

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

VOLUME I OF II

Appeal from Pickens County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AARON VAN HENDRIX,

APPELLANT

APPELLATE CASE NO 2016-000208

RECORD ON APPEAL

RECEIVED

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SC Court of Appeals

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ARE ON FILE WITH THIS COURT:
State’s Exhibits 1, 2, 3, 4, and 5 (unredacted videos of forensic interviews)**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS) COURT OF GENERAL SESSION

STATE OF SOUTH CAROLINA)
)
 vs.)
)
 AARON VAN HENDRIX) Case No. 15-GS-39-0227 *et. al.*

- and -

STATE OF SOUTH CAROLINA)
)
 vs.)
)
 STACY CAROL RIDEN) Case No. 15-GS-39-0223 *et. al.*

TRANSCRIPT OF JURY TRIAL

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

APPEARANCES:

Christopher Jones, Assistant Solicitor
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 ... Appearing for the State

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

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 ... Appearing for Defendant Stacy Riden

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PRETRIAL MOTIONS

10

1 JANUARY 25, 2016 2:30 p.m.

2

3

(DEFENDANT HENDRIX PRESENT)

4

THE COURT: Let's go on the record.

5

For the record, Mr. Warder, you're here for

6

Mr. ---

7

MR. WARDER: Aaron Hendrix, Your Honor.

8

THE COURT: And, Ms. Horlbeck?

9

MS. HORLBECK: Stacy Riden, Your

10

Honor.

11

THE COURT: All right.

12

SOLICITOR JONES: Yes, sir, Your Honor.

13

The defendants are Stacy Riden and Aaron

14

Hendrix.

15

They're both being tried for two counts

16

of CSC first with a minor and one count of

17

CSC with a minor third degree.

18

Ms. Riden also has an unlawful neglect

19

charge as well.

20

THE COURT: All right. Is Ms.

21

Riden here?

22

MS. HORLBECK: No, Judge. I

23

don't see her here today.

24

THE COURT: Okay. All right.

25

What are the nature of the Motions?

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

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

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

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

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

17 THE COURT: Right.

18 MS. HORLBECK: Judge, shortly
19 after I was appoint, I filed a discovery and
20 Brady Motions on June the 5th, 2014, and those
21 were served on the State on June the 12th,
22 2014.

23 I received two responses to my
24 Motions. One response was dated February the
25 9th, 2015. And the second response was dated

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

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

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

17 THE COURT: All right.

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

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

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

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

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

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

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

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

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

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

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1 They can be signed today.

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

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

12 THE COURT: Mr. Jones?

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

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

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

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

2 I had a conflict the month of
3 November.

4 We had some other stuff on the
5 docket for December.

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

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

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

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

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

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

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

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

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

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

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

15 A couple of things:

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

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

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

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

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

11 THE COURT: That's fine. I mean,
12 I've got it. I'm sorry. I mean, I under-
13 stand where you're coming from -- I didn't
14 mean to cut you off.

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

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

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1 THE COURT: It does.

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

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

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

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

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

3 MR. WARDER: No, sir.

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

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

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

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

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

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

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1 THE COURT: All right.

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

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

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

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

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

4 MR. WARDER: Yes, sir. We want to
5 ---

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

9 MR. WARDER: Okay.

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

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

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

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1 information. All right. Next?

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

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

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

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

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

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1 think -- I would object to all of them.

2 THE COURT: All right.

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

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

11 SOLICITOR JONES: Okay.

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

14 MR. WARDER: Yes, sir.

15 MS. HORLBECK: (No verbal
16 response).

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

25 THE COURT: Well, let me ask you

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

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

14 Now, I think there is a video of
15 Younger Sister and she says at the end of it that
16 she's unsure whether it's real or not,
17 whether it really happened. I think that
18 video in its entirety should be put out,
19 withheld because the young child when
20 questioned whether what she has told is real
21 or not, she's unsure. She thinks it is.

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

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

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

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

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

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

25 THE COURT: Well, let's go ahead

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

3 SOLICITOR JONES: Okay.

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

6 SOLICITOR JONES: Altogether?

7 MR. WARDER: Five hours.

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

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

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

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

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

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

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

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1 THE COURT: Okay.

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

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

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

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

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

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1 it.

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

5 THE COURT: Okay.

6 (WITNESS TAKES STAND)

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

10 DIRECT EXAMINATION

11 BY SOLICITOR JONES:

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

14 A. Julie Valentine Center.

15 Q. And what's your position there?

16 A. I'm the executive director.

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

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

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

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

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

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

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

12 Q. And how long have you conducted
13 forensic interviews?

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

16 Q. And did you interview Older Sister
17 Brother and Younger Sister?

18 A. I did.

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

23 A. No.

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

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1 a detailed account of the alleged offense?

2 A. Yes, they did provide details.

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

7 A. Yes.

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

12 A. No.

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

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

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

20 THE COURT: All right. Ms.
21 Horlbeck?

22 MS. HORLBECK: Just briefly.

23 CROSS-EXAMINATION

24 BY MS. HORLBECK:

25 Q What training have you had

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1 specifically in conducting investigative
2 interviews?

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

6 I've attended two nationally recognized
7 trainings.

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

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

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

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

20 A Of skills-based training.

21 Q. Okay.

22 A. Meaning it's not just lecture.
23 There are actually where we do mock inter-
24 views and it's real hands-on training.

25 Q. Okay. And you said there was a

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

3 A. National Children's Advocacy Center.

4 Q. Okay.

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

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

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

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

18 Q. Okay.

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

24 Q. Okay?

25 A. It's the same, essentially the same

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1 training but just under a different name.

2 Q. Okay. Now, in the -- there were
3 actually two interviews that were conducted
4 on Older Sister and I think Brother ; is
5 that correct?

6 A. Yes.

7 Q. All right. In the second inter-
8 views, do you recall asking the children if
9 they just talked about things that had really
10 happened?

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

13 Q. Yes? Do you recall asking them
14 that?

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

17 Q. Yes?

18 A. Yes.

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

25 A. Yes.

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1 Q. Okay.

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

4 Q. Okay. All right. And so the second
5 interviews again, both of Older Sister and Brother
6 were there times or occasions that you left
7 the room and the children are on the videos
8 drawing on the boards and -- do you remember
9 that?

10 A. I do generally if there are
11 observers present at the time of the inter-
12 view, then I do leave the room and come back
13 into the room.

14 Q. Okay.

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

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

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

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1 Q. Okay.

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

5 Q. I understand.

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

9 Q. All right. So if there is video of
10 Older Sister and Brother drawing on the board, then
11 that would be captured on video; correct?

12 A. Yes.

13 Q. All right.

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

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

21 A. Yes.

22 Q. Okay. All right. Do they also
23 disclose -- at least Older Sister Do you recall
24 whether or not she talked to you about any --
25 seeing her mother and the codefendant slap

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1 and things like that? Do you recall whether
2 that is on Older Sister's video?

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

6 Q. Whether Older Sister told you that she
7 saw her mother and Mr. Hendrix slap one
8 another. Do you recall that?

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

11 Q. I understand. All right. Do you
12 have an independent recollection of whether
13 or not Older Sister talked to you about her mother
14 and her sister being arrested for other
15 charges?

16 A. I don't know.

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

19 A. This morning.

20 Q. So you watched all five hours of
21 them?

22 A. All five hours, (affirmative nod).

23 Q. Okay. And you don't recall that
24 then in Older Sister's video?

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

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

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

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

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

12 And, in particular I'm talking about
13 Brother. Do you recall whether he mentioned
14 those things?

15 A. They did mention those things.

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

18 THE COURT: Anything further from
19 the State?

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

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

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

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

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

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

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

23 Ms. Horlbeck did send me a list.

24 Mr. Warder did not.

25 I responded to Ms. Horlbeck's

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

8 THE COURT: All right.

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

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

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

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

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

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

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

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

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

23 SOLICITOR JONES: Yes, sir.

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

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

7 Is that all right with you, Mr.
8 Warder?

9 MR. WARDER: Yes, sir.

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

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

15 THE COURT: Okay.

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

19 THE COURT: Okay.

20 MS. HORLBECK: Just with regards
21 to ---

22 THE COURT: But as to the videos?

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

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

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

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

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

25 Also, Judge, our position is that

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

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

12 The statute prevents an improper
13 corroboration or bolstering conflict with
14 801(d)(1)(d). And we believe it violates the
15 Sixth Amendment of the Constitution.

16 And, Judge -- in particular, Judge,
17 the Younger Sister interview, as you're looking
18 at the factors and the totality of the
19 circumstances surrounding the making of that
20 statement, we just don't think that her
21 statement in particular provides a
22 particularized guarantee of trustworthiness.
23 She states in the middle of the video,
24 especially with respect to Ms. Riden, that
25 she does not know, that the things she's

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

6 THE COURT: All right. Any
7 specific response?

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

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

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

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

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

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

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

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

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

17 MS. HORLBECK: I ---

18 THE COURT: Yes, do you have
19 something else?

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

22 THE COURT: Okay.

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

25 THE COURT: All right. Well,

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

3 MS. HORLBECK: Yes, sir.

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

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

9 MS. HORLBECK: Nothing from us,
10 Your Honor.

11 MR. WARDER: No, Your Honor.

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

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

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

19 MS. HORLBECK: Oh, sure.

20 THE COURT: Are you marking them
21 chronologically?

22 SOLICITOR JONES: Yes, Your Honor.
23 I'm going to do them by child, chrono-
24 logically.

25 THE COURT: Okay.

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1 SOLICITOR JONES: So Older Sister 's
2 interview of February 19th of 2014 ---

3 COURT REPORTER: State's Exhibit 1,
4 interview of Older Sister .

5 COURT REPORTER: Number 2?

6 SOLICITOR JONES: Older Sister 's
7 interview dated April 11th of 2014.

8 COURT REPORTER: State's Exhibit 2.

9 SOLICITOR JONES: State's 2. And
10 then Brother dated March 11th of 2014.

11 COURT REPORTER: State's Exhibit 3.

12 SOLICITOR JONES: And then Brother
13 Brother dated April 7th of 2014.

14 COURT REPORTER: State's Exhibit 4.

15 SOLICITOR JONES: And then Younger
16 Sister dated March 11th of 2014.

17 COURT REPORTER: State's Exhibit 5.

18 Your Honor, we have premarked State's
19 Exhibits 1 through 5, for identification.

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

25 THE COURT: Okay.

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

4 SOLICITOR JONES: And, Your Honor,
5 again, I would take issue with that. The
6 dates on the indictments of when the State is
7 alleging this happened is beginning on
8 December 25 of 2011 going to December 25th of
9 2012. So really, after 2012.

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

12 SOLICITOR JONES: You have the
13 indictments.

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

18 MR. WARDER: No, sir.

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

21 MS. HORLBECK: I have, Judge.

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

25 MS. HORLBECK: No, Judge.

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1 THE COURT: All right.

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

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

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

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

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

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

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

15 You know, I believe that admission
16 of this type evidence and trying all these
17 charges together at the same time, I think it
18 creates an exception to Rule 404, to Rule
19 404's exclusion of propensity of the
20 evidence.

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

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

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

3 THE COURT: Mr. Jones?

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

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

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

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

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

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

11 MS. HORLBECK: Now, on the first
12 two videos involving Older Sister and Brother, those
13 children disclose that the abuse allegedly
14 was done by Mr. Hendrix, that my client was
15 simply present. So I would take exception to
16 that argument, Judge.

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

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

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

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

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

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

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

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

25 MS. HORLBECK: Yeah. It does.

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1 Yeah. Thanks, Mr. Warder.

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

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

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

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

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

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

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

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

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

13 MS. HORLBECK: Judge, a couple
14 more things.

15 THE COURT: You say that.

16 MS. HORLBECK: I know.

17 THE COURT: I'm just kidding you.

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

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

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

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

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

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

8 THE COURT: Mr. Jones?

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

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

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

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

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

8 MR. WARDER: Thank you, sir.

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

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

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

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

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

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

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

24 MS. HORLBECK: Yes, sir.

25 THE COURT: Yeah. All right.

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1 Anything else? Anything else from Ms.
2 Horlbeck?

3 MS. HORLBECK: Let me just check,
4 Judge.

5 THE COURT: All right.

6 MS. HORLBECK: I don't think so.

7 THE COURT: Okay.

8 MS. HORLBECK: Let me check.

9 Oh, one more. Okay. Your Honor had issued
10 an Order denying our requests to have the
11 State disclose counseling records.

12 Judge, since it's in front of Your
13 Honor again, we would just ask you to
14 reconsider that order. In reviewing Older Sister

15 's child maltreatment protocols, we
16 realized that there had been some instances
17 where the caregiver had disclosed that
18 Older Sister had lied to keep herself out of
19 trouble, lied about family members and also
20 some incidents of stealing. So on that
21 basis, Judge, we believe that those
22 counseling records should be disclosed.
23 They're material to -- well, it's material
24 for us to be able to look through so we can
25 see if there are other instances of lying and

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

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

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

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

15 MR. WARDER: No, Your Honor.

16 THE COURT: Okay, anything else
17 from the State?

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

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

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

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

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

8 SOLICITOR JONES: Thank you, Your
9 Honor.

10 THE COURT: Anything further from
11 the State?

12 SOLICITOR JONES: Nothing from the
13 State, Your Honor.

14 THE COURT: Mr. Warder?

15 MR. WARDER: No, Your Honor.

16 THE COURT: And Ms. Horlbeck?

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

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

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1 you've got to prepare always.

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

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

6 (COURT IN RECESS)

7 (TRANSCRIPT CONTINUED ON NEXT PAGE)

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1 JANUARY 26, 2016 9:00 A.M.

2

3 (DEFENDANT HENDRIX PRESENT)

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

5 (ROLL CALL)

6 (JURY PANEL SWORN)

7 (STATUTORY QUALIFICATION)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 THE COURT: Yes.

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

13 THE COURT: No, I understand.

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

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

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

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

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

19 MS. HORLBECK: Thank you, sir.

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

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

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

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

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

18 MR. WARDER: Okay.

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

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

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

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

10 MR. WARDER: Okay.

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

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

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

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

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

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

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

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

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

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

14 MS. HORLBECK: Yes, sir.

15 MR. WARDER: Yes, Your Honor.

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

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

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

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

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1 on this further later.

2 (SIDEBAR CONCLUDED)

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

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

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

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

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

4 We have an indictment against Stacy
5 Carol Riden for sexual conduct with a minor
6 third degree; between the same date, December
7 25th, 2011 through December 25th, 2012.

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

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

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

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

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

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

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1 SOLICITOR JONES: Yes, Your Honor.
2 And Your Honor, should we wait to swear the
3 jury in?

4 THE COURT: Yeah. I'm going to
5 send them to lunch. I'm going to give them
6 some additional instructions.

7 SOLICITOR JONES: Yes, sir.

8 THE COURT: Bring them back in
9 here.

10 (JURY PANEL IN @ 12:10 P.M)

11 THE COURT: You don't have to get
12 too comfortable, we're going to let you go.
13 Will the attorneys approach?

14 (OFF RECORD BENCH CONFERENCE)

15 THE COURT: All right. All right.
16 Ladies and gentlemen, I appreciate your
17 patience with us. What we will do now is I'm
18 going to release y'all for the day.

19 We're starting this trial this
20 afternoon. We're not sure how long it will
21 take.

22 So what you've got to do is call
23 back after 6:00 tonight, okay? Everybody
24 should have the phone number to call. If
25 anybody does not have that number, please see

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

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

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

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

25 THE COURT: I don't know how long

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

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

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

10 SOLICITOR JONES: Okay.

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

13 SOLICITOR JONES: Okay.

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

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

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

20 BAILIFF: Yes, sir.

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

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

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

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

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

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1 you on the law.

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

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

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

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

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

14 CLERK: Yes, sir.

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

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

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

21 SOLICITOR JONES: Yes, sir, Your
22 Honor.

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

25 MS. HORLBECK: Yes, sir.

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(BRIEF RECESS)

(DEFENDANT HENDRIX PRESENT)

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

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

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

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

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

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

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

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

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

4 MS. HORLBECK: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 THE COURT: All right.

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

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

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

24 THE COURT: I understand.

25 MS. HORLBECK: It's just that I

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

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

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

12 I find the two videos of Older Sister
13 Older Sister State's Exhibits 1 and 2, I think that
14 they do meet the criteria of 17-23-175.

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

22 Younger Sister's interview, which is
23 State's Exhibit 5, I have some serious
24 questions whether they falls within the
25 statute. Basically -- one, is the coherence

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

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

20 Your problem with internal
21 coherence, I would argue that given the
22 manner of questioning by Ms. Galloway that
23 it's clear what she's talking about. If you
24 take Ms. Galloway's question with the way
25 that ^{Younger Sister} answers those questions, that

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

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

9 SOLICITOR JONES: Yes, sir. So
10 Younger Sister video cannot be admitted and cannot
11 be alluded to throughout the trial?

12 THE COURT: That's correct.

13 SOLICITOR JONES: So I would ask
14 that the defendants be precluded from cross-
15 examining Younger Sister based on that particular
16 video?

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

20 MS. HORLBECK: Judge, I
21 understand the Court's ruling on the Older Sister
22 videos and also the Brother videos.
23 I'm trying to remember myself.

24 THE COURT: Yeah. Its ---

25 MS. HORLBECK: And, Judge, I

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

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

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

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

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

17 THE COURT: Okay.

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

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

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

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

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

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

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

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1 been a defense Exhibit.

2 COURT REPORTER: Court's.

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

5 MS. HORLBECK: I think ---

6 COURT REPORTER: Court's Exhibit 1.

7 (SO ENTERED AS COURT'S EXHIBIT 1)

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

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

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

25 I didn't mark it particularly, and how

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1 Aaron's introduced.

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

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

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

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1 relevant to what the charge is.

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

6 THE COURT: All right.

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

15 So I would say that the start of the
16 video up to 10:26 needs to be -- and I'm
17 talking about the Older Sister interview of
18 2/19/14. I would say that that needs to be
19 redacted.

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

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

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

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

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

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

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

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

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

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

3 SOLICITOR JONES: I understand.

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

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

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

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

20 SOLICITOR JONES: Yes, that's
21 correct.

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

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1 that. That's at 40.28.

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

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

8 THE COURT: All right. Yeah.

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

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

17 SOLICITOR JONES: Okay.

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

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1 one and the other ones too. But particular
2 five and six on the Older Sister interview.

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

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

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

12 MS. HORLBECK: Thank you, Judge.

13 THE COURT: Okay. Now we're
14 moving on to the Older Sister interview of
15 4/11/14. The State has agreed to redact one
16 through four?

17 SOLICITOR JONES: That's correct.

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

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

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

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1 MS. HORLBECK: Yes, sir. That
2 sounds right. It prohibits the interviewer
3 from testifying about any questions or things
4 that the interviewer said to the children
5 regarding truth telling abilities or remind-
6 ing the children to tell the truth. So I
7 just, on that basis I feel like if the inter-
8 viewer can't testify about it, I don't think
9 it's proper to give that information to the
10 jury via the interview.

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

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

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

3 MR. WARDER: (Affirmative
4 response).

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

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

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

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

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

25 So now we go to the Brother

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

6 MS. HORLBECK: The interview of
7 3/11/14?

8 THE COURT: Yes.

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

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

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

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

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

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

19 THE COURT: I'm going to allow
20 that.

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

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

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

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

8 THE COURT: Number two?

9 SOLICITOR JONES: Yes, sir.

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

16 SOLICITOR JONES: As to Brother
17 interview 3/11?

18 THE COURT: Yes.

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

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

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

25 THE COURT: Because she'd already

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1 had -- actually, that's what Older Sister said.

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

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

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

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

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

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

5 SOLICITOR JONES: Yes, sir, Your
6 Honor.

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

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

11 There's no seven?

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

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

16 And then finally the Brother
17 interview of 4/11/14. You're fine up to
18 32:00 through 39:00. Okay.

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

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

24 THE COURT: Okay. This is State's
25 Exhibit 4, which will be Brother interview

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1 of 4/11, her item one.

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

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

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

10 THE COURT: Okay.

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

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

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

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1 describing the drawings?

2 THE COURT: Yeah.

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

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

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

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

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

22 THE COURT: Oh, okay.

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

25 THE COURT: Yeah. I did. Let's

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1 go ahead and redact. I misread my notes
2 here.

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

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

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

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

14 MS. HORLBECK: The drawings.

15 SOLICITOR JONES: Yeah. Yeah.

16 THE COURT: And you agreed on one.

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

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

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

25 THE COURT: Is that one on three?

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

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

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

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

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

22 SOLICITOR JONES: Okay.

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

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1 All right. Anything else on the
2 videos?

3 SOLICITOR JONES: Your Honor,
4 Older Sister at the end of her April 11th
5 interview, the second interview of Older Sister.
6 Older Sister she also discusses her father. Would
7 you like -- or I guess I would make a Motion
8 that that portion be redacted as well, since
9 we're redacting other areas where they
10 discuss their father.

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

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

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

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

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

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

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

16 All right. Anything further on the
17 videos?

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

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

25 SOLICITOR JONES: And, Your Honor,

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

5 THE COURT: All right.

6 MS. HORLBECK: No, Judge.

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

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

13 (LUNCH RECESS)

14 (DEFENDANT HENDRIX PRESENT)

15 THE COURT: Are we ready?

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

20 THE COURT: Yeah.

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

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

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

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

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

22 SOLICITOR JONES: Yes, sir.

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

25 SOLICITOR JONES: Yes, sir.

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1 THE COURT: I won't make you come
2 in at 6:30. I'll let you just stay until
3 7:00 and then maybe come in tomorrow at 7:00.
4 All right?

5 SOLICITOR JONES: Yes, sir.

6 MS. HORLBECK: Right.

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

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

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

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

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

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

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

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

7 THE COURT: All right. Any
8 objection?

9 MS. HORLBECK: I don't object.

10 THE COURT: All right.

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

14 THE COURT: I think just the
15 witnesses, yeah.

16 MR. WARDER: That's fine, yeah.

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

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

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

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

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

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

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

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

23 SOLICITOR JONES: That's correct,
24 Your Honor.

25 MR. WARDER: So I'm fine.

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

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

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

7 Anything from the State before we
8 bring the jury in?

9 SOLICITOR JONES: Nothing else from
10 the State.

11 THE COURT: Anything else from the
12 Defendants?

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

16 THE COURT: Yes.

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

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

22 THE COURT: Are they planning on
23 testifying?

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

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1 and defense counsel's.

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

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

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

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

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

12 MR. WARDER: Yeah.

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

16 SOLICITOR JONES: Yes, Your Honor.

17 THE COURT: Okay.

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

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

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1 SOLICITOR JONES: One. Yes, sir.

2 THE COURT: I'll let one of them

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

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

7 MR. WARDER: No, sir.

8 MS. HORLBECK: (No verbal
9 response).

10 THE COURT: All right. Bring the
11 jury in.

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

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

20 (WHEREUPON JURY SWORN)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Then after all of the evidence is

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

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

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

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

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

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

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

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

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

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

11 Solicitor, you may proceed.

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

14 OPENING STATEMENT

15 BY SOLICITOR JONES:

16 Stacy Riden sexually abused and
17 neglected her own children.

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

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

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1 them.

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

7 Just Stacy Riden is charged with
8 unlawful neglect.

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

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

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

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

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

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

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

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

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

10 2) the parent willfully abandons the
11 child.

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

14 The three children I've been talking
15 about are Brother, Older Sister and Younger Sister Brother
16 and Older Sister are twins and they're currently
17 nine years old. Younger Sister is their youngest
18 sister. She's currently five years old.

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

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1 happened to them. They told their grand-
2 mother about the sexual abuse.

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

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

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

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

19 I'm also going to call the children:
20 Brother, Older Sister and ^{Younger Sister} They're going to
21 come into this courtroom, they're going to
22 sit on that stand and they're going to tell
23 you what happened.

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

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

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

5 And well as the testimony from the
6 children in court, I'm going to play videos
7 of Brother and Older Sister They were interviewed
8 previously and those videos will be played
9 for you here. In those interviews, they give
10 you a detailed account of what happened. And
11 I want you to listen to the children in those
12 videos and listen to the details that they
13 give you about this abuse.

14 Listen as Brother tells you how
15 blood was running down his sister's legs.

16 Listen to Older Sister when she tells you
17 about her hair being pulled by her own
18 mother.

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

25 THE COURT: Ms. Horlbeck.

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OPENING STATEMENT BY MS. HORLBECK FOR DEFENDANT RIDEN

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

3 OPENING STATEMENT

4 BY MS. HORLBECK:

5 Good afternoon, ladies and gentle-
6 men, over the holidays my husband I had to
7 travel to England for a very unfortunate
8 event that he had had happen in his family.
9 You see he's British, so we went over there
10 for a funeral. His grandmother had passed
11 away.

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

23 I just found it amazing that some-
24 thing that had happened so long ago had grown
25 into this, this major split. And that an

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OPENING STATEMENT BY MS. HORLBECK FOR DEFENDANT RIDEN

1 acorn had grown into this enormous oak tree.

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

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

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

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

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OPENING STATEMENT BY MS. HORLBECK FOR DEFENDANT RIDEN

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

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

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

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

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OPENING STATEMENT BY MS. HORLBECK FOR DEFENDANT RIDEN

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

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

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

24 THE COURT: Mr. Warder?

25 MR. WARDER: Thank you, Your Honor.

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OPENING STATEMENT BY MR. WARDER FOR DEFENDANT HENDRIX

1 OPENING STATEMENT

2 BY MR. WARDER:

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

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

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

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

25 On Christmas Eve of 2012, Stacy and

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OPENING STATEMENT BY MR. WARDER FOR DEFENDANT HENDRIX

1 Aaron split up and he moved on.

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

7 My client gets a job at Lowe's, it
8 is a living. And in 2013 -- I'm sorry, in
9 2014 he was arrested, they're saying he did
10 something wrong to the children back when he
11 lived with Stacy. Now, the allegation that
12 was made was not that he secreted the child
13 away, hid and did something bad. The
14 allegation is that he, at a time the two
15 other children were present, and the time
16 that Stacy was present, and at a time that
17 the child's father was present, he
18 inappropriately touched the child.

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

25 The children's father will tell you

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OPENING STATEMENT BY MR. WARDER FOR DEFENDANT HENDRIX

1 that he would kill somebody that touched his
2 child.

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

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

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

OPENING STATEMENT BY MR. WARDER FOR DEFENDANT HENDRIX

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

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

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

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

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

25 At the end of this case and you'll

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

6 THE COURT: Mr. Jones.

7 SOLICITOR JONES: Your Honor, the
8 State calls Brother . And, Your Honor,
9 before Brother comes into the courtroom, we
10 would ask that everyone exit the courtroom.

11 THE COURT: All right.

12 SOLICITOR JONES: Non-parties.

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

16 (INDIVIDUALS EXIT COURTROOM)

17 (WITNESS TAKES STAND)

18 Brother , having been duly sworn to
19 tell the truth and nothing but the truth,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY SOLICITOR JONES:

23 Q. Hey, Brother How are you?

24 A. Good.

25 Q. Good?

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1 A. (Affirmative nod).

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

4 A. My name is Brother .

5 Q. Brother . And tell us how old you
6 are.

7 A. Nine (9).

8 Q. And what grade are you in in school?

9 A. Third (3rd).

10 Q. Third grade?

11 A. (Affirmative nod).

12 Q. Brother I'm going to ask you a couple
13 of questions. Do you know the difference
14 between a lie and the truth?

15 A. Yes.

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

18 A. A lie.

19 Q. And if I told you that my hair is
20 purple, would that be a truth or a lie?

21 A. A lie.

22 Q. If I told you that your name is
23 Brother, would that be the truth or a lie?

24 A. The truth.

25 Q. You said you're nine years old?

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TESTIMONY OF Brother - EXAMINATION BY SOLICITOR

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- 1 A. (Affirmative nod).
- 2 Q. Where do you go to school?
- 3 A. Elementary.
- 4 Q. Brother who do you currently live
5 with?
- 6 A. My grandma.
- 7 Q. Your grandmother?
- 8 A. (Affirmative nod)
- 9 Q. And who else lives with you?
- 10 A. My papa, my aunt and my two sisters.
- 11 Q. Two sisters?
- 12 A. (Affirmative nod).
- 13 Q. What are your sisters' names?
- 14 A. Younger Sister and Older Sister
- 15 Q. Younger Sister and Older Sister,?
- 16 A. (Affirmative nod).
- 17 Q. What do you call your grandparents?
- 18 What are their names, do you know?
- 19 A. Lisa, Mark and Amanda.
- 20 Q. Who is Amanda?
- 21 A. My aunt.
- 22 Q. That is your aunt?
- 23 A. (Affirmative nod).
- 24 Q. Okay.
- 25 Q. She lives with y'all now?

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1 A. Yeah.

2 Q. Who did you live with before you
3 went to live with your grandparents?

4 A. Stacy and Aaron.

5 Q. Are you related to Stacy?

6 A. (Affirmative nod) -- um-humm

7 Q. Is Stacy your mother?

8 A. Yes.

9 Q. So Stacy is your mother?

10 A. (Affirmative nod).

11 Q. Did Aaron Hendrix live with you when
12 you lived with your mother?

13 A. Yes.

14 Q. Do you remember telling your grand-
15 mother about someone touching your privates?

16 A. Yes.

17 Q. Did Aaron Hendricks ever touch your
18 privates?

19 A. Yes.

20 Q. Did that happen one time or more
21 than one time?

22 A. More than once.

23 Q. Did Stacy Riden, your mother, did
24 she ever touch your privates?

25 A. Yes.

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1 Q. Did that happen once or more than
2 once?

3 A. More than once.

4 Q. Did you ever see Aaron Hendrix touch
5 either of your sisters?

6 A. Yes.

7 Q. And did he touch them on their
8 privates?

9 A. Yes.

10 Q. Did you ever see Stacy Riden touch
11 your sisters on their privates?

12 A. Yes.

13 Q. Do you remember your mother, Stacy
14 Riden, pulling Older Sister's hair at any point in
15 time?

16 A. Yes.

17 Q. Did Stacy Riden pull her hair as
18 Aaron Hendrix was touching Older Sister's
19 privates?

20 A. Yes.

21 Q. Did Aaron make you put your mouth on
22 his privates?

23 A. Yes.

24 Q. What about Stacy, did she make you
25 put your mouth on her privates?

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1 A. Yes.

2 Q. Can you tell us what Stacy or Aaron
3 did when they made you put your mouth on
4 their privates?

5 A. They, like, -- like they hold me
6 still, making my head go near it.

7 MR. WARDER: Your Honor if it
8 please the court, the solicitor stands so
9 that witness's responses are facing directly
10 away. I am going to ask if they can move the
11 microphone so that the witness can turn to
12 face more directly.

13 THE COURT: (Microphone position
14 was adjusted).

15 DIRECT EXAMINATION CONTINUED

16 BY MR. JONES:

17 Q. You are doing great, Brother. Just
18 when you answer my questions, just -- you
19 don't have to lean up to it, you're doing
20 fine. Okay.

21 Sorry we interrupted you there. I just
22 asked you if you remember what Aaron or Stacy
23 did when they made you put your mouth on
24 their privates? Can you tell the jury again
25 what you just said?

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1 A. They hold me -- ummm, they hold
2 me still so I couldn't do anything.

3 Q. Did they touch your head?

4 A. Yes.

5 Q. Can you tell the jury what they did?

6 A. They like touched -- they put their
7 hand on my head and leaned me near it.

8 Q. And were they standing up when this
9 happened, laying down or ---

10 A. Standing up.

11 Q. Where you standing or lying down?

12 A. I was standing.

13 Q. Do you remember what you saw when
14 they made you put your head on their
15 privates?

16 A. I saw their privates.

17 Q. Have you ever seen your sisters
18 bleed from their privates?

19 A. Yes.

20 Q. When was that?

21 A. Humm -- in the bedroom.

22 Q. Was that after Stacy and Aaron
23 touched their privates or was that another
24 time

25 A. That was another time.

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TESTIMONY OF Brother - EXAMINATION BY SOLICITOR

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1 Q. So what happened to your sisters to
2 make them bleed from their privates, do you
3 know?

4 A. They were touching their privates
5 and pulling on it.

6 Q. Who was touching their privates?

7 A. Aaron and Stacy.

8 Q. When you lived with your mother,
9 Stacy, did you ever see a needle?

10 A. Yes.

11 Q. What did it look like? Did it have
12 anything on it?

13 A. It had blood on it.

14 MR. WARDER: Your Honor, it's part
15 of my old age and my old ears, but I can't
16 hear. The solicitor keeps moving farther
17 into the corner, which keeps moving the
18 witness further away fro me.

19 THE COURT: Well, maybe you can
20 move closer if you need to.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR

23 Q. You are doing good, Brother You said
24 that you saw needles and it had blood on it?

25 A. Yes.

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TESTIMONY OF Brother - EXAMINATION BY SOLICITOR

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1 Q. Did you ever see Aaron or your
2 mother with needles?

3 A. Yes.

4 Q. What did they do with the needles?

5 A. They stabbed it.

6 Q. They stabbed what?

7 A. The needles.

8 Q. Did they Stab themselves?

9 A. Yes.

10 Q. Do you remember where they stabbed
11 themselves with the needles?

12 A. In the arm.

13 Q. In the arm?

14 A. (Affirmative nod).

15 Q. Do you remember what part of the
16 arm?

17 A. No.

18 Q. No?

19 A. (Negative gesture).

20 Q. Were you ever scared to tell
21 somebody about Aaron and Stacy touching you?

22 A. Yes.

23 Q. Why were you scared?

24 A. Because they threatened me.

25 Q. They threatened you?

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TESTIMONY OF Brother - CROSS EXAM BY MS. HORLBECK

1 A. (Affirmative nod).

2 Q. How did they threaten you, what did
3 they say?

4 A. They said if I told, that they would
5 kill me.

6 Q. And did you ever not want to tell
7 people about your mother making you put your
8 mouth on her privates?

9 A. Yes.

10 Q. Why didn't you want to tell people
11 about that?

12 A. Because I was scared to tell.

13 Q. Because you were scared?

14 A. (Affirmative nod)

15 SOLICITOR JONES: No further
16 questions, Your Honor.

17 CROSS EXAMINATION

18 BY MS. HORLBECK:

19 Q Brother I am going to ask you to
20 turn just a little bit and face me as best
21 you can. Okay. Tell me how old you are --
22 and let me introduce myself. My name is Ms.
23 Horlbeck and I represent your mom. Okay?

24 A. (No response).

25 Q. I am going to ask you some

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CROSS EXAM BY MS. HORLBECK

1 questions, if that is all right. Is it okay
2 with you if I ask you a few questions?

3 A. (Affirmative nod).

4 Q. Tell me again how old you are.

5 A. Nine (9).

6 Q. And when is your birthday?

7 A. .

8 MS. HORLBECK: Judge, do you mind
9 if I just push -- (microphone adjusted).

10 CROSS EXAMINATION CONTINUED

11 BY MS. HORLBECK:

12 Q. Is that better? Is that microphone
13 too close to you.

14 A. (No verbal response).

15 Q. I don't want the microphone to be
16 shoved up in your Mouth. Is that okay?

17 A. (Affirmative nod)

18 Q. So you will be ten in April?

19 A. Yes.

20 Q. All right. Thank you. What school
21 do you go to?

22 A. Elementary.

23 Q. What grade are you in?

24 A. Third (3rd).

25 Q. Do you have a favorite teacher or

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TESTIMONY OF Brother - CROSS EXAM BY MS. HORLBECK

1 anything like that?

2 A. No.

3 Q. No favorite teacher?

4 A. (No verbal response).

5 Q. Is there anything at school that you
6 like to do better than anything else?

7 A. Science.

8 Q. You like science?

9 A. (Affirmative nod).

10 Q. Okay. What do you like about
11 science?

12 A. It's cool.

13 Q. Do you get good grades in school?

14 A. Yes.

15 Q. What kind of grades do you get?

16 A. A's B's and sometimes C.

17 Q. All right. Do you play any sports?

18 A. Yes.

19 Q. You do. What sports do you play?

20 A. Baseball.

21 Q. What position do you play?

22 A. In the field.

23 Q. I don't know much about baseball, so
24 you are going to have to explain a little
25 bit. Tell me that position again.

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1 A. In the field.

2 Q. What do you do in the field?

3 A. In case the ball goes in the field,
4 I get it.

5 Q. And if you get the ball, what do you
6 do with it next?

7 A. I throw it to the person that is
8 standing near me.

9 Q. Are you on a team?

10 A. Yes.

11 Q. Are you on a team at school or
12 outside the school?

13 A. Outside the school.

14 Q. Do you think you're one of the best
15 people on your team?

16 A. No.

17 Q. No?

18 A. (Negative gesture).

19 Q. No. All right. Let me ask you some
20 questions about your papa and your grandma.
21 Do you remember when you moved in with your
22 grandma and your papa?

23 A. Yes.

24 Q. When did that happen?

25 A. That happened after I told what

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TESTIMONY OF Brother - CROSS EXAM BY MS. HORLBECK

1 happened to me.

2 Q. Do you remember what year that was
3 that you moved in with your grandparents?

4 A. No.

5 Q. Do you remember how old you might
6 have been when you moved in with your grand-
7 parents?

8 A. I think about seven.

9 Q. And do you -- was there a special
10 event that happened on the day that you moved
11 in with your grandparents or maybe the day
12 before?

13 A. No, I don't remember.

14 Q. All right. You said that you have
15 -- you have obviously other people in your
16 house that you live with; right?

17 A. Yes.

18 Q. Do you live with your grandmother
19 and your grandfather?

20 A. Yes.

21 Q. And your two sisters?

22 A. Yes.

23 Q. Do you have any pets?

24 A. Yes.

25 Q. What pets do you have?

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1 A. I have a dog.

2 Q. Does your dog have a name?

3 A. Yes, ma'am. His name is Max.

4 Q. Do you know how old Max is?

5 A. Five.

6 Q. Before you moved in with
7 grandparents, who did you live with?

8 A. Stacy and Aaron.

9 Q. Is Stacy your mother?

10 A. Yes.

11 Q. When did you first start calling
12 your mother Stacy instead of mom?

13 A. When I moved in with my grandma.

14 Q. Okay. All right And -- what --
15 before you moved in with your grandma, what
16 did you call your mother: Did you call her
17 mama, did you call her mommy or ---

18 A. Can you say that again?

19 Q. Let me see if I can make that into a
20 simpler question, because I did kinda make it
21 confusing. Before you started calling your
22 mom "Stacy", what did you call Stacy?

23 A. Mom.

24 Q. And that changed when you moved in
25 with your grandparents?

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TESTIMONY OF Brother - CROSS EXAM BY MS. HORLBECK

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1 A. Yes.

2 Q. When you lived with mom, what kind
3 of house did you live in? Do you remember?

4 A. It was a long house.

5 Q. Was it a house or a trailer?

6 A. It was a house.

7 Q. Do you remember how many bedrooms
8 that the house had in it?

9 A. Three.

10 Q. Where did everybody sleep in the
11 house?

12 A. I slept on the couch, my sisters did
13 too.

14 Q. Did your sisters have their own
15 bedroom?

16 A. Yes.

17 Q. Did they sleep in their bedroom?

18 A. Uh-uh, (negative gesture)

19 Q. They slept on the couch with you?

20 A. Yeah.

21 Q. Did your mom have a bedroom?

22 A. Yes.

23 Q. Do you remember what kind of bed was
24 in her bedroom?

25 A. No.

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1 Q. Was the house small or do you think
2 the house was big or something else?

3 A. It was small but it was long too.

4 Q. Were there any bathrooms in your
5 house?

6 A. Yes.

7 Q. How many?

8 A. Two.

9 Q. Did any of the bathrooms have
10 bathtubs?

11 A. No. Just one did.

12 Q. Was the bathtub normal size, big or
13 something else?

14 A. Normal.

15 Q. You testified that your mom said
16 some things to you that made you afraid; is
17 that right?

18 A. Yes.

19 Q. When did you first become afraid of
20 your mom?

21 A. When she told me that if I told what
22 happened that she would kill me.

23 Q. Do you remember when that was?

24 A. No.

25 Q. Do you remember what year that was?

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TESTIMONY OF Brother - CROSS EXAM BY MS. HORLBECK

1 A. No.

2 Q. Do you remember how old you might
3 have been?

4 A. Probably about like six or seven.

5 Q. Do you remember going to the Julie
6 Valentine Center and talking to someone?

7 A. Yes.

8 Q. You do?

9 A. (Affirmative nod).

10 Q. All right. All right. And, you
11 said that your sisters -- you talked about a
12 time when your sisters had bled. Do you
13 remember if your sisters had to go to doctor?

14 A. No.

15 Q. Do you remember -- yes or no?

16 A. I don't remember.

17 Q. All right. Brother just give me a
18 moment to look at my notes to see if there is
19 anything that I wanted to ask you. All
20 right, so you said that you do -- you do
21 remember going to the Julie Valentine Center?

22 A. Yes.

23 Q. Do you remember who you talked to?

24 A. Yes.

25 Q. Do you remember if it was a man or a

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TESTIMONY OF Brother

CROSS EXAM BY MS. HORLBECK

1 woman?

2 A. A woman.

3 Q. Did you tell her -- did you talk to
4 her about the things that you said happened?

5 A. Yes.

6 Q. Did you tell her that these things
7 happened once or do you remember?

8 A. I said the things happened more than
9 once.

10 Q. All right. And do you remember what
11 year these things happened?

12 A. No.

13 Q. You said that you saw your mom do
14 some things to your sisters, do you remember
15 when those things happened?

16 A. Yes.

17 Q. When I ask that question, what I am
18 asking you is do you remember what year those
19 things happened.

20 A. No.

21 Q. I'm sorry, I just I didn't hear you.

22 A. No.

23 Q. All right. And you've said your
24 head was pushed down so that it was near
25 private areas; is that what you said?

