

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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CERTIORARI TO THE COURT OF APPEALS  
Appeal from Spartanburg  
The Honorable J. Derham Cole, Circuit Court Judge

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Opinion No. 5372 (S C. Ct. App. filed December 30, 2015) **SUPREME COURT**

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Appellate Case No. 2016-000610

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FARID A. MANGAL, #320609,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

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APPENDIX

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VICTIM - Direct examination  
by Solicitor Crick

1 evidence isn't there and I submit to you you won't have  
2 enough.

3 Thank you very much.

4 THE COURT: Ready to call your first witness?

5 SOLICITOR CRICK: Thank you, Your Honor.

6 The State calls VICTIM

7 THE COURT: Have we complied with the sequestration  
8 agreement?

9 SOLICITOR CRICK: Yes, sir.

10 MR. CRANE: I -- as far as I know, yes, sir.

11 THE COURT: All right.

12 VICTIM, being first duly sworn,  
13 testified as follows:

14 THE COURT: Yes, ma'am.

15 DIRECT EXAMINATION

16 BY SOLICITOR CRICK:

17 Q Could you give the jury your full name for the record?

18 A VICTIM

19 Q How old are you, VICTIM?

20 A Nineteen years old.

21 Q Do you live in Spartanburg?

22 A I do.

23 Q How long have you lived in Spartanburg?

24 A My entire life.

25 Q Did you go to high school here?

VICTIM - Direct examination  
by Solicitor Crick

- 1 A I did.
- 2 Q Where did you go?
- 3 A Spartan High.
- 4 Q How long did you go to Spartan High?
- 5 A I went there my tenth and eleventh grade year and half  
6 of my twelfth. Then I went home bound.
- 7 Q Did you, did you graduate from Spartanburg High School?
- 8 A I did. I have a high school diploma.
- 9 Q And you got that how?
- 10 A The adult ed program.
- 11 Q Do you work?
- 12 A I do.
- 13 Q Work full-time or part-time?
- 14 A Full-time.
- 15 Q Where do you work?
- 16 A Delaney's Pub downtown.
- 17 Q Do you live by yourself now?
- 18 A I don't. I live with two of my roommates.
- 19 Q Are you in school?
- 20 A Not as of right now.
- 21 Q Do you have any plans to go to school?
- 22 A I'm going to attend Tri-County Tech in Clemson in the  
23 fall.
- 24 Q So, when are you gonna start there?
- 25 A In August.

VICTIM - Direct examination  
by Solicitor Crick

1 Q And is there a reason you waited to start college till  
2 August?

3 A I have applied and got accepted to plenty of schools.  
4 But I haven't gone up until now because it's not, it's too  
5 much for me to deal with along with this.

6 THE COURT: Ma'am, if you could -- that microphone  
7 bends.

8 WITNESS: This one?

9 THE COURT: Can you bend it?

10 WITNESS: That way?

11 THE COURT: Just pull it towards you.

12 Yeah.

13 WITNESS: Sorry.

14 Q You can go ahead and finish if you didn't.

15 A I'm, I'm ready now. I wasn't ready before. But I am  
16 now.

17 Q Who did you live with for a long time?

18 A My father and my mother and my two brothers.

19 Q Is that your father in the courtroom?

20 A Yes, ma'am.

21 Q Where is he seated?

22 A At that table.

23 Q And you said you had two brothers?

24 A I do.

25 Q Are they older, younger?

VICTIM - Direct examination  
by Solicitor Crick

1 A They're both younger than I am.

2 Q What are their names?

3 A Rashan and Mateen [REDACTED]

4 Q When you were growing up, VICTIM, who did the discipline  
5 in the house?

6 A My father.

7 Q And what kind of things would you get in trouble for?

8 A Anything. Any small -- anything. I had no idea when  
9 or what, when they came upset.

10 Q And how would he discipline you if he did?

11 A It usually consisted of verbal and physical abuse. But  
12 not as in a spanking, but in the beating. Not --.

13 Q Was it the same for you and your brothers or was that  
14 just you?

15 A More so for myself and Rashan, but not so much for  
16 Mateen.

17 Q And when he did discipline you, was that something he  
18 would do in front of other people in the house or how---

19 A Everyone that lived in the house. But not anyone  
20 outside of the house.

21 Q So, in, in other words, if he disciplined you, it  
22 didn't matter if anyone else was in the room?

23 A Correct.

24 Q Would he do it when it happened, whatever happened?

25 A Yes, ma'am.

VICTIM - Direct examination  
by Solicitor Crick

1 Q Up until a point did you have a good relationship with  
2 your father?

3 A Growing up, up until about five or six I would say yes.

4 Q At some point your relationship changed?

5 A Yes, ma'am.

6 Q Do you know when that was?

7 A I can't, I can't really tell you at what age. But as I  
8 grew up and as I matured and, you know, I wasn't a little  
9 girl, things, things changed completely. I don't know.

10 Q At some point -- well, let me ask you this.

11 Did your father work?

12 A He did.

13 Q Did your mom work?

14 A She didn't until I was ten obviously.

15 Q So---

16 A She worked off and on. But not so much when we were  
17 kids growing up. She stayed at home to take care of us.

18 Q And at some point she went back to work?

19 A She did.

20 Q And you were how old?

21 A She went back to work when I was seven and then she  
22 went back to work when I was ten.

23 Q And when you were ten and she went back to work, did  
24 anything change?

25 A Yes, ma'am.

VICTIM - Direct examination  
by Solicitor Crick

1 Q What changed?

2 A The relationship with my father went from bad to even  
3 worse. You know, instead of verbal and physical abuse he  
4 added sexual abuse to the situation.

5 Q Do you remember when the first time I---

6 A I do.

7 Q ---that was added?

8 When was that?

9 A When I was ten years old and I came home from school.

10 Q What happened?

11 A He told me that he was gonna explain what sex was to me  
12 and that he was gonna show me what people, I shouldn't allow  
13 other people to do to me.

14 Q Did he explain anything to you at that point?

15 A He told me that women have seals and if they're broken  
16 that means that they're whores and---

17 Q Did you know what he was talking about at the time?

18 A I had no idea. I mean I kind of understood what sex  
19 was, but I didn't understand the full concept of it, you  
20 know, and I had no idea what he was saying to me. I mean it  
21 made sense, but in a really weird kind of way.

22 Q That he was explaining sex to you?

23 A Right.

24 Q What else did he say about it, if anything?

25 A He, he didn't explain it for very long. He told me

VICTIM - Direct examination  
by Solicitor Crick

1 that men had seeds and tried to -- I don't know if he was  
2 trying to explain the baby process or what. I don't know  
3 what he was doing. But he told me that he was gonna show me  
4 and that's -- it was not really a conversation. It was---

5 Q And where were you?

6 A I was in the living room when we had this conversation.  
7 But then he took me---

8 MR. CRANE: What -- I, I couldn't hear it.

9 What's the answer?

10 I couldn't hear it.

11 THE COURT: Ma'am, if you could, just repeat it and  
12 really---

13 A We were in the living room---

14 THE COURT: Really lean into---

15 A ---when we had that---

16 THE COURT: Ma'am, really lean into that microphone.  
17 The acoustics are not that great in here. Thank you.

18 A We were in the living room when we had the  
19 conversation, but he took me back to his bedroom after that.

20 Q So, it was his bedroom?

21 A Yes, ma'am.

22 Q Once you got back to his bedroom, what happened?

23 A He told me to lean over his bed and to take my pants  
24 off.

25 Q Did you do that right away?

VICTIM - Direct examination  
by Solicitor Crick

1 A I didn't. I told him that I didn't want to and he told  
2 me that he knew what was best for me and -- I'm sorry.

3 Q It's okay. Take your time.

4 A And that if I didn't listen to him, that, you know,  
5 things weren't gonna be right between us ever again and so,  
6 I did it.

7 Q So, you took off your pants?

8 A I did.

9 Q And after that, you did what?

10 A I bent over his bed.

11 Q And what happened after that?

12 A He rubbed his penis around my anal area. But not  
13 going, not---

14 Q Was it -- did he -- let me ask you this.

15 Did he fully penetrate you?

16 A No, ma'am.

17 Q But it was---

18 A Somewhat.

19 Q So, it was some penetration, but it wasn't---

20 A (Witness nods negatively.)

21 Q ---at that time?

22 MR. CRANE: Judge, I'm not clear on the answer.

23 Was there penetration or wasn't there?

24 THE COURT: All right. Ma'am, you're gonna -- the lady  
25 over here is a court reporter. She's making a recording of

VICTIM - Direct examination  
by Solicitor Crick

1 everything that's said. So, you're gonna need to be sure  
2 you give verbal responses. Nods and shakes of your head  
3 are, do not get taken down.

4 SOLICITOR CRICK: Well, Your Honor, she did answer the  
5 question. But I think---

6 THE COURT: We did not hear her answer the question.

7 A There wasn't full penetration, but there was some sort  
8 of penetration. I don't understand what---

9 Q That's fine.

10 Was he doing anything while he---

11 A No.

12 Q ---had his penis there?

13 A He was just moving back and forth.

14 Q What happened after the moving back and forth?

15 What was the next thing?

16 A He continued -- he went to -- he got -- he had a napkin  
17 or towel, paper towel and he came or let his sperm into it  
18 when he finished.

19 Q Do you know what he did with that napkin or paper towel  
20 afterwards?

21 A He threw it away in the dumpster outside of our house.

22 Q What did you do after this happened?

23 A I immediately got very upset because I knew something  
24 wasn't right and he apologized. But I don't know. And he  
25 told me that it wasn't gonna happen again. That he was just

VICTIM - Direct examination  
by Solicitor Crick

1 trying to show me what was right for me. But it happened  
2 the next day and---

3 Q Well, let me ask you this.

4 Did he say anything to you at that time about what you  
5 should do?

6 A He told me if I told my mom that she wouldn't believe  
7 me, and that it would do nothing but embarrass her and the  
8 family, and that he knew what he was doing and that I was --  
9 I don't know.

10 Q And did he tell you what would happen if the family was  
11 disgraced?

12 A He, he didn't tell me immediately like after that one  
13 episode. But he went on to tell me years later that he  
14 would make sure that my family, he would make sure that I  
15 would not see them ever again, and that it would be simple  
16 enough for him just to move back to his home to be with his  
17 family overseas, and that he would kill my mother and my  
18 brothers and myself.

19 Q At that time did you know of any reason not to believe  
20 him?

21 A No, I believed him.

22 Q After this happened, did anything else change in the  
23 house as far as his behavior towards you?

24 A It went from a father daughter relationship to some  
25 weird disgusting I don't know.

VICTIM | - Direct examination  
by Solicitor Crick

1 Q What kind of things are you talking about?

2 A He would grab me and I mean even when other people were  
3 in the room he would grab me and touch me when they weren't  
4 looking knowing that I didn't like it. And after that he---

5 Q Well, let me stop you for a second.

6 When you say he would grab and touch you, where would  
7 he grab and touch you?

8 A On my breast and on my behind and my legs. And after  
9 that he would make me take baths in front of him and he  
10 would wash me.

11 Q And did you say anything to him about that?

12 A I told him I didn't like it.

13 Q And what was his response?

14 A He didn't really care.

15 Q And I think you have alluded to this, but after that  
16 first time, did this happen more than once?

17 A This happened many times over the six years.

18 Q Until how old?

19 A When I was sixteen.

20 Q Do you know how many times in that period that he did  
21 this or---

22 A I have no idea. It's -- I have lost count. When it  
23 first started it was pretty much every single day I came  
24 home from school.

25 Q And then after that did it lessen?

VICTIM - Direct examination  
by Solicitor Crick

1 A There was a years period that there was nothing when I,  
2 the -- whenever my tenth grade year or my ninth grade year  
3 and up until my tenth, the middle of my tenth grade year.

4 Q Other than as---

5 A There was nothing.

6 Q As far as like how often do you think it would happen  
7 in a weeks time?

8 A Once or twice.

9 Q After the initial time?

10 A Yes, ma'am.

11 Q Where -- let me ask you this.

12 What time of day did it usually happen or did it  
13 change?

14 A Usually when I got out of school because my mom wasn't  
15 there. She was in work and sometimes my brothers were  
16 there. And during the summer, when my mom was like went  
17 into work, we were at home. And so, it could start as early  
18 as when he woke up in the morning. So --.

19 Q Did he work at the time?

20 A He owned his own business. So, his schedule, you know,  
21 went back and forth whether or not he had a job. In the  
22 latter part of him being in the house, when I was fifteen,  
23 sixteen, he didn't work that much.

24 Q Did it ever happen on the weekends or was it just  
25 weekdays?

VICTIM - Direct examination  
by Solicitor Crick

- 1 A Usually weekdays because my mother was home weekends.
- 2 Q Who picked you up from school?
- 3 A He did.
- 4 Q And would he bring you home?
- 5 A He did.
- 6 Q Did he pick up your brothers?
- 7 A Not all the time.
- 8 Q What would they do to get home?
- 9 A Take the bus.
- 10 Q Where did it usually happen, VICTIM?
- 11 A Usually in his room and my mother's room and sometimes
- 12 in my bedroom and there were a couple times in his bathroom.
- 13 Q And in his bathroom, was that within his room?
- 14 A Yes, ma'am.
- 15 Q Did he leave the door open?
- 16 Was the door shut, locked, or---
- 17 A They were always shut and locked.
- 18 Q Was there a lock on the door?
- 19 A There was just a regular lock on the door. Just, you
- 20 know, a regular door knob and then when I was, I don't know,
- 21 thirteen, fourteen maybe, he changed it to a dead bolt on
- 22 his bedroom door.
- 23 Q Did he have a key or anybody else?
- 24 A He had a key, but nobody else did.
- 25 Q You had mentioned that occasionally things would happen

VICTIM - Direct examination  
by Solicitor Crick

1 in the bathroom.

2 Do you remember -- well, let me start by asking you  
3 this.

4 Do you remember the specifics of every single time it  
5 happened?

6 A No, I don't.

7 Q Do you ever remember any specifics about something that  
8 happened in the bathroom?

9 A I do.

10 Q What do you -- well, first of all, do you know about  
11 how old you were when that happened?

12 A Thirteen, fourteen maybe. I, I don't remember all of  
13 them. There's only a few times that stick out in my head.

14 Q So, why does -- the bathroom that one time, why does  
15 that stick out in your head?

16 A Because my aunt and uncle had just gotten married and  
17 they were coming in from Texas to see my mom because it's my  
18 mom's sister. And they -- she had went with my brothers to  
19 go get food or whatever to go shopping, grocery shopping,  
20 and he took me into the bathroom. And I don't know. It was  
21 one of those days that I just did not want to deal with it.

22 Q Why didn't you want to deal with it?

23 A Because it was a family thing and I don't know.

24 Q So, when you went in the bathroom, what happened?

25 A He made me stand up against the wall and he stood

VICTIM - Direct examination  
by Solicitor Crick

1 behind me.

2 Q And what did he do on that occasion?

3 Was this time full penetration or partial penetration?

4 A He didn't usually do full penetration. I can only  
5 think of a couple times that he would of done that because  
6 he was scared that I would, you know, get pregnant or  
7 something.

8 Q Would you ever tell him you didn't want to do it or  
9 refuse?

10 A Yes.

11 Q What would happen when you did that?

12 A Sometimes he would apologize and he would tell me that  
13 the next time would be the last time or, you know, in a  
14 couple weeks I won't, I promise I won't do it again. But it  
15 never, it never ended or he would come back at me and tell  
16 me that I was a whore and that everybody else could get  
17 some, so why shouldn't he.

18 Q What would happen if you didn't agree with him?

19 A He would take it out on my brothers and my mom.

20 Q When you say take it out on him, what do you mean by  
21 that?

22 A If I did what he wanted me to do, things were a lot  
23 easier and more peaceful in the house. But if I didn't, any  
24 little thing that my brothers and my mom did was scrutinized  
25 against, and he would, you know, yell at them and, you know,

VICTIM - Direct examination  
by Solicitor Crick

1 call my little bother a fat ass and call my mom a whore and  
2 tell Rashan that he was a bastard and he wasn't.

3 Q Just take a second.

4 (Pause.)

5 A He would tell Rashan that he wasn't his son, and just I  
6 don't know. I don't know. I have felt like I had to do it  
7 to keep him happy because I couldn't watch them go through  
8 that.

9 Q Did he -- well, let me ask you this.

10 The times after that first time, was it always the same  
11 thing with the slight penetration or did that change over  
12 time?

13 A No, over time it went to he would rub his penis on my  
14 vaginal area, and there were a couple times that he, he --  
15 my father did take my virginity and I know that.

16 Q So, did he -- you just said -- so, he didn't completely  
17 penetrate every time, but there were times that he did?

18 A There were times.

19 Q Do you remember the first time that that happened?

20 A Yes, ma'am.

21 Q When was that?

22 A I was in my bedroom. I don't -- I could of been  
23 fourteen or fifteen. I don't know.

24 Q Around that time.

25 Do you remember if it was while you were still in high

VICTIM - Direct examination  
by Solicitor Crick

1 school?

2 A It was.

3 Q And what happened that time?

4 A Instead of laying, you know, face down, he made me lay  
5 in front face first looking at him, and he put a pillow over  
6 my face and pushed it all the way inside of me.

7 Q And what was going on in your mind at that time?

8 A I remember it being like the worse pain ever, and I  
9 cried and broke down. And after that, he felt it was one of  
10 the like only times he felt very very bad for doing it.

11 Q Did you have any bleeding as a result of that?

12 A Yes, ma'am.

13 Q Did you ever have any bleeding as a result of the anal  
14 penetration?

15 A Minimal if I did.

16 Q But at some point you had bleeding vaginally and  
17 anally?

18 A Yes, ma'am.

19 Q Did you ask him to stop when it hurt?

20 A I did.

21 Q What would he say?

22 A He told me to relax, that it would, it wouldn't hurt as  
23 bad and that he could never have it the right way because I  
24 was so picky and soft.

25 Q Did it ever become more painful or aggressive?

VICTIM - Direct examination  
by Solicitor Crick

- 1 A As I got older, yes.
- 2 Q And how did it change?
- 3 A What do you mean?
- 4 Q How did it become more painful or aggressive?
- 5 What did he do?
- 6 A It got to the point where he didn't care what I said.
- 7 You know, when I was younger he would stop doing it as hard
- 8 if I told him that it hurt. But as I got older, he didn't
- 9 really care.
- 10 Q Do you remember, in November of 2002, getting in
- 11 trouble at school?
- 12 A I do.
- 13 Q And did the principal do a write-up---
- 14 A Yes, ma'am.
- 15 Q ---on that?
- 16 A I was suspended.
- 17 Q And was it for conduct that was sexual in nature?
- 18 A Yes, ma'am.
- 19 Q Was this during the period your father had stopped you
- 20 mentioned?
- 21 A Yes, ma'am.
- 22 Q What year would that have been?
- 23 A I don't -- it would have been the Winter of 2001 that
- 24 it stopped up until---
- 25 Q Would that be your freshman---

VICTIM - Direct examination  
by Solicitor Crick

1 A Yeah.

2 Q ---year?

3 And I was just gonna back up for a second and let me  
4 get back to the school.

5 What was the reason that he stopped for that one  
6 particular year?

7 A I, I don't know. My grades went down and I was very  
8 depressed and he saw that and I don't know. We sat down and  
9 he, I told him that I just couldn't handle it anymore, and  
10 that I did love him, and that -- that's all I wanted is for  
11 him to be a dad to me. And he agreed with me and it did  
12 stop for a while, and I'm not gonna say that we didn't have  
13 a good relationship in that year because we did.

14 Q And after that, what caused it to or did it go back to  
15 how it did?

16 A It did. It did. Once I got in trouble at school he  
17 told me -- he, he said that he figured that the only way to  
18 keep me out of trouble was by doing that and that he felt  
19 that---

20 Q Well, let me -- I'm gonna stop you just for a second  
21 because lets let the jury know. You got in trouble at  
22 school accused of some sort of sexual contact.

23 A (Witness nods affirmatively.)

24 Q What was that accusation?

25 A For having oral sex in a locker room with a boy.

VICTIM - Direct examination  
by Solicitor Crick

1 Q Now, did you---

2 A I did not do that. But I was suspended for it.

3 Q Did you ever admit to that?

4 A No, I did not.

5 Q And as a result of that you got suspended?

6 A I was.

7 Q Did your father find out, out about it?

8 A Yes.

9 Q And what did he have to say about that?

10 A Immediately or afterwards?

11 I mean like further along the line?

12 Q What was his reaction to it I guess is a better way to  
13 phrase that when you got in trouble?

14 A He called me a whore and he took me outside behind his  
15 building and told me that he figured since every other  
16 nigger out there had had it, that he was gonna be able to  
17 have his as well.

18 Q That's what he told you out there?

19 A Yes.

20 Q And so, after that, did the abuse begin again?

21 A (Witness nods affirmatively.)

22 Yes, ma'am.

23 Q Do you remember if that first vaginal penetration was  
24 before you got trouble in school or after?

25 A Before.

VICTIM - Direct examination  
by Solicitor Crick

- 1 Q And was there ever vaginal penetration after?
- 2 A Yes, ma'am.
- 3 Q Did he ever use condoms?
- 4 A He did.
- 5 Q Every time?
- 6 A Not every time. It started when I was probably  
7 fourteen or fifteen.
- 8 Q And he---
- 9 A He was afraid I had gotten pregnant because he kept a  
10 close track on my period.
- 11 Q How did he know when your period would be?
- 12 A He made me tell him and that was pretty much the only  
13 time that he would leave me alone.
- 14 Q Is during your period?
- 15 A Yes, ma'am.
- 16 Q Did you tell him when it was?
- 17 A I did.
- 18 Q Pretty accurately?
- 19 A (Witness nods affirmatively.)  
20 For the most part.
- 21 Q And you said after that is when he started using  
22 condoms or when did he first start?
- 23 A After I got in trouble at school he thought that I had  
24 gotten pregnant by a boy and he made me take a pregnancy  
25 test and I think it happened twice after that maybe.

VICTIM - Direct examination  
by Solicitor Crick

1 Q So, who bought the pregnancy test?

2 A He did.

3 Q Do you know where he got it?

4 A One time, I -- the first time I came home from school,  
5 I had no idea where he got it from. But then I remember one  
6 other time that he took me to CVS after I got off from  
7 school.

8 Q Did you do the test?

9 A I did.

10 Q And you would do what?

11 How did you do that?

12 A I would just go to the bathroom and take it and then  
13 give it back to him when I got done.

14 Q And he would check it?

15 A He would.

16 Q At any point did anyone ask you whether your father had  
17 any marks on his penis?

18 A Yes, ma'am, Wiley Garrett over---

19 Q Is that a counselor?

20 A Yes, ma'am.

21 Q And that is the first time you were asked about that?

22 A Yes, ma'am.

23 Q And were you able to remember something?

24 A Yes, ma'am.

25 Q What did you remember?

VICTIM - Direct examination  
by Solicitor Crick

- 1 A I remember him showing me a freckle on his penis.
- 2 Q When, and I hate to go into any detail, but when he
- 3 showed you that, was his penis erect---
- 4 A Yes, ma'am.
- 5 Q ---or not?
- 6 A Yes, ma'am, it was.
- 7 Q It was erect?
- 8 A Yes, ma'am.
- 9 Q Was that the only time that you knew---
- 10 A It was the only time I ever -- I didn't try to look at
- 11 it ever, but then he pointed it out blatantly to me. That's
- 12 the only reason I know that.
- 13 Q When this happened, would anyone else be around?
- 14 A My brothers would sometimes be home from school.
- 15 Q And where---
- 16 A But I mean they had no idea what was going on.
- 17 Q And how did they not know?
- 18 Could they not see?
- 19 A I mean they saw me coming out of his room upset, you
- 20 know, every once in a while. But I don't know.
- 21 Q So, you were behind closed doors when this occurred?
- 22 A Of course.
- 23 Q Was your mom ever there when he would do this to you?
- 24 A No, not really. That's the first time that I tried, I
- 25 mean I -- that's when I did tell my mom what was going on

VICTIM - Direct examination  
by Solicitor Crick

1 because my mom was there.

2 Q And you tried?

3 A Yeah.

4 Q Tell me about that.

5 What happened?

6 A My mom had had neck surgery, I don't know, two weeks  
7 before -- I don't know when she had it. But---

8 Q That's okay.

9 A ---after she had neck surgery she was in her bed and  
10 she couldn't move and I was in the dining room because he  
11 made me sleep there. He wouldn't let me sleep in my room.

12 Q Why would he not let you sleep there?

13 A Because he was convinced that I had boys coming up to  
14 my window, which is not true. So, he moved my bed into the  
15 dining room.

16 Q So, he came into the dining room?

17 A He did.

18 Q And what happened?

19 A And he tried -- he started rubbing on me and I told him  
20 I couldn't because my mom was in the next room, and he got  
21 very upset. And the whole next day he took it out on my  
22 brothers. I remember him hitting Rashan for getting ice out  
23 of the, the freezer too late for park camp the next date,  
24 and that's -- I just couldn't take it anymore because they  
25 didn't deserve that over stupid things like that because I

VICTIM - Direct examination  
by Solicitor Crick

1 wouldn't do what he wanted me to do.

2 Q He would get into it with them?

3 A Yeah.

4 Q Before you told him no as far as, because your mother  
5 was in the house, do you remember the last time that abuse  
6 happened?

7 A Yes, ma'am.

8 Q When was that?

9 A The day before my mom went into surgery.

10 Q How old were you when that would of happened?

11 A Sixteen.

12 Q What happened on that occasion?

13 A He took me to my room and he didn't penetrate my  
14 vaginal area. But he did rub his penis around it.

15 Q And that's the last time?

16 A It is the last time.

17 Q So, what -- when did you first tell somebody what was  
18 going on?

19 A My brother Rashan was the first person I told because  
20 after he went to bed that night that my dad had hit him, I  
21 went in there and I was very upset because he had come in  
22 there and called me a whore. I don't know, just the same  
23 old story. And I told Rashan I had something to tell him  
24 because I, you know, I didn't feel it was fair that they had  
25 to live in misery because of me because the fact that I felt

VICTIM - Direct examination  
by Solicitor Crick

1 like it was my fault.

2 Q Do you still feel like that?

3 A Sometimes, but not really.

4 Q So, what did you tell Rashan?

5 A I didn't really tell him upright. He guessed, you  
6 know, what was going on. I mean it took him a while because  
7 I didn't want, I didn't want to tell him and my main reason  
8 for not wanting to tell him was because I didn't want my mom  
9 to find out.

10 Q And why not?

11 A Because my mom had had it hard enough. My mom's had a  
12 very hard life and my dad was never good to her, and I grew  
13 up watching that, and I didn't want to be another burden on  
14 her shoulders. And Rashan told me if I didn't tell her that  
15 he would. And so, I did tell her the next morning.

16 Q You told her?

17 A Uh-huh. (Affirmative).

18 I did.

19 Q And when you told her, where were you?

20 A I had taken her to the doctor for a check-up on her  
21 neck.

22 Q From the surgery?

23 A Yes, ma'am.

24 Q And how did it come out?

25 A I told her that I had something to tell her that would

VICTIM - Direct examination  
by Solicitor Crick

1 change our lives forever and I was scared. But I knew that  
2 if I didn't tell her that I was not ever gonna be happy and  
3 I was never gonna make it out of that house. And I, I told  
4 her that he had been sexually abusing me, molesting me for  
5 the past six years.

6 Q Now, did you tell your mom at that point that he had  
7 been penetrating you and all that stuff?

8 A No, I did not give her much detail because---

9 Q Why not?

10 A ---I mean that, that is, that is his -- you know that's  
11 her husband and I didn't---

12 Q You didn't feel---

13 A ---comfortable.

14 Q ---comfortable telling her all the details?

15 A Yeah, I didn't feel like she needed to hear it.

16 Q After this, after you told what happened, did anything  
17 change as far as school for you?

18 A Yes, ma'am.

19 Q What?

20 A Because it came out in the media, it came out in the  
21 newspaper, it came -- like everyone in my high school knew  
22 about it, and there was rumors about me about getting AIDS  
23 from my dad and getting pregnant from my father, and school  
24 was just too much for me. My grades went down tremendously.  
25 And so, I went to my doctor and he told me that it was

VICTIM - Direct examination  
by Solicitor Crick

1 probably best if I went home bound.

2 Q So, before this happened, were you planning to go to  
3 the prom?

4 A Yes, ma'am.

5 Q Did you go?

6 A I did not.

7 Q How about homecoming?

8 A I was nominated, but I---

9 Q For what?

10 A For Homecoming Queen.

11 Q Did you get to do that?

12 A No, ma'am.

13 Q Did you get to graduate with your friends?

14 A No, ma'am.

15 Q Did your relationship with your friends change?

16 A Yes, ma'am.

17 Q What happened?

18 A After my dad went to jail, I really didn't, I really  
19 didn't have a lot of friends after that.

20 Q How has this affected your relationship since this  
21 happened?

22 What have you had to deal with?

23 A At first it really, it killed me and I didn't know what  
24 to do because I didn't want this to happen. I didn't wish  
25 any of this upon him, and I would give anything, you know,

VICTIM - Direct examination  
by Solicitor Crick

1 for him not to be in the seat that he's in right now. But I  
2 didn't make that decision. But I feel, for the most part,  
3 it's made me a lot stronger than what it was, than what I  
4 was before.

5 Q Did you end up seeing counselors?

6 A I did.

7 Q How long did that go on?

8 A For a while. Anywhere from like nine months to a year.

9 Q Did you have any physical problems as a result of the  
10 abuse?

11 A I've had really bad stomach problems. I have ulcers in  
12 my stomach afterwards. But nothing besides that.

13 Q Did you ever try to harm yourself as a result of this?

14 A I have cut myself once or twice. But that was when he  
15 first went to jail. Not as of recently.

16 Q VICTIM, when you finally did tell somebody, what was your  
17 purpose in doing that?

18 What did you want when you did that?

19 A I didn't want for him to end up in jail. I wasn't  
20 hoping that he would spend the rest of his life in prison.  
21 That's not what I wanted. I just wanted my family to be  
22 able to come home every day and not be afraid of what was  
23 gonna happen next. And I didn't want to have to come home  
24 and be something to my father that I shouldn't have to be.

25 Q And that's why you told?

VICTIM - Direct examination  
by Solicitor Crick

1 A Yes, ma'am.

2 SOLICITOR CRICK: Your Honor, I beg the Court's  
3 indulgence.

4 (Pause.)

5 Q One last question, Mena, did you live in Spartanburg  
6 when you lived with your dad?

7 A I did.

8 Q Is that Spartanburg County?

9 A Yes, ma'am.

10 Q That's where all this happened?

11 A Yes, ma'am.

12 SOLICITOR CRICK: Your Honor, I have nothing further at  
13 this time.

14 THE COURT: Yes, sir, Mr. Crane.

15 MR. CRANE: Thank you, judge. One moment please.

16 (Pause.)

17 MR. CRANE: Judge, may I pull this podium over here?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. CRANE:

21 Q VICTIM, I'm Larry Crane. I'm representing your dad.  
22 We've never formally met and I'm sorry that we have to meet  
23 today in Court.

24 A That's all right.

25 Q Let me ask you some questions now.

VICTIM - Cross-examination  
by Mr. Crane

1 You've given your testimony today and you know your dad  
2 says it didn't happen, don't you?

3 A I do know that.

4 Q Okay. And you've given statements to the detectives,  
5 and you've talked to counselors, and you've had counseling  
6 with some people and told this story to several people, and  
7 has it always been the same?

8 A For the most part, yes, I think so.

9 Q What do you mean by for the most part?

10 SOLICITOR CRICK: Your Honor, I think he needs to ask  
11 her direct questions cause I don't know if she has access to  
12 all the transcripts.

13 THE COURT: All right. He is---

14 MR. CRANE: I'll ask her direct questions.

15 THE COURT: Thank you, sir.

16 MR. CRANE: Yes, sir.

17 Q Let's get back to what you said this happened at the,  
18 at the age of ten right when you came home from school.

19 What school were you attending?

20 A Houston Elementary.

21 Q Which elementary?

22 A Houston Elementary.

23 Q Okay. And who were your teachers?

24 A I don't know. That was a long time ago.

25 Q I understand. But you remember all this specifically.

VICTIM - Cross-examination  
by Mr. Crane

1           Why can't you remember your tenth grade, your ten year  
2 old teacher?

3 A       I, I don't know.

4 Q       Okay.

5 A       I'm sorry.

6 Q       When is your birthday?

7 A       ████████████████████

8 Q       ██████

9 A       Yes, ma'am.

10 Q       So, you were ten on ██████████?

11 A       Correct.

12 Q       When did this first begin occurring according to you?

13 A       In the latter part of September, maybe early October.  
14 I don't know.

15 Q       Now, that's a whole -- there's a month in-between.

16           Did it happen the end of September or did it happen the  
17 early November?

18 A       I can not tell you. This was nine years ago.

19 Q       It was nine years ago.

20           Okay. You gave a statement to detectives back in '04,  
21 did you not?

22 A       Right.

23 Q       Were you able to pinpoint when this happened then?

24 A       I, I guess. I don't know.

25 Q       Well, did you---

VICTIM - Cross-examination  
by Mr. Crane

1 A I've always said it was the fall of that year. I don't  
2 know.

3 Q All right. So, it's either September or was it  
4 November?

5 A September or October.

6 Q A moment ago you said September, late September or  
7 early November.

8 SOLICITOR CRICK: Your Honor, I think she actually said  
9 October.

10 THE COURT: Okay. Do not testify. Make an objection.  
11 Do not argue in front of the jury.

12 WITNESS: I did say October.

13 Q So, September or October?

14 A Yes, sir.

15 Q All right. And was that when your mom was working or  
16 not working?

17 A When she did go back to work.

18 Q When did she go back to work?

19 A August maybe.

20 Q Where was she working?

21 A I think for a trucking company. It was right back  
22 before she went to Raynar.

23 Q All right. So, you're thinking August of '97 your mom  
24 went back to work, is that correct?

25 A That is.

VICTIM - Cross-examination  
by Mr. Crane

1 Q Now, when you came home that day and you told the jury  
2 that he was questioning you in the living room and then he  
3 said he wanted to teach you about sex and teach you what not  
4 to allow people to do to you, is that correct?

5 A That's correct.

6 Q And where did he take you?

7 A To his room.

8 Q Okay. Are you sure?

9 A I'm positive.

10 Q Were you positive on June 15<sup>th</sup>, '04, when you gave a  
11 statement as to where he took you?

12 A I realize that it says that I, that I told, I  
13 written -- I wrote down that it was in my bedroom. But I  
14 know for sure that it was in his. I do.

15 Q All right. So, you're sure now that he took you to his  
16 room, but when you gave a statement, and this would of been  
17 gee, two and a half years ago, closer to the incident, you  
18 did tell the detectives that he made me, he told me to  
19 follow him to my room, my bedroom?

20 A I realize that.

21 Q Didn't you?

22 A I did.

23 Q So, that's -- that statement back then two and a half  
24 years ago is different than your testimony now?

25 A It is.

VICTIM - Cross-examination  
by Mr. Crane

1 Q Right.

2 Okay. All right. Now, when he got into the room,  
3 either your room or his room, but we'll say his room for,  
4 for your benefit, tell us again what happened.

5 A He bent me over his bed.

6 Q Uh-huh. (Affirmative).

7 A And anally -- he pushed it on my anal area, but he did  
8 not go all the way in.

9 Q All right. When you say he did not go all the way in,  
10 did he penetrate you or not?

11 Yes or no.

12 A I guess no.

13 Q You guess no.

14 So, he did not penetrate you?

15 Is that what you're testifying to this jury?

16 A Do you mean full on penetration?

17 Q I mean, I mean did he enter into your anus area?

18 Yes or no?

19 A Yes, he did.

20 Q So, so, he went -- in our anus, we have a little place  
21 where our stool comes out, is that correct?

22 A I don't know.

23 SOLICITOR CRICK: Your Honor, can we just take a minute  
24 for a break?

25 THE COURT: All right. Ladies and gentlemen, at this

1 time we're gonna take a little break. I'll instruct,  
2 instruct you that you're not to have any discussions among  
3 yourselves about anything involving the nature of the case.

4 If you'll go with the bailiff, he'll take you back to  
5 the jury deliberation room. Get you back out here shortly.

6 (Whereupon, the following takes place outside the  
7 presence of the jury.)

8 THE COURT: All right. Ma'am, you may step down. I  
9 will remind you that you are under oath. So, you can not  
10 have any discussions with anyone about the substance of your  
11 testimony. We'll step down and take a little break.

12 SOLICITOR LEIBERT: Thank you, Your Honor.

13 (Whereupon, a short recess was taken at this time.)

14 THE COURT: Is she ready?

15 SOLICITOR CRICK: Yes, sir.

16 THE COURT: Ma'am, you want to come on back around?

17 (Witness complies.)

18 MR. CRANE: Judge, I'd like to inquire before the jury  
19 comes back in, I, I may not of heard your instructions  
20 regarding this witness. But she was continuously talked to  
21 during the break by representatives of the State. I have no  
22 idea what they talked about, but I think you should at least  
23 inquire because I thought you said for no one to talk to  
24 her.

25 THE COURT: My instructions were not to have any

1 discussions with anyone about the substance of her  
2 testimony.

3 MR. CRANE: And I don't know what they talked to her  
4 about. This, this, this lady in the pink talked to her, and  
5 the lady in the black talked to her.

6 SOLICITOR CRICK: Those are both victim advocates, Your  
7 Honor, and it was just to make sure that she was okay.

8 THE COURT: All right. Do you have any reason to doubt  
9 that?

10 MR. CRANE: No, but I'd like to hear it from those two  
11 that were talking to her.

12 THE COURT: All right.

13 MR. CRANE: And I'd like them under oath quite  
14 honestly, judge.

15 SOLICITOR BARNETTE: Your Honor, if we're gonna, if  
16 we're gonna turn this into a mini-trial up here, we'll be  
17 glad to let them testify, but I mean---

18 THE COURT: All right. Well---

19 SOLICITOR BARNETTE: But as officers of the Court,  
20 they did not, they did not talk to her about her testimony.

21 THE COURT: All right. Well, let's just put them under  
22 oath just real quick.

23 Ma'am, if you would, just step right back there and  
24 we'll bring you two ladies up real quick.

25 WITNESS: All right.

Angela Meadows - Direct examination  
by Solicitor Barnette

1 SOLICITOR BARNETTE: Would you like them one at a time,  
2 Your Honor?

3 THE COURT: Yes, sir.

4 SOLICITOR BARNETTE: Your Honor, this is Angela  
5 Meadows.

6 THE COURT: Come on around, Miss Meadows.

7 SOLICITOR BARNETTE: Victim witness assistant from our  
8 office.

9 ANGELA MEADOWS, being first duly  
10 sworn, testified as follows:

11 SOLICITOR BARNETTE: Your Honor, would you like for me  
12 to ask the questions?

13 THE COURT: If you would, yes, sir.

14 DIRECT EXAMINATION

15 BY SOLICITOR BARNETTE:

16 Q Miss Meadows, if you would, state your full name for  
17 the record please.

18 A Angela Cobb Meadows.

19 Q And where do you work at, ma'am?

20 A Solicitor's Office.

21 Q And what is your position there, ma'am?

22 A I'm a victim advocate.

23 Q And why are you here for the trial today?

24 A To support VICTIM.

25 Q Okay. And did -- during the break, did you check

Angela Meadows - Direct examination  
by Solicitor Barnette

1 what -- did you talk to her?

2 A I did.

3 Q And what did you talk to her about?

4 A I asked her if there's anything she needed, if she  
5 wanted water, gave her Kleenex, and fanned her.

6 Q And did you talk to her testimony in any way?

7 A No, I did not.

8 SOLICITOR BARNETTE: Your Honor, that would be the  
9 State's showing.

10 MR. CRANE: No questions.

11 THE COURT: All right. Thank you, ma'am. You may step  
12 down.

13 SOLICITOR BARNETTE: Your Honor, the other person is  
14 Joni Phillips. She is a victim advocate from the Department  
15 of Public Safety.

16 THE COURT: Come on around, ma'am.

17 JONI PHILIPS, being first duly  
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY SOLICITOR BARNETTE:

21 Q Mrs. Phillips, if you would, give your full name for  
22 the record, please.

23 A Joni Phillips.

24 Q And where do you work at, ma'am?

25 A Spartanburg Public Safety.

Joni Phillips - Direct examination  
by Solicitor Barnette

1 Q And what is your position there, ma'am?

2 A Victim specialist.

3 Q And what are you here for the trial, ma'am?

4 A In support of VICTIM .

5 Q Okay. And during the break, did you talk to her?

6 A Yes, sir, I did.

7 Q And what did y'all talk about?

8 A Just asked her if she was okay. I gave her a towel to  
9 wipe her face, offered her a mint, told her that she was  
10 gonna be okay.

11 Q Did she -- did you talk to her about her testimony in  
12 any way?

13 A No, sir, I did not.

14 SOLICITOR BARNETTE: All right. That would be the  
15 State's showing.

16 MR. CRANE: No questions, Your Honor.

17 THE COURT: All right. Thank you, ma'am. You may step  
18 down.

19 Anything else before we bring the jury back?

20 SOLICITOR BARNETTE: Yes, sir, just one thing. I  
21 noticed, while she was testifying on direct, VICTIM was, I  
22 noticed that Mr. Crane was talking to his client, which I  
23 know he can talk to his client, but I could hear him very  
24 loud. I think even the Court directed their attention  
25 toward them. I just ask that precaution when they talk if

Joni Phillips - Direct examination  
by Solicitor Barnette

1 they could just keep it down a little bit.

2 THE COURT: If you could, Mr. Crane, I, I don't know  
3 whether it's -- you might have a hearing problem or he might  
4 not be able to talk softly. But it is -- you can hear it.  
5 So, I think you're on the verge of losing your  
6 confidentiality or privacy with the discussions you're  
7 having. They are a little loud. So, if you would, keep it  
8 down.

9 MR. CRANE: Thank you, judge.

10 THE COURT: Anything else before we bring the jury  
11 back?

12 SOLICITOR CRICK: No, sir.

13 THE COURT: All right. Come on around, ma'am.

14 (Witness returns to the stand.)

15 THE COURT: Let's go ahead and bring them back.

16 (Whereupon, the following takes place within the  
17 presence of the jury.)

18 THE COURT: Yes, sir, Mr. Crane.

19 MR. CRANE: Thank you, judge.

20 CONTINUED CROSS-EXAMINATION

21 BY MR. CRANE:

22 Q VICTIM, prior to taking our break I was asking you  
23 about some of your testimony on direct examination regarding  
24 what happened on that first day, and I was asking you to  
25 clarify your answers to the solicitor wherein you said that

VICTIM | - Cross-examination  
by Mr. Crane

1 there was some sort of penetration. The answer you gave to  
2 me said there wasn't penetration.

3 I'm simply asking if there was or was not penetration  
4 to your anal area on that date.

5 A Yes, there was.

6 Q Okay. And the question I asked was that the rectum  
7 entry, you're indicating that he placed his penis into--

8 A Yes, sir.

9 Q ---that?

10 A Yes, sir.

11 Q Okay. And when you say that he didn't go all the way  
12 in, what, you know -- my understanding is he either went in  
13 or he didn't.

14 What do you mean by that?

15 A I mean maybe there is an inch and a half, two inches of  
16 his penis.

17 Q There -- I'm sorry.

18 What?

19 A Inch or inch and a half of his penis.

20 Q Okay. And then after that, is it my understanding from  
21 your direct testimony that this happened every day when you  
22 came home from school?

23 A I wouldn't say every day. But pretty much, yes, every  
24 day.

25 Q Okay. You wouldn't say every day, but yes, it was

VICTIM - - Cross-examination  
by Mr. Crane

1 pretty much every day.

2 Was it every day or was it not every day?

3 A Do you want -- probably four or five times out of the  
4 week.

5 Q Okay. And so, your answer to me is four or five times  
6 out of the week?

7 A Yeah.

8 Q Can you indicate to me why on direct examination your  
9 answer to the solicitor was, was once or twice a week?

10 A Because it -- that wasn't -- as it went along, it went,  
11 it went from every single day or most days to once or twice  
12 a week when I was older.

13 Q VICTIM on direct examination your answer to the  
14 solicitor was, was every day when you came home from school,  
15 and then you said once or twice a week.

16 A When I got older, yes.

17 Q That's not what you said on direct.

18 So, my question now is was it once or twice a week or  
19 was it three or four times?

20 A What time period are you talking about?

21 Q I'm sorry?

22 A What time period?

23 Q When it first started.

24 A It was every day.

25 Q Every day?

VICTIM - Cross-examination  
by Mr. Crane

- 1 A Yes, sir.
- 2 Q Okay. And that was anal penetration?
- 3 A Yes, sir.
- 4 Q Usually about the same time when you came home?
- 5 A Yes, sir.
- 6 Q Okay. And where were your brothers?
- 7 A Probably at home.
- 8 Q And where was your mom?
- 9 A At work.
- 10 Q And how large a house is it that you lived in?
- 11 A We have three bedroom, two bathroom.
- 12 Q Where would your brothers usually be when you---
- 13 A In their room. In the boy's room. They shared a room,
- 14 which was on a completely different side of the house.
- 15 Q And where would he take you when he did this?
- 16 A To his room for---
- 17 Q All right. Now, again I'm confused by your direct
- 18 testimony cause you said sometimes it would happen in your
- 19 room and sometimes in the bathroom and sometimes in his
- 20 room.
- 21 So, did it always happen in his room?
- 22 A Not always.
- 23 Q So, sometimes in your room, sometimes in the bathroom?
- 24 A That's right.
- 25 Q And where were the boys when it happened in your room?

VICTIM - Cross-examination  
by Mr. Crane

1 A It depended on where they were that that's what room I  
2 had to go to.

3 Q I see.

4 Okay. Do you recall ever crying out or screaming?

5 A I remember crying. But I don't remember being loud  
6 enough to where they could hear me.

7 Q And how long -- let me rephrase that.

8 When was it that you claim that your father started  
9 placing his penis in your vaginal area?

10 A Year -- a couple years down the road.

11 Q Does that mean two years?

12 A Probably -- no, I was probably thirteen or fourteen  
13 when it---

14 Q Can -- and if we, if we pinpointed the first incident  
15 to September or October of your tenth year, you would of  
16 been ten years and one or two months old.

17 A Right.

18 Q Can you tell us from that time about how many years it  
19 was before the vaginal rubbing started?

20 A Probably three; three years, three and a half years.

21 Q Three years?

22 Excuse me?

23 A Three to three and a half years.

24 Q All right. Do you remember the first specific date?

25 A I don't.

VICTIM - Cross-examination  
by Mr. Crane

- 1 Q You don't remember the first incident?
- 2 A I don't.
- 3 Q You remember what time of year it was?
- 4 A I don't.
- 5 Q Do you remember if you were in school or whether it was  
6 summer time?
- 7 A I was probably in school. I was in school.
- 8 Q And so, if we go from September, October of your tenth  
9 year, and we're going to September or October of your  
10 thirteenth birthday, is that correct?
- 11 A Right.
- 12 Q All right.
- 13 A Right.
- 14 Q And that would have been the Year 2000, is that  
15 correct?
- 16 A Yes, sir.
- 17 Q And what, what did he do when he started vaginally --  
18 well, just tell us what he did in that, that three or three  
19 and a half years after the first incident?
- 20 A Instead of rubbing it around my anal area, he would rub  
21 it on my vaginal area.
- 22 Q Okay. And what else happened, if anything?
- 23 A I'm not sure what you're saying.
- 24 Q Did he ever penetrate you in your vaginal area?
- 25 A He did.

VICTIM, - Cross-examination  
by Mr. Crane

- 1 Q When did that happen?
- 2 A Probably -- well, when I was fourteen.
- 3 Q Okay. You turned fourteen in 2001, is that correct?
- 4 A That is correct.
- 5 Q All right. When at the age of fourteen?
- 6 Was it in 2001 close to your birthday?
- 7 Was it in 2002 or when was it?
- 8 A It was probably before my birthday.
- 9 Q Before you turned fourteen?
- 10 A Right.
- 11 Q So, it would of been 2001?
- 12 A It was still 2001.
- 13 Q Excuse me?
- 14 A It was still 2001. That's correct.
- 15 Q And you're positive of that?
- 16 A I am.
- 17 Q All right. Now, if we go to 2001 and keep in mind your
- 18 birthday is September, I presume you started school again in
- 19 August or September of 2001, is that correct?
- 20 A That is.
- 21 Q Would it have happened before you started school?
- 22 A Yes.
- 23 Q Do you know when?
- 24 Was it summer or was it the school year prior to it?
- 25 A I don't remember.

VICTIM - Cross-examination  
by Mr. Crane

1 Q Well, we know it's prior to school?

2 A I do know that.

3 Q Prior to school in the Year 2001?

4 A That's correct.

5 Q All right. You said on direct examination, and to  
6 quote you, "your dad took your virginity and it hurt."

7 A Right.

8 Q All right. And that's what we just been talking about,  
9 some time in 2001 before school started?

10 A Right.

11 Q Can you tell the jury what you remember about that  
12 particular incident?

13 A I remember being in my room and him making me lay down  
14 right, face forward towards him.

15 Q Okay.

16 A And I had no idea that he was gonna do it. But in the  
17 middle of the process of what usually would happen he did  
18 insert it all the way.

19 Q Okay. Inserted it all the way?

20 A All the way.

21 Q Now, going back to your, beginning of your direct  
22 testimony when you said your dad was gonna talk to you  
23 something about a seal.

24 A Right.

25 Q Do you know what that seal is that he's referring to?

VICTIM - Cross-examination  
by Mr. Crane

1 A Well, now, yes, I do.

2 Q What is that?

3 A A woman's virginity.

4 Q Okay. Does it have anything to do with the hymen in a,  
5 in a woman?

6 A I guess. I don't know what he was referring to.

7 Q All right. You've been to a gynecologist, have you  
8 not?

9 A I have.

10 Q You've had exams, have you not?

11 A I have.

12 Q Okay. When this incident happened, some time prior to  
13 the Spring of 2001, do you believe that you lost your seal?

14 A I do.

15 Q Other than painful, was there any evidence that you had  
16 lost your---

17 A I did bleed.

18 Q You bled?

19 A I did.

20 Q And how often after that incident that we're talking  
21 about, the vaginal insertion of his penis all the way --

22 A Yes, sir.

23 Q -- did he then continue to do that?

24 A I, I can't tell you for sure. But I know that he did  
25 it a couple times after that. I'm gonna say three or four

VICTIM -- - Cross-examination  
by Mr. Crane

1 times. But he -- because it was painful for me --

2 Q Okay.

3 A -- he didn't do it that often and I know he was afraid  
4 to get me pregnant. So --.

5 Q And, and when, when was the next time that you can  
6 recall?

7 A I don't remember.

8 Q What year was it?

9 A I don't remember that.

10 Q Do you know if it was before your 15<sup>th</sup> birthday?

11 A Probably, yes.

12 Q All right. If we're going from prior to school in  
13 2001, which is September or so, we've got September,  
14 October, November, December, then we get to 2002.

15 A Right.

16 Q Did he do it any time during those four months if you  
17 can recall?

18 A I can't.

19 Q All right. So, you don't know when the next time was?

20 A I don't know.

21 Q All right. From what you can recall without a doubt  
22 then as you said, he took your virginity and broke your  
23 seal?

24 A That's correct.

25 Q Okay. When you went with your mom on that particular

VICTIM: - Cross-examination  
by Mr. Crane

1 day that she was going to the doctor and decided to tell her  
2 on that day -- well, let me back up, before we get to that,  
3 when did you tell your brother about---

4 A The night before I took my mom to see the doctor.

5 Q Okay. And you're sure of that?

6 A I'm positive.

7 Q What did you tell your brother?

8 A I told him that I was very unhappy and that I didn't  
9 think it was fair that they were having to suffer for stupid  
10 things.

11 Q Okay. But did you tell him what was going on?

12 A No, he guessed as to what was going on.

13 Q And he guessed it that night?

14 A He did.

15 Q It wasn't the next day?

16 A It was not.

17 Q And when you, you and your mom went to the doctor, I  
18 presume you were driving because she just had surgery?

19 A Correct.

20 Q What happened when you got to the doctor?

21 A I told her before she went into the doctor's office and  
22 I just explained to her that things were a lot worse than  
23 what she thought that they were.

24 Q What did you tell her happened?

25 A I told her that he had been sexually abusing me---

VICTIM - Cross-examination  
by Mr. Crane

- 1 Q What she---
- 2 A ---for a very long time.
- 3 Q What specifically did you tell her he was doing?
- 4 A I didn't give her specifics.
- 5 Q Do you recall telling her -- one moment, please.
- 6 (Pause.)
- 7 Q Did she question you about the details?
- 8 A She tried to.
- 9 Q Do you recall telling her that you had not allowed
- 10 penetration?
- 11 A I don't remember that.
- 12 Q And you had not allowed oral sex?
- 13 A I don't remember that.
- 14 Q Could you have told her that?
- 15 A No, I know that I did not tell her that.
- 16 Q You know you did not tell her that?
- 17 A I know I did not tell her that.
- 18 Q Now, VICTIM , you, you indicated on direct
- 19 examination that there was a time when your dad stopped
- 20 doing this.
- 21 A That's correct.
- 22 Q When was that please?
- 23 A The winter of my ninth grade year.
- 24 Q And where were you going to school?
- 25 A Spartanburg High School.

VICTIM - Cross-examination  
by Mr. Crane

1 Q And why did he stop doing it?

2 A I don't know. I guess because he did want to better  
3 our relationship. I, I don't know.

4 Q You answered on direct examination that your grades had  
5 fallen and you---

6 A They had fallen. But I don't think that's the main  
7 reason why he stopped.

8 Q What did they -- how, how bad had they fallen?

9 A Pretty bad. I went from like an A/B student to a, D's  
10 and I did have a couple F's.

11 Q And in -- that would of been 2002, is that correct?

12 A That's right.

13 Q All right. And so, you're telling this jury that you  
14 went from A's and B's to C's and D's and F's?

15 A Correct.

16 Q Would you like to look at your transcript from  
17 Spartanburg---

18 A Sure.

19 Q ---where it says that you got an 81---

20 SOLICITOR CRICK: Your Honor, I think he's gonna allow  
21 her to refresh her memory. So, I'm gonna object to him  
22 reading it out at this point.

23 Q Would you look at this and tell me if---

24 THE COURT: All right. Mr. Crane, would you show it to  
25 her?

VICTIM - Cross-examination  
by Mr. Crane

- 1 Q Does that, does that indicate that's your school  
2 records from Spartanburg High School?
- 3 A That's correct.
- 4 Q And what grades does it say you got in 2002 in the  
5 ninth grade?
- 6 Would you read those please?
- 7 A You want me to read them out loud?
- 8 Q Yes, I would so the jury can hear your C's, D's, and  
9 F's.
- 10 A That's not what I'm saying. In the ninth grade I did  
11 do better.
- 12 Q Well, you did say in the ninth grade your grades went  
13 down.
- 14 A In the eighth grade they went down. But in the ninth  
15 grade---
- 16 Q Read your eighth grades then.
- 17 A 81, 86, 86, 83, 79, 86, 83, 91, 86.
- 18 Q Can you tell me where the D's, C's, and F's are?
- 19 A I can't.
- 20 Q In fact, there aren't any, isn't that true?  
21 Your grades did not go down?  
22 That's a fabrication of yours, isn't it?
- 23 A But if you look at my ninth grade year, my grades did  
24 go up.
- 25 Q Did your grades go down in the eighth grade like you

VICTIM - Cross-examination  
by Mr. Crane

1 told this jury they did?

2 Yes or no?

3 A They did go down.

4 Q To -- but you said to C's, D's, and F's. I'm just  
5 trying to find out if you're telling us the truth.

6 Now, did they go down to C's, D's, and F's or not?

7 A Obviously not.

8 Q Thank you, ma'am.

9 So, either you forgot or you mislead us by your  
10 testimony, isn't that true?

11 A Yes.

12 Q And after you made the allegations against your dad and  
13 he was removed from the home is when you went on home, home  
14 bound, isn't it?

15 A Yes, sir.

16 Q And what did that entail?

17 A I had a teacher that came to the house to---

18 Q And that's when your grades went way down?

19 A Yes, sir.

20 Q All right. So, up until, up until you made these  
21 allegations against your dad, your grades were okay, weren't  
22 they?

23 A Yes, sir.

24 Q All right. As a matter of fact, your dad emphasized  
25 hard work and study, didn't he?

VICTIM - Cross-examination  
by Mr. Crane

1 A Sometimes.

2 Q Okay. Have you ever met any of your dad's family?

3 A I've met two of my uncles.

4 Q Do you know anything about them?

5 A Not really.

6 SOLICITOR CRICK: Your Honor, may we approach for a  
7 minute?

8 THE COURT: All right. Lawyers want to approach a  
9 moment.

10 (Whereupon, a bench conference was held out of the  
11 hearing of the jury at this time.)

12 Q Did you say that you did not know what your dad's  
13 parents do?

14 A What his parents do or my uncles do?

15 Q Well, either one of them, his uncles or---

16 A I don't know.

17 Q Okay. And what about contact with your other  
18 grandparents, have you had any contact with them?

19 A On my mother's side?

20 Q Yes.

21 A Yes, sir.

22 Q When -- was there time where you did not?

23 A Yes, sir, when I was younger.

24 Q Excuse me?

25 A When I was younger.

VICTIM - - - Cross-examination  
by Mr. Crane

- 1 Q Basically do the duties of his wife?
- 2 A I wouldn't say that.
- 3 Q Well, did she -- did your mama clean the house?
- 4 A Yes, she did.
- 5 Q Okay. But you were confined to the house when you came  
6 home from school, were you not?
- 7 A I was.
- 8 Q All right. And who is it that picked you up at school?
- 9 A My father.
- 10 Q All right. And when he went to pick you up at school,  
11 was there a standing rule about him picking you up?
- 12 A Yes.
- 13 Q What was that?
- 14 A I had to be out of the school in four minutes tops.
- 15 Q All right. So, you had to be out of school to the car  
16 in four minutes?
- 17 A Yes, sir.
- 18 Q And you went home?
- 19 A Yes, sir.
- 20 Q You started your chores at the house?
- 21 A Yes, sir.
- 22 Q Were you allowed to go out?
- 23 A No, sir.
- 24 Q Were you allowed to have friends?
- 25 A No, sir.

VICTIM - Cross-examination  
by Mr. Crane

- 1 Q Were you allowed to talk on the telephone?
- 2 A No, sir.
- 3 Q Were you allowed to have a life outside of the house?
- 4 A No, sir.
- 5 Q And you hated that, didn't you?
- 6 A (Witness nods affirmatively.)
- 7 Q I couldn't hear your answer.
- 8 A Yes, sir.
- 9 Q And you were miserable, weren't you?
- 10 A Yes, sir.
- 11 Q And you made these allegations, didn't you?
- 12 A No, I did not.
- 13 Q You did make these allegations, whether they're true or
- 14 not will be determined, but you did make these allegations?
- 15 A Yes, I did.
- 16 Q And he's gone, isn't he?
- 17 A Yes.
- 18 Q And things have changed, haven't they?
- 19 A I don't live there anymore.
- 20 Q Didn't they change when he left the house?
- 21 A Yes.
- 22 Q Okay. As a matter of fact, some little things that
- 23 many of us look at, you weren't allowed to celebrate
- 24 Christmas, were you?
- 25 A That's right.

VICTIM - Cross-examination  
by Mr. Crane

1 Q You couldn't buy a tree?

2 A That's right.

3 Q Couldn't give gifts?

4 A That's right.

5 Q Couldn't have pets?

6 A That's correct.

7 Q All right. All of these things controlled by

8 Mr. Mangal?

9 A That's right.

10 Q Very strict father?

11 A Yes, sir.

12 Q He wouldn't let you date, would he?

13 A No, sir.

14 Q Okay. Now, at one time he tried to arrange a marriage  
15 for you, didn't he?

16 A With my cousin, yes.

17 Q I understand that.

18 And so, here again, he's trying -- and the way that he  
19 was taking care of his family, if you call it that, was to  
20 be very strict and not allow you and the brothers to do  
21 anything?

22 A That's correct.

23 Q You couldn't go to the park, which is a block and a  
24 half away from you, could you?

25 A That's right.

VICTIM - Cross-examination  
by Mr. Crane

1 Q Did you work?

2 A Yes.

3 Q Okay. Now, once he was out of the house, did things  
4 change for you?

5 A Yes, sir.

6 Q Excuse me?

7 A Yes, sir.

8 Q You started seeing people, did you not?

9 A Not immediately.

10 Q All right. When did you start seeing people?

11 A Four or five months maybe.

12 SOLICITOR CRICK: May we approach again?

13 I apologize.

14 THE COURT: All right. Lawyers approach for a moment.

15 (Whereupon, a bench conference was held out of the  
16 hearing of the jury at this time.)

17 Q VICTIM within let's say four months of your dad  
18 leaving the house, you had a college age boyfriend, did you  
19 not?

20 A Yes, sir.

21 Q Okay. And you started dating, did you not?

22 A Yes, sir.

23 Q And you started staying out late at night?

24 A No.

25 Q Didn't you?

VICTIM - Cross-examination  
by Mr. Crane

1 A No later than midnight.

2 Q Well, you weren't allowed ever to do that when he was  
3 there, were you?

4 A No.

5 Q Okay. And you started smoking?

6 A Cigarettes, yes.

7 Q And you started drinking?

8 A Yes, sir.

9 Q Okay. As a matter of fact, there came a time, and, and  
10 correct me if I'm wrong, didn't you seek counseling with the  
11 Alcohol and Drug Abuse Commission?

12 A I did.

13 Q Okay. What was that for?

14 A Drinking.

15 Q Was that prior to or after he left?

16 A After.

17 Q So, you kind of went wild after he left, didn't you?

18 A Yes, sir.

19 Q All right. And that's why you wanted him out of the  
20 house, isn't it?

21 A No, it's not.

22 Q Is there -- I won't ask that question.

23 One moment please.

24 (Pause.)

25 Q Now, the solicitor asked you about some problems in

VICTIM - Cross-examination  
by Mr. Crane

1 school. She asked you specifically about an incident of  
2 November of 2002.

3 A That's right.

4 Q And that's when you told the jury you got suspended for  
5 ten days for allegedly having oral sex with a male?

6 A That's correct.

7 Q Okay. And I said allegedly just like you.

8 A I understand that.

9 Q Allegedly he did these things to you.

10 A I understand that.

11 Q And you say you didn't do that, didn't you?

12 A I did.

13 Q Okay. When you talked to the counselors from the  
14 Children's Advocacy Center and some of the other places, do  
15 you recall telling them about that incident?

16 A No, sir.

17 Q You, you don't recall or you didn't tell them?

18 A I don't recall telling them.

19 Q Okay. Would it surprise you to learn that you didn't  
20 tell them about it?

21 A No.

22 Q All right.

23 A It's not anything I'm proud of.

24 Q Okay. Why wouldn't you be proud of it if you didn't do  
25 it?

VICTIM - Cross-examination  
by Mr. Crane

- 1 A Because I still got in trouble for it.
- 2 Q Okay. And the solicitor didn't ask you about all the  
3 things you got in trouble at school for, did she?
- 4 A No, sir.
- 5 Q What else did you get in trouble at school for?
- 6 A Drinking---
- 7 Q Drinking?
- 8 A ---at a school event.
- 9 Q What happened -- drinking at a school event?
- 10 A Yes, sir.
- 11 Q When was that?
- 12 A He was actually still at home when this happened.
- 13 Q That was 2002, correct?
- 14 A Yes, sir.
- 15 Q All right. What else?
- 16 A I can't think of anything else.
- 17 Q What about taking sandwiches from the cafeteria.  
18 You remember that one?
- 19 A I was not stealing sandwiches from the cafeteria.
- 20 Q Did I say stealing?
- 21 I said taking sandwiches from the cafeteria.  
22 You got in trouble for that, didn't you?
- 23 A Yes, I did.
- 24 Q All right. And two times for excessive absences?
- 25 A Tardies.

VICTIM - Cross-examination  
by Mr. Crane

1 Q Tardies.

2 All right. The solicitor also asked you whether or not  
3 at some time you were asked to describe your father's penis.  
4 You said you, that, that you did.

5 A Right.

6 Q And how did you describe it?

7 Did you make a diagram of it?

8 A I did.

9 Q All right. Did you say that it had a freckle or a  
10 mole?

11 A I, I don't remember.

12 Q Well, would it surprise you to learn that the counselor  
13 said you said he had a mole?

14 A No.

15 Q And today you said a freckle, right?

16 A That's correct.

17 Q Okay. Did you make a drawing of it?

18 A I did.

19 Q Where is this freckle or mole on his penis?

20 A On the shaft of his penis.

21 Q Okay. Can you identify this please?

22 A Yes, sir.

23 Q What is that?

24 A It's a drawing of his penis.

25 Q Who made that drawing?

VICTIM - Cross-examination  
by Mr. Crane

1 A I did.

2 Q Okay. Does that have -- is, is your signature that --  
3 I can't read it.

4 But is that your drawing?

5 A Yes.

6 Q And it has a mark on it, does it not?

7 A Yes, sir.

8 Q And it also says not huge, about this size?

9 A Yes, sir.

10 Q Does that mean the penis is that size or the mark?

11 A The mark.

12 Q Okay. That's not the size of the penis?

13 A No.

14 Q All right. This is your drawing?

15 A Yes, sir.

16 MR. CRANE: Judge, I move it into evidence.

17 SOLICITOR CRICK: Your Honor, we have no objection to  
18 that.

19 THE COURT: Without objection, it will be Defense No.

20 1.

21 (Whereupon, the drawing was marked as Defendant's  
22 Exhibit No. 1 and received into evidence at this time.)

23 Q Do you recall telling Wiley Garrett, one of the  
24 interviewers, that the anal and vaginal intercourse started  
25 at the age of ten?

VICTIM - Cross-examination  
by Mr. Crane

1 A I don't remember saying that.

2 MR. CRANE: Judge, may I have a moment please to look  
3 at my notes?

4 THE COURT: (Nods affirmatively.)

5 MR. CRANE: Thank you.

6 (Pause.)

7 Q And I, I -- one of the things -- and I may of missed it  
8 here, you indicated that your testimony today that the  
9 vaginal rubbing started somewhere prior to your fourteenth  
10 birthday?

11 A That's correct.

12 Q Okay. One moment please.

13 (Pause.)

14 Q Do you recall a Family Court hearing in this matter?

15 A I do.

16 Q Do you recall being asked the question whether or not  
17 it would always be anal sex?

18 A Yes, sir.

19 Q Do you recall your answer---

20 A I do not.

21 Q ---no, it was that way up until I turned about twelve.  
22 Then he would, he wouldn't penetrate my vaginal area, but he  
23 would rub it around that area. Then there was maybe five or  
24 six times that he did.

