

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Robert E. Hood, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMIE L. STROMAN,

APPELLANT

APPELLATE CASE NO 2017-000823

RECORD ON APPEAL

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	)	COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON	)	2014-GS-32-2501
	)	2016-GS-32-2423
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
JAMIE LAMONT STROMAN,	)	
DEFENDANT.	)	

March 27-30, 2017
Lexington, South Carolina

B E F O R E:

THE HONORABLE ROBERT E. HOOD, JUDGE.

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I N D E X

(PW) - Denotes Plaintiff's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In-Camera

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1 MS. PATTERSON: Your Honor, as far as the State's
2 pretrial motions, we have filed a rape shield motion. And
3 I can explain it a little later when we get ready to hear
4 the motions.

5 We will also have a Jackson vs. Denno motion. We
6 will also have a motion to admit an out-of-court statement
7 by a child under the age of 11. I will also have a
8 motion, an oral motion to clear the courtroom of
9 spectators during the **minor** 's testimony only. And it's
10 my understanding that there are two representatives, one
11 from the Lexington County Sheriff's Department and one
12 from the Department of Social Services, who would like to
13 make motions to quash subpoenas that were served on their
14 agencies.

15 THE COURT: Okay. All right.

16 Ms. Zmroczek, what all do you have?

17 MS. ZMROCZEK: Thank you, Your Honor. I actually
18 handed up a list, a two-page list. So it involves --
19 well, one can be taken off, the voir dire.

20 I also have a motion to admit evidence based on the
21 rape shield, which I served on them, but I haven't filed,
22 Your Honor, because I need to redact it. That's why I
23 gave the court reporter an unredacted copy, but,
24 obviously, there's sensitive material in there. So we can
25 address that this afternoon on how to file like a redacted

1 copy, but make sure that the Court's Exhibit is the
2 unredacted copy.

3 We had Jackson vs. Denno on there. Your Honor, with
4 that, we have an expert who is in Massachusetts, who can
5 testify via Skype. And I have that set up at 3:00 o'clock
6 just because it required a lot of technology, to be quite
7 honest. So that's dealing with that Jackson vs. Denno
8 motion.

9 There's some general motions about the speedy trial
10 and the indictments, which I believe we need to take up.
11 I had asked for Lyle information and any previous bad acts
12 of my client, never were provided those. So we may need
13 to address that. Any rap sheets of their witnesses. And,
14 of course, I'll give them birth dates of witnesses they
15 don't already have. The oral motion to sequester
16 witnesses. There were some stipulations proposed by the
17 State, which I think we probably need to discuss. And
18 then I have a response to their -- to request an
19 out-of-court statement. Also, I have a motion to admit
20 out-of-court statements.

21 Your Honor, in the back of the courtroom is Jason
22 Chehosky. He is the public defender of Mr. Eric English.
23 I was conflicted -- this is a case that I was appointed to
24 by the Lexington County Public Defender's Office because
25 it's a unique situation where I have the codefendant.

1 Obviously, there's going to be some hearsay issues. I did
2 subpoena his client through him. I have not spoken with
3 that person. I understand that he is probably going to
4 assert his Fifth Amendment right. I know that's not done
5 in front of the jury. I didn't know if the Court wants to
6 take that up today since he is here or have him come back
7 when the Defense presents their case. I don't believe
8 that his position is going to change.

9 There is an issue with just the competency of the
10 witness -- of the minor, Your Honor. A motion to reserve
11 cross-examination, a couple motions in limine regarding
12 qualifying one of their witnesses as an expert. And,
13 actually, 16, Your Honor, we had an order from the Court
14 for New Providence Elementary to provide some records.
15 They provided some. They left out some. I spoke with
16 their attorney this morning and he has them. So,
17 apparently, I'm getting them this afternoon. Of course, I
18 will give those to the State when I get them. So I
19 believe that 16 is moot.

20 And I believe that that's -- if that's not enough,
21 Your Honor, that's all I have.

22 THE COURT: Great. Okay. All right. Where is
23 Mr. Chehosky practicing now?

24 MS. ZMROCZEK: He's a public defender in Lexington
25 County.

1 THE COURT: Oh, okay.

2 MS. ZMROCZEK: I'm sorry.

3 THE COURT: Why don't we just have him come back if
4 you actually put up a case. I think that's the easiest
5 thing to do because your position could change.

6 MS. ZMROCZEK: And I'll be in touch with Mr. Chehosky
7 as to the progress of the trial.

8 THE COURT: Okay. Y'all are excused for now. You're
9 on standby if we get to the Defense side of the case.

10 Thank you, Mr. Chehosky.

11 MR. CHEHOSKY: Thank you, Your Honor.

12 THE COURT: All right. So I've got somebody here
13 from DSS?

14 MS. PATTERSON: Yes, sir, Your Honor. Thomas
15 Shealey.

16 THE COURT: Okay. Mr. Shealey. And then I have
17 somebody here from the sheriff's department?

18 MS. PATTERSON: Yes, sir.

19 THE COURT: Mr. Lyde.

20 MR. LYDE: Yes.

21 THE COURT: How are you?

22 MR. LYDE: Fine. Thank you, sir.

23 THE COURT: Good. Okay.

24 All right. Mr. Shealey, why don't you come on up?

25 MR. SHEALEY: Thank you, Your Honor.

1 THE COURT: All right. All right. Mr. Shealey, tell
2 me what's going on.

3 MR. SHEALEY: Thank you, Your Honor.

4 THE COURT: Keep in mind, I know virtually nothing,
5 so you may need to educate me a little bit.

6 MR. SHEALEY: Your Honor, originally, the Defense
7 issued subpoenas for four people, four employees of DSS.
8 According to the witness list that I heard this morning,
9 only Olivia Sinclair, who I believe is now Olivia Woods,
10 was on that list. So most of my motion, particularly,
11 concerning Sonya Baylor is moot.

12 THE COURT: Okay.

13 MR. SHEALEY: And we would move to quash the subpoena
14 on Olivia Sinclair based on the fact that she was not
15 served properly under Rule 11 of the South Carolina Rules
16 of Criminal Procedure.

17 My understanding is that requires personal service
18 unless it's at her place of -- her home. This was not --
19 well, my understanding is service was dropped off at the
20 receptionist at DSS and, therefore, she has not been
21 properly served. The receptionist at DSS is not
22 authorized to accept service on behalf of DSS or its
23 employees.

24 The second basis of the motion is -- well, it's
25 really housekeeping. We originally had a problem with the

1 records being released. The Administrative Judge has
2 since examined those files, redacted them and has released
3 them based on the statute that covers release of that
4 information.

5 Ms. Woods or Ms. Sinclair has no way of knowing what
6 she can testify to and what she can't, what's been
7 redacted and what hasn't. So should you deny this motion,
8 there will have to be some mechanism for her to be
9 instructed as to what she can testify to and what she
10 can't be -- can't testify to.

11 Clearly, she cannot testify to the reporter of the
12 incident. That's prohibited by statute. The other stuff
13 really depends on the relevancy of that information on
14 what the information is going to be used for and that
15 decision has already been made. A protective order has
16 been issued by the Administrative Judge.

17 THE COURT: Okay.

18 MR. SHEALEY: So those are the two concerns we have.

19 THE COURT: Ms. Zmroczek.

20 MS. ZMROCZEK: Thank you. Your Honor, my
21 investigator did go to DSS, confirmed that
22 Ms. Sinclair-Woods was there. They were trying to refuse
23 service under the statute entitled 15 and 16, Your Honor.
24 I've printed off in South Carolina Code of Laws section
25 15-9-15, what constitutes service and under chapter nine

1 of the South Carolina Code of Laws. And we know that she
2 was at work. The secretary was like, Well, we don't want
3 these. Well, I understand that people don't want to get
4 served, Your Honor. We believe proper service was
5 obtained. She confirmed that she was at work and that she
6 --

7 THE COURT: Where does it say you can serve a
8 receptionist?

9 MS. ZMROCZEK: I'm sorry?

10 THE COURT: Where does it say you can serve a
11 receptionist in the law?

12 MS. ZMROCZEK: Your Honor, what I believe it says is
13 any adult who is aware of their location. And if they
14 would like us to reserve her at home, certainly, we can do
15 that if the Court finds it's not proper.

16 THE COURT: What's the purpose of Ms. Sinclair's
17 testimony?

18 MS. ZMROCZEK: And that's the whole point, Your
19 Honor, we may or may not need her. The whole purpose --
20 there will be some questions about safety plans that were
21 in place with the mother.

22 THE COURT: Okay.

23 MS. ZMROCZEK: If we need impeachment, that would be
24 the reason, Your Honor. So at this point, I don't know
25 that the Court has enough information to rule on it.

1 Certainly, I can have either Mr. Shealey served or we can
2 serve Ms. Sinclair-Woods at home, whichever he prefers.

3 THE COURT: All right. Which do you prefer?

4 MR. SHEALEY: Your Honor, I think it would probably
5 be wiser to serve me.

6 THE COURT: Let's serve Mr. Shealey and then we'll
7 deal with her testimony if she needs to testify.

8 Thank you, Mr. Shealey.

9 MS. PATTERSON: And, Your Honor, I apologize for
10 interjecting, but I think maybe we do need to give Your
11 Honor some background about this case before you hear from
12 Mr. Lyde from the sheriff's department.

13 By way of background, Your Honor, the **minor** in this
14 case is **Minor**. On March 4th, 2014, while she
15 was at school at New Providence Elementary School, she
16 began experiencing some vaginal discomfort, some pain,
17 some discharge. She was sent to the school nurse.

18 THE COURT: How old was she?

19 MS. PATTERSON: She was eight years old.

20 THE COURT: Okay.

21 MS. PATTERSON: She was sent to the school nurse.

22 She assessed the situation. She called **Minor**'s mother,
23 Sarah Stoudemayer. She came and picked **Minor** up. She
24 asked **Minor** what happened to her repeatedly. At first,
25 she didn't want to say. She asked her did someone touch

1 her. And eventually, she identified her father, Eric
2 English, Sr. as being someone who touched her, Your Honor.

3 She just had went on a weekend visitation with him
4 the prior weekend. And this was on a Tuesday.

5 THE COURT: Okay.

6 MS. PATTERSON: **Minor** 's mother took her to
7 Palmetto Health Richland. She was given a SANE exam. She
8 was diagnosed with vaginal gonorrhea. DSS got involved.
9 They ordered all the men who had access to **Minor** to get
10 an STD test.

11 THE COURT: Okay.

12 MS. PATTERSON: Her father, Eric English, went and
13 got an STD test as well as the Defendant, who is on trial
14 this week, Jamie Stroman, who at the time was her mother's
15 live-in boyfriend.

16 THE COURT: Okay.

17 MS. PATTERSON: Both turned in their results. Eric
18 English tested positive for gonorrhea. Jamie Stroman
19 tested negative. His testing was done about three days
20 after her symptoms arose.

21 **Minor** was later given a forensic interview at the
22 Dickerson Center by Brooke Wymer. During the interview,
23 Ms. Wymer went through all the forensic interview
24 guideline questions and everything and **Minor** identified
25 her father as being the one who touched her at that time.

1 THE COURT: Mr. English?

2 MS. PATTERSON: Mr. English.

3 THE COURT: Okay.

4 MS. PATTERSON: Ms. Wymer asked her was there anyone
5 else. At that time, she said no, it was just her father
6 Eric English. He was arrested, Your Honor, charged with
7 criminal sexual conduct with a minor in the first degree.

8 Minor then began counseling at the Dickerson
9 Center and Lacy Musgrave was her counselor. About three
10 months into her counseling, Your Honor, in June -- and I
11 have the dates -- well, let me back up a minute.
12 Meanwhile, Minor stayed at the home with her mother --
13 and also the sheriff's department investigated that case.
14 But meanwhile, Minor continued to reside with her
15 mother and Jamie Stroman and Minor's little brother.
16 And they lived in the Town of Lexington's jurisdiction in
17 [REDACTED] Apartments.

18 During a counseling session with Ms. Musgrave, which
19 was June 3rd, Minor received information that
20 Mr. Stroman, who was in jail currently and had --

21 THE COURT: You mean the counselor received
22 information?

23 MS. PATTERSON: Yes, sir.

24 THE COURT: Okay.

25 MS. PATTERSON: Counselor received information from

1 Ms. Stoudemayer that Jamie had been out of the house in
2 jail on a probation violation since May 7th. However, he
3 was about to come home in 20 days. This was just in
4 general conversation to see what had been going on in the
5 household.

6 Well, Ms. Musgrave, unbeknownst to her, just
7 generally mentioned to Minor well, Mr. Stroman is going
8 to come home soon. You know, how do you feel about that?
9 At which time, Minor began crying. She became
10 hysterical. And she disclosed that he had been touching
11 her like her daddy did. So a report was made to the
12 Lexington County Sheriff's Department. They discovered
13 that that incident did not occur in their jurisdiction, so
14 they got it assigned to the Lexington Police Department.

15 Chris Ellisor, who was a detective at the town then,
16 got involved in the case, reviewed all of the information
17 and set up another forensic interview. And that one was
18 done by the same forensic interviewer since they had
19 established a relationship. And during that forensic
20 interview, she disclosed information about Jamie Stroman,
21 that he would come in her bedroom at night and sexually
22 assault her while her mother was asleep.

23 Mr. Ellisor also confirmed that Mr. Stroman was out
24 of the house at this time and arranged to have an
25 interview with him at the town. So went to the sheriff's

1 department, got Mr. English, read Miranda, had an
2 interview with him. And during the interview, Jamie
3 Stroman admitted to sexually assaulting Minor .

4 So it's two different incidents. These are not
5 codefendants, Your Honor, by no means. It's two separate
6 incidents, it was two separate disclosures. It was two
7 separate law enforcement agencies that did the
8 investigation. Therefore, Your Honor, we're -- it's our
9 position that it's just two different stories. And
10 Ms. Zmroczek has subpoenaed the files of Mr. English's
11 case from the sheriff's department, as well as SLED also
12 gave me a call and said they got a subpoena. They didn't
13 know why they got a subpoena because they didn't know
14 anything about State v. Jamie Stroman.

15 So I know, Mr. Lyde is here to make a motion to quash
16 that subpoena and it's also the State's position that it's
17 two separate cases. We're willing to stipulate to some of
18 the evidence, Your Honor, because we do believe that under
19 State v. Grovenstein that some of it is admissible to show
20 prior sexual knowledge. But, Your Honor, the total case
21 file, all the evidence, all those witnesses, Your Honor,
22 that shouldn't be admitted.

23 She should be limited to what can come out in this
24 case as we don't want to confuse the jury and think they
25 are codefendants or that this is somehow Eric English's

1 week in trial. It is not, it is Jamie Stroman's. And we
2 would move, Your Honor, to allow the two to be separated
3 and not -- and Ms. Zmroczek not be able to admit a lot of
4 the stuff that she's attempting to admit as it's only
5 going to cause confusion to the jury as to who's on trial,
6 whose case is this. It's two different agencies. It's
7 two different defendants. They're not codefendants.
8 Mr. English's case is still pending, Your Honor. We
9 anticipate calling that for trial this summer. So that is
10 still an active pending file. And that would also lead
11 to, you know, some of the witnesses, some of the evidence
12 may be compromised. I don't think she's entitled to his
13 total file. That's just my position. I know Mr. Lyde
14 wants to state something for the record, Your Honor. And
15 also, we'll take rape shield further and then go over what
16 we are willing to stipulate to that we think should come
17 in under Grovenstein.

18 THE COURT: All right. Mr. Lyde?

19 MR. LYDE: Thank you, Your Honor. I'm operating with
20 a metal knee these days, so I'm kind of hopping around a
21 little bit.

22 THE COURT: No problem.

23 MR. LYDE: Your Honor, counsel has made a good
24 portion of my argument, but we at the sheriff's department
25 -- and I am the general counsel of the sheriff's

1 department now. I retired from private practice thinking
2 that 53 years was enough. But in short order, I came back
3 to the sheriff's department and I'm their general counsel.

4 We received -- the first subpoena we received on the
5 17th of this month. And it was sent by Ms. Zmroczek and
6 it has the caption State vs. James -- Jamie Stroman, but
7 it has the case number on it of the other case, the
8 English case.

9 Frankly, with this one -- and if I may approach and
10 allow the Court to take a look at it, I have no earthly
11 idea what she was looking for.

12 THE COURT: Okay.

13 MR. LYDE: Your Honor, on March the 20th, I sent
14 Ms. Zmroczek a letter telling her the problems that I had
15 with that subpoena and told her that the case number that
16 was on there was assigned to the other case and that
17 her -- the indictments referred to were actually Town of
18 Lexington cases, not sheriff's department cases, and that
19 her subpoena was addressed to Steve Mason, who was our
20 records custodian, but he had retired, so she had the
21 wrong one there. And I referred her to the Rules 1145(c)
22 and 26, and I asked her to contact me and let's talk about
23 this thing. She did not. And I had told her in the
24 letter -- and I have it if Your Honor would like to see
25 it. I told her that I would have no alternative but to

1 move to quash the motion if we couldn't resolve what she
2 was looking for and so forth.

3 Then on the 22nd, last week, we received another
4 subpoena, same caption. I think this time, the right case
5 number, but it is asking us to provide her with all the
6 evidence in the 14-003713 case. That's State vs. Eric
7 English. It's my understanding, as counsel has told you,
8 that case hasn't gone forward yet. It is still an active
9 case. And I reviewed all of the information concerning
10 subpoenas I could find in our rules and I do not believe
11 that she is entitled to get the case file of the other
12 case. And for that reason, I, on behalf of the sheriff's
13 department, move to quash that case, that subpoena.

14 I have it, also, if Your Honor would like to see it.

15 THE COURT: Sure.

16 MR. LYDE: And it just dropped everything else and
17 just asked for the evidence in the English case.

18 THE COURT: All right. Ms. Zmroczek.

19 MS. ZMROCZEK: Your Honor, I spoke with Mr. Lyde this
20 morning to let him know -- actually, I did respond and
21 said I would call him as soon as I had an opportunity. I
22 believe he got that e-mail if I got that, correct.

23 MR. LYDE: Yeah, but you didn't call me.

24 MS. ZMROCZEK: I told him I would call him and I
25 didn't call him, Your Honor, because on Friday a week ago,

1 judge Griffith, the Administrative Judge, signed an order
2 for all of these records. So in the last week, I've
3 gotten hundreds and hundreds and hundreds of pages of
4 records. What I told Mr. Lyde is by the time I realized I
5 was supposed to call him it was 6:00 or 7:00 o'clock and
6 he, thankfully, was not in the sheriff's department. And
7 I've given them copies, I'm talking medical records,
8 school records, those are the records I'm talking about,
9 and DSS records.

10 MS. PATTERSON: Yeah.

11 MS. ZMROCZEK: Those are the things I'm talking
12 about. And so, Your Honor, the statement came to us that
13 they received those because some of them were given to us
14 from the judge and then some were provided to me, which I
15 then provided to them.

16 Then, Your Honor, the case file has actually been
17 given to me by the State. And again, this is information
18 that I think the Court is not in a position to be able to
19 rule upon now. Some are videos and DVDs, which I have,
20 which I think are part and parcel of the other motions
21 that we have later on. Obviously, Your Honor heard a
22 little bit of the facts and there are some details that I
23 don't know that they necessarily matter at this point, but
24 I think what Your Honor can glean from, at least, the very
25 basic facts is these cases are very intertwined. So the

1 evidence in the case file deals with potential
2 impeachment.

3 Also, Mr. Stroman has a right to put up a defense
4 under State v. Holmes. I know the State recognizes the
5 third party. There are a lot of exceptions I think that
6 are met under Grovenstein. So I don't necessarily need --
7 I have the videos. They were provided to me by the State.
8 I don't think I need the original videos once Your Honor
9 rules on them as long as everybody sees them. I know
10 they're already wanting to put one video in, but these are
11 items we would need to put up a defense, Your Honor.

12 The one thing that was left out, in the -- the two
13 details that kind of make this really important are one,
14 that Mr. Stroman and Ms. Stoudemayer, the mother, broke up
15 in between or while he was in jail. And there was a
16 comment made to a multi-disciplinary team about the family
17 not wanting to pursue against Mr. English anymore. So,
18 obviously, this case has a lot of concerns for Mr. Stroman
19 regarding kind of the motive behind where these
20 allegations came from.

21 I think we have a right to put up a defense. It's a
22 difficult case, we understand that, but at this point, I
23 don't know even if I need their evidence. Depends on --
24 the Court has a lot of rulings to make before we even get
25 there.

1 What I was doing, Your Honor, was the last time I
2 tried a case against the State, I didn't get any of my
3 subpoenas served timely. And then when it was my turn to
4 put up a case, I didn't have anybody served. So out of an
5 abundance of caution, this time, I served everybody. And
6 understanding that I may not need everybody, but I was
7 trying to make sure -- I knew that this case was set.
8 We've been asking for a trial date for a long time, so I'm
9 just trying to be prepared to go forward. And I did
10 apologize to Mr. Lyde about not being able to get in
11 contact with him. That certainly may have -- I still
12 think he would have come this morning. They don't want to
13 release the evidence, which I completely understand, but I
14 think once the Court maybe views these interview discs --
15 and that's the evidence I'm talking about are the actual
16 forensic interview discs.

17 THE COURT: All right. I thought you just said you
18 have that.

19 MS. ZMROCZEK: I have them. I have them. I don't
20 have the originals, so if the Court rules on those, then
21 we don't need to get the originals out of Mr. English's
22 case. We can put a duplicate copy. I don't believe we
23 would need the evidence. If they were going to argue they
24 weren't the originals. Does that make sense?

25 THE COURT: Yes.

1 MS. PATTERSON: Just briefly, Your Honor. And just
2 to make the record clear, Judge Griffith did not order
3 that the sheriff's department release their file. She was
4 talking about other records, like DSS, counseling and
5 medical records and school records, things of that nature.
6 And, also, I just -- I don't even know if this is the
7 proper time to respond, but they didn't break up until
8 after he went to jail and the disclosure was made. And
9 that's when Ms. Stoudemayer ---

10 THE COURT: I don't care about that.

11 MS. PATTERSON: Yes.

12 THE COURT: I'm not saying I don't about that in
13 general. Now is not the time for that.

14 MS. PATTERSON: Yes, sir.

15 THE COURT: Okay. Subpoena number one makes no
16 sense. I don't even really know what it wants. I mean,
17 I'm just being very candid, but all previous subpoenaed
18 documents or a copy of a word I can't read of past records
19 previously received if needed for authentication.

20 MS. ZMROCZEK: Your Honor, we had received
21 information regarding persons, potential witnesses in this
22 case, so we withdraw that subpoena at this time.

23 THE COURT: Okay. That motion is withdrawn -- the
24 subpoena is withdrawn and quashed.

25 Okay. So, I guess, what you just said is I probably

1 have everything I need out of the Eric English case?

2 MS. ZMROCZEK: I believe I do, Your Honor.

3 THE COURT: Okay.

4 MS. ZMROCZEK: I believe I have everything I need.

5 THE COURT: All right. Mr. Lyde, you're excused and
6 so is the sheriff's department.

7 MR. LYDE: Thank you, Your Honor.

8 MS. PATTERSON: Your Honor, can I relay that same
9 information to SLED? They were involved in the Eric
10 English case.

11 MS. ZMROCZEK: We didn't even list them. We received
12 everything, so we don't need --

13 THE COURT: Great. He can tell them that, too.

14 MS. PATTERSON: Thank you.

15 THE COURT: Okay. All right. Let's do -- so the
16 witnesses are sequestered and that is reciprocal on both
17 sides. That applies to everybody, but the lead
18 investigator and the minor .

19 What about the minor 's mother?

20 MS. PATTERSON: Your Honor, it's the State's position
21 that the mother -- pursuant to the Victim's Bill of Rights
22 that the mother would also be deemed to be a victim and
23 can remain in the courtroom.

24 THE COURT: Because the child is a minor?

25 MS. PATTERSON: Yes, sir, Your Honor.

1 THE COURT: Ms. Zmroczek?

2 MS. ZMROCZEK: Your Honor, we're fine with that.

3 THE COURT: Great. Okay. Now, I don't know who
4 these people are, okay. I mean, I know who those two are.
5 I'm saying all these other witnesses, I don't know who
6 they are, so if you see somebody walk in the room that's
7 not supposed to be in here, I'm not going to know that.
8 Somebody tell them like stop, time out, whatever. I'm
9 sure Mr. Laverne doesn't know who they are. So if y'all
10 see somebody in the room that's not supposed to be in the
11 room, say can we approach and then we can get them out of
12 the room. But I don't know who these people are because I
13 don't know anything about the case. The motion to
14 sequester witnesses is granted and is reciprocal, except
15 for the -- of course, your expert would be allowed to be
16 in the room.

17 All right. Do you want to do your Constitutional
18 violations and speedy trial violation?

19 MS. ZMROCZEK: Sure, Your Honor. I think under
20 Langford, we just need to for the record. Obviously, you
21 were not the Administrative Judge and have not been
22 involved in this really.

23 THE COURT: I don't even know when he was arrested.

24 MS. ZMROCZEK: He was actually arrested for a
25 probation violation on May 7th of 2014.

1 THE COURT: Okay.

2 MS. ZMROCZEK: He got out and he actually had a
3 public defender and was going to appearances. I think
4 that's when the public defender's office realized that
5 there was a conflict in the case and then he missed an
6 appearance. It was at his grandmother's funeral, which I
7 told you was not an excuse, he still needed to let me
8 know. And he missed an appearance.

9 THE COURT: At that point, you just represented him
10 on the PD?

11 MS. ZMROCZEK: No, I never even got appointed on the
12 probation violation.

13 THE COURT: You're just telling me that you told him
14 that now?

15 MS. ZMROCZEK: Right. Right. And so, I had been
16 appointed, I believe, in January, so I had just got
17 appointed when he didn't show up for his appearance. I
18 believe it was a late January appearance of 2015.

19 Is that right?

20 I believe it's January of 2015. So then he got
21 picked up on a bench warrant, so he's been jail for 20
22 months, I believe.

23 THE COURT: When was he arrested on the CSC charges?

24 MS. ZMROCZEK: He was arrested officially on
25 June 16th of 2014.

1 THE COURT: All right. Of 2014?

2 MS. ZMROCZEK: Yes, sir. But then he got out.

3 THE COURT: All right. He made bond and he got
4 picked up on a bench warrant for missing his probation
5 violation hearing or missing a court appearance?

6 MS. ZMROCZEK: For missing a court appearance,
7 correct.

8 THE COURT: And what's happened since then as to why
9 there's been how many ever months that is delay?

10 MS. ZMROCZEK: I filed a motion to lift the bench
11 warrant, which we finally got heard in November and Judge
12 Benjamin lifted the bench warrant.

13 THE COURT: All right. In 2015?

14 MS. ZMROCZEK: 2016. But I filed it back in 2015.
15 It wasn't heard. It just wasn't heard. It was heard
16 November of 2016, and it was either Judge Benjamin or
17 Judge Benjamin, I can't -- Jocelyn Newman. I can't
18 remember which one. It may have been Judge Newman.

19 And that bench warrant was lifted and his bond
20 reinstated at that point. And we kept filing speedy trial
21 motions, motions to compel, motions to have the bench
22 warrant lifted. None of those were heard timely, Your
23 Honor, which I know is not your fault. You haven't been
24 here, but I think just for the record. Obviously, there
25 was some scheduling issues. I think as Your Honor knows,

1 I was in trial a lot last year. There were other times
2 that, for example, Ms. Patterson had protection for a
3 month because she was preparing for a case, which I
4 understand preparing for a case, but -- I've always been
5 denied protection.

6 Regardless, there are over 20 some odd solicitors in
7 that office that could have heard, at least, the motion to
8 lift the bench warrant. And we've been asking and asking
9 and asking for this to be set. Judge Griffith has -- he
10 came in and has been trying to set these status
11 conferences. It was finally set for this date. There
12 were several dates given prior.. I don't know why it
13 wasn't heard, but, finally, we were given this date, Your
14 Honor. We feel like the delay of over two years since
15 I've been involved to get a trial is a violation of his
16 speedy trial rights.

17 THE COURT: Is he in jail now?

18 MS. ZMROCZEK: Oh, yes, sir. Oh, yeah, he's in jail.

19 THE COURT: All right.

20 MS. ZMROCZEK: And Your Honor, the clothes that his
21 family brought, he's obviously gained a little weight in
22 the two years that he's been in jail. They do not fit
23 him. I'm going to remedy that. But if it's okay with
24 Your Honor, and I don't think you mind, I'm going to
25 allow -- if he can be allowed at lunch to switch back into

1 his jail uniform. I know he is extremely uncomfortable in
2 the clothes that I have. I told him being in a jail
3 uniform doesn't affect --

4 THE COURT: I see people in jail every day.

5 MS. ZMROCZEK: Right, it doesn't affect any of your
6 rulings. And I'm remedy the clothes situation tomorrow.

7 THE COURT: Okay.

8 MS. ZMROCZEK: His bond was reinstated at \$100,000,
9 but his family couldn't come up with the money.

10 THE COURT: Okay.

11 MS. PATTERSON: Yes, sir, Your Honor. Yes, he was
12 picked up on a bench warrant. I apologize, I don't have
13 all the dates in front of me. We attempted to plea him
14 three times to criminal sexual conduct with a minor in the
15 third degree. I extended this generous offer to
16 Mr. Stroman. Brought him over here, he wouldn't plea.
17 Brought him again, he wouldn't plea.

18 Finally, we did have a -- Ms. Zmroczek did file a
19 motion to vacate the bench warrant. That was initially
20 heard in front of Judge McMahon, who denied her motion.
21 So we did have a hearing on that prior to it being
22 eventually lifted by Judge Benjamin last November. Judge
23 McMahon also ordered a mental evaluation per
24 Ms. Zmroczek's request, which I think she later withdrew
25 because then she said she didn't think her client needed

1 to be mentally evaluated.

2 And then she and I both had conflicts last year.

3 Yes, I was protected a month. I had a very high profile
4 murder trial, the cookout trial, as everybody refers it
5 to. And then she and I had a murder trial the end of
6 October, November, then she had another murder trial in
7 December. So we have been booked. It's not that we've
8 been avoiding getting Mr. Stroman a trial. This is the
9 date that she said she had available. This is the date
10 that we could make it happen and we're here this week to
11 try Mr. Stroman. It's just been a -- it's not that we've
12 been violating his rights. It's been lot of different
13 issues going on, whether or not he was going to accept a
14 plea three times, whether or not she was in trial, whether
15 or not I was in trial, whether or not he was going to get
16 a mental eval. Then his bond was reinstated in November,
17 he just could not make it.

18 So we are here this week for his trial, Your Honor.
19 So I think we have remedied any potential Langford issues,
20 Your Honor, and speedy trial issues.

21 THE COURT: So was there ever a court order in place
22 that said try him by this date that didn't happen?

23 MS. PATTERSON: No, sir, Your Honor. We put it on
24 the record in November with Judge Newman, Jocelyn Newman.
25 She asked both of us when our calendars would be available

1 and this was the week that we chose.

2 THE COURT: Okay. Your motion to dismiss for
3 Constitutional violations, including a speedy trial in
4 State vs. Langford, is hereby dismissed. There has been
5 no undue delay of this case by the State or any type of
6 violation that has occurred.

7 I can personally testify for the record as to
8 Ms. Zmroczek's trial schedule and the difficulty, through
9 no fault of her own, but the difficulty between state and
10 federal court of scheduling a trial. And I don't mean
11 that as any slight on her, I mean she just has a lot of
12 cases that go to trial and trying to get -- and they're
13 all long and they're all lengthy and they all take a
14 while. I mean, I think I probably tried three or four
15 with her in one year at one point in time. So there's
16 no -- I don't find that there's is any violation of any
17 speedy trial rights.

18 Further, the majority of the time, he was in jail on
19 a bench warrant for his failure to appear and that motion
20 was properly heard. It was later lifted and the bond was
21 reinstated. The bond based upon the charges was
22 completely and totally reasonable and he just couldn't
23 make the bond. So your motion to dismiss for those
24 reasons is hereby denied. Okay.

