

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Marion County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LINDELL DAVIS,

APPELLANT

APPELLATE CASE NO 2015-002448

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF MARION	)	2014-GS-33-00312
	)	
	)	
	)	
State of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Lindell Davis	)	)
<u>DEFENDANT</u>	)	November 16-17, 2015
		Marion, South Carolina

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE; and a jury.

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

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 LAUREN HUMMEL, Assistant Solicitor
 Attorneys for the State

HANK ANDERSON, ASSISTANT PUBLIC DEFENDER
 Attorney for the Defendant

KESHIA REED
 Official Court Reporter

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1 THE COURT: All right. Members of the jury
2 panel, at this time we're going to pick a jury for a
3 particular case and I need for you to remember that you
4 are under oath. And that if a question applies to you,
5 you need to respond. In this particular case, the State
6 of South Carolina alleges that a Lindell Davis did in
7 Marion County on or about March 31st 2014, knowingly
8 contact or communicate with or attempt to contact or
9 communicate with Minor , a person who is under the
10 age of 18, for the purpose of enticing or coercing the
11 person to engage or participate in sexual activities,
12 which is in violation of the laws of this state.

13 Also, the State of South Carolina alleges that
14 Lindell Davis did willfully and unlawfully commit the
15 crime of criminal sexual conduct by engaging in sexual
16 battery with a minor under age, which is also in violation
17 of the laws of this State. In this regard, the defendant
18 has pled not guilty and requested a jury trial.

19 Now, has any member of the jury panel heard
20 anything about this case, do you know anything about this
21 case, have you talk to anybody about that that might know
22 anything about this case, if so please stand? All right.
23 No one stood.

24 Mr. Richardson, is the minor in the courtroom by
25 chance?

1 MR. RICHARDSON: Yes.

2 THE COURT: All right. Can she turn and face
3 the jury panel? Minor , if you would please stand.

4 MR. RICHARDSON: She's in the middle.

5 THE COURT: The middle. If you would step out
6 and face the jury panel briefly, if you don't mind? All
7 right. Thank you. You may have a seat.

8 Does any member of the jury panel related by
9 blood or marriage or has a close personal or social
10 relationship with Minor in this case, if so please
11 stand? All right. No one stood.

12 Is the defendant in the courtroom Mr. Lindell
13 Davis?

14 MR. ANDERSON: Yes, sir, Your Honor.

15 THE COURT: If he would please stand, turn and
16 face the jury panel. All right. You may be seated.
17 Thank you.

18 Is any member of the jury panel related by blood
19 or marriage or has a close personal or social relationship
20 with the defendant, Mr. Lindell Davis, in this case, if so
21 please stand? All right. No one stood.

22 Mr. Richardson, if you will stand and introduce
23 yourself and any members of your staff.

24 MR. RICHARDSON: Yes, sir, Your Honor. Good
25 morning, ladies and gentlemen. My name is David

1 Richardson. I'm an assistant solicitor here with the
2 Twelfth Judicial Circuit Solicitor's office, that covers
3 Marion and Florence County, seated with me trying this
4 case is Lauren Hummel. She's also assistant solicitor.
5 Other prosecutors in our office are Ed Clements, who's the
6 elected Solicitor, Rick Hoefer, Fitzlee McEachin, John
7 Jepertinger, Todd Tucker, Angel Daniels, Kevin Hope,
8 Stephen Hill, and John Holt.

9 THE COURT: All right. Is any member of the
10 jury panel related by blood or marriage or has a close
11 personal or social relationship with any of these
12 solicitors, if so please stand? No one stand.

13 Mr. Anderson, please stand and introduce
14 yourself and any members of your staff.

15 MR. ANDERSON: My name is Hank Anderson. I'm a
16 part-time public defender here in Marion and also do some
17 work over in Florence. Molly Sloan is our secretary.
18 She's here in Marion all the time. We also have coming
19 over here in Florence we have Vick Meetze who lives in
20 here Marion. We also have Scott Floyd.

21 THE COURT: Thank you. Does any member of the
22 jury panel related by blood or marriage or has a close
23 personal or social relationship with Mr. Anderson or any
24 member of his staff, if so please stand? All right. No
25 one stood. All right. The witnesses on behalf of the

1 State of South Carolina will be in addition to the victim
2 will be a Cathie Alamazon, Christal Saldierna, Larhonda
3 Genwright, Samantha Jackson with the Marion County
4 sheriff's office, Martin Bell also with the sheriff's
5 department, Tracy Causey and James Powell also with the
6 sheriff's department. Those jurors who came in late, they
7 need to move over to the left side.

8 THE CLERK: Members of the jury panel that
9 returned late, if you'll move over here on this side of
10 the courtroom please that just walked in.

11 THE COURT: I want the five of you to remember I
12 said 20 'til not quarter 'til. Don't be late for the rest
13 of the week. All right. I'm going to start over again.
14 The State of South Carolina their witnesses will be a
15 Cathie Alamazon, Christal Saldierna, Lerhonda Genwright,
16 with the sheriff's department Samantha Jackson, Martin
17 Bell, Tracy Causey, James Powell, and with EMS Jessica
18 Martin, and Sally Williamson with the Care House of the
19 Pee Dee. In this regard, is any member of the jury panel
20 related by blood or marriage or has a close personal or
21 social relationship with any of the State's witnesses, if
22 so please stand?

23 And the gentleman upfront, what's your name and
24 your number?

25 PROSPECTIVE JUROR: James Briley. I don't

1 remember my number.

2 THE COURT: All right. Hold on one second.
3 We'll find it.

4 THE CLERK: Eighteen.

5 THE COURT: Eighteen. All right. And which
6 witness do you know?

7 PROSPECTIVE JUROR: James Powell.

8 THE COURT: All right. Well, taking that into
9 account if you were selected to serve on a jury in this
10 case, could you be fair and impartial not only to the
11 State, but the defense as well?

12 PROSPECTIVE JUROR: Yes, sir, I could.

13 THE COURT: Would you be fair and impartial to
14 both sides?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Thank you, appreciate you standing.
17 The lady in the back your name and your number?

18 PROSPECTIVE JUROR: Dawn Thompson juror number
19 164. I have a close-personal relationship with James
20 Powell. He calls me Granny.

21 THE COURT: All right. Well, taking that into
22 account, if you were selected to serve on a jury in this
23 case, could you be fair and impartial not only to the
24 State, but the defense as well?

25 PROSPECTIVE JUROR: No, I would lean to -- I

1 don't think I could be fair or unbiased in this case.

2 THE COURT: All right. I'm going to excuse you
3 for purposes of this trial only, if you'll have a seat.
4 Juror number 164.

5 All right. The man upfront.

6 PROSPECTIVE JUROR: Brian Brown.

7 THE COURT: And your number?

8 PROSPECTIVE JUROR: Twenty. James Powell.

9 THE COURT: All right. Well, taking that into
10 account if you were selected to serve on a jury in this
11 case, could you be fair and impartial to both sides?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Would you be fair and impartial to
14 both sides?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Thank you.

17 All right. Your name and your number?

18 PROSPECTIVE JUROR: Jaron Skorput.

19 THE CLERK: Number 155.

20 THE COURT: All right. And how does that
21 question apply to you?

22 PROSPECTIVE JUROR: I know James Powell.

23 THE COURT: All right. Well, taking that into
24 account, if you were selected to serve on a jury in this
25 case, could you be fair and impartial to both sides the

1 State and the defense?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Would you be fair and impartial to
4 both sides?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Thank you. All right. The
7 gentleman in back your name and your number.

8 PROSPECTIVE JUROR: Louis Catlett 27. I know
9 James Powell and Jessica Martin.

10 THE COURT: All right. Well, taking that into
11 account, if you were selected to serve on a jury in this
12 case, could you be fair and impartial to both sides?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Would you be fair and impartial to
15 both sides?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Thank you. Does any member of the
18 jury panel related by blood or marriage to any law
19 enforcement officer, if so please stand? That could be
20 the sheriff's department, police officer, anybody?

21 All right. Your name and your number.

22 PROSPECTIVE JUROR: William T. White I don't
23 know my number. Robert Page.

24 THE COURT: That number is 107. Taking that
25 into account, if you were selected to serve on a jury in

1 this case, could you be fair and impartial not only to the
2 State, but the defense as well?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Thank you. Anybody else?
5 Mr. Skorput.

6 PROSPECTIVE JUROR: My uncle he works at the
7 Solicitor's office in Columbia.

8 THE COURT: Taking that into account, if you
9 were selected to serve on a jury in this case, could you
10 be fair and impartial to both sides?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Would you be fair and impartial to
13 both sides?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you for standing.
16 Anybody else?

17 PROSPECTIVE JUROR: My brother is a deputy
18 sheriff in Robeson County North Carolina.

19 THE COURT: And your name and number?

20 PROSPECTIVE JUROR: I'm sorry, Charles Russ 147.

21 THE COURT: Well, taking that into account, if
22 you were selected to serve on a jury in this case, could
23 you be fair and impartial both sides?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Would you be fair and impartial to

1 both sides?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Anybody else?

4 Your name and number.

5 PROSPECTIVE JUROR: Joseph Hardwick juror 70.

6 My son's a police officer in Mullins police department.

7 THE COURT: Taking that into account, if you
8 were selected to serve on a jury in this case, could you
9 be fair and impartial to both sides?

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: Would you be fair and impartial o
12 both sides?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Thank you.

15 Anybody else? You already stood I believe.

16 Anybody else?

17 Is any member of the jury panel aware of any
18 bias or prejudice for or against the State of South
19 Carolina, if so please stand? No one stood.

20 Is any member of the jury panel formed an
21 opinion as to the guilt or innocence of the defendant,
22 Mr. Lindell Davis, in this case, if so please stand? No
23 one stood.

24 Is there any member of the jury panel who is a
25 member of or contributor to any group, which has as its

1 primary concern the promotion of law enforcement or
2 victims' rights? These groups would include but certainly
3 not being limited to MADD, SADD or CAVE Citizens Against
4 Violent Crimes, if so please stand? No one stood.

5 Has any member of the jury panel or any member
6 of your immediate family ever been involved in a crime of
7 personal violence? This could be included but not limited
8 to criminal sexual conduct, assault and battery of a high
9 and aggravated nature, murder, manslaughter, kidnapping,
10 armed robbery, et cetera. Now, if you or any member of
11 your family have ever been a victim or a defendant in a
12 crime such as these just mentioned or anything similar to
13 them, please stand come on up?

14 THE CLERK: This is juror number 45.

15 THE COURT: Give me your name again.

16 PROSPECTIVE JUROR: Tranzia T. Drakeford.

17 THE COURT: And how does that apply to you?

18 PROSPECTIVE JUROR: It was myself.

19 THE COURT: What happened?

20 PROSPECTIVE JUROR: I was doing home health and
21 the person that I was doing help for, the mother, sexually
22 assaulted me.

23 THE COURT: All right. Well, taking that into
24 account, if you were selected to serve on a jury in this
25 case, could you be fair and impartial to the State and the

1 defense?

2 PROSPECTIVE JUROR: I still kind of feel bitter
3 from it, so no.

4 THE COURT: You going to say no?

5 PROSPECTIVE JUROR: I feel bitter from it, so I
6 might be thinking about my situation.

7 THE COURT: All right. I'm going to excuse you
8 from this trial only, but if you would stay out there in
9 the jury panel.

10 Number 45 is excused from this trial.

11 The next one.

12 THE CLERK: Number 155 Jaron Skorput.

13 THE COURT: Mr. Skorput, tell me about it.

14 PROSPECTIVE JUROR: I got a DUI back in 2008. I
15 don't know if that qualifies just wanted to let you know I
16 got a DUI back in 2008.

17 THE COURT: DUI first offense?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: You good to go just have a seat.

20 Thank you. I appreciate you coming forward.

21 Give me your name and number again?

22 PROSPECTIVE JUROR: William White 170.

23 THE COURT: 170, yes, sir.

24 PROSPECTIVE JUROR: My son had to plead guilty
25 to second degree assault.

1 THE COURT: Taking that into account, if you
2 were selected to serve on a jury in this case, could you
3 be fair and impartial to the State and the defense?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: I appreciate you coming forward.
6 Give me your name and number?

7 PROSPECTIVE JUROR: Henrietta Murrell 110.

8 THE COURT: 110 what you got?

9 PROSPECTIVE JUROR: My niece was murdered in
10 2004 over in Mullins. She was dead for like three weeks.

11 THE COURT: Taking that into account, if you
12 were selected to serve on a jury in this case, could you
13 be fair and impartial to both sides the State and the
14 defense?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Would you be fair and impartial to
17 both sides?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR: David Smith 157.

21 THE COURT: 157 what you got?

22 PROSPECTIVE JUROR: When I was 13 years old, I
23 watched my mother get killed by a man with two baseball
24 bats.

25 THE COURT: Taking that into account, if you

1 were selected to serve on a jury in this case, could you
2 be fair and impartial to both sides?

3 PROSPECTIVE JUROR: If it was a violent crime
4 involved, probably not.

5 THE COURT: I need to know yes or no?

6 PROSPECTIVE JUROR: No.

7 THE COURT: All right. I'm going to excuse you
8 for the purposes of this trial only, stick around. Thank
9 you.

10 Give me your name and number?

11 PROSPECTIVE JUROR: Deborah Bethea I don't know
12 my number.

13 THE COURT: Deborah Bethea 12. What you got?

14 PROSPECTIVE JUROR: My sister beat a girl with a
15 hammer and my brother had a gun charge, but their life has
16 nothing to do with me.

17 THE COURT: Okay. Well, taking that into
18 account, if you were selected to serve on a jury in this
19 case, could you be fair and impartial to the State and the
20 defense?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Thank you. I appreciate you coming
23 forward.

24 What's your name and number?

25 PROSPECTIVE JUROR: I don't know my number Kelly

1 Leach.

2 THE COURT: Leach hold on a second.

3 THE CLERK: Juror number 96.

4 THE COURT: And how does that apply to you?

5 PROSPECTIVE JUROR: Victim of CDV.

6 THE COURT: All right. Taking that into
7 account, if you were selected to serve on a jury in this
8 case, could you be fair and impartial to the State and the
9 defense?

10 PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: Is that yes?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Thank you very much.

14 Juror number 31 Mr. Cook.

15 PROSPECTIVE JUROR: My oldest brother he was
16 involved in a theft ring and stolen equipment. He pulled
17 a year and he's already served his time and he's on
18 probation. I want to let you know that.

19 THE COURT: Taking that into account, if you
20 were selected to serve on a jury in this case could you
21 ---

22 PROSPECTIVE JUROR: I realize the guy sitting
23 out there he use to work with my brother with a
24 construction company. I been knowing him through that,
25 but I can be fair as far as him. I wouldn't let that get

1 in the way.

2 THE COURT: So if you were selected to serve on
3 a jury in this case, you would be fair and impartial to
4 the State and the defense?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Good. Thank you.

7 Your name and number?

8 PROSPECTIVE JUROR: Carlile Page 118.

9 THE COURT: All right, what you got?

10 PROSPECTIVE JUROR: Oh, I have a brother got
11 served -- well, sexual contact with minors got served six
12 months in Columbia. Now, he live in Greenville.

13 THE COURT: Your brother?

14 PROSPECTIVE JUROR: Yeah.

15 THE COURT: All right. Taking that into
16 account, if you were selected to serve on a jury in this
17 case, could you be fair and impartial to the state and the
18 defense?

19 PROSPECTIVE JUROR: I doubt it. I don't know.

20 THE COURT: Yes or no?

21 PROSPECTIVE JUROR: Huh?

22 THE COURT: Yes or no?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Which side would you be favorable?

25 PROSPECTIVE JUROR: Well, according to what they

1 done, I would say -- I guess I could say yes according to
2 what they done?

3 THE COURT: What who did?

4 PROSPECTIVE JUROR: Well, you're talking about
5 if I was selected as a juror?

6 THE COURT: Yeah, if you were selected to serve
7 on a jury in this case, could you be fair and impartial to
8 the State and the defense?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: All right. Would you be fair and
11 impartial to the State and the defense?

12 PROSPECTIVE JUROR: Yes, I'm going to say yes.

13 THE COURT: You just tell me the truth and I'll
14 go with it.

15 PROSPECTIVE JUROR: Huh?

16 THE COURT: You just tell me the truth and I'll
17 go with it.

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: You can have a seat.

20 Juror 118 is staying. Is there any member of
21 the jury panel who knows of any reason whatsoever why they
22 could not give the parties in this case a fair and
23 impartial trial, if so please stand? No one stood.

24 Is any member of the jury panel have any
25 religious or philosophical objections to rendering

1 judgment against their fellow man, if so please stand? No
2 one stood.

3 Has any member of the jury panel or any member
4 of your family ever been prosecuted by this Solicitor or
5 any member of the Solicitor's staff regardless of whether
6 the case was dismissed or not, if so please stand?

7 You like to come up?

8 PROSPECTIVE JUROR: Same thing.

9 THE COURT: You good with that?

10 MR. ANDERSON: Yes, sir, Your Honor.

11 THE COURT: State good with that?

12 What was your name and number again?

13 PROSPECTIVE JUROR: William T. White.

14 THE COURT: Has any member of the jury panel or
15 family member or close personal friend ever been accused
16 of committing a crime against a child, if so please stand?
17 No one stood.

18 Anything further from the State?

19 MR. RICHARDSON: No, sir.

20 THE COURT: Anything further from defense?

21 MR. ANDERSON: No, sir, Your Honor.

22 THE COURT: All right, except for those I have
23 excused for this trial, I find the jury panel qualified.
24 Ms. Clerk, if you give us a jury of 12 and one alternate.

25 (WHEREUPON, a pause in the proceedings.)

1 THE CLERK: Ladies and gentlemen, getting ready
2 to draw a jury, if I call your name, if you'll come
3 forward please stand at the end of this counter, if you
4 have jackets anything you have with you just bring forward
5 with you please.

6 Juror number 70 Joseph Hardwick. Mr. Hardwick,
7 if you come stand at the end of this counter please face
8 back out toward the audience. Thank you, sir.

9 (WHEREUPON, a white male, comes forward.)

10 THE CLERK: What say the State?

11 MR. RICHARDSON: Please present Mr. Hardwick.

12 THE CLERK: What say the defense?

13 MR. ANDERSON: Please the Court, we'll excuse
14 Mr. Hardwick from this case.

15 THE CLERK: You excuse from this case, Mr.
16 Hardwick. Thank you.

17 Juror number 52 Cheryl Fryson excuse for the
18 day. She has protection for the day.

19 Number 90 Louise M. Krauel.

20 (WHEREUPON, a white female, comes forward.)

21 THE CLERK: What say the State?

22 MR. RICHARDSON: Please present Ms. Krauel.

23 THE CLERK: What say the defense?

24 MR. ANDERSON: Please seat her in this case.

25 THE CLERK: Beg your pardon.

1 MR. ANDERSON: Please seat her.

2 THE CLERK: All right, thank you, sir.

3 If you'll have a seat in the jury box please,
4 ma'am.

5 Number 24 Bobby Carmichael.

6 (WHEREUPON, a black male, comes forward.)

7 THE CLERK: What say the State?

8 MR. RICHARDSON: Please excuse Mr. Carmichael
9 for the trial of this case.

10 THE CLERK: You excuse from this trial, Mr.
11 Carmichael. Thank you, sir.

12 Number 11 Stephon S. Bennett.

13 (WHEREUPON, a black male, comes forward.)

14 THE CLERK: What say the State?

15 MR. RICHARDSON: Please excuse Mr. Bennett for
16 the trial of this case.

17 THE CLERK: You excuse Mr. Bennett. Thank you,
18 sir.

19 Number 161 Christopher A. Taylor.

20 (WHEREUPON, a white male, comes forward.)

21 THE CLERK: What say the State?

22 MR. RICHARDSON: Please present Mr. Taylor.

23 THE CLERK: What say the defense?

24 MR. ANDERSON: Please excuse Mr. Taylor from
25 this case.

1 THE CLERK: You excuse from this case Mr.
2 Taylor. Thank you.

3 Number 31 Kelvin A. Cook.

4 (WHEREUPON, a white male, comes forward.)

5 THE CLERK: What say the State?

6 MR. RICHARDSON: Please excuse Mr. Cook for the
7 purposes of this case?

8 THE CLERK: You excuse from this trial Mr. Cook.
9 Thank you.

10 Number 88 Mildred L. Jones.

11 (WHEREUPON, a black female, comes forward.)

12 THE CLERK: What say the State?

13 MR. RICHARDSON: Please present Ms. Jones.

14 THE CLERK: What say the defense?

15 MR. ANDERSON: Your Honor, earlier I think when
16 she was answering voir dire questions, she said she was a
17 security officer at Perdue. Would the Court inquire
18 whether or not she has the power to arrest in her job
19 capacity there?

20 THE COURT: All right. Ms. Jones, you heard the
21 question. Do you have the power to arrest anyone?

22 PROSPECTIVE JUROR: If they're at the job, if
23 they're only at Perdue, only at Perdue.

24 MR. ANDERSON: Please excuse Ms. Jones from this
25 case.

1 THE CLERK: Thank you, Ms. Jones.

2 Number 12 Deborah L. Bethea.

3 (WHEREUPON, a black female, comes forward.)

4 THE CLERK: What say the State?

5 MR. RICHARDSON: Please present Ms. Bethea.

6 THE CLERK: What say the defense?

7 MR. ANDERSON: Please seat Ms. Bethea.

8 THE CLERK: Ms. Bethea, if you'll have a seat in
9 the jury box.

10 Number 100 Phillip A. Lester.

11 (WHEREUPON, a black male, comes forward.)

12 THE CLERK: What say the State?

13 MR. RICHARDSON: Please present Mr. Lester.

14 THE CLERK: What say the defense?

15 MR. ANDERSON: Your Honor, if I could inquire
16 what branch of the military and what was his job in the
17 military?

18 THE COURT: If you could answer the question.

19 PROSPECTIVE JUROR: Well, I had several jobs
20 when I was in the military. I was supervisor for a cannon
21 crew. Then I became drill sergeant. And then I worked at
22 the NCO training school in Fort Sill where I wrote
23 manuals, books for the Army and for the non-Army
24 residents.

25 MR. ANDERSON: Please seat the juror.

1 THE CLERK: If you'll have a seat in the jury
2 box please, sir. Thank you.

3 Number 95 Wanda B. Lane.

4 (WHEREUPON, a white female, comes forward.)

5 THE CLERK: What say the State?

6 MR. RICHARDSON: Please present Ms. Lane.

7 THE CLERK: What say the defense?

8 MR. ANDERSON: Please excuse Ms. Lane from this
9 case.

10 THE CLERK: Thank you. You excused from this
11 case.

12 Number 17 Betty L. Brice.

13 (WHEREUPON, a black female, comes forward.)

14 THE CLERK: What say the State?

15 MR. RICHARDSON: Please present Ms. Brice.

16 THE CLERK: What say the defense?

17 MR. ANDERSON: Please seat Ms. Brice.

18 THE CLERK: Ms. Brice, if you'll have a seat in
19 the jury box.

20 Number 165 Deborah A. Thompson.

21 (WHEREUPON, a black female, comes forward.)

22 THE CLERK: What say the State?

23 MR. RICHARDSON: Please present Ms. Thompson.

24 THE CLERK: What say the defense?

25 MR. ANDERSON: Please excuse Ms. Thompson from

1 this case.

2 THE CLERK: You excuse from this case, Ms.
3 Thompson. Thank you.

4 Number 18 James G. Briley.

5 (WHEREUPON, a white male, comes forward.)