25 Do you remember that testimony?

VICTIM - Cross-examination  
by Mr. Crane

1 A I do.

2 Q Well, so now tell me and this jury did he start rubbing  
3 your vaginal area at the age of twelve or did he start  
4 rubbing your vaginal area at the, at the age of almost  
5 fourteen like you testified today?

6 A I don't remember. I wasn't keeping notes. I don't  
7 remember.

8 Q Did you not think -- did, did you think we'd never come  
9 to trial?

10 SOLICITOR CRICK: Your Honor, I'm gonna object to  
11 relevance.

12 THE COURT: I'll sustain the objection.

13 Q All right. Why don't you remember it?

14 A Because that was a long time ago.

15 Q Isn't it important to remember the details of what  
16 happened to you?

17 A Yes, sir.

18 Q You know what a trial is all about, don't you?

19 A I do.

20 Q You know he's accused of doing something terrible to  
21 you, don't you?

22 A I do know that.

23 Q And you know that it comes down to your word against  
24 his, don't you?

25 A Yes, sir.

VICTIM 1 - Cross-examination  
by Mr. Crane

1 Q And if you're not telling the truth, he ought to be  
2 found not guilty, shouldn't he?

3 A I know that.

4 Q Okay. Part of, I think, your testimony about living at  
5 home was that you were moved to the dining room area.

6 A That's correct.

7 Q And why was that?

8 A Because he thought I had boys coming up to my window at  
9 night.

10 Q Okay. And he moved whom into your bedroom?

11 A No one.

12 Q No one went into your bedroom?

13 A No.

14 Q And that -- when he moved you into the dining room, was  
15 that shortly before you made these allegations or was it  
16 some time long time before that?

17 A It was a couple months before that.

18 Q Okay. So, he, he alleges or accuses you of having boys  
19 come to your room.

20 Why did he, why did that upset him?

21 What did he think they were doing?

22 A He thought I was having sex with guys outside of my  
23 window.

24 Q Okay. So, he thought you were having sex with guys  
25 outside of your window?

VICTIM - Cross-examination  
by Mr. Crane

1 A That's right.

2 Q Okay. The incident at school where you got suspended  
3 for giving oral sex had already happened, had it not?

4 A Yes, sir.

5 Q Okay. So, you got suspended for having oral sex, and  
6 he sees guys coming to your window and thinks you're having  
7 sex with them.

8 That's a logical conclusion, is it not?

9 A But he didn't see anyone.

10 Q I understand that.

11 And so, to protect you, he moved you to the dining  
12 room, right?

13 A I guess so.

14 Q And you didn't like that either, did you?

15 A No.

16 Q Okay. Was it not -- was he doing anything to fix the  
17 house to allow you to go back to your bedroom?

18 A No.

19 Q He wasn't putting up lights outside, motion sensor  
20 lights?

21 A No.

22 Q Okay. When you finally made your allegation, were you  
23 still staying in the dining room?

24 A Yes, I was.

25 Q So, you were in the dining room for quite a few months,

VICTIM - Cross-examination  
by Mr. Crane

1 were you not?

2 A I was.

3 Q And there were people coming to your window, weren't  
4 there?

5 A No, there was not.

6 Q No one came to your window?

7 A I -- there was a group of my friends that came to the  
8 window one night.

9 Q Well, so, there were people that came to your window  
10 then?

11 A But before he ever moved me to the dining room.

12 Q In your home, did you, did the family ever talk about  
13 religion?

14 A Sometimes.

15 Q Okay. Did he ever talk about religion and sex  
16 connected to the two?

17 A No.

18 Q When do you believe, if it happened, that he started  
19 using condoms?

20 A When I was fourteen maybe.

21 Q Now, is that fourteen like a minute ago when we're  
22 talking about the, before the school year started or was  
23 that after this first alleged penetration vaginally?

24 A Afterwards.

25 Q So, after your fourteenth birthday?

VICTIM - Cross-examination  
by Mr. Crane

1 A That's correct.

2 Q Okay. And if we were to take your testimony, you've  
3 given it, and he did this to you starting at the age of ten,  
4 and did it four or five times a week, and then started  
5 vaginally penetrating you, did he ejaculate every time?

6 A Yes, sir.

7 Q And in all those times, was there ever any evidence on  
8 your sheets or bed clothes?

9 A He always used a napkin.

10 Q So, there was never any droppings or anything?

11 A I don't know. I don't know.

12 Q Did your mom ever say anything about it?

13 A No.

14 Q And you didn't tell her until the date that she went to  
15 the hospital?

16 A That's right.

17 Q To the doctor?

18 A That's correct.

19 Q Do you recall making a statement that when your dad was  
20 there at school and all that you had there was your entire  
21 life?

22 A Yes, sir.

23 Q And you did well in it?

24 A Yes, sir.

25 Q And once he was gone it changed?

VICTIM - Cross-examination  
by Mr. Crane

- 1 A Yes, sir.
- 2 Q VICTIM when did you first cut yourself?
- 3 A Three years ago, two years ago.
- 4 Q The Family Court hearing was May 24<sup>th</sup> of '05.
- 5 A Yes, sir.
- 6 Q You cut yourself shortly before that, did you not?
- 7 A Yes, sir.
- 8 Q And you're actually taken to the hospital?
- 9 A Yes, sir.
- 10 Q Do you remember testifying at that Family Court hearing
- 11 that that's not the only time you cut yourself?
- 12 A Yes, sir.
- 13 Q Do you remember being asked, and I'll ask you the same
- 14 questions, do you know why you were cutting yourself?
- 15 A Because I was unhappy. I don't really know why.
- 16 Q The question asked you are you unhappy about what
- 17 you've accused your father of.
- 18 You remember your answer?
- 19 A I don't.
- 20 Q You said yes, ma'am.
- 21 The next question, is that why you're cutting yourself?
- 22 Do you remember your answer?
- 23 A No, sir.
- 24 Q You said yes, ma'am.
- 25 A Of course I feel that. He's still my father.

VICTIM | - Cross-examination  
by Mr. Crane

1 Q Do you remember being asked how many times you had cut  
2 yourself?

3 A No, sir.

4 Q Did you do it for about four or five months?

5 It was more than once, wasn't it?

6 A It was.

7 Q You cut yourself on the legs too?

8 A Yes, sir.

9 Q And do you remember the question what were you upset  
10 about, and your answer being my father?

11 SOLICITOR CRICK: Your Honor, may we approach for a  
12 moment?

13 THE COURT: All right. Lawyers want to approach a  
14 moment.

15 (Whereupon, a bench conference was held out of the  
16 hearing of the jury at this time.)

17 Q Do you remember being asked in Family Court are you mad  
18 that something happened to you or something happened to him?

19 A No.

20 Q Does this appear to be the Family Court transcript?

21 A Yes, sir.

22 Q Does this appear to be your testimony?

23 A Yes, sir.

24 Q Do you see that question right here are you mad that  
25 something happened to you or something happened to him?

VICTIM - Cross-examination  
by Mr. Crane

1 A Yes, sir.

2 Q What was your answer?

3 A Just everything. I never wanted this to happen.

4 Q The next question was are you mad that things happened  
5 to you or that you told some things that didn't happen to  
6 you.

7 What was your answer?

8 A Just everything that's happened to me and my family.  
9 And even though he did, he did what he did, I don't want him  
10 to be where he is now.

11 Q Let me continue asking you questions.

12 On Page 89 in the transcript were you asked can I ask  
13 one thing. You said you didn't want, what did you expect  
14 would happen and your answer?

15 A I don't know.

16 Q Question, did you not want your father to get in  
17 trouble.

18 Your answer?

19 A No, I did not want him to get in trouble. I just  
20 wanted him away from me.

21 Q Question, okay, so, you didn't anticipate that he would  
22 go to jail.

23 A No, my mom went to ask him, went to him asking him to  
24 leave the house. We had called the police on him.

25 Q And I'll ask you, where did your mom ask him to go?

Mena Farid - Cross-examination  
by Mr. Crane

1 A Anywhere but around us.

2 Q Question, your mother asked him to go to Germany or  
3 Afghanistan, didn't she?

4 Your answer?

5 A Yes.

6 Q Okay. So, on the date that you made these allegations,  
7 your mom went to the house, and, in fact, just simply said  
8 you need to leave, didn't she?

9 A She said you don't need to be around the children  
10 anymore.

11 Q Okay.

12 A She gave him a way out. He didn't have to be where  
13 he -- he doesn't have to go through this. She gave him a  
14 way out.

15 Q And how did he respond?

16 A He came at her.

17 Q And what did he say?

18 A He told -- we all knew if we ever did anything to  
19 disagree with him that we were not gonna make it out of that  
20 place.

21 Q He told her he didn't do it, didn't he?

22 A He called me a whore and said that I was a liar.

23 Q That's right. He called you a whore and said you were  
24 lying.

25 Isn't that what happened?

VICTIM - Cross-examination  
by Mr. Crane

1 A Yes.

2 Q And then you started going to the therapist. I believe  
3 that's Mrs. Thompson.

4 A Yes, sir.

5 Q Okay. How long did you do that?

6 A Eight, nine months to a year.

7 Q Okay. Did you complete your therapy?

8 A I did not.

9 Q Did you voluntarily stop going?

10 A Yes, I did.

11 Q Why?

12 A Because I really don't like to talk about this with a  
13 lot of people.

14 Q Okay. Was there -- you quit going in July, did you  
15 not, of '05?

16 A I don't recall.

17 Q And by the way, the cutting that you told the jury  
18 where you said you cut your wrist, that wasn't shortly after  
19 he was removed.

20 That was almost a year later, wasn't it, before you  
21 went to Family Court?

22 A Yes, sir.

23 Q All right. You stopped going in July of '05.

24 You said you just didn't want to go anymore, right?

25 A Right.

VICTIM - Cross-examination  
by Mr. Crane

- 1 Q Did you start having difficulty with your mom?  
2 A I did.  
3 Q You, you and she started disagreeing about rules and  
4 regulations, didn't you?  
5 A That's right.  
6 Q So, again, you bucked authority, didn't you?  
7 A No.  
8 Q And so, because you and your mom now disagreed, and  
9 that's about the time that you start doing drugs?  
10 A No.  
11 Q You're just doing alcohol then?  
12 A That's correct.  
13 Q And that's when you went to alcohol and drug abuse?  
14 A That's right.  
15 Q And you wouldn't go to the counselor anymore, right?  
16 A That's correct.  
17 Q And your mom was concerned about you, wasn't she?  
18 A Yes, she was.  
19 Q And so, what did you do?  
20 You moved out, didn't you?  
21 A She -- it was an agreement.  
22 Q Did you move out?  
23 A Yes, I did.  
24 Q So, again, you took care of VICTIM's problem, but this  
25 time you took care of it by moving out, right?

VICTIM - Cross-examination  
by Mr. Crane

1 A I was not just taking care of my problems, and I was  
2 eighteen. I could move out if I wanted to.

3 Q I understand.

4 A People go to college or move out of there.

5 Q I understand that.

6 Okay. One moment please, judge.

7 (Pause.)

8 Q While your dad was at home, did he allow you to have a  
9 job?

10 A Yes.

11 Q Okay. And did you have a car to drive?

12 A Yes.

13 Q What were you driving?

14 A A Pontiac, a '97.

15 Q You don't -- a what?

16 A A '97 Pontiac.

17 Q Okay. Were you in an accident?

18 A No.

19 Q You weren't in an accident?

20 A No, sir, not that I can recall.

21 Q When he left the home, did you get a different car?

22 A I did.

23 Q And what kind of car did you get?

24 A A Ford Contour.

25 Q A Ford Contour.

VICTIM - Cross-examination  
by Mr. Crane

- 1           What year?
- 2   A    A '99.
- 3   Q    Okay. And how were you able to buy that?
- 4   A    My grandparents loaned me half the money for it.
- 5   Q    Okay. Were you upset that one time when your mom took  
6   a little safe from the house and took it to your dad?
- 7   A    No.
- 8   Q    You don't remember telling the counselor about that?
- 9   A    I don't think it's fair that he should get money  
10   that -- why should he get anything?
- 11   Q    Why should -- is there rent that comes in from the  
12   house?
- 13   A    Yes, sir.
- 14   Q    Part of the house is a duplex, isn't it?
- 15   A    Correct.
- 16   Q    Okay.
- 17   A    But my mom takes care of that now.  
18        Why should he get the money for it.
- 19   Q    Why should he not?  
20        It's half his house, isn't it?
- 21   A    I guess so. But he's not in that house raising two  
22   kids like my mother is.
- 23   Q    I understand that.  
24        Around, around the time of your dad's arrest, was that  
25   when Kevin Riddle moved into the house?

VICTIM - Cross-examination  
by Mr. Crane

1 A Yes, sir.

2 Q All right. And after Kevin Riddle moved into the  
3 house, do you recall being out in front and making out with  
4 guys?

5 A I don't remember that.

6 Q But you were---

7 A I'm not gonna say that I wasn't out front kissing of my  
8 boyfriend maybe. But I wasn't out front making out with  
9 guys.

10 Q Okay. Kissing your boyfriend maybe?

11 A Yes.

12 Q You'll agree to that?

13 A Yes, I will.

14 Q Would, would that have ever been allowed if your dad  
15 was there?

16 A No.

17 Q So, that was another freedom you had, wasn't it?

18 A Yes.

19 MR. CRANE: Judge; may I take a moment?

20 I think I've got everything. Just real quick.

21 (Pause.)

22 Q How many times -- oh, you talked to the solicitor about  
23 taking pregnancy tests.

24 How many pregnancy tests did you claim your dad made  
25 you take?

VICTIM - Cross-examination  
by Mr. Crane

1 A I don't know. Anywhere from three to five. I didn't  
2 keep count.

3 Q Okay. So, it might of been as many as five?

4 A It could have been.

5 Q It might of only been three?

6 A That's right.

7 Q You think they started some time after you turned  
8 fourteen?

9 A That's correct.

10 Q You've mentioned something on direct examination about  
11 the locks on the doors of the house.

12 A That's correct.

13 Q What type of locks were on your bedroom door?

14 A Just like a door knob that locks from the inside.

15 Q And what kind of lock was on your dad's bedroom door?

16 A One that he needed a key to get into.

17 Q Get into from which side?

18 A Both sides.

19 Q Needed a key from both sides to get into?

20 A Yes.

21 Q So, you could go in and lock it with the key?

22 A Right.

23 Q Okay. Is that the same door lock that you and your  
24 brothers use to use toothpicks to break into?

25 A No.

VICTIM - Cross-examination  
by Mr. Crane

1 Q You don't recall ever using toothpicks to get in that  
2 lock?

3 A You can't -- we couldn't open that door with a  
4 toothpick.

5 Q Why not, ma'am?

6 A Because you need a key to open it.

7 Q But you could put a toothpick in the key and open it,  
8 mess around with it?

9 A I never---

10 Q Actually the lock was broken, wasn't it?

11 A I never did that. We never did that.

12 Q All right. And that's just on the door handle, right?

13 A Yes.

14 Q When you said dead bolt, you don't mean a separate lock  
15 that goes into the wall?

16 You mean the door handle lock, don't you?

17 A Yes.

18 MR. CRANE: Okay. Judge, that's all the questions I  
19 have. Thank you.

20 THE COURT: Any redirect limited to what he went into?

21 SOLICITOR CRICK: Yes, sir.

22 REDIRECT EXAMINATION

23 BY SOLICITOR CRICK:

24 Q VICTIM, when you were talking about your grades  
25 dropping --

VICTIM - Redirect examination  
by Solicitor Crick

1 A Correct.

2 Q -- do you mean your transcript grades or your report  
3 card grades?

4 Do you remember?

5 A I'm not -- my grades as a test, quizzes, whatnot, and  
6 it -- I don't know.

7 Q So, you started getting lower grades and that showed in  
8 a lower grade on your transcript?

9 A Correct.

10 Q And that's what you were referring to---

11 A Yes.

12 Q ---when you said that?

13 A Yes, ma'am.

14 Q You don't live at home now?

15 A I don't.

16 Q Correct.

17 So, regardless of the outcome of the case, your dad's  
18 not gonna be back in your home?

19 A Right.

20 Q You're not gonna live with him?

21 A Right.

22 Q Regardless of your testimony today, that's not gonna  
23 happen?

24 A Right.

25 Q He talked about some difficulties with your mom.

VICTIM | - Redirect examination  
by Solicitor Crick

1 Was there a period when you had---

2 A Yes---

3 Q ---some---

4 A ---there was.

5 Q Can you tell the jury why that was or emotionally what  
6 caused that?

7 A I don't know. We both just started -- we got on each  
8 other nerves, and I don't, I don't know why. I don't, I  
9 don't know.

10 Q That was after this came out?

11 A Right, but I wasn't, I don't know, trying to overcome  
12 her authority in the house. That's not what I was trying to  
13 do. But yes, I was drinking too much and she was worried  
14 about me because she's my mother.

15 Q Do you know why you were drinking so much?

16 A I, I don't -- I'm not gonna blame it on him and being  
17 unhappy because it is my fault and I realize that.

18 Q And that was after all this came about?

19 A Yes, ma'am.

20 Q After you got in all, in the, all the incidents he  
21 referred to, the trouble at school, you didn't report sexual  
22 abuse at that time, did you?

23 A No, ma'am.

24 Q It was two years later?

25 A Yes, ma'am.

VICTIM - Redirect examination  
by Solicitor Crick;

1 Q Do you have some financial issues at home after your  
2 dad left?

3 A Yes, ma'am.

4 MR. CRANE: Judge, I object. I didn't ask any  
5 questions about---

6 THE COURT: All right. I'll sustain the objection.

7 MR. CRANE: Thank you.

8 SOLICITOR CRICK: Your Honor, may I respond?

9 He asked about the safe and money.

10 THE COURT: If you limit it to that.

11 Q Go ahead.

12 A Of course there was. My mom had to support two  
13 children on what she makes by herself, well three children  
14 when he left the house.

15 Q So, that didn't get better after he left?

16 A No.

17 Q Your ability to sleep at night, was that affected after  
18 he left?

19 A Sometimes, yes.

20 Q And your cutting of yourself, that was after he left?

21 A Yes, ma'am.

22 Q So, none of that was better after your dad left?

23 A No, ma'am.

24 SOLICITOR CRICK: Your Honor, beg the Court's  
25 indulgence.

VICTIM - Recross examination  
by Mr. Crane

1 (Pause.)

2 SOLICITOR CRICK: Your Honor, that's all we have at  
3 this time.

4 MR. CRANE: Just one follow up.

5 THE COURT: Limited to what she went into.

6 MR. CRANE: Absolutely, judge.

7 RECCROSS EXAMINATION

8 BY MR. CRANE:

9 Q Isn't it a fact that you're cutting yourself because  
10 you were so distraught at the fabrication you made up---

11 A No.

12 Q ---that put him in the position he finds himself in?

13 A No.

14 MR. CRANE: No further questions, judge.

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

16 Lawyers approach a moment?

17 MR. CRANE: Yes, sir.

18 (Whereupon, a bench conference was held out of the  
19 hearing of the jury at this time.)

20 THE COURT: The State ready to call their next witness?

21 SOLICITOR CRICK: Yes, sir.

22 THE COURT: Yes, ma'am, who would that be?

23 SOLICITOR CRICK: Rashan

24 THE COURT: All right. Ladies and gentlemen, while the  
25 witness comes in, just please stand up. Just take a little

Rashan - Direct examination  
by Solicitor Barnette

1 stretch while you bring the witness in.

2 (Jurors comply.)

3 THE COURT: Come on around, sir. Just come on right up  
4 here. You may be seated. Right over here, sir.

5 RASHAN being first duly  
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR BARNETTE:

9 Q If you would, pull that microphone close to you.

10 A All right. Okay.

11 Q If you would, sir, give your full name for the record  
12 please.

13 A Kilod Rashawn

14 Q And where do you live at, sir?

15 A

16 Q And who do you live with, sir?

17 A My mother, Diane Farid.

18 Q And who else is with you presently there at the house?

19 A Mateen , my brother, my little brother, and my  
20 sister. She doesn't live with us right now. But she did.

21 Q She did back in, back when this occurred.

22 A (Witness nods affirmatively.)

23 Q And where do you go to school, sir?

24 A Spartan High.

25 Q And what grade are you in, sir?

Rashan - Direct examination  
by Solicitor Barnette

1 A Tenth.

2 Q And how are your grades there, sir?

3 A I have a 3.7 GPA.

4 Q And what activities do you do there, sir?

5 A I play football. I play left guard for Spartan High.

6 Q And do you do any other sports?

7 A Yeah, I throw shot and disk for the track team.

8 Q Back -- let's go back to 2004 and before.

9 Did -- how long did you live in the house that you live  
10 at, sir?

11 A We lived there all my life.

12 Q And back 2004 and before that, who lived with you at  
13 the house?

14 A My father, Mangal Farid.

15 Q And was that with you and your sister also---

16 A Yes, sir.

17 Q ---and your mother?

18 And if you would, tell the jury how your father would  
19 discipline you.

20 A He would verbally and physically abuse us and just  
21 wasn't a very nice -- like hit us and call us names and just  
22 wasn't very nice to us.

23 Q And what would he discipline you for?

24 A Like whatever we did, you know. It wasn't very major  
25 stuff, but, you know, just playing, you know, talking too

Rashan - Direct examination  
by Solicitor Barnette

- 1 much or just talking back or anything.
- 2 Q Okay. And where would he discipline you in the house?
- 3 A Wherever we were at the time.
- 4 Q And what about VICTIM, did he discipline her?
- 5 A Yes, sir.
- 6 Q And where would he do it at?
- 7 A Wherever we were at the time.
- 8 Q And what would he do to her?
- 9 A Just hit her and call her names and stuff.
- 10 Q And what names would he call her?
- 11 A Slut and bitch and whore and stuff like that.
- 12 Q Did he call you names?
- 13 A Yeah, he called me like a bastard and stuff like that.
- 14 Q And what would he say to Mateen?
- 15 Would he discipline Mateen?
- 16 A He would -- he wouldn't do it to Mateen as much, but
- 17 he'd call him a fat ass and stuff cause he's a little
- 18 heavier and he just made fun of his weight and stuff.
- 19 Q And where did you sleep at in the house?
- 20 A For a while I was sleeping in the dining room. He
- 21 moved my bed out there. But most of the time I sleep in the
- 22 room with my brother.
- 23 Q Did y'all have your own bedroom?
- 24 A Yes, sir, me and my brother did.
- 25 Q And where did your sister sleep?

Rashan - Direct examination  
by Solicitor Barnette

1 A She slept in a separate room.

2 Q And did your mom and dad have a bedroom?

3 A Yes, sir.

4 Q And you was saying, didn't he, didn't he make you move  
5 out of that bedroom with your brother?

6 A Yes, sir.

7 Q And why did he make you move out of the bedroom?

8 A I think cause of my behavior or we had got in an  
9 argument over, you know, just arguing over something.

10 Q And where did he move you again?

11 A The dining room.

12 Q And about what time was that or how, what grade were  
13 you in?

14 A What room?

15 Q What grade?

16 A Oh, I was in about the sixth or seventh. Probably the  
17 sixth.

18 Q And how long did you stay in the dining room -- can you  
19 tell the jury a little bit about that area of the dining  
20 room?

21 A It was just kind of in the corner of the dining room,  
22 and I was there just to sleep, and I wasn't allowed to go in  
23 my room and everything for a while. And just, you know,  
24 just to sleep there and it was only for a week or two, about  
25 two more.

Rashan - Direct examination  
by Solicitor Barnette

1 Q And what happened after that?

2 A My father accused my sister of having somebody at her  
3 window or something and he moved her in there and I went  
4 back to my room for -- and I was just back in my room.

5 Q During this time, did your mom work?

6 A Yes, sir, she worked at Raynor Garage Doors.

7 Q And what hours would she work?

8 A She probably worked from about 8:00 or 7:30 till about  
9 5:30 or 6:00, 5:30 or 6:00.

10 Q So, who would pick your sister up from school?

11 A My father would or she, sometimes she get to drive home  
12 in her, in her car.

13 Q And how did y'all get home from school?

14 A Sometimes she'd come and get us, every now and then,  
15 and most of the time we rode, we rode the bus home.

16 Q Did your dad ever pick you up?

17 A. On occasion. Very rarely. But on occasion he did.

18 Q But he would pick your sister up?

19 A Sometimes -- most of the time, yes.

20 Q And what time did you say your mom got home?

21 A About 5:00, probably 5:45 or 6:00, in the area.

22 Q And let me take you back to -- do you remember  
23 June 15<sup>th</sup>, 2004?

24 A Yes, sir.

25 Q If you would, tell the jury what happened I guess in

Rashan - Direct examination  
by Solicitor Barnette

1 the early morning of or that night before.

2 A My sister came to me and she was visibly upset about  
3 something, and she came to me, she said that she had to tell  
4 me something, that she had to, you know, get this, you know,  
5 she had to get this dealt with. And she, she was telling --  
6 she told me she had to tell me something, and I -- she  
7 wouldn't tell me. She got upset and I started naming stuff  
8 like I named like did he cheat on my mom, did he murder  
9 somebody, did he, and just all this stuff I could think of.  
10 And then when I said rape, she got pretty upset and she  
11 started crying. And, you know, I was, you know, pretty  
12 shocked. But that's just not something you think about, you  
13 know.

14 Q So, you were naming off things that, that he might of  
15 done to her or might of done?

16 A Yeah.

17 Q And if I understood your testimony, when you said rape,  
18 that's when she really got upset?

19 A Yes, sir.

20 Q What did you do?

21 A I just, I just told her that everything was gonna be  
22 okay, and she, she told me like how long it had been going  
23 on, and she told me it started when she was ten, and it  
24 happened until she was sixteen. And I just didn't know what  
25 to do. She told me to just go to park camp, that's what she

Rashan - Direct examination  
by Solicitor Barnette

1 was waking me up for, just go, and that she would see me  
2 later on, that she was gonna tell my mom and that everything  
3 was gonna be okay.

4 So, I go to park camp and about lunchtime my mom pulls  
5 up and takes us to her friend's house, Elizabeth Boey's  
6 house, and we stayed there for a while until the police  
7 arrived and, you know, escorted him and, and just that --.

8 Q How -- let me take you back, looking back after the  
9 fact, did, did your dad ever take you behind a locked door  
10 or anything?

11 A No, sir.

12 Q Did he ever take Mateen behind a locked door?

13 A No, sir.

14 Q Did he take VICTIM behind a locked door?

15 A Yes, sir.

16 Q Could you tell the jury about that?

17 A Like I would see him in her, go in her room or maybe I  
18 didn't and I just didn't know where they were, and I, I'd  
19 look around the house and, you know, I just call for them or  
20 whatever and I couldn't find them. So, I'd go and I'd knock  
21 on the door, on his or her door. It would either be his or  
22 her room, and I jiggled the door handle and it was locked.

23 And I asked -- I was like who's there and I was like  
24 who's, is anybody in there and he would answer. He said  
25 we're talking, just go away, and, you know, the door was

Rashan - Direct examination  
by Solicitor Barnette

1 locked. So, I didn't understand. You know, if he had  
2 something to yell at her about or say to her, he usually  
3 just did it out in the open.

4 And you know, looking on back on that, that made sense  
5 to me now. But at that time I just didn't think anything of  
6 it.

7 Q How long would he stay behind those doors?

8 A Twenty or thirty minutes.

9 Q And what would happen after they came out?

10 A He would -- she would be upset. She would be visibly  
11 upset, crying, and she just head to the bathroom, and you  
12 could hear that she was crying, and she was just upset. And  
13 I never hear her yelling and I never hear the fighting over  
14 anything.

15 Q And how many times would this happen over the years?

16 A I saw it twenty or thirty times over the years.

17 Q Let me take you back to the night before, did you  
18 get -- the night before June 15<sup>th</sup>, 2004.

19 Did you get in trouble at that time?

20 A Yeah, we had just got -- I don't know. I think I was  
21 getting ice out of the refrigerator and I was making noise  
22 and I woke him up and he came out there cussing and yelling  
23 and stuff, and I had said something back to him on my -- I  
24 just, you know, I was just like liar or something, and, you  
25 know, we had just got in an argument that night before.

Rashan - Direct examination  
by Solicitor Barnette

1 Q Was you the first person your sister told about this?

2 A Yes, sir, she, she came to me and she told me first,  
3 and I just told her to tell my mom. She was gonna wait  
4 until school started back to talk to her counselor about it,  
5 and I just told her that she couldn't do that no more and  
6 that she had to go talk to my mom.

7 SOLICITOR BARNETTE: One moment, Your Honor, please.

8 (Whereupon, five photographs were marked as State's  
9 Exhibit Nos. 1 through 5 for identification purposes only at  
10 this time.)

11 SOLICITOR BARNETTE: May I approach the witness, Your  
12 Honor?

13 THE COURT: Yes, sir.

14 Q Let me just show you what's been marked State's Exhibit  
15 1 through 5.

16 If you would, just look through those and see if those  
17 pictures, pictures fairly represent the way, the way the  
18 door, the handle looked.

19 A Yes, sir, that's the way it looked.

20 THE COURT: I'm sorry. I didn't, couldn't hear the  
21 answer.

22 Q I'm sorry. If you would, speak up

23 A Yes, sir, those are -- that's the door handle. That's  
24 the locks that were on the---

25 Q Okay. On which door was those on, sir?

Rashan - Direct examination  
by Solicitor Barnette

1 A On -- that was on the, at the time, his door.

2 Q And these picture fairly represent the way that it  
3 looked?

4 A Yes, sir.

5 SOLICITOR BARNETTE: I don't think he has an objection,  
6 Your Honor.

7 MR. CRANE: No, I have no objection.

8 THE COURT: You wish to introduce them?

9 SOLICITOR BARNETTE: Yes, sir, I do.

10 THE COURT: And without objection?

11 MR. CRANE: That's fine.

12 THE COURT: All right. Without objection, be State's 1  
13 through 5.

14 (Whereupon, State's Exhibit Nos. 1 through 5 were  
15 received into evidence at this time.)

16 SOLICITOR BARNETTE: Your Honor, may I publish these to  
17 the jury?

18 I don't have any questions of this witness.

19 Please answer any questions Mr. Crane or the judge has.

20 MR. CRANE: I'd like the photographs then, sir.

21 THE COURT: All right.

22 SOLICITOR BARNETTE: Your Honor, I have the right to  
23 publish those to the jury.

24 MR. CRANE: Not while I'm, not while I'm---

25 THE COURT: Let him finish cross-examining. It will

Rashan - Cross-examination  
By Mr. Crane

1 detract from their listening to his question. We can  
2 publish them later.

3 Go ahead.

4 MR. CRANE: Thank you, judge. I'll be glad to hand  
5 them---

6 THE COURT: Go ahead and ask him the questions.

7 CROSS-EXAMINATION

8 BY MR. CRANE:

9 Q How are you, Rashan?

10 A Fine.

11 Q My name is Larry Crane. I'm representing your dad.  
12 Okay?

13 A Yes, sir.

14 Q Good thing you have all that.  
15 What did you say, you're playing left guard?

16 A Yes, sir.

17 Q Okay. That's good.

18 And what grade are you in school now?

19 A I'm a sophomore.

20 Q Rashan, can you tell us please whether or not -- well,  
21 tell us when it was on the 14<sup>th</sup> or 15<sup>th</sup> that VICTIM told  
22 you what was going on.

23 A On the morning of June 15<sup>th</sup> she told me what was  
24 going on.

25 Q Okay. Not the night before?

Rashan Farid - Cross-examination  
By Mr. Crane

1 A She told, she had told me that she, there was something  
2 she needed to talk to her guidance counselor about, but she  
3 didn't go into that much---

4 Q Right. That's correct.

5 She didn't go into details the night before?

6 A Yes, sir.

7 Q All right. And you indicated that at one time you were  
8 moved into the dining room?

9 A Yes, sir.

10 Q When was that in relation to when your dad was arrested  
11 if you can recall?

12 A Maybe half a year ago before that.

13 Q Half a year before that?

14 A Or a year. I'm not positive.

15 Q Okay.

16 A I'm really---

17 Q And you said you were moved in there for behavior  
18 problems?

19 A Yes, sir.

20 Q What was the behavior problem?

21 A I don't know. We just get -- I don't know.

22 Q Did he ever move Mateen into the dining room?

23 A No, sir.

24 Q Up to June 15<sup>th</sup> when your dad was arrested, you've  
25 indicated that your dad would call y'all names. He would

Rashan - - - - Cross-examination  
By Mr. Crane

1 punish you.

2 Did he ever use cords or belts or whips or anything?

3 A Yes, sir, he use to hit my sister with an outlet, you  
4 know, something you---

5 Q An extension cord like?

6 A Yes, sir, to a radio before.

7 Q All right. Did y'all ever go to school with bruises?

8 A I'm sure we had. But we -- I mean it's not very  
9 visible. We don't show them to people.

10 Q When you were growing up in the home, would it be safe  
11 to say that your dad was very, very, very strict?

12 A Yes, sir.

13 Q He would not allow you-all to have friends, would he?

14 A No, sir.

15 Q He wouldn't allow you to go to the park, which is less  
16 than a block away?

17 A We could go to the park.

18 Q To -- for camp, for that---

19 A Yes, sir.

20 Q All right. What about by yourselves?

21 A Occasionally.

22 Q Occasionally.

23 Would he let VICTIM go down there?

24 A No, sir.

25 Q All right. Did he let you go outside and play with

Rashan Farid - Cross-examination  
By Mr. Crane

1 friends?

2 A We really didn't have that many friends.

3 Q Didn't have any friends?

4 A We didn't bring people over. We weren't allowed to.

5 Q Did you celebrate Christmas?

6 A No, sir.

7 Q Did you ever have pets?

8 A No, sir, we had birds and stuff like that.

9 Q Were you allowed to use the telephone?

10 A If I needed.

11 Q Okay. But I mean you weren't able to just talk to  
12 friends on the telephone?

13 A Not for an excessive amount.

14 Q And in 2000 -- how old are you now?

15 A I'm fifteen.

16 Q So, you weren't old enough to date back then, were you?

17 A No, sir.

18 Q All right. Weren't old enough to drive?

19 A No, sir.

20 Q Weren't working?

21 A No, sir.

22 Q Okay. Was life at home pretty strict and strenuous?

23 A Yes, sir.

24 Q When he, when he got arrested, that changed, didn't it?

25 A To a point it was, it was -- you could -- it wasn't

Rashan - - - Cross-examination  
By Mr. Crane

1 such a -- no, I wasn't scared any more.

2 You know what I mean?

3 Q I understand that.

4 You were able to go out at night?

5 A To a, trusted family friends.

6 Q All right. And some nights you stayed out past dark,  
7 didn't you?

8 A If it was where -- if my mother knew where we were.

9 Q Okay. You weren't allowed to ever do that when he was  
10 home, were you?

11 A No, sir.

12 Q You weren't allowed?

13 A No. No, sir, I'm not--

14 Q Okay. When do you recall incidents starting to happen  
15 behind this closed door?

16 A I can think back to maybe when I was twelve or eleven  
17 when I, the first time I saw it. But further back than  
18 that, I don't remember.

19 Q All right. If we go back to eleven, that would be four  
20 years ago.

21 So, that would be the year 2000, 2003, correct?

22 A Yes, sir.

23 Q Prior to that you don't ever remember seeing her go  
24 behind closed doors?

25 A I don't remember.

Rashan - Cross-examination  
By Mr. Crane

1 Q And did VICTIM ever complain to you about what she said  
2 was going on behind closed doors?

3 A Before?

4 Q Before June 15<sup>th</sup>.

5 A No, sir.

6 Q Did you ever hear unusual sounds behind closed doors?

7 A No, sir.

8 Q Ever hear screaming or yelling or anything?

9 A No, sir, it wasn't -- well, not behind closed doors.

10 Q Did your dad ever change the locks on his door?

11 A He changed the lock on his door.

12 Q Why did he change it?

13 A I'm not sure.

14 Q Was there a time when you and your brother and, and or  
15 VICTIM would pick it, pick the lock with a toothpick?

16 A Not that I recall.

17 Q All right. And the pictures that they've introduced,  
18 these pictures here are pictures of his bedroom door?

19 A Yes, sir.

20 Q And is this the lock that he had changed?

21 A Yes, sir.

22 Q When did he change this lock?

23 A Probably from the time -- probably three years ago.  
24 Before three -- four years before that.

25 Q Four years before he was arrested?

Rashan - Cross-examination  
By Mr. Crane

1 A Yes, sir.

2 Q So, that would be like six or seven years ago?

3 A Yes, sir.

4 Q Is that right?

5 A Yes, sir.

6 Q Okay. All right. Referring to State's Exhibit No. 1,  
7 does that show the open door with the lock?

8 A Yes, sir.

9 Q That's opening into his bedroom, correct?

10 A Yes, sir.

11 Q All right. Is that other door that appears to be  
12 closed the bathroom?

13 A Yes, sir.

14 Q All right.

15 THE COURT: Mr. Crane, don't publish them until you ask  
16 all the questions. You'll take away from the questioning.

17 MR. CRANE: Okay, judge. Thank you.

18 Q And I want to jump to State's Exhibit No. 5, is that a  
19 photograph of the closed door which would -- and what is  
20 this blue room?

21 Is that the dining room?

22 A Yeah, it's the dining room, kitchen, the kitchen and  
23 dining room kind of combined.

24 Q Okay. So, you go from this blue room through this door  
25 into that bedroom?

Rashan - Cross-examination  
By Mr. Crane

1 A Yes, sir.

2 Q And so, this would be the outside of his bedroom door?

3 A Yes, sir.

4 Q Okay. And State's Exhibit No. 4, is that a close-up of  
5 that door and the lock from the outside?

6 A Yes, sir.

7 Q And State's Exhibit No. 3, is this an even closer  
8 picture of the lock from the outside?

9 A Yes, sir.

10 Q And State's Exhibit No. 2, is that a photograph of the  
11 lock from the inside?

12 A Yes, sir. No, that's from the outside, from the side.

13 Q Say what?

14 A It's from an angle on the outside.

15 Q Okay. But does it show the lock as would be inside the  
16 room?

17 A Yes, sir.

18 Q All right. Does that lock inside the room need a key  
19 to open it?

20 A From inside the room?

21 Q Right.

22 A No, from outside it needs a key.

23 Q I understand that.

24 A From outside you can lock it.

25 Q From outside?

Rashan - Cross-examination  
By Mr. Crane

1 A I mean from inside you can lock it. From outside you  
2 need a key to open it.

3 Q From outside you need a key to lock it or open it?

4 A Yes, sir.

5 Q From inside, you can just turn the little button, can't  
6 you?

7 A Yes, sir.

8 Q There is not a key needed to lock it from the inside,  
9 is there?

10 A No, sir.

11 Q All right. As far as you -- let me rephrase that.  
12 Did your dad stress good grades?

13 A Yes, sir.

14 Q And did the three of you, you and your brother and  
15 sister, make pretty good grades?

16 A Pretty much, yes, sir.

17 Q Okay. Thank you. One moment please.

18 (Pause.)

19 Q , once your dad was arrested and taken out of  
20 the home, did things change around the house for all of you?

21 A Yes, sir, we had a more safe environment, you know,  
22 that would---

23 Q Well, you were allowed to do more things too, weren't  
24 you?

25 A Yes, sir.

Rashan - Cross-examination  
By Mr. Crane

- 1 Q And VICTIM started going out, didn't she?
- 2 A Yes, sir.
- 3 Q She had a college boyfriend, didn't she?
- 4 A I'm not aware of that.
- 5 Q Well, she was going out staying out till at least
- 6 midnight, wasn't she?
- 7 A I believe so.
- 8 Q She wasn't allowed to do that when her dad was there,
- 9 right?
- 10 A Yes, sir.
- 11 Q She would -- she, on occasion, would meet her boyfriend
- 12 out in the front and kiss on him, wouldn't she?
- 13 A I didn't see that.
- 14 Q You didn't see that?
- 15 A I didn't see that.
- 16 Q Did you see her start smoking?
- 17 A I saw her -- I've seen her smoke cigarettes.
- 18 Q Did you see her start drinking?
- 19 A I seen her drink one time.
- 20 Q Okay. And we know that wasn't allowed when your dad
- 21 was home, was it?
- 22 A No, sir.
- 23 Q I have no other questions. Thank you, sir.
- 24 THE COURT: Do you have any questions on redirect?
- 25 SOLICITOR BARNETTE: Yes, sir, I do.

Rashan Farid - Redirect examination  
by Solicitor Barnette

1 THE COURT: All right. Mr. Foreman, if you would --  
2 Mr. Foreman, if you would, just lay those up there on the  
3 counter cause you need to -- all of y'all need to listen to  
4 the questions and y'all can take a look at those after the  
5 questioning.

6 Go ahead, sir.

7 SOLICITOR BARNETTE: Thank you, Your Honor:

8 REDIRECT EXAMINATION

9 BY SOLICITOR BARNETTE:

10 Q Rashan, I know, in response to a question you said you  
11 were scared, you know, and could you tell the jury what you  
12 were scared of.

13 A I was just scared of the way he treated us. The way  
14 he -- just, just the way he treat us, you know. Just the  
15 way -- I was scared to go home sometimes cause I just didn't  
16 want to go home. Just wasn't a good place to live.

17 Q And you -- now, Mr. Crane asked you, said that your  
18 father was strict.

19 A Yes, sir.

20 Q Looking back on it, I know you're now fifteen, how  
21 would you characterize his type of discipline?

22 A It's not, it's not -- it shouldn't be done to a human,  
23 you know. Maybe to a dog or anything. But not to a human.  
24 It's not right.

25 Q Have you seen through your own friends and things how,

Rashan - Recross examination  
by Mr. Crane

1 how they're treated by their father?

2 A Yes, sir.

3 Q And have you seen anybody being treated the way you  
4 were treated, your sister and brother?

5 A No, sir.

6 Q Thank you.

7 THE COURT: Any recross limited to what he went into?

8 RECCROSS EXAMINATION

9 BY MR. CRANE:

10 Q , has your dad ever done anything sexually  
11 appropriate, inappropriate to you?

12 A No, sir.

13 Q And you're only going on what your sister told you as  
14 to what he might of done to her, isn't that true?

15 A Yes, sir.

16 Q Thank you.

17 THE COURT: All right, sir. You may step down.

18 Mr. Barnette, would you like to publish, pass those to  
19 the jury now?

20 SOLICITOR BARNETTE: I would. Thank you, Your Honor.

21 THE COURT: Is the State in a position to want to call  
22 the next witness?

23 SOLICITOR LEIBERT: Your Honor, I'll see if he's out  
24 here.

25 Mr. Wiley Garrett.

1           May we approach, Your Honor?

2           (Whereupon, a bench conference was held out of the  
3 hearing of the jury at this time.)

4           THE COURT: All right. All right. Ladies and  
5 gentlemen, I've consulted with the attorneys as to the  
6 scheduling. I was hoping to get a little bit more testimony  
7 in, but I think it probably would be wise for us to take our  
8 lunch break at this time.

9           Now, we have begun the trial. We've received, started  
10 receiving testimony. So, I want to, to stress to you that  
11 now, as before, it is, it is very important that you not  
12 have any discussions among yourselves or with anyone else  
13 about anything involving a case. I'll remind you again  
14 that, that if anything has sparked your interest and you  
15 don't understand a terminology or word that's been  
16 presented, you feel like you need to go look it up in the  
17 dictionary or encyclopedia, don't do that because I'll  
18 remind you again once you make your decisions, there, your  
19 decision is to be based solely on the information that you  
20 receive inside this courtroom. So, do not do any type of  
21 independent investigation as well.

22           I know the pictures are being passed around. I would  
23 like for all of you to have an opportunity to be take, to  
24 take a look at those before we break. But, when we break,  
25 I'm gonna ask, if you would, to please be back in the jury

1 deliberation room by 2:15. I have a pretrial conference I  
2 have to actually do at two o'clock. So, I'm, told the  
3 lawyers that it should; that only I'll have about ten  
4 minutes for them. So, hopefully I will be back by 2:15 and  
5 we can resume the taking of the testimony at that time.

6 But I do want to thank you for your work this morning.  
7 I've watched you. You've all paid very good attention to,  
8 to the evidence and the testimony that's been presented so  
9 far.

10 Anything else from the State?

11 SOLICITOR LEIBERT: No, sir, Your Honor.

12 MR. CRANE: No, sir, judge.

13 THE COURT: All right. We will -- I'll allow you to go  
14 with the bailiff to go to, back to the jury assembly room.  
15 And once you're through looking at those pictures, just give  
16 them to the bailiff and he will bring them back and give  
17 them to the court reporter.

18 Thank you.

19 (Whereupon, the following takes place outside the  
20 presence of the jury.)

21 THE COURT: All right. For scheduling purposes, so  
22 y'all anticipate Wiley Garrett would be next?

23 SOLICITOR LEIBERT: Yes, sir, Your Honor.

24 THE COURT: All right. And then Doctor Henderson?

25 SOLICITOR LEIBERT: Yes, sir.

1 THE COURT: And then Mrs. Loftus-Thompson?

2 SOLICITOR LEIBERT: Yes, sir, she is in Greenville. So  
3 we'll have her here about 3:15 to make sure. Doctor  
4 Henderson is just a couple miles away. So, that shouldn't  
5 be any problem.

6 THE COURT: Who after the, Mrs. Thompson?

7 SOLICITOR LEIBERT: I'm not sure if, of that, Your  
8 Honor.

9 THE COURT: All right. Might want to get that person  
10 on standby as well. I sure would like -- we're gonna do her  
11 at 3:30. I want to try to get, be sure that we do get  
12 everything in including any instructions and charge and the  
13 deliberations in by Friday so we're gonna push them a little  
14 bit. So, we might be running a little bit later---

15 SOLICITOR LEIBERT: Yes, sir.

16 THE COURT: ---than normal.

17 All right. We'll, I'll see y'all at 2:15.

18 SOLICITOR LEIBERT: Thank you, Your Honor.

19 (Whereupon, Court was in recess for the lunch hour.)

20 SOLICITOR BARNETTE: May we approach for one second,  
21 Your Honor?

22 THE COURT: Is your client here?

23 MR. CRANE: No.

24 SOLICITOR BARNETTE: My victim isn't here yet either.  
25 That's why I will -- I was gonna ask you to wait for a

Wiley Garrett - Direct examination  
by Solicitor Leibert

1 minute or so please.

2 THE COURT: All right. If y'all find him and get him  
3 over here. We're trying to try the case here.

4 (Pause.)

5 THE COURT: All right. Is everybody present now?

6 SOLICITOR CRICK: Yes, sir.

7 SOLICITOR BARNETTE: Yes, sir, we're ready.

8 THE COURT: All right. Certainly.

9 Go ahead and bring the jury back.

10 (Whereupon, the following takes place within the  
11 presence of the jury.)

12 THE COURT: State ready to call their next witness?

13 SOLICITOR LEIBERT: Yes, sir, Your Honor.

14 THE COURT: Yes, sir.

15 SOLICITOR LEIBERT: State would call Wiley Garrett.

16 THE COURT: Come on around, sir.

17 WILEY GARRETT, being first duly  
18 sworn, testified as follows:

19 SOLICITOR LEIBERT: May it please the Court, Your  
20 Honor?

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION

23 BY SOLICITOR LEIBERT:

24 Q Sir, please state your name.

25 A Wiley Garrett.

Wiley Garrett - Direct examination  
by Solicitor Leibert

- 1 Q Okay. You need to talk into that microphone.
- 2 A Okay. It's Wiley Garrett.
- 3 Q Would you like some water?
- 4 A I would. Thank you. I apologize. I have a cold.
- 5 Q He has a cold.
- 6 A Thank you.
- 7 Q All right, sir. You're Wiley Garrett?
- 8 A Yes, sir.
- 9 Q And where are you employed?
- 10 A I work with the Children's Advocacy Center in
- 11 Spartanburg, South Carolina.
- 12 Q And what is your position there?
- 13 A I'm a forensic interviewer and therapist there.
- 14 Q All right. Did you complete a forensic interview on
- 15 VICTIM ?
- 16 A I did complete a forensic interview, yes.
- 17 Q All right. When was that?
- 18 A I interviewed her on July the 1<sup>st</sup>, 2004, and July the
- 19 20<sup>th</sup>, 2004.
- 20 Q All right. Before we get to the specifics of that, I'd
- 21 like to ask you some background questions about your
- 22 education and training.
- 23 Are you licensed by the State of South Carolina?
- 24 A I am licensed. I'm a licensed independent social
- 25 worker in clinical practice in South Carolina, which is the

Wiley Garrett - Direct examination  
by Solicitor Leibert

1 highest level of social work licensure in the State of South  
2 Carolina.

3 Q All right. With that license, are you permitted to  
4 diagnose and treat conditions?

5 A With that licensure, the State expects me to be able to  
6 assess, diagnose, and treat individuals.

7 Q All right. Do you have a college degree?

8 A Yes, I do.

9 Q What is your first degree?

10 A I have a, a Bachelor of Arts from High Point College.

11 Q In what field of study?

12 A Actually that was in philosophy and religion.

13 Q All right. Do you also -- did you get a college degree  
14 after that?

15 A I went to Duke University and, and have a Master of  
16 Divinity Degree from Duke University.

17 Q All right. And then to become the licensed independent  
18 social worker in clinical practice, what did you have to do?

19 A I went to the University of South Carolina to the  
20 graduate program in social work and finished that program.  
21 And once you finish the program, then you're expected to  
22 take a entrance exam, exam for the first level and then  
23 after two years of supervision by a social worker at the  
24 highest level, and then you take another exam, and then  
25 you're licensed at the highest level, social work and

Wiley Garrett - Direct examination  
by Solicitor Leibert

1 clinical practice in South Carolina. And then went back and  
2 took more training.

3 And so, I'm a licensed independent social worker in  
4 clinical practice supervisor and approved supervisor for the  
5 State of South Carolina.

6 Q All right. How long have you been licensed by the  
7 State of South Carolina?

8 A I graduated from -- well, my first licensure was in  
9 1994 in South Carolina, yes.

10 Q You are currently licensed?

11 A I am currently licensed in South Carolina, that is  
12 correct.

13 Q And is that at the highest level?

14 A That is at the highest level.

15 Q How long have you been at the highest level?

16 A Well, I believe it's since about 1996. Again, you need  
17 two years of supervision by, by an approved supervisor.

18 Q All right. Give the jury a brief background of your  
19 work experience.

20 A I began in 1988 working with children in an inpatient  
21 psychiatric unit. I worked with children who were from four  
22 to twelve years of age. Most of which have been sexually  
23 molested, all of which have been traumatized, all of which  
24 had some behavioral problems. I worked there for two years,  
25 and came to South Carolina and worked in therapeutic foster

Wiley Garrett - Direct examination  
by Solicitor Leibert

1 care and that is in terms of, of receiving referrals of  
2 children who are, have behavioral and emotional difficulties  
3 due to trauma and sexual abuse. Most of those kids as well  
4 would be sexually abused.

5 And then recruited and trained folks to work with these  
6 children and place them in homes and then supervise their  
7 treatment in the home. And then went into private practice  
8 as a therapist and then also working with children of  
9 families, and then a little more than five years ago, I  
10 began the process of becoming a forensic interviewer with  
11 the Children's Advocacy Center in Spartanburg.

12 And what that means is that generally an extensive  
13 training on top of the licensure and all the training and  
14 experience I've had over the years. Now for -- well, that  
15 would of been since 1988. It's almost 20 years and then  
16 now. And then began that process, which includes, first of  
17 all, going to Huntsville Alabama for their week long  
18 training and then beginning, intermediate, and advanced  
19 training in Charleston, South Carolina in forensic  
20 interviewing. And also training at the, from the University  
21 of North Carolina Chapel Hill going through their forensic  
22 training program for North Carolina as well. And then most  
23 recently have gone to Dallas Texas for the national training  
24 in forensic interviewing in Dallas Texas. And those are  
25 some of the trainings and preparations I've had.

Wiley Garrett - Direct examination  
by Solicitor Leibert

1 Q And how long have you been doing forensic interviews?

2 A A little bit over five years now.

3 Q And how many forensic interviews have you performed?

4 A Well, I've, I've most recently stopped counting at  
5 about 400. So, I know I've done over 400.

6 Q All right. Have you ever been called upon to testify  
7 in court regarding child sexual abuse and forensic  
8 interviewing?

9 A I've been called upon many times, yes.

10 Q You ever been qualified as an expert?

11 A Been qualified as an expert in Family Court many times,  
12 and also been qualified in, as an expert witness in criminal  
13 court as well.

14 Q When you say many times, give us a, an estimate.

15 A Well, I wouldn't want to give you a number because I  
16 actually have counted them, but I know it's been many times  
17 and I'd say that's more than 20 times.

18 SOLICITOR LEIBERT: All right. Your Honor, I move to  
19 qualify Wiley Garrett as a licensed independent social  
20 worker and clinical practice supervisor and as an expert in  
21 the field of forensic interviewing.

22 THE COURT: And the area of expertise again you wish to  
23 have him qualified is in forensic interviewing?

24 SOLICITOR LEIBERT: Yes, sir, Your Honor.

25 THE COURT: Is there any objection?

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1 MR. CRANE: I don't know that there is such an expert.  
2 But I don't have any objection.

3 THE COURT: All right. Normally, ladies and gentlemen,  
4 a person can not give opinion testimony. Normally when a  
5 person testifies, they must testify as to what they either  
6 saw, heard, or sensed by smell, or something of that nature.  
7 However, there is an exception when someone is qualified  
8 because of education or experience. They are permitted to  
9 give their opinions in certain areas that the Court  
10 qualifies them that way.

11 This witness will be qualified in the area of forensic  
12 interviewing to give opinion testimony in that area. That  
13 does not mean that you accept the opinion. But it is  
14 evidence for you to use in any way that you see fit.

15 Yes, sir.

16 SOLICITOR LEIBERT: Thank you, Your Honor.

17 Q Please tell the jury what exactly a forensic interview  
18 is.

19 A First of all, a forensic interview is an opportunity  
20 for a child to be able to express verbally what he, what  
21 has, they have seen and heard and experienced in their life.  
22 Not only can they verbalize it and many times for younger  
23 children we also give them an opportunity to be able to make  
24 drawings or to use, demonstrate. But it is an opportunity,  
25 in a non-threatening environment, to allow them to be able

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1 to say what they have seen, heard, and experienced. And  
2 that's really what a forensic interview is.

3 And the job of the forensic interviewer is really not  
4 to get in the way. That is to understand and assess the  
5 level of that child, whatever age they are, be able to  
6 listen to them on that level, and to be able to ask them  
7 questions, but not leading questions.

8 A leading question is any question that has the answer  
9 in the question. Most common leading question that, for  
10 instance, a parent might ask is you're hungry, aren't you.  
11 And that has the answer in the question.

12 So, forensic interviewing is, is really asking  
13 questions that are just really open ended questions that  
14 don't have the answer in them to allow that child to express  
15 what they have seen, heard, and experienced.

16 Q And what is your ultimate purpose?

17 A Two purposes. One is to be able to allow that child  
18 to, to tell what they have seen and heard and experienced.  
19 Secondly, to be able to determine if this is a clear  
20 consistent disclosure. And thirdly, then really to make  
21 recommendations in terms of what this child needs based on  
22 what they've experienced, what do they need to recover, what  
23 do they need to be okay, what do they need to be functioning  
24 again.

25 Q So, is part of this also to determine whether there's

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1 fabrication?

2 A Well, that is part of the, part of the process. A  
3 forensic interviewer thinks, as they go through the process,  
4 really entertains as many possibilities as possible. Well,  
5 there's a possibility is something happened. Another  
6 possibility is something didn't happen.

7 Also to look at motivation, what would motivate this  
8 child, and what is this child experiencing, what is their  
9 relationship to the, their family, and their relationships  
10 in general, and looking at all of those then to make a  
11 determination.

12 Q In addition to looking at what they actually say, do  
13 you look at other things such as their demeanor, how they  
14 respond to you?

15 A Of course, that's looking at -- again, one of the  
16 things that we know is when we -- again, in human  
17 communication is when you ask somebody to tell about a  
18 experience, particularly if it's a traumatic experience,  
19 then we're either gonna see one of two things. Either a lot  
20 of, a lot of emotions that are consistent with grief really,  
21 with grief experiences, shock, denial, depression, or else  
22 we're gonna see that child or person be in a state of shock,  
23 which is, a state of shock is where that person really may  
24 not be expressing their feelings at that moment, and may,  
25 may actually feel them and express them later.

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1 Q All right. And what dates did you see VICTIM  
2 for her forensic interview?

3 A I saw her on July the 1<sup>st</sup>, 2004, and July the 20<sup>th</sup>,  
4 2004.

5 Q And where did you see her?

6 A I interviewed her at the Children's Advocacy Center in  
7 the interview room.

8 Q And was there anybody present besides you and VICTIM  
9 during your interview?

10 A There's nobody present in the room except for the two  
11 of us, and that's one of the things that we make sure is  
12 that we want to do is have the child not be influenced by  
13 anyone else in the room. And so, as a matter of, of rule,  
14 we don't have other folks who are in that room with the  
15 forensic interviewer and the child.

16 Q All right. Now, you're, under the law, you're not  
17 allowed to give any specifics about what VICTIM said, but you  
18 are allowed to tell me whether, tell the jury whether she  
19 reported a sexual assault and whether she told you when or  
20 where.

21 A Okay.

22 Q But no specifics.

23 So, taking that into account, did VICTIM report a sexual  
24 assault to you?

25 A She did make disclosure of a sexual assault that

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1 happened on multiple times over a long period of time, yes.

2 Q All right. And so, in that regard, when did she say  
3 this happened?

4 A VICTIM disclosed that the sexual assault began when she  
5 was about ten years of age and then continued on. In her  
6 disclosure, if I may look at my report, it happened three or  
7 four times a week after she was ten years old. When she was  
8 thirteen it was once or twice a week. At fourteen, it  
9 stopped and started again when she turned fifteen and had  
10 been once a week since then. And at the time of the  
11 interview I believe she was sixteen years old.

12 Q Did she tell you where this happened?

13 A She said it happened in her parent's bedroom.

14 Q All right. What is the concept known as delayed  
15 reporting?

16 A It's a term that people sometimes use. In our  
17 experiences being forensic interviewers, and again I don't  
18 work in this field alone much, I work with other forensic  
19 interviewers and obviously communicate with many forensic  
20 interviewers over time and training and also in supervision.  
21 And what is called delayed reporting is extremely common.  
22 And in fact, I would say, in most cases where there have  
23 been disclosures to me and to my colleagues, it is delayed  
24 disclosures.

25 I also, in my work as a therapist, have worked with

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1 adults and many times have had woman in their 20's, 30's,  
2 40's, and 50's who have disclosed to me and told me that  
3 they were disclosing for the very first time. So, it's not  
4 unusual for children to be sexually molested and then to  
5 wait until they're their adults, even into their 40's and  
6 50's. And in fact, I've even had women who in their 60's  
7 who have, who have disclosed to me that they were sexually  
8 molested as children, and told me about that experience and  
9 about why it, they did not disclose earlier.

10 Q So, in your experience, is there, do you have any  
11 concerns about VICTIMS disclosure at sixteen?

12 A I would not have any concern about any person not  
13 disclosing immediately because in most cases there is a  
14 delay in disclosure, which makes perfect sense if you think  
15 about the family system. You're a child. You're living in  
16 a family.

17 Do you want to upset your mother?

18 Do you want to make your mother cry?

19 You want to upset your family?

20 You want people to be mad at you.

21 In most cases where a child discloses sexual abuse, I'd  
22 say in almost all cases where a child discloses sexual  
23 abuse, for the most part it is the child who leaves the  
24 home. And again, you have to think about it from the point  
25 of view of children and adolescents. They are dependant on

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1 those people. They don't want people mad at them or upset  
2 at them or disappointed in them. And they are dependent  
3 upon this family.

4 And so, they are, most often, afraid. And in many  
5 situations, there have, may have also been things that were  
6 said to them that led them to believe that they would be  
7 harmed if they did tell. So, there's a lot of fear  
8 involved, and it is, I'd say, more common than not for  
9 children and adolescents to delay. This also happens many  
10 times with adults as well.

11 Q In your experience as a professional in this field,  
12 what significance is it or do you expect people to be able  
13 to give you precise times and details?

14 A Again, if you think about it -- I do not expect, expect  
15 precise times in traumatic events. And let's say that you  
16 think about any traumatic event that, that you or anyone may  
17 have in their life, if you have a car accident, you're  
18 usually not looking at car, at your watch. You're not  
19 looking at the clock, and you have that accident, you go  
20 into shock and you're not aware of time.

21 And particularly in incidents, where they're incidents  
22 that happened over a long period of time. Particularly if  
23 let's say it begins at ten years old. Then over a long  
24 period of time, then it is unlikely that a person would  
25 remember all of those details and all of those times. That

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1 would be like me asking anyone, you know, what, what did you  
2 have for lunch everyday for the last year. Those are not  
3 things that we'd remember or even to remember, if I asked  
4 you even to tell me all of the traumas, all of the griefs,  
5 and all the shocks and disappointments that you had in your  
6 life, that would be still very difficult.

7 SOLICITOR LEIBERT: Your Honor, may I approach Madam  
8 Court Reporter with the exhibit?

9 THE COURT: Yes, sir.

10 Q Was there a drawing made during the second interview  
11 that you recall?

12 A I think there was a drawing made, and I don't have that  
13 with me.

14 Q I show you what's been marked and admitted as  
15 Defendant's Exhibit No. 1.

16 Do you recognize that?

17 A It has my initials on it.

18 Q And what is the date of it?

19 A Well, I'm having trouble reading. Actually here it  
20 looks like part of that is covered up. Well, this looks  
21 like seven two and, and it looks like a zero and a zero  
22 four. So, that would be July 20<sup>th</sup>, 2004.

23 Q Was that your first interview or your second interview?

24 A That would be the second interview.

25 Q All right. Did VICTIM-- was there a discussion with you

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by Solicitor Leibert

1 and VICTIM about markings on the defendant's penis?

2 A It is not unusual, in a second interview, in order to  
3 determine or to ask about identity of the accused or alleged  
4 abuser to ask if there are any identifying markings. Many  
5 times we don't know where this is gonna lead. Most common  
6 sort of markings that we hear would be something like a, a  
7 tattoo or a, a scar or something like that.

8 And so, in response to that question, were there any  
9 identifying marks, then she drew this picture -- well she,  
10 she stated, first of all, I believe.

11 Q All right. But what I need to know is who, who brought  
12 it up.

13 A I brought it up.

14 Q All right. What conclusions did you make, Mr. Garrett?

15 A I'm, I'm sorry. I don't understand the question.

16 Regarding which?

17 Q What conclusion did you make regarding your forensic  
18 interview of VICTIM?

19 A Oh, oh. My, my conclusion was that her disclosure was  
20 clear, consistent, and compelling disclosure of sexual  
21 abuse.

22 Q Do you have an opinion then within a reasonable degree  
23 of psychological certainty, based upon your education,  
24 training, and experience, and based further upon your  
25 forensic interview of VICTIM, whether your findings are

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by Mr. Crane

1 A Okay.

2 Q And in doing that assessment, who all did you talk to?

3 A I interviewed the mother. I interviewed VICTIM. I  
4 interviewed Rashan, who is a brother, and Mateen, who is  
5 also a brother.

6 Q All right. Did you ever interview Mateen?

7 A I did not.

8 Q Okay. Did you think that not important to do that?

9 A In the situation that we're in, we generally -- we do  
10 not -- the Children's Advocacy Center does not allow anyone  
11 who's accused of sexual abuse in the building. They're  
12 certainly welcome to ask for that. I have had people ask  
13 for that who know what's going on, who ask for that, asked  
14 to talk to me, and I am certainly willing to do, to talk to  
15 them in another location. But no, I did not talk with him.  
16 I did not contact him, no.

17 Q Okay. But my question that you answered with about  
18 eight sentences was did you not think it important to talk  
19 to him?

20 A Generally in the, for the most part, I do not talk to  
21 the alleged -- it's not that it's not important. It's just  
22 that they're other people who will, like detectives who talk  
23 to him.

24 Q Okay. And you -- so, you have based your assessments  
25 and findings on the information given to you by VICTIM and her

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by Mr. Crane

1 mom and the brothers, right?

2 A As well as our final child abuse response team,  
3 C.A.R.T. team meetings, where we meet with the detectives  
4 and other people involved with the case and hear what they  
5 have to say as well.

6 Q All right. It has been testified too that VICTIM's  
7 father engaged in anal intercourse and vaginal intercourse  
8 with her over a period of years. It is also been testified  
9 too that he rubbed his penis on her vaginal area and her  
10 anal area.

11 I'd simply ask you is that what was related to you in  
12 your investigation?

13 A The event is similar. I think that the, what was told  
14 that I remember from my memory, is about the anal sex and  
15 the rubbing of the penis on the vaginal area if that's in  
16 there. I just -- if vaginal sexual intercourse was in there  
17 I don't, I just don't remember that.

18 Q Well, would you look at Page 2 of your report.

19 A Okay. I am looking at it.

20 Q Would you look at B-1?

21 A Yeah, okay. I'm looking at it now.

22 Q Would you look five lines down and begin with the word  
23 she.

24 A She, she disclosed that her father tried to put his  
25 penis in her vagina.

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by Mr. Crane

1 Q And?

2 A And disclosed that her father rubbed her vaginal area  
3 with his penis.

4 Q And?

5 A VICTIM disclosed that her father did this many times.

6 Q And?

7 A When asked about the first time, VICTIM said she was  
8 about ten years old.

9 Q So, VICTIM told you on July 1<sup>st</sup> of 2004 that her father  
10 rubbing his penis and trying to put it in her vaginal area  
11 at the age of ten?

12 A Well, at this particular juncture she's telling me  
13 what's happened. I think we got, actually didn't -- I did  
14 not ask her specific questions, can you tell me exactly at  
15 ten and ten and a half and eleven exactly what happened. We  
16 did not divide it up in that way.

17 Q Your report says that she told you this started at the  
18 age of ten, does it not?

19 A Yes, it does, these behaviors did.

20 Q You report is correct and accurate, isn't it?

21 A It is, it is a recollection of -- yes, an accurate  
22 reflection of what she said.

23 Q So, we, in this jury, can take it that VICTIM, on  
24 July 1<sup>st</sup>, 2004, told you that at the age of ten is when  
25 her father started rubbing his penis on her vaginal area,

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by Mr. Crane

1 can't we?

2 A Yes.

3 Q All right. And then after that, further down in that  
4 first paragraph, you'll see about three-fifths of the way  
5 down it says VICTIM disclosed?

6 Do you see that?

7 A Yes, I do.

8 Q What does that say?

9 A That says VICTIM disclosed that her father had sex with  
10 her three or four times a week after she was ten years old.

11 Q Was she talking about vaginal sex or anal sex or do you  
12 recall?

13 A Those were her words and that's what she reported. In  
14 terms of---

15 Q All right.

16 A ---asking the question exactly what kind of sex, I did  
17 not ask that question.

18 Q But prior to that, she had said he started rubbing her  
19 at the age of ten and tried to put his penis in her vagina?

