions she
16 doesn't just repeat it back to her. She says do you mean
17 and gives a different answer.

18 She says he spits on his thing and the interviewer
19 says do you mean you see something that looks like spit.
20 She gives a completely alternative descriptor and as
21 somebody who watches these videos all the time I can kind
22 of see where she is going because it's extremely common
23 for kids to describe semen as spit and that's where the
24 interviewer is going with that. But the kid doesn't know
25 that and she's being suggested and handed a different

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1 description. So instead of following up and verifying
2 whether she sees him spit from his mouth onto his penis
3 she provides a different more sensible explanation that
4 she thinks that is influenced by her own experience as an
5 interviewer I think.

6 So I do think that the child was suggested -- and
7 her answer and description completely changes. It goes
8 from he is spitting on his thing to I see something that
9 looks like spit on my knee. I mean it's completely
10 different and I believe that that was because of
11 confusion and leading questions from the interviewer. So
12 I do think that portion of the video goes to its
13 reliability.

14 But like I said I think that our most strenuous
15 argument would be the State is going to be basically
16 arguing to the jury that this video is unreliable in
17 terms of its reliability regarding pain but it's reliable
18 enough to be presented to them should there be any
19 argument of the court's reliable enough to be presented
20 to them as proof of this child's testimony.

21 THE COURT: Okay. I can say this in my experience
22 of having defended these cases and having sat on the
23 bench for ten years I don't think I've ever seen a
24 Lowcountry Children's Center disclosure on a video that
25 mirrors as perfect to what the child testifies on the

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1 stand. I don't think I've ever from my experience seen
2 one that is identical. And quite frankly if I did I
3 would question it. I would think that someone had been
4 coached or something along those lines.

5 So with that said I think it is fair game for you
6 certainly to be able to ask and I think that is the issue
7 in this case and I think that's kind of where we're all
8 at is this a CSC first or is it a CSC third. I don't
9 know that necessarily in that first video the child was
10 asked specifically as far as the pain versus tickling
11 kind of thing.

12 So I think maybe now I think that can be asked of
13 the victim certainly and I think that's a jury issue. I
14 think if they wanted to they could put up a lot of things
15 of why children tell part of the story and not all the
16 story, why certain things are done or not done. I think
17 you can cross-examine that.

18 So I think it's a jury issue for the jury to
19 determine. So with that said despite obviously my prior
20 rulings they can determine otherwise so that's up to
21 them. So other than that what pretrial motions do you
22 have? Anything? Nothing?

23 MR. COCHRAN: Nothing from the defense, Your Honor.

24 THE COURT: Nothing?

25 MS. ELLIOTT: It's my understanding that per the

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1 defense they do not intend to go into any other --
2 anything that would violate Hoiter [phonetic] or the rape
3 shield and so under that we have no further ---

4 THE COURT: --- because you know of nothing earlier
5 correct?

6 MS. ELLIOTT: That's correct.

7 THE COURT: Okay. And you would have turned --

8 MS. ELLIOTT: Yes.

9 MR. COCHRAN: There is one other case where she was
10 interviewed by LCC but nothing really came of it. She
11 was too young to respond anyway. So we won't be planning
12 on getting into that case if that's what she is referring
13 to.

14 MS. ELLIOTT: Yes, Your Honor.

15 THE COURT: Okay. Let's do this. Let's take
16 literally five minutes. At quarter till we're going to
17 come in and swear the jury and make a few opening
18 comments and then you guys can do your opening
19 statements, okay. Let's just take five minutes if anyone
20 needs to take a quick break.

21 [Whereupon, court is in recess from 3:40 p.m. until
22 4:00 p.m.]

23 [Whereupon, an off the record in chambers conference
24 is held]

25 [Whereupon, State's exhibit numbers 1 and 2 are

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1 marked by the court reporter]

2 THE COURT: Thank you. Just on the record back to
3 the Lyle 404(b) issue about the previous allegations of
4 sexual abuse in Dorchester County I think it also goes to
5 allowing that talks about the whole course of conduct and
6 how we get to the point where it occurred for a couple of
7 year period then there was the break when they weren't
8 living together and then it started back immediately
9 because I think it would be strange to not be able to
10 tell why did it all of sudden happen after he had access
11 to this child for all this time. So I think it explains
12 the whole thing.

13 I think also without it I don't think there would be
14 a true telling of the whole story and the whole issue so
15 I think it is more probative than prejudicial. So with
16 that said is there anything else that we need to put on
17 the record? I'm going to bring the jury in.

18 MS. ELLIOTT: Judge, I think we were inquiring
19 amongst ourselves whether or not you thought we were
20 going to put the child up with the chance that we might
21 have to break apart her testimony tonight.

22 THE COURT: How long do you think -- how much
23 longer do you think you're going to be with her than you
24 were today?

25 MR. COCHRAN: Probably longer. I talked to her

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1 maybe like ten minutes today so maybe a half hour.

2 THE COURT: Okay. Let's see how long are your
3 openings going to be; not too terribly long I presume.
4 Are you going to put her up first?

5 MS. ELLIOTT: Yes, she will be up first, Your
6 Honor.

7 THE COURT: My intention would be as long as your
8 opening is not too terribly long let's put her up and be
9 done.

10 MS. ELLIOTT: Yes, Your Honor.

11 THE COURT: That would be my intention. And
12 actually what I'll do when the jury comes in I'll ask
13 them and if everyone is okay we'll work to at least 5:30
14 and see if anyone has any problems or issues okay. And
15 that will kind of dictate whether or not we're going to,
16 okay? Let's go ahead and bring the jury in please.

17 [Whereupon, the jury enters at 4:05 p.m.]

18 THE COURT: Welcome back ladies and gentlemen. I
19 trust you all had a nice lunch. I apologize; we've been
20 in here working streamlining this case. I just want you
21 all to know that. Additionally, does anyone have a
22 problem working till 5:30 tonight? Does someone need to
23 leave earlier than that? Are we okay? Is that
24 acceptable to everybody and please speak up if you have
25 to tend to someone I certainly understand that or have

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1 OPENING STATEMENTS

2 BY MS. ELLIOTT:

3 Sweet dreams, sleep well; those are the comforting
4 things that a child should hear before they drift off to
5 sleep. Good night and well wishes should never be
6 followed by the admonition don't tell. A child's room
7 should be a place where they feel safe and secure; a
8 place where no one can hurt them.

9 But that wasn't the case for Child . When she
10 went to sleep at night in her room at Reed Street in
11 North Charleston she never knew if on this night like so
12 many before the defendant, Stanley Miller, was going to
13 come into her room and violate her once again. November
14 11th, 2013 was the day Child finally gathered up the
15 courage to tell her mother what Stanley Miller, who was
16 the father of her two youngest brothers and the boyfriend
17 of her mother, had been doing to her.

18 On that day Child and her mother were walking back
19 from the school bus. A woman in the neighborhood
20 approached them and was concerned about some behavior and
21 some acting act that they had seen Child doing with a boy
22 behind the building. Her mother questioned her about it
23 and Child began to tear up and cry. It was then that she
24 told her mother than Stanley Miller had been coming into
25 her room. That he would pull down her pants, pull down

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1 his pants and then rub his penis against her butt. You
2 will hear during the course of this trial Child testify
3 about those nights about what the defendant would do to
4 her and how it would feel. How he would wipe her off
5 with a wet rag and as he would leave remind her don't
6 tell. This behavior did not just begin in the Reed
7 Street address even though that's what we're here about
8 today. It had actually begun years before at the first
9 home they shared in Hunter's Ridge which is in Dorchester
10 County ---

11 MR. COCHRAN: --- Your Honor, I just have to state
12 my previous objections.

13 THE COURT: Noted. Go ahead.

14 MS. ELLIOTT: During the course of this trial you
15 will hear from Child who is now 11 years old. You
16 will hear her talk about what happened to her but you are
17 also going to have the opportunity to hear from eight
18 year old Child because that's how old she was in
19 2013 when she first made this disclosure because she was
20 taken to the Lowcountry Children's Center and interviewed
21 by Michelle Scott and that interview was recorded.

22 You will watch an eight year old struggle to find
23 the words to describe something that no eight year old
24 should understand or have to know anything about; about
25 her sexual assault. During the course of the trial you

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1 will also hear from experts who I expect will explain to
2 you about physical findings and how it is exceptionally
3 common for there to be none even when it is believed
4 there is anal penetration.

5 You'll also hear from another expert who will talk
6 about the process of disclosure and how children come to
7 find the strength and the process that they go through in
8 talking about the sexual abuse; especially when it is
9 perpetrated by someone so close to them.

10 I'm going to be honest with you. This isn't a case
11 out of the pages of CSI or Law and Order SVU. There is
12 no DNA. This case is going to come down to the
13 creditability of Child and whether you believe what
14 she tells you about what Stanley Miller did to her when
15 she was so little.

16 Those are the facts that you are going to hear
17 during the course of this trial. And as the Judge said
18 at the end she is going to talk about the law. She is
19 going to charge you on it. But I want to give you a
20 little picture of the things that the State is going to
21 have to prove during the course of the trial so you know
22 what to look for.

23 Stanley Miller is charged with criminal sexual
24 conduct with a minor in the third degree and criminal
25 sexual conduct with a minor in the first degree. To

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1 prove criminal sexual conduct with a minor in the third
2 degree the State must show that the defendant was over
3 the age of 14, that he willfully and lewdly committed or
4 attempted to commit a lewd or lascivious act on or with
5 the body or its parts of a child, that the child was
6 under the age of 16 and that this was with the intent to
7 arouse, appeal to or gratify the lust, passions, or
8 sexual desires of the defendant toward the child.

9 We will go on to describe to you what willfully
10 means, voluntarily and intentionally with the specific
11 intent to do something the law forbids. Lewd means
12 obscene, lustful, indecent, or lecherous. Lascivious
13 means tending to incite lust, lewd, indecent, obscene or
14 tending to deprave the morals in respect to sexual
15 relations. Those are a lot of big lawyer words for
16 something that most people understand as child
17 molestation or fondling.

18 The next charge is criminal sexual conduct with a
19 minor in the first degree. To prove that the State must
20 prove a sexual battery. Now a sexual battery can take a
21 lot of forms. It can be sexual intercourse, it can be
22 cunnilingus which is oral sex performed upon a female,
23 fellatio oral sex performed upon a male, anal intercourse
24 or any intrusion however slight of any part of a person's
25 body or of any object into the genitals or anal openings

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1 of another person. We must prove to you that the victim
2 was less than 11 when this occurred and the defendant is
3 older than the victim. I would remind you force is not
4 an element of these criminal sexual conducts and consent
5 is never a defense. Those are the elements of the crimes
6 that Stanley Miller has been charged with. And those are
7 the elements the State will prove to you beyond a
8 reasonable doubt.

9 Sweet dreams, sleep well. Those should be the last
10 words a child hears before they drift off to sleep; never
11 don't tell. Those were the last words that Stanley
12 Miller would say to Child after he would sexually
13 abuse her. And because of those sexual assaults and
14 after you have heard the testimony in this case I am
15 confident that you will come back with the only just
16 verdict of guilty.

17 MR. COCHRAN: May it please the court?

18 THE COURT: Yes, sir.

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On the day that Child 's mother called the police concerning these accusations Child was about to get in trouble. Child was at school and she had been seen by another kid's mother dancing. And she was dancing with a boy, one of her classmates, and the way that she was dancing she had her back turned to that boy and she was rubbing her butt against him.

At that point the ball was rolling. A sexual assault accusation was beginning to take shape. Child then was questioned further by her mother. What do you mean he taught you this? What are you talking about? What did he do? And Child goes on to explain or describe her story. And the story is that Stanley would go in her room and sexually abuse her by rubbing against her butt. Well, her mother was skeptical. She didn't see how this was possible so she looked into it. She was thinking look, we live in a small apartment and I'm home at night.

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1 She's saying this happened at night when I'm asleep with
2 my infant son who could wake up at any moment in the room
3 with me and Child shares a bedroom with her younger
4 brother. How could Stanley do all this without anybody
5 noticing? How could a 250 pound man go into her kid's
6 twin bed and do this without leaving any trace of
7 evidence, without anything left on the sheets. She even
8 went and looked at the bed sheets, smelled the bed
9 sheets; she's the one who did the laundry. Nothing.

10 She was skeptical so the ball was rolling. The
11 accusations had been made and she knew that as her mother
12 she had to do something about it so she called the police
13 and Child was later interviewed by a responding officer
14 and by a counselor at Lowcountry Children's Center. The
15 ball was rolling and this case was not going to stop
16 because what Child had done was told a story alleging
17 that Stanley Miller had committed the most despicable
18 awful crime on our books; that he had raped a child. And
19 nothing was going to stop the prosecution train.

20 You're going to be asked by the court to do a
21 difficult thing. Over the course of this trial you are
22 going to be asked to presume that Stanley is innocent.
23 You're going to have to demand that the State present
24 proof to you, proof that these things happened and you're
25 going to have to presume throughout the trial that

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1 Stanley is innocent. And that's contrary to just about
2 everybody's instincts because when you hear these
3 accusations any reasonable person's instinct is to be
4 angry and to want the person sitting at the defense table
5 to be punished. And the Solicitor's office is going to
6 want to play on those instincts.

7 But you have to remind yourself that you are a
8 detached decision maker about the facts and proof in this
9 case. And in this case there are absolutely no
10 indicators of sexual abuse or proof, DNA evidence, no
11 physical findings, no injuries and the facts in this case
12 tend to prove that Stanley Miller is innocent.

13 Now Child told her mother and told the responding
14 officer and told a counselor at Lowcountry Children's
15 Center that Stanley would rub on her butt with his penis.
16 And she said that nothing ever went inside her butt that
17 it didn't hurt, that it felt like a tickle.

18 And this was her story for a year until she had
19 closed door meetings with the Solicitors the prosecutors
20 in this case; the State's lawyers then had their own
21 interviews with her and extracted from her additional
22 accusations that allowed them to enhance his charges.
23 And all this is going to make more sense when you see the
24 two separate sets of allegations in this case that Child
25 eventually made an accusation to the Solicitors that was

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1 much more serious saying that she had actually been
2 penetrated in this case. And that was not made to an
3 interviewer like it typically is. It was made behind
4 closed doors with prosecutors. But we're not here to
5 parse out differences between penetration and not
6 penetration. I'm not expecting you to say he is guilty
7 of some things and not everything because Stanley Miller
8 is innocent of all charges in this case.

9 You remember when I said that she was doing a dance
10 and that was kind of how this whole ball started rolling
11 in this case? Well it turns out that she didn't learn
12 that from Stanley. It turns out that when she was about
13 to get in trouble with her mother she told her that
14 Stanley had taught her this. Her mother later found out
15 while she was investigating this accusation from the
16 boy's mother that Child was dancing to a song and in that
17 song's video the exact same dance that Child was doing
18 was in the video.

19 She had learned the dance from the music video and
20 she had deflected her own wrongdoing, the thing that she
21 was going to get in trouble with her mother on Stanley
22 and once that ball started rolling there was no stopping
23 it. And they included worse and worse accusations as
24 time went on. And that was despite the problems in the
25 case, the inconsistencies in the case and the

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Opening Statements-Remarks by Mr. Cochran
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1 contradictions in the case and the lack of evidence or
2 proof in the case. Now all this is going to make a lot
3 more sense to you when you hear from the witnesses, from
4 Child , from her mother, the interviewers and from the
5 police.

6 And at the end of this trial you are going to hear
7 nothing but accusations; nothing but accusations that
8 stemmed from a little girl who was about to get in
9 trouble for her own conduct at school, something that
10 petty. And the State wants you to take that story that
11 was told that day with a man's life hanging in the
12 balance and convict him of the worse crime on the books.
13 This is a very dangerous game. Stanley Miller is
14 innocent. Thank you.

15 THE COURT: If the State will call their first
16 witness?

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State v Stanley Miller
Child Direct Examination by Ms. Elliott
May 16, 2016

1 MS. ELLIOTT: The State calls Child , Your
2 Honor.
3 THE COURT: Come on forward.
4 [Whereupon, Child comes forward]
5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]
7 CLERK OF COURT: For the record if you will state
8 your first and last name and spell out your last name.
9 THE WITNESS: Child
10 - - - - -
11 Child ,
12 Having been first duly sworn,
13 Was examined and testified as follows:
14 DIRECT EXAMINATION
15 BY MS. ELLIOTT:
16 Q. Good afternoon Child . How old are you?
17 A. Eleven.
18 Q. Could you speak up a little bit more?
19 A. Eleven.
20 Q. And what's your birth date?
21 A.
22 Q. And where do you live right now?
23 A. North Charleston.
24 Q. And where do you go to school?
25 A.

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- 1 Q. And what grade are you in?
- 2 A. Fifth.
- 3 Q. And will you go back to that same school next year?
- 4 A. No, ma'am.
- 5 Q. Where will you go next year?
- 6 A. ..
- 7 Q. Are you excited about graduating elementary school?
- 8 A. Yes.
- 9 Q. What do you like about school?
- 10 A. That we have P.E., drama, and music.
- 11 Q. And do you like to do anything outside of school?
- 12 A. Yes.
- 13 Q. What are those things?
- 14 A. Play basketball and football.
- 15 Q. Can you tell me a little about your family? Who
- 16 lives with you?
- 17 A. My granny, my mom, my two brothers and me.
- 18 Q. And what are your brother's names?
- 19 A. D'Andre and Stanley.
- 20 Q. And how old is D'Andre?
- 21 A. Eight.
- 22 Q. And how old is Stanley?
- 23 A. Three.
- 24 Q. And do you call Stanley Stanley?
- 25 A. No.

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- 1 Q. What do you call him?
- 2 A. Junior.
- 3 Q. And who is D'Andre and Stanley's father?
- 4 A. Stanley.
- 5 Q. What is Stanley's last name?
- 6 A. Miller.
- 7 Q. Do you see Stanley Miller in the courtroom today?
- 8 A. Yes.
- 9 Q. Can you point him out and describe something he is
- 10 wearing?
- 11 A. White [indicates].
- 12 Q. And did you ever live with Stanley Miller?
- 13 A. Yes.
- 14 Q. When you lived with Stanley Miller what did you call
- 15 him?
- 16 A. Daddy.
- 17 Q. Do you remember the first place that you lived with
- 18 him?
- 19 A. Hunter's Ridge.
- 20 Q. And can you tell us a little bit about that house?
- 21 A. It was upstairs and downstairs and me and my brother
- 22 shared a room and it was ---
- 23 Q. --- can you talk a little louder; I'm having trouble
- 24 hearing you.
- 25 A. It was upstairs and downstairs and me and my brother

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1 shared a room and we had bunk beds.

2 MS. ELLIOTT: May I approach, Your Honor?

3 THE COURT: You may.

4 MS. ELLIOTT: Your Honor, I'm going to show the
5 witness what has been marked for identification purposes
6 as State's exhibit 1.

7 [Whereupon, the witness is shown exhibit]

8 Q. [Ms. Elliott] Child, do you recognize that?

9 A. Yes.

10 Q. What is that a picture of?

11 A. Hunter's Ridge.

12 Q. And is that where you lived?

13 A. Yes.

14 MS. ELLIOTT: Your Honor, at this time we would
15 move to admit State's exhibit 1.

16 THE COURT: Any objection?

17 MR. COCHRAN: Just as previously stated, Your
18 Honor.

19 THE COURT: Subject to the earlier objection it's
20 in evidence.

21 [Whereupon, State's exhibit number 1 is entered into
22 evidence by the court]

23 Q. [Ms. Elliott] Child, I'm going to put this up on the
24 big screen and you're going to have it on the little
25 screen in front of you.

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1 [Whereupon, the photograph is shown]

2 MR. COCHRAN: Your Honor, I guess I'll go ahead and
3 place my objection to the entire line of questioning.

4 THE COURT: Absolutely it is noted for the record
5 and it is preserved.

6 Q. [Ms. Elliott] So there are a lot of doors there.
7 Which one of those doors was yours?

8 A. The one on the right.

9 Q. Can you circle it?

10 A. [Indicates]

11 Q. So that's where you were living. Did you tell me
12 who all lived in that house with you?

13 A. My mom, my brother, me, and Stanley.

14 Q. Which brother?

15 A. D'Andre.

16 Q. Was Stanley, Jr. born in that house or born when you
17 were living in that house?

18 A. No, ma'am.

19 Q. Okay. So you shared a room with your brother,
20 D'Andre?

21 A. Yes.

22 Q. And how many other bedrooms were there in the house?

23 A. One more.

24 Q. One other one? And who slept in that room?

25 A. Stanley and my Mom.

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- 1 Q. And what kind of work does your Mom do?
- 2 A. She's a nurse. She works at a nursing home.
- 3 Q. And when you were living in that house when would
- 4 she normally work, what time of day?
- 5 A. At night.
- 6 Q. And who would watch you during the night while Mom
- 7 was working?
- 8 A. Stanley.
- 9 Q. What would happen to you when Mom was working at
- 10 night and Stanley was watching you?
- 11 A. He would come inside my room and take me into my
- 12 Mom's bed.
- 13 Q. Can you tell me how he would take you into your
- 14 mom's bed?
- 15 A. He would pick me up by my waist.
- 16 Q. He would carry you?
- 17 A. Yes.
- 18 Q. So he would take you into your Mom's room and what
- 19 would happen in your Mom's room.
- 20 A. I would be laying on my side and he would pull down
- 21 my pants.
- 22 Q. And where would he be in the room?
- 23 A. Laying down beside me.
- 24 Q. And you said he would pull down your pants. What
- 25 about your underwear? What would happen to those?

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- 1 A. He would pull those down too.
- 2 Q. Did anything happen to his clothes?
- 3 A. Yes.
- 4 Q. What would happen to his clothes?
- 5 A. He would pull down his pants.
- 6 Q. And once his pants were down what would happen?
- 7 A. He would rub his private part against my butt.
- 8 Q. Against your butt? How could he get to your butt?
- 9 A. He will get on top of me and I will be laying on my
- 10 stomach and he would be on top of me.
- 11 Q. And you said he was rubbing?
- 12 A. Yes.
- 13 Q. What did that feel like?
- 14 A. It hurt.
- 15 Q. Did it ever feel any other way? You just remember
- 16 it hurting?
- 17 A. Yes.
- 18 Q. Do you know what would make him stop?
- 19 A. No, ma'am.
- 20 Q. Once he would stop what would happen?
- 21 A. He would take a cold rag and wipe me off and wipe
- 22 the bed off and then he would put me back inside my room.
- 23 Q. Do you know what he was wiping off you?
- 24 A. Spit.
- 25 Q. Did you see the spit?

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- 1 A. No, ma'am.
- 2 Q. Then how do you know it was there?
- 3 A. I could feel it.
- 4 Q. Where did you feel it?
- 5 A. On the bed.
- 6 Q. And I'm sorry; where all would he wipe again?
- 7 A. He would wipe the bed off and he would wipe me off.
- 8 Q. And so after he would wipe you off what would
- 9 happen?
- 10 A. He would put me back inside my bed.
- 11 Q. Would he say anything to you?
- 12 A. He told me not to tell no one.
- 13 Q. Would he say anything else?
- 14 A. No, ma'am.
- 15 Q. Where was D'Andre when this was going on?
- 16 A. Sleeping.
- 17 Q. Do you ever remember him waking up?
- 18 A. No, ma'am.
- 19 Q. Did you and he ever talk about it while you were
- 20 living at Hunter's Ridge?
- 21 A. No, ma'am.
- 22 Q. Did you ever tell your Mom about it while you were
- 23 living at Hunter's Ridge?
- 24 A. No, ma'am.
- 25 Q. Why not?