6 THE CLERK: What say the State?

7 MR. RICHARDSON: Please present Mr. Briley.

8 THE CLERK: What say the defense?

9 MR. ANDERSON: Please excuse Mr. Briley.

10 THE CLERK: Number 158 Jimmy L. Stevenson.

11 (WHEREUPON, a black male, comes forward.)

12 THE CLERK: What say the State?

13 MR. RICHARDSON: Please excuse Mr. Stevenson for
14 the purposes of this trial only.

15 THE CLERK: You excuse from this trial, Mr.
16 Stevenson. Thank you.

17 Number 118 Carlile Page.

18 (WHEREUPON, a black male, comes forward.)

19 THE CLERK: What say the State?

20 MR. RICHARDSON: Please excuse Mr. Page for
21 purpose of this trial.

22 THE CLERK: Mr. Page, you excuse from this
23 trial. Thank you.

24 Number 170 William T. White, Jr.

25 (WHEREUPON, a white male, comes forward.)

1 THE CLERK: What say the State?

2 MR. RICHARDSON: No challenge.

3 MR. ANDERSON: Please excuse Mr. White from this
4 case.

5 THE CLERK: Number 84 Carolyn C. Johnson.

6 (WHEREUPON, a black female, comes forward.)

7 THE CLERK: What say the State?

8 MR. RICHARDSON: Please present Ms. Johnson.

9 THE CLERK: What say the defense?

10 MR. ANDERSON: Please seat Ms. Johnson.

11 THE CLERK: Ms. Johnson, if you'll have a seat
12 in the jury box. Thank you.

13 Number 145 Trevor A. Rogers.

14 (WHEREUPON, a white male, comes forward.)

15 THE CLERK: What say the State?

16 MR. RICHARDSON: Your Honor, just to clarify, I
17 think I used five, so I have no challenge for cause.

18 THE CLERK: What say the defense?

19 MR. ANDERSON: Your Honor, I think he indicated
20 that he worked at the Cecil.

21 PROSPECTIVE JUROR: The Ceper (sic) Group.

22 MR. ANDERSON: What is that?

23 PROSPECTIVE JUROR: Truck driving.

24 MR. ANDERSON: Please seat him, Your Honor.

25 THE CLERK: Have a seat in the jury box please,

1 sir.

2 Number 36 Chelsey L. Cribb.

3 (WHEREUPON, a white female, comes forward.)

4 THE CLERK: What say the State?

5 MR. RICHARDSON: No challenge.

6 THE CLERK: What say the defense?

7 MR. ANDERSON: Please seat Ms. Cribb.

8 THE CLERK: If you'll have a seat in the jury
9 box please.

10 Number 162 Phyllis Crawford.

11 (WHEREUPON, a black female, comes forward.)

12 THE CLERK: What say the State?

13 MR. RICHARDSON: No challenge.

14 THE CLERK: What say the defense?

15 MR. ANDERSON: Please seat Ms. Crawford, Your
16 Honor.

17 THE CLERK: Ms. Crawford, if you'll have a seat
18 in the jury box please.

19 Number 142 Tremayne Robertson.

20 (WHEREUPON, a black male, comes forward.)

21 THE CLERK: What say the State?

22 MR. RICHARDSON: No challenge.

23 THE CLERK: What say the defense?

24 MR. ANDERSON: Please seat Mr. Robertson.

25 THE CLERK: If you'll have a seat in the jury

1 box please, sir.

2 Number 155 Jaron A. Skorput.

3 (WHEREUPON, a white male, comes forward.)

4 THE CLERK: What say the State?

5 MR. RICHARDSON: No challenge.

6 THE CLERK: What say the defense?

7 MR. ANDERSON: Please strike this juror for
8 cause -- not for cause just strike him -- please excuse
9 him.

10 THE CLERK: You excuse from this trial, sir.
11 Thank you.

12 Number 168 Quandarius T. Wheeler.

13 (WHEREUPON, a black male, comes forward.)

14 THE CLERK: What say the State?

15 MR. RICHARDSON: No challenge.

16 THE CLERK: What say the defense?

17 MR. ANDERSON: Please seat Mr. Wheeler.

18 THE CLERK: If you'll have a seat in the jury
19 box please, sir.

20 Number 30 Christina L. Collins.

21 (WHEREUPON, a white female, comes forward.)

22 THE CLERK: What say the State?

23 MR. RICHARDSON: No challenge.

24 THE CLERK: Say the defense?

25 MR. ANDERSON: Please seat Ms. Collins.

1 THE CLERK: If you'll have a seat in the jury
2 box.

3 For our alternates number 49 Mitchell Foster.

4 (WHEREUPON, a black male, comes forward.)

5 THE COURT: Well, we need one more juror. We're
6 one juror short.

7 THE CLERK: Oh, I'm sorry. One more juror I'm
8 sorry. What say the State?

9 MR. RICHARDSON: No challenge.

10 THE CLERK: What say the defense?

11 MR. ANDERSON: Please seat him.

12 THE CLERK: If you'll have a seat in the jury
13 box please, sir.

14 Now, we do the alternate. Number 154 Larry D.
15 Shokes.

16 (WHEREUPON, a white male, comes forward.)

17 THE CLERK: What say the State?

18 MR. RICHARDSON: Please excuse Mr. Shokes for
19 the purpose of this trial only.

20 THE CLERK: You excused from this trial. Thank
21 you, sir.

22 Number nine Stephanie J. Becker.

23 (WHEREUPON, a white female, comes forward.)

24 THE CLERK: What say the State?

25 MR. RICHARDSON: No challenge.

1 THE CLERK: What say the defense?

2 MR. ANDERSON: Please seat Ms. Becker.

3 THE CLERK: If you'll have a seat in one of the
4 chairs in front.

5 THE COURT: Any objections to the jury or the
6 process for which they were drawn what says the State?

7 MR. RICHARDSON: None, Your Honor.

8 THE COURT: Says the defense?

9 MR. ANDERSON: Court's indulgence one moment,
10 Your Honor.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. ANDERSON: No objections, Your Honor.

13 THE COURT: All right. The remainder of the
14 jury panel is excused for the day. If you would call back
15 in after six this evening to see if there's any further
16 instructions for you, you five you need to stay put. And
17 you can now go if you would like.

18 (WHEREUPON, the remaining jury panel excused for
19 the day.)

20 THE COURT: All right. Members of the jury, I
21 need you back here at two o'clock this afternoon to begin
22 this trial, but before you leave, I want to instruct that
23 you are not to talk to anybody about this case. Do not
24 research anybody involved in this case. You know who the
25 defendant is. You know who the victim is. And you know

1 who the witnesses are. Do not get on the computer and
2 Google their names or try to find out anything about this
3 case in any manner whatsoever. You just forget about it.
4 You enjoy your lunch. You come back and we'll start at
5 two. You are excused. I'll see you back at two..

6 (WHEREUPON, the jury is excused for lunch.)

7 THE COURT: Anything we need to take up before
8 two?

9 MR. RICHARDSON: I don't believe so, Your Honor.

10 THE COURT: I will see you back at two and we'll
11 get started.

12 (WHEREUPON, a lunch break was taken.)

13 (WHEREUPON, State's Exhibits Nos. 1-8 were
14 marked for identification only.)

15 THE COURT: What you got?

16 MR. RICHARDSON: I have a Jackson vs. Denno
17 hearing.

18 MR. ANDERSON: I do have a motion before the
19 jury comes out. My typical sequestration. I have no
20 objection to Ms. Jackson. I think she's the lead
21 investigator. Certainly no objection to the young lady
22 being in here the victim in this case or either her mom or
23 her aunt whoever she chooses, but I would ask that
24 everyone else that's going to testify in this case be
25 sequestered.

1 THE COURT: You okay with that?

2 MR. RICHARDSON: Yes, sir, Your Honor, I don't
3 have any problem with it.

4 THE COURT: We'll do it, make sure they're
5 cleared out.

6 MR. RICHARDSON: All right.

7 THE COURT: I'm ready when you are.

8 MR. RICHARDSON: For the Jackson vs. Denno
9 hearing, we call Investigator Samantha Jackson.

10 THE CLERK: Do you swear to tell the truth, the
11 whole truth, and nothing but the truth so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Thank you.

14 WHEREUPON,

15 Samantha Jackson,

16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION IN-CAMERA

18 BY MR. RICHARDSON:

19 Q Investigator Jackson, you're the lead investigator on
20 this case?

21 A Yes, sir.

22 Q And as part of this investigation, did you meet with
23 the defendant and obtain a statement or statements from
24 him?

25 A Yes, sir, I did.

1 Q Would you please tell what day that occurred?

2 A June the 2nd.

3 Q Of?

4 A Of 2014 I'm sorry.

5 Q Okay. And where were you located when he gave you a
6 statement?

7 A Marion County sheriff's office.

8 Q Who all was present?

9 A Myself and Detective Bell.

10 Q Okay. And was the defendant in custody at that time,
11 did you all arrest him on warrants?

12 A Yes, sir, we had picked him up from his resident on
13 warrants, yes, sir.

14 Q All right. So he had been arrested and you all took
15 him to the detention center and ask him if he wanted to
16 make a statement to you?

17 A When we pick him up, we took him directly straight to
18 the sheriff's office, that way he wouldn't have to go
19 through the booking area and all that before we talk to
20 him. We took him to the sheriff's office and asked him if
21 he would like to talk to us.

22 Q Okay. And given that he was in custody, I want to
23 show you State's Exhibit 1 for purposes of this hearing.
24 Do you recognize that?

25 A Yes, sir.

1 Q What is that?

2 A This is our standard Miranda rights form for the
3 sheriff's office.

4 Q All right. Is that the form that was executed by the
5 defendant in this case and yourself?

6 A Yes, sir.

7 Q All right. And what's the date on that form?

8 A Date is June 2nd 2014.

9 Q All right.

10 MR. RICHARDSON: Your Honor, this could just be
11 a court's exhibit for purposes for this hearing at this
12 time.

13 THE COURT: Any objection?

14 MR. ANDERSON: No, sir, Your Honor.

15 BY MR. RICHARDSON:

16 Q All right. Investigator Jackson, could you please
17 take us through this form and read the questions that you
18 asked of the defendant and his response to those
19 questions?

20 A Okay. First of all, when we do the Miranda rights
21 form, we give the defendant a clipboard with the Miranda
22 right's sheet on it and we read the sheet to them. The
23 top says Marion County sheriff's office Mark Richardson
24 Sheriff, Miranda Warnings and it has case number in this
25 case it's 20140500571 location the Marion County sheriff's

1 office. The date is June 2nd 2014. The time that the
2 Miranda right's was started was 2:37 excuse me -- 2:34
3 p.m. Then it goes on and says the Constitution of the
4 United States requires me to inform you that -- and the
5 first line they have to make a mark or initial stating
6 that they understand before we move on to the next line.
7 You want me to read each one?

8 Q Sure. What questions were asked of him?

9 A The first is you have the right to remain silent and
10 he put a mark. Second one is anything you say can and
11 will be used against you in the court of law. He also put
12 a mark there saying that he understand. You have the
13 right to speak with an attorney and have him or her
14 present with you while you're being questioned. He put a
15 mark stating that he understood. If you cannot afford to
16 hire an attorney, one will be appointed to represent you
17 before any questioning if you wish. Again, he put a mark
18 stating that he understood. You can decide any time to
19 exercise these rights and not answer any questions or make
20 any statements. Again, he put a mark saying that he
21 understood. Then you have the question do you understand
22 each of these rights as I have explain them to you. He
23 put a mark beside yes stating that he did. Having these
24 rights in mind, do you wish to speak to us now. He put a
25 mark by yes. Then he put his name, address, city and

1 state. And then under that once he completed his name,
2 address, city and state, I read the waiver of rights,
3 which is I have read this statement of my rights. I
4 understand what my rights are. I am willing to make a
5 statement and answer questions. I do want an attorney at
6 this time. I understand and know what I am doing. No
7 promises or threats have been made to me and no pressure
8 of any kind has been used against me by anyone in exchange
9 for my statement. He signed it, wrote the time down which
10 was 2:37 and myself and Detective Bell witnessed it.

11 Q Okay. So he did sign this form indicating he
12 understood his rights?

13 A Yes, sir.

14 Q When you went over this document with him and
15 ultimately took a statement from him, you mentioned that
16 yourself another detective were present?

17 A Yes, sir.

18 Q What was the physical location within the sheriff's
19 office were you in there, was it some interrogation room?

20 A It was Detective Bell's. I think at the time we
21 shared an office. It was in our office.

22 Q No bars or ---

23 A No, sir.

24 Q --- cells or anything like that?

25 A No, sir.

1 Q All right. And at the time you took the statement
2 from him, he didn't appear to be under the influence of
3 any drugs or alcohol or anything that would cause you
4 concern that he didn't understand what you guys were doing
5 there?

6 A No, sir.

7 Q All right. About how long did the questioning last?

8 A The Miranda rights was started at 2:34. He started
9 his statement at 2:48, so I'm going to say no more than an
10 hour all total.

11 Q Okay. At any time during the taking of a statement
12 did he request any bathroom breaks, food, water anything
13 like that?

14 A Nothing.

15 Q Did he provide a written statement to you?

16 A Yes, sir, he did.

17 Q Let me show you what's marked as State's Exhibit 3
18 for this hearing take a look at that. Do you recognize
19 that?

20 A Yes, sir.

21 Q What is it?

22 A This is the handwritten statement that Mr. Davis
23 provided to myself and Detective Bell.

24 Q All right.

25 MR. RICHARDSON: If I could make this an exhibit

1 for the purposes of this hearing at this time.

2 MR. ANDERSON: No objection.

3 BY MR. RICHARDSON:

4 Q All right. And is this the statement from the same
5 time he met with you at the sheriff's office?

6 A Yes, sir.

7 Q And was this part of the, I guess, interrogation
8 process after he signed his Miranda form?

9 A Yes, sir, it was.

10 Q Did he also provide a verbal statement to you and
11 Detective Bell as well that went into, I guess, greater
12 detail than the written statement?

13 A Yes, sir.

14 Q Was that also at the same time during this about an
15 hour-long period?

16 A Yes, sir.

17 Q All right. So the written statement and verbal
18 statement everything you did with him took about an hour?

19 A Yes, sir.

20 Q All right. Based on the circumstances that are
21 present at the time and your personal observations, did
22 Mr. Davis appear to completely understand what he was
23 doing and provide a voluntary statement to you?

24 A Yes, sir.

25 Q All right. Also as apart of your interrogation of

1 Mr. Davis, did you inquire about his cell phone?

2 A Yes, sir.

3 Q And did you ask if you could take a look at his cell
4 phone?

5 A Yes, sir.

6 Q I'm going to ask you to take a look at State's Number
7 2. Can you identify that?

8 A Yes, sir, this is our consent to search.

9 Q And is that in reference to Mr. Davis' cell phone?

10 A Yes, sir.

11 Q And was that document executed at the same time as
12 these other documents in that hour-long window?

13 A Yes, sir.

14 MR. RICHARDSON: Your Honor, if exhibit two
15 could be court's exhibit for this hearing only.

16 MR. ANDERSON: No objection, Your Honor.

17 BY MR. RICHARDSON:

18 Q So you asked Mr. Davis if you could search his cell
19 phone?

20 A Yes, sir.

21 Q And he signed and you witnessed?

22 A Yes, sir.

23 Q This document?

24 A Yes, sir.

25 Q So he did agree to allow you to look at it?

1 A Yes, sir.

2 MR. RICHARDSON: Your Honor, I believe that's
3 all the questions I have at this time in terms of
4 voluntariness of the statement.

5 THE COURT: Mr. Anderson.

6 MR. ANDERSON: I don't have any questions at
7 this time, Judge.

8 THE COURT: All right. You may step down.

9 (WHEREUPON, the witness leaves the witness
10 stand.)

11 THE COURT: Any other witnesses?

12 MR. RICHARDSON: No, sir.

13 THE COURT: Anything from you, Mr. Anderson?

14 MR. ANDERSON: No, sir, Your Honor.

15 THE COURT: For the record, I'll find that the
16 defendant was properly Mirandized and that the statement
17 was given freely and voluntarily. Anything else we need
18 take up?

19 MR. RICHARDSON: Your Honor, I did mention to
20 Mr. Anderson that during the course of the victim's
21 testimony I did plan to ask her questions about some prior
22 sexual contact that she and the defendant had had. Of
23 course, that raises a 404(b) issue. Mr. Anderson is aware
24 that I'll be bringing that up, indicated that he would
25 make a proper objections but just wanted to make the Court

1 aware of that. So at the appropriate time ---

2 MR. ANDERSON: And I do object to that, Your
3 Honor. I think it's inappropriate. I think it's
4 certainly more prejudicial than probative. Your Honor,
5 certainly she can testify as to what actually happen on
6 the day in question, Your Honor. But I think if she
7 starts getting into prior acts that was going on the last
8 four or five months, my client was not charged with that.
9 Certainly, he could have been seen. I know Your Honor
10 you've seen several indictments that would from say on or
11 about April 1st up until such and such date, the defendant
12 did have intercourse. Your Honor, this is a specific
13 date. I just think it would be more prejudicial than
14 probative in this matter. I don't think it has any
15 bearing on this case itself. She's going to testify as to
16 what happened on May 31st of 2014. I think if she starts
17 talking about prior acts, that is just very prejudicial to
18 my client.

19 THE COURT: All right.

20 MR. RICHARDSON: The purpose of eliciting the
21 testimony would be to show the exceptions in Rule 404
22 absence of mistake or identity or common scheme or plan.
23 And just to show that this was not some, you know,
24 perchance thing or mistake that these two had been
25 involved in some form of sexual relationship for a period

1 of months leading up to this. This happened to be the
2 particular evening that they got caught, so that would be
3 nature of the testimony.

4 THE COURT: All right. We'll hear it, you
5 object at the right time. And we'll take a look at it.

6 MR. ANDERSON: Thank you, Your Honor.

7 THE COURT: Go ahead and bring them out.

8 (WHEREUPON, the jury came into open court.)

9 THE COURT: All right. Ms. Price, I'm going to
10 make you the forelady for the jury.

11 Ms. Clerk, if you'll go ahead and swear them.

12 (WHEREUPON, jury sworn.)

13 THE COURT: All right. Ladies and gentlemen of
14 the jury, we're getting ready to start this trial, but
15 before we do, I want to go over a few things with you just
16 to give you a little bit of working knowledge before the
17 trial actually begins. First thing, I want to tell you is
18 that the State of South Carolina has the burden of proof.
19 They have to prove the defendant guilty beyond a
20 reasonable doubt. Furthermore, I want to explain to you
21 what your role is and what my role is. You are the judge
22 of the facts. I am the judge of the law. You ask
23 yourselves, well, how does that differ, that differs
24 because you 12 and maybe the alternate, you determine what
25 the facts of this case are. Nobody else not me, not my

1 clerk, nobody in the audience only you. Well, you ask
2 yourselves how do we know what the facts of this case are,
3 how do I make that determination. You do that simply by
4 looking at the evidence in the case. That could be made
5 up of two things the witnesses that come over right here
6 and they're sworn in and they testify. And it could be
7 made up of any documents submitted into the record as
8 evidence, that could be photographs or reports or posters
9 or what have you. From those matters, you determine what
10 the facts of the case are.

11 Now, in turn, I am judge of the law. At the end
12 of this case, I will instruct you on the law in great
13 detail. And I want you to understand that you have to
14 accept the law as I give it to you. If you have any
15 preconceived ideas as to what you think the law is or what
16 it ought to be and it does not agree with what I tell you
17 the law is, you have to abandon those preconceptions and
18 accept the law as I give it to you. And only when I tell
19 you to begin your deliberations, which will be at the very
20 very end of this trial, where you take your findings of
21 fact, you'll take the law as I give it to you, put them
22 together and make a decision therefrom.

23 Furthermore, at any point in time during this
24 trial if we take a break or if we do not finish today and
25 you go home this evening and you come back tomorrow, at no

1 point in time until I tell you to, which will be at the
2 very very end, you do not discuss this case at all. It's
3 very important that you hear from everybody including me,
4 so that you have everything you need to make a decision
5 before you even start discussing the case. Furthermore,
6 when you leave the courtroom, do not get on the computer
7 as I told you before. Do not research anything.
8 Everything you need is right here in this courtroom.

9 All right. I want you to relax. At any point
10 in time, if you need to take a break, you need something
11 to drink or you don't feel good or what have you, just
12 kind of let me know, and I'll try to take a break and make
13 sure that you're taken care of. At this point in time, I
14 want you to sit back and I want you to relax. And I
15 recognize the State for your opening statement.

16 MS. HUMMEL: Thank you, Your Honor. May it
17 please the Court.

18 THE COURT: Yes.

19 MS. HUMMEL: Mr. Anderson. Ladies and gentlemen
20 of the jury, let me tell you about this case and give you
21 a little introduction. It's going to be about a
22 50-something-year-old man who he was caught having sex
23 with a girl who's under age. She's only 15. Before I get
24 into the law and tell you about what exactly the defendant
25 is charged with, I'm going to tell you about the facts.

1 The girl I just mentioned her name is Minor . She
2 has an aunt and her name is Christal and she often goes to
3 her aunt's house. She often visits her. This Aunt
4 Christal she has a shed on her property and in that shed
5 is a weight room.

6 Now, the defendant in this case, Mr. Davis, he
7 became a very close friend of the family and Aunt Christal
8 and he would often use this weight room. He would often
9 use it to lift weights. You know, perhaps he got a little
10 too close to the family in this case.

11 On the night of May 31st 2014, he wasn't using
12 that weight room to lift weights. About ten o'clock that
13 night, there was a text message sent from his phone to the
14 phone of Minor . You're going to get to see a
15 picture of that text message. And, ladies and gentlemen,
16 once you see that picture, that text message I don't think
17 you'll have any doubt about what the defendant was trying
18 to do that night with Minor . About 10:03 that night
19 three minutes after that text message was first sent to
20 Minor , another text message was sent from the
21 defendant's phone number to Minor telling her to
22 come lock up. I think the evidence will show you that
23 what he was referring to was that shed where he was out
24 there lifting weights in a weight room. So Minor goes out
25 there. She goes out there to lock up the shed. He didn't

1 really want her to come lock up. The evidence will show
2 what he really wanted to do was something that he wasn't
3 suppose to be doing according to the law.

4 10:15 only 12 minutes after Minor got that text
5 message from him, Aunt Christal goes out to check on
6 Minor. She hadn't come back from locking up the shed.
7 But when she walks into that shed, what she sees is Minor
8 Minor lying on a weight bench with her clothes from her
9 waist down, pulled down to her ankles and her leg is over
10 the shoulder of the defendant. The defendant is on top of
11 her and the word that she used to describe it is he was
12 humping her.

13 When she immediately sees what's going on, the
14 defendant jumps up. He immediately jumps up. Ladies and
15 gentlemen, I say that's because he knew that what he was
16 doing was wrong. When he jumps up a few moments later, he
17 leaves. Law enforcement is called and they come out to
18 the scene and they investigate what happened.

19 Now, the defendant is charged in this case with
20 criminal sexual conduct with a minor second degree. And
21 all that basically means is that he is charged with
22 engaging in a sexual battery with someone who's under 16
23 but at least 14. Now, a sexual battery can be a number of
24 things, but for the purposes of this case, all it means is
25 sexual intercourse or vaginal penetration. And the

1 evidence that the State is going to show you will
2 establish that that's exactly what happened on that night.