25 What else?

1 MS. ZMROCZEK: Maybe, Your Honor, the indictment
2 issue.

3 THE COURT: Okay. Great.

4 MS. ZMROCZEK: I think Your Honor has in front of you
5 the two indictments.

6 THE COURT: I do, yes.

7 MS. ZMROCZEK: And maybe by looking at them, you can
8 see my concern. So there actually is a third indictment,
9 which I believe is in the file. So in 2014, Mr. Stroman
10 was indicted for criminal sexual conduct in the first
11 degree. And the dates given on that were February of 2012
12 to May -- or whatever, May 6th, or whatever date is on
13 there, May 6th or May 7th of 2014.

14 THE COURT: Okay.

15 MS. ZMROCZEK: And that was presented to the grand
16 jury. It said that Mr. Ellisor was the witness to the
17 grand jury. I don't believe he was. I believe that -- I
18 believe how they operate is they have -- and maybe he was.
19 I don't know. I wasn't there. That they have a
20 representative that do all of their cases. When I spoke
21 to the town attorney, that's what he informed me, that
22 they have a representative that does all their cases. But
23 they base that presentation to the grand jury on the
24 arrest warrant.

25 THE COURT: Correct.

1 MS. ZMROCZEK: So in 2014 -- excuse me, in 2016, we
2 get these two new indictments, which were very concerning
3 and confusing to me. One, they were concerning -- the
4 first one was concerning because it was the 2014 -- same
5 indictment that was presented to the grand jury back
6 in 2014, but this time had a different date on it. And
7 then a brand new separate indictment after Mr. Stroman
8 refused to plea, which adds another 25 to life charge on
9 him, for a very short period of time.

10 My concern -- and it lists Mr. Ellisor as the witness
11 again. Mr. Ellisor left the sheriff's department in
12 August of 2014.

13 THE COURT: You mean the town?

14 MS. ZMROCZEK: Sorry, yeah. He left the town in
15 August of 2014, so I know that he wasn't there. I know it
16 was probably based on a representative.

17 Here's my concern, Your Honor, 18 or so grand jurors
18 in 2014 heard these facts and indicted on this large time
19 period. And now on no new facts, on no new reason, but
20 same indictment number, they have now changed the dates
21 and I don't understand why we have this break in time of
22 -- what's the basis? Like, was there new information
23 provided from the witness and said oh, wait, it didn't
24 happen between this time and this time, it only happened
25 between this time and this time. None of that was ever

1 provided us to. It was just right before Mr. Stroman was
2 about to be called for trial, it gets -- when we were
3 filing motions for speedy trials, we get another
4 indictment from 2016 and then the 2014 one was represented
5 to the grand jury.

6 Our concern is this. I know the grand jury
7 proceedings are secret, so there's no record, but how is
8 it that one grand jury can hear the facts and...

9 THE COURT: I got it. I got it.

10 MS. ZMROCZEK: Okay.

11 THE COURT: Go ahead.

12 MS. PATTERSON: Thank you, Your Honor. When this
13 case was originally brought and indicted, that was State
14 v. Baker. After State v. Baker, the Supreme Court ruled
15 that we would have to narrow down our timeframes. Even
16 though it had been well established that timeframes didn't
17 matter in criminal sexual conduct cases, that case kind of
18 said we've got to narrow down our timeframes.

19 Therefore, Your Honor, the **minor** originally said
20 that he sexually assaulted her from the time they moved in
21 these apartments, which would have been in 2012 up until
22 he went to jail, which would have been May 6th or May 7th,
23 2014 date. So that was the original timeframe.

24 But after this case, Your Honor, we were prohibited
25 from giving expansive timeframes, so we have to condense

1 the timeframe so that Mr. Stroman can better present an
2 alibi if he wished to do so.

3 The two timeframes in the two separate indictments --
4 well, let me go back. The Supreme Court really didn't
5 give us any guidance, Your Honor. They kind of suggested
6 a three-month time period. So that's where I'm getting
7 the three-month time periods from, Your Honor, that I've
8 done, just based on the Supreme Court suggesting it in a
9 footnote.

10 Mr. Stroman in his interview, when questioned by
11 Detective Ellisor, said that these assaults took place
12 about a year ago from the interview, which put -- would
13 have been June to August of 2013. So that's where the
14 first timeframe comes from. And we, essentially, amended
15 the original indictment so we can kind of condense those
16 timeframes.

17 Now, the second indictment, that timeframe came from
18 the **minor** 's forensic interview saying that it occurred
19 also once she turned eight, which would have been
20 [REDACTED], 2014, up until the time he went to jail, which
21 would have been May 7th of 2014. So that's the March and
22 May timeframe. So that's where we get the three-month
23 timeframes in the two separate indictments.

24 This is information, Your Honor, that was provided in
25 the discovery, so Ms. Zmroczek knew of these dates. It's

1 not like we're just pulling dates out of the air, Your
2 Honor.

3 THE COURT: Okay. What about it, Ms. Zmroczek?

4 MS. ZMROCZEK: Well, Your Honor, this is the first
5 time that we've been kind of provided an explanation as to
6 why they decided to narrow the dates. But it gives us a
7 bigger kind of impeachment problem in that in her second
8 forensic interview, **Minor** says he did it every night
9 from the time she was six until he left the house, I
10 guess. And then when asked again, like, when did this
11 happen, obviously, there's -- she says she doesn't
12 remember what she said, actually.

13 And what I have -- and what may help Your Honor to
14 maybe catch up a little bit and to help decide the next
15 couple of motions is I have the two forensic interviews
16 and his confession, which was also audio and videotaped.
17 And I believe at some point, probably to rule on a lot of
18 the rest of the information, Your Honor may need to see
19 those.

20 But our concern is that they present this information
21 to the grand jury and then if she gets up there and says
22 it happened all the time, there could be some confusion to
23 the jury as to these dates. And, also, when they want to
24 limit us to not bringing in her father's case and she says
25 it happened every weekend that she was with her father the

1 whole time she was seven -- and actually, Your Honor, he
2 was arrested, I believe, right before her 8th birthday, so
3 there's impeachment issues and just concerns that these
4 two indictments are going to be confusing to the jury.
5 They're very limited in their time periods, but the
6 information they're going to be providing is he did it --
7 if it is what it was on the forensic interview, that he
8 did it every day from the time I was six until he got
9 arrested.

10 So, Your Honor, that's what we're concerned about is
11 the State's almost asking them to believe a portion of her
12 testimony, but then we decided not to charge him for the
13 other times that she mentioned either because we didn't
14 believe her or it didn't fall into the same time period.
15 I'm certainly not asking for more indictments, but --

16 THE COURT: That's the problem with your argument.
17 The solution to that is go indict him for every single
18 three-month timeframe, so then he's got how many upteen
19 charges or if you did from 2012 to May, you'd be standing
20 up here arguing that's too broad of a timeframe.

21 MS. ZMROCZEK: Right. And, I guess, Your Honor --

22 THE COURT: I think the biggest thing that you learn
23 today is they didn't create this June to August date based
24 upon anything new that she told them. It's based on your
25 client's statement.

1 MS. ZMROCZEK: Right. And that was --

2 THE COURT: Which you've know, I assume, for a while.

3 MS. ZMROCZEK: Well, I've had his statement.

4 THE COURT: Right.

5 MS. ZMROCZEK: But that was the new information that
6 we learned.

7 THE COURT: Okay. Your motion to quash the
8 indictments is hereby dismissed. They're constrained
9 within the timeframes that are necessary and the Defendant
10 has been on notice of the allegations and the charges and
11 the timeframes and everything else for a significant
12 period of time.

13 Okay. Anything else simple before we break for
14 lunch.

15 MS. ZMROCZEK: Would, Your Honor, like to see --
16 would it help for Your Honor to have the videos to watch
17 ahead of time?

18 THE COURT: How long are they?

19 MS. ZMROCZEK: All three of them are approximately an
20 hour each.

21 THE COURT: Three hours?

22 MS. ZMROCZEK: Yes.

23 THE COURT: Someone didn't send them to me last week
24 so I could watch them?

25 MR. POGUE: Your Honor, the State is happy to leave

1 it to your discretion in regards to whether you'd like to
2 have us play it during the Jackson vs. Denno hearing for
3 you. Again, it's about 40 minutes to an hour long,
4 depending on how much dead time you would like to watch,
5 or we're more than happy to give you copies to watch over
6 lunch or whenever you wish to watch them.

7 THE COURT: This is one of those things where you all
8 should have sent me the videos last week so I could have
9 watched them.

10 MS. ZMROCZEK: I realize that, Your Honor. I know --
11 because we were trying to figure out who the trial judge
12 was. We did learn on Wednesday or Thursday you were going
13 to be the trial judge. And I apologize for not doing
14 that. I do have a transcript of all three if that would
15 help the Court.

16 THE COURT: Yeah, that would be easier.

17 MS. ZMROCZEK: Okay. I'll send it to them, as well.

18 THE COURT: Give me the transcripts and then we're
19 going to start back at 2:00 o'clock.

20 MS. PATTERSON: Thank you, Your Honor.

21 MS. ZMROCZEK: Thank you.

22 (WHEREUPON, a lunch break was taken.)

23 (WHEREUPON, Court's Exhibit No. 2 was marked for
24 identification only.)

25 THE COURT: All right. What do we want to start

1 with?

2 (WHEREUPON, Court's Exhibit Nos. 3 and 4 were
3 marked for identification only.)

4 MS. ZMROCZEK: Your Honor, there was -- they took him
5 back to the jail.

6 THE COURT: Okay. Where is he?

7 MS. ZMROCZEK: They've gone to get him is my
8 understanding.

9 THE COURT: Where is the deputy?
10 Hey.

11 THE DEPUTY: Judge, I'm sorry. I understood that Ms.
12 Zmroczek was done with her client for the day. He is back
13 over at the jail. I'm sending somebody back over there to
14 get him back over here.

15 THE COURT: Okay.

16 I'll go read transcripts. Somebody come get me when
17 he gets here.

18 MS. ZMROCZEK: Sorry, Your Honor. I think what may
19 have happened is they asked if I wanted to him, but I had
20 a plea downstairs and I said no, I don't need to talk to
21 him.

22 (WHEREUPON, a short break was taken.)

23 THE COURT: All right. We're back on the record with
24 the Defendant present now.

25 We didn't do anything without you earlier. I don't

1 know why they sent you back, but I apologize and nothing
2 of any substance happened while you weren't here other
3 than they explained you weren't here and we stopped, okay.

4 All right. What do y'all want to start with?

5 Ms. Patterson.

6 MS. PATTERSON: Your Honor, I don't know. It's just
7 so much. The first thing we can start with, I guess, is
8 the rape shield issue.

9 THE COURT: Okay.

10 MS. PATTERSON: The State -- we did file a rape
11 shield motion, Your Honor, and I've given you the
12 background of the case. And the State does recognize that
13 some of this information may be admissible under State v.
14 Grovenstein to explain the source of knowledge.

15 THE COURT: Right.

16 MS. PATTERSON: In fact, we had e-mailed Ms. Zmroczek
17 and we told her that we were willing to stipulate to some
18 of the information just for judicial economy and, also,
19 Your Honor, to avoid any confusion.

20 It is an unusual case in that we have a **minor** with
21 two different defendants at one time cases pending, but we
22 do feel like that the details of the allegations on Eric
23 English, while they are admissible that, you know, she has
24 an alternative source of knowledge, but they should be
25 limited, Your Honor. And that's -- as a matter of fact

1 State v. Tenant, the law mandated limited admissibility
2 with regards to details of a victim's sexual conduct that
3 could be brought up in trial. And I have that case, Your
4 Honor, if Your Honor would like to look at it.

5 Further, Your Honor, although relevant other details
6 of the criminal sexual conduct may be excluded under Rule
7 403 as it would only confuse the issues, mislead the jury
8 as to who is on trial this week and serve only as a delay
9 and waste of time.

10 THE COURT: So under your theory, what can the **minor**
11 testify to as to her encounter with Mr. English?

12 MS. PATTERSON: Yes, sir, Your Honor. We're willing
13 to stipulate that on March 4th, 2014, **Minor**
14 began experiencing vaginal discomfort and was diagnosed
15 with vaginal gonorrhea, that her father, Eric English, was
16 arrested and charged with criminal sexual conduct with a
17 minor under 11 for sexually assaulting her, that he is the
18 one who is alleged to have given her gonorrhea.

19 Those are all issues because Mr. Stroman brings those
20 issues up in his interview with Detective Ellisor.

21 THE COURT: Sure.

22 MS. PATTERSON: And we're also willing to stipulate
23 that she did have a forensic interview March 18th, 2014,
24 with Brooke Wymer and at that time, she only disclosed
25 Eric English as the perpetrator and no one else, and that

1 Eric English's cases are still pending and a trial date
2 will be held later on.

3 We're also willing to stipulate. I know you read the
4 transcripts, so you didn't get to see the video, the
5 interview with Detective Ellisor, but Mr. Stroman was in
6 custody during that interview. Minor , during her
7 forensic interview, she and Ms. Wymer; they talked back
8 and forth about Jamie no longer being in the house because
9 he is in jail. We're willing to not talk about him being
10 in custody or in jail. However, I think Ms. Zmroczek has
11 a different position as to that just because we do think
12 it's reversible error. It may be, just to talk about him
13 being in custody, in jail. So we wasn't going to explain
14 it. We've prepped our witnesses not to talk about him
15 being in jail. Yes, he was out of the home, but to not
16 talk about that he was in custody.

17 That's the State's position on rape shield, Your
18 Honor. We do think some things are admissible, but just
19 not everything.

20 THE COURT: All right.

21 MS. PATTERSON: Under State v. Tenant and under Rule
22 403.

23 THE COURT: Thank you.

24 Ms. Zmroczek.

25 MS. ZMROCZEK: Thank you. Your Honor, I did file --

1 well, I have to be filed, but it will be redacted because,
2 obviously, there's a lot of information in there about
3 minors and things like that, but I did hand up to the
4 Court an unredacted copy.

5 So a lot of, kind of, my trial strategy is going to
6 be depend on the Court's rulings. These cases, I think,
7 are so intertwined, I mean, from the fact that she
8 disclosed during counseling -- while in counseling with --
9 you know, because of issues --

10 THE COURT: Just say what you want.

11 MS. ZMROCZEK: We think that we should be allowed to
12 go into it. He has a right to --

13 THE COURT: You mean like everything?

14 MS. ZMROCZEK: When I say everything, Your Honor,
15 this is what I mean, that she talked to doctors --

16 THE COURT: All right. What beyond what
17 Ms. Patterson just said do you want to go into?

18 MS. ZMROCZEK: That she had interviews with SANE
19 nurses and doctors. And like, the SANE exam, the SANE
20 nurse exam that she had in March had all of these physical
21 findings. She had another SANE exam in June, which had no
22 physical findings.

23 THE COURT: Right.

24 MS. ZMROCZEK: So, Your Honor, I think it goes to --
25 and then she talked to not only just Ms. Wymer at the

1 Dickerson Center, but she talked to several nurses and
2 several doctors and several teachers.

3 THE COURT: About Mr. English?

4 MS. ZMROCZEK: Right, about Mr. English for months.
5 And then what our theory is, is that because Mr. Stroman
6 was no longer in a relationship with Ms. Stoudemayer, who
7 actually became pregnant by somebody else in June, that
8 this was bias and motive, Your Honor, to put his name into
9 it, to get daddy out of trouble and to get my client into
10 of trouble. Because he has no connection to any of these
11 people as far as family related.

12 There are also some conversations and some family
13 pressures that were applied to -- it's our position that
14 were applied to the **minor** in this case. And don't get me
15 wrong, I'm not saying she's not a **minor** of child abuse
16 because I firmly believe that she is, just not of
17 Mr. Stroman. And that's why to put -- for him to be able
18 to properly defend himself -- because what she says -- I
19 don't know if you had a chance to read all the
20 transcripts.

21 THE COURT: I read it.

22 MS. ZMROCZEK: But what she says, Your Honor, is that
23 he was doing it for years and years and years.

24 THE COURT: All right. Yeah, I read it.

25 MS. ZMROCZEK: And so in order for him to be able to

1 put up a full and fair defense, I mean, of course, we have
2 to put Eric English on trial.

3 THE COURT: No, you don't. The two cases are
4 completely and totally separate.

5 MS. ZMROCZEK: I understand that they're separate,
6 Your Honor, but they're so completely --

7 THE COURT: That's your opinion that they're
8 intertwined, but the facts and allegations of this case
9 are -- I mean, you're not going to get to sit around and
10 play Eric English is the only person who is guilty of this
11 crime. Now, I'm going to let you cross-examine on the
12 fact that when she reported Eric English, he was the only
13 person that she reported and that she went -- I'll
14 probably even let you cross-examine that she told multiple
15 people he's the only person who did it. She clearly says
16 in her interview about Mr. English. They say, Does
17 anybody else ever do this to you? She says, No. I think
18 all of that is fair game. But to go into Eric English is
19 the only person guilty of this crime, we're not going down
20 that road. I'm going to give you some leeway because I
21 think for purposes of impeachment and cross-examination,
22 she was asked multiple times who did this to you and
23 states one person and three months later, gives somebody
24 new. We're not going into this whole thing about Eric
25 English this and Eric English that.

1 Now, the fact that she would have some of this
2 knowledge because of what allegedly happened with
3 Mr. English, I'm going -- you know, all that's fair game,
4 too. It's not like she's using -- there could be another
5 source of information for why she's making this allegation
6 to Mr. Stroman beyond whatever Mr. Stroman did or didn't
7 do. So I'm -- we're not going to keep the fact that Eric
8 English has been arrested and charged with criminal sexual
9 conduct with a minor away from the jury, but we're not
10 going to have this big dog and pony show about Eric
11 English is the only person who is guilty of this crime.

12 It's completely and totally possible that two juries
13 could find both of them guilty of criminal sexual conduct
14 with a minor. It's also completely and totally probably
15 that two juries could find neither one of them guilty or
16 one or the other guilty. These people are not
17 codefendants. There is no reporting that **Minor**
18 gave that they acted in concert together or they were
19 conspirators, that they even knew what the other one was
20 doing in no way, shape or form. So we're not going to --
21 he's not a codefendant in this case. The only reason it
22 comes in is because she gave a statement and said he's the
23 only one that did it, and she's got prior -- she would
24 have prior knowledge as to what some of these things were
25 based upon her alleged encounter with Mr. English.

1 MS. ZMROCZEK: As far as -- and I understand your
2 ruling. As far as third-party guilt, I guess I need for
3 the Court to clarify for me what I can and can't present.

4 THE COURT: That's why the easiest way to do it is a
5 stipulation, but I'm not going to -- if you don't want to
6 stipulate to it, you don't want to stipulate to it. We
7 can just go around and around in front of the jury about
8 what you can do and what you can't do.

9 MS. ZMROCZEK: Well, I'd rather not do --

10 THE COURT: Yeah, I'd rather not do that, too. I
11 know in my mind what would be appropriate and what would
12 not be appropriate, but I don't know how to tell you. I
13 mean, I'm not going to -- you know, I'm not going to allow
14 this whole, you know, Eric English is the only person
15 guilty -- is the guilty party of this crime. You know,
16 the purposes of allowing the information on Eric English
17 in is to show that she has given differing statements for
18 the purposes of impeachments and that she would have
19 knowledge of what some of these body parts were because of
20 her own allegations of her encounter with Mr. English.

21 MS. ZMROCZEK: And, Your Honor, as far as the -- I
22 understand that they're willing to stipulate as far as
23 the -- it's alleged that he has given her gonorrhea.

24 THE COURT: Yeah, I think that comes in under rape
25 shield.

1 MS. ZMROCZEK: Okay.

2 THE COURT: Evidence of a disease is admissible. I
3 mean, clearly, your client doesn't have that disease and
4 he said that to the investigator. And, clearly, based
5 upon the State's presentation, the child does and
6 Mr. English does, so that clearly fits into one of the
7 exceptions under rape shield. That would be admissible.

8 MS. ZMROCZEK: Then I feel like as long as we can
9 present that.

10 THE COURT: Yeah. I'm not going to keep the fact
11 from the jury that Eric English has been arrested and
12 charged with doing something similar to her, but the
13 purpose of it -- the purpose of allowing that in, in my
14 mind, and I think the law tracks this, the purpose of
15 letting it in is to show that she's given a different
16 version of events when questioned by someone who has
17 experience in questioning children about -- I mean,
18 frankly, these people are trained to get this information
19 out of these children and to figure all these things out.
20 That's a different story and that's a different argument.
21 I mean, she was questioned by somebody who is completely
22 and totally trained to try to figure out what happens to
23 these children. And she says the only person who did it
24 was Mr. English. So the fact that she gave that statement
25 and then later gives a contrary statement, I think, is

1 admissible. And the fact that she -- she can be
2 questioned on how she knows these body parts. I think she
3 uses the word nasty or yellow stuff or things like that,
4 how she can know that beyond whatever she alleges occurred
5 with Mr. Stroman. And the fact that, you know, she has
6 gonorrhea and that Mr. English does, too, and he's accused
7 of doing the same thing. But this whole -- you know, an
8 entire opening statement focusing on Mr. English being
9 guilty or closing arguments on Mr. English's guilt,
10 Mr. English is going to have his day in court, you know,
11 he's presumed innocent just like your client is of the
12 charges. We're just going to keep it focused in on what
13 the purpose of it is. The purpose of it is she has given
14 different stories. That goes to her credibility.

15 MS. ZMROCZEK: And as far as --

16 THE COURT: I'm going to let you do that. I think
17 that's fair game.

18 MS. ZMROCZEK: And sorry to interrupt. To the
19 physical -- two different SANE examinations where one had
20 like red -- like actual physical findings?

21 THE COURT: I mean, clearly, the SANE examination
22 after she makes the allegation that Mr. Stroman is
23 admissible.

24 MS. ZMROCZEK: Okay.

25 THE COURT: But the one as to Mr. English, I don't

1 think that that's admissible. That's not impeachment
2 evidence.

3 MS. ZMROCZEK: Okay.

4 THE COURT: It is what it is as it goes to -- the
5 fact that she didn't -- something didn't show up on her
6 physical exam after Mr. Stroman, I assume there's some
7 State expert, as there normally is in these cases, that's
8 going to come in and say that's perfectly normal.

9 MS. ZMROCZEK: Right.

10 THE COURT: So, I mean, the fact that she did show
11 those signs after she makes the allegation of Mr. English
12 isn't -- that doesn't impeach her credibility. That's
13 just the facts. And I'm going to let you go into the fact
14 that they discovered the gonorrhea -- I don't want to say
15 venereal disease. I don't know if that's what this is.
16 We've had one of these before and I used the wrong term, I
17 think, the whole trial. But the fact that she has it and
18 Mr. English has it, I think is fair game.

19 MS. ZMROCZEK: Okay.

20 THE COURT: Anything else on that issue?

21 MS. PATTERSON: No, I think that helps clarify it.

22 Yes, sir, thank you.

23 THE COURT: All right. Next.

24 MS. ZMROCZEK: I guess, Your Honor, it would be --

25 I'm sorry. I know that we both had said Jackson vs. Denno

1 and I think that's kind of where we are right now.

2 THE COURT: Okay.

3 MS. ZMROCZEK: Obviously, it's the Defense position
4 -- and I know that you haven't had an opportunity to yet
5 see the video, but I believe you got to read the
6 transcript. And I do have an expert, Your Honor, that is
7 willing and able to testify via video, Skype video.

8 THE COURT: Okay.

9 MS. ZMROCZEK: And, obviously, Mr. Stroman is
10 indigent. I've been trying my best to keep the cost to a
11 minimum. I have his CV and his report and I believe that
12 we may have an issue about that. I'm not sure what the
13 State --

14 MS. PATTERSON: The State would oppose any Skype
15 interviews, Your Honor. She did inform me of this, maybe,
16 Wednesday. And at that time, I thought about it. I went
17 over it with my co-counsel and we would object to any
18 Skype videos. If we are to cross-examine someone, we
19 would like them here in person, Your Honor. Demeanor is
20 big in cross-examination. We have all of our witnesses
21 here.

22 THE COURT: We're talking about for pretrial.

23 MS. PATTERSON: Yes, sir, same thing.

24 THE COURT: When did you tell her you were objecting
25 to the Skype video?

1 MS. ZMROCZEK: I told her that.

2 THE COURT: I said when did she tell you she was
3 objecting to the Skype video.

4 MS. PATTERSON: Well, I think she told me about it
5 Tuesday and I told her Wednesday morning I was objecting
6 to it.

7 THE COURT: All right. Okay:

8 MS. ZMROCZEK: And I tried to get in touch with Judge
9 Griffith, who did not get back with me on Friday. And
10 then on Friday afternoon at 5:30, I received a text from
11 his law clerk saying that they were going to leave all
12 that up to the trial judge.

13 THE COURT: Okay. I can't force them to do a witness
14 by Skype, so what do you want me to do about that?

15 MS. ZMROCZEK: Well, Your Honor, I mean, I guess I
16 can -- I can keep that part of it and just have him fly
17 down tonight and be available to testify tomorrow.

18 THE COURT: Okay. Let's go ahead and start with the
19 normal Jackson vs. Denno stuff.

20 MS. PATTERSON: Yes, sir.

21 MR. POGUE: Thank you, Your Honor. The State calls
22 Chris Ellisor to the stand.

23 THE COURT: Come on up, Mr. Ellisor, to be sworn.

24 THE CLERK: Place your left and raise your right.

25 CHRISTOPHER ELLISOR, after being

1 duly sworn, testified as follows:

2 THE COURT: All right. Please state your name for
3 the record, spelling your last, sir.

4 THE WITNESS: Christopher Ellisor, last name,
5 E-l-l-i-s-o-r.

6 DIRECT EXAMINATION

7 BY MR. POGUE:

8 Q All right. Good afternoon, Mr. Ellisor. Where are
9 you currently employed?

10 A Currently, director of safety and emergency services
11 for Lexington School District One.

12 Q How long have you been working there?

13 A Almost three years.

14 Q All right. What's your currently position there?

15 A Again, director of safety and emergency services.

16 Q And does that hold a rank of some sort?

17 A Director would, I guess, be your rank. I oversee
18 safety and security for all of our 30 schools and six
19 other buildings.

20 Q Prior to your employment there, where were you
21 previously employed?

22 A Lexington Police Department.

23 Q All right. Is that where you were employed during
24 the time of this incident?

25 A I was.

1 Q All right. And how long did you work for the
2 Lexington Police Department?

3 A Just over eight years.

4 Q All right. And what was your position or various
5 positions there?

6 A Started as a patrolman, moved to a school resource
7 officer and then on to a detective my last three years
8 there.

9 Q All right. And what was your position at the time of
10 this incident?

11 A Detective.

12 Q And as a detective, what were your general job
13 description duties?

14 A I worked all investigations with my on-call group. I
15 guess whatever my shift worked, I got their cases.

16 Q And just briefly, what is your educational background
17 and any training that may be relevant?

18 A Education-wise, I graduated from the University of
19 South Carolina, went on to South Carolina Criminal Justice
20 Academy, Class A officer, basic detective, several other
21 classes, over 200 hours a year.

22 Q All right. Have you ever had any training or
23 continuing education specifically related to interviewing
24 techniques?

25 A I have.

1 Q All right. Okay. Just briefly, what are those?

2 A There were several that came about. I worked with
3 internet crimes against children task force, so I got some
4 training in that for interviewing. I got, I want to say,
5 interview/interrogation techniques through -- we were down
6 in Augusta. I don't know the exact name of the class or
7 what who ran it, but I want to say it through the Criminal
8 Justice Academy. There were several others I attended,
9 don't come to mind, specifics.

10 Q And how did you become involved in this case?

11 A It was assigned to me on, I believe, June 6th. I'd
12 have to look at my case report. June the 4th, I'm sorry.

13 Q And when this case was assigned to you, what action
14 did you take?

15 A Well, I first read over the report. Then moved to,
16 you know, speak with Ms. Stoudemayer, the child's mother,
17 in reference to the allegations.

18 Q Who was the original complainant in this case?

19 A It was a counselor, I guess you would say, that
20 **Minor** was seeing.

21 Q Do you remember the counselor's name?

22 A Yes. I'm sorry. It's on the report here. It's
23 Baker, Lacy Baker.

24 Q And where was she employed?

25 A I believe she was at the Dickerson Center.

1 Q Okay. And after you received the initial
2 complaint -- well, first of all, who did you receive the
3 initial complaint from, your office?

4 A Well, they all go through my supervisor of
5 investigations and we're handed a load of cases, you know,
6 every other day, I believe it was.

7 Q Was it -- did you initially receive the case from
8 another jurisdiction or did it originate in your
9 jurisdiction?

10 A I believe when the case was written, it came from the
11 Lexington County Sheriff's Department was the original
12 person, but when I got it, I didn't that information until
13 afterwards. But it later came to us because of the
14 jurisdiction of where the incident occurred at.

15 Q After reading the initial report, what actions did
16 you take in the case?

17 A Again, I spoke to Ms. Stoudemayer and then set up an
18 interview for **Minor** with the Dickerson Center.

19 Q What type of interview is that?

20 A Forensic interview. We, as investigators, never
21 interview children. We send them to the Dickerson Center
22 to be interviewed.

23 Q What would be the age cut off that you would not
24 interview children?

25 A Well, we never, I would say, almost up to about 15,

1 14 or 15, I think.

2 Q All right. As a result of setting up the forensic
3 interview with the Dickerson Center, did you get a report?

4 A I did. I got a report from the Dickerson Center,
5 yes.

6 Q Do you remember who it was that conducted the
7 interview, forensic interview?

8 A I believe it was Brooke, but I don't want to -- I'd
9 have to go back and read this report over and make sure.
10 It looks like Lacy may have done this -- no, Brooke Wymer.

11 Q After you received Ms. Wymer's report, was there any
12 audio or video that was accompanied with the report?

13 A There was a video with audio, yes, sir.

14 Q Did they typically video record these?

15 A They did.

16 Q When you received the video and the documents, what
17 did you do?

18 A I had to review the documents, review the recording.

19 Q And based upon that action that you took in your
20 investigation, what did you do next?

21 A Well, I reviewed the recording, understood that she
22 made an allegation of sexual assault. And so I then
23 interviewed -- or set up an interview with Mr. Jamie
24 Stroman.

25 Q Where did she allege that these sexual assaults

1 occurred?

2 A At [REDACTED] Apartments, Apartment [REDACTED].

3 Q What city is that in?

4 A Town of Lexington.

5 Q Is that Lexington County?

6 A Yes, sir.

7 Q All right. In the report, did it also give a time as
8 to when this sexual assault was alleged to have occurred,
9 or a timeframe?

10 A I don't remember it giving a specific time, but would
11 come in every night when she was sleeping, touch her.

12 Q Did she allege that it happened at a time or a
13 certain age?

14 A She was eight years old at the time. If I recall, it
15 was between six and eight.

16 Q Okay.

17 A Within those two years.

18 Q All right. And you said you made contact with
19 Mr. Stroman, what did you do when you made contact with
20 Mr. Stroman?

21 A Set up an interview with him.

22 Q Where did that interview take place?

23 A At Lexington Police Department.

24 Q All right. And when did that happen?

25 A I believe it was June 16th, if I'm recalling my dates

1 correctly. Correct, yeah, June the 16th.

2 Q And you said that happened where?

3 A At Lexington Police Department.

4 Q Now, remember that we're in pretrial and not before
5 the jury. How were you able to locate the Defendant in
6 this case?

7 A He was being detained at Lexington County Detention
8 Center at that time.

9 Q All right. Would it be safe to say when you brought
10 him in for questioning that he was in custody?

11 A Yes, he was.

12 Q All right. When you brought him in for questioning,
13 what did you do next -- let me back that up. How did
14 Mr. Stroman get from where you found him -- excuse me,
15 where did you locate him?