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- 1 A. I was scared to.
- 2 Q. Child , after living at that place at Hunter's Ridge
- 3 did you ever live somewhere else?
- 4 A. Yes.
- 5 Q. Where were you living after that?
- 6 A. In a house right here [indicates].
- 7 Q. How as that house different than this first one you
- 8 marked for us?
- 9 A. I had my own bedroom.
- 10 Q. And was Mom still working nights during that time?
- 11 A. I don't remember.
- 12 Q. Did anything happen to you in that house?
- 13 A. No, ma'am.
- 14 Q. Do you know where you moved after that?
- 15 A. Reed Street.
- 16 Q. I'm going to show you another picture Child .
- 17 MS. ELLIOTT: Your Honor, may I approach?
- 18 THE COURT: You may.
- 19 Q. [Ms. Elliott] Child , what is that a picture of?
- 20 [Whereupon, the witness is shown photograph]
- 21 A. Reed Street.
- 22 Q. And is that where you lived next?
- 23 A. Yes, ma'am.
- 24 MS. ELLIOTT: Your Honor, at this time I would move
- 25 what has been marked for identification purposes as

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1 State's exhibit 2 into evidence.

2 MR. COCHRAN: No objection, Your Honor.

3 THE COURT: Without objection number 2 is in
4 evidence.

5 [Whereupon, State's exhibit number 2 is entered into
6 evidence by the court]

7 Q. [Ms. Elliott] So this is State's exhibit 2. Which
8 one of those doors was yours?

9 [Whereupon, the witness is shown photograph]

10 A. This one [indicates].

11 Q. And who all was living in that house?

12 A. My Mom, Stanley, my brother, my little brother and
13 me.

14 Q. And how many bedrooms were in that house?

15 A. Two.

16 Q. So where was everyone sleeping?

17 A. My Mom slept across the hall from me. You have to
18 pass the bathroom and then her room would be there and I
19 slept across from her. My room ---

20 Q. --- I'm having a really hard time hearing you. Can
21 you speak up a little bit more and explain that again?

22 A. My Mom would sleep across the hallway from me and
23 you would have to walk past the bathroom and I would
24 sleep past the bathroom. And you have to walk across
25 from her room to my room.

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1 Q. And what kind of beds did you have in that house?

2 A. My brother was sleeping on the right and I slept on
3 the left side.

4 Q. What types of beds?

5 A. They were separate.

6 Q. And what happened at night in that house?

7 A. He would come in my room.

8 Q. Who is he?

9 A. Stanley. He would come in my room and pull down my
10 pants.

11 Q. Where would he be in the room when he pulled down
12 your pants?

13 A. In my bed.

14 Q. And how would you be laying in the bed?

15 A. On my side.

16 Q. And how would he be laying in the bed?

17 A. On the side of me.

18 Q. And so he would pull down your pants and then what
19 would happen?

20 A. His private part would rub against my butt.

21 Q. What did that feel like?

22 A. It hurted [phonetic].

23 Q. And what would happen after that?

24 A. When he was finished he would get a cold rag and
25 wipe me off and he would wipe my bed off and go back

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- 1 inside my Mom's room.
- 2 Q. Would he ever say anything to you there?
- 3 A. He told me not to tell anyone.
- 4 Q. And you said D'Andre was in the room. Did he ever
- 5 wake up during this?
- 6 A. No, ma'am.
- 7 Q. Did he ever say anything to you?
- 8 A. No, ma'am.
- 9 Q. Where was your Mom when this was happening?
- 10 A. In her room.
- 11 Q. How do you know that?
- 12 A. Because she was sleeping and I could hear her
- 13 snoring.
- 14 Q. You could hear her snoring?
- 15 A. Yes, ma'am.
- 16 Q. Do you remember the day that you told about this?
- 17 A. Yes.
- 18 Q. Where were you?
- 19 A. I was coming from school.
- 20 Q. And what happened?
- 21 A. A lady she came and she asked me if I wanted to tell
- 22 or if she could tell what happened behind the building.
- 23 Q. Did you know what she was talking about when she
- 24 said what happened behind the building?
- 25 A. Yes, ma'am.

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- 1 Q. What was she talking about?
- 2 A. The day when she came back there and saw me dancing
3 with her son.
- 4 Q. You were dancing with her son?
- 5 A. Yes.
- 6 Q. Can you describe that dancing for us?
- 7 A. I...
- 8 Q. What were you doing Child ?
- 9 A. I was dancing on her son.
- 10 Q. You were dancing on her son?
- 11 A. Yes.
- 12 Q. And so who was with you when this lady approached
13 you?
- 14 A. His sister and one of her friends and that was it.
- 15 Q. I'm sorry; were those the people who were behind the
16 building?
- 17 A. Yes, ma'am.
- 18 Q. So the day that you -- but I had asked you about the
19 day that you told your Mom what was going on. So who was
20 with you when you told about what happened?
- 21 A. It was just me and my Mom.
- 22 Q. Okay. And you were coming back from where?
- 23 A. School.
- 24 Q. Okay. And so that's when the lady approached you?
- 25 A. Yes.

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May 16, 2016

1 Q. And Child why did you tell your Mom that day what
2 had been going on?

3 A. Because I was tired of him doing the bad stuff to me
4 and I wanted him to stop.

5 MS. ELLIOTT: Beg the court's indulgence.

6 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

7 Q. [Ms. Elliott] Child, one thing that I'm a little
8 confused about can you explain for me how your legs were
9 positioned when Stanley was doing those things to you?

10 A. They were open.

11 Q. How did they get open if you were laying on your
12 side?

13 A. He would get on top of me and he would open my legs.

14 Q. What happened after you told your Mom about this?

15 A. We went home --

16 Q. I'm sorry; you're going to have to speak a little
17 louder. I can't hear you.

18 A. We went home and we packed up all our clothes and
19 she called ---

20 Q. --- I don't want you to tell me anything she said
21 but where did you go?

22 A. We went to my granny's house.

23 Q. Did you ever meet with the police?

24 A. Yes.

25 Q. Where was that?

State v Stanley Miller
Child Direct Examination by Ms. Elliott
May 16, 2016

1 A. At my granny's house.

2 Q. And other than the police did you ever meet with
3 anyone else to talk about this?

4 A. Yes.

5 Q. Do you remember where that was?

6 A. At the children's...

7 Q. A little louder; I can't hear you.

8 A. At the children's...

9 Q. Was it the Lowcountry Children's Center?

10 A. Yes.

11 MS. ELLIOTT: Nothing further at this time, Your
12 Honor.

13 THE COURT: Okay. Mr. Cochran?

14 MR. COCHRAN: Thank you, Your Honor. May it please
15 the court?

16 THE COURT: Yes, sir.

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State v Stanley Miller
Child - Cross-Examination by Mr. Cochran
May 16, 2016

CROSS-EXAMINATION

1
2 BY MR. COCHRAN:

3 Q. Child, you were just talking to the Solicitor about
4 the day that you told your Mom about all this and the day
5 that your Mom called the police. Do you remember that
6 day?

7 A. Yes.

8 Q. And so you had been in school. What grade were you
9 in at that time do you remember?

10 A. Third grade.

11 Q. Okay. And so this boy that you were dancing with
12 he was a classmate?

13 A. No.

14 Q. He was in a different class?

15 A. Yes.

16 Q. Did he go to that same school though?

17 A. Yes.

18 Q. And his mother went and told your mother about you
19 and him dancing?

20 A. Yes.

21 Q. And did your Mom get angry with you?

22 A. Yes.

23 Q. And did your Mom tell you that when you guys got
24 home you guys were going to talk to your Dad about it?

25 A. Yes.

State v Stanley Miller
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1 Q. And your Mom asked you where you had learned that
2 dance right?

3 A. Yes.

4 Q. And you told her that you learned it from your Dad,
5 Stanley?

6 A. Yes.

7 Q. But that dancing you had also seen in a music video
8 right?

9 A. No, I saw the music video after I told my Mom about
10 it. A week later she showed me a music video because I
11 didn't know how inappropriate it was until she showed me
12 the video.

13 Q. And your mother had talked to the boy's mother who
14 told her what kind of dance you were doing?

15 A. Yes.

16 Q. And that kind of dancing they do in a music video
17 that you saw right?

18 A. Yes.

19 Q. And your Mom ended up when you went home your Mom
20 called the police?

21 A. When we went to my granny's house she called the
22 police.

23 Q. Okay. And then a police officer came?

24 A. Yes.

25 Q. Do you remember was the police officer like wearing

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Child Cross-Examination by Mr. Cochran

May 16, 2016

1 a uniform and come in a police car and all that?

2 A. Yes.

3 Q. Okay. And it was a woman officer right; it was a
4 girl?

5 A. Yes.

6 Q. And she spoke to you about Stanley?

7 A. Yes.

8 Q. Okay. And she asked you if it hurt or if anything
9 went in your butt when he would do these things to you
10 and you told her no, right?

11 A. Yes.

12 Q. And you were telling her about this happening on
13 Hunter's Ridge Street and on Reed Street right?

14 A. Yes.

15 Q. And in Hunter's Ridge you said that you slept on
16 bunk beds?

17 A. Yes.

18 Q. And that was with your brother who you shared a
19 bedroom?

20 A. Yes.

21 Q. And so Stanley would climb up on to the top bunk?

22 A. No.

23 Q. He would take you off the top bunk?

24 A. Yes.

25 Q. And carry you into the other room?

State v Stanley Miller
Child Cross-Examination by Mr. Cochran
May 16, 2016

- 1 A. Yes.
- 2 Q. Okay. At that time your mother was working at
3 night?
- 4 A. Yes.
- 5 Q. And when you lived at Reed Street you still shared a
6 room with your brother right?
- 7 A. Yes.
- 8 Q. Okay. And then you had another brother who was
9 just a few months old at that time?
- 10 A. Yes.
- 11 Q. At Reed Street what bedroom did he sleep in?
- 12 A. He slept in my Mom's bedroom.
- 13 Q. And did Stanley sleep in your Mom's bedroom too?
- 14 A. Yes.
- 15 Q. Do you remember if he closed the door when he would
16 come into your room on Reed Street?
- 17 A. No, I don't remember.
- 18 Q. But your brother was in the room when you say this
19 was happening to you?
- 20 A. Yes.
- 21 Q. Now you said that you spoke with a woman at the
22 Lowcountry Children's Center right and she asked you
23 about all this stuff back then too?
- 24 A. Yes.
- 25 Q. And she also asked you if these things that Stanley

State v Stanley Miller
Child Cross-Examination by Mr. Cochran
May 16, 2016

1 was doing if they ever hurt or if anything ever went in
2 your butt and you told her that it did not hurt right?

3 MS. ELLIOTT: Objection, Your Honor. May we
4 approach?

5 THE COURT: You may.

6 [Whereupon, an off the record bench conference is
7 held]

8 Q. [Mr. Cochran] I'm sorry, Child. You said you do
9 remember sitting down and talking with the woman from the
10 Lowcountry Children's Center?

11 A. Yes.

12 Q. And you didn't tell her than any of these things
13 hurt right? Do you remember?

14 A. No, I don't remember.

15 Q. And you said that Stanley would bring a cold rag
16 into the room with him?

17 A. Yes.

18 Q. And Child let me ask you another question. These
19 things with Stanley that you're talking about those
20 weren't the only things that you talked about at the
21 Lowcountry Children's Center right?

22 A. Yes, they were.

23 Q. Do you remember the woman at the Lowcountry
24 Children's Center asking you about whether or not you
25 ever saw your parent's fighting?

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- 1 A. Yes.
- 2 Q. And you'd seen your parents fighting before right?
- 3 A. Yes.
- 4 Q. And I think you said you saw your mother try to run
- 5 Stanley over with the car at one point is that right?
- 6 A. No.
- 7 Q. You don't remember saying that?
- 8 A. No.
- 9 Q. And do you remember telling her that Stanley and
- 10 your mother had pulled knives out on each other at one
- 11 point?
- 12 A. [No response]
- 13 Q. It's okay if you don't remember.
- 14 A. I don't.
- 15 Q. Do you remember telling her that your mother
- 16 sometimes would give you beatings?
- 17 A. She only beat me one time.
- 18 Q. Okay. And do you remember telling the lady that
- 19 your mother would beat you with I think you said a belt
- 20 and that it would leave red marks?
- 21 A. No.
- 22 Q. Do you ever remember your mother using a cold
- 23 washrag on you after giving you a beating?
- 24 A. No.
- 25 Q. Do you remember talking with the woman at Lowcountry

State v Stanley Miller
Child Cross-Examination by Mr. Cochran
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1 Children's Center about the way that -- the things
2 Stanley was doing and the way that those things made you
3 feel?

4 A. Yes.

5 Q. Do you remember describing to her that it felt like
6 a tickle?

7 A. I don't think so.

8 Q. Do you remember telling her about Stanley saying
9 anything to you before he would leave the room? You told
10 the Solicitor I think that he said not to tell anybody
11 right?

12 A. Yes.

13 Q. And do you remember saying that he would also tell
14 you that if you told anyone he would make you read?

15 A. Yes.

16 Q. Do you like reading?

17 A. No.

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

19 [Whereupon, Mr. Cochran and Ms. Ehrlich confer]

20 Q. [Mr. Cochran] Child just a couple more questions;
21 I'm sorry. There were -- did you have some friends who
22 lived next door to you either on Hunter's Ridge or Reed
23 Street where you would go to watch TV?

24 A. No.

25 Q. Do you ever remember going someplace to watch TV

State v Stanley Miller
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1 with other kids and there being parts in a movie or TV
2 show that you were watching where one of the kids told
3 you to close your eyes during that part?

4 A. No.

5 Q. You don't remember talking about that at Lowcountry
6 Children's Center?

7 A. I do but I never been to a kid's house.

8 Q. Whose house was it; I'm sorry.

9 A. It was one of Stanley's friend's house.

10 Q. Okay. And you think you saw a movie there where
11 you covered your eyes during parts of it?

12 A. Yes.

13 Q. Do you remember Stanley's friend's name?

14 A. Ben.

15 Q. Where did he live do you remember?

16 A. He lived on Reed Street.

17 Q. And did you see music videos there too?

18 A. No.

19 Q. Thank you, Child .

20 MR. COCHRAN: No more questions, Your Honor.

21 THE COURT: Okay.

22 MS. ELLIOTT: Beg the court's indulgence.

23

24

25

State v Stanley Miller
Child Redirect Examination by Ms. Elliott
May 16, 2016

1 REDIRECT EXAMINATION

2 BY MS. ELLIOTT:

3 Q. Child, do you remember the exact questions that the
4 police officer came out that day and asked you?

5 A. No, I don't remember.

6 Q. Do you remember the exact questions that Ms. Scott
7 at Lowcountry Children's Center asked you?

8 A. No.

9 Q. Is it easier to remember the things that you said
10 than what other people said?

11 A. Yes.

12 Q. When this was going on Child did you ever scream or
13 yell?

14 A. No.

15 Q. Why not ---

16 MR. COCHRAN: --- objection. Outside the scope of
17 cross.

18 THE COURT: You can go ahead.

19 Q. [Ms. Elliott] Why not?

20 A. Because I was scared.

21 Q. And Mr. Cochran was asking you about whether or not
22 you told Ms. Scott about your Mom and Stanley pulling
23 knives on each other. Do you remember that ever
24 happening?

25 A. One time.

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Child Redirect Examination by Ms. Elliott
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- 1 Q. You remember it happening? Where did it happen?
- 2 A. At Hunter's Ridge.
- 3 Q. And I know that Mr. Cochran asked you about your Mom
- 4 maybe trying to run over Stanley. Did that ever happen?
- 5 A. No.
- 6 Q. Was there ever an incident with the car and Stanley?
- 7 A. One time.
- 8 Q. What was that?
- 9 A. They got in an argument and my Mom tried to drive
- 10 off and he was by the car door and she never tried to run
- 11 over him.
- 12 Q. Did you worry that he was going to get hit by the
- 13 car though?
- 14 A. No.
- 15 Q. Okay. This dance where did you learn the dance?
- 16 A. I learned it from I think one of my friends.
- 17 Q. One of your friends? Did she show you a video?
- 18 A. No.
- 19 Q. When did you see the video of the dance?
- 20 A. After I told my Mom what happened and the lady came
- 21 and then the week later she showed me the video. But
- 22 when I saw it I didn't know that it would be that
- 23 inappropriate for a child.
- 24 Q. The friend that taught you the dance do you remember
- 25 about how old that kid was? Was it a grown up or a

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1 little kid?

2 A. It was a little kid but I don't remember her name or
3 how old she is.

4 Q. Where did you know here from?

5 A. Reed Street.

6 MS. ELLIOTT: Beg the court's indulgence.

7 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

8 MS. ELLIOTT: Nothing further, Your Honor.

9 THE COURT: Anything further?

10 MR. COCHRAN: No, Your Honor. Thank you.

11 THE COURT: Okay. You may step down.

12 [Whereupon, the witness is excused and exits the
13 witness stand]

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State v Stanley Miller
Andrea Smalls-Direct Examination by Ms. Herring-Lash
May 17, 2016

1 MS. HERRING-LASH: The State would call Andrea
2 Smalls.

3 THE COURT: Come on forward Ms. Smalls.

4 [Whereupon, Ms. Smalls comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 CLERK OF COURT: Speak into this microphone and
8 state your full name and spell your last name for the
9 record.

10 THE WITNESS: Andrea Smalls, S-M-A-L-L-S.

11 - - - - -

12 ANDREA SMALLS,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. HERRING-LASH:

17 Q. Ms. Smalls, where do you live now?

18 A. In North Charleston.

19 Q. And who lives with you?

20 A. My three kids and my mother.

21 Q. And how long have you lived in the Charleston area?

22 A. All my life.

23 Q. What kind of work do you do?

24 A. I'm a certified nursing assistant.

25 Q. And where do you work now?

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- 1 A. Heartland Hanahan.
- 2 Q. And what are the ages of your children?
- 3 A. Eleven, eight, and three.
- 4 Q. And is Child your daughter?
- 5 A. Yes, ma'am.
- 6 Q. What is her date of birth?
- 7 A. .
- 8 Q. And do you know Stanley Miller?
- 9 A. Yes, ma'am.
- 10 Q. Do you know his date of birth?
- 11 A. .
- 12 Q. And how long have you known him?
- 13 A. About eight years..
- 14 Q. How did you meet?
- 15 A. My aunt introduced us.
- 16 Q. And is he the father of any of your children?
- 17 A. Yes, ma'am.
- 18 Q. Which ones?
- 19 A. My two boys.
- 20 Q. And those are the youngest two?
- 21 A. Yes, ma'am.
- 22 Q. And did the two of you live together; you and Mr.
- 23 Miller?
- 24 A. Yes, ma'am.
- 25 Q. How long did y'all actually live together?

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- 1 A. About five years.
- 2 Q. During that time were there breaks in your living
- 3 together?
- 4 A. Not in the five year span.
- 5 Q. But some span?
- 6 A. Yes, ma'am.
- 7 Q. And did y'all live in a lot of different places?
- 8 A. All together it was two apartments.
- 9 Q. And when you started living together where did you
- 10 first live?
- 11 A. At Hunter's Ridge.
- 12 Q. And when was that?
- 13 A. About 2009 or 2010.
- 14 Q. Where did you work at that time?
- 15 A. Sandpiper in Mount Pleasant.
- 16 Q. And what were your hours in the beginning?
- 17 A. I did two shifts. I worked 7 to 3 and I did 3 to
- 18 11.
- 19 Q. And did that work place change?
- 20 A. Yes, ma'am.
- 21 Q. And where did you work after that?
- 22 A. I started working at White Oak Manor from 11 to 7.
- 23 Q. And that was 11 to 7 regular?
- 24 A. Yes, ma'am.
- 25 Q. That's 11 at night until 7 in the morning?

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- 1 A. Yes, ma'am.
- 2 Q. And where did Mr. Miller work?
- 3 A. At a carwash.
- 4 Q. What were his hours?
- 5 A. Eight until closing.
- 6 Q. Did he work continuously?
- 7 A. Yes.
- 8 Q. Did he ever change to another job?
- 9 A. Eventually, yes ma'am.
- 10 Q. When was that do you know?
- 11 A. He started working at another company. I can't
- 12 remember exactly when.
- 13 Q. When you were working the 11 to 7 was he the
- 14 caretaker of the kids?
- 15 A. Yes, ma'am.
- 16 Q. And in that house at Hunter's Ridge what was the
- 17 layout of the house like?
- 18 A. It was a two bedroom townhouse. You would walk in
- 19 the front door and there was a living room, small
- 20 hallway, a downstairs bathroom; a half bath, the kitchen
- 21 and then there was a wash room and the back door.
- 22 The upstairs was two bedrooms. In the middle of the
- 23 two bedrooms there was a bath that connected both
- 24 bedrooms.
- 25 Q. And where did the kids sleep?

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- 1 A. D'Andre and Child at that time shared a room.
- 2 Q. How old was D'Andre then?
- 3 A. Between three and four.
- 4 Q. And how were their beds set up?
- 5 A. At one time they were against the wall and then we
- 6 got them bunk beds that stacked.
- 7 Q. And do you know about how long you lived there?
- 8 A. Until like 2013 in that apartment.
- 9 Q. And where did you move then?
- 10 A. To a three bedroom next door.
- 11 Q. And do y'all call you little child, you youngest
- 12 child, Junior?
- 13 A. Yes, ma'am.
- 14 Q. And was Junior born at that second apartment in...
- 15 A. He was born before we moved, yes ma'am.
- 16 Q. And he was a little baby when you lived in the
- 17 second one?
- 18 A. Yes, ma'am.
- 19 Q. And how long did you live in that apartment?
- 20 A. About three months.
- 21 Q. And what happened that you left there?
- 22 A. We got evicted.
- 23 Q. And when you got evicted where did you go?
- 24 A. Me and my kids went to my mother's house.
- 25 Q. And where did Stanley Miller go?

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- 1 A. He stayed with a friend.
- 2 Q. Did y'all eventually get to move back in together?
- 3 A. Yes, ma'am.
- 4 Q. And where was that?
- 5 A. On Reed Street.
- 6 Q. And was Reed Street where you were living when this
- 7 event came known to you?
- 8 A. Yes, ma'am.
- 9 Q. When did you live in or move, excuse me, to Reed
- 10 Street?
- 11 A. October.
- 12 Q. Of?
- 13 A. 2013.
- 14 Q. And what was that home set up?
- 15 A. It was a two bedroom apartment. The front room and
- 16 then the kitchen was like one big room. When you walked
- 17 in you turned to your right. There was a front bedroom,
- 18 a bathroom in the middle and then the back bedroom in the
- 19 back.
- 20 Q. And who stayed in the back bedroom?
- 21 A. Me and Stanley and Junior.
- 22 Q. And who stayed in the front bedroom?
- 23 A. Child and D'Andre.
- 24 Q. And at that point in time how were their beds?
- 25 A. They were against the wall.

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- 1 Q. How do you mean against the wall?
- 2 A. One was on this side and the other one was on this
3 side and they had a walkway.
- 4 Q. And where was the door in relation to those beds?
- 5 A. Like?
- 6 Q. Like if you looked in the door would you see the
7 beds or would you see the wall?
- 8 A. You would see the wall and the closet. You'd have
9 to make a left to see the beds.
- 10 Q. And when you lived on Reed Street did you work at
11 all?
- 12 A. No, ma'am.
- 13 Q. And what about Mr. Miller?
- 14 A. Yes.
- 15 Q. Where did he work?
- 16 A. Charleston Steel and Metal.
- 17 Q. What were his hours then?
- 18 A. Like 7 to 4.
- 19 Q. Seven in the morning to 4 in the afternoon?
- 20 A. Yes, ma'am.
- 21 Q. And did Stanley -- did you and Stanley Miller sleep
22 together every night?
- 23 A. Not really, no.
- 24 Q. Did you ever get up and find him that he had left
25 the bed?