3 He's also charged with solicitation of a minor.
4 And what that means is he contacted someone under the age
5 of 18 for the purpose of getting Minor to engage in some
6 type of sexual activity. And, ladies and gentlemen, when
7 you see that text message that he sent to Minor, I
8 don't think you're going to have any doubt that that's
9 exactly what he was trying to do that night.

10 Now, I want to address something else. You're
11 not going to hear about force in this case. Minor will
12 tell you that it was consensual, but I'm going to tell you
13 about why it doesn't matter. The law does not require
14 that there be any consent in order for someone to be
15 guilty of this crime. Consent is not relevant and I'll
16 tell you why that is. It's basically like people who
17 can't legally drink until they reach a certain age or they
18 can't go buy tobacco products until they reach a certain
19 age or they can't vote. That applies to all of us. And
20 the law provides for those things because the law deems
21 they're not mature enough to make that decision. And so
22 that's why in this case Minor who's under 15, she
23 wasn't mature enough to make that decision. So it doesn't
24 matter if she consented or not.

25 Now, I'm sure all of you know in a case like

1 this criminal case, the State has the burden of proof. We
2 have to prove all these things to you beyond a reasonable
3 doubt. In order to do that, we're going to call some
4 witnesses. You're going to hear from Minor , the
5 girl I told you about. You're also going to hear from
6 Aunt Christal. And what they're going to tell you Minor
7 will tell you about how when her Aunt Christal walked in
8 that night, the defendant had already penetrated her and
9 that he immediately jumped up when Aunt Christal walked
10 in.

11 Aunt Christal she's going to tell you about what
12 she saw that night. You're also going to hear from
13 officers. The officers who responded. Officers who
14 investigated the case and they'll tell you about what they
15 did to find out what happened. And at the end of this
16 case, my co-counsel, Mr. Richardson, he's going to come
17 before you in closing argument and he will ask that you
18 find the defendant guilty of criminal sexual conduct with
19 a minor in the second degree and solicitation of a minor.
20 Ladies and gentlemen, I think that you won't have any
21 doubt once you hear all the evidence and the testimony in
22 this case because that's exactly what happened on night of
23 the May 31st 2014. Thank you.

24 THE COURT: Thank you. Mr. Anderson.

25 MR. ANDERSON: Lindell Davis stands before you

1 an innocent man. And I think the Judge will tell you
2 later that until the State proves him guilty beyond a
3 reasonable doubt he is an innocent man. A long time ago I
4 heard a phrase certainty is the enemy and I thought about
5 it. And I said certainty is the enemy. What the world
6 does that mean. And then I said, you know, it's probably
7 something like, well, it's more to this than meets the
8 eye.

9 And then I started thinking about that a little
10 while. And you say you know what I been riding down the
11 road before and I could have sworn that I saw somebody
12 that I knew beep the horn at them, waive to them. And
13 then a week or so, ten days later, I go, Sam, I beep the
14 horn at you the other day, waive to you, you didn't even
15 acknowledge me. Sam looked at me and he go what day was
16 that, that was last Thursday. Hank, I was in California
17 last Thursday. I thought -- I could have sworn that was
18 you.

19 I live out in the country. My old house where I
20 grew up, don't have a lot of lights out there. You can't
21 even see my house from the road with the outside lights
22 are turned off. Sometimes when I'm out there walking my
23 dog at night my imagination can play a trick on me or I
24 think I might see something that I don't actually see. I
25 remember when I was a young child as a kid, I would

1 imagine that I see things in my closet. I see things in
2 my house. I see things that really weren't there. In
3 this case, there were certain things that were not done,
4 the State is claiming that my client had sexual
5 intercourse with this young girl, but yet there was no
6 physical exam that was done as far as a doctor is concern.
7 I think they took her to the hospital. I think they
8 interviewed her, but no physical exam was done on her. As
9 far as by a licensed medical doctor, that could say, yeah,
10 my opinion this girl was no longer a virgin. In my
11 opinion, this girl has had sexual intercourse, that was
12 not done in this case. You're not going to hear about any
13 DNA evidence. You'll hear that some was attempted to be
14 found at the hospital by a nurse or by a doctor at the
15 hospital, but that nothing was found. Nothing was seen,
16 nothing was found. You know, they -- I think that that
17 person testifies you will hear what they had to say. And,
18 of course, you'll hear what I have to ask them on
19 cross-examination.

20 And why I'm speaking on that subject, the judge
21 told you earlier there's two types of evidence. There is,
22 of course, physical evidence will come in by way of an
23 exhibit. There's also evidence that you hear from
24 witnesses. And, of course, you probably already imagine
25 you all ever watch TV before, the questions that sometimes

1 the State may ask are a whole lot easier and that's
2 evidence. You all can certainly consider that, but the
3 questions that I ask and the answers that come that is
4 also evidence. There's also going to be some evidence
5 that is received from a witness or gotten out of a
6 witness for the lack of a better term, that we will bring
7 out and that's certainly evidence as well. And I think at
8 the end of the day when you hear everything that's said
9 about this case, you'll agree with me that Mr. Davis, Lin
10 is not guilty of this. Thank you.

11 THE COURT: Thank you.

12 Call your first witness.

13 MR. RICHARDSON: Yes, sir, Your Honor. First
14 witness will be Minor . I ask that the Court will
15 clear out any unnecessary folks in the back of the
16 courtroom.

17 THE COURT: Everybody in the courtroom that
18 doesn't need to be here, you need to go ahead and vacate
19 the courtroom.

20 (WHEREUPON, a pause in the proceedings.)

21 MR. RICHARDSON: All right. Your Honor, we call
22 Minor .

23 THE CLERK: Ma'am, come around let me swear you
24 in please. Do you swear to tell the truth, the whole
25 truth, and nothing but the truth so help you God?

1 THE WITNESS: I do.

2 THE CLERK: You may take the witness chair and
3 be careful.

4 WHEREUPON,

5 Minor

6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q All right. Minor, let's start off by telling us your
10 date of birth if you would please?

11 A

12 Q of . . . Okay. And where do you live?

13 A With my aunt.

14 Q All right. And where does she live is it in Marion
15 somewhere?

16 A In Mullins.

17 Q In Mullins. And who all lives in the house with you?

18 A Just me and her two kids and her.

19 Q All right. And how old are her kids, are they
20 younger?

21 A Six and three.

22 Q All right. Back in May of last year, were you still
23 staying with your mom some of the time or were you
24 visiting?

25 A I was staying with my mother and going to her house.

1 Q So you were visiting with your aunt?

2 A Yes, sir.

3 Q And you visit her quite a bit?

4 A Yes, sir.

5 Q Okay. Are you in school?

6 A Yes, sir.

7 Q What grade are you in?

8 A I'm in 11th this year.

9 Q All right. And what's your favorite subject in
10 school?

11 A Math.

12 Q All right. What are you hoping to do when you
13 finish?

14 A My mother wants me to be a mathematician, but I don't
15 think I have the brains for it.

16 Q I don't either, that's why I do this. All right.

17 Minor , how did you initially get to know Lindell Davis?
18 Do you remember when you met him?

19 A Yes, sir.

20 Q All right. How is he connected to your family?

21 A He knew my aunt's husband whatever and he passed away
22 and I went to the funeral. And that's how we got to know
23 everybody.

24 Q Okay. So your aunt's husband passed away?

25 MR. ANDERSON: Your Honor, please the Court,

1 would you please ask her to speak up just a little bit.

2 THE COURT: If you would just take your time,
3 speak a little slowly.

4 BY MR. RICHARDSON:

5 Q Okay. All right. Minor, so you met Mr. Davis after
6 your aunt's husband passed away?

7 A Yes, sir.

8 Q All right. Had they been friends?

9 A Yes, sir.

10 Q All right. And about how long ago was that?

11 A About how long ago what was?

12 Q When your aunt's husband passed away when you first
13 met Mr. Davis?

14 A He passed away my ninth grade year in October.

15 Q Okay. So that was about two years ago, a little over
16 two years ago?

17 A Yes, sir.

18 Q Okay. So if you met Mr. Davis around October of
19 2013, you got to help me with the math here May of 2014
20 would have been?

21 A I don't know, sir.

22 Q Somewhere in there? A little bit less than a year
23 from October of '13 to May of '14?

24 A Yes, sir.

25 Q All right. And tell us about your aunt's property

1 out there where you all live?

2 A We stay in a trailer, but she also has like a little
3 shed to the side of it.

4 Q All right. I want to show you a couple of pictures
5 here. This one is State's Exhibit 4 for identification
6 only at this time. You take a look at that does that look
7 familiar to you?

8 A Yes, sir, that's the shed.

9 Q All right. Is that an accurate picture of what it
10 looks like?

11 A Yes, sir.

12 Q All right.

13 MR. RICHARDSON: Your Honor, if I could put
14 State's Exhibit 4 into evidence at this time.

15 THE COURT: Any objections?

16 MR. ANDERSON: No objection, Your Honor.

17 THE COURT: State's Number 4 into evidence
18 without objection.

19 (WHEREUPON, State's Exhibit No. 4 was admitted
20 into evidence.)

21 BY MR. RICHARDSON:

22 Q And, Minor, what's inside that shed?

23 A There's like toys and stuff that he use to work on
24 equipment, but there's also a weight bench and weights.

25 Q Okay. I'm going to show you what's been marked as

1 State's Number 5. You can take a look at that. Does that
2 look familiar to you?

3 A Yes, sir.

4 Q And what is that?

5 A That's the weight bench.

6 Q All right. That's the picture of the inside of the
7 shed?

8 A Yes, sir.

9 MR. RICHARDSON: All right, I ask to move
10 State's Exhibit 5 into evidence.

11 THE COURT: Any objection?

12 MR. ANDERSON: No objection, Your Honor.

13 THE COURT: State's Number 5 into evidence
14 without objection.

15 (WHEREUPON, State's Exhibit No. 5 was admitted
16 into evidence.)

17 BY MR. RICHARDSON:

18 Q Now, about this shed there on your aunt's property,
19 did Mr. Davis have access to that shed?

20 A He used it to lift weights, but he didn't have a key
21 to it. We had the only key to it.

22 Q All right. So he was allowed to come out there and
23 lift, but somebody have to open it up for him?

24 A Yes, sir.

25 Q All right. And would he do that on a regular basis?

- 1 A Yes, sir.
- 2 Q Okay. Now, on May 31st of 2014, did Mr. Davis come
3 out to lift weights at the shed?
- 4 A Yes, sir.
- 5 Q Did you know he was out there?
- 6 A Yes, sir.
- 7 Q All right. How did you know he was coming out there
8 or was out there?
- 9 A A text message.
- 10 Q All right. Do you remember about what time of night
11 or day that he was out there on May 31st?
- 12 A I don't know the exact time, but it was quite late.
- 13 Q It was dark outside?
- 14 A Yes, sir.
- 15 Q All right. Now, the shed on your aunt's property
16 does it have lights on the inside?
- 17 A Yes, sir.
- 18 Q All right. Are they kind of like circular can lights
19 like this?
- 20 A No, sir, she got like a beam of lights going straight
21 across.
- 22 Q Like a long tube?
- 23 A Yes, sir.
- 24 Q All right. So when you go in there, do you have any
25 problem seeing when you have the lights on?

1 A No, sir.

2 Q Okay. So on that particular night Mr. Davis was out
3 there, you said he sent you a text message?

4 A Yes, sir.

5 Q And how were you able to recognize that it was him
6 send you the message, did you ---

7 A His phone number.

8 Q His phone number?

9 A Yes, sir.

10 Q You knew his phone number?

11 A Yes, sir.

12 Q All right. And did you respond back to him?

13 A I can't remember if I did, but I think I just went
14 outside.

15 Q Okay. I want to show you what's been marked State's
16 Exhibit 6. If you'll take a look at this, specifically
17 the top item there. Do you recognize that top item on
18 that page?

19 A Yes, sir.

20 Q And what is that?

21 A A text message I sent to him.

22 Q Okay. And how can you tell you sent it to him is
23 there a number on there?

24 A Yes, sir, because it says 2-1 and his number.

25 Q Okay. And what time did you send that text?

- 1 A 9:35.
- 2 Q That be at night?
- 3 A Yes, sir.
- 4 Q Okay. And the item underneath that do you recognize
- 5 that?
- 6 A Yes, sir.
- 7 Q What is that?
- 8 A A text message from him.
- 9 Q All right. It's one he sent you?
- 10 A Yes, sir.
- 11 Q Same phone number?
- 12 A Yes, sir.
- 13 Q And what time is that text message dated or stamped?
- 14 A Ten o'clock.
- 15 Q Ten o'clock?
- 16 A Yes, sir.
- 17 Q All right. I want to show you what's been marked as
- 18 State's Exhibit 7 for identification. Do you recognize
- 19 that one?
- 20 A Yes, sir.
- 21 Q And what is that?
- 22 A A text message I receive from his number.
- 23 Q All right. And what's the time on that one?
- 24 A 10:03.
- 25 Q Okay. Are these two items accurate representations

1 of the text messages that were sent to you that night?

2 A Yes, sir.

3 Q And are these actually photographs of your phone?

4 A Yes, sir.

5 Q All right.

6 MR. RICHARDSON: Your Honor, I'd ask for State's
7 Exhibit 6 and 7 to be entered into evidence at this time.

8 THE COURT: Any objections?

9 MR. ANDERSON: No, sir, Your Honor.

10 THE COURT: Six and seven into evidence without
11 objection.

12 (WHEREUPON, State's Exhibit No. 6 and 7 was
13 admitted into evidence.)

14 MR. RICHARDSON: Your Honor, if I may publish
15 these to the jury at this time.

16 THE COURT: Yes, sir.

17 (WHEREUPON, a pause in the proceedings.)

18 BY MR. RICHARDSON:

19 Q All right. Minor , so just to be clear, this first
20 text message it starts with I can't go ---

21 MR. ANDERSON: Your Honor, I'm going to object.
22 I think that's asked and answered. I also think it's
23 already into evidence.

24 THE COURT: It's into evidence, but if you're
25 going to ask a question from it, go ahead.

1 MR. RICHARDSON: Yes, sir, I was going to
2 clarify.

3 BY MR. RICHARDSON:

4 Q Minor , this top text message here that starts with I
5 can't that, I believe you testified that was a text
6 message from you to Mr. Davis?

7 A Yes, sir, that's correct.

8 Q And the other two are ones that he sent to you?

9 A Yes, sir.

10 Q All right. So, Minor , after you received those two
11 text messages around ten o'clock from Mr. Davis, what did
12 you do?

13 A I went outside.

14 Q All right. Where did you go when you went outside?

15 A Into the shed.

16 Q All right.. And what was going on in the shed when
17 you got there?

18 A I believe he was lifting weights.

19 Q All right. Was he in there by himself?

20 A Yes, sir.

21 Q And what did you do when you went in?

22 A I walked in and we just -- he pulled my pants down
23 and we got on top of the weight bench.

24 Q Did he say anything to you?

25 A I can't remember exactly what he said that night,

1 sir.

2 Q Okay. So you walked in do you recall kind of what
3 you were wearing?

4 A I had on some sweat pants and I think a tank top.

5 Q All right. And you mentioned a weight bench show you
6 State's 5 is that the weight bench?

7 A Yes, sir.

8 Q All right. So when you walked in there where is the
9 weight bench in relation to the door is it close to the
10 door?

11 A Yes, sir, it's right once you walk in to the left.

12 Q Okay. And so tell us what happened once you got to
13 the weight bench?

14 A He pull down my pants and then everything happen and
15 then eventually my aunt walked in.

16 Q All right. So did you -- you say your pants were
17 pulled down. How far down were they pulled?

18 A I can't remember, sir.

19 Q All right. With respect to the weight bench, were
20 you laying on it?

21 A Yes, sir.

22 Q Were you on your back on the weight bench?

23 A Yes, sir.

24 Q All right. And what was Mr. Davis wearing?

25 A I can't remember. I think it was like some sweat

1 shorts.

2 Q Like some kind of athletic shorts or something?

3 A Yes, sir.

4 Q All right. And do you recall if he took those off
5 completely?

6 A No, sir.

7 Q What did he do?

8 A He just pulled them down a little bit.

9 Q All right. And once he pulled them down, did he
10 expose his penis to you when he pulled them down?

11 A Yes, sir.

12 Q All right. And what did he do then?

13 A He penetrated me.

14 Q All right. And by that could you -- did he get on
15 top of you?

16 A No, sir.

17 Q How did it happen?

18 A My legs were over his shoulder.

19 Q Your legs were up over his shoulder?

20 A Yes, sir.

21 Q Okay. Now, your pants were down to an extent. Was
22 his head like underneath your pants?

23 A Yes, sir.

24 Q And about how long were you all having sex before
25 your aunt walked in?

1 A I can't remember, but it wasn't long.

2 Q Wasn't long?

3 A No, sir.

4 Q While y'all were doing this, did he actually

5 penetrate your vagina?

6 A Yes, sir.

7 Q Okay. So at some point while this is going on your

8 aunt walks in?

9 A Yes, sir.

10 Q Did you have any idea she was coming?

11 A No, sir.

12 Q All right. What happened when she walked in the

13 door?

14 A He jumped off of me.

15 Q What did you do?

16 A I got up.

17 Q All right. Do you recall if he said anything?

18 A Yes, sir.

19 Q What did he say?

20 A He said I already know I'm going to jail.

21 Q Do you recall anything else he said or that's it?

22 A That's it.

23 Q All right. And what did he do then?

24 A All I know him and my aunt were talking. They were

25 fussing.

1 Q Okay. Did he hang around for the rest of the night?

2 A No, sir.

3 Q So he left pretty soon after that?

4 A Yes, sir.

5 Q All right. And what did your aunt do?

6 A I believe she called my momma and she was already on
7 the phone with somebody I think.

8 Q All right. And at some point did everybody kind of
9 lose you in the shuffle and you stayed in the shed by
10 yourself?

11 A Yes, sir.

12 Q Is that when police were already there?

13 A Yes, sir.

14 Q All right. And what happened when you were sitting
15 in the shed by yourself?

16 A I cut myself.

17 Q You cut yourself?

18 A Yes, sir.

19 Q What did you do that with?

20 A A knife.

21 Q Was that something that was already in the shed?

22 A Yes, sir.

23 Q All right. Did you end up having to go to the
24 hospital that night?

25 A Yes, sir.

1 Q All right.

2 MR. RICHARDSON: Beg the Court's indulgence a
3 moment, Your Honor.

4 THE COURT: Yes, sir.

5 (WHEREUPON, a pause in the proceedings.)

6 BY MR. RICHARDSON:

7 Q Minor , at no time during any of this did Mr. Davis
8 like force himself on you or make you do this?

9 A No, sir.

10 Q All right. So you agreed to participate in it?

11 A Yes, sir.

12 Q But at the time on May 31st 2014, how old were you?

13 A Fifteen.

14 Q Okay. Do you know about how old he was?

15 A Yes, sir.

16 Q How old was he?

17 A Fifty-four.

18 Q Fifty-four?

19 A Yes, sir.

20 Q All right.

21 MR. RICHARDSON: All right. Minor , thank you.

22 Please answer any questions Mr. Anderson may have for you.

23 THE COURT: All right. Mr. Anderson.

24 CROSS-EXAMINATION

25

1 BY MR. ANDERSON:

2 Q Minor , if you don't mind, I'm going to stand over
3 here and that way I know that I can hear your answer and
4 certainly everyone else, the jury and people like that can
5 hear your answer. Is that all right with you?

6 A Yes, sir.

7 Q If I ever ask you a question that you do not
8 understand or if you would like for me to rephrase it,
9 just let me know all right?

10 A Yes, sir.

11 Q And, of course, if I ask you a question and right now
12 you're saying, yes, sir, I would appreciate it if you
13 would not nod your head or shake your head but just give
14 me a yes or a no?

15 A Yes, sir.

16 Q Minor , I believe you said you're in the 11th grade;
17 is that right?

18 A Yes, sir.

19 Q Where do you go to school?

20 A Mullins High School, sir.

21 Q Right now you're living with your aunt?

22 A Yes, sir.

23 Q Is she here in the courtroom with you?

24 A Yes, sir.

25 Q How long ago did you move in with her?

1 A About month.

2 Q About month ago?

3 A Yes, sir.

4 Q So if we're in November right now before Halloween
5 after Halloween?

6 A Before Halloween.

7 Q But sometime during the month of October?

8 A Yes, sir.

9 Q You indicated earlier that you know Lin in this case?

10 A Yes, sir.

11 Q And you met him if you can remember correctly, you
12 met him sometime in -- well about two years ago October of
13 2013?

14 A Yes, sir.

15 Q How big -- I know it's already evidence, but how big
16 do you think the trailer is according to State's Number 4
17 if you could just give me a rough estimate?

18 A Can I ask you a question?

19 Q Do you want me to clarify?

20 A Yes, please.

21 Q How much square footage does it have?

22 A I don't know nothing about no square feet, but I'm
23 good in like algebra and stuff, sir.

24 Q Okay. Is it bigger than this courtroom or smaller?

25 A Smaller.

1 Q Do you think it is bigger or smaller than this white
2 rail to you?

3 A Bigger.

4 Q Bigger than that. So if I came back maybe ten feet
5 from me to you about that big?

6 A I think it's a little bit bigger than that.

7 Q Is it as wide as the courtroom?

8 A No, sir.

9 Q Does it have two bays? When I say two bays, could
10 you pull two cars in there?

11 A Yeah, you could.

12 Q Do you know if there ever been cars in there?

13 A Yes, sir.

14 Q You said earlier that it had machinery in it?

15 A Yes, sir.

16 Q Did someone ever use to work on cars in there?

17 A Yes, sir.

18 Q And who was that?

19 A My aunt's husband, sir.

20 Q Has she had more than one husband or just the one?

21 A Well, I'm not sure she was married to him, but I feel
22 like that should be her husband, sir, being you want to
23 get all technical.

24 Q So the one that worked on the machinery was it her
25 husband or not her husband?

1 A It was somebody she was seeing, the father of her
2 kids.

3 Q I believe earlier you said there were two tools in
4 there. There was equipment in there and were there
5 weights in there?

6 A Yes, sir.

7 Q There was a weight bench in there?

8 A Yes, sir.

9 Q How big was the weight bench?

10 A Not that big, sir.

11 Q And I'm coming over here this side of the courtroom
12 where this officer is sitting. This is a wooden bench
13 would you agree with me?

14 A Yes, sir.

15 Q Is wider than this bench?

16 A No, sir.

17 Q Not as wide?

18 A Just exactly like it is and the length is the same,
19 sir.

20 Q Okay. So maybe 14, 15 inches wide would that be a
21 fair accurate description?

22 A Yes, sir.

23 Q Looking at the photograph, I think that's already
24 been introduced State's Exhibit Number 5 do you recognize
25 that?

1 A Yes, sir.

2 Q Is that the way it looked back in May of 2014?

3 A Yes, sir.

4 Q There's -- I think there's a light in that picture
5 like the door's open would that be fair to say?

6 A Yes, sir.

7 Q And I'm going to show you State's 4 and looks like
8 the door's propped open in State's 4?

9 A Yes, sir.

10 Q Is that the only door to get into the shed?

11 A That's the only door like that, sir, but you have a
12 door to use to park a car inside.

13 Q Right, I guess the two big doors?

14 A Yes, sir.

15 Q But as far as walking in and out of that door, is
16 that the door that you went in that night?

17 A Yes, sir.

18 Q And it appears from looking at State's 5 that the
19 weight bench is maybe eight, ten feet away from the door,
20 would that be accurate?

