STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED
AUG 10 2017
SC Court of Appeals

Appeal from Pickens County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STACY CAROL RIDEN,

APPELLANT

APPELLATE CASE NO 2016-000234

RECORD ON APPEAL

LAURA R. BAER
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

MARK FARTHING
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

WILLIAM W. WILKINS, III
Solicitor, Thirteenth Judicial Circuit
305 East North Street, Suite 325
Greenville County Courthouse
Greenville, SC 29601
(864) 467-8282

ATTORNEYS FOR RESPONDENT

PAGES 1-500

INDEX

INDEX i

TRANSCRIPT OF TRIAL (January 25-28, 2016) 1

DAY ONE - January 25, 2016

DEFENDANT RIDEN ABSENT (10)

MOTION FOR CONTINUANCE TO OBTAIN COMPETENCY EVALUATION 11

COURT'S RULING 19

MOTION RE: STATE'S DISCOVERY VIOLATION 19

COURT'S RULING 23

MOTION TO EXCLUDE VIDEOS OF CHILD INTERVIEWS 25

PROFFER TESTIMONY

SHAWNA WILLIAMS-GALLOWAY
Direct Examination by Solicitor Jones 31
Cross Examination by Ms. Horlbeck 31

MOTION TO REDACT VIDEOS OF CHILD INTERVIEWS 41

ADDITIONAL OBJECTIONS TO ADMISSION OF CHILD INTERVIEWS 45

VIDEO-RELATED MOTIONS/OBJECTIONS TAKEN UNDER ADVISEMENT 52

DEFENDANT'S MOTION TO SEVER CHARGES 52

COURT'S RULING (preliminary denial) 55

DEFENDANT'S MOTION TO SEVER CASE FROM CO-DEFENDANT 57

COURT'S RULING (preliminary denial) 58

MOTION TO SPECIFY MORE DEFINITE TIME PERIOD 58

COURT'S RULING 61

MOTION TO RESERVE CROSS-EXAMINATION 61

COURT RESERVES RULING 62

MOTION TO RECONSIDER ORDER DENYING DISCLOSURE OF COUNSELING RECORDS 63

COURT'S RULING 64

DAY TWO - January 26, 2016

DEFENDANT RIDEN ABSENT (67)

MOTION FOR CONTINUANCE 68

COURT'S RULING 69

RENEWAL OF MOTION FOR COMPETENCY EVALUATION 70

BOND REVOKED AND BENCH WARRANT ISSUED FOR DEFENDANT 71

CO-DEFENDANT'S MOTION FOR CONTINUANCE 71

COURT'S RULING 72

PROPOSED JURY *VOIR DIRE* AND COURT'S RULINGS 73

READING OF INDICTMENTS 84

MOTIONS RE: FAILURE TO INCLUDE NEGLECT CASE ON ROSTER 91

COURT'S RULING 92

COURT'S FINAL RULING ON MOTIONS TO SEVER 93

RENEWAL OF CO-DEFENDANT'S MOTION FOR CONTINUANCE 93

COURT'S RULING 95

DISCUSSION AND RULING ON ADMISSIBILITY OF VIDEOS OF CHILD INTERVIEWS 96

DISCUSSION AND RULING ON REDACTIONS OF VIDEOS OF CHILD INTERVIEWS 100

COURT'S PRELIMINARY REMARKS TO JURY 128

OPENING STATEMENT BY SOLICITOR JONES 135

OPENING STATEMENT BY MS. HORLBECK 141

OPENING STATEMENT BY MR. WARDER 145

TESTIMONY

MINOR 1
Direct Examination by Solicitor Jones 149
Cross Examination by Ms. Horlbeck 158
Cross Examination by Mr. Warder 169

MINOR 2
Direct Examination by Solicitor Jones 176
Cross Examination by Ms. Horlbeck 182
Cross Examination by Mr. Warder 193
Redirect Examination by Solicitor Jones 194

MINOR 3 (*in camera*)
Direct Examination by Solicitor Jones 196

RULING ON MINOR'S 3 COMPETENCY TO TESTIFY 202

TESTIMONY

MINOR 3
Direct Examination by Solicitor Jones 203
Cross Examination by Ms. Horlbeck 207
Cross Examination by Mr. Warder 212

ADAM MCJUNKIN
Direct Examination by Solicitor Jones 215
Cross Examination by Ms. Horlbeck 218

DAY THREE - January 27, 2016

DEFENDANT RIDEN ABSENT INITIALLY (223)

RULING RE: PARTIAL TRIAL *IN ABSENTIA* PLACED ON RECORD 226

MOTION TO EXCLUDE/REDACT VIDEO OF STATEMENTS BY DEFENDANT AND CO-DEFENDANT 226

BOTH DEFENDANTS PRESENT IN THE COURTROOM (244)

TESTIMONY

MARVIN NIX
Direct Examination by Solicitor Jones 245

MOTION FOR MISTRIAL 260

COURT'S RULING 262

TESTIMONY

MARVIN NIX (continued)
Direct Examination by Solicitor Jones 263
Cross Examination by Ms. Horlbeck 263
Cross Examination by Mr. Warder 269
Redirect Examination by Solicitor Jones 270

ART TAYLOR
Direct Examination by Solicitor Jones 272

MARY CROSWELL
Direct Examination by Solicitor Jones 277
Cross Examination by Mr. Horlbeck 294
Redirect Examination by Solicitor Jones 302

SHAUNA –GALLOWAY WILLIAMS
Direct Examination by Solicitor Jones 305

REDACTED VIDEOS OF CHILD INTERVIEWS PUBLISHED 314

DAY FOUR – January 28, 2016

BOTH DEFENDANTS PRESENT IN THE COURTROOM (322)

INSTRUCTION TO JURY AND ADDITIONAL PORTION OF VIDEO OF CHILD INTERVIEW PUBLISHED 323

TESTIMONY

CHRISTINE CARLBERG
Direct Examination by Solicitor Jones 326
Voir Dire Cross Examination by Mr. Warder 333

OBJECTION TO EXPERT QUALIFICATION OF CARLBERG 336

COURT'S RULING 337

TESTIMONY

CHRISTINE CARLBERG (continued)
Direct Examination by Solicitor Jones 338
Cross Examination by Ms. Horlbeck 360
Cross Examination by Mr. Warder 370

STATE RESTS 374

MOTION FOR DIRECTED VERDICT AND RENEWAL OF PRIOR MOTIONS 374

COURT'S RULING 375

COLLOQUY REGARDING DEFENDANTS' RIGHT TO TESTIFY 379

TESTIMONY

STACY RIDEN
Direct Examination by Ms. Horlbeck 387
Cross Examination by Solicitor Jones 410
Cross Examination by Mr. Warder 423

DEFENDANT RESTS 429

TESTIMONY

MARK LUSK
Direct Examination by Mr. Warder 432
Cross Examination by Solicitor Jones 437
Cross Examination by Ms. Horlbeck 443
Redirect Examination by Mr. Warder 448

AARON HENDRIX
Direct Examination by Mr. Warder 450
Cross Examination by Solicitor Jones 456
Cross Examination by Ms. Horlbeck 459

LUANNE QUEEN
Direct Examination by Mr. Warder 460
Cross Examination by Solicitor Jones 463
Cross Examination by Ms. Horlbeck 464

CO-DEFENDANT RESTS....465

TESTIMONY (STATE'S REPLY)

MARK RIDEN
Direct Examination by Solicitor Jones....467
Cross Examination by Ms. Horlbeck....470
Redirect Examination by Solicitor Jones....472

CLOSING ARGUMENT BY MS. HORLBECK....480

CLOSING ARGUMENT BY MR. WARDER....496

CLOSING ARGUMENT BY SOLICITOR JONES....505

CHARGE ON THE LAW....528

JURY QUESTIONS....554

PARTIAL RE-CHARGE ON THE LAW....556

JURY QUESTIONS....559

VERDICTS....562

SENTENCING HEARING....567

IMPOSITION OF SENTENCE....570

COURT'S EXHIBIT NO. 1 (Defendant Riden's Redactions Request)....573

INDICTMENTS....575

SENTENCING SHEETS....583

SOLICITOR'S REDACTIONS AFFIDAVIT, ACCOMPANYING ATTACHMENTS, AND TYPED REDACTIONS LIST....587

CERTIFICATE OF COUNSEL....593

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT: STATE'S EX. 1 (2/19/14 Interview of Minor 2); STATE'S EX. 2 (4/11/14 Interview of Minor 2); STATE'S EX. 3 (3/11/14 Interview of Minor 1); STATE'S EX. 4 (4/7/14 Interview of Minor 1); STATE'S EX. 5 (Minor 3's Interview – not admitted)

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSION
COUNTY OF PICKENS	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	Case No. 15-GS-39-0227 *et. al.*
	)	
AARON VAN HENDRIX	)	
- and -		
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	Case No. 15-GS-39-0223 *et. al.*
	)	
STACY CAROL RIDEN	)	

TRANSCRIPT OF JURY TRIAL

The within Jury Trial in the above-captioned matter was held on January 25-28, 2016, before The Honorable Perry H. Gravely in Courtroom 4 of the Pickens County Courthouse, 214 East Main Street, Pickens, South Carolina; attended by counsel as follows:

APPEARANCES:

Christopher Jones, Assistant Solicitor
13th CIRCUIT SOLICITOR'S OFFICE
... Appearing for the State

Richard Warder, Esq.
... Appearing for Defendant Aaron Hendrix

Caroline Horlbeck, Public Defender
GREENVILLE COUNTY PUBLIC DEFENDER
... Appearing for Defendant Stacy Riden

Deborah Garrison
Circuit Court Reporter – 13th Judicial Circuit
P O Box 27145
Greenville, South Carolina 29616
dgarrison@sccourts.org

INDEX

Index of Testimony	4
Index of State's Exhibits	8
Index of Defense Exhibits	9
Index of Court's Exhibits	9
Pretrial Motions	10
Defendant Riden's Motion for Continuance	11
Defendant Riden's Request for Evaluation	14
Defendant Riden's Motion to Sever Victims	52
Defendant Hendrix Joinder of Objections	56
Defendant Riden's Motion to Sever Defendants	57
Defendant Riden's Request to make alleged dates more definite and certain in order to respond to alibi	59
Defendant Hendrix Motion for Continuance	72
Defense Riden's Motion for Bench Warrant and Continuance of case due to absence of Defendant	69
Defense Riden's objection to Notice	84
Jury Qualification & Selection	85
Batson Motions	120
Defense Hendrix Motion for Continuance	138
Motion to Sequester Witnesses	168
Jury Sworn	172

INDEX CONTINUED

Welcome by The Court	172
Opening Statement by Solicitor	179
Opening Statement by Ms. Horlbeck	185
Opening Statement by Mr. Warder	189
Motions for Mistrial	362
Defense Renewal of Motions & Objections	418
Defense Motions for Directed Verdicts	418
Examination of Defendant Riden	423
Examination of Defendant Hendrix	427/474
Charge Conference	420
Renewal of Motions & Objection	523
Closing Argument by Ms. Horlbeck	524
Closing Argument by Mr. Warder	540
Closing Argument by Solicitor	549
Charge by The Court	572
Verdict	607
Imposition of Sentences	614
Certificate of Court Reporter	617

INDEX OF TESTIMONY

SHAUNA GALLOWAY-WILLIAMS 31

(Proffer Outside Presence of Jury)

Minor 1

Direct Examination by Solicitor 193

Cross Examination by Ms. Horlbeck 202

Cross Examination by Mr. Warder 212

Redirect by Solicitor Jones 219

Minor 2

Direct Examination by Solicitor 219

Cross Examination by Ms. Horlbeck 226

Cross Examination by Mr. Warder 237

Redirect by Solicitor Jones 245

Minor 3 (Proffer)

Direct Examination by Solicitor 240

Examination by The Court 242

Minor 3 (Before Jury)

Direct Examination by Solicitor 247

Cross Examination by Ms. Horlbeck 251

Cross Examination by Mr. Warder 256

INDEX OF TESTIMONY
(Continued)

ADAM McJUNKIN

Direct Examination by Solicitor 259

Cross Examination by Ms. Horlbeck 262

MARVIN NIX

Direct Examination by Solicitor 289

Cross Examination by Ms. Horlbeck 307

Cross Examination by Mr. Warder 313

Redirect Examination by Solicitor 314

ART TAYLOR

Direct Examination by Solicitor 316

MARY CROSWELL

Direct Examination by Solicitor 320

Cross Examination by Ms. Horlbeck 338

Redirect Examination by Solicitor 346

SHAUNA GALLOWAY-WILLIAMS

Direct Examination by Solicitor 349

Cross Examination by Ms. Horlbeck

Cross Examination by Mr. Warder

INDEX OF TESTIMONY
(Continued)

CHRISTINE CARLBERG

Direct Examination by Solicitor	370
Voir Dire Exam by Ms. Horlbeck	374
Voir Dire Exam by Mr. Warder	377
Cross Examination by Ms. Horlbeck	404
Cross Examination by Mr. Warder	414

STACY RIDEN

Direct Examination by Ms. Horlbeck	431
Cross Examination by Solicitor	453
Cross Examination by Mr. Warder	467

MARK LUSK

Direct Examination by Mr. Warder	476
Cross Examination by Solicitor	481
Cross Examination by Ms. Horlbeck	487
Redirect Examination by Mr. Warder	492

AARON HENDIX

Direct Examination by Mr. Warder	493
Cross Examination by Solicitor	500
Cross Examination by Ms. Horlbeck	503

INDEX OF TESTIMONY
(Continued)

LUANNE QUEEN

Direct Examination by Mr. Warder	504
Cross Examination by Solicitor	507
Cross Examination by Ms. Horlbeck	508

MARK RIDEN

Direct Examination by Solicitor	511
Cross Examination by Ms. Horlbeck	514
Redirect Examination by Solicitor	516

INDEX OF STATE'S EXHIBITS

No.	Description	Reference
1	2/19/14 Video Interview of Minor 2	81/354
2	4/11/14 Video Interview of Minor 2	354
3	3/11/14 Video Interview of Minor	354
4	4/7/14 Video Interview of Minor	354
5	3/11/14 Video Interview of Minor	ID Only
6	4/14/14 Statement of Stacy Riden	ID Only
7	3/17/14 Statement of Aaron Hendrix	ID Only
8	1/30/14 Statement of Aaron Hendrix	ID Only
9	Waiver of Rights - Riden	ID Only
10	Waiver of Rights - Hendrix	ID Only

INDEX OF DEFENSE EXHIBITS

AARON HENDRIX

- None Entered -

INDEX OF DEFENSE EXHIBITS

STACY RIDEN

No.	Description	Reference
1	Proposed Voir Dire	ID Only

INDEX OF COURT'S EXHIBITS

No.	Description	Reference
1	Defendant Riden's Redactions	145
2	Jury Note re transcripts	599
3	Jury Note requesting recharge	599
4	Jury Note re Verdict form	604
5	Jury Note re typo on Verdict	605
6	Corrected Verdict form (Hendrix)	605

JANUARY 25, 2016 2:30 p.m.

(DEFENDANT HENDRIX PRESENT)

THE COURT: Let's go on the record. For the record, Mr. Warder, you're here for Mr. ---

MR. WARDER: Aaron Hendrix, Your Honor.

THE COURT: And, Ms. Horlbeck?

MS. HORLBECK: Stacy Riden, Your Honor.

THE COURT: All right.

SOLICITOR JONES: Yes, sir, Your Honor. The defendants are Stacy Riden and Aaron Hendrix.

They're both being tried for two counts of CSC first with a minor and one count of CSC with a minor third degree.

Ms. Riden also has an unlawful neglect charge as well.

THE COURT: All right. Is Ms. Riden here?

MS. HORLBECK: No, Judge. I don't see her here today.

THE COURT: Okay. All right. What are the nature of the Motions?

SOLICITOR JONES: Your Honor, we have one Motion I received today from Ms. Horlbeck. It's a Motion for a continuance she'd like to take up.

The State needs to take up a Motion as to the admissibility of the child hearsay as to statute 17-23-175, Your Honor.

And I believe there are also some Motions to redact from the defense attorneys as to those, the videos of the forensic interviews, Your Honor.

THE COURT: I guess the Motion for a continuance needs to be heard first?

MS. HORLBECK: Yes, sir, Judge. You've already heard the charges that Ms. Riden faces.

THE COURT: Right.

MS. HORLBECK: Judge, shortly after I was appoint, I filed a discovery and *Brady* Motions on June the 5th, 2014, and those were served on the State on June the 12th, 2014.

I received two responses to my Motions. One response was dated February the 9th, 2015. And the second response was dated

September the 2nd, 2015. In those packages, I didn't see any evidence of any oral statements that Ms. Riden had made to her father. She had made a statement to law enforcement.

On January the 20th, 2016, -- which was last Wednesday -- I received an e-mail from the State informing me that "Ms. Riden's father said Ms. Riden told him..." -- so my client would have told her father -- "I don't remember ever hurting my kids but if I did, it was because of the drugs."

Judge, I just realized the original Motion that was filed is downstairs. There's a copy of my Motion and I've shared that with the State -- (tenders copy to Court).

THE COURT: All right.

MS. HORLBECK: Judge, I'm concerned about that statement. I'll let Your Honor have a chance to review that before I go further.

THE COURT: All right. (Upon review), thank you.

MS. HORLBECK: Judge, just from my personal observations, Ms. Riden is

extraordinarily difficult to get in touch with now. I have spoken to her several times about her case. When I have spoken to her, yes, she does seem to understand the nature of the charges. However, she is a terrible historian. Her ability to provide helpful information for the preparation of this case for trial has been poor, at best.

I filed a FOIA request with the Pickens County Law Enforcement Center, so that I could obtain a copy of all incident reports that ever mentioned or had anything to do with Ms. Riden. And found out that a couple of years after -- she had already given birth to two children, but a couple of years prior to these allegations, these alleged allegations, she had been pregnant with a four-month-old child. Didn't realize it, gave birth to the stillborn four-month-old child in the toilet and law enforcement had to be called. There were no charges that resulted.

However, I realize then I'm dealing -- and the nature of the statement that she made to her father, I'm concerned I am

dealing with someone who has a real severe disconnect with things going on around her. I'm worried that her intoxication and drug use have led to a mental defect or some sort of mental injury that now call into question her competency to stand trial as well as her capacity to stand trial, and her understanding of the difference between right and wrong, and the ability to conform her actions to these charges.

Judge, I just -- I didn't find out about this statement until last Wednesday. I started to connect some of the dots. I just hate for this case to -- you know, we're going to do everything that we can to win. Sometimes it can be difficult to do that. I hate for this case to have to come back on PCR and then address these issues all over again at that point, Judge.

I would just respectfully request that the Court continue this case.

I believe I could probably go down to the public defender's office they will assist me -- I haven't checked with them yet -- in getting the necessary orders together.

They can be signed today.

If my memory's correct, I believe what I've done with these types of evaluations in Greenville, I believe they can be scheduled and they have been scheduled within a month. I don't have any guarantee of that. But I think it's very likely this could be scheduled again on the next docket.

I'm just concerned about this statement. I think it calls that issue into question, Judge.

THE COURT: Mr. Jones?

SOLICITOR JONES: Your Honor, these defendants were arrested, I believe, in May of 2014.

I called this case to trial in September of last year. And a few weeks before that term of court, Ms. Horlbeck asked for a continuance so she could get funding for an expert. We had a hearing in front of Judge Hill in Greenville. He granted her continuance so she could get funding for an expert.

We didn't know at the time that Mr. Warder was protected for the entire month of

October, so we couldn't try it that month.

I had a conflict the month of November.

We had some other stuff on the docket for December.

This is the first time we've been able to call the case again for trial, Your Honor.

As to the reasoning for her continuance, I don't know if it's -- I think it's based on the statement that I just gave Ms. Horlbeck. And she's also making a Motion for her client to be psychologically evaluated.

But as to the statement, Your Honor, I don't think that was anything that I necessarily had to give over to the defense. I know it's a statement of the Defendant. But Rule 5 is -- Rule 5 says that I have to give over a written statement or recorded statement of the defendant or an oral statement made to a law enforcement officer. So this was an oral statement made to her father, that I was made aware of a week or two ago when I spoke with him about other

things. I told her what the statement was out of an abundance of caution, Your Honor. So I don't think that was anything -- I don't think there was any type of discovery violation on the State's part.

So I don't think there's any merit to any type of discovery violation. I don't think there's any reason to grant a Motion for continuance. This case is extremely old. It's been called multiple -- it's been called at least one time since I've had it.

And in the two years Ms. Horlbeck has been representing Stacy Riden, I would think that there would be other times Ms. Horlbeck would question her sanity, her ability to help her prepare for trial and whether or not she's a poor historian. This should have come up before now, before two years into the case, Your Honor.

So I would ask that you deny the Motion for a continuance, Your Honor, and let this case go forward.

These children have been prepared twice for trial. That's two times I've brought them up here and questioned them.

So, again, Your Honor, we would ask that you deny her Motion for continuance.

THE COURT: I didn't take it as much as discovery, other than that this triggered some evaluation of your case. I don't think you were -- I mean, that's what I thought the gist of your Motion was.

MS. HORLBECK: Judge, I don't know when the witness told him, he's telling me a week or two ago. I think it is discoverable under *Brady* because I think it's potentially exculpatory and it can be used as a defense; which is why I'm asking that she be evaluated.

A couple of things:

The expert that I hired at that point was simply to evaluate the forensic videos of the children to see if there was a potential defense in that.

So the expert I hired has never spoken to Ms. Riden and wouldn't have been qualified to evaluate her.

Judge, before the statement came up I had, you know, she'd never told me anything about not remembering what happened because

of drug use. So that is why I did not make this request earlier. The other observations I've shared with you are simply things that, you know, alone may not rise to the level of the need for an evaluation. But I think with this statement, that changes everything, which is why I'm bringing it to the Court's attention.

SOLICITOR JONES: Well, Your Honor, there -- part of the allegations ---

THE COURT: That's fine. I mean, I've got it. I'm sorry. I mean, I understand where you're coming from -- I didn't mean to cut you off.

But, you know, I don't believe that it violates discovery. I think at this point, based on a statement there and as long as this case and as old as this case is, the fact that this hasn't been raised before about an evaluation -- I understand your concern, but I'm going to deny the Motion. Sorry to put you in that position but I think we need to go forward with it.

MR. WARDER: Your Honor, if it please the Court?

THE COURT: It does.

MR. WARDER: There was a newly -- at the same time that he made the information available to co-counsel, he sent me a statement, an oral statement that was also reported by the grandfather, allegedly made by my client.

I think that is a discovery violation and so at least on the record I want to have Your Honor note that we object to the failure to properly, timely disclose that.

It obviously was written down and recorded in the records of law enforcement anyway at some time or other. And just because that law enforcement is not the one that originally received it, doesn't take it out of the scope of discovery.

MS. HORLBECK: Can I? I just would join in that Motion, Judge, and make the same argument on behalf of Ms. Riden. The substance of my Motion was for the evaluation but I believe it's a *Brady* violation in addition to a discovery violation.

THE COURT: All right. Anything else? Then I'll hear from Mr. Jones.

MR. WARDER: No, sir.

SOLICITOR JONES: Briefly, Your Honor. That statement was not written down, other than -- what he's talking about, the father also said the day he -- the grandfather. He said the day he found out about the abuse, he called Mr. Hendrix on the phone and said, 'I know what you did', something to that effect. And Mr. Hendrix told him, "Well, I was sick then. I was sick then." That's the extent of the information.

The grandfather never came in to talk with us in preparation for the trial because he wasn't -- he worked and he wasn't the primary caregiver of the children. So he wasn't someone that I talked with. So I was not aware of any type of statement he made.

I just want to be clear. No statement was written down or recorded. Both statements were oral statements to a non-law enforcement officer. And as to the *Brady* violations, *Brady* deals with exculpatory evidence. And these statements

would be inculpatory. They would tend to prove that the defendants were guilty, not tend to prove that the defendants were innocent. So that's where the defense attorneys and I disagree on that. Thank you, Your Honor.

MS. HORLBECK: And my positon, Judge, that they would be exculpatory if she is under the influence of drugs and then has some sort of associated mental defect or mental injury resulting from her long-term drug use. That would amount to a defense. Then she could present an insanity defense or a guilty-but-mentally-ill defense, Judge. And that is why I am asking for a court order that she be evaluated so that she would have the opportunity present that defense, you know, if it's ruled in.

She faces two count of CSC with a minor first degree today. And then just in other charges she faces, you know, a twenty-five to life sentence on each of those charges. I just would ask the Court, out of an abundance of caution, to continue this matter and allow her to be evaluated.

THE COURT: All right.

MR. WARDER: Your Honor, I would take exception that *Brady* only requires exculpatory. *Brady* is broader than that. *Kyle* and the cases that interpret it clearly set forth the things that are necessary to prepare the defense.

In other words, if something comes in that could be beneficial to us or could lead us to beneficial other discovery, other things, or other witnesses, that in itself has to be disclosed.

And clearly, I think that this oral statement amounts to -- it's like kind of an attempt at what -- my client giving an explanation or indicating that he'd done that, coming just a few days before trial, certainly is prejudicial.

THE COURT: Well, I mean, I guess, I mean he has disclosed it. So, therefore -- I mean, and I guess your objection is the timing of it. Should it be allowed into evidence or the matter be continued, you know. But if -- I'm not going to grant a continuance so, you know, if it looks like at

the time that, you know, we get further into it and I find, you know, I still could say that it's not admissible; possibly, you know.

MR. WARDER: Yes, sir. We want to ---

THE COURT: But I'm not going to continue it. And that's all I'm considering at this point.

MR. WARDER: Okay.

THE COURT: And I'll let you renew that objection at the appropriate time after I've got more of the information about the case.

MR. WARDER: Yeah. I would ask that the -- and I understand -- the State at least let us know when they're going to try and elicit that so we can have arguments before. It might be blurted out before the jury.

THE COURT: All right. And I'll let you do that. Because I don't have enough information, other than -- I mean, the only thing I have is this Motion for continuance and I don't want to make a ruling on that particular issue without a little more

information. All right. Next?

SOLICITOR JONES: Your Honor, I don't know how you want to handle the out-of-court statements of the children, the forensic interviews. There are three children. Two of the children were interviewed on two separate occasions. So there's a total of five forensic interviews that the State would be intending to introduce through the course of the trial.

And I don't know if you want us to wait until at that point in the trial and then have a hearing where you can listen to the videos and find that it meets all the factors of 17-23-175 or you want us to go ahead and play the videos today.

Ms. Shauna Galloway is here to testify as to her part, just to lay a foundation as to the admission of the forensic interviews, Your Honor.

THE COURT: I mean, have y'all discussed it? I mean, I guess are y'all objecting to all the forensic interviews?

MR. WARDER: Your Honor, on behalf of my client, I certainly would. You know, I

think -- I would object to all of them.

THE COURT: All right.

MS. HORLBECK: On behalf of Ms. Riden, I would object to all of them as well.

THE COURT: All right. Well, I guess to avoid having the -- to draw a jury and then have the jury just sit there when we're reviewing them, we may as well just listen to them afternoon. Just, you know, let you proffer them this afternoon.

SOLICITOR JONES: Okay.

THE COURT: Is that all right with y'all?

MR. WARDER: Yes, sir.

MS. HORLBECK: (No verbal response).

SOLICITOR JONES: And, again, I've anticipated Ms. Shauna Galloway testifying and perhaps being cross-examined just as to whether or not -- and obviously, you can see in the video if she asks leading questions or anything of those things that would be incorrect. But she is here to testify just briefly as to the videos.

THE COURT: Well, let me ask you

this. Are y'all objecting on the general grounds of them? Are there any -- I mean, is it just the admissibility of the whole interview itself or any particular part of it? I mean, I guess what I'm saying is do I need to review the whole thing or once I make a decision on whether the proper foundation has been laid or -- tell me exactly what your objection to it is.

MR. WARDER: Your Honor, when the videos are taken as a whole, they are leading and suggestive. The interviewer provides too much information in the question.

Now, I think there is a video of Minor 3 and she says at the end of it that she's unsure whether it's real or not, whether it really happened. I think that video in its entirety should be put out, withheld because the young child when questioned whether what she has told is real or not, she's unsure. She thinks it is.

THE COURT: I mean, wouldn't that be a factual issue for the jury?

MR. WARDER: Well, I think you can't put a witness up and let them testify

to a set of facts and then have the witness say, 'I think it's true.' You know, it either happened or it didn't. It's either real or it didn't. And that's what the interviewer is saying, 'Are these real facts?' And she's saying, 'I think they are.'

SOLICITOR JONES: Your Honor, -- one, I would take issue with the way he's describing that particular scene. I think you need to watch the whole thing.

She's actually asking about a particular situation. She'd just asked the child about if that particular incident was true or is she not sure.

But basically on 17-23-175, Section 4, (reading): "the Court has to find in a hearing outside the presence of the jury in the totality of the circumstances surrounding the making of the statement provide the particularized guarantees of trustworthy-ness." So that would be the purpose of Your Honor watching these videos and then decide for yourself.

THE COURT: Well, let's go ahead

and I'll allow you to proffer them and then y'all can make whatever objections?

SOLICITOR JONES: Okay.

THE COURT: And how long do you think all of them are?

SOLICITOR JONES: Altogether?

MR. WARDER: Five hours.

SOLICITOR JONES: I don't think they're all an hour apiece, but they're close to it. Probably forty-five minutes apiece.

THE COURT: Well, I may have to see part of them today and part of them tomorrow. Y'all are not going to make the court staff stay late for proffer testimony.

SOLICITOR JONES: And, Your Honor, let me just put this in. Let me step back for a second.

THE COURT: We could start at 7:00 in the morning.

COURT REPORTER: Can we mark those as exhibits, counsel?

SOLICITOR JONES: Oh, yeah. I'm sorry.

And, Your Honor, I need to step back. Ms. Shauna Galloway is here.

THE COURT: Okay.

SOLICITOR JONES: If the Defense would not like her to testify, doesn't think that to be necessary, I can excuse her. But, you know, I planned on her testifying as to -- just to lay the foundation for these videos.

MR. WARDER: Your Honor, on that particular point, I'd take the position that it's not necessary that this hearing because they are not coming into evidence.

THE COURT: Right. Based on my determination, I don't -- well, let's do this. I mean, you're planning on having her here tomorrow or whenever you're ---

SOLICITOR JONES: (Affirmative nod), whenever I plan to introduce these. And the reason I had her here is under subsection (b)(5) "there must be sworn testimony of any participant which may be determined necessary by the Court."

THE COURT: Well, that's not going to take long. I mean, it sounds like you're just laying a general background. I think -- I mean, that could weigh into my decision on

it.

SOLICITOR JONES: I'd like to just call her briefly and have her excused. How about that?

THE COURT: Okay.

(WITNESS TAKES STAND)

SHAUNA GALLOWAY-WILLIAMS, having been duly -to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Ms. Galloway-Williams, where do you currently work?

A. Julie Valentine Center.

Q. And what's your position there?

A. I'm the executive director.

Q. And how long have you worked for the Julie Valentine Center?

A. I've been employed with the Julie Valentine Center since 2007, so almost five years.

Q. Okay. And what do you do at the Julie Valentine Center?

A. In addition to operating as the director with oversight over the financial

responsibilities, the administrative side of the business, I also provide clinical services. So I still facilitate groups as well as do assessments or interviews with children.

Q. And tell the Court just briefly what your education background is.

A. I have a Master's degree in counseling. I have a Bachelor's degree in psychology. And I'm licensed as a professional counselor in South Carolina.

Q. And how long have you conducted forensic interviews?

A. I have been conducting forensic interviews for twelve years.

Q. And did you interview Minor 2 , Minor 1 and Minor 3 ?

A. I did.

Q. And during those interviews did you get any statements by leading questions? Did you use leading questions when talking to the children?

A. No.

Q. Okay. And from your memory, did the account that the children gave you, was that

a detailed account of the alleged offense?

A. Yes, they did provide details.

Q. And did the statement of the children, did it have internal coherence in that you could understand what they were saying?

A. Yes.

Q. And throughout the interview, did you ever comment on the credibility of the children or whether or not you believed the children?

A. No.

SOLICITOR JONES: Your Honor, that would be all of the questions I would have as to the admissibility of the videos.

THE COURT: All right. Any cross-examination on this line of questioning?

MR. WARDER: Your Honor, I'd have no questions at this time.

THE COURT: All right. Ms. Horlbeck?

MS. HORLBECK: Just briefly.

CROSS-EXAMINATION

BY MS. HORLBECK:

Q What training have you had

specifically in conducting investigative interviews?

A. I have had over a hundred fifty hours of skill-based training in forensic interviewing.

I've attended two nationally recognized trainings.

I'm trained in both National Children's Advocacy Center model as well as Finding Words, which is now Child First.

I've attended numerous trainings annually and I also have provided training for professionals in forensic interviewing as well as child maltreatment in general.

I've been an adjunct faculty member at the Child Advocacy Studies Program at USC Upstate.

Q. Okay. You said there were a hundred fifty hours with what again?

A Of skills-based training.

Q. Okay.

A. Meaning it's not just lecture. There are actually where we do mock interviews and it's real hands-on training.

Q. Okay. And you said there was a

nationally recognized program you participated in. And which one was that?

A. National Children's Advocacy Center.

Q. Okay.

A. I've participated in both their general forensic interview training as well as extended forensic interview training. And I've done some of their additional forty-hour trainings.

I also have participated in Finding Words, which is now called Child First.

Q. Okay. When did it change and when did it start to be called Child First? Do you remember? You may not remember that.

A. I don't know. When I went through -- let me have just a second. I'm sorry, I can't seem to find it here.

Q. Okay.

A. Oh, (upon review of file), Finding Words. When I attended in 2007 it was still called Finding Words South Carolina. I really don't know when they changed their name to Child First.

Q. Okay?

A. It's the same, essentially the same

training but just under a different name.

Q. Okay. Now, in the -- there were actually two interviews that were conducted on Minor 2 and I think Minor 1 ; is that correct?

A. Yes.

Q. All right. In the second interviews, do you recall asking the children if they just talked about things that had really happened?

A. So, is the question did I ask them if they ---

Q. Yes? Do you recall asking them that?

A. If they only talk about things that really happened?

Q. Yes?

A. Yes.

Q. Okay. And those things -- since you videotaped those interviews then those questions where you asked the children if they only talked about things that really happened, those things would be on the interview; correct?

A. Yes.

Q. Okay.

A. I either ask that or stated that we only talk about things that really happened.

Q. Okay. All right. And so the second interviews again, both of Minor 2 and Minor 1, were there times or occasions that you left the room and the children are on the videos drawing on the boards and -- do you remember that?

A. I do generally if there are observers present at the time of the interview, then I do leave the room and come back into the room.

Q. Okay.

A. I can't remember exactly if that happened in both interviews with both children or not.

Q. Okay. Is that unusual for children to color? Do your recall asking the children if they wanted to color on the board while you were gone?

A. If I leave the room, then I do allow them to draw or color on the board, to give them something to do while I'm out of the room.

Q. Okay.

A. But the video camera is always rolling so someone can see what's going on in the room at all times.

Q. I understand.

A. And then we save all of the drawings and paper that's in the room when they're there.

Q. All right. So if there is video of Minor 2 and Minor 1 drawing on the board, then that would be captured on video; correct?

A. Yes.

Q. All right.

A. The entire interview, the entire time from the time I walk into the room until we exit the room together, is on video.

Q. All right. Now, on the videos of all three children, do they describe things that they believe they saw happening to the other two children?

A. Yes.

Q. Okay. All right. Do they also disclose -- at least Minor 2 Do you recall whether or not she talked to you about any -- seeing her mother and the codefendant slap

and things like that? Do you recall whether that is on Minor 2 's video?

A. Do I recall whether her mom and boyfriend slapped each other or slapped the children?

Q. Whether Minor 2 told you that she saw her mother and Mr. Hendrix slap one another. Do you recall that?

A. I don't know. We could refer -- I mean, the video would speak for itself.

Q. I understand. All right. Do you have an independent recollection of whether or not Minor 2 talked to you about her mother and her sister being arrested for other charges?

A. I don't know.

Q. Okay. When was the last time you took a look at the videos?

A. This morning.

Q. So you watched all five hours of them?

A. All five hours, (affirmative nod).

Q. Okay. And you don't recall that then in Minor 2 's video?

A. I don't. And, again, you know, the

videos really speak for themselves. I don't have a full transcript in front of me.

Q. All right. Do you recall asking the children if anyone told them to say these things?

A. I did ask them if anyone had told them what to say or not to say. That's a standard question that I ask the children.

Q. All right. And do you recall whether or not the children mentioned anything about pills and beer?

And in particular I'm talking about Minor 1. Do you recall whether he mentioned those things?

A. They did mention those things.

Q. Okay. That's all I have. Thank you.

THE COURT: Anything further from the State?

SOLICITOR JONES: Nothing further from the State, Your Honor.

THE COURT: You know, I realize that -- and it sounds like it is fairly close to five hours of stuff and I'm not sure we need to subject the entire courtroom to my

reviewing of it, basically. I mean, it seems like it makes sense then for me to review the videos in-camera -- or in-office I mean. And I can -- did you introduce them as exhibits? Do you have extra copies? There's just one copy?

SOLICITOR JONES: Just one copy. We can make an extra copy. Of course, the Defense has a copy.

THE COURT: I mean, I can review each one and as I review it, I could e-mail y'all and say, 'I have reviewed this and this is my decision on this.' And then y'all could have any additional arguments possibly in the morning, based on my conditional ruling.

You also have -- there was also some issue about certain things that needed to be redacted.

SOLICITOR JONES: Your Honor, I asked each Defense attorney to send me a list of proposed redactions.

Ms. Horlbeck did send me a list.

Mr. Warder did not.

I responded to Ms. Horlbeck's

proposed redactions. I think a couple of them I agreed would be redacted. But I would ask if you do want to watch these in camera, you just take the list that Ms. Horlbeck gave me. So that way as you watch the videos you can see -- and she put what time she proposed the redaction.

THE COURT: All right.

Do you have a list, Mr. Warder, of any possible redactions in the event that I should rule they are admissible.

MR. WARDER: Your Honor, we have no specific minutes on the redactions.

THE COURT: Okay. And like I said, I'll make sure that it -- it actually may be easier for me to review the whole thing. And like I said, what I can do is ---

MR. WARDER: I think my objection to them is when you take them all in context, it becomes evident that these are things that have been placed in the children's mind by the caregivers. I think it becomes obvious. In other words, there's an interview taken. There's a few days that pass. There's another interview when the children are kind

of getting ready to go to Disney Land (sic), that's kind of a quick trip. Then they exaggerate or enhance the allegations. I think you have to see them both in sequence to see how logically the children begin to say worse and worse things in the interview when they're going to Disney Land.

THE COURT: Right. And I guess then -- I guess my determination is kind of a threshold level. And then, you know, if I allow them in then that's what you argue to the jury when it becomes a question of fact.

MR. WARDER: Well, I would hope it would be decided as a matter of law and we wouldn't have to argue it.

THE COURT: Well, I will look at it and make the decision accordingly. Like I say, I don't think it makes any sense for me to watch them for five hours from in here. I mean, I'll be glad to ---

Why don't you mark each of them as an exhibit?

SOLICITOR JONES: Yes, sir.

THE COURT: And, like I say, let me have everybody's e-mail address and if I

have any other questions or issues or something, I could shoot y'all an e-mail and let you know kind of which way I'm leaning with what I decide, with the understanding that you can come back here in the morning and discuss it further if needed.

Is that all right with you, Mr. Warder?

MR. WARDER: Yes, sir.

THE COURT: Is that all right, Ms. Horlbeck?

MS. HORLBECK: Judge I don't have any objection to an in-camera review of the videos.

THE COURT: Okay.

MS. HORLBECK: I did have a couple of other points I did want to put on the record.

THE COURT: Okay.

MS. HORLBECK: Just with regards to ---

THE COURT: But as to the videos?

MS. HORLBECK: Yes, sir. Just some other reasons and I can make them now or I can ---

THE COURT: No, that'd be fine. I'd like to know what they are now.

MS. HORLBECK: All right. Judge, my position is that the statute we're talking about, 17-23-175, is unconstitutional. I believe it violates the Sixth Amendment of the Constitution, U.S. Constitution. The children are not under oath at the time of the interview. Neither myself nor Mr. Warder have had the opportunity to contemporaneously cross-examine these children when they are in the process of being interviewed.

Our position is, as well, the prejudice outweighs the probative value.

The videos -- and I think I've alluded to this a little bit, but the videos show playful interaction between the children in the interview, the beginning and the end of the interviews, Judge. In particular, there are shots of the children drawing on the board, writing "I love you Grandma." These types of interactions stir the emotion and that kind of just impermissible emotion. We would just ask that that all be removed.

Also, Judge, our position is that

the videotapes are hearsay. The statements in the videotapes go beyond the time and place of the alleged assault. And that type, as you know, Rule 801 of the Rules of Evidence, 801(d)(1)(d) provide that hearsay testimony be limited to time and place.

Generally, a prior consistent statement such as these videos wouldn't be admissible unless the witness is charged with some kind of fabrication or improper motive or inference.

The statute prevents an improper corroboration or bolstering conflict with 801(d)(1)(d). And we believe it violates the Sixth Amendment of the Constitution.

And, Judge -- in particular, Judge, the Minor 3 interview, as you're looking at the factors and the totality of the circumstances surrounding the making of that statement, we just don't think that her statement in particular provides a particularized guarantee of trustworthiness. She states in the middle of the video, especially with respect to Ms. Riden, that she does not know, that the things she's

disclosed about her mother are things she just thinks happened, but she doesn't know. And I think that for that reason alone, I think that Minor 3 's interview needs to be excluded, Judge. That's all I have.

THE COURT: All right. Any specific response?

SOLICITOR JONES: Just briefly, Your Honor. A lot of issues Ms. Horlbeck commented on have already been decided by the Supreme Court and the Court of Appeals.

I would point Your Honor and Ms. Horlbeck to *State v. Whitner* and to *State v. Perry*. I can give your law clerk the citations for those. The statute is an exception to the hearsay rule.

The Supreme Court in *State v. Whitner* said that that particular statute is a valid legislative enactment. They go on to say that that particular case is a standard of how the forensic interviewer should testify in Court, Your Honor.

And, as well, *State v. Perry* talks about the issue of bolstering. That goes to when the interviewer testifies in Court.

THE COURT: Right. I am familiar with both of those cases.

SOLICITOR JONES: Okay, Your Honor. And so I think both of those cases would be on point as to the arguments Ms. Horlbeck's making, Your Honor.

THE COURT: I think before I rule on that -- mean, I guess it's a Motion *in limine*, so let me review those.

But I think those issues have been addressed by the Court of Appeals. Some cases that, you know, has carved out an exception to that. So I'll review your argument as I review the videos as well.

All right. Anything else? Do you want to just mark the ---

MS. HORLBECK: I ---

THE COURT: Yes, do you have something else?

MS. HORLBECK: I have a couple of things, Judge.

THE COURT: Okay.

MS. HORLBECK: Not on this subject matter, so I didn't know.

THE COURT: All right. Well,

let's go ahead and get this and then you can get into the other one.

MS. HORLBECK: Yes, sir.

THE COURT: Is there any reason why the witness cannot be excused at this time?

SOLICITOR JONES: Nothing else from the State, Your Honor.

MS. HORLBECK: Nothing from us, Your Honor.

MR. WARDER: No, Your Honor.

THE COURT: All right. Y'all will have a crack at her later, looks like. It depends on how I rule.

MR. WARDER: Judge, I've just got a couple of -- I'm sorry.

THE COURT: Let's mark these just so we keep the record straight.

MS. HORLBECK: Oh, sure.

THE COURT: Are you marking them chronologically?

SOLICITOR JONES: Yes, Your Honor. I'm going to do them by child, chronologically.

THE COURT: Okay.

SOLICITOR JONES: So Minor 2 's interview of February 19th of 2014 ---

COURT REPORTER: State's Exhibit 1, interview of Minor 2 .

COURT REPORTER: Number 2?

SOLICITOR JONES: Minor 2 's interview dated April 11th of 2014.

COURT REPORTER: State's Exhibit 2.

SOLICITOR JONES: State's 2. And then Minor 1 dated March 11th of 2014.

COURT REPORTER: State's Exhibit 3.

SOLICITOR JONES: And then Minor 1 Minor dated April 7th of 2014.

COURT REPORTER: State's Exhibit 4.

SOLICITOR JONES: And then Minor 3 Minor dated March 11th of 2014.

COURT REPORTER: State's Exhibit 5. Your Honor, we have premarked State's Exhibits 1 through 5, for identification.

MR. WARDER: Your Honor, we won't be here, of course, when you view the videos. I just wanted the court to be aware that if we were, we'd try to make Your Honor aware of the fact that this incident happened in 2011.

THE COURT: Okay.

MR. WARDER: The videos are in 2014 some three years. So what you're seeing is a video two to three years later.

SOLICITOR JONES: And, Your Honor, again, I would take issue with that. The dates on the indictments of when the State is alleging this happened is beginning on December 25 of 2011 going to December 25th of 2012. So really, after 2012.

THE COURT: All right. I mean, I have ---

SOLICITOR JONES: You have the indictments.