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- 1 A. Yes, ma'am.
- 2 Q. Can you give us an example of that?
- 3 A. One night I woke up and he was laying on the couch.
- 4 Q. Did you know he had ever gotten up?
- 5 A. I don't remember; no ma'am.
- 6 Q. And were there times when he didn't come home?
- 7 A. Yes, ma'am.
- 8 Q. And when did you leave that home?
- 9 A. November of 2013.
- 10 Q. And what happened that day that caused you to leave?
- 11 A. I went to get my children off the bus and my
- 12 neighbor stopped me and informed me of an inappropriate
- 13 situation that my daughter was in.
- 14 Q. And did you question Child about it?
- 15 A. Yes, ma'am.
- 16 Q. And where were you when you were questioning her?
- 17 A. We were outside. The bus had just pulled off and we
- 18 were outside talking for a minute and then we walked back
- 19 to the apartment.
- 20 Q. And during that conversation did she tell you about
- 21 being sexually assaulted?
- 22 A. Yes, ma'am.
- 23 Q. And did she tell you where it had happened?
- 24 A. Yes, ma'am.
- 25 Q. Where did she say?

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- 1 A. She told me it happened in her room.
- 2 Q. And did she tell you when it had happened?
- 3 A. She told me she said he was in there a couple of
- 4 nights before.
- 5 Q. And how was -- what was Child 's demeanor like during
- 6 these conversations?
- 7 A. She was crying. She was upset.
- 8 Q. And what did you do?
- 9 A. I called my mother and I left.
- 10 Q. Did you have a car at that time?
- 11 A. No, ma'am.
- 12 Q. What had happened?
- 13 A. My car got repossessed.
- 14 Q. Did you have anywhere to go on your own?
- 15 A. No.
- 16 Q. Did you have a job?
- 17 A. No, ma'am.
- 18 Q. So you called your mother?
- 19 A. Yes, ma'am.
- 20 Q. What happened when you got to your mother's house?
- 21 A. I called the police, I called 911.
- 22 Q. And did they send an officer out?
- 23 A. Yes, ma'am.
- 24 Q. And when the officer came out did you talk with her?
- 25 A. Yes, ma'am.

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- 1 Q. And what about Child ?
- 2 A. I don't remember. She probably -- I don't know; she
3 could have.
- 4 Q. And during that time did you find out more about
5 what Child had been -- the inappropriateness of what she
6 had done?
- 7 A. Yes, ma'am.
- 8 Q. And did you find out about a video?
- 9 A. Yes.
- 10 Q. And did you show it to Child ?
- 11 A. Yes, I did.
- 12 Q. Do you know if she had ever seen that before you
13 showed it to her?
- 14 A. Not to my knowledge.
- 15 Q. And that was after you got to your mother's?
- 16 A. Yes, ma'am.
- 17 Q. Now after that did you take Child to the Lowcountry
18 Children's Center?
- 19 A. Yes, ma'am.
- 20 Q. And Mental Health?
- 21 A. Yes, ma'am.
- 22 Q. Did you also take your son D'Andre?
- 23 A. Yes.
- 24 Q. How old was he at that time?
- 25 A. He was five.

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May 17, 2016

- 1 Q. And did they try to talk with him?
- 2 A. Yes.
- 3 Q. Was it your understanding that he was asleep?
- 4 A. Yes, ma'am.
- 5 Q. Does D'Andre sleep hard?
- 6 A. Yes.
- 7 Q. Can you give us an example of that?
- 8 A. In our first apartment D'Andre -- I was downstairs
- 9 watching T.V. and we heard a boom and Stanley went
- 10 upstairs. He had rolled out the bed and he was still
- 11 sleeping.
- 12 Q. How do you have to wake him up?
- 13 A. You have to shake him.
- 14 Q. After this did Mr. Miller continue to see his sons
- 15 for a little while?
- 16 A. Yes.
- 17 Q. And did those visits stop?
- 18 A. Yes, ma'am.
- 19 Q. And who stopped those?
- 20 A. My DSS caseworker.
- 21 Q. How did you feel when you first heard about this?
- 22 A. Shocked, trying to understand everything.
- 23 Q. Was it hard to believe?
- 24 A. Yes, ma'am.
- 25 Q. Do you talk to Child about this a lot?

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1 A. Not no more, no, ma'am.

2 Q. Does she like to talk about it?

3 A. No, ma'am.

4 MS. HERRING-LASH: Beg the court's indulgence.

5 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

6 Q. [Ms. Herring-Lash] When you lived in the three
7 bedroom house did you work then or were you home with
8 Junior?

9 A. After I had him?

10 Q. Uh Huh?

11 A. No ma'am, I wasn't working.

12 Q. That's all the questions I have.

13 MR. COCHRAN: May it please the court?

14 THE COURT: Yes, sir.

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State v Stanley Miller
Andrea Smalls-Cross-Examination by Mr. Cochran
May 17, 2016

1 CROSS-EXAMINATION

2 BY MR. COCHRAN:

3 Q. Didn't you call the police and you said that this --
4 you calling the police was initiated by a conversation
5 you were having with Child right?

6 A. Yes.

7 Q. Okay. And that was in reference to her getting
8 caught doing some kind of a dance at school with a boy?

9 A. No, it wasn't at school.

10 Q. After school? I thought you were picking her up
11 from school.

12 A. No, she was caught the day before.

13 Q. Okay, so it was the day before? And you heard about
14 this from another kid's mother?

15 A. Yes.

16 Q. Okay. And she told you that Child was maybe
17 dancing inappropriately?

18 A. Yes.

19 Q. Okay. And you were basically scolding Child for
20 this right? You were saying when we get home we're going
21 to talk to Dad about this?

22 A. I possibly could have said that.

23 Q. You were not happy with the way that she had been
24 dancing or what you had been told?

25 A. Of course not.

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Andrea Smalls-Cross-Examination by Mr. Cochran
May 17, 2016

- 1 Q. Okay. And you asked her where she learned that
2 from right?
- 3 A. Yes.
- 4 Q. And she said she learned it from Dad or Daddy right?
- 5 A. Yes.
- 6 Q. And when she said Dad or Daddy she was referencing
7 Stanley Miller?
- 8 A. Yes.
- 9 Q. And at that point you basically followed up and
10 asked her what she was talking about and that kind of
11 thing right?
- 12 A. Yes.
- 13 Q. And that led you to wind up calling the police?
- 14 A. Yes.
- 15 Q. Now the police came and this was a police officer in
16 a uniform with a patrol car right? This was not a
17 detective.
- 18 A. Yes.
- 19 Q. Okay. So this responding officer comes and talks
20 to you right?
- 21 A. Yes.
- 22 Q. Okay. And she also talked to Child ?
- 23 A. I can't remember.
- 24 Q. Okay. After the officer left and you were left
25 with this information you were then out at your mother's

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Andrea Smalls-Cross-Examination by Mr. Cochran
May 17, 2016

1 house right?

2 A. Yes.

3 Q. And so your first instinct was to just go to your
4 mother's house, call the police, and deal with the
5 situation right?

6 A. Yes.

7 Q. Okay. And after the officer left you continued to
8 kind of look into what your daughter was saying right?

9 A. Yes.

10 Q. Follow up on it? And would it be fair to say you
11 were skeptical about what she was saying?

12 A. I wasn't skeptical. I was shocked.

13 Q. Okay. So you're saying now that you were not
14 skeptical.

15 A. No.

16 Q. Okay. But the next day you did a follow up call to
17 the responding officer correct?

18 A. Uh Huh.

19 Q. And you told the officer that you were concerned
20 about Child potentially not telling the truth about these
21 accusations didn't you?

22 A. If that's what that paper says, yes sir.

23 Q. Okay. And you said -- you told her about more
24 information that you got from the other boy's mother
25 right, regarding the dance?

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May 17, 2016

1 A. I don't remember.

2 Q. Okay. You had gotten more information from that
3 mother about a particular music video or particular song
4 that Child was doing the dance to correct?

5 A. I also looked it up myself too.

6 Q. Okay. And then you questioned Child about that
7 particular song and that particular dance right?

8 A. Yes.

9 Q. Okay. And that was in the context of her not
10 actually learning about those motions, that activity,
11 from her Dad but from this music video or this song
12 right?

13 A. [Nods negatively]

14 Q. And learning that information gave you enough
15 concern to do a follow up call to the responding officer
16 correct?

17 A. The follow up call was because I was trying to
18 figure out what was going on, trying to make some sense
19 of everything.

20 Q. And trying to give the responding officer more
21 information that you had learned correct?

22 A. Yes.

23 Q. Information that gave you concerns about the truth
24 or falsity of what your daughter was saying correct?

25 A. No, sir.

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1 Q. That's not correct? That's not why you made that
2 call?

3 A. I made the call because I was trying to figure out
4 what was going on.

5 Q. Okay. But you weren't making the call to ask
6 questions. You were making the call to give the officer
7 information correct?

8 A. Yes, sir.

9 Q. And you were calling to give the officer your
10 concerns about whether or not this story was actually
11 true?

12 A. Yes.

13 Q. And you took Child to the Lowcountry Children's
14 Center right?

15 A. Yes.

16 Q. And the reason you were doing all this is because
17 you felt that this is what a mother needs to do in this
18 kind of situation would that be fair to say?

19 A. Yes.

20 Q. You called the police, you took her to Lowcountry
21 Children's Center and you cooperated fully with the
22 investigation right?

23 A. Yes, sir.

24 Q. And one concern that you would have had during this
25 process was looking like you didn't believe your daughter

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- 1 with DSS correct?
- 2 A. Yes.
- 3 Q. Because you knew that DSS was going to get involved
- 4 right?
- 5 A. At that time I wasn't sure.
- 6 Q. Okay. But DSS did get involved in it?
- 7 A. Yes.
- 8 Q. And you understand and understood at the time DSS to
- 9 be an entity that could potentially take custody away
- 10 from a parent correct?
- 11 A. Yes.
- 12 Q. And that concerns you obviously right?
- 13 A. Yes.
- 14 Q. And you felt that as a mother you had to believe
- 15 these accusations correct?
- 16 A. Yes.
- 17 Q. So you felt an obligation to believe the
- 18 accusations?
- 19 A. Obligation? I don't...
- 20 Q. You felt that as a mother you had to ---
- 21 A. --- yes, of course.
- 22 Q. Despite the fact that you had concerns about this
- 23 new information you received about the dance from the
- 24 other mother correct?
- 25 A. Yes.

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- 1 Q. And you also followed up by looking in Child 's
2 bedroom to see if you could find any kind of indication
3 that these things had taken place right?
4 A. Yes, sir.
5 Q. And you checked her bed sheets right?
6 A. At that time I didn't remember that I did.
7 Q. Okay. And you went so far as to actually smell her
8 bed sheets correct?
9 A. I was told that's what the report said.
10 Q. And this was a time when your husband -- I'm sorry,
11 when Stanley was working full time and you were staying
12 at home with the kids right?
13 A. Yes.
14 Q. When you guys moved next door when you were on
15 Hunter's Ridge and you moved to the apartment next door
16 on Hunter's Ridge that you only stayed at for a few
17 months or so did Stanley live with you in that apartment
18 as well?
19 A. Yes.
20 Q. You and Stanley it would be fair to say had at times
21 a tumultuous relationship correct?
22 A. Yes.
23 Q. Okay. You had arguments sometimes like anybody
24 would?
25 A. Yes.

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1 Q. And there was a period of time during this time when
2 these accusations came about that Stanley was having a
3 tendency after the work week to kind of stay out all
4 weekend right?

5 A. Yes.

6 Q. Okay. And he would stay out from Friday sometimes
7 to Sunday and then come home right?

8 A. Yes.

9 Q. So he was not spending the amount of time you felt
10 that he should be with his family right?

11 A. Yes.

12 Q. And that was the cause of tension in your
13 relationship right?

14 A. Tension yes, but not to make up some story.

15 Q. Okay. And Child would have been a witness to some
16 of this tension, some of these arguments right?

17 A. Yes.

18 Q. Okay. And was she ever a witness to you pulling
19 out a knife on Stanley?

20 A. It's possible. I don't remember but it's possible.

21 Q. And was she ever a witness to you trying to run
22 Stanley over with a car?

23 A. No.

24 Q. Okay. And you confronted Stanley about these
25 accusations right and discussed them with him?

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1 A. At some time, yes.

2 Q. Okay. And because after the accusations came about
3 you still continued to let him have access to his sons
4 right?

5 A. Yes, just the boys.

6 Q. For a period of time and DSS ended up telling you
7 that you couldn't do that anymore?

8 A. Yes.

9 Q. Okay. And you followed DSS's order correct?

10 A. Yes.

11 Q. And at one point you saw this and you told Stanley
12 that these accusations were God's way of slowing him down
13 referring to his tendency to stay out during the weekends
14 didn't you?

15 A. No.

16 MR. COCHRAN: Beg the court's indulgence.

17 [Whereupon, Mr. Cochran and Ms. Ehrlich confer with
18 the defendant]

19 Q. [Mr. Cochran] Ms. Smalls, Stanley is not Child 's
20 biological father correct?

21 A. No.

22 Q. Okay. And would it be fair to say that Child 's
23 biological father -- she knew who her biological father
24 was right?

25 A. Yes.

State v Stanley Miller
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1 Q. But he didn't have a lot of contact with her; he was
2 living out of state at one point?

3 A. Yes.

4 Q. And you mentioned at one point during this
5 investigation that Child 's behavior seemed to change a
6 little bit at some point right?

7 A. You mean after this or before it?

8 Q. Well what I'm referring to is you believe that
9 Child 's behavior had started to kind of change when her
10 father had made a promise that he was coming down for her
11 birthday party and then failed to come to her birthday
12 party ---

13 A. --- no ---

14 Q. --- and that was during this investigation.

15 A. No.

16 Q. You brought this up during the investigation did you
17 not?

18 A. I don't remember bringing that up during the
19 investigation, no.

20 Q. Okay.

21 MR. COCHRAN: Thank you, Your Honor. No further
22 questions.

23 THE COURT: Anything further?

24 MS. HERRING-LASH: Yes, Your Honor.

25

State v Stanley Miller
Andrea Smalls-Redirect Examination by Ms. Herring-Lash
May 17, 2016

1 REDIRECT EXAMINATION

2 BY MS. HERRING-LASH:

3 Q. Ms. Smalls, going back to the evening when you got
4 to your mother's house after Child told you about the
5 abuse ---

6 A. --- yes, ma'am ---

7 Q. --- did you talk to that mother again?

8 A. I don't remember.

9 Q. What you did was look at the video you said?

10 A. Yes.

11 Q. And did you talk to Child about it?

12 A. Yes, ma'am.

13 Q. And did she acknowledge that someone had taught her
14 the dance?

15 A. Yes, ma'am.

16 Q. Do you remember who she said taught it to her?

17 A. No.

18 Q. Was it a child or an adult?

19 A. Probably a child; somebody she was playing with.

20 Q. And you said that you were shocked?

21 A. Yes, ma'am.

22 Q. About this? Now going back to what Mr. Cochran
23 asked you about with Mr. Miller's staying out when did he
24 start staying out weekends and nights?

25 A. He would do it in spells. He'd get off of work on

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1 Friday and he'd be gone.

2 Q. Did that go on and off pretty much most of your
3 relationship?

4 A. Yes, ma'am.

5 Q. And had you just grown used to it?

6 A. Yes.

7 Q. Did y'all still fight about it as much as you did
8 when it started?

9 A. No.

10 Q. What -- and you just decided that's how it was going
11 to be?

12 MR. COCHRAN: Objection. Leading.

13 Q. [Ms. Herring-Lash] What was your thought process?

14 MR. COCHRAN: Objection to the question. She's
15 following up a leading question.

16 THE COURT: Overruled. You can ask it.

17 A. I'd gotten used to it.. And you believe that people
18 change and I believed that he was going to change.

19 Q. Did you have anywhere else to go?

20 A. No.

21 Q. But when Child told you this you did leave.

22 A. I called my mother and I left.

23 Q. Why was that?

24 A. That was the last straw for my daughter.

25 Q. And did you follow up with DSS -- excuse me, with

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1 the Lowcountry Children's Center just out of fear of DSS?

2 MR. COCHRAN: Objection. Leading.

3 Q. [Ms. Herring-Lash] Why did you follow up with them?

4 A. The officer who came out she told me to contact DSS
5 and the detective would be in touch with me.

6 Q. And did that happen?

7 A. Yes, ma'am.

8 Q. And did you -- why did you make a report to law
9 enforcement?

10 A. Because of what Child told me.

11 Q. And did you continue to follow up?

12 A. Yes, ma'am.

13 Q. Why?

14 A. I believed my daughter.

15 MR. COCHRAN: Objection to that last response. I'd
16 like it stricken from the record --

17 THE COURT: Basis?

18 MR. COCHRAN: Can we approach?

19 THE COURT: Sure.

20 [Whereupon, an off the record bench conference is
21 held]

22 Q. [Ms. Herring-Lash] Those are all the questions I
23 have Ms. Smalls.

24 MR. COCHRAN: I have just one question, Your Honor.

25 THE COURT: All right.

2 BY MR. COCHRAN:

5 | A. Yes, sir.

8 | A. Yes, sir.

11 | A. No, sir.

13 THE COURT: Anything further?

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1 REDIRECT EXAMINATION

2 BY MS. HERRING-LASH:

3 Q. Did you take her to mental health counseling?

4 A. Yes, sir -- yes, ma'am she was in counseling.

5 THE COURT: Anything further?

6 MS. HERRING-LASH: No, Your Honor.

7 THE COURT: Anything further?

8 MR. COCHRAN: No, Your Honor.

9 THE COURT: You may step down Ms. Smalls.

10 [Whereupon, the witness is excused and exits the
11 witness stand]

12 THE COURT: If the State will call their next
13 witness?

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State v Stanley Miller
Jessie Demalo-Direct Examination by Ms. Herring-Lash
May 17, 2016

1 MS. HERRING-LASH: The State will call Officer
2 Jessie Demalo.
3 [Whereupon, Officer Demalo comes forward]
4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]
6 CLERK OF COURT: Please state your full name and
7 spell your last name for the record.
8 THE WITNESS: My full name is Jessie Rebecca
9 Demalo.
10 MS. HERRING-LASH: And spell your last name please.
11 THE WITNESS: Demalo is D-E-M-A-L-O.
12 - - - - -
13 JESSIE DEMALO,
14 Having been first duly sworn,
15 Was examined and testified as follows:
16 DIRECT EXAMINATION
17 BY MS. HERRING-LASH:
18 Q. And where do you work Officer Demalo?
19 A. City of North Charleston Police Department.
20 Q. And how long have you been there?
21 A. Three years.
22 Q. And what were your duties back in 2013?
23 A. I'm always assigned to patrol.
24 Q. What does that mean?
25 A. Patrol their duties are to answer calls for service,

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1 patrol the neighborhoods and deter crime.
2 Q. And did you get assigned this case?
3 A. Yes, ma'am.
4 Q. And when was that?
5 A. It was November 11th, 2013.
6 Q. And at that time on November the 11th of 2013 how
7 long had you been a patrol officer out on your own?
8 A. In 2013 I had actually just gotten out of FTO
9 training so I was just released from training.
10 Q. What is FTO training?
11 A. When you graduate from the Academy the Department
12 assigns you to a training officer and you go with them
13 and they basically teach you how to be a police officer.
14 Q. Okay. And you said it was November the 11th, 2013.
15 What time of day did the call come in?
16 A. It was 18:52 so that's about 6:52 almost 7 o'clock
17 p.m.
18 Q. And what was the nature of that call?
19 A. I believe the dispatch call was in reference to --
20 it was an incident that occurred at the school so it was
21 a mother just calling about something that took place at
22 school.
23 Q. And where did you go?
24 A. The address was which is located
25 in North Charleston.

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- 1 Q. And when you got there did you talk with the people
2 there?
- 3 A. Yes, I did.
- 4 Q. Who did you talk with?
- 5 A. I spoke to the mother and the grandmother.
- 6 Q. And when you got there did you find out that it
7 wasn't about a school incident?
- 8 A. It was but there was something more.
- 9 Q. And did you get an overview from the mother?
- 10 A. Yes, ma'am.
- 11 Q. Did you also speak with a child?
- 12 A. I did.
- 13 Q. Who was that child?
- 14 A. Child .
- 15 Q. And where did you talk with her?
- 16 A. We spoke in the living room.
- 17 Q. Where were the other members of the family when you
18 talked with her?
- 19 A. They were present. They were in the kitchen but you
20 know how some living rooms and kitchens like you can see
21 it so it was like that.
- 22 Q. And did she tell you about being sexually assaulted?
- 23 A. The mother -- the grandmother did.
- 24 Q. What about the child ---
- 25 MR. COCHRAN: --- objection. Hearsay.

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- 1 Q. [Ms. Herring-Lash] I'm sorry; just did the child
2 tell you?
- 3 A. She somewhat did, yes.
- 4 Q. Do you need to look at your report?
- 5 [Whereupon, the witness reviews document]
- 6 A. So yes, according to the report she did tell me some
7 things --
- 8 Q. Do you remember this independently or do you have to
9 go by your report?
- 10 A. Independently no, I do not. I would have to go by
11 the report.
- 12 Q. And did she tell you when the assault had occurred?
- 13 A. As far as an exact date and time she did not. She
14 just said it was at night.
- 15 Q. And did she tell you where?
- 16 A. Yes.
- 17 Q. Where?
- 18 A. In the bedroom.
- 19 Q. And what was her demeanor like during this
20 conversation?
- 21 A. She was shy like very soft-spoken. Talking to her
22 she was almost like whispering like she really didn't
23 really want to say it.
- 24 Q. And did you attempt to get a lot -- to do a detailed
25 interview or did you leave that for a follow-up?

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1 A. I do that for a follow-up.

2 Q. What did you do after talking with her?

3 A. I spoke to the parents who lived there and then I
4 called my supervisor.

5 Q. And did you have any other involvement in the case?

6 A. I did not.

7 MS. HERRING-LASH: Beg the court's indulgence.

8 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

9 Q. [Ms. Herring-Lash] Did you find out where these
10 assaults occurred as far as the address from someone?

11 A. Yes, ma'am.

12 Q. And what was the address?

13 A. Reed Street, ; that's also in North
14 Charleston.

15 Q. Is it in Charleston County?

16 A. It is.

17 Q. Thank you.

18 MR. COCHRAN: May it please the court?

19 THE COURT: Yes, sir.
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State v Stanley Miller
Jessie Demalo-Cross-Examination by Mr. Cochran
May 17, 2016

1 CROSS-EXAMINATION

2 BY MR. COCHRAN:

3 Q. Officer, did you respond by yourself or with another

4 officer?

5 A. I was alone.

6 Q. And so you spoke directly with Child ?

7 A. Yes, sir.

8 Q. And you were in uniform with a patrol car and all

9 that kind of stuff?

10 A. Yes, sir.

11 Q. And you spoke with her mother as well, right?

12 A. I did.

13 Q. And I guess you said you spoke with her grandmother

14 too?

15 A. Yes, sir.

16 Q. Okay. Now when you spoke with Child you asked her

17 some relatively specific questions about this right?

18 A. I did.

19 Q. Okay. And you specifically asked her about -- you

20 used the word penetration in your report. Would you have

21 used that word with her?

22 A. No.

23 Q. Okay. But you asked a question in order to get the

24 idea of whether or not she was claiming there was

25 penetration correct?

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- 1 A. Correct.
- 2 Q. And she did deny it, denied penetration?
- 3 A. Correct.
- 4 Q. But you would have asked that question in a way that
- 5 she would have understood what you were talking about?
- 6 A. Yes, sir.
- 7 Q. Okay. And you did say that this was at first
- 8 referenced to you as a call about an incident at school
- 9 about something that happened at school?
- 10 A. Yes, sir.
- 11 Q. Okay. And when you spoke with Ms. Smalls, Child 's
- 12 mother, she was basically passing along information that
- 13 she had learned correct?
- 14 A. Yes, sir.
- 15 Q. Okay. And wasn't telling you about anything she
- 16 had personally seen or heard?
- 17 A. Correct.
- 18 Q. Okay. And she actually called you the next day
- 19 correct?
- 20 A. Yes, sir.
- 21 Q. Okay. And she called you expressing concern about
- 22 whether or not her daughter was telling the truth?
- 23 A. Yes, sir.
- 24 Q. Okay. And she had done a little bit of follow up
- 25 work of her own correct?

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1 A. Yes, sir.

2 Q. And she indicated to you that she had contacted
3 another kid's mother who was talking about Child 's
4 dancing inappropriately is that correct? Do you have any
5 recollection of that?