21 A You say what?

22 Q About eight to ten feet away when you walk in the
23 door?

24 A I guess, I mean it's just like right there beside the
25 door.

1 Q There appears to be a fan in front of it?

2 A Yes, sir.

3 Q Also on State's 4 you got part of a bench and then I
4 guess you got where the weights sit on it and then you got
5 a little short extension after that; is that right?

6 A Yes, sir.

7 Q Earlier I take it you said Mr. Davis, Lin, he didn't
8 have a key to the shop or the shed?

9 A No, sir.

10 Q But that he came over on a regular basis?

11 A Yes, sir.

12 Q Did he workout there a lot?

13 A Yes, sir.

14 Q How would you qualify a lot more than ten times, more
15 than 20 times?

16 A He came over like every night to workout, sir..

17 Q Would either you or your aunt unlock the door for
18 him?

19 A Yes, sir.

20 Q When did he start coming over and working out?

21 A Do you want an exact date?

22 Q Well, just -- you said you meet him in October of
23 2013?

24 A I can't remember exactly when he came over to lift
25 weights. All I know is he came to lift weights, sir.

1 Q Do you think it was after Christmas, so it would have
2 start of 2014 or before then?

3 A Say that again?

4 Q You met him in October of 2013, so we had Halloween,
5 then he had Thanksgiving, then we had Christmas and then
6 were into 2014. Do you think you started coming over in
7 2013 or do you think it was later in 2014?

8 A I believe it was later 2014.

9 Q Was it January, was it before Valentine's day or
10 after Valentine's day?

11 A Say that again?

12 Q Was it before Valentine's day or after Valentine's
13 day? Was it January, was it February?

14 A I don't know, sir.

15 Q You said you came over every day to workout?

16 A Yes, sir.

17 Q You said that sometimes you the open the door,
18 sometimes your aunt would open the door?

19 A Yes, sir.

20 Q How many times do you think you open the door?

21 A I don't know, sir.

22 Q Would you agree with me that there 31 days in
23 January?

24 A I don't know exactly how many days is in January,
25 sir.

1 Q Would you agree that there 28 days in February?

2 A What the months got to do why we in here?

3 Q You came over there every single day. I like to know
4 a number of how many times he came over?

5 A Maybe if you look at a calendar it'll tell you how
6 many days in a month.

7 MR. RICHARDSON: Your Honor, I object to the
8 relevance.

9 THE COURT: What is the relevance?

10 MR. ANDERSON: Your Honor, I like to know how
11 many times he came over there. I mean, did he come over
12 there 10 times or he come over there 150 times.

13 THE COURT: Go ahead and ask.

14 BY MR. ANDERSON:

15 Q You say you do not know how many times he came over?

16 A I didn't say how many times he came over and the day
17 of the month. I said how many days when he came over
18 during the week almost. He came over almost every day to
19 workout in the shed. I didn't say exact date or exact
20 day.

21 Q Okay. Your testimony is that he might have started
22 coming over just that week every single day to workout; is
23 that right?

24 A No, sir, it's not.

25 Q Do you think he came over more than 20 times to

1 workout?

2 A Yes, sir.

3 Q Do you think he came over more than 50?

4 A Yes, sir.

5 Q Think he came over more than 75?

6 A I didn't count how many times he showed up in the
7 yard, sir.

8 Q Did he ever come on the weekends to workout?

9 A Yes, sir.

10 Q You say you sent him a text I'm looking at State's
11 Exhibit Number 6 that night; is that right?

12 A Yes, sir.

13 Q I think the State asked you if you looked at the time
14 it was 9:35 p.m; is that right?

15 A Yes, sir.

16 Q It's just got to a number, it does not have a
17 contact; is that correct?

18 A When the message delivered, sir, it say the name of
19 the person that was in my contact and then when you opened
20 the message, it just say the number.

21 Q In that case, it doesn't ---

22 A But I remember his number by heart, sir.

23 Q But it doesn't have his name by it?

24 A No, sir, it don't.

25 Q Okay. Does it have anywhere on there that it was

1 your phone that sent it? I mean, it doesn't have your
2 name on any of the pictures, does it?

3 A I mean, if you want the phone for proof it's at the
4 trailer and I can go get it.

5 Q According to State's Number 6, his name is nowhere on
6 there and neither is yours as far as the text messages; is
7 that right?

8 A No, sir, it's not.

9 Q And State's Exhibit Number 7 his name is nowhere on
10 the contact and your name is not on there either as far as
11 the phone is concern?

12 A No, sir, it's not.

13 Q I believe your testimony is that after you got the
14 second text message you went outside; is that right?

15 A Yes, sir.

16 Q You went out to the shed and you walked in the shed,
17 he pulled your pants down?

18 A Yes, sir.

19 Q I believe you said that he didn't actually get on the
20 bench; is that right?

21 A Yes, sir.

22 Q That he put your legs on his shoulders?

23 A Yes, sir.

24 Q He had his head, I guess, between your two legs and
25 also between your gym shorts or sweat pants?

1 A Yes, sir.

2 MR. ANDERSON: Court indulgence for one moment
3 Your Honor.

4 BY MR. ANDERSON:

5 Q Do you remember giving statements in this case?

6 A Yes, sir, I do.

7 Q Do you remember giving it to one Sergeant Clemson
8 Legette with the Marion County sheriff's office?

9 A Yes, sir.

10 MR. ANDERSON: Your Honor, may I approach the
11 witness?

12 THE COURT: Sure.

13 BY MR. ANDERSON:

14 Q Does that appear to be a copy of the statement you
15 gave Officer Legette?

16 A Yes, sir.

17 Q Does that appear to be in your handwriting?

18 A Yes, sir.

19 Q And at the top of it, Minor , it says voluntary
20 statement and underneath that it says not under arrest; is
21 that right?

22 A Where?

23 Q The very top of it?

24 A Yes, sir.

25 Q Okay. And it says I, Minor , and it's got

1 Sergeant Clemson Legette's name; is that right?

2 A Yes, sir.

3 Q You say how old you are and where you live; is that
4 right?

5 A Yes, sir.

6 Q Now, I believe you give an eight line statement; is
7 that right?

8 A Yes, sir.

9 Q Is that your handwriting?

10 A Yes, sir.

11 Q And the bottom of it says this is at 12:10 a.m. on
12 June 1st 2014; is that right?

13 A Yes, sir.

14 Q So you would have given that statement maybe an hour
15 and a half, two hours after this incident supposedly
16 happened?

17 A Yes, sir.

18 Q Now, when you were talking with Officer Legette where
19 were you?

20 A I believe I was in the hospital, sir.

21 Q Who else was there with you nurse, doctor?

22 A Just the officer was in the room with me, sir.

23 Q Certainly, Mr. Lin Davis was not there, was he?

24 A No, sir, he wasn't.

25 Q Nobody forced you and threatened you and put any

1 pressure on you anything like that at that point in time;
2 is that right?

3 A Repeat that question.

4 Q Nobody was forcing you, pressuring you, making you do
5 anything you didn't want to, were they?

6 A No, sir.

7 Q Talk with Officer Legette, I guess, he told you he
8 wanted to write a statement out?

9 A Yes, sir.

10 Q Told you to take as much time as you wanted?

11 A Yes, sir.

12 Q Told you to write as much detail as you wanted?

13 A Yes, sir.

14 Q Is that right?

15 A Yes, sir.

16 Q And I believe I already ask you you wrote eight
17 lines?

18 A Yes, sir.

19 Q Nowhere in there did you say that he had your pants
20 and your legs over his shoulders, his head between your

21 ---

22 A No, sir, I don't, but I was also asked to write
23 another statement if you want to give me that statement
24 that's fine.

25 Q We will get to that in a second, Minor .

1 A Okay.

2 Q Is it anywhere in that?

3 A No, sir, it's not.

4 Q You gave this statement just you and the officer at
5 the hospital?

6 A Yes, sir.

7 MR. ANDERSON: Your Honor, may I approach the
8 witness?

9 THE COURT: Sure.

10 BY MR. ANDERSON:

11 Q You recognize that statement?

12 A Yes, sir, I do.

13 Q That also voluntary statement?

14 A Sir?

15 Q I said that's also a voluntary statement not under
16 arrest things like that at the top?

17 A Yes, sir.

18 Q And it appears this one was June the 4th; is that
19 correct?

20 A Yes, sir.

21 Q And this was like a page long would you agree with me
22 on that?

23 A Yes, sir.

24 Q More detail than that one?

25 A Yes, sir.

1 Q Tell me in that statement where you say that he put
2 your legs on his shoulders and put his head between your
3 two legs, where your gym pants would be on the back of his
4 head?

5 A You want exact line?

6 Q Yes, ma'am. You can just read it to me if you want
7 to?

8 A Line 21 -- line 20, 21 and 22.

9 Q Okay. What does line 20, 21 and 22 say?

10 A Do I actually have to read this?

11 Q Ma'am?

12 A Do I have to actually recite this?

13 Q I'm asking you if that's in there?

14 A Yes, sir, it is.

15 Q It's in there where his legs excuse me -- your legs
16 were on his shoulders and his head was between your legs,
17 that is in there?

18 A No, sir, but it is where he pulled my pants down,
19 sir.

20 Q Okay. So he pulled your pants down is in here but
21 not the other part?

22 A Yes, sir, but I do remember what happened that night.

23 Q And we are in November of 2015?

24 A Yes, sir.

25 Q And this would have been in May of 2014?

- 1 A Yes, sir.
- 2 Q You said your aunt called your mom and that Lin left
3 and a bunch of people came over; is that right?
- 4 A Yes, sir.
- 5 Q Your mom came over?
- 6 A Yes, sir.
- 7 Q Your aunt was there?
- 8 A Yes, sir.
- 9 Q I think some law enforcement officers came over?
- 10 A Yes, sir.
- 11 Q At some point in time your mom called you a name and
12 started hitting you, didn't she?
- 13 A Excuse me.
- 14 Q I said at some point in time your mom started calling
15 you names and hitting you, didn't she?
- 16 A She wasn't calling me names, but she was very upset
17 with what she had heard, sir.
- 18 Q So she never called you a derogatory name?
- 19 A Ever?
- 20 Q That night?
- 21 A No, sir.
- 22 Q Okay. The fact of the matter is you said you went
23 into, I guess, a shed and cut yourself?
- 24 A Yes, sir.
- 25 Q Isn't it true that you cut yourself over the problems

1 you and your mom were having?

2 A No, sir, it's not.

3 Q You did not tell a counselor that later?

4 A I can't remember and I don't think I told anybody
5 that later, sir.

6 MR. ANDERSON: Judge, that's all the questions I
7 have.

8 MR. RICHARDSON: No redirect, Judge.

9 THE COURT: You may step down.

10 (WHEREUPON, the witness leaves the witness
11 stand.)

12 THE COURT: Call your next witness.

13 MS. HUMMEL: Thank you, Your Honor. At this
14 time the State would call Christal Saldierna.

15 THE CLERK: Do you solemnly swear or affirm that
16 the evidence you're about to give to be the truth, the
17 whole truth and nothing but the truth so help you God?

18 THE WITNESS: Yes, ma'am.

19 THE CLERK: Have a seat in the witness box.

20 WHEREUPON,

21 Christal Saldierna,
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. HUMMEL:

25 Q Christal, what's your full name?

- 1 A Christal Irene Saldierna.
- 2 Q Christal, where do you live?
- 3 A in Mullins.
- 4 Q Okay. And on your property do you have a type of
- 5 shed or warehouse type of building?
- 6 A Yes, ma'am.
- 7 Q Okay. And what's in that shed?
- 8 A Tools, weight bench, punching bag.
- 9 Q Do you know the defendant in this case Mr. Davis?
- 10 A Yes, ma'am.
- 11 Q And how did you come to know him?
- 12 A He was a friend of my boyfriend's.
- 13 Q Okay. And about how long had you known him?
- 14 A Over six years.
- 15 Q Okay. And during that six year period was he kind of
- 16 close with your family the whole time?
- 17 A Yes, ma'am.
- 18 Q Okay. At some point did he come over to use that
- 19 weight bench in the shed on your property?
- 20 A Yes, ma'am.
- 21 Q Okay. Do you remember about when he started doing
- 22 that?
- 23 A It was right after my boyfriend passed.
- 24 Q Okay. Do you know about maybe what year that was?
- 25 A He passed October the 8th of 2013.

1 Q Okay. Would he -- did he have permission from
2 yourself to use that weight room?

3 A Yes, ma'am.

4 Q Okay. And how often do you know would he come and
5 use the weight room?

6 A Almost every day.

7 Q Do you remember what you were doing on the night of
8 May 31st last year 2014?

9 A I was laying down watching TV because I just got back
10 from Coastal hospital because I sprain my foot playing
11 tennis.

12 Q Okay. So you were just kind of resting, relaxing?

13 A Yeah.

14 Q Okay. What were you doing about ten o'clock that
15 night were you still in bed watching TV?

16 A Yeah.

17 Q At some point did you get up and leave the bed and go
18 do something?

19 A Yeah.

20 Q Okay. And where did you go?

21 A I went to go find her to get her in the house because
22 it was getting late.

23 Q Why did you go to find her?

24 A Because she wasn't in the house and it was getting
25 late.

- 1 Q Okay. Had she gone outside at some point?
- 2 A Yes, ma'am.
- 3 Q Do you know about what time that was?
- 4 A No, ma'am.
- 5 Q Okay. But you do know that she had gone outside?
- 6 A Yes, ma'am.
- 7 Q Okay. Do you know why she had gone outside?
- 8 A She was suppose to go lock up.
- 9 Q Okay. So she hadn't come back in yet?
- 10 A Yes, ma'am.
- 11 Q Okay. Do you remember about what time you went
- 12 outside?
- 13 A It was a little after ten.
- 14 Q Okay. So did you go to the weight room or the shed?
- 15 A Yeah, where the door is.
- 16 Q Okay. And once you got to the door was it closed or
- 17 open?
- 18 A It was open.
- 19 Q Okay. When you got to the opening, the threshold
- 20 what did you see?
- 21 A I see Minor laying on a bench holding bars. Lin was
- 22 straddling the bench. And I couldn't see the back of his
- 23 shorts down, but he was humping her.
- 24 Q Okay. You said he was wearing shorts?
- 25 A Yeah, like boxer shorts, like you go boxing.

1 Q Like athletic type of shorts?

2 A Yeah.

3 Q Do you know what Minor was wearing?

4 A Sweat pants. I can't remember what shirt she was
5 wearing.

6 Q And what were -- what was the state of her clothing
7 at that time?

8 A To her ankles.

9 Q Okay. And you say she was laying on the weight bench
10 where were her legs positioned?

11 A On his shoulders.

12 Q You said that he was humping her?

13 A Uh-huh.

14 Q Could you tell from the angle that you were at if he
15 actually penetrated her?

16 A No, ma'am, I couldn't see the front of him.

17 Q Okay. But you could tell about what he was doing?

18 A Yes, ma'am.

19 Q Okay. When you walked in what was the lighting like
20 in the shed?

21 A I got shop lights. It was bright.

22 Q So brighter than these lights in this courtroom here?

23 A Yeah.

24 Q So more like the -- what we call like the iridescent
25 type?

1 A It's long shop lights.

2 Q Okay. So it was very bright you could see what was
3 going on?

4 A Yes, ma'am.

5 Q Did you walk into the shed?

6 A Yes, ma'am.

7 Q And when you walked in what happened next?

8 A I told him to get the fuck off my niece.

9 Q Okay. And what happened after that?

10 A He jumped off of her.

11 Q All right. Do you remember if he said anything at
12 any point?

13 A That he didn't penetrate her.

14 Q Okay. Did he say anything else?

15 A No, ma'am, it was too much arguing.

16 Q Okay. But he immediately jumped off of her?

17 A Yes, ma'am.

18 Q After he jumped off of her, what did you do after he
19 had told you those things?

20 A She got up, pulled her pants up and he was wanting to
21 go.

22 Q What did you do next?

23 A They didn't want me to call her mother.

24 Q Did you call her mother?

25 A Yes.

1 Q Okay. And what else did you do?

2 A I called a friend of mine that works with the fire
3 department.

4 Q Okay. Was there anybody else that you called before
5 somebody arrived at your house?

6 A No, ma'am.

7 Q Okay. Do you know what time proximately someone
8 came?

9 A Tim came first and he caught him down the road.

10 Q Okay. Do you speak with any law enforcement in this
11 case?

12 A I took statements.

13 Q Okay. Do you remember who you spoke to when you gave
14 a statement?

15 A Samantha was one and there was somebody else at the
16 time.

17 Q Okay. You can't remember?

18 A I can't remember.

19 Q Do you know about what time it was that law
20 enforcement arrived?

21 A It was a little after ten.

22 Q Okay. Not very long after you had just walked in the
23 building and made a phone call?

24 A Yes, ma'am.

25 Q Was it you that called law enforcement or was it

1 somebody else?

2 A I think I was and then my sister's calling too.

3 Q Okay. So you both called?

4 A Yes, ma'am.

5 Q Was there anything -- anybody else that you can
6 remember that you talked to besides the Samantha and the
7 other officer that you gave a statement to?

8 A His wife she had come up there and I was explaining
9 to her.

10 Q Okay. How did she come?

11 A My sister called her.

12 Q Okay. Do you remember about when she came to the
13 house?

14 A It was a little after ten, the cops and stuff was
15 already there.

16 Q Okay. Was there anybody else that showed up?

17 A Her dad, her momma.

18 Q Just to get some more clarification on how close the
19 weight bench was to the way you were standing, you know,
20 at the threshold of the shed. Can you may be tell us
21 about how close it was to you?

22 A If I walked back out of this, the weight bench is
23 right here.

24 Q Right here at the end of this?

25 A If I like walk in the door, the building door.

1 Q Okay. So you're standing at the door, the weight
2 bench in front of you about right here at the end of this
3 -- at the bench right here?

4 A Yes, ma'am.

5 Q Okay. So it's about, I guess, maybe seven or eight
6 feet approximately?

7 A Yes, ma'am.

8 Q Okay.

9 MS. HUMMEL: Beg the Court's indulgence one
10 moment, Your Honor.

11 BY MS. HUMMEL:

12 Q Now, I'm going to show you what's already been marked
13 as State's Exhibits 4 and 5?

14 MS. HUMMEL: May I approach the witness, Your
15 Honor?

16 THE COURT: Sure.

17 BY MS. HUMMEL:

18 Q Let me hand those to you and you tell me if you
19 recognize those?

20 A Yes, ma'am.

21 Q Okay. And what with are those?

22 A That's my shop and inside.

23 Q Okay. Photos of the weight room and everything?

24 A Yes, ma'am.

25 Q Okay. And is that fair and accurate kind of

1 depiction of what the weight room looks like when you saw
2 it that night?

3 A Yes, ma'am.

4 Q Okay. And on State's Exhibit 5 where it shows this
5 weight bench right here is that where you saw the victim
6 and Mr. Davis?

7 A Yes, ma'am.

8 Q Okay. Do you know what direction she was laying on
9 the bench?

10 A Her head was under the bar. She was holding the bar
11 and her legs were up on his shoulder and he was standing
12 up straddling it.

13 Q Okay. So her body was going this direction with her
14 head on this side?

15 A Yeah, her head was under the bar.

16 Q Okay. And he was standing somewhere right there?

17 A Yeah.

18 Q Now, do you have any reason to know why the
19 defendant, Mr. Davis, would know how hold old Minor ?

20 A Yes, because he comes around all the time. He's been
21 to her birthday party and stuff of hers.

22 Q Okay. Was he at her 15-year-old birthday party when
23 she turned 15?

24 A Yes, ma'am.

25 Q Okay. And she had a cake and everything?

1 A Yes, ma'am.

2 Q Do you remember if it said her age or anything?

3 A Yes, ma'am.

4 Q Okay. What did it say?

5 A Happy birthday Minor 15.

6 MS. HUMMEL: Thank you, Your Honor. No further
7 questions at this time.

8 THE COURT: Mr. Anderson.

9 MR. ANDERSON: Beg the Court's indulgence for
10 one moment, Your Honor.

11 (WHEREUPON, a pause in the proceedings.)

12 CROSS-EXAMINATION

13 BY MR. ANDERSON:

14 Q A lot of people came over there that night, didn't
15 they?

16 A Yes, sir.

17 Q I think you said earlier Tim came over?

18 A Yes, sir.

19 Q How many children do you have?

20 A Two.

21 Q Does Minor have any stepbrothers?

22 A She's got a stepbrother and a stepsister. She's got
23 two brothers.

24 Q Two stepbrothers or two brothers?

25 A She's got two brothers, a step brother and a step

1 sister.

2 Q How old are her two brothers?

3 A The baby is 14 now and the oldest one is 20.

4 Q They came over that night also, didn't they?

5 A I don't know.

6 Q Her mother came over there that night?

7 A Yes, sir.

8 Q Didn't her mother strike her several times?

9 A I don't know because I didn't stay outside long.

10 Q I'm sorry.

11 A I said I don't know because I didn't stay outside
12 long. The cops wanted me to go in the house.

13 Q I think you said you had surgery or something on your
14 foot?

15 A I had a sprain my foot and I had went to the
16 emergency room playing tennis.

17 Q Are you working anywhere?

18 A No, sir.

19 Q Were you working anywhere at the time?

20 A No, sir.

21 Q Are you disabled?

22 A No, sir.

23 Q I believe you said you known Lin for about six years?

24 A A little over six years.

25 Q And that he's come over a lot and use the weights?

1 A Yes, sir, he was a friend of mine and my boyfriend's.

2 Q And I believe you testified earlier or maybe you
3 didn't but maybe Minor . Did you have children?

4 A Yes.

5 Q How many children do you have?

6 A Two.

7 Q How old are they?

8 A My son is six and my daughter is three.

9 MR. ANDERSON: Court's indulgence for a moment,
10 Your Honor.

11 (WHEREUPON, a pause in the proceedings.)

12 BY MR. ANDERSON:

13 Q You said that you went outside been approximately ten
14 o'clock?

15 A A little after, yes.

16 Q And that, of course, was on May 31st?

17 A Yes, sir.

18 Q May 31st 2014?

19 A Yes, sir.

20 Q You said you went up there because it was getting
21 late. You have any idea what time Minor gone outside?

22 A No, sir.

23 Q How did you know that she'd gone outside?

24 A I heard the front door open.

25 Q Now, you said you have a three year old and a six

1 year old. Do they sometimes go in and out?

2 A Yes, sir, but not at night. My other niece was
3 there.

4 Q I believe you said you walked out to the shed or
5 actually this night, I guess, you might have hopped out,
6 limped out?

7 A Yes.

8 Q And if you look at State's Number 4 I believe you
9 said that that's what your shed looks like?

10 A Yes, sir.

11 Q Now, are there any outside lights on the shed?

12 A No, sir, there's a night light on this side and a
13 night light on the other side.

14 Q Let me stop you right there, when you say this side,
15 can you show me and the jury what you talking about?

16 A There's a night light that lights up the front.

17 Q And that's right by the door?

18 A It's on the opposite side of the building.

19 Q All right.

20 A But it lights up the whole front.

21 Q Okay.

22 A And down on the other side there's not lights. It's
23 on this side of the house.

24 Q All right. So there's no light, I guess, where the
25 door is that you walk in and out of the light is on the

1 other side?

2 A Yeah.

3 Q And State's Exhibit Number's 5 it looks like there is
4 some brighter light on the floor would you agree with me
5 with that?

6 A Yes, sir.

7 Q Is that probably where the sunlight is shining in
8 through the door on State's Exhibit 4?

9 A Yes, sir.

10 Q And right there soon as you walk in the door it looks
11 like there's an oscillating fan is that -- would that be
12 correct?

13 A Yes, sir.

14 Q How tall do you think that fan is?

15 A Probably about the same height I am.

16 Q And it is between the door and the weight bench; is
17 that right?

18 A Yes, sir.

19 Q Now, you said earlier on, I guess, on direct that the
20 weight bench was maybe from me to you?

21 A Uh-huh.

22 Q Is that a yes?

23 A Yes, sir.

24 Q And just for the court's record you and I might be
25 six feet apart, seven feet apart something like that?

1 A Yes, sir.

2 Q I believe you said earlier Minor on the bench holding
3 the bar and that Lin was humping her?

4 A Yes, sir.

5 Q Did Minor have on sweat pants, but you think they
6 were down by her ankles?

7 A Yes, sir.

8 Q And then you told him ---

9 A To get the fuck off of her.

10 Q All right. She pulled up her pants, he left. I
11 believe you called Tim and then may be her mom?

12 A Uh-huh, yes, sir.

13 Q You said -- I think you given a couple statements,
14 but you said you could not tell if he was actually
15 penetrating her or not?

16 A No, sir.

17 Q Okay. When you walk in the door, and you said the
18 door was open, when you walk in the door, you're probably
19 six or seven feet away; is that right?

20 A Yes, sir.

21 Q But you could not tell if he was penetrating her?

22 A No, sir, because the back of his pants wasn't down.
23 I couldn't tell his stuff was out in the front.

24 Q Of course, you had a good look at him after this
25 supposedly happened. I think he said he talked to you?

1 A Yeah, we were fussing, arguing.

2 MR. ANDERSON: Judge, that's all the questions I
3 have.

4 THE COURT: Any redirect?

5 MR. RICHARDSON: None, Your Honor.

6 THE COURT: You may step down.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: We'll take a 15 minute break and
10 then come back. Members of the jury, if you would step
11 into the jury room. Do not discuss the case, just take a
12 break and we'll be back in 15 minutes.

13 (WHEREUPON, the jury retire to the jury room.)

14 THE COURT: We'll take a 15 minute break.

15 (WHEREUPON, a break was taken.)

16 THE COURT: Go ahead and bring out the jury.

17 (WHEREUPON, the jury came into open court.)

18 THE COURT: Go ahead and call your next witness.

19 MS. HUMMEL: Thank you, Your Honor. The State
20 would call James Powell to the stand.

21 THE CLERK: Do you solemnly swear or affirm to
22 tell the truth, the whole truth and nothing but the truth
23 so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Thank you, have a seat.

1 WHEREUPON,

2 James Powell,

3 after first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. HUMMEL:

6 Q Mr. Powell, your full name?

7 A James Powell.

8 Q Where do you currently work?

9 A SME Engineering testing firm in Florence.

10 Q Where did you work before that?

11 A Marion County sheriff's office.

12 Q How long did you work for the sheriff's office?

13 A About four years.

14 Q Were you working there on the night of May the 31st
15 of 2014?

16 A Yes, ma'am.

17 Q Okay. And what was your, I guess, title or position?

18 A I was a corporal on road patrol.

19 Q Okay. And did you receive a call from dispatch about
20 responding to a location that night?

21 A Yes, ma'am.

22 Q Do you remember what time dispatch called you?

23 A It was around 10:20, 10:24.

24 Q Did you know what that call was in reference to?

25 A Reference to a possible rape.

1 Q Okay. And do you know what the location was?

2 A It was on Road I believe I'm not sure the
3 exact numerics.

4 Q All right. Do you know if that was located in Marion
5 County?

6 A Yes, ma'am, it was.

7 Q Okay. Now, do you know what time approximately you
8 responded to that location?

9 A I believe I got there around 1040.

10 Q Okay. What did you do first once you got there?

11 A I spoke with the complainant which was the mother to
12 the victim briefly and she told me what was going on.

13 MR. ANDERSON: Objection, Your Honor, to any
14 hearsay.

15 THE COURT: Sustain.

16 BY MS. HUMMEL:

17 Q Without telling me exactly what she told you, you
18 spoke with the mother?

19 A And then I went into the shop and spoke with the --
20 with Minor.

21 Q And what did you observe when you went in and spoke
22 to Minor ?

23 A Minor was sitting on a weight bench and has
24 laceration -- one or two lacerations on her arms.

25 Q And did you go in there basically -- basically to

1 like check on her and see if she's okay?

2 A Yes, ma'am.

3 Q All right. And did you talk with her?

4 A Yes, ma'am.

5 Q All right. Do you know if you call EMS or if they
6 were already on the way?

7 A I can't recall.

8 Q Okay. But once you saw her, you made sure they were
9 called?

10 A Yes, ma'am.

11 Q Okay. Did you talk to anyone else after you talk to
12 Minor ?

13 A I spoke back with her mother briefly.

14 Q Okay. Do you know if you took any statements that
15 night?

16 A I did not.

17 Q Okay. Do you remember who all was there when you
18 responded to the scene?

19 A I know there was several family members her mother,
20 her aunt. I think a cousin or two and maybe some uncles.
21 There were several people at the residence.

22 Q Okay. Once you talk with the mother and Minor
23 what else did you do?

24 A I contacted the -- my sergeant and the on-call
25 detective.

1 Q Okay. And was that all the involvement you had or
2 did you do something else?

3 A That's about all I did.

4 MS. HUMMEL: Okay. Beg the Court's indulgence
5 one moment, Your Honor. Nothing further at this time.

6 THE COURT: Mr. Anderson.

7 CROSS-EXAMINATION

8 BY MR. ANDERSON:

9 Q You're no longer Corporal Powell at this point in
10 time?

11 A No, sir.

12 Q Some days I'm sure you're glad of that. You prepared
13 a report in this case, an incident report?

14 A Yes, sir.

15 Q I believe you got a copy of that with you?

16 A Yes, sir.

17 Q Approximately two pages long?

18 A Yes, sir.

19 Q A lot of notations there about what you did and what
20 you observed things like that; is that right?

21 A Yes, sir.

22 Q One thing you note on there is that EMS came and
23 transported the young lady in this case?

24 A Yes, sir, I believe so to the emergency room. Yes,
25 sir.

1 Q And also I guess the young lady went to the Marion
2 County hospital; is that right?

3 A Yes, sir.

4 Q When I say young lady I'm talking about Minor ?

5 A Yes, sir.

6 Q When you went in there and saw that she had a couple
7 small lacerations to her arms, did you ask her, hey, why
8 did you do that?

9 A I don't recall asking her that exact question, no,
10 sir.

11 Q If she'd given you an answer, you think you'd put
12 that in your report?

13 A Yes, sir.

14 Q Is there anything in your report concerning the
15 lacerations as to what she may have said to you or what
16 you may have asked her?

17 A No, sir.

18 Q I believe you said there were several family members
19 there her mom, aunt, several cousins; is that right?

20 A To the best of my knowledge, yes, sir.

21 Q And, of course, EMS was on the scene?

22 A Yes, sir.

23 Q I believe a statement was taken from an EMS worker by
24 Detective Watson and by Sergeant Legette; is that right?

25 A I'm not aware of a statement being taken from them.

1 I wasn't there for the statement.

2 Q Second page of your report do you note that in your
3 report?

4 A Yes, sir.

5 Q One statement from the EMS worker?

6 A Yes, sir, that's Sergeant Legette inform me of that,
7 that's why I put it in my report.

8 Q Do you recall a Tim from the fire department being
9 there?

10 A Yes, sir.

11 Q And you say that her mom was there. You spoke with
12 her mom?

13 A Yes, sir.

14 Q What about her dad do you remember if her natural
15 father was there?

16 A I'm not sure. I don't recall.

17 MR. ANDERSON: Judge, that's all the questions I
18 have.

19 THE COURT: Redirect?

20 MS. HUMMEL: No, Your Honor.

21 THE COURT: You may step down. Call your next
22 witness.

23 (WHEREUPON, the witness leaves the witness
24 stand.)

25 THE CLERK: Do you swear to tell the truth, the

1 whole truth, and nothing but the truth so help you God?

2 THE WITNESS: I do.

3 WHEREUPON,

4 Samantha Jackson,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. RICHARDSON:

8 Q Investigator Jackson, do you work with the Marion
9 County sheriff's office?

10 A Yes, I do.

11 Q How long have you been employed there?

12 A Five years.

13 Q And how long have you been an investigator?

14 A A little over two.

15 Q All right. What were your job duties before you
16 became an investigator?

17 A I helped out on patrol, answered calls and also I was
18 considered a victims' advocate whenever victims would
19 go -- had court dates I would go sit with them as far as
20 support in the courtroom.

21 Q Okay. Few years back you were promoted to
22 investigator?

23 A Yes, I was.

24 Q All right. And do you investigate whatever comes in
25 the door or do you investigate particular types of crimes?

1 A I investigate specific crimes.

2 Q All right. What types of crimes do you specifically
3 handle?

4 A I investigate sex crimes, domestic violence, child
5 abuse and elder abuse.

6 Q Have you been in that role investigating those
7 specific crimes since the beginning of your tenure as an
8 investigator?

9 A Yes, I have.

10 Q All right. And back in May of 2014 you were -- you
11 been investigating these cases, these kinds of cases for a
12 year or so at that point close to it?

13 A Yes, sir.

14 Q All right. And you were the lead investigator on
15 this case here, correct?

16 A Yes, sir, I was.

17 Q All right. Could you please tell us how this case
18 came to you and what you did in response?

19 A Whenever a case comes in, our captain will assign
20 cases to the different investigators and this was one of
21 the cases that she assigned me that week.

22 Q Okay. So when you got the case, can you tell us when
23 you received it, when you started working on it?

24 A Give me just a second. The report was done on
25 May 31st. I was assign the case on June 2nd.

1 Q All right. So a little over 24 hours later ---

2 A Yes, sir.

3 Q --- incident took place. It was almost June the 1st
4 late hours May 31st?

5 A Yes, sir.

6 Q All right. And when you first got the case what did
7 you do, what was your first step?

8 A When I first got the case, I secured warrants on
9 Mr. Davis for criminal sexual conduct with a minor in the
10 second degree.

11 Q Okay. At that point had you reviewed the responding
12 officer's incident reports and any statements that were
13 taken that night?

14 A Yes, sir, I had.

15 Q All right. And based on the information you received
16 from statements taken that night incident reports and what
17 have you, you went ahead and got the warrants with the
18 charges we're here about today?

19 A Yes, sir, I did.

20 Q All right. And did you pick up Mr. Davis on those
21 warrants?

22 A Yes, sir, I did.

23 Q What day was that that you pick him up?

24 A June 2nd after lunch.

25 Q Okay. And did you yourself arrest him?

1 A I had assistance from another detective Detective
2 Bell.

3 Q Okay. So the two of you all went and did it?

4 A Yes, sir.

5 Q All right. When you got Mr. Davis, where did you
6 take him?

7 A We took him to the Marion County sheriff's office on
8 76.

9 Q Okay. And at that point in time since he was in
10 custody, did you give him what we know his Miranda
11 warnings?

12 A Yes, sir, I did.

13 Q I want to show you State's Exhibit Number 1 if you
14 can take a look at that. Do you recognize that?

15 A Yes, sir, I do.

16 Q And what is it?

17 A This is our standard Marion County sheriff's office
18 Miranda warnings sheet that we do for every case.

19 Q All right. And is this one in particular the one you
20 used for Lindell Davis?

21 A Yes, sir, it is.

22 MR. RICHARDSON: Your Honor, I ask for State's
23 1 to be entered into evidence?

24 MR. ANDERSON: No objection, Your Honor.

25 THE COURT: Number one into evidence without

1 objection.

2 MR. RICHARDSON: Thank you, Your Honor.

3 (WHEREUPON, State's Exhibit No. 1 was admitted
4 into evidence.)

5 BY MR. RICHARDSON:

6 Q All right. Investigator Jackson, could you -- I know
7 we all watched Law & Order and heard our right to remain
8 silent and all that kind of stuff, but it's a real thing;
9 is that correct?

10 A Yes, sir.

11 Q All right. Could you please read what that form
12 advises people of?

13 A At the top, it states that it's Marion County
14 sheriff's office. And then it state's the sheriff's name
15 Mark Richardson and then it says Miranda warnings. And
16 then it has a place where you put the case number, which
17 in this case I put the specific case number location where
18 you're doing the interview which was Marion County
19 sheriff's office on 76. The date June 2nd, 2014. At the
20 time this form was started it was 2:34 p.m. Then it goes
21 on to explain the rights which are the Constitution of the
22 United States requires me to inform you that you have the
23 right to remain silent. And then the person who's being
24 read their rights they have to put a mark indicating that
25 they understand each line. So in this case for the first

1 line, he put a mark. Second line is anything you can and
2 say will be used against you in a court of law. He put a
3 mark stating that he understood that part. You have the
4 right to speak with an attorney and have him or her
5 present with you while you're being questioned. He
6 indicated he understood that underline. If you cannot
7 afford to hire an attorney, one will be appointed to
8 represent you before any questioning if you wish. He
9 indicated he understood that. You can decide at any time
10 to exercise these rights and not answer any questions or
11 make any statements, again indicate that he understood.
12 Next line is do you understand each of these rights if I
13 have explain them to you. You have a section for yes and
14 a section for no. He indicated, yes, he understood.
15 Having these rights in mind, do you wish to talk to us
16 now. Again, you have a section for yes and a section for
17 no. He indicated yes. Then under that you have a section
18 for the name of the person who are being read their
19 rights, a place for address, their city and state. They
20 fill that out. Once they filled that out, you then have a
21 section that says waiver of rights, which states I have
22 read this statement of my rights. I understand what my
23 rights are. I am willing to make a statement and answer
24 questions. I do not want an attorney at this time. I
25 understand and know what I am doing. No promises or

1 threats have been made to me and no pressure of any kind
2 has been used against me by anyone in exchange for my
3 statement. Then the person who has been read their
4 Miranda rights they'll sign their signature and then put a
5 time at the bottom. In this case, it was 2:37 p.m. and
6 then myself and Detective Bell witness.

7 Q Okay. So at the time this form was presented to
8 Mr. Davis, it was you and Detective Bell and Mr. Davis in
9 what location?

10 A At that point in time myself, Detective Bell shared
11 an office at the Marion County sheriff's office. And we
12 did most of our interviews in our office. In this case,
13 it was in our office.

14 Q Okay. And as you indicated, you gave Mr. Davis or he
15 indicated on this sheet that he understood the rights as
16 to speaking to you all. He signed that and you witnessed
17 it?

18 A Yes, sir, I did.

19 Q All right. This was kind of mid afternoon around
20 2:30 somewhere 2:37 I think when the signature, when he
21 signed it. Did he appear to be under the influence of any
22 substance alcohol, drugs what have you or anything that
23 would have prevented him from understanding what he was
24 doing there with you all?

25 A No, sir.

1 Q About how long did the questioning last?

2 A I say approximately an hour.

3 Q At any point in time did he request a bathroom break
4 or food or water or anything of that nature?

5 A No, sir, he did not.

6 Q At any point in time did he request that the
7 interview stop and that he get a lawyer?

8 A No, sir, he did not.

9 Q So based on the circumstances present you all sitting
10 in your office, did he appear to voluntarily give you a
11 statement?

12 A Yes, sir, he did.

13 Q And in this particular case, did you ask him to write
14 a statement?

15 A Yes, sir, I did.

16 Q Do you recall if he wrote a statement first and then
17 you talk him about it or how did it -- did he give a
18 verbal statement as well?

19 A He gave a verbal statement and then we got him to
20 write it out.

21 Q Okay. So he talk you first and then you just ask him
22 to reduce it to writing?

23 A Yes, sir.

24 Q Okay. With respect to the verbal statement, did you
25 ask him -- what did you ask him or what did he say about

1 being present at the aunt's house that night or at the
2 shed?

3 A He said that he was at the aunt's house and that he
4 was there to lift weights.

5 Q Okay. And did you ask him what his phone number was?

6 A Yes, sir, I did.

7 Q And what was his response?

8 A Let me find it, I was informed by Mr. Davis that his
9 number

10 Q Is that an number?

11 A Yes, it is.

12 Q So ?

13 A Yes, sir.

14 Q All right. And did you ask him that kind of at the
15 beginning?

16 A Yes, sir, we did.

17 Q Okay. Did you then -- what did you do then with
18 respect to these text messages already in evidence?

19 A I question Mr. Davis after receiving his cell phone
20 number about some text messages that were sent to the
21 juvenile victim on May 31st 2014.

22 Q And what was his response?

23 A Mr. Davis response was that he did not send any text
24 messages because he did not have his phone at that time.

25 Q Did he -- what did he say about where his phone was?

1 A Mr. Davis advised that a homeless man had his phone.

2 Q Did he tell you right then what that person's name
3 was?

4 A Phillip.

5 Q Did you at some point during the questioning ask him
6 if you could take a look at his phone?

7 A Yes, sir, I did.

8 Q And did you all have a consent to search form that
9 you use in circumstances like that if somebody does agree?

10 A Yes, sir, we have a standard consent to search.

11 Q I want to show you what's been marked State's Number
12 2 for identification you recognize that?

13 A Yes, sir, I do.

14 Q What is it?

15 A This is a Marion County sheriff's office voluntary
16 consent to search.

17 Q All right. What were you trying to search there?

18 A A Samsung Galaxy S2 cell phone.

19 Q Does that cell phone belong to Mr. Davis?

20 A Yes, sir, it was.

21 Q He have it on him then?

22 A Yes, sir, he did.

23 Q And could you tell us ---

24 MR. RICHARDSON: Your Honor, I move State's
25 Exhibit 2 into evidence.

1 THE COURT: Any objection?

2 MR. ANDERSON: No, sir, Your Honor.

3 THE COURT: State's Exhibit 2 into evidence
4 without objection.

5 (WHEREUPON, State's Exhibit No. 2 was admitted
6 into evidence.)

7 BY MR. RICHARDSON:

8 Q So did you advise Mr. Davis that you would like to
9 look at his phone?

10 A Yes, sir, I did.

11 Q And you presented this form to him?

12 A Yes, sir.

13 Q Did he sign it giving you consent to look at it?

14 A Yes, sir, he did?

15 Q Okay. Did you find any text messages on there?

16 A No, sir.

17 Q Did you look through the photographs?

18 A Yes, sir, I did.

19 Q I show you State's 8 do you recognize that?

20 A Yes, sir, I do.

21 Q And what is it?

22 A It is two different pictures of the juvenile victim.

23 Q Okay. Located on -- a photograph of the victim, but
24 what's the photograph of the victim on?

25 A The picture is of Mr. Davis' phone with a picture of

1 the victim Minor.

2 Q All right.

3 MR. RICHARDSON: Your Honor, that's State's 8 to
4 be placed into evidence.

5 THE COURT: Any objection?

6 MR. ANDERSON: No, sir, Your Honor.

7 THE COURT: Number 8 into evidence without
8 objection.

9 (WHEREUPON, State's Exhibit No. 8 was admitted
10 into evidence.)

11 BY MR. RICHARDSON:

12 Q All right. So did you ask Mr. Davis of his account
13 of what took place in the shed that night?

14 A Yes, sir, I did.

15 Q And what was his response?

16 A Mr. Davis advised that he was there to lift weights
17 and then Minor came outside to lock up and she tried
18 to initiate sexual contact.

19 Q Okay. And did he get any more specifics then that?

20 A Excuse me just a second. Can I read from my notes?

21 Q Well, if you take a look at them if they refresh your
22 recollection.

23 A Mr. Davis advise that when Miss Davis (sic) came in
24 the door. She spooked him because she came up behind him.
25 And he was still on the weight bench working out and that

1 he felt the bench go down. And when he turned around,
2 Minor was sitting on the weight bench behind him with
3 her pants pulled down and her legs open.

4 Q Okay. Did he mention about Aunt Christal coming in?

5 A Yes, sir, he did.

6 Q And what was his account of that?

7 A Give me just a second. Mr. Davis advised that
8 Ms. Christal came in and she yelled, no, and he stood up
9 and said he didn't do anything.

10 Q All right. And is there anything else about his
11 verbal statement anything that we not covered that he said
12 to you?

13 A We asked -- I asked Mr. Davis how long Minor had
14 been in the barn before her aunt came in and he said
15 approximately ten minutes.

16 Q Okay. After you talked with Mr. Davis, you mention
17 earlier you ask him to reduce the statement to writing?

18 A Yes, sir, I did.

19 Q All right. Show you State's Exhibit Number 3. Do
20 you recognize that?

21 A Yes, sir, I do.

22 Q And what is that?

23 A This is Mr. Davis' statement.

24 Q When is it dated?

25 A June 2nd.

1 Q So it took place same time frame we're talking about
2 as far as you and Detective Bell meeting with him?

3 A Yes, sir, it did.

4 Q All right.

5 MR. RICHARDSON: Your Honor, if I could move
6 State's Exhibit 3 into evidence.

7 THE COURT: Any objections?

8 MR. ANDERSON: No, sir, Your Honor.

9 THE COURT: State's 3 into evidence without
10 objection.

11 (WHEREUPON, State's Exhibit No. 3 was admitted
12 into evidence.)

13 BY MR. RICHARDSON:

14 Q Investigator Jackson, to the best of your ability
15 given your penmanship or what have you, could you please
16 read what that statement says?

17 A Verbatim?

18 Q Yes, ma'am.

19 A Mr. Davis statement advises that when went out to --
20 went out there Christal called me in the room to look at
21 her foot. I told her it's big. Then I said let me use
22 the barn to lift some weights. So Claudia, Kendall,
23 Shrimp and Shrimp unlock the door. I started my workout.
24 I did six set of 25 sets chest ups, 12 sets of rep. In my
25 last set, Minor walked in scared me. I had my back turn

1 to her. I was sitting on the end of the bench. Then I
2 felt the bench move when turned around. I did not see but
3 skin. I said, oh, no, you not going to get me in trouble.
4 So I was getting up and turned to walk off and Christal
5 walked in the door and I was standing up. She was lying
6 on the bench with her clothes down. I never done nothing
7 like that in my life.

8 Q Thank you. So after you spoke with Mr. Davis, did
9 you have an opportunity to go out and visit the scene and
10 speak with the victim and her aunt?

11 A Yes, sir, I did.

12 Q All right. And State's 4 and 5 already in evidence,
13 did you take these photos?

14 A Yes, sir, I did.

15 Q All right. It's obviously daylight at least in
16 State's Exhibit 4 you took them at the same time?

17 A Yes, sir, I did.

18 Q All right. Were the lights that we've heard
19 described inside the shed on when you took the photos?

20 A No, sir, they were not.

21 Q So lights were off. So the light in the pictures
22 just from sunlight coming in the door?

23 A Yes, sir, it is.

24 Q You spoke with Minor as part of your investigation?

25 A Yes, sir, I did.

1 Q And did she disclose ---

2 MR. ANDERSON: Objection, Your Honor. I think
3 that's already been asked and answered. She testified. I
4 think it's repetitive. I think it's cumulative.

5 THE COURT: What's the rest of your question?

6 MR. RICHARDSON: Time and place exception,
7 Judge.

8 THE COURT: Overruled.

9 BY MR. RICHARDSON:

10 Q Investigator Jackson, did Minor disclose to you about
11 the sexual penetration in the shed?

12 A Yes, sir, she did.

13 Q And did she mention the time or when it took place?

14 A Yes, sir, she did.

15 Q All right. And what date and around about what time
16 she say it took place?

17 A May 31st 2014 -- approximately 10:15.

18 Q And State's Exhibit 6 and 7 already in evidence as
19 well, did you take those photographs?

20 A Yes, sir, I did.

21 Q And those text messages is there a phone number in
22 there?

23 A Yes, sir, it is.

24 Q Could you read off that phone number?

25 A Cell phone number is

1 Q All right. And does that number appear in both two
2 and from section depending on what picture you are looking
3 at?