THE COURT: All right. I'll keep that in consideration. All right. Anything else regarding the videos? I have State's Exhibits 1 through 5.

MR. WARDER: No, sir.

THE COURT: Do y'all need to review these or ---

MS. HORLBECK: I have, Judge.

THE COURT: I mean, do y'all need to look at the actual ones that are marked as exhibits?

MS. HORLBECK: No, Judge.

THE COURT: All right.

MS. HORLBECK: I don't have a problem with it. I trust him.

MR. WARDER: The youngest child was twenty-eight months old when this was supposed to have happened. When you look at the video, you're ---

THE COURT: Yeah. I'll be -- yeah, I'm pretty good at subtracting.

All right. Anything else regarding the videos? (No verbal response). I will look at those and I will make sure that my law clerk has everybody's e-mail address. And like I say, if I make any -- that way y'all can know, you know, in case you're preparing tonight or -- it may be late tonight or something, at least you'd have that information as soon as possible.

All right. Ms. Horlbeck, you had some additional ---

MS. HORLBECK: Judge, I would just ask that the charges in Ms. Riden's case be severed. We've got three children here and they're all making very similar allegations. I can anticipate some of the

State's arguments for why they would want to try all these charges together. But, you know, our position, Judge, would be that it all amounts to the propensity of the evidence. Then when you have similar charges that area all addressing similar facts, that kind of thing, the potential for prejudice is just enormously enhanced in this case. The potential for the jury to assume, 'Well, if it happened to one child then it must have happened to all three of the children. If all three of the children are saying these things happened, it must have happened.' It's just enormous, Judge.

You know, I believe that admission of this type evidence and trying all these charges together at the same time, I think it creates an exception to Rule 404, to Rule 404's exclusion of propensity of the evidence.

So we just -- it also shifts the burden of proof and destroys Ms. Riden's presumption of innocence.

So we would ask that all these charges be severed and that Ms. Riden be

given the chance to be tried separately on each charge regarding each child.

THE COURT: Mr. Jones?

SOLICITOR JONES: Your Honor, just briefly. There are obviously a lot of cases out there about consolidation and when severance is necessary or required.

To briefly go over some of the elements of joinder, in *State v. Anderson* the Court said you "can try charges together when they arise out of the single chain of circumstances, proved by the same evidence of the same general nature and no real right of the Defendant has been prejudiced."

I think it's obvious these arise out of the same circumstances, same facts. They're all proved by the same three children, the same law enforcement that investigated the cases, investigated both defendants obviously. So the real issue is there a real right of the defendant that has been prejudiced. I don't think Ms. Horlbeck articulated any real right of the defendant that has been prejudiced by -- that would be prejudiced these two codefendants who are

accused of sexually abusing children at the same time. There's never an incidence where the children that say one person abused the child and the other person wasn't there.

The only difference would be Ms. Riden was the mother of the child and also has an unlawful neglect charge, Your Honor.

So I don't think Ms. Horlbeck has articulated any type of real prejudice to her client.

MS. HORLBECK: Now, on the first two videos involving Minor 2 and Minor 1, those children disclose that the abuse allegedly was done by Mr. Hendrix, that my client was simply present. So I would take exception to that argument, Judge.

THE COURT: Let me look at the case. I mean, I'm not inclined to sever, but I'll give you the benefit of reviewing that. So a conditional denial, but subject to change.

MS. HORLBECK: All right. Judge, also a Motion to -- I'm sorry. Did I interrupt? Go ahead, Mr. Warder. I didn't see you stand.

MR. WARDER: Your Honor, I, of course, would join in all of counsel's Motions. Could I ask for a prospective ruling that I don't have to stand up every time that co-counsel makes an objection and say 'I join that'; that the Court would considered me joined in all Motions unless I stand up and say I'm not joining in. It just makes it simpler for the jury. They don't see me jumping up and joining in.

THE COURT: I guess you need to make sure that's -- I mean, does that preserve your rights?

MR. WARDER: On record, if you would make a finding.

THE COURT: No, I don't have a problem with that. Do you have any problem with that? It shouldn't matter to you.

SOLICITOR JONES: It might matter to his client. I don't know that it necessarily bothers me.

THE COURT: The other thing about that, -- I mean, that makes you be the bad person for having to object to everything.

MS. HORLBECK: Yeah. It does.

Yeah. Thanks, Mr. Warder.

THE COURT: That's like 'wow,' you know.

MR. WARDER: Well, I'll have some of my own and she might want to join in some of them. I don't know.

MS. HORLBECK: Well, I don't know. But that leads me to my next Motion. My Motion is to sever this case. I'd like to be tried separately from Mr. Hendrix, Judge.

Just in my discussions with Mr. Warder, you know, are there some similarities in the Defense? Yes. Do I anticipate that Mr. Warder is likely going to open the door to testimony that I believe is objectionable and hearsay corroborative? I think that's definitely true, Judge.

I think that our styles in what kind of testimony we wanted admitted into this case and the manner of presenting our respective defenses are just vastly different.

If Mr. Warder opens the door to some kind of testimony from a hearsay witness that I would not have opened the door to, then

that really is going to trample all over Ms. Riden's rights to a fair trial. I would ask that the Court allow her to be tried separately.

MR. WARDER: Your Honor, I have no objection to that, just so they try her first. And the reason being, of course ---

THE COURT: And like the other, I will give you a conditional denial of your Motion, my preliminary view. But, again, I'll review that just out of an abundance of caution.

MS. HORLBECK: Judge, a couple more things.

THE COURT: You say that.

MS. HORLBECK: I know.

THE COURT: I'm just kidding you.

MS. HORLBECK: As part of the State's discovery package that they gave us, which didn't include Ms. Riden's statement, they've requested a notice of an alibi Motion. Judge, the time period contained in the indictments spans over a year. I just can't come -- you know, my client doesn't know. Without even knowing exact dates and

exact times and exact locations of the alleged abuse, my client has no hope of being able to respond to requests for notice of alibi. So I would ask the Court, as the State or require the State to disclose a more definite time period and location.

THE COURT: Well, I mean, aren't you dealing with -- I mean, you're dealing with victims of this age, which are most of these type cases, I mean, that's the best -- that's as good as you're going to get.

MS. HORLBECK: Well, Judge, it's just -- it just hinders her ability to respond to that request for notice of alibi. How is she supposed to say where she was the entire year? There's no question that these incidents didn't take an entire year. They didn't span over a twenty-four hour period, three hundred and sixty-five days. How is my client supposed to be able to adequately answer that request and protect her interests?

THE COURT: So what is your relief that you're asking for, aside from my granting this Motion?

MS. HORLBECK: That would be wonderful, Judge. We'd ask, you know, in the alternative, Judge, we'd ask for the Court to order the State to narrow down the time period. You know, give us specific dates and times and places that I can review with my client.

THE COURT: Mr. Jones?

SOLICITOR JONES: Your Honor, briefly. I'd point Ms. Horlbeck and to Your Honor to *State v. Wade*, which is another child sexual abuse case where the Supreme Court said that a two-year timeframe on indictment was not overbroad. And that that was perfectly acceptable and they mentioned the same thing that you just did, about the cognitive abilities of victims of this particular age.

Just like the State's expert is going to testify to, they cannot tell you when something happened. Their concept of time is not as mature or as evolved as adults. So to require a child to tell them an exact date or an exact or specific time would be to never prosecute CSC with a minor

cases. And, again, it's *State v. Wade*, Your Honor. I can give your law clerk the citations.

THE COURT: No, I'm familiar with that one too.

And your objection is also noted, Mr. Warder, on that particular issue.

MR. WARDER: Thank you, sir.

THE COURT: Okay. And I'm going to deny that. I think that's -- I think that that's appropriate under the case law.

MS. HORLBECK: Thank you, Your Honor. Judge, we just have one last Motion to reserve cross-examination. I don't know how the State plans to call their case, whether they plan to show the video or put the children up and then show the video. Judge, I just want to avoid a situation where I have got to recall the children to the stand in order to ask them things about what happened on the video and what was said on the video. So I would ask that the children be subject to recall for cross-examination if the State plays the videos for the jury. I don't know what their plans are. I assume

they're planning on doing that but I don't know that for sure.

SOLICITOR JONES: Your Honor, I would refer Ms. Horlbeck to *State v. Hill* where the Supreme Court -- or excuse me, the Court of Appeals -- said that "even though the video evidence was submitted after the child took the stand, the State's method and order of presentation of evidence did not violate the defendant's right to confrontation." So, in short, it's the State's case and I can present my evidence however I see fit.

THE COURT: Well, I guess if we have a particular objection, I'll hear it at that time. I'm not sure there's anything I can address at this point. I understand your concern.

MS. HORLBECK: All right, Judge. I'll bring it up at the appropriate time then.

THE COURT: Okay. Well, you understand what I'm saying?

MS. HORLBECK: Yes, sir.

THE COURT: Yeah. All right.

Anything else? Anything else from Ms. Horlbeck?

MS. HORLBECK: Let me just check, Judge.

THE COURT: All right.

MS. HORLBECK: I don't think so.

THE COURT: Okay.

MS. HORLBECK: Let me check. Oh, one more. Okay. Your Honor had issued an Order denying our requests to have the State disclose counseling records.

Judge, since it's in front of Your Honor again, we would just ask you to reconsider that order. In reviewing Minor 2 Lusk's child maltreatment protocols, we realized that there had been some instances where the caregiver had disclosed that Minor 2 had lied to keep herself out of trouble, lied about family members and also some incidents of stealing. So on that basis, Judge, we believe that those counseling records should be disclosed. They're material to -- well, it's material for us to be able to look through so we can see if there are other instances of lying and

dishonesty and stealing. And on that basis we would ask that Your Honor reconsider and order the State to obtain those counseling records and disclose them.

THE COURT: And even if you did have numerous accounts of lying and stealing, I'm not sure that would -- one, I'm not sure how it would be admissible or would go to this. So, no, I'm not going to open that up. That's denied.

MS. HORLBECK: I think that's all I have, Judge.

THE COURT: Okay. Anything from Mr. Warder, other than what's already ---

MR. WARDER: No, Your Honor.

THE COURT: Okay, anything else from the State?

SOLICITOR JONES: Nothing else from the State, Your Honor.

THE COURT: All right. Well, we'll go ahead and I'll be reviewing these, the videos.

It's my understanding the jury's coming in at 9:00. Is that right? And we may have, based on whatever my rulings are,

I'm sure we'll have a few other issues probably before we actually start the trial.

But my thought is to qualify the jury, go ahead and select a jury, release the rest of the panel, and then we can entertain any additional Motions we need to get back to. All right?

SOLICITOR JONES: Thank you, Your Honor.

THE COURT: Anything further from the State?

SOLICITOR JONES: Nothing from the State, Your Honor.

THE COURT: Mr. Warder?

MR. WARDER: No, Your Honor.

THE COURT: And Ms. Horlbeck?

MS. HORLBECK: Not at this time, Judge. You wanted our e-mail addresses?

THE COURT: Yeah. Just if I need to let you -- I mean, I will e-mail everybody just so that y'all will have it as soon as possible as far as any rulings on this case. I don't know that your preparation will be based on what I rule but, you know, -- as y'all well know you should assume, that

you've got to prepare always.

MR. WARDER: Your Honor, I'm going to give you my paralegal's address too.

THE COURT: I figured I would be getting hers and not yours, Mr. Warder.

(COURT IN RECESS)

(TRANSCRIPT CONTINUED ON NEXT PAGE)

JANUARY 26, 2016 9:00 A.M.

(DEFENDANT HENDRIX PRESENT)

(JURY PANEL IN @ 9:00 A.M.)

(ROLL CALL)

(JURY PANEL SWORN)

(STATUTORY QUALIFICATION)

THE COURT: All right. I am glad to inform the rest of y'all that y'all are duly qualified and ready to be selected for a jury. I really do appreciate you being here. You know, for us that are in this system, you know, we couldn't operate without people like you showing up for jury duty.

At this time, though, we're going to have to determine what all's going to be involved in the first case. We're going to get our witness list together. And we have a few things, kind of housekeeping matters to go through.

So I'm going to ask that y'all take a break. Let's take about fifteen minutes. Why don't y'all -- you know, you can go to the bathroom. If anybody needs to go out and have a smoke -- I think the smoking porch is

on the bottom porch, outside under the portico. But just be back -- be back in the hallway ready to come back in here at 10:30. So you've got a fifteen- minute break.

(JURY PANEL OUT @ 10:15 A.M.)

THE COURT: Make sure that the jury panel stays out there. Ms. Horlbeck, as I referenced earlier you're looking kind of lonely over there.

MS. HORLBECK: Yes, sir, I continue to be lonely. I have received a text message from my client. Let me just make sure I can pull it up so I can -- she's having some -- and I want to be delicate about it because I don't want to gross anybody out. But apparently, she's having some female issues. She said that she had to run to Walmart to get a new pair of pants. She said she would be back before the trial started. This was texted to me at 10:10 A.M.

I have called the number, which incidentally is the same number, the same new number that my secretary also received from her this morning. So this seems to be her best number. I left a message saying, "Call

me. I've got to get back to the courtroom and you should here. Your trial is getting ready to start."

Someone from there called me back. I've got the speaker on mute though, so it won't ring in court; so I didn't answer. No one left a message. I called the number back and no one answered. I did go downstairs. This was about probably ten to fifteen minutes ago. I checked in the lobby. I check -- I looked outside. I did not go outside. I checked the bathroom downstairs, all the stalls were empty. I could not check the bathroom up here on the third floor because the jury was all in there and I just felt I didn't want to go in the bathroom and start screaming my clients name as if I were looking for her.

So I don't know what else I can do, Judge, except wait a few more minutes. I can continue calling. I think at this point I would ask that a bench warrant be issued and that my portion of the case be continued.

THE COURT: I'm going to deny your request for continuance because I'm not going

to let her manipulate the court system. She may be having serious problems and we can address those when or if she shows up. But I am going to ---

MS. HORLBECK: If I could just add four more things that I've just now thought of.

THE COURT: Yes.

MS. HORLBECK: It's a little bit upsetting to have your client leave, so some of these things are just popping into my head.

THE COURT: No, I understand.

MS. HORLBECK: When she spoke to my secretary this morning, you know, -- and this is in keeping with the Motion that I brought before the Court yesterday for an evaluation -- she seemed utterly clueless of what was going to happen today. She was asking my secretary, 'What's going to happen? Do we just pick the jury?' And she had lost my phone number. And I've called her a lot. I called her yesterday at all the phone numbers I've got and left as many messages as I could. She should have letters with my

phone number on it. There's just no way that she could have lost all contact information with me, Judge.

When I got her here today I had to explain to her, 'Yes, we are not only picking your jury and we are proceeding with your trial today. It's not going to be a situation where we pick the jury and then we don't go forward or we wait a couple of weeks to start your case. We're starting it today.'

So I just renew my Motion for an evaluation and just add that to my Motion for a continuance, Judge.

THE COURT: All right. I am going to -- since she was there and had no communication, I'm going to revoke her bond and have a bench warrant issued.

MS. HORLBECK: Thank you, sir.

THE COURT: All right. Are we ready to -- I've got witness lists from Mr. Warder, a witness list from the State and then ---

MR. WARDER: Your Honor, if your plans are to go ahead with the trial without

the codefendant here, I'd move for a continuance. She's essential to my defense, her presence. I've subpoenaed her. I don't usually subpoena a codefendant. I had a subpoena served upon the codefendant, so that I could guarantee that if the cases were severed or anything, I had that witness.

If you now were to go forward, now that she's absconded and disregarded my subpoena, I would be more than substantially prejudiced, outside of our -- our whole defense has hinged around her being available to be examined as to the facts she knew.

THE COURT: Well, we've issued a bench warrant so maybe we'll have her picked up by the time your case gets around, but I'm not going to continue the case.

MR. WARDER: Okay.

THE COURT: We will go forward. I guess before we dismiss the jury -- yeah, I'm sorry. I don't mean to cut you off, Mr. Warder.

MR. WARDER: The other issue I guess I wanted to get straight in my mind was the order in which counsel was going to

proceed. She was the first indicted and that usually governs how we go. I was indicted after her. I have higher indictment numbers. I assume we'll follow the usual procedure. You know, first indicted would be the first to examine, the first to argue.

THE COURT: I mean, that's what I usually do unless the parties come up with an agreement otherwise.

MR. WARDER: Okay.

THE COURT: That's up to y'all. I mean I will go by that indictment.

All right. Let me just kind of renew before we actually start the jury process. That, you know, I did review the videos.

Well, let's go ahead and select the jury and then we can discuss that.

MS. HORLBECK: As to that, Judge, I do have some proposed *voir dire* that I'd like to submit.

THE COURT: Yeah. Any other proposed *voir dire*? Do y'all have any voir dire?

MR. WARDER: Yes, sir, (tenders).

THE COURT: All right. I'm trying to think, the witness list here. Is Mark Riden and Mark Lusk, those are two different people?

SOLICITOR JONES: Those are two separate people, Your Honor.

THE COURT: All right. It looks like then from the State's list the only additional one that Ms. Horlbeck adds -- she adds Amanda Frederick and Stacy Riden.

Mr. Warder, you add Jesse Riden, Jennifer Riden, Mark Lusk, Annie Queen and Hanna Hendrix. All right?

MS. HORLBECK: Yes, sir.

MR. WARDER: Yes, Your Honor.

THE COURT: And that will cover all of the witnesses. And I haven't had a chance to look at *voir dire* presented by Ms. Horlbeck. Any objection to any of those?

SOLICITOR JONES: Your Honor, I do have some objections but I'm still ---

THE COURT: All right. Yeah. Let's take a minute to look at these.

Do y'all have any *voir dire*, Mr. Warder?

MR. WARDER: No, sir, no *voir dire*.

THE COURT: Any *voir dire* from you, Mr. Jones?

SOLICITOR JONES: No, Your Honor.

MR. WARDER: Your Honor, I've reviewed the *voir dire* proposals submitted by counsel and they all seem appropriate to me.

THE COURT: Okay.

MS. HORLBECK: (Upon review), I do have lot, Judge. I mean, look, I have no client. I've got to do everything I can at this point in time.

THE COURT: I'm sure you do.

MS. HORLBECK: All right. I understand. I just want my objections noted for the record.

THE COURT: All right. Any particular that you would object to?

SOLICITOR JONES: Your Honor, I would be fine with one, two, and three. In four through thirty-one, I think she is attempting to develop a personality profile. *State v. Smart*, I think says the judge has the discretion.

I think the standard *voir dire* is

appropriate and does everything necessary, as far as keeping with the constitutional rights.

All of the other questions, again four through thirty-one on this proposed *voir dire*, I would object to, Your Honor.

MS. HORLBECK: And Judge in support of all of these questions I would just cite *Skilling v. United States* 561 US 358.

THE COURT: All right. I don't have a problem with one, two, and three.

Four, that's a little broad. I mean, I wouldn't have a problem with four if it were more tailored to -- I mean, just reported an incident. I mean, are you talking about every parent to report to some type of incident. I don't think you have something specific enough in there.

MS. HORLBECK: Well, Judge, it can be more specific to a -- I mean -- if you'll give me a minute, I'll pull this up.

THE COURT: Okay.

MS. HORLBECK: I gave out all my copies. I apologize. And, Judge, by

incident, of course -- I mean, since we're dealing with a sexual incident, I don't see why we can't put that in there. I agree that may be a little overbroad.

THE COURT: And I don't -- sexual or abuse.

SOLICITOR JONES: Say that again, Your Honor? You were saying? I didn't hear you.

THE COURT: I mean, I think you need to be -- not just any. I don't have a problem with asking if they've reported any sexual or abuse. I am concerned about school law enforcement incidents.

SOLICITOR JONES: So as to the question number four, it would be have you ever reported any sexual abuse ---

THE COURT: Yeah. Sexual or abuse.

SOLICITOR JONES: Okay.

THE COURT: Five, I'm going to deny.

(Six): "Do you have a net nanny or parental controls on your computer or on TV?" I'm going to deny.

"Have you ever known a child to get past controls?" Seven, denied.

Eight -- I think if anybody answered eight differently, then they'd be telling a lie.

MS. HORLBECK: That's what I want to find out, Judge. These are things that I clearly need to know.

THE COURT: Eight and nine, I'm going to deny.

"Do you believe a young person accuses someone of sex then it must be true?" That's close, but I'm going to let you have ten.

Deny eleven.

Twelve.

Some of these are kind of getting into the basis of the -- I mean, I think you're getting too much with what the jury has to make a determination on.

Thirteen denied.

Fourteen denied.

SOLICITOR JONES: And you denied twelve, Your Honor?

THE COURT: Yes, I'm sorry.

Twelve, denied.

Fifteen denied.

Sixteen denied.

I mean, a lot of these, again, a lot of these seem to be more closing argument-type stuff and I think that's what you're kind of getting into here.

Seventeen denied.

Eighteen denied.

Nineteen I think is kind of covered on my general *voir dire*.

Twenty denied.

Twenty-one denied.

Twenty-two denied. These are questions you need to maybe ask these experts.

Twenty-three. I'll give you twenty-three I think is okay.

Twenty-four is definitely -- that one's a burden-shifting type question.

Twenty-five.

Twenty-six through thirty-one I think are, again, personality type thing.

Thirty, I can ask it, "If you haven't stood..." -- just please stand for exercise

purposes if that's the purpose of thirty.

MS. HORLBECK: No, I want to know why they haven't stood.

THE COURT: Well, you don't ask that, 'just please stand if you haven't stood.'

MS. HORLBECK: Well, that does ask them ---

THE COURT: So then my follow-up question, 'If you haven't stood, do you think you could still give a fair and impartial trial?'

MS. HORLBECK: Yes.

THE COURT: Thirty-one, denied.

SOLICITOR JONES: So just to be clear, Your Honor, on the second page ---

THE COURT: Nineteen and twenty-three. Nineteen's covered by my general.

SOLICITOR JONES: Right.

THE COURT: Twenty-three. And then on the front, one through four.

SOLICITOR JONES: Okay. With the modified four?

THE COURT: Right. Do you have -- I've marked up my copy and put notes on them.

Do you want to mark one for an Exhibit to put in?

MS. HORLBECK: I can print out a fresh copy and bring it to Your Honor if you want. I don't have another copy is what I'm trying to tell you.

THE COURT: Right.

MS. HORLBECK: But, yeah. I could do that later on in the process if that's okay?

THE COURT: Yeah. That'll be fine.

MS. HORLBECK: Thank you.

THE COURT: And that would be?

COURT REPORTER: Defendant Riden's Exhibit 1, ID Only.

(SO ENTERED AS DEFENDANT RIDEN'S EXHIBIT 1 - ID Only)

MR. WARDER: Your Honor, for the purposes of the record, I would join in the Motion to allow all of the voir dire portions.

THE COURT: Okay. And those will be Defendant's Exhibit 1. And you're going to provide a copy of that.

MS. HORLBECK: Yes, sir.

THE COURT: All right. Anything else?

SOLICITOR JONES: I want to make sure we're clear on the number of strikes, Your Honor.

THE COURT: Okay.

SOLICITOR JONES: I believe It's ten and ten, a total of twenty -- and I get ten? Am I reading that that right?

(OFF RECORD DISCUSSION)

THE COURT: How long do y'all expect this trial to last -- because we've got one lady we're protecting on Friday.

MR. WARDER: I don't think it will go Friday. I think two days will be a reasonable guesstimate.

SOLICITOR JONES: I think I'll probably leak into Thursday morning. But it also depends on how much of the video you redact. But in planning with my witnesses, I've got some planning on coming Wednesday afternoon into Thursday morning, but ---

THE COURT: Yeah. Let's protect that lady. We'll have enough without her.

All right. Anything else before we bring the jury in?

SOLICITOR JONES: Nothing from the State, Your Honor.

THE COURT: Anything else? We've noted your objections, which will be Defendant's Exhibit 1.

MS. HORLBECK: Yes, Your Honor, as well as my objections to the Court's ruling on proposed *voir dire*. I have nothing else.

MR. WARDER: And make sure that I do have on the record, of course, a Motion for continuance that I think before the jury's in.

THE COURT: Right, that is notes. All right. Bring the jury panel in.

MR. WARDER: Your Honor, could we approach just for a minute?

THE COURT: Yes.

(OFF RECORD BENCH CONFERENCE)

(JURY PANEL IN @ 10:55 A.M.)

CLERK: The Judge wants me to do a roll call right quick and make sure everybody's here. So if you would just say

"Here", as I call your name.

(JURY PANEL ROLL CALL)

THE COURT: And if the attorneys will approach up here next to the court reporter.

SIDEBAR:

THE COURT: In conference, Ms. Horlbeck made an objection about the failure to have the unlawful neglect on the roster. It is my understanding that the parties were notified of all indictments, but I wanted to give you a chance to elaborate on your objection.

MS. HORLBECK: The only charges on the roster are the criminal sexual conduct with a minor, two counts, and the CSC with a minor third degree. My objection is that if she faces a jury trial on the child neglect she has not been properly notified of that charge.

SOLICITOR: The State would content that the attorneys were notified of all charges and that the docket as printed is merely a clerical error.

THE COURT: We can elaborate

on this further later.

(SIDEBAR CONCLUDED)

THE COURT: All right. Ladies and gentlemen, thank you for your patience. Our housekeeping matters took a little bit longer than necessary, but we appreciate your patience.

At this time we're going to start the trial of the State versus Aaron Van Hendrix and the State versus Stacy Carol Riden.

I'm going to read you just briefly what the charges are. And, again, I always preface this with saying these indictments or these charges are not to be considered by anyone as someone is guilty. The burden is going to be on the State to prove these charges, the charges that have been -- the indictments are merely documents to bring the person into the courtroom.

Stacy Carol Riden is charged with unlawful conduct towards a child in Pickens County between the dates of December 24, 2011 and 2012; putting a child at unreasonable risk or harm affecting the child's life or

unlawfully or maliciously causing or doing bodily harm to the child or willfully abandoning the child.

We have an indictment against Stacy Carol Riden for sexual conduct with a minor third degree; between the same date, December 25th, 2011 through December 25th, 2012.

We have another indictment for criminal sexual conduct with a minor first degree during the same dates.

We have a fourth indictment for criminal sexual conduct with a minor first degree against Stacy Carol Riden for the same day.

And for Aaron Van Hendrix we have an indictment or criminal sexual conduct with a minor first degree during the same dates.

Criminal sexual conduct with a minor third degree during the same dates, all in Pickens County.

And then a third indictment for criminal sexual conduct with a minor first degree between the same dates as well.

Those are the indictments, the official documents, which bring the parties

the bailiff on the way. And that recording will instruct you whether you're to come back in the morning or tell you to call back at another time. So that's important to keep in touch with that number and call back as instructed. But right now, your instructions are to call back after 6:00 tonight. And that will tell you what you role is at least as tomorrow. Thank you. And I hope you have a good rest of the afternoon.

(JURY PANEL OUT @ 12:11 P.M.)

THE COURT: All right. As far as -- I'm trying to figure out when to tell this other jury to come back. I guess we've got to put on the record a couple of Motions we've got. I guess I need to put on the record my rulings on some of the Motions from yesterday, but that won't take too long. And then y'all are going to need some time to redact the videos?

SOLICITOR JONES: That's correct, Your Honor, we'll need a little bit of time to redact the ---

THE COURT: I don't know how long

redacting takes. If we let the jury come back at 2:00 that should give us time.

SOLICITOR JONES: Well, are we going to argue about the redactions are you just going to make your ruling on ---

THE COURT: Well, I mean, I've got -- we can do some arguing. I mean, I think they're pretty -- I mean, I didn't see any that were not pretty cut and dry.

SOLICITOR JONES: Okay.

THE COURT: But I mean, there won't be any long argument.

SOLICITOR JONES: Okay.

THE COURT: So Let's say 2:15. That'll give us a little bit more time.

SOLICITOR JONES: Yes, sir. That'd be fine.

THE COURT: All right. Okay. If you'll bring that jury back in?

BAILIFF: Yes, sir.

(JURY IN @ 12:12 P.M.)

THE COURT: All right. Ladies and gentlemen, y'all have been selected for this next jury. But again, there are some additional housekeeping matters that we need

to go over. And the purpose of it so that that can make it more efficient so we don't waste a lot of your time sitting back in the jury room when we're trying to, you know, get some things prepared to present to you. So I'm going to go ahead and I'm going to give you kind of an extended lunch and then come back in and we'll start the trial of this case. I'm going to give y'all until 2:15. That gives you two hours just because we've got a good bit of work to do here.

Now, I'm going to give you -- every time you take a break, every time you leave you're going to hear a couple of things from me until you get tired of them, but there are things I have to tell you:

One, and I realize you don't have a lot of information, but you are not to discuss this case in any shape, form, or fashion, at all. You're not to discuss the parties, not to discuss what the charges are, not discuss anything. That's not appropriate for you to have any kind of discussions until I've given you the signal. And that is after all the evidence is in and I've instructed

you on the law.

You also are not to do any independent research. I know in today's time it's so easy to hit *Google* and do some additional research on the law or maybe the parties involved or something like that. That is not appropriate at all. The only evidence and the only thing that you're to consider about this case are what you hear in this courtroom that I have determined is admissible and proper evidence. And that is a very important part of your service.

Also, kind of finally, you should not be contacted in any way about this case from anybody. I don't expect that. But if you should get contacted by anybody, please get their name and any information you can about that and report that to the bailiff. If you have any questions or any comments, you just feel free to talk to the bailiff, the gentleman in the sports coat in the back, okay?

And finally, I'm not sure but I don't expect, at least for now, for there to be any media coverage of this case. But if

there should be and you see something about this in the media, social network, TV, newspaper, please disregard it. Do not review that. You're not to consider that at all, You're only to consider -- when you ultimately begin deliberations, you're only to consider the evidence and the testimony that's been properly put before you.

So with those four kind of warnings and preliminary information, I'm going to let y'all go to lunch. And, again, be back in your jury room -- is that what you want them to do?

CLERK: Yes, sir.

THE COURT: -- at 2:15. All right I hope y'all have a good lunch. Thank you.

(JURY OUT @ 12:20 P.M.)

THE COURT: I'm going to take a five-minute break and then we'll come back in and cover what we need to cover. Okay?

SOLICITOR JONES: Yes, sir, Your Honor.

THE COURT: And on Ms. Riden, I am going to revoke the bond.

MS. HORLBECK: Yes, sir.

(BRIEF RECESS)

(DEFENDANT HENDRIX PRESENT)

THE COURT: All right. I guess the first housekeeping is, Ms. Horlbeck, on Ms. Riden you've made an objection to the additional charge, the fact that it is not listed on the roster submitted by the solicitor's office. Do you want to add anything else to that?

MS. HORLBECK: No, Judge, just that the particular charge of unlawful conduct towards a child, and I think I said negligent misconduct at the sidebar. It's just that charge was not listed on the roster and it would be my position that she has not been notified that she was going to proceed to trial on that particular charge. We'd ask that the State be prohibited from trying her on that particular charge in this case.

THE COURT: Let me just -- it's my understanding that everybody thought that we were going to go forward. I know there was an argument yesterday about ---

MS. HORLBECK: We sent her a copy of this document, so I imagine that she

thinks that she is on trial for the three charges stated. I've not been able to -- I am not telling the court that I didn't know that she was indicted for unlawful conduct, I knew that charge was hanging out there as well. I was certainly hopeful that the State had changed their mind and was not going to proceed on that charge. I wouldn't say that I was not on notice about that charge and that's not why I am making this Motion. I am not trying to pull anybody's leg, it's just that it's not on the docket, I don't believe that she has had notice. So I would object to the State going forward on that charge.

THE COURT: I did notice on your Motion -- on the notice, that there was child neglect, so I find that there was proper notice and I will allow it to go forward on that charge. I do understand your position.

Have you had a chance to print your *voir dire* questions?

MS. HORLBECK: Judge, if you could give me until after lunch. I can e-mail them to the Public Defender's Office here and see if they will print that for me.

THE COURT: Or you are e-mail it to my law clerk. I just want to make sure we have that in the record.

MS. HORLBECK: Thank you.

THE COURT: We had a couple of Motions made to sever, yesterday, a Motion to sever the charges and also one to sever the defendants. I believe that both of those Motions were made yesterday.

MS. HORLBECK: (Affirmative nod), yes, sir.

THE COURT: I additionally deny those. I did some additional research and I believe that it is appropriate to deny both as to the charges and as to the defendants, so that is denied. So is there anything else before we get to the video?

SOLICITOR JONES: Nothing else from the State, Your Honor.

THE COURT: Anything else from the defendant(s) before we get to the video?

MR. WARDER: Your Honor, I made a Motion for a continuance this morning, which I still think that Motion is meritorious and should be granted. This is a case where

there are three there are three minor children who allege they were sexually abused by my client and the codefendant, Stacy. Stacy Riden was here this morning. She left, apparently with the intention of not returning -- or has she failed to return, after a short morning break. I had that witness under subpoena also and she's an integral part of my defense. She is another adult that was there at all times, the children allege that they were all present, all three of them, and that the mother and the father -- or my client -- were present when my client did anything.

And there has been some discussion that the father of the children were present. He is under subpoena by the codefendant, and I don't believe that he's here this morning either.

THE COURT: He is. I believe he is, in the back. He's standing.

MR. WARDER: Okay. Well, we've had a difficult time reaching him, although we had put some notices out there that -- and he is under subpoena also.

Stacy's absence makes my defense greatly different than I planned it, and is of great prejudice to my client. I would ask for a continuance. I honestly believe that no better than her flight was pre-arranged that she will be back in custody -- I would be surprised if law enforcement cannot have her in custody by tonight.

THE COURT: I appreciate where you are coming from and your situation but I don't believe that is a basis for a continuance, so I am going to deny your Motion.

MS. HORLBECK: And I just want to be on the record as joining that Motion.

THE COURT: All right.

MS. HORLBECK: She certainly -- Ms. Riden is certainly integral to her defense.

THE COURT: Well, she is the one who contrived ---

MS. HORLBECK: I understand, and I think that we are both saying the same thing.

THE COURT: I understand.

MS. HORLBECK: It's just that I

am the one that has to try to defend all this and it's going to be extremely difficult when I have an empty chair.

THE COURT: I understand. Okay. Anything else before we actually talk about the video? (No response)

All right, I have reviewed every minute of every video. It's not quite five hours but it's close. Those were reviewed by me, and I believe that they meet the criteria of South Carolina. Code 17-23-175.

I find the two videos of Minor 2 Lusk, State's Exhibits 1 and 2, I think that they do meet the criteria of 17-23-175.

On Minor 1 , which are Exhibits 3 and 4, I'd indicated in my e-mail last night that I had not reviewed but a portion of it. I did go through the rest and find that they meet the criteria of 17-23-175. That's in conjunction with the testimony of Shauna Galloway-Williams, also with that.

Minor 3 's interview, which is State's Exhibit 5, I have some serious questions whether they falls within the statute. Basically -- one, is the coherence

of the story is not quite there. Then at the very end, as Mr. Warder, argued yesterday, she indicates that she doesn't know if it was real or not. I think the time difference and the ability to recall is more significant at her than it is the other two, who are older. I look at that and I also look at that -- I just don't think the video is detrimental to the State's case. It is almost cumulative, based on the other two statements. I mean, I will be glad to hear from you but -- but, my initial ruling is that I will not allow the video of Minor 3 , which is State's Exhibit 5.

SOLICITOR JONES: Your Honor, briefly, I understand your initial ruling, what you're saying, but I'd point out that it was not elicited by leading question. All other facts of subsection (b) are met.

Your problem with internal coherence, I would argue that given the manner of questioning by Ms. Galloway that it's clear what she's talking about. If you take Ms. Galloway's question with the way that Minor 3 answers those questions, that

would give, taking the video as whole, the internal coherence that the statute requires.

THE COURT: I don't have any problem with the question and all. The statute requires a particularized guarantee and I'm just saying that because of her age and the way that she responses that I have some serious questions and issues about that.

SOLICITOR JONES: Yes, sir. So Minor 3 video cannot be admitted and cannot be alluded to throughout the trial?

THE COURT: That's correct.

SOLICITOR JONES: So I would ask that the defendants be precluded from cross-examining Minor 3 based on that particular video?

THE COURT: Right. I'll be glad to hear form you on the other four videos. I do find that they fall within the criteria.

MS. HORLBECK: Judge, I understand the Court's ruling on the Minor 2 Lusk videos and also the Minor 1 videos. I'm trying to remember myself.

THE COURT: Yeah. Its ---

MS. HORLBECK: And, Judge, I

didn't know if the Court had had a chance to look at some of the proposed redactions.

THE COURT: I have. I'd guess that'd be the phase two of that; right?

MS. HORLBECK: That'd be the next step, yes, sir.

THE COURT: As far as the general, overall. If you have any I'll be glad to hear from you on the actual findings as to the videos themselves.

MS. HORLBECK: And Judge, I would just say, you know, that on behalf of Ms. Riden, I would say that all of the video, the other four videos that you deem do meet the criteria, I just would renew my objection and say that they don't meet the criteria.

THE COURT: Okay.

MS. HORLBECK: I think they lack the particularized guarantees of trust-worthiness and also internal coherence. And on that basis, I would ask that they be kept out. Also the fact that I think that they are -- I continue -- I understand there's a statute, you know, but we also have a rule of evidence. And I continue to think that the

rule of evidence is in conflict with the statute. I just think that allowing these videos in before the children have even been attacked for reliability or lack of reliability, it's just improperly corroborative. I would just object on that basis again.

THE COURT: And, again, I think the -- and I understand your position. I think the Court of Appeals and the Supreme Court of our state have addressed those issues. And so I think that I'm going to allow them in based on those case law.

Mr. Warder, would you like to add anything to that?

MR. WARDER: No, Your Honor. Just that we join in that.

THE COURT: Okay. All right. So those will be -- all right. Now, the redaction -- and I guess we'll mark -- do you want to mark your letter as an exhibit or -- the one that you gave me yesterday about the redactions?

MS. HORLBECK: I can, Judge. I can. I think that -- I don't know if it can be made a court's exhibit or if it would have

been a defense Exhibit.

COURT REPORTER: Court's.

THE COURT: Let's just do it as a court's exhibit then.

MS. HORLBECK: I think ---

COURT REPORTER: Court's Exhibit 1.

(SO ENTERED AS COURT'S EXHIBIT 1)

MS. HORLBECK: I understand the Court's ruling. I think I put a number of other objections on the record. And I just renew those objections.

THE COURT: Okay. That's fine. All right. And looking at -- let's just kind of go through this. Looking at the first. This would be State's Exhibit 1, Minor 2 Lusk, the 2/19/14.

The first one, your item one. You know, I don't think that you need to get in a lot of stuff about what mama used to do and all that kind of stuff. But I think though that it's appropriate to have the introductory type language about that -- because I think the jury needs to be introduced to what's going on here.

I didn't mark it particularly, and how

Aaron's introduced.

But there's a lot of stuff in there that I think that would not be proper about what mama used to do and some things like that.

SOLICITOR JONES: Well, Your Honor, -- one, I would agree that some of the introductory questions that Ms. Galloway asked would be important because we are talking about the children. Although witnesses are competent until deemed otherwise, because they're children these preliminary questions are important so that a jury knows that they can articulate themselves and that that they, again, have some sort of internal coherence to what they're talking about.

Now, when the children talk about what the mother used to do and how the mother used to act, I would argue that goes towards the unlawful neglect charge, Your Honor. She's charged with unlawful neglect of all these children. And when a child says 'mama used to slap me' and 'mama used to wash my mouth out with soap', I think that is very

relevant to what the charge is.

So it's very probative, Your Honor. Although it might be prejudicial, that prejudicial effect does not outweigh the probative value.

THE COURT: All right.

MS. HORLBECK: Judge, I think that the introductory matters, you know, I don't -- I object to them coming in. I just, I don't think that they're relevant. I think if there's internal -- I think the Court's already ruled on internal coherence. So the jury does not need to make a decision as to internal coherence. So I would object.

So I would say that the start of the video up to 10:26 needs to be -- and I'm talking about the Minor 2 interview of 2/19/14. I would say that that needs to be redacted.

I would also redact from 15:50 because I don't -- to me it wasn't clear that the children were being slapped. It talks about because 'they were slapping and stuff.' And 'they used to slap each other.' And it seems to me like more of a domestic violence

thing. And I don't -- I'm not here to talk about domestic violence. And I don't think domestic plays into an unlawful conduct with a child charge. I think that's prejudicial.

SOLICITOR JONES: And I'm sorry, Your Honor. I might have missed it. But did you make a ruling on ---

THE COURT: I think we've kind of grouped them together.

SOLICITOR JONES: Number one, from the start of the video up until 10:26?

THE COURT: Let me read the indictment. (Upon review), I'm going to redact anything about -- I mean, I don't think that quite fits within your unlawful conduct towards a child.

I'm just talking about number one. Anything mama used to do about the soap and all of that. So I'll let you put the introductory language in, but anything about things mama used to do, I don't think quite fits within the charges here.

SOLICITOR JONES: So does defense counsel have an exact number ---

THE COURT: I mean, I don't have a

number there. I'm not going to do y'all's work for you.

SOLICITOR JONES: I understand.

THE COURT: Y'all need to figure that. I'll give you time to look at that.

SOLICITOR JONES: Okay. If Defense doesn't have the numbers, then I'm going to have to listen, listen to all of it again.

THE COURT: All right. Then the second one, my question here was it was -- I think it was difficult to determine whether it was other folks doing this or not. But I believe that falls within the unlawful neglect. If she was there, letting other people do this to her children. So I'm going to rule that that -- I'm not going to redact your item two.

Number three, y'all agreed to redact, I believe. Is that correct?

SOLICITOR JONES: Yes, that's correct.

THE COURT: Okay. On number four, I do -- I believe it's appropriate to redact not all of that but the portions where it talks about DSS said this and the police said

that. That's at 40.28.

Anything that DSS said or anything the police said needs to be redacted. But the general portion of that can stay in.

SOLICITOR JONES: Hold on. I'm sorry, Your Honor. I'm trying to write it down.

THE COURT: All right. Yeah.

SOLICITOR JONES: That's number four, so redact anything where the children said DSS said this or the police said that?

THE COURT: Right. There's two little incidences when they come in that the cops said something and then 'DSS said mama couldn't have us anymore' or something to that effect.

SOLICITOR JONES: Okay.

THE COURT: As to five and six, and I know, Ms. Horlbeck, that you have indicated that on each of the videos. I think that I'm going to allow anything in the video that talks about what they observed with the other children. I'm going to allow that in there. So I'm going to deny your request for redacting five and six on this

one and the other ones too. But particular five and six on the Minor 2 interview.

And I will, for the record, you have -- we've marked this as State's Exhibit -- I'm sorry. How did we ---

COURT REPORTER: It was marked as Court's Exhibit 1.

THE COURT: Court's Exhibit 1. So that will be -- your objection will be preserved and you don't have to keep objecting each time.

MS. HORLBECK: Thank you, Judge.

THE COURT: Okay. Now we're moving on to the Minor 2 interview of 4/11/14. The State has agreed to redact one through four?

SOLICITOR JONES: That's correct.

THE COURT: Number five, what is your objection to that Ms. Horlbeck?

MS. HORLBECK: Well, Judge, the statute and also case law states that -- and if you can give me a second I can find the cases I am talking about -- prohibits ---

THE COURT: I think it's *State v. Anderson*.

MS. HORLBECK: Yes, sir. That sounds right. It prohibits the interviewer from testifying about any questions or things that the interviewer said to the children regarding truth telling abilities or reminding the children to tell the truth. So I just, on that basis I feel like if the interviewer can't testify about it, I don't think it's proper to give that information to the jury via the interview.

THE COURT: All right. And I looked at that in view of *Anderson v. Anderson*. It was talking about trying to infer truthfulness by the interviewer and stuff and even whether you should ask, you know, the difference between telling the truth and not, like that, you know. But I believe that's a little different. And that's just saying is everything you're telling me real? I don't think that that kind of falls in that category so I'm going to allow it in. Okay.

And, Mr. Warder, I am -- just for your purposes. My understanding is you continue the objection with them. If you

have any additional objections you'll let us know. All right?

MR. WARDER: (Affirmative response).

THE COURT: Six y'all have agreed to. Okay.

Seven, I'm going to deny but I'll be glad to hear from you.

MS. HORLBECK: Judge, it's the same basis on State versus -- and I'm citing -- I'm talking about *State v. Anderson*. I think if the interview is not allowed to testify about the truth telling ability of the child or any questions that the interviewer ask the child about are you telling the truth or asking the child if they know the difference between truth and a lie, then I would think that the same thing would be prohibited in the video, that that should not be put in front of the jury.

THE COURT: All right. And I'm going to deny that request.

Eight and nine are also denied based on my previous analysis.

So now we go to the

interview of 3/11/14. All right. The first portion there, what is -- specifically, what are you objecting to. We're on Minor 1 interview, which would be State's Exhibit 3. And this is item number one, Ms. Horlbeck.

MS. HORLBECK: The interview of 3/11/14?

THE COURT: Yes.