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TESTIMONY OF Brother - CROSS EXAMINATION BY MR. WARDER

1 A. Yes.

2 Q. Do you remember seeing anything come
3 out of anyone's private areas?

4 A. Yes.

5 Q. Out of the adult's private areas?

6 A. No.

7 Q. All right

8 MS. HORLBECK: I beg the Court's
9 indulgence.

10 CROSS EXAMINATION CONTINUED

11 BY MS. HORLBECK:

12 Q. Just a few more questions, Brother
13 Do you remember what the adults were wearing

14 ---

15 A. No.

16 Q. Do you remember what the adults were
17 wearing when you say these things happened?

18 A. No, I don't remember.

19 Q. Okay, all right, that's all that I
20 have. Thank you, Brother I appreciate you
21 answering my questions.

22 CROSS EXAMINATION

23 BY MR. WARDER:

24 Q. Brother Is the house you live in now
25 a lot nicer than the one you lived with your

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TESTIMONY OF Brother - CROSS EXAMINATION BY MR. WARDER

1 mother at?

2 A. Yes.

3 Q. Pardon?

4 A. It is nicer.

5 Q. Is it a lot nicer?

6 A. Yes.

7 Q How about the things that you have
8 to play with? Have you got a lot more toys
9 now?

10 A. Yes.

11 Q. What kind of toys do you have?

12 A. I have got Spyman (phonetic) and
13 I've remote control things.

14 Q. Remote control things?

15 A. (Affirmative nod).

16 Q. What kind of remote control things
17 do you have?

18 A. Cars.

19 Q. Do you have anything that flies?

20 A. Yes.

21 Q. What is that?

22 A. It is a helicopter.

23 Q. Is it remote controlled, too?

24 A. (Affirmative nod).

25 Q. Do you have an iPad, a cellphone,

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TESTIMONY OF Brother - CROSS EXAMINATION BY MR. WARDER

1 computer?

2 A. A tablet and a DS.

3 Q. What kind of tablet do you have?

4 A. I don't know.

5 Q. Is it an Apple?

6 A. No.

7 Q. No?

8 A. (Negative gesture).

9 Q. How about going places and having a
10 good time, do you get to go a lot of places?

11 A. Yes.

12 Q. You got to go to Disneyland as a
13 reward for going to the Julie Valentine
14 Center; is that right?

15 A. No, I don't think so.

16 Q. You got to go to Disneyland, didn't
17 you?

18 A. Yeah.

19 Q. It was a day or two after going to
20 the Julie Valentine Center?

21 A. I think so. I'm not sure.

22 Q. You are not sure how long it was
23 between those two?

24 A. No.

25 Q. Do you know that you talked about it

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TESTIMONY OF Brother CROSS EXAMINATION BY MR. WARDER

1 at the Julie Valentine Center?

2 A. Yes.

3 Q. Have you watched those tapes of
4 yourself at the Julie Valentine Center?

5 A. No.

6 Q. No one showed them to you?

7 A. No.

8 Q. Have you been here in the courtroom
9 before today?

10 A. No. I haven't today.

11 Q. You what?

12 A. I haven't today.

13 Q. You haven't been here before?

14 A. Yeah, I have.

15 Q. When did you come here before?

16 A. With Chris.

17 Q. And did you sit down in the witness
18 chair before?

19 A. (Affirmative nod).

20 Q. Did they tell you what questions
21 they were going to ask you when you got in
22 the witness chair?

23 A. No.

24 Q. Didn't tell you what the questions
25 were?

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TESTIMONY OF Brother - CROSS EXAMINATION BY MR. WARDER

1 A. He did, but in a different room.

2 Q. Why did you tell me at first that he
3 didn't tell you what questions would be asked
4 and then later admit that they did. Why
5 would you tell me that?

6 A. (Negative gesture -- emotional).

7 Q. You don't know?

8 A. (No verbal response).

9 Q. I want to talk to you a little bit
10 about the sexual abuse you told us about.
11 This always occurred with your sisters
12 present, is that right?

13 A. (inaudible response)

14 COURT REPORTER: Was that a yes or
15 no?

16 WITNESS: Can you say that
17 again?

18 CROSS EXAMINATION CONTINUED

19 BY MR. WARDER:

20 Q. When these sexual acts took place,
21 your sisters were always present?

22 A. Yes, they were there.

23 Q. You said yes?

24 A. Yes.

25 Q. Who else was present?

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TESTIMONY OF Brother - CROSS EXAMINATION BY MR. WARDER

1 A. My sisters were there and Aaron and
2 Stacy was there.

3 Q. Aaron and Stacy were there?

4 A. (Affirmative nod).

5 Q. Was your dad ever there?

6 A. Yes, they were over there.

7 Q. Pardon?

8 A. They were over there sometimes.

9 Q. Was that when these things were
10 taking place?

11 A. I don't think so.

12 Q. You don't think so.

13 A. (No verbal response).

14 Q. He didn't wasn't there laughing,
15 huh?

16 A. No.

17 Q. Was your dad there laughing when it
18 happened?

19 A. No.

20 Q. Was anybody laughing?

21 A. Stacy and Aaron was.

22 Q. Stacy and Aaron were laughing?

23 Q. (Affirmative nod).

24 Q. How many times did this happen?

25 A. A bunch.

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TESTIMONY OF Brother - CROSS EXAMINATION BY MR. WARDER

1 Q. Would there be a regular interval in
2 between, Mondays, Wednesday?

3 A. Pretty much -- ummm, I don't know
4 what day it was on.

5 Q. When -- do you remember when Aaron
6 moved out?

7 A. No.

8 Q. Who moved in after Aaron?

9 A. Nobody.

10 Q. Nobody lived with you and your
11 mother?

12 A. Yes, Aaron did.

13 Q. Pardon?

14 A. Aaron did.

15 Q I beg your pardon, I can't under-
16 stand you.

17 A. Aaron did.

18 Q. Did your mom have another man move
19 in?

20 A. I don't remember.

21 Q. You can't remember that?

22 A. No.

23 Q. Thank you.

24 REDIRECT EXAMINATION

25 BY SOLICITOR JONES:

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TESTIMONY OF Brother - CROSS EXAMINATION BY MR. WARDER

1 Q. Brother you are almost finished,
2 buddy. Did anybody tell you what to say
3 today?

4 A. No.

5 Q. Did your grandmother ever tell you
6 what to say?

7 A. No.

8 Q. Did your grandfather ever tell you
9 what to say?

10 A. No.

11 Q. Why are you saying all of these
12 things about Aaron and Stacy?

13 A. Because it happened.

14 Q. Thank you.

15 BY SOLICITOR JONES: No further
16 questions.

17 (WITNESS STEPS DOWN)

18 SOLICITOR JONES: The State is
19 calling Older Sister next.

20 (WITNESS TAKES STAND)

21 Older Sister , having been sworn to tell
22 the truth, and nothing but the truth,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR JONES:

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1 Q. Hey, Older Sister I am going to stand
2 right here and question you. Okay?

3 A. (Affirmative nod).

4 Q. Okay. Can you tell us your name
5 again?

6 A. Older Sister .

7 Q. Hold old are you?

8 A. Nine.

9 Q. What grade are you in?

10 A. Third.

11 Q. Third grade. Do you know what
12 elementary school that you go to?

13 A.

14 Q. Elementary?

15 A. Um-humm, (affirmative nod).

16 Q. I am going to ask you a few
17 questions before we get started. Do you know
18 the difference between the truth and a lie?

19 A. Yes.

20 Q. If I were to tell you that this tie
21 is white, would that be a truth or a lie?

22 A. A lie.

23 Q. If I were to tell you that my hair
24 is purple, would that be a truth or a lie?

25 A. A lie.

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TESTIMONY OF Older Sister - DIRECT EXAM BY SOLICITOR

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1 Q. If I were to tell you that your name
2 is Older Sister would that be a truth or a lie?

3 A. A truth.

4 Q. Good job. Older Sister who do you live
5 with?

6 A. My grandma Papa, Amanda, ^{Younger Sister} and
7 Brother.

8 Q. ^{Younger Sister} and Brother?

9 A. (Affirmative nod).

10 Q. And who is Amanda, is that your
11 aunt?

12 A. Um-humm, (affirmative nod).

13 Q. Who did you live with before you
14 lived with your grandparents?

15 A. Stacy, Aaron and the three of us.

16 Q. When you say the three of us, do you
17 mean Stacy, Aaron, ^{Younger Sister} and Brother?

18 A. Yeah, and me.

19 Q. And when you lived with Stacy and
20 Aaron, did they ever touch your privates?

21 A. Yes, they did.

22 Q. Did they make you touch their
23 privates?

24 A. Yes, they did.

25 Q Do you remember, did they make you

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TESTIMONY OF Older Sister - DIRECT EXAM BY SOLICITOR

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1 put your mouth on their privates?

2 A. Yes, they did.

3 Q. Can you tell me and the jury what
4 they did when they made you put your mouth on
5 their privates?

6 A. They bent my head down and made me
7 lick it and stuff, and suck on it.

8 Q. And suck on it?

9 A. (Affirmative nod).

10 Q. Did they do anything with their
11 hands when they made you put your mouth on
12 their privates?

13 A. No.

14 Q. Do you remember seeing Stacy and
15 Aaron touching Brother or ^{Younger Sister} on their
16 privates?

17 A. Yes, I did.

18 Q. You did see that?

19 A. Um-humm, (affirmative nod).

20 Q. Do you remember what Aaron was doing
21 when he touched your privates?

22 A. Stacy was holding down my hair and
23 he was touching my privates.

24 Q. Stacy held down your hair?

25 A. Um-humm.

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TESTIMONY OF Older Sister - DIRECT EXAM BY SOLICITOR

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1 Q. And when they touched your privates,
2 did that happen one time or more than one
3 time?

4 A. More than one time.

5 Q. More than one time?

6 A. (Affirmative nod).

7 Q. And you said one time Stacy pulled
8 your hair when Aaron touched your privates?

9 A. Yes.

10 Q. Why did she pull your hair?

11 A. So I couldn't get away.

12 Q. So you wouldn't get away?

13 A. (Affirmative nod).

14 Q. So where you standing up or laying
15 down or something else?

16 A. I was laying down.

17 Q. Do you remember if that was in a
18 bedroom or another room?

19 A. In the living room.

20 Q. It was in the living room?

21 A. (Affirmative nod).

22 Q. When they made you put your mouth on
23 their privates, do you remember what you saw?

24 A. I saw their privates when I was sucking
25 their privates. Didn't notice anything

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1 else.

2 Q. Okay. Do you remember seeing a
3 needle?

4 A. Yes.

5 Q. What did it look like, do you
6 remember?

7 A. Sometimes it had a string and some
8 times it didn't.

9 Q. It didn't?

10 A. (No verbal response).

11 Q. Did it have anything on it?

12 A. Sometimes -- I think one time that
13 it had blood on it.

14 Q What did you think when you saw the
15 blood?

16 A. At first I thought 'what is this'
17 and then I realized that it was blood.

18 Q. Did you ever take a shower with
19 Aaron or Stacy?

20 A. Yes.

21 Q. With just one or both of them
22 together?

23 A. Both of them together.

24 Q. And what did they do in the shower?

25 A. They were kissing.

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TESTIMONY OF Older Sister - DIRECT EXAM BY SOLICITOR

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1 Q. Have you ever seen Aaron and Stacy
2 in the bed together?

3 A. Yes, I have.

4 Q. What were they doing in the bed?

5 A. They were undressed and they were
6 kissing each other.

7 Q. Were you ever afraid to tell anybody
8 what Aaron and Stacy did to you?

9 A. Yes.

10 Q. Why were you afraid?

11 A. They threatened us and I was scared
12 that they would go to jail.

13 Q. You were scared that they would go
14 to jail?

15 A. Yes, and I was scared because they
16 were threatening us.

17 Q. Did you not want them to go to jail?

18 A. No.

19 Q. And why didn't you want them to go
20 to jail?

21 A. Because I was scared where I was
22 going to go.

23 Q. Did your grandmother ever tell you
24 to say all these things?

25 A. No, she didn't.

1 Q. Did your grandfather ever tell you
2 to say all these things?

3 A. No.

4 Q. So why are you telling everybody
5 what happened?

6 A. Because -- I didn't want to tell
7 anybody else, just them.

8 Q. Why are you telling us today about
9 all this stuff?

10 A. Because I told grandmom and stuff
11 and they told the cops and everything.

12 SOLICITOR: No further questions,
13 Your Honor.

14 CROSS EXAMINATION

15 BY MS. HORLBECK:

16 Q. All right, Older Sister may I call you
17 Older Sister? Is that all right?

18 A. Yes

19 Q. I am going to ask you to speak up.
20 You might want to turn the -- (microphone
21 adjusted) -- Older Sister how old are you today?

22 A. I am nine.

23 Q. When will you be ten?

24 A. .

25 Q. Is that also your brother's

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TESTIMONY OF Older Sister - CROSS EXAM BY MS. HORLBECK

1 birthday?

2 A. Yes.

3 Q. Are you guys twins?

4 A. Yes, we are.

5 Q. What school do you go to?

6 A. Elementary.

7 Q. Are you in the same grade as your
8 brother?

9 A. Yes, I am.

10 Q. What grade is that?

11 A. Third.

12 Q. Are you and your bother in the same
13 class?

14 A. No.

15 Q. Do you have a favorite subject?

16 A. My favorite subject is math.

17 Q. Okay, are you getting good grades?

18 A. Yes, I am getting good grades.

19 Q. Do you do any sports?

20 A. I do cheerleading.

21 Q. Who do you cheerlead for?

22 A. Travelers Rest.

23 Q. What is the name of the team that
24 you cheerlead for?

25 A. Devil Dogs.

1 Q. I am Ms. Horlbeck, I represent your
2 mother and I want to ask you about a few of
3 the things that you've told today. All
4 right?

5 A. Okay.

6 Q. Is this the first time you've been
7 to the courthouse?

8 A. I've been here before because they
9 were showing me what it looks like in here.

10 Q. Have you been to this courtroom
11 before?

12 A. I don't think so.

13 Q. Have you ever been to a court-
14 room before?

15 A. No.

16 Q. Have you ever sat in the witness
17 chair before?

18 A. No, I haven't.

19 Q. Is this the first time you've met
20 Mr. Jones?

21 A. Uh -- yes.

22 Q. Today is the first time you have
23 ever seen him?

24 A. Yes.

25 Q. And did you testify that right now

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TESTIMONY OF Older Sister - CROSS EXAM BY MS. HORLBECK

1 you live with grandmother and your
2 grandfather; right?

3 A. Yes.

4 Q. And I think you said that you call
5 your grandfather "Papa"?

6 A. Um-humm, I do.

7 Q. Who else do you live with in your
8 house?

9 A. My grandma, my aunt and my brother
10 and sister.

11 Q How long have you lived at your
12 grandparents?

13 A. About three years.

14 Q. Do you remember when you moved to
15 your grandparents?

16 A. I think it was sometime in March.

17 Q. Do you know what year?

18 A. No, I don't.

19 Q. Before you moved in with your
20 grandparents, where did you live?

21 A. I lived with Stacy and Aaron.

22 Q Who is Stacy?

23 A. My mother.

24 Q. When was the first time you started
25 to call your mother Stacy?

1 A. A few -- a few times ago, before I
2 told -- after I told what happened.

3 Q. After you told what happened, were
4 you living with your grandparents?

5 A. Yes, I was.

6 Q. All right. When you moved in with
7 your grandparents, did you ever see Stacy
8 again?

9 A. Can you say that again?

10 Q. Yes. Did you ever see Stacy again?
11 After you moved in with your grandparents,
12 did you ever get to visit Stacy again?

13 A. Once -- a few times.

14 Q. Do you remember when those were?

15 A. No.

16 Q. Did you talk to Stacy on the phone?

17 A. Yes, ma'am.

18 Q. All right. Now you said that there
19 were some times that you were afraid of some
20 things that your mom would do if you told?

21 A. (Affirmative nod).

22 Q. Do you remember when the first time
23 was that you became afraid of your mom?

24 A. No, ma'am, I don't.

25 Q. And you said Aaron lived with you

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TESTIMONY OF Older Sister - CROSS EXAM BY MS. HORLBECK

1 and your mom; is that right?

2 A. Yes, ma'am.

3 Q. Okay. All right. Do you remember
4 ever watching some movies with your mom?

5 A. Yes, ma'am.

6 Q. Do you remember watching things like
7 My Little Pony?

8 A. No, ma'am.

9 Q. You don't remember any of that?

10 A. No, ma'am.

11 Q. Are you also afraid of Aaron?

12 A. Yes.

13 Q. Do you know when you first became
14 afraid of him?

15 A. No, ma'am.

16 Q. Do you remember drawing some things
17 for Mr. Hendricks, or Aaron?

18 A. I don't remember.

19 Q. Did you ever draw him anything that
20 said, "You're my best friend."?

21 A. No, ma'am, I didn't.

22 Q. You don't think you did that?

23 A. No, ma'am, I didn't.

24 Q. Do you remember playing computer
25 games with Aaron?

1 A. Yes, ma'am.

2 Q. Do you remember a camping trip that
3 you took with Aaron and your mom?

4 A. No.

5 Q. You don't remember that -- in 2012?

6 A. No, ma'am.

7 Q. Do you remember ever playing darts
8 with Aaron?

9 A. No.

10 Q. Do you remember talking to anyone at
11 the Julie Valentine Center?

12 A. Yes, ma'am.

13 Q. You remember that?

14 A. (Affirmative nod).

15 Q. Do you remember if you talked to a
16 man or a woman?

17 A. It was a woman.

18 Q. Before you talked to the lady, did
19 you get to play with any toys?

20 A. What do you mean?

21 Q. Before you talked to the lady at the
22 Julie Valentine Center, were there any toys
23 at the Julie Valentine Center?

24 A. There was.

25 Q. Who did you play with -- I mean,

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TESTIMONY OF Older Sister - CROSS EXAM BY MS. HORLBECK

1 what did you play with?

2 A. Like little kids stuff and a kitchen
3 center.

4 Q. After you played with the little
5 kitchen center, is that when you talked to
6 the lady?

7 A. Yes, ma'am.

8 Q. All right. Tell me about the house
9 that you lived in with Stacy and Aaron.

10 A. It was long and it was white.

11 Q. Was it a house or was it a trailer
12 or an apartment or something else?

13 A. It was like a house.

14 Q. All right. Was it small or big?

15 A. Small.

16 Q. Do you remember how many bedrooms
17 the house had?

18 A. I think there were two.

19 Q. Did Stacy have a bedroom?

20 A. Yes, ma'am.

21 Q. Do you remember what kind of bed
22 Stacy had?

23 A. No.

24 Q. Do you remember the size of the bed?

25 A. It was kinda --- it was pretty big.

1 Q. Was it a normal size bed, though?

2 A. Yes, it was a normal size bed.

3 Q. Were there any bathrooms in the
4 house?

5 A. There were two.

6 Q. How many bathtubs?

7 A. Two.

8 Q So two tubs?

9 A. Yes, two tubs. One in each bath-
10 room.

11 Q. Were the tubs big, small or just
12 average?

13 A. Average.

14 Q. Do you remember -- did y'all have
15 Barbie's at your grandmother's house?

16 A. Yes, We did.

17 Q. Do you remember arranging those
18 Barbies and playing with those Barbies?

19 A. Yes. With my sister.

20 Q. Do you remember your grandmother
21 arranging the male Barbie so that he was
22 lying down?

23 A. No.

24 Q. You don't remember that?

25 A. No, she never did that.

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TESTIMONY OF Older Sister - CROSS EXAM BY MS. HORLBECK

1 Q. She never did that? She never
2 arranged the Barbies?

3 A. No.

4 Q. You said some things -- that Aaron
5 and Stacy did some things to you. Do you
6 remember when they happened?

7 A. I don't remember when they happened.

8 Q. Do you remember telling the lady at
9 the Julie Valentine Center that they only
10 happened one time?

11 A. They happened a few times.

12 Q. Let me rephrase. Do you remember
13 talking to the lady at the Julie Valentine
14 Center?

15 A. Yes.

16 Q. When you talked to her, do you
17 remember telling her that the things that you
18 said happened only happened one time?

19 A. More than once.

20 Q. And you said that when you had to put
21 your mouth on private areas, what room were
22 you in?

23 A. I think it was in the living room.

24 Q. And what did you see when you had to
25 do that?

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TESTIMONY OF Older Sister - CROSS EXAM BY MS. HORLBECK

1 A. I just saw the private areas. I
2 didn't see anything else.

3 Q. Did you see anything come out of the
4 private areas?

5 A. No, ma'am.

6 Q. Do you remember what the adults
7 wore?

8 A. No, ma'am.

9 Q. All right. But you remember that
10 nothing was done with their hands.

11 A. They did touch our privates with
12 their hands.

13 Q. When did you first learn about jail?

14 A. They used to talk about it at the
15 house.

16 Q. Do you remember when?

17 A. No, I don't.

18 Q. Do you remember how old you were?

19 A. No, I don't remember how old I was.

20 Q. Let me just check my notes and see
21 if there is anything else? Beg the Court's
22 indulgence -- thank you, Older Sister for
23 answering my questions. I appreciate it.

24 A. You're welcome.

25 CROSS EXAMINATION

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TESTIMONY OF Older Sister - CROSS EXAM BY MR. WARDER

237

1 BY MR. WARDER:

2 Q. Who was present when this touching
3 took place?

4 A. Could you repeat that, please?

5 Q. Who was present when this sexual
6 touching took place?

7 A. Stacy and Aaron.

8 Q. Was your dad ever there?

9 A. He was but he didn't see this ever
10 happen.

11 Q. He was there but didn't see what was
12 happening?

13 A. No. He would usually just sometimes
14 spend the night.

15 Q. Your dad would spend the night with
16 Aaron and your mother?

17 A. Yes.

18 Q. Would they sleep in the same bed?

19 A. He usually slept in the bunk beds.

20 Q. When he wasn't there, who slept in
21 that bunk bed?

22 A. My brother.

23 Q. And how many people would usually
24 spent the night? Were there usually people
25 besides your brother, sister, Stacy and Aaron

1 that were there?

2 A. (No verbal response).

3 Q. Did your father have a girlfriend,
4 too?

5 A. Yes.

6 Q. Did he bring his girlfriend with
7 him?

8 A. No, he didn't.

9 Q. How long did your father live with
10 you there?

11 A. He usually didn't, like, live with
12 us. He'd usually go to his girlfriend's
13 house sometimes and he used to come to
14 Stacy's house.

15 Q. Thank you.

16 REDIRECT EXAMINATION

17 BY SOLICITOR JONES:

18 Q. Hi, Older Sister.

19 A. Hi.

20 Q. Older Sister, do you know what my name
21 is?

22 A. Chris.

23 Q. Did you know my name is also Mr.
24 Jones?

25 A. No.

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TESTIMONY OF Older Sister - REDIRECT EXAM BY SOLICITOR

1 Q. Have you and I ever talked before
2 today?

3 A. Yes.

4 Q. You said that your dad would
5 sometimes sleep on the bunk bed and sometimes
6 your brother would sleep on the bunk bed?

7 A. Yes.

8 Q. Did y'all ever sleep on the couch?

9 A. Yes, we did one time.

10 SOLICITOR JONES: No further
11 questions. Your Honor, may we approach?

12 THE COURT: Yes.

13 (OFF RECORD BENCH CONFERENCE)

14 THE COURT: Ladies and gentlemen,
15 we need to take up something outside of your
16 presence, so we will take a break.

17 Also, and I forgot to remind you of
18 this last time, y'all need to pick a fore-
19 person if you did not do so last time.

20 Decide who is going to be the foreperson and
21 just tell the bailiff who you've selected.

22 It can't be one of the alternates.

23 Again, do not talk about the case.

24 (JURY OUT @ 4:05 P.M.)

25 THE COURT: All right. Y'all are

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PROFFER TESTIMONY OF Younger Sister

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1 ready to have your next witness viewed in
2 camera?

3 SOLICITOR JONES: Yes, Your Honor.

4 (WITNESS TAKES STAND)

5 Younger Sister, having been sworn to tell the
6 truth, and nothing but the truth, testified
7 as follows:

8 DIRECT EXAMINATION

9 BY SOLICITOR JONES:

10 Q. Hey, ^{Younger Sister}

11 A. Hey.

12 Q. Can you tell everybody what your
13 name is?

14 A. ^{Younger Sister}

15 Q. What is your last name?

16 A. ^{Younger Sister}

17 Q. Younger Sister?

18 A. (No verbal response).

19 Q. How old are you, ^{Younger Sister} ?

20 A. Five.

21 Q. Five?

22 A. (Affirmative nod).

23 Q. Who do you live with right now,

24 ^{Younger Sister} ?

25 A. Mama.

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PROFFER TESTIMONY OF Younger Sister

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1 Q. Who is mama?

2 A. Lisa.

3 Q. Okay. Who else lives with you?

4 A. Amanda.

5 Q. And who else?

6 A. Papa.

7 Q. Does anybody else live with you?

8 A. (Affirmative nod), Older Sister and
9 Brother.

10 Q. And are Older Sister and Brother your
11 brother and sister?

12 A. Um-humm, (affirmative nod).

13 Q. Are they older or younger than you?

14 A. Older.

15 Q. Do you know the difference between a
16 truth and a lie?

17 A. (Affirmative nod).

18 Q. You do?

19 A. (Affirmative nod).

20 Q. If I told you that this tie was
21 white, would that be a truth or a lie?

22 A. A lie.

23 Q. And what if I told you that my hair
24 was purple, would that be a truth or a lie?

25 A. A lie.

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PROFFER TESTIMONY OF Younger Sister

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1 Q. And what if I told you that your
2 name is ^{Younger Sister} is that the truth or a lie?

3 A. Truth.

4 SOLICITOR JONES: Your Honor, do
5 you have any questions that you would like to
6 ask?

7 THE COURT: I know you're nervous
8 but do you think that you could answer some
9 questions like Chris asked you?

10 Younger Sister: (Affirmative nod).

11 THE COURT: You know what he's
12 saying -- I'm Judge Gravely. You don't need
13 to be scared of me. A lot of people are, but
14 they shouldn't be.

15 Do y'all have any particular
16 questions that you want to ask her?

17 MR. WARDER: I have no *voir dire*.

18 THE COURT: All right.

19 MS. HORLBECK: (No verbal
20 response).

21 THE COURT: I think she sounds
22 like she understands what is going on. I am
23 going to let her testify.

24 SOLICITOR JONES: Yes, sir, Your
25 Honor.

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PROFFER TESTIMONY OF Younger Sister

243

1 THE COURT: Ms. Horlbeck?

2 MS. HORLBECK: I guess I still
3 have some concerns about whether she is able
4 to express herself in a coherent manner, but
5 I -- you know, I don't know that I can tell
6 that right now. At this point I don't have
7 any other questions, or anything else to say.

8 THE COURT: All right. I am going
9 to let her testify.

10 SOLICITOR JONES: Your Honor, do you
11 want her to remain on the stand or exit and
12 come back in.

13 THE COURT: Do you want to just
14 sit there while these other people come in,
15 or would you like to come back up here?

16 Younger Sister: Come back up here.

17 THE COURT: Okay. You may step
18 down. We'll get you back up here in just a
19 few minutes after the jury comes in. Okay?

20 (WITNESS STEPS DOWN)

21 THE COURT: Younger Sister, wait just a
22 minute, I want to ask you a couple more
23 questions. Do you mind coming back up here?

24 (WITNESS TAKES STAND)

25 THE COURT: I just want to ask you

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1 a couple more questions. Do you mind?

2 Younger Sister: (Negative gesture).

3 THE COURT: Do you know the
4 difference between telling the truth and not
5 telling the truth. Mr. Chris asked you some
6 questions about it, so you understand the
7 difference?

8 Younger Sister: (Affirmative nod).

9 THE COURT: All right. And you
10 think -- what happens if you don't tell the
11 truth, sometimes?

12 Younger Sister: You get in trouble.

13 THE COURT: You get in trouble.

14 Younger Sister: (Affirmative nod).

15 THE COURT: Do you always tell the
16 truth?

17 Younger Sister: (No verbal response).

18 THE COURT: Have you ever gotten
19 in trouble for not telling the truth?

20 Younger Sister: (Negative gesture).

21 THE COURT: So you always tell the
22 truth?

23 Younger Sister: (Affirmative nod).

24 THE COURT: You know the
25 difference in what is real and what is make

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1 believe? Sometimes you watch movies, like
2 cartoons, what is that?

3 Younger Sister: (No verbal response).

4 THE COURT: Are cartoons real?

5 Younger Sister: (Negative gesture).

6 THE COURT: That is make believe,
7 isn't it?

8 Younger Sister: (Affirmative nod).

9 THE COURT: Do you know what is
10 real?

11 Younger Sister: (Affirmative nod).

12 THE COURT: Do you understand the
13 difference between those two?

14 Younger Sister: (Affirmative nod).

15 THE COURT: So when Mr. Chris or
16 any of these other folks ask you questions,
17 are you going to be able to tell them the
18 truth?

19 Younger Sister: (Affirmative nod).

20 THE COURT: See if you can answer
21 yes or no.

22 Younger Sister: Yes.

23 THE COURT: Okay. I know you're
24 nervous and that's fine. You know what?
25 Even though you're young and you're small,

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1 big people and old people get nervous too.
2 That's normal. I have that dog (stuffed toy
3 Younger Sister is holding), by the way. My dogs don't
4 like it. I have a real dog. Do you have a
5 dog?

6 Younger Sister: (Affirmative nod).

7 THE COURT: Does your dog like
8 that dog?

9 Younger Sister: (Affirmative nod).

10 THE COURT: Okay. Why don't you
11 just stay right there -- well, I'll ask you
12 to step down. Miss Brittany will take you.

13 (WITNESS STEPS DOWN)

14 THE COURT: Based on what I -- I
15 think she is qualified to testify. I assume
16 you are going to be pretty limited in ---

17 SOLICITOR JONES: Yes, sir.

18 THE COURT: Are we ready for the
19 jury? State ready?

20 SOLICITOR JONES: State is ready,
21 Your Honor.

22 THE COURT: Anything else from the
23 defense? (No verbal response). Bring in the
24 jury.

25 (JURY IN @ 4:20 P.M.)

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TESTIMONY OF Younger Sister. DIRECT EXAM BY SOLICITOR

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1 THE COURT: All right, I understand
2 that Jacob Broom has been selected as the
3 foreperson. Thank you. Solicitor, you may
4 proceed.

5 SOLICITOR JONES: The State calls
6 Younger Sister.

7 (WITNESS TAKES STAND)

8 Younger Sister, having been sworn to tell the
9 truth, and nothing but the truth, testified
10 as follows:

11 DIRECT EXAMINATION

12 SOLICITOR JONES:

13 Q. Hey ^{Younger Sister} how are you --- you can
14 look at me and answer my questions. Can you
15 tell us again what your name is?

16 A. ^{Younger Sister}

17 Q. ^{Younger Sister}

18 A. (Affirmative nod).

19 Q. What is your last name?

20 A. ^{Younger Sister}

21 Q. How old are you ^{Younger Sister}

22 A. Five.

23 Q. Five years old?

24 A. (Affirmative nod).

25 Q. Do you have any brothers and

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TESTIMONY OF Younger Sister - DIRECT EXAM BY SOLICITOR

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1 sisters?

2 A. Um-humm.

3 Q. What are their names?

4 A. Older Sister and Brother.

5 Q. Older Sister and Brother?

6 A. (Affirmative nod).

7 Q. Are they twins?

8 A. (Affirmative nod).

9 Q. Younger Sister do you know the difference
10 between a truth and a lie?

11 A. Yes.

12 Q. Is I told you that this tie was
13 white, is that a truth or a lie?

14 A. Lie.

15 Q. And what if I told you that my hair
16 was purple, would that be a truth or a lie?

17 A. A lie.

18 Q. What is I told you that your name is
19 Younger Sister would that be a truth or a lie?

20 A. True.

21 Q. True.

22 A. (Affirmative nod).

23 Q. Younger Sister did you used to live with
24 Stacy and Aaron Hendrix?

25 A. Yes.

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TESTIMONY OF Younger Sister - DIRECT EXAM BY SOLICITOR

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1 Q. Who is Stacy to you?

2 A. Hummm.

3 Q. Is Stacy Riden your mother?

4 A. (Negative gesture).

5 Q. No?

6 A. (Negative gesture).

7 Q. Did you used to live with Stacy and
8 Aaron?

9 A. Um-humm, (affirmative nod).

10 Q. When you lived with them, did
11 Older Sister and Brother live with you too?

12 A. Um-humm, (affirmative nod).

13 Q. Do you remember if Stacy and Aaron
14 ever touched you in a bad place?

15 A. (Affirmative nod).

16 Q. They did?

17 A (Affirmative nod).

18 Q. Who did you tell about that?

19 A. Mama.

20 Q. Your mama?

21 A. (Affirmative nod).

22 Q. Who do you call mama?

23 A Lisa.

24 Q. Lisa. Have you ever talked with
25 anybody else about that?

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TESTIMONY OF Younger Sister - DIRECT EXAM BY SOLICITOR

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1 A. Amanda.

2 Q. Amanda?

3 A. (Affirmative nod).

4 Q. Do you remember going to the Julie
5 Valentine Center and talking with Ms.
6 Galloway about that -- Ms. Galloway-Williams?

7 A (Negative gesture).

8 Q. What about Miss Shauna, do you
9 remember talking with her about that?

10 A. (Negative gesture).

11 Q. No?

12 A. (Negative gesture).

13 Q All right. But you used to live
14 with Stacy and Aaron, right?

15 A. Um-humm, (affirmative nod).

16 Q. And Older Sister and Brother lived with you
17 there?

18 A. Um-humm.

19 Q. I asked you this earlier but I am
20 going to ask you again. Did Aaron Hendrix
21 touch you on a bad place?

22 A. (Affirmative nod).

23 Q. Did Stacy Riden touch you on a bad
24 place?

25 A. (Affirmative nod).

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TESTIMONY OF Younger Sister - CROSS EXAM BY MR. WARDER

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1 SOLICITOR JONES: No further questions

2 CROSS EXAMINATION

3 CARLOLINA HORLBECK:

4 Q. May I call you ^{Younger Sister} is that okay?

5 A. (Affirmative nod).

6 Q. We are going to put the microphone
7 in front of you so that hopefully we can hear
8 you. Is that okay -- (microphone adjusted).
9 Can you answer out loud? Say yes or no?

10 A. (Affirmative nod).

11 Q. Okay. How about this? Tell me your
12 name again.

13 A. ^{Younger Sister}

14 Q. Your last name?

15 A. ^{Younger Sister}

16 Q. How old are you, ^{Younger Sister}

17 A. Five.

18 Q. Are you in school?

19 A. Yes.

20 Q. What school do you go to?

21 A.

22 Q. You said that you are five. Are you
23 in kindergarten?

24 A. (Affirmative nod).

25 Q. Do you know what level of kinder-

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TESTIMONY OF Younger Sister - CROSS EXAM BY MR. WARDER

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1 garten you are in?

2 A. (Negative gesture).

3 Q. No? Who is your teacher?

4 A. Ms. Gravely.

5 Q. I see that you have a toy with you
6 today.

7 A. (Affirmative nod).

8 Q. Can you hold your toy up?

9 A. (Complies).

10 Q. Oh, you've got two. What are their
11 names?

12 A. I don't know what this one's name
13 is, but I named this one "mama."

14 Q. Tell me the pink one's name?

15 A. Mama.

16 Q. How long have you had those toys, do
17 you know?

18 A. This one I just got today and this
19 one I have had for a long, long time.

20 Q. Okay. And you brought them to court
21 with you today. Yeah?

22 A. (Affirmative nod).

23 Q. Okay. Can you answer out loud?

24 A. Um-humm, (affirmative nod).

25 Q. Is this your first time in court?

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TESTIMONY OF Younger Sister - CROSS EXAM BY MR. WARDER

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1 A. Um-humm, (affirmative nod).

2 Q. Have you ever been to this courtroom
3 before?

4 A. Yes.

5 Q. Have you ever sat in that chair
6 before?

7 A. No.

8 Q. Have you met -- I'm going to call
9 him Mr. Chris. Have you met Mr. Chris
10 before?

11 A. Uh-huh, (affirmative nod).

12 Q. All right. ^{Younger Sister} do you have any
13 favorite movies?

14 A. Arial.

15 Q. Say that again?

16 A. Arial.

17 Q. Do you know what movie -- is she a
18 mermaid, is Arial a mermaid?

19 A. (Affirmative nod).

20 Q. All right, ^{Younger Sister} So I am going to
21 ask you a few more questions. Who is Stacy
22 to you?

23 A. (No verbal response).

24 Q. Do you remember when you lived with
25 Stacy?

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TESTIMONY OF Younger Sister - CROSS EXAM BY MR. WARDER

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1 A. (Affirmative nod).

2 Q. How old were you?

3 A. Two.

4 Q. Do you remember moving to your
5 grandma's?

6 A. (Affirmative nod).

7 Q. Do you remember how old you were
8 when you moved to your grandparents?

9 A. Three.

10 Q. Was there a special occasion that
11 happened near the time when you moved in with
12 your grandparents?

13 A. No.

14 Q. You said just a few minutes ago that
15 Stacy was not your mom. Is Stacy your mom or
16 not?

17 A. She is.

18 Q. She is?

19 A. (Affirmative nod).

20 Q. All right. You don't remember going
21 to the Julie Valentine Center, do you?

22 A. I don't.

23 Q. Okay. That's all right. When you
24 lived with Stacy, do you remember what kind
25 of house that you lived in?

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TESTIMONY OF Younger Sister - CROSS EXAM BY MR. WARDER

255

- 1 A. (Negative gesture).
- 2 Q. Do you know if it was a big house or
3 a little house?
- 4 A. (Negative gesture).
- 5 Q. Okay. Do you remember how many
6 rooms there were in the house?
- 7 A. Zero.
- 8 Q. Sorry, I couldn't hear you.
- 9 A. Zero.
- 10 Q. Zero rooms in the house? Did I hear
11 you right?
- 12 A. (Affirmative nod).
- 13 Q. Did the house have any bathrooms?
- 14 A. (Negative gesture).
- 15 Q. No bathrooms?
- 16 A. (Negative gesture).
- 17 Q. Okay. Was there a tub?
- 18 A. (No verbal response).
- 19 Q All right. Now, you said that Stacy
20 and Aaron did some things. Do you remember
21 when those things happened?
- 22 A. (Negative gesture).
- 23 Q. Okay. Do you know how old you were
24 when those things supposedly happened?
- 25 A. Two.

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TESTIMONY OF Younger Sister - CROSS EXAM BY MR. WARDER

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1 Q. Was there a special event or a
2 holiday that happened around the time that
3 you're saying those things happened?

4 A. (Negative gesture).

5 Q. Do you know how you know that those
6 things happened when you were two?

7 A. (No verbal response).

8 Q. How do remember that those things
9 happened when you were two?

10 A. (No verbal response).

11 Q. Don't know?

12 A. (Negative gesture).

13 Q. All right.

14 MS. HORLBECK: Beg the court's
15 indulgence. All right, ^{Younger Sister} thank you so
16 much for answering my questions.

17 CROSS EXAMINATION

18 BY MR. WARDEN:

19 Q Hello. Do you remember when you
20 were real little, living with Stacy?

21 A. (Affirmative nod).

22 Q. Can you give me an answer verbally,
23 yes or no?

24 A. Yes.

25 Q. Did she do and help you with most of

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TESTIMONY OF Younger Sister - CROSS EXAM BY MR. WARDER

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1 the things that little children need help
2 with?

3 A. No.

4 Q. Did she help you learn to brush your
5 teeth?

6 A. No.

7 Q. What is the first thing you remember
8 her doing for you, if anything?

9 A. Uh, nothing.

10 Q. You don't remember anything that she
11 done to help you?

12 A. (No verbal response).

13 Q. Did she get you bath water and stuff
14 to take a bath?

15 A. (No verbal response).

16 Q. Did she wash -- get you out clothes
17 so that you could put on clean clothes?

18 A. (Negative gesture).

19 Q. Did she help you get dressed?

20 A. (Negative gesture).

21 Q. Was she the only one that looked
22 after you until you went to live with your
23 grandma?

24 A. (Negative gesture).

25 Q. Who looked after you? Washed your

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TESTIMONY OF Younger Sister - CROSS EXAM BY MR. WARDER

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1 clothes and all that stuff?

2 A. No one.

3 Q. No one?

4 A. (Affirmative nod).

5 Q. Did you ever need new clothes in the
6 first two and a half, three years of your
7 life?

8 A. (Affirmative nod).

9 Q. Did mom get them?

10 A. (Negative gesture).

11 Q. Who cooked for you?

12 A. No one.

13 Q. No one?

14 A. (Affirmative nod).

15 MR. WARDEN: Thank you.

16 THE COURT: Thank you.

17 SOLICITOR JONES: Nothing further,
18 Your Honor.

19 THE COURT: Younger Sister you can step
20 down.

21 (WITNESS STEPS DOWN)

22 THE COURT: Solicitor, call your
23 next witness.

24 SOLICITOR JONES: State calls Adam
25 McJunkin.

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TESTIMONY OF ADAM MCJUNKIN - DIRECT BY SOLICITOR

259

1 (WITNESS TAKES STAND)

2 ADAMS MCJUNKIN, having been sworn to
3 tell the truth, and nothing but the truth,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY SOLICITOR JONES:

7 Q. Mr. McJunkin, can you tell us where
8 you work, please, sir?

9 A. Pickens County Sheriff's Office.

10 Q. And what's your position?

11 A. Deputy Sheriff with uniform patrol.

12 Q. Okay. And how long you been doing
13 that?

14 A. Five years on road patrol, nine
15 total at the sheriff's office.

16 Q. In your current position, what are
17 some of your responsibilities?

18 A. My assignments are to respond mainly
19 to calls for service generated by the public.
20 So basically any time somebody calls and
21 requests a deputy, road patrol responds.

22 Q. And on December 30th, 2013, did you
23 respond to Thornberry Ridge in Easley?

24 A. I did. I think the address or the
25 actual date was the 29th.

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TESTIMONY OF ADAM MCJUNKIN - DIRECT BY SOLICITOR

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1 Q. The 29th?