4 A Yes, sir, it does.

5 Q Now, as part of investigations with child victim or
6 witness cases, do you have a place that you typically will
7 send children to for further interviews?

8 A Yes, sir, I do. It's called the Care House in
9 Florence.

10 Q Did you do that in this case?

11 A Yes, sir, I did.

12 Q All right.

13 MR. RICHARDSON: Beg the Court's indulgence one
14 moment.

15 (WHEREUPON, a pause in the proceedings.)

16 BY MR. RICHARDSON:

17 Q Investigator Jackson, as part of this investigation,
18 was the child sent to the hospital and a rape kit or
19 anything done?

20 A Yes, sir, she was. She went to the hospital the
21 night of the incident and a rape kit was completed by the
22 hospital in Marion.

23 Q All right. How does it work from there? Do you guys
24 send that to SLED is that how -- what the next step is?

25 A Yes, sir, it was sent to SLED.

1 Q All right. And as part of that, I guess a
2 toxicological thing the test for, you know to see if
3 somebody's been drugged or something like that?

4 A Yes, sir, there was a toxicology done.

5 Q All right. And any results on that?

6 A Results were negative for ---

7 Q Did they even test it?

8 A They did test her toxicology. It was negative for
9 any drugs or alcohol or anything of that nature.

10 Q Okay. Did you also make attempts to try to recover
11 anything that could have been deleted off of Mr. Davis'
12 cell phone?

13 A Yes, sir, I did.

14 Q Were you successful in getting anything recovered?

15 A No, sir, I was not.

16 MR. RICHARDSON: Please answer any questions
17 Mr. Anderson may have.

18 CROSS-EXAMINATION

19 BY MR. ANDERSON:

20 Q Are you aware if anything was deleted?

21 A I'm sorry, sir.

22 Q So are you aware if anything was deleted? You're not
23 aware of anything that he deleted off of it, are you?

24 A No, sir.

25 Q Okay. So you sent it to AT&T they're lab or Verizon

1 their lab and you have their experts looked at it, they
2 didn't think to call you back and say, hey, we found
3 where, you know, there were some disks or there were some
4 files and there was some bits of information and that was
5 deleted, you didn't get that call, did you?

6 A When I took the cell phone to Horry County to have
7 it -- what they called dumped, no, sir, there was nothing
8 on it.

9 Q Okay. Let's talk about what else you have. You say
10 you saw the toxicology results. You also saw the
11 serological analysis, didn't you to SLED?

12 A Yes, sir, there was a rape kit sent to SLED.

13 Q Right. No sperm, no semen none of that was found?

14 A That's correct.

15 Q I think they said no spermazota was found; is that
16 right?

17 A I believe so, yes, sir.

18 Q So that would have found a -- and, of course, another
19 thing wasn't found is you didn't videotape my client, Lin,
20 when you were talking to him, did you?

21 A No, sir, it was not protocol at that point.

22 Q This was last year, wasn't it?

23 A Yes, sir, it was.

24 Q As a matter of fact when you were talking with Lin
25 and you asked him to sign the advisement of rights form

1 and read him Miranda, then got him to sign a bunch of
2 other consents, you already had warrants for his arrest,
3 didn't you?

4 A Yes, sir, I did.

5 Q It really didn't matter what he said he was already
6 under arrest as far as you were concern?

7 A Yes, sir.

8 Q As a matter fact warrants for his arrest, they were
9 served on him after he consented to everything y'all asked
10 him for, is that right?

11 A Yes, sir.

12 Q Another thing that you all did when you all took DNA
13 from my client, I think your partner the guy that was
14 sharing the cubicle with you, he took DNA from my client,
15 didn't he? Swabbed his mouth?

16 A Yes, sir, he was swabbed.

17 Q Client voluntarily consented to that?

18 A Yes, sir.

19 Q Was there a hit on his DNA? Did any of the results
20 come back saying, yeah, we found his DNA on her or we
21 found his DNA in the shop or anything like that?

22 A No, sir.

23 Q Why we're talking about the phone ---

24 MR. ANDERSON: Your Honor, may I approach the
25 witness?

1 THE COURT: Sure.

2 BY MR. ANDERSON:

3 Q State's Number 6 and State's Number 7 other than a
4 phone number, are there any contacts listed for either one
5 of those either to or from?

6 A In the two and from section on the text messages has
7 the number.

8 Q Not a contact like I was to send you a text it might
9 say Samantha? It just has a number there; is that right?

10 A That's correct.

11 Q But you took a lot of photos that night, didn't you?
12 Throughout the course of your investigation -- not that
13 night. I guess throughout the course of your
14 investigation?

15 A Yes, sir, I did.

16 Q Took some of the shop inside that's on State's
17 Number 5?

18 A Yes, sir.

19 Q Took some of the shed that's State's Number 4?

20 A Yes, sir.

21 Q Took pictures of the cell phone that's six and seven,
22 took a picture off my client's phone according to you
23 State's Number 8; is that right?

24 A Yes, sir.

25 Q His phone had a list of contacts did it not?

1 A Yes, sir.

2 Q Was she on any of them?

3 A I'm sorry.

4 Q So she -- was Minor under any of his contacts?

5 A I don't think so.

6 Q I mean, if it would have been, certainly you would
7 have taken a picture of it, couldn't you?

8 A I'm sure I would have.

9 Q Okay. I believe you said you took it to Jeff Gause
10 of Horry County; is that right? His phone, Lin Davis'
11 phone?

12 A Jeff Gause works with us. We took the phone to Horry
13 County police department to have it dumped.

14 Q Okay. Now, do you have a copy of the return for the
15 search warrant?

16 A Yes, sir, I do.

17 Q It's got 1,922 data files downloaded; is that right
18 on the return to search warrant? 1,922 data files you got
19 that?

20 A Yes, sir.

21 Q Nowhere on there any text messages, nowhere on there
22 other than the two photos you showed me, nothing
23 pertaining to Miss Minor was there?

24 A That's correct.

25 Q Now, earlier when Mr. Richardson was asking you

1 questions at one point in time, I think you may have
2 hesitated, so I think David kind of prompted you and
3 anything else he tell you. And you hesitated for a minute
4 and then you said, yeah, she was in there for about ten
5 minutes. You remember that?

6 A Yes, sir.

7 Q But you read the statement of Mr. Davis into
8 evidence. I think that's been marked as State's Number 3.
9 Nowhere in his statement did he write out does he say she
10 was in there ten minutes, does he?

11 A No, sir, it does not.

12 Q As a matter of fact in his handwritten statement,
13 doesn't it say when I turned it around I felt the bench
14 move, when I turned around I did not see but skin and I
15 said, oh, no, you not gone get me in trouble?

16 A That's correct.

17 Q So in his handwritten statement he wrote out he
18 immediately noticed her and got up from the bench; is that
19 right?

20 A Yes, sir.

21 Q And, of course, the interview that you had written
22 out, that's not tape recorded so we really won't know
23 what he said other than your recollection; is that right?

24 A Yes, sir.

25 Q He voluntarily gave you a statement, voluntarily gave

1 you access to his phone and all his information on his
2 phone, voluntary gave you his DNA?

3 A Yes, sir, it is.

4 Q And I believe you said that a rape kit was done at
5 the hospital. You know who examined her at the hospital?

6 A I do not. I was not present at the hospital.

7 Q Do you know whether or not she followed up with a
8 family doctor or anything like that?

9 A Not to my knowledge.

10 Q Were you present when she was interviewed at the Care
11 House?

12 A No, sir.

13 Q Not familiar with what she may or may not have told
14 the counselor at the Care House?

15 A Yes, sir, I got a copy of what is said in the
16 interview at the Care House.

17 Q Of course, can certainly ask her a question, any
18 questions if I have questions about that interview?

19 A Yes, sir.

20 MR. ANDERSON: Judge, that's all the questions I
21 have for Ms. Jackson.

22 THE COURT: Redirect?

23 MR. RICHARDSON: Beg the Court's indulgence.

24 (WHEREUPON, a pause in the proceedings.)

25 REDIRECT EXAMINATION

1 BY MR. RICHARDSON:

2 Q Investigator, in reference to the attempt to retrieve
3 any deleted items from the phone, do you have any personal
4 knowledge about whether deleted text messages are
5 recoverable?

6 A There's a way you can delete them off of a smart
7 phone and they're still on the phone. But there is also a
8 way that you can completely get rid of them and they
9 cannot be recovered.

10 Q In this particular case, we don't know the
11 circumstance?

12 A Correct.

13 MR. RICHARDSON: Thank you, ma'am, that's all I
14 got.

15 THE COURT: All right, Mr. Anderson.

16 RECROSS-EXAMINATION

17 BY MR. ANDERSON:

18 Q So you don't know if they were ever on there or not?

19 A Did I personally see them on his phone, no.

20 THE COURT: You may step down.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 THE COURT: Done for the day?

24 MR. RICHARDSON: Yes, sir, Your Honor. We need
25 to call the next one in the morning.

1 THE COURT: Members of the jury, I'll have you
2 come back at 9:30 in the morning, be here at 9:30 sharp
3 and we'll start at 9:30. Do not discuss the case tonight
4 with anybody. When it's over, you can. Everybody else
5 remain seated and you are excused.

6 (WHEREUPON, the jury excused for the day.)

7 MR. RICHARDSON: Judge, just for scheduling
8 purposes, I anticipate calling one more witness, so I
9 don't know if now will be a good time just to give
10 preliminary advisement ---

11 THE COURT: Why don't you go ahead and talk to
12 him tonight and then I'll talk to him in the morning.

13 MR. ANDERSON: Will do, Your Honor.

14 THE COURT: See you in the morning.

15 (WHEREUPON, the proceedings were concluded for
16 the day to be reconvened on November 17, 2015.)

17 THE COURT: Mr. Anderson, does your client
18 intend to testify?

19 MR. ANDERSON: You Honor, he and I discussed it
20 yesterday. No, sir, he does not.

21 THE COURT: I'm going to go over his Fifth
22 Amendment Rights real quick just to go ahead and get that
23 out of the way and make sure we don't miss that.

24 MR. ANDERSON: Yes, sir.

25 THE COURT: All right. Mr. Davis, I want you to

1 understand that this is your trial. And in your trial if
2 you would like, you can come over here and you can be
3 sworn in and you can take the witness stand and you can
4 testify. However, it's important to understand that if
5 you do testify, you may be cross examined on any and all
6 relevant issues in connection with your case.
7 Furthermore, if you have a criminal record that involves
8 crimes of dishonesty or false statements or crimes that
9 carry a punishment of more than one year and the Court
10 determines that the probative value of admitting same
11 outweigh their prejudicial effect, then your criminal
12 record will be introduced to attack your credibility. You
13 understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Furthermore, I want you to
16 understand that you have the right to remain silent, the
17 Constitutional Right. You do not have to testify and
18 nobody can make you testify. And if you choose to
19 exercise that right and not take the stand, I want you to
20 understand that I'll tell that jury they cannot use that
21 against you in anyway. I will tell the jury the fact that
22 you did not testify is to have absolutely no prejudice
23 against you. I would even tell the jury they cannot
24 discuss that fact in the jury room. Do you understand
25 your right to remain silent?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you have any questions about
3 anything I have just told you?

4 THE DEFENDANT: No, sir.

5 THE COURT: Have you discussed with your lawyer
6 as well?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you wish to testify or not
9 testify?

10 THE DEFENDANT: No.

11 THE COURT: Thank you very much. I make a
12 finding that he did so intelligently and with the advice
13 of a competent counsel. All right. You all ready to go.

14 MR. RICHARDSON: Yes, sir.

15 THE COURT: Bring the jury in.

16 MR. ANDERSON: Your Honor, before he does that,
17 yesterday based on a ruling you made, I spoke with Mr.
18 Richardson this morning about the Care House worker. I,
19 of course, told him that based on your previous ruling is
20 my understanding that she would only be allowed to testify
21 as to the event that happened on May 31st. Mr. Richardson
22 said he already discussed that with her. I just want to
23 make sure we're clear on that.

24 THE COURT: Sounds good.

25 MR. RICHARDSON: Yes, sir.

1 THE COURT: Go ahead and bring them out.

2 (WHEREUPON, the jury entered the courtroom.)

3 THE COURT: Call your next witness.

4 MR. RICHARDSON: Thank you, Your Honor. I call
5 Sally Williamson.

6 THE CLERK: Do you swear to tell the truth, the
7 whole truth, and nothing but the truth so help you God?

8 THE WITNESS: I do, yes.

9 THE CLERK: You can have a seat.

10 WHEREUPON,

11 Sally Williamson,

12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. RICHARDSON:

15 Q Ms. Williamson, could you tell us where you work?

16 A I work for the Care House of the Pee Dee.

17 Q And could you explain to us what the Care House is?

18 A The Care House is a children's advocacy center that
19 offers therapy, forensic interviewing and advocacy for
20 children and families suspected of maltreatment.

21 Q All right. And what is your job with the Care House?

22 A I am a forensic interviewer and a therapist at the
23 Care House.

24 Q And can you describe what a forensic interviewer is?

25 A A forensic interviewer is a trained professional

1 typically with a master's degree trained to conduct
2 forensic interviews with children typically ages three to
3 17. A forensic interview is a semi-structured interview
4 conducted to gather information about possible
5 maltreatment.

6 Q Okay. And how long have you been a forensic
7 interviewer?

8 A For about four and a half years.

9 Q All right. You mention that most folks who are
10 forensic interviewers typically have a master's degree of
11 some sort?

12 A Yes, that's correct.

13 Q What kind of background do you have to be a forensic
14 interviewer?

15 A I have a master's degree in counseling and a
16 Bachelor's degree in psychology. I'm also a licensed
17 professional counselor in the State of South Carolina.
18 And of course have received extensive training in forensic
19 interviewing including about 85 hours of forensic
20 interviewing training.

21 Q Okay. And in this particular case with respect to
22 Minor , did you do a forensic interview with her?

23 A Yes, I did.

24 Q And what date was that interview conducted on?

25 A May I refer to my file?

1 Q Sure.

2 A On June 16th of 2014.

3 Q All right. Was that at your office?

4 A Yes, it was.

5 Q And can you describe the setting of an interview, a
6 forensic interview like who all is present, what is the
7 room like?

8 A A forensic interview is conducted at the Care House.
9 It happens to be a small room. The only people that are
10 present during the interviewing process are the child and
11 the interviewer, so no one else is permitted in the room
12 during a forensic interview. It is a small room. There's
13 no toys basically just seating and a flip chart in the
14 room as well as a closed circuit television system. So
15 there's actually a camera recording the interview so we
16 can make a record for archive and that television system
17 leads to another room where. If they're present, the
18 investigator can watch the interview being conducted in
19 real time.

20 Q Okay. And in a forensic interview, you mentioned it
21 was semi-structured. Can you take us through, you know,
22 sort of from beginning to end the different stages of a
23 forensic interview?

24 A Yes. So semi-structure means that the interviewer as
25 the interview progresses can take into account the child's

1 cognitive functioning and modify the questions to meet
2 their level. So, of course, questions would be formatted
3 differently for a three year old versus a 16 year old.
4 The different stages of an interview include rapport
5 building, so that means that the interviewer gets to know
6 the child by talking about things like home environment,
7 school, things that the child may be interested in to help
8 to build a relationship with them so they feel comfortable
9 with the interviewer. After a few minutes of rapport
10 building, the interviewer explains all of the rules of the
11 room, let's the child know that the interview is being
12 recorded, also let's them know that if they don't
13 understand questions, they should let the interviewer
14 know just to make sure that the child understands the
15 process. The next stage depending on the child's age it
16 may be that the interviewer provides or introduces
17 anatomical drawings of males and females, so that the
18 interviewer can understand the names that the child gives,
19 really just establishes a common language so that if the
20 child uses the name for a body part that the interviewer
21 is not familiar with or is unsure of what the child means
22 is able to clarify. And then the interviewer asks the
23 child why are you here or may move straight into asking
24 about possible maltreatment. And then the questions are
25 typically very opened, so they're non-leading to the

1 child. And those questions as answers are provided the
2 interviewer develops the different questions as the
3 interview progresses to clarify or gather more information
4 about the details of what may or may not have occurred..

5 Q All right. You mention that in some cases you'll
6 show an anatomical drawing, you know, body parts and have
7 the child take a look at that?

8 A Yes.

9 Q Did you do that in this case?

10 A Yes, I did.

11 Q And was Minor able to properly identify the parts of
12 human body?

13 A She was. And it's more so conducted not necessarily
14 so that they can properly identify, but just so that the
15 interviewer is clear about what words they will use if
16 they refer to any of those parts of the body, so it's not
17 necessarily a lesson or a test, but it's rather just to
18 find out what words that they would use and she did, yes,
19 she provided names for the parts that I point to.

20 Q Okay. And during the interview process what were you
21 able to observe about her demeanor and her ability to
22 speak with you?

23 A She appeared to understand me and comprehend the
24 process as I was explaining it. She was very open and
25 forth coming with answering questions and sometimes

1 children are guarded in some way or unable or unwilling to
2 provide information, but she was very very forthcoming
3 with information and I found her to give consideration to
4 my questions and provide as much information as possible.

5 Q All right. And did she make a disclosure of
6 penetration or some type sexual abuse to you?

7 A Yes, she did.

8 Q All right. And did she give you a time and a place
9 for when that incident happened?

10 A She did.

11 Q And what was that?

12 A She disclosed that it occurred at her aunt's house in
13 -- her Aunt Christal house I believe in a barn where there
14 was some weights set up, a weight lifting bench. And the
15 time --- I don't remember the exact time. I have to look
16 through -- I remember that it was a number of days before
17 the actual interview took place in mid June.

18 Q Okay. So a period of days before in the barn at Aunt
19 Christal's house is what you recall?

20 A That is what I recall.

21 MR. RICHARDSON: Thank you, ma'am. Please
22 answer any questions Mr. Anderson may have for you.

23 CROSS-EXAMINATION

24 BY MR. ANDERSON:

25 Q Ms. Williamson, how long you been at the Care House?

1 A About four and a half years since of July 2011.

2 Q And I notice that you have a report up there with
3 you; is that right?

4 A Yes, sir, I do.

5 Q Is that a report for your interview with Minor ?

6 A Yes, it is.

7 Q How long does it typically take you to make a report?

8 A It varies depending on the length of the interview
9 and the number of reports that we have backed up to type.

10 Q And that was going to be one of my next questions.
11 You do more than one interview a week, don't you?

12 A Absolutely.

13 Q And I know that like any other business there some
14 days that are more hectic than other days. Sometimes
15 there's more interviews one week than there are another
16 week, but on average how many interviews you think you do
17 a week?

18 A I'm not sure honestly. It varies week to week. Some
19 weeks I might have 20. Some weeks I may have ten. I've
20 done probably 1,800 interviews total.

21 Q In a year, you done how many?

22 A I didn't say in a year. It's actually in the entire
23 time I been at the Care House about 1800 interviews.

24 Q So four years 1800 maybe 400, 425 a year would that
25 sound about right?

1 A Sounds roughly correct.

2 Q Now, I also saw a CD or a disk up there with you; is
3 that right?

4 A Yes, sir.

5 Q This is an interview of a tape recorded, audio tape
6 recorded also video tape recorded?

7 A Yes, sir.

8 Q Now, when you prepared this report, do you sometimes
9 go back and look at that tape to make sure you're writing
10 everything down correctly?

11 A That is how we type the tape. I would not try to
12 type the report without reviewing the tape.

13 Q Because you want this report to be as thorough, as
14 accurate as complete as possible would that be a fair
15 statement?

16 A Of course.

17 Q And also notice that you interview more than the
18 actual young girl young boy, don't you?

19 A Interview children of all ages.

20 Q I'm sorry. You talk to other family members before
21 you interview the young person as well, don't you?

22 A Sometimes I do. Sometimes other staff members just
23 depends on availability.

24 Q In this case, I think her Aunt Christal as well as
25 her mom came to the interview; is that right?

1 A Yes, that's correct.

2 Q How long you think the interview lasted?

3 A I'm honestly not sure.

4 Q I'm looking at page 3 and page 4 of your report where
5 it's got, I guess, allegation and history and then at the
6 bottom of the page and then the top of page 4 would that
7 be information you gathered from talking with the mom and
8 talking with the aunt?

9 A Yes, or it could be information provided by law
10 enforcement at the time of the referral.

11 Q Did they actually talk to you about that? Do your
12 notes reflect where they talk to you or someone else?

13 A Typically, when they call in or email us, they talk
14 to an advocate or an in-take coordinator to schedule the
15 appointment.

16 Q All right. As far as this information that you wrote
17 on page 3 and page 4, did you gather that information from
18 the aunt or the mom?

19 A Yes.

20 Q All right. The aunt indicated to you that she walked
21 outside and saw some event happening; is that right?

22 A Yes.

23 Q And didn't she also tell you that she was on the
24 phone with Tim, talking to Tim when some of this was going
25 on? I believe that's at the bottom of page 3 maybe three

1 or four lines up.

2 A I don't see where you're referring to.

3 Q Bottom of page 3 where you got in parenthesis maybe
4 five lines up from the bottom?

5 A I don't see the person Tim's name. You asked if she
6 was speaking to Tim on the phone I don't see the word Tim.

7 Q Do you see where she was talking to another friend on
8 the phone?

9 A I see that she called 9-1-1.

10 Q All right. What about the two lines above that?

11 A Had another friend, yes.

12 Q Christal had another friend on the phone who
13 overheard the whole conversation is that what it says?

14 A That's what it says.

15 Q Okay. And at the to the top of page 4 they were
16 talking about a cell phone. Where did they find the cell
17 phone?

18 A It sounds like in the yard.

19 Q She gotten the young girl or Minor thrown the phone
20 in the yard?

21 A That's what was reported.

22 Q Going through your report, Ms. Williamson, on page 5
23 talk about building your rapport with the Minor ; is that
24 right?

25 A That's correct.

1 Q Then you got the abuse scenario. And then on the
2 next page you got the anatomy identification. Then you
3 got the abuse scenario and I think the abuse scenario goes
4 on for a couple of pages; is that right?

5 A That's what it appears.

6 Q Ma'am.

7 A Yes.

8 Q Now, when you're talking about building rapport and
9 abuse scenario, that's when you're only talking with the
10 child in this case?

11 A That's correct.

12 Q In this case, you were talking with Minor ?

13 A Yes.

14 Q Time you were talking with Minor she was 15 year old?

15 A Yes.

16 Q After you build that rapport with them, you do that
17 through question and answer; is that right?

18 A Typically or I might ask them -- yes, it's typical
19 question and answer open ended typically.

20 Q A lot of times when you building a rapport with
21 someone and you're wanting them to tell you information,
22 would you agree with me that first you might use
23 open-ended questions and then eventually when you want to
24 find out more detail, you narrow your scope down would
25 that be a fair statement?

1 A Yes.

2 Q After you build rapport with someone after you think
3 you got a good working relationship with them, that's
4 where you start narrowing your questions down?

5 A Often, yes.

6 Q And sometimes when asking them questions, you want
7 find out how intelligent is this person, how articulate
8 are they, how well do they speak, does she understand what
9 I'm asking him or her. You do things like that?

10 A Yes.

11 Q And in this case, you did ask her eventually you said
12 or ask her -- tell me what happened that night? Is that
13 right. Maybe not those exact words but tell me what
14 happened that night?

