

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable James R. Barber, Circuit Court Judge

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SEP 05 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GERALD DEWAYNE POWELL,

APPELLANT

APPELLATE CASE NO 2016-001574

RECORD ON APPEAL

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	)	2015-GS-23-08454
	)	
	)	ORIGINAL
STATE OF SOUTH CAROLINA	)	
	)	PLAINTIFF
VS.	)	TRANSCRIPT OF RECORD
	)	
GERALD DEWAYNE POWELL	)	
	)	DEFENDANT

July 18-19, 2016
Greenville, South Carolina

B E F O R E:

THE HONORABLE JAMES R. BARBER, Judge; and a
jury.

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

ELIZABETH MAJOR, ASSISTANT SOLICITOR
Attorney for the State

JOHN ERWIN, ESQ.
STUART SARRATT, ESQ.
Attorneys for the Defendant

APRIL HERRON
Official Court Reporter

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*ALL EXHIBITS WERE RETAINED BY
THE CLERK OF COURT FOR GREENVILLE
COUNTY*

1 Mr. Powell, potentially.

2 THE COURT: That would be it?

3 MR. ERWIN: At this point, yes, Judge. A lot of
4 this depends on how The State's case progresses.
5 Which obviously, I don't have full access --

6 THE COURT: If you got somebody else -- what we
7 don't want to do, Mr. Erwin, is we have somebody --
8 you come up with somebody at the end and. . .

9 Did you have any voir dire, Ms. Major.

10 MS. MAJOR: None, Your Honor. Standard -- I
11 never have anything in addition to what the Judges
12 usually asks.

13 MR. ERWIN: Your Honor, we do have two more
14 names to add to the witness list.

15 THE COURT: Can you write them down?

16 MR. ERWIN: Yes, sir, I can.

17 THE COURT: What are the names?

18 MR. ERWIN: Gerald Powell, of course, and Wanda
19 Powell and Wade Jones.

20 THE COURT: Wanda Powell?

21 MR. ERWIN: Yes, sir.

22 THE COURT: Wade Jones?

23 MR. ERWIN: Yes, sir.

24 THE COURT: Ms. Major, Mr. Erwin, the clerk has
25 informed me that some of these jurors on this list

1 has been given protection for Thursday. You don't
2 anticipate in any way that this case would go into
3 Thursday; do you?

4 MS. MAJOR: No, I do not.

5 MR. ERWIN: I don't either, Judge. And this is,
6 just to clean this up a second, we would like to take
7 Wade Jones off of the witness list. Because we're
8 sequestering witnesses, he's going to be in here, I
9 don't think he has any relevant testimony. So, we're
10 going to pull his name off the list so he can sit in
11 the courtroom.

12 THE COURT: All right.

13 THE BAILIFF: Ready, Your Honor?

14 THE COURT: Yes, sir. We probably could have
15 gotten nine more jurors in here.

16 THE CLERK: Do you want them?

17 THE COURT: We could have gotten nine more
18 jurors in here, couldn't we?

19 THE BAILIFF: You could have.

20 THE COURT: Seven in the back, two in the front.

21 All right, ladies and gentlemen, good afternoon
22 to you, my name is Judge Barber. I'm a circuit
23 Judge. I resides in, most of the time, in Richland
24 County, which is Columbia. But I have been assigned
25 to hold what we call general sessions court, criminal

1 court, here in Greenville County which is in the 13th
2 Judicial Circuit. Of course, we have 16 circuits in
3 South Carolina and the 13th is made up of Greenville
4 County and Pickens County.

5 And we are about to select a jury the case
6 entitled the State of South Carolina vs. Gerald
7 Dewayne Powell. And Mr. Powell has been indicted for
8 two criminal offenses. One is criminal sexual
9 conduct with a minor in the first degree. And the
10 indictment alleges that Mr. Powell did in Greenville
11 County between April -- August 2, 2008 and August 1,
12 2011, commit a sexual battery on TM, which was less
13 than 11 years of age. He's also been indicted on the
14 offense of lewd act upon a child. That indictment
15 alleges that Mr. Powell did in Greenville County
16 between August 2, 2007 and March 1, 2012, being over
17 the age of 14 years, willfully and lewdly commit a
18 lewd or attempt to commit a lewd and lascivious act
19 opinion or with the body or its part of TM, a child
20 under the age of 16 years. And did so with the
21 intent of arousing, appealing to or gratifying the
22 lust, passions or sexual desires of himself or such
23 child.

24 Now, ladies and gentlemen, to these charges the
25 Defendant has entered a plea of not guilty. Which

1 now places upon the State of South Carolina, the
2 burden of proving this Defendant guilty and proving
3 him guilty beyond a reasonable doubt. The Defendant
4 has no burden whatsoever in this case. It all falls
5 upon the State of South Carolina. In addition, I
6 want you to understand that these indictments are
7 notice documents. They exist for no purpose other
8 than to put the Defendant on notice for these
9 particular charges. They're not evidence and they're
10 not to be considered by anybody for any purpose other
11 than they put this Defendant on notice of his
12 charges. And as I said, he has pled not guilty.

13 You need to keep in mind that in every instance
14 a Defendant comes into this courtroom presumed to be
15 innocent. And that presumption of innocence remains
16 with the Defendant throughout the course of the trial
17 and would only change if a juror, after hearing the
18 evidence, applying the law, determines the Defendant
19 to be guilty beyond a reasonable doubt. So, the two
20 basic bedrocks of our criminal justice system, one,
21 is the Defendant is presumed to be innocent. And you
22 need to keep that in mind. And two, the burden of
23 proving the Defendant guilty falls upon the State of
24 South Carolina and that burden of proof is proof
25 beyond a reasonable doubt.

1 Now, before we begin here morning, ladies and
2 gentlemen, I have certain questions I want to ask
3 you. And it may be that some of these questions I'm
4 going to ask you as a group and some of them I may
5 ask you on a individual basis. First, let me
6 introduce you to some of the parties involved. Let
7 me introduce you to Mr. Powell.

8 Mr. Powell, if you'd please stand and face the
9 jury.

10 Ladies and gentlemen, this is Mr. Powell. And I
11 would inquire at this time, is there any member of
12 this jury panel or any member of the jury panel's
13 immediate family who is related by blood or connected
14 by marriage or even now or in the past has who has
15 had a close personal relationship with Mr. Powell; or
16 either now in the past has had employment or a
17 business relationship with Mr. Powell? If so, please
18 stand.

19 There was no response.

20 THE COURT: All right, thank you, sir. You may
21 have a seat.

22 Ladies and gentlemen, most instances when
23 parties come into court they're represented by
24 attorneys. Not always but in most instances. In
25 this case, both the The State and The Defendant are

1 represented by attorneys. The State is represented
2 by the Solicitor's Office of the 13th Judicial
3 Circuit. And the solicitor that's handling this case
4 is Ms. Elizabeth Major. And this is Ms. Major
5 standing right here. Ms. Major's a member of the
6 South Carolina Bar. And I would say inquire at this
7 time, is there any member of this jury panel or any
8 member of the jury panel's immediate family who's
9 related by blood or connected by marriage or either
10 now or in the past who has had a close, personal
11 relationship with Ms. Major or with the Solicitor's
12 Office of the 13th Judicial Circuit; or even now or
13 in the past has had an employment or business
14 relationship with Ms. Major or the Solicitor's Office
15 of the 13th Circuit? If so, please stand.

16 THE COURT: Yes, ma'am, your name.

17 PROSPECTIVE JUROR: Portia Easterling.

18 THE COURT: All right, Ms. Easterling, what's
19 your situation?

20 PROSPECTIVE JUROR: Something with the
21 Solicitor's Office. I have been in contact with the
22 Solicitor's Office for the past year and a half. I
23 have an ongoing case right now.

24 THE COURT: Okay. There's a case pending in the
25 Solicitor's Office?

1 PROSPECTIVE JUROR: (Prospective juror nods.)

2 THE COURT: All right, I'm going to excuse you
3 from serving on this jury. Just have a seat. Just
4 keep your seat. And what was your jury number,
5 ma'am?

6 PROSPECTIVE JUROR: Seventy-six.

7 THE COURT: All right, Portia Easterling.

8 All right, ladies and gentlemen, representing
9 Mr. Powell --

10 She was number seven on your list.

11 THE CLERK: Yes, sir, Your Honor.

12 THE COURT: Mr. John Jake Erwin. And this is
13 Mr. Erwin standing right here. And Mr. Stuart
14 Sarratt standing right here. They're both members of
15 the South Carolina Bar and they practice in
16 Greenville. I would inquire at this time, is there
17 any member of this jury panel or any member of the
18 jury panel's immediate family who is related by blood
19 or connected by marriage; or either now or in the
20 past who's had a close personal relationship with
21 either of these gentlemen; or either now or in the
22 past has had an employment or business relationship
23 with either of these gentlemen; or either now or in
24 the past that has been represented by Mr. Erwin or
25 Mr. Sarratt? If so, please stand.

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1 connected by marriage; or either now or in the past
2 has had a close personal relationship with any of the
3 witnesses who's names I just read to you; either now
4 or in the past has had an employment or business
5 relationship with any of those witnesses? If so,
6 please stand.

7 Yes, ma'am, tell me your name.

8 PROSPECTIVE JUROR: Amanda Manly.

9 THE COURT: All right.

10 PROSPECTIVE JUROR: And I'm sorry, the name
11 Shauna Galloway-Williams sounds very familiar. Is
12 she -- if she's who I think she is she's the director
13 of a non-profit.

14 THE COURT: She's with the Julie Valentine
15 Center.

16 PROSPECTIVE JUROR: Yes. I work at Safe Harbor
17 so I've come across her at some events. We haven't
18 worked closely together but I know of her.

19 THE COURT: All right, the fact that you know of
20 her and may have had some limited contact with here,
21 would that prevent you from listening to the evidence
22 in this case and based upon such evidence, render a
23 fair and impartial verdict?

24 PROSPECTIVE JUROR: No.

25 THE COURT: All right. Thank you, ma'am.

1 Ladies and gentlemen, is there any member of
2 this jury panel formed or expressed an opinion as to
3 the guilt or the innocence of the Defendant,
4 Mr. Powell? If so, please stand.

5 Is there any member of this jury panel who is
6 conscious of any interest, any bias or any prejudice
7 for or against the Defendant or for or against the
8 State? If so, please stand.

9 There was no response.

10 Can each member of this jury panel give the
11 State and the Defendant a fair and impartial trial?
12 If you believe you cannot, please, stand at this
13 time.

14 Yes, ma'am, I want you to come down here and let
15 me talk to you individually.

16 (WHEREUPON, a sidebar was held in the presence
17 of the jury venire but out of the hearing of the
18 jury venire with a prospective juror, the Judge
19 and the attorneys.)

20 THE COURT: Tell me your name, please.

21 PROSPECTIVE JUROR: Pauline Sterling.

22 THE COURT: I'm sorry.

23 PROSPECTIVE JUROR: Pauline Sterling.

24 THE COURT: Okay, tell me. . .

25 PROSPECTIVE JUROR: I kind of have a hard time

1 understanding stuff but I have two sex offenders in
2 my family.

3 THE COURT: Well, the fact that you have that
4 history in the family, would that prevent you from
5 listening to the evidence in this case and based upon
6 such evidence being fair and impartial, can you be
7 fair and impartial? If you can't, tell me that.

8 PROSPECTIVE JUROR: There's -- that a judgment
9 call and I don't judge. I leave that up to God.

10 THE COURT: So, you're telling me you can't be
11 fair and impartial?

12 PROSPECTIVE JUROR: Because I have to. Now, you
13 asks me innocent, I would say he was innocent. If
14 you asks me.

15 THE COURT: All right, so you've already formed
16 and expressed an opinion as to this one? All right,
17 I'm going to excuse you from service on this trial.
18 Just have a seat, if you would.

19 What's her juror number?

20 What your juror number, ma'am?

21 PROSPECTIVE JUROR: 216.

22 THE COURT: 216?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: All right, I excused juror 216.

25 All right, ladies and gentlemen, at the end of

1 this trial, after all the evidence has been presented
2 and the lawyers have made their closing arguments,
3 I'm going to charge you or instruct you as to the law
4 in this case as it applies. It is your obligation to
5 accept the law as I give it to you and apply it to
6 the facts that the jurors determined them to be. Is
7 there any member of this jury panel who believes that
8 you will not be able to comply with my instructions
9 and apply the law as I give it to you to the facts of
10 the case? If you do not believe you can comply with
11 my instructions, please stand at this time.

12 There was no response.

13 THE COURT: All right. Any further inquiry from
14 The State?

15 MS. MAJOR: No, sir.

16 THE COURT: Other than what we're going to do
17 with the individuals.

18 Anything from the Defendant?

19 MR. ERWIN: No, sir, nothing.

20 THE COURT: All right, Madam Clerk, you want to
21 call. . .

22 THE CLERK: Yes, sir, Your Honor.

23 THE COURT: What I want you to do when the clerk
24 calls your name, if you will meet me right down here
25 by the court reporter and these lawyers. And I have

1 some individual matters I want to address with you.

2 All right, Madam Clerk.

3 (WHEREUPON, the questions asked by The Judge as
4 each individual juror was called, was in the
5 presence of the jury venire but out of the
6 hearing of the jury venire.)

7 THE CLERK: Thank you, Your Honor.

8 Juror 190, William Rawls, if you would come
9 forward.

10 (Williams Rawls, a white male, came forward.)

11 THE COURT: Mr. Rawls, did you read the
12 Greenville paper yesterday?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: Okay, you may have a seat. Well you
15 can stand right here. As a matter of fact, stand
16 right here.

17 THE CLERK: What says the state?

18 MS. MAJOR: Please present the juror.

19 THE CLERK: Thank you.

20 What says the Defendant?

21 MR. ERWIN: Please seat the juror.

22 THE CLERK: Thank you, take a seat in the jury
23 box.

24 Juror number 52, Nehemiah Chick, if you would
25 come forward, please.

1 (Nehemiah Chick, a black male, came forward.)

2 THE COURT: I mean, y'all can come up here if
3 you want to hear the question.

4 Did you read the Greenville News yesterday?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: All right. You can stand right
7 there.

8 Madam Clerk.

9 THE CLERK: What says the State?

10 MS. MAJOR: Please present the juror.

11 THE CLERK: What says the Defendant?

12 MR. ERWIN: Please seat the juror.

13 THE CLERK: Thank you, you may be seated in the
14 jury box.

15 Juror number 129, Park Johnston, would you
16 please come forward?

17 (Park Johnston, a white male, came forward.)

18 THE COURT: Mr. Johnston, did you read the
19 Greenville News yesterday?

20 PROSPECTIVE JUROR: I did not.

21 THE CLERK: What says the State?

22 MS. MAJOR: Please present the juror.

23 THE CLERK: What says the Defendant?

24 MR. ERWIN: Please excuse the juror.

25 THE CLERK: Thank you, you may be seated, you're

1 excused from the trial of this case.

2 Juror No. 35, Janice Buttram, would you please
3 come forward?

4 (Janice Buttram, a white female, came forward.)

5 THE COURT: Ms. Buttram, did you read the
6 Greenville News yesterday?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: All right, thank you, stay right
9 here.

10 THE CLERK: What says the State?

11 MS. MAJOR: Please present the juror.

12 THE CLERK: Thank you.

13 What says the Defendant?

14 MR. ERWIN: Please excuse the juror.

15 THE CLERK: Thank you, you may be seated, you're
16 excused from the trial of this case.

17 Juror number 255, Martha Morgan, would you
18 please come forward?

19 (Martha Morgan, a white female, came forward.)

20 THE COURT: Ms. Morgan, did you read the
21 Greenville News yesterday?

22 PROSPECTIVE JUROR: I did not.

23 THE CLERK: What says the state?

24 MS. MAJOR: Present the juror.

25 THE CLERK: Thank you.

1 What says the Defendant?

2 MR. ERWIN: Please excuse the juror.

3 THE CLERK: Thank you, you may be seated, you're
4 excused from the trial of this case.

5 Juror number 49, Marcel Chabot, would you please
6 come forward?

7 (Marcel Chabot, a white male, came forward.)

8 THE COURT: Mr. Chabot, did you read the
9 Greenville News yesterday?

10 PROSPECTIVE JUROR: No.

11 THE CLERK: What says the State?

12 MS. MAJOR: Please present the juror.

13 THE CLERK: What says the Defendant?

14 MR. ERWIN: Please excuse the juror.

15 THE CLERK: Thank you, you may be seated, you're
16 excused from the trial of this case.

17 Juror number 189, Dorothy Ramsey, would you
18 please come forward?

19 (Dorothy Ramsey, a white female, came forward.)

20 THE COURT: Did you read the Greenville News
21 yesterday?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Okay, that's all right.

24 THE CLERK: What says the State?

25 MS. MAJOR: Please present the juror.

1 THE CLERK: Thank you.

2 What says the Defendant?

3 MR. ERWIN: Please seat the juror.

4 THE CLERK: Thank you, you may be seated in the
5 jury box.

6 Juror number 254, Frederick Luben, please come
7 forward.

8 (Frederick Luben, a white male, came forward.)

9 THE COURT: Hi, did you read the Greenville News
10 yesterday?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: All right, thank you.

13 THE CLERK: What says the State?

14 MS. MAJOR: Please excuse the juror.

15 THE CLERK: Thank you, you may be seated, you're
16 excused from the trial of this case.

17 Juror number 97, Tarra Godfrey, would you please
18 come forward?

19 (Tarra Godfrey, a white female, came forward.)

20 THE COURT: Did you read the Greenville News
21 yesterday?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Okay. Thank you.

24 THE CLERK: What says the State?

25 MS. MAJOR: Please present the juror.

1 THE CLERK: Thank you.

2 What says the Defendant?

3 MR. ERWIN: Please excuse the juror.

4 THE CLERK: Thank you, you may be seated, you're
5 excused from the trial of this case.

6 Juror number 56, Thomas Cooke, would you please
7 come forward?

8 (Thomas Cooke, a white male, came forward.)

9 THE COURT: Did you read the Greenville News
10 yesterday?

11 PROSPECTIVE JUROR: No, sir.

12 THE CLERK: What says the State?

13 MS. MAJOR: Please present the juror.

14 THE CLERK: What says the Defendant?

15 MR. ERWIN: Please excuse the juror.

16 THE CLERK: Thank you, you may be seated, you're
17 excused from the trial of this case.

18 Juror number 157, Karen Michaels, would you
19 please come forward?

20 (Karen Michaels, a white female, came forward.)

21 THE COURT: Did you read the Greenville News
22 yesterday?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Thank you.

25 THE CLERK: What says the State?

1 MS. MAJOR: Please present the juror.

2 THE CLERK: What says the Defendant?

3 MR. ERWIN: Please excuse the juror.

4 THE CLERK: Thank you, you may be seated, you're
5 excused from the trial of this case.

6 Juror number 21, Robert Bennett.

7 (Robert Bennett, a white male, came forward.)

8 THE COURT: Did you read the Greenville News
9 yesterday?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: All right, thank you.

12 THE CLERK: What says the State?

13 MS. MAJOR: Present the juror.

14 THE CLERK: Thank you.

15 What says the Defendant?

16 MR. ERWIN: Judge, may we briefly?

17 Was that a yes?

18 THE COURT: No.

19 MR. ERWIN: Okay. Sorry, I just wanted to make
20 sure.

21 Please seat the juror.

22 THE CLERK: Thank you, you may be seated in the
23 jury box.

24 Juror number 128, Gretel Johnson.

25 (Gretel Johnson, a white female, came forward.)

1 THE COURT: Did you read the Greenville News
2 yesterday?

3 PROSPECTIVE JUROR: No.

4 THE CLERK: What says the State?

5 MS. MAJOR: Please present the juror.

6 THE CLERK: Thank you.

7 What says the Defendant?

8 MR. ERWIN: Please excuse the juror.

9 THE CLERK: Thank you, you may be seated, you're
10 excused from trial of this case.

11 Juror number 243, Brian Wham.

12 (Brian Wham, a white male, came forward.)

13 THE COURT: Did you read the Greenville News
14 yesterday?

15 PROSPECTIVE JUROR: I did not.

16 THE CLERK: What says the State?

17 MS. MAJOR: Please excuse the juror.

18 THE CLERK: Thank you, you may be seated, you're
19 excused from the trial of this case.

20 Juror Number 68, Lydie Dominique.

21 (Lydie Dominique, a black female, came forward.)

22 THE COURT: Did you read the Greenville News
23 yesterday?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Okay, thank you.

1 THE CLERK: What says the State?

2 MS. MAJOR: Please present the juror.

3 THE CLERK: Thank you.

4 What says the Defendant?

5 MR. ERWIN: Please excuse the juror.

6 THE CLERK: Thank you, you may be seated, you're
7 excused from the trial of this case.

8 Juror number 260, Chelsea Seppala-Ring.

9 (Chelsea Seppala-Ring, a white female, came
10 forward.)

11 THE COURT: Two for the State, nine for the
12 Defendant.

13 THE CLERK: Yes, sir.

14 THE COURT: Did you watch the Greenville News
15 yesterday?

16 PROSPECTIVE JUROR: I've seen news but I did not
17 read the Greenville News yesterday.

18 THE COURT: She did not read The State -- the
19 Greenville News yesterday but she said she seen
20 something on the news.

21 PROSPECTIVE JUROR: I think there was something
22 on this. His face looks familiar.

23 MR. ERWIN: Judge, with that in mind, I'm going
24 to make a motion.

25 THE COURT: All right.

1 So, you think you may have seen something on the
2 news about it?

3 PROSPECTIVE JUROR: Yes. But maybe not, maybe
4 so.

5 THE COURT: The fact you think you may have seen
6 something on the news, would you be able to listen to
7 the evidence in this case and based upon such
8 evidence render a fair and impartial verdict?

9 PROSPECTIVE JUROR: No, I do my best to be fair.

10 THE COURT: You can be fair and impartial?

11 PROSPECTIVE JUROR: Yeah, I would do my best to.

12 THE COURT: So can't guess now.

13 PROSPECTIVE JUROR: I would do my best to be
14 fair.

15 THE COURT: You would be fair and impartial?

16 PROSPECTIVE JUROR: Yes, I would be fair and
17 impartial.

18 THE COURT: All right. Thank you.

19 THE CLERK: What says the State?

20 MS. MAJOR: Please present the juror.

21 THE CLERK: Thank you.

22 What says the Defendant?

23 MR. ERWIN: Judge, at this time I move to have
24 this juror removed for cause based on her answers to
25 the questions.

1 THE COURT: All right, I'm going to find that
2 she's indicated she can be fair and impartial.

3 MR. ERWIN: Please excuse the juror.

4 THE CLERK: Thank you.

5 You may be seated, you're excused from the trial
6 of this case.

7 Juror number 142, Paul Ledford.

8 (Paul Ledford, a white male, came forward.)

9 THE COURT: Did you read the Greenville News
10 yesterday?

11 PROSPECTIVE JUROR: (The juror shook his head.)

12 THE COURT: All right.

13 THE CLERK: What says the State?

14 MS. MAJOR: Please present the juror.

15 THE CLERK: What says the Defendant?

16 MR. ERWIN: Please seat the juror.

17 THE CLERK: Thank you, you may be seated in the
18 jury box.

19 Juror number 210, Roy Smith, please come
20 forward.

21 (Roy Smith, a white male, came forward.)

22 THE COURT: Did you read the Greenville News
23 yesterday?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: All right.

1 THE CLERK: What says the State?

2 MS. MAJOR: Is that 212?

3 THE CLERK: 210.

4 MS. MAJOR: Excuse the juror.

5 THE CLERK: Thank you, you may be seated, you're
6 excused from the trial of this case.

7 Juror number 23, Christa Black.

8 (Christa Black, a white female, came forward.)

9 THE COURT: Did you read the Greenville News
10 yesterday?

11 PROSPECTIVE JUROR: No, sir.

12 THE CLERK: What says the State?

13 MS. MAJOR: Please present the juror.

14 THE CLERK: Thank you.

15 What says the Defendant?

16 MR. ERWIN: Please seat the juror.

17 THE CLERK: Thank you, you may be seated in the
18 jury box.

19 Juror number 134, Brent Knutson.

20 (Brent Knutson, a white male, came forward.)

21 THE COURT: Did you read the Greenville News
22 yesterday?

23 PROSPECTIVE JUROR: No.

24 THE CLERK: Number is 134. What says the State?

25 MS. MAJOR: Please present the juror.

1 THE CLERK: Thank you.

2 What says the Defendant?

3 MR. ERWIN: Please seat the juror.

4 THE CLERK: Thank you, you may be seated in the
5 jury box.

6 Juror number 179, Jeremy Pierce.

7 (Jeremy Pierce, a white male, came forward.)

8 THE COURT: Did you read the Greenville news
9 yesterday?

10 PROSPECTIVE JUROR: No, sir.

11 THE CLERK: What says the State?

12 MS. MAJOR: Please excuse the juror.

13 THE CLERK: Thank you, you can be seated, you're
14 excused from the trial of this case.

15 Juror number 257, Andres Rojas.

16 (Andres Rojas, a Hispanic male, came forward.)

17 THE COURT: Did you read the Greenville News
18 yesterday?

19 PROSPECTIVE JUROR: No.

20 THE CLERK: What says the State?

21 MS. MAJOR: Please present the juror.

22 THE CLERK: Thank you.

23 What says the Defendant?

24 MR. ERWIN: Please seat the juror.

25 THE CLERK: Thank you, you may be seated in the

1 jury box.

2 Juror number 149, Amanda Manly.

3 (Amanda Manly, a white female, came forward.)

4 THE COURT: Did you read the Greenville News
5 yesterday?

6 PROSPECTIVE JUROR: No, sir.

7 THE CLERK: What says the State?

8 MS. MAJOR: Please present the juror.

9 THE CLERK: What says the Defendant?

10 MR. ERWIN: Judge, may we approach?

11 (WHEREUPON, a sidebar conference was held in the
12 presence of the jury venire but out of the
13 hearing of the jury.)

14 MR. ERWIN: Ms. Manly indicated that she would
15 worked for Safe Harbor by way of explaining that she
16 knew the other witness. Safe Harbor is a non-profit
17 here in town that deals with, if I'm right, domestic
18 violence and also sexual abuse. Since this is a sex
19 abuse case, she, I assume works closely with the
20 victims. I would ask that she be removed for cause.

21 THE COURT: That fact that you're employed in
22 your occupation, would that prevent you from being
23 fair and impartial?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: Denied.

1 THE CLERK: Please have a seat in the jury box.
2 Juror number 220, Eric Swiger.

3 (Eric Swiger, a white male, came forward.)

4 THE COURT: Did you read the Greenville News
5 yesterday?

6 PROSPECTIVE JUROR: No.

7 THE CLERK: What says the State?

8 MS. MAJOR: Please present the juror.

9 THE CLERK: Thank you.
10 What says the Defendant?

11 MR. ERWIN: Please seat the juror.

12 THE CLERK: Thank you, you may be seated in the
13 jury box.

14 Juror number 101, Cheryl Grant.

15 (Cheryl Grant, a black female, came forward.)

16 THE COURT: Did you read the Greenville News
17 yesterday?

18 PROSPECTIVE JUROR: I didn't read the Greenville
19 News but I don't know the story but I do read the
20 Greenville News.

21 THE COURT: Did you read it yesterday?

22 PROSPECTIVE JUROR: I read stories that--

23 THE COURT: You read it when? Do you remember
24 reading this or anything about criminal justice
25 system in Greenville County?

1 PROSPECTIVE JUROR: I wouldn't read a story like
2 this because I have a daughter and I would just skip
3 over it.

4 THE COURT: I understand. So you didn't read
5 this story?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Okay. She read it but didn't read
8 that story.

9 THE CLERK: What says the State?

10 MS. MAJOR: Please present the juror.

11 THE CLERK: And what says the Defendant?

12 MR. ERWIN: I object to this juror for the
13 record based on prior objections.

14 THE COURT: All right, you may have a seat,
15 ma'am. No, no in the -- don't go that way.

16 THE CLERK: Juror number 6, Rita Anders.

17 (Rita Anders, a white female, came forward.)

18 THE COURT: Did you read the Greenville News
19 yesterday?

20 PROSPECTIVE JUROR: No, sir.

21 THE CLERK: What says the State?

22 MS. MAJOR: Please present the juror.

23 THE CLERK: Thank you.

24 What says the Defendant?

25 MR. ERWIN: Please seat the juror.

1 THE CLERK: Thank you, you may be seated in the
2 jury box.

3 THE COURT: All right. What we have here. All
4 right.

5 THE CLERK: One and two?

6 THE COURT: Pardon me?

7 THE CLERK: Strikes one and two?

8 THE COURT: Yeah, one and two and we'll get one
9 alternate.

10 THE CLERK: Juror number 239, Lyle Watson.

11 (Lyle Watson, a white male, came forward.)

12 THE COURT: Did you read the Greenville News
13 yesterday?

14 One strike for the State two for the Defense.

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Did you -- did you read the story
17 about the criminal justice system in Greenville?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Okay. Thank you.

20 THE CLERK: What says the State?

21 MS. MAJOR: Please present the juror.

22 THE CLERK: What says the Defendant?

23 MR. ERWIN: Please excuse the juror.

24 THE CLERK: Thank you, you may be seated, you're
25 excused from the trial of this case.

1 Juror number 26, Deborah Boitnott.

2 (Deborah Boitnott, a white female, came
3 forward.)

4 THE COURT: Did you read the Greenville News
5 yesterday?

6 PROSPECTIVE JUROR: No.

7 THE CLERK: What says the State?

8 MS. MAJOR: Please present the juror.

9 THE CLERK: What says the Defendant?

10 MR. ERWIN: Please excuse the juror.

11 THE CLERK: Thank you, you may be seated, you're
12 excused from the trial of this case.

13 Juror number 71, Josey Dover.

14 (Josey Dover, a white male, came forward.)

15 THE COURT: Did you read the Greenville News
16 yesterday?

17 PROSPECTIVE JUROR: No.

18 THE CLERK: What says the State?

19 MS. MAJOR: Please present the juror.

20 THE CLERK: Thank you.

21 What says the Defendant?

22 MR. ERWIN: Please seat the juror.

23 THE CLERK: Thank you, you may be seated in the
24 jury box.

25 THE COURT: All right. All right, ladies and

1 gentlemen --

2 Well anything from the jury with respect to the
3 composition -- I mean, anything from the State with
4 respect to composition of the jury?

5 MS. MAJOR: No, sir.

6 THE COURT: Anything from the Defendant?

7 MR. ERWIN: Judge, I am going to renew some
8 motions from early and have a motion.

9 THE COURT: With respect to composition of the
10 jury in terms of Batson?

11 MR. ERWIN: I do not have a Batson motion,
12 Judge.

13 THE COURT: All right.

14 Ladies and gentlemen of the jury, you will serve
15 on this case. I anticipate it will take several days
16 but we're going to excuse the other jurors.

17 Ladies and gentlemen of the jury panel that did
18 not get selected, I thank you very much for making
19 yourselves available. I'm going to ask that you
20 return back downstairs to the jury assembly room and
21 you will get further instructions at that time.
22 Y'all have a nice afternoon. Again, thank you for
23 coming up.