2 A. But I did respond to that address.

3 Q. Okay. And who did you talk to when
4 you got on scene?

5 A. Lisa Riden.

6 Q. All right. Did you know what the
7 call was regarding?

8 A. She -- it was regarding a sexual
9 abuse case.

10 Q. Okay. And do you know the relation
11 of Lisa Riden, who you spoke with, with the
12 sexual abuse?

13 A. She was the -- she's the grandmother
14 of the victims.

15 Q. Okay. Do you know who all lived
16 with Lisa Riden at the time?

17 A. It was Lisa, her husband, the three
18 -- Lisa's three grandchildren and I believe
19 her teenaged daughter.

20 Q. And did anyone or did you learn
21 anything as to the time and place of the
22 sexual abuse?

23 A. I was advised that it happened at
24 their children's mother's residence.

25 Q. And was that the residence that you

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1 were called to?

2 A. It's a separate address.

3 Originally, I was advised it was
4 Ridgefield Circle. I believe later on in the
5 investigation it was determined it was at
6 Ridgefield Circle. That's in Easley, South
7 Carolina.

8 Q. Okay. And were you made aware of
9 any dates or the time when it occurred or did
10 you not get that far?

11 A. She advised me that the abuse
12 occurred between, I believe it was December
13 of 2011 ---

14 MR. WARDER: Your Honor, I object
15 to this. It's hearsay.

16 SOLICITOR JONES: Your Honor,
17 there's a time and place exception for sexual
18 abuse that they can say, that he can say when
19 the sexual abuse occurred.

20 THE COURT: I think that falls
21 within the exception. I mean, it's plain
22 under the Rules. So I'm going to let him.
23 And it's limited to time and place.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR JONES:

1 A. It was December 2011 between then
2 and December 2012.

3 Q. Okay. And after that conversation
4 with Ms. Riden, Lisa Riden, what did you do
5 after that?

6 A. I completed an incident report. I
7 forwarded that to the detective division for
8 further investigation.

9 Q. Did you do any follow-up
10 investigation or anything?

11 A. I did not.

12 Q. And is that standard protocol in
13 your position?

14 A. It is. Normally, with a case that
15 requires more time, further investigation, we
16 forward it to the detective's division.

17 SOLICITOR JONES: No further
18 questions, Your Honor.

19 THE COURT: Ms. Horlbeck?

20 MS. HORLBECK: Just briefly.

21 CROSS-EXAMINATION

22 BY MS. HORLBECK:

23 Q. Is it Officer McJunkin? Am I using
24 the correct terminology?

25 A. Yes, ma'am. Deputy but I'm ---

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1 Q. Deputy?

2 A. Yes, ma'am.

3 Q. All right. Sorry about that. All
4 right. Deputy when -- the residence you
5 responded to, was it Thornberry?

6 A. Yes, ma'am.

7 Q. All right. And that residence
8 belonged to the grandparents?

9 A. Yes, ma'am.

10 Q. And the children were living with
11 the grandparents at the time that you
12 responded?

13 A. That is correct.

14 Q. All right.

15 MS. HORLBECK: That's all I have.

16 THE COURT: Mr. Warder?

17 MR. WARDER: If it pleases the
18 Court, I'd have no questions of this witness.

19 THE COURT: All right.

20 Any redirect?

21 SOLICITOR JONES: Nothing further,
22 Your Honor.

23 THE COURT: All right. Thank you.

24 SOLICITOR JONES: Your Honor, may we
25 approach briefly?

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1 (OFF RECORD BENCH CONFERENCE)

2 THE COURT: Another one of those
3 little breaks. Since it's twenty 'til 5:00.
4 And, of course, we're not taking the same
5 breaks y'all are. I don't want you to think
6 we're just lollygagging out of here while
7 y'all are on break. But I really have --
8 there are some other things we have to go
9 over outside your presence. So we're just
10 going to -- I'm going to go ahead and let
11 y'all go this afternoon. Is 9:00 okay for
12 everybody? That's not too early for
13 everybody?

14 FOREMAN: That's fine.

15 THE COURT: All right. I'm going
16 to have y'all come back to your jury room at
17 9:00. And here's my little warnings here:

18 Do not talk about the case among
19 yourself or your spouse or your friends or
20 family. When you get home if somebody ask
21 you what you did today, say you are on jury
22 duty but you can't talk about the case. I
23 know that's very difficult to do. But you've
24 taken an oath that you will not discuss the
25 case.

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1 Also, again, do not do any
2 independent investigation, go by the scenes
3 of anything, Google anything.

4 And if there is any media coverage
5 through TV, radio, or the newspaper, do not
6 pay any attention to it. Please disregard.
7 It's real important that you only get
8 information here in the courtroom.

9 Also if you are contacted by
10 anybody, get their names and provide that to
11 the bailiff.

12 Other than that, I hope that y'all
13 have a pleasant evening and I will see you at
14 9:00 in the morning. Thank you.

15 (JURY OUT @ 4:35 P.M.)

16 THE COURT: All right. Do y'all
17 need to chat about that first?

18 SOLICITOR JONES: The statements of
19 the defendant's, Your Honor? I haven't
20 received any proposed, again any proposed
21 redactions as ---

22 THE COURT: Well, I'm sure there's
23 some. Y'all talk a few minutes before I -- I
24 mean, I'm going to step back here.

25 SOLICITOR JONES: Yes, sir, Your

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Honor.

THE COURT: I'm trying to let
y'all make my job easier.

(COURT IN RECESS)

(TRANSCRIPT CONTINUED NEXT PAGE)

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1 JANUARY 27, 2016 9:00 A.M.

2

3

(DEFENDANT HENDRIX PRESENT)

4

5

THE COURT: Ms. Horlbeck, did you
get your *voir dire* questions?

6

MS. HORLBECK: Yes, sir, I did.

7

8

THE COURT: All right. That's
what I wanted to ---

9

10

11

MS. HORLBECK: Yes, sir. Thank
you for reminding me. Shall I just hand it
up to you.

12

13

14

THE COURT: Ms. Horlbeck has
marked an exhibit her *voir dire* questions --
as an exhibit from yesterday.

15

MR. WARDER: Okay.

16

17

18

THE COURT: If she objected, I
didn't ask. I just wanted to put that in
there.

19

20

21

22

23

Also, before we get going, I know we
kind of -- we went over everything yesterday
about the Defendant (Riden) not being here.
But I wanted to make sure we were clear and
we're protecting the record.

24

25

First of all, I assume -- Ms.
Horlbeck, am I understanding you have not had

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1 any communications with Ms. Riden?

2 MS. HORLBECK: No, sir. She has
3 not contacted me. I did check the Pickens
4 County Jail to see if anything had happened
5 overnight or if she'd been found. And she's,
6 at least not to my knowledge, when I checked
7 probably about an hour, hour and a half ago,
8 she was not there. And actually I would take
9 that back. I had my secretary check about
10 8:45 and she wasn't at the jail.

11 SOLICITOR JONES: Your Honor, I'm
12 sorry to interrupt.

13 MS. HORLBECK: Sure.

14 SOLICITOR JONES: I just got some
15 breaking news from the sheriff's office.
16 They just picked her up.

17 MS. HORLBECK: Okay.

18 SOLICITOR JONES: In Spartanburg.

19 MS. HORLBECK: All right. Then.
20 Well, that answers that.

21 THE COURT: So what do we want to
22 do?

23 MS. HORLBECK: Well, what's her
24 next stop?

25 SOLICITOR JONES: I can make a phone

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1 call.

2 THE COURT: All right. Find that
3 out.

4 MS. HORLBECK: We'll need to, I
5 guess we get her her ---

6 THE COURT: This case has more
7 twists and turns than that dragon tail road
8 up to Tennessee.

9 MS. HORLBECK: If we can get her
10 up here. We may not be able to do anything
11 until she gets here, Judge.

12 THE COURT: Well, I'm sure --
13 sounds like she may have a ride.

14 MS. HORLBECK: She might.

15 THE COURT: Well, let's talk about
16 the statement and just confirm what we did
17 yesterday.

18 It is my understanding from every-
19 thing that the Defendant had received notice,
20 a bond card. And I think Ms. Horlbeck
21 indicated that she had sent the trial docket
22 to her. So there's no issue that she -- in
23 fact, she was here yesterday morning. So
24 there's no question she had notice of her
25 right to be here.

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1 I just want to go on record and say
2 that, you know, we did proceed with the trial
3 in her absence and she did -- she had receive
4 notice and was aware the trial was going
5 forward. The fact that she vacated herself
6 without a good cause, that was her waiver to
7 be present at the trial. And so we did
8 proceed forward over your objection; and
9 your request for a continuance, which had
10 been denied.

11 I think we may have said that on the
12 record, but I just wanted to make sure that
13 was covered.

14 When we, you know, find out where
15 she is we'll address how to proceed.

16 As to the statements, I've looked at
17 the case law, looked back at the Rules of
18 Evidence. I will let y'all renew your
19 objection, but I think the -- generally, the
20 statements are going to be admissible, both
21 as to Mr. Hendrix and to Ms. Riden.

22 I know there are specific issues
23 with those statements and you wanted some
24 portions redacted?

25 SOLICITOR JONES: Your Honor, as

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1 to Mr. Hendrix's statement, I spoke with Ms.
2 Horlbeck and I agreed to stop the video at
3 39:00:00 minutes.

4 After that they talk about polygraph
5 and Ms. Riden getting arrested on the
6 charges, other things I agree would be
7 inadmissible.

8 There's one thing Mr. Hendrix stated
9 that I would like to play that Ms. Horlbeck
10 and I disagree on. Mr. Hendrix says that --
11 the discussion is about whether the
12 biological father, Mr. Mark Lusk, stayed over
13 there. He indicated that he did. And Mr.
14 Hendrix stated that he didn't know if
15 anything happened, meaning sexually, with Ms.
16 Riden and Mr. Lusk on Mother's Day because he
17 was not there. Ms. Horlbeck had an objection
18 to that. That was the one issue that she and
19 I could not resolve.

20 MS. HORLBECK: Judge, just for
21 the record, I would object to the admission
22 of that.

23 THE COURT: Right. I understand
24 that.

25 MS. HORLBECK: I just wanted to

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1 put it -- I had not had the opportunity to
2 put that on the record. And, yes, I do
3 object to the admission of the entire Hendrix
4 video. And we did talk about possible
5 redactions if, in the event the Court elected
6 to admit the video anyway. We have agreed on
7 the portion that Mr. Jones just talked about.

8 THE COURT: I realize -- and that
9 agreement to play that portion does not waive
10 your objection to the video overall. I under
11 stand that.

12 MS. HORLBECK: Thank you. And
13 then regarding the portion about Mother's
14 Day, I would ask that that portion be -- that
15 the portion I'm talking about is from 29:35
16 to 30:52. Actually I had stated that to Mr.
17 Jones. And I'll provide ---

18 SOLICITOR JONES: You said 30:52?

19 MS. HORLBECK: 29:35 to 30:52.

20 SOLICITOR JONES: Thank you.

21 MS. HORLBECK: Your Honor, I can
22 provide the Court a copy of ---

23 THE COURT: Does it say when it
24 just ---

25 MS. HORLBECK: No, sir. I didn't

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1 put the times.

2 THE COURT: What is your objection
3 to it?

4 MS. HORLBECK: It talks about --
5 Mr. Hendrix says, starts off that portion
6 saying, "I'm not saying something funny
7 didn't happy on Mother's Day." And he
8 proceeds to discuss that Older Sister told Aaron
9 that after Aaron left the house the day after
10 Mother's Day, Mark Lusk went into Stacy
11 Riden's bedroom. That's the part I object
12 to. He doesn't say -- nobody says what
13 happens. It just has Mark going into the
14 bedroom. Mr. Mark Lusk is not a defendant in
15 this case. I don't believe he's ever even
16 been charged in this case. I just don't
17 think that portion's relevant.

18 SOLICITOR JONES: Your Honor, the
19 way I understand it, Mr. Hendrix states that
20 -- Marvin Nix, the investigator asked Mr.
21 Hendrix, 'Was Mr. Lusk ever over there. Did
22 they ever have sex, to your knowledge?'

23 And Aaron says no. And then he
24 says, 'Well, I'm not going to say nothing
25 happened over Mother's Day because I know he

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1 stayed over there over Mother's Day.'

2 THE COURT: I'm not going to -- I
3 think that's -- I mean, you're talking about
4 a person that's not a defendant here. I'm
5 going to rule that to be excluded.

6 SOLICITOR JONES: Okay. Yes, sir,
7 Your Honor.

8 MR. WARDER: That is also our
9 objection and that's the same objection
10 that's going to be to every question, is that
11 the detective asked something that's not
12 relevant or not in evidence.

13 THE COURT: But I think here
14 you're talking about a person that's not --
15 and, one, there's no direct knowledge.
16 There's no -- they're talking about a person
17 who is not even a defendant or party and
18 that's my basis for that. I mean, I under-
19 stand your objection there.

20 MR. WARDER: For the record, can I
21 have that objection continue throughout the
22 playing without standing up and objecting
23 every time the officer asks a question?

24 THE COURT: If ---

25 MR. WARDER: Or do you want me to

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1 make an objection every time the officer asks
2 a question?

3 THE COURT: You're objecting to
4 the entire video. I mean, you don't -- I
5 mean ---

6 MR. WARDER: But I object to it
7 because of the questions.

8 THE COURT: Right.

9 MR. WARDER: I won't make an
10 identical objection to all the questions.

11 THE COURT: No. Well, it's not
12 like a testimony from here. So you're
13 preserved from objecting to the entire video
14 on that ground. You don't need to stand up
15 each ---

16 MR. WARDER: I don't need to
17 individually object to each one?

18 THE COURT: Right. I mean, I
19 don't think that would be ---

20 MR. WARDER: Thank you, Your Honor.
21 That will make it at least smoother.

22 THE COURT: Yeah.

23 SOLICITOR JONES: Your Honor, to go
24 back to Ms. Horlbeck, I want to make sure I
25 have the correct time. 29:30 to 30:52?

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1 MS. HORLBECK: Yes.

2 THE COURT: Assuming those times
3 haven't changed.

4 SOLICITOR JONES: What's that?

5 MS. HORLBECK: Yes.

6 THE COURT: Assuming that those
7 times haven't changed.

8 SOLICITOR JONES: Right. As to --
9 again, as to Mr. Hendrix's record, I had
10 spoke with Mr. Warder previously and he
11 indicated, as far as I could tell, that he
12 would not give me specific times that he
13 wanted to be redacted. That he would object
14 as they came in on the video.

15 So I am going to redact the things
16 that I thought were inadmissible. A state-
17 ment as to how many times he's been locked up
18 and statements about prior drug use. And
19 then other than that -- and statements about
20 a polygraph taking. But other than that, I
21 really didn't see anything.

22 THE COURT: And I assume you're
23 also going to object -- I mean, I know you
24 made your objection -- kinda of a Motion *in*
25 *limine* now, but I assume you also are going

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1 to be objecting like when it gets introduced?

2 MR. WARDER: (No verbal response).

3 THE COURT: I mean, you don't have
4 to do it each time. But I mean ---

5 MR. WARDER: Yes, sir.

6 THE COURT: Right.

7 MR. WARDER: Yes, sir. Every
8 individual question, I object to the same
9 stuff as Ms. Horlbeck.

10 THE COURT: Right. But I think
11 you need -- but you're going say that when
12 he introduces the video itself as well?

13 MR. WARDER: Yes, sir. On this
14 particular video, (affirmative nod).

15 THE COURT: All right. That's
16 just to make sure.

17 All right. Will you tell him to go
18 ahead and talk to your ---

19 SOLICITOR JONES: (Sidebar with
20 staff) -- Your Honor, they estimate they can
21 get her here in an hour. And honestly, Your
22 Honor, in that time, I could give these
23 videos of the children that I have redacted
24 now to the defense and see if they like it.

25 MS. HORLBECK: Yeah. Judge, I

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1 don't think we can do anything until she gets
2 here. I really don't.

3 THE COURT: I'm sorry?

4 MS. HORLBECK: I don't think we
5 can proceed with the trial until she gets
6 here.

7 THE COURT: No. I agree. I'm not
8 -- that's ---

9 MS. HORLBECK: Sorry.

10 THE COURT: No, listen. It's not
11 you.

12 MS. HORLBECK: It's not me.

13 THE COURT: But I agree. I don't
14 think -- and since she's on her way, I think
15 we definitely need to wait.

16 Here's another issue. You know, I'm
17 not sure what kind of condition she may be in
18 when she gets here. That's something maybe
19 you need to figure out too. I mean, she's
20 been on the run. I mean, I just ---

21 MS. HORLBECK: Yeah. No, I
22 agree. I'll talk to her. I'll talk with her
23 and we'll assess the situation.

24 THE COURT: I suppose we could let
25 them go and then come back after lunch.

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1 SOLICITOR JONES: The jury?

2 THE COURT: Yes.

3 SOLICITOR JONES: Whatever you want,
4 Your Honor. If you do ---

5 THE COURT: I'm just trying to
6 think here.

7 SOLICITOR JONES: I can call some of
8 my witnesses and ---

9 MS. HORLBECK: We can't.

10 THE COURT: I don't want anything
11 here with her on the way.

12 SOLICITOR JONES: I meant -- some of
13 my witnesses are coming here at 10:30, 11:00
14 and I can call them and tell them to come
15 after lunch. Perhaps they could take an
16 early lunch and we could then begin back at
17 like 12:30 or something like that.

18 THE COURT: That's what I'm kind
19 of thinking. Mr. Warder?

20 MR. WARDER: I was going to say if
21 we said we'd start at 11:00 that might solve
22 it. But maybe ---

23 THE COURT: Well, I think she may
24 need some time to -- let's do an early lunch
25 and -- see if the jury is okay. And I would

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1 just say there's been some developments that
2 we've got to deal with and it make take us a
3 while. And we'd say can y'all come back at
4 12:30. Maybe make sure you've eaten lunch by
5 that point. And we'll just work around that.
6 I think that's the only way we can do it.

7 SOLICITOR JONES: Yes, sir, Your
8 Honor.

9 THE COURT: All right. I'm going
10 to bring -- anything before we bring the jury
11 in? And that's all I'm going to tell them.
12 And then we'll go from there.

13 MS. HORLBECK: And then we can
14 address Ms. Riden.

15 THE COURT: And we can deal with
16 that at that point. Bring the jury in,
17 please?

18 BAILIFF: Yes, sir.

19 (JURY IN @ 9:50 A.M.)

20 THE COURT: All right. Ladies and
21 gentlemen, I hope everybody had a pleasant
22 evening. I don't know and I don't really
23 want to know, I know one of you had car
24 trouble, but we used that. We used you
25 because we actually had some things that we

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1 had to deal with. So that turned out all
2 right so you don't need to feel like we
3 really were waiting on you because we used
4 the fact that you were going to be late to
5 take care of some matters.

6 But there has been a little bit of a
7 development that -- even though I'm the Judge
8 I don't have control over as much as I think
9 I do in the scheduling of some things
10 sometimes.

11 There's been a development that we
12 just have to deal with. And we have to deal
13 with it outside your presence. And it may
14 take longer than we thought. The only way --
15 what I'm thinking about is having y'all --
16 and I do apologize that this has been kind of
17 jumbled. There was nothing we could do about
18 it. And really the only way that we can deal
19 with this efficiently is maybe allow y'all to
20 go have an early lunch and be back here at
21 12:30.

22 Does that create any major issues
23 with anyone? And that way we can, you know
24 -- so what I'm going to ask you to do is to
25 -- you know, take the morning off, at least

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1 what's left of it. Be back here at 12:30 and
2 go ahead and get lunch, you know, get
3 something to eat because we would try to go
4 straight through from that point. Of course,
5 we'll take breaks.

6 We to accommodate y'all but we do
7 need to keep the case moving as efficiently
8 and quickly as possible.

9 So once again I tell you do not talk
10 about the case in any way, among yourselves
11 or with anybody else.

12 Don't do any independent research.
13 Don't Google it.

14 Don't pay any attention to any news
15 items on this case.

16 And, lastly, if somebody should
17 contact you, then get that information and
18 let us know.

19 I'm sorry we have to do it this way
20 but we didn't know this and so -- anyway,
21 take a break. We will see you back in your
22 jury room at 12:30. Thank you.

23 (JURY OUT @ 9:52 A.M.)

24 (OFF RECORD DISCUSSION)

25 THE COURT: All right. Do y'all

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1 need to take a few minutes then? I mean, I
2 think I've ruled on everything y'all needed
3 from me, didn't I?

4 MS. HORLBECK: I don't think we
5 addressed Ms. Riden's video.

6 THE COURT: Oh, I'm going to -- I
7 mean, I thought we did.

8 MS. HORLBECK: Did you want to
9 wait.

10 THE COURT: I said both videos are
11 admissible. I thought ---

12 MS. HORLBECK: Yes, sir.

13 THE COURT: I understood you
14 objected and you had, y'all had kind of
15 agreed, subject to your objection what you
16 were going to play.

17 MS. HORLBECK: Right. That was
18 on the Hendrix video. I just wanted to go on
19 the record with ---

20 THE COURT: I thought you said
21 Riden as well?

22 SOLICITOR JONES: On the Riden
23 video, I intend to play about a thirty-second
24 clip.

25 THE COURT: Oh, okay.

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1 SOLICITOR JONES: I'm sorry.

2 THE COURT: Well, I misunderstood.
3 I was thinking you were talking about the
4 Riden.

5 MS. HORLBECK: Well, I mean, I
6 object to him playing any of that. I think,
7 though, under the rule of completeness then
8 the remainder of the video needs to be
9 played.

10 However, there are portions -- I
11 would ask that everything that Officer Nix
12 says in his questions be redacted, and I do
13 have a list of those. And the reason I want
14 Officer Nix's statements redacted ---

15 SOLICITOR JONES: Well, Your Honor.

16 MS. HORLBECK: --- I'll let you,
17 you know, know when I'm done.

18 SOLICITOR JONES: Okay.

19 MS. HORLBECK: What he's doing is
20 he's going over all the allegations of the
21 children and getting my client's response.
22 And he's just repeating the allegations. So
23 I think it's hearsay. I think it's, you
24 know, prejudicial. I think it's
25 impermissible corroboration.

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1 THE COURT: He's playing thirty
2 seconds, which I'm allowing. If you want
3 completeness then you figure out how to
4 redact anything. I mean, I'm not going to go
5 through it. We're not going to do -- that's
6 going to be another day's worth of redacting.
7 But if you want to -- he's wanting thirty
8 seconds. If you want more of it then -- and
9 part of that's the questions. I mean, it
10 doesn't make any sense to have it without
11 questions. So I guess denied.

12 MS. HORLBECK: All right.

13 THE COURT: Thank you, Your Honor.

14 MR. WARDER: And part of her
15 objection is the same objection I'm making.
16 That, you know, he just goes on with all the
17 facts and stuff that's not in evidence.

18 THE COURT: So I guess what you
19 need to do is decide what portion of the
20 video you want played, subject to your
21 objection. Do you want the whole thing?

22 MS. HORLBECK: If I'm under-
23 standing, though, the Court's denied my
24 Motion to redact; correct?

25 THE COURT: Right. I mean just

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1 because of the questions. But if there are
2 specific things like, 'oh, have you been
3 convicted of this before?' I mean, things
4 like that. If there are legitimate issues,
5 which I think probably Mr. Jones when -- he
6 discussed, those were redacted anyway. But
7 those are the kind of issues we can deal.

8 But just as a blanket redaction,
9 just as a question because they repeat the
10 allegations, I'm not going to.

11 MS. HORLBECK: Okay. Let me just
12 look at my notes. And I'll talk to Mr. Jones
13 if there's anything other than those.

14 THE COURT: All right.

15 SOLICITOR JONES: Your Honor, do
16 you want me to give the redacted disk of the
17 children to Defense counsel to review to make
18 sure that they're acceptable to them?

19 THE COURT: Have you reviewed them
20 to make sure they did what you wanted them to
21 do?

22 SOLICITOR JONES: I haven't reviewed
23 them on the disk, but I did review them on
24 the -- I reviewed the first one on the
25 computer and it was acceptable to me. But,

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1 again, the defense counsel is making the
2 objections and they wanted these redactions,
3 so I think -- and I think they're going to be
4 the ones making the objections if something
5 comes in that they don't want.

6 THE COURT: At 12:30 I want this
7 matter to go to the jury, so ever how y'all
8 to do that.

9 SOLICITOR JONES: Yes, sir.

10 THE COURT: Y'all do it.

11 MR. WARDER: Your Honor, just for
12 one thing. I don't mean to be beating a dead
13 horse. I apologize. But it's not the
14 objection that the officer's repeating what's
15 in evidence or been said. The officer's
16 adding new things to it. So each question
17 comes with new information that's not here
18 and wouldn't be there. And our clients are
19 required or my client's required to respond
20 to it. And because the question is a
21 question that the testimony would not come in
22 if it was not in this tape and he keeps -- he
23 couldn't testify to it on the stand
24 personally.

25 THE COURT: Well, I mean, I think

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1 your objection is noted.

2 MR. WARDER: Okay. Thank you, sir.
3 I apologize.

4 THE COURT: No, that's fine. You
5 don't need to apologize. I don't mind. I
6 want to make sure the record's complete. So
7 y'all feel free to object.

8 All right. Well, if y'all need me,
9 I'll be in my office.

10 SOLICITOR JONES: Thank you, Your
11 Honor.

12 (COURT IN RECESS)

13 (IN CHAMBERS CONFERENCE)

14 (DEFENDANT RIDEN PRESENT)

15 (DEFENDANT HENDRIX PRESENT)

16 THE COURT: Okay, we need to get
17 going. Ms. Riden, so nice that you could
18 join us today. Are we ready to bring the
19 jury in?

20 SOLICITOR JONES: Yes, sir.

21 THE COURT: Bring in the jury.

22 (JURY IN @ 12:35 P.M.)

23 THE COURT: All right. Ladies and
24 gentlemen, we accomplished a lot and I
25 appreciate your patience. I hope everybody

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1 was able to get an early lunch. It was kind
2 of like a kindergarten lunch; 11:30 is a
3 kindergarten lunch. So I appreciate your
4 patience for that. And, again, if anybody
5 needs to take a break at any point, just let
6 us know. So at this point we will continue
7 with the State's case.

8 SOLICITOR JONES: Thank you, Your
9 Honor. The State calls Marvin Nix to the
10 stand.

11 (WITNESS TAKES STAND)

12 MARVIN NIX, having been duly sworn to
13 tell the truth, and nothing but the truth,
14 testified as follows:

15 DIRECT EXAMINATION

16 BY SOLICITOR JONES:

17 Q. Mr. Nix, where do you currently
18 work?

19 A. Pickens County Sheriff's Office.

20 Q. And what's your position out at the
21 sheriff's office?

22 A. Currently, I'm captain over judicial
23 services.

24 Q. Tell the jury what are some of your
25 basic responsibilities in that position?

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1 A. Right now, I basically manage the
2 jail, the courthouse, the warrant division
3 and civil process.

4 Q. Okay. And what was your position
5 prior to that?

6 A. Prior to that I worked with the
7 detective division and I was assigned to
8 special victims unit.

9 Q. Okay. And in that detective
10 division, tell the jury some of your basic
11 responsibilities?

12 A. As far as the special victims unit
13 we investigate crimes in relations to
14 children, sexual abuse, neglect, child
15 fatalities, that sort of stuff.

16 Q. In December of 2013 were you
17 assigned to investigate a sexual abuse?

18 A. Yes. I received a follow-up case
19 from Deputy Adam McJunkin that took the
20 original report. I followed up. I got it
21 a couple of days later for follow-up.

22 Q. And who were the alleged victims in
23 that follow-up investigation?

24 A. The victims were Older Sister , Younger
25 Sister and Brother .

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1 Q. And do you remember the first thing
2 you did when you got assigned? Or first tell
3 the jury what's the process of you getting
4 assigned. After you indicated Mr. McJunkin
5 responded to the scene, how does the case
6 then get to you?

7 A. It's routed to us through our
8 detective division. We get the case.
9 Normally on these type of cases we make
10 contact with the contact person for the
11 children, which in this case it was Lisa
12 Riden. And I made contact with her.

13 Q. Okay. And from your understanding
14 from the investigation, how is Lisa Riden
15 related to the children?

16 A. She's their step-grandmother.

17 Q. Did you learn anything as to the
18 time and place of the alleged sexual abuse
19 from your initial investigation?

20 A. Yeah. From talking to Lisa Riden
21 the timeframe was when the children lived
22 with their mother along with Aaron Hendrix.
23 The timeframe that we could come up with was
24 between December 2011 through December 2012.

25 Q. You said at the house their mother

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1 lived in. Did you know an address or just a
2 street?

3 A. The address we had was Ridge-
4 field Circle, which is in Easley, South
5 Carolina.

6 Q. Okay. And is that in Pickens
7 County?

8 A. Yes.

9 Q. And did you develop any suspects
10 initially?

11 A. Yes, Stacy Riden and Aaron Hendrix.

12 Q. Okay. And how is Stacy Riden
13 related to these children?

14 A. She's their mother.

15 Q. And what about Aaron Hendrix, is he
16 related to the children?

17 A. No. He was a live-in boyfriend that
18 lived with them at that residence.

19 Q. After you talked with Lisa Riden,
20 what was your next step? What did you do?

21 A. Normally, in those type of cases,
22 due to the nature of them it's basically a
23 practice within our office that we refer the
24 children ---

25 MR. WARDER: Object to the office

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1 practice, Your Honor.

2 THE COURT: I think that's
3 appropriate. I'll allow it. Overruled.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR JONES:

6 A. Normally, in those situations we
7 contact the Julie Valentine Center and
8 schedule forensic interviews for those type
9 victims.

10 Q. Okay. And in this particular case,
11 what did you do?

12 A. I contacted the Julie Valentine
13 Center to set up a forensic interview for
14 those children.

15 Q. Okay. And after you talked with
16 Lisa Riden, did you make an attempt to find
17 Stacy Riden?

18 A. I did. I went to the address I had.
19 I went to Ridgefield, looked for her
20 there. She was no longer living there.

21 Q. Did you talk to anybody at
22 Ridgefield?

23 A. I did. I talked to the tenant that
24 was living there then and she didn't know
25 her, knew that she'd lived there but she'd

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1 moved out.

2 Q. Okay. So what other steps did you
3 take to contact Stacy Riden?

4 A. I went to a couple of addresses that
5 I heard she may have been staying and left my
6 business card with notes saying to contact
7 me, call me. But I never received a call.

8 Q. Are you aware if anyone else from
9 the sheriff's office made contact with Stacy
10 Riden before you did?

11 A. Yes.

12 Q. Do you know who that was?

13 A. Detective Art Taylor.

14 Q. Okay. Now, when was the first time
15 that you actually talked with Stacy about the
16 allegation?

17 A. I talked to her several -- well,
18 actually, I met with her several times. But
19 when I actually talked to, interviewed her
20 was April 10th, 2014.

21 Q. Okay. And was there -- you say you
22 talked to her a few times on that occasion.
23 Do you remember the first time you actually
24 talked to Stacy? Wasn't it in January?

25 A. No, it was not.

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1 Q. Okay.

2 A. As I recall the first time I talked
3 to her was on March 14th.

4 Q. Okay.

5 A. 2014.

6 Q. And you mentioned Art Taylor,
7 another officer with the sheriff's office,
8 had made contact with her earlier. Did you
9 go back to the place that that officer found
10 Ms. Riden?

11 A. Yes.

12 Q. And was she there?

13 A. No.

14 Q. And when you questioned Ms. Riden
15 was there anybody else present?

16 A. I think Lee Cribb with DSS.

17 Q. Okay. Did it appear Ms. Riden was
18 under the influence of any alcohol or drugs
19 at that time?

20 A. No. No.

21 Q. Did she appear to have any mental or
22 physical disability affecting what she was
23 telling you?

24 A. No.

25 Q. Can you just briefly describe the

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1 room that you were in when you were talking
2 with her?

3 A. It's probably an eight by ten
4 office, maybe. Regular office furniture,
5 computer, telephone, that sort of stuff.

6 Q. Do you know about how long the
7 questioning lasted?

8 A. Half an hour maybe.

9 Q. Did you ever deny her any food or
10 drink or to go to the bathroom, anything like
11 that?

12 A. No.

13 Q. Did you threaten her or promise her
14 anything?

15 A. No.

16 Q. And in the general conversations
17 with Stacy did you tell her about the
18 allegations?

19 A. I did.

20 Q. And what was her response?

21 A. She denied it.

22 MS. HORLBECK: I object to any
23 sort of hearsay.

24 THE COURT: Overruled.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR JONES:

2 Q. And what was Ms. Riden's response?

3 A. She denied any of the allegations.
4 Basically, she didn't know where they were
5 coming from.

6 Q. Did she indicate whether or not she
7 was the mother of the children or not?

8 A. Yeah. She's the mother of the
9 children.

10 Q. Okay. Did she tell you who Aaron
11 Hendrix was?

12 A. She did.

13 Q. And how did she describe their
14 relationship?

15 A. Well, she was -- at one time
16 boyfriend and girlfriend and lived together
17 at the residence that we talked about,

18 Q. Okay. Did she tell you whether the
19 children lived there or not while Mr. Hendrix
20 was living there?

21 A. Yeah. The children were there.

22 Q. And during your conversation, did
23 Mark Lusk ever come up?

24 A. Yes.

25 Q. And who was Mark Lusk?

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1 A. Mark is the children's natural
2 father.

3 Q. Okay. And did she indicate if he
4 stayed at their house at all while Aaron was
5 living there?

6 A. It was hard to tell. Maybe he would
7 stay a night or so, but he didn't live there.
8 Mark did not live there.

9 MR. WARDER: Objection on
10 speculation. If it's hard to tell, Your
11 Honor, I object to it. It's speculation.

12 THE COURT: What was the question
13 again?

14 DIRECT EXAMINATION CONITINUED

15 BY SOLICITOR JONES:

16 Q. In your conversation with Ms. Riden,
17 did she ever indicate that Mr. Lusk, the
18 biological father, had ever stayed at that
19 residence with her and the children and Mr.
20 Hendrix?

21 A. Yeah. He had stayed there.

22 Q. And did you ever talk to Aaron
23 Hendrix about the allegations?

24 A. I did.

25 Q. Do you remember how many times you

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1 talked to him?

2 A. Once.

3 Q. And you mentioned the steps you took
4 to find Ms. Riden. Can you briefly talk
5 about the steps you took to find Mr. Hendrix
6 and to talk to Mr. Hendrix?

7 A. Yeah. I really didn't have any good
8 addresses. Of course, he wasn't at the
9 Ridgefield any longer.

10 I had an address that was on his, you
11 know, DMV driver's license. I went to that
12 address, didn't locate an actual home. So
13 I'm not sure if there was a mobile home there
14 at one time or whatever.

15 But, you know, I was able to make contact
16 with him. Eventually, I believe I got a
17 phone number when we made contact with him.

18 Q. In the conversation with Mr.
19 Hendrix, generally, what was the conversation
20 about? What did Mr. Hendrix tell you?

21 A. When he came in for the interview?

22 Q. Right?

23 A. That -- I mean, he admitted that he
24 knew Stacy, that at one point in time they
25 both lived together at the residence on

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1 Ridgefield Circle. He believed he lived with
2 her between December 2011 and moved out
3 sometime around December 2012.

4 Q. Did he know specifically about any
5 date that he definitely moved out?

6 A. Toward Christmas.

7 Q. Okay. And when he moved in, did he
8 give you any reasoning as to how he remember
9 it was about when he moved in?

10 A. I'm not sure.

11 Q. Okay. But Mr. Hendrix gave you the
12 dates ---

13 A. Yes.

14 Q. --- of when he lived there,
15 approximately?

16 A. Yes.

17 Q. Did you discuss with Mr. Hendrix if
18 Mr. Lusk ever lived at that particular
19 residence or stayed at that particular
20 residence while he was there?

21 A. Yes.

22 Q. And what was his response?

23 A. "Yes."

24 Q. He affirmed that Mr. Lusk did stay
25 at that residence?

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1 A. That he had stayed there, yes.

2 Q. And did you ask him about the
3 defendant's sisters, about if they had ever
4 come to the residence and spent the night or
5 spent time?

6 A. Yes.

7 Q. Did you ask Mr. Hendrix anything
8 about the sisters bringing males over to the
9 house?

10 A. Yes.

11 Q. Bringing guys over to the house?

12 A. Yes.

13 Q. And what did he tell you about that?

14 A. He did say that her sister brought
15 guys over to the house.

16 Q. Did Mr. Hendrix tell you anything
17 about anyone taking their clothes off at any
18 time?

19 A. (No verbal response).

20 Q. Anybody in particular?

21 A. One of the sisters.

22 Q. Okay. And did Mr. Hendrix tell you
23 anything about wearing a particular type of
24 clothing?

25 A. That Mr. Hendrix wore?

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1 Q. Right.

2 A. Yeah. There was some discussion
3 about wearing Stacy's clothing.

4 Q. And what did Mr. Hendrix tell you
5 about that?

6 A. Yes. That on one occasion he did
7 put on Stacy's clothes.

8 Q. Did he go into detail about that,
9 why he was doing that or did he put anything
10 on a particular part of his body?

11 A. That he put on her clothes, playing
12 around.

13 Q. Okay. Okay. Did he indicate to you
14 that Ms. Riden knew that he did that or was
15 present when he did that?

16 A. Yeah. She knew he did that.

17 Q. At the end of your investigation,
18 what did you do?

19 A. At the end of my investigation, I
20 charged or made a charge on both Stacy Riden
21 and Aaron Hendrix of criminal sexual conduct
22 first degree.

23 Q. How many of those charges did you
24 make?

25 A. Two on both of them.

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1 Q. Okay. And why did you make the
2 charges of criminal sexual conduct with a
3 minor in the first degree, two charges?

4 A. After reviewing the evidence in the
5 case, statements made by the children allege
6 that both Stacy and Aaron performed oral sex
7 on the children and had the children perform
8 oral sex on them.

9 Q. Okay. And as to the charge of
10 criminal sexual conduct with a minor in the
11 third degree, why did you make that
12 particular charge?

13 A. In reference to the youngest
14 daughter, Younger Sister, there were statements
15 made by the children that they had touched
16 her inappropriately in her private areas.

17 Q. Okay.

18 A. I also made a charge against Stacy
19 Riden for unlawful conduct towards a child.

20 Q. Okay. And why did you make that
21 charge of unlawful neglect?

22 A. During statements from the children
23 they all described witnessing drug use,
24 adults having sex ---

25 MR. WARDER: Objection to this,

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1 Your Honor. May I be heard?

2 THE COURT: All right.

3 MR. WARDER: I have an objection,
4 Your Honor. I ask the last question be
5 stricken.

6 THE COURT: I'm going to sustain
7 that and ask that it be stricken.

8 (LINES 19 THROUGH 23 ON PAGE 302 STRUCK)

9 THE COURT: Ladies and gentlemen, when
10 I grant a Motion to strike something, that
11 means you are to disregard that and not
12 consider that in your deliberations.

13 MR. WARDER: Your Honor, I ---

14 SOLICITOR JONES: And what question,
15 just to be clear.

16 MR. WARDER: I have one more Motion
17 on that. I'm going to move for a mistrial.

18 THE COURT: All right. Let's send
19 the jury out then.

20 (JURY OUT @ 12:55 P.M.)

21 MR. WARDER: Your Honor, there's
22 been no charge of drug abuse, that these
23 people were taking drugs and using drugs.
24 There's some testimony of one child where she
25 saw a needle. And I submit to you there's no

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1 testimony that anybody got high, that there
2 was any drugs in any needle at any time, that
3 these people were under the influence of
4 drugs.

5 This is an attempt to categorize it
6 into something it wasn't, as a drug-crazed
7 place where people were engaging in sexual
8 contact and other -- and drugs adds a whole
9 new element that's not in this case.

10 THE COURT: Well, I've reviewed
11 the video, forensic videos, and I tend to
12 differ because they're full of drugs. And
13 the reason I sustained the objection is
14 because that information has not gotten in
15 yet.

16 SOLICITOR JONES: Yes, sir.

17 THE COURT: But, no. The forensic
18 interviews talk about use of needles and the
19 kid testified yesterday that he saw mama
20 stick the needle in his arm or Aaron, I can't
21 remember which one. But it's clearly a
22 serious part of this case, Mr. Warder.

23 MR. WARDER: Your Honor, --
24 certainly if you rule, I don't want to argue
25 against you. But the needle in the arm, that

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1 may be true. All of that be true, there's no
2 evidence that it was drugs. I mean, there's
3 all kinds of lawful things that you could
4 give injections for.

5 THE COURT: You know, I've
6 sustained your objection and ask that it be
7 stricken. But like I said, the forensic
8 videos, you know, that changes your argument
9 totally when those come in. Because they're
10 full of drug use and the kids taking drugs
11 and all of that. But we haven't gotten to
12 that point. So I've asked that that be
13 stricken as far as this now but it is
14 definitely a not a ground for a mistrial and
15 I deny your Motion on that.

16 MS. HORLBECK: Judge, I just want
17 to let the record reflect that I join in his
18 Motion for a mistrial at this time.

19 THE COURT: Okay. All right. I
20 would remind that if any party -- if any
21 potential witnesses that are in here, that
22 we do have a sequestration order ---

23 All right. Are we ready for the
24 jury to come back in?

25 SOLICITOR JONES: Yes, sir, Your

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1 Honor.

2 (JURY IN @ 12:58 P.M.)

3 THE COURT: All right. Ladies and
4 gentlemen, we will proceed. As I said, some-
5 times we have to take things outside your
6 presence, but we're going to continue with by
7 the State.

8 SOLICITOR JONES: Thank you, Your
9 Honor.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR JONES:

12 Q. And just briefly, one follow-up
13 question. The dates that Aaron Hendrix told
14 you that he was living with Stacy Riden, what
15 were those dates again, approximately?

16 A. Approximately December 2011 through
17 December 2012.

18 SOLICITOR JONES: Thank you, Your
19 Honor. No further questions.

20 THE COURT: Ms. Horlbeck.

21 CROSS-EXAMINATION

22 BY MS. HORLBECK:

23 Q. Investigator, that's the correct
24 term for you?

25 A. Sure.

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1 Q. All right. Investigator Nix, you're
2 the, I guess, kind of the lead fellow on
3 this case?

4 A. Yes.

5 Q. And through your investigation you
6 learned that the children had been living
7 with the maternal grandfather and also the
8 step-grandmother; is that correct?

9 A. Yes.

10 Q. All right. Do you know how long
11 those children had been living with the
12 grandparents prior to your investigation
13 beginning?