15 A Probably something very similar to that, yes.

16 Q When was last time you read your report?

17 A Within the last hour.

18 Q When you asked her to describe what happened and this
19 is on page 6 at the top of the page right before we get to
20 the anatomy identification, you asked her to tell me what
21 happened in your own words that be a fair statement?

22 A Yes.

23 Q And she told you I don't even say stuff like this dot
24 dot. We were just fucking that's it basically. Is that
25 what she told you?

1 A Yes.

2 Q At no point in time when she was describing what
3 happened that night did she ever tell you that he had
4 his -- had my leg on top of his shoulders, did she?

5 A I don't recall if she said those specific words or
6 not.

7 Q At no point in time did she ever tell you my legs
8 were on his shoulders and my sweat pants and my underwear
9 were behind his head. She never told you that, did she?

10 A I don't recall if she said those specific words.

11 Q All right. Now, at some point in time when you ask
12 her about her relationship with Christal, is that right?
13 You asked her who Christal was?

14 A Yes.

15 Q You also ask her about her relationship with her mom?

16 A I believe I did, yes.

17 Q The night in question she told you that she ran away
18 from the house because she was scared of her mom?

19 A I'm not sure if she said that she was scared of her.

20 Q All right. She said she knew her mom would be angry
21 at her?

22 A Yes.

23 Q Did she also tell you that her mom hit her
24 repeatedly?

25 A She did make a disclosure of that, yes.

1 Q Didn't she also tell you that her cousins or
2 stepbrother or someone had to go get her and bring her
3 back because back she was afraid of what her mom would do
4 to her?

5 A I believe something of that nature. I'm not sure of
6 the relationship of the person.

7 Q Even after those friends or whoever was with her
8 bringing her back, her mother also hit her during that
9 time?

10 A I believe so.

11 Q Did she also tell you that she cuts herself
12 sometimes?

13 A She did.

14 Q And she also disclose that she did that because she
15 was angry with her mother?

16 A I'm not sure what her reasoning was for self injury.

17 Q Well, let's look on page 7, okay. And at the bottom
18 one, two, three, four, five, six, seven, eight, nine, ten
19 lines up. You asked her why she did that and she said
20 what?

21 A She said anger.

22 Q And then what did she say?

23 A She said her mom doesn't listen or let her explain
24 herself.

25 MR. ANDERSON: Your Honor, court's indulgence

1 for just a minute.

2 (WHEREUPON, a pause in the proceedings.)

3 MR. ANDERSON: Judge, that's all the questions I
4 have.

5 THE COURT: All right. Any redirect?

6 MR. RICHARDSON: No, sir, Judge.

7 THE COURT: You may step down.

8 (WHEREUPON, the witness leaves the witness
9 stand.)

10 THE COURT: Call your next witness.

11 MR. RICHARDSON: The State rest.

12 THE COURT: Members of the jury, I have to take
13 up some matters with the lawyers. If you would step into
14 the jury room, I'll be back with you in just a moment.

15 (WHEREUPON, the jury retire to the jury room.)

16 THE COURT: Any motions?

17 MR. ANDERSON: Yes, sir, Your Honor. Judge, I
18 would move for a directed verdict on count one and also
19 directed verdict on count two based on the lack of the
20 State even produce a scintilla of evidence in this case.

21 THE COURT: I'm going to deny that motion. All
22 right. He's getting ready to do the verdict form now. If
23 you want to take a look at the charge ahead of time, we
24 can do that.

25 MR. RICHARDSON: Sure.

1 (WHEREUPON, a pause in the proceedings.)

2 THE COURT: Here's the verdict form if you want
3 to take a look at it. Good review?

4 MR. ANDERSON: Yes, sir.

5 THE COURT: Bring them out.

6 (WHEREUPON, the jury came into open court.)

7 THE COURT: Call your first witness.

8 MR. ANDERSON: Your Honor, if it please the
9 Court, the defendant rest at this time. Also, Your Honor,
10 if it please the Court, I previously renew all motions
11 that I made.

12 THE COURT: Your motions are denied. You
13 recognize for your closing.

14 MR. RICHARDSON: Thank you, Your Honor. Mr.
15 Anderson. We finished up last night with our law
16 enforcement witnesses. And I left here kind of with a pit
17 in the stomach feeling. What went through my mind and,
18 you know, it's a common theme when the facts are bad for
19 the defense. The common response is you put the police on
20 trial and that's what we saw kind of the end of yesterday
21 when law enforcement testified. And yet it gave me that
22 feeling because I can just see the foot coming in the door
23 where a little bit of doubt creep in why the didn't police
24 do this, why didn't they do that, why did they get the
25 warrant so fast before they even talk to the guy. Those

1 kind of things creeping in. And the reason that's stuff
2 is brought out is to cause you to have some doubt that
3 Aunt Christal didn't really see what she thought she saw.
4 And that Minor didn't really feel what she knows she felt
5 because that's the case sitting right over there. They
6 are the witnesses. They are eyewitnesses. They were
7 there when it happened. The only other person that was
8 there is Lindell Davis. So these folks sitting over here
9 are the only ones who could tell you what happened in that
10 shed. Law enforcement was not there and everything they
11 did afterwards, you know, was an attempt to do their job
12 follow their protocols. You know take statements from who
13 they can, try to collect things, send Minor to the Care
14 House for an interview that kind of thing but really a
15 case like this law enforcement they weren't there.

16 You know this isn't a case where they're chasing
17 down a criminal running from a blue light or they're
18 conducting a sting operation in a drug case where they are
19 like on the ground and they're observing things and they
20 are the ones who are critical. This isn't that kind of
21 case.

22 This is a sex case with a minor child victim.
23 And, you know, typically in those kinds of cases all you
24 have is what the child says because child molesters, you
25 know, usually they don't get sloppy. They don't leave

1 themselves open to getting caught. You know, when a child
2 molester is taking advantage of a kid, they don't have a
3 neon sign out front of their house saying, hey, guess
4 what's going on in here come take a look. They don't want
5 to be caught. They don't want be out in the light.

6 So this case the fact that we had an eyewitness
7 with no motive to get Lindell Davis coming in and seeing
8 her niece with her pants down around her ankles, feet up
9 in the air over Lindell Davis shoulders and him doing what
10 she said he was doing. In case a like that -- in a case
11 like this with these allegations, these charges, it's just
12 from my perspective wonderful from a prosecutor's
13 standpoint. You just don't see it, but we have it here.
14 So that makes a pit in my stomach get all that much bigger
15 as we leave last night because I just see a caption going
16 in my head, you know, aunt walks in and catches man having
17 sex with minor. The man found not guilty. You know,
18 that's what I'm seeing in my head because of, you know,
19 the things that we came upon yesterday afternoon about,
20 but you got the warrants so fast. Didn't get any DNA.
21 There was no semen found, you know. He was having sex
22 with her why is there no semen found. And, you know,
23 things like that on first glance you may say that's a good
24 point. But during the cross-examinations of these
25 witnesses, you know, I was -- and you probably did the

1 same thing I was basically able come up with a sort of a
2 defense theory or explanation as to what might have really
3 happened. So we have two competing theories here what the
4 State through these two folks over here say happened and
5 then this competing theory. Now, let's go through each
6 one of those see which one makes sense.

7 All right. So Lindell out weight lifting
8 minding his business. Minor 's gone set him up, Minor or
9 Christal both of them might be in on it. We don't know
10 why there's no motive. Lindell's a friend of the family.
11 No evidence, but there's been some problem. He's out
12 there minding his business. He gets to use the weight
13 room whenever he wants. So either Minor and Christal had
14 it out for him or just Minor has it out for him. So Minor
15 sneaks out to the shed and undresses herself and sets him
16 up for the fall.

17 Now, Christal is either in on this and is going
18 to come in and catch him or she doesn't know and she just
19 happens to walk out like she testified and sees them in
20 this vicarious position. All right. So Lindell jumps up,
21 makes comments about, you know, I know I'm going to jail.
22 I didn't penetrate her or something like that. And he
23 books it before the police gets there presumably because
24 he must have known he was being set up. So the police get
25 there and Minor sitting inside the shed cutting herself

1 presumably as part of the set up.

2 They picked Lindell up. He tells them what is
3 his phone number is. And it's on this voluntary consent
4 to search form here that he signed . Then
5 they show him the photographs the text message y'all
6 already seen. Oh, I didn't send those. Homeless Phillip
7 had my phone. This is like a day and a half or less after
8 the event in the shed, but he's got his phone back at this
9 point because we got a photograph from him.

10 So homeless Phillip had the phone, but when
11 Lindell gets his phone back a day later or whenever there
12 no text messages, there's no trace of Minor in that phone
13 except one picture in there that happened somehow got on
14 there, that's when you look at it it's not a selfie. I
15 mean it's taken from a little bit of a distance. So
16 homeless Phillip had the phone, so somehow the text
17 messages had to get to Minor 's phone. So Minor 's not a
18 contact in Lindell's phone. So either homeless Phillip
19 had to pull her phone number of out thin air and send her
20 these messages or as part of the set up she had to figure
21 out a way to create text messages that would be sent to
22 her phone from the appearance of somebody else's phone
23 that just happen to be the exact phone number that Lindell
24 said was his phone number. I have no idea kids these
25 days, you know, they can do all kinds of stuff. So that's

1 one theory.

2 The other is Lindell sent Minor those text
3 messages. She responded by walking out to the shed they
4 got caught. Neither one of them wanted to get caught.
5 Minor sat up here and testified he didn't force me. She
6 wanted to do it. You can tell she wanted to because
7 afterwards she sitting in there upset cutting herself
8 because she got caught. Lindell certainly didn't want to
9 get out caught because he's a 54-year-old man and she's a
10 15-year-old kid and that is against the law to have sex
11 with a 15-year-old kid when you're a 54-year-old man. So
12 he makes comments like I didn't penetrate her. I know I'm
13 going to jail and he books it. He flees because he knows
14 he's wrong.

15 Police get him, ask him what his phone number
16 is. He freely gives it. Then they show him pictures of
17 those text messages you saw. And he comes up with a
18 pitiful story about homeless Phillip to try to cover his
19 tracks, which of those two things makes more sense. Those
20 two theories.

21 It's pretty clear from the testimony of Minor
22 and Christal what went down. That's the only thing that
23 makes sense in this case. So we have Minor telling you
24 she freely went out there, let this man have sex with her.
25 She testified that he did penetrate her. And if Christal

1 hadn't walked in and caught them, we wouldn't be here
2 right now. Minor wasn't in any hurry to go tell somebody.
3 But for Christal thinking why is she outside this time of
4 night, you know, going out there to check on her we
5 wouldn't be sitting here right there, so set up, nope.

6 This is the process folks. This process that
7 we're going through right now is how people are held
8 accountable of their actions in our society. We got the
9 system on the planet designed to give people a fair shot
10 and he's getting his right now, but sometimes the person
11 didn't, you know. And we have to do what the law says we
12 got to do and we got to hold him accountable for what they
13 did no matter how tough it is. It's the way this country
14 works and we can't be letting 50-something-year-old men
15 who are having sex with 15 year olds just walk away from
16 it like it didn't happen.

17 So as I mentioned, I had this pit in my stomach
18 because all I told you about flashing through my mind
19 what if the jury buys into this garbage, what if they, you
20 know, sat her through these first couple of witnesses,
21 realized what happened and then what they know happened
22 was slowly eroded away by nonsense by things that came out
23 of people who weren't even there. Is that enough to
24 convince these folks that what they really know happened
25 didn't really happen, so that's why I'm so emphatic here

1 with you. There's this old principle that stands for the
2 premise that when you have two competing theories, the
3 most obvious answer is usually the correct one and that's
4 what we've got here. We all know what happened. He had
5 his hand in the cookie jar and he got caught, that's the
6 simplest solution here we got an eyewitness that saw it
7 happened. So it doesn't get a whole lot better than that.

8 Now, I want to go through a little bit of the
9 law with you things that we had to prove from, you know, a
10 legal standpoint about actual charges that he's facing.
11 There's certain elements to those charges that we have to
12 go through with you. So I'm going to do that now. All
13 right. First here's the time line of what we know from
14 the night of May 31st of last year. 9:35 pm that night
15 Minor sends a text message I can't go because mama told
16 Christal do not let me got outside because she thinks
17 somethings up sorry, didn't mean for you to waste your gas
18 for nothing. Ten o'clock, romance. Y'all can believe it.
19 I don't have to say it. 10:03 come lock up. So we had a
20 three minute period here. Lindell makes his request.
21 This is where he solicits a minor for sex. Doesn't get
22 much more clear than that. Three minute window goes by,
23 she's not responded to him. So he gives her a reason to
24 be outside. You remember the testimony Lindell has the
25 right to come out there -- the privilege to come out and

1 use the weight room. Well, he doesn't have a key.
2 Somebody always has to let him in. Therefore, somebody
3 always has to lock it up, come lock up built in reasons,
4 built in excuse to come on out.

5 So Christal testifies that she heard the door,
6 heard somebody go outside. So after a while, she gets up
7 to go check, walks out to the barn sees this door open,
8 peeks in and hello here we go. Testimony from Christal is
9 that Minor 's legs are up on Lindell's shoulders. They
10 grabbed onto the weight bar in her words he's humping her.
11 She makes her presence known. He jumps up like a scolded
12 dog. They share some words and he books it on out of
13 there. The police arrived testimony was at 10:20 when
14 they were called they arrived a short time after that to
15 find Minor sitting in there having cut her wrists.

16 So one of the important things to consider with
17 respect to both of these charges are the ages of folks
18 involved. The testimony shows that at the time of this
19 event May 31st 2014, Minor was 15 years of age. We heard
20 the testimony about how, you know, Lindell come to Minor 's
21 15th birthday party and that Minor had a cake with 15 on
22 it. She's 15 at the time. She testified he was 54 at the
23 time.

24 All right. So as to CSC with a minor second
25 degree here's what we got to show, the victim is at least

1 14 but under 16 years of age, so she's 15 she fits right
2 in. We have it over here she's 15 at the time. The
3 defendant is in a position to coerce and is in a familiar
4 or familia or custodial or has official authority over the
5 child or big emphasis on or here or the defendant is older
6 than the victim. He's 54, she's 15 we got that all day
7 long. Therefore, we don't have to have this other one,
8 but arguably we do. You know, he was a friend of the
9 family, much older adult. He been in her life for a
10 while. He had told Aunt Christal he's going to look out
11 for the family or whatever, so arguably he's in a position
12 of authority over a child who stays at the house a lot of
13 the time. But anyway we only need that because he's older
14 than her.

15 All right. Sexual battery is another thing that
16 must be proved with respect to criminal sexual conduct. A
17 sexual battery is sexual intercourse or penetration. And
18 bring me back to the fact that they look for DNA didn't
19 find any. We don't have to have ejaculation just
20 penetration and that's consistent with the testimony. The
21 fact that there was no semen there because Minor testified
22 they just got started. You know, basically he had just
23 penetrated her a matter of a minute or two before Christal
24 walk in. So they didn't have time to complete the act so
25 to speak. So sexual battery is sexual intercourse or any

1 intrusion however slight of any object into the genital
2 opening of another person's body. So not to be too
3 graphic, but, you know, Lindell's penis going into Minor 's
4 vagina is a sexual battery intrusion however slight is
5 enough. And, of course, Minor disclosed clearly that he
6 had penetrated her vagina by the time Christal had walked
7 in.

8 Christal further testified that although she
9 could not see given her viewpoint, I guess she was looking
10 at apart of Lindell's back. She had not obviously seen
11 the penetration, but humping movements consistent with
12 what happened when two folks are having sex.

13 The other charge I'm looking at is solicitation
14 of a minor. There are eight requirements of this one as
15 well. The defendant has to be 18 years old or older.
16 He's in his 50's no problem. The victim was under 18
17 years of age. She was 15 no problem. The defendant
18 knowingly contacted or communicated or attempted to
19 contact or communicate with the victim. We have a text
20 message from his phone number which he freely admitted was
21 his phone number sent to her phone, which he had at the
22 scene was at home. I would say that fits under knowingly
23 contacted or communicated with the victim.

24 Now, the defendant's purpose or intent was to
25 persuade, induce, entice or coerce the victim to engage in

1 sexual activity. I say those four words fit that bill. I
2 think his motives were clear with that statement. Okay.
3 So those are charges that he's got. And you have all you
4 need to convict him.

5 At the conclusion of the arguments, the judge
6 going to give you the law and you're going to hear about
7 reasonable doubt. Reasonable doubt is the standard that
8 is used in this country with respect to convicting
9 someone of criminal offenses. You guys have to be
10 convinced beyond a reasonable doubt that he is guilty.
11 Another way that's put you have to be firmly convinced of
12 his guilt. So the standard is not beyond any shadow of a
13 doubt, okay. So if somebody, you know, comes in here and
14 tells you water's not wet, you don't have to believe them.
15 You don't have to believe it. The standard is not beyond
16 any shadow of a doubt. It's just beyond a reasonable
17 doubt. What is a reasonable in this case? Is this whole
18 set up scenario reasonable? Heck, no it's not. It's
19 ridiculous. What those two folks over there tell you
20 reasonable? Yes, it is because that's what happened. He
21 got caught with his hand in the cookie jar, so I ask you
22 now when you go back there to deliberate I hope none of
23 you have any doubts at this point. I hope you are firmly
24 convinced. Some of you may have some trepidation about
25 for whatever reason, but I ask those of you who are firmly

1 convinced to stand up, but you know what the right thing
2 is here and it's difficult. I know it's difficult because
3 you come in here probably never read any of these laws
4 before. The judge is going to give you the law a lot of
5 it here in a few minutes and the way it's set up and just
6 get read to you. And, you know, it's tough to fit it all
7 in there. So it's easy to go in that room out there and
8 say, well, you know, I got things to do. I got dinner to
9 cook. I got work to do. I got whatever. You know, just
10 to take the easy way out. It's too big. It's too
11 important. You can't have 50-something-year-old guys
12 running around having sex with kids. So I ask you those
13 of you who are firmly convinced to stand up find this man
14 guilty for doing what he did. Thank you.

15 MR. ANDERSON: When I began my opening
16 statement, I told you all that certainty was the enemy.
17 Things aren't always as they seem. I also came over here
18 and I put my hand on Lin's shoulder. I said Lin is
19 innocent until the State proves him guilty beyond a
20 reasonable doubt. And I also told you I believe the judge
21 will instruct you on that. Enemy or excuse me --
22 certainty is the enemy of truth. What do I mean by that.
23 When your mind's already made up, it's kind of hard to
24 figure out what the truth is. If I want to go on a
25 journey, I can't put my hand over my eye and go all right

1 I got to get to where I'm going now because I don't have
2 both eyes open. You got to watch where you going. Do you
3 all see my hand. I guarantee 13 of you will say, yeah, I
4 see your hand. No, you don't. Now, you see my hand. You
5 see the front and back of my hand. Previously, you hadn't
6 seen my hand.

7 You know, Mr. Richard said he had pit in his
8 stomach not the first thing I thought of yesterday was
9 when I was talking to you all in my opening what is
10 evidence. It's what witnesses say. Evidence is also
11 exhibits. And then I pause and I say but you know what
12 it's not only what they say on direct, but it's what they
13 say when I'm asking them questions. It's what I elicit
14 from them. There's things that I point out that they
15 didn't see. It's things that I point out that they didn't
16 do. I don't know who got a pit in his stomach, but I'm
17 willing to bet it was during some cross-examination.

18 He also said headline. You know what I don't
19 want to see in the headline innocent man goes to jail for
20 something he didn't do. I rather a hundred guilty people
21 go free than one innocent man go to jail. Certainty is
22 the enemy of truth.

23 Let's talk about Minor for a second. Minor 's,
24 you know, came up here and testified. She also wrote out
25 two statements. When she was testifying, she said that he

1 pulled my pants down to my ankles. And I don't know about
2 you all, but if my pants were down to my ankles, I
3 probably couldn't really walk real fast, probably couldn't
4 move real fast, probably couldn't do a lot of things real
5 fast. And if somebody had their feet over their shoulders
6 and their pants right behind their head, that will be
7 something that I put in the statement. I would put that
8 in my handwritten statement I gave law enforcement that
9 night. I also put that in my statement when I wrote three
10 or four days later. And then when I was talking with Ms.
11 Williamson at the Care House, that's something that I
12 would have told her about. I wouldn't just say, hey, we
13 were just fucking, that's basically what happened. I
14 wouldn't say that.

15 I asked Minor questions and sometimes she was
16 vague. Sometimes she would answer my questions. We found
17 out that she was having problems with her mom when
18 Ms. Williamson testified. And she didn't tell us that
19 when she was testifying. We certainly found out when Ms.
20 Williamson was testifying. I asked her she ever cut
21 herself because her mom was angry with her. I don't
22 remember, I don't know. But I think it's pretty obvious
23 that Minor was having some problems. I think it's pretty
24 obvious that Minor was not doing well with her mom. Maybe
25 wants some attention. I don't know. I don't know.

1 Now, I got several questions and again keep in
2 mind that certainty is the enemy of truth, but, you know,
3 when I send a text message to anybody maybe it's because
4 I'm old. Maybe, because I can't remember numbers, but I
5 have their name for example my wife Leah Anderson I got a
6 heart by her name. She put that on there. I don't know
7 how to do that. Anytime, I get a message from her a heart
8 will pop up. And it's got a blue for me two messages and
9 right underneath it it's got my response and her responses
10 to me. It's all on the same page. State's Exhibit 6 just
11 one message per line -- per page. State's 7 one message.
12 Why if he send it is it not bang bang bang why didn't it.
13 I don't know. I don't know. I'm just asking you that. I
14 know what happens on my phone. And I know that I have
15 contacts in my phone and I ask law enforcement I said,
16 hey, did she have Lin's name under her contacts.. No, I
17 didn't see it. So surely you got Lin's phone, surely you
18 got that search warrant that he voluntary gave you. His
19 information was in there and hers as well. No, I don't
20 remember that.

21 When did she get rid of the phone, well, we
22 found out from Ms. Williamson that she threw her phone
23 that night and that kept bothering me, that kept bothering
24 me, why would she throw her phone that night. And I
25 thought about it and I thought about it and then another

1 thing that bother me why was she alone in the shed. I'm
2 not talking about supposedly with Lin. I'm talking about
3 afterwards. You know, supposedly aunt catches her having
4 sex. Law enforcement is called. Friends are called. Mom
5 is called. Mom's hitting her. She runs away, they bring
6 her back. Why. Why would you let her go by herself in
7 the shed. Why. This girl supposedly just been raped.
8 This girl supposedly just had sex with someone that she
9 shouldn't have sex with. Why in the world would you leave
10 her alone. Why wouldn't somebody go in there with her.
11 Why. I don't know. Maybe, they didn't believe her.
12 Maybe, this has happened before. I don't know. I have no
13 idea. Why would she get mad and throw her phone away
14 later night. I don't know.

15 I do know and I don't know if Lin had his phone
16 that night. I don't know. I do not know that. I don't
17 know if Lin had his phone that night or not. However, as
18 I indicated to you earlier, I'm a little bit older, but
19 even when I was younger sometimes I would send a text
20 message to the wrong person. Sometimes I didn't mean to
21 send that. I mean to send that to my wife. I meant to
22 send that to somebody else. I didn't mean to send that
23 message to that person. I've done that before.