MS. HORLBECK: Okay. Judge, again, there's a preliminary, just sort of a -- the video starts with the interviewer getting to know the child, that kind of thing. And it's not relevant. I don't think that it -- again, the jury is not tasked with the duty of trying to determine internal coherence on the video. That's already been determined.

So I think all the preliminary questions and all the 'what's your name, what's your favorite thing and what did you do this weekend', I don't think it's relevant in this case. And I would ask that it be stricken.

The part that I also wanted to keep out, talks about the pets. The pets all ran

away and I think the dog got run over and it just -- you know, that just has nothing to do with this case.

THE COURT: Now, I don't think it's either way, really, on that. So I'm not going to -- what's your position on that?

SOLICITOR JONES: Your Honor, I would oppose the Motion. I think again the initial general question and discussion between Ms. Galloway and the children allows the jury to see that these children are intelligent enough to articulate themselves. And the jury is tasked with determining the credibility of witnesses. And seeing that the child can carry on a conversation, can remember things from their past, can remember having pets, can remember the pet running away.

THE COURT: I'm going to allow that.

MS. HORLBECK: And, Your Honor, I don't know if we could -- if your plan is to allow all of that, I wonder if we could at least redact the portion that talks about the pets running away, the dog getting run over.

I don't know why that's relevant at all in this case.

THE COURT: All right. I'm going to make you redact the pet running ---

SOLICITOR JONES: I'm not going to base any argument off that, Your Honor, but I'll redact it, Your Honor.

THE COURT: Number two?

SOLICITOR JONES: Yes, sir.

THE COURT: My problem there is if you actually watch the video, it does, Ms. Galloway-Williams kind of -- it's like she's leading because of the previous information she had on those, is what I feel on that one, on that particular question.

SOLICITOR JONES: As to Minor 1 interview 3/11?

THE COURT: Yes.

SOLICITOR JONES: She would be leading because of the information she had?

THE COURT: Right. And taking the pills to eat, when she has to eat.

SOLICITOR JONES: All right. Is your reasoning based on ---

THE COURT: Because she'd already

had -- actually, that's what Minor 2 said.

SOLICITOR JONES: Right. Well, I think the forensic interview is they have a basic understanding of what the allegations are, Your Honor. So I think they do ask them about specific instances that are alleged. And in this case unlawful neglect would be using drugs in front of the children. So I think asking the children about pills and about if they ever took the pills would be relevant to the charge of unlawful neglect, Your Honor.

THE COURT: All right. Any other response from you?

MS. HORLBECK: It's just very -- talk about lack of internal coherence. I don't think that that portion of this tape really shows internal coherence about the children being given pills and being around it. I mean, it just -- I would ask that it be redacted.

THE COURT: All right. I'm going to allow that portion in.

Okay. Three and four I'm going to allow to be redacted because that's talking

more about what daddy did. And it's not a clear indication that it was, you know, with mommy being involved with it. So I'm going to allow them to redact three and four.

SOLICITOR JONES: Yes, sir, Your Honor.

THE COURT: Five, I'm going to deny. That's the "I'm not real."

And then six and eight. You have six and eight there.

There's no seven?

MS. HORLBECK: It's mis-numbered, sorry.

THE COURT: That's fine. My previous analysis on those.

And then finally the Minor 1 interview of 4/11/14. You're fine up to 32:00 through 39:00. Okay.

Number one. The problem with that is it's just all blank space with him sitting in there fidgeting.

SOLICITOR JONES: Let's see. I'm sorry.

THE COURT: Okay. This is State's Exhibit 4, which will be Minor 1 interview

of 4/11, her item one.

SOLICITOR JONES: Okay. So when she says redact 32:00 through 39:00 ---

THE COURT: That whole thing is when he's sitting in there by himself waiting for her to go and she's on a break.

SOLICITOR JONES: I'm sorry. I meant to -- I believe I agreed to redact that.

THE COURT: Okay.

SOLICITOR JONES: I'm sorry if I didn't indicate that. So redact number one.

THE COURT: Number two, there's some -- I have some issue with the information about dad and what dad's doing. And, you know, I didn't mark down the particular numbers but there's a lot about what dad's doing in that little portion of -- probably about 42:00 to about 52:00. And I don't believe that that would be appropriate in this. Again, I didn't mark down the numbers.

SOLICITOR JONES: Okay. And I'm looking -- are you talking about number two where she says redact 49:25 to end of

describing the drawings?

THE COURT: Yeah.

SOLICITOR JONES: So you want me to redact all of that?

THE COURT: No. Redact anything that talks about things that dad has -- there's some discussions about what dad's doing and some info in there that kind of gets into his discussion.

MS. HORLBECK: And can we also -- you know, if we're going to redact the actual drawing portion, can we redact the description of the drawing?

THE COURT: No, I'm not redacting the drawings. I'm just talking discussions about dad. It's also in there. Now, I'm trying to think. Now, is this the description of the drawings?

MS. HORLBECK: Yeah. She asked him 'what did you draw?' And he stated Ninja Turtles and just all that stuff.

THE COURT: Oh, okay.

MS. HORLBECK: We'd agreed to redact all the drawings.

THE COURT: Yeah. I did. Let's

go ahead and redact. I misread my notes here.

SOLICITOR JONES: So, I'm sorry, Your Honor. Just to be sure so I'll know what to redact.

THE COURT: All right. Two -- I'm granting their request for two.

SOLICITOR JONES: Okay. And was there anything that you saw that you're telling me to redact before the 49:00 minute mark?

THE COURT: No. Well, and you agreed on the ---

MS. HORLBECK: The drawings.

SOLICITOR JONES: Yeah. Yeah.

THE COURT: And you agreed on one.

SOLICITOR JONES: On number one I agree. I'm sorry.

THE COURT: All right then three, I didn't make any notes but I put the denied on that. I'm not sure what your issue was o that one.

SOLICITOR JONES: Ms. Williams asked the child, 'Has anyone told you what to say?'

THE COURT: Is that one on three?

Okay. All right. Well, I think that's what that is.

MS. HORLBECK: I believe that's what that is, Judge.

THE COURT: All right. I'm going to deny that.

Number four, I'm going to grant a redaction for some of that, not all of it. I don't think there's any problem with some kind of ending-type language, 'oh, we're going to Disney World.'

But I do not think it's appropriate -- at some point in there he testifies that grandmother said this wasn't right. I think they're kind of touching their private areas is what he says. He goes, "Well grandmother said that wasn't right.' I don't think that's -- I mean, I'm going to have that redacted because that's something grandmother said. So you need to redact anything about what grandmother said.

SOLICITOR JONES: Okay.

THE COURT: And then five and six, that's the previous analysis about what he observed being done to his siblings.

All right. Anything else on the videos?

SOLICITOR JONES: Your Honor, Minor 2 at the end of her April 11th interview, the second interview of Minor 2 Lusk, she also discusses her father. Would you like -- or I guess I would make a Motion that that portion be redacted as well, since we're redacting other areas where they discuss their father.

THE COURT: I don't remember. Well, but was that some of the -- see some of the stuff talked about the father -- mother was in the room. And then I think that went to that unlawful neglect in my mind. But other parts were ---

SOLICITOR JONES: I believe she says that her father was there and Shauna asked has your father ever touched you and she says, yes.

THE COURT: Oh, okay. Yeah. I think that would be appropriate to redact that.

MR. WARDER: Your Honor, part of what you're redacting about the father it

seems to me is relevant to my defense. And I guess when they ask is the father there, you know, the child says the father is there. The father is going to testify he was not there.

THE COURT: Well, I'm going to allow anything to where the children said when something was going on father was there and mother was there because I think that goes to the unlawful neglect claim of the mother, because she didn't, you know, when he was doing things.

But as far as just general stuff about the father, I don't think that would be appropriate on these videos.

All right. Anything further on the videos?

MS. HORLBECK: No, Judge. I just would renew all the objections and reasons that I gave in our pretrial hearing yesterday.

THE COURT: You know, if y'all get into it too and y'all need to get clarification, that's no problem.

SOLICITOR JONES: And, Your Honor,

we have an IT specialist that's going to help me out with this so hopefully it will go a little bit smoother. But, again, if I have any questions, I'll ---

THE COURT: All right.

MS. HORLBECK: No, Judge.

THE COURT: And if y'all need a little bit more time with the jury, we'll just -- because I know that's important to get that right.

All right. Well we'll be adjourned until 2:15.

(LUNCH RECESS)

(DEFENDANT HENDRIX PRESENT)

THE COURT: Are we ready?

SOLICITOR JONES: Your Honor, basically I was going back through the videos so I could get a start time and end time of each edit ---

THE COURT: Yeah.

SOLICITOR JONES: --- each thing that would need to be removed so I could give the IT person. So I was really just -- there were several portions that were fifteen minutes long that Your Honor said to redact

anytime DSS says something or police say something. So I felt like I had to listen to that whole portion to determine what to take out of that. So anyway, I got through three of the four videos, Your Honor. I have Minor 1 's second interview to do, which shouldn't take me too much longer.

THE COURT: Okay. And I'm going to give you sufficient time to go through that tomorrow morning so y'all can get it in.

SOLICITOR JONES: And, Your Honor, really for several of the portions that were to be removed or edited, I would feel more comfortable if we played that for Your Honor and for defense counsel so that everyone knew what parts I removed and what parts I didn't. Because I did the best I could to ---

THE COURT: Well, I think y'all can really because y'all -- y'all can look at it. I mean, if y'all have any issues then y'all can bring them up.

SOLICITOR JONES: Yes, sir.

THE COURT: I'll work with you on time.

SOLICITOR JONES: Yes, sir.

THE COURT: I won't make you come in at 6:30. I'll let you just stay until 7:00 and then maybe come in tomorrow at 7:00. All right?

SOLICITOR JONES: Yes, sir.

MS. HORLBECK: Right.

THE COURT: All right. Are we ready to proceed with bringing the jury in. Anything before we bring them in?

MS. HORLBECK: Yes, Judge. Just briefly. I would ask if Your Honor would consider giving the jury just an instruction that they're to draw no inference from Ms. Riden's absence. I don't know if you routinely do that.

THE COURT: No, I don't have a problem with that.

SOLICITOR JONES: I don't either, Your Honor.

THE COURT: And I meant to ask you. Now, your office needs to get a bench warrant on her?

SOLICITOR JONES: Yes, Your Honor. I was going to ask you if you'd signed anything or if you need us to do anything?

THE COURT: Maybe somebody from your office can draft a bench warrant?

SOLICITOR JONES: Sure. Yes, sir, Your Honor. Your Honor, I would ask that all the witnesses besides our victim and our investigating officer be sequestered.

THE COURT: All right. Any objection?

MS. HORLBECK: I don't object.

THE COURT: All right.

MR. WARDER: Are you asking just to sequester just the witnesses or to keep people out from the courtroom?

THE COURT: I think just the witnesses, yeah.

MR. WARDER: That's fine, yeah.

THE COURT: So any witnesses that y'all plan to call.

I guess if you are a witness or a potential witness in this case then I would ask that you go out into the foyer/waiting room, whatever they call it out there.

SOLICITOR JONES: So any potential witnesses would leave the courtroom. And, Your Honor, when I do call the children to

testify, I would ask that the courtroom be cleared besides the defendant obviously and defense counsel.

MR. WARDER: I don't know and it's really not my thing -- one of the people here is the father, the natural father of the victims. He probably would have a right to be in here.

THE COURT: If you can find something and show me that, then I'll entertain it. But I don't know of any right that he has -- especially since from what I understand, he has no custody. He may be the natural father, but ---

MR. WARDER: I thought under the victims' rights that he would be entitled.

THE COURT: I think that probably is cut off when he loses custody and care of his children. And DSS, it's my understanding when looking at the videos there's some -- I mean, that's just what I gleaned from looking at the videos.

SOLICITOR JONES: That's correct, Your Honor.

MR. WARDER: So I'm fine.

THE COURT: I think so at some point that victim right gets cuts off.

MR. WARDER: I have no problem with that, Your Honor.

THE COURT: All right. Are we ready to bring the jury in?

Anything from the State before we bring the jury in?

SOLICITOR JONES: Nothing else from the State.

THE COURT: Anything else from the Defendants?

MS. HORLBECK: I didn't know if the ruling on the witnesses, that applies to State witnesses as well?

THE COURT: Yes.

MS. HORLBECK: I didn't know ---

SOLICITOR JONES: Except for the -- the grandparents have custody of the children. Can they stay in as the victims and remain in the courtroom, Your Honor.

THE COURT: Are they planning on testifying?

SOLICITOR JONES: They are on the -- I think they're on both witness lists, mine

and defense counsel's.

MS. HORLBECK: I don't have them on ---

THE COURT: And I don't know ---

MS. HORLBECK: They are not on my witness list. I don't know about Mr. Warder's.

THE COURT: I think it would be -- I'm going to allow them to be sequestered.

SOLICITOR JONES: Okay. So the grandparents do need to leave the courtroom.

MR. WARDER: Yeah.

THE COURT: I'm going to reserve my right as far as when the children are testifying. Are those going to be the first?

SOLICITOR JONES: Yes, Your Honor.

THE COURT: Okay.

SOLICITOR JONES: So my position would be the grandparents have custody of the children, so they're the guardians of the children. So normally the parent or guardian of a child victim would be able to remain in the courtroom.

THE COURT: I'm going to let whoever has -- and let's have one of them.

SOLICITOR JONES: One. Yes, sir.

THE COURT: I'll let one of them

SOLICITOR JONES: All right. Thank you, Your Honor.

THE COURT: All right. Anything else before we bring the jury in?

MR. WARDER: No, sir.

MS. HORLBECK: (No verbal response).

THE COURT: All right. Bring the jury in.

(JURY IN @ 2:35 P.M.)

THE COURT: All right. Ladies and gentlemen, I appreciate your patience and everything. We're ready to finally begin the trial of this case. I would you know at the beginning of a matter -- well before I do that, let me ask the clerk of court if he will go ahead and swear you in at this point.

(WHEREUPON JURY SWORN)

THE COURT: All right. Ladies and gentlemen, I'm going to give you some preliminary charge at this point, to kind of give you a framework of kind of some ground rules before we begin this case.

First of all, I've previously told you this the case of State versus Stacy Carol Riden and Aaron Van Hendrix. You've been previously introduced to Mr. Hendrix.

And you are not to take any inference whatsoever to the fact that the other defendant is not present at this time. That does not change the burden that the State has in this matter whatsoever.

Still, the State -- as I will go into more detail, the State in this case has the burden of proof. You will hear different types of proof -- but the burden of proof, the burden that the State has is they must prove each element of the charges that they're bring beyond a reasonable doubt. And again, I'll give you more information on that as we -- at the conclusion of the trial.

Yours is a very important duty as a jury. It's very important that you pay careful attention to all of the evidence being presented and keep an open mind.

That's why I'll keep telling you that you're not to make any decisions. That you're not to make, begin any deliberations

or any discussion until you've heard all of the evidence, which is testimony and the exhibits. And at that point, I will charge you the law. Until that point you don't have all of the elements, all of the recipe to actually begin the deliberations.

So that's why, when you take breaks, you don't begin any discussions or anything. And, again, it's stuff that you hear just in this courtroom.

It's an important responsibility. Your responsibility as a jury though is to decide the facts of this case.

My role as a judge is totally different. I'm the judge of the law to tell you what the law. I'm going to rule on the admissibility of evidence.

Occasionally there may be objections between the parties and that's a routine thing where I have to make a decision on evidence. It is not that any party's necessarily trying to play games, it's there's certain elements that a party must meet before certain evidence is accepted by the Court. And that's why objections.

Occasionally, there may be some times where, just so that we can kind of hash some things out and make sure everything's appropriately before you, we may send you out from time to time so we can discuss that, so that the record will be clean.

As far as breaks, now normally I try to take breaks every hour to hour and a half. That's just kind of a general rule. A lot of that is dictated about where witness particularly are. I mean we don't want to stop in the middle of a witness or something like that or if somebody has a short witness. So that's our general rule, okay?

But I want to make sure -- I mean, I realize this is an inconvenience to you. I want to make sure you're as comfortable as possible. If at any point you need to take a break, just indicate to the bailiff or indicate to me you need to take a break.

You know, don't do like the last trial I had where somebody just bolted out of the room, you know. At least give us some notice. Let us know if you do need to take a break, then we'll stop.

Normally, again, there's no set rules on times. We generally try to start the trial between, you know, 9:00 to 9:30. It kind of depends on how the case is going. And we try to end somewhere 5:00 to 5:30. A lot of that depends on where the witnesses are, if there's certain matters that we have to take up outside the presence of the jury.

If it looks like for whatever reason we have to go beyond, you know, the normal hour like 5:30, we'll give you plenty of notice if you need to make some arrangements for that so that you can. Again, y'all will have plenty of notice on that.

The procedure of the trial is we'll start off with opening statements of the attorneys. Now, this is not to be considered evidence. This is just their opening statement, kind of a summary of what they expect the trial to show.

Then we get to the evidentiary state, which is where the attorneys present any evidence or testimony that they deem appropriate.

Then after all of the evidence is

in, then we will have closing arguments by the attorneys. And then we'll have the charge on the law. And only after all of that it is done do you begin discussing the case and deliberating on the case.

There's two types of evidence that you'll see. You will see live testimony from witnesses from the stand. And there will also be other types of evidence, which will be the documents or videos or things like that. If they are ruled admissible, then those are, you know, matters to be considered by y'all when y'all begin your deliberations.

If at any point I rule that something is admissible or if I say that that should be stricken, then I will advise you of that. And, again, that's something that you're not to -- even though it may be something you've heard, when you begin deliberations it's something that you're not to discuss. So I will let you know when/if that happens.

It's important that, again as I said, that you did not do any independent investigation, that you not pay attention to

any media reports, any social media, anything whatsoever. If you do see anything like that, please disregard it, turn away, because if it is not here we don't have a record of that. So that's real important there.

One of the things that you'll need to determine is the credibility and believability of witnesses. And that's something that you just have to take from your own experiences, and your own, you know, your day-to-day events and then determine what you feel as to which witness is credible and believable. And that's something that you will have to possibly consider in your deliberations when you get to that point.

At the next break I will have y'all select a foreperson and basically the original twelve are eligible for that. The alternates are not eligible for that. It doesn't mean you get paid anymore. It just means that you're kind of the -- you'll be in charge of kind of the deliberation when you begin the discussion. And if you need to have any communication with the bailiff, the foreperson is there. And also the

foreperson needs to make sure that there is no discussion about the case or anything before the time comes.

The alternates play a very important in the event that someone gets sick or not able to continue for any reason, then it is important for the alternates to be here and be available.

So with nothing further at this point, we will begin with opening statements.

Solicitor, you may proceed.

SOLICITOR JONES: Thank you, Your Honor, may it please the court.

OPENING STATEMENT

BY SOLICITOR JONES:

Stacy Riden sexually abused and neglected her own children.

Aaron Hendrix, her live-in boyfriend also sexually abused those children.

What does sexually abuse and neglect actually mean? In this instance it means they did drugs in front of those children, they had sex in front of those children, they touched the children's genitals and they forced those children to perform oral sex on

them.

Stacy Riden and Aaron Hendrix are both charged with criminal sexual conduct with a minor first degree, two counts of that, and one count of criminal sexual conduct with a minor, third degree.

Just Stacy Riden is charged with unlawful neglect.

I'm going to briefly go over the elements of all of those offenses, because those elements are what I have to prove to you throughout the trial.

At the end of the case, the Judge is going to go over those elements in detail. So if anything I say contradicts what the Judge says, go with what he tells you on the law.

And forgive me, I'm going to read form my notes just briefly as to the elements, because I want to make sure I get it right. And they are kind of complicated. But for criminal sexual conduct with a minor first degree, I have to show that the actor engaged in sexual battery with the victim and the victim was less than eleven years of age.

The statute defines "sexual battery" as sexual battery as sexual intercourse, oral sex, anal sex, or any intrusion however slight into the genital or anal openings of another person.

So that's the criminal sexual conduct with a minor, first degree.

Criminal sexual conduct with a minor third degree is the actor or the defendant is over fourteen years of age and the victim is under sixteen years of age. And the actor willfully and lewdly commits a lewd or lascivious act with the intent of arousing or gratifying the lust, passions or sexual desires of the actor or the child.

And what that means, criminal sexual conduct with a minor third degree, is essentially touching someone under the age of sixteen with the intent of arousing your sexual desire, your sexual passions. It's more of a touching with the intent of gratifying your sexual desires.

And Stacy Riden is charged with unlawful neglect. And the elements of unlawful neglect are:

1) that the defendant is a parent or guardian. And that parent or guardian places the child at unreasonable risk of harm, affecting the child's life or the child's physical or mental health or safety; or that parent or guardian causes bodily harm to the child so that the life or the health of the child is in danger; or

2) the parent willfully abandons the child.

So those are the elements to keep in mind as I present my case.

The three children I've been talking about are Minor 1 , Minor 2 and Minor 3 . Minor 1 and Minor 2 are twins and they're currently nine years old. Minor 3 is their youngest sister. She's currently five years old.

Until March of 2013 the children lived with the mother, Stacey Riden, in Easley. In March of 2013, all three children went to live with their grandparents. They lived with their grandparents for about eight or nine months. And in December of 2013, those children told their grandmother what

happened to them. They told their grandmother about the sexual abuse.

Now, throughout the trial, I'm going to call several witnesses.

You're going to hear from several law enforcement officers who responded to the scene initially, an investigator who put the case together and investigated the case.

You're also going to hear from a doctor who performed a physical examination of the children.

You're also going to hear from a child abuse expert. And that child abuse expert did not talk to these children or read any documents as to this particular case, but she will discuss important topics with you relating to child abuse that will help you in your decision.

I'm also going to call the children: Minor 1 Minor 2 and Minor 3 They're going to come into this courtroom, they're going to sit on that stand and they're going to tell you what happened.

A very important aspect of this case is credibility; who has it, who does not

have it. And that's completely up to you.

So as you listen to the witnesses ask yourself why would this person lie? What do they have to lose?

And well as the testimony from the children in court, I'm going to play videos of Minor 1 and Minor 2 . They were interviewed previously and those videos will be played for you here. In those interviews, they give you a detailed account of what happened. And I want you to listen to the children in those videos and listen to the details that they give you about this abuse.

Listen as Minor 1 tells you how blood was running down his sister's legs.

Listen to Minor 2 when she tells you about her hair being pulled by her own mother.

Listen to the description they give you about oral sex. As you listen to those details, ask yourself why would a child tell someone they performed oral sex on their own mother? Why would someone say that? Because it's the truth. Thank you.

THE COURT: Ms. Horlbeck.

MS. HORLBECK: May it please the Court, Mr. Warder, Mr. Jones.

OPENING STATEMENT

BY MS. HORLBECK:

Good afternoon, ladies and gentlemen, over the holidays my husband I had to travel to England for a very unfortunate event that he had had happen in his family. You see he's British, so we went over there for a funeral. His grandmother had passed away.

I've been involved with this family for the past six years but when we touched down and we were able to talk with other family members, I realized that there was a split in his family and that this split had gone back for quite some time and the family was actually divided into the part of the family that saw eye-to-eye with his deceased grandmother and the part of the family that did not see eye-to-eye with his deceased grandmother.

I just found it amazing that something that had happened so long ago had grown into this, this major split. And that an

acorn had grown into this enormous oak tree.

And that's what's happening in this case, that's what this case is about today.

I have the privilege of representing the innocent Stacy Riden today. She's pled not guilty to these charges because she did not do any of the things that the State has just accused her of doing.

You all are strangers to each other and you've heard the allegations of the State. You are strangers to each other. Many of you are strangers to this courtroom and likely strangers to the criminal justice system. Just the words themselves -- sex, child abuse -- just those very words alone can conjure up fears and terrible images in your mind. Those fears and terrible images can cause your mind to freeze and shut down. I'm asking you not to do that today. Don't shut your mind. Don't let your mind freeze. As Judge Gravely explained to you, listen to all of the evidence in the case. It is vitally, vitally important in this case.

Now, as I said to you earlier, I have the privilege of representing the

innocent Stacy Riden. And you may well be asking yourselves, 'How she innocent? Didn't I just hear Judge Gravely explain to me that she'd been indicted and that there were warrants that had actually been issued for her arrest? Didn't we just hear that from the Judge?' And, yes, you're right.

But you're to draw no inference from those things. They're not evidence of guilt. The only things that the warrants and the indictments are used for are to bring this case into this courtroom. The warrants and the indictments are not worth the paper that they're printed on. And you may ask yourselves how can I say that.

Well, the Judge has shared with you some very, very fundamental principles. And I think they're so important that I'm going to just review them briefly with you.

One of them is the presumption of innocence is a fundamental principal. Everyone who stands trial is presumed innocent. It is as if you were on trial, you are covered with a cloak of innocence. And the only thing that removes that cloak of

innocence is proof of guilt beyond a reasonable doubt. The presumption of innocence does not end when you all leave the courtroom. It doesn't end when you go home. It doesn't end when you go to lunch. It doesn't end if we have sidebars where we take up issues with the Judge. The only thing that removes the presumption of innocence is proof of guilt beyond a reasonable doubt.

And, indeed, that is the State's burden to prove guilt beyond a reasonable doubt. It is not Ms. Riden's burden. She does not have any burden at all in this case and she has no burden to even take the stand and testify whatsoever.

Keep an open mind. Keep these very, very fundamental principals in mind today as you listen to all of the evidence. And consider all the evidence that comes in during this trial. And we believe at the close of this case you will return the appropriate verdict of not guilty for Stacy Riden. Thank you.

THE COURT: Mr. Warder?

MR. WARDER: Thank you, Your Honor.

OPENING STATEMENT

BY MR. WARDER:

Good afternoon. I greatly appreciate your spending of your morning waiting for us to get started so you could hear about this case.

What you've heard are not the facts. What you've heard is the Solicitor's opinion of what the facts are.

This is a case, I believe, though of evil, unspeakable evil almost. Because the children have obviously been talked to and I think coached, the evidence will show, by somebody that wants to gain their custody. This is an action that, in fact, is the easiest way to get custody changed, to accuse somebody of sexual abuse.

Let me tell you how the parties interact. My client, Aaron, moved in with Stacy. He moved in with Stacy Riden in December of 2011, and he stayed until Christmas Eve 2012. Stacy had three children, one of them two and a half and the others six.

On Christmas Eve of 2012, Stacy and

Aaron split up and he moved on.

Stacy became involved with somebody and her lot went down. The children's father called Stacy's father and asked him to come take, help take care of the children because things had went downhill in Stacy's house.

My client gets a job at Lowe's, it is a living. And in 2013 -- I'm sorry, in 2014 he was arrested, they're saying he did something wrong to the children back when he lived with Stacy. Now, the allegation that was made was not that he secreted the child away, hid and did something bad. The allegation is that he, at a time the two other children were present, and the time that Stacy was present, and at a time that the child's father was present, he inappropriately touched the child.

They further make an allegation that while this group was together, all of them, the children performed oral sex on mother and him with the father standing there laughing. My client, along with everybody named, will deny those events ever happened.

The children's father will tell you

that he would kill somebody that touched his child.

This case makes no sense in the world of reality. But when you're getting children to tell something that's not true, they will follow scripts if they can get them started with the idea.

And for these children when they were taken by Stacy's father, their lot in life improved a lot. They went from a house that had little in it to a situation that has a lot: a front yard full of toys, trips to Disneyland. I believe that the grandparents have fallen in love with the grandchildren. The grandmother is not really grandmother. She's just a step-grandmother, the wife of the grandfather, second wife. But I believe the evidence will show that they wanted, that they love and want the genuine love and affection of these children.

But this action, because they named it -- because everybody's come out, would effectively take the rights away of everybody that had a claim to the children, except them. Like we're saying that this happened

as being cheered on by the natural father, in the presence, participated in by the mother, will guarantee them -- if they can get a conviction -- that there'll be no parents around, they'll be the closest to the children and they will have them. And that's what we believe the motivation is.

Listen to the testimony. It makes no sense. He describes the way people really would never act.

The idea that there's some kind of conspiracy between the natural father and a man that lived with the children's mother to sexually abuse the children, when you hear these people and their testimony, it makes no sense.

I ask you to listen carefully to all of the witnesses. I ask you to use your everyday common sense. Use your experiences, what you've learned by living upon this good earth. Filter this evidence through your brain.

Say, does this fit? Does this make sense? This is the way people act.

At the end of this case and you'll

conclude that these children have been coached by some adult and that a step-grandmother and grandfather will be the beneficiary of this if you believe them. Thank you very much.

THE COURT: Mr. Jones.

SOLICITOR JONES: Your Honor, the State calls Minor 1 . And, Your Honor, before Minor 1 comes into the courtroom, we would ask that everyone exit the courtroom.

THE COURT: All right.

SOLICITOR JONES: Non-parties.

THE COURT: Yeah, all non-parties you're going to ask y'all to please step out of the courtroom.

(INDIVIDUALS EXIT COURTROOM)

(WITNESS TAKES STAND)

Minor 1 , having been duly sworn to tell the truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Hey, Minor 1 . How are you?

A. Good.

Q. Good?

A. (Affirmative nod).

Q. Can you speak into the microphone and tell everybody what your name is?

A. My name is Minor 1 .

Q. Minor 1 And tell us how old you are.

A. Nine (9).

Q. And what grade are you in in school?

A. Third (3rd).

Q. Third grade?

A. (Affirmative nod).

Q. Minor 1 , I'm going to ask you a couple of questions. Do you know the difference between a lie and the truth?

A. Yes.

Q. So if I told you that my tie is black, would that be a lie or the truth?

A. A lie.

Q. And if I told you that my hair is purple, would that be a truth or a lie?

A. A lie.

Q. If I told you that your name is Minor 1 would that be the truth or a lie?

A. The truth.

Q. You said you're nine years old?

A. (Affirmative nod).
Q. Where do you go to school?
A. Dacusville Elementary.
Q. Minor 1, who do you currently live with?
A. My grandma.
Q. Your grandmother?
A. (Affirmative nod)
Q. And who else lives with you?
A. My papa, my aunt and my two sisters.
Q. Two sisters?
A. (Affirmative nod).
Q. What are your sisters' names?
A. Minor 3 and Minor 2 .
Q. Minor 3 and Minor 2 ?
A. (Affirmative nod).
Q. What do you call your grandparents? What are their names, do you know?
A. Lisa, Mark and Amanda.
Q. Who is Amanda?
A. My aunt.
Q. That is your aunt?
A. (Affirmative nod).
Q. Okay.
Q. She lives with y'all now?

A. Yeah.

Q. Who did you live with before you went to live with your grandparents?

A. Stacy and Aaron.

Q. Are you related to Stacy?

A. (Affirmative nod) -- um-humm

Q. Is Stacy your mother?

A. Yes.

Q. So Stacy is your mother?

A. (Affirmative nod).

Q. Did Aaron Hendrix live with you when you lived with your mother?

A. Yes.

Q. Do you remember telling your grandmother about someone touching your privates?

A. Yes.

Q. Did Aaron Hendricks ever touch your privates?

A. Yes.

Q. Did that happen one time or more than one time?

A. More than once.

Q. Did Stacy Riden, your mother, did she ever touch your privates?

A. Yes.

Q. Did that happen once or more than once?

A. More than once.

Q. Did you ever see Aaron Hendrix touch either of your sisters?

A. Yes.

Q. And did he touch them on their privates?

A. Yes.

Q. Did you ever see Stacy Riden touch your sisters on their privates?

A. Yes.

Q. Do you remember your mother, Stacy Riden, pulling Minor 2 's hair at any point in time?

A. Yes.

Q. Did Stacy Riden pull her hair as Aaron Hendrix was touching Minor 2 's privates?

A. Yes.

Q. Did Aaron make you put your mouth on his privates?

A. Yes.

Q. What about Stacy, did she make you put your mouth on her privates?

A. Yes.

Q. Can you tell us what Stacy or Aaron did when they made you put your mouth on their privates?

A. They, like, -- like they hold me still, making my head go near it.

MR. WARDER: Your Honor if it please the court, the solicitor stands so that witness's responses are facing directly away. I am going to ask if they can move the microphone so that the witness can turn to face more directly.

THE COURT: (Microphone position was adjusted).

DIRECT EXAMINATION CONTINUED

BY MR. JONES:

Q. You are doing great, Minor 1. Just when you answer my questions, just -- you don't have to lean up to it, you're doing fine. Okay.

Sorry we interrupted you there. I just asked you if you remember what Aaron or Stacy did when they made you put your mouth on their privates? Can you tell the jury again what you just said?

A. They hold me -- ummm, they hold me still so I couldn't do anything.

Q. Did they touch your head?

A. Yes.

Q. Can you tell the jury what they did?

A. They like touched -- they put their hand on my head and leaned me near it.

Q. And were they standing up when this happened, laying down or ---

A. Standing up.

Q. Where you standing or lying down?

A. I was standing.

Q. Do you remember what you saw when they made you put your head on their privates?

A. I saw their privates.

Q. Have you ever seen your sisters bleed from their privates?

A. Yes.

Q. When was that?

A. Humm -- in the bedroom.

Q. Was that after Stacy and Aaron touched their privates or was that another time

A. That was another time.

Q. So what happened to your sisters to make them bleed from their privates, do you know?

A. They were touching their privates and pulling on it.

Q Who was touching their privates?

A. Aaron and Stacy.

Q. When you lived with your mother, Stacy, did you ever see a needle?

A. Yes.

Q. What did it look like? Did it have anything on it?

A. It had blood on it.

MR. WARDER: Your Honor, it's part of my old age and my old ears, but I can't hear. The solicitor keeps moving farther into the corner, which keeps moving the witness further away fro me.

THE COURT: Well, maybe you can move closer if you need to.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR

Q. You are doing good, Minor 1 . You said that you saw needles and it had blood on it?

A. Yes.

Q. Did you ever see Aaron or your mother with needles?
A. Yes.
Q. What did they do with the needles?
A. They stabbed it.
Q. They stabbed what?
A. The needles.
Q. Did they Stab themselves?
A. Yes.
Q. Do you remember where they stabbed themselves with the needles?
A. In the arm.
Q. In the arm?
A. (Affirmative nod).
Q. Do you remember what part of the arm?
A. No.
Q. No?
A. (Negative gesture).
Q. Were you ever scared to tell somebody about Aaron and Stacy touching you?
A. Yes.
Q. Why were you scared?
A. Because they threatened me.
Q. They threatened you?

A. (Affirmative nod).

Q. How did they threaten you, what did they say?

A. They said if I told, that they would kill me.

Q. And did you ever not want to tell people about your mother making you put your mouth on her privates?

A. Yes.

Q. Why didn't you want to tell people about that?

A. Because I was scared to tell.

Q. Because you were scared?

A. (Affirmative nod)

SOLICITOR JONES: No further questions, Your Honor.

CROSS EXAMINATION

BY MS. HORLBECK:

Q Minor 1 I am going to ask you to turn just a little bit and face me as best you can. Okay. Tell me how old you are -- and let me introduce myself. My name is Ms. Horlbeck and I represent your mom. Okay?

A. (No response).

Q. I am going to ask you some

questions, if that is all right. Is it okay with you if I ask you a few questions?

A. (Affirmative nod).

Q. Tell me again how old you are.

A. Nine (9).

Q. And when is your birthday?

A. April 2nd.

MS. HORLBECK: Judge, do you mind if I just push -- (microphone adjusted).

CROSS EXAMINATION CONTINUED

BY MS. HORLBECK:

Q. Is that better? Is that microphone too close to you.

A. (No verbal response).

Q. I don't want the microphone to be shoved up in your Mouth. Is that okay?

A. (Affirmative nod)

Q. So you will be ten in April?

A. Yes.

Q. All right. Thank you. What school do you go to?

A. Elementary.

Q. What grade are you in?

A. Third (3rd).

Q. Do you have a favorite teacher or

anything like that?

A. No.

Q. No favorite teacher?

A. (No verbal response).

Q. Is there anything at school that you like to do better than anything else?

A. Science.

Q. You like science?

A. (Affirmative nod).

Q. Okay. What do you like about science?

A. It's cool.

Q. Do you get good grades in school?

A. Yes.

Q. What kind of grades do you get?

A. A's B's and sometimes C.

Q. All right. Do you play any sports?

A Yes.

Q. You do. What sports do you play?

A. Baseball.

Q. What position do you play?

A. In the field.

Q. I don't know much about baseball, so you are going to have to explain a little bit. Tell me that position again.

A. In the field.

Q. What do you do in the field?

A. In case the ball goes in the field, I get it.

Q. And if you get the ball, what do you do with it next?

A. I throw it to the person that is standing near me.

Q. Are you on a team?

A. Yes.

Q. Are you on a team at school or outside the school?

A. Outside the school.

Q. Do you think you're one of the best people on your team?

A. No.

Q. No?

A. (Negative gesture).

Q. No. All right. Let me ask you some questions about your papa and your grandma. Do you remember when you moved in with your grandma and your papa?

A. Yes.

Q. When did that happen?

A. That happened after I told what

happened to me.

Q. Do you remember what year that was that you moved in with your grandparents?

A. No.

Q. Do you remember how old you might have been when you moved in with your grandparents?

A. I think about seven.

Q. And do you -- was there a special event that happened on the day that you moved in with your grandparents or maybe the day before?

A. No, I don't remember.

Q. All right. You said that you have -- you have obviously other people in your house that you live with; right?

A. Yes.

Q. Do you live with your grandmother and your grandfather?

A. Yes.

Q. And your two sisters?

A. Yes.

Q. Do you have any pets?

A. Yes.

Q. What pets do you have?

A. I have a dog.

Q. Does your dog have a name?

A. Yes, ma'am. His name is Max.

Q. Do you know how old Max is?

A. Five.

Q. Before you moved in with grandparents, who did you live with?

A. Stacy and Aaron.

Q. Is Stacy your mother?

A. Yes.

Q. When did you first start calling your mother Stacy instead of mom?

A. When I moved in with my grandma.

Q. Okay. All right And -- what -- before you moved in with your grandma, what did you call your mother: Did you call her mama, did you call her mommy or ---

A. Can you say that again?

Q. Let me see if I can make that into a simpler question, because I did kinda make it confusing. Before you started calling your mom "Stacy", what did you call Stacy?

A. Mom.

Q. And that changed when you moved in with your grandparents?

A. Yes.

Q. When you lived with mom, what kind of house did you live in? Do you remember?

A. It was a long house.

Q. Was it a house or a trailer?

A. It was a house.

Q. Do you remember how many bedrooms that the house had in it?

A. Three.

Q. Where did everybody sleep in the house?

A. I slept on the couch, my sisters did too.

Q. Did your sisters have their own bedroom?

A. Yes.

Q. Did they sleep in their bedroom?

A. Uh-uh, (negative gesture)

Q. They slept on the couch with you?

A. Yeah.

Q. Did your mom have a bedroom?

A. Yes.

Q. Do you remember what kind of bed was in her bedroom?

A. No.

Q. Was the house small or do you think the house was big or something else?

A. It was small but it was long too.

Q. Were there any bathrooms in your house?

A. Yes.

Q. How many?

A. Two.

Q. Did any of the bathrooms have bathtubs?

A. No. Just one did.

Q. Was the bathtub normal size, big or something else?

A. Normal.

Q. You testified that your mom said some things to you that made you afraid; is that right?

A. Yes.

Q. When did you first become afraid of your mom?

A. When she told me that if I told what happened that she would kill me.

Q. Do you remember when that was?

A. No.

Q. Do you remember what year that was?

A. No.

Q. Do you remember how old you might have been?

A. Probably about like six or seven.

Q. Do you remember going to the Julie Valentine Center and talking to someone?

A. Yes.

Q. You do?

A. (Affirmative nod).

Q. All right. All right. And, you said that your sisters -- you talked about a time when your sisters had bled. Do you remember if your sisters had to go to doctor?

A. No.

Q. Do you remember -- yes or no?

A. I don't remember.

Q. All right. Minor 1, just give me a moment to look at my notes to see if there is anything that I wanted to ask you. All right, so you said that you do -- you do remember going to the Julie Valentine Center?

A. Yes.

Q. Do you remember who you talked to?

A. Yes.

Q. Do you remember if it was a man or a

woman?

A. A woman.

Q. Did you tell her -- did you talk to her about the things that you said happened?

A. Yes.

Q. Did you tell her that these things happened once or do you remember?

A. I said the things happened more than once.

Q. All right. And do you remember what year these things happened?

A. No.

Q. You said that you saw your mom do some things to your sisters, do you remember when those things happened?

A. Yes.

Q. When I ask that question, what I am asking you is do you remember what year those things happened.

A. No.

Q. I'm sorry, I just I didn't hear you.

A. No.

Q. All right. And you've said your head was pushed down so that it was near private areas; is that what you said?

A. Yes.

Q. Do you remember seeing anything come out of anyone's private areas?

A. Yes.

Q. Out of the adult's private areas?

A. No.

Q. All right

MS. HORLBECK: I beg the Court's indulgence.

CROSS EXAMINATION CONTINUED

BY MS. HORLBECK:

Q. Just a few more questions, Minor 1 . Do you remember what the adults were wearing ---

A. No.

Q. Do you remember what the adults were wearing when you say these things happened?

A. No, I don't remember.

Q. Okay, all right, that's all that I have. Thank you, Minor 1 . I appreciate you answering my questions.

CROSS EXAMINATION

BY MR. WARDER:

Q. Minor 1 , Is the house you live in now a lot nicer than the one you lived with your

mother at?

A. Yes.

Q. Pardon?

A. It is nicer.

Q. Is it a lot nicer?

A. Yes.

Q How about the things that you have to play with? Have you got a lot more toys now?

A. Yes.

Q. What kind of toys do you have?

A. I have got Spyman (phonetic) and I've remote control things.

Q. Remote control things?

A. (Affirmative nod).

Q. What kind of remote control things do you have?

A. Cars.

Q. Do you have anything that flies?

A. Yes.

Q. What is that?

A. It is a helicopter.

Q. Is it remote controlled, too?

A. (Affirmative nod).

Q. Do you have an iPad, a cellphone,

computer?

A. A tablet and a DS.

Q. What kind of tablet do you have?

A. I don't know.

Q. Is it an Apple?

A. No.

Q. No?

A. (Negative gesture).

Q. How about going places and having a good time, do you get to go a lot of places?

A. Yes.

Q. You got to go to Disneyland as a reward for going to the Julie Valentine Center; is that right?

A. No, I don't think so.

Q. You got to go to Disneyland, didn't you?

A. Yeah.

Q. It was a day or two after going to the Julie Valentine Center?

A. I think so. I'm not sure.

Q. You are not sure how long it was between those two?

A. No.

Q. Do you know that you talked about it

at the Julie Valentine Center?

A. Yes.

Q. Have you watched those tapes of yourself at the Julie Valentine Center?

A. No.

Q. No one showed them to you?

A. No.

Q. Have you been here in the courtroom before today?

A. No. I haven't today.

Q. You what?

A. I haven't today.

Q. You haven't been here before?

A. Yeah, I have.

Q. When did you come here before?

A. With Chris.

Q. And did you sit down in the witness chair before?

A. (Affirmative nod).

Q. Did they tell you what questions they were going to ask you when you got in the witness chair?

A. No.

Q. Didn't tell you what the questions were?

A. He did, but in a different room.

Q. Why did you tell me at first that he didn't tell you what questions would be asked and then later admit that they did. Why would you tell me that?

A. (Negative gesture -- emotional).

Q. You don't know?

A. (No verbal response).

Q. I want to talk to you a little bit about the sexual abuse you told us about. This always occurred with your sisters present, is that right?

A. (inaudible response)

COURT REPORTER: Was that a yes or no?

WITNESS: Can you say that again?

CROSS EXAMINATION CONTINUED

BY MR. WARDER:

Q. When these sexual acts took place, your sisters were always present?

A. Yes, they were there.

Q. You said yes?

A. Yes.

Q. Who else was present?

A. My sisters were there and Aaron and Stacy was there.
Q. Aaron and Stacy were there?
A. (Affirmative nod).
Q. Was your dad ever there?
A. Yes, they were over there.
Q. Pardon?
A. They were over there sometimes.
Q. Was that when these things were taking place?
A. I don't think so.
Q. You don't think so.
A. (No verbal response).
Q. He didn't wasn't there laughing, huh?
A. No.
Q. Was your dad there laughing when it happened?
A. No.
Q. Was anybody laughing?
A. Stacy and Aaron was.
Q. Stacy and Aaron were laughing?
Q. (Affirmative nod).
Q. How many times did this happen?
A. A bunch.

Q. Would there be a regular interval in between, Mondays, Wednesday?

A. Pretty much -- ummm, I don't know what day it was on.

Q. When -- do you remember when Aaron moved out?

A. No.

Q. Who moved in after Aaron?

A. Nobody.

Q. Nobody lived with you and your mother?

A. Yes, Aaron did.

Q. Pardon?

A. Aaron did.

Q I beg your pardon, I can't understand you.

A. Aaron did.

Q. Did your mom have another man move in?

A. I don't remember.

Q. You can't remember that?

A. No.

Q. Thank you.

REDIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Minor 1, you are almost finished, buddy. Did anybody tell you what to say today?

A. No.

Q. Did your grandmother ever tell you what to say?

A. No.

Q. Did your grandfather ever tell you what to say?

A. No.

Q. Why are you saying all of these things about Aaron and Stacy?

A. Because it happened.

Q. Thank you.

BY SOLICITOR JONES: No further questions.