24 (WHEREUPON, the jury venire left open court and
25 was excused at approximately 12:53 p.m.)

1 THE COURT: All right, ladies and gentlemen of
2 the jury panel, I'm not going to swear you, I'm going
3 to turn you loose in just about five minutes after I
4 make some opening comments and ask you to be back
5 here at 2:15, we will begin the trial of the case.
6 But before I turn you loose, I want to tell you a few
7 things. First of all, this case is very, very
8 important to both the State and the Defendant. So,
9 we want to do everything we can to make sure that
10 both sides get a fair and impartial trial. One of
11 the ways I'm going to ask you to help me do that is
12 for you not to discuss this case with each other or
13 with anyone else at any time until you have been
14 given instructions by me that you can begin your
15 deliberations of the case.

16 So, any time we take a break, you go back to the
17 jury room, do not discuss this case with each other.
18 Take a break at lunch, I know you have a limited
19 amount of knowledge about the case right now but do
20 not discuss the case with each other when you're at
21 lunch, if you go to lunch with one another or when
22 you get back. Do not discuss the case with anyone
23 else. When you either go to lunch or you go home
24 this evening and you talk to your family or friends
25 or anything like that, do not discuss this case.

1 The reason I ask you to do that, ladies, and
2 gentlemen, if you begin talking about the case you
3 may begin to formulate some opinion about the case
4 even though you have not heard everything that you
5 need to hear from both sides in the case. I promise
6 you when you begin your deliberations you can talk to
7 each other as long as you want about the case. And
8 after the case is over and your service is completed,
9 you can talk to anybody else about the case. But
10 until then, please do not discuss this case with each
11 other or with anyone else. If you talk to somebody
12 who is not here, they'll give you an opinion even
13 though they've not heard the first word of evidence
14 or seen anything. They'll have an opinion, they will
15 express it and they may influence you in some way as
16 well.

17 I'm also going to ask you to do this. I don't
18 know that there's going to be any coverage about this
19 case but I'm going to ask that you not read any
20 newspapers about this case, don't get on the internet
21 and read anything about this case. Don't do any
22 private investigating, get on the computer and look
23 things up, don't -- if you talk about a scene or
24 location, don't by that. You are to decide this case
25 based on the evidence that's put forth in front of

1 you here in this courtroom and nothing else. So, do
2 not under any circumstances makes any independent
3 inquiry or read newspapers, listen to the -- I mean,
4 the radio or watch television. So, I'm going to ask
5 you to do that.

6 I will inquire of you each day you come into
7 this courtroom, one, did you talk about the case,
8 two, were you approached by anybody to talk about the
9 case, and three, did you do any independent inquiry
10 or read any newspapers or watch anything? Do not do
11 that, ladies and gentlemen. It's absolutely
12 essential that we make sure that both sides get a
13 fair and impartial trial.

14 Now, the way the case is going take place, when
15 you come back, after we swear you in as a jury, then
16 we're going to turn this matter over to the
17 attorneys. And I'm going to turn it over so that the
18 attorneys can make what we call an opening statement.
19 That's a chance for the lawyers to get up and tell
20 you a little bit about the case. Introduce
21 themselves and tell you what they think will come out
22 during the course of the trial. The State will go
23 first. Because the State has the burden of proof in
24 this case. They go first throughout the course of
25 the trial.

1 After Ms. Major makes her opening statement,
2 then the Defendant, one of the attorney's for the
3 defense will make their opening statement. When they
4 have told you what they want to tell you about it,
5 it's their opportunity to educated you or inform you,
6 lay out what they think will unfold during the course
7 of the trial, then we will begin the presentation of
8 the evidence. Again, The State will go first in this
9 regard.

10 Most of the evidence I would think will come in
11 by way of live testimony. Witnesses would be put
12 under oath, they'll get in this witness chair right
13 here and they'll tell you what information they have
14 about this case. They've seen something, heard
15 something, smelled something, tasted something, felt
16 something, they have some knowledge from one of their
17 senses and they will tell you what that information
18 is. After the other types of evidence that could
19 come in are things like photographs or documents,
20 something like that. That type of evidence is
21 actually introduced, is given an exhibit number and
22 it will go with you to the jury room so that you can
23 review it during the course of your deliberations.

24 Testimony, ladies and gentlemen, will go with
25 you in your memory. So, it is absolutely essential

1 that you pay close attention to what's been said here
2 the courtroom. If you can't understand somebody, a
3 witness or lawyer or anybody, or you can't hear them,
4 let me know in some way. Raise your hand, tell me in
5 some way and we will make sure that lawyer or that
6 witness or whoever it is speaks more clearly or
7 speaks louder because it's essential that you hear
8 what's being said.

9 The third type of evidence that could come in i
10 what we call a stipulation. And that's where the
11 parties stipulate or agree as to some fact or some
12 matter. If there's a stipulation the lawyers will
13 tell me and I will tell you and you are to accept
14 that as though that has been proven here in the
15 courtroom.

16 After The State has put up State's evidence,
17 then the Defendant is given an opportunity to offer
18 any evidence the defense wishes to offer. We don't
19 know what they're going to do in this case and they
20 probably don't either. Because they have no burden
21 in this case. They don't have to do anything.
22 Everything falls upon the State of South Carolina.
23 So, I'm sure the Defendant is going to wait and hears
24 what the -- hear what the evidence is and observe and
25 they'll make a decision. But if they decide to put

1 up evidence it would be of a similar nature to the
2 State's case. Most it what I would think would be
3 testimony from live witnesses.

4 Both sides have completed the presentation of
5 their evidence, then the lawyers are given an
6 opportunity to speak to you again. This is called a
7 closing arguments. Closing arguments is a little bit
8 different than opening statements in that closing
9 arguments is a chance for the lawyers to attempt to
10 convince or pursued you as to why you should
11 ultimately return a verdict for their respective
12 client. They'll review with you what evidence they
13 they came in, they'll talk to you about what they
14 hope that you will consider and discuss when you go
15 back in the jury room. It's all an effort for them
16 to recap what they think the evidence is or how you
17 should look at it and hopefully that it will result
18 in a verdict for their client.

19 When both sides have completed their closing
20 arguments, ladies and gentlemen, then I will charge
21 you or instruct you as to the law. You will then
22 retire to the jury room, begin your deliberations,
23 determine the facts, apply the law that I give you
24 and ultimately render your verdict.

25 Now, as I told you when were just getting

1 started you need to keep -- again, keep in mind the
2 two basic bedrocks that I think of our criminal
3 justice system. This Defendant has come into this
4 courtroom presumed to be innocent and that
5 presumption is with him now and remains with him
6 throughout the course of the trial. The other is, as
7 I told you, The State has the burden of proof in this
8 case. And that burden of proof is a proof beyond a
9 reasonable doubt. Which is our highest burden of
10 proof in South Carolina. The Defendant has no burden
11 and you need to keep that in mind.

12 Now, what I'm going to do is turn you loose,
13 let -- the bailiffs will take you out, show you where
14 the jury room is. When you -- he'll show you how to
15 get from the jury room to outside to back again. So,
16 that we can bring you back up here and start at 2:15.
17 As I told you, I think this case is going to last
18 several days. It should go into tomorrow, whether it
19 will go past tomorrow I don't know, but I feel very
20 confident that we'll get past today. So, y'all have
21 a nice lunch. Do not discuss the case at all while
22 you're gone and we'll see you back at 2:15. And
23 we'll begin the trial of the case.

24 (WHEREUPON, the jury left open court at
25 approximately 1:00 p.m.)

1 THE COURT: All right, anything further from the
2 State?

3 MS. MAJOR: No, sir.

4 THE COURT: All right, Mr.~Erwin, you wanted to
5 say something? Let me tell you something, when I ask
6 you questions respond to my question. I will give
7 you an opportunity to put whatever you want to put on
8 the record within reason with respect to any other
9 matters. But if I ask you a direct question, I need
10 a direct response, okay?

11 MR. ERWIN: Yes, sir, I understand. And I
12 apologize for that.

13 THE COURT: All right, now what did you want to
14 tell me?

15 MR. ERWIN: I just wanted to, first of all,
16 renew and reserve my original objection to this jury
17 being impaneled at all. Secondly, Judge, I want to
18 specifically talk about, if I get her name wrong I
19 apologize, Ms. Manly. Yes, who stated in voir dire
20 questions of the Court that she worked for the
21 nonprofit Safe Harbor. And Judge, as I said at
22 sidebar, that is a nonprofit that deals directly with
23 the victims of domestic violence and also sexual
24 abuse. She also said that she knows one of the
25 witnesses. That witness is going to be an expert

1 witness to that exact subject, Judge. And because of
2 her direct contact with that subject and also because
3 she knows that witness, I would ask that she be
4 removed from the jury and replaced with the
5 alternate.

6 THE COURT: Anything you want to say?

7 MS. MAJOR: Your Honor, she indicated that she
8 could be fair and impartial and she indicated that
9 she thought she knew who Ms. Galloway-Williams was,
10 it did not sounds like they had a close, personal
11 relationship, just that they would have been a mutual
12 events together. So, I don't think that she
13 indicated that she knew her well enough that she
14 would be influenced by that relationship.

15 THE COURT: All right, I'm going to deny your
16 motion. She indicated, initially, when we read the
17 lady's name out, that she thought that might be
18 somebody that she has had some minimal contact in the
19 future but did not really know her and could be fair
20 and impartial. She indicated today that by virtue of
21 her job that she did not think that -- she said that
22 it would not prevent her from being fair and
23 impartial on this case. And I'm going to deny your
24 motion.

25 MR. ERWIN: Thank you, Your Honor.

1 THE COURT: All right, anything else we need to
2 take up?

3 MS. MAJOR: Nothing from the State.

4 THE COURT: All right, your client is in my
5 custody. So, we will see you back here 2:15. And
6 y'all have a nice lunch.

7 (WHEREUPON, a lunch break was taken.)

8 THE COURT: Ready to go?

9 MR. ERWIN: Yes, sir.

10 MS. MAJOR: Yes, sir, we are.

11 MR. ERWIN: Yes, sir.

12 THE COURT: Okay, let's bring the jury.

13 (WHEREUPON, the jury came into open court at
14 approximately 2:15 p.m.)

15 THE COURT: All right, ladies and gentlemen of
16 the jury, I hope you had a nice lunch.

17 And, Madam Clerk, if you could swear the jury,
18 please.

19 THE CLERK: Yes, sir.

20 Would you, please, stand and raise your right
21 hand. The response to the oath is, I will.

22 (WHEREUPON, the jury was sworn.)

23 THE CLERK: Thank you, you may be seated.

24 THE COURT: All right, ladies and gentlemen,
25 before I turn it over to the attorneys, Madam Clerk

1 just told you what the charges are. I've read you
2 the indictments when we selected the jury. I'm going
3 to read the allegations in the Indictment again. On
4 the lewd about upon a child charge, The State alleges
5 that the Defendant did in Greenville County between
6 August 2, 2007 and March 1 of 2012, being over the
7 age of 14 years, did willfully and lewdly commit or
8 attempt to commit a lewd and lascivious act upon or
9 with the body or its parts of TM, a child under the
10 age of 16 years. He did so with the intent to
11 arouse, appeal to or gratify the lust, passions or
12 sexual desires of himself or such child.

13 And the criminal sexual conduct with a minor,
14 first degree, which The State alleges that the
15 Defendant did in Greenville County between August 2,
16 2008 and August 1, 2011, commit a sexual battery on
17 TM who was less than 11 years of age.

18 I also told you earlier that the Defendant has
19 entered pleas of not guilty to these charges. And
20 these Indictments are nothing but notice documents
21 and you're not to consider them for any purpose other
22 than they have put this Defendant on notice to these
23 charges. So, with that said, I'll call on --

24 Solicitor, you ready to proceed?

25 MS. MAJOR: Yes, sir.

1 THE COURT: All right, if you would, please.

2 OPENING STATEMENT

3 MS. MAJOR: Thank you, Your Honor.

4 Good afternoon, ladies and gentlemen, my name is
5 Elizabeth Major, again. At the desk over to my right
6 is my Investigator, Renee Kelly. As you know we are
7 here today for the case of The State vs. Gerald
8 Powell. This case is about secrets. It's about a
9 crime against a little girl by the Defendant who was
10 her step-father. You heard the Judge read out the
11 Indictments and he referred to Mi as the child. Mi
12 is Minor . The Defendant was her
13 step-father. He's been charged with two counts, two
14 charges. Criminal sexual conduct with a minor, first
15 degree and lewd act upon a minor.

16 So, before we get started I want to briefly go
17 over the elements so that you know what I have to
18 prove. It's my job to prove to you that he is guilty
19 of these crimes beyond a reasonable doubt. So first,
20 criminal sexual conduct with a minor, first degree.
21 I have to show to you that the Defendant committed a
22 sexual battery on the child. And that the child was
23 under 11 years old. So, what's a sexual battery?
24 Sexual battery can be any sort of penetration into
25 the victim's body or it can also mean oral sex. It

1 can mean that the Defendant has a child perform oral
2 sex on him or that the Defendant performs oral sex on
3 the child.

4 Lewd act. What do I have to show to prove to
5 you beyond a reasonable doubt that the Defendant is
6 guilty of a lewd act? Got to show to you that the
7 Defendant performed a lewd act on the child who was
8 under 16. So, what is a lewd act? A lewd act is any
9 act done on the child's body, touching, rubbing, any
10 act done with the intent to -- in a lewd or
11 lascivious manner with intent to arouse either
12 himself or the child.

13 So, now that you know what this case is about,
14 I'd like to tell you what you can expect from this
15 case. You will hear from Officer Picone, who was the
16 investigating officer on this case. You will hear
17 from Cindy Mullinax, who is Minor mother. You
18 will hear from Alan Mullinax, who is Minor
19 father. You will hear from Michelle Mullinax who is
20 Minor step-mother. One of the first people she
21 told what happened to her. Most importantly you will
22 hear from Minor . Minor will tell you
23 exactly what this Defendant did to her when she was a
24 child.

25 She will tell you that the Defendant did not

1 have a job and he stayed at home with Minor older
2 sister Jessica who was severely disabled. Minor
3 mother worked so when she would come home from school
4 the Defendant would be there. Minor will tell you
5 what he did to her. How he touched her. Several
6 times per week and how this persisted over years.
7 Minor will also tell you about one occasion where
8 the Defendant put his mouth on her vagina and
9 performed oral sex on her.

10 Ladies and gentlemen, keep in mind that this
11 type of crime, these types of crimes, they do not
12 occur out in the open, they occur behind closed
13 doors. There's no roadside video as you would see in
14 a DUI case. There's no fingerprints that you would
15 see in a burglary case. It occurs behind closed
16 doors. Nobody does this right in front of everybody,
17 out in the open. Doesn't mean that it doesn't
18 happen. You're not going to have an eye witness to
19 this crime.

20 So, again, my job is to prove to you beyond a
21 reasonable doubt that the Defendant is guilty of
22 these crimes. You brought your best tool with you in
23 here that you can use to decide this case and that's
24 your common sense. So, I ask that you listen
25 carefully to this evidence in this case, and at the

1 end I will ask you return a verdict of guilty.

2 THE COURT: All right.

3 OPENING STATEMENT

4 MR. ERWIN: Thank you, Your Honor.

5 Ladies and gentlemen, this is a case about
6 revenge. Plain and simple. 2013, Gerald Powell was
7 accused of killing Minor sister, Jessica, who she
8 talked about in her opening. In this very same
9 courthouse he was brought to trial. He sat at this
10 very same table over here. And the jury that sat in
11 the very same seats that y'all are sitting in right
12 now found him not guilty. And he walked out of this
13 courtroom. The Mullinax family has not been able to
14 let that go.

15 And, ladies and gentlemen, this is about
16 revenge. This is about a second shot at him. And
17 that is a reason to doubt the story. That is a
18 reason to doubt the credibility of the witnesses that
19 you're going to hear from. Because as the prosecutor
20 told you, there is no video. There's no other
21 witnesses. This stuff happens behind closed doors.
22 So, all we got is this story.

23 So, what's going to happen? It's the devil's
24 details. All right. Pay attention to the very
25 minute details of the story. Pay attention to what

1 stays the same from one telling to the next. And
2 what changes from one telling to the next. That's
3 how you tell the difference between the truth and a
4 lie.

5 Ladies and gentlemen, we're not here to guess,
6 we're not here to suppose. We're here to decide
7 whether The State is able to prove that this happened
8 beyond a reasonable doubt. Now, revenge, ladies and
9 gentlemen, is a reason to doubt. The answer is not
10 guilty. You guys are going to do right thing, I know
11 it.

12 THE COURT: Ready to call your first witness?

13 MS. MAJOR: Yes, sir, Your Honor. The State
14 calls Investigator Picone to the stand.

15 THE CLERK: Investigator, if you would place
16 your left hand on the Bible, raise your right hand.

17 DAVID PICONE, after being duly sworn,
18 testified as follows:

19 THE CLERK: Thank you, you may be seated.
20 Please state your name for the record.

21 THE WITNESS: David Daniel Picone.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MS. MAJOR:

25 Q Investigator Picone, how long have you been with

DAVID PICONE-DIRECT BY MS. MAJOR

1 the sheriff's office?

2 A Almost 10 years. Next February will be 10
3 years.

4 Q In what capacity have you had different jobs
5 there?

6 A Started off in uniform patrol. I was in uniform
7 patrol for about five and a half years. From there I went
8 to property crimes, investigated burglaries, arsons,
9 things like that. I was in that for about two years.
10 Then I went to crimes against children. I did crimes
11 against children for about a year and a half. During that
12 time I was promoted to master deputy. And then recently,
13 as of May, I've been moved to the violent crimes unit
14 where I investigate homicides and robberies.

15 Q Let me focus on your time as an investigator for
16 crimes against children. What were your responsibilities
17 and duties in that role?

18 A Our unit, we receive cases that had to do with
19 physical and sexual abuse of children. We dealt a lot
20 with Department of Social Services, Julie Valentine
21 Center, dealt with case like that.

22 Q How will you receive a case?

23 A Cases usually taken by uniform patrol. Usually
24 the cases we receive a lot of times are already occurred
25 cases. And our sergeant would assign a case to us as, you

DAVID PICONE-DIRECT BY MS. MAJOR

1 know, whoever didn't have maybe as many cases as somebody
2 else at that time. That's how we kind of divvied out the
3 cases.

4 Q Did you investigate a case involving the
5 Defendant and Minor ?

6 A I did.

7 Q How did you receive this case?

8 A It was assigned to me by my sergeant.

9 Q What did you do first in the investigation?

10 A First thing I did was I read over the incident
11 report that was taken by uniform patrol deputy. The
12 report was actually taken at the front desk. At lot of
13 times if the crime's already occurred, nobody's in danger
14 at the time, such as a sexual abuse case, they will take
15 it at the desk and forward over to investigators to follow
16 up on it. After reading over the initial report, I found
17 out who the complaint was, which was Alan Mullinax, which
18 was Minor father. No deputies had talked to Minor
19 at this time. So, I initially, after receiving it, I
20 called her father asked her -- him to bring her to my
21 office so I could do a full interview with her.

22 Q All right. Who came into the interview that
23 day, initially?

24 A I believe it was on January -- January 30th of
25 2015. Alan Mullinax brought Minor and Michelle

DAVID PICONE-DIRECT BY MS. MAJOR

1 Mullinax, who was Minor step-mom. They all three
2 came.

3 Q Did Cindy Mullinax come at that time?

4 A She did not.

5 Q Did you take a statement from Minor ?

6 A I did take one from her.

7 Q Did you take a statement from Michelle Mullinax?

8 A I did.

9 Q All right. Did Minor 's statement to you, did
10 she disclose sexual abuse?

11 A She did.

12 Q When did she say that this happened?

13 A She said around seven or eight years old is when
14 it started. And it went on until somewhere around 2012.

15 Q Where did she say that this abuse happened?

16 A There was four different locations that she told
17 me. All four of them were within Greenville County. And
18 her mother was married to Mr. Powell at these times.

19 Q How did you take Minor statement? Was
20 anybody else in the room?

21 A It was not. I actually had her father,
22 step-mother, come into the room first and talk to me.
23 Kind of explain to them what was going to happen. Let
24 them know that I was going to interview her and that I was
25 going to need to interview her one on one, nobody else was

DAVID PICONE-DIRECT BY MS. MAJOR

1 going to be in there with me. They understood that. So,
2 I walked them out to the lobby, had them sit in the lobby.

3 And then I brought Minor into my office,
4 closed the door and we have had one on one conversation.
5 I explained to her that she needed to be, you know,
6 truthful with me about this and give me as much
7 description as she could about what happened and where it
8 happened.

9 Q Okay. Did she write the statement or did you
10 type the statement?

11 A I typed the statement as she relayed it to me.
12 We went very slowly, made sure that whatever she told me,
13 that I understood, was able to get that on paper.

14 Q What was her demeanor?

15 A She was somewhat upset. But she was very -- she
16 didn't have a problem with talking to me about it. She
17 seemed like she was comfortable telling me what occurred.
18 But she was upset about it.

19 Q Did she separate easily from her dad or did she
20 not? How did that go as far as getting her into the room.

21 A Yeah, I had no problem getting her in there. I
22 went out and got her, brought her in there, introduced
23 myself to her. Explained that I was going to be the
24 investigator handling the case and that, you know, she was
25 going to have to be detailed. I understand that's

DAVID PICONE-DIRECT BY MS. MAJOR

1 uncomfortable for her but for us to go forward with the
2 case and investigate it, that she needed to let me know
3 what was going on.

4 Q Who did you meet with after that?

5 A After I was done with her I talked to her
6 step-mother, Michelle. I also obtained a verbal -- excuse
7 me, a written statement from her as well. And after that
8 I talked to her father, briefly. Her father wasn't able
9 to provide anymore information. She didn't want to tell
10 her father anything and didn't want her father to know
11 what was going on.

12 Q What did you do next?

13 A After that I continued the investigation. I
14 made contact with Cindy Mullinax, who was Minor
15 mother. Minor kind of had a deal where she could live
16 with her father for a week and her mother for a week.
17 Explained to her mother that I needed to talk to her so I
18 could kind of put two and two together, what she was
19 telling me and seeing her corroborated what she told me.
20 So, her mother came in a couple of days later and we had a
21 one on one interview.

22 Q Did you meet with anybody else in this case?

23 A I did. I met with her step-brother as well.

24 Q Okay. Why did you meet with him?

25 A She actually disclosed this information to her

DAVID PICONE-DIRECT BY MS. MAJOR

1 step-brother first while they were riding down the road.
2 They had -- she had some kind of argument or something
3 where she lost her mother's trust about -- I'm not exactly
4 sure what but on the way home her step-mother told Minor
5 to talk to her step-brother, Cory, so he could kind of
6 explain how to gain her mother's trust back. And during
7 that conversation she kind of broke down and started
8 crying and revealed to her step-brother what had happened.
9 She didn't give him much detail, she just kind of said
10 that she had been inappropriately touched. Then the
11 step-brother went to his mother who kind of got the ball
12 rolling.

13 Q His mother being?

14 A Michelle Mullinax.

15 Q Okay. So, you interviewed Cory because of what
16 Minor told Cory?

17 A Yes.

18 Q Okay. Did you attempt to get any forensic
19 evidence in this case?

20 A No. There would be no forensic evidence to be
21 able to obtain. There's no photographs of the case. Went
22 on for several years and it wasn't reported until a couple
23 years afterwards. So, any kind of forensics or
24 photographs wouldn't be able to be obtained.

25 Q Okay. What did you do next?

DAVID PICONE-CROSS BY MR. ERWIN

1 A After I interviewed everybody, then I went and
2 obtained the warrants for the charges.

3 MS. MAJOR: All right, please answer any
4 questions that the defense has.

5 THE WITNESS: Yes, ma'am.

6 CROSS-EXAMINATION

7 BY MR. ERWIN:

8 Q Investigator?

9 A Yes, sir.

10 Q Okay. So, you've been a police officer for
11 about 10 years?

12 A Yes.

13 Q And now you are a master deputy?

14 A Yes.

15 Q Right. And that's a couple levels up right?
16 Like you have earned your way into being a master deputy,
17 right?

18 A Yeah. I mean, it's not a couple levels, one
19 step above a deputy two.

20 Q So, you have do some more training?

21 A You have to take an oral board [verbatim].

22 Q Okay. So, you have to pass a test to prove that
23 you know what you're doing, that you're qualified and
24 capable enough to be a master deputy?

25 A Yes, sir.

DAVID PICONE-CROSS BY MR. ERWIN

1 Q And, in fact, now you are a murder investigator?

2 A Dealing with murders, robberies, yes.

3 Q So, that is probably one of the highest levels
4 of investigation, right? As far as earning your way up
5 the chain, as far as trying to get the higher level? I
6 mean, murder cop is where you want to be, right?

7 A Yes.

8 Q Okay. So, you clearly know what you're doing?

9 A Yes, sir.

10 Q And you take pride in your work?

11 A I do.

12 Q And you do a good job?

13 A Yes, sir, I try to.

14 Q So, part of that is taking statements, right?

15 A Yes, sir.

16 Q Okay. And you, I'm sure, learned really early
17 on that when you take a statement, it's important to be
18 accurate, right?

19 A Yes, sir.

20 Q It's important to get the complete statement,
21 right?

22 A Yes.

23 Q Everything that happened?

24 A Yes.

25 Q And it's important that the statement be

DAVID PICONE-CROSS BY MR. ERWIN

1 thorough, right?

2 A Yes.

3 Q It's very detailed and you get everything,
4 right?

5 A Yes.

6 Q And you -- you've done that hundreds times?
7 Taking statements.

8 A I have.

9 Q Okay. At the time you were working on this
10 case, you were in the crimes against children unit, right?

11 A Yes.

12 Q Okay. So -- and this was not your first case
13 like this, right?

14 A No. I've been in a couple months.

15 Q Couple of months you'd been in the unit?

16 A Uh-huh.

17 Q On this case you worked with Investigator Perry
18 some?

19 A Yes, he witnessed the statements.

20 Q He witnessed the statements. He was there with
21 you for some of them. Or at least witnessed the
22 statements, right?

23 A Yes.

24 Q Investigator Perry himself is -- is he a master
25 deputy?

DAVID PICONE-CROSS BY MR. ERWIN

1 A He is.

2 Q That's what I thought. And he's been in the
3 crimes against children's unit for a long time, right?

4 A Yes.

5 Q Okay. So, he, from your work and experience
6 with him, he's also really good at taking statements;
7 right?

8 A Yes.

9 Q Okay. And since this is a -- a crime of this
10 type, the allegation of this type, the statement's really
11 important, right?

12 A Yes.

13 Q I mean, as you said, there's no forensics. As
14 you said, there's no other witnesses to it, right?

15 A Yes.

16 Q So, this statement is -- this is the whole case,
17 right?

18 A It is.

19 Q Okay. And you knew that when you're taking the
20 statement, right?

21 A Yes.

22 Q Because you're a master deputy because you got
23 training and experience in this, right?

24 A I do.

25 Q Okay. So, you know the statement is important

DAVID PICONE-CROSS BY MR. ERWIN

1 and you know how to take a statement, right?

2 A I do.

3 Q And in this case you did what you were supposed
4 to?

5 A I did.

6 Q And you took an accurate statement?

7 A Yes, I did.

8 Q You took a complete statement?

9 A I did.

10 Q You took a thorough statement?

11 A Yes, sir.

12 Q Okay. Now, I do want to briefly touch on
13 something you testified to a minute ago. You said that
14 just before the allegations were made for the first time,
15 that Minor had been in some sort of trouble with her
16 mom, that she had lost her trust?

17 A Yes.

18 Q And you -- I got that right, you said that a
19 minute ago?

20 A That's right.

21 Q Okay. All right. Now, at the time when you
22 took this statement, when you were investigating this,
23 when it first came up, you did not know about the prior
24 trial that this family was involved in?

25 A I did not.

DAVID PICONE-CROSS BY MR. ERWIN

1 Q You did not know about the verdict in that
2 trial?

3 A At first, no.

4 Q And you did not know how the family felt about
5 that?

6 A I did not.

7 MR. ERWIN: Okay. Thank you, I have no further
8 questions.

9 THE COURT: Anything?

10 MS. MAJOR: No, Your Honor, I don't have any
11 redirect.

12 THE COURT: All right, thank you, sir, you can
13 step down.

14 MS. MAJOR: Your Honor, before I call my next
15 witness, may we approach?

16 THE COURT: Sure.

17 (WHEREUPON, an off-the-record bench conference
18 was held in the presence of the jury but out of
19 the hearing of the jury.)

20 MS. MAJOR: Your Honor, The State calls Cindy
21 Mullinax.

22 THE CLERK: Ms. Mullinax, if you come forward to
23 be sworn, please. Place your left hand on the Bible,
24 raise your right.

25 CINDY MULLINAX, after being duly

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 sworn, testified as follows:

2 THE CLERK: Thank you, you may be seated. Would
3 you, please, state your name for the record?

4 THE WITNESS: Cindy Mullinax.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MS. MAJOR:

8 Q Ms. Mullinax, where are you from?

9 A Right here in Greenville.

10 Q Do you have a job?

11 A Yes, I'm employed with the Greenville Hospital
12 System.

13 Q As what?

14 A I'm a registered repository therapist.

15 Q Are you currently working?

16 A No, I'm out on leave of absence right now.

17 Q And why is that?

18 A I had a recent relapse of MS.

19 Q Okay. How long have you been dealing with MS?

20 A Since 2005, I guess, I was diagnosed.

21 Q And do you occasionally relapse?

22 A Yes. It's kind of -- it's been pretty under
23 control. This is like the worst one I've had since
24 diagnosed.

25 Q Is that the reason that you're using that

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 walker?

2 A Yeah, it's a balance issue. Walking across the
3 room can be a little tricky.

4 Q How long have you had your job with GHS?

5 A I've worked there over 30 years.

6 Q So, since before Minor was born?

7 A Oh, yes. From high school I went right into
8 that.

9 Q How do you know the Defendant?

10 A I was married to him.

11 Q When?

12 A 2008, I believe.

13 Q How many times have you been married?

14 A Oh, that's terrible when you have to count,
15 four.

16 Q Your first husband, when were you married to
17 him?

18 A That was in '85.

19 Q Did you have any children with him?

20 A I did. Jessica and she was born in .

21 Q Okay. What's her birthday?

22 A .

23 Q All right. When -- and what was that husband's
24 name?

25 A John Farina.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 Q All right. When did you and John separate?

2 A We separated -- we weren't -- let's see, we were
3 already separated when Jess was born in May. So, he was
4 on -- in the Navy so he had been sent overseas. So, that
5 was the reason for the separation. But after that he
6 didn't want to come home. So, he had gone out like maybe
7 September or prior year maybe.

8 Q Okay. So, was he ever involved in Jessica's
9 life?

10 A No, no. And then after she -- was born end of
11 May. She was born healthy, had no issues at all. And at
12 15 months had contacted viral encephalitis which left
13 her -- they didn't know how to categorize it so they put
14 it as severe developmental delays. She was in diapers and
15 couldn't think for herself. She couldn't shift her own
16 weight, stuff like that. But as soon as she got sick and
17 was admitted to the hospital, he never saw her again.

18 Q Okay. So, after she was 15 months old, did she
19 ever walk?

20 A She walked a little bit prior to getting sick
21 and then she never walked again.

22 Q Was she -- what was her mode of transportation
23 or moving?

24 A After that she was in wheelchairs or had to be
25 carried.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 Q Was she ever able to use the bathroom on her
2 own?

3 A She couldn't shift her weight, she had to be
4 carried to the bathroom, to the shower. She had total
5 Care. Just like having an infant that you fed and did
6 everything for.

7 Q All right. Who were you married to after John
8 Frena, Jessica's father?

9 A John Digatora.

10 Q Okay.

11 A We had no children. We were only married three
12 or four years.

13 Q Okay. Who were you married to after that?

14 A Alan.

15 Q All right. Who is Alan?

16 A Alan Mullinax is Minor father.

17 Q All right. When did you and Alan get married?

18 A It was Valentine's Day. '98, I think.

19 Q And so who lived in the home once you and Alan
20 were married?

21 A Jessica, Minor and myself.

22 Q Okay. When was Minor born?

23 A Minor was born in .

24 Q All right. Was Alan working when y'all were
25 married?

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 A Yes.

2 Q Where would Jessica go?

3 A Jessica was a student at Washington Center.

4 Which is the special needs school for Greenville County.

5 So, the bus would pick her up early in the morning, like

6 6:00 o'clock. Then bring her back at, it was like

7 4:00 o'clock, but they would pick her up and drop her off

8 at home. I would usually have to make arrangements. I

9 had a sister-in-law that wasn't working at the time who

10 would meet the bus, get her off the bus and kind of watch

11 her until I got home from work.

12 Q All right. When did you Alan separate?

13 A In 2005.

14 Q All right. What was the reason for the

15 separation? Any particular reason?

16 A Well I had a infant at home, I had a special

17 needs child that was just like an infant, I'd been

18 diagnosed with MS at that time. And just told him I

19 needed some help. I was -- felt like I was drowning. And

20 he didn't think he needed to do anything. So, we just --

21 I'll just leave it at that. We just -- I didn't need one

22 more person to take care of. He was another dependent as

23 opposed to helping me.

24 Q When did you and Alan finally divorce?

25 A I didn't rush into that divorce for some reason.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 So, it was like 2007 or 2008 we actually finished the
2 divorce. The divorce was final.

3 Q What was the custody arrangement with Minor ?

4 A With Minor I had sole custody.

5 Q Okay. Would she see her father?

6 A Oh, yeah. Yeah, she saw him every weekend and
7 he could pick her up any time in between. Very opened
8 about that.

9 Q Was Jessica still living withing you at this
10 time?

11 A Yes, Jessica has always lived with me.

12 Q Okay. Would Alan -- it was -- Jessica was not
13 Alan's child, would Alan take Jessica ever after y'all
14 separated?

15 A I often said that I was a single mom my whole
16 life even though I've been married four times. I have
17 also took 100 percent care of Jessica.

18 Q When did you meet the Defendant?

19 A I was working a part-time job, trying to make a
20 few extra dollars at a bar. So, I was just waiting
21 tables.

22 Q Where?

23 A Uh --

24 Q In Greenville?

25 A Yeah, here in Greenville. It wasn't far from

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 the house in Greer.

2 Q Was he a customer there?

3 A He came in as a customer, yes.

4 Q When was that?

5 A It was at the end of 2007. Around the holidays,
6 November, Christmas, that kind of thing.

7 Q Okay. Did he move in with you at some point?

8 A He did.

9 Q When was that?

10 A It wasn't long after we met honestly. And he
11 was staying with us.

12 Q Did he have a job?

13 A He did at that time. He worked with his cousin.
14 And they did something with the sewer systems for
15 Greenville County. Some kind of construction stuff.

16 Q Okay. When did you actually marry the
17 Defendant?

18 A In 2008.

19 Q Do you remember what date?

20 A September, September 12th, 2008.

21 Q Was he working once y'all got married?

22 A He was not working at that time. He was trying
23 to look a different jobs and this particular job was going
24 to be in Seattle, Washington. And I didn't want to move
25 across country with somebody if we weren't married, you

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 know.

2 Q Did you end up moving to Seattle?

3 A We did not. We went up there and visited and
4 decided the job was not what they promised it would be.

5 Q So, did he have a job?

6 A He did not have a job.

7 Q What would he do all day?

8 A Oh, I don't know but he was supposed to be -- I
9 have to kind of back up and say that Jessica went to
10 Washington Center until the age of 21. And at 21 she
11 graduated. And Greenville County is horrible if you're
12 trying to place a special needs child with some kind of
13 daycare program or something. They don't what to do.
14 These kids are getting older and progressing and they
15 don't know what to do with them. So, they try to put them
16 in a nursing home and it's not the same thing. You're
17 taking care of an infant that's five foot tall and it's
18 totally different thing from a nursing home. So, he was
19 actually taking care of Jessica for a while. I had
20 sitters coming in doing that at times but I couldn't seem
21 to keep any daycare, keep it going.

22 Q Why not?

23 A Gerald, honestly. He has a horrible temper.
24 And would scare--

25 MR. ERWIN: Objection, Your Honor.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 THE COURT: Sustained.

2 THE WITNESS: We had -- most of the caregiver
3 were older ladies and--

4 BY MS. MAJOR:

5 Q Just a minute.

6 A All right.

7 Q So, you had care workers in there but then the
8 care workers stopped working?

9 A Well, he would scare them off.

10 MR. ERWIN: Objection, Your Honor, same.

11 THE COURT: Sustained.

12 MS. MAJOR: I'll move on.

13 BY MS. MAJOR:

14 Q Okay. After -- so was his job to take care of
15 Jessica?

16 A After I couldn't get the caregivers to come in
17 the house because they either refused to come in house or
18 whatever--

19 MR. ERWIN: Objection, Your Honor, for the third
20 time.

21 THE COURT: Ma'am --

22 THE WITNESS: I don't understand what I'm doing,
23 Judge, I'm sorry.

24 THE COURT: Well, don't talk about what the
25 caregivers did or did not do.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 BY MS. MAJOR:

2 Q We'll move on, Ms. Mullinax.

3 A Okay.

4 Q Could Jessica eat at this point?

5 A No, she was tube fed.

6 Q Okay. Who was in charge of feeding her during
7 the day?

8 A The adult that was there during the day.

9 Q But no adult was there, which adult would be
10 there?

11 A It would be him.

12 Q Okay. Could Jessica talk?

13 A No.

14 Q Could she communicate?

15 A She could not verbally communicate in anyway.

16 Q Okay. What would she do all day?

17 A She -- she couldn't even shift her weight. So,
18 she had to be turned or repositioned frequently. Diaper
19 changes, tube feedings. Now she's a very, very happy
20 child. She loved -- we had a big screen TV in for her
21 because she liked the colors. We weren't sure of her
22 vision but we would have different movies and stuff on
23 from her, music.

24 Q And where were you living at this time when the
25 Defendant moved into your house?

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 A Lakeland Drive in Greer.

2 Q And that's where you were living after y'all got
3 married as well?

4 A Yes.

5 Q What was that address?

6 A Lakeland Drive in Greer.

7 Q Okay. Did you eventually move out of
8 Lakeland Drive?

9 A Yes.

10 Q When?

11 A That's when the housing market dropped. But
12 prior to that the house went into foreclosure.

13 Q Okay. When did you move out of Lakeland
14 Drive?

15 A Let's see, she's -- it was like 2008, 2009.

16 Q Okay. Do you remember when it went into
17 foreclosure?

18 A It went into foreclosure prior to that. But I
19 was able to keep living there -- until for a couple of
20 years before we actually moved out.

21 Q Where did you move from Lakeland, where did
22 you move to?

23 A I wanted to say in the same school district for
24 Minor. So, we moved just down the street to West Chase
25 Apartments. It was Olds Buncombe Road, I believe is

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 the address.

2 Q Okay. At this time was the Defendant still
3 taking care of Jessica?

4 A Yes.

5 Q Did he have a job?

6 A No.

7 Q Did he have job at anytime after y'all were
8 married?

9 A He would do little odd jobs for his cousin but
10 that was it.

11 Q Okay.

12 A And it would be like a weekend thing, you know.
13 It wouldn't be for any length of time.

14 Q What was Minor school arrangement as far as
15 how would she get to school?

16 A Almost I believe about 100 percent of time I
17 would take her to school on my way to work. And Gerald
18 would pick her up after school and bring her home.

19 Q / Okay. What time would you get off of work on a
20 normal day?

21 A I had to stay -- I worked in a doctor's office
22 at this point. And I had to stay until the patients were
23 gone. So, normally I would be home around 6:00, 6:30.

24 Q Okay. And who would be there when you would get
25 home.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 A Gerald, Minor and Jessica.

2 Q Okay. Do you recall how long you lived at the
3 West Chase Apartments?

4 A It wasn't long. Maybe, maybe a year. I don't
5 think it was even a year.

6 Q Okay.

7 A And. . .

8 Q Go ahead, sorry. You can finish your answer.

9 A I was just going to say we moved at that point.

10 Q Where did you move to?

11 A We rented a house in Taylors. I don't remember
12 the name of the street but it was Pheasant Ridge
13 subdivision.

14 Q Did Minor have to switch schools then?

15 A She did. We switched in the middle of year
16 because she had a -- one of those school outings and we
17 had already paid for it so we waited until then and
18 switched her. She went to Taylors Elementary School at
19 that time.

20 Q Do you remember what about year that was or what
21 grade Minor was in?

22 A I believe it was in the middle of the year. I
23 think it was fourth grade. Fourth or fifth.

24 Q How long did you live at Pheasant Ridge
25 apartment -- or house?

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 A Not long at all. A few months.

2 Q Okay.

3 A The landlord was kind of threatening. So, we
4 moved out.

5 Q Where did you move after that?

6 A We actually lived in a hotel a Econo Inn for a
7 couple of weeks. Then moved to the Hunting Downs
8 Apartments.

9 Q Okay. Did Minor have to switch schools?

10 A Yes. But we switched her to Pelham Road
11 Elementary School. Which is where -- it was close to
12 where the hotel was. And my work, so.

13 Q And when you were at Hunting Downs, what was the
14 arrangement? Were you still working at your job?

15 A Yeah. I worked every day. Monday through
16 Friday. I did work -- it was a day shift at that time, I
17 was in the office. So, it was like 8:30 to 5:30, 6:00
18 kind of thing.

19 Q Okay. Did you -- what was the -- was Gerald
20 working at that time?

21 A No.

22 Q Okay. Did y'all have any care workers caring
23 for Jessica?

24 A No, when we got to Hunting Downs, no, I'd given
25 up on them.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 Q Who would be home with Jessica -- or excuse me,
2 when Minor got home from school?

3 A Gerald.

4 Q All right.

5 A And she did ride a bus when we were there. She
6 had the bus in the morning and bus in the afternoon.

7 Q Okay. And how was your relationship with
8 Gerald?

9 A It was good at times then it was really bad at
10 times.

11 Q Would y'all fight?

12 A Yeah. A lot. He was very volatile. I never
13 knew what I was walking into.

14 Q Would Minor see that?

15 A Oh, yeah.

16 Q How was the Defendant's relationship with
17 Minor ?

18 A It was good. It was good. It was a playmate.
19 Just they played together.

20 Q Would he discipline Minor ?

21 A He would. And I didn't like that. I would tell
22 him that wasn't -- as a step-father that was not his
23 position. And it was mainly just because he was so loud
24 and so hard on her.

25 Q Did you ever notice anything odd about their

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 interaction?

2 A Often times they end up playing too rough. But
3 no. He was very -- what's the word? You know, Minor
4 had a little of him, she didn't want to make him mad.
5 Because he was always on the edge. And you never knew if
6 you were going to push him over it or not. And so, she
7 would be very careful about what she did and when she did
8 it. And I did, too.

9 Q Did you ever suspect that he was abusing
10 Jessica?

11 A I did not like that a male was taking care of
12 her. In her state where she would not communicate and
13 could not share anything. I did not like that. He did--

14 Q But he would stay at home and take care of her,
15 right?

16 A At this point I had no other choice. I had to
17 work. I had to make a salary. And his good favor he did
18 do it. And, you know, he went from doing construction
19 stuff to doing this. So, at times I'd say, You're really
20 rough with her, be careful with her. She only weighed 78
21 pounds at her highest. And she was five foot four. So,
22 she was very, very tiny. And with the MS at times I had
23 trouble lifting and caring her, this kind of stuff. So,
24 he would do that kind of thing. I tried to make it where
25 we would do her showers like maybe he would get her to the

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 shower, then I would do it. But on and on he ended up
2 doing the shower himself.

3 Q Did you ever suspect, see anything, any red
4 flags as far as sexual abuse with Minor ?

5 A No, I didn't. Minor would come get in bed
6 with me often. She was very -- we always had a close
7 relationship but she slept with me a lot. She would come
8 get in bed with me or she very often got in bed with her
9 sister. That wasn't uncommon. I didn't think because it
10 happened all the time.

11 Q Would the Defendant be in bed with you?

12 A Most of the time he was not.

13 Q Where was he?

14 A Like I would go to bed and he would stay up.
15 Now, he would eventually come to bed. But she would -- I
16 always slept on my side so she would sleep kind of under
17 me.

18 Q Where would the Defendant be?

19 A On the other side of the bed.

20 Q So, you were in the middle?

21 A Yes.

22 Q Okay. When did Jessica pass away?

23 A January 27th, 2012.

24 Q All right. How did she die?

25 A She was given a lethal dose of methadone.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 Q Okay. Were you prescribed methadone?

2 A No.

3 Q Who was?

4 A Gerald.

5 Q How would that methadone have ended up in her
6 feeding tube?

7 MR. ERWIN: Objection, Your Honor, speculation.

8 MS. MAJOR: I'll rephrase.

9 BY MS. MAJOR:

10 Q Was she able to feed herself?

11 A No.

12 Q Was she able to lift her arms to put a pill in
13 her mouth?

14 A No.

15 Q Okay.

16 A The only way the to give Jessica -- Jessica had
17 regular medicine she took. Baclofen and Valium at times
18 because of spasticity. She was really, really stiff. So
19 give her these drugs to help her relax. To give her those
20 drugs we actually had a pill crusher. You crush them up,
21 pour them, usually some warm water so they would dissolve
22 really well, then in a gravity feeding, it's a large
23 syringe, and you pour it in, then it would go into her
24 system. That's the only way the methadone could have
25 gotten in her system as well.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 Q Did you give her the methadone?

2 A No.

3 Q What do you remember after Jessica died? Where
4 did she die? Where were y'all living?

5 A We were living at Hunting Downs Apartments.

6 Q Okay. What happened after that?

7 A The day she died, I got up early. I just
8 happened to wake up early that morning, like 4:30. And
9 said well, I'm going to have my coffee and I was doing
10 devotional things, I'll do this and just give myself some
11 time. Gerald for some reason was sleeping on the couch.
12 And in an apartment, you know, your kitchen and living
13 room are kind of right there together. So, when I started
14 moving around, he woke up. He asked if I had checked on
15 Jessica, that he had given her some medicine late that
16 night. And had given her water with it. And when you
17 give her water she end up, obviously, wetting the diaper.
18 But if you give her a lot, it wets the whole bed. So, you
19 usually have to check the diaper fairly soon after you do
20 that. I said I had not been in there but I'll go check on
21 her. And when I went in there she wasn't breathing. I
22 immediately called -- told him to call 911. I picked up
23 my baby and laid her on the floor and started CPR. I did
24 CPR until everybody got there. And when EMS got there,
25 finally the paramedic -- I left the room and they came

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 back and told me that she was already gone. She had --
2 you can look at someone's body and tell that they'd been
3 gone a long time.

4 Q Was the Defendant arrested in connection with
5 Jessica's death?

6 A Six weeks later, yes.

7 Q Okay. Did you suspect the Defendant had done
8 anything to her immediately after Jessica passed away?

9 A No. During -- when I was yelling, he was
10 talking to the operator and stuff, he kept saying--

11 MR. ERWIN: Objection, Your Honor, hearsay.

12 THE WITNESS: This is what I heard.

13 THE COURT: Overruled.

14 BY MS. MAJOR:

15 Q Go ahead, you can say what he said.

16 A I was telling him to give them directions and so
17 forth. And what I was hearing him say was, I think I gave
18 her too much, I think I gave her too much.

19 It didn't register with me then because she
20 had Valium that she could take at night. And Valium -- as
21 a respiratory therapist, we don't like for our patients to
22 take Valium because it decreases their respiratory system.
23 And I had warned, be careful, you give her just 10. Don't
24 ever give her more than that, 10 milligram is what was
25 ordered. Never give her more than that, ever. Because it

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 could stop her breathing.

2 So, when I heard him saying that, I'm
3 thinking she must have had too much Valium, he must have
4 given her too much Valium. But I'm like, well -- in my
5 mind I was, doing what I'm doing, I didn't think of it
6 past that.

7 Q After the Defendant was arrested, what happened
8 to y'all's relationship? Were you still married?

9 A No. We were still married. It was six weeks
10 later that they got the toxicology report and that's when
11 they arrested him. He spent a year in jail. I actually
12 wanted a divorce immediately and the attorney said just
13 wait, we'll wait until he goes to jail it will be easier.
14 So, I just waited. When it came to trial, they did not --
15 the charges were not like a murder charge, it was abuse of
16 a vulnerable adult resulting in death. So, the -- my own
17 opinion is I think the jury just got--

18 MR. ERWIN: Objection, Your Honor.

19 THE COURT: Sustained.

20 MS. MAJOR: We'll move on.

21 BY MS. MAJOR:

22 Q Have you seen the Defendant -- or did you have
23 any meaningful interaction with him since he was arrested
24 for the charges?

25 A Absolutely not.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 Q Okay. Are you angry at him?

2 A Well yeah, he killed my daughter. Yes, I'm very
3 angry at him.

4 Q When did you find out about the allegations that
5 we're here for today against Minor . And actually, let
6 me back up. When was the trial?

7 A The trial was March 2013.

8 Q Okay. When did you learn about the allegations
9 that Minor made against him?

10 A January 27th, 2015.

11 Q Okay. Had Minor ever told you that the
12 Defendant had abused her?

13 A No.

14 Q Before this. Did you ever ask her?

15 A I did. I did.

16 Q When did you ask her?

17 A I mean, I wouldn't have let -- if I'd known he
18 was going to cause my daughter's death, I would have never
19 let him around my children. So, I didn't think he would
20 do that. I certainly didn't think he would abuse my
21 children.

22 Q When did you ask Minor , prior to her telling
23 in 2015, when did you ask her?

24 A I asked her -- when they arrested him
25 originally, I asked her specifically, Has he touched you?

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 Has he hurt you? Has he done anything to you?

2 Q What did she say?

3 A She said, No.

4 Q Okay. How did you learn about these allegations
5 that we're here for today?

6 A Minor shared them with her step-mother. And
7 through some talking and counseling that they were doing,
8 she just spit it out.

9 Q Had Minor -- had you and Minor been arguing
10 at this time?

11 A Yeah. Minor was 13, 14 at this point in time.
12 So, it was typical trying to watch her friends, see her
13 friends were around. You know, I was really rough on her
14 phone. I would cut her dad off, which totally freaks them
15 out. And we were going back and forth with her phone to
16 make sure that she was doing things that she was supposed
17 to do. Just to keep -- typical teenage stuff.

18 Q Okay. Do you know why y'all were in a
19 particular argument at the time that she. . .

20 A Oh, she decided -- well, we were doing all this
21 arguing and so forth. And she come up with this, you and
22 I just don't get along, I'm going to go live with my
23 daddy.

24 I said, Okay, go live with your daddy.

25 So, she went over there and stayed for like

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 a week. And I think within the first couple of days of
2 that week Michelle -- Michelle, her step-mother, was very
3 good in knowing that okay, what, you just don't take
4 somebody's phone away. You obviously did something and
5 you need to gain your mother's trust back. And she was
6 really trying to help us work it out. Somewhere in that
7 her -- one of Michelle's son's, I think her oldest son,
8 had lost his mother's trust.

9 And she said, I think you just need to go
10 talk to Cory. He had to win my trust back, you know,
11 maybe he can give you some tips on that.

12 So, she was talking to Cory when all of
13 this just kind of spilled out.

14 Q And when did you learn about it? How did you
15 learn about it?

16 A I was working a third job at this point at
17 Joann's Fabrics. And Minor told me that Michelle was
18 going to meet us in the parking lot because she had
19 something to tell me.

20 I was like, Okay, the last time we did this
21 you were going to live with your dad, just tell me what it
22 is.

23 No, Michelle's Going to be tell us.
24 Michelle's going to be there for us.

25 I said, Okay.

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 So, Michelle pulled up, I got in Michelle's
2 car, Minor got in the backseat. And Michelle commences
3 to telling me that Minor admitted to them that Gerald
4 had molested her.

5 Q Was that the first time that you had ever heard
6 of these allegations?

7 A That was the absolute first time.

8 Q Did you and Minor ever discuss a plan to
9 concoct to come up to set this Defendant up for these
10 allegations?

11 A To come back to court, you mean?

12 Q Yes.

13 A Absolutely not. I mean, no offense, Your Honor,
14 but the judicial system had totally let me down to start
15 with. There was no way in the world I wanted to come back
16 here. I mean, you know, I'm not threatening him but my
17 first thought was the buy a shotgun. We'll just take care
18 of it. Because I totally felt -- there was so much
19 evidence showing that he had done that, that there's no
20 way I would have wanted to come back here and leave it up
21 in the air again.

22 Q Were you mad enough to tell Minor to make this
23 up?

24 A Oh, no.

25 Q Do you and Minor talk about what happened,

CINDY MULLINAX-DIRECT BY MS. MAJOR

1 about the sexual abuse?

2 A Minor has never actually told me what
3 happened. When I met with Officer Picone, I can't
4 remember if -- he asked me if I wanted to hear Minor
5 statement?

6 I said, I want to know what happened.

7 And he was nice enough to read through it
8 and just kind of hit some of the highlights. That's all I
9 know about the actual abuse. Because she does not want --
10 she didn't want her grandparents or anybody else around to
11 know about it.

12 Q Okay. Did you take Minor to counseling after
13 this?

14 A Yes.

15 Q Okay. And how many times did she go to
16 counseling?

17 A Oh -- I'm sorry, I'm thinking back on my billing
18 statement. At least 15 different sessions over time.

19 Q Okay. And what kind -- was it a private
20 therapist or?

21 A It was a therapist that specialized in trauma
22 such as this for children.

23 MS. MAJOR: I don't have any further questions,
24 please answer any questions the defense has.

25 THE WITNESS: Sure.

CINDY MULLINAX-CROSS BY MR. ERWIN

1 May I get a glass of water?

2 THE COURT: You certainly may.

3 CROSS-EXAMINATION

4 BY MR. ERWIN:

5 Q Okay, Ms. Mullinax. So, shortly before the
6 first time this allegation was made, you and Minor were
7 not getting along very well?

8 A Yeah, just typical teenage.

9 Q Typical teenage stuff, right?

10 A Uh-huh.

11 Q You were monitoring her phone?

12 A Yes.

13 Q You were keeping track of where she was going?

14 A Absolutely.

15 Q And like a typical teenager, that wasn't going
16 well for you two, right?

17 A Well, she didn't like it.

18 Q Right. Okay. So, she wanted to go live with
19 her father?

20 A Yeah, that's what she said.

21 Q Because you were monitoring her for typical,
22 teenage stuff?

23 A Right.

24 Q Like lying?

25 A Lying, whatever.

CINDY MULLINAX-CROSS BY MR. ERWIN

1 Q Okay. All right. So, Gerald was arrested in
2 2012?

3 A Yes.

4 Q Okay. And when he was arrested they took him to
5 jail?

6 A Yes.

7 Q And between then and the trial in 2013 he was in
8 jail, right?

9 A Yes.

10 Q He never bonded out, he never came home or
11 anything like that, he was behind bars, down here at the
12 Greenville County Detention Center; right.

13 A Yes.

14 Q Okay. Shortly after they arrested him, you
15 directly asked Minor if he had touched her, right?

16 A Yes.

17 Q And her answer was, No, he has not?

18 A Correct.

19 Q Is that right?

20 A Uh-huh.

21 Q Okay. So, in 2013, there was the trial for
22 Jessica's death, right?

23 A Right.

24 Q And Gerald was found not guilty, right?

25 A Uh-huh.

CINDY MULLINAX-REDIRECT BY MS. MAJOR

1 THE COURT: Ma'am, I need you to say yes or no
2 if you would.

3 THE WITNESS: Oh, I'm sorry, yes.

4 BY MR. ERWIN:

5 Q So he was found not guilty?

6 A Right.

7 Q By a jury, right?

8 A Yes.

9 Q But you still think he killed Jessica, don't
10 you?

11 A I know he did.

12 Q Okay.

13 MR. ERWIN: I have no further questions.

14 MS. MAJOR: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. MAJOR:

17 Q When you told Mr. Erwin that she was lying, was
18 she making lies up or was she lying to get herself out of
19 trouble?

20 A Actually, she wasn't the one doing the lying,
21 her friends were. I had -- she had two other friends and
22 they get together and say, Oh, we're going here, then they
23 would go somewhere else. So, I was like conferencing with
24 mothers and the girls. And then preaching to her about
25 lying.

CINDY MULLINAX-RECROSS BY MR. ERWIN

1 Q Okay.

2 A So, those particular instance, she wasn't the
3 liar but, you know, who they hang around with is
4 important, so.

5 Q But she was lying about where she was going?

6 A Her friends were lying about it, yes.

7 Q Okay.

8 MS. MAJOR: No further questions.

9 RECROSS-EXAMINATION

10 BY MR. ERWIN:

11 Q These friends that were lying along with
12 Minor , right, there were teenage girls?

13 A Yes.

14 Q Typical teenage stuff, right?

15 A Yes.

16 MR. ERWIN: Okay, no further questions.

17 THE COURT: Thank you, ma'am, you may step down.

18 Ladies and gentlemen, we're going to take a
19 break, let you step back to the jury room for 15, 20
20 minutes or so. Please do not discuss the case with
21 each other while you're back there and we'll bring
22 you back in just a little bit.

23 (WHEREUPON, the jury left open court at
24 approximately 3:20 p.m.)

25 THE COURT: All right, stand in recess for just

Minor

-DIRECT BY MS. MAJOR

1 a minute.

2 (WHEREUPON, a short break was taken.)

3 (WHEREUPON, the jury came into open court at
4 approximately 3:42 p.m.)

5 THE COURT: All right, Ms. Major, you may call
6 your next witness, please.

7 MS. MAJOR: Your Honor, The State calls Minor

8

9 THE CLERK: Minor if you would come
10 forward to be sworn in please. Please place your
11 left hand on the Bible, raise your right.

12 Minor , after being duly
13 sworn, testified as follows:

14 THE CLERK: Thank you, you may be seated. Would
15 you, please, state your name for the record.

16 THE WITNESS: Minor

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MS. MAJOR:

20 Q Minor , what's your birthday?

21 A

22 Q Where are you in school? I guess it's summer,
23 where will you be starting?

24 A Starting [indiscernible].

25 Q What grade are you going into?

Minor

-DIRECT BY MS. MAJOR

1 A Tenth grade.

2 Q What are you doing this summer?

3 A Tony's Pizza.

4 Q What do you do?

5 A Just a server.

6 Q What do you do during the school year? What did
7 you do past school year?

8 A During the spring and closer to the summer I
9 played softball. But during the wintertime just hang out
10 at home.

11 Q What is your mother's name?

12 A Cindy Mullinax?

13 Q What is your father's name?

14 A Alan Mullinax.

15 Q Do you have siblings?

16 A I have three step-brothers from my step-mom
17 whenever she married my dad. Then I have one that is
18 related to me by my father, her name is Janna Mullinax.
19 And the other by my mother which is Jessica Farina.

20 Q How old is Janna?

21 A Around 35, 36.

22 Q Okay. How old were you when your parents
23 separated?

24 A Five.

25 Q How old were you when you met the Defendant?

Minor

-DIRECT BY MS. MAJOR

1 A Seven, around seven.

2 Q All right, do you remember how old you were when
3 they got married?

4 A Eight years old.

5 Q Where were you living at the time?

6 A Lakeland Drive in Greer.

7 Q Okay. Did you know the Defendant well before
8 your mom married him?

9 A He came around and hung out but I guess I knew
10 him like a friend.

11 Q Did you like the Defendant?

12 A He was -- he was okay. I mean, I felt like he
13 took away the attention that my mom was giving me so I
14 guess kind of jealous.

15 Q Did you dislike him for any reason?

16 A No.

17 Q When the Defendant and your mother got married,
18 do you remember if he had a job?

19 A No.

20 Q What would he be doing?

21 A Staying at home with Jess, taking care of her.
22 If mom wasn't doing it.

23 Q After they got married, how was your
24 relationship with the Defendant?

25 A About the same. Just, I guess, knew each other

Minor

-DIRECT BY MS. MAJOR

1 better over time.

2 Q When you were living at Lakeland Drive, did
3 he discipline you?

4 A On occasion, yes.

5 Q And do you know why we're here today?

6 A Yes, ma'am.

7 Q Okay. Tell us just generally why we're here
8 today.

9 A He sexually touched me below the waist many
10 times.

11 Q Let's talk about the first time. What do you
12 remember about the first time that he touched you?

13 A We were in mine, well not mine, but their
14 bedroom at Lakeland Drive. We were watching TV, mom
15 was in the room but she didn't see, as I know. We were
16 watching TV, just lying on the bed.

17 Q Do you remember what you were watching?

18 A The Bee movie. And we were just laying there
19 like casually. And I guess you can say we were in the
20 spooning position. He was behind me, I was in front of
21 him and he just put his hand inside my pants.

22 Q All right. Where was your mom at this time?

23 A She was at the desk on other side of the bed.
24 Which she would have been seeing his back.

25 Q How would she have been facing? Was she looking

Minor

-DIRECT BY MS. MAJOR

1 at the TV?

2 A No, she was more directly at the computer screen
3 than at the TV. So, the TV would have been over here, the
4 computer was over here. So, it would not have been in her
5 peripheral vision.

6 Q So, if she looked up would she have been looking
7 at the wall?

8 A Yes. Or there was a window there but yes.

9 Q Okay. And your mother is there and then is the
10 Defendant right beside her?

11 A A little over but yes.

12 Q Okay. And where is he?

13 A He is lying on his side and his back would have
14 been to her and she would have been looking at the TV and
15 I was in front of him.

16 Q And tell us what he did.

17 A We were just lying there then he would put his
18 hands in my pants and just have a rubbing motion.

19 Q Okay. Where would his hand be?

20 A On my vagina.

21 Q All right. Did his hand or finger, did any part
22 ever go inside of you?

23 A At that moment, in this situation, no. But
24 other times he would try but he never did.

25 Q All right. What were you thinking while this

Minor

-DIRECT BY MS. MAJOR

1 was going? And how old were you? Were they married yet?

2 A No, ma'am. I was maybe seven, just turned
3 eight. And I didn't know if it was bad, I didn't know it
4 was good so I didn't really have a feeling. I really
5 didn't know who to do. I just let it happen.