16 A He was at the Lexington County Detention Center.

17 Q And how did he get from the Lexington County
18 Detention Center to where the interview happened at the
19 Lexington Police Department?

20 A He was transferred by the Lexington PD unit.

21 Q Did you transport him personally?

22 A I don't recall transporting him personally. I
23 believe a Lexington PD officer brought him to me, but it's
24 been a long time ago.

25 Q When he arrived -- when you made contact with him at

1 the police department, was he physically restrained in any
2 way?

3 A He did have a belly restraint on him.

4 Q What did you do when he arrived at the Lexington
5 Police Department?

6 A I took him to the interview room.

7 Q And when you took him to the interview room, what did
8 you do next?

9 A Well, part of our procedure is we always start with a
10 Miranda warning. We have a Miranda rights advisement form
11 that we go over with the individual, and so I went through
12 that step by step. I read him his Miranda rights through
13 the form, asked him if he had any questions about his
14 Miranda, if he understood what I was telling him. He
15 agreed, said he didn't have any questions. I asked him to
16 initial by each one of the Miranda form lines. He did so.
17 I then asked him to read the waiver out loud and if he
18 agree to talk to me to please sign the form at the bottom
19 and I would witness for him.

20 Q Just to back up a little bit, did you happen to bring
21 this Miranda form that you are telling the Court about
22 with you to court today?

23 A I did. I have a copy right here.

24 Q Is that the original or is that a copy?

25 A This is the original, yes, sir.

1 Q All right.

2 (WHEREUPON, State's Exhibit No. 1 was marked for
3 identification only.)

4 MR. POGUE: Permission to put on the screen State's
5 Exhibit 1 for ID purposes, Your Honor.

6 THE COURT: Yes, just do it.

7 BY MR. POGUE:

8 Q I don't know if this is actually going to show up.
9 Instead of doing that, I'll just have you read it.

10 A Sure.

11 Q All right. I'm handing you back what's marked as
12 State's ID 1. You indicated that that is your Miranda
13 form that you used with Mr. Stroman?

14 A Yes, sir.

15 Q All right. And what does the form contain?

16 A Heading at the top, Miranda Rights Advisement. Below
17 that are the Miranda rights. Would you like for me to
18 read those?

19 Q Yes, please.

20 A And this is exactly how I do it for the most part in
21 the interview room.

22 Q Did you let him read it or did you read it out loud?

23 A I read these out loud to him. You have the right to
24 remain silent. Anything you say can be used against you
25 in a court of law. You have a right to talk to a lawyer

1 and have a him present with you. If you cannot afford to
2 hire a lawyer, one may be appointed to represent you if
3 you qualify. You can decide at any time to exercise these
4 rights.

5 Q Did you tell Mr. Stroman that if he had any questions
6 about his rights that he could ask you and you could
7 provide whatever answers were necessary?

8 A I did. As soon as I finished advising him of his
9 rights, I would ask, do you have any questions, do you
10 understand your rights as I've read them to you.

11 Q All right. Did he indicate he had any questions?

12 A He did not.

13 Q Did he make any sort of acknowledgment as to each of
14 these individual rights that were read to him by you?

15 A He acknowledged that he understood his rights. And I
16 asked if he would initial by each one saying that did so
17 understand them.

18 Q And did he initial them?

19 A He did.

20 Q All right. Is there anything else on the form?

21 A There is. There's a waiver at the bottom. I asked
22 him to read it out loud. I'll be happy to read it out
23 loud for you if you like.

24 Q Did he read it out loud?

25 A He did.

1 Q What does that waiver say?

2 A I have read the statement of my rights and I
3 understand my rights. I do not want a lawyer at this
4 time. No promises or threats have been made to me and no
5 pressure or coercion of any kind has been used against me.
6 I am not under the influence of drugs or alcohol and I
7 understand and know what I am doing.

8 Q Okay. Is there anything else on the form, any sort
9 of acknowledgment?

10 A Just below that, I've asked -- there's a line for
11 printing your name and below that is a signature line and
12 then below that is a witness line. And off to the side,
13 above those are dates.

14 Q Did Mr. Stroman print his name and sign his name?

15 A He did.

16 Q And what is the date indicated?

17 A June 16th, 2014.

18 Q Whose signature is that below his?

19 A That's my signature.

20 Q Is that also the date?

21 A Yes, sir. June 16th, 2014.

22 Q Did you personally witness him sign that?

23 A I did.

24 Q All right. After he signed his waiver, did he again
25 indicate that he had any questions about what he had just

1 done?

2 A No, sir.

3 Q Okay. Did he indicate to you by verbal or nonverbal
4 acknowledgment that he wished to speak to you without an
5 attorney?

6 A After our interview, I asked him to write a
7 statement, at which point, he asked for an attorney or to
8 see his attorney.

9 Q You're talking about at the end of the interview?

10 A At the end of the interview.

11 Q You said that he arrived at the Lexington Police
12 Department with handcuffs on. When you put him into the
13 interview room to speak with him, did you keep the cuffs
14 on him, did you take the cuffs off?

15 A As soon as I sat him down and went over the Miranda
16 rights form, I had him stand up and remove the cuff from
17 his right hand and left that off. During the time of the
18 interview, he still had his left hand on the belly, belly
19 chain -- not a chain, but a belly belt.

20 Q Just to clarify, the cuff -- were the cuffs connected
21 to just one arm and not the other?

22 A Yeah, one arm was free. The right arm was free, yes.

23 Q So was he physically restrained in any manner?

24 A The left arm was restrained to his belt, belly belt,
25 but otherwise, no.

1 Q Okay. But his right arm was free?

2 A Yes.

3 Q Got you. Was there anybody else present in the room
4 with you and Mr. Stroman?

5 A No.

6 Q When you were going over the Miranda -- excuse me,
7 when you were going over Mr. Stroman's Miranda rights, did
8 he appear to have any trouble understanding his rights
9 when you were reading them to him or when he was reading
10 his waiver out loud?

11 A Did not appear so.

12 Q All right. Did he appear to be able to read and
13 understand English?

14 A Yes.

15 Q All right. Did he appear to be under the influence
16 of any alcohol or to the extent that it would have
17 impaired his ability to understand his rights or what he
18 was doing?

19 A No.

20 Q Did he appear to have any physical or mental
21 disability that would have impaired his ability to
22 understand his rights?

23 A No, it did not appear so.

24 Q Did he appear to understand what was being said and
25 what was being asked?

1 A He did.

2 Q All right. During the course of your questioning,
3 did the Defendant's answers to your questions appear
4 rational and responsive or was he so emotional that you
5 had concerns regarding his ability to understand these
6 warnings and waive his rights?

7 A No, he seemed very rational.

8 Q Did you have your service weapon on you at the time
9 of the interview?

10 A I did.

11 Q Did you ever at any point unholster your service
12 weapon?

13 A I did not.

14 Q Did you ever put your hand on your service weapon
15 while questioning?

16 A I did not.

17 Q Did you ever stand over him while you were
18 questioning him?

19 A I did not.

20 Q Were you screaming the entire time while you were
21 questioning him?

22 A No, I was not.

23 Q Did the Defendant ever ask to take a break during
24 questioning?

25 A No, he didn't.

1 Q About how long did you question him?

2 A Approximately, maybe 35 to 40 minutes.

3 Q Do you remember about what time of day it was that
4 you questioned him?

5 A It was in the afternoon, after lunch, but before
6 dinner.

7 Q Okay. Did he ever ask you for any food or water?

8 A No.

9 Q Did he ever ask to go to the bathroom?

10 A No, sir.

11 Q Were any threats or promises made by you in exchange
12 for his statements?

13 A No.

14 Q To the best of your knowledge, was the Defendant's
15 statement freely and voluntarily given?

16 A Yes.

17 Q Was the statement recorded by audio or video means?

18 A Both audio and video, yes, sir.

19 Q Last question in regard to this line of questioning,
20 did the Defendant ever at any point later change his mind
21 and ask to stop questioning because he wanted an attorney?

22 A Yes, sir, he did. After the interview when I
23 finished, I asked them to write a statement, at which
24 point, he asked for an attorney.

25 Q Did you continue questioning him after that?

1 A I did not.

2 (WHEREUPON, State's Exhibit No. 2 was marked for
3 identification only.)

4 BY MR. POGUE:

5 Q I'm now handing you up what's marked as State's 2 for
6 ID purposes. Do you recognize that?

7 A Yes, sir.

8 Q All right. What is that?

9 A That's an audio recording of my interview, audio and
10 video recording.

11 Q Have you watched it in its entirety?

12 A I have.

13 Q And does it appear to accurately reflect the
14 interview that you had with him on that day?

15 A Yes, sir.

16 Q And how do you know that this is a copy of that?

17 A I watched it and initialed there at the bottom.

18 Q Are those your initials at the bottom?

19 A Yes, sir. CAE, yes, sir.

20 MR. POGUE: Your Honor, at this time, we would move
21 to publish the video in its unredacted version to Your
22 Honor for purposes of determining voluntariness and waiver
23 of Miranda.

24 MS. ZMROCZEK: We have no objection, Your Honor.

25 THE COURT: What's that got to do with it?

1 MR. POGUE: What's that, Your Honor?

2 THE COURT: Why do we need to watch the video?

3 MR. POGUE: We don't have to. It's at Your Honor's
4 discretion.

5 THE COURT: She can cross him.

6 MR. POGUE: No further questions at this time, Your
7 Honor.

8 CROSS-EXAMINATION

9 BY MS. ZMROCZEK:

10 Q Detective Ellisor?

11 A Yes, ma'am.

12 Q You indicated that you were a detective for three
13 years; is that correct?

14 A Yes, ma'am.

15 Q All right. And you went to law enforcement training,
16 basic law enforcement training, right?

17 A Correct.

18 Q But you also received some special training in
19 interrogation; is that correct?

20 A Interview techniques, yes, ma'am.

21 Q Actually, it was five stages of interview and
22 interrogation techniques, correct?

23 A Correct.

24 Q And that was in 2013?

25 A Sounds correct. I'd have to pull my records.

1 Q Okay. I'm not trying to trick you.

2 A No, I understand.

3 Q Would it help for you to see the certificate?

4 A Sure.

5 Q Okay.

6 A Yeah, that's the one in North Augusta, correct.

7 Q The one in North Augusta?

8 A Uh-huh.

9 Q And it was entitled Five Stages of Interview and
10 Interrogation Techniques?

11 A Correct.

12 Q All right. You would agree with me that there is a
13 difference between interview and interrogation?

14 A Correct.

15 Q All right. You would also agree with me that you
16 received training in the Reid Method of Interrogation?

17 A I'm not familiar with the Reid Method. If I received
18 training, it doesn't ring a bell. That doesn't mean it
19 didn't happen, though.

20 Q Okay.

21 A It's been a long time.

22 Q Are you familiar with the Reid Method of
23 Interrogation?

24 A It does not ring a bell with me, no, ma'am.

25 Q Are you familiar with asking -- when you went through

1 the Five Stages of Interview and Interrogation Techniques,
2 they actually told you how to get a confession out of
3 someone; is that correct? That's what they taught you?

4 A How to interview someone, yes, ma'am.

5 Q And also how to interrogate them?

6 A How to interview them, yes, ma'am.

7 Q Would you agree with me in addition to how to
8 interview, you also learned how to interrogate?

9 A I always looked at it as an interview, ma'am.

10 Q And you had an opportunity to review the CD?

11 A Yes, ma'am.

12 Q You would agree that Mr. Stroman continuously denied
13 any involvement in this case?

14 A He did deny it at times, yes, ma'am.

15 Q At times?

16 A Uh-huh.

17 Q Numerous times, correct?

18 A Yes, several times, yes.

19 Q And you raised your voice?

20 A I did raise my voice. I didn't yell at him, but
21 yeah, I did -- during times, I did raise my voice during
22 the interview.

23 Q When you said, You're lying, you're lying to me, you
24 had a higher voice range than when you were normally
25 talking to him?

1 A It was higher, but it wasn't yelling.

2 Q Okay. You said and Mr. Pogue asked you if you had
3 made any promises or threats and you denied that, correct?

4 A Correct.

5 Q All right. But it's true that you told Mr. Stroman
6 that you would help him?

7 A The only way that I could help him was if he
8 communicated with me, yes.

9 Q The only way that you could help him is if he told
10 you what he had done?

11 A If he would talk to me, yes. And by helping him, it
12 would be to talk to the solicitor's office.

13 Q About what he had done?

14 A Alleged to have done, yes.

15 Q All right. But you didn't say alleged. You said
16 what you had done?

17 A I'd have to go back and see the video, ma'am. I
18 don't know exactly what I said.

19 Q All right. When was he last time you actually saw
20 that video?

21 A Today.

22 Q So you saw it today?

23 A Uh-huh.

24 Q All right. And you recall this section in the
25 beginning where he was like, I don't have syphilis or

1 gonorrhea, right?

2 A Yes, he did bring that up.

3 Q All right. And you said this is my first time
4 hearing about syphilis or gonorrhea, right?

5 A Correct.

6 Q Was that your first time hearing about syphilis and
7 gonorrhea?

8 A It was, indeed, my first time hearing about it, yes,
9 ma'am.

10 Q All right. So you weren't familiar that she had had
11 sexually transmitted diseases prior to this?

12 A I did not know that, no, ma'am.

13 Q Were you familiar that -- you were familiar, though,
14 with Ms. Stoudemayer, correct?

15 A I was.

16 Q Because she actually called you and got a restraining
17 order out on Mr. English's mother and Mr. English?

18 MR. POGUE: Your Honor, I'm going to object to this.
19 I'm not following how this relates to Jackson vs. Denno.

20 THE COURT: All right. Overruled.

21 MR. POGUE: The voluntariness.

22 MS. ZMROCZEK: Go ahead.

23 THE COURT: You may want to ask the question again.

24 THE WITNESS: Yeah, I'm sorry. I didn't -- what's
25 the question?

1 BY MS. ZMROCZEK:

2 Q You were familiar that Ms. Stoudemayer had been
3 harassed verbally and by text from Mr. English and his
4 mother, correct?

5 A I recall -- I don't recall that. I recall talking to
6 Ms. Stoudemayer about -- I couldn't say if it was
7 Mr. English and his mother. I don't recall that, sorry.

8 Q Would it help for you to see the incident report?

9 A It would, yes.

10 Q Okay.

11 THE COURT: Is this going to lead to he knew about
12 the STDs?

13 MS. ZMROCZEK: Right.

14 THE COURT: Okay.

15 MS. ZMROCZEK: Or should have known.

16 Your Honor, I'll come back to that because I need
17 to -- I need to find it in here, so I'll come back to
18 that. But -- here it is. Of course, right when I say
19 that, I find it.

20 BY MS. ZMROCZEK:

21 Q See if this refreshes your memory.

22 A Sure. I don't see my name anywhere on this report.
23 You have to help me. I don't see my name -- this is a
24 report from Lexington Police Department for telephone
25 calls I've seen harassing. I don't see any notes attached

1 or see -- my name is not anywhere on here.

2 Q Do you recall having a conversation with Detective
3 Stoner about it?

4 A I did talk to Detective Stoner after this incident,
5 after the arrest of Mr. --

6 Q Okay. So this is something that you learned after?

7 A By this, what are you implying? Are you asking me
8 the gonorrhea?

9 Q Right.

10 A I found that out after interviewing him.

11 Q Okay.

12 A And then Ms. Stoner called me after the fact.

13 Q Okay. So you -- you said to Mr. Stroman -- you said,
14 The only way that I can help you is if you tell me what
15 happened, right?

16 A I don't remember word for word. You can probably
17 tell me, but I did mention to him I could probably help
18 him in speaking to the solicitor's office, yes.

19 Q And you also told him that this wasn't his first
20 rodeo. You knew that he had been arrested prior?

21 A I had his rap sheet, yes.

22 Q And you knew that he had made plea deals prior?

23 A I had no clue that he had plea deals prior, no,
24 ma'am.

25 Q All right. But when you said to him, you know how

1 this works?

2 A Correct. Meaning that I had a rap sheet there and I
3 knew he had been arrested before, yes, ma'am.

4 Q So what were you referring to when you said, You know
5 how this works?

6 A I'd have to go back -- tell me where I was at in that
7 interview. But most likely, it was in response that he
8 knew how it worked with law enforcement and us being
9 interviewed, talking to him.

10 Q Meaning that he needed to give you some information
11 so he could help you -- you could help him?

12 A I wouldn't say that. It would help him to, yes,
13 provide information in this case, whether right or wrong.

14 Q But he kept providing you information. He kept
15 saying, I didn't do this?

16 A He said that sometimes, yes, ma'am.

17 Q And then you said, Look, if it was just -- you
18 started to minimize his behavior to get him to talk?

19 A After he admitted to pulling her panties down and
20 touching her on the butt or on the ass, I think he called
21 it, yes. I said, If it was just that, okay, but I knew it
22 was more than that.

23 Q But you say that was after, are you sure that it
24 wasn't before?

25 A I'm pretty sure.

1 Q You asked him what --

2 MS. ZMROCZEK: And Your Honor has the transcript in
3 front of you, so I don't need to go back and forth.

4 BY MS. ZMROCZEK:

5 Q But you also were asking him to describe the room,
6 correct?

7 A At one point in the interview, I did ask him to
8 describe the room in which Minor stayed in, yes.

9 Q All right. And the characters on the sheets?

10 A Correct.

11 Q Where did you get that information?

12 A I believe that came from the Dickerson Center
13 interview.

14 Q Did you ever actually go and see what sheets were on
15 the bed?

16 A I did not, no, ma'am.

17 Q Did you ever take any pictures?

18 A No, ma'am, I did not.

19 Q All right. So you're familiar that in the Dickerson
20 interview with Ms. Brooke regarding this incident that she
21 said she had a Hello Kitty now, meaning in June, but at
22 some point, she had princesses?

23 A I do not recall Hello Kitty or -- I do recall me
24 saying princesses in the interview.

25 Q Okay.

1 A However, I recall -- I want to say it was Tinkerbell.

2 Q Right. Right. He said, Tinkerbell or something.

3 And you said, Right, princesses. You fed him that fact
4 that you got from her interview, right?

5 A No.

6 Q You would agree with me that he never said princesses
7 prior to you saying princesses?

8 A I don't recall him saying princesses. I recall me
9 saying that.

10 Q Okay.

11 A But not in the context you're putting it in. I'm not
12 following you.

13 Q Right. When you were asking about the declarations?

14 A Sure.

15 Q And he was like, I don't know. I don't know, maybe
16 Tinkerbell. And you kept trying to get him to get to
17 princesses?

18 A I think Tinkerbell is what I was looking for, ma'am,
19 during the interview. And it says Tinkerbell on the
20 report from Ms. Brooke.

21 Q Okay. And then he kept asking you to describe -- you
22 asked him to describe the color. He couldn't give you
23 that detail; is that correct?

24 A The color of?

25 Q The bedspread, I'm sorry.

1 A I do not recall specifically saying describe the
2 color.

3 Q All right. And then at times when he was talking,
4 you would cut him off during the interview, right?

5 A Possibly at some times, yes, ma'am.

6 Q When he would start explaining about going -- what he
7 and Sarah did or going to the house, when he would try to
8 explain something, you would just cut him off and ask the
9 questions that you wanted? You were directing this
10 interview and this interrogation; is that correct?

11 A I listened to his answers quite often, yes, ma'am.

12 Q But you would also cut him off, as well?

13 A Depending on the point in the interview, I may have,
14 yes.

15 Q You told him that the only way that she would have
16 gotten this information was if he did it to her?

17 A Who are we talking about? You're referring to
18 **Minor** , that she would have gotten this information?

19 Q Correct?

20 A I don't remember saying those words, no. I do
21 remember saying she's eight years old and she wouldn't
22 make this stuff up.

23 Q Right. At this point, you were familiar with the
24 previous allegations or you weren't familiar with the
25 previous allegation?

1 A The only information I had on the previous allegation
2 was in our report where the -- at the trauma therapy
3 session, they mentioned that -- I believe it states in
4 here that the father had been arrested for assaulting --
5 let's see, **minor** being sexually assaulted by her father,
6 who is currently in jail for those charges. I had nothing
7 further than that, no.

8 Q And you said, You know how it works straight up and
9 down. You got a rap sheet. You got all kind of charges,
10 man. You're currently on probation. You've done this a
11 time or two, so I'm not going to run around with you. I'm
12 going to give you one chance to come clean and be honest
13 with me?

14 A I don't think I said it quite like that, no, ma'am.

15 MS. ZMROCZEK: And, Your Honor, we may need you to
16 watch the DVD before you can rule on this?

17 THE COURT: Why don't you just cross-examine it. I
18 mean, it's cross-examination. You say that it's in the
19 transcript, then ask him about it. If he says I don't
20 remember, then that's his issue if the video is completely
21 different.

22 BY MS. ZMROCZEK:

23 Q So you don't recall saying that to him?

24 A Not exactly the way that you said it, no, I don't
25 recall that. I'm sorry, I don't.

1 Q All right. Do you recall saying I'll give you one
2 chance to come clean. You know, it's one thing if it
3 happened one time. You know, I can talk to the solicitor
4 and say hey, he was honest with me, even if it happened 10
5 times. Dude, if you're going to sit here and lie to me
6 and go with this story of I didn't touch her or I didn't
7 do anything, I can't help you. You know that. You said
8 that to him, right?

9 A Sounds right, yes.

10 Q And it wasn't until that point that he changed his
11 story?

12 A I don't recall that part. I'd have to watch the
13 video to tell you that.

14 Q All right. And you watched the video --

15 A We're kind of jumping around a lot in this interview,
16 so I can't --

17 Q And let's talk about that for a moment. You said
18 that you read him his Miranda rights?

19 A Correct.

20 Q Do you know how far Mr. Stroman went in school?

21 A I do not.

22 Q Did you ask him?

23 A I don't recall asking that question.

24 Q All right. Do you know that he had below an 80 IQ?

25 A I did not.

1 Q Did you ask him about that?

2 A I did not ask him about his IQ, no, ma'am.

3 Q All right. Did you ask him if he ever was in special
4 classes?

5 A No, ma'am.

6 Q So you have no idea -- you didn't know that he was in
7 special classes?

8 A I did not.

9 Q All right. When you have your interview set up, how
10 big is the room?

11 A We could go over and measure. I'm thinking, you
12 know, probably about from this wall over here to where I'm
13 at. About that little section right there, maybe.

14 Q So --

15 A Maybe a little longer, a little longer.

16 Q And in there, you have minimal -- and you're
17 indicating from the wall of the back --

18 A The back of that column there to the back wall.

19 Q And you're -- because on the record, it just says
20 there to there.

21 A Sorry.

22 Q All right. But you're indicating from the jury box
23 in the fourth floor courtroom of the Lexington County
24 Courthouse, correct?

25 A Yes.

1 Q It's a small room?

2 A Yes.

3 Q And it has very minimal equipment?

4 A Table and two chairs.

5 Q One table and two chairs --

6 A And a telephone.

7 Q And a telephone?

8 A And some paper.

9 Q And audio and video?

10 A There is audio and video recorder, yes.

11 Q All right. And you indicated already that
12 Mr. Stroman was restrained with his left arm, but he had
13 his right arm free?

14 A Right arm was free, left arm, yes.

15 Q And at times, you -- in fact, when the video starts,
16 for the first five minutes, you leave him in there all by
17 himself; is that correct?

18 A That's correct. Someone is watching him from a video
19 camera in the other room, but yes, he's in there by
20 himself.

21 Q He's in there by himself. And at that point, he was
22 completely restrained?

23 A Both arms were restrained, yes. He had just come
24 from the Lexington County Detention Center.

25 Q So for five minutes, he sits there completely

1 restrained and then you enter the room?

2 A I would estimate, yeah. I haven't seen the exact
3 time.

4 Q All right. And at that time, you've already watched
5 the video?

6 A Which video?

7 Q All right. The Dickerson interview video?

8 A Yes, ma'am, I've watched it.

9 Q All right. You've already spoken with the mother?

10 A I believe that is correct.

11 Q All right. So you've already made up your mind that
12 you know he's guilty?

13 A I had not made up my mind. I had to interview him,
14 yes.

15 Q Okay. You got him to admit to touching her on the
16 butt after you told him that this was his one chance and
17 you could help him?

18 A Possibly, yes. He did admit to touching her on the
19 butt. I just don't remember the order of the one chance.
20 Yes, ma'am.

21 Q And then you said, Well, that's a good start, but
22 you're going to have to give me more if I'm going to help
23 you. Right?

24 A I don't know if I put the help you part in there, but
25 I do remember saying that's a good start on getting

1 something, right.

2 Q Because that's what you learned in your training?

3 A I don't recall specifically learning that in my
4 training, no.

5 Q And you would agree that you attended this course,
6 The Five Stages of Interview and Interrogation, from
7 August 21st, 2013 to August 23rd, so two full days in
8 Georgia, right?

9 A North Augusta, yes, ma'am.

10 Q I'm sorry, North Augusta. Just on these techniques?

11 A On interview/interrogation techniques, yes, ma'am.

12 Q And so you knew that once you got him to say
13 something, you knew how to get him to say some more? You
14 would tell him that's a good start, but you've got to give
15 me more?

16 A I believe I did say that to him, yes.

17 Q All right. That's a good start, you've got to give
18 me more so I can help you. Even though those weren't the
19 words that were said, that's what was implied, correct?

20 A I did not say that.

21 Q I know you didn't say that, but that's what you
22 meant. He has to give you more so that you could help
23 him, right.

24 A I didn't say that, no, ma'am.

25 Q I know you didn't say that, but that's what you

1 meant. Because you already told him if he was honest with
2 you, you would help him with the solicitor's office,
3 right?

4 A I would talk to the solicitor's office is what I
5 said.

6 Q And by talk to the solicitor's office, you meant and
7 help him get a deal?

8 A I didn't say anything about any deals, no, ma'am.

9 Q What did you mean then by talking to the solicitor's
10 office?

11 A To determine what the charge would be, the time spent
12 in jail, things of that nature.

13 Q In fact, you already had the warrant ready to go?

14 A No, ma'am, I did not.

15 Q All right. At what time did you get that warrant
16 signed?

17 A It was that night. I remember Detective Simmons
18 actually had it signed for me at night court. I think
19 they had a jury trial or something going that night when
20 the judge would be present.

21 Q What time was this interview?

22 A It was -- like I said, I remember it being in the
23 afternoon sometime after lunch, but before 5:00 or so.

24 Q And you kept telling him he wasn't giving you enough,
25 he had to give you more?

1 A I didn't say it like that, no, ma'am.

2 Q You said, Dude, I've been doing this a little while,
3 all right. You're gestures and your motions, you're
4 telling the story. You're telling it with your motions.
5 That's what you told him?

6 A I did say that, yes.

7 Q Okay. And you let him know with his big old rap
8 sheet, like you put it, that he was facing a lot of time
9 with these charges?

10 A I did make reference to the time with the charges,
11 yes.

12 Q All right. In fact, you told him he was going away
13 for the rest of his life?

14 A I did make mention of life, yes.

15 Q Okay. And even though he was giving you little bits
16 and pieces, he kept denying straight through about any
17 ejaculation or any insertion of his genitalia?

18 A He denied inserting his penis, yes. He didn't deny
19 ejaculating, no.

20 Q And then -- he did not deny ejaculating?

21 A He mentioned going to the bathroom to relieve
22 himself.

23 Q Okay. He admitted going to the bathroom?

24 A Uh-huh.

25 Q But you kept saying, You're lying. You're lying to

1 me. You said that to him and you raised -- I understand
2 it's your characterization you weren't yelling?

3 A Right.

4 Q But you would agree with me that you had raised your
5 voice?

6 A I did change my voice tone, yes, and I told him that
7 he was lying, at least, once or twice, yeah.

8 Q And you told him, You're coming off little by little,
9 but you're lying to me. And he kept saying, No, sir. But
10 you kept going after him, right?

11 A He did say that, at least -- I think one time I said
12 that to him, yes.

13 Q And then you said, What was the meaning of it,
14 gratification?

15 A Yes, I did mention gratification. I was trying to
16 determine what he was getting from it, yes.

17 Q And he didn't even know what that word meant, did he?

18 A I couldn't say that. He understood what I was
19 talking about.

20 Q Well, he said, What's the meaning of gratification?
21 And you responded, It means you're getting excited. So
22 you actually had to explain it to him, right?

23 A I don't remember him saying those words, what's the
24 meaning of gratification. I do remember saying you were
25 getting excited, right? Yeah.

1 Q Do you remember him asking you what the word
2 gratification meant?

3 A I don't remember that. That doesn't mean he didn't
4 ask me that. I just don't recall that.

5 Q You would agree with me that towards the end of the
6 interview when he wasn't giving you what you wanted, you
7 slammed on the table?

8 A I did hit the table once or twice during the
9 interview, yes, ma'am.

10 Q So he's in this little room in a chair with his one
11 arm cuffed, he only has arm free and you slammed the
12 table, right?

13 A On my side of the table, yes, ma'am.

14 Q Because at this point, he's not giving you what you
15 want, correct?

16 A Again, it's out of order, but I did hit the table,
17 yes, ma'am.

18 Q You hit the table towards the end of the interview,
19 would you agree with me on that?

20 A I believe I did, yes. I hit before that, I thought.

21 Q And then you said that you were -- that he was lying
22 to you about where he had lived?

23 A Correct.

24 Q Had you done any investigation as to his transient
25 nature, as to him going back and forth? Did you check any

1 medical records at the hospital to see sometimes he
2 registered that he lived at [REDACTED] Apartments and
3 sometimes he registered that he lived at home? Did you
4 ever follow up on any of that?

5 A I had no reason to check medical records on him at
6 the hospital, no.

7 Q You had no reason to follow up on any part of his
8 story, right?

9 A As I understood, he lived at [REDACTED] Apartments.
10 He did admit that he lived there.

11 Q All right. And you would agree with me that [REDACTED]
12 [REDACTED] Apartments is Section 8 housing?

13 A I believe that is correct.

14 Q And that they have people who can and can't live
15 there? If you have more than one person in the house, you
16 have to let the rental people know, right?

17 A I don't know all the parameters and rules of that,
18 no, ma'am.

19 Q So you have no idea?

20 A I don't know the rules of that -- of Section 8
21 housing, I do not know the rules.

22 Q You were familiar from reading your report that
23 **Minor** was in counseling when this disclosure
24 occurred, right?

25 A Correct.

1 Q You were familiar that DSS was involved with the
2 case, correct?

3 A When I spoke to Mr. Stroman, he mentioned DSS, yes.

4 Q All right. And, in fact, DSS goes out and makes home
5 visits, are you familiar with that?

6 A I am.

7 Q Did you ever see any of those reports?

8 A I did not.

9 Q So you don't know whether or not -- because those
10 reports indicate who lives there and who they see at the
11 home when they go, correct?

12 A I've never seen the reports, ma'am. I'm not sure.

13 Q And you were actually trained in -- you were special
14 -- you received -- you were on an ICAC team, the Internet
15 Crimes Against Children team, correct?

16 A Yes, ma'am.

17 Q All right. So you actually received special training
18 in children cases?

19 A I did as related to internet crimes, yes, ma'am.

20 Q Okay. And then towards the end, you told him that he
21 had been lying to you from the start. He even lied about
22 his date of birth?

23 A No, ma'am. I don't recall saying that. I just
24 remember saying he had started the conversation off in
25 lying to me about his address.

1 Q At that point when you're mad and you slammed the
2 table, he -- and you tell him he's just got to write it
3 down. And he asked you what do I write down?

4 A I was not mad, ma'am. I did not slam the table and
5 ask him to write something down. I simply put the form on
6 the table and asked him to write a statement for me as to
7 what he had done to **Minor**.

8 Q Okay. And you told him that the story that he told
9 you, the solicitors were going to laugh in his face?

10 A I believe I said laugh it off.

11 Q Laugh it off?

12 A For the patting on the butt, yeah.

13 Q Meaning that because he hadn't told you what you
14 wanted to hear, you weren't going to be able to help him?

15 A I don't recall saying that, no, ma'am.

16 Q And then after his interview, did you follow up on
17 anything that he told you?

18 A No, ma'am, I don't recall following up on his
19 information.

20 Q Did you do any investigation after this interview?

21 A I talked to the mother, but that was about it. I
22 mean, he admitted at that point to physically assaulting
23 the child, so...