(WITNESS STEPS DOWN)

SOLICITOR JONES: The State is calling Minor 2 next.

(WITNESS TAKES STAND)

Minor 2, having been sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Hey, Minor 2 . I am going to stand right here and question you. Okay?

A. (Affirmative nod).

Q. Okay. Can you tell us your name again?

A. Minor 2 .

Q. Hold old are you?

A. Nine.

Q. What grade are you in?

A. Third.

Q. Third grade. Do you know what elementary school that you go to?

A. .

Q. Elementary?

A. Um-humm, (affirmative nod).

Q. I am going to ask you a few questions before we get started. Do you know the difference between the truth and a lie?

A. Yes.

Q. If I were to tell you that this tie is white, would that be a truth or a lie?

A. A lie.

Q. If I were to tell you that my hair is purple, would that be a truth or a lie?

A. A lie.

Q. If I were to tell you that your name is Minor 2 , would that be a truth or a lie?

A. A truth.

Q. Good job. Minor 2 , who do you live with?

A. My grandma Papa, Amanda, Minor 3 and Minor 1 .

Q. Minor 3 and Minor 1 ?

A. (Affirmative nod).

Q. And who is Amanda, is that your aunt?

A. Um-humm, (affirmative nod).

Q. Who did you live with before you lived with your grandparents?

A. Stacy, Aaron and the three of us.

Q. When you say the three of us, do you mean Stacy, Aaron, Minor 3 and Minor 1 ?

A. Yeah, and me.

Q. And when you lived with Stacy and Aaron, did they ever touch your privates?

A. Yes, they did.

Q. Did they make you touch their privates?

A. Yes, they did.

Q Do you remember, did they make you

put your mouth on their privates?

A. Yes, they did.

Q. Can you tell me and the jury what they did when they made you put your mouth on their privates?

A. They bent my head down and made me lick it and stuff, and suck on it.

Q. And suck on it?

A. (Affirmative nod).

Q. Did they do anything with their hands when they made you put your mouth on their privates?

A. No.

Q. Do you remember seeing Stacy and Aaron touching Minor 1 or Minor 3 on their privates?

A. Yes, I did.

Q. You did see that?

A. Um-humm, (affirmative nod).

Q. Do you remember what Aaron was doing when he touched your privates?

A. Stacy was holding down my hair and he was touching my privates.

Q. Stacy held down your hair?

A. Um-humm.

Q. And when they touched your privates, did that happen one time or more than one time?

A. More than one time.

Q. More than one time?

A. (Affirmative nod).

Q. And you said one time Stacy pulled your hair when Aaron touched your privates?

A. Yes.

Q. Why did she pull your hair?

A. So I couldn't get away.

Q. So you wouldn't get away?

A. (Affirmative nod).

Q. So where you standing up or laying down or something else?

A. I was laying down.

Q. Do you remember if that was in a bedroom or another room?

A. In the living room.

Q. It was in the living room?

A. (Affirmative nod).

Q. When they made you put your mouth on their privates, do you remember what you saw?

A. I saw their privates when I was sucking their privates. Didn't notice anything

else.

Q. Okay. Do you remember seeing a needle?

A. Yes.

Q. What did it look like, do you remember?

A. Sometimes it had a string and some times it didn't.

Q. It didn't?

A. (No verbal response).

Q. Did it have anything on it?

A. Sometimes -- I think one time that it had blood on it.

Q What did you think when you saw the blood?

A. At first I thought 'what is this' and then I realized that it was blood.

Q. Did you ever take a shower with Aaron or Stacy?

A. Yes.

Q. With just one or both of them together?

A. Both of them together.

Q. And what did they do in the shower?

A. They were kissing.

Q. Have you ever seen Aaron and Stacy in the bed together?

A. Yes, I have.

Q. What were they doing in the bed?

A. They were undressed and they were kissing each other.

Q. Were you ever afraid to tell anybody what Aaron and Stacy did to you?

A. Yes.

Q. Why were you afraid?

A. They threatened us and I was scared that they would go to jail.

Q. You were scared that they would go to jail?

A. Yes, and I was scared because they were threatening us.

Q. Did you not want them to go to jail?

A. No.

Q. And why didn't you want them to go to jail?

A. Because I was scared where I was going to go.

Q. Did your grandmother ever tell you to say all these things?

A. No, she didn't.

Q. Did your grandfather ever tell you to say all these things?

A. No.

Q. So why are you telling everybody what happened?

A. Because -- I didn't want to tell anybody else, just them.

Q. Why are you telling us today about all this stuff?

A. Because I told grandmom and stuff and they told the cops and everything.

SOLICITOR: No further questions, Your Honor.

CROSS EXAMINATION

BY MS. HORLBECK:

Q. All right, Minor 2 , may I call you Minor 2 ? Is that all right?

A. Yes

Q. I am going to ask you to speak up. You might want to turn the -- (microphone adjusted) -- Minor 2 , how old are you today?

A. I am nine.

Q. When will you be ten?

A. April 2nd.

Q. Is that also your brother's

birthday?

A. Yes.

Q. Are you guys twins?

A. Yes, we are.

Q. What school do you go to?

A. Elementary.

Q. Are you in the same grade as your brother?

A. Yes, I am.

Q. What grade is that?

A. Third.

Q Are you and your bother in the same class?

A. No.

Q. Do you have a favorite subject?

A. My favorite subject is math.

Q. Okay, are you getting good grades?

A. Yes, I am getting good grades.

Q. Do you do any sports?

A. I do cheerleading.

Q. Who do you cheerlead for?

A. Travelers Rest.

Q. What is the name of the team that you cheerlead for?

A. Devil Dogs.

Q. I am Ms. Horlbeck, I represent your mother and I want to ask you about a few of the things that you've told today. All right?

A. Okay.

Q. Is this the first time you've been to the courthouse?

A. I've been here before because they were showing me what it looks like in here.

Q. Have you been to this courtroom before?

A. I don't think so.

Q. Have you ever been to a court-room before?

A. No.

Q. Have you ever sat in the witness chair before?

A. No, I haven't.

Q. Is this the first time you've met Mr. Jones?

A. Uh -- yes.

Q. Today is the first time you have ever seen him?

A. Yes.

Q. And did you testify that right now

you live with grandmother and your grandfather; right?

A. Yes.

Q. And I think you said that you call your grandfather "Papa"?

A. Um-humm, I do.

Q. Who else do you live with in your house?

A. My grandma, my aunt and my brother and sister.

Q How long have you lived at your grandparents?

A. About three years.

Q. Do you remember when you moved to your grandparents?

A. I think it was sometime in March.

Q. Do you know what year?

A. No, I don't.

Q. Before you moved in with your grandparents, where did you live?

A. I lived with Stacy and Aaron.

Q Who is Stacy?

A. My mother.

Q. When was the fist time you started to call your mother Stacy?

A. A few -- a few times ago, before I told -- after I told what happened.

Q. After you told what happened, were you living with your grandparents?

A. Yes, I was.

Q. All right. When you moved in with your grandparents, did you ever see Stacy again?

A. Can you say that again?

Q. Yes. Did you ever see Stacy again? After you moved in with your grandparents, did you ever get to visit Stacy again?

A. Once -- a few times.

Q. Do you remember when those were?

A. No.

Q. Did you talk to Stacy on the phone?

A. Yes, ma'am.

Q. All right. Now you said that there were some times that you were afraid of some things that your mom would do if you told?

A. (Affirmative nod).

Q. Do you remember when the first time was that you became afraid of your mom?

A. No, ma'am, I don't.

Q. And you said Aaron lived with you

and your mom; is that right?

A. Yes, ma'am.

Q. Okay. All right. Do you remember ever watching some movies with your mom?

A. Yes, ma'am.

Q. Do you remember watching things like My Little Pony?

A. No, ma'am.

Q. You don't remember any of that?

A. No, ma'am.

Q. Are you also afraid of Aaron?

A. Yes.

Q. Do you know when you first became afraid of him?

A. No, ma'am.

Q. Do you remember drawing some things for Mr. Hendricks, or Aaron?

A. I don't remember.

Q. Did you ever draw him anything that said, "You're my best friend."?

A. No, ma'am, I didn't.

Q. You don't think you did that?

A. No, ma'am, I didn't.

Q. Do you remember playing computer games with Aaron?

A. Yes, ma'am.

Q. Do you remember a camping trip that you took with Aaron and your mom?

A. No.

Q. You don't remember that -- in 2012?

A. No, ma'am.

Q. Do you remember ever playing darts with Aaron?

A. No.

Q. Do you remember talking to anyone at the Julie Valentine Center?

A. Yes, ma'am.

Q. You remember that?

A. (Affirmative nod).

Q. Do you remember if you talked to a man or a woman?

A. It was a woman.

Q. Before you talked to the lady, did you get to play with any toys?

A. What do you mean?

Q. Before you talked to the lady at the Julie Valentine Center, were there any toys at the Julie Valentine Center?

A. There was.

Q. Who did you play with -- I mean,

what did you play with?

A. Like little kids stuff and a kitchen center.

Q. After you played with the little kitchen center, is that when you talked to the lady?

A. Yes, ma'am.

Q. All right. Tell me about the house that you lived in with Stacy and Aaron.

A. It was long and it was white.

Q. Was it a house or was it a trailer or an apartment or something else?

A. It was like a house.

Q. All right. Was it small or big?

A. Small.

Q. Do you remember how many bedrooms the house had?

A. I think there were two.

Q. Did Stacy have a bedroom?

A. Yes, ma'am.

Q. Do you remember what kind of bed Stacy had?

A. No.

Q. Do you remember the size of the bed?

A. It was kinda --- it was pretty big.

Q. Was it a normal size bed, though?
A. Yes, it was a normal size bed.
Q. Were there any bathrooms in the house?
A. There were two.
Q. How many bathtubs?
A. Two.
Q So two tubs?
A. Yes, two tubs. One in each bathroom.
Q. Were the tubs big, small or just average?
A. Average.
Q. Do you remember -- did y'all have Barbie's at your grandmother's house?
A. Yes, We did.
Q. Do you remember arranging those Barbies and playing with those Barbies?
A. Yes. With my sister.
Q. Do you remember your grandmother arranging the male Barbie so that he was lying down?
A. No.
Q. You don't remember that?
A. No, she never did that.

Q. She never did that? She never arranged the Barbies?

A. No.

Q. You said some things -- that Aaron and Stacy did some things to you. Do you remember when they happened?

A. I don't remember when they happened.

Q. Do you remember telling the lady at the Julie Valentine Center that they only happened one time?

A. They happened a few times.

Q. Let me rephrase. Do you remember talking to the lady at the Julie Valentine Center?

A. Yes.

Q. When you talked to her, do you remember telling her that the things that you said happened only happened one time?

A. More than once.

Q. And you said that when you had to put your mouth on private areas, what room were you in?

A. I think it was in the living room.

Q. And what did you see when you had to do that?

A. I just saw the private areas. I didn't see anything else.

Q. Did you see anything come out of the private areas?

A. No, ma'am.

Q. Do you remember what the adults wore?

A. No, ma'am.

Q. All right. But you remember that nothing was done with their hands.

A. They did touch our privates with their hands.

Q. When did you first learn about jail?

A. They used to talk about it at the house.

Q. Do you remember when?

A. No, I don't.

Q. Do you remember how old you were?

A. No, I don't remember how old I was.

Q. Let me just check my notes and see if there is anything else? Beg the Court's indulgence -- thank you, Minor 2 for answering my questions. I appreciate it.

A. You're welcome.

CROSS EXAMINATION

BY MR. WARDER:

Q. Who was present when this touching took place?

A. Could you repeat that, please?

Q. Who was present when this sexual touching took place?

A. Stacy and Aaron.

Q. Was your dad ever there?

A. He was but he didn't see this ever happen.

Q. He was there but didn't see what was happening?

A. No. He would usually just sometimes spend the night.

Q. Your dad would spend the night with Aaron and your mother?

A. Yes.

Q. Would they sleep in the same bed?

A. He usually slept in the bunk beds.

Q. When he wasn't there, who slept in that bunk bed?

A. My brother.

Q. And how many people would usually spent the night? Were there usually people besides your brother, sister, Stacy and Aaron

that were there?

A. (No verbal response).

Q. Did your father have a girlfriend, too?

A. Yes.

Q. Did he bring his girlfriend with him?

A. No, he didn't.

Q. How long did your father live with you there?

A. He usually didn't, like, live with us. He'd usually go to his girlfriend's house sometimes and he used to come to Stacy's house.

Q. Thank you.

REDIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Hi, Minor 2 .

A. Hi.

Q. Minor 2 , do you know what my name is?

A. Chris.

Q. Did you know my name is also Mr. Jones?

A. No.

Q. Have you and I ever talked before today?

A. Yes.

Q. You said that your dad would sometimes sleep on the bunk bed and sometimes your brother would sleep on the bunk bed?

A. Yes.

Q. Did y'all ever sleep on the couch?

A. Yes, we did one time.

SOLICITOR JONES: No further questions. Your Honor, may we approach?

THE COURT: Yes.

(OFF RECORD BENCH CONFERENCE)

THE COURT: Ladies and gentlemen, we need to take up something outside of your presence, so we will take a break.

Also, and I forgot to remind you of this last time, y'all need to pick a fore-person if you did not do so last time. Decide who is going to be the foreperson and just tell the bailiff who you've selected. It can't be one of the alternates.

Again, do not talk about the case.

(JURY OUT @ 4:05 P.M.)

THE COURT: All right. Y'all are

ready to have your next witness viewed in camera?

SOLICITOR JONES: Yes, Your Honor.

(WITNESS TAKES STAND)

Minor 3 , having been sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Hey, Minor 3

A. Hey.

Q. Can you tell everybody what your name is?

A. Minor 3

Q. What is your last name?

A. Minor .

Q. Minor 3 ?

A. (No verbal response).

Q. How old are you, Minor 3

A. Five.

Q. Five?

A. (Affirmative nod).

Q. Who do you live with right now, Minor 3

A. Mama.

Q. Who is mama?
A. Lisa.
Q. Okay. Who else lives with you?
A. Amanda.
Q. And who else?
A. Papa.
Q. Does anybody else live with you?
A. (Affirmative nod), Minor 2 and Minor 1 .
Q. And are Minor 2 and Minor 1 your brother and sister?
A. Um-humm, (affirmative nod).
Q. Are they older or younger than you?
A. Older.
Q. Do you know the difference between a truth and a lie?
A. (Affirmative nod).
Q. You do?
A. (Affirmative nod).
Q. If I told you that this tie was white, would that be a truth or a lie?
A. A lie.
Q. And what if I told you that my hair was purple, would that be a truth or a lie?
A. A lie.

Q. And what if I told you that your name is Minor 3 , is that the truth or a lie?

A. Truth.

SOLICITOR JONES: Your Honor, do you have any questions that you would like to ask?

THE COURT: I know you're nervous but do you think that you could answer some questions like Chris asked you?

Minor 3 : (Affirmative nod).

THE COURT: You know what he's saying -- I'm Judge Gravely. You don't need to be scared of me. A lot of people are, but they shouldn't be.

Do y'all have any particular questions that you want to ask her?

MR. WARDER: I have no *voir dire*.

THE COURT: All right.

MS. HORLBECK: (No verbal response).

THE COURT: I think she sounds like she understands what is going on. I am going to let her testify.

SOLICITOR JONES: Yes, sir, Your Honor.

THE COURT: Ms. Horlbeck?

MS. HORLBECK: I guess I still have some concerns about whether she is able to express herself in a coherent manner, but I -- you know, I don't know that I can tell that right now. At this point I don't have any other questions, or anything else to say.

THE COURT: All right. I am going to let her testify.

SOLICITOR JONES: Your Honor, do you want her to remain on the stand or exit and come back in.

THE COURT: Do you want to just sit there while these other people come in, or would you like to come back up here?

Minor 3 : Come back up here.

THE COURT: Okay. You may step down. We'll get you back up here in just a few minutes after the jury comes in. Okay?

(WITNESS STEPS DOWN)

THE COURT: Minor 3 wait just a minute, I want to ask you a couple more questions. Do you mind coming back up here?

(WITNESS TAKES STAND)

THE COURT: I just want to ask you

a couple more questions. Do you mind?

Minor 3 : (Negative gesture).

THE COURT: Do you know the difference between telling the truth and not telling the truth. Mr. Chris asked you some questions about it, so you understand the difference?

Minor 3 : (Affirmative nod).

THE COURT: All right. And you think -- what happens if you don't tell the truth, sometimes?

Minor 3 : You get in trouble.

THE COURT: You get in trouble.

Minor 3 : (Affirmative nod).

THE COURT: Do you always tell the truth?

Minor 3 : (No verbal response).

THE COURT: Have you ever gotten in trouble for not telling the truth?

Minor 3 (Negative gesture).

THE COURT: So you always tell the truth?

Minor 3 : (Affirmative nod).

THE COURT: You know the difference in what is real and what is make

believe? Sometimes you watch movies, like cartoons, what is that?

Minor 3 : (No verbal response).

THE COURT: Are cartoons real?

Minor 3 : (Negative gesture).

THE COURT: That is make believe, isn't it?

Minor 3 : (Affirmative nod).

THE COURT: Do you know what is real?

Minor 3 : (Affirmative nod).

THE COURT: Do you understand the difference between those two?

Minor 3 : (Affirmative nod).

THE COURT: So when Mr. Chris or any of these other folks ask you questions, are you going to be able to tell them the truth?

Minor 3 : (Affirmative nod).

THE COURT: See if you can answer yes or no.

Minor 3 : Yes.

THE COURT: Okay. I know you're nervous and that's fine. You know what? Even though you're young and you're small,

big people and old people get nervous too. That's normal. I have that dog (stuffed toy Minor 3 is holding), by the way. My dogs don't like it. I have a real dog. Do you have a dog?

Minor 3 : (Affirmative nod).

THE COURT: Does your dog like that dog?

Minor 3 : (Affirmative nod).

THE COURT: Okay. Why don't you just stay right there -- well, I'll ask you to step down. Miss Brittany will take you.

(WITNESS STEPS DOWN)

THE COURT: Based on what I -- I think she is qualified to testify. I assume you are going to be pretty limited in ---

SOLICITOR JONES: Yes, sir.

THE COURT: Are we ready for the jury? State ready?

SOLICITOR JONES: State is ready, Your Honor.

THE COURT: Anything else from the defense? (No verbal response). Bring in the jury.

(JURY IN @ 4:20 P.M.)

THE COURT: All right, I understand that Jacob Broom has been selected as the foreperson. Thank you. Solicitor, you may proceed.

SOLICITOR JONES: The State calls Minor 3 .

(WITNESS TAKES STANDS)

Minor 3 , having been sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

SOLICITOR JONES:

Q. Hey Minor 3 , how are you --- you can look at me and answer my questions. Can you tell us again what your name is?

A. Minor 3 .

Q. Minor 3 ?

A. (Affirmative nod).

Q. What is your last name?

A Minor .

Q How old are you Minor 3 ?

A. Five.

Q. Five years old?

A. (Affirmative nod).

Q. Do you have any brothers and

sisters?

A. Um-humm.

Q. What are their names?

A. Minor 2 and Minor 1 .

Q. Minor 2 and Minor 1 ?

A. (Affirmative nod).

Q. Are they twins?

A. (Affirmative nod).

Q. Minor 3 , do you know the difference between a truth and a lie?

A. Yes.

Q. Is I told you that this tie was white, is that a truth or a lie?

A. Lie.

Q. And what if I told you that my hair was purple, would that be a truth or a lie?

A. A lie.

Q. What is I told you that your name is Minor 3 , would that be a truth or a lie?

A. True.

Q. True.

A. (Affirmative nod).

Q. Minor 3 , did you used to live with Stacy and Aaron Hendrix?

A. Yes.

Q. Who is Stacy to you?
A. Hummm.
Q. Is Stacy Riden your mother?
A. (Negative gesture).
Q. No?
A. (Negative gesture).
Q. Did you used to live with Stacy and Aaron?
A. Um-humm, (affirmative nod).
Q. When you lived with them, did Minor 2 and Minor 1 live with you too?
A. Um-humm, (affirmative nod).
Q. Do you remember if Stacy and Aaron ever touched you in a bad place?
A. (Affirmative nod).
Q. They did?
A (Affirmative nod).
Q. Who did you tell about that?
A. Mama.
Q. Your mama?
A. (Affirmative nod).
Q. Who do you call mama?
A Lisa.
Q. Lisa. Have you ever talked with anybody else about that?

A. Amanda.

Q. Amanda?

A. (Affirmative nod).

Q. Do you remember going to the Julie Valentine Center and talking with Ms. Galloway about that -- Ms. Galloway-Williams?

A (Negative gesture).

Q. What about Miss Shauna, do you remember talking with her about that?

A. (Negative gesture).

Q. No?

A. (Negative gesture).

Q All right. But you used to live with Stacy and Aaron, right?

A. Um-humm, (affirmative nod).

Q. And Minor 2 and Minor 1 lived with you there?

A. Um-humm.

Q. I asked you this earlier but I am going to ask you again. Did Aaron Hendrix touch you on a bad place?

A. (Affirmative nod).

Q. Did Stacy Riden touch you on a bad place?

A. (Affirmative nod).

SOLICITOR JONES: No further questions

CROSS EXAMINATION

CARLOLINA HORLBECK:

Q. May I call you Minor 3 , is that okay?

A. (Affirmative nod).

Q. We are going to put the microphone in front of you so that hopefully we can hear you. Is that okay -- (microphone adjusted). Can you answer out loud? Say yes or no?

A. (Affirmative nod).

Q. Okay. How about this? Tell me your name again.

A. Minor 3 .

Q. Your last name?

A. Minor .

Q. How old are you, Minor 3 ?

A. Five.

Q. Are you in school?

A. Yes.

Q. What school do you go to?

A. .

Q You said that you are five. Are you in kindergarten?

A. (Affirmative nod).

Q. Do you know what level of kinder-

garten you are in?

A. (Negative gesture).

Q. No? Who is your teacher?

A. Ms. Gravely.

Q. I see that you have a toy with you today.

A. (Affirmative nod).

Q. Can you hold your toy up?

A (Complies).

Q Oh, you've got two. What are their names?

A. I don't know what this one's name is, but I named this one "mama."

Q. Tell me the pink one's name?

A. Mama.

Q. How long have you had those toys, do you know?

A. This one I just got today and this one I have had for a long, long time.

Q. Okay. And you brought them to court with you today. Yeah?

A. (Affirmative nod).

Q. Okay. Can you answer out loud?

A. Um-humm, (affirmative nod).

Q. Is this your first time in court?

A. Um-humm, (affirmative nod).

Q. Have you ever been to this courtroom before?

A. Yes.

Q. Have you ever sat in that chair before?

A. No.

Q. Have you met -- I'm going to call him Mr. Chris. Have you met Mr. Chris before?

A. Uh-huh, (affirmative nod).

Q. All right. Minor 3 , do you have any favorite movies?

A. Arial.

Q. Say that again?

A. Arial.

Q. Do you know what movie -- is she a mermaid, is Arial a mermaid?

A. (Affirmative nod).

Q. All right, Minor 3 So I am going to ask you a few more questions. Who is Stacy to you?

A. (No verbal response).

Q. Do you remember when you lived with Stacy?

A. (Affirmative nod).

Q. How old were you?

A. Two.

Q. Do you remember moving to your grandma's?

A. (Affirmative nod).

Q. Do you remember how old you were when you moved to your grandparents?

A. Three.

Q. Was there a special occasion that happened near the time when you moved in with your grandparents?

A. No.

Q. You said just a few minutes ago that Stacy was not your mom. Is Stacy your mom or not?

A. She is.

Q. She is?

A. (Affirmative nod).

Q. All right. You don't remember going to the Julie Valentine Center, do you?

A. I don't.

Q. Okay. That's all right. When you lived with Stacy, do you remember what kind of house that you lived in?

A. (Negative gesture).

Q. Do you know if it was a big house or a little house?

A. (Negative gesture).

Q. Okay. Do you remember how many rooms there were in the house?

A. Zero.

Q. Sorry, I couldn't hear you.

A. Zero.

Q. Zero rooms in the house? Did I hear you right?

A. (Affirmative nod).

Q. Did the house have any bathrooms?

A. (Negative gesture).

Q. No bathrooms?

A. (Negative gesture).

Q. Okay. Was there a tub?

A. (No verbal response).

Q All right. Now, you said that Stacy and Aaron did some things. Do you remember when those things happened?

A. (Negative gesture).

Q. Okay. Do you know how old you were when those things supposedly happened?

A. Two.

Q. Was there a special event or a holiday that happened around the time that you're saying those things happened?

A. (Negative gesture).

Q. Do you know how you know that those things happened when you were two?

A. (No verbal response).

Q. How do remember that those things happened when you were two?

A. (No verbal response).

Q. Don't know?

A. (Negative gesture).

Q. All right.

MS. HORLBECK: Beg the court's indulgence. All right, Minor 3 thank you so much for answering my questions.

CROSS EXAMINATION

BY MR. WARDEN:

Q Hello. Do you remember when you were real little, living with Stacy?

A. (Affirmative nod).

Q. Can you give me an answer verbally, yes or no?

A. Yes.

Q. Did she do and help you with most of

the things that little children need help with?

A. No.

Q. Did she help you learn to brush your teeth?

A. No.

Q. What is the first thing you remember her doing for you, if anything?

A. Uh, nothing.

Q. You don't remember anything that she done to help you?

A. (No verbal response).

Q. Did she get you bath water and stuff to take a bath?

A. (No verbal response).

Q. Did she wash -- get you out clothes so that you could put on clean clothes?

A. (Negative gesture).

Q. Did she help you get dressed?

A. (Negative gesture).

Q. Was she the only one that looked after you until you went to live with your grandma?

A. (Negative gesture).

Q. Who looked after you? Washed your

clothes and all that stuff?

A. No one.

Q. No one?

A. (Affirmative nod).

Q. Did you ever need new clothes in the first two and a half, three years of your life?

A. (Affirmative nod).

Q. Did mom get them?

A. (Negative gesture).

Q. Who cooked for you?

A. No one.

Q. No one?

A. (Affirmative nod).

MR. WARDEN: Thank you.

THE COURT: Thank you.

SOLICITOR JONES: Nothing further, Your Honor.

THE COURT: Minor 3 you can step down.

(WITNESS STEPS DOWN)

THE COURT: Solicitor, call your next witness.

SOLICITOR JONES: State calls Adam McJunkin.

(WITNESS TAKES STAND)

ADAMS MCJUNKIN, having been sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Mr. McJunkin, can you tell us where you work, please, sir?

A. Pickens County Sheriff's Office.

Q. And what's your position?

A. Deputy Sheriff with uniform patrol.

Q. Okay. And how long you been doing that?

A. Five years on road patrol, nine total at the sheriff's office.

Q. In your current position, what are some of your responsibilities?

A. My assignments are to respond mainly to calls for service generated by the public. So basically any time somebody calls and requests a deputy, road patrol responds.

Q. And on December 30th, 2013, did you respond to in Easley?

A. I did. I think the address or the actual date was the 29th.

Q. The 29th?

A. But I did respond to that address.

Q. Okay. And who did you talk to when you got on scene?

A. Lisa Riden.

Q. All right. Did you know what the call was regarding?

A. She -- it was regarding a sexual abuse case.

Q. Okay. And do you know the relation of Lisa Riden, who you spoke with, with the sexual abuse?

A. She was the -- she's the grandmother of the victims.

Q. Okay. Do you know who all lived with Lisa Riden at the time?

A. It was Lisa, her husband, the three -- Lisa's three grandchildren and I believe her teenaged daughter.

Q. And did anyone or did you learn anything as to the time and place of the sexual abuse?

A. I was advised that it happened at their children's mother's residence.

Q. And was that the residence that you

were called to?

A. It's a separate address. Originally, I was advised it was . I believe later on in the investigation it was determined it was at . That's in Easley, South Carolina.

Q. Okay. And were you made aware of any dates or the time when it occurred or did you not get that far?

A. She advised me that the abuse occurred between, I believe it was December of 2011 ---

MR. WARDER: Your Honor, I object to this. It's hearsay.

SOLICITOR JONES: Your Honor, there's a time and place exception for sexual abuse that they can say, that he can say when the sexual abuse occurred.

THE COURT: I think that falls within the exception. I mean, it's plain under the Rules. So I'm going to let him. And it's limited to time and place.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

A. It was December 2011 between then and December 2012.

Q. Okay. And after that conversation with Ms. Riden, Lisa Riden, what did you do after that?

A. I completed an incident report. I forwarded that to the detective division for further investigation.

Q. Did you do any follow-up investigation or anything?

A. I did not.

Q. And is that standard protocol in your position?

A. It is. Normally, with a case that requires more time, further investigation, we forward it to the detective's division.

SOLICITOR JONES: No further questions, Your Honor.

THE COURT: Ms. Horlbeck?

MS. HORLBECK: Just briefly.

CROSS-EXAMINATION

BY MS. HORLBECK:

Q. Is it Officer McJunkin? Am I using the correct terminology?

A. Yes, ma'am. Deputy but I'm ---

Q. Deputy?

A. Yes, ma'am.

Q. All right. Sorry about that. All right. Deputy when -- the residence you responded to, was it ?

A. Yes, ma'am.

Q. All right. And that residence belonged to the grandparents?

A. Yes, ma'am.

Q. And the children were living with the grandparents at the time that you responded?

A. That is correct.

Q. All right.

MS. HORLBECK: That's all I have.

THE COURT: Mr. Warder?

MR. WARDER: If it pleases the Court, I'd have no questions of this witness.

THE COURT: All right. Any redirect?

SOLICITOR JONES: Nothing further, Your Honor.

THE COURT: All right. Thank you.

SOLICITOR JONES: Your Honor, may we approach briefly?

(OFF RECORD BENCH CONFERENCE)

THE COURT: Another one of those little breaks. Since it's twenty 'til 5:00. And, of course, we're not taking the same breaks y'all are. I don't want you to think we're just lollygagging out of here while y'all are on break. But I really have -- there are some other things we have to go over outside your presence. So we're just going to -- I'm going to go ahead and let y'all go this afternoon. Is 9:00 okay for everybody? That's not too early for everybody?

FOREMAN: That's fine.

THE COURT: All right. I'm going to have y'all come back to your jury room at 9:00. And here's my little warnings here:

Do not talk about the case among yourself or your spouse or your friends or family. When you get home if somebody ask you what you did today, say you are on jury duty but you can't talk about the case. I know that's very difficult to do. But you've taken an oath that you will not discuss the case.

Also, again, do not do any independent investigation, go by the scenes of anything, Google anything.

And if there is any media coverage through TV, radio, or the newspaper, do not pay any attention to it. Please disregard. It's real important that you only get information here in the courtroom.

Also if you are contacted by anybody, get their names and provide that to the bailiff.

Other than that, I hope that y'all have a pleasant evening and I will see you at 9:00 in the morning. Thank you.

(JURY OUT @ 4:35 P.M.)

THE COURT: All right. Do y'all need to chat about that first?

SOLICITOR JONES: The statements of the defendant's, Your Honor? I haven't received any proposed, again any proposed redactions as ---

THE COURT: Well, I'm sure there's some. Y'all talk a few minutes before I -- I mean, I'm going to step back here.

SOLICITOR JONES: Yes, sir, Your

Honor.

THE COURT: I'm trying to let y'all make my job easier.

(COURT IN RECESS)

(TRANSCRIPT CONTINUED NEXT PAGE)

#

JANUARY 27, 2016 9:00 A.M.

(DEFENDANT HENDRIX PRESENT)

THE COURT: Ms. Horlbeck, did you get your *voir dire* questions?

MS. HORLBECK: Yes, sir, I did.

THE COURT: All right. That's what I wanted to ---

MS. HORLBECK: Yes, sir. Thank you for reminding me. Shall I just hand it up to you.

THE COURT: Ms. Horlbeck has marked an exhibit her *voir dire* questions -- as an exhibit from yesterday.

MR. WARDER: Okay.

THE COURT: If she objected, I didn't ask. I just wanted to put that in there.

Also, before we get going, I know we kind of -- we went over everything yesterday about the Defendant (Riden) not being here. But I wanted to make sure we were clear and we're protecting the record.

First of all, I assume -- Ms. Horlbeck, am I understanding you have not had

any communications with Ms. Riden?

MS. HORLBECK: No, sir. She has not contacted me. I did check the Pickens County Jail to see if anything had happened overnight or if she'd been found. And she's, at least not to my knowledge, when I checked probably about an hour, hour and a half ago, she was not there. And actually I would take that back. I had my secretary check about 8:45 and she wasn't at the jail.

SOLICITOR JONES: Your Honor, I'm sorry to interrupt.

MS. HORLBECK: Sure.

SOLICITOR JONES: I just got some breaking news from the sheriff's office. They just picked her up.

MS. HORLBECK: Okay.

SOLICITOR JONES: In Spartanburg.

MS. HORLBECK: All right. Then. Well, that answers that.

THE COURT: So what do we want to do?

MS. HORLBECK: Well, what's her next stop?

SOLICITOR JONES: I can make a phone

call.

THE COURT: All right. Find that out.

MS. HORLBECK: We'll need to, I guess we get her her ---

THE COURT: This case has more twists and turns than that dragon tail road up to Tennessee.

MS. HORLBECK: If we can get her up here. We may not be able to do anything until she gets here, Judge.

THE COURT: Well, I'm sure -- sounds like she may have a ride.

MS. HORLBECK: She might.

THE COURT: Well, let's talk about the statement and just confirm what we did yesterday.

It is my understanding from every-thing that the Defendant had received notice, a bond card. And I think Ms. Horlbeck indicated that she had sent the trial docket to her. So there's no issue that she -- in fact, she was here yesterday morning. So there's no question she had notice of her right to be here.

I just want to go on record and say that, you know, we did proceed with the trial in her absence and she did -- she had receive notice and was aware the trial was going forward. The fact that she vacated herself without a good cause, that was her waiver to be present at the trial. And so we did proceed forward over your objection; and your request for a continuance, which had been denied.

I think we may have said that on the record, but I just wanted to make sure that was covered.

When we, you know, find out where she is we'll address how to proceed.

As to the statements, I've looked at the case law, looked back at the Rules of Evidence. I will let y'all renew your objection, but I think the -- generally, the statements are going to be admissible, both as to Mr. Hendrix and to Ms. Riden.

I know there are specific issues with those statements and you wanted some portions redacted?

SOLICITOR JONES: Your Honor, as

to Mr. Hendrix's statement, I spoke with Ms. Horlbeck and I agreed to stop the video at 39:00:00 minutes.

After that they talk about polygraph and Ms. Riden getting arrested on the charges, other things I agree would be inadmissible.

There's one thing Mr. Hendrix stated that I would like to play that Ms. Horlbeck and I disagree on. Mr. Hendrix says that -- the discussion is about whether the biological father, Mr. Mark Lusk, stayed over there. He indicated that he did. And Mr. Hendrix stated that he didn't know if anything happened, meaning sexually, with Ms. Riden and Mr. Lusk on Mother's Day because he was not there. Ms. Horlbeck had an objection to that. That was the one issue that she and I could not resolve.

MS. HORLBECK: Judge, just for the record, I would object to the admission of that.

THE COURT: Right. I understand that.

MS. HORLBECK: I just wanted to

put it -- I had not had the opportunity to put that on the record. And, yes, I do object to the admission of the entire Hendrix video. And we did talk about possible redactions if, in the event the Court elected to admit the video anyway. We have agreed on the portion that Mr. Jones just talked about.

THE COURT: I realize -- and that agreement to play that portion does not waive your objection to the video overall. I under stand that.

MS. HORLBECK: Thank you. And then regarding the portion about Mother's Day, I would ask that that portion be -- that the portion I'm talking about is from 29:35 to 30:52. Actually I had stated that to Mr. Jones. And I'll provide ---

SOLICITOR JONES: You said 30:52?

MS. HORLBECK: 29:35 to 30:52.

SOLICITOR JONES: Thank you.

MS. HORLBECK: Your Honor, I can provide the Court a copy of ---

THE COURT: Does it say when it just ---

MS. HORLBECK: No, sir. I didn't

put the times.

THE COURT: What is your objection to it?

MS. HORLBECK: It talks about -- Mr. Hendrix says, starts off that portion saying, "I'm not saying something funny didn't happy on Mother's Day." And he proceeds to discuss that Minor 2 told Aaron that after Aaron left the house the day after Mother's Day, Mark Lusk went into Stacy Riden's bedroom. That's the part I object to. He doesn't say -- nobody says what happens. It just has Mark going into the bedroom. Mr. Mark Lusk is not a defendant in this case. I don't believe he's ever even been charged in this case. I just don't think that portion's relevant.

SOLICITOR JONES: Your Honor, the way I understand it, Mr. Hendrix states that -- Marvin Nix, the investigator asked Mr. Hendrix, 'Was Mr. Lusk ever over there. Did they ever have sex, to your knowledge?'

And Aaron says no. And then he says, 'Well, I'm not going to say nothing happened over Mother's Day because I know he

stayed over there over Mother's Day.'

THE COURT: I'm not going to -- I think that's -- I mean, you're talking about a person that's not a defendant here. I'm going to rule that to be excluded.

SOLICITOR JONES: Okay. Yes, sir, Your Honor.

MR. WARDER: That is also our objection and that's the same objection that's going to be to every question, is that the detective asked something that's not relevant or not in evidence.

THE COURT: But I think here you're talking about a person that's not -- and, one, there's no direct knowledge. There's no -- they're talking about a person who is not even a defendant or party and that's my basis for that. I mean, I understand your objection there.

MR. WARDER: For the record, can I have that objection continue throughout the playing without standing up and objecting every time the officer asks a question?

THE COURT: If ---

MR. WARDER: Or do you want me to

make an objection every time the officer asks a question?

THE COURT: You're objecting to the entire video. I mean, you don't -- I mean ---

MR. WARDER: But I object to it because of the questions.

THE COURT: Right.

MR. WARDER: I won't make an identical objection to all the questions.

THE COURT: No. Well, it's not like a testimony from here. So you're preserved from objecting to the entire video on that ground. You don't need to stand up each ---

MR. WARDER: I don't need to individually object to each one?

THE COURT: Right. I mean, I don't think that would be ---

MR. WARDER: Thank you, Your Honor. That will make it at least smoother.

THE COURT: Yeah.

SOLICITOR JONES: Your Honor, to go back to Ms. Horlbeck, I want to make sure I have the correct time. 29:30 to 30:52?

MS. HORLBECK: Yes.

THE COURT: Assuming those times haven't changed.

SOLICITOR JONES: What's that?

MS. HORLBECK: Yes.

THE COURT: Assuming that those times haven't changed.

SOLICITOR JONES: Right. As to -- again, as to Mr. Hendrix's record, I had spoke with Mr. Warder previously and he indicated, as far as I could tell, that he would not give me specific times that he wanted to be redacted. That he would object as they came in on the video.

So I am going to redact the things that I thought were inadmissible. A statement as to how many times he's been locked up and statements about prior drug use. And then other than that -- and statements about a polygraph taking. But other than that, I really didn't see anything.

THE COURT: And I assume you're also going to object -- I mean, I know you made your objection -- kinda of a Motion *in limine* now, but I assume you also are going

to be objecting like when it gets introduced?

MR. WARDER: (No verbal response).

THE COURT: I mean, you don't have to do it each time. But I mean ---

MR. WARDER: Yes, sir.

THE COURT: Right.

MR. WARDER: Yes, sir. Every individual question, I object to the same stuff as Ms. Horlbeck.

THE COURT: Right. But I think you need -- but you're going say that when he introduces the video itself as well?

MR. WARDER: Yes, sir. On this particular video, (affirmative nod).

THE COURT: All right. That's just to make sure.

All right. Will you tell him to go ahead and talk to your ---

SOLICITOR JONES: (Sidebar with staff) -- Your Honor, they estimate they can get her here in an hour. And honestly, Your Honor, in that time, I could give these videos of the children that I have redacted now to the defense and see if they like it.

MS. HORLBECK: Yeah. Judge, I

don't think we can do anything until she gets here. I really don't.

THE COURT: I'm sorry?

MS. HORLBECK: I don't think we can proceed with the trial until she gets here.

THE COURT: No. I agree. I'm not -- that's ---

MS. HORLBECK: Sorry.

THE COURT: No, listen. It's not you.

MS. HORLBECK: It's not me.

THE COURT: But I agree. I don't think -- and since she's on her way, I think we definitely need to wait.

Here's another issue. You know, I'm not sure what kind of condition she may be in when she gets here. That's something maybe you need to figure out too. I mean, she's been on the run. I mean, I just ---

MS. HORLBECK: Yeah. No, I agree. I'll talk to her. I'll talk with her and we'll assess the situation.

THE COURT: I suppose we could let them go and then come back after lunch.

SOLICITOR JONES: The jury?

THE COURT: Yes.

SOLICITOR JONES: Whatever you want, Your Honor. If you do ---

THE COURT: I'm just trying to think here.

SOLICITOR JONES: I can call some of my witnesses and ---

MS. HORLBECK: We can't.

THE COURT: I don't want anything here with her on the way.

SOLICITOR JONES: I meant -- some of my witnesses are coming here at 10:30, 11:00 and I can call them and tell them to come after lunch. Perhaps they could take an early lunch and we could then begin back at like 12:30 or something like that.

THE COURT: That's what I'm kind of thinking. Mr. Warder?

MR. WARDER: I was going to say if we said we'd start at 11:00 that might solve it. But maybe ---

THE COURT: Well, I think she may need some time to -- let's do an early lunch and -- see if the jury is okay. And I would

just say there's been some developments that we've got to deal with and it make take us a while. And we'd say can y'all come back at 12:30. Maybe make sure you've eaten lunch by that point. And we'll just work around that. I think that's the only way we can do it.

SOLICITOR JONES: Yes, sir, Your Honor.

THE COURT: All right. I'm going to bring -- anything before we bring the jury in? And that's all I'm going to tell them. And then we'll go from there.

MS. HORLBECK: And then we can address Ms. Riden.

THE COURT: And we can deal with that at that point. Bring the jury in, please?

BAILIFF: Yes, sir.

(JURY IN @ 9:50 A.M.)

THE COURT: All right. Ladies and gentlemen, I hope everybody had a pleasant evening. I don't know and I don't really want to know, I know one of you had car trouble, but we used that. We used you because we actually had some things that we

had to deal with. So that turned out all right so you don't need to feel like we really were waiting on you because we used the fact that you were going to be late to take care of some matters.

But there has been a little bit of a development that -- even though I'm the Judge I don't have control over as much as I think I do in the scheduling of some things sometimes.

There's been a development that we just have to deal with. And we have to deal with it outside your presence. And it may take longer than we though. The only way -- what I'm thinking about is having y'all -- and I do apologize that this has been kind of jumbled. There was nothing we could do about it. And really the only way that we can deal with this efficiently is maybe allow y'all to go have an early lunch and be back here at 12:30.

Does that create any major issues with anyone? And that way we can, you know -- so what I'm going to ask you to do is to -- you know, take the morning off, at least

what's left of it. Be back here at 12:30 and go ahead and get lunch, you know, get something to eat because we would try to go straight through from that point. Of course, we'll take breaks.

We to accommodate y'all but we do need to keep the case moving as efficiently and quickly as possible.

So once again I tell you do not talk about the case in any way, among yourselves or with anybody else.

Don't do any independent research. Don't *Google* it.

Don't pay any attention to any news items on this case.

And, lastly, if somebody should contact you, then get that information and let us know.

I'm sorry we have to do it this way but we didn't know this and so -- anyway, take a break. We will see you back in your jury room at 12:30. Thank you.

(JURY OUT @ 9:52 A.M.)

(OFF RECORD DISCUSSION)

THE COURT: All right. Do y'all

need to take a few minutes then? I mean, I think I've ruled on everything y'all needed from me, didn't I?

MS. HORLBECK: I don't think we addressed Ms. Riden's video.

THE COURT: Oh, I'm going to -- I mean, I thought we did.

MS. HORLBECK: Did you want to wait.

THE COURT: I said both videos are admissible. I thought ---

MS. HORLBECK: Yes, sir.

THE COURT: I understood you objected and you had, y'all had kind of agreed, subject to your objection what you were going to play.

MS. HORLBECK: Right. That was on the Hendrix video. I just wanted to go on the record with ---

THE COURT: I thought you said Riden as well?

SOLICITOR JONES: On the Riden video, I intend to play about a thirty-second clip.

THE COURT: Oh, okay.

SOLICITOR JONES: I'm sorry.

THE COURT: Well, I misunderstood. I was thinking you were talking about the Riden.

MS. HORLBECK: Well, I mean, I object to him playing any of that. I think, though, under the rule of completeness then the remainder of the video needs to be played.

However, there are portions -- I would ask that everything that Officer Nix says in his questions be redacted, and I do have a list of those. And the reason I want Officer Nix's statements redacted ---

SOLICITOR JONES: Well, Your Honor.

MS. HORLBECK: --- I'll let you, you know, know when I'm done.

SOLICITOR JONES: Okay.