6 Q Did he say anything to you at that time?

7 A No.

8 Q How long did it last?

9 A Five, 10 minutes.

10 Q Were his clothes on or off?

11 A They were on.

12 Q What do you remember about -- do you remember
13 the next time that this happened?

14 A At Lakeland Drive, we were -- me and Jess
15 were in the same room. I had a daybed. So, a daybed
16 opens just on one side, there was no other side to it. He
17 came and it was at night. And like we was going to bed
18 and he came in my room, he laid on my bed and he made the
19 motion -- he grabbed my wrist and he made a motion for me
20 to touch him.

21 Q How did he do that, describe that for us?

22 A He just grabbed my wrist and made the downward
23 motion to his private area.

24 Q Were his pants on or off?

25 A I couldn't tell, it was in the dark.

Minor

-DIRECT BY MS. MAJOR

1 Q Okay. Was he sitting on your bed?

2 A He was kind of like laying kind of like this,
3 laying my bed.

4 Q Did he say anything to you when he came in?

5 A No.

6 Q How far did he get before you pulled away? As
7 far as did your hand touch his penis?

8 A No, I never touched him. I just kind of pulled
9 back and never touched him.

10 Q Did you say anything to him?

11 A No.

12 Q Did he say anything to you?

13 A No.

14 Q What did he do?

15 A He -- after he did that he just walked out.

16 Q Okay. Where was Jessica?

17 A She was asleep on the other side of the room in
18 her bed.

19 Q At this time could Jessica talk?

20 A No.

21 Q Could she, as far as you knew, understand what
22 was going on?

23 A No.

24 Q Could she move?

25 A I mean, she just moved her arms but she didn't

Minor

-DIRECT BY MS. MAJOR

1 like roll over and see.

2 Q Okay. Did he touch you other times at Lakeland
3 Drive?

4 A Only the one time I remember.

5 Q All right. Where did you move after Lakeland
6 Drive?

7 A West Chase Apartments.

8 Q All right. Do you remember what grade you were
9 when that happened?

10 A Between the summer of second grade, going to
11 third grade.

12 Q Okay. Were you living at West Chase Apartments
13 while you were in third grade?

14 A Yes.

15 Q All right. What school were you're going to at
16 that time?

17 A Woodland Elementary.

18 Q How did you get to school?

19 A Mom most likely took me on her way to work or he
20 would take me.

21 Q How would you get home from school?

22 A He would pick me up and take me home.

23 Q Who would be home when you got there?

24 A Me, him and Jess.

25 Q Was he -- did he go anywhere while y'all were

Minor

-DIRECT BY MS. MAJOR

1 there?

2 A No.

3 Q Did he touch you at West Chase Apartments?

4 A Yes.

5 Q Tell us about that.

6 A Come home from school. I just automatically,
7 not think about it, go to their bedroom and start watching
8 TV. He would come in there and he would start touching
9 me.

10 Q All right. How did it happen? How did it
11 begin?

12 A Same kind of possession, the spooning position.
13 And just me watching TV and he would just put his hand in
14 my pants.

15 Q And what would he do?

16 A Just the same thing, the rubbing motion.

17 Q Did -- while you were living at West Chase
18 Apartments did any part of his hand or fingers go into
19 you?

20 A No.

21 Q Did he try?

22 A He tried but it never -- no, it never happened.

23 Q Okay. How long would this last?

24 A It varied between like -- because nobody was
25 home so it might go a long time, it might not happen that

Minor

-DIRECT BY MS. MAJOR

1 long. It just varied between like five to 13, 15 minutes.

2 Q Would his clothes be on or off when this was
3 happening?

4 A They would be on.

5 Q Did he ever pull your clothes down?

6 A Just this one time.

7 He said, Can I kiss it?

8 And I didn't know what that meant.

9 Q Had you touched you before that?

10 A Yes.

11 Q Okay. And then what happened? The same that
12 you described?

13 A Yes.

14 And he said, Can I kiss it?

15 I said, What?

16 And he said, Can I kiss it.

17 So, I didn't know what meant and he just
18 did it. He took my pants half way down, like to my
19 ankles, and his put mouth on my vagina.

20 Q And what did he do?

21 A Like a french kiss to a person on the mouth,
22 just on my vagina.

23 Q How long did that last?

24 A Like two minutes. Not long.

25 Q Did he say anything to you after that?

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DIRECT BY MS. MAJOR

1 A It wasn't like Lakeland Drive but every time
2 after that he would always say, Did it feel good or was it
3 good?

4 Q And when you say not Lakeland Drive but every
5 time after that, what do you mean?

6 A Like West Chase, the house in Taylors, then at
7 Hunting Downs.

8 Q Okay. So, at West Chase Apartments would he say
9 anything else to you?

10 A He would just say, Did it feel good or was it
11 good? Then he would say, Don't tell your mom. Or it
12 would hurt her or something like that.

13 Q Did he ever threaten you?

14 A Not me.

15 Q What kind of threats would he make?

16 A Like, if you tell anybody I'll hurt your mom. I
17 mean, if he would say something like threaten me and just
18 be like I'll punish you or something like that.

19 Q Would he threaten you every time?

20 A No.

21 Q When did he threaten you?

22 A I mean, it wasn't like every time. It was just
23 like, I don't know how to put it. Like, he would just
24 say, If you tell anybody I'll punish you and then I'll
25 hurt whoever you told. Or something like that.

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-DIRECT BY MS. MAJOR

1 Q Okay. Were you scared?

2 A Not initially of him threatening me, just from
3 him. Like, if he would get loud I would be scared.

4 Q So, while you were at West Chase Apartments you
5 said that you took the bus home and he would be there.
6 How often, while you were at West Chase Apartments, how
7 often would he touch you?

8 A Probably three or four times out of the week.

9 Q Okay. Would you ever answer him when he would
10 say, Did I do good or?

11 A I would either shrug my shoulders or not say
12 anything at all.

13 Q What would happen after he stopped touching you?

14 A Either I would get up walk and away or he would
15 get up and walk away.

16 Q And while you were at West Chase Apartments, can
17 you remember about how hold you were or what grade you
18 were in?

19 A Third or fourth grade probably nine, eight or
20 nine.

21 Q What were you thinking? Did you think it was
22 right, did you think it was wrong?

23 A By then he had done it so much, I didn't think
24 it was right but I didn't think it was wrong to tell
25 somebody because he had done it so much that I didn't --

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-DIRECT BY MS. MAJOR

1 same kind of feeling, I didn't know what to do or what to
2 feel. But I didn't think it was wrong but I didn't think
3 it was right.

4 Q Okay. Did you ever think about telling your
5 mom?

6 A I mean, sometimes when he would make me mad or
7 say like punish me or something I kind of thought about it
8 but I never did.

9 Q Did you think about telling your dad?

10 A No.

11 Q Why not?

12 A I guess kind of the male and female kind of
13 thing, I just thought it would be awkward. And I just
14 didn't.

15 Q All right. While you were living at West Chase
16 Apartments would he discipline you?

17 A Yes.

18 Q How?

19 A Like meaning ground me or whip me with a belt or
20 yell at me, that's pretty much it.

21 Q Okay. How long did you live at West Chase
22 Apartments?

23 A My entire third grade year and then the first
24 part of fourth grade.

25 Q And did he touch you continuously during that

Minor

-DIRECT BY MS. MAJOR

1 time?

2 A Yes.

3 Q Where did you live after that?

4 A I think it was Pheasant Ridge in Taylors.

5 Q Okay. And when did you start living there?

6 What grade?

7 A It was fourth grade but it wasn't long. Maybe a
8 couple of months.

9 Q Okay. Did you have to switch schools when you
10 moved to Pheasant Ridge?

11 A Yes.

12 Q Did he ever touch you at that house?

13 A No.

14 Q Okay. What was your school arrangement at that
15 particular time?

16 A Mom would take me to school in the morning and I
17 would always ride the bus home with my friend Tammy.

18 Q Would Tammy come back to your house?

19 A Yes.

20 Q And then how long would Tammy stay there?

21 A She would stay there until her mom came to pick
22 her up, maybe around 5:30, 6:00.

23 Q Okay. What time would your mom get home?

24 A Around the same time, 5:30, 6:00.

25 Q Did he ever touch you or do anything

Minor

-DIRECT BY MS. MAJOR

1 inappropriate in front of Tammy?

2 A No.

3 Q At West Chase Apartments, where would Jessica
4 be?

5 A There's a three bedroom so she had her own room.

6 Q And at West Chase Apartments, where were the
7 different locations in the house that it would happen?
8 Was it just the bedroom?

9 A Yeah, just the bedroom.

10 Q Okay. After you moved from Pheasant Ridge,
11 where did you go after that?

12 A That would be Hunting Downs.

13 Q Did you live anywhere in between that for a
14 short period of time?

15 A No.

16 Q Did you live in a hotel?

17 A Oh, yes. The Econo Lodge.

18 Q How long did you live there?

19 A I want to say it was during the summer of like
20 fourth and fifth grade. I don't think I went to school
21 during that time but I'm not sure.

22 Q Was it a short period of time, a long period of
23 time?

24 A It felt like a long time but I don't think it
25 was. Maybe five months at the most.

Minor

-DIRECT BY MS. MAJOR

1 Q Okay. Where did you live after that?

2 A Hunting Downs.

3 Q Okay. Where were you going to school when you
4 lived at Hunting Downs?

5 A Pelham Road elementary school and went to middle
6 school at Greenville Middle.

7 Q At Pelham Road what was your arrangements as far
8 as how would you get to school?

9 A Either mom or him would take me to school.
10 Mainly mom. Then I would ride the bus home to either the
11 apartments or my nanna's house.

12 Q When you would ride the bus back to the
13 apartments would the Defendant be there?

14 A Yes, sir.

15 Q Would anybody else be there?

16 A Jess.

17 Q Anybody else?

18 A Just us three.

19 Q Okay. During this time while your mom was
20 married to the Defendant, was that his role, as caretaker
21 of Jess? As far as you knew? Did you ever see him go to
22 a normal job?

23 A No.

24 Q All right. Did he touch you at Hunting Downs
25 Apartments?

Minor

-DIRECT BY MS. MAJOR

1 A Yes.

2 Q How would -- how would it start and where would
3 you be?

4 A It maybe occurred one time on the couch. Just
5 the same position, same thing, spooning position. He just
6 put his hand in my pants and rub. And then any other time
7 it would be in the bedroom. Same thing.

8 Q Whose bedroom?

9 A His. Or him and my mom's.

10 Q How would it start?

11 A We were just watching TV and he would just put
12 his hand in my pants.

13 Q Would your pants still stay on?

14 A Yes.

15 Q Would his clothes be on?

16 A Yes.

17 Q I guess you're getting older now at Hunting
18 Downs, did you think to tell anybody then?

19 A I didn't think about it more. I mean, it came
20 up in my head but I would just like push it off because I
21 didn't think anybody would do anything. I didn't think --
22 by then I didn't think it was like a horrible act and
23 nothing would have happened even if I did tell. So, if I
24 did I just pushed it off.

25 Q Okay. How many times a week, let's say, would

Minor

-DIRECT BY MS. MAJOR

1 it happen while you were at Hunting Downs?

2 A Two to three.

3 Q Two to three times a week?

4 A Yeah.

5 Q Okay. Would he ever say anything to you when it
6 was going on or afterwards while you lived at Hunting
7 Downs?

8 A Just afterward if it felt good or was it okay?

9 Q And you always --

10 A Just shrug or not say anything.

11 Q At all during this time did he ever insert his
12 finger or anything into your vagina?

13 A No.

14 Q Besides that one time, was that the only time
15 that he put his mouth on your vagina?

16 A Just the one time, yes.

17 Q Did you ever see his penis?

18 A No.

19 Q Did his clothes ever come off?

20 A No.

21 Q What was your relationship like with Jess?

22 A Just like a normal sibling relationship just
23 none of the fights. We loved each other to death. Do
24 anything for each other. I mean, she couldn't really do
25 anything for herself but I would try to help her as much

Minor

-DIRECT BY MS. MAJOR

1 as I could.

2 Q Okay. What kind of things would you do?

3 A Change her diaper, put in her feeding tube, feed
4 her, just hang out with her.

5 Q Could she communicate with you?

6 A I mean, she could make noises but she couldn't
7 talk.

8 Q Did she know when you were home?

9 A She would like -- mom would always be like, you
10 better go say hey to Jess or she would start hollering.
11 And if I didn't she would start yelling. So, I guess she
12 would know if I was home or not, yes.

13 Q What do you remember about the day that she
14 died?

15 A I just slept in their bed. I was beside mom, I
16 wasn't beside him. And--

17 Q Were you scared to get into the bed with them?
18 When you went there to get in their bed, where would you
19 be?

20 A I would be on the side. He would be on the side
21 where the door was and mom would be on the other side and
22 I would just always lay on the mom's side. I wasn't
23 between them, I was always on mom's side.

24 Q Okay. Were you ever scared to get into bed with
25 them?

Minor

-DIRECT BY MS. MAJOR

1 A Not really.

2 Q Did you think that he would do anything with
3 your mom there?

4 A No.

5 Q Had he ever done anything with your mom while
6 she was in the bed?

7 A No.

8 Q Do you ever remember any other time of your mom
9 being there and him touching you?

10 A Just the one time at Lakeland Drive.

11 Q You can go ahead, I'm sorry, what do you
12 remember about that night that Jess died?

13 A I was sleeping with them and then I woke up and
14 nobody was in the bed. I just remember the closet light
15 was on, the door was closed to the room. And I heard
16 someone -- it was early in the morning like 4:35. I heard
17 people talking. And I walk out and mom's crying.

18 And I said, What's wrong?

19 And she just said, Jess, is sick, Jess is
20 sick.

21 Our door to our room was closed.

22 And she's like, Don't go in there, you
23 can't go in there.

24 I was like, Why?

25 She just kept saying, Jess is sick.

Minor

-DIRECT BY MS. MAJOR

1 And he came back -- I was -- I was getting
2 something for mom out of the closet and he came back and
3 sat on the bed and he just started crying. And he just
4 like repeated just like, I gave her too much, I gave her
5 too much.

6 And then I asked mom like, What is really
7 wrong?

8 And she said, Jess died.

9 And after that my grandma came and picked
10 me up.

11 Q Did you learn that the Defendant had been
12 arrested for her death?

13 A I knew he was arrested but I didn't know like it
14 was specifically for that. Until after a while.

15 Q Okay. How old were you when Jess died?

16 A Eleven.

17 Q What grade were you in?

18 A Fifth grade.

19 Q How old were you when he went on trial for her
20 death?

21 A I don't remember if it was the same year or not
22 but I was either 11 or 12.

23 Q Did you know what was going on as far as him
24 going on trial or?

25 A I knew that Jess had died. And I knew he was

Minor

-DIRECT BY MS. MAJOR

1 arrested but I didn't know -- I mean, I knew that it had
2 something to do with him and that's why we were here. But
3 I didn't know like the circumstances and like what he did
4 to be here.

5 Q Okay. When you found out that it was a not
6 guilty verdict, what did you think, what did you feel?

7 A Well, everybody around me was sad. And they
8 kept coming up to me saying, It's okay, I'm so sorry for
9 you. And I thought they were saying that because of what
10 happened to Jess. I didn't know that it was because of
11 him. And they were all sad. And then mom finally told me
12 that he's not in jail, he's out. So, that made me kind of
13 scared. Because by then I was scared of him because I
14 knew what he had did. And he was out and he could -- I
15 always said he could come find us and hurt us if he was to
16 find us.

17 Q Okay. Did you think to tell anybody what he did
18 right after either he was arrested or after he got out of
19 jail?

20 A It never really crossed my mind honestly, so,
21 no.

22 Q What were you scared of after he was released
23 from jail?

24 A Mainly -- it was mainly just him. There was no
25 certain thing. It was just him. I knew what he could do.

Minor

-DIRECT BY MS. MAJOR

1 And just those thoughts of what he could have done.

2 Q So, fast forward to January 2015, had you told
3 anybody what he had done to you about the touching?
4 Prior, up to that?

5 A No.

6 Q Okay. Did you, again, think to tell anybody in
7 between that time?

8 A It never -- it -- honestly, after what happened
9 to Jess, it never really crossed my mind anymore. I
10 wasn't really, I guess, so called worried about it.

11 Q How did it finally come out?

12 A I was riding home with my step-brother, Cory.
13 And over that past week me and my mom, we -- it wasn't
14 really fighting, it was more like disagreements. And I so
15 called moved out and moved into my dad's house for a week.
16 It wasn't a big deal. And I road home with Cory that
17 night. And we were sitting in the driveway. And I don't
18 even remember what brought it up, I just started crying.
19 And then I finally said, What if I told you my step-dad
20 touched me inappropriately?

21 Q Okay. Do you remember what led up to this
22 coming out?

23 A We were -- it was just talking about mom -- or
24 like what me and my mom were having issues, I guess. And
25 it just came out. Like nothing really brought it up.

Minor

-DIRECT BY MS. MAJOR

1 Q Okay. Did you tell Cory anything else besides
2 that?

3 A Just that he touched me, that was it.

4 Q What did Cory do?

5 A I told him not to tell Michelle yet. I don't
6 know why. I figured I would tell her instead of him
7 telling her. I asked him to go get Kristin, which is my
8 other brother's girlfriend, just to have like some
9 comfort.

10 Q How old is Kristin?

11 A She's 20 now or she would have been 19, I guess.

12 Q Okay.

13 A And whenever he came back out he was like, I
14 told mom. Which was Michelle. And Michelle and Kristin
15 come outside and Michelle is crying. And we were waiting
16 for my dad to get home because he was working that night.
17 So, me and Kristin and Adam, which is my other
18 step-brother, we went out because I didn't want to be
19 there when she told daddy. Because I didn't know he was
20 going to react. So, when I came back home he said
21 everything's going to be okay, we're going to take care of
22 this.

23 Q Okay. And did you actually tell him what
24 happened?

25 A I mean, a few days after we kind of like talked

Minor

-DIRECT BY MS. MAJOR

1 a little bit. And he was like, So when did this happen?
2 And I told him. He never asked like specific details but
3 he does know like what happened but he doesn't know like
4 specific details.

5 Q Okay. Did you want to tell your dad exactly
6 what happened that day that you told Cory what happened?

7 A I mean, I wanted to tell him everything. Like
8 everything that happened so it could be over with and
9 done. And I just never did. Just kind of the same thing,
10 the male and female kind of thing, kind of awkward.

11 Q How do you feel about telling your dad something
12 about this?

13 A I mean, I still don't kind of want to tell him.
14 Because he doesn't want to -- like he kind of keeps his
15 feelings in like I do sometimes. And he doesn't like to
16 stretch out the conversations about like this situation.
17 He doesn't want to like stretch it out, make me
18 uncomfortable. And I don't want make him uncomfortable,
19 so we don't talk that much about it.

20 Q Well, back to that night, what did you do once
21 your dad got home and came to you and said, It's going to
22 be okay?

23 A Nothing really, just kind of went about our
24 night. Got a snack, went to bed and went to school the
25 next day.

Minor

-DIRECT BY MS. MAJOR

1 Q Okay. What do you remember about telling your
2 mom?

3 A It was a Friday and that was -- it was the same
4 week. And -- sorry. Michelle drove me to her work. And
5 we met in the parking lot. Mom got in the car and I was
6 in the back seat and Michelle told mom. I was planning on
7 telling mom but Michelle told her first. Then she was
8 like, he touched Minor. And then he started crying.
9 She told her work that she couldn't come in that night.
10 And then I went home with her.

11 And she was like, I don't want you to see
12 me like this, I don't want you to see me upset.

13 So, I went back to daddy's for that weekend
14 and then I came back home and we just went about our
15 business like trying to take care of things.

16 Q Okay. How did you feel after you told what
17 happened?

18 A I felt like I could move on to the next step.
19 Since like my mom and dad knew. So, I could move on and
20 get to the next step. And I kind of felt relieved about
21 it.

22 Q Have you seen the Defendant or had any
23 interaction with him since Jessica's death?

24 A No.

25 Q You haven't talked to him?

Minor

-DIRECT BY MS. MAJOR

1 A No.

2 Q How do you feel about him -- about the not
3 guilty at Jessica's trial?

4 A I mean, it -- some people don't understand like
5 what we went through. You had to be there to understand
6 like what happened. And I understand that some people
7 don't understand sometimes and that's okay. But I just --
8 I feel that if someone did something wrong they need --
9 there's punishment.

10 Q Okay. Are you mad at him for the not guilty
11 verdict?

12 A Not mad at him for the verdict, no. Because he
13 couldn't help it either way.

14 Q Okay. Are you mad that you think -- do you
15 think that he killed your sister?

16 A Yes.

17 Q Are you mad at him about that?

18 A Yes.

19 Q Did you make up these allegations to get back at
20 him?

21 A No. If I wanted to get back at him I would have
22 taken a whole 'nother direction. I wouldn't want to be
23 here.

24 Q Do you like being here?

25 A No.

Minor

-DIRECT BY MS. MAJOR

1 Q Do you like talking about what he did to you?

2 A If I have to talk about it to get him to where
3 he needs to be, I will, but. . .

4 Q Do you like talking about it?

5 A No.

6 Q Do you remember -- do you remember going to the
7 police to give your statement?

8 A Yes.

9 Q Do you remember talking to Investigator Picone?

10 A Yes.

11 Q Who was in the room with you when you gave that
12 statement?

13 A Just me.

14 Q All right. Did you want your were dad to hear?

15 A No.

16 Q How did you go about -- what -- I guess, how was
17 that? How did you give your statement, what -- did you
18 write out anything?

19 A No, he either wrote it and then typed it or
20 typed as we were talking, I don't remember. But he typed
21 it. And then he would ask me the questions and then I
22 would answer them and then give him the details to the
23 questions he asked.

24 Q Okay. Did you review this statement?

25 A Yes, I did.

Minor

-DIRECT BY MS. MAJOR

1 Q Did you initial it?

2 A Yes.

3 Q Have you reviewed this statement in preparation
4 for today?

5 A Yes.

6 Q Is anything in there -- is anything in there not
7 accurate?

8 A Just the house in Taylors. On the statement it
9 stated that he touched me two to three times at the house
10 in Taylors, but that is incorrect, he did not.

11 Q Do you know why you would have said that or --
12 but you're saying he did not touch you there?

13 A No.

14 Q Okay. How do you feel about being up here
15 today?

16 A I feel like it needs to be done. And I just --
17 I mean, I don't want to be here but I want to get this
18 over with.

19 Q Okay. Just for the record, do you see your
20 step-father, who we've been talking about, can you point
21 him out, please? What is he wearing?

22 A A blue shirt and blue tie.

23 Q Seating with defense counsel?

24 A Yes, ma'am.

25 MS. MAJOR: Please answer any questions the

Minor

-CROSS BY MR. ERWIN

1 defense has.

2 CROSS-EXAMINATION

3 BY MR. ERWIN:

4 Q Good afternoon, Minor . So, I just want to
5 make sure I have sort of the trial line straight. I think
6 that we've talked about four different locations, right?

7 A Yes.

8 Q And the first one, just to make sure I have the
9 order right, the first one is Lakeland Drive. So, I'm
10 going to call that location one.

11 A Okay.

12 Q All right. Location two is the West Chase
13 Apartments?

14 A Yes.

15 Q Okay. So, that's the second place that y'all
16 lived.

17 A Yes.

18 Q The third was Taylors, Pheasant Ridge is what
19 you're calling it?

20 A Yes.

21 Q Is that also Spring Fellow Lane? Is that all
22 the same place?

23 A I guess.

24 Q That's the house in the Taylors?

25 A Yes.

Minor

-CROSS BY MR. ERWIN

1 Q Location three?

2 A Yes.

3 Q Then I know there was a hotel that was kind of
4 in between?

5 A Yes.

6 Q That was just for a really short period of time?

7 A Yes.

8 Q So, we're not going to count that. But just to
9 be clear. Four is Hunting Downs?

10 A Yes.

11 Q So, location one, Lakeland Drive. Location two,
12 West Chase Apartments. Locations three, Taylors, Pheasant
13 Ridge. And location four, Hunting Downs?

14 A Yes.

15 Q I got that right?

16 A Uh-huh.

17 Q So, when you first brought this up, pretty
18 shortly after that, like you talked about, you went in and
19 met with Investigator Picone over here, right?

20 A Yes.

21 Q Okay. And you sat down and you made a
22 statement?

23 A I did.

24 Q And you said he typed it, right?

25 A He wrote or typed it, I didn't do it.

Minor

-CROSS BY MR. ERWIN

1 Q Yeah. So, but you were talking and he was
2 writing the statement? Whether he was writing or typing,
3 you don't remember?

4 A Yes.

5 Q But you were speaking and he was listening to
6 you. And he was writing it down, right?

7 A Uh-huh.

8 Q And before you started talking to him he told
9 you that it was really important that you be honest,
10 right?

11 A Yes.

12 Q He told you that it was really important that
13 you be accurate? And he also told you that it's really
14 important that you be complete and you talk about
15 everything that happened, right?

16 A Yes.

17 Q He also told you that it was really important
18 that you be thorough, that you go really into those
19 details, right?

20 A Yes.

21 Q So, you did all that, right?

22 A Yes.

23 Q And he was listening and as you were going along
24 he was noting it down, right?

25 A Yes.

Minor

-CROSS BY MR. ERWIN

1 Q Okay. And then after you were done with this
2 statement, he gave you a copy of it, right?

3 A Yes, he did.

4 Q Okay. And you got to look at the statement that
5 he had typed up?

6 A Yes.

7 Q And you signed it at the bottom?

8 A I did.

9 Q Right? And you signed it saying this is true
10 and correct as best I can recall, right?

11 A Yes.

12 Q Okay. And even more than that, he actually had
13 you go through each individual paragraph and write your
14 initials by each paragraph?

15 A Yes.

16 Q Signifying that that was accurate and complete
17 and thorough, right?

18 A Uh-huh.

19 Q Okay. And those are your initials, TNM?

20 A Yes.

21 Q Okay. You testified a few minutes ago that at
22 location three, so this is the Taylor's house, that he
23 never touched you there, right?

24 A No.

25 Q That you would come home from school with your

Minor

-CROSS BY MR. ERWIN

1 friend on the bus and that she would leave and your mom
2 would come home. But during that time period he never
3 touched you, right?

4 A No.

5 Q Okay. So, I have a copy of that statement that
6 you made with Investigator Picone, okay? I'm going to
7 show it to you if you don't mind.

8 A Okay.

9 Q And if you would help me out here. Here, why
10 don't you just take that. If you would read -- just read
11 that -- I just want to make sure I get right. Yes, read
12 that paragraph right there, please. Along with your
13 initials next to it.

14 A We moved from West Chase to a house on
15 Springville Lane. I don't remember the house number. But
16 when we lived at this house, I rode the bus home. My
17 friend Tammy would also ride the bus with me. I don't
18 remember Tammy's last name. She would come over to my
19 house after we got off the bus. Tammy's mom would go pick
20 her up and I would be home alone with Gerald after she
21 left. Gerald would touch me two to three times every
22 other week. He continued to rub on my private area below
23 the waist. We lived at this house on Springville Lane for
24 about eight to nine months.

25 Q Thank you. Now, you were talking to the

Minor

-CROSS BY MR. ERWIN

1 solicitor a little while ago. And she mentioned that you
2 have gotten a chance to go over this stuff before today,
3 right?

4 A Yes, I have read over it.

5 Q You sat down with her a couple of different
6 times to get ready, to be prepared for today, right?

7 A Yes.

8 Q And that actually started a few months ago,
9 earlier this year, right?

10 A Yes.

11 Q Back in February, right?

12 A Yes.

13 Q If I told you you sat down with her on
14 February 19th, that sound about right to you?

15 A I guess, yes.

16 Q You do remember in February sitting down with
17 Ms. Major and having a conversation to get ready for
18 trial, right?

19 A It was a conversation just going over what had
20 happened.

21 Q Okay. So, you had a conversation with her going
22 over what had happened. And that conversation in February
23 of this year, you told her something new, didn't you?

24 A I just told her pretty much everything that I've
25 told everybody else.

Minor

-CROSS BY MR. ERWIN

1 ~~Q~~ ~~Q~~ Are you telling me that you told her the same
2 thing that you told Investigator Picone?

3 A I mean, just leaving out that he asked if he
4 could kiss it.

5 Q Right. That was new, right?

6 A Yes, that's when I told Elizabeth.

7 Q Okay. That's not in the statement that you told
8 Investigator Picone?

9 A No.

10 Q And that happened at location one, right? At
11 Lakeland Drive?

12 A No, that was at West Chase.

13 Q Excuse me, at location two, West Chase
14 Apartments?

15 A Yes.

16 Q So, up until February of this year, you had not
17 said to Investigator Picone or anybody else about the, can
18 I kiss it incident?

19 A No.

20 Q That was it?

21 A Yes.

22 Q Okay. Now, back in February when you had this
23 conversation with Ms. Major, did you know we were getting
24 ready for a trial in February?

25 A No.

Minor

-CROSS BY MR. ERWIN

1 Q No?

2 A I mean, she might have mentioned it but I don't
3 remember.

4 Q The trial did not happen in February, did it?

5 A No.

6 Q No. This is the first time --

7 A Yes --

8 Q -- that we've gone through all this?

9 A Yes.

10 Q Did you know that it changed because of what you
11 told her that day?

12 A I mean, I -- she called me a day or two later
13 and said that what you told me it can -- it can bring up
14 these charges. Yes, she told me that.

15 Q Right, the charges got more serious, right?

16 A Yes.

17 Q Okay. Because of this new thing that you had
18 told her?

19 A Yes.

20 Q Okay. So, much so that we were going to have to
21 start over and do this thing again, right?

22 A Yes.

23 Q Okay. So, in getting ready for trial today in
24 July, you sat down with Ms. Major some more to get ready
25 for trial again?

Minor

-CROSS BY MR. ERWIN

1 A Yes.

2 Q And you had another conversation with her -- if
3 I told you it was July 12th, does that sound about right
4 to you?

5 A Yes.

6 Q Okay. And that's when you told her that this
7 whole part at location three did not actually happen,
8 right?

9 A Well, that was the first time I actually sat
10 with her and she let me read over my statement just to
11 clarify. And yes, that's when I told her.

12 Q Right. But to that point, that is the first
13 time that we have mention that nothing happened at
14 location three?

15 A Yes.

16 Q Right. Okay. That was on July 12th of this
17 year?

18 A Yes.

19 Q Ready for this trial today?

20 A Yes.

21 MR. ERWIN: Beg the Court's indulgence for one
22 second.

23 BY MR. ERWIN:

24 Q Well, real quick, when you made this prior
25 statement, when you made this statement, when you and

Minor

-CROSS BY MR. ERWIN

1 Investigator Picone sat down and you told him the
2 statement that he typed up.

3 A Yes.

4 Q How old were you at that time?

5 A It was last year in January so 14.

6 Q So, do you remember -- and what grade were you
7 in?

8 A That would have been eighth grade.

9 Q Right. So, in eighth grade, do you write
10 essay's in school sometimes?

11 A Yes.

12 Q Yeah. Okay. All right. So, we've done a lot
13 of talking about this prior trial, this prior trial that
14 Gerald went through and that all of you guys went through.
15 And you remember that the verdict was not guilty, right?

16 A Yes.

17 Q Right. But like you said you think that Gerald
18 killed your sister, don't you?

19 A Yes.

20 Q And you want to put him where he needs to be,
21 right?

22 A Yes.

23 Q That's what you said?

24 A Yes.

25 Q Okay. And you think that he needs punishment,

Minor

-REDIRECT BY MS. MAJOR

1 right?

2 A Yes.

3 MR. ERWIN: I have no further questions.

4 MS. MAJOR: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. MAJOR:

7 Q Minor , would you make something like this up
8 to get somebody in trouble if the sexual abuse did not
9 happen?

10 A No.

11 Q Minor , do you know the legal system and
12 charges and crimes well? Do you know the statutes, do you
13 know the codes?

14 A I have no idea.

15 Q Did you know that before you talked about the,
16 can I kiss it incident, did you know the ramifications of
17 that at all?

18 A I mean, whenever he was in the detention center,
19 we would look him up. There were like the list of charges
20 and like it would read out like something on a minor. And
21 that, I knew that was the sexual incident. But I didn't
22 know like what kind of effect it had on him, no.

23 Q And before you told me, when we met back in
24 February, and in telling me about that incident and
25 telling me about how he put his mouth on your vagina, did

Minor

-REDIRECT BY MS. MAJOR

1 you know that that would have any sort of additional
2 charge?

3 A No, I just figured it would be counted as the
4 same thing.

5 Q Did Investigator Picone ask you if he had ever
6 penetrated your body? Your vagina?

7 A Just asked me if he had ever put his finger
8 inside of me. And I would just say he tried but he
9 didn't.

10 Q Okay. Did he ever ask you if he had put his
11 mouth on your vagina?

12 A No.

13 Q How old were you, again? You were 14 when you
14 gave this statement?

15 A Yes.

16 Q When you gave this statement to Investigator
17 Picone, had you ever told anybody what happened to you in
18 the detail that you told him?

19 A Just saying that he touched my private parts to
20 Cory. But no, that's the first time I gave like actual
21 details.

22 Q Do you remember how long you met with
23 Investigator Picone, how long it would have taken?

24 A Forty-five minutes, maybe an hour.

25 Q Okay. Do you remember what your emotional state

Minor

-REDIRECT BY MS. MAJOR

1 was?

2 A I was upset. Just talking about it to anybody
3 makes me uncomfortable in itself but I was upset.

4 MS. MAJOR: No further questions.

5 THE COURT: Anything?

6 MR. ERWIN: No, sir.

7 THE COURT: All right, thank you, you can step
8 down.

9 MS. MAJOR: Your Honor, you want me to call
10 another witness?

11 THE COURT: Y'all step up here a minute.

12 (WHEREUPON, an off-the-record bench conference
13 was held in the presence of the jury but out of
14 the hearing of the jury.)

15 THE COURT: Ladies and gentlemen, the next
16 witness may go a little longer. I like to break
17 about 5:00, 5:30 and the next witness may go a little
18 longer. Rather than start and break in the middle of
19 testimony, we are just going to come back in the
20 morning. So, I'm going ask you, again, to please do
21 not discuss this case with anybody while you're gone
22 tonight, your friends, your family, anything like
23 that. Don't do any private investigating, don't get
24 on the computer, don't do any checking on the
25 internet, anything like that. Don't read the

Minor

-REDIRECT BY MS. MAJOR

1 newspaper, don't listen to the radio, don't watch
2 television. We anticipate that we'll finish the case
3 tomorrow. And don't do anything to jeopardize that
4 or to jeopardize the interest of The State and The
5 Defendant in this matter.

6 So, y'all have a nice evening. We're going to
7 start at 9:30 in the morning. I like to operate
8 under two rules. One, you're never early. You're
9 either on time or your late. And the other, y'all
10 are probably to young, but the Vince Lombardi rule.
11 He was a football couch and he was of the opinion is
12 when I say be there at 9:30, you're best served being
13 there at 9:15 so you're not going to be late then.
14 So, please be prompt and y'all have a nice evening
15 and you're free to leave for the evening.

16 (WHEREUPON, the jury left open court at
17 approximately 4:30 p.m.)

18 THE COURT: All right, y'all going to have any
19 charges you want me to look at?

20 MS. MAJOR: I don't, Your Honor.

21 MR. ERWIN: I don't think we do either, Your
22 Honor. I think standard is fine with us.

23 THE COURT: Okay. Y'all have a nice evening,
24 see you tomorrow.
25

Minor

-REDIRECT BY MS. MAJOR

(WHEREUPON, the proceedings were concluded for
the day to be reconvened on July 19, 2016.)

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Minor

-REDIRECT BY MS. MAJOR

JULY 19, 2016

(WHEREUPON, the jury came into open court at approximately 9:30 a.m.)

THE COURT: All right, good morning, ladies and gentlemen. I hope you had a nice evening ready to go back to work. Before we begin, let me ask you if anybody discuss this case with anyone since we left last night or were you approached by anyone to discuss the case at all?

(There was no response.)

Did anybody do any of your own inquiries or investigation and get on the internet, read newspapers, watch TV, anything since we left yesterday regarding the case?

(There was no response.)

All right, good. I appreciate your doing so. And as you recall when we broke yesterday afternoon The State was in the process of putting up its evidence in its case in chief.

So, I call Ms. Major call your next witness, please.

MS. MAJOR: Thank you, Your Honor. The State calls Alan Mullinax.

THE CLERK: Mr. Mullinax, please come forward to be sworn. Please place your left hand on the Bible,

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 raise your right.

2 ALAN MULLINAX, after being duly sworn,
3 testified as follows:

4 THE CLERK: Thank you, you may be seated. State
5 your name for the record.

6 THE WITNESS: William Mullinax.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MS. MAJOR:

10 Q Mr. Mullinax, where are you from?

11 A Greenville, South Carolina.

12 Q How many biological children do you have?

13 A Two.

14 Q What are their names?

15 A Jana and Minor

16 Q How old is Jana?

17 A Thirty-three.

18 Q How old is Minor ?

19 A Sixteen in August.

20 Q Who are you married to currently?

21 A Michelle.

22 Q Who were you married to prior?

23 A Cindy.

24 Q Do you have any step children?

25 A Three boys.

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 Q Are those Michelle's children?

2 A Those are Michelle's children, correct.

3 Q Who do you live with currently?

4 A Michelle.

5 Q Do the children step children live there?

6 A Just one the youngest, Adam.

7 Q When did you marry Cindy Mullinax?

8 A 2012.

9 Q Sorry, Cindy Mullinax?

10 A Oh, Cindy, 1998.

11 Q Were you working at the time that y'all were
12 married?

13 A Yes.

14 Q What did you do?

15 A Swift Transportation.

16 Q When was Minor born?

17 A 2000.

18 Q All right. Who was living in the house when
19 Minor was born?

20 A Minor , myself, Cindy and Jessica.

21 Q Where would Jessica go during the day?

22 A At that time when we first got married, Jessica
23 was going to Washington Center. And she would be picked
24 up by a bus and brought up home and then she stayed home
25 the rest of the sometime.

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 Q Were you ever responsible for Jessica's care?

2 A It's just like being a parent, you know, you're
3 always responsible for their care and outlook. So, yeah,
4 there were times that she would stay with me.

5 Q Were you ever the primary caregiver?

6 A No.

7 Q Were you still working the same job during your
8 marriage?

9 A Yes.

10 Q When did you and Cindy separate?

11 A 2005.

12 Q All right. Do you remember when Minor started
13 first grade?

14 A 2007.

15 Q What was the reason for you and Cindy
16 separating, anything in particular?

17 A Can't really nail anything down particular so it
18 was just we couldn't reconcile our differences.

19 Q Okay. Did you continue to live in Greenville
20 after you separated?

21 A Yes.

22 Q What was your custody arrangement as far as you
23 seeing Minor after you separated?

24 A It was Judge Brown's visitation guidelines.

25 Q Which was?

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 A Which was every other weekend and then every
2 other Thursday that I didn't have her on the weekends.

3 Q Okay. Did that custody arrangement work out
4 between you and Cindy?

5 A Well, yes, because I had her more than that. I
6 use to pick her up from school almost everyday. I work at
7 night -- or I worked at that time. So, I'd pick her up
8 from school when I got up in the afternoon.

9 Q Okay. Would Gerald pick her up from school
10 while she got older?

11 A I do not know.

12 Q Did you pick her up from school everyday during
13 that time? During her elementary years?

14 A During elementary years up until about the third
15 grade, no. Not everyday. Everyday was like from K-5 to
16 the first grade. Then there were other arrangements after
17 first grade started.

18 Q Okay. Did you and Cindy have a contentious
19 divorce or was it amicable for the most part?

20 A For the most part peaceful.

21 Q Okay. Do you know -- when did you meet the
22 Defendant?

23 A I knew he was there only because Minor would
24 mention him but I never saw him.

25 Q Did you and Cindy interact after your divorce?

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 Did y'all have a lot of communication?

2 A No.

3 Q Do you remember -- did you know that they were
4 getting married?

5 A No.

6 Q Did you learn after they got married?

7 A Yes.

8 Q So, you were never introduced to him at any
9 point?

10 A No.

11 Q All right. Did you notice a change in Minor
12 after -- at any point during her childhood?

13 A I notice a change in Minor about the time she
14 started first grade. Do you want me to go on?

15 Q Yeah, tell us about that, what did you notice?

16 A Being a daddy with a little girl, you know, when
17 you're riding in the car with them, they're singing on the
18 radio and they want to play games, they want to go to the
19 park, they want to feed the birds, they want to feed the
20 ducks, they want to throw the bread in the water, they
21 want to get in the water, they want to get in the creek,
22 they want to learn how to skip rocks, they want to sit in
23 your lap and watch TV, or tell you stories of what
24 happened in the day. But then in 2007, Minor started
25 changing. She started reserving herself more to just

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 being a introvert as the extrovert that I had been with
2 for seven years of her life. She didn't necessarily stop
3 everything immediately but she didn't want to sit in my
4 lap anymore. She didn't want to sing on the radio when
5 the radio came on anymore. And she use to make up her own
6 songs sometimes.

7 She'd say, Daddy, turn the radio down, I
8 made up a song, I want to sign it to you.

9 And that disappeared. So, the things
10 weren't immediate, but I saw them happening.

11 Q Did you say anything to her?

12 A I would ask her if everything was okay. And a
13 seven year old girl, how do you explain what's happening
14 to you if you don't understand. So, it was usually a nod
15 or uh-huh and that would be it. But like I said, the
16 changes were gradual. But she reserved from the fun we
17 had for the first seven years of her life.

18 Q Did you confront Cindy about any changes that
19 you noticed?

20 A I didn't confront her mother about it. But --
21 because a lot of the times growing up I had with her was
22 just between me and her and not me and her and her mother.
23 So, the things that she was doing with Cindy, she might
24 not have been doing with me. So, no, I didn't talk to her
25 about it.

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 Q During Minor growing up, while she was
2 married -- while Cindy was married to the Defendant, did
3 you communicate with Cindy during that time at all? As
4 far as a regular basis?

5 A We would communicate on her visitation. Or
6 maybe if she had something special at school. And Minor
7 wanted me to be there. So, yeah, we communicated about
8 Minor

9 Q Okay. Did you ever communicate with the
10 Defendant during this time while he was married to Cindy?

11 A No.

12 Q Did you ever have any conversations with him?

13 A Just one conversation where they didn't allow me
14 to get Minor on a Thursday that I was supposed to have
15 her.

16 Q Okay. Was that the only time that y'all had any
17 sort of bad interaction?

18 A The only time.

19 Q All right. Did this custody arrangement
20 continue through Minor 's childhood as far as you seeing
21 her about every other weekend and then during the week
22 when you wouldn't have her on the weekends?

23 A It did continue.

24 Q Okay. At some point did you learn that Minor
25 had told that she had been sexually abused?

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 A Yeah, I was at work.

2 Q When was this?

3 A Two years ago -- no one year ago, January or
4 February 2015.

5 Q Okay. What happened that day?

6 A Well I came home from work. It was a weekend
7 that Minor stayed over with me. And she was over at our
8 house when I got home. That's fine. I didn't think
9 anything unusual of it. Children wants to come over to
10 visit. So, she was 15 years old, didn't seem odd. Then
11 wanted to tell me something that had been happening to her
12 since she was seven years old. A little girl.

13 And Michelle said, I'm not going to tell
14 you everything that happened to her but I will tell you
15 she's been abused.

16 Q What was your reaction?

17 A Just like it is now. And it's been like that
18 since January 2015. And I'm furious. But I've got
19 children watching me so I need to do what's right. Not
20 what a daddy would do.

21 Q Did you go and talk to Minor that day that you
22 learned this?

23 A Yeah, Minor was at our house.

24 Q Right, did you--

25 A I didn't speak to her about what had happened.

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 Q Did she tell you any details about what
2 happened?

3 A She didn't want to talk about it in detail.
4 Other than where it happened and how long it had been
5 happening.

6 Q Okay. Did you push her for details?

7 A No.

8 Q What happened in the days following her telling
9 y'all what happened?

10 A Since this was on a Tuesday, way I'm working
11 now, I work Monday and Tuesday that week. So, I came home
12 Tuesday, I was off Wednesday and Thursday. So, I didn't
13 know what to do. So, what we did is we road to Lexington
14 County where we thought he might be living and we got
15 close to where we thought he was living and we called law
16 enforcement.

17 Q Who was with you?

18 A It was Minor and Michelle was with me on the
19 ride.

20 Q Was Cindy with you?

21 A No.

22 Q Did you think that he -- that you needed to
23 report this in Lexington?

24 A I did.

25 Q Okay. What happened when you called Lexington?

ALAN MULLINAX-DIRECT BY MS. MAJOR

1 A Lexington sent a uniform officer out to speak to
2 me and ask the questions of where did this happen? And
3 since this was something that happened in Greenville
4 County, he said it would have to be something handled by
5 Greenville County. And that was all that he really said
6 to me.

7 Q Did you go to Greenville County after that?

8 A Yeah, we came back to Greenville County that
9 night after this happened. And we got in touch with -- I
10 don't remember who we called.

11 Q Okay. Did Investigator Picone follow up with
12 you eventually?

13 A Yes.

14 Q All right. Did you go down to the police
15 station?

16 A We didn't down to his office and he spoke with
17 Minor first. Then spoke with me and Michelle. And
18 then, we're here today.

19 Q Was Cindy with you when you went to the police
20 department?

21 A No.

22 Q Okay. Does Minor talk about this with you in
23 details now?

24 A No.

25 Q Have you noticed any changes in her since

ALAN MULLINAX-CROSS BY MR. ERWIN

1 January 2015?

2 A Yes. Since January 2015, that night after she
3 told us or told more Michelle what had happened than me,
4 she was almost like a little girl again for a moment. And
5 she wanted to do some of the things we had done before.
6 So, she wanted to be close to me again, she wanted to hold
7 my hand again.

8 MS. MAJOR: Thank you, Mr. Mullinax. Please
9 answer any questions that the defense has.

10 CROSS-EXAMINATION

11 BY MR. ERWIN:

12 Q Good morning, Mr. Mullinax.

13 A Good morning.

14 Q So, as you said several times here, you don't
15 have any of the details about exactly what was alleged in
16 this case, right?

17 A Correct.

18 Q You have a very general story about when it
19 happened and where it happened?

20 A That's right.

21 Q Okay. And you love your daughter?

22 A Yes.

23 Q Right. And you believe her?

24 A Yes.

25 Q Right. Okay. And you know, of course, about

ALAN MULLINAX-CROSS BY MR. ERWIN

1 the accusations made against Gerald in Jessica's death,
2 right?

3 A Yes.

4 Q And you know about the verdict in that trial,
5 right?

6 A Yes.

7 Q And you know about how Cindy feels about that,
8 don't you?

9 A Doesn't matter.

10 Q I didn't ask you if it mattered, I asked you if
11 you know about it. You know how she feels about it?

12 A No.

13 Q You don't?

14 A Her complete feelings about it, no, I do not.

15 Q Yeah. Okay. So, you weren't in here yesterday
16 when she said she wanted to take a shotgun to Mr. Powell?

17 A No.

18 MR. ERWIN: Okay, I have no further questions.

19 THE COURT: Anything?

20 MS. MAJOR: I don't have any further questions,
21 Your Honor.

22 THE COURT: All right, thank you, sir, you may
23 step down.

24 THE WITNESS: Thank you.

25 MS. MAJOR: Your Honor, the next witness is

MICHELLE MULLINAX-DIRECT BY MS. MAJOR -

1 Michelle Mullinax.

2 THE COURT: Okay.

3 THE CLERK: Ms. Mullinax, if you'd come forward
4 to be sworn in. Please place your left hand on the
5 Bible, raise your right.

6 MICHELLE MULLINAX, after being duly
7 sworn, testified as follows:

8 THE CLERK: Thank you, you may be seated. State
9 your name for the record.

10 THE WITNESS: Michelle Mullinax.

11 DIRECT EXAMINATION

12 BY MS. MAJOR:

13 Q Ms. Mullinax, where do you live right now?

14 A In Fountain Inn.

15 Q How many children, biological children, do you
16 have?

17 A Three.

18 Q What are their ages?

19 A Twenty-three, 20 and 16.

20 Q Who lives in the home with you?

21 A The 16 year old and the 20 year old.

22 Q Are you married to Alan Mullinax?

23 A Yes, I am.

24 Q When were y'all married?

25 A September 24th, 2012.

MICHELLE MULLINAX-DIRECT BY MS. MAJOR

1 Q Did you ever know Jessica?

2 A I did not.

3 Q All right. Do you know the Defendant?

4 A I do not.

5 Q Have you ever spoken to him any in meaningful
6 conversation, had any meaningful conversation with him?

7 A No, I have not.

8 Q When did you meet Alan? When did y'all start
9 dating?

10 A May of 2011.

11 Q Did Alan and Cindy have much communication
12 interacting as far as their relationship and with Minor ?

13 A Not much, no.

14 Q How would they communicate?

15 A Usually through Minor . Emails.

16 Q Okay. Were you there when Minor first told
17 that he was sexually abused?

18 A I was in the house, she was outside in the car
19 with my 23 year old.

20 Q Okay. How did she end up in the car, how did
21 that situation arise?

22 A She had -- the day before all this was told
23 Minor was very upset. She did not want to go home. She
24 and her mom, typical teenage issues between daughters and
25 moms. And so, we kept her, she stayed at our house with

MICHELLE MULLINAX-DIRECT BY MS. MAJOR

1 us. There had been some question about her telling the
2 truth with her mom about some things. So, on Tuesday,
3 when she actually spoke to Cory about it, I had suggested
4 that she ride home with Cory. We were all hanging out at
5 an ice cream shop in Simpsonville, and because Cory had
6 lied to me, I suggested that maybe he could help her
7 understand why you needed to regain your mom's trust. So,
8 they rode home together and apparently that's when she
9 talked to him.

10 Q Had Minor lied to get herself out of trouble?

11 A I believe so. I don't know the all the pieces
12 to that puzzle.

13 Q Later, when Cory came in, what did Cory say to
14 you?

15 A Cory had this panicked look on his face and told
16 me that something major had happened and he needed to talk
17 to me. So, that's when we kind of stepped away because we
18 were with my 16 year old, we stepped away. And he said
19 that Minor had just told him that she had been touched
20 by Gerald.

21 Q What did you do?

22 A I immediately went outside to the car which is
23 where Minor was sitting in the passenger side of Cory's
24 car. And she was very, very, very upset. Crying,
25 shaking.

MICHELLE MULLINAX-DIRECT BY MS. MAJOR

1 Q Okay. What did she tell you?

2 A She told me that he did touch her.. That -- I
3 did ask her did he ever penetrate her? She told me, No.
4 At that point I asked her then was she okay?

5 And she said, Yes.

6 I said, Did he threaten you?

7 She said that he told her that she couldn't
8 tell anyone.

9 MR. ERWIN: Objection, Your Honor. The
10 corroboration has to be limited to time and place.
11 This is going well beyond that.

12 MS. MAJOR: I'll move on.

13 BY MS. MAJOR:

14 Q How long were you outside with Minor

15 A We were probably outside about an hour, hour and
16 a half.

17 Q Who was out there?

18 A At that point it was Cory, myself and Minor

19 Q All right. What did y'all do after that?

20 A That's when we knew that we needed to tell her
21 dad, who was at work. So, Minor did not want to be in
22 the house when we told Alan. So, at that point my 20 year
23 old's girlfriend came picked up Minor and took Adam and
24 they, I believe rode around, went and got something to
25 eat. And it was just Cory and myself at the house when

MICHELLE MULLINAX-DIRECT BY MS. MAJOR

1 Alan came home.

2 Q How did Alan react?

3 A He was eerily calm.

4 Q Okay. What happened when Minor got home?

5 A He just hugged her and told her he loved her.

6 They really didn't talk much about it. She did go

7 outside, she had some firewood and she was beating on a

8 tree, beating up something else [indiscernible] that

9 stopped as well. She took out a lot of frustration.

10 Q What happened in the days following?

11 A Tuesday night she stayed with was. Wednesday
12 and Thursday she was with us, I believe. Friday is when
13 she wanted me to be with her to tell her mom. And so, we
14 arranged for Cindy to meet, brought her to where we met,
15 which was in the parking lot at Joann's fabrics and they
16 sat in the car and we shared what had taken place. What
17 she had told me as well as Cory.

18 Q Was Cindy working at Joann's?

19 A She was. I think she was getting ready to go
20 into work that evening.

21 Q Who actually told Cindy about these allegations?

22 A That was me.

23 Q Okay. What was Cindy's reaction?

24 A Shocked, tearful, upset. I mean, she was
25 shaking, crying as well.

MICHELLE MULLINAX-CROSS BY MR. ERWIN

1 Q Did she go back into work?

2 A No, he did not.

3 Q Did -- where did Minor -- did Minor go back
4 with you?

5 A No, she and her mom left.

6 Q Okay. What happened in the days following that,
7 where did y'all go to report this?

8 A We ended up in Greenville. Alan and I had
9 actually driven down to Lexington and called the police
10 down there. I think that was Wednesday or Thursday night
11 after I had been told. And they told us we needed to
12 report it in Greenville County since that's where the
13 incidents had taken place. So, we had gotten in touch
14 with the Greenville County Sheriff's Department and we had
15 a meeting. And we went and saw Officer Picone, I believe
16 his is name.

17 Q Did you give a statement?

18 A I did.

19 Q Was Cindy with y'all when y'all went to the
20 Greenville Law Enforcement Center?

21 A No, she was not.

22 MS. MAJOR: Okay, thank you. Please answer any
23 questions the defense has.

24 CROSS-EXAMINATION

25 BY MR. ERWIN:

MICHELLE MULLINAX-CROSS BY MR. ERWIN

1 Q So, you had said that you don't know actually
2 what the issue was but that Minor was in trouble for
3 lying to her mother, right?

4 A Correct.

5 Q And I believe you said that it was just sort of
6 typical teenage--

7 A I had a lot of the same interactions with my
8 mother, yes.

9 Q Right. And you've raised some teenagers, too--

10 A Yes, I have.

11 Q So, this is familiar to you. Teenagers lie to
12 their parents sometimes?

13 A Absolutely.

14 Q Okay.

15 MR. ERWIN: Court's indulgence. I have no
16 further questions.

17 THE COURT: All right, anything?

18 MS. MAJOR: No, sir.

19 THE COURT: All right, thank you, ma'am, you can
20 step down.

21 All right, I need to take up some matter's with
22 these attorneys before we call the next witness. I'm
23 going to ask y'all to step back to the jury room and
24 please do not discuss the case while you're back
25 there.

1 Mr. Rawls, where are you?

2 MR. RAWLS: Yes, sir.

3 THE COURT: Do you mind serving as foreperson of
4 this jury?

5 MR. RAWLS: Yes, sir.

6 THE WITNESS: All right, thank you. Continue to
7 occupy that seat and we'll talk to you about what the
8 job you have later on.

9 (WHEREUPON, the jury left open court at
10 approximately 9:50 a.m.)

11 THE COURT: All right, it's my understanding
12 that y'all are going to prefer some testimony
13 relating to the expert witness, is that correct?

14 MS. MAJOR: Yes, sir, Your Honor, if I can check
15 to make sure in she is here.

16 THE COURT: All right.

17 MS. MAJOR: Your Honor, I told her to be here at
18 10:00. So, if we can give her maybe five more
19 minutes and I can go double check to see where she
20 is. I didn't know we would get through so quickly
21 this morning.

22 THE COURT: All right. Stand in recess for a
23 few minutes.

24 (WHEREUPON, a short break was taken.)

25 MS. MAJOR: May it please the Court, Your Honor,

1 Ms. Galloway-Williams is here, if you're ready to
2 started I can call her.

3 THE COURT: Any time you wanted.

4 THE CLERK: Ms. Galloway, come forward to be
5 sworn in. Please place your left hand on the Bible,
6 raise your right.

7 SHAUNA GALLOWAY-WILLIAMS, after being
8 duly sworn, testified as follows:

9 THE CLERK: Thank you, you may be seated.
10 Please state your name for the record.

11 THE WITNESS: Shauna Galloway-Williams.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION (IC)

14 BY MS. MAJOR:

15 Q Good morning, Ms. Williams, where are you
16 employed?

17 A I'm the executive director of the Julie
18 Valentine Center.

19 Q What is the Julie Valentine Center?

20 A We are the child abuse and sexual assault
21 recovery center. We serve two counties, Greenville and
22 Pickens County. We provide services directly related to
23 child abuse and sexual assault including education,
24 intervention and prevention.

25 Q What's your educational Background?

SHAUNA GALLOWAY-WILLIAMS-DIRECT (IC) BY MS. MAJOR

1 A I have a bachelor's degree in psychology from
2 Winthrop University. My Masters is in counseling from
3 Clemson University and I'm licensed as a professional
4 counselor in South Carolina.

5 Q Okay. So, what is your employment background
6 prior to becoming executive director of the Julie
7 Valentine Center?

8 A Well, I've been with the center in some capacity
9 for the past 10 years, I've been acting as director since
10 2009. Prior to the that I worked for the Department of
11 Mental Health and also private practice. So, I've been in
12 the field of mental health assessment and treatment for
13 going on 20 years this year. Fifteen years specifically
14 working with children and families.

15 Q What licenses do you hold?

16 A I'm licensed as a professional counselor in
17 South Carolina. I've been licensed since 2004.

18 Q Are you member of any associations or
19 organizations related to child abuse?

20 A I currently serve on the board of the South
21 Carolina Coalition Against Domestic Violence and Sexual
22 Assault. I served for six years on the board for the
23 South Carolina Network of Children's Advocacy Center. And
24 also served a term as a board member for the South
25 Carolina Professional Society of Abuse of Children.

SHAUNA GALLOWAY-WILLIAMS-DIRECT (IC) BY MS. MAJOR

1 Q All right. Have you attended training or any
2 courses related to child abuse?

3 A Yes. Most of my training has been directly
4 related to child maltreatment and/or sexual assault. I
5 have over 180 hours of specifically skills based training
6 related to assessment and intervention with children and
7 many experienced maltreatment. And like I said, the
8 majority my training we're required to receive 20
9 continuing education hours each year. Most of mine is
10 devoted to child abuse and/or sexual assault.

11 Q All right. Are you familiar with and required
12 to be familiar with the current research related to child
13 abuse and child sexual abuse?

14 A Yes.

15 Q All right. Is the research that you rely upon
16 peer review?

17 A Yes.

18 Q All right. Are there any journals or studies
19 that you have to -- that you read to keep you updated on
20 current topics?

21 A Yes.

22 Q Do you consult with other professionals in your
23 field related to child sexual abuse?

24 A I do. I participate in peer review. I
25 participate on a multi-disciplinary team. And I'm also an

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 instructor in the Child Advocacy Studies Program at USC
2 Upstate.

3 Q What kind of outreach does the Julie Valentine
4 Center provide on child sexual abuse?

5 A Outreach in education you mean?

6 Q Yes.

7 A We provide training in the community. We work
8 directly with the school districts. We also work with
9 faith based organizations. Really any organization that
10 might want to be educated or who is working with children
11 or really adults for that matter. But most recently I
12 participated on a team that trained the school district in
13 mandated reporting, how to respond to child maltreatment
14 in the educational setting.

15 Q Have you ever been qualified as an expert in
16 child abuse dynamics?

17 A I have been.

18 Q How many times?

19 A Over 30 times.

20 MS. MAJOR: All right, Your Honor, at this time
21 I would move to qualify her as an expert. If you
22 would like for him to question her now?

23 MR. SARRATT: I have some additional voir dire.

24 THE COURT: Yes, sir.

25 VOIR DIRE EXAMINATION (IC)

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 BY MR. SARRATT:

2 Q Ms. Galloway-Williams, I don't have any
3 questions about your training but I do have questions
4 about the research that you rely upon. You stated that it
5 is peer reviewed and subject to peer review process. Now,
6 you would agree with me that when we're talking about
7 child abuse, this is distinct from, let's say, somebody
8 who has a medical diagnosis of, let's say, a tumor. You
9 can see that a person has a tumor. There's no test to
10 determine whether somebody has truly been abused, correct?

11 A Correct.

12 Q Okay. And so, whereas, you know, in a cancer
13 study they can say people who have a tumor come
14 participate in the study and they assess how well certain
15 medications effect the tumor. There's no way, again, of
16 knowing that the people in the study have actually been
17 abused. So, what is the error rate in those studies, do
18 you know?

19 A So, in many of the studies, many of the
20 participants have been identified as those who have been
21 abused. Either they've been identified as having
22 indicated cases with the Department of Social Services or
23 whatever they call it, in the area where that's been
24 researched. Or they have, in some of the studies they're
25 cases that have actually gone through the legal process.

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 So, there is some basis for understanding which
2 individuals in the study are identified as abused or not.
3 Some of that also relies on self report. They're some
4 studies where we're looking at the report of an adult who
5 are reporting their experience of childhood sexual abuse.
6 So, we're really not looking at an error rate when we're
7 talking about the kind of studies that we rely upon
8 because they're not scientific studies in the sense that
9 we're not looking to replicate a medical test you might
10 give -- you might have a controlled group and then a test
11 group and the test group is going to receive a type of
12 treatment and the control group may have receive nothing
13 and compare those two. We can't submit adults or child to
14 conditions, so we couldn't do that same kind of test. So,
15 you're looking at two different types of research. You
16 know, we're looking at longitudinal studies or studies
17 that show consistency among and patterns among
18 individuals.

19 Q Okay. And in that study is there any indication
20 of what sort of sample size they're working with?

21 A It depends on the study. I mean, they're
22 different studies. Some have larger sample sizes than
23 other, it really depends on which studies we're looking
24 at.

25 Q Okay. When you talk about these being peer

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 reviewed, are these studies that are published in any
2 specific journals?

3 A Yes.

4 Q What journals might those be?

5 A Well, there's too the child maltreatment itself,
6 which is a journal. There is a journal of child abuse and
7 neglect, which is another one that we rely upon. There
8 are many different journals.

9 Q Okay. When you talk about the peer review
10 process, can you walk me through that? I mean, explain
11 how these are peer reviewed and what the process entails?

12 A So, before an article can be published in one of
13 those journals it would have to be reviewed by a committee
14 or other professionals and experts in the field before
15 that could be approved to be in that particular journal.

16 Q And if you're looking at those studies with a
17 critical eye, what types of things would you be looking
18 for?

19 A Well, you would be looking at -- probably would
20 be looking sample sizes. You would also be looking at
21 historical research, what other studies are there to
22 compare to this, looking at others who had done similar
23 research or research that might contradict or substantiate
24 those particular studies.

25 Q And in preparing for your testimony today, is

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 there any specific study that you're relying upon that you
2 can cite to or just the body of research generally?

3 A Yeah, just in general. I mean, there are a
4 number of articles and there's a lot of information. My
5 testimony is based not only on my experience and -- but
6 also my education which includes my formal education as
7 well as my continuing education.

8 Q Okay.

9 MR. SARRATT: Beg the Court's indulgence. I
10 have no further questions.

11 THE COURT: All right.

12 MS. MAJOR: Your Honor, I move that she be
13 qualified as an expert in the realm of child sexual
14 abuse dynamics.

15 MR. SARRATT: I don't question her training and
16 experience as to the subject matter that she's
17 testifying to but I would object to reliability which
18 is the final prong of the counsel factors under Rule
19 702. I mean, this isn't scientific evidence, as she
20 said. There's no control that we can test this
21 against. And certainly the case law doesn't say if
22 it's not scientific it's not admissible. But this
23 Court is required to serve its gatekeeping function
24 and determine what evidence is true and reliable.
25 Without any kind of quality control measure. And

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 Again, just taking the participants at face value
2 that they say they have been abused. There's no real
3 way to ensure that we're dealing with a -- with
4 proper sample size of people who have been abused.
5 And there's no way to test for reliability. And so
6 therefore, I just feels that this fails to meet that
7 standard of what 702 requires of counsel factor of
8 reliable testimony.

9 THE COURT: All right, I'm going to find that
10 she's qualified in a definitive scientific method or
11 other specialized knowledge to assist the triers of
12 the fact to understanding any issues. I've heard her
13 experience, training, skills and I find that she's an
14 expert. She's clearly had the educational and
15 experience background and I think the -- there is
16 sufficient data that will allow her to offer
17 opinions. She's been qualified as an expert in this
18 filed on a number of occasions in South Carolina.

19 You may proceed.

20 MS. MAJOR: Thank you, Your Honor.

21 BY MS. MAJOR:

22 Q Ms. Galloway-Williams, have you ever met Minor
23 Minor or anybody in her family?

24 A No.

25 Q Have you ever met the Defendant?

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 A No.

2 Q What is child sexual abuse?

3 A It's any unwanted sexual act committed on a
4 child by another person. That can be an adult or another
5 child, an older peer. That can include fondling, it can
6 include intercourse, any type of sexualized behavior. And
7 it can include exposing a child to sexual behavior.

8 Whether that be visual representation and engaging in
9 sexual acts in front of the child, any of those things.

10 Q What is meant by the term delayed disclosure in
11 your field?

12 A Delayed disclosure means that a child or an
13 adult doesn't disclose an abuse scenario directly after it
14 happens.

15 Q What factors would play a role in a child not
16 disclosing sexual abuse?

17 A One on the main reasons that children don't
18 disclose abuse is fear. They fear the consequences of
19 what's going to happen to them or someone else. One of
20 the other primary reasons that children don't disclose
21 right away is that generally children are abused by
22 someone they know, they love and they trust. And
23 generally, that person is also known, love and trusted by
24 the child's family. And sometimes by the community. And
25 others in the child's life. So, that relationship in and

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 of itself can make it very challenging for a child to
2 tell.

3 Children may have been threatened. They
4 may have been told that something will happen to them or
5 someone they love or pets or others if they tell. Threats
6 may be direct or indirect. They may be told that
7 something will happen to them. Or if a child is in a home
8 where they witness domestic violence or aggression they
9 may internalize if they tell that that kind of thing may
10 happen to them. Children also are embarrassed to talk
11 about sex. People are embarrassed in general to talk
12 about sex. Particularly, children that may not have a
13 context to base that upon. Children sometimes feel
14 responsible for what's happened. Children are naturally
15 egocentric. They think that they're responsible for
16 everything that happens around them. And if in anyway
17 they feel responsible for what's happened, they worry that
18 they might get in trouble if they played some role in the
19 abuse even though it's not their fault.

20 Q Based on your training and experience, what
21 would make a child eventually disclose and tell somebody
22 that they have been sexually abused?

23 A Sometimes disclosure are accidental. Meaning
24 that someone discovers a concerning behavior or statement
25 that a child's made and then ask them the question.

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 Sometimes that's all it takes is for an adult or another
2 child or someone else asking the child a question and then
3 they disclose. So, we have some accidental disclosures
4 where children don't make a conscious or specific attempt
5 to disclose but it becomes known. There are other times
6 when children are making a active disclosure. Where they
7 may fear that this is going to happen to someone else.
8 Sometimes children will tell because they fear that they
9 have to protect others in their family or in their
10 community. They may fear having to be around this
11 individual. Maybe they haven't been around them and
12 there's something coming up and they have to be around
13 them so they don't want to. And then sometimes children,
14 as they get older, realizes that what's happened to them
15 shouldn't have happened to them. Sometimes children just
16 don't realize that they can tell or this is something that
17 shouldn't have been going on.

18 Q How does a child being away from an abuser
19 affect disclosure?

20 A It can go different ways. Sometimes being away
21 from an abuser makes a child feel safer to be able to
22 disclose. So, you know, if they're not in direct contact
23 with this individual, they have been removed from the
24 situation where this person has been abusing them and
25 there in a safe situation, that may lead them to feel more

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 comfortable disclosing. Continued interaction with this
2 person may lead them to disclose as well. Because they
3 want it to stop. And again, all those other dynamics may
4 be in play where they realize that they can do something
5 about it.

6 Q What role -- or what's meant by non-offending
7 caregiver?

8 A A non-offending caregiver is a caregiver in the
9 child's life who has not committed the offense.

10 Q What role do they play in a child disclosing
11 sexual abuse?

12 A They can be the most important person in the
13 child's life. I mean, a child needs a supportive
14 caregiver or southern supportive person in their life that
15 can be instrumental in their ability to seek treatment and
16 recover from the incident.

17 Q What are the typical responses of a
18 non-offending caregiver?

19 A The initial response of every caregiver when
20 they find out that their child has been abused is denial.
21 Just that initial disbelief that this has happened or that
22 someone could do this to my child or that this could
23 happen and I not know about it. We hope that caregivers
24 then take the appropriate steps and take the appropriate
25 response and follow up with reports and keep the child in

SHAUNA GALLOWAY-WILLIAMS VOIR DIRE EXAMINATION (IC) BY
MR. SARRATT

1 a safe situation. But we also know that sometimes
2 caregivers are in impossible situations. Sometimes the
3 person that has abused the child is the primary
4 breadwinner in the family. It may involve family members
5 moving or, in many cases, divides friendships and
6 families. So, there are a lot of difficult choices that
7 have to be made. And a lot of responsibility is placed on
8 the on-offending caregiver even though they have not
9 committed the offense themselves.

10 Q Finally, what is trauma?

11 A Trauma is -- well, trauma is how we respond to
12 traumatic events. Events that are life threatening, out
13 of the ordinary events where -- it could be a car
14 accident, it could be witnessing a violent act. We
15 consider child sexual abuse, physical abuse, acts that are
16 traumatic as well.

17 Q And what are some of the symptoms of trauma?

18 A You know, often those who have been in a
19 traumatic experience may relive the experience. They may
20 have nightmares. Recurring thoughts about what's
21 happened. Often in children we'll see regressed behavior.
22 They may -- a child who was formally potty trained may no
23 longer be potty trained when they see bed wetting.
24 Nightmares. We may see a decline in grades or performance
25 in school. Those are some of the common characteristics.

SHAUNA GALLOWAY-WILLIAMS-CROSS (IC) BY MR. SARRATT

1 Q Okay.

2 MS. MAJOR: I don't have any further questions:

3 CROSS-EXAMINATION (IC)

4 BY MR. SARRATT:

5 Q Well, this may be brief but just based on the
6 questions that were asked, are you -- do you have any
7 opinion about this case? About the facts of this case or?

8 A No. I'm here to provide information about the
9 dynamics of child sexual abuse, not to provide an opinion
10 specifically about this case.

11 Q Okay.

12 MR. SARRATT: One moment.

13 MR. ERWIN: Very briefly.

14 THE COURT: What?

15 MR. ERWIN: Very briefly.

16 THE COURT: You're not questioning this witness.

17 MR. ERWIN: Okay.

18 THE COURT: One lawyer.

19 MR. ERWIN: Okay.

20 BY MR. SARRATT:

21 Q I'm sorry, I do have two quick questions. Do
22 you know Walt Wilkins, the Solicitor for the 13th Circuit?

23 A Do I know him? Yes.

24 Q Does he provide any money to your organization,
25 donations or anything?

SHAUNA GALLOWAY-WILLIAMS-REDIRECT (IC) BY MS. MAJOR

1 A No. Like, does he personally contribute or?

2 Q Personally or in his official capacity.

3 A Yes.

4 Q How much?

5 A I don't know for sure. The Solicitor's Office
6 has purchased tickets to a fundraising event or to
7 fundraisers that we host but they do not directly fund my
8 appearance here or support. If I would guess, I think
9 they purchased two tables at our luncheon this year.
10 Which would be the equivalent of a \$1,000.00. We are \$1.6
11 million budget agency. So, a small portion of that.

12 MR. SARRATT: Okay. I have nothing further.

13 REDIRECT EXAMINATION (IC)

14 BY MS. MAJOR:

15 Q Ms. Galloway-Williams, how many tables are at
16 this luncheon?

17 THE COURT: That's really not relevant at this
18 point in time. That may be something the jury wants
19 to consider but it's not relevant as to whether this
20 testimony is admissible or this witness is qualified
21 as an expert.

22 All right, is there anything?

23 MR. SARRATT: I have no motion based on the
24 testimony that she's given.

25 THE COURT: All right, thank you, ma'am, you may

SHAUNA GALLOWAY-WILLIAMS-REDIRECT (IC) BY MS. MAJOR

1. step down.

2. All right, do y'all need to take a break for
3 about 10 minutes or something before?

4 MS. MAJOR: I'm okay.

5 MR. ERWIN: We're good if you are.

6 THE COURT: Do you want to take a break? Five
7 minutes or so?

8 MS. MAJOR: No, sir, we're good to go if you
9 are.

10 THE COURT: Y'all need a break?

11 MR. ERWIN: We don't, but if you'd like to take
12 one. That. . .

13 THE COURT: The court reporter, you want a
14 break?

15 THE COURT REPORTER: No, sir, I'm good.

16 THE COURT: All right, bring the jury in.

17 (WHEREUPON, the jury came into open court at
18 approximately 10:30 a.m.)

19 THE COURT: All right, Ms. Major, you want to
20 call your next witness?

21 MS. MAJOR: Thank you, Your Honor. The State
22 calls Shauna Galloway-Williams.

23 THE CLERK: Ma'am, if you come forward to be
24 sworn in. Please place your left hand on the Bible
25 and raise your right.

1 SHAUNA GALLOWAY-WILLIAMS, after being
2 duly sworn, testified as follows:

3 THE CLERK: Thank you, you may be seat. State
4 your name for the record.

5 THE WITNESS: Shauna Galloway-Williams.

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MS. MAJOR:

9 Q Ms. Galloway-Williams, where are you employed?

10 A I'm the executive director of the Julie
11 Valentine Center.

12 Q What is the Julie Valentine Center?

13 A We are the child abuse and sexual assault
14 recovery center that serves Greenville and Pickens County.

15 Q What kind of services do you provide?

16 A We provide education, prevention and
17 intervention services to children and families who have
18 been impacted by child maltreatment. As well as adults
19 who have been impacted by sexual assault.

20 Q Okay. What are you duties as executive
21 director?

22 A Well, I have overall operational duties for the
23 center, managing the physical responsibilities. I also
24 oversee our leadership team, manage all of our program
25 managers for each of the individual programs that we

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 provide. And I still provide clinical services, meaning
2 that I work directly with children and families who have
3 been impacted by child maltreatments, specifically sexual
4 abuse. In addition to I'm also one of our trainers. I go
5 out into the community and do education and training.

6 Q What's your educational background?

7 A I have a bachelor's degree in psychology from
8 Winthrop University. My Masters is in counseling from
9 Clemson University.

10 Q Do you hold any licenses?

11 A I'm licensed as a professional counselor in
12 South Carolina.

13 Q Are you a member of any associations or
14 organizations related to child abuse?

15 A I currently serve on the board of the South
16 Carolina Coalition to end domestic violence and sexual
17 assault. I served for six years on the board for the
18 South Carolina Network of Children's Advocacy Center. And
19 also served one term as a board member for the South
20 Carolina American Professional Society of the Abuse of
21 Children. And I currently serve as a coach here for the
22 Silent Tears South Carolina Initiative.

23 Q Have you attended any training or courses on
24 child sex abuse?

25 A Yes, most of my training and education has been

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 specifically related to child abuse and sexual assault. I
2 have over 180 skills based training hours directly related
3 to the assessment and intervention of with working with
4 children and families experiencing child maltreatment.
5 We're required with our licensure to receive at least 20
6 hours of continuing education each year. And almost all
7 of my mine is directly related to the area of child
8 maltreatment and sexual assault.

9 Q Are you familiar with the current research in
10 the area of child sexual abuse?

11 A Yes.

12 Q All right. Is the research that you rely upon
13 subject to being peer reviewed?

14 A Yes.

15 Q Are there any journals or case studies that you
16 are required to do to be updated on the latest topics in
17 child sexual abuse?

18 A Yes.

19 Q Do you consult with other professionals in your
20 field related to sexual abuse?

21 A I do. I participate on a statewide peer review.
22 I'm also part of a multi-disciplinary team. Which means
23 that I meet with other professionals in the field. And I
24 am a faculty member at the USC Upstate Child Advocacy
25 Studies Program.

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 Q Have you been a leader or taught other courses
2 in addition to being a instructor at the USC Upstate?

3 A Yes. Most recently I presented at the
4 [indiscernible] National Child Protection Training
5 conference, they're one words matter conference, and I
6 presented on child maltreatment at that course. I also
7 did numerous presentations on recognizing and responding
8 to child sexual abuse. Most recently we conducted
9 training with over 900 administrators and professionals
10 with the Greenville County School Direct on specifically
11 recognizing and responding to child maltreatment in the
12 educational setting.

13 Q And leadening into that response, what type of
14 community outreach or educational program does the Julie
15 Valentine Center offer regarding sexual abuse of children?

16 A We do work directly with the school district
17 both with students as well as faculty. We also provide
18 awareness education to the faith community. And some of
19 the colleges and universities. Basically, anyone who will
20 welcome us in to educated them on these issues. We
21 provide that education.

22 Q Have you ever been qualified as an expert in the
23 abuse of child sexual -- excuse me, in the area of child
24 sexual abuse dynamics?

25 A I have.

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 Q How many times have you been qualified?

2 A Over 30 times.

3 Q In General Sessions court?

4 A Yes.

5 MS. MAJOR: Your Honor, at this time I would
6 move to have Ms. Galloway-Williams qualified as an
7 expert in child sexual abuse.

8 THE COURT: Any voir dire?

9 MR. SARRATT: Subject to the prior objection,
10 Your Honor.

11 THE COURT: You don't wish to?

12 MR. SARRATT: No, Your Honor.

13 THE COURT: All right, ladies and gentlemen,
14 scientific, technical or other specialized knowledge
15 will assist you, the trier of the facts, in
16 understanding any evidence or determining any fact
17 that may be an issue in the trial. A witness may be
18 qualified as an expert by virtue of his or her
19 knowledge, skill, experience, training or education.
20 And as such may offer an opinion in his or her areas
21 of expertise. I find this witness to be qualified as
22 an expert in the field of child abuse.

23 Is that correct?

24 MS. MAJOR: Yes, Your Honor, child abuse and
25 sexual dynamics.

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 THE COURT: Child abuse and sexual abuse
2 dynamics and as such she can offer opinions in her
3 area of expertise.

4 You may proceed.

5 BY MS. MAJOR:

6 Q Have you ever met Minor

7 THE COURT: One other thing. The only thing I
8 want to add, ladies and gentlemen, this witness, as
9 with all witnesses, you will give her testimony such
10 weight and credibility as you deem appropriate.

11 BY MS. MAJOR:

12 Q Have you ever met Minor ?

13 A No.

14 Q You ever met anybody in her family?

15 A No.

16 Q Do you know the Defendant?

17 A I do not.

18 Q What is child sexual abuse?

19 A Child sexual abuse is any unwanted sexual act
20 that is committed on a child by another person. Who has
21 power over that child in some way. It can be an adult, it
22 could be an older peer, it could be a same age peer. And
23 those acts can include anything from fondling to
24 penetration of some type or exposing the child to sexual
25 behavior. They're actual sexual behavior in front of them

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 or video images or any of those things.

2 Q What is meant by the term delayed disclosure in
3 your field?

4 MR. ERWIN: Objection, Your Honor.

5 THE COURT: Read the question.

6 MS. MAJOR: What is meant by the term delayed
7 disclosure in your field.

8 THE COURT: Overruled.

9 THE WITNESS: We refer to delayed disclosure as
10 what occurs when a child or adult does not disclose
11 abuse directly after it has happened. Doesn't make
12 an outcry immediately.

13 BY MS. MAJOR:

14 Q Okay. What factors play a role in delaying
15 disclosure?

16 A One of the most common factors is fear.
17 Children fear what's going to happen to them or the person
18 that has done this to them if they tell. One of the other
19 most common factors is the relationship that the offender
20 has with the child. Most children are abused by someone
21 they know, they love and they trust. And that
22 relationship in and of itself can make it very difficult
23 for a child to tell someone that this has happened. The
24 person that has committed the act may also have a loving,
25 trusting relationship with other members of the family and

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 even the community. So, that can influence the child's
2 ability to be able to tell about it. Sometimes children
3 don't have the words to describe what's happened to them.
4 They may not, you know, very young children may not have a
5 context or vocabulary or sexual knowledge enough to even
6 say that something's happened to them. And sometimes
7 children feel responsible for what's happened.

8 Many times children are very egocentric.
9 They think that they're responsible for everything that
10 happens in their world. And, in particular, with sexual
11 acts that may have occurred with them, they may have been
12 told that they had some responsibility in it, or they may
13 feel such shame and guilt over what's happened that they
14 in some way feel responsible and it makes it very hard for
15 them to tell. And that shame and guilt and embarrassment
16 about what happens it another reason why children don't
17 tell as well. Most people aren't comfortable talking
18 freely about sexual acts. In particular, children who
19 may not have the context to talk about that or who may
20 feel really uncomfortable talking about that anyway, would
21 have a difficult time or may have a difficult time
22 disclosing abuse or acts that have happened to them as
23 well.

24 Q Based on your training and experience, what
25 factors play a role in a child disclosing and telling

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 somebody about abuse?

2 A There may be a number of things. Sometimes
3 disclosures are made accidentally. So, an adult or someone
4 may notice a concerning behavior of a child and may ask a
5 question. Sometimes it just simply takes asking a
6 question of the child for them to disclose. Sometimes
7 children come to, as they progress in their development,
8 come to understand that something has happened to them and
9 they have the words to describe what it is that's happened
10 to them. Sometimes children may disclose for fear that
11 this may happen to someone else. So, there may be a
12 protective capacity there, they don't want it to happen to
13 another sibling or another friend or peer and so they may
14 tell. Sometimes it takes a change in their family
15 situation for them to feel comfortable or safe to tell as
16 well. And then sometimes children make a conscious effort
17 to tell. You know, sometimes children decide that they
18 feel confident enough, safe enough to tell someone about
19 what's happened.

20 Q How does being away from the abuser effect the
21 disclosure?

22 A It could vary. You know, sometimes being away
23 from the abusive person makes the child feel safer or more
24 empowered to tell about what's happened. The longer that
25 they've been away from them the safer they feel. You

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MS. MAJOR

1 know, if the child had been threatened or if there were
2 some other factors that that person was using to keep them
3 from telling, that distance from them may make it easier
4 for them to tell. Sometimes the longer the fear of having
5 to see this person again or being in closer contact with
6 this person, may compel a child to tell as well. Because
7 they want it to stop. And they finally have the courage
8 to do that.

9 Q What is meant by the term non-offending
10 caregiver?

11 A Non-offending caregiver is a caregiver of the
12 child who has not committed the abusive act.

13 Q And what role does the non-offending caregiver
14 play?

15 A They can be the most important person in this
16 child's life and healing process.

17 Q What are the typical responses of a
18 non-offending caregiver?

19 A The initial response that we see with almost any
20 caregiver when they find that their child may have been
21 sexually abused is denial. Any of us that would be told
22 that, the initial response is almost always, I can't
23 believe this has happened. I can't believe this person
24 that's being accused of this has done this. So, that's
25 usually what we consider the initial phase is denial. And

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1 then we hope that caregivers move beyond that and do the
2 right thing and protect their child by making reports and
3 keeping them safe and keeping them away from the person
4 who has committed this act.

5 Q Okay. And finally, what is -- what is trauma?

6 A Trauma is our response to traumatic events, life
7 threatening events. Such as car accidents or abusive
8 incidents such as physical abuse or sexual abuse or
9 witnessing another traumatic event that someone has gone
10 through, sudden death, a sudden loss. That's what we
11 generally define it as.

12 Q Okay. And what are the symptoms that one may
13 display after experiencing trauma?

14 A There are lot of symptoms. Oftentimes someone
15 who has experienced a trauma may relive the event over and
16 over. They may do that by having recurring nightmares,
17 recurring thoughts, they may be hypervigilant, they can't
18 calm down, they may be anxious about it, in fear. Certain
19 things may trigger them or may remind them of the incident
20 that occurred. With children we tend to see a lot of
21 regressed behavior. So, if we have a child that was
22 already potty trained, they may regress and no longer be
23 potty trained. We may see bed wetting, children's grades
24 may drop. We may see them display play anger, fear and
25 anxiety.

SHAUNA GALLOWAY-WILLIAMS-CROSS BY MR. SARRATT

1 MS. MAJOR: Thank you, Ms. Galloway-Williams,
2 please answer any questions the defense has.

3 CROSS-EXAMINATION

4 BY MR. SARRATT:

5 Q Good morning, Ms. Galloway-Williams.

6 A Good morning.

7 Q I just want to ask you a few brief questions.
8 Not to take issue with any of the research, but I just
9 want to put some proper boundaries on how this can help
10 the jury. Essentially, your testimony is that some
11 children who report abuse report immediately, correct?

12 A Some do but the vast majority delay reporting.

13 Q Sure. And, so again, some children report the
14 abuse and they say that it happened some time in the past,
15 weeks ago, months ago, even years ago, correct?

16 A Yes. The vast majority delay disclosing. And
17 that could be weeks, days, years. And we know that many
18 adults led into their adult life without ever reporting to
19 anyone.

20 Q Sure. But then, again, just to put some
21 boundaries on it, whether the person abuse immediately, or
22 at some time in the past, that doesn't tell you anything
23 about whether that person was actually abused; correct?

24 A No. The timing of their disclosure would not
25 determine whether or not they had actually been abused,

SHAUNA GALLOWAY-WILLIAMS-CROSS BY MR. SARRATT

1 correct.

2 Q And so, you have not met with Minor or
3 discussed anything about this case with her, correct?

4 A That is correct.

5 Q Okay. And, in fact, you haven't read any police
6 reports about this, you're a blind expert, you know
7 nothing about this case; is that correct?

8 A That's correct, my testimony is purely to
9 provide an education on child abuse dynamics.

10 Q All right. And so, as such, you're not aware of
11 any prior trial that may have been -- that may have
12 involved Minor

13 A Not that I know of, no.

14 Q So, you don't know anything about that verdict
15 or how the family may have received it?

16 A I don't.

17 MR. SARRATT: Okay, no further questions.

18 THE COURT: Any questions?

19 MS. MAJOR: I don't have any questions.

20 THE COURT: All right, thank you, ma'am, you may
21 step down.

22 MS. MAJOR: Your Honor, The State rests.

23 THE COURT: All right, ladies and gentlemen of
24 the jury, The State rests which means this now
25 concludes the presentation of The State's evidence in

1 its case in chief. And I need to take up some
2 matters with the attorneys, so I'm going to ask y'all
3 to step back to the jury room, please do not discuss
4 the case while you're there; and I'll bring you back
5 just as soon as I can.

6 (WHEREUPON, the jury left open court at
7 approximately 10:45 a.m.)

8 THE COURT: Anything from The State? I mean,
9 from the Defense?

10 MR. ERWIN: Judge, at this time I renew all
11 objections to this point and I would move for a
12 directed verdict. The State has not presented
13 evidence to satisfy all the elements of these crimes,
14 even in the light taken most favorable to The State.

15 THE COURT: All right, tell me where they failed
16 to provide any evidence.

17 MR. ERWIN: Judge--

18 THE COURT: Didn't they have the one child that
19 testified that she was improperly touched?

20 MR. ERWIN: They sure did, Your Honor. And you
21 know as well as I do that I have to make this motion
22 right now.

23 THE COURT: That's a lewd act if, in fact, were
24 proven. I think she testified that she was
25 improperly touched in her vaginal area by kissing,

1 tongue. And I think that would prove to constitute
2 CSC with a minor. So, I think there is some evidence
3 whether it's provable or not.

4 MR. ERWIN: Thank you, Your Honor.

5 THE COURT: Are y'all going to offer any
6 evidence?

7 MR. ERWIN: Judge, I believe my client is going
8 to testify. If you would like to go through the
9 colloquy with him.

10 THE COURT: Well, he is going to testify?

11 MR. ERWIN: Yes, sir.

12 THE COURT: All right. Good.

13 Mr. Powell, let me get you to stand, if you
14 would, please. Raise your right hand.

15 GERALD POWELL, after being duly sworn,
16 testified as follows:

17 EXAMINATION

18 BY THE COURT:

19 Q All right, you can put your hand down. I'm not
20 going to ask you anything about the facts of the case but
21 I want to inquire about your understanding of your
22 constitutional rights to testify or not to testify. Okay?
23 Now, I need you to answer me, Mr. Powell, because the
24 Court Reporter's got to take don't what you're saying.

25 A I'm sorry, I'm sorry.

GERALD POWELL-EXAMINATION BY THE COURT

1 Q You have been represented by Mr. Erwin and
2 Mr. Sarratt, right?

3 A Yes, sir.

4 Q You had fulling access to them to talk to them
5 about anything you want to talk to them about since we
6 started this trial, is that correct?

7 A Yes, sir.

8 Q And do you understand The State has rested,
9 which means they've now completed the presentation of
10 their evidence and you have the opportunity to off any
11 evidence that you wish to offer at this time?

12 A Yes, sir.

13 Q And one of those pieces of evidence that you
14 could offer would be testimony from you, do you understand
15 that?

16 A Yes, sir.

17 Q Mr. Erwin has indicated that you are going to
18 elect to testify; is that correct?

19 A Yes, sir.

20 Q All right. Do you understand that you don't
21 have to testify, that you have a constitutional right to
22 remain silent. And if you elected not to testify, I would
23 specifically instruct the jury they couldn't even consider
24 or discuss the fact that you didn't testify when they went
25 back into the jury room?

GERALD POWELL-EXAMINATION BY THE COURT

1 A Yes, sir.

2 Q In the jury room. And you understand if you
3 elect to testify, that you, of course, are subject to
4 being cross-examined by The State; do you understand that?

5 A Yes, sir.

6 Q They can ask you questions and they can attempt
7 to impeach you if they -- if they have some method to do
8 that, do you understand that?

9 A Yes, sir.

10 Q And my understanding is that there is no prior
11 record that would be available for impeachment purposes --

12 Is that right, Madam Solicitor.

13 MS. MAJOR: That's correct.

14 BY THE COURT:

15 Q But, there may be some other avenues that they
16 might attempt to pursue, and they'll be allowed to do so
17 so long as their efforts falls within our rules of
18 evidence; do you understand that?

19 A Yes, sir.

20 Q All right. The decision to testify is your
21 decision, is that correct?

22 A Yes, sir.

23 Q Nobody has threatened you, coerced you, forced
24 you or pressured you into testifying?

25 A No, sir.

GERALD POWELL-EXAMINATION BY THE COURT

1 Q You're doing so freely and voluntarily?

2 A Yes, sir.

3 Q And you're doing so because you want to testify;
4 is that correct?

5 A That is correct.

6 Q Have you had any acholic beverages, taken any
7 drugs or had any medications in the last 24 hours that
8 would impact your decision to testify?

9 A No, sir.

10 Q You think you're fully competent to make that
11 decision?

12 A Yes, sir.

13 Q Now, you understand, of course, you also have
14 the right to testify, which you're electing to do here
15 today; is that correct?

16 A Yes, sir.

17 Q All right. And you've been able to discuss with
18 your attorneys your options as to testifying or not
19 testify; is that right?

20 A Yes, sir.

21 THE COURT: All right, Mr.~Erwin, do you have
22 any further inquiry you'd like for me to make of your
23 client or anything you want to ask your client?

24 MR. ERWIN: No, sir.

25 THE COURT: Ask your client regarding this

GERALD POWELL-EXAMINATION BY THE COURT

1 matter?

2 MR. ERWIN: No, sir, thank you.

3 THE COURT: All right, I'm going to find that
4 Mr. Powell has decided to testify and through his
5 colloquy with me, he has indicated that this is his
6 decision after having the ability to discuss it with
7 his attorneys. His decision is being made freely and
8 voluntarily and knowingly and intelligently and
9 haven't been pressured or coerced to make that
10 decision. He understands the rights that he's --
11 that he has in this regard. And he understands the
12 potential hazards that may exist by virtue of putting
13 himself on the witness stand, so.

14 All right, we ready to proceed?

15 MS. MAJOR: Your Honor, I guess I just have a
16 motion before he testifies. I don't want this trial
17 to become a second trial on the previous charge. I
18 think it has come out that they believe that he
19 killed Jessica. That he was charged for it and that
20 there was a not guilty verdict. I think that is the
21 only portion that is relevant to this trial. I guess
22 I would object because I don't think that any
23 specifics on that trial, what exactly happened, are
24 relevant to this case involving Minor

25 THE COURT: Not so sure what you mean exactly

1 ~~was~~ happened but we're not going to retry the case. I
2 mean, you know, but they have a theory of their
3 defense and they ought to be able pursue that within
4 the limits. But they basically have pursued it up to
5 this point. I think their position is that this
6 is -- the accusations are motivated by some other
7 reason than truth. And, you know, we'll let them
8 pursue it. But if you think they're getting too far
9 a field, then certainly take what steps you think are
10 necessary and I'll address them at that time.

11 But don't try to retry the case.

12 MR. ERWIN: I do not plan to do that, Your
13 Honor.

14 THE COURT: All right.

15 MR. ERWIN: And before we bring the jury back,
16 can I have a very brief moment with my client before
17 he takes the stand?

18 THE COURT: Madam Clerk.

19 THE CLERK: Yes, sir.

20 THE COURT: We need to order lunch for the jury.

21 THE CLERK: Sure.

22 THE COURT: How long you anticipate this
23 witness' testimony?

24 MR. ERWIN: Not very long, Your Honor.

25 THE COURT: All right. Are y'all prepared to go

1 right into closings?