24 Q So we don't have any pictures?

25 A No.

1 Q Okay. And we don't have anything other than one
2 statement and another statement?

3 A Correct.

4 Q Okay.

5 MS. ZMROCZEK: No further questions at this time,
6 Your Honor.

7 MR. POGUE: I'll try to be brief, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. POGUE:

10 Q Is the sole purpose of the Reid Technique to elicit
11 or force or coerce confessions?

12 A I'm sorry, I'm just not familiar with the Reid
13 Technique, the terminology. I'm not in the business of
14 coercing anything.

15 Q What you know about the Reid Technique or what you
16 know about interviewing in general, is the purpose
17 strictly to elicit a confession?

18 A The purpose is to get their side of the story.

19 Q All right. Is it designed at all to rule out
20 potential -- rule out any potential suspects in the case?

21 A Yes.

22 Q Okay. Did you ask him to provide you with info or
23 did you ask him to provide you with truthful info?

24 A I believe I wanted the truth.

25 Q At any point, did you ever demand anything other than

1 the truth from him?

2 A I do not recall demanding anything other than the
3 truth from him.

4 Q Did you ever ask for anything other than the truth?

5 A No, sir.

6 Q I believe you admitted to Ms. Zmroczek that you may
7 have cut him off at a time or two. Did you give him ample
8 opportunity to explain himself on anything that could have
9 been unclear?

10 A Yes.

11 Q Could he read or write?

12 A Yes.

13 Q Was there any way for you to be able to discern what
14 his IQ was?

15 A Not to my knowledge.

16 Q Did you know what his IQ was?

17 A No, sir.

18 Q All right. Did he appear to understand the questions
19 that you were asking?

20 A Yes, sir.

21 Q Did you have any arrest warrants at the time you
22 interviewed him?

23 A No, ma'am.

24 Q What statements did Mr. Stroman make in regard to
25 assaulting Minor ?

1 A He admitted to, again, pulling her pants down,
2 rubbing her on the ass and the clitoris, as he put it. He
3 later admitted to penetrating her with his index finger,
4 fingering her.

5 Q Did he admit to how many times he did it?

6 A I believe he said three times.

7 Q All right. Did he indicate when he may have done
8 this?

9 A About a year ago. I want to say it was year ago.

10 Q Did he give a particular like a particular date range
11 or anything?

12 A I don't recall. I want to say May, but I don't
13 recall.

14 Q That's okay. Do you recall anything about his body
15 language that stuck out to you during the course of the
16 interview?

17 A He was very -- he used his hands a lot during the
18 interview when he mentioned -- for instance, when he
19 mentioned patting her on the ass or rubbing her ass, he
20 rubbed his crotch. When he mentioned -- I want to say
21 when we talked about the fingering, he actually held his
22 hand up and made a fingering motion with his middle
23 finger.

24 Q Have you ever had any training in regard to body
25 language or nonverbal cues?

1 A The main thing is to pick up on nonverbal cues, yes.

2 Q All right. But have you received any sort of police
3 training in regard to --

4 A The training that she spoke of, the interview and
5 interrogation training mentioned nonverbal cues, how to
6 recognize them.

7 Q During the course of this interview, did Mr. Stroman
8 tell you that he lived at [REDACTED] Apartments?

9 A He did, yes.

10 Q All right. Did he say that he was on the lease?

11 A He said he was not on the lease.

12 Q At that time, did you have any reason to believe that
13 he did not reside at [REDACTED] Apartments?

14 A I did not, no.

15 Q All right. Do you typically do much more
16 investigation in a case after you have an accusation and a
17 confession to that accusation?

18 A No, sir.

19 MR. POGUE: Beg the Court's indulgence, Your Honor.

20 (Pause.)

21 We don't have any more questions, Your Honor.

22 MS. ZMROCZEK: We have nothing further.

23 THE COURT: All right. Thank you. You may step
24 down.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Another witness?

2 MR. POGUE: Your Honor, the State doesn't have any
3 more witnesses with regard to the Jackson vs. Denno or
4 Miranda waiver issues.

5 MS. ZMROCZEK: I do, Your Honor. I will be calling
6 my client, but I've also made a Court's Exhibit. As the
7 Court heard earlier when we were talking about the time
8 delays, there was a question about my client's competency.
9 I did have him evaluated and the psychologist did write a
10 report, which I marked as Court's Exhibit 1. Just my
11 client is competent -- sorry, I was looking for it. She
12 did find him to be competent, Your Honor, but she also did
13 some IQ testing in there.

14 THE COURT: All right.

15 MS. ZMROCZEK: But I just wanted the Court to have
16 that, A, to make sure that even though there was a
17 question of competency and the order was because of his
18 child-like behavior, that it was clear to us that he was
19 competent, but that he does have a low IQ.

20 THE COURT: All right.

21 MS. ZMROCZEK: At this point, we would call
22 Mr. Stroman to the stand.

23 THE COURT: All right. Come on up.

24 JAMIE STROMAN, after being duly
25 sworn, testified as follows:

1 THE CLERK: Once you're seated, state your full name,
2 spelling your last.

3 THE WITNESS: Jamie Lamont Stroman.

4 DIRECT EXAMINATION

5 BY MS. ZMROCZEK:

6 Q I'm going to move that mic down so you don't have to
7 keep leaning forward. Mr. Stroman, how old are you?

8 A Thirty-eight.

9 Q How old were you when you were arrested?

10 A Probably about 27, 26.

11 Q For this charge?

12 A This charge?

13 Q Uh-huh.

14 A Oh...

15 Q Was it about three years ago?

16 A Yes, ma'am.

17 Q All right. Okay. So about 35?

18 A Uh-huh.

19 Q Okay. How far did you go in school, Mr. Stroman?

20 A To the 11th grade.

21 Q Where did you go into the 11th grade? What school?

22 A Wagener-Salley High and Pelion High.

23 Q All right. Did you ever go to the alternative
24 school?

25 A No, ma'am.

1 Q All right. Never went to the alternative school.
2 What kind of classes were you in at Pelion?

3 A Special ed class all day.

4 Q All day in special ed classes? You never attended
5 normal classes?

6 A No, ma'am.

7 Q All right. And then you never finished after 11th
8 grade; is that correct?

9 A Yes, ma'am.

10 Q Do you recall -- let me just ask you this, do you
11 know **Minor** ?

12 A Yes, ma'am.

13 Q How do you know her?

14 A I used to talk to her mom.

15 Q And when you say talk to her?

16 A Boyfriend, girlfriend.

17 Q All right. You dated her mother?

18 A Yes, ma'am.

19 Q And how long did y'all date?

20 A About three, four years.

21 Q Okay. During that time, did you live with them, them
22 being Sarah and **Minor** ?

23 A Say it again now.

24 Q During -- when you dated, did you live with them?

25 A Yes.

1 Q All the time or some of the time?

2 A Some of the time.

3 Q All right. If you weren't living there, where else
4 would you live?

5 A In Pelion with my cousin, Teresa.

6 Q Okay.

7 A Or West Columbia to my sister's house.

8 Q Okay. Your sister?

9 A Peggy.

10 Q All right. And who else lived there?

11 A My four nephews and my brother.

12 Q Okay. Who lived at Monticello Street?

13 A My mom.

14 Q All right. Did you ever stay with your mom?

15 A Every now and then.

16 Q Okay. Did you have a job?

17 A At the time, I was working with landscaping about a
18 year.

19 Q All right. Okay. And what happened to that job?

20 A They just fired me.

21 Q Why did they fire you?

22 A They said I was too slow.

23 Q Do you recall meeting with Detective Ellisor?

24 A Yes, ma'am.

25 Q Do you recall who picked you up from the jail?

1 A I'm not sure.

2 Q All right. Okay. Have you ever seen the video of
3 your interrogation?

4 A No, ma'am.

5 Q What I want to ask you is you recall telling him that
6 you did some things, right?

7 A Yes, ma'am.

8 Q Why did you tell him that?

9 A Because I wanted to get out of jail, and I was
10 relying on his promise to help me.

11 Q So you were relying on his promise to help you?

12 A Yes, ma'am.

13 Q So what did you think that that required?

14 A Tell him something -- if I tell him I did something,
15 confess to doing something.

16 Q Okay. How many times do you recall denying that you
17 had anything do with this?

18 A Plenty of times.

19 Q Okay. Then why did you change your story?

20 A I just wanted to get out of jail.

21 Q And how did you think you were going to get out of
22 jail?

23 A If I told him I did -- confessed to doing something.

24 Q Okay.

25 MS. ZMROCZEK: Please answer any questions the State

1 may have.

2 CROSS-EXAMINATION

3 BY MR. POGUE:

4 Q Mr. Stroman, you indicated that you finished through
5 the 11th grade; is that correct?

6 A Yes, sir.

7 Q You never been in any special ed classes either,
8 right? You never been in any special ed classes either,
9 right?

10 A What you mean?

11 Q You just told your attorney that you had never been
12 in special ed classes, special education classes?

13 MS. ZMROCZEK: Your Honor, what I believe the
14 testimony was is that he was only in special ed classes.

15 THE COURT: I heard it.

16 MR. POGUE: I apologize if I misheard.

17 BY MR. POGUE:

18 Q So you were only in special ed class?

19 A Yeah.

20 Q All right. In these special ed classes, were you
21 able to read and write?

22 A Yes, sir.

23 Q Did you understand what the teachers were telling you
24 they gave you instructions?

25 A Yes, sir.

1 Q All right. Were you able to make it through the 11th
2 grade successfully?

3 A Not successfully, but I made it.

4 Q You moved on to the 11th grade?

5 A Yes, sir.

6 Q Okay. What was it that Mr. Ellisor promised you?
7 You said you relied on a promise to get out of jail, as
8 you said. What was it that he promised you?

9 A To help me out. And I was thinking if I --

10 Q All right. So -- I don't want to interrupt you. Go
11 ahead.

12 A He promised to help me out if I said I did something,
13 confessed to doing something.

14 Q So it's your testimony that if we were to watch this
15 video, we will hear him say that he was going to help you
16 out?

17 A Yeah.

18 Q Okay. And what was it that he was going to do to
19 help you out?

20 A Talk to the solicitor's office about giving me a plea
21 or something.

22 Q So again, if we play the video, it's your testimony
23 that he will tell you that he's going to get you a plea
24 deal?

25 A No. He promised to help me out.

1 Q You wouldn't tell somebody that you committed a crime
2 to get out of jail, would you? You wouldn't tell somebody
3 that -- you wouldn't confess to committing a crime to get
4 out of jail, would you?

5 A If I really wanted to get out of jail bad enough.

6 Q How much longer were you going to have to be in jail
7 when he brought you over there to interview you, do you
8 know?

9 A No, sir.

10 Q You had no clue?

11 A No clue.

12 Q Do you know what you were in jail for at the time?

13 A Yeah.

14 Q What's that? What were you in jail for at the time?

15 A Probation violation and weekend time.

16 Q So 20 days doesn't sound right?

17 A What do you mean.

18 Q Twenty days left in jail to finish your probationary
19 sentence, that doesn't sound right?

20 A Yeah, that sound right.

21 Q So you had 20 days left to serve in jail, but it's
22 your contention that you confessed to committing a crime
23 that carries 25 years to life to get out of jail? That's
24 what you're saying?

25 A Yes, sir.

1 Q Let me ask you a couple more questions, Mr. Stroman.
2 Did Mr. Ellisor ever threaten you?

3 A Not that I can recall.

4 Q All right. Okay. Did you feel threatened in any
5 way?

6 A Yeah, I did really.

7 Q In what way did you feel threatened?

8 A He started hitting on the table and stuff and
9 screaming, yelling at me.

10 Q So a police officer who raises his voice and smacks
11 the table makes you feel threatened?

12 A I've never been interrogated before, never been
13 through this before.

14 Q You've never had any experiences with police officers
15 before?

16 A Not being questioned like that, no, not to
17 interrogate, I haven't. He was the first one.

18 Q So it's your contention that you have never been
19 interrogated by the police in the course of your --

20 A Not audio and video, no, I haven't.

21 Q Oh, so now it's on audio and video?

22 A Yeah.

23 Q All right. So have you ever been interrogated or
24 questioned?

25 A Yes, sir, I've been questioned, yes, sir.

1 Q All right. And did you confess in those cases?

2 A No.

3 Q Okay. But you confessed in this case?

4 A Yes, sir.

5 Q You did admit to Mr. -- excuse me, to Detective
6 Ellisor that you had lived in [REDACTED] Apartments
7 in 2012, right?

8 A Yes, sir.

9 Q So why did you tell them previously -- why did you
10 lie to him and tell him that you did not live there? You
11 told him that you lived at another residence.

12 A I told him I stayed in West Columbia. That's what I
13 thought he was talking about.

14 Q But that wasn't true, you didn't stay in West
15 Columbia, though?

16 A No, sir.

17 Q Prior to being arrested, where did you stay?

18 A Prior to being arrested, I was staying in Pelion. I
19 wasn't staying in [REDACTED] Apartments.

20 Q So when you were arrested on May 7th, 2014, for a
21 probation violation, it's your contention that you were
22 not residing at [REDACTED] Apartments at [REDACTED]
23 [REDACTED], Apartment [REDACTED] in Lexington with Sarah Stoudemayer and
24 her daughter and son?

25 A I wasn't. I was in Pelion to my cousin's house and

1 she came and picked me up.

2 Q Okay.

3 MR. POGUE: No further questions, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. ZMROCZEK:

6 Q How much time did Mr. Ellisor -- Detective Ellisor
7 tell you you were going to get?

8 A Life.

9 Q When he said that he would talk to the solicitor,
10 what did that mean to you?

11 A Talking to him and getting me a good plea to get out
12 of jail.

13 Q Why weren't you allowed to stay at [REDACTED]
14 Apartments after March of 2014?

15 A Well, I think somebody got in contact with Sarah and
16 told her that I was a fleeing felony because I was on the
17 run from my probation. And they told her they found me
18 there, they would kick her out, so she told me to leave.

19 Q Was there a safety plan in place after Eric -- you
20 knew Eric got arrested?

21 A Yes, ma'am.

22 Q Was there a safety plan in place by DSS after that?

23 A I don't understand.

24 Q Were you involved with any of that?

25 A No, ma'am.

1 Q Did you ever see anybody from DSS?

2 A No, ma'am.

3 Q Okay.

4 MS. ZMROCZEK: I have no further questions, Your
5 Honor.

6 MR. POGUE: No recross, Your Honor.

7 THE COURT: Thank you. Please step down.

8 All right. Do we want to finish this once you get
9 your expert?

10 MS. ZMROCZEK: That's correct, Your Honor.

11 THE COURT: Okay.

12 MS. ZMROCZEK: In the meantime, since that won't be
13 until tomorrow, I would ask if the Court would watch the
14 video --

15 THE COURT: I will.

16 MS. ZMROCZEK: -- since there have been some --

17 THE COURT: I mean, I read the transcripts, but I'll
18 watch the videos, too.

19 MS. ZMROCZEK: Okay. I appreciate it.

20 THE COURT: All right. Next.

21 MS. PATTERSON: Your Honor, I guess we can take up
22 the issue with the State's motion to admit out-of-court
23 statement.

24 As you heard, Your Honor, the State has filed a
25 motion to allow the minor 's out-of-court statement made

1 during her June 12th, 2014, forensic interview admitted as
2 evidence per the child hearsay law.

3 THE COURT: All right. This is under 17-23-175?

4 MS. PATTERSON: It is, Your Honor.

5 THE COURT: Okay.

6 MS. PATTERSON: Your Honor, the State is ready to
7 call Brooke Wymer, who was the forensic interviewer that
8 interviewed. The State would offer facts in support of
9 the admission of the out-of-state expert, being that this
10 was a situation where it was -- she was referred by a law
11 enforcement agency to have a forensic interview done as a
12 part of an investigative interview, that the interview
13 was, in fact, preserved by video. **Minor** is here to
14 testify and is subject to cross-examination, and the
15 totality of the statements, Your Honor, provides
16 particularized guarantees of his trustworthiness, Your
17 Honor.

18 THE COURT: All right.

19 MS. ZMROCZEK: Your Honor, I don't know that we need
20 testimony because I think I filed a motion, as well, to
21 have the video played for the jury. My issue is that I
22 asked that -- I think as long as they follow the rules,
23 which is that I ask to be allowed to cross-examine the
24 **minor** after the video has been displayed.

25 Now, Your Honor, an issue has arisen that the State

1 and I talked about. They just handed me a little while
2 ago some redacted information out of there, and I haven't
3 seen these yet.

4 THE COURT: Okay.

5 MS. ZMROCZEK: And so, obviously, depending on how
6 things are ruled upon, I think my trial strategy will
7 change as opposed to whether or not he was in jail being
8 allowed -- I know that they have redacted some things
9 about him being in jail or not being in jail. That's what
10 they told me, I haven't watched it yet. But I would like
11 for an opportunity to see videos, but I don't think we
12 need testimony on it. I'm fine --

13 THE COURT: I mean, we can all agree that we're in a
14 General Sessions court proceeding, right?

15 MS. ZMROCZEK: Absolutely.

16 MS. PATTERSON: Absolutely.

17 THE COURT: And this was a statement given -- and
18 we're talking about June what?

19 MS. ZMROCZEK: June 12th.

20 MS. PATTERSON: June the 12th, 2014.

21 THE COURT: All right. June 12th statement, 2014,
22 the response was given in response to questioning
23 conducted during an investigation of a child interview.
24 There was an audio and visual recording of this that's
25 preserved. Is that right?

1 MS. PATTERSON: Yes, sir.

2 MS. ZMROCZEK: Yes.

3 THE COURT: All right. Of course, the child would
4 have to testify in the proceeding and would have to be
5 subject to cross-examination on the elements of the
6 offense and the making of the out-of-court statement. And
7 I would have to find based upon the totality of the
8 circumstances that it has particular guarantees of
9 trustworthiness, right?

10 MS. PATTERSON: Yes, sir.

11 THE COURT: All right. So you have no objection to
12 the June 12th, 2014, statement coming in provided they
13 follow this methodology?

14 MS. ZMROCZEK: Correct.

15 THE COURT: What about that, Ms. Patterson?

16 MS. PATTERSON: Your Honor, if she's not going to
17 object to it, then we're fine not calling Brooke Wymer for
18 pretrial testimony, Your Honor. I don't want her to get
19 up there and have any questions that Brooke wasn't a
20 trained interviewer, things of that nature, because that's
21 also one of the requirements.

22 THE COURT: All right. Now, Ms. Wymer is not going
23 to be testifying as to the kid is telling the truth --

24 MS. ZMROCZEK: Right.

25 THE COURT: -- and all that kind of jazz?

1 MS. PATTERSON: No, sir.

2 THE COURT: She's just going to be saying, I got a
3 referral. I conducted an interview?

4 MS. PATTERSON: Yes, sir, Your Honor.

5 THE COURT: All right. And I preserved it, as I'm
6 required to do, and I turned it over?

7 MS. PATTERSON: Yes, sir.

8 THE COURT: All right. Basically, that's the theory
9 at this point?

10 MS. PATTERSON: Yes, sir, Your Honor.

11 THE COURT: Okay. Now, help me with this -- in one
12 of your motions you filed, I read all of them, but it said
13 you wanted to file kind of an unusual procedure with doing
14 that. So help me with what in your mind that looks like
15 so I can process through it.

16 MS. ZMROCZEK: Maybe -- Your Honor, sometimes what
17 happens in my experience is that the -- they'll put the
18 victim up and then they'll put the DVD in after -- like
19 through a separate witness. And then at that point, we
20 would have to recall the victim or something to
21 cross-examination them on that.

22 What I was trying to do is just to make -- for
23 continuity and for the jury so they're not confused, so
24 that I'm not asking questions about well, you said this to
25 the interviewer and her saying a lot of times I don't

1 recall or I don't remember.

2 THE COURT: Right.

3 MS. ZMROCZEK: So it was just -- for continuity sake,
4 I didn't know if they were going to put the DVD in
5 first --

6 THE COURT: Help me with how we're going to do that
7 par of it?

8 MS. PATTERSON: Yes, sir, Your Honor. The **minor** is
9 going to be the very first witness. And we would have the
10 forensic interviewer testify. I think she's third or
11 fourth on the list.

12 THE COURT: All right. So **Minor** gets on the
13 witness stand. She testifies. We'll deal her competency
14 in that -- I'm not skipping that, I'm just skipping that
15 issue for the purposes of this argument.

16 MS. ZMROCZEK: Right.

17 THE COURT: And then we're going -- and then when is
18 the video coming in?

19 MS. PATTERSON: I think she's the third witness we
20 intend to call, Your Honor.

21 THE COURT: Okay.

22 MS. PATTERSON: It's the forensics interviewer, so
23 then the video would be entered in through her.

24 THE COURT: Okay. And then who is the second
25 witness?

1 MS. PATTERSON: Lacy Musgrave, Lacy Baker Musgrave.

2 THE COURT: That's the woman who was doing the
3 counseling?

4 MS. PATTERSON: Yes, sir.

5 THE COURT: What do you anticipate her testifying to?

6 MS. PATTERSON: She's going to testify about
7 demeanor, time and place.

8 THE COURT: So she's going to say I was interviewing
9 -- I was counseling with **Minor** . She disclosed to me
10 time and place?

11 MS. PATTERSON: Yes, sir.

12 THE COURT: And then you're going to call the person
13 who did the second forensic interview to put in the video?

14 MS. PATTERSON: Yes, sir.

15 THE COURT: Because she's under 12 or under whatever
16 the --

17 MS. ZMROCZEK: Yes, Your Honor, it's 12.

18 THE COURT: Whatever the statute is. Is that right?

19 MS. PATTERSON: Yes, sir.

20 THE COURT: So are you saying you want to -- let's --
21 I'm not saying -- I'm not doing this. I'm trying to put
22 it in my own mind. Do you want to let them call **Minor** ,
23 do her direct, do Lacy, do Brooke, play the video and then
24 put -- and then put **Minor** back up for cross-examination
25 at that point? I'm just asking for guidance.

1 MS. ZMROCZEK: Again, Your Honor, I just don't see
2 why we can't -- why the video can't go in first. I just
3 don't -- this is what I envision happening. Do you
4 remember telling Ms. Brooke this? No. But the video is
5 not in. So then it looks like I'm beating up on this poor
6 child, but bless her heart, she can't remember. I've
7 watched it a hundred times and I still can't remember
8 everything that was said and I have a transcript. I just
9 want to be able to cross-examine her without looking like
10 I'm trying to trip her up and so having the video in and
11 saying -- you know, like --

12 THE COURT: Does the way I just said it not
13 accomplish that?

14 MS. ZMROCZEK: I think that would work.

15 THE COURT: We just do her direct, take her off the
16 witness stand, don't cross-examine her at all, and then we
17 can put in the two -- whatever those people are called.
18 And then at that point, the video is in and then we can
19 recall **Minor** and you can cross-examine her.

20 MS. ZMROCZEK: I think that would be perfect.

21 THE COURT: That way, the video is in and the other
22 people are in, all the foundation is in and -- what
23 about -- I'm asking what about that?

24 MS. ZMROCZEK: I think that's very acceptable to me,
25 Your Honor. Because that way, too, she can, at least, see

1 it and it will refresh her memory.

2 THE COURT: Yeah, sure.

3 MS. ZMROCZEK: I'm perfectly fine with -- as long as
4 the jury understands that it's not the traditional
5 question question and -- I don't know how --

6 THE COURT: Okay.

7 MS. ZMROCZEK: But I'm absolutely fine with that.

8 THE COURT: I would probably say something due to the
9 way the rules of evidence work, we have to call these
10 witnesses to provide the proper foundation.

11 What do you think about that.

12 MS. PATTERSON: Your Honor, the only objection I have
13 to that, this child is 11 years old. Of course, this is
14 something traumatic.

15 THE COURT: Sure.

16 MS. PATTERSON: That's kind of a gap between when she
17 would give her direct examination and when she would be
18 crossed.

19 THE COURT: The other option is to recall her as a
20 witness. I mean, I just -- I mean, I don't -- I mean, how
21 long can Lacy and the other woman be? Five minutes?

22 MS. PATTERSON: Well, the video is about an hour
23 long.

24 THE COURT: I know, but I don't know why you wouldn't
25 want **Minor** to have the benefit of seeing the video for

1 her cross-examination as opposed to Ms. Zmroczek sitting
2 there going well, you didn't say this, and you didn't say
3 this, and you didn't say this. I mean, what do you think?

4 MS. PATTERSON: Yes, sir.

5 THE COURT: I mean, the problem is we've got this
6 statute that says, you know, the way that it works and the
7 way that it operates. I'm just trying to come up with a
8 way to be as least intrusive on the child as possible.

9 MS. PATTERSON: And, Your Honor, the more I think
10 about it, as long as she's not subjected to
11 cross-examination twice.

12 THE COURT: No, no, no --

13 MS. ZMROCZEK: I think that prevents her from it.

14 THE COURT: All right. The other way to do it would
15 be let her testify, let her get cross-examined, then the
16 video comes in. Then we either have to recall her -- you
17 have to recall her to explain why it's different or -- I
18 mean, Ms. Zmroczek has to call her to impeach herself. I
19 mean, I think this way, we can do one cross -- one direct
20 and one cross and she can have the benefit of seeing the
21 video and watching it during the process. I mean, I'm
22 open to other suggestions, but.

23 MS. ZMROCZEK: The Defense feels that that's more
24 than adequate, but it's up to the State, obviously.

25 MS. PATTERSON: And, Your Honor, that's fine. And I

1 think I mentioned this earlier this morning that I was
2 making a motion to clear the courtroom while she was
3 testifying. Can we make sure we have the courtroom
4 cleared?

5 THE COURT: We'll come back to that in a second.

6 MS. PATTERSON: Yes, sir.

7 THE COURT: All right. Help me. I can only process
8 one thing in my mind at the time. On the out-of-court
9 statement, at this point in time, the Defense is not
10 objecting to the June 12th, 2014, video being played
11 subject to the proper foundation by the people from the
12 Dickerson Center. I don't know what they're called
13 anymore. And then the way we're going to handle that is
14 she's going to testify on direct and then we'll put those
15 two in and she can be -- and do cross and redirect and
16 recross after that. That way, she's just subject to one
17 normal set of questioning --

18 MS. PATTERSON: Yes, sir.

19 THE COURT: -- without having to be recalled or
20 anything crazy like that. Does that make sense?

21 MS. PATTERSON: Yes, sir.

22 THE COURT: Do you need me to explain that to mama
23 and Minor or can y'all handle that?

24 MS. PATTERSON: We can handle it, yes, sir.

25 THE COURT: All right. Okay. Now, let's talk

1 about -- okay, so that issue is done. Okay.

2 All right. Let's talk -- I mean, so the rule used to
3 be I had to do this full-blown hearing with the child to
4 determine whether or not she understood the difference
5 between telling the truth or not. For some reason, the
6 last one of these I did, no one requested that and the
7 minor was like six or seven years old. I kind of did it
8 on my own anyway. What are you asking for, Ms. Zmroczek?

9 MS. ZMROCZEK: I guess that's what we're asking for,
10 Your Honor.

11 THE COURT: Okay.

12 MS. ZMROCZEK: Since there have been these two
13 different statements that the Court -- I know you've been
14 on the bench long enough to know the questions under 612
15 to make that determination.

16 MS. PATTERSON: It's actually Rule 601.

17 MS. ZMROCZEK: Yeah, sorry.

18 THE COURT: All right. Do you want to do that now?

19 MS. ZMROCZEK: I mean, I think while we have the
20 time, Your Honor. I know that you're not a fan and I'm
21 not a fan of jurors, you know, having to wait. And so I
22 figured -- that's why I filed it pretrial so that we
23 wouldn't have to stop.

24 THE COURT: Are you okay with doing it now,
25 Ms. Patterson?

1 MS. PATTERSON: Yes, sir, Your Honor.

2 THE COURT: Okay. Where's Minor ? Hey, come on
3 up.

4 MS. PATTERSON: Your Honor, this is my victim's
5 advocate, Teresa Akins.

6 THE COURT: Okay. That's fine.

7 Hey, how are you doing? Come right over here. Put
8 your left hand on the Bible and raise your right hand.

9 Minor , after being
10 duly sworn, testified as follows:

11 THE COURT: Okay. Grab a seat right up there, okay?
12 All right. Are you in? Are you good? Okay. What about
13 that mic? How about a testing one, two, three? Can you
14 say that?

15 (There was no response.)

16 THE COURT: You can't say testing one, two, three?
17 Okay. You want some water?

18 THE WITNESS: (The witness shakes in the negative).

19 THE COURT: Are you sure? Tell me how old you are?

20 THE WITNESS: Eleven.

21 THE COURT: Okay. So let's see, 11, you're either in
22 the 5th or the 6th grade, which one?

23 THE WITNESS: Fifth.

24 THE COURT: Fifth, great. And what school do you go
25 to?

1 THE WITNESS: H. B. Rhame.

2 THE COURT: Is that pretty cool?

3 THE WITNESS: Uh-huh.

4 THE COURT: You like it?

5 THE WITNESS: Yeah.

6 THE COURT: Do you have lots of friends?

7 THE WITNESS: (Indicating in the negative.)

8 THE COURT: No. Do you have a few good friends?

9 THE WITNESS: Yeah..

10 THE COURT: Yeah. Are they girls or boys?

11 THE WITNESS: Girls.

12 THE COURT: Girls. And what do girls who are 11 like
13 to do? Shop?

14 THE WITNESS: (There was no response.)

15 THE COURT: You're not a shopper?

16 THE WITNESS: Huh-uh.

17 THE COURT: Do you play in any sports?

18 THE WITNESS: I used to play football.

19 THE COURT: Really? What position did you play?

20 THE WITNESS: I just used to play flag football.

21 THE COURT: Oh, yeah. That's pretty neat. Do you
22 know what my name is?

23 THE WITNESS: (Indicating in the negative.)

24 THE COURT: Not at all?

25 THE WITNESS: I can't remember.

1 THE COURT: Okay. Well, my first name is Robert.
2 Tell me your first name.

3 THE WITNESS: Minor .

4 THE COURT: Minor . And what's your last name?

5 THE WITNESS: Minor .

6 THE COURT: All right. Is your mama here?

7 THE WITNESS: Yes.

8 THE COURT: Is that her right there?

9 THE WITNESS: Yes.

10 THE COURT: Okay. And what's her name?

11 THE WITNESS: Sarah.

12 THE COURT: All right. Good. Who's this lady right
13 here?

14 THE WITNESS: (There was no response.)

15 THE COURT: Is she the victim advocate?

16 THE WITNESS: Yes.

17 THE COURT: Does she hang out with you?

18 THE WITNESS: Yes.

19 THE COURT: Get any snacks?

20 THE WITNESS: Yes.

21 THE COURT: All right. Good. All right. So we need
22 to talk about whether or not you understand the difference
23 between the truth and a lie, okay. Can we do that?

24 THE WITNESS: Uh-huh.

25 THE COURT: Tell me in your own words what the

1 difference between the truth and a lie is?

2 THE WITNESS: A truth is what happened, what really
3 happened and a lie is what didn't happen.

4 THE COURT: All right. Can you give me an example of
5 a lie that kids often tell? Do you want to hear the most
6 popular one at my house?

7 THE WITNESS: I ate my beans.

8 THE COURT: I ate my beans, that's a good one. I
9 brushed my teeth. That's my favorite one. Did you brush
10 your teeth? Yes. Just like that, they say yes. And then
11 I say let me see your teeth. And then guess what I can
12 tell? That they didn't do what?

13 THE WITNESS: Brush their teeth.

14 THE COURT: That's right. And I don't know why, they
15 just don't like to brush their teeth. So you understand
16 that that's a lie?

17 THE WITNESS: Yes.

18 THE COURT: So they want to get out of doing
19 something that they don't want to do and when I ask them,
20 they lie about it. And then I catch them, right? Because
21 you can see the food in their teeth or they've been eating
22 some blow pop and they're whole mouth is red or something
23 silly like that. So they get caught pretty quick. Does
24 that make sense?

25 THE WITNESS: Yes.

1 THE COURT: Okay. And do you understand the
2 difference between the truth and a lie?

3 THE WITNESS: Yes.

4 THE COURT: And why is it important to tell the
5 truth?

6 THE WITNESS: Because -- I don't know.

7 THE COURT: Okay. Well, why is it bad to lie?

8 THE WITNESS: Because I'm not making the right
9 decision.

10 THE COURT: That's right. Good. Good. And do you
11 understand if you were to lie about something that
12 other -- things could happen to other people based upon
13 the information that you gave. Does that make sense?
14 Like if you were to -- so I'll give you a good example,
15 okay. So the other day, both my kids are in the bathroom,
16 right, and I could hear that they were having a dispute.
17 And they're about your age. So they were having a
18 dispute, right, and they didn't know that I was sneaking
19 around the corner, right? And they were in there and they
20 were doing their little kid things. And then neither one
21 of them are really touching each other, but as soon as the
22 female child sees me, she slams herself into the wall and
23 says Robbie, you hit me. And his hands were nowhere near
24 her, right? Now, why did she do that?

25 THE WITNESS: Because she saw you.

1 THE COURT: That's right. Because she wanted to get
2 him what?

3 THE WITNESS: In trouble.

4 THE COURT: That's right. And she was willing to do
5 what to get him in trouble?

6 THE WITNESS: To push herself against the wall.

7 THE COURT: Right. And then to do what -- what did
8 she tell me, it was a -- so when she told me Robbie pushed
9 her, what was that.

10 THE WITNESS: A lie.

11 THE COURT: That's right. Because she was trying to
12 get who in trouble? Do you remember his name? Robbie?
13 Who was she trying to get in trouble?

14 THE WITNESS: Robbie.

15 THE COURT: That's right. Because she didn't want to
16 be in what?

17 THE WITNESS: Trouble.

18 THE COURT: That's right. So she lied. And do you
19 get punished when you lie?

20 THE WITNESS: Yes.

21 THE COURT: And she did, too. Because when you lie,
22 it has consequences. Do you know what that word means?

23 THE WITNESS: Yeah.

24 THE COURT: So help me now with understanding why you
25 believe it's important to tell the truth?

1 THE WITNESS: Because if you don't tell the truth,
2 there's going to be big consequences.

3 THE COURT: That's right. That's good. Very good.
4 Okay. Now, in this case,, are you going to be able to tell
5 us the truth?

6 THE WITNESS: Yes.

7 THE COURT: And are you willing to tell us the truth?

8 THE WITNESS: Yes.

9 THE COURT: Do you want to tell us the truth?

10 THE WITNESS: Yes.

11 THE COURT: Okay. And do you promise that you will
12 tell us the truth?

13 THE WITNESS: Yes.

14 THE COURT: Okay. And has anybody forced you to make
15 that statement?

16 THE WITNESS: No.

17 THE COURT: Has anybody threatened you with anything,
18 you better do this or this is going to happen in regards
19 to you telling the truth in court?

20 THE WITNESS: No.

21 THE COURT: Has anybody promised you anything if you
22 do come up here and tell the truth?

23 THE WITNESS: No.

24 THE COURT: Okay. And do you want to tell the truth?

25 THE WITNESS: Yes.

1 THE COURT: Do you believe you can do that?

2 THE WITNESS: Yes.

3 THE COURT: And do you understand the difference
4 between lying and telling the truth?

5 THE WITNESS: Yes.

6 THE COURT: One hundred percent?

7 THE WITNESS: Yes.

8 THE COURT: No doubt about it; is that right?

9 THE WITNESS: Yes.

10 THE COURT: All right. Anything else you want me to
11 ask her, Ms. Patterson?

12 MS. PATTERSON: No, sir, Your Honor. I think you
13 pretty much covered it.

14 THE COURT: What about it, Ms. Zmroczek?

15 MS. ZMROCZEK: I think you asked all the questions
16 that are required.

17 THE COURT: I mean, there's no list.

18 MS. ZMROCZEK: Right, there's no standard.

19 THE COURT: All right. There's no list. There's no
20 script.

21 MS. ZMROCZEK: My concern -- my only concern, Your
22 Honor, is that, obviously, during these questions, you had
23 to prompt her for a lot of things. And my concern is
24 tomorrow if she can't remember, if has to be prompted.

25 THE COURT: Okay.

1 MS. ZMROCZEK: How that will affect what testimony
2 comes out.

3 THE COURT: Right. I understand.

4 Thank you, **Minor** . You go back and sit with your
5 mom, sweetie.

6 All right. On this issue, the only really rules that
7 the Court has to guide it is competency. The general
8 rules that every person is competent to be a witness
9 except as otherwise provided by the statute or the rules.
10 A witness is disqualified if I determine that the proposed
11 witness is incapable of expressing himself concerning the
12 matter as to be understood by the judge or the jury,
13 either directly or through interpretation, one, you can
14 understand him or the proposed witness is incapable of
15 understanding the duty of a witness to tell the truth.

16 This young lady is 11 years old at this point. I
17 think she clearly understands the difference between the
18 truth and a lie. She's in the 5th grade. She seems to be
19 functioning normally and capable of understanding where I
20 was going and what I was looking for. I believe she
21 understands the importance and the significance of telling
22 the truth and not lying to the Court or to the jury.

23 I believe at this point, unless I hear something
24 different, she is going to be competent to stand as a
25 witness in the case.

1 Okay. All right. Next issue?

2 MS. PATTERSON: Thank you, Your Honor. I think
3 Ms. Zmroczek filed something regarding my expert witness,
4 Heather Smith.

5 THE COURT: Okay. Who is Heather Smith? Is that the
6 woman that's in all those cases?

7 MS. ZMROCZEK: Yes. To answer your question, yes.

8 THE COURT: Are you calling her as a blind expert, is
9 that the idea?

10 MS. PATTERSON: Yes, sir, Your Honor. I am calling
11 her as a blind expert witness. She will be qualified in
12 child abuse dynamics and disclosure, Your Honor. This has
13 been upheld in State v. Brown. That's a Court of Appeals
14 case from February 11, 2015, where the court ruled that
15 testimony of the State's expert witness on child abuse
16 dynamics and delayed disclosure regarding general behavior
17 characteristics of child abuse victims was not
18 inadmissible as being within ordinary knowledge of the
19 jury in child sex abuse cases. The expert's specialized
20 knowledge of behavior characteristics of child abuse
21 victims were both relevant and crucial in assisting the
22 jury's understanding of why children may delay disclosing
23 sexual abuse and why recollections may have become clearer
24 each time they discussed instances of abuse.

25 This is certainly the case in our case, Your Honor.

1 **Minor** had been seeing Lacy Musgrave for counseling
2 within a three-month period at this time, Your Honor.
3 Things became clearer to her what was going on with her
4 with regards to Jamie Stroman. And it's our belief that
5 she felt a level of comfort at this time, Your Honor, and
6 she felt the urgent need to tell what he was doing because
7 there was talk about him returning to the home.

8 So therefore, Your Honor, we will need Ms. Smith to
9 help us to assist the trier of facts, the jury, Your
10 Honor, in understanding delayed disclosure and the process
11 of disclosure as it relates to children.

12 THE COURT: So Ms. Smith hasn't seen the child?

13 MS. PATTERSON: No, sir.

14 THE COURT: Ms. Smith hasn't interviewed the child?

15 MS. PATTERSON: No, sir.

16 THE COURT: All right. Ms. Smith hasn't counseled
17 the child?

18 MS. PATTERSON: No, sir.

19 THE COURT: She really has no connection to **Minor** ;
20 is that a fair statement?

21 MS. PATTERSON: That's a fair statement, Your Honor.

22 THE COURT: All right. What's your position on that,
23 Ms. Zmroczek.

24 MS. ZMROCZEK: Thank you, Your Honor. This issue --
25 if you're familiar with the issue, in fact, this very

1 issue -- this issue was argued a week ago today in the
2 Supreme Court and so -- obviously, people who try a lot of
3 cases have conversations about what needs to be preserved
4 in appeal, et cetera. So what I did, Your Honor, is I
5 went back and I watched those Supreme Court arguments.
6 They're online, obviously. We can watch them. We don't
7 have to watch them now, but you can certainly go back and
8 check what I'm saying if there's any question. But the
9 question that the defense community and myself, in
10 particular, is concerned about and it was a question that
11 Justice Hearn asked, is isn't this just a way to back door
12 Kromah?

13 THE COURT: Right.

14 MS. ZMROCZEK: And that's the issue. And, obviously,
15 I feel like I have to raise it. I have to --

16 THE COURT: I'm not yelling at you for raising it.

17 MS. ZMROCZEK: I know. I know. But I'm also
18 concerned in this case, Your Honor, because this case is
19 very unusual. And my concern is that I've read a lot of
20 transcripts where Ms. Smith has testified and, at least,
21 one case I know was overturned because she went way
22 beyond.

23 THE COURT: She's in like five opinions.

24 MS. ZMROCZEK: Right. Right. So my concern is that
25 it continues to happen and it's going to happen here and

1 then we're going to have to raise an appeal issue. I
2 don't want to have to do that. I want to have a fair and
3 clean trial.

4 THE COURT: So what, if anything, do you think
5 Ms. Smith can testify to?

6 MS. ZMROCZEK: I mean, she's a blind expert. She
7 really has no knowledge of this case. What they want to
8 do is kind of fix the problems with the case and I don't
9 believe that is proper testimony.

10 THE COURT: So your answer to that question is
11 nothing?

12 MS. ZMROCZEK: Correct.

13 THE COURT: Okay.

14 MS. ZMROCZEK: As it pertains to this case.

15 THE COURT: Right. Okay. So is that Brown case the
16 one that they just argued?

17 MS. ZMROCZEK: There were actually two arguments on
18 this issue. And I have it written down, I don't remember,
19 but I don't believe -- I think that one was recently
20 decided, so I don't know it's made it up to the Supreme
21 Court yet.

22 THE COURT: Okay.

23 MS. ZMROCZEK: But these were two older cases, I
24 believe, 2014 cases, Your Honor, that were argued. I'm
25 sorry, I should have written those down and I didn't.

1 THE COURT: All right.

2 MS. ZMROCZEK: Cartwright, I think, was one of them.

3 THE COURT: Right.

4 What about it, Ms. Patterson?

5 MS. PATTERSON: Your Honor, the reason we're calling
6 Heather Smith is to abide by the Kromah ruling, where you
7 can't use a forensics interviewer as an expert witness.

8 THE COURT: Right. We all agree you can't do that.

9 MS. PATTERSON: So therefore, we are calling a blind
10 witness who has no affiliation with this case, but who has
11 specialized knowledge that can certainly help the jury,
12 Your Honor. A lot of people don't understand the process
13 of disclosure. They don't understand --

14 THE COURT: Right, I understand that.

15 MS. PATTERSON: That's why we need her to assist us.

16 THE COURT: Listen, I'm -- I mean, I'm going to let
17 you call her.

18 Of course, Ms. Zmroczek, you need to raise your
19 objection at the appropriate time.

20 We ain't running down some Heather Smith rabbit
21 trail, you know, all this kind of stuff. She needs to
22 stick to this is delayed disclosure. This is why kids
23 delay disclosure. This is my training in that area. I'm
24 going to limit her.

25 Now, the flip side of that is you can't be going back

1 and opening the door on everything under the sun. But I
2 mean, there's nothing more unusual about this case other
3 than it's a delayed disclosure and she didn't tell the
4 first time, right? There's no other major issues?

5 MS. PATTERSON: Right. There will be some talk about
6 chronic abuse, but that helps relate to reason of delayed
7 disclosure.

8 THE COURT: Okay.

9 MS. ZMROCZEK: And, I guess, that's one of the
10 issues, Your Honor, is that even though -- I mean,
11 clearly, she's not a blind blind expert because she knows
12 that she was called because -- I mean, she had to have
13 been given some facts. My concern is that she's going to
14 testify to situations that mirror -- that happen to
15 hypothetically mirror this case as opposed to all -- do
16 you understand my concern?

17 THE COURT: Yeah, sure. I mean, I understand that
18 concern. I don't know how we get around that. What I'm
19 not going to let her do is go down some rabbit trail of,
20 you know, every kid that ever made a disclosure is telling
21 the truth kind of kind, which is what I hear a lot of
22 times from those type of witnesses. I mean, she's got --
23 we need to keep it confined. We need to keep it short and
24 to the point.

25 I mean, I understand it's hard for -- listen, we all

1 do these cases more than we all like to remember them,
2 okay. I mean, that's a fair statement. So when we all
3 hear a child delay disclose, none of us have a panic
4 attack about it. But people on the street -- I mean, you
5 go home -- you're in the restaurant tonight and you tell
6 seven people that a child delay disclosed, they're all
7 like that doesn't make any sense. And so -- I mean, they
8 understand the necessity for that. And I also understand
9 the other two people can't testify to that, okay, because
10 they can't -- because of the cases that are out there. So
11 I'm going to allow it, but I'm going to -- you know, she
12 needs to keep it confined.

13 I think the last trial that I did, maybe she was
14 there, in Newberry and it was very confined and to the
15 point. And that actually broadened because of the defense
16 cross-examination because there's a million other reasons
17 all these other things can happen and they chose to go
18 into all that. But her direct from the State is very
19 direct and to the point. You know, these are my
20 qualifications and this is why children delay disclosure
21 and this is why she may not -- you know, that kind of
22 thing. I'm going to allow it. I'm not going to keep her
23 out completely, but we don't need to be running on for
24 days with that kind of stuff.

25 MS. PATTERSON: Yes, sir, Your Honor.

1 THE COURT: Does that make sense?

2 MS. PATTERSON: Yes, sir, it does, Your Honor.

3 THE COURT: All right. All right. We're on -- what
4 about rap sheets on witnesses?

5 MS. ZMROCZEK: I've seen those, Your Honor, so we're
6 good on that.

7 THE COURT: All right. Good. Okay. And then --

8 MS. ZMROCZEK: I don't know if they have Lyle -- I
9 don't believe that they have any Lyle.

10 THE COURT: There's no Lyle. Okay. Good.

11 All right. What else? Is that everything? We made
12 it through everything prior to 5:00 starting an hour late?

13 MS. PATTERSON: I lost my list, Your Honor. I'm
14 sorry.

15 THE COURT: We're all good. What about this -- the
16 idea that her first allegation was false?

17 MS. ZMROCZEK: Oh, I don't think her first allegation
18 was false.

19 THE COURT: Well, that's what your motion says.

20 MS. ZMROCZEK: Oh, I think what --

21 THE COURT: Yeah, Defendant requests an in-camera
22 hearing to determine whether her prior allegation was
23 false.

24 MS. ZMROCZEK: Right. And I guess I meant the --
25 prior to -- like prior to what she's going to testify to

1 on the stand.

2 THE COURT: Oh, no --

3 MS. ZMROCZEK: I'm sorry.

4 THE COURT: Usually, that's when they've given -- the
5 basis of that statute is they made an accusation in
6 another sexual assault case that the defense alleges is
7 false, and then we have to have a hearing on a whole other
8 case to determine whether or not you should be able to
9 cross-examine her on whether or not she made an allegation
10 and it was false.

11 MS. ZMROCZEK: Right.

12 THE COURT: So your argument is the allegation of
13 Mr. English is the truth?

14 MS. ZMROCZEK: Right.

15 THE COURT: Okay.

16 MS. ZMROCZEK: I think we covered that. I had filed
17 all of these motions, Your Honor. I was honesty trying to
18 cover all my bases, but I think the Court understands what
19 I was getting at.

20 THE COURT: All right. Does that make sense now? Do
21 you understand why I was thinking that?

22 MS. ZMROCZEK: Absolutely.

23 THE COURT: And sometimes, you know, these children
24 make four and five allegations, and so then we -- the
25 defense says well, I want to cross-examine them on the

1 fact that they made all these allegations and no one ever
2 got arrested or whatever it may be. And that's a whole
3 separate hearing with different cops and different cases.
4 You're not asking for all that?

5 MS. ZMROCZEK: Right.

6 THE COURT: All right. Is that right? I don't want
7 to stop you.

8 MS. ZMROCZEK: No, that's absolutely correct.

9 THE COURT: All right. So what else?

10 MS. PATTERSON: Your Honor, I just want to be clear.
11 I think she objected to the stipulations that I proposed,
12 so I just want to be real clear on --

13 MS. ZMROCZEK: I thought we covered that this
14 morning.

15 THE COURT: We talked about it. We didn't talk about
16 practically how we're going to get all that information to
17 the jury.

18 MS. ZMROCZEK: Right.

19 THE COURT: So I mean, one way to do it is -- one way
20 to do it is we can say there's stipulations and still let
21 you cross-examine people on it. I mean, do you see what
22 I'm saying?

23 MS. ZMROCZEK: Right.

24 THE COURT: Another way we can do it is, I guess,
25 somebody from Lexington County can testify that he got

1 arrested or...

2 MS. ZMROCZEK: I mean, I think publishing the
3 stipulations and then --

4 THE COURT: I mean, I think there's a difference in
5 you saying -- I mean, I think I can publish basically what
6 Ms. Patterson said earlier and you can still
7 cross-examine. I'm not going to say you can't
8 cross-examine people on --

9 MS. ZMROCZEK: And that was my concern when I had
10 objected, that was the end all be all.

11 THE COURT: To find a witness to put all that in --

12 MS. PATTERSON: Yes, sir.

13 THE COURT: I mean, neither one of you dispute all
14 that happened, right? She made a report. She went to the
15 nurse. She went to the hospital, you know, she got
16 interviewed. They arrested him. That kind of paragraph
17 of stipulations that you read earlier.

18 MS. PATTERSON: Yes, sir.

19 THE COURT: I mean, I think we can still read that
20 and you can cross-examine whoever you want to.

21 MS. ZMROCZEK: And I think the only thing their
22 stipulation number six -- I have a copy. Does Your Honor
23 have a copy?

24 THE COURT: I don't, no.

25 MS. ZMROCZEK: Do you mind if I hand --

1 MS. PATTERSON: No, I'm sorry.

2 MS. ZMROCZEK: Okay. I have an extra copy. I know
3 that sometimes we forget that you don't have these things.

4 THE COURT: Let me read this real quick.

5 MS. ZMROCZEK: Okay.

6 (Pause.)

7 THE COURT: Okay.

8 MS. ZMROCZEK: So I think that the only concern or
9 area is number six because that may become part of our
10 trial strategy.

11 THE COURT: Well, why don't we just say he moved out
12 of the house -- is that true that he moved out of the
13 house on May 7th?

14 MS. ZMROCZEK: See, I think that's where the problem
15 is because there was a DSS safety plan in place, so I
16 think he was -- I need some clarification on that, Your
17 Honor.

18 THE COURT: Why don't we just stop at number five?

19 MS. ZMROCZEK: I think that that's appropriate. I
20 don't think we need to address number six regardless of --

21 MS. PATTERSON: Well, Your Honor, I think it needs to
22 be addressed because that's one of our premises to why she
23 finally disclosed because he was now out of the house, so
24 that needs to be brought out.

25 THE COURT: All right. How can -- and I'm not saying

1 this is not true, I'm just asking. Who's your witness
2 that proves he's out of the house on May 7th?

3 MS. PATTERSON: Well, Detective Ellisor learned that
4 during the course of his investigation because he saw that
5 he had been booked in the jail May 7th. So he knew he was
6 out of the house.

7 THE COURT: How do you know that prior to that he was
8 in the house? Who's going to testify to that?

9 MS. PATTERSON: Minor will testify to that.

10 THE COURT: All right. So can we all agree on
11 May 7th, he goes into custody?

12 MS. ZMROCZEK: He does go into custody on May 7th.
13 We can agree on that.

14 THE COURT: All right. So -- now, at some point,
15 we're going to have to make a decision on whether or not
16 we're going to tell the jury --

17 MS. ZMROCZEK: We'll talk about it.

18 THE COURT: I've got a big note over here that says
19 criminal history.

20 MS. ZMROCZEK: I know.

21 THE COURT: All right. I don't even know your
22 criminal history, okay. I mean, literally, I don't know
23 your criminal history, okay. I just don't. But whatever
24 it is, he talks about it in his history with Ellisor.
25 It's out there enough that it would be super easy for

1 somebody to slip up and say something. So, I mean, you're
2 going to have to make -- your argue is that --

3 MS. ZMROCZEK: He doesn't -- I mean, my argue is that
4 he has a prior criminal history.

5 THE COURT: I'm talking about May 7th. Your argument
6 is that -- I mean, there's no doubt he was --

7 MS. ZMROCZEK: There's no doubt he was not in the
8 house.

9 THE COURT: -- in custody May the 7th and didn't come
10 back?

11 MS. ZMROCZEK: Correct.

12 THE COURT: Your issue is prior to that, he may or
13 may not have been there?

14 MS. ZMROCZEK: Right. Correct. So that's my only --

15 THE COURT: So why don't we just say from May 7th,
16 2014, forward, he had no more -- Mr. Stroman had no more
17 contact with **Minor** ?

18 MS. ZMROCZEK: Yeah.

19 THE COURT: Something like that? I'm not saying that
20 verbatim. I'm just throwing that out.

21 MS. ZMROCZEK: Right, right, right. I think that
22 would cover it.

23 MS. PATTERSON: Your Honor, I think him being in the
24 house is important because that's when he was --

25 THE COURT: Well, I'm not saying it's not important,

1 but you're going to have to prove it.

2 MS. PATTERSON: Okay.

3 THE COURT: You can't make her stipulate that he was
4 there.

5 MS. PATTERSON: That's fine.

6 THE COURT: I'm going to let you -- whatever witness
7 you have to say that he was in the house in that
8 timeframe, they can say it. I'm not saying it's not
9 admissible.

10 MS. PATTERSON: Yes, sir.

11 THE COURT: I'm just saying that I don't know that
12 she can stipulate to that. Does that make sense?

13 MS. PATTERSON: Yes, sir.

14 THE COURT: I mean, mama can get up there or
15 whoever -- I mean, I don't know your whole case -- to say
16 yeah, from March of 2014 to May of 2014, he was in the
17 house. But I think we can all agree from May 7th, 2014,
18 forward, he has no more contact with **Minor**. Does that
19 make sense? So I'm not telling you you can't put it in.
20 I'm just saying that I don't know that it's reasonable to
21 ask Ms. Zmroczek to stipulate that's the date he moved out
22 of the house. You may have a witness that says that. He
23 may have said that in his interview. I can't remember
24 every single line of it at this point. I'm not saying you
25 can't prove it. I'm just saying I don't think I can even

1 twist her arm and get her to stipulate to that fact.

2 MS. PATTERSON: That's fine.

3 THE COURT: Does that make sense? And that's what
4 you were looking for?

5 MS. ZMROCZEK: And that was my concern.

6 THE COURT: Right. Okay. So at this point, no one
7 is going to say anything about him going to jail unless
8 Ms. Zmroczek -- I mean, you need to let us know tomorrow
9 morning.

10 MS. ZMROCZEK: I will.

11 THE COURT: Do you understand that thought process,
12 Mr. Stroman?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Y'all talk about it tonight
15 or in the morning and whichever one it is, just let us
16 know so we can all be operating off the same sheet of
17 music.

18 Now, when do you want me to tell the jury these
19 stipulations?

20 MS. ZMROCZEK: Probably in the beginning, Your Honor.

21 MS. PATTERSON: Yeah, in the beginning because --

22 MS. ZMROCZEK: Because then we're going to be asking
23 -- I think it's going to come out.

24 MS. PATTERSON: Yeah, it's going to come out.

25 THE COURT: So do you want to do opening and then

1 before we start with anything, I'll say I need to explain
2 something to you. The parties agree that these facts
3 exist.

4 MS. PATTERSON: I think we're even going to talk
5 about it in our openings, so if you would do it before
6 openings, that would be great.

7 THE COURT: Is that okay?

8 MS. ZMROCZEK: That's fine.

9 THE COURT: All right. That's fine. So I'm going to
10 say, you know, the parties agree that from May the 7th of
11 2014, forward, Mr. Stroman had no contact with **Minor**

12
13 MS. ZMROCZEK: Correct.

14 THE COURT: He admits in his interview he had contact
15 with her prior. Whether or not he lived in the house is a
16 different issue. It's not like he said I've never seen
17 the girl in my whole life.

18 MS. ZMROCZEK: Right. And the only other issue, Your
19 Honor, is I know they stipulate that they're going to try
20 Mr. English this summer. To my knowledge, though, there's
21 been no trial date --

22 THE COURT: Why don't we just say that his cases are
23 still pending and --

24 MS. ZMROCZEK: Yes.

25 THE COURT: -- a trial date will be set by the chief

1 administrative judge or something like that?

2 MS. PATTERSON: That's fine, Your Honor.

3 THE COURT: All right. Okay.

4 MS. ZMROCZEK: That's fine. I just want to make sure
5 what we're telling them is actually --

6 THE COURT: I'm going to just say by the chief
7 administrative judge. And he needs to schedule that trial
8 anyway.

9 Is that right, Mr. Chehosky, do you have a specific
10 date at this point?

11 MR. CHEHOSKY: No, Your Honor.

12 THE COURT: Is Judge Griffith doing status
13 conferences on old cases?

14 MS. PATTERSON: Yeah. I intend to get that one done
15 soon, yes, sir.

16 THE COURT: Okay.

17 Okay. What else?

18 MS. ZMROCZEK: Your Honor, I think that's all I had.
19 I had the -- just so the Court can view them because I
20 know you don't have anything better to do on a Monday
21 night, but I have all three interviews if you would like
22 to take them with you.

23 THE COURT: Yes, please.

24 MS. ZMROCZEK: I mean, they're copies of what y'all
25 gave me.

1 MS. PATTERSON: That's fine, Your Honor. Of course,
2 we're still opposing that first interview.

3 MS. ZMROCZEK: Right.

4 THE COURT: Right.

5 MS. ZMROCZEK: I understand. I think just so you can
6 be on the same page with all of us.

7 THE COURT: Okay.

8 MS. PATTERSON: Also, Your Honor, I know the jury
9 comes in at 9:30, but if Ms. Zmroczek could give us -- if
10 we could probably meet earlier. If she decides we need to
11 redact something out of there or she wants to redact
12 something, to give us time to get it redacted. Although
13 it won't be played for some time, but --

14 MS. ZMROCZEK: And I'll watch the ones they gave me,
15 too.

16 THE COURT: Okay. All right. So what time do you
17 want to meet where, when?

18 MS. ZMROCZEK: I can be here -- I can be here
19 whenever the Court tells me to.

20 MS. PATTERSON: That's right, so can we.

21 THE CLERK: We can redact these.

22 MS. ZMROCZEK: I gave the original -- because, Your
23 Honor, I wanted to make -- the motions that I haven't
24 withdrawn, I wanted to make -- I wanted to file those, so
25 that's why I gave the unredacted ones to the clerk. Maybe

1 she can just make all of the motions unredacted and then I
2 can make sure that before we file any of the exhibits with
3 the **minor** 's name or any -- you know, any minor's name,
4 those are redacted. Is that okay with the Court?

5 THE COURT: Yes.

6 MS. ZMROCZEK: Okay.

7 THE COURT: And what are we doing about your Hirsch?

8 MS. ZMROCZEK: I was talking with him tonight. I'll
9 be able to send an e-mail this evening after I leave here.

10 THE COURT: What are we going to do if he can't be
11 here in the morning?

12 MS. ZMROCZEK: I don't know, Your Honor. I think
13 that then we would just ask -- I would put on the record
14 that he couldn't get here. I know he's looking for
15 flights as soon as I told him. And I just ask the Court
16 to make a ruling on the Jackson vs. Denno based on the
17 testimony that you heard if -- I don't know that I'm in a
18 position to address that yet, but I'll know this
19 afternoon. I'll send an e-mail before the morning.

20 THE COURT: Okay. Anything else?

21 MS. PATTERSON: Not from the State, Your Honor.

22 THE COURT: Okay.

23 MS. ZMROCZEK: Nothing else.

24 THE COURT: All right. Okay. He needs to be here at
25 9:30 -- or why don't you get him here by -- let's get him

1 here by 9:00 in the morning.

2 Can you do that for me, Deputy?

3 THE DEPUTY: Yes, sir.

4 THE COURT: Are we getting you some more clothes,
5 sir, tomorrow?

6 MS. ZMROCZEK: My paralegal is shopping as we speak.

7 THE COURT: Okay. All right. We'll have you in some
8 normal clothes. Is that okay?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. Let's -- well, let's see what
11 Ms. Zmroczek e-mails tonight, but why don't we all plan on
12 being here ready to go at 9:00.

13 MS. PATTERSON: Yes, sir.

14 THE COURT: Nine o'clock. All right. See you then.

15 MS. ZMROCZEK: Thank you.

16 (WHEREUPON, court was adjourned for the day to be
17 reconvened on Tuesday, March 28, 2017.)

18 TUESDAY, MARCH 28, 2017

19 THE COURT: All right. What's the status?

20 MS. ZMROCZEK: Well, Your Honor, I mean, my expert
21 booked the first flight that he could. It left at 6:00
22 a.m. this morning. He'll be here at 10:32.

23 THE COURT: So are we just supposed to stop
24 everything and sit around and wait on him?

25 MS. ZMROCZEK: No, Your Honor. That's what I was

1 trying to figure out all day yesterday.

2 THE COURT: All right. Well, why wasn't it figured
3 out last week? That's what I don't understand.

4 MS. ZMROCZEK: Due to funding.

5 THE COURT: What does that mean?

6 MS. ZMROCZEK: Meaning I couldn't spend the money
7 until the funding was approved.

8 THE COURT: All right. When did the funding get
9 approved?

10 MS. ZMROCZEK: On Friday.

11 THE COURT: Why wasn't a plane ticket booked for
12 Monday then?

13 MS. ZMROCZEK: I don't know, Your Honor. I just --

14 THE COURT: You just --

15 MS. ZMROCZEK: I mean, I've been working on this case
16 constantly.

17 THE COURT: I mean, I'm not going to allow you to
18 create a situation where we have a PCR because --

19 MS. ZMROCZEK: And I'm not --

20 THE COURT: Because of some false confession expert.

21 MS. ZMROCZEK: And I'm not trying to create that.

22 THE COURT: Well, that's not what it appears like at
23 this point. It appears like exactly the opposite. So I
24 guess we're all going to sit around, wait until
25 11:00 o'clock until he gets here so he can make that

1 argument as to the admissibility of the confession
2 pretrial; is that right? I mean, are you going to put him
3 up in a hotel room the rest of the week until he testifies
4 in your case? What's the plan on that?

5 MS. ZMROCZEK: Well, that's the other thing, Your
6 Honor. He can't be here for the whole week, so that's why
7 I was trying to take him out of turn.

8 THE COURT: I don't understand how you expect us all
9 to circumvent every single thing that we're doing because
10 of this one issue, which, at this point, is an issue you
11 created by not booking him a flight Friday and having him
12 sitting here by lunchtime on Monday.

13 I mean, you knew at that point that the State was not
14 going to agree to him testifying via Skype. No defense
15 attorney in their right mind would ever agree to a State's
16 witness testifying via Skype.

17 Are you willing to do your opening statement without
18 mentioning the fact that he confessed?

19 MS. PATTERSON: No, sir, Your Honor.

20 MR. POGUE: No, sir, Your Honor.

21 THE COURT: I mean, that's the issue. So I guess
22 I'll just go tell the jury to come back at -- what time
23 does his flight land?

24 MS. ZMROCZEK: 10:32.

25 THE COURT: So it's 11:00 o'clock, 11:15 before he

1 even gets here.

2 MS. ZMROCZEK: I have someone at the airport to pick
3 him up at 10:32.

4 THE COURT: Okay. I guess I'll just go tell the jury
5 to be back at 1:00 o'clock and everything can stop
6 because -- is he on the plane?

7 MS. ZMROCZEK: Yes, sir.

8 (Pause.)

9 THE COURT: Do you have any other suggestions?

10 (Pause.)

11 MS. ZMROCZEK: I mean, the only other suggestion I
12 had, Your Honor, was to rule on the evidence that was in
13 front of you and that we continue with the case and then
14 just allow him to testify out of turn and not revisit the
15 ruling, but make it a question of fact for the jury.

16 THE COURT: Okay. Tell me how that doesn't set up a
17 PCR issue.

18 MS. ZMROCZEK: Well, I believe at that point, it
19 would become a trial strategy.

20 THE COURT: How would it be trial strategy to not try
21 to convince the judge that the statement was taken
22 involuntarily and, therefore, not admissible and a
23 completely totally he said, she said --

24 MS. ZMROCZEK: Well, that's my position that it
25 was --

1 THE COURT: He said, she said no physical evidence
2 case? I mean, do you understand why --

3 MS. ZMROCZEK: I do.

4 THE COURT: -- it looks like a bunch of games being
5 played?

6 MS. ZMROCZEK: I understand that would appear that
7 way. I certainly submit to the Court that's not what I'm
8 trying to do.

9 THE COURT: Aren't you on the docket next week in
10 Richland?

11 MS. ZMROCZEK: I am.

12 THE COURT: All right. So I guess I'm going to go
13 tell the jury to come back at --

14 Does he have any layovers or is it a direct flight?

15 MS. ZMROCZEK: No, sir. It's direct.

16 THE COURT: How long has he been your expert?

17 MS. ZMROCZEK: Since two weeks.

18 THE COURT: Two weeks.

19 MS. ZMROCZEK: Yes, sir.. What happened was I
20 received a whole bunch of orders and I received a whole
21 bunch of information. I've had the confession. That
22 wasn't -- I'm not saying I didn't receive that. But, Your
23 Honor, in order to pay that kind of money -- to ask the
24 State to pay that kind of money for an expert, it needed
25 to be more than just my hunch that it was a false

1 confession. And when I finally get all these orders that
2 give me these records that show that DSS went to the house
3 and he wasn't there and what he -- that corroborated a lot
4 of the things he was telling me. Your Honor, at that
5 point, I reached out to find an expert in this area and
6 that's what I did.

7 THE COURT: Did he know the trial was this week?

8 MS. ZMROCZEK: He did.

9 THE COURT: Did you know the trial was this week?

10 MS. ZMROCZEK: I did.

11 THE COURT: How long has the trial been set for this
12 week?

13 MS. PATTERSON: Since November.

14 THE COURT: Since November?

15 MS. ZMROCZEK: Well, in November we tried to set
16 it -- I thought it was in January or February and it got
17 moved.

18 MS. PATTERSON: No, sir, it didn't. She agreed to
19 this March date in November.

20 THE COURT: So the first line of conversation with
21 the expert wasn't you have to be available the week of
22 March 27th or there's no point in me talking to you?

23 MS. ZMROCZEK: I asked if he was available, and he
24 said he was available through Wednesday -- or through the
25 early part of Wednesday.

1 THE COURT: So how long can he stay once he gets
2 here?

3 MS. ZMROCZEK: I think the flight is set to leave
4 Wednesday, early morning or early afternoon. I think like
5 10:00 o'clock.

6 THE COURT: So when would you envision calling him
7 out of order?

8 MS. ZMROCZEK: Late Tuesday -- late this afternoon.

9 THE COURT: How did you envision calling him pretrial
10 and in your case in chief to begin with?

11 MS. ZMROCZEK: Well, first, I didn't. And I'm still
12 not sure if they were challenging his admissibility or his
13 testimony. If it's just his testimony, then, quite
14 honestly -- I don't know that I thought it through.

15 THE COURT: I mean, how did you envision getting him
16 here for pretrial and then getting him back for your case
17 in chief? Do you even have the funding to do that?

18 MS. ZMROCZEK: I don't have the funding to do both,
19 no.

20 THE COURT: Did you ask for the funding to do both?

21 MS. ZMROCZEK: Yes, I did.

22 THE COURT: And who rejected that?

23 MS. ZMROCZEK: Judge Griffith. Then I called Hugh
24 Ryan and haven't been able to call him back. He called me
25 back yesterday.

1 THE COURT: Ms. Patterson?

2 MS. PATTERSON: Your Honor, we respect any ruling
3 that the Judge makes, but it would be prejudicial to our
4 case for us to have to begin our case and then stop it to
5 allow her witness to testify in the middle of our case. I
6 think it's confusing to the jury. They're not going to
7 know what's going on. It's going to interrupt our flow.

8 THE COURT: Well, you may just have to deal with
9 that. We don't have the money to send him home and send
10 him back.

11 MS. PATTERSON: Well, I understand this, Your Honor,
12 but, I mean, she should have found a witness that was
13 closer, you know, that was available.

14 THE COURT: She should have done a lot of things
15 differently. We're stuck with where we are right now.
16 But I mean, I'm certainly not going to authorize another
17 two or \$3,000 to fly him all over the country for fun. I
18 mean, he should have been sitting here yesterday morning
19 by 11:00 or 12:00 o'clock, period, end of story. I mean,
20 when did Judge Griffith deny you the right to bring him in
21 twice.

22 MS. ZMROCZEK: Friday afternoon. That's when I
23 received a text and an e-mail from the judge.

24 THE COURT: Did you let the State know at that point
25 in time you were going to have to call him out of order?

1 MS. ZMROCZEK: I don't believe I did.

2 MS. PATTERSON: No, that happened last night.

3 THE COURT: Okay.

4 MS. PATTERSON: Because now, I've got to call all of
5 my witnesses and try to rearrange their schedules. I
6 mean, I know they're local, but some of them are
7 professionals and have patients.

8 THE COURT: The only way to avoid that is not mention
9 the confession in the opening. We can do the opening and
10 don't say he confessed and push on.

11 MS. PATTERSON: We would just rather wait until he
12 gets here then because we really would like to mention the
13 confession in our opening statement.

14 THE COURT: All right. I'm going to tell the jury to
15 come back at 1:00 o'clock. As soon as he gets here, come
16 get us and we'll do the pretrial part of it.

17 MS. PATTERSON: Thank you, Your Honor.

18 THE COURT: Okay.

19 (WHEREUPON, a short break was taken.)

20 THE COURT: All right. Ms. Zmroczek, the courtroom
21 is clear.

22 Deputy, you're not allowed to discuss what happens
23 right here with anybody without Court permission. Do you
24 understand that?

25 THE DEPUTY: Yes, Your Honor.

1 THE COURT: Your name is?

2 THE DEPUTY: Deputy Christy Williams.

3 THE COURT: And your name is, sir?

4 THE DEPUTY: Deputy Gray.

5 THE COURT: Ms. Ambroziak is in here, Ms. Cluska's in
6 here.

7 Tell me what is going on with your funding for your
8 expert?

9 MS. ZMROCZEK: It's been denied, Your Honor.

10 THE COURT: All right. That's the first I've ever
11 heard that.

12 MS. ZMROCZEK: I believe --

13 THE COURT: The first time the word denied has come
14 out of your mouth is right now.

15 MS. ZMROCZEK: Okay. I believe that I said that on
16 yesterday, which was --

17 THE COURT: You didn't.

18 MS. ZMROCZEK: And that's why I said -- okay. I
19 thought that I had said that's -- and that's why I was
20 trying to cut down on the costs because I have to appeal
21 that order. But again, talking about creating PCR issues,
22 you know, since they wouldn't allow funding, I had to go
23 ahead and pay for it myself. So I am paying for this
24 expert. I called Hugh Ryan on Friday when I got the
25 denial, which is what I thought you, that Judge Griffith

1 denied it on Friday afternoon.

2 THE COURT: You didn't say he denied the expert. You
3 said he denied the travel. The first I've ever heard that
4 Judge Griffith denied you calling a false confession
5 expert on OID's dime is from judge Griffith about 15
6 minutes ago and from you right now. And I now have an
7 e-mail that says you were put on notice Friday at noon,
8 noonish that you had no funding for an expert and that
9 Judge Griffith did not approve you to call a false
10 confession expert.

11 MS. ZMROCZEK: And then my response was I need to
12 appeal this, what do I do?

13 THE COURT: But you didn't.

14 MS. ZMROCZEK: Well -- well, I didn't know how, so
15 what I did at that point was call Hugh Ryan and said, What
16 do I do?. He didn't respond. That's why I called another
17 attorney and said, What do I do? I can't not present an
18 expert if they can help the case. And so I actually just
19 returned Hugh's phone call at the break and he said,
20 You're doing the right thing. You have -- you appeal it
21 like any other issue. So that's what...

22 THE COURT: I mean, the words out of your mouth
23 should have been Judge Griffith has completely and totally
24 denied me calling a false confession expert.

25 MS. ZMROCZEK: Well, he denied the funding for it,

1 yes.

2 THE COURT: Right.

3 MS. ZMROCZEK: I don't know that he denied me calling
4 the expert.

5 THE COURT: All right. You can call it whatever you
6 want to. You can pay for whoever you want to to come in
7 here, put up whatever you want if a judge determines that
8 it's relevant. That's not the issue. He denied OJD
9 paying for a false confession expert based upon your
10 request.

11 MS. ZMROCZEK: Correct.

12 THE COURT: Those words never came out of your mouth,
13 ever. You led me to believe that you had funding for a
14 false confession expert and it was just an issue of how
15 many times he was coming.

16 MS. ZMROCZEK: That was not my intention, Your Honor.

17 THE COURT: Could anybody else in the room believe --
18 who is that?

19 You can't discuss anything in here that happens.

20 THE BAILIFF: Yes, sir, Your Honor.

21 THE COURT: I mean, I'm not deaf. I don't make up
22 things in my mind. The words Judge Griffith denied my
23 funding request for a false confession expert do not exist
24 in the record.

25 MS. ZMROCZEK: I --

1 THE COURT: Because if they did, I would have said
2 you're on your own to pay for all that if you want to go
3 pay for it or appeal it you want to appeal it, but -- I
4 mean, you've known about the man's confession for a long
5 time.

6 MS. ZMROCZEK: I have, Your Honor, and --

7 THE COURT: And you didn't bother to hire an expert
8 until two weeks ago because, apparently, you needed some
9 extra records to try to convince the judge. I mean,
10 that's what you said. You said, I had to get all these
11 extra records so it wouldn't just be Amy's hunch to think
12 we need a false confession expert. All these extra
13 records would help me. I finally got all these records,
14 so now I need a false confession expert. I mean, you made
15 it appear that you convinced Judge Griffith that it was
16 appropriate and, in fact, there's an e-mail directly to
17 the contrary, that you knew about it Friday at noon. You
18 knew Wednesday night at 5:00 o'clock the State wasn't
19 going to agree to Skype. I mean, the e-mail chain is
20 right here. It's clear as day. March 24th, 2017,
21 12:35 p.m., you admit you got -- you confirmed the receipt
22 of the e-mail within four minutes of it being sent. You
23 can take it up with OID on what they will pay and won't
24 pay. I don't know how to help you with that.

25 MS. ZMROCZEK: I understand, Your Honor. I'm not

1 asking for your assistance. I'm not asking for you to
2 overrule another judge. In fact, I never have made that
3 request. That's why I'm dealing with that outside of
4 this.

5 THE COURT: Okay.

6 MS. ZMROCZEK: I'm not asking this Court to overrule
7 or to address anything that Judge Griffith did.

8 THE COURT: No, you just led me to believe that
9 somebody authorized funding for this guy to come in here
10 and the truth is the exact opposite happened.

11 MS. ZMROCZEK: And I apologize if that's...

12 THE COURT: So is he still on the way?

13 MS. ZMROCZEK: Yes, sir, Your Honor. And I've spoken
14 to my paralegal. She's at the airport waiting for the
15 plane to land. And I asked her to text me when they're in
16 the car.

17 THE COURT: All right. We're off the record. Let us
18 know when he gets here.

19 MS. ZMROCZEK: Thank you.

20 (WHEREUPON, a short break was taken.)

21 THE COURT: Okay. We're back on the record in the
22 State of South Carolina vs. Jamie Stroman.

23 Ms. Zmroczek, are you ready to go forward?

24 MS. ZMROCZEK: I'm sorry, Your Honor?

25 THE COURT: Are you ready to go forward?

1 MS. ZMROCZEK: I am, Your Honor.

2 THE COURT: Okay.

3 MS. ZMROCZEK: At this time, we would call Dr. Alan
4 Hirsch or Alan Hirsch.

5 THE COURT: Please come forward.

6 MS. ZMROCZEK: Oh, Professor, I'm sorry, not doctor.

7 ALAN HIRSCH, after being duly
8 sworn, testified as follows:

9 THE CLERK: Please be seated. State your name and
10 spell your last name.

11 THE WITNESS: That's Alan Hirsch, H-I-R-S-C-H.

12 DIRECT EXAMINATION

13 BY MS. ZMROCZEK:

14 Q Professor Hirsch, where are you employed?

15 A At Williams College in Williamstown, Massachusetts.

16 Q And what is your present title?

17 A My title is instructor in humanities and I'm also
18 chair of the justice and law studies program.

19 Q Is that the position you currently hold?

20 A Yes.

21 Q Describe briefly the subject matter of your
22 specialty.

23 A Interrogations and false confessions. Do you need
24 more than that?

25 Q That's fine for now. How long have you taught at

1 Williams?

2 A Eleven years, I believe.

3 Q Describe for the Court your educational background?

4 A I received an undergraduate degree from Amherst

5 College and a law degree from Yale Law School.

6 Q While at Yale, did you concentrate on any particular
7 area of law?

8 A Yes, I focused on the intersection of law and
9 psychology.

10 Q How have you maintained your interest or your
11 intersection of law and psychology? How do you continue
12 to do work in that area?

13 A Teaching, writing and trial consultant.

14 Q Now, you're not a psychologist, correct?

15 A That's correct.

16 Q Are there different kinds of confession experts?

17 A Yes, there is the mental health professional, the
18 psychiatrist or clinical psychologist, who can evaluate
19 individuals to determine their susceptibility. And then
20 there are experts in interrogations like myself, who are
21 either legal scholars or social psychologists, whose
22 primary expertise, as I say, is in the interrogation
23 methods that contribute to false confessions. Although
24 we're also well versed in all others aspects of the
25 literature, but we don't examine individuals and evaluate

1 them. We're not mental health professionals.

2 Q What are some of the law-related work that you've
3 done that acquaints to the American criminal justice
4 system?

5 A So after law school, I was a law clerk for one year
6 on the United States Court of Appeals for the third
7 circuit. I then spent three years as a -- I think my
8 title was senior attorney/writer at the Federal Judicial
9 Center in Washington. And ever since then, most of my
10 law-related work has been writing, teaching and serving as
11 a trial consultant.

12 Q Is there a subject that you focus on?

13 A For more than a decade now, my focus has been on
14 interrogations and confessions.

15 Q Have you written on that subject?

16 A Yes, I have, both scholarly articles in law journals
17 as well as mainstream publications, like the Los Angeles
18 Times.

19 Q All right. What are the journals that you've
20 published your scholarly articles?

21 A Ohio State's Journal of Criminal Law, Berkeley Law
22 Schools's Journal of Criminal Law, North Dakota's Law
23 Review and Howard's Law Review.

24 Q Have you done anything else related to interrogations
25 and confessions?

1 A Yes, I created and still operate the first website
2 devoted to the subject.

3 Q What's the name of your website?

4 A Truth about False Confessions.

5 Q What's the purpose of that?

6 A Primarily to educate the general public and the bar
7 about the subject.

8 Q And what kind of things are on that website?

9 A So there's some permanent material, frequently asked
10 questions, recommended literature, things like that. And
11 then I also do post or analyses on subjects related from
12 time to time.

13 Q And these posts or analysis on what subject?

14 A It could be new cases. It could be new articles. It
15 could be my own experience. Really anything, anything
16 related to the subject that I think will have some value
17 to the people who visit my site.

18 Q About how many posts have you done?

19 A I couldn't say, but, certainly, in the hundreds, if
20 not more.

21 Q Has your website received any official recognition?

22 A Yes. In 2007, the American Bar Association listed it
23 in its 100 top law-related websites, and listed it first
24 among criminal law-related websites.

25 Q Have you testified -- you mentioned that you were an

1 expert or a trial consultant and witness. How many cases
2 have you been retained to testify as an expert?

3 A I've been retained in well over a hundred. I've
4 testified in 26.

5 Q Have you testified in the State of South Carolina?

6 A Yes, I have.

7 Q Were you qualified as an expert?

8 A Yes, I was.

9 Q And what county was that?

10 A I believe Chester.

11 Q All right. Chester County?

12 A Yes.

13 Q You mentioned that there were -- that you focused
14 specifically on your own scholarship. Are there other
15 related -- is there other related information out there
16 about false confessions?

17 A There's voluminous literature. I mean, dozens of
18 books and hundreds of articles.

19 Q All right. How acquainted are you with that
20 literature?

21 A I'm well acquainted with it, which you have to be to
22 contribute to it.

23 MS. ZMROCZEK: Your Honor, at this time, we would
24 move Professor Hirsch as an expert in interrogations.

25 THE COURT: Voir dire?

1 MS. PATTERSON: Yes, sir, Your Honor. I have a few
2 questions.

3 VOIR DIRE

4 BY MS. PATTERSON:

5 Q You call yourself Professor Hirsch. Are you a
6 professor or a lecturer?

7 A Title is lecturer, occupation is professor.

8 Q All right. And what's the difference between a
9 lecturer and a professor?

10 A Well, I'm not sure there's any difference to my
11 students. They call me professor. The college -- I'm not
12 even sure, but I think people who have a tenure or certain
13 classifications would -- they might consider a professor.
14 That's all bureaucratic.

15 Q So do you have tenure?

16 A No, my position is not tenure tracked.

17 Q Okay. So you're not eligible for tenure?

18 A That's correct.

19 Q Are you currently admitted to practice law in any
20 jurisdiction?

21 A Yes, I am.

22 Q What jurisdiction is that?

23 A The District of Columbia.

24 Q Have you, in fact, ever practiced law?

25 A I've done some freelance appellate work, not

1 traditional law practice.

2 Q Have you ever prosecuted or defended anyone who gave
3 a confession to a law enforcement officer?

4 A I've been involved in the defense, not prosecuted.

5 Q And did involve someone who had gave a confession to
6 law enforcement?

7 A Yes.

8 Q And do you have any law enforcement experience?

9 A No.

10 Q So have you ever interviewed anyone suspected in any
11 crime?

12 A Formally interviewed as in the role of law
13 enforcement, no. If you mean spoken to about the
14 circumstances of their confession, yes.

15 Q Have you ever had any law enforcement interview
16 training?

17 A No.

18 Q But you feel comfortable critiquing someone else's
19 interview strategy?

20 A Yes, I've spent years studying that.

21 Q And you've testified about 26 times?

22 A Yes.

23 Q And consulted about a hundred in a hundred cases?

24 A Well, over a hundred.

25 Q How much time do you spend reviewing the cases that

1. you consult?

2. A That completely depends on the case.

3. Q How much do you charge for consultation?

4. A Typically, \$300 hourly.

5. Q And how much do you charge to come to court?

6. A Typically, a flat fee of \$3,000 if I have to travel,
7. significantly less, if it's local.

8. Q And you haven't done any -- you haven't participated
9. in any scientific studies to support what you testify
10. about?

11. A Directly participated in the studies, no.

12. Q In fact, you've only read about different studies,
13. offered your opinion on these posts, but there's no
14. scientific evidence to support what you're testifying
15. about, is there?

16. A There is certainly social scientific evidence, a lot
17. of it.

18. Q What kind of scientific studies would support your --

19. A Well, I'd say the area -- the work in this area
20. relevant to my testimony is threefold. There are a few
21. laboratory studies. There are observational studies of
22. interrogations. There are empirical analyses of proven
23. false confessions. And then there is a vast amount of
24. scholarship that I guess you would call miscellaneous.

25. Q All right. And these laboratory studies, can you

1 tell us a little bit about these studies?

2 A What would you like to know?

3 Q Well, were they -- did they involve people who were
4 charged with actual crimes?

5 A No.

6 Q And what kind of --

7 A I mean, do you want me to describe, for example, the
8 seminal study --

9 Q Please.

10 A -- and the Reid Technique? There are a number,
11 actually, but, for example, one that I think is most
12 discussed was, in fact, at Williams College where I teach.
13 And it was college students who were asked to input on a
14 computer and not told that what they were doing had
15 anything to do with confessions, but warned that if they
16 hit a certain key on the computer, it would cause the
17 system to crash.

18 Then at a certain point, the experimenter charged in
19 and told them that the system had crashed, that they had
20 hit the forbidden key. Of course, all of them denied it
21 because they hadn't, but when a confederate of the
22 experimenter confronted them, someone who claimed to have
23 witnessed hitting the wrong key, quite a number of them
24 signed written confessions.

25 The really interesting part of this study where I'm

1 concerned is quite a few of them actually came to believe
2 that they had hit the forbidden key and some of them even
3 described how they had come to do so.

4 There are other studies about different aspects of
5 false confessions, but that's an example.

6 Q So that study didn't even directly relate to anyone
7 that was charged with a criminal offense?

8 A Right. You couldn't ethically do that study within
9 the criminal justice.

10 Q So what value would that have on you critiquing
11 criminal interviews?

12 A I think numerous studies in the social science world
13 extrapolate from a controlled environment to the so-called
14 real world.

15 In this one, as I said, to me, personally, the most
16 interesting aspect of the study is how it relates to the
17 internalized false confession, that in which the people
18 actually come to believe they may have done something
19 wrong even though they didn't, primarily because they're
20 confronted with certainty by an authority figure that they
21 did. So it has limited relevance. I don't put a
22 tremendous amount of weight on these laboratory studies.
23 I put more weight on the empirical analyses of proven
24 false confessions.

25 And I should add, I said before that there's this

1 vast literature that I call miscellaneous. Certainly, the
2 most important part of that for my purposes are articles
3 which apply general principles of decision making to this
4 area. And they help us understand how and why certain
5 interrogation methods would contribute to false
6 confessions, which is obviously such a counter-intuitive
7 phenomena. But when you understand, and this literature
8 greatly helps us understand it, exactly how these
9 interrogation methods work, it becomes perfectly sensible
10 that innocent people under these circumstances might
11 confess.

12 Q All right. So would you agree that there are far
13 more true confessions than false confessions?

14 A Yes.

15 Q All right. And you testified -- I think you said in
16 South Carolina you testified, you think, Chester County,
17 would that have been the Billy Wayne Cope case in York
18 County?

19 A No, it was not.

20 Q You didn't testify in --

21 A No. Professor Kassin, my colleague and mentor, in
22 fact, testified in that case.

23 Q Where does he work?

24 A He's now at the John Jay School of Criminal Justice.
25 He used to be at Williams College, where I am now.

1 Q So he taught with you at Williams College?

2 A That's correct.

3 Q All right. And he gives similar testimony as you
4 would?

5 A That's correct.

6 Q Is that some type of false confession college?

7 A No.

8 Q Isn't it true that you testified in federal case,
9 United States vs. Michael Jacques?

10 A Jacques. That was actually one of the few cases in
11 which my testimony was excluded.

12 Q So your testimony was excluded in that case?

13 A Correct.

14 Q In fact, the Court ruled that your testimony was
15 merely anecdotal evidence and speculation, correct?

16 A Yes. If I can give a little context, I would just
17 point out that I've been subject to, I believe, 19 Daubert
18 or Frye hearings. I think they're not called either in
19 South Carolina, but 19 hearings challenging the
20 admissibility of my testimony and that was one of three
21 which excluded it.

22 Q So you've been excluded three times?

23 A That's correct.

24 Q And, in fact, the Court also ruled there's no
25 reliable scientific study concerning the frequency of

1 false confessions, didn't it?

2 A The Court in that case found that the field of false
3 confessions does not support expert testimony, a view that
4 is increasingly rejected in the courts, including in South
5 Carolina.

6 Q And they further found that you had no unique
7 training that would qualify you as an expert, didn't it?

8 A That's correct.

9 Q In fact, you've only read a lot of books, read a lot
10 of studies and now you hold yourself out to be an expert
11 in this field?

12 A Well, the federal rule and most of the State rules
13 talk about training and education and experience as a
14 source of expertise. And I have all of that, except for
15 directing, personally participating in the handful of
16 studies in this area. Other than that, I have the same
17 expertise as much as anyone else and more than many.

18 Q And you haven't participated in no scientific studies
19 to support this field?

20 A Right. As I said, there are only a few experts that
21 conduct the original research.

22 MS. PATTERSON: Beg the Court's indulgence.

23 (Pause.)

24 MS. PATTERSON: Thank you, Your Honor. No further
25 questions.

1 THE COURT: All right.

2 REDIRECT EXAMINATION

3 BY MS. ZMROCZEK:

4 Q Was this South Carolina -- did you provide a list of
5 cases that you've been qualified as an expert?

6 A Yes, I did.

7 Q Was the South Carolina case South Carolina V.
8 Perkins, 2008, Town of Chester, 05-GS-12-438?

9 A Yes, that sounds right.

10 Q And, also, did you provide your CV?

11 A Yes, I did.

12 (WHEREUPON, Court's Exhibit No. 5 was marked for
13 identification only.)

14 BY MS. ZMROCZEK:

15 Q I'm showing you what's been marked as Court's Exhibit
16 5?

17 A Okay.

18 Q Is that your CV?

19 A Yes, it is.

20 MS. ZMROCZEK: Your Honor, just for purposes of this
21 hearing, we would like to hand up Court's Exhibit 5?

22 THE COURT: Okay.

23 MS. ZMROCZEK: Would the Court also like to see the
24 list of cases?

25 THE COURT: Sure.

1 MS. ZMROCZEK: The South Carolina ones are in the
2 back.

3 BY MS. ZMROCZEK:

4 Q Is it safe to say that this is a behavioral -- would
5 it fall in the behavioral science area?

6 A Yes.

7 Q Much like any other kind of interviewing,
8 interviewing children?

9 A Yes.

10 MS. ZMROCZEK: Your Honor, at this point, we would
11 renew our motion to have him identified as an expert in
12 interrogations, false confessions?

13 THE COURT: Ms. Patterson?

14 MS. PATTERSON: Yes, sir, Your Honor. Your Honor,
15 the State would object to Professor Hirsch -- or Mr.
16 Hirsch to be admitted by the Court as an expert witness.
17 He states himself he has no scientific, technical or other
18 specialized knowledge in this area that he holds himself
19 out to be an expert in. He's been disqualified, at least,
20 three times, Your Honor, based on the fact that he did not
21 have the expertise to hold himself out in this area.

22 He's a lecturer, Your Honor. He has no background in
23 interviewing people that were charged with serious
24 offenses. He hasn't represented anyone charged with a
25 serious offense who gave an interview. He hadn't assisted

1 in conducting any relevant scientific studies that would
2 support his claims. And he can't offer any opinion as to
3 whether or not the Defendant's statement to law
4 enforcement was false or not merely by reading a lot of
5 literature, Your Honor.

6 False confessions, Your Honor -- this area has not
7 been deemed an area where it would -- it had any
8 scientific support to even -- for it to even be held out
9 as an area of expertise, Your Honor. It's merely a bunch
10 of people reading a bunch of books, reading a bunch of
11 things about cases in which people gave confessions and
12 offering their opinion on. And he's a lecture in
13 humanities, Your Honor.

14 I'm not even -- you know, he developed a website,
15 which anybody can develop a website. I saw a commercial
16 on that this morning. You can develop a website in an
17 hour. And he's merely again just reading a bunch of
18 literature, offering his opinion that's not supported by
19 any scientific evidence.

20 THE COURT: Ms. Zmrocze.

21 MS. ZMROCZEK: Thank you. Your Honor, and I think
22 that she said something that Mr. Hirsch would like to
23 respond if I may -- or if he may?

24 THE COURT: Yes.

25 MS. ZMROCZEK: Go ahead.

1 THE WITNESS: I would just say, you said I've been
2 excluded three times on the basis of not being qualified.
3 That's inaccurate. Only once, arguably, the Jacques case.
4 The other two exclusions were for different reasons.

5 THE COURT: What were those reasons?

6 THE WITNESS: The field was insufficiently developed
7 according to those two judges.

8 THE COURT: How long ago was that?

9 THE WITNESS: Quite a few years ago.

10 THE COURT: Three years ago? Two years ago?

11 THE WITNESS: No, longer than that.

12 THE COURT: How long ago?

13 THE WITNESS: I'd say the case in Mississippi, maybe
14 seven or eight years ago. And then one in -- I can't
15 remember the other, but again, there are a number of
16 courts that hold that, even more recently than that, but
17 the overwhelming number of courts have been going in the
18 other direction.

19 MS. ZMROCZEK: And, Your Honor, as far as responding
20 to the insufficient science and data, empirical data, I
21 would make the same argument that's been made numerous
22 times regarding forensic interviewers testifying as
23 experts in the child accommodation sexual abuse syndrome
24 or explaining or educating reasons.

25 I don't believe that Professor Hirsch is going to

1 offer an opinion one way or the other whether or not this
2 was a false confession. What he's here to do, just like
3 Ms. Smith will be here to do later, is to educate the jury
4 about how these things happen. For example, she's going
5 to educate the jury about what are some of the reasons
6 that children delay their disclosure. Just like I don't
7 think she's going to offer an opinion that she believes in
8 this case those are the reasons that what **Minor** did
9 or didn't do is reflective of her truthfulness.

10 I think her job is to educate the jury, which is what
11 I believe was argued yesterday and that's exactly what
12 Professor Hirsch's job is to do, to explain a phenomenon
13 that is counter-intuitive, just like the late disclosure
14 and not telling about somebody molesting you is
15 counter-intuitive. And I'd like to admit the same type of
16 testimony.

17 THE COURT: I can't find this Chester case. Do you
18 know anything else about it?

19 THE WITNESS: The defendant's name, I believe, was
20 Casey Lee Perkins, if I remember correctly.

21 MS. ZMROCZEK: Was he convicted?

22 THE WITNESS: He was convicted. I believe the --
23 this is now 10 years old, but I believe the defense
24 attorney's name was Jeffrey Dunn.

25 THE COURT: There it is.

1 MS. PATTERSON: And, Your Honor, I would like to add
2 something at the appropriate time.

3 THE COURT: Sure. Go ahead.

4 MS. PATTERSON: Ms. Zmroczek wants to compare his
5 testimony to delayed disclosure. Delayed disclosure is
6 supported by scientific studies and it's been deemed
7 appropriate by the South Carolina Supreme Court.

8 The field wasn't developed seven or eight years ago.
9 I don't know what has changed since then to develop it.
10 The only study that Mr. Hirsch spoke about was some
11 college students who were not even exposed to a serious
12 crime. It was just merely a study that involved
13 noncriminal, nonpolice studies, so I don't know what has
14 developed.

15 THE COURT: I mean, somebody tell me what this guy
16 has done besides read a bunch of articles and write a
17 bunch of articles.

18 MS. ZMROCZEK: Your Honor, I mean --

19 THE COURT: I mean, creating a website doesn't count.

20 MS. ZMROCZEK: Right, but I think that studying and
21 reviewing the literature and being able to focus on an
22 area that is not within the purview of --

23 THE COURT: So under your theory, I can go read every
24 single thing I want to read on neurosurgery and then teach
25 a class at a college about it and be qualified to testify

1 as an expert on neurosurgery?

2 MS. ZMROCZEK: No, I don't -- I believe that those
3 are two different --

4 THE COURT: Okay. Explain the difference.

5 MS. ZMROCZEK: One is a physical -- neurosurgery is
6 an actual -- something that's done, a physical --

7 THE COURT: Right, so are interrogations, which he's
8 never done. He's never been to one law enforcement
9 training class. He's never been to one seminar. He's
10 never interrogated one person accused of a crime in his
11 entire life. He's never sat in an interview room. He's
12 never sat through an interview. He's never been to any
13 law enforcement training. He has no law enforcement
14 background in any way, shape, or form. He's never been to
15 any law enforcement classes on how to train, how to
16 interview, how to train people who train interviewers,
17 nothing.

18 MS. ZMROCZEK: Well --

19 THE COURT: The only thing he's done is read a bunch
20 of articles and formulate opinions.

21 THE WITNESS: Your Honor, am I allowed to speak?

22 THE COURT: Sure.

23 THE WITNESS: Also, to contribute extensively to the
24 literature, so I have authored the most thorough critique
25 analysis of the Reid Method, which was published --

1 THE COURT: Right, and who taught you the Reid
2 Method?

3 THE WITNESS: I mean, you, obviously, can reject my
4 credentials, I just wanted to clarify --

5 THE COURT: My question is who taught you the Reid
6 Method?

7 THE WITNESS: What I have done is immerse myself in
8 the literature on the --

9 THE COURT: The answer is nobody?

10 THE WITNESS: Taught me how to do it, that's correct.

11 THE COURT: So the answer is nobody. I'm not saying
12 you haven't read 1,000 articles. I'm saying who -- what
13 class or seminar or training did you go to that was
14 certified by a certified law enforcement agency on how to
15 conduct criminal interviews and interrogations? The
16 answer to that question is none, right?

17 THE WITNESS: That's correct.

18 MS. ZMROCZEK: And does the Reid Method meth use a
19 manual?

20 THE WITNESS: Yes, it does.

21 THE COURT: So you read the manual?

22 THE WITNESS: Yes, I have.

23 THE COURT: Okay. But no one taught you the manual.

24 THE WITNESS: No. I could be mistaken about this,
25 but I believe there are many areas of expertise where the

1 expert --

2 THE COURT: Let's not speculate. So here's the real
3 example. So I go read the field sobriety test, the
4 standard field sobriety manual and I read it over and over
5 again, and then I read all these articles and I read all
6 these subjects on field sobriety test and now I'm an
7 expert on how to give field sobriety tests. That's
8 exactly we're doing at this point.

9 MS. ZMROCZEK: No, what I would submit, Your Honor,
10 is that what you are an expert in is knowing what all the
11 manuals say, knowing what they do. Watching a field
12 sobriety test and saying they didn't properly follow --

13 THE COURT: But all those people that give those
14 tests go to class and become certified and the instructors
15 become certified.

16 MS. ZMROCZEK: Right, but here, there are no
17 certifications in interrogation.

18 THE COURT: Well, there's classes in that it he could
19 take taught by certified people. I mean, his only formal
20 training in debunking confessions and interrogations is
21 what he's read, period. So back to my theory, I can go
22 read something until I'm blue in the face, start writing
23 articles about it, create a website about it and then all
24 of a sudden, boom, I'm an expert in it.

25 MS. ZMROCZEK: Well, I --

1 THE COURT: That's essentially what he's done. He's
2 made himself an expert by reading and now formulating
3 opinions on this when he's never taken a confession. He's
4 never done a criminal interview. He's never sat down with
5 a defendant. He's never done it at 2:00 o'clock in the
6 morning. He's never done it at 1:00 o'clock in the
7 afternoon. He's never done it on video. He's never
8 received any law enforcement training. He's never been to
9 any classes. He's never been certified. He hasn't been
10 taught by anybody who understands the Reid Method how to
11 do the Reid Method. I don't even know what the Reid
12 Method is, but you all keep talking about it like it's
13 something important. I assume, he's going to say that
14 Detective Ellisor, who doesn't know what the Reid Method
15 is, according to his testimony, used the Reid Method to
16 get Mr. Stroman to confess. So I go out and read the
17 field sobriety test manual and now, I can testify as an
18 expert on doing field sobriety tests. That's the theory.

19 THE WITNESS: Your Honor, if -- again, may I respond?

20 THE COURT: Sure.

21 THE WITNESS: If you wrote a peer-reviewed critique
22 of the field sobriety --

23 THE COURT: Right.

24 THE WITNESS: -- you might, in fact, be considered
25 someone knowledgeable in the field to contribute to an

1 understanding of the field sobriety.

2 THE COURT: Sure. Okay. How many of those have you
3 written?

4 THE WITNESS: Quite a bit of articles, one peer
5 reviewed. But that one --

6 THE COURT: Okay. How many have been peer reviewed?

7 THE WITNESS: I said the one was peer reviewed.

8 THE COURT: And who was it peer reviewed by, your
9 mentor?

10 THE WITNESS: No.

11 THE COURT: Who was it peer reviewed by?

12 THE WITNESS: They don't tell you.

13 THE COURT: What do you mean they don't tell you?

14 THE WITNESS: The Ohio State Journal of Criminal Law,
15 I submit it to them. They submit the article to
16 established experts in the field who have to approve it.
17 They don't identify those experts.

18 THE COURT: Here's the difference, if you had a cop
19 with 25 years experience who had been through every single
20 class under the sun for interrogation and he's going to
21 come in and say the cop did it wrong, you're in a
22 completely different scenario, but this guy isn't. He's a
23 teacher with a law degree, who doesn't even teach law.

24 THE WITNESS: Yes, I do, Your Honor.

25 THE COURT: Not at a law school.

1 THE WITNESS: That's correct.

2 THE COURT: Don't parse words with me now.

3 THE WITNESS: I apologize. I wasn't intending to.

4 THE COURT: You're not a law professor at a law
5 school.

6 THE WITNESS: All I mean is I do teach law.

7 THE COURT: You're a professor at a college, or
8 lecturer, or teacher, or whatever you want to call it.
9 That's like saying I teach law at Midlands Tech, so I'm a
10 law professor.

11 THE WITNESS: Okay.

12 THE COURT: I mean, come on.

13 It's your record, Ms. Zmroczek, help me create it,
14 but at this point, it sounds like a bunch of fluff to me.

15 MS. ZMROCZEK: Well, Your Honor, here's the thing.
16 Yesterday, when I cross-examined specifically Detective
17 Ellisor, who indicated -- and I showed him the receipt of
18 the certificate that he received at the training. And he
19 claims that he doesn't know the Reid Method. And then I
20 went back and I got a copy of the instructor and the first
21 thing on the second paragraph, it says is that he was a
22 Reid interrogator instructor. I mean, that's part of what
23 they use.

24 THE COURT: And that's great cross-examination. I
25 mean, the fact that -- that's great cross-examination. I

1 can't wait to hear it. Detective Ellisor testified he
2 doesn't know anything about the Reid Method. The person
3 who taught the class was Reid Method qualified. That's
4 great. He said yesterday he doesn't remember it. He's
5 going to have to come up with an explanation for that
6 answer. But, I mean, I don't understand what that's got
7 to do with this witness.

8 MS. ZMROCZEK: What it does, Your Honor, is
9 interrogation -- I mean, like you said this morning,
10 interrogation -- this whole case is based on confession
11 and a forensic interview. The State's going to be able to
12 put up a forensic interview expert to talk about why kids
13 do or don't do things.

14 THE COURT: Which has been scientifically proven.

15 MS. ZMROCZEK: Behavioral sciences, I don't know can
16 be scientifically proven. I mean, I would liken that this
17 would fall into the behavioral sciences area. It's an
18 area that is counter-intuitive to common people.

19 THE COURT: Obviously, somebody with gonorrhea had
20 sex with the minor .

21 MS. ZMROCZEK: Absolutely.

22 THE COURT: So that's -- I mean, that's how they're
23 scientifically able to prove these issues like delayed
24 disclosure. I mean, does that not make sense to -- that's
25 the difference between this and false confessions.

1 They're able to say here's a child **minor** who delayed
2 disclosing -- I'm not talking about this one specifically,
3 but how these people come up with this stuff. Here's a
4 child **minor** who delayed disclosing, but we now have
5 scientific evidence that proves she came in contact with
6 somebody who has gonorrhea or whatever.

7 MS. ZMROCZEK: Right. But that doesn't -- but that
8 doesn't explain why she delayed disclose. I mean, they
9 want to give behavioral reasons.

10 THE COURT: Right.

11 MS. ZMROCZEK: And there are no studies on the
12 behavioral reasons, just --

13 THE COURT: Yeah, the difference is all of those
14 people who are testifying have all been to classes and
15 seminars and conferences and everything else under the sun
16 to learn why.

17 MS. ZMROCZEK: Right.

18 THE COURT: I mean, Mr. Hirsch, who seems like a
19 perfectly pleasant human being, hasn't been to any of
20 that.

21 MS. ZMROCZEK: But he is still learned, Your Honor.

22 THE COURT: Just by reading.

23 MS. ZMROCZEK: As opposed to sitting in a classroom
24 and being told.

25 THE COURT: Right. Taught.

1 MS. ZMROCZEK: Right.

2 THE COURT: Taught by a class certified by somebody
3 to do something. Again, I can go read the field sobriety
4 test manual until I'm blue in the face and go on the
5 internet and find every single article I can find on field
6 sobriety tests, but if I really want to cross-examine the
7 trooper on whether or not he did the field sobriety test
8 the best, you know, what I go do? I go get certified to
9 give the field sobriety test. You know what I do after
10 that? I go get certified to be a field sobriety test
11 instructor so what when I'm dealing with that issue, not
12 only am I certified to give the field sobriety test, I'm
13 certified to instruct people on how to give the field
14 sobriety test. This guy doesn't have any of that. He's
15 just read the manual. And now he wants to give an opinion
16 that the field sobriety tests in my hypothetical are
17 meaningless.

18 MS. ZMROCZEK: And I don't know that that's the
19 opinion he's going to give. I think what he is here to
20 do, again, Your Honor, is educate the jury on why and how
21 these techniques can influence people. I don't believe
22 that he -- and I don't believe that it's proper for him to
23 offer an opinion on whether or not this was a false
24 confession. I think what he can do and what he's been
25 brought to do is explain the counter-intuitive -- why

1 would somebody confess to something. Same reason, why
2 would somebody not disclose something. I think it's all
3 based on --

4 THE COURT: All right. Let's hear what he's got to
5 say at this point. I'll, at least, hear him out and
6 create a record if I don't allow it.

7 MS. ZMROCZEK: Okay. Thank you.

8 BY MS. ZMROCZEK:

9 Q The literature that you've read, the extensive
10 literature that you've read and written on, does it
11 concern interrogation methods used by law enforcement?

12 A Yes, that's at the heart of it.

13 MS. ZMROCZEK: I'm sorry, Your Honor, did you --

14 THE COURT: No. What did he say?

15 THE WITNESS: I said that's at the heart of it.

16 THE COURT: Okay.

17 BY MS. ZMROCZEK:

18 Q Okay. Are there organizations that train people in
19 interrogation and produce interrogation manuals that are
20 relied upon by law enforcement?

21 A Yes, there are.

22 Q All right. Is there one organization in particular
23 that has influenced the field?

24 A Yes. Reid and Associates is the most influential
25 trainer of interrogators and the authors of the most

1 influential manual.

2 Q Okay. And do you have to go to training to receive
3 that manual or have you reviewed that manual?

4 A I have reviewed that manual.

5 Q So what is the Reid manual called?

6 A Criminal Interrogations and Confessions.

7 Q And you've read and studied this manual?

8 A And written about it.

9 Q Have you written about the interrogation techniques
10 described in this manual?

11 A Yes. Two of my articles do so and the most recent in
12 the Ohio State Journal is the -- to my knowledge, the most
13 thorough evaluation of the Reid manual.

14 Q So in turning to this case, when I retained you, did
15 you agree to give a particular opinion?

16 A No, of course not.

17 Q What were you asked to do?

18 A You asked me primarily to review the interrogation of
19 the Defendant.

20 Q Okay. And have there been cases where you found
21 nothing problematic with the interrogation that led to the
22 confession?

23 A Absolutely.

24 Q Was that the assessment that you gave the attorney in
25 those cases that retained you?

1 A Yes, it was.

2 Q Did I ask you to assess the interrogation of the
3 Defendant in this case?

4 A Yes, you did.

5 Q In order to make that assessment, what did you do?

6 A I watched the interrogation..

7 Q So you received a copy of the video and audio?

8 A Yes.

9 Q What was your assessment?

10 A Detective Ellisor engaged in an aggressive
11 application of the Reid Technique. Would you like me to
12 elaborate?

13 Q Please, yes.

14 A So, roughly, after 20 minutes, he confronted the
15 Defendant with certainty of the Defendant's guilt, saying
16 things like, Why would a girl make this up? At a certain
17 point, he ratcheted up the accusation, raising his voice
18 and screaming you're lying.

19 And then there was also -- this is standard Reid
20 Technique confrontation. And this was buttressed then
21 with what is fairly standard minimization. He said to him
22 at one point, This is the one chance you get, implying the
23 one chance to help himself. And that became a recurring
24 theme. He planted the seed of the idea of acknowledging
25 limited guilt, saying at one point, It's one thing if it

1 was just one time. He said, If you tell -- basically, if
2 you confess, I'll tell the solicitor that you were honest
3 with me. He said, This is my one -- this is the only way
4 I can help you, essentially, if you can confess. Help is
5 a real theme. That's a standard minimization theme.

6 Q And is that -- that minimization theme, where is that
7 found?

8 A In the Reid Technique, you find precisely this
9 combination of confrontation and minimization.

10 Q Okay. And you said -- were there other -- were there
11 other areas that he focused on about -- you said help was
12 a common theme?

13 A That's a common minimization theme, yes.

14 Q Also, did you see any threats or things that would
15 induce the Defendant that he needed help?

16 A I wouldn't say direct threats. I mean, he did say at
17 one point, You will be put away for life if you don't
18 confess. Yes, I guess that could be construed as a
19 threat.

20 Q All right. Does the literature on interrogations and
21 confessions indicate certain categories of people are
22 especially vulnerable to falsely confess?

23 A Yes.

24 Q Would people with cognitive disabilities be one of
25 those?

1 A Yes.

2 MS. ZMROCZEK: Your Honor, that's what I would
3 proffer.

4 THE COURT: Okay. Cross-examination?

5 CROSS-EXAMINATION

6 BY MS. PATTERSON:

7 Q So you watched this video, correct?

8 A That's correct.

9 Q And during the video, did you also notice that
10 Detective Ellisor was the only officer in the room,
11 correct?

12 A Yes.

13 Q And you also noticed that he took his cuffs off,
14 correct?

15 A Yes.

16 Q And the video was just about an hour long, right?

17 A That's correct.

18 Q And as a matter of fact, for about 10 minutes or so,
19 Detective Ellisor wasn't even in the room with him, was
20 he?

21 A That's correct.

22 Q So their interaction was less than an hour, correct?

23 A That's correct.

24 Q And most of the time when they were talking,
25 Detective Ellisor was calm, wasn't he?

1 A I don't know if I would say that, but he certainly
2 raised his voice only a few times if that's what you mean.

3 Q He raised his voice?

4 A And I would say in general, he was polite and calm
5 for roughly the first 20 minutes.

6 Q And even when he raised his voice, that wasn't a
7 prolonged period of time, was it?

8 A No.

9 Q In fact, it was sporadic, correct?

10 A That's correct.

11 Q And wouldn't it be reasonable to think that an
12 officer who was interviewing someone charged with
13 something so serious would at times raise his voice?

14 A Perhaps.

15 Q Do you think it would be all giggles and smiles in
16 there?

17 A No, my concern is with the combination of
18 confrontation and minimization.

19 Q And --

20 A And the reason I'm concern is we see that technique
21 used in so many cases of proven false confessions.

22 Q And it's also used in cases where it's true
23 confessions?

24 A That's correct.

25 Q And you've never talked to Jamie Stroman, have you?

1 A No.

2 Q All right. Never met him, have you?

3 A No. As I indicated, evaluating him would be a
4 completely different area of expertise. And I'm careful
5 to stay within my lane.

6 Q So you don't know if he has any cognitive
7 disabilities or limitations, do you?

8 A Oh, that would be based on what I've been told.

9 Q And how many times have you testified for the
10 prosecution?

11 A I've been retained by law enforcement on two
12 occasions, but I've not testified in either case.

13 Q And you say you wrote two articles about the Reid
14 manual?

15 A I'd say that two of my four scholarly articles are
16 largely about interrogation methods.

17 Q So you're not here to testify with regards to any
18 specifics about this video that you watched, correct?

19 A Well, that is what I would testify, if permitted. I
20 would testify exactly as you just heard.

21 Q So you're going to testify specifically about Jamie
22 Stroman's interview with Detective Ellisor?

23 A If permitted, I would tell the jury how -- what they
24 saw and I saw how that conforms to certain interrogation
25 tactics and what we know about those tactics.

1 Q But you've never interviewed Jamie Stroman?

2 A No, that's a different area of expertise.

3 Q You've never interviewed Detective Ellisor?

4 A No, I haven't.

5 Q You've never interviewed the **minor** in this case?

6 A No, I haven't.

7 Q So you're just basing your opinion on this specific
8 case based on watching this video that was less than an
9 hour long?

10 A My opinion is about the video.

11 Q And although you didn't testify in that case up in
12 Rock Hill, the Billy Wayne Cope case, you did have an
13 opinion about that, as well, didn't you?

14 A I've read about the Cope case and I have some notions
15 about it. I wasn't in court, I'm not intimately
16 acquainted with all the evidence.

17 Q Didn't you comment on your website about it?

18 A Yes.

19 Q What was your comment?

20 A Honestly, I don't recall exactly, but I think that
21 the Billy Wayne Cope case is one of the most tragic cases
22 in which there were an awful lot of indicia of
23 internalized false confession.

24 Q And are you also aware in addition to the victim that
25 was killed in that case, he had two more daughters who

1 corroborated her story?

2 A I'm not aware of that.

3 MS. PATTERSON: No further questions.

4 THE COURT: Anything else, Ms. Zmrocze?

5 MS. ZMROCZEK: No, Your Honor --

6 FURTHER REDIRECT EXAMINATION

7 BY MS. ZMROCZEK:

8 Q I mean, the Billy Wayne Cope case, again, you weren't
9 asked to offer an opinion about any of the interrogation
10 methods, were you?

11 A No.

12 Q All right. And when you talk about interrogation
13 methods, are you concerned with the nature of the case?

14 A Of course..

15 Q Okay. So what you're looking at -- what is it that
16 you're looking at when you look at a case overall?

17 A It completes. depends on the case.

18 Q Okay.

19 A Typically, I'm asked to assess whether risky
20 interrogation tactics were utilized.

21 Q And you said that you've been retained over a hundred
22 times?

23 A That's correct.

24 Q But you've only --

25 A Testified.

1 Q -- testified 26?

2 A That's correct.

3 Q Okay.

4 MS. ZMROCZEK: Thank you.

5 THE COURT: Ms. Patterson, anything else?

6 MS. PATTERSON: No, sir, Your Honor.

7 THE COURT: Okay. You can step down, Mr. Hirsch.

8 Thank you.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: All right. You want to be heard,

11 Ms. Zmrocze?

12 MS. ZMROCZEK: I'm sorry?

13 THE COURT: Do you want to be heard on the statement
14 and admissibility?

15 MS. ZMROCZEK: Correct. Your Honor, at this point,
16 again, we would offer his testimony as what the AG just
17 argued and the Supreme Court the other day, educational
18 testimony. Education to the jury, which is
19 counter-intuitive to 12 people who are deciding a fate in
20 this case. He is not offering an opinion that this was a
21 false confession. He is offering an explanation as to
22 what interrogation method could cause someone to give a
23 false confession. And, Your Honor, that's where the --
24 that's where it's outside the scope and the understanding
25 of 12 normal people that are judging this. And so it's an

1 area that would help bring clarity and clarify a point of
2 interest in this case, which is a point of interest which
3 is going to be decision based on this case.

4 THE COURT: Go ahead and argue the admissibility of
5 the statement.

6 MS. ZMROCZEK: Your Honor, we would argue it's
7 admissible under --

8 THE COURT: No, I'm talking about the admissibility
9 of your client's statement.

10 MS. ZMROCZEK: For those reasons --

11 THE COURT: That's the whole purpose.

12 MS. ZMROCZEK: I would absolutely argue it's
13 inadmissible for the reasons put forward above. You heard
14 from Detective Ellisor, who couldn't -- even though viewed
15 the video yesterday morning, couldn't remember the order
16 in which he said and did things. You have a copy of the
17 transcript, I believe that you were able to witness some
18 of the inconsistencies on the stand or not. You got to
19 watch the video. You also read the transcript.

20 You heard Mr. Stroman testify. He testified that he
21 has a criminal background, that he was told by Detective
22 Ellisor that he has a rap sheet this long and he was going
23 away for life. And that the only reason that he even said
24 anything was because he wanted to get out of jail. That's
25 what he said. He didn't want to go to prison, he wanted

1 to get out of jail. And Detective Ellisor said, I can
2 help you. I'll talk to the solicitors. Which Professor's
3 Hirsch's testimony says when you engage -- when you're
4 trained to engage in specific types of interrogation
5 techniques, including minimization of the crime or
6 minimization of the punishment, which he did here, I'll
7 help you. I'll talk to the solicitors. You're off to a
8 good start.

9 Your Honor, for those reasons we would argue that his
10 confession should be suppressed and inadmissible in this
11 case.

12 THE COURT: All right. Ms. Patterson.

13 MR. POGUE: Your Honor, if it's okay for me --

14 THE COURT: My bad. I apologize, Mr. Pogue.

15 MR. POGUE: That's quite all right, Your Honor. In
16 regard to the voluntariness of the confession, under State
17 v. Vondollen (ph), which is kind of a seminal case with
18 regards to voluntariness of confessions in South Carolina.
19 That was an admissibility test, it's just an examination
20 of the totality of the circumstances, Your Honor. The
21 Court outlines a number of factors to consider, youth,
22 lack of education, mentally deficiency; however, alone is
23 not enough. Your Honor, there are numerous cases, State
24 v. Hughes being one of those, that says mental deficiency
25 alone is not enough to make a confession involuntary.

1 The Defendant was 35 years old. He had prior
2 experiences with law enforcement before that he admitted
3 to on the stand. He admitted to being interrogated, I
4 believe, before and not falling, as they would say, victim
5 to a false confession in those cases.

6 Your Honor, in regard to the details of the
7 interrogation, which is the other kind of set of factors
8 that they outlined, the lack of advice of the rights, I
9 mean, clearly, Your Honor, by a preponderance of the
10 evidence, I believe we've established that there was a
11 knowingly voluntary waiver of Miranda by him signing,
12 having him read the waiver out loud, print his name,
13 signed, witnessed.

14 The length of the detention, Your Honor, I mean, it
15 was less than -- I think it was maybe 30 minutes into the
16 interview that he confessed to doing it. He never asked
17 for a bathroom break. He never asked for any food. He
18 said it was after lunch, before dinner, assuming he had
19 some sort of lunch at the time. He wasn't deprived of
20 sleep. He didn't ask to take a -- I think I've already
21 said he didn't ask to take a restroom break of any sort.

22 Your Honor, State v. Arrowwood says clearly -- and
23 I'm happy to provide you that cite, as well. It's a Court
24 of Appeals case from 2007, a police officer's offer to
25 attest to a defendant's cooperation does not constitute

1 promises of leniency.

2 Your Honor, State v. Miller also finds that a
3 statement induced by a promise of leniency is involuntary
4 only if so connected to the inducement as to be a
5 consequence of the promise. Statements made in hope of
6 leniency rather than as a consequence of a promise are not
7 involuntary.

8 THE COURT: Anything else, Ms. Zmroczek?

9 MS. ZMROCZEK: Yes, Your Honor, just a few things.
10 He outlined that mental deficiency and lack of education
11 are not the sole base for things to consider. As
12 Detective Ellisor testified, he didn't even know what his
13 education was. You received a copy of the IQ testing from
14 the psychologist, who will come and testify to the same
15 about what his IQ is.

16 But also, Your Honor, in State v. Miller, he talked
17 about the consequences and what he -- what the
18 consequences were in this case are, you're going away,
19 you're going down for the rest of your life --

20 THE COURT: Keep going.

21 MS. ZMROCZEK: This is the only chance to help
22 yourself. You're only chance to help yourself is to tell
23 me. So, Your Honor, we would argue it does fall under
24 that category of inadmissibility for those reasons.

25 MR. POGUE: Your Honor, if I could just respond real

1 quick?

2 THE COURT: Go ahead.

3 MR. POGUE: I think it was clearly established that
4 he could read and write. In fact, he has written numerous
5 letters to Ms. Patterson from jail saying that he wanted
6 to plead guilty. I mean, he clearly has the ability to
7 read and write and understand what's he's doing,
8 understand what is being said to him and understand when
9 Detective Ellisor read his rights to him. So we would
10 dispute the fact that he didn't have the intelligence to
11 understand what he was doing or being able to read and
12 understand, comprehend the words that were on the waiver.

13 THE COURT: All right. I find that the Defendant is
14 a 35-year-old gentleman, who has an extensive criminal
15 history and background with law enforcement. He was
16 properly read his advice of rights. He was clearly in
17 custody. He gave a knowing, voluntary and intelligent
18 statement after a proper waiver of his Miranda warnings.
19 The length of detention was completely and totally
20 reasonable given the circumstances. He was already in
21 custody. No creature comforts were denied to him in any
22 way, shape, or form.

23 There is a talk about communication about speaking
24 with the solicitor. However, that was a hope of leniency
25 and not a specific guarantee type of result or deal or

1 anything else, for that matter.

2 And as to his mental health issues, I mean, he
3 clearly -- I mean, for Mr. Ellisor -- Detective Ellisor to
4 be able to conclude from that video that the Defendant has
5 some type of serious mental health issues is almost
6 foreign. I mean, even when you watch the video -- even
7 now, Mr. Stroman doesn't appear to have any type of
8 serious mental health issues. He obviously is competent
9 to stand trial or we wouldn't be in a hearing like this.
10 He communicated just fine on the witness stand yesterday
11 and he communicated just fine in that video in that room.
12 Certainly, officers come into contact all the time with
13 people who have serious mental health issues or are under
14 the influence of alcohol or drugs and Mr. Stroman appeared
15 to be under none of those situations, none of that in any
16 way, shape, or form.

17 The other thing -- and I think the thing that
18 triggers the fact of the voluntariness of the statement
19 more than anything is that he asked for his lawyer, so he
20 knew what was going on. Because when he got to the point
21 of where he didn't feel comfortable anymore, he said, I
22 want a lawyer. So obviously, he knew his rights.
23 Obviously, he understood his rights. Obviously, he was
24 aware that all he had to do was say I want a lawyer. And
25 when he said I want a lawyer, the interrogation -- the

1 interview and, slash, interrogation part of it essentially
2 stopped, which was appropriate for Mr. Ellisor to do under
3 the circumstances. He obviously followed what the law is
4 under that scenario.

5 I mean, Mr. Stroman knew he could ask for a lawyer.
6 I mean, the whole purpose of this is do people know and
7 understand what they're going. Do they know and
8 understand what they're giving up. Do they have the
9 mental capacity, the intelligence, are they under some
10 kind of duress or something else to keep them from knowing
11 what they're doing. And clearly, he knew what he was
12 doing because he did it. He said I want a lawyer. What
13 about my lawyer, something of that nature. Therefore, his
14 statement is voluntary.

15 All right. Now, here's what we're going to do with
16 Mr. Hirsch, okay. I'm going to let Mr. Hirsch testify,
17 okay. That's my decision and I'm going to stick with it,
18 okay. He's not going to be able to say that Mr. Stroman's
19 confession is false.

20 MS. ZMROCZEK: Correct.

21 THE COURT: We're not going down that road. He can
22 talk about the things he essentially talked about today.
23 I'm going to let the State cross-examine him on his
24 qualifications, voir dire, all that kind of stuff as much
25 as you want to. So I'm going to let him testify.

1 The reason I'm going so is if you read this rule,
2 Rule 702, I believe that he has other specialized
3 knowledge that can assist the trier of fact to understand
4 the evidence or determine a fact and issue and that he is
5 qualified by knowledge and education to be able to give an
6 opinion in that area, okay.

7 Mr. Hirsch, I know I jumped on you a little bit
8 earlier. I'm not jumping on you so much as I'm --
9 sometimes I process through things out loud and I wanted
10 to be -- I mean, I wanted to be clear as to the issues
11 that I had with your testimony. However, I do believe
12 that you fit under Rule 702. I do believe that the
13 testimony that you give would be directly relevant to the
14 issues in this case. This is, at this point, based upon
15 what I've heard at this point and no one has told me any
16 differently, a he said, she said case.

17 There is not any physical evidence; is that right,
18 Ms. Patterson?

19 MS. PATTERSON: That's correct.

20 THE COURT: That's going to say that Mr. Stroman did
21 it nor are there any other witnesses that are going to say
22 that Mr. Stroman did it besides **Minor** ; is that
23 correct?

24 MS. PATTERSON: Yes, sir.

25 THE COURT: I'm not saying that the State has a bad

1 case, I'm just -- in my processing through the
2 admissibility of Mr. Hirsch's statement, I think because
3 of the nature of the case and the facts as we find them
4 right now, Mr. Hirsch's information becomes more relevant
5 than it would under -- say in Mr. English's case. Does
6 that make sense?

7 Mr. English is the other person charged with having
8 sexually assaulted **Minor**. And in that case, **Minor**
9 has gonorrhea and so does Mr. English. I don't even know
10 if Mr. English confessed. I don't even really care. I'm
11 just saying I think we're in a differently tuned factual
12 scenario where Mr. Stroman's confession is a core issue in
13 the case. And it's more of a core issue in a case than
14 where there would be some type of physical evidence or
15 other witnesses to corroborate **Minor**'s story.

16 So I'm going to let you testify.

17 What I'm going to do is I'm going to let him testify
18 out of order. That's over the State's objection. At this
19 point, for funding reasons that I'm not going to go into
20 on the record, I need to get Mr. Hirsch out of here as
21 soon as possible.

22 So why don't we plan on putting him up near the end
23 of the afternoon?

24 MS. ZMROCZEK: Okay. Thank you.

25 THE COURT: Or would you rather do him this afternoon

1 or first thing in the morning?

2 MS. ZMROCZEK: This afternoon.

3 THE COURT: Okay. We'll fit him in this afternoon.

4 I'll take full responsibility for that in front of the

5 jury. I will explain to them that he's being taken out of

6 order and that's my fault. It's no one else's fault.

7 Okay. Now, Mr. Stroman, I need you to understand --

8 I need you to understand what we're doing, okay?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Have you understood me so far today?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Good. And you did just fine on

13 the witness stand yesterday. Now, this is a criminal

14 case. You understand that, right?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you don't have to put up any

17 evidence. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I mean, you don't have to call a witness.

20 Ms. Zmroczek does have to ask one witness one question.

21 Because you don't have to prove anything. The burden of

22 proof rests with the State. It's their job to convince

23 the jury unanimously, all 12 of them, beyond a reasonable

24 doubt that you're guilty. Does that make sense?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You don't have to prove your innocence.
2 You don't have to take the witness stand. You don't have
3 to call a witness. You don't have to ask a witness a
4 question. In fact, the law says you don't even have to be
5 here, okay?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Because you don't have to prove anything.
8 Does that make sense to you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: So, usually, we wait until the State
11 finishes their case. That's called when the State rests.
12 When they finish their case, then you make a decision on
13 whether or not you want to put up witnesses or not. Okay?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: So by calling Mr. Hirsch out of order,
16 you're giving up that ability to make that decision once
17 the State rests. Does that make sense?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Have you and Ms. Zmroczek talked about
20 that? I don't need to know the details of your
21 conversation, I just need to know if you talked about it?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Are you okay with Mr. Hirsch being called
24 out of order?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you believe based on what you know
2 right now that that's the best thing for your case?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you agree with that decision,
5 Ms. Zmroczek?

6 MS. ZMROCZEK: I do, Your Honor.

7 THE COURT: And based upon what you know and
8 understand right now, do you believe that's the best
9 decision for Mr. Stroman is to take Mr. Hirsch while he's
10 here and call him out of order?

11 MS. ZMROCZEK: I do, Your Honor.

12 THE COURT: All right. I understand that the State
13 objects to that. We're going to do it anyway. I think
14 that's the easiest way to get it done and over with. And
15 that will still be the Defense introducing evidence and
16 shouldn't affect the closing arguments at all.

17 MS. PATTERSON: And, Your Honor, just for planning
18 purposes, as I have my witnesses here, when will
19 Mr. Hirsch be allowed to testify?

20 THE COURT: So we'll do openings -- tell me what your
21 witness list was for the afternoon before I just messed it
22 up.

23 MS. PATTERSON: It was **Minor** , Lacy Musgrave,
24 Brooke Wymer and then the video.

25 THE COURT: And then we come back to **Minor** ?

1 MS. PATTERSON: Yes, sir.

2 THE COURT: And then?

3 MS. PATTERSON: And that that should have taken us
4 through today.

5 THE COURT: How long do you think you're going to be
6 with **Minor** ?

7 MS. ZMROCZEK: Not very long, Your Honor.

8 THE COURT: So the longest thing we're going to have
9 this afternoon is the video?

10 MS. PATTERSON: Yes, sir.

11 MS. ZMROCZEK: Yes, sir.

12 THE COURT: And when does your flight head out, Mr.
13 Hirsch?

14 MR. HIRSCH: Tomorrow morning.

15 THE COURT: At what time?

16 MR. HIRSCH: 9:40..

17 THE COURT: We'll just have to get it in. I mean, I
18 think we wait until all that's done before he goes unless
19 you want to do him first.

20 MS. PATTERSON: No, sir, I just wanted to know what
21 to tell my witnesses.

22 THE COURT: I'm happy to let him go first and we can
23 start with him. I'm happy to wait until we're done with
24 these, **Minor** -- and I'm sorry, I didn't write down the
25 last names, I mean no disrespect to these people,

1 **Minor** , Lacy and Brooke and then do him. However you
2 want to do it. We can put him up right off the bat so
3 you -- whatever you want to do.

4 MS. PATTERSON: Yeah, I would rather him just go up
5 first.

6 THE COURT: All right. Is that okay?

7 MS. ZMROCZEK: That's fine, Your Honor.

8 THE COURT: So what I'm going to tell -- so when the
9 jury comes back in, we're going to start with these
10 stipulations. Okay. I'm going to say -- I'm trying to
11 figure out what to say to explain to them why I'm starting
12 with that.

13 MS. PATTERSON: And, Your Honor, speaking of
14 stipulations, I need to address something there.

15 THE COURT: Okay.

16 MS. PATTERSON: I realized yesterday that I made a
17 mistake and I don't know if it matters. On Eric English,
18 he was arrested actually March 28th, and not April 4th.

19 THE COURT: March 28th?

20 MS. PATTERSON: Yes, sir. The report had April 4th
21 on it, but the actual arrest and booking date was March
22 28th.

23 THE COURT: Any objection to that?

24 MS. ZMROCZEK: No, no, none at all.

25 THE COURT: So help me with what y'all want me to say

1 before I start reading the stipulations.

2 MS. ZMROCZEK: Well, Your Honor, this may help, too.
3 I know there were some discussions about redaction of
4 criminal records and things like that.

5 THE COURT: Right.

6 MS. ZMROCZEK: I watched those videos. It's a trial
7 strategy and in the best interest of the client, and, Your
8 Honor, I believe he is going to testify again in front of
9 the jury, so we're not going to have any redactions or
10 anything.

11 THE COURT: Okay.

12 MS. ZMROCZEK: But I still agreed, though -- and I
13 didn't mean to cut you off, but are you still struggling
14 with number six?

15 THE COURT: No. I'm struggling with what to say
16 about why I'm starting with the stipulations.

17 MS. ZMROCZEK: How I've seen it, I guess because
18 we've always done it in our other cases kind of at the end
19 of the case rather than the beginning --

20 THE COURT: Right.

21 MS. ZMROCZEK: -- but I think the language that you
22 use is prior to -- there's a lot of work that goes into
23 cases and there are things that lawyers can agree on to
24 cut down on the number of witnesses. That has been done
25 in this case. These are stipulated facts. These are

1 facts that are accepted --

2 THE COURT: Okay.

3 MS. ZMROCZEK: -- by both parties. That's what I've
4 heard you say before, Your Honor.

5 THE COURT: Right.

6 MS. PATTERSON: In the support of judicial
7 efficiency.

8 THE COURT: My -- what I want to say is listen,
9 there's this other defendant out there, you're going to
10 hear about him and it's going to be confusing. We're not
11 trying to make it confusing, so we're all agreeing on
12 these facts, but I don't want you to get confused as to
13 what the case is about. Now, I know I can't say that, but
14 that's what I kind of want to say. I'll leave that to
15 y'all to explain it to them in openings and they'll know
16 what it is at that point. But I'll do the normal, you
17 know, these are facts agreed upon by the parties to these
18 facts. You need no further evidence. I know I have a
19 charge on stipulations.

20 MS. PATTERSON: And I think Ms. Zmroczek is fine with
21 number six.

22 MS. ZMROCZEK: With what we discussed yesterday,
23 yeah.

24 THE COURT: So hold on one second.

25 (Pause.)

1 THE COURT: So what do we want? I changed number six
2 to that Jamie Stroman had no further contact with Minor
3 after May the 7th of 2014.

4 MS. ZMROCZEK: That's what I thought we had agreed on
5 yesterday.

6 MS. PATTERSON: But yesterday -- we also reviewed --
7 yesterday evening, we reviewed the video and in the video,
8 he tells Detective Ellisor that he had been living in the
9 house up until the time he went to jail, which was
10 May 7th.

11 THE COURT: All right. Well, I'm not going to make
12 them stipulate to that fact.

13 MS. PATTERSON: Okay.

14 THE COURT: I'm just going to say he had no further
15 contact with her after -- whatever I just said is what I'm
16 going to say.

17 MS. PATTERSON: Okay.

18 THE COURT: He can change his story on that. They
19 can offer other evidence to counteract that, whatever it
20 may be, but, I mean, that's clearly important because
21 that's a timeframe inside the indictment.

22 MS. PATTERSON: Yes, sir.

23 THE COURT: So we're not going to squeeze him
24 stipulating to being in the house. He may have said that
25 in his interview and that's fine. Y'all can argue that.

1 But we're not going to squeeze that into the stipulation
2 that really deals with Mr. English.

3 Okay. Everybody else good? Okay. I need the
4 indictments for the start.

5 Okay. I'm going to tell them we're doing a
6 stipulation. Here's the stipulation. And then I'm going
7 to tell them we're doing a witness completely and totally
8 out of order. This is the Defense witness. We're going
9 to start with him and we're trying to accommodate
10 schedules for everybody and make that happen. And so as
11 soon as that's finished, we'll jump right into the State's
12 case.

13 MS. ZMROCZEK: Thank you.

14 THE COURT: All right. 1:00 o'clock.

15 Are your clothes better today? Are your clothes
16 good?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. Good.

19 (WHEREUPON, a lunch break was taken.)

20 THE COURT: All right. Anything before we start from
21 the State?

22 MS. PATTERSON: No, sir.

23 THE COURT: From the Defense?

24 MS. ZMROCZEK: Nothing, Your Honor.

25 THE COURT: All right. Ms. Mitchell, bring them in.

1 (WHEREUPON, the jury entered the courtroom at 1:02
2 p.m.)

3 THE COURT: All right. Thank you. Welcome back,
4 ladies and gentlemen. I apologize for your delay this
5 morning. I take full responsibility for that. So we're
6 now getting ready to begin the trial. The first thing
7 that we are going to do is you are going to be sworn in.

8 Now, you were sworn in yesterday to take an oath to
9 tell the truth in response to the questions that I asked
10 you. Today's oath is different. This is an oath that we
11 have used for hundreds of years to encompass your
12 responsible to be fair and impartial to both sides. So if
13 you would please rise, the clerk will administer you the
14 oath.

15 THE CLERK: Ladies and gentlemen of the jury, please
16 stand and raise your right hand to be sworn.

17 You shall well and truly try and a true deliverance
18 make between the State of South Carolina, and the
19 Defendant at bar, whom you shall have in charge, and
20 render a true verdict, according to the law and the
21 evidence, so help you God. Please respond by I do or I
22 affirm.

23 THE JURY: I do.

24 THE CLERK: Be seated, please.

25 THE COURT: All right. Thank you very much.

1 Before we begin the actual trial of this case, I
2 thought it might be helpful if I explain to you how a
3 trial will proceed. First, the State will be allowed to
4 make an opening statement. Now, opening statements are
5 not evidence. They're simply an outline to help you
6 understand what that party or that side expects the
7 evidence will show. The Defendant may, if he chooses,
8 present an opening statement, but he does not have to for
9 reasons that I will explain to you in just moment.

10 Following the opening statements, you will hear
11 testimony and evidence in the case. This testimony will
12 consist of testimony from the State's witnesses as well as
13 any physical exhibits which will be introduced into
14 evidence.

15 Following the completion of the testimony, the
16 attorneys will again have an opportunity to come before
17 you and make what's called a closing statement or
18 summation to you. This is an opportunity for the
19 attorneys to summarize the case from their respective
20 points of view. Again, the closing -- the opening
21 statements and the closing arguments are not evidence. So
22 I'm going to define this term evidence for you in just a
23 minute, but you need to listen and pay attention for that.

24 Now, following the closing statements by the
25 attorneys, I will instruct you and tell you what the law

1 is in South Carolina as it pertains to the issues that
2 have arisen in the case. When I have completed my
3 instruction to you, you will then be permitted to begin
4 your deliberations in order to reach a verdict.

5 You are now the jury in this case, and I need to take
6 a few minutes to tell you something about your duty as
7 jurors and to give you some instructions. I gave you some
8 instructions yesterday and I'll give you more instructions
9 at the end of the trial.

10 Basically, your duty is this. It is your duty to
11 decide from the evidence -- remember, the evidence is a
12 defying term, from the evidence what the facts are. You
13 and you alone are the judges of the facts. You will hear
14 the evidence, decide what the facts are and then apply
15 those facts to the law that I will give you. That's how
16 you will reach a verdict. In doing so, you must follow
17 the law that I give you whether you agree with it or not.

18 The evidence -- so what is evidence? The evidence
19 will consist of the testimony of the witnesses, any
20 documents or anything else received into evidence as an
21 exhibit, and any facts on which the lawyers agree or
22 anything that I tell you to accept.

23 So evidence is the testimony of the witnesses, any
24 documents or other exhibits which will be received into
25 evidence and any fact on which the lawyers agree or

1 anything that I tell you to accept.

2 Do not take anything that I do or say during the
3 trial as indicating what I think of the evidence or what I
4 think your verdict should be. Basically, you're in
5 control of the facts, and I'm in control of the law.

6 Now, that is a criminal case brought by the State of
7 South Carolina against Mr. Stroman. The State has charged
8 the Defendant with two counts of criminal sexual conduct
9 with a minor under the age of 11 first degree.

10 The first indictment says that on or about -- or on
11 or between June 1st of 2013 and August 31st of 2013, Jamie
12 Stroman did in Lexington County willfully and unlawfully
13 commit a criminal sexual conduct with a minor in the first
14 degree by engaging in sexual battery, to-wit: Digital
15 penetration and/or sexual intercourse with a minor, who
16 was less than 11 years of age, to-wit: Minor ., date
17 of birth, [REDACTED] of 2006. The second indictment
18 alleges that Jamie Stroman did in Lexington County, on or
19 between March 7th of 2014 and May 6th of 2014 willfully
20 and unlawfully commit criminal sexual conduct with a minor
21 in the first degree by engaging in sexual battery, to-wit:
22 Digital penetration and/or sexual intercourse with a minor
23 who was less than 11 years of age, to-wit: Minor .,
24 date of birth, [REDACTED], 2006.

25 Now, these indictments that I hold in my hand are not

1 proof of anything. They are not evidence of anything.
2 They are simply the documents that give this Court the
3 authority to hear this case. These indictments are not
4 evidence. They are not proof. They are simply the
5 charging documents. To these indictments, the Defendant
6 has pled not guilty and he is presumed to be innocent
7 unless and until proven guilty beyond a reasonable doubt.

8 Proof beyond a reasonable doubt is proof that leaves
9 you firmly convinced of the Defendant's guilt. A
10 defendant has the right not to testify, and he never has
11 to prove innocence or present any evidence. The burden of
12 proof is always upon the State of South Carolina.

13 Now, some things that you are going to hear during
14 this trial are not evidence, and you must not consider
15 them as evidence in deciding what the facts are.

16 Number one, the statements and the arguments of the
17 attorneys are not evidence. Number two, the questions and
18 the objections of the attorneys are not evidence. Number
19 three, anything that I tell you to disregard. So in every
20 single trial, this happens. Somebody says something and I
21 instruct you to disregard that statement and you must
22 disregard what was just said or what the evidence just
23 showed, okay.

24 Now, there are two types of evidence, direct evidence
25 and circumstantial evidence. Direct evidence is what

1 somebody saw, heard, did, touched, sensed, smelt,
2 something they can personally testify to. Circumstantial
3 evidence is indirect evidence. It is proof of one or more
4 facts from which you can find another fact.

5 You are to consider both direct and circumstantial
6 evidence. The law permits you to give equal weight to
7 both, but it is for you to decide how much weight to give
8 any evidence because you are in control of the facts.

9 Now, in this courtroom and throughout this trial,
10 there is a procedure that is followed, okay. And there
11 are rules. There are Rules of Evidence that govern the
12 order in which witnesses get called, the order in which
13 witnesses are examined by the attorneys. All these things
14 are controlled by rules. I'm not just sitting around
15 making this up as I go.

16 So there are Rules of Evidence which control what can
17 be received into evidence. So when a lawyer ask a
18 question or offers to admit an exhibit into evidence and a
19 lawyer on the other side thinks that it is not permitted
20 by the Rules of Evidence, that lawyer may object. So if I
21 overrule the objection, then the question may be answered
22 or the exhibit may be received. If I sustain the
23 objection, then the question cannot be answered or the
24 exhibit cannot be received.

25 Whenever I sustain an objection to a question or deny

1 a motion to admit an exhibit into evidence, you must
2 ignore the question or the existence of the exhibit and
3 you must not guess what the answer would have been or what
4 the exhibit would have shown.

5 Now, it will be necessary during this trial for me to
6 ask you to leave the courtroom so that we can take up
7 legal issues that arise during the trial. This happens in
8 every single case, whether it's one witness or 50
9 witnesses, this always happens. If this occurs, you
10 should not speculate about what we are discussing or why
11 you were asked to leave the room. This is a procedure
12 that the law requires when some legal issues arise.

13 Now, there will also be occasions when I just tell
14 the attorneys to approach the bench. I'll say y'all
15 approach or they'll say may we approach. Now, when I do
16 this, I let my juries stand up, stretch, kind of twist.
17 You get kind of settled in your seat. So when the lawyers
18 approach, that's your opportunity to kind of stand up in
19 place, stretch, stretch out your arms, your neck, whatever
20 you need to to make sure you're staying awake. I'll do
21 this as often as possible to keep you from going in and
22 out and in and out and back and forth, but sometimes I've
23 got to send you out. Now, no one is trying to keep
24 anything from you. This is simply a procedure used by all
25 lawyers in all courts to determine and decide legal

1 questions.

2 Now, in deciding the facts of this case, you're going
3 to have to determine which witnesses to believe and which
4 witnesses not to believe. You may believe everything a
5 witness says. You may believe none of what a witness
6 says. You may believe part of what a witness says. In
7 deciding what to believe, you may consider, but you are
8 not limited to the following things: What was the
9 witness's ability to see, hear or know what he or she
10 testified to? How good was the witness's memory? What
11 was the witness's demeanor or manner while on the witness
12 stand? Does the witness have an interest in the outcome
13 of the case or any motive or bias or prejudice? Whether
14 the witness was contradicted by anything he or she said or
15 wrote before the trial, during the trial or any other
16 evidence? How reasonable was the witness's testimony when
17 considered in light of everything else in the evidence
18 that you believe?

19 The bottom line is this, okay, when you came in here
20 today, you didn't check your common sense at the security
21 detector. Each and every single one of you make decisions
22 every single day on who's telling you the truth and who's
23 not. Okay. I mean, if you think about it, you've already
24 made that decision today. Whether it be with a child,
25 with a sibling, or with somebody you work with, you make

1 that decision on whether or not that person is telling you
2 the truth. You judge people's credibility all day long
3 every day just using your common sense. No one is asking
4 you to leave your common sense at home, okay. That's one
5 of the reasons you were selected because they all believe
6 in you. They all believe that you will bring your common
7 sense with you this week to try this case.

8 Now, some of what I'm about to say I've already told
9 you, but I'm going to tell you one more time. Until I
10 advise you to begin your deliberations, you must not
11 discuss this case with anyone, including each other,
12 friends, family members and anyone involved in the case.
13 This includes discussions face-to-face, by telephone,
14 e-mail, text message, blog, Facebook, Twitter, some other
15 kind of social media that I don't even know what it is
16 because I don't know that it exists. You can't
17 communicate about this case with anyone in any way, shape,
18 or form.

19 You may not use a computer, a cell phone or any other
20 electronic device with any kind of communication
21 capabilities at any time while in the courtroom or during
22 deliberations. During your breaks for meals or overnight,
23 your devices will be returned to you; however, you may not
24 at any time use them to get or send information about this
25 case. This includes information about a party, a witness,

1 an attorney, a court officer, news accounts about the
2 case, research on anything raised or anything that you
3 think well, I need to go look this up to make this
4 decision, okay.

5 Y'all are natural good, hardworking people and in
6 your mind, you may say well, I really want to know this
7 before I make this decision. Okay. You can't even go to
8 a paper encyclopedia and look something up, much less
9 getting on a computer trying to figure something out.
10 You're going to base your decision on the evidence that
11 comes from the witness stand, the exhibits that are
12 introduced, and the law that I give you. Do not read,
13 watch or listen to any news accounts about the case. I
14 know of none, but if you're watching the news some night
15 and this comes on for some reason, turn it off. Don't
16 look up anything on the internet about the case.

17 Once the case is submitted to you, you must discuss
18 it only in the jury room with each other. The attorneys
19 and the parties in the case have all been told to not have
20 any contact with you, so if you see them in the hall and
21 they ignore you, they're not being unfriendly, they're
22 just following my instructions.

23 It is important that you keep an open mind and not
24 decide any issue in this case until all of the evidence
25 has been presented, the parties have made their closing

1 arguments and I've told you what the law is.

2 It is your responsibility to determine the guilt or
3 the innocence of the Defendant and your verdict must be
4 based solely on the evidence as it is presented to you and
5 on the law that I give you at the end of the trial.

6 Now, Mr. Foreman, it's your added duty to preside in
7 the jury room. You're called the presiding juror. And it
8 will be your duty to be the spokesperson here in court.
9 Someone has to be able to communicate with me. You don't
10 get paid any extra and your vote doesn't count any more,
11 but somebody has to be in charge of communicating with me.

12 Okay. Now, so we have something a little out of the
13 ordinary, okay. So what we're going to do is we're going
14 to start with a stipulation. So I told you, you have to
15 accept facts that I tell you. And this is a -- what I'm
16 about to read you is a stipulation. Stipulations are
17 facts that are agreed upon by both sides. That means both
18 the State and the Defense have agreed upon these facts and
19 there is no further proof of them that is necessary.

20 Okay. We're doing this prior to opening statements and
21 the lawyers know I'm doing this. We've already talked
22 about it and decided we're going to give you this
23 information before they start their opening statements,
24 okay.

25 All right. So the alleged **minor** 's name in this case

1 is Minor . Okay. So the stipulations are as
2 follows: Number one, that Minor began
3 experiencing vaginal discomfort on or about March the 4th
4 of 2014, and she was diagnosed with vaginal gonorrhea;
5 that Eric English was arrested and charged with criminal
6 sexual conduct with a minor on March the 28th of 2014, for
7 sexually assaulting the minor [REDACTED].
8 Number three, that Eric English is alleged to have given
9 Minor gonorrhea. Number four, that during
10 Minor 's forensic interview on or about --
11 excuse me, on March the 18th of 2014, she only disclosed
12 that her father, Eric English, had sexually assaulted her
13 and no one else to the forensic interviewer, Brooke Wymer.
14 Number five, that Eric English's cases are still pending
15 and a trial date will be set by the chief administrative
16 judge of this circuit. Number six, that Jamie Stroman had
17 no contact with Minor after May 7th of 2014,
18 okay.

19 Now, those are the stipulations of the parties. And
20 we will now move directly to opening statements.

21 Mr. Pogue, are you opening for the State?

22 MR. POGUE: Yes, sir, Your Honor.

23 THE COURT: All right. The floor is yours.

24 MR. POGUE: Thank you, Your Honor. May it please the
25 Court.

1 THE COURT: Yes, sir.

2 OPENING STATEMENT BY MR. POGUE

3 MR.. POGUE: I've spent a lot of time the past couple of
4 days thinking what about what it was I was going to stand up
5 here and say this afternoon. You see, there's a lot of
6 material out there and there's a lot of expert advice on how
7 to deliver an effective opening argument in an important
8 trial such as this.

9 They'll tell you that if you follow their approach,
10 that if you use their methodology, you'll be able to deliver
11 a powerful statement. There's lots of things they can
12 prepare you for, but one thing they cannot prepare you for
13 is that moment when a scared, precious 11-year-old girl
14 walks into your office as a prosecutor, sits down in the
15 chair across from your desk and begins to explain the
16 unimaginable violations of her innocence inflicted on her by
17 the Defendant in this case.

18 It shakes you to your soul, but that's just what you
19 will see here in this trial. You'll see **Minor**
20 walk right here in front of you and take that stand right
21 there. And she'll look at all of you and she'll tell you
22 what the Defendant did to her in this case..

23 Instead of being focused on the joy and the
24 carelessness of a healthy childhood, you know, things like
25 playing dress up with your friends, having a princess tea

1 party, immersing yourself in a Disney movie. Instead, she
2 was living in a nightmare of sexual abuse, forensic
3 interviews, trauma counseling, therapy sessions and on and
4 on. She will never be able to go back and live a healthy
5 childhood. That was stolen from her forever.

6 Now, as the Judge told you, you'll also have heard it
7 already, that, unimaginably, Minor was not only assaulted
8 by the Defendant in this case, but also by her biological
9 father, Eric English, that he is alleged to have assaulted
10 her. But we're not here to try that case today, okay.
11 Mr. English has been charged, as the Judge told you. He has
12 a case pending in our office and his day in court will come.
13 We assure you that his day in court will come. Do not let
14 yourself get distracted by the fact that he also has
15 charges. That's not what we are here for this week. This
16 week, we are here to try Jamie Stroman for the acts that he
17 committed of sexual assault on Minor.

18 So what will you hear in this case? You'll hear how
19 the Defendant --Minor's mother, Sarah Stoudemayer, was
20 the girlfriend and how Jamie Stroman was her boyfriend, who
21 was a live-in boyfriend at [REDACTED] Apartments here in
22 Lexington and that Minor and her other daughter, Sarah's
23 other daughter, E.J., Minor's brother lived in the
24 apartment with Jamie.

25 You will hear that Minor was assaulted by the

1 Defendant multiple times at night in her bedroom while he
2 lived in the apartment with **Minor** with both her and her
3 family. You'll hear her tell you that it hurt her when the
4 Defendant assaulted her. When the Defendant would finish,
5 according to her, she would wipe off on a towel wet,
6 yellowish stuff that came out of the Defendant's, as she
7 called it, nasty part.

8 You'll hear how the Defendant warned **Minor** not to
9 tell anybody or she would get in trouble. You'll hear how
10 the Defendant was no longer living in the apartment after
11 May 7th, 2014, and how less than a month later after that,
12 on June 3rd, during her counseling session for trauma
13 therapy from the sexual abuse that was already disclosed
14 from her father when she learned that the Defendant was
15 going to be moving back into the house soon, she broke down
16 crying and disclosed sexual abuse that happened at her [REDACTED]
17 [REDACTED] apartment.

18 Lastly, you will see the Defendant's confession
19 videotape conducted by Detective Chris Ellisor with the
20 Lexington Police Department. You'll hear the Defendant
21 confess to sexually assaulting **Minor**. As he says it, it
22 happened in July or August of 2013. You will watch him tell
23 **Minor** -- you will watch him tell Detective Ellisor that
24 he quote, fingered her and that he rubbed her ass and her
25 clitoris.

1 The Defendant in this case is charged with two counts
2 of criminal sexual conduct in the first degree -- excuse me,
3 criminal sexual conduct with a minor in the first degree.
4 We have to prove that to you, both counts, beyond a
5 reasonable doubt, each element of the crime.

6 And you ask yourself what is criminal sexual conduct
7 with a minor in the first degree? According to South
8 Carolina law, the statute, criminal sexual conduct with a
9 minor in the first degree is when an actor engages in a
10 sexual battery with a victim who is at the time less than 11
11 years of age.

12 So the key here is what is sexual battery? The statute
13 actually defines that as well. Sexual battery, according to
14 South Carolina law, is sexual intercourse, cunnilingus,
15 fellatio, anal intercourse and, importantly, any intrusion,
16 however slight, of every part of a person's body or of any
17 object into the genital or anal openings of another person's
18 body.

19 As I mentioned to you, we have to prove these things to
20 you beyond a reasonable doubt, but what does that even mean?
21 What does that mean, beyond a reasonable doubt? Beyond a
22 reasonable doubt, as the Judge may tell you, is double that
23 leaves you firmly convinced of the Defendant's guilt.

24 Now, folks, there are very few things that we know in
25 this world with absolute certainty. In criminal cases like

1 this, the law does not require us to prove the Defendant
2 beyond every possible doubt. The law does not require that.
3 Any doubts that you have regarding the Defendant's guilt
4 must be reasonable. Don't make the mistake of losing the
5 forest through the trees. Folks, you were chosen -- as the
6 Judge told you already, you were chosen for this jury
7 because you struck us as people who possess good,
8 old-fashioned common sense.

9 I urge you -- there are a lot of things when you walked
10 into this courthouse that they wouldn't let you bring in
11 here. I think they actually let you bring your cell phones
12 in now. They used to not let you bring your cell phones.
13 They used to take pretty much everything from you. But one
14 thing they do let you bring in here is your common sense and
15 that will be the most important thing that you'll take back
16 there in the jury room with you. I urge you to use it.

17 As jurors, you have a duty to render a verdict in this
18 case. In fact, the word verdict means, in Latin, 'to speak
19 the truth. So in other words, you have a duty to speak the
20 truth. When all the evidence is presented in this case,
21 when you watch the Defendant admit on videotape to sexually
22 assaulting **Minor** , we believe that you have a
23 duty, again, you will have heard the evidence, to go back
24 into the jury room and render a verdict of guilty in regard
25 to Jamie Stroman for criminal sexual conduct with a minor in

1 the first degree.

2 Thank you.

3 THE COURT: Thank you, Mr. Pogue.

4 Mr. Zmroczek, would you like to make an opening
5 statement?

6 MS. ZMROCZEK: I would, Your Honor. May it please
7 the Court?

8 THE COURT: Yes, ma'am.

9 OPENING STATEMENT BY MS. ZMROCZEK

10 MS. ZMROCZEK: Falsehoods, facts and fear. That's
11 why we're here today and this week.

12 Ladies and gentlemen, good afternoon. This is not
13 going to be an easy week. It's not going to be a fun
14 week, but it's an important week. And I believe the Judge
15 told you yesterday how our system of justice is the most
16 important and the best in our country and that's what we
17 fight for. Because 15 people are sitting in this box
18 right now with no knowledge of the case. There have been
19 no facts, no evidence presented.

20 Ms. Zmroczek, we just heard Mr. Pogue stand up here
21 and say we just heard your client confess. Why are we
22 here? Why are you wasting my time? I could be at school.
23 I could be at work. I could be taking care of my family.
24 Why are we here? Falsehoods, facts and fears. False
25 accusations, false confessions, false assumptions. The

1 only thing worse than being accused of being a child
2 molester is being falsely accused of being a child
3 molester and that's what's happened to Jamie Stroman.

4 I grew up the oldest of seven daughters. My dad
5 wanted a boy. He had seven girls. So I have six sisters
6 and I'm the oldest. And when I was younger, inevitably,
7 somebody would do something and sometimes it was me, but
8 most of the times, it wasn't me. But no matter what, I
9 would always get blamed.

10 My dad would say well, the first scapegoat is the
11 easiest of all hunting expectations. He'd say, Girls --
12 he would all sit us down. And when we were young young,
13 he would entice us. He would say, Girls, look, I know
14 that somebody draw on the wall and I want to know who it
15 was and we're not leaving here until you tell me. But
16 once you tell me, we're going to get ice cream and it's
17 going to be good. We're going to fine. All right. So
18 tell me who did it. Tell me who did it so we can go get
19 ice cream.

20 And me, being the oldest, I would always say I did
21 it. To this day, in my 45-and-a-half years -- I still say
22 half. 45 years of living, I have never put a crayon to a
23 wall. Purposely, so now I can still say that statement.
24 But I was often the scapegoat and I often admitted to it
25 when I didn't do it.

1 Ms. Zmroczek, why would somebody confess to something
2 that they didn't do? We're not talking about crayons on a
3 wall. We're talking horrible disgusting acts. And let me
4 assure you, there's no alleged **minor** in this case.

5 **Minor** is a **minor** . She is a **minor** , we assert,
6 of sexual abuse by Eric English.

7 We talked about a few dates. I'm very visual. It
8 helps me to kind of look at things. March 4th, the
9 stipulation that she began experiencing vaginal discomfort
10 because poor **Minor** got gonorrhea, the same
11 gonorrhea that her dad, Eric English had. And he was
12 arrested here, March 28th. You'll hear that she had a
13 forensic interview. I believe that the Judge told you
14 that she had a forensic interview in March and she
15 disclosed that she was sexually assaulted by one person,
16 Eric English.

17 You will hear that she begins counseling in April and
18 that she not only goes to these trauma counseling
19 sessions, that she sees doctors, she goes to school, she
20 sees teachers, she has nurse encounters the whole month of
21 April and the whole month of May. And the Judge already
22 told you as a fact that after May 7th, 2014, there was no
23 more contact with Jamie Stroman. And you'll hear about
24 why.

25 Then June 3rd, there's another counseling

1 appointment. And then this confession takes place
2 June 16th. And I use the air quotes for confession
3 because I want to talk about those falsehoods that are in
4 this case, the false accusation.

5 Am I calling **Minor** a liar? No. No. Do I
6 believe that she has been influenced by people in her
7 family, her nana, the mother of Eric English, to put these
8 ideas in her head? Yes. Do I believe it's easier to find
9 Jamie Stroman a scapegoat for Eric English's disgusting
10 acts? Yes.

11 The false confession, the Defense is going to put up
12 a witness to talk about this phenomenon. Ms. Zmroczek,
13 okay, so why would a child lie about these things? And
14 we'll talk about throughout. I think the evidence will
15 show you that throughout the case.

16 Well, okay. We get the understanding of false
17 accusations. Why would somebody ever confess to a crime
18 that he didn't do? Why would they do that? No reasonable
19 person would do that. We're going to offer you an
20 explanation. And you'll get to see with your own eyes and
21 your own ears the video of this confession and you get to
22 decide whether or not you believe it.

23 The search for the facts or the truth, as Mr. Pogue
24 told you a verdict is, the key word in that statement is
25 search. It's not just handed to you. It's not just told

1 to you by officers of the State or police officers or any
2 witness. It's something that you have to look for. And
3 when you look for that, to help you in your search, we
4 have to ask questions and sometimes they're going to be
5 tough questions. But that's -- the key meaning is the
6 search, search and look for reasons why someone would
7 falsely accuse somebody. Look at the bias and the motive.
8 Look at the reasons. Look for the reasons why somebody
9 would falsely confess.

10 Ladies and gentlemen, the last F that I talked about
11 was fