

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Daniel D. Hall, Circuit Court Judge

Case No. 2014-CP-23-1295

Dantae Raheev Stukes
(SCDC #350166),

Appellant

v.

State of South Carolina,

Respondent.

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2) COURT OF GENERAL SESSIONS
3 COUNTY OF GREENVILLE)
4) 2010-GS-23-6454
5 STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
6)
7 -vs-)
8 DANTE STUKES)

9 March 14, 2012
Greenville, South Carolina

10 B E F O R E:

11 THE HONORABLE C. VICTOR, Judge.

12 A P P E A R A N C E S

13 KRIS HODGE, Esquire
14 Assistant Solicitor
Attorney for the State

15 GEORGE MCELVEEN, Esquire
16 Attorney for the Defendant

17 CAROLINE HISKELL
18 Thirteenth Circuit Court Reporter
19
20
21
22
23
24
25

I N D E X

WITNESSES:	DR	CR	RED	REC
Delores Lane	36	46	53	
D [REDACTED] B [REDACTED]	54	91	103	
J [REDACTED] T [REDACTED]	105	111		
R [REDACTED] D [REDACTED]	112	119		
D [REDACTED] W [REDACTED]	121	129		
Fran Croswell	132	142	148	
Mary Ashley Thomas	148	165	169	170
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P R O C E E D I N G S

1
2 THE BAILIFF: All rise, the Honorable C.
3 Victor Pyle presiding.

4 THE COURT: Thank you.

5 Go ahead, Mr. McElveen.

6 MR. MCELVEEN: Your Honor, my motion is to
7 quash the indictment because of the extensive time frame.
8 I am aware of the case law that say extensive time frame
9 are permissible in cases of this nature. The reason for
10 that law is two-fold. Often these types of case there is
11 a repeated instances of abuse over an extended period of
12 time and it would be impossible for a victim to pinpoint
13 when a particular instance occurred. The other reason is
14 that they are often very young and because of their youth,
15 they are unable to say with any specificity when the
16 assault occurred.

17 In this case, Your Honor, the victim was 14
18 years old. The State made no effort of any kind to
19 determine this might have happened. There were resources
20 available for them to do that. I'm not aware that they
21 interviewed any witnesses other than the victim about when
22 this could have happened. There were telephone calls
23 involved immediately after this supposed assault.

24 There was no investigation with the telephone
25 records to find out when the telephone call was made.

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1 There was just no effort to pin this down and there is a
2 case, State versus Wage(ph), Your Honor, that states that
3 as to sufficiency of the indictment, each case turns on
4 its own circumstances and for that reason I'm making that
5 motion. This is just extensive and Mr. Stukes has no way
6 of addressing this, Your Honor, and no way of having --
7 looking back and finding out this might have occurred or
8 developed any alibi or anything.

9 THE COURT: Do I understand you're going to
10 move to amend the dates in your indictment?

11 MS. HODGE: Yes, Your Honor. The State would
12 move to amend the dates to January 5th of 2009 to May 31st
13 of 2009.

14 THE COURT: So between January 5 and May 31.

15 MS. HODGE: Of 2009, yes, sir.

16 THE COURT: It says 30.

17 MS. HODGE: Then 30, Your Honor, that's fine.

18 The outside date is fine. We just need to back up the
19 initial date.

20 THE COURT: Now, do you need to object to the
21 amendment of indictment?

22 MR. MCELVEEN: I do, Your Honor. That is a
23 fundamental expansion of the indictment. The date of
24 January 5 suggests there is something important about that
25 date we're not aware of. That puts us at a distinct

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1 disadvantage in preparing for this case.

2 THE COURT: What's your position on it?

3 MS. HODGE: Your Honor, I actually think it
4 kinds of folds right into the original motion to quash.
5 In these kinds of cases, case law, State versus Wade says
6 that the expansive time frames are permissible. In this
7 instance, the statement from the victim and the witnesses
8 which he already has a copy of, he was provided that in
9 discovery, states clearly this happened in the second half
10 of this child's ninth grade year. That time frame is when
11 they get back from school after Christmas. They consider
12 that second semester, so that's the January 5th day, until
13 the end of school which is the end of May.

14 The victim has always maintained it happened
15 in the second half. Witnesses say they were told about
16 this incident in the second half and that is what the
17 basis of the time frame is for. It was a delayed
18 disclosure. The child did not come forward immediately
19 and that's when she couldn't pinpoint the exact weekend or
20 moment in time when this happened. It's like a year and
21 something later.

22 THE COURT: Alright, sir.

23 MR. MCELVEEN: Your Honor, Mr. Wafford, is
24 one of the witnesses she's talking about says around
25 spring time of last year, J [REDACTED] T [REDACTED] says in the

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1 middle of the school year and no more specific than that.
2 Your Honor, the State had these statements when they
3 crafted the indictment for the grand jury.

4 THE COURT: I'll deny your motion and I'll
5 grant your motion to amend to January 5.

6 MS. HODGE: Thank you, Your Honor.

7 THE COURT: Alright, let's bring the panel of
8 jurors up.

9 MR. MCELVEEN: Your Honor, are you going to
10 take any requests for jury charge?

11 THE COURT: Sure.

12 MR. MCELVEEN: I just have two handwritten
13 requests or three and I'll read it out to Your Honor. I
14 would ask that you charge if any member of the jury panel
15 was privy to or former member of or staff member of MAD,
16 SAD, CAVE, Greenville Rape Crisis Center or the Julie
17 Valentine Center.

18 THE COURT: I'll take it. Can I read your
19 writing?

20 MR. MCELVEEN: Yes, sir.

21 (Jury panel enters the courtroom.)

22 THE COURT: Ladies and gentlemen, if I could
23 have your attention. At this time we will select a jury
24 in the case of the State against Dante Raheed Stukes.
25 Mr. Stukes would you stand up and turn around and face the

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1 jury for me a moment, please.

2 (Defendant complies.)

3 Thank you. You can be seated. He has been
4 indicted for criminal sexual conduct with a minor in the
5 second degree. The indictment alleges that between
6 January 5, 2009 and May 30, 2009, he committed a sexual
7 battery on D [REDACTED] B [REDACTED] who was alleged to be 14 years
8 of age but less or at least 11 years of age.

9 Now, potential witnesses in this case will be
10 Mary Ashley Thomas with the Greenville Police Department,
11 Dr. Mary Fran Croswell, Lois Lane, D [REDACTED] B [REDACTED], D [REDACTED]
12 W [REDACTED], J [REDACTED] T [REDACTED] Shauna Galloway-Williams, Kimberly
13 Phillips, R [REDACTED] D [REDACTED], Dante Stukes, Kimberly Stukes,
14 Darius Grooms, James Baker.

15 I would inquire at this time if any member of
16 the jury panel is related by blood or marriage or
17 connected by employment to the defendant or to any
18 potential witness in the case? Are you sensible or aware
19 of any bias or any prejudice with respect to the defendant
20 or to the State or to the subject matter of the case that
21 being an alleged criminal sexual conduct or do you know
22 any reason why you could not give this defendant and the
23 State a fair and impartial trial based on the law and
24 evidence to be presented?

25 If so, would you please stand and give me

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1 your name.

2 Yes, ma'am, your name.

3 MS. SMITH: Lynn Smith.

4 THE COURT: Do you need to talk to me
5 personally?

6 MS. SMITH: Yes.

7 THE COURT: Please come up. Counsel, would
8 you come forward.

9 (Juror Smith spoke to Court and Counsel at
10 the bench.)

11 Thank you. We will excuse Ms. Smith from the
12 trial of this case.

13 (Juror Lynn Smith excused from this case.)

14 Now, do I have any member of the panel who
15 has any connection to family, business, social or
16 otherwise with Walt Wilkins, the solicitor, or any member
17 of his staff including Kris Hodge who is handling this
18 particular case or law enforcement whether that be
19 federal, state, county or municipal? If so, would you
20 please stand and give me your name.

21 Yes, sir.

22 MR. HOOPER: Travis Hooper, the solicitor
23 Walt Wilkins.

24 THE COURT: Would that interfere in any way
25 with your ability to be a fair and impartial juror in this

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1 case?

2 MR. HOOPER: Yes, sir, I believe it could.

3 THE COURT: Thank you for telling me that. I
4 will not put you on the case.

5 Your name, sir.

6 MR. ANDERSON: Donald Anderson. I have known
7 Ms. Hodge.

8 THE COURT: Would that in any way interfere
9 with your ability to be a fair and impartial juror in this
10 case?

11 MR. ANDERSON: It might.

12 THE COURT: Thank you, I appreciate that and
13 I would not let you on this case.

14 George McElveen represents the defendant in
15 this case. Do I have any jurors who are clients presently
16 or formerly of Mr. McElveen?

17 (No response.)

18 Now, ladies and gentlemen I'm going to ask
19 you three questions at this time and if you answer yes to
20 any of these questions I would ask that you give me your
21 name and come forward so I can talk with your privately.
22 You don't have to give me your name, just come up here and
23 I'll talk with you at the bench.

24 With respect to the first question I'll just
25 ask yes or no. Has any member of the jury panel a

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1 contributor now or formerly to MAD, SAD, CAVE, Greenville
2 Rape Crisis Center, Julie Valentine Center or any other
3 organization whose purpose is advocacy for crime victims
4 and or victims of sexual assault?

5 (No response.)

6 Has any member of the jury panel been a
7 victim of a sexual assault or has a close family member
8 who has been victimized by sexual assault? Anyone who
9 will respond to that, please come forward and counsel if
10 you'll come up.

11 (Whereupon, several jurors spoke at bench
12 conference.)

13 Okay. Ladies and gentlemen, when your name is
14 called, I'll ask you to come to the podium up front, turn
15 around and await further instructions.

16 THE CLERK: Please bring your items with you
17 should you be selected for the jury.

18 Juror No. 200, Travis Staggs.

19 What says the State?

20 MS. HODGE: Please present the juror.

21 THE CLERK: What says the defendant?

22 MR. MCELVEEN: Seat Mr. Staggs, please.

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

25 (Travis Staggs, Juror No. 200, white male was

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1 seated on the jury.)

2 Juror No. 150, Kenneth Marshall.

3 What says the State?

4 MS. HODGE: Please present the juror.

5 THE CLERK: What says the defendant?

6 MR. MCELVEEN: Seat Mr. Marshall, please.

7 THE CLERK: Thank you. You may be seated in
8 the jury box.

9 (Kenneth Marshall, Juror No. 150, white male
10 was seated on the jury.)

11 Juror No. 48, Ira Crocker.

12 What says the State?

13 MS. HODGE: Please excuse this juror.

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

16 Juror No. 109, John Hernandez.

17 What says the State?

18 MS. HODGE: Please excuse the juror.

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

21 Juror No. 246, Boyd Johnson.

22 What says the State?

23 MS. HODGE: Please present the juror.

24 THE CLERK: What says the defendant?

25 MR. MCELVEEN: Please excuse the juror.

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1 THE CLERK: Thank you. You may be seated,
2 you're excused from the trial of this case.

3 Juror No. 170 Stephen Mulkey.

4 What says the State?

5 MS. HODGE: Please present the juror.

6 THE CLERK: What says the defendant?

7 MR. MCELVEEN: Please excuse the juroro.

8 THE CLERK: Thank you. You may be seated.
9 You're excused from the trial of this case.

10 Juror No. 38, Paul Chambers.

11 What says the State?

12 MS. HODGE: Please present the juror.

13 THE CLERK: What says the defendant?

14 MR. MCELVEEN: Please excuse Mr. Chambers..

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

17 Juror No. 179, Mary Quick.

18 What says the State?

19 MS. HODGE: Please present the juror.

20 THE CLERK: What says the defendant?

21 MR. MCELVEEN: Excuse Ms. Quick, please.

22 THE CLERK: Thank you. You may be seated.
23 You're excused from the trial of this case.

24 Juror No. 203, Melanie Stewart.

25 What says the State?

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1 MS. HODGE: Please present the juror.

2 THE CLERK: What says the defendant?

3 MR. MCELVEEN: Seat Ms. Stewart, please.

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

6 (Melanie Stewart, Juror No. 203, white female
7 was seated on the jury.)

8 Juror No. 106, Jimmy Hendrix.

9 What says the State?

10 MS. HODGE: Please present the juror.

11 THE CLERK: What says the defendant?

12 MR. MCELVEEN: Seat Mr. Hendrix, please.

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

15 (Jimmy Hendrix, Juror No. 106, white male was
16 seated on the jury.)

17 Juror No. 211, Jhami Sullivan.

18 What says the State?

19 MS. HODGE: Please present the juror.

20 THE CLERK: What says the defendant?

21 MR. MCELVEEN: Seat Mr. Sullivan, please.

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

24 (Jhami Sullivan, Juror No. 211, black male
25 was seated on the jury.)

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1 Juror No. 83, Ronica Garner-Carlson.

2 What says the State?

3 MS. HODGE: Please present the juror.

4 THE CLERK: What says the defendant?

5 MR. MCELVEEN: Seat the juror, please.

6 THE CLERK: Thank you. You may be seated in
7 the jury box.

8 (Ronica Garner-Carlson, Juror No. 83, white
9 female was seated on the jury.)

10 Juror No. 18, Evelyn Black.

11 What says the State?

12 MS. HODGE: Please present the juror.

13 THE CLERK: What says the defendant?

14 MR. MCELVEEN: Seat Ms. Black, please.

15 THE CLERK: Thank you. You may be seated in
16 the jury box.

17 (Evelyn Black, Juror No. 18, black female was
18 seated on the jury.)

19 Juror No. 13, Jodi Baker.

20 What says the State?

21 MS. HODGE: Please present the juror.

22 THE CLERK: What says the defendant?

23 MR. MCELVEEN: Excuse Ms. Baker, please.

24 THE CLERK: Thank you. You may be seated,
25 you have been excused from the trial of this case.

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1 Juror No. 182, Tamyra Rainey.

2 What says the State?

3 MS. HODGE: Please present the juror.

4 THE CLERK: What says the defendant?

5 MR. MCELVEEN: Seat Ms. Rainey, please.

6 THE CLERK: Thank you. You may be seated in
7 the jury box.

8 (Tamyra Rainey, Juror No. 182, white female
9 was seated on the jury.)

10 Juror No. 207, Laquise Stroud.

11 What says the State?

12 MS. HODGE: Please present the juror.

13 THE CLERK: What says the defendant?

14 MR. MCELVEEN: Seat Ms. Stroud, please.

15 THE CLERK: Thank you. You may be seated in
16 the jury box.

17 (Laquise Stroud, Juror No. 207, black female
18 was seated on the jury.)

19 Juror No. 171, Christopher Neild.

20 What says the State?

21 MS. HODGE: Please excuse the juror.

22 THE CLERK: Thank you. You may be seated.
23 You're excused from the trial of this case.

24 Juror No. 127, Marion Nathan Jones.

25 What says the State?

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1 MS. HODGE: Please present the juror.

2 THE CLERK: What says the defendant?

3 MR. MCELVEEN: Seat Mr. Jones, please.

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

6 (Marion Jones, Juror No. 127, white male was
7 seated on the jury.)

8 Juror No. 24, Donna Bridges.

9 What says the State?

10 MS. HODGE: Please present the juror.

11 THE CLERK: What says the defendant?

12 MR. MCELVEEN: Excuse Ms. Bridges, please.

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

15 Juror No. 123, Benjamin Johnson.

16 What says the State?

17 MS. HODGE: Please present the juror.

18 THE CLERK: What says the defendant?

19 MR. MCELVEEN: Seat Mr. Johnson, please.

20 THE CLERK: Thank you. You may be seated in
21 the jury box.

22 (Benjamin Johnson, Juror No. 123, white male
23 was seated on the jury.)

24 Juror No. 86, Sonya Gause.

25 What says the State?

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1 MS. HODGE: Please present the juror.

2 THE CLERK: What says the defendant?

3 MR. MCELVEEN: Excuse Ms. Gause, please.

4 THE CLERK: Thank you. You may be seated.

5 You have been excused from the trial of this case.

6 Juror No. 12, Stephanie Bailey.

7 THE COURT: Counsel approach, please.

8 (Whereupon, there was a bench conference.)

9 THE CLERK: What says the State?

10 MS. HODGE: Please present the juror.

11 THE CLERK: What says the defendant?

12 MR. MCELVEEN: Please excuse the juror.

13 THE CLERK: Thank you. You may be seated.

14 You have been excused from the trial of this case.

15 Juror No. 193, Latoya Shaw.

16 What says the State?

17 MS. HODGE: Please present the juror.

18 THE CLERK: What says the defendant?

19 MR. MCELVEEN: Seat Ms. Shaw, please.

20 THE CLERK: Thank you. You may be seated in
21 the jury box.

22 (Latoya Shaw, Juror No. 193, black female was
23 seated on the jury.)

24 THE COURT: This is for the alternate, one
25 for the State, two for the defense.

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1 THE CLERK: Juror No. 30, Copher Burns.

2 What says the State?

3 MS. HODGE: Please present the juror.

4 THE CLERK: What says the defendant?

5 MR. MCELVEEN: Seat Mr. Burns, please.

6 THE CLERK: Thank you. You may be seated in
7 the jury box.

8 THE COURT: There are several matters I need
9 to take up before we start this trial and I give you a
10 recess while I do that. While on recess, do not talk
11 about this case among yourselves. You don't discuss this
12 case or talk about this case until you've heard all the
13 evidence to be presented in the case and after the
14 arguments and my charge. So if you'll be at ease, we'll
15 start as soon as we can.

16 Take the jury out, please.

17 (Jury exits the courtroom.)

18 The balance of the panel you can be excused
19 for the rest of the day so call back at 6:00 p.m. Thank
20 you.

21 (Balance of panel dismissed for the day.)

22 Alright, what else do we have?

23 MS. HODGE: Your Honor, for the State we have
24 a motion for compliance with the Rape Shield law and
25 motion in limine to exclude any evidence whether it be

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1 direct or cross or arguments from the defense about a
2 separate sexual assault cause that unfortunately the
3 victim is the same victim in that case. She was the
4 victim in two separate cases.

5 THE COURT: Okay, what's your position -- do
6 they have a verdict?

7 THE CLERK: Yes, they do.

8 THE COURT: Let me take that verdict. Just
9 leave your things right there.

10 (Whereupon, there was a brief break in this
11 case.)

12 Alright, resume.

13 MS. HODGE: I don't know if Mr. McElveen if
14 attempting to introduce the fact that this victim was a
15 victim of a subsequent sexual assault.

16 MR. MCELVEEN: Your Honor, that is an
17 important issue in this case and I've got some motions
18 that relate to that. What happened in this case is -- and
19 as the discovery indicates that the night of this alleged
20 assault, she called a friend and said that it happened.
21 The next day she went to school and she told a couple of
22 friends that she thought it had happened, but she didn't
23 report it to any authority figures for a year.

24 A year later, she was apparently raped by
25 somebody else and she is in that examination when she -- I

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1 think it was shortly before that -- but at any rate at the
2 time of that examination they knew she was also claiming
3 another rape a year earlier, which is this case.

4 I don't know how we're going to -- the fact
5 that that examination was done I think is critical to my
6 case. I don't really have any interest in going into the
7 falsity of that allegation, but I just don't see how the
8 fact that she was in a rape protocol at that time is not
9 relevant to this case.

10 THE COURT: I disagree. I won't allow that.

11 MS. MCELVEEN: Let me point this out, Your
12 Honor, at the time of that original rape complaint and
13 when she was -- my first motion has to do with reviewing
14 my discovery and what I've gotten from the State is this.
15 That included a child mal treatment protocol done by
16 Dr. Croswell. It states on the first page -- second page,
17 referral date 4/15/2010, date of evaluation 5/26/2010.
18 Until yesterday it was my understand that Dr. Croswell had
19 done both of these protocols and had scheduled a follow up
20 on 5/26 and at that time had generated the report.

21 I talked to Dr. Croswell last night and she
22 corrected me, she said, no, she had nothing to do with
23 this protocol and that this was a protocol that was
24 referred to her because of the other allegation.

25 So what that means is a doctor examined the

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1 victim in this case the day of the other reported rape
2 knowing about the allegation of the older rape, but I
3 don't have that. I don't have anything related to that.
4 I don't know if he did an examination, I don't know if he
5 wrote any notes about that. I don't know if he had any
6 observations. I don't know if she related anything to him
7 about it. I don't know anything about that and I think
8 I'm entitled to know that, Your Honor.

9 THE COURT: Solicitor.

10 MS. HODGE: Your Honor, what I believe he's
11 referring to is the victim went to Greenville Memorial
12 Hospital in the second incident and they did a rape kit
13 exam. That's probably what he's referring to. That's not
14 related to this case. Any evidence that would be in this
15 case was from a year before. It would be no evidence in
16 that rape exam. They do not do a kaleidoscope or they do
17 not look internally, vaginally, to see if the hymen has
18 been torn or anything like that at the hospital so
19 anything related to this case is only from Dr. Mary Fran
20 Croswell which was at the Julie Valentine Center.

21 The doctor that examined her at the hospital
22 was not a doctor, it was a sexual assault nurse that did
23 the kit on her. So that's not relevant in this case and
24 that's the State's position.

25 MR. MCELVEEN: Your Honor, I would

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1 strenuously disagree. With the more recent rape that she
2 was being examined for for the six weeks before was an
3 anal rape. As indicated in this report, all that resolved
4 itself by the time this report was done. But I find it
5 hard to believe that -- and also when I talked to
6 Dr. Croswell last night she informed me that regardless of
7 the lapse of time they order a protocol and it's just
8 impossible for me to believe that with a victim in front
9 of you knowing that she is alleging a vaginal rape from a
10 year before, that either that examiner didn't note
11 anything, which I'm entitled to know about because
12 Dr. Croswell is going to talk about how she did her
13 examine and noted the same thing.

14 So either she noted nothing or she declined
15 and she felt like it was irrelevant and not any point in
16 doing a protocol which relates to whether or not hearsay
17 comes in. It's inextricably related to this case, Your
18 Honor and I think I'm entitled to see it and the fact that
19 I don't have it is prejudicial and what I'd like the Court
20 to do -- I'm fine not talking about that first rape and
21 not looking at that medical report, if the second medical
22 report is excluded.

23 MS. HODGE: Your Honor, I'm happy to let him
24 look at the first report if he would like to see if
25 there's anything he can find.

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1 THE COURT: Let's do that.

2 MS. HODGE: However, that report still --
3 it's the State's position that first assault exam is not
4 relevant to this case because its not relevant to this
5 defendant. Any evidence found there is not related to
6 this defendant, it's related to the second defendant and
7 that the second examination is only examination which
8 would have actually done a specified vaginal examination
9 of the hymen which is what is important in this case.

10 It gets confusing but the second instances
11 was an anal penetration not vaginal. I'm happy to provide
12 him to look at that. I don't believe he's entitled to it.

13 THE COURT: Let him look at it and otherwise
14 I deny your motion.

15 MR. MCELVEEN: I'm sorry.

16 THE COURT: I'm going to deny your motion,
17 but I'm otherwise going to let you look at that and if
18 there is anything that you think is relevant, draw from
19 it, and I'll revisit it.

20 MS. HODGE: Does that address also my motion
21 about this point in time not having any argument to the
22 jury or questioning of my witnesses.

23 THE COURT: Yes.

24 MS. HODGE: Thank you, Your Honor.

25 MR. MCELVEEN: My next question, Your Honor,

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1 is I want to settle his record. He's got a couple of CDVs
2 on his record and I don't know if the State is going to
3 try to get them in or not, but I just want to make sure
4 that it is known they are over 10 years old and I don't
5 think they're admissible for impeachment purposes. It's
6 certainly not viable evidence.

7 THE COURT: I agree with that.

8 MS. HODGE: Yes, sir, we do not intent to
9 present them in our case in chief.

10 MR. MCELVEEN: I'm fairly certainly there are
11 not statements of my client that they would seek to
12 introduce.

13 MS. HODGE: There are no statements.

14 MR. MCELVEEN: Your Honor, we would move to
15 sequester the State's witnesses. I understand that the
16 mother and the lead investigator is entitled to remain.

17 THE COURT: I grant that motion and that
18 applies to your witnesses likewise.

19 MR. MCELVEEN: Your Honor, as you know the
20 general rule in these cases when dealing with victim's
21 reports is that their limited to time and place. The
22 State has what I presume to be a number of witnesses they
23 intend to call and we need to talk about the parameters of
24 which of those witnesses's testimony. I don't know how
25 you want to handle it.

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1 The mother, I supposed will testify, that she
2 heard a rendition of this assault from her daughter. This
3 is a year later. I would certainly move to limit her
4 testimony to time and place and that she may not mention
5 the name of Mr. Stukes as the perpetrator.

6 MS. HODGE: Your Honor, the State is fully
7 aware of the rules and I have instructed my witnesses they
8 can not hearsay evidence. They can't state that the child
9 told them that she was sexually assaulted only that she
10 told them where it took place and when it took place and
11 that follows the rule.

12 MR. MCELVEEN: I guess what I should ask are
13 there any of these witnesses intend to go into detail and
14 if so what is the hearsay exception?

15 MS. HODGE: I'm going to follow the rules of
16 hearsay and there's not a witness -- I don't have a
17 forensic interview if that's what he's eluding to.
18 There's no video tape that would be an exclusion of the
19 rule. Obviously, the victim is going to testify in
20 detail.

21 MR. MCELVEEN: My understanding is that none
22 of the witnesses other than the victim will get into
23 details of the incident and identify the perpetrator as
24 Mr. Stukes.

25 THE COURT: Is that correct, solicitor?

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1 MS. HODGE: Yes, Your Honor.

2 MR. MCELVEEN: And that would include
3 Dr. Croswell.

4 MS. HODGE: Dr. Croswell, however, does have
5 a separate exception as far as details go from the sexual
6 contact. She's doing the medical examine and she should
7 be allowed under the rule under that exception to say the
8 child has told me there was vaginal penile contact and
9 things like that still not identifying the perpetrator but
10 she can go into detail to the facts that play into her
11 diagnosis and treatment of the child.

12 MR. MCELVEEN: I would agree that she can
13 state there was penile vaginal penetration. I don't think
14 that she can go into the full detail of the statement
15 beyond. That was what I was leaning towards ---

16 THE COURT: Well, you can object and I will
17 rule at that time.

18 MR. MCELVEEN: I guess that was all for those
19 issues, Your Honor. That's all the motions for now.

20 THE COURT: Brief opening statements to the
21 jury, I assume.

22 MS. HODGE: Yes, Your Honor.

23 THE COURT: Let me see if I can find the fore
24 person for this jury.

25 MR. MCELVEEN: Your Honor, may my client

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1 remain on bond?

2 THE COURT: No, sir. He is charged with a
3 felony. He's in the custody of the sheriff.

4 Can you give me some idea of how long it will
5 take to try the case.

6 MS. HODGE: Your Honor, I have seven, maybe
7 eight, witnesses. I could probably get my case done today
8 but I don't believe more than two days.

9 THE COURT: I'm going to give you a brief
10 recess. I'm going to order lunch for the jury.

11 (Whereupon, there was a brief break.)

12 I'm going to appoint Kenneth Marshall as the
13 fore person.

14 Bring in the jury and bring him in last.

15 (Jury re-enters the courtroom.)

16 Mr. Marshall, take that first seat and serve
17 as foreman for me, please.

18 Swear the jury, please.

19 THE CLERK: Would you please stand to be
20 sworn in and raise your right hand. The respond to the
21 oath is, "I will."

22 You shall well and truly try case 2010-GS-
23 23-06454, Dante Raheed Stukes indicted for criminal sexual
24 conduct with a minor, second degree, and a true verdict
25 render according to the evidence so help you God.

State of South Carolina versus Dante Stokes

1 THE JURY: (Collectively, I will.)

2 THE COURT: Brief opening statements.

3 MS. HODGE: Thank you, Your Honor, may it
4 please the Court, Mr. McElveen.

5 Ladies and gentlemen of the jury, you've been
6 selected to serve on a case, a case about a young, naive,
7 impressionable girl and it's about a grown, manipulative,
8 exploitive man. This case involves a girl who was 14
9 years old, her name is D [REDACTED] and she was in the ninth
10 grade when this incident occurred. The grown man is this
11 defendant, Dante Stokes. He is married, 28, two small
12 kids.

13 The evidence in this case will show that
14 D [REDACTED] knew the defendant his family well, that her
15 family knew his family well. They attended the same
16 church. And, in fact, the defendant's wife Kim was one of
17 her Bible study leaders, youth group leaders, and she
18 really liked Ms. Kim a lot and they became close friends
19 in a mentor type relationship.

20 The evidence will show that D [REDACTED] stayed
21 many days and times over at the defendant's home and
22 Ms. Kim and her kids had gone over to D [REDACTED]'s home on
23 occasion so they're families were close and they knew each
24 other. D [REDACTED] looked up to the Stokes as big brothers,
25 big sisters and they talked about things and she trusted

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1 them.

2 In her freshman year, 2008-2009, D [REDACTED]'s
3 parents decided to start a church of their own and they
4 were branching out and they were having to travel out of
5 town to various places and they asked if she could stay
6 over at the Stukes's residence.

7 And D [REDACTED] will tell you she was fine with
8 that because she really liked them and they seemed to like
9 her. There didn't seem to be any problems with this.

10 There were no problems until one night when
11 D [REDACTED] was staying over there, spending the night, and
12 after the defendant's wife, Ms. Kim, had gone to bed and
13 put her kids to bed, the defendant then sexually assaulted
14 D [REDACTED]. She was 14 and in the ninth grade.

15 D [REDACTED] is going to testify and she is now a
16 senior in high school -- she's got a little bit more age
17 on her -- but she will tell you in great detail about what
18 the defendant did that night. There were several sexual
19 acts culminating in vaginal penile intercourse,
20 essentially taking her virginity.

21 She will tell you that she froze. She didn't
22 know what to do. She was scared, she was confused and she
23 will tell you that this was all done to her under the
24 guise that he was going to teach her about sex and not to
25 be taken advantage of and what to do to turn it the way

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1 on.

2 D [REDACTED] will tell you she did not telling
3 anyone like her parents or authority because she was
4 confused. She did not know what to do and she will tell
5 you that she acted as most kids act, they go to peers and
6 talk to their peers about things.

7 She will tell you that talked to a boy that
8 very night on the phone and disclosed what happened to
9 her, not in as much detail obviously as what she's going
10 to tell you today but she told her god sister the next day
11 and that she, in fact, told a few of her good friends at
12 school following that act. These kids, and they were
13 kids, agreed that if she didn't want to tell they weren't
14 going to tell for her. That was something she needed to
15 do.

16 The evidence will show she was told by the
17 defendant you can't tell anybody about this because I will
18 deny it and here we are.

19 The evidence will show about a year later,
20 however, in April of 2010, she did tell. She finally did
21 tell someone that could do something about it. She told a
22 counselor because she'll tell you quite honestly the
23 counsel asked her point blank did anything like this,
24 being a sexual assault or sexual abuse or inappropriate
25 touching or anything like this had ever happened to you

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1 before and she will tell you I needed to be honest. And
2 she disclosed what happened and what Mr. Stukes did to
3 her.

4 As a result of that disclosure law
5 enforcement investigated, Greenville City Police
6 Department investigated the case and the defendant was
7 charged with criminal sexual conduct with a minor in the
8 second degree. In South Carolina that means that a person
9 has committed a sexual battery on a child between the ages
10 of 11 and 14 and the sexual battery is defined by lots of
11 different activities but the main thing there must be some
12 sort of penetration of some body part, vaginal penile,
13 anal penile, oral copulation, all of those are sexual
14 battery.

15 Now, I stand up here and I talk about this
16 unfortunately in court a lot so I can say that with some
17 confidence or straight face but we all know this is very
18 very uncomfortable to talk about sexual acts and you're
19 going to hear things that might make you uncomfortable.
20 You're probably not used to sitting in a room full of
21 strangers hearing about things like this much less talking
22 about something like this. So I just ask you to think
23 about that as you hear the witnesses, especially D [REDACTED]
24 because she is still only 17, but she will have to tell
25 you details of what happened and that might be a little

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1 bit difficult. So I ask you to understand that.

2 The defendant will prove to you that the
3 defendant is guilty of the charge through the evidence in
4 this case. The evidence is going to come in the form of
5 testimony. Testimony is evidence. When people sit in
6 that witness stand and they tell you what they say, what
7 they heard, what they did, what they felt, that is
8 evidence. Television has us all a little be skewed with
9 all of these shows, CSI in every city in every state, and
10 it's put out to the public that somewhere, somehow there's
11 going to be some scientific evidence, a satellite in the
12 sky that captures something on film. There's got to be
13 some evidence somewhere according to CSI. Real life is
14 not that way, that's television.

15 For there to be other types of evidence,
16 crimes would have to be reported immediately, crime scenes
17 would have to be processed immediately, things have to be
18 protected, documented and analyzed. Unfortunately,
19 because D [REDACTED] was under this disbelief she couldn't tell
20 anybody, we don't have any of the evidence that we could
21 have had if she had told immediately. So you will have
22 her testimony and I submit to you that there will be very
23 good accounting testimony that you can base your verdict
24 on.

25 This is not a complex legal case. You are

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1 not going to be overwhelmed with the various realities.
2 This is something based on human nature, common sense
3 stuff that all of you would be able to analyze that you
4 hear from the witness stand and I feel certain that at the
5 conclusion of all of the evidence, you will be able to
6 reach a verdict, a verdict of guilty beyond a reasonable
7 doubt at to these charges. Thank you.

8 MR. MCELVEEN: Good morning. I'm George
9 McElveen, I'm a lawyer and I work in Columbia. I live in
10 Saint Matthews. I'm here today on behalf of Dante Stukes
11 who is the gentleman in the grey suit who is sitting
12 there. You heard what he's accused of. This is the stage
13 of the trial where the lawyers are supposed to lay out a
14 road map and tell the jury what kind of evidence they're
15 going to hear and that's generally how it's done. I'm not
16 going to do that because I know that you're going to hear
17 the evidence and the testimony from this chair. You're
18 not going to hear it from me, my version, the version that
19 I want you to hear.

20 You're going to hear the evidence from that
21 chair right there and at the end of this trial, you're
22 going know everything about this case that I know about
23 this case so I'm going to talk to you very briefly about
24 the burden of proof.

25 There's one thing that a juror or anybody can

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1 learn from tv and you've all heard it and you all
2 understand it that a person is innocent until proven
3 guilty. Dante Stukes as he sits right there at this
4 moment is innocent. You have sworn under your oath to
5 regard him as innocent and only once the State has put up
6 enough evidence to strip away that presumption of
7 innocence would it be appropriate for you to convict him.
8 The State has the burden of proof.

9 What is the burden of proof? The burden of
10 proof is beyond a reasonable doubt. At the end of this
11 trial when you go back to deliberate, before it would be
12 appropriate to convict, you must believe beyond a
13 reasonable doubt that he did what they say. Suspicion is
14 not good enough, a likelihood is not good enough, you've
15 got to be convinced beyond a reasonable doubt. So I ask
16 you please don't make any decisions in this case until
17 you've heard all of the evidence because you'll hear
18 evidence from both sides.

19 And you may also ask yourself why does the
20 State have such a stiff burden of proof? Why is it so
21 steep? It's very simple. Our system of justice which I
22 think is the best in the world, we have a jury system
23 where jurors from all walks of life come into a courtroom
24 and make these decisions. We don't leave these decisions
25 to government professionals. The reason the State has

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1 that burden of proof is that we recognize that often
2 people can't prove their innocence. We also recognize
3 that it might just be better for an occasional guilty
4 person to get away and walk out of the courtroom than it
5 ever is for an innocent person to be convicted. There is
6 nothing more tragic than an innocent person who comes in
7 to a courtroom and is wrongfully convicted of a crime. So
8 they have to be very careful about that.

9 The State has the burden of proof beyond a
10 reasonable doubt and in this case that's particularly
11 important because I will say this about what you're going
12 to hear, Dante Stukes was told one day when they served
13 the warrant on him, you've been accused of raping somebody
14 somewhere between a year and eighteen months ago and we
15 don't know what happened on. It happened somewhere in a
16 four month window, have fun. What is a person supposed to
17 do about that?

18 Now, if the State is going to bring these
19 accusations, they'd better have the evidence.

20 Thank you very much.

21 THE COURT: Okay. Solicitor.

22 MS. HODGE: Thank you, very much. The State
23 would call Lois Lane.

24 THE CLERK: Please come forward to be sworn
25 in, please. Please place your left hand on the Bible and

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1 raise your right.

2 DELORES ANN LANE, having been duly sworn,
3 testified as follows:

4 Thank you. You may be seated. Would you
5 please state your name for the record.

6 THE WITNESS: My name is Delores Ann Lane.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MS. HODGE:

10 Q. Ms. Lane, tell us a little bit about yourself.
11 Are you married?

12 A. Yes, I am married and I have two children.

13 Q. Who are you married to?

14 A. I'm married to Pastor James Carrington Lane, Jr.

15 Q. And how long have y'all been married?

16 A. We got married July 1, 2008.

17 Q. And you have two children, how old are they?

18 A. I have D [REDACTED] who is 17 and Shanekwa who is now
19 21.

20 Q. And does D [REDACTED] still live at home with you?

21 A. Yes, she does.

22 Q. And how about Shanekwa, does she live at home
23 with you?

24 A. No, she doesn't.

25 Q. What grade is D [REDACTED] in, in school?

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1 A. She is a senior.

2 Q. Where does she go to school?

3 A. She attends Southside High School.

4 Q. What kinds of things has D [REDACTED] been involved in
5 in high school?

6 A. D [REDACTED] has been very active all of her life.
7 She's had perfect attendance, and since being at Southside
8 the most outstanding thing that she did in her sophomore
9 year, she came first runner up. She's in the honor
10 society, the technical honor society. She's vice
11 president of her ninth grade class, tenth grade class,
12 eleventh grade class, and now she's student body vice
13 president. She's varsity volley ball for two years,
14 varsity cheerleader. She's (inaudible) ambassadors.
15 She's Carolina Kids which is an outside group working with
16 youth and stuff and she's in the outreach at our church.

17 Q. She's very active.

18 A. Extreme active, and now she plays softball too?

19 Q. How about her grades? Does she do well in
20 school?

21 A. She has a 3.957 GPA.

22 Q. And you just mentioned she's involved in your
23 church. Tell me a little bit about your church and how
24 long your church has been in existence?

25 A. Our church is Grace Deliverance. Our first

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1 opening because we're located in Taylors we opened
2 Thanksgiving of 2009 but it was a bad location and it was
3 hard for people to find it, so we found a new location and
4 we just opened up August of last year.

5 Q. Where did you and your family attend church
6 before started Grace Deliverance?

7 A. We attended Grace Cathedral.

8 Q. Do you know the defendant Mr. Stukes in this
9 case?

10 A. Yes.

11 Q. How do you know him?

12 A. He was one of the apostles for Sammy Smith. My
13 husband was the House of Profit because he also functions
14 as one of his gifts as being a profit and members. And
15 his wife Kim was working with the youth so we all became
16 really close.

17 Q. And was D [REDACTED] involved in Ms. Kim's youth group
18 or Bible studies?

19 A. Yes.

20 Q. And you personally came to know the defendant and
21 his wife and family?

22 A. The whole family.

23 Q. Did y'all spend a lot of time together?

24 A. Yes.

25 Q. Would they come to your home?

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1 A. Every time we did something they came to the
2 house. I even, one time when my husband was out of town,
3 I cooked dinner for Dante and his family.

4 Q. And would your family ever go over to their home?

5 A. Yes.

6 Q. How about both of your children or just D [REDACTED]
7 or what?

8 A. Me and my two children have been.

9 Q. Do you know where they were living back in 2009?

10 A. The Plantation, it's an apartment right on
11 Penwood Road.

12 Q. Is that close to whether you guys lived at the
13 time?

14 A. We lived on Pelham Road so it's not too far.

15 Q. Did you ever go any work before you became
16 involved with the church or are you working currently?

17 A. I did mortgages for 18 years so. That's how I
18 ended up in Greenville, South Carolina because I kept
19 getting promotions.

20 Q. And right now are you full time working ---

21 A. Full time ministry.

22 Q. And as part of that were you ever required you
23 and your husband to travel around when y'all started your
24 church and maybe even continuing on today?

25 A. Yes, ma'am. My husband, he has been in ministry

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1 for 37 years and we do a lot of evangelism. We travel a
2 lot of different places with the ministry.

3 Q. Have they been out of Greenville or out of South
4 Carolina or both?

5 A. We've been everywhere, New York, Detroit. I mean
6 we've been every place and we've even been on tv a couple
7 of times.

8 Q. And let's focus back about what in D [REDACTED]'s
9 freshman high school 2008, 2009, you guys were traveling
10 some back then?

11 A. Yes.

12 Q. Would this be during the week or on weekends or
13 both?

14 A. Both.

15 Q. And was she allowed to miss school and come with
16 y'all?

17 A. No, during the summer D [REDACTED] would travel with
18 us sometimes. That's when she did her travel with us
19 during the summer, break, holiday from school she would
20 travel with us.

21 Q. And where would she stay or what would happen
22 with D [REDACTED] when you guys would have to go if it was
23 during the school time?

24 A. If it was during school time, she would stay at
25 either our god daughter, whose name is R [REDACTED], or at Kim

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1 and Dante's house or my friend Dorothy Brown, but she
2 preferred to stay with Kim because she looked at them as
3 her big brother and sister and she liked keeping her kids
4 for them.

5 Q. So she liked their family and did you have any
6 problems letting her spend ---

7 A. Kim and I had several talks and Kim always told
8 me that D [REDACTED] had reminded her of a lot of herself. She
9 would call me and says, Lois, D [REDACTED] reminds me so much
10 of myself.

11 Q. So they had a good relationship you thought and
12 felt?

13 A. Yes.

14 Q. Do you recall sometime in the second half of
15 D [REDACTED]'s ninth grade year, Christmas break of Diamonds
16 ninth grade year her spending some nights during the
17 school year?

18 A. Yes.

19 Q. And was anything ever told to you at that time to
20 make you think that wasn't okay back then?

21 A. No, it wasn't.

22 Q. And you still had a good relationship with her
23 family after her ninth grade year?

24 A. We loved them, I mean --

25 Q. So there was no kind of falling out that ever

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1 happened between you and the Stukes family or anything
2 like that?

3 A. No.

4 Q. Was there some point in D [REDACTED]'s tenth grade
5 year in the spring time that she disclosed to you that she
6 had been sexually assaulted.

7 A. Yes.

8 Q. And did she tell you when and where that sexual
9 assault took place?

10 A. Yes.

11 Q. First let's start with telling me when she told
12 you this had taken place -- when the incident took place?

13 A. She had told me she was with a counselor and when
14 it came out because the counsel asked had that happened
15 any other time and she said yes and the counselor said
16 that she said ---

17 Q. Don't tell me who just tell me where did she say
18 the sexual assault took place.

19 A. At Kim's apartment, Plantation.

20 Q. It took place at the Plantation.

21 A. Plantation.

22 Q. Did she specify any particular place inside of
23 the house or just that it happened at the house?

24 A. Yes, she did.

25 Q. Where did she specify happened in that house?

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1 A. It started in the tv room, they were watching tv.

2 Q. And this is the home of Kim and Dante Stukes; is
3 that correct?

4 A. Yes.

5 Q. Did she say as far as a time frame of what day it
6 was or what month it was or anything like that? Could you
7 give you that? Did she give you a time frame of when it
8 happened?

9 A. I asked her and she said it was on a Thursday or
10 Friday and she said mommy, I'm not sure of the date.

11 Q. Did she give you a time frame as far as what
12 grade was in school?

13 A. Ninth grade. It was the end of her ninth grade
14 year because she was also in ROTC because she had gotten a
15 lot of awards for being in ROTC.

16 Q. So you knew she was in ROTC at that time?

17 A. Right.

18 Q. But it was in her ninth grade year?

19 A. Yes.

20 Q. And did she say whether the assault took place in
21 the daytime or night time or some other time did she say?

22 A. Night time.

23 Q. And once she told this to you -- while she was
24 telling this to you, what was her emotional reaction?

25 What was going on with her?

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1 A. She was very distraught. She was scared. She
2 was really upset, scared, nervous, distraught.

3 Q. What did you do? What was your response?

4 A. I fell to my knees and started crying out to God
5 because it was hard for me to -- I mean I heard her but I
6 couldn't believe it because these are people that we
7 trusted, people we loved. We talked to a counsel and
8 talked to the authorities.

9 Q. Now, when she finally told you this, had there
10 been a rift or any bad blood or anything bad that happened
11 between you and the Stukes family when she disclosed what
12 happened?

13 A. No, because actually the week before we found out
14 Dante had called my husband and asked him was he mad at
15 him and my husband was like, no, why would you say that
16 and baby, can you believe Dante is asking am I mad at him.
17 Then the next day -- I was doing mortgages for 18 years
18 and they wanted me to find them a house so he had actually
19 called me too during that week saying they had found a
20 house and wanted me to pursue helping them and I was
21 telling him how to get his credit straight and what to do.

22 Q. So you guys were having normal ---

23 A. Normal conversations.

24 Q. Up until that point when D [REDACTED] disclosed?

25 A. Yes.

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1 Q. And you said she told you guys and the
2 authorities were involved. Did she have to speak to
3 police officers about this?

4 A. Yes.

5 Q. Did she have to have a medical exam after this?

6 A. Yes.

7 Q. And were you there for her during that time?

8 A. I've been there for her.

9 Q. Did she explain to you and you don't have to tell
10 me what she said but did she explain to you why she didn't
11 tell you or any grown up?

12 A. Yes.

13 Q. Did she explain to you ---

14 MR. MCELVEEN: Your Honor, I'm going to
15 object to that as hearsay.

16 MS. HODGE: I'm not asking her to tell me
17 what the child said.

18 THE COURT: Go ahead.

19 BY MS. HODGE:

20 Q. Did you give her information back? When she
21 explained to you why she didn't tell you, did you give
22 back to her anything to let her know ---

23 A. I told her that should have never happened and
24 never been afraid to let us know anything and -- I'm
25 trying to phrase it the right way -- I told her to never

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1 be afraid to come to us and let an adult know?

2 Q. So you would have supported her if she would have
3 told her?

4 A. Yes.

5 Q. You would have helped her in any way had she
6 told?

7 A. Yes.

8 Q. And is that what you did after she told you?

9 A. Yes.

10 Q. Is the person that you know as Dante Stukes as
11 the person your daughter stayed with when you were out of
12 time, is he present in court today?

13 A. Yes, he is.

14 Q. And who is he? Where is he? Identify him for
15 the court, please.

16 A. He's sitting with the red and blue.

17 Q. He's sitting at the table?

18 A. Yes.

19 Q. Thank you. Please answer any of Mr. McElven's
20 questions.

21 THE COURT: Mr. McElveen.

22 CROSS-EXAMINATION

23 BY MR. MCELVEEN:

24 Q. I do want to ask you just to make sure I do
25 understand, y'all were on the road a good bit during this

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1 time, correct?

2 A. Yes.

3 Q. Would that have been on a weekly basis?

4 A. It all depends on the churches call.

5 Q. Several times during the month at least?

6 A. Uh-hum.

7 Q. And y'all would go together?

8 A. Yes.

9 Q. You had two children?

10 A. Yes.

11 Q. Nicki and D [REDACTED]?

12 A. Shanekwa.

13 Q. Who is Nicki?

14 A. They call her Nicki but her name is Shanekwa.

15 Q. How old is Shanekwa?

16 A. Shanekwa is now 21.

17 Q. They stayed with different people?

18 A. Yes.

19 Q. And you mentioned your god daughter, the
20 Stukes's, Dorothy Brown, is there a Ms. Ann?

21 A. That's her god mother. She stayed with Ann more.
22 This was after the incident.

23 Q. After the incident or after the report of the
24 incident?

25 A. After the report.

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1 Q. So this continued even after the report, y'all
2 continued being on the road a lot and farming D [REDACTED] out
3 to different people?

4 A. No, we didn't farm her out to different people.
5 We let her stay with people that we knew.

6 Q. Anybody else other than those people?

7 A. Marcilla.

8 Q. Who is Marcilla?

9 A. She's a lady in our church and I've known
10 Marcilla since D [REDACTED] has been in sixth grade but she
11 wasn't staying with her during that time.

12 Q. What is Marcilla's last name?

13 A. I call her Marcilla so much.

14 Q. Did she stay at the Applecromby's?

15 A. We didn't now the Applecromby's.

16 Q. Did she ever stay there?

17 A. Yes, she did.

18 Q. And you didn't know that?

19 A. Not before this incident.

20 Q. How about Nicki was she always at the same place
21 with D [REDACTED] or did she go to different places?

22 A. Nicki moved out from us during her senior year.

23 Q. When did Nicki do that?

24 A. She graduated in 2009 so she moved out it had to
25 be in January 2009.

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1 Q. Where did she go?

2 A. She left us and went to -- let my house with my
3 mom, my mom came to Florida and she went to a girl named
4 Dominique's house.

5 Q. Did you ever come to find out that Nicki had been
6 staying at the Stukes's house?

7 A. Yes, I did come to find out and I found out
8 through -- it wasn't the Stukes that told me, I found out
9 through Nicki and my mom that she had been staying there
10 because Nicki told me that Kim threw her out, physically.
11 She told her she had to leave because she and Dante were
12 at the house and Dante came to Nicki and says I feel horny
13 and Nicki told him she -- she laughed and said get out of
14 my face and she addressed Kim about it ---

15 Q. I'm not asking you what Nicki said. I'm asking
16 you did you find out that Nicki had been staying at the
17 Stukes's house.

18 A. Yes.

19 Q. And this is after she left your house?

20 A. Yes.

21 Q. Did you put her out or did she just leave?

22 A. She left.

23 Q. She just had a baby, right?

24 A. Yes. The baby went to Florida.

25 Q. The baby was not with her at the Stukes's?

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1 A. Right.

2 Q. Did this not cause a problem between you and the
3 Stukes's?

4 A. No.

5 Q. You were okay with all of that?

6 A. Yes.

7 Q. And did there come a time in February you sent
8 D [REDACTED] over to the Stukes's for a couple of days and
9 ended up not coming back for a week? Did that happen?

10 A. It could have been.

11 Q. And that caused some friction too, didn't it?

12 A. No. It didn't cause friction because around that
13 time even if we stayed like -- it was never a week. It
14 was more than a day or so but it was never a week and we
15 sent Kim money through Western Union and it never caused
16 friction. Kim said she loved D [REDACTED].

17 Q. So you agreed that y'all overstayed and left
18 D [REDACTED] there for an extra period of time; is that
19 correct?

20 A. Yes, sir, but it wasn't a week.

21 Q. Did you talk to your daughters when they were
22 young about inappropriate touching?

23 A. Yes, I did.

24 Q. So you told her about these things before you
25 heard this from her, correct, and always tell somebody if

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1 this happened?

2 A. Yes.

3 Q. And not let anybody do this to you, correct?

4 A. Yes.

5 Q. You told them that?

6 A. Yes.

7 Q. Do you feel like they knew that? You feel like
8 you had drilled it into their heads sufficiently?

9 A. I told them.

10 Q. Okay. When this report was made, did he police
11 ever come to you to try to pinpoint the day that it might
12 have happened?

13 A. They asked me did -- I don't think ---

14 Q. Did they ever ask you where you might have gone
15 during the four month period? Did they ever ask you to go
16 back and look at your calendar or look at receipts or
17 credit card statements and determine where you might have
18 gone during that period? Did anybody ask you that?

19 A. No.

20 Q. Did anybody ask about your phone record in hopes
21 that that might determine when you were out of time during
22 that four month period?

23 A. No.

24 Q. Did anybody at all come to you after mid May when
25 Dante was arrested, did anybody come to you at any time

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1 for assistance in investigating this case?

2 A. Yes. As far as assistance how?

3 Q. After he was placed under arrest, after he was
4 charged, after the statement had been taken from your
5 daughter, after they initially talked to you at the
6 hospital ---

7 A. I went back and talk to the investigating officer
8 several times.

9 Q. But nobody asked ever made any effort to pinpoint
10 the time that this happened.

11 A. The officer, she asked questions and stuff and we
12 went and met with her several times.

13 MR. MCELVEEN: Your Honor, may we approach?

14 THE COURT: Sure.

15 (Whereupon, there was a bench conference.)

16 BY MR. MCELVEEN:

17 Q. You testified that when D [REDACTED] told you about
18 this she was upset and crying, correct?

19 A. Uh-hum.

20 Q. At the time she told you about this, she was
21 under the influence of another very trying event that was
22 unrelated to Dante Stukes?

23 A. Yes.

24 Q. Thank you.

25 THE COURT: Redirect?

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1 MS. HODGE: Briefly.

2 REDIRECT EXAMINATION

3 BY MS. HODGE:

4 Q. When she said to you about the incident related
5 to Mr. Stukes was she specifically upset about that
6 instance as well?

7 MR. MCELVEEN: I object. That calls for
8 speculation as well.

9 THE COURT: I sustain the objection to the
10 form of that questions.

11 BY MS. HODGE:

12 Q. When she was telling you about that incident that
13 had occurred previously at the Stukes's residence, was she
14 upset about that while she was telling you that?

15 MR. MCELVEEN: Objection.

16 THE COURT: She can testify as to what she
17 observed.

18 THE WITNESS: She was very upset.

19 BY MS. HODGE:

20 Q. As she was telling you about that?

21 A. Yes.

22 THE COURT: Thank you. You can step down.

23 (Witness leaves the witness stand.)

24 MS. HODGE: The State would call D [REDACTED]

25 B [REDACTED].

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1 THE CLERK: Ms. B [REDACTED], would you come
2 forward to be sworn in. Place your left hand on the Bible
3 and raise your right.

4 D [REDACTED] B [REDACTED], having been duly sworn,
5 testified as follows:

6 Thank you. You may be seated. State your
7 name for record.

8 THE WITNESS: D [REDACTED] B [REDACTED]

9 DIRECT EXAMINATION

10 BY MS. HODGE:

11 Q. D [REDACTED], I'm going to ask you to speak up so the
12 people in the jury box can hear you and I ask that you
13 give a verbal answer and not shaking or nodding because
14 the court reporter can't take that, okay.

15 A. Yes, ma'am.

16 Q. How old are you?

17 A. I'm seventeen.

18 Q. Are you still in school right now?

19 A. Yes, ma'am.

20 Q. Where do you go to school?

21 A. I attend Southside High School.

22 Q. What grade are you in?

23 A. I'm a senior this year.

24 Q. Do you have any plans for after graduation?

25 A. Yes, I want to get my BS in nursing and then

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1 obtain my master's in nursing and then get my PHd in child
2 psychology.

3 Q. And have you applied to some colleges?

4 A. Yes, ma'am.

5 Q. You heard back from them so far?

6 A. Yes.

7 Q. Tell me about school. Are you involved in some
8 activities at school?

9 A. Yes, ma'am.

10 Q. What are you involved in?

11 A. I been on student counsel since my freshman year.
12 I've been vice president of each class and this year I got
13 student body vice president and I'm vice president of
14 Tiger Ambassadors. I've been on that for two years and
15 I've been varsity volleyball since my ninth grade year,
16 varsity cheer leading this year and last year, and my
17 sophomore year I was captain. I'm doing softball this
18 year, too. I like to try new things.

19 Q. What position are you going to play for softball?

20 A. Third base.

21 Q. How about your grades? How well do you do in
22 school?

23 A. I have a 3.957. I'm on the A/B honor roll this
24 year. I just recently finished taking AP classes and this
25 year I'm going to cosmetology this year and I take the

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1 state board next year.

2 Q. So you can get your cosmetology license while
3 you're still in school?

4 A. Yes, ma'am.

5 Q. Your mom is Ms. Lane?

6 A. Yes, ma'am.

7 Q. And your father is Mr. Lane and they're both in
8 court here today?

9 A. Yes, ma'am.

10 Q. And you live with them currently?

11 A. Yes, ma'am.

12 Q. Do you attend the same church as your step dad?

13 A. Yes, ma'am.

14 Q. Are you involved in church activities as well?

15 A. Yes, ma'am, the youth group.

16 Q. Who do you do with the youth group?

17 A. We have outings where we'll go to the movies and
18 out to eat and have youth group services and we'll have
19 pastors come in and talk to us and things like that.

20 Q. Before your parents started Grace Deliverance,
21 what church did you go to?

22 A. Grace Cathedral.

23 Q. How long do you think y'all were members over
24 there?

25 A. For a year-and-a-half or so.

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1 Q. Did you meet Ms. Kim Stukes over there at Grace
2 Cathedral?

3 A. Yes, ma'am.

4 Q. Do you know about how you were or what grade you
5 were in when you first met her?

6 A. I was in the eighth grade because I attended
7 (inaudible) and I was one of the only eighth graders that
8 got to go.

9 Q. Did you have to be older?

10 A. Normally they wanted you to go to high school but
11 I always wanted to go to college troop because I always
12 had an early plan for what I wanted to do at school, so
13 since one of the mentors -- he allowed me to go to see the
14 colleges.

15 Q. Was Ms. Kim part of the youth group?

16 A. Yes, she was part of the ministry. They had
17 different teachers teach things and she started to work
18 with us and talk with us on Tuesday nights.

19 Q. And did you meet her husband and her kids after
20 that or through that?

21 A. Yes, ma'am.

22 Q. And how old were her kids when you met them?

23 A. Miala(ph) was three or four and Kiula(ph) was one
24 or two. I know they were younger.

25 Q. Did you like to stay with them and play with

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1 them?

2 A. Yes, ma'am.

3 Q. Did you watch them in case you needed to run to
4 the store and stuff like that?

5 A. Yes, ma'am.

6 Q. So had you been to their home during this time
7 during your eighth and ninth grade years?

8 A. Yes, ma'am.

9 Q. What kind of things would you do when you would
10 go over to their house? What was your purpose for going
11 over there?

12 A. Mostly when I started going over there it was to
13 do my papers because at the time our computer wasn't
14 working at our house and they had a computer and a printer
15 so she was good at writing papers. She helped me with
16 college formats because I was starting to do college
17 classes. So I would go to their home sometimes like when
18 the Youth Ministry had a sleep over or just hang out.

19 Q. And so you were around her and was the defendant
20 there and their children there too sometimes?

21 A. Yes, ma'am.

22 MR. MCELVEEN: Your Honor, at this point I'm
23 going to ask that she not lead so much.

24 THE COURT: It's alright so far. Go ahead.

25 BY MS. HODGE:

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1 Q. Did Ms. Kim work at all during this time that you
2 were aware of?

3 A. No, ma'am. She stayed at home with the kids
4 because she was a part of the Air force.

5 Q. But she wasn't an active deployment?

6 A. Yes, ma'am.

7 Q. And would she cook you any meals and things like
8 that too?

9 A. Yes, ma'am. She made the best macaroni. She
10 taught me to cook it just right so the cheese came out on
11 top and that was my favorite.

12 Q. Did you talk to her? Did you think she was
13 somebody you could talk to her about stuff?

14 A. Yes. I would talk to her about school stuff and
15 the boys that I had liked at school. I felt it was
16 awkward to talk to my parents and its not the same. So I
17 would talk to her because she was close to my age and she
18 gave me a big sister outlook.

19 Q. Would the defendant ever be around when there
20 would be conversations about schools or friends or boys or
21 whatever?

22 A. Yes. We would be in the living room and we all
23 talked and mostly she would be given advice but he'd be
24 right behind it saying, yeah, that's right.

25 Q. Would you talk to her about stuff like sex and

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1 stuff like that?

2 A. Yes, ma'am.

3 Q. And she give you good advice?

4 A. Yes, ma'am. She said she always understands the
5 feeling of wanting to that I should always think before I
6 do it and I should always run to do it and us being
7 Christians to ask God. She never told me to go have sex
8 but she always tried to steer me from doing it but she
9 also said I'm a grown child and she understands how I
10 feel.

11 Q. Is this a conversation you had a bunch with her
12 or just a few times?

13 A. It was a lot because there was a certain guy at
14 school that I had liked and I would tell her and he knew
15 about it.

16 Q. So he would be present during this conversation
17 about you liking this other boy?

18 A. Yes, ma'am.

19 Q. At that point had you had any type of sexual
20 relations with anyone?

21 A. No, ma'am.

22 Q. So you were trying to information or just
23 guidance?

24 A. I was wanting to know what to do or how it would
25 happen or how it would come about or just what it was.

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1 Q. Is that something that just kids your age and
2 your friends would talk about too or be curious about?

3 A. Yes, ma'am, because we would talk all the time
4 because some of my friends did and others didn't know how
5 to come about so we all just wondered.

6 Q. So you felt like Kim was like a big sister and
7 that was safe place to talk about it?

8 A. Yes, ma'am.

9 MR. MCELVEEN: I'm going to object as
10 leading.

11 THE COURT: That is leading so I'll sustain
12 the objection. Don't lead, please.

13 MS. HODGE: Yes, sir.

14 BY MS. HODGE:

15 Q. Do you know where the defendant and his friend
16 were living at the time when you would visit, hang out and
17 talk?

18 A. Yes, ma'am, they would stay at the Plantation on
19 Haywood Road.

20 Q. Is that the only home of theirs you ever went to?

21 A. That's the only one that I known about.

22 Q. Was there ever a time that you spent the night
23 over there without your sister or anyone else?

24 A. Yes, ma'am, a couple of times.

25 Q. Can you tell us when those times were? Do you

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1 know when those times were?

2 A. I don't know the exact date, but I know -- well,
3 one exact date I know when my first nephew was born I
4 ended up having to spend the night because my mom had to
5 rush to the hospital with my sister and I didn't go home.
6 I stayed there because I had to finish homework anywhere
7 so that was in January.

8 Q. What year?

9 A. 2008 or '09, I believe.

10 Q. What grade were you in school?

11 A. I was in ninth grade.

12 Q. So January of your ninth year?

13 A. Yes.

14 Q. And was there ever another time after that or
15 before that you spent the night?

16 A. Yes, ma'am. It was a couple of times when I had
17 a sleep over when my parents were out of town. I'd stay
18 there and she would take me to school in the morning.

19 Q. So let's talk about the time that you stayed
20 there when school was going on. Were you parents out of
21 town when school was going on?

22 A. Yes, ma'am.

23 Q. And tell us what happened? Did something
24 different happen one night when you were spending the
25 night there?

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1 A. Yes, ma'am.

2 Q. Can you tell us about that night. Let's start
3 from the beginning what you were doing that day or night?

4 A. I was working on papers for my english teacher
5 and even though I work on my papers, I always still talk
6 about it so someone can just help go along. Ms. Kim had
7 cooked dinner and we were all sitting in the living room
8 and we started talking and I told her that I really think
9 I wanted to lose my virginity to Jerrell because I really
10 like him. She was telling me well, I understand that you
11 really like him but you don't want to do something that
12 you will regret later and Dante was like yeah because boys
13 will take advantage and you could get your feeling hurt.

14 He was going along with what she said and so
15 we ate dinner. And then she went to put in beds because
16 they could never stay up later because they had a bedtime
17 that they had to be in bed. So once they went to bed and
18 she came back in the living room and we were sitting there
19 and I had finished my paper by then but I was spending the
20 night that night. So I was sitting in the living on the
21 couch on the other end and watch tv and I saw that they
22 were both sitting on the other end and Dante began to play
23 with her. I could see like the corner of my eye. It was
24 kind of awkward so I didn't want to look over there so I
25 kept looking at the tv and then he did all these things

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1 and stuck his head between her lap.

2 I still didn't look over there. I just kept
3 looking at the tv and then she said she didn't feel like
4 talking tonight. She sort of put that in her voice so I
5 felt like there was a meaning behind that. She said she
6 was going to bed so she went to bed.

7 Q. Let me stop you right there. Do you have any
8 idea -- was this a school night or weekend night? Do you
9 have any idea about that?

10 A. I believe it was a Friday. I really believe it
11 was a Friday.

12 Q. What makes you think that?

13 A. Because the next day I had went to my god
14 sister's house. I go over to my god sister's house over
15 the weekends when I can and we had stayed up that night
16 and ate ice cream and watched movies that night until the
17 late hours that next day.

18 Q. And do you have any idea of a time frame would
19 you say? Any general idea of the day or night when
20 Ms. Kim went to bed?

21 A. It was late at night. It was after 10:00.

22 Q. I'm going to get you to actually, if you can, I
23 want you to keep your voice up -- I'm going to ask you to
24 draw for me, if you can a little layout of the living room
25 area. Can you do that for me?

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1 A. Yes. (Witness complies.)

2 Q. Okay.

3 A. That's where the computer desk was. That was the
4 long couch and that was the way to the kitchen. All back
5 here was the kitchen. That was the tv back here and the
6 case so there was an area right here and the deck was over
7 here.

8 THE COURT: Can you speak up a little bit.

9 MS. HODGE: Speak up for us.

10 THE COURT: Maybe change places.

11 THE WITNESS: When you walked down the front
12 door, there was a guest room right here and then there was
13 the bathroom and then there was the kids room.

14 BY MS. HODGE:

15 Q. This was what?

16 A. The guest room.

17 Q. And that?

18 A. That was the kids room and back room was their
19 room.

20 Q. Ms. Kim and the defendant?

21 A. Yes.

22 Q. This is the only door to come in?

23 A. The front door, yes, and the deck.

24 Q. A deck also. And what is this right here in
25 front of the tv?

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1 A. It was just like just a little area.

2 Q. Was there any type of stand or furniture over
3 here?

4 A. It was just in a case (inaudible).

5 Q. Where were you sitting when you were watching tv
6 while Ms. Kim was still there?

7 A. (Witness points.)

8 Q. And where were they sitting?

9 A. They were sitting over here.

10 Q. And when Ms. Kim got up to go to bed, where was
11 the defendant sitting? Was he still there or was he
12 somewhere else?

13 A. He was still there but he slowly started moving
14 towards me.

15 Q. I'm going to have you sit down back in front of
16 the microphone. Thank you.

17 Tell us what happened after Ms. Kim left and
18 went back and go to bed or what she said she was going to
19 do?

20 A. Dante began to ask me are you sure you want to
21 lose your virginity to J [REDACTED] so he brought the
22 conversation back up. And I said, yeah, because I really
23 really like him and I know they I shouldn't but I really
24 like him. He goes I could show you not to get taken
25 advantage if you were to have sex with him and I sort of

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1 just stared at the tv and he goes take your hand and put
2 in my pants down the side of my pants. I sort of just
3 stared at the tv still and he said go ahead, this is how
4 you'll know.

5 So I put my hand down there and I quickly
6 jerked it back because I felt really weird and he grabbed
7 my hand and he put it back down there and he said the
8 size. He said this is the size that you would need to
9 lose your virginity to for it to be right, and he was like
10 are you okay and are you comfortable, and I just shrugged
11 and still stared at the tv.

12 By this time he had moved straight beside me
13 and he goes have you had anybody suck on your breast
14 before and I said, no, and he goes well, I can show you
15 how it feels. And he took down my left strap and he began
16 to suck on my nipples and he said does that feel good, how
17 does that feel and I shrugged and just looked at the tv.

18 And then he goes have you ever had anybody
19 touch down there and I just stared at the tv, and he gets
20 up and he has me stand on the other side of the tv with
21 that door. And I told him I said I have a yeast infection
22 and he asked me it was gone and I said I don't know, and
23 he said it should be okay. He began to suck on my breasts
24 again and he wasn't touching my private parts but it
25 wasn't inside the pants, it was on top of them.

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1 And then after he finishes I said, well,
2 that's it, right, I'm ready and he goes no, there's one
3 more thing that I have to do. I go what, and he goes I
4 have to slip the head in and I just sort of stand here and
5 he goes do you want me to do it out here or in the guess
6 bedroom and I this time I moved over and I just shrugged
7 and sat back in front of the tv and he said we'll go into
8 the guess bedroom just in case you make a noise.

9 And we got in there and he laid me on the bed
10 and my feet hanging off the side and he pulled my boxers
11 down and that's when he stuck his penis inside my vagina
12 and I heard him grunting and making noise and I just began
13 to close my eyes. And then after a while he just got up
14 and I realized that he didn't have on his pants or
15 underwear and I just saw his butt and he turned around to
16 go to the washing machine and he grabbed a towel and he
17 turned around and right on the side of the bed that wet my
18 leg and I pulled up my boxers and there were still some in
19 my boxers and I didn't want to say anything because it was
20 already late and I didn't want to get in the shower so I
21 pulled my pants back up.

22 I went in the living room for the minute and
23 he tells me that you were inching on it, did you just want
24 me to go ahead and put it all the way in and at that time
25 I just said, no. That's when I got up and I went in the

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1 guess bedroom and he went outside I guess to smoke a
2 cigarette, I don't know, but I went in the guest bedroom.

3 I got on the phone and called J [REDACTED].

4 Q. Let me stop you right there for a second and go
5 back to the beginning. What were you wearing this night
6 while Ms. Kim was still up? What did you have on?

7 A. I had on a tank top. It was a camisole and it
8 came up to here but it was the spaghetti strap. I had on
9 my pajama pants. I don't remember what the color of my
10 pajamas was but I do know that my boxers was stripped and
11 had some purple and it had an opening.

12 Q. Did you have a bra open at the time?

13 A. Yes, I had on a bra.

14 Q. Do you remember what the defendant was wearing?

15 A. Yeah, he had on a tee shirt and it was cut off at
16 the sleeve up here and he had on a blue stripped pajama
17 pants and it had the fly that was opening.

18 Q. Do you know if he on any underwear or boxers on?

19 A. It didn't feel like he did. I don't think he
20 did?

21 Q. Whenever you had been over at the defendant's
22 house before this night, had there ever been a time when
23 you and he would be hanging out alone?

24 A. No, it would always be Ms. Kim around or the kids
25 or somebody.

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1 Q. Was it different this time?

2 A. Yes, she went to bed. I guess because I was
3 finished with my homework, I guess she thought I was going
4 to bed but I was watching tv.

5 Q. And did you start up this conversation with the
6 defendant or did he start it?

7 A. He started. He was asking me was I sure that I
8 wanted to lose my virginity to J[REDACTED].

9 Q. Did he say anything about getting him in the palm
10 of your hand or anything like that?

11 A. He told me ---

12 MR. MCELVEEN: Objection, Your Honor.

13 THE COURT: Sustained.

14 How much longer are you going to go?

15 MS. HODGE: I would say we are probably at
16 least 15 more minutes.

17 THE COURT: Lunch for the jury is here so
18 we'll take a recess at this time.

19 Would you please step down.

20 Ladies and gentlemen, I understand that lunch
21 is here so we'll recess at this time and we'll pick back
22 up after lunch. Take the jury out.

23 (Jury exits the courtroom.)

24 Solicitor, please explain to the witness that
25 she is not to talk with her mother or anyone else

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1 concerning her testimony.

2 MS. HODGE: Yes, sir.

3 THE COURT: Be ready to start back at 1:15.
4 I'm not sure if we'll start right at that time but be back
5 and ready to go. Thank you.

6 (Whereupon, there was a lunch break.)

7 Alright, you may continue. Come on back
8 around.

9 BY MS. HODGE:

10 Q. D [REDACTED], when we left off I was asking you if
11 this was an unusual situation when you were permitted to
12 be alone and talking about this kind of stuff.

13 A. Yes, ma'am.

14 Q. Had you ever had any private conversations just
15 you and him other than this incident about anything like
16 boys or sex or any of that stuff?

17 A. No, ma'am.

18 Q. Was Ms. Kim present for all those conversations?

19 A. Yes, ma'am.

20 Q. Did you try to seek any advice just from the
21 defendant about those things?

22 A. I would ask for boy advice but Ms. Kim would be
23 around. She would give the girl's advice and he would
24 give the boy's point of view. It would be the two of
25 them.

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1 Q. Let's go back to the couch when y'all were
2 sitting on the couch. Did you ever move closer to him on
3 the couch?

4 A. When he first told me to put my hand there, I did
5 but I scooted back over and he grabbed my hand and put it
6 back down there.

7 Q. When you say grabbed your hand and put it back
8 down there, how did that happen?

9 A. His pants had an open fly and he stuck my hand
10 back through his fly.

11 Q. What did you feel if anything in there?

12 A. His penis.

13 Q. What did that feel like?

14 A. It was scaly sort of. It wasn't smooth, it was
15 sort of (inaudible). It was roundish.

16 Q. And how long do you think you had your hand
17 there?

18 A. Maybe two minutes.

19 Q. Was his hand on top of your hand or was it just
20 your hand or how was it?

21 A. After he put it down there he pulled his hand
22 over my hand.

23 Q. Was there any point that he got up off of the
24 couch?

25 A. Yes, there was times when he had me doing that

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1 and he was pulling down my strap, he would go down the
2 hallway to the kids room and his bedroom and then he would
3 come back to the front.

4 Q. What were you thinking when he got up?

5 A. I was thinking what can I do right now to get out
6 of the situation. I couldn't think of anything so I sat
7 and watched tv.

8 Q. Did you ever say no or stop or anything like
9 that?

10 A. The only time I actually said no was when he said
11 I could go ahead and go all the way in and then I was able
12 to say no.

13 Q. Do you have any idea why you didn't say no?

14 A. I was scared because I didn't know if I put
15 myself in that predicament because I know that I wanted to
16 know just what it was like with the guy I had liked so I
17 thought maybe it was my fault and I couldn't stop what was
18 happening.

19 Q. Did you want to do any of those type things with
20 the defendant?

21 A. No.

22 Q. You were curious about a boy your own age?

23 A. Yes, ma'am.

24 Q. Tell us a little bit more about making you stand
25 up. Where did you go when you stood up?

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1 A. He had me stand on the side of the tv. It was
2 right beside that shelf that the tv sat in and you
3 couldn't see if you come in the front door or the kitchen
4 looking back.

5 Q. So it kind of blocked out of side from some parts
6 of the apartment?

7 A. Yes, ma'am.

8 Q. Was anybody expected to be coming over that
9 night?

10 A. No, ma'am.

11 Q. And did you hear was awake or not? Could you
12 tell if she was up still?

13 A. I never heard anybody else get up.

14 Q. How about the kids, were they still asleep as far
15 as you knew?

16 A. Yes, ma'am.

17 Q. After the standing up part, go back and tell me
18 where did he touch your body when he made you stand up in
19 that blocked area by the tv?

20 A. He put his hands over my private parts in the
21 front and it was on the top of mine and he was excited and
22 he kept moving his hand around.

23 Q. Are you thinking any different things? Has your
24 thought process progressed at all or what did you think?

25 A. I just wanted to just get out of the situation

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1 but my body wouldn't move.

2 Q. And did he ever say anything to you about telling
3 about this?

4 A. When we sat on the couch he said that you can't
5 tell anybody what happened. He was like if I did he would
6 deny it because he would get in a lot of trouble. And he
7 said I would get trouble.

8 Q. So he told you that you would get in trouble?

9 A. Yes, ma'am.

10 Q. Did you believe what he said?

11 A. Yes, ma'am.

12 Q. Tell me about going into the bedroom, the guest
13 bedroom, can you describe the guest bedroom? What was in
14 that bedroom?

15 A. When you first walked in it was a tv on the left
16 hand side. It sat on top of the dresser and the bed was
17 pushed all the way against the wall on the right and it
18 had stuffed animals and the comfortable in the room was
19 made. If you first walked in the room and looked straight
20 ahead, there was a window and there was a closet on the
21 other side of the tv.

22 Q. Is that where you had been sleeping when you
23 stayed there?

24 A. Sometimes I'd sleep there and then sometimes I'd
25 sleep on the couch.

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1 Q. Why would you sleep on the couch?

2 A. Sometimes I'd finish my homework late or
3 something and the couch was comfortable spot and she would
4 just bring a blanket out and I would just watch tv and
5 talk on the phone until I fell asleep.

6 Q. Had you ever slept in the guest bedroom?

7 A. Once I believe, once or twice.

8 Q. And you were led into the guest bedroom. Tell us
9 again what happened in there?

10 A. He laid me on the bed and he pulled my boxers
11 down while I was on the bed and that's when he began to
12 push his penis inside me.

13 Q. Did you have on any pants because you said
14 boxers? Did you still have any pajama pants on?

15 A. Yes, ma'am. He had pulled his pajama pants down
16 but they boxers is what was laying right beside me on the
17 floor.

18 Q. Were the covers pulled back on the bed or was the
19 bed still made?

20 A. The bed was still bed.

21 Q. Were you laying with your heads towards the
22 pillows or somewhere else?

23 A. I was laying with my head towards the wall
24 because my feet were hanging off the side.

25 Q. Before he took your pants off, did he leave the

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1 room to do anything?

2 A. He went in the hall back towards he wife and his
3 kid's room and then he came back in the room.

4 Q. At that point, did you think you could call
5 somebody or do something or what did you think?

6 A. I just sat there. I couldn't think anything. I
7 just sat there.

8 Q. So did the defendant's penis get in your vagina?

9 A. Yes, ma'am.

10 Q. And what did he do after that?

11 A. He went where the washing machine was and grabbed
12 a towel and came back in the room and wiped my leg and
13 wiped the side of the bed and on the floor.

14 Q. Do you know what he was wiping?

15 A. It was white, ejaculation.

16 Q. Did he say anything to you after that or while I
17 was doing that?

18 A. He asked me if I wanted him to stick it all the
19 way in and I shrugged and said no.

20 Q. Is that the only time you said something?

21 A. Yes, ma'am.

22 Q. You said you shrugged, what did that look?

23 A. (Inaudible.)

24 Q. Did you want to get in the shower or get in the
25 bath or anything like that?

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1 A. Yes, ma'am, but I didn't want her to make up and
2 ask why was I taking a shower because I had already taken
3 a bath before so I just lay in the bed and that's when I
4 called J [REDACTED].

5 Q. Who is J [REDACTED]?

6 A. J [REDACTED] is the boy that liked in school and I had
7 wanted to lose my virginity to.

8 Q. Did J [REDACTED] know that that you felt about him
9 that way?

10 A. Yes, ma'am.

11 Q. Did y'all have any type of relationship like
12 that, a physical relationship?

13 A. We flirted a lot and we had classes together and
14 he would give me a hug everyday.

15 Q. I'm going to ask you to speak up and keep your
16 voice nice and strong.

17 Were y'all ever boyfriend and girlfriend or
18 anything like that.

19 A. No, ma'am.

20 Q. Did you have a phone of your own while you were
21 staying at the Stukes's?

22 A. Yes, ma'am.

23 Q. And whose phone would that have been?

24 A. My cell phone.

25 Q. Tell us what you did when you called J [REDACTED]?

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1 What did you do?

2 A. I got in the bed and I told him what had
3 happened. I told him that I felt like I had did something
4 stupid and about something that happened that shouldn't
5 have happened.

6 Q. How were you emotionally? How were you feeling
7 at that point?

8 A. I felt like crying and I began to cry.

9 Q. Did you go to sleep that night, do you think?

10 A. I didn't sleep well. I mostly cried myself to
11 sleep but I wasn't in a deep sleep.

12 Q. Did you think about getting up and telling him or
13 anybody for that matter?

14 A. I was scared.

15 Q. What did you think would happen? What were you
16 scared of?

17 A. I didn't like for anybody to be upset with me and
18 I didn't want anybody to get mad at me.

19 Q. How were you going to deal with that? What was
20 your thought on how you would deal with this?

21 A. I talked to my sister -- my god sister about
22 everything and the next day I talked to her and just got
23 it off my chest and when I got to school there was a group
24 of girls at my ROTC class. Most people didn't talk to
25 them about anything because they were a group of girls

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1 that you didn't think I would hang with but they were
2 understanding. We would talk about everything so I told
3 them what happened and they told me I should tell somebody
4 but I didn't want to. I just wanted somebody to confide
5 in.

6 Q. At that time, did you plan on ever telling your
7 mom or the police or anybody?

8 A. No, I just wanted to push it to the back of my
9 head like it never happened.

10 Q. Let's go back to the incident night, the next
11 morning when you get up, do you recall who was at the
12 house?

13 A. No. I remember that it was him that took me to
14 be with my god sister because it was still dark outside.
15 It was early in the morning but it was dark outside and he
16 met my sister at the BP gas station up on Haywood Road.

17 Q. Who was that you were meeting?

18 A. I was meeting my god sister.

19 Q. And who is that?

20 A. R [REDACTED] D [REDACTED].

21 Q. You were meeting her why?

22 A. Because that was who I was going to stay with
23 until my parents go back for the weekend.

24 Q. Could she drive?

25 A. Not at that time. My god mom was with her, Sheri

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1 Anderson.

2 Q. And how did you get to the BP gas station?

3 A. Dante took me.

4 Q. Was there any conversation between you and him at
5 that point about what happen?

6 A. We did talk about J [REDACTED] and he asked me how I
7 felt and I just said I still like him. I tried to keep my
8 composure normal just until I got with my sister so that
9 nobody, my god mom, would think anything that happened.

10 Q. Did you end up telling your god sister that day?

11 A. Yes.

12 MR. MCELVEEN: Objection, Your Honor,
13 leading.

14 THE COURT: No, that's no leading. That's
15 alright. Go ahead.

16 THE WITNESS: Yes, ma'am.

17 BY MS. HODGE:

18 Q. How did that conversation come about?

19 A. I had told her that I was talking to them about
20 J [REDACTED] and how I liked him and what I wanted to do and
21 she was like well, what happened and I told her. I didn't
22 go into too much detail but I did tell her that things
23 happened that shouldn't have happened and when he was
24 about to get in the car I waved to him and said that's
25 him.

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1 Q. Did she know him before that?

2 A. No, ma'am.

3 Q. How old was she?

4 A. She was 15.

5 Q. Y'all close in age?

6 A. Yes, ma'am. She was like a year older than me.

7 Q. Did you tell her all this in the car or when did
8 you start telling her this stuff?

9 A. After I got off the phone with J [REDACTED], I did
10 call her but I told her that we needed to talk when I got
11 with her. I didn't go into detail about anything but I
12 told her when we got together I needed to talk to her.

13 Q. Did you get back to her house when you started to
14 tell her what happened?

15 A. Yes, ma'am.

16 Q. And did you do anything or did you want to do
17 anything when you got to her house?

18 A. When I got to her house, I pulled off my clothes
19 and got in the shower.

20 Q. Why did you do that?

21 A. Because I felt dirty and I was scared because
22 when I had pulled my boxers up there was still some
23 ejaculation in the boxers and I was scared that there was
24 something and I didn't want to get in no trouble so I just
25 got in the shower to try to clean myself off.

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1 Q. How about your clothes, what did you do with your
2 clothes?

3 A. I put them with the dirty clothes so I could get
4 them washed. My sister gave me a pair of her clothes to
5 put on.

6 Q. Did you stay the night over at her house that
7 night?

8 A. Yes, ma'am.

9 Q. Did you think about telling her mom while you
10 were there?

11 A. I did think about it but I didn't because I felt
12 like she would tell my parents and I would get in trouble.

13 Q. When you say get in trouble, what did you think
14 your mom would say?

15 A. That she would be upset with me because there was
16 a possibility of my probably being pregnant.

17 Q. And do you know if the defendant used any type of
18 condom or anything like that?

19 A. No, he didn't.

20 Q. Were you on any kind of birth control?

21 A. No, ma'am.

22 Q. Did you go back to school at some point?

23 A. Yes, ma'am.

24 Q. Were you back at your own home when you went back
25 to school or were you still at your god sister's house?

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1 A. I was back at my own home.

2 Q. Tell us about what you said to your friends at
3 school and how that came about?

4 A. We were at PT, we were in the gym and I told them
5 that I think something bad had happened or something bad
6 that happened and it was wrong and I told them that I had
7 wanted to have sex with J [REDACTED] and the people that I was
8 staying with -- that he had messed with me and that he did
9 stick the head in and that he ejaculated in my boxers.

10 Q. Did you tell a teacher or these were just your
11 peers and friends?

12 A. Just my peers, just the people around me, the
13 girls. We had boys around but I didn't talk with them.

14 Q. Did you ever have to be around the defendant
15 again after this incident other than the car ride?

16 A. Yes, ma'am.

17 Q. How did that come about? When was that? Do you
18 know?

19 A. I still had homework and stuff to do and
20 sometimes my parents would go out of town and I didn't
21 want them to think that something was wrong. I didn't
22 want them to ask questions so I just continued to go over
23 there and I said that I would just act like nothing would
24 happen because when I did go over here he acted like
25 nothing happened.

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1 Q. Did you ever find yourself alone in a room with
2 him again?

3 A. I never allowed myself to be in a room alone. I
4 would always get on the phone.

5 Q. Did he try to talk to you after that car ride
6 again about anything like this?

7 A. No, ma'am.

8 Q. Did he treat you different or the same as before
9 the incident?

10 A. He treated me a little differently but sometimes
11 he would just look at me and not say anything. Other
12 times he would look at me and just go along with what we
13 were doing like when Ms. Kim was there and we were talking
14 he would say little things to make it seem normal.

15 Q. Is that what you were doing too?

16 A. Yes, ma'am.

17 Q. Did you finally tell your mom about what the
18 defendant did to you?

19 A. Yes, ma'am.

20 Q. That was in April of 2010?

21 A. Yes, ma'am.

22 Q. So almost a year later?

23 A. Yes, ma'am.

24 Q. Why at that time did you decide you needed to
25 tell your mom about this incident?

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1 A. Because I was speaking with a counselor and I try
2 my hardest to be fairly honest ---

3 MR. MCELVEEN: Your Honor, I have an
4 objection at this point.

5 THE COURT: Take the jury out, please.

6 (Jury exits the courtroom.)

7 Yes, sir.

8 MR. MCELVEEN: Your Honor, we are prohibited
9 at this point from referring to the other rape, which is
10 fine because I didn't really intend to get into it, but
11 now she's asking her why she decided to tell her mother at
12 this time and her testimony is that she was telling a
13 counselor and I assume she was getting ready to say that
14 it is important to be completely truthfully. That totally
15 leaves out the scenario under which she's talking to the
16 counselor and yet I am unable to get to that.

17 My objection is for her to refrain from
18 anything to do with that first rape.

19 THE COURT: Solicitor.

20 MS. HODGE: Your Honor, we have crafted my
21 question so it does not elicit information about that. At
22 this point is she talked to a counselor and the counselor
23 asked her if anything happened and she disclosed to the
24 counselor. That in no way invokes now this flood gate of
25 we get to talk about why you were there and you were

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1 talking to a counsel about that. What the jury hears is
2 she's talking to a counselor and the counselor is ---

3 THE COURT: That's as far as you're going.

4 MS. HODGE: That's as far as I'm going. I
5 think the jury is entitled to know what prompted her to
6 tell without not knowing the prejudicial information.

7 MR. MCELVEEN: And I would like to cross-
8 examine her and say isn't it true the counselor you were
9 talking about to had nothing to do with the incident
10 involving Dante Stukes.

11 THE COURT: I will allow that one question.

12 Bring the jury, please.

13 (Jury re-enters the courtroom.)

14 BY MS. HODGE:

15 Q. Diamond, what made you decide to tell about this
16 incident involving Mr. Stukes?

17 A. I was speaking to a counselor and I tried to be
18 very honest and she asked me about everything, assaulted
19 or touched or any kind of way in a sexual manner and
20 something just told me to say that this is the right time
21 so I just said, yes.

22 Q. Did you tell her details about that or did you
23 just said yes?

24 A. I said yes and she asked me ---

25 MR. MCELVEEN: Objection.

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1 THE COURT: I sustain the objection.

2 BY MS. HODGE:

3 Q. Just tell me did you at that point give her any
4 details?

5 A. No.

6 Q. You just stated that you had been and did you
7 state who it was?

8 A. Yes.

9 Q. Is that the defendant?

10 A. Yes, ma'am.

11 Q. As a result of talking to the counselor and
12 telling her about that, did you also tell your mom about
13 what had happened?

14 A. Yes, ma'am.

15 Q. Did you get in trouble?

16 A. No, ma'am.

17 Q. So it didn't turn out like you thought?

18 A. No, ma'am.

19 Q. Mom supported you?

20 A. Yes, ma'am.

21 Q. After telling this counselor and your mom, did
22 you have to talk to some police officers?

23 A. Yes, ma'am.

24 Q. And do you remember talking to Detective Thomas?

25 A. Yes, ma'am.

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1 Q. Did you tell her essentially everything that you
2 told the jury here today?

3 A. Yes, ma'am.

4 Q. Did you give her information about people, other
5 kids that you had told?

6 A. Yes, ma'am.

7 Q. As a result of talking to Detective Thomas --
8 after talking to Detective Thomas, did you have to have a
9 medical exam done?

10 A. Yes, ma'am.

11 Q. At the Children's Advocacy Center?

12 A. Yes, ma'am.

13 Q. And when you went for that medical examine, did
14 they do a gynecological exam as well?

15 A. Yes, ma'am.

16 Q. Did you tell the doctor there about this incident
17 with Mr. Stukes?

18 A. Yes, ma'am.

19 Q. Did you tell her what you told us here in court
20 here today as well?

21 A. Yes, ma'am.

22 Q. You talked to several different people about this
23 incident; is that correct?

24 A. Yes, ma'am.

25 Q. You told the police, the doctor, the court

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1 essentially the same thing?

2 A. Yes, ma'am.

3 Q. Is it because it's true?

4 A. Yes, ma'am.

5 Q. Was there any reason or falling out that you may
6 have had with just Mr. Stukes that prompted you to tell
7 this?

8 A. No, ma'am.

9 Q. Had you ever envisioned it coming to this point?

10 A. No, ma'am.

11 Q. Was that ever your intention?

12 A. No, ma'am.

13 Q. Did you look up to him like a big brother?

14 A. Yes, ma'am.

15 MR. MCELVEEN: I object to that. It's
16 leading.

17 THE COURT: No, it's not leading. Go ahead.

18 BY MS. HODGE:

19 Q. Diamond, is the person that you know as Dante
20 Stukes, the person that sexually assaulted you, in the
21 courtroom today?

22 A. Yes, ma'am.

23 Q. And which person is he?

24 A. The man sitting over there in the grey suit and
25 blue shirt.

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1 Q. D [REDACTED], I'm going to show you a picture that is
2 State's No. 1. What is this picture?

3 A. This is a picture from my freshman year of ROTC.

4 Q. And is this how you looked when the defendant
5 sexually assaulted you? Is this the age and how you
6 looked then?

7 A. Yes, ma'am.

8 MS. HODGE: At this time, we would move to
9 admit State's No. 1.

10 MR. MCELVEEN: No objection.

11 THE COURT: Without objection.

12 (Photograph marked as State's Exhibit No. 1
13 for identification was admitted into evidence.)

14 BY MS. HODGE:

15 Q. Dante, thank you. Answer any of Mr. McElven's
16 questions.

CROSS-EXAMINATION

17 BY MR. MCELVEEN:

18 Q. Hey, D [REDACTED].

19 A. Hi.

20 Q. Do you know who I am?

21 A. Yes, sir.

22 Q. You know I'm Dante's lawyer?

23 A. Yes, sir.

24 Q. And I'm going to ask you some questions about
25

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1 what Ms. Hodge asked you.

2 A. Yes, sir.

3 Q. You did testify when Ms. Hodge was talking to you
4 about how you came to know the Stukes's?

5 A. Yes, sir.

6 Q. And you testified that you spent a lot of time
7 over there?

8 A. Yes, sir.

9 Q. And that included a good many nights?

10 A. Yes, sir.

11 Q. And you spent lots of nights in other places?

12 A. Yes, sir.

13 Q. Other friends of the family?

14 A. Yes, sir.

15 Q. Can you tell us how many people that might have
16 been?

17 A. Maybe four.

18 Q. Could it have been more than four?

19 A. Not many more.

20 Q. But some more perhaps?

21 A. Maybe one or two.

22 Q. And that's because your parents were gone off on
23 mission trips on a fairly regular basis, weren't they?

24 A. Yes, sir.

25 Q. Were there times when you would stay at home by

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1 yourself?

2 A. No, sir.

3 Q. But you'd be there with Nicki sometimes?

4 A. Yes, sir.

5 Q. When your parents would be gone you wouldn't go
6 to somebody else's house, you'd stay with Nicki?

7 A. Yes, sir.

8 Q. When you were supposed to be staying there with
9 Nicki, was she gone a lot?

10 A. No, sir.

11 Q. She was always there?

12 A. Yes, sir.

13 Q. Nicki stayed over at the Stukes's some too,
14 didn't she?

15 A. Yes, sir.

16 Q. And she stayed over with other people?

17 A. Yes, sir.

18 Q. Do you remember when Nicki went and stayed with
19 the Stukes's when she had her baby?

20 A. Yes, sir.

21 Q. Why did she do that?

22 MS. HODGE: Objection to relevance, Your
23 Honor, about her older sister.

24 THE COURT: What was your question again?

25 MR. MCELVEEN: The question was if Nicki had

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1 gone and lived with the Stukes's for a time and she said
2 yes and I asked her why that was.

3 THE COURT: No, sir, I sustain the objection
4 to the form of the question.

5 BY MR. MCELVEEN:

6 Q. Do you remember the time that you went and stayed
7 with the Stukes and it was supposed to be a couple of days
8 but your parents didn't end up coming back for a lot
9 longer than that?

10 A. Yes, sir.

11 Q. Do you remember when that was?

12 A. Not exactly.

13 Q. Do you remember what grade you were in at school?

14 A. Yes, sir.

15 Q. What grade was that?

16 A. My ninth grade year.

17 Q. It was the same time, wasn't it?

18 A. Yes, sir.

19 Q. Was that the time you are telling us that this
20 happened?

21 A. Yes, sir, I believe so.

22 Q. So during that extended period when your parents
23 didn't come back, you're now telling us that's when this
24 occurred?

25 A. I don't know.

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1 Q. You don't now. So you don't know if it was a
2 time when you were spending the night over there one
3 night?

4 A. No, I was staying there before I went to my god
5 sister's house. It was that day because I believe they
6 were going to be going out of town.

7 Q. My question to you is, and this is important, was
8 it a time when you were staying there for one night?

9 A. No, sir.

10 Q. You were staying there for more than one night?

11 A. Yes, sir.

12 Q. It was two nights?

13 A. It was maybe three days or so.

14 Q. Could it have been longer than that?

15 A. No, sir, because I was going to my sister's house
16 that weekend.

17 Q. So it was not a time that you ended up staying
18 there for about a week?

19 A. No, sir.

20 Q. Did you tell the police -- you've told us today
21 in the courtroom that you went to your god parent's house
22 the next day?

23 A. Yes, sir.

24 Q. Did you tell the parents that at any time?

25 A. Yes, sir.

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1 Q. Do you know if they ever talked to your god
2 sister?

3 A. No, sir.

4 Q. You don't know or they didn't talk to her?

5 A. I don't know.

6 Q. When did you first tell the police that?

7 A. Tell them what?

8 Q. That the day after this happened you went to your
9 god sister's house?

10 A. I told them the day that I told them about what
11 happened.

12 Q. So all the way back then you told them that?

13 A. Yes, sir.

14 Q. Is this a big apartment?

15 A. It's fairly big.

16 Q. How many bedrooms do they have?

17 A. A total of three.

18 Q. The bedrooms are all kind of right there together
19 by the hall, right?

20 A. Yes, sir.

21 Q. And the children stay in one?

22 A. Yes, sir.

23 Q. And the Stukes's stay in the other?

24 A. Yes, sir.

25 Q. And the other is a guest bedroom?

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1 A. Yes, sir.

2 Q. And are the doors open?

3 A. The kid's bedroom, I know the kids bedroom is
4 always open.

5 Q. How about Ms. Stukes, is her room always open?

6 A. I could never see it because it was always behind
7 the corner.

8 Q. So you were not aware if it was closed or not?

9 A. No, sir.

10 Q. Didn't your mother, I'm sure she talked to you at
11 times about people touching inappropriately, hasn't she?

12 A. Yes, sir.

13 Q. And she's told you not to ever allow that to
14 happen?

15 A. Yes, sir.

16 Q. And she's told you that if anybody tries to do
17 that you are to tell them to stop?

18 A. Yes, sir.

19 Q. And she's told you to tell somebody about it,
20 hasn't she?

21 A. Yes, sir.

22 Q. And she's told you that she won't get mad at you
23 if something like were to happen, hasn't she?

24 A. Yes, sir.

25 Q. Now, after this happened, I think you went to

State of South Carolina versus Dante Stukes

1 school and I'm a little bit confused but I want to make
2 sure I understand, you told two different groups of
3 people?

4 A. Yes, sir.

5 Q. You told the ROTC people?

6 A. Yes, sir.

7 Q. And you told the PT people?

8 A. No, those are the same people. It's the physical
9 time of the ROTC when we had to do workout.

10 Q. So how many different groups did you tell at
11 school that day?

12 A. It's the ROTC group.

13 Q. And how many people were they?

14 A. It was five.

15 Q. And you also told earlier than that you had told
16 your god sister?

17 A. Yes, sir.

18 Q. And you told J [REDACTED]?

19 A. Yes, sir.

20 Q. Anybody else?

21 A. No, sir.

22 Q. And all these people said you need to tell?

23 A. Yes, sir.

24 Q. Did the police ever ask you about what the
25 apartment looked like?

State of South Carolina versus Dante Stukes

1 A. Yes, sir.

2 Q. Did you put that in your statement?

3 A. No, sir.

4 Q. Did they ever write it down?

5 A. I'm not sure.

6 Q. How about the bedroom, did the bedroom have a
7 carpet in it?

8 A. Yes, sir.

9 Q. Was it wall to wall carpet?

10 A. I'm not sure I know what that is.

11 Q. Well, is a carpet like this that covers the whole
12 floor or was it a carpet that you could roll up and take
13 out?

14 A. It was a carpet that covered the whole floor.

15 Q. So it couldn't be taken out?

16 A. No, sir.

17 Q. Did you ever tell anybody about that?

18 A. No, sir.

19 Q. Did anybody ever ask you?

20 A. No, sir.

21 Q. Did anybody ever ask you what your cell phone
22 number was?

23 A. No, sir.

24 Q. Did anybody ask you what Jerrell's cell phone
25 number was?

State of South Carolina versus Dante Stukes

1 A. I don't believe so.

2 Q. You say you went back to the Stukes's house from
3 time to time after this to make things look normal?

4 A. Yes, sir.

5 Q. Did a time come when you spent the night there
6 again?

7 A. I believe so.

8 Q. As a matter fact you asked them if you could
9 spend the night, didn't you?

10 A. Yes, sir.

11 Q. That was in October or November, late in the
12 year?

13 A. Not that late.

14 Q. But after this had happened?

15 A. After it happened I asked me Kim because I had to
16 do homework that I needed help with and my parents were
17 gone at the time and my computer wasn't working.

18 Q. Okay. This is perfectly normal but you talked to
19 the Solicitor's Office about your testimony, correct?

20 A. Yes, sir.

21 Q. And all together a fairly substantial amount of
22 time, correct?

23 A. Yes, sir.

24 Q. It's been very detailed, hasn't it?

25 A. I'm not sure what you're asking me.

State of South Carolina versus Dante Stukes

1 Q. What I'm asking you is the solicitor was very
2 thorough about your testimony, wasn't she?

3 A. She asked me if I was honest about what I said.

4 Q. She talked to you multiple times for extensive
5 periods of times, didn't she?

6 A. Yes, sir.

7 Q. Now, there are a few things different about your
8 statement than what you testified to today, isn't that
9 correct?

10 A. Yes, sir.

11 Q. Let me show you this. Is this the statement you
12 gave to the police? Take a look at it and make sure it's
13 yours.

14 A. Yes, sir. It doesn't look like all of it.

15 Q. There's more to it than that?

16 A. Yes, sir. The last page isn't mine.

17 Q. The last page isn't yours but that's your
18 signature?

19 A. Yes, sir.

20 Q. Take a look at that, is that the paper that you
21 signed?

22 A. It's still missing a page.

23 Q. Well, it says Page 1, 2, 3, 4 of 4.

24 A. That last page isn't mine.

25 Q. It says 4 of 4.

State of South Carolina versus Dante Stukes

1 A. The one behind it.

2 Q. I'm sorry, you're right about that. I think I've
3 got it right this time. Is this a copy of your statement?

4 A. Yes, sir.

5 Q. And it says on the last page -- the first three
6 pages, is this your handwriting?

7 A. Yes, sir.

8 Q. You actually wrote this down?

9 A. Yes, sir.

10 Q. It's not the police writing it down for you and
11 having you read it?

12 A. Yes, sir.

13 Q. And you've told us some things that happen today
14 that you didn't put in the statement, correct?

15 A. Yes, sir.

16 MR. MCELVEEN: Your Honor, I'm offering this
17 and she has an objection.

18 MS. HODGE: Yes, I object.

19 THE COURT: Take the jury out, please.

20 (Jury exits the courtroom.)

21 MR. MCELVEEN: I'll withdraw.

22 THE COURT: Bring them back.

23 (Jury re-enters the courtroom.)

24 BY MR. MCELVEEN:

25 Q. You testified that you were talking to a

State of South Carolina versus Dante Stukes

1 counselor and you told the counselor about this, correct?

2 A. Yes, sir.

3 Q. The counselor you were talking to had absolutely
4 nothing to do with Dante Stukes, did it?

5 A. You're correct.

6 Q. That's all I have. Thank you very much.

7 THE COURT: Any redirect?

8 MS. HODGE: Yes.

9 REDIRECT EXAMINATION

10 BY MS. HODGE:

11 Q. D [REDACTED], you and I have talked two times, isn't
12 that right about your testimony?

13 A. Yes, ma'am.

14 Q. One time at school for a brief period of time?

15 A. Yes, ma'am.

16 Q. And one time at the Solicitor's Office?

17 A. Yes, ma'am.

18 Q. Would I be doing my job if I didn't talk to
19 people ---

20 MR. MCELVEEN: Objection.

21 THE COURT: Sustained. I instruct the jury
22 to disregard that question.

23 BY MS. HODGE:

24 Q. D [REDACTED], what were you instructed to do in your
25 testimony?

State of South Carolina versus Dante Stukes

1 A. Tell the truth.

2 Q. Mr. McElveen said today that you said some things
3 that weren't in your statement. Did you give every detail
4 of what you're given testimony in that written statement
5 that you wrote for that police officer?

6 A. Yes, ma'am.

7 Q. Have you also told some additional things in the
8 court?

9 A. Yes, ma'am.

10 Q. Did you ever deny or recant anything you wrote in
11 your original statement?

12 A. No, ma'am.

13 Q. Have you changed your story?

14 A. No, ma'am.

15 MS. HODGE: That's all I have.

16 THE COURT: Thank you. Step down, ma'am.

17 (Witness leaves the witness stand.)

18 MS. HODGE: The State would call J [REDACTED]

19 T [REDACTED].

20 THE CLERK: Mr. T [REDACTED], would you please come
21 up to be sworn in. Place your left hand on the Bible and
22 raise your right hand.

23 J [REDACTED] T [REDACTED], having been duly sworn,
24 testified as follows:

25 Thank you. You may be seated. Please state

State of South Carolina versus Dante Stukes

1 your name for the record.

2 THE WITNESS: J [REDACTED] T [REDACTED].

3 DIRECT EXAMINATION

4 BY MS. HODGE:

5 Q. Mr. T [REDACTED], how old are you?

6 A. Seventeen.

7 Q. Are you still in school right now?

8 A. Yes, ma'am.

9 Q. Where do you go to school?

10 A. Southside High School.

11 Q. What grade are you in?

12 A. I'm a senior this year.

13 Q. Do you have any plans that you might be when you
14 graduate?

15 A. College. (Inaudible).

16 Q. Do you work right now?

17 A. Yes, ma'am, I work at Firehouse Sub.

18 Q. How many hours do you work a week?

19 A. I'd say about 35.

20 Q. Were you involved in any student activities
21 before you started working so much?

22 A. Yes, ma'am, my freshman year I started playing
23 football.

24 Q. And after that did you start working after your
25 freshman year?

State of South Carolina versus Dante Stukes

1 A. Yes, ma'am. I didn't have time for football.

2 Q. Do you know D [REDACTED] B [REDACTED]?

3 A. Yes, ma'am.

4 Q. How do you know how? How did you meet her?

5 A. We were in the same class freshman year.

6 Q. And did you become friends?

7 A. Yes, ma'am.

8 Q. Boyfriend, girlfriends?

9 A. Just good friends.

10 Q. Just talk to each other?

11 A. Yes, ma'am.

12 Q. Did you ever go out on dates or anything like
13 that?

14 A. No, ma'am.

15 Q. Did you ever talk to each other on the phone
16 after school and stuff?

17 A. Yes, ma'am.

18 Q. How would you have characterized your
19 relationship with her?

20 A. Just friends, just talking and stuff.

21 Q. Did y'all talk about serious things?

22 A. Anything from small stuff to the big stuff.

23 Q. Would she call you or you call her?

24 A. Yes, ma'am.

25 THE COURT: Slide that microphone up a little

State of South Carolina versus Dante Stukes

1 bit.

2 BY MS. HODGE:

3 Q. After ninth grade, did y'all continue to be
4 friends?

5 A. We were cool like acquaintances or whatever but
6 we didn't talk like we used to.

7 Q. Is there any reason for that?

8 A. No, after freshman year we didn't have no more
9 classes together. She was in the ivy program and I got
10 out of it so we didn't have too much contact with each
11 other.

12 Q. How many kids at Southside?

13 A. I'm not sure. If I had to guess it would maybe
14 about 1000.

15 Q. It's a really big school. So if you don't have a
16 class with them you maybe would not talk to them?

17 A. Too many faces in the crowd.

18 Q. Back in the ninth grade, do you remember D [REDACTED]
19 calling you one night with something very different than
20 what y'all normally talk about?

21 A. Yes, ma'am.

22 Q. Do you remember what time of the school year it
23 was?

24 A. It was in the second semester. I can't remember
25 what time it was about but I know it was the second

State of South Carolina versus Dante Stukes

1 semester of high school.

2 Q. In your freshman year?

3 A. Yes, ma'am.

4 Q. And when you say second semester, when do second
5 semester start?

6 A. Right after break, Christmas or so.

7 Q. And did she call you during the day time, night
8 time or something else?

9 A. It was during the night.

10 Q. Do you know if it was on a weekday or weekend?

11 A. It was a weekday.

12 Q. Did she tell you that somebody had sexually
13 assaulted her?

14 A. Yes, ma'am.

15 Q. Did she tell you where that happened?

16 A. It was at that time of the guy who tried to
17 assault her.

18 Q. Did she tell you where in the house this
19 happened?

20 A. I can't remember where she told me it was, but I
21 know it was at the house.

22 Q. At the house?

23 A. Yes, ma'am.

24 Q. Was it the house she was staying at, did she tell
25 you that?

State of South Carolina versus Dante Stukes

1 A. I don't believe it was the house she was staying
2 at.

3 Q. When I say staying, I mean by living. Is that
4 what you mean by staying?

5 A. Yes, ma'am. To my knowledge I didn't know if she
6 was staying there or not but I was guess she wasn't
7 staying there.

8 Q. Sometimes when people were having a communication
9 issue, sometimes people will say I stay at so and so and
10 that means where they live and sometimes you say I stayed
11 with someone for the weekend, do you see the difference?

12 A. Yes, ma'am.

13 Q. Do you think this is someone that she lived with?
14 Is that what you're saying, you don't think it was someone
15 that she lived with?

16 A. No, ma'am.

17 Q. You think its someone she may have been visiting.

18 MR. MCELVEEN: Your Honor, objection.

19 THE COURT: I'll sustain the objection.

20 Disregard the question from the solicitor.

21 BY MS. HODGE:

22 Q. Was it someone that she lived with?

23 MR. MCELVEEN: Objection.

24 THE COURT: I sustain the objection.

25 BY MS. HODGE:

State of South Carolina versus Dante Stukes

1 Q. Did she tell you when the assault had happened?

2 A. If I remember correctly it was the same night
3 that she had called me.

4 Q. Do you know what time it was that she called you?

5 A. It was late in the night. I guess around 12:00,
6 it was late night.

7 Q. How was her demeanor? What did she sound like?

8 A. She sounded like really up. The way I was
9 hearing it was she sounded real upset. She had tears and
10 she sounded real upset.

11 Q. What did you do when she told you that?

12 A. I was in shock. I didn't really know what to do,
13 you know, 14 years old at the time. I really didn't know
14 what to do. I was trying to be the person she knows and
15 tried to listen and really hear her out what she was
16 talking about.

17 Q. Did you think that you needed to tell anybody or
18 do anything with that information?

19 A. I had the urge but I just didn't do it. I guess
20 I could blame it on the fact that I was so young but it
21 happened at a time like this I probably would do something
22 about it. But I didn't know what to do.

23 Q. Did you just listen?

24 A. Yes, ma'am.

25 Q. And did she ever talk to you about this specific

State of South Carolina versus Dante Stukes

1 incidence again after this?

2 A. Not really.

3 Q. Do you know the defendant at all, Mr. Stukes, or
4 know of him?

5 A. No, ma'am.

6 Q. Thank you. Please answer any questions
7 Mr. McElveen may have.

8 CROSS-EXAMINATION

9 BY MR. MCELVEEN:

10 Q. She was a friend of yours back then, isn't that
11 right?

12 A. Yes, sir.

13 Q. You know that sexual assault is wrong?

14 A. Yes, sir.

15 Q. You knew it then?

16 A. Yes, sir.

17 Q. And you didn't tell a sole. Did you ever go to
18 her and ask her did you tell anybody?

19 A. Not that I remember, no, sir.

20 Q. No follow-up with her, just kind of brushed it
21 off?

22 A. Yes, sir.

23 MR. MCELVEEN: Thank you.

24 THE COURT: Step down.

25 MS. HODGE: Your Honor, may he be excused?

State of South Carolina versus Dante Stukes

1 THE COURT: Any objection in excusing this
2 witness?

3 MR. MCELVEEN: No, Your Honor.

4 MS. HODGE: R [REDACTED] D [REDACTED].

5 THE CLERK: Could you please come up,
6 Mr. Drummond, to be sworn in. Place your left hand on the
7 Bible and raise your right.

8 R [REDACTED] D [REDACTED], having been duly sworn,
9 testified as follows:

10 Thank you. You may be seated. Please state
11 your name for the record.

12 THE WITNESS: R [REDACTED] D [REDACTED].

13 DIRECT EXAMINATION

14 BY MS. HODGE:

15 Q. Ms. D [REDACTED], how old are you?

16 A. Eighteen.

17 Q. Are you still in school right now?

18 A. Yes, ma'am.

19 Q. Where do you go to school?

20 A. Greenville Tech Charter School.

21 Q. And do you have some plans for after school?

22 A. Yes.

23 Q. What do you plan on doing?

24 A. I plan to major in social work and psychology.

25 Q. Have you applied to some colleges?

State of South Carolina versus Dante Stukes

1 A. Yes, ma'am.

2 Q. Have you been accepted to some colleges?

3 A. Yes, ma'am.

4 Q. Which ones are those?

5 A. Howard, Spellman and North Carolina (inaudible).

6 Q. Are you related by blood to D [REDACTED]?

7 A. No, ma'am.

8 Q. Friends, family friends?

9 A. Friends.

10 Q. Do you characterize each other as god sisters or
11 something like that?

12 A. Yes, ma'am.

13 Q. And do you go to the same church?

14 A. No, ma'am.

15 Q. Did you ever go to the same church?

16 A. I visited during the summer time and not to
17 often.

18 Q. Then how did you become god sister to D [REDACTED]?
19 How did that happen?

20 A. In middle school playing a lot of times, we just
21 became close.

22 Q. Did y'all spend the night with each other and be
23 at each others houses and stuff like that?

24 A. Yes, ma'am.

25 Q. And did that continue on into high school?

State of South Carolina versus Dante Stukes

1 A. Yes, ma'am.

2 Q. Even though you went to different high schools?

3 A. Yes, ma'am.

4 Q. Still kept in touch and saw each other?

5 A. Uh-hum.

6 Q. Do you recall D [REDACTED] coming to your house to
7 spend the night some time in the second semester of your
8 ninth grade year?

9 A. Yes, ma'am.

10 Q. Did she spend more than one night at your house
11 during that time frame?

12 A. Over the course of the second semester.

13 Q. So she spent the night more than one time over
14 the course of the semester?

15 A. Yes, ma'am.

16 Q. On one of the times that she spent the night with
17 you, did she tell you something that happened to her,
18 something bad?

19 A. Yes, ma'am.

20 Q. Did she tell you about being sexually assaulted?

21 A. Yes, ma'am.

22 Q. Do you recall when in your second semester of
23 your ninth grade year, do you recall when this was?

24 A. Not a particular date, no.

25 Q. Do you have a month or anything?

State of South Carolina versus Dante Stukes

1 A. No.

2 Q. Where was she when she told you about this?

3 A. She had just at my house and we were in my living
4 room.

5 Q. Was she spending the night with you that night?

6 A. Yes, ma'am.

7 Q. And where had she been the night before?

8 A. She had stayed over at his house.

9 MS. MCELVEEN: Objection.

10 MS. HODGE: I asked her where had D [REDACTED]
11 been the night before when she told her god sister what
12 had happened.

13 THE COURT: I sustain the objection.

14 BY MS. HODGE:

15 Q. Did she tell you something had happened to her
16 the night before?

17 A. Yes, ma'am.

18 Q. And was that sexual assault?

19 MR. MCELVEEN: Your Honor, objection.

20 MS. HODGE: Your Honor, if I don't specify
21 I'm afraid there will be more detail to come out.

22 THE COURT: Go ahead.

23 BY MS. HODGE:

24 Q. Did she tell you where that sexual assault took
25 place?

State of South Carolina versus Dante Stukes

1 A. Yes, ma'am.

2 Q. Where did it take place?

3 A. In the living room where the tv was.

4 THE COURT: Can you speak up a little louder?

5 THE WITNESS: Yes, sir.

6 BY MS. HODGE:

7 Q. In the living room where the tv was?

8 A. Yes, ma'am.

9 Q. Did she tell you it took place in her own home?

10 A. No, ma'am.

11 Q. Did she tell you it took place in someone's house
12 she was staying at?

13 A. Yes, ma'am.

14 Q. Did she tell you what time of day or night this
15 might have happened?

16 A. It was late in the night.

17 Q. Did she say if anybody else was around?

18 A. She said that everyone ---

19 MR. MCELVEEN: Your Honor, this is getting
20 beyond the restrictions of the testimony that's allowable.

21 BY MS. HODGE:

22 Q. Were any other witnesses or anyone else was
23 around?

24 THE COURT: Place and time is that ---

25 MS. HODGE: That's right, Your Honor, was

State of South Carolina versus Dante Stukes

1 there anyone present at the place? Any other witnesses or
2 anyone else?

3 THE COURT: I'll allow that one question. Go
4 ahead.

5 BY MS. HODGE:

6 Q. Was there any other witness that D [REDACTED] said was
7 there?

8 A. They were sleeping.

9 Q. How was D [REDACTED] acting when she told you this?

10 A. She acted like she was afraid and all shook up.

11 Q. What did she want to do when she got to your
12 house?

13 A. She wanted to take a shower.

14 Q. And did she do that?

15 A. Yes, ma'am.

16 Q. What about clothing, did she keep on the same
17 clothes?

18 A. No, ma'am.

19 Q. What happened with that?

20 A. She put them in the washing machine.

21 Q. Did she have other clothes besides that?

22 A. She put on some of mine until hers got out of the
23 dryer.

24 Q. When she tell you about the sexual assault, what
25 did you say or do?

State of South Carolina versus Dante Stukes

1 A. I told her it would probably would be better to
2 go to one of my parents and they would be better to handle
3 it than me.

4 Q. And did she do that that you know of?

5 A. Not right away.

6 Q. Did you think that you should do that?

7 A. I didn't feel like it was my place (inaudible)
8 because it happened to her.

9 Q. And how old were you at that time?

10 A. Sixteen.

11 Q. So you were a little bit older than D [REDACTED] was?

12 A. Yes.

13 Q. And did you ever tell your mom or anyone about
14 it?

15 A. No, ma'am.

16 Q. Did you keep that pack with her?

17 A. Yes, ma'am.

18 Q. How did you deal with that?

19 MR. MCELVEEN: Objection.

20 THE COURT: I sustain the objection.

21 BY MS. HODGE:

22 Q. For you personally, knowing that type of
23 information, how did you deal with ---

24 MR. MCELVEEN: Objection.

25 THE COURT: I sustain the objection.

State of South Carolina versus Dante Stukes

1 BY MS. HODGE:

2 Q. Did you know the defendant in this case?

3 A. No, ma'am.

4 Q. Thank you. Answer any defense questions.

5 CROSS-EXAMINATION

6 BY MR. MCELVEEN:

7 Q. So you didn't think it was appropriate for you to
8 tell anybody?

9 A. No, sir.

10 Q. Did you ever go back to D [REDACTED] and say have you
11 told anybody?

12 A. I didn't.

13 Q. You had a right to find out if she had?

14 A. No, sir.

15 Q. You didn't follow up on her?

16 A. I asked her and she said she wasn't ready to talk
17 about it.

18 Q. You've been told what a terrible thing this is,
19 haven't you?

20 A. Yes, sir.

21 Q. You know that it should be told?

22 A. Yes, sir.

23 Q. And you know that you should go to an adult?

24 A. Yes, sir.

25 Q. And yet you elected not to do that in this case?

State of South Carolina versus Dante Stukes

1 A. I did.

2 Q. Were you aware that D [REDACTED]'s parents were away
3 form home a lot?

4 A. I was.

5 Q. Did she ever stay with you?

6 A. Yes, sir.

7 Q. You live with your parents?

8 A. Yes, sir.

9 Q. Anybody ever come to you, anybody from the
10 police, and ask you about this?

11 A. Yes, sir.

12 Q. When did you first tell anyone that D [REDACTED] had
13 this conversation with you?

14 A. I told my mom and asked if D [REDACTED] had spoken to
15 her about it.

16 Q. Which was back in May of 2010?

17 A. Yes, sir.

18 Q. After it had already come to light?

19 A. Yes, sir.

20 Q. And at that point you said you'd do something
21 about it?

22 A. Yes, sir.

23 Q. When did you tell the police about this?

24 A. I didn't talk to the police. My mom and I spoke
25 on the phone.

State of South Carolina versus Dante Stukes

1 Q. You've never talked to the police?

2 A. No, sir.

3 Q. So obviously nobody has come to you in an attempt
4 to find out when this happened. That's true?

5 A. Yes, sir.

6 Q. Thank you. No further questions.

7 THE COURT: You can step down.

8 MS. HODGE: May this witness be excused?

9 MR. MCELVEEN: No objection.

10 THE COURT: Witness is excused.

11 (Witness leaves witness stand.)

12 MS. HODGE: The State calls D [REDACTED] W [REDACTED].

13 THE CLERK: Ms. W [REDACTED], please come forward
14 to be sworn. Please place your left hand on the Bible and
15 raise your right hand.

16 D [REDACTED] W [REDACTED], having been duly sworn,
17 testified as follows:

18 Thank you. You may be seated. State your
19 name for the record.

20 THE WITNESS: D [REDACTED] W [REDACTED].

21 DIRECT EXAMINATION

22 BY MS. HODGE:

23 Q. Ms. W [REDACTED], how old are you?

24 A. Eighteen.

25 Q. Are you still in school?

State of South Carolina versus Dante Stukes

1 A. Yes, ma'am, I'm a senior.

2 Q. And where do you go to school?

3 A. Southside.

4 Q. What are your plans after graduation?

5 A. Right now I'm looking at the military either the
6 Air force or thinking about the Coast Guard.

7 Q. Have you been enrolled in ROTC while you were in
8 school?

9 A. Yes, ma'am, all four years.

10 Q. What kind of activities have you done in school?

11 A. Yearbook, softball and just having school spirit.

12 Q. You have a lot of school spirit?

13 A. Yes, ma'am.

14 Q. That takes a lot of work?

15 A. Yes, ma'am.

16 Q. Have you also actually worked a job during this
17 time?

18 A. Yes, ma'am. I used to work at Arby's off Laurens
19 Road on Vardy until they let me go.

20 Q. Are you friends or acquaintances with D [REDACTED]

21 B [REDACTED]?

22 A. Yes, ma'am, but not as close as we used to be
23 because of the class and how we're arranged in class.

24 Q. Are there different class schedules?

25 A. Yes, ma'am.

State of South Carolina versus Dante Stukes

1 Q. Not different classes but different time
2 schedules?

3 A. Yes, ma'am.

4 Q. When did you become friends with her?

5 A. Freshman year in ROTC.

6 Q. And would you say y'all were closer friends back
7 then?

8 A. Yes, ma'am.

9 Q. Still friends today but just not as close?

10 A. Yes, ma'am.

11 Q. Was your ROTC group a real tight knit group back
12 then?

13 A. Uh-hum.

14 Q. Y'all talked to each other about a lot of stuff?

15 A. We shared and when somebody brought up a
16 situation, everybody just came together like flies and
17 talked about it.

18 Q. Do you remember D [REDACTED] bringing up a situation
19 about a sexual assault?

20 A. Yes, ma'am.

21 Q. Do you remember what time of the school year this
22 was?

23 A. Well, we had ROTC first period was lunch so when
24 we had first lunch so it was pretty much when we got in
25 class and you know how the bells ring before each lunch so

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1 it was like of class period.

2 Q. Do you know what time of the year in your
3 freshman year this conversation took place?

4 A. I don't remember what time or month but I know it
5 was freshman year.

6 Q. Do you know if it was before Christmas or after
7 Christmas of your freshman year?

8 A. No, ma'am.

9 Q. You don't recall. Did D [REDACTED] ever come and tell
10 you that type of thing more than one time in your life?

11 A. Just that one time we had a discussion with the
12 class with that.

13 Q. How did that discussion come about? You don't
14 have to give me details of what she said but just how did
15 it come about?

16 A. It was really more like -- well, we had a senior
17 in that class and if I'm not mistaken her name was J [REDACTED]
18 and you could say we looked at her like the mom of the
19 group and I guess when D [REDACTED] spoke upon what had
20 happened to her, J [REDACTED]'s response was like ---

21 MR. MCELVEEN: Objection.

22 BY MS. HODGE:

23 Q. Don't tell me what J [REDACTED] said but did something
24 happen after they started having a conversation? Did more
25 people become involved?

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1 A. Yes, ma'am.

2 Q. Were you able to overhear what that conversation
3 was?

4 A. Yes, ma'am. She told us to wait.

5 Q. Wait to talk about it at another time?

6 A. Yes.

7 Q. Who said that?

8 A. J [REDACTED]

9 Q. Was it still the same ROTC group?

10 A. Uh-hum.

11 Q. And where did y'all finally talk about it? Where
12 in school were you?

13 A. In the locker room.

14 Q. What were y'all doing in the locker room?

15 A. Dressing out for PT.

16 Q. And what is PT?

17 A. PT is basically like gym but we only do it on
18 Friday's and we dress out for it and we have activities
19 scheduled for Friday so you might exercise one Friday and
20 the next Friday you might just run or play dodge ball.
21 You just have to have an activity on Friday and that's the
22 only difference between ROTC and gym, you don't do it
23 every day.

24 Q. And you've got to change clothes for it?

25 A. Yes, ma'am.

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1 Q. You change clothes in the locker room?

2 A. Uh-hum.

3 Q. Do you know about how many girls may have been in
4 there?

5 A. I don't know how many but it's a big group of us.
6 We only had two boys in the whole class so it was like a
7 majority of girls.

8 Q. And did D [REDACTED] then tell y'all in the locker
9 room about the sexual assault?

10 A. Uh-hum.

11 Q. Did she tell you where this assault took place?

12 A. Uh-hum.

13 Q. Where did she say this assault took place?

14 A. At a friend's from church at their house in the
15 living room.

16 Q. Did she tell you when it took place? When it
17 happened?

18 A. It must have been like when they were getting
19 ready to go to bed.

20 Q. Night time?

21 A. Yes, ma'am.

22 Q. And how was D [REDACTED] acting when she was tell you
23 all of this? How was her demeanor?

24 A. It was like her response was she was confused
25 like. She couldn't basically get herself together really

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1 just figuring out what really just happened to her, like
2 she was just trying to seek out what really happened. So
3 she was like lost.

4 Q. And what was your response to her?

5 A. Our response was well, of course, we was
6 concerned but we was more concerned about her telling
7 someone like we was like you have to tell someone. She
8 was like it will be okay and we was like you need to tell
9 somebody like that type of thing.

10 Q. And did y'all tell anybody, y'all as being her
11 friends in the group?

12 A. We, as a group, we said we wouldn't say nothing
13 because then kids like if it spread and it could spread in
14 the wrong way so we was like we're not going to say
15 nothing. So we told each other that we wasn't going to
16 say anything so that's why we was like forcing her that
17 she has to say something to somebody because we was afraid
18 that if we said something it would have spread through the
19 school and we didn't want that to happen.

20 Q. More like gossip, people talking about her. So
21 you were asking her to do it for herself.

22 A. Uh-hum.

23 Q. How did she seem about that?

24 A. Still like she wasn't D [REDACTED] but at the same you
25 could tell she was afraid like in her face. It was like

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1 she didn't want to do it but at the same time I guess like
2 she was like it was her own to tell. She accepted that
3 she had to eventually say something to somebody so it was
4 more like that?

5 Q. So did y'all keep your pact about nobody in your
6 group that nobody went up and told anybody else?

7 A. Yes, ma'am.

8 Q. Did the police eventually come and talk to you
9 and some of the other girls?

10 A. Yes, ma'am.

11 Q. Did you tell them at that point what D [REDACTED] had
12 said?

13 A. It was her.

14 Q. Detective Thomas came out to your school?

15 A. Uh-hum.

16 Q. And that would be to ask you all what D [REDACTED] had
17 told you and that would be a year later?

18 A. Yes, ma'am.

19 MS. HODGE: Thank you. Please answer any
20 questions Mr. McElveen may have.

21 CROSS-EXAMINATION

22 BY MR. MCELVEEN:

23 Q. You can't remember how many people were there?

24 A. If I was to give you a number I would say roughly
25 around 14 to 12 girls.

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1 Q. 12 to 14 girls heard this?

2 A. Yes, sir.

3 Q. Thank you.

4 MR. MCELVEEN: That's all I have.

5 MS. HODGE: May she be excuse as well?

6 MR. MCELVEEN: No objection.

7 THE COURT: Thank you.

8 (Witness leaves the witness stand.)

9 MS. HODGE: At this time we would call
10 Dr. Mary Fran Croswell.

11 MR. MCELVEEN: Your Honor, we have a motion
12 that we discussed earlier.

13 THE COURT: Take the jury out, please.

14 (Jury exits the courtroom.)

15 All right.

16 MR. MCELVEEN: Your Honor, my motion is this,
17 there was a protocol going on in April 13th when this came
18 about, when the authorities first became aware of this
19 report. The doctor that performed that protocol was aware
20 yet I was not provided a copy of the protocol or the
21 report from that day. I'm not sure what this is, Your
22 Honor. It looks like some sort of computer generated
23 summary. I don't see a standard rate protocol in here. I
24 would imagine that one was done. This does refer to some
25 observations of the vagina.

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1 I have not had the opportunity to analyze
2 this, have my expert look at this, talk to this doctor
3 about this about his findings or anything like that. The
4 doctor that's being called at this point was a follow up
5 examination six weeks later. So I believe I have half of
6 the information.

7 I don't know if she relied on this as part of
8 her examination. I really just don't know how this fits
9 in with what's happening here.

10 THE COURT: Solicitor.

11 MS. HODGE: Your Honor, that is what the
12 State has in its file. It's an emergency room record when
13 she went for the other subsequent sexual assault. Again,
14 the State's position is she has certain injuries and the
15 examination was geared towards a totally separate type of
16 sexual assault, that there was nothing in that indicated
17 anything positive or negative on the defendant. It's just
18 completely void of reference to this sexual assault.

19 When she goes for the examination for the
20 standard protocol at the rape crisis center ---

21 THE COURT: And do you have that?

22 MS. HODGE: He's had that since --

23 MR. MCELVEEN: I have that but it's not
24 correct that this has no relevance to the vaginal assault.

25 THE COURT: Which one you're talking about

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1 now?

2 MR. MCELVEEN: This is whatever the record is
3 relative to the first report rape, which was the second,
4 which was the anal rape but it says, "Normal vaginal
5 mucosa, no discharge, no vaginal bleeding or discharge."
6 So he's got at least some examination but I don't have the
7 protocol and I haven't been able to talk to this doctor
8 about what he might have found.

9 MS. HODGE: He's got the findings right there.
10 It says normal outward vaginal exam, which I'm not sure
11 where he's going with that since I assume that's exactly
12 what he wants to hear.

13 MR. MCELVEEN: And Dr. Croswell is getting
14 ready to testify that she automatically, regardless of
15 what the allegation is, when she gets an allegation of
16 sexual assault, she automatically does a protocol. She
17 doesn't have a criteria as to when one should be done and
18 when one shouldn't be done. In other words, she doesn't
19 say this happened a year ago so I'm not going to do that.

20 Then you had one where it happened a day
21 before and yet he's doing it except the one that happened
22 the day before had nothing to do with the vaginal rape.
23 I'd like to talk to this doctor and I'd like to find out
24 what this was about.

25 THE COURT: You want to talk with him before

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1 she testified?

2 MR. MCELVEEN: What I'm saying is I'd like to
3 talk to this doctor because I didn't have this before and
4 I don't know what this means.

5 THE COURT: No, sir.

6 MR. MCELVEEN: What I'm asking, Your Honor,
7 is that both of the examinations be suppressed.

8 THE COURT: No, I deny that.

9 Let's take a short recess.

10 (There was as brief recess.)

11 THE BAILIFF: The court is in session, please
12 remain seated.

13 THE COURT: All right, bring the jury.

14 (Jury re-enters the courtroom.)

15 Okay. Go ahead.

16 THE CLERK: Dr. Croswell, please come around
17 to be sworn in. Place your left hand on the Bible and
18 raise your right hand.

19 MARY FRAN CROSWELL, having been duly sworn,
20 testified as follows:

21 Thank you. You may be seated. State your
22 name for the record.

23 THE WITNESS: Mary Fran Rachford Croswell.

24 DIRECT EXAMINATION

25 BY MS. HODGE:

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1 Q. Dr. Croswell, what kind of physician are you?

2 A. I'm a child abuse pediatrician.

3 Q. Where are you currently employed?

4 A. I am employed by the Greenville Hospital System
5 in the division of Forensic Pediatrics Child Abuse and
6 Neglect.

7 Q. Please tell us your educational background and
8 your work experience?

9 A. I graduated with a Bachelor's Degree from Lake
10 Forest University, Graduated from the University of
11 Louisville School of Medicine with my medical degree, did
12 a pediatric residency in the Greenville Hospital System.

13 Q. And you are employed by the Hospital System?

14 A. At that time I was employed by the Children's
15 Health Care of Atlanta as a children's pediatrician for
16 two years prior to coming back to Greenville where I serve
17 in my current roll for the past five-and-a-half years.

18 Q. Do you know approximately how many patients
19 you've seen in your capacity as a pediatrician?

20 A. As a pediatrician, it would be in the thousands
21 but I don't have an accurate number.

22 Q. Are you specialized in the area of child abuse
23 examinations?

24 A. Yes, I'm Board Certified in the general
25 pediatrics and child abuse pediatrics.

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1 Q. How many years have you been certified?

2 A. I've been certified in general pediatrics since
3 2003 an been certified in child abuse pediatrics since
4 2011.

5 Q. Approximately how many child abuse examination do
6 you think you've done?

7 A. I would estimate it would be between eight and
8 nine hundred.

9 Q. Does that means physical and sexual?

10 A. Yes, any type of child maltreatment.

11 Q. And have you ever been qualified as an expert in
12 court before in the field of child sexual assault?

13 A. Yes, I have.

14 Q. And what courts and how many times?

15 A. I've been certified as an expert in child abuse
16 including sexual abuse in South Carolina family and
17 criminal court approximately 15 to 16 times.

18 MS. HODGE: Your Honor, at this time we would
19 move to admit Dr. Croswell as an expert in the field of
20 pediatric medicine with a specialty in child sexual
21 abuses.

22 THE COURT: Any voir dire.

23 MR. MCELVEEN: No, Your Honor.

24 BY MS. HODGE:

25 Q. Dr. Croswell, did you have an opportunity to

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1 conduct physical and sexual assault examine on D [REDACTED]

2 B [REDACTED]?

3 A. Yes, I did.

4 Q. When did you conduct that examination?

5 A. That examination took place on May 26, 2010.

6 Q. Where did that take place?

7 A. It took place at what is known as the Rape Crisis
8 Center now known as the Julie Valentine Center.

9 Q. And for children to come in there for an
10 examination, is there usually a referral from type of
11 agency?

12 A. The referrals usually come from either the
13 Department of Social Services or law enforcement agencies.
14 They also come from other physicians and on occasion we do
15 have self referral as well.

16 Q. When D [REDACTED] came in for the examination, had she
17 been referred by law enforcement?

18 A. Yes, she had.

19 Q. Did anyone come with her to the exam?

20 A. Her mother came with her to the exam.

21 Q. And tell us if you can what are the steps that
22 happens in one of these examinations?

23 A. When a child comes to the Center for the
24 examination, the first thing that happens is a child-like
25 specialist meets with that child and their caregiver to go

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1 over exactly what the evaluation will entail. Then I meet
2 with the caregiver to obtain any past medical history,
3 behavioral history, and review any physical symptoms that
4 the child is having. After that, I speak to the child
5 alone to obtain further history about what has or hasn't
6 happened to the child in order to guide my physical exam
7 and diagnostic testing.

8 Then I proceed with doing a head to toe
9 physical exam. In cases that concern sexual abuse, that
10 exam will involve the use of a colposcope which is a piece
11 of medical equipment which allows for a good light source,
12 a good magnification system of the genital area, as well
13 as a method to documenting physical findings.

14 Q. Did you conduct a physical exam in that fashion
15 with D [REDACTED] B [REDACTED] on May 26, 2010?

16 A. Yes, I did.

17 Q. And in speaking with D [REDACTED], what kind of
18 background information did you receive in helping you with
19 your treatment and assessment of D [REDACTED]?

20 A. Well, as I mentioned before first I spoke to her
21 mother and obtained a past social history of the family,
22 obtained past medical history for D [REDACTED] as well as
23 physical abuse history, and then I spoke with D [REDACTED],
24 too, to obtain further information.

25 Q. Did D [REDACTED] advise you that she had been sexual

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1 assaulted sometime prior to this examination?

2 A. Yes, she did.

3 Q. Did she tell you a time frame or when that sexual
4 assault occurred?

5 A. She said that it was when she was staying at a
6 certain friends house and it occurred late at night, that
7 is concluded early in the morning because she didn't want
8 to get in the shower ---

9 MR. MCELVEEN: Objection. This is going way
10 beyond ---

11 BY MS. HODGE:

12 Q. Just tell me the time frame and also when we're
13 talking about time, did she give you a time in their life?

14 A. It was about a year prior to -- approximately a
15 year prior to my exam.

16 Q. And did she tell you where this sexual assault,
17 this one from the year prior?

18 A. Part of the sexual abuse occurred in a room that
19 had a couch and television in it and part of the sexual
20 abuse occurred in a bedroom.

21 Q. Did she tell you any details of the sexual
22 assault that would be pertinent to your medical
23 examination or treatment of her?

24 A. Yes, she did.

25 Q. What did she tell you in regard to those things?

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1 A. She had information about penile vaginal contact,
2 as well as oral or mouth contact with her breasts and
3 being forced to have her hand touch ---

4 MR. MCELVEEN: Your Honor, again, I object.

5 THE COURT: I'm going to allow that. Go
6 ahead.

7 THE WITNESS: Having her hand placed on his
8 penis.

9 BY MS. HODGE:

10 Q. What are your concerns when you hear those
11 things? What are you thinking as far as treatment or
12 assessment?

13 A. I need to know exactly which body parts touched
14 which body parts. It is to guide my choices of sexual
15 transmitted infection examination, so as I discern for
16 this information I need to know which types of disease
17 processes she is at risk for based on the information that
18 she's given me.

19 Q. And once you gathered that information from me,
20 did you conduct the actual physical exam?

21 A. Yes, ma'am.

22 Q. What were your findings on the physical exam?

23 A. She had normal head and neck exam, normal heart,
24 lung and abdomen exam, normal musculoskeletal neurological
25 exam. Her anal exam was normal. On her genital exam, the

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1 only concern I had was vaginal discharge.

2 Q. Did that give you any red flags or signaled
3 anything to you?

4 A. It just raised concerns for the possibility of
5 infectious etiology or reason to have that discharge.

6 Q. Is that something that you commonly see or not?

7 A. The amount of discharge was worrisome because
8 sometimes you can see light vaginal discharge just as a
9 result of the hormones in an adolescent girl's body. When
10 the amount of discharge is increased, then that gives us
11 more concern with some type of infection.

12 Q. Is that something that can contributed to an
13 action that had taken place a year prior or something
14 unrelated?

15 A. It could if something went untreated.

16 Q. Continuing on with the genital exam, tell us what
17 was your finding?

18 A. There were no acute or chronic findings that I
19 could see on physical exam so the rest of the tissues
20 looked very normal.

21 Q. What does that say to you in layman's terms?

22 A. I think it's easier if we ---

23 Q. Sure. Just make sure you keep your voice up.

24 A. You're looking at a female genitals. The first
25 layer of tissue comes to is the labia epi dura. As you

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1 move those two tissues apart, you see another layer of
2 tissue called the labia minora. Deeper within that is the
3 vaginal opening here and covering the vaginal opening is a
4 layer of tissue called the hymen.

5 When a child gets into puberty, there are
6 hormones that circulate in their body that causes changes
7 that brings a girl to an adult woman. These tissues are
8 also affected by these hormones. The hymen tissue
9 specifically becomes much thicker. It becomes much more
10 elastic and so I could see clearly when extended that the
11 rims were nice and smooth and that there was no scarring on
12 the outside of her genitalia.

13 Q. Would that be consistent with vaginal penile
14 contact that D [REDACTED] disclosed to you?

15 A. Yes, it did.

16 Q. And is that a finding that you come across
17 normally in your job, in your experience?

18 A. In most medical cites have legally confirmed
19 cases of sexual abuse there are rarely physical findings.
20 About 85 percent of the time there are no physical
21 findings on the exam. One could be because the nature of
22 the abuse didn't cause an injury that would leave any
23 signs and second these are mucosal tissues and they heal
24 very quickly often without leaving a sign or a scar
25 behind.

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1 Q. And if there was only -- I don't know if this is
2 the right word -- incident or maybe small insertion of the
3 penis or some type of a foreign object into the vaginal
4 area, does that necessarily mean the hymen wouldn't show
5 scarring or tearing or anything like that?

6 A. No, because of the elasticity in the hymen
7 tissue, once the child has gone through puberty, that
8 tissue can expand and release without leaving any signs
9 even with penile vaginal penetration.

10 Q. So this myth you could bring your daughter to the
11 gynecologist to have her checked to see if she did have
12 any sexual intercourse, that's not exactly accurate?

13 A. That's right. Medically, that is not accurate.

14 Q. What you found in your medical exam with a
15 colposcope, that was consistent with what D [REDACTED]
16 disclosed to you about what the vaginal penile contact?

17 A. Yes.

18 Q. And you state you that you also need to do a
19 diagnostic work-up in this case, what did you recommend as
20 far as that or what did you do as far as that?

21 A. Lab work testing looking for HIV, siphilis. She
22 had urine tests that looked for gonorrhea and chlamydia.
23 He also had another test that looks for trichomonas as
24 well as non sexually transmitted infections.

25 Q. Did you ask that they have a follow up exam after

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1 meeting with you?

2 A. Typically what happens when I get the results
3 back if there is anything needed, I make contact with
4 them.

5 Q. In regard to this case, was that necessary?

6 A. She had a non sexually transmitted infection
7 called bacterial vaginosis that required treatment and was
8 the cause of her vaginal discharge.

9 Q. Did you give her medicine for that?

10 A. Yes, I prescribed medicine.

11 Q. Would you say that your examination is fairly
12 evasive examination?

13 A. I'd like to think its not evasive that we look
14 externally, nothing is inserted inside of her. It's just
15 looking with a colposcope on the exterior portions of her
16 body.

17 Q. Do you attempt to keep, I guessing, a certain
18 comfort level for the child?

19 A. We specifically have a child life specialist who
20 is there throughout the process to be with child and
21 support the child through the examination.

22 Q. Thank you. Please answer any defense questions.

23 CROSS-EXAMINATION

24 BY MR. MCELVEEN:

25 Q. You and I talked last night, didn't we?

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1 A. Yes.

2 Q. I think what you told me is that when you get a
3 referral on sex abuse complaint, it is your routine to
4 perform an evaluation?

5 A. It is.

6 Q. You do that in every case?

7 A. I do that in every case where there's an
8 accusation of sexual abuse.

9 Q. And even when it happened a year ago?

10 A. Yes.

11 Q. And the truth of the matter is one that happened
12 a year ago makes it fairly unlikely that you're going to
13 find anything, isn't that true?

14 A. Correct.

15 Q. But you could find something?

16 A. That's correct.

17 Q. And what could you find?

18 A. I could find infectious disease process. I could
19 find scarring or tearing that heal. That would probably
20 be the extent of it.

21 Q. You didn't find any infectious disease?

22 A. Not that was sexually transmitted.

23 Q. And even if you would find scarring or some sort
24 of trauma, there's no way that could be contributed to
25 what Mr. Dante Stukes is alleged to be involved in?

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1 A. It would be based on the history that I obtained
2 from my patient and the caregiver.

3 Q. Anything could have happened in the proceeding
4 year?

5 A. I'm sorry.

6 Q. Anything -- if you had found scarring or tearing
7 even if it was healed, anything could have caused that and
8 that's nonspecific to any individual.

9 A. If there was a history of something else
10 happening, it could be nonspecific pointing to one person,
11 if I had a finding.

12 Q. It could be sex with someone else?

13 A. Correct, if I had had that history.

14 Q. Whether you had the history or not, it doesn't
15 matter you know about it?

16 A. Correct.

17 Q. Also, there are mechanical causes of that type of
18 injury?

19 A. Of what ---

20 Q. Potentially?

21 A. Of what kind of injury?

22 Q. That are not related to sexual activity?

23 A. With the known accidental injury that would have
24 caused any similar findings.

25 Q. What I mean is it could have happened and whether

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1 you knew about it or not, that is a potential cause of any
2 injury that you might have found?

3 A. The explanation for the injury would have to be
4 able to account for the finding.

5 Q. But that's not to say you would necessarily know
6 that explanation?

7 A. Not if it was withheld from me.

8 Q. So really when you went back and did this
9 examination there was no hope of finding anything
10 evidentiary to tie what you would find to this allegation?

11 A. I do not agree with that statement because I'm
12 basing everything that I do on my history.

13 Q. I'm talking about physically. You did a physical
14 examination.

15 A. Correct.

16 Q. There is no way you could tie anything that you
17 find to any allegation to sexual abuse from a year ago.

18 A. Depending on the history and depending on an
19 injury if I had found one, I might have been able to. I
20 can't tell you that without knowing what are we talking
21 about and what other history.

22 Q. But you didn't find anything in this case that's
23 helps anybody or hurts anybody? It was a perfectly normal
24 examination. You expect to have a perfectly normal
25 examination that does not confirm or rule out sexual abuse

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1 365 days or more ago.

2 A. But we did rule out other potentially
3 transmissible sexually transmitted infections.

4 Q. Right. So you didn't find anything like that.
5 If you had, somebody could have looked into that further,
6 but you didn't?

7 A. Correct.

8 Q. So we don't have anything here today but a
9 perfectly normal examination?

10 A. When I do my history, it's not reliant ---

11 Q. Let me ask you this ---

12 MS. HODGE: He keeps cutting off the witness.

13 MR. MCELVEEN: I ask that she be responsive.

14 THE COURT: She has to be responsive to the
15 question but let her finish her answer.

16 Would you repeat the question.

17 BY MR. MCELVEEN:

18 Q. My question is from your physical examination,
19 there was nothing abnormal?

20 A. A physician can not make any diagnosis based on
21 physical examination alone. A physician would be
22 irresponsible to make a diagnosis on physical exam alone.
23 When I have a patient that comes in with a headache, I may
24 not have any physical findings to support that headache,
25 but that doesn't mean the patient can't give me the

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1 symptoms that are associated with it, precipitating
2 factors that lead me with a diagnostic impression for
3 which I can best diagnose and treat the person.

4 A sexual abuse evaluation is the same, I need
5 that history to make my diagnosis and to make my
6 therapeutic evaluations.

7 Q. That's what you're told.

8 A. It's based on my history as a physician.

9 Q. My question again is, your physical examination
10 did not reveal any tearing, any scarring, anything
11 indicative of sexual assault or not indicative of sexual
12 assault?

13 A. Correct.

14 Q. Thank you.

15 THE COURT: Is that all you have of this
16 witness?

17 MR. MCELVEEN: That's all I have, Your Honor.

18 MS. HODGE: One follow up.

REDIRECT EXAMINATION

20 BY MS. HODGE:

21 Q. Hypothetically, if a male put his penis only the
22 head into the vaginal opening of the female, would you
23 expect to see a tearing of the hymen or scarring or
24 anything like that?

25 A. Based on the history of no bleeding or nothing

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1 else to suggest an injury, I would expect it to be a
2 completely normal examine.

3 THE COURT: You can step down. Can we excuse
4 the doctor?

5 MS. HODGE: Yes.

6 (Witness leaves the witness stand.)

7 The State would call Detective Thomas.

8 THE CLERK: Please step up to the Bible to be
9 sworn in.

10 THOMAS, having been duly sworn, testified as
11 follows:

12 Thank you. Please state your name for the
13 record.

14 THE WITNESS:

15 DIRECT EXAMINATION

16 BY MS. HODGE:

17 Q. Detective Thomas, who do you work for?

18 A. Greenville City Police Department.

19 Q. How long have you been with the police
20 department?

21 A. Nine years.

22 Q. What are your duties and responsibilities
23 currently?

24 A. I'm in the crimes against children unit, also
25 victim advocate and crisis negotiator.

State of South Carolina versus Dante Stukes

1 Q. How long have you been working with the police
2 department in that capacity?

3 A. Crimes against children unit, two years.

4 Q. What were you doing prior to that?

5 A. I was in the property crimes unit for about a
6 year and then the uniformed patrol officer prior to that.

7 Q. In the crimes against children unit, how many
8 investigators are in that unit?

9 A. There is two of us.

10 Q. For all of Greenville City?

11 A. Yes.

12 Q. What kind, if any, training do you have specific
13 to those types of cases?

14 A. I have an associates in criminal justice, also
15 graduated from South Carolina Criminal Justice Academy and
16 various classes over the past couple of years.

17 Q. Is that part of your job as well, continuing
18 education?

19 A. It is.

20 Q. Do you take classes specific to what exactly
21 you're doing?

22 A. Yes.

23 Q. And were you employed as a crimes against
24 children unit investigator in February of 2010?

25 A. Yes.

State of South Carolina versus Dante Stukes

1 Q. Were you called to investigate an allegation of
2 sexual assault, abuse, involving the defendant Mr. Stukes?

3 A. I was assigned the case.

4 Q. How was it assigned to you? Does it go to a road
5 officer first?

6 A. A patrol officer would take the initial report
7 and within a few days it would be assigned to a specific
8 investigator.

9 Q. Do you recall what date it was you were assigned
10 this case?

11 A. May I look at the dates?

12 Q. Yes.

13 A. April 14, 2010.

14 Q. What was your first step once you were assigned
15 this case.

16 A. I made contact with D [REDACTED]'s mother.

17 Q. And why would you do that?

18 A. So I can meet with her to gather a little bit
19 more information about what happened.

20 Q. And do you know how old D [REDACTED] was at the time?

21 A. Fourteen.

22 Q. Is it common for you to contact parents first as
23 opposed to minors?

24 A. Absolutely.

25 Q. Is that part of your policy?

State of South Carolina versus Dante Stukes

1 A. I don't believe it's part of our policy but
2 courteous.

3 Q. And when did you make contact with Ms. Lane?

4 A. That was -- when I was assigned the case April
5 14th.

6 Q. And when you made contact Ms. Lane, what did you
7 do?

8 A. I asked if she would bring her daughter in the
9 following day so I could meet with her.

10 Q. Had you been given some type of report that you
11 had already reviewed?

12 A. Yes.

13 Q. And who was the officer that took the initial
14 report?

15 A. Officer Cobb.

16 Q. So did you have an idea of what you were dealing
17 with?

18 A. I did.

19 Q. Was she able to bring D [REDACTED] in to meet with
20 you?

21 A. We did schedule an interview for the following
22 day April 15th, however, Ms. Lane did contact me stating
23 that ---

24 MR. MCELVEEN: Objection.

25 BY MS. HODGE:

State of South Carolina versus Dante Stukes

1 Q. You don't have to say what Ms. Lane said, but as
2 a result of that conversation did you need to reschedule
3 the appointment?

4 A. We did have to reschedule the appointment.

5 Q. At this point, did you know who the suspect in
6 the case was?

7 A. Yes.

8 Q. Who was that?

9 A. Dante Stukes.

10 MR. MCELVEEN: I object to that, Your Honor.
11 This is hearsay.

12 THE COURT: I sustain the objection and
13 instruct the jury to disregard the answer.

14 BY MS. HODGE:

15 Q. After your investigation, did you determine a
16 suspect?

17 A. Yes.

18 Q. And who was that?

19 A. Dante Stukes.

20 MR. MCELVEEN: Your Honor.

21 THE COURT: I sustain the objection. Move
22 on.

23 BY MS. HODGE:

24 Q. Did you meet with D [REDACTED] ?

25 A. I did.

State of South Carolina versus Dante Stukes

1 Q. And where did y'all meet?

2 A. At my office at the Law Enforcement Center.

3 Q. Was she allowed to have her mom present or did
4 y'all meet alone?

5 A. We met alone.

6 Q. Did you find her to be coherent and capable of
7 speaking to you about this incident?

8 A. Yes, she was a very bright child.

9 Q. Did you know if she had any type of infirmities
10 or disabilities or anything like that?

11 A. Not that I was aware of.

12 Q. Y'all were able to communicate clearly?

13 A. Yes, ma'am.

14 Q. She seemed to understand why she was there and
15 your questions?

16 A. She did.

17 Q. What is the general protocol you would use in
18 your interviews with minors?

19 A. We like them to be comfortable. You know it's
20 very scary for a child to come into a law enforcement
21 center with uniformed officers. It's kind of intimidating
22 so we try to make them feel at ease. We try to explain to
23 them why they are there and what we need to talk about and
24 the importance of telling the truth to us and the
25 consequences if they don't tell the truth.

State of South Carolina versus Dante Stukes

1 Q. So while you're making it as comfortable, do you
2 enforce the seriousness?

3 A. Yes.

4 Q. Do you believe, in your opinion, that D [REDACTED]
5 understood when you were telling her about that?

6 A. Yes.

7 Q. And what are the consequences for not telling the
8 truth? What are those?

9 A. We let them know that it is against the law for
10 anyone to lie to a law enforcement officer and file a
11 false police report, the seriousness of that allegation
12 and what could happen to somebody who is accused of a
13 crime ---

14 MR. MCELVEEN: I'm going to object to this
15 testimony, it's just bolstering the testimony.

16 THE COURT: Let's move on.

17 BY MS. HODGE:

18 Q. Did you go over those things basically with
19 D [REDACTED]?

20 A. I did.

21 Q. Was she able then to tell you about the sexual
22 assault?

23 A. She was.

24 Q. Did she tell you when the sexual assault took
25 place?

State of South Carolina versus Dante Stukes

1 A. A time frame, not an exact date.

2 Q. Did she give you a general idea?

3 A. She did.

4 Q. When was that?

5 A. After Christmas of 2009 -- I'm sorry after
6 Christmas of 2008 so it would have been the New Year of
7 2009, between then and May of 2009.

8 Q. Did she tell you a school year?

9 A. The second semester of her ninth grade.

10 Q. Was she able to tell you anything more specific
11 than that as to when this may have occurred?

12 A. No.

13 Q. And your interview was a year and two months
14 later approximately?

15 A. Yes.

16 Q. You tried to get out a calendar and make her
17 pinpoint a day or weekday?

18 A. I did.

19 Q. Was she able to do that?

20 A. No.

21 Q. Was she able to tell you time of day or night
22 this might have occurred?

23 A. She was able to tell me it happened at night
24 time.

25 Q. Was she able to tell you where this sexual

State of South Carolina versus Dante Stukes

1 assault occurred?

2 A. Yes, ma'am.

3 Q. And where did it occur?

4 A. It began in the living, in the defendant's
5 apartment and then moved into a guess bedroom.

6 Q. And for jurisdictional purposes, do you need a
7 physical location, address?

8 A. I do.

9 Q. And where did this occur?

10 MR. MCELVEEN: Your Honor, I'm going to
11 object unless she can say how she knows that.

12 THE COURT: No, I'm going to allow that
13 question. Go ahead.

14 BY MS. HODGE:

15 Q. What was the address or physical location this
16 occurred?

17 A. It was ■ Kenlauren(ph) Avenue and it was
18 confirmed through the property manager at the apartment
19 complex that D ■ originally gave me.

20 Q. What is the name of the apartment complex?

21 A. Plantations at Haywood.

22 Q. And what's the street address?

23 A. Kenlauren Avenue.

24 Q. Did you have an apartment number?

25 A. I believe ■ was the specific apartment number.

State of South Carolina versus Dante Stukes

1 Q. Is that in Greenville City limits?

2 A. It is.

3 Q. And at that apartment, did she tell you where in
4 the apartment the sexual assault occurred?

5 A. Yes.

6 Q. If you answered that, I'm sorry, but could you
7 tell me again?

8 A. It began in the den of the apartment and then
9 moved to a guest bedroom.

10 Q. Did she tell you was this time a one-time sexual
11 assault? That's all she discussed with you?

12 A. Yes, ma'am, one time.

13 Q. Was she able, without saying the details of what
14 she said, was she able to give you a detailed statement of
15 what happened?

16 A. Yes, ma'am.

17 Q. Was she able to detail ---

18 MR. MCELVEEN: Objection. This is beyond
19 time and place. This is just back door.

20 THE COURT: Go ahead.

21 BY MS. HODGE:

22 Q. Was she able to give you details about the way
23 the apartment was set up?

24 MR. MCELVEEN: Objection -- I'll withdraw my
25 objection.

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1 THE WITNESS: Yes.

2 BY MS. HODGE:

3 Q. Was she able to give you details about what was
4 in the apartment?

5 A. Yes, ma'am.

6 Q. Was she able to give you details about furniture?

7 A. Yes, ma'am.

8 Q. Items in rooms?

9 A. Yes, ma'am.

10 Q. Was she able to give you details about where she
11 was touched on her body?

12 A. Yes.

13 MR. MCELVEEN: Objection.

14 THE COURT: Yes or no.

15 BY MS. HODGE:

16 Q. Was she able to give you details about what she
17 was told to do or had to do or did?

18 A. Yes.

19 MR. MCELVEEN: Objection, Your Honor.

20 THE COURT: I sustain the objection.

21 MR. MCELVEEN: I'm going to ask for a
22 mistrial.

23 THE COURT: No, sir. I'm going to ask the
24 jury to disregard the question and answer.

25 BY MS. HODGE:

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1 Q. Was she able to give you details of things she
2 said?

3 A. Yes.

4 Q. Was she able to give you details of things the
5 perpetrator said?

6 A. Yes.

7 MR. MCELVEEN: Your Honor, this is beyond
8 time and place. Why does she persist in this line of
9 questioning?

10 THE COURT: I'm going to allow that. Move
11 on, please, solicitor.

12 BY MS. HODGE:

13 Q. Did you document the statement that she gave you?

14 A. She did.

15 Q. Did you write the statement or did she write the
16 statement?

17 A. She wrote the statement with the initial
18 responding officer, however, she and I reviewed the
19 statement and I documented what she retold me in my
20 report.

21 Q. Let's go back and talk about statements to
22 initial responding officers. What is their responsibility
23 in getting a statement?

24 A. To find out what happened.

25 Q. Would you characterize it as broad, specific,

State of South Carolina versus Dante Stukes

1 narrow or how would you characterize it?

2 A. I believe they try to be as broad as possible,
3 however, they are call response so they try to get the
4 initial report and then move on to the next call?

5 Q. And if there is more detail or information for
6 follow up, does that go to an investigator?

7 A. It does.

8 Q. In your experience in your nine years as an
9 investigator, do you learn more if you have a second
10 interview with someone?

11 A. Yes.

12 Q. You state you did not do an actual handwritten or
13 typed out statement for D [REDACTED] to sign with you, is that
14 correct?

15 A. Correct.

16 Q. Do you make a report for yourself, though?

17 A. Yes.

18 Q. And did you document everything D [REDACTED] told you
19 in your report?

20 A. I did.

21 Q. Did she tell you about anyone that she may have
22 told so you could do follow up?

23 A. She did.

24 Q. And who did you learn subsequently and attempt to
25 talk to in this case?

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1 A. I was told that she did call J [REDACTED] T [REDACTED] after
2 this happened and she also told a couple of her friends at
3 ROTC at school within the next couple of days after it
4 happened. Those girls were D [REDACTED] W [REDACTED] J [REDACTED]
5 W [REDACTED].

6 Q. Did you attempt to go back to J [REDACTED] and take a
7 statement from him?

8 A. I did.

9 Q. And as far as phone records, let's talk about
10 that in general for law enforcement. Are you able to get
11 people's phone records after a certain amount of time?

12 A. No.

13 Q. Tell us about that, what is the general rule?

14 A. The general rule -- it depends on the phone
15 company. Text messages is normally lost, gone within 10
16 days ---

17 MR. MCELVEEN: I object to this.

18 THE COURT: I sustain the objection to that.

19 BY MS. HODGE:

20 Q. During the course of your investigation, do you
21 attempt to locate text messages, cell phone records?

22 A. Yes.

23 Q. Are you able to get those a year and some months
24 later?

25 A. Absolutely not.

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1 Q. So if there would have been records in this case
2 that were reported a year or more later, you could not get
3 that stuff is what you're saying?

4 A. Correct.

5 Q. You did, however, talk to the real people,
6 J [REDACTED] T [REDACTED]?

7 A. Yes.

8 Q. And did you also talk to D [REDACTED] W [REDACTED]?

9 A. I did.

10 Q. Where did you conduct those interviews?

11 A. Southside High School.

12 Q. And they were still students there?

13 A. They were.

14 Q. Were there any students that graduated or no
15 longer students at Southside that you were aware of?

16 A. I can't recall.

17 Q. And did you also take to another girl named
18 J [REDACTED] W [REDACTED]?

19 A. I did.

20 Q. Was she one of the girls from ROTC as well?

21 A. She was.

22 Q. Did you attempt to go to the incident location?

23 A. Yes.

24 Q. And were you able to go inside the incident
25 location?

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1 A. No.

2 Q. Did anyone ever come to the door?

3 A. No, ma'am.

4 Q. What do you do when you go out to the incident
5 location? What do you attempt to do?

6 A. I try to make contact with whoever resides at the
7 location.

8 Q. And if no one is there, what do you do? Do you
9 leave a card?

10 A. I leave a card.

11 Q. Did you make contact with the apartment complex
12 managers?

13 A. I did to confirm that that was who resided at
14 that specific location.

15 MR. MCELVEEN: Objection.

16 THE COURT: I sustain the location.

17 BY MS. HODGE:

18 Q. Do you need to know whose apartment you're going
19 to?

20 A. Yes, ma'am.

21 Q. Were you able to speak to the defendant before
22 any charges were filed?

23 A. I spoke to his original attorney.

24 Q. After that did you attempt to talk to the
25 defendant's wife at all?

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1 A. Yes. I left her a message.

2 Q. Did she ever contact with with regard to this
3 case?

4 A. No.

5 Q. What was the next step in this case?

6 A. It's very important that we try to get both side
7 to whatever story we're given and I attempted to make
8 contact with him on several occasion for him to come speak
9 with me and give his side of the story and he never
10 returned by phone calls or came to the door. My next step
11 was to sign a warrant.

12 Q. What charge did you get a warrant for?

13 A. Criminal sexual conduct.

14 Q. And is that with a minor?

15 A. That is with a minor.

16 Q. Is it part of your job to then attempt to serve
17 the warrant after you secured it?

18 A. It is.

19 Q. Were you able to serve the warrant in this case?

20 A. I was not.

21 Q. What do you do if you're not able to serve a
22 warrant?

23 A. It's filed away in what we call our warrant
24 division and our warrant officers attempt to serve the
25 warrant.

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1 Q. Who did you get the warrant for?

2 A. Dante Stukes.

3 Q. Were you notified when he was arrested?

4 A. I was.

5 Q. When was he actually arrested? Do you have a
6 copy of the warrant?

7 A. I do have a copy of the warrant.

8 Q. See if this will refresh your memory.

9 A. It was served on May 10, 2010.

10 Q. So that was approximately a month later after
11 your investigation finished?

12 A. Yes.

13 Q. Did that conclude your investigation in this
14 case?

15 A. I did.

16 Q. Thank you. Please answer any questions defense
17 may have.

18 THE COURT: Mr. McElveen.

19 CROSS-EXAMINATION

20 BY MR. MCELVEEN:

21 Q. Investigator Thomas, you said you were assigned
22 this case on March 15th, is that right? I'm sorry. When
23 did you say you were assigned the case?

24 A. April 14, 2010.

25 Q. And you closed it on May 3rd when you obtained

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1 the warrant? I'm looking at the bottom of the last page
2 of your report.

3 A. Yes, sir.

4 Q. "May 3rd, I obtained a warrant on the listed
5 subject. This case is administratively closed pending
6 warrant service."

7 A. Yes, sir.

8 Q. Did you make any effort to do anything after May
9 3rd.

10 A. Yes, sir.

11 Q. What did you do?

12 A. I attempted to serve the warrant.

13 Q. I'm talking about investigatively?

14 A. No.

15 Q. How many times did you go by the apartment?

16 A. At least two that I know of.

17 Q. Do you have days?

18 A. I don't.

19 Q. Do you have any times?

20 A. I don't.

21 Q. The telephone records, did you make any efforts
22 to get the telephone records or did you rely on your
23 assumption you couldn't get them?

24 A. That's not an assumption, that's common practice.
25 They wouldn't be available.

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1 Q. You made no effort whatsoever to obtain those
2 records?

3 A. Not available.

4 Q. Is the answer to my answer, yes, that's correct?

5 A. Yes, because they're not available.

6 Q. Did you talk to Ms. Lane about looking at her
7 calendar about credit card receipts about anything that
8 might help you pin down the time?

9 A. I did.

10 Q. Was she able to give you any of that?

11 A. No, sir.

12 Q. She didn't know any of that?

13 A. No, sir.

14 Q. Did you try?

15 A. Yes, sir.

16 Q. What did y'all look at?

17 A. I spoke with her about obtaining dates from when
18 they were out of town, however, because they traveled so
19 frequently, we couldn't come up with a specific date. She
20 had stayed with this family on several occasion so we
21 could not come up with a specific date when this incident
22 took place, just the time frame.

23 Q. Did you attempt to get a search warrant for her
24 records?

25 A. No.

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1 Q. You tried how many times to talk to Kim Stukes?

2 A. One that I know of, it could be more. I don't
3 recall an exact number. Twice that I know of.

4 Q. And she told you it happened sometime between
5 Christmas of '08 and May of 2009?

6 A. No, sir, I believe January. It was after
7 Christmas is what she said.

8 Q. So sometime between January of '09 and May of
9 '09?

10 A. Yes, sir.

11 Q. And not Christmas?

12 A. No, sir.

13 Q. So what you said about Christmas before, that was
14 incorrect?

15 A. Yes. She said it happened sometime after
16 Christmas.

17 Q. Is it possible to find evidence of semen after a
18 year?

19 A. I don't know, I'm not a forensic expert.

20 Q. Did you check into that?

21 A. This case it happened at his residence, there was
22 going to be semen at his residence any way so there's no
23 way to tell when the semen came from or if it came from
24 this specific date.

25 Q. You didn't test it or florescent even after an

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1 extensive period of time?

2 A. No.

3 Q. Thank you, very much.

4 REDIRECT EXAMINATION

5 BY MS. HODGE:

6 Q. One question. Do you have a copy of the
7 statements from D [REDACTED] W [REDACTED] and J [REDACTED] T [REDACTED]?

8 A. I do.

9 Q. And what's the dates on those statements?

10 A. May 6, 2010, so I stand to be corrected.

11 Q. So you actually did do some more investigating
12 after the May 3rd when the warrant was issued? You
13 continued to investigate.

14 A. Yes.

15 Q. Why did you not seek a search warrant for the
16 defendant's home?

17 A. If it had been a freshly committed crime, then
18 that would be the next step to seek a search warrant;
19 however, since it had been committed over a year later,
20 there's no preserved evidence related to this case that we
21 can get in to collect.

22 Q. Is there a possibility evidence could be tampered
23 with if you would have gone in there? Would there be that
24 injection of evidence?

25 A. Yes.

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1 Q. So it was not documented and preserved in time
2 for you to get a search evidence?

3 A. That's correct.

4 MR. MCELVEEN: Objection.

5 THE COURT: I sustain the objection and
6 instruct the jury to disregard the question.

7 BY MS. HODGE:

8 Q. Tell us in your own words why she didn't get the
9 search warrant.

10 MR. MCELVEEN: She's asked and answered that
11 question.

12 THE COURT: I sustain the objection.

13 MR. MCELVEEN: One more question.

14 RECROSS-EXAMINATION

15 BY MR. MCELVEEN:

16 Q. The layout of a building is not likely to change
17 over a year?

18 A. The facts that I had of what evidence there would
19 be that semen was wiped away with a towel, it maybe on bed
20 sheets ---

21 Q. I asked if the layout of the building would not
22 change -- the layout of the apartment. The walls probably
23 didn't move, did they?

24 A. I don't know if it would have been renovated or
25 not.

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1 MR. MCELVEEN: That's all I have.

2 THE COURT: Thank you. Step down.

3 (Witness leaves the witness stand.)

4 MS. HODGE: The State calls Shawna Galloway
5 Williams.

6 THE CLERK: Ms. Williams, please come forward
7 to be sworn in. Place your left hand on the Bible and
8 raise your right.

9 SHAWNA GALLOWAY WILLIAMS, having been duly
10 sworn, testified as follows:

11 Thank you. You may be seated. State your
12 full name for the record.

13 THE WITNESS: Shawna Galloway Williams.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MS. HODGE:

17 Q. Ms. Williams, what is your current occupation?

18 A. I am the executive director of the Julie
19 Valentine Center.

20 Q. What is the Julie Valentine Center?

21 A. The Julie Valentine Center is a child abuse and
22 sexual assault recovery center formally known as the
23 Greenville Rape and Crisis Center. The services we
24 provide include the full range of services for prevention
25 and education, investigative services, treatment and

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1 follow up case management for anyone whose been impacted
2 by child abuse or sexual assault.

3 Q. How long have you been the executive director?

4 A. I've been executive director for three years.
5 I've worked with the center in some capacity or another
6 for the past eight years.

7 Q. What other capacities did you work there?

8 A. I started out as a contract forensic interviewer.
9 I was employed by the Department of Mental Health and did
10 interviews at the Greenville Rape and Crisis Child Abuse
11 Center while employed there. Then I served as clinical
12 director and then interim executive director and now
13 executive director.

14 Q. Tell us what type of educational background do
15 you have?

16 A. I have a master's degree in counseling, a
17 bachelor's degree in psychology and I'm licensed as a
18 professional counselor in the State of South Carolina.

19 Q. And did you previously counsel people, clients?

20 A. I have.

21 Q. How many years did you do that?

22 A. I worked in the field of mental health for about
23 15 years -- for the past 15 years. Specifically working
24 with children and adolescents for 11 of those years and I
25 did mainly counseling for about six of those years I've

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1 been forensic interviewing in addition to that. And
2 currently I don't do any counseling, just forensic
3 interviewing.

4 Q. What type of licenses do you hold?

5 A. I have a license as a licensed threshold
6 counselor in the State of South Carolina.

7 Q. Are you required to take different training,
8 courses, et cetera, seminars in child abuse and sexual
9 assault?

10 A. Yes.

11 Q. What kind of courses have you taken in relation
12 to that specifically?

13 A. Well, over the past few years I've received more
14 than a 150 hours of skills based training specific to
15 forensic interviewing. In addition to that I've had
16 somewhere around 100 hours of lecture or continued
17 education related to the treatment of children and
18 families that have been impacted by trauma and abuse.

19 Q. Have you personally taught or given instruction?

20 A. I have. Most recently in 2011 I presented on
21 working with non offending care givers or care givers of
22 children who have been sexually abused at the National
23 Children's Symposium for the National Child Advocacy
24 Center. I also presented at the Children's Law Center
25 Conference here in South Carolina regarding testifying

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1 regarding trauma with children.

2 Q. And do you belong to any professional
3 organizations?

4 A. I am. I currently serve on two boards. I'm on
5 the board of directors for the South Carolina Network of
6 Children's Advocacy Center and I'm also on the board of
7 directors for the South Carolina Professional Association
8 for the Advocacy of Children.

9 Q. And you stated that you have performed forensic
10 interviews. What is a forensic generally?

11 A. In general a forensic interview is a factfinding
12 interview conducted with children with the goal of
13 gathering information from them that they may have
14 regarding an allegation of abuse and neglect.

15 Q. Is there a certification process for that as
16 well?

17 A. Yes. It's not a specific certification but I
18 have completed two nationally recognized protocols that
19 are state recognized and I have participated in both of
20 those, the National Children's Advocacy model and Finding
21 Words which is now called Child First.

22 Q. Over the last 15 years you've been dedicated your
23 time and your services in child abuse and sexual assault?

24 A. Yes.

25 Q. Have you ever been qualified as an expert as a

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1 child expert in sexual abuse identification or treatment
2 before?

3 A. Yes.

4 Q. And where have you been qualified and how many
5 times?

6 A. I've been qualified in general sessions in
7 Greenville and Pickens County 13 times and I've also been
8 in family court in Greenville and Pickens County more than
9 25 times.

10 MS. HODGE: At this time we would move to
11 qualify Ms. Galloway Williams as an expert in child sexual
12 abuse identification and treatment.

13 THE COURT: Voir dire?

14 MR. MCELVEEN: I do have an objection to
15 that, Your Honor.

16 THE COURT: Do you have any voir dire?

17 MR. MCELVEEN: No, I don't have any voir
18 dire.

19 THE COURT: She's qualified.

20 BY MS. HODGE:

21 Q. Ms. Galloway Williams, do you actually know the
22 victim in this case, D [REDACTED] B [REDACTED]?

23 A. I don't.

24 Q. Did you provide any type of forensic interview or
25 any counseling in this case?

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1 A. No.

2 Q. And are you familiar with the defendant at all in
3 this case?

4 A. No.

5 Q. And can you tell the jury what is your
6 understanding of your testimony today?

7 A. Essentially my understanding of my testimony is
8 to provide information around the dynamics of child sexual
9 abuse. It's a very specified area that often leads to a
10 lot of questions. So that's my job here today is to
11 provide information.

12 Q. In the area of child sexual abuse or child sexual
13 assault, are there things that are a common thread through
14 some of that?

15 A. Yes.

16 Q. And are there things that are somehow counter
17 intuitive to people with non-experience ---

18 MR. MCELVEEN: Objection.

19 THE COURT: What's the objection?

20 MR. MCELVEEN: The question is are those
21 things somehow counter intuitive of what people --

22 THE COURT: She can answer that question.

23 BY MS. HODGE:

24 Q. Are there unique things about child sexual abuse
25 cases or child sexual assault cases?

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1 A. Yes, the area of child sexual abuse or child
2 abuse in general is an area that's really unfamiliar to
3 most individuals. It's very confusing. There are a lot
4 of confusing dynamics in situations and a lot more
5 questions that people have regarding to the dynamics when
6 it comes to children reporting and what happens before
7 during and after a child reports that happens.

8 Q. Let's talk about that when a child is sexually
9 abused or sexually assaulted, tell us a little bit about
10 -- if they may have symptoms or not have symptoms -- what
11 generally happens or is there a general?

12 A. As far as how they're identified as having been
13 abused or not?

14 Q. About symptoms or lack thereof or things that may
15 trigger someone to look into that.

16 A. Most times when children are abused whether
17 sexually abused or physically abused, they are abused by
18 someone that they know, they love and they trust which
19 often makes it hard for them to tell right after that's
20 happened. A lot of times children may not come out and
21 say directly that they've been abused so many times the
22 abused is discovered because there is a concerning
23 behavior. There was something that the child said that
24 sounded different from what a child that age may say or
25 they may have told a friend who then told someone else.

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1 The vast majority of children don't tell
2 right away and they don't generally make a purposeful
3 effort to tell. There's usually some sort of triggering
4 event or something that leads them to tell about what has
5 happened. Because like I said most times there are
6 complex dynamics surrounding the relationship the person
7 who has most likely done this to them and the child.

8 As far as symptoms, sometimes those are the
9 first things that you see rather than a child making a
10 statement. So you may see a concerning behavior. A child
11 who generally was happy go lucky, very social, then
12 becomes very withdrawn and isolates. That may cause a
13 parent to be concerned and then they ask questions and
14 then a child may tell.

15 On the other hand who may be a child who is
16 very withdrawn and all of a sudden on the flip side of
17 that is very active and hyper and hyper vigilant. There
18 could be a full range of symptoms that children display
19 when they are abused. There is no one single set of of
20 symptoms that would characterize each and every child.
21 Every child is different.

22 Q. And there some children that potentially exhibit
23 no outward symptoms?

24 A. Yes. There are many children who don't display
25 any external symptoms of concern. They internalize those

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1 symptoms instead so those children may have a lot of
2 feelings, a lot going on inside but you won't see that on
3 the outside.

4 I've seen numerous children that really
5 overcompensate or they appear to be really perfect on the
6 outside. They have lots of friends, they're keeping their
7 grades up and exhibit no problems at all. You could have
8 that full range where you got one child who really is
9 displaying those external depressive anxiety symptoms and
10 you may have another child who is the star student and
11 excel in everything external, but may be very upset on the
12 inside.

13 Q. Excelling appears to be a coping mechanism or
14 something like that?

15 A. It could be. Some of the children that has been
16 there has this sort of coping mechanism and they're saving
17 grace, so to speak, and its their way of escaping that
18 pain or whatever it is that is causing them to hurt on the
19 inside.

20 Q. About how many children come through the Julie
21 Valentine Center in a year?

22 A. Last year there were more than six hundred
23 children that came through. There were more than 435 that
24 had forensic interviews and about 220 that had medical
25 exams.

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1 Q. You and your full employees there see a variety
2 of various physical or sexual abuse cases?

3 A. Yes.

4 Q. And is that where Dr. Mary Fran and Dr. Anderson
5 conduct their physical exams of children?

6 A. Yes.

7 Q. In your experience, does sexual abuse occur just
8 one time or numerous times or could there be a variation?
9 What have you seen in your experience?

10 A. Most children that I have seen there have been
11 multiple incidents, but it could be, again, that full
12 range. You might have a child that's been abused by
13 multiple perpetrators, more than one person who has
14 committed the abuse on them. Statistically a child or an
15 adult that has been assaulted or abused, the likelihood of
16 them being assaulted again, increases significantly. So
17 often times children become more vulnerable to abuse
18 again.

19 With abuse occurring so often within
20 households or within close proximity to a child's
21 relationship base, there often are multiple incidents with
22 the same perpetrator.

23 Q. Can there be single incidents that you're aware
24 of?

25 A. Yes, there certainly can be.

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1 Q. Tell us, as far as your experience in this
2 dynamic of child sexual abuse, can you tell us why kids
3 not come out and tell?

4 A. The number one reason the children report not
5 telling and that adults report not telling when they were
6 children is fear. Fear of the consequences of telling,
7 fear of what will happen to them, fear of what would
8 happen to the person who has done this to them, fear
9 because they've been threatened, fear that something is
10 going to happen to the other members of their households,
11 their pets, their siblings. Fear is the number one
12 reason.

13 Along with that, the relationship dynamics
14 play a large part in that. Most times, again, this is
15 someone that the child knows, loves and trusts and their
16 family often knows, loves and trusts them and many times
17 the community knows, loves and trusts this person. So
18 there's a lot of risk for a child to tell. They risk all
19 the positive things that come along in that relationship
20 with that person and all the positive things that that
21 person contributes to their family or their community.

22 And it may seem a little odd to think about a
23 child considering those things, but they do. They
24 consider all those aspects when it relates to whether or
25 not they're going to tell.

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1 Say, for instance, a child may realize that
2 if they tell that the person that's committing abuse may
3 be someone that the family relies on financially. So if I
4 tell that person has to leave the house and they won't
5 take care of us. Or it could be someone that's really
6 well-known in the community or within that child's
7 community. If I tell, no one is going to believe because
8 this person is such an upstanding person in the community
9 and has such as high reputation. So there's all those
10 risks involved.

11 The other thing is these relationships are
12 just like any other relationships we have with a friend or
13 a family member. The abuse is one part of that
14 relationship so that may be the one part of the
15 relationship that that child doesn't like or doesn't want
16 but there are all these other things about the
17 relationship they do like.

18 This may be someone who they respect and pays
19 them attention, who gives them love, who gives them
20 special gifts and those things may really outweigh that
21 really negative thing. Its the whole idea of, not to
22 minimize the experience of abuse to a friendship, but if
23 you have a friend and they have that one annoying habit
24 that you just can't stand, but you really can be friends
25 with them and tolerate that because you like all the other

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1 things about them. Well, it's the same kind of thing
2 looking at relationship dynamics of children who are being
3 abused by someone that is close to them.

4 Q. So that would play into them not wanting to tell?

5 A. Yes. All these things would impact whether a
6 child tells or not. The other thing with children is in
7 relationships with adults the child always has less power.
8 We teach our children, as we should, to respect adults and
9 to do what adults tell them to do and although they not do
10 that all the time, they listen to the ones who are in
11 control.

12 So no matter what kind of relationship a
13 child is in with an adult, that adult always has the upper
14 hand and children know that instinctively and we teach
15 them that in our society consistently.

16 Q. Some of that power differential, would that play
17 into how a child may respond while abused sexually while
18 its happening to them or stop it or fight back or anything
19 like that?

20 A. Right, absolutely. Again, the whole idea that
21 the relationship dynamic is not equal between a child and
22 an adult and the adult always has the power and they may
23 not feel that its a choice to say no or to stop what's
24 happening to them.

25 For children, no matter how old they are no

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1 matter if they're very young or adolescents, sexual
2 behavior is something that's pretty much unknown to them
3 and they may not really know what to do in scenario like
4 that where they're being sexually abused. They may not
5 even be able to put it to words for children very young.
6 They don't realize that they have any power or control in
7 that situation. They feel emotionally or mentally
8 overpowered by that person.

9 Q. How about the child's own feelings may give some
10 kind of guilt or contribution to the act, is that
11 something you've experienced in your career?

12 A. Yes. Children and adults often feel responsible
13 that this has happened to them in some way. If I had just
14 done this, if I had just yelled louder, if I had just done
15 something it may be wouldn't have happened, and that's
16 part of the treatment process is helping them to
17 understand where they are not responsible and what the
18 role of both of those had. And children are very
19 ego-centric, so they think that everything is about them
20 and they influence everything around them and that has an
21 even stronger impact on their responsibility and guilt for
22 what has happened.

23 Q. In your experience, is it common or uncommon that
24 the children know that the abuse is wrong and they still
25 don't tell, educated at the school somehow and they still

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1 feel like they can't tell? Is that something that's
2 common?

3 A. Right. Even if a child does not know how to put
4 to words what's happened, or if they don't immediately go
5 and tell, most children know that what has happened to
6 them was something that was not okay. It was
7 uncomfortable for young children. It gives them the ut-oh
8 feeling. They know that it's not something that should
9 have occurred and they may, many of them, still won't
10 tell.

11 Q. What about children that are little older, your
12 adolescents, maybe 12 or 13, 14 year old, in your
13 experience with these children who have been sexually
14 abused or assaulted, do they have another thought process
15 going on as opposed to the little kids?

16 A. In some ways they are able to process it more.
17 What you'll find is as children get older, they have a
18 better understanding of sexual behavior, intimacy and they
19 actually gain a deeper understanding of why it was wrong.
20 So as children get older, you would anticipate that they
21 are better able to articulate what happened and say
22 exactly what it is that happened. But you also have that
23 adolescent -- adolescents are constantly worried about how
24 they are going to be perceived and that could have just a
25 stronger impact on whether or not they tell someone what's

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1 happened to them.

2 Q. They could have own personal insecurities as
3 they're going through puberty and growing up?

4 A. Yes. A lot of times kids will feel other people
5 will see or know about them if they can't see it
6 themselves, and so that in and of itself can breed
7 insecurity. People are going to know and if I tell
8 someone, they're really going to know and they're going to
9 look at me differently and treat me differently.

10 Q. How uncommon is delayed disclosure, late
11 disclosure in your experience?

12 A. Most children don't tell right away. It's very
13 rare that a child is abused and tell someone right after
14 it happens. That's the best case scenario and we would
15 love it if every child did go right away and tell, but the
16 reality is that's not really what's happening.

17 In studies of adults who were sexually abused
18 as children, about 70 percent of them never told until
19 they were adults and maybe then still didn't tell anyone
20 accept the researchers that conducted the research.

21 Q. Can telling be a traumatic experience as much as
22 the abuse as a traumatic experience?

23 A. Absolutely. The response that care givers or the
24 community or the environment has to a child telling can be
25 as traumatic or more traumatic as the abuse itself. The

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1 best example of that would be if a child tells all of a
2 sudden their whole lives (inaudible). They have to move.
3 They have to change schools, loses a source of income.
4 There are some many things that could be more traumatic.

5 The other thing is when children tell if
6 someone doesn't believe them, that could have a very
7 significant impact on them. It could be incredible
8 traumatic. If a child tells their mother that they have
9 been abused and mom doesn't report it and doesn't believe
10 them, that can be really really traumatic.

11 MR. MCELVEEN: I'm going to object at this
12 point. This is just being all this speculation.

13 THE COURT: Let's move on, please, ma'am,
14 solicitor.

15 BY MS. HODGE:

16 Q. Is there a difference in brain development for
17 your adolescent ages? The body might look physically
18 mature but is there something cognitively not up to speed
19 with the body, decision making processes, maturity, things
20 like that?

21 A. Right. Yeah, children, their brain development
22 continues into our early 20's so a lot of the higher level
23 processing, the ability to see all the different angles of
24 a situation, the weigh out the risks versus the benefits
25 completely, to make higher level decisions, those kinds of

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1 things come later on. A lot of it has to do with life
2 experience and also with development. But the other piece
3 that impacts that is all the other though processes that
4 get in the way for adolescents like the insecurities, the
5 view of themselves and their peers.

6 Q. Is it common or uncommon in your experience for
7 children who have been abused by perpetrators to be around
8 that perpetrator even after the abuse? Is that common or
9 uncommon in your experience?

10 MR. MCELVEEN: Objection.

11 THE COURT: Move on, solicitor.

12 MS. HODGE: Your Honor, may we ---

13 THE COURT: Move on.

14 BY MS. HODGE:

15 Q. Do kids have self protective mechanisms that
16 allow them to be around perpetrators even after the abuse
17 have occurred?

18 MR. MCELVEEN: Objection.

19 THE COURT: Yes, I sustain the objection.

20 Move on.

21 MS. HODGE: May we approach the bench, Your
22 Honor?

23 THE COURT: Move on.

24 BY MS. HODGE:

25 Q. Is it common or uncommon, for a child to disclose

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1 the abuse and still be around the perpetrator?

2 MR. MCELVEEN: Objection.

3 THE COURT: I didn't understand the question.

4 MS. HODGE: To disclose abuse but still be
5 around the perpetrator.

6 THE COURT: I'll allow that one but after
7 that, move on.

8 MS. HODGE: Yes, sir. That's my last
9 question.

10 THE WITNESS: It's common for a child to
11 still be around that person depending on the relationship.
12 Like I said, most times children are abused by someone
13 they know, they love and they trust. If they haven't
14 disclosed or told about the abuse, they may still be
15 around that person. Even after they've told, they may
16 still be around that person because it may be someone who
17 is an important member of the family in their lives. So
18 it would be common for them to still be around them and it
19 may even be common for them to still carry on a
20 relationship with that person.

21 MS. HODGE: Thank you.

22 CROSS-EXAMINATION

23 BY MR. MCELVEEN:

24 Q. I think what I'm hearing you say is that there is
25 really no typical pattern. We can't look at anything and

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1 rule out abuse if it reported the next day, the next
2 month, the next year, none of that bears on whether it
3 happened or not?

4 A. I'm not sure I understand what you're asking me.

5 Q. You talked about delayed reporting and you said
6 it's not uncommon for children to delay reporting, but
7 you've also said if I'm not mistaken that there is no
8 typical pattern. Every case is individual and a delayed
9 reporting doesn't negative the abuse.

10 A. Right. There are some things that typically
11 happen and one of those things being that most children
12 delay disclosure.

13 Q. Okay. Some don't.

14 A. Some don't, but that's a rare occasion.

15 Q. Can you tell us what percentage of children
16 report it within a month?

17 A. I don't know. I don't have a statistic for that.

18 Q. How about within a year?

19 A. I don't have a statistic of time frames when they
20 would disclose.

21 Q. How about within 10 years, same answer?

22 A. Well, the research that we have to base this on
23 primarily based on adults who were sexually abused as
24 children because that's our best source of information and
25 that statistic is that 70 percent of those individuals

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1 never reported so and about 30 percent did report as
2 children.

3 Q. I'm with you on that. Now, there are false
4 reports?

5 A. Yes.

6 Q. And false reports can be delayed reports as well?
7 An adult can say that something happened to me as a child
8 and it may not be true. The fact that its delayed doesn't
9 speak to the truthfulness of it, correct?

10 A. If it's a false report, it would be a false
11 report doesn't matter when it were made. The delayed
12 disclosure wouldn't speak to whether it was a false report
13 or not. In the same way when we're looking at an
14 allegation of abuse, the delay or the timing of that
15 reporting does not necessarily determine whether that's an
16 accurate report or a truthful allegation.

17 Q. Now, in the case of a false report, wouldn't it
18 be the case that it's not more likely to be a delayed
19 report because if a child filed a report that I was abused
20 yesterday, are they setting themselves up for discovery
21 much more so than if they say it happened three years ago?

22 A. No.

23 Q. You don't think that's true?

24 A. No.

25 Q. You disagree with that?

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1 A. I disagree with that.

2 Q. So even in the case of an older child. Children,
3 an older child especially might make a false report of sex
4 abuse is for attention, for the shock value among their
5 friends, from the attention they may get from an adult,
6 that's just one reason that a person might make a false
7 report of sexual abuse, correct?

8 A. That's an argument that's made, but if you really
9 break that down and think about the attention that a child
10 gets when they make an allegation of abuse, for instance,
11 having to take about your sexual experience with total
12 strangers, even to the point of having to come into a
13 courtroom and talk about it in front of a group of adults
14 whom they don't know, that type of attention is not
15 generally what most kids want.

16 Q. But a child probably doesn't know what's going to
17 happen if they misreport a sexual abuse to say a peer.
18 When they tell a friend I was sexually abused and then
19 that friend goes and tells someone and then that child
20 gets taken into a hospital, and then that child ends up in
21 a courtroom, that child never anticipated those things,
22 did they?

23 A. Most children don't anticipate the process they
24 would have to go through when they disclose abuse. It's
25 not something that they usually been through before.

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1 Q. And if a child is going to make a false report,
2 it's a lot safer to make to it to peers than it is to
3 adults, correct?

4 A. For many children, it's safer to disclose an
5 actual abuse incident or to talk about anything with their
6 peers as opposed to another adult and that's very common
7 for children to tell a peer especially with an adolescent.
8 Their peers are their lives, their families.

9 Q. Just to close and I think everybody is aware of
10 this but just to say I asked it, you did not interview
11 D [REDACTED] B [REDACTED] ?

12 A. No.

13 Q. And aren't hear to speak on that case itself?

14 A. No, I did not interview her.

15 MR. MCELVEEN: Thank you very much.

16 THE COURT: Anything else, solicitor?

17 MS. HODGE: No, Your Honor. May she be
18 excused?

19 MR. MCELVEEN: No objection.

20 THE COURT: Thank you, you're excused.

21 MS. HODGE: Thank you, Your Honor. The State
22 rests.

23 (Witness leaves the witness stand.)

24 THE COURT: All right, take the jury out,
25 please.

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1 (Jury exits courtroom.)

2 Any motions?

3 MR. MCELVEEN: Yes, Your Honor. First of
4 all, as you know I made a continuance motion when you
5 denied my motion or denied my objection to expanding the
6 time frame of the indictment and you took that under
7 advisement. I don't know if you want to rule on that now
8 but I just wanted to put that on the record.

9 THE COURT: Tell me again, now.

10 MR. MCELVEEN: When the State made the motion
11 to expand the time frame.

12 THE COURT: I granted that motion.

13 MR. MCELVEEN: And I asked when we were up
14 there at the bench I asked for a continuance based on that
15 and you told me to put it on the record later.

16 THE COURT: Sure, go right ahead and put it
17 on the record.

18 MR. MCELVEEN: So because, Your Honor, they
19 have now doubled the span that I'm responsible for
20 defending here, I need a continuance so I can go back and
21 address that issue. Again, Your Honor, that's out of the
22 blue. That information was available to the State long
23 before the trial to do that and that just puts us at a
24 terrible disadvantage.

25 THE COURT: No, sir, I deny that motion. It

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1 was on the first day of March back to the 5th day of
2 January. That would not be sufficient grounds to continue
3 so I would deny that motion.

4 MR. MCELVEEN: Thank you, Your Honor. Your
5 Honor, I would make a directed verdict taking the evidence
6 in the light most favorable to the State, they failed to
7 prove all the evidence of criminal sexual conduct in the
8 second degree. In particular, Your Honor, I'm not sure if
9 there's evidence of penetration. There was some elusion
10 to that but I don't think it was clear enough.

11 THE COURT: Penetration ever slight.

12 MR. MCELVEEN: Secondly, Your Honor, the
13 testimony of Investigator Thomas I believe was that this
14 happened somewhere between after Christmas and the end of
15 May which would part of that outside even the amendment of
16 the indictment and they haven't proven that it came within
17 their own admittance.

18 THE COURT: I disagree. I think they proved
19 that sufficiently.

20 MR. MCELVEEN: And just a general motion for
21 directed verdict, Your Honor, on those grounds.

22 THE COURT: I deny that motion. You will
23 have some testimony.

24 MR. MCELVEEN: Yes, sir.

25 THE COURT: Can you give me an estimate of

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1 about how long we're talking about.

2 MR. MCELVEEN: Your Honor, Mr. Stukes will
3 testify and I ask him to instruct on his rights not to
4 testify. Ms. Stukes I know will testify and she will be
5 fairly extensive and then I may have one or two short
6 witnesses.

7 THE COURT: Is Ms. Stukes in the courtroom?

8 MR. MCELVEEN: No, sir, she is not.

9 THE COURT: Would you put Mr. Stukes under
10 oath.

11 THE CLERK: Yes, Your Honor. Mr. Stukes
12 would you stand and raise your right hand.

13 DANTE STUKES, having been duly sworn,
14 testified as follows:

15 THE COURT: Be seated. We are at a point now
16 in your trial that you will make a determination whether
17 you yourself will testify. I tell you that you don't have
18 to testify because that's your Constitutional right. You
19 have absolutely no burden in this case. The burden is on
20 the State to prove you guilty beyond a reasonable doubt.
21 Do you understand?

22 DEFENDANT STUKES: Yes, sir.

23 THE COURT: With that understanding, I tell
24 you you have a perfect right to take the stand and
25 testify. Do you understand that?

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1 DEFENDANT STUKES: Yes, sir.

2 THE COURT: If you take the stand and
3 testify, you become like any other witness in the case
4 subject to cross-examination, do you understand?

5 DEFENDANT STUKES: Yes, sir.

6 THE COURT: I don't know if you have any
7 prior record in which you can be impeached with but if you
8 do, then the solicitor will be able to ask you those
9 questions, do you understand?

10 DEFENDANT STUKES: Yes, sir.

11 THE COURT: Now, are you under the influence
12 of alcohol, drugs or any other substance right at this
13 time?

14 DEFENDANT STUKES: No, sir.

15 THE COURT: You sober?

16 DEFENDANT STUKES: Yes, sir.

17 THE COURT: You know what you're doing?

18 DEFENDANT STUKES: Yes, sir.

19 THE COURT: And have you made a decision
20 whether you will or will not testify?

21 DEFENDANT STUKES: Yes, sir.

22 THE COURT: And what is that decision?

23 DEFENDANT STUKES: I will.

24 THE COURT: Has Mr. McElveen put any pressure
25 on you to take the stand and testify?

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1 DEFENDANT STUKES: No, sir.

2 THE COURT: This is a decision that you,
3 yourself, have made.

4 DEFENDANT STUKES: Yes, sir.

5 THE COURT: Voluntarily.

6 DEFENDANT STUKES: Yes, sir.

7 THE COURT: All right.

8 I believe you listed two other witnesses.

9 MR. MCELVEEN: I listed Mr. Groom, Your
10 Honor, who would not be available until the morning.
11 Because of the testimony that's come in today, we've
12 contacted an old associate of Mr. Stukes and we like to
13 bring in a Mr. Beckman. Both of those will be fairly
14 short witnesses.

15 MS. HODGE: Was Mr. Beckman on your list?

16 MR. MCELVEEN: No, I wasn't aware of him
17 until we got into the testimony today. It wasn't really
18 that relevant and Dante was able to tell me that he might
19 be able to address that. So I would ask ---

20 THE COURT: Well, does the solicitor know
21 that?

22 MR. MCELVEEN: The solicitor also brought
23 somebody in that wasn't on the list, Your Honor. Who that
24 was I can tell you?

25 MS. HODGE: No, my witness list contained all

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1 my witnesses.

2 THE COURT: What is this witness going to
3 testify to?

4 MR. MCELVEEN: This witness will testify to
5 during the period of question how Dante was working very
6 hard and would often not get off of work until 10:00 or
7 even later than that.

8 THE COURT: No, I'm sorry, sir, that name was
9 not disclosed to the solicitor or to the jury so I would
10 have to deny that. Do you have another short one?

11 MR. MCELVEEN: My other witness, like I said,
12 he won't be here until tomorrow.

13 THE COURT: We will recess and then pick back
14 up at 9:00 in the morning.

15 Bring the jury in.

16 MR. MCELVEEN: Your Honor, just to extent to
17 preserve the record, I just ask the Court to note my
18 objection to not being able to call that witness.

19 THE COURT: Ladies and gentlemen, as you know
20 the State has completed its case and what we have
21 remaining is the testimony by the defense. We will do
22 that tomorrow morning. We will start about 9:00. Now,
23 before reading you go, I need to read to you an order
24 issued by the Chief Justice of our Supreme Court. I need
25 your attention while I read this to you at this time. The

State of South Carolina versus Dante Stukes

1 order is signed by Chief Justice Jean Toal relating to
2 your service as a juror on this case.

3 She says the use of personal communication
4 devices has continued to increase dramatically.

5 Accordingly, I find it necessary to supplement my order of
6 August 25, 2000 related to the use of pagers, cell phones,
7 and other personal communication devices in courtrooms to
8 include the following directions to the court.

9 The Court shall instruct jurors selected to
10 serve on a jury that until their jury service is
11 concluded, they shall not (a) discuss the case with others
12 including other jurors except as otherwise authorized by
13 the Court (b) read or listen to any news reports about the
14 case (c) use a computer, cellular phone, or other
15 electronic device with communication capabilities while in
16 attendance at trial while or during deliberations.

17 These devices may be used during lunch breaks
18 but may not be used to obtain or disclose information
19 prohibited in subsection (d) below and (d) reads: Use a
20 computer, cellular phone, or other electronic device with
21 communication capabilities or any other methods to obtain
22 or disclose information about the case when they're not in
23 court.

24 Information about the case includes but is
25 not limited to the following: Information about a party,

State of South Carolina versus Dante Stukes

1 witness, attorney or court officer, news accounts about
2 the case, information collected through juror research on
3 any topic raised or testimony offered by any witness,
4 information collected through juror research on any other
5 topic the juror might think would be helpful in deciding
6 the case.

7 Notice of the contents of this order shall be
8 given to jurors.

9 So with that I'll excuse you until tomorrow
10 morning. I ask you to keep your badges on and have them
11 on when you come back in the morning. I ask that you do
12 that so that everyone involved with this case will know
13 that you are a juror and it would be highly improper for
14 them to discuss or talk about this case in your presence.
15 So keep them on and have them on when you come back.

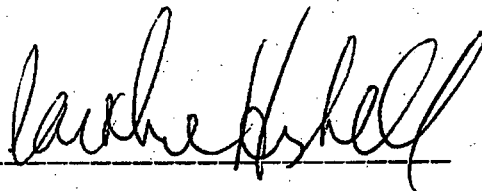
16 Please be back promptly at 9:00 in the jury
17 room. Thank you.

18 (Jury dismissed for the day.)
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State of South Carolina versus Dante Stukes

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Court of General Sessions, South Carolina on the 14th
8 day of March, 2012.

9 I do further certify that I am neither of
10 kin, counsel, nor interest to any party hereto.

11
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13 

14 Caroline Hiskell,
15 Thirteen Circuit Court Reporter
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State of South Carolina versus Dante Stukes

2 of 2

1 STATE OF SOUTH CAROLINA)
2) COURT OF GENERAL SESSIONS
3) 2010-GS-23-6454
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COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA

TRANSCRIPT OF RECORD

-vs-

Dante Stukes

March 15, 2012
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, Judge.

A P P E A R A N C E S

KRIS HODGE, Esquire
Assistant Solicitor
Attorney for the State

GEORGE MCELVEEN, Esquire
Attorney for the Defendant

CAROLINE HISKELL
Thirteenth Circuit Court Reporter

State of South Carolina versus Dante Stukes

I N D E X

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State of South Carolina versus Dante Stukes

1 DAY 2

2 THE BAILIFF: All rise. Court is now in
3 session, the Honorable C. Victor Pyle presiding.

4 THE COURT: Good morning. Please be seated.
5 Anything before I bring the jury?

6 MR. MCELVEEN: Only that at some point during
7 our presentation I've got a video and I've got my own
8 laptop with a cord. I guess this is a plug right here.

9 THE COURT: It is.

10 MR. MCELVEEN: I need to play it on either
11 mine or this. I'm not familiar with this one.

12 MS. HODGE: That's the solicitor's so I would
13 need to get somebody over here to set that up because I
14 don't know how to do it.

15 MR. MCELVEEN: Then I'll just do it on mine.
16 I don't think it would be a problem.

17 THE COURT: Can you play it on the big
18 screen?

19 MR. MCELVEEN: If I knew how, Your Honor. I
20 don't know how to operate this.

21 THE COURT: Can you find somebody?

22 MS. HODGE: I'll find someone that can help.

23 THE COURT: All right, bring the jury.

24 (Jury enters the courtroom.)

25 Good morning.

State of South Carolina versus Dante Stukes

1 Mr. McElveen.

2 MR. MCELVEEN: We would call Dante Stukes.

3 THE CLERK: Mr. Stukes, please come up to be
4 sworn in. Place your left hand on the Bible and raise
5 your right.

6 DANTE STUKES, having been duly sworn,
7 testified as follows:

8 Thank you. You may be seated. Please state
9 your name for the record.

10 THE WITNESS: Dante Stukes.

11 DIRECT EXAMINATION

12 BY MR. MCELVEEN:

13 Q. Good morning, Mr. Dante.

14 A. Good morning, sir.

15 Q. How are you?

16 A. I'm very good.

17 Q. Tell the jury a little bit about yourself. Where
18 are you from?

19 A. Originally I'm from Clarendon County, Sumter,
20 South Carolina. I was born in Clarendon County, raised in
21 Sumter by grandmother, moved the Sumter with my mother.

22 Q. You still have family there?

23 A. Yes.

24 Q. How did you end up in Greenville?

25 A. When I got back I met my wife, she was in the Air

State of South Carolina versus Dante Stukes

1 force. She was active duty. We got orders to Mexico
2 Hartman Air force Base. In 2006, her and myself and my
3 children moved to New Mexico and we came back in 2008.

4 Q. You have children?

5 A. Yes.

6 Q. Who are they?

7 A. K [REDACTED] and A [REDACTED].

8 Q. How old are they?

9 A. They are seven and five.

10 Q. They are in school here in Greenville County?

11 A. Yes.

12 Q. What school do they go to?

13 A. My daughter goes to Sarah Collins and my son goes
14 to La Petite Academy.

15 Q. What about your education?

16 A. My education is I have some college. I didn't
17 finish my bachelors.

18 Q. You went to high school in?

19 A. Sumter, South Carolina.

20 Q. And what college did you go to?

21 A. I went to Grand Canyon University.

22 Q. From college, where did you go?

23 A. I was doing online classes. This was back in
24 '06.

25 Q. When you went as far as you were going to go with

State of South Carolina versus Dante Stukes

1 your college education, what did you do?

2 A. We moved to Greenville.

3 Q. Why did you move to Greenville?

4 A. We moved to Greenville because of pretty much my
5 wife wanted to get out the military. She got deployed and
6 she wanted to get out and also because the church was
7 here.

8 Q. And which church was that?

9 A. Christian Cathedral Ministries.

10 Q. What was the connection with that church?

11 A. I had been with Apostle Sammy C. Smith since
12 2001. I have been his personal assistant since that time,
13 and even when I was in New Mexico, he christened both of
14 my children. He married me and my wife and when we
15 started talking and he told me he was starting a ministry
16 here in Greenville and that Greenville was the up and
17 rising area to move to. So he said why don't you come
18 take a look at it and you can just get back in the swing
19 of things.

20 Q. Was that a church that was originally in Sumter?

21 A. Yes, sir.

22 Q. Is it an affiliated church of any kind or is it
23 independent?

24 A. Now? It has broken away. It was affiliated with
25 the Church of God and Christ, but in 2001 he left that

State of South Carolina versus Dante Stukes

1 fellowship and he started Grace Cathedral Fellowships
2 Incorporated.

3 Q. How many location does that have?

4 A. That he's currently over, two, but he he has
5 other ministry that he fellowships with.

6 Q. Those two are in Greenville and where else?

7 A. Sumter.

8 Q. Did you take him up on that offer?

9 A. Yes, sir.

10 Q. And what did you do in response to that?

11 A. Me and my family relocated here and once we got
12 here, it was in July, and we waited a week or two for the
13 apartment to get ready and then we moved in.

14 Q. When you say you took him up on his offer, was
15 this a full time position or did you have other work?

16 A. No, I had other work.

17 Q. And what is your other work?

18 A. My other work is I'm in the car business.

19 Q. What kind of car business?

20 A. The automotive industry, I was salesman, finance
21 manager.

22 Q. And this was for what particular business?

23 A. The automotive industry.

24 Q. What is the name of your business?

25 A. Currently now?

State of South Carolina versus Dante Stukes

1 Q. Uh-hum.

2 A. Current now I'm with Palmetto Automotives in
3 Aiken, South Carolina.

4 Q. You drive to Aiken every day?

5 A. Yes, sir.

6 Q. And are you in Greenville -- so you drive to
7 Aiken and back every day?

8 A. Yes, sir.

9 Q. How much of a commute is that?

10 A. Depending on where I'm at because I have an aunt
11 that lives in Columbia and my mother lives in Sumter so
12 sometimes I'm in between places because sometimes I don't
13 get off work until late.

14 Q. My first question is when you go to Greenville to
15 Aiken, how long is that?

16 A. Two-and-a-half.

17 Q. Hours?

18 A. A little bit over.

19 Q. Each way?

20 A. Each way.

21 Q. And how many times a week do you do that?

22 A. Twice.

23 Q. Do you work in other cities?

24 A. Currently right now I'm just working in Aiken.

25 Q. And you spend time in Columbia?

State of South Carolina versus Dante Stukes

1 A. Yes, sir.

2 Q. Why is that?

3 A. Because I have two aunts that live in Columbia so
4 whenever I'm overly exhausted from Aiken instead of
5 driving getting in the car trying to drive two-and-a-half
6 hours back, I just go to Columbia and I stay at one of my
7 aunt's houses.

8 Q. How far is it from Columbia to Aiken?

9 A. Forty-five minutes to an hour depending on
10 traffic.

11 Q. How many times a week do you do that?

12 A. I probably do that once or twice.

13 Q. And what about Sumter, do you stay in Sumter from
14 time to time?

15 A. Oh, yes.

16 Q. Why do you do that?

17 A. Because my mother is there, my family is there,
18 mother and brother so I go down there.

19 Q. So instead of staying in Columbia, you stay in
20 Sumter for the same reason?

21 A. Yeah, and then momma cooks.

22 Q. Where you doing this in the early part of 2009?

23 A. Early part of 2009, yes, sir.

24 Q. Same thing you just described?

25 A. Yes, except I was staying strictly with my

State of South Carolina versus Dante Stukes

1 mother. I wasn't going to my aunt's house.

2 Q. When you're working in Aiken's when do you get
3 off of work?

4 A. Some nights I get off 9:30, some nights I get off
5 at 11:30, all depending on the kind of day I had.

6 Q. Are those routine hours in the car business?

7 A. To be a finance manager it is.

8 Q. That's what you are?

9 A. Yes.

10 Q. What does the finance manager do?

11 A. F&I, finance and insurance specialist. Pretty
12 much what my job is when you come see me to secure an auto
13 loan I make sure you get that auto loan. I deal with the
14 banks and hash out the terms and hash out the numbers. I
15 make sure the terms and everything is agreeable and I do
16 all the paperwork, signing out the contracts, any special
17 paperwork that the finance company may need from you I
18 make sure I obtain. After the signing of the contract,
19 you're in your car and you're driving down the street.

20 Q. And what time of the day do you do that?

21 A. All times.

22 Q. And when do you generally finish?

23 A. Sometimes I'm walking out the dealership at
24 11:30.

25 Q. When did you happen to meet the Lane family?

State of South Carolina versus Dante Stukes

1 A. I met the step father, BJ Lane through the
2 church. Actually it was my wife that befriended the
3 mother and the two girls, and from that point that's how
4 we developed that relationship.

5 Q. Do you remember when that was?

6 A. It was shortly after we got there because we were
7 still in the location off of Pleasantburg location because
8 her older daughter Nicki was 17 during the time and she
9 was pregnant and we had a crib that my wife came to me and
10 ask me about. We gave Nicki the crib because we knew she
11 needed a crib and I told her I didn't mind.

12 Q. And you say this was approximately when?

13 A. I would say probably September, October of 2008.

14 Q. When did you first actually meet D [REDACTED] B [REDACTED] ?

15 A. I met them shortly after my wife offered them the
16 crib because her, her mother and Nicki came over to get
17 the crib and I was the one that brought the crib over to
18 the car for them.

19 Q. And that would have been in 2008?

20 A. Yes, sir.

21 Q. How did the relationship between your wife and
22 D [REDACTED] develop or are you even aware of that?

23 A. I just know that they started talking. That's
24 all I know.

25 Q. Would D [REDACTED] come over to your house?

State of South Carolina versus Dante Stukes

1 A. Yes.

2 Q. What was the purpose of that?

3 A. Mostly to do homework. I would get phone calls
4 from my wife letting me know she was coming over to do
5 homework or something like that.

6 Q. Would she routinely spend the night with y'all or
7 would she come over during the day or what kind of time
8 and hours was she spending there to your knowledge?

9 A. To my knowledge it was, you know, day time after
10 she got out of school to do homework or whatever.

11 Q. How would she get to your house?

12 A. From what I'm told she would have to be dropped
13 off by her mother.

14 Q. Did there come a time when she ever spent the
15 night at your house?

16 A. Yes.

17 Q. And tell us what you can remember about that?

18 A. It was one particular time that I remember and
19 the was in February because she was only supposed to stay
20 two or three nights, at least that was told to me by my
21 wife because she asked me if agree. I told her two or
22 three nights fine, cool, you can do that and she was like
23 okay. That two or three nights turned into being an
24 extended stay.

25 Q. What do you mean by an extended stay?

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1 A. She ended up being there a little bit longer than
2 anticipated I would say seven or eight days.

3 Q. Do you remember when that was?

4 A. If I'm not mistaken it was February -- as a
5 matter of fact it was 2009 because that the first year
6 that we knew Universal Soul Circus was in Greenville and
7 my wife was taking the kids that week and she ended up
8 having to take everybody.

9 Q. Including D [REDACTED]?

10 A. Yes.

11 Q. Is that what you're talking about?

12 A. Yes, sir.

13 Q. Any other times between January and May of 2009
14 that you remember her staying there overnight?

15 A. No, sir.

16 Q. Are you saying you don't remember or are you
17 saying it didn't happen?

18 A. Didn't happen.

19 Q. That wasn't the last time that D [REDACTED] ever spent
20 the night at your house, though?

21 A. No, sir.

22 Q. When did she stay over at your house another
23 time?

24 A. The later part of '09 right about October or
25 November.

State of South Carolina versus Dante Stukes

1 Q. What were the circumstances of that stay?

2 A. That I can't recall. She was calling my wife
3 begging my wife to come over to the house.

4 Q. Was that a conversation you were privy to?

5 A. No, sir. That was something that my wife called
6 me and relayed to me.

7 Q. So that was your understanding?

8 A. Yes, sir.

9 Q. And she did, in fact, stay?

10 A. Yes, sir.

11 Q. Overnight. Is there anything unusual to you
12 about that night?

13 A. No, sir.

14 Q. Any other times?

15 A. No, sir.

16 Q. You understand what you're here for today
17 obviously, right?

18 A. Oh, yes, sir.

19 Q. You've been accused of having sex with a 14 year
20 old girl.

21 A. Yes.

22 Q. D. [REDACTED] B. [REDACTED] said that you had sex with her on
23 one occasion during January, February, March, April or May
24 2009, are you aware of that?

25 A. Yes, sir.

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1 Q. Do you know what she's talking about?

2 A. No, sir.

3 Q. Did that happen?

4 A. No, it did not.

5 Q. Do you know why she would say such a thing?

6 A. No, I do not.

7 Q. Thank you very much.

8 THE COURT: Solicitor.

9 CROSS-EXAMINATION

10 BY MS. HODGE:

11 Q. Mr. Stukes, you knew the Apostle Sammy Smith, is
12 that right?

13 A. Yes, ma'am.

14 Q. And Mr. Lane was working in the church with the
15 Apostle Sammy Smith; is that right?

16 A. No, ma'am, he was a visiting preacher. During
17 that time he was a visiting preacher.

18 Q. But he came to the church and you were apart of
19 the church when he would come and visit and preach?

20 A. Yes.

21 Q. And what was your role exactly at the church?

22 A. I was a pastoral aid.

23 Q. What does that do?

24 A. Help the bishop prepare for services and get
25 anything that he needs, secure the premises of the

State of South Carolina versus Dante Stukes

1 facility for the parishioners and making sure everything
2 was safe. Making sure nothing was out of place, but
3 mostly I was attached to him.

4 Q. So you were like his security or his body guard i
5 you will?

6 A. I was mainly attached to him. Like anything he
7 needed before services, I would help him get prepared and
8 get ready for services.

9 Q. And that's what they call an Armor Bearer, also?

10 A. Yes.

11 Q. And an Armor Bearer is security that stands up
12 front kind of in case something kind of goes crazy or
13 anything like that?

14 A. Those are two different functions.

15 Q. But you did that as well?

16 A. Yeah.

17 Q. Whenever Mr. Lane would come and preach at y'all's
18 church, do you get to know him on a personal level other
19 than him standing up preaching? Did you get to know him
20 personally?

21 A. I got to know him in the back office, yes.

22 Q. Because you would be around the main -- I'm guess
23 Mr. Smith was the main person in the church?

24 A. Yes.

25 Q. The leader of the church?

State of South Carolina versus Dante Stukes

1 A. Yes.

2 Q. And if you were with Mr. Smith a lot, you would
3 have known and met the visiting preachers as well, right?

4 A. Yes.

5 Q. So you got to know Mr. Lane on a personal level?

6 A. Yes.

7 Q. And you know Mr. Lane has had some health issues,
8 do you know that? During that time Mr. Lane had some
9 health issues?

10 A. I was aware of it, yes.

11 Q. You knew at that time he was married to Ms. Lane?

12 A. Yes.

13 Q. And you knew at that time they had two daughters,
14 his step daughters, her daughter, Shanekwa; is that
15 correct?

16 A. Correct.

17 Q. And then D [REDACTED] who was the younger daughter,
18 correct?

19 A. Correct.

20 Q. And your wife was a youth -- not a youth minister
21 but she helped with the youth program in the church?

22 A. Yeah, she got involved with the youth program.

23 Q. And she would help do Bible studies and things
24 like that; is that correct?

25 A. Yes, yes, that is.

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1 Q. In her youth group, she dealt with the girls that
2 were 13 to 17 years old; is that correct?

3 A. I don't know.

4 Q. You didn't ask her about that. Y'all never had
5 communications about what she was doing in the church?

6 A. No.

7 Q. Who she was dealing with, who she was seeing,
8 helping, nothing like that?

9 A. No, ma'am.

10 Q. Y'all didn't talk about church stuff?

11 A. Sometimes we did, mostly we didn't.

12 Q. Did you know that D [REDACTED] was in her youth class
13 or one of her Bible study classes?

14 A. I later found that out, yes.

15 Q. At the time it was going on, you had no idea who
16 was in her class?

17 A. I didn't keep a track of who was in those
18 classes.

19 Q. And that's not something you and your wife would
20 talk about, things at church. Any reason why y'all
21 wouldn't talk about that?

22 A. Because so much happens throughout the day. I
23 would let her know if I had to be somewhere with bishop or
24 something like that, other than that, you know.

25 Q. But you then later learned that she had become

State of South Carolina versus Dante Stukes

1 friends to D [REDACTED] and to Nicki?

2 A. Yes.

3 Q. And that they became kind of like family friends?

4 A. Well, actually she asked me if it was okay for
5 her to start allowing D [REDACTED] and Nicki to come over
6 because she felt like they were troubled and they needed
7 someone to talk to, and that was something that was not
8 unstrange for her because we did that throughout our whole
9 marriage and I said if that's what you want to do, do it.
10 At the time I was working in Columbia and barely at home.

11 Q. You weren't there that much that she was helping
12 these girls, she was doing something nice. She was being
13 a mentor, big sister type; is that right?

14 A. Yes.

15 Q. She wasn't doing something bad. She was doing
16 something nice.

17 A. Yes.

18 Q. And she did have a lot of contact with D [REDACTED]
19 and Nicki and help them in various ways; is that right?

20 A. Yes.

21 Q. Help with homework like you said and giving a
22 crib to Nicki who was having a baby.

23 A. Yes.

24 Q. And you helped with that, helped deliver the crib
25 down, take the crib apart or something like that?

State of South Carolina versus Dante Stukes

1 A. No, the crib was already taken apart. It was in
2 a storage area at the house. The only thing I had to do
3 was transport it outside?

4 Q. So you were around and you met Nicki, you seen
5 Nicki and you saw D [REDACTED] ?

6 A. Yes.

7 Q. And you were also present sometimes when D [REDACTED]
8 would be there; isn't that right?

9 A. When I get home from work.

10 Q. When you got in from work.

11 A. Yes.

12 Q. And D [REDACTED] would be there?

13 A. Yes, and that was the times when I walked in and
14 my wife had already called me and let me know she was
15 going to be there and nine times out of ten when I got
16 there it was around 10:00, 10:30. She would be wrapping
17 up her homework and taking D [REDACTED] home and I would be at
18 the house with our kids.

19 Q. There was no reason you couldn't be around
20 D [REDACTED], is there? If she was there and you were there,
21 that's okay, right?

22 A. Actually the way -- that was okay but how my wife
23 has always been, if she invited somebody to the house, she
24 was not going to leave me or anybody else with them
25 because she felt like it was her responsibility. She

State of South Carolina versus Dante Stukes

1 invited them to the house and it was her responsibility
2 and her guest. She stayed up with her guest.

3 Q. There was no reason you couldn't be there also,
4 right?

5 A. No.

6 Q. No problem you couldn't be with D [REDACTED]?

7 A. No. It was just that the reason why I wasn't was
8 because I was at work all the time.

9 Q. But there were times you were in your home and
10 D [REDACTED] was in your home, correct?

11 A. Nine times out of ten when I was in my home and
12 D [REDACTED] was there, I was walking in the door and she was
13 leaving. That's normally how it went.

14 Q. And then when Nicki had her baby, D [REDACTED]
15 actually spent the night at your house, isn't that
16 correct?

17 A. I'm not sure.

18 Q. Nicki, I think, had her baby January 25, does
19 that sound right, 2009?

20 A. I don't know.

21 Q. You know when she was pregnant?

22 A. I knew when she was pregnant because I'm the one
23 who gave her the crib, but as far as the birth date of the
24 baby, no, I don't know.

25 Q. So it's possible that D [REDACTED] could have spent

State of South Carolina versus Dante Stukes

1 the night at your house around January 25th when her
2 sister had her baby, that's possible?

3 A. It's possible. She could have also been with
4 Dorothy Brown or with Anne.

5 Q. I'm asking you is it possible that she was at
6 your house and not those other people. Is it possible?

7 A. Could be.

8 Q. Yes, it is possible, correct?

9 A. Possibility, yeah.

10 Q. So that's one time she could have spent the night
11 at your house, correct?

12 A. Correct.

13 Q. And then you said she stayed in February and you
14 remember the circus event and that sort of thing?

15 A. And I remember me and my wife specifically had a
16 discussion about that.

17 Q. So she stayed at your house in February, that's
18 my question. She stayed at your house.

19 A. Yes.

20 Q. She stayed at your house more than two or three
21 days. She stayed seven or eight nights according to you,
22 correct?

23 A. Yes.

24 Q. And during those seven or eight nights, you were
25 actually home, weren't you?

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1 A. Yes.

2 Q. And you know that your wife helped D [REDACTED] and
3 talked about things, personal things, school things,
4 friend things; is that correct?

5 A. Yes.

6 Q. Some of the time you were there, some of that may
7 have been going on, correct, that your wife was talking
8 with her, helping her, that kind of stuff?

9 A. Yes.

10 Q. And as you say, your wife would always be with
11 D [REDACTED], she would never leave her guest, right?

12 A. Yes.

13 Q. So there would be times maybe you would overhear
14 what they were talking about.

15 A. Yes.

16 Q. Possible you ever engaged in conversation as well
17 with D [REDACTED]?

18 A. When you say engage what do you mean? Clarify.

19 Q. Did you ever talk to D [REDACTED]?

20 A. I made a couple of statements to her when my wife
21 asked me a question if they asked me a question I made a
22 couple of statements?

23 Q. So you would talk to her?

24 A. Yes.

25 Q. There was no reason you couldn't talk to her,

State of South Carolina versus Dante Stukes

1 right?

2 A. Yes.

3 Q. So you would talk to her, too, in regard to
4 various personal matters whatever they might be or
5 whatever she was asking about?

6 A. If it was asked to me, yes.

7 Q. Now, you understood that her parents were
8 traveling during this extended period of time that she was
9 staying at your house, correct?

10 A. Yes.

11 Q. So she wasn't just there because she just wanted
12 to be there. She had no one at home to take care of her,
13 correct? Is that what you understood?

14 A. Yes.

15 Q. So she was staying at your house because nobody
16 old enough was at her house to take care of her; is that
17 correct? Her sister had moved out and was not there
18 anymore; is that correct?

19 A. That's correct.

20 Q. And she was 14 years old at the time?

21 A. I couldn't give you a truthful answer on that
22 because I didn't know how old she was.

23 Q. Did you know she was in ninth grade in high
24 school?

25 A. I knew she was in high school and that's about

State of South Carolina versus Dante Stukes

1 it.

2 Q. Did you know that she was under sixteen?

3 A. Yes.

4 Q. And she didn't drive a car or anything, right?

5 A. Yes.

6 Q. Now, this is when you guys were living in the
7 apartment, the Plantations at Haywood; is that right?

8 A. Yes.

9 Q. And this is obviously a rough sketch but is this
10 generally correct. You have the front door and there
11 would be a guest bedroom right here when you came in and
12 there would be a bathroom right here and your kids room is
13 over here.

14 A. Uh-hum.

15 Q. So I guess this is a hallway that goes down.

16 A. Yes.

17 Q. And your bedroom and your wife's bedroom is here,
18 correct?

19 A. Yes.

20 Q. And if you came in the house there would be a
21 computer table here?

22 A. Up against that wall, yes.

23 Q. To the wall here. And would D [REDACTED] come over
24 and use the computer, were you aware of that?

25 A. Yes.

State of South Carolina versus Dante Stukes

1 Q. And then you had a couch that was kind of
2 U-shaped or long with a curved edge to it, is that right?

3 A. Sectional.

4 Q. Sectional sofa?

5 A. Yes.

6 Q. And is that where it was up against the wall like
7 that?

8 A. Yes.

9 Q. So the longer part was against the wall and the
10 smaller section would come around.

11 A. It would come around because there's a window.

12 Q. There's a window over here?

13 A. Further up because where the tv was there was a
14 door, patio door.

15 Q. Patio door.

16 A. Right.

17 Q. This was open space, I believe, where you could
18 walk from here to the patio door if you wanted to?

19 A. What was open space?

20 Q. This square.

21 A. That square represents the patio door.

22 Q. And your tv was in a cabinet or just a flat
23 screen tv?

24 A. No.

25 Q. In a cabinet?

State of South Carolina versus Dante Stukes

1 A. Yes.

2 Q. And then there's a wall here?

3 A. Yes. And on the other side of the wall is my
4 bedroom and you can access the patio from my bedroom.

5 Q. Do you smoke cigarettes?

6 A. Yes.

7 Q. Are you allowed to smoke in your house?

8 A. No. I have children.

9 Q. And that wouldn't be good. You have to go
10 outside to smoke. And there's a laundry closet or
11 something?

12 A. Laundry room.

13 Q. Is it an actually room or just a closet?

14 A. Just a closet.

15 Q. With washer and dryer and stuff?

16 A. Yes.

17 Q. So that's all accurate as far as the layout of
18 your house and where certain pieces of furniture?

19 A. Certain pieces of furniture.

20 Q. Whenever D. [REDACTED] would stay the night during that
21 extended stay that you're aware of, where did she sleep?

22 A. She left on the couch.

23 Q. Did she ever sleep in the guest bedroom that
24 you're aware of?

25 A. Could be (inaudible).

State of South Carolina versus Dante Stukes

1 Q. Did you have to leave your house pretty early
2 some mornings.

3 A. Yes.

4 Q. You would be the first one up in your home?

5 A. Yeah.

6 Q. And when you would wake up in the morning those
7 mornings that D [REDACTED] was staying at your house, where did
8 you see her?

9 A. Sometimes I saw her on the couch.

10 Q. And if she wasn't on the couch?

11 A. Then the bedroom door would be closed as I'm
12 walking up and down the hallway.

13 Q. To go out the door?

14 A. Yes.

15 Q. And in that guest bedroom, it had a bed pushed up
16 against a wall, is that right?

17 A. In the guest bedroom, that bookcase headboard was
18 against that wall as you walked in.

19 Q. There was a tv in there to the left as you walked
20 in?

21 A. There was an armoire right here to the left that
22 had a tv that sat in it.

23 Q. And then the bed?

24 A. Was right with the headboard up against the wall.

25 Q. And it had a window? As you walked straight in,

State of South Carolina versus Dante Stukes

1 you would see a window?

2 A. You would see two windows, yes.

3 Q. And the closet would have been on the other side?

4 A. Opposite side of the armoire as you walked in the
5 closet.

6 Q. And stuffed animals and things in that bedroom?

7 A. Yes, because my kids used that room as a
8 playroom.

9 Q. Do you know a lady named Donna Duncans?

10 A. Yes.

11 Q. And does she do photography and that sort of
12 thing?

13 A. Yes.

14 Q. Is that someone that you were attempting to do
15 photography classes or learn about photography?

16 A. No.

17 Q. Did you ever meet with Ms. Duncan or talk with
18 Ms. Duncan?

19 A. Yes, I talked with Ms. Duncan.

20 Q. And isn't it true that you told Ms. Duncan that
21 this whole thing was wrong because it was consensual?

22 A. That is not true.

23 Q. Ms. Duncan lives in Sumter?

24 A. No.

25 Q. In Columbia?

State of South Carolina versus Dante Stukes

1 A. No.

2 Q. Where is Ms. Duncan?

3 A. Raleigh, North Carolina.

4 Q. But she does do photography and you do know her
5 and you talk to her.

6 MR. MCELVEEN: Your Honor, I'm going to
7 object. They didn't put this up on direct and they don't
8 have any information ---

9 THE COURT: She's on cross-examination. Go
10 ahead.

11 BY MS. HODGE:

12 Q. So it's your testimony today that you have no
13 idea why D [REDACTED] would say something like this about you,
14 correct?

15 A. Correct.

16 Q. You had no problems with D [REDACTED], correct?

17 A. Correct.

18 Q. She's not mad at you, didn't dislike you for any
19 reason that you're aware of, correct?

20 A. Correct.

21 Q. And you were not mad at her or didn't like her or
22 said anything nasty to her ever, correct?

23 A. Correct.

24 Q. Everything seemed fine?

25 A. Correct.

State of South Carolina versus Dante Stukes

1 Q. So it's your testimony that you didn't start
2 talking to her about sex with J [REDACTED]?

3 A. No, I didn't.

4 Q. That you didn't take her hand and place it on
5 your penis?

6 A. No, I didn't.

7 Q. Tell her to rub it, massage it?

8 A. No, I did not.

9 Q. You did not tell her you were going to teach her
10 about sex?

11 A. I did not.

12 Q. And you didn't want her taken advantage of?

13 A. I did not.

14 Q. And that you could help her get the boy in the
15 palm of her hand?

16 A. I did not say no such thing.

17 Q. And you did not suck on her breasts?

18 A. No.

19 Q. And you did not tell her to stand up behind that
20 tv armoire?

21 A. Stand behind the tv armoire?

22 Q. Yes.

23 A. That's incorrect because when you look at where
24 the tv armoire is, there's a wall right behind there. The
25 way the tv armoire is, you can not move the armoire, nor

State of South Carolina versus Dante Stukes

1 can you back it up because it's just that heavy and solid.
2 There is no room to stand behind there.

3 Q. There is no room to stand here in this open space
4 that's right by the porch door? You can't stand there?

5 A. Yeah, but you did not say that. You said stand
6 behind the tv.

7 Q. Can you stand here?

8 A. You can stand there, but not here.

9 Q. And isn't it true that at that point you asked
10 D [REDACTED] did she want to do one more thing and that being
11 stick the head in?

12 A. No, ma'am, it is not true.

13 Q. And isn't it true that you then told her that you
14 were going to go into the guest bedroom because you didn't
15 want to make any noise?

16 A. No, ma'am.

17 Q. And that your wife was sleeping and your kids
18 were sleeping and you didn't want them to make up?

19 A. No, ma'am.

20 Q. And that you took her into that guest bedroom
21 where those stuffed animals were and that you actually did
22 stick your penis in her vagina?

23 A. That is not true.

24 Q. And that you ejaculated and you got a towel and
25 wiped it up, isn't it true?

State of South Carolina versus Dante Stukes

1 A. That is not.

2 Q. And that you then went outside and smoked a
3 cigarette because you can't smoke inside, isn't that
4 correct?

5 A. That is not true.

6 Q. Thank you.

7 MS. HODGE: That's all the questions I have.

8 THE COURT: Any redirect?

9 MR. MCELVEEN: No questions, Your Honor.

10 THE COURT: You can step down.

11 (Witness leaves the witness stand.)

12 MR. MCELVEEN: We call Kim Stukes.

13 THE CLERK: Ms. Stukes, please come forward
14 to be sworn in. Place your left hand on the Bible and
15 raise your right hand.

16 KIMBERLY STUKES, having been duly sworn,
17 testified as follows:

18 Thank you. You may be seated. Please state
19 your name for the record.

20 THE WITNESS: Kimberly Stukes.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. MCELVEEN:

24 Q. Good morning, Ms. Stukes.

25 A. Good morning.

State of South Carolina versus Dante Stukes

1 Q. You've been outside of this courtroom during this
2 entire proceeding, haven't you?

3 A. I have.

4 Q. And Dante is your husband?

5 A. Yes.

6 Q. Y'all met when y'all were in the Air force?

7 A. I'm still in the Air force.

8 Q. Air force reserves?

9 A. I'm in the guard now.

10 Q. What were you doing when you met Dante?

11 A. I was active duty stationed at Shaw Air force
12 Base down in Sumter, weather forecaster for the United
13 States Air force.

14 Q. How long were you in active duty?

15 A. I was in active duty for six years. This is my
16 tenth year in the Air force.

17 Q. Were you ever deployed?

18 A. Yes.

19 Q. Where were you deployed?

20 A. I deployed to Awagabie for six months.

21 Q. Was that before or after you met Dante?

22 A. It was after. We were married when I got
23 employed.

24 Q. How did you meet?

25 A. We met at church.

State of South Carolina versus Dante Stukes

1 Q. And which church was that?

2 A. Grace Cathedral.

3 Q. Where are you from?

4 A. I'm an Air force brat so I moved all around about
5 ever two years. I claim Virginia as my home because
6 that's where I graduated high school.

7 Q. And over the years, have you been a regular
8 church goer?

9 A. I have. I grew up in a church. My grandfather
10 was a pastor.

11 Q. How did you end up in the same church with Dante?

12 A. When I moved to Sumter, that was one of the first
13 things I wanted to do was find a church to go to and
14 through word of mouth I heard about Grace Cathedral, and I
15 went on a Sunday morning and I enjoyed it so much that I
16 decided to continue to go.

17 Q. How big a church is it?

18 A. It's relatively big church, about two thousand
19 members -- well, the one in Sumter was when I started
20 going.

21 Q. When you joined it was affiliated?

22 A. No, it was a nondenominational.

23 Q. Did it have it's own procedures and everything
24 like that for Sumter?

25 A. Yes.

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1 Q. And were those something that y'all had anything
2 to do with or were those set when you joined?

3 A. Those were set when I joined the church.

4 Q. And that would include how serves were conducted?

5 A. Yes.

6 Q. And who takes part in the service?

7 A. Yes.

8 Q. How long were you a member?

9 A. I joined as soon as got to Sumter and I was there
10 for three years.

11 Q. Where did you go after Sumter?

12 A. New Mexico.

13 Q. What happened there?

14 A. I worked there. I didn't find a church there so
15 we used -- they had a video set up so you could live
16 stream so it was like live stream.

17 Q. When did y'all actual marry?

18 A. We married April, 2005.

19 Q. Where?

20 A. In Sumter.

21 Q. So did he go out to New Mexico with you?

22 A. Yes, he did.

23 Q. Did y'all buy a home or rent?

24 A. No, the Air force provides you with homes.

25 Q. Did you have children?

State of South Carolina versus Dante Stukes

1 A. Yes.

2 Q. And where were your children born?

3 A. My daughter was born in Sumter in 2004 and then
4 my son was born in New Mexico.

5 Q. How did you like New Mexico?

6 A. It was beautiful.

7 Q. Did you have to come back to South Carolina?

8 A. I did. At the end of my enlistment, I decided
9 that I no longer wanted to be active duty, I wanted to be
10 more of a stay at home mom. Close to my deployment, I had
11 to leave when my son was one and I didn't like that
12 feeling so I decided to go part time instead of full time.

13 Q. So what were your decisions as far as where to
14 go, where to move and what kind of work to do?

15 A. Well, initially we thought to go back to Sumter,
16 but I'm not a fan so perhaps Atlanta or Charlotte, that's
17 more my speed. We both agreed that the compromise would
18 be Greenville. It's kind of like the city that was the
19 central point between all those cities.

20 Q. Did the church have anything to do with you
21 moving to Greenville?

22 A. Absolutely. While we were in New Mexico, the
23 church branched out and they built a church -- they had a
24 church here so we knew that we would have somewhere to go
25 as far as church goes if we moved to Greenville.

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1 Q. Is this an evangelical church?

2 A. Define evangelical.

3 Q. A church that focusing on outreach -- reaching
4 out to new members, gaining new members, on reaching out
5 to people as far as converting to Christianity and things
6 like that. As that the focus of your church?

7 A. Yes.

8 Q. When did you move to Greenville.

9 A. Moved to Greenville in July of 2008.

10 Q. Did you work?

11 A. No.

12 Q. Stay at home?

13 A. Yes.

14 Q. Did you maintain your Air force credentials?

15 A. Yes, I was still in the Guard so I drove to East
16 Over once a month.

17 Q. So did you go two weeks a month?

18 A. I went -- normally it's once a month but things
19 would come up where I would have to go for a week or so.

20 Q. And annually?

21 A. Right annual obligation to do two weeks out of
22 the year.

23 Q. You did that as well?

24 A. Yes.

25 Q. When did you meet the Lane family?

State of South Carolina versus Dante Stukes

1 A. We met September of 2008, September, October.

2 Q. Tell the jury the circumstances of you meeting
3 the Lanes.

4 A. What happened was we were both going to Grace
5 Cathedral and I noticed the eldest daughter, Shanekwa, was
6 pregnant and I had a crib. My son was transitioning and I
7 went and offered her -- well, I asked if she needed a crib
8 and she said that she did and I offered it to her.

9 Q. And that was direct?

10 A. Right directly to Nicki, yes.

11 Q. And as a result of that interaction, what
12 happened?

13 A. They contacted me. Nicki contacted me to find
14 out where I lived so that her and her mother could pick up
15 the crib and when they did come to pick it up I met Lois
16 and D [REDACTED] and Shanekwa. All three of them came to my
17 house.

18 Q. And was that the first time that you had met
19 D [REDACTED]?

20 A. Yes.

21 Q. And how long did they stay?

22 A. They stayed for a few minutes. We chatted a bit
23 which was about life and the things that were going on
24 with them. Lois was telling me about how she was a
25 newlywed. I think she was married for a year if a year

State of South Carolina versus Dante Stukes

1 and her husband was out of town. He was an evangelist.

2 Q. Did you develop a relationship with the Lane
3 family?

4 A. I did. I took to the young girls. Over the
5 years I've always reached out to the young girls that were
6 going to the church that I go to.

7 Q. How many years is that probably?

8 A. Ten years. The ten years that I've been going to
9 the church.

10 Q. Did you do that in Sumter?

11 A. Yes.

12 Q. Did you do that in New Mexico?

13 A. No, because we didn't have a church in New
14 Mexico.

15 Q. So explain now and tell the jury if you would how
16 your relationship with D [REDACTED] progressed?

17 A. When I met them, Shanekwa was very outspoken and
18 I noticed that D [REDACTED] was a little more reserved, a
19 little more quiet so that drew me to her. The
20 relationship between her sister and her reminded me of the
21 relationship between my sister and myself. She was more
22 like me and her sister was more like my sister. So I
23 reached out to her and we started to talking and building
24 a relationship from there.

25 Q. Did she seem receptive to her outreach?

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1 A. Absolutely.

2 Q. And what kind of things would she do with you?

3 What would y'all do?

4 A. Typically we would just talk. She would come
5 over during the day and I told her that I love math and
6 I'm a grammar guru, I love grammar. So when it came to
7 writing paper and things like that, she would come to me
8 to help her with that. And we would talk about boys and
9 things like that.

10 Q. How would she get to her house?

11 A. Her mother would bring her.

12 Q. After school?

13 A. Typically, yes, after school.

14 Q. And how long would she stay during the day?

15 A. A few hours. She would stay and work on homework
16 on the computer.

17 Q. How would she get home?

18 A. Either I would bring her home or her mother would
19 come get her.

20 Q. Obviously this was during the week. When her
21 parents were out of town, was that a weekend event or was
22 that any time?

23 A. Any time.

24 Q. And when she was at school and her parents were
25 out of town, how would she get to your house or would she

State of South Carolina versus Dante Stukes

1 come over there?

2 A. When her sister was at home, her sister would
3 bring her after school.

4 Q. Her sister could drive?

5 A. Yes.

6 Q. How often was that?

7 A. Two or three times a week.

8 Q. What about staying overnight?

9 A. She stayed the night at my house one time for her
10 and her sister both -- the first time she stayed at my
11 house her parents were out of town and her sister was
12 seven or eight months pregnant and she was having bad
13 contractions and she was vomiting viciously, and I
14 expressed that I didn't feel comfortable with them going
15 home by themselves because she was eight months pregnant.
16 This was her first pregnancy. There was no adult at home
17 and she was the only one driving and if something were to
18 happen, then who would be there to help them out. So I
19 contacted the Lanes and expressed my concerns and asked if
20 the girls could stay at my house that night just for
21 observation purposes.

22 Q. So they were not in Greenville at the time?

23 A. No.

24 Q. And they were okay with that?

25 A. They were fine.

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1 Q. And did they stay?

2 A. They did stay.

3 Q. You didn't have to take her to the doctor or
4 anything like that?

5 A. No, she ended up laying down and she was fine and
6 they both woke up and went to school.

7 Q. Was Dante there that night?

8 A. Yes.

9 Q. Shameka was driving?

10 A. She was driving, yes.

11 Q. She didn't have any difficulty and she went to
12 school?

13 A. Yes.

14 Q. What time of year was this about?

15 A. I would say it was in November of 2008.

16 Q. And then, again, did D. [REDACTED] stay at your house
17 on any other occasion?

18 A. She stayed at the end of January 2009 going into
19 February.

20 Q. Tell us about that?

21 A. This time, again, Mr. Lane was going out of town
22 -- well, he was already out of town in New York and his
23 wife, Lois, wanted to be with him because he was a bit
24 older and I guess he was having heart issues and he was
25 driving by himself, so she wanted to go to him so she

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1 could ride back with him. And at the time her oldest
2 daughter had just had the baby. So her grandmother,
3 D [REDACTED] and Nicki's grandmother, Lois's mother was in town
4 helping with the baby and I guess there was an issue with
5 her leaving. And D [REDACTED] didn't want to stay at home with
6 her sister and her grandmother and I offered her to stay
7 with me. I said well, I'll take her. I'll take her in
8 the school in the morning and I'll help Shanekwa and her
9 mother go to doctor's appointments or whatever I can do to
10 help while you're out of town. It was supposed to be for
11 two or three days.

12 Q. So you said this was the time it was supposed to
13 be two or three days?

14 A. Yes.

15 Q. And what happened next?

16 A. After the third day I received a phone call
17 stating that they weren't going to be back, that they had
18 to stay a little bit longer.

19 Q. How long were they actually gone?

20 A. They were gone for about a week, a little over.

21 Q. Was that something you anticipated?

22 A. No, I did not.

23 Q. During the first night that they stayed over that
24 Nicki was not feeling well and during this week period, do
25 you remember going to bed and leaving D [REDACTED] and Dante

State of South Carolina versus Dante Stukes

1 alone?

2 A. No. That's not something that I would do. I was
3 raised when you have guests, you stay with your guests,
4 entertain your guests until your guests are ready to go to
5 sleep. You set up their beds and stuff for them and then
6 you go to bed.

7 Q. And the first time, she was there with Nicki?

8 A. Yes.

9 Q. Now, on this week long period, was Nicki there?

10 A. No, Nicki was at her home with grandmother.

11 Q. This was in January and it was a week long
12 period?

13 A. Yes.

14 Q. Was there another occasion that D [REDACTED] stayed
15 between then and the end of May?

16 A. No.

17 Q. Did D [REDACTED] come back and stay with you on any
18 other occasions after that time that you're talking about
19 for the week long period?

20 A. Yes.

21 Q. Tell us about that.

22 A. It was October of 2009 and D [REDACTED] had expressed
23 to me that her parents went out of town and she wanted to
24 stay at my home and typically she was staying somewhere
25 else and so I told her that she could stay at my house on

State of South Carolina versus Dante Stukes

1 Sunday and I would take her to school on Monday morning,
2 and that she would have to go stay with the lady that she
3 was staying with.

4 Q. So I'm understanding you correctly, she was
5 supposed to be staying with another lady?

6 A. Yes.

7 Q. Do you know who that was?

8 A. Yes.

9 Q. Who was that?

10 A. Her name was Anne. I'm not sure of her last name
11 but she also went to Grace Cathedral.

12 Q. And how did D [REDACTED] express to you that she
13 wanted to stay at your house?

14 A. She stated that she didn't feel comfortable
15 staying at Anne's house because they had to share the
16 same bed and she didn't feel comfortable sharing the same
17 bed with her.

18 Q. And so she stayed?

19 A. Yes.

20 Q. And, again, when was this?

21 A. This was October of 2009.

22 Q. Any other times after that?

23 A. No.

24 Q. Did you maintain your relationship with D [REDACTED] ?

25 A. Absolutely. She would call and text.

State of South Carolina versus Dante Stukes

1 Q. When did you find out that Dante was being
2 accused of criminal sexual conduct with a minor?

3 A. This was April of 2010.

4 Q. And how did you find out?

5 A. I'm sorry can you ask the question again.

6 Q. How did you find out that he was being charged.

7 A. Initially I find out police were knocking at my
8 door and they said there was a warrant for his arrest.

9 Q. How about unofficially?

10 A. Unofficially I got a call directly from Dante
11 stating that someone had contacted him and said that she
12 had been raped and that she was saying he had some
13 involvement in it.

14 Q. The police came to your house and had a warrant
15 for Dante's arrest; is that correct?

16 A. Yes.

17 Q. Was he present?

18 A. No.

19 Q. Did they come in?

20 A. They did.

21 Q. What did they do when they came in?

22 A. They came in and they had taser guns and they
23 went -- my living is to the left and a few of them went to
24 the left. My master bedroom is all the way down the
25 hallway and they went all the way to the back. They were

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1 banging on the door so hard and I wasn't certain about who
2 they were and it was just me and my daughter at home so I
3 sent my daughter in the room. They went in the room with
4 the taser gun and she came out of the room upset.

5 Q. Were these uniformed police officers or was there
6 anybody in plain clothes?

7 A. They were all in uniform.

8 Q. Did they satisfy themselves that Dante was not
9 there?

10 A. Yes, they did.

11 Q. What did they do then?

12 A. They asked me ---

13 MS. HODGE: I'm going to object to anything
14 the officers may have said as hearsay.

15 BY MR. MCELVEEN:

16 Q. My question is what did they do?

17 A. They left.

18 Q. Did anybody attempt to talk to you about the
19 incident?

20 A. No.

21 Q. Did anybody ask you if you knew anything about
22 it?

23 A. No.

24 Q. Did anybody try to take a statement from you?

25 A. No.

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1 Q. Did anybody tell you when this might have
2 happened?

3 A. Yes.

4 Q. I'm talking about on this occasion?

5 A. No.

6 Q. Did any member of law enforcement come to you and
7 ask you for your side of the story?

8 A. No.

9 Q. At any time did anybody attempt to take a
10 statement from you?

11 A. About a few months ago.

12 Q. And who was that?

13 A. Someone came from the Solicitor's Office.

14 Q. So from the time that they came looking for Dante
15 and then, did anybody from the Greenville Police
16 Department or the Greenville County Sheriff's Department
17 attempt to discuss this with you?

18 A. No.

19 Q. Do you keep pretty good records of your day to
20 day activities?

21 A. I do.

22 Q. Is that how you know about the dates and times
23 you're telling me about today?

24 A. Yes.

25 Q. At any time between February of 2009 and the time

State of South Carolina versus Dante Stukes

1 that all this happened, did D [REDACTED] interrupt her coming
2 to your house? In other words, did the pattern of her
3 coming to your house change?

4 A. Yes.

5 Q. How is that?

6 A. She came a few more times during the day in
7 February and then she stopped coming.

8 Q. I think you told me that she asked to come again
9 in October?

10 A. Yes.

11 Q. Prior to that had she been coming over in the
12 afternoons to work on the computer and do her homework?

13 A. No.

14 Q. Did she say anything about why?

15 A. No.

16 MR. MCELVEEN: I beg the Court's indulgence
17 for one moment, Your Honor.

18 BY MR. MCELVEEN:

19 Q. Did you and Dante ever use the guest bedroom?

20 A. Use it?

21 Q. Did y'all ever sleep there?

22 A. No.

23 Q. Did people come from time to time and stay there?

24 A. Yes.

25 Q. That's what it was for?

State of South Carolina versus Dante Stukes

1 A. Yes.

2 Q. Are you a photographer.

3 A. Not professionally but I take a lot of pictures.

4 Q. When you say that, you're a (inaudible)
5 photographer?

6 A. I like to take pictures. I think that's the way
7 you capture memories instead of keeping them in your head.

8 Q. Do you take still photographs or make video?

9 A. I do both.

10 Q. Do you have a video camera?

11 A. Yes.

12 Q. The time in October that D [REDACTED] stayed at your
13 house, was that video?

14 A. Yes.

15 Q. Tell us the circumstances of that video?

16 A. We were eating dinner -- we had eaten dinner and
17 it was late. The kids were getting ready for bed and at
18 the time I had two of my nieces staying with me.

19 Q. And tell me the circumstances of your nieces
20 staying there?

21 A. My sister had a case with child protective
22 services and she was getting ready to lose custody of her
23 children. They were getting ready to go to foster care.

24 Q. Where was this?

25 A. This was in Virginia, Hampton, Virginia.

State of South Carolina versus Dante Stukes

1 I was contacted by her social worker and she
2 informed me that if someone did not come and take the
3 children, they would go into foster care because her
4 living conditions weren't up to par?

5 Q. As a result of that, what did you do?

6 A. I contacted my grandmother and my grandmother
7 rented a car and she drove to Greenville. From there I
8 joined her and we drove to Virginia to pick up the
9 children.

10 Q. Did anybody from social services in Virginia come
11 and visit you?

12 A. No.

13 Q. Did they talk to you?

14 A. Yes.

15 Q. And what were the names of the two nieces?

16 A. Kirsten [REDACTED] and Andrea [REDACTED].

17 Q. Let me show you some documents. Do you know what
18 this is.

19 A. It looks like the benefits we received for having
20 Kirsten and Andrea in our custody.

21 Q. Did you receive benefits?

22 A. We did.

23 Q. And if you don't know what this is, you can tell
24 me, if not, you can tell me.

25 A. It says right on the top what it is.

State of South Carolina versus Dante Stukes

1 Q. Do you recognize this document?

2 A. I haven't seen it, no.

3 Q. Do you know what this document is?

4 A. Yes.

5 Q. What is that?

6 A. This is the power of attorney that I received
7 from my sister.

8 Q. And that was when?

9 A. This was in November of 2009.

10 Q. Is that dated?

11 A. Yes.

12 MR. MCELVEEN: I'd like to offer this into
13 evidence.

14 THE COURT: Any objection?

15 MR. HODGE: Your Honor, I don't think the
16 proper foundation has been laid. I think she can testify
17 verbally as to what it is.

18 THE COURT: What is the relevance of that
19 document?

20 MR. MCELVEEN: Your Honor, we will show a
21 video and this will establish that the video had taken
22 place in and around November of 2009, that's the purpose
23 of this because this video itself doesn't authenticate
24 that. This will show that it had to take place then or
25 later.

State of South Carolina versus Dante Stukes

1 THE COURT: Solicitor.

2 MS. HODGE: Your Honor, she can testify to
3 that. She was the one who took this video so she could
4 testify to that.

5 MR. MCELVEEN: I'm not limited to that.

6 THE COURT: Go ahead.

7 (Power of attorney marked as Defendant's
8 Exhibit No. 1 for identification was admitted into
9 evidence.)

10 BY MR. MCELVEEN:

11 Q. There is another document here which is more
12 informal, what is that?

13 A. That is a handwritten document. When we got
14 there I went to a place to have just -- I wrote that she
15 would grant me temporary custody of her children.

16 Q. And that's dated?

17 A. October 10, 2009.

18 Q. And is this related to your nieces?

19 A. Yes.

20 MR. MCELVEEN: I'd like to have this marked
21 and admitted.

22 (Handwritten document marked as Defendant's
23 Exhibit No. 2 for identification was admitted into
24 evidence.)

25 BY MR. MCELVEEN:

State of South Carolina versus Dante Stukes

1 Q. Did Kristin and Andrea stay with you at any other
2 time after this before November of 2009?

3 A. No.

4 Q. Had they ever visited with you in Greenville,
5 South Carolina other than on this location?

6 A. No.

7 Q. And in this video, do they appear?

8 A. Yes.

9 Q. Now, what is this a video of?

10 A. As I was saying, we're eating dinner and we're
11 getting ready to go to bed and we're playing with the
12 kids. I was videotaping the kids wrestling.

13 Q. And who was present in the video?

14 A. D [REDACTED] was there, Dante was there. I was behind
15 the camera, my oldest daughter and my two nieces.

16 Q. And does that video fairly and accurately depict
17 what went on that evening?

18 A. Yes.

19 Q. And it shows identifying D [REDACTED], Kristin,
20 Andrea, Dante and yourself?

21 A. I'm not in it, I'm behind the camera but you can
22 hear me laughing.

23 MR. MCELVEEN: We'd like to introduce this at
24 this point.

25 MS. HODGE: No objection, Your Honor.

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1 (Video marked as Defendant's Exhibit No. 3
2 for identification and admitted into evidence.)

3 BY MR. MCELVEEN:

4 Q. Tell me if this is the video. If its not, tell
5 me.

6 MR. MCELVEEN: You might have to get the
7 gentleman to set it up because I thought this would work.
8 There it goes.

9 (Whereupon, video was played in open court.)

10
11 BY MR. MCELVEEN:

12 Q. Ms. Stukes, what's going on in that video?

13 A. The kids were playing with Dante.

14 Q. What kids?

15 A. Kristin, Andrea, my daughter [REDACTED] and my son.

16 Q. And D [REDACTED] was there?

17 A. Right. D [REDACTED] was sitting on the couch.

18 Q. And that was in November of 2009?

19 A. Right, the end of October.

20 Q. When she had asked to spend the night.

21 A. Yes.

22 Q. Thank you. Answer any questions that the
23 solicitor might have.

24 CROSS-EXAMINATION

25 BY MS. HODGE:

State of South Carolina versus Dante Stukes

1 Q. Is your last name Phillips or Stukes?

2 A. Stukes.

3 Q. So you got married and your last name changed to
4 Stukes; is that right?

5 A. Correct.

6 Q. In 2005?

7 A. Correct.

8 Q. But your driver's license doesn't say that,
9 correct?

10 A. That's right.

11 Q. And why is that?

12 A. Because the lien on my car is in Phillips.

13 Q. Why wouldn't you change your driver's license to
14 Stukes?

15 A. Because the loan on my car is in Phillips.

16 Q. You're not allowed to change your name on your
17 driver's license?

18 A. Absolutely, yes, you can.

19 Q. Then why haven't you?

20 A. The lien on my car is in Phillips.

21 Q. I'm sorry. I don't understand. Can you explain
22 it a little better?

23 A. Sure. The bank that the lien on my car is with
24 is not the State of South Carolina so I just never made
25 any effort to go up there and change it.

State of South Carolina versus Dante Stukes

1 Q. In seven years?

2 A. Correct.

3 Q. Does the law require you to change your address
4 and name and that kind of thing on your driver's license?

5 MR. MCELVEEN: I object to that, Your Honor.
6 It's not relevant.

7 THE COURT: Overruled. Go ahead.

8 THE WITNESS: I'm not aware. I know the
9 address but I'm not aware of having to change my name on
10 my license.

11 BY MS. HODGE:

12 Q. You guys are actually separated right now; is
13 that correct?

14 A. That is correct.

15 Q. You're not officially divorced but you're living
16 separate and apart?

17 A. That's correct.

18 Q. And when did the defendant move out?

19 A. August.

20 Q. Of last year?

21 A. 2011.

22 Q. Let's get back to the Lane family and D [REDACTED].
23 You met them shortly after you moved to Greenville; is
24 that right?

25 A. That's right.

State of South Carolina versus Dante Stukes

1 Q. And you befriended them and they befriended you,
2 I guess?

3 A. Yes.

4 Q. And you took an interest in the daughters as you
5 said you had done for many years and were helping, trying
6 to help out and try to be a positive role model for these
7 girls?

8 A. Yes.

9 Q. Did you also participate as a Bible school
10 teacher for these teenage girls?

11 A. Yes, I was a mentor in the youth department at
12 Grace Cathedral.

13 Q. And what kinds of things you would do as a mentor
14 in the youth department?

15 A. Facilitate discussions during Bible study.

16 Q. Was that during the church time or was this
17 another night or day?

18 A. It was Bible study night which I think here was
19 on Tuesday nights.

20 Q. So would you have dealings with them on Sundays
21 as well as Tuesdays?

22 A. No, I typically do Tuesdays.

23 Q. Just Tuesdays?

24 A. Yes.

25 Q. And was D [REDACTED] a part of any of your Bible study

State of South Carolina versus Dante Stukes

1 groups?

2 A. Yes.

3 Q. How about her sister? Was her sister Nicki there
4 for any of those?

5 A. Nicki came like once but she was a little bit
6 older so she wasn't really into it.

7 Q. And when you met D [REDACTED], do you know how old
8 she was when she was in your group?

9 A. Fourteen.

10 Q. Did you know what grade she was in school?

11 A. She was in ninth grade.

12 Q. And you said you related to D [REDACTED] a little bit
13 and you said you saw her more as you were and Nicki more
14 as your sister; is that right?

15 A. That's correct.

16 Q. D [REDACTED] had a pretty good head on her shoulders?

17 A. Absolutely, very smart, very bright. She was
18 doing a lot in school.

19 Q. Pretty active?

20 A. Yes.

21 Q. Wanted to be a part of a lot of things?

22 A. Yes.

23 Q. Just looking forward to the plan of life,
24 college, things like that?

25 A. We didn't discuss that but I'm sure.

State of South Carolina versus Dante Stukes

1 Q. She did well in school?

2 A. As far as I know.

3 Q. But she also like you to help her in some
4 subjects; is that right?

5 A. Yes.

6 Q. You said you did math well or you liked math?

7 A. Liked math.

8 Q. You said you are also a grammar fanatic?

9 A. Yes.

10 Q. So did you help her with some papers and things
11 like that?

12 A. Yes.

13 Q. She would come to your home to do that, isn't
14 that right?

15 A. Yes.

16 Q. Did you ever go to her house to help tutor her or
17 help her with papers or anything like that?

18 A. No. They didn't have the Internet so, no.

19 Q. Y'all would use the computer, I'm guess, to do
20 some of this stuff?

21 A. Yes.

22 Q. Now, that's all it ever is.

23 A. In deed.

24 Q. How many times do you think she would come for
25 help with school work?

State of South Carolina versus Dante Stukes

1 A. Overall or like weekly?

2 Q. You can tell me either way. Was it once a week
3 or something like that.

4 A. About two or three times a week.

5 Q. But sometime she'd stay past dinner time doing
6 the homework?

7 A. A few times, yes.

8 Q. There were so many projects, it would take a
9 while; is that right?

10 A. Yes.

11 Q. So she might be there late into the night like
12 10:00 or 10:30?

13 A. No, it was more like 9:00.

14 Q. Was that your rule?

15 A. Right.

16 Q. She had to leave the house by 9:00?

17 A. Yes.

18 Q. And why was that?

19 A. It was a school night and we had to go to bed at
20 9:00 when I grew up.

21 Q. So did you have a pretty bedtime for your kids as
22 well?

23 A. They weren't in school, but I had a time to put
24 them to bed. They were four and two, so they go in their
25 rooms and go to bed but they wanted water or they had to

State of South Carolina versus Dante Stukes

1 go to the bathroom or something.

2 Q. So you didn't really have like a schedule for
3 them?

4 A. No, not at that time.

5 Q. And did they have to be up at a certain time in
6 the morning or they got up when they wanted.

7 A. They didn't have to be up at a particular time.
8 I did let them sleep pass 9:00.

9 Q. And, D [REDACTED], I think you said did come over at
10 one time and spend the night with her sister while her
11 sister was pregnant and having medical issues, correct?

12 A. Uh-hum.

13 Q. Did she also come over and spend the night right
14 after her sister had the baby, January 25th? She didn't
15 want to be alone at at the home or something like that.

16 A. I don't know when it was but it was after her
17 sister had the baby she came and stayed while her parents
18 were out of town.

19 Q. Was there another instance when she came just
20 because of her sister having the baby or because her
21 parents not being at the house or ---

22 A. No.

23 Q. So she came for the period of time that you're
24 talking about in February?

25 A. It was the end of January going into February?

State of South Carolina versus Dante Stukes

1 Q. When you say the end of January what do you mean
2 like a couple of days from February, January 31st?

3 A. I'm not sure of the days in January but I know
4 for a fact it was in February because we went to the
5 Universal Soul Circus and that we did on the 7th of
6 February.

7 Q. Is that towards the end of when she was staying
8 with you or the beginning?

9 A. That was the end.

10 Q. She was supposed to stay for a couple of days and
11 you were fine with that?

12 A. Absolutely.

13 Q. And your husband was fine with that?

14 A. Yes.

15 Q. There were no reasons or problems D [REDACTED]
16 couldn't come and spend the night?

17 A. No.

18 Q. And she was a good kid and you knew her to be a
19 good kid?

20 A. Uh-hum.

21 Q. And she stayed a little bit longer. That wasn't
22 her doing or anything, that's her parents not being able
23 to get back; is that correct?

24 A. Correct.

25 Q. And you certainly weren't going to say no and

State of South Carolina versus Dante Stukes

1 throw her out, were you?

2 A. No.

3 Q. That adds added responsibility for you and you've
4 got two kids as well?

5 A. Absolutely.

6 Q. You let her stay for a few more days?

7 A. Uh-hum.

8 Q. Do you know where she went when she left your
9 home that final day? Had she left with her parents or do
10 you know?

11 A. I took her to school and then I dropped --
12 because I was using their vehicle at the time -- I took
13 their vehicle home and then my husband followed me to
14 their home and I got in the car with him and we went home.

15 Q. And did Ms. Lane wire you some money during that
16 time because D [REDACTED] was having to stay for an extended
17 period of time?

18 A. She wired money after I expressed that I wanted
19 to take her to Universal Soul Circus and I just didn't
20 have the extra money to take her. And she also wired some
21 money because she needed to get her hair done.

22 Q. I'm going to show you State's No. 2, is this a
23 Western Union receipt?

24 A. Yes, it is.

25 Q. And is it from a place in Rochester, New York and

State of South Carolina versus Dante Stukes

1 is it to you from Lois Lane?

2 A. It is.

3 Q. And is it for \$100?

4 A. It is.

5 Q. And is the date on it February 7, 2009?

6 A. It certainly is.

7 Q. And is that in your memory about the time that
8 they would have wired money for the circus and the hair
9 appointment?

10 A. Yes, the circus was on the 7th, yes.

11 Q. And what day of the week was the circus?

12 A. I believe it was on a Sunday.

13 MS. HODGE: At this time we seek to admit
14 State's No. 2.

15 MR. MCELVEEN: Without objection.

16 (Receipt marked as State's Exhibit No. 2 for
17 identification was admitted into evidence.)

18 BY MS. HODGE:

19 Q. As far as you were concerned, you did not have
20 any problems with D [REDACTED] staying at your house or being
21 around even as this shows in October or November of 2009?

22 A. Right.

23 Q. There were no fall outs or anything bad had
24 happened with you or D [REDACTED] or that you were aware with
25 your husband and D [REDACTED] or anything like that that you're

State of South Carolina versus Dante Stukes

1 aware of?

2 A. No.

3 Q. When the police came to your apartment, you said
4 that was the first official word that you had that your
5 husband was being investigated?

6 A. Yes.

7 Q. And that was in April of 2010?

8 A. Correct.

9 Q. And D [REDACTED] had not been there since the previous
10 October, November, correct?

11 A. Correct.

12 Q. And you say they came in in uniform and they were
13 looking for him. He wasn't there. Where was he?

14 A. He was taking my son to get a haircut.

15 Q. Had he been home working in Greenville or staying
16 in Greenville for two weeks prior to that ever?

17 A. Yes.

18 Q. So he stayed at home some and he worked out of
19 town some?

20 A. He worked in Columbia.

21 Q. Where did he work in Columbia?

22 A. There was a car dealership in Columbia that he
23 worked at.

24 Q. Do you know the name of it?

25 A. Do not.

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1 Q. You had been informed by your husband a couple of
2 weeks prior to the police showing up?

3 A. That's correct.

4 Q. So you and your husband had conversations,
5 obviously, about this prior?

6 A. Yes.

7 Q. This whole process?

8 A. Yes.

9 Q. And probably yesterday had conversations about
10 this incident?

11 A. Yes.

12 Q. Now, you say that no police officer ever came
13 specifically speak to you; is that correct?

14 A. That is correct.

15 Q. If a police officer had left a card in your door
16 to call, who would be the only people that would have come
17 to that door and gotten that card?

18 A. Myself and my husband.

19 Q. Did you ever see one of those cards?

20 A. No.

21 Q. You were never shown a card that the police
22 wanted to speak to you?

23 A. No.

24 Q. You never thought that you needed to call the
25 police to tell them anything?

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1 A. No.

2 Q. You were approached by the investigators in the
3 Solicitor's Office in October of last year?

4 A. Yes.

5 Q. Asking you if you would talk to them and at that
6 time you declined to talk to them?

7 A. That's correct.

8 Q. Asked you to come and speak to the prosecutor and
9 you declined that as well?

10 A. That's correct.

11 Q. So the first time that you and I had the
12 opportunity to talk was yesterday, correct?

13 A. That's correct.

14 Q. This is a very rough sketch.

15 A. I see.

16 Q. No artists have rendered any sketches. Your
17 front door would be here sort of from what you can tell?
18 You can enter from the door.

19 A. Right.

20 Q. What would this be here? Is this the guest
21 bedroom?

22 A. That's the guest bedroom.

23 Q. And in between the guest bedroom, what's the next
24 space?

25 A. That would be the bathroom.

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1 Q. And then right here?

2 A. That would be the kids room.

3 Q. The children stay in the same room?

4 A. Yes.

5 Q. And you're room is down here?

6 A. Correct.

7 Q. Was there a little hallway to get into your
8 bedroom?

9 A. There was a hallway.

10 Q. And would the door be here or facing here to your
11 bedroom?

12 A. No, it was facing -- both of the doors were
13 facing one another.

14 Q. The kids door and then your door?

15 A. Correct.

16 Q. So it was not facing the end of the hallway, it
17 was facing across from your children's bedroom?

18 A. That's correct.

19 Q. Did you have a laundry closet or something in
20 here?

21 A. I did.

22 Q. And when you moved in through your front door,
23 did y'all have a couch against the wall area?

24 A. Yes.

25 Q. I think we saw it in the video as well. Is that

State of South Carolina versus Dante Stukes

1 the same apartment?

2 A. Uh-hum.

3 Q. So you had a sectional sofa?

4 A. Yes.

5 Q. And the length of the sofa was against the wall
6 and the shorter end came around, is that accurate?

7 A. Uh-hum.

8 Q. And the television across from that?

9 A. Right.

10 Q. Then your computer was it on a self or a desk or
11 anything?

12 A. It was on a desk up against the wall.

13 Q. So it would be against the wall beside the couch?

14 A. It wasn't against the -- it was like
15 cater corner.

16 Q. Okay. So there was another wall in this
17 direction?

18 A. It was just the wall was built awkwardly. It
19 came to a point if that makes any sense so there was like
20 a short wall and then a long wall if that makes any sense.

21 Q. Okay. And the computer was against the short
22 piece?

23 A. Right.

24 Q. And you had an area where you could go out of a
25 porch?

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1 A. Yes.

2 Q. And did your husband smoke at the time?

3 A. Yes.

4 Q. And did you allow him to smoke inside the house?

5 A. Absolutely not.

6 Q. And in your guest bedroom, I don't have that
7 diagram up there, but was there an armoire that had a
8 television on it as soon as you entered the guest bedroom
9 to the left?

10 A. Yes.

11 Q. And was there a bed against the wall?

12 A. Right up against the wall, yes.

13 Q. So it pushed up against the side of the wall; is
14 that right?

15 A. Right.

16 Q. And then that guest bedroom had a closet on the
17 other side?

18 A. Right.

19 Q. And had windows?

20 A. The closet was right next to the other windows.

21 Q. Did your kids have some stuffed animals in there?

22 A. Those were my mothers, but, yes.

23 Q. Nice. Does your mom stay in that room when she
24 came to visit?

25 A. She passed away.

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1 Q. I'm sorry. So there's keepsakes?

2 A. Yes.

3 Q. Did D [REDACTED] stay in that room some when she
4 stayed with you?

5 A. If she stayed with me, that's where she would
6 stay.

7 Q. Did she ever sleep on the couch that you're aware
8 of?

9 A. Yes.

10 Q. Is that kind of common for kids to do or want to
11 do and that's sleep on the couch and watch tv?

12 A. No. She slept on the couch when she came back in
13 October because at that time I didn't have a guest bedroom
14 anymore.

15 Q. What happened to the guest bedroom?

16 A. I became mine. I moved my furniture into that
17 bedroom and it became my bedroom.

18 Q. Were you sleeping in that room at that time?

19 A. No, we moved the furniture out of that room.

20 Q. And who stayed in the back room that was once
21 yours?

22 A. He did. We moved the furniture into my room --
23 the guest bedroom became my kids toy room.

24 Q. While you and the defendant has been separated,
25 he has, obviously, helped pay some bills or things for the

State of South Carolina versus Dante Stukes

1 kids?

2 A. Yes.

3 Q. If you goes go on to get divorced, you would be
4 seeking child support; is that right?

5 MR. MCELVEEN: Objection.

6 THE COURT: What's the relevancy.

7 MS. HODGE: Your Honor, I think that goes to
8 some motivation.

9 THE COURT: No, I sustain the objection and
10 instruct the jury to disregard.

11 BY MS. HODGE:

12 Q. You would agree that there was a seventh or so
13 day time frame that D [REDACTED] spent the night at your home
14 and your husband was at home some of those nights,
15 correct?

16 A. That's correct.

17 Q. And during that time frame, I'm assuming, you
18 also went to bed and went to sleep during those seven
19 days?

20 A. I believe so, yes.

21 Q. You couldn't stay up all night for seven days
22 straight, right?

23 A. Correct.

24 THE COURT: Any redirect?

25 MR. MCELVEEN: Just a little bit, Judge.

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REDIRECT EXAMINATION

BY MR. MCELVEEN:

Q. Did your separation have anything to do with what we're here for today?

A. No.

Q. Have y'all be counseled?

A. Yes.

MS. HODGE: Objection, Your Honor, the relevance of what they're separation is for.

MR. MCELVEEN: She brought it out, Your Honor.

THE COURT: Go ahead.

BY MR. MCELVEEN:

Q. This is a diagram of your apartment?

A. Yes.

Q. This is the guest bedroom?

A. Yes.

Q. This is your bedroom?

A. Yes.

Q. This is the children -- which is the children's bedroom?

A. The one right across from mine.

Q. And the children are how old?

A. They are four and two.

Q. The door here is here and this door is here. How far is it from this door to this door? I want you to

State of South Carolina versus Dante Stukes

1 imagine this is the door, tell me how far the other door
2 was?

3 A. From this to that.

4 Q. I'm sorry.

5 A. The end of this to where the beginning of the
6 jewelry stand stands.

7 Q. So from this to this, that's how far these doors
8 are apart?

9 A. Yes.

10 Q. How far is it from these beginning of these two
11 doors -- where is the door on this room?

12 A. Same place right in front facing out.

13 Q. Right here?

14 A. Yes.

15 Q. In the center?

16 A. Yes.

17 Q. How far is it from where these doors begin and
18 that door begins and against let's say that this edge is
19 the side of your door, edge of this door, tell me how far
20 the other door is away. How far is it away?

21 A. I would say to the edge of that table right
22 there.

23 Q. Right here?

24 A. No farther down. Right there.

25 Q. So from this side of the door frame to the

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1 beginning of the door frame here is from here to the far
2 edge, this far away?

3 A. About there, yes.

4 Q. Again, you remember going to bed prior to Dante
5 and D [REDACTED] at any time?

6 A. I don't.

7 Q. If you had a reason to believe that this is true,
8 would you come in here and testify on behalf of your
9 husband?

10 MS. HODGE: Objection, Your Honor.

11 THE COURT: Overruled.

12 BY MR. MCELVEEN:

13 Q. If you had a reason to believe that Dante had
14 abused D [REDACTED], would you come here and testify on his
15 behalf?

16 A. Absolutely not.

17 Q. Would you tell the police that you believe it to
18 be true?

19 A. I would.

20 MR. MCELVEEN: Thank you. That's all I have.

21 THE COURT: Anything else, solicitor?

22 MS. HODGE: No, Your Honor.

23 THE COURT: Thank you. You can step down.

24 (Witness leaves the witness stand.)

25 Take the jury out for a short recess.

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1 (Jury exits the courtroom.)

2 MR. MCELVEEN: I was going to ask, Your
3 Honor, if I could recall Ms. Stukes briefly. I know its
4 within Your Honor's discretion.

5 THE COURT: Sure, that would be alright.

6 MS. HODGE: Judge, I do have one exception.
7 She's been outside with -- they were discussing testimony
8 out in the hall. Diane heard them talking out in the
9 hall.

10 MR. MCELVEEN: Your Honor, this is testimony
11 that I discussed with her before. I know the answers to
12 the questions and I walked right out there and asked her
13 about it and she had not had any time at that point to
14 discuss this with anybody else.

15 SPEAKER (DIANE): Your Honor, the whole group
16 walked out talking about what had just occurred on the
17 video.

18 THE COURT: She's not supposed to talk to
19 anybody about her testimony, Mr. McElveen.

20 MR. MCELVEEN: I think that was after she was
21 excused. I think that was after she was released from the
22 stand.

23 THE COURT: But she still wasn't supposed to
24 talk about her testimony with any potential witness in the
25 case.

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1 MR. MCELVEEN: I don't have any more
2 witnesses.

3 THE COURT: Alright, I'll allow it.

4 You said yesterday that you would have
5 somebody by the name of Grooms or something like that.

6 MR. MCELVEEN: I'm not going to put up
7 Mr. Grooms.

8 THE COURT: Are you going to have anything in
9 reply.

10 Bring the jury and I'll take a recess after
11 the testimony.

12 (Jury re-enters the courtroom.)

13 (Witness Kim Stukes recalled to the stand.)

14 REDIRECT EXAMINATION - CONTINUED

15 BY MR. MCELVEEN:

16 Q. Ms. Stukes, one things we touched on briefly and
17 I don't know if we discussed it in any detail and that was
18 Nicki coming to stay with you at some point. Would you
19 tell us about that?

20 A. Yes, in April of 2009 Shanekwa came to stay with
21 me until the rest of the school year. She was no longer
22 staying at home and she was staying with a friend. She
23 expressed that she wasn't happy with the living conditions
24 there so I offered her to stay with me until she
25 graduated.

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1 Q. How long did she stay there?

2 A. She stayed from the first week in April after
3 spring break until the end of the school year.

4 Q. And when was that?

5 A. The middle of May.

6 Q. So April -- seven weeks?

7 A. Roughly.

8 Q. Did that have anything to do with the fact that
9 D [REDACTED] didn't come around as much?

10 A. While she was there I did not allow D [REDACTED] to
11 come.

12 MR. MCELVEEN: That's all I have.

13 THE COURT: Any questions?

14 MS. HODGE: No, sir.

15 THE COURT: Thank you. You can step down.

16 (Witness leaves the witness stand.)

17 MR. MCELVEEN: Your Honor, that's the
18 defense's case.

19 THE COURT: Anything in reply?

20 MS. HODGE: Nothing from the State, Your
21 Honor.

22 THE COURT: Take the jury out.

23 (Jury exits the courtroom.)

24 Any further motions?

25 MR. MCELVEEN: Yes, I renew my motion for

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1 directed verdict, Your Honor.

2 THE COURT: And I will deny that motion?

3 I will give you another very short recess
4 while the jury orders their lunch.

5 MS. HODGE: Judge, what is your reasonable
6 doubt charge?

7 THE COURT: Nebraska.

8 MS. HODGE: And will you do a no
9 corroboration charge? That's a part of the sexual assault
10 statute.

11 THE COURT: I will.

12 MR. MCELVEEN: But you would still tell them
13 that they are not required to accept her testimony in
14 spite of the no corroboration charge.

15 THE COURT: I'll cover that.

16 MR. MCELVEEN: And, also, Your Honor, I'd ask
17 for a charge from Bakker and I'll hand that up. It's
18 probably already a part of your general charge on expert
19 witnesses. I'm sure this is probably a part of your
20 standard but just so I say I asked. That blocked off
21 paragraph on the top third of the page --

22 THE COURT: Which one?

23 MR. MCELVEEN: On the very final page and on
24 your copy it says Page 68 on top left hand corner and then
25 beginning with as jurors, that paragraph there.

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1 THE COURT: Yeah, okay.

2 MR. MCELVEEN: Thank you.

3 (Whereupon, there was a brief break.)

4 THE COURT: Solicitor, you waive your opening
5 arguments?

6 MS. HODGE: I do, Your Honor.

7 Are you ready to talk to the jury?

8 MR. MCELVEEN: I am.

9 THE COURT: Bring the jury.

10 (Jury re-enters the courtroom.)

11 Ladies and gentlemen, the testimony in this
12 case is now complete. What we have remaining is the final
13 arguments by the attorneys and my charge on the law.

14 Mr. McElveen

15 MR. MCELVEEN: Thank you, Your Honor.

16 Ladies and gentlemen, I think by now you can
17 understand someone in Mr. Stukes's position being accused
18 of rape, being told it happened sometime a year ago, being
19 told it may have happened at any time during a five month
20 period. The law doesn't require anybody to prove their
21 innocence, but of course you want to do that. That's your
22 first reaction to being charged and under these
23 circumstances. You can't prove you didn't do something a
24 year ago and they can't even tell you when it happened.
25 But we're here and we have to consider these things.

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1 Let me talk to you again about the burden of
2 proof. Because of that the State has a burden of proof.
3 Because of that the State has to prove this case to you
4 beyond a reasonable doubt. When you go back in that jury
5 room and consider this verdict, if you are to come out
6 with a guilty verdict, you must have no doubt that are
7 reasonable. That means if you have a silly doubt, all the
8 other jurors would look at you and say that's ridiculous,
9 well, maybe that's not a reasonable doubt.

10 But if you have a doubt to which you can say,
11 I'm not sure and this is why and your doubt is sensible,
12 your doubt is reasonable, well that's the kind of doubt
13 we're talking about. That's the kind of doubt we mean
14 when we say beyond a reasonable doubt. A suspicion is not
15 enough, a probability is not enough, it's only enough if
16 you're convinced beyond a reasonable doubt.

17 What we have in this case is, basically, we
18 have a bald accusation against a person denying it.
19 That's all Mr. Stukes can do is come in here and say it
20 didn't happen. He didn't even have to take the stand to
21 say that. That's all he can say because it's an
22 allegation.

23 So we have to look a little bit beyond. The
24 big elephant in the room, the big question the solicitor
25 asked over and over again is if it's not true why would

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1 she say it? That's the question you are being asked to
2 consider and I submit you ladies and gentlemen there are
3 as many answers to that question as there are humans in
4 this room, as there are emotions in this world. There are
5 many reasons. We know there are false reports, that's
6 what Ms. Galloway-Williams told us and everything that's
7 said about somebody is not necessarily true.

8 So we have to consider why that might have
9 happened. Well, what do we know about D [REDACTED] B [REDACTED]. We
10 know that on the outside she's doing very well. She had
11 good grades, she's active in school. She has to everyone
12 else given the picture of the all American kid. I'm not
13 here to demonize her and I can promise you that. I think
14 she's done marvelously well, but I think she's got some
15 things going on in her life that makes things very
16 difficult.

17 First of all, her parents are gone all the
18 time. They're agenda is obviously the most important
19 thing in their lives. They farm these kids out right and
20 left to anybody that will take them -- not anybody that
21 will take them but four or five different families keep
22 these children on a regular basis while they're pursuing
23 what they're consider to be their calling from God.

24 Is it any under that under this well-kept
25 image there might be some strains and some cracks? Is it

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1 any wonder that perhaps that child needs attention? Is
2 that not possible? And who did she tell? The first
3 person she contacted is not a close friend, not her god
4 sister, not her mother, not any adult authority figure,
5 she tells the boy she has a crush on. And this is not a
6 school girl crush, this is a serious crush she has on this
7 guy and he testified from the stand that he really didn't
8 see it that way. She was to him a friend and their
9 friendship kind of broke off after they changed their
10 school schedules.

11 So she's got a crush on this guy that is
12 really not paying attention to her in the way that she
13 would like. So all of a sudden there's two potential
14 reasons that maybe she would say something about it.
15 Because first of all when you tell a group of friends that
16 something has happened to you, what do they do? They stop
17 talking about what they were talking about and look at
18 you. What happens when you tell a boy something like
19 this? Well, I don't know, but could it not be a play for
20 attention. I don't know, none of us know, but there are
21 potential reasons for a child to make a false report.

22 She went beyond that, ladies and gentlemen,
23 she went to school the next day and she didn't tell one
24 person or whisper this to somebody, she told a whole
25 locker room full of people. I couldn't tell but it was

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1 somewhere between 25 and 15 people that I think I'd been
2 raped the night before. Their reaction is very much like
3 J [REDACTED] T [REDACTED]'s reaction.

4 J [REDACTED] T [REDACTED] said, well, maybe you should
5 tell somebody and he didn't follow up and he just brushed
6 it off. The children in the locker room pretty much the
7 same reaction. You should tell somebody this happened,
8 apparently she didn't, they didn't follow up on it, they
9 brushed it off. Why is that?

10 Now, ladies and gentlemen, every child in
11 American -- not every but enough but at least some of the
12 children in that locker room have been told it is improper
13 for someone to touch you sexually and if they do, you
14 should tell. If you hear about it happening to anybody
15 else, tell. That's drilled into them in school. There
16 are research officers in those schools, there are
17 counselors, there are parents. Not one of these 20 people
18 now said one thing to anybody. Could that be because they
19 really didn't take it seriously? Could it be because they
20 brushed it off? Could it be that D [REDACTED], who has already
21 testified that they talk about sex a lot, is just D [REDACTED]
22 being D [REDACTED].

23 We don't know anything about her interaction
24 with her peers. We don't know anything about how she
25 talks and has for the last -- over the course of her life.

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1 But could that not be an explanation?

2 Now, Shawna Galloway-Williams testified and
3 she told us a lot of things but mainly she talked about
4 delayed reporting and she told us that it's not unusual
5 for a child that's been sexually abused not to report it
6 until a later date. It told us it may happen a month from
7 then, a year, ten years later, that does not mean it
8 didn't happen. At the same time she freely admitted it
9 doesn't mean it did happen. As a matter of fact there's
10 no conclusion to be drawn from the fact that she didn't
11 tell an authority figure for a year. It doesn't make it
12 any more likely that it's right or wrong. Yes, there are
13 false reports.

14 In essence, ladies and gentlemen, every
15 person that reports a sexual abuse has their own motives,
16 has their own agendas. Hollywood movie stars write tell
17 all books in the eve of their careers in their 70's and
18 80's and they say unspeakable things about their parents.
19 That may or may not be true, ladies and gentlemen, but
20 there is a reason they are doing that. To us it may seem
21 like an illogical reason if it's not true if you were told
22 and it was determined it was not true. The reason could
23 be the selling of a book because I want people to look at
24 me and say, you poor thing.

25 There is a reason and it may not make sense

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1 to the rest of us but there is a reason that motivates
2 that person.

3 So you have Ms. B [REDACTED] who is being passed
4 around subject to the normal strains of being a teenager
5 doing her very best to keep up her good work and, ladies
6 and gentlemen, anybody who ever raised a teenager can tell
7 you that they are cruising along great and all of a sudden
8 they do something that doesn't make a bit of sense.

9 And this, regardless of whether or not it was
10 true or not, what was going on in this child's life was
11 headed for a train wreck. Her sister has left the house
12 because she's pregnant. Her parents are never at home.
13 They're not leaving her with friends. They're leaving
14 them by themselves. She has to latch on to Kim Stukes or
15 somebody like Kim Stukes. She can't get anybody to help
16 her with her homework.

17 So then the question is why would she report
18 this to a counselor a year later? Well, we don't know
19 anything about that. We know she is going through
20 something difficult in her life that's requiring her to
21 see a counselor unrelated to this incident, and the
22 counselor says have you ever been sexually molested and
23 she recounts this story, this story she's told in some way
24 to a bunch of her peers a year earlier, and that's what
25 gets all this going.

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1 And, again, ladies and gentlemen, it may be
2 true but it may not be. We can't know, we weren't there,
3 but the important thing is there was no physical evidence.
4 This is no objective evidence that this crime ever took
5 place.

6 Dr. Croswell testified and she talked about
7 what she looks for. She says any time there's an
8 allegation of sexual abuse she does an examination and she
9 says this examination was perfectly normal. She was able
10 from the physical evidence to draw no conclusion of
11 whether this happened or not.

12 She said you might not expect to from
13 something that happened a year ago and it would be very
14 possible you wouldn't see anything of an evidentiary value
15 but she did the test and she didn't the exam and she
16 didn't find anything. How helpful is that?

17 The important thing, ladies and gentlemen, in
18 this case is the investigation. The police didn't do
19 anything. What the police did was talk to her, got a
20 statement, talked to the three other people she said she
21 told the next day. She got statements from them, issued
22 the arrest warrant and cleared the case. She handed it
23 over to the Solicitor's Office and said do the best you
24 can. I think maybe a couple of statements were taken
25 after the warrant was issued, but once they swept up Dante

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1 and once they got these statements, that was it.

2 Interestingly enough Investigator Thomas
3 said, oh, yeah, she sat down with Ms. Lane and poured over
4 her records to try to determine what date this happened.
5 But Ms. Lane said they did no such thing. Nobody asked me
6 to look at my records. Nobody asked me to pull my credit
7 card receipts, nobody said a word to me about that stuff.

8 They went by Kim Stukes's house, knocked on
9 the door, nobody was there, left a card an that was it.

10 Did they say Ms. Stukes do you remember when D [REDACTED]
11 B [REDACTED] might have been at your house? This would have
12 been fresh in her mind then. I don't now if she talked to
13 them or not but they didn't even try. There was no effort
14 whatsoever to determine when this might have happened.

15 Further than this, ladies and gentlemen, I
16 asked about telephone calls. If this telephone call have
17 been made, would it not have shown up on a telephone
18 record. Investigator Thomas said, oh, after a year you
19 can't get those records. First of all, it wasn't a year.
20 A year had not gone by when this allegation was made; and,
21 secondly, I bet a million you certainly can get those
22 records. You think the phone company destroys those
23 records after a year? It might have been harder, they
24 might have them in some sort of an archive somewhere, but
25 they don't destroy those records.

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1 If this case had been in the paper, they
2 would have done it. They would have done things a lot
3 differently. But the thing is this is just another rape
4 allegation from somebody that nobody is paying attention
5 to so they did the bare minimum and it is unfair to the
6 person making the allegation and unfair for the person
7 that's accused. Because they could have done something
8 about narrowing this down to a time or even to a day. And
9 now nobody knows how to address it.

10 Why would a child say something and then
11 persist in it? Well, like Ms. Galloway-Williams
12 testified, they don't know what's coming out of this. If
13 a person is going to make a false report, it's easy to
14 make it to a group of peers. If you say to a parent or to
15 a police officer or to a resource officer I was raped last
16 night, what's going to happen? There's going to be
17 immediate action. Somebody is going to look into it
18 immediately and probably you're going to get caught up in
19 that and you don't want to get caught up in it, if it's a
20 false report. Remember what we're talking about.

21 If you're going to make a false report and
22 claim that something terrible happened to you and it
23 didn't happen, you're going to say it to somebody safe,
24 peers. Now, a year goes by you got a pretty good reaction
25 before and I don't know why somebody would do it again,

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1 but hypochondriacs do the same things, ladies and
2 gentlemen. They're people that you talk to you that you
3 don't dare say how you're doing because they're going to
4 tell you. Those people get a distinct satisfaction from
5 telling somebody I've just been sick as I can be; my legs
6 hurt, I can't breath. They get a satisfaction for that.
7 So there is a motivation to say these kinds of things.

8 So if this is what's going on and you told a
9 group of peers this is what's happened to me and oh, poor
10 thing and you should say something to somebody, and you're
11 the star for a minute, well, a year from now you can tell
12 an adult about something that happened a year ago because
13 nobody can disprove it. It's a must safer thing to do a
14 year from now.

15 As Shawna Galloway-Williams told you if over
16 a year from now it's true but that doesn't mean it didn't
17 happen and its not there on its or not, but an untrue
18 report can just as easily be made a year later and the
19 reason for that is what I'm just saying, it's a safe thing
20 to do if you're going to make a report to make it at a
21 time when nobody can disprove not dreaming that the person
22 you're talking about is going to get arrested; not
23 dreaming that you're going to have to go to the doctor;
24 not dreaming that you're going to end up in a courtroom,
25 but at that time you can't change your story.

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1 At that time you can tell people at that
2 point I made it all up. You certainly can't stand in a
3 courtroom and say that. So where is the evidence other
4 than the statements? What evidence could there have been
5 that we don't have?

6 I want to address the question that the
7 solicitor made about the lady from North Carolina who
8 claims or I don't even know what she claims because she's
9 not here, but the solicitor asked the question are you
10 aware that she said such and such. Well, ladies and
11 gentlemen, that lady is not here. The Solicitor's Office
12 can subpoena people, they have investigators, they have a
13 budge probably well over a million dollars. Where is that
14 woman if she's so important? Why does she throw that bomb
15 out? So you can sit there and scratch your head and say,
16 what? Just like this whole case. What? What are you
17 talking about? How can I address that? Well, if I ask
18 the question and the lady is not here, I can get some
19 mileage out of it.

20 Again, ladies and gentlemen, I'm not trying
21 to demonize anybody. I'm not trying to paint anybody as a
22 villain. What I'm trying to tell you is there are cases
23 where false reports are made. In this case the defendant
24 has no way of defending himself other than to talk to you
25 and deny it. There are explanations inconsistent with

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1 guilt for everything that happened here.

2 The solicitor is going to tell you how
3 everything melds together perfectly and that, in and of
4 itself, should give you reason beyond a reasonable doubt.
5 Ladies and gentlemen, that's not so. There are many
6 issues here that are unresolved. Again, we can't know
7 what happened but we know there are reasonable
8 explanations for something that is not consistent with
9 guilt. Because of that you have to give Mr. Stukes that
10 benefit.

11 If this system is going to work, if we're
12 going to keep innocent people from being branded with
13 horrific crimes ---

14 MS. HODGE: Your Honor, I'm going to object
15 to any type of emotional -- he's trying to play on the
16 jury's emotions here.

17 THE COURT: Move on. Please don't go any
18 further.

19 MR. MCELVEEN: If we're going to keep people
20 from being branded as criminal improper, we've got to
21 follow the law and give them that reasonable doubt.

22 Plenty come in here and have trials and the
23 evidence is overwhelming. This case is not one of those.
24 This case is a case in which there are reasons to doubt
25 that guilt and because of that your oath is to find him

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1 not guilty. You have to give him that benefit.

2 Thank you very much.

3 THE COURT: Solicitor.

4 MS. HODGE: Thank you, Your Honor.

5 Ladies and gentlemen, if we're going to keep
6 our society safe ---

7 MR. MCELVEEN: That's an improper argument,
8 Your Honor.

9 THE COURT: Overruled. Go ahead.

10 MS. HODGE: We have to follow the laws that
11 we as a community put in place. We're going to keep our
12 community safe. We are going to elect people to go to
13 Columbia and make laws, put those laws on the books, and
14 you're going to hear about those laws. And that's what
15 we're here today to do, to determine if the law has been
16 broken. We're not here for any other reason for that and
17 y'all have a part in that as we all have a part in passing
18 laws and making sure our community is safe. Bottom line.
19 That's what the State is here to do.

20 I am not a representative of D [REDACTED] B [REDACTED].
21 I am not her lawyer. I am not the Greenville Police
22 Department's lawyer. I am a lawyer for the people of
23 Greenville and it's my job to make sure that if laws have
24 been broken to bring the evidence to you from other people
25 in this community to determine guilt or innocence. It's

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1 purely for the safety of our communities. Bottom line.

2 So you are finally coming to that point in
3 your job which is the biggest point obviously the reaching
4 of a verdict and you have many things that you've got to
5 think about and talk through. It's a very important case.
6 It's a very serious case and the State wants you to recall
7 the evidence as you recall it from the witness stand and
8 giving it the nuances that you understood based on your
9 own personal life and experiences and not how Mr. McElveen
10 may have characterized it or how I may characterize it.

11 We want you to take that evidence and use
12 your common sense. That's going to be the bottom line in
13 this case. You're going to use your common sense and
14 determine did this happen to D [REDACTED] B [REDACTED] or did it not?
15 It's boiled down to that simple thing. When you
16 determine, yes, it happened or no, it didn't happened,
17 then you're going to apply it to the law and say, hey, has
18 the law been broken. Judge Pyle is going to give you a
19 specific instruction about the law in our state.

20 Criminal sexual conduct with a minor in the
21 second degree is what I told you in the beginning is
22 sexual battery which is any intrusion however slight into
23 the vaginal opening of a woman or genital opening by
24 another person and the child is 14 or under. If you find
25 that that happened, then you are under oath to find the

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1 person guilty of criminal sexual conduct with a minor in
2 the second degree.

3 The Judge is also going to give you the law
4 on reasonable doubt. Mr. McElveen's definition is not the
5 definition in the law. Judge Pyle is going to instruct
6 you that there are few things that we know with 100
7 percent certainty in this world. We are not computers.
8 Our lives is not computer generated. We do not have a
9 memory chip and a satellite camera on us at all times.
10 Sometime we might feel that way but it's not reality.

11 You have to be firmly convinced, firmly
12 convinced, not wishy washy convinced but firmly convinced.
13 And that's how our system stays the best system in the
14 country, the best system in the world is because we have a
15 jury that will look at evidence and say we are firmly
16 convinced.

17 You don't have to put aside questions. You
18 should have questions. When you go to your jury room, you
19 should ask those questions. That's what reasonable jurors
20 do and in the end you don't have to come out saying I know
21 100 percent this exactly what happened. You have to say I
22 am firmly convinced that what D [REDACTED] said happened is
23 true.

24 So how are you going to go about getting to
25 that point that would leave you firmly believing her or

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1 you don't? We do it every day. Every day we are making
2 analysis of what people are telling us. We determine if
3 we are telling the truth by our kids, if you have kids.
4 We know we are constantly questioning them. Did you wash
5 your hands? That's a big one in my house so I have to
6 make a snap judgment is my child telling me the truth or
7 not. With your spouse, you have to determine was that
8 really a business call or not, I'm not sure. Was that
9 money really spent on fixing the car or all of a sudden a
10 new pair of shoes pop up.

11 You've got to decide whose telling you the
12 truth in normal everyday life. When you go in to buy a
13 car, is this salesman telling me the truth or not and they
14 may be lying just to sell a car. So it's easy and we do
15 it every day. We have this little check list whether we
16 know it or not when someone is talking to us telling us
17 something, we can click and click and we reach our
18 verdict, if you will.

19 So what's the first thing that we do or what
20 do we do in a lot of cases is that we look at what the
21 person is telling us as the big picture. Does it make
22 sense? Does it make sense what this person is tell you?
23 Is it possible? Is it plausible? Could it truly even
24 have happened? I submit to you that D [REDACTED]'s testimony
25 and the subsequent testimony of the other State's

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1 witnesses show you that it is very possible for this to
2 have happened to D [REDACTED].

3 She was staying over at the Stukes's
4 residence for two, three, four, five, six, seven however
5 many days and you determine that you believe she stayed
6 there but we know she stayed there. We know she stayed
7 there when the defendant was there and we know that Kim
8 Stukes at some point has to go to sleep. We know this.
9 She is not staying awake all the time.

10 So is it possible for the defendant to have
11 committed this crime in his own home on his own turf where
12 he knows everything about this home, where he knows where
13 the secret spots are or the spots that you can't see from
14 certain angles or where the best rooms are. That's
15 possible. He would know that about his own house.

16 Now, had D [REDACTED] said, I was at Youth Group
17 on Tuesday night in the middle of the room and he came
18 over and he started fondling me with 10 kids around, that
19 probably isn't plausible or possible, that's an
20 uncontrolled environment. This all happened in the
21 defendant's home where he knows everything about it.
22 Nobody is randomly coming in and out, it's late at night,
23 he's not having visitors. There's no video camera's
24 around. It's not like in schools now where there's
25 cameras and churches where there's cameras. It's not

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1 happening there, it's happening in a controlled
2 environment.

3 We also know that D [REDACTED] is a fairly passive
4 or laid back type girl. She was very quiet on the stand
5 from what you can see. You have to make a judgment only
6 on what you saw. She was very soft spoken and we had to
7 ask her to speak up several times. When she was talking
8 about something that's good or happy, she was a little bit
9 brighter and her voice was a little bit louder. When we
10 started talking about the sexual assault, things started
11 getting quiet and closed.

12 She also seemed to be someone who really was
13 appreciating Ms. Stukes and the attention from her. She
14 was someone that was looking up to Ms. Stukes and
15 Mr. Stukes as mentors. So is she the kind of girl that
16 could be manipulated? Could be taken advantage of?
17 Wouldn't fight back and say stop it, get out of my face,
18 or anything along those lines? You judge that from what
19 you saw. I submit to you it's very possible and she's the
20 perfect person. If anyone was going to try something like
21 this, she would be the type person that he would probably
22 get away with doing it. She wouldn't be really verbal and
23 fighting you back. I don't think so.

24 I submit to you its very possible based on
25 what we know and seen about D [REDACTED].

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1 Again, is her reaction to this sexual assault
2 possible and plausible? Because I understand -- before I
3 started this job, I had no idea about sexual assault or
4 child abuse or physical abuse. Fortunately, in my life,
5 none of that ever had occurred and didn't know anything
6 about it. I've been doing this for about 15, 16 years
7 now. When Ms. Galloway-Williams came in here to testify
8 about children and sexual abuse and things like that, I
9 found that very helpful and I hope that you did to in
10 understanding the huge questions we always have, like, I
11 would never let that man touch me. That was me.

12 You don't know what you're going to do until
13 you're in their shoes. Or you've said to yourself I've
14 raised my child better than that, I told my child don't
15 let anybody touch you. Well, that's what most people do
16 until your child is in that spot and you don't know how
17 they're going to react. Her information was that she sees
18 hundreds, thousands of kids in Greenville that have been
19 sexually abused, sexually assaulted and the way D [REDACTED]
20 reacted is very common.

21 It's very common in the power differential
22 that was there and the dynamic that was there in that I
23 really like this person, I really like their family so I
24 don't feel like I can rock the boat, I'm just going to
25 take it in, I'm just going to handle this on my own with

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1 me and my friends and we're going to be cool with this and
2 I'm going to get through it and move on. Maybe she
3 engaged in more softball and activities and things to take
4 her mind off of what actually happened.

5 So is her reaction plausible and possible?

6 Yes. The fact that she didn't report it right away is
7 exactly what Ms. Williams's is telling you. Seventy
8 percent of kids don't tell, period, ever. Thirty percent
9 tell but it's almost always delayed. It's never at the
10 moment, it's always later. They've got all these
11 emotions, all these factors going for them that really way
12 on are they going to tell. Who are they going to tell?
13 How are they going to tell? Because there are a lot of
14 consequences.

15 I submit to you nobody wants this kind of
16 attention. I'm not sure who in your life you may have
17 come across that would want that, but it's not positive,
18 it's not fun. You don't get put up on a pedestal, you
19 don't got kudos or nothing. You get gossiped about,
20 looked at strangely, talked about, that's just among your
21 peer group. Then if you go on to tell adults, you're
22 going to get scrutinized. They're going to get into
23 detail, absolutely. And then if it goes on to be
24 criminal, you've got law enforcement officers talking to
25 you about it telling you you could be charged. If you

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1 lie, you could be charged.

2 So you got some serious scrutiny there, as
3 well. Not fun, not entainment, not making you popular,
4 very difficult thing to go through. Not only you have to
5 listen to that and deal with law enforcement, you're going
6 to have to deal with medical. You're going to have to
7 have an evasive medical exam and that person's been doing
8 this for years as well and they knew truth and lies and
9 things like that. They talked to hundreds of kids,
10 thousands of kids. It's really hard to get one over on
11 them.

12 And then after that, you're going to have to
13 come talk to the prosecutor, a lawyer whose been doing
14 this for a long time, and then you're going to have to
15 come to court and be cross-examined by another lawyer.
16 Now, tell me what part of this sounds like fun, sounds
17 like great attention, exactly what you wanted. None of
18 it.

19 Ladies and gentlemen, I submit to you what
20 we're trying to determine if D [REDACTED] has told you the
21 truth or not is essentially what you've got to do. You
22 should also look at the consistency of what she said.
23 When someone is telling us something we want to know are
24 they going to back up on it, are they going to change it,
25 is it going to be one story to one person, one story to

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1 another person? I submit to you the evidence that D [REDACTED]
2 has been completely persistent in telling you what
3 happened to her. She told it to her friends the same way,
4 she told it to the police, the medical examiner, to you
5 and the prosecution. She has not changed her story at
6 all, not wavered, not said, oh, you know that didn't
7 happen or anything like that.

8 Another thing I find that's interesting is
9 she didn't pile on. She didn't say, oh, yeah, it happened
10 like 10 times to make it worse. If she really wanted some
11 attention and she's really lying about this and it's all
12 for show, why not go for the gusto and make it bad, make
13 people really say, oh. But she didn't do that. That's
14 not what happened. It happened one time. It happened
15 this time the way she said it happened. It happened the
16 way it consistently maintained it's happened for almost
17 three years now.

18 Think about how hard it is to keep up a very
19 detailed lie for three years. It's kind of hard
20 especially when you're a kids. I'm not saying it can't be
21 done, certainly it could be done but it's difficult. It's
22 difficult with types of different people coming at you
23 with different agendas and angles. It's kind of hard to
24 maintain the same exact lie for three years. It's just
25 another thing for you to consider.

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1 One thing I'd also like you to consider while
2 you're analyzing what D [REDACTED] has told you is true or not
3 is great detail that she went into. This either happened
4 to D [REDACTED] or she has a very good imagination. False
5 allegations are general usually. This is a very ---

6 MR. MCELVEEN: Objection, Your Honor.
7 There's no testimony to that effect.

8 THE COURT: That's left up to the jury to
9 determine. Go ahead.

10 MS. HODGE: This allegation what D [REDACTED] says
11 the defendant did to her is very detailed. It's not the
12 kind of thing you would watch a movie on tv and get
13 certain details that she gave. So if you're thinking in
14 your mind maybe she watched a movie on cable, maybe she's
15 looking at stuff on the Internet, here's the thing about
16 this. She give details about what the defendant said to
17 her during this incident. I submit there is nothing on tv
18 that sounds like this, that sounds like what she said.
19 It's exactly how it it went down. An older man knowing
20 that she's interested and curious about sex said, I'm
21 going to teach you something.

22 I don't know where else that would have come
23 from. Again, she must have a vivid imagination if she
24 made that up, playing right into the hands talking about
25 this saying this is what I wanted to know about and there

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1 you have it, capitalizing on the opportunity on that.

2 Also when you're watching television or a
3 movie that has some sort of sexual overtones or sexual
4 scenes, usually it's between consenting people and there's
5 kissing going on. There's romance most of the time.
6 D [REDACTED] doesn't say anything about that. The defendant
7 wasn't trying to kiss her. He wasn't interested in
8 romance. There's a certain agenda, sexual gratification,
9 not romantic involvement.

10 On tv you get the kissing and all that so
11 she's going from total left field making stuff up, that
12 would probably fall into the repertoire somewhere. It
13 doesn't show any physical injuries or anything like that,
14 why would she say it? It didn't happened because it
15 happened like this under this teaching guise.

16 Another thing that I find probably the most
17 compelling thing that she says about what the defendant
18 told her after he made the statement after he had her
19 touching him and he was touching her she said, is that it,
20 are we done? No, one more thing, I need to do one more
21 thing, I need to stick the head in.

22 Where do you hear that on television? You
23 don't hear that. You don't hear kids talking like that.
24 Let's say she's talking to her peer group and they're
25 talking about six, you don't hear that statement. That is

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1 a grown man knowing his anatomy pretty well and knowing
2 what consequences would come from doing something more
3 than that. I would submit to you peers if she has talked
4 about six with her peers, they don't have a lot of
5 dialogue, I'm guess, about sex. It's yeah, he did it or I
6 did it or whatever. There's not a lot of let me do this
7 first and then I'm going to do this and then I'm going to
8 do this. That's not how kids operate. You can use your
9 own common sense and your experiences but those are some
10 of the things that really stuck out to me about D [REDACTED]'s
11 disclosure that seemed very very particular and very
12 detailed and there's just really no other way to explain
13 how she came about knowing these things that didn't happen
14 that way.

15 She also made a couple good comments about
16 the fact that he kept getting up checking to see if his
17 wife was waking up. And why would she put that in there
18 if it didn't happen. It all makes sense. Her statement
19 makes sense. He was doing something that he shouldn't
20 have been doing so he was covering and making sure his
21 wife wouldn't wake up because I'm going to get this thing
22 done. Why would she say that if it didn't happen?

23 So we looked at in your mind as you're doing
24 your mental check list to determine truth, is it plausible
25 or possible? Yes, it is possible.

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1 What I thought was interesting about the
2 defendant's testimony and his wife's is that they're
3 trying to give you evidence that there is no way this is
4 possible because when Kim has a guest over, Kim always
5 stays with her guest to the end and she's a very good
6 hostess. I don't doubt that, I'm sure she is a very good
7 hostess. She seems like a very nice lady in a really bad
8 spot but it was interesting her words and his words about
9 the reason this couldn't have happened were exactly the
10 same. It was something that kind of rolls off your
11 tongue. It was very specific. When they talk, this is
12 what you say, this is why we're going to say this couldn't
13 have happened because you're a great hostess and you stay
14 with your guest to the end. You would never go to bed if
15 your guest hasn't gone to bed. It just seemed a bit
16 rehearsed to me but you take that for what you need to.

17 Ms. Stukes I feel like she's in a bad spot.
18 I think that she doesn't have a winning situation here.
19 She is separated from this man who has been accused of
20 sexually assaulting a girl that she really liked and cared
21 about and she doesn't really know what happened but she's
22 got two kids and I feel and submit to you this is self-
23 preservation for her. Depending on what happens in this
24 case, she is indirectly going to be affected and her kids
25 are going to indirectly be affected, so I feel like she

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1 was in a really bad spot and had to come in here and give
2 you something so she could feel like she was protecting
3 her kids.

4 The final thing that you need to look at
5 beyond plausibility, details, consistency, is motivation
6 and that is a huge question. Mr. McElveen is right, I
7 want to know and I want somebody to be able to say why did
8 D [REDACTED] make this up? Why? There is no testimony from
9 anybody that there were any issues, problems, reasons,
10 nothing for D [REDACTED] to single out this man and say that
11 this man, the defendant, did these things to her. There's
12 no reason. She loved the family, the family loved her.
13 She's a good kid, she's not a trouble maker. Everybody's
14 family liked each other, helped each other, supported each
15 other in various ways.

16 Why would D [REDACTED] say that? And if she is
17 staying at several other residences, why didn't she pick
18 somebody else if she wants attention? Why didn't she say
19 Ms. Anne so and so because I have to stay in the same bed
20 with somebody. Now, that seems really plausible, doesn't
21 it, if you're looking for some attention and you're forced
22 to sleep in a bed with somebody else. That would have
23 been a good call for somebody to make a false accusation
24 for attention.

25 I submit to you that this is not false, this

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1 is true, and that's why she said it for no other reason.
2 There is no other reason. She didn't set out to hurt
3 Ms. Stukes or Mr. Stukes. She told what happened to her
4 plain and simple. The other reason she told is she said
5 this counselor asked her, pointblank. It was a grown-up
6 and she felt at this time she could disclose it. She
7 really had no idea that all this would take place.

8 She never set out to hurt anybody. She told
9 what happened to her and that's it, nothing else.

10 So what was the motivation of the other
11 witnesses? Detective Thomas, her job is the same today,
12 tomorrow. It doesn't matter what your verdict is. She's
13 not going to get a raise if y'all reach a guilty verdict.
14 She's not going to get fired if y'all find a not guilty
15 verdict. Those children, the other students, they're not
16 getting anything out of it. They don't now the defendant.
17 Their lives aren't going to be any different other than
18 they have to go to school the next day. They had to go to
19 school yesterday. They have nothing to gain or lose.
20 They came in here and told y'all exactly what they knew,
21 that D [REDACTED] had told them she had been sexually assaulted
22 and she was upset about it and she didn't know what to do,
23 she didn't want to tell her mom. She was scared. She was
24 telling her peers. They had nothing to gain or lose.

25 I submit to you it's all true. They don't

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1 have any motivation to tell you anything otherwise.

2 Dr. Croswell, that's her job everyday. She's
3 just reporting on her findings. She has nothing to gain
4 or lose. Shawna Galloway-Williams didn't have a dog in
5 this fight. She didn't interview the child and no
6 personal interest whatsoever other than to help you
7 understand how children may respond in certain situations.
8 Her life is not going to be any different tomorrow.

9 The only people whose lives might be a little
10 different tomorrow are the defendant and Ms. Stukes. I
11 submit they've got the most motivation, the most reason to
12 deny the allegation, say it didn't happen and try to sway
13 you that way, to lie, if that's what it takes. I submit
14 that you use your common sense and again go through the
15 case, what makes sense, what's corroborated, what's
16 detailed, what is specific, what is motivation. If you
17 use your common sense in viewing this evidence, I believe
18 that you will be firmly convinced, firmly convinced that
19 the defendant did, in fact, do these acts to D [REDACTED]
20 B [REDACTED] between January and May of 2009.

21 Mr. McElveen also gave you a misstatement of
22 the law as far as the time frame. That's something for
23 you to consider, but the judge is going to tell you if you
24 find him guilty and committed that crime in that frame not
25 a specific day. The law does not require that. The law

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1 requires the State prove its case as the indictment reads
2 and the indictment is at some time during that time frame,
3 the sexual assault occurred. That's the law and you are
4 bound by the law to follow your oath bound by that law for
5 the crime and reasonable doubt standards.

6 Defense attorneys like to use reasonable
7 doubt argument a lot and if I was a defense attorney
8 that's what I do, but I want to say it's more of a scare
9 tactic but its trying to set the bar so high ---

10 MR. MCELVEEN: Objection, Your Honor.

11 THE COURT: She can argue that.

12 MS. HODGE: It's attempting to set a bar so
13 high that you, the jurors feel like we'll never reach
14 that. We'll never get up here so we must find not guilty.
15 That's not where the bar is. The bar is here are you
16 firmly convinced and that is what you need to reach a
17 verdict of guilt in this case and I submit that is the
18 proper verdict. That is the verdict that will speak the
19 truth in this case.

20 Thank you.

21 THE COURT: Now, ladies and gentlemen, I will
22 not allow anyone in or out during my charge so if anyone
23 needs to leave, it's time to do so.

24 Ladies and gentlemen of the jury, as you know
25 the defendant in this case is charged with criminal sexual

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1 conduct with a minor. This is a statutory offense and
2 Section 16-3-655 of our Code of Laws reads in part as
3 follows: A person is guilty of criminal sexual conduct
4 with a minor in the second degree if the actor engages in
5 sexual battery with a victim who is 14 years of age or
6 less but who is at least 11 years of age. That
7 constitutes criminal sexual conduct in the second degree.

8 Ladies and gentlemen, some several years ago
9 our legislature enacted a law which brought into one
10 package or under one umbrella all of our laws dealing with
11 sexual battery or with sexual assault and this law is
12 known as criminal sexual conduct and is broken down into
13 first, second and third degrees.

14 Generally, ladies and gentlemen, sexual
15 battery is accomplished in one of three ways either with
16 the use of force which constitutes criminal sexual conduct
17 in the first degree or secondly with the threat of use of
18 force which would constitute criminal sexual conduct in
19 the second degree or third when the alleged victim in some
20 fashion is incapacitated. This would conduct sexual
21 conduct in the third degree.

22 Now, with respect to the indictment in this
23 case, ladies and gentlemen, you are not concerned with
24 whether or not force was used or whether or not there was
25 any threat of the use of force or whether or not the

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1 alleged victim in this case was in some fashion
2 incapacitated.

3 Now, the statute that I read to you, ladies
4 and gentlemen, sexual battery means among other things any
5 intrusion, however slight, of any part of a person's body
6 of another person's body except when such intrusion is
7 accomplished for medically recognized treatment or
8 diagnostic purposes.

9 Now, with respect to the indictment in this
10 case, what are the elements that the State must prove
11 beyond a reasonable doubt. First of all the State must
12 prove the age of the victim, that is that she was at least
13 14 years of age but at least 11 years of age.

14 Ladies and gentlemen, I charge you that
15 Section 16-3-657 of our Code of Laws reads as follows:
16 The testimony of the victim need not be corroborated and
17 any prosecution under 16-3-652 through 16-3-368 and the
18 indictment in this case covers those sections.

19 Ladies and gentlemen, this section
20 prohibiting criminal sexual conduct or battery with a
21 minor imposes strict liability for violation because
22 neither consent, intent or knowledge are the elements of
23 the offense. Under the statute, if the person engages in
24 a prohibited conduct with a minor rather the age of that
25 person is known or not known to the accused, the offense

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1 is admitted.

2 Now, ladies and gentlemen, as jurors you have
3 a function or a responsibility that is entirely separate
4 and distinct from my function as the trial judge. The
5 constitution of our state does not allow me to charge you
6 on the facts of this case or discuss the facts with you in
7 any way or manner let you know what my personal feelings
8 if any are about this case.

9 You and you alone are the judges of the facts
10 in this case. Now, it is your duty and your duty alone to
11 weigh the testimony and evidence presented in this case
12 and to pass upon the credibility or the believability of
13 the witnesses who testified. In this connection, you have
14 a right to believe all that a witness has told you or you
15 can disbelieve all that a witness has told you. You can
16 believe all of what a witness has told you or disbelieve a
17 part of what a witness has told you. You could believe
18 several as against one.

19 You also have the right to take into
20 consideration any bias or prejudice or interest you feel a
21 witness in the case might have.

22 Now, ladies and gentlemen, the rules of
23 evidence ordinarily do not permit witnesses to testify to
24 opinions or conclusions. The exception to these rules is
25 as to those whom we call expert witnesses. Witnesses who

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1 by education and experience have become expert in some
2 art, science, professional, or calling. The state an
3 opinion as to relevant or material matter in which they
4 profess to be expert and they also state their reasons for
5 their opinion.

6 Now, you should consider any expert opinion
7 received in evidence in this case and give it such weight
8 as you think it deserves. If you should decide that the
9 opinion of an expert witness is not based upon sufficient
10 education and experience or if you should conclude that
11 the reasons given in support of that opinion are not
12 sound, or that the opinion is outweighed by other
13 evidence, then you should disregard that opinion in its
14 entirety.

15 An expert's testimony is to be given no
16 greater weight than that of any other witness simply
17 because that person has been declared to be an expert.
18 You are not required to accept a purported expert's
19 opinion even though it be uncontradicted.

20 As the trial judge in this case, I am
21 required to charge you the law which applies to the facts
22 in the case. It is not a question of what you feel the
23 law might be or what it should be. It is not necessarily
24 of what the attorneys may have told you it is, because
25 under your oath, you are required to take the law as I

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1 give it to you, apply that law to the facts as you
2 determine the facts to be and to write your verdict
3 accordingly.

4 It is also my duty to see that this trial is
5 conducted according to the rules of court and the rules of
6 evidence applicable to the facts in the case, therefore, I
7 charge you that you are not to consider in any way
8 testimony or evidence that has been ruled out by me as
9 being not admissible.