2 MR. ERWIN: I mean, I could be, Your Honor. I
3 would ask for -- if we're going to go right into
4 closings, I would ask for five to 10 minutes.

5 THE COURT: Well, it's 12 o'clock, there's no
6 reason to order lunch. We can take a break and send
7 them to lunch at 12:00. But if we're going to finish
8 at 11:15, there's no point. . .

9 MR. ERWIN: That will be fine with me, Judge.
10 The only thing is, if we're going to go straight into
11 closings, I would ask for five or 10 minutes just to
12 collect my thoughts.

13 THE COURT: We wouldn't have a problem with
14 that. We can't -- I think there's probably a
15 timeframe about ordering lunch; isn't there, Madam
16 Clerk?

17 THE CLERK: Yes, sir.

18 THE COURT: How long would you -- how long?

19 THE CLERK: It takes an hour.

20 THE COURT: You opening on the law and close?

21 MS. MAJOR: No, Your Honor, I waive opening.

22 THE COURT: Do y'all have any objection to her
23 doing so?

24 MR. ERWIN: No, sir.

25 THE COURT: How long would you -- do you have

25 GERALD POWELL, after being duly sworn,

1 testified as follows:

2 THE CLERK: Thank you, you may be seated. Would
3 you please state your full name?

4 THE WITNESS: Gerald Powell.

5 DIRECT EXAMINATION

6 BY MR. ERWIN:

7 Q You don't have to get right up on the microphone
8 you can just talk, okay?

9 A Yes. I know I kind of talk loud.

10 Q All right. Gerald --

11 A Excuse me.

12 Q You're all right. How old are you?

13 A I am 52.

14 Q Okay. Where you from, where were you born?

15 A I was originally from Florence County, South
16 Carolina, where I was born.

17 Q How long did you live down there?

18 A I lived there until I was 19 years old.

19 Q Where did you move after that?

20 A I moved to Columbia, South Carolina.

21 Q Okay. Where did you go to school?

22 A I went to school in Florence.

23 Q Okay. So, once you got out of school and start
24 working, what kind of work did you do?

25 A I did basic construction. My knowledge, I was

GERALD POWELL-DIRECT BY MR. ERWIN

1 in construction and that's what I studied in school. So,
2 I studied at Williamsburg Technical College.

3 Q Okay. What -- where there any specialities that
4 you had or specific kind of construction that you worked
5 on?

6 A Yes, I mostly did civil engineer.

7 Q Okay. Is that like sewers and drains, stuff
8 like that?

9 A Yes. Well that all depends on -- well depends
10 on which area you want to go but mostly I started to
11 runoff water to help with mosquitoes and stuff, that was
12 the area that I was in. I was mostly concerned about
13 environmental control stuff.

14 Q Okay. Do you have any family?

15 A I do.

16 Q Tell me about them?

17 A My mother, my father's deceased. My mother, and
18 I have my sister. And she and I are the only two.

19 Q Okay.

20 A And I have two sibling children of my own. And
21 their names are Alex and her name is Ashley.

22 Q Okay. So, during the time that we've been
23 talking about when you were living with Cindy --

24 A In Greenville?

25 Q In Greenville.

GERALD POWELL-DIRECT BY MR. ERWIN

1 A Yes, sir.

2 Q Were you working?

3 A I was.

4 Q Okay.

5 A I was working for the City of Greenville.

6 Q Right. But were you working the whole time that
7 you lived with them?

8 A Not the whole time. No, I was not.

9 Q What was that all about?

10 A When I first met Cindy, I met Cindy in a local
11 bar here in Greenville. I had never been to Greenville
12 before. And back then, I liked to, I guess, played as
13 hard as I worked. And I thought if you worked, you should
14 play as hard as you worked. So, I would go to a local bar
15 there and that's where I met Minor mother, who was
16 waitressing there.

17 Q Okay. And at a certain point you moved in with
18 her, right?

19 A Yes, I did. I moved in with Cindy March of
20 2007. I met her September of 2006. And we had a short
21 conversation. And I told her that yes I liked her but
22 that I had to go back out of town for Thanksgiving because
23 I had to go to another job during that time. And I told
24 her that I'd like to see her when I got back from -- from
25 doing that job. And so, that's -- so, after Thanksgiving

GERALD POWELL-DIRECT BY MR. ERWIN

1 I met back up with Cindy.

2 Q So, after y'all started dating like that, you
3 moved in with her eventually, right?

4 A Yes, sir.

5 Q Okay. And after that, at a certain point, did
6 you stop working?

7 A Yes, I eventually stopped working.

8 Q Was that for a specific reason?

9 A Yes, that contract had ended.

10 Q Right.

11 A And so, I was looking to go to another job,
12 area, that was doing the same thing, basically.

13 Q Right. And at a certain point did you hurt your
14 back or something like that?

15 A Yes. In 2008 on Thanksgiving morning of all
16 days, I walk out the back door and I'm taking turkey bones
17 to the dog and my feet come from up under me because
18 there's frost on the porch. And I cracked two vertebrae
19 in my back. I thought that was a horrible way to start a
20 holiday.

21 Q So -- so, because the effects of that injury,
22 did you have to stop working?

23 A Yes, I did.

24 Q Okay. So, when you weren't working you were
25 living with Cindy?

GERALD POWELL-DIRECT BY MR. ERWIN

1 A That is correct.

2 Q And you were staying at home?

3 A Uh-huh.

4 Q Did you have some other duties around the house,
5 were you taking care of somebody?

6 A Yes, I was taking care of Jessica Farina.

7 Q Okay. And we've done a lot of talking about
8 this so I'll just get straight to the point. Did you kill
9 Jessica?

10 A No, I did not.

11 Q Okay. And I'll just straight to the point
12 again. Did you ever have any sexual contact or talk about
13 sex or have any -- any sexual interaction with Minor

14 A No, I did not.

15 Q Did you ever touch her?

16 A No.

17 Q During the time that you lived with Cindy, when
18 you were a part of this family, did you love those girls?

19 A I would have give my life for them two. I lost
20 Jessica, it took -- and then I was tried for it. But yes,
21 I loved them and would give my life for them now, yes. If
22 it took every ounce of breathe that I have, I would give
23 to those two girls. Especially, if I can give back to
24 Jessica. Because I don't know -- my side, I have lived in
25 torment and in hell with losing her. It hurt me so bad.

GERALD POWELL-CROSS BY MS. MAJOR

1 Q All right, Gerald.

2 A Give me just a moment, please.

3 MR. ERWIN: Yeah, take a second, collect
4 yourself and then I'm going to sit down. And if you
5 would, just answer any questions that Ms. Major has
6 for you, okay.

7 MR. POWELL: Can I please pour some water, Your
8 Honor?

9 THE COURT: You certainly may.

10 CROSS-EXAMINATION

11 BY MS. MAJOR:

12 Q Mr. Powell, where were you living prior to
13 meeting Cindy?

14 A I was actually living -- staying in a hotel here
15 in Greenville.

16 Q Prior to that were you living in Lexington or
17 Columbia?

18 A I was living in Columbia.

19 Q Who were you living with?

20 A I was actually staying by myself at that time.

21 Q Okay. So, you weren't staying with your family
22 members or anything, you had your own place?

23 A No, ma'am, I had my own place there.

24 Q Okay. So, you just stopped working, left your
25 own place and moved up to a hotel in Greenville?

GERALD POWELL-CROSS BY MS. MAJOR

1 A No, ma'am, that's was not what I said. I said
2 while I was doing a job here in Greenville, I stayed in a
3 hotel to keep from driving back and forth.

4 Q Okay. So, you never had a steady job,
5 basically, after you married Cindy; is that correct?

6 A That is correct. I never did have steady
7 employment, yes, ma'am. But I did find steady employment
8 in 2009. And she and I had and the opportunity to go out
9 Seattle, Washington. They offered me a job for \$80,000 a
10 year. I stayed out there a month. I invited Cindy to
11 come and see what she thought about Seattle. And she came
12 out there. And she decided that wasn't where she wanted
13 to be at. So, we made a decision to move back -- well, I
14 made the decision to move back to be with her in
15 Greenville.

16 Q What kind of job in Seattle?

17 A In Seattle, Washington?

18 Q Uh-huh.

19 A The job was personnel manager. I would have
20 been over all the projects.

21 Q Would you have been out in the construction
22 field?

23 A Yes, ma'am.

24 Q When did you hurt your back?

25 A I hurt my back in 2008.

GERALD POWELL-CROSS BY MS. MAJOR

1 Q Okay. But your back healed so you couldn't work
2 but then you could out in 2009?

3 A Right at the end of 2009, 2010, yes, ma'am.

4 Q You could have?

5 A And we did fly out to Seattle, Washington.

6 Q But you did not work after that?

7 A No, ma'am --

8 Q You were out of work --

9 A I did not work. When I came back I did not
10 work, no, ma'am. All I done was solely took care of
11 Jessica, that is correct.

12 Q Okay. So, it's just you and Jessica home all
13 day when Cindy goes to work in the morning?

14 A Yes, ma'am, it was.

15 Q And Minor goes to school?

16 A Yes, ma'am.

17 Q All right. And did you pick Minor up from
18 school when y'all lived in the West Chase Apartments?

19 A Yes, ma'am.

20 Q Okay. You would bring her back home to school?

21 A I would, yes, ma'am.

22 Q Bring her back home from school to the, let's
23 just say West Chase Apartments when y'all were living
24 there. And it would just be you, Minor and Jessica, is
25 that correct?

GERALD POWELL-CROSS BY MS. MAJOR

1 A Yes, ma'am, it would.

2 Q Until about what time 6:00 o'clock when Cindy
3 would get home?

4 A Yes.

5 Q Did you ever discipline Minor

6 A I did.

7 Q Did you ever whip her with a belt?

8 A I did spank her bad behaving.

9 Q For bad handwriting?

10 A I don't think it was just the handwriting. I
11 think it was because she was not mostly paying attention
12 to what she was being asked of in school and her behavior.

13 Q Okay. So, you did --

14 A I did --

15 Q -- hit her with a belt because of that. Did
16 caregivers, where there any ever in-home caregivers?

17 A Yes, ma'am, there was caregivers.

18 Q Did you not get along with them?

19 MR. ERWIN: Objection, Your Honor.

20 THE COURT: What's the purpose?

21 MS. MAJOR: Your Honor, just to set up the
22 family dynamic that there were caregivers in there.
23 And that. . .

24 THE COURT: Overruled.

25

GERALD POWELL-CROSS BY MS. MAJOR

1 BY MS. MAJOR: ~~Q~~ ~~Did you get along with the caregivers?~~

2 Q Did you get along with the caregivers?

3 A Some of them I did, yes, ma'am.

4 Q Did there eventually -- was it eventually that
5 no other caregivers came into the home and you were the
6 sole provider?

7 A Yes, ma'am. But let me explain that. There
8 come a time that with the caregivers that they had
9 provided us was not adequate care. We had a lot of people
10 come in drinking liquor in the home. We had a lot them
11 that stole from us. And so, this is what I decided. I
12 went to DSS myself, I sat down with them. Well, because I
13 had a criminal background history years prior to that,
14 they would not give me the job with the application. So,
15 Cindy filled out a application. And what we did was that
16 subsidized my income with hers. But I was taking care of
17 Jessie, which is true. But Cindy was getting a check
18 because they wouldn't offer it to me because I had gotten
19 in trouble prior to -- later on my in years I got in
20 trouble when I was younger. So, they held that against
21 me. So yes, I eventually I did become the only caretaker
22 that Jessica had. But I had other people that was
23 watching over me. We had a registered nurse which come
24 there every week and she would monitor the care and stuff
25 that I was giving.

GERALD POWELL-CROSS BY MS. MAJOR

1 Q Okay. So, you were getting money from the state
2 to take care of Jessica?

3 A Yes, ma'am, I was.

4 Q Okay. And you don't have any medical training
5 experiencing, right?

6 A No, ma'am, I do not.

7 Q But you thought that you could take care of her
8 better than they could?

9 A No, ma'am, that's not it. She still had a
10 certified licensed nurse that came out. And she would
11 give me directions on how to feed her and how to bath her.
12 And would teach me basically how to keep bed sores off of
13 her. That I needed to rotate her constantly. So, no,
14 ma'am, I wasn't the only one giving the care. I had a
15 licensed nurse that was telling me everything that I
16 needed to do to take care of Jessie and the best possible
17 way.

18 Q Okay. But she wasn't there all the time, right?

19 A No, ma'am, she was not.

20 Q Okay. For the most part, when Minor would get
21 home from school, it would be the three of y'all, right?

22 A Yes, ma'am.

23 Q Okay. So, you think this is a big conspiracy
24 against you. Do you think that Cindy is the one
25 orchestrating all of this?

GERALD POWELL-CROSS BY MS. MAJOR

1 A I absolutely believe that Cindy is the number
2 one.

3 Q This is all Cindy?

4 A No. Let me say this. I said that I believe
5 Cindy is a big part of this, yes, ma'am, I do believe
6 that.

7 Q Okay. Have you had any interaction with them
8 since you were arrested back in 2012?

9 A No, ma'am, I have not.

10 Q All right. And you think that they truly
11 believe -- that they're just mad at you?

12 MR. ERWIN: Objection, calls for speculation.

13 MS. MAJOR: Your Honor, this is his --

14 THE COURT: Overruled.

15 THE WITNESS: Could you, please, repeat the
16 question?

17 MS. MAJOR: Sure.

18 BY MS. MAJOR:

19 Q You think that all of this, all of this, the
20 reason we're here today, is these allegations coming out
21 is because they are mad at you for the not guilty verdict?

22 A As far as Cindy's part goes, yes. Because Cindy
23 could never let it go. And I think --

24 May I say what I want to, Your Honor?

25 Q No, sir, you've answered the question.

GERALD POWELL-CROSS BY MS. MAJOR

1 A Well, I am going to answer the question but I
2 would like to put it in my words. If I may, please,
3 ma'am.

4 THE COURT: You may explain your answer.

5 THE WITNESS: Yes. I do think that Cindy never
6 could get over the fact that Jessie was gone. I
7 never understood everything but I know how bad Cindy
8 treated Minor. I seen it for myself. And do I
9 think that she has a lot of -- what's the word I'm
10 look for?

11 MS. MAJOR: Your Honor, I'm going to object,
12 that's beyond the scope of my question.

13 THE COURT: All right, you got to respond to the
14 question.

15 THE WITNESS: Yes, sir.

16 If you want to state it like that, yes, ma'am.
17 I think that Cindy played a big role in why we're
18 here today.

19 BY MS. MAJOR:

20 Q So, Cindy's the one pulling the puppet strings
21 on Minor You were so good to Minor it's your
22 testimony, that you treated Minor nothing but good?

23 A I'm sure that I made my mistakes, yes, ma'am.

24 Q But for the most part, you treated Minor
25 nothing but good, is that your testimony?

GERALD POWELL-CROSS BY MS. MAJOR

1 A Yes, ma'am.

2 Q You looked out for her like she was your own
3 child, is that your testimony?

4 A Yes, ma'am, I did.

5 Q And so, all of a sudden, she is no influenced by
6 her mother, the older that she gets, that she's going to
7 make all of this up and orchestrate all of this?

8 A Ma'am, I can't answer for her.

9 Q Okay, thank you.

10 MS. MAJOR: No further question.

11 THE COURT: Anything?

12 MR. ERWIN: No, Your Honor.

13 THE COURT: Thank you, sir, you may step down.

14 MR. ERWIN: Judge, the Defense rests.

15 THE COURT: All right. Anything in reply?

16 MS. MAJOR: No, sir, Your Honor.

17 THE COURT: All right, ladies and gentlemen, the
18 parties have now completed all the presentation of
19 their evidence in their case. And the next phase of
20 the trial is going to be the closing arguments. And
21 I tell you what we're going to do. I'm going to send
22 you back to your jury room for about five minutes.
23 We're going to order lunch. I'm going to have
24 somebody bring some menus back so that you can order
25 lunch and we'll try and get the -- I assume that the

1 closing and the charging will be done by one o'clock
2 and we'll tell them to have lunch here a few minutes
3 before. So, when you get finished with the charge,
4 then you can eat your lunch and deliberate or eat
5 your lunch and not deliberate, whatever y'all want to
6 do. But if would you step back to the jury room, do
7 not discuss the case with each other. I'll have
8 somebody bring the menus back.

9 (WHEREUPON, the jury left open court at
10 approximately 11:25 a.m.)

11 THE COURT: All right, do you need to take
12 anything up before?

13 MR. ERWIN: Just renew all objections to this
14 point, Your Honor.

15 THE COURT: All right, reason granted earlier,
16 deny the motions.

17 All right, do you want to take a few minutes and
18 kind of collect your thoughts and -- Ms. Major is
19 ready to rock and roll. Need to collect your
20 thoughts?

21 MR. ERWIN: Yes, sir. I got to go first so I'd
22 like a minute.

23 THE COURT: All right, take about -- how much
24 you need?

25 MR. ERWIN: Five to 10.

1 THE COURT: All right. We'll stand in recess
2 for a few minutes.

3 Madam Clerk, if you would send over whoever gets
4 the menus.

5 (WHEREUPON, a short break was taken.)

6 THE COURT: Yes, ma'am.

7 MS. MAJOR: Your Honor, I'd like to have a
8 charge on CSC, first degree. If you -- do you read
9 out what sexual battery is?

10 THE COURT: Generally.

11 MS. MAJOR: Okay, I guess this is just a little
12 bit--

13 THE COURT: Did you want me to just read the
14 statute?

15 MS. MAJOR: Yes.

16 THE COURT: Defendant is charged with first
17 degree criminal sexual conduct. The State must prove
18 beyond a reasonable doubt that the Defendant engaged
19 in sexual battery with the victim. Sexual battery is
20 sexual intercourse, cunnilingus, fellatio, anal
21 intercourse, any intrusion however slight in any part
22 of the person's body or any objects in general or any
23 opening or another person's body, except when it's
24 accomplished by medically recognized treatment. The
25 State must prove the person was less than 11.

1 MS. MAJOR: All right, thank you.

2 THE COURT: Consent doesn't -- then I also
3 charge that criminal sexual conduct, testimony of a
4 witness doesn't have to be corroborated.

5 MR. ERWIN: No, Judge, we would object to that.

6 THE COURT: Well, that's the law.

7 MR. ERWIN: Actually, respectfully disagree with
8 you, Judge. Let me give you case law on that.

9 THE COURT: All right. Well, let me see it.

10 MR. ERWIN: Okay.

11 THE COURT: There's the statute. Under 16-3-652
12 through 16-3-658.

13 MR. ERWIN: Judge, if I may, State vs. Stukes.

14 THE COURT: So, you agree? I haven't read the
15 case yet.

16 MS. MAJOR: Yes, Your Honor, I agree.

17 THE COURT: Well, then we won't charge it.

18 Then I'm also going to charge, you know, expert
19 witness, reasonable doubt. I'm going to charge
20 testimony of a child.

21 MR. ERWIN: Judge, just out of curiosity, what
22 is your reasonable doubt charge? Is it cause a
23 reasonable man to act, to hesitate to act, or is it
24 firmly convinced?

25 THE COURT: It's a little bit of both.

1 ~~THE COURT~~ MR. ERWIN: Okay, that's fine.

2 THE COURT: Mainly, hesitate to act.

3 MR. ERWIN: Yes, sir.

4 THE COURT: But I do mention. . .

5 All right, anything else?

6 MR. ERWIN: No, sir.

7 THE COURT: All right, let's bring the jury in.

8 Y'all want to see the verdict form or anything?

9 Two; guilty, not guilty.

10 MR. ERWIN: Judge, I don't have any problem with
11 the standard. . .

12 THE COURT: Two verdict forms, if you want to
13 look at them they're right here.

14 (WHEREUPON, the jury came into open court at
15 approximately 11:45 a.m.)

16 THE COURT: All right, ladies and gentlemen, we
17 are now at the phase of the trial where the lawyers
18 have another opportunity to speak to you. And
19 normally, what happens is The State has two
20 opportunities. They get to open on the law and
21 the -- Mr. Erwin will go, then Ms. Major would then
22 argue after him. But they agreed that she would
23 waive the argument on the law and Mr. Erwin will --

24 Proceed, if you would, please, sir.

25 CLOSING STATEMENT

1 MR. ERWIN: Thank you, Your Honor.

2 So, y'all have a really hard job here today. To
3 this point it has been difficult but it's about to
4 get a lot harder when you back there. Let's
5 understand something. You're not here to pick sides.
6 You're not here to decide which side to believe.
7 That's not really what this is about, okay. You're
8 here to determine whether you believe the story The
9 State is telling you beyond a reasonable doubt.
10 Okay. That's very, very important. It's the bed
11 rock principle of our criminal justice system as the
12 Judge told you yesterday.

13 So, what is reasonable doubt? The Judge is
14 going to have a definition for you but it's really
15 simple the way I see it. It's a doubt that you have
16 a reason for. That is a doubt in your mind that you
17 can connect to an actual reason that you have. So,
18 in this case, I think that we have -- we have
19 reasonable doubt. And that is a combination of two
20 different things. We have evidence that the story
21 that is being told by Mr. Powell may not be true.
22 And combine with that we have a good reason for why
23 an untruth would appear in this situation, okay.

24 So, the story itself. Why can we see that it's
25 not true? Well, here's the thing about the truth, it

1 does not change. The truth stays the same. Okay.
2 When you tell a story, when you tell a fib, it
3 changes sometimes. I don't know if any of you have
4 kids but this is certainly something you deal with on
5 a regular basis. When kids tell fibs, you can always
6 catch them when they start to change their story.

7 Now, in this case, as soon as Minor made this
8 accusation, she went -- I mean, she went to the
9 professionals, she went to where you're supposed to
10 go, law enforcement. And the statement, all right.
11 And this is done by a pro. This is somebody that
12 does this everyday. So, a full statement that was
13 accurate, it was complete, it was thorough, was a --
14 that's the story. That's the first story that,
15 that's the full story. So what did we learn
16 yesterday? We learned that between when that
17 statement was taken and today, that story has changed
18 significantly. Twice. In big, big, big ways.

19 The first one was back in February, we were
20 getting ready to go to trial in this case back then.
21 And the story changed. All of a sudden, for the
22 first time, the accusation changes from he fondled me
23 over the course of several years. To, on one
24 occasion, he performed oral sex on me. That is a
25 huge, significant change in the story. It was so

1 significant, they had to reschedule the trial.

2 That's a big change. That is a big example of a
3 story that gets larger. All right.

4 So, that was one time the story change. There's
5 a second time the story changes more recently than
6 that. This was actually just last week, the story
7 changed again. Do you remember when we were talking
8 about all of this, we established that there were
9 four separate locations in which abuse was alleged to
10 have happened, okay. In the original statement, the
11 one that was taken, you know, in the professional
12 manner and the way it's supposed is to be done, the
13 allegation was that the abuse happened at site one,
14 site two, site three and site four.

15 Now, last week, all of a sudden, for the first
16 time in the history of this case, it changes in that
17 Minor says abuse happened at location one. She
18 says abuse happened at location two. She says now no
19 abuse happened at location three. And that abuse
20 started back up in location four. Ladies and
21 gentlemen, that does make a whole lot of sense.
22 That's not how sexual abuse works, you don't just
23 take a break. It does not add up with reality.
24 Okay.

25 So, that's an example of the story getting

1 smaller. All right? So, the first change is the
2 story gets bigger, now it gets smaller. There's no
3 consistency there. All right? And when things start
4 to run a foul of logic, starts to run a foul of how
5 we know things works, that's when we know that's
6 evidence that this may not be true. Now, if we just
7 had that, if that's all it was, that might not be
8 reasonable doubt. I mean, might be a doubt, but is
9 it reasonable? It's not reasonable unless you can
10 connect it to a reason that it happened. Right?

11 In this case we got a big one. We have a huge
12 reason to doubt the story. Have a huge reason to be
13 dishonest. To continue with unfounded accusations.
14 Take it, here, today. And that is because the prior
15 trial that we talked about. Two years ago Gerald was
16 found not guilty for a very, very serious crime. And
17 these folks, they believed he was guilty of that.
18 They disagreed with the people who were sitting in
19 seats that y'all are sitting in right now. That's
20 fine, I can understand that. That's human nature.
21 But, you know, you heard Cindy say that she wanted to
22 take a shotgun to him. Okay? And right now, I put
23 to you that she's using the legal system and she's
24 using everybody in this room as that shotgun. And
25 it's your job to stop that from happening.

1 You know, and this is where it gets a little
2 uncomfortable because we're talking about a teenage
3 girl who said something untrue. And when Gerald was
4 on the stand, Ms. Major was confronting him about
5 this, You think that Cindy put her up to this, you
6 think that Cindy put her up to this. And, you know,
7 I don't know what Gerald thinks, I know what I think.
8 I don't think Cindy put her up to this, okay. I
9 think what happened was is we have a teenage girl who
10 lied. She told a lie. She told a big lie but it was
11 a lie. I mean, typical teenager stuff. Every parent
12 who got on the stand there acknowledge that, typical
13 teenage stuff. And it wasn't just that, well all
14 teenagers lie, it was this specific teenager was
15 going through a phase where she was lying a lot. We
16 know that. And so here comes this big lie.

17 And, you know, you would think that some of the
18 adults in the situation would have stepped in and
19 stopped it from going this far. And I tell you what,
20 Allen Mullinax, he is just doing what a good father
21 would do. He doesn't know any of the details, he is
22 not in a position to step in and challenge the story.
23 The position to step and talk to his daughter about
24 the details because he was never given the details.
25 He was just supporting his daughter. And that's

1 completely logical. And the same thing with Michelle
2 Mullinax, she heard a little bit about it but she did
3 not get the full details. All that stuff we heard
4 from the state, she didn't get all that, okay. So,
5 she's just sporting her daughter. Because that's
6 what you do.

7 But there was one adult in this situation that
8 had the opportunity to get the whole story, had an
9 opportunity to challenge Minor on this and to, at
10 least, evaluate whether there was some truth to this.
11 Evaluate whether these details added up. And I put
12 to you that when giving that opportunity, Cindy
13 Mullinax decided not to do that. Because she decided
14 not to do that because she knew that Gerald Powell
15 was going to be sitting in this chair right here and
16 she was going to be getting another shot at him.
17 Maybe she wouldn't have to use a shotgun.

18 So, there we go. A doubt that you have a reason
19 for. This may not be true. And we have evidence to
20 show that it may not be true and we have a reason for
21 that evidence. So, when you go back in that jury
22 room remember that that's what this is about. Do you
23 have doubts and do you have a reason for that doubt?
24 And, ladies and gentlemen, I think that you do. And
25 the answer in this case is not guilty. And I hope

1 that you will be proud of it. Because if you do you
2 will have done the right thing in this case. Thank
3 y'all.

4 THE COURT: Ms. Major.

5 CLOSING STATEMENT

6 MS. MAJOR: Ladies and gentlemen, at the
7 beginning of this case I told you that this was going
8 to be a case about secrets. It's about a secret that
9 Minor kept for almost eight years. And
10 it's a secret that the Defendant thought that she
11 would never tell. This case is not about Jessica's
12 death and not about the trial. It's about the
13 Defendant making his way into that home and taking
14 advantage of a seven year old girl for years.

15 As you know, as the Judge will tell you, the
16 State is required to prove this case beyond a
17 reasonable doubt. What I say is not evidence, the
18 Judge will change you on the law. What Mr. Erwin
19 says is not evidence. And I disagree with him that
20 reasonable doubt is a reason to doubt. It's not --
21 you must be firmly convinced of the Defendant's
22 guilt. It's a reasonable doubt. No a reason to
23 doubt, a reasonable doubt.

24 The Defendant has been charged with lewd act on
25 a minor and criminal sexual conduct with a minor,

1 first degree. So, I'd like to go over the evidence
2 and show you how you can be firmly convinced of the
3 Defendant's guilt. So, we heard from Cindy Mullinax,
4 Minor , Alan Mullinax about the time.
5 Cindy meets the Defendant around 2007. They date for
6 a while, he moves in. And in September 2008, they
7 get married. And he stops working. They lived in a
8 house at Lakeland Drive, location one. That
9 house is foreclosed upon so they move to location
10 two, the West Chase Apartments.
11 Minor told you that she was in about the third
12 or fourth grade. That would have made her around --
13 if she started first grade in 2007, that would have
14 been around 2009 and 2010. So, she would have been 9
15 and 10 years old at the West Chase Apartments. After
16 living at the West Chase Apartments location, they
17 then moved to a house on Pheasant Ridge in Taylors.
18 They were there for a short period of time. After
19 that, I think, she said they got kicked out by the
20 landlord. Then they were in a hotel for even shorter
21 period of time and they moved to location four,
22 Hunting Downs Apartments.
23 Minor told you that she was is the fifth grade
24 when they moved into Hunting Downs Apartments. And
25 although, this a secret crime and a crime that occurs

1 behind close doors, we have an eye witness to exactly
2 what happened. You have an eye witness to the crime,
3 you have direct evidence of this crime. And that's
4 in Minor . Obviously, she was the most
5 important witness in this case. So, what did she
6 tell you? She got up on the stand and she told you
7 about the very first time she remembers it happening.
8 She was at the location one, Lakeland Drive. She
9 remembers that she was watching the Bee movie. She
10 remembers how she and the Defendant were positioned.
11 That he was here and she was in front, like a
12 spooning position. She remembers that her mom was
13 just behind the Defendant on the computer. He was
14 blocking her. She is around seven years old at this
15 time. She remembers exactly what he did to her that
16 first time. She remembers she didn't know what to
17 think. She told you that this happened right before
18 they got married.

19 She remembered the next time it happened at
20 Lakeland Drive. She remembers the Defendant coming
21 into her bedroom and he grabbed her hand and try to
22 put his hand on her penis -- put her hand on his
23 penis. She remembers how they were positioned. She
24 remembers they were on the day bed.

25 She then described what he did to her at West

1 Chase Apartments. She described in detailed how he
2 would pick her up from school. She would end up in
3 her mother's bedroom and he would touch her, they
4 would be in the spooning position. She told you how
5 his clothes would stay on, his hand would go down in
6 her pants, she described it all to you. She told you
7 how long it would last. Between five to 15 minutes.
8 She told you how often it would happen. Two to three
9 times a week. She told you what he would say to her
10 afterwards. Did I do good? And she would just shrug
11 her shoulders, she didn't know what to say.

12 She described in detail how at the West Chase
13 Apartments when she was in the third or fourth grade,
14 she described how he performed oral sex on her.
15 She had no clue what he was doing. He comes in and
16 asks, Can I kiss it? She's in third or fourth grade,
17 does not know what that is. She described it up here
18 the best way that she knows how, kind of like a
19 French kiss. Again, he asks her, Did I do good?

20 This Defendant had ample opportunity to do this
21 to her. Okay. He meets Cindy in 2007 and he saw an
22 opportunity and he pounced. You have single mother
23 working two jobs, diagnosed with MS, she has a
24 severely special needs daughter. And she's got a
25 home of her own. And he jumped on that. He pounced.