6 A. As far as the dancing this is what the teacher told
7 her.

8 Q. A teacher? Okay. And so it's your recollection
9 that a teacher told Child 's mother about Child doing some
10 kind of inappropriate dance?

11 A. Yes, sir.

12 Q. Okay. And Ms. Smalls called you specifically to
13 pass along this additional information correct?

14 A. Yes, sir.

15 Q. And the reason for that is because the day before
16 she was under the impression and she had passed along to
17 you that her daughter told her that daddy taught her that
18 dance correct ---

19 MS. HERRING-LASH: --- Your Honor, I would object
20 to the speculation of this witness knowing why another
21 witness called her.

22 THE COURT: If she can answer she can then.

23 Q. [Mr. Cochran] Is that correct?

24 A. Do you mind repeating it?

25 Q. I'm sorry. So on the first day, the initial day of

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1 the call Ms. Smalls talked to you about how this story
2 came about from Child right?
3 A. Yes.
4 Q. In terms of whatever behavior she had at school
5 right?
6 A. Yes.
7 Q. Okay. And she talked to you about questioning her
8 daughter right?
9 A. Correct.
10 Q. Okay. And she talked to you about asking her
11 daughter where did you learn this kind of thing from
12 right?
13 A. Yes.
14 Q. And her daughter replied to her it was your
15 understanding well daddy does this to me or daddy taught
16 me this correct?
17 A. That's correct.
18 Q. And then so the next day the context of that call
19 talking about this dance and learning it from a music
20 video or from another kid was in the context of
21 explaining that what she told you the day before may not
22 have been completely accurate correct?
23 A. [No response]
24 Q. I mean it was different right? It was new
25 information?

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1 A. Are you -- can you like elaborate on that? Are you
2 saying the victim or the mother?

3 Q. Well, the information that the mother was gathering
4 from other people and calling you the day after the
5 initial call she was calling to give you additional or
6 different information correct?

7 A. Yes, sir.

8 Q. And she did expressly indicate to you that she was
9 concerned now about whether or not these accusations were
10 true?

11 A. That's correct.

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

13 [Whereupon, Mr. Cochran and Ms. Ehrlich confer]

14 MR. COCHRAN: No more questions, Your Honor. Thank
15 you.

16 THE COURT: Okay. Anything further?

17 MS. HERRING-LASH: Yes, Your Honor. I'm not
18 finished.

19 THE COURT: Thank you.
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State v Stanley Miller
Jessie Demalo-Redirect Examination by Ms. Herring-Lash
May 17, 2016

1 REDIRECT EXAMINATION

2 BY MS. HERRING-LASH:

3 Q. When you went out to the home the first time you are
4 thinking that it was something that happened at school?

5 A. Yes, ma'am.

6 Q. And what makes you think that?

7 A. Due to the dispatch call, the information that
8 dispatch gave me.

9 Q. And what was that?

10 A. A mother calling about an incident that took place
11 at school that she was concerned about.

12 Q. And where do you see that?

13 [Whereupon, the witness reviews document]

14 A. Okay so based on the report I was dispatched in
15 reference to a sexual assault.

16 Q. And not a school incident?

17 A. But when I arrived on scene and spoke to the mother
18 that's when she said it happened at school.

19 Q. Just tell me where you see anything about happening
20 at school in that report?

21 [Whereupon, the witness reviews document]

22 A. If you look upon arriving on scene I met with the
23 complainant Andrea Smalls who stated that when she was
24 picking up her daughter, the victim, from school another
25 parent approached her to inform her that her daughter and

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1 another young man were behind the building pretending to
2 have sex.

3 Q. And you assumed that meant at school?

4 A. Yes.

5 Q. And do you know when she called you the next day if
6 she had talked with anybody additionally?

7 A. According to the report it doesn't look that way.

8 Q. And she wanted you to have this information. And
9 what else was that call about?

10 A. The secondary call?

11 Q. Uh Huh?

12 A. The mother she spoke to me -- she was telling me
13 according to the report that she spoke with her daughter
14 asking her if she was completely honest about everything
15 ---

16 MR. COCHRAN: --- objection to I mean reading ---

17 Q. [Ms. Herring-Lash] --- don't read your report.

18 A. Oh, I'm sorry.

19 Q. But Mr. Cochran asked you if she was calling to say
20 that she had found out something that made her think this
21 was not true. Is that reflected in your report?

22 A. Correct.

23 Q. Is it?

24 A. Yes.

25 Q. What about that report is telling you the mother

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May 17, 2016

1 said this was not true. Read it and see where in there
2 what makes you think that.
3 A. So read that?
4 Q. To yourself; I'm sorry.
5 A. Okay.
6 [Whereupon, the witness reviews document]
7 Q. Have you read it?
8 A. Yes, ma'am.
9 Q. So she is giving you two different ---
10 MR. COCHRAN: --- objection to leading. Leading.
11 Q. [Ms. Herring-Lash] Is there anything in that report
12 where the mother says to you she does not believe her
13 daughter?
14 MR. COCHRAN: Objection, leading.
15 THE COURT: You can go ahead and answer it.
16 A. Yes.
17 Q. [Ms. Herring-Lash] And what is that? Not saying the
18 words but what in that report makes you think that?
19 A. What she said, what the mother said.
20 Q. And you think it says I do not believe my daughter?
21 A. Yes. I do not believe she is telling the truth.
22 Q. Okay. And it says that in that report ---
23 MR. COCHRAN: --- objection, asked and answered.
24 THE COURT: Overruled. You can ask it.
25 Q. [Ms. Herring-Lash] You want to read your report

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May 17, 2016

1 again?

2 [Whereupon, the witness reviews document]

3 Q. Does she tell you that?

4 A. She does.

5 Q. That's all the questions I have.

6 THE COURT: Anything further?

7 MR. COCHRAN: No questions, Your Honor. Thank you.

8 THE COURT: Okay. You can step down.

9 [Whereupon, the witness is excused and exits the
10 witness stand]

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State v Stanley Miller
Carrie Busch-Direct Examination by Ms. Elliott
May 17, 2016

1 MS. ELLIOTT: Thank you, Your Honor. The State calls
2 Doctor Carrie Busch.

3 [Whereupon, Doctor Busch comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Please state your full name and
7 spell your last name for the record.

8 THE WITNESS: My name is Doctor Carrie Busch and
9 it's B-U-S-C-H.

10 - - - - -

11 CARRIE BUSCH,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. ELLIOTT:

16 Q. Good morning Doctor Busch. Where are you currently
17 employed?

18 A. At the Medical University of South Carolina.

19 Q. And what is your position at MUSC?

20 A. I'm an assistant professor in pediatrics.

21 Q. And are you in any specific division there at MUSC?

22 A. I work for both the pediatric emergency medicine
23 division and the child abuse pediatrics division.

24 Q. And can you talk to us a little bit about your
25 educational background?

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1 A. Sure. So I completed four years of undergraduate
2 education at Texas Lutheran University. There I did a
3 double major in molecular biology and chemistry. I then
4 did four years of medical school at Texas A & M.

5 After that I went to the Medical University of South
6 Carolina for a three year pediatrics residency. After
7 that I did a four year fellowship, it was a combined
8 fellowship in pediatric emergency medicine and child
9 abuse pediatrics. And during that fellowship I also
10 completed a Masters in clinical research.

11 Q. And do you have any professional certifications?

12 A. I am board certified in general pediatrics, in child
13 abuse pediatrics, I am board eligible for pediatric
14 emergency medicine and I'm sitting for those boards in
15 the spring.

16 Q. And how long have you been a practicing doctor?

17 A. Eight years.

18 Q. And in the course of your child abuse fellowship
19 were you trained on how to do pediatric sexual assault
20 exams?

21 A. I was.

22 Q. And how many would you say you've done in your
23 career?

24 A. Conservatively specifically for sexual assault close
25 to 200. I supervised at least double that.

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1 Q. Have you ever been qualified as an expert in court
2 before?

3 A. I have.

4 Q. In which courts?

5 A. In Charleston County and Dorchester County.

6 Q. And have you ever failed to be qualified as an
7 expert?

8 A. I have not.

9 MS. ELLIOTT: Your Honor, at this time I would move
10 to qualify Doctor Busch as an expert in pediatrics and
11 child sexual abuse examinations.

12 MR. COCHRAN: No objection, Your Honor.

13 THE COURT: Ladies and gentlemen in this case
14 Doctor Busch is being qualified as an expert in the area
15 of pediatric medicine as well as sexual assault
16 examinations. Ladies and gentlemen that allows her to
17 give her opinion and the reasons for her opinion. You
18 can use that as you see compared to other evidence in the
19 case and it's just to assist you in your determination of
20 the facts.

21 Q. [Ms. Elliott] Doctor Busch, can you explain for us a
22 little bit the different types of sexual assault exams a
23 child might have?

24 A. Sure. So the big difference for us is timing. So
25 it's an acute so within 72 hour exam needed or a non-

1 acute or in clinic exam. That is based on timing from
2 the incident of concern.

3 Q. What is different between those types of exams
4 between an acute and a non-acute?

5 A. So within 72 hours in that timeframe we are having
6 conversations about is it necessary to collect forensic
7 evidence like DNA, clothing and things like that.

8 Outside of the 72 hours we no longer expect those
9 things to be present so that exam can then be done in a
10 clinic setting versus like an emergency room setting.

11 Q. So would an acute exam be what perhaps most people
12 are familiar with when like a sexual assault kit is
13 collected?

14 A. Yes.

15 Q. And so if you're seeing a child after that 72 hour
16 window you're not going to collect one of those?

17 A. Correct.

18 Q. What is your usual process when a child is brought
19 to you for a non-acute assessment?

20 A. So it depends on the kind of visit that is
21 scheduled. We do both medical only visits, which is
22 where the child is just scheduled with a medical provider
23 like myself and we also do visits that are conjunction
24 with forensic interviews where the child is scheduled to
25 have both the interview and the medical exam at the same

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1 time. So if they are just scheduled for a medical exam
2 then I speak with the caregiver who is present and gather
3 history on the concern and the background medical
4 history, any current concerns about the health and well-
5 being of the child.

6 They do an exam on that child and follow up with the
7 caregiver afterwards to make sure that they are aware of
8 any concerns that I have.

9 If the visit is done in conjunction or at the same
10 time as the interview, then I typically take my history
11 at the same time as the interviewer so families don't
12 have to repeat themselves. And then after that history
13 taking the child has their interview performed, I do my
14 medical exam, and we follow-up with the family.

15 Q. Let me make sure that I understand this. So when
16 you are doing a strictly medical where there is not an
17 interview going on you're getting a history from who?

18 A. From the caregiver present; so whoever brought the
19 child.

20 Q. Would you ever get a history from a child in those
21 situations?

22 A. I do sometimes. If the child has already had an
23 interview or is having one on the same day I do not
24 typically repeat questions I know the child has already
25 been asked that day. If it is a medical only exam then

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1 sometimes I will ask questions of the child myself.

2 Q. And so if there is one of those days when there is
3 an interview on the same day as the medical you're
4 typically not going to get a history from the child?

5 A. Correct. I typically do not then re-question the
6 child.

7 Q. Did you see Child ?

8 A. I did.

9 Q. When and where did you see her?

10 A. I believe it was November of 2013 and it was at the
11 Dee Norton Lowcountry Children's Center.

12 Q. Do you know the specific date that you saw here?

13 A. I believe it was the 27th.

14 Q. And what type of exam did you perform on her that
15 day?

16 A. She had a non-acute exam so an in clinic exam and
17 that was done in conjunction with a forensic interview.

18 Q. And would you have collected a sexual assault kit at
19 that time?

20 A. I would not.

21 Q. And so as you explained to us because she was having
22 the interview that day did you take a history from Child
23 herself?

24 A. Not from the child herself, no.

25 Q. And who did you get the history from in this case?

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1 A. The child's mother.

2 Q. Can you talk to us a little bit about what the exam
3 would entail?

4 A. Sure. So children are referred to me for a variety
5 of reasons; for any concern for abuse or neglect.

6 Regardless of the referral reason I do the same exam on
7 every child every time.

8 So to the child it seems very similar to the kind of
9 exam they get at their regular doctor, their
10 pediatrician. I listen to heart, lungs, look in eyes,
11 ears; all of that. The main difference in my exam and
12 this is the way I describe it to children, I look at more
13 skin than the average doctor.

14 So I do have them get in a gown and look at all of
15 their skin from top to bottom and that includes the skin
16 in the genital area to make sure that their body is
17 healthy. And that's how I explain it to children.

18 Q. And is that the kind of exam that you performed on
19 Child in November of 2013?

20 A. It was.

21 Q. Were there any pertinent findings on your general
22 exam of her body?

23 A. She had a few little cut scrapes that were fairly
24 typical for a child her age but nothing of concern.

25 Q. Were there any pertinent findings when you did the

1 anal and genital exam?

2 A. Her exam there was unremarkable as well. It was
3 pretty normal for her age. There was a little bit of
4 redness or erythema is the doctor word for that. That is
5 also pretty typical for this age.

6 Q. Now does that mean there wasn't any sexual abuse or
7 no penetration?

8 A. It does not.

9 Q. Why not?

10 A. So that particular area of the body tends to be very
11 stretchy. So the area -- so both the vaginal area where
12 the hymen is and the rectal area those particular tissues
13 can expand, they stretch and then they can come down back
14 to their original size without any evidence of damage
15 with that stretching.

16 There is also that tissue is very thin and it is
17 mucosal so like the skin on the inside of your mouth or
18 in your cheek. So what that means it heals very quickly.

19 So there is always the potential for an injury at
20 the time that something occurred that has healed without
21 any evidence of healing, without any scarring by the time
22 I've done my exam. So a normal exam is actually the most
23 common exam finding in a setting where abuse has
24 occurred.

25 Q. So if I understand you it seems that you're saying

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1 that even when there is penetration there is not
2 necessarily any signs of that in the body?

3 A. That's correct.

4 Q. That seems a little difficult and outside the
5 experience. Could you come up with perhaps some examples
6 of why that would make sense? I think most people think
7 of the hymen and the fact that that would break.

8 A. So it's a fairly common misconception that the hymen
9 itself is a flat piece of tissue. Normal hymens are
10 actually shaped more like a donut. They have a hole
11 naturally. And every hole looks a little different kind
12 of like a fingerprint.

13 So that tissue itself is thin, it's stretchy, and it
14 can stretch with some sort of penetration without
15 reaching the point of damage, without reaching the point
16 of breakage. Sometimes what we see is some swelling and
17 redness immediately after that has been completely
18 resolved a few days or even a few hours later.

19 Again, like I mentioned before with that stretching
20 if it does stretch to the point of breakage because of
21 the kind of tissues those are they heal exceptionally
22 well and exceptionally quickly and usually without any
23 evidence of trauma; so without scarring. That's really
24 good for children. It means I can tell kids that nobody
25 needs to know what happened to their body unless they

1 choose to tell them because their body looks healthy.

2 Q. What about anal penetration? Wouldn't there be
3 clear evidence if someone had penetrated the anus?

4 A. The same explanation is present for anally as well.
5 So the analogy there is that particular part of the body
6 is made to kind of expand and contract to allow the
7 passage of stool.

8 So there is a sphincter so a muscle in the shape of
9 a circle that allows us to either stool or not stool
10 based on the need at the time. When pressure is applied
11 to that sphincter so if your body needs to stool that
12 pressure is from the inside it triggers that sphincter to
13 dilate so to open up.

14 So that opening goes from very small and closed to
15 large to allow the passage of stool. Afterwards the
16 sphincter goes back down to its regular size with no
17 evidence of the size that it was during the passage of
18 that stool.

19 So sometimes you may have a particularly large or
20 painful bowel movement where there is some tearing, some
21 fissuring of those tissues because of the stretch that
22 may even bleed.

23 But again because of the nature of those tissues
24 that injury typically heals very quickly; sometimes
25 within hours definitely within days and does not usually

1 result in scarring. So even to a physician's eye there
2 is not evidence of that initial injury.

3 Q. In your experience are pre-pubescent children able
4 to discern the difference between in and on?

5 A. I think it's a hard distinction for children. The
6 anatomy in particular is structured kind of like a cave.
7 So there are outer layers of skin to protect the more
8 sensitive inner areas of skin.

9 So there are different layers of penetration and
10 each one of those I think to ask a child to delineate
11 between being up to the cave and into the cave is asking
12 a lot of children.

13 But anatomy is fairly complex and we know that even
14 physicians who should know that anatomy a good portion of
15 them are not able to appropriately label that anatomy.
16 So that tells me if I can't ask a physician to get those
17 parts of the body right it's asking a lot of a child.

18 Q. Is pain a good indication for medical purposes of
19 whether penetration occurs or not?

20 A. It is actually one of the things that we use to
21 delineate risk. And the risk for me for penetration or
22 not is important because it helps me determine what kind
23 of testing I need to do because that testing is based on
24 risk. So if a child reports pain with a certain incident
25 that elevates my level of concern for penetration and I

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1 am therefore going to do more testing that I typically
2 would because I'm concerned that there are risks for
3 transmission of sexually transmitted infections is
4 higher.

5 Q. Did you do any of those specialized tests for Child

6 A. I did.

7 MS. ELLIOTT: Beg the court's indulgence.

8 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

9 Q. [Ms. Elliott] So just to be clear a normal exam is
10 normal in a child abuse -- in a situation of child abuse?

11 A. Yes, ma'am.

12 Q. And it does not rule out child abuse?

13 A. Yes, ma'am.

14 MS. ELLIOTT: Nothing further at this time, Your
15 Honor.

16 MR. COCHRAN: May it please the court?

17 THE COURT: Yes, sir.

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State v Stanley Miller
Carrie Busch-Cross-Examination by Mr. Cochran
May 17, 2016

1 CROSS-EXAMINATION

2 BY MR. COCHRAN:

3 Q. You said that the specialized risk assessment tests
4 were done in this case?

5 A. They were.

6 Q. But there was a denial of pain in this case right?

7 A. So pain is not the only thing I use in making that
8 decision.

9 Q. Okay. But it's an important aspect of that
10 decision?

11 A. It is an important aspect but it's just one element.

12 Q. Okay. And in this case there was no disclosure of
13 pain correct?

14 A. I did not know of one at the time of my assessment.

15 Q. And there was a denial of pain at that time correct?

16 A. That is what I recall in my report.

17 Q. Okay. And there were no injuries present in this
18 exam correct?

19 A. Her exam was unremarkable that is correct.

20 Q. Okay. And you said that a normal sexual assault or
21 I'm sorry a normal finding or a finding of no injury can
22 still be consistent with sexual abuse correct?

23 A. Correct.

24 Q. Okay. But there is no such thing as a sexual
25 assault exam that can rule out sexual abuse correct?

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- 1 A. That's correct.
- 2 Q. You interviewed -- you said that you went by the
3 history narrative of Child by the interview that she had
4 at Lowcountry Children's Center correct?
- 5 A. I got some history from her mother and then I
6 discussed the interview with the interviewer so I did not
7 interview the child myself.
- 8 Q. Okay. So you did interview Andrea Smalls, Child 's
9 mother, as well though?
- 10 A. Yes.
- 11 Q. Okay. And she was one party that indicated to you
12 that there was a denial of pain correct?
- 13 A. I believe so.
- 14 Q. And she also gave you some other context to these
15 accusations correct?
- 16 A. Correct.
- 17 Q. She talked about her efforts to verify whether these
18 accusations were true correct?
- 19 A. I would have to refer to my notes to recall the
20 specifics of that conversation ---
- 21 Q. --- would it help you if I...
- 22 A. It would.
- 23 Q. And I apologize; there are portions of that that are
24 marked up.
- 25 [Whereupon, the witness is shown document]

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1 Q. So Ms. Smalls did indicate to you that she for
2 instance checked the bed sheets that Child sleeps on
3 correct?

4 A. She did.

5 Q. Because she was indicating that sexual abuse may
6 have taken place on Child 's own bed correct?

7 A. Correct.

8 Q. And she even noted to you that she smelled the
9 sheets to check for evidence correct?

10 A. Correct.

11 Q. She also brought up to you in the context of this
12 accusation she brought up Child having been dancing
13 inappropriately at school correct?

14 A. Correct. And I believe that's how the concern came
15 to light.

16 Q. Okay. And she brought up specifically the name of
17 a song and music video correct?

18 A. I believe so.

19 Q. Okay. It's called Shake it Like a Red Nose and you
20 noted that in your report correct?

21 A. That's what I noted in my report, yes.

22 Q. Okay. And let's be clear. You guys are not just
23 talking about life in general. She was clear that you
24 were talking about the context of these accusations
25 correct?

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- 1 A. Correct.
- 2 Q. And she was giving you pertinent information
- 3 correct?
- 4 A. We asked a number of questions. These were her
- 5 responses to our questions.
- 6 Q. It's a comprehensive exam?
- 7 A. It's comprehensive, yes.
- 8 Q. She also discussed with you Child 's biological
- 9 father correct?
- 10 A. Correct.
- 11 Q. And she had noted to you a potential change in
- 12 Child 's behavior after her biological father failed to
- 13 come to Child 's birthday party correct?
- 14 A. Correct.
- 15 Q. She also expressed some reservations or concerns
- 16 about the truth of these accusations correct?
- 17 A. She reported having some doubts but that she wanted
- 18 to believe the child because she was her mom.
- 19 Q. And she said she wanted to believe her and she said
- 20 to you that she felt like she had to believe her as a
- 21 mother correct?
- 22 A. The quotation I documented is me as a mother I have
- 23 to believe her.
- 24 Q. Me as a mother I have to believe her. Thank you.
- 25 MR. COCHRAN: No more questions, Your Honor.

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1 THE COURT: Anything further?
2 MS. ELLIOTT: Beg the court's indulgence.
3 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]
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State v Stanley Miller
Carrie Busch-Redirect Examination by Ms. Elliott
May 17, 2016

1 REDIRECT EXAMINATION

2 BY MS. ELLIOTT:

3 Q. Doctor Busch, did you ask Child whether or not there

4 was pain?

5 A. I did not ask her myself, no.

6 Q. So you were relying on the reports of other people?

7 A. Correct.

8 MS. ELLIOTT: Nothing further, Your Honor.

9 THE COURT: Anything further?

10 MR. COCHRAN: No, Your Honor.

11 THE COURT: Any objection to Doctor Busch being

12 excused from anybody?

13 MR. COCHRAN: No, Your Honor.

14 THE COURT: You are excused. Thank you.

15 [Whereupon, the witness is excused and exits the

16 witness stand]

17 THE COURT: If the State will call the next

18 witness?

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State v Stanley Miller
Carole Swiecicski-Direct Examination by Ms. Elliott
May 17, 2016

1 MS. ELLIOTT: The State calls Carole Swiecicski.
2 [Whereupon, Ms. Swiecicski comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: Please state your full name and
6 spell your last name for the record.

7 THE WITNESS: My name is Carole Swiecicski. The
8 first name is C-A-R-O-L-E and the last name is
9 S-W-I-E-C-I-C-K-I.

10

- - - - -

11

CAROLE SWIECICKSKI,

12

Having been first duly sworn,

13

Was examined and testified as follows:

14

DIRECT EXAMINATION

15

BY MS. ELLIOTT:

16

Q. Good morning, Doctor Swiecicski. Would you mind
17 telling us a little bit about where you work?

18

A. I am the Executive Director at the Dee Norton
19 Lowcountry Children's Center, which is a children's
20 advocacy center an actual model for responding when there
21 is a concern for child abuse or neglect.

22

Q. And what are your duties there?

23

A. As the Executive Director I have overall oversight
24 for the program. We have several departments. Our main
25 service is providing direct services to children and

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1 families when there is a concern for abuse. We have a
2 clinical director that supervises those services. We
3 also do outreach and education for parents and teachers,
4 and my role is really providing overall oversight for the
5 department.