MS. HORLBECK: What he's doing is he's going over all the allegations of the children and getting my client's response. And he's just repeating the allegations. So I think it's hearsay. I think it's, you know, prejudicial. I think it's impermissible corroboration.

THE COURT: He's playing thirty seconds, which I'm allowing. If you want completeness then you figure out how to redact anything. I mean, I'm not going to go through it. We're not going to do -- that's going to be another day's worth of redacting. But if you want to -- he's wanting thirty seconds. If you want more of it then -- and part of that's the questions. I mean, it doesn't make any sense to have it without questions. So I guess denied.

MS. HORLBECK: All right.

THE COURT: Thank you, Your Honor.

MR. WARDER: And part of her objection is the same objection I'm making. That, you know, he just goes on with all the facts and stuff that's not in evidence.

THE COURT: So I guess what you need to do is decide what portion of the video you want played, subject to your objection. Do you want the whole thing?

MS. HORLBECK: If I'm understanding, though, the Court's denied my Motion to redact; correct?

THE COURT: Right. I mean just

because of the questions. But if there are specific things like, 'oh, have you been convicted of this before?' I mean, things like that. If there are legitimate issues, which I think probably Mr. Jones when -- he discussed, those were redacted anyway. But those are the kind of issues we can deal.

But just as a blanket redaction, just as a question because they repeat the allegations, I'm not going to.

MS. HORLBECK: Okay. Let me just look at my notes. And I'll talk to Mr. Jones if there's anything other than those.

THE COURT: All right.

SOLICITOR JONES: Your Honor, do you want me to give the redacted disk of the children to Defense counsel to review to make sure that they're acceptable to them?

THE COURT: Have you reviewed them to make sure they did what you wanted them to do?

SOLICITOR JONES: I haven't reviewed them on the disk, but I did review them on the -- I reviewed the first one on the computer and it was acceptable to me. But,

again, the defense counsel is making the objections and they wanted these redactions, so I think -- and I think they're going to be the ones making the objections if something comes in that they don't want.

THE COURT: At 12:30 I want this matter to go to the jury, so ever how y'all to do that.

SOLICITOR JONES: Yes, sir.

THE COURT: Y'all do it.

MR. WARDER: Your Honor, just for one thing. I don't mean to be beating a dead horse. I apologize. But it's not the objection that the officer's repeating what's in evidence or been said. The officer's adding new things to it. So each question comes with new information that's not here and wouldn't be there. And our clients are required or my client's required to respond to it. And because the question is a question that the testimony would not come in if it was not in this tape and he keeps -- he couldn't testify to it on the stand personally.

THE COURT: Well, I mean, I think

your objection is noted.

MR. WARDER: Okay. Thank you, sir. I apologize.

THE COURT: No, that's fine. You don't need to apologize. I don't mind. I want to make sure the record's complete. So y'all feel free to object.

All right. Well, if y'all need me, I'll be in my office.

SOLICITOR JONES: Thank you, Your Honor.

(COURT IN RECESS)

(IN CHAMBERS CONFERENCE)

(DEFENDANT RIDEN PRESENT)

(DEFENDANT HENDRIX PRESENT)

THE COURT: Okay, we need to get going. Ms. Riden, so nice that you could join us today. Are we ready to bring the jury in?

SOLICITOR JONES: Yes, sir.

THE COURT: Bring in the jury.

(JURY IN @ 12:35 P.M.)

THE COURT: All right. Ladies and gentlemen, we accomplished a lot and I appreciate your patience. I hope everybody

was able to get an early lunch. It was kind of like a kindergarten lunch; 11:30 is a kindergarten lunch. So I appreciate your patience for that. And, again, if anybody needs to take a break at any point, just let us know. So at this point we will continue with the State's case.

SOLICITOR JONES: Thank you, Your Honor. The State calls Marvin Nix to the stand.

(WITNESS TAKES STAND)

MARVIN NIX, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Mr. Nix, where do you currently work?

A. Pickens County Sheriff's Office.

Q. And what's your position out at the sheriff's office?

A. Currently, I'm captain over judicial services.

Q. Tell the jury what are some of your basic responsibilities in that position?

A. Right now, I basically manage the jail, the courthouse, the warrant division and civil process.

Q. Okay. And what was your position prior to that?

A. Prior to that I worked with the detective division and I was assigned to special victims unit.

Q. Okay. And in that detective division, tell the jury some of your basic responsibilities?

A. As far as the special victims unit we investigate crimes in relations to children, sexual abuse, neglect, child fatalities, that sort of stuff.

Q. In December of 2013 were you assigned to investigate a sexual abuse?

A. Yes. I received a follow-up case from Deputy Adam McJunkin that took the original report. I followed up. I got it a couple of days later for follow-up.

Q. And who were the alleged victims in that follow-up investigation?

A. The victims were Minor 2 Minor 3 Minor and Minor 1 .

Q. And do you remember the first thing you did when you got assigned? Or first tell the jury what's the process of you getting assigned. After you indicated Mr. McJunkin responded to the scene, how does the case then get to you?

A. It's routed to us through our detective division. We get the case. Normally on these type of cases we make contact with the contact person for the children, which in this case it was Lisa Riden. And I made contact with her.

Q. Okay. And from your understanding from the investigation, how is Lisa Riden related to the children?

A. She's their step-grandmother.

Q. Did you learn anything as to the time and place of the alleged sexual abuse from your initial investigation?

A. Yeah. From talking to Lisa Riden the timeframe was when the children lived with their mother along with Aaron Hendrix. The timeframe that we could come up with was between December 2011 through December 2012.

Q. You said at the house their mother

lived in. Did you know an address or just a street?

A. The address we had was . Circle, which is in Easley, South Carolina.

Q. Okay. And is that in Pickens County?

A. Yes.

Q. And did you develop any suspects initially?

A. Yes, Stacy Riden and Aaron Hendrix.

Q. Okay. And how is Stacy Riden related to these children?

A. She's their mother.

Q. And what about Aaron Hendrix, is he related to the children?

A. No. He was a live-in boyfriend that lived with them at that residence.

Q. After you talked with Lisa Riden, what was your next step? What did you do?

A. Normally, in those type of cases, due to the nature of them it's basically a practice within our office that we refer the children ---

MR. WARDER: Object to the office

practice, Your Honor.

THE COURT: I think that's appropriate. I'll allow it. Overruled.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

A. Normally, in those situations we contact the Julie Valentine Center and schedule forensic interviews for those type victims.

Q. Okay. And in this particular case, what did you do?

A. I contacted the Julie Valentine Center to set up a forensic interview for those children.

Q. Okay. And after you talked with Lisa Riden, did you make an attempt to find Stacy Riden?

A. I did. I went to the address I had. I went to , looked for her there. She was no longer living there.

Q. Did you talk to anybody at ?

A. I did. I talked to the tenant that was living there then and she didn't know her, knew that she'd lived there but she'd

moved out.

Q. Okay. So what other steps did you take to contact Stacy Riden?

A. I went to a couple of addresses that I heard she may have been staying and left my business card with notes saying to contact me, call me. But I never received a call.

Q. Are you aware if anyone else from the sheriff's office made contact with Stacy Riden before you did?

A. Yes.

Q Do you know who that was?

A. Detective Art Taylor.

Q. Okay. Now, when was the first time that you actually talked with Stacy about the allegation?

A. I talked to her several -- well, actually, I met with her several times. But when I actually talked to, interviewed her was April 10th, 2014.

Q. Okay. And was there -- you say you talked to her a few times on that occasion. Do you remember the first time you actually talked to Stacy? Wasn't it in January?

A. No, it was not.

Q. Okay.

A. As I recall the first time I talked to her was on March 14th.

Q. Okay.

A. 2014.

Q. And you mentioned Art Taylor, another officer with the sheriff's office, had made contact with her earlier. Did you go back to the place that that officer found Ms. Riden?

A. Yes.

Q. And was she there?

A. No.

Q. And when you questioned Ms. Riden was there anybody else present?

A. I think Lee Cribb with DSS.

Q. Okay. Did it appear Ms. Riden was under the influence of any alcohol or drugs at that time?

A. No. No.

Q. Did she appear to have any mental or physical disability affecting what she was telling you?

A. No.

Q. Can you just briefly describe the

room that you were in when you were talking with her?

A. It's probably an eight by ten office, maybe. Regular office furniture, computer, telephone, that sort of stuff.

Q. Do you know about how long the questioning lasted?

A. Half an hour maybe.

Q. Did you ever deny her any food or drink or to go to the bathroom, anything like that?

A. No.

Q. Did you threaten her or promise her anything?

A. No.

Q. And in the general conversations with Stacy did you tell her about the allegations?

A. I did.

Q. And what was her response?

A. She denied it.

MS. HORLBECK: I object to any sort of hearsay.

THE COURT: Overruled.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. And what was Ms. Riden's response?

A. She denied any of the allegations. Basically, she didn't know where they were coming from.

Q. Did she indicate whether or not she was the mother of the children or not?

A. Yeah. She's the mother of the children.

Q. Okay. Did she tell you who Aaron Hendrix was?

A. She did.

Q. And how did she describe their relationship?

A. Well, she was -- at one time boyfriend and girlfriend and lived together at the residence that we talked about,

Q. Okay. Did she tell you whether the children lived there or not while Mr. Hendrix was living there?

A. Yeah. The children were there.

Q. And during your conversation, did Mark Lusk ever come up?

A. Yes.

Q. And who was Mark Lusk?

A. Mark is the children's natural father.

Q. Okay. And did she indicate if he stayed at their house at all while Aaron was living there?

A. It was hard to tell. Maybe he would stay a night or so, but he didn't live there. Mark did not live there.

MR. WARDER: Objection on speculation. If it's hard to tell, Your Honor, I object to it. It's speculation.

THE COURT: What was the question again?

DIRECT EXAMINATION CONITINUED

BY SOLICITOR JONES:

Q. In your conversation with Ms. Riden, did she ever indicate that Mr. Lusk, the biological father, had ever stayed at that residence with her and the children and Mr. Hendrix?

A. Yeah. He had stayed there.

Q. And did you ever talk to Aaron Hendrix about the allegations?

A. I did.

Q. Do you remember how many times you

talked to him?

A. Once.

Q. And you mentioned the steps you took to find Ms. Riden. Can you briefly talk about the steps you took to find Mr. Hendrix and to talk to Mr. Hendrix?

A. Yeah. I really didn't have any good addresses. Of course, he wasn't at the any longer.

I had an address that was on his, you know, DMV driver's license. I went to that address, didn't locate an actual home. So I'm not sure if there was a mobile home there at one time or whatever.

But, you know, I was able to make contact with him. Eventually, I believe I got a phone number when we made contact with him.

Q. In the conversation with Mr. Hendrix, generally, what was the conversation about? What did Mr. Hendrix tell you?

A. When he came in for the interview?

Q. Right?

A. That -- I mean, he admitted that he knew Stacy, that at one point in time they both lived together at the residence on

. He believed he lived with her between December 2011 and moved out sometime around December 2012.

Q. Did he know specifically about any date that he definitely moved out?

A. Toward Christmas.

Q. Okay. And when he moved in, did he give you any reasoning as to how he remember it was about when he moved in?

A. I'm not sure.

Q. Okay. But Mr. Hendrix gave you the dates ---

A. Yes.

Q. --- of when he lived there, approximately?

A. Yes.

Q. Did you discuss with Mr. Hendrix if Mr. Lusk ever lived at that particular residence or stayed at that particular residence while he was there?

A. Yes.

Q. And what was his response?

A. "Yes."

Q. He affirmed that Mr. Lusk did stay at that residence?

A. That he had stayed there, yes.

Q. And did you ask him about the defendant's sisters, about if they had ever come to the residence and spent the night or spent time?

A. Yes.

Q. Did you ask Mr. Hendrix anything about the sisters bringing males over to the house?

A. Yes.

Q. Bringing guys over to the house?

A. Yes.

Q. And what did he tell you about that?

A. He did say that her sister brought guys over to the house.

Q. Did Mr. Hendrix tell you anything about anyone taking their clothes off at any time?

A. (No verbal response).

Q. Anybody in particular?

A. One of the sisters.

Q. Okay. And did Mr. Hendrix tell you anything about wearing a particular type of clothing?

A. That Mr. Hendrix wore?

Q. Right.

A. Yeah. There was some discussion about wearing Stacy's clothing.

Q. And what did Mr. Hendrix tell you about that?

A. Yes. That on one occasion he did put on Stacy's clothes.

Q. Did he go into detail about that, why he was doing that or did he put anything on a particular part of his body?

A. That he put on her clothes, playing around.

Q. Okay. Okay. Did he indicate to you that Ms. Riden knew that he did that or was present when he did that?

A. Yeah. She knew he did that.

Q. At the end of your investigation, what did you do?

A. At the end of my investigation, I charged or made a charge on both Stacy Riden and Aaron Hendrix of criminal sexual conduct first degree.

Q. How many of those charges did you make?

A. Two on both of them.

Q. Okay. And why did you make the charges of criminal sexual conduct with a minor in the first degree, two charges?

A. After reviewing the evidence in the case, statements made by the children allege that both Stacy and Aaron performed oral sex on the children and had the children perform oral sex on them.

Q. Okay. And as to the charge of criminal sexual conduct with a minor in the third degree, why did you make that particular charge?

A. In reference to the youngest daughter, Minor 3 , there were statements made by the children that they had touched her inappropriately in her private areas.

Q. Okay.

A. I also made a charge against Stacy Riden for unlawful conduct towards a child.

Q. Okay. And why did you make that charge of unlawful neglect?

A. During statements from the children they all described witnessing drug use, adults having sex ---

MR. WARDER: Objection to this,

Your Honor. May I be heard?

THE COURT: All right.

MR. WARDER: I have an objection, Your Honor. I ask the last question be stricken.

THE COURT: I'm going to sustain that and ask that it be stricken.

(LINES 19 THROUGH 23 ON PAGE 302 STRUCK)

THE COURT: Ladies and gentlemen, when I grant a Motion to strike something, that means you are to disregard that and not consider that in your deliberations.

MR. WARDER: Your Honor, I ---

SOLICITOR JONES: And what question, just to be clear.

MR. WARDER: I have one more Motion on that. I'm going to move for a mistrial.

THE COURT: All right. Let's send the jury out then.

(JURY OUT @ 12:55 P.M.)

MR. WARDER: Your Honor, there's been no charge of drug abuse, that these people were taking drugs and using drugs. There's some testimony of one child where she saw a needle. And I submit to you there's no

testimony that anybody got high, that there was any drugs in any needle at any time, that these people were under the influence of drugs.

This is an attempt to categorize it into something it wasn't, as a drug-crazed place where people were engaging in sexual contact and other -- and drugs adds a whole new element that's not in this case.

THE COURT: Well, I've reviewed the video, forensic videos, and I tend to differ because they're full of drugs. And the reason I sustained the objection is because that information has not gotten in yet.

SOLICITOR JONES: Yes, sir.

THE COURT: But, no. The forensic interviews talk about use of needles and the kid testified yesterday that he saw mama stick the needle in his arm or Aaron, I can't remember which one. But it's clearly a serious part of this case, Mr. Warder.

MR. WARDER: Your Honor, -- certainly if you rule, I don't want to argue against you. But the needle in the arm, that

may be true. All of that be true, there's no evidence that it was drugs. I mean, there's all kinds of lawful things that you could give injections for.

THE COURT: You know, I've sustained your objection and ask that it be stricken. But like I said, the forensic videos, you know, that changes your argument totally when those come in. Because they're full of drug use and the kids taking drugs and all of that. But we haven't gotten to that point. So I've asked that that be stricken as far as this now but it is definitely a not a ground for a mistrial and I deny your Motion on that.

MS. HORLBECK: Judge, I just want to let the record reflect that I join in his Motion for a mistrial at this time.

THE COURT: Okay. All right. I would remind that if any party -- if any potential witnesses that are in here, that we do have a sequestration order ---

All right. Are we ready for the jury to come back in?

SOLICITOR JONES: Yes, sir, Your

Honor.

(JURY IN @ 12:58 P.M.)

THE COURT: All right. Ladies and gentlemen, we will proceed. As I said, sometimes we have to take things outside your presence, but we're going to continue with by the State.

SOLICITOR JONES: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. And just briefly, one follow-up question. The dates that Aaron Hendrix told you that he was living with Stacy Riden, what were those dates again, approximately?

A. Approximately December 2011 through December 2012.

SOLICITOR JONES: Thank you, Your Honor. No further questions.

THE COURT: Ms. Horlbeck.

CROSS-EXAMINATION

BY MS. HORLBECK:

Q. Investigator, that's the correct term for you?

A. Sure.

Q. All right. Investigator Nix, you're the, I guess, kind of the lead fellow on this case?

A. Yes.

Q. And through your investigation you learned that the children had been living with the maternal grandfather and also the step-grandmother; is that correct?

A. Yes.

Q. All right. Do you know how long those children had been living with the grandparents prior to your investigation beginning?

A. Eight months or so, maybe just a little longer.

Q. All right. Through your investigation did you also learn that the grandparents did not have court-Ordered custody?

A. They did not.

Q. And did you advise that they needed to contact DSS about that and also an attorney?

A. Yes.

Q. All right. And you also indicated

that you were able to speak to the tenant who lived at the -- and I can't remember the address?

A. .

Q. ?

A.

Q. okay?

A. Yes. .

Q. All right. You spoke to that current tenant; is that right?

A. Yes. Yes.

Q. Were you able to go inside the residence?

A. They would not let me in.

Q. All right. And so then you weren't able to, I guess, look at the bathtub, look at the doors and see if there were any locks on the doors, that kind of thing?

A. No. I tried but they just wouldn't let me in.

Q. All right. Did you obtain a search warrant?

A. I'd have to have a warrant and I had no -- during the timeframe I could not have gotten a search warrant for that residence.

Q. All right. You don't think you could have gotten a search warrant for that residence?

A. Not based on the time period from when Stacy had actually lived there, no.

Q. Okay. All right. So based on the feeling that you didn't think you could apply for a search warrant for that time period, you did not apply for one; is that correct?

A. Right. Right.

Q. Okay. All right. So, again, you got no -- you were not able to go in and get measurements of the bathtub; were you?

A. No, ma'am.

Q. All right. Were you -- and I don't suppose you have any idea what the physical layout of the residence was?

A. I do not. Like I say, they would not let me in.

Q. Okay. All right. I don't suppose you have any photographs of the bathtub either, do you?

A. No, ma'am.

Q. Okay. All right. Since you weren't able to go into the residence or look at the

residence, the inside of the residence during the time period from December 2011 to December 2012, you don't have any evidence of any videos that were in either Mr. Hendrix possession or Ms. Riden's possession; is that correct?

A. That's correct.

Q. Okay. All right. And you don't have any evidence of the children, any of the three children testing positive for illegal substances; do you?

A. No, ma'am.

Q. All right. And you, again, didn't find any sex videos in the possession of either Ms. Riden or Mr. Hendrix; is that correct?

A. That's correct.

Q. All right. And the only people that were arrested and charged with these matters were Mr. Hendrix and Ms. Riden; is that correct?

A. Yes.

Q. Neither sister, neither of the Riden sisters were ever arrested and charged?

A. No, ma'am.

Q. All right. And the natural father Mark Lusk was never arrested and charged?

A. No, ma'am.

Q. All right.

MS. HORLBECK: Beg the Court's indulgence. I just want to check my notes.

THE COURT: Okay.

CROSS-EXAMINATION CONTINUED

BY MS. HORLBECK:

Q. And you actually contacted the Julie Valentine Center to schedule the interviews?

A. Yes.

Q. Okay. Through your conversation, I believe it was Mr. Hendrix, you learned that Mark Lusk had stayed at the residence on ; is that correct?

A. Yes.

Q. And to your knowledge -- you testified just a minute ago about Mr. Hendrix dressing up. From your investigation, was that dress-up just done to amuse the children?

A. Yes, ma'am. That's what he said, to amuse the children.

Q. All right. Thank you.

MS. HORLBECK: I've got nothing further.

THE COURT: Mr. Warder?

MR. WARDER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WARDER:

Q. Sir, tell us the physical description of the outside of the residence of [redacted]?

A. It's a mobile home. There's -- I wouldn't say -- it's probably your older mobile home. It's long, narrow. I couldn't tell you the dimensions.

Q. Would it what they call a single-wide as opposed to what's been called double-wides?

A. Yeah. It would possibly be a single-wide that may have had an add-on.

Q. Did it show signs of repair from the outside, different colors?

A. No, not that I could tell.

Q. Okay. How about the underpinning? Was it underpinned and have that ---

A. I don't remember.

Q. Did you go up on the porch or did

you stand on kind of an open step?

A. As I recall, it was a small porch that I stepped up.

Q. Thank you.

THE COURT: Any redirect?

SOLICITOR JONES: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Mr. Nix, when you went to , what was the purpose of going there?

A. Basically just to see if, maybe what the residence looked like. Actually, I talked to the tenant to see if she knew Ms. Riden and maybe possibly know where I could find her.

Q. So was one of the purposes to find Ms. Riden?

A. Yes.

MR. WARDER: Objection. Leading, suggestive.

THE COURT: Overruled.

REDIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. And what month of the year was it that you went out there, if you can remember?

A. It was -- it would have been early January.

Q. Of what year?

A. 2014.

Q. 2014?

A. Yeah. It would have been early January 2014.

Q. And since this was brought up, have you ever gotten a search warrant before?

A. Yes.

Q. And in our experience, what would have been the problem with requesting a search warrant to go inside that home?

A. The timeframe of the allegations was a couple of years between the time of the 2011 to 2012. And there's not a judge that's going to give me a search warrant for a residence eight months, nine months later.

SOLICITOR JONES: Thank you, Your Honor. No further questions.

THE COURT: All right. You may step down.

(WITNESS STEPS DOWN)

SOLICITOR JONES: The State calls Art Taylor to the stand. ##

(WITNESS TAKES STAND)

ART TAYLOR, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Now, Mr. Taylor, where do you currently work?

A. Pickens County Sheriff's Office.

Q. And what's your position there?

A. I'm a detective.

Q. A detective. How long have you been a detective?

A. I've been detective for six years now.

Q. Okay. And what are some of your responsibilities in that role of a detective?

A. To investigate property crimes, homicides, assaults and so forth.

Q. And on January 30th of 2014, did you come into contact with Stacy Riden?

A. I'm sorry. What day was that again?

Q. January 30th of 2014.

A. Yes, I did.

Q. And were you specifically looking for Stacy Riden?

A. I had had knowledge that Captain Nix was looking for her.

Q. Okay. Do you know where you came into contact with her?

A. It was on at in Easley.

Q. Okay. Okay. And in talking with her, what was your purpose to talk with Ms. Riden. Not why were you at that particular address, but what did your conversation entail with Ms. Riden?

A. Well, when I found that she was there, I called Captain Nix and advised him that I had found her because he had, like I stated, had been looking for her. And at that time, he asked if I could take a statement from her.

Q. And do you remember, what was the purpose of that statement; do you remember?

A. So he could do a forensic interview with him.

Q. Okay. So what specifically ---

A. With her kids. I'm sorry.

Q. With her kids?

A. Yes.

Q. So what specifically did she tell you or give you or tell you?

A. She wrote out a statement giving me permission ---

THE COURT: Hold on.

MS. HORLBECK: Could you just restate your question again, please?

SOLICITOR JONES: Sure.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Mr. Taylor, what, specifically when you spoke with Ms. Riden, did she tell you anything about this particular case?

A. No.

Q. Okay. And the purpose of your meeting with her, what was the purpose?

A. So we could get permission to have an interview conducted. And we took the children to ---

Q. So she gave you permission to have a forensic interview?

A. She did.

Q. Okay.

SOLICITOR JONES: No further questions, Your Honor.

THE COURT: Ms. Horlbeck?

MS. HORLBECK: No questions.

THE COURT: Mr. Warder?

MR. WARDER: No questions, Your Honor.

THE COURT: All right. Thank you. You may step down.

(WITNESS STEPS DOWN)

SOLICITOR JONES: Your Honor, next the State would call Natasha Glover.

THE COURT: All right.

(WITNESS NOT PRESENT)

(OFF RECORD BENCH CONFERENCE)

THE COURT: Ladies and Gentlemen, I'm going to let you go to your jury room for just a few minutes.

Remember, you do not discuss the case. We will be with you shortly.

(JURY OUT @ 1:10 P.M.)

(BRIEF RECESS)

(DEFENDANT HENDRIX PRESENT)

(DEFENDANT RIDEN PRESENT)

THE COURT: Okay. Anything else before we bring the jury from the State?

SOLICITOR JONES: Nothing from the State?

THE COURT: Anything from the Defendants?

MS. HORLBECK: Nothing from Ms. Riden.

MR. WARDER: No, Your Honor.

THE COURT: All right. Bring them in.

BAILIFF: Yes, sir.

THE COURT: Thank you.

(JURY IN @ 1:27 P.M.)

THE COURT: All right. I think with our kindergarten lunch that we lost one of our witnesses after lunch. But we are ready to proceed now. So thank you for your patience.

SOLICITOR JONES: Thank you, Your Honor. The State calls Dr. Mary Croswell to the stand.

(WITNESS TAKES STAND)

MARY CROSWELL, having been duly sworn to

tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Dr. Croswell, tell the jury where you currently work?

A. I am employed by the Greenville Health Systems in the division of forensic pediatrics, child abuse and neglect.

Q. And how long have you been in that position?

A. Since 2006.

Q. 2006. And tell the jury a little bit about your education, please?

A. I received my undergraduate degree from Wake Forest University. I received my medical degree from the University of Louisville, School of Medicine. I completed a pediatric residency at the Greenville Health System.

Q. So how long have you been a doctor?

A. I've been a doctor since 2003. Well, actually, since I graduated from medical school in 1999.

Q. And do you have any specialized

training or specialized certifications?

A. Yes. I am board certified to practice in the field of general pediatrics as well as additional board certification for child abuse pediatrics.

Q. And have you ever testified in court before?

A. Yes, I have.

Q. Have you ever been qualified as an expert in the field of child abuse pediatrics?

A. Yes, I have.

Q. And about how many times?

A. I would estimate about twenty-five times.

SOLICITOR JONES: Your Honor, at this time I would ask that Dr. Croswell be qualified as an expert in the field of child abuse pediatrics.

THE COURT: All right. Any questions? Any voir dire questions, Ms. Horlbeck?

MS. HORLBECK: Not at this time, Judge.

THE COURT: Mr. Warder?

MR. WARDER: No, Your Honor.

THE COURT: All right. Ladies and gentlemen, therefore, I will qualify her an expert in child abuse pediatrics. Is that what you said?

SOLICITOR JONES: Yes, Your Honor. Child abuse pediatrics.

THE COURT: All right. Ladies and gentlemen, normally a person is not allowed to testify about certain opinions or an expert area unless they're qualified as an expert. In this case, she has been qualified as an expert. But then you still -- and I will discuss this further with you in my charge. You still give it the same weight that you deem appropriate.

SOLICITOR JONES: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Now, tell the jury what it is that you do in an examination regarding an alleged child sexual abuse?

A. So when a child is referred for an outpatient evaluation of sexual abuse they are initially met in the waiting room by a

child life specialist, who is a medical personnel, who helps children understand medical procedures in a developmentally appropriate way.

She brings them back to the exam room and goes through the entire examination, allowing the child to use the various pieces of equipment that I use on an anatomically correct doll.

Next, I will take the caregiver, who has brought the child to the appointment, to get a medical history about the child.

Then if the child is old enough I take a history directly from the patient that I will be examining.

After that, I complete a physical examination and determine any appropriate laboratory testing that may need to be done. At that point, I'll make any recommendations for the treatment of the child.

Q. And you mentioned the medical history of the victim. Why is that important?

A. It's important to understand any underlying medical conditions that the child

may have that may contribute to any findings that I might see. It's important to know history of any accidental injuries that the child might have experienced. It's important to have a broad knowledge of other contributing factors to the child's evaluation.

Q. And are there any special tools or instruments that you use during a child abuse exam?

A. Yes. So the examination entails the normal pediatric exam from head to toe. So using, you know, the pieces of equipment to look in the eyes, the ears, the mouth, the nose.

I also use a colposcope to do the genital examination. A colposcope is a piece of medical equipment that has a magnification system, a bright light as well as a camera to photo document any findings that I might see in that area.

Q. Okay. How often are there physical findings in child sexual abuse?

A. It's actually quite rare that we have findings that are specific for child sexual abuse. Some of the more recent

studies are showing that less three percent of the cases actually have very specific findings that indicate sexual abuse.

Q. And can you say that statistic again, if you would?

A. The more recent studies have said that less than three percent of the time there are actual physical findings that are specific and diagnostic of child sexual abuse.

Q. Is that three percent in confirmed sexual abuse cases or ---

MS. HORLBECK: I object to that, Judge. I don't know what he means by confirmed cases.

SOLICITOR JONES: Well, I'm asking her to explain that. What she means by three percent.

THE COURT: All right. I'm going to let him. I think it -- based on his request for explanation and she has been qualified as an expert.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

A. So there are multiple studies

looking at this topic. There is one study that looked at children whose perpetrators had a criminal conviction. And they looked at those cases, had there been any findings. In those cases less than twenty percent had specific findings of child sexual abuse.

So the more recent studies that just look in general at children who are being evaluated for sexual abuse that don't necessarily have that criminal conviction component, less than three percent have those specific findings.

Q. And why would it be rare to find, to have physical findings in a sex abuse case?

A. Many times, first of all, in the nature of child sexual abuse, there's not an injury caused to the child.

If there is an injury, oftentimes times it healed rapidly without leaving any signs or scaring behind that are visible to the eye.

Q. And is there something in particular with sex abuse and an injury healing quickly that is particular to sexual abuse?

A. Well, the type of tissue in the

genital area is what we call mucosal tissue. It is different from other skin on your body. Mucosal tissue has a large vascular or blood supply to it. Any injury to it can heal very quickly, within a matter of days without leaving any scars behind.

Q. Is the type of tissue in the genital area, can you compare that to any other type of tissue on the body?

A. One example I often use is mucosal tissue is also the tissue in your mouth. So when you get an injury to your mouth and you bite the side of your cheek it can heal rapidly, within a couple of days, without leaving any scars on it.

Q. And could a normal exam, meaning no findings of abnormalities or signs of sexual abuse, could a normal exam be consistent with abuse?

A. Yes, it can.

Q. And in your experience in evaluating a child that's been sexually abused by performing oral sex, is it typical or atypical to find an injury to the child?

A. It would be atypical for me to find

an injury or finding to the child when a history is that they have been sexually abused involving oral to genital contact.

Q. And when we say atypical, what do we mean by that?

A. It would be uncommon or rare to see a physical finding as a result of that type of abuse.

Q. What about physical evidence of anal penetration?

A. Some of the more recent studies say that less than one percent of child sexual abuse exams have any anal findings.

Again, this is involving mucosal tissue that can heal very rapidly due to the vascularity or the blood supply. Also, the anal area is, by nature designed to allow objects to pass. And so it is composed of a muscle that relaxes to allow those objects to pass. And that can also occur in child sexual abuse.

Q. And what about physical evidence as to digital penetration? Would it be common or uncommon to find evidence of sexual abuse when digital penetration occurred?

A. It's typically -- it's not common to find physical findings related to digital penetration of either the vaginal area or the anal area. And would be more common if a child had a history of bleeding at the time of the incident.

Q. Would the time lapse from the alleged abuse from your physical exam, is that important as to whether you would find any type of evidence of sexual abuse?

A. Yes. When a physical exam is delayed past several days to several weeks, it's very uncommon to find physical findings specific for child sexual abuse.

Q. Well, what about a year?

A. Even less common to find physical findings.

Q. Tell the jury what the hymen is?

A. So the female anatomy is actually complicated. It's composed of several layers of tissue. And on the outermost layer there are two, what we call fatty layers of tissue. They're called the labia majora. When those are separated there's two layers of tissue under it called the labia minora, which are

thinner. And then deep to that is the vaginal opening the hymen is a thin layer of tissue that partially covers that opening.

Q. Can you briefly discuss some myths or misconceptions about the hymen?

A. A lot of parents and I think a lot of people expect that when a child has been abused, that the hymen will have some type of evidence that the abuse has happened.

The hymen itself, even if there is an injury, can heal without leaving any signs that the injury was there previously.

Q. So close to the date of abuse, there could be signs of abuse. But then as time goes on, that evidence would heal and no longer be visible to you during the examination?

A. It can. It can at different -- depending on the patient, there are definitely cases where it heals without any evidence of any injury at all.

Q. Did you have the opportunity to examine Minor 1 , Minor 2 and Minor 3 Minor ?

A. Yes, I did.

Q. And do you know the date of those exams?

A. Yes. It was performed on March 26th, 2014.

Q. So you performed an examination on all three children on the same day?

A. Yes, I did.

Q. Do you know where that examination took place?

A. It occurred at the Julie Valentine Center in Greenville.

Q. And as to Minor 1 , what was the type of exam performed and the purpose of that exam?

A. So he was referred for evaluation of sexual abuse. And the purpose of the exam is to one, do a full pediatric evaluation, full medical exam. Two, to assess whether there are any physical findings as a result of the allegation that have been made. And three, to assess for any possible sexually transmitted infections.

Q. You may have mentioned this, but how did you perform the exam?

A. The exam with a boy is, again, start

with a typical head to toe pediatric examination. Examine the genitalia and then use the colposcope for the anal examination.

Q. And what areas of his body, his anatomy did you evaluate?

A. I evaluated all, his entire body for the allegations. And for the child sexual abuse evaluated his penis and his anal area.

Q. Okay. And as to Minor 1 what were your specific findings?

A. He had a normal examination.

Q. Okay. And as to Minor 2 , the same questions. What was the type of exam and the purpose of that exam?

A. So, again, it's a normal pediatric exam to assess her physical wellbeing. Included in that is assessment for any physical injuries as a result of the allegation and to assess for any sexually transmitted infections.

Q. Okay. And what specific findings did you have as to Minor 2 ?

A. She had a normal examination.

Q. Okay. And then moving on to Minor 3 and again the type and purpose of that

exam?

A. Again, it's a pediatric exam of her overall wellbeing and how -- the ability to document any physical findings as well as to evaluate for any potentially sexually transmitted infections.

Q. And what were your findings as to

Minor 3

A. The abnormality that she had on her exam was that she had dental caries, which are evidence of cavities of her teeth.

Q. And let me stop you there for a second. You're not a dentist; right?

A. I'm not a dentist.

Q. Okay. But you do -- describe just briefly what you do when you're looking at the teeth and why you do that on these type of exams.

MS. HORLBECK: And I'm going to object, Judge. She's not a dentist. I object to any -- she's not qualified as a dentist and I just object to all of that testimony.

THE COURT: Is this related in some way?

SOLICITOR JONES: It is related, Your Honor.

THE COURT: I'm going to give him a little -- she's not a dentist. I'm not sure she's gotten into any -- you know, I'm not going to let her get into any kind of dental expertise.

SOLICITOR JONES: All right. And all she's going to testify to is what's in the what ---

THE COURT: Yeah.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Again, from your report, from your findings of Kylie as to her teeth. You indicated on your report that -- or you indicated here in testimony that she had dental caries; is that what you called them?

A. Correct.

Q. And tell the Court or tell the jury why you look at the teeth and what that means?

A. Well, you know, again, I'm a pediatrician and so I'm doing a full evaluation of the body, which includes

evaluation of oral or mouth health.

And in looking at her teeth, there was breakdown of her teeth from what should be normal for her age. And so as a result of that, I made a recommendation that she be evaluated by a dentist for further assessment of that.

Q. And I hate to ask you to do math on the spot, but how old was Minor 3 at the time of your exam?

A. Minor 3 was four.

Q. And back to the findings of Minor 3 was there anything else besides the dental issue?

A. Yes. On her genital exam, she had something we called labial adhesions. Going back to the genital anatomy that I described earlier, when you pull the labia majora, which are the fatty tissue, aside and you see the thinner layer of tissue that are called the labia minora, there was a partial fusion of those tissues. And so I was not able to photo document her vaginal area because I had to kind of peak kind of up and over and the camera was not able to see that area.

Q. Okay. And describe what that type of finding, what that means?

A. Sure. So Minor 3 was in that pre-school age group. Labial adhesions occur not infrequently in that age group due to two different factors that we see.

One is that they don't have estrogen or a female hormone circulating in their body that thickens that tissue up in that area.

And then usually, it's preceded by some form of inflammation or swelling. So, again, it's a nonspecific finding. It can be from poor toileting hygiene or not wiping well. It can be from infection in that area. It can also be from trauma, accidental or non-accidental trauma to the area.

Q. I know you may say accidental or non-accidental, could you give us some possibilities, some examples of what trauma could cause that type of ---

A. So if you think about accidental mechanisms. You know, straddle injury to the genital area on a bicycle, falling on a bed railing in that area.

Again, non-accidental trauma would be

some sort of sexual abuse to the area.

Q. Again as to normal examinations, are there any studies concerning a normal examination being normal in sexual abuse?

A. There are multiple studies and the title of one of the studies that I reference is called "It's normal to be normal in reference to child sexual abuse."

Q. And can you elaborate what that study showed?

A. That study showed that there were, that only fourteen percent of -- this was the study that looked at children where the perpetrators had been criminally convicted. In that study, fourteen percent of the findings were specific for sexual abuse.

Ninety percent were suspicious.

So approximately eighty percent were, you know, completely normal.

SOLICITOR JONES: Thank you, Your Honor. No further questions.

THE COURT: Ms. Horlbeck.

CROSS-EXAMINATION

BY MS. HORLBECK:

Q. Dr. Croswell, you described a little

bit about the hymen just a few minutes ago; is that correct?

A. Yes, it is.

Q. Okay. All right. And some of the things that you could find in a situation of abuse, is it possible that you could find tearing of the hymen?

A. Certainly it is possible.

Q. All right. And is it possible that you might also find an abrasion of the hymen or swelling of the hymen in a situation of abuse?

A. Yes, it is possible.

Q. All right. That's obviously specific to a girl.

A. Right.

Q. And a boy in a situation of abuse, is it possible you might find also swelling, bruises, lacerations?

A. Yes.

Q. Lacerations, is that a medical term for cut or scratch; is that correct?

A. Yes.

Q. All right. Okay. All right. And you also indicated that an injury to your

genital area or the hymen area, it can heal. But it doesn't always heal; is that correct?

A. That's correct.

Q. Okay. All right. And you stated on direct examination that you performed your examinations of these children on March the 14th, 2014?

A. March 26th.

Q. March the 26th. Okay. But it was 2014?

A. Yes.

Q. All right. And the exam was performed on all three children?

A. Yes.

Q. All right. And you said that as part of the procedure you follow, you interview the caregiver; correct?

A. Correct.

Q. And the caregiver you interviewed -- do you remember who interviewed? Was it the grandmother?

A. It was the maternal step-grandmother.

Q. Okay. All right. Thank you. And when you examined the children, did you use

the colposcope piece of equipment on all three children?

A. Yes, I did.

Q. And the colposcope, correct me if I'm wrong, but it magnifies the area that you're examining?

A. It's has lenses like a microscope that you look in ---

Q. Okay.

A. --- so it does magnify it. It also has a bright light and a camera attached.

Q. All right. Do you know how much it magnifies the area?

A. It depends on what setting I have.

Q. Okay. Do you recall what setting you had it on?

A. I typically do to the maximum.

Q. Okay.

A. I don't know it off the top of my head.

Q. All right. That's fine. But you do it up to the maximum so you can see anything, if it's ---

A. Correct.

Q. --- if there's any injuries there;

correct?

A. Correct.

Q. All right. And was it necessary for you to take any pictures when you utilized the colposcope on the children?

A. I typically take pictures. I took photos on Minor 2 I took photos on Minor 1 . And I took photos on Minor 3

Q. All right. And did the photos that you took, did they show any injuries to any of the three children?

A. No.

Q. All right. All right. And you indicated, and I may have misheard you, but did you also say on direct examination that it may be more like to find an injury if there had been a history of bleeding from an injury?

A. That's correct. I would be more likely to find, expect to find scarring.

Q. Okay. All right. And on Minor 3 exam, and the date of that exam was March the 26, 2014?

A. Yes.

Q. You said that you thought that you

found evidence of some dental cavities?

A. The medical term is dental caries.

Q. Okay. All right. Is that just because she's a child or is caries -- what is a caries?

A. A caries is basically a medical term for cavities.

Q. And it's caries?

A. Caries.

Q. Okay. All right, then. All right. And you also discovered some labial adhesion in Minor 3 is that correct?

A. That's correct.

Q. And you said that that was not infrequent in a child of her age?

A. That's correct.

Q. All right. And that that was caused by the lack of estrogen; is that correct?

A. The lack of estrogen along with some inflammatory component.

Q. Okay. And you said that inflammation could be cause by something as simple as not wiping or poor toilet hygiene?

A. That's correct.

Q. Or some sort of accidental trauma?

A. That's correct.

Q. And non-accidental trauma, I think you said?

A. That's correct.

Q. All right. Now, so all of the children's examinations were normal; is that correct?

A. That is correct, with the exceptions of what we went over ---

Q. Right. On Minor 3 Okay. And people who have had -- and just correct me if I'm wrong. People who've had lots of sex, is it also possible for that type of person to have a completely normal genital exam?

A. When you say people are you talking about children or adults?

Q. No, because I know children aren't doing that. But is it possible that you would have a normal genital exam of the type that you perform on these children if you're just a normal, sexually active person?

A. Yeah. There have been studies on pregnant teenage girls that have a normal genital exam.

Q. All right. And people who haven't

had sex at all, they have normal exams as well; is that correct?

A. I would expect so unless there's something ---

Q. Right. But they can also have non-normal exams; is that true?

A. Yes.

Q. Okay. All right. So really a normal exam of this type can be indicative of lots of things.

A. That's correct.

Q. So it could be of indicative of abuse; right?

A. It could be -- I'm sorry?

Q. Indicative of abuse yes, and non-abuse?

A. It could consistent with, not indicative of.

Q. Okay. And also consistent with just normal sexual activity?

A. I'm not following that question.

Q. A normal exam, can it also be consistent with normal sexual activity?

A. No.

Q. In normal human -- not a child?

A. Oh, okay. Yeah.

Q. Not a child?

A. Yes.

Q. All right. And a normal exam such as the type you performed or found on these children. That can also be consistent with no abuse at all; is that correct?

A. A normal exam is consistent -- I mean, ---

Q. It can be consistent from no abuse to having ---

A. That's correct. That's correct.

Q. All right. Thank you.

MS. HORLBECK: I've got no further questions.

THE COURT: Mr. Warder?

MR. WARDER: I have no questions.

THE COURT: All right. Any redirect?

SOLICITOR JONES: Just a few follow-ups, Your Honor.

REDIRECT EXAMINATION

BY SOLICITOR JONES:

Q. As to the labial adhesions -- am I saying that correctly?

A. That's correct.

Q. Ms. Horlbeck asked you a few questions about those. Discuss again as to labial adhesions. You mentioned the lack of estrogen plus something else. If there was just a lack of estrogen, would that cause a labial adhesions?

A. Uh ---

Q. Go ahead.

A. You know, as far as we know or understand about labial adhesions, they are usually secondary to some form of inflammation.

Q. Okay.

A. Inflammation meaning swelling or irritation to that area.

Q. So in seeing the labial adhesions that tells you what about Minor 3 ?

MS. HORLBECK: I just object, Judge. That's calling for a conclusion.

THE COURT: Yeah. Rephrase your question.

SOLICITOR JONES: Okay.

REDIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. You say labial adhesions are indicative of what?

A. Labial adhesions are indicative of: one, she doesn't have any estrogen or very low levels of estrogen in her body; and, two, that she has experienced some type of inflammation in that area at some point.

Q. And you gave several examples earlier, but those are all equally possible?

A. Correct. Based on my physical exam I wouldn't be able to tell you what that inflammation was without knowing the etiology of the inflammation.

Q. Okay. And is it possible for a part of the -- speaking of the female genitalia, a part of female genitalia to bleed at one point from trauma or abuse and then over a year later would you still be able to see evidence of that?

A. (No verbal response).

Q. Can you give an answer of an absolutely yes or absolutely no?

A. Could you repeat the question just make sure I understand correctly.

Q. With regard to female genitalia and

sexual abuse, if there was evidence of bleeding would you be able to a year later from the sexual abuse, can you say one way or another if you would definitely be able to see evidence of that abuse or definitely not be able to see evidence of that abuse?

MS. HORLBECK: I would object to that question.

THE COURT: And I think -- I mean, y'all have gone over that.

SOLICITOR JONES: Gone over that. Yes, sir, Your Honor. No further questions, Your Honor.

THE COURT: All right. Thank you.

(WITNESS STEPS DOWN)

SOLICITOR JONES: Thank you, Your Honor. The State calls Shauna Galloway Williams to the stand.

THE COURT: All right.

(WITNESS TAKES STAND)

SHAUNA-GALLOWAY WILLIAMS, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Ms. Galloway Williams, how are you?

A. I'm doing fine. Thank you.

Q. Can you tell the jury please, what's your occupation?

A. I am the Executive Director of Julie Valentine Center, which is the child abuse and sexual assault recovery center that serves Greenville and Pickens County. As executive director, I am responsible for oversight of the entire center and its operations. In addition to that, I still provide clinical services, which means that I still do assessments or interviews with children as well as co-facilitating groups for caregivers of children who may have been abused.