20 A Correct.

21 Q All right. And then on July 20<sup>th</sup> of 2004 is when she  
22 made this diagram and said that there was a mark on his  
23 penis, is that correct?

24 A That is correct.

25 Q And you've got in your report that it was either a

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by Mr. Crane

1 freckle or a mole on his penis?

2 A That is correct.

3 Q And she's marked that and we've got, what -- you've  
4 seen that?

5 A She drew that, yes.

6 Q Is there a number of interviews that is recommended to  
7 do with a child?

8 A We follow the recommendation of the American  
9 Professional Society on Abuse of Children and each  
10 Children's Advocacy Center decides. All Children's Advocacy  
11 Centers interview at least one time and some interview two  
12 times. We interview, as a matter of our just policy and  
13 guidelines, twice.

14 Q Okay. In response to questions by the solicitor, you  
15 indicated that you were advised that this started at the age  
16 of ten and occurred in her parent's bedroom?

17 A That is correct.

18 Q Did she indicate whether it ever happened anywhere  
19 else?

20 A She didn't. She did not indicate that it happened  
21 anywhere else, no.

22 Q So, was the indication that it only happened in her  
23 parent's bedroom?

24 A She said that it happened at her parent's bedroom and  
25 she did not mention any place else.

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by Mr. Crane

1 Q Now, how was she in interviewing?

2 Was she easy to interview?

3 Was she difficult or do you remember?

4 A She was -- I remember very distinctly that she was  
5 very, very, very upset.

6 Q And what else?

7 A It was difficult for her to talk. They were tears in  
8 her eyes. She did seem to me to be very determined, that  
9 she felt very embarrassed, was, even used the word shame,  
10 and was very real, and there was a lot of anxiety. She was,  
11 she was certainly visibly shaken.

12 Q And was she motivated to tell you about it?

13 A She was -- yes, she was very motivated. She was very  
14 upset.

15 Q Motivated from within?

16 A That is correct.

17 Q You used those words before, have you not, in Family  
18 Court?

19 A I don't, I don't -- I actually don't remember ever  
20 using those words. But I, I may have.

21 Q On May 24<sup>th</sup>, 2005, Mr. Garrett, you were being  
22 questioned by Mr. Shappell and the question was asked---

23 SOLICITOR LEIBERT: Excuse me.

24 What page are you on?

25 MR. CRANE: Well, I start on Page 13, solicitor.

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by Mr. Crane

1 Q On Page 13, the question was have you seen forensic  
2 interviews where a teenage girl has had, for lack of a  
3 better term, an attitude of it's me against the world and I  
4 don't care what you think. Your answer, sir, was basically  
5 you're describing -- I've interviewed teenage girls who are  
6 very oppositional, defiant, angry, angry young girls. Yes,  
7 I've interviewed many of them.

8 The question was did you see any of that in VICTIM. You  
9 basically said no.

10 At the end of the paragraph, however, you said---

11 SOLICITOR LEIBERT: Objection, Your Honor.

12 May we approach?

13 THE COURT: All right. Approach.

14 (Whereupon, a bench conference was held out of the  
15 hearing of the jury at this time.)

16 Q You've got my book.

17 Did you respond, at the very end, to indicate that she  
18 was compliant with you or what, what I have underlined?

19 A It says she certainly, at the same time, she  
20 certainly---

21 Q This -- I'm sorry. This was, this was in response to  
22 an answer.

23 Did you say she was very, very compliant with me?

24 A Oh, yeah, she was very compliant.

25 Q Okay. And then they went on to question you a little

Wiley Garrett - Cross-examination  
by Mr. Crane

1 more. The question was now you mentioned compliant.

2 Now, is there a difference between being compliant with  
3 the conversation and wanting to have the conversation.

4 Do you recall your answer?

5 A You mean on there?

6 Q Yes.

7 A That---

8 Q Do you recall your answer?

9 A She was -- I remember, I remember saying that she was  
10 motivated, yes.

11 Q Okay. You said motivated from inside of herself  
12 internally, right?

13 A Yes, and as opposed to being forced by someone or---

14 Q She wanted to tell the story, didn't she?

15 A She did.

16 Q Okay.

17 A Yes, sir.

18 Q Now, did you have all of the information that you  
19 needed to make a proper assessment or do you know if you had  
20 all the information that you needed?

21 A You mean at that time or you mean later?

22 Q Did you later learn that maybe you did not have all of  
23 the information that you could have used to make the  
24 assessment?

25 A I -- you know, I've heard things since then.

Wiley Garrett - Cross-examination  
by Mr. Crane

1 Q Well, don't say what you heard. Just the answer is yes  
2 or no.

3 A Well, ask the question again. I'm not sure exactly  
4 what you're---

5 Q Did you learn, after your assessment, that there were  
6 other, there was other information that perhaps you could  
7 have used to make your assessment?

8 A Yes. Yes, I did learn some other things.

9 Q All right. And was that information that could have  
10 come from VICTIM or Mrs. Farid that did not come to you?

11 A Well, again, I'm not entirely sure what you're talking  
12 about. So, it's difficult for me to answer your question.

13 Q When you interviewed, when you -- before you did the  
14 interview and came up with your, with your assessment, were  
15 you told about any problem at school that VICTIM had?

16 A If you give me one second. I remember something, her  
17 mother saying something about problems at school.

18 Q I, if I might help you, sir, you may find, you might  
19 find it on Page 4, the top of the page.

20 A Okay. Thank you.

21 Yeah, the, the only, only---

22 Q And I don't know that you should answer.

23 A Okay.

24 Q If you wish to, please go ahead. But I'd rather ask  
25 you a question.

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by Mr. Crane

1           Okay?

2   A     Okay.

3   Q     You did learn information about problems <sup>VICTIM</sup> had at,  
4 had at school, did you not?

5   A     The mother did mention one problem, yes.

6   Q     Okay. And in a later time after you did the assessment  
7 did you not learn that there was at least two other problems  
8 at school?

9   A     That -- and again, I'm not sure exactly what those  
10 were. Those were referred to in Family Court. But as far  
11 as me knowing exactly the details or what was going on, I, I  
12 don't know the details of that.

13   Q     Well, you were told in Family Court what they were.

14   A     Well, I'm, I'm saying I -- that it was mentioned, but  
15 as far as the details in finding them, I wasn't explained to  
16 me what the details were.

17   Q     I understand that.

18           As a matter of fact, if you read your testimony,  
19 apparently you were told about those prior to your testimony  
20 in Family Court, weren't you?

21           The day of the Family Court hearing.

22   A     I just don't remember that. I'm sorry.

23   Q     Okay. That's fine. That's fair enough.

24           When you did the assessment, however, having read your  
25 notes, you had not been told by <sup>VICTIM</sup> or her mother that <sup>VICTIM</sup>

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by Mr. Crane

1 had been suspended from school for allegedly engaging in  
2 oral sex with another student, had you?

3 A I had not been told that, no.

4 Q And you had not been told by either one of them that  
5 she had been suspended from school for some infraction in  
6 the, in the lunch room involving sandwiches, either taking  
7 them out or stealing them or whatever?

8 A I was not told that, no.

9 Q Then you had not been told that she had been suspended  
10 at least twice for excessive tardies, had you?

11 A I had not been told that.

12 Q All right. Could that of been important in your  
13 assessment?

14 A Well, I'd have to hear more. But, but, again, it could  
15 have been. But what I've heard so far, what I have heard,  
16 one of the things in interviewing children, if I could  
17 answer this question, is that, our -- you know, children  
18 that have been through the sort of thing that's alleged that  
19 VICTIM went through, then it's, would be very surprising if  
20 they were not having problems, behavioral problems as well  
21 as emotional problems, and that is very common.

22 Q Okay. Now, are you aware that after Mr. Mangal was  
23 arrested that VICTIM basically went wild?

24 A No, I'm not aware of that, no.

25 Q All right.

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by Mr. Crane

- 1 A And I'm not sure what you mean by wild either.
- 2 Q I mean she started drinking. She started smoking. She  
3 started dating college students. She stayed out late at  
4 night. All the things that her dad would not let her do.  
5 You did, you do have information that the dad was a  
6 very, very strict person, wasn't he?
- 7 A I did hear that, yes, sir.
- 8 Q Okay. And one moment, please.  
9 (Pause.)
- 10 Q Okay. Can you tell me whether or not VICTIM might appear  
11 to you in the same fashion as she did if she was suffering  
12 from physical and emotional abuse and not the sexual abuse?  
13 When you talk about being compliant -- I think you've  
14 referred to her as being, help me out here, parent defiant.
- 15 A I have, I have used that word.
- 16 Q What does that mean, parentification?
- 17 A Excuse me. That's actually when a child is put into,  
18 and often forced into adult roles very early where they're  
19 expected to take care of -- well, cook, take care of younger  
20 siblings and basically adopt an adult demeanor and adult  
21 responsibilities much earlier than they're really able to do  
22 that.
- 23 Q Right. And you---
- 24 A So, they begin to act like a, an adult when, in fact,  
25 you know, they're just a child.

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by Mr. Crane

1 Q Okay. And you certainly learned that from VICTIM and her  
2 mother?

3 A Yes.

4 Q All right.

5 A That is, that is correct.

6 Q And so my question then, in that parent defined role,  
7 if, in fact, she was also being subjected to emotional and  
8 physical abuse, but not sexual, could she not come across to  
9 you in the same fashion that she did?

10 A Well, I think that would be difficult because of her  
11 disclosures of sexual abuse. You know, she did talk about  
12 some of the emotional, physical issues that, things that  
13 happened to her. But predominately what she was upset about  
14 was the sexual. So, that was the primary disclosure, the  
15 sexual abuse. And parentification was just part of the  
16 family, what's going on in the family.

17 Q Okay. And one final question.

18 Have you, in fact, dealt with young girls at the age of  
19 sixteen who have made allegations like this which, in fact,  
20 turned out to be untrue?

21 A Oh, yes, I have.

22 Q Thank you.

23 THE COURT: Any redirect limited to what he went into?

24 SOLICITOR LEIBERT: May we approach?

25 (Whereupon, a bench conference was held out of the

Wiley Garrett - Redirect examination  
by Solicitor Leibert

1 hearing of the jury at this time.)

2 SOLICITOR LEIBERT: May it please the Court, Your  
3 Honor?

4 THE COURT: Yes, sir, Mr. Leibert.

5 REDIRECT EXAMINATION

6 BY SOLICITOR LEIBERT:

7 Q This behavior you've heard about, wild activity, is  
8 that consistent with a young girl that's been molested to  
9 you?

10 A Well, yes, and let me just say that the common answer  
11 to that is if you take a child and you, that child is in  
12 pain and is hurt, is overwhelmed, then that pain, when they  
13 become adolescence, is going to be anger. That would be for  
14 abuse in general.

15 And, again, the other thing that we often see, very  
16 often see again in sexual abuse is sexual -- it's really the  
17 sexualization of that child and there, there, they are  
18 filled with anger. That's part of -- it's part of the grief  
19 process. We -- part of grief is depression and anger, and  
20 they do get depressed and they do get angry and they do act  
21 out. There's very, very, very common.

22 And I -- also, in working with adult women between the  
23 ages of twenty and sixty, it's also very common.

24 Q And Mr. Crane's last question to you was whether you've  
25 ever had sixteen year olds who have made this up.

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by Solicitor Leibert

1 A Correct.

2 Q And he said yes and thanked you.

3 Do you put that in your report when you believe they've  
4 made it up?

5 A Oh, absolutely.

6 Q Doesn't say that in that young lady's report, does it?

7 A It does not.

8 Q Please get your report and turn back to Page 2, the  
9 summary of the child's interview. That's number one.

10 On the third line I believe you stated that, to Mr.  
11 Crane's questions, that the father had been sexually abusing  
12 her since she was ten, is that correct?

13 A That is correct.

14 Q At that point, the things that followed, did everything  
15 therein follow include age ten or was that everything that  
16 she said that happened?

17 A I, I was basically asking her about what had happened  
18 to her and that was her response. I did not say is what,  
19 at, what -- the question was not what happened to you at age  
20 ten, but what is happened to you and, and her disclosure  
21 was, to a great extent, spontaneous.

22 Q That said he put his penis in her anus?

23 A Right.

24 Q Began using condoms, made her take pregnancy test---

25 MR. CRANE: Judge, I would object to that comment by

Wiley Garrett - Redirect examination  
by Solicitor Leibert

1 the solicitor. That was not asked---

2 THE COURT: All right. Don't argue in front of the  
3 jury.

4 MR. CRANE: Okay.

5 THE COURT: All right. He's finished his question.  
6 Do you have any other objection?

7 MR. CRANE: No.

8 THE COURT: All right. Go ahead, sir.

9 Q Is that correct?

10 A That is correct, sir.

11 Q All right. Thank you.

12 THE COURT: Any recross limited to what he went into?

13 MR. CRANE: No, sir, I think we understand what the  
14 doctor -- excuse me -- are you a doctor?

15 WITNESS: I am not a doctor.

16 MR. CRANE: Okay.

17 THE COURT: All right. Thank you, sir. You may step  
18 down.

19 WITNESS: Thank you, sir.

20 SOLICITOR LEIBERT: The State would call Doctor Nancy  
21 Henderson.

22 THE COURT: All right. Any objection to the witness  
23 being excused?

24 SOLICITOR LEIBERT: No, sir, Your Honor.

25 THE COURT: Any objection from the defense?

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1 MR. CRANE: No, sir.

2 THE COURT: Thank you, sir. You may be excused.

3 Come on around, ma'am.

4 DOCTOR NANCY HENDERSON, being first

5 duly sworn, testified as follows:

6 SOLICITOR LEIBERT: May it please the Court, Your  
7 Honor?

8 THE COURT: Yes, sir.

9 DIRECT EXAMINATION

10 BY SOLICITOR LEIBERT:

11 Q Please tell us your name.

12 A Nancy Henderson.

13 Q And what is your occupation?

14 A I'm a pediatrician.

15 Q Did you perform a medical examination on VICTIM in  
16 July of 2004?

17 A Yes, I did.

18 Q Before we get to that, I want to ask you some questions  
19 about your background and your practice in medicine.

20 A Yes, sir.

21 Q Are you licensed in the State of South Carolina?

22 A Yes, I am.

23 Q And how many years have you been licensed?

24 A I been licensed since I moved here in 1992.

25 Q All right. What is your highest college degree?

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1 A Medical doctor.

2 Q M.D.?

3 A Yes.

4 Q All right. And how long have you been an M.D.?

5 A I graduated from Medical School in 1984.

6 Q Prior to that, what were you in college for?

7 A Rutgers College of Pharmacy in Brunswick New Jersey.

8 Q All right. After you graduated from medical school,  
9 did you have to take any boards or exams?

10 A Yes, I did. I had to take -- there's three tests of  
11 national boards to become a licensed medical doctor.

12 Q All right. And did you take and pass all three of  
13 those?

14 A Yes, I did.

15 Q And you a pediatrician?

16 A Yes, I am.

17 Q What does that mean?

18 A That means you have to do a, a three year pediatric  
19 residence program. After completing that, you have to take  
20 a test, pass that, and then every seven years you have to  
21 recertify with another test.

22 Q Are you also board certified?

23 A Yes, I am.

24 Q In what specialty?

25 A Pediatrics and I'm sub-boarded in adolescent medicine.

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by Solicitor Leibert

1 Q And what does it mean to be board certified?

2 A Board certified is to, when you take that test, every  
3 seven years that's specifically in the area of pediatrics  
4 and that recertifies your board in pediatrics.

5 Q Are you on the staff of any hospitals?

6 A Yes, I am. Greenville Memorial Hospital.

7 Q What kind of practice do you have?

8 A I primarily have a practice within the hospital. I'm  
9 involved with the pediatric residency program. I teach the  
10 pediatric residents in general pediatric one-half afternoon  
11 a week. But the rest of my practice is primarily involved  
12 in the area of child abuse. I work out of an Advocacy  
13 Center in Greenville as well as in Spartanburg performing  
14 exams on children that may of been abused, and I also do  
15 medical exams at a shelter for children that have been  
16 removed.

17 Q And those exams include sexual abuse?

18 A Yes.

19 Q How many patients have you treated and examined during  
20 the course of your medical career?

21 A I approximately see about 300 exams a year, and I have  
22 been doing this in South Carolina since 1992.

23 Q So, well over 3,000?

24 A (Witness nods affirmatively.)

25 Q Have you ever been called upon to testify in Court

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by Solicitor Leibert

1 regarding child sexual abuse?

2 A Yes, I have.

3 Q Approximately how many times?

4 A Probably approximately about ten times a year.

5 Q For how many years?

6 A Since I've been here in South Carolina.

7 SOLICITOR LEIBERT: All right. Your Honor, I move to  
8 qualify Doctor Nancy Henderson as a board certified  
9 pediatrician and expert in the field of the examination,  
10 diagnosis, and treatment of child sexual abuse.

11 MR. CRANE: Judge, I didn't hear any testimony about  
12 being an expert in child sexual abuse. I heard her testify  
13 she's board certified as a pediatrician.

14 THE COURT: All right. Give me one second. I'm trying  
15 to write down what he wants her qualified as. Let me get  
16 that.

17 MR. CRANE: I'm sorry. Thank you, judge.

18 THE COURT: All right. Do you have any questions  
19 concerning her qualifications?

20 MR. CRANE: Yes, sir, I'd like to ask her.

21 THE COURT: Yes, sir. He has questions concerning her  
22 qualifications.

23 CROSS-EXAMINATION

24 BY MR. CRANE:

25 Q Doctor Henderson, do you have any training in

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

1 gynecology?

2 A Within the area of pediatrics.

3 Q What type of training do you have?

4 A In the area when you're examining children with child  
5 sexual abuse, I've attended a number of conferences every  
6 year and especially advanced conferences in the area of  
7 evaluating children who have been sexually abuse.

8 Q And how long are those conferences?

9 A The last conference I attended was in Minnesota and  
10 that was a week long. It was at St. Paul.

11 Q Is there any type of certification you have to say that  
12 you're qualified to perform sexual abuse examinations?

13 A In the area of pediatrics, there's not a sub-board yet.  
14 It's gonna be happening within the next couple of years.  
15 But they have not designated a sub-board in the area of  
16 child abuse.

17 Q So, there's no one that says you're an expert in that  
18 field?

19 A Just the experience that I have and, in the hospital,  
20 that's my position there at Greenville Memorial Hospital.

21 Q Do you do both physical and mental exams of these  
22 individuals or just the physical exams?

23 A Well, I do a general physical exam, which involves an  
24 overall assessment of the interview, my overall opinion  
25 about the child, which involves the overall mental

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by Mr. Crane

1 assessment, physical exam. So it's not just looking at the  
2 body, but talking to the child and the family as part of the  
3 evaluation.

4 Q Are you trained and qualified to determine whether or  
5 not sexual abuse has occurred or not occurred based on  
6 whether or not the hymen is a particular position or in tact  
7 or not in tact or whatever?

8 A I think I'm qualified based on my overall exam and the  
9 physical exam to make those determinations.

10 Q What makes you qualified?

11 A Because of my experience and my training.

12 MR. CRANE: Okay. I don't have any further questions,  
13 judge.

14 THE COURT: All right. I will find that she is, can  
15 testify as an expert in the examination, diagnosis, and  
16 treatment of child sexual abuse.

17 Again, ladies and gentlemen, testimony is now going to  
18 be presented -- I'm sorry, wrong one.

19 Normally a person can not give opinion testimony.  
20 Normally when a person testifies they must testify as to  
21 what either they saw, heard, or sensed by smell, or  
22 something of that nature. However, there is an exception  
23 when someone is qualified because of education or  
24 experience. They are permitted to give their opinion in  
25 certain areas if the Court qualifies them that way.

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1           This witness will be qualified in the area of  
2 examination, diagnosis, and treatment of child sexual abuse  
3 to give opinion testimony in that area. That does not mean  
4 that you must accept the opinion. But it is evidence for  
5 you to use in any way that you see fit.

6           Yes, sir, Mr. Leibert.

7           SOLICITOR LEIBERT: May it please the Court.

8           CONTINUED DIRECT EXAMINATION

9           BY SOLICITOR LEIBERT:

10          Q     What is the hymen?

11          A     The hymen is a type of flexible tissue in the  
12 adolescent population that partially covers over the vaginal  
13 opening.

14          Q     Does it -- how does it normally allow for penetration?

15          A     Excuse me?

16          Q     How does it normally allow for penetration or does it?

17          A     Well, it is not -- the actual vaginal opening is not a  
18 closed system so that there is a normal opening to allow for  
19 secretions to flow in, to flow out of in just the normal  
20 population of females.

21          Q     In your experience over the last 15 years and examining  
22 3,000 patients, what percentage of children with the  
23 allegations of sexual abuse do you have medical evidence?

24          A     Medical evidence---

25               MR. CRANE: Judge, I object. That's irrelevant to this

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by Solicitor Leibert

1 case.

2 THE COURT: All right. I will -- Mr. Leibert, I'm  
3 gonna sustain his objection.

4 Q All right. Did you have an opportunity to examine the  
5 victim in this case?

6 A Yes, I did.

7 Q All right. And when, when was that done?

8 A That was July 6<sup>th</sup>, 2004.

9 Q And where was that done?

10 A That was at the Spartanburg Child Advocacy Center.

11 Q Was anyone present besides you and VICTIM?

12 A The mother was present for part of the evaluation, and  
13 then VICTIM was present by herself for part of the evaluation.

14 Q All right. Give the jury a brief background of what  
15 you actually do when you do an exam for a teenager.

16 A Okay. When a child comes for an evaluation, initially  
17 what happens is the child will come into the room with  
18 whoever is there with them and there is a person that kind  
19 of will go over exactly what's gonna happen so that they  
20 feel comfortable in the room. They show them the equipment,  
21 especially for younger children who are feeling very  
22 uncomfortable, show them what we use to look in the ears and  
23 the mouth and look at the genital area because sometimes  
24 that's a little bit more familiar.

25 I then come into the room and introduce myself and talk

Doctor Nancy Henderson - Direct examination  
by Solicitor Leibert

1 to the parent and or child about the past medical history  
2 because those are all new patients to me to find out what  
3 symptoms the child might be having, any concerns that a  
4 parent might have, and then I usually try to talk to the  
5 child by themselves and find out exactly what's going on and  
6 what their concerns are.

7 Then I offer the child to have whoever they'd like to  
8 have in the exam with them, whatever would make them more  
9 comfortable, and they make a decision about that. They get  
10 changed and then I come back and do the physical exam.

11 It's a complete head to toe physical exam meaning we  
12 look at, I look at every part of the body. It's a little  
13 bit different then a regular pediatric exams because I use  
14 something called a colposcope, which doesn't at all touch  
15 the child, but it's a, a really good light source that  
16 allows for a lot of magnification so that I can better see  
17 the genital area.

18 Depending on what the situation is I may decide to do  
19 cultures to look for different types of infections. We may  
20 also do blood work again to look for different types of  
21 infections depending on what the situation warrants.

22 I then let the child get dressed and then have the  
23 people come back into the room if they would like, talk  
24 about my concerns, what I found, and address any kind of  
25 follow-up that might be necessary.

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by Solicitor Leibert

1 Q Now, a colposcope was used to actually examine the  
2 genital area?

3 A Yes, sir.

4 Q All right. And that was done in this case?

5 A Yes, sir.

6 Q And did you make some findings in this case?

7 A Yes, I did.

8 Q Doctor, would you come down here in front of the jury  
9 and we're gonna have you explain to the jury your findings  
10 please?

11 THE COURT: Is she gonna be facing the jury?

12 SOLICITOR LEIBERT: Yes, sir.

13 Q What were your findings on Mena's exam?

14 A Well, as I mentioned before, I did a complete head to  
15 toe physical exam. And -- but she was a little nervous for  
16 the exam. But overall the complete head to toe checkup,  
17 everything looked normal. But when I did the genital exam,  
18 there were a few findings. And I'll draw a very rough  
19 schematic to try to help you with this.

20 Q If everybody can't see, we'll switch this a little bit.  
21 Someone raised their hand.

22 THE COURT: All right.

23 SOLICITOR LEIBERT: If anybody can't see, please raise  
24 your hand.

25 THE COURT: Doctor, if you would, you're facing this

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by Solicitor Leibert

1 way. The court reporter is behind you. It's gonna be  
2 difficult. But sure you speak up loud enough so she can  
3 hear you as well.

4 A Okay.

5 Q And---

6 MR. CRANE: Tony, I'm not sure they can see that color.  
7 Do you have a dark color?

8 SOLICITOR LEIBERT: Can we inquire of the jury whether  
9 they can see?

10 THE COURT: All right. Go ahead, doctor.

11 A Maybe I should just draw it and then I'll go back and  
12 explain it to them.

13 Q All right.

14 A This is a very rough schematic, but the picture is  
15 showing with the child -- like this is the, and I'll label  
16 for you, this is the abdomen up here and this is her legs.  
17 And it's in the, the feet holders, the stirrups. So, one's  
18 foot out to one side, one foot's out to the other. This is  
19 the rectal area right here.

20 And she was noticed to have a little skin tag right  
21 there, which is a very non-specific finding. Something that  
22 we see all the time. Pretty normal exam. And she had a  
23 little pustual right there on her buttock area. Again just  
24 a little bump filled with a little pus. Not, not at all  
25 concerned.

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by Solicitor Leibert

1 Now this is what's called the labia and the clitoral.  
2 This is the urethra where you void from. And then this  
3 right here is the vaginal opening. And this tissue right  
4 here is behind there, which we were talking about before.

5 And the way I would describe it, it's called a crescent  
6 shape hymen because it has -- it appears like a crescent  
7 shape moon. Sometimes in the normal changing it can be  
8 called angular where it goes all the way around. But  
9 because it kind of stops at this point up here it's called a  
10 crescent shape.

11 And we label things like a clock. So this is twelve  
12 o'clock, six o'clock, three o'clock, and nine o'clock. And  
13 so, on her exam right, right at about eight o'clock, right  
14 at this point, right at this point here, the hymen tissue  
15 looked very, very normal until you get to this point, and  
16 she had mark narrowing at that point and then it resumed  
17 very normal to the, to the rest of her exam. And there was  
18 just a tiny bit of discharge, a thin white amount of  
19 discharge, which without doing cultures it's hard for me to  
20 make any kind of judgment of that. We didn't look too  
21 concerned just looking at it. But this was the finding that  
22 I had.

23 Q What does narrowing at eight o'clock mean?

24 A Typically the hymenal tissue is pretty uniform, and  
25 pretty consistent all the way around. So, when you see

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1 marked narrowing -- now, it normally, in some children, you  
2 can see a lot of variations especially when you get to  
3 adolescence. There can be a lot of changes because they  
4 have alot of estrogen around and that causes alot of  
5 flexibility to the hymenal tissue.

6 But when you see where the hymenal tissue is almost  
7 completely diminished at that one point, that's a sign of  
8 some type of penetration through the hymenal tissue.

9 Q All right. Thank you. Have a seat.

10 A (Witness returns to the stand.)

11 Q Doctor Henderson, do you have an opinion, within a  
12 reasonable degree of medical certainty based upon your  
13 education, training, and experience and based upon your  
14 findings on examination of VICTIM , whether those  
15 findings are consistent with a penetrating injury?

16 A Based on the history that she shared with me and based  
17 on my examination I felt that it was consistent with a, that  
18 she had been abused.

19 Q All right. Also opinion as to whether she was sexually  
20 abused, that opinion is?

21 A That she had been, yes, sir.

22 Q All right. Thank you. Answer any questions one -- beg  
23 the Court's indulgence.

24 (Pause.)

25 SOLICITOR LEIBERT: May we approach, Your Honor?

Doctor Nancy Henderson - Direct examination  
by Solicitor Leibert

1 THE COURT: Yes, sir.

2 (Whereupon, a bench conference was held out of the  
3 hearing of the jury at this time.)

4 SOLICITOR LEIBERT: May it please the Court, Your  
5 Honor?

6 THE COURT: Yes, sir.

7 Q Specifically, in this case, was the hymen in tact?

8 A You know that term hymen in tact is not really a  
9 medical term at all. So, I really don't know exactly -- you  
10 know, I don't use that terminology at all. That's kind of a  
11 lay terminology and---

12 Q In your experience in over 3,000 exams, does the hymen,  
13 hymen have to be torn for there to be a penetrating injury?

14 A No, there does not especially when a child has reached  
15 puberty and there is that estrogen effect to the hymenal  
16 tissue, that allows that hymenal tissue to stretch in a  
17 remarkable way and so that there can be full penetration  
18 without any kind of trauma to the hymenal tissue.

19 Q Okay. In this case, we actually have a narrowing  
20 consistent with penetration?

21 A Yes, sir.

22 Q All right. Thank you. Answer any questions Mr. Crane  
23 may have.

24 CROSS-EXAMINATION

25 BY MR. CRANE:

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

- 1 Q Doctor, I'm Larry Crane.  
2 How are you?
- 3 A Fine. Thank you.
- 4 Q Did you do a report and a finding in this particular  
5 case?
- 6 A Yes, I did.
- 7 Q And your testimony today is that what you testified to  
8 is consistent with sexual abuse in VICTIM I?
- 9 A Yes, I felt it was.
- 10 Q Can you say why that's not in your report?
- 11 A Well, the report -- in the chart, it says -- that last  
12 diagram is based just on the actual physical exam part and  
13 then my overall opinion at the end is based on both the  
14 history and the genital exam.
- 15 Q But your overall opinion at the very end, and I think  
16 I'm referring to, you don't have them numbered, but it would  
17 be at the top of a page that says lab summary where you have  
18 the discussion and then you signed your name at the bottom.
- 19 A Yes, sir.
- 20 Q This page here?
- 21 A Yes.
- 22 Q Where it says, and you've got five choices,  
23 significance of physical findings. Below that it says  
24 ano/genital trauma.
- 25 What is ano/genital trauma?

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

1 A That's trauma to the genital area.

2 Q And you've got down five choices, normal exam,  
3 non-specific, suspicious, consistent, and diagnostic, and  
4 you have checked suspicious.

5 A Right.

6 Q But not consistent?

7 A Right.

8 Q And down at the bottom where you have your written  
9 history or your written decision, you've got there is one  
10 small area of narrow hymen which may be related to incident.  
11 It doesn't say consistent with incident.

12 Why is it different today than it was when you did this  
13 exam almost two and a half years ago?

14 A Well, the actual abnormality on her hymenal tissue I  
15 can not say for certain that it was caused by the incident.  
16 But the overall history, and what I'm seeing, that's the,  
17 when you -- that check box that you're looking at is just  
18 related to the actual finding on the exam, and that's why  
19 it's suspicious because there could be other things that  
20 cause it. And based on just the narrowing of the hymen,  
21 hymen I can't say that absolutely it was caused by the  
22 incident that occurred.

23 The only thing that could be consistent or diagnostic  
24 would be if you, if you had a child that was pregnant or had  
25 a positive STD, then you know that absolutely without any

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

1 certainty that what you're seeing on the examination was  
2 caused by the, the incident. When there's narrowing or  
3 there's some tearing of the hymenal tissue, there are other  
4 reasons that can cause that. So, I can't say, based on that  
5 finding alone, if I don't have the history of that by  
6 itself, even if she denied everything, would of been very  
7 suspicious for abuse.

8 Q And what are the other causes that may cause that  
9 narrowing?

10 A Well, any kind of penetration, any kind of severe  
11 penetration into the hymenal tissue can cause that. So, it  
12 doesn't necessarily have to be abuse. It could be some  
13 other kinds of trauma.

14 Q All right. Let's get down to the bottom line in this  
15 particular case.

16 And if I'm hearing you right, as a testimony, as an  
17 expert, you can not tell this jury that what you found on  
18 that lady was a result of penetration by a penis, can you?

19 A I can't say that the actual result that I saw was  
20 caused by the penis, but based on the history that she  
21 shared, and she denies any other kind of trauma to that  
22 area, that my conclusion is---

23 Q So---

24 A ---is as I stated.

25 Q So, your two jobs are to train interns and to basically

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

1 interview and then testify on behalf of a, children that  
2 claim that they've been sexually abused?

3 That's your basic two jobs, is it not?

4 A No.

5 Q All right. You do testify in court on behalf of, of  
6 allegedly sexually abused children?

7 A I testify whenever I'm subpoenaed, whoever subpoenas  
8 me.

9 Q But you testify in sexual abuse cases for the State of  
10 South Carolina, do you not?

11 A I testify in the patients that I examine.

12 Q All right. And so, you are basing your decision on  
13 information you received from VICTIM which may or may not be  
14 true?

15 A I based it on the information received by my patient,  
16 which is invaluable information any doctor receives when  
17 they are examining a patient.

18 Q I understand that.

19 Again, you're, you're assuming that what she tells you  
20 is true, are you not?

21 A Based on the way she shared it and all the information  
22 that she shared, yes.

23 Q Did you -- were you able to learn what the allegation  
24 of sexual abuse was?

25 A I don't understand. I don't understand exactly what

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

1 you're asking me.

2 Q When you talked to whomever you talked to to come up  
3 with your subsequent history, were you advised what the  
4 allegations were?

5 A The only allegations that I were advised to, what you  
6 see on Page 2, which was the preliminary information that I  
7 received before going in there.

8 Q And what was that?

9 What did you learn?

10 What did you hear?

11 A Would you like me to read it?

12 Q I'd just like you to tell us what information you  
13 received.

14 A That there were concerns that she had made some  
15 allegations against her father.

16 Q Of what?

17 A Made some allegations against her father.

18 Q All right. Did you specifically learn that she made  
19 allegations that he had been engaging in anal intercourse  
20 and vaginal intercourse with her?

21 A Only after I talked to her.

22 Q Okay. And when did she say that began?

23 A She said that began at age ten.

24 Q Did she say both of them began at age ten?

25 A She said the whole situation began at age ten.

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

1 Q Okay. Did she ever indicate when vaginal intercourse  
2 may have begun?

3 A Not to a specific date.

4 Q All right. Did she say when anal intercourse may have  
5 begun?

6 A Not to a specific date.

7 Q So, if she was talking about rubbing on an area, that  
8 might of been what happened at ten without any type of  
9 intercourse at all from what your history was?

10 A That was information that was given to me and that's  
11 not at all that, what I discussed with her.

12 Q Did she indicate to you whether or not she have, she  
13 had been subjected to pregnancy tests?

14 A Yes, she did.

15 Q How many times?

16 A She told me two times.

17 Q Two times.

18 Not three to five, but two times?

19 A She told me two times.

20 Q Did you receive information as to whether or not she  
21 had other social problems, for example, in school?

22 A The only questions were with her, with her and her mom  
23 and I was not aware of any social problem that they shared  
24 with me.

25 Q Do you have checked on here school problem?

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

1           The page at the top says review of symptoms.

2   A       Which page are you looking at?

3   Q       It says at the top review of symptoms. That's it.

4   A       Okay. Yeah.

5   Q       What were you told about school problems?

6   A       She denied that -- as I said, she did not share any  
7 schools problems with me.

8   Q       Okay. Would it have been important for you to learn  
9 that she had been suspended from school for performing oral  
10 sex on a young man and suspended from school for having  
11 alcohol and suspended from school for doing something in the  
12 lunchroom and suspended from school twice for having  
13 excessive tardies in your assessment of what was going on  
14 with her?

15   A       I think that's important to try to figure out an  
16 overall plan to help her with her overall counseling and  
17 things like that. But with regard to this specific  
18 incident, it's not quite as important as you're doing the  
19 evaluation. But I think that is important information.

20   Q       You mean it's not important to that know she'd been  
21 suspended for having oral sex in school to determine whether  
22 or not she's telling the truth about this thing?

23   A       No, I think that is important information as you try to  
24 figure out a plan for a child. But that doesn't change the  
25 way this examination will be done.

Doctor Nancy Henderson - Cross-examination  
by Mr. Crane

1 Q Okay. Now, at what point -- I've got I think five  
2 females over here. So they'll know the answer to this  
3 question maybe.

4 At what point is there no longer a hymen on a female or  
5 is there always a hymen?

6 A It's very variable between one female to another. But  
7 often, after multiple child births, you'll see just little,  
8 what they call little nubs or little remnants of hymen.

9 Q And what about prolonged sexual intercourse?

10 A It's very, very variable. I've seen a lot of teenagers  
11 that are very sexually active and if you -- they come in and  
12 their exams are totally normal.

13 Q Okay. One, one moment please, doctor.

14 (Pause.)

15 Q No further questions. Thank you.

16 THE COURT: Any redirect limited to what he went into?

17 SOLICITOR LEIBERT: Yes, sir.

18 May we approach very quickly based on your prior  
19 ruling?

20 (Whereupon, a bench conference was held out of the  
21 hearing of the jury at this time.)

22 SOLICITOR LEIBERT: May it please the Court?

23 THE COURT: Yes, sir.

24 REDIRECT EXAMINATION

25 BY SOLICITOR LEIBERT:

Doctor Nancy Henderson - Redirect examination  
by Solicitor Leibert

1 Q Doctor Henderson, has there been research done on what  
2 percentage of cases where there's an abnormal or normal  
3 finding with cases involving children when there's  
4 allegations of penetrating injury?

5 MR. CRANE: Object, judge.

6 THE COURT: All right. Just, if she can just answer  
7 that question I will allow the question right now.

8 Q Do you have a percentage amount that research has  
9 shown?

10 A There has been some studies where they look at,  
11 longitudinal studies where there have been people that have,  
12 where they have been known to be abused and where there,  
13 they have gone into court, where there have been finding,  
14 and it's somewhere between 85 to about 93 percent where the  
15 exams are normal and there has been penetration.

16 SOLICITOR LEIBERT: All right. Thank you, Your Honor.  
17 Nothing further.

18 THE COURT: Any redirect to that question?

19 MR. CRANE: No, sir.

20 THE COURT: All right. You're protected on the record,  
21 Mr. Crane.

22 MR. CRANE: Thank you, judge.

23 THE COURT: All right. Any reason why this witness can  
24 not be excused?

25 SOLICITOR LEIBERT: No, sir, Your Honor. We would

1 request that.

2 THE COURT: Thank you, ma'am. You may be excused.

3 Ladies and gentlemen, we're gonna take an afternoon  
4 break for a few minutes. I understand the next witness is  
5 not gonna be a short witness. So, I want you to get in your  
6 break. So, we're gonna take a break, about 10 or 15  
7 minutes. We'll get you right back out just shortly.

8 Again, I will instruct you not to have any discussions  
9 among yourselves or with anyone else about anything involved  
10 in the case. If you will, please go with the bailiff.  
11 We'll get you back out just shortly.

12 (Whereupon, the following takes place outside the  
13 presence of the jury.)

14 THE COURT: All right. For purposes of the record on  
15 that last objection, Mr. Crane, we -- the State had  
16 requested a couple times prior at bench conferences to ask  
17 that type of question. I had not, not allowed it.

18 I did allow the State to go into that question. The  
19 State, we, at bench conference, we did discuss the nature of  
20 the question, the nature of the research, and I shared my  
21 concern with the State that, that to go into great detail  
22 the way that they were proposing to ask the question drew  
23 too much of a similarity between the type of trial we have  
24 today and criminals and people in jail and victims of crimes  
25 and that, the way that I felt like the question was leading

1 towards it being inflammatory. But I did feel like that the  
2 research could properly be gone into.

3 So, the State did tailor its question and ask it. You  
4 are protected on the record. But I do believe that the  
5 question, as asked, it would be allowed, properly allowable  
6 under the rules, the way that it was phrased, and plus the  
7 fact that the witness gave the type of responses she did  
8 does not unduly inflame the jury as to the type of responses  
9 she gave.

10 So -- all right.

11 SOLICITOR LEIBERT: Thank you, Your Honor.

12 THE COURT: We'll step down for a few minutes.

13 Your next witness is?

14 SOLICITOR LEIBERT: I, I believe it's Meredith Loftus.

15 THE COURT: All right. Who's after that?

16 SOLICITOR LEIBERT: I'm not sure, Your Honor.

17 SOLICITOR BARNETTE: I'll check, Your Honor. We'll let  
18 you know.

19 THE COURT: All right.

20 (Whereupon, a short recess was taken at this time.)

21 THE COURT: All right. Everybody ready for the next  
22 witness?

23 SOLICITOR BARNETTE: Your Honor, there's something I  
24 need to tell the Court before we -- well---

25 THE COURT: Okay.

1 Mr. Mangal. He would probably be longer than five o'clock  
2 anyway, and I don't really want to start with him. And my  
3 other witnesses I've got kind of on standby. I could have  
4 them here first thing in the morning.

5 THE COURT: All right. Do y'all -- then why don't we  
6 do this?

7 Why don't we bring the jury back, let y'all rest in  
8 front of the jury?

9 I then will dismiss them for the day, and then we will  
10 stay for your, for your motions. Need to call your witness,  
11 be sure that they are here cause we would want to proceed  
12 first thing with your, with your case if I do not grant the  
13 motion.

14 MR. CRANE: Yes, sir.

15 THE COURT: All right.

16 MR. CRANE: One other thing, judge, I, I would, again  
17 being a little bit surprised we think like, by their  
18 resting, I would very much ask the Court to direct Diane  
19 Farid to be here to testify for the defense. If I need to  
20 serve her subpoena tonight, then I would like assistance  
21 finding her. She's been here all day.

22 THE COURT: I'm afraid you're probably gonna have to  
23 subpoena her cause I do, I do not believe that I have the  
24 authority to tell just a lay person off the street, even  
25 though she is definitely connected with the case, I don't

1 think I have the authority just to tell her she's got to  
2 show up and testify.

3 MR. CRANE: The solicitor's assisted me on serving  
4 other subpoenas on that family. And so, I would ask them if  
5 they're prepared---

6 SOLICITOR BARNETTE: Yeah, they can just give it to me  
7 and we'll accept service on that, Your Honor.

8 THE COURT: Oh, okay.

9 MR. CRANE: She'll be here?

10 SOLICITOR BARNETTE: Yeah.

11 THE COURT: All right.

12 MR. CRANE: I'll have to find one cause I don't have a  
13 subpoena with me. But I can get one.

14 SOLICITOR BARNETTE: We'll take care of it, judge. It  
15 won't be an issue.

16 MR. CRANE: She'll be here?

17 SOLICITOR BARNETTE: Yes, sir.

18 MR. CRANE: Okay.

19 THE COURT: All right. Are we ready to bring the jury  
20 back?

21 MR. CRANE: Yes, sir.

22 THE COURT: All right. Let's bring the jury back.

23 (Whereupon, the following takes place within the  
24 presence of the jury.)

25 THE COURT: Yes, sir. Yes, ma'am.

1 SOLICITOR BARNETTE: Your Honor, the State would rest  
2 at this time.

3 THE COURT: All right.

4 All right. Ladies and gentlemen, the State has chosen  
5 to rest their case at this time. I know that I had informed  
6 the bailiffs to ask that you please call your loved ones and  
7 tell them that you might be working a little bit late. But  
8 since the State has chosen to rest their case, what this  
9 means is they are several legal matters that I now have to  
10 take up with the lawyers that I have to do outside of your  
11 presence. So, given that it is four o'clock, as opposed to  
12 take up these matters which may take about an hour or, or  
13 more, I'm going to allow you to go home at this time.

14 Since the State has now rested it, and I'll tell you  
15 this every time you take a break, but as this trial  
16 progresses, it becomes more and more important, is that you  
17 not have any discussions among yourselves or with anyone  
18 else about anything that involves the case. Especially now  
19 since you've actually received testimony, your loved ones  
20 might be curious as to what happened today or was testified  
21 to. Just tell them very respectfully that you're under  
22 order from me that you can not have any discussions about  
23 anything that involves the case with them.

24 Now, once the case is over you'll be more than happy to  
25 have as much or as little discussion with them about

1 anything that they would like to know about the case. But  
2 until the case is concluded you're not to have any  
3 discussion with anyone.

4 I would ask that you please be back in the jury  
5 deliberation room by 9:30 in the morning. You need to be  
6 prompt so that we can try to start at 9:30 to continue the  
7 taking of the testimony in the case. But I do want to thank  
8 you for your time today. You've all been very attentive.  
9 And if you will, just follow the bailiff and he will show  
10 you the way out.

11 (The following takes place outside the presence of the  
12 jury panel.)

13 THE COURT: Yes, sir, Mr. Crane.

14 MR. CRANE: Judge, may I respectfully ask the Court for  
15 about ten minutes just to get ready?

16 Again, I'm -- one of the things I want to do is look at  
17 some of the dates on the indictments. And I haven't really  
18 had the opportunity to do that. I, I wouldn't need past  
19 4:15 at the most.

20 THE COURT: How long will your arguments be?

21 MR. CRANE: They won't be really---

22 THE COURT: I mean they can be as long as you want. I  
23 just want you to try to be---

24 MR. CRANE: I think we'll be done---

25 THE COURT: ---as---

1 MR. CRANE: I think we'll be done by 4:30.

2 THE COURT: All right. All right. Well, we'll just---

3 MR. CRANE: If you'll give me just fifteen minutes  
4 we'll be done by 4:30.

5 THE COURT: All right. Well, you can take as long as  
6 you want. I just want to try to get some idea for  
7 scheduling purposes.

8 MR. CRANE: Yes, sir.

9 THE COURT: We'll step down for a few minutes.

10 MR. CRANE: Yes, sir, I'm gonna go to this conference  
11 room a minute.

12 (Whereupon, a short recess was taken at this time.)

13 MR. CRANE: Judge, may it please the Court.

14 I have tried the best I could to look at the various  
15 indictments and tried to take notes as we went through the  
16 trial. I may of missed something, but I know that you are  
17 taking copious notes, and you know exactly all the testimony  
18 and know what's testified to.

19 I would make a motion judge, of course, that all the  
20 charges be dismissed or that a directed verdict be directed  
21 as to all of the charges in that the evidence taken in the  
22 light most favorable to the State is not sufficient at this  
23 point to go to the jury.

24 Now, to be more specific, if I may, might take them one  
25 at a time, the first indictment, which is 04-3400 is

1 criminal sexual conduct first degree, alleges that between  
2 September 9<sup>th</sup>, '97 and September 8<sup>th</sup>, 1998, my client  
3 did commit a sexual battery upon VICTIM , who was under  
4 eleven years of age at the time. I believe, quite honestly  
5 I was the one that established the birthday, and I think if  
6 we calculate properly then she would have been under eleven  
7 years of age at the time.

8         However, in listening as carefully as I could to what  
9 she testified to or tried to testify to, I am not quite sure  
10 that she ever specifically said that a sexual battery  
11 occurred. She testified around the horn and testified that  
12 there was some rubbing of her anal area with, with the  
13 penis. We have heard some other testimony that there was  
14 rubbing of the vaginal area with his penis at the age of  
15 ten. I'm just not sure what she testified to and I'm not  
16 sure that she ever testified that there was any penetration  
17 of any kind during that year that they've alleged in that  
18 indictment to establish criminal sexual conduct in the first  
19 degree.

20         As to the second indictment, which would be 06-4869,  
21 criminal sexual conduct in the second degree, those dates  
22 are September 9<sup>th</sup>, '98 to September 8<sup>th</sup>, 2002, and I  
23 believe, quite honestly, judge, that they have probably met  
24 their burden on that one basically because I elicited  
25 testimony from VICTIM, that in somewhere around I would assume

1 July or August of '01, before her turning fourteen, she  
2 indicated that my client penetrated her vaginally. So, they  
3 have probably met their burden on that one although I'll ask  
4 that you dismiss it, directed verdict in our favor.

5 The next indictment, criminal sexual conduct with a  
6 minor second degree, 06-2831, alleges from the dates of  
7 September 9<sup>th</sup>, 2002, to the date of September 8<sup>th</sup>, 2003,  
8 he did commit criminal sexual conduct with a minor in that  
9 he did commit sexual battery. If you will recall, from the  
10 testimony, she indicated that there was a time where she was  
11 in the ninth grade where he did not do anything for about a  
12 year and a half, and I would submit to the Court that these  
13 dates are encompassed in that year and a half, and that's  
14 specifically by her testimony there is no criminal sexual  
15 conduct to warrant this indictment going to the, to the  
16 jury.

17 Judge, on the next indictment, which is 06-4217, which  
18 is the lewd act, attempted lewd act upon a child, that takes  
19 place between the ages of ten and thirteen, September 9<sup>th</sup>,  
20 1997, and September 9<sup>th</sup>, 2000. She has again testified  
21 either he performed sex of one kind or he didn't or played  
22 with her or whatever and I'm just not sure. And  
23 furthermore, judge, I would submit, as I said in opening  
24 arguments or opening motions, that I would allege that the  
25 allegation in this particular indictment are encompassed in

1 the criminal sexual conduct indictments and should not be  
2 separate and distinct indictments, and, therefore, ask that  
3 you find the directed verdict on that particular charge.

4 And lastly, judge, the incest charge, which alleges  
5 that from September 9<sup>th</sup>, 2003, and May 31<sup>st</sup>, 2004, that  
6 he did, did commit the crime of incest, they have to prove  
7 to the Court and the jury that he, in fact, engaged in  
8 sexual intercourse from September of 2003 until just before  
9 his arrest in June of 2004. And again, having tried to  
10 listen as carefully as I could, I don't think she ever  
11 indicated there was sexual intercourse and it, it has to be  
12 sexual intercourse. It can't just be touching or rubbing or  
13 anything like that. And it's my recollection that she  
14 testified that he rubbed his penis on her private area some  
15 time during that time, but that he did not penetrate her.  
16 So, I would ask that the incest indictment be dismissed on a  
17 directed verdict.

18 Thank you, judge.

19 SOLICITOR BARNETTE: May it please the Court, Your  
20 Honor.

21 On the CSC first, Indictment 04-3400, Your Honor, if I  
22 remember right, during the testimony, especially Mr. Crane  
23 asked the question about anal intercourse, and she said it  
24 went in an inch, inch and a half. I specifically remember  
25 that from her testimony. And obviously that's all that's

1 needed. The entry being so slight or whatever, it's just  
2 part of the definition. That can be even -- I mean very  
3 slight and that's obviously more than slight.

4 So, I would argue that obviously there's -- and looking  
5 at the way the evidence is required, I know the Court knows  
6 this, just for the record, in ruling on a motion for  
7 directed verdict, the Trial Court is concerned with the  
8 existence or nonexistence of the evidence and not its  
9 weight, State versus Williams, and, of course, they  
10 always -- State versus Williams is 400 S.E.2d 131, 1991  
11 case, and, of course, the light most favorable to the  
12 non-moving party. We would argue obviously I think that  
13 evidence would show.

14 If I remember right too, she also testified as the  
15 first part of this happened, that it happened, you know,  
16 four or five times a week. Later on it happened more than  
17 one or, one or two times a week. And if I remember  
18 specifically -- I'm not gonna address the second CSC. I  
19 think Mr. Crane is conceded that. That's Indictment  
20 2006-GS-42-4869.

21 I'm gonna move specifically now to the next indictment,  
22 the 2006-2083, or 2831. Basically she said that I believe  
23 the incident occurred at school in November of 2002, and  
24 there had been no intercourse for a period of time. She  
25 said it was the Fall of 2001 going through there to

1 November of 2002, and then it started up again obviously  
2 when he found out from the incident. Well -- and it started  
3 immediately after that one or two times, and they had full  
4 intercourse, if I remember her testimony correctly, and the  
5 dates on the indictment showed September 9<sup>th</sup>, 2002,  
6 through September 8<sup>th</sup>, 2003, from there, Your Honor. And  
7 we believe that obviously that that's been proven and, in  
8 this case or been shown in the light most favorable to the  
9 non-moving party.

10 The lewd act, Your Honor, obviously there's numerous  
11 things, and the reason why the dates are like this, I know  
12 the Court knows this, is it fits the age of the victim in  
13 the situation. The lewd act is fashioned toward that  
14 situation. So was the CSC charges. The incest also was  
15 because obviously, when she turned sixteen, she can give  
16 consent in this situation. The incest, she talks about the,  
17 there was sexual intercourse and she had it one or two times  
18 during the week after starting back. I think it was part of  
19 her testimony. And from the record or whatever it shows  
20 that, that she could of had full intercourse during that  
21 time. So, I think that's a fact for the jury to consider  
22 and take a look at that and make that determination.

23 And like I said, directed verdict, we're not looking at  
24 the weight of their evidence. We're just looking at the  
25 existence of the evidence and obviously I think there's a

1 good bit of evidence to support that indictment as well, as  
2 well as the other four.

3 THE COURT: So, the -- you think there's testimony in  
4 the record to support -- I mean I, I recall the inch, inch  
5 and a half type of testimony, and you believe that there's  
6 testimony that that, in the record, to establish that  
7 occurred between 9/9/97 to 9/8/98?

8 SOLICITOR BARNETTE: Yes, sir, I don't think there's  
9 any question about -- Mr. Crane went back, after they took  
10 the break, she was, at that time she didn't say one way or  
11 the other. Then she specifically said that yes, he went in  
12 inch, inch and a half, and I remember that specifically.  
13 And that would of been during that time period, Your Honor,  
14 from the testimony I think when she was saying four or five  
15 times.

16 It doesn't matter the intrusion if it's just even so  
17 slight. If he just enters the opening, going to rubbing or  
18 whatever, you've got CSC in the State's opinion, Your Honor.  
19 I think there's case law to back that up.

20 THE COURT: I mean I, I recall the testimony. I agree  
21 with that, that even slight intrusion and even, doesn't even  
22 have to be a penis. But if it occurred, I'm, I was  
23 questioning the dates of 9/9/97 and 9/8/98.

24 SOLICITOR BARNETTE: Well, I think in reference to it,  
25 that's when he said, when they started telling if it entered

1 or didn't enter. He said well, it entered an inch to an  
2 inch and a half, and that was during that time when it first  
3 started up, which would of been when she was ten years old  
4 or a little bit---

5 THE COURT: And, and I know, I know I wrote it down,  
6 but what's her birth date?

7 MR. CRANE: I think it's nine---

8 SOLICITOR LEIBERT: [REDACTED].

9 THE COURT: Nine---

10 MR. CRANE: Eight.

11 SOLICITOR BARNETTE: [REDACTED].

12 SOLICITOR LEIBERT: [REDACTED].

13 THE COURT: All right. Any reply?

14 MR. CRANE: No. But, I, you know, I just thought of  
15 another additional motion, judge. I've done it in the past  
16 and sometimes I let it slip and I let it slip this time.  
17 But quite honestly, judge, they haven't proven jurisdiction  
18 of this Court in that no one has proven this happened in  
19 Spartanburg County that I'm aware of. I don't recall  
20 anybody testifying this happened in Spartanburg County. If  
21 they did, they did.

22 THE COURT: They did.

23 MR. CRANE: Okay.

24 THE COURT: I mean I remember they came back and  
25 specifically asked one question on, when Mr. Leibert or Mrs.

1 -- what's Cindy's last name now?

2 SOLICITOR BARNETTE: Mrs. Crick.

3 THE COURT: Mrs. Crick was gonna sit down, they had her  
4 to ask where did it occur and they said in Spartanburg  
5 County.

6 All right. Any -- all right. Well, let me go take a  
7 look at my notes and check these dates and I'll be back in a  
8 few minutes.

9 MR. CRANE: Thank you, judge.

10 SOLICITOR BARNETTE: Thank you, Your Honor.

11 (Whereupon, a short recess was taken at this time.)

12 THE COURT: All right. I've gone back through the  
13 notes that I, that I have made and I did, even though  
14 they're not as, probably as thorough as the way you  
15 described them, I've gone back through my notes and also my  
16 own independent recollection of the testimony. I'm gonna  
17 have to deny the motions. Denying the motions, I know y'all  
18 are aware of the standard. Mr. Barnette recited the  
19 appropriate standard.

20 It's not my job at this stage to engage in reviewing  
21 the weight of the testimony or the credibility of the  
22 testimony, but the existence of the testimony that's in the  
23 record, and I do, through my notes, I do establish the  
24 elements that are contained in the indictments. So, I will  
25 deny the motions.

1 All right. So, we will begin with the defense  
2 testimony presentation.

3 Do you -- I guess, based on the information I've been  
4 provided, it does appear the defense has decided to actually  
5 present a defense, is that correct?

6 MR. CRANE: We are, judge.

7 THE COURT: All right. Have you decided whether or not  
8 you're gonna have the defendant to testify or not?

9 MR. CRANE: I don't think I can keep him off the stand.

10 THE COURT: All right. At -- you know at what point  
11 you intend to call him or---

12 MR. CRANE: Judge, it would be midday tomorrow.

13 THE COURT: ---can you share -- all right. Then  
14 probably at our first break I, since it's such an important  
15 decision for him to make on whether to testify or not, I  
16 usually like to make that relatively time wise close to the  
17 time that he actual, actually is gonna testify. So, you  
18 might want to explain to him, be sure that he knows I will  
19 have to place him under oath to ask him questions about his  
20 right to testify.

21 All right. Anything else before we step down?

22 SOLICITOR BARNETTE: Judge, should we be ready to do  
23 closings tomorrow afternoon?

24 MR. CRANE: Let me -- you know, it's three of them and  
25 one of me. So, I'm kind of at a disadvantage. I would

1 rather close Thursday morning. For scheduling purposes,  
2 judge, what I'm, what I'm---

3 THE COURT: Tomorrow?

4 Yes, tomorrow is Wednesday. That's right. I was  
5 thinking -- go ahead.

6 MR. CRANE: Yeah, I don't want to call all of my  
7 witnesses and have them sit around all day. So, what I'm  
8 planning on doing, the solicitor's know who my witnesses  
9 are. I do have the Doctor Sherry Franks, who's coming from  
10 Conway. And to make it easy on her, I'm gonna talk with her  
11 in a moment and see would it be easier if she got here about  
12 noon or so.

13 But what I think I'm gonna do is, is have the records  
14 keeper from the Carolina OB-GYN here first thing along with  
15 Doctors Medlock, Nowatka, and Tesseneer. And then probably  
16 would ask some additional witnesses to come in about 10:30.  
17 Maybe Kevin Riddle and Diane Farid. I may recall Rashan  
18 and then Mike Ennis is in the courthouse. We don't  
19 need to worry about him. And I think the Waddell's and  
20 Brock, I may tell them eleven o'clock and then just see how  
21 we do with that rather than keeping them around all day.

22 I do think that Mr. Mangal will probably testify  
23 somewhere midday.

24 THE COURT: And your doctor in Florence is who?

25 MR. CRANE: Sherry Franks, the last one listed. She's

1 been pretty good. After our initial conversation last week,  
2 we've been staying in touch with her, and it's about a four  
3 hour drive and I don't necessarily want her to have to come  
4 in tonight and spend the night at a hotel, and I don't want  
5 her to have to get up at 5:00 in the morning to be here by  
6 9:30. But she would be connected with the Carolina OB-GYN  
7 and my intention would be to try to get her their medical  
8 records.

9 THE COURT: All right.

10 MR. CRANE: So, I'm thinking starting with that and  
11 the, my other doctors and then just kind of go from there.  
12 I guess what I'm saying is I may need you to allow some type  
13 of lead way to work on some witness getting them here. And  
14 now -- for example, the Waddell's, I can probably have them  
15 here on a ten minute phone call.

16 THE COURT: And you have Doctor Franks showing up when?

17 MR. CRANE: Well, I'm gonna talk to her. I'm -- if she  
18 can be here at 9:30, I'm gonna have her here at 9:30. If  
19 she says it's, if she said I don't want to, if she says I  
20 don't want to leave Conway at 5:00 in the morning I can  
21 understand that, and I will just try to work some other  
22 witnesses in and get her here before lunch.

23 THE COURT: Well, I think -- I'm assuming Medlock,  
24 Nowatka, Tesseneer, Molester are relatively short witnesses,  
25 and I'm not -- again, that's my assumption. I do not know

1 what the Waddell's will, will testify to. But if you can  
2 have them on a short chain as well, that should at least  
3 take us, you know, 11:30 or twelve o'clock with those  
4 witnesses if they're short.

5 SOLICITOR BARNETTE: Judge, the way -- and I'm just  
6 anticipating this, I'm assuming the Waddell's are probably,  
7 from what I gather, are character witnesses and I'm assuming  
8 they're just here to testify to reputation or opinion  
9 testimony. So, I can't see them being real long witnesses.

10 MR. CRANE: Judge---

11 SOLICITOR BARNETTE: I know, I know the Family Court,  
12 they, they went into more detail. Of course, I know Mr.  
13 Crane will -- Mr. Crane was not the attorney in that case.  
14 So, I mean I understand that and I figured he would limit it  
15 to that. So, I don't think those will be long witnesses  
16 unless they've got something else to say.

17 THE COURT: I -- yeah, I would think that Doctor Franks  
18 would be safe -- it's 11:30, twelve o'clock. You know, but  
19 that's a, that's a---

20 MR. CRANE: I'm going to call her in a, in a moment.  
21 We've got her cell number.

22 THE COURT: All right.

23 MR. CRANE: And so, then let's say, judge, if we get to  
24 eleven o'clock or twelve o'clock, if Mr. Mangal testifies,  
25 perhaps would be right after lunch and then a few short

1 witnesses after that, we're gonna probably get to 3:30 or  
2 close to four o'clock, would you want to go ahead and close  
3 or can we kind of plan on closing Thursday morning?

4 THE COURT: If we got to, if it gets to 3:30 or 4:00, I  
5 probably would not want to send the case to a jury, and I  
6 would assume that y'all would want to do the closing and the  
7 charge on the same day.

8 MR. CRANE: I'd kind of like to.

9 SOLICITOR BARNETTE: Yes, sir, I think it, I think that  
10 would be the proper way to handle it.

11 THE COURT: All right. Probably then we would, for  
12 scheduling purposes, if it runs that long. I'm not---

13 MR. CRANE: Well, if we finish by lunch, you know, then  
14 we can come, go to lunch, and come back and argue and  
15 charge.

16 THE COURT: All right.

17 MR. CRANE: I don't think that's gonna happen. But if  
18 we go, if we have witnesses after lunch, I would assume --  
19 Barry, will you go to Thursday morning?

20 SOLICITOR BARNETTE: Well, I tell you what, we'll just  
21 see where -- if it gets 3:30, I understand the Court's  
22 position or whatever. If we finish, like I said if we  
23 finish early -- I thought we would today to be honest with  
24 you myself.

25 THE COURT: All right. Okay. And you made the

1 statement -- you've made two statements. Let me just, for  
2 fairness to you, number one, I don't know if Mike Ennis is  
3 in the courthouse or not.

4 MR. CRANE: All right.

5 THE COURT: I haven't seen him.

6 SOLICITOR BARNETTE: Mike was here earlier this  
7 morning. I have not seen him lately. I'm sure -- excuse  
8 me. He's here.

9 THE COURT: All right. The other thing, in your  
10 opening statement, you, you argued to the jury that they  
11 would have the indictments to read. I have never allowed  
12 the indictments to go back to the jury.

13 MR. CRANE: That's fine.

14 THE COURT: So, you know, I didn't want you to get in  
15 your closing---

16 MR. CRANE: That's fine.

17 THE COURT: ---and say take these back there and read  
18 them because they're not gonna have them.

19 MR. CRANE: Okay.

20 THE COURT: Now, on my charge since we're talking to,  
21 at that stage, I was not gonna charge them any of the facts  
22 that are in the indictments.

23 MR. CRANE: I understand.

24 THE COURT: I was just gonna give them a charge of  
25 criminal sexual conduct first degree, second degree, incest,

1 and lewd act, and I was not going to go into the details of  
2 the, contained in the indictment, and I know you have  
3 mentioned that several times during your, mentioned during  
4 your opening and I think you mentioned it in questioning the  
5 witnesses as well.

6 MR. CRANE: Well, the only thing is I think they have  
7 to find that specific acts happened during specific dates in  
8 order to convict on the indictments. And I, of course, I'll  
9 argue that and if you choose not to tell them the dates,  
10 that's fine, and they're not gonna have the indictment. But  
11 I think they've got to find that something happened from  
12 September 9<sup>th</sup>, '97 to September 8<sup>th</sup>, '98, something else  
13 happened from '98 to 2001. And if they can't, then they  
14 have to find him not guilty.

15 THE COURT: All right. State -- a little bit different  
16 of a case. I've never had a case being so date intensive---

17 MR. CRANE: Yes, sir.

18 THE COURT: ---as this one.

19 SOLICITOR BARNETTE: One thing we could do, Your Honor,  
20 if you wanted to is on the, on the -- I think you send a  
21 verdict form back, but you maybe put on the verdict form the  
22 CSC second, indictment such and such, put September 9<sup>th</sup> to  
23 whatever the dates would be for those.

24 MR. CRANE: That would work, sure.

25 THE COURT: All right. Well, let me work on that and

1 see what we come up with and thank you for the suggestions.

2 I'll take any others that you might want to give me.

3 All right. We'll step down.

4 SOLICITOR BARNETTE: Your Honor, when do you want the  
5 jury charges, in the morning, by lunch tomorrow, or---

6 THE COURT: As soon as you, as soon, as soon as we can.

7 My able law clerk left at or is leaving in five minutes.

8 So, I will be doing them myself.

9 SOLICITOR BARNETTE: Okay.

10 THE COURT: So, I'll take them as soon as I can get  
11 them.

12 SOLICITOR BARNETTE: Thank you, Your Honor.

13 MR. CRANE: Thank you.

14 THE COURT: Thank y'all.

15

16 (Whereupon, Court was in recess for the evening.)

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1 Wednesday, March 14<sup>th</sup>, 2007

2

3 THE COURT: All right. This morning, when the jury  
4 arrived, one of the jurors received a, the Clerk's Office  
5 received a telephone call that one of the juror's daughters  
6 is having a medical emergency at the day care. As opposed  
7 to bringing the lawyers in, I went ahead and excused the  
8 juror for the rest of the trial. It is Juror Number 109,  
9 Heather Price.

10 If either lawyer objects to that, be more than happy to  
11 hear you on the record. Given the situation and the facts  
12 as it was being related to me, I felt like the need to act  
13 promptly and to deal with it.

14 Any objection from the State?

15 SOLICITOR BARNETTE: No, sir, actually I think you took  
16 two alternates anyway, judge. So I don't have objection to  
17 that.

18 THE COURT: Any from the defense?

19 MR. CRANE: One moment, please, judge.

20 (Pause.)

21 MR. CRANE: No, sir, that's fine. Thank you.

22 THE COURT: All right. That leaves us -- we did select  
23 two alternates, Juror Number 161, Mr. Dupree, was the first  
24 and the second alternate was Mrs. Mary H. Woodruff. I would  
25 propose, since Mr. Dupree was the first alternate, that then

1 we make him part of the jury.

2 Is there any other suggestion or, or comment from  
3 anybody?

4 MR. CRANE: No, sir.

5 SOLICITOR BARNETTE: No, sir, either way the Court --  
6 the way I understand it, you can do it that way or put both  
7 in the thing and pick it out. But either way the Court  
8 wants to do it is fine with the State.

9 THE COURT: All right. All right. Do y'all know of a,  
10 another procedure to follow?

11 I mean I've done it before where I just picked the  
12 first one that we had picked.

13 MR. CRANE: That's fine with me, judge.

14 SOLICITOR BARNETTE: Yes, sir.

15 THE COURT: All right. Anything else before we bring  
16 the jury back?

17 SOLICITOR BARNETTE: Your Honor, the State has two  
18 matters that we'd like to bring up before the jury comes in  
19 since we're out of the presence of the jury.

20 The first thing is I think he's gonna put on character  
21 evidence. I believe, through witnesses, going from the  
22 Family Court transcript, they appear to be family, they  
23 appear to be character witnesses, based on what I can see on  
24 what kind of trait they would be testifying to. The only  
25 trait they can testify to is law abidingness and

1 obviously we object. I know you cited the case of John or  
2 the Jane Doe or John Doe, I can't remember one, to the  
3 Court. I do have a case basically I would like to hand up  
4 to the Court as well as Mr. Crane. It's decided in that  
5 same statute.

6 Basically I think he's got the records custodian here.  
7 I don't know which records he's trying to introduce. But  
8 obviously the way they're prepared and everything, a person  
9 would have to testify to that. Of course, if that person is  
10 here I understand they can testify from it and everything.  
11 But I don't think they can blankly be entered into evidence  
12 without the foundation or the person that prepared them.

13 This is just record keepers to explain those records  
14 and there may be some prejudicial information in those  
15 records. And I'd like to know which records they are  
16 obviously before I have to object before the person  
17 testified.

18 And the second thing is I think the Court needs to look  
19 at them and see what information if that, if that doctor is  
20 gonna testify or the person preparing it.

21 MR. CRANE: Your Honor -- are you through, Barry?

22 SOLICITOR BARNETTE: Yes, sir. I'm sorry.

23 MR. CRANE: They have been throwing rules at me all  
24 week that I'm not familiar with. So, I'll throw one back at  
25 them and that's Rule 803 Section 6, which provides for

1 records of regularly conducted activity, and I think there  
2 are four basis that I have to establish in order to get the  
3 business records in of the OB-GYN clinic, and I can  
4 establish all four of those.

5         And furthermore, under 803(4), statement for purposes  
6 of medical diagnosis and treatment, neither one of those, if  
7 the records are submitted for that, fall under the hearsay  
8 rule and they are admissible. And I intend to submit them  
9 under those rules. And I do have the custodian of record.  
10 There's nothing in the rules that says the person that made  
11 the record has to be here. It just simply has to be  
12 testified that they are the records, that she is the  
13 custodian, that they're made in the normal course of  
14 business and are made at, at or close to the time of the  
15 services, and I believe she'll be able to testify to all of  
16 those.

17         And as far as what the records are, they are the OB-GYN  
18 records of VICTIM         and they are the medical records of  
19 VICTIM         by Doctor Medlock's office.

20         SOLICITOR BARNETTE: I know we get -- we did get a copy  
21 of Medlock's records.

22         The other persons' records, who are those if I can ask?

23         MR. CRANE: Judge, I faxed them the other records last  
24 week when they said they didn't have them. I gave them the  
25 other copies this morning, and anything I've got I got

1 either from them or from the public defender, and on one  
2 time, early on in this case, I came over and they allowed me  
3 to go through their entire file to find out if they had  
4 anything that I didn't have, and everything I had matched  
5 what was in their file.

6 If they've lost those records, I can't help that. But  
7 they've had those records and, you know, they've had the  
8 OB-GYN records for at least I think it was last week when I  
9 faxed them because I asked them if they would stipulate so I  
10 wouldn't have to bring Doctor Franks up here, and they said  
11 they wouldn't stipulate. So, I faxed it to them then. If  
12 they've lost them, I can't do anything about that.

13 The other records, like I said, I didn't get them from  
14 the doctor. I got them either from them or from the public  
15 defender.

16 THE COURT: All right. So, we -- the -- any record  
17 we're talking about, we're talking about the medical records  
18 of VICTIM, is that correct?

19 MR. CRANE: Yes, sir.

20 THE COURT: All right. And you've got two from two  
21 different groups. One is from Medlock and one from, is  
22 Franks or, or is Franks part of the argument?

23 MR. CRANE: No, Franks does not work for Medlock.

24 THE COURT: All right.

25 SOLICITOR BARNETTE: And, Your Honor, if I understood

1 right, Franks, I'm assuming all the doctors that did those  
2 records are gonna testify?

3 MR. CRANE: Well, that may not happen. I'm not, I'm  
4 not gonna tell them that's gonna happen. I don't know.

5 SOLICITOR BARNETTE: Well, I---

6 THE COURT: And I, I do not know what is in the  
7 records. My understanding is that a doctor does not have to  
8 actually come and testify in order for the medical records  
9 to be admitted. The Supreme Court and the Court of Appeals  
10 made it clear the medical records have some independent  
11 voracity if you are able to establish that they are business  
12 records prepared in the normal course of business.

13 The Supreme Court, Court of Appeals even has gone as  
14 far as allowing the substance of the medical treatment to be  
15 admitted and also allows the hearsay contained in medical  
16 records to be admitted into evidence without the actual  
17 testifying doctor.

18 SOLICITOR BARNETTE: And, Your Honor, just for---

19 THE COURT: But, again, I haven't seen the medical  
20 records. So, I don't know what you're talking about as far  
21 as what is gonna be admitted.

22 SOLICITOR BARNETTE: And I just want to make sure,  
23 Mr. Crane, if I knew it was Doctor Franks up front, we did  
24 have an agreement, Your Honor. I just wanted to make sure.  
25 There was some other doctors listed that we might ask

1 questions.

2 THE COURT: Okay.

3 SOLICITOR BARNETTE: There was some stuff that, for  
4 example, they talk about cigarettes and things like that,  
5 and I don't know if it's relevant to the case, Your Honor.  
6 It's highly prejudicial information in them, and obviously  
7 if those are redacted I wouldn't, probably wouldn't have an  
8 objection to them as long as the foundation is laid.

9 State versus Sorrows, which is, basically says as long  
10 as the information is laid and also talks about the points  
11 and whatever, but basically the requirements basically to  
12 present, to establish a matter which the record were  
13 prepared. And as long as those people can do that,  
14 obviously I agree, agree they can come in. I do have that  
15 case and be glad to give it to Mr. Crane and to the Court.

16 THE COURT: All right. Thank you, sir.

17 SOLICITOR BARNETTE: Thank you, sir.

18 MR. CRANE: I don't know what record he's talking about  
19 that says anything about cigarettes.

20 SOLICITOR BARNETTE: It's in the OB-GYN doctor.

21 MR. CRANE: I just looked at them. I can't find them.  
22 If you can show me where it is.

23 SOLICITOR BARNETTE: Sure. Be glad to.

24 MR. CRANE: Well, that's the record she gave, she gave  
25 to them. She's already testified she smokes.

1 SOLICITOR BARNETTE: Yeah, she testified she smoked.  
2 But I think that's still highly prejudicial. That's not  
3 what we're here about. We're here about---

4 MR. CRANE: It came in that she smoked. The record she  
5 gave to the doctor says that she smokes fifteen cigarettes a  
6 day, and 24-ounces of caffeine a day. It also says she  
7 doesn't drink and doesn't do street drugs, which we now know  
8 is incorrect.

9 SOLICITOR BARNETTE: I disagree with that. Maybe the  
10 drinking. Not the street drugs.

11 MR. CRANE: Well, that's gonna come out. So --.

12 THE COURT: All right. So, we have agreement as to  
13 you're gonna lay a foundation, he's gonna call his records  
14 keeper, you got a copy of his medical records he intends to  
15 introduce.

16 SOLICITOR BARNETTE: Yes, sir.

17 THE COURT: All right. You need to -- if it gets --  
18 when we get to the point where you want to preserve your or  
19 make your motion on exclusion based on the prejudicial  
20 effect or probative value, do it contemporaneously cause I'm  
21 just uncomfortable making that decision when there's still  
22 evidence that needs to be presented. I think it's not fair  
23 to the State nor to the other side for me to admit or  
24 exclude evidence when I'm, have not reached that point in  
25 trial to be able to actually do that proper weighing

1 analysis that's required.

2 All right. Anything else?

3 MR. CRANE: No, sir.

4 SOLICITOR BARNETTE: No, sir. Thank you, Your Honor.

5 THE COURT: All right.

6 MR. CRANE: May I have just a minute please?

7 THE COURT: All right.

8 (Pause.)

9 MR. CRANE: Judge, I want to, if I could take a moment  
10 just to check these records and make sure the State has  
11 everything that was in here cause I don't know that we want  
12 to put in all of their records unless the State wants us to:

13 (Pause.)

14 SOLICITOR BARNETTE: If I can just take a minute. I  
15 appreciate Mr. Crane doing that and gives a chance to look  
16 them over.

17 THE COURT: All right. Then I'll read State versus  
18 Sarvis while y'all take a look at the records.

19 SOLICITOR BARNETTE: Yes, sir.

20 (Pause.)

21 THE COURT: I'm going to step down until y'all get the  
22 records ready.

23 SOLICITOR LEIBERT: Thank you, Your Honor.

24 THE COURT: Let me know when you're finished.

25 (Whereupon, a short recess was taken at this time.)

1 THE COURT: All right. Now we ready to bring the jury  
2 back?

3 MR. CRANE: We are, judge. Thank you for waiting for  
4 us.

5 THE COURT: All right. Let's bring the jury back.  
6 (Whereupon, the following takes place within the  
7 presence of the jury.)

8 THE COURT: Yes, sir, you ready to call your first  
9 witness?

10 MR. CRANE: Yes, sir, judge.

11 Judge, the defendant would call Leslie Mostile to the  
12 stand.

13 Come on around, ma'am. Come right up here.

14 LESLIE MOSTILE, being first duly  
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. CRANE:

18 Q Good morning, Mrs. Mostile.

19 How are you?

20 A Good morning.

21 Q Am I saying your name right?

22 A Mostile.

23 Q Okay. Mrs. Mostile, where do you -- in what city or  
24 county do you live?

25 A Spartanburg.

Leslie Mostile - Direct examination  
by Mr. Crane

1 Q And where do you work?

2 A Mary Black.

3 Q What do you do at Mary Black?

4 A I'm the associate director of Woman's Services and the  
5 on-site manager at Carolina OB-GYN.

6 Q As one of your duties, are you custodian of records by  
7 those facilities?

8 A Yes, sir.

9 Q Pursuant to my request and subpoena, have you brought  
10 records pertaining to VICTIM 1?

11 A Yes, sir.

12 Q What type of records are they?

13 A They are her medical records from treatment at Women's  
14 Health Care, which is now Carolina OB-GYN.

15 Q So, they are pretty much gynecological records?

16 A Gynecological records.

17 Q Not for colds or sores, but for gynecological  
18 assistance?

19 A Yes, sir.

20 Q All right. And could, could I see those records that  
21 you brought today?

22 A Yes, sir.

23 The -- you didn't give me the copy that---

24 Q That's okay. We'll get to that in a minute.

25 A Sorry.

Leslie Mostile - Direct examination  
by Mr. Crane

- 1 Q Now, are those all of the original records---
- 2 A Yes, sir.
- 3 Q ---from -- and, and what -- when VICTIM was being seen,  
4 do you know if she's still being seen there?
- 5 A I did not check that before I came.
- 6 Q According to the records, can you determine when she  
7 was last seen?
- 8 A Looks like 2005.
- 9 Q All right. So, apparently she may not still be a  
10 patient, is that correct?
- 11 A That is correct.
- 12 Q And are those the original records that you have there?
- 13 A Yes, sir.
- 14 Q Were those records made at or close to the time that  
15 she received her treatment?
- 16 A Yes, sir.
- 17 Q And would they have been made by the treating  
18 physician?
- 19 A Yes, sir.
- 20 Q Are those records kept in a, as the part of the regular  
21 course of the business?
- 22 A Yes, sir.
- 23 Q And is it a regular practice for your doctors to make  
24 those records so that they can be kept?
- 25 A Yes, sir.

Leslie Mostile - Direct examination  
by Mr. Crane

1 Q Now, I have asked you -- and I believe we've gone over  
2 some of your records this morning and pulled some of them  
3 out, is that correct?

4 A Yes, sir.

5 Q Do you have those records that you could hand to me?

6 A Yes, sir.

7 Q Would you do that please?

8 A (Witness complies.)

9 Q Is -- have you kept them clipped on here since they're  
10 given back to you?

11 A Yes, sir.

12 Q This is the ones -- Your Honor, I would, at this time,  
13 submit these records into evidence.

14 SOLICITOR BARNETTE: No objection, Your Honor.

15 THE COURT: All right. Without objection.

16 Submit them as a group?

17 MR. CRANE: I would be glad to do that. And judge, if  
18 you would allow it, I think the State will allow, I would  
19 like to substitute a copy of the records so that they can  
20 have the originals back.

21 SOLICITOR BARNETTE: No objection, Your Honor.

22 THE COURT: Without objection, we will take the copies  
23 of the records and I believe that will be Defense 2?

24 Be Defense 2.

25 (Whereupon, the medical records were marked as

Leslie Mostile - Cross-examination  
by Solicitor Barnette

1 Defendant's Exhibit No. 2 and received into evidence at this  
2 time.)

3 MR. CRANE: Let us take a moment real quick and just to  
4 make sure that -- I'm gonna hand the originals back to her.

5 THE COURT: All right.

6 WITNESS: Thank you.

7 Q Thank you, ma'am. Answer any questions the State might  
8 have.

9 SOLICITOR BARNETTE: Just briefly, Your Honor.

10 CROSS-EXAMINATION

11 BY SOLICITOR BARNETTE:

12 Q Ma'am, whose -- was Doctor Franks the doctor that did a  
13 lot of these notes?

14 A Yes, sir.

15 Q And that person would be the person that interpret  
16 those notes, is that right?

17 A Yes, sir.

18 Q Thank you.

19 MR. CRANE: May I, may I follow-up?

20 (The Court nods affirmatively.)

21 REDIRECT EXAMINATION

22 BY MR. CRANE:

23 Q Is Doctor Franks still employed by your agency?

24 A No, sir.

25 Q Okay. Do you know where she's employed?

Leslie Mostile - Redirect examination  
by Mr. Crane

1 A She is in private practice in Conway, South Carolina.

2 Q Okay. And would not any doctor be able to interpret  
3 those notes?

4 SOLICITOR BARNETTE: Your Honor, I would object. I  
5 think that's calling for speculation.

6 MR. CRANE: Just as his question would she was---

7 THE COURT: I'd allow the question.

8 Go ahead.

9 Q Would not any doctor be able to interpret those notes?

10 A Yes, sir.

11 Q Okay. Thank you, ma'am.

12 That's all I have, judge.

13 THE COURT: All right. Thank you, ma'am. You may step  
14 down.

15 Any reason why the witness can't be excused?

16 SOLICITOR BARNETTE: No, sir.

17 MR. CRANE: No, sir.

18 THE COURT: All right. Thank you, ma'am. You may be  
19 excused.

20 MR. CRANE: Judge, I'd like to next call Doctor  
21 Medlock, and much like this witness, we submitted him a,  
22 some of our records. I'm just checking and make sure that  
23 he's ready to go. He's right here.

24 THE COURT: All right.

25 MR. CRANE: Go on up there and be sworn, Doctor

Doctor Medlock - Direct examination  
by Mr. Crane

1 Medlock.

2 DOCTOR MEDLOCK, being first duly  
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. CRANE:

6 Q Doctor Medlock, how are you today?

7 A Fine. Thank you.

8 And you?

9 Q Good. I'm fine.

10 Doctor Medlock, would you give us a little bit of your  
11 background?

12 For example, where do you work?

13 A I'm in a family practice office on Dillon Drive in  
14 Spartanburg.

15 Q How long have you been in family practice?

16 A Since 1959.

17 Q Can you give us a little history of your educational  
18 background please?

19 SOLICITOR BARNETTE: Your Honor, if -- he's qualified  
20 as an expert, a doctor. We don't have any objection to his  
21 qualification.

22 MR. CRANE: I would move to qualify him as an expert as  
23 a physician and I guess you are a -- what would you call  
24 yourself, a family physician.

25 A I'm a family practitioner.

Doctor Medlock - Direct examination  
by Mr. Crane

1 THE COURT: Okay. As a family practitioner?

2 MR. CRANE: Yes, sir.

3 THE COURT: And that's without objection from the  
4 State?

5 SOLICITOR BARNETTE: That's correct, Your Honor.

6 THE COURT: All right. Again, ladies and gentlemen,  
7 normally a person can not give opinion testimony. Normally  
8 when a person testifies they must testify as to what they  
9 either saw, heard, or sensed by smell or something of that  
10 nature. However, there is an exception when someone is  
11 qualified because of education or experience. They are  
12 permitted to give their opinion in certain areas if the  
13 Court qualifies them that way.

14 This witness will be qualified in the area of again  
15 family practice medicine?

16 MR. CRANE: Yes, sir.

17 THE COURT: Family practice medicine to give opinion  
18 testimony in that area. That does not mean that you must  
19 accept the opinion. But it is evidence for you to use in  
20 any way that you see fit.

21 Yes, sir.

22 Q Doctor Medlock, as part as, of that family practice or  
23 family medicine practice, whichever you want to put it, do  
24 you deal with the spectrum of problems that people might  
25 have?

Doctor Medlock - Direct examination  
by Mr. Crane

- 1 A Yes.
- 2 Q So most illnesses, pains, aches, or whatever they might  
3 come to you for?
- 4 A Right.
- 5 Q You're an old GP?
- 6 A That's right.
- 7 Q I don't mean old.
- 8 A Yeah.
- 9 Q You've been doing it a long time.
- 10 A I'm old.
- 11 Q The old style GP.
- 12 A Yes.
- 13 Q Okay. Now, do you know Farid Mangal?
- 14 A I do.
- 15 Q Do you know his family?
- 16 A I do.
- 17 Q And has the family been treated by your practice at  
18 all?
- 19 A They have.
- 20 Q Do you know for about how long they've been treated?
- 21 A Probably fifteen or twenty years. Let's see. This  
22 particular chart---
- 23 Q Which chart do you have with you, sir?
- 24 A I have VICTIM 's chart.
- 25 Q Were you asked to bring the chart by me and by way of

Doctor Medlock - Direct examination  
by Mr. Crane

1 subpoena?

2 A Yes, sir.

3 Q All right. And is that her medical report?

4 A Her first visit was in 1989.

5 Q On May 31<sup>st</sup>?

6 A May 31<sup>st</sup> of 1989.

7 Q And do you have the records pertaining to her medical  
8 issues up to fairly recent?

9 When, when is the last entry that you have?

10 A The last visit was October 19, '05.

11 Q So from May 31, '89 to October 19<sup>th</sup>, '05.

12 Now, the records that you have with you, as -- is your  
13 practice a partnership or do you have other doctors that  
14 work for you and how is it set up?

15 A It's a five physician partnership.

16 Q All right. Would any of the five partners have access  
17 and be custodians of the records of the partnership?

18 A All five would have access to the records.

19 Q And so, you would consider yourself one of the  
20 custodians of the records of the partnership?

21 A Yes, sir.

22 Q And are the records that you have before you made at or  
23 near to the time of the service that was rendered to VICTIM  
24 VICTIM?

25 A They're dictated at the time of the service on the same

Doctor Medlock - Direct examination  
by Mr. Crane

1 day.

2 Q And is it a dictation and records that are kept in the  
3 normal course of the practice?

4 A Yes, sir.

5 Q And is it the regular practice of your physicians to  
6 make those reports and record them?

7 A On -- every, every visit is recorded.

8 Q Okay.

9 All right. Your Honor, I would, at this time, move  
10 VICTIM 's medical records into evidence.

11 SOLICITOR BARNETTE: Your Honor, I have an objection.

12 May I approach the bench?

13 THE COURT: All right. You want to approach the bench.

14 Mr. Crane.

15 (Whereupon, a bench conference was held out of the  
16 hearing of the jury at this time.)

17 THE COURT: All right. Ladies and gentlemen, this is  
18 one of those times where I'm going to need to address a  
19 question of law outside of your presence. So, if you would,  
20 I'm gonna ask you to again not have any discussions about  
21 anything involving the case.

22 Go with the bailiff back to the jury deliberation room.  
23 We'll get you back just as soon as we can. This may take a  
24 few minutes. So, if you need a bathroom break, go ahead and  
25 take it now.

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1 (Whereupon, the following takes place outside the  
2 presence of the jury.)

3 THE COURT: All right. I do not have a copy of the  
4 records. So, if y'all are gonna be arguing something from  
5 the records, I'm gonna need to be able to see it.

6 SOLICITOR BARNETTE: Yes, sir, I do have a copy.  
7 And judge, if I could too, I know Mr. Medlock -- I've  
8 got a copy of them. I just need to make sure all these  
9 copies are all, all the records that he has in his file also  
10 that is introduced.

11 THE COURT: Okay. Can y'all compare them or what do  
12 you need to do?

13 SOLICITOR BARNETTE: We---

14 MR. CRANE: We started doing that and the doctor  
15 indicated there's one or two pages that we did not have  
16 copies of, but I didn't get a chance to go through those.

17 THE COURT: All right. Well, y'all want to speak to  
18 him now?

19 SOLICITOR BARNETTE: If we could, Your Honor, approach.  
20 (Pause.)

21 THE COURT: All right. Do y'all have the -- you ready  
22 to argue the State's motion?

23 SOLICITOR BARNETTE: Your Honor, we might want to  
24 make -- I think that's the only reference. I want to make  
25 sure. But I guess make that a Court Exhibit, that page

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by Mr. Crane

1 we're talking about just for the record.

2 MR. CRANE: And I think we're good on the records we  
3 want to submit. We're actually adding three to this list.  
4 But Tony's gonna make a complete copy of the record and  
5 we'll submit that instead of the originals.

6 THE COURT: All right. Y'all ready to argue the  
7 motion?

8 MR. CRANE: Yes, sir.

9 THE COURT: All right. All right. I've been provided  
10 a copy of Doctor Medlock's notes dated August 24, '92. I've  
11 reviewed this and even though you apparently highlighted it  
12 and then photocopied it, I think I can read what it says.

13 But you want to -- why don't you state it on the record  
14 just to be sure?

15 SOLICITOR BARNETTE: That will be fine. Let me find  
16 my, my copy. I'm sorry, judge.

17 Your Honor, it's hard to read. But it says at times  
18 related to past sexual abuse, acute. It's August 24<sup>th</sup>,  
19 1992. The page -- I can't see if it's patient or -- but I  
20 read at times related to past abuse, and it don't even say  
21 who it was or what it was. So, I don't think this talked  
22 about past abuse from that standpoint to me.

23 We have a motion in limine before -- I believe the  
24 Court's already recalled about any prior instances and  
25 everything that they would not come in, and that's the

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by Mr. Crane

1 reason I think that has to be excluded from the medical  
2 records for that reason.

3 THE COURT: What about the line above that that on my  
4 copy it, it looks like someone highlighted it as well?

5 Is that not at issue?

6 SOLICITOR BARNETTE: That -- well, that whole page I  
7 have an issue with, judge. I'm trying -- I can't -- we just  
8 ask for the whole page to be removed cause it's not relevant  
9 to what --.

10 THE COURT: All right. All right. Now, Mr. Barnette,  
11 you stated on the record, you used the phrase sexual abuse,  
12 but according to the record I'm relaying, it just related to  
13 past abuse. It does not reference sexual or---

14 SOLICITOR BARNETTE: And I apologize, Your Honor. But  
15 you're right, past -- from what I read it is past abuse.

16 THE COURT: Yes, sir, Mr. Crane.

17 MR. CRANE: Well, Your Honor, you did I believe  
18 erroneously say we could not go into the prior allegations  
19 because I think it goes to show the credibility of VICTIM  
20 VICTIM, whether or not she lied back then because it's also  
21 our contention that even her mother did not believe her back  
22 then, and would not let the police be called, and that is  
23 why the grandparents weren't visited nor was the uncle ever  
24 seen again in the family. But you made that ruling.

25 I think, however, the way the trial is progressed that

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by Mr. Crane

1 it, it may, in fact, become an issue, and furthermore, these  
2 are the complete medical records of VICTIM . . . . There's no  
3 basis to exclude any of the records and there's certainly no  
4 reason to take out one page of all of the records if we're  
5 gonna submit everything else.

6 She has complained about stomach aches and headaches  
7 and all of that. Doctor Tesnear is gonna testify next that  
8 he treated her early on for stomach aches. She suffered  
9 from, I guess for lack of a better term, not necessarily  
10 impacted bowels, but she would go for days and days and not  
11 go to the restroom. And so, I mean there's a lot of that  
12 treatment which can explain some of the other symptoms that  
13 she had, which I believe came out during the trial and may  
14 come out yet during the trial.

15 So, judge, we would ask all the records come in  
16 including that one. And as you say, it doesn't say sexual  
17 abuse. It just says past abuse.

18 THE COURT: What was her birth date?

19 MR. CRANE: '80---

20 SOLICITOR BARNETTE: September 9<sup>th</sup>, 1987, Your Honor.

21 THE COURT: All right. Mr. Crane, I, I still fail --  
22 maybe this testimony will develop to change my opinion in  
23 the trial and you might want to recall the witness and try  
24 again. But on this particular entry made when she would of  
25 been four years old, less than four years old at the time,

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by Mr. Crane

1 and just based on the information that I have right now I'm  
2 not seeing that the probative value to your case would  
3 outweigh any prejudicial effect that it would have to the  
4 other side if it came up.

5 I'm not really seeing how something, even if it is just  
6 alleged that deals with an allegation of abuse at age four,  
7 would have much bearing on the issues in this case, and  
8 could, in fact, lead to more confusion to the real issues  
9 that we're here than clarity to.

10 Your note -- you're protected on the record. And  
11 again, if you, if your case takes off in a direction that  
12 develops that, you might want to recall the witness and even  
13 try to reconsider if this one page or this one entry is that  
14 important. But I'm still of the opinion that I'm correct,  
15 but you are protected on the record. But I would not allow  
16 this entry to come in.

17 MR. CRANE: All right. Can we talk about another issue  
18 then in relation to that?

19 THE COURT: Well, Mr. Barnette has the floor. He made  
20 objection to these records. I've issued my ruling. You  
21 know, I'm not in a habit of giving advisory opinions  
22 especially in the middle of a trial.

23 MR. CRANE: Well, I'm gonna need it because see you're  
24 limiting Mr. Mangal from testifying because when the police  
25 came to the house, and the allegation were made by Diane,

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by Mr. Crane

1 his comment was oh, no, not again, and you know---

2 THE COURT: You know, I'm not -- and the reason I'm, I  
3 want to stop you now is because, you know, if your  
4 testimony, if your case develops the way you hope it may  
5 take, it is Mr. Barnette's responsibility to issue  
6 contemporaneous objections to something that you may want to  
7 admit into evidence. You know, it's not -- I don't think  
8 it's wise for either side to try to actually calculate or  
9 try to go ahead and get me to issue advisory rulings as to  
10 everything that's gonna take place in a trial.

11 It's difficult because it puts me in a bad position  
12 that I have to make rulings on -- if you want me to weigh  
13 prejudicial effect, probative value of it based on  
14 information I have not heard.

15 MR. CRANE: I understand that. And the reason I asked  
16 that is because yesterday during one of our discussions it  
17 was made clear to me that if the wrong questions were asked  
18 there may be a mistrial. And after three days I don't want  
19 a mistrial. But like I said, I think you're limiting my  
20 client -- I can't even ask him, you know, when Diane said  
21 you did this, how did you respond. He's gonna say I said  
22 oh, no, not again and then I'm gonna have to ask him what do  
23 you mean by that, and, you know, I don't want to step into a  
24 mistrial by doing that if you're saying I can't go there.  
25 But that's what happened when she came to the home and

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by Mr. Crane

1 confronted him and that's in the record. That's in the  
2 Family Court record.

3 So, that's why I was asking for an, an opinion.

4 SOLICITOR BARNETTE: Your Honor, I don't -- I know Mr.  
5 Crane takes the position -- I don't know what his client is  
6 gonna testify to or whatever. But our position would be it  
7 may not develop the way he's thinking it's developing from  
8 that standpoint. Our -- I think the Court's correct, it's  
9 better just to deal with it at that time and by me placing  
10 an objection there.

11 THE COURT: I mean, Mr. Crane, and I'm stepping way  
12 further than what I think I need, need to in making my  
13 ruling, but if, if what I'm hearing is that you are gonna  
14 develop some type of medical testimony and relate some type  
15 of the medical condition of the victim the way that she was  
16 after these allegations that involve her dad came out to  
17 prior allegation, I don't have a basis now of, of accepting  
18 that as, as a basis for, for admitting the evidence. It  
19 would be -- I would be telling you you can present this  
20 evidence and potentially confuse the jury based on a theory  
21 that is not in front of me yet.

22 If, in fact, you develop that theory, you present the  
23 law, and then you feel like that this witness' testimony as  
24 this one particular page is important to that theory that is  
25 been developed, be more than happy to reconsider it, but I

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by Mr. Crane

1 can not make that ruling right now because that is not how I  
2 see the evidence as being presented yet.

3 MR. CRANE: All right. May I ask the Court if we can  
4 do this?

5 And I, and I fully understand your ruling.

6 Can we have Doctor Medlock testify now and submit all  
7 of these documents with the understanding that this page is  
8 not coming in unless we get to the point that I've just said  
9 to you cause I don't want to call him back from his practice  
10 to put in one page.

11 I think, number one, that would be unfair to him. I  
12 think that would be more prejudicial to my client than  
13 probative and I, I just don't want to do it. If it's gonna  
14 come in anyway, I'd like to put it in now with the  
15 understanding that if, if the proper foundation, whatever  
16 you want to call it, isn't laid, then it won't go before the  
17 jury.

18 THE COURT: Well, the only way the testimony gets  
19 presented is gonna be in front of this jury. If you want to  
20 proffer something outside of the jury's presence, that's  
21 definitely your prerogative to be able to protect the record  
22 and make the full record on appeal. But I think it would  
23 run contrary to my ruling to bring a jury in and allow him  
24 to testify as to something that I am of the opinion now  
25 should not be admitted simply for me to know that if it's,

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by Mr. Crane

1 Right?

2 SOLICITOR BARNETTE: Right. They're copying it, judge,  
3 because there's, there is certain pages missing.

4 MR. CRANE: So, we can do that. And then we'll -- you  
5 know, if we want to call these -- he's got the originals. I  
6 asked him can you show me what you got, and then I'll ask  
7 him to submit a copy and then we can go from there.

8 THE COURT: And they -- you're gonna ask him that, let  
9 the jury know, when they come back in, that you're making  
10 actual photocopies of the original file so they'll know that  
11 y'all are not playing any monkey games with him, that there  
12 is an actual file?

13 SOLICITOR BARNETTE: And that's no problem because,  
14 like I said, I think the four -- I don't know if we're gonna  
15 be asking any questions off those four pages to be honest  
16 with the Court.

17 MR. CRANE: I got you.

18 THE COURT: All right. Y'all ready to bring the jury  
19 back?

20 (Parties nod affirmatively.)

21 THE COURT: All right. Let's bring the jury back.

22 (Whereupon, the following takes place within the  
23 presence of the jury.)

24 THE COURT: Yes, sir.

25 MR. CRANE: May it please the Court, judge.

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by Mr. Crane

1 I think we're at the point where I had moved the  
2 records into evidence.

3 THE COURT: All right. And subject to the prior  
4 discussion and ruling on the Court, any objection to the  
5 State?

6 SOLICITOR BARNETTE: No objection and thank the Court  
7 for that.

8 THE COURT: All right. Yes, sir, be admitted as the  
9 Defense No. 3 and these will be Doctor Medlock's records.

10 MR. CRANE: Yes, sir.

11 CONTINUED DIRECT EXAMINATION

12 BY MR. CRANE:

13 Q Doctor Medlock, are these copies of the records that  
14 you brought?

15 A Yes, sir.

16 Q All right.

17 Your Honor, and if I could, I believe the Solicitor's  
18 Office is making actual copies of the originals. And so, I  
19 can either put these in or we can just wait till those  
20 copies get here and mark those as an exhibit.

21 Would that be fine with the Court?

22 THE COURT: Y'all -- so y'all intend to use the actual  
23 copies that are being made as become the record of the  
24 Court?

25 MR. CRANE: Yes, sir.

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by Mr. Crane

1 THE COURT: All right. We'll just use the copies once  
2 they are presented.

3 MR. CRANE: All right. He can testify from these  
4 records now though.

5 THE COURT: All right. Yes, sir.

6 Q Okay. Doctor, let me hold these cause there's some  
7 questions I want to ask you about these.

8 Doctor, do you, do you remember seeing VICTIM and,  
9 and treating her yourself?

10 A Yes, sir.

11 Q Okay. Can you look through these records for us please  
12 and see if -- and, and I know it might take you a moment.  
13 But see if there's any notation anywhere where she  
14 complained about any form of abuse.

15 Could you do that for me?

16 A (Witness complies.)

17 MR. CRANE: Judge, don't you have a copy of them?

18 THE COURT: (Nods affirmatively.)

19 MR. CRANE: May I borrow them?

20 A I can't remember the date, and I'm having to look for  
21 it.

22 Q Judge -- before you say anything, doctor, could we  
23 approach?

24 (Whereupon, a bench conference was held out of the  
25 hearing of the jury at this time.)

Doctor Medlock - Direct examination  
by Mr. Crane

- 1 A (Witness complies.)  
2 Here's 10/15/03. I have it.  
3 Q Do you have it, sir?  
4 A Uh-huh. (Affirmative).  
5 Q Do you see any notation there as to whether or not VICTIM  
6 VICTIM was sexually active?  
7 A The note says she denies sexual activity.  
8 Q And that's on October 20<sup>th</sup> of '03?  
9 A Yes, sir.  
10 Q All right. Would you look back a couple pages to the  
11 date, and not -- and I think it should be two pages back, to  
12 9/29/03?  
13 A I have that.  
14 Q You have that, sir?  
15 A Yes, sir.  
16 Q It looks like under Letter O on the left side of the  
17 page, what does it say about a rectal examination?  
18 A Rectal examination reveals external examination was in  
19 normal limits.  
20 Q All right. Would that indicate that there were no  
21 injuries, tears, or otherwise to it?  
22 A That would indicate there is none apparent.  
23 Q Okay.  
24 THE COURT: I'm sorry, doctor. You're gonna need to  
25 lean into that microphone. I couldn't hear the answer.

Doctor Medlock - Direct examination  
by Mr. Crane

1 A Oh, I'm sorry. You want me to read that, read the---

2 Q I think you, if you would read it again, sir.

3 A The rectal examination reveals the external examination  
4 within normal limits. Some stool in the vault is negative.  
5 That means there was no blood in it. No masses or lesions  
6 noted.

7 Q All right. Now, in fairness to the State and VICTIM  
8 VICTIM, would you look at the entry of July 22<sup>nd</sup>, '04,  
9 please, sir.

10 A (Witness complies.)

11 Q Do you have that?

12 A I have it.

13 Q Do you see the notation -- would you read from the  
14 second sentence of that notation please?

15 A Read the, the second sentence?

16 Q Yes, sir, the second and the third and the fourth  
17 sentence.

18 A Okay. Also she's been assaulted or abused by her  
19 father who's now in jail. She's receiving an evaluation and  
20 will be receiving counseling. She's very depressed and  
21 tearful through all of these episodes. She's having  
22 difficulty sleeping.

23 Q And that was on July 22<sup>nd</sup>, '04?

24 A Correct.

25 Q Is that correct?

Doctor Medlock - Direct examination  
by Mr. Crane

1 A Yes, sir.

2 Q Prior to that, in looking through the notes and your  
3 general knowledge of, of her and the family, was there ever  
4 any indications throughout the records of any type of sexual  
5 or physical abuse to VICTIM by her father other than  
6 this notation here?

7 A This is the only reference that I know of.

8 Q Okay. Were, were you made aware of the arrest of Farid  
9 Mangal?

10 A Not at that time.

11 Q All right. It's come out that he was arrested in, in  
12 June of '04.

13 So that -- June of '04 would of been before this entry,  
14 would it not?

15 A Correct.

16 Q All right. Now, do you know -- you said that you know  
17 Mr. Mangal?

18 A I do.

19 Q How do you know Mr. Mangal?

20 A He was employed by Brock, Brock Construction Company,  
21 remodeled a house for us at Lake Zimmerman, a cottage there.

22 Q Did you---

23 A He subsequently did work for, at my relatives.

24 Q All right. Did you get to know Mr. Mangal?

25 A Very well.

Doctor Medlock - Direct examination  
by Mr. Crane

1 Q And have you talked to others about his reputation?

2 A I have.

3 Q And where, where did he specifically work for you?

4 A Cottage at Lake Zimmerman.

5 Q Okay.

6 A And our residence at Landrum Circle.

7 Q And did he ever do work at the office?

8 A He did.

9 Q When he did the work at your cottage, at your  
10 residence, did you give him a key?

11 A I did.

12 Q So, he was allowed access whenever he needed it?

13 A Correct.

14 Q You trusted him?

15 A I did.

16 Q Had you heard from others concerning his truth and  
17 voracity prior to hiring him?

18 A He had a good reputation.

19 Q All right. And who was he working for at the time?

20 A Jim Brock.

21 Q Okay. When you heard about these allegations, what did  
22 you think about them?

23 A I, I couldn't believe he would be guilty of that sort  
24 of thing.

25 Q Is that not in Fred's character to do something like

Doctor Medlock - Direct examination  
by Mr. Crane

- 1 A You, you would expect it not be in tact.
- 2 Q So, if it is in tact, then you're testifying that it  
3 would indicate there's not been sexual activity, is that  
4 correct?
- 5 A That would be my interpretation, yes, sir.
- 6 Q Have you had an occasion to inquire about and do  
7 research on what a crescentic hymen is?
- 8 A Had to look it up.
- 9 Q All right.
- 10 A Because I wasn't familiar.
- 11 Q What did you look it up in?
- 12 A In a medical dictionary.
- 13 Q And what is a crescentic hymen?
- 14 A A crescentic hymen, a thin crescentic or angular  
15 membrane or fold partly occluding the vaginal external  
16 orifice in the virgin.
- 17 Q In the virgin?
- 18 A That's, that's the definition in the dictionary.
- 19 Q And virgin would mean no sexual intercourse?
- 20 A That's the way I would interpret it.
- 21 Q All right. And again, looking back at the OB-GYN  
22 record, what is the date at the top, sir?
- 23 A Let's see. It's January 2<sup>nd</sup>, '02.
- 24 Q Okay. One moment please, doctor. Let me check over  
25 here. Thank you, sir.

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 (Pause.)

2 Q Answer any questions the solicitor might have please.

3 SOLICITOR BARNETTE: May it please the Court, Your  
4 Honor?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY SOLICITOR BARNETTE:

8 Q Doctor, you, you just came to the courtroom today, is  
9 that right?

10 A Sir?

11 Q Today's the first day you came to the courtroom, is  
12 that -- I mean for this trial.

13 A I came to a hearing about a month ago having to do with  
14 a bail request or something.

15 Q But no, what I mean is for the trial.

16 You haven't come---

17 A For the trial, this is my first appearance, yes, sir.

18 Q Yes, sir.

19 So, you haven't been in here to hear all the  
20 testimony---

21 A No, sir.

22 Q ---and so forth in this case or whatever from the  
23 standpoint?

24 Would it surprise you -- would it change your opinion  
25 about the reputation of the defendant if you knew he had hit

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 his children?

2 MR. CRANE: I couldn't hear the question.

3 If he did what, sir?

4 SOLICITOR BARNETTE: If he hit his children, physically  
5 abused his children.

6 A He had done what to his children?

7 Q Hit his children.

8 A Hit them?

9 Q Yes, sir.

10 A That surprises me that he would hit his children.

11 Q Would it change your opinion of the defendant if you  
12 knew he called his daughter a whore?

13 A I don't know what the circumstances were. I don't know  
14 what the situation or the circumstances were.

15 Q Well, would that change your opinion if you knew that?

16 A That depends on the circumstances I guess.

17 Q Would it change your opinion if you knew he called her  
18 a bitch?

19 A People say things when they are highly emotional and  
20 upset that they might regret later. I don't know under what  
21 circumstances he did these things.

22 Q Would it change your mind if you knew he called his son  
23 a bastard?

24 A That would surprise me.

25 Q Would it change your opinion if you knew he called

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 another son a fat ass?

2 A Yeah, that would, that would surprise me.

3 Q Would it change your opinion if you knew he used  
4 electrical cords to hit his children with?

5 A He whipped them with electrical cord?

6 Q Yes, sir.

7 A Yeah, that would, that would seem out of character with  
8 the person I thought I knew, I knew.

9 Q Yes, sir.

10 Would it change your opinion too if you knew he had  
11 been convicted of driving under the influence two times?

12 MR. CRANE: Say what now?

13 SOLICITOR BARNETTE: Driving under the influence two  
14 times.

15 MR. CRANE: Judge, I object to that.

16 THE COURT: All right. Ladies and gentlemen, I'm gonna  
17 need for you to please retire back to the jury deliberation  
18 room. I need to take up a matter of law with the attorneys.

19 Again, do not have any discussions among yourselves  
20 with anything about the case.

21 (Whereupon, the following takes place outside the  
22 hearing of the jury.)

23 THE COURT: Yes, sir.

24 MR. CRANE: Judge, I'd move for a mistrial.

25 THE COURT: Well, what's your basis?

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 MR. CRANE: Bringing in a prior conviction that may or  
2 may not exist, and if it does exist, I would submit it's  
3 older than ten years and couldn't be brought out even if my  
4 client testified.

5 THE COURT: Yes, sir.

6 SOLICITOR BARNETTE: Your Honor, under Rule 405, once  
7 he puts character at issue, any prior bad act. It don't  
8 even have to be a conviction. Any prior act that he does is  
9 fair game. And that's obviously -- we gave notice. He's  
10 got the rap sheet. When he put character up, he puts up  
11 everything that's ever -- I can't ask him obviously about  
12 the incident that's involved, the incident on the sexual  
13 conduct. But anything else is fair game. Anything about  
14 his reputation, anything about that, once he puts it up,  
15 their truthfulness or whatever, it's fair game.

16 MR. CRANE: I haven't been provided any documentation  
17 that shows my client's been convicted of a DUI unless it  
18 happens to be a rap sheet, and I don't know that I've got  
19 the rap sheet. I won't say that I don't. But I haven't  
20 seen any indictments, haven't seen any, any uniform traffic  
21 tickets, haven't seen any sentencing sheets, anything that  
22 shows that my client was ever convicted of DUI.

23 And even if he was, that doesn't -- he can't get that  
24 out if my client testifies.

25 SOLICITOR BARNETTE: And I agree I can't ask his client

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 about it. Once he put character at issue, Your Honor, any  
2 conduct. The case law is clear as well as the rule and so  
3 forth. He's on notice with the rap sheet of the prior DUI.  
4 He came over and looked, took a look at our files.  
5 Information was---

6 MR. CRANE: Judge, I know you're looking at probably  
7 the rules. But I think, number one, under Rule 403, if, in  
8 fact, it could possibly be admissible, it's more prejudicial  
9 than probative. More prejudicial to my client than  
10 probative to the State. And under Rule 404, which I think  
11 is what he quoted, it says other crimes, wrongs, or acts,  
12 evidence of other crimes, wrongs, or acts are not admissible  
13 to prove the character of a person in order to show action  
14 and conformity therewith. It may, however, be admissible to  
15 show motive, identity, the existence of a common scheme or  
16 plan, the absence of mistake, accident, or intent, and he  
17 certainly didn't put that any for any, any of those reasons.

18 He put it in to bring out his record and so that this  
19 jury would think my client's been convicted of DUI, which I  
20 submit he can't prove.

21 SOLICITOR BARNETTE: Your Honor, going back -- first,  
22 it's Rule 405. Not 404. 405 evidence---

23 MR. CRANE: I'll quote the rule that I want to quote to  
24 you, judge. I quoted you Rule 404 and it's coming right out  
25 of this book, and I will stand by Rule 404. I also---

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 THE COURT: All right.

2 MR. CRANE: ---look at 405 now. But if you look at  
3 404, I read to you what it says out of the newest book, the  
4 2007 book.

5 THE COURT: All right. Yes, sir, Mr. Barnette.

6 SOLICITOR BARNETTE: Thank you, Your Honor.

7 Rule 405(a), Your Honor, says with, with any conduct,  
8 charge, claim, or arrest as long as the probative value of  
9 the character or trait of the defendant. He put character  
10 in straight up. Once he does that, even his arrest can be  
11 brought up anytime. It don't even have to be a conviction.

12 THE COURT: All right. Those your arguments?

13 SOLICITOR BARNETTE: Yes, sir.

14 THE COURT: All right. I don't know about the record.  
15 Y'all have not presented me whether or not he is, in fact,  
16 been convicted of a DUI offense or not. I do not know what  
17 the dates are of the alleged offense.

18 SOLICITOR BARNETTE: May I approach the bench, Your  
19 Honor?

20 I'll show this to Mr. Crane also. This is his rap  
21 sheet. We can make that Court Exhibit 2 if you'd like, Your  
22 Honor.

23 THE COURT: So, this shows, do I read this correctly,  
24 it shows a date of May the 27<sup>th</sup>, 1990?

25 SOLICITOR BARNETTE: Yes, sir.

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 THE COURT: And he was charged with driving under the  
2 influence more than first, is that correct?

3 SOLICITOR BARNETTE: Yes, sir, that make it a second,  
4 Your Honor, or at least a second. And the sentence is  
5 consistent with being a second also, Your Honor.

6 THE COURT: All right. All right. I mean I---

7 MR. CRANE: I've made my motion, judge.

8 THE COURT: I think you've made your motion. I'm gonna  
9 have to deny your motion for a mistrial. I do think the  
10 State is in error and I think that they are wrong in  
11 bringing it up. I think that the tenant of the rules on the  
12 matter which you proved character and then you attack  
13 character evidence through cross-examination as well as the  
14 other rules contemplate that when a person is convicted of a  
15 crime, you intend to use that in a trial, especially  
16 something of this magnitude, you should at least somehow had  
17 alerted him that you intended to use it if you intended to  
18 use it for this purpose.

19 I think that even under the rule that would allow prior  
20 convictions of crimes into evidence in a trial, the Court  
21 should of been placed on notice so that I could make the  
22 proper determination to weigh the probative value of the  
23 prejudicial effect of this offense since it was more than  
24 ten years old. So, I do think that the State is in error in  
25 trying to impeach this, use it against this witness to

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 impeach his testimony as to the character of this defendant.  
2 I think it's highly prejudicial given the relatively minimal  
3 probative value that it would have on this witness'  
4 testimony in this case. I do not appreciate trials by  
5 ambush nor with being required to make such rulings based on  
6 ambushing each other with evidence.

7 All right. But I'm going to deny your motion for a  
8 mistrial. I do not believe that it is so prejudicial that  
9 this jury can not be properly instructed to disregard that  
10 last question.

11 But Mr. Barnette, if the State intends to want to use  
12 this offense in some other fashion, they need to go ahead  
13 and let the defendant know, the defense know that they  
14 intend to use it so that he can properly address it and make  
15 the proper rulings on it.

16 All right. Anything else?

17 MR. CRANE: No, sir, other than how do you intend to  
18 cure it?

19 THE COURT: Intend to tell the jury to disregard that  
20 last question from the State.

21 MR. CRANE: Thank you, judge.

22 THE COURT: And we'll make this document a Court's  
23 Exhibit.

24 (Whereupon, the rap sheet was marked as Court's Exhibit  
25 No. 2 for identification purposes only at this time.)

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 THE COURT: All right. Anything else on this  
2 particular issue?

3 MR. CRANE: No, sir.

4 SOLICITOR BARNETTE: No, sir. Thank you.

5 THE COURT: All right. Let's bring the jury back.

6 (Whereupon, the following takes place within the  
7 presence of the jury.)

8 SOLICITOR BARNETTE: May I approach the bench for one  
9 second, Your Honor?

10 (Whereupon, a bench conference was held out of the  
11 hearing of the jury at this time.)

12 THE COURT: All right. Ladies and gentlemen, thank you  
13 for your patience while I ruled on the motion.

14 The State had asked a question that, prior to the  
15 break, that the defense objected to. I have ruled that that  
16 question is improper. Therefore, you will disregard the  
17 last question that was asked by the State.

18 Yes, sir, Mr. Barnette.

19 SOLICITOR BARNETTE: Thank you, Your Honor.

20 CONTINUED CROSS-EXAMINATION

21 BY SOLICITOR BARNETTE:

22 Q If I can ask you, doctor, going back, would it change  
23 your opinion if you knew he called his daughter a slut of  
24 the defendant?

25 A I could accept that quicker than I could accept him

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 actually physically abusing. That does surprise me.

2 Q And would it surprise you that he would use the word  
3 nigger about---

4 A That would surprise me.

5 Q Doctor, I believe you got the notes from your medical  
6 practice up there I believe. I believe you already  
7 testified about the note on September 29<sup>th</sup>, 2003 --

8 A Let's see. December.

9 Q -- or, excuse me, September 29<sup>th</sup> of 2003.

10 A September 20<sup>th</sup>, '03, correct.

11 Q Yes, sir.

12 And I believe you testified that -- and these are  
13 actually Doctor -- these are not your notes?

14 These are Doctor Chris---

15 A That's Doctor Chris Nowatka's note, correct.

16 Q But he's the one that actually did the exam, is that  
17 right?

18 A He did the exam on that date.

19 Q Okay. And he said that the rectal exam reveals  
20 external examination.

21 That was not an internal exam or anything inside the  
22 rectum, was it?

23 A That was an external examination.

24 Q That's just---

25 THE COURT: Excuse me, Mr. Barnette.

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 SOLICITOR BARNETTE: I'm sorry.

2 THE COURT: Doctor, if you -- Doctor?

3 Doctor Medlock, if you would, really lean into that  
4 microphone.

5 WITNESS: Oh, I'm sorry. Okay.

6 THE COURT: You're holding those documents over the  
7 microphone and I am having difficulty hearing you.

8 Thank you, sir.

9 A Unless -- I don't see the details of the exam right  
10 here on that date.

11 Q So, it could of just been viewing, viewing the area, is  
12 that correct?

13 A I don't see reference to a rectal exam at all on that  
14 date of 10/20/03.

15 Q Excuse me. 9/29/03.

16 A Okay.

17 Q I apologize. I told you the wrong date.

18 A He says there is firm stool in the vault. That would  
19 require a digital exam. That would require what we call  
20 palpation or feeling the rectum.

21 Q But there was no---

22 A And that would be an internal examination.

23 Q But he didn't use any devices or anything like that?

24 A There's no evidence that he used a, a device or --.

25 Q If I can take you to July 22<sup>nd</sup>, 2004, if I could,

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 doctor.

2 A I have it.

3 Q Okay. If you can read the note. I guess it starts  
4 with the second sentence and these are still doctor -- I  
5 can't pronounce the name right. I apologize.

6 A Nowatka.

7 Q Nowatka.

8 If you could read that note starting with the second  
9 sentence.

10 A Okay. Also she's been assaulted or abused by her  
11 father who is now in jail. She is receiving an evaluation  
12 and will be receiving counseling. She's very depressed and  
13 tearful through all of these episodes. She's having  
14 difficulty sleeping.

15 Q And if I can take you I believe to September 30<sup>th</sup>,  
16 2004.

17 MR. CRANE: What date, sir?

18 SOLICITOR BARNETTE: September 30<sup>th</sup>, 2004.

19 Q And I believe this is also Doctor Nowatka's notes also.  
20 I believe it's gonna be the second sentence starting there.

21 A Okay. September 21?

22 Q Yeah, or start at the beginning of that -- yes, sir,  
23 September 30<sup>th</sup>, 2004.

24 A 30<sup>th</sup>. Okay.

25 Q Okay.

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 A All right. I have that note.

2 Q If you can read that note, sir?

3 A The whole note?

4 Q Yes, sir.

5 A All right. The patient comes in the office today  
6 complaining of nausea, but mainly going to the school  
7 counselor and she felt that her panic disorder, which was  
8 worse at school, was making the school environment not ideal  
9 for her progress. She is, however, doing well as far as  
10 grades go. The nausea happens when she starts thinking  
11 about the situation, the abuse of her father. She's lost  
12 about eight pounds over the last week.

13 On physical examination, the patient is well nourished  
14 and is no acute distress. Cardiovascular reveals a regular  
15 rate and rhythm without murmurs and the lungs are clear.  
16 The impression was panic disorder, posttraumatic stress  
17 secondary to sexual abuse from her father who's in prison,  
18 and he says I felt that Zoloft was not helpful. Will start  
19 her on Affexer, seventy-five milligrams XR, one every day.  
20 Samples are given. For the nausea she is given Tiagram  
21 300 milligrams, Number 30, one three times a day by mouth,  
22 Clonopin, 0.5, one-half to one twice a day.

23 I did write her to be homebound school for the rest of  
24 the semester. She is to continue her medication for the  
25 bronchitis.

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 Q If I can go back to that note. If -- number two says  
2 posttraumatic stress secondary to, secondary abuse from her  
3 father who's in prison.

4 That was said by Doctor, the doctor in his notes, is  
5 that right?

6 A That was Doctor Nowatka.

7 Q Uh-huh. (Affirmative).

8 And he was the one that wrote for her to be homebound  
9 schooled for the rest of the semester?

10 A I think so, yes. The next note says that her guidance  
11 counselor felt that she would be, would benefit by homebound  
12 instruction.

13 THE COURT: I'm sorry. I could not hear that.

14 WITNESS: Her counselor suggested that she would  
15 benefit from homebound instruction.

16 THE COURT: Thank you, sir.

17 Q And the doctor agreed with that, is that correct?

18 A He did agree.

19 Q Now, doctor, I think you, your practice is in family  
20 practice, is that right?

21 A That's correct.

22 Q Now, in OB-GYN, that's, that's not the practice of your  
23 office?

24 That's not your practice, is it?

25 A That's, that's not our specialty.

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 Q So, for women that's get older and so forth, they would  
2 go to the OB-GYN doctor, is that right?

3 A We do do routine office GYN. We don't do any surgery.

4 Q Uh-huh. (Affirmative).

5 A We do examinations.

6 Q Yes, sir.

7 A And treatment.

8 Q You don't have -- I just want to see if y'all have this  
9 in your office.

10 Do y'all have a cul -- make sure I'm pronouncing this  
11 right, C-O-L-P-O- scope, Colposcope in your office?

12 A We do not do colposcopy.

13 Q So, that would be done in the OB-GYN's office?

14 A OB-GYN normally do that.

15 Q Or somebody that would specialize in that area would do  
16 that?

17 A Right.

18 Q Okay. And are you familiar with studies where it shows  
19 that a lot of times people that's been sexually abused, they  
20 have their hymen in tact eighty-five, ninety percent of the  
21 time?

22 MR. CRANE: Judge, I object to that question.

23 THE COURT: All right. I'm gonna allow the question.

24 Go ahead, sir.

25 Q Do you need the question repeated, sir?

Doctor Medlock - Cross-examination  
by Solicitor Barnette

- 1 A Go ahead and repeat the question, sir.
- 2 Q Okay. Are you, are you familiar with studies that show  
3 that eighty-five, ninety percent of people that are sexually  
4 abused they still have their hymen in tact in children?
- 5 A It depends on the, on the type of abuse, right.
- 6 Q It depends on the type of penetration and type of  
7 situation?
- 8 A It does, uh-huh. (Affirmative).
- 9 Q And I believe the note that you read from the, and I  
10 don't know if you have your -- this is in your notes, in  
11 your notes, which is from January 2<sup>nd</sup>, 2002, if I remember  
12 correctly. And you may want to take a look at that because  
13 I know---
- 14 A I need to.
- 15 Q And I don't think it's in the -- it's in the other,  
16 it's in the -- doctor, I think it's in this here in, in  
17 these notes. I think it's right here.
- 18 A Okay. Yeah. Okay.
- 19 Q Okay. And that January 2<sup>nd</sup>, 2002, that's when that  
20 was dated, the examination and so forth about the hymen, is  
21 that correct?
- 22 A That's correct.
- 23 Q So, that's definitely before November of 2002, being  
24 ten months before November 2002?
- 25 A Yes.

Doctor Medlock - Cross-examination  
by Solicitor Barnette

1 Q And I know -- I believe you read -- and these notes are  
2 actual Doctor Wachovia or Nowatka notes, is that right?

3 A Yeah, this last note was Doctor Franks.

4 Q Franks.

5 Going back to Doctor Nowatka's notes, the notes we're  
6 referring to, there was a part I think Mr. Crane had you  
7 read that she denied sexual activity before the report of  
8 abuse of her father, is that right?

9 A Yeah, there was one note saying there was no sexual  
10 activity. I don't remember the date now.

11 Q Would you expect a young girl that hadn't told her  
12 mother or told anybody else to tell her doctor about her  
13 abuse by her father?

14 A Sometimes they don't tell anybody. Not even a doctor.  
15 I mean I don't know whether you'd normally expect it or not.

16 Q A lot of times---

17 A I'm frankly rarely even involved in a sexual abuse,  
18 abuse case.

19 Q It's not common for them to report, is it?

20 A Not, not, not common that I'm involved at all in  
21 that---

22 Q Okay.

23 A ---case.

24 Q Yes, sir.

25 One moment, Your Honor, please.

Doctor Medlock - Redirect examination  
by Mr. Crane

1 (Pause.)

2 Q Please answer any questions of Mr. Crane. Thank you,  
3 doctor.

4 THE COURT: Any redirect limited to what he went into?

5 MR. CRANE: Yes, sir.

6 REDIRECT EXAMINATION

7 BY MR. CRANE:

8 Q The, the last OB-GYN record that you read, which was  
9 dated January 2<sup>nd</sup>, '02, that calls that says that the  
10 hymen was in tact on that date.

11 You got that with you?

12 A I have that record, yes, sir.

13 Q Okay. And the solicitor asked you if that was before  
14 November of '02 and you said certainly it is, correct?

15 That, that examination was done prior to November of  
16 2002, wasn't it?

17 A Yeah, January is before November, yes, sir.

18 Q Okay. But was that examination done after August of  
19 2001?

20 According to the dates, it would have been, would it  
21 not?

22 A It would have, yes, sir. Yes, sir.

23 Q And so, if it was alleged that sexual penetration and  
24 activity occurred in August of 2001, you would not expect to  
25 see a note that says hymen in tact, would you, doctor?

Doctor Medlock - Redirect examination  
by Mr. Crane

1 A No, if the, if the vagina had been penetrated I would  
2 expect the hymen to be, not be in tact.

3 Q Okay. Thank you.

4 Now, the questions that the solicitor asked you about  
5 would you change your opinion about Mr. Mangal if you knew  
6 that he did this and did that and did so forth and so on, I  
7 will tell you, doctor, that it's simply been testified to by  
8 VICTIM ---

9 SOLICITOR BARNETTE: Your Honor, I would object. He's  
10 leading his witness. I ask that he rephrase.

11 MR. CRANE: I have the right. It's cross-examination.

12 THE COURT: All right. I will sustain the, the  
13 objection. Just watch the question, the form of the  
14 question.

15 MR. CRANE: Judge, is the ruling that I can't lead  
16 on---

17 THE COURT: Yes, sir.

18 MR. CRANE: Okay.

19 Q Would your opinion of Mr. Mangal remain the same as you  
20 initially said if it was testified to by Mr. Mangal that the  
21 various things the solicitor told you about, you know,  
22 calling people names, using cords, and this, that, and the  
23 other was not true -- in other words, if Fred Mangal said  
24 that didn't happen, the other people said it did, Fred said  
25 it didn't, who would you believe.

Doctor Medlock - Redirect examination  
by Mr. Crane

1 A I think these things he's accused of are totally out of  
2 character. That's why I'm here.

3 Q Yes, sir. And I understand that.

4 But, but -- and maybe you can't answer the question.

5 But if these people said Fred did something and, and  
6 Fred says I didn't do it, are you gonna believe these people  
7 or are you gonna believe Fred --

8 A Well---

9 Q -- knowing Fred as you do?

10 A This is a family I dealt with very pleasantly all of  
11 them.

12 Q Yes, sir.

13 A And certainly I would be very surprised if Fred were  
14 guilty of, of those things. But---

15 Q That's fine. Thank you, doctor.

16 Let me just check one last thing.

17 (Pause.)

18 Q Thank you, doctor.

19 A Thank you.

20 SOLICITOR BARNETTE: Have no further questions.

21 THE COURT: All right. Thank you, sir.

22 MR. CRANE: Judge, let me -- I'm sorry.

23 May I ask a further question?

24 (The Court nods affirmatively.)

25 Q Looking at the note I think from your records of

Doctor Medlock - Redirect examination  
by Mr. Crane

1 September 30<sup>th</sup> of '04 --.

2 A September 30<sup>th</sup>, '04.

3 Q All right. Where it says it's quoted, and, and I think

4 you read it and it says the note by Doctor Nowatka is that

5 VICTIM is, however, doing well in school, but doesn't

6 say in school, but is doing well as far as grades go.

7 Doesn't it say that?

8 A Yes, sir.

9 Q Would you assume then for that note on

10 September 30<sup>th</sup> she was doing fine in school as far as

11 grades go?

12 A That's, that's the message I get.

13 Q And then, of course, it says there she was referred to

14 home schooling and if her grades went down, you don't have

15 any notation that her grades went down when she went to home

16 schooling, do you?

17 A No, sir.

18 Q All right. And these records, are those notations

19 there on September 30<sup>th</sup>, just below that September 23<sup>rd</sup>,

20 and the one that the solicitor asked you about on

21 July 22<sup>nd</sup> where it says that she is been assaulted and

22 abused by her father, those are historical notes given to

23 the doctor by VICTIM, are they not?

24 A That's correct.

25 Q Okay. And I, I would assume -- is there any indication

Doctor Medlock - Recross examination  
by Solicitor Barnette

1 that those notes would have been either verified or not by  
2 asking Mr. Mangal whether they were true?

3 A That's correct. He would not have been asked.

4 Q Okay. Thank you, sir.

5 THE COURT: Any recross limited to what he went, just  
6 went into?

7 SOLICITOR BARNETTE: Yes, sir, just one or two issues.

8 RECCROSS EXAMINATION

9 BY SOLICITOR BARNETTE:

10 Q Doctor, going back to that note on September 30<sup>th</sup>,  
11 2004 --

12 A Uh-huh. (Affirmative).

13 Q -- the number two note under I guess A, the colon, and  
14 then it has one and two, the posttraumatic stress secondary,  
15 secondary to sexual abuse from the father who is in prison,  
16 that's---

17 MR. CRANE: Judge, I didn't go into that. I object.

18 SOLICITOR BARNETTE: No, he asked about that, that  
19 reference, Your Honor, and I'm just---

20 MR. CRANE: I didn't ask about that note, judge.

21 THE COURT: All right. According to my notes, there  
22 was a reference made to September 30 notes. So, you may ask  
23 him about the September 30 entry.

24 SOLICITOR BARNETTE: Thank you, Your Honor.

25 Q If you would, and you can, you can read it too, I think

Doctor Medlock - Recross examination  
by Solicitor Barnette

1 you've read it before or whatever, just reading it back to  
2 you, the posttraumatic stress secondary to sexual abuse from  
3 the father who is in prison, that's a finding by him, isn't  
4 it?

5 A That's an impression or a presumptive diagnosis you  
6 know. It -- you take, you take what the patient tells you,  
7 history, and then you do a physical examination. And from  
8 that you, you come to an impression or, or make a  
9 presumptive diagnosis.

10 Q So, that was his diagnosis or impression?

11 A Yeah, based on the information he was given on that  
12 visit, uh-huh. (Affirmative).

13 Q Thank you, doctor.

14 MR. CRANE: No further questions.

15 THE COURT: All right. Thank you, doctor. You may  
16 step down.

17 Any reason why the witness can not be excused?

18 SOLICITOR BARNETTE: Not from the State, Your Honor.

19 THE COURT: Thank you, doctor. You may be excused.

20 WITNESS: Thank you, sir.

21 THE COURT: All right. Ladies and gentlemen, we're  
22 gonna take -- all right. Doctor, you need to be sure that  
23 we've got the, the exhibit, trial exhibit with your note.  
24 Be sure that we get to keep those. You can take the rest of  
25 the stuff, doctor. Thank you.

1 All right. Ladies and gentlemen, we're gonna take our  
2 morning, morning recess. The bailiff has asked me for a  
3 special request. So, y'all can do your special request at  
4 this time. We'll take about fifteen minutes.

5 Again, I'll instruct you not to have any discussions  
6 among yourselves about anything involving the case. Please  
7 go back with the bailiff back to the jury deliberation room.

8 (The following takes place outside the presence of the  
9 jury panel.)

10 THE COURT: Anything before we step down?

11 MR. CRANE: No, sir.

12 SOLICITOR BARNETTE: No, sir.

13 THE COURT: All right. See y'all shortly.

14 (Whereupon, a short recess was taken at this time.)

15 THE COURT: Who's gonna be your next witness?

16 MR. CRANE: Diane Farid.

17 THE COURT: How long do you think it's going to be?

18 MR. CRANE: Judge, I don't think we'll be finished  
19 before 12:30, and depending on how that goes, my next  
20 witness may be Mr. Mangal.

21 THE COURT: All right. I guess the State intends to  
22 cross-examine Mrs., the wife?

23 SOLICITOR CRICK: Yes, sir.

24 THE COURT: All right. Have you made your mind up  
25 if -- do you know if you're gonna call any other witnesses

1 besides the wife and the, the defendant?

2 MR. CRANE: Yes, I am.

3 THE COURT: Okay. All right. Lawyers approach a  
4 moment.

5 (Whereupon, a bench conference was held at this time.)

6 THE COURT: All right. Mr. Bailiff, if you will, I  
7 don't think we need to bring -- any objection for us  
8 allowing the bailiff to give them instructions as opposed to  
9 bringing them back?

10 SOLICITOR CRICK: I apologize, Your Honor.

11 THE COURT: Any, any objection to allowing the bailiff  
12 to let them give the instructions on lunch?

13 SOLICITOR CRICK: Not from the State, Your Honor.

14 MR. CRANE: No, sir.

15 THE COURT: All right. Tell them that, that we  
16 consulted with the lawyers. We're gonna now take the lunch  
17 break. They need to be back in there by 1:25. And tell  
18 them not to have any discussions about anything involving  
19 the case with anyone.

20 BAILIFF: All right.

21 THE COURT: All right. I'll see y'all at 1:25.

22 (Whereupon, Court was in recess for the lunch break.)

23 THE COURT: Anything before we bring the jury back?

24 MR. CRANE: Oh, yes, I'm sorry. Thank you.

25 Judge, I intend to call Diane Farid as our first

1 witness and let's see here. Under Rule 614, I would ask  
2 that you call her as an adverse witness for the Court.

3 THE COURT: I have to ask why.

4 MR. CRANE: Because she is, a 100 percent adversary to  
5 the, to our side of the case. It's sort of surprising that  
6 she wasn't called on behalf of the State. She has  
7 repeatedly testified against Mr. Mangal at bond hearings,  
8 have given statements against Mr. Mangal, and divorced  
9 Mr. Mangal. And I'm just not sure that she would be an  
10 appropriate witness for me and get fair answers out of her  
11 if I'm not allowed to cross-examine her.

12 SOLICITOR BARNETTE: Your Honor, I think the rule --  
13 Rule 607, he, he can impeach her and do whatever he wants.  
14 If he wants to call her as a witness he's able to do that.  
15 The -- Court, Court witnesses, I may of seen it once or  
16 twice in all the years I've been involved, is extreme  
17 circumstances and there's usually reasons for that, people  
18 being threatened, things like that. I, I mean it's, you  
19 know, the extreme circumstances.

20 I don't think we have this here. I mean obviously he  
21 can call -- we did not call her as a witness. But he's  
22 welcome to call her, and, of course, under Rule 607 he can  
23 impeach her with her prior statement or whatever from that  
24 standpoint cause he don't have to declare hostile anymore.  
25 We have the old hostile rule where they changed the rules in

1 1996. But now he can call her as his own witness and  
2 impeach her with her own statement if he wants to do that.  
3 But I don't think, I don't think we go to the level for a  
4 Court witness to be called especially in the middle of  
5 defense's case. Usually Court witnesses are called at the  
6 end of the case.

7 (Pause.)

8 SOLICITOR BARNETTE: Your Honor, may I be, address to  
9 one other thing?

10 THE COURT: Give me just a second.

11 SOLICITOR BARNETTE: Okay. I just noticed something.

12 (Pause.)

13 THE COURT: All right. I'm going to have to deny your  
14 motion. I'm not sure that you presented to me a situation  
15 where I feel that Rule 614's discretion that it gives me is,  
16 is presented. I think Rule 614 anticipates that if I call a  
17 witness, that then the Court is actually going to  
18 participate in the interrogation of the witness, and I do  
19 not believe that what I've heard thus far justifies me  
20 actually designating a witness as my witness and then  
21 beginning with some type of interrogation of a witness by  
22 the Court.

23 I do understand and I anticipated another motion from  
24 you. But not the one under Rule 614. You know, if you -- I  
25 mean I have, I have been the hearing officer at, at least

1 two if not more of the bond proceedings. I'm well aware of  
2 the position taken by this witness at those bond hearings  
3 and it would be adverse to, to your client's position that  
4 he apparently has taken during this trial.

5 But I, I can't -- I'm not gonna call her as a witness,  
6 the Court's witness at this time.

7 Yes, sir.

8 SOLICITOR BARNETTE: The ruling took care of it, Your  
9 Honor. I was just gonna point something else out.

10 THE COURT: Anything else?

11 MR. CRANE: No, sir.

12 THE COURT: All right. Let's bring the jury back.

13 Is she, is she present?

14 MR. CRANE: She -- yes.

15 WITNESS: Yes, sir, I am.

16 THE COURT: Oh, okay.

17 (Whereupon, the following takes place within the  
18 presence of the jury.)

19 THE COURT: Is the defense ready to call their next  
20 witness?

21 MR. CRANE: Yes, sir, judge.

22 THE COURT: Yes, sir.

23 MR. CRANE: Called Diane Farid please.

24 THE COURT: Come on around, ma'am.

25 DIANE FARID, being first duly

Diane Farid - Direct examination  
by Mr. Crane

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. CRANE:

4 Q Comfortable?

5 Are you okay?

6 A Yes, sir, I'm fine. Thank you.

7 Q All right. Mrs. Farid, where do you live please?

8 A I live at, on \_\_\_\_\_ in Spartanburg  
9 South Carolina.

10 Q You have a very soft voice. I, I can barely -- and  
11 like you were saying, you weren't in here, but that  
12 microphone barely picks up.

13 A That's fine. I'll, I'll do my best to speak up.

14 Q Okay. Thank you, ma'am.

15 And whose residence is that?

16 A That is a residence that is owned by Mr. Mangal and  
17 myself still to present.

18 Q All right. And how long have you two owned that  
19 residence?

20 A Oh, we bought that residence in 1990 if I'm correct,  
21 sir.

22 Q How long have you known Mr. Mangal?

23 A I have known Mr. Mangal since 1984.

24 Q And where did you first meet him?

25 A I met Mr. Mangal through a friend of his.

Diane Farid - Direct examination  
by Mr. Crane

- 1 Q Okay. Did you and he at anytime work for the same  
2 company when, back when y'all were first dating?
- 3 A No, sir, we did not.
- 4 Q Okay. How long did you date before you got married?
- 5 A We dated I would say nine months.
- 6 Q And then married in, did you say, 1984?
- 7 A We married in 1985, sir. In March of 1985.
- 8 Q And how many children do you have from the marriage?
- 9 A We have three children.
- 10 Q When you got married, were you working?
- 11 A Yes, sir, I was.
- 12 Q Where were you working?
- 13 A I was working at a, as an assistant manager in a retail  
14 store.
- 15 Q Okay. And do you know if he was employed?
- 16 A Yes, sir, he would be employed.
- 17 Q After marriage, you continued to work or did you become  
18 a housewife or did you go back to school or what did you do?
- 19 A I continued to work for a period of time. Then I did  
20 go back to school to finish my, to get my Bachelor's Degree.
- 21 Q And how long were you in school?
- 22 A I was in school two and a half years. It took me an  
23 extra half of a year because we had our daughter in 1987.
- 24 Q And I presume that at the time that you went back to  
25 school, you, he was the income maker?

Diane Farid - Direct examination  
by Mr. Crane

1 A He was the majority of the income maker. I had a, just  
2 a work study job at the, at the, on the campus.

3 Q And so, you said you had your daughter, and that would  
4 be VICTIM?

5 A That would be VICTIM. Yes, she was born in September of  
6 1987.

7 Q Can you tell the jury please if you know anything about  
8 the history of Mr. Mangal's family?

9 Have you ever met any of them?

10 A I have met two of his brothers that now reside in  
11 Germany.

12 Q Uh-huh. (Affirmative).

13 A Esal and Nisar Mangal.

14 Q Have you ever met his parents?

15 A No, sir, I have not.

16 Q Okay. Do you have any idea of what type of occupations  
17 his brothers or his parents have?

18 A Brothers, I know one of his brothers was a colonel, his  
19 older brother was a colonel in the Army there in

20 Afghanistan. I know that one of his sisters is a, like a  
21 librarian. I know that one of his sisters is a dentist.

22 She now or did three years ago live in Russia. His -- one  
23 of his brothers that lived in Germany I know works for an  
24 airline company.

25 Q Is there another brother -- is one of the brothers an

Diane Farid - Direct examination  
by Mr. Crane

1 artist?

2 Do you know?

3 A His brother Esaī that I just referred to is, worked in  
4 the airline is also, does some artwork also, yes, sir.

5 Q Is there another sibling of his that is a doctor?

6 A His sister that is a dentist.

7 Q That's just a sister?

8 A Yes. Yes, sir.

9 Q All right.

10 A And I do believe his youngest brother -- I'm sorry. I  
11 didn't mean to interrupt you. I think his youngest brother  
12 was studying to be a, a lawyer.

13 Q Okay. And do you know whether or not his father was  
14 instrumental in writing an encyclopedia?

15 A I believe that is that, what Mr. Mangaī has indicated  
16 to me.

17 Q So, his side of the family, we would assume with all  
18 the jobs, is very much educated, is that correct?

19 A I would say that sisters, most of his sisters are  
20 educated. His father is educated. I'm not sure with the  
21 culture, as it is, about his mother's education level. I  
22 just know that she---

23 Q Okay.

24 A ---was a housewife and a mother.

25 Q And then how about your family, are your parents still

Diane Farid - Direct examination  
by Mr. Crane

1 living?

2 A Yes, sir, they are.

3 Q And what do they do?

4 A My father worked for over 20 years for the City of  
5 Spartanburg. He was a traffic technician.

6 Q Okay.

7 A My mother---

8 Q Can you tell us---

9 A My mother, my mother, for the majority of the time when  
10 I was growing up, was a housewife and a mother. She has  
11 worked in several jobs since then.

12 Q Okay. And do you have brothers and sisters?

13 A Yes, sir, I do.

14 Q How many brothers and sisters?

15 A I have one brother and one sister.

16 Q And what do they do?

17 A My sister is a stay at home mom. She has a three year  
18 old and a newborn. My brother I believe works in  
19 construction.

20 Q Okay. You believe worked in construction?

21 A I believe he works in construction, yes, sir.

22 Q Have you had regular contact with your brothers and  
23 sisters?

24 A I have regular contact with my sister.

25 Q And not your brother?

Diane Farid - Direct examination  
by Mr. Crane

- 1 A No, sir, I do not have contact with my brother.
- 2 Q Okay. When is the last contact you had with your  
3 brother?
- 4 A I would say that would of been about 1990.
- 5 Q 1990?
- 6 A Yes, sir.
- 7 Q Do you know if he lives locally?
- 8 A I believe he does.
- 9 Q Okay. And while the children, your children were  
10 growing up, was there routine contact with your parents in  
11 your home?
- 12 A My parents would come to our home, yes.
- 13 Q Okay. Was there a period of time where there was no  
14 contact?
- 15 A When my parents had not come to my house for --?
- 16 Q Or not, or you've not gone to their house.
- 17 A We don't visit my parent's house that often.
- 18 Q Okay.
- 19 A We haven't for some period of time. But my parents do  
20 visit our family at, at our house.
- 21 Q Okay. Now, when, when VICTIM was growing up, she had --  
22 did she have any medical problems as a child and on into  
23 early teen years?
- 24 A I'm trying to think. VICTIM, VICTIM did have like -- she  
25 would have like your typical cold, your earaches. She did,

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by Mr. Crane

1 one period of time, have a problem where her heart was  
2 racing.

3 Q Did she have any bowel problems?

4 In other words, not voiding for days on end and two or  
5 three days at a time and when, when, in fact, you've taken  
6 her to the doctor?

7 A As far as being constipated or things like that?

8 Q Yes. Yes.

9 A Oh, I'm sorry. She would have some constipation. I  
10 mean -- yes, sir. And another thing that I, I guess I  
11 should reference, VICTIM did start her monthly cycle early and  
12 has had a lot of, you know, problems with that also, very  
13 painful.

14 Q I think actually she started about nine, didn't she?

15 A Yes, sir, I believe she did start about nine.

16 Q Uh-huh. (Affirmative).

17 And were the doctors that you went to Doctor Medlock,  
18 Tesseer, Nowatka, and whoever else has been in that  
19 practice over the years?

20 A Yes, sir.

21 Q All right. And did VICTIM also go to Mary Black Hospital  
22 for her gynecological checkups?

23 A Yes, sir, she went to -- I think it was called Women's  
24 Health Care Associates at that time. I think they've merged  
25 with Carolina OB now.

Diane Farid - Direct examination  
by Mr. Crane

- 1 Q Prior to 2004 were there any complaints made to you by  
2 VICTIM of any type of abuse?
- 3 A Abuse of---
- 4 Q Let me rephrase that.
- 5 Okay. Prior to 2004, were there any complaints by VICTIM  
6 made to you of any forms of sexual abuse by her father?
- 7 A Prior to 2004, is that the question---
- 8 Q Yes.
- 9 A ---you're asking me?
- 10 Q Yes.
- 11 A No, sir, there was not.
- 12 Q Okay. Was there any indications that -- how big is  
13 your house?
- 14 A We have a three bedroom two bath house. I would say  
15 it's probably -- I'm not, not really sure about square  
16 footage, but I think it would probably be about 1400 square  
17 feet.
- 18 Q Okay.
- 19 A It's not---
- 20 Q And it's all on one floor?
- 21 A That's correct, sir.
- 22 Q Okay. And so, it's not a terribly large house, it's  
23 not terribly small, about in-between?
- 24 A Yes, sir, it's actually half of a duplex.
- 25 Q And -- okay. And do y'all normally rent out the other

Diane Farid - Direct examination  
by Mr. Crane

1 half of the duplex?

2 A Yes, sir, we do.

3 Q Is it currently rented?

4 A Yes, sir, it is.

5 Q Was it rented at the time of Mr. Mangal's arrest back  
6 in 2004?

7 A Yes, sir, it was.

8 Q Do you recall who was living there?

9 A I believe the Riddle family was living there then.

10 Q Is that Kevin Riddle?

11 A That would be Kevin and Shelly.

12 Q Okay. Do you know who Kevin works for?

13 A I know he works for Spartanburg County.

14 Q All right. And while there did they have a baby?

15 A Yes, they did. Well, the baby actually was already  
16 born before they came, sir.

17 Q Was born once they came to the house?

18 A No, sir, it was -- they brought the baby. The baby was  
19 already born.

20 Q And how long did they live there after the arrest of  
21 Mr. Mangal?

22 A Sir, I would -- I think that was about -- they left in  
23 either October or November of 2004.

24 Q And how much rent do you charge for that?

25 A At, at this time when the Riddle's were renting or now?

Diane Farid - Direct examination  
by Mr. Crane

1 Q Both.

2 A I believe the Riddle's were playing, paying \$550. Now  
3 it is renting for \$485.

4 Q And who is getting that money?

5 A I am receiving that money right---

6 Q You're receiving that money?

7 A I'm being paid that rent, yes, sir.

8 Q Okay. Did Mr. Mangal get any of that money?

9 A Sir, I have not had contact with Mr. Mangal for the  
10 last three years, almost three years.

11 Q Your answer would be no?

12 A No, sir, he is not---

13 Q Okay.

14 A ---received any of that rental money.

15 Q Okay. Now, again, prior to -- and, and I say 2004  
16 cause that's when this, these allegations came to light,  
17 isn't it, in June of 2004?

18 A As a matter of fact, sir, it was June 15<sup>th</sup>, 2004,  
19 when my daughter told me.

20 Q I understand that.

21 Prior to that date, and let's again use the date 2004,  
22 were there any obvious signs to you as a mother that  
23 anything wrong was going on with VICTIM?

24 A Sir, I wish with all my heart I could say that I could  
25 go back and seen something when this was going on. But I

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by Mr. Crane

1 have to say that no, sir, I, I missed, I missed the signs.

2 Q Okay. So, from the age of ten until the age of 16 when  
3 she claims that these terrible things were happening to her  
4 in the home with the boys there, you never noticed anything,  
5 isn't that correct?

6 A Are you asking me did I know of sexual abuse?

7 Is that -- are you limiting what you're asking me about  
8 that?

9 Q Yes, ma'am.

10 A Sir, that is what, like I said, even though it's  
11 painful for me to say that as a mother---

12 Q Okay.

13 A ---yes, I am saying that I, I did miss the signs.

14 Q Okay. And in all of those times that VICTIM claims that  
15 this happened, you never found any bed sheets that were  
16 soiled by any type of sexual activities, did you?

17 Yes or no?

18 A Sir, I would say no. I was not, you know, my children  
19 start changing their linens and doing their clothes when  
20 they're -- at an early age.

21 Q And you never found any signs of clothing that she  
22 would have worn that were soiled, either bloody or soiled  
23 because of sexual problems, did you?

24 A Like I said, sir, my daughter and my sons started doing  
25 their laundry at an early age.

Diane Farid - Direct examination  
by Mr. Crane

1           If I ever seen, if I ever seen blood on her underwear,  
2 is that what you're asking me?

3           Yes, I have.

4 Q       Okay. But yet, she started her period at the age of  
5 nine?

6 A       Yes, sir.

7 Q       Okay.

8 A       So, I would of attributed it to that, sir.

9 Q       Okay. In early January of 2004, did Mr. Mangal take a  
10 trip?

11 A       I believe he visited his brothers in Germany at that  
12 time.

13 Q       Do you want to say you believe or do you know that he  
14 took a trip to Germany and visited his brother and sister?

15 A       Sir, he visited his brothers, and yes, I'm, I'm  
16 remembering his sister in 2004, January, yes, sir, he did  
17 take a trip then.

18 Q       And he left the United States of America, didn't he, to  
19 do that?

20           He went to Germany?

21 A       Yes, sir, his brothers---

22 Q       Okay.

23 A       Both of his brothers do reside in Germany.

24 Q       Okay. And how many weeks was he gone?

25 A       Sir, I think it was a period of four weeks.

Diane Farid - Direct examination  
by Mr. Crane

1 Q Do you remember who, who it is that took him to the  
2 airport to see him off to go to Germany?

3 A I would of taken him to the airport---

4 Q Do you recall---

5 A ---I believe.

6 Q I'm sorry. Go ahead.

7 A I believe I would of taken him to the airport.

8 Q Do you recall---

9 A I know, I know for a fact that I picked him up from the  
10 airport.

11 Q All right. Was VICTIM with you when you took him to the  
12 airport?

13 A Sir, I don't remember if she was with me.

14 Q All right. Was VICTIM with you when you picked him up  
15 from the airport?

16 A I don't remember that either. I --.

17 Q Where were you working in January of 2004?

18 A I would of been working at Raynor Garage Doors.

19 Q Okay. Do you know Lisa?

20 A Yes, there is a -- our HR's director's name is Lisa.

21 Q Do you know Rick?

22 A We have several people.

23 Q Wellford or Wofford?

24 A We have an engineer named Rick Wofford that works at  
25 the company, yes, sir.

Diane Farid - Direct examination  
by Mr. Crane

1 Q Okay. Shortly after the return of Mr. Mangal from  
2 Germany, did you have surgery of some kind?

3 A I had neck surgery in the last week of May.

4 Q Prior to or close to the time of your surgery, did you  
5 have an occasion to discuss with Mr. Mangal an affair that  
6 you were having with Rick Wofford?

7 SOLICITOR CRICK: Your Honor, I'm gonna object.

8 May we approach?

9 THE COURT: Yes, sir. Yes, ma'am.

10 (Whereupon, a bench conference was held out of the  
11 hearing of the jury at this time.)

12 THE COURT: All right. Ladies and gentlemen, we're  
13 just -- we're gonna have to take this matter up outside of  
14 your presence. So, if you would not have any -- please do  
15 not have any discussion among yourselves and please retire  
16 back to the jury deliberation room.

17 (Whereupon, the following takes place outside the  
18 presence of the jury.)

19 THE COURT: Yes, ma'am.

20 SOLICITOR CRICK: Your Honor, I have not heard of this  
21 before this moment obviously.

22 THE COURT: I believe that under the, that as part of  
23 his defense he's not required to give it to you, ma'am.

24 SOLICITOR CRICK: I understand, Your Honor. I'm  
25 saying---

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by Mr. Crane

1 THE COURT: All right. Now go ahead.

2 SOLICITOR CRICK: ---I did not expect it to research it  
3 to find out what evidence he has this occurred. I'm not  
4 aware of any. It's my understanding that the divorce was  
5 sought by the witness who's on the stand, and there was  
6 nothing alleged about adultery or anything or no finding of  
7 adultery whatsoever.

8 This is absolutely not relevant to whether or not this  
9 child was sexually assaulted and abused by her father. The  
10 only reason it's coming in or that he wants it in is to make  
11 her look like a bad person. So, we would object on the  
12 basis of relevance.

13 THE COURT: She says it's not relevant.

14 MR. CRANE: Well, you know, judge, I have two thoughts  
15 here. If it didn't happen, then they shouldn't object and  
16 she can just say no. If it did happen, then it goes to our  
17 theory of the case. It is called motive, motive, motive for  
18 this lady and that lady to get together to try to get him  
19 arrested and put in jail for the rest of his life, which is  
20 what they've done to this point, and I think we have the  
21 right to bring this out.

22 If she didn't have the affair she can say no. If she  
23 had it, then we need to find out, the jury needs to know  
24 about it, and it is one of the reasons why she and her got  
25 together and concocted this scheme to have him arrested and

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by Mr. Crane

1 put in jail. And that's where we're going with this.

2 THE COURT: What was the -- can you read me back the  
3 question that he asked?

4 MR. CRANE: I asked her isn't it true you had an affair  
5 with Rick Wofford.

6 THE COURT: I would like for the court reporter---

7 MR. CRANE: I'm sorry.

8 THE COURT: ---to read the question back to me.

9 MR. CRANE: Trying to save her time.

10 THE COURT: Thank you, ma'am, sir.

11 COURT REPORTER: Prior to -- excuse me. Prior to or  
12 close to the time of your surgery, did you have an occasion  
13 to discuss with Mr. Mangal an affair that you were having  
14 with Rick Wofford.

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

16 Anything else from the State?

17 SOLICITOR CRICK: Your Honor, other than she -- the  
18 person that made the allegation and came forward is VICTIM,  
19 which had nothing to do with any affair. I mean we've heard  
20 several things, that the motive was she got in trouble at  
21 school, the motive was something else, and now suddenly the  
22 motive is there's an affair going on or alleged affair.  
23 Again, I would just argue that it's not relevant, Your  
24 Honor.

25 THE COURT: All right. I would probably allow her to

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by Mr. Crane

1 answer the question that has been asked. But I am not, I  
2 tend to agree with the State that we're running pretty far  
3 afield as to really what the issues are that we're actually  
4 here to try.

5 I know we've heard a lot about the, about your theory.  
6 But we're gonna need to have a lot more if you intend for me  
7 to allow you to go very far with this theory that outside of  
8 just the, the alleged victim in this case. You're gonna  
9 need to get more into evidence than what you have so far.

10 MR. CRANE: Thank you, judge. I will try to do that.  
11 You know, but you say we're getting afar from what we're  
12 here to prove. We're here to prove whether or not that  
13 young lady over there is telling lies, and I can't do that  
14 unless I can show the character and the motive and the  
15 reason for these two to lie.

16 You'll see in a moment that the story, the story that  
17 was given at the doctor is inconsistent with each other, and  
18 that's gonna come out in a moment. So, maybe that will help  
19 you out. But I'll be -- she can answer that question and  
20 then we can go from there and that will be fine.

21 SOLICITOR CRICK: Your Honor, the only other thing I  
22 would say is he's saying her motive to lie. She has nothing  
23 to do with the conversation. I'm assuming she was not part  
24 of the conversation about her mother's alleged affair.

25 So, that has nothing to do with her motive to lie.

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by Mr. Crane

1 Nothing whatsoever.

2 THE COURT: All right. All right. I'm gonna allow her  
3 to answer the question that has been asked.

4 All right. Anything else before we bring the jury  
5 back?

6 SOLICITOR CRICK: Not from the State, Your Honor.

7 MR. CRANE: No, sir.

8 THE COURT: All right. I'm going to allow the question  
9 to be answered. I believe that the probative value -- I  
10 think the prejudicial effect is gonna be relatively minimal.  
11 As of this stage, the, the probative value also may be  
12 minimal as well when it comes to probative value to the  
13 defense. We'll err on allowing him the opportunity to  
14 present a complete defense.

15 You may bring the jury back.

16 MR. CRANE: Can we ask her to read the question back or  
17 do you want me just to try and rephrase it again?

18 THE COURT: Try and get the question from the court  
19 reporter.

20 You want to come up here and ask her?

21 (The following takes place within the presence of the  
22 jury.)

23 CONTINUED DIRECT EXAMINATION

24 BY MR. CRANE:

25 Q Mrs. Farid, I will try to rephrase, to rephrase the

Diane Farid - Direct examination  
by Mr. Crane

1 question as close to the way I did a moment ago.

2 The question was prior to or close to the time of your  
3 surgery did you have an occasion to discuss with Mr. Mangal  
4 an affair that you were having with Mr. Rick Wofford?

5 A Sir, I would not have that occasion because what you're  
6 saying is not true.

7 Q So, you're saying you did not have such a conversation?

8 A I did not have such a conversation and I have not had  
9 an affair with Mr. Rick Wofford or anyone else. I have been  
10 married to Mr. Mangal since 1985 as I indicated, and I do  
11 not have a problem saying to date that since that day that  
12 is the only, only man that I have had any kind of sexual  
13 contact with.

14 Q Okay. Thank you, ma'am.

15 Now, let's get to June 15<sup>th</sup> of 2004, and I believe on  
16 that particular day did you have a doctor's appointment?

17 A Yes, sir, I did.

18 Q And was that for your neck surgery?

19 A Yes, sir, it was.

20 Q And who took you to the appointment?

21 A I was not able to drive yet. So, VICTIM<sub>1</sub> took me to my  
22 doctor's appointment.

23 Q Okay. Was it an early appointment or afternoon or when  
24 was it?

25 A It was a morning appointment.

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by Mr. Crane

1 Q And what happened when you got to the appointment?

2 A On the way to the appointment I noticed, noticed that  
3 VICTIM, was very distraught and very anxiety and she seemed  
4 upset and I asked her why she was upset. And she told me  
5 that she would tell me later. You know, I'll talk to you  
6 later, mom, you know, talk to you later, you know. And, and  
7 I questioned her because she seemed so upset.

8 And she told me that it had something to do with her  
9 dad. And I asked her if she was upset because her dad had  
10 been screaming at her brother the night before and she said  
11 no, mom, it's something more than that, it's something  
12 major, it's something that's gonna change all of our lives.  
13 And I'm like well, go ahead, just go ahead and tell me,  
14 VICTIM, please just go ahead and tell me. And she finally,  
15 finally was able to confide in me that her father had been  
16 molesting her since she was ten.

17 Q What did she tell you he did?

18 A Sir, I have -- when you find out something like of this  
19 nature, that your child has being violated, I mean what  
20 could she say to me?

21 Q That's what I'm asking you.

22 A What could---

23 Q What did she say to you?

24 A I mean I didn't press her for a lot of details. To  
25 this date I'm sure this jury has heard more details of what

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by Mr. Crane

1 happened to her.

2 Q What did you tell the detective she said to you?

3 A That she said that she had been molested.

4 Q Do you recall giving a statement to detectives on that  
5 same date at about two o'clock in the afternoon?

6 A Yes, sir.

7 Q Okay. Can you look at this and tell me if this is a  
8 copy of your statement?

9 A Yes, sir, I will.

10 Sir, that is my handwriting.

11 Q All right.

12 A And that is my signature also.

13 Q Okay. Where I have this read asterisk, would you like  
14 to read that to refresh your memory of what you said to the  
15 detectives?

16 A Would you like for me to read it to the jury or just  
17 read it to myself, sir?

18 Q I'd like for you to read it yourself and then we'll see  
19 if you've got your memory refreshed and then I'll ask you to  
20 read it to the jury.

21 A (Witness complies.)

22 Okay.

23 Q And what did you tell the detectives on the day that  
24 Mr. Mangal was arrested?

25 A On the day that VICTIM--

Diane Farid - Direct examination  
by Mr. Crane

1 Q The day that VICTIM--

2 A I told them---

3 Q ---told you what happened is the day he was arrested  
4 and the day you gave this statement---

5 A Sir?

6 Q And what did you tell the detectives that VICTIMtold  
7 you?

8 A Sir, I'm trying, I'm trying to tell you. Okay. Sir, I  
9 told the detectives, detectives that my daughter said that  
10 she had been molested and that she had -- I -- my  
11 understanding was from this that she had not allowed  
12 penetration even though she had been asked, or oral sex,  
13 even though she had been asked.

14 Q All right. Why don't you just read those couple of  
15 underlined sentences there?

16 A Okay. But she finally told me that her father had  
17 started molesting her sexually when she was ten. I  
18 questioned about details. She said she had not allowed  
19 penetration, full sex even though she had been asked.

20 Q Okay. So that statement given that day to detectives  
21 indicates that you questioned her about details and she told  
22 you then that she had not allowed penetration or oral sex,  
23 isn't that so?

24 A Sir---

25 Q Isn't that what's in the statement?

Diane Farid - Direct examination  
by Mr. Crane

1 A That is what is in the statement and was my  
2 understanding at the time.

3 Q Okay. Now, just as a slight little matter here, did  
4 she tell you that before you went into the doctor or after  
5 you went into the doctor or do you remember?

6 A Sir, I have to say that I don't remember because I was  
7 in a state of dismay and shock.

8 Q Okay.

9 A Okay. I, I -- and I'm not gonna say something I  
10 don't -- if I don't remember, I'm not gonna say.

11 Q Do you recall at a later date giving a videotaped  
12 statement to the detective?

13 A I believe it was later in the month, yes, sir, when I  
14 gave a statement.

15 Q Okay. And in that videotaped statement later in the  
16 month, do you recall saying to the detective that you talked  
17 to VICTIM in the parking lot, she wouldn't tell you, you went  
18 into the doctor, and after going to the doctor you came out  
19 and that's when she told you?

20 Do you recall saying that in the videotape?

21 A Sir, I don't recall saying that. I just know, as I'm  
22 sitting here, and you have, and I'm looking at this, that  
23 she told me before I went into the doctor's office.

24 Q All right.

25 A Yes, sir.

Diane Farid - Direct examination  
by Mr. Crane

1 Q Do you know -- if I showed you the videotape and you  
2 said the other, which would you pick as being the truth?

3 A Sir, I just can tell you that on the day on that  
4 morning my child told me---

5 Q Uh-huh. (Affirmative).

6 A ---that she was being molested by her father---

7 Q Uh-huh. (Affirmative).

8 I simply asked you if I showed you the videotape and it  
9 said you went into the doctor first and then she told you.

10 Which of the two will you choose as being the truth?

11 SOLICITOR CRICK: And Your Honor, I'm gonna object  
12 because I believe she has answered the question.

13 THE COURT: All right. I have not heard an answer.  
14 Go ahead, sir.

15 A Which would I say---

16 Q Which is the truth?

17 See, if you tell the truth, it's easy to say the truth  
18 time and time again.

19 SOLICITOR CRICK: Your Honor, I'm gonna object. If  
20 there's a question---

21 THE COURT: All right. Let him answer, ask a question.

22 Q Is it -- I'll ask a question.

23 Is it easier to tell the truth the same way over and  
24 over and not so easy to tell something that's not true over  
25 and over without getting it confused?

Diane Farid - Direct examination  
by Mr. Crane

1 A Sir, I am telling the truth in what I'm saying to  
2 you---

3 Q Okay.

4 A ---that my child was violated. Okay.

5 Q According to her.

6 A I'm telling---

7 Q According to her.

8 A I am telling you the truth in what I'm saying that my  
9 child was violated.

10 Q According to her.

11 Do you know for a fact she was violated?

12 Do you know for a fact other than what VICTIMtells you  
13 that she was violated?

14 A My daughter has told me -- my child, my child, okay,  
15 has told me---

16 Q I understand that.

17 A ---that she was violated. Okay.

18 MR. CRANE: Judge, if we might, I've got the videotape  
19 and I think I probably would like to play it for this  
20 witness if we can set up a television and we don't need to  
21 do it right at this moment unless you want to. But if she's  
22 not gonna admit that she said that on her statement, then I  
23 think I need to play the tape for her.

24 SOLICITOR CRICK: Your Honor, I just -- I don't know  
25 that she remembers.

Diane Farid - Direct examination  
by Mr. Crane

1 MR. CRANE: Whether she does or not I've asked her---

2 THE COURT: All right. Let's don't argue in front of  
3 the jury.

4 All right. Well, we don't have the equipment set up  
5 now. So, why don't you continue with your questioning  
6 and---

7 MR. CRANE: Okay.

8 THE COURT: ---it might be mechanically impossible for  
9 us to do that.

10 Q Now, around the house, was Mr. Mangal extremely strict  
11 with the children?

12 A Was he strict?

13 Q No, I said extremely strict.

14 A Extremely strict?

15 Q Right.

16 A He was extremely strict, yes, sir.

17 Q Okay. He wouldn't let them talk on the telephone with  
18 friends, isn't that true?

19 A They were not allowed to use the telephone, no, sir,  
20 that's correct.

21 Q Were they allowed to have friends come over?

22 A They were not allowed to have friends come over. I do  
23 recall on perhaps one occasion when there was a study group  
24 that came to our house.

25 Q Were they allowed---

Diane Farid - Direct examination  
by Mr. Crane

1 A A group of girls.

2 Q I'm sorry.

3 A A group of girls, a group of girls that came to our  
4 house to study.

5 Q Okay. Were they allowed to go to the park some block  
6 away from the house?

7 A The park that's like at the end of the other side of  
8 the duplex, yes, sir, they could go to the park. The boys  
9 could.

10 Q By themselves?

11 A The boys, the boys, they could go to park camp and VICTIM  
12 use to go to the park and she would sometimes go to the park  
13 with them, yes.

14 Q To park camp or to the park?

15 A To the park, yes.

16 Q Okay.

17 A I'm just saying where park camp was held.

18 Q Were they very much limited in their outside contact?

19 A Yes, sir, they were limited in their outside contact.

20 They could -- basically they went to school. They could go  
21 to the park occasionally.

22 Q Do you recall talking to Wiley Garrett when he was  
23 doing an assessment?

24 A I remember at the -- you mean at the Children's  
25 Advocacy Center?

Diane Farid - Direct examination  
by Mr. Crane

1 Q Pardon?

2 A At the, at the Children's Advocacy Center?

3 Q Yes, uh-huh.. (Affirmative).

4 A Yes, sir.

5 Q Okay. Do you remember, as part of your conversation  
6 with him -- and let me get his notes here.

7 On July 20<sup>th</sup>, 2004, do you remember telling  
8 Mr. Garrett that VICTIM usually tells the truth?

9 It's in his report.

10 A I believe Mr., Mr. Wiley Garrett asked me did, do your  
11 children lie. I believe that was the question he asked me,  
12 and I said sir, I believe everyone lies. I would say that  
13 my children are, are usually truthful is what I said.

14 Q If it -- all right. If they're usually truthful, does  
15 that not mean that sometimes they're not?

16 A Sir, there's no one I don't think that's always even --  
17 I mean a child or whatever that's -- we all strive to be  
18 truthful. No, sir, I did not say that my children never  
19 lied. No, sir, I did not.

20 Q Do you recall telling Mr. Garrett that the only trouble  
21 that VICTIM had been in at school was the trouble she got into  
22 about the alcohol?

23 A I told him that of recent, that that was the only time  
24 that VICTIM had been in trouble.

25 Q But he asked you had she -- so, you didn't tell him

Diane Farid - Direct examination  
by Mr. Crane

1 about the suspension for oral sex in the locker room, isn't  
2 that true?

3 Did you tell him about the oral sex in the locker room?

4 A Sir, I do not recall talking to him about that.

5 Q Okay. Did he---

6 A Cause he asked me -- I believe he asked me if VICTIM was  
7 in trouble at this time, at the time of, of this arrest, if  
8 she was troubled, you know, a troubled child. And I did  
9 tell him, I did tell him about the episode at school that  
10 had just, you know, that was of recent.

11 Q The, the one for the alcohol?

12 A Yes, sir.

13 Q When did that happen?

14 A The one you're---

15 Q When did that happen?

16 A The one for the alcohol I believe, if I am not  
17 mistaken, would of been the latter part of '03 or early '04.

18 Q Would February of '04 probably be correct?

19 A Yes, sir, like I indicated, it was either latter part  
20 of '03 or early part of '04.

21 Q All right. And so, you're, you're saying today that he  
22 didn't ask you about anything prior to '04 and so you chose  
23 not to tell him about her being suspended for having oral  
24 sex with a guy in the gym, is that right?

25 A Sir, I don't know that he indicated any kind of time---

Diane Farid - Direct examination  
by Mr. Crane

1 Q Okay.

2 A ---frame.

3 Q Do you recall telling Doctor Henderson that there was  
4 no problems at school?

5 She's got that checked on her report.

6 A No, sir, I don't recall telling Doctor Henderson that  
7 there was no problems at school.

8 Q Did Doctor Henderson ask you if there were problems at  
9 school?

10 According to her, she did.

11 SOLICITOR CRICK: Your Honor, if she could just be  
12 allowed to answer the question.

13 THE COURT: All right. Yes, sir, let her answer the  
14 question please.

15 Q Okay. Go ahead.

16 A Sir, I don't recall her asking that question.

17 Q What did Mr. Mangal -- let me rephrase that.

18 What were some of VICTIM's duties around the house?

19 A As I indicated before, VICTIM was responsible for her own  
20 laundry. VICTIM would help me with the laundry. VICTIM was  
21 responsible for doing the dishes. I believe VICTIM was  
22 responsible for sweeping the floor.

23 Q Watching the boys?

24 Was she responsible for watching the boys?

25 A I would say that, yes, that she did, that she did

Diane Farid - Direct examination  
by Mr. Crane

- 1 watch, help watch the boys, yes, sir.
- 2 Q Do you think that Mr. Mangal expected too much of his  
3 children?
- 4 A Do I think he expected too much of them?
- 5 Q That was the question.
- 6 A In the context of, of household duties?
- 7 Q Of their activities or lack thereof, their duties, the  
8 grades they were suppose to make, how they were suppose to  
9 act, how they were suppose to respond to his instructions.  
10 All of that stuff coupled together.
- 11 A I think he expected extremely a lot from them, yes.  
12 Yes, I do.
- 13 Q Extremely what?
- 14 A Extremely a lot. He, he -- a lot. He did expect a  
15 lot.
- 16 Q Okay. And since his removal from the house, have  
17 things been better?
- 18 A As far as --?
- 19 Q Living in the household without him.
- 20 A Sir, is it better for my children to have a safe and  
21 nurturing environment, is that what you're asking me?  
22 Is it better?  
23 Is it---
- 24 Q Is it better---
- 25 A Is it better, is it better for my daughter, you know --

Diane Farid - Direct examination  
by Mr. Crane

1 she's there not to be worried.

2 Q No.

3 Is it better---

4 A Is it, is it -- I'm -- yes, sir. Yes, sir, it is.

5 Q All right. Is it better for VICTIM---

6 A The household, the household -- the question you asked  
7 me, sir, is the household better, yes, sir, the household is  
8 better.

9 Q All right. Is it better for VICTIM, after he leaves the  
10 household, to start smoking, to get a college age boyfriend,  
11 to start staying out late at night, to be kissing on boys in  
12 the front yard, to start drinking?

13 Is all of that better than when Mr. Mangal was there  
14 being as strict as he was?

15 A Sir, the things that you've indicated, as far as things  
16 that my daughter did, no those, those were not better.  
17 Those were bad choices that she made.

18 Q Uh-huh. (Affirmative).

19 A Okay. That -- if you questioned her, would, she would  
20 say that I was not happy about those choices.

21 Q Uh-huh. (Affirmative).

22 I've questioned her.

23 A Okay. I was not happy about her choices.

24 Q As a matter of fact, you told her therapist,  
25 Mrs. Thompson, that you were not happy, didn't you?

Diane Farid - Direct examination  
by Mr. Crane

1 A Sir---

2 SOLICITOR CRICK: Your Honor, if he could just ask  
3 direct questions.

4 THE COURT: All right. Sir, if you would, just --  
5 we're engaging in a little bit of unnecessary batter back  
6 and forth. Ask her a question so we can move along.

7 Q You told Mrs. Thompson you were unhappy about VICTIM  
8 choices, didn't you?

9 A Yes, sir, I did.

10 Q All right. You told Mrs. Thompson that there was a  
11 power struggle between you and VICTIM, didn't you?

12 A Power as far as --?

13 Q Her not wanting to abide by your rules.

14 A As far as her not wanting to abide by rules or being  
15 boundaries that, that we all set for our children, yes, I  
16 did. I did indicate that.

17 Q And you indicated a concern about her self-mutilation,  
18 did you not?

19 A Yes, sir, I did talk to her therapist about that  
20 because I was concerned about that.

21 Q And you talked to her therapist about her, VICTIM's  
22 excessive drinking, did you not?

23 A I did talk to Mrs., Mrs. Loftus I believe about that,  
24 yes, I did.

25 Q Okay. And you talked to Mrs. Loftus about your

Diane Farid - Direct examination  
by Mr. Crane

1 suspicion that VICTIM was using street drugs, did you not?

2 A I talked to her therapist. Because of VICTIM's behavior,  
3 I thought that she was using drugs.

4 Q Okay. And back in 2004, prior to the arrest of  
5 Mr. Mangal, but after the alcohol incident, VICTIM was suppose  
6 to be going to alcohol and drug abuse, wasn't she?

7 A The incident at school, she did what she was suppose to  
8 do. She completed that program. I -- it was ASAP, SAP,  
9 something for school. I'm not sure what the, what the  
10 lettering is and she did complete that.

11 Q As a result of Mr. Mangal being gone from the home, you  
12 two are now divorced, are you not?

13 Are you and he divorced?

14 A As of October of 2006, yes, sir.

15 Q Okay. When you confronted Mr. Mangal on June 15<sup>th</sup> of  
16 '04, what did you accuse him of doing?

17 A I accused him of molesting our daughter.

18 Q And did he respond?

19 When you -- how did you accuse him?

20 What did you do?

21 What kind of -- paint us a picture of what was going  
22 on.

23 Where was he when you got home?

24 A He would of been in the living room.

25 Q What was he doing?

Diane Farid - Direct examination  
by Mr. Crane

1 A In -- I believe he was, he was sitting in the living  
2 room.

3 Q Was he watching TV?

4 A I believe he was watching TV.

5 Q Okay. And when you came in, what did you do?

6 Did you leave the TV on, did you turn it off, did you  
7 say something to him or what happened next?

8 A I went, I went into the restroom, went into the  
9 bathroom. He asked me where I had been because I had been  
10 gone longer than he anticipated and then I went into the  
11 bathroom, and I told him I would be back in a minute to talk  
12 to him.

13 Q Okay. When you came back out, is that when you  
14 confronted him?

15 A Yes, sir.

16 Q And you said you've been molesting our daughter?

17 A He asked me -- he said, you know, where the hell have  
18 you been, and, you know, why did it take you so long, and  
19 where's VICTIM. And I, and I said I told you if you'll just  
20 give me a minute, I'll tell you. And I told him that I had  
21 a talk with VICTIM, and that she told me that he had been  
22 molesting her for, since she was ten.

23 Q And how did he react?

24 A He got this like really strange look on his face and  
25 then he blurted out, you know, she's lying, that little

Diane Farid - Direct examination  
by Mr. Crane

1 slut's lying, she's making trouble.

2 Q Okay. So, he denied it, right?

3 A Yes, sir, he did deny it.

4 Q And he said she was lying from the very start when you  
5 confronted him?

6 A Sir, he told me that she was lying, yes. I answered  
7 yes, sir.

8 Q Okay. And what did you ask him to do after that?

9 A Sir, under the circumstances I told him that I  
10 couldn't, I could not, could not be under the same roof and  
11 his children couldn't be under the same roof with him and  
12 that I just, I just needed him gone, just need him gone.

13 Q Now, where did you suggest that he go?

14 A I don't know if I just suggested, what I suggested. I  
15 may have said I don't care where you go, just go, go to your  
16 brother, go wherever you want to, just go.

17 Q Where is his brothers?

18 A His brothers are in Germany.

19 Q So, you suggested that he go to Germany?

20 A I didn't suggest that. I just told him I could not,  
21 under the circumstances, sir, I could not have him, I could  
22 not be under the roof, the same roof with him.

23 Q I understand that.

24 So, you confronted Mr. Mangal, he denied it, you told  
25 him he had to leave, and what did he say next?

Diane Farid - Direct examination  
by Mr. Crane

- 1 A He said that he, that she was -- I will make her say  
2 she's lying.
- 3 Q Uh-huh. (Affirmative).
- 4 And he wouldn't leave, would he?
- 5 A Well, sir, I don't know because the police, the police  
6 came soon after that. I mean---
- 7 Q Didn't he say he wasn't gonna go anywhere?
- 8 A I would of expected him to say he wasn't going to go  
9 anywhere.
- 10 Q Okay. Didn't he say that she was killing his soul?
- 11 A I don't recall him saying something about her killing  
12 his soul.
- 13 Q Do you recall, some time after the arrest, taking a  
14 safe deposit box with money and a title in it for  
15 Mr. Mangal?
- 16 A I, I was Court ordered to -- there was a safety box in  
17 the house, and I, I was told to bring it to the Clerk of  
18 Court.
- 19 Q Uh-huh. (Affirmative).
- 20 A And I did, and I did so.
- 21 Q Did VICTIM get upset about that?
- 22 A No, sir.
- 23 Q You sure?
- 24 A Sir, I don't even think VICTIM was there.
- 25 Q I didn't say whether she was there. I asked if she got

Diane Farid - Direct examination  
by Mr. Crane

1 upset about you taking the safe deposit box with the money  
2 and the title away.

3 A Sir, I don't recall her being upset about it.

4 Q What all was in the box when Mr. Mangal was arrested?

5 A There would of been titles to three vehicles in there.

6 Q Uh-huh. (Affirmative).

7 Q And how much money?

8 A There was cash in there. I don't know how much cash  
9 was in there.

10 Q Well, how much do you suspect was in there?

11 A Sir, I don't know how much was in there. The Clerk of  
12 Court looked. I don't know.

13 Q Did you take any money out of that box prior to turning  
14 it over to the Clerk of Court?

15 A Sir, I -- I'll tell you what I took from the box. I  
16 will tell everyone what I took from that box. I took the  
17 title to the vehicle that I drive and I drive my children  
18 around in.

19 Okay. The deed to our house was in there, and I --  
20 that was removed from the time he left until the time it was  
21 requested.

22 Q My question was did you take any cash out of the box?

23 A Sir, I'm not -- why would I have reason to take cash  
24 from the box?

25 Q Because you were strapped for money just like you are

Diane Farid - Direct examination  
by Mr. Crane

1 now.

2 Did you take cash out of that box?

3 A Sir, I did not take cash from a box.

4 Q All right.

5 A There was cash in the box when I turned it over to the  
6 Clerk of Court.

7 Q \$700.

8 A I believe that's what was on the inventory. I don't  
9 know.

10 Q Okay. Was there not---

11 A There was---

12 Q ---\$6,000 in there when you found that box?

13 A No, sir, there was not.

14 If there was \$700 when I gave it to the Clerk of Court,  
15 how could there have been \$6,000 in there?

16 Q I'm sorry.

17 What?

18 A I said if there was \$700 in there -- you just told me  
19 it was \$700 in there.

20 Q When it got to the Clerk of Court, which was some time  
21 later after you had the box in your possession.

22 It's very easy to take \$5,300 out of that box, is it  
23 not?

24 A Sir, I, I've already answered and I said no.

25 Q Do you recall---

Diane Farid - Direct examination  
by Mr. Crane

- 1 A I did not take cash.  
2 Why would I do that?
- 3 Q Have you looked at your bank records recently?  
4 A I look at my bank records.  
5 Q Your bank records start at the beginning of the month  
6 with about \$75 in it and end at the end of the month with  
7 \$75, does it not?  
8 I've seen your bank records.  
9 Isn't that how your bank records go?
- 10 A Some months, yes, sir.  
11 Q Okay. And so, \$5,300 would do a lot to help you, would  
12 it not?  
13 That's why you would take the money, isn't it?
- 14 A Sir, I've already answered that. I'm not -- I don't  
15 take, I don't take things that don't belong to me.  
16 Q Do you recall whether or not VICTIM ever complained about  
17 rectal pain or vaginal pain prior to the arrest of  
18 Mr. Mangal?  
19 A As I indicated before, VICTIM had a lot, a lot of pain  
20 and discomfort.  
21 Q During her periods?  
22 A During her periods, in-between her periods, she had a  
23 lot of pain. But I would say mostly during periods.  
24 Q Okay. At some time during this investigation were you  
25 asked to give a description of Mr. Mangal's penis?

Diane Farid - Direct examination  
by Mr. Crane

- 1 A Yes, sir, I was.
- 2 Q Did you give said description?
- 3 A Yes, sir, I did.
- 4 Q Did you draw a picture for all to see?
- 5 A Sir, I was requested to draw the picture and, yes, sir,  
6 I did.
- 7 Q And did you place any markings on his penis?
- 8 A Yes, sir, I did.
- 9 Q And what type of marking did you place on your picture  
10 on his penis?
- 11 A As far as location or what?
- 12 Q I asked what type of marking.  
13 Was it a mole, was it a freckle, or what did you say  
14 was on his penis?
- 15 A It was a dark marking. It could of -- you can say it's  
16 a mole. You can say it's a freckle. I don't know how  
17 you---
- 18 Q And where was it?  
19 Where was it?
- 20 A Mr. Mangal is circumcised. So, the---
- 21 Q On the head of the penis?
- 22 A Yes, sir.
- 23 Q Okay.
- 24 A Yes, sir.
- 25 Q There's no -- you, you didn't place any marking on the

Diane Farid - Direct examination  
by Mr. Crane

- 1 shaft of his penis, did you?
- 2 A No, sir, I don't think I did.
- 3 Q All right. Let me ask if you can identify this.
- 4 A Okay.
- 5 Q I asked can you identify this.
- 6 A Yes, sir, that, that is my signature.
- 7 Q Is that your drawing?
- 8 A Yes, sir, that is.
- 9 Q And you've got a mark on the shaft of the penis and you
- 10 call it a freckle, do you not?
- 11 A That is on the head right there.
- 12 Q I'm, I'm sorry. You're right. You're right.
- 13 Mena said it was on the shaft. Yours says it's on the
- 14 head and you call it a freckle, correct?
- 15 Is that right?
- 16 A That's right, yes, sir.
- 17 Q Okay.
- 18 A That's what it indicates, yes, sir.
- 19 MR. CRANE: Like to move this into evidence, judge.
- 20 SOLICITOR CRICK: No objection, Your Honor.
- 21 THE COURT: That's -- without objection, that will be
- 22 Defense, Defense 4.
- 23 (Whereupon, the diagram was marked as Defendant's
- 24 Exhibit No 4 and received into evidence at this time.)
- 25 Q The date's on here, is it not, of when you did that?

Diane Farid - Direct examination  
by Mr. Crane

1 A Yes, sir, that would of been when I went in to -- I  
2 think it's---

3 Q Give your video statement?

4 A When I went in with the detective, with Detective  
5 Brewster I believe it was.

6 Q Okay. Dated 6/25/04, is that right?

7 A The day -- the date is 6/25/04.

8 Q Mrs. Farid, was there an incident between the time that  
9 Mr. Mangal returned home and the time he was arrested where  
10 one of the toilets became clogged up?

11 A Sir, I can't say if I recall that.

12 Q Do you recall an incident where a toilet became clogged  
13 up, he plunged it and found a Tampon in the toilet?

14 A Sir, I don't recall that.

15 Q All right.

16 A I do not recall that.

17 Q One moment please, ma'am.

18 (Pause.)

19 Q Okay. Thank you, sir. No other questions at this  
20 time.

21 THE COURT: Thank you, sir.

22 Yes, ma'am.

23 SOLICITOR CRICK: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY SOLICITOR CRICK:

Diane Farid - Cross-examination  
by Solicitor Crick

1 Q Ma'am, can you tell the jury again how you know the  
2 defendant?

3 A How I know the defendant?

4 Q How do you know him?

5 A I, I was married to Mr. Mangal from March of 1985 until  
6 October of 2006.

7 Q So, he was your husband at one point?

8 A Yes, sir.

9 Q And you're divorced now?

10 A We are divorced waiting final asset division.

11 Q Still some remaining things out there, but for the most  
12 part---

13 A Yes, sir.

14 Q ---it's ended?

15 A Yes, ma'am.

16 Q And you filed for divorce?

17 A Yes, ma'am, I did.

18 Q Okay. And you have three children you said.

19 What are their names, all of them?

20 A My daughter's name is VICTIM. My oldest son's name is  
21 Rashan. My youngest son's name is Mateen.

22 Q And when they were really young, you worked for a  
23 period and then didn't work for a period?

24 Is that what you were saying?

25 A I worked when VICTIM -- after I graduated from college --

Diane Farid - Cross-examination  
by Solicitor Crick

1 like I indicated, I was in college when VICTIM was born.

2 After I graduated from college, in 1988, I worked from 1988  
3 until Rashan would of been almost -- no, he would of been  
4 one. He would of been one at the time. So, that would of  
5 been 1992.

6 Q And did you quit working for a period of time?

7 A When I lost that, my job was eliminated, made a  
8 decision for me to stay home, and then Mateen was born about  
9 two, two years, ten months later. And so, I didn't work  
10 from the time that Rashan was one until Mateen was about  
11 eighteen months, two years.

12 Q Okay. And VICTIM would of been a little bitty girl at  
13 that time?

14 A Yeah.

15 Q And when did you -- well, did you go back to work after  
16 that?

17 I think you said you did..

18 A Yes, ma'am, I did go back to work.

19 Q Do you remember when that was by chance?

20 A I worked like contracting job, part times jobs, but  
21 actually going back full-time, I had one job that would, it  
22 was 32 hours that I had started in 1997, and then I started  
23 working full-time in February of 1998.

24 Q So, the first time you went back to work full-time was  
25 in February of 1998, is that---

Diane Farid - Cross-examination  
by Solicitor Crick

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23 working full-time in February of 1998.

24 Q So, the first time you went back to work full-time was  
25 in February of 1998, is that---

Diane Farid - Cross-examination  
by Solicitor Crick

1 A I was, I was working 40 hours prior to that for a few  
2 months. Prior to that I was working about 32 hours per  
3 week.

4 Q Okay. And that's all during the time period when <sup>VICTIM</sup>  
5 was about ten years old when you---

6 A Yes, ma'am.

7 Q ---went back to work full-time?

8 A Yes, ma'am.

9 Q And when you worked, what were your hours?

10 A I would have to be at the office at 8:00 and then I  
11 would routinely leave at 5:00.

12 Q What time would you get home?

13 A I'd say 5:30, 5:45.

14 Q How about the defendant, did he work during that time?

15 A He worked mostly, for the majority -- our early  
16 marriage he worked for several different contractors, and  
17 then he made the decision to start doing construction for  
18 himself.

19 Q So, he was self-employed after that?

20 A Yes, ma'am.

21 Q How about his work hours, what were those like?

22 A Those were any hours that he saw fit to work.

23 Q So, they were flexible hours?

24 A Yes. Yes, ma'am, that would of been better for me to  
25 say they were flexible.

Diane Farid - Cross-examination  
by Solicitor Crick

1 Q Did he have a constant employment when he was  
2 self-employed?

3 A For periods of time he would have, you know, a good bit  
4 of business. And other periods -- of course, I guess that's  
5 just with construction. Sometimes it's not, you know---

6 Q Was business good for him?

7 A I'd have to say in the beginning when he started  
8 opening his company he was doing, he was doing fine. He  
9 really was.

10 Q Did that change at any point?

11 A As time progressed he worked less and less.

12 Q So, his hours would be less and less as time  
13 progressed?

14 A Yes.

15 Q And who picked up the boys from school or how would  
16 they get home is a better question to ask?

17 A The boys really routinely rode the bus home.

18 Q How about VICTIM?

19 A From the time VICTIM was in Junior High School her father  
20 would pick her up.

21 Q And whose choice was that?

22 A That was---

23 Q Who decided that?

24 A That was his choice.

25 Q So, he would pick her up from school.

Diane Farid - Cross-examination  
by Solicitor Crick

1 Do you know about, about what time school would end?

2 A I think it's about 3:10.

3 Q And so, from 3:10 until you came home he would take  
4 care of the children?

5 A He would be in the house with the children unless he  
6 had something that, something he had to go back out and do.

7 Q How would you describe VICTIM when she was a small child  
8 as far as her personality and I mean a little child?

9 A VICTIM was the most sweet, and loving, adorable little,  
10 girl I had ever seen.

11 Q And as far as her personality, you said she was loving?

12 A Yes, ma'am.

13 Q Did you have a good relationship with her when she was  
14 little?

15 A Yes, ma'am.

16 Q Did that change at any point?

17 A When VICTIM was I would say about eleven --

18 Q Uh-huh. (Affirmative).

19 A -- she became distant from me.

20 Q Her personality changed a little bit?

21 A Yes, ma'am.

22 Q Did you attribute that to anything that may of been  
23 going on with her at the time?

24 A Well, I know that a lot of people don't believe in, you  
25 know, PMS and, but I do. I thought it, most of it was

Diane Farid - Cross-examination  
by Solicitor Crick

1 hormones, hormonal. And besides, I mean, as your children  
2 get older, sometimes I mean it's normal for them to be  
3 cycling away from you and trying to get, you know -- it's  
4 just normal for them to start to getting some sense of  
5 independence.

6 Q And is this about the time -- I know you testified a  
7 little earlier that she had started her period early like at  
8 the age of nine?

9 A Yes, ma'am, she started her period about age nine.

10 Q And is that what you mean by you thought that some of  
11 that change was hormonal?

12 A Yes, ma'am.

13 Q Around that period, time period---

14 A Yes, ma'am.

15 Q ---you're talking about?

16 Now, you said you went with her to the OB-GYN.

17 Was that for the periods?

18 A It was because she was having difficult periods, yes,  
19 ma'am.

20 Q Painful periods?

21 A Yes, ma'am.

22 Q Did they always do a pelvic exam on her when she came  
23 in?

24 A I don't, I don't think they did.

25 Q And were you the one that would take her to the

Diane Farid - Cross-examination  
by Solicitor Crick

1 gynecologist?

2 A I routinely took all the children to the doctor's  
3 appointments.

4 Q So, you would of been there with her while she was at  
5 the doctor?

6 A I would of taken her to the doctor, yes.

7 Q Who did the disciplining in your house?

8 A As far as disciplining, I mean I would say -- the  
9 majority I would say that Mr. Mangal did it, most of the  
10 disciplining. I did some of the disciplining---

11 Q And when you---

12 A ---while he was there.

13 Q I apologize.

14 A I said while he -- the period he was there, he did most  
15 of it.

16 Q And after he left was when you kind of took over?

17 A Yes, ma'am.

18 Q While he was there, how did he discipline the children?  
19 What methods would he use?

20 A I have seen him punch, I've seen him slap, and I have  
21 seen him hit, you know, and I've seen him kick.

22 Q So, when you actually saw this, was it done out in the  
23 open in your home?

24 A It hurts me to the depths of my heart to have to sit  
25 here and admit that, yes, I saw him do these things to my

Diane Farid - Cross-examination  
by Solicitor Crick

1 children. Yes, out in the open.

2 Q Did you hear him call your children names?

3 A Yes, ma'am.

4 Q What were those names?

5 A VICTIM was called a whore. She was called a slut. Boys  
6 were called bastards.

7 And can I just say SOB?

8 Q Yes, ma'am, you can.

9 Ma'am, why did you not report that physical abuse to  
10 the authorities?

11 A Cause I was afraid.

12 Q Why?

13 A I was afraid because Mr. Mangal has promised me if I  
14 ever had told anybody about what went on in our house, if I  
15 ever tried to stand up for my children as far as taking them  
16 from the abuse --

17 Q Uh-huh. (Affirmative).

18 A -- he promised me that he would rather see their dead  
19 bodies laying out in front of him.

20 Q Ma'am?

21 A That he'd take care of his children, take care of the  
22 children, he promised me that.

23 Q So, the reason you didn't report it was fear?

24 A Yes, ma'am.

25 Q Was he physically abusive to you, ma'am?

Diane Farid - Cross-examination  
by Solicitor Crick

1 A Yes, ma'am.

2 Q When he disciplined the children, did he do it, do it  
3 right then wherever the incident happened?

4 A I would say yes, it didn't, it didn't matter where it  
5 was at.

6 Q He wouldn't take them behind a locked closed door to do  
7 the discipline?

8 A No, ma'am.

9 Q Did your bedroom have a lock on it?

10 A That bedroom has, has a lock on it.

11 Q What kind of lock is that?

12 A The keyed lock.

13 Q Did you have a key to it?

14 A The only person who had a key as far as the key chain,  
15 on their key chain was Mr. Mangal.

16 Q Who put that lock on that door?

17 A Mr. Mangal would have.

18 Q Do you know that he put it on the door?

19 A Yes, ma'am, I do.

20 Q Ma'am, he asked you a little bit about your husband's  
21 penis and I apologize. I'm gonna have to ask you something  
22 else about that.

23 You've seen your husband's penis more than one time,  
24 correct?

25 A Yes, ma'am.

Diane Farid - Cross-examination  
by Solicitor Crick

1 Q You had a marriage for about 20, 21 years, is that  
2 correct?

3 A That's correct.

4 Q And you'd be familiar with his genitalia?

5 A I would say yes.

6 Q And other than the mark that you indicated, were there  
7 other marks in his genital area?

8 A Yes, I mean -- I believe in -- I don't know if it's  
9 indicated on the diagram, but I know when I went to give my  
10 statement with the City of Spartanburg that I indicated  
11 there were some other markings maybe on the testicle area  
12 also.

13 Q So, there was an area where there were marks---

14 A Yes.

15 Q ---at least that you recall?

16 A Yes.

17 Q Was your sexual relationship with your husband pretty  
18 consistent throughout your marriage?

19 A No, ma'am.

20 Q And did he have any complaints about that?

21 And I apologize, ma'am.

22 A After having three children, he was not very, very  
23 satisfied with our relationship as far as having a standard,  
24 just standard sexual activity.

25 Q What do you mean by that?

Diane Farid - Cross-examination  
by Solicitor Crick

- 1           Why was he not satisfied?
- 2   A       Because I -- he indicated to me that it was difficult  
3 for him to find pleasure with someone that was, had such an  
4 old and stretched out---
- 5   Q       You don't have to use the word.
- 6   A       Starts with a P.
- 7   Q       Okay. So, what did he want to do to accommodate that  
8 situation?
- 9   A       His preference, his preference would of been anal sex.
- 10   Q       Okay. Did he keep pornographic magazines or tapes in  
11 the house?
- 12   A       I'm aware of a pornographic tape that was in our house,  
13 and I'm aware of a couple of pornographic magazines that  
14 are -- I'd say early, early in our relationship, yes.
- 15   Q       And ma'am, you mentioned that you had had neck surgery  
16 in 2004, is that right?
- 17   A       Yes, ma'am, that's correct.
- 18   Q       Did you stay overnight in the hospital one night?
- 19   A       Yes, ma'am, that's correct.
- 20   Q       And after that, you came home.  
21           Were you medicated?
- 22   A       Yes, ma'am, I was on medication.
- 23   Q       And you stated you remember Rashan getting in trouble  
24 the night before VICTIM told you what had happened.  
25           Do you remember why he got in trouble?

Diane Farid - Cross-examination  
by Solicitor Crick

- 1 A He was getting ice from the door freezer. We have an  
2 ice maker on the door and he was getting ice to put in their  
3 little thermoses to go to park camp the next morning.
- 4 Q And what happened to him?
- 5 A He was kicked and then pushed and, you know, you don't  
6 mess with that ice maker, you're gonna break it. And he  
7 was---
- 8 Q Were you---
- 9 A The baby was just getting ice.
- 10 Q So, there was an argument over that?
- 11 A Well, there, there was a -- yes, ma'am, there was an  
12 argument.
- 13 Q When VICTIM told you what had happened to her, was she in  
14 any kind of trouble at that time?
- 15 A No, she was not in any trouble.
- 16 Q And you were curious that something that had to do with  
17 Rashan, you were referring to the incident with the ice?
- 18 A Yes, ma'am.
- 19 Q She was crying when you talked to her about what had  
20 happened?
- 21 A She was crying, yes.
- 22 Q You demanded that she tell you what had happened?  
23 Is that what you said?
- 24 A Yes, ma'am, and I know I probably, in the state she was  
25 in, shouldn't have been making demands from my child.

Diane Farid - Cross-examination  
by Solicitor Crick

1 Q You did not know at that point, did you, ma'am?

2 A No.

3 Q And when you, when she said she had been molested since  
4 she was ten by her father, I believe Mr. Crane asked you  
5 about one sentence from your report. I'm gonna ask you  
6 about another one.

7 Did she also tell you the act was performed by his  
8 rubbing his penis on her female parts?

9 A I do recall VICTIM saying that, yes.

10 Q So, she did give you all the details at that point?

11 A As I indicated earlier, she did not give me all the  
12 details at that time and I still -- I don't -- I did not  
13 push her to give me details and still do not.

14 Q Was she concerned about your reaction to what she was  
15 telling you?

16 A Oh, God, yes.

17 Q What did she tell you about that?

18 A She was so, so worried and scared that I wasn't gonna  
19 love her anymore.

20 Q Did she ask you that or what did she say?

21 A Yes, she kept on saying mama, do you, do you still love  
22 me. I'm sorry. I'm sorry. She had nothing to be sorry  
23 for.

24 Q She was concerned about your reaction?

25 A Yes.

Diane Farid - Cross-examination  
by Solicitor Crick

1 Q Were you -- did you question her about why she had  
2 waited so long?

3 A Yes, of course. I mean that kept running through my  
4 mind why, why did she not, why did she not come to me.

5 Q And did she tell you why?

6 A She told me she was afraid because he promised to hurt  
7 her brothers and myself if she ever, ever told anybody.

8 Q At that time did you believe what your daughter was  
9 telling you?

10 A Yes, ma'am, I did, and I still do.

11 Q What made you believe her?

12 A Because she's my child.

13 Q Yes, ma'am.

14 A She had no reason, she had no reason to lie about  
15 something like that. She had -- and if anybody could of  
16 seen the level of how distraught she was, the look in her  
17 eyes, the begging, please help me, that's why I believed  
18 her.

19 Q Was she concerned about your safety and going over to  
20 confront him?

21 A Yes, of course she was.

22 Q Was that, was that normal for her?

23 I mean how did she view herself in the family in regard  
24 to --?

25 A Well, I'm sorry. I didn't understand the question you

Diane Farid - Cross-examination  
by Solicitor Crick

1 asked.

2 Q She was concerned -- you said she was concerned about  
3 your safety?

4 A Yes. Yes, she was.

5 Q Was she the kind of child that would normally be  
6 concerned that way?

7 A Yes, she -- VICTIM, for a long time, has always been con,  
8 felt like she was our protector.

9 Q The family's protector?

10 A Yes, she always watched out for her brothers. She, she  
11 would -- she cared.

12 Q And I think Mr. Crane asked you if VICTIM acted out after  
13 he was out of the house.

14 A Yes, ma'am.

15 Q Is that an accurate characterization?

16 A My daughter did, did do things that I disapproved of.  
17 Yes, she did.

18 Q And did she seem happy to you at that point?

19 A No, I said that she was distant when she, you know,  
20 earlier when she was eleven. I'd have to say during this  
21 time I really thought she hated me.

22 SOLICITOR CRICK: Your Honor, at this time---

23 A I'm sorry to have to say that. I really am. But she  
24 did.

25 Q That's okay. That's okay.

Diane Farid - Redirect examination  
by Mr. Crane

1 objection, just stop with what you're saying.

2 WITNESS: I'm very sorry.

3 THE COURT: All right. He's, he's making a follow-up  
4 question.

5 You may go ahead, sir.

6 Q Do you recall whether or not VICTIM told Mr. Mangal about  
7 either one or both of the boys watching the tape?

8 A Sir, I don't, I don't recall. I just know that both  
9 boys -- Rashan had found it. Both boys unfortunately had  
10 viewed it and it was destroyed.

11 Q Okay. One other question asked by the solicitor of you  
12 is whether or not you believe your daughter and you said  
13 yes, is that correct?

14 A That is correct. I do believe my daughter.

15 Q Have you always believed your daughter?

16 A I believe my daughter in this, yes, sir, I do.

17 Q My question was have you always believed your daughter  
18 or has she, in fact, lied to you or you thought she lied to  
19 you in the past?

20 A I have -- as I said earlier, I believe no one can say  
21 that they've never lied.

22 Do I know that she's lied about something?

23 Do I -- do you -- is that the question you're asking?

24 Q Did she tell you of a specific incident in which you  
25 did not believe her that was a pretty serious incident?

Diane Farid - Redirect examination  
by Mr. Crane

1 That's in the medical records.

2 So, that was at four and a half and not two and a half?

3 A Sir, I know, I know VICTIM was two and a half when this  
4 happened.

5 Q And so you---

6 A I know how old she was.

7 Q So, you're saying today that she did not allege that  
8 her uncle had sexually abused her?

9 A She said I don't like Chris, he's bad.

10 Q Uh-huh. (Affirmative).

11 Were you at the Family Court hearing where she, in  
12 fact, said it did occur, but she was ten, but not four?

13 Were you at that hearing?

14 A Sir, I don't, I did not hear my daughter say she was  
15 ten.

16 Q I'll read it to you.

17 SOLICITOR CRICK: Your Honor, I don't know that that's  
18 necessary to go into that. I think the question he was  
19 asking her initially was is there ever a time where your  
20 daughter made an allegation and you did not believe her.  
21 It's obvious in this particular circumstance she, in fact,  
22 did believe her child and that's why she's not had contact  
23 with her brother to this day.

24 THE COURT: All right. All right. Mr. Crane, I  
25 believe that you've protected yourself on the record. I

Diane Farid - Redirect examination  
by Mr. Crane

1 know you're proffering evidence, and that is -- I do view  
2 that that is your right and to do that. If you're going to  
3 supplement it with anything from the Family Court hearing,  
4 you can make the Family Court transcript part of this  
5 proceeding.

6 I mean, Mr. Crane, what I'm hearing is not changing my  
7 mind concerning my prior ruling. I mean any, the remoteness  
8 from the time to this -- well, I still view the time span as  
9 making it too remote to have any real relevance to the  
10 issues in this case compared to the prejudicial effect that,  
11 that it would have on confusing the jury and the issues.  
12 There's so much, you know, concerning so much doubt as to  
13 whether or not that, in fact, occurred.

14 There's a reference in the medical records that says  
15 abuse. It doesn't reference sexual abuse in the record.  
16 She conducted an investigation. She believed her daughter,  
17 she didn't believe her daughter, there was no conclusion as  
18 to if something happened when it was two, two and a half  
19 years old, it's whether or not something did happen, I mean  
20 I just got too many unanswered questions as to these things  
21 that happened, in my opinion, remote to the allegations of  
22 this case to say that I'm gonna allow this in.

23 MR. CRANE: Thank you, judge. I understand.

24 THE COURT: All right. But you're more than happy to,  
25 if you want to make a copy of the Family Court proceeding,

Diane Farid - Redirect examination  
by Mr. Crane

1 which I have not reviewed, on these issues part of the  
2 record in this case, you're more than happy to, to protect  
3 yourself on appeal.

4 MR. CRANE: Thank you, judge.

5 THE COURT: All right. All right. I tell you what,  
6 let's take a break. I hate breaking up her testimony.  
7 Since the jury is already out, let's take our bathroom  
8 breaks right now. Step down for about five minutes or so.

9 Ma'am, I will instruct you that you're not to have any  
10 discussion with anybody about the substance of your  
11 testimony during this break.

12 WITNESS: Yes, sir.

13 THE COURT: Thank you, ma'am.

14 (Whereupon, a short recess was taken at this time.)

15 THE COURT: Anything else before we bring the jury  
16 back?

17 MR. CRANE: No, sir.

18 THE COURT: All right. Let's go ahead and bring the  
19 jury back.

20 (Whereupon, the following takes place within the  
21 presence of the jury.)

22 MR. CRANE: No further questions.

23 THE COURT: All right. The defense has no further  
24 questions of this witness.

25 Any redirect, recross limited to what he went into?

1 SOLICITOR CRICK: No, sir.

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

3 Any reason why the witness can not be excused?

4 SOLICITOR CRICK: No, sir, I think she would remain if  
5 that's okay.

6 MR. CRANE: That's fine.

7 THE COURT: All right. Thank you, ma'am. You may step  
8 down. You're free to leave if you would like.

9 You ready to call your next witness?

10 MR. CRANE: We're gonna call Farid Mangal, judge. I  
11 should of told you that a moment ago and I forgot. I  
12 apologize.

13 THE COURT: All right. Ladies and gentlemen, I've got  
14 to -- give me about five minutes. I've got to take up a  
15 matter of law with the lawyers. I'm gonna need you to  
16 retire back to the jury deliberation, deliberation room.  
17 I'll get you right back out.

18 (Whereupon, the following takes place outside the  
19 presence of the jury.)

20 THE COURT: All right. All right. Mr. Mangal, I'm  
21 gonna need for you to please raise your right hand. The  
22 clerk is gonna swear you in.

23 FARID MANGAL, being first duly  
24 sworn, testified as follows:

25 THE COURT: All right. Mr. Mangal, at this time I'm

1 going to explain to you certain of your rights. If you do  
2 not understand anything that I say, please let me know. If  
3 you want me to explain anything in more detail, please let  
4 me know that as well.

5 Now, do you understand that, sir?

6 DEFENDANT: Yes, sir.

7 THE COURT: All right. Sir, we have now reached the  
8 stage of the trial where you may present your defense. You  
9 have the right to claim the protections given to you by the  
10 Fifth Amendment to the Constitution of the United States.  
11 This amendment, in part, states that no person shall be  
12 compelled in any criminal case to be a witness against  
13 himself. This means that you can not be required to testify  
14 in this case. You have the right to testify on your own  
15 behalf. However, no one can make you testify.

16 This is a personal right and no one can waive this  
17 right except you. If you decide to testify, you will be  
18 subject to the same rules that govern other witnesses and  
19 you may be examined and cross-examined on any relevant issue  
20 in this case.

21 In addition, if you have any convictions involving  
22 dishonesty or false statement or for crimes punishable by  
23 imprisonment for more than one year, and this Court  
24 determines that the probative value of admitting this  
25 evidence outweighs its prejudicial effect to you, the

1 solicitor will be able to introduce your record to attack  
2 your credibility.

3 If you decide to testify, this decision on your part  
4 must be freely, voluntarily, and intellectually made with  
5 knowledge of the protections given to you by the Fifth  
6 Amendment and the consequences of your decision to testify.

7 If you decide not to testify, I will instruct the  
8 jurors that they can not give the fact that you did not  
9 testify any consideration whatsoever and there is to be  
10 absolutely no prejudice to you because you did not testify.  
11 It is left entirely up to you whether or not you testify.  
12 You may talk with your attorney, your family, and friends,  
13 or anyone else. But the final decision will be left  
14 entirely up to you.

15 Now, sir, do you understand what I have just explained  
16 to you?

17 DEFENDANT: Yes, sir.

18 THE COURT: Do you have any questions about what I have  
19 explained to you?

20 DEFENDANT: No, sir.

21 THE COURT: Have you discussed with your lawyer whether  
22 you should or should not testify?

23 DEFENDANT: No, sir.

24 THE COURT: You have not spoken with him about that  
25 subject?

1 DEFENDANT: We did.

2 THE COURT: All right. So, you've spoken with your  
3 attorney about your decision of whether you're gonna testify  
4 or not testify?

5 DEFENDANT: Yes, we did.

6 THE COURT: All right. Do you wish to talk to him  
7 anymore about that issue?

8 DEFENDANT: No, sir.

9 THE COURT: All right. And sir, do you wish to testify  
10 in this case?

11 DEFENDANT: Yeah, I will testify.

12 THE COURT: All right, sir. In order -- are you  
13 presently satisfied with the work your lawyer has given you?

14 DEFENDANT: I am pleased.

15 THE COURT: All right. Has anybody threatened you in  
16 any way or made you any promises in order to get you to make  
17 this decision to testify?

18 DEFENDANT: No, sir.

19 THE COURT: You've made this decision freely and  
20 voluntarily?

21 DEFENDANT: Yes, sir.

22 THE COURT: All right. All right. I will find that  
23 his decision to testify is made freely, voluntarily,  
24 knowingly, and intellectually by him. I find that he has  
25 received the services from a very competent and able legal

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1 counsel, services he has indicated to the Court he's  
2 satisfied with, and has relied on in making the decision  
3 that he has to, to, that he has to testify in this matter.

4 All right. Anything else before we bring the jury  
5 back?

6 MR. CRANE: No, sir.

7 THE COURT: Thank you, sir.

8 All right. Let's bring them back.

9 Mr. Mangal, why don't you come on up and stand right in  
10 front of the jury stand right here. We'll let her swear you  
11 in once they get, get into the courtroom.

12 (Whereupon, the following takes place within the  
13 presence of the jury.)

14 THE COURT: Yes, ma'am, Mrs. Clerk.

15 FARID MANGAL, being first duly  
16 sworn, testified as follows:

17 MR. CRANE: May it please the Court?

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION

20 BY MR. CRANE:

21 Q Would you state your name for us please?

22 A My name is Farid Mangal.

23 Q All right. Mr. Mangal, how old are you?

24 A I'm 49 years old.

25 Q What county do you live in?

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- 1 A Spartanburg City.
- 2 Q Are you married?
- 3 A I was married.
- 4 Q When were you married, sir?
- 5 A In 1984.
- 6 Q All right. How many children do you have?
- 7 A I have three children.
- 8 Q Were you ever married prior to that marriage?
- 9 A No, sir.
- 10 Q Do you, do you work?
- 11 A Yeah, I work.
- 12 Q What?
- 13 A I work, I work construction.
- 14 Q You work construction?
- 15 A Yes, sir.
- 16 Q How long have you been in construction?
- 17 A I been in construction since 1983---
- 18 Q All right.
- 19 A ---or earlier.
- 20 Q And where are you from, sir?
- 21 A I'm originally from Afghanistan.
- 22 Q When did you---
- 23 A Raised and born in Kabul, Afghanistan.
- 24 Q When did you come to the United States?
- 25 A I come to United States in 1982.

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1 Q Are you an American citizen?

2 A Yes, I am.

3 Q Do you recall when you became an American citizen?

4 A 2002.

5 Q When you first came to the United States, where did you  
6 come to?

7 A I spent one night in New York City, and the next day I  
8 was here in Spartanburg.

9 Q So, most of your time in the United States has been  
10 living in Spartanburg?

11 A That's correct, sir.

12 Q When you first came to Spartanburg, with, with whom did  
13 you work?

14 A I begin work first job with John Owens Construction.

15 Q And how long were you with John Owens?

16 A I worked for John Owens for I would say two and a half  
17 years.

18 Q And when you left John Owens, where did you go to work?

19 A I work for Chrisman Parsons.

20 Q All right. For about how long?

21 A I probably say three years.

22 Q And then where?

23 A And then I worked for Jim Brock.

24 Q Okay. And how long were you with him?

25 A I worked long time with him. Probably seven, eight

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- 1 years.
- 2 Q Okay.
- 3 A I was foreman for him.
- 4 Q All right. Did you ever open your own business?
- 5 A Yes, I have my own business.
- 6 Q About how long ago did you open your business?
- 7 A I would say close to ten years.
- 8 Q Were you married to Diane Farid?
- 9 A Yeah, I was married to Diane Farid.
- 10 Q And do you recall where you first met her?
- 11 A Yeah.
- 12 Q Where did you meet her?
- 13 A I met her at Sheraton, Holiday Inn.
- 14 Q All right. And how long did you date her before  
15 marriage?
- 16 A I dated her for mine months.
- 17 Q Okay. Do you recall whether or not she has a family  
18 still living?
- 19 A Her family?
- 20 Q Yes, sir.
- 21 A For the past three years I don't know.
- 22 Q Okay. Okay. So, you haven't had any contact with  
23 Diane in the past three years?
- 24 A No, sir, I haven't had any contact.
- 25 Q Or with your family?

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- 1 A Or my family.
- 2 Q Okay. How about your family, do you have -- are your  
3 parents still alive?
- 4 A I'm not sure.
- 5 Q You don't know?
- 6 A I don't have no contact with them either.
- 7 Q Okay. And how about your brothers, how many brothers  
8 and sisters did you have?
- 9 A I have six brothers including myself and four sisters.
- 10 Q And what do your brothers and sisters do for a living?
- 11 A My oldest brother is a cornearl educated here in the  
12 States. He was a Ranger. And my other brother was a  
13 Lieutenant Colonel. And I have a sister. She's a  
14 librarian. And I have brother is an artist and another  
15 brother is artist. I have a sister. She's a doctor.
- 16 Q A doctor?
- 17 A One of them a doctor.
- 18 Q Okay. And do they all live in Afghanistan or do some  
19 of them live elsewhere?
- 20 A Two of my brother lives in Germany. One of Stuetgard.  
21 Another one in Frankfurt.
- 22 Q Okay.
- 23 A And my sister lives in Moscow.
- 24 Q Okay. And how many children do you have?
- 25 A I have three, three, three children.

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- 1 Q What are their names?
- 2 A VICTIM. Rashan, and Mateen.
- 3 Q And do you love your family?
- 4 A I love my family a lot.
- 5 Q Are you strict with your family?
- 6 A On certain things.
- 7 Q Okay. What type of certain things are you strict on?
- 8 A Well, there's a lot of things I can say.
- 9 Q Well, are you strict around the house.
- 10 A On what circumstances?
- 11 THE COURT: All right.. Sir, if you would, I'm gonna  
12 need you to really lean into that microphone. The lady back  
13 here is a court reporter. I know you're facing the jury.  
14 So, we're having a little bit of problems hearing you. So,  
15 be sure you speak up loud enough so everybody can hear you.
- 16 WITNESS: Yes, sir.
- 17 THE COURT: Thank you, sir.
- 18 Q All right. For example, are there things that you  
19 expect the kids to do around the house?
- 20 A To be polite, be good, respectful to each other, watch  
21 a certain channel, and play peacefully, don't hurt each  
22 other.
- 23 Q All right.
- 24 A Don't break things.
- 25 Q Do you expect them to pick up after themselves?

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- 1 A One of them do picking up on---
- 2 Q Which one picks up after himself?
- 3 A After the others?
- 4 Q Uh-huh. (Affirmative).
- 5 A Rashan.
- 6 Q Okay. And what about VICTIM, when you were living in the  
7 home, what were, what was VICTIM's duties in the house to be?
- 8 A Well, everybody had a little part to do things. I  
9 always vacuum the house myself. I clean their rooms. VICTIM  
10 always clean their rooms. I mean sometimes, Mateen is the  
11 youngest one, was clean the rooms. I mean everybody try to,  
12 try to help. It's part of the, part of the family job.
- 13 Q Did VICTIM help a lot with the housework?
- 14 A VICTIM was doing the dishes. I mean putting the dishes  
15 in the dishwasher and getting out of the dishwasher.
- 16 Q Do you place a high value on education?
- 17 A Yeah, I like to see they have good grades.
- 18 Q And if they get good grades, what do you do, if  
19 anything?
- 20 A I'll give them a reward.
- 21 Q What kind of reward?
- 22 A Sometimes I give them \$10 and the rest of them was like  
23 \$5.
- 24 Q For getting what kind of grade?
- 25 A A's.

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1 Q All right. Do you expect them to do well in school?

2 A Yes, sir.

3 Q Around the house, do you allow, or when you were there,  
4 did you allow friends of theirs to come over?

5 A Certain ones.

6 Q All right. Did you allow your children to go out very  
7 often?

8 A Going out where?

9 Q Just out of the house and go out in the neighborhood  
10 and play around.

11 A Sometimes with certain, certain, certain families.

12 Like Greer's family, that was VICTIM's friend, and she would  
13 go over there to their house to have a birthday or some kind  
14 of party or they come over to our house and spend the night  
15 in our house.

16 Q Did you, did you allow your children to talk socially  
17 on the telephone?

18 In other words, to spend time talking to their friends.

19 A It depends if they have like school problem or  
20 something I let them talk to them or something quick, five  
21 minutes something like that cause we have one phone, and  
22 three kids, that be pretty hard. Plus I have the jobs to  
23 do.

24 Q Did you allow VICTIM to go out at night?

25 A No, sir.

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- 1 Q Did you allow VICTIM to date?
- 2 A We were, we were at a point.
- 3 Q Prior to you leaving the house, did you allow VICTIM to  
4 date?
- 5 A Yes, I did.
- 6 Q Who was she dating?
- 7 A She wasn't -- she decide not to have him. But she, she  
8 asked me for. The guy name was Yanni.
- 9 Q Okay.
- 10 A They have a restaurant.
- 11 Q But, but while living in the house, she did not date  
12 anybody?
- 13 A No. No, sir.
- 14 Q And I believe Yanni's Restaurant is out---
- 15 A Across from our house.
- 16 Q Okay. Towards the mall?
- 17 A Hillcrest.
- 18 Q Okay.
- 19 A Yeah, it's right at the mall.
- 20 Q Did you, in fact, try to set VICTIM up at one time?
- 21 A Yeah, that was a -- one guy was in Germany, his family  
22 was in Florida, his mother and father. He, he was fixing to  
23 come to United States.
- 24 Q Uh-huh. (Affirmative).
- 25 A And he was 25 years old. And when I came back from

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1 Germany, I brought his picture and, and show it to VICTIM if  
2 she interested in the guy and a good family. And she said  
3 no, her school and education is more important to her than  
4 dating the guy and that really made me proud. I said well,  
5 that's very nice and the next day she changed her mind. She  
6 said there's somebody else I interested in, the guy's named  
7 Yanni, and he also tried to help me in my homework and tried  
8 to tell me not to do, not to hang around with the bad guys,  
9 and people do drugs and all, those type of things.

10 She was hanging around the wrong people. VICTIM's a good  
11 girl, and outside, you look at her. She can go easy with  
12 the wrong people.

13 So, we decided to have a chance to go with the Yanni,  
14 and me and Diane sat up too late at night, twice, two nights  
15 in a row, and we talk about it, and talk about it. And  
16 Diane said she decided. Said, yeah, he's good guy and you  
17 gone to Germany, we heard a lot of things about him. And I  
18 said okay, you can have a boyfriend. But boyfriend not, not  
19 crazy.

20 Q Okay.

21 A No going out, out nighttime or doing things like  
22 everybody else doing.

23 Q Okay. Did VICTIM have a car?

24 A VICTIM had a car, a Grand Prix. It was Diane's car, my  
25 wife, my ex-wife.

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- 1 Q And did she have a job outside the home?
- 2 A VICTIM?
- 3 Q Yes.
- 4 A VICTIM had a job.
- 5 Q Okay.
- 6 A VICTIM had a part-time job. When I came from Germany,
- 7 she had a job at the, just -- I can't remember the name of
- 8 it right now. She had a part-time job.
- 9 Q You said a couple times when you came up from Germany.
- 10 I mean did you go to Germany?
- 11 A I went right after Christmas 2004.
- 12 Q All right. And about how long were you there?
- 13 A I stayed there for five weeks.
- 14 Q And what did you go there to do?
- 15 A I talked to my sister and she lives in Germany. She
- 16 was young at that time when I left the country.
- 17 Q She was what?
- 18 A She was young in that time.
- 19 Q Young when you left the country?
- 20 A When I left the country. Yeah, I was 17 years old when
- 21 I left the country. So, she was two years, three years
- 22 younger than me, and I don't see her for that many years.
- 23 Q What would that be, about 20 years or so?
- 24 A Twenty-five years or so. So, she had some heart
- 25 problems, and she was complaining for long time while she

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1 was pregnant. And we were planning to see each other. But  
2 sometimes it's hard to get Visa for their side. On my side  
3 I'm okay because I'm U.S. citizen. I have passport. I can  
4 go to certain countries without Visa.

5 I told my sister if you come halfway and then I come  
6 down then meet you in Germany. Plus I see my brothers, and  
7 plus you. So, for that reason I went to Germany for five  
8 weeks.

9 Q All right. When -- do you recall who took you to the  
10 airport here in the United States?

11 A That was me, Diane, VICTIM, Rashan, and Mateen.

12 Q Okay. And what type of send off did you receive from  
13 VICTIM?

14 A We went altogether at the airport. We eat out there,  
15 and play around, went outside. It was flying from  
16 Greenville Airport to Charlotte, I think it was Columbia,  
17 Atlanta, Georgia. And when we, I was leaving, VICTIM was the  
18 only one really was upset to see me leaving.

19 Q How was she -- what do you mean she was---

20 A She was the only one was crying. I was speaking to  
21 Mateen because Mateen is the youngest, and he had some  
22 health problems, and he's very respectful child, and he's a  
23 very, very, very good kid.

24 Q So, so, when you---

25 A And VICTIM actually the, crying and I looked at her, I

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1 said VICTIM please don't cry cause I'm traveling and that's  
2 not gonna do me any good.

3 Q Okay. And so, when you went to Germany, you stayed  
4 there for about five weeks, and when you returned home, was  
5 VICTIM there to greet you at the airport?

6 A No, sir.

7 Q Where---

8 A VICTIM was not there. Rashan and Diane was at the  
9 airport.

10 Q And where did you see VICTIM?

11 A I came home, VICTIM came out the yard, and we met in the  
12 yard, and give me a hug, and went into -- I tell her let's  
13 go inside. It's cold in here.

14 Q Do you recall whether or not you bought gifts for the  
15 family?

16 A They want electronics, but power is different between  
17 here and Germany. In Germany, electricity is a 220. But  
18 over here it's 110. And they decided to give Play Station 2  
19 here, Rashan and Mateen decided that. And VICTIM wanted a  
20 stereo. And Diane wanted a -- I think I got her a diamond  
21 ring.

22 Q All right. Prior to you leaving in, some time in  
23 January 2004, was there any difficulty that you're aware of  
24 within your home between you and VICTIM?

25 A We had one accident she had at school. That was 19 --

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1 I'll say 2002. I think it was 2002. She had some problems  
2 in school.

3 Q Okay. Well, we've talked about those and I'll get to  
4 those in a moment, but let me, let me see if I can phrase it  
5 this way.

6 Prior to you leaving for Germany, what, how would you  
7 say your relationship was with VICTIM before you went to  
8 Germany?

9 A Fair.

10 Q Okay. She had had some problems at school, had she  
11 not?

12 A That was -- yeah, that was a little, a couple, a year  
13 and a half ago or something.

14 Q All right. And the incident with the alcohol at school  
15 occurred after you came back from Germany, didn't it?

16 A That's correct, sir.

17 Q So, prior to you going to Germany in 2002 is when she  
18 had the suspension for having oral sex with a guy in the  
19 locker room, right?

20 A That's correct.

21 Q And prior to that she had something to do with  
22 sandwiches in the cafeteria?

23 A That's correct.

24 Q All right. Now, when she got suspended for those ten  
25 days for having sex with a guy in the locker room, did you

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1 talk to the principal?

2 A Yeah, I went to the school -- that day, first day I  
3 went over there, day before I go to the school to see the  
4 principal, and most of the time I have to go like 10, 15  
5 minutes early to get space for parking cause most of time  
6 it's very hard to find a spot to park, tried to get close to  
7 the school so that way she can get quicker and I can get to  
8 the job site faster, and that day I was waiting in the car  
9 for her. She came from school and she was not looking too  
10 happy.

11 I mean her makeup was not dried and seemed like she  
12 was, she had some kind of problem and I asked her, I said  
13 everything's okay, you all right, and she said, she made a  
14 remark to people picking on her, she's not from here, she's  
15 from different country, she have a different race, and  
16 calling Bin Laden's daughter or certain things. I looked at  
17 her -- it really hurt me a lot what I'm doing here, what  
18 she's doing here. We don't do nothing wrong to the people.

19 Why we have to be accused for something?

20 We don't do nothing wrong.

21 Q Okay.

22 A And she looked at me, she said, I said just hold your  
23 head up, go to school, do your study, and don't worry about  
24 people. And she turned around, gave me a hug. She said  
25 you're the best daddy in the world.

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1 Q Okay. When did she tell you about the incident at  
2 school?

3 A And then the next day when I go to school I was waiting  
4 for her to pick her up, she don't show up on time. And I  
5 called, asked Diane, why VICTIM's not there and everybody's  
6 gone, I'm still waiting there. She said she a, got quiz or  
7 some kind of test at school. For that reason she's late,  
8 and Diane said she gonna come home from school, go back to  
9 job, and I pick VICTIM up.

10 So, she went back there, picked VICTIM up, and they  
11 called me said the principal want to see me.

12 Q See you?

13 A See me, yeah.

14 Q Okay.

15 A And I went to school. They were kind of -- principal  
16 was not one to tell me directly, tried to tell VICTIM and  
17 Diane let me know some easy way to what's the problem at  
18 school. Not tell me directly, you know.

19 So, VICTIM went to school. So, Greg, the assistant  
20 principal, in the hallway. I mean I really was embarrassed  
21 to walk into the place and everybody kind of watching us and  
22 VICTIM said that he's okay. We let him go. VICTIM told me what  
23 happened at school. That's why they accuse me before.

24 Q All right. So, she told you that she had been accused  
25 of having sex in the locker room, right?

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- 1 A That's right.
- 2 Q And she got a ten day suspension?
- 3 A She got ten days suspension.
- 4 Q Did you say anything to the principal in an attempt to  
5 keep her in school?
- 6 A Yes, I tried to because it was a close time for her  
7 exam. We tried to keep her in school.
- 8 Q All right.
- 9 A And I talked to him and he said that that's the, the  
10 principal, the man principal order. I mean I can't do  
11 anything about that trial.
- 12 Q All right.
- 13 A And I told him, I said, I mean this very important. If  
14 I, if I depend on the school for eight or nine hours, you  
15 better have some kind of discipline or organization to, to  
16 watch over each other. No, I mean child in the classroom  
17 and ends up in, finding them in a, in a locker, I mean I  
18 depend on the school.
- 19 Q All right. As a, as a result of your conversations,  
20 did she, in fact, have to remain out of school?
- 21 A Yeah, but we were going get her books and stuff,  
22 paper---
- 23 Q Y'all did that to---
- 24 A ---for exams.
- 25 Q ---take them to her?

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1 A Exactly.

2 Q I understand.

3 A So that she could---

4 Q That's fine.

5 Now, because of the problems at school, did you try to  
6 enroll her somewhere else?

7 A Say that again.

8 Q Because of the problems she was having at school, did  
9 you make an attempt to get her into a different school?

10 A Yes, I did. I tried to -- I thought it be a lot of  
11 embarrassment for VICTIM to put up with those people from the  
12 school be saying, calling her names or things. You know how  
13 the kids are. I was telling her if you like to go to  
14 Germany, I'd like to send you over to the, to -- Steutgard  
15 has a school called John F. Kennedy High School, and they  
16 have part of it as English and part of it is German.

17 And my brother called. We looked on the Internet, me  
18 and my wife, finally located the place, find the address and  
19 called my brother and said that's the place we tried to get  
20 VICTIM in. And they contact and said it be like, I don't know  
21 how much thousand dollars. It cost quite a bit. But really  
22 we not a rich people. But we were trying to do what was  
23 best for her.

24 And then he said it be six month she become a resident  
25 and she have to learn some Germany to become, you know, to

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- 1 start going to school.
- 2 Q She had to live there six months before she even go to  
3 the school?
- 4 A Exactly. She was wasting one year---
- 5 Q Right.
- 6 A ---you know in school.
- 7 Q So, you chose not to send her?
- 8 A She, she try not to send her. Actually really I got  
9 very disappointed standing in the kitchen and I broke down,  
10 and I said even my own brother can not help me and I did  
11 everything in the world for him.
- 12 Q Okay.
- 13 A And VICTIM came in there. She --.
- 14 Q Go ahead.
- 15 You need any water or anything?
- 16 A Yeah, I'll take a little water.
- 17 Thank you, sir.
- 18 Q VICTIM came in there. Just take your time.
- 19 A Please ask the next question.
- 20 Q Well, when you're ready. Let me know when you're  
21 ready.
- 22 (Pause.)
- 23 Q Can we try it?
- 24 A I'll tell you here. Next question.
- 25 Q Did you love VICTIM?

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1 A I still love her.

2 Q Do you think VICTIM loved you?

3 A I can't tell that.

4 Q I'm sorry?

5 A I don't know.

6 Can I say---

7 Q I'm talking about prior to you going to Germany in  
8 2004, do you believe VICTIM loved you?

9 A Yes.

10 Q Okay. When you returned from Germany in early 2004,  
11 were things the same or were they different?

12 A Things were different.

13 Q How were they different?

14 A It was a lot different.

15 Q Well, tell us.

16 The family had been without you for five weeks.

17 A The five weeks I was not home, things change a lot.

18 Q All right. How did they change?

19 What, what appeared to be different to you?

20 A First of all, when I came to the airport, the way I  
21 feel for Diane---

22 Q For Diane?

23 A Yeah.

24 Q Okay.

25 A I know if somebody gone for five weeks and comes back,

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1 you expect at least a welcome, I love you, a hug, or  
2 something. She was very short and she stayed for me maybe  
3 where you standing, where the, where the luggage come,  
4 conveyor belt. And VICTIM and Rashan was standing there.

5 Q This is at the airport when they picked you up?

6 A Yeah.

7 Q And I'm hearing that you and Rashan were at the luggage  
8 carousel?

9 A Yeah, we picked the luggage from there.

10 Q And where was Diane?

11 A Diane was standing from here where you're standing that  
12 far.

13 Q So, this far away from you?

14 A Yeah.

15 Q Did it appear that she was greeting you as a loving  
16 wife at that time?

17 A Well, she was not really, not really seeing me to come  
18 back from Germany.

19 Q Okay.

20 A She was really not appreciate when I come back.

21 Q Okay.

22 A Put it that way.

23 Q Now, after you returned to the home and having been  
24 there for a while, did there come a time, prior to your  
25 arrest, but after you came back from Germany---

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- 1 A Right.
- 2 Q ---where you caused VICTIM to live in the living room or  
3 dining room, I can't remember which room, but out of her  
4 bedroom?
- 5 A Okay. What happened---
- 6 Q Did you do that?
- 7 A Yeah, I remember.
- 8 Q Did you do that?
- 9 A Yeah, I did.
- 10 Q Okay.
- 11 A I did.
- 12 Q Why did you move her out of her bedroom?
- 13 A Okay. When I was in Germany, there was one storm, snow  
14 storm was here.
- 15 Q Here?
- 16 A Yeah, in Spartanburg.
- 17 Q Okay.
- 18 A We were watching the computer, I mean TV. They talking  
19 about it like---
- 20 Q You were watching it in Germany?
- 21 A Yes, sir, and saying that like was 70 or 80 degrees  
22 temperature here in Spartanburg. And it was real cold,  
23 freezing everybody out there. And when I came back, the  
24 second storm, it was like two days after that storm, storm  
25 and I was sitting there in the living room. I saw VICTIM,

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1 that was like 6:30, maybe later than that, VICTIM, VICTIM went  
2 back in the hallway towards the kitchen and had this bowl of  
3 soup in her hand or whatever we had that night, and I don't  
4 allow my kids to eat in their bedroom. Besides the dining  
5 room or, or a little island just where they gonna eat.

6 Q Okay. And that's one of the rules I was trying to ask  
7 you about earlier.

8 A Correct.

9 Q Okay.

10 A I give them a chance several times, but every time they  
11 break the rule.

12 Q Okay.

13 A They throw food on the floor, cock roaches, and keep on  
14 spraying the house again and again and again.

15 Q Okay.

16 A So, that's why I end up too.

17 Q So, you saw VICTIM go into her room with a bowl of  
18 whatever you were eating that night?

19 A Right. I was watching TV, Dan Rather was on that, that  
20 moment, and I saw VICTIM went across the hall -- there's a  
21 dining room. It's a little hallway going towards their  
22 bedroom and there's a living room. I was sitting on the, on  
23 the love seat and then I saw VICTIM went towards her room.  
24 And she had a, some kind of food in her hand in a bowl. I  
25 don't know what we had that night.

Farid Mangal - Direct examination  
by Mr. Crane

1       And I waited to see the news get, gets off and then I  
2 go to the room. I went to the -- when the news went off, I  
3 went to her room and I knocked, I knocked on her door. I  
4 said what are you doing in here, baby. And she said, first  
5 she said I'm eating and then she said no, I'm changing my  
6 clothes. And I heard some, some guys sounded like in the  
7 background. I said no, she not changing her clothes,  
8 there's somebody in the, in the house.

9       So, this is a -- it's a old lock. They don't have like  
10 the new locks held in pin, push up. It's got a little pin  
11 sticking out on the inside, outside. So, you push that  
12 door, that thing and then the doors kind of opened. But the  
13 doors so old it's hard to open.

14       So, she said that changing her clothes and I waited a  
15 few minutes and I heard the talking there. I opened the  
16 door. She was standing with a shirt up like this in front  
17 of the door. She said I'm changing my clothes. I don't  
18 know if she was putting it on or taking it off or what she  
19 was doing.

20       So, I waited for a second. She put her shirt on. I  
21 walked in. It's really cold and that temperature don't  
22 leave no door, windows, something open to cool, cool the  
23 house and the curtain was moving. And I said why are the  
24 curtain's moving, who is in the house. She said nobody,  
25 nobody, and I heard something outside.

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by Mr. Crane

1           So, I came around, went to the kitchen, and this fellow  
2 came through side of the window. From backyard, there's a  
3 kitchen and my bedroom. There's a gate. It's two gates.  
4 One is in the backyard. One in -- another gate is towards  
5 the front.

6           The front one is for the vehicles. It's two side and  
7 the, the one in the backyard is one single door. So, this  
8 guy came somehow through the backyard, went into her room,  
9 and he was down, going down the driveway, and that's side  
10 for rental.

11           So, I called him, I said what are you doing here, I  
12 said wait for a minute, let me talk to you. I said who are  
13 you. He had a cream jacket on, curly hair, maybe 6', 5'9",  
14 6'.

15 Q       Did you chase him?

16 A       I went so far after him, but it was snow on the ground.  
17 My feet cold. I said, well, I better put some shoes on. I  
18 mean I can't chase him all along you know.

19 Q       And where did he go?

20 A       I came straight back inside and I have the keys in  
21 the -- in-between dining room and the kitchen, there's a  
22 little thing I made all this key hangs on there for my  
23 bedroom, for the cars, for anything I needed cause always  
24 losing keys.

25 Q       Now, wait a minute.

Farid Mangal - Direct examination  
by Mr. Crane

1 Before you go much further, the key to your bedroom  
2 door that we've heard has a lock on it---

3 A Everything. Sir, everything is there.

4 Q Okay.

5 A Everything in my business, the house, the rental, the  
6 rental place, anything you need, those keys all right there  
7 on the side of the door thing.

8 Q Did you follow that fellow?

9 A Yeah, I put my sandal on, went after the fellow, and---

10 Q Where did he go?

11 A There's a third -- there's a Hillcrest Boulevard across  
12 the street. We live on this side of Hillcrest Boulevard in  
13 the corner, and this guy lives on the opposite side the  
14 second house.

15 Q Do you know whose house that is?

16 A That is Powell's family. Powell's family is the guy---

17 Q Well, wait, wait, wait. Let me just ask you this.

18 Is that one of the families that you do not allow the  
19 children to associate with?

20 A Exactly. None of my kids allowed to play with them---

21 Q Okay.

22 A ---or hang around them.

23 Q Okay. And that's all I want you to say about that if  
24 that's, if that's okay with you please.

25 A That's fine.

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by Mr. Crane

1 Q Okay.

2 A That's fine.

3 Q All right. So, as a result of that, is that when you  
4 moved VICTIM into the dining room or where?

5 The dining room or the living room?

6 A VICTIM was in her room. Mateen actually was sleeping in  
7 the dining room.

8 Q Okay.

9 A So, what I did, I told Mateen, I said you stay, stay in  
10 VICTIM's room. Mateen and Rashan have some problems.

11 Q I'm gonna ask about that in a minute.

12 A And then I put VICTIM in Mateen's place.

13 Q Okay.

14 A So, Mateen went in VICTIM's place.

15 Q Okay. And was she still staying in that room when you  
16 were arrested in June?

17 A That's correct. That's right.

18 Q And now Mateen had been in that room, right?

19 A Yeah, Mateen was in her room.

20 Q All right. But, but I, I mean when you moved VICTIM out  
21 of her room into the dining room, Mateen had been living in  
22 the dining room?

23 A That's right.

24 Q And you indicated that's because of problems between  
25 Mateen and Rashan?

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by Mr. Crane

1 A And Rashan, right.

2 Q Does that have anything to do with the videotape we  
3 heard that you broke?

4 A That was part of it.

5 Q Okay. Tell us about this videotape that we heard that  
6 you broke that supposedly was a pornographic tape.

7 Where did that tape come from?

8 A Okay. That was a time VICTIM was going to rehabilitation  
9 and---

10 Q Was going where, sir?

11 A Going to the drug rehabilitation class while she was  
12 called at school and they recommend she have to go to the  
13 class for, in the beginning she said it would be three  
14 weeks, and then four weeks, and then six weeks, eight weeks.

15 Q And that was after you came back from Germany?

16 A That's correct, sir.

17 Q As a result of being caught with alcohol at a school  
18 function?

19 A Right.

20 Q Okay. So, between your return from Germany and your  
21 arrest, VICTIM was going to drug rehabilitation?

22 A That's correct.

23 Q During that time, is that when this tape was located?

24 A The tape, I found the tape when I was cleaning the  
25 attic, next door neighbor, my rental place.

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by Mr. Crane

- 1 Q So, you were cleaning the attic next door?
- 2 A The attic. I find the tape there, I find a ring there,  
3 and actually I brought the ring and give it to Diane, and  
4 sit on my knee and said would you marry me now.
- 5 Q All right.
- 6 A I give her that ring, and it was sort of like a joke,  
7 and then I put the tape in a, in a hall, I mean in a walk-in  
8 closet. So, I put a lot of things where nobody can touch  
9 there I put it in my closet because I don't allow my kids to  
10 go to my bedroom.
- 11 Q And, and did, did you learn that one of the boys was  
12 watching the tape?
- 13 A Yeah, that was the day they brought the, their report  
14 cards from, from school.
- 15 Q Did VICTIM bring hers?
- 16 A VICTIM don't have report cards for both weeks and plus  
17 VICTIM had a problem, one night she was with the Powell's  
18 family standing in the corner.
- 19 Q Is that the boy that you saw---
- 20 A That was the boy---
- 21 Q ---coming out of her room?
- 22 A Exactly.
- 23 Q And that's one of the boys that you didn't want her to  
24 be with?
- 25 A That's right.

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by Mr. Crane

1 Q All right.

2 A And then, and then that -- and she had problems at  
3 school, that, and it was a lot of things---

4 Q I understand.

5 A ---making a lot of things---

6 Q Okay.

7 A ---making a lot of problems for each other.

8 Q How did you learn about the tape?

9 A I was checking their report cards. Whoever gets more  
10 A's gets benefit from them, and you can see sort of it's  
11 good time and sad time. You see some of them get  
12 disappointed and get jealous of each other, and sometimes  
13 someone be happy and walking out with a little money in  
14 their pocket.

15 And VICTIM came in there -- Rashan -- Mateen give me  
16 first his report card and he had straight A's. And always  
17 they make no -- the whole year they go to school no absent  
18 or anything. VICTIM come in there. She saw Mateen got money  
19 and Rashan was kind of not too happy to see because he don't  
20 have too many A's. He was kind of jealous of him, and VICTIM  
21 was in different situation at that point. And---

22 Q She didn't have a report card?

23 A She don't have a report card at that time.

24 Q All right. How did you find out about the tape?

25 A The tape -- and then when I pay Mateen was halfway with

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by Mr. Crane

1 Rashan to tell him like you need to do a little better and  
2 all. He says well, there's a B's and B plus. I said well,  
3 A's better than B pluses. Always I tell them that. They  
4 were kind of disappointed. I said well, my father always  
5 told me the same thing. A's always better than B pluses.

6 So, VICTIM walked in there and brought a tape. She said  
7 daddy, watch what Mateen, Rashan was watching. This tape he  
8 found in the, I find out that he was watching it.

9 Q So, VICTIM gave you that tape?

10 A The tape, yeah. I said what's in the tape. Said that  
11 was sex movie in there.

12 Q All right. And, and what did you do with the tape?

13 A I brought the tape, I said this tape was broken, and  
14 how could the tape got fixed, and I throw it in the trash.

15 Q Okay. Now, did you also, between the time when you  
16 came home from Germany and the time you were arrested,  
17 confront Diane about an affair that you believed she was  
18 having?

19 A That was part of it too, yeah. She, she came from  
20 work. We were working at -- I was working on the garage  
21 that day. That was like, I would say, two weeks before her  
22 operation.

23 Q Okay.

24 A She came from work, I was working on the garage, I came  
25 to the house, and, and we sat in the kitchen. She was

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by Mr. Crane

1 standing in the corner beside the island. I said hey, baby,  
2 I said I don't know that you were home that early.

3 Q She got home early?

4 A She was early that day.

5 Q Okay.

6 A And I'm sorry. That was not that day.

7 Q We were talking about---

8 A Yeah, that day she, she just told me that -- I was in  
9 the bedroom. She told me that human resources told her---

10 Q That's Lisa?

11 A That's Lisa.

12 Q Uh-huh. (Affirmative).

13 A Human resources told her you be shame to yourself  
14 running around with this man talking about Rick Wofford.  
15 That's engineer working in the, in the plant with her, and  
16 they're the two, the only one stayed there for so long.  
17 Every other people get fired or some kind of plan she make  
18 for them anyway.

19 She said well, Lisa told me I'm gonna tell your  
20 husband, you be shamed for yourself for doing this and I'm  
21 gonna call your husband. I mean those conversation I'm  
22 telling you that's from day one when I got arrested. I, I  
23 told a lot of my friends.

24 Q I understand.

25 A It's recorded on the tapes and everything probably.

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by Mr. Crane

- 1 You have the tape of it and the Solicitor's Office do.  
2 So ---.  
3 Q You talking about the tape, the tape recording---  
4 A The tape recording.  
5 Q ---of the telephone calls?  
6 A The telephone calls.  
7 Q Okay.  
8 A That's exactly right. I'm not hiding nothing from  
9 nobody.  
10 Q I understand that.  
11 A I just like you---  
12 Q Did, did Diane discuss with you this affair with Rick  
13 Wofford?  
14 A She said that to me and I know when something wrong.  
15 But I don't say anything to her.  
16 Q All right.  
17 A I said well, it's not a time now to discuss any of  
18 those things. She gonna have surgery.  
19 Q And was your suspicion confirmed by the small thing of  
20 the clogged up toilet?  
21 A That's correct, sir. That was the next week.  
22 Q What happened the next week with the toilet?  
23 A That was the next Friday, I was working on garage.  
24 When I came in she was standing in the kitchen close to the  
25 island, and I asking you home early, you don't say hi, and

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1 all that, and walked to the -- my master bedroom and the  
2 bathroom is back there.

3 I used the bathroom. When I flush the commode, the  
4 commode was clogged. And most of the time Rashan is the  
5 one -- he have just smallest listen to things. When you  
6 tell him not to, you, you will do it regardless of one way  
7 or another.

8 Many time he clog the commode. When he flush the  
9 commode, the water comes under the wall and gets the rug and  
10 everything wet. And when I flush the commode, the commode  
11 was clogged and I called Rashan. Rashan, Mateen, Diane, and  
12 VICTIM, they were standing in the kitchen. I said Rashan, you  
13 clogged the commode again. You throw your tennis shoes in  
14 there again.

15 Q Just joking with him?

16 A Just joking with him. I say you throw your tennis  
17 shoes. I said come here. So, he comes in there, looks in  
18 the commode, said daddy I don't do it. I said I don't know  
19 if you did it or not, but it's clogged up. I said go get me  
20 a plunger.

21 So, he went to the other bathroom, got the plunger, and  
22 commode -- tried to get it open and I see Tampon come out of  
23 there.

24 Q Tampon came out of it?

25 A Yeah, it came right on top of the water.

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by Mr. Crane

- 1 Q All right.
- 2 A And I looked -- VICTIM don't use no Tampon. VICTIM, she --  
3 supposedly she was a virgin.
- 4 Q All right.
- 5 A Because of that time she expect to go -- she not go  
6 into the doctor for that exam for the last -- they have  
7 every year exam for female. Diane and VICTIM both. And they  
8 don't go. VICTIM don't go for that exam that, that time.
- 9 Q All right. Well, what does the Tampon -- how does the  
10 Tampon convince you?
- 11 A The Tampon wasn't in the, in the commode.
- 12 Q Who used the Tampons?
- 13 A Diane did use that Tampon.
- 14 Q When does she use Tampons?
- 15 A She never suppose to use a Tampon because she got  
16 hysterectomy. She don't use no Tampon. Only time she use  
17 Tampon when she have, I mean---
- 18 Q You need to say it.
- 19 A When we have -- well, whatever we have in the bed and  
20 that's, that's when---
- 21 Q When you have sex, she uses a Tampon?
- 22 A Yeah, when we have sex she would have to use a Tampon.
- 23 Q And, and, and with that Tampon being in the toilet, had  
24 you had sex with her that would cause her to use that  
25 Tampon?

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by Mr. Crane

1 A No, sir, sometimes she did that at home. Sometimes.  
2 But most of the time when she come from work I was  
3 complaining a lot about the smell. I'm married. I'm not  
4 single man to trick me to tell me this happened or that  
5 happened.

6 So, I found the Tampon in the commode. I called her.  
7 I said Diane, you need to come see this. I say is that  
8 yours. I said Rashan, I'm sorry, son. I said I know this  
9 not you and Mateen you too. He said I told you, daddy, I  
10 don't do it. I said I know now.

11 I asked her, I said did you put this Tampon in here.  
12 She looked me straight, she said nope, I don't put that in  
13 there. Well, I said, again, probably the kids used it.

14 Q Okay.

15 A Just let it go right there. I said well, time for her  
16 operation. Next week she have operation. Let's not push  
17 anything like that. Just wait for later on and see what we,  
18 what we can find out later on. That -- her stuff is coming  
19 to the house. Nobody following her or no investigation or  
20 anything else.

21 Q All right. And shortly after her operation -- actually  
22 when she was going to the doctor to be reexamined---

23 A She went -- yeah, when -- the next week we went, she  
24 had operation. Me and Mateen stay with her all day, and  
25 that night <sup>VICTIM</sup> and Rashan came back there. And they made

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by Mr. Crane

1 the trouble. I mean even, even if somebody be sick in the  
2 hospital, they still will be making trouble and making all  
3 kind of problems.

4 And that night I send VICTIM and Rashan and Mateen to go  
5 home. They took hour and a half that night. You know, she  
6 not allowed to drive at nighttime.

7 I love my kids. If they are late, I worry about them.  
8 And they were hour or so they were not at home. It's not  
9 five, ten minutes from hospital from my house, and they were  
10 not there.

11 So, the next day went over there, wash Diane's hair,  
12 clean her, all the stuff they had on the operation, and I  
13 brought her home. She don't talk for two days. She sit  
14 there still looking and doing crochets and stuff.

15 VICTIM came to me and said daddy, what's wrong with  
16 Diane. I said I know what's wrong Diane. But I can't say.  
17 Kevin was the same, same thing. He asked me, he said Fred,  
18 what's wrong with you. Kevin is the fellow that next lives  
19 next door. He works for city. Diane said something a while  
20 ago about her. He keep telling me, Fred, he be, she be all  
21 right. We pray for her. This not that big operation.

22 I said well, it is. Sometime it's lost time, they just  
23 little -- but I can not tell this guy my wife have affair.  
24 And he said I go to church, pray for you. I said thank you,  
25 ma'am.

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1 Q Okay.

2 A But I could not tell him. So, what happened then---

3 Q Go ahead.

4 A She had an operation, brought her home. Diane -- VICTIM  
5 was worry about her, why she's not talking. I said why she  
6 not talking. I don't know why she not talking. I said you  
7 go over there and ask her and see if she tell you, and VICTIM  
8 talked to her, and she said uh-huh or no. She take a lot of  
9 Lortabs for pain or whatever problem she have.

10 Q All right. Now, let me ask you, Mr. Mangal, shortly  
11 thereafter, in June, on June 15<sup>th</sup> of '04, you got arrested  
12 for these offenses, did you not?

13 A That's correct.

14 Q Okay.

15 A What happened, I don't, I don't really face her at that  
16 point. I was waiting, let her get finish with the doctor,  
17 go back to work, she was off work for, for I would say six  
18 weeks or something like that---

19 Q Right.

20 A ---for the operation. And she went to, went to the  
21 last exam, went to the doctor. And when she came back from,  
22 from there, she notice I'm gonna face her. If I have  
23 something, I would say it. You like it or not, I will tell  
24 you if it's not right what you did.

25 Q Right.

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1 A And I want to see what's going on there. She went to  
2 doctors that morning. I was working on garage. I had a job  
3 first thing that morning, went there, some real estate  
4 people were selling their houses. I repair their job and  
5 come back home.

6 I was kind of resting, going in and out, stop for a  
7 minute, then go back inside, stop. Finally I decided to go  
8 inside and wait till -- I don't have no breakfast or lunch  
9 waiting for them to come in. We eat together because boy  
10 went to, went to this park, what they call it day camp.  
11 They were in day camp, and VICTIM went with Diane. So, I said  
12 they gonna show up.

13 It was around one o'clock or so and they showed up.  
14 Diane came in. She came in and said that -- I was watching  
15 CNN I believe that morning, and she said -- I asked her, I  
16 said how you doing, what did the doctor said. She said  
17 fine, fine just like that. And she said I'm gonna go use  
18 the bathroom. I said fine, go ahead.

19 She went to the bathroom, came back, and she grabbed  
20 the remote control from my hand, and she cut the TV off, and  
21 looked at me. She said you messing with VICTIM, you  
22 molesting, you molesting VICTIM I looked at her. I said not  
23 again. She said yeah, that's what she was telling me.

24 I said Diane, you know she makes trouble. It's not  
25 true. Don't listen to her. It's not true. So, we were

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1 talking. In the middle of the conversation she said why she  
2 have to lie because she stays here for six months. I said  
3 well, the six month, this argue for that six months to stay  
4 in the house. I give her that six months to finish the  
5 school and get out of this disaster place you in. We pay  
6 for your summer school, two classes you take summer, take  
7 one more in the fall, you done with it, you finished with  
8 high school. Then you go from college, and you can go from  
9 there.

10 Q Tell me -- finish telling about the day of your arrest.

11 A Well, this what we're talking about.

12 Q Okay.

13 A And I said I give her six months for that.

14 Q Okay. But VICTIM wasn't there?

15 A Yeah, she was telling me why she have to give you six  
16 months. She don't give you no six months. I told her stay,  
17 finish the school, and all those things, and then you gonna  
18 be six months in here. If you do good, you go to college  
19 and be no problem, no problem. If you're making all those  
20 problems, you have to leave the house. I was at the point I  
21 was trying to tell her to straight her act or leave. But I  
22 really don't mean that. I was just telling her that.

23 Q How did you react to the accusation that Diane made?

24 A She, she blow my mind.

25 Q What did you say to her?

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1 A VICTIM was doing all those things at the time. Rashan  
2 was doing all those things in the time. Diane did all those  
3 things in the time. And turn around and hit me with  
4 something like this in the top of my head. I don't know  
5 what, what was going on.

6 For past two weeks I know it was something wrong in the  
7 house because they were hanging together, going to the  
8 places, don't tell me good night. For that many years in  
9 that house every night they come hug me and say good night,  
10 daddy. For two weeks those things change. When I go to the  
11 bedroom, VICTIM and Diane be sitting in there till ten  
12 o'clock, twelve o'clock at night. Midnight she not sit in  
13 my room for twelve o'clock at night. She was suppose to be  
14 in her bedroom. 9:30 they go to bed.

15 They would sit till twelve o'clock at night and talk  
16 and laughing about me. So, go over there -- whatever was  
17 going on, they had a plan between VICTIM and Diane was going  
18 on. So, I told her, I said, you, you blowing my mind. I  
19 said you not gonna tell me this. I said it's not a game  
20 because she said things. She said things about Diane's  
21 father. She said things about Diane's brother. She said  
22 things about Rashan. She said things about Mateen. Anytime  
23 she's in trouble there's something out there she have to  
24 accuse someone for it---

25 Q Okay.

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1 A ---to get herself out of it.

2 Q All right. So, you were saying that you did not do it?

3 A I don't do it I said. I don't do none of those things.

4 Q All right.

5 A You don't accuse me for something like that.

6 Q Okay. Now, eventually the police came to the house,  
7 didn't they?

8 A That's correct. The police came to the house.

9 Q And they arrested you?

10 A No, he don't arrest me. He came inside and I said you  
11 have a seat, sir. He said no, I'm not gonna sit. I don't  
12 know what was really going on. But--

13 Q All right. Well, let me rephrase it.

14 As a result of them coming to the house, you were taken  
15 downtown, were you not?

16 A Yeah. No, not that, not that moment. He said fill up  
17 some paper.

18 Q Okay.

19 A And I told Diane, I said it's true, I don't -- I speak  
20 certain languages, many languages. But my handwriting is  
21 not that good. I mean if you learned so many language, it's  
22 hard to read and write. Plus Diane was doing all my  
23 paperwork and reading and writing things she was doing for  
24 me.

25 And I asked her, I said Diane, would you fill out this

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1 form for me. She looked at me in the face and she said you  
2 can read, and you can write, you U.S. citizen. I said  
3 Diane, I know that. But you know I don't write things. The  
4 spelling's all wrong cause I give her one time card. She  
5 was laughing at me, the way it spelled.

6 So, she decided not to fill it out. I told her, I said  
7 officer, you fill it up. He said no, I'm, by the law, I'm  
8 not allowed to sign. So, I need you to fill up your paper,  
9 your statement.

10 So, we were sitting there called, and I said bring VICTIM,  
11 over here and let me talk to her. First they agree with me  
12 and say yeah, we gonna bring VICTIM in here. I said, I said  
13 please, I said, we don't need you over here. We gonna talk.  
14 We discuss it. If we have a problem, we need something, we  
15 call, you come over here. But right now I don't know what's  
16 going on here.

17 So, police officer went outside talking or something  
18 and Diane was turning around telling me and said, Fred, I  
19 want you, I want you to get out of here.

20 Q She said she wanted you to get out of here?

21 A Yeah, she said get out, get out, go to Germany or go to  
22 Afghanistan and she say that statement -- VICTIM say that  
23 statement she made to VICTIM, in a DSS case. If you look back,  
24 we will find it, right.

25 Q Okay.

Farid Mangal - Direct examination  
by Mr. Crane

- 1 A Well, when the things all wrong, you better tell the  
2 truth so everybody know what's going on.
- 3 Q What did you say when she said you need to get out of  
4 here and to Afghanistan?
- 5 A I said my, my loved ones here. I love my kids. That's  
6 my life. I stay here. You not gonna tell you where to go  
7 and---
- 8 Q Do you recall whether or not you made the statement  
9 she's killing my soul?
- 10 A I did say that, yeah. I said you're killing me.
- 11 Q All right. What religion are you?
- 12 A I'm a Muslim.
- 13 Q You have been accused by VICTIM of engaging in some type  
14 of sexual relations since she was ten years old.  
15 Do you understand that?
- 16 A I understand it.
- 17 Q We do not know what dates she says you did that cause  
18 they're not alleged and we haven't heard them in the  
19 testimony.
- 20 A Uh-huh. (Affirmative).
- 21 Q But my question to you, sir---
- 22 A Uh-huh. (Affirmative).
- 23 Q ---would be have you ever laid with her and rubbed your  
24 penis on her anus area?
- 25 A I never would do that and I never looked at my kids

Farid Mangal - Direct examination  
by Mr. Crane

1 that way.

2 Q Have you---

3 A And I had a lot of opportunity outside to do a lot of  
4 things, but all this was put down and I loved my wife at  
5 that time.

6 Q Have you ever laid with VICTIM and rubbed your penis on  
7 her vaginal area?

8 A No, sir, I never do those things.

9 Q Have you ever engaged in anal intercourse, anal sex  
10 with VICTIM ?

11 A That's all absolutely wrong and lies in the things that  
12 are made to put me, get me out of that house, get the house,  
13 and get the money, and get the guy she live with. VICTIM got  
14 her ways. Diane got her ways.

15 Q And you got thrown---

16 A Everything was in the house she got it, the money.

17 Q And you got thrown in jail, right?

18 A Put me in jail. I been there for 33 months. I don't  
19 have nobody out there to help me. Y'all help me or friends  
20 I call. Jim Brock hired Mr. Crane to help me through this  
21 case.

22 Q All right.

23 A I was stuck and my money was in the house. She spend  
24 that money and she sits over here and says there was no  
25 money in there.

Farid Mangal - Direct examination  
by Mr. Crane

1 Q So---

2 A The key was hanging in the house I mean, and she never  
3 allowed to touch that box anyway. But she went and got the  
4 things.

5 Q Okay. Did I hear you say that you've been in jail for  
6 the last 33 months?

7 A Yes, sir, I been in the jail for the last 33 months.

8 Q You never gotten out?

9 SOLICITOR CRICK: Your Honor, I'm gonna object---

10 A No, sir, I never got out.

11 SOLICITOR CRICK: ---to the relevance of that anyway.

12 THE COURT: All right. I'm gonna allow it, but just  
13 proceed, Mr. Crane.

14 MR. CRANE: I will. Thank you, judge.

15 Q What does your religion say about engaging in either  
16 oral sex or anal sex?

17 A Not suppose to do.

18 Q And what is the punishment if you do it?

19 A That is the worst automatically.

20 Q And did you ever engage in anal sex with Diane?

21 A Never done that. Never will do that.

22 Q All right. There have been some allegations that you  
23 have taken VICTIM into your bedroom, her bedroom, the  
24 bathroom, and closed the door and engaged in sexual relation  
25 with her.

Farid Mangal - Direct examination  
by Mr. Crane

1 A She never been behind a closed door with me for any,  
2 those type of---

3 Q Never been behind closed doors?

4 A Those type of things, no, sir. Never was and never be.  
5 If she be there, I don't see any problem with it.

6 Q Have you ever, at anytime, engaged in any type of  
7 sexual relations with your daughter, VICTIM I?

8 A No, sir.

9 MR. CRANE: May I have just a moment please, sir?

10 WITNESS: All right.

11 (Pause.)

12 Q Around the house, what, what did the kids call you?  
13 Did they call you daddy or what?

14 A They called me dad.

15 Q And what did VICTIM call her mom?

16 A Mom.

17 Q Okay. Did you also call Diane mom or mama?

18 A Yeah, I call her mom and she calls me daddy, the same  
19 thing.

20 Q She called you daddy?

21 A Yeah, that was when I was in the house.

22 Q The lock box that we've heard some testimony about---

23 A That's right.

24 Q ---that was most recently this year returned to you,  
25 was it not?

Farid Mangal - Direct examination  
by Mr. Crane

- 1 Well, returned to me.
- 2 A Yes, sir, I think, I think they returned it to you.
- 3 Q Okay. When that lock box was left by you in the house  
4 on the day of your arrest, how much money was in it?
- 5 A That was \$7,000 in it.
- 6 Q 7,000?
- 7 A \$7,000 and had a Visa card. It's -- one card is like  
8 good for \$85,000 from Wachovia Bank.
- 9 Q Okay.
- 10 A And deed for the house, the titles for the three  
11 vehicles, and she, she picked everything she wanted and then  
12 left the truck, my truck, things, and the passport, and a  
13 few things.
- 14 Q And \$700?
- 15 A And \$700. And she admitted in a, in a bond hearing she  
16 say she needed it and spend it and all this kind of thing.  
17 But---
- 18 Q Over these years when your house has been rented as a  
19 duplex, have you gotten any of that money while in jail?
- 20 A Well, really I was always -- that put everything on her  
21 name cause she---
- 22 Q Well, the house is in both your names, isn't it?
- 23 A Yeah, that was mine. I pay for the house.
- 24 Q As a result of the rental---
- 25 A I bought it, but I put her names on deeds in case of

Farid Mangal - Direct examination  
by Mr. Crane

1 something happen to me so they don't have no, no more  
2 problems for later on.

3 Q As a result of the rental property though, have you  
4 been given any money?

5 A No, sir, not -- I don't get nothing since I been---

6 Q Okay.

7 A ---since I been locked down from there. I don't have  
8 no contact. I never seen them.

9 Q So, for the last three years, as a result of their  
10 actions, they've been free and spending your money and  
11 living your life and you've been in the jail, right?

12 A That's sad. But that's what it is, yeah.

13 Q And once again, did you do any of these---

14 A No, sir.

15 Q ---sex acts against VICTIM?

16 A No, sir, I'm the victim.

17 Q Answer any questions the solicitor might have for you.

18 THE COURT: Yes, ma'am.

19 SOLICITOR CRICK: Thank you, Your Honor.

20 May it please the Court.

21 CROSS-EXAMINATION

22 BY SOLICITOR CRICK:

23 Q The duplex is in both your names, correct?

24 A Yes, that's right.

25 Q And the rental income is from part of the duplex,

Farid Mangal - Cross-examination  
by Solicitor Crick

- 1 right?
- 2 A Yes.
- 3 Q So, it's for both of you, correct?
- 4 A That's right.
- 5 Q She has every right to spend that money, correct?
- 6 A That's right.
- 7 Q Okay. Sir, you watched your children after school  
8 until Diane came home from work, isn't that right?
- 9 A No.
- 10 Q You didn't watch your kids after school?
- 11 A No, VICTIM was watching them.
- 12 Q You were not there?
- 13 A I went to work. No.
- 14 Q Was -- what, what were your hours?
- 15 A Sometime I come seven o'clock, sometime I come 6:00,  
16 sometime I come two o'clock. It depends where I'm working.
- 17 Q So, it's flexible?
- 18 A Yeah, it depends what I do.
- 19 Q But you would pick VICTIM up from school?
- 20 A If VICTIM -- VICTIM had a car, Grand Prix she was driving.  
21 She go pick Rashan, she pick -- she come to home, come home  
22 on their own.
- 23 Q Is it your testimony you didn't pick VICTIM up from  
24 school?
- 25 A I picked VICTIM from school for, let me say, from first

Farid Mangal - Cross-examination  
by Solicitor Crick

1 grade till she went to McCracken, I mean McCracken, yeah,  
2 McCracken I picked her up. I picked Rashan, Mateen, VICTIM  
3 all three together. But when she went to the junior high  
4 school -- Rashan and Mateen, it wasting too much of my time  
5 because of work. So, Rashan and Mateen take the bus, and  
6 VICTIM, I pick her up because my job was close there.

7 Q Right.

8 A And I picked VICTIM and brought her, drop her in the  
9 house and then go back to work.

10 Q So, you did pick VICTIM up and the boys rode the bus,  
11 that's the question I'm asking.

12 A Well, I answer, I answer your question, both.

13 Q Okay.

14 A Yes, she drive a car. She pick Rashan and she, she  
15 don't have to pick VICTIM, pick---

16 Q She didn't drive---

17 A I don't have to pick her up.

18 Q She didn't drive a car at the junior high?

19 A No, not in junior high. She was too young at that  
20 time.

21 Q Sir, you called your daughter a slut, correct?

22 A No, sir.

23 Q Called her---

24 A No, ma'am, I mean---

25 Q Ma'am?

Farid Mangal - Cross-examination  
by Solicitor Crick

- 1 A Excuse me?
- 2 Q Called your daughter a whore?
- 3 A No, I did not.
- 4 Q Called your daughter a bitch?
- 5 A No, I don't call people those kind of names.
- 6 Q Called your son a bastard?
- 7 A No, I don't call son a bastard.
- 8 Q And you called your other son a fat ass?
- 9 A I don't know what's the reason you ask me those  
10 questions.
- 11 Q I'm asking to get an answer.
- 12 A The answer is no. I don't call my kids -- I love my  
13 kids.
- 14 Q You hit your children with electrical cords?
- 15 A No, I never hit them, anybody, neither one of them with  
16 electrical cord.
- 17 Q And you hit your kids with fists?
- 18 A No, I don't.
- 19 Q Kicked your---
- 20 A Yeah, we play.
- 21 Q Oh, it was play?
- 22 A No, I'm not saying, not making excuses to you. When we  
23 play, we play.
- 24 Q So, you might use your fist when you play?
- 25 A We play, Rashan, Mateen, me, all we play. We play --

Farid Mangal - Cross-examination  
by Solicitor Crick

- 1 they bruise my legs too.
- 2 Q Okay.
- 3 A I mean we just -- a game's a game.
- 4 Q They bruise your legs too?
- 5 A It depends what---
- 6 Q So, you bruise their legs?
- 7 A No, no, we don't do that.
- 8 Q Just yours?
- 9 A (Witness nods affirmatively.)
- 10 Q So, you kicked your kids?
- 11 A No, I don't kick my kids.
- 12 Q Not even when you play?
- 13 A Accidentally maybe.
- 14 Q And you did discipline the children?
- 15 A Yeah, a lot.
- 16 Q A lot?
- 17 A A lot.
- 18 Q And you were pretty strict?
- 19 I think you characterize yourself as strict?
- 20 A Yeah, I'm strict, depends on certain things.
- 21 Q And this discipline, this strict discipline, was that
- 22 their whole lives?
- 23 Did you start when they were young?
- 24 A I would say age eight, nine.
- 25 Q So, pretty much from eight or nine on up, you---

Farid Mangal - Cross-examination  
by Solicitor Crick

- 1 A Yes.
- 2 Q ---pretty strict disciplinarian?
- 3 A Yeah.
- 4 Q That---
- 5 A No, not strict discipline. I mean when things, certain  
6 things when they do, yeah, I'm strict. Other than that, no,  
7 I'm their friend, I'm their father, and I'm---
- 8 Q Sir?
- 9 A ---we take it.
- 10 Q I apologize cause I thought you said you disciplined  
11 them a lot and that you were strict.
- 12 Is that not right?
- 13 A Yes, I am strict.
- 14 Q And what I asked you---
- 15 A But I can stay strict all the time.  
16 If they are nice to me, why I have to be strict?
- 17 Q And listen closely to my question.  
18 What I'm asking you is that discipline you said started  
19 around when they were eight or nine and continued on up  
20 until they were---
- 21 A Ma'am, it's different for every child. I mean Mateen  
22 is great child and never been in trouble.
- 23 Q But I'm talking about VICTIM and Rashaan.
- 24 A Rashaan -- and Rashaan have problem. He have problem --  
25 he's hyper. The school actually recommend to give him

Farid Mangal - Cross-examination  
by Solicitor Crick

1 injections, slow him down.

2 Q Right.

3 A I said I rather see him to break things than slow down.  
4 I don't want no vegetable because I seen the side affect of  
5 that drug.

6 Q But you also---

7 A I rather see him to be active than---

8 Q Listen to my question, sir.

9 A Okay.

10 MR. CRANE: Judge, he -- I object. He's trying to  
11 answer her question and she cut him off.

12 THE COURT: All right. Ma'am, let, let him finish his  
13 answer.

14 And, sir, when you get through, how about stopping so  
15 she can ask you another question.

16 WITNESS: Oh, yes, sir.

17 THE COURT: All right. Thank you.

18 Q So, the discipline started when they were younger and  
19 it continued on up?

20 Maybe not for Mateen is what you're saying, but for  
21 VICTIM and Rashan, yes.

22 You continued to discipline them?

23 A Yeah, most of them was Rashan because most of the time  
24 VICTIM would use Rashan.

25 Q So, the discipline didn't start when VICTIM was sixteen?

Farid Mangal - Cross-examination  
by Solicitor Crick

1 A Discipline not start when VICTIM was sixteen?

2 Q You just didn't start disciplining her when she turned  
3 16, did you?

4 A I really don't make no time limit to say that time VICTIM  
5 was at that time Rashan was.

6 Q Let me rephrase the question.

7 You didn't start with the strict and with the  
8 discipline when VICTIM was sixteen?

9 That was something you had done throughout her  
10 childhood, correct?

11 A Well, on VICTIM -- do you want -- depend on the  
12 individual child when it started or you want---

13 Q I would like to know about VICTIM and---

14 A Know about VICTIM?

15 Q Yes, sir.

16 A Okay.

17 Q That's what I asked you.

18 A VICTIM, I would say, she went to, I would say, five,  
19 fifth grade in Houston Elementary when she start making  
20 trouble.

21 Q Now, I'm gonna ask one last time.

22 A Just when it started. So --.

23 Q I'm not asking about when trouble started. I'm asking  
24 about you disciplining your children, and that's the  
25 question I'd like for you to answer straight.

Farid Mangal - Cross-examination  
by Solicitor Crick

1 A Okay.

2 Q You started when VICTIM was eight or nine years old  
3 disciplining her for whatever would of happened, whatever  
4 trouble she might of gotten into, and you continued until  
5 she was sixteen, correct?

6 A I would say 12, age 12.

7 Q You didn't discipline her when she got in trouble at  
8 school?

9 A Age twelve VICTIM started making trouble.

10 Q I'm asking you, sir, I don't know how else to ask you  
11 this question.

12 MR. CRANE: Judge, I object. You don't, you---

13 THE COURT: I would sustain the objection.

14 Go ahead, ma'am.

15 Q You did not discipline VICTIM when she turned, start  
16 disciplining her when she turned sixteen?

17 You had done that her whole life, correct?

18 A Age twelve.

19 Q You stopped at age twelve?

20 A No, I start---

21 Q Start?

22 A ---disciplining her at age twelve.

23 Q Okay. There we go.

24 And when she did something wrong or when the kids did  
25 something wrong, you disciplined them right then, didn't

Farid Mangal - Cross-examination  
by Solicitor Crick

1 you?

2 A No, they had chances, a lot of chances.

3 Q If you had to discipline them, you would do it right  
4 then?

5 A Exactly. I tell them that's all right.

6 Q You didn't take them behind a closed door---

7 A No, ma'am.

8 Q ---to do it?

9 A No, ma'am.

10 Q Not behind a locked door to do it?

11 A No, ma'am, I don't.

12 Q And that locked door, that was on your bedroom, right?

13 A That was on my bedroom. One of them is. All of them  
14 have door, locks on the door.

15 Q They don't all have the same kind of lock?

16 A Okay.

17 Q Do they?

18 A No.

19 Q So---

20 A That's different lock.

21 Q The one on your door required a key, but that's the  
22 only door, right?

23 A That's -- two outside doors got the same lock.

24 Q Probably---

25 A It's exterior lock.

Farid Mangal - Cross-examination  
by Solicitor Crick

- 1 Q I apologize.  
2 I'm talking about inside.
- 3 A Yes, that's the only door have a steel lock on it.
- 4 Q And you put that on, right?
- 5 A I put that on.
- 6 Q Okay. And you made VICTIM leave her door open, right?
- 7 A Right.
- 8 Q She couldn't lock her door?  
9 Wasn't suppose to?
- 10 A The reason I was telling VICTIM not to lock the door,  
11 when we build addition, the returner in the new part. The  
12 only returners in VICTIM's room and Rashan's room. That's the  
13 reason I tried to leave their doors opened most times so  
14 that way the air circulate.
- 15 Q So, the answer to my question is she was not allowed to  
16 shut her door or lock her door, is that correct?
- 17 A No, she can lock her door if she wants to.
- 18 Q But then you would go in it, right?
- 19 A Why I go in it?
- 20 Q Well, let me go back a minute.  
21 You unlocked her door to go in and see if she had food  
22 in the room, correct?
- 23 A She locked the door. When she change clothes, she  
24 locks her door.
- 25 Q But you opened it and went in the room and you said she

Farid Mangal - Cross-examination  
by Solicitor Crick

1 had her shirt up?

2 A No, I don't went in. I was standing in the hallway and  
3 she was inside opening the door, and she was changing  
4 clothes and I said wait there till she put the shirt on.  
5 When I opened the door, the curtain was, was moving.  
6 Somebody was in their room.

7 Q You remember testifying in Family Court, sir?

8 A Yes.

9 Q Do you remember saying that you heard someone in the  
10 background talking. The door's an old brass lock with a  
11 little push button on the side.

12 A Right.

13 Q The door's a little old, but I pushed the button.

14 A Uh-huh. (Affirmative).

15 Q Opened the door. She heard the door clicking.

16 A Yeah, she heard the door clicking, yeah.

17 Q Now -- so, you opened the door?

18 A Right. Right. Yeah, I opened the door. But I don't  
19 go in because she was putting her shirt on.

20 Q So, the next minute was, was standing right there with  
21 her shirt up?

22 A Yep.

23 Q So, you opened the door and went in the room?

24 A Yes, I opened the door.

25 Q That's accurate?

Farid Mangal - Cross-examination  
by Solicitor Crick

- 1 A Uh-huh. (Affirmative).
- 2 MR. CRANE: What page are you on, ma'am?
- 3 SOLICITOR CRICK: 161.
- 4 Q And your testimony -- well, let me stop you for a  
5 second since you were talking about the rooms.  
6 You put Mateen in the dining room before, correct?
- 7 A Yes, I did.
- 8 Q And you had put Rashan -- you were here when he  
9 testified, right?
- 10 A Yeah, I heard Rashan.
- 11 Q That he was in the dining room at one point, right?
- 12 A He was.
- 13 Q And you actually, in Family Court, classified Rashan as  
14 a truthful kid, right?
- 15 A They can be truthful kid.
- 16 Q That's how you described him?
- 17 A Yeah.
- 18 Q And also VICTIM had been put in the dining room.  
19 So, all three kids at some point had been put in the  
20 dining room, correct?
- 21 A Yes, they did.
- 22 Q It wasn't just VICTIM?
- 23 A No, it was not just VICTIM
- 24 Q In your testimony I believe Mr. Crane asked you about  
25 VICTIM getting in trouble at school and that's part of the

Farid Mangal - Cross-examination  
by Solicitor Crick

1 reason that she made all this up.

2 That was in November of 2002 the first one, right, when  
3 you were talking about the lock in the room?

4 A Yeah, that's right. That's right.

5 Q And the day before -- and I'm trying to understand your  
6 testimony.

7 She said some kids were being mean to her and talking  
8 about her race and so forth?

9 A Right.

10 Q And then when you picked her up she said that she had  
11 been accused of doing something in the locker room?

12 A Yes.

13 Q Is that correct?

14 A That's right.

15 Q So, you knew about that?

16 A I don't know that for sure what happened or not. She  
17 was, she was not saying this happened. She said---

18 Q She didn't say it happened?

19 She said it didn't happen?

20 A Yeah, she, she denied.

21 Q She denied it?

22 A Uh-huh. (Affirmative).

23 Q She said actually it was those kids being mean to her  
24 trying to get her in trouble, didn't she, the ones that were  
25 being racist?

Farid Mangal - Cross-examination  
by Solicitor Crick

1 A What kids being racist?

2 Q The ones she was talking about that were making fun of  
3 her and calling her Bin Laden's daughter, those kids that  
4 she talked to you about.

5 A I don't know who she was talking about. It was her  
6 accused the day before trying to get principal, to tell  
7 principal my daddy is mean and, and let, let, get herself  
8 off the hook, use me, I'm a mean person to let she go back  
9 to school. That's what her excuse. That's how I got  
10 involved in there.

11 Q So, she didn't accuse you of sexual abuse in November  
12 of 2002?

13 A No.

14 Q She didn't accuse you of sexual abuse, abuse in  
15 December of 2002?

16 A No.

17 Q Or January of '03, or February?

18 In fact, it was two years, almost two years later,  
19 right?

20 A That's right.

21 Q Okay. You also heard Rashan testify that she didn't,  
22 she actually wanted to wait until school started to report  
23 this to the guidance counselor, which would of even been  
24 several months later, correct?

25 A I -- say that again.

Farid Mangal - Cross-examination  
by Solicitor Crick

1 Q Now---

2 A Please. No, I don't understand that question, what you  
3 say.

4 Q That's okay.

5 A But that's okay.

6 Q I'll withdraw it.

7 A That's all right.

8 Q And after VICTIM got in trouble at school, you were  
9 worried about her being pregnant or worried about her  
10 virginity?

11 A No, that's most the time between her and her mother.

12 Q You weren't concerned about her virginity?

13 A Things would go wrong, yes, I would like to see she go  
14 to the doctor and check up.

15 Q What do you mean by go wrong?

16 A Because she brings people to the house and that's  
17 wrong. If she go to the locker at school, that's wrong.

18 And this why I said take her to the doctor, check up, to see  
19 if she's okay.

20 Q And what---

21 A She denies it. She don't do those things.

22 Q Right.

23 A And the same thing when she was saying about Diane's  
24 brother, the same way---

25 SOLICITOR CRICK: Your Honor, I'm gonna object at this

Farid Mangal - Cross-examination  
by Solicitor Crick

1 point.

2 THE COURT: All right. Hang on.

3 SOLICITOR CRICK: Just ask him to respond to the  
4 question I'm asking.

5 THE COURT: Hang on.

6 (Pause.)

7 THE COURT: All right, sir. You're eliciting the  
8 question. And so, I have to accept the answers as they are  
9 given.

10 Sir, I will, I will instruct you though, please listen  
11 to the questions that are asked and respond just to the  
12 questions that are asked.

13 Yes, ma'am, go ahead.

14 Q Sir, I'm asking you about your concern about her  
15 virginity after that incident at school.

16 You encouraged her to be taken to the doctor?

17 A While -- that was a time for her to go to the doctor.  
18 They have a time once a year.

19 Q Okay.

20 A And then Diane and VICTIM goes for that family---

21 Q Okay.

22 A ---doctor.

23 Q And---

24 A She didn't have to go.

25 Q But she had been required to take a pregnancy test

Farid Mangal - Cross-examination  
by Solicitor Crick

1 because you thought she was making trouble?

2 A I don't never tell her to take a pregnancy test and  
3 she's---

4 Q Did she take one?

5 A No, ma'am, I don't tell my daughter to take a pregnancy  
6 test.

7 Q You'll agree that your wife wouldn't need a pregnancy  
8 test, right?

9 A Now she had hysterectomy. She don't need no---

10 Q When was that?

11 In 1994?

12 A No, when Rashan or Mateen probably she did something  
13 like that. But I don't know about that.

14 Q And you were pretty upset about the race of the boy  
15 that VICTIM was alleged to have given oral sex to, right?

16 A Ma'am, I'm not a racist. They might say a lot  
17 things---

18 Q Sir, you also heard your daughter testify she didn't  
19 want you to be in jail, she just wanted a normal father  
20 daughter relationship, didn't you?

21 A Well, she said a lot of different ways. She don't want  
22 a---

23 Q I'm asking you a yes or no.

24 A No.

25 Q Did you hear that?

Farid Mangal - Cross-examination  
by Solicitor Crick

- 1 A No.
- 2 Q You didn't hear her testify to that?
- 3 A She said so many different ways. I don't know which  
4 one is right.
- 5 Q But you're familiar with her menstrual cycle, right?
- 6 A What's her menstrual cycle?
- 7 Q Her period.
- 8 A No, ma'am, I don't put up with those. That's---
- 9 Q Then how do you know, sir, that she doesn't use  
10 Tampons?
- 11 You're familiar to some extent with her period?
- 12 A Yeah, we see Tampons -- first of all, I don't really  
13 like them. Well, we see things in the bathroom we know what  
14 it is, who it is.
- 15 Q So, you---
- 16 A That's Mena's or that's Diane's.
- 17 Q So, when you said VICTIM doesn't use Tampons---
- 18 A Yeah.
- 19 Q ---you know she does or she doesn't?
- 20 A She don't use no Tampons. I know she don't use no  
21 Tampons.
- 22 Q So, you're familiar with---
- 23 A I can tell you that. Yes, I'm familiar she don't use  
24 no Tampons.
- 25 Q Sir, you were talking about your religion.

Farid Mangal - Cross-examination  
by Solicitor Crick

1 You are what?

2 A I'm a Muslim.

3 Q And you said that because of your religion you would  
4 never engage in anal sex with your wife?

5 A No, ma'am.

6 Q You didn't ask your wife, tell your wife she was too  
7 stretched because of the children and ask her for anal  
8 intercourse?

9 A No, ma'am, that's, that's things -- that's allegations  
10 that kind of go on and on if I listen to her.

11 Q Sir, is it also against the Muslim religion not to  
12 drink alcohol?

13 A Yeah, I'm not suppose to drink alcohol.

14 Q But you have.

15 A But there's a reason I have. When I drink alcohol, I  
16 have two kidney operation, and I drink one or two beer. It  
17 depends. When my back hurts, I'm tired, it's hot, I drink a  
18 couple beers.

19 Q Just one or two beers at the time?

20 A It depends. Sometimes I don't drink for weeks. I'm  
21 not alcoholic, put it this way.

22 Q But you're saying that's against your religion, but you  
23 did it, correct?

24 A Not in medical way. If you need---

25 Q And more than one or two because it was enough to get

Farid Mangal - Cross-examination  
by Solicitor Crick

1 you---

2 A No, that's liquor. Don't drink no liquor. I mean  
3 beer, non-alcoholic beer, you can drink it.

4 Q That wouldn't cause you to be arrested, sir.

5 A Yeah, but in the religious thing, if you live by  
6 religion, this time it's very hard to live with 3,000,  
7 2,000, or 5,000 years ago.

8 Q What do you have to blow to get a DUI?

9 MR. CRANE: Judge, I object to the relevance.

10 THE COURT: I'll sustain the objection.

11 MR. CRANE: Thank you.

12 THE COURT: Go ahead, ma'am.

13 Q Does your religion allow you to look at pornographic  
14 materials, sir?

15 A No.

16 Q Thank you.

17 But you had a pornographic tape at your home?

18 A Yeah.

19 Q That you brought down from the attic?

20 A Yes.

21 Q And you didn't throw it away at that point, did you?

22 A I don't know what it was. I don't know what it was  
23 till they brought it to me.

24 Q You watched it?

25 A And it's the only tape had a yellow mark on it.

Farid Mangal - Cross-examination  
by Solicitor Crick

1 Q Well, you knew where it was from.

2 A Yeah, it came from attic.

3 Q I mean you knew it was rented.

4 A It was rented?

5 From rental place. My rental house. This came from  
6 the attic. It's nobody rent it.

7 SOLICITOR CRICK: Beg the Court's indulgence.

8 (Pause.)

9 Q So, you watched it at some point, sir?

10 A No, I don't never watch that tape.

11 Q So, you never knew what was really on that tape?

12 A I really don't know what it was till, till VICTIM brought  
13 it to me.

14 Q Got you.

15 And it was only then that you threw it in the trash?

16 A Yeah, I broke it and threw it in the trash.

17 Q So, a ten year old probably wouldn't be too stretched  
18 out, would she?

19 MR. CRANE: Judge, I object.

20 A Say that again.

21 MR. CRANE: I object.

22 THE COURT: All right.

23 SOLICITOR CRICK: I have nothing further. I'll  
24 withdraw the question.

25 THE COURT: All right. She withdraws the question.

Farid Mangal - Redirect examination  
by Mr. Crane

1 The jury will disregard that last question.

2 Any redirect limited to what she went into?

3 MR. CRANE: Just very briefly, sir.

4 REDIRECT EXAMINATION

5 BY MR. CRANE:

6 Q She asked you about the door lock on your bedroom.

7 A Right.

8 Q Is there a reason for that door lock?

9 A Yeah, that door lock -- they use to have a little pin I  
10 use to put on top of the door casing to use whenever it was  
11 locked to open the door. So, what happened, VICTIM, and Rashaan  
12 and Mateen find how I open the door. So, they start putting  
13 the toothpicks in there. So, they messed up that lock. The  
14 lock is, the lock is broke.

15 So, I pulled the lock out. Many times a hundred dollar  
16 bill missing, Rashaan was getting to my wallet. Actually  
17 VICTIM was getting in there getting cigarettes and stuff. I  
18 buy cigarettes by the carton.

19 So, I have a lot of things in that place, my safe box,  
20 my tax papers and stuff, whatever I have. It's in my  
21 bedroom in that room.

22 Most time I leave it open in case if we have something  
23 like a birth party or something like that we put stuff in  
24 there and lock the door. But the majority of the time the  
25 door all, all, is opened.

Farid Mangal - Redirect examination  
by Mr. Crane

1 Q Okay.

2 A Keys hanging right on the door jam.

3 Q And when you were asked about VICTIM's door that she was  
4 to leave it open, I'm not sure if I heard properly, did you  
5 say that you, you wanted the doors open because that's where  
6 the air conditioner return was?

7 Is that what you said?

8 I couldn't quite understand you.

9 A Yeah, the returner in that room, they have a returner  
10 in VICTIM and Rashan's room. But not in the new part. I  
11 build addition. There's a kitchen, my bedroom, and the  
12 bathroom don't have no central returner.

13 Q Okay.

14 A So, it's the only place the air can go to VICTIM's room  
15 into Rashan's room.

16 Q And, of course, if the door is closed it can't do that?

17 A Yeah, it do, but not good as---

18 Q Okay. Thank you, sir.

19 A You welcome, sir.

20 THE COURT: Any recross limited to what he went into?

21 SOLICITOR CRICK: Yes, sir, just real briefly.

22 REXCROSS EXAMINATION

23 BY SOLICITOR CRICK:

24 Q So, you were smoking before you left the house?

25 MR. CRANE: Was what?

Farid Mangal - Recross examination  
by Solicitor Crick

1 SOLICITOR CRICK: Smoking.

2 MR. CRANE: I object.

3 SOLICITOR CRICK: He asked about cigarettes, her  
4 sneaking in to get cigarettes.

5 MR. CRANE: I didn't ask him about VICTIM smoking. I  
6 asked why the door lock was there.

7 THE COURT: I did not -- all right. I'm not going to  
8 allow the question. I do not recall that he did go into  
9 that.

10 SOLICITOR CRICK: Nothing further.

11 THE COURT: All right.

12 MR. CRANE: May he come down, judge?

13 THE COURT: If you don't have any other questions he  
14 may.

15 MR. CRANE: I have no questions.

16 THE COURT: Thank you, sir. You may go, you may step  
17 down.

18 Yes, sir.

19 MR. CRANE: One moment please, judge.

20 (Pause.)

21 MR. CRANE: Judge, I, I have maybe four more witnesses  
22 at least.

23 THE COURT: All right.

24 MR. CRANE: At least two of those will be relatively  
25 short.

1 THE COURT: Will the lawyers approach a moment?  
2 (Whereupon, a bench conference was held out of the  
3 hearing of the jury at this time.)

4 THE COURT: All right. Ladies and gentlemen, again  
5 thank you for your time today. You've been very attentive  
6 to the testimony.

7 After consulting with the lawyers, we're going to  
8 conclude with the taking of testimony for today. We do have  
9 some other witnesses, the parties do have some other  
10 witnesses to present. So, I'll need for you to please be  
11 back in the jury deliberation room by 9:30 in the morning.  
12 We'll resume with the taking of testimony.

13 Again, I'll instruct you not to have any discussion  
14 among yourselves or with anyone else about anything  
15 involving the case. And again, I want to stress to you the  
16 fact that you can not do any type of independent  
17 investigation, research, look up words, definitions,  
18 anything like that because again the decisions that you will  
19 make that involve this case should be based solely on the  
20 information that is presented from this witness stand.

21 But thank you again for your work today and we'll see  
22 you in the morning. You may go with the bailiff.

23 (Whereupon, the following takes place outside the  
24 presence of the jury.)

25 THE COURT: All right. Any -- we still have -- does

1 the State know if they intend to call reply yet?

2 SOLICITOR BARNETTE: We'd have to talk about it, Your  
3 Honor. If it would be reply, it would be very short. I  
4 can't imagine it being very long, and I -- if I understand,  
5 Rashan can be released, is that right?

6 MR. CRANE: We're not gonna call Rashan.

7 THE COURT: All right.

8 MR. CRANE: We, we were thinking we might, but we're  
9 not gonna call him.

10 THE COURT: All right. So, Rashan is released.

11 I still have no request for charge from either side.

12 MR. CRANE: I, I apologize for that, judge. I run back  
13 to the office and I don't have a secretary. I'm pretty much  
14 content with whatever you want to tell them, but if I can  
15 come up with something special, I'll hand write it for you.

16 THE COURT: I sure would like to have it before I  
17 actually charge then.

18 All right.

19 MR. CRANE: Judge, as long as you don't tell them, like  
20 some judges I've heard, go to your guilty room and return a  
21 fair verdict, I'm okay.

22 THE COURT: All right. Anything else before I step  
23 down?

24 SOLICITOR BARNETTE: Yes, sir, it was one -- I know one  
25 charge I want to ask, the corroboration charge that the

1 statute has. Sixteen -- it's 16-3-657 and the statute  
2 that's alleged concerning the -- it says the testimony of  
3 the victim does not need to be corroborated. It says  
4 testimony of the victim does not need to be corroborated by  
5 the prosecution under Section 16-3-652 and 658, which I'm  
6 sure that's, I think that's CSC.

7 SOLICITOR LEIBERT: Yes, sir.

8 SOLICITOR BARNETTE: We'd ask for that charge, Your  
9 Honor. I think most judge, most judges give it in that  
10 situation. But that's -- I think it's important in rape  
11 cases.

12 THE COURT: Anything else?

13 SOLICITOR LEIBERT: Your Honor, I'm not sure of your  
14 charge on lewd act, and it may contain a definition that I'd  
15 like to hand up. The definition of lewd and the definition  
16 of lascivious out of Black's Law Dictionary. It may be  
17 included in that.

18 THE COURT: Thank you.

19 SOLICITOR LEIBERT: And there was one other jury  
20 request we ask for. Under State versus Shumpert it talks  
21 about where the time frame in the indictment doesn't have to  
22 be met with precision even when there's, the victim  
23 testifies to a lesser time, and I can give the Court a copy  
24 of that case, and the, ask -- I can tailor that and try to  
25 get it to you in the morning. But it's State versus

1 Shumpert opinion.

2 THE COURT: All right. Now, on the, the copies from  
3 the Black's Law, you said it was the word lewd and what was  
4 the other word?

5 SOLICITOR LEIBERT: Lascivious. I'm sorry. I forgot  
6 to highlight it.

7 MR. CRANE: I had trouble finding it. Judge, it's the  
8 bottom right corner on 17, Page 17.

9 THE COURT: All right.

10 MR. CRANE: I don't, I don't have any objection to that  
11 definition. I don't think it's proper to you, for you to  
12 give a charge on what he's asking right now. I mean you've  
13 indicated you would send a sentence sheet to the jury with  
14 the dates of the indictments and they just have to find that  
15 the event happened during those dates.

16 THE COURT: Now you're talking about State versus  
17 Shumpert issue?

18 MR. CRANE: Yes, sir.

19 THE COURT: All right.

20 MR. CRANE: I don't think that's entitled to a charge  
21 to the jury on that.

22 THE COURT: Do you have a copy of the case?

23 SOLICITOR LEIBERT: I do, Your Honor, and that's one  
24 small provision. I'll try, I'll try to tailor it down.

25 THE COURT: Okay.

1 SOLICITOR LEIBERT: And Your Honor, if, if -- since  
2 we've all got the case, it's on Page 5 of Shumpert under  
3 Number 3. That first paragraph under Number 3 to the rest  
4 of that page, and I'll try to tailor something more  
5 specific. But --.

6 THE COURT: All right. Thank you.

7 SOLICITOR LEIBERT: Thank you, Your Honor.

8 THE COURT: Anything else?

9 (No response.)

10 THE COURT: I'll see you in morning.

11 Thank you.

12

13 (Whereupon, Court was in recess for the evening.)

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1 Thursday, March 15<sup>th</sup>, 2007

2  
3 THE COURT: You ready to call your next witness?

4 MR. CRANE: I believe so, judge.

5 THE COURT: All right. Anything before we bring the  
6 jury back?

7 SOLICITOR BARNETTE: Nothing from the State, Your  
8 Honor.

9 MR. CRANE: No, sir.

10 THE COURT: All right. Let's go ahead and bring them  
11 back.

12 (Whereupon, the following takes place within the  
13 presence of the jury.)

14 THE COURT: Yes, sir, are you ready to call your next  
15 witness?

16 MR. CRANE: Yes, sir, judge.

17 THE COURT: Yes, sir.

18 MR. CRANE: We call Kevin Riddle to the stand please.

19 THE COURT: Come on around, sir.

20 KEVIN RIDDLE, being first duly  
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. CRANE:

24 Q Would you state your name for us, please?

25 A Kevin Riddle.

Kevin Riddle - Direct examination  
by Mr. Crane

- 1 Q And Mr. Riddle, do you live in Spartanburg?
- 2 A Yes, sir, I do.
- 3 Q Are you married?
- 4 A Yes, sir.
- 5 Q Do you have any children?
- 6 A Yes, sir.
- 7 Q How many children?
- 8 A One child.
- 9 Q What is that child?
- 10 A A little boy.
- 11 Q How old is the child?
- 12 How old is the boy?
- 13 A Three.
- 14 Q All right. What is your occupation, sir?
- 15 A I'm, I'm the senior investigator at the Public  
16 Defender's Office here in Spartanburg.
- 17 Q And how long have you been doing that?
- 18 A This up, this upcoming July will be ten years.
- 19 Q Good.
- 20 Do you know Mr. Mangal?
- 21 A Yes, sir, I do.
- 22 Q Do you know the Farid, Mrs. Farid and VICTIM and all the,  
23 and the two brothers?
- 24 A Yes, sir, I do.
- 25 Q How do you know them?

Kevin Riddle - Direct examination  
by Mr. Crane

1 A We use to live -- we use to rent the other half of the  
2 duplex where they lived.

3 Q Do you remember when you moved into the duplex?

4 A I think it was around like the middle of May of '04.

5 Q Middle of, middle of May of '04?

6 A Maybe, maybe around the first of May. It was -- seems  
7 like it was around the first of May, first week of May.

8 Q Do you remember when Mr. Mangal got arrested?

9 A I do.

10 Q Okay. And then how long did you live in that duplex?

11 A Till the end of October.

12 Q Is there a reason you, you moved out?

13 A We, we just, we just -- my wife and I just got tired  
14 of, of being over there.

15 Q And what were you tired of?

16 A I was just tired of -- after Fred went to jail, it  
17 seemed like the place kind of went downhill in a hurry. I  
18 mean it was just, you know, there was, there was boys over  
19 there late at night, and just, just seemed like it was -- it  
20 got to be a rough area too. I mean it was a lot of just  
21 stuff going on around there that, that there was some kids  
22 down the street that---

23 SOLICITOR BARNETTE: Your Honor, I'm gonna object at  
24 this point. I don't know if this is relevant to the case or  
25 not.

Kevin Riddle - Direct examination  
by Mr. Crane

1 THE COURT: All right. I'm gonna allow him a little  
2 bit of leadway. But you need to get it honed in.

3 Q So, what, what -- there was a change in the atmosphere  
4 of the home---

5 A Yes, sir.

6 Q ---and y'all left the duplex?

7 A Uh-huh. (Affirmative).

8 Q All right. And you were concerned about the  
9 neighborhood as a whole?

10 A Yes, sir.

11 Q So you moved?

12 A Yes, sir.

13 Q All right. Now, while living there, did you ever hear  
14 any loud noises from the other side of the duplex?

15 A Not until Fred went to jail.

16 Q So, you never heard any screams or yelling or anything  
17 like that until Fred went to jail?

18 A Until he went to jail.

19 Q So, things changed after he went to jail?

20 A Yes, sir, it did.

21 Q Prior to that, is it safe to say it was relatively  
22 quiet over there?

23 A Yes, sir, it was.

24 Q How did Fred treat you and your family?

25 A He treated us, he treated us like we were part of his

Kevin Riddle - Direct examination  
by Mr. Crane

1 family. I mean he, he would cook for us and he, he was, he  
2 was a good friend to us.

3 Q Did you ever have conversations with Fred about  
4 anything in general or anything specific that you can recall  
5 where the two of you just sat down and talked about stuff?

6 A Yeah, we just talked about, just all, anything. Just,  
7 you know, we, we could, we got along pretty good to  
8 together. We just seemed---

9 Q Y'all ever talk about religion?

10 A We talked about religion, yes, sir, sometimes.

11 Q Where do you go to church sir?

12 A I, I go to St. Paul's Catholic Church here in  
13 Spartanburg.

14 Q Did you ever have occasion to take any of the kids to  
15 church with you?

16 A When Fred went to jail, Rashan wanted to go to church  
17 and my wife and I took him to church with us.

18 Q Okay. Now, when Fred was living in the home, the best  
19 you can recall, what was the bedtime habits of the kids?

20 They stay up late or did they go to bed early or do you  
21 know?

22 A They went to bed relatively, relatively early.

23 Q Was Fred kind of set in his ways as to how to run his  
24 household?

25 A He was.

Kevin Riddle - Direct examination  
by Mr. Crane

- 1 Q Would you consider him to be lax or strict?
- 2 A Strict.
- 3 Q Did you ever see him strike any of the children?
- 4 A You mean like if, if, in---
- 5 Q Hit him with his fist or hit him with a whip or a cord  
6 or anything like that?
- 7 A I saw him one time in the, in the garage there kick  
8 Mateen in, in the back rear end. But---
- 9 Q Do you know what that was for?
- 10 A It was -- I don't know what it was over. But it  
11 wasn't, it wasn't a hard kick or. It was more like a, you  
12 know, like a playful kind of---
- 13 Q Playful thing?
- 14 A It wasn't, it wasn't like, it wasn't -- it was just  
15 more like a frustrated with you kind of a---
- 16 Q Okay. And as you indicated playful or not mean or  
17 something like that?
- 18 A It wasn't, it wasn't hard.
- 19 Q All right. Did you ever have an occasion to indicate  
20 to Fred that you were going to pray for Diane?
- 21 A Yes, sir, cause he said she was gonna have some  
22 surgery.
- 23 Q Now, you've indicated that once Fred was arrested  
24 things changed, is that correct?
- 25 A Yes, sir.

Kevin Riddle - Direct examination  
by Mr. Crane

1 Q Prior to Fred being arrested, were the kids out late at  
2 night?

3 A No, sir.

4 Q Did you notice whether or not VICTIM was allowed to date?

5 A I don't think she was. I don't believe she was.

6 Q And after his arrest, how specifically did things  
7 change next door?

8 A He just -- it came and went as you please pretty much.  
9 I mean you know---

10 Q All three kids or just VICTIM?

11 A The, the boys mostly were at home. But, but VICTIM just  
12 was in and out.

13 Q Did, did, did you ever notice her coming home late at  
14 night?

15 A I -- we really wasn't -- I, I noticed that sometimes,  
16 you know, there would be like -- she'd be, maybe a school  
17 night, it be after 10:00 and stuff.

18 Q Did people start visiting the home?

19 A They did.

20 Q Did you know any of those people?

21 A One of them in particular was a kid down the road that  
22 only thing I know is Joey, but I know he was in trouble with  
23 the police all the time.

24 SOLICITOR BARNETTE: Objection, Your Honor.

25 THE COURT: I'll sustain the objection.

Kevin Riddle - Direct examination  
by Mr. Crane

1 Q Is Joey a child that you would let your family  
2 associate with?

3 A No, sir.

4 Q And he was in and out of the home?

5 A He was there several times.

6 Q Was there more or less socializing going on in the  
7 home?

8 A More socializing.

9 Q Did it appear that after Fred was arrested VICTIM's  
10 social life appeared to have flourished?

11 A Yes, sir.

12 Q And how would you describe her actions after the  
13 arrest?

14 A Well, it, it seemed to be more boys coming by.

15 Q Did you ever notice anything particularly or particular  
16 that VICTIM did right there at the house that you can recall  
17 in the front yard or anything?

18 A I remember one night at about eleven o'clock that she  
19 and one of her friends were outside I guess you just say  
20 making out with two, two boys. I mean they were kind of on  
21 the side of our duplex and my wife and I noticed that. But  
22 we just---

23 Q Would that have ever happened while Fred was living  
24 there?

25 A No, sir.

Kevin Riddle - Direct examination  
by Mr. Crane

1 Q Do you think VICTIM<sub>1</sub> wanted him out of the house?

2 A I---

3 THE COURT: Objection, Your Honor. Calls for  
4 speculation.

5 THE COURT: I'll sustain the objection.

6 Q Did you ever notice VICTIM<sub>1</sub> smoking cigarettes?

7 A Yes, sir.

8 Q Did she do that prior to Fred leaving, prior to Fred---

9 A No. No, sir. No.

10 Q Okay.

11 A Not that I've ever seen.

12 Q From what you have learned personally about Fred -- you  
13 know, you know what these allegations are, do you not?

14 A Yes, sir.

15 Q Do you have an opinion as to whether or not---

16 SOLICITOR BARNETTE: Objection, Your Honor.

17 Q ---he's capable of---

18 THE COURT: I sustain the objection.

19 MR. CRANE: I haven't finished the question.

20 I'd like to be heard out of the presence of the jury,  
21 judge.

22 THE COURT: All right. Ladies and gentlemen, this is  
23 one of those times where we have to take up a matter of law  
24 outside of your presence. So, please do not have any  
25 discussions about anything involving the case. We'll get

Kevin Riddle - Direct examination  
by Mr. Crane

1 you back out just shortly. You may go with the bailiff.

2 (Whereupon, the following takes place outside the  
3 presence of the jury.)

4 THE COURT: Yes, sir, Mr. Crane.

5 MR. CRANE: Judge, I would submit to the Court this is  
6 a lay person who has personal knowledge, background, and  
7 experience and of the family of Mr. Mangal has every right  
8 to give his opinion as to whether or not my client is  
9 capable of doing these offenses as much as Doctor Medlock  
10 did, which was not even objected to, when he said he didn't  
11 think he was capable of doing it. And so, I don't -- I  
12 would respectfully disagree with your sustaining that  
13 objection, submit to you that he's capable, and under the  
14 rules, should be allowed to give his opinion.

15 I don't know of anything in the rules that says this  
16 lay witness can not give his opinion since he knows the  
17 family, knows my client, knows what was going on, and has  
18 formed an opinion as to whether or not he's capable of doing  
19 something like this.

20 THE COURT: Well, you're going to wanting this witness  
21 to express his opinion as to his reputation or, or as to  
22 whether or not he actually committed the act?

23 MR. CRANE: It was going more towards his reputation.  
24 The question was do you have an opinion as to whether or not  
25 he is capable of doing something like this. That's

Kevin Riddle - Direct examination  
by Mr. Crane

1 certainly an opinion, an opinion as to reputation.

2 THE COURT: That's an opinion as to the ultimate  
3 question that the jury has to respond to, that the jury's  
4 being called on in this case. I mean if you want him to be  
5 a character witness, I think you need to rephrase your  
6 question.

7 MR. CRANE: All right. I'll try and rephrase the  
8 question.

9 THE COURT: I mean is there anything from the State?

10 SOLICITOR BARNETTE: Your Honor, I agree with your  
11 ruling. I think he can make, he can testify as to his  
12 character traits or whatever, but he can't testify to the  
13 ultimate question. The Court is exactly right on that.

14 Thank you.

15 THE COURT: All right. All right. You're protected on  
16 the record, Mr. Crane.

17 MR. CRANE: Thank you, judge.

18 THE COURT: All right. Let's bring the jury back.

19 (Whereupon, the following takes place within the  
20 presence of the jury.)

21 THE COURT: Yes, sir, Mr. Crane.

22 MR. CRANE: Thank you.

23 CONTINUED DIRECT EXAMINATION

24 BY MR. CRANE:

25 Q Mr. Riddle, from your conversation with Fred, and your

Kevin Riddle - Direct examination  
by Mr. Crane

1 getting to know Fred, and talking with him, and getting to  
2 know the family, and getting to know VICTIM Mrs. Farid, and  
3 the boys, do you think you know Fred's character?

4 A Yes, sir.

5 Q Do you think you know his characteristic traits for  
6 truth and honesty?

7 A Yes, sir.

8 Q Do you think that, knowing those characteristics and  
9 traits, these accusations of sexual conduct on VICTIM, are out  
10 of character for him?

11 A Yes, sir.

12 Q Would it be your opinion that he did or did not do  
13 these offenses?

14 SOLICITOR BARNETTE: Objection, Your Honor.

15 THE COURT: I sustain the objection.

16 MR. CRANE: All right.

17 Q But it's your belief that this is out of character for  
18 Fred to do something like this?

19 A Yes, sir.

20 Q Now, having gotten to know VICTIM particularly after she  
21 got her father out of the house, were you able to form an  
22 opinion as to her character for truth and voracity?

23 A Yes, sir.

24 Q What is that, sir?

25 A I, I think -- I just don't believe much of what comes

Kevin Riddle - Direct examination  
by Mr. Crane

1 out of her mouth.

2 Q There was -- have you ever -- would it be in or out of  
3 character for Mr. Mangal to call his children names such as  
4 fat ass, whore, slut, bitch, and other names such as that?

5 Would it be in character or out of character for him to  
6 do that?

7 A I don't remember him calling anybody any names.

8 Q Have you ever heard him cuss at anybody?

9 A I may, I may have. I can't say for sure.

10 Q But you never heard him call anybody any names like  
11 that?

12 A Well, he's -- he said to me one, a couple of times  
13 about the younger boy being a little overweight --

14 Q Right.

15 A -- you know, and -- but I don't remember just seeing  
16 just face to face calling somebody names.

17 Q What did you use to call him when you first got to know  
18 him?

19 A Fred.

20 Q Did you call him Fred or Mr. Mangal?

21 A Mr. Mangal at first I guess.

22 Q And why did you change that to Fred?

23 Who, who---

24 A Well, I got to -- he was a likeable kind of guy. I  
25 mean we, we, like I say, he was -- my wife and I, we really

Kevin Riddle - Direct examination  
by Mr. Crane

1 thought a lot of him.

2 Q Did he ever indicate to you to not call him Mr. but  
3 call him Fred?

4 A I think he did, yes, sir.

5 Q Yes, sir.

6 There was some testimony about a park close to the  
7 house.

8 A Yes, sir.

9 Q Do you know anything about that park?

10 A Yes, sir, I do.

11 Q What, what can you tell us about that park?

12 A That's, that's where a lot of the, Joey and some of the  
13 kids would go hang out.

14 Q All right. And Joey's the one you said you know to be  
15 a troubled child?

16 A Yes, sir, there was one day that---

17 SOLICITOR BARNETTE: Objection, Your Honor. I'm  
18 gonna -- relevance.

19 MR. CRANE: It's---

20 THE COURT: All right. I'm gonna sustain the  
21 objection. You've mentioned this fellow several times. I  
22 think I've sustained most of the objections, Mr. Crane.

23 Q Would there be a reason for Mr. Mangal not to let his  
24 children go to that park?

25 A Yes, sir.

Kevin Riddle - Direct examination  
by Mr. Crane

1 Q What would that reason be?

2 A I think just because of, of bunch of juvenile  
3 delinquents were hanging out down there.

4 Q All right. Mr. Riddle, did you testify at Family Court  
5 regarding this issue?

6 A Yes, sir, I did.

7 Q Did an incident happen to your home and family shortly  
8 after that?

9 SOLICITOR BARNETTE: Objection, Your Honor. This is  
10 not relevant at all.

11 MR. CRANE: All right. It is relevant. I'd like to  
12 take it up out of the presence of the jury---

13 THE COURT: All right.

14 MR. CRANE: ---if you're gonna sustain it.

15 THE COURT: All right. Ladies and gentlemen, I need  
16 you to please retire back to the jury deliberation room.  
17 Again do not have discussions among yourselves about the  
18 case.

19 Thank you.

20 (Whereupon, the following takes place outside the  
21 presence of the jury.)

22 THE COURT: Yes, sir.

23 MR. CRANE: May I ask the question, elicit the answer,  
24 then you determine it?

25 THE COURT: All right.

Kevin Riddle - Direct examination  
by Mr. Crane

1 CONTINUED DIRECT EXAMINATION

2 BY MR. CRANE:

3 Q You indicated that you did testify in Family Court?

4 A Yes, sir.

5 Q And that an incident happened at your home?

6 A Yes, sir.

7 Q What happened at your home, sir?

8 A My wife and myself and my little boy were out in our  
9 driveway. It was evening time. But it wasn't dark yet.  
10 And two cars drove by. And one of the cars hollered out  
11 asshole towards---

12 Q All right.

13 A And I got in my car and rode down the road to see who  
14 it was and it was VICTIM and some boys.

15 Q Thank you, sir.

16 I think it's extremely relevant, judge, to show the  
17 character, believability, and the traits of VICTIM. This,  
18 this guy comes to Court and testifies against her.

19 THE COURT: All right. Hang on. Let me make notes so  
20 I can be sure.

21 MR. CRANE: Yes, sir.

22 (Pause.)

23 THE COURT: All right, sir.

24 MR. CRANE: This fellow, this fellow comes to Court and  
25 testifies against her and VICTIM, and VICTIM and two, and two,

Kevin Riddle - Direct examination  
by Mr. Crane

1 and two car loads of her friends retaliate and I think the  
2 jury needs to hear that. They painted her as this poor  
3 child that's been molested for six years by this terrible  
4 monster over there and she's not that person.

5 THE COURT: Yes, sir.

6 SOLICITOR BARNETTE: Your Honor, this occurred May  
7 24<sup>th</sup> of 2005. I don't even know if she knew where he  
8 lives. I don't know if there's been a police report filed  
9 on this. I don't know anything about it. I mean -- and I  
10 understand it's, you know, he wants to do it this way from a  
11 trial standpoint. But I see what relevance it's got. It's  
12 highly prejudicial.

13 WITNESS: I called the---

14 THE COURT: Hang on, sir.

15 Sir, you wish to respond?

16 MR. CRANE: I've already made my argument, judge. It  
17 may be prejudicial to the State. But you know, I can't, I  
18 can't handle that. You know, it's probative to my client to  
19 show the character and traits of VICTIM. I think he was gonna  
20 testify that he did, in fact, contact the sheriff, but I,  
21 you know, whether he did or didn't, that's irrelevant. He  
22 knows that it happened and he knows that VICTIM was one of the  
23 instigators. And if they want to recall VICTIM and let her  
24 deny that, they can do that.

25 WITNESS: The---

Kevin Riddle - Direct examination  
by Mr. Crane

1 MR. CRANE: Thank you, Kevin.

2 Judge, this whole case is credibility.

3 THE COURT: All right. Let me read. All right.

4 MR. CRANE: Yes, sir.

5 THE COURT: Thank you.

6 (Pause.)

7 THE COURT: All right. And you believe that this goes  
8 to show the, goes to the truthfulness or, or lack of  
9 truthfulness of the victim's testimony?

10 MR. CRANE: I think it goes to show her character and,  
11 and as to whether or not she is a truthful and believable  
12 person. It goes to show her character traits, and yes, sir,  
13 and I think it falls under the rules.

14 THE COURT: And the State's position is what?

15 SOLICITOR BARNETTE: Your Honor, obviously we feel like  
16 it's irrelevant. But if it's -- it's highly prejudicial. I  
17 mean this is something that obviously we didn't know  
18 anything about, and the Family Court ruling may ask for a  
19 recess to check on some information to verify one way or the  
20 other.

21 THE COURT: All right. All right. I am a little bit  
22 dis -- I do have some of the State's, share some of the  
23 State's concern as to the -- you know, if, if the evidence  
24 can be verified in any, in any manner or afforded them an  
25 opportunity to be able to conduct a proper cross-examination

Kevin Riddle - Direct examination  
by Mr. Crane

1 of this witness if the information is as material as what  
2 both parties are indicating to me by your positions in this  
3 trial that it may be material.

4 So, why don't we do this.

5 How much time you need?

6 SOLICITOR BARNETTE: I don't know, judge. I have to  
7 check. I just talked to an investigator. Like I say, I  
8 don't think this goes to the character traits or  
9 truthfulness of this case. But like I say, I'd like to have  
10 a chance to check it.

11 THE COURT: All right.

12 SOLICITOR BARNETTE: Have a recess to check it out.

13 THE COURT: Okay. All right. Now I'm inclined to  
14 allow it in. I do understand the potential affect that it  
15 may have or prejudicial effect it may have to the State.  
16 But I also feel like that the, that I have yet to hear any  
17 reason why I should not believe this witness, and, in fact,  
18 it did take place. His credibility, the voracity of what  
19 he's telling me it seems to be unapproachable right now.

20 And if it is conduct that was engaged in by any witness  
21 to any trial, that subsequent to any trial that person being  
22 called to testify them was subject to any type of  
23 retribution by anybody, I don't view that as, as something  
24 that I take very lightly.

25 SOLICITOR BARNETTE: Your Honor, can I ask one

Kevin Riddle - Direct examination  
by Mr. Crane

1 question?

2 I just want to know when the incident occurred. If I  
3 could. That might be able to verify the information  
4 quicker.

5 MR. CRANE: Where did it occur, Kevin?

6 THE COURT: No, I think he wants to know when.

7 SOLICITOR BARNETTE: When and where, when and where is  
8 both.

9 WITNESS: It occurred at 728 Lucern Drive and I guess  
10 it was probably a couple of weeks after I testified. But I  
11 called the city, but I didn't call 9-1-1. I just called the  
12 dispatch and asked them to send the cop out there where I  
13 could tell them what happened. But they didn't take a  
14 report. But I also called Tray.

15 MR. CRANE: They did not take a report?

16 WITNESS: I called Tray and told Tray about it  
17 personally on the phone.

18 MR. CRANE: So, we could call the solicitor to verify  
19 that you called him?

20 WITNESS: Yes, sir, you can.

21 THE COURT: All right. Well, we're gonna step down for  
22 about -- we'll start with ten minutes.

23 And Mr. Bailiff, you may want to tell them that now, if  
24 they want to go ahead and use the restroom or do anything  
25 that, let's let them do it now.

Kevin Riddle - Direct examination  
by Mr. Crane

1 SOLICITOR BARNETTE: I just want to make sure that he  
2 testified it was her or it was somebody in the car.

3 WITNESS: It wasn't, it wasn't her. It wasn't her. It  
4 was one of the boys I believe. It was, sounded like a boy's  
5 voice.

6 MR. CRANE: But what did you testify her involvement  
7 was?

8 I like---

9 WITNESS: She was in one of the cars and I mean she,  
10 you know, they---

11 MR. CRANE: You saw her in one of the cars?

12 WITNESS: I rode down the street to see who it was and  
13 I saw her in one of the cars.

14 MR. CRANE: Okay. She's not the one that yelled?

15 WITNESS: I don't think she was the one that yelled. I  
16 think it was one, a boy.

17 MR. CRANE: Okay.

18 THE COURT: All right. We'll step down for a few  
19 minutes. We'll come back.

20 MR. CRANE: Thank you.

21 THE COURT: Oh, while we're still on the record, we  
22 are -- sir, your testimony is still ongoing. So, we're  
23 taking a break. So, you can not talk with anyone about the  
24 substance of your testimony.

25 WITNESS: Yes, sir.

Kevin Riddle - Direct examination  
by Mr. Crane

1 THE COURT: All right. Thank you.

2 MR. CRANE: Thank you, judge.

3 (Whereupon, a short recess was taken at this time.)

4 THE COURT: All right. Lawyers approach a moment.

5 (Whereupon, a bench conference was held at this time.)

6 THE COURT: All right. We've -- we'll go back on the  
7 record. I've had a brief bench conference with the  
8 attorneys. I've also reviewed the rules that I feel  
9 applicable. And my ruling, based upon the manner in which  
10 he is presenting this witness and attempting to present this  
11 incident is that it is not being properly presented at this  
12 time.

13 So, based on the way that it's being presented, I'm not  
14 going to allow the witness to testify as to the specific  
15 incident that he's referring to at this time given the  
16 parameters that the Court has been offered or told as to how  
17 this is being presented for the purposes that it's being  
18 presented at this time.

19 All right. So, we're gonna call the jury back and you  
20 can resume your questioning.

21 (Whereupon, the following takes place within the  
22 presence of the jury.)

23 THE COURT: Yes, sir, Mr. Crane.

24 MR. CRANE: Thank you, judge.

25 CONTINUED DIRECT EXAMINATION

Kevin Riddle - Direct examination  
by Mr. Crane

1 BY MR. CRANE:

2 Q Mr. Riddle, you indicated that you moved out of the  
3 house, the duplex somewhere around the end of October?

4 A Yes, sir, it was the end of October, close to November.

5 Q Because of what was going on at the house?

6 A Yes, sir, we just wanted to get a fresh start.

7 Q Okay. Have you had any personal or social contact  
8 with, with either Mr. Mangal or, or the family in, you know,  
9 the last year or so?

10 A I've just, I've just ran into the family members from  
11 time to time at maybe at a store or something. But no, not  
12 speaking. But I've spoke with Fred numerous times, a lot of  
13 times.

14 Q Okay. Okay. You're not related to anybody in this  
15 case, are you?

16 A No, I'm not.

17 Q You have any particular reason to come in here and  
18 testify any way other than what you think is the truthful  
19 way?

20 A No other reason.

21 Q Thank you, sir. Answer any questions the solicitor  
22 might have.

23 THE COURT: Yes, sir. Mr. Barnette.

24 SOLICITOR BARNETTE: Thank you, Your Honor.

25 May it please the Court.

Kevin Riddle - Cross-examination  
by Solicitor Barnette

1 CROSS-EXAMINATION

2 BY SOLICITOR BARNETTE:

3 Q Mr. Riddle, if I understood your testimony right, you  
4 lived from the middle or first week of May 2004---

5 A Yes, sir.

6 Q ---in the duplex?

7 A I think it was the, the first week in May or it may of  
8 been around the middle of May. I can't remember the date.

9 Q Okay. And the incident involving the defendant  
10 occurred June 15<sup>th</sup>?

11 A Middle of June.

12 Q Right.

13 On June 15<sup>th</sup>?

14 A Yes, sir.

15 Q So, you were there---

16 A About a month.

17 Q A month on that.

18 How well can you get to know somebody in a month?

19 A Well, I just, I just liked him. I mean it just was  
20 somebody that I just, I just, I just liked right off the  
21 bat. I mean I don't, I don't know how else to put it. It  
22 just -- he was, he was a likable guy.

23 Q And where do you work at, ma'am?

24 A Public Defender's Office.

25 Q And didn't the Public Defender's Office represent

Kevin Riddle - Cross-examination  
by Solicitor Barnette

1 Mr. Mangal at one time?

2 A He's had several attorneys at the Public Defender's  
3 Office, yes, sir.

4 Q So, several attorneys have represented him?

5 A Yes, sir.

6 Q Matter of fact, one of them, Mr. Schultz is sitting in  
7 the front row there?

8 A Yes, sir.

9 Q Is one of those attorneys that's representing him over  
10 time.

11 And part of your job is to help in their investigations  
12 and so forth?

13 A Yes, sir, it is. But I've, I've told the attorneys  
14 that I thought I should have myself removed from doing much  
15 work on the case because of me being a potential witness.

16 Q But did you do some work on the case initially?

17 A I served, I served -- I think I served four subpoenas  
18 on the case.

19 Q And you worked with all the attorneys that was involved  
20 in the case, is that right?

21 A I, I---

22 MR. CRANE: Judge, I object. I really don't see the  
23 relevance.

24 THE COURT: All right. I'll sustain the objection.

25 Q Isn't it true that you couldn't hear any sounds from

Kevin Riddle - Cross-examination  
by Solicitor Barnette

1 the other side of the duplex?

2 A No, sir, I didn't hear anything from the---

3 Q You didn't hear anything, right?

4 A Prior to him going to jail.

5 Q Okay. But then you testified in the Family Court  
6 hearing, I'll be glad to show you that transcript, didn't  
7 you testify that you couldn't hear anything from the other  
8 side?

9 A I may have. I don't recall.

10 Q Okay. Let me show you on Page 122, Lines 8 and 10 of  
11 the transcript. Let you read it.

12 Do you need a copy, Your Honor?

13 I forgot to ask you.

14 THE COURT: Does Mr. Crane have a copy of it?

15 SOLICITOR BARNETTE: He does. I know he does.

16 THE COURT: It's Page 122, Line 8 and 10.

17 SOLICITOR BARNETTE: Eight and ten, yes, sir.

18 Q If you would, just read that question there.

19 A Were you in part of the duplex, could you hear any  
20 sounds from the other part?

21 Not usually, no, ma'am, we didn't really hear much.

22 Q So, you really didn't hear much from that duplex, side  
23 of the duplex, did you?

24 A Just, you know, on occasion you would hear something.

25 Q And isn't it true that, that y'all use to have cookouts

Kevin Riddle - Cross-examination  
by Solicitor Barnette

1 with the defendant and his family?

2 A Several times, yes, sir.

3 Q And didn't y'all drink beer at those cookouts?

4 A Yes, sir.

5 Q And what would y'all eat at those cookouts?

6 A Usually chicken.

7 Q Chicken and things like that...

8 And you talked about all this going on, but you worked  
9 during the day, is that right?

10 A Yes, sir, I do.

11 Q And what times do you work?

12 A About 8:30 to 5:00.

13 Q And you may work later depending on how Court's going?

14 A Yes, sir.

15 Q Right.

16 Because the Public Defender's Office represents  
17 defendants that you have to work with, is that right?

18 A Yes, sir.

19 Q And the two boys, you knew them pretty well, didn't  
20 you?

21 A I did.

22 Q Matter of fact, didn't you take Rashan to church before  
23 Fred went to jail?

24 A Yes, sir, he, he, he had wanted to become Catholic.

25 So, he went to church with us.

Kevin Riddle - Cross-examination  
by Solicitor Barnette

- 1 Q Okay. And was it his -- was you afraid his dad  
2 wouldn't approve?
- 3 A I was.
- 4 Q Okay. And you got to know Rashan probably better than  
5 any of them, didn't you?
- 6 A I didn't hear you, sir.
- 7 Q Rashan, Rashan, you got to know him better than anybody  
8 else, didn't you?
- 9 A I did, yes, sir.
- 10 Q And he's a truthful individual, isn't he?
- 11 A I think he's, I think he's a good kid. I think he's a  
12 good kid. I've thought, I've thought of him just like a  
13 son.
- 14 Q And you did see one time where the defendant did kick  
15 his youngest son, Mateen?
- 16 A I did. No, no, that was, that was Rashan. That was --  
17 no, it was Rashan.
- 18 Q Okay. I apologize.
- 19 A No, it was Rashan.
- 20 Q You saw him kick Rashan?
- 21 A Uh-huh. (Affirmative).
- 22 Q And obviously you wasn't over there the whole time when  
23 the defendant was during that month?
- 24 A No, I mean I was working, you know, working and --.
- 25 Q And obviously you weren't there before you moved there?

Kevin Riddle - Cross-examination  
by Solicitor Barnette

- 1 A No, sir, I wash't.
- 2 Q So, you don't know what happened in that home?
- 3 A No, sir, I don't.
- 4 Q When he was there?
- 5 A No, sir.
- 6 Q You don't know what happened in the home after he left  
7 either, do you?
- 8 You never went inside the house or the duplex?
- 9 A I, I would go over there to see Mrs., to see Diane to  
10 pay my rent or, you know, but I, we never really hung out  
11 much in the, in the house. We'd sit outside on the porch,  
12 the back porch.
- 13 Q Okay. And you saw boys, you don't know who those boys  
14 was coming to see or anything, do you?
- 15 Not all of them?
- 16 A Well, I don't, I -- on -- I don't know who all of them  
17 were coming to see. But I mean I, I don't think they were  
18 coming to see Rashan and Mateen.
- 19 Q Would it change your opinion of the defendant if you  
20 knew that he had took electrical cords to his kids and  
21 whipped them with them?
- 22 A Yes, sir, it would.
- 23 Q Would it change your opinion if you knew he had called  
24 certain individuals niggers?
- 25 A Yes, sir.

Kevin Riddle - Cross-examination  
by Solicitor Barnette

1 Q Would it also change your opinion if you knew that he  
2 called his own son, Rashan, a bastard?

3 A Yes, sir, it would.

4 Q Would it change your opinion about his character,  
5 wouldn't it?

6 A Yes, sir.

7 Q One moment, please.

8 (Pause.)

9 Q Thank you, sir.

10 THE COURT: Any redirect limited to what he went into?

11 MR. CRANE: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. CRANE:

14 Q And Mr. Riddle, would your opinion stay the same if, in  
15 fact, he did not call them names like that?

16 A Yes, sir.

17 Q And whether or not he called them names like that or  
18 not, would it change your opinion as to whether or not he's  
19 capable of performing sexual abuse?

20 SOLICITOR BARNETTE: Objection, Your Honor.

21 THE COURT: All right. I've sustained the objection.

22 Q Whether or not he called them names like that, would  
23 you still consider that as out of character for him as you  
24 know him to then commit a sexual abuse on VICTIM?

25 SOLICITOR BARNETTE: Your Honor, I'm gonna object at

Kevin Riddle - Redirect examination  
by Mr. Crane

1 this point.

2 THE COURT: Sustain the objection.

3 MR. CRANE: I'm sorry?

4 Excuse me, judge?

5 THE COURT: I'll sustain the objection.

6 Q Do you recall, on the same page that the solicitor was  
7 asking you about, when you talked about not being able to  
8 hear from the other part of the duplex your answer being not  
9 usually, no, ma'am, we didn't really hear much?

10 Is that what you said at the Family Court?

11 A Yes, sir.

12 Q They went on to ask you the very next question, did  
13 they not, so, you are talking about -- do you remember when  
14 Fred left to go to jail?

15 And your answer?

16 A Yes, ma'am.

17 Q And the other question, did things change after Fred  
18 went to jail?

19 And your answer?

20 A Yes, ma'am.

21 Q, And you said what changed?

22 And your answer?

23 A Well, just a lot of the in and out of the -- well, just  
24 a lot of in and out of the place, a lot more activity and  
25 all, and all going on over there.

Kevin Riddle - Redirect examination  
by Mr. Crane

1 Q And the question, what do you mean in and out?

2 A It's a lot more like---

3 SOLICITOR BARNETTE: Your Honor, I'm gonna, I'm gonna  
4 object at this point, Your Honor.

5 THE COURT: All right. I'm gonna allow him to proceed.  
6 He's -- go ahead, sir.

7 A It's, it's a lot more kids -- there's a lot more  
8 kids -- it's a lot more kids over. Just -- I don't really,  
9 how to put it into my, in own words. A lot more social  
10 activities. Socializing I guess is the best way to put it.

11 Q The question, you mean was this with Mrs. Farid or with  
12 the children or what?

13 SOLICITOR BARNETTE: Your Honor, if he can -- I have to  
14 object cause he can ask questions.

15 THE COURT: All right. I'm gonna allow him to continue  
16 else we're gonna be here for a long time. This is testimony  
17 that's already taken place in another Court. So, I'm gonna  
18 let him go ahead.

19 Go ahead, sir.

20 Q And your answer?

21 A The children.

22 Q Next question, sir, there were more kids over there?

23 A Yes, ma'am.

24 Q Next question, before Fred went to jail though did --  
25 that's okay. That's the one we said you get to know Fred

Kevin Riddle - Redirect examination  
by Mr. Crane

1 and you went on, right?

2 A Yes, sir.

3 Q And I believe the solicitor asked you you don't know  
4 what was going on.

5 Do you recall whether or not any male individuals  
6 actually spent the night over there?

7 A There was one morning, early morning that we saw Joey  
8 coming out the back-door. My wife saw him actually and  
9 pointed him out to me, to me. But I, I don't know -- you  
10 know or you can only assume. I don't know if he was  
11 spending the night or what was going on. But---

12 Q I understand.

13 And was Joey the age of VICTIM or Mrs. Farid?

14 A Age of VICTIM

15 Q Okay. Thank you. Answer any questions the solicitor  
16 might have.

17 RE CROSS EXAMINATION

18 BY SOLICITOR BARNETTE:

19 Q Isn't it true that the only person you saw was, like I  
20 say, after ten o'clock?

21 You didn't see anybody in the morning or you haven't  
22 testified about that -- Family Court asked about that, did  
23 you?

24 A No, not in the morning.

25 Q Thank you.

Mike Ennis - Direct examination  
by Mr. Crane

1 THE COURT: All right, sir. You may step down.  
2 Any reason why the witness can not be excused?  
3 MR. CRANE: Not that I know of, judge.  
4 SOLICITOR BARNETTE: Not from the State, Your Honor.  
5 THE COURT: All right. Thank you, sir. You may step  
6 down.

7 You ready to call your next witness?

8 MR. CRANE: Yes, sir.

9 Judge, is he excused, Mr. Riddle?

10 THE COURT: Yes, sir.

11 MR. CRANE: Okay. Thank you.

12 Defense would call Mike Ennis.

13 THE COURT: Come on around, sir.

14 MIKE ENNIS, being first duly sworn,  
15 testified as follows:

16 MR. CRANE: May it please the Court?

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. CRANE:

20 Q Mr. Ennis, how are you today?

21 A Doing fine, sir. Thank you.

22 Q Mr. Ennis, apparently you're employed by the Sheriff's  
23 Office?

24 A Spartanburg County Detention Center.

25 Q Okay. And what is your job, sir?

Mike Ennis - Direct examination  
by Mr. Crane

1 A We're assigned to courthouse protection and security  
2 here in the courthouse.

3 Q Do you recall whether or not -- and how long you been  
4 so employed?

5 A With the detention center, about eight years. Overall  
6 in law enforcement, 28.

7 Q All right. Do you recall working in Family Court on  
8 May 24<sup>th</sup> of '05?

9 A Yes, sir.

10 Q And was that with Family Court Judge Georgia Anderson?

11 A That's correct.

12 Q Some time during that hearing were you requested by the  
13 judge to inspect the penis of Mr. Mangal?

14 A I was.

15 Q Is this the fellow -- well, let me ask you, did you do  
16 that?

17 A Yes, I did.

18 Q Is this the fellow whose penis you inspected?

19 A Yes, sir.

20 Q Can you tell us please, if you recall, how Mr. Mangal  
21 was dressed?

22 A He was in an orange jumpsuit.

23 Q Do you recall where you took him to do this inspection?

24 A Yes, sir, off the courtrooms in Family Court they're  
25 two small holding cells, and I took him into one of those

Mike Ennis - Direct examination  
by Mr. Crane

1 holding cells.

2 Q Was there anybody else present that you're aware of?

3 A Not that I'm aware of, no, sir.

4 Q And do you recall whether or not he was wearing under  
5 garments?

6 A I don't recall for sure. Most of the time they do  
7 because they're issued by the jail. But to say that I  
8 recall whether he did or not I really don't.

9 Q Were you able to inspect his penis?

10 A Yes, sir.

11 Q How did you do that with the jumpsuit?

12 Did he drop it?

13 Did he open it or what did he do?

14 A As best I can remember, just unsnapped it and opened it  
15 and then took his penis out.

16 Q Okay. Do you -- what type -- I know this kind of --  
17 you've never done this before, have you?

18 A Not under these circumstances, no.

19 Q Okay. Okay. Did you inspect the penis of Mr. Manga?

20 A Yes, sir.

21 Q And tell us how you went about inspecting the penis or  
22 what happened?

23 A Well, you know, when he, when he took it out, of  
24 course, I just, you know, looked at the upper side of it.  
25 Then I asked him to move it from side to side so I could see

Mike Ennis - Direct examination  
by Mr. Crane

1 the side, and then I asked him to raise it so I could see  
2 the underside, and looked at the scrotum area.

3 Q Do you believe that you thoroughly inspected his penis?

4 A Yes, sir.

5 Q Did he move it up and down and sideways as you  
6 directed?

7 A He did.

8 Q When you went in there, did he have any idea what you  
9 were looking for?

10 A The first time I went in, no. As best I can remember I  
11 think that I was told just to look and see what I saw.

12 Q Okay.

13 A If I saw anything.

14 Q And did Mr. Mangal totally cooperate with you?

15 A He did.

16 Q And did he expose as much of his penis and scrotum and  
17 upper legs as he possibly could?

18 A He did.

19 Q And did you see as much as you possibly could?

20 A Yes, sir.

21 Q When you went back -- did you then go back into Family  
22 Court?

23 A Yes.

24 Q And what happened next?

25 A As best I can recall, I asked what specifically I was

Mike Ennis - Direct examination  
by Mr. Crane

1 looking for.

2 Q And what, what were you told?

3 A A mole---

4 Q Okay.

5 A ---on his penis.

6 Q Okay. And so, what happened then?

7 A I went back and looked again.

8 Q Did you find any mole or freckle on the penis of

9 Mr. Mangal?

10 A No. Now, I -- let me clarify. I was, I was told, as  
11 best I can recall, a mole.

12 Q I understand that.

13 A I don't recall seeing a freckle. But since I wasn't  
14 specifically told to look for that, but still, to my  
15 recollection, is I don't recall seeing one.

16 Q Okay. Don't recall seeing anything on the shaft of his  
17 penis?

18 A No, sir.

19 Q The head of his penis?

20 A No, sir.

21 Q Under his penis?

22 A No, sir.

23 Q Side of his penis?

24 A No, sir.

25 Q Scrotum area?

Mike Ennis - Direct examination  
by Mr. Crane

1 A No, sir, the only thing I recall about moles is that,  
2 excuse me, I believe that he had a mole on the inside of his  
3 thigh.

4 Q Like here?

5 A A small mole, yes, sir.

6 Q On his leg?

7 A Yes, sir, on the inside of his thigh on his leg on  
8 either one or possibly both legs. I don't remember now.

9 Q Okay.

10 A But that's the only thing I saw.

11 Q And you certainly have no stake in this case, do you?

12 A No.

13 Q Okay. Answer any questions the solicitor might have  
14 please.

15 THE COURT: Yes, ma'am.

16 SOLICITOR CRICK: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY SOLICITOR CRICK:

19 Q Officer Ennis, the, the defense counsel asked you, you  
20 don't do this normally as part of your job, do you?

21 A No.

22 Q Thank goodness.

23 And you were in a room outside the Family Court?

24 A Yes, ma'am.

25 Q Was there a window in that room?

Mike Ennis - Cross-examination  
by Solicitor Crick

1 A There is.

2 Q There -- where's the window?

3 A It's a small narrow window in the door just so that,  
4 you know, we, we're able, if we have inmates in those rooms,  
5 and we're able to visually look in the room and check on  
6 them and that sort of thing.

7 Q But no window from the outside?

8 A I'm sorry?

9 Q Was there a window that would look outside of the  
10 courthouse?

11 A No, ma'am.

12 Q So, there's a little window on the door where you enter  
13 the room?

14 A The, that's, that's correct.

15 Q And there may be people going back and forth at that  
16 window at any given time?

17 A Well, at that, at that particular place, there, it's  
18 not actually a, you know, along the hallway.

19 Q Yes, sir.

20 A It's more recessed back behind the door that goes into  
21 the courtroom. So, it's not a heavily traveled area right  
22 there. But I mean it's, you know, it's possible if somebody  
23 walked up and looked in, you know, somebody could do that.  
24 But---

25 Q And he wasn't on an examining table or anything?

Mike Ennis - Cross-examination  
by Solicitor Crick

1 A No.

2 Q Was he standing or sitting?

3 A Standing.

4 Q And he didn't take his jumpsuit completely off?

5 A I don't recall if he, if he actually took it, just  
6 unsnapped it and dropped it like down to his waist.

7 Q Yes, sir.

8 A Or if he just unsnapped it, unsnapped it. I'm wanting  
9 to say that he just unsnapped it.

10 Q You can't -- but you can't remember for sure?

11 A I don't recall for sure, no, ma'am.

12 Q You -- well, let me stop right there for a second.

13 Did you document this in any way or did you fill out a  
14 report or photos or anything?

15 A No, I didn't. I did -- I went back in and testified  
16 under oath in Family Court as to what I saw.

17 Q But that's the extent of any documentation at the time?

18 A As best I can remember, that's correct.

19 Q When he, and I hate to go into that, but when he was  
20 showing you his penis---

21 A Uh-huh. (Affirmative).

22 Q ---did you touch it or did, or he was holding it?

23 A He was holding it.

24 Q Did -- so, whenever it was being moved, it was his hand  
25 that was on it, not yours, is that correct?

Mike Ennis - Cross-examination  
by Solicitor Crick

1 A That's correct.

2 Q And he was given the option of how he wanted to move it  
3 or present it to you I guess is a civil way to say that?

4 A Yes, ma'am, just, you know, I just asked him to move it  
5 to the side and just, you know, so I could completely  
6 visually see it.

7 Q Did you fully examine his testicles?

8 A Pardon me?

9 Q Did you fully examine his testicles?

10 A No.

11 Q So you---

12 A I looked. Like I said, I looked at the scrotum area  
13 and that sort of thing. But I mean I didn't---

14 Q More of a glance at it at all?

15 A Yes.

16 Q Okay. You didn't use a flashlight or anything, did  
17 you?

18 A No.

19 Q And you mentioned that at the time you thought you were  
20 looking for moles, not real sure if you saw freckles, is  
21 that accurate?

22 A That's -- I would -- to the best of my recollection I  
23 was told a mole. I don't remember anything being said about  
24 a freckle.

25 Q Okay.

Mike Ennis - Cross-examination  
by Solicitor Crick

1 A But I don't recall seeing a freckle either.

2 Q Okay. So, you're not sure about the freckle?

3 A No, I can -- the only thing I can say is I don't recall  
4 seeing one.

5 Q The only thing -- so, you did see some moles maybe on  
6 the thigh area?

7 A Yes, ma'am, on the inside of the upper thigh.

8 Q Was the penis erect when you examined it?

9 A No.

10 Q Would you agree, sir, Officer Ennis, that his wife,  
11 Diane, would of had, would of seen his penis more times than  
12 you would?

13 MR. CRANE: Object to that question.

14 THE COURT: I'll sustain the objection.

15 SOLICITOR CRICK: Actually, Your Honor, I have no  
16 further questions then.

17 THE COURT: All right.

18 MR. CRANE: Just real quick.

19 THE COURT: Any redirect limited to what she went into?

20 MR. CRANE: Just real quick.

21 REDIRECT EXAMINATION

22 BY MR. CRANE:

23 Q That room certainly had a light in it, didn't it?

24 A Pardon?

25 Q The room at the Family Court where he was had a light

Mike Ennis - Redirect examination  
by Mr. Crane

1 in it?

2 A Yes, sir.

3 Q And you didn't have any problems seeing any part of his  
4 penis you wanted to see, did you?

5 A No, sir.

6 Q And he didn't try and cover-up any part of it, did he?

7 A No, sir.

8 Q And you did a thorough examination, didn't you?

9 A As thorough as I could, yes, sir.

10 Q And didn't see any markings, freckle, or mole on his  
11 penis, shaft, head, or anywhere?

12 A No.

13 Q Thank you.

14 SOLICITOR CRICK: Nothing further, Your Honor.

15 THE COURT: All right. Thank you, sir. You may step  
16 down.

17 Any reason why the witness can not be excused?

18 MR. CRANE: No, sir.

19 SOLICITOR CRICK: No, sir.

20 THE COURT: Thank you, sir. You may be excused.

21 WITNESS: Yes, sir.

22 THE COURT: You ready to call your next witness?

23 MR. CRANE: Yes, sir.

24 THE COURT: Yes, sir.

25 MR. CRANE: Jim Brock.

Jim Brock - Direct examination  
by Mr. Crane

- 1 THE COURT: Come on around, sir.  
2 JIM BROCK, being first duly sworn,  
3 testified as follows:  
4 DIRECT EXAMINATION  
5 BY MR. CRANE:  
6 Q Would you give us your name please?  
7 A Jim Brock.  
8 Q Where do you live, Mr. Brock?  
9 A Duncan Park, Spartanburg.  
10 Q And what do you do for a living?  
11 A I'm a contractor.  
12 Q How long have you been doing that?  
13 A About 25 years.  
14 Q And do you have family?  
15 A I do.  
16 Q Are you married?  
17 A Yes.  
18 Q Have any children?  
19 A Yes.  
20 Q And how about your parents, are they living?  
21 A Yes.  
22 Q And who, who are your parents?  
23 A Jimmy and Barbara Brock. He's a realtor in---  
24 Q He's a realtor?  
25 A He's a realtor in Spartanburg.

Jim Brock - Direct examination  
by Mr. Crane

- 1 Q How long has he been doing it?
- 2 A About 40 years.
- 3 Q Okay. Now, do you know Mr. Fred Mangal?
- 4 A Yes, I do.
- 5 Q When did you get to know Mr. Mangal?
- 6 A Probably about 18 years ago. He worked for me.
- 7 Q He what, sir?
- 8 A I, I met him about 18 years ago. He worked for me.
- 9 Q Okay. About how long did he work for you?
- 10 A I want to say it's about ten years.
- 11 Q What type of work ethic does he have?
- 12 A Very good. Very dependable. Meticulous.
- 13 Perfectionist.
- 14 Q And what type of structures did he help you build?
- 15 A We did mostly renovation and just all different, mostly
- 16 residential construction and, you know, he was a, one of my
- 17 better carpenters.
- 18 Q And did you perform the renovations at just various
- 19 peoples' houses?
- 20 A Oh, yeah.
- 21 Q Did he have or was he ever a construction foreman or
- 22 anything?
- 23 A Pretty much he was, yeah. I'd leave him with, with the
- 24 job and he'd be in charge.
- 25 Q Did you get to know him and have you learned about his

Jim Brock - Direct examination  
by Mr. Crane

1 reputation for truth and voracity?

2 A Yes. Yes.

3 Q And what is that?

4 A Well, he's just a man of his word and he's, you know,  
5 just very dependable, hard worker, got deep morals.

6 Q Deep morals?

7 A Yes.

8 Q Do you know about these charges that have been placed  
9 against him?

10 A Yes, I heard about them.

11 Q Of, of your knowing of his character traits and  
12 everything else that you've learned about him, would this,  
13 would these allegations be out of character for him?

14 A Yes.

15 Q Do you believe that he committed these offenses?

16 A No.

17 SOLICITOR BARNETTE: Objection, Your Honor.

18 THE COURT: Sustain the objection.

19 MR. CRANE: All right. I withdraw that.

20 Q So, these are out of character for him?

21 A Yes.

22 Q Do you know Mrs. Farid and VICTIM and any of the boys?

23 A I haven't seen them since they were, except for now,  
24 except when they were little and I've, I've seen them  
25 occasionally. I've seen VICTIM once maybe since she's---

Jim Brock - Direct examination  
by Mr. Crane

- 1 Q All right.
- 2 A ---grown-up. She was little.
- 3 Q And for the last say eight or nine years, has  
4 Mr. Mangal been working for himself?
- 5 A Yes.
- 6 Q Does he continue to stay in touch with you?
- 7 A Yes, pretty much.
- 8 Q All right. And his reputation is good or bad in the  
9 community?
- 10 A It's good as far as I've, I've heard. I mean I send  
11 him work and I don't send work just to anybody.
- 12 Q When he goes on jobs, is he given pretty much free  
13 reign of the property?
- 14 A Oh, yeah.
- 15 Q In other words, people give him keys to go in and out?
- 16 A Yes.
- 17 Q And you would believe what he says to you?
- 18 A Absolutely.
- 19 Q If you were told that he mistreated his children by  
20 calling them names, for example, fat ass or bastard or bitch  
21 or whore or even nigger or anything like that, would that be  
22 out of character for Fred?
- 23 A Yes, I don't think he would do that.
- 24 Q You don't think he would do that?
- 25 A I don't think he would do that.

Jim Brock - Direct examination  
by Mr. Crane

1 Q Okay. Thank you. Answer any questions the solicitor  
2 might have please.

3 THE COURT: Yes, sir.

4 SOLICITOR BARNETTE: May it please the Court, Your  
5 Honor.

6 CROSS-EXAMINATION

7 BY SOLICITOR BARNETTE:

8 Q Mr. Brock, this is following-up the answer to your  
9 question, you said you don't think, but you don't know?

10 A I don't think -- on what topic?

11 Q The last question just for follow-up with it, you said  
12 that you don't think that he would do something like that.

13 A No, I don't think he would do something like that.

14 Q But you don't know?

15 A Well, I -- if I'm not there, I wouldn't know. So, I  
16 don't know.

17 Q Like you said, you---

18 A But I don't, I don't think he would. Just from what I  
19 know, I don't think he would do that.

20 Q Let me ask you, going back, so you haven't seen the  
21 family since they were young?

22 A Right.

23 Q So, you haven't been in his household since these kids  
24 are grown-up?

25 A No.

Jim Brock - Cross-examination  
by Solicitor Barnette

1 Q You haven't been in the courtroom either, have you?

2 A No.

3 Q Would it change your opinion if you knew he used, used  
4 electrical cords to beat his children?

5 Would that change your opinion of him?

6 A If I saw it with my own eyes it may change my opinion.

7 Q If he called his own son a bastard, would that change  
8 your opinion?

9 A If I saw it and heard it with my own ears that may.

10 Q If he called his daughter a slut, would that change  
11 your opinion?

12 A If I heard it it may change it.

13 Q So, if you knew those things happened, that would  
14 change your opinion?

15 A Possibly.

16 Q Like you said, you only knew him from work?

17 A Right.

18 Q Matter of fact, you still sent work to him after he --  
19 I guess -- are you a contractor or you like subcontract out  
20 to folks?

21 A No, people -- if I can't do the work, if, if it's a job  
22 that I just can't get to, then I would send it to Fred and  
23 recommend that they use him.

24 Q So, you'd recommend him for, or send work to him?

25 A Right, right.

Jim Brock - Cross-examination  
by Solicitor Barnette

1 Q That's really the only area that you knew him from was  
2 from work and doing carpentry work, is that right?

3 A Pretty much. We didn't do too much social stuff  
4 together. I mean occasionally. But not---

5 Q So, you didn't do anything social or anything with or  
6 obviously with his family you did not?

7 A Not with his family, no.

8 SOLICITOR BARNETTE: One moment, Your Honor, please.

9 (Pause.)

10 SOLICITOR BARNETTE: Thank you, sir.

11 THE COURT: Any redirect limited to what he went into?

12 MR. CRANE: No, sir. No, sir.

13 THE COURT: All right. Thank you, sir. You may step  
14 down.

15 WITNESS: All right.

16 MR. CRANE: We would call Elizabeth Waddell.

17 THE COURT: All right. Come on up, ma'am. Come on up.

18 ELIZABETH WADDELL, being first duly  
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CRANE:

22 Q Mrs. Waddell, where do you live?

23 A We live at \_\_\_\_\_ in Woodridge on the west  
24 side of Spartanburg.

25 Q Are you married?

Elizabeth Waddell - Direct examination  
by Mr. Crane

- 1 A Yes, I'm married to Ben Waddell.  
2 Q And do you have any children?  
3 A We have one daughter, Lori. She's Lori Waddell  
4 Spradlin now.  
5 Q What type of business are you and your husband involved  
6 in?  
7 A My husband has a tax and accounting business. I'm a  
8 retired school teacher.  
9 Q And how long has he been in the business?  
10 A About four years.  
11 Q And so, you, you have -- what type of education do you  
12 have?  
13 A Well, I have a BA in Music Education, I have a Masters  
14 in Music Education, and I have a Masters in Early Childhood  
15 Education.  
16 Q How long did you---  
17 A I taught music in elementary schools.  
18 Q I'm sorry.  
19 How long did you teach?  
20 A Thirty years.  
21 Q Thank you.  
22 Do you know Fred Mangal?  
23 A Yes, sir.  
24 Q How did you get to know Mr. Mangal?  
25 A About fifteen years ago we had a patio that was very

Elizabeth Waddell - Direct examination  
by Mr. Crane

1 hot and needed some shade, and Fred's number and name was  
2 given to us by one of the local nurseries as a very good man  
3 to build an arbor and he did a wonderful job.

4 Q Did you use him after that for anything?

5 A Yes, sir, we called him back at least twice. He did a  
6 remodeling job on a kitchen at our daughter's house that was  
7 also a rental house and then later on did a bathroom project  
8 in the same home.

9 Q How did Fred act or react to you ever?

10 A Very nice. Very professional. His work was always as  
11 a master craftsman. Very good with building, plumbing,  
12 wonderful handyman, electrical work. He completely tore out  
13 the kitchen and the bathroom and replaced them as if they  
14 were brand new.

15 Q Did he ever do anything inappropriate that you're aware  
16 of?

17 A No, sir.

18 Q Did you ever get any bad vibes from Mr. Mangal?

19 A No, sir.

20 Q One of these particular jobs did you say was a rental  
21 property?

22 A Yes, sir.

23 Q Who lived there?

24 A That was the house on Virginia Street, and our daughter  
25 actually was in the house with a roommate. Her name was

Elizabeth Waddell - Direct examination  
by Mr. Crane

1 Heidi.

2 Q How old was your daughter at the time?

3 A At the time they were freshly out of college. So, it  
4 must have been 21, 22.

5 Q Okay. And how was it that Fred was able to go into the  
6 house?

7 A With their, their hours, it was just easier to give him  
8 a key and that way he could get started earlier or bring in  
9 his materials and have them ready. And we felt perfectly  
10 comfortable giving Fred a key.

11 Q Was your daughter and roommate there when he came in?

12 A Sometimes they were. Of course, we told them that  
13 there might be a repairman who comes and goes, and they were  
14 perfectly comfortable with it.

15 Q Were, were there occasions when they were still in bed  
16 when he got there?

17 A Yes, sir.

18 Q Did you have any feelings, bad feelings about allowing  
19 him to do that?

20 A No, sir, I only have one daughter. I would not give a  
21 key to just anyone that I did not feel comfortable with.

22 Q Having gotten to know Fred, and I -- you said you  
23 talked to other people in the community just to get him in  
24 the first place, isn't that right?

25 A Yes, sir.

Elizabeth Waddell - Direct examination  
by Mr. Crane

1 Q And do you have an opinion as to his truth and  
2 voracity, whether or not he's truthful and, and believable?

3 A I would trust him 100 percent. He always did a  
4 wonderful job.

5 Q Would you change that opinion knowing that he was  
6 arrested for these sex offenses?

7 A No, sir, I would not change my mind.

8 Q Why not, ma'am?

9 A Because his work and being around him professionally  
10 and as a friend, he was just a wonderful man.

11 Q And is it -- would it be outside his character traits  
12 for him to have done something like this?

13 A Yes, sir, in my opinion it would be.

14 Q Would your opinion change if it was brought to light  
15 that perhaps he called his children names such as fat ass,  
16 bastard, bitch, slut, nigger, and perhaps was brought to  
17 your attention that he may have struck them with a cord or  
18 hit them, do you, and if you were presented with all of  
19 that, from your opinion, would that also be outside his  
20 character?

21 A That would not be the Fred Mangal that I knew.

22 Q Okay. Thank you. Answer any questions that the  
23 solicitor might have for you.

24 THE COURT: Yes, sir.

25 SOLICITOR BARNETTE: Thank you, Your Honor.

Elizabeth Waddell - Cross-examination  
by Solicitor Barnette

1 May it please the Court.

2 CROSS-EXAMINATION

3 BY SOLICITOR BARNETTE:

4 Q Mrs. Waddell, you said that I think he did some work  
5 for you fifteen years ago originally?

6 A Yes, sir.

7 Q And he did two other instances, is that right?

8 A Uh-huh. (Affirmative).

9 Q Now, was only from work relationship you knew him?

10 A Yes, on the bathroom project on the Virginia Street  
11 house, my husband actually took a week off of work to be his  
12 assistant to learn from Fred and to be Fred's goffer and  
13 they just had a wonderful time that week, not only working,  
14 but the jokes back and forth, and, and just to see Fred in  
15 that light was wonderful. He would tell us about coming to  
16 America from another country, and it was educational just to  
17 listen to him.

18 His work was always professional. But he was always --  
19 he had a wonderful sense of humor.

20 Q Now, the Virginia Street, that was where your daughter  
21 and her roommate lived?

22 A Where the daughter lived, exactly.

23 Q Okay. And she was 21 or 22 years old?

24 She was an adult at that time, is that right?

25 A Yes, sir.

Elizabeth Waddell - Cross-examination  
by Solicitor Barnette

1 Q And the two times -- so, he worked a week at the  
2 kitchen, or the kitchen or the bathroom, excuse me, at  
3 Virginia Street or the work at Virginia Street?

4 A Uh-huh. (Affirmative).

5 Q Have you ever been to his house?

6 A No, sir, never been to his home.

7 Q Have you ever met his family?

8 A No, sir, not officially. I've seen them from time to  
9 time. But I've never been really introduced.

10 Q Okay. You've never been in his house or socialized  
11 with him in his house, have you?

12 A No, sir.

13 Q The conduct -- when is the last time he did any work  
14 for y'all?

15 A That would be that bathroom project.

16 Q And when was that, ma'am?

17 A I would say it was five to seven years ago.

18 Q So you really hadn't had any contact with him work wise  
19 or anything for five to seven years?

20 A That is correct.

21 Q And like I said, you just knew him from the work  
22 aspect?

23 Not -- you didn't socialize with, your husband or  
24 anybody in your family did not?

25 A That is correct.

Elizabeth Waddell - Cross-examination  
by Solicitor Barnette

1 Q So, he worked a week at Virginia Street, and I'm  
2 assuming the, the third project occurred between five to  
3 seven year period and fifteen year period?

4 A Yes, sir, the kitchen project was before the bathroom  
5 project.

6 Q And how long did that take, ma'am, or approximately?

7 A It was a couple of weeks because he actually tore out  
8 even an old chimney and was able to build new cabinets and  
9 expanded into what use to be the back porch, brought that  
10 into the kitchen as well.

11 Q And fifteen years the, when the arbor was built, how  
12 long did that take, ma'am?

13 A It was about a week, week and a half.

14 Q So, that's really the only contact y'all -- and of  
15 course, I figured you worked being a school teacher. Your  
16 husband also worked.

17 So, y'all didn't have contact day, I mean all day long  
18 with him during that time?

19 A That is correct.

20 Q So, if my calculations are right, he worked for y'all  
21 about four to five weeks give or take total over that  
22 fifteen year period?

23 A That would be correct.

24 Q And the last time you saw him would be at least five  
25 years ago?

Elizabeth Waddell - Cross-examination  
by Solicitor Barnette

1 A Except in the bond hearing.

2 Q So, you, you really don't know him outside of that work  
3 relationship?

4 A That is correct.

5 Q Thank you, ma'am.

6 THE COURT: Any redirect limited to what he went into?

7 MR. CRANE: Just real quick.

8 REDIRECT EXAMINATION

9 BY MR. CRANE:

10 Q He was arrested almost three years ago, is that right?

11 A Yes, sir.

12 Q So, about two years prior to that is when he last  
13 worked for you?

14 A Yes, sir, that would be about right.

15 Q And the solicitor asked you some questions about the  
16 family and you said you really didn't socialize, but I  
17 believe -- did you ever meet any of the family?

18 I think you testified on cross that you had.

19 Did you ever meet any of Fred's family?

20 A I know he talked about them a lot, and he would always  
21 go home at lunchtime to check on them.

22 Q Okay.

23 A And it might be that I had met some as they were  
24 bringing materials back.

25 Q Okay.

Elizabeth Waddell - Redirect examination  
by Mr. Crane

1 A I'm not really sure.

2 Q Okay. Thank you, ma'am.

3 SOLICITOR BARNETTE: No further questions, Your Honor.

4 THE COURT: All right. Thank you.

5 MR. CRANE: Nothing further, Your Honor.

6 THE COURT: All right. Thank you, ma'am. You may step  
7 down.

8 Any reason the witness can not be excused?

9 SOLICITOR BARNETTE: None from the State, Your Honor.

10 THE COURT: All right. Thank you, ma'am. You may be  
11 excused.

12 MR. CRANE: Defense rests.

13 THE COURT: All right. Ladies and gentlemen, the  
14 defense has now rested their case. I'm gonna have to take  
15 up a couple legal matters with the attorneys right now. So,  
16 if you will, please retire back to the jury deliberation  
17 room. We'll get you back just shortly. Again, do not have  
18 any discussions among yourself about anything involving the  
19 case.

20 (Whereupon, the following takes place outside the  
21 presence of the jury.)

22 THE COURT: Do we know if the State is gonna present  
23 any reply testimony yet?

24 SOLICITOR BARNETTE: We, we are not, Your Honor.

25 THE COURT: All right. Where do y'all stand or your

1 being ready to argue to the jury?

2 MR. CRANE: Could be ready in ten minutes. I just want  
3 to look over my notes again. Or fifteen minutes maybe.

4 SOLICITOR LEIBERT: State's ready, Your Honor.

5 THE COURT: All right. How long does the defense  
6 anticipate argument?

7 MR. CRANE: About eight hours.

8 No, I don't know, judge. I sat down last night, and  
9 made my notes. I really hate to tell you and disappoint  
10 you. I will try to keep it to 45 minutes.

11 SOLICITOR LEIBERT: I won't be that long.

12 THE COURT: All right.

13 SOLICITOR LEIBERT: Your Honor, we have a couple more  
14 jury charge requests.

15 THE COURT: Yes, sir.

16 SOLICITOR LEIBERT: Can I hand those up?

17 May we approach, Your Honor?

18 MR. CRANE: Judge, we're -- there's no one here. I  
19 mean we can do it from here unless you want us to come up.

20 THE COURT: We can do it from there.

21 SOLICITOR LEIBERT: May I approach, Your Honor?

22 THE COURT: Yes.

23 MR. CRANE: I don't have any objection to that.

24 That this one?

25 SOLICITOR LEIBERT: Yeah.

1 MR. CRANE: I don't have any objection to that.

2 SOLICITOR LEIBERT: Here's this one.

3 MR. CRANE: I don't have any objection to that one  
4 either.

5 (Whereupon, a bench conference was held at this time.)

6 THE COURT: All right. Mr. Bailiff, what we're gonna  
7 do is let the jury go ahead and go to lunch. Instruct them  
8 not to have any discussion about anything involving the  
9 case, and tell them to please be back to receive the  
10 arguments and charge by 1:15.

11 (Whereupon, Court was in recess for the lunch hour.)

12 THE COURT: All right. We ready to proceed with the  
13 closing argument?

14 SOLICITOR BARNETTE: Your Honor, I think we talked to  
15 Mr. Crane. Mr. Crane is gonna open. We're gonna close.  
16 We're not gonna open up on the law and he's not requiring us  
17 to is my understanding.

18 THE COURT: Okay. All right. Then let's bring the  
19 jury back.

20 SOLICITOR BARNETTE: Just one.

21 THE COURT: Hang on one second.

22 SOLICITOR BARNETTE: Your Honor, just on caution, I  
23 know you ruled on prior allegations. There's some mention,  
24 a little mention by the defendant, I don't think the jury  
25 ever picked up on it or anything, we just caution, ask the

1 Court to caution Mr. Crane about any prior allegations based  
2 off the Court's ruling.

3 THE COURT: All right.

4 MR. CRANE: About what?

5 SOLICITOR BARNETTE: Prior allegations.

6 THE COURT: About the four year old thing  
7 referencing---

8 MR. CRANE: I'm not gonna mention anything about that.  
9 I'm just gonna simply say that on cross-examination they  
10 elicited from my client that VICTIM<sup>1</sup> lied, has lied about her  
11 grandfather, her uncle, and her brothers, and him in the  
12 past. That's all I'm gonna say to the jury.

13 THE COURT: All right.

14 SOLICITOR BARNETTE: And I don't think that was  
15 elicited on cross. But---

16 SOLICITOR CRICK: And Your Honor, I can speak to that  
17 cross because I believe it was me who did it. Although they  
18 had been cautioned not to bring up those incidents, it was  
19 slipped out anyway, and it wasn't cross cause I was sitting  
20 right here deciding whether or not to stand up and interrupt  
21 it and I did not do that. So, it was actually on direct.

22 There -- and the, and the testimony was not that she  
23 falsely accused all those people. He said you'd heard it  
24 before from VICTIM, from Rashan, from somebody, and somebody  
25 else. The point is you already ruled on that and it

1 shouldn't be brought up in closing as we weren't allowed to  
2 talk about it in Court.

3 THE COURT: All right.

4 MR. CRANE: Judge, I intend to argue to the jury,  
5 unless you tell me otherwise, that my client stood on the  
6 stand and said that he has been, that he knows that VICTIM has  
7 lied about her grandfather, her uncle, her brothers, and him  
8 in the past, and that was brought out and was not objected  
9 to and we went on with our testimony.

10 THE COURT: All right. But it's not gonna be  
11 referenced that the, the accusations of the lying dealt with  
12 any type of sexual abuse?

13 MR. CRANE: Never would.

14 THE COURT: All right. It was and I do recall that it  
15 was presented as part of his testimony in the case without  
16 any objection.

17 Yes, sir.

18 SOLICITOR LEIBERT: And I was just gonna make sure  
19 cause I'm doing the closing.

20 THE COURT: Okay.

21 SOLICITOR LEIBERT: And that is permissible?

22 THE COURT: Yeah.

23 SOLICITOR LEIBERT: Okay.

24 THE COURT: But he's not gonna go into as being prior  
25 sexual allegations or anything of that nature.

1 SOLICITOR LEIBERT: All right. Thank you.

2 THE COURT: Yes, sir, you may bring them back.

3 (Whereupon, the following takes place within the  
4 presence of the jury.)

5 THE COURT: All right. Ladies and gentlemen of the  
6 jury, we are now ready to proceed with the closing arguments  
7 of the attorneys. After that I will then give you the  
8 instructions on the law that you will apply to the case  
9 before you begin your deliberations.

10 As with the opening statements, the closing arguments  
11 are not to be considered as evidence in the case. They're  
12 simply the, a way for both sides to be able to summarize to  
13 you what they believe the issues are in the case and to what  
14 they believe the evidence showed in this case. In the event  
15 that your recollection, your recollection as to what the  
16 evidence is differs from that of the attorneys as they  
17 present it to you, then you may rely on your own  
18 recollection.

19 But at this time we will receive the closing arguments  
20 from the attorneys.

21 MR. CRANE: Thank you, judge.

22 THE COURT: Yes, sir.

23 MR. CRANE: Mr. Foreman, ladies and gentlemen, good  
24 afternoon. We're getting ready to close this thing out and  
25 I know you're ready to do that.

1 I want to first thank you for your attention during  
2 these four days. We couldn't do this without you.  
3 Mr. Mangal appreciates it. I know that the State does too.

4 When we started off on Monday you heard the opening  
5 arguments and the opening discussions from the attorneys and  
6 they were various things said to you. I believe the opening  
7 was done by the lady solicitor here, and she told you that  
8 she would prove to you that these allegations occurred.

9 And I submitted to you that if you listened carefully  
10 to what was gonna be testified to that there would, more  
11 likely than not, be a reasonable doubt in your mind and that  
12 you would more likely than not find my client not guilty.  
13 And I hope that I've been able to do that.

14 I want to say to you that if I have done anything that  
15 has offended you or said anything in the court that has not  
16 set with, well with you or perhaps made VICTIM cry and you  
17 didn't like that, hold that against me, but not against  
18 Mr. Mangal. I have a job to do. I've been doing this for  
19 30 years.

20 You might of noticed there were no attorneys ever  
21 crying in this courtroom because it's our job. We're use to  
22 coming in here and we're in a courtroom. It's a volatile  
23 situation. It's a lot of emotions going on.

24 And the judge, when he opened his opening remarks to  
25 you, said this is not like television. You're not gonna see

1 the dramatics of television.

2 Well, I submit to you that maybe you did. You know not  
3 only is the dramatics of television in this trial, but  
4 you're part of it. You're the integral part of it. You are  
5 gonna make the decision as to whether or not that man is  
6 finally set free after 33 months in jail or whether he goes  
7 to jail for a lot longer.

8 Now, sentencing is not up to you. Don't get me wrong  
9 about that. That's up to the judge. But if you find him  
10 guilty, you will convict him, he will be labeled a child  
11 molester, a sex offender, and will go to jail. And that's  
12 what the trial is all about.

13 You have to figure out how am I suppose to decide this  
14 issue.

15 You may, if you could ask me a question, you might say  
16 Mr. Crane, what am I suppose to do?

17 I don't know what to do here.

18 Well, the judge is gonna give you the law in a moment.  
19 I'm gonna reiterate some of it. Let me say this. If I say  
20 something wrong, listen to what the judge says. I don't do  
21 it intentionally. You know when you're in a, a contest like  
22 this -- and it is a contest. They've got a issue to bring  
23 forward, and I've got an issue to bring forward. And we --  
24 and try to do the jobs the best that we can and we try to do  
25 it as professionally as we can. I hope I've done that to

1 know what anal intercourse is, and that's what's been  
2 alleged here.

3       The other two indictments are lewd act on a minor  
4 wherein they have to show to you that my client, and again  
5 the dates -- when, when you go to decide these, you're gonna  
6 have five indictments. And like I said when we started, you  
7 can find him guilty of five indictments. You can find him  
8 guilty of one indictment or anywhere in-between or you can  
9 find him not guilty of all five indictments, which, of  
10 course, is what I would submit to you will be the proper  
11 verdict. But we'll get to that in a moment also.

12       Your verdict must be unanimous. There will be twelve  
13 of you deciding.

14       Madam Alternate, you will not render a decision if all  
15 of these other people don't get sick.

16       So, the 12 of you will decide it. You'll have to go to  
17 the jury room.

18       And Mr. Foreman, you will guide the jury through the  
19 deliberations.

20       And I don't know how you all vote. If you want to  
21 write down on a piece paper, want to talk about it first,  
22 want to vote first, or what you want to do. But all twelve  
23 of you must decide the matter to come up with a unanimous  
24 verdict either guilty or not guilty.

25       And if six of you decide one way and six of you decide

1 the other way, you're suppose to try and get together and  
2 come up with one verdict. But if six of you don't agree  
3 with these six or two of you don't agree with these ten or  
4 one of you does not agree with the other eleven, it is not  
5 your job to give in to what they want to do. You should  
6 stand fast by your decision and try to convince those other  
7 eleven to see it your way because see it has to be  
8 unanimous.

9 I want a unanimous verdict. They want a unanimous  
10 verdict. It's been too long in coming to get to court.  
11 It's been almost three years, and it's time to put it to,  
12 put it, put it to rest. Let the Farid's get on with their,  
13 their life, and let Mr. Mangal get on with his. Whatever  
14 might happen, let's get it over with. So try to come  
15 together. But if you can't you can't.

16 It just simply means -- doesn't mean you're a bad jury.  
17 Just means that we might have to come back and do this again  
18 and we don't want to do that. It may mean that we don't  
19 come back and do it again. I don't know. Let's not even go  
20 there. Hopefully y'all will get together.

21 So, the law is, like I said to you, the, the lewd act  
22 on a minor is whether or not he committed some type of lewd  
23 and lascivious activities, and the judge will define those  
24 to you, during a certain time frame. And the time frame is  
25 September 9<sup>th</sup> of '97 through September 9<sup>th</sup> of 2000.

1 That overlaps with two of the criminal sexual conduct  
2 indictments. And my first thoughts are whether or not  
3 you've got that indictment because the State isn't convinced  
4 that there was actually criminal sexual conduct.

5 So, if they're not convinced it wasn't---

6 SOLICITOR LEIBERT: Objection, Your Honor.

7 THE COURT: All right. And again, ladies and  
8 gentlemen, I will remind you that these are the closing  
9 arguments of the attorneys. It's their opportunity to be  
10 able to present the positions that they believe that best  
11 reflects their case. That's not to be considered as  
12 evidence in the case.

13 I understand what he's arguing.

14 SOLICITOR LEIBERT: Thank you.

15 THE COURT: Go ahead, sir.

16 MR. CRANE: He doesn't want me to mention it. They, I  
17 submit to you, are not sure what happened. And if you've  
18 listened carefully to the testimony, you're not gonna be  
19 sure what happened. VICTIM, herself testified all over the  
20 place as to what happened particularly about the first  
21 incident.

22 And then you've got the incest which they say occurred  
23 between September 9<sup>th</sup> of '03 and May 31<sup>st</sup> of '04.  
24 That's only about an eight month period right before my  
25 client got arrested. And incest has to be sexual

1 intercourse with someone related to you. And the judge will  
2 tell you what that relation is. It has to be sexual  
3 intercourse. Not rubbing. Not playing with. But sexual  
4 intercourse.

5 I submit to you that indictment should be the easiest  
6 one for you because VICTIM never testified that there was  
7 sexual intercourse during that time frame. If you think  
8 back to what she testified to, she testified, if you believe  
9 her, that her daddy rubbed on her some time just before her  
10 mom had an operation, but she never said anything about  
11 sexual intercourse, and there was no other times that she  
12 mentioned during that time frame.

13 So that, that one ought to be easy to get rid of. But  
14 it's the other four that I submit might give you difficulty  
15 unless you listened very carefully to the testimony. So,  
16 let's look at the testimony a moment.

17 When I started the case I submitted to you that you  
18 would hear inconsistent statements from the witnesses. And  
19 again, the judge is gonna tell you that you have the right  
20 to take the credibility of a witness, the believability of  
21 the witness, the bias or prejudice that a witness might have  
22 in order to determine whether or not that witness is telling  
23 the truth.

24 Now, what's the bias or prejudice that witnesses might  
25 have in this case?

1 Well, he's been in jail 33 months and he wants to go  
2 home or to wherever he can go. Certainly not going home.  
3 But he wants to get out of jail.

4 But did he say anything up here that was contradicted  
5 by any witnesses to any great degree?

6 There's a lot of stuff brought out about what a strict  
7 dad he is, that he -- they said that he calls the children  
8 names. You know, such offensive names as fat ass and bitch  
9 and whore and nigger and slut and anything else that they  
10 wanted to throw at them. He said he didn't do it. He said  
11 he didn't call them those names.

12 And the witness that came from the defendant, the, the  
13 last two, Jim Brock and Elizabeth Waddell -- and Doctor  
14 Medlock who's been a physician for 50 years in Spartanburg,  
15 some of you may of been to him. I don't know if you know  
16 him or not. Some of you may have taken your children to  
17 him. They have all testified that if, in fact, he said  
18 that, that's not in his character and they don't believe he  
19 said it. And Doctor Medlock specifically said he did not  
20 think that Mr. Mangal was capable of committing these  
21 offenses. A respected physician of 50 years in this  
22 community, and the other people that came and testified.

23 What's the first glaring inconsistency with VICTIM?

24 She gave a statement. She says that this stuff started  
25 when she was ten years old.

1           What started?

2           Do you know?

3           Was there rubbing or was there intercourse?

4           VICTIM, in her statement, says he was rubbing on me. He  
5 then did anal intercourse. And then about three and  
6 one-half years later he starts rubbing me in my vaginal  
7 area, and then he did vaginal intercourse. That's in her  
8 statement.

9           Her testimony to you in Family Court was that he  
10 started rubbing on her. And when I finally asked her -- you  
11 remember when she started crying?

12           I was asking about the anal intercourse.

13           I said, you know, because on direct examination did  
14 VICTIM ever say whether there was penetration when the  
15 solicitor's were questioning her?

16           Did VICTIM ever say yes, he penetrated me?

17           She kept saying well, no, maybe, gee, I don't know.  
18 She forgot more than she remembered. And that's in, that's  
19 indicative of someone that's not telling the truth.

20           You, all of you, you've been chosen by us and by them  
21 to be fair and impartial jurors. They asked you, the female  
22 solicitor asked you to use your common sense. Use your  
23 common sense in your life that you've lived.

24           Isn't it easier to remember something and say it the  
25 same way when you're telling the truth then it is if you try

1           Are you jurors firmly convinced that he's guilty of  
2 these offenses?

3           Are you jurors ready to take this leap from here to  
4 here and being firmly convinced of his guilt or innocence or  
5 is your leap here?

6           Is this the type of conviction, conviction you have in  
7 your mind regarding the facts?

8           Are you convinced to this point that you know you can  
9 make this, and, therefore, you know that he's guilty or is  
10 it here?

11          Now, before I forget -- and I'm gonna probably forget a  
12 lot -- I've got all kind of pages. I'll probably talk way  
13 too long. But it's an important case to me. I've been here  
14 for four days. I've been up at night with a cough and  
15 feeling terrible, but that's just me and it's not anything  
16 you need to worry about, but I want to do this right for my  
17 client. I got a good night sleep last night. So, I'm ready  
18 to go. Bear with me.

19          If this started back when it did, and if, in fact, he  
20 repeatedly engaged in anal intercourse, can you tell me why  
21 the medical records from 2003 I think it is, from Doctor  
22 Medlock's office, the rectal exam that says it is a normal  
23 rectum, if you're gonna engage in however many times a week  
24 it was of anal intercourse, are you going to have a normal  
25 rectum?

1 I submit to you you're not.

2 I don't want to go through all these records. They're  
3 all here. You look at them. Those are the medical records.  
4 I do want you to take a look at -- these are the OB-GYN  
5 records and the important records from the OB-GYN are the  
6 ones from January 2<sup>nd</sup>, 2002. They're dated right here.  
7 It's a couple things it says in here. Rectal examination  
8 normal. That would be after about five years of these  
9 allegations and alleged anal intercourse.

10 And more importantly, and most importantly, these two  
11 words right here that you can't see, may not be able to  
12 read, but they say intact hymen. Now, you ladies might know  
13 better than the guys. You heard testimony from at least two  
14 doctors. Their testimony was similar in nature because they  
15 both said if you've got a, particularly Doctor Medlock, he  
16 said if you've got an intact hymen, that means you have not  
17 been penetrated.

18 When did VICTIM say, on my cross-examination, that the  
19 first vaginal penetration occurred?

20 Do you even remember?

21 She said it happened before her 14<sup>th</sup> birthday, which  
22 would have been in September of 2001. I pinned her down  
23 because I wanted her to say what she said cause I knew what  
24 this report said. She said that he engaged in vaginal  
25 intercourse with her just before her birthday, a month or

1 two before her birthday in September of 2001, that he took  
2 her virginity on that date, and it hurt, and she bled.

3 And guess what?

4 Six months later her hymen is still in tact. Tell me  
5 how that happens. It can't.

6 And then you've got Doctor Henderson who testifies.  
7 She has two jobs. A teacher at the Greenville Memorial  
8 Hospital, and as an advocate for children who allege sexual  
9 activities and allege sexual abuse.

10 She comes into court and testifies on behalf of  
11 allegedly sexually abused children. And when she did her  
12 exam in July of '04, two and a half years after this, VICTIM  
13 still has a hymen, crescentic in nature. Remember what the  
14 doctors -- both doctors described the hymen to you as a  
15 flimsy or very small mucus membrane, membrane over the  
16 vaginal opening.

17 Did Doctor Henderson say that what she found with the  
18 crescentic hymen was from sexual abuse?

19 She did not.

20 What Doctor Henderson said was what she found was that  
21 there may have been some type of penetration. But when she  
22 found the crescentic hymen, that could be from any other  
23 trauma or any other type of penetration. But in  
24 January 2002 she had an in tact hymen. In July of 2004 she  
25 had an in tact hymen. But yet she wants you to believe that

1 her daddy was having vaginal intercourse with her at least  
2 five or six times.

3 She wants you to believe -- and you know when you start  
4 talking about some of her other testimony -- excuse me.  
5 When she was questioned by the solicitor about when this  
6 started at ten, at the age of ten, the solicitor said how  
7 often did this go on. And I get my, my answers confused a  
8 little bit, but you remember what she said. She said once  
9 or twice a week.

10 And then, before the solicitor sat down, she said four  
11 or five times a week. And then before I finished with her  
12 it was back to two or three times a week. She, she can't  
13 keep her stories straight.

14 When she alleges that she told her mom about this --  
15 now, you know, you can picture this. I'm sure you've been  
16 doing it all week. You've been looking at this in your  
17 mind. If you pictured VICTIM and her mom going to the doctor.  
18 You pictured VICTIM crying in the car. You picture the mom  
19 saying what's wrong, honey. VICTIM said I can't tell you,  
20 it's gonna change our family and everything else.

21 And you know -- and then her mom doesn't remember  
22 whether VICTIM told her before she went into the doctor or  
23 afterwards.

24 But when the solicitor asked you to use your common  
25 sense, does either one of the stories make any sense?

1           If you're sitting at the doctor's office and your  
2 daughter's visibly upset and crying and emotional, and she  
3 relates to you that her father's been molesting her since  
4 she was ten, are you gonna then get out of the car and go to  
5 the doctor's office and leave her out there in that  
6 condition or if, in fact, she's in that condition and won't  
7 tell you, are you going into the doctor and, and wait the  
8 hour and a half you got to wait and then go out and find out  
9 what's going on?

10           That doesn't make any sense.

11           The, the one problem that I submit you, that I've got  
12 with this case is I can't figure out who started this thing  
13 on their side. Whether it was VICTIM that started it, whether  
14 it was her mother that started it and got VICTIM involved, or  
15 whether they're in it together, I don't know where they're  
16 coming from.

17           What I do know is that the mother, in her statement on  
18 the day that Mr. Mangal was arrested, says in her statement  
19 and testified to you today, that would of been two hours  
20 after having talked to VICTIM, that VICTIM confided in her and  
21 that she pressed her for details and VICTIM told her at that  
22 time he has never penetrated me, I have never allowed  
23 penetration, and I've never allowed oral sex.

24           And then her mom on the witness stand tried to tell  
25 well, you know, I mean why would she tell me everything.

1 her uncle. And it happens all the time.

2 It also is, should be perplexing to you to try to  
3 wonder why, when they're making these allegations and  
4 they're seeing these investigators and these experts in the  
5 field who are there to determine whether or not this  
6 actually happened, these two don't share all the facts with  
7 them.

8 Now what do I mean by that?

9 Wiley Garrett, who's the one that's doing the  
10 assessment to determine what kind of counseling VICTIM should  
11 have, they either forget to tell him or, according to them,  
12 they weren't asked to tell him that VICTIM had been suspended  
13 from school for giving oral sex to a boy in 2002. And Wiley  
14 Garrett said yeah, that would of been important had I known  
15 that. And they did not tell him about VICTIM stealing  
16 sandwiches from the lunch room or whatever it is that  
17 happened with the sandwiches in the lunch room. And they  
18 did not tell him about the suspensions for excessive  
19 tardies. They chose to tell him only about the alcohol  
20 incident that happened shortly before my client's arrest.  
21 And he said all of those would have been important to know.

22 And the other important thing about Doctor Henderson --  
23 and I, and I know I'm jumping all around. And I hope you  
24 keep it -- I've got it all written down and it's kind of  
25 like the preacher that has his sermon written down and he

1 stands up there and throws his paperwork away. And I'm not  
2 a preacher.

3 Doctor Henderson, when she gave you her assessment, I  
4 asked her about her report. I said Doctor Henderson, your  
5 report says suspicious. It doesn't say consistent with. It  
6 says suspicious. And in her written report it said the  
7 condition may be related to what VICTIM is complaining about.

8 But we learned that the reason she determined this  
9 might be sexual battery is because VICTIM says it was. She  
10 gets all of her information from VICTIM, the one who started  
11 this thing, and I submit to you is not telling the truth  
12 from the jump.

13 So, she -- because remember what Doctor Henderson said?

14 From the physical exam by itself, if she had seen only  
15 the physical exam, she would not rule sexual abuse.

16 However, she listened to VICTIM, what she was saying, and  
17 because of that, she ruled sexual abuse. She believes VICTIM.

18 Wiley Garrett believes VICTIM. But Wiley Garrett didn't  
19 have all the information.

20 VICTIM -- and one other page here real quick.

21 To give you -- you know, these cases can turn on the  
22 least little thing. If you, if you don't believe a witness,  
23 then you're gonna throw out the testimony. The judge is  
24 gonna tell you you have the right to believe what one  
25 witness says as opposed to another. You have the right to

1 believe part of what a witness said and disbelieve another.  
2 The judge is going to charge you on what we call  
3 inconsistent statements. You know, what VICTIM<sub>1</sub> said back when  
4 she gave a statement to what she testified to in Family  
5 Court to what was said on the witness stand. They're  
6 inconsistent. And you have the right to determine whether  
7 or not she just lied outright, she doesn't know what she's  
8 talking about, or whether the testimony in Court today is  
9 true, or whether the testimony in Family Court is true or  
10 what's true. But that's for you to decide.

11 A little thing like she says that her dad stopped this  
12 for a year and a half.

13 When?

14 When she went into the ninth grade.

15 Why?

16 Because her grades went down.

17 We know that's garbage because I submitted her records  
18 to her. We know she kept getting 85's, 86's, 92's. Her  
19 grades didn't go down. She lied.

20 And if you're gonna use common sense, why in the world,  
21 if he's doing this, would he quit for a year and a half?

22 Why in the world, if VICTIM<sub>1</sub> is so afraid of him, she  
23 didn't go to the police when my client went overseas in  
24 January?

25 He was gonna be gone five weeks.

1           You think she couldn't have gone to her mother and gone  
2 to the police and they wouldn't be waiting on him when he  
3 came back into the country and again be in jail for 33  
4 months?

5           It's just -- it doesn't make any sense.

6           She says that after his arrest she didn't have any  
7 friends. That's what she said on direct. On my examination  
8 of her, we find out she has a college boyfriend.

9           You want to know why this happened, ladies and  
10 gentlemen?

11           Because Mrs. Farid had been caught by her husband in an  
12 adulterous affair with another fellow. Had already  
13 confronted her with that Tampon incident, and I don't want  
14 to go into that too much cause that's kind of gross to me.  
15 But you know, finds a Tampon in the toilet, and says those  
16 are warn by my wife when she engages in sex.

17           And VICTIM doesn't wear Tampons. And they made a big  
18 deal about that.

19           How do we know that?

20           He says I know that. I know she doesn't wear Tampons.

21           And one of the opportunities that the State has at the  
22 end of the case is to call another witness to rebut the  
23 testimony of any witness they want to rebut. And they could  
24 of called VICTIM or anybody to simply say I do wear Tampons  
25 and it was mine. But they didn't do it.

1           And so, with Mrs. Farid -- remember my client says that  
2 they already talked about this. Mrs. Farid says they  
3 didn't. And my client said he was gonna wait till she was  
4 better. This was her last appointment, and he was gonna  
5 confront her.

6           And why would VICTIM do this?

7           You know, sometime when you got these cases, and  
8 unfortunately, I have to tell you this is not my first one,  
9 but a lot of time we have a lot younger children. And one  
10 of the arguments given to the jury is how could this small  
11 child possibly make this up if it didn't happen.

12           Well, that's not what we're dealing with here. We're  
13 dealing with at that time a sixteen year old, who had been  
14 in high school, probably had sex ed, I don't know if she did  
15 or not, and she knows what to say. And she's living at that  
16 home.

17           There's no question but that he is very strict. You  
18 know, I can't get around that. He admitted that to you. He  
19 denied ever hitting any child with any telephone cord. He  
20 denied hitting any child with his fist. He admitted to you  
21 that he has hit them with fists as they were playing and he  
22 admitted to you that he's kicked them as they were playing.

23           And who else said they saw that?

24           Kevin Riddle said that, that he saw them kicking them.

25           And you know, again, before I forget it, these things

1 keep popping in my -- there's just so many inconsistencies.  
2 One of the jobs of Elizabeth over there is to take notes and  
3 to let me know what all the inconsistencies are. And quite  
4 honestly, we quit counting at about 30 or 40. And, and if I  
5 can bring them all, then you'll have them all.

6 But you know, is it important or is it not or is it  
7 just absolutely silly?

8 VICTIM . Diane Farid.

9 Excuse me, sir.

10 You'll have these -- you will have these in the jury  
11 room. I, I said to you in opening that you would have the  
12 indictments in the jury room. But you won't. I was  
13 misstating. The judge won't send them to you. You'll have  
14 a verdict sheet. But you'll have all this evidence.

15 Now, when you start talking about a conspiracy theory,  
16 they tried to get together, but they goofed. You know, this  
17 went by -- Diane's said he's got a freckle on the head of  
18 his penis. This one by VICTIM says there's a -- and she said  
19 to the, to the people a mole on the shaft.

20 Well, they didn't quite hear each other. So, they drew  
21 different pictures. This one was drawn on 7/20. This one  
22 was drawn on 6/25. They, they -- you know, like I said,  
23 when you're lying, you can't get it right. If you're  
24 telling the truth, you get it right. If they were telling  
25 the truth, they would either both say there's a mole or they

1 both said it's a freckle. But they both say something  
2 different.

3 And if there's any witness in this entire trial for the  
4 last four days that you can believe, it's Mike Ennis, the --  
5 you're not -- Mike Ennis, the deputy sheriff that sat right  
6 there, the one that works in the detention center who gave  
7 you the most honest testimony he could possibly give to you.

8 And what is that?

9 And that is that he was put in a situation at Family  
10 Court during the Family Court hearing in this matter where  
11 the Family Court judge said please go examine that guy, and  
12 he takes my client into a room with lights and has him drop  
13 his drawers, and as Mr. Ennis said, thoroughly inspected his  
14 penis, and didn't find the first mark.

15 Now, you know, if I knew this was coming, and kind of  
16 as a, just as an afterthought, I got to wondering.

17 Is there a mark on mine?

18 I don't know.

19 Do you guys know if there's a mark on yours?

20 Do you women know if there's a mark on your husband's?

21 SOLICITOR LEIBERT: Object, Your Honor.

22 THE COURT: I'll sustain the objection.

23 Go ahead, sir.

24 SOLICITOR LEIBERT: Thank you.

25 MR. CRANE: Whether there is or there isn't, there's no

1 mark on my client's.

2 Why would they say this?

3 Because they're trying to get together on that and they  
4 goofed. That's strong testimony. It's kind of -- I'm not  
5 gonna go with that one. It's strong testimony from the  
6 deputy sheriff that came in here.

7 In her statement that she gave on the date that my  
8 client was arrested she put in there, and these are little  
9 things, I know that, she put in there that she came home  
10 from school, he talked to her in the living room, and took  
11 her where?

12 To her room and allegedly did this thing to her in her  
13 statement given to the detectives the day he was arrested.

14 In Family Court, and here during this trial, where did  
15 she say it happened?

16 In his room.

17 Is that a big deal?

18 Maybe not.

19 But if you're telling the truth, you always tell the  
20 right thing. If you're lying, you're not.

21 I think y'all eventually had these pictures the other  
22 day. I don't know if you-all got to look at them. They're  
23 identified as the pictures to the, to the room.

24 Okay. Another little thing, very small, but all these  
25 little things add up to convince you that she's not telling

1 you the truth. She testified that my client changed the  
2 locks and put a dead bolt lock on that door.

3 Number one, do you see a dead bolt lock anywhere on  
4 that door as I know dead bolted to be maybe as you do?

5 Is she referring to the handle of the door?

6 Maybe so.

7 This is the outside of the kind, outside of the door.

8 Is there a key to the outside?

9 There is.

10 What did she say about the inside?

11 A key that you could look from the inside.

12 Guess what?

13 There's no key lock. It's a little button. Little  
14 button.

15 Now, these are just things that the solicitor is gonna  
16 say she just forgot about over the years. I don't think so.  
17 I think she tried to make something and she can't get it  
18 right.

19 When I started talked to VICTIM about being placed in the  
20 dining room, and I said isn't it true there were boys at  
21 your window?

22 She said at first no.

23 And when I finally pressed her she admitted that there  
24 was a boy at the window and her dad chased him. And Rashan  
25 told you that's what happened.

1           And does that make any sense to you that if my client's  
2 molesting his daughter he's gonna put her in the dining room  
3 and not leave her in her room?

4           She also said that no one moved into her room. I  
5 submit to you that my client told you, when he moved VICTIM  
6 into the dining room, he moved Mateen into her room. She's  
7 lying to you again.

8           She says in her first statement that she gave to the  
9 police that my client, for whatever reason, made her take  
10 pregnancy tests. Five of them. She told Doctor Henderson  
11 two of them. She told you two or three or four, whatever  
12 she said. But it's not consistent with what she said in the  
13 past.

14           She told you that Rashan was the first one to learn  
15 about this.

16           When did she tell you she told Rashan?

17           The night before the arrest and I gave her every  
18 opportunity to change that testimony.

19           When did Rashan tell you he learned of what was going  
20 on?

21           The morning that her mother, his mother went to the  
22 doctor and the morning of the arrest.

23           Again, a very small thing. But it's an inconsistency.  
24 It just goes to show you what kind of person VICTIM is.

25           Now, you might say, why is Mena gonna do this?

1           VICTIM s gonna do this because her life was miserable at  
2 home. Her mother has testified that there were no signs  
3 whatsoever of anything wrong between VICTIM and her dad. I  
4 would expect her mother to testify that yes, I noticed that  
5 VICTIM kind of stayed away from him, she didn't hug him, she  
6 didn't sit on his lap anymore. Excuse me. But none of that  
7 was apparent.

8           You know, if, if this child's being molested for, at  
9 that time, six years, is she gonna be the same through all  
10 those six years or is she gonna start being with her, is she  
11 gonna hang with her dad?

12           And her mother says there were no signs. Never saw  
13 anything wrong. And the mother says I missed the signs.

14           There was never soiled bed sheets. You know, here  
15 again, if you -- I would submit to you that if you engage in  
16 repeated sex, you're gonna eventually make a mess. You  
17 can't be that careful all the time. And she never saw any  
18 soiled bed sheets. It can't happen. And the reason she  
19 didn't see any of those signs is cause there's nothing going  
20 on.

21           So, Diane wants this done because she's having an  
22 affair. VICTIM wants it done because she wants freedom at  
23 last. I want freedom. She can't date. She can't talk on  
24 the telephone. She can't go out of the house. She's got to  
25 clean the house; do the dishes, vacuum, watch the boys. As

1 Wiley Garrett said, parentification I think is what he  
2 called it, and she wants out. And she finds an easy way.

3 And what does she say?

4 Let me see if I can find it here. I may have to  
5 paraphrase it. But when I was questioning VICTIM about having  
6 told the police in the Family Court when she testified,  
7 remember she cut herself before the Family Court testimony.  
8 She cut herself.

9 And the question were did you cut yourself because  
10 you're sad at what you said about your father?

11 She said yes.

12 And are you sad because of where he is?

13 Yes.

14 And she said I didn't think that that would put him in  
15 jail.

16 Ladies and gentlemen, she thought she'd make the  
17 allegations to her mama. She thought her dad would leave  
18 and it would be over with.

19 Unfortunately, that followed her, her and the rest of  
20 the family, and he went to jail, and we had to come to  
21 Court, and she has to stick to her story.

22 And what happens after he leaves?

23 In just a few words, she went wild. She started  
24 smoking. She started drinking. She started staying out  
25 late at night. She got her college sweetheart. She started

1 bucking her mother. She wasn't listening to her mother  
2 anymore.

3 Let me, let me read something else from these records  
4 you're gonna have.

5 3/19/03, at the Women's Health Care Center, social  
6 history, smoking no, caffeine, Cokes, so forth and so on.  
7 That's 3/19/03.

8 One year later, actually two years later, excuse me,  
9 4/14/05, after her dad had been arrested, and after he'd  
10 been in jail for about ten months, smoking fifteen  
11 cigarettes a day. Caffeine, she goes up on that. Says no  
12 alcohol. Says no street drugs. And, of course, it's  
13 circled here. Domestic violence, yes. Sexual physical past  
14 psychological. These are reports given by VICTIM

15 Remember Doctor Medlock testifies when asked about one  
16 of the notations on the medical records about posttraumatic  
17 stress syndrome. That was made by Doctor Nowatka.

18 And what did Doctor Medlock say?

19 He said we make findings based on the information given  
20 to us by the patient. They can't determine when what,  
21 whether the patient is telling what's true or not. They're  
22 just basing their findings on what they're being told. And  
23 he came up with posttraumatic stress syndrome as did Wiley  
24 Garrett.

25 All right. Let me look at my notes. I've been talking

1 too long. Let me see what's going on here.

2 If you recall from the testimony of Diane Farid, after  
3 Mr. Mangal was out of the house, and VICTIM started going  
4 wild, she did go to counseling. But she also started  
5 self-mutilating herself. And according to her mother, her  
6 mother was very concerned about the beginning usage of  
7 illegal narcotics. So, she really went from one gambit to  
8 the other and she got her way.

9 You know, there's something else that, and I almost  
10 forgot this, it popped into my mind, that really tells you a  
11 lot about VICTIM, and where she's coming from, and how mean  
12 she is. When I asked her about the little safe that was  
13 taken by her mother to her dad, and then I asked her mother  
14 about it and her mother said I was made to do that by Family  
15 Court. And there's a discrepancy about whether they took  
16 money out of it or not. That's not the issue I want to  
17 raise.

18 But what did VICTIM say to me?

19 Remember her answer when I asked her about that?

20 I asked her about the money from the rent of the, of  
21 the duplex.

22 What did she say?

23 He doesn't deserve anything.

24 Why should he get anything?

25 That's how she feels. She wants him out and gone.

1 Does it make any common sense that these things are  
2 going to happen with my client and his daughter at their  
3 house while the two boys are there?

4 They're not gonna do it then.

5 I asked Rashaan, Rashaan, did you ever hear VICTIM ever cry  
6 out or scream or anything?

7 And I submit to you that if he's doing these things to  
8 her, she said herself it hurt. He never -- they never heard  
9 anything.

10 Ladies and gentlemen, I submitted to you when we  
11 started that Mr. Mangal unfortunately would probably have to  
12 prove to you his innocence, and the only way to do that is  
13 by questioning the witnesses that the State presents. We  
14 can't say who they call or who they don't call and we can't,  
15 in many times, or don't talk to State's witnesses. They  
16 don't talk to our witnesses. But we certainly have the  
17 right to do so.

18 We do mutually engage in discovery, which is they give  
19 me their incident reports and statements. If I've got  
20 something, I give it to them. So, we kind of know where  
21 we're going before we get started in here.

22 And we try to get to one point. And that is for you to  
23 have enough evidence to take the facts that have been  
24 presented to you, apply them to the law that the judge is  
25 gonna give you, and render a verdict. And I hope we've been

1 able to do that.

2 Now, I don't get a chance to come back to you. The way  
3 the procedures work is I get to discuss my case with you and  
4 then I think Mr. Leibert is gonna come up and argue for the  
5 State. And I don't get to come back and contradict anything  
6 that might, he might say. Certainly he can contradict  
7 everything I say cause I go first.

8 But I would ask you to do this. Keep in mind what I  
9 might say to something that he brings to you if I had the  
10 chance to do it.

11 If he said one thing, you might say what would  
12 Mr. Crane say to that?

13 Because see, you heard all the facts. So, you know  
14 where we're going with this.

15 Why would Kevin Riddle come in here and tell you the  
16 things he said about how well liked Mr. Mangal was, how he  
17 just took to him right away, how they discussed religion,  
18 how he never heard anything going on over there until  
19 Mr. Mangal was out of the house, when the house totally  
20 changed and went differently?

21 Why would Doctor Medlock come in here, a respected  
22 physician in Spartanburg for 50 years, and tell you that, in  
23 his opinion, Mr. Mangal did not do this?

24 Why would Jim Brock, the builder for 20 years in  
25 Spartanburg County, come in here and tell you what a fine

1 person Mr. Mangal is and that this is totally out of  
2 character for him?

3 And why would Mrs. Waddell come in here and tell you  
4 about allowing Mr. Mangal to go into the house where her  
5 then at that time 19 year old daughter and roommate would be  
6 asleep when he came into the house?

7 And she said there's no way I would ever let him in  
8 there if I thought he was any danger.

9 Why would they come in here and say that if it wasn't  
10 true?

11 And why would Mike Ennis come in here and tell you  
12 there's nothing on my client's penis, any marks whatsoever?

13 Have they tipped the scales?

14 Are we still back at square one?

15 Have they convinced you to the point where you're gonna  
16 take this leap here?

17 Have they convinced you so that you are firmly  
18 convinced that my client did this?

19 I told you when we started it comes down to believing  
20 VICTIM or believing Mr. Mangal?

21 Mr. Mangal denied a lot of what they said about him.  
22 He denied the hitting of the children, of the using of the  
23 cord. That's coming from their family. He's been gone for  
24 three years and they are loving it. You heard that from  
25 VICTIM and you heard that from Diane. They don't want him

1 back. But he didn't say anything out of the ordinary.

2 One of the notes I made is how are you going to choose  
3 which one of the two to believe?

4 How are you gonna go about doing that?

5 And if you can't, if you're not sure, well, you know,

6 VICTIM might be right and Mr. Mangal might be right, they

7 haven't met their burden. They have not convinced you

8 beyond a reasonable doubt, which is what they have to do.

9 It's not that you might think this might of happened.

10 It's not that you might speculate that this might of

11 happened. You have to be firmly convinced that this

12 happened. And if you're not, you have to find my client not  
13 guilty.

14 I submit to you that through all of the

15 cross-examination and the evidence we've given to you, there

16 is no doubt but that my client is not guilty. She doesn't

17 have to be corroborated in her story to you. But there

18 should be more than just her word to convince you that my

19 client is guilty and it's not here.

20 There's no other witnesses to say what happened. She

21 says it happened. Mr. Mangal says it didn't. The medical,

22 and I would say scientific evidence, is against her. In

23 2002 and 2004, her hymen was virginal.

24 Remember the definition that Mr., that Doctor Medlock

25 read to you out of the medical dictionary about a crescentic

1 hymen. It is a hymen that belongs to a virgin. That means  
2 no penetration.

3 And throughout the records it says that she reported  
4 not being sexually active, and I'm not saying I wouldn't  
5 call this sexual activity. But what I'm saying is if she  
6 didn't have a hymen, it could of come from elsewhere. But  
7 from these facts, her hymen was in tact, and she was a  
8 virgin, and she had not had vaginal sex. And if she has not  
9 had vaginal sex, she is lying. And if she is lying, you  
10 need to find him not guilty on all charges because it didn't  
11 happen.

12 You have the right to look at the demeanor of the  
13 witnesses, how do they testify, were they smartalickie  
14 (sic), did they come across as, as just not caring.

15 I submit to you that he testified as truthfully as he  
16 could. Of course he broke down. He loves his family. He  
17 told you that. Unfortunately he's not gonna get back to  
18 them.

19 Remember the one thing Mena said on cross-examination.  
20 She said if she is not telling the truth he needs to be  
21 found not guilty. I'm telling you she's not telling the  
22 truth, and you, you need to listen to her, and you need to  
23 find him not guilty.

24 You don't know him. Your verdict has to be -- and it's  
25 good that you don't know him. Your verdict for him should

1 be the same as if that is someone over there that you do  
2 know whether it be a spouse, or a friend, or whoever it  
3 might be. He's got a cloak of innocence over him. And if  
4 you render your verdict and that cloak is picked up and you  
5 realize it's someone that you know, you ought to still be  
6 able to live with your verdict. That's the importance of  
7 this whole thing here.

8       And ladies and gentlemen, what I'm asking you to do  
9 is -- you heard him testify. He's been in jail 33 months  
10 for this incident. He is never gotten out. That is 33  
11 months too long. It's time to let him out and it's time to  
12 let him get on with his life. It is time to find him not  
13 guilty.

14       Thank you for listening to me, and I hope I didn't go  
15 too long for you.

16       Let me put some of this evidence back up here.

17       THE COURT: Yes.

18       SOLICITOR LEIBERT: May it please the Court, Your  
19 Honor?

20       THE COURT: Yes, sir.

21       SOLICITOR LEIBERT: When you put your penis in your  
22 daughter's anus that's a sexual battery, and you better  
23 believe she wanted him out of there.

24       MR. CRANE: Mr. Solicitor, I don't want to interrupt  
25 you.

1           Could I, could I either move over here or---

2           SOLICITOR LEIBERT: You can move anywhere you want.

3           MR. CRANE: ---can you talk louder?

4           SOLICITOR LEIBERT: Move over there.

5           MR. CRANE: Yes, sir, thank you.

6           SOLICITOR LEIBERT: Would that be fine, Your Honor?

7           THE COURT: Yes, sir.

8           MR. CRANE: Thank you, Your Honor.

9           SOLICITOR LEIBERT: And when you put your penis in her  
10 daughter's vagina, that's a sexual battery and you better  
11 believe she's gonna want him gonna, and you better believe  
12 that that wife will say get out, get out, I don't care what  
13 you tell me, you get out.

14           And when you rub, when you rub your penis on her anal  
15 area, that's a lewd act. That's fondling. That's lewd and  
16 lascivious, and that's with sexual intent.

17           When you grab her breast when you walk by, that's a  
18 lewd act.

19           And when you keep doing it, age ten, eleven, and  
20 twelve, and thirteen, stop a little while, start up again,  
21 fifteen, and then when you're sixteen, that's incest.

22           To find him not guilty you have to believe that that  
23 lady had an affair based upon a Tampon that she used during  
24 sex, and she got her sixteen year old daughter say hey, come  
25 on board with me.