10 Now, ladies and gentlemen, in this case as in
11 all criminal cases, this defendant comes in to the
12 courtroom presumed to be innocent and this presumption
13 continues and carries through the entire trial until and
14 unless it is removed by evidence that satisfies you of his
15 guilty beyond a reasonable doubt.

16 The burden is on the State in this case to
17 prove this defendant guilty and to prove each an every
18 element of the offense for which he is charged beyond a
19 reasonable doubt.

20 Some of you may have in the past served as
21 jurors on several cases and if so you were probably told
22 that it was only necessary to prove that a fact was more
23 likely true than not true. But in criminal cases, the
24 State's proof must be more powerful. As I told you it
25 must be beyond a reasonable doubt.

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1 Now, ladies and gentlemen, proof beyond a
2 reasonable doubt is proof that leaves you firmly convinced
3 of this defendant's guilty. There are very few things in
4 this world that we know with absolute certainty and in
5 criminal cases our law does not require proof that
6 overcomes every possible doubt. If, based on your
7 consideration of the evidence in this case, you are firmly
8 convinced that this defendant is guilty as charged then
9 you must find him guilty.

10 If, on the other hand, you think there is a
11 real possibility that he is not guilty, then you must give
12 him the benefit of that doubt and find him not guilty.

13 Ladies and gentlemen, under the oath that you
14 took in this case, you swore to try this case based only
15 and solely on the testimony and evidence presented in this
16 courtroom and I tell you that it is your duty to lay aside
17 all outside opinions, bias, prejudice or sympathy you may
18 find in reaching your verdict. I charge you that the word
19 verdict is taken from the latin word veredicto which means
20 to speak the truth.

21 You have no enemies to punish or friends to
22 reward in this case and I charge you to abide by your oath
23 and return a verdict to speaks the truth.

24 Now, you'll have in the jury room a verdict
25 form with you and the indictment in this case. This

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1 indictment does not constitute evidence. It simply sets
2 forth the allegations by the State. This indictment is
3 the legal document by which this case is brought into the
4 courtroom and presented to you for your determination.

5 There are one of two possible verdicts in
6 this case guilty or not guilty and whatever that verdict
7 is, it must be unanimous. That means that all 12 of you
8 must agree.

9 Mr. Foreman, you'll find a place on the back
10 of the indictment that says verdict. Whatever the verdict
11 of the jury is guilty or not guilty, write that out in the
12 space provided and sign your name where it says
13 fore person.

14 At this time I'm required to suspend and go
15 over my charge with the lawyers. I need you to go back
16 into your jury room but don't start deliberating until I
17 send word for you to do so. Thank you.

18 (Jury exits the courtroom.)

19 Anything further from the State or the
20 defense?

21 MR. MCELVEEN: No, Your Honor.

22 MS. HODGE: Nothing from the State.

23 THE COURT: Okay. Gather all the exhibits
24 together. Tell them to begin deliberating and bring my
25 alternate back in.

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1 THE BAILIFF: Yes, sir, Your Honor.

2 THE COURT: We can be at ease now. I need to
3 talk to my alternate. Hang close and don't leave the
4 building.

5 (The Court releases the alternate.)

6 (Court reconvenes.)

7 Ladies and gentlemen, we have a verdict in
8 this case and, of course, we don't know what that verdict
9 is but I need everyone in the courtroom to understand that
10 regardless of the verdict, I will not condone any
11 outbursts or displays of emotion of any kind and should
12 there be any, that will constitute contempt of court and I
13 will punish accordingly.

14 Does everyone understand what I just said.

15 Bring the jury, please.

16 (Jury re-enters the courtroom.)

17 It's my understanding that you have reached a
18 verdict. If so, please hand it to the bailiff, please.

19 Please publish the verdict.

20 THE CLERK: Yes, sir. Your Honor, this is
21 Case No. 2010-GS-23-6454 Dante R. Stukes, indicted for
22 criminal sexual conduct with a minor, second degree. The
23 verdict is guilty, signed fore person, Kenneth Marshall.
24 If this is your verdict, please raise your right hand.

25 THE JURY: (Collectively complies).

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1 THE COURT: Any further?

2 MS. HODGE: Nothing from the State.

3 MR. MCELVEEN: Pole the jury, please.

4 THE COURT: Pole the jury, please.

5 THE CLERK: Yes, sir. Ladies and gentlemen,
6 the verdict that I just published was the verdict you
7 reached in the jury room, I ask you was that your verdict
8 then and is it your verdict now. As I call you names,
9 please answer yes or no.

10 Travis Staggs.

11 JUROR STAGGS: Yes.

12 THE CLERK: Kenneth Marshall.

13 JUROR MARSHALL: Yes.

14 THE CLERK: Melanie Stewart.

15 JUROR STEWART: Yes.

16 THE CLERK: Jimmy Hendrix.

17 JUROR HENDRIX: Yes.

18 THE CLERK: Jhami Sullivan.

19 JUROR SULLIVAN: Yes.

20 THE CLERK: Ronica Garner-Carlson.

21 JUROR CARSON: Yes.

22 THE CLERK: Evelyn Black.

23 JUROR BLACK: Yes.

24 THE CLERK: Tamyra Rainey..

25 JUROR RAINEY: Yes.

State of South Carolina versus Dante Stukes

1 THE CLERK: Laquise Stroud.

2 JUROR STROUD: Yes.

3 THE CLERK: Marian Nathan Jones.

4 JUROR JONES: Yes.

5 THE CLERK: Benjamin Johnson.

6 JUROR JONES: Yes.

7 THE CLERK: Latoya Shaw.

8 JUROR SHAW: Yes.

9 THE CLERK: Thank you.

10 THE COURT: Thank you, ladies and gentlemen
11 for your service on this case and this week. You don't
12 have to come back today or tomorrow. So I want to take
13 this opportunity to thank you for serving all week. I
14 want you to know that I am well aware of the fact that
15 jury service is a burden to you but I hope you understand
16 that importance of you being here this week for if it were
17 not for you we could not get off our docket the cases that
18 we do. It's a very important service that you performed
19 this week and I thank you for that service.

20 Do I have anybody who has any questions that
21 I can answer before letting you go?

22 (No response.)

23 Thank you very much. If you will report
24 downstairs to the jury room, Judy will have a voucher to
25 give to you for your service this week.

State of South Carolina versus Dante Stukes

1 Thank you very much, you're free to go.

2 (Jury dismissed from the courtroom.)

3 Any motions?

4 MR. MCELVEEN: Yes, Your Honor, I'd ask the
5 Court, 13th juror, for directed verdict based on the
6 grounds I set forth in my motion for directed verdict in
7 support of the evidence and based on the general
8 insufficiency of the evidence.

9 THE COURT: I'll deny that motion.

10 MR. MCELVEEN: I'd ask for a new trial on the
11 same grounds.

12 THE COURT: I'm sorry, I deny that motion
13 likewise.

14 MR. MCELVEEN: Your Honor, would you consider
15 a deferred sentencing in this case?

16 THE COURT: No, sir.

17 Solicitor, go ahead.

18 MS. HODGE: The defendant does have a prior
19 criminal domestic violence from December of 2000. He also
20 has a domestic violence -- these are all both first
21 offense -- from March of 2001. That would be his prior
22 record. Ms. Lane would like to address the court.

23 MS. LANE: Yes, Your Honor, I don't even know
24 where to start. First of all, I'm happy because justice
25 has been served but I'm sad at the same time. I hate it

State of South Carolina versus Dante Stukes

1 on both parts but I just wanted -- I don't want another
2 child to have to go through what D [REDACTED] had to go
3 through. You just somebody in the church and you think
4 that that's a safe haven and you think your children are
5 safe with the people in church and then you're violated in
6 church and I don't want any other child to have to go
7 through with it.

8 I know it's bad on Kim and I feel sorry for
9 Kim and they have a daughter and I wouldn't want that to
10 come on another child because nobody knows what we have to
11 go through. It's just been hard and hard on my husband.
12 He's their stepfather but he is basically the only father
13 that D [REDACTED] has known and he's been there for them. He's
14 been in and out of doctors and hospitals. He just got out
15 of the hospital and that's why he's walking on a walker
16 and the reason we were on the road because ministry is the
17 only way we get our income.

18 THE COURT: Okay. Thank you. Mr. McElveen.

19 MR. MCELVEEN: Your Honor, you've heard
20 during the course of the case, he's educated himself.
21 He's worked very hard his entire life and put together a
22 family and by all accounts been a family man. He's got
23 all the support in the courtroom, Your Honor, friends,
24 family, relations. He has not choice at this point but to
25 ask you for mercy, Your Honor. He has to do 85 percent of

State of South Carolina versus Dante Stukes

1 whatever you give him. I'd ask you to consider that. I
2 don't know if he wants to address the Court or not.

3 THE COURT: Certainly. Mr. Stukes, do you
4 have anything you want to say before I sentence you?

5 DEFENDANT STUKES: I still maintain my
6 innocence.

7 THE COURT: That's fine.

8 Anything else, solicitor?

9 MS. HODGE: No, sir.

10 MR. MCELVEEN: And also that he be given a
11 moment to see his family before they take him.

12 THE COURT: No. I'm sorry.

13 Mr. Stukes, of course you have a perfect
14 right to maintain your innocence, sir, to appeal the
15 verdict and the sentence that you will receive in this
16 case. Normally a case like this takes a jury a
17 particularly long time before they reach a verdict and
18 this was relatively short. And it concerns me that you
19 were found unanimously guilty by this jury and it concerns
20 me very much that based on the verdict, that you have
21 certainly violated this young lady. You took her into
22 your confidence and violated her.

23 I don't know how long it will take her, if
24 every get to over what you have done to her, but it
25 concerns me very much.

State of South Carolina versus Dante Stukes

1 Anything else?

2 MS. HODGE: No, sir.

3 THE COURT: Mr. Stukes, the sentence of the
4 court is you be committed to the Department of Correction
5 for a period of 15 years.

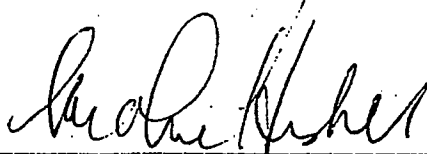
6 MS. HODGE: Thank you, Your Honor.

7 ---END OF TRANSCRIPT RECORD---

State of South Carolina versus Dante Stukes

1
2
3
4 I, the undersigned Caroline Hiskell, Official
5 Court Reporter for the Thirteenth Judicial Circuit of the
6 State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate, and complete transcript of
8 record of all the proceedings had and evidence introduced
9 in the trial of the captioned case, relative to appeal, in
10 the Court of General Sessions, South Carolina on the 15th
11 day of March, 2012.

12 I do further certify that I am neither of
13 kin, counsel, nor interest to any party hereto.

14
15
16 

17 Caroline Hiskell,
18 Thirteen Circuit Court Reporter
19
20
21
22
23
24
25

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

Dontae R. Shyles # 350166
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2014-CP-23- 01295

APPLICATION FOR

POST-CONVICTION RELIEF

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENS
JUL 15 2014
PM 3:50

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and veified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Dept of Correction; Lieber Correction Inst.
2. Name and location of Court which imposed sentence Greenville County Court of General Sessions, Hon. C. Victor Ryle Jr., Presiding Judge, and a jury.
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010-GS-23-006454- Criminal Sexual Conduct w/h Minor 2nd Degree (11-14)
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) March 15, 2012
 - (b) _____

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty X (jury Trial)
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. _____
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) N/A
- (c) N/A
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
- (b) Ineffective Assistance of Appellate Counsel
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Failed to object to victim's inconsistent testimony; Failed to object to
- (b) hearsay testimony; + Failed to obtain state's witnesses criminal history for
- (c) potential impeachment (Strickland v. Washington 466 U.S. 668 (1984)) Failed to raise
preserved errors on direct appeal (Strickland v. Washington 466 U.S. 668; Evitts v. Lucey 48 U.S. 385;

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - iv. N/A
- (b) the name and location of the Court in which each was filed:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - iv. N/A
- (c) the disposition thereof:
 - i. N/A
 - ii. N/A
 - iii. N/A

11.(a) (b) Continued: Applicant at this time has not received his trial transcript, therefore, he specifically reserves the right to amend or supplement the Statement of grounds and facts in support thereof on which he bases his allegations that he is being held unlawfully in violation of his 5th, 6th, + 14th Amendments to U.S. Const. + Art. I §§ 3 + 14 of the S.C. Const.

- iv. N/A
- (d) the date of each such disposition:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. N/A
- iii. N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Can only present ineffective assistance of trial counsel and
- (b) Appellant counsel on appeal
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

- i. George R. McElveen, III, Esquire, 2229 Bull Street, Columbia, SC 29201

- ii. _____

- iii. _____

- (b) the proceedings at which each such attorney represented you:

- i. Trial, sentencing, and appeal (Direct appeal)

- ii. _____

- iii. _____

19. State clearly the relief you seek in filing this application: Conviction and sentence vacated, or, in the alternative reverse + remanded for new trial, + any relief the Court deems just + proper

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Dorchester)

VERIFICATION

I, Dantoe R. Stukes, # 350166, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Dantoe Stukes

SWORN to and subscribed before me this 27
day of February, 2014.

Yvette Blome
Notary Public

(L.S.)

My Commission Expires: 8/20/2016

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Dante R. Stukes, # 350166, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Dante Stukes
Applicant

SWORN or affirmed to and subscribed before me this
27 day of February, 2014.

Yvette Blume
Notary Public

My Commission Expires: 8/20/2016

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Dantae Raheeve Stukes,)
S.C.D.C. No. 350166,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
C.A. No. 2014-CP-23-1295

RETURN

In response to the post-conviction relief application filed March 7, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the August 2010 term of General Sessions for second-degree criminal sexual conduct with a minor (2010-GS-23-6545). George R. McElveen, III, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty. On March 15, 2012, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to 15 years imprisonment.

A notice of appeal was filed at the South Carolina Court of Appeals. Mr. McElveen perfected the appeal. The Court of Appeals affirmed the Applicant's conviction and sentence. State v. Stukes, Op. No. 2014-UP-027 (S.C. Ct. App. filed Jan. 22, 2014). The Remittitur was sent on February 7, 2014.

Attached herewith and incorporated herein by reference are the records of the Greenville

County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel.
 - a. Failed to object to victim's inconsistent testimony.
 - b. Failed to object to hearsay testimony.
 - c. Failed to obtain state's witnesses' criminal history for potential impeachment.
2. Ineffective assistance of appellate counsel.
 - a. Failed to raise preserved errors on direct appeal.

III.

The Respondent asserts the Applicant's allegation that his trial and appellate attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S. Ct. 830 (1985). In analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of trial counsel. See Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009); Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999) (noting courts apply the Strickland test to determine if appellate counsel was deficient for failing to raise an issue and whether the defendant was prejudiced from the failure to raise the issue). Appellate counsel, however, is not required to raise every non-frivolous claim, but instead may select among them in order to maximize the likelihood of a favorable outcome. Smith v. Robbins, 528

U.S. 259, 288, 120 S. Ct. 746, 765 (2000).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

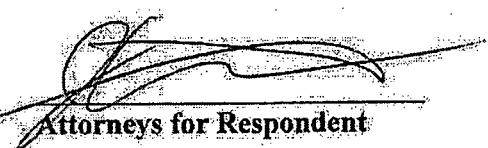
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: 

Attorneys for Respondent

October 30, 2014

) COURT OF COMMON PLEAS
) 2014-CP-23-1295

)

)

) TRANSCRIPT OF RECORD

)

B E F O R E:

THE HONORABLE DANIEL DEWITT HALL, JUDGE

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

KENNETH P. SHABEL, ESQ.
Attorney for the Plaintiff

KAREN C. RATIGAN, ESQ.
ASSISTANT ATTORNEY GENERAL

000341

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19

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25

Redirect Examination by Ms. Ratigan

29

State Rests

30

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EXHIBITSNODESCRIPTIONIDEVD

No exhibits were introduced.

P R O C E E D I N G S

MS. RATIGAN: May it please the Court. This is the case of Dantae Stukes vs. The State of South Carolina. The docket number is 2014-CP-23-1295.

Mr. Stukes was indicted for second-degree criminal sexual conduct with a minor. He was represented on that charge by Mr. McElveen. The case was brought to trial in March of 2012, at which point, Mr. Stukes was found guilty. On March 15th of 2012, Judge Pyle sentenced him to 15 years imprisonment. He did file an appeal. The Court of Appeals affirmed his conviction and sentence in January of 2014.

This application was timely filed, and the State is ready to proceed.

THE COURT: All right. Is it Mr. Shabel?

MR. SHABEL: Yes, Your Honor.

THE COURT: Mr. Shabel, are you ready to proceed?

MR. SHABEL: We are, Your Honor. If it please the Court.

THE COURT: All right. Call your first witness.

MR. SHABEL: Mr. Dantae Stukes, if you would, please, sir.

WHEREUPON,

DANTAE STUKES

After having been duly sworn, testified as follows:

THE CLERK: Please state your full name for the

1 record.

2 THE WITNESS: Dantae Raheeve Stukes.

3 THE CLERK: Thank you. You may be seated.

4 MR. SHABEL: May it please the Court.

5 THE COURT: Yes, Mr. Shabel.

6 DIRECT EXAMINATION

7 BY MR. SHABEL:

8 Q Sir, how old are you?

9 A I am 35 years old.

10 Q How far did you go in school?

11 A I did one year of college.

12 Q And are you currently incarcerated within the
13 Department of Corrections in South Carolina?

14 A Yes, sir. I am.

15 Q In what institution?

16 A Lieber Correctional Institution.

17 Q And I believe as the assistant attorney general
18 mentioned, you are in there on a charge of criminal sexual
19 conduct with a minor; is that correct?

20 A That is correct.

21 Q Currently serving a 15-year sentence?

22 A Yes, sir.

23 Q When were you arrested for that crime, approximately?

24 A Approximately May of 2010.

25 Q And from your best recollection, what was the period

1 of time in which you were accused of committing the crime?

2 When did the crime occur, according to the State?

3 A According to the State, it was from March -- March 1st
4 until May 31st of 2009.

5 Q And at the day of trial, did the State make an
6 amendment -- a motion to amend their indictment to expand
7 that period of time to January 1st of 2009?

8 A Yes.

9 Q And did your attorney -- first of all, who did you
10 retain for your services for services in this case?

11 A For the trial?

12 Q Yes.

13 A I retained George McElveen out of Columbia, South
14 Carolina.

15 Q Thank you. And did your attorney object to that
16 motion?

17 A Yes.

18 Q Did you have any knowledge that motion was coming?

19 A No.

20 Q In fairness, did your attorney have any knowledge that
21 that was coming?

22 A No, sir.

23 Q Okay. All of the information you had leading up to
24 the day of trial was this occurred allegedly between March
25 and May of 2009?

1 A Yes, sir.

2 Q Okay. Now, during that period of time, January of
3 2009 to May of 2009, where were you employed?

4 A I was employed at First Choice Auto Center as the
5 finance manager.

6 Q Thank you. Now, let's talk a little bit about leading
7 up to trial. How many times did you meet with
8 Mr. McElveen?

9 A We met three times, and we spoke over the phone quite
10 a few.

11 Q Were you in jail denied bond or were you out of jail
12 on bond during the ---

13 A I was on bond the whole time.

14 Q Thank you. Up until the trial began?

15 A Up until the trial began. Yes, sir.

16 Q Okay. Now, did the victim -- and I ask that you not
17 mention names ---

18 A Yes.

19 Q --- for confidentiality reasons, but did the victim
20 testify in this case?

21 A Yes, sir.

22 Q She testified against you?

23 A Yes, sir.

24 Q In the course of your -- let me start over. Did she
25 testify that this occurred during the day or at night, what

1 she testified to at trial?

2 A She testified to at night, sir.

3 Q All right. And based on your recollection -- first of
4 all, have you reviewed the transcript of this trial?

5 A Yes, sir. I have.

6 Q Over and over again?

7 A Yes, sir.

8 Q According to her testimony at trial, where did she say
9 she went the next day?

10 A According to her testimony?

11 Q Yes.

12 A According to her testimony at trial, she said I took
13 her to meet her godsister.

14 Q That you took her ---

15 A Yes, sir.

16 Q --- to see her godsister ---

17 A Yes, sir.

18 Q --- the day after this supposedly happened?

19 A Yes, sir.

20 Q Okay. Over the course of your meetings with your
21 attorney, did you receive discovery from the State?

22 A Yes.

23 Q Did you receive certain documents and evidence that
24 they had against you?

25 A Yes. I believe he did. Yes, sir.

1 Q Did he show you police reports? written statements of
2 the child?

3 A Yes.

4 Q And based on those police statements that you saw and
5 the written statements of the child, did she give a
6 different answer to law enforcement as to where she went
7 the next day?

8 A Yes, sir. She did.

9 Q What did she tell police?

10 A According to her sworn statement that she gave to
11 Detective Thomas, she said that my -- that my wife Kim
12 drove her to school the very next morning.

13 Q Okay. Now, in fairness, did she ever, in anything you
14 read or anything you heard at testimony, give you a
15 specific day or give police a specific day when this
16 supposedly occurred?

17 A Could you clarify the question? You said ---

18 Q I will try it again. Did she ever tell police it
19 happened on this very day? Was she able to say it happened
20 on a very specific day?

21 A No, sir.

22 Q All right. So from your review of the discovery and
23 from her testimony, did she give two different versions of
24 where she went the next day?

25 A Yes, sir.

1 Q Did your attorney at trial do an adequate job in your
2 mind of cross-examining her on those two inconsistent
3 statements?

4 A No, sir.

5 Q Did she ever introduce with the police officer who
6 took the statement saying did she make these two different
7 statements?

8 A No, sir.

9 Q Do you believe that was ineffective?

10 A Yes, sir. I do.

11 Q Now, to clarify, you were arrested when?

12 A May of 2010.

13 Q A year or so after this was allegedly to have
14 occurred?

15 A Yes, sir.

16 Q When did the police investigation begin, to the best
17 of your recollection?

18 A I would say right about March or April of 2010.

19 Q So within a month or two before your arrest?

20 A Yes.

21 Q Possibly a year after this supposedly occurred?

22 A Yes.

23 Q Was there any physical evidence of this crime?

24 A No, sir.

25 Q Were there any eyewitnesses to this crime?

1 A No, sir.

2 Q So would it be fair to say that the testimony that was
3 the most critical in the case was the victim's testimony?

4 A Yes, sir. It would have been.

5 Q Do you believe that the victim needed to be
6 cross-examined on an inconsistent statement she made in
7 her -- that she made in the course of the case?

8 A Yes, sir. I do.

9 Q And do you believe that was adequately done here?

10 A No, sir.

11 Q In fact, did she testify that she made consistent
12 statements to law enforcement?

13 A Yes, sir. She did.

14 Q All right. Now, did other witnesses in the course of
15 the -- were there other witnesses that were called?

16 A Yes, sir.

17 Q Without giving names, can you mention some of them?

18 A Yes. It was her godsister, and, if I'm not mistaken,
19 her mother. It was her mother, and it also was two other
20 people that she claimed that she told at school.

21 Q And did those individuals testify to what she told
22 them?

23 A Yes.

24 Q Did she identify a place in her -- in their testimony
25 as to where she said it happened?

1 A Yes. At my house.

2 Q Okay. She didn't say -- they didn't testify to an
3 address? They testified to Dantae Stukes' house?

4 A Yes, sir.

5 Q Did your attorney object to that testimony?

6 A No. He did not.

7 Q Do you believe that was ineffective?

8 A Yes, sir. I do.

9 Q All right. Now, did the detective -- we mentioned the
10 statement that was made to police. Did that police who
11 took the statement or talked to the child also testify?

12 A Yes. Detective Thomas did.

13 Q And did Detective Thomas -- well, did the solicitor
14 ask her to identify a suspect in the case?

15 A Yes.

16 Q And did Detective Thomas identify you?

17 A Yes. By name.

18 Q By name?

19 A Yes, sir.

20 Q On more than one occasion?

21 A Oh, repeatedly.

22 Q Okay. Now, in fairness, did your attorney object to
23 the mentioning of your name?

24 A Every time.

25 Q And was it -- was the objection overruled or

1 sustained?

2 A Sustained.

3 Q Did -- at any point, despite the number of references,
4 did your attorney ask for a mistrial?

5 A Yes, sir.

6 Q And was it denied?

7 A Yes, sir.

8 Q So, again, was credibility the most important issue
9 before that jury that day?

10 A Yes, sir. With the -- due of lack of evidence, yes,
11 sir.

12 Q Based on the fact that credibility was such an
13 important issue, did you have issues with the State's
14 closing arguments?

15 A Yes, sir. I did.

16 Q Tell the Court what concerns you had about the closing
17 arguments.

18 A Well, one of the main concerns that I had was that the
19 solicitor said that reasonable doubt is a scare tactic,
20 which it is not. It's actually my constitutional --
21 Federal and state constitutional right.

22 Q All right. Did she or he, the solicitor, talk about
23 the credibility of some of your witnesses?

24 A Yes. She called me and my wife liars, and ---

25 Q On the record.

1 A --- and she bolstered the credibility of her witnesses
2 and the victim.

3 Q Did, at any point, your attorney object to the closing
4 arguments?

5 A No, sir.

6 Q He just let them go?

7 A Yes.

8 Q Do you believe that was ineffective?

9 A Yes.

10 Q Now, you mentioned there was no physical evidence
11 against you in this matter.

12 A That is correct.

13 Q Did they call any experts?

14 A Yes, sir. They did.

15 Q Who did they call?

16 A They called -- they called Dr. Galloway-Williams.

17 Q Okay.

18 A And then they called the medical doctor. I can't
19 remember her name. Croswell. Dr. Fran Croswell.

20 Q A medical doctor?

21 A Yes.

22 Q Was there an appropriate protocol done for rape
23 victims at that time or sex assault victims?

24 A There was no -- there was no protocol done at all.

25 Q Okay. And did your attorney mention that?

1 A Yes, sir. It was only at the day of trial that it was
2 found out that there was no protocol done in this present
3 case and that it was just a follow-up exam from a
4 subsequent incident that happened earlier that year.

5 Q And you didn't know there was no protocol done until
6 the day of trial?

7 A Until the day of trial.

8 Q Do you believe that's something you should have known
9 about prior to the day of trial, that there wasn't one?

10 A Yes, sir.

11 Q Do you believe there was ineffective assistance of
12 counsel for not discovering that sooner than the day of
13 trial?

14 A Yes, sir.

15 Q All right. Now, during this period of time, January
16 to May of 2009, were you working?

17 A Yes, sir.

18 Q And when you weren't working, did you oftentimes go
19 out to eat? hang out at restaurants? hang out with friends?
20 go with family? What would you do at night?

21 A Well, because I worked in Columbia and I lived in
22 Greenville, it was a two-and-a-half-hour commute from
23 Greenville to Columbia every day.

24 Q Okay.

25 A And on Thursdays, I spent the night at my mother's

1 house because Fridays I had to get payroll prepared for the
2 salesmen at the dealership so they can get paid on Friday.

3 And we got paid every Friday.

4 Q Got it. And would you be out of the home every
5 Thursday?

6 A Yes, sir. Every Thursday night.

7 Q And you mentioned this to your attorney. Did you
8 mention this to your attorney? I'm sorry.

9 A Did I mention it to -- yes.

10 Q Okay. Why was Thursday such an important day in this
11 trial?

12 A Why? Because it was then discovered the date of trial
13 by the State's witness, the victim's mother and the victim,
14 that it occurred on a Thursday night.

15 Q Okay. Did you try to explain to your lawyer at that
16 point, hey, look, I've got people that can testify that I
17 was somewhere else on a Thursday?

18 A Yes.

19 Q Okay. Now, taking each of these concerns you have
20 both separately and together, do you believe that your
21 attorney provided effective assistance of counsel for you?

22 A No, sir.

23 Q Are you asking this court to grant you a new trial?

24 A Yes.

25 Q Do you understand that if you are granted

1 postconviction relief, it doesn't mean you're found
2 innocent of the charges? Do you understand that?

3 A Yes.

4 Q You understand that this basically means you would go
5 back to the trial stage of your case and another jury could
6 potentially be selected and you could go back to trial on
7 these same charges?

8 A Yes, sir. I do.

9 Q You understand the results of that trial could come
10 out better or worse for you than what you have now?

11 A Yes, sir.

12 Q Knowing all of that, do you ask this court to grant
13 you postconviction relief?

14 A Yes, sir.

15 MR. SHABEL: That's all I have for the witness. Thank
16 you.

17 THE COURT: Thank you, Mr. Shabel.

18 Ms. Ratigan?

19 MS. RATIGAN: I have no questions, Your Honor.

20 THE COURT: All right. Thank you. You can step down.

21 MR. SHABEL: Briefly, Your Honor. Mr. Naheem Brown.

22 WHEREUPON,

23 NAHEEM BROWN

24 After having been duly sworn, testified as follows:

25 THE CLERK: Please state your full name for the

1 record.

2 THE WITNESS: Naheem Brown.

3 THE CLERK: Do you want to spell your first name,
4 please.

5 THE WITNESS: N-A-H-E-E-M.

6 THE CLERK: Thank you. You may be seated.

7 MR. SHABEL: May it please the Court.

8 THE COURT: Yes.

9 DIRECT EXAMINATION

10 BY MR. SHABEL:

11 Q Mr. Brown, how do you know Dantae Stukes?

12 A I know Dantae Stukes from church, sir.

13 Q And how long have you known him?

14 A I will say roughly around now going on eight years
15 now, sir.

16 Q Okay. Back at the beginning of your friendship, did
17 you guys hang out together socially?

18 A Yes, sir.

19 Q Would you guys go out to restaurants sometimes?

20 A Yes, sir.

21 Q Did you have a regular routine where you'd meet on a
22 certain night to go out to restaurants?

23 A Yes, sir.

24 Q How often would you do this?

25 A Very often, sir.

1 Q And what day of the week would you do it?

2 A Mostly Thursday and Friday.

3 Q And was this the case during the period of time of
4 January of 2009 to May of 2009?

5 A Yes, sir.

6 Q Now, in fairness, can you recall whether you were with
7 him every single Tuesday -- Thursday or Friday in this
8 period of time?

9 A I can't recall every Thursday, but I can recall he was
10 there most all Thursdays. Yes, sir.

11 MR. SHABEL: All right. Thank you.

12 Nothing further, Your Honor.

13 MS. RATIGAN: No questions.

14 THE COURT: You can step down, Mr. Brown.

15 MR. SHABEL: Beg the Court's brief indulgence one
16 moment.

17 THE COURT: Yes.

18 MR. SHABEL: With that, Your Honor, the applicant
19 rests.

20 THE COURT: All right. Thank you.

21 Ms. Ratigan?

22 MS. RATIGAN: Thank you, Judge. We call Mr. McElveen.

23 WHEREUPON,

24 GEORGE McELVEEN

25 After having been duly sworn, testified as follows:

1 THE CLERK: Please state your full name for the
2 record.

3 THE WITNESS: George R. McElveen, III.

4 DIRECT EXAMINATION

5 BY MS. RATIGAN:

6 Q Mr. McElveen, do you recall representing Mr. Stukes on
7 this charge?

8 A I do.

9 Q And were you, in fact, retained by him?

10 A I was.

11 Q And your office is in Columbia; is that correct?

12 A That's correct.

13 Q Did you file the usual Brady and Rule 5 discovery
14 motions?

15 A I did.

16 Q Did you receive discovery from the State?

17 A I did.

18 Q Did you receive it all in one package or was it kind
19 of rolling discovery?

20 A I think I received a very large portion of it at once,
21 and there were some additional things that came in over the
22 course of the representation.

23 Q And was Mr. McElveen -- not Mr. McElveen. I'm sorry.
24 Was Mr. Stukes, in fact, out on bond during your
25 representation of him?

1 A He was.

2 Q Would he come down to visit you in Columbia or would
3 you come up here?

4 A He would come to my office.

5 Q Did you also exchange letters and phone calls?

6 A We talked on the phone a lot. I don't recall letters.

7 Q Did you review with him the elements of the CSC with a
8 minor in the second degree charge?

9 A I'm sure I did.

10 Q Did you discuss with him the sentence range for the
11 charge?

12 A I'm sure I did.

13 Q And did Mr. Stukes tell you his version of events, his
14 dealings with the victim?

15 A He did.

16 Q Now, the transcript reflects that the morning of
17 trial, the State moved to amend the indictment to enlarge
18 the time frame; is that correct?

19 A That's correct.

20 Q Did you know in advance of trial that they would be
21 making this amendment?

22 A I did not.

23 Q And the record would reflect that you obviously
24 objected to the case going forward at that time?

25 A I did.

1 Q Can you think of anything else you could have argued
2 in order to either have the case dismissed or continue to
3 the next term?

4 A No. I think it was pretty straightforward.

5 Q Had you ever planned on putting up any kind of an
6 alibi defense?

7 A We didn't have a specific alibi defense in the sense
8 that we could place Dantae at another place when the
9 incident was alleged to have occurred. That was just an
10 impossibility. We did get into what Dantae's work was
11 like, what his travel habits were, that he was out of the
12 house a lot, but there was just no way to tie that down to
13 a particular day.

14 Q Because of the wide range?

15 A Right.

16 Q Okay. Now, when you said you went into Mr. Stukes'
17 work and travel habits, that was argument and evidence you
18 put before the jury? You argued at trial?

19 A I believe that was -- that Dante testified to that
20 effect.

21 Q But that was something you would have discussed with
22 him prior to the trial, just kind of what his work habits
23 were like, his schedule, when he was on the road, things of
24 that nature?

25 A Correct.

1 Q Did he ever provide witnesses that he wanted you to
2 call in terms of helping with a kind of general alibi?

3 A Yeah. He had a private detective that supposedly had
4 done some investigation into that. When we talked to the
5 private detective, he was unable to give us anything that
6 was concrete in any way. I think he talked to me about his
7 boss. I think we talked to his boss. That's my
8 recollection. He were just unable to -- given the time
9 frame, there was just no way to tie it into any particular
10 time. We were able to point out that it couldn't be on
11 certain weekends or certain times, but we couldn't exclude
12 all times.

13 Q And I believe you pointed out during your
14 cross-examination of the victim that her trial testimony
15 differed from her statement; do you recall that?

16 A I don't recall, but I'm certain that I probably did
17 that.

18 Q Did her trial testimony, in fact, differ from her
19 statement to police?

20 A There were some inconsistencies.

21 Q And do you recall whether or not you did, in fact, go
22 into those inconsistencies, or would you just rely on the
23 transcript?

24 A I would rely on the transcript for that.

25 Q And to the best of your recollection, was the victim

1 ever able to land on a day of the week or was there always
2 some question about what day of the week the incident
3 transpired?

4 A That happens -- my recollection is that that was
5 always very fuzzy.

6 Q Were you aware prior to trial whether or not a rape
7 protocol had been done on the victim?

8 A Well, there was nothing in the discovery about a
9 protocol. Given the time that had elapsed between the
10 report and the time that the incident was alleged to have
11 happened, it would have been very unlikely a protocol would
12 have been done. But we did look into that.

13 And during our discussions with the solicitor about
14 that, it came to light that there was another alleged rape
15 and that there had been some -- at least if not medical
16 examination relating to Dante's case, at least his case had
17 been discussed in the course of the investigation of that
18 sexual offense. So yeah. I was aware that there was no
19 protocol.

20 Q And you were aware of that prior to trial?

21 A Yeah. Certainly.

22 Q This case has been scheduled several times, but did
23 you, at some point prior to today, review the State's
24 closing argument in this case?

25 A Obviously, I have not.

1 Q Now, Mr. Stukes testified that, at one point,
2 Ms. Hodge stated that reasonable doubt was a scare tactic.
3 Do you recall anything of that nature being said during
4 closing?

5 A I don't recall that exact quote. I know that she was
6 -- you know, she did attempt to minimize the importance of
7 reasonable doubt. But to say that it's not to be -- you
8 know, you don't eliminate every single doubt, you know, a
9 standard prosecutorial argument, she did say, at one time,
10 defense attorneys love reasonable doubt. I remember that
11 quote.

12 Q If she had stated that reasonable doubt was a scare
13 tactic, is that something you would normally object to?

14 A I would like to think that I did, but I can't say that
15 I did. The transcript will say, I guess.

16 Q And is it common for solicitors, in closing argument,
17 to paint the defense witnesses and the defendant in a bad
18 light?

19 A Absolutely.

20 Q And to paint their own witnesses in a good light?

21 A Certainly.

22 Q And, obviously, you have not reviewed the transcript.
23 But just thinking back on the trial, is there anything
24 specifically about that closing argument that jumps out at
25 you as something that was objectionable or should have been

1 objected to?

2 A I don't specifically remember anything that was
3 objectionable. I do remember that she was very aggressive
4 in attacking the reasonable doubt standard.

5 MS. RATIGAN: Beg the Court's indulgence, Your Honor.
6 That's all I have, Judge.

7 THE COURT: Thank you.
8 Anything further for this witness?

9 MR. SHABEL: Briefly, Your Honor. May it please the
10 Court.

11 CROSS EXAMINATION

12 BY MR. SHABEL:

13 Q Would you agree, sir, that the case basically boiled
14 down to credibility of the victim?

15 A I think that was the fundamental issue, yeah.

16 Q Did you have some concerns about how a jury was going
17 to view the credibility of this victim?

18 A Well, my concerns were -- I mean, of course I had
19 concerns from the start about how credible she would come
20 up. But she came off -- in my opinion, she was a pretty
21 solid witness.

22 Q Okay. And I won't ask you every question, but do you
23 have any reason to believe that the transcript in this case
24 is incorrect in any manner whatsoever?

25 A No.

1 Q Okay. I won't -- the Court has it, the Court will
2 review it. I won't bore you down with question for
3 question.

4 You mentioned there was an impossibility to nail down
5 an alibi defense. Can you clarify that statement? Why was
6 it impossible to nail down an alibi defense?

7 A Well, obviously, if we could have -- we had a certain
8 number of weekends which were greatly expanded at trial, a
9 certain number of days when this could have happened. But
10 that was just not ever solid enough for us to zero in on
11 where were you on this particular day. About all we could
12 do was get into I was gone a lot, I was on the road a lot,
13 I was hardly ever home on the weekends, things like that.
14 But there was nothing that you could say on this particular
15 day, it had to be this date that it happened. Where were
16 you on that particular day? I was just unable to do that.

17 Q Let's back up just a second. How did the victim know
18 Mr. Stukes and his family? How did this child come to be a
19 part of Mr. Stukes' life?

20 A My recollection is that they were friends, they were
21 neighbors, that they -- I think they went to church
22 together.

23 Q Okay. Were the Stukeses -- and by the Stukeses, I
24 mean Mr. Stukes and his wife, did they babysit this child
25 on occasion?

1 A I don't know. She stayed with them from time to time.

2 Q Maybe babysit is not the right word.

3 A Right.

4 Q But, you know, would she stay with them for ---

5 A I think they were gone for an extended period of time,
6 and she stayed with them for an extended period of time.

7 Q All right. Were you able to nail down in discovery or
8 in your interviews of witnesses what days they were gone?

9 A We talked about that as far as that particular time
10 frame, but that time frame didn't cover the entire five
11 months.

12 Q And you mentioned the rape protocol and the fact that
13 there was one done, but not done for this particular
14 assault.

15 A Correct.

16 Q At the very beginning of trial, did you make a motion
17 to allow you to go into that second protocol, or that first
18 and only protocol?

19 A Well, there were motions -- pretrial motions that
20 dealt with to what extent those different protocols -- or
21 those different medical examinations were relevant, what we
22 would go into and what we wouldn't go into.

23 Q Right.

24 A Yes. We explored that in the form of motions.

25 Q And the Court denied those motions as far as you were

1 concerned?

2 A Well, I don't exactly remember. I know that there
3 were certain things we agreed on that weren't relevant and
4 other things -- we came to an understanding as to what
5 would be relevant and what would not be relevant.

6 Q Got it.

7 At the conclusion of the trial, did you file -- not
8 immediately, but shortly thereafter, did you file an appeal
9 on behalf of Mr. Stukes?

10 A I did.

11 Q Based on all the issues we talked about today, how
12 many issues did you appeal this case on?

13 A One.

14 Q And what was that?

15 A That was the motion on the day of trial to expand the
16 range of time in which the incident could have occurred
17 from three months to five months.

18 Q And the Court of Appeals affirmed based on that one
19 appealable issue?

20 A I'm sorry?

21 Q The Court of Appeals affirmed his conviction ---

22 A That's right.

23 Q --- based on the one issue that you brought before
24 them?

25 A Right.

1 Q Do you feel there were any other appealable issues?

2 A I thought that -- I did not see any issues that I
3 thought would result in the reversal of the conviction
4 except for that one, and I thought it was a very good
5 ground.

6 Q You did not believe that the denial of the access to
7 the second or to the only rape protocol was worth
8 appealing?

9 A I don't think so. I must not have.

10 MR. SHABEL: That's all I have, Your Honor. Thank
11 you.

12 THE COURT: Ms. Ratigan?

13 MS. RATIGAN: Just one quick question.

14 REDIRECT EXAMINATION

15 BY MS. RATIGAN:

16 Q The pretrial motions about the relevance of these
17 different medical examinations, wasn't the State's general
18 concern that this would violate rape shield?

19 A That's correct.

20 MS. RATIGAN: Okay. That's all, Judge.

21 THE COURT: Thank you.

22 All right. Thank you, Mr. McElveen. You can step
23 down.

24 THE WITNESS: Thank you, Your Honor.

25 MS. RATIGAN: And Mr. McElveen has come up from

1 Columbia. May he be excused, Your Honor?

2 MR. SHABEL: No objection whatsoever.

3 THE COURT: He's excused.

4 MS. RATIGAN: And with that, the State would rest,
5 Your Honor.

6 THE COURT: All right. I'll take this matter into
7 consideration. I need to read the transcripts and the
8 other documents attached. I'll let y'all know by e-mail.

9 MR. SHABEL: Thank you, Your Honor.

10 May Counsel and I approach briefly before we adjourn?

11 THE COURT: Yes.

12 (WHEREUPON, a bench conference was held off the record.)

13 *****END OF TRANSCRIPT OF RECORD*****
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1 CERTIFICATE OF REPORTER

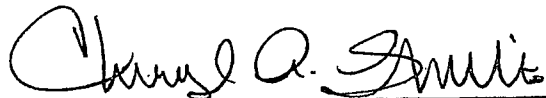
2
3 STATE OF SOUTH CAROLINA)4 COUNTY OF GREENVILLE)
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6

7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South Carolina,
9 do hereby certify that the foregoing is a true, accurate
10 and complete Transcript of Record of the proceedings had
11 and evidence introduced in the trial of the captioned case,
12 relative to appeal, in the Court of Common Pleas for
13 Greenville County, South Carolina, on the 16th Day of
14 February, 2016.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17
18
19
20

June 2, 2016

21 
22

23 Cheryl A. Smith, CVR-M

24 Court Reporter
25

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF GREENVILLE

CASE NO: 2014CP2301295

IN THE COURT OF COMMON PLEAS

Dantae R Stukes vs. South Carolina State Of

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter: _____

PRESIDING JUDGE - Daniel D Hall

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth Philip Shabel PO Box 3254 Spartanburg,
SC 29304

Karen Christine Ratigan PO Box 11549 Columbia,
SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
Dantae Raheev Stukes,)
S.C.D.C. No. 350166,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. No. 2014-CP-23-1295

ORDER OF DISMISSAL

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2016 MAR 30 PM 2 02

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 7, 2014. The Respondent made its return on October 30, 2014. An evidentiary hearing was held on February 16, 2016 at the Greenville County Courthouse. The Applicant was present and represented by Kenneth P. Shabel, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying were Naheem Brown and the Applicant's trial and appellate counsel, George R. McElveen, III, Esquire. The Court had before it the trial transcript, the Greenville County Clerk of Court records, the South Carolina Department of Corrections records, the PCR application, the return, and the appellate records.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the August 2010 term of the Greenville County Grand Jury for second-degree criminal sexual conduct with a minor (2010-GS-23-6454). He was represented by George R. McElveen, III,

Esquire.

After the State called the case to trial, the Applicant was found guilty. On March 15, 2012, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to 15 years imprisonment.

A notice of appeal was filed at the South Carolina Court of Appeals. Mr. McElveen perfected the appeal. The Court of Appeals affirmed the Applicant's conviction and sentence. State v. Stukes, Op. No. 2014-UP-027 (S.C. Ct. App. filed Jan. 22, 2014). The Remittitur was sent on February 7, 2014.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel:
 - a. Failed to object to victim's inconsistent testimony.
 - b. Failed to object to hearsay testimony.
 - c. Failed to obtain state's witnesses' criminal history for potential impeachment.
2. Ineffective assistance of appellate counsel:
 - a. Failed to raise preserved errors on direct appeal.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the

evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel’s ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

The Applicant stated he had three meetings with trial counsel and that they had numerous phone calls. The Applicant stated they reviewed the discovery materials and the victim’s two statements. The Applicant stated trial counsel did not do an adequate job of impeaching the victim’s testimony with her statements. The Applicant stated trial counsel should have objected when the State’s witnesses testified as to what the victim told them about the abuse and that it happened at the Applicant’s house. The Applicant stated trial counsel should have known before the trial that no rape protocol had been performed on the victim. The Applicant stated trial counsel should have objected to several elements of the State’s closing argument.

Naheem Brown stated he knew the Applicant from church and often went out with him on Thursday and Friday nights. Brown stated, however, that he could not recall if they were together every Thursday and Friday night.

Trial counsel testified he had several in-person and telephone meetings with the

Applicant. Trial counsel testified they reviewed the discovery materials, the elements of the charge, and the sentencing range. Trial counsel testified they also reviewed the Applicant's version of events and his interactions with the victim. Trial counsel testified it was difficult to argue an alibi defense because the range of time was so broad and the victim could not identify a specific date. Trial counsel testified that, regardless, they presented at trial that the Applicant's work and travel habits cast doubt upon the victim's testimony. Trial counsel testified he knew prior to the Applicant's trial that there had been no rape protocol done in this case. Trial counsel testified that, given the delay in reporting, it would have been unlikely for one to have been performed. Trial counsel confirmed the assistant solicitor was "aggressive" regarding the reasonable doubt standard in her closing argument. Trial counsel testified it was common for the State to paint a defendant (and his witnesses) in a bad light while painting State witnesses in a good light.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have better impeached the victim with her statements. Trial counsel testified the victim could never pinpoint a date (or day of the week) the abuse occurred. Trial counsel testified, however, that the victim was a solid witness at trial. This Court notes trial counsel did, in fact, impeach the victim with her two prior statements. (Trial transcript, pp.101-02). It is clear from the record that trial counsel had to walk a fine line at trial in order to point out the discrepancies in the victim's testimony while keeping in mind that she was a minor and the victim of a sexual assault. This Court finds the Applicant has failed to show either that trial counsel was deficient in his cross-examination of the victim or that further impeachment of the victim would have affected the outcome of his case. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (holding that, in a post-conviction relief proceeding, the applicant bears the burden of proving

the allegations in their application).

This Court finds the Applicant failed to meet his burden of proving trial counsel should have objected to testimony from the victim's god-sister and school friends. The Applicant argued this testimony was improper. This Court has examined the trial transcript, however, and finds that testimony from JT, RD, and DW was not improper because it did not identify the Applicant as the assailant and did not exceed the time-and-place limitation. (Trial transcript, pp.107-10; pp.114-18; pp.123-27). As such, the Applicant failed to demonstrate trial counsel's performance was deficient. This Court also finds the Applicant has failed to demonstrate he was prejudiced by the lack of objection to this testimony. See Butler v. State, 286 S.C. at 442, 334 S.E.2d at 814.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have known before trial that a rape protocol was not performed on the victim. Trial counsel testified, however, that he knew prior to the Applicant's trial that a rape protocol had not been performed on the victim regarding this charge. This Court finds trial counsel's testimony is credible and that the Applicant failed to prove trial counsel's performance was deficient. This Court further finds the Applicant failed to demonstrate he suffered any prejudice. Trial counsel testified the delay in reporting meant a rape protocol would be unlikely. Further, the Applicant failed to articulate what line of questioning or investigation trial counsel could have pursued on this issue that would have affected the outcome of his trial. See Cherry v. State, 300 S.C. at 117-18, 386 S.E.2d at 625.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have objected during the assistant solicitor's closing argument. First, the Applicant argued the assistant solicitor improperly referred to the concept of reasonable doubt as "a scare tactic." This

Court has examined the trial transcript, however, and notes trial counsel did object to this statement and was overruled. (Trial transcript, p.314). Second, the Applicant argued the assistant solicitor said he and his wife were liars. This Court has examined the trial transcript and finds that, while the assistant solicitor cast doubt upon the credibility of their testimony, she did not say anything objectionable or improper. (Trial transcript, pp.310-11). See State v. Pipkin, 359 S.C. 322, 327, 597 S.E.2d 831, 833 (Ct. App. 2004) (noting the jury is “the finder of fact and weigher of credibility”). Third, the Applicant argued the assistant solicitor bolstered the credibility of the victim and the State’s witnesses. This Court has examined the trial transcript and finds there was no error that would have necessitated an objection from trial counsel. The assistant solicitor said the testimony from the State’s witnesses showed it “is very possible for this to have happened to [the victim]” and that the victim’s reaction to the assault was “plausible and possible,” and that the victim’s story was consistent. (Trial transcript, pp.300-12). This Court finds none of these statements bolstered the State’s witnesses’ credibility and, as such, trial counsel was not deficient in not making an objection. See Gilchrist v. State, 350 S.C. 221, 227, 565 S.E.2d 281, 285 (2002) (“Improper vouching occurs when the prosecution places the government’s prestige behind a witness by making explicit personal assurances of a witness’ veracity. . . .”); Matthews v. State, 350 S.C. 272, 276, 565 S.E.2d 766, 768 (2002) (“A solicitor may argue the credibility of the State’s witnesses if the argument is based on the record and its reasonable inferences.”). Further, this Court finds the Applicant has failed to demonstrate – in all three allegations related to the assistant solicitor’s closing argument – that he suffered any prejudice.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under

prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel’s performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

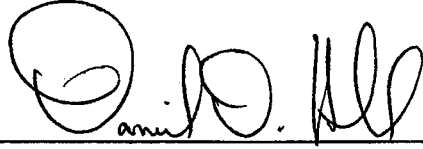
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel’s representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 8th day of March, 2016.



Daniel D. Hall
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS	FILED - CLERK OF COURT GREENVILLE, S.C. 2016 APR 13 PM 3:50 13
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT	
DANTAE RAHEEVE STUKES	)		
(S.C.D.C. No. 350166),	)		
Petitioner,	)	PETITIONER'S MOTION FOR	
	)	RECONSIDERATION AND RELIEF	
Vs.	)	FROM JUDGMENT (Rule 59e)	
STATE OF SOUTH CAROLINA,	)	Docket Number:	
Respondent.	)	2014-CP-23-1295	

TO: THE HONORABLE DANIEL D. HALL, Presiding Judge

YOU WILL PLEASE TAKE NOTICE that the Petitioner, by and through the undersigned attorney, hereby moves for an Order for Reconsideration of the Order of Dismissal filed with this Court on March 30, 2016 (hereinafter "the Order") and received by the undersigned on April 5, 2016. The Plaintiff further seeks Relief from Judgment in accordance with Rule 59 of the South Carolina Rules of Civil Procedure. A copy of the Order at issue is attached to, and incorporated into, this Motion as "Appendix A."

Without waiving any rights to appeal any other grounds permissible under State Law, the Plaintiff so moves for Reconsideration and Relief from Judgment based upon the following:

1. The Order states that the Petitioner failed to meet his burden of proving that his trial attorney should have better impeached the victim with her statements. The Court found that he "failed to show either that trial counsel was deficient in his cross-examination of the victim or that further impeachment of the victim would have affected the outcome of his case." Order p. 4, lines 20-22.

2. Unlike other rulings of the Court, the Order does not reflect that the Court reviewed the transcript in its entirety.

3. In a PCR proceeding, applicant bears the burden of proving the allegations in his application. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citation omitted). However, an applicant need only prove his allegations by a preponderance of evidence. Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

4. To meet that burden, there are two elements an applicant must prove. First, he must show that his attorney's performance was "deficient." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (quoting Strickland at 687). A deficient performance requires a showing "that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. If, however, counsel is able to cite "a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance." Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 530, 531 (1992) (citations omitted).