Q. And tell the jury just briefly about your education or specific training to your employment?

A. I have a Bachelor's Degree in Psychology, a Master's Degree in Counseling and I'm licensed as a Professional Counselor in South Carolina.

Q. And how long have you been in the position -- you might have already said this,

but how long have you been in the position you're currently in?

A. I've been executive director now for seven years. I've worked at the Julie Valentine Center for nine years.

Prior to that, I worked for the Department of Mental Health; the South Carolina State Department of Mental Health.

Q. So tell the jury what it is that you do on a regular basis?

A. Well, like I said, I provide oversight, administrative support to the agency. I do a lot of public speaking, education, training.

I also do clinical work. So I work with children and families who've been impacted by child maltreatment.

I also serve as an adjunct faculty member at USC Upstate in their Child Advocacy Studies Program.

Q. And can you tell the jury, what is a forensic interview?

A. They're investigative interviews that are conducted for the purpose of gathering information or statements from

children when there are allegations of abuse or neglect.

Q. And have you ever performed a forensic interview?

A. I have.

Q. How long have you been performing forensic interviews?

A. I've been providing forensic interviews for twelve years.

Q. And what's the purpose of a forensic interview?

A. They are investigative in nature. The purpose of them is to gather information without leading or suggesting children, giving them an opportunity to share information about a report of abuse and neglect.

Q. And do you do anything to ensure that the child's answers are not influenced by your questions?

A. Yes. Our training and the protocol that we follow requires that we use non-leading, non-suggestive questions.

Q. Okay. And did you perform a forensic interview on Minor 1 and Minor 2

Minor ?

A. I did.

Q. Do you know who referred the children to you for a forensic interview or what agency?

A. I believe it was the Pickens County Sheriff's Office. (Upon review of file) -- yes, Marvin Nix with the Pickens County Sheriff's Office.

Q. Okay. And as to Minor 1 and Minor 2 do you remember the dates of the interviews?

A. If I can refer to my notes?

Q. Sure?

A. I interviewed both children on two separate occasions. My first interview with Minor 2 was on February 19th, 2014. My second interview with her was on April 11th, 2014.

Minor 1, I saw for the first time on March 3rd, 2014. And I saw him for the second time in April 7th, 2014.

Q. Okay. And were those forensic interviews recorded?

A. Yes, they were.

SOLICITOR JONES: I beg the Court's indulgence, Your Honor.

THE COURT: Okay.

(SO MARKED AS STATE'S EXHIBIT 1)

(SO MARKED AS STATE'S EXHIBIT 2)

(SO MARKED AS STATE'S EXHIBIT 3)

(SO MARKED AS STATE'S EXHIBIT 4)

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Ms. Galloway Williams, I'm going to hand you what's been marked State's Exhibits 1, 2, 3, and 4. Will you take a look at those for me, please, ma'am?

A. Yes.

Q. Do you recognize those disks?

A. (Upon review), I do.

Q. And can you tell the jury what they are?

A. They are DVDs that contain the forensic interviews of Minor 2 and Minor 1 Lusk.

Q. And if you wouldn't mind if you can tell by the date, State's Exhibit 1 is what?

A. Oh. State's Exhibit 1 is the interview of Minor 2 from February 19th, 2014.

State's Exhibit 2 is the interview of

Minor 2 from April 11th, 2014.

State's Exhibit 3 is the interview of Minor 1 from March 11th, 2014.

State's Exhibit 4 is the interview of Minor 1 from April 7th, 2014.

Q. Okay. And Ms. Galloway-Williams, are those true and accurate copies of the interviews that you performed that day?

A. Yes.

SOLICITOR JONES: Your Honor, at this time I would ask that State's Exhibits 1, 2, 3, and 4 be moved into evidence.

THE COURT: All right. Ms. Horlbeck.

MS. HORLBECK: Judge, subject to my previous objections.

THE COURT: All right. Mr. Warder?

MR. WARDER: Subject to our previous objection.

THE COURT: All right. I'm going to allow them in with subject to previous objections.

SOLICITOR JONES: Thank you, Your Honor.

(SO ENTERED AS STATE'S EXHIBIT 1)

(SO ENTERED AS STATE'S EXHIBIT 2)

(SO ENTERED AS STATE'S EXHIBIT 3)

(SO ENTERED AS STATE'S EXHIBIT 4)

SOLICITOR JONES: Thank you, Your Honor. At this time I would like to begin playing the forensic interview of Minor 2 Minor of February 19th, 2014, State's Exhibit 1.

THE COURT: All right.

MS. HORLBECK: Judge, I know that we had some witnesses and out of order and I thought we were going to take a little break so we could talk about the ---

THE COURT: I thought we did have a break.

MS. HORLBECK: We never took a break. Oh, we did. I'm sorry.

THE COURT: That's all right.

MS. HORLBECK: That's my fault. You can blame me. I'm ready. I mean, I've got what I want.

THE COURT: All right. Well, then do y'all need to decide what ---

MS. HORLBECK: If you could just

give us a ---

SOLICITOR JONES: Your Honor, I have the redactions from the ---

MS. HORLBECK: I'm sorry.

SOLICITOR JONES: I have them ready to go and ready to play. If she has any new things that we haven't talked about?

MS. HORLBECK: It's nothing new. It's just times have changed based on something with your redaction process.

THE COURT: All right. This will be brief, I promise. I mean, just so we can make sure. And it's very important that you receive only the information that should be properly before you.

So we're going to take a very brief break. And again, I know you're getting tired of hearing me say it but do not talk about the case at this time amongst yourselves. We'll be right back and get you out.

(JURY OUT @ 2:05 P.M.)

(OFF RECORD DISCUSSION BETWEEN COUNSEL)

(JURY IN @ 2:10 P.M.)

THE COURT: The video is going to

be played. And it's real important that you can see and hear the video at all times. So, if for any reason we have to maybe move around a little bit or something, just let us, you know; let us know you can't hear or see anything. You should be able to see they'll turn the lights down. But if you have problems hearing anything, please let us know. All right.

With that, you may proceed Mr. Jones.

SOLICITOR JONES: Thank you, Your Honor. May I approach the witness?

THE COURT: Yeah. Can every one see the -- (affirmative response by jurors).

THE COURT: Okay.

(STATE'S EXHIBIT NUMBER 1 PUBLISHED)

THE COURT: If everyone wants to - for a minute, you can.

MS. HORLBECK: Judge, I would just renew my prior objections.

MR. WARDER: Your Honor, ---

THE COURT: Yes, the same objections from both defendants is noted.

MS. HORLBECK: Thank you, Judge.

(STATE'S EXHIBIT NUMBER 2 PUBLISHED)

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Just a few more questions, Ms. Galloway Williams. Are you aware or do you know why the children, why each Minor 1 and Minor 2 had two interviews apiece?

A. Yes.

Q. Can you tell the Court?

A. In between the first interview when I saw them, the children disclosed additional information and a second interview was requested because they had made additional disclosures following the first interview.

SOLICITOR JONES: Thank you, Your Honor. No further questions.

THE COURT: Ms. Horlbeck?

MS. HORLBECK: I don't believe I have any questions of Ms. Galloway-Williams.

THE COURT: All right. Mr. Warder?

MR. WARDER: No questions, Your Honor.

THE COURT: All right. You may step down.

(WITNESS STEPS DOWN)

THE COURT: All right. Ladies and gentlemen, that concludes the testimony for the day. I'm going to let you go for the day.

Don't discuss the case among yourself of with anybody. Still, that's not appropriate.

Do not do any independent research. Don't be *Googling* the law or anything like that or the authorities or anything in way that relates to this case.

If there should be any media coverage on the radio, on the TV, social media, newspaper, please do not watch that. Turn away and try not to consume that in any way.

And, lastly, if you are contacted by anyone regarding this case or your jury service, please get that person's name or as much information as you can and report that when you return to the courthouse.

Is 9:00 all right with y'all for the morning?

FOREMAN: Yes, sir.

THE COURT: All right. We'll start at 9:00. Thank you and have a good evening.

(JURY OUT @ 5:30 P.M.)

THE COURT: That definitely was not forty-five minutes.

SOLICITOR JONES: I'm sorry, Your Honor. I was talking about forty-five minutes per video.

THE COURT: No, that's what I said. I knew it was going to be an hour and a half.

All right. Anything before we -- will y'all be ready to go at 9:00. Just for planning purposes are you looking at?

SOLICITOR JONES: Your Honor, I have one, possibly two more witnesses.

THE COURT: All right. So you should be able to -- all right. We'll start right at 9:00 okay?

SOLICITOR JONES: Yes, sir.

THE COURT: And then y'all be ready to roll at that point or whatever you need to do. All right. We'll see everybody tomorrow.

MS. HORLBECK: Your Honor, ---

THE COURT: Okay. Do you have ---

MS. HORLBECK: I have just a couple things, Judge.

THE COURT: Okay.

MS. HORLBECK: I believe there was a redaction that didn't get redacted. There was a portion of the very end of the last Minor 1 interview. In the portion where the grandmother said it was 'not right' -- some things faded in and by the time I realized it, it was just already out. So on that basis, I would just ask for a mistrial or to strike that testimony or perhaps some instruction that the Court can give to the jury to disregard.

THE COURT: Yeah. I'll give some curative instruction. But about the only thing that she said was grandmother said that's not right. And, you know, I can't imagine how that'd be prejudicial because I'm sure everybody would agree that that's not right. So, from what they were saying so I'm not sure that that can have any basis whatsoever on the outcome of the jury. But I will mention that.

MS. HORLBECK: The other thing I wanted to ask the Court about, I just can't recall. I did not know if we agreed to redact a portion regarding some horror movies, what I consider horror movies that Minor 1 had seen. And this is also in the second interview. I didn't recall ---

THE COURT: My notes ---

MS. HORLBECK: --- that was redacted. I didn't think we were going to redact that.

THE COURT: Well, I guess then you can play it on redirect or cross. I mean -- so you're saying it was supposed to be played but was not.

MS. HORLBECK: I'm not sure. That's what ---

THE COURT: Yeah, I mean, I think heard that on ---

MS. HORLBECK: You did? Okay.

THE COURT: You said you did hear it or did you ---

MS. HORLBECK: No.

THE COURT: It was redacted?

SOLICITOR JONES: It was redacted.

THE COURT: Well, I guess what we can do is play that -- and, again, if you really want to play that we can play that portion or something tomorrow. I mean, I don't think we need Ms. Galloway-Williams here for that.

MS. HORLBECK: I don't think so either, no.

THE COURT: And we can just -- I'll give them some curative instructions, that this was something that was supposed to have been played yesterday and we didn't realize it until afterwards.

MS. HORLBECK: All right.

SOLICITOR JONES: And, Your Honor, as to that, I would ask that you give the jury instruction that although I was playing the video, you made the determination as to what was relevant and what was irrelevant. And that the State was only playing the relevant matters, so that way it wouldn't appear that I was attempting to hide anything from the jury.

THE COURT: I'm not letting you out that easy.

And I'm sure, Ms. Riden, your counsel has instructed you that your bond has been revoked.

DEFENDANT RIDEN: (Affirmative nod).

THE COURT: All right. Anything further before we break for the day?

SOLICITOR JONES: Nothing from the State.

THE COURT: We don't have any evidence to look at so y'all should be ready to go at 9:00. I will see everybody at 9:00.

(COURT IN RECESS)

(TRANSCRIPT CONTINUED NEXT PAGE)

JANUARY 28, 2016 9:00 A.M.

(DEFENDANT RIDEN PRESENT)

(DEFENDANT HENDRIX PRESENT)

THE COURT: We talked last evening about the redactions. You want me to tell the jury that was redacted because it was hearsay, that anything that was in the videos that somebody else said that they're to disregard that. I thought that may be, would cover that.

I was going to also say that since this was Plan B as far as our redaction, that we were going to do it another way and that you were having to do it by stopping where we'd agreed to.

And that's the portion we're just going to -- how long is the portion we're going to show?

SOLICITOR JONES: It looks like it's a minute and ---

THE COURT: All right. I want to be able to tell the jury that so that they don't think we're suckering them into another thirty minutes or something.

MS. HORLBECK: No, it's very short. Thank you, Judge. That's fine.

THE COURT: All right.

MS. HORLBECK: All of that sounds good.

THE COURT: All right. Is that okay with you, Mr. Warder?

MR. WARDER: It is, Your Honor.

THE COURT: Okay. Subject to all your previous objections about the video, State's Exhibits 2 and 4.

MS. HORLBECK: Yes, Your Honor.

THE COURT: Okay. Well what I'm going to do is I'll bring the jury in and I'll give them that instruction, then y'all can play the video. And then you'll be able to call your next witness; is that correct?

SOLICITOR JONES: That's correct, Your Honor.

THE COURT: All right. Bring them in.

(JURY IN @ 9:10 A.M.)

THE COURT: Good morning, ladies and gentlemen. I hope everybody had a pleasant evening. We're ready to continue

with the trial.

All right. A couple of things about the video yesterday. During our break, one of the breaks yesterday morning, we were trying to come up with the technological way of redacting things, but that didn't -- we had to go to plan B. And that was why the Solicitor was up there having to stop and start the video. It was a lot of the editing. You've heard various objections as to hearsay. Anything that anybody else said is not admissible under certain circumstances.

There was one instance where it did not get edited. So I'm telling you that anything on the video where it was mentioned that 'someone else said', then you are to disregard that in your deliberations.

But also they realized after they got through there was a part that was supposed to be heard. I will tell you it was on about a minute, minute and a half. Both sides agreed that it was to be heard, but it just got skipped in the process. We need to hear that part, so that's what we're going to

do first thing.

Any exceptions on that from the State?

SOLICITOR JONES: Nothing from the State?

THE COURT: Any exceptions from the defendants?

MS. HORLBECK: None, Your Honor.

MR. WARDER: No, Your Honor.

THE COURT: All right. So that's what we're going to start off and then we'll go into another witness after this very brief portion of the video.

So if y'all want to proceed with the video.

SOLICITOR JONES: Thank you, Your Honor.

(PORTION OF STATE'S EXHIBIT 4 PUBLISHED)

COURT REPORTER: This is State's Exhibit Number?

SOLICITOR JONES: I'm sorry, this is State's Exhibit Number 4.

COURT REPORTER: Thank you.

MS. HORLBECK: Judge, I really didn't hear it.

THE COURT: Yeah. I had trouble hearing it as well.

SOLICITOR JONES: Yes, sir, Your Honor.

(PORTION OF STATE'S EXHIBIT 4 REPLAYED)

THE COURT: All right. Solicitor, you can call your next witness.

SOLICITOR JONES: Thank you, Your Honor. The State calls Ms. Christine Carlberg, please.

(WITNESS TAKES STAND)

CHRISTINE CARLBERG, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Ms. Carlberg, tell the jury where you work, please, ma'am?

A. I am employed by the Greenville Department of Mental Health and I'm contracted to work at the Julie Valentine Center.

Q. And what do you do at the Julie Valentine Center?

A. I conduct interviews of children or

sometimes delayed adults who have allegations of abuse.

Q. And describe a little bit what are your duties in that position?

A. I meet with children -- well, usually we first meet with -- a child is first referred to us, usually by law enforcement or DSS who have made an allegation of abuse. Then once they're scheduled, I usually meet with their caretaker or their DSS worker, whoever brought them in to just kind of to gather some background information about the case and about the child. And then I meet with the child. And then after that, that information is passed along to the detective who is investigating the case.

Q. Okay. Can you tell me some of your educational background, please, ma'am?

A. Yes. I have a Bachelor's of Science in Rehabilitation Services Education with a minor in Psychology from the Pennsylvania State University.

I have a Master's of Arts in Marriage and Family Therapy from the Reformed Theological

Seminary in Jackson, Mississippi.

Q. Do you have any specialized training beyond that specific education?

A. Yes. I've been through two nationally-accepted programs for forensic interviewing. One, which was in -- which was called Corner House, which was in Minneapolis. And in which was called Finding Words in Mississippi. Then I've been through various conferences over the last fifteen years across the nation.

Q. And how long have you been in your current position?

A. Almost nine years.

Q. How long have you been in this particular field?

A. I've been working with children since 1998. I've been interviewing children for about fifteen and a half years.

Q. Would you be able to give an estimate of how many children you've interviewed for the purposes of child sexual abuse or just child abuse allegations?

A. I've interviewed two thousand eight hundred and twenty-six children.

Q. How do you know that?

A. I keep track of how many children I see.

Q. Okay. Do you teach or train other counselors or students? Do you do any training or teaching?

A. I do. Whenever we have new hires or new forensic interviewers come on staff at my old children's advocacy center in Mississippi and this current one, I've helped to train them. I've also participated in Finding Words, which is a training program for forensic interviewers in Mississippi when they were learning how to be forensic interviewers.

Q. Have you ever been qualified as an expert before?

A. Yes, sir.

Q. How many times have you been qualified as an expert?

A. About twenty-five times.

Q. And what circumstance was it when you were qualified as an expert? What particular court or ---

A. I've been qualified in both criminal

and family courts.

SOLICITOR JONES: Your Honor, at this time, I would request that Ms. Carlberg qualify as an expert in the field of child sexual abuse dynamics and disclosure.

THE COURT: All right. Any additional questions from ---

MS. HORLBECK: Just briefly, Judge.

VOIR DIRE CROSS-EXAMINATION

BY MS. HORLBECK:

Q. Ms. Carlberg, that's your name?

A. Yes.

Q. Sometimes I get names wrong so I just wanted to check with you. You said you are employed by the Department of Mental Health?

A. Yes, ma'am.

Q. And is that within South Carolina?

A. Yes, ma'am.

Q. Okay. All right. And you -- and I'm just going to kind of go over a little bit of your qualifications. You said them kind of fast. So sometimes I can't write them down fast enough. You said you had a BA

in ---

A. A BS.

Q. A BS, okay. In what?

A. In rehabilitation services education with a minor in psychology.

Q. Okay. All right. And are you -- you are not a psychiatrist; are you?

A. No, ma'am.

Q. You're not a psychologist?

A. No, ma'am.

Q. All right. And so are you a ---

A. I'm a licensed professional counselor.

Q. Okay. All right. Do you -- you have your license in South Carolina?

A. No, ma'am.

Q. You don't? Where is your license?

A. In Mississippi.

Q. Okay. All right. And have you -- how many hours of supervised clinical experience in the practice of professional counseling, how many hours have you completed?

A. Well, for my license I had -- it's been so long ago. I think I had to have two

hundred hours of supervised -- a hundred of which could be group hours. I think that's right.

Q. Okay. So you think it's two hundred hours?

A. Of supervised.

Q. Okay?

A. Yes.

Q. All right. And do you know what period of time you performed those hours, those two hundred hours?

A. I graduated in August of 1998 and I got my license in 2001 or -- yeah, 2001. So between those years is when I was being supervised for my license.

Q. Okay.

A. Now, I've always had a supervisor at work.

Q. Okay. All right.

MS. HORLBECK: I don't have any further questions but I would like to be heard on the -- I don't know if Mr. Warder has any.

THE COURT: Right.

Any questions, Mr. Warder?

VOIR DIRE CROSS-EXAMINATION

BY MR. WARDER:

Q. Have you been published? Have you written articles?

A. No, sir.

Q. Have you written any peer-reviewed articles?

A. No, sir.

Q. And you said you had two hundred hours. I guess that would be about five forty-hour weeks; is that right?

A. Yeah. It's about two years of supervision.

Q. Okay. And you're an expert in what field? What's the exact field that you purport to be an expert in?

A. Child abuse dynamics.

Q. Child abuse dynamics?

A. Yes, sir.

Q. Do you have any courses entitled that or any -- how do you come to be recognized in child abuse dynamics?

A. Well, the trainings that I've been through for interviewing, plus all the other trainings that I've been through throughout

these fifteen years have taught me about the different dynamics that come along with child abuse.

Q. Okay. So you've just taken your experience and you've kind of decided what was, what the dynamics were.

A. Well, I didn't take them as what they were because -- they were taught to me about what child abuse dynamics were.

Q. Okay. So other people told you what child abuse dynamics were and then you listened to them; is that what ---

A. Yes.

Q. And this wasn't a part of a regular classroom or educational program?

A. Well, it was education when I attended several conferences to further my knowledge for my job.

Q. Well, when you go to a conference, those conferences are just -- you go listen to a lecture where somebody else gives opinions and stuff; is that right?

A. Or they're talking about the current research that has occurred.

Q. Well, have you been involved in the

current research?

A. No, sir.

Q. So you haven't -- you don't run experiments or collected data, you just listen to other people tell about it?

A. And read about it, yes, sir.

Q. Did somebody give you a particular program to read books and articles in or you just kind of find the ones you want to read and read them?

A. Well, the conferences that I go to tell us what the current literature is and the current research that's going on.

Q. Okay. So other people tell you about the current research and stuff. You don't actually read it?

A. Well, I read it; yes, sir.

Q. Do they give you books and stuff to read it in?

A. Or articles.

Q. Somebody Xeroxes an article and passes it out; is that what we're talking about?

A. Sometimes, yes, sir.

MR. WARDER: Thank you.

THE COURT: All right. Any further questions from the defendants and -- your position is whether -- you move to qualify her as an expert in child abuse dynamics?

SOLICITOR JONES: Yes, Your Honor.

MS. HORLBECK: I don't have any further questions, Judge. I would say that she's not qualified. But I'd also -- I'm also concerned. She doesn't seem to be licensed in South Carolina. And I think there's a minimum of two thousand hours of supervised clinical experience in the practice of professional counseling that have to be picked up, performed over a minimum two-year period in South Carolina. So I don't think that she qualifies.

THE COURT: All right.

MR. WARDER: Your Honor, I have serious questions about whether this is a field that expert witnesses can testify in.

THE COURT: Well, I think -- I mean, under *State v. Brown* I think that's been cleared, they've cleared that hurdle as appropriate expertise. I understand. I

think that if you can go into some more detail on that.

And I think that based on what her training and -- I mean, whether she's licensed or not is not necessarily a requirement for her serving as an expert. But I'm going to find that she can qualify as an expert in the field of child abuse dynamics and y'all can ask her additional questions on cross-examination.

Ladies and gentlemen, let me -- this is kind of like I told you yesterday. Normally, a person, a layperson cannot give opinion testimony. And because they have to testify on stuff that they observed, they saw, they smelled, stuff like that, in direct testimony. However, there is an exception when someone qualifies as an expert. They can give opinion in certain fields in which they're qualified as an expert based on their experience and their education. And in this field, this witness has been qualified as an expert in child abuse dynamics.

Now, as I told you yesterday, this is like any other evidence that you'll be

hearing. It's still up to you to determine what weight that you need to give it when you begin your deliberations.

With that, Mr. Jones, you can continue.

SOLICITOR JONES: Thank you, Your Honor. Briefly, to address a few of those things Ms. Horlbeck and Mr. Warder brought up.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. I believe you responded as to your training. To get a certain level of training or get a certificate you had to go through two hundred hours of supervised ---

A. Yeah. I think I misspoke about that. I was thinking the actual number of hours that I had of supervision. I had two years of clinical work, of forty hours a week of work. So that probably equals that two thousand hours of actual work that was supervised.

Q. Since then in your fifteen years experience, you testified you keep track of how many forensic interviews you've

conducted. And you've done what? What was the number?

A. Two thousand eight hundred twenty-six (2,826).

Q. So how many hours would that be then?

A. Each one of those probably takes two to three hours of actual face-to-face time with the caregiver plus the child. And then additional phone calls and paperwork in-house that goes along with it.

Q. And, again, you've testified you've been qualified as an expert before?

A. Yes, sir.

Q. How is your current position funded?

A. I am a salaried State employee.

Q. So is your salary contingent upon what you say here today?

A. No, sir.

Q. Have you had any contact with the victims in this case, Minor 1 , Minor 2 Minor or Minor 3 ?

A. No, sir.

Q. Have you seen any videos or read any statements attributed to those three

children?

A. No, sir.

Q. Tell the jury what delayed disclosure?

A. Delayed disclosure is exactly what it sounds like. It's a delay from the time an incident occurs until the child actually tells about it. And that could be a matter of hours. It could be tens of years down the road before someone decides to talk about what might have happened to them.

Q. How common is delayed disclosure in child abuse or child sex abuse cases?

A. Delayed disclosure is very common. There has been some, like surveys taken or some research done with adults. And only a third of them said that they disclosed when they were ---

MS. HORLBECK: I would object to any research regarding adults, Judge.

THE COURT: I think it's appropriate because -- I'm going to allow it.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Go ahead.

A. Only a third of those adults said that they disclosed during their childhood. So a delay in time is very common.

Q. Are there any statistics that you area aware of as to the rate at which abused children delay disclosure?

A. I'm not sure that a -- I'm sorry. Can you repeat that question?

Q. Are you aware of any statistics regarding the frequency that abused children delay disclosure?

A. A lot of times ---

MR. WARDER: Your Honor, I object to what literature says or -- it's hearsay to begin with, the testimony. And if you don't participate somehow in the experiments that the literature gives, you have no knowledge for the basis of which the expert's basing its opinion.

THE COURT: I mean, you can ask about her literature that she's reviewed, but I think that's proper under her being qualified as an expert.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Ms. Carlberg, go on about the literature in sex abuse cases.

A. A majority of children at first might deny that something has happened to them. There's about like over seventy percent of children actually first deny, even when they are asked if something has happened to them. But then a majority of those children will actually go on to say what had occurred.

Q. Are you aware of any reason why victims of child abuse would delay disclosure?

A. Well, each child is different and so each child might have their own reason for not talking about what happened.

A very common reason is that children are -- the majority of children are abused by someone that they know. It can be a family member. It could be a close family friend. It could be someone in their community that they're close to, a teacher, a pastor or a coach. So they usually have a very close, loving, trusting relationship with that person. And they don't want to get that

person in trouble. They don't want to tell about what happened.

Kids also -- like, as adults, we look at it like oh, something inappropriate might be happening or something bad might be happening. And so we think -- well, kids won't want to have any contact with that person or will be afraid or be fearful. But kids aren't often like that. They can kind of know that this thing is going on that they don't like, but there's a lot of positives still with that person. So they do have that loyalty to that person and might not want to tell about what happened.

Other reasons they might delay disclosure is a lot of times when kids are abused they think that they did something wrong, that they're at fault, that they caused this this to happen. So they don't want to tell and get themselves in trouble.

Kids who have an understanding of what happened, like if they have been sexually abused and they understand that that was kind of an inappropriate touch, they might feel embarrassment or shame and they don't want to

talk about it then.

Another reason is kids might think that they're not going to be believed or they won't be protected if they tell.

Younger kids might not even know that something wrong happened. If no one ever taught them what inappropriate versus appropriate touches are, they just might not understand that there's something there to tell.

Q. And you mention the perpetrator or the person that did the abusing might be someone they're close with.

A. Right.

Q. Can you elaborate on that, how that would affect whether the child disclosed?

A. Well, like I said, usually the majority of children are abused by someone that they know and trust. So they usually have a great sense of loyalty to that person.

Say, for example, if someone in their family they might understand 'well, if daddy leaves mommy's not going to be able to pay the bills and we would lose our house' or whatever it is. And there is that loyalty,

there is that trust there that they feel very protective of that person.

Q. And then you mentioned loyalty and trust. Is there another feeling that the child might have for someone, a family member that would prevent them from disclosing?

A. I think just love and that close relationship that they normally would have.

Q. What's meant by the process of disclosure?

A. Disclosure usually isn't just a one-time event. A child or not even an adult doesn't just sit down and disclose everything that's happened to them. It's usually over a process or over a period of time.

And like I said, a lot of kids initially start with denial. There might be some kind of thought there or suspicion that this kid's been abused and someone might ask them. And they might just first deny that the abuse happened.

Then they might move into what's called a tentative stage of disclosure. And that's characterized by children, like kind of piecemeal talking about something that

happened. They might say well, I think it happened or maybe it happened or it happened to my friend. Or they might be able to talk about like maybe the physical abuse part of versus the sexual abuse part of it. Or they might minimize what happened. Like it happened one time when in reality it happened multiple times. So they're using just kind of this tentative language when they're first talking about it. And that's mainly just kind of to test the waters a little bit. Like if they're telling somebody is that person going to believe them? Is that person going to protect them? So they're just kind of like, kind of feeling how it's going to go.

And then a lot of those children move from that tentative stage into an active stage of disclosure. During that active stage of disclosure, that's when they're giving you the who, the what, the where, the how, depending on their age kind of a when and how it happened. They're also giving you a lot of sensory details, how did things taste? How did they feel? How did they

smell? And then they're giving you what's called contextual details, too, like were their clothes on or off or were they standing or sitting? Were there other people in the house when it happened? So they're just kind of giving you all the details that might have occurred during their incidents.

Then some kids move from that into a recantation phase, which they might start to take back what happened. And that's mainly because there are consequences for what happened to them. Maybe they got removed from the home. Maybe their siblings got removed or they didn't realize they were going to have to talk to law enforcement or talk to the department of social services or have a medical exam or come to court or whatever it is. So some kids move into just that stage where they might be taking it back.

But a lot of those kids who move into that stage eventually come back to the active stage where they're retelling about what happened.

Q. And is that process the same for all

children who are sexually abused or abused?

A. No, not all children. Some kids just go right into what happened. Some kids never recant. Some kids deny their whole lives that anything has happened to them. So, no, it's not the same for every child.

Q. Why would a child recant, even if they were actually abused?

A. Well, like I said there are -- of course, every child's going to have their own reason for that.

But, again, just sometimes there's consequences.

Sometimes that person that they love or that person who offended against them goes to jail. Sometimes they're removed from the home. Sometimes they're placed not just with another family member but in foster care. Sometimes they're the ones that are removed and their siblings stay at home some they start to worry that. 'well, maybe something's going to start happening to my siblings.'

And then, again, they just didn't realize things were going to go so far. I didn't realize I was going to have to talk to police

or go to court or all these other things that sometimes come along with making an allegation.

Q. Can you tell the jury about grooming?

A. Grooming is a process that an offender or alleged perpetrator uses to kind of get that trust of a child. Like I said, it's usually someone that the child knows. So a lot of times, they have that loyalty. But they also want to just gain that trust of the child because they don't want the child to tell. So they do what they can to keep that relationship with that child.

Grooming can look like a lot of things. It can be gift-giving. It can just be special privileges, like you gets to stay up later than everyone else. Or just talking to them about sexual things or whatever's going on. So it can look like a lot of things.

Q. Why would talking to the children about sexual things be considered grooming?

A. Sometimes talking about it, sometimes having sexual relationships with other people in front of children is a form of

grooming because they're just trying to get those kids normalized to that behavior. Like this is what people do. This is regular. It's nothing that we need to tell about. This is just what happens in families. So it's just kind of getting that normalized behavior and those thoughts going on in the child.

Q. Is there anything else that would normalize sex in front of children besides talking with them or having sex in front of the children?

A. Maybe showing pornography or something like that. Just, you know, just getting that kind of sexual environment out there.

Q. Are there any factors that you're aware of that would make children more vulnerable to child abuse?

A. Some of the things that make children more vulnerable to abuse is if fear is one form of maltreatment going on in the home, such as some kind of neglect or domestic violence or drug use, educational neglect, abuse to animals. If one of those

kinds of victimization is happening, there is a higher risk that another form is going on. Like if one of those things is happening, there's a higher risk that physical or sexual abuse is happening. So when there is one form of maltreatment, it puts the child at higher risk for other forms of maltreatment.

Also, what can put a child at risk is a child that's living in the -- like has a single parent. If that single parent has a partner in the home, that child is more at risk to be sexually abused.

Q. Is there any other aspect of being a single parent that -- you mentioned being a single parent and having a partner living in the home?

A. Uh-huh.

Q. Is there any other aspect of being a single parent that would make the children more vulnerable to abuse?

A. They're just more vulnerable to abuse if they're not living with the biological parents or if the parents like have partner after partner come in. That might put them more at risk.

Q. And, again, are you aware of any -- what about parents who leave children with third parties. Are you aware how that affects the possibility of abuse?

A. Well, I mean, again, it just -- I think it depends on -- obviously, the parent would have to know who they're leaving their child with. If they're just leaving them with strangers or if they're leaving them with people that -- let's say, for example, they're involved in just a drug scene or another kind of scene, and they're leaving their children with other people who are involved in that same type of thing, that does put the child more at-risk.

Q. Are you aware of any -- how more likely is it for a child to be abused if they have a single parent with a live-in partner? Any statistic for that?

MS. HORLBECK: Your Honor, I'm going to object. I'm going to object to those. It's purely speculation.

THE COURT: I'm going to sustain that.

SOLICITOR JONES: Well, Your Honor,

I believe there is actual literature or studies that point to a number of how more likely a ---

THE COURT: All right. I think she's testified to some extent of that. I'm going to sustain the objection.

SOLICITOR JONES: Yes, sir. Your Honor.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Can you talk to the jury a little bit about evidence of coaching and what someone in your role would look to for evidence of coaching and what is coaching?

A. Well, coaching is you're telling a child or another person what to say. So you might be telling them whatever you want, whatever allegation you wanted them to make.

What we look for -- what can you look for is a lot of times children are just asked 'did anybody tell you what to say today?' Or you know, you might say, 'well, what does mommy say about daddy or what does daddy say about mommy or what were you told to -- what did people to say to you' if they're like on

their way to part of their investigation.

Q. In your experience do children tell the interviewer if someone told them what to say?

A. Yes. In my experience I have had children say that so-and-so told them what to say today. But we have to -- one of the things we have to remember is if you have been to a Christmas pageant or a child's play, it's very hard for kids to keep up their lines.

And it's very hard to keep up a lie in such great detail. And in order to keep up a lie, a detail not just one time but over a period of time, you kind of have to take the perspective of the other person. Like I have to know what you want from me, to order to convince him to lie about something.

I also have to know the subject matter that I'm lying about. Like, for example, I could sit here all day long and tell you that I'm an attorney or I went to law school. But as soon as an attorney starts to question me, they're going to learn pretty fast that I don't have any idea what I'm talking about.

So you have to know what you're talking about in order to convincible lie.

And so when you're looking at a child's statement or you're looking for evidence for coaching, you want to look at, is that child being consistent over time?

Are there core details like who did it? What happened? Where it happened? Are those the same when DSS talked to them, law enforcement talked to them?

If they had a medical exam, are those things consistent.

You also want to look at can they give you those details that we had talked about before. Like can they give you how things tasted? How things felt? How things smelled? How clothes were, all those kinds of details.

It would be very hard for someone coaching a child to give them all that kind of information that a child can repeat during that investigation process.

Q. And just briefly, can you go over how you can tie the -- when you're looking for coaching, you try to look for -- to

ensure that there are core details that are similar or remain consistent.

Can you tie that back to what we talk about with delayed disclosure or the process of disclosure as a child is tentative at first and then goes to a more accurate stage. Does that question make sense? I know it's kind of elaborate.

A. Usually those core kind of details, who did it. What happened? Maybe where it happened? Maybe some time of when it happened or how it happened, those kind of core details will stay the same. The other kind of details how clothes were, maybe some statements made, those things might cannot as the process of disclosure go along or get into the active stage, they might start to tell me more about those things.

Q. And could the severity of the abuse change because of the process of disclosure but still be core and consistent?

A. Yeah. They might ---

MS. HORLBECK: I think that's asking for an ultimate conclusion, which is the jury's responsibility.

THE COURT: Yeah. That's getting kind of -- I'm going to sustain the objection.

SOLICITOR JONES: Yes, sir, Your Honor.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Back to the -- as to evidence of coaching, you look for the core and consistent details. Is there anything about a victims' age and their ability that you look for during a forensic interview?

Their ability to articulate certain things, how does that effect evidence of coaching or what you do during a forensic interview?

A. Well, the younger a child is the less detail you are expecting to get. Like when a three-year-old is interviewed, you can expect them to give who did it and what happened. A lot of those other kind of details that you're looking for, a really young child usually can't give.

But as the child gets older and older, they're able to give you more of those

details. They're able to give you more of the how things happened, some type of when things happened.

So, yeah, the details that a child can give usually increases as they age.

Q. What are some things that, say a six- or seven-year-old would not be able to accurately discuss in a forensic interview?

MS. HORLBECK: And Judge, I'm going to object to that. I think that's speculative.

THE COURT: If you'll repeat the question.

SOLICITOR JONES: Some things that a child would not be able to accurately discuss during an interview?

THE COURT: I think that's okay. Overruled.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Go ahead.

A. A six- and seven-year-old would still have a hard time with when something happened. They might be able to tell you like it happened one time or more than one

time. But exact when of how it happened, is difficult for a six or seven-year-old.

Q. And can you discuss a little further what you mean by core and contextual details in relation to what a child would say versus what we would expect an adult?

MS. HORLBECK: That's asked and answered, Judge.

THE COURT: Yeah. I think you need to move along.

SOLICITOR JONES: Yes, sir, Your Honor.

DIRECT EXAMINATION CONTNUED

BY SOLICITOR JONES:

Q. Is there anything as to the, the length or the type of questions that you ask a child that would help the forensic interviewer detect any type of coaching?

MS. HORLBECK: I'm going to object to that, Judge. I think that's speculative. I don't see how she would be able to answer that without being the person that interviewed the children.

THE COURT: I mean, if she's got some basis for that, I'll allow it.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q Is there anything specifically as to how forensic interviews are conducted that would help the forensic interviewer detect coaching?

A. Well, like I said, a lot of time kids are just asked 'what did they tell you about coming here today?' Or what does -- or 'what did mom say about coming her today' or 'what did dad say about coming here today.' Or does anybody -- 'did anyone tell you to say those things?'

A lot of times you want to ask kids like how do they know something. How did they know it happened? Did they see it or did someone tell them about it. You can ask -- that's called source monitoring. How do they know the source of their information?

SOLICITOR JONES: No further questions, Your Honor.

THE COURT: Ms. Horlbeck.

CROSS-EXAMINATION

BY MS. HORLBECK:

Q. Ms. Carlberg, you've testified a lot

about delayed disclosure. That's actually, I guess, a characteristic that Ronald Summit came up with; correct?

A. Summit talked about -- he did talk about delayed disclosure. So did Sorenson study talked it.

Q. Okay. And you're aware that Ronald Summit wrote his paper that included, talked about delayed disclosure, none of that was scrutinized by scientific method; was it?

A. What he said it's not a diagnostic tool.

Q. Right?

A. That's correct.

Q. So none of it -- you and I are saying the same things. None of what he said, including delayed disclosure, has actually been scrutinized by the scientific method; has it?

A. Well, Brock did some studies on Summit's -- because that's something they talked about. So they did do some scientific studies on this.

Q. Let me back you up, though. I'm just talking about Ronald Summit. In coming

up with delayed disclosure he did not expose delayed disclosure to any sort of scientific analysis; did he?

A. I think that can come with his experience.

Q. And you've got a BS correct, a bachelor of science?

A. Yes, ma'am.

Q. So you know what the scientific method is; don't you?

A. Yes, ma'am.

Q. You know it includes defining the question, gathering information and resources; isn't that correct?

A. Yes, ma'am.

Q. Forming a hypothesis?

A. Yes, ma'am.

Q. Performing experiments and collecting data?

A. Yes, ma'am.

Q. All right. Analyzing that data, interpreting and publishing results; isn't that correct?

A. Yes, ma'am.

Q. And Ronald Summit did not do any of

that when he came up with delayed disclosure.

A. He also said that it wasn't a ---

Q. That's right. You and I are saying the same thing. It is not a diagnostic tool.

A. It's not a diagnostic tool.

Q. All right. So it's not a tool that we can use to diagnose that anybody's been abused, is it?

A. No. No, ma'am.

Q. Okay. All right. I just wanted to clear that up. So it's only a theory. It's something -- you cannot use it for diagnosis?

A. Right.

Q. Are you aware that there's a 1996 study conducted by Bradley and Wood that said that "at present research findings regarding disclosure of sexual abuse are scanty and inconsistent." Are you aware of that study?

A. That said what?

Q. That said at present research findings regarding disclosure of sexual abuse are scanty and inconsistent?

A. From 1996?

Q. Yes.

SOLICITOR JONES: Your Honor, I

would object and ask that she be given the opportunity to read that study if she's going to be -- Ms. Horlbeck's ---

MS. HORLBECK: Judge ---

THE COURT: She's just been ask if she's aware of the study. Overruled.

CROSS-EXAMINATION CONTINUED

BY MS. HORLBECK:

A. I'm not sure that I read that study, no, ma'am.

Q. Okay. All right. So you don't know anything about that study? All right. And you're supposed to be the expert in this; correct?

A. Yes, ma'am.

Q. Okay. All right. Are you aware of a study or a compilation by Kamila London regarding disclosure? It's called *Disclosure of Child Abuse. What does the research tell us about the ways that children tell?*

A. Yes, ma'am.

Q. All right. And he looked at a number of studies; didn't he?

A. Yes, ma'am.

Q. And when he surveyed those studies

the actual rates of disclosure ranged from thirty-one percent to eighty-seven percent; didn't they?

A. Yes.

Q. All right. And a lot of these studies have different ages that the disclosure can occur at; isn't that true?

A. Disclosure can occur at any age.

Q. And some of these studies use completely different definitions of abuse. Some of these studies use broad definitions, some of the studies use very narrow definitions; isn't that correct?

A. Yes.

Q. Okay. And you talked about a study, about a third of adult, that only a third of adults disclose. That study was performed on adults; wasn't it, ma'am?

A. Well, they were asking if they disclosed as children.

Q. The study was performed on adults; correct?

A. Yes, ma'am.

Q. The questions were asked to adults not children?

A. Yes, ma'am.

Q. We're talking about children in this case not adults.

A. Well, that was in response to a delayed disclosure. So they were proving that they delayed their disclosure.

Q. Ma'am, you say they're proving they were delaying the disclosure. Do you know anything about the rates, the conviction rates in these cases?

Do you know how many of these adults -- do you know how many of the perpetrators were actually convicted?

A. I'm not sure what their disclosure has to do with their conviction rates.

Q. I'm saying how many of those cases that we're talking about, how many cases were cases of actual abuse?

Do you even know that when you testify that thirty percent of adults don't even disclose until adulthood?

A. I'm sorry. If they have been actually abused or not?

Q. Yes, do you know?

A. No, I don't know that.

Q. Okay. All right. And, again, back to my question, the questioned study was performed on adults; correct?

A. Yes. For delayed disclosure.

Q. All right. The people in this case are children?

A. Yes.

Q. All right. And you don't have any statistics about that. Your statistics are about adults?

A. Well, that study that I cited, the Sorenson and Smith study, they did talk about children.

There's been also studies of children who have known to have been sexually abused, such as they've been diagnosed with a sexually transmitted infection, who had a delayed or completely denied being abused.

So there are a lot of -- there are several studies that are dealing with just children.

Q. Okay. But you told us about a study where only a third of adults disclosed; correct?

A. Yes, ma'am.

Q. All right. That's the study you brought us today; correct? That's the statistic you just brought us when you testified on direct?

A. For delayed disclosure, yes.

Q. Okay. And that study -- let me back you up again. That study was performed on adults; wasn't it?

A. Yes, ma'am.

Q. Not children?

A. Yes, ma'am.

Q. Okay. Do you even know the number of adults that were surveyed?

A. I do not off the top of my head.

Q. And you don't know the conviction rate in the cases of those adults who were surveyed; do you?

A. Well, now, a lot of times people disclose that aren't -- that they're ---

Q. But you don't know the rates? Do you know the statistic? Do you know how many ---

A. They're just asking if people have been abused and if they disclosed as children?

Q. But do you know how many of those cases where the adults waited until they were adults to disclose, how many of those cases were cases of actual abuse; do you know?

A. I don't know.

Q. Okay. You're not licensed in South Carolina; is that right?

A. Right, ma'am.

Q. And you said that you thought you had worked forty hours or performed forty hours a week for approximately a two-year period; is that right?

A. In that licensure period.

Q. You said you thought that would equal two thousand hours?

A. Yes.

Q. Do you have documentation?

A. I do.

Q. Do you have it with you?

A. No, I don't.

Q. Okay. All right. So no documentation with you today about those hours. And in this case you haven't talked to the children, have you?

A. No, ma'am.

Q. And you haven't talked to my client Ms. Riden; have you?

A. No ma'am.

Q. And you haven't talked to Mr. Hendrix?

A. No, ma'am.

Q. So you don't even know if coaching or delayed disclosure or -- what was the other one you listed -- grooming even happened in this case?

A. No, ma'am.

Q. Thank you.

MS. HORLBECK: I've got no further questions.

THE COURT: Mr. Warder.

CROSS-EXAMINATION

BY MR. WARDER:

Q. You haven't talked to our clients but you have talked about the facts in this particular case; haven't you?

A. Not any details about the facts of the case.

Q. You and the Solicitor -- you talked to him in the hall yesterday; didn't you? Right out here?

A. I talked to the Solicitor, yes.

Q. About the facts of this case?

A. No, sir.

Q. You told us that coaching can occur. You have seen cases that coaching has occurred in?

A. Yes, sir.

Q. And you said it'd be hard to keep up with over a long time?

A. Yes, sir.

Q. But it could be kept up twice; couldn't it, on two occasions?

A. I don't think -- well, depending -- I mean, if it's a young child, no, I don't think with all the details, a consistent detail, no.