6 Q. And how long have you been at Dee Norton Lowcountry
7 Children's Center?

8 A. I've been the Executive Director for two and half
9 years.

10 Q. Can you tell us a little bit about your educational
11 background?

12 A. I have my Ph.D., my doctorate, in clinical
13 psychology. I'm a licensed psychologist. I received my
14 Bachelor's in psychology from the University of Florida.
15 I went on to graduate school at St. Louis University in
16 Missouri and received my Master's in psychology and then
17 my Ph.D. in clinical psychology.

18 Q. And what about a little bit about your professional
19 background; the areas that you have worked in?

20 A. So after graduate school part of the graduate
21 program is doing a clinical internship; I did that at
22 MUSC in 2005 and then did a postdoctoral fellowship,
23 which is a training year specializing in child abuse and
24 neglect. I did that at St. John's University in Queens,
25 New York.

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1 Q. Do you have any other specialized training in the
2 area of child sexual abuse?

3 A. Yes. I am a national trainer in one of the evidence
4 based treatments for children who have experienced
5 traumatic events. The treatment is called trauma focused
6 cognitive behavioral therapy; I am a national trainer in
7 that.

8 And I also am becoming a national trainer in a
9 treatment called Alternatives for Families of cognitive
10 behavioral therapy which is a treatment for children who
11 have specifically experienced physical abuse. And it
12 works with the whole family including potentially parents
13 who have used physical abuse or harsh parenting.

14 Q. Do you have any professional affiliations related to
15 child abuse or child sexual abuse?

16 A. I'm a member of the Association of Behavioral and
17 Cognitive Therapies and also the Association of
18 Professionals on the Abuse of Children APSAC [phonetic],
19 which is a national network of professionals who work
20 with children who have experienced abuse or neglect.

21 I'm also on the Board of Director of the National
22 Children's Alliance, which is the national organization
23 that accredits centers like the one where I work, and on
24 the State network of advocacy centers here in South
25 Carolina.

1 Q. So can you give us roughly how long you have worked
2 in this area?

3 A. I've specialized in working with children who have
4 experienced abuse or neglect for ten years.

5 Q. And have you ever testified as an expert in the area
6 of child sexual abuse?

7 A. Yes.

8 Q. In what courts and how many times?

9 A. I've testified previously before coming here to
10 South Carolina I worked as the mental health director at
11 a similar program in Norfolk, Virginia.

12 So I testified in the Norfolk, Virginia criminal
13 court and Virginia Beach criminal court, in the military
14 Navy court marshal and I've also testified here in
15 Charleston as an expert.

16 MS. ELLIOTT: Your Honor, at this time we would
17 offer Doctor Carole Swiecicki as an expert in child
18 abuse dynamics.

19 MR. COCHRAN: No objection, Your Honor.

20 THE COURT: Ladies and gentlemen that will allow
21 Doctor Swiecicki to give her opinion and the reasons for
22 her opinion. Again, that's for you see as
23 appropriateness compared to other evidence in the case.

24 Q. [Ms. Elliott] Doctor Swiecicki have you met any of
25 the children or family members involved in this case?

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1 A. Not to my knowledge.

2 Q. Have you discussed this case with any of your
3 professional staff that have testified today or that are
4 expected to testify?

5 A. No.

6 Q. Have you reviewed the file or any of the materials
7 in this case?

8 A. No.

9 Q. In your field is there a term called disclosure?

10 A. There is a term called disclosure.

11 Q. What does that refer to?

12 A. Disclosure typically means the time when a child
13 made a statement about abuse or neglect things that have
14 happened in their past.

15 Q. And is there a term known as delayed disclosure?

16 A. Yes.

17 Q. Can you tell us a little bit about that?

18 A. So delayed disclosure is considered the time, the
19 delay between the time that the abuse experience happened
20 and when a child actually makes a statement about that
21 happening.

22 Delayed disclosure is considered anytime more than a
23 month from when the abuse happened to when the child
24 talked about it happening.

25 Q. Is the phenomenon of delayed disclosure something

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1 commonly seen in your profession?

2 A. It's very commonly seen. More than half of children
3 actually wait more than a month before they make a
4 statement about some sort of abuse that they report
5 happening and when they tell about it.

6 More recent studies are showing that children are
7 actually reporting things more quickly. About 43 percent
8 of adolescents report their experience within a month so
9 then it's still over half of them that delay.

10 And research is pretty consistent that about a
11 fourth of children don't report abuse until they are
12 actually adults.

13 Q. You mentioned adolescents. Are there any
14 specialized studies for children who are pre-adolescent
15 and their disclosure rates?

16 A. No. Most of the studies really have to do -- most
17 of the studies have been done with people who have become
18 adults asking about their experiences as children. More
19 recently they have been doing work with adolescents but
20 haven't done anything so far with younger children.

21 Q. What are some reasons that children don't tell right
22 away?

23 A. So there have been some studies with children asking
24 them what made them tell or finding out reasons why they
25 delayed. One of the things that is consistent is if they

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1 have a non-supportive caregiver they are less likely to
2 talk about what happened. Fear of negative things that
3 might happen from the alleged offender so sometimes that
4 is real fears because the offender has threatened that
5 they might hurt the child or that it may have a negative
6 impact on the family.

7 Sometimes that is a real fear also because if the
8 offender lives with the child and family and then is
9 removed from the home there are financial consequences
10 and children are very aware of those things and sometimes
11 have fears about that and they report that in studies.
12 Younger children are less likely to disclose.

13 Q. What about a child's relationship with the offender?
14 Does that impact how quickly they tell?

15 A. Yes. So children who are closer to the offender so
16 they may live in the home or they are a parent or a
17 caregiver they are less likely to disclose abuse.

18 Q. You mentioned that sometimes children have a real
19 fear because of a threat by an offender. That would
20 infer there would be times in which it is a non real
21 fear. Can you think of like an example of that?

22 A. So sometimes children -- everyone kind of has
23 thoughts that go through their head and children are no
24 different. Sometimes they predict things that might
25 happen based on maybe the offender has been violent

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1 towards somebody that they know. The offender maybe
2 hasn't threatened that they would be violent toward the
3 child if they told but children sometimes have fears that
4 that might happen even if the offender has not explicitly
5 said that that might happen. It's based on their
6 experience with the person.

7 Q. In your clinical practice have you seen delays in
8 reporting?

9 A. Yes.

10 Q. What are some things that spur a child on to
11 telling?

12 A. One of the things they say is they want the abuse to
13 stop. Sometimes it's because they are having emotional
14 symptoms about the abuse and they want those to go away
15 so they may be feeling ashamed or sad about what's
16 happening and it's not even as upsetting to them the
17 actual experiences as it is how they feel about it. So
18 they tell because they want their feelings to be
19 approved.

20 Some children have talked about telling because
21 they're afraid that someone they care about is going to
22 be abused; maybe a younger sibling and they don't want
23 that to happen so they tell about the abuse because of
24 that. And sometimes just in the literature its actually
25 on accident; somebody walks in or they make a statement

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1 that leads to extra questions and they wind up telling
2 not even intentionally but because they said they were
3 with the alleged offender and there was no real reason
4 for them to be with that person so an adult asks
5 questions about why they were with them and they tell
6 inadvertently.

7 Q. In your clinical experience do children usually
8 fight their perpetrators?

9 A. Not typically. We all a lot of time hear about the
10 fight or flight response when you are confronted with
11 danger so children are no different.

12 Our bodies when we are confronted with danger kind
13 of have this physical response and it's actually fight,
14 flight, or freeze is really commonly seen in crime
15 victims including child abuse victims.

16 So of those children may be likely to freeze or to
17 fight or to flee and more typically we see that children
18 are more likely to freeze or flee than actually fight
19 back.

20 Q. Are there different ways in which this freezing can
21 demonstrate itself?

22 A. I'm not sure I understand that.

23 Q. Let me ask the question this way. Is it usual for a
24 child victim or have you seen it in your experience that
25 a child victim will continue to be around someone who has

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1 perpetrated against them?

2 A. So frequently children know the person. Over 80
3 percent of the time the offender is somebody that they
4 know. So it's very common that they are continuing to
5 have contact with an alleged offender just because they
6 know them so it's somebody that is in their life that
7 they might be seeing.

8 Q. Would that be an example of freezing or is that not
9 at all an example of freezing?

10 A. It's not. So freezing is more so in the midst of
11 some sort of event happening like sexual abuse as an
12 example that the child maybe doesn't speak, doesn't move,
13 doesn't try to leave; they're just kind of frozen.

14 We see it similarly for combat veterans. Sometimes
15 when they are in the midst of an experience they freeze,
16 don't move; it's the same idea that it is very kind of
17 physical.

18 Q. Now I know that you explained to us what disclosure
19 is. Is disclosure a finite event or is it a process?

20 A. It's typically a process. And children a lot of
21 times I mentioned that when we call it disclosure it's
22 when a child makes a statement about actual events that
23 have happened. Children sometimes talk about in the
24 research on how children disclose children sometimes
25 think they made a disclosure by saying that they didn't

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1 want to go to the alleged offender's house or they didn't
2 want to go on an outing with that person, which is not
3 actually telling about anything happening but to the
4 child it is part of that process because they feel like
5 they have said something that might have given an
6 indication that something is going on with that person
7 that they're not okay. So it's definitely a process that
8 things typically come out in pieces.

9 Q. And is there any reason for that?

10 A. There have been studies about what that is about
11 particularly not a ton of studies but with teenagers that
12 they really think through and anticipate how grownups are
13 going to react.

14 A lot of times children are very fearful that their
15 parents are going to be upset. That's honestly then you
16 look at studies and children have been right.

17 Very appropriate parents would be upset if their
18 child tells them that something is going on like child
19 abuse. So children a lot of times love their parents and
20 don't want to upset them so that's one of the reasons for
21 it's a process.

22 They've also said that they are kind of trying to
23 test the waters so they'll tell a piece and see how the
24 grownup responds to that. Then if they think the grownup
25 in their words can kind of handle it they'll tell them a

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1 little bit more because part of the disclosure process is
2 them somewhat taking control back of the situation. So
3 they do it in ways that they feel that they are in
4 control.

5 Q. So how does an adult's reaction to a child's
6 disclosure impact how they are disclosing? Can you think
7 of some examples of that?

8 A. So an example would be a child who makes a statement
9 that so and so like their uncle, this is just as an
10 example; their uncle has been touching them on their
11 sexual parts.

12 If they say uncle so and so is touching my sexual
13 part and their parent just kind of explodes with anger or
14 starts asking a lot of questions or starts crying
15 hysterically children a lot of times don't want to feel
16 like they are making their parent cry so they feel like
17 okay this is not an okay thing for me to tell my parent
18 because it is going to make him or her really sad.

19 And so they will just scale back and say you know
20 what; now is not the time to talk about it or sometimes
21 they then decide to tell a teacher or somebody that they
22 think can handle it.

23 But that's a lot of times what we hear with children
24 who sort of delay is they are monitoring how much they
25 think the grownup can handle it and if they don't think

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1 they can handle it then they will keep it to themselves.

2 Q. In your clinical experience have you seen a child
3 try to protect their parent from hearing about the
4 disclosure?

5 A. Yes.

6 Q. Are there common behavioral reactions to sexual
7 abuse?

8 A. There is no one behavioral reaction that all
9 children who have been sexually abused experience. They
10 are at a higher risk for several behavioral outcomes;
11 acting out, running away, truancy and things like that,
12 sexualized behaviors.

13 So children who have been sexually abused are more
14 likely to trade sex for money or shelter later in life.
15 They are more likely to have risky sex they call it so
16 like unprotected sex or things like that as teenagers.
17 So they are at a higher risk for things like that; those
18 behaviors.

19 Q. So when you are talking about sexually acting out
20 does that always have to be sexually acting out or can it
21 be emulation of sexual activity?

22 A. You mean pretending to have sex?

23 Q. Yes?

24 A. There are no actual studies that have looked
25 specifically at that but they are more likely to have

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1 sexualized behaviors. So things like inserting objects
2 into their sexual parts, masturbation. I don't think the
3 items actually have anything about emulating sex but
4 sexual behaviors are more common.

5 Q. In there a typical emotional response when a child
6 is talking about their abuse?

7 A. Again there is no one reaction that all children
8 show when they are talking about sexual abuse. Children
9 who have been sexually abused are more likely to have a
10 host of emotional problems like sadness, depression, post
11 traumatic stress disorder is one of the more common
12 outcomes for children who have been sexually abused that
13 they are at higher risk for.

14 And that's kind of a cluster of symptoms where they
15 have intrusive thoughts about what happened, nightmares,
16 they try to avoid talking to people about it because of
17 hyper arousal you call it; it's kind of like feeling on
18 edge. So that's a cluster of symptoms that children who
19 have been abused are more likely to have.

20 Q. So in your clinical experience have most of the
21 children you have seen been crying or overly emotional
22 while they were discussing, sobbing?

23 A. It depends on where -- at what point I see them. So
24 my program sees children from the moment of concern so
25 really early on all the way through healing so we do

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1 treatment. Early on children are not as likely to be
2 showing a lot of those symptoms. They are kind of in
3 that process where they are a lot of times still figuring
4 out who safe people are that can quote unquote handle
5 hearing the details of what has happened.

6 At the point of treatment, treatment has several
7 phases and so crying and things like processing their
8 feelings about things is very common in the treatment
9 process later on.

10 MS. ELLIOTT: Beg the court's indulgence.

11 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

12 Q. [Ms. Elliott] I think you said this. But is fear of
13 a caregiver not believing a reason that a child might not
14 disclose?

15 A. Yes.

16 Q. And I know you talked about sexualized behavior.
17 Can the disclosure sometimes be prompted by being
18 questioned about sexualized behavior?

19 A. Yes.

20 Q. Is there a term in your area of study called flat
21 affect?

22 A. Yes.

23 Q. Can you describe that for us?

24 A. So affect is kind of the emotion that you show on
25 your face. So flat affect would be showing very little

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1 emotion on your face, kind of seeming numb or robotic.

2 MS. ELLIOTT: Your Honor, those are all the
3 questions that I have at this time.

4 THE COURT: Anything further?

5 MR. COCHRAN: Just briefly, Your Honor. May it
6 please the court?

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1 CROSS-EXAMINATION

2 BY MR. COCHRAN:

3 Q. So just to be clear you personally did not do any
4 interviews with Child regarding this case?

5 A. Correct.

6 Q. Okay. But she did get interviewed by someone with
7 your organization at the Lowcountry Children's Center?

8 A. I actually don't know.

9 Q. You don't know? Okay. When you were talking about
10 a disclosure coming out in pieces what you're talking
11 about is as opposed to an allegation being essentially
12 the same; detail by detail for a long extended period of
13 time from the very first disclosure over a period of
14 years?

15 A. Could you ask me question again?

16 Q. I'm sorry. That was a poorly worded question. So
17 you're talking about disclosures coming out in pieces
18 right?

19 A. Uh Huh.

20 Q. And that's where the story sort of evolves or
21 changes over time?

22 A. Not really. It can happen in different ways. So
23 children answer our questions ultimately so when we are
24 doing forensic interviews with children who might have
25 experienced abuse they answer the questions. So if abuse

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1 has happened more than one time or if we don't ask
2 questions to get at all the information that we want it
3 comes out in pieces. So there may be more information
4 that comes out later partially because of how we ask the
5 questions.

6 Q. Okay. So additional information prompted by
7 additional questioning is what you're talking about
8 coming out in pieces?

9 A. And sometimes prompted by the child's comfort level
10 of talking about those things.

11 Q. Okay. So and that would be as opposed to the child
12 bringing out every single detail of an accusation right
13 away and then sticking with that exact same story
14 throughout?

15 A. That happens but it's not as common as details
16 happening more in the process.

17 Q. And most of what we've been talking about when you
18 were talking with the Solicitor has been common versus
19 not common behavior right because there is no one way
20 that all victims act right?

21 A. It's based on literature in terms of risk factors
22 and what they are most at risk for.

23 Q. Okay. And there is no one way or common behavior
24 that could be determined by studies that false accusers
25 act correct?

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1 A. You mean children who are making statements that
2 aren't true?

3 Q. Yes.

4 A. There is not a lot of literature on that just
5 because it's such a small portion of abuse.

6 Q. And false accusations do occur correct?

7 A. Yes.

8 MR. COCHRAN: Beg the court's indulgence.

9 [Whereupon, Mr. Cochran and Ms. Ehrlich confer]

10 Q. [Mr. Cochran] So in terms of additional information
11 coming from an accuser the Lowcountry Children's Center
12 is a facility where a child could be interviewed by what
13 is referred to as a forensic interviewer correct?

14 A. Correct.

15 Q. And the Lowcountry Children's Center can do multiple
16 interviews with a child correct?

17 A. That's a possibility.

18 Q. So if new disclosures or new accusations come up
19 they could do follow up interviews correct?

20 A. The best practice would be for a follow-up interview
21 to be non-duplicative so it would be done by ideally the
22 same interviewer so the child is not asked the same exact
23 questions again but its follow up questions like you
24 said.

25 Q. But they could do a follow-up interview at the

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1 Lowcountry Children's Center?

2 A. Correct.

3 Q. Okay. And that would be so that the child is
4 questioned and makes disclosures -- the interviews are
5 videotaped for instance correct?

6 A. Yes.

7 Q. And they are done by trained interviewers correct
8 who are trained to do things like not use leading
9 questions correct?

10 A. Correct.

11 MR. COCHRAN: No more questions, Your Honor. Thank
12 you.

13 THE COURT: Anything further of this witness?

14 MS. ELLIOTT: Yes, Your Honor.

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State v Stanley Miller
Carole Swiecicki-Redirect Examination by Ms. Elliott
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1 REDIRECT EXAMINATION

2 BY MS. ELLIOTT:

3 Q. Doctor Swiecicki what are some safeguards that are
4 in place during this process to hopefully weed out false
5 allegations?

6 A. One of the things that interviewers do is called
7 source monitoring so it's asking the child kind of about
8 what is the source of their information. So if a child
9 has said that someone touched them on their sexual parts
10 they might ask how they know that.

11 A lot of times it's because they was there or they
12 had it happen to their body whereas if they were lying or
13 they were coached by a parent telling them to say that
14 they would say I know that because my mom told me.

15 So they might ask questions like that. Another
16 thing that they do to try and get at whether it's a
17 statement that is actually experienced by the child or
18 not is asking kind of about sensory details, so the
19 physical sensations that have happened.

20 A lot of times if a child has not experienced
21 something sexual they don't know, they don't have that
22 information. It's not developmentally appropriate for
23 them to know about sexual sensations. And that's
24 typically not something that when a child is making a
25 false statement they would know details like that.

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1 Q. You said that a child's comfort level impacts their
2 disclosure. Can you talk about that a little bit? Let
3 me ask you this question. Is rapport building an
4 important part of asking these questions ---

5 A. --- so you mean during a forensic interview?

6 Q. Yes, or during any interview of a child?

7 A. Yes. So -- and this is true of adults and children;
8 if you don't feel comfortable with a person you're not
9 necessarily likely to tell them something that is very
10 private or that perhaps you don't want to talk about just
11 because avoidance is one of those symptoms of post
12 traumatic stress disorder.

13 So the standardized interview protocols actually
14 have early components that are designed to help build
15 rapport or build a relationship between the interviewer
16 and the child and really it's just by asking the child
17 about things that they like to do; neutral things that
18 aren't related to any sort of concerns for abuse or
19 neglect. It helps them to be comfortable talking to the
20 interviewer.

21 Q. And you said that children respond to questions
22 asked. Does age impact that?

23 A. To some degree. Children who are -- so younger
24 children are not very able to answer questions like how
25 many times did something happen. Three and four year

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1 olds don't really have a good concept of how many times
2 something has happened. Teenagers are able to answer or
3 at least better able to answer questions like that. So
4 age matters in terms of how we ask children questions and
5 how able they are to answer things.

6 But really all children answer things the way that
7 adults ask them. They typically don't just tell things
8 beyond what we are asking them in interviews.

9 Q. So it's not typical for them to just volunteer a lot
10 of extraneous information?

11 A. Older children are more likely to do that than
12 younger children.

13 MS. ELLIOTT: Beg the court's indulgence.

14 [Whereupon, Ms. Elliott and Ms. Herring-Lash confer]

15 MS. ELLIOTT: Nothing further, Your Honor.

16 THE COURT: Anything further?

17 MR. COCHRAN: Just briefly, Your Honor.

18 THE COURT: Sure.
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1 RECROSS-EXAMINATION

2 BY MR. COCHRAN:

3 Q. So when -- you talked about a child potentially not
4 having experience with a sexual feeling right; not being
5 able to describe that.

6 So interviewers a lot of times will use terminology
7 that children recognize or understand in directing their
8 questions correct?

9 A. Interviewers typically use the labels that children
10 use.

11 Q. Okay. So for example to a child the opposite of
12 pain might be something like a tickle correct?

13 A. Very specific to each child so it...

14 Q. Okay. But we use descriptors like that when we're
15 questioning children in these settings because we can't
16 just directly ask them about sexual sensations and things
17 like that so we use terms that they understand like
18 tickle, pain; things like that.

19 A. We typically wouldn't actually use a word like that.
20 We would just ask an open ended question like how did
21 that feel.

22 Q. Okay. So you wouldn't usually use a question that
23 says do you receive tickles or did it feel like a tickle?

24 A. We might say do you receive tickles. We probably
25 wouldn't say did it feel like a tickle.

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1 Q. Okay.

2 MR. COCHRAN: Thank you, Your Honor.

3 THE COURT: Anything further?

4 MS. ELLIOTT: No, Your Honor.

5 THE COURT: Doctor Swiecicki you are excused.

6 Thank you.

7 [Whereupon, the witness is excused and exits the
8 witness stand]

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1 THE COURT: Ladies and gentlemen of the jury we are
2 going to take a brief recess and we're going to figure
3 out kind of where we're going from here. Again, I need
4 to remind you do not discuss this case. It would be
5 inappropriate to do so. We'll be right back with you
6 okay?

7 [Whereupon, the jury exits at 11:40 a.m.]

8 THE COURT: All right. Moving down the witness
9 list what do you have left?

10 MS. ELLIOTT: Your Honor, our last witness is going
11 to be Michelle Scott.

12 THE COURT: Okay.

13 MS. ELLIOTT: And we have that matter of law to
14 deal with before she takes the stand.

15 THE COURT: Okay. And again, this is the forensic
16 interviewer is that correct?

17 MS. ELLIOTT: That's correct, Your Honor.

18 THE COURT: Okay. And that is it is that correct?

19 MS. ELLIOTT: Yes, Your Honor.

20 THE COURT: And you may or may not have your client
21 is that correct?

22 MR. COCHRAN: Correct, Your Honor.

23 THE COURT: Okay. Well, it appears as of right
24 now we should be able to take -- let's take a five minute
25 break and let's come back and deal with the matter of law

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1 in Michelle Scott and it looks like we could probably get
2 her up and down before lunch. Also, we're moving a lot
3 quicker. What is everyone's thought process on
4 potentially arguing and charging? Does anybody have any
5 special charges or anything in particular that they are
6 requesting? Obviously, an expert witness charge and
7 everything is pretty standard in this case obviously.
8 We're going to charge CSC 1st and CSC 3rd. Anything
9 else?

10 MR. COCHRAN: The only thing I would just want to
11 point out that I'm sure you're aware of the new case law
12 on the corroboration charge and the new circumstantial
13 versus direct evidence.

14 THE COURT: Right. Anything other than that that
15 y'all can think of?

16 MR. COCHRAN: Nothing I can think of right now.

17 MS. ELLIOTT: And the State has no specific ones,
18 Your Honor.

19 THE COURT: Let's take five minutes and then we'll
20 come back and we'll talk about the video and we'll go
21 from there.

22 [Whereupon, court is in recess from 11:42 a.m. until
23 11:51 a.m.]

24 THE COURT: Thank you. Please be seated.

25

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Michelle Scott-In Camera-Direct Examination by Ms. Herring-Lash
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1 MS. HERRING-LASH: Your Honor, the State would call
2 Michelle Scott.

3 THE COURT: Because we need to do a proffer of her
4 is that correct?

5 MS. HERRING-LASH: Just of her educational
6 background regarding the forensic interview. Your Honor,
7 this witness has a sight disability.

8 THE COURT: Okay. Thank you.

9 [Whereupon, Ms. Scott comes forward]

10 [Whereupon, the witness is duly sworn by the Clerk
11 of Court]

12 CLERK OF COURT: State your full name and spell
13 your last name.

14 THE WITNESS: Michelle Renee Scott, S-C-O-T-T.

15 - - - - -

16 MICHELLE SCOTT,

17 Having been first duly sworn,

18 Was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. HERRING-LASH:

21 Q. Ms. Scott, what is your educational background?

22 A. I have a Master's degree in Social Work from the
23 University of South Carolina.

24 A. And where do you work?

25 A. I am employed by the Department of Mental Health but

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1 I am outstationed and placed at the Dee Norton Lowcountry
2 Children's Center.

3 Q. And do you perform forensic interviews there?

4 A. Yes, I do.

5 Q. And have you been trained in doing forensic
6 interviews?

7 A. Yes, I have. I had a week-long training through
8 Child First in which I learned how to do the forensic
9 interviewing with children. And now I use the South
10 Carolina State forensic interviewing protocol.

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1 MS. HERRING-LASH: And Your Honor, that would be
2 the extent of her voir dire. And I do have her resume
3 where it has the Child First on it. I think for purposes
4 of this we just have to show that she's had that week
5 long training and not to do it in front of the jury.

6 THE COURT: Any questions?

7 MR. COCHRAN: No, Your Honor.

8 THE COURT: Okay.

9 MS. HERRING-LASH: And that would be State's
10 exhibit 4.

11 [Whereupon, State's exhibit number 4 is marked by
12 the court reporter]

13 MR. COCHRAN: So in terms of the video I guess I
14 could put my objection on the record now?

15 THE COURT: You can go ahead and do that now.

16 MR. COCHRAN: So the same objection and the same
17 grounds stated as before.

18 THE COURT: Okay. And respectfully again I do not
19 find that it was leading in any way. I thought it was
20 straight forward. I think the child articulated very
21 well from her own thoughts and ideas about what occurred.
22 So with said I'm going to allow it in. Do we need to
23 bring her back up or are we going to kind of going to go
24 through the whole thing or based on her sight disability
25 we could just leave her right where she is.

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1 MS. HERRING-LASH: That would be fine.
2 THE COURT: If that's all right with you all?
3 MR. COCHRAN: Yes, Your Honor.
4 THE COURT: Is everyone ready to bring the jury in?
5 MR. COCHRAN: Yes, Your Honor.
6 THE COURT: Debbie, are you going to do her direct?
7 MS. HERRING-LASH: I am.
8 THE COURT: Okay. Let's bring the jury in.
9 [Whereupon, the jury enters at 11:57 a.m.]
10 THE COURT: Thank you. Would you go ahead and
11 swear her in please?
12 [Whereupon, the witness is duly sworn by the Clerk
13 of Court]
14 THE WITNESS: Yes, I do.
15 CLERK OF COURT: State your full name and spell
16 your last name for the record.
17 THE WITNESS: Michelle Renee Scott, S-C-O-T-T.
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Michelle Scott-Direct Examination by Ms. Herring-Lash
May 17, 2016

1 MICHELLE SCOTT,
2 Having been first duly sworn,
3 Was examined and testified as follows:
4 DIRECT EXAMINATION
5 BY MS. HERRING-LASH:
6 Q. And Ms. Scott, where do you work?
7 A. I work at the Department of Mental Health but I am
8 stationed and placed at the Dee Norton Lowcountry
9 Children's Center.
10 Q. And in that capacity at the Dee Norton Lowcountry
11 Children's Center did you see Child ?
12 A. Yes, I did. I saw Child on November 27, 2013.
13 Q. And was that -- did you interview her?
14 A. Yes, I did.
15 Q. And was that interview video and audio recorded?
16 A. Yes, it was.
17 MS. HERRING-LASH: Your Honor, may I approach the
18 witness?
19 THE COURT: You may.
20 Q. [Ms. Herring-Lash] I'm going to show you what has
21 been marked as State's exhibit number 3. And do you
22 recognize this video?
23 [Whereupon, the witness is shown exhibit]
24 A. Yes.
25 Q. And did you review that?

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1 A. Yes, I did.

2 Q. And for accuracy -- no one had tampered with it?

3 A. No, they had not.

4 Q. Did you date it when you reviewed it?

5 A. Yes, I did.

6 Q. Do you remember when you reviewed it?

7 A. I want to say May 7th.

8 Q. And you're unable to read what is written on there?

9 A. Yes, ma'am.

10 Q. Because of a sight disorder?

11 A. Yes, ma'am.

12 MS. HERRING-LASH: Your Honor, at this time the
13 State would move into evidence State's exhibit number 3.

14 THE COURT: With your prior objection it's
15 admitted. Go ahead and publish it.

16 [Whereupon, State's exhibit number 3 is entered into
17 evidence by the court]

18 [Whereupon, the video plays] [Not taken down]

19 [Whereupon, the video stops]

20 MS. HERRING-LASH: That's all I have for this
21 witness, Your Honor.

22 THE COURT: Okay. Anything?

23 MR. COCHRAN: Yes, Your Honor.
24
25

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CROSS-EXAMINATION

1
2 BY MR. COCHRAN:

3 Q. So Ms. Scott you didn't directly ask Child if she
4 felt pain I guess right?

5 A. That's correct.

6 Q. Okay. But you asked her what it felt like when she
7 was being abused?

8 A. No. I asked her what it felt like when her dad
9 would tickle her with his thing on her butt.

10 Q. Okay. And so her disclosure in your interview was
11 kind of prompted by your question of whether or not
12 anybody tickles her?

13 A. The question basically is a very general question;
14 very broad, and the question was do you get tickles.

15 Q. Right. And her response to that was that her dad
16 gives her tickles right?

17 A. Correct.

18 Q. Okay. And then she began her disclosure of abuse?

19 A. Then she said yes, she does get tickles. And then
20 she asked me what did I mean and I told her that I wanted
21 to know what she meant when she said that her dad tickles
22 her on her butt with his thing.

23 Q. Okay. And in your experience like you said in the
24 video with asking kids about tickles and tickling is
25 something that makes you laugh or makes you feel good sad

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1 right?
2 A. Uh Huh.
3 Q. And so Child was not indicating that this was a
4 painful act?
5 A. Not the question I asked her but again I only asked
6 her what it felt like when he put his thing on her butt.
7 Q. Okay. And she did not indicate pain correct?
8 A. Correct.
9 Q. And you did specifically ask her whether anything
10 went in her butt correct?
11 A. That's correct.
12 Q. Okay. And then when you guys were using I guess
13 kind of like an impromptu code word red you were
14 referring to her vagina?
15 A. Yes sir that is correct.
16 Q. And she denied that anything ever hurt or went into
17 her vagina ---
18 A. --- that's ---
19 Q. --- you didn't specifically use pain or the word
20 hurt in that context correct?
21 A. I did not, no. But I did ask her if anyone had
22 ever done anything to her red referring to her vagina.
23 Q. Okay. And you asked her if anything ever hurt her
24 red too correct?
25 A. I honestly do not recall.

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1 Q. Okay. But either way she denied that anything ever
2 occurred with that.

3 A. With her red, yes.

4 Q. All right. She indicated that she saw him spit on
5 his thing correct?

6 A. No. As a matter of fact that was my question to her
7 did you actually see him spit on it or did what was on
8 his thing look like spit and that's when she said it
9 looked like spit.

10 Q. Okay. And when you're trained to do these
11 interviews and when you're doing these interviews you
12 always avoid leading questions correct?

13 A. To the best of our ability unless they give us
14 information then we ask detailed follow up questions.

15 Q. Okay. And by leading question you mean you avoid
16 putting -- you avoid responding to their questions or
17 asking the question that suggests the answer that you
18 want correct?

19 A. I ask the -- correct, but I do ask questions so that
20 it is clarified or that I am understanding and not
21 guessing at what the child is trying to tell me.

22 Q. Okay. So you avoid guessing at what the child is
23 trying to tell you?

24 A. I do my best, yes.

25 Q. Okay. So she did directly say that he spits on his

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1 thing correct?

2 A. No. Well, I asked her do you actually see him spit
3 on his thing and her remark was no. But she said what is
4 on his thing and on her bed looks like spit.

5 Q. Okay. So he said he would spit on his thing and
6 you said okay and when he spit -- after he would spit on
7 his thing then what did he do and she said he wipes me
8 off and then wipes off the bed correct?

9 A. That's correct.

10 Q. And then you said when he spits on it I mean you
11 actually see him spit on it or what you see looks like
12 spit correct?

13 A. That's correct.

14 Q. And that could be construed as a leading question
15 could it not?

16 A. I wanted to clarify. I considered it a clarifying
17 question.

18 Q. And you were -- I mean you did after you mentioned
19 that you did clarify with her that you don't want to put
20 words in her mouth and you want her to correct you if you
21 say something wrong right?

22 A. That's correct.

23 Q. And that was directly after that line of questioning
24 correct?

25 A. It's usually after most direct questions when I want

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1 to make sure that the child is understanding what I'm
2 saying and I'm understanding what they are saying.

3 Q. Okay. And you spoke with her about movies and
4 obviously you don't use the word pornography or anything
5 like that but when you're asking about seeing movies with
6 people with their clothes off and things like that you're
7 trying to gauge whether or not the child has been exposed
8 to inappropriate movies or television shows correct?

9 A. Correct, yes.

10 Q. And she did not indicate that she had been exposed
11 to pornography correct?

12 A. That's correct. And the onetime she said something
13 did happen the person told her to cover her eyes until
14 the scene was over.

15 Q. Okay. And she indicated in the interview that she
16 had been at her friend's house and that someone had told
17 her to cover her eyes during a certain part of the movie.

18 A. That's correct.

19 Q. You also either in preparation for the interview or
20 maybe after the interview did have a chance to speak with
21 Child 's mother, Andrea Smalls?

22 A. Yes.

23 Q. Okay. And Ms. Smalls kind of talked to you about
24 the context of the disclosures to her correct?

25 A. Yes.

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1 Q. Okay. And the accusations that she was receiving
2 from her daughter?

3 A. Correct.

4 Q. And she brought up specifically that another child's
5 mother had brought up Child 's ---

6 MS. HERRING-LASH: --- Your Honor, I would object
7 to hearsay.

8 MR. COCHRAN: Your Honor, this is referring to
9 prior statements made by a witness who has denied making
10 the statement.

11 THE COURT: You guys need to approach for a minute.

12 [Whereupon, an off the record bench conference is
13 held]

14 Q. [Mr. Cochran] So through these interviews you had
15 learned that these accusations came about after Child had
16 been in trouble or scolded for some kind of inappropriate
17 dancing is that correct?

18 A. I don't recall that.

19 Q. Would it help you if you looked at your CAFTA
20 report?

21 A. I would say yes but unfortunately due to my low
22 vision I wouldn't be able to see it; I apologize.

23 Q. Okay. That's fine. When you do these interviews
24 you fill out CAFTA reviews right?

25 A. That's correct.

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1 Q. And that's not a word for word transcription of the
2 interviews but it's a summary?

3 A. That's correct.

4 Q. And you note summaries of your interviews with Child
5 and also with your talks with her mother correct?

6 A. Right, yes.

7 Q. And so she talked to you about her daughter Child
8 maybe dancing inappropriately and that being the context
9 of her accusations. She also disclosed to you a
10 particular song or music video that Child might have been
11 exposed to is that correct?

12 A. Yes, I do remember that.

13 Q. And you note it in your CAFTA report that the
14 specific name of that song was Shake it Like a Red Nose
15 correct?

16 A. Yes.

17 Q. And that she was dancing between the boys legs?

18 A. [Nods affirmatively]

19 Q. Do you also remember Ms. Smalls, Child's mother,
20 expressing doubts to you about the accusations ---

21 MS. HERRING-LASH: --- Your Honor, this would be
22 hearsay also --

23 MR. COCHRAN: I'm sorry.

24 THE COURT: She said hearsay.

25 MR. COCHRAN: And it's a prior inconsistent

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1 statement, Your Honor.

2 THE COURT: Okay. You need to be careful of what
3 she has in that report versus -- you can't put words in
4 her mouth. So again if your report says this is that
5 accurate or do you recall that.

6 MR. COCHRAN: Right, okay.

7 Q. [Mr. Cochran] So would you disagree that your CAFTA
8 summary and your report of your conversations with
9 Child 's mother that her mother indicated doubts about the
10 truthfulness of these accusations?

11 A. No. Actually her mother was very child focused and
12 concerned about the negative impact that the incident was
13 going to have on Child .

14 Q. Okay.

15 A. And it wasn't a disbelief of what Child had
16 disclosed rather than a disbelief of the person she was
17 with having done something like that to her child.
18 That's the impression that I got.

19 Q. Okay. And did you fill out the CAFTA report
20 yourself?

21 A. Yes.

22 Q. Okay. So you would disagree that the CAFTA report
23 says that natural mother has doubts about what Child is
24 telling her because it does not make any sense.

25 A. I will not disagree if that is what is in the

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1 report.

2 MR. COCHRAN: Beg the court's indulgence.

3 [Whereupon, Mr. Cochran and Ms. Ehrlich confer]

4 Q. [Mr. Cochran] Is it possible at Lowcountry
5 Children's Center for an accuser to come back and be
6 interviewed again if new or different allegations are
7 disclosed?

8 A. Yes.

9 Q. Okay. So if new or different accusations from
10 IChild came up she could have been brought to Lowcountry
11 Children's Center for another interview with yourself or
12 another forensic interviewer?

13 A. That's correct if new accusations did come about,
14 yes.

15 Q. Okay.

16 MR. COCHRAN: Thank you, Your Honor. No more
17 questions.

18 Q. [Mr. Cochran] Thank you, ma'am.

19 THE COURT: Anything further?
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State v Stanley Miller
Michelle Scott-Redirect Examination by Ms. Herring-Lash
May 17, 2016

1 REDIRECT EXAMINATION

2 BY MR. HERRING-LASH:

3 Q. Ms. Scott, I know you were having to go on what Mr.
4 Cochran was reading to you.

5 A. Yes.

6 Q. And he read to you the sentence in your report about
7 the mom wondering about Child . The sentence right prior
8 to that did the mom tell you she was shocked and
9 dumbfounded over the situation?

10 A. Yes.

11 Q. You remember those words?

12 A. I do remember her saying shocked. I'm not familiar
13 with the dumbfounded but I definitely remember her saying
14 shocked.

15 MS. HERRING-LASH: Those are all the questions,
16 Your Honor.

17 MR. COCHRAN: Nothing further, Your Honor.

18 THE COURT: Nothing further, you may step down.
19 Thank you.

20 [Whereupon, the witness is excused and exits the
21 witness stand]

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1 MS. ELLIOTT: Your Honor, at this time the State
2 would rest.

3 THE COURT: Ladies and gentlemen at this time the
4 State has rested their case and I think also it would be
5 a very good time to take a lunch break. By the clock up
6 here it is about quarter to 1:00. Ladies and gentlemen I
7 am going to ask that you return to the jury room at 2:30
8 where we will go ahead and continue with this case.
9 Again, ladies and gentlemen I need to remind you, you are
10 not to discuss this case. You are not to do any
11 independent research. Go have a nice lunch and we look
12 forward to seeing you back.

13 [Whereupon, the jury exits at 12:50 p.m.]

14 THE COURT: Okay. Any motions at this time?

15 MR. COCHRAN: Yes, Your Honor.
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State v Stanley Miller
Motion for Directed Verdict-Remarks by Mr. Cochran
May 17, 2016

1 MOTION FOR DIRECTED VERDICT

2 MR. COCHRAN: So we would move for a directed
3 verdict for both these accusations. First I would like
4 to say we were not expecting the lead detective in this
5 case not to be called to the stand. So we were expecting
6 that at some point the State would establish that the
7 Lyle accusations were out of the county.

8 So as of right now the jury has absolutely no
9 information indicating where Hunter's Ridge is and where
10 those accusations supposedly took place. So to the jury
11 it sounds like this is all one continuous stream of
12 factual allegations that they can consider for guilt or
13 innocence, which is not the case.

14 Based on that we would renew our Lyle objection and
15 we would move to either dismiss this case or move for a
16 mistrial on that basis because I think at this point the
17 jury has been unfairly prejudiced as to the way the State
18 has presented their Lyle evidence and I don't believe it
19 can be cured by a traditional instruction.

20 THE COURT: Do y'all want to go ahead and respond
21 to that portion of it?

State v Stanley Miller
Motion for Directed Verdict-Reply by Ms. Elliott
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1 MS. ELLIOTT: Judge, I believe we asked
2 specifically about the Reed address as being in there and
3 I think they can form an inference that since we are not
4 -- since we did not ask for the Hunter's Ridge that that
5 is not Charleston County and therefore not for their
6 consideration. And I think a curative instruction would
7 summarize that.

8 THE COURT: Okay. Go ahead. Yes, sir?
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Motion for Directed Verdict-Remarks by Mr. Cochran
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1 MR. COCHRAN: Thank you, Your Honor. And we would
2 renew our objection to the video and all other motions
3 and objections previously made. As to the CSC first
4 degree with a minor Your Honor we would also move for a
5 directed verdict on that charge based on the fact that
6 the State has failed to provide any evidence of
7 penetration.

8 There was I believe the alleged victim uttered the
9 word hurt twice on the stand and we would argue that does
10 not give the jury evidence to consider whether or not
11 there was penetration and sexual battery in this case.
12 Every other witness besides the alleged victim has
13 indicated either a denial or an omission of any
14 allegation of hurting, pain or penetration.

15 And Your Honor that is her mother, the responding
16 officer, that is the LCC interviewer and then the doctor
17 and it would be Detective Bailey as well if she were
18 called to the stand.

19 So, Your Honor, on that basis we do not believe
20 there is any evidence for a jury to reasonably conclude
21 that there was penetration in this case as there is
22 nothing supporting that this hurt that could be construed
23 in any number of ways. The girl is saying that a 250
24 pound man is laying on top of her; that could hurt.
25 There is just no evidence that there was penetration of

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1 his penis into any of her body parts. So we would move
2 to dismiss or a directed verdict of not guilty for the
3 criminal sexual conduct in the first degree.

4 THE COURT: Anything else?

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1 MS. ELLIOTT: Judge, I'll refer to State v Mathis,
2 which is 287 S.C. 589 where the court upheld that a child
3 disclosing pain is sufficient evidence of penetration to
4 take to the jury and it gets past directed verdict stage.
5 We've also established through numerous witnesses that
6 they simply never asked the question of did it hurt.

7 THE COURT: I'm going to take that under
8 advisement. We're going to go to lunch but we need to
9 talk about the charge very quickly.

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State v Stanley Miller
Charge Conference
May 17, 2016

CHARGE CONFERENCE

THE COURT: I completed a bench book but the CSC with a minor third degree charge. I've just pulled up the statute, and that's what we are looking at is charging what the statute is. I'm pretty sure you put up at the very beginning in your opening statements. Once we finish it I want y'all to just take look at it and to make sure we're all in agreement that that is what the charge is.

Does anyone have a proposed 404(b) Lyle charge? I don't have a standard one. Obviously it will be something in the area of evidence introduced or with regards to it can't be used as character evidence, it can't be held against him. Have y'all seen one or have one?

MS. HERRING-LASH: I know that I can find one because I've seen one. I can look for it.

THE COURT: Can you look for it and if you can find it Debbie will you email it to Leigh Ellen ---

MS. HERRING-LASH: --- I will ---

THE COURT: --- at cmullenlc@sccourts.org. Also I think there was a little bit of issue you tried to point out that there were inconsistent statements between whether or not there was pain or not pain or hurt. Do you want an inconsistent statement charged?

State v Stanley Miller
Charge Conference
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1 MR. COCHRAN: Yes, Your Honor.

2 THE COURT: Okay. Anything else anyone can think
3 of in this case?

4 MR. COCHRAN: For the Lyle -- if my motion is
5 denied on the Lyle issues for mistrial or dismissal then
6 we would request some pretty specific language that
7 refers directly to the facts in this case in terms of the
8 address and the locations.

9 THE COURT: Why don't you write that over the lunch
10 hour? How about that?

11 MR. COCHRAN: Yes, Your Honor.

12 THE COURT: Okay. Anything else?

13 MS. ELLIOTT: Nothing from the State, Your Honor.

14 THE COURT: Anything?

15 MR. COCHRAN: Not at this time, Your Honor.

16 THE COURT: So I kind of gave us a long lunch hour.
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1 MR. COCHRAN: Yes, ma'am.

2 THE COURT: Very good. Thank you. First of all
3 Mr. Miller if you would stand and raise your right hand
4 sir.

5 [Whereupon, the witness complies]

6 [Whereupon, the witness is duly sworn by the Court]

7 THE COURT: Sir, have you had an opportunity to
8 speak with your attorneys about whether or not you wish
9 to testify?

10 MR. MILLER: I have.

11 THE COURT: Sir, would you like to testify?

12 MR. MILLER: No, I do not.

13 THE COURT: Sir is this of your own free will and
14 is this your decision?

15 MR. MILLER: Yes, it is.

16 THE COURT: Thank you, sir. You may be seated. I
17 find you have knowingly and intelligently have made that
18 decision independently. Next as to the directed verdict
19 motion; there has been no testimony other than the child
20 saying that the conduct hurt. I understand that you all
21 have said that she disclosed it to your office but that
22 is not in evidence as far as the criminal sexual conduct
23 in the first degree charge. No one testified to it. You
24 didn't call the victim's advocate. I don't think it is
25 enough evidence for a child simply to say it hurt to get

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1 to the level of the issue on that charge and the elements
2 of slight penetration. I don't think it gets there.

3 MS. ELLIOTT: Judge, I would also supplement that
4 once again I think Mathis says that indications of pain
5 are sufficient but she also testified as to her leg
6 positioning and the defendant would open up her legs.
7 And I think that that would be further evidence. I don't
8 know of any case law that indicates that anyone else has
9 to say that she had told them that information before.

10 THE COURT: I know but she never says. The child
11 never says on this stand that I saw that he penetrated
12 her sphincter or her anus. I never heard that from her
13 mouth either. If I heard it from her mouth I would be
14 fine with that. But I didn't hear that either; she just
15 said it hurt. I think it's a big leap. I mean what
16 other testimony is there other than it hurt.

17 MS. ELLIOTT: Judge, we really are relying on State
18 v Mathis where I believe that was all that the child
19 indicated. I don't believe that the child in that case,
20 and I'm verifying by looking at the case now, gave any
21 testimony about by saying point blank there was
22 penetration or he put it in me or anything like that. I
23 believe the facts of that case are simply that she said
24 how did it feel? It hurt.

25 THE COURT: What's the site on State v Mathis?

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1 MS. ELLIOTT: It is 340 S.E. 2d 538.

2 THE COURT: You said 538?

3 MS. ELLIOTT: Yes, Your Honor.

4 [Whereupon, the court reviews documents]

5 MS. ELLIOTT: Judge, I think I'm looking at the
6 secondary appeals court opinion as opposed to the primary
7 that didn't even take up that issue.

8 THE COURT: Okay. It's State v Mathis?

9 MS. ELLIOTT: And it would have been prior to 1986,
10 Your Honor.

11 THE COURT: And Mathis is spelled M-A-T-H-I-S?

12 MS. ELLIOTT: Yes, Your Honor.

13 THE COURT: Are you sure it's not Mathias M-A-T-H-
14 I-A-S?

15 MS. ELLIOTT: That was what I thought it was Mathis
16 that's ---

17 THE COURT: --- do you have a copy of it?

18 MS. HERRING-LASH: I have one.

19 MS. ELLIOTT: I think that was the wrong cite
20 because I'm looking at that case and I think that's a
21 subsequent one that didn't take up that issue.