5. Once an applicant can prove his attorney's performance was deficient, he must then prove that the deficient performance prejudiced him. Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (quoting Strickland at 687). This is such prejudice that the applicant "was deprived of a fair trial." Id. Such prejudice exists when "there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt." Strickland, 466 U.S. at 695. Even if an attorney is deficient in performance, there is no prejudice if "there is otherwise overwhelming evidence of the defendant's guilt." Smith v. State, 386 S.C. 562, 566, 689 S.E.2d 629, 631 (2010).

6. Courts must be very scrutinous in reviewing cases on Post-Conviction Relief when cases hinge on witness credibility. See, e.g., Dawkins v. State, 346 S.C. 151, 551 S.E.2d 260 (2001) (failure to properly cross-examine witnesses constituted proper grounds for post-conviction relief when the case hinged on victim credibility); State v. Anderson, 413 S.C. 212, 776 S.E.2d 76 (credibility is critical in cases the result “turn[s] solely on the credibility of the [victim] and of the [Defendant].”)

7. Viewing the transcript and record as a whole, the credibility of the victim in Petitioner’s criminal trial was critical to the outcome of the case. There was no physical evidence of the crime. There were no eye-witnesses.

8. Trial counsel had as part of the State’s discovery a four-page written statement from the victim (see “Appendix B”), which was part of the record in this case. Trial counsel specifically asked the victim at trial about the statement, and how it was different from her trial testimony. (Transcript p. 101, lines 7-9 and p. 102, lines 13-15). The victim ADMITTED it was different. (Transcript p. 101, line 10). She admitted writing the statement in her handwriting. (Transcript p. 102, lines 5-12). Trial counsel started to introduce the statement but then, after the jury was taken out, withdrew the request. (Transcript p. 102, lines 16-22).

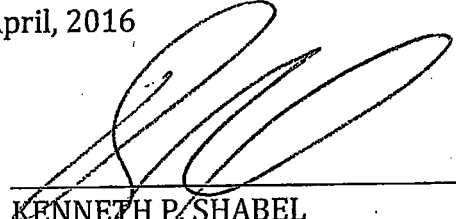
9. Trial counsel also had a copy of the police report of Officer M.A. Thomas (see “Appendix C”) as part of the State’s discovery, which was part of the record in this case. In that report, the officer states that the victim told her that the next morning the Petitioner’s wife “drove her to school.” (Report p. 2, lines 20-21).

10. However, at trial, the victim testified it was on a "Friday." (Transcript p. 64, lines 10-11). She testified she had to go to her god sister's house the next day, which is why she thought it was Friday. (Transcript p. 64, lines 12-17). The next day would have been Saturday, when (logic would suggest) there would be no school.

11. The very difference in the two statements was important in attacking the victim's credibility. Trial counsel failed to attack the victim on that statement to police. Trial counsel never questioned her about her statement to police. Trial counsel never offered a valid trial strategy for questioning her about the statement to police. Officer M.A. Thomas testified at the trial (see Transcript p. 148-171) and would have been available to discuss the report and introduce the prior inconsistent statement of the child.

For these reasons, and for the reasons set forth by the testimony presented at the February 16, 2016 hearing, Petitioner respectfully requests that this Court grant his Motion or, in the alternative, grant him a hearing to have his Motion heard before the Court.

Respectfully submitted, this 14th day of April, 2016



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APPENDIX A

(omitted in
Appendix to
Petition for
Certiorari)

APPENDIX B

CITY OF GREENVILLE
COUNTY OF GREENVILLE
STATE OF SOUTH CAROLINA

CASE # 02-10-032301
DATE 04/13/2010

I, [REDACTED] and [REDACTED] do hereby give freely and voluntarily this statement
who have identified themselves as officers
of the Greenville Police Department, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and
that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice,
that if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent me. I have not been threatened or promise
any reward to make this statement and do so voluntarily. I understand I have the right to stop at any time. I hereby waive these rights.
I am 15 years old and reside at [REDACTED]

I was staying at Dante's and Kim's house near the end of my 9th grade
year. I was staying there because my mommy and daddy were
out of town because my daddy had to preach. The night of the
incident Dante and his wife were messing around on the
other couch trying not to let me know what they were doing
because I was watching t.v. Then Kim said she didn't
feel like "talking" tonight she was going to sleep she
made sure her kids were in the bed and went to sleep.
That's when Dante and I started talking about the guy I
liked at school. He knew at the time that I wanted this
guy at my school to take my virginity and he said that he
would help me not be taken advantage of if he did this.
That's when he started touching on me.

We read or had read to me, the above statement of 1 of 4 pages and it is true and correct as best I recall, and I have received a copy
of this statement.

WITNESSES:

[Signature] #659

I before me this _____ day of _____ 199____.

NOTARY PUBLIC FOR SOUTH CAROLINA

Commission Expires: _____

000387

OFFICE OF GREENVILLE
STATE OF SOUTH CAROLINA

CASE # 02-10-032301
DATE 04/13/2010

I, Atc Cobb and [redacted] do hereby give freely and voluntarily this statement who have identified themselves as officers of the Greenville Police Department, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice. That if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent me. I have not been threatened or promise any reward to make this statement and do so voluntarily. I understand I have the right to stop at any time. I hereby waive these rights.

I am 15 years old and reside at [redacted]

He pulled down my bra and shirt strap and started sucking on my nipples then he told me to get the guy from school named [redacted] in my hands that I need to know how to turn him on. He told me to stick my hand in his boxer and pajamas and massage his penis. I reluctant did it he asked me was I ok and was I uncomfortable, but all I could do is shrug I don't know. Then he told me that his penis size is the size that the guy that takes it should be. So when he was finally done touching on me I said that's it right I'm ready for Jerrell right and he said no there's one more thing I have to stick the head in. That's what he said would I rather be in the living room or in the back bedroom.

I have read or had read to me, the above statement of 244 pages and it is true and correct as best I recall, and I have received a copy of this statement.

WITNESSES:

[Signature] #659

[redacted signature]

I am before me this _____ day of _____ 199____

NOTARY PUBLIC FOR SOUTH CAROLINA

Commission Expires: _____

COUNTY OF GREENVILLE
STATE OF SOUTH CAROLINA

CASE # 02-10-032301
DATE 04/13/2010

[REDACTED] and [REDACTED] do hereby give freely and voluntarily this statement
the Greenville Police Department, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and
that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice
that if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent me. I have not been threatened or promised
any reward to make this statement and do so voluntarily. I understand I have the right to stop at any time. I hereby waive these rights.

I am 15 years old and reside at [REDACTED]

I shrugged my shoulders and said I don't know. He then
lead me into the back guest room. He went to check and
make sure his wife and kids were asleep and that's when he
came back in the room and he pulled my underwear to the
side of the bed and stuck his penis head inside me. He kept
pushing back and forth when he pulled out. When he went
out the room and came back in with a towel and turned
the lights on he wiped up white cum off the floor and
my leg. When I pulled my underwear back up I noticed
he had come in my underwear some to but since it
is almost 3 in the morning I couldn't do anything or
take a shower I just laid in the bed and called Jerrell
because I didn't know what to do and was mad at
myself that I didn't say no.

I have read or had read to me, the above statement of 3 of 4 pages and it is true and correct as best I recall, and I have received a copy
of this statement.

WITNESSES:

[Signature] [Signature]

I Before me this _____ day of _____ 199_____

NOTARY PUBLIC FOR SOUTH CAROLINA

Commission Expires: _____

STATE OF SOUTH CAROLINA

CASE # 02-10-032301
DATE 04/13/2010

I, [REDACTED] and [REDACTED] do hereby give freely and voluntarily this statement who have identified themselves as officers the Greenville Police Department, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice, that if I am financially unable to obtain an Attorney, the Court will appoint an Attorney to represent me. I have not been threatened or promised any reward to make this statement and do so voluntarily. I understand I have the right to stop at any time. I hereby waive these rights.

I am 15 years old and reside at [REDACTED]

He stuck his penis head inside my vagina.

I was 14 years old at the time this occurred.

end of statement

I have read or had read to me, the above statement of 4 of 4 pages and it is true and correct as best I recall, and I have received a copy of this statement.

WITNESSES:

[Signature] #659

I, before me this _____ day of _____, 199____.

NOTARY PUBLIC FOR SOUTH CAROLINA

Commission Expires: _____

APPENDIX C

06/21/2010 15:30 8544675213

CLITY JUVENILE

AGENCY I.D.
SCO230200GREENVILLE POLICE DEPARTMENT
SUPPLEMENTAL REPORT

CASE NUMBER

IND. ENT.

1,0,000,03,2,3,0,1

☐ ORIGINAL REPORT	☐ STATUS CHANGE	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	INCIDENT TYPE: CSC with minor-11-14 yoa
☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	PATROL DISTRICT: Hector	PAGE: 1 OF 2 PAGES

ID. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	☐ VICTIM #	Stukes, Dantae Raheve	No Victim was Arrested		J	B	M	29	9/18/80	
	☐ SUBJECT	ADDRESS	CITY	STATE	ZIP CODE	PATROL DISTRICT	DAY PHONE			
	☐ RUNAWAY	38 Kenlauren Ave.	Greenville	SC	29607	Hector	EVENING PHONE			
☒ WANTED	HEIGHT	WEIGHT	HAIR	EYES	RACIAL MARKS, SCARS, TATTOOS, CLASPS, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
☐ WARRANT	510	250	Brown	Brown						
☐ ARREST	VICTIM NO. EXPLAIN		COMPLAINT OF NON-VISIBLE INJURY		VICTIM USING ALCOHOL		DRUGS		TWO-MAN VEHICLE	
☐ MISSING			NO YES		NO YES UNK		NO YES TYPE UNK		DETECTIVE/SPL. ARMY. ALONE	
☐ JAIL	SUBJECT NO.		UNKING ALCOHOL		UNK		UNK		ONE-MAN VEHICLE OTHER ASSISTED	
☐	USING DRUGS		NO YES TYPE		UNK		UNK		ARRESTED ON CURRENT OFFENSE	

ARRESTEE ARMED ☐ YES ☐ NO WEAPON TYPE: ☐ SEMI-AUTO ☐ FULL-AUTO ☐ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY

JUVENILE DISPOSITION: 1. ☐ HANDLED, RELEASED ☐ REFERRED TO OTHER AUTHORITY

On 4/14/10 I was assigned this case. I made contact with the victim's mother and scheduled an interview for the following day 4/15/10.

The victim was unable to make the interview on 4/15/10. I spoke with her mother and her mother stated that due to her emotional state they would not be able to make the interview. She stated that her daughter really needed to meet with her counselor and wanted to reschedule the interview for 4/19/10.

On 4/19/10 the victim did come to my office for her scheduled interview. After introducing myself to her and asking her a few personal questions I asked her if she knew the difference between the truth and a lie. She stated that she did know the difference. The victim is a bright child and was able to provide an example of the truth and a lie. I then explained to her the importance of telling the truth and the consequences if she told a lie. She stated that she understood and would only tell the truth. She came across as shy and embarrassed for having to be in this interview. She spoke in a very quiet voice.

She stated that her father travels around the country a lot and preaches in different states. She stated that on this particular time that her parents were gone she stayed with the suspect and his wife at the incident location. She stated that she did not travel with her parents because they did not want her to miss school. They are friends with the suspect and his wife through church. She had stayed with them on about 7 or 8 prior occasions. She stated that on this particular time staying with them she was on the couch watching a movie. She stated that it is a long couch and the suspect and his wife were on the other end. She stated that at one time the suspect got on his knees in front of his wife, who was sitting on the couch, and put his head between her legs (in her crotch area). She stated that she pretended to keep watching the movie, but could see them looking at her out of the corner of her eye. She stated that she was embarrassed and just kept staring at the television. At this time the suspect's wife stated that she did not feel like "playing" tonight because she was tired. She then got up from the couch and went to her bedroom to go to sleep. The suspect stayed in the den with the victim watching television. She stated that he was then sitting on the couch with his arms sprawled across the back of the couch staring at her. The victim has talked to the suspect and his wife in the past about her relationships and boys that she liked. While the two were still sitting on the couch the suspect asked the victim if she still liked Jarrell. She told him yes. At this time the suspect moved over on the couch so that he was sitting directly next to the victim. He told her that he could show her how to get Jarrell in the palm of her hand and he held out his hand, palm up. The suspect told her to put her hand in his pants and she stated that she did because she did not know what else to do and she was scared. She stated that after she put it in his pants she immediately pulled it out. The suspect then grabbed her hand and put it back in his pants and placed it on his erect penis. He stated to her that this should be the size of the guy that you let take your virginity. He said that he was going to help prepare her to lose her virginity to Jarrell. He then pulled up her t-shirt and pulled her bra strap down and began licking on her breasts. He asked if she was ok and she stated to me that she just shrugged. She stated that she was scared to look at him so she just kept staring away from him, focusing on the television.

PROPERTY	TYPE							TOTAL VALUE
	STOLEN							
	DAMAGED							
	BURNED							
	RECOVERED							
ADMIN	SEIZED							
	SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE ADMIN. CLOSED		EX-CLEAR UNDER 18	
	YES NO		YES NO		UNFOUNDED		EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. OFFENDER DEATH 2. NO PROSECUTION 3. VICTIM/CLINICAL COOPERATION 4. EXTRADITION DENIED 5. JUVENILE NO ARREST		APPROVING OFFICER		DATE		UNIT NO.	
	REPORTING OFFICER(S) STAFF #		DATE		UNIT NO.			
M. A. Thomas		5/3/10		57				

CRIME ANALYSIS

SLED

RECORDS 000392

DETECTIVES

ROLL CALL

AGENCY I.D.
SCO230200GREENVILLE POLICE DEPARTMENT
SUPPLEMENTAL REPORT

CASE NUMBER

NOIC
INC. EXT.

1,0,000,032,3,0,1

☐ ORIGINAL REPORT	☐ STATUS CHANGE	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	INCIDENT TYPE: CSC with minor-11-14 yoa
☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	PATROL DISTRICT: Hector	PAGE 2 OF 2 PAGES
I.D. OVERFLOW	COMPLAINANT NAME (LAST, FIRST, MIDDLE): Stokes, Dantae Raheve		VICTIM RELATIONSHIP TO SUBJECT:	
	ADDRESS: 38 Kenlauren Ave.		CITY: Greenville	STATE: SC
	HEIGHT: 510	WEIGHT: 250	HAIR: Brown	SKIN: n
	FACIAL MARK, SCARS, TATTOOS, CLASSÉS, CLOTHING, PHYSICAL REGULARITIES, ETC.		PATROL DISTRICT: Hector	
	VICTIM NO. 1		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ LINK	
SUBJECT NO. 1		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ LINK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PL. ASLT. ☐ ALONE
ARRESTEE ARMED ☐ YES ☐ NO WEAPON TYPE:		JUVENILE DISPOSITION: 1. ☐ HANDLED, RELEASED ☐ REFERRED TO OTHER AUTHORITY		☐ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY

She stated that it was about 10 or 11 o'clock. She stated that he kept getting up and going down the hallway. She assumed that he kept checking to make sure that his wife was asleep. When he returned he told her to stand up and he grabbed her hand. He led her over to stand behind the television, which is located by the deck door. He then put her hand down his pants again and told her to massage it. She stated that he told her that she was doing good. He was wearing pajama pants that were striped. I asked her about pubic hair or unusual markings and she stated that he is fat so she was not real sure about that. She stated that after he told her that she was doing a good job that she stopped. She asked him if that was it. He told her no, now I have to stick the head in. He then asked her if she wanted to do it and she stated that she shrugged because she did not know what to do. She stated that she never gave him a verbal answer. He then asked if she wanted to do it here or in the bedroom. She stated that she shrugged again. He then grabbed her hand again and led her to the bedroom. He made the statement that they would go to the bedroom in case she made a noise.

At this time they entered into the guest bedroom. It contained a bed, a television, stuffed animals, a closet, and a window. She stated that she was standing by the bed and he pulled her pajama pants and her boxers down. She stated that she sat on the bed and then he pushed her back onto the bed. She stated that she was laying on the bed and he pulled his pajama pants down. She stated that she did not see or feel any underwear on him. He said I am gonna put the head in and then he laid on top of her. She stated that it didn't hurt her. She stated that he made some grunting noises. After about 2 or 3 minutes he got up and turned the light on. She stated that he asked her if it felt good and she did not answer him. When the light came on she saw his ejaculation on the inside of her thighs and some dripped onto the floor. He then went to the laundry area and got a towel and cleaned up her thighs and the floor. They then got dressed. When asked why she did not yell for help, she stated that she was too scared to make any noises. He told her afterwards that she can't tell anyone because he will get in trouble. She stated that she then went back to the den to watch television and he came into the den. He stated to her that she was "inching" on him and if she wanted they could go back and he would put it all in. She stated that she did verbally state to him no. She then went into the bedroom and called her friend Jarrell from the suspect's home phone. She stated that she eventually fell asleep and the next morning he acted as if nothing ever happened. She stated that his wife then drove her to school.

I asked her why she was coming forward with this information almost a year later. She stated while speaking with a rape crisis counselor in reference to another incident, she was asked if she had been raped before. She stated that she wanted to be honest with the counselor and decided to tell her about this incident.

The suspect is an assistant pastor at the victim's church. The victim's mother told me that he has not shown back up to church since around the incident date.

On 5/3/10 I obtained warrant # M-382755 on the listed subject. This case is administratively closed pending warrant service.

TYPE	STOLEN	DAMAGED	BURNED	RECOVERED	SEIZED	TOTAL VALUE
SUBJECT IDENTIFIED: ☐ YES ☐ NO						
SUBJECT LOCATED: ☐ YES ☐ NO						
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM DECLINED COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE NO ARREST						
REPORTING OFFICER(S) STAR #		DATE	UNIT NO.	APPROVING OFFICER		
M. A. Thomas		5/3/10	57			
				OFFICER(S)		

CRIME ANALYSIS

SLED

RECORDS

DETECTIVES

ROLL CALL

000393

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Dantae Raheev Stukes,)
S.C.D.C. No. 350166,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
C.A. No. 2014-CP-23-1295

**RETURN TO MOTION FOR
RECONSIDERATION AND RELIEF FROM
JUDGMENT**

Respondent, by and through undersigned counsel, making its Return to Applicant's "Motion for Reconsideration and Relief from Judgment (Rule 59e)," would respectfully show unto this Court:

1. The matter is before the Court by way of a post-conviction relief (PCR) action filed March 7, 2014.
2. An evidentiary hearing was held on February 16, 2016 at the Greenville County Courthouse.
3. Applicant was present at the hearing and represented by Kenneth P. Shabel, Esquire. Applicant testified in his own behalf. Also testifying were Naheem Brown and the Applicant's trial and appellate counsel, George R. McElveen, III, Esquire.
4. After a full review of the evidence presented at the evidentiary hearing, the post-conviction relief court issued an order dated March 8, 2016 and filed March 30, 2016 denying the application for post-conviction relief.
5. Applicant – through counsel – filed a "Motion for Reconsideration and Relief from Judgment (Rule 59e)" dated April 14, 2016 (Respondent received an un-filed copy on April

18, 2016 and a filed copy on April 20, 2016). Applicant moves this Court to alter or amend the final order of dismissal. Applicant argues this Court should reconsider its ruling on the issue related to trial counsel's decisions and strategy of impeaching the victim with prior statements.

6. Respondent submits Applicant's Motion should be denied. Applicant is not requesting either an alteration or amendment to the final order. Rather, Applicant is asking the Court to reverse its decision and grant post-conviction relief on this issue. Such a request is more properly addressed through the appellate process. See Wilder Corp. v. Wilke, 330 S.C. 71, 77, 497 S.E.2d 731, 734 (1998) (noting the proper use of a Rule 59(e) motion is to preserve issues raised to but not ruled upon by the trial court).

7. Respondent notes Applicant argues the documents in Appendix B and C (which are attached to his Motion) are part of the court record and should be considered by this Court in evaluating the Motion. These items, however, were not admitted into evidence at either Applicant's trial or PCR hearing. These documents are not considered part of the court record merely because they were materials provided in discovery. As such, these documents should not be considered by this Court.

8. Respondent submits the post-conviction relief court fully reviewed and properly ruled upon all issues and that Applicant's Motion for Reconsideration and Relief from Judgment should be denied.

9. Respondent further submits Applicant's request for a hearing on the Motion for Reconsideration and Relief from Judgment should be denied as unnecessary.

Respectfully submitted,

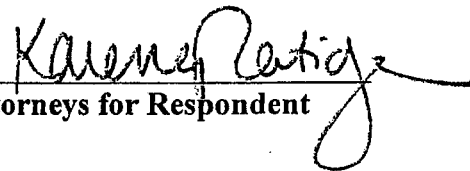
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

April 25, 2016

For Clerk of Court Office Use Only

This judgment was entered on the 29 day of Apr., 20 16 and a copy mailed first class or placed in the appropriate attorney's box on this 29 day of Apr., 20 16 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Nickensimer
CLERK OF COURT

Court Reporter:

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON
PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 CP-23-1295

Dante F. Stukes

State of South Carolina

ENTERED COMPUTER

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Kenneth P. Shabel

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☒ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☒ Other Motion to Reconsider denied
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Motion to Reconsider is denied

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

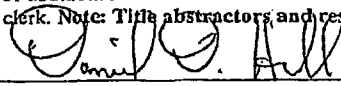
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


Circuit Court Judge

2753
Judge Code

4-28-16
Date

WITNESSES

M A Thomas

M.A. Thomas

Greenville Police Department

5/10/2010

ARREST WARRANT NUMBER

M382755

ACTION OF GRAND JURY

TRUE BILL

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-KBF

006454

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August TERM 2010

THE STATE

vs.

DANTAE RAHEEVE STUKES

Indictment for

0396

CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE (11-14)

VIOLATION §16-03-0655(B), (1)

000399

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR 2ND DEGREE
(11-14)

At a Court of General Sessions, convened on

AUG 24 2010

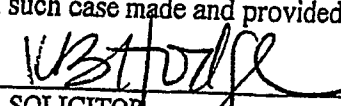
the Grand Jurors of Greenville

County present upon their oath:

That DANTAE RAHEEVE STUKES did in Greenville County, between the 1st day of March 2009 and the 30th day of May 2009, commit a sexual battery on D.B., who was fourteen years of age or less but who was at least eleven years of age. This is in violation of §16-3-655(B), (1) [formerly § 16-3-655(2)] of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

000400


SOLICITOR

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Charles V. Pyle, Circuit Court Judge

Case No. 2010-GS-23-06454
2012-211-211706

The State.....Respondent

v.

Dantae Raheev Stukes.....Appellant

FINAL BRIEF OF APPELLANT

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803 799-9581
ATTORNEY FOR
APPELLANT

Julie Kate Keeney
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ATTORNEY FOR
RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

- I. Did the trial court err in granting the State's motion to expand the time frame alleged in the indictment made at the call of the case with no prior notice to the Defendant, and then refusing Defense's request for a continuance?

STATEMENT OF THE CASE

The Defendant, Dantae Raheev Stukes, was indicated on August 24, 2010 by the Grand Jury of Greenville County for Criminal Sexual Conduct with a Minor, 2ND Degree. The indictment alleges that the Defendant "... did in Greenville County, between the 1st day of March 2009 and the 30th day of May, 2009, commit a sexual battery on D. B., who was fourteen years of age or less but who was at least eleven years of age." Accordingly, the acts alleged fell within a three month period.

At the call of the case for trial on March 15, 2012, counsel for the Defendant moved to quash the indictment due to the extensive time frame alleged. (R. p. 3, ll. 6 – 25, p. 4, ll. 1 – 8). While acknowledging the general rule that expansive time frames in sexual assault cases are permissible, counsel argued that in this case, certain factors existed that might have lead investigators to the specific date of the assault, but that no effort hade been made to identify that date. Prior to ruling on this motion, the trial judge expressed an understanding that the state intended to amend the indictment to expand the dates to include an even larger time frame, and the state did so. (R. p. 4, ll. 9 – 19). The requested amendment expanded the time frame during which the acts of offense were alleged to have occurred from "January 5th to May 31st, of 2009", expanding the time frame by 60 days. (R. p. 4, ll. – 15) The court granted the state's motion to expand the time frame, and denied both the defendant's motion to quash, and his objection to the amendment (R. p. 6, ll. 4, 5). Both the State's and the Defendant's motions were raised orally, and for the first time, at the call of the case for trial.

Counsel was then summoned to the bench where discussions were had off the record regarding jury selection, lunch, and other logistical issues. At that time, counsel

for the defense informed the trial judge that he was requesting a continuance due to the court's granting of the state's motion to amend the indictment to expend the time frame. The court allowed the trial to continue, and instructed counsel to "put the motion on the record later" The jury was then selected, but not sworn. (R. p. 18, ll. 5 - 16). Pre-trial motions then resumed. Defense's request for a continuance was placed on the record at the close of the state's case, at which time the following colloquy occurred:

THE COURT: Any motions?

MR. MCELVEEN: Yes, your honor. First of all, as you know, I made a continuance motion when you denied my motion or denied my objection to expanding the time frame of the indictment and you took that under advisement. I don't know if you want to rule on that now but I just wanted to put that on the record.

THE COURT: Tell me again.

MR. MCELVEEN: When the State made the motion to expand the time frame.

THE COURT: I granted that motion.

MR. MCELVEEN: And I asked when we were up there at the bench I asked for a continuance based on that and you told me to put it on the record later.

THE COURT: Sure, go right ahead and put it on the record.

MR. MCELVEEN: So, because, your honor, they have now doubled the time span that I'm responsible for defending here, I need a continuance so I can go back and address that issue. Again, your honor, that's out of the blue. That information was available to the state long before the trial to do that and that just puts us at a terrible disadvantage.

THE COURT: No, sir, I deny that motion. It was on the first day of March

back to the fifth day of January. That would not be sufficient grounds to continue so I would deny that motion.

Accordingly, the trial proceeded. The jury convicted defendant was convicted of Criminal Sexual Conduct with a Minor (2nd degree), and received a sentenced of 15 years. (R. p. 194, ll. 3 – 25, p. 195, ll. 1 – 3)

ARGUMENT

- I. THE TRIAL COURT ERRED IN GRANTING THE STATE'S MOTION TO EXPAND THE TIME FRAME ALLEGED IN THE INDICTMENT MADE AT THE CALL OF THE CASE WITH NO PRIOR NOTICE TO THE DEFENDANT, AND THEN REFUSING DEFENSE'S REQUEST FOR A CONTINUANCE.

This Criminal Sexual with a Minor case was called for trial by the state on March 15, 2012. During pre-trial motions, defense counsel moved to quash the indictment based on the expansive time frame alleged. (R. p.3, ll. 6-25, p. 4, l. 8). Without ruling, the court then turned to the solicitor, stating "Do I understand you're going to move to amend the indictment?" (R. p. 4, ll. 9, 10.) The State then moved to expand the time frame, initially alleged as March 1, 2009 through May 30, 2001, to January 5, 2009 through May 30, 2009, an expansion of two months. (R. p. 4, ll. 11 -19).

In support of her motion, the Solicitrix, referring to written statements by certain witnesses, argued that State v. Wade, 306 S.C. 79, 409 S.E.2d 780, (S.Ct. 1991) permits expansive time frames in cases of sexual offenses involving minors. (R. p. 5, ll. 3 - 21). Counsel for the Defense objected, arguing that the amendment was a "fundamental expansion of the indictment" (R. p. 4, ll. 22, 23). The trial judge, after hearing additional argument, denied the defense's motion to quash and granted the state's motion to expand over defendant's objection. (R. p. 4, ll. 20 - 23, p. 6, ll. 4, 5).

Although the transcript does not expressly reflect it, the court then sent for the jury. Counsel were summoned to the bench to discuss issues relating to jury selection. During that bench conference, counsel for the Defense asked that the trial be continued due to the amended time frame. Without specifically ruling at that time, the court instructed counsel to "put the motion on the record later".

Defense's motion's to quash the indictment and for a continuance are factually and legally intertwined. Having denied the Defendant's motion to quash, the court then granted the Prosecution's motion to substantially expand the time frame alleged in the indictment. The court then denied the Defense's Motion for a continuance due to the granting of the State's motion to expand. It is from the granting of the state's last-minute motion to expand the time frame and subsequent denial of his motion for a continuance based thereon that the Defendant appeals.

The granting of a motion for a continuance is within the discretion of the trial judge, and will not be disturbed absent an abuse of discretion. State v. Colden, 372 S.C. 428, 641 S.E.2d 912 (Ct. App. 2007). The trial court's consideration of a motion for continuance is to be on a case by case basis, and turns on the particular facts and circumstances of each case. State v. Meggett, 398 S.C. 516, 728 S.E.2d 492 (Ct. App. 2012).

An indictment is required to give notice to the defendant of the charges against him. State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (S.Ct. 2005). All of the surrounding circumstances must be weighed to make an accurate determination of whether the defendant was prejudiced by a lack of notice. State v. Tumbleston, 376 S.C. 90, 654 S.E.2d 849 (Ct. App. 1997), referencing Evans v. State, 363 S.C. 495, 611 S.E.2d 510 (S.Ct. 2005).

The issue in the present case is not whether it might have been permissible at some appropriate time to grant the state's motion to expand the time frame. The case law in that regard is well settled. It is, rather, whether it was appropriate to grant such a motion made at the time the case was called for trial, with no prior notice to the defense,

and no reason or explanation given or required for the necessity of making the motion without notice at the call of the case. Having granted the state's motion under these circumstances, the defense should have been afforded a continuance in order to prepare to address the allegation of a materially expanded time frame.

Defense counsel pointed out that there was no new information to necessitate such a last minute amendment (R. p. 6, ll. 2,3). Nowhere in its argument in favor of the motion does the state explain or attempt to defend waiting until the last minute to make this motion, nor does the court even inquire about the issue. In fact, defense counsel is obviously the last to know that such a motion would be made. (R. p. 4, ll. 9, 10).

By its very nature, a case such as this requires that the defense focus on when the alleged assault might have taken place. And as it happened, the victim testified on direct that she spent at least one night at the Defendant's house in January (R. p. 62, ll2 - 14), a time outside of the original time frame, but within the amended.

In State v. Wade, id. , citing State v. Pierce, 263 S.C. 23, 207 S.E.2d 375 (S.Ct. 1974), the Supreme Court said:

The State must not be allowed to prove a different date than that set forth in the indictment. . . unless the defendant is held to have had knowledge that the State would attempt to prove a different date upon trial. In such a case, it is proper for the trial judge, after allowing the amendment of the indictment, to declare a mistrial and allow the defendant time to attempt to establish an alibi defense for the different date.

The *Wade* court rejected the assertion that a two-year time frame was *per-se* overbroad. The present case presents the question at the opposite end of the spectrum -- whether an amendment substantially expanding the time frame, moved for and allowed only when the case is called to trial without prior notice to the defendant, and without

affording the defendant a continuance to prepare for the expansion, can ever satisfy the requirements of due process.

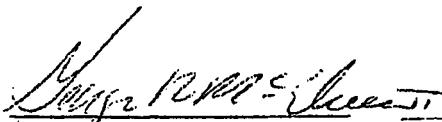
In State v. Baker, 390 S.C. 56, 700 S.E.2d 440, (Ct. App. 2010), the court's decision affirming the trial court's refusal to grant a continuance upon the State's amendment expanding the time frame alleged in the indictment turned on the fact that the defense was notified of the amendment nearly six weeks prior to trial.

Accordingly, it is apparent that while expansive time frames in general are not objectionable, it is also true that in certain circumstances the defense should be afforded a continuance where the time frame is amended. From *Wade* it can apparently be said that six weeks is adequate notice. There is no rationale, however, that might suggest that the total absence of notice is constitutionally adequate, particularly where no articulated basis exists for the state's failure to amend earlier, or give notice of its intentions at trial.

CONCLUSION

Accordingly, due to the fact that State moved for an amendment materially expanding the time frame alleged in the indictment only at the time the case was called for trial and without notice, and in granting this motion, the court refused the defense's motion for a continuance, the defendant Dantae Stukes respectfully requests that his conviction be vacated and this case be remanded for a new trial.

Respectfully Submitted:


George R. McElveen, III
2229 Bull Street
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Columbia, SC
March 19, 2013

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Charles V. Pyle, Circuit Court Judge

Case No. 2010-GS-23-06454
2012-211-211706

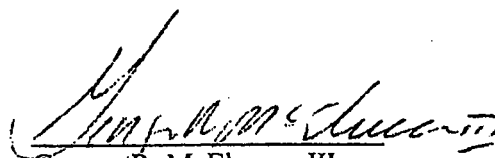
The State.....Respondent

v.

Dantae Raheev Stukes.....Appellant

CERTIFICATE OF COMPLIANCE
WITH RULE 211(b)

I, George R. McElveen, III, hereby certify that this, the Final Brief of the Appellant, complies with the requirements of Rule 211(b), SCRAP.


George R. McElveen, III

Columbia, SC
March 19, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable C. Victor Pyle, Jr., Circuit Court Judge
Appellate Case No. 2012-211706

THE STATE,

Respondent,

vs.

DANTAE R. STUKES,

Appellant.

FINAL BRIEF OF RESPONDENT

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ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

I.

The trial judge did not err in granting the State's motion to amend the time frame alleged in the indictment because the amendment did not change the nature of the offense charged. Furthermore, the trial judge did not err in denying Appellant's motion for a continuance because the amendment did not operate as a surprise to Appellant. Regardless, even if the trial judge erred, Appellant suffered no prejudice.

STATEMENT OF THE CASE

On August 24, 2010, a Greenville County Grand Jury indicted Appellant for second degree criminal sexual conduct with a minor.

On March 14, 2012, Appellant proceeded to trial. Attorney George McElveen represented Appellant at trial, and Assistant Solicitor Kris Hodge represented the State. The jury found Appellant guilty as charged. The Honorable C. Victor Pyle sentenced Appellant to fifteen years of imprisonment.

On March 23, 2012, Appellant served a notice of intent to appeal. On December 17, 2012, Appellant served the Initial Brief of Appellant. This Brief follows.

STATEMENT OF FACTS

Sometime between January 2009 and May 2009, Appellant raped the fourteen year old victim ("Victim"). (R. pp. 66-69.) On the night of the rape, Victim spent the night with Appellant and Appellant's wife, Kimberly Stukes, while Victim's family was out of town. Victim's family and Appellant's family met in church and became close family friends. (R. pp. 57-60.) Victim sought Mrs. Stukes' advice on relationships and sex. (R. p. 63.) After Mrs. Stukes went to bed, Appellant approached Victim and told her that he could show her how to not get taken advantage of if she was to have sex. (R. p. 66.) Appellant told Victim to put her hand down Appellant's pants. (R. p. 67.) She complied at first but then tried to jerk her hand away. Appellant began to suck on Victim's breasts.

Thereafter, Appellant told Victim to go to the guest bedroom. (R. p. 68.) Appellant laid Victim on the bed, pulled Victim's underwear down, and stuck his penis inside Victim's vagina. After Appellant was done, he grabbed a towel and wiped off Victim's leg.

At trial, Appellant testified on his own behalf. He testified that the victim spent the night at his house in February 2009. (R. p. 215.) However, he denied having sex with Victim. (R. pp. 216-217.)

Before the trial began, defense counsel made a motion to quash the indictment. (R. p. 3.) However, the trial judge denied Appellant's motion to quash the indictment. (R. p. 6.) The State moved to amend the indictment because Victim stated the rape occurred during the second half of the school year, which would have been from January to May. (R. p. 5.) The trial judge allowed the State to amend the indictment from March 2009 to May 30, 2009 to January 5, 2009 to May 31, 2009. (R. pp. 4-6.)

At the close of the State's case, Appellant put his motion for a continuance on the record. (R. p. 194.) Appellant argued the following:

[T]hey have now doubled the span I'm responsible for defending here, I need a continuance so I can go back and address that issue. Again, Your Honor, that's out of the blue. That information was available to the State long before the trial to do that and that just puts us at a terrible disadvantage.

(R. p. 194.)

Ultimately, the trial judge denied Appellant's motion for a continuance. (R. p. 195.)

ARGUMENT

I.

The trial judge did not err in granting the State's motion to amend the time frame alleged in the indictment because the amendment did not change the nature of the offense charged. Furthermore, the trial judge did not err in denying Appellant's motion for a continuance because the amendment did not operate as a surprise to Appellant. Regardless, even if the trial judge erred, Appellant suffered no prejudice.

Appellant contends that the trial judge erred in granting the State's motion to amend the time frame alleged in the indictment because the State waited until the day of trial to make the motion and did not give Appellant any notice. However, the trial judge properly granted the State's motion to amend because the amendment did not change the nature of the offense charged. Furthermore, Appellant contends the trial judge erred in denying his motion for a continuance. However, the trial judge properly denied Appellant's motion for a continuance because the amendment did not operate as a surprise to Appellant. Regardless of any error, Appellant suffered no prejudice. Accordingly, this Court should affirm the trial judge's ruling.

Standard of Review

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). "[T]he trial court's ruling will not be disturbed absent a prejudicial abuse of discretion amounting to an error of law." State v. Sheldon, 344 S.C. 340, 342, 543 S.E.2d 585, 585-586 (Ct. App. 2001). An abuse of discretion occurs when the trial court's decision lacks evidentiary support or is controlled by an error of law. State v. Lopez, 352 S.C. 373, 378, 574 S.E.2d 210, 212 (Ct. App. 2002).

A. The trial judge properly allowed the State to amend the time frame alleged in the indictment because the amendment did not change the nature of the offense charged.

Appellant contends that the trial judge erred in allowing the State to amend the time frame alleged in the indictment because the State waited until the day of trial to make the amendment and did not give the defense any notice. However, because the amendment did not change the nature of the offense, the trial judge committed no error.

“An indictment is merely a notice document.” State v. Baker, 390 S.C. 56, 62, 700 S.E.2d 440, 442 (Ct. App. 2010) (citing State v. Gentry, 363 S.C. 93, 102-103, 610 S.E.2d 494, 500 (2005)). Whether or not the indictment could be made more definite and certain is irrelevant. Baker, 390 S.C. at 62, 700 S.E.2d at 442. This Court noted the following:

Rather, the court must look at “the indictment with a practical eye in view of all the surrounding circumstances. The sufficiency of the indictment is determined by whether: (1) the offense charged is stated with sufficient certainty and particularity to enable a court to know what judgment to pronounce, and the defendant to know what he or she is called upon to answer and whether he or she may plead an acquittal or conviction thereon, and (2) whether it apprises the defendant of the elements of the offense that are intended to be charged.

Id. (citing Gentry, 363 S.C. at 102-103, 610 S.E.2d at 500).

A court reviewing an indictment for sufficiency should consider the indictment “‘on its face,’ *and* consider the events at trial.” State v. Reddick, 348 S.C. 631, 636, 560 S.E.2d 441, 443 (Ct. App. 2002). (*italics in original*). In other words, a court should

examine "the totality of the circumstances" to determine if Appellant was cognizant of the crimes for which he was charged. Id.

"A motion to amend the date alleged in an indictment is addressed to the sound discretion of the trial judge, and the burden of showing an abuse of discretion and resulting prejudice is upon the party adversely affected by [the trial judge's] ruling" State v. Quarles, 261 S.C. 413, 417, 200 S.E.2d 384, 386 (1973).

"The primary purposes of an indictment are to put the defendant on notice of what he is called upon to answer, i.e., to apprise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and to enable the circuit court to know what judgment to pronounce if the defendant is convicted." Evans v. State, 363 S.C. 495, 508, 611 S.E.2d 510, 517 (2005) (citing Gentry, 363 S.C. 93, 102-03, 610 S.E.2d 494, 500). Amendments to an indictment are permissible in the following circumstances: (1) they do not change the nature of the offense; (2) the charge is a lesser included offense of the crime charged in the indictment; or (3) the defendant waives presentment to the grand jury and pleads guilty. State v. Myers, 313 S.C. 391, 438 S.E.2d 236 (1993); S.C. Code Ann. § 17-19-100 (2003) (trial court "may amend the indictment . . . if such amendment does not change the nature of the offense charged").

Thus, a motion to amend an indictment should be granted when the proposed amendment does not change the nature of the offense or affect the sufficiency of the indictment." State v. Means, 367 S.C. 374, 387-88, 626 S.E.2d 348, 356 (2006) (citing, inter alia, Quarles, 261 S.C. at 416-17, 200 S.E.2d at 385-86 (an indictment may be amended to state the correct time or date of the alleged crime when time or date is not of the essence of the crime); see also State v. Fonseca, 383 S.C. 640, 646, 681 S.E.2d 1, 4

(Ct. App. 2009) (holding that the substance and nature of the crime charged was not affected by amending the indictment to reflect the correct year of the alleged act).

In the case at hand, Appellant was indicted for second-degree criminal sexual conduct with a minor. Notably, "time is not an element of criminal sexual conduct with a minor." Baker, 390 S.C. at 62, 700 S.E.2d at 443. Because time is not an essential element of criminal sexual conduct with a minor, the amendment did not change the nature of the offense or affect the sufficiency of the indictment. In fact, Appellant does not argue that the amendment changed the nature of the offense. Appellant only argues that the State should not have been able to amend the indictment on the day of trial without notice to the defense. However, Appellant ignores that fact that the test for amending an indictment is whether or not the indictment changes the nature of the offense, not whether the State waited until the day of trial to make the amendment and gave notice to the defense.

Moreover, section 17-19-100 of the South Carolina Code allows the State to amend an indictment even after the State presents its case in order to conform the indictment to the proof adduced through the evidence and testimony presented during trial. S.C. Code Ann. § 17-19-100. Thus, if the State could potentially amend an indictment after it presented its case, there is no reason the State could not amend the indictment on the day of the trial.

In summary, the trial judge properly allowed the State to amend the indictment.

B. The trial judge properly denied Appellant's motion for a continuance.

Appellant argues the trial judge erred in denying his motion for a continuance. However, the trial judge properly denied Appellant's motion for a continuance because the amendment did not operate as a surprise to Appellant.

A trial court's denial of a motion for continuance is left to the sound discretion of the trial court and will not be disturbed absent an abuse of that discretion resulting in prejudice to the defendant. State v. Williams, 321 S.C. 455, 459, 469 S.E.2d 49, 51 (1996). Reversals from the denial of a defendant's motion for continuance are as "rare as the proverbial hens' teeth." State v. Mansfield, 343 S.C. 66, 73, 538 S.E.2d 257, 260 (Ct. App. 2000).

Section 17-19-100 of the South Carolina Code provides the following:

If (a) there be any defect in form in any indictments or (b) on the trial of any case there shall appear to be any variance between the allegations of the indictment and the evidence offered in proof thereof, the court before which the trial shall be had may amend the indictment (according to the proof, if the amendment be because of a variance) if such amendment does not change the nature of the offense charged. After such amendment the trial shall proceed in all respects and with the same consequences as if the indictment had originally been returned as so amended, **unless such amendment shall operate as a surprise to the defendant, in which case the defendant shall be entitled, upon demand, to a continuance of the cause.**

S.C. Code Ann. § 17-19-100 (emphasis added).

In the case at hand, the amendment did not operate as a surprise to Appellant. First, Appellant had a copy of the witnesses' statements. Second, Victim stated the rape occurred during the second half of the school year. Finally, Appellant was aware that one of the witnesses said the rape occurred in the middle of the school year. (R. pp. 5-6.)

C. Even if the trial judge erred, Appellant suffered no prejudice.

Even if the trial judge erred in denying Appellant's motion for a continuance, Appellant suffered no prejudice. In fact, Appellant has not pointed to one thing he would have done differently if he had more time to prepare.

“Error without prejudice does not warrant reversal.” State v. King, 367 S.C. 131, 136, 623 S.E.2d 865, 867 (Ct. App. 2005); see also State v. Smith, 230 S.C. 164, 168, 94 S.E.2d 886, 887 (1956) (“The burden of establishing a prejudicial error occurred during trial falls to the appellant.”).

In the case at hand, Appellant states that he needed a continuance “in order to prepare to address the allegation of a materially expanded time frame.” (App. Br. 6.) However, Appellant does not point to one thing he would have done differently if he had more time to prepare. Appellant claims that a criminal sexual conduct case requires the defense to focus on when the alleged assault might have taken place. (App. Br. 6.) However, this Court has rejected the argument that time is an essential element of criminal sexual conduct. See Baker, 390 S.C. at 62, 700 S.E.2d at 443. In fact, our Supreme Court allowed an indictment to allege an extremely large time period because time is not an essential element in cases involving criminal sexual conduct with a minor. See State v. Wade, 306 S.C. 79, 86, 409 S.E.2d 780, 785 (1991).

Moreover, Appellant was able to prepare a defense despite the amendment to the indictment. Critically, the defense presented by Appellant was not an alibi defense or a suggestion that there was no opportunity for the crime to have occurred. In fact, Appellant conceded the victim spent the night at his house. Instead, Appellant simply denied the crimes ever occurred which was not a defense connected to or dependent on the timing of the allegations. The jury simply rejected Appellant’s defense. Because Appellant had a denial defense, his argument that he was prejudiced by the indictment is severely weakened. See Id. at 83, 409 S.E.2d at 783 (“We do not agree with the defendant that he was unable to prepare a defense to the charge of the indictment because of the time span involved. On the contrary, the defendant proceeded with a defense of

denial, and presented evidence of factual impossibility. The jury simply rejected these defenses. Because he possessed these other defenses, the defendant's argument that he was prejudiced by the indictment is severely weakened."). Thus, Appellant's defense, which was rejected by the jury, was not impacted by the amendment to the indictment.

In summary, even if the trial judge erred in denying Appellant's motion for a continuance, Appellant suffered no articulable prejudice.

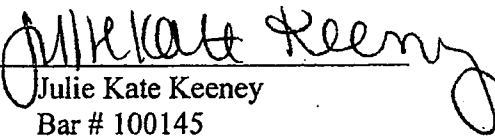
CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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March 21, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable C. Victor Pyle, Jr., Circuit Court Judge
Appellate Case No. 2012-211706

THE STATE,

Respondent,

vs.

DANTAE R. STUKES,

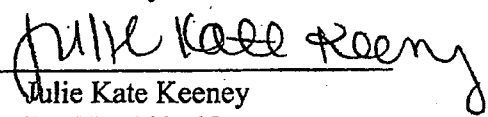
Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

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March 21, 2013

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Charles V. Pyle, Circuit Court Judge

Case No. 2010-GS-23-06454
2012-211-211706

RECEIVED

MAR 21 2013

SC Court of Appeals

The State.....Respondent

v.

Dantae Raheev Stukes.....Appellant

REPLY BRIEF OF APPELLANT

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STATEMENT OF ISSUES PRESENTED IN REPLY

- I. RESPONDENT FAILS TO ADDRESS THE UNREASONABLE AND UNEXPLAINED LAST MINUTE NATURE OF THE STATE'S MOTION TO EXPAND THE TIME FRAME ALLEGED IN THE INDICTMENT.
- II. RESPONDENT DOES NOT TO ADDRESS THE TRIAL COURT'S FAILURE TO GRANT A CONTINUANCE IN LIGHT OF THE STATE'S CONDUCT SET FORTH IN ITEM I.

ARGUMENT

- I. RESPONDENT FAILS TO ADDRESS THE UNREASONABLE AND UNEXPLAINED LAST MINUTE NATURE OF THE STATE'S MOTION TO EXPAND THE TIME FRAME ALLEGED IN THE INDICTMENT.
- II. RESPONDENT DOES NOT ADDRESS THE TRIAL COURT'S FAILURE TO GRANT A CONTINUANCE IN LIGHT OF THE STATE'S CONDUCT SET FORTH IN ITEM I.

It is beyond debate that amendments to indictments are liberally allowed in South Carolina. This case does not merely present the issue of whether expansive time frames are permissible, whether the amendment changed the fundamental nature of the offense, or whether time is an essential element of the offense. Rather, the issues are whether the state should be allowed to amend an indictment by expanding the time frame on the day of trial, where no reason was asked or given for making the motion at the last minute, and where all of the factors behind the motion were known to the state for many weeks. The companion issue is whether, in allowing an amendment under these circumstances, the court should have granted defense's motion for a continuance.

As Respondent points out in its initial brief, the amendment increased the time frame from March 1, 2009 through May 30, 2009 to January 5, 2009 through March 1, 2009. And as Respondent also points out, defendant "conceded the victim spent the night at his house". However, the defendant did not simply concede that the victim had spent the night at his house, he concede that this occurred in February, a time included only in the amendment. Accordingly, whether defendant suffered any prejudice as a result of the amendment and subsequent refusal of a continuance under these circumstances, is, and can only be, a matter of conjecture. Had he had more notice, defendant might well have focused his efforts on preparing and presenting his defense to address this particular

event, the results of which cannot be known.

The current state of the case law as it relates to liberal amendment practice and expansive alleged time frames as presented by Respondent is quite correct. This court would not disturb or impact that jurisprudence in the slightest by ruling that allowing a last minute amendment substantially expanding the time frame alleged with no explanation asked of, or given by the state for the delay, and where there is no apparent new information upon which the State has predicated its motion, and then refusing a continuance, is an abuse of discretion.

No case cited by Respondent addresses a situation in which the state waits until the day of trial to make its motion to amend even though the factors leading to the motion were known to prosecutors for weeks, if not months. In State v. Baker, 390 S.C. 56. 700 S.E.2d 440, cited by Respondent, the court specifically found that the trial court properly acted within its discretion because:

Baker was served notice of the amended indictments on October 3, 2006, and his trial commenced November 13, 2006. Baker had more than one month to prepare for trial.

Baker, 700 S.E.2d at 64.

In State v. Quarles, 261 S.C. 413, 417 S.E.2d 386, also cited by the Respondent, the prosecution was as unaware as the defense that a discrepancy would arise in the dates alleged, which only became apparent during testimony.

While time may not be an essential element of the alleged offense, the State, in the manner in which it handled the motion to amend in this case made it an element. Such practice opens the door to the potential for real abuse by permitting the State to present the initial time frame, intentionally or not, as a "red herring" that need not be corrected.

until the day of trial. Further, it encourages "sandbagging," in that even though weeks or months before trial, information might come to the attention of the prosecution that the offense might have occurred substantially outside of the time frame alleged, there would be no reason to bring that to the attention of the court and the defense until the day of trial. A prosecutor could even view such a delay as a tactic.

CONCLUSION

The Defense was clearly surprised by the State's motion made the day of trial to expand the time frame alleged in the indictment. There is no indication that the State was responding to any last minute revelation. For the reasons cited, this court should vacate this defendant's conviction and the case be remanded for a new trial.

Respectfully Submitted;

By: _____

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_____, 2013

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Dantae Stukes, Appellant.

Appellate Case No. 2012-211706

Appeal From Greenville County
C. Victor Pyle, Jr., Circuit Court Judge

Unpublished Opinion No. 2014-UP-027
Submitted October 1, 2013 – Filed January 22, 2014

AFFIRMED

George R. McElveen, III, of McElveen & McElveen, of
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Attorney General Alan McCrory Wilson and Assistant
Attorney General Julie Kate Keeney, both of Columbia,
for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *State v. Quarles*, 261 S.C. 413, 417, 200 S.E.2d 384, 386 (1973) ("A
motion to amend the date alleged in an indictment is addressed to the sound

discretion of the trial [court], and the burden of showing an abuse of discretion and resulting prejudice is upon the party adversely affected by [its] ruling thereon."); *State v. Means*, 367 S.C. 374, 387, 626 S.E.2d 348, 356 (2006) ("[A] motion to amend an indictment should be granted when the proposed amendment does not change the nature of the offense or affect the sufficiency of the indictment."), *abrogated on other grounds by Talley v. State*, 371 S.C. 535, 640 S.E.2d 878 (2007); *Morris v. State*, 371 S.C. 278, 283, 639 S.E.2d 53, 56 (2006) ("The trial court's refusal of a motion for continuance in a criminal case will not be disturbed absent a clear abuse of discretion resulting in prejudice to the appellant."); *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964) ("The matter of continuance is traditionally within the discretion of the trial [court], and it is not every denial of a request for more time that violates due process").

AFFIRMED.¹

FEW, C.J., and PIEPER and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.