Q. If before the child went in to view the anatomical correct dolls, if somebody took Barbie dolls and showed them what they were going to be asked and what the question should be, would that be a form of coaching?

A. Well, I don't -- first of all, I don't know what questions were asked. And Barbie dolls are not like anatomical dolls.

Q. Well, could you show people what you

wanted them to say by an anatomical doll, a doll that didn't have a mouth or a genitalia. And say 'this is what happened, go tell them about what happened'?

A. Well, I don't think a person who's coaching them is going to ask the same kind of questions or in the same way that is going to happen during an interview.

Q. So if you knew that the children had just been instructed on what to say with Barbie dolls, you wouldn't think that was a form of coaching; is that right?

A. No, I think it would be a form of coaching but dolls in an interview are not brought out until there's been a full verbal disclosure.

Q. How about if somebody was experienced enough to know that the dolls were going to be and so they coached the children before.

A. Well, dolls aren't used in every interview, so ---

Q. Was that the question I asked? How about if in this particular case somebody did that? Would that be a form of coaching if

before the interview they took the Barbie dolls out and said, 'This is what happened to you. This is what's going to be asked about?'

A. Yes. If someone such suggestive questions or suggestive information, saying show this, then, yes, that would be -- if someone actually said 'show this', that happened or show this particular thing.

Q. Can you think of why somebody might take Barbie dolls and demonstrate if it wasn't to show them what happened?

SOLICITOR JONES: Objection, Your Honor. That's not in her field of expertise. That's speculation.

THE COURT: I think under her qualifications, I'll allow it.

MR. WARDER: Thank you.

THE COURT: All right. Any redirect?

SOLICITOR JONES: I beg the Court's indulgence. Nothing further, Your Honor.

THE COURT: All right. Thank you.

(WITNESS STEPS DOWN)

SOLICITOR JONES: Your Honor, at

this time the State would rest.

THE COURT: Ladies and gentlemen, at this time we've got some of those matters that we have to take up outside of your presence.

So if you'll go back to your room again. This is not the time to begin any discussion or do any deliberation about the case. So go back to your jury room and we'll you back out shortly. Thank you.

(JURY OUT @ 10:14 P.M.)

THE COURT: All right. The State has rested. Anything from the Defendants?

MS. HORLBECK: Your Honor, at this time I would just renew all my prior Motions and everything that I said, all objections as well.

I would ask the Court grant a directed verdict. In the light most favorable to the State, I don't think there's any direct or any substantial circumstantial evidence reasonably tending to prove the guilt of Ms. Riden. And I would just ask that the Court grant the directed verdict in her favor.

THE COURT: All right. And I believe that taking the evidence in the light most favorable to the State, there has been direct and circumstantial evidence, at least to overcome this stage. So I deny your Motion.

MS. HORLBECK: Yes, sir.

THE COURT: Mr. Warder?

MR. WARDER: Your Honor, we also would move -- and we also renew our previous agreement, Judge. And we would move for a directed verdict on the ground of insufficient evidence for the case to go forward, taken in the light most favorable to the State.

THE COURT: And as indicated, it's not up to the Court, as you know, to weigh the evidence. But there is evidence that would allow it to get, I think, past the stage of directed verdict only. I think both direct and circumstance evidence. So based on that, I'm going to deny your Motion.

MR. WARDER: Thank you, Your Honor.

THE COURT: All right. Just for planning purposes, I'll give y'all a chance

to talk if -- does anybody wants to disclose whether they're going to be putting up information at this time. Or do y'all want me to just ask you that later? I mean, just so we can make some plans as far as we need to start getting verdicts and charges together. Do y'all have any charges?

MR. WARDER: I don't have any specific charges. I have general charges.

THE COURT: Any charges for ---

MS. HORLBECK: No specific charges.

THE COURT: All right. We'll give everybody a few minutes and then I'll get the charges. Do you have any charges?

SOLICITOR JONES: No, but I would like to have a copy of yours before ---

THE COURT: All right. What I do is, I usually do them on computer ---

SOLICITOR JONES: Yes, sir.

THE COURT: And I can e-mail -- do y'all have a way to receive them? Do you have something that you can get them?

MS. HORLBECK: I'm not hooked up to the internet. Can I hook up to the

internet here?

THE COURT: I don't think in this courtroom you can. We can print a copy.

MS. HORLBECK: I appreciate it. Thank you, Judge.

SOLICITOR JONES: And, Judge, I'm sorry. But if they do put up a case -- I have their witness list. But I've asked them for the dates of birth for the witnesses to get any possible rap sheets, Your Honor. I'd just ask that they give me those dates of birth before they move forward.

MR. WARDER: We were kind of left to our own device to find out any -- you know, we had no access to their rap sheets.

SOLICITOR JONES: Well ---

THE COURT: We will cross that bridge if we need to. How about that?

SOLICITOR JONES: Sure, Your Honor.

(BRIEF RECESS)

(DEFENDANT RIDEN PRESENT)

(DEFENDANT HENDRIX PRESENT)

(OFF RECORD BENCH CONFERENCE)

THE COURT: All right. Are we ready to proceed? It's my understanding

there's going to be some testimony from both defendants.

All right. Do we need to go through -- is there, as far as testimony of the Defendants? Are we going to go through that process now? Might as well.

Ms. Horlbeck, is your -- are you going to be putting your client up or do you want me to discuss with her the right to testify and the right to remain silent?

MS. HORLBECK: Yes, sir. I am planning on putting her on the stand. And I don't have any objection if the Court wishes to advise her of her right.

THE COURT: Okay. How about you, Mr. Warder?

MR. WARDER: Your Honor, I'm going to reserve that decision until I've heard exactly what is said ---

THE COURT: All right. Well, let me just kind of go through this process then and make sure they understand it.

I ask both of you to stand up.

DEFENDANT RIDEN: (Complies).

DEFENDANT HENDRIX: (Complies).

(DEFENDANT RIDEN DULY SWORN)

(DEFENDANT HENDRIX DULY SWORN)

THE COURT: All right. Okay. Ms. Riden and Mr. Hendrix, I'm going to talk to you a little bit about your constitutional rights; all right?

Basically I want to make sure you understand this so that when you do take the stand or you decide not to take the stand, is that you're fully aware of your rights and you understand those.

First, we've reached the stage in the trial where the State has completed their case. And now, as your attorneys have told you, that it's the time -- it's time for you to determine whether you're going to be presenting any testimony or witnesses and evidence. Part of that is you have to make a decision whether you're going to testify on behalf of your case.

As your attorneys have probably told you, you're not required to testify. Pat of the constitution says that no person shall be compelled in any criminal case to be a witness against him or herself. And this

means that you cannot be required to testify.

You have a right to testify but you also have a right not to testify. And no one can make you testify. This is ultimately a personal decision on your behalf. I mean, you can talk with your attorneys. You can talk with your family members or friends. But ultimately it's not your attorney's decision to testify. It's your decision.

And if you do testify, then you're under the same rules of evidence that any witnesses is under. And that means that -- if there is a possible criminal record that you have, that it's determined to be qualified and admissible, then you could be cross-examined on that criminal record.

Do we have criminal records on -- what criminal records are on these two; do you know?

SOLICITOR JONES: I did have those, Your Honor.

THE COURT: And while he's looking for those, are any crimes that are of dishonesty, fraud or anything at this point and you would have served more than one year

in jail. So while he's looking for that, I can go over some other information with you.

First of all, I need to make sure that you understand your rights and that you're making your decision as knowingly, intelligently, and voluntary made. And you will -- we haven't gotten to the actual point where both of you would testify and you will have additional time.

But Ms. Riden, do you understand each of these rights as I've discussed them with you.

DEFENDANT RIDEN: Yes, sir.

THE COURT: Do you understand you have a right to testify but you also have a right not to testify?

DEFENDANT RIDEN: Yes, sir.

THE COURT: And you've had sufficient time to talk with your attorney about this right?

DEFENDANT RIDEN: Yes, sir.

THE COURT: Based on what your attorney has indicated -- at the present time you indicate that you, in fact, will be testifying?

DEFENDANT RIDEN: Yes, sir.

THE COURT: All right. Did you find their criminal records?

SOLICITOR JONES: Your Honor. I apologize. The records that I have here are from when they were arrested. I'm get a criminal record from today, from downstairs. One of our paralegals just ran down to get it. I apologize.

THE COURT: Well, do you have anything against Ms. Riden as of the date ---

SOLICITOR JONES: As of the date of the arrest, Your Honor, I do not have her -- I only have Mr. Hendrix's rap sheet with me right now.

THE COURT: Ms. Horlbeck, are you aware of any record that she could be cross-examined on?

MS. HORLBECK: Yes. She does have a prior criminal history. I'm not quite sure what exactly it is.

THE COURT: Well, I wouldn't admit it either since they don't know.

MS. HORLBECK: I just don't know.

THE COURT: But in light of that,

do you totally understand your rights and your decision to testify or not to testify is being made voluntarily and intelligently?

DEFENDANT RIDEN: (Affirmative nod).

THE COURT: Do you understand your rights?

DEFENDANT RIDEN: Yes, sir.

THE COURT: All right. Well, I find that her decision, whichever she decides to do will be knowingly, intelligently and voluntarily made at the appropriate time.

And Mr. Hendrix, the same with you. Do you understand each of these rights I've discussed with you?

DEFENDANT HENDRIX: Yes, Your Honor.

THE COURT: Have you had sufficient time to talk with your attorney about the decision whether you're going to testify or not?

DEFENDANT HENDRIX: Yes, Your Honor.

THE COURT: And have you had sufficient time to talk with your attorney about the decision whether you're going to

testify or not?

DEFENDANT HENDRIX: Yes, Your Honor.

THE COURT: And since you're going to delay your decision, what you're doing, I may just follow up briefly with some discussions at that time.

But do you need more time to talk with your attorney about that? I know y'all probably talk after they present their case. But you realize you will have sufficient time to talk with him before making your final decision?

DEFENDANT HENDRIX: Yes, Your Honor.

THE COURT: Okay. And based on the fact that you do understand what I've explained to you about your rights, then I find that whatever your decision is, it's been knowingly, intelligently and voluntarily -- nobody's promised you anything or threatened you to make your decision whether to testify or not; have they?

DEFENDANT HENDRIX: No, Your Honor.

THE COURT: Well, I find that whatever your decision is will be knowingly, intelligently and voluntarily made with the advice of your counsel. And, again, I'll touch base briefly before your case is presented just to make sure. All right. Thank you.

Ms. Riden, let me just ask you one other question. Nobody has promised you anything or threatened you or forcing you to make your decision?

DEFENDANT RIDEN: No, sir.

THE COURT: This decision has been made freely and voluntarily?

DEFENDANT RIDEN: Yes, sir.

THE COURT: All right. Any other questions from counsel that they want me to go over with their clients? Mr. Warder?

MR. WARDER: No, Your Honor.

THE COURT: Anything else you want me to go over with Ms. Riden?

MS. HORLBECK: No, Your Honor.

THE COURT: Okay. Are you ready to proceed?

MS. HORLBECK: Yes, sir.

SOLICITOR JONES: Your Honor, I'd ask that we wait for my paralegal to return with the ---

MS. HORLBECK: That's a good idea. I support that.

THE COURT: Okay.

(PARALEGAL INTO COURTROOM)

SOLICITOR JONES: Your Honor, I see nothing on either defendant that I could use.

THE COURT: Okay.

MS. HORLBECK: I'm sorry? I missed that.

THE COURT: No, he indicated there was nothing on the criminal record that could be used against either defendant.

MS. HORLBECK: Okay.

THE COURT: All right. Are you ready to bring the jury in? (No response).

Anything else from the State before we bring the jury in?

SOLICITOR JONES: Nothing from the State, Your Honor.

THE COURT: Anything from Ms. Riden?

MS. HORLBECK: No, Your Honor.

THE COURT: Anything from ---

MR. WARDER: No, Your Honor.

THE COURT: All right. If they're ready bring them, please.

BAILIFF: Yes, sir.

(JURY IN AT 10:50 A.M.)

THE COURT: All right. Ladies and gentlemen, we are now at the stage where the State has rested and the defendants have an opportunity to put up any testimony or evidence that they feel appropriate at this time. Ms. Horlbeck?

MS. HORLBECK: Your Honor, we would call Stacy Riden to the stand.

THE COURT: All right.

(WITNESS TAKES STAND)

STACY RIDEN, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MS. HORLBECK:

Q. Okay. Ms. Riden, I'm trying to figure out where the best place for me to stand. All right. Ms. Riden, you've heard your children testify about a lot of things

that they're saying have happened?

A. Yes, I have.

Q. And you've heard them testify about that you've touched them, molested them, all kinds of things; all right?

A. Uh-huh.

Q. So let's just start with those.

A. Okay.

Q. Have you ever touched or rubbed your children's genitals?

A. No.

Q. In any kind of inappropriate manner?

A. Never.

SOLICITOR JONES: Your Honor, I object to the leading question.

THE COURT: All right. Rephrase your question.

MS. HORLBECK: All right.

DIRECT EXAMINATION CONTINUED

BY MS. HORLBECK:

Q. Well, you have heard about the allegations.

A. (Affirmative nod).

Q. Do you agree with them or do you deny them?

A. I deny them, deny that I ever touched my kids in any inappropriate way whatever.

Q. All right. How would you handle your children? How would you deal with your children?

A. (No verbal response).

Q. When you parented your children, how would you deal with them? How would you touch them?

A. Definitely not in an inappropriate way. I mean, just like, you know, normal parent -- I mean, I don't understanding but

Q. Well, describe what kind of normal touching went on and what kind of touching went on in your house.

A. It was nothing out of the ordinary, you know.

Q. Okay.

A. When they had baths or whatever, it was the girls and then my son. It was always separated. Nothing, you know, nothing like all the kids together or anything like that.

Q. Okay. Did you touch -- you heard the allegations about touching their

genitals. Did you touch the genitals in that manner?

A. No. Never.

Q. Okay.

A. They would wash themselves and I would help them was, you know ---

Q. Right.

A. --- but with a towel/rag ---

Q. Okay.

A. But I never touched them. Never.

Q. All right. There were also allegations that you rubbed the children's genitals and used -- you put your fingers in them?

A. No, ma'am.

Q. What is your position on that?

A. (Emotional) -- I would never do that.

Q. There were allegations that you performed oral---

SOLICITOR JONES: Your Honor, these are all leading questions.

MS. HORLBECK: I'm just telling her about the allegations and asking her what her position is. I think the allegations are

pretty well on the record.

THE COURT: I'm going to allow it.

DIRECT EXAMINATION CONTINUED

BY MS. HORLBECK:

Q. There are also allegations that you made the children perform oral sex on you. And that you performed oral sex on them.

A. Yes. I would never do that, ever.

Q. Okay. All right.

A. I don't even know where any of this is coming from. I still don't understand it.

Q. Was there any inappropriate touching from anyone else that lived with you?

A. No.

Q. All right. Let's kind of back up to that time. From 2011, Christmas 2011 to Christmas 2012, where did you live?

A. .

Q. All right. Who lived with you?

A. Randy Gibbs and Aaron did.

Q. Okay. All right. Tell me a little bit about Aaron. How long have you know Aaron?

A. I'd know him for five years prior to that and more.

Q. What's Aaron's last name?

A. Hendrix.

Q. How did you meet Aaron Hendrix?

A. Through my sister. He was good friends with my sister, Jennifer Riden.

Q. Okay. And how would you describe your relationship with Aaron when you first met him?

A. We were just friends.

Q. Okay. And did that develop into more, that friendship?

A. It did.

Q. Okay. And tell me a little bit about that. Tell the Court a little bit about how that friendship developed.

A. We just started hanging out. You know, he would come over and we'd take the kids to the lake or to the park or to a movie or whatever and it just progressed from there.

Q. Okay. All right. When Aaron first began to visit with you and the children, how often would he come over?

A. Twice a week, three times a week.

Q. Would he come over by himself or was

he with anybody else?

A. He was always by hisself.

Q. Okay. And when Aaron came over to visit you and the children, what kind of things would y'all do?

A. Watched movies and played videos, played video with the kids or we'd all go outside and play with the kids.

Q. All right. When you said you would all go outside, what kind of things would you all do outside?

A. They had a little battery-operated cars. We'd play with them out in the yard with those. And had a little swing set. We always played with them on that.

Q. Okay. And was there a time that Aaron moved in with you?

A. Uh-huh. Well, he went from staying like two or three nights a week to five or six. Every now and then, he'd stay at his mom. But usually, he was always there with us.

Q. All right. Did you see anything inappropriate about the way Aaron interacted with your children?

A. Never, no.

Q. How did you feel about leaving the children -- well, let me ask you this. Did you ever leave the children with Aaron?

A. Uh-huh. He watched them some when I would have to work late-night so that I wouldn't have to get up the next morning. He knows I would have to get them from the babysitter late. And they could go to school and not have to be in and out in the middle of the night.

Q. All right.

A. Because I'd have never left them there, left the kids with him if I thought he would do anything like that. Never.

Q. Okay. All right. So how did you feel about leaving the children with Aaron?

A. I felt comfortable leaving them with him. He was always good to the kids. He was never mean to them, never yelled at them or anything.

Q. All right. Describe punishment of the children at your house?

A. They would get time out or not be able to play, you know, Nintendo or not be

able to watch TV or you know, something like that.

Q. All right. Describe physical punishment, if any, at your house of the children?

A. If any physical, I popped them. Not Aaron, ever.

Q. All right. The allegations involving the physical abuse of the children. What's your position on those?

A. Never. I mean, I would have popped them on their hand or their bottom but that was it.

Q. Uh-huh.

A. Nowhere else.

Q. All right. And if -- what if anything would you have done if you had seen someone else living in your home abusing these children?

A. They would have had to leave and I would have called the police.

Q. Okay.

A. I would never let anybody hurt my kids, me knowing it. It would have never happened.

Q. Okay. You mentioned that you worked during that time period.

A. (Emotional).

Q. Do you need a cup of water or anything?

A. No.

Q. All right. Tell the Court a little bit about where you worked.

A. I worked at McDonald's for nine years, from 2004 to 2013.

Q. What was your position at McDonald's?

A. When I started I was a crew member. And when I left, I was department manager.

Q. All right. How long were you the department manager at McDonald's?

A. A little over two years.

Q. How many hours a week approximately did you work?

A. Forty, fifty, sometimes more. It just depended.

Q. All right. And did you have a set schedule that you would go to work?

A. No. No, it was always different. I mean, I'd be in the mornings until --

sometimes it' be 5:00 in the morning that I'd have to be there. Sometimes it would be 4:00 p.m. It just depended really.

Q. Okay.

A. Or when they needed me.

Q. How many hours a day on average would you work?

A. Eight to ten hours a day.

Q. Was it five days a week or more?

A. Five days.

Q. Did you have -- did you get weekends off?

A. We got a weekend like once a month, once every six weeks, something like that.

Q. Okay. So during a typical work week, what days would you not be working?

A. It could be Tuesday/Wednesday, Thursday/Friday. It just -- it varied. It always varied.

Q. And was your schedule the same or did it change?

A. It always changed.

Q. Okay. All right. And you said that there were -- were there occasions where you might have to work late at night?

A. Uh-huh.

Q. Tell the Court a little bit about those occasions and why?

A. Once a week I had to close, to do a weekly inventory of the store.

Q. Uh-huh.

A. So that night I would always get off about 1:00 or 2:00 in the morning.

Q. All right. When you were working, tell me about your childcare arrangements?

A. Sometimes Aaron would watch them for me. Sometimes I had their Aunt Diane would keep them. Sometimes their dad would be available when he could keep them or sometimes my step-mom would keep them. It just -- whoever was available, you know, it was kind of like on a day-to-day schedule we had. I never had it, you know, where I had one solid person to watch them whole week because it was hard to ask somebody to watch three kids the whole week.

Q. Okay. Who is Aunt Diane?

A. Diane Stamey. She used to watch them -- she watched them for me when me and Mark were together. When we split up, it was

hard for me to pay forty dollars ($40) a day for all three of them by myself and pay the bills. So she would do it sometimes for me.

Q. All right. And you mentioned Mark. Who is Mark?

A. Their father, Mark Lusk.

Q. Okay. All right. And that's their biological father, the children's?

A. It is.

Q. Okay. All right. So just back up a little bit. Who would watch the children? You had a list of some people that you ---

A. Yes. Their Aunt Diane; their dad, Mark. Sometimes my step-mom and my dad would get them. And sometimes Aaron would keep them.

Q. Okay. All right. Do you have any idea why the children would have, would be saying these things have been done, have happened and that you did them?

A. No. I really don't. I don't know. You know, I don't know why someone would -- (crying). It kills me to hear them say these things because I know they're not true.

Q. Did any of these things happen?

A. No, ma'am.

Q. Was there a time when the children went to stay, went to live with their grandparents?

A. They did.

Q. When was that?

A. It was around March or April of 2013.

Q. Were you still working at that time?

A. Yes.

Q. All right. Tell us a little bit about your finances at that point?

A. I was struggling by myself to pay the bills and take care of the kids. So my dad helped me. You know, they took them in to help take care of them.

Q. At that point, who else -- was there another adult living in your house with you?

A. No.

Q. At that point, describe your relationship status with Mr. Hendrix?

A. We had split up by then. We split up in -- the end of November or the beginning of December in 2012.

Q. All right. And when the children

went to live with their grandparents what, if anything, did they call you, the children?

A. What do you mean?

Q. What did they normally call you?

A. Mom.

Q. Okay. Did they all three call you mom?

A. Mommy, mom.

Q. Okay.

A. Mom, mama, but -- Minor 2 usually said 'mom.'

Q. Okay. All right. When the children went to live their grandparents, you said you were having some financial difficulties. Were you living by yourself or with somebody else?

A. Yeah. Just me and the kids.

Q. Just you? Okay. All right. Was there ever a time where there was not enough food in the house?

A. No. I mean, you know, sometimes there wouldn't be as much. You know, maybe I couldn't provide for them like my dad and them does. They have a lot more money than I do. But they never went without eating

anything, you know. If it was the day before payday or a couple days before payday -- I knew that my dad would help and he always let me borrow whatever I needed to borrow to make sure that I was going to have food. They never went without eating. And they love McDonald's, so I'd always bring that home almost every single day, you know, if they wanted it. They never went without eating, though.

Q. How were you able to bring home food from McDonald's?

A. It's discounted at work.

Q. Why is that?

A. Because I was a manager.

Q. All right. When would you go grocery shopping?

A. On Monday's when got paid. I got paid every other Monday.

Q. All right. What's a typical grocery bill for you?

A. Usually around two hundred.

Q. Okay. All right. You heard the allegations about the lack of food in the house. What's your position on that?

A. There was always food. I mean, it might not have been -- by the next grocery day there might not have been a whole bunch of stuff to decide from -- no more Debbie cakes this time or chips or snack cakes or something, but there was always food in the house.

Q. Okay. Do you know why these allegations arose?

A. (Negative gesture).

Q. Do you have any idea at all?

A. No. No, I don't.

Q. Have you been able to visit with your children since they moved over to their grandparents?

A. I was. Whenever they first started staying there, I was going to the house to see them. And then it was where my dad would -- I'd have to meet my dad at McDonald's or he would come get me with the kids and go to McDonald's and take them to eat or play with them.

Q. Which McDonald's? Is this the McDonald's that you worked at?

A. We'd go usually over to the one in

Easley.

Q. Okay. All right. Do you think the children have been coached or anything?

A. I would like to think not, but I don't know. There's no other. There's no other option because I know I didn't do this. And I'd have never allowed him to.

Q. If you'd found out Mr. Hendrix was doing these things to your children, what would you have done?

A. Honestly?

Q. Yes.

A. I would have killed him. I would never let anybody hurt my kids.

Q. Tell me a little bit about the residence that you lived in with the children and Mr. Hendrix?

A. It was a single-wide trailer, three bedrooms, two bathrooms. It was big enough for us. You know, I would have loved something bigger but it worked for us.

Q. All right. And was there a lot of guest traffic in and out of your residence?

A. My sister would come over some time with her friend, you know, or something like

that. She'd come see the kids and bring my niece over and they'd play with the kids. I mean, it was nothing excessive.

Q. Were there a lot of people spending the night over at your residence when the children were living there?

A. Uh-huh. My sister would whenever she was fighting with her boyfriend sometime and she had nowhere else to stay, I'd let her stay there. But other than that, no.

Q. But no one else?

A. There was a couple of the times their dad had to spend the night. Him and his girlfriend would be arguing or whatever and he'd need somewhere to stay. I'd need for him to watch the kids the next day. And that was kind of like my only option, you know. We would let him stay there so he would be there in the morning to watch the kids.

Q. All right. When you had overnight guests, what would the sleeping arrangements be?

A. They would sleep in the living room.

Q. Who would?

A. The guest, whoever was the guest. Or they'd sleep in my room and I'd sleep in the living room and the kids would be in their rooms.

Q. Okay. What were the normal sleeping arrangements for the children?

A. Minor 2 and Minor 3 slept -- a lot of times whenever there was nobody else there, they all slept on the couch together. They would always like to sleep, you know, all three of them together on the couch. Or they'd make a little pallet with their little bed, you know, their little cushion beds and sleep together. And they'd always wind up sleeping together, all of them.

Q. Okay. All right. Would any of the guests, would any of them stay in your bed with you and Aaron?

A. Not with me and him, no.

Q. All right. What about the children's father, would he?

A. No. No.

Q. If he stayed there, he stayed in the living room with the kids. You know, Mark would sleep on the couch and the kids would

be in the living room with him. But if it was like my sister, she'd stay in one of their rooms and they'd all stay in the living, you know, something like that. But nobody ever slept in the bed with us, no.

Q. All right. Would anything inappropriate happen between you and your sister.

A. No.

Q. We've heard about your sister Jennifer too. Would she ever come and stay?

A. She came over. She never stayed the night ever.

Q. All right. You've heard the allegations that the children made regarding you and your sisters and things that y'all allegedly would do. What's your position on that?

A. That never happened. I don't know where they come up with stuff like that. Do I look like I'm going to be sitting in bed with a bathing suit on with my sister, no. I mean, it's just -- I don't know it's just -- all of it is just absurd. I don't know where they would get any of that stuff from. I mean, my sister might would come in there

and talk with me like once I got out of the shower, while I was getting dressed or something. It was just me and one of my sisters talking or something like sisters would or whatever, you know. Nothing, nothing out of the ordinary.

Q. Okay.

MS. HORLBECK: Beg the Court's indulgence.

DIRECT EXAMINATION CONTINUED

BY MS. HORLBECK:

Q. How do you and your sister's express affection with one another? I know that's a weird way to put it?

A. We hug when we see each other. Jennifer's a little bit more obnoxious with it. Jennifer will try to kiss anybody, you know, on the face or whatever. Not like weird kiss, but she's just -- I don't know.

Minor 3 would always say she hated Aunt Jen Jen's kisses because Jennifer's just Jennifer. It's hard to explain, but it's like ---

Q. Well, what is a weird kiss to you?

A. A weird kiss to me would be kissing

my sister on the mouth. I've never kissed my sisters on the mouth. You know, pop a kiss on the cheek or something but, other than that, no.

Q. Right. When you hug your sisters, describe how that happens? Describe what happens if y'all even hug. I don't know.

A. If we hug we just put our arms around each other and that's it.

Q. All right. You weren't around for the first day of this trial. What happened?

A. It kills me to hear kids say these things when I know I would never do those things to my kids -- (crying). I know I shouldn't left but I did because I couldn't deal with it. It kills me.

Q. Okay. Stacy, please answer any questions that the Solicitor may have for you.

A. Okay.

CROSS-EXAMINATION

BY SOLICITOR JONES:

Q. Ms. Riden, what kind of drugs are used with needles?

MS. HORLBECK: I object to that.

THE COURT: Overruled.

CROSS-EXAMINATION

BY SOLICITOR JONES:

Q. What kind of drugs are used with needles?

A. I don't know what kind of drugs are used with needles.

Q. You have no idea what kind of drugs are used with needles?

A. No.

Q. Have you ever heard of drugs being used with needles?

A. I have heard of drugs being used with needles.

Q. What kind of drugs have you heard being used with needles?

A. Drugs, all kinds of drugs. You can use pills with needles. Heroine needles, meth needles. I mean, anything can be used with needles.

Q. Well, then why did you first say you didn't know what kind of drugs could be used with needles?

A. I mean, you know, I know what kind of drugs can be used with needles. I know

that I don't use drugs with needles.

Q. I didn't ask you that.

A. I understand that.

Q. Has anyone ever found a needle at your house or in your car?

A. No.

Q. No?

A. No.

Q. In March of 2013 your children stopped living with you; didn't they?

A. In March or April, yes.

Q. March or April. And the biological father of these children is Mark -- what's his last name?

A. Mark Lusk.

Q. Lusk?

A. Yes.

Q. And you said that he came over to your house from time to time?

A. Uh-huh.

Q. An active role in their life, off and on?

A. Uh-huh.

COURT REPORTER: Is that a yes?

STACY RIDEN: Yes.

CROSS-EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Did you call your father to come get those children?

A. Did I call my father to come get them? I asked him if they could stay with him, yes.

Q. You called your father to come get those children that day?

A. No, Mark called him. Mark Lusk called my father to come get them.

Q. And you weren't there when Mark Lusk called your father, were you?

A. I wasn't with Mark when he called, no.

Q. Where were you?

A. I don't remember where I was. I don't know if I was at work or where I was.

Q. You didn't tell Mark Lusk to call your father and get those children, did you?

A. No, I did not ask him to get them. But when my dad got the kids -- my dad called me and asked me if he thought that I needed his help with the kids and I told him, yes, that I needed his help with the kids.

Q. So your father called you the day he got those children and you talked to him?

A. Yes.

Q. Isn't it true that on the day Mark Lusk called your father you went to get a birthday cake for the children and you didn't come back?

A. No, that's not true. I don't remember that.

Q. You don't remember leaving your children on that day?

A. No. And not coming back, no.

Q. You weren't at the house when your father came, were you?

A. No.

Q. Were you there when Lisa Riden helped them gather their things?

A. No.

Q. You testified earlier that it was hard to get somebody to watch your kids on a daily basis, didn't you?

A. Yes. To have a stable, one stable person do it. Because Diane -- I had to pay Diane forty dollars a day and I couldn't afford to. And sometimes my dad and my

stepmom weren't able to.

Q. And yet magically in March of 2013, your father and your stepmother could take care of the children 24/7.

A. Yeah, but when I would ask them before, they wouldn't be able to. She would have something going on or he would have something going on. And they never could always have them. And then whenever Mark calls them, then they're able to.

Q. So just because Mark ---

A. Not because -- I'm not saying that's why that they did. But, I mean, it went from yes sometimes they could to sometimes they couldn't to now all of a sudden they want to keep them all of the time. You know, that they were able to help me and take them in.

Q. And you have two sisters, don't you? What are their names?

A. I have four sisters.

Q. Four sisters?

A. Yes.

Q. What are their names?

A. Jennifer, Jessie, Katie, Courtney.

Q. And of those four, which ones has

spent the night at your house at

A. Jennifer and Jessie has.

Q. Jennifer?

A. Uh-huh. But I lived there for six or seven years.

Q. Uh-huh. You said Aaron Hendrix moved in on what date, around what time?

A. It was -- it's hard to remember around what time. I know it was ---

Q. But it was December of 2011, wasn't it?

A. I think it was around January or February of 2012, I think, when he was staying more than just spending the night some.

Q. Okay. And then he moved out around Christmas of 2012?

A. Before Christmas of 2012; yes.

Q. And you started dating him in November of 2011, didn't you?

A. I don't remember exactly when we started dating. But I think it was 2012, January/February.

Q. So you started dating in January and

February of 2012?

A. (Affirmative nod).

Q. And then he moved in January or February of 2012?

A. He didn't move in then. He'd stay the night some with us. And then it progressed to him moving in or staying. He would still always -- the whole time we were together he would stay with his mom once or twice a week. But other than that, yes, he did live with us.

Q. And you knew that Aaron Hendrix would dress in your clothes in front of the children?

A. No. The only time Aaron ever wore -- he put a shirt of mine on when I was at work. And hair bows in his hair. And him and the kids -- he was playing with the kids, like trying to make them laugh. They were playing dress up. And they called me at work that day. The girls were laughing and were saying that 'Aaron let us put makeup on him. Aaron let us dress him up.' I mean, and he took pictures on the phone of him wearing a pink shirt with hair bows in his hair. And

that was the only time that he ever put anything of mine on that I knew of. And they sent me a picture of it while I was at work. But it was nothing that -- other than him playing with the kids and them laughing at him because he was letting them play dress up with him.

Q. When did you Mark Lusk split up, stop living together?

A. I don't know. Me and Mark were on and off so much. I guess December 2011, maybe -- maybe was the time that he lived, lived there, the beginning of December. But me and him would break up and, you know. We'd break up and get back together because of the kids.

Q. Uh-huh.

A. Because I didn't want them to come from a broken home like I did. And we'd try to work it out a lot, but it just never would work.

Q. Mark Lusk moved out of that house at sometime in early 2011; didn't he?

A. I can't really remember exactly when

he moved out. But it was in that year, yes, around the time he got with Natasha. I just can't -- I'm not exactly sure what month it was.

Q. Did you bring any other men that you were dating around the children besides Aaron Hendrix?

A. No. Never.

Q. You ever brought anybody else around the children besides Aaron Hendrix that you were dating?

A. A friend of mine, Zach, was the only other person that they were ever around. And he only came over one time. He was with me when I picked them up from school. He helped me with them do their homework and then he left. And he was never around them other than that, other than one other time but that wasn't at our residence. But he was not someone I was dating. He was just a friend.

Q. And what's your definition of someone you were dating?

A. They would have never saw me around anybody beside Aaron or their dad, the kids didn't, ever.

Q. Uh-huh.

A. They were the only two people that I have been with. And Zach was just a friend that I had known for years. He come over that one day. It was -- I guess it was March, sometime in March, February or March. He was with me and helped -- we picked them up from school and he helped me with them do their homework and then he left. Then one other time we took them to McDonald's once. Other than that, they were never around any other males.

Q. Your father would bring the children to meet you on several occasions, didn't he? When the children were staying with your father?

A. He would come and pick me up and we would go to eat with the kids.

Q. And initially the children staying with Mark and Lisa was a temporary solution; wasn't it?

A. Uh-huh. It was.

Q. And what were you waiting on for that temporary solution to end so you could get the children back?

A. Honestly, you know, around that time I felt like I was losing everything and I gave up. I gave up. And I know that's not right, but I started hanging out with the wrong people. I stopped going to work like I was supposed and got into trouble. I had never been in trouble my entire life, ever.

Q. What kind of people were you hanging out with?

A. People that were doing drugs.

Q. Well, hold on for a second. I asked you about what kinds of drugs you used with needles. And you appeared to be surprised.

A. Yes, but I'll admit ---

Q. You didn't know any kind of ---

A. Yes, but I had never see anybody use any drug with needles ever in my life. Ever.

Q. Your children have.

A. No they haven't. Not with me they haven't. Because I had never even seen anybody with a needle until way after my dad already had my kids. So I know that isn't true. Until 2013 I didn't even -- for all of 2014, I didn't even know anybody did drugs with needles. I didn't even know that.

Q. And after you were charged with this ---

A. Uh-huh.

Q. --- you talked with your father several times; didn't you?

A. Yes.

Q. And what did you tell your father?

A. That there's no way that I could have done this. I know I didn't do this.

There's no drugs. There's no -- I don't care what accusations comes up with, there's no drugs.

There's no alcohol.

There's no nothing that would ever allow me to allow someone to do this to my kids or me do it to my kids, ever.

Q. Well, what happened from March 2013 to when you say you started hanging out with the wrong people who did drugs?

A. I ---

Q. What happened there from a single mother who's working, taking care of three kids, to falling in with the wrong people? What event ---

A. One guy. One guy. One person.

Q. One person?

A. One person that messed me up.

Q. I agree with that. Isn't it true that what allowed you to start hanging out with the wrong people that did drugs was that your children got out of your house?

A. That my children got out of my house? What do you mean?

Q. That you were no longer burdened by taking care of your children.

A. No, they were never a burden, ever.

Q. These people that you started hanging out with, you didn't just meet them in 2013, did you?

A. One of them I had known for a long time but I didn't hang out with him until that year.

MS. HORLBECK: Judge, I'm going to object to the relevance. I mean, the incident time period is between December 2011 and December 2012.

THE COURT: I think it's appropriate. Overruled.

SOLICITOR JONES: I beg the Court's indulgence, Your Honor.

MR. WARDER: Your Honor, I have a few questions.

SOLICITOR JONES: I said, beg the Court's indulgence.

MR. WARDER: Oh. Excuse me.

SOLICITOR JONES: Actually, Your Honor, no further questions.

THE COURT: Mr. Warder.

CROSS-EXAMINATION

BY MR. WARDER:

Q. Stacy, you got with Aaron Hendrix in 2011; is that right?

A. 2011, 2012. I think it was more in the beginning of 2012. We started hanging out in 2011. Him and my -- he come over with my sister. I had known him for probably five years before that. He had always been friends with my sister, Jennifer.

Q. He was in school with your sister; is that right?

A. Yes. They went to high school together.

Q. Okay. And where did they go to high school at?

A. Pickens.

Q. Okay. And through 2011 he came to your house with your sister?

A. Yes.

Q. And then over a period of time you became friends?

A. Uh-huh.

COURT REPORTER: Is that a yes?

STACY RIDEN: Yes.

CROSS EXAMINATION CONTINUED

BY MR. WARDER:

Q. Was he employed at that time?

A. No.

Q. Did you give him a job?

A. (No verbal response).

Q. Did you help him get a job?

A. He did get a job working at Walmart.

SOLICITOR JONES: Your Honor, I'm going to object to relevance here. What does it matter whether they worked anywhere or not?

THE COURT: I'll give him a little leeway.

CROSS-EXAMINATION CONTINUED

BY MR. WARDER:

Q. Who did you help him get a job with?

A. He had a job at Walmart when we were together.

Q. Did he work for your father some?

A. Some, just some. Not all the time but sometimes.

Q. And he stayed with you until, you said, about Christmas?

A. It was right before Christmas.

Q. During the period of time that he lived with you, did you use drugs?

A. No. I would take Ibuprofen and Tylenol because I worked a lot and I hurt. You know, my back would hurt or I would be stressed out from work. But other than that, I mean, I always had a bottle of Ibuprofen and a bottle of Tylenol. But as far as that goes, that was it.

Q. Okay. Tylenol and -Ibuprofen, is that pain killers that you get in the drug store?

A. Yes.

Q. Now, when the period of time that Aaron was with you, did he use drugs or have drugs in your house?

A. No.

Q. Did he work at Walmart during the period of time up until your separation?

A. Yes.

Q. And he would work other hours than the hours you worked?

A. Yes. He worked nighttime, mostly nighttime hours.

Q. Okay. And you worked mostly daytime hours?

A. Mostly, yes.

Q. So he would be, on occasions, left at home with the children?

A. Yes, but not ---

Q. And occasions other people, you said, would take care of the children?

A. Yes.

Q. Okay. Was this just a convenience or did you and him fall in love and have genuine ---

A. He was really good to my kids. He would give them -- he played with them and give them attention. They were, you know, an inconvenience for their dad when he was home. You know, he didn't want to stay at home and play with them or do anything with them.

It was always an inconvenience for him. It wasn't for Aaron.

Q. Did Aaron ever touch children in any inappropriate way?

A. No.

Q. There have been allegations that you and he forced them to have some kind of oral sex?

A. Never.

Q. There's allegations that you were rolling around with other men and your sisters in some inappropriate way.

A. That never happened.

Q. After you broke up with Aaron, did your life go downhill?

A. Yes.

Q. Is that when the drug use became involved, after Aaron?

A. Yes.

Q. Did another man or other men stay at your house on some occasions?

A. No.

Q. No one spent the night?

A. No one besides the kids' father.

Q. And that was Mark Lusk?

A. Yes.

Q. Did he come back in after Aaron left, started staying with you?

A. He was staying some to help me with the kids but not as, you know, us being in a relationship. But he would help. He did come back to help with the kids some.

Q. And the reason he'd come back was he knew that Aaron moved out and that you needed help?

A. Yes. Even his girlfriend would come and stay with him.

Q. Okay. So it would be him and -- who was his girlfriend that would come and stay?

A. Natasha and her two kids.

Q. Let me ask you, when you were at work and he was work, did you know whether he had other people come over and stay with the kids?

A. Who, Mark?

Q. Mark?

A. No, none that I know of. No.

Q. Did he have other guests? Did he have other friends that would come over when he was staying over?

A. His brother maybe would come over while I was at work, his brother, Matthew. But not, you know, just -- that's their uncle, you know. Other than that, no.

Q. Did Matthew bring a girl with him when he came?

A. No. Matthew was with my sister Jennifer. They have a kid together.

Q. Thank you.

THE COURT: All right. Any redirect?

MS. HORLBECK: No, Your Honor.

THE COURT: All right. Thank you.

(WITNESS STEPS DOWN)

THE COURT: All right.

MS. HORLBECK: Defendant Riden would rests.

THE COURT: All right. Okay. Ms. Riden has rested for all of the testimony that, only evidence that she's going to be putting forth.

So at this time we're going to take a very short break. At this time I'm going to ask you to go back to your jury room. There'll a short break. And, again, do not

talk about the case or start any deliberation whatsoever.

(JURY OUT @ 11:35 A.M.)

MR. WARDER: If we might have a few minutes, Your Honor.

THE COURT: Yeah. Let's take about five minutes.

SOLICITOR JONES: Thank you, Your Honor.

THE COURT: And then I'll come back and talk to Mr. Hendrix.

(BRIEF RECESS)

(DEFENDANT RIDEN PRESENT)

(DEFENDANT HENDRIX PRESENT)

THE COURT: What are your intentions?

MR. WARDER: We are going to put up a short defense.

THE COURT: Okay. Is Mr. Hendrix going to testify?

MR. WARDER: Yes, sir. I think so.

THE COURT: All right. Now, Mr. Hendrix, you know, I previously talked to you about your rights. And do you understand those? Do you need any more time to talk to

your attorney about whether you need to testify or not?

DEFENDANT HENDRIX: No.

THE COURT: Okay. Nothing's changed and you understand your rights and you're making this decision freely, intelligently, and voluntarily?

DEFENDANT HENDRIX: Yes, Your Honor.

THE COURT: Okay. All right. Everybody ready for the jury? Anything from the State?

SOLICITOR JONES: Nothing from the State, Your Honor.

THE COURT: Anything from Defendant Hendrix?

MR. WARDER: No, Your Honor.

THE COURT: Anything from Defendant Riden?

MS. HORLBECK: No, Your Honor.

THE COURT: Okay. Bring the jury in, please, sir.

(JURY IN @ 11:50 A.M.)

THE COURT: All right. Ladies and gentlemen, like I said we've completed the

case in chief for Ms. Riden. And now Mr. Hendrix has the opportunity to present his case. Mr. Warder?

MR. WARDER: Your Honor, if it please the Court we would call Mark Lusk.

(WITNESS TAKES STAND)

MARK LUSK, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. WARDER:

Q. Mark, where do you live at?

A. I'm actually living in a camper off of Wolf Creek Road.

Q. Okay. Here in Pickens County?

A. Yes, sir.

Q. How long have you lived in Pickens County?

A. All my life.

Q. Now, you know that Stacy Riden down here?

A. Yes, sir, I do.

Q. And how do you know her?

A. She's the mother of my children.

Q. When did you -- did you and Stacy

have a period of time you lived together?

A. Do what?

Q. Did you live with her?

A. Yes.

Q. What period of time were you two living together?

A. Seven years, eight years.

Q. Okay. And did you and her then separate?

A. Yes, sir.

Q. Did you maintain a relationship with your children after the separation?

A. Yes, sir.

Q. Did you see them on a regular basis?

A. Every other weekend or whenever she needed help with them.

Q. Okay. And do you know the defendant Aaron Hendrix?

A. Yes, sir, I know Aaron.

Q. Did there become a time that Aaron lived with Stacy and your children?

A. Yes, sir.

Q. Do you remember when that was?

A. I'm not sure. I don't really remember what dates and all it was but,

(affirmative nod).

Q. Okay. Would it have been back in 2011?

A. That's right.

Q. Okay. When he was living there, would you go over to the house, pick up and visit with the children?

A. Yeah. He was there.

Q. Okay. Did you ever see anything inappropriate when you were over there?

A. Never.

Q. Okay. You ever see any evidence of drugs, drug use?

A. I was working on a car one day. I don't know whose it was but a needle fell out of overhead liner.

Q. Okay. Now, when did that happen?

A. It was ---

Q. Was it 2013?

SOLICITOR JONES: Objection. Leading, Your Honor.

MARK LUSK: That's possible.

THE COURT: Rephrase the question.

SOLICITOR JONES: He just told him the answer, Your Honor.

DIRECT EXAMINATION CONTINUED

BY MR. WARDER:

Q. Was it after ---

THE COURT: He can rephrase.