22 [Whereupon, the court reviews documents]

23 THE COURT: Does anyone have a copy of it?

24 MS. ELLIOTT: That's where Ms. Herring-Lash went;
25 to get her copy.

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1 THE COURT: Okay. When someone finds a copy and
2 maybe can print it and like to give it to me I'd
3 appreciate it if you're going to rely on it. Just send
4 it back to chambers and let me take a look at it, okay.

5 MS. ELLIOTT: Yes, Judge.

6 [Whereupon, Ms. Herring-Lash provides documents to
7 the court]

8 MS. HERRING-LASH: It's under the directed verdict
9 portion of the case.

10 MR. COCHRAN: Could we get the site, Your Honor?

11 THE COURT: 287 S.C. -- I'm sorry, it's 340 S.E.2d
12 538.

13 [Whereupon, the court reviews documents]

14 THE COURT: Well, I've read Mathis. Have you had a
15 chance to look at it?

16 MR. COCHRAN: Yes, Your Honor.

17 THE COURT: Obviously, it says it's a jury issue
18 but I just don't see how that is enough evidence for a
19 jury to conclude beyond a reasonable doubt that there was
20 penetration. I can tell you I just don't see how that
21 verdict is going to be upheld in 2016 if that's the case.
22 And at this point if they split the difference and they
23 say okay if we don't know that's what it is now we're
24 going to CSC third they're going to use that as an issue
25 and try to appeal as well by saying well, they couldn't

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1 decide so they just went ahead and said we'll get him for
2 the lesser offense. I would feel better about it if
3 y'all had put something up, if you had put the victim's
4 advocate up or someone that heard her say it went into my
5 sphincter, my whatever specifically. You said you could
6 do that at the beginning of the case.

7 MS. ELLIOTT: I think -- I'm sorry if that was the
8 representation. I think that would have been
9 inadmissible hearsay. I think they can talk about when
10 and where and the exceptions for when and the where as in
11 locations and times but there is no exception for ---

12 THE COURT: --- did you ask her when she was on the
13 stand whether or not she eventually told you all?

14 MS. ELLIOTT: I did not, the defense did.

15 THE COURT: Okay.

16 MR. COCHRAN: And I believe that was only during
17 the Lyle portion --

18 THE COURT: Was that in evidence is my question.

19 MR. COCHRAN: Not in front of the jury, no.

20 MS. ELLIOTT: Your Honor, I'm fairly confident he
21 asked in cross-examination of the victim because I
22 remember that her answer was no; that she had told
23 someone before that.

24 MR. COCHRAN: That was during the Lyle pretrial
25 proffer.

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1 THE COURT: It was during Lyle. It wasn't in front
2 of the jury.

3 MS. ELLIOTT: Because I just think any other way
4 that we would ask that question of anyone else would have
5 been inadmissible hearsay. And I think my reading of the
6 hearsay rule would also make it inappropriate just to
7 start on my direct reciting what she had told anyone else
8 in the past. She talked about in present tense but not I
9 told so and so X,Y,Z.

10 THE COURT: I think she could testify to that. I
11 just don't know that they would bolster what she said but
12 she could say that now in hindsight meaning older. I
13 mean part of the problem with these cases are that she
14 was so young at her initial disclosure. But it doesn't
15 surprise me in the least bit for her not to know whether
16 or not it included an intrusion. I'm just concerned like
17 I said as far as what's in front of this jury.
18 Obviously, you are too considering you indicted him for
19 both things. Give me just a couple of minutes and we'll
20 be right back.

21 [Off the record momentarily]

22 THE COURT: All right. I think there probably is a
23 factual distinction in State v Mathis which is before us.
24 In State v Mathis the child when asked whether or not
25 there was actual -- some type of penetration the child

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1 testified that she could not remember. In our case she
2 has testified on the video that no, there was no
3 penetration and also I know it was not before the jury,
4 it was during the Lyle testimony the proffer at the
5 beginning. So with that said I'm just not comfortable
6 sending it to the jury on a directed verdict as to the
7 CSC first. Okay. So how long do you think you're going
8 to argue Ms. Elliott? It probably just got a little
9 shorter, right?

10 MS. ELLIOTT: Not much though sadly. I think when
11 I sort of ran through it in my office it was less than 20
12 minutes.

13 THE COURT: Okay. What about you Mr. Cochran?

14 MR. COCHRAN: I think it will probably be 15
15 minutes or less.

16 THE COURT: Okay. What I suggest we do I'm going
17 to bring the jury out. You're going to go ahead and rest
18 for the record as well just so you can do visibly in
19 front of them and we will just go straight -- and just
20 for the record we are going to renew our motions again
21 for the record. Obviously your objection to my directed
22 verdict and we'll just go straight into closing arguments
23 okay.

24 MR. COCHRAN: Yes, Your Honor.

25 THE COURT: And I'm getting the charge hopefully.

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1 It's in my email and I'm going to read it right now and
2 I'm going to have it printed. I may take a short break
3 after you all do your closings just to let you know. I
4 don't typically do that but if I don't have a hard copy
5 in front of me I'll wait until I have a hard copy okay.
6 We're ready? Thank you.

7 [Whereupon, the jury enters at 3:16 p.m.]

8 THE COURT: Thank you. Welcome back ladies and
9 gentlemen. I trust you all had a nice lunch and stayed
10 out of the rain. Mr. Cochran?

11 MR. COCHRAN: Your Honor, the defense rests.

12 THE COURT: Ladies and gentlemen at this time the
13 defense also rests. What we have left to do is hear the
14 closing arguments from the attorneys, I'm going to charge
15 you on the law that applicable to this case and then I'm
16 going to send this case to you for your deliberations
17 today.

18 So with that said we'll hear closing arguments if
19 everyone is ready to go. We may take a brief recess in
20 between the closing arguments and my charge on the law
21 but at this point we're going to go forward and finish up
22 the case. Is that agreeable to everyone? Very good.
23 Solicitor?

24 MS. ELLIOTT: Thank you, Judge.
25

State v Stanley Miller
Closing Arguments-Remarks by Ms. Elliott
May 17, 2016

1 CLOSING ARGUMENTS

2 BY MS. ELLIOTT:

3 Sweet dreams. Sleep well; those are the comforting
4 things that a child should hear before they drift off to
5 sleep. A kiss on the cheek good night should never be
6 followed by the words don't tell. A child's room should
7 be a place where they feel safe and secure and where no
8 one is going to hurt them.

9 But that was not the case for Child . In her
10 bedroom at Reed Street in North Charleston when she
11 went to bed at night she never knew if the defendant was
12 going to come back in the room like he had done so many
13 times before and sexually assault her.

14 This case is about what happened at Reed Street,
15 which is in Charleston County. The reason that you are
16 able to hear about Hunter's Ridge in Dorchester County in
17 that first apartment was so that you would have a frame
18 of reference for everything that happened to Child .

19 We now know that in 2010 Andrea Smalls started
20 working nights and the defendant; Stanley Miller was left
21 alone in a house with Child and her young brother
22 to watch them. That's when the abuse began. It went on
23 at that first house but it stopped for a little while
24 when they moved to the second house when Child had her
25 own room. Now you may be asking yourself that that's

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1 strange; why would that happen? What changed? What
2 changed was that Andrea Smalls wasn't working nights
3 anymore. She was at home. And what excuse could Stanley
4 Miller have given if he was ever caught inside Child 's
5 room, when she was the only person in that room.

6 They were evicted from that second Hunter Ridge
7 apartment. They lived apart for a short time and then
8 moved into the Reed Street apartment. At that time Child
9 and her brother are staying together again. That's when
10 the abuse begins again because of what happened in the
11 past Stanley Miller knows that Child doesn't cry out when
12 he comes into her room. She doesn't scream. She doesn't
13 fight.

14 She lays in the bed as he pulls down her pants and
15 underwear; as he pulls down his pants and underwear and
16 begins rubbing his penis on her butt. He's also got the
17 perfect excuse of what are you doing in the room? I'm
18 just checking on both the kids. Nothing suspect about
19 that.

20 The defense has attempted to paint a picture that
21 Child made all of this up to get out of trouble for an
22 inappropriate dance. What have we heard today that makes
23 that incorrect? First of all if she is going to lie
24 about this happening why not say it happened in that
25 second Hunter's Ridge house where she has a room to

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1 herself. Even an eight year old knows that it makes more
2 sense that they are going to be sexually abused in a room
3 that they are in alone than when somebody else is
4 present. If she is going to lie, make it a good lie.

5 I also expect that the defense is going to propose
6 to you that she learned that inappropriate dance from the
7 Internet. But Child told you where she learned that
8 dance from; she learned it from a friend. What she
9 didn't learn from the friend was that behavior was
10 inappropriate.

11 Let's talk about that conversation or confrontation
12 between the neighbor, Child, and her Mom. They are
13 walking back from the bus stop. The neighbor tells
14 Andrea Smalls what was observed, what was happening; that
15 they were dancing inappropriately. And she asked her
16 where did you learn that? Child's response is daddy.

17 Do we know that what she's saying is daddy taught
18 her the dance or is it because of what daddy was doing
19 she learned that that was appropriate behavior? She
20 believed that was appropriate behavior. Grinding up on
21 people is what daddies do and if daddies do that then it
22 must be okay right?

23 It wasn't until after she saw the video that she was
24 able to put in context that that was wrong; that that was
25 not something she was supposed to be doing. And remember

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1 what Doctor Swiecicki told you; that children who are
2 the victims of sexual abuse sometimes act out sexually.
3 They don't understand what proper boundaries are. The
4 defense has also -- I expect what they are going to argue
5 is that she was hoping to get out of punishment. If you
6 think you're going to get a beating for an inappropriate
7 dance what kind of punishment should an eight year old
8 expect if her mother thinks she's lying about Stanley
9 Miller sexually abusing her? The risk is too high.
10 She's not going to do that. That makes no sense.

11 And that dance; what can a child learn from a dance
12 that they see on a rap video. We've all seen a rap video
13 at some point in our lives. In fact, in almost all forms
14 of music videos nowadays women grinding up on men, men
15 grinding into the back of women. Do you know what those
16 videos don't portray? Them wiping each other off from
17 kind of liquid, from something that Child describes as
18 spit. It doesn't describe the sensation tickling or
19 hurting. Those are not discussed in videos.

20 Doctor Swiecicki talked about how important it is
21 to ask those clarifying questions, those source questions
22 how do you know that. And that children when someone has
23 told them or if they just seen it they don't know what
24 the sensation is. But when they are able to give
25 sensations it's easier for us to find that it's because

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1 it's from personal experience. Child describes in the
2 video that it felt like tickling. And on the stand she
3 talked about it hurting. Those are not two mutually
4 exclusive things. I expect that the defense is going to
5 try to say that those are inconsistencies so you
6 shouldn't believe what she is saying.

7 But you are the sole judges of creditability in this
8 case. You saw how hard it was for Child to talk about
9 what happened to her on the stand and also in the video
10 how she struggled to find the words in that time to talk
11 about what happened to her, to explain the sensation.

12 It was actually easier for her to talk about the
13 feelings associated with it because that's what Michelle
14 Scott talked about. She had a frame of reference for
15 that but she struggled to get out how it felt. Do slight
16 variations mean that someone is lying? No. Had she
17 gotten up there like a robot and said the exact same
18 thing on the video that she then said in front of her we
19 would think that she was coached.

20 And this is something that we have a frame of
21 reference in our own lives. Think about about it like
22 this. You've just gone on your dream vacation. It was
23 amazing; it was wonderful, two weeks in wherever your
24 favorite location is. You come back to work and somebody
25 comes up and says tell me all about it. You start

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1 telling them about it. Maybe it was a beautiful beach
2 that you saw; maybe it's the great food that you ate.
3 But then you start going through the everyday bits of
4 work and somebody else comes up oh, how was the vacation?
5 Tell me all about it. Is it reasonable to expect that
6 the exact same story is going to come out of your mouth?
7 No.

8 To some people I might explain the great food
9 because I know they like food. To a friend of mine who
10 loves to go to the beach I'm going to tell them about the
11 great resort that we went to. Just because you're
12 highlighting different facts for different people doesn't
13 mean you're lying; it just means you're human.

14 We've also learned that disclosure is very dependent
15 on the comfort level of a child. The courtroom isn't
16 comfortable for anyone. Just because she goes into more
17 detail in one setting doesn't mean that she is lying
18 especially when we think about the fact that this is an
19 eight year old child who has no frame of reference for
20 this.

21 She doesn't know what it's supposed to feel like.
22 She doesn't know what the answers are supposed to be.
23 She's just doing her best to describe it with the words
24 that she knew at that time and the words that she now
25 knows. Those initial disclosures to her mom and Officer

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1 Demalo those situations were anything but ideal. She
2 sees her mom upset and her mom is always within earshot
3 during that time. Her whole life has just been turned
4 upside down. They took their stuff and they left a home
5 they had just moved into. And now this officer is asking
6 her questions that she doesn't want to talk about.

7 Officer Demalo was brand new to the streets. She
8 shouldn't have been asking those questions. She doesn't
9 even remember what questions she asked. She just
10 summarizes it and has no independent recollection of what
11 actually happened that night. And then the two people
12 best trained to ask Child questions, Michelle Scott
13 and Doctor Busch they missed some of the important ones.

14 You saw on that video, and if you'd like to watch
15 the video it's in evidence so that you can, and they were
16 talking about the feelings and what went on. Michelle
17 Scott is taking about emotional feelings and not physical
18 feelings. And you see Child trying to process that and
19 figure out I don't know what she's asking about. But she
20 gives an answer that parallels what Michelle Scott talks
21 about. Does it make you happy? No, it makes me sad.

22 I told you this wasn't a CSI case. This is a case
23 that boils down to what so many other sexual assault
24 cases boil down to; creditability of the witnesses. It
25 comes down to do you believe that what Child says

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1 happened, happened. And you don't need any further
2 corroboration. But judging creditability is something we
3 all do every day. We've become experts at it. When
4 you're determining whether to give money to the person on
5 the street who is asking, or whether your five year old
6 is telling you the truth when they said I didn't eat that
7 last cookie, or whether a co-worker is being honest or
8 not about something that they overheard in a break room.
9 You have gathered a lifetime of experience that makes you
10 an expert in judging someone's creditability. And we
11 expect you to use those skills while you are processing
12 this case.

13 Now in evaluating someone's creditability we often
14 look to motive for why they might be lying. We've
15 already talked a little bit about how Child had nothing
16 to gain by this allegation. It doesn't make sense that
17 she is explaining -- doesn't it make sense that she is
18 explaining why she felt that behavior was okay as opposed
19 to well daddy just taught it to me so that's okay.

20 And hasn't she had every motive in the world to
21 recant and go back on that story? Her mother doubted
22 her. She had to go through an invasive medical exam of
23 her genitals and anus. She had to sit up there and sit
24 in front of you, 14 strangers, and talk about this
25 experience. The easy answer all along the way would be I

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1 lied; it didn't happen. I'm not talking about it
2 anymore. But that wouldn't have been the truth. You
3 heard her on that video deny lots of different types of
4 sexual abuse. He didn't touch me anywhere else. He
5 didn't make me touch him. If you're going to lie about
6 sexual abuse why not say he did all, he did it all. No,
7 she says no to almost every form of abuse out there. And
8 in fact when she is talking about the abuse she is all in
9 tears what he was doing to her.

10 And what was her motive she gave for telling? She
11 wanted it to stop. It makes sense doesn't it that after
12 it not happening in the second house and while they were
13 living apart she didn't think it was going to happen
14 again. But when they move into this new house at Reed
15 Street it starts up again. And she can't live with the
16 secret anymore and that's when she gets the courage to
17 tell. Doctor Swiecicki told you how it is common that
18 when a child is confronted with sexually acting out that
19 that's when they disclose sexual abuse.

20 When evaluating the creditability of a witness we
21 also look at a witness's demeanor. You have to remember
22 that on that video she is eight years old and in this
23 courtroom this week she's just 11. Do her answers sound
24 like those of a child of that age? And in the video does
25 she sound like an eight year old? Did she describe

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1 things the way you would expect an eight year old to?
2 And now does she still sound like an 11 year old? When
3 Michelle Scott asked the source monitoring questions that
4 are so important how does Child respond? The best way
5 she knew how; the way she experienced it.

6 But I know we also need to discuss Andrea Smalls for
7 a minute. And what I expect the defense is going to talk
8 about her disbelief. This is how I respond to that.
9 What mother wants to believe that this is happening to
10 their child? What mother's first response is I knew it,
11 I knew it all along. No, this was a man that she had
12 children with that she lived with, that she had trusted
13 for years and now she is hearing what no one wants to
14 hear.

15 Of course there was going to be shock. Of course
16 she doesn't want to believe it but that doesn't make it
17 untrue. What was her response that day when her daughter
18 told her what the defendant was doing? She got her
19 children, her belongings and she was gone. Are those the
20 reactions of a mother who really doesn't believe her
21 child?

22 No one wants to believe that sexual abuse happens to
23 children but we have to get past that gut reaction and
24 look at whether what Child said happened to her makes
25 sense. It's in the details of the disclosure by Child on

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1 the stand and in the video that we find the truth. It's
2 in the details that she couldn't learn from a music video
3 and in the details that she told you could only be
4 explained by the sexual abuse she suffered at the hands
5 of Stanley Miller.

6 While living on Reed Street in Charleston County
7 Stanley Miller used to go into eight year old Child
8 room, he would pull down her pants and her underwear. He
9 would then pull down his pants and underwear and laying
10 beside her he would begin to rub his penis against her
11 butt. We know that from her description from the LCC
12 video and on the stand. And we know that beyond a
13 reasonable doubt.

14 Now the defense is going to get to have the last
15 word so I want to talk to you for a minute about what
16 reasonable doubt is. Some people think that reasonable
17 doubt is beyond all doubt. And I think everyone knows
18 that there are few to no things in life that we can know
19 beyond all doubt. A reasonable doubt -- knowing beyond a
20 reasonable doubt is simply being firmly convinced.

21 If you are firmly convinced that Stanley Miller was
22 rubbing his penis against Child for his sexual
23 gratification then you must return a verdict of guilty of
24 criminal sexual conduct in the third degree. Sweet
25 dreams, sleep well; those are words that Child

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1 should have heard before she was drifting off to sleep;
2 never don't tell. A goodnight kiss should come before a
3 bad dream and not after the nightmare that Stanley Miller
4 subjected Child to. Child didn't deserve for this to
5 happen to her and Stanley Miller doesn't deserve to get
6 away with it.

7 MR. COCHRAN: May it please the court?

8 THE COURT: Yes, sir.
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1 CLOSING ARGUMENT

2 BY MR. COCHRAN:

3 You heard from the testimony over the last couple of
4 days that this all started out because of some typical
5 childhood behavior -- and that behavior, that witnessing
6 by a child's mother, by a classmate's mother was like a
7 snowflake that turned into an avalanche.

8 The Solicitor made a big deal about why Child would
9 not recant, why Child would not take back her story.
10 What could be more difficult for a little kid to have
11 told her mother a story, her mother freaks out and
12 removes all of the kids from the home and takes them to
13 the grandmother's house, calls the police and a uniformed
14 police officer with a gun on her hip arrives in a patrol
15 car and takes that story again and the ball starts
16 rolling.

17 That snowflake is starting to turn into a snowball.
18 It's rolling down the hill and is becoming an avalanche.
19 Nothing could be more difficult for her than to take that
20 back and to take it back now three years later after
21 telling that same story over and over again to
22 counselors, doctors, nurses, solicitors, you. She is
23 never going to take that back. That is unreasonable.
24 This all started when a mother saw Child misbehaving in
25 the school yard and told Child's mother about it so that

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1 Child [sic] called the police and described to the
2 responding officer, remember this, described to the
3 responding officer that there was -- that somebody had
4 seen Child having pretend sex with a classmate. That's
5 important; pretend sex with a classmate in the school
6 yard. That's why she was so shocked and appalled, okay.
7 And she makes that accusation to a police officer and
8 charges are being filed.

9 Then she decides once she calms down and when she
10 starts thinking this through wait a minute this doesn't
11 add up. We lived in a tiny two bedroom apartment on Reed
12 Street. I was home all the time with the kids. Stanley
13 was at work and when he would come home would go to bed.
14 My room was across the hallway from her bedroom. She
15 shares a bedroom with her little brother. I have an
16 infant son who sleeps in my room that could wake up at
17 any moment; this isn't adding up.

18 She goes to check the bed sheets to see if there
19 would be some evidence of this grown man repeatedly
20 sexually assaulting her daughter having to wipe something
21 up with a rag off of a bed sheet, looking for some kind
22 of evidence to corroborate, to confirm what her daughter
23 is telling her because she has doubts. Nothing; she
24 finds absolutely nothing. And to put on top of that she
25 then goes back to that same mother who brought this whole

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1 thing to her attention to talk to her. It turns out they
2 weren't having pretend sex, pretend sex that Child said
3 she learned from her dad. It turns out that that wasn't
4 the case. She was dancing. Not only was she dancing but
5 she was dancing like they do in a particular music video
6 to a particular song.

7 The Solicitor says you 12 people are the best judges
8 of character. You are experts and I agree with that.
9 But I would argue that there is one person in this
10 courtroom who is a better judge of whether or not Child
11 is telling the truth at a better time to make that
12 determination and that is her mother on the day that she
13 heard these accusations, on the day that she spoke to
14 that other kid's mom, on the day that she spoke to
15 police, on the day that she spoke to counselors, on the
16 day that she spoke to a doctor and to a detective.

17 To the doctor she expressed doubts. To the LCC
18 counselor she expressed doubts. To the responding
19 officer she expressed doubts enough so with the
20 responding officer that she called her the next day to
21 say she was skeptical about these charges, about these
22 accusations because she had learned that in fact Child
23 had not learned these things from her dad. She had
24 learned them from a music video and that she was dancing
25 and not having pretend sex. But the ball was rolling and

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1 nobody was going to pull this back at that point. And
2 remember why would she make that up? This is her mother
3 beats her or spansks her; whether you agree with beating
4 or spanking totally decided that. It doesn't matter.
5 What matters is would an eight year old kid want to avoid
6 that? The absolute answer, the only answer is yes of
7 course a kid wants to avoid a beating or a spanking. And
8 will an eight year old lie to get out of that sometimes?
9 Yes. Is that unreasonable to believe? Absolutely not;
10 it is unreasonable to disbelieve that.

11 This was also at a time when Stanley and her mother
12 were having a lot of problems. She had talked with the
13 counselor about her mother pulling out a knife or maybe
14 Stanley pulling out a knife. Her mother tried to run
15 Stanley over with a car. This was a contentious
16 relationship.

17 Stanley was staying out all weekend, which I might
18 point out he is limiting his own access to his prey, she
19 says prey. He's going out and partying with his friends
20 on the weekends instead of staying home where he's got
21 all this opportunity that the Solicitors have been
22 talking about.

23 Child 's mother was upset with Stanley. This
24 relationship was deteriorating. The mother had her
25 doubts but like she said to the doctor at MUSC or at LCC

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1 she had her doubts but as a mother I feel like I have to
2 believe her. And what is one of the reasons why a mother
3 was worried about expressing doubts saying that she
4 believed this actually didn't happen? DSS.

5 DSS, a government agency that has the power to take
6 all of your kids away from you and she understood that.
7 All of these different agencies one, LCC, a medical
8 doctor, Solicitor's office are bearing down on this
9 family after this initial accusation comes out. Nobody
10 is taking this back. Nobody is going to express doubts.

11 Stanley Miller has been sitting on trial accused of
12 being a child molester. The State is trying to get you
13 to convict him of being a child molester; the worse thing
14 a person can be and they don't even call to the stand
15 their lead detective. They don't even call her to the
16 stand to be subjected to cross-examination. That's how
17 much they believe in this case. This case where like I
18 said her mother went and checked the bed sheets to try to
19 confirm this and found nothing. Guess who didn't go and
20 try to confirm any of these things? Anybody else.