24 Well, what do we know about Christal. Certainty
25 is the enemy of truth. Christal, what did you see. Well,

1 I saw something. What did you see. Well, I saw
2 something. He was on top of her. Her pants were down.
3 Were his pants down. No, not really. I'm not going to be
4 too graphic, but I know we got several men on this jury.
5 I know we got several women on this jury too. When I'm
6 having sex or when a man has sex, he normally has what we
7 call an erection. And if someone has just caught you
8 having sex, I would submit A, they would have seen your
9 erection, your penis or B, there be an obvious protrusion
10 in your pants. You would have a tent in your pants. You
11 would have a hard on in your pants, but that was never
12 testified to. I mean, supposedly she's a feet away.
13 Supposedly, she's talking him. He's talking to her.
14 Supposedly, she's talking to some guy on the phone. Why
15 didn't we hear from him. Why didn't he come up here and
16 testify. I heard the conversation between the two of them
17 because I was on the phone with her. We didn't hear from
18 her or her whoever it was. I think it was Tim, but we did
19 hear from him. But I know one thing, the State's Exhibit
20 Number 5 as soon as you walk in the door there's fan in
21 the way between the door and the weight bench. Christal,
22 how big is that fan. It's as tall as I am. And that's
23 between you and the weight bench, that you see something
24 or you think you see something.

25 And then you got Lin's statement that he

1 voluntarily gave. Then I felt the bench move when I
2 turned around and I did not see but skin. I said, no, you
3 are not going to get me in trouble. So I was getting up
4 when I turned to walk, Christal walk in the door. I was
5 standing up. She was lying on the bench with her clothes
6 down. I never done nothing like that in my life. God
7 help me.

8 I know what I would think if I walked in and I
9 saw a naked child. I know what I would think, but I would
10 also hope to think wait, wait, wait a minute. I didn't
11 see anything. I didn't see him -- I didn't see his penis.
12 I didn't see anything that look like they were having sex
13 afterwards, but hopefully law enforcement will get us
14 something. EMS report because EMS came up there and talk
15 to him. Hopefully, they will get something from the
16 hospital. Hopefully, they'll get something from where
17 this incident happened. Hopefully, they'll take it to a
18 doctor. The doctor can come in here and say, hey, she is
19 no longer a virgin. Okay, she must have had sex at some
20 point in time, that kind of narrows it down a little bit.
21 She said it was him, but we didn't have any of them. We
22 don't have EMS person testifying he came over there that
23 night. She went to the hospital for a rape kit. We don't
24 have the rape kit. We don't have anything that was sent
25 to SLED that came back, but it was done. So why don't we

1 have the results. I guarantee you they were favorable you
2 be hearing it guarantee that.

3 Why -- speaking of why's, why if my man, Lin, is
4 going to have sex with this girl, why would he leave he
5 door open. Remember, Christal said she walked out there
6 and the door was open, bang there it was. Why would you
7 do that. Why would you leave the door open. Mr.
8 Richardson said I don't want to get caught. Why would you
9 leave the door open. That's another question I have, but
10 the door was open don't know why.

11 Responding officer basically all he told us was,
12 yeah, I responded to the scene. I know EMS was called.
13 I know a whole lot of other people were called. Then we
14 got Samantha Jackson. And when I was reading Samantha's
15 report that's when I came up with the idea of don't
16 confuse me my mind is made up. I'm going to ask you to
17 give me consent to talk to you. I'm going to ask you a
18 bunch of questions and then I want you to write me out a
19 statement. I really don't care what you have to say.
20 I'll get to that in a minute. And then I want you to give
21 me a DNA swab, which my client voluntarily did. Then I
22 want you to give me consent to get your cell phone, which
23 he voluntarily did. Then I'm going to serve these
24 warrants on you because I really don't care about
25 anything. I don't care about your DNA. I don't care

1 about your cell phone. I don't care about anything. I
2 already got my mind made up, so I'm going to serve these
3 two warrants on you that I have. Certainty is the enemy
4 of truth.

5 While we're at it, why don't you go get a search
6 warrant for his clothes. Surely, if he had on clothes
7 that night and he was having sex with her, there be some
8 evidence of his clothes his gym shorts, his underwear.
9 Surely, there would be. I know what let's get a search
10 warrant to his house. Maybe, he's got a laptop at his
11 house where he's downloaded some stuff on his computer.
12 Downloaded some stuff on the laptop. Let's go do that.
13 Let's go to his house and look. Let's talk to some
14 neighbors, let's talk to some other people that live in
15 the neighborhood and find out if anything like this has
16 ever happened before, been rumored to have happened
17 before. We don't need all that. My mind is made up. You
18 wasting my time.

19 Then we have Ms. Williamson. I'm glad Ms.
20 Williamson testified because she let me know that Minor
21 didn't describe it the way she described it for you all.
22 She said Minor threw her phone that night. She said that
23 her mom was hitting her. She said that she cuts herself
24 out of anger towards her mom. She didn't say I cut myself
25 because I was mad and I got caught. I cut myself because

1 I was mad about Lin. She didn't say any of that, cut
2 herself because I'm mad at my mom. I release anger,
3 that's what I did. When there a lot of things we don't
4 have in this case. A lot of things we don't have.

5 I think the judge will tell you you only have to
6 have one reasonable doubt. There's no magic number. It
7 doesn't have to be ten reasonable doubts. Doesn't have to
8 be five reasonable doubts. Doesn't have to be three only
9 has to be one, one reasonable doubt.

10 There is no DNA. There's no hospital reports.
11 There is no search warrant for his clothes. There's no
12 search warrant for his house. No talking with the
13 neighbors none of that stuff. Why isn't more stuff on the
14 phone. Why isn't there contacts on the phone. Why I
15 can't I see more than one message. Why wasn't any sperm
16 found or any semen found or any spermatozoa or whatever
17 it's called. Why didn't we hear from EMS. Why there's no
18 SLED report. Why is there no doctor in here testifying as
19 to what he saw or observed or found. I don't know. I
20 don't know the answers to those. Why didn't someone
21 overheard the conversation and come and testify. I don't
22 know. Why didn't Christal see something. I saw his
23 penis. I saw his pants. I saw his shorts. I saw
24 something. I don't know. I don't know. I know that I
25 have a pit in my stomach because I don't want this man to

1 go to jail for something he didn't do.

2 THE COURT: All right. Members of the jury, it
3 is now my duty to instruct you on the law applicable to
4 this case. It is your duty as jurors to except and apply
5 the law as I now state it to you. Furthermore, it is your
6 exclusive duty to decide all the issues of fact in this
7 case and to determine the effect, the value, the weight
8 and the truth of the evidence presented. Both the State
9 and the defendant have the right to expect that you will
10 carefully consider and evaluate the evidence, apply the
11 law of this case to it, so that in the end both the State
12 of South Carolina and this defendant will have received a
13 fair and impartial trial.

14 I want you to understand that when I use the
15 word defendant I refer to Mr. Lindell Davis. In this
16 case, the State of South Carolina charges the defendant
17 with the offenses known as criminal solicitation of a
18 minor and criminal sexual conduct with a minor second
19 degree. To these charges, the defendant has entered a
20 plea of not guilty. These pleas of not guilty places the
21 burden of proof on the State to prove the guilt of the
22 defendant to you beyond a reasonable doubt on each charge.

23 It is vital to understand that the defendant is
24 presumed under the law to be innocent of the charges. It
25 is a fundamental rule of our law that a defendant

1 regardless of the seriousness of the charges against him
2 is always presumed innocent of the crimes for which he is
3 charged, unless and until his guilt has been proved by
4 evidence that satisfies you beyond a reasonable doubt.

5 The presumption of innocence is not a mere legal
6 theory or legal phrase. The presumption of innocence is
7 very important. You need to understand that this
8 presumption accompanies the defendant from the time of his
9 arrest and appearance in this court and continues with the
10 defendant even after you retire to the jury room to
11 deliberate. In other words, the defendant receives the
12 benefit of the presumption of innocence until the very end
13 of this trial. When you, the jury, will deliberate upon
14 the evidence and decide whether the State has proved his
15 guilt on each and every charge beyond a reasonable doubt.

16 During this trial, you and I have separate
17 duties to perform. As the trial judge, it is my
18 responsibility to reside over this trial. Therefore, I
19 have the duty to rule upon the admissibility of the
20 evidence offered during the trial. In that regard, you
21 are to consider only the evidence before you. Thus, you
22 are to consider only the testimony which has been
23 presented from this witness stand together with any
24 exhibits admitted into the record as evidence.

25 Furthermore, I have the additional duty to

1 charge you on the law applicable to this case. And in
2 that regard, it is your duty to accept and apply the law
3 as I now state it to you. If you have any preconceived
4 ideas as to what the law is or what the law ought to be
5 and it does not agree with what I tell you the law is,
6 you are obligated under your oath to abandon these
7 preconceptions and accept the law as I now state it to
8 you.

9 In this trial, you are the sole and exclusive
10 judge of the facts and I am the judge of the law. Do not
11 infer that I have any opinion about the facts in this case
12 from anything I have said during the course of this trial.
13 In this trial, the law simply does not permit me to have
14 an opinion about the facts. As jurors, it is your duty
15 alone to determine the effect, the value, the weight and
16 the truth of the evidence presented. Furthermore, it is
17 your job as jurors to determine the credibility and
18 believability of witnesses who have testified in this
19 case. You must evaluate the evidence and determine which
20 evidence convinces you of its truth. In determining the
21 believability of witnesses who have testified in this
22 trial, you may believe one witness over many or many over
23 one. You may believe apart of the testimony of a witness
24 and reject the remaining part. You may believe the
25 testimony of a witness in its entirety or reject it in

1 full. You may consider whether the witness has an
2 interest in the result of the trial, whether the witness
3 is prejudice toward either party. The opportunity for the
4 witness to have seen the matters and things about which
5 the witness may testify and the way the witness acts on
6 the witness stand. Proof beyond a reasonable doubt is
7 proof that leaves you firmly convinced of the defendant's
8 guilt.

9 There are few things in this world that we know
10 with absolutely certainty, so even in criminal cases the
11 law does not require proof that overcomes every possible
12 doubt. However, if based on your consideration of the
13 evidence you are firmly convinced that the defendant is
14 guilty of the crimes charged, you must find him guilty.
15 If on the other hand you think there's a real possibility
16 that he is not guilty, you must give him the benefit of
17 the doubt and find him not guilty.

18 Please understand that reasonable doubt may
19 arise from evidence which has been presented in the case
20 or from the lack of evidence in the case. It is your
21 responsibility to determine whether or not reasonable
22 doubt exist as to the guilt of this defendant on each and
23 every charge.

24 I charge you that the defendant is entitled to
25 every reasonable doubt rising in the whole case. If upon

1 any issues of fact essential to conviction and a verdict
2 of guilty, you have a reasonable doubt as to how that
3 issue should be resolved. It would be your duty to
4 resolve that reasonable doubt in favor of the defendant.

5 Thus, in summary, it's important to understand
6 that a defendant is not required to prove his innocence.
7 Instead, the State is required by law to prove every
8 essential element of the charges against the defendant by
9 evidence which satisfies you of his guilt beyond a
10 reasonable doubt. Only then can you convict the defendant
11 and find him guilty.

12 I further instruct you the fact that the
13 defendant in this trial did not testify in his own behalf
14 is not a factor to be considered by you in any way in your
15 deliberations and in your consideration on the question of
16 guilt or innocence. In this regard, the defendant has the
17 Constitutional Right to remain silent and the exercise of
18 this right must not be considered by you in your
19 deliberations. The fact that the defendant did not
20 testify should not even be discussed in the jury room.

21 The burden of proof as I stated to you is on the
22 State. The defendant has no obligation to prove his
23 innocence. The burden of proof remains with the State to
24 prove the defendant's guilt beyond a reasonable doubt and
25 the fact that the defendant did not testify is not a

1 factor to be considered by you in deciding the guilt or
2 the innocence of the defendant.

3 When you consider the whole case if you have a
4 reasonable doubt as to the guilt or the innocence of the
5 defendant, then he is entitled to that reasonable doubt
6 and would be entitled to a verdict of not guilty.

7 However, upon considering the whole case you find that the
8 State has proved by evidence which satisfies you of the
9 guilt of the defendant beyond a reasonable doubt, then in
10 such circumstances it would equally be your duty to
11 convict the defendant and find him guilty.

12 Evidence may be direct or circumstantial.
13 Direct evidence is testimony by a witness about what the
14 witness personally saw or heard or did. Circumstantial
15 evidence is indirect evidence, that is it is proof of one
16 or more facts from which one can find another fact. You
17 are to consider both direct and circumstantial evidence.
18 The law permits you to give equal weight to both, but it
19 is for you to decide how much weight to give to any
20 evidence.

21 The defendant is charged with one count of
22 second degree criminal sexual conduct with a minor. The
23 State must prove beyond a reasonable doubt that the
24 defendant engaged in a sexual battery with the victim. A
25 sexual battery is sexual intercourse, cunnilingus,

1 fellatio, anal intercourse or any intrusion however slight
2 of any part of a person's body or of any object into the
3 genital or anal openings of another person's body except
4 when such intrusion is accomplished for medically
5 recognize treatment or diagnostic purposes.

6 The State must then prove beyond a reasonable
7 doubt that the victim was less than 16 years old but at
8 least 14 years old. And that the defendant was either in
9 a position of familial, custodial or official authority to
10 converse the victim to submit or that the defendant was
11 older than the victim.

12 The defendant is also charged with one count of
13 criminal solicitation of a minor. The State must prove
14 beyond a reasonable doubt that the defendant knowingly
15 contacted or communicated with or attempted to contact or
16 communicated with the victim. A person who is under the
17 age of 18 or a person reasonably believed to be under the
18 age of 18 for the purpose of or with the intent of
19 persuading, enticing, inducing or coercing the person to
20 engage or participate in a sexual activity or with the
21 intent to perform a sexual activity in the presence of
22 another person furthermore, South Carolina code section
23 16-3-657 states in a criminal sexual conduct case the
24 testimony of a victim need not be corroborated.

25 Ladies and gentlemen, I'm now drawing near the

1 end of my charge and I want you to clearly understand that
2 you are not partisans or advocates for the State of South
3 Carolina or this defendant. You do not serve as jurors to
4 reward your friends or punish your enemies. In this
5 regard, you have been selected by both the State and this
6 defendant to be fair and impartial jurors. It is your
7 duty by your joint deliberations to determine the truth in
8 this case giving to this defendant the benefit of every
9 reasonable doubt on each and every issue.

10 Then to the facts which you determine to be
11 true, you should take and apply the law which has been
12 given to you by this court and thus arrive at a verdict
13 which speaks the truth in this case. In fact, the word
14 verdict which has a Latin derivative means a true saying.
15 Thus when you have accomplished these responsibilities,
16 you will have satisfied your oath as jurors and you will
17 have discharged your duty to this court.

18 Now, Mr. Bailiff hand that to the forelady
19 please, sir. Now, Ms. Forelady, I have handed you the
20 verdict form. In this case, when you arrive at a verdict
21 in this case, you will write your verdict on the form.
22 For the charges, if the State has failed to prove the
23 guilt of this defendant beyond a reasonable doubt, your
24 verdict will be two words not guilty. However, should the
25 State have proved their case against the defendant beyond

1 a reasonable doubt, then your verdict would be one word
2 guilty. Ms. Forelady, once a decision has been made just
3 check which ever choice is your verdict on each charge.
4 Also please understand that the verdict that you render in
5 this case must be the verdict of each and every juror. It
6 must be your unanimous verdict. All 12 jurors must agree
7 on the verdict which you authorize the forelady to write
8 for the jury.

9 Ms. Forelady and members of the jury, I want you
10 to further understand that the order in which the choices
11 of a verdict appear on the verdict form are not suggestive
12 of any verdict on the part of this court. The verdict in
13 this case is to be determined by you and not this court.
14 Furthermore, ladies and gentlemen, please understand that
15 even though I have given the verdict form to the forelady,
16 it is not her verdict alone. It is the verdict of all 12
17 of you. And I emphasize again it must be unanimous.

18 Now, you will retire to the jury room. However,
19 I would ask that you do not begin your deliberations at
20 this time. The law requires that I consult with the
21 attorneys first. After I have done so, the bailiff will
22 bring in the items of evidence and instruct you to begin
23 your deliberations. Also should you have any questions
24 during your deliberations, you must put them in writing
25 and send them to me by way of the bailiff. The Court

1 bailiff will be placed immediately outside of the jury
2 room door to provide security and assistant for you during
3 your deliberations. Once you have reached your verdict,
4 please knock on the jury room door and ask the bailiff to
5 advise the Court that you have reached a verdict. And we
6 will return you to the courtroom as promptly as possible
7 thereafter. Thank you. You may retire to the jury room,
8 but again do not begin your deliberations until told to do
9 so.

10 (WHEREUPON, the jury retire to the jury room.)

11 THE COURT: Any objections to the charge as
12 given from the State?

13 MR. RICHARDSON: No, sir.

14 THE COURT: Defense?

15 MR. ANDERSON: No, sir.

16 THE COURT: All right. Why don't you take a
17 look at the items that are into evidence, send them on
18 back and tell them to begin. They in order?

19 MR. ANDERSON: Yes, sir.

20 MR. RICHARDSON: Yes, sir.

21 THE COURT: Mr. Bailiff, take them on back and
22 tell the alternate to come on out and tell them to begin.
23 Ms. Alternate, I want to let you know that your job is
24 complete. You can go for the day, but I need for you to
25 call back after six to see if there any further

1 instructions for you. Thank you.

2 (WHEREUPON, alternate juror is excused.)

3 (WHEREUPON, the jury began deliberations at
4 11:17 a.m.)

5 THE COURT: We'll be at ease until something
6 happens.

7 (WHEREUPON, court at ease awaiting a verdict.)

8 THE COURT: Let's go ahead and bring them out.

9 (WHEREUPON, the jury came into open court at
10 12:00 p.m. with a verdict.)

11 THE COURT: All right. Ms. Forelady, has the
12 jury reached a verdict?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: If you will hand it to the bailiff
15 please, ma'am. I find the verdict form in order. Ms.
16 Clerk, you'll publish it.

17 THE CLERK: State of South Carolina County of
18 Marion, in the court of general sessions for the Twelfth
19 Judicial Circuit, the State of South Carolina vs. Lindell
20 Davis. As to charge of solicitation of a minor: We, the
21 jury, unanimously find the defendant guilty. As to
22 charge of criminal sexual conduct with a minor second
23 degree: We, the jury, unanimously find the defendant
24 guilty. Is this your verdict say you one say you all?

25 (WHEREUPON, all jurors responded by saying yes.)

1 THE CLERK: Thank you.

2 THE COURT: Need for further polling?

3 MR. ANDERSON: No, sir, Your Honor.

4 THE COURT: All right. Members of the jury, I
5 appreciate all you have done. You are excused for the
6 day. If you would call back after six tonight to see if
7 there any further instructions for you. Everybody else
8 remain seated and you are dismissed.

9 (WHEREUPON, the jury dismissed.)

10 THE COURT: Any motions from the defense?

11 MR. ANDERSON: No, sir, Your Honor.

12 THE COURT: All right. Let me know when you
13 have sentencing sheets ready.

14 MR. RICHARDSON: Yes, Your Honor.

15 (WHEREUPON, a pause in the proceedings.)

16 THE COURT: All right. Let me hear from the
17 State or the victim. And does he have a criminal record?

18 MR. RICHARDSON: I spoken with the victim they
19 do not wish to address the Court. With respect to prior
20 record, looks like primarily traffic offenses. There's
21 assault and battery third degree in 2013. Looks like some
22 out of state record going back to the early 90's. Some of
23 these out -- carrying a concealed weapon, that was a
24 guilty in 1990, forgery in '91, more traffic offenses.
25 That appears to be it, Judge.

1 THE COURT: All right. Be glad to hear from
2 you.

3 MR. ANDERSON: Judge, please the Court as you've
4 already heard, Your Honor, I think Lin is 55, Judge. He's
5 been here in the courtroom the last two days. His wife
6 has been here with him. Your Honor, very very limited
7 prior criminal history. Your Honor, we just ask that you
8 please be as lenient as possible. I think when he was
9 first arrested two days.

10 THE COURT: In reference to the CSC, the
11 sentence of the Court is 15 years. In reference to the
12 solicitation, sentence of the Court is eight years. And
13 I'll run them concurrent.

14 MR. ANDERSON: Thank you, Judge.

15 MR. RICHARDSON: Thank you, Judge.

16 THE COURT: Thank you.

17 END OF REQUESTED TRANSCRIPT

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22

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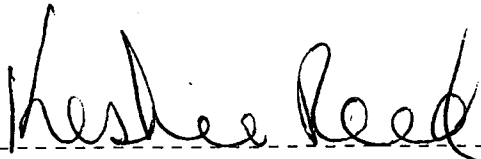
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter and Notary Public
in and for the State of South Carolina At Large, do hereby
certify that the above-entitled cause was heard as
hereinafter set out; that I was authorized to and did
transcribe the said proceedings; and that the foregoing
and annexed paged, numbered 1 through 186, inclusive,
constitute a true and accurate transcription of my
stenographic report of the said cause taken during the
said hearing. In the Court of General Sessions for Marion
County, South Carolina, on the 16-17 day of November,
2015.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto. In witness
whereof, I have hereunto affixed my signature this 8th day
of May 2016.


Keshia Reed, Court Reporter

WITNESSES

17
16
Mamatha Jackson Marion County Sheriff

David A Richardson

ARREST WARRANT NUMBER

2014A3310100282 2014A3310100281

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 11-6-14

VERDICT

True Bill

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-33-00312

The State of South Carolina

County of

MARION

COURT OF GENERAL SESSIONS

NOVEMBER

TERM

2014

THE STATE

vs.

LINDELL DAVIS

Indictment for

CRIMINAL SOLICITATION OF A MINOR
AND
CRIMINAL SEXUAL CONDUCT WITH A
MINOR SECOND DEGREE

BOOK _____ PAGE _____
2014 NOV - 6 P 2:53
MARION COUNTY SC
SHERIFF R. RHODES
CLERK OF COURT

A CERTIFIED COPY OF THE
ORIGINAL FILED IN THIS OFFICE
BOOK _____ PAGE _____
Sherry R. Rhodes
CLERK OF COURT, MARION COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

COUNTY OF MARION)

INDICTMENT FOR

CRIMINAL SOLICITATION OF A MINOR
ANDCRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

At a Court of General Sessions, convened on NOVEMBER 6, 2014 the Grand Jurors of MARION County present upon their oath:

COUNT ONE- CRIMINAL SOLICITATION OF A MINOR

That LINDELL DAVIS, a person eighteen years of age or older, did in Marion County, on or about May 31, 2014, knowingly contact or communicate with or attempt to contact or communicate with Minor a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5), or with the intent to perform a sexual activity in the presence of that person, in violation of Section 16-15-342, S. C. Code of Laws, 1976, as amended.

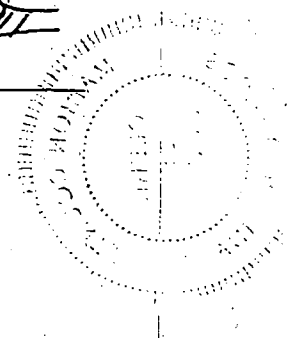
COUNT TWO- CRIMINAL SEXUAL CONDUCT WITH A MINOR SECOND DEGREE

That LINDELL DAVIS did in Marion County, State of South Carolina, on or about May 31, 2014, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: Minor whose date of birth is and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or was older than the victim, in violation of Section 16-03-655(B)(2), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



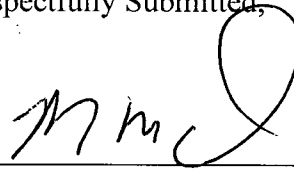
E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 8th day of February, 2017.

RECEIVED
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SC Court of Appeals