DIRECT EXAMINATION CONTINUED

BY MR. WARDER:

Q. Was it after Aaron Hendrix moved out when you found that?

A. Yes, it was.

Q. Okay. Can you tell me about how long it was after Aaron had moved out?

A. Maybe a month. Two months maybe.

Q. Okay. During the period of time Aaron was there, did you ever see any evidence of drugs or anything?

A. No, sir. I have not.

Q. Okay. After Aaron moved out, did the house degenerate? Did the conditions of the house where your children go uphill, downhill, stay the same?

A. Downhill.

Q. Okay. When you say the conditions of the house went downhill, what did you notice that made you think the conditions were going downhill?

A. Well, the power got cut off. The furniture was just piled in the living room. There was a little bit of food, not much. And the basic messiness of the house. They didn't have water. There was no power. I believe it had got cut off that day.

Q. Okay. I believe that you ultimate talked to your father about helping the children or ---

A. I called -- Lisa showed up, Mrs. Riden showed up over there. Said she'd heard some things about the house being in a bad condition. She asked me could she look in the house and I told her, yes, she could. Well, she walked in the house. She looked at and then we stood out by the car. I asked her to please take my kids under her roof and take care of them because I wasn't in any condition to take care of my kids at the time. I asked to please come take my kids. Take them under their roof, take care of them.

Q. Okay. And the camper you lived in was so small that you couldn't take them over there.

A. It was -- it only slept four people. You can't put three kids and me in there. And I had a drinking problem, I admit I had a drinking problem.

Q. You've never seen anybody hurt your children or do anything inappropriate?

A. They would not be here. They would be dead.

Q. Thank you. Please answer any questions.

SOLICITOR JONES: Yes, sir, Your Honor.

CROSS-EXAMINATION

BY SOLICITOR JONES:

Q. Mr. Lusk, you testified that you did find a needle at that residence?

A. Do what now?

Q. At the residence that Stacy Riden lived in. Excuse me.

A. Yes, sir.

Q. Was it a sewing needle?

A. Not a sewing needle, no.

Q. Okay.

A. It was a syringe needle.

Q. A syringe needle?

A. (Affirmative nod), I didn't ask no questions about who it was or wasn't.

Q. I understand. Lisa came over, we stood outside and I asked her to take the kid.

Q. I understand. And you said you had a little bit of a drinking problem?

A. Yes, sir. I used to have a little drinking problem.

Q. Well, what's your favorite drink?

A. It was beer.

Q. Beer? You ever drank so much you passed out?

A. I've drunk a couple of times where I passed out a lot. To where I'd have seizures.

Q. Excuse me?

A. I had seizures and all too.

Q. You had seizures because you drank so much?

A. I don't know if was because I drank so much or because of my sugar or what, but -- yeah.

Q. Did you ever drink so much -- have you ever heard the phrase black out?

A. I've heard of that.

Q. You think that's ever happened to you?

A. No.

Q. You don't?

A. (Negative gesture).

Q. So you've got a drinking problem?

A. Not now I don't.

Q. Okay. Well, you had a drinking a problem?

A. I fixed that.

Q. And you drank so much that you passed out; right?

A. Yeah. I'd sit there drinking and when I'd get sleepy, I'd go to sleep.

Q. But you don't think you've drank so much that you blacked out where you haven't remember anything?

A. No.

Q. Isn't true that you called -- let's back up. Who's Mark Riden?

A. That's Stacy's daddy and Lisa's husband.

Q. Okay. And isn't it true that you called him to come pick up your children?

A. Yes.

Q. It's kind of confusing from your earlier testimony. Are you saying that Lisa just appeared over there and then you called Mark?

A. Lisa left from my mother's house, which they live in the same park.

Q. Okay.

A. She came over there. Asked about the condition of the house. I let her see the house. Let her walk through it however she wanted to do it.

Q. Right.

A. We stood out there and we talked and talked and talked. And I said, 'will y'all please come and take my kids under y'all's roof?'

She said, 'Well, let me talk to Mark and we'll get back with you.' I never got a phone call.

Q. Yes, sir. Oh, so that happened first and then you never got a phone call?

A. No.

Q. Okay. So then after that incident, that's when you called Mark to come get the

children; is that right?

A. You're right. I talked to Lisa, not Mark. I talked to Lisa and Lisa had talked to Mark.

Q. Okay. I'm sorry. So you never called Mark then to come get your children?

A. (Negative gesture), I talked to Lisa personally.

Q. Okay. And you testified to Mr. Warder asking about the conditions of the house or anything that ever happened over there. What was the word? Nothing ever happened over there bad. Is that what you said?

A. It never did.

Q. Okay.

A. All I know is Stacy was a damn good mother. Damn good mother. I can't say bad anything. She was a damn good mother. You cannot ask for a better mother. I couldn't have.

Q. Yes, sir.

A. When we sat down on the porch that day and told each we wasn't happy, we wasn't going to be together no more. We split up.

But when the time came for her and Aaron was together, can I speak on that behalf? No, I cannot.

Q. Right.

A. I cannot. Because I don't know.

Q. Yes, sir. I understand. And when Aaron Hendrix was living over there and living with Stacy, did you not testify to Mr. Warder that you knew that nothing bad happened over there?

A. (No verbal response).

Q. And I might be misunderstanding what you were testifying to. But you did not testify something to that effect to Mr. Warder?

A. I'm just speaking the truth right now. What I told you is what I know. I could tell y'all.

Q. Did anyone ever call the police about you in that residence?

A. One night, yes.

MS. HORLBECK: And I object to that, to relevance.

THE COURT: I think it's appropriate.

CROSS-EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Who called the police; do you know?

A. I don't know who called them.

Q. You don't know who called them?

A. No.

Q. Well, what happened as a result of the police coming out there?

A. My head was busted open.

Q. Okay.

A. That's the only reason why they came out there.

Q. And who busted open your head?

A. Aaron did.

Q. Aaron?

A. (Affirmative nod).

SOLICITOR JONES: No further questions, Your Honor.

THE COURT: Ms. Horlbeck.

CROSS-EXAMINATION

BY MS. HORLBECK:

Q. Mr. Lusk, I'm Ms. Horlbeck and I represent Stacy Riden in this case. You testified just a second ago that Aaron Hendrix busted your head open?

A. Yes, ma'am.

Q. All right. So is it fair to say that you and Mr. Aaron Hendrix didn't see eye to eye?

A. That was the only problem we had ever had. That was it.

Q. All right. Well ---

A. Other than that, we talked.

Q. But were y'all on good terms to where you'd get into bed with Mr. Hendrix?

A. Hell no. Excuse my language but, no.

Q. Okay. And were you -- you testified -- have you ever seen anybody abuse your children?

A. No, I have not.

Q. Have you ever stood and watched and laughed while anyone was abusing your children ---

A. No. No.

Q. --- sexually or physically?

A. No.

Q. Okay. All right. And have you ever gotten in the tub with you and the children and ---

A. No, ma'am.

Q. --- Stacy and Aaron?

A. No, ma'am.

Q. Okay. All right. Were you ever arrested and charged with sexually or physically abusing your children?

A. No.

Q. All right. Now, you testified that you also had a drinking problem; is that correct?

A. Yes, ma'am.

Q. Okay. And that on occasion you have drunk amounts that have caused you to pass out?

A. Yes, ma'am.

Q. I'm saying in the past.

A. Yes, ma'am.

Q. And on the day that you went over to work on the car, is it possible you'd been drinking the night before?

A. No, I know I wasn't drinking the night before.

Q. All right. And tell me how you know that?

A. Because I don't drink every day.

And it was only just a casual drink that -- but when I casual drank, I drank. I drank.

Q. Okay. So when you casual drink, it's a serious thing and you drink?

A. Yes, ma'am.

Q. Okay. All right. And about how many times a week do you think you would drink as opposed to casual drink?

A. Maybe twice a week.

Q. Okay. All right. But you said the time you went over to look at the car, it wasn't one of those times?

A. No, ma'am.

Q. And how do you know that for sure?

A. I know. I am very, very conscious of my own self.

Q. Okay. Okay. I understand. Did you see -- you said you found a syringe. Did you see anybody put that syringe in the car?

A. I didn't know whose it was. I just threw it in the trash. I didn't want that stuff around there.

Q. I don't know how much you know about the car. Was it a new car, a brand new car or a used car to your knowledge?

A. It was a used car.

Q. There had been previous owners of that automobile to your knowledge?

A. Yes, ma'am.

Q. All right. Do you know how old the car was?

A. I think it was 2005 Ford Escape.

Q. Okay. All right. So this car had some age on it; is that fair to say?

A. It had some on it, yes, ma'am. Like most other people's.

Q. And you don't have any idea who owned that syringe?

A. No, I don't have no idea. I didn't ask no questions. I just -- I put it in the trash and got rid of it.

Q. Okay. And when the power was cut off, would it surprise -- do you know when the power got cut back on?

A. It never got cut back on because nobody ever went back in there.

Q. But after you found out the power was cut off, what did you do? Did you stay there?

A. It got cut off that morning when

Lisa showed up.

Q. Okay. Did you leave ---

A. About maybe two hours before she showed up, that's when the power got cut off. It was on my kids' birthday.

Q. All right. And after the power got cut off, did you stay at that residence?

A. I moved everything out and put in a storage unit.

Q. All right. But where did you stay that night?

A. In my camper.

Q. Okay. So you were in the camper?

A. Yes, ma'am.

Q. You don't know if the electricity got cut back on; do you?

A. No, I don't.

Q. Okay. All right.

MS. HORLBECK: That's all I have.

THE COURT: Any redirect?

MR. WARDER: Yes, sir.

REDIRECT EXAMINATION

BY MR. WARDER:

Q. You, Aaron and Stacy never sexually abused those children; did you?

A. Hell no.

SOLICITOR JONES: Objection, Your Honor. That's in the jury's purview. He's asking a final ---

THE COURT: Sustained. I mean, you can ask whether to his knowledge.

REDRIECT EXAMINATION CONTINUED

BY MR. WARDER:

Q. To your knowledge, did you ever -- you, Aaron or Stacy ever engage in any conduct that you thought was sexually abusive?

A. No.

Q. Thank you.

MR. WARDER: That's all I have.

(WITNESS STEPS DOWN)

THE COURT: Any other witnesses?

MR. WARDER: Your Honor, we'd call Aaron Hendrix.

THE COURT: All right. Mr. Hendrix, if you'll come forward.

(WITNESS TAKES STAND)

AARON HENDRIX, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. WARDER:

Q. Aaron, how long have you lived in Pickens County?

A. I've lived in Pickens all my life.

Q. Okay.

A. Twenty-eight years.

Q. And did you go to high school in Pickens County?

A. Yes, sir, I did.

Q. Did you meet Stacy's sister there?

A. I did.

Q. And did you and her become friends?

A. Yes, sir.

Q. Did there come a time when you were introduced to Stacy?

A. Yes, sir.

Q. And did you two become friends too?

A. Yes, sir, we did.

Q. Was there a time that you moved in with Stacy?

A. There was a point in time, yes.

Q. And was that after you'd dated for some period of time?

A. Yes. We dated roughly a month

before I actually moved in.

Q. Okay. Did you become acquainted with her children when you'd see her?

A. Yes, I did.

Q. Did you do things with her children?

A. I did.

Q. Was Stacy's life mostly devoted to her children? Did she spend most of her time with them?

A. She did, actually. Yes.

Q. When you would see her would you have to have the children around?

A. Repeat that again.

Q. Were the children around when you were dating?

A. Oh, yes. Yes, they were.

Q. What type of things would you do?

A. Watch TV, play games. If they were just coming home from school they did homework. After that, we would draw pictures together. The whole -- family activities.

Q. Okay. And you were working then?

A. On and off. I stayed employed most of the time.

Q. And did you work the same hours as

Stacy or did you work different hours?

A. Mostly different hours. Sometimes we would have worked the same hours and like y'all heard before have to have someone else come watch the kids.

Q. And would there be times you'd watch the children?

A. Yes, there was.

Q. Did you get along with the children?

A. I did, very well.

Q. Did you introduce the children to your family?

A. I did.

Q. And did they meet your family?

A. Yes, sir.

Q. Did you ever take them to your family's house?

A. I did.

Q. And what period of time did you live there?

A. At Stacy's house?

Q. Yes, sir.

A. It was some time, January/February 2012 to December 2012.

Q. Okay. So you lived there from the

early part of 2012 up until December of 2012?

A. Yes, sir.

Q. And during the period of time that you were there, were there any drugs in the house?

A. No, sir.

Q. Was anybody doing drugs there?

A. No, sir.

Q. Were you using drugs?

A. No, sir.

Q. Was Stacy using drugs?

A. No, sir.

Q. There's been discussion of sexual conduct, that the children were somehow sexually assaulted. Did that happen?

A. No. No, sir.

Q. Have you ever been in the bathtub with the children?

A. Have not.

Q. Have you ever been naked in the bedroom with the children?

A. No.

Q. Have you ever seen anyone else, any men, naked in the house with the children?

A. No, not at all.

Q. Were there any other couples that were having sex or anything?

A. No, sir.

Q. Did you and Stacy have sex in front of the children?

A. No, sir.

Q. Was there anything that was inappropriate at the house when you were there?

A. Not to my knowledge, no.

Q. Okay. Was there food in the house?

A. Yes, there was always food.

Q. Okay. Did somebody cook for the children?

A. Yes, either me or Stacy; or if Mark was there, he would cook.

Q. Okay. Did you bring the food home or get food out often?

A. Yeah. Sometimes, yeah. Go to McDonald's. And sometimes I would take the kids to McDonald's while Stacy was still working. We would eat up there, play out on the playground.

Q. Did there come a time you moved out?

A. Yes, sir.

Q. Did you want to move or did you want the relationship to end?

A. I didn't want it to end but by that time, Stacy and I had come to a mutual agreement that it was not working for us.

Q. Were you in love with Stacy?

A. I was.

Q. Would you have done anything to hurt her family?

A. Never.

Q. Did you keep in touch with Stacy after you split up?

A. I kept in touch with her ,I did attempt to keep talking to her.

Q. Did her situation deteriorate?

A. Repeat that? Say that again.

Q. Did her home and problems -- did her home deteriorate?

A. Not that I know of. Not that I'd seen.

Q. Okay. You know whether her lights got shut off?

A. There was always power, always water, always food.

Q. But after you left do you know what

happened?

A. I don't.

Q. You don't know whether she moved somebody else in or if she lived with anybody else or not?

A. I don't know, no, sir.

Q. Did the events the children described, did that take place?

A. No, sir, it did not.

Q. Thank you. You answer any questions the State may have.

THE COURT: Mr. Jones.

SOLICITOR JONES: Thank you, Your Honor.

CROSS-EXAMINATION

BY SOLICITOR JONES:

Q. Do you remember talking to Marvin Nix the investigator?

A. Yes, sir, I do.

Q. Do you remember telling him that you moved into Stacy's house around December of 2011?

A. It was around that time period.

Q. And you dated Stacy for about a month before you moved in?

A. Yes, sir.

Q. Do you remember telling Marvin Nix about living at Stacy's house and it got kind of weird when the biological father Mark stayed there?

A. I remember saying that, yes.

Q. And you testified you know Jessie Riden is Stacy's sister?

A. Yes, sir.

Q. Do you remember telling Marvin that Jessie stayed there on occasion with you and Stacy?

A. She may have spent a night or two when her and her boyfriend weren't getting along.

Q. Do you remember when Marvin asked where Jessie lived that you told him at some motel?

A. Jessie? No, she stayed, I believe, two houses from Stacy and I.

Q. Do you remember telling Marvin Nix that Jessie was kind of crazy?

A. To put lightly, yes.

Q. At any point when you lived at Stacy's house, did you consume illegal drugs?

A. No, I did not.

Q. At any point when you lived at Stacy's house, did you ever use methamphetamine?

A. No, sir.

Q. Do you remember telling Marvin that Jessie, Stacy's sister lies about everything?

A. I'm not quite sure of everything, but she does lie a lot; yes.

Q. Okay. Do you remember telling Marvin that Jennifer, Stacy's other sister, would come over and bring guys?

A. Yeah, maybe a friend or two here and there.

Q. And when Marvin asked you would they be having sex in the open, you said that could have just been Jennifer being Jennifer?

A. I don't remember that.

Q. Okay.

SOLICITOR JONES: I beg the Court's indulgence.

CROSS-EXAMINATION CONTINUED

BY SOLICITOR JONES:

Q. Do you remember if Marvin asked you about Jennifer not wearing a shirt. And you

responded that would just be Jennifer being Jennifer?

A. Possibly, yes.

SOLICITOR JONES: No further questions, Your Honor.

THE COURT: Any redirect?

MS. HORLBECK: I haven't had a chance to ask any questions.

THE COURT: I apologize.

MS. HORLBECK: That's all right, Judge. This will be brief.

CROSS-EXAMINATION

BY MS. HORLBECK:

Q. I couldn't hear your response. Do you recall telling Officer Nix that Jessie acted kind of crazy?

A. Yes.

Q. All right. All right. So when you said crazy, do you mean like sexually-abused kids crazy?

A. No, ma'am.

Q. Do you mean like kiss your sisters on the lips crazy?

A. No, ma'am.

Q. Do you mean like roll around naked

or in various states of nudity or undress with your sisters and with a bunch of guys in the bed crazy?

A. No, ma'am.

MS. HORLBECK: That's all I have. Thank you.

THE COURT: Now any redirect?

MR. WARDER: No, Your Honor.

THE COURT: Thank you. You may step down.

(WITNESS STEPS DOWN)

THE COURT: Do you have any more witnesses?

MR. WARDER: Yes, sir. We'd call Annie Queen.

THE COURT: All right.

(WITNESS TAKES STAND)

LUANNE QUEEN, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. WARDER:

Q. Can you tell us how you fit in this? Do you know Aaron Hendrix?

A. He's my son.

Q. Where do you live at?

A. I live in Dacusville.

Q. Is that where you lived at in 2011?

A. Yes.

Q. Did you meet the Lusk children?

A. Yes.

Q. And how did you meet them?

A. My son was involved in a relationship with their mother.

Q. Okay. And did he bring them to your house or did you go over there. How did you know them.

A. He brought them to my house about four or five times during the time that he was in the relationship with their mother.

Q. Did she come with him on those occasions?

A. The first I met them she was with them.

Q. Okay. And that was then followed by two or three occasions that she wasn't there?

A. Yes.

Q. Did the children seem happy, well cared for?

A. Yes.

Q. Did he look after them?

A. Yes.

Q. Did they seem to be appropriately nourished?

A. Yes.

Q. Did you ever go over and visit at their house?

A. I went to their house twice, not to visit but just to pick Aaron up or pick them up to go somewhere.

Q. Was the house in an organized, clean fashion?

A. Yes.

Q. Did it look appropriate for the children?

A. Yes.

Q. And did you see Stacy with the children?

A. I've only seen her with the children probably two times.

Q. Okay. And was everything proper on those occasions?

SOLICITOR JONES: Objection, Your Honor. What does "proper" mean?

MR. WARDER: Proper ---

THE COURT: Rephrase your question.

DIRECT EXAMINATION CONTINUED

BY MR. WARDER:

Q. Did the children seem to be well nourished on those occasions?

A. Yes.

Q. And did she seem to be attentive?

A. Yes.

Q. And do you know when your son broke up with Stacy?

A. Oh, I think it was right before Christmas of 2012.

Q. Okay. Did he move back in with you when he moved out down there?

A. Yes.

Q. Okay. And they haven't been back together since then?

A. No.

Q. Thank you. Answer any questions…

THE COURT: Any cross?

SOLICITOR JONES: Just briefly, Your Honor.

CROSS-EXAMINATION

BY SOLICITOR JONES:

Q. Ms. Queen, you say you're Mr.

Hendrix's mother?

A. Yes.

Q. Do you love your son?

A. Oh, yes.

SOLICITOR JONES: No further questions, Your Honor.

MS. HORLBECK: Just briefly.

CROSS-EXAMINATION

BY MS. HORLBECK:

Q. Is Ms. McQueen?

A. Queen?

Q. Queen. So no Mc, just Queen.

A. (Affirmative nod)

Q. Okay. All right. Ms. Queen, just a few questions. On the occasions that you were with the children or that you saw the children, did you notice any bruises or like knife cuts on the children?

A. No.

Q. All right. Any signs of abuse?

A. No.

Q. Did you notice any cuts, bruises, scratches on their faces?

A. No.

Q. All right.

MS. HORLBECK: That's all I have. Thank you.

THE COURT: Any redirect?

MR. WARDER: No redirect, Your Honor.

THE COURT: All right. Thank you.

(WITNESS STEPS DOWN)

THE COURT: Anything further, Mr. Warder?

MR. WARDER: No, sir.

THE COURT: You plan any additional?

SOLICITOR JONES: Your Honor, I do have one rebuttal witness.

THE COURT: All right. Ladies and gentlemen, I'm going to send you back just briefly. And then we'll come back in.

Again, do not deliberate about the case. No discussion whatsoever about it. Thank you.

(JURY OUT @ 12:25 P.M.)

THE COURT: All right. You say you have a short rebuttal?

SOLICITOR JONES: Yes, Your Honor, my questions ---

THE COURT: You may not have said that or not, but that was what ---

SOLICITOR JONES: Yes, sir.

THE COURT: All right. Are you ready to proceed then?

SOLICITOR JONES: Yes, sir, Your Honor.

THE COURT: Okay. Anything before we hear that witness?

SOLICITOR JONES: Nothing from the State, Your Honor.

THE COURT: Anything from the Defendants?

MS. HORLBECK: No, Your Honor.

MR. WARDER: (No verbal response).

THE COURT: Our goal is to let's get through this witness and then we'll have a brief discussion about verdict forms and charges and then I'll work that up and send that to you and you work it over lunch. All right. If they're ready.

BAILIFF: Sir?

THE COURT: If they're ready bring them on in.

(JURY IN AT 12:30 P.M.)

THE COURT: All right. And at this point the State has a rebuttal witness. Mr. Jones?

SOLICITOR JONES: Thank you, Your Honor. The State calls Mr. Mark Riden.

(WITNESS TAKES STAND)

MARK RIDEN, having been duly sworn to tell the truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR JONES:

Q. Mr. Riden, how are you related to Stacy Riden?

A. I'm her dad.

Q. Do you have any other children?

A. Yes. Jennifer, Jessie, Courtney and Katie; all daughters.

Q. And where do you currently work?

A. All in One Insulation company.

Q. How long you been working there?

A. Ten years.

Q. Do you know who Mark Lusk is?

A. Yes.

Q. Who is that?

A. He's the father of my grandchildren.

He was with Stacy for three years. Three of my grandchildren: Minor 3 Minor 1 and Minor 2

Q. And where do Minor 2 Minor 1 and Minor 3 where do they live now?

A. They live with me and my wife, Lisa.

Q. How long have they been living with you?

A. I'm going to say between two and a half to three years.

Q. Do you remember about when they moved in with you?

A. No, I don't. I'm not good with time frames but it's been probably two and a half years or three years.

Q. Was it around March of 2013?

MR. WARDER: Objection. He's leading, Your Honor.

THE COURT: Yeah. Rephrase your question.

SOLICITOR JONES: Yes, sir.

DIRECT EXAMINATON CONTINUED

BY SOLICITOR JONES:

Q. When the children started staying with you for this long period of time, because they've been with you a long time,

how did that come about? How did the children get from Stacy's house to your house?

A. Well, one day Mark Lusk, the father of the children, called me and said, 'Mark, would you please go get the children. There's no food in the house. They're not eating. And there's just, you know, several people are coming in and out. And I think they're going to be hurt or they're going to starve to death if you don't get them.'

Q. And what did you do?

A. I talked to my wife, Lisa. I asked her if she'd go over and get them. And she said, yes. And we got them.

Q. How old are you?

A. Fifty-two.

Q. Fifty-two. And how old is your oldest child?

A. Thirty-two, thirty-one, she was born in '85.

Q. And what about your youngest child?

A. She's eleven. Katie.

Q. And after Stacy was charged with these crimes, did you ever talk to her about

it?

A. Yes.

Q. Did she ever tell you anything specifically about these allegations?

A. She said they weren't true.

Q. Did she elaborate on that at all?

A. The only thing she would say is, "I had nothing to do with this, unless drugs influenced me somehow." And she was saddened that she missed the warning signs of the abuse from the other party.

Q. So she told you that if she had anything to do with it, drugs influenced her?

A. Yes.

SOLICITOR JONES: I beg the Court's indulgence. No further questions, Your Honor.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MS. HORLBECK:

Q. All right. Mr. Riden, you're related to Stacy Riden in that you're her father, her biological father; is that correct?

A. That's true.

Q. All right. And you're also the biological father of Jessie, Jennifer, and -- I don't remember the ---

A. Courtney and Katie.

Q. And then you -- and it's a little bit hard to hear sometimes.

A. Okay.

Q. So if I mistake something, correct me. You also said that you have a -- your youngest child is how old?

A. Eleven.

Q. Oh, okay. So there is another child that you have?

A. Well, she's not in the home. She's with her mother.

Q. Okay. All right. All right, then. And you're fifty-two years old now?

A. That's correct.

Q. All right. Okay. And you testified that you spoke to Stacy after she'd been charged?

A. Yes.

Q. All right. And she was saddened that she missed the warning signs of abuse by the other party?

A. Yeah.

Q. All right. The other party being?

A. Aaron Hendrix.

Q. All right.

MS. HORLBECK: That's all I have. Thank you.

THE COURT: Mr. Warder?

MR. WARDER: I have no questions.

THE COURT: All right. Any redirect?

SOLICITOR JONES: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY SOLICITOR JONES:

Q. After you got the children, did Stacy ever indicate to you that she wanted custody back?

A. Well, eventually ---

MS. HORLBECK: Objection ---

MR. WARDER: Objection.

MS. HORLBECK: --- relevance.

THE COURT: Yeah, I don't believe that was -- that's not proper redirect. So I'm going to sustain that.

SOLICITOR JONES: Yes, sir, Your

Honor. No further questions.

THE COURT: All right. You may step down.

(WITNESS STEPS DOWN)

THE COURT: Is that the extent?

SOLICITOR JONES: That's the extent, Your Honor.

THE COURT: All right. All right. Ladies and gentlemen, we have concluded the part of the trial meaning that all of the evidence has been introduced and all the testimony.

That still doesn't mean you can start deliberations. You can't. That will come after closing arguments and after I have charged you on the law.

So what I'm going to do now is let you go to lunch. It is now 12:30. I'm going to ask that you be back in your jury room at 2:00. At 2:00 we'll have you come out and we'll do closing argument and I will charge you on the law that applies to the case.

Let me again give you the four warnings:

You do not discuss this case among

yourselves or with anybody. That's very important.

Also, don't do any independent research or anything like because the only information you're supposed to be considering is what you get in here, you hear from the testimony that has been admitted or the law that I charge you.

Third, if there's any media coverage, social media, TV coverage, newspaper, anything like that, then you're not to consider that in any way. Please do not look at that or pay any attention to that.

Lastly, if you should be contacted by anyone, please notify the bailiff.

Otherwise, please have a good lunch and be back in your jury room at 2:00 for the final stage.

(JURY OUT @ 12:35 P.M.)

THE COURT: All right. Let me just talk with the attorneys just briefly in the back to discuss the jury charges and verdict forms.

(LUNCH RECESS)

(DEFENDANT RIDEN PRESENT)

(DEFENDANT HENDRIX PRESENT)

THE COURT: All right. I have e-mailed the -- y'all should have both gotten the verdict form and the charges. And we'll first talk about -- if you'll pull the verdict form up. I know you had issue with one of those?

SOLICITOR JONES: Yes, Your Honor. I just had an issue with the -- for the criminal sexual conduct with a minor first, I would ask that the form just be for the entering of Guilty or Not Guilty. I think the follow-up question as to what specifically they find is really unnecessary.

THE COURT: Well, the statute specifically requires it.

SOLICITOR JONES: Requires ---

THE COURT: Yeah. Where is the statute? Again, that's why -- it says that the judge or the jury must make a specific -- as to what's specific. And I think it has to do something with if they're ever charged later, if they're entitled to seek the death penalty. Let me look that up as to why they

require that.

SOLICITOR JONES: Okay. Well, Your Honor, I wasn't aware of that and I wasn't aware that the statute required it, but you obviously know more than I do.

THE COURT: No, I just -- hey, I just happened to read it. The form that we got had those questions on there. Let me pull that.

There's a list of them. And I think that's -- all right. If you look at 16-3-655, it says a person convicted of a violation of (a)(1), which is the (a)(1)(a), the sexual battery must be imprisoned etcetera.

In the case of -- in case of a person convicted at trial for violation of this section, the judge or jury must designate as part of the verdict whether the conduct that constitutes sexual battery involved sexual or anal intercourse by a person or intrusion by an object.

SOLICITOR JONES: Okay.

THE COURT: Actually, we looked it up as to why -- I mean, why would it --

because it doesn't affect the sentence.

SOLICITOR JONES: Right.

THE COURT: And I can't imagine it would affect the amount of time that you would spend in jail because as much as you can anyway. But it has something to do, according to our research is if they ever get charged again and because of this finding, they can be subject to the death penalty or something, or life in prison, life without parole.

SOLICITOR JONES: Well, I understand your ruling then, Your Honor.

MS. HORLBECK: But there's not going to be anything about the death penalty on ---.

THE COURT: No, no. The verdict form is -- did you get a copy of the verdict form?

MS. HORLBECK: I did, yes.

THE COURT: All right. So other than that, any objection to the -- anything else other than that, on the verdict form?

SOLICITOR JONES: Nothing else from the State, Your Honor.

THE COURT: All right. We'll go ahead and print the form. All right. Everybody have a chance to review the jury charge?

SOLICITOR JONES: Yes, Your Honor.

THE COURT: Any objections or notes or questions or any discussions about the jury charge?

MS. HORLBECK: None from Ms. Riden.

MR. WARDER: No, Your Honor.

SOLICITOR JONES: Nothing from the State, Your Honor.

THE COURT: I'll let her print those so that everybody has a verdict form before the jury comes in. Because what I do is give the foreperson verdict forms. Are all the jurors here?

BAILIFF: Yes, sir.

THE COURT: All right. Are we ready to bring the jury? Ready for closing argument? (No verbal response). Anything else from the State before we bring the jury in?

SOLICITOR JONES: Nothing else from

the State, Your Honor.

THE COURT: Anything else from Defendant Riden?

MS. HORLBECK: No, Judge, just renew all previous Motions and objections.

THE COURT: All right.

MR. WARDER: Nothing further. I also renew all Motions.

THE COURT: All right. And I'll renew my decision to deny them. All right. If they're ready, bring them in.

BAILIFF: Yes, sir.

(JURY IN @ 2:05 P.M.)

THE COURT: Ladies and gentlemen, thank you. I hope everybody had a pleasant lunch. We're now to the final phase of the trial, what we'll be closing arguments by the attorneys.

Those are arguments or summaries and are not to be considered evidence. The evidence is what you heard here and you may make a determination of what that evidence to be.

This will be a summary provided by the attorneys. And then when they are

through, depending on how long it is, we may take, we may just take a stretch break and then I will charge you the law, what the law will be in the case.

At that point after I've charges you as to the law in the case, once I confirm that there are no additions or revisions, you will finally begin deliberations.

I ask at this point that you pay very close attention to what the attorneys have to say and then to what I have to say as far as the law in the case.

All right. Ms. Horlbeck?

CLOSING STATEMENT

BY MS. HORLBECK:

Good afternoon, ladies and gentlemen. I've had my electricity turned off and it's not something that happened when I was in my twenties. I am, I guess, one of those women that got married later in my life. So it actually happened when I first starting to see my husband. I'm not a spring chicken, so it's probably happened more recently than I even want or care to reveal. I don't know why I forgot to pay it. I just have no clue.

But it happened.

My point is, is that all of us have come into this courtroom. We all come in with our blemishes and our skeletons and our mistakes and the stupid things that we do and the stupid people that we trust.

But this case is not about getting your electricity turned off. It's not about being a single mother. It's not about having a hard time making your financial ends meet.

And it's not about drug use that happened in 2013. The indictments -- the dates on this copy of the indictment are from 2011, December 2011 to December 2012. Those are the dates. It's not about anything that happens in 2013.

This case is about, ladies and gentlemen, a well-meaning, loving family that wants these children, that disagree with how Ms. Riden lives her life. And they're willing to use the criminal justice system to wall her off from her children.

This is a wonderful system we have in this country. And there are some very, very fundamental principles the Judge has

already discussed with already in this case. And Judge Gravely will talk about it some more, those fundamental principles. But they're so important I'm going to just briefly touch on them again.

A major principle in our criminal justice system is the presumption of innocence. I told you during my opening statement that presumption of innocence covers you like a cloak. It covers everyone that stands on trial, whether you have blemishes, whether you have skeletons, whether you're a single mother, whether you began to use drugs after your children went to live with their grandparents, whether or not you had your electricity turned off. You're covered by the presumption of innocence, and it does not leave you.

It doesn't leave when you all go and have lunch or when you go take a break or when we go and argue Motions. It covers and remains covered today.

The only thing that removes the presumption of innocence is proof of guilt beyond a reasonable doubt. Judge Gravely

will instruct you about the meaning of reasonable doubt. But there's a number of ways to think about reasonable doubt. A reasonable doubt is just a doubt that you've got a reason for having.

A reasonable doubt is a feeling -- gosh, I just wish the government had more. I wish they had more evidence. I wish they had more to tell me. It's the feeling, 'gosh, I just don't know that the government's proven their case.' It's the feeling that Ms. Riden may not be guilty.

Judge Gravely will instruct you that if you have any doubts about whether or not Ms. Riden is guilty, you must resolve them in her favor and give her the benefit of the doubt. There are many reasons -- well, for that.

My final definition of reasonable doubt is a reason that you have for hesitating to act or in this matter, hesitating to convict.

There are many reasons to hesitate to convict in this case. I don't have time to go over all of them, but I'm going to

touch the highlights. But under what you're entitled to consider the underlying them of custody in this case and the ensuing effort to separate Stacy from her children. You're entitled to consider all of that.

Thank goodness there are families that are there when other families need help. Please don't misunderstand me. I'm not criticizing this family. Thank goodness they were there to take these children when Stacy was at a low point in her life and needed help with these children.

But there's an underlying theme of custody that runs through this case and it started right at the beginning when the police were first called. There was a discussion that this family did not have court-Ordered custody of these children. There was advice from the police, from Officer Nix to contact DSS, to contact an attorney. So there's no mistaking there's that underlying theme of an effort to separate Stacy from her children.

There's no evidence of drug abuse from 2011 to 2012. And I'd say that I

understand what the children have said. But there's no evidence from other witnesses.

You heard Stacy's own father take the stand. He didn't testify about any observations that he'd made about Stacy being under the influence in 2011, 2012.

You have heard no evidence that Stacy was found in possession of any drugs or drug paraphernalia from 2011 to 2012. There's no convictions involving drugs from 2000[sic] and 2012.

Indeed, you've heard from Ms. Riden herself who testified her drug use started and got -- or it escalated after the children left her and went to live with their grandparents. So this started as a result of the children leaving.

There's no evidence of drug abuse in 2011. She was very candid, Ms. Riden was, about things going downhill after the time period that is laid out in these indictments.

The children's father testified. I think he was -- it was almost memorable when he said "Stacy's the best mother in the world. You won't find a better mother."

Ms. Queen saw Stacy during that time period that's listed in our indictments. She didn't mention any concerns that she had about Stacy being under the influence. And she'd seen her and the children. Didn't have any concerns about Stacy, didn't have any concerns about the way that Stacy's home was running. Didn't have any concerns with the children. And Ms. Queen did not observe any cuts on the children's arms that could have resulted from a knife cut. She did not observe any bruises or cuts or scrapes on any of the children's faces that I would assume you would see after being hit in the head with a helmet. None of those things were observed. These are all things that have been brought up in an effort to separate Stacy from her children.

You're entitled to consider the testimony of the children in this case.

Let's start with Minor 3. She, when she took the stand and testified, she was age five. You'll have to do the math. It sounded as if she was probably between twelve months and eighteen months during the time

period of 2011, 2012. You're entitled to wonder is a child of that age able to remember anything?

I asked her very clearly to describe how many rooms there were in her mom's house when she lived there. She said zero. I asked her also to tell me about the bathrooms and how many bathrooms that there were and she said zero. That is an indication of this child's lack of memory. If she is unable to remember the place where she lives, does that call into question any of the things that she testified to?

And she didn't testify to much. She was not able to provide any detail. She was not able to say when. She was not able to describe any of the observations that a person -- things that a person would have observed if they'd truly been there. I'm not trying to say that the child is lying. She's tiny, she was very young. You are entitled to take all of that into consideration and her age into consideration as you weight the evidence in this case.

You're also entitled to consider

the evolving story that we've heard from the other two children, Minor 1 and Minor 2

The State's own expert, Ms. Carlberg, testified very clearly about coaching and the things that she was looking for to determine if coaching had occurred. She testified that she's looking for consistency, internal consistency in the story over time. She was looking for consistency in the who, the what, and the when and the where. Ladies and gentlemen, I submit to you there's a lack of consistency in those aspects of their stories.

The who changed dramatically. When you compare the testimony of the children in the forensic interviews that we watched on the screen, those children all described that their father was present and watching and laughing. That their aunts, Jennifer and Jessie were present and involved and rolling around in various states of undress, with various people that -- various adults that allegedly lived in the house at the time.

But as the children took the stand

they testified dad wasn't there. So our dad, Mark Lusk, was not there. Jennifer and Jessie weren't there.

There's a lack of consistency in the who in this case and you're entitled to consider that. There's an utter absence of evidence of evidence about the when. There's absolute -- none of the children were able to testify about when these things happened and that's important.

There's also a lack of consistency in the actual details. Details had changed. These things are important because the State's own expert said that they were. She's looking for internal consistency over time. She said that it's difficult for children to maintain a lie, that the children must know the subject matter and they have to be consistent with the who, what, when and where. If they're not consistent with the who, what, when and where, that's evidence of coaching.

Not coaching by Stacy who's had absolutely no contact with these children or not much since they went to live with their

grandparents.

Ms. Carlberg also testified that as a child gets older the child should be able to provide more detail, not less. You compare those videos that we saw yesterday and compare them, those videos to the testimony that we heard on the stand, drastically different. A drastic change in the who, the what, and the where and in absence of core contextual detail these experts are looking for. And when they see these things are missing, that's evidence of coaching. It's out of their own expert's mouth.

The details about penetration had changed. There was no detail about any of that on the stand.

There were no details about the smell.

There were no details about what they saw. There was no detail about anything that you see or genital on adult genitalia, which would include hair. And there was absolutely no testimony about any child seeing anything coming out of adult

genitalia.

That's important. When a child's being coached, it's hard to give details. And as the child gets older, they should be able to give more detail.

Other evidence of coaching. I don't know if you caught it -- well, I asked Minor 2 when she took the stand about a situation with the Barbie dolls. And she flatly denied that any Barbie dolls had been positioned at all, she denied that completely. However, in her videotaped interview when Ms. Shauna brought in the anatomical dolls, Minor 2 specifically said, 'Oh, my grandmother has Barbies and we got them and positioned them. We've got Barbies at grandma's house. We got them and positioned the boy Barbie so he was lying down. The girl was on her knees. And then grandma asked us if this happened.'

That's evidence of coaching. And you're entitled to consider that and also ask yourselves why this child is denying that this happened. This child is on the video-tape saying that this happened. Yesterday

when she testified it was as if it had never happened at all, but it did. And we know it happened because it's on the video. It's important for you to consider that. It's evidence of coaching.

Also on the video Minor 2 says "it is going to be a long time before we see our mother again." How would that child know that? How would that child know that? Why would this child have any idea about when she might see her mother again unless she's been able to talk about it? No one knows why that -- y'all are just going to have to consider that, but you're entitled to wonder how did this child get this information? And who did this child get this information from?

In the videos, my client Stacy, the children called her mom or mommy or mama. When these children took the stand, Stacy wasn't mom anymore. She was "Stacy." You're entitled to consider that and wonder where these children are learning to change her name. It's evidence of potential coaching and I'd just ask y'all to consider that.

Recall the physical exams that were

performed by the doctor who performed them. I can't think of her name. It might have been Bradshaw but -- the name escapes me. But you all saw her testify. She testified that she examined all three children. This happened, the dates of the examinations were March the 26th, 2014.

As part of all of the examinations she does a head to toe physical exam of the children. And she said that she did it because it's important to know if there's any injuries or scrapes or scars or healing scars or nothing on the child.

Also, she testified that as part of the exam they use what's known as a colposcope. And that's a machine that will magnify the genital area so that they can determine if there are any scars or wounds or tears or rips or anything in various stages of healing.

It's important to note that in Minor 1 's exam, you can consider his testimony when he said he'd been cut with a knife and kicked in the genitalia and also whacked in the head, in the face, with a helmet. Yet

this doctor could find none of these things. There was no testimony that your skin heals real quickly and doesn't scar. There were no knife scars on Minor 1 . There were no scars where he had been hit in the head with a helmet. No scars of any kind on this child. And absolutely no damage to his genital area after it was blown up and magnified on the colposcope. No sign of any damage as a result of any kicking that Minor 1 alleged when he was on the stand.

The same is true for Minor 2 a completely normal genital exam, complete normal physical exam -- for both children.

Minor 3 she had evidence of labial adhesion. I just want to remind you, and I know y'all heard this, but that is evidence of inflammation. The doctor testified that she was not able to testify about the etiology of the inflammation or the labial adhesion. I looked up "etiology" because I just don't know what it means and it means cause. So what she's saying is she's not able to determine the cause of that inflammation. She said it can be a result of

poor toileting hygiene, not wiping after pottying. It can also be a result of non-accidental and accidental trauma. She, this doctor, was not able to say that Minor 3 physical exam or that that labial adhesion was a result of any sort of abuse. So I want to remind that to y'all.

She also discovered cavities. I'm not a dentist but you're certainly entitled to wonder when those cavities started in the child's mouth. At the time of the examination, I believe that the evidence will show that the children had been in custody of the grandparents for about a year.

Why would a child lie about these things? I think the State's own expert provides us the answer to that. Coaching. There's an utter lack of consistency in the who, what and when in this case. There was a lack of detail. It is hard to give details when children have been coached. And as the children have gotten older they are unable to provide details. They're losing the ability to provide details in this case. All of that's happening because the family is

coaching them.

We have a wonderful criminal justice system in this state and in this country when it's applied correctly. But it cannot be utilized to sever a mother from her children just because she's single or because she is having a hard time making ends meet or because she gets the power turned off, or because she makes stupid decisions over who she dates and who she trusts.

You heard Stacy. She loves those children. She wouldn't do a thing to hurt those children and she would kill anybody that hurt those children. She's not guilty of these charges. We ask y'all to find her Not Guilty. Thank you.

THE COURT: Mr. Warder?

MR. WARDER: Thank you, Your Honor.

CLOSING STATEMENT

BY MR. WARDER:

I want to thank y'all for sitting here, watching all the videos, spending all your time. We greatly appreciate it.

This is my client's most important day. This is the day you will decide whether

he's guilty of doing an unspeakable crime or whether the proper verdict is the verdict of Not Guilty.

I want to talk to you just briefly about -- you've waited a long time. And I want to thank you before you get to deliberate and decide this case.

Now, let me say basically two things in defense of my client. We're not sure exactly which one's true. At first, it didn't happen at all or it didn't happen when my client was there. I say that because of several reasons but the -- supposedly the last statement we heard that Stacy had made was it was people around her and that it might have been drugs that was what influenced. But at the end, my client wasn't around. My client left and the situation deteriorated, if it happened at all.

And so we begin by deciding did it happen at all? And I submit to you the correct determination there will be that it did not happen at all.

And it doesn't make sense. It's your common sense, your everyday experience.

My client lived there for about a year. He was involved in a relationship that lasted about a year. He moved in at some time and it was a considerable portion of that year that they lived together. The allegation is that it's not when he was alone with the children and no one was around. It's not when he was with one of the children and the others weren't there. Not when anything was secreted from the other children. The allegation is that they all got together and they did these things then. I think the children said about five times. Try that on for common sense. Is that the way somebody who's going to violate a child would do it, he would do it with the mother there, all the siblings there, and some other people in the house or when the father was there. Some stranger to the children, some other adults or maybe Stacy's sisters? This story is unbelievable. It's not the way things would happen. It's not the way people act. And I think that should cause you to question whether or not these events were really there or whether these are ideas and planted in the

children's mind.

You know, these are people that at that age that can believe they saw Santa Claus and the Tooth Fairy.

This is a case that there's no evidence that this occurred physically. All we have is the word and the story is identical with each child. That, in and of itself, should cause some suspicion. Seldom is an event, so many events that go over a long period of time, be exactly the same by every child absent them getting together and planning before the event what's going to be said. They coached.

The dolls. Somebody had to -- I mean, that somebody had to demonstrate to the child before they went to the psychotherapist where the special dolls that had all the parts on them were, somebody would take the time with Barbie dolls and demonstrate with the children before that, means that the person must have wanted them to say that.

And that's why I say that if it happened after we left because we don't know what happened then. We can only testify for