21 You have two photographs in evidence, two
22 photographs in evidence of the outside of these
23 residences. What is missing from this little stack of
24 evidence? How about the bed sheet? How about
25 photographs inside the apartment? You had to hear

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1 testimony from witnesses from three years ago about the
2 layout of their apartments. Nobody even bothered to go
3 in and document what the apartment looked like much less
4 collect bed sheets that would have if these accusations
5 were true contain Stanley's DNA. And they didn't even
6 bother to check. Why would they not bother to check?
7 What are they hiding? What were they worried about not
8 finding, not corroborating with these accusations?

9 This girl said that she was being molested, molested
10 in her own bed in an apartment that they had been living
11 at for less than a month and they didn't go check for
12 evidence. And they didn't take her to the emergency room
13 that day. They waited and waited to have her interviewed
14 by a counselor and then take her to a hospital so they
15 could put a doctor up to say well of course we didn't
16 find anything. We waited too long.

17 The Hunter's Ridge apartment that you heard about
18 was smoke and mirrors. That was the Solicitor playing
19 hide the ball with you, okay. Did anybody ever sit down
20 and really explain in this case that the Hunter's Ridge
21 apartment was in Dorchester County. We are in Charleston
22 County. You are judging Stanley Miller in this trial for
23 allegations against him that occurred in Charleston
24 County. So why are we talking so much about the Hunter's
25 Ridge apartment. The Judge is going to tell you that you

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1 don't even consider whether or not he is guilty or
2 innocent of what they say happened at Hunter's Ridge. I
3 will tell you right now that that apartment was also not
4 searched, that no evidence has been presented to you to
5 support these accusations, DNA, physical injury; nothing.
6 But they didn't even have to prove that to you in that
7 case.

8 They were bringing it up to you to pile on the
9 accusations to say at Hunter's Ridge his Mom was working
10 nights -- or her Mom was working nights and she was out
11 of the apartment when he was at home because they knew
12 that you would have a problem with the fact that she was
13 at home the entire time this abuse was supposedly
14 happening in Charleston County.

15 And remember what the Solicitor just said in her
16 closing argument. Why in the second house, the second
17 house that was right next door in that duplex why did she
18 not get abused there? What reason did she give you?
19 Because her mother wasn't working nights anymore. Guess
20 what? She wasn't working nights anymore in Charleston
21 County either. She was sleeping in a bedroom right across
22 the hallway with her infant son, a nine month old who
23 would wake up throughout the night and disrupt this and
24 he would be caught. It never happened because he was
25 never in that bed. Why make this up? In any case like

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1 this that is the million dollar question. She talked
2 about why she wouldn't take him back? Why the mother
3 would continue to portray herself as believing these
4 accusations. But why would she make it up? Well, she
5 was going to get in trouble for the way she was dancing.
6 She was going to avoid a spanking. She was going to
7 avoid a beating. She was going to get a man out of the
8 picture who her mother was having a tremendously volatile
9 relationship with.

10 Her mother brought up her biological father who was
11 living in a different state I think she said who had
12 disappointed Child enough by not coming to her birthday
13 after he promised he said he would to the point where
14 Andrea, Child 's mother, felt that that was an important
15 fact to bring up to people who were investigating these
16 accusations. But her behavior was changing but it was
17 because of that because she had an absentee biological
18 father that she wanted in her life. She didn't want
19 Stanley in her life.

20 They made a big deal about spit, liquid that this
21 wouldn't have been present in a music video. Remember in
22 her counseling interview that you saw on tape she talked
23 about being at her own friend's house contrary to what
24 she said on the stand as this being Stanley's friend
25 house, and I don't know if you caught that, her own

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1 friend's house she was watching a movie and somebody had
2 her cover her eyes. In this day and age who knows what
3 any kid has been exposed to on a computer, on television,
4 and in movies that some kind of spit or something would
5 be exchanged during some kind of act that you had
6 committed. How hard would it be to make up that kind of
7 accusation given the access kids have on television and
8 the Internet?

9 But more importantly why didn't anybody go and
10 collect the bed sheets to test them for that DNA? We all
11 know what they are insinuating. They are insinuating
12 that that quote unquote spit was semen. Semen is DNA.
13 You can't wipe that off of a cloth bed sheet with a rag.
14 If it happened it would have been there and nobody
15 bothered to check except for Child 's mother who found
16 absolutely no trace.

17 That is less than a day's worth of testimony, those
18 accusations with all that context, all those issues in
19 this little girl's life that is what they are giving to
20 you as proof, proof that Stanley Miller is a child
21 molester; to condemn him as a child molester. So they
22 think they are giving that to you saying that this level
23 of proof is so strong that no reasonable person could
24 even have a doubt that this happened. Is that what's in
25 your mind right now that no reasonable person could have

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1 ever even entertained a doubt that all of these
2 accusations are absolutely 100 percent true. There is so
3 much doubt in this case I didn't even know where to begin
4 in my closing arguments. I am going to stop there
5 because I think you've heard enough. Stanley Miller is
6 innocent and I ask you to find him not guilty.
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JURY CHARGE

THE COURT: Thank you. Mister Foreperson and ladies and gentlemen of the jury you have followed very patiently and listened very attentively to the presentation of the evidence in this case and I thank you for that.

It now becomes the duty of the trial judge under the Constitution of this State to charge and instruct you on the law applicable to this case, and it is your duty as jurors to accept and apply the law as the Court will now state it to you.

As jurors it is your exclusive duty to decide all the issues of fact in this case. You must determine the effect, value, weight, and truth of the evidence. Both the State of South Carolina and the defendant, Mr. Miller, have a right to expect that you will carefully consider and evaluate the evidence and apply the law of the case to the evidence. By doing so both the State of South Carolina and the defendant, Mr. Miller, will receive and obtain a fair and impartial trial in this case.

The State of South Carolina by the bills of indictment in this case charged the defendant, Stanley Miller, with criminal sexual conduct with a minor in the first degree and criminal sexual conduct with a minor in

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1 the third degree. I have ruled as a matter of law
2 regarding the charge of criminal sexual conduct in the
3 first degree and have disposed of this charge.
4 Therefore, the only charge remaining for you to consider
5 is criminal sexual conduct with a minor in the third
6 degree.

7 I remind you ladies and gentlemen that the fact the
8 defendant was arrested, charged and indicted in this case
9 is not evidence in this case and cannot be considered by
10 you as evidence of guilt in this case, nor does it create
11 any presumption or inference of guilt. The indictment is
12 simply the formal written instrument that contains the
13 charge made against the defendant. It is the formal
14 document by which a case is brought into this court.

15 The defendant has pled not guilty to this indictment
16 and that plea puts the burden on the State to prove the
17 defendant guilty beyond a reasonable doubt. A person
18 charged with committing a criminal offense in South
19 Carolina is never required to prove himself innocent.

20 I charge you that it is an important rule of law
21 that the defendant in a criminal trial, no matter what
22 the seriousness of the charges may be, will always be
23 presumed to be innocent of the crime for which an
24 indictment was issued unless guilt has been proven by
25 evidence satisfying you, the jury, of that guilt beyond a

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1 reasonable doubt. This presumption of innocence does not
2 end when you begin your deliberations but it accompanies
3 the defendant throughout the trial until you reach a
4 verdict of guilt based on evidence satisfying you of that
5 guilt beyond a reasonable doubt.

6 The presumption of innocence is like a robe of
7 righteousness that's placed about the shoulders of the
8 defendant and it remains with the defendant until it has
9 been stripped away by evidence satisfying you, the jury,
10 of the defendant's guilt beyond a reasonable doubt.

11 The presumption of innocence is not a mere legal
12 theory. It is not just a legal phrase we use. It is a
13 substantial right to which every defendant is entitled
14 unless you, the jury, are satisfied from the evidence of
15 the defendant's guilt beyond a reasonable doubt.

16 Now again, the State has the burden of proving the
17 defendant guilty beyond a reasonable doubt. The term
18 reasonable doubt must be given its plain and ordinary
19 meaning. However, to the extent that I may define it for
20 you a reasonable doubt is the kind of doubt that would
21 cause a reasonable person to hesitate to act in the most
22 important of their personal decisions. The defendant is
23 entitled to every reasonable doubt arising in the case.
24 If upon any issue of fact essential to a conviction you
25 have a reasonable doubt as to how that issue should be

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1 resolved you must resolve that reasonable doubt in favor
2 of the defendant. Some of you may have served as jurors
3 in civil cases where you were told that it is only
4 necessary to prove that a fact is more likely true than
5 not true such as by the greater weight or the
6 preponderance of the evidence. In criminal cases the
7 State's proof must be more powerful than that. It must
8 be beyond a reasonable doubt.

9 Proof beyond a reasonable doubt is proof that leaves
10 you firmly convinced of the defendant's guilt. Now
11 ladies and gentlemen there are very few things in this
12 world that we know with absolute certainty, and in
13 criminal cases the law does not require proof that
14 overcomes every possible doubt. If based on your
15 consideration of the evidence you are firmly convinced
16 that the defendant is guilty of the offense charged you
17 must find the defendant guilty. If on the other hand you
18 think there is a real possibility that the defendant is
19 not guilty you must give the defendant the benefit of the
20 doubt and find him not guilty.

21 Ladies and gentlemen I remind you that during this
22 trial you and I have certain duties to perform. As the
23 judge it is my responsibility to preside over the trial
24 of this case and I also have the duty to rule on the
25 admissibility of the evidence offered during this trial.

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1 You are to consider on the competent evidence before you.
2 You are to consider only the testimony which has been
3 presented from the witness stand, any exhibits which have
4 been made a part of the record, and any stipulations of
5 counsel. Ladies and gentlemen a stipulation is an
6 agreement between the attorneys regarding a certain fact
7 or issue in a case.

8 I have the additional duty to charge you the law
9 applicable to this case. I am the sole judge of the law
10 and it is your duty as jurors to accept and apply the law
11 as I now state it to you. If you have any idea as to
12 what the law is or what you think the law ought to be and
13 it does not agree with what I now tell you the law is you
14 must abandon this idea because you are sworn to accept
15 and 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.
18 A trial judge cannot comment on or make any statement to
19 a trial jury about the facts in a case. Since you, the
20 jury, are the sole judge of the facts in this case you
21 are not to infer from what I have said during the
22 progress of this trial in ruling upon the admissibility
23 of evidence or otherwise or anything that I say now
24 during the course of this instruction to you that I have
25 any opinion about the facts in this case. The law does

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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. And I remind you as jurors it is your duty to
4 determine the effect, value, weight, and truth of the
5 evidence presented during this trial.

6 There are two types of evidence which are generally
7 presented during a trial, direct evidence and
8 circumstantial evidence. Direct evidence is the
9 testimony of a person who claims to have actual knowledge
10 of a fact, such as an eyewitness. Circumstantial
11 evidence is proof of a chain of facts and circumstances
12 indicating the existence of a fact.

13 Crimes may be proven by circumstantial evidence.
14 The law makes no distinction between the weight or value
15 to be given to either direct or circumstantial evidence.
16 However to the extent the State relies on circumstantial
17 evidence all of the circumstances must be consistent with
18 each other and when taken together point conclusively to
19 the guilt of the accused beyond a reasonable doubt.

20 If these circumstances merely portray the
21 defendant's behavior as suspicious the proof has failed.
22 The State has the burden of proving the defendant guilty
23 beyond a reasonable doubt. This burden rests with the
24 State regardless of whether the State relies on direct
25 evidence, circumstantial evidence, or some combination of

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1 the two. Now as I have instructed you before as a jury
2 it is your duty to determine the creditability of the
3 witnesses who have testified in this case. Creditability
4 simply means believability. It becomes your duty as
5 jurors to analyze and to evaluate the evidence and
6 determine which evidence convinces you of its truth.

7 In determining the believability of witnesses who
8 have testified in this case you may believe one witness
9 over several witnesses or several witnesses over one
10 witness. You may believe a part of the testimony of a
11 witness and reject the remaining part of the testimony of
12 that same witness.

13 You may believe the testimony of a witness in its
14 entirety or reject the testimony of a witness in its
15 entirety. You may consider whether any witness has
16 exhibited to you any interest, bias, prejudice, or other
17 motive in this case. You may also consider the
18 appearance and manner of a witness while on the witness
19 stand.

20 The rules of evidence ordinarily do not permit
21 witnesses to testify to opinions or conclusions. An
22 exception to this rule exists for witnesses we call
23 expert witnesses. A witness who, by education and
24 experience, has become an expert in some art, science, or
25 profession may give an opinion as to the subject the

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1 witness claims to be an expert in and may also give the
2 reasons for the opinion. You should consider any expert
3 opinion given by a witness and like any other evidence
4 give it the weight you think it deserves. If you decide
5 that an expert witness's opinion is not based on
6 sufficient education and experience or if you decide that
7 the reasons given in support of the opinion are not sound
8 or that the opinion is outweighed by other evidence you
9 may disregard the opinion entirely.

10 An expert witness's testimony is to be given no
11 greater weight than that of other witnesses simply
12 because the witness is an expert, and you do not have to
13 accept an expert's opinion, even though it is
14 uncontradicted.

15 During this trial you have heard testimony from a
16 child. Where a witness is a child you must determine as
17 with any witness whether that testimony is believable.
18 In deciding believability you may consider not only
19 matters that I have already discussed with you but you
20 may also consider the age of the child, the child's
21 ability to observe and remember facts, and the child's
22 ability to understand and answer questions. Because
23 young children may not fully understand what is happening
24 here it is up to you to decide whether the child
25 understood the seriousness of appearing as a witness at

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1 this criminal trial, whether the child understood the
2 questions, whether the child has a good memory, and
3 whether the child understands the difference between
4 lying and telling the truth. In addition, young children
5 may be influenced by the way that questions are asked.
6 It is up to you to decide whether the child understood
7 the questions asked.

8 There may have been evidence presented that
9 witnesses made prior statements which may not be
10 consistent with the witness's present testimony. You may
11 use this evidence to decide whether to believe the
12 witness. You may also use evidence of the earlier
13 statements to determine the truth of those statements.
14 It is up to you to decide whether to believe the earlier
15 statement or the testimony given at trial.

16 If a witness is shown to have knowingly testified
17 untruthfully concerning any material matter you may
18 consider this in determining whether to trust the
19 witness's testimony as to other matters. You may reject
20 all testimony of that witness or give all or part of the
21 testimony the weight you think it deserves.

22 The defendant, Stanley Miller, is charged with the
23 offense of third degree criminal sexual conduct with a
24 minor. To prove Stanley Miller guilty of this charge,
25 the State must prove beyond a reasonable doubt that the

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1 defendant is over 14 years of age, that he willfully and
2 lewdly committed or attempted to commit a lewd or
3 lascivious act upon or with the body or its parts of a
4 child under 16 years of age with the intent of arousing,
5 appealing to, or gratifying the lust, passions, or sexual
6 desires of the defendant or the child.

7 The attorneys in this case have stipulated that the
8 two residences located on Hunter's Ridge are located in
9 Dorchester County and are not the subject of the
10 indictment that you are considering here today. The only
11 allegations that you are to determine guilt or innocence
12 of the defendant are on the allegations at the Reed
13 Street residence in Charleston County during the
14 timeframe of October 1, 2013 to November 11, 2013.

15 You have heard testimony that the defendant
16 committed bad acts other than the one for which the
17 defendant is now on trial. In particular you heard
18 testimony from the witnesses in this case about
19 allegations against Mr. Miller outside this county.

20 Specifically, the State offered testimony regarding
21 allegations at a residence on Hunter's Ridge in
22 Dorchester County. This court only has jurisdiction to
23 hear allegations that have occurred in Charleston County.
24 You are not deliberating guilt or innocence of any
25 allegations at Hunter's Ridge. The testimony regarding

State v Stanley Miller
Jury Charge
May 17, 2016

1 allegations of conduct at the Hunter's Ridge residence,
2 if you conclude it is true, may only be considered by you
3 on the question of common scheme or plan and for no other
4 reason and no other purpose.

5 You may give this evidence the weight and value, if
6 any, which you find it should have on the sole issue of
7 common scheme or plan. You must not consider evidence of
8 alleged commission of bad acts as proof of the
9 defendant's guilt of the charge we are trying today.

10 I instruct you and emphasize that the fact the
11 defendant did not testify is not a factor to be
12 considered by you in any way in your deliberation and in
13 your consideration on the question of the guilt or the
14 innocence of the defendant. It must not be considered by
15 you in any manner whatsoever.

16 A defendant has the constitutional right to remain
17 silent, and the assertion of this right must not be
18 considered by you in your deliberations. I repeat, under
19 your oath you are to draw no conclusion whatsoever from
20 the fact that the defendant in this case did not testify.

21 The fact that this defendant did not testify should
22 not even be discussed in the jury room. The burden of
23 proof, as I have stated to you, is on the State. The
24 defendant is not required to prove his innocence. The
25 burden of proof remains on the State to prove guilt

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1 beyond a reasonable doubt. Mr. Foreperson, ladies and
2 gentlemen of the jury as you retire to begin your
3 deliberations I wish to express the hope that each of you
4 are mindful of the importance of your responsibility here
5 today. You are not called upon very often to serve as
6 jurors and the proper performance of the duty requires
7 each of you to reach the height of freeing your mind of
8 all improper influences.

9 Please do not get the idea that I am trying to
10 intimate to you how I might think you should decide this
11 case. As I have already told you, under the laws of the
12 State of South Carolina you, the jury, are the sole judge
13 of all questions of fact. It would be highly improper
14 for me to influence you in your performance of that duty.

15 So again I'm not trying to tell you what verdict
16 should find. But ladies and gentlemen as the presiding
17 officer of this court I am vitally concerned that
18 whatever verdict you reach will be the result of you
19 going back into your jury room and combining your
20 consideration to the evidence and the law that you have
21 heard in this courtroom, weighing it fairly and
22 impartially as I have every confidence you will.
23 Remember your verdict must be unanimous. It must be the
24 verdict of all 12 jurors and to that end we have a
25 verdict form and it simply has one question Mr.

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1 Foreperson for the jury to answer. It has the case
2 caption and the indictment number and it states as to the
3 indictment number the charge of criminal sexual conduct
4 with a minor in the third degree we, the jury,
5 unanimously find the defendant, Stanley Miller, and it's
6 either not guilty or guilty and you check one.

7 Sir, please don't infer from the order that I write
8 those that they have any significance. In every single
9 trial I flip the guilty and not guilty. After that Mr.
10 Foreperson there is a line that says I certify that this
11 is the unanimous decision of the jury you then sign the
12 form and date it sir. At that point when the jury has
13 reached a verdict if you will knock on your jury room
14 door and we will receive you back into the courtroom for
15 your verdict.

16 Ladies and gentlemen I also want to tell you that
17 during this trial you have seen the court reporter taking
18 down everything that everyone says I want you to know
19 that we don't have a printed transcript of any of the
20 testimony or the proceedings here.

21 If there is testimony that you need heard played
22 back, Mr. Foreperson, of a particular witness or
23 something what I can do is bring you back into the
24 courtroom and I can play the testimony of that witness.
25 However, I need to tell you that I am required to play

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1 that witness's entire testimony which includes direct,
2 cross-examination, any redirect for as long as they were
3 on the witness stand. But we certainly can do that if
4 the jury deems it necessary.

5 Ladies and gentlemen for the very last time I'm
6 going to send you back to your jury room and I'm going to
7 tell you not to begin your deliberations. If there is
8 something further on the law that the lawyers want me to
9 instruct you I'm going to bring you back here and I'm
10 going to further charge you on the law.

11 If not Mr. Foreperson I am going to give you a copy
12 of the verdict form and the other evidence that was
13 introduced during this case. That is going to be your
14 signal to begin your deliberations all right sir. I
15 appreciate your time and attention. You are excused back
16 to your jury room.

17 [Whereupon, the jury exits at 4:11 p.m.]

18 THE COURT: Thank you. I just want to put on the
19 record that again I reserved your directed verdict motion
20 to renew before we went straight into the jury charge and
21 we discussed that. I just wanted to make sure that was
22 clear for the record. Now let's take a look at the
23 verdict form. Are there any exceptions or additions to
24 the charge from the State?

25 MS. ELLIOTT: None from the State, Your Honor.

State v Stanley Miller
Jury Charge
May 17, 2016

1 THE COURT: From the defense?

2 MR. COCHRAN: No, Your Honor.

3 THE COURT: All right. Let's take a look at this.
4 There wasn't a whole lot of evidence in this case but
5 let's make sure we have it.

6 [Whereupon, the attorneys and the court reporter
7 review the evidence]

8 [Whereupon, evidence out to the jury at 4:13 p.m.]

9 THE COURT: If you will, bring in the alternates I
10 would appreciate it.

11 [Off the record momentarily]

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State v Stanley Miller
Verdict
May 18, 2016

1 VERDICT

2 THE COURT: In the case of the State of South
3 Carolina versus Stanley Miller -- I apologize if y'all
4 would you please stand.

5 [Whereupon, the defendant and counsel stand]

6 THE COURT: As to indictment number 2016-3249 the
7 charge of criminal sexual conduct with a minor in the 3rd
8 degree we, the jury, unanimously find the defendant,
9 Stanley Miller, guilty. Signed by our Foreperson.
10 Ladies and gentlemen of the jury if this is your verdict
11 will you please indicate by raising your right hand?

12 [Whereupon, all jurors raise their right hand]

13 THE COURT: All the jurors have raised their right
14 hands. Would you like to be seated and for me to
15 individually poll this jury?

16 MR. COCHRAN: Yes, Your Honor.

17 THE COURT: All right.
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State v Stanley Miller
Sentencing
May 18, 2016

1 MR. COCHRAN: Thank you, Your Honor.

2 THE COURT: Thank you. How old is your client?

3 MR. COCHRAN: Thirty-six, Your Honor.

4 THE COURT: Thank you. And he has been in jail
5 since February 12th of 2014?

6 MR. COCHRAN: Yes, Your Honor.

7 THE COURT: Okay. On indictment 2015-GS-10-3249
8 it's for the charge of criminal sexual conduct with a
9 minor 3rd degree the sentence of this court is you be
10 committed to the Department of Corrections for a period
11 of 15 years. I am giving you credit for the time you
12 served. Good luck to you, sir and good luck to you all.
13 Thank you.

14 MS. ELLIOTT: Thank you, Your Honor.

15 THE COURT: I'm going to go ahead and excuse the
16 jury back to their room and I'd like to come see you for
17 just a minute if you would be so inclined. Thank you.

18 [Whereupon, the jury exits at 11:06 a.m.]

19 [Whereupon, the jury trial concludes at 11:08 a.m.]
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SNE/0236997/20140201255
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2013039461

ARREST WARRANT NUMBER
2014A1021000084

DATE OF ARREST

02/12/2014

ACTION OF GRAND JURY

TRUE BILL

OCT 20 2015

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-05365

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS
OCTOBER TERM 2015

THE STATE

VS.

STANLEY MILLER
B/M DOB:

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR, THIRD DEGREE

SC Code: § 16-03-0655(C)
CDR Code: 3661

FILED

10/28/2015 10:23:17 AM
JULIE J. ARMSTRONG
CLERK OF COURT

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.
By *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

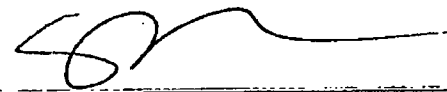
INDICTMENT

At a Court of General Sessions, convened on October 3, 2015, the Grand Jurors of Charleston County present upon their oath:

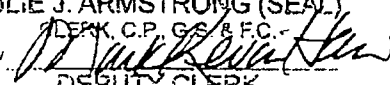
CRIMINAL SEXUAL CONDUCT WITH A MINOR, THIRD DEGREE

That in Charleston County, South Carolina, on or about October 1, 2013, the defendant, Stanley Miller, date of birth [REDACTED] 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 Child, date of birth [REDACTED], 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.



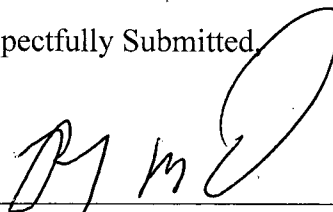
SHANNON ELLIOTT
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., GS & F.C.
By 
DEPUTY CLERK

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,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 25th day of July, 2017.

RECEIVED
JUL 25 2017
SC Court of Appeals