1 He moves in with her, gets married, stops working and
2 then get a paycheck from Jessica. From the state.
3 He never had to work again. He had a good deal. He
4 ran off in-home caregivers. So, it's just them in
5 that house when she gets home. He knows that Jessica
6 can't say anything, even if she saw anything, she
7 physically can't. He has free rein of Minor until
8 about 6:00 o'clock everyday until Cindy gets home.

9 Ladies and gentlemen, Minor did not tell while
10 this was going on. You heard from
11 Ms. Galloway-Williams. And the purpose of her
12 testimony was to explain to you that may seem
13 counterintuitive, somebody backs up and tells them
14 stop. And if they don't stop would go and get
15 somebody and tell them to stop, an adult. And she
16 didn't do that. The purpose of
17 Ms. Galloway-Williams' testimony was to explain to
18 you things that seemed counterintuitive. She
19 explained to you why children may not tell. They
20 feel it's their fault, their scared, there
21 embarrassed. They know that telling may ruin the
22 family dynamics.

23 And you heard Minor basically say those same
24 things. The Defendant threatened her. He threatened
25 to hurt her mother. She was scared of him. She had

1 seen his temper. She didn't think that people would
2 believe her. And, ladies and gentlemen, she probably
3 felt the pressure. She probably knew how much her
4 mother relied on him to be that warm body at the
5 house that could be there with Jessica. And Minor
6 7, 8, 9, 10 year old is going to ruin that?

7 All right, the defense, they would have you
8 believe that this is all about revenge from the prior
9 trial. That doesn't make any sense. It may be a
10 reason but it's not reasonable. They would have you
11 to believe that she is doing this to get back at him.
12 Minor did not tell anybody what happened
13 until two years after the trial. Not today, it's not
14 tomorrow, it's not two weeks, two years. She told
15 her step brother, Michelle's son. He has connection
16 to the Defendant.

17 Ladies and gentlemen, Cindy had very little to
18 do with pursuing reporting this. You heard her
19 father and her step-mother, Alan and Michelle. They
20 drove Minor down to Columbia, that's where they
21 thought they should report it. So, she was not with
22 them. They took Minor to the police. Cindy was
23 not with them. You heard Michelle describe how they
24 told Cindy. Cindy did not know what was going on,
25 Michelle had to be there. Minor couldn't even tell

1 her mother, Michelle had to be the one to do it. And
2 you heard Michelle describe Cindy's demeanor, she was
3 shocked, she was shaking, she didn't understand what
4 was going on, she was upset, she didn't know.

5 It does not make any sense that Cindy would be
6 pulling the strings on this. Furthermore, it does
7 not make any sense that a then 14 year old girl
8 would orchestrate all of this. That she's trying to
9 pull the wool over her father, her step-mother, her
10 mother, the police, the prosecutor and now your eyes.
11 That she is orchestrating all of this. And that
12 Michelle or that Cindy somehow is at fault for not
13 questioning her daughter, for not getting every
14 detail. You saw Minor demeanor. She's
15 humiliated and embarrassed. She doesn't want to talk
16 about it. She's not in cahoots with her dad. We
17 know they don't have anything against the Defendant
18 prior to, obviously, Minor telling that story.

19 And furthermore, if she really thinks that the
20 Defendant killed her sister, she's terrified of the
21 Defendant. Why would she subject herself to this?
22 Make up some fantastical story about sexual abuse
23 that never happened to somebody who she thinks killed
24 her sister? That doesn't make any sense, she would
25 not subject herself to this. She hasn't seen him in

1 three years.

2 The Defense would also have you to believe that
3 she somehow knew that telling our office, Can I kiss
4 it? And then having me follow up with questions,
5 that she would somehow know that that would increase
6 his charges or have another charge. She's not a
7 lawyer or a police officer or an expert in criminal
8 law. She's not even a sophomore in high school. She
9 wasn't orchestrating that. Of course, we prepare for
10 trial. Of course, we ask every single detail. And
11 just because he did something and he doesn't like
12 that it's another charge, doesn't mean that he gets
13 to decide which charges are here. That's not for him
14 to decide. It's not for Minor to decide. And if
15 that was her master plan, wouldn't she learn -- after
16 she learned that that increased the charges, wouldn't
17 she go all out? Oh, that's another charge? Actually
18 he did that to me all the time. No. She's been
19 consistent with that.

20 She gave a statement to Officer Picone. That
21 was the first time -- a couple of days after she told
22 her step-brother what happened, that she had ever
23 talked about this to anyone. And she has to go in
24 and talk to a male officer about this. And yes,
25 while Officer Picone, yes, he did type up that she

1 said it happened at Pheasant Ridge two to three
2 times. They weren't at that house for that long.
3 Minor was 14 years old in that interview room with
4 this investigator, talking about this for the first
5 time. And she didn't expand this story. She said
6 actually, No, it didn't happen there. She's not
7 lying. There's no evidence that she was lying all
8 the time as the Defense would have you to believe.
9 She got in trouble with her mother. I mean, what
10 child doesn't? She told y'all it wasn't a big deal.
11 She was having difficulties with her mother. As many
12 teenage mothers and daughters do.

13 You saw her demeanor on the stand, you saw that
14 she was embarrassed, humiliated, she was not enjoying
15 this. She was not having fun. It does not make
16 sense that she would put herself through this -- all
17 of this is a lie. What does make sense is that this
18 man constantly and consistently abused her for years.
19 She pushed it aside, she pushed it down and it's out
20 of her life. And she went on with hers. And then
21 something in that conversation with her step-brother
22 made it come up. She can't event put her finger on
23 it today. You heard it on the stand. It just came
24 out. Think couldn't hold it in for any longer. She
25 spilled the secret that he thought she would never

1 tell.

2 Ladies and gentlemen, you use your common sense
3 every day. He did these things to her. I ask that
4 you return a verdict that speaks the truth. I ask
5 that you return a verdict of guilty.

6 THE COURT: All right, Mr. Foreman, ladies and
7 gentlemen of the jury, indictments charges the
8 Defendant with criminal sexual conduct with a minor
9 in the first degree and lewd act upon a child. I
10 remind you that the fact that the Defendant was
11 arrested, charged and indicted in this case is not
12 evidence in the case and cannot be considered by you
13 as evidence of guilt. Nor does it create any
14 presumption or inference of guilt. The indictments
15 are simply the formal written instruments which
16 contain the charges made against the Defendant.
17 There are the formal documents by which this case is
18 brought into this court. Each indictment charges a
19 separate and distinct offense. You must decide each
20 indictment separately on the evidence and the law
21 applicable to it, uninfluenced by your decision as to
22 the other indictment. A Defendant may be convicted
23 or acquitted on any or all of the Defense's charges.
24 You will be asked to write a separate verdict of
25 guilty or not guilty for each indictment.

1 Now, to the indictments the Defendant has
2 entered pleas of not guilty which places upon the
3 State the burden of proving the defendant guilty. A
4 person charged with committing a criminal offense in
5 South Carolina is never required to prove himself
6 innocent. I charge you that it is a vital and
7 important rule of the law of evidence that the
8 Defendant in a criminal trial, no matter how great or
9 serious may be the offense for which he is charged,
10 must always be presumed to be innocent until his
11 guilt has been proven beyond a reasonable doubt. The
12 presumption of innocence remains with the Defendant
13 at all times. From the moment of his appearance in
14 this Court, throughout the trial and until the jury
15 has, upon the testimony and evidence presented,
16 reached a verdict of guilty beyond a reasonable
17 doubt. For it is the solemn duty of this jury, if not
18 clearly convinced of the Defendant's guilt beyond a
19 reasonable doubt to any of the indictments, to acquit
20 the Defendant.

21 So, the burden of proof is upon the State to
22 establish by evidence to your satisfaction, the guilt
23 beyond a reasonable doubt of this Defendant here on
24 trial for the crime of criminal sexual conduct with a
25 minor, first degree and lewd act upon a child. Now,

1 what is a reasonable doubt? A reasonable doubt is
2 the kind of doubt that would cause a reasonable
3 person to hesitate to act. If you have such a doubt
4 as to the guilt of the Defendant, then he would be
5 entitled to a verdict of not guilty. Proof beyond a
6 reasonable doubt is that which leaves you firmly
7 convinced of the Defendant's guilt. Reasonable doubt
8 may arise from the evidence which is in the case or
9 from the absence or lack of evidence in the case. To
10 think that the Defendant is probably guilty or the
11 circumstances are suspicious, is not enough. You
12 alone must make the determination of whether or not
13 reasonable doubt exists as to the guilt of the
14 Defendant.

15 Now, ladies and gentlemen, there are two types
16 of evidence which are generally presented during a
17 trial. Direct evidence and circumstantial evidence.
18 Direct evidence directly proves the existence of a
19 fact and does not require deduction. Circumstantial
20 evidence is proof of a chain of facts and
21 circumstances indicating the existence of a fact.
22 Crimes may be proven by circumstantial evidence. The
23 law makes no distinction between the weight or the
24 value to be given to either direct or circumstantial
25 evidence.

1 However, to the extent that the State relies on
2 circumstantial evidence, all of the circumstances
3 must be consistent with each other and when taken
4 together point exclusively to the guilt of the
5 accused beyond a reasonable doubt. If the
6 circumstances merely portrayed the Defendant's
7 behavior as suspicious, the proof has failed. The
8 State has the burden of proving the Defendant's guilt
9 beyond a reasonable doubt. The burden rests with the
10 State regardless of whether the state relies on
11 direct evidence, circumstantial evidence or a
12 combination of the two.

13 Mr. Foreman and members of the jury, under the,
14 the Constitution and laws of the State of South
15 Carolina, you are the finders of the facts in this
16 case. I do not have the right to pass upon the facts
17 or even to express any opinion I might have as to
18 those facts. Nor, may I intimate in anyway what I
19 may think about the guilt or innocence of the
20 Defendant. You are also the sole judges of the
21 credibility. And by that I mean the believability of
22 the witnesses who have testified in this case. And
23 passing upon their credibility you may have take into
24 consideration many things. Such as the demeanor or
25 the manner of the witness testifying. Whether the

1 witness has reason to be biased or prejudiced.
2 Whether a witnesses testimony was contradicted on the
3 one hand or supported and corroborated on the other
4 hand. You certainly do not determine the credibility
5 or believability by counting the number of witnesses
6 who may have testified for one side or another. You
7 may believe a small portion of a witness' testimony
8 and disregard the larger or vice versa. You may
9 believe one witness against many or many against one.

10 Now, you've heard the testimony a witness who
11 has special knowledge, skill, experience, training or
12 education in a particular profession or occupation
13 who has given her opinion as an expert in matters to
14 which she is skilled. In determining the weight to
15 be given such an opinion, you should consider the
16 qualification and credibility of the expert and the
17 reasons given for the opinion. You are not bound by
18 such opinions. Give it the weight, if any, to which
19 you determine it is entitled.

20 During the trial you've heard the testimony from
21 a child. Where a witness is a child, you must
22 determine as with any other witness, whether that
23 testimony is believable. In deciding believability
24 you may consider not only matters that have been
25 discussed with you, but you also may consider the age

1 of the child, the child's ability to observe and
2 remember facts. The child's ability to understand
3 and answer questions. Because young children may not
4 fully understand what is happening here. It is up to
5 you to decide whether the child understood the
6 seriousness of appearing as a witness in this
7 criminal trial. Whether the child understood the
8 questions, whether the child has a good memory and
9 whether the child understands the difference between
10 lying and telling the truth. In addition, young
11 children may be influenced by the way the questions
12 are asked. But it's up to you to decide whether the
13 child understood the questions that are asked. All
14 of these things you will consider, bearing in mind
15 that you should give the Defendant the benefit of a
16 reasonable doubt.

17 Now, the same law, ladies and gentlemen, which
18 makes you the finders of the facts evidence as I
19 discussed with you, makes me the sole and only
20 instructor of the law. You must accept as correct
21 the law which I charge and apply it to the evidence
22 that you find and reach your verdict. And I finally
23 charge you in this regard that you should not be
24 concerned about what you think the law ought to be or
25 what you wish the law were. But rather, what I

1 charge you the law to be.

2 Now, the Defendant is charged with committing a
3 lewd act on a minor. A minor is a person under the
4 age of 18. The State must first prove beyond a
5 reasonable doubt that the Defendant was over the age
6 of 14. That is the State must prove that the
7 Defendant willfully and lewdly committed or attempted
8 to commit a lewd or lascivious act on or with the
9 body or its parts with a child under the age of 16
10 years with the intent to arouse, appeal to or gratify
11 the lust, passions or sexual desires of the
12 Defendant. Or of the child. Willfully means to
13 voluntarily and intentionally, with the specific
14 intend to do something the law forbids. Lewd means
15 obscene, lustful, indecent or lecherous. Lascivious
16 means tending to insight lust, lewd, indecent or
17 obscene or tending to deprave the morals and respect
18 to sexual relations.

19 The Defendant -- the Defendant is charged with
20 first degree criminal sexual conduct with a minor.
21 The State must prove beyond a reasonable doubt that
22 the Defendant engaged in a sexual battery with the
23 victim or child. A sexual battery is sexual
24 intercourse, cunnilingus, fellatio, anal intercourse
25 or any intrusion, however slight, of any part of the

1 person's body or of any object into the genital or
2 anal opening of another person's body except when the
3 intrusion is accomplished for medically recognized
4 treatment or diagnostic purposes.

5 The State must prove beyond a reasonable doubt
6 that the child was less than 11 years of age at the
7 time of the battery. Consent, willingness,
8 indifference or ignorance on the part of the minor,
9 if any, as to what was taking place, does not in any
10 way effect the charge of criminal sexual conduct with
11 a minor because an unmarried woman under the age of
12 14 cannot legally consent to this behavior.

13 Mr. Foreman, ladies and gentlemen of the jury,
14 you have been selected as fair and impartial jurors,
15 sworn to impartially try and determine the facts of
16 this case. And when you comply with your oath to do
17 so, then no one will have a right to criticize your
18 verdict and you will have fully discharged your duty
19 as a juror. You're to decide this case according to
20 the testimony that you have heard from the lips of
21 sworn witnesses, along with other evidence that has
22 been introduced.

23 I charge you that as jurors, you must decide the
24 issues in this proceedings without bias and without
25 prejudice to any party. You cannot allow yourself to

1 be governed by the sympathy, by prejudice, by
2 passion, by public opinion or by any other arbitrary
3 factor. Both be State and the Defendant have the
4 right to expect that each of you will carefully and
5 impartially consider all the evidence in this case,
6 and that you will follow the law as I have explained
7 it to you.

8 Now, Mr. Foreman, ladies and gentlemen of the
9 jury, I have prepared two verdict forms in this case.
10 One for each one of the charges. Each of the verdict
11 forms offer two potential verdicts. You should not
12 construe anything about what goes first or what goes
13 second as to the two possible verdicts. Because
14 something has to go first and something has to go
15 second. Each of the verdict forms says that, We
16 find -- the jury finds unanimously the Defendant
17 guilty. Or, We, the jury, unanimously finds the
18 Defendant not guilty. Now, you need to consider each
19 of these charges separately and independently of each
20 other. And reach your verdict on a unanimous basis
21 for each of the charges. As I said, this is a
22 unanimous verdict so it has to be the verdict of all
23 12 jurors. It cannot be 11-1 or 9-3, it has to be
24 the verdict of all 12 jurors.

25 Now, Mr. Foreman, what I'm going to ask why to

1 do when you have reached a verdict as to each
2 respective charge, if you would circle that whole
3 verdict. Whatever it is, circle the whole verdict.
4 And I'm going to ask you the sign the verdict as
5 foreperson, date the verdict form -- you have reached
6 a unanimous verdict with respect to both of the
7 charges. If you will let the bailiffs know, I think
8 there's something in the jury room that you can
9 indicate that you have reached verdicts on the two
10 charges. Then we will at that time bring you into
11 the courtroom and your verdicts can be published.

12 Now, in just a minute I'm going to ask you to
13 step back to the jury room, all but the alternate.

14 Mr. alternate, if you would remain with me.

15 But do not begin your deliberations. I have to
16 review with the attorneys the instructions that I
17 have just given with you. And if they believe I
18 either failed to instruct you in some way or
19 incorrectly instructed you, and I concur with that, I
20 will bring you back immediately and give you whatever
21 additional instructions are necessary. If no further
22 instructions are necessary, I will have the verdict
23 forms brought to you and you can begin your
24 deliberations at that time. Now, as I told you,
25 we're ordering lunch and that lunch is going to be

1 here in a little while. I don't know what time it
2 will get here. But when it comes, if you want to eat
3 and deliberate, you can. If you want to stop, relax
4 you can do that as well, that's up to you. But you
5 need to make sure that all 12 jurors are there when
6 you're are deliberating.

7 All right, with that said, I'm going to ask
8 y'all to step back to the jury room, please. Do not
9 begin your deliberations and we will be with you in
10 very short order.

11 (WHEREUPON, the jury left open court at
12 approximately 12:20 p.m.)
13

14 THE COURT: Mr. Alternate, if you'll stay here
15 with us.

16 All right, apparently these folks survived the
17 process the last two days so we didn't need to use an
18 alternate. Oftentimes, when we go overnight,
19 sometimes we lose jurors and that's why we selected
20 an alternate. I'm not sure how you feel about it,
21 whether you're sure you don't have to make that
22 decision or after listening for two days that you're
23 sorry that you don't get to participate. But I do
24 appreciate you making yourself available.

25 Madam Clerk, does he need to come back?

1 THE CLERK: If he can just call tonight after
2 6:00.

3 THE COURT: All right, if you can call tonight
4 after six o'clock, you will get further instructions.
5 I know we ordered lunch for you and if you want to
6 hang around for a few minutes and see whether that
7 lunch has gotten here or when it gets here then you
8 can take it or we'll find a place for you to eat up
9 here. Whatever you wish to do. But I thank you for
10 your service. And I know everybody involved
11 appreciates your willingness to serve. If you'll
12 call back tonight after 6:00. Thank you, sir.

13 All right, anything from the State with respect
14 to the instruction?

15 MS. MAJOR: No, sir.

16 THE COURT: Anything from the Defendant?

17 MR. ERWIN: No, Your Honor.

18 THE COURT: All right. I don't think we had any
19 exhibits, did we?

20 MS. MAJOR: No, sir.

21 THE COURT: That's the first time that's every.

22 . . All right, well here's the verdict form. We'll
23 give it to the bailiff and we'll let them begin their
24 deliberations.

25 Madam Clerk, do you have the indictments?

1 THE CLERK: I do.

2 THE COURT: I've been looking all over for them.

3 (WHEREUPON, deliberations began at approximately
4 12:23 p.m.)

5 THE COURT: Mr. Bailiff, we need to take this
6 into the jury room. Has the lunch come?

7 THE BAILIFF: It has not. I think it will be
8 about ten minutes till 1:00.

9 THE COURT: Wow.

10 (WHEREUPON, court was in recess awaiting a
11 verdict.)

12 THE COURT: Got a note, it's not signed but the
13 foreperson's note indicated -- asking for a copy of
14 Minor statement to the detective. I conferred
15 with the attorneys and it was agreed that there was
16 no statement introduced into evidence relating to
17 what Minor said. With permission of the attorneys,
18 I went back and told the foreperson and the jury and
19 their response was, Yeah, that's what we thought. I
20 said there may be testimony relating to what was told
21 to police and if they wanted to hear any of that,
22 they certainly can do so. They can only consider
23 evidence that was introduced.

24 The next case is, Is it transcribed already? Or
25 do we have to listen to it?

1 I said, You have to listen to it.

2 They said, Okay.

3 I said, You just tell us what you want to hear
4 and we'll -- if you want to, whatever you want, let
5 us know and we'll deal with it.

6 We'll make this Court's Exhibit No.1?

7 THE COURT REPORTER: Two, the newspaper was one.

8 (WHEREUPON, Court's Exhibit No. 2 was marked for
9 identification and received into evidence.)

10 THE COURT: Let's see what they want. My
11 impression is they're probably not going to want it.
12 I think they wanted to see if there was a written
13 statement. We'll wait a few minutes and see what
14 happens. Any objections to what was told to the
15 jury?

16 MS. MAJOR: No, your Honor.

17 MR. ERWIN: No, sir.

18 THE COURT: All right, we got another note from
19 the jury, they want to listen to the testimony of
20 Minor and to Mr. Powell. So, we'll -- the
21 court reporter is trying to line that up.

22 THE COURT REPORTER: Thank you, Judge, it's
23 ready.

24 THE COURT: All right, bring the jury in, if you
25 would, please.

1 (WHEREUPON, the jury came into open court at
2 approximately 2:55 p.m.)

3 THE COURT: All right, Mr. Foreman, we got your
4 note where you asked to hear the testimony of Minor
5 and Mr. Powell. And we've got that cued up.
6 I don't know if there's something in particular you
7 want to hear, you want to hear the whole thing, but
8 if there's something in particular you want to hear,
9 once that's heard, if you let us know we can
10 terminate that portion of the testimony and go on to
11 the next. If you want to listen to it all, that's
12 fine.

13 So, Madam Court Reporter, whenever you're ready.

14 (WHEREUPON, the testimony of Minor
15 was played.

16 (WHEREUPON, the testimony of Gerald Powell was
17 played.)

18 THE COURT: All right, ladies and gentlemen of
19 the jury, retire back to the jury room and resume
20 your deliberations.

21 (WHEREUPON, the jury left open court at
22 approximately 4:00 p.m.)

23 (WHEREUPON, deliberations continued.)

24 (WHEREUPON, Court's Exhibit No. 3 was marked for
25 identification and received into evidence.)

1 (WHEREUPON, court was in recess awaiting a
2 verdict.)

3 THE COURT: All right, I understand the jury has
4 reached a verdict.

5 The State ready to receive the verdict?

6 MS. MAJOR: Yes, sir, Your Honor.

7 THE COURT: The Defendant ready?

8 MR. ERWIN: We are, Your Honor.

9 THE COURT: All right, bring the jury in,
10 please.

11 (WHEREUPON, the jury came into open court at
12 approximately 5:16 p.m.)

13 THE COURT: All right, Mr. Foreman, it's been
14 reported that the jury has reached a verdict, is that
15 correct?

16 MR. FOREMAN: Yes, sir.

17 THE COURT: And it's a unanimous verdict with
18 respect to both charges?

19 MR. FOREMAN: It is, Your Honor.

20 THE COURT: All right, if you would hand the
21 verdict forms to the bailiff, please, sir.

22 Madam Clerk, you want to publish the verdict?

23 VERDICT

24 THE CLERK: Your Honor, this is case No.

25 2015-GS-23-3230, the State vs. Gerald Dewayne Powell

1 for criminal sexual conduct with a minor, first
2 degree. We, the jury, unanimously find the Defendant
3 guilty.

4 As to the charge of lewd act upon a child, we,
5 the jury, unanimously find the Defendant guilty.
6 They are both signed by the foreperson --

7 THE COURT: William Rawls.

8 THE CLERK: William Rawls.

9 If this was the verdict you reached in the jury
10 room and continues to be your verdict now, would you
11 please raise your right hand.

12 (WHEREUPON, all members of the jury raised their
13 right hand.)

14 THE COURT: All right, anything from the State
15 with respect to the jury?

16 MS. MAJOR: No, Your Honor.

17 THE COURT: Anything from the Defendant with
18 respect to the jury?

19 MR. ERWIN: No, sir.

20 THE COURT: All right. Ladies and gentlemen, I
21 thank you very much for your service. What we're
22 doing to do is turn you loose. But unfortunately,
23 we're going to ask that you call back tomorrow at
24 noon.

25 Is that what you said, Madam Clerk?

1 THE CLERK: Yes, sir.

2 THE COURT: And you'll see whether we're going
3 to need you tomorrow. We had a jury that was coming
4 in, we were going to pick a jury on another case at
5 3:00 today but because y'all were hearing testimony
6 we weren't able to do that. So, we're going to start
7 the trial at 9:30 and, obviously, y'all are not going
8 to be involved in that. If it goes into Thursday,
9 probably want need any additional jurors. But
10 strange things happen with cases when they get
11 called. So, I'm going to turn you loose, let you go.
12 I want to give you this caveat. I would tell you not
13 to discuss this case until your jury service is over,
14 which would be once we no longer have any trials.
15 But after the jury service is over, if somebody
16 approaches you to talk to you about the case and you
17 want to talk to them, you certainly are at liberty to
18 do so. If you do not want to talk to them, you do
19 not have to talk to them about anything about your
20 service up here. If, in fact, somebody persists in
21 attempting to talk to you about it, you get their
22 names and call the Greenville County Courthouse and
23 talk to me, I promise you we will take care of it for
24 you. So, with that said, I'm going to turn everybody
25 loose, except Ms. Ramsey.

1 Can you remain in the jury room for about five
2 minutes?

3 MS. RAMSEY: Sure.

4 THE COURT: All right, if you would, then, y'all
5 are free to leave.

6 Mr. Foreman, we need to get you to sign
7 something.

8 You want to take it back there?

9 THE CLERK: Sure that will be fine.

10 THE COURT: If you go back there and wait, you
11 and Ms. Ramsey, I'll be back there in just a few
12 minutes.

13 (WHEREUPON, the jury left open court and was
14 dismissed at approximately 5:21 p.m.)

15 THE COURT: All right, anything from anybody?

16 MR. ERWIN: Your Honor, at this time, I would
17 like to renew all objections made at this point and
18 make a motion to set aside the verdicts.

19 THE COURT: All right. Well, for the same
20 reasons I denied your motions earlier, if I denied
21 them, I'm denying them now. With respect to setting
22 aside the verdict, I think there was enough evidence
23 to allow it to get to the jury. The jury determined
24 that they believed, factually, your client committed
25 these offenses and that it was proven beyond a

1 reasonable doubt. And I deny your motion on that.

2 MR. ERWIN: Thank you, Your Honor.

3 THE COURT: We're going to sentence right now?

4 MS. MAJOR: Yes, Your Honor.

5 THE COURT: All right, can y'all give me about
6 five minutes before. . . I need to go speak to
7 Ms. Ramsey, nothing to do with this case.

8 (WHEREUPON, a short break was taken.)

9 SENTENCING

10 THE COURT: All right, we ready? All right, my
11 understanding there's a mandatory minimum of 25 years
12 on the CSC with a minor, first. Which can't be
13 suspended, am I right?

14 MR. ERWIN: That's my understanding as well,
15 Your Honor.

16 THE COURT: All right. And the lewd act, what
17 is that?

18 MR. ERWIN: Zero to 15 years.

19 THE COURT: All right, anything you want to say?
20 Anybody want to say anything?

21 MS. MAJOR: No, Your Honor, I checked with the
22 victims and they do not wish to speak.

23 THE COURT: All right, Mr. Erwin, anything you
24 want to tell me?

25 MR. ERWIN: Judge, I'd ask you to consider the

1 mandatory minimum, he's 52 years old.

2 THE COURT: Does he have any credit for time
3 served?

4 MR. ERWIN: There is some but I believe
5 Ms. Major is sorting it out right now.

6 MS. MAJOR: 184 days.

7 THE COURT: Anything you want to say,
8 Mr. Powell?

9 MR. POWELL: No, sir.

10 THE COURT: All right, under CSC with a minor,
11 the sentence of the Court is that you be committed to
12 the Department of Corrections for a term of 25 years,
13 plus costs and assessments as applicable. Give you
14 credit for 184 days. On the lewd act, sentence of
15 the Court is that you be committed to the Department
16 of Corrections for a term of 10 years, plus costs and
17 assessments as applicable. Give him credit for 184
18 days on that. And those will run concurrent. And
19 condition if you make community supervision in the
20 future, no contact with the victim and victim's
21 family.

22 MR. ERWIN: Thank you, Your Honor.

23 MS. MAJOR: Thank you, Your Honor.

24 (WHEREUPON, the proceedings were concluded.)

25

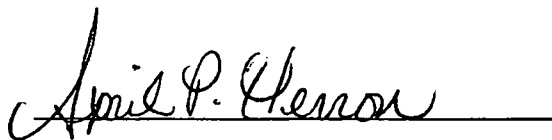
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for
the Thirteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete Transcript of Record of the
proceedings had and evidence introduced in the trial of
the captioned case, relative to appeal, in the Court of
General Sessions for Greenville County, South Carolina, on
the 18th & 19th day of July, 2016.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

October 27, 2016

A handwritten signature in cursive script, reading "April P. Herron", is written over a horizontal line.

APRIL P. HERRON, Court Reporter

WITNESSES

D Picone

Greenville County Sheriffs Office

3/4/2015

**ARREST WARRANT NUMBER
DIRECT PRESENTMENT**

DOB: 8/25/1963 W/M

SSN#: 247-43-0352

ACTION OF GRAND JURY**TRUE BILL***Thomas J. Picone*

FOREMAN GRAND JURY

*Foreperson of Grand Jury***VERDICT***Foreperson of Petit Jury*

Date:

DOCKET NO. 2016-GS-23-
EEM

003230A

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April

TERM 2016

THE STATE

vs.

GERALD DEWAYNE POWELL

Indictment for

0385

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

VIOLATION § 16-03-0655

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

At a Court of General Sessions, convened on **APR 19 2016** the Grand Jurors of Greenville
County present upon their oath:

That GERALD DEWAYNE POWELL did in Greenville County, between the 2nd day of August, 2008
and the 1st August, 2011, commit a sexual battery on T. M, who was less than eleven years of age. This
is in violation of §16-03-0655(A)(1)[formerly 16-3-655(1)] of the South Carolina Code of Laws (1976)
as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Elizabeth Mayne
SOLICITOR BAR # 8245

WITNESSES

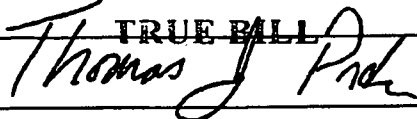
D Picone

Greenville County Sheriffs Office

3/4/2015

ARREST WARRANT NUMBER

2015A2330201110

ACTION OF GRAND JURY**TRUE BILL**

FOREMAN GRAND JURY

*Foreperson of Grand Jury***VERDICT***Foreperson of Petit Jury**Date:***AMENDED INDICTMENT
DOCKET NO. 2015-GS-23-08454**

EEM

The State of South Carolina**County of Greenville****COURT OF GENERAL SESSIONS****April****TERM 2016****THE STATE****vs.****GERALD DEWAYNE POWELL****Amended Indictment for****2468****LEWD ACT UPON A CHILD****VIOLATION § 16-15-0140**

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

AMENDED INDICTMENT FOR
LEWD ACT UPON A CHILD

At a Court of General Sessions, convened on
County present upon their oath:

APR 19 2016

the Grand Jurors of Greenville

That GERALD DEWAYNE POWELL did in Greenville County, between the 2nd day of August, 2007 and the 1st March, 2012, being over the age of fourteen years, willfully and lewdly commit or attempt a lewd and lascivious act upon or with the body, or its parts, of T. M, a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or such child. This is in violation of §16-15-0140 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 8245

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Laura R. Baer
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

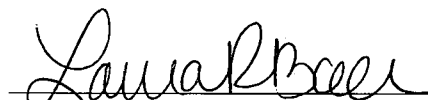
ATTORNEY FOR APPELLANT

This 5th day of September, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Laura R. Baer
Appellate Defender

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Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of September, 2017.