14 A. Eight months or so, maybe just a
15 little longer..

16 Q. All right. Through your
17 investigation did you also learn that the
18 grandparents did not have court-Ordered
19 custody?

20 A. They did not.

21 Q. And did you advise that they needed
22 to contact DSS about that and also an
23 attorney?

24 A. Yes.

25 Q. All right. And you also indicated

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1 that you were able to speak to the tenant who
2 lived at the -- and I can't remember the
3 address?

4 A. Ridgefield.

5 Q. Ridgeville?

6 A. Ridgefield.

7 Q. Ridgefield, okay?

8 A. Yes. Ridgefield Drive.

9 Q. All right. You spoke to that
10 current tenant; is that right?

11 A. Yes. Yes.

12 Q. Were you able to go inside the
13 residence?

14 A. They would not let me in.

15 Q. All right. And so then you weren't
16 able to, I guess, look at the bathtub, look
17 at the doors and see if there were any locks
18 on the doors, that kind of thing?

19 A. No. I tried but they just wouldn't
20 let me in.

21 Q. All right. Did you obtain a search
22 warrant?

23 A. I'd have to have a warrant and I had
24 no -- during the timeframe I could not have
25 gotten a search warrant for that residence.

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1 Q. All right. You don't think you
2 could have gotten a search warrant for that
3 residence?

4 A. Not based on the time period from
5 when Stacy had actually lived there, no.

6 Q. Okay. All right. So based on the
7 feeling that you didn't think you could apply
8 for a search warrant for that time period,
9 you did not apply for one; is that correct?

10 A. Right. Right.

11 Q. Okay. All right. So, again, you
12 got no -- you were not able to go in and get
13 measurements of the bathtub; were you?

14 A. No, ma'am.

15 Q. All right. Were you -- and I don't
16 suppose you have any idea what the physical
17 layout of the residence was?

18 A. I do not. Like I say, they would
19 not let me in.

20 Q. Okay. All right. I don't suppose
21 you have any photographs of the bathtub
22 either, do you?

23 A. No, ma'am.

24 Q. Okay. All right. Since you weren't
25 able to go into the residence or look at the

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1 residence, the inside of the residence during
2 the time period from December 2011 to
3 December 2012, you don't have any evidence of
4 any videos that were in either Mr. Hendrix
5 possession or Ms. Riden's possession; is that
6 correct?

7 A. That's correct.

8 Q. Okay. All right. And you don't
9 have any evidence of the children, any of the
10 three children testing positive for illegal
11 substances; do you?

12 A. No, ma'am.

13 Q. All right. And you, again, didn't
14 find any sex videos in the possession of
15 either Ms. Riden or Mr. Hendrix; is that
16 correct?

17 A. That's correct.

18 Q. All right. And the only people that
19 were arrested and charged with these matters
20 were Mr. Hendrix and Ms. Riden; is that
21 correct?

22 A. Yes.

23 Q. Neither sister, neither of the Riden
24 sisters were ever arrested and charged?

25 A. No, ma'am.

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1 Q. All right. And the natural father
2 Mark Lusk was never arrested and charged?

3 A. No, ma'am.

4 Q. All right.

5 MS. HORLBECK: Beg the Court's
6 indulgence. I just want to check my notes.

7 THE COURT: Okay.

8 CROSS-EXAMINATION CONTINUED

9 BY MS. HORLBECK:

10 Q. And you actually contacted the Julie
11 Valentine Center to schedule the interviews?

12 A. Yes.

13 Q. Okay. Through your conversation,
14 I believe it was Mr. Hendrix, you learned
15 that Mark Lusk had stayed at the residence
16 on Ridgefield; is that correct?

17 A. Yes.

18 Q. And to your knowledge -- you
19 testified just a minute ago about Mr. Hendrix
20 dressing up. From your investigation, was
21 that dress-up just done to amuse the
22 children?

23 A. Yes, ma'am. That's what he said, to
24 amuse the children.

25 Q. All right. Thank you.

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1 MS. HORLBECK: I've got nothing
2 further.

3 THE COURT: Mr. Warder?

4 MR. WARDER: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. WARDER:

7 Q. Sir, tell us the physical descript-
8 tion of the outside of the residence of
9 Ridgefield?

10 A. It's a mobile home. There's -- I
11 wouldn't say -- it's probably your older
12 mobile home. It's long, narrow. I couldn't
13 tell you the dimensions.

14 Q. Would it what they call a single-
15 wide as opposed to what's been called double-
16 wides?

17 A. Yeah. It would possibly be a
18 single-wide that may have had an add-on.

19 Q. Did it show signs of repair from the
20 outside, different colors?

21 A. No, not that I could tell.

22 Q. Okay. How about the underpinning?
23 Was it underpinned and have that ---

24 A. I don't remember.

25 Q. Did you go up on the porch or did

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1 you stand on kind of an open step?

2 A. As I recall, it was a small porch
3 that I stepped up.

4 Q. Thank you.

5 THE COURT: Any redirect?

6 SOLICITOR JONES: Just briefly, Your
7 Honor.

8 REDIRECT EXAMINATION

9 BY SOLICITOR JONES:

10 Q. Mr. Nix, when you went to
11 Ridgefield, what was the purpose of going
12 there?

13 A. Basically just to see if, maybe what
14 the residence looked like. Actually, I
15 talked to the tenant to see if she knew Ms.
16 Riden and maybe possibly know where I could
17 find her.

18 Q. So was one of the purposes to find
19 Ms. Riden?

20 A. Yes.

21 MR. WARDER: Objection. Leading,
22 suggestive.

23 THE COURT: Overruled.

24 REDIRECT EXAMINATION CONTINUED

25 BY SOLICITOR JONES:

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1 Q. And what month of the year was it
2 that you went out there, if you can remember?

3 A. It was -- it would have been early
4 January.

5 Q. Of what year?

6 A. 2014.

7 Q. 2014?

8 A. Yeah. It would have been early
9 January 2014.

10 Q. And since this was brought up, have
11 you ever gotten a search warrant before?

12 A. Yes.

13 Q. And in our experience, what would
14 have been the problem with requesting a
15 search warrant to go inside that home?

16 A. The timeframe of the allegations was
17 a couple of years between the time of the
18 2011 to 2012. And there's not a judge that's
19 going to give me a search warrant for a
20 residence eight months, nine months later.

21 SOLICITOR JONES: Thank you, Your
22 Honor. No further questions.

23 THE COURT: All right. You may
24 step down.

25 (WITNESS STEPS DOWN)
26

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TESTIMONY OF ART TAYLOR - DIRECT BY SOLICITOR

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1 SOLICITOR JONES: The State calls Art
2 Taylor to the stand. ##

3 (WITNESS TAKES STAND)

4 ART TAYLOR, having been duly sworn to
5 tell the truth, and nothing but the truth,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR JONES:

9 Q. Now, Mr. Taylor, where do you
10 currently work?

11 A. Pickens County Sheriff's Office.

12 Q. And what's your position there?

13 A. I'm a detective.

14 Q. A detective. How long have you been
15 a detective?

16 A. I've been detective for six years
17 now.

18 Q. Okay. And what are some of your
19 responsibilities in that role of a detective?

20 A. To investigate property crimes,
21 homicides, assaults and so forth.

22 Q. And on January 30th of 2014, did you
23 come into contact with Stacy Riden?

24 A. I'm sorry. What day was that again?

25 Q. January 30th of 2014.

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1 A. Yes, I did.

2 Q. And were you specifically looking
3 for Stacy Riden?

4 A. I had had knowledge that Captain Nix
5 was looking for her.

6 Q. Okay. Do you know where you came
7 into contact with her?

8 A. It was on Ridgefield Circle at 116
9 Ridgefield Circle in Easley.

10 Q. Okay. Okay. And in talking with
11 her, what was your purpose to talk with Ms.
12 Riden. Not why were you at that particular
13 address, but what did your conversation
14 entail with Ms. Riden?

15 A. Well, when I found that she was
16 there, I called Captain Nix and advised him
17 that I had found her because he had, like I
18 stated, had been looking for her. And at
19 that time, he asked if I could take a
20 statement from her.

21 Q. And do you remember, what was the
22 purpose of that statement; do you remember?

23 A. So he could do a forensic interview
24 with him.

25 Q. Okay. So what specifically ---

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TESTIMONY OF ART TAYLOR - DIRECT EXAMINATION

1 A. With her kids. I'm sorry.

2 Q. With her kids?

3 A. Yes.

4 Q. So what specifically did she tell
5 you or give you or tell you?

6 A. She wrote out a statement giving me
7 permission ---

8 THE COURT: Hold on.

9 MS. HORLBECK: Could you just
10 restate your question again, please?

11 SOLICITOR JONES: Sure.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR JONES:

14 Q. Mr. Taylor, what, specifically when
15 you spoke with Ms. Riden, did she tell you
16 anything about this particular case?

17 A. No.

18 Q. Okay. And the purpose of your
19 meeting with her, what was the purpose?

20 A. So we could get permission to have
21 an interview conducted. And we took the
22 children to ---

23 Q. So she gave you permission to have
24 a forensic interview?

25 A. She did.

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1 Q. Okay.

2 SOLICITOR JONES: No further
3 questions, Your Honor.

4 THE COURT: Ms. Horlbeck?

5 MS. HORLBECK: No questions.

6 THE COURT: Mr. Warder?

7 MR. WARDER: No questions, Your
8 Honor.

9 THE COURT: All right. Thank you.
10 You may step down.

11 (WITNESS STEPS DOWN)

12 SOLICITOR JONES: Your Honor, next
13 the State would call Natasha
14 Glover.

15 THE COURT: All right.

16 (WITNESS NOT PRESENT)

17 (OFF RECORD BENCH CONFERENCE)

18 THE COURT: Ladies and Gentlemen,
19 I'm going to let you go to your jury room for
20 just a few minutes.

21 Remember, you do not discuss the
22 case. We will be with you shortly.

23 (JURY OUT @ 1:10 P.M.)

24 (BRIEF RECESS)

25 (DEFENDANT HENDRIX PRESENT)

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1 (DEFENDANT RIDEN PRESENT)

2 THE COURT: Okay. Anything else
3 before we bring the jury from the State?

4 SOLICITOR JONES: Nothing from the
5 State?

6 THE COURT: Anything from the
7 Defendants?

8 MS. HORLBECK: Nothing from Ms.
9 Riden.

10 MR. WARDER: No, Your Honor.

11 THE COURT: All right. Bring them
12 in.

13 BAILIFF: Yes, sir.

14 THE COURT: Thank you.

15 (JURY IN @ 1:27 P.M.)

16 THE COURT: All right. I think
17 with our kindergarten lunch that we lost one
18 of our witnesses after lunch. But we are
19 ready to proceed now. So thank you for your
20 patience.

21 SOLICITOR JONES: Thank you, Your
22 Honor. The State calls Dr. Mary Croswell to
23 the stand.

24 (WITNESS TAKES STAND)

25 MARY CROSWELL, having been duly sworn to

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1 tell the truth, and nothing but the truth,
2 testified as follows:

3 DIRECT EXAMINATION

4 BY SOLICITOR JONES:

5 Q. Dr. Croswell, tell the jury where
6 you currently work?

7 A. I am employed by the Greenville
8 Health Systems in the division of forensic
9 pediatrics, child abuse and neglect.

10 Q. And how long have you been in that
11 position?

12 A. Since 2006.

13 Q. 2006. And tell the jury a little
14 bit about your education, please?

15 A. I received my undergraduate degree
16 from Wake Forest University. I received my
17 medical degree from the University of
18 Louisville, School of Medicine. I completed
19 a pediatric residency at the Greenville
20 Health System.

21 Q. So how long have you been a doctor?

22 A. I've been a doctor since 2003.
23 Well, actually, since I graduated from
24 medical school in 1999.

25 Q. And do you have any specialized

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1 training or specialized certifications?

2 A. Yes. I am board certified to
3 practice in the field of general pediatrics
4 as well as additional board certification for
5 child abuse pediatrics.

6 Q. And have you ever testified in court
7 before?

8 A. Yes, I have.

9 Q. Have you ever been qualified as an
10 expert in the field of child abuse
11 pediatrics?

12 A. Yes, I have.

13 Q. And about how many times?

14 A. I would estimate about twenty-five
15 times.

16 SOLICITOR JONES: Your Honor, at
17 this time I would ask that Dr. Croswell be
18 qualified as an expert in the field of child
19 abuse pediatrics.

20 THE COURT: All right. Any
21 questions? Any voir dire questions, Ms.
22 Horlbeck?

23 MS. HORLBECK: Not at this time,
24 Judge.

25 THE COURT: Mr. Warder?

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1 MR. WARDER: No, Your Honor.

2 THE COURT: All right. Ladies and
3 gentlemen, therefore, I will qualify her an
4 expert in child abuse pediatrics. Is that
5 what you said?

6 SOLICITOR JONES: Yes, Your Honor.
7 Child abuse pediatrics.

8 THE COURT: All right. Ladies and
9 gentlemen, normally a person is not allowed
10 to testify about certain opinions or an
11 expert area unless they're qualified as an
12 expert. In this case, she has been qualified
13 as an expert. But then you still -- and I
14 will discuss this further with you in my
15 charge. You still give it the same weight
16 that you deem appropriate.

17 SOLICITOR JONES: Thank you, Your Honor.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR JONES:

20 Q. Now, tell the jury what it is that
21 you do in an examination regarding an alleged
22 child sexual abuse?

23 A. So when a child is referred for an
24 outpatient evaluation of sexual abuse they
25 are initially met in the waiting room by a

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1 child life specialist, who is a medical
2 personnel, who helps children understand
3 medical procedures in a developmentally
4 appropriate way.

5 She brings them back to the exam room and
6 goes through the entire examination, allowing
7 the child to use the various pieces of
8 equipment that I use on an anatomically
9 correct doll.

10 Next, I will take the caregiver, who has
11 brought the child to the appointment, to get
12 a medical history about the child.

13 Then if the child is old enough I take a
14 history directly from the patient that I will
15 be examining.

16 After that, I complete a physical
17 examination and determine any appropriate
18 laboratory testing that may need to be done.
19 At that point, I'll make any recommendations
20 for the treatment of the child.

21 Q. And you mentioned the medical
22 history of the victim. Why is that
23 important?

24 A. It's important to understand any
25 underlying medical conditions that the child

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1 may have that may contribute to any findings
2 that I might see. It's important to know
3 history of any accidental injuries that the
4 child might have experienced. It's important
5 to have a broad knowledge of other contribut-
6 ing factors to the child's evaluation.

7 Q. And are there any special tools or
8 instruments that you use during a child abuse
9 exam?

10 A. Yes. So the examination entails the
11 normal pediatric exam from head to toe. So
12 using, you know, the pieces of equipment to
13 look in the eyes, the ears, the mouth, the
14 nose.

15 I also use a colposcope to do the genital
16 examination. A colposcope is a piece of
17 medical equipment that has a magnification
18 system, a bright light as well as a camera to
19 photo document any findings that I might see
20 in that area.

21 Q. Okay. How often are there physical
22 findings in child sexual abuse?

23 A. It's actually quite rare that we
24 have findings that are specific for child
25 sexual abuse. Some of the more recent

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1 studies are showing that less three percent
2 of the cases actually have very specific
3 findings that indicate sexual abuse.

4 Q. And can you say that statistic
5 again, if you would?

6 A. The more recent studies have said
7 that less than three percent of the time
8 there are actual physical findings that are
9 specific and diagnostic of child sexual
10 abuse.

11 Q. Is that three percent in confirmed
12 sexual abuse cases or ---

13 MS. HORLBECK: I object to that,
14 Judge. I don't know what he means by
15 confirmed cases..

16 SOLICITOR JONES: Well, I'm asking
17 her to explain that. What she means by three
18 percent.

19 THE COURT: All right. I'm going
20 to let him. I think it -- based on his
21 request for explanation and she has been
22 qualified as an expert.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR JONES:

25 A. So there are multiple studies

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1 looking at this topic. There is one study
2 that looked at children whose perpetrators
3 had a criminal conviction. And they looked
4 at those cases, had there been any findings.
5 In those cases less than twenty percent had
6 specific findings of child sexual abuse.

7 So the more recent studies that just look
8 in general at children who are being
9 evaluated for sexual abuse that don't
10 necessarily have that criminal conviction
11 component, less than three percent have those
12 specific findings.

13 Q. And why would it be rare to find, to
14 have physical findings in a sex abuse case?

15 A. Many times, first of all, in the
16 nature of child sexual abuse, there's not an
17 injury caused to the child.

18 If there is an injury, oftentimes times
19 it healed rapidly without leaving any signs
20 or scarring behind that are visible to the
21 eye.

22 Q. And is there something in particular
23 with sex abuse and an injury healing quickly
24 that is particular to sexual abuse?

25 A. Well, the type of tissue in the

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1 genital area is what we call mucosal tissue.
2 It is different from other skin on your body.
3 Mucosal tissue has a large vascular or blood
4 supply to it. Any injury to it can heal very
5 quickly, within a matter of days without
6 leaving any scars behind.

7 Q. Is the type of tissue in the genital
8 area, can you compare that to any other type
9 of tissue on the body?

10 A. One example I often use is mucosal
11 tissue is also the tissue in your mouth. So
12 when you get an injury to your mouth and you
13 bite the side of your cheek it can heal
14 rapidly, within a couple of days, without
15 leaving any scars on it.

16 Q. And could a normal exam, meaning no
17 findings of abnormalities or signs of sexual
18 abuse, could a normal exam be consistent with
19 abuse?

20 A. Yes, it can.

21 Q. And in your experience in evaluating
22 a child that's been sexually abused by
23 performing oral sex, is it typical or
24 atypical to find an injury to the child?

25 A. It would be atypical for me to find

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1 an injury or finding to the child when a
2 history is that they have been sexually
3 abused involving oral to genital contact.

4 Q. And when we say atypical, what do we
5 mean by that?

6 A. It would be uncommon or rare to see
7 a physical finding as a result of that type
8 of abuse.

9 Q. What about physical evidence of anal
10 penetration?

11 A. Some of the more recent studies say
12 that less than one percent of child sexual
13 abuse exams have any anal findings.

14 Again, this is involving mucosal tissue
15 that can heal very rapidly due to the
16 vascularity or the blood supply. Also, the
17 anal area is, by nature designed to allow
18 objects to pass. And so it is composed of a
19 muscle that relaxes to allow those objects to
20 pass. And that can also occur in child
21 sexual abuse.

22 Q. And what about physical evidence as
23 to digital penetration? Would it be common
24 or uncommon to find evidence of sexual abuse
25 when digital penetration occurred?

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1 A. It's typically -- it's not common to
2 find physical findings related to digital
3 penetration of either the vaginal area or the
4 anal area. And would be more common if a
5 child had a history of bleeding at the time
6 of the incident.

7 Q. Would the time lapse from the
8 alleged abuse from your physical exam, is
9 that important as to whether you would find
10 any type of evidence of sexual abuse?

11 A. Yes. When a physical exam is
12 delayed past several days to several weeks,
13 it's very uncommon to find physical findings
14 specific for child sexual abuse.

15 Q. Well, what about a year?

16 A. Even less common to find physical
17 findings.

18 Q. Tell the jury what the hymen is?

19 A. So the female anatomy is actually
20 complicated. It's composed of several layers
21 of tissue. And on the outermost layer there
22 are two, what we call fatty layers of tissue.
23 They're called the labia majora. When those
24 are separated there's two layers of tissue
25 under it called the labia minora, which are

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1 thinner. And then deep to that is the
2 vaginal opening the hymen is a thin layer of
3 tissue that partially covers that opening.

4 Q. Can you briefly discuss some myths
5 or misconceptions about the hymen?

6 A. A lot of parents and I think a lot
7 of people expect that when a child has been
8 abused, that the hymen will have some type of
9 evidence that the abuse has happened.

10 The hymen itself, even if there is an
11 injury, can heal without leaving any signs
12 that the injury was there previously.

13 Q. So close to the date of abuse, there
14 could be signs of abuse. But then as time
15 goes on, that evidence would heal and no
16 longer be visible to you during the
17 examination?

18 A. It can. It can at different --
19 depending on the patient, there are
20 definitely cases where it heals without any
21 evidence of any injury at all.

22 Q. Did you have the opportunity to
23 examine Brother , Older Sister and Younger
24 Sister?

25 A. Yes, I did.

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1 Q. And do you know the date of those
2 exams?

3 A. Yes. It was performed on March 26th,
4 2014.

5 Q. So you performed an examination on
6 all three children on the same day?

7 A. Yes, I did.

8 Q. Do you know where that examination
9 took place?

10 A. It occurred at the Julie Valentine
11 Center in Greenville.

12 Q. And as to Brother , what was the
13 type of exam performed and the purpose of
14 that exam?

15 A. So he was referred for evaluation of
16 sexual abuse. And the purpose of the exam is
17 to one, do a full pediatric evaluation, full
18 medical exam. Two, to assess whether there
19 are any physical findings as a result of the
20 allegation that have been made. And three,
21 to assess for any possible sexually
22 transmitted infections.

23 Q. You may have mentioned this, but how
24 did you perform the exam?

25 A. The exam with a boy is, again, start

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1 with a typical head to toe pediatric
2 examination. Examine the genitalia and then
3 use the colposcope for the anal examination.

4 Q. And what areas of his body, his
5 anatomy did you evaluate?

6 A. I evaluated all, his entire body for
7 the allegations. And for the child sexual
8 abuse evaluated his penis and his anal area.

9 Q. Okay. And as to Brother what were
10 your specific findings?

11 A. He had a normal examination.

12 Q. Okay. And as to Older Sister , the
13 same questions. What was the type of exam
14 and the purpose of that exam?

15 A. So, again, it's a normal pediatric
16 exam to assess her physical wellbeing.
17 Included in that is assessment for any
18 physical injuries as a result of the
19 allegation and to assess for any sexually
20 transmitted infections.

21 Q. Okay. And what specific findings
22 did you have as to Older Sister ?

23 A. She had a normal examination.

24 Q. Okay. And then moving on to Younger
25 Sister and again the type and purpose of that

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1 exam?

2 A. Again, it's a pediatric exam of her
3 overall wellbeing and how -- the ability to
4 document any physical findings as well as to
5 evaluate for any potentially sexually
6 transmitted infections.

7 Q. And what were your findings as to
8 Younger Sister

9 A. The abnormality that she had on her
10 exam was that she had dental caries, which
11 are evidence of cavities of her teeth.

12 Q. And let me stop you there for a
13 second. You're not a dentist; right?

14 A. I'm not a dentist.

15 Q. Okay. But you do -- describe just
16 briefly what you do when you're looking at
17 the teeth and why you do that on these type
18 of exams.

19 MS. HORLBECK: And I'm going to
20 object, Judge. She's not a dentist. I
21 object to any -- she's not qualified as a
22 dentist and I just object to all of that
23 testimony.

24 THE COURT: Is this related in
25 some way?

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1 SOLICITOR JONES: It is related,
2 Your Honor.

3 THE COURT: I'm going to give him
4 a little -- she's not a dentist. I'm not
5 sure she's gotten into any -- you know, I'm
6 not going to let her get into any kind of
7 dental expertise.

8 SOLICITOR JONES: All right. And
9 all she's going to testify to is what's in
10 the what ---

11 THE COURT: Yeah.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR JONES:

14 Q. Again, from your report, from your
15 findings of Kylie as to her teeth. You
16 indicated on your report that -- or you
17 indicated here in testimony that she had
18 dental caries; is that what you called them?

19 A. Correct.

20 Q. And tell the Court or tell the jury
21 why you look at the teeth and what that
22 means?

23 A. Well, you know, again, I'm a
24 pediatrician and so I'm doing a full
25 evaluation of the body, which includes

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1 evaluation of oral or mouth health.

2 And in looking at her teeth, there was
3 breakdown of her teeth from what should be
4 normal for her age. And so as a result of
5 that, I made a recommendation that she be
6 evaluated by a dentist for further assessment
7 of that.

8 Q. And I hate to ask you to do math on
9 the spot, but how old was ^{Younger Sister} at the time
10 of your exam?

11 A. ^{Younger Sister} was four.

12 Q. And back to the findings of ^{Younger Sister}
13 was there anything else besides the dental
14 issue?

15 A. Yes. On her genital exam, she had
16 something we called labial adhesions. Going
17 back to the genital anatomy that I described
18 earlier, when you pull the labia majora,
19 which are the fatty tissue, aside and you see
20 the thinner layer of tissue that are called
21 the labia minora, there was a partial fusion
22 of those tissues. And so I was not able to
23 photo document her vaginal area because I had
24 to kind of peak kind of up and over and the
25 camera was not able to see that area.

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1 Q. Okay. And describe what that type
2 of finding, what that means?

3 A. Sure. So ^{Younger Sister} was in that pre-
4 school age group. Labial adhesions occur not
5 infrequently in that age group due to two
6 different factors that we see.

7 One is that they don't have estrogen or
8 a female hormone circulating in their body
9 that thickens that tissue up in that area.

10 And then usually, it's preceded by some
11 form of inflammation or swelling. So, again,
12 it's a nonspecific finding. It can be from
13 poor toileting hygiene or not wiping well.
14 It can be from infection in that area. It
15 can also be from trauma, accidental or non-
16 accidental trauma to the area.

17 Q. I know you may say accidental or
18 non-accidental, could you give us some
19 possibilities, some examples of what trauma
20 could cause that type of ---

21 A. So if you think about accidental
22 mechanisms. You know, straddle injury to the
23 genital area on a bicycle, falling on a bed
24 railing in that area.

25 Again, non-accidental trauma would be

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1 some sort of sexual abuse to the area.

2 Q. Again as to normal examinations, are
3 there any studies concerning a normal
4 examination being normal in sexual abuse?

5 A. There are multiple studies and the
6 title of one of the studies that I reference
7 is called "It's normal to be normal in
8 reference to child sexual abuse."

9 Q. And can you elaborate what that
10 study showed?

11 A. That study showed that there were,
12 that only fourteen percent of -- this was the
13 study that looked at children where the
14 perpetrators had been criminally convicted.
15 In that study, fourteen percent of the
16 findings were specific for sexual abuse.

17 Ninety percent were suspicious.

18 So approximately eighty percent were, you
19 know, completely normal.

20 SOLICITOR JONES: Thank you, Your
21 Honor. No further questions.

22 THE COURT: Ms. Horlbeck.

23 CROSS-EXAMINATION

24 BY MS. HORLBECK:

25 Q. Dr. Croswell, you described a little

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1 bit about the hymen just a few minutes ago;
2 is that correct?

3 A. Yes, it is.

4 Q. Okay. All right. And some of the
5 things that you could find in a situation of
6 abuse, is it possible that you could find
7 tearing of the hymen?

8 A. Certainly it is possible.

9 Q. All right. And is it possible that
10 you might also find an abrasion of the hymen
11 or swelling of the hymen in a situation of
12 abuse?

13 A. Yes, it is possible.

14 Q. All right. That's obviously
15 specific to a girl.

16 A. Right.

17 Q. And a boy in a situation of abuse,
18 is it possible you might find also swelling,
19 bruises, lacerations?

20 A. Yes.

21 Q. Lacerations, is that a medical term
22 for cut or scratch; is that correct?

23 A. Yes.

24 Q. All right. Okay. All right. And
25 you also indicated that an injury to your

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1 genital area or the hymen area, it can heal.

2 But it doesn't always heal; is that correct?

3 A. That's correct.

4 Q. Okay. All right. And you stated on
5 direct examination that you performed your
6 examinations of these children on March the
7 14th, 2014?

8 A. March 26th.

9 Q. March the 26th. Okay. But it was
10 2014?

11 A. Yes.

12 Q. All right. And the exam was
13 performed on all three children?

14 A. Yes.

15 Q. All right. And you said that as
16 part of the procedure you follow, you inter-
17 view the caregiver; correct?

18 A. Correct.

19 Q. And the caregiver you interviewed --
20 do you remember who interviewed? Was it the
21 grandmother?

22 A. It was the maternal step-
23 grandmother.

24 Q. Okay. All right. Thank you. And
25 when you examined the children, did you use

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1 the colposcope piece of equipment on all
2 three children?

3 A. Yes, I did.

4 Q. And the colposcope, correct me if
5 I'm wrong, but it magnifies the area that
6 you're examining?

7 A. It's has lenses like a microscope
8 that you look in ---

9 Q. Okay.

10 A. --- so it does magnify it. It also
11 has a bright light and a camera attached.

12 Q. All right. Do you know how much it
13 magnifies the area?

14 A. It depends on what setting I have.

15 Q. Okay. Do you recall what setting
16 you had it on?

17 A. I typically do to the maximum.

18 Q. Okay.

19 A. I don't know it off the top of my
20 head.

21 Q. All right. That's fine. But you do
22 it up to the maximum so you can see anything,
23 if it's ---

24 A. Correct.

25 Q. --- if there's any injuries there;

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1 correct?

2 A. Correct.

3 Q. All right. And was it necessary for
4 you to take any pictures when you utilized
5 the colposcope on the children?

6 A. I typically take pictures. I took
7 photos on Older Sister. I took photos on Brother.
8 And I took photos on ^{Younger Sister}

9 Q. All right. And did the photos that
10 you took, did they show any injuries to any
11 of the three children?

12 A. No.

13 Q. All right. All right. And you
14 indicated, and I may have misheard you, but
15 did you also say on direct examination that
16 it may be more like to find an injury if
17 there had been a history of bleeding from an
18 injury?

19 A. That's correct. I would be more
20 likely to find, expect to find scarring.

21 Q. Okay. All right. And on ^{Younger Sister}
22 exam, and the date of that exam was March the
23 26, 2014?

24 A. Yes.

25 Q. You said that you thought that you

1 found evidence of some dental cavities?

2 A. The medical term is dental caries.

3 Q. Okay. All right. Is that just
4 because she's a child or is caries -- what is
5 a caries?

6 A. A caries is basically a medical term
7 for cavities.

8 Q. And it's caries?

9 A. Caries.

10 Q. Okay. All right, then. All right.
11 And you also discovered some labial adhesion
12 in ^{Younger Sister} is that correct?

13 A. That's correct.

14 Q. And you said that that was not
15 infrequent in a child of her age?

16 A. That's correct.

17 Q. All right. And that that was caused
18 by the lack of estrogen; is that correct?

19 A. The lack of estrogen along with some
20 inflammatory component.

21 Q. Okay. And you said that inflamma-
22 tion could be cause by something as simple as
23 not wiping or poor toilet hygiene?

24 A. That's correct.

25 Q. Or some sort of accidental trauma?

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1 A. That's correct.

2 Q. And non-accidental trauma, I think
3 you said?

4 A. That's correct.

5 Q. All right. Now, so all of the
6 children's examinations were normal; is that
7 correct?

8 A. That is correct, with the exceptions
9 of what we went over ---

10 Q. Right. On ^{Younger Sister} Okay. And people
11 who have had -- and just correct me if I'm
12 wrong. People who've had lots of sex, is it
13 also possible for that type of person to have
14 a completely normal genital exam?

15 A. When you say people are you talking
16 about children or adults?

17 Q. No, because I know children aren't
18 doing that. But is it possible that you
19 would have a normal genital exam of the type
20 that you perform on these children if you're
21 just a normal, sexually active person?

22 A. Yeah. There have been studies on
23 pregnant teenage girls that have a normal
24 genital exam.

25 Q. All right. And people who haven't

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1 had sex at all, they have normal exams as
2 well; is that correct?

3 A. I would expect so unless there's
4 something ---

5 Q. Right. But they can also have non-
6 normal exams; is that true?

7 A. Yes.

8 Q. Okay. All right. So really a
9 normal exam of this type can be indicative
10 of lots of things.

11 A. That's correct.

12 Q. So it could be of indicative of
13 abuse; right?

14 A. It could be -- I'm sorry?

15 Q. Indicative of abuse yes, and non-
16 abuse?

17 A. It could consistent with, not
18 indicative of.

19 Q. Okay. And also consistent with just
20 normal sexual activity?

21 A. I'm not following that question.

22 Q. A normal exam, can it also be
23 consistent with normal sexual activity?

24 A. No.

25 Q. In normal human -- not a child?

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1 A. Oh, okay. Yeah.

2 Q. Not a child?

3 A. Yes.

4 Q. All right. And a normal exam such
5 as the type you performed or found on these
6 children. That can also be consistent with
7 no abuse at all; is that correct?

8 A. A normal exam is consistent -- I
9 mean, ---

10 Q. It can be consistent from no abuse
11 to having ---

12 A. That's correct. That's correct.

13 Q. All right. Thank you.

14 MS. HORLBECK: I've got no
15 further questions.

16 THE COURT: Mr. Warder?

17 MR. WARDER: I have no questions.

18 THE COURT: All right. Any
19 redirect?

20 SOLICITOR JONES: Just a few follow-
21 ups, Your Honor.

22 REDIRECT EXAMINATION

23 BY SOLICITOR JONES:

24 Q. As to the labial adhesions -- am I
25 saying that correctly?

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1 A. That's correct.

2 Q. Ms. Horlbeck asked you a few
3 questions about those. Discuss again as to
4 labial adhesions. You mentioned the lack of
5 estrogen plus something else. If there was
6 just a lack of estrogen, would that cause a
7 labial adhesions?

8 A. Uh ---

9 Q. Go ahead.

10 A. You know, as far as we know or
11 understand about labial adhesions, they are
12 usually secondary to some form of
13 inflammation.

14 Q. Okay.

15 A. Inflammation meaning swelling or
16 irritation to that area.

17 Q. So in seeing the labial adhesions
18 that tells you what about Younger Sister?

19 MS. HORLBECK: I just object,
20 Judge. That's calling for a conclusion.

21 THE COURT: Yeah. Rephrase your
22 question.

23 SOLICITOR JONES: Okay.

24 REDIRECT EXAMINATION CONTINUED

25 BY SOLICITOR JONES:

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1 Q. You say labial adhesions are
2 indicative of what?

3 A. Labial adhesions are indicative of:
4 one, she doesn't have any estrogen or very
5 low levels of estrogen in her body; and, two,
6 that she has experienced some type of
7 inflammation in that area at some point.

8 Q. And you gave several examples
9 earlier, but those are all equally possible?

10 A. Correct. Based on my physical exam
11 I wouldn't be able to tell you what that
12 inflammation was without knowing the etiology
13 of the inflammation.

14 Q. Okay. And is it possible for a part
15 of the -- speaking of the female genitalia, a
16 part of female genitalia to bleed at one
17 point from trauma or abuse and then over a
18 year later would you still be able to see
19 evidence of that?

20 A. (No verbal response).

21 Q. Can you give an answer of an
22 absolutely yes or absolutely no?

23 A. Could you repeat the question just
24 make sure I understand correctly.

25 Q. With regard to female genitalia and

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1 sexual abuse, if there was evidence of
2 bleeding would you be able to a year later
3 from the sexual abuse, can you say one way or
4 another if you would definitely be able to
5 see evidence of that abuse or definitely not
6 be able to see evidence of that abuse?

7 MS. HORLBECK: I would object to
8 that question.

9 THE COURT: And I think -- I mean,
10 y'all have gone over that.

11 SOLICITOR JONES: Gone over that.
12 Yes, sir, Your Honor. No further questions,
13 Your Honor.

14 THE COURT: All right. Thank you.

15 (WITNESS STEPS DOWN)

16 SOLICITOR JONES: Thank you, Your
17 Honor. The State calls Shauna Galloway
18 Williams to the stand.

19 THE COURT: All right.

20 (WITNESS TAKES STAND)

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

24 DIRECT EXAMINATION

25 BY SOLICITOR JONES:

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1 Q. Ms. Galloway Williams, how are you?

2 A. I'm doing fine. Thank you.

3 Q. Can you tell the jury please, what's
4 your occupation?

5 A. I am the Executive Director of Julie
6 Valentine Center, which is the child abuse
7 and sexual assault recovery center that
8 serves Greenville and Pickens County. As
9 executive director, I am responsible for
10 oversight of the entire center and its
11 operations. In addition to that, I still
12 provide clinical services, which means that I
13 still do assessments or interviews with
14 children as well as co-facilitating groups
15 for caregivers of children who may have been
16 abused.

17 Q. And tell the jury just briefly about
18 your education or specific training to your
19 employment?

20 A. I have a Bachelor's Degree in
21 Psychology, a Master's Degree in Counseling
22 and I'm licensed as a Professional Counselor
23 in South Carolina.

24 Q. And how long have you been in the
25 position -- you might have already said this,

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1 but how long have you been in the position
2 you're currently in?

3 A. I've been executive director now for
4 seven years. I've worked at the Julie
5 Valentine Center for nine years.

6 Prior to that, I worked for the Depart-
7 ment of Mental Health; the South Carolina
8 State Department of Mental Health.

9 Q. So tell the jury what it is that you
10 do on a regular basis?

11 A. Well, like I said, I provide over-
12 sight, administrative support to the agency.
13 I do a lot of public speaking, education,
14 training.

15 I also do clinical work. So I work with
16 children and families who've been impacted by
17 child maltreatment.

18 I also serve as an adjunct faculty member
19 at USC Upstate in their Child Advocacy
20 Studies Program.

21 Q. And can you tell the jury, what is a
22 forensic interview?

23 A. They're investigative interviews
24 that are conducted for the purpose of
25 gathering information or statements from

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1 children when there are allegations of abuse
2 or neglect.

3 Q. And have you ever performed a
4 forensic interview?

5 A. I have.

6 Q. How long have you been performing
7 forensic interviews?

8 A. I've been providing forensic inter-
9 views for twelve years.

10 Q. And what's the purpose of a forensic
11 interview?

12 A. They are investigative in nature.
13 The purpose of them is to gather information
14 without leading or suggesting children,
15 giving them an opportunity to share
16 information about a report of abuse and
17 neglect.

18 Q. And do you do anything to ensure
19 that the child's answers are not influenced
20 by your questions?

21 A. Yes. Our training and the protocol
22 that we follow requires that we use non-
23 leading, non-suggestive questions.

24 Q. Okay. And did you perform a
25 forensic interview on Brother and Older Sister

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1 Older Sister.

2 A. I did.

3 Q. Do you know who referred the
4 children to you for a forensic interview or
5 what agency?

6 A. I believe it was the Pickens County
7 Sheriff's Office. (Upon review of file) --
8 yes, Marvin Nix with the Pickens County
9 Sheriff's Office.

10 Q. Okay. And as to Brother and Older Sister
11 do you remember the dates of the interviews?

12 A. If I can refer to my notes?

13 Q. Sure?

14 A. I interviewed both children on two
15 separate occasions. My first interview with
16 Older Sister was on February 19th, 2014. My second
17 interview with her was on April 11th, 2014.

18 Brother, I saw for the first time on March
19 3rd, 2014. And I saw him for the second time
20 in April 7th, 2014.

21 Q. Okay. And were those forensic
22 interviews recorded?

23 A. Yes, they were.

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

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1 THE COURT: Okay.

2 (SO MARKED AS STATE'S EXHIBIT 1)

3 (SO MARKED AS STATE'S EXHIBIT 2)

4 (SO MARKED AS STATE'S EXHIBIT 3)

5 (SO MARKED AS STATE'S EXHIBIT 4)

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR JONES:

8 Q. Ms. Galloway Williams, I'm going to
9 hand you what's been marked State's Exhibits
10 1, 2, 3, and 4. Will you take a look at
11 those for me, please, ma'am?

12 A. Yes.

13 Q. Do you recognize those disks?

14 A. (Upon review), I do.

15 Q. And can you tell the jury what they
16 are?

17 A. They are DVDs that contain the
18 forensic interviews of Older Sister and Brother

19

20 Q. And if you wouldn't mind if you can
21 tell by the date, State's Exhibit 1 is what?

22 A. Oh. State's Exhibit 1 is the
23 interview of Older Sister from February 19th,
24 2014.

25 State's Exhibit 2 is the interview of

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1 Older Sister from April 11th, 2014.

2 State's Exhibit 3 is the interview of
3 Brother from March 11th, 2014.

4 State's Exhibit 4 is the interview of
5 Brother from April 7th, 2014.

6 Q. Okay. And Ms. Galloway-Williams,
7 are those true and accurate copies of the
8 interviews that you performed that day?

9 A. Yes.

10 SOLICITOR JONES: Your Honor, at
11 this time I would ask that State's Exhibits
12 1, 2, 3, and 4 be moved into evidence.

13 THE COURT: All right. Ms.
14 Horlbeck.

15 MS. HORLBECK: Judge, subject to
16 my previous objections.

17 THE COURT: All right. Mr.
18 Warder?

19 MR. WARDER: Subject to our
20 previous objection.

21 THE COURT: All right. I'm going
22 to allow them in with subject to previous
23 objections.

24 SOLICITOR JONES: Thank you, Your
25 Honor.

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1 (SO ENTERED AS STATE'S EXHIBIT 1)

2 (SO ENTERED AS STATE'S EXHIBIT 2)

3 (SO ENTERED AS STATE'S EXHIBIT 3)

4 (SO ENTERED AS STATE'S EXHIBIT 4)

5 SOLICITOR JONES: Thank you, Your
6 Honor. At this time I would like to begin
7 playing the forensic interview of Older
8 Sister of February 19th, 2014, State's Exhibit
9 1.

10 THE COURT: All right.

11 MS. HORLBECK: Judge, I know that
12 we had some witnesses and out of order and I
13 thought we were going to take a little break
14 so we could talk about the ---

15 THE COURT: I thought we did have
16 a break.

17 MS. HORLBECK: We never took a
18 break. Oh, we did. I'm sorry.

19 THE COURT: That's all right.

20 MS. HORLBECK: That's my fault.
21 You can blame me. I'm ready. I mean, I've
22 got what I want.

23 THE COURT: All right. Well, then
24 do y'all need to decide what ---

25 MS. HORLBECK: If you could just

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1 give us a ---

2 SOLICITOR JONES: Your Honor, I have
3 the redactions from the ---

4 MS. HORLBECK: I'm sorry.

5 SOLICITOR JONES: I have them ready
6 to go and ready to play. If she has any new
7 things that we haven't talked about?

8 MS. HORLBECK: It's nothing new.
9 It's just times have changed based on
10 something with your redaction process.

11 THE COURT: All right. This will
12 be brief, I promise. I mean, just so we can
13 make sure. And it's very important that you
14 receive only the information that should be
15 properly before you.

16 So we're going to take a very brief
17 break. And again, I know you're getting
18 tired of hearing me say it but do not talk
19 about the case at this time amongst
20 yourselves. We'll be right back and get you
21 out.

22 (JURY OUT @ 2:05 P.M.)

23 (OFF RECORD DISCUSSION BETWEEN COUNSEL)

24 (JURY IN @ 2:10 P.M.)

25 THE COURT: The video is going to

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1 be played. And it's real important that you
2 can see and hear the video at all times. So,
3 if for any reason we have to maybe move
4 around a little bit or something, just let
5 us, you know; let us know you can't hear or
6 see anything. You should be able to see
7 they'll turn the lights down. But if you
8 have problems hearing anything, please let us
9 know. All right.

10 With that, you may proceed Mr.
11 Jones.

12 SOLICITOR JONES: Thank you, Your
13 Honor. May I approach the witness?

14 THE COURT: Yeah. Can every one
15 see the -- (affirmative response by jurors).

16 THE COURT: Okay.

17 (STATE'S EXHIBIT NUMBER 1 PUBLISHED)

18 THE COURT: If everyone wants to -
19 for a minute, you can.

20 MS. HORLBECK: Judge, I would
21 just renew my prior objections.

22 MR. WARDER: Your Honor, ---

23 THE COURT: Yes, the same
24 objections from both defendants is noted.

25 MS. HORLBECK: Thank you, Judge.

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1 (STATE'S EXHIBIT NUMBER 2 PUBLISHED)

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR JONES:

4 Q. Just a few more questions, Ms.
5 Galloway Williams. Are you aware or do you
6 know why the children, why each Brother and
7 Older Sister had two interviews apiece?

8 A. Yes.

9 Q. Can you tell the Court?

10 A. In between the first interview when
11 I saw them, the children disclosed additional
12 information and a second interview was
13 requested because they had made additional
14 disclosures following the first interview.

15 SOLICITOR JONES: Thank you, Your
16 Honor. No further questions.

17 THE COURT: Ms. Horlbeck?

18 MS. HORLBECK: I don't believe I
19 have any questions of Ms. Galloway-Williams.

20 THE COURT: All right. Mr.
21 Warder?

22 MR. WARDER: No questions, Your
23 Honor.

24 THE COURT: All right. You may
25 step down.

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1 (WITNESS STEPS DOWN)

2 THE COURT: All right. Ladies and
3 gentlemen, that concludes the testimony for
4 the day. I'm going to let you go for the
5 day.

6 Don't discuss the case among
7 yourself or with anybody. Still, that's not
8 appropriate.

9 Do not do any independent research.
10 Don't be *Googling* the law or anything like
11 that or the authorities or anything in way
12 that relates to this case.

13 If there should be any media
14 coverage on the radio, on the TV, social
15 media, newspaper, please do not watch that.
16 Turn away and try not to consume that in any
17 way.

18 And, lastly, if you are contacted by
19 anyone regarding this case or your jury
20 service, please get that person's name or as
21 much information as you can and report that
22 when you return to the courthouse.

23 Is 9:00 all right with y'all for the
24 morning?

25 FOREMAN: Yes, sir.

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1 THE COURT: All right. We'll start at
2 9:00. Thank you and have a good evening.

3 (JURY OUT @ 5:30 P.M.)

4 THE COURT: That definitely was
5 not forty-five minutes.

6 SOLICITOR JONES: I'm sorry, Your
7 Honor. I was talking about forty-five
8 minutes per video.

9 THE COURT: No, that's what I
10 said. I knew it was going to be an hour and
11 a half.

12 All right. Anything before we --
13 will y'all be ready to go at 9:00. Just for
14 planning purposes are you looking at?

15 SOLICITOR JONES: Your Honor, I have
16 one, possibly two more witnesses.

17 THE COURT: All right. So you
18 should be able to -- all right. We'll start
19 right at 9:00 okay?

20 SOLICITOR JONES: Yes, sir.

21 THE COURT: And then y'all be
22 ready to roll at that point or whatever you
23 need to do. All right. We'll see everybody
24 tomorrow.

25 MS. HORLBECK: Your Honor, ---

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1 THE COURT: Okay. Do you have ---

2 MS. HORLBECK: I have just a
3 couple things, Judge.

4 THE COURT: Okay.

5 MS. HORLBECK: I believe there
6 was a redaction that didn't get redacted.
7 There was a portion of the very end of the
8 last Brother interview. In the portion
9 where the grandmother said it was 'not right'
10 -- some things faded in and by the time I
11 realized it, it was just already out. So on
12 that basis, I would just ask for a mistrial
13 or to strike that testimony or perhaps some
14 instruction that the Court can give to the
15 jury to disregard.

16 THE COURT: Yeah. I'll give some
17 curative instruction. But about the only
18 thing that she said was grandmother said
19 that's not right. And, you know, I can't
20 imagine how that'd be prejudicial because I'm
21 sure everybody would agree that that's not
22 right. So, from what they were saying so I'm
23 not sure that that can have any basis
24 whatsoever on the outcome of the jury. But I
25 will mention that.

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1 MS. HORLBECK: The other thing I
2 wanted to ask the Court about, I just can't
3 recall. I did not know if we agreed to
4 redact a portion regarding some horror
5 movies, what I consider horror movies that
6 Brother had seen. And this is also in the
7 second interview. I didn't recall ---

8 THE COURT: My notes ---

9 MS. HORLBECK: --- that was
10 redacted. I didn't think we were going to
11 redact that.

12 THE COURT: Well, I guess then you
13 can play it on redirect or cross. I mean --
14 so you're saying it was supposed to be played
15 but was not.

16 MS. HORLBECK: I'm not sure.
17 That's what ---

18 THE COURT: Yeah, I mean, I think
19 heard that on ---

20 MS. HORLBECK: You did? Okay.

21 THE COURT: You said you did hear
22 it or did you ---

23 MS. HORLBECK: No.

24 THE COURT: It was redacted?

25 SOLICITOR JONES: It was redacted.

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1 THE COURT: Well, I guess what we
2 can do is play that -- and, again, if you
3 really want to play that we can play that
4 portion or something tomorrow. I mean, I
5 don't think we need Ms. Galloway-Williams
6 here for that.

7 MS. HORLBECK: I don't think so
8 either, no.

9 THE COURT: And we can just --
10 I'll give them some curative instructions,
11 that this was something that was supposed to
12 have been played yesterday and we didn't
13 realize it until afterwards.

14 MS. HORLBECK: All right.

15 SOLICITOR JONES: And, Your Honor,
16 as to that, I would ask that you give the
17 jury instruction that although I was playing
18 the video, you made the determination as to
19 what was relevant and what was irrelevant.
20 And that the State was only playing the
21 relevant matters, so that way it wouldn't
22 appear that I was attempting to hide anything
23 from the jury.

24 THE COURT: I'm not letting you
25 out that easy.

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1 And I'm sure, Ms. Riden, your
2 counsel has instructed you that your bond has
3 been revoked.

4 DEFENDANT RIDEN: (Affirmative nod).

5 THE COURT: All right. Anything
6 further before we break for the day?

7 SOLICITOR JONES: Nothing from the
8 State.

9 THE COURT: We don't have any
10 evidence to look at so y'all should be ready
11 to go at 9:00. I will see everybody at 9:00.

12 (COURT IN RECESS)

13 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 JANUARY 28, 2016 9:00 A.M.

2

3 (DEFENDANT RIDEN PRESENT)

4 (DEFENDANT HENDRIX PRESENT)

5 THE COURT: We talked last evening
6 about the redactions. You want me to tell
7 the jury that was redacted because it was
8 hearsay, that anything that was in the videos
9 that somebody else said that they're to
10 disregard that. I thought that may be, would
11 cover that.

12 I was going to also say that since
13 this was Plan B as far as our redaction, that
14 we were going to do it another way and that
15 you were having to do it by stopping where
16 we'd agreed to.

17 And that's the portion we're just
18 going to -- how long is the portion we're
19 going to show?

20 SOLICITOR JONES: It looks like it's
21 a minute and ---

22 THE COURT: All right. I want to
23 be able to tell the jury that so that they
24 don't think we're suckering them into another
25 thirty minutes or something.

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1 MS. HORLBECK: No, it's very
2 short. Thank you, Judge. That's fine.

3 THE COURT: All right.

4 MS. HORLBECK: All of that sounds
5 good.

6 THE COURT: All right. Is that
7 okay with you, Mr. Warder?

8 MR. WARDER: It is, Your Honor.

9 THE COURT: Okay. Subject to all
10 your previous objections about the video,
11 State's Exhibits 2 and 4.

12 MS. HORLBECK: Yes, Your Honor.

13 THE COURT: Okay. Well what I'm
14 going to do is I'll bring the jury in and
15 I'll give them that instruction, then y'all
16 can play the video. And then you'll be able
17 to call your next witness; is that correct?

18 SOLICITOR JONES: That's correct,
19 Your Honor.

20 THE COURT: All right. Bring them
21 in.

22 (JURY IN @ 9:10 A.M.)

23 THE COURT: Good morning, ladies
24 and gentlemen. I hope everybody had a
25 pleasant evening. We're ready to continue

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1 with the trial.

2 All right. A couple of things about
3 the video yesterday. During our break, one
4 of the breaks yesterday morning, we were
5 trying to come up with the technological way
6 of redacting things, but that didn't -- we
7 had to go to plan B. And that was why the
8 Solicitor was up there having to stop and
9 start the video. It was a lot of the
10 editing. You've heard various objections as
11 to hearsay. Anything that anybody else said
12 is not admissible under certain
13 circumstances.

14 There was one instance where it did
15 not get edited. So I'm telling you that
16 anything on the video where it was mentioned
17 that 'someone else said', then you are to
18 disregard that in your deliberations.

19 But also they realized after they
20 got through there was a part that was
21 supposed to be heard. I will tell you it was
22 on about a minute, minute and a half. Both
23 sides agreed that it was to be heard, but it
24 just got skipped in the process. We need to
25 hear that part, so that's what we're going to

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1 do first thing.

2 Any exceptions on that from the
3 State?

4 SOLICITOR JONES: Nothing from the
5 State?

6 THE COURT: Any exceptions from
7 the defendants?

8 MS. HORLBECK: None, Your Honor.

9 MR. WARDER: No, Your Honor.

10 THE COURT: All right. So that's
11 what we're going to start off and then we'll
12 go into another witness after this very brief
13 portion of the video.

14 So if y'all want to proceed with the
15 video.

16 SOLICITOR JONES: Thank you, Your
17 Honor.

18 (PORTION OF STATE'S EXHIBIT 4 PUBLISHED)

19 COURT REPORTER: This is State's
20 Exhibit Number?

21 SOLICITOR JONES: I'm sorry, this is
22 State's Exhibit Number 4.

23 COURT REPORTER: Thank you.

24 MS. HORLBECK: Judge, I really
25 didn't hear it.

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1 THE COURT: Yeah. I had trouble hearing it as
2 well.

3 SOLICITOR JONES: Yes, sir, Your
4 Honor.

5 (PORTION OF STATE'S EXHIBIT 4 REPLAYED)

6 THE COURT: All right. Solicitor,
7 you can call your next witness.

8 SOLICITOR JONES: Thank you, Your
9 Honor. The State calls Ms. Christine
10 Carlberg, please.

11 (WITNESS TAKES STAND)

12 CHRISTINE CARLBERG, having been duly
13 sworn to tell the truth, and nothing but the
14 truth, testified as follows:

15 DIRECT EXAMINATION

16 BY SOLICITOR JONES:

17 Q. Ms. Carlberg, tell the jury where
18 you work, please, ma'am?

19 A. I am employed by the Greenville
20 Department of Mental Health and I'm
21 contracted to work at the Julie Valentine
22 Center.

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

25 A. I conduct interviews of children or

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1 sometimes delayed adults who have allegations
2 of abuse.

3 Q. And describe a little bit what are
4 your duties in that position?

5 A. I meet with children -- well,
6 usually we first meet with -- a child is
7 first referred to us, usually by law
8 enforcement or DSS who have made an
9 allegation of abuse. Then once they're
10 scheduled, I usually meet with their
11 caretaker or their DSS worker, whoever
12 brought them in to just kind of to gather
13 some background information about the case
14 and about the child. And then I meet with
15 the child. And then after that, that
16 information is passed along to the detective
17 who is investigating the case.

18 Q. Okay. Can you tell me some of your
19 educational background, please, ma'am?

20 A. Yes. I have a Bachelor's of Science
21 in Rehabilitation Services Education with a
22 minor in Psychology from the Pennsylvania
23 State University.

24 I have a Master's of Arts in Marriage and
25 Family Therapy from the Reformed Theological

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1 Seminary in Jackson, Mississippi.

2 Q. Do you have any specialized training
3 beyond that specific education?

4 A. Yes. I've been through two
5 nationally-accepted programs for forensic
6 interviewing. One, which was in -- which was
7 called Corner House, which was in
8 Minneapolis. And in which was called Finding
9 Words in Mississippi. Then I've been through
10 various conferences over the last fifteen
11 years across the nation.

12 Q. And how long have you been in your
13 current position?

14 A. Almost nine years.

15 Q. How long have you been in this
16 particular field?

17 A. I've been working with children
18 since 1998. I've been interviewing children
19 for about fifteen and a half years.

20 Q. Would you be able to give an
21 estimate of how many children you've
22 interviewed for the purposes of child sexual
23 abuse or just child abuse allegations?

24 A. I've interviewed two thousand eight
25 hundred and twenty-six children.

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1 Q. How do you know that?

2 A. I keep track of how many children I
3 see.

4 Q. Okay. Do you teach or train other
5 counselors or students? Do you do any
6 training or teaching?

7 A. I do. Whenever we have new hires or
8 new forensic interviewers come on staff at my
9 old children's advocacy center in Mississippi
10 and this current one, I've helped to train
11 them. I've also participated in Finding
12 Words, which is a training program for
13 forensic interviewers in Mississippi when
14 they were learning how to be forensic
15 interviewers.

16 Q. Have you ever been qualified as an
17 expert before?

18 A. Yes, sir.

19 Q. How many times have you been
20 qualified as an expert?

21 A. About twenty-five times.

22 Q. And what circumstance was it when
23 you were qualified as an expert? What
24 particular court or ---

25 A. I've been qualified in both criminal

TESTIMONY OF CHRISTINE CARLBERG - DIRECT EXAMINATION

1 and family courts.

2 SOLICITOR JONES: Your Honor, at
3 this time, I would request that Ms. Carlberg
4 qualify as an expert in the field of child
5 sexual abuse dynamics and disclosure.

6 THE COURT: All right. Any
7 additional questions from ---

8 MS. HORLBECK: Just briefly,
9 Judge.

10 VOIR DIRE CROSS-EXAMINATION

11 BY MS. HORLBECK:

12 Q. Ms. Carlberg, that's your name?

13 A. Yes.

14 Q. Sometimes I get names wrong so I
15 just wanted to check with you. You said you
16 are employed by the Department of Mental
17 Health?

18 A. Yes, ma'am.

19 Q. And is that within South Carolina?

20 A. Yes, ma'am.

21 Q. Okay. All right. And you -- and
22 I'm just going to kind of go over a little
23 bit of your qualifications. You said them
24 kind of fast. So sometimes I can't write
25 them down fast enough. You said you had a BA

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1 in ---

2 A. A BS.

3 Q. A BS, okay. In what?

4 A. In rehabilitation services education
5 with a minor in psychology.

6 Q. Okay. All right. And are you --
7 you are not a psychiatrist; are you?

8 A. No, ma'am.

9 Q. You're not a psychologist?

10 A. No, ma'am.

11 Q. All right. And so are you a ---

12 A. I'm a licensed professional
13 counselor.

14 Q. Okay. All right. Do you -- you
15 have your license in South Carolina?

16 A. No, ma'am.

17 Q. You don't? Where is your license?

18 A. In Mississippi.

19 Q. Okay. All right. And have you --
20 how many hours of supervised clinical
21 experience in the practice of professional
22 counseling, how many hours have you
23 completed?

24 A. Well, for my license I had -- it's
25 been so long ago. I think I had to have two

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1 hundred hours of supervised -- a hundred of
2 which could be group hours. I think that's
3 right.

4 Q. Okay. So you think it's two hundred
5 hours?

6 A. Of supervised.

7 Q. Okay?

8 A. Yes.

9 Q. All right. And do you know what
10 period of time you performed those hours,
11 those two hundred hours?

12 A. I graduated in August of 1998 and
13 I got my license in 2001 or -- yeah, 2001.
14 So between those years is when I was being
15 supervised for my license.

16 Q. Okay.

17 A. Now, I've always had a supervisor at
18 work.

19 Q. Okay. All right.

20 MS. HORLBECK: I don't have any
21 further questions but I would like to be
22 heard on the -- I don't know if Mr. Warder
23 has any.

24 THE COURT: Right.

25 Any questions, Mr. Warder?

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1 VOIR DIRE CROSS-EXAMINATION

2 BY MR. WARDER;

3 Q. Have you been published? Have you
4 written articles?

5 A. No, sir.

6 Q. Have you written any peer-reviewed
7 articles?

8 A. No, sir.

9 Q. And you said you had two hundred
10 hours. I guess that would be about five
11 forty-hour weeks; is that right?

12 A. Yeah. It's about two years of
13 supervision.

14 Q. Okay. And you're an expert in what
15 field? What's the exact field that you
16 purport to be an expert in?

17 A. Child abuse dynamics.

18 Q. Child abuse dynamics?

19 A. Yes, sir.

20 Q. Do you have any courses entitled
21 that or any -- how do you come to be
22 recognized in child abuse dynamics?

23 A. Well, the trainings that I've been
24 through for interviewing, plus all the other
25 trainings that I've been through throughout

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1 these fifteen years have taught me about the
2 different dynamics that come along with child
3 abuse.

4 Q. Okay. So you've just taken your
5 experience and you've kind of decided what
6 was, what the dynamics were.

7 A. Well, I didn't take them as what
8 they were because -- they were taught to me
9 about what child abuse dynamics were.

10 Q. Okay. So other people told you what
11 child abuse dynamics were and then you
12 listened to them; is that what ---

13 A. Yes.

14 Q. And this wasn't a part of a regular
15 classroom or educational program?

16 A. Well, it was education when I
17 attended several conferences to further my
18 knowledge for my job.

19 Q. Well, when you go to a conference,
20 those conferences are just -- you go listen
21 to a lecture where somebody else gives
22 opinions and stuff; is that right?

23 A. Or they're talking about the current
24 research that has occurred.

25 Q. Well, have you been involved in the

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1 current research?

2 A. No, sir.

3 Q. So you haven't -- you don't run
4 experiments or collected data, you just
5 listen to other people tell about it?

6 A. And read about it, yes, sir.

7 Q. Did somebody give you a particular
8 program to read books and articles in or you
9 just kind of find the ones you want to read
10 and read them?

11 A. Well, the conferences that I go to
12 tell us what the current literature is and
13 the current research that's going on.

14 Q. Okay. So other people tell you
15 about the current research and stuff. You
16 don't actually read it?

17 A. Well, I read it; yes, sir.

18 Q. Do they give you books and stuff to
19 read it in?

20 A. Or articles.

21 Q. Somebody Xeroxes an article and
22 passes it out; is that what we're talking
23 about?

24 A. Sometimes, yes, sir.

25 MR. WARDER: Thank you.

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1 THE COURT: All right. Any
2 further questions from the defendants and --
3 your position is whether -- you move to
4 qualify her as an expert in child abuse
5 dynamics?

6 SOLICITOR JONES: Yes, Your Honor.

7 MS. HORLBECK: I don't have any
8 further questions, Judge. I would say that
9 she's not qualified. But I'd also -- I'm
10 also concerned. She doesn't seem to be
11 licensed in South Carolina. And I think
12 there's a minimum of two thousand hours of
13 supervised clinical experience in the
14 practice of professional counseling that have
15 to be picked up, performed over a minimum
16 two-year period in South Carolina. So I
17 don't think that she qualifies.

18 THE COURT: All right.

19 MR. WARDER: Your Honor, I have
20 serious questions about whether this is a
21 field that expert witnesses can testify in.

22 THE COURT: Well, I think -- I
23 mean, under *State v. Brown* I think that's
24 been cleared, they've cleared that hurdle as
25 appropriate expertise. I understand. I

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1 think that if you can go into some more
2 detail on that.

3 And I think that based on what her
4 training and -- I mean, whether she's
5 licensed or not is not necessarily a
6 requirement for her serving as an expert.
7 But I'm going to find that she can qualify as
8 an expert in the field of child abuse
9 dynamics and y'all can ask her additional
10 questions on cross-examination.

11 Ladies and gentlemen, let me -- this
12 is kind of like I told you yesterday.
13 Normally, a person, a layperson cannot give
14 opinion testimony. And because they have to
15 testify on stuff that they observed, they
16 saw, they smelled, stuff like that, in direct
17 testimony. However, there is an exception
18 when someone qualifies as an expert. They
19 can give opinion in certain fields in which
20 they're qualified as an expert based on their
21 experience and their education. And in this
22 field, this witness has been qualified as an
23 expert in child abuse dynamics.

24 Now, as I told you yesterday, this
25 is like any other evidence that you'll be

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1 hearing. It's still up to you to determine
2 what weight that you need to give it when you
3 begin your deliberations.

4 With that, Mr. Jones, you can
5 continue.

6 SOLICITOR JONES: Thank you, Your
7 Honor. Briefly, to address a few of those
8 things Ms. Horlbeck and Mr. Warder brought
9 up.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR JONES:

12 Q. I believe you responded as to your
13 training. To get a certain level of training
14 or get a certificate you had to go through
15 two hundred hours of supervised ---

16 A. Yeah. I think I misspoke about
17 that. I was thinking the actual number of
18 hours that I had of supervision. I had two
19 years of clinical work, of forty hours a week
20 of work. So that probably equals that two
21 thousand hours of actual work that was
22 supervised.

23 Q. Since then in your fifteen years
24 experience, you testified you keep track of
25 how many forensic interviews you've

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1 conducted. And you've done what? What was
2 the number?

3 A. Two thousand eight hundred twenty-
4 six (2,826).

5 Q. So how many hours would that be
6 then?

7 A. Each one of those probably takes two
8 to three hours of actual face-to-face time
9 with the caregiver plus the child. And then
10 additional phone calls and paperwork in-house
11 that goes along with it.

12 Q. And, again, you've testified you've
13 been qualified as an expert before?

14 A. Yes, sir.

15 Q. How is your current position funded?

16 A. I am a salaried State employee.

17 Q. So is your salary contingent upon
18 what you say here today?

19 A. No, sir.

20 Q. Have you had any contact with the
21 victims in this case, Brother , Older
22 Sister or Younger Sister?

23 A. No, sir.

24 Q. Have you seen any videos or read any
25 statements attributed to those three

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1 children?

2 A. No, sir.

3 Q. Tell the jury what delayed
4 disclosure?

5 A. Delayed disclosure is exactly what
6 it sounds like. It's a delay from the time
7 an incident occurs until the child actually
8 tells about it. And that could be a matter
9 of hours. It could be tens of years down the
10 road before someone decides to talk about
11 what might have happened to them.

12 Q. How common is delayed disclosure in
13 child abuse or child sex abuse cases?

14 A. Delayed disclosure is very common.
15 There has been some, like surveys taken or
16 some research done with adults. And only a
17 third of them said that they disclosed when
18 they were ---

19 MS. HORLBECK: I would object to
20 any research regarding adults, Judge.

21 THE COURT: I think it's
22 appropriate because -- I'm going to allow it.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR JONES:

25 Q. Go ahead.

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1 A. Only a third of those adults said
2 that they disclosed during their childhood.
3 So a delay in time is very common.

4 Q. Are there any statistics that you
5 area aware of as to the rate at which abused
6 children delay disclosure?

7 A. I'm not sure that a -- I'm sorry.
8 Can you repeat that question?

9 Q. Are you aware of any statistics
10 regarding the frequency that abused children
11 delay disclosure?

12 A. A lot of times ---

13 MR. WARDER: Your Honor, I object
14 to what literature says or -- it's hearsay to
15 begin with, the testimony. And if you don't
16 participate somehow in the experiments that
17 the literature gives, you have no knowledge
18 for the basis of which the expert's basing
19 its opinion.

20 THE COURT: I mean, you can ask
21 about her literature that she's reviewed, but
22 I think that's proper under her being
23 qualified as an expert.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR JONES:

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1 Q. Ms. Carlberg, go on about the
2 literature in sex abuse cases.

3 A. A majority of children at first
4 might deny that something has happened to
5 them. There's about like over seventy
6 percent of children actually first deny, even
7 when they are asked if something has happened
8 to them. But then a majority of those
9 children will actually go on to say what had
10 occurred.

11 Q. Are you aware of any reason why
12 victims of child abuse would delay
13 disclosure?

14 A. Well, each child is different and so
15 each child might have their own reason for
16 not talking about what happened.

17 A very common reason is that children are
18 -- the majority of children are abused by
19 someone that they know. It can be a family
20 member. It could be a close family friend.
21 It could be someone in their community that
22 they're close to, a teacher, a pastor or a
23 coach. So they usually have a very close,
24 loving, trusting relationship with that
25 person. And they don't want to get that

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1 person in trouble. They don't want to tell
2 about what happened.

3 Kids also -- like, as adults, we look at
4 it like oh, something inappropriate might be
5 happening or something bad might be
6 happening. And so we think -- well, kids
7 won't want to have any contact with that
8 person or will be afraid or be fearful. But
9 kids aren't often like that. They can kind
10 of know that this thing is going on that they
11 don't like, but there's a lot of positives
12 still with that person. So they do have that
13 loyalty to that person and might not want to
14 tell about what happened.

15 Other reasons they might delay disclosure
16 is a lot of times when kids are abused they
17 think that they did something wrong, that
18 they're at fault, that they caused this this
19 to happen. So they don't want to tell and
20 get themselves in trouble.

21 Kids who have an understanding of what
22 happened, like if they have been sexually
23 abused and they understand that that was kind
24 of an inappropriate touch, they might feel
25 embarrassment or shame and they don't want to

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1 talk about it then.

2 Another reason is kids might think that
3 they're not going to be believed or they
4 won't be protected if they tell.

5 Younger kids might not even know that
6 something wrong happened. If no one ever
7 taught them what inappropriate versus
8 appropriate touches are, they just might not
9 understand that there's something there to
10 tell.

11 Q. And you mention the perpetrator or
12 the person that did the abusing might be
13 someone they're close with.

14 A. Right.

15 Q. Can you elaborate on that, how that
16 would affect whether the child disclosed?

17 A. Well, like I said, usually the
18 majority of children are abused by someone
19 that they know and trust. So they usually
20 have a great sense of loyalty to that person.

21 Say, for example, if someone in their
22 family they might understand 'well, if daddy
23 leaves mommy's not going to be able to pay
24 the bills and we would lose our house' or
25 whatever it is. And there is that loyalty,

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1 there is that trust there that they feel very
2 protective of that person.

3 Q. And then you mentioned loyalty and
4 trust. Is there another feeling that the
5 child might have for someone, a family member
6 that would prevent them from disclosing?

7 A. I think just love and that close
8 relationship that they normally would have.

9 Q. What's meant by the process of
10 disclosure?

11 A. Disclosure usually isn't just a one-
12 time event. A child or not even an adult
13 doesn't just sit down and disclose everything
14 that's happened to them. It's usually over a
15 process or over a period of time.

16 And like I said, a lot of kids initially
17 start with denial. There might be some kind
18 of thought there or suspicion that this kid's
19 been abused and someone might ask them. And
20 they might just first deny that the abuse
21 happened.

22 Then they might move into what's called a
23 tentative stage of disclosure. And that's
24 characterized by children, like kind of
25 piecemeal talking about something that

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1 happened. They might say well, I think it
2 happened or maybe it happened or it happened
3 to my friend. Or they might be able to talk
4 about like maybe the physical abuse part of
5 versus the sexual abuse part of it. Or they
6 might minimize what happened. Like it
7 happened one time when in reality it happened
8 multiple times. So they're using just kind
9 of this tentative language when they're first
10 talking about it. And that's mainly just
11 kind of to test the waters a little bit.
12 Like if they're telling somebody is that
13 person going to believe them? Is that person
14 going to protect them? So they're just kind
15 of like, kind of feeling how it's going to
16 go.

17 And then a lot of those children move
18 from that tentative stage into an active
19 stage of disclosure. During that active
20 stage of disclosure, that's when they're
21 giving you the who, the what, the where, the
22 how, depending on their age kind of a when
23 and how it happened. They're also giving you
24 a lot of sensory details, how did things
25 taste? How did they feel? How did they

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1 smell? And then they're giving you what's
2 called contextual details, too, like were
3 their clothes on or off or were they standing
4 or sitting? Were there other people in the
5 house when it happened? So they're just kind
6 of giving you all the details that might have
7 occurred during their incidents.

8 Then some kids move from that into a
9 recantation phase, which they might start to
10 take back what happened. And that's mainly
11 because there are consequences for what
12 happened to them. Maybe they got removed
13 from the home. Maybe their siblings got
14 removed or they didn't realize they were
15 going to have to talk to law enforcement or
16 talk to the department of social services or
17 have a medical exam or come to court or
18 whatever it is. So some kids move into just
19 that stage where they might be taking it
20 back.

21 But a lot of those kids who move into
22 that stage eventually come back to the active
23 stage where they're retelling about what
24 happened.

25 Q. And is that process the same for all

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1 children who are sexually abused or abused?

2 A. No, not all children. Some kids
3 just go right into what happened. Some kids
4 never recant. Some kids deny their whole
5 lives that anything has happened to them.
6 So, no, it's not the same for every child.

7 Q. Why would a child recant, even if
8 they were actually abused?

9 A. Well, like I said there are -- of
10 course, every child's going to have their own
11 reason for that.

12 But, again, just sometimes there's
13 consequences.

14 Sometimes that person that they love or
15 that person who offended against them goes to
16 jail. Sometimes they're removed from the
17 home. Sometimes they're placed not just with
18 another family member but in foster care.
19 Sometimes they're the ones that are removed
20 and their siblings stay at home some they
21 start to worry that. 'well, maybe something's
22 going to start happening to my siblings.'

23 And then, again, they just didn't realize
24 things were going to go so far. I didn't
25 realize I was going to have to talk to police

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1 or go to court or all these other things that
2 sometimes come along with making an
3 allegation.

4 Q. Can you tell the jury about
5 grooming?

6 A. Grooming is a process that an
7 offender or alleged perpetrator uses to kind
8 of get that trust of a child. Like I said,
9 it's usually someone that the child knows.
10 So a lot of times, they have that loyalty.
11 But they also want to just gain that trust of
12 the child because they don't want the child
13 to tell. So they do what they can to keep
14 that relationship with that child.

15 Grooming can look like a lot of things.
16 It can be gift-giving. It can just be
17 special privileges, like you gets to stay up
18 later than everyone else. Or just talking to
19 them about sexual things or whatever's going
20 on. So it can look like a lot of things.

21 Q. Why would talking to the children
22 about sexual things be considered grooming?

23 A. Sometimes talking about it, some-
24 times having sexual relationships with other
25 people in front of children is a form of

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1 grooming because they're just trying to get
2 those kids normalized to that behavior. Like
3 this is what people do. This is regular.
4 It's nothing that we need to tell about.
5 This is just what happens in families. So
6 it's just kind of getting that normalized
7 behavior and those thoughts going on in the
8 child.

9 Q. Is there anything else that would
10 normalize sex in front of children besides
11 talking with them or having sex in front of
12 the children?

13 A. Maybe showing pornography or
14 something like that. Just, you know, just
15 getting that kind of sexual environment out
16 there.

17 Q. Are there any factors that you're
18 aware of that would make children more
19 vulnerable to child abuse?

20 A. Some of the things that make
21 children more vulnerable to abuse is if fear
22 is one form of maltreatment going on in the
23 home, such as some kind of neglect or
24 domestic violence or drug use, educational
25 neglect, abuse to animals. If one of those

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1 kinds of victimization is happening, there is
2 a higher risk that another form is going on.
3 Like if one of those things is happening,
4 there's a higher risk that physical or sexual
5 abuse is happening. So when there is one
6 form of maltreatment, it puts the child at
7 higher risk for other forms of maltreatment.

8 Also, what can put a child at risk is a
9 child that's living in the -- like has a
10 single parent. If that single parent has a
11 partner in the home, that child is more at
12 risk to be sexually abused.

13 Q. Is there any other aspect of being a
14 single parent that -- you mentioned being a
15 single parent and having a partner living in
16 the home?

17 A. Uh-huh.

18 Q. Is there any other aspect of being a
19 single parent that would make the children
20 more vulnerable to abuse?

21 A. They're just more vulnerable to
22 abuse if they're not living with the
23 biological parents or if the parents like
24 have partner after partner come in. That
25 might put them more at risk.

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1 Q. And, again, are you aware of any --
2 what about parents who leave children with
3 third parties. Are you aware how that
4 affects the possibility of abuse?

5 A. Well, I mean, again, it just -- I
6 think it depends on -- obviously, the parent
7 would have to know who they're leaving their
8 child with. If they're just leaving them
9 with strangers or if they're leaving them
10 with people that -- let's say, for example,
11 they're involved in just a drug scene or
12 another kind of scene, and they're leaving
13 their children with other people who are
14 involved in that same type of thing, that
15 does put the child more at-risk.

16 Q. Are you aware of any -- how more
17 likely is it for a child to be abused if they
18 have a single parent with a live-in partner?
19 Any statistic for that?

20 MS. HORLBECK: Your Honor, I'm
21 going to object. I'm going to object to
22 those. It's purely speculation.

23 THE COURT: I'm going to sustain
24 that.

25 SOLICITOR JONES: Well, Your Honor,

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1 I believe there is actual literature or
2 studies that point to a number of how more
3 likely a ---

4 THE COURT: All right. I think
5 she's testified to some extent of that. I'm
6 going to sustain the objection.

7 SOLICITOR JONES: Yes, sir. Your
8 Honor.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR JONES:

11 Q. Can you talk to the jury a little
12 bit about evidence of coaching and what
13 someone in your role would look to for
14 evidence of coaching and what is coaching?

15 A. Well, coaching is you're telling a
16 child or another person what to say. So you
17 might be telling them whatever you want,
18 whatever allegation you wanted them to make.

19 What we look for -- what can you look for
20 is a lot of times children are just asked
21 'did anybody tell you what to say today?' Or
22 you know, you might say, 'well, what does
23 mommy say about daddy or what does daddy say
24 about mommy or what were you told to -- what
25 did people to say to you' if they're like on

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1 their way to part of their investigation.

2 Q. In your experience do children tell
3 the interviewer if someone told them what to
4 say?

5 A. Yes. In my experience I have had
6 children say that so-and-so told them what to
7 say today. But we have to -- one of the
8 things we have to remember is if you have
9 been to a Christmas pageant or a child's
10 play, it's very hard for kids to keep up
11 their lines.

12 And it's very hard to keep up a lie in
13 such great detail. And in order to keep up a
14 lie, a detail not just one time but over a
15 period of time, you kind of have to take the
16 perspective of the other person. Like I have
17 to know what you want from me, to order to
18 convince him to lie about something.

19 I also have to know the subject matter
20 that I'm lying about. Like, for example, I
21 could sit here all day long and tell you that
22 I'm an attorney or I went to law school. But
23 as soon as an attorney starts to question me,
24 they're going to learn pretty fast that I
25 don't have any idea what I'm talking about.

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1 So you have to know what you're talking about
2 in order to convincible lie.

3 And so when you're looking at a child's
4 statement or you're looking for evidence for
5 coaching, you want to look at, is that child
6 being consistent over time?

7 Are there core details like who did it?
8 What happened? Where it happened? Are those
9 the same when DSS talked to them, law
10 enforcement talked to them?

11 If they had a medical exam, are those
12 things consistent.

13 You also want to look at can they give
14 you those details that we had talked about
15 before. Like can they give you how things
16 tasted? How things felt? How things
17 smelled? How clothes were, all those kinds
18 of details.

19 It would be very hard for someone
20 coaching a child to give them all that kind
21 of information that a child can repeat during
22 that investigation process.

23 Q. And just briefly, can you go over
24 how you can tie the -- when you're looking
25 for coaching, you try to look for -- to

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1 ensure that there are core details that are
2 similar or remain consistent.

3 Can you tie that back to what we talk
4 about with delayed disclosure or the process
5 of disclosure as a child is tentative at
6 first and then goes to a more accurate stage.
7 Does that question make sense? I know it's
8 kind of elaborate.

9 A. Usually those core kind of details,
10 who did it. What happened? Maybe where it
11 happened? Maybe some time of when it
12 happened or how it happened, those kind of
13 core details will stay the same. The other
14 kind of details how clothes were, maybe some
15 statements made, those things might cannot as
16 the process of disclosure go along or get
17 into the active stage, they might start to
18 tell me more about those things.

19 Q. And could the severity of the abuse
20 change because of the process of disclosure
21 but still be core and consistent?

22 A. Yeah. They might ---

23 MS. HORLBECK: I think that's
24 asking for an ultimate conclusion, which is
25 the jury's responsibility.

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1 THE COURT: Yeah. That's getting
2 kind of -- I'm going to sustain the
3 objection.

4 SOLICITOR JONES: Yes, sir, Your
5 Honor.

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR JONES:

8 Q. Back to the -- as to evidence of
9 coaching, you look for the core and
10 consistent details. Is there anything about
11 a victims' age and their ability that you
12 look for during a forensic interview?

13 Their ability to articulate certain
14 things, how does that effect evidence of
15 coaching or what you do during a forensic
16 interview?

17 A. Well, the younger a child is the
18 less detail you are expecting to get. Like
19 when a three-year-old is interviewed, you can
20 expect them to give who did it and what
21 happened. A lot of those other kind of
22 details that you're looking for, a really
23 young child usually can't give.

24 But as the child gets older and older,
25 they're able to give you more of those

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1 details. They're able to give you more of
2 the how things happened, some type of when
3 things happened.

4 So, yeah, the details that a child can
5 give usually increases as they age.

6 Q. What are some things that, say a
7 six- or seven-year-old would not be able to
8 accurately discuss in a forensic interview?

9 MS. HORLBECK: And Judge, I'm
10 going to object to that. I think that's
11 speculative.

12 THE COURT: If you'll repeat the
13 question.

14 SOLICITOR JONES: Some things that a
15 child would not be able to accurately discuss
16 during an interview?

17 THE COURT: I think that's okay.
18 Overruled.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR JONES:

21 Q. Go ahead.

22 A. A six- and seven-year-old would
23 still have a hard time with when something
24 happened. They might be able to tell you
25 like it happened one time or more than one

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1 time. But exact when of how it happened, is
2 difficult for a six or seven-year-old.

3 Q. And can you discuss a little further
4 what you mean by core and contextual details
5 in relation to what a child would say versus
6 what we would expect an adult?

7 MS. HORLBECK: That's asked and
8 answered, Judge.

9 THE COURT: Yeah. I think you
10 need to move along.

11 SOLICITOR JONES: Yes, sir, Your
12 Honor.

13 DIRECT EXAMINATION CONTNUED

14 BY SOLICITOR JONES:

15 Q. Is there anything as to the, the
16 length or the type of questions that you ask
17 a child that would help the forensic
18 interviewer detect any type of coaching?

19 MS. HORLBECK: I'm going to
20 object to that, Judge. I think that's
21 speculative. I don't see how she would be
22 able to answer that without being the person
23 that interviewed the children.

24 THE COURT: I mean, if she's got
25 some basis for that, I'll allow it.

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR JONES:

3 Q Is there anything specifically as to
4 how forensic interviews are conducted that
5 would help the forensic interviewer detect
6 coaching?

7 A. Well, like I said, a lot of time
8 kids are just asked 'what did they tell you
9 about coming here today?' Or what does -- or
10 'what did mom say about coming her today' or
11 'what did dad say about coming here today.'
12 Or does anybody -- 'did anyone tell you to
13 say those things?'

14 A lot of times you want to ask kids like
15 how do they know something. How did they
16 know it happened? Did they see it or did
17 someone tell them about it. You can ask --
18 that's called source monitoring. How do they
19 know the source of their information?

20 SOLICITOR JONES: No further
21 questions, Your Honor.

22 THE COURT: Ms. Horlbeck.

23 CROSS-EXAMINATION

24 BY MS. HORLBECK:

25 Q. Ms. Carlberg, you've testified a lot

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1 about delayed disclosure. That's actually, I
2 guess, a characteristic that Ronald Summit
3 came up with; correct?

4 A. Summit talked about -- he did talk
5 about delayed disclosure. So did Sorenson
6 study talked it.

7 Q. Okay. And you're aware that Ronald
8 Summit wrote his paper that included, talked
9 about delayed disclosure, none of that was
10 scrutinized by scientific method; was it?

11 A. What he said it's not a diagnostic
12 tool.

13 Q. Right?

14 A. That's correct.

15 Q. So none of it -- you and I are
16 saying the same things. None of what he
17 said, including delayed disclosure, has
18 actually been scrutinized by the scientific
19 method; has it?

20 A. Well, Brock did some studies on
21 Summit's -- because that's something they
22 talked about. So they did do some scientific
23 studies on this.

24 Q. Let me back you up, though. I'm
25 just talking about Ronald Summit. In coming

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1 up with delayed disclosure he did not expose
2 delayed disclosure to any sort of scientific
3 analysis; did he?

4 A. I think that can come with his
5 experience.

6 Q. And you've got a BS correct, a
7 bachelor of science?

8 A. Yes, ma'am.

9 Q. So you know what the scientific
10 method is; don't you?

11 A. Yes, ma'am.

12 Q. You know it includes defining the
13 question, gathering information and
14 resources; isn't that correct?

15 A. Yes, ma'am.

16 Q. Forming a hypothesis?

17 A. Yes, ma'am.

18 Q. Performing experiments and collect-
19 ing data?

20 A. Yes, ma'am.

21 Q. All right. Analyzing that data,
22 interpreting and publishing results; isn't
23 that correct?

24 A. Yes, ma'am.

25 Q. And Ronald Summit did not do any of

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1 that when he came up with delayed disclosure.

2 A. He also said that it wasn't a ---

3 Q. That's right. You and I are saying
4 the same thing. It is not a diagnostic tool.

5 A. It's not a diagnostic tool.

6 Q. All right. So it's not a tool that
7 we can use to diagnose that anybody's been
8 abused, is it?

9 A. No. No, ma'am.

10 Q. Okay. All right. I just wanted to
11 clear that up. So it's only a theory. It's
12 something -- you cannot use it for diagnosis?

13 A. Right.

14 Q. Are you aware that there's a 1996
15 study conducted by Bradley and Wood that said
16 that "at present research findings regarding
17 disclosure of sexual abuse are scanty and
18 inconsistent." Are you aware of that study?

19 A. That said what?

20 Q. That said at present research
21 findings regarding disclosure of sexual abuse
22 are scanty and inconsistent?

23 A. From 1996?

24 Q. Yes.

25 SOLICITOR JONES: Your Honor, I

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1 would object and ask that she be given the
2 opportunity to read that study if she's going
3 to be -- Ms. Horlbeck's ---

4 MS. HORLBECK: Judge ---

5 THE COURT: She's just been ask if
6 she's aware of the study. Overruled.

7 CROSS-EXAMINATION CONTINUED

8 BY MS. HORLBECK:

9 A. I'm not sure that I read that study,
10 no, ma'am.

11 Q. Okay. All right. So you don't know
12 anything about that study? All right. And
13 you're supposed to be the expert in this;
14 correct?

15 A. Yes, ma'am.

16 Q. Okay. All right. Are you aware of
17 a study or a compilation by Kamila London
18 regarding disclosure? It's called *Disclosure*
19 *of Child Abuse*. What does the research tell
20 us about the ways that children tell?

21 A. Yes, ma'am.

22 Q. All right. And he looked at a
23 number of studies; didn't he?

24 A. Yes, ma'am.

25 Q. And when he surveyed those studies

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1 the actual rates of disclosure ranged from
2 thirty-one percent to eighty-seven percent;
3 didn't they?

4 A. Yes.

5 Q. All right. And a lot of these
6 studies have different ages that the
7 disclosure can occur at; isn't that true?

8 A. Disclosure can occur at any age.

9 Q. And some of these studies use
10 completely different definitions of abuse.
11 Some of these studies use broad definitions,
12 some of the studies use very narrow
13 definitions; isn't that correct?

14 A. Yes.

15 Q. Okay. And you talked about a study,
16 about a third of adult, that only a third of
17 adults disclose. That study was performed on
18 adults; wasn't it, ma'am?

19 A. Well, they were asking if they
20 disclosed as children.

21 Q. The study was performed on adults;
22 correct?

23 A. Yes, ma'am.

24 Q. The questions were asked to adults
25 not children?

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1 A. Yes, ma'am.

2 Q. We're talking about children in this
3 case not adults.

4 A. Well, that was in response to a
5 delayed disclosure. So they were proving
6 that they delayed their disclosure.

7 Q. Ma'am, you say they're proving they
8 were delaying the disclosure. Do you know
9 anything about the rates, the conviction
10 rates in these cases?

11 Do you know how many of these adults --
12 do you know how many of the perpetrators were
13 actually convicted?

14 A. I'm not sure what their disclosure
15 has to do with their conviction rates.

16 Q. I'm saying how many of those cases
17 that we're talking about, how many cases were
18 cases of actual abuse?

19 Do you even know that when you testify
20 that thirty percent of adults don't even
21 disclose until adulthood?

22 A. I'm sorry. If they have been
23 actually abused or not?

24 Q. Yes, do you know?

25 A. No, I don't know that.

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1 Q. Okay. All right. And, again, back
2 to my question, the questioned study was
3 performed on adults; correct?

4 A. Yes. For delayed disclosure.

5 Q. All right. The people in this case
6 are children?

7 A. Yes.

8 Q. All right. And you don't have any
9 statistics about that. Your statistics are
10 about adults?

11 A. Well, that study that I cited, the
12 Sorenson and Smith study, they did talk about
13 children.

14 There's been also studies of children who
15 have known to have been sexually abused, such
16 as they've been diagnosed with a sexually
17 transmitted infection, who had a delayed or
18 completely denied being abused.

19 So there are a lot of -- there are
20 several studies that are dealing with just
21 children.

22 Q. Okay. But you told us about a study
23 where only a third of adults disclosed;
24 correct?

25 A. Yes, ma'am.

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1 Q. All right. That's the study you
2 brought us today; correct? That's the
3 statistic you just brought us when you
4 testified on direct?

5 A. For delayed disclosure, yes.

6 Q. Okay. And that study -- let me back
7 you up again. That study was performed on
8 adults; wasn't it?

9 A. Yes, ma'am.

10 Q. Not children?

11 A. Yes, ma'am.

12 Q. Okay. Do you even know the number
13 of adults that were surveyed?

14 A. I do not off the top of my head.

15 Q. And you don't know the conviction
16 rate in the cases of those adults who were
17 surveyed; do you?

18 A. Well, now, a lot of times people
19 disclose that aren't -- that they're ---

20 Q. But you don't know the rates? Do
21 you know the statistic? Do you know how many
22 ---

23 A. They're just asking if people have
24 been abused and if they disclosed as
25 children?

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1 Q. But do you know how many of those
2 cases where the adults waited until they were
3 adults to disclose, how many of those cases
4 were cases of actual abuse; do you know?

5 A. I don't know.

6 Q. Okay. You're not licensed in South
7 Carolina; is that right?

8 A. Right, ma'am.

9 Q. And you said that you thought you
10 had worked forty hours or performed forty
11 hours a week for approximately a two-year
12 period; is that right?

13 A. In that licensure period.

14 Q. You said you thought that would
15 equal two thousand hours?

16 A. Yes.

17 Q. Do you have documentation?

18 A. I do.

19 Q. Do you have it with you?

20 A. No, I don't.

21 Q. Okay. All right. So no documenta-
22 tion with you today about those hours. And
23 in this case you haven't talked to the
24 children, have you?

25 A. No, ma'am.

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1 Q. And you haven't talked to my client
2 Ms. Riden; have you?

3 A. No ma'am.

4 Q. And you haven't talked to Mr.
5 Hendrix?

6 A. No, ma'am.

7 Q. So you don't even know if coaching
8 or delayed disclosure or -- what was the
9 other one you listed -- grooming even
10 happened in this case?

11 A. No, ma'am.

12 Q. Thank you.

13 MS. HORLBECK: I've got no
14 further questions.

15 THE COURT: Mr. Warder.

16 CROSS-EXAMINATION

17 BY MR. WARDER:

18 Q. You haven't talked to our clients
19 but you have talked about the facts in this
20 particular case; haven't you?

21 A. Not any details about the facts of
22 the case.

23 Q. You and the Solicitor -- you talked
24 to him in the hall yesterday; didn't you?
25 Right out here?

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1 A. I talked to the Solicitor, yes.

2 Q. About the facts of this case?

3 A. No, sir.

4 Q. You told us that coaching can occur.

5 You have seen cases that coaching has

6 occurred in?

7 A. Yes, sir.

8 Q. And you said it'd be hard to keep up

9 with over a long time?

10 A. Yes, sir.

11 Q. But it could be kept up twice;

12 couldn't it, on two occasions?

13 A. I don't think -- well, depending --

14 I mean, if it's a young child, no, I don't

15 think with all the details, a consistent

16 detail, no.

17 Q. If before the child went in to view

18 the anatomical correct dolls, if somebody

19 took Barbie dolls and showed them what they

20 were going to be asked and what the question

21 should be, would that be a form of coaching?

22 A. Well, I don't -- first of all, I

23 don't know what questions were asked. And

24 Barbie dolls are not like anatomical dolls.

25 Q. Well, could you show people what you

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1 wanted them to say by an anatomical doll, a
2 doll that didn't have a mouth or a genitalia.
3 And say 'this is what happened, go tell them
4 about what happened'?

5 A. Well, I don't think a person who's
6 coaching them is going to ask the same kind
7 of questions or in the same way that is going
8 to happen during an interview.

9 Q. So if you knew that the children had
10 just been instructed on what to say with
11 Barbie dolls, you wouldn't think that was a
12 form of coaching; is that right?

13 A. No, I think it would be a form of
14 coaching but dolls in an interview are not
15 brought out until there's been a full verbal
16 disclosure.

17 Q. How about if somebody was
18 experienced enough to know that the dolls
19 were going to be and so they coached the
20 children before.

21 A. Well, dolls aren't used in every
22 interview, so ---

23 Q. Was that the question I asked? How
24 about if in this particular case somebody did
25 that? Would that be a form of coaching if

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1 before the interview they took the Barbie
2 dolls out and said, 'This is what happened to
3 you. This is what's going to be asked
4 about?'

5 A. Yes. If someone such suggestive
6 questions or suggestive information, saying
7 show this, then, yes, that would be -- if
8 someone actually said 'show this', that
9 happened or show this particular thing.

10 Q. Can you think of why somebody might
11 take Barbie dolls and demonstrate if it
12 wasn't to show them what happened?

13 SOLICITOR JONES: Objection, Your
14 Honor. That's not in her field of expertise.
15 That's speculation.

16 THE COURT: I think under her
17 qualifications, I'll allow it.

18 MR. WARDER: Thank you.

19 THE COURT: All right. Any
20 redirect?

21 SOLICITOR JONES: I beg the Court's
22 indulgence. Nothing further, Your Honor.

23 THE COURT: All right. Thank you.

24 (WITNESS STEPS DOWN)

25 SOLICITOR JONES: Your Honor, at

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1 this time the State would rest.

2 THE COURT: Ladies and gentlemen,
3 at this time we've got some of those matters
4 that we have to take up outside of your
5 presence.

6 So if you'll go back to your room again.
7 This is not the time to begin any discussion
8 or do any deliberation about the case. So go
9 back to your jury room and we'll you back out
10 shortly. Thank you.

11 (JURY OUT @ 10:14 P.M.)

12 THE COURT: All right. The State
13 has rested. Anything from the Defendants?

14 MS. HORLBECK: Your Honor, at
15 this time I would just renew all my prior
16 Motions and everything that I said, all
17 objections as well.

18 I would ask the Court grant a
19 directed verdict. In the light most favor-
20 able to the State, I don't think there's any
21 direct or any substantial circumstantial
22 evidence reasonably tending to prove the
23 guilt of Ms. Riden.. And I would just ask
24 that the Court grant the directed verdict in
25 her favor.

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1 THE COURT: All right. And I
2 believe that taking the evidence in the light
3 most favorable to the State, there has been
4 direct and circumstantial evidence, at least
5 to overcome this stage. So I deny your
6 Motion.

7 MS. HORLBECK: Yes, sir.

8 THE COURT: Mr. Warder?

9 MR. WARDER: Your Honor, we also
10 would move -- and we also renew our previous
11 agreement, Judge. And we would move for a
12 directed verdict on the ground of
13 insufficient evidence for the case to go
14 forward, taken in the light most favorable to
15 the State.

16 THE COURT: And as indicated, it's
17 not up to the Court, as you know, to weigh
18 the evidence. But there is evidence that
19 would allow it to get, I think, past the
20 stage of directed verdict only. I think both
21 direct and circumstance evidence. So based
22 on that, I'm going to deny your Motion.

23 MR. WARDER: Thank you, Your Honor.

24 THE COURT: All right. Just for
25 planning purposes, I'll give y'all a chance

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1 to talk if -- does anybody wants to disclose
2 whether they're going to be putting up
3 information at this time. Or do y'all want
4 me to just ask you that later? I mean, just
5 so we can make some plans as far as we need
6 to start getting verdicts and charges
7 together. Do y'all have any charges?

8 MR. WARDER: I don't have any
9 specific charges. I have general charges.

10 THE COURT: Any charges for ---

11 MS. HORLBECK: No specific
12 charges.

13 THE COURT: All right. We'll give
14 everybody a few minutes and then I'll get the
15 charges. Do you have any charges?

16 SOLICITOR JONES: No, but I would
17 like to have a copy of yours before ---

18 THE COURT: All right. What I do
19 is, I usually do them on computer ---

20 SOLICITOR JONES: Yes, sir.

21 THE COURT: And I can e-mail -- do
22 y'all have a way to receive them? Do you
23 have something that you can get them?

24 MS. HORLBECK: I'm not hooked up
25 to the internet. Can I hook up to the

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1 internet here?

2 THE COURT: I don't think in this
3 courtroom you can. We can print a copy.

4 MS. HORLBECK: I appreciate it.
5 Thank you, Judge.

6 SOLICITOR JONES: And, Judge, I'm
7 sorry. But if they do put up a case -- I
8 have their witness list. But I've asked them
9 for the dates of birth for the witnesses to
10 get any possible rap sheets, Your Honor. I'd
11 just ask that they give me those dates of
12 birth before they move forward.

13 MR. WARDER: We were kind of left
14 to our own device to find out any -- you
15 know, we had no access to their rap sheets.

16 SOLICITOR JONES: Well ---

17 THE COURT: We will cross that
18 bridge if we need to. How about that?

19 SOLICITOR JONES: Sure, Your Honor.

20 (BRIEF RECESS)

21 (DEFENDANT RIDEN PRESENT)

22 (DEFENDANT HENDRIX PRESENT)

23 (OFF RECORD BENCH CONFERENCE)

24 THE COURT: All right. Are we
25 ready to proceed? It's my understanding

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1 there's going to be some testimony from both
2 defendants.

3 All right. Do we need to go through
4 -- is there, as far as testimony of the
5 Defendants? Are we going to go through that
6 process now? Might as well.

7 Ms. Horlbeck, is your -- are you
8 going to be putting your client up or do you
9 want me to discuss with her the right to
10 testify and the right to remain silent?

11 MS. HORLBECK: Yes, sir. I am
12 planning on putting her on the stand. And I
13 don't have any objection if the Court wishes
14 to advise her of her right.

15 THE COURT: Okay. How about you,
16 Mr. Warder?

17 MR. WARDER: Your Honor, I'm going
18 to reserve that decision until I've heard
19 exactly what is said ---

20 THE COURT: All right. Well, let
21 me just kind of go through this process then
22 and make sure they understand it.

23 I ask both of you to stand up.

24 DEFENDANT RIDEN: (Complies).

25 DEFENDANT HENDRIX: (Complies).

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1 (DEFENDANT RIDEN DULY SWORN)

2 (DEFENDANT HENDRIX DULY SWORN)

3 THE COURT: All right. Okay. Ms.
4 Riden and Mr. Hendrix, I'm going to talk to
5 you a little bit about your constitutional
6 rights; all right?

7 Basically I want to make sure you
8 understand this so that when you do take the
9 stand or you decide not to take the stand, is
10 that you're fully aware of your rights and
11 you understand those.

12 First, we've reached the stage in
13 the trial where the State has completed their
14 case. And now, as your attorneys have told
15 you, that it's the time -- it's time for you
16 to determine whether you're going to be
17 presenting any testimony or witnesses and
18 evidence. Part of that is you have to make a
19 decision whether you're going to testify on
20 behalf of your case.

21 As your attorneys have probably told
22 you, you're not required to testify. Part of
23 the constitution says that no person shall be
24 compelled in any criminal case to be a
25 witness against him or herself. And this

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1 means that you cannot be required to testify.

2 You have a right to testify but you
3 also have a right not to testify. And no one
4 can make you testify. This is ultimately a
5 personal decision on your behalf. I mean,
6 you can talk with your attorneys. You can
7 talk with your family members or friends.
8 But ultimately it's not your attorney's
9 decision to testify. It's your decision.

10 And if you do testify, then you're
11 under the same rules of evidence that any
12 witnesses is under. And that means that --
13 if there is a possible criminal record that
14 you have, that it's determined to be
15 qualified and admissible, then you could be
16 cross-examined on that criminal record.

17 Do we have criminal records on --
18 what criminal records are on these two; do
19 you know?

20 SOLICITOR JONES: I did have those,
21 Your Honor.

22 THE COURT: And while he's looking
23 for those, are any crimes that are of
24 dishonesty, fraud or anything at this point
25 and you would have served more than one year

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1 in jail. So while he's looking for that, I
2 can go over some other information with you.

3 First of all, I need to make sure
4 that you understand your rights and that
5 you're making your decision as knowingly,
6 intelligently, and voluntary made. And you
7 will -- we haven't gotten to the actual point
8 where both of you would testify and you will
9 have additional time.

10 But Ms. Riden, do you understand
11 each of these rights as I've discussed them
12 with you.

13 DEFENDANT RIDEN: Yes, sir.

14 THE COURT: Do you understand you
15 have a right to testify but you also have a
16 right not to testify?

17 DEFENDANT RIDEN: Yes, sir.

18 THE COURT: And you've had
19 sufficient time to talk with your attorney
20 about this right?

21 DEFENDANT RIDEN: Yes, sir.

22 THE COURT: Based on what your
23 attorney has indicated -- at the present time
24 you indicate that you, in fact, will be
25 testifying?

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1 DEFENDANT RIDEN: Yes, sir.

2 THE COURT: All right. Did you
3 find their criminal records?

4 SOLICITOR JONES: Your Honor. I
5 apologize. The records that I have here are
6 from when they were arrested. I'm get a
7 criminal record from today, from downstairs.
8 One of our paralegals just ran down to get
9 it. I apologize.

10 THE COURT: Well, do you have
11 anything against Ms. Riden as of the date ---

12 SOLICITOR JONES: As of the date of
13 the arrest, Your Honor, I do not have her --
14 I only have Mr. Hendrix's rap sheet with me
15 right now.

16 THE COURT: Ms. Horlbeck, are you
17 aware of any record that she could be cross-
18 examined on?

19 MS. HORLBECK: Yes. She does
20 have a prior criminal history. I'm not quite
21 sure what exactly it is.

22 THE COURT: Well, I wouldn't admit
23 it either since they don't know.

24 MS. HORLBECK: I just don't know.

25 THE COURT: But in light of that,

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1 do you totally understand your rights and
2 your decision to testify or not to testify is
3 being made voluntarily and intelligently?

4 DEFENDANT RIDEN: (Affirmative nod).

5 THE COURT: Do you understand your
6 rights?

7 DEFENDANT RIDEN: Yes, sir.

8 THE COURT: All right. Well, I
9 find that her decision, whichever she decides
10 to do will be knowingly, intelligently and
11 voluntarily made at the appropriate time.

12 And Mr. Hendrix, the same with you.
13 Do you understand each of these rights I've
14 discussed with you?

15 DEFENDANT HENDRIX: Yes, Your
16 Honor.

17 THE COURT: Have you had
18 sufficient time to talk with your attorney
19 about the decision whether you're going to
20 testify or not?

21 DEFENDANT HENDRIX: Yes, Your
22 Honor.

23 THE COURT: And have you had
24 sufficient time to talk with your attorney
25 about the decision whether you're going to

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1 testify or not?

2 DEFENDANT HENDRIX: Yes, Your
3 Honor.

4 THE COURT: And since you're going
5 to delay your decision, what you're doing, I
6 may just follow up briefly with some
7 discussions at that time.

8 But do you need more time to talk
9 with your attorney about that? I know y'all
10 probably talk after they present their case.
11 But you realize you will have sufficient time
12 to talk with him before making your final
13 decision?

14 DEFENDANT HENDRIX: Yes, Your
15 Honor.

16 THE COURT: Okay. And based on
17 the fact that you do understand what I've
18 explained to you about your rights, then I
19 find that whatever your decision is, it's
20 been knowingly, intelligently and voluntarily
21 -- nobody's promised you anything or
22 threatened you to make your decision whether
23 to testify or not; have they?

24 DEFENDANT HENDRIX: No, Your
25 Honor.

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1 THE COURT: Well, I find that
2 whatever your decision is will be knowingly,
3 intelligently and voluntarily made with the
4 advice of your counsel. And, again, I'll
5 touch base briefly before your case is
6 presented just to make sure. All right.
7 Thank you.

8 Ms. Riden, let me just ask you one
9 other question. Nobody has promised you
10 anything or threatened you or forcing you to
11 make your decision?

12 DEFENDANT RIDEN: No, sir.

13 THE COURT: This decision has been
14 made freely and voluntarily?

15 DEFENDANT RIDEN: Yes, sir.

16 THE COURT: All right. Any other
17 questions from counsel that they want me to
18 go over with their clients? Mr. Warder?

19 MR. WARDER: No, Your Honor.

20 THE COURT: Anything else you want
21 me to go over with Ms. Riden?

22 MS. HORLBECK: No, Your Honor.

23 THE COURT: Okay. Are you ready
24 to proceed?

25 MS. HORLBECK: Yes, sir.

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1 SOLICITOR JONES: Your Honor, I'd
2 ask that we wait for my paralegal to return
3 with the ---

4 MS. HORLBECK: That's a good
5 idea. I support that.

6 THE COURT: Okay.

7 (PARALEGAL INTO COURTROOM)

8 SOLICITOR JONES: Your Honor, I see
9 nothing on either defendant that I could use.

10 THE COURT: Okay.

11 MS. HORLBECK: I'm sorry? I
12 missed that.

13 THE COURT: No, he indicated there
14 was nothing on the criminal record that could
15 be used against either defendant.

16 MS. HORLBECK: Okay.

17 THE COURT: All right. Are you
18 ready to bring the jury in? (No response).

19 Anything else from the State before
20 we bring the jury in?

21 SOLICITOR JONES: Nothing from the
22 State, Your Honor.

23 THE COURT: Anything from Ms.
24 Riden?

25 MS. HORLBECK: No, Your Honor.

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1 THE COURT: Anything from ---

2 MR. WARDER: No, Your Honor.

3 THE COURT: All right. If they're
4 ready bring them, please.

5 BAILIFF: Yes, sir.

6 (JURY IN AT 10:50 A.M.)

7 THE COURT: All right. Ladies and
8 gentlemen, we are now at the stage where the
9 State has rested and the defendants have an
10 opportunity to put up any testimony or
11 evidence that they feel appropriate at this
12 time. Ms. Horlbeck?

13 MS. HORLBECK: Your Honor, we
14 would call Stacy Riden to the stand.

15 THE COURT: All right.

16 (WITNESS TAKES STAND)

17 STACY RIDEN, having been duly sworn to
18 tell the truth, and nothing but the truth,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. HORLBECK:

22 Q. Okay. Ms. Riden, I'm trying to
23 figure out where the best place for me to
24 stand. All right. Ms. Riden, you've heard
25 your children testify about a lot of things

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1 that they're saying have happened?

2 A. Yes, I have.

3 Q. And you've heard them testify about
4 that you've touched them, molested them, all
5 kinds of things; all right?

6 A. Uh-huh.

7 Q. So let's just start with those.

8 A. Okay.

9 Q. Have you ever touched or rubbed your
10 children's genitals?

11 A. No.

12 Q. In any kind of inappropriate manner?

13 A. Never.

14 SOLICITOR JONES: Your Honor, I
15 object to the leading question.

16 THE COURT: All right. Rephrase
17 your question.

18 MS. HORLBECK: All right.

19 DIRECT EXAMINATION CONTINUED

20 BY MS. HORLBECK:

21 Q. Well, you have heard about the
22 allegations.

23 A. (Affirmative nod).

24 Q. Do you agree with them or do you
25 deny them?

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1 A. I deny them, deny that I ever
2 touched my kids in any inappropriate way
3 whatever.

4 Q. All right. How would you handle
5 your children? How would you deal with your
6 children?

7 A. (No verbal response).

8 Q. When you parented your children, how
9 would you deal with them? How would you
10 touch them?

11 A. Definitely not in an inappropriate
12 way. I mean, just like, you know, normal
13 parent -- I mean, I don't understand but

14 Q. Well, describe what kind of normal
15 touching went on and what kind of touching
16 went on in your house.

17 A. It was nothing out of the ordinary,
18 you know.

19 Q. Okay.

20 A. When they had baths or whatever, it
21 was the girls and then my son. It was always
22 separated. Nothing, you know, nothing like
23 all the kids together or anything like that.

24 Q. Okay. Did you touch -- you heard
25 the allegations about touching their

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1 genitals. Did you touch the genitals in that
2 manner?

3 A. No. Never.

4 Q. Okay.

5 A. They would wash themselves and I
6 would help them was, you know ---

7 Q. Right.

8 A. --- but with a towel/rag ---

9 Q. Okay.

10 A. But I never touched them. Never.

11 Q. All right. There were also
12 allegations that you rubbed the children's
13 genitals and used -- you put your fingers in
14 them?

15 A. No, ma'am.

16 Q. What is your position on that?

17 A. (Emotional) -- I would never do
18 that.

19 Q. There were allegations that you
20 performed oral---

21 SOLICITOR JONES: Your Honor, these
22 are all leading questions.

23 MS. HORLBECK: I'm just telling
24 her about the allegations and asking her what
25 her position is. I think the allegations are

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1 pretty well on the record.

2 THE COURT: I'm going to allow it.

3 DIRECT EXAMINATION CONTINUED

4 BY MS. HORLBECK:

5 Q. There are also allegations that you
6 made the children perform oral sex on you.
7 And that you performed oral sex on them.

8 A. Yes. I would never do that, ever.

9 Q. Okay. All right.

10 A. I don't even know where any of this
11 is coming from. I still don't understand it.

12 Q. Was there any inappropriate touching
13 from anyone else that lived with you?

14 A. No.

15 Q. All right. Let's kind of back up to
16 that time. From 2011, Christmas 2011 to
17 Christmas 2012, where did you live?

18 A. Ridgefield Circle.

19 Q. All right. Who lived with you?

20 A. Randy Gibbs and Aaron did.

21 Q. Okay. All right. Tell me a little
22 bit about Aaron. How long have you know
23 Aaron?

24 A. I'd know him for five years prior to
25 that and more.

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1 Q. What's Aaron's last name?

2 A. Hendrix.

3 Q. How did you meet Aaron Hendrix?

4 A. Through my sister. He was good
5 friends with my sister, Jennifer Riden.

6 Q. Okay. And how would you describe
7 your relationship with Aaron when you first
8 met him?

9 A. We were just friends.

10 Q. Okay. And did that develop into
11 more, that friendship?

12 A. It did.

13 Q. Okay. And tell me a little bit
14 about that. Tell the Court a little bit
15 about how that friendship developed.

16 A. We just started hanging out. You
17 know, he would come over and we'd take the
18 kids to the lake or to the park or to a movie
19 or whatever and it just progressed from
20 there.

21 Q. Okay. All right. When Aaron first
22 began to visit with you and the children, how
23 often would he come over?

24 A. Twice a week, three times a week.

25 Q. Would he come over by himself or was

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1 he with anybody else?

2 A. He was always by himself.

3 Q. Okay. And when Aaron came over to
4 visit you and the children, what kind of
5 things would y'all do?

6 A. Watched movies and played videos,
7 played video with the kids or we'd all go
8 outside and play with the kids.

9 Q. All right. When you said you would
10 all go outside, what kind of things would you
11 all do outside?

12 A. They had a little battery-operated
13 cars. We'd play with them out in the yard
14 with those. And had a little swing set. We
15 always played with them on that.

16 Q. Okay. And was there a time that
17 Aaron moved in with you?

18 A. Uh-huh. Well, he went from staying
19 like two or three nights a week to five or
20 six. Every now and then, he'd stay at his
21 mom. But usually, he was always there with
22 us.

23 Q. All right. Did you see anything
24 inappropriate about the way Aaron interacted
25 with your children?

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1 A. Never, no.

2 Q. How did you feel about leaving the
3 children -- well, let me ask you this. Did
4 you ever leave the children with Aaron?

5 A. Uh-huh. He watched them some when I
6 would have to work late-night so that I
7 wouldn't have to get up the next morning. He
8 knows I would have to get them from the
9 babysitter late. And they could go to school
10 and not have to be in and out in the middle
11 of the night.

12 Q. All right.

13 A. Because I'd have never left them
14 there, left the kids with him if I thought he
15 would do anything like that. Never.

16 Q. Okay. All right. So how did you
17 feel about leaving the children with Aaron?

18 A. I felt comfortable leaving them with
19 him. He was always good to the kids. He was
20 never mean to them, never yelled at them or
21 anything.

22 Q. All right. Describe punishment of
23 the children at your house?

24 A. They would get time out or not be
25 able to play, you know, Nintendo or not be

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1 able to watch TV or you know, something like
2 that.

3 Q. All right. Describe physical
4 punishment, if any, at your house of the
5 children?

6 A. If any physical, I popped them. Not
7 Aaron, ever.

8 Q. All right. The allegations
9 involving the physical abuse of the children.
10 What's your position on those?

11 A. Never. I mean, I would have popped
12 them on their hand or their bottom but that
13 was it.

14 Q. Uh-huh.

15 A. Nowhere else.

16 Q. All right. And if -- what if
17 anything would you have done if you had seen
18 someone else living in your home abusing
19 these children?

20 A. They would have had to leave and I
21 would have called the police.

22 Q. Okay.

23 A. I would never let anybody hurt my
24 kids, me knowing it. It would have never
25 happened.

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1 Q. Okay. You mentioned that you worked
2 during that time period.

3 A. (Emotional).

4 Q. Do you need a cup of water or
5 anything?

6 A. No.

7 Q. All right. Tell the Court a little
8 bit about where you worked.

9 A. I worked at McDonald's for nine
10 years, from 2004 to 2013.

11 Q. What was your position at
12 McDonald's?

13 A. When I started I was a crew member.
14 And when I left, I was department manager.

15 Q. All right. How long were you the
16 department manager at McDonald's?

17 A. A little over two years.

18 Q. How many hours a week approximately
19 did you work?

20 A. Forty, fifty, sometimes more. It
21 just depended.

22 Q. All right. And did you have a set
23 schedule that you would go to work?

24 A. No. No, it was always different. I
25 mean, I'd be in the mornings until --

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1 sometimes it' be 5:00 in the morning that I'd
2 have to be there. Sometimes it would be 4:00
3 p.m. It just depended really.

4 Q. Okay.

5 A. Or when they needed me.

6 Q. How many hours a day on average
7 would you work?

8 A. Eight to ten hours a day.

9 Q. Was it five days a week or more?

10 A. Five days.

11 Q. Did you have -- did you get weekends
12 off?

13 A. We got a weekend like once a month,
14 once every six weeks, something like that.

15 Q. Okay. So during a typical work
16 week, what days would you not be working?

17 A. It could be Tuesday/Wednesday,
18 Thursday/Friday. It just -- it varied. It
19 always varied.

20 Q. And was your schedule the same or
21 did it change?

22 A. It always changed.

23 Q. Okay. All right. And you said that
24 there were -- were there occasions where you
25 might have to work late at night?

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1 A. Uh-huh.

2 Q. Tell the Court a little bit about
3 those occasions and why?

4 A. Once a week I had to close, to do a
5 weekly inventory of the store.

6 Q. Uh-huh.

7 A. So that night I would always get off
8 about 1:00 or 2:00 in the morning.

9 Q. All right. When you were working,
10 tell me about your childcare arrangements?

11 A. Sometimes Aaron would watch them for
12 me. Sometimes I had their Aunt Diane would
13 keep them. Sometimes their dad would be
14 available when he could keep them or some-
15 times my step-mom would keep them. It just
16 -- whoever was available, you know, it was
17 kind of like on a day-to-day schedule we had.
18 I never had it, you know, where I had one
19 solid person to watch them whole week because
20 it was hard to ask somebody to watch three
21 kids the whole week.

22 Q. Okay. Who is Aunt Diane?

23 A. Diane Stamey. She used to watch
24 them -- she watched them for me when me and
25 Mark were together. When we split up, it was

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1 hard for me to pay forty dollars (\$40) a day
2 for all three of them by myself and pay the
3 bills. So she would do it sometimes for me.

4 Q. All right. And you mentioned Mark.
5 Who is Mark?

6 A. Their father, Mark Lusk.

7 Q. Okay. All right. And that's their
8 biological father, the children's?

9 A. It is.

10 Q. Okay. All right. So just back up a
11 little bit. Who would watch the children?
12 You had a list of some people that you ---

13 A. Yes. Their Aunt Diane; their dad,
14 Mark. Sometimes my step-mom and my dad would
15 get them. And sometimes Aaron would keep
16 them.

17 Q. Okay. All right. Do you have any
18 idea why the children would have, would be
19 saying these things have been done, have
20 happened and that you did them?

21 A. No. I really don't. I don't know.
22 You know, I don't know why someone would --
23 (crying). It kills me to hear them say these
24 things because I know they're not true.

25 Q. Did any of these things happen?

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1 A. No, ma'am.

2 Q. Was there a time when the children
3 went to stay, went to live with their grand-
4 parents?

5 A. They did.

6 Q. When was that?

7 A. It was around March or April of
8 2013.

9 Q. Were you still working at that time?

10 A. Yes.

11 Q. All right. Tell us a little bit
12 about your finances at that point?

13 A. I was struggling by myself to pay
14 the bills and take care of the kids. So my
15 dad helped me. You know, they took them in
16 to help take care of them.

17 Q. At that point, who else -- was there
18 another adult living in your house with you?

19 A. No.

20 Q. At that point, describe your
21 relationship status with Mr. Hendrix?

22 A. We had split up by then. We split
23 up in -- the end of November or the beginning
24 of December in 2012.

25 Q. All right. And when the children

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1 went to live with their grandparents what, if
2 anything, did they call you, the children?

3 A. What do you mean?

4 Q. What did they normally call you?

5 A. Mom.

6 Q. Okay. Did they all three call you
7 mom?

8 A. Mommy, mom.

9 Q. Okay.

10 A. Mom, mama, but -- Older Sister usually
11 said 'mom.'

12 Q. Okay. All right. When the children
13 went to live their grandparents, you said you
14 were having some financial difficulties.
15 Were you living by yourself or with somebody
16 else?

17 A. Yeah. Just me and the kids.

18 Q. Just you? Okay. All right. Was
19 there ever a time where there was not enough
20 food in the house?

21 A. No. I mean, you know, sometimes
22 there wouldn't be as much. You know, maybe I
23 couldn't provide for them like my dad and
24 them does. They have a lot more money than I
25 do. But they never went without eating

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1 anything, you know. If it was the day before
2 payday or a couple days before payday -- I
3 knew that my dad would help and he always let
4 me borrow whatever I needed to borrow to make
5 sure that I was going to have food. They
6 never went without eating. And they love
7 McDonald's, so I'd always bring that home
8 almost every single day, you know, if they
9 wanted it. They never went without eating,
10 though.

11 Q. How were you able to bring home food
12 from McDonald's?

13 A. It's discounted at work.

14 Q. Why is that?

15 A. Because I was a manager.

16 Q. All right. When would you go grocery
17 shopping?

18 A. On Monday's when got paid. I got
19 paid every other Monday.

20 Q. All right. What's a typical grocery
21 bill for you?

22 A. Usually around two hundred.

23 Q. Okay. All right. You heard the
24 allegations about the lack of food in the
25 house. What's your position on that?

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1 A. There was always food. I mean, it
2 might not have been -- by the next grocery
3 day there might not have been a whole bunch
4 of stuff to decide from -- no more Debbie
5 cakes this time or chips or snack cakes or
6 something, but there was always food in the
7 house.

8 Q. Okay. Do you know why these
9 allegations arose?

10 A. (Negative gesture).

11 Q. Do you have any idea at all?

12 A. No. No, I don't.

13 Q. Have you been able to visit with
14 your children since they moved over to their
15 grandparents?

16 A. I was. Whenever they first started
17 staying there, I was going to the house to
18 see them. And then it was where my dad would
19 -- I'd have to meet my dad at McDonald's or
20 he would come get me with the kids and go to
21 McDonald's and take them to eat or play with
22 them.

23 Q. Which McDonald's? Is this the
24 McDonald's that you worked at?

25 A. We'd go usually over to the one in

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1 Easley.

2 Q. Okay. All right. Do you think the
3 children have been coached or anything?

4 A. I would like to think not, but I
5 don't know. There's no other. There's no
6 other option because I know I didn't do this.
7 And I'd have never allowed him to.

8 Q. If you'd found out Mr. Hendrix was
9 doing these things to your children, what
10 would you have done?

11 A. Honestly?

12 Q. Yes.

13 A. I would have killed him. I would
14 never let anybody hurt my kids.

15 Q. Tell me a little bit about the
16 residence that you lived in with the children
17 and Mr. Hendrix?

18 A. It was a single-wide trailer, three
19 bedrooms, two bathrooms. It was big enough
20 for us. You know, I would have loved
21 something bigger but it worked for us.

22 Q. All right. And was there a lot of
23 guest traffic in and out of your residence?

24 A. My sister would come over some time
25 with her friend, you know, or something like

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1 that. She'd come see the kids and bring my
2 niece over and they'd play with the kids. I
3 mean, it was nothing excessive.

4 Q. Were there a lot of people spending
5 the night over at your residence when the
6 children were living there?

7 A. Uh-huh. My sister would whenever
8 she was fighting with her boyfriend sometime
9 and she had nowhere else to stay, I'd let her
10 stay there. But other than that, no.

11 Q. But no one else?

12 A. There was a couple of the times
13 their dad had to spend the night. Him and
14 his girlfriend would be arguing or whatever
15 and he'd need somewhere to stay. I'd need
16 for him to watch the kids the next day. And
17 that was kind of like my only option, you
18 know. We would let him stay there so he
19 would be there in the morning to watch the
20 kids.

21 Q. All right. When you had overnight
22 guests, what would the sleeping arrangements
23 be?

24 A. They would sleep in the living room.

25 Q. Who would?

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1 A. The guest, whoever was the guest.
2 Or they'd sleep in my room and I'd sleep in
3 the living room and the kids would be in
4 their rooms.

5 Q. Okay. What were the normal sleeping
6 arrangements for the children?

7 A. Older Sister and ^{Younger Sister} slept -- a lot of
8 times whenever there was nobody else there,
9 they all slept on the couch together. They
10 would always like to sleep, you know, all
11 three of them together on the couch. Or
12 they'd make a little pallet with their little
13 bed, you know, their little cushion beds and
14 sleep together. And they'd always wind up
15 sleeping together, all of them.

16 Q. Okay. All right. Would any of the
17 guests, would any of them stay in your bed
18 with you and Aaron?

19 A. Not with me and him, no.

20 Q. All right. What about the
21 children's father, would he?

22 A. No. No.

23 Q. If he stayed there, he stayed in the
24 living room with the kids. You know, Mark
25 would sleep on the couch and the kids would

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1 be in the living room with him. But if it
2 was like my sister, she'd stay in one of
3 their rooms and they'd all stay in the
4 living, you know, something like that. But
5 nobody ever slept in the bed with us, no.

6 Q. All right. Would anything inappro-
7 priate happen between you and your sister.

8 A. No.

9 Q. We've heard about your sister
10 Jennifer too. Would she ever come and stay?

11 A. She came over. She never stayed the
12 night ever.

13 Q. All right. You've heard the
14 allegations that the children made regarding
15 you and your sisters and things that y'all
16 allegedly would do. What's your position on
17 that?

18 A. That never happened. I don't know
19 where they come up with stuff like that. Do
20 I look like I'm going to be sitting in bed
21 with a bathing suit on with my sister, no.
22 I mean, it's just -- I don't know it's just
23 -- all of it is just absurd. I don't know
24 where they would get any of that stuff from.
25 I mean, my sister might would come in there

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1 and talk with me like once I got out of the
2 shower, while I was getting dressed or
3 something. It was just me and one of my
4 sisters talking or something like sisters
5 would or whatever, you know. Nothing,
6 nothing out of the ordinary.

7 Q. Okay.

8 MS. HORLBECK: Beg the Court's
9 indulgence.

10 DIRECT EXAMINATION CONTINUED

11 BY MS. HORLBECK:

12 Q. How do you and your sister's express
13 affection with one another? I know that's a
14 weird way to put it?

15 A. We hug when we see each other.
16 Jennifer's a little bit more obnoxious with
17 it. Jennifer will try to kiss anybody, you
18 know, on the face or whatever. Not like
19 weird kiss, but she's just -- I don't know.

20 Younger Sister would always say she hated Aunt Jen
21 Jen's kisses because Jennifer's just
22 Jennifer. It's hard to explain, but it's
23 like ---

24 Q. Well, what is a weird kiss to you?

25 A. A weird kiss to me would be kissing

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1 my sister on the mouth. I've never kissed my
2 sisters on the mouth. You know, pop a kiss
3 on the cheek or something but, other than
4 that, no.

5 Q. Right. When you hug your sisters,
6 describe how that happens? Describe what
7 happens if y'all even hug. I don't know.

8 A. If we hug we just put our arms
9 around each other and that's it.

10 Q. All right. You weren't around for
11 the first day of this trial. What happened?

12 A. It kills me to hear kids say these
13 things when I know I would never do those
14 things to my kids -- (crying). I know I
15 shouldn't left but I did because I couldn't
16 deal with it. It kills me.

17 Q. Okay. Stacy, please answer any
18 questions that the Solicitor may have for
19 you.

20 A. Okay.

21 CROSS-EXAMINATION

22 BY SOLICITOR JONES:

23 Q. Ms. Riden, what kind of drugs are
24 used with needles?

25 MS. HORLBECK: I object to that.

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1 THE COURT: Overruled.

2 CROSS-EXAMINATION

3 BY SOLICITOR JONES:

4 Q. What kind of drugs are used with
5 needles?

6 A. I don't know what kind of drugs are
7 used with needles.

8 Q. You have no idea what kind of drugs
9 are used with needles?

10 A. No.

11 Q. Have you ever heard of drugs being
12 used with needles?

13 A. I have heard of drugs being used
14 with needles.

15 Q. What kind of drugs have you heard
16 being used with needles?

17 A. Drugs, all kinds of drugs. You can
18 use pills with needles. Heroin needles,
19 meth needles. I mean, anything can be used
20 with needles.

21 Q. Well, then why did you first say you
22 didn't know what kind of drugs could be used
23 with needles?

24 A. I mean, you know, I know what kind
25 of drugs can be used with needles. I know

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1 that I don't use drugs with needles.

2 Q. I didn't ask you that.

3 A. I understand that.

4 Q. Has anyone ever found a needle at
5 your house or in your car?

6 A. No.

7 Q. No?

8 A. No.

9 Q. In March of 2013 your children
10 stopped living with you; didn't they?

11 A. In March or April, yes.

12 Q. March or April. And the biological
13 father of these children is Mark -- what's
14 his last name?

15 A. Mark Lusk.

16 Q. Lusk?

17 A. Yes.

18 Q. And you said that he came over to
19 your house from time to time?

20 A. Uh-huh.

21 Q. An active role in their life, off
22 and on?

23 A. Uh-huh.

24 COURT REPORTER: Is that a yes?

25 STACY RIDEN: Yes.

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1 CROSS-EXAMINATION CONTINUED

2 BY SOLICITOR JONES;

3 Q. Did you call your father to come get
4 those children?

5 A. Did I call my father to come get
6 them? I asked him if they could stay with
7 him, yes.

8 Q. You called your father to come get
9 those children that day?

10 A. No, Mark called him. Mark Lusk
11 called my father to come get them.

12 Q. And you weren't there when Mark Lusk
13 called your father, were you?

14 A. I wasn't with Mark when he called,
15 no.

16 Q. Where were you?

17 A. I don't remember where I was. I
18 don't know if I was at work or where I was.

19 Q. You didn't tell Mark Lusk to call
20 your father and get those children, did you?

21 A. No, I did not ask him to get them.
22 But when my dad got the kids -- my dad called
23 me and asked me if he thought that I needed
24 his help with the kids and I told him, yes,
25 that I needed his help with the kids.

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1 Q. So your father called you the day he
2 got those children and you talked to him?

3 A. Yes.

4 Q. Isn't it true that on the day Mark
5 Lusk called your father you went to get a
6 birthday cake for the children and you didn't
7 come back?

8 A. No, that's not true. I don't
9 remember that.

10 Q. You don't remember leaving your
11 children on that day?

12 A. No. And not coming back, no.

13 Q. You weren't at the house when your
14 father came, were you?

15 A. No.

16 Q. Were you there when Lisa Riden
17 helped them gather their things?

18 A. No.

19 Q. You testified earlier that it was
20 hard to get somebody to watch your kids on a
21 daily basis, didn't you?

22 A. Yes. To have a stable, one stable
23 person do it. Because Diane -- I had to pay
24 Diane forty dollars a day and I couldn't
25 afford to. And sometimes my dad and my

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1 stepmom weren't able to.

2 Q. And yet magically in March of 2013,
3 your father and your stepmother could take
4 care of the children 24/7.

5 A. Yeah, but when I would ask them
6 before, they wouldn't be able to. She would
7 have something going on or he would have
8 something going on. And they never could
9 always have them. And then whenever Mark
10 calls them, then they're able to.

11 Q. So just because Mark ---

12 A. Not because -- I'm not saying that's
13 why that they did. But, I mean, it went from
14 yes sometimes they could to sometimes they
15 couldn't to now all of a sudden they want to
16 keep them all of the time. You know, that
17 they were able to help me and take them in.

18 Q. And you have two sisters, don't you?
19 What are their names?

20 A. I have four sisters.

21 Q. Four sisters?

22 A. Yes.

23 Q. What are their names?

24 A. Jennifer, Jessie, K. , Courtney.

25 Q. And of those four, which ones has

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1 spent the night at your house at
2 Ridgefield Circle?

3 A. Jennifer and Jessie has.

4 Q. Jennifer?

5 A. Uh-huh. But I lived there for six
6 or seven years.

7 Q. Uh-huh. You said Aaron Hendrix
8 moved in on what date, around what time?

9 A. It was -- it's hard to remember
10 around what time. I know it was ---

11 Q. But it was December of 2011, wasn't
12 it?

13 A. I think it was around January or
14 February of 2012, I think, when he was
15 staying more than just spending the night
16 some.

17 Q. Okay. And then he moved out around
18 Christmas of 2012?

19 A. Before Christmas of 2012; yes.

20 Q. And you started dating him in
21 November of 2011, didn't you?

22 A. I don't remember exactly when we
23 started dating. But I think it was 2012,
24 January/February.

25 Q. So you started dating in January and

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1 February of 2012?

2 A. (Affirmative nod).

3 Q. And then he moved in January or
4 February of 2012?

5 A. He didn't move in then. He'd stay
6 the night some with us. And then it
7 progressed to him moving in or staying. He
8 would still always -- the whole time we were
9 together he would stay with his mom once or
10 twice a week. But other than that, yes, he
11 did live with us.

12 Q. And you knew that Aaron Hendrix
13 would dress in your clothes in front of the
14 children?

15 A. No. The only time Aaron ever wore
16 -- he put a shirt of mine on when I was at
17 work. And hair bows in his hair. And him
18 and the kids -- he was playing with the kids,
19 like trying to make them laugh. They were
20 playing dress up. And they called me at work
21 that day. The girls were laughing and were
22 saying that 'Aaron let us put makeup on him.
23 Aaron let us dress him up.' I mean, and he
24 took pictures on the phone of him wearing a
25 pink shirt with hair bows in his hair. And

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1 that was the only time that he ever put
2 anything of mine on that I knew of. And they
3 sent me a picture of it while I was at work.
4 But it was nothing that -- other than him
5 playing with the kids and them laughing at
6 him because he was letting them play dress up
7 with him.

8 Q. When did you Mark Lusk split up,
9 stop living together?

10 A. I don't know. Me and Mark were on
11 and off so much. I guess December 2011,
12 maybe -- maybe was the time that he lived,
13 lived there, the beginning of December. But
14 me and him would break up and, you know.
15 We'd break up and get back together because
16 of the kids.

17 Q. Uh-huh.

18 A. Because I didn't want them to come
19 from a broken home like I did. And we'd try
20 to work it out a lot, but it just never would
21 work.

22 Q. Mark Lusk moved out of that house at
23 Ridgefield sometime in early 2011; didn't
24 he?

25 A. I can't really remember exactly when

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1 he moved out. But it was in that year, yes,
2 around the time he got with Natasha. I just
3 can't -- I'm not exactly sure what month it
4 was.

5 Q. Did you bring any other men that you
6 were dating around the children besides Aaron
7 Hendrix?

8 A. No. Never.

9 Q. You ever brought anybody else around
10 the children besides Aaron Hendrix that you
11 were dating?

12 A. A friend of mine, Zach, was the only
13 other person that they were ever around. And
14 he only came over one time. He was with me
15 when I picked them up from school. He helped
16 me with them do their homework and then he
17 left. And he was never around them other
18 than that, other than one other time but that
19 wasn't at our residence. But he was not
20 someone I was dating. He was just a friend.

21 Q. And what's your definition of
22 someone you were dating?

23 A. They would have never saw me around
24 anybody beside Aaron or their dad, the kids
25 didn't, ever.

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1 Q. Uh-huh.

2 A. They were the only two people that I
3 have been with. And Zach was just a friend
4 that I had known for years. He come over
5 that one day. It was -- I guess it was
6 March, sometime in March, February or March.
7 He was with me and helped -- we picked them
8 up from school and he helped me with them do
9 their homework and then he left. Then one
10 other time we took them to McDonald's once.
11 Other than that, they were never around any
12 other males.

13 Q. Your father would bring the children
14 to meet you on several occasions, didn't he?
15 When the children were staying with your
16 father?

17 A. He would come and pick me up and we
18 would go to eat with the kids.

19 Q. And initially the children staying
20 with Mark and Lisa was a temporary solution;
21 wasn't it?

22 A. Uh-huh. It was.

23 Q. And what were you waiting on for
24 that temporary solution to end so you could
25 get the children back?

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1 A. Honestly, you know, around that time
2 I felt like I was losing everything and I
3 gave up. I gave up. And I know that's not
4 right, but I started hanging out with the
5 wrong people. I stopped going to work like I
6 was supposed and got into trouble. I had
7 never been in trouble my entire life, ever.

8 Q. What kind of people were you hanging
9 out with?

10 A. People that were doing drugs.

11 Q. Well, hold on for a second. I asked
12 you about what kinds of drugs you used with
13 needles. And you appeared to be surprised.

14 A. Yes, but I'll admit ---

15 Q. You didn't know any kind of ---

16 A. Yes, but I had never see anybody use
17 any drug with needles ever in my life. Ever.

18 Q. Your children have.

19 A. No they haven't. Not with me they
20 haven't. Because I had never even seen
21 anybody with a needle until way after my dad
22 already had my kids. So I know that isn't
23 true. Until 2013 I didn't even -- for all of
24 2014, I didn't even know anybody did drugs
25 with needles. I didn't even know that.

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1 Q. And after you were charged with this

2 ---

3 A. Uh-huh.

4 Q. --- you talked with your father
5 several times; didn't you?

6 A. Yes.

7 Q. And what did you tell your father?

8 A. That there's no way that I could
9 have done this. I know I didn't do this.

10 There's no drugs. There's no -- I don't
11 care what accusations comes up with, there's
12 no drugs.

13 There's no alcohol.

14 There's no nothing that would ever allow
15 me to allow someone to do this to my kids or
16 me do it to my kids, ever.

17 Q. Well, what happened from March 2013
18 to when you say you started hanging out with
19 the wrong people who did drugs?

20 A. I ---

21 Q. What happened there from a single
22 mother who's working, taking care of three
23 kids, to falling in with the wrong people?
24 What event ---

25 A. One guy. One guy. One person.

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1 Q. One person?

2 A. One person that messed me up.

3 Q. I agree with that. Isn't it true
4 that what allowed you to start hanging out
5 with the wrong people that did drugs was that
6 your children got out of your house?

7 A. That my children got out of my
8 house? What do you mean?

9 Q. That you were no longer burdened by
10 taking care of your children.

11 A. No, they were never a burden, ever.

12 Q. These people that you started
13 hanging out with, you didn't just meet them
14 in 2013, did you?

15 A. One of them I had known for a long
16 time but I didn't hang out with him until
17 that year.

18 MS. HORLBECK: Judge, I'm going
19 to object to the relevance. I mean, the
20 incident time period is between December 2011
21 and December 2012.

22 THE COURT: I think it's
23 appropriate. Overruled.

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

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1 MR. WARDER: Your Honor, I have a
2 few questions.

3 SOLICITOR JONES: I said, beg the
4 Court's indulgence.

5 MR. WARDER: Oh. Excuse me.

6 SOLICITOR JONES: Actually, Your
7 Honor, no further questions.

8 THE COURT: Mr. Warder.

9 CROSS-EXAMINATION

10 BY MR. WARDER:

11 Q. Stacy, you got with Aaron Hendrix in
12 2011; is that right?

13 A. 2011, 2012. I think it was more in
14 the beginning of 2012. We started hanging
15 out in 2011. Him and my -- he come over with
16 my sister. I had known him for probably five
17 years before that. He had always been
18 friends with my sister, Jennifer.

19 Q. He was in school with your sister;
20 is that right?

21 A. Yes. They went to high school
22 together.

23 Q. Okay. And where did they go to high
24 school at?

25 A. Pickens.

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1 Q. Okay. And through 2011 he came to
2 your house with your sister?

3 A. Yes.

4 Q. And then over a period of time you
5 became friends?

6 A. Uh-huh.

7 COURT REPORTER: Is that a yes?

8 STACY RIDEN: Yes.

9 CROSS EXAMINATION CONTINUED

10 BY MR. WARDER:

11 Q. Was he employed at that time?

12 A. No.

13 Q. Did you give him a job?

14 A. (No verbal response).

15 Q. Did you help him get a job?

16 A. He did get a job working at Walmart.

17 SOLICITOR JONES: Your Honor, I'm
18 going to object to relevance here. What does
19 it matter whether they worked anywhere or
20 not?

21 THE COURT: I'll give him a little
22 leeway.

23 CROSS-EXAMINATION CONTINUED

24 BY MR. WARDER:

25 Q. Who did you help him get a job with?

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1 A. He had a job at Walmart when we were
2 together.

3 Q. Did he work for your father some?

4 A. Some, just some. Not all the time
5 but sometimes.

6 Q. And he stayed with you until, you
7 said, about Christmas?

8 A. It was right before Christmas.

9 Q. During the period of time that he
10 lived with you, did you use drugs?

11 A. No. I would take Ibuprofen and
12 Tylenol because I worked a lot and I hurt.
13 You know, my back would hurt or I would be
14 stressed out from work. But other than that,
15 I mean, I always had a bottle of Ibuprofen
16 and a bottle of Tylenol. But as far as that
17 goes, that was it.

18 Q. Okay. Tylenol and -Ibuprofen, is
19 that pain killers that you get in the drug
20 store?

21 A. Yes.

22 Q. Now, when the period of time that
23 Aaron was with you, did he use drugs or have
24 drugs in your house?

25 A. No.

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1 Q. Did he work at Walmart during the
2 period of time up until your separation?

3 A. Yes.

4 Q. And he would work other hours than
5 the hours you worked?

6 A. Yes. He worked nighttime, mostly
7 nighttime hours.

8 Q. Okay. And you worked mostly daytime
9 hours?

10 A. Mostly, yes.

11 Q. So he would be, on occasions, left
12 at home with the children?

13 A. Yes, but not ---

14 Q. And occasions other people, you
15 said, would take care of the children?

16 A. Yes.

17 Q. Okay. Was this just a convenience
18 or did you and him fall in love and have
19 genuine ---

20 A. He was really good to my kids. He
21 would give them -- he played with them and
22 give them attention. They were, you know, an
23 inconvenience for their dad when he was home.
24 You know, he didn't want to stay at home and
25 play with them or do anything with them.

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1 It was always an inconvenience for him.

2 It wasn't for Aaron.

3 Q. Did Aaron ever touch children in any
4 inappropriate way?

5 A. No.

6 Q. There have been allegations that you
7 and he forced them to have some kind of oral
8 sex?

9 A. Never.

10 Q. There's allegations that you were
11 rolling around with other men and your
12 sisters in some inappropriate way.

13 A. That never happened.

14 Q. After you broke up with Aaron, did
15 your life go downhill?

16 A. Yes.

17 Q. Is that when the drug use became
18 involved, after Aaron?

19 A. Yes.

20 Q. Did another man or other men stay at
21 your house on some occasions?

22 A. No.

23 Q. No one spent the night?

24 A. No one besides the kids' father.

25 Q. And that was Mark Lusk?

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1 A. Yes.

2 Q. Did he come back in after Aaron
3 left, started staying with you?

4 A. He was staying some to help me with
5 the kids but not as, you know, us being in a
6 relationship. But he would help. He did
7 come back to help with the kids some.

8 Q. And the reason he'd come back was he
9 knew that Aaron moved out and that you needed
10 help?

11 A. Yes. Even his girlfriend would come
12 and stay with him.

13 Q. Okay. So it would be him and -- who
14 was his girlfriend that would come and stay?

15 A. Natasha and her two kids.

16 Q. Let me ask you, when you were at
17 work and he was work, did you know whether he
18 had other people come over and stay with the
19 kids?

20 A. Who, Mark?

21 Q. Mark?

22 A. No, none that I know of. No.

23 Q. Did he have other guests? Did he
24 have other friends that would come over when
25 he was staying over?

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1 A. His brother maybe would come over
2 while I was at work, his brother, Matthew.
3 But not, you know, just -- that's their
4 uncle, you know. Other than that, no.

5 Q. Did Matthew bring a girl with him
6 when he came?

7 A. No. Matthew was with my sister
8 Jennifer. They have a kid together.

9 Q. Thank you.

10 THE COURT: All right. Any
11 redirect?

12 MS. HORLBECK: No, Your Honor.

13 THE COURT: All right. Thank you.

14 (WITNESS STEPS DOWN)

15 THE COURT: All right.

16 MS. HORLBECK: Defendant Riden
17 would rests.

18 THE COURT: All right. Okay. Ms.
19 Riden has rested for all of the testimony
20 that, only evidence that she's going to be
21 putting forth.

22 So at this time we're going to take
23 a very short break. At this time I'm going
24 to ask you to go back to your jury room.
25 There'll a short break. And, again, do not

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1 talk about the case or start any deliberation
2 whatsoever.

3 (JURY OUT @ 11:35 A.M.)

4 MR. WARDER: If we might have a few
5 minutes, Your Honor.

6 THE COURT: Yeah. Let's take
7 about five minutes.

8 SOLICITOR JONES: Thank you, Your
9 Honor.

10 THE COURT: And then I'll come
11 back and talk to Mr. Hendrix.

12 (BRIEF RECESS)

13 (DEFENDANT RIDEN PRESENT)

14 (DEFENDANT HENDRIX PRESENT)

15 THE COURT: What are your
16 intentions?

17 MR. WARDER: We are going to put up
18 a short defense.

19 THE COURT: Okay. Is Mr. Hendrix
20 going to testify?

21 MR. WARDER: Yes, sir. I think so.

22 THE COURT: All right. Now, Mr.
23 Hendrix, you know, I previously talked to you
24 about your rights. And do you understand
25 those? Do you need any more time to talk to

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1 your attorney about whether you need to
2 testify or not?

3 DEFENDANT HENDRIX: No.

4 THE COURT: Okay. Nothing's
5 changed and you understand your rights and
6 you're making this decision freely,
7 intelligently, and voluntarily?

8 DEFENDANT HENDRIX: Yes, Your
9 Honor.

10 THE COURT: Okay. All right.
11 Everybody ready for the jury? Anything from
12 the State?

13 SOLICITOR JONES: Nothing from the
14 State, Your Honor.

15 THE COURT: Anything from
16 Defendant Hendrix?

17 MR. WARDER: No, Your Honor.

18 THE COURT: Anything from
19 Defendant Riden?

20 MS. HORLBECK: No, Your Honor.

21 THE COURT: Okay. Bring the jury
22 in, please, sir.

23 (JURY IN @ 11:50 A.M.)

24 THE COURT: All right. Ladies and
25 gentlemen, like I said we've completed the

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1 case in chief for Ms. Riden. And now Mr.
2 Hendrix has the opportunity to present his
3 case. Mr. Warder?

4 MR. WARDER: Your Honor, if it
5 please the Court we would call Mark Lusk.

6 (WITNESS TAKES STAND)

7 MARK LUSK, having been duly sworn to tell
8 the truth, and nothing but the truth,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. WARDER:

12 Q. Mark, where do you live at?

13 A. I'm actually living in a camper off
14 of Wolf Creek Road.

15 Q. Okay. Here in Pickens County?

16 A. Yes, sir.

17 Q. How long have you lived in Pickens
18 County?

19 A. All my life.

20 Q. Now, you know that Stacy Riden down
21 here?

22 A. Yes, sir, I do.

23 Q. And how do you know her?

24 A. She's the mother of my children.

25 Q. When did you -- did you and Stacy

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1 have a period of time you lived together?

2 A. Do what?

3 Q. Did you live with her?

4 A. Yes.

5 Q. What period of time were you two
6 living together?

7 A. Seven years, eight years.

8 Q. Okay. And did you and her then
9 separate?

10 A. Yes, sir.

11 Q. Did you maintain a relationship with
12 your children after the separation?

13 A. Yes, sir.

14 Q. Did you see them on a regular basis?

15 A. Every other weekend or whenever she
16 needed help with them.

17 Q. Okay. And do you know the defendant
18 Aaron Hendrix?

19 A. Yes, sir, I know Aaron.

20 Q. Did there become a time that Aaron
21 lived with Stacy and your children?

22 A. Yes, sir.

23 Q. Do you remember when that was?

24 A. I'm not sure. I don't really
25 remember what dates and all it was but,

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1 (affirmative nod).

2 Q. Okay. Would it have been back in
3 2011?

4 A. That's right.

5 Q. Okay. When he was living there,
6 would you go over to the house, pick up and
7 visit with the children?

8 A. Yeah. He was there.

9 Q. Okay. Did you ever see anything
10 inappropriate when you were over there?

11 A. Never.

12 Q. Okay. You ever see any evidence of
13 drugs, drug use?

14 A. I was working on a car one day. I
15 don't know whose it was but a needle fell out
16 of overhead liner.

17 Q. Okay. Now, when did that happen?

18 A. It was ---

19 Q. Was it 2013?

20 SOLICITOR JONES: Objection.

21 Leading, Your Honor.

22 MARK LUSK: That's possible.

23 THE COURT: Rephrase the question.

24 SOLICITOR JONES: He just told him
25 the answer, Your Honor.

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1 DIRECT EXAMINATION CONTINUED

2 BY MR. WARDER:

3 Q. Was it after ---

4 THE COURT: He can rephrase.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. WARDER:

7 Q. Was it after Aaron Hendrix moved out
8 when you found that?

9 A. Yes, it was.

10 Q. Okay. Can you tell me about how
11 long it was after Aaron had moved out?

12 A. Maybe a month. Two months maybe.

13 Q. Okay. During the period of time
14 Aaron was there, did you ever see any
15 evidence of drugs or anything?

16 A. No, sir. I have not.

17 Q. Okay. After Aaron moved out, did
18 the house degenerate? Did the conditions of
19 the house where your children go uphill,
20 downhill, stay the same?

21 A. Downhill.

22 Q. Okay. When you say the conditions
23 of the house went downhill, what did you
24 notice that made you think the conditions
25 were going downhill?

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1 A. Well, the power got cut off. The
2 furniture was just piled in the living room.
3 There was a little bit of food, not much.
4 And the basic messiness of the house. They
5 didn't have water. There was no power. I
6 believe it had got cut off that day.

7 Q. Okay. I believe that you ultimate
8 talked to your father about helping the
9 children or ---

10 A. I called -- Lisa showed up, Mrs.
11 Riden showed up over there. Said she'd heard
12 some things about the house being in a bad
13 condition. She asked me could she look in
14 the house and I told her, yes, she could.
15 Well, she walked in the house. She looked at
16 and then we stood out by the car. I asked
17 her to please take my kids under her roof and
18 take care of them because I wasn't in any
19 condition to take care of my kids at the
20 time. I asked to please come take my kids.
21 Take them under their roof, take care of
22 them.

23 Q. Okay. And the camper you lived in
24 was so small that you couldn't take them over
25 there.

TESTIMONY OF MARK LUSK - CROSS BY SOLICITOR

1 A. It was -- it only slept four people.
2 You can't put three kids and me in there.
3 And I had a drinking problem, I admit I had a
4 drinking problem.

5 Q. You've never seen anybody hurt your
6 children or do anything inappropriate?

7 A. They would not be here. They would
8 be dead.

9 Q. Thank you. Please answer any
10 questions.

11 SOLICITOR JONES: Yes, sir, Your
12 Honor.

13 CROSS-EXAMINATION

14 BY SOLICITOR JONES:

15 Q. Mr. Lusk, you testified that you did
16 find a needle at that residence?

17 | A. Do what now?

18 Q. At the residence that Stacy Riden
19 lived in. Excuse me.

20 A. Yes, sir.

21 Q. Was it a sewing needle?

22 A. Not a sewing needle, no.

23 Q. Okay.

24 A. It was a syringe needle.

25 Q. A syringe needle?

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1 A. (Affirmative nod), I didn't ask no
2 questions about who it was or wasn't.

3 Q. I understand. Lisa came over, we
4 stood outside and I asked her to take the
5 kid.

6 Q. I understand. And you said you had
7 a little bit of a drinking problem?

8 A. Yes, sir. I used to have a little
9 drinking problem.

10 Q. Well, what's your favorite drink?

11 A. It was beer.

12 Q. Beer? You ever drank so much you
13 passed out?

14 A. I've drunk a couple of times where I
15 passed out a lot. To where I'd have
16 seizures.

17 Q. Excuse me?

18 A. I had seizures and all too.

19 Q. You had seizures because you drank
20 so much?

21 A. I don't know if was because I drank
22 so much or because of my sugar or what, but
23 -- yeah.

24 Q. Did you ever drink so much -- have
25 you ever heard the phrase black out?

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1 A. I've heard of that.

2 Q. You think that's ever happened to
3 you?

4 A. No.

5 Q. You don't?

6 A. (Negative gesture).

7 Q. So you've got a drinking problem?

8 A. Not now I don't.

9 Q. Okay. Well, you had a drinking a
10 problem?

11 A. I fixed that.

12 Q. And you drank so much that you
13 passed out; right?

14 A. Yeah. I'd sit there drinking and
15 when I'd get sleepy, I'd go to sleep.

16 Q. But you don't think you've drank so
17 much that you blacked out where you haven't
18 remember anything?

19 A. No.

20 Q. Isn't true that you called -- let's
21 back up. Who's Mark Riden?

22 A. That's Stacy's daddy and Lisa's
23 husband.

24 Q. Okay. And isn't it true that you
25 called him to come pick up your children?

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1 A. Yes.

2 Q. It's kind of confusing from your
3 earlier testimony. Are you saying that Lisa
4 just appeared over there and then you called
5 Mark?

6 A. Lisa left from my mother's house,
7 which they live in the same park.

8 Q. Okay.

9 A. She came over there. Asked about
10 the condition of the house. I let her see
11 the house. Let her walk through it however
12 she wanted to do it.

13 Q. Right.

14 A. We stood out there and we talked and
15 talked and talked. And I said, 'will y'all
16 please come and take my kids under y'all's
17 roof?'

18 She said, 'Well, let me talk to Mark and
19 we'll get back with you.' I never got a
20 phone call.

21 Q. Yes, sir. Oh, so that happened
22 first and then you never got a phone call?

23 A. No.

24 Q. Okay. So then after that incident,
25 that's when you called Mark to come get the

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1 children; is that right?

2 A. You're right. I talked to Lisa, not
3 Mark. I talked to Lisa and Lisa had talked
4 to Mark.

5 Q. Okay. I'm sorry. So you never
6 called Mark then to come get your children?

7 A. (Negative gesture), I talked to Lisa
8 personally.

9 Q. Okay. And you testified to Mr.
10 Warder asking about the conditions of the
11 house or anything that ever happened over
12 there. What was the word? Nothing ever
13 happened over there bad. Is that what you
14 said?

15 A. It never did.

16 Q. Okay.

17 A. All I know is Stacy was a damn good
18 mother. Damn good mother. I can't say bad
19 anything. She was a damn good mother. You
20 cannot ask for a better mother. I couldn't
21 have.

22 Q. Yes, sir.

23 A. When we sat down on the porch that
24 day and told each we wasn't happy, we wasn't
25 going to be together no more. We split up.

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1 But when the time came for her and Aaron was
2 together, can I speak on that behalf? No, I
3 cannot.

4 Q. Right.

5 A. I cannot. Because I don't know.

6 Q. Yes, sir. I understand. And when
7 Aaron Hendrix was living over there and
8 living with Stacy, did you not testify to Mr.
9 Warder that you knew that nothing bad
10 happened over there?

11 A. (No verbal response).

12 Q. And I might be misunderstanding what
13 you were testifying to. But you did not
14 testify something to that effect to Mr.
15 Warder?

16 A. I'm just speaking the truth right
17 now. What I told you is what I know. I
18 could tell y'all.

19 Q. Did anyone ever call the police
20 about you in that residence?

21 A. One night, yes.

22 MS. HORLBECK: And I object to
23 that, to relevance.

24 THE COURT: I think it's
25 appropriate.

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1 CROSS-EXAMINATION CONTINUED

2 BY SOLICITOR JONES:

3 Q. Who called the police; do you know?

4 A. I don't know who called them.

5 Q. You don't know who called them?

6 A. No.

7 Q. Well, what happened as a result of
8 the police coming out there?

9 A. My head was busted open.

10 Q. Okay.

11 A. That's the only reason why they came
12 out there.

13 Q. And who busted open your head?

14 A. Aaron did.

15 Q. Aaron?

16 A. (Affirmative nod).

17 SOLICITOR JONES: No further
18 questions, Your Honor.

19 THE COURT: Ms. Horlbeck.

20 CROSS-EXAMINATION

21 BY MS. HORLBECK:

22 Q. Mr. Lusk, I'm Ms. Horlbeck and I
23 represent Stacy Riden in this case. You
24 testified just a second ago that Aaron
25 Hendrix busted your head open?

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1 A. Yes, ma'am.

2 Q. All right. So is it fair to say
3 that you and Mr. Aaron Hendrix didn't see eye
4 to eye?

5 A. That was the only problem we had
6 ever had. That was it.

7 Q. All right. Well ---

8 A. Other than that, we talked.

9 Q. But were y'all on good terms to
10 where you'd get into bed with Mr. Hendrix?

11 A. Hell no. Excuse my language but,
12 no.

13 Q. Okay. And were you -- you testified
14 -- have you ever seen anybody abuse your
15 children?

16 A. No, I have not.

17 Q. Have you ever stood and watched and
18 laughed while anyone was abusing your
19 children ---

20 A. No. No.

21 Q. --- sexually or physically?

22 A. No.

23 Q. Okay. All right. And have you ever
24 gotten in the tub with you and the children
25 and ---

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1 A. No, ma'am.

2 Q. --- Stacy and Aaron?

3 A. No, ma'am.

4 Q. Okay. All right. Were you ever
5 arrested and charged with sexually or
6 physically abusing your children?

7 A. No.

8 Q. All right. Now, you testified that
9 you also had a drinking problem; is that
10 correct?

11 A. Yes, ma'am.

12 Q. Okay. And that on occasion you have
13 drunk amounts that have caused you to pass
14 out?

15 A. Yes, ma'am.

16 Q. I'm saying in the past.

17 A. Yes, ma'am.

18 Q. And on the day that you went over to
19 work on the car, is it possible you'd been
20 drinking the night before?

21 A. No, I know I wasn't drinking the
22 night before.

23 Q. All right. And tell me how you know
24 that?

25 A. Because I don't drink every day.

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1 And it was only just a casual drink that --
2 but when I casual drank, I drank. I drank.

3 Q. Okay. So when you casual drink,
4 it's a serious thing and you drink?

5 A. Yes, ma'am.

6 Q. Okay. All right. And about how
7 many times a week do you think you would
8 drink as opposed to casual drink?

9 A. Maybe twice a week.

10 Q. Okay. All right. But you said the
11 time you went over to look at the car, it
12 wasn't one of those times?

13 A. No, ma'am.

14 Q. And how do you know that for sure?

15 A. I know. I am very, very conscious
16 of my own self.

17 Q. Okay. Okay. I understand. Did you
18 see -- you said you found a syringe. Did you
19 see anybody put that syringe in the car?

20 A. I didn't know whose it was. I just
21 threw it in the trash. I didn't want that
22 stuff around there.

23 Q. I don't know how much you know about
24 the car. Was it a new car, a brand new car
25 or a used car to your knowledge?

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1 A. It was a used car.

2 Q. There had been previous owners of
3 that automobile to your knowledge?

4 A. Yes, ma'am.

5 Q. All right. Do you know how old the
6 car was?

7 A. I think it was 2005 Ford Escape.

8 Q. Okay. All right. So this car had
9 some age on it; is that fair to say?

10 A. It had some on it, yes, ma'am. Like
11 most other people's.

12 Q. And you don't have any idea who
13 owned that syringe?

14 A. No, I don't have no idea. I didn't
15 ask no questions. I just -- I put it in the
16 trash and got rid of it.

17 Q. Okay. And when the power was cut
18 off, would it surprise -- do you know when
19 the power got cut back on?

20 A. It never got cut back on because
21 nobody ever went back in there.

22 Q. But after you found out the power
23 was cut off, what did you do? Did you stay
24 there?

25 A. It got cut off that morning when

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1 Lisa showed up.

2 Q. Okay. Did you leave ---

3 A. About maybe two hours before she
4 showed up, that's when the power got cut off.
5 It was on my kids' birthday.

6 Q. All right. And after the power got
7 cut off, did you stay at that residence?

8 A. I moved everything out and put in a
9 storage unit.

10 Q. All right. But where did you stay
11 that night?

12 A. In my camper.

13 Q. Okay. So you were in the camper?

14 A. Yes, ma'am.

15 Q. You don't know if the electricity
16 got cut back on; do you?

17 A. No, I don't.

18 Q. Okay. All right.

19 MS. HORLBECK: That's all I have.

20 THE COURT: Any redirect?

21 MR. WARDER: Yes, sir.

22 REDIRECT EXAMINATION

23 BY MR. WARDER:

24 Q. You, Aaron and Stacy never sexually
25 abused those children; did you?

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1 A. Hell no.

2 SOLICITOR JONES: Objection, Your
3 Honor. That's in the jury's purview. He's
4 asking a final ---

5 THE COURT: Sustained. I mean,
6 you can ask whether to his knowledge.

7 REDIRECT EXAMINATION CONTINUED

8 BY MR. WARDER:

9 Q. To your knowledge, did you ever --
10 you, Aaron or Stacy ever engage in any
11 conduct that you thought was sexually
12 abusive?

13 A. No.

14 Q. Thank you.

15 MR. WARDER: That's all I have.

16 (WITNESS STEPS DOWN)

17 THE COURT: Any other witnesses?

18 MR. WARDER: Your Honor, we'd call
19 Aaron Hendrix.

20 THE COURT: All right. Mr.
21 Hendrix, if you'll come forward.

22 (WITNESS TAKES STAND)

23 AARON HENDRIX, having been duly sworn to
24 tell the truth, and nothing but the truth,
25 testified as follows:

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TESTIMONY OF DEFENDANT HENDRIX - DIRECT BY MR. WARDER

1 DIRECT EXAMINATION

2 BY MR. WARDER:

3 Q. Aaron, how long have you lived in
4 Pickens County?

5 A. I've lived in Pickens all my life.

6 Q. Okay.

7 A. Twenty-eight years.

8 Q. And did you go to high school in
9 Pickens County?

10 A. Yes, sir, I did.

11 Q. Did you meet Stacy's sister there?

12 A. I did.

13 Q. And did you and her become friends?

14 A. Yes, sir.

15 Q. Did there come a time when you were
16 introduced to Stacy?

17 A. Yes, sir.

18 Q. And did you two become friends too?

19 A. Yes, sir, we did.

20 Q. Was there a time that you moved in
21 with Stacy?

22 A. There was a point in time, yes.

23 Q. And was that after you'd dated for
24 some period of time?

25 A. Yes. We dated roughly a month

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1 before I actually moved in.

2 Q. Okay. Did you become acquainted
3 with her children when you'd see her?

4 A. Yes, I did.

5 Q. Did you do things with her children?

6 A. I did.

7 Q. Was Stacy's life mostly devoted to
8 her children? Did she spend most of her time
9 with them?

10 A. She did, actually. Yes.

11 Q. When you would see her would you
12 have to have the children around?

13 A. Repeat that again.

14 Q. Were the children around-when you
15 were dating?

16 A. Oh, yes. Yes, they were.

17 Q. What type of things would you do?

18 A. Watch TV, play games. If they were
19 just coming home from school they did home-
20 work. After that, we would draw pictures
21 together. The whole -- family activities.

22 Q. Okay. And you were working then?

23 A. On and off. I stayed employed most
24 of the time.

25 Q. And did you work the same hours as

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1 Stacy or did you work different hours?

2 A. Mostly different hours. Sometimes
3 we would have worked the same hours and like
4 y'all heard before have to have someone else
5 come watch the kids.

6 Q. And would there be times you'd watch
7 the children?

8 A. Yes, there was.

9 Q. Did you get along with the children?

10 A. I did, very well.

11 Q. Did you introduce the children to
12 your family?

13 A. I did.

14 Q. And did they meet your family?

15 A. Yes, sir.

16 Q. Did you ever take them to your
17 family's house?

18 A. I did.

19 Q. And what period of time did you live
20 there?

21 A. At Stacy's house?

22 Q. Yes, sir.

23 A. It was some time, January/February
24 2012 to December 2012.

25 Q. Okay. So you lived there from the

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1 early part of 2012 up until December of 2012?

2 A. Yes, sir.

3 Q. And during the period of time that
4 you were there, were there any drugs in the
5 house?

6 A. No, sir.

7 Q. Was anybody doing drugs there?

8 A. No, sir.

9 Q. Were you using drugs?

10 A. No, sir.

11 Q. Was Stacy using drugs?

12 A. No, sir.

13 Q. There's been discussion of sexual
14 conduct, that the children were somehow
15 sexually assaulted. Did that happen?

16 A. No. No, sir.

17 Q. Have you ever been in the bathtub
18 with the children?

19 A. Have not.

20 Q. Have you ever been naked in the
21 bedroom with the children?

22 A. No.

23 Q. Have you ever seen anyone else, any
24 men, naked in the house with the children?

25 A. No, not at all.

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1 Q. Were there any other couples that
2 were having sex or anything?

3 A. No, sir.

4 Q. Did you and Stacy have sex in front
5 of the children?

6 A. No, sir.

7 Q. Was there anything that was
8 inappropriate at the house when you were
9 there?

10 A. Not to my knowledge, no.

11 Q. Okay. Was there food in the house?

12 A. Yes, there was always food.

13 Q. Okay. Did somebody cook for the
14 children?

15 A. Yes, either me or Stacy; or if Mark
16 was there, he would cook.

17 Q. Okay. Did you bring the food home
18 or get food out often?

19 A. Yeah. Sometimes, yeah. Go to
20 McDonald's. And sometimes I would take the
21 kids to McDonald's while Stacy was still
22 working. We would eat up there, play out on
23 the playground.

24 Q. Did there come a time you moved out?

25 A. Yes, sir.

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1 Q. Did you want to move or did you want
2 the relationship to end?

3 A. I didn't want it to end but by that
4 time, Stacy and I had come to a mutual
5 agreement that it was not working for us.

6 Q. Were you in love with Stacy?

7 A. I was.

8 Q. Would you have done anything to hurt
9 her family?

10 A. Never.

11 Q. Did you keep in touch with Stacy
12 after you split up?

13 A. I kept in touch with her ,I did
14 attempt to keep talking to her.

15 Q. Did her situation deteriorate?

16 A. Repeat that? Say that again.

17 Q. Did her home and problems -- did her
18 home deteriorate?

19 A. Not that I know of. Not that I'd
20 seen.

21 Q. Okay. You know whether her lights
22 got shut off?

23 A. There was always power, always
24 water, always food.

25 Q. But after you left do you know what

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TESTIMONY OF DEFENDANT HENDRIX - CROSS EXAM BY SOLICITOR

1 happened?

2 A. I don't.

3 Q. You don't know whether she moved
4 somebody else in or if she lived with anybody
5 else or not?

6 A. I don't know, no, sir.

7 Q. Did the events the children
8 described, did that take place?

9 A. No, sir, it did not.

10 Q. Thank you. You answer any questions
11 the State may have.

12 THE COURT: Mr. Jones.

13 SOLICITOR JONES: Thank you, Your
14 Honor.

15 CROSS-EXAMINATION

16 BY SOLICITOR JONES:

17 Q. Do you remember talking to Marvin
18 Nix the investigator?

19 A. Yes, sir, I do.

20 Q. Do you remember telling him that you
21 moved into Stacy's house around December of
22 2011?

23 A. It was around that time period.

24 Q. And you dated Stacy for about a
25 month before you moved in?

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TESTIMONY OF DEFENDANT HENDRIX - CROSS EXAM BY SOLICITOR

1 A. Yes, sir.

2 Q. Do you remember telling Marvin Nix
3 about living at Stacy's house and it got kind
4 of weird when the biological father Mark
5 stayed there?

6 A. I remember saying that, yes.

7 Q. And you testified you know Jessie
8 Riden is Stacy's sister?

9 A. Yes, sir.

10 Q. Do you remember telling Marvin that
11 Jessie stayed there on occasion with you and
12 Stacy?

13 A. She may have spent a night or two
14 when her and her boyfriend weren't getting
15 along.

16 Q. Do you remember when Marvin asked
17 where Jessie lived that you told him at some
18 motel?

19 A. Jessie? No, she stayed, I believe,
20 two houses from Stacy and I.

21 Q. Do you remember telling Marvin Nix
22 that Jessie was kind of crazy?

23 A. To put lightly, yes.

24 Q. At any point when you lived at
25 Stacy's house, did you consume illegal drugs?

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TESTIMONY OF DEFENDANT HENDRIX - CROSS EXAM BY SOLICITOR

1 A. No, I did not.

2 Q. At any point when you lived at
3 Stacy's house, did you ever use methampheta-
4 mine?

5 A. No, sir.

6 Q. Do you remember telling Marvin that
7 Jessie, Stacy's sister lies about everything?

8 A. I'm not quite sure of everything,
9 but she does lie a lot; yes.

10 Q. Okay. Do you remember telling
11 Marvin that Jennifer, Stacy's other sister,
12 would come over and bring guys?

13 A. Yeah, maybe a friend or two here and
14 there.

15 Q. And when Marvin asked you would they
16 be having sex in the open, you said that
17 could have just been Jennifer being Jennifer?

18 A. I don't remember that.

19 Q. Okay.

20 SOLICITOR JONES: I beg the Court's
21 indulgence.

22 CROSS-EXAMINATION CONTINUED

23 BY SOLICITOR JONES:

24 Q. Do you remember if Marvin asked you
25 about Jennifer not wearing a shirt. And you

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TESTIMONY OF DEFENDANT HENDRIX - CROSS EXAM BY MR. HORLBECK

1 responded that would just be Jennifer
2 being Jennifer?

3 A. Possibly, yes.

4 SOLICITOR JONES: No further
5 questions, Your Honor.

6 THE COURT: Any redirect?

7 MS. HORLBECK: I haven't had a
8 chance to ask any questions.

9 THE COURT: I apologize.

10 MS. HORLBECK: That's all right,
11 Judge. This will be brief.

12 CROSS-EXAMINATION

13 BY MS. HORLBECK:

14 Q. I couldn't hear your response. Do
15 you recall telling Officer Nix that Jessie
16 acted kind of crazy?

17 A. Yes.

18 Q. All right. All right. So when you
19 said crazy, do you mean like sexually-abused
20 kids crazy?

21 A. No, ma'am.

22 Q. Do you mean like kiss your sisters
23 on the lips crazy?

24 A. No, ma'am.

25 Q. Do you mean like roll around naked

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1 or in various states of nudity or undress
2 with your sisters and with a bunch of guys in
3 the bed crazy?

4 A. No, ma'am.

5 MS. HORLBECK: That's all I have.
6 Thank you.

7 THE COURT: Now any redirect?

8 MR. WARDER: No, Your Honor.

9 THE COURT: Thank you. You may
10 step down.

11 (WITNESS STEPS DOWN)

12 THE COURT: Do you have any more
13 witnesses?

14 MR. WARDER: Yes, sir. We'd call
15 Annie Queen.

16 THE COURT: All right.

17 (WITNESS TAKES STAND)

18 LUANNE QUEEN, having been duly sworn to
19 tell the truth, and nothing but the truth,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. WARDER:

23 Q. Can you tell us how you fit in this?
24 Do you know Aaron Hendrix?

25 A. He's my son.

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1 Q. Where do you live at?

2 A. I live in Dacusville.

3 Q. Is that where you lived at in 2011?

4 A. Yes.

5 Q. Did you meet the children?

6 A. Yes.

7 Q. And how did you meet them?

8 A. My son was involved in a relation-
9 ship with their mother.

10 Q. Okay. And did he bring them to your
11 house or did you go over there. How did you
12 know them.

13 A. He brought them to my house about
14 four or five times during the time that he
15 was in the relationship with their mother.

16 Q. Did she come with him on those
17 occasions?

18 A. The first I met them she was with
19 them.

20 Q. Okay. And that was then followed by
21 two or three occasions that she wasn't there?

22 A. Yes.

23 Q. Did the children seem happy, well
24 cared for?

25 A. Yes.

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1 Q. Did he look after them?

2 A. Yes.

3 Q. Did they seem to be appropriately
4 nourished?

5 A. Yes.

6 Q. Did you ever go over and visit at
7 their house?

8 A. I went to their house twice, not to
9 visit but just to pick Aaron up or pick them
10 up to go somewhere.

11 Q. Was the house in an organized, clean
12 fashion?

13 A. Yes.

14 Q. Did it look appropriate for the
15 children?

16 A. Yes.

17 Q. And did you see Stacy with the
18 children?

19 A. I've only seen her with the children
20 probably two times.

21 Q. Okay. And was everything proper on
22 those occasions?

23 SOLICITOR JONES: Objection, Your
24 Honor. What does "proper" mean?

25 MR. WARDER: Proper ---

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1 THE COURT: Rephrase your question.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. WARDER:

4 Q. Did the children seem to be well
5 nourished on those occasions?

6 A. Yes.

7 Q. And did she seem to be attentive?

8 A. Yes.

9 Q. And do you know when your son broke
10 up with Stacy?

11 A. Oh, I think it was right before
12 Christmas of 2012.

13 Q. Okay. Did he move back in with you
14 when he moved out down there?

15 A. Yes.

16 Q. Okay. And they haven't been back
17 together since then?

18 A. No.

19 Q. Thank you. Answer any questions...

20 THE COURT: Any cross?

21 SOLICITOR JONES: Just briefly, Your
22 Honor.

23 CROSS-EXAMINATION

24 BY SOLICITOR JONES:

25 Q. Ms. Queen, you say you're Mr.

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TESTIMONY OF LUANNE QUEEN - CROSS EXAM BY MS. HORLBECK

1 Hendrix's mother?

2 A. Yes.

3 Q. Do you love your son?

4 A. Oh, yes.

5 SOLICITOR JONES: No further
6 questions, Your Honor.

7 MS. HORLBECK: Just briefly.

8 CROSS-EXAMINATION

9 BY MS. HORLBECK:

10 Q. Is Ms. McQueen?

11 A. Queen?

12 Q. Queen. So no Mc, just Queen.

13 A. (Affirmative nod)

14 Q. Okay. All right. Ms. Queen, just a
15 few questions. On the occasions that you
16 were with the children or that you saw the
17 children, did you notice any bruises or like
18 knife cuts on the children?

19 A. No.

20 Q. All right. Any signs of abuse?

21 A. No.

22 Q. Did you notice any cuts, bruises,
23 scratches on their faces?

24 A. No.

25 Q. All right.

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1 MS. HORLBECK: That's all I have.
2 Thank you.

3 THE COURT: Any redirect?

4 MR. WARDER: No redirect, Your
5 Honor.

6 THE COURT: All right. Thank you.

7 (WITNESS STEPS DOWN)

8 THE COURT: Anything further, Mr.
9 Warder?

10 MR. WARDER: No, sir.

11 THE COURT: You plan any
12 additional?

13 SOLICITOR JONES: Your Honor, I do
14 have one rebuttal witness.

15 THE COURT: All right. Ladies and
16 gentlemen, I'm going to send you back just
17 briefly. And then we'll come back in.

18 Again, do not deliberate about the
19 case. No discussion whatsoever about it.
20 Thank you.

21 (JURY OUT @ 12:25 P.M.)

22 THE COURT: All right. You say
23 you have a short rebuttal?

24 SOLICITOR JONES: Yes, Your Honor,
25 my questions ---

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1 THE COURT: You may not have said
2 that or not, but that was what ---

3 SOLICITOR JONES: Yes, sir.

4 THE COURT: All right. Are you
5 ready to proceed then?

6 SOLICITOR JONES: Yes, sir, Your
7 Honor.

8 THE COURT: Okay. Anything before
9 we hear that witness?

10 SOLICITOR JONES: Nothing from the
11 State, Your Honor.

12 THE COURT: Anything from the
13 Defendants?

14 MS. HORLBECK: No, Your Honor.

15 MR. WARDER: (No verbal response).

16 THE COURT: Our goal is to let's
17 get through this witness and then we'll have
18 a brief discussion about verdict forms and
19 charges and then I'll work that up and send
20 that to you and you work it over lunch.
21 All right. If they're ready.

22 BAILIFF: Sir?

23 THE COURT: If they're ready bring
24 them on in.

25 (JURY IN AT 12:30 P.M.)

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1 THE COURT: All right. And at this
2 point the State has a rebuttal witness. Mr.
3 Jones?

4 SOLICITOR JONES: Thank you, Your
5 Honor. The State calls Mr. Mark Riden.

6 (WITNESS TAKES STAND)

7 MARK RIDEN, having been duly sworn to
8 tell the truth, and nothing but the truth,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR JONES:

12 Q. Mr. Riden, how are you related to
13 Stacy Riden?

14 A. I'm her dad.

15 Q. Do you have any other children?

16 A. Yes. Jennifer, Jessie, Courtney and
17 K. ; all daughters.

18 Q. And where do you currently work?

19 A. All in One Insulation company.

20 Q. How long you been working there?

21 A. Ten years.

22 Q. Do you know who Mark Lusk is?

23 A. Yes.

24 Q. Who is that?

25 A. He's the father of my grandchildren.

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1 He was with Stacy for three years. Three of
2 my grandchildren: Younger Sister Brother and Older Sister

3 Q. And where do Older Sister Brother and
4 Younger Sister where do they live now?

5 A. They live with me and my wife, Lisa.

6 Q. How long have they been living with
7 you?

8 A. I'm going to say between two and a
9 half to three years.

10 Q. Do you remember about when they
11 moved in with you?

12 A. No, I don't. I'm not good with time
13 frames but it's been probably two and a half
14 years or three years.

15 Q. Was it around March of 2013?

16 MR. WARDER: Objection. He's
17 leading, Your Honor.

18 THE COURT: Yeah. Rephrase your
19 question.

20 SOLICITOR JONES: Yes, sir.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR JONES:

23 Q. When the children started staying
24 with you for this long period of time,
25 because they've been with you a long time,

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1 how did that come about? How did the
2 children get from Stacy's house to your
3 house?

4 A. Well, one day Mark Lusk, the father
5 of the children, called me and said, 'Mark,
6 would you please go get the children.
7 There's no food in the house. They're not
8 eating. And there's just, you know, several
9 people are coming in and out. And I think
10 they're going to be hurt or they're going to
11 starve to death if you don't get them.'

12 Q. And what did you do?

13 A. I talked to my wife, Lisa. I asked
14 her if she'd go over and get them. And she
15 said, yes. And we got them.

16 Q. How old are you?

17 A. Fifty-two.

18 Q. Fifty-two. And how old is your
19 oldest child?

20 A. Thirty-two, thirty-one, she was born
21 in '85.

22 Q. And what about your youngest child?

23 A. She's eleven. K. .

24 Q. And after Stacy was charged with
25 these crimes, did you ever talk to her about

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1 it?

2 A. Yes.

3 Q. Did she ever tell you anything
4 specifically about these allegations?

5 A. She said they weren't true.

6 Q. Did she elaborate on that at all?

7 A. The only thing she would say is,
8 "I had nothing to do with this, unless drugs
9 influenced me somehow." And she was saddened
10 that she missed the warning signs of the
11 abuse from the other party.

12 Q. So she told you that if she had
13 anything to do with it, drugs influenced her?

14 A. Yes.

15 SOLICITOR JONES: I beg the Court's
16 indulgence. No further questions, Your
17 Honor.

18 THE COURT: Cross-examination?

19 CROSS-EXAMINATION

20 BY MS. HORLBECK:

21 Q. All right. Mr. Riden, you're
22 related to Stacy Riden in that you're her
23 father, her biological father; is that
24 correct?

25 A. That's true.

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1 Q. All right. And you're also the
2 biological father of Jessie, Jennifer, and --
3 I don't remember the ---

4 A. Courtney and K. .

5 Q. And then you -- and it's a little
6 bit hard to hear sometimes.

7 A. Okay.

8 Q. So if I mistake something, correct
9 me. You also said that you have a -- your
10 youngest child is how old?

11 A. Eleven.

12 Q. Oh, okay. So there is another child
13 that you have?

14 A. Well, she's not in the home. She's
15 with her mother.

16 Q. Okay. All right. All right, then.
17 And you're fifty-two years old now?

18 A. That's correct.

19 Q. All right. Okay. And you testified
20 that you spoke to Stacy after she'd been
21 charged?

22 A. Yes.

23 Q. All right. And she was saddened
24 that she missed the warning signs of abuse by
25 the other party?

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1 A. Yeah.

2 Q. All right. The other party being?

3 A. Aaron Hendrix.

4 Q. All right.

5 MS. HORLBECK: That's all I have.

6 Thank you.

7 THE COURT: Mr. Warder?

8 MR. WARDER: I have no questions.

9 THE COURT: All right. Any
10 redirect?

11 SOLICITOR JONES: Just briefly, Your
12 Honor.

13 REDIRECT EXAMINATION

14 BY SOLICITOR JONES:

15 Q. After you got the children, did
16 Stacy ever indicate to you that she wanted
17 custody back?

18 A. Well, eventually ---

19 MS. HORLBECK: Objection ---

20 MR. WARDER: Objection.

21 MS. HORLBECK: --- relevance.

22 THE COURT: Yeah, I don't believe
23 that was -- that's not proper redirect. So
24 I'm going to sustain that.

25 SOLICITOR JONES: Yes, sir, Your

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1 Honor. No further questions.

2 THE COURT: All right. You may
3 step down.

4 (WITNESS STEPS DOWN)

5 THE COURT: Is that the extent?

6 SOLICITOR JONES: That's the extent,
7 Your Honor.

8 THE COURT: All right. All right.
9 Ladies and gentlemen, we have concluded the
10 part of the trial meaning that all of the
11 evidence has been introduced and all the
12 testimony.

13 That still doesn't mean you can
14 start deliberations. You can't. That will
15 come after closing arguments and after I have
16 charged you on the law.

17 So what I'm going to do now is let
18 you go to lunch. It is now 12:30. I'm going
19 to ask that you be back in your jury room at
20 2:00. At 2:00 we'll have you come out and
21 we'll do closing argument and I will charge
22 you on the law that applies to the case.

23 Let me again give you the four
24 warnings:

25 You do not discuss this case among

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1 yourselves or with anybody. That's very
2 important.

3 Also, don't do any independent
4 research or anything like because the only
5 information you're supposed to be considering
6 is what you get in here, you hear from the
7 testimony that has been admitted or the law
8 that I charge you.

9 Third, if there's any media
10 coverage, social media, TV coverage,
11 newspaper, anything like that, then you're
12 not to consider that in any way. Please do
13 not look at that or pay any attention to
14 that.

15 Lastly, if you should be contacted
16 by anyone, please notify the bailiff.

17 Otherwise, please have a good lunch
18 and be back in your jury room at 2:00 for the
19 final stage.

20 (JURY OUT @ 12:35 P.M.)

21 THE COURT: All right. Let me
22 just talk with the attorneys just briefly in
23 the back to discuss the jury charges and
24 verdict forms.

25 (LUNCH RECESS)

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1 (DEFENDANT RIDEN PRESENT)

2 (DEFENDANT HENDRIX PRESENT)

3 THE COURT: All right. I have e-
4 mailed the -- y'all should have both gotten
5 the verdict form and the charges. And we'll
6 first talk about -- if you'll pull the
7 verdict form up. I know you had issue with
8 one of those?

9 SOLICITOR JONES: Yes, Your Honor.
10 I just had an issue with the -- for the
11 criminal sexual conduct with a minor first,
12 I would ask that the form just be for the
13 entering of Guilty or Not Guilty. I think
14 the follow-up question as to what specific-
15 ally they find is really unnecessary.

16 THE COURT: Well, the statute
17 specifically requires it.

18 SOLICITOR JONES: Requires ---

19 THE COURT: Yeah. Where is the
20 statute? Again, that's why -- it says that
21 the judge or the jury must make a specific --
22 as to what's specific. And I think it has to
23 do something with if they're ever charged
24 later, if they're entitled to seek the death
25 penalty. Let me look that up as to why they

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1 require that.

2 SOLICITOR JONES: Okay. Well, Your
3 Honor, I wasn't aware of that and I wasn't
4 aware that the statute required it, but you
5 obviously know more than I do.

6 THE COURT: No, I just -- hey, I
7 just happened to read it. The form that we
8 got had those questions on there. Let me
9 pull that.

10 There's a list of them. And I think
11 that's -- all right. If you look at 16-3-
12 655, it says a person convicted of a
13 violation of (a)(1), which is the (a)(1)(a),
14 the sexual battery must be imprisoned
15 etcetera.

16 In the case of -- in case of a
17 person convicted at trial for violation of
18 this section, the judge or jury must
19 designate as part of the verdict whether the
20 conduct that constitutes sexual battery
21 involved sexual or anal intercourse by a
22 person or intrusion by an object.

23 SOLICITOR JONES: Okay.

24 THE COURT: Actually, we looked it
25 up as to why -- I mean, why would it --

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1 because it doesn't affect the sentence.

2 SOLICITOR JONES: Right.

3 THE COURT: And I can't imagine it
4 would affect the amount of time that you
5 would spend in jail because as much as you
6 can anyway. But it has something to do,
7 according to our research is if they ever get
8 charged again and because of this finding,
9 they can be subject to the death penalty or
10 something, or life in prison, life without
11 parole.

12 SOLICITOR JONES: Well, I understand
13 your ruling then, Your Honor.

14 MS. HORLBECK: But there's not
15 going to be anything about the death penalty
16 on ---

17 THE COURT: No, no. The verdict
18 form is -- did you get a copy of the verdict
19 form?

20 MS. HORLBECK: I did, yes.

21 THE COURT: All right. So other
22 than that, any objection to the -- anything
23 else other than that, on the verdict form?

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

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1 THE COURT: All right. We'll go
2 ahead and print the form. All right.
3 Everybody have a chance to review the jury
4 charge?

5 SOLICITOR JONES: Yes, Your Honor.

6 THE COURT: Any objections or
7 notes or questions or any discussions about
8 the jury charge?

9 MS. HORLBECK: None from Ms.
10 Riden.

11 MR. WARDER: No, Your Honor.

12 SOLICITOR JONES: Nothing from the
13 State, Your Honor.

14 THE COURT: I'll let her print
15 those so that everybody has a verdict form
16 before the jury comes in. Because what I do
17 is give the foreperson verdict forms.
18 Are all the jurors here?

19 BAILIFF: Yes, sir.

20 THE COURT: All right. Are we
21 ready to bring the jury? Ready for closing
22 argument? (No verbal response). Anything
23 else from the State before we bring the jury
24 in?

25 SOLICITOR JONES: Nothing else from

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1 the State, Your Honor.

2 THE COURT: Anything else from
3 Defendant Riden?

4 MS. HORLBECK: No, Judge, just
5 renew all previous Motions and objections.

6 THE COURT: All right.

7 MR. WARDER: Nothing further. I
8 also renew all Motions.

9 THE COURT: All right. And I'll
10 renew my decision to deny them. All right.
11 If they're ready, bring them in.

12 BAILIFF: Yes, sir.

13 (JURY IN @ 2:05 P.M.)

14 THE COURT: Ladies and gentlemen,
15 thank you. I hope everybody had a pleasant
16 lunch. We're now to the final phase of the
17 trial, what we'll be closing arguments by the
18 attorneys.

19 Those are arguments or summaries and
20 are not to be considered evidence. The
21 evidence is what you heard here and you may
22 make a determination of what that evidence to
23 be.

24 This will be a summary provided by
25 the attorneys. And then when they are

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1 through, depending on how long it is, we may
2 take, we may just take a stretch break and
3 then I will charge you the law, what the law
4 will be in the case.

5 At that point after I've charges you
6 as to the law in the case, once I confirm
7 that there are no additions or revisions, you
8 will finally begin deliberations.

9 I ask at this point that you pay very
10 close attention to what the attorneys have to
11 say and then to what I have to say as far as
12 the law in the case.

13 All right. Ms. Horlbeck?

14 CLOSING STATEMENT

15 BY MS. HORLBECK:

16 Good afternoon, ladies and gentle-
17 men. I've had my electricity turned off and
18 it's not something that happened when I was
19 in my twenties. I am, I guess, one of those
20 women that got married later in my life. So
21 it actually happened when I first starting to
22 see my husband. I'm not a spring chicken, so
23 it's probably happened more recently than I
24 even want or care to reveal. I don't know
25 why I forgot to pay it. I just have no clue.

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1 But it happened.

2 My point is, is that all of us have
3 come into this courtroom. We all come in
4 with our blemishes and our skeletons and our
5 mistakes and the stupid things that we do and
6 the stupid people that we trust.

7 But this case is not about getting
8 your electricity turned off. It's not about
9 being a single mother. It's not about having
10 a hard time making your financial ends meet.

11 And it's not about drug use that
12 happened in 2013. The indictments -- the
13 dates on this copy of the indictment are from
14 2011, December 2011 to December 2012. Those
15 are the dates. It's not about anything that
16 happens in 2013.

17 This case is about, ladies and
18 gentlemen, a well-meaning, loving family that
19 wants these children, that disagree with how
20 Ms. Riden lives her life. And they're
21 willing to use the criminal justice system to
22 wall her off from her children.

23 This is a wonderful system we have
24 in this country. And there are some very,
25 very fundamental principles the Judge has

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1 already discussed with already in this case.
2 And Judge Gravely will talk about it some
3 more, those fundamental principles. But
4 they're so important I'm going to just
5 briefly touch on them again.

6 A major principle in our criminal
7 justice system is the presumption of
8 innocence. I told you during my opening
9 statement that presumption of innocence
10 covers you like a cloak. It covers everyone
11 that stands on trial, whether you have
12 blemishes, whether you have skeletons,
13 whether you're a single mother, whether you
14 began to use drugs after your children went
15 to live with their grandparents, whether or
16 not you had your electricity turned off.
17 You're covered by the presumption of
18 innocence, and it does not leave you.

19 It doesn't leave when you all go
20 and have lunch or when you go take a break or
21 when we go and argue Motions. It covers and
22 remains covered today.

23 The only thing that removes the
24 presumption of innocence is proof of guilt
25 beyond a reasonable doubt. Judge Gravely

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1 will instruct you about the meaning of
2 reasonable doubt. But there's a number of
3 ways to think about reasonable doubt. A
4 reasonable doubt is just a doubt that you've
5 got a reason for having.

6 A reasonable doubt is a feeling --
7 gosh, I just wish the government had more. I
8 wish they had more evidence. I wish they had
9 more to tell me. It's the feeling, 'gosh, I
10 just don't know that the government's proven
11 their case.' It's the feeling that Ms. Riden
12 may not be guilty.

13 Judge Gravely will instruct you
14 that if you have any doubts about whether or
15 not Ms. Riden is guilty, you must resolve
16 them in her favor and give her the benefit of
17 the doubt. There are many reasons -- well,
18 for that.

19 My final definition of reasonable
20 doubt is a reason that you have for hesitat-
21 ing to act or in this matter, hesitating to
22 convict.

23 There are many reasons to hesitate
24 to convict in this case. I don't have time
25 to go over all of them, but I'm going to

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1 touch the highlights. But under what you're
2 entitled to consider the underlying them of
3 custody in this case and the ensuing effort
4 to separate Stacy from her children. You're
5 entitled to consider all of that.

6 Thank goodness there are families
7 that are there when other families need help.
8 Please don't misunderstand me. I'm not
9 criticizing this family. Thank goodness they
10 were there to take these children when Stacy
11 was at a low point in her life and needed
12 help with these children.

13 But there's an underlying theme of
14 custody that runs through this case and it
15 started right at the beginning when the
16 police were first called. There was a
17 discussion that this family did not have
18 court-Ordered custody of these children.
19 There was advice from the police, from
20 Officer Nix to contact DSS, to contact an
21 attorney. So there's no mistaking there's
22 that underlying theme of an effort to
23 separate Stacy from her children.

24 There's no evidence of drug abuse
25 from 2011 to 2012. And I'd say that I

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1 understand what the children have said.
2 But there's no evidence from other witnesses.

3 You heard Stacy's own father take
4 the stand. He didn't testify about any
5 observations that he'd made about Stacy being
6 under the influence in 2011, 2012.

7 You have heard no evidence that
8 Stacy was found in possession of any drugs or
9 drug paraphernalia from 2011 to 2012.
10 There's no convictions involving drugs from
11 2000[sic] and 2012.

12 Indeed, you've heard from Ms. Riden
13 herself who testified her drug use started
14 and got -- or it escalated after the children
15 left her and went to live with their grand-
16 parents. So this started as a result of the
17 children leaving.

18 There's no evidence of drug abuse
19 in 2011. She was very candid, Ms. Riden was,
20 about things going downhill after the time
21 period that is laid out in these indictments.

22 The children's father testified. I
23 think he was -- it was almost memorable when
24 he said "Stacy's the best mother in the
25 world. You won't find a better mother."

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1 Ms. Queen saw Stacy during that time
2 period that's listed in our indictments. She
3 didn't mention any concerns that she had
4 about Stacy being under the influence. And
5 she'd seen her and the children. Didn't have
6 any concerns about Stacy, didn't have any
7 concerns about the way that Stacy's home was
8 running. Didn't have any concerns with the
9 children. And Ms. Queen did not observe any
10 cuts on the children's arms that could have
11 resulted from a knife cut. She did not
12 observe any bruises or cuts or scrapes on any
13 of the children's faces that I would assume
14 you would see after being hit in the head
15 with a helmet. None of those things were
16 observed. These are all things that have
17 been brought up in an effort to separate
18 Stacy from her children.

19 You're entitled to consider the
20 testimony of the children in this case.

21 Let's start with ^{Younger Sister} She, when
22 she took the stand and testified, she was age
23 five. You'll have to do the math. It
24 sounded as if she was probably between twelve
25 months and eighteen months during the time

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1 period of 2011, 2012. You're entitled to
2 wonder is a child of that age able to
3 remember anything?

4 I asked her very clearly to
5 describe how many rooms there were in her
6 mom's house when she lived there. She said
7 zero. I asked her also to tell me about the
8 bathrooms and how many bathrooms that there
9 were and she said zero. That is an indica-
10 tion of this child's lack of memory. If she
11 is unable to remember the place where she
12 lives, does that call into question any of
13 the things that she testified to?

14 And she didn't testify to much. She
15 was not able to provide any detail. She was
16 not able to say when. She was not able to
17 describe any of the observations that a
18 person -- things that a person would have
19 observed if they'd truly been there. I'm not
20 trying to say that the child is lying. She's
21 tiny, she was very young. You are entitled
22 to take all of that into consideration and
23 her age into consideration as you weight the
24 evidence in this case.

25 You're also entitled to consider

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1 the evolving story that we've heard from the
2 other two children, Brother and Older Sister

3 The State's own expert, Ms.
4 Carlberg, testified very clearly about
5 coaching and the things that she was looking
6 for to determine if coaching had occurred.
7 She testified that she's looking for
8 consistency, internal consistency in the
9 story over time. She was looking for
10 consistency in the who, the what, and the
11 when and the where. Ladies and gentlemen, I
12 submit to you there's a lack of consistency
13 in those aspects of their stories.

14 The who changed dramatically.
15 When you compare the testimony of the
16 children in the forensic interviews that we
17 watched on the screen, those children all
18 described that their father was present and
19 watching and laughing. That their aunts,
20 Jennifer and Jessie were present and involved
21 and rolling around in various states of
22 undress, with various people that -- various
23 adults that allegedly lived in the house at
24 the time.

25 But as the children took the stand

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1 they testified dad wasn't there. So our dad,
2 Mark Lusk, was not there. Jennifer and
3 Jessie weren't there.

4 There's a lack of consistency in
5 the who in this case and you're entitled to
6 consider that. There's an utter absence of
7 evidence of evidence about the when. There's
8 absolute -- none of the children were able to
9 testify about when these things happened and
10 that's important.

11 There's also a lack of consistency
12 in the actual details. Details had changed.
13 These things are important because the
14 State's own expert said that they were.
15 She's looking for internal consistency over
16 time. She said that it's difficult for
17 children to maintain a lie, that the children
18 must know the subject matter and they have to
19 be consistent with the who, what, when and
20 where. If they're not consistent with the
21 who, what, when and where, that's evidence of
22 coaching.

23 Not coaching by Stacy who's had
24 absolutely no contact with these children or
25 not much since they went to live with their

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1 grandparents.

2 Ms. Carlberg also testified that as
3 a child gets older the child should be able
4 to provide more detail, not less. You
5 compare those videos that we saw yesterday
6 and compare them, those videos to the
7 testimony that we heard on the stand,
8 drastically different. A drastic change in
9 the who, the what, and the where and in
10 absence of core contextual detail these
11 experts are looking for. And when they see
12 these things are missing, that's evidence of
13 coaching. It's out of their own expert's
14 mouth.

15 The details about penetration had
16 changed. There was no detail about any of
17 that on the stand.

18 There were no details about the
19 smell.

20 There were no details about what
21 they saw. There was no detail about anything
22 that you see or genital on adult genitalia,
23 which would include hair. And there was
24 absolutely no testimony about any child
25 seeing anything coming out of adult

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1 genitalia.

2 That's important. When a child's
3 being coached, it's hard to give details.
4 And as the child gets older, they should be
5 able to give more detail.

6 Other evidence of coaching. I
7 don't know if you caught it -- well, I asked
8 Older Sister when she took the stand about a
9 situation with the Barbie dolls. And she
10 flatly denied that any Barbie dolls had been
11 positioned at all, she denied that
12 completely. However, in her videotaped
13 interview when Ms. Shauna brought in the
14 anatomical dolls, Older Sister specifically said,
15 'Oh, my grandmother has Barbies and we got
16 them and positioned them. We've got Barbies
17 at grandma's house. We got them and
18 positioned the boy Barbie so he was lying
19 down. The girl was on her knees. And then
20 grandma asked us if this happened.'

21 That's evidence of coaching. And
22 you're entitled to consider that and also ask
23 yourselves why this child is denying that
24 this happened. This child is on the video-
25 tape saying that this happened. Yesterday

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1 when she testified it was as if it had never
2 happened at all, but it did. And we know it
3 happened because it's on the video. It's
4 important for you to consider that. It's
5 evidence of coaching.

6 Also on the video Older Sister says "it
7 is going to be a long time before we see our
8 mother again." How would that child know
9 that? How would that child know that? Why
10 would this child have any idea about when she
11 might see her mother again unless she's been
12 able to talk about it? No one knows why that
13 -- y'all are just going to have to consider
14 that, but you're entitled to wonder how did
15 this child get this information? And who did
16 this child get this information from?

17 In the videos, my client Stacy, the
18 children called her mom or mommy or mama.
19 When these children took the stand, Stacy
20 wasn't mom anymore. She was "Stacy." You're
21 entitled to consider that and wonder where
22 these children are learning to change her
23 name. It's evidence of potential coaching
24 and I'd just ask y'all to consider that.

25 Recall the physical exams that were

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1 performed by the doctor who performed them.
2 I can't think of her name. It might have
3 been Bradshaw but -- the name escapes me.
4 But you all saw her testify. She testified
5 that she examined all three children. This
6 happened, the dates of the examinations were
7 March the 26th, 2014.

8 As part of all of the examinations
9 she does a head to toe physical exam of the
10 children. And she said that she did it
11 because it's important to know if there's any
12 injuries or scrapes or scars or healing scars
13 or nothing on the child.

14 Also, she testified that as part of
15 the exam they use what's known as a colpo-
16 scope. And that's a machine that will
17 magnify the genital area so that they can
18 determine if there are any scars or wounds or
19 tears or rips or anything in various stages
20 of healing.

21 It's important to note that in
22 Brother's exam, you can consider his testimony
23 when he said he'd been cut with a knife and
24 kicked in the genitalia and also whacked in
25 the head, in the face, with a helmet. Yet

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1 this doctor could find none of these things.
2 There was no testimony that your skin heals
3 real quickly and doesn't scar. There were no
4 knife scars on Brother. There were no scars
5 where he had been hit in the head with a
6 helmet. No scars of any kind on this child.
7 And absolutely no damage to his genital area
8 after it was blown up and magnified on the
9 colposcope. No sign of any damage as a
10 result of any kicking that Brother alleged when
11 he was on the stand.

12 The same is true for Older Sister; a
13 completely normal genital exam, complete
14 normal physical exam -- for both children.

15 Younger Sister she had evidence of labial
16 adhesion. I just want to remind you, and I
17 know y'all heard this, but that is evidence
18 of inflammation. The doctor testified that
19 she was not able to testify about the
20 etiology of the inflammation or the labial
21 adhesion. I looked up "etiology" because I
22 just don't know what it means and it means
23 cause. So what she's saying is she's not
24 able to determine the cause of that
25 inflammation. She said it can be a result of

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1 poor toileting hygiene, not wiping after
2 pottyng. It can also be a result of non-
3 accidental and accidental trauma. She, this
4 doctor, was not able to say that Younger Sister
5 physical exam or that that labial adhesion
6 was a result of any sort of abuse. So I want
7 to remind that to y'all.

8 She also discovered cavities. I'm
9 not a dentist but you're certainly entitled
10 to wonder when those cavities started in the
11 child's mouth. At the time of the examina-
12 tion, I believe that the evidence will show
13 that the children had been in custody of the
14 grandparents for about a year.

15 Why would a child lie about these
16 things? I think the State's own expert /
17 provides us the answer to that. Coaching.
18 There's an utter lack of consistency in the
19 who, what and when in this case. There was a
20 lack of detail. It is hard to give details
21 when children have been coached. And as the
22 children have gotten older they are unable to
23 provide details. They're losing the ability
24 to provide details in this case. All of
25 that's happening because the family is

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1 coaching them.

2 We have a wonderful criminal
3 justice system in this state and in this
4 country when it's applied correctly. But it
5 cannot be utilized to sever a mother from her
6 children just because she's single or because
7 she is having a hard time making ends meet or
8 because she gets the power turned off, or
9 because she makes stupid decisions over who
10 she dates and who she trusts.

11 You heard Stacy. She loves those
12 children. She wouldn't do a thing to hurt
13 those children and she would kill anybody
14 that hurt those children. She's not guilty
15 of these charges. We ask y'all to find her
16 Not Guilty. Thank you.

17 THE COURT: Mr. Warder?

18 MR. WARDER: Thank you, Your Honor.

19 CLOSING STATEMENT

20 BY MR. WARDER:

21 I want to thank y'all for sitting
22 here, watching all the videos, spending all
23 your time. We greatly appreciate it.

24 This is my client's most important
25 day. This is the day you will decide whether

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1 he's guilty of doing an unspeakable crime or
2 whether the proper verdict is the verdict of
3 Not Guilty.

4 I want to talk to you just briefly
5 about -- you've waited a long time. And I
6 want to thank you before you get to
7 deliberate and decide this case.

8 Now, let me say basically two things
9 in defense of my client. We're not sure
10 exactly which one's true. At first, it
11 didn't happen at all or it didn't happen when
12 my client was there. I say that because of
13 several reasons but the -- supposedly the
14 last statement we heard that Stacy had made
15 was it was people around her and that it
16 might have been drugs that was what
17 influenced. But at the end, my client wasn't
18 around. My client left and the situation
19 deteriorated, if it happened at all.

20 And so we begin by deciding did it
21 happen at all? And I submit to you the
22 correct determination there will be that it
23 did not happen at all.

24 And it doesn't make sense. It's
25 your common sense, your everyday experience.

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1 My client lived there for about a year. He
2 was involved in a relationship that lasted
3 about a year. He moved in at some time and
4 it was a considerable portion of that year
5 that they lived together. The allegation is
6 that it's not when he was alone with the
7 children and no one was around. It's not
8 when he was with one of the children and the
9 others weren't there. Not when anything was
10 secreted from the other children. The
11 allegation is that they all got together and
12 they did these things then. I think the
13 children said about five times. Try that on
14 for common sense. Is that the way somebody
15 who's going to violate a child would do it,
16 he would do it with the mother there, all the
17 siblings there, and some other people in the
18 house or when the father was there. Some
19 stranger to the children, some other adults
20 or maybe Stacy's sisters? This story is
21 unbelievable. It's not the way things would
22 happen. It's not the way people act. And I
23 think that should cause you to question
24 whether or not these events were really there
25 or whether these are ideas and planted in the

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1 children's mind.

2 You know, these are people that at
3 that age that can believe they saw Santa
4 Claus and the Tooth Fairy.

5 This is a case that there's no
6 evidence that this occurred physically. All
7 we have is the word and the story is
8 identical with each child. That, in and of
9 itself, should cause some suspicion. Seldom
10 is an event, so many events that go over a
11 long period of time, be exactly the same by
12 every child absent them getting together and
13 planning before the event what's going to be
14 said. They coached.

15 The dolls. Somebody had to -- I
16 mean, that somebody had to demonstrate to the
17 child before they went to the psychotherapist
18 where the special dolls that had all the
19 parts on them were, somebody would take the
20 time with Barbie dolls and demonstrate with
21 the children before that, means that the
22 person must have wanted them to say that.

23 And that's why I say that if it
24 happened after we left because we don't know
25 what happened then. We can only testify for

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1 the period of time we were there. My client
2 moved out in December, I think it was March
3 that the father found the needle and the
4 electricity was off.

5 Everybody says it went down, and I
6 think Stacy said that she felt alone. People
7 who feel alone end up falling into drugs.

8 My client can't tell you what
9 happened. Because my client can only account
10 for the year that he was there, not the next
11 year. That was after the period of time that
12 they say it happened.

13 My client was arrested in 2014. He
14 was first reported in I think December. He
15 had been gone since December of '12, 2012.

16 Now, this is a case that you can't
17 decide it just on inference. This is a case
18 that His Honor will tell you will have to be
19 proven beyond a reasonable doubt.

20 His Honor will define reasonable
21 doubt. It's the kind of a doubt that would
22 make you hesitate to act. Make you
23 uncertain. Make you unsettled. Reasonable
24 doubt is the evidence doesn't add up.
25 Reasonable doubt might be that this is not

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1 logical. In other words, a reasonable doubt
2 is how you view the evidence and whether it
3 would make you hesitate to act on what you --
4 on your view of the evidence on the way you
5 see it.

6 Now, if you imagine that in any
7 important decision in your life somebody was
8 trying to convince you to take action that
9 had real consequences -- if a stockbroker was
10 telling you where to invest your retirement
11 portfolio and he was going to prove that
12 beyond a reasonable doubt, you may no
13 question. But if you had a feeling inside
14 that maybe that wasn't where it ought to be
15 and you didn't have a real reason outside of
16 a general unsettled, hesitant feeling, that
17 would be unreasonable doubt right there.

18 Now, when you prove some things
19 there's many levels of proof that you can go
20 to. In finding the reasonable doubt I have a
21 chart that I've kind of set forth possible
22 persuasive levels and in a criminal case a
23 possible persuasive level would be the proof
24 showed conclusively the defendant was not
25 guilty. And if it was more evidence, a

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1 little more than that, it could be highly
2 unlikely, there could be some evidence. And
3 if there was some more evidence that was in
4 here, that could be less than likely, more
5 evidence could come in. And you could say
6 well, 'he's probably not guilty.' And then
7 there would be more evidence that would come
8 in and you could say 'oh, this exists but
9 it's still unlikely.' A level could be a
10 possibility that he's not guilty. A fair bit
11 of evidence in there and you can come up with
12 'sure' or even 'perhaps.' Or, 'we suspect
13 it.' So much evidence come in you could say
14 'he's probably guilty' or that his guilt is
15 likely. And more could come in and you could
16 say that guilt is highly likely. But all of
17 them are not proof beyond a reasonable doubt.
18 That is the highest level of proof we have.

19 For a policeman to stop an
20 individual and question him, he needs an
21 articulable suspicion. For a magistrate to
22 issue a warrant, he's needs probable cause.
23 For a jury to decide a civil case, render a
24 judgement against you, they need the
25 preponderance of the evidence. For somebody

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1 to prove fraud and something like that and
2 get punitive damages, they have to have a
3 higher level of proof than that.

4 But none of them had to have guilt
5 beyond a reasonable doubt. That is the
6 highest level of proof the law requires.
7 You know, in many case prosecutors try and
8 say 'well, we don't have to prove it beyond
9 all doubt.' No, that's true. You only have
10 to prove it beyond reasonable doubt, only.
11 Evidence so powerful that it would leave in
12 your minds no reasonable doubt is evidence
13 that you can convict on.

14 What juries do and what your job is
15 to weigh the evidence. In other words you
16 decide what evidence it is and what weight to
17 give it. Now, that's a mental process. And
18 only when it reaches the highest level is it
19 proof beyond a reasonable doubt.

20 The English system where the common
21 law came from, they don't use the words
22 guilty and not guilty in reaching their
23 verdicts. In England the case is still is
24 decided whether or not it's a proven case or
25 an unproven case. And I think those words,

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1 that definition more tells the jury what
2 they're doing. In other words, you all go
3 back there and decide whether this is either
4 a proven or an unproven case. And if you
5 decide it's a proven case, then you'll decide
6 whether it's proven beyond a reasonable
7 doubt. Because a case that is proven must be
8 proven so convincingly that it can leave you
9 no reasonable doubt. His Honor will define
10 those terms for you.

11 I ask you in this case to do the
12 fair, the right, the just thing. Not return
13 a verdict out of sympathy or emotion but
14 return a verdict that speaks the truth,
15 that's right, one that is fair to everybody.
16 In this case, in the case of my client, the
17 correct, the right and the just verdict would
18 be a verdict of Not Guilty. Not guilty
19 because it hasn't been proven beyond a
20 reasonable doubt that it even happened,
21 particularly not that it happened anytime my
22 client was there. Thank you very much.

23 THE COURT: Mr. Jones.

24 SOLICITOR JONES: Thank you, Your
25 Honor. Mr. Warder, Ms. Horlbeck.

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1 CLOSING STATEMENT

2 BY SOLICITOR JONES:

3 Y'all may not have seen this but on
4 Wednesday when y'all -- got here at 9:00 and
5 we had to start back at 12:30, I got to work
6 and realized, because I'd gotten dressed
7 without my wife's input, that I had on bright
8 navy blue pants and a black jacket. I looked
9 like an idiot. So I texted my wife and I
10 said, 'Can you bring my jacket? I need your
11 help.' She was at work. Didn't have time to
12 go back home.

13 So I texted my mother who luckily
14 lives around me and she's a little bit older
15 and she's retired. I said, 'Hey can you help
16 me out? Go to my house and get my navy
17 jacket?' She said 'sure.' She got the
18 jacket. About an hour later she dropped by
19 the courthouse and gave me my jacket. And
20 that's not the biggest deal in the world is
21 it? It's not some huge favor or anything. I
22 said 'thank you so much.' She said, 'Oh,
23 don't worry about it.'

24 That's what mother's do; isn't it?
25 They help their children. They take care of

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1 their children. They look after their
2 children. There's something about the bond
3 between a mother and a child that honestly, I
4 don't understand. I'll never be a mother.
5 When that bond is broken, it's tragic.

6 And that's what this case is. It's
7 tragic. The allegations in this case are
8 horrific, aren't they? It's disgusting.
9 It's almost the worst thing you can think of.
10 Forced to perform sexual acts on your own
11 mother as a child?

12 I haven't hit Aaron Hendrix yet..
13 But he's just as guilty as Stacy Riden.

14 And these acts are -- this is one of
15 the worst things that someone could have
16 happen to them, forced to perform oral sex on
17 your own mother. You may not want to believe
18 that it's true. How could someone do this?

19 But there's one key in this case
20 that makes you think, 'Oh, now I understand.
21 Now, I understand why.' "If I did it, it was
22 because of the drugs."

23 It just so happens that these
24 children also found a needle in their house?
25 They also said they saw their mother and

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1 Aaron Hendrix doing drugs, taking drugs.
2 Now, what is the children's knowledge of
3 drugs and how they're used or how they say
4 this was this particular type of drug -- 'I
5 saw them using it.' They know they saw a
6 needle. And they know that needle had blood.

7 I'm going to briefly go over these
8 elements of the offenses again. I went over
9 them in my opening and the Judge is going to
10 talk about it when he gives you the
11 instructions.

12 Now, both Aaron and Stacy are
13 charged with criminal sexual conduct with a
14 minor, first degree. Two of those charges.
15 One is for Brother; one is for Older Sister.

16 A defendant is guilty of criminal
17 sexual conduct with a minor in the first
18 degree if the defendant engages in sexual
19 battery with the victim and that victim is
20 under the age of eleven. There's no dispute
21 these children were under the age of eleven.

22 So what is sexual battery? Sexual
23 intercourse, oral sex, anal sex or any
24 intrusion however slight into the genital or
25 anal openings of the other person. Forcing

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1 children to perform oral sex on her. Aaron
2 Hendrix forcing the children perform oral sex
3 on him, and then performing those acts on the
4 children. Older Sister also testified in her
5 video statement that both Aaron and Stacy put
6 their finger inside her. I'm going to go
7 over their testimony, their statements in a
8 minute.

9 A few things should stand out as to
10 the oral sex. When Ms. Galloway-Williams
11 asked those children what did you see, what
12 did they say? They said it was furry. They
13 saw hair. Does that sound like they're
14 making it up to you? If someone were
15 coaching those children is that the only
16 detail they would give them? 'Make sure to
17 say you saw it was furry on top. Make sure
18 to say that you saw hair.'

19 Is that the only detail that some-
20 body's going to give if they're coaching a
21 child?

22 As to the elements of criminal
23 sexual conduct with a minor in the third
24 degree, "the actor is over fourteen years of
25 age and..." -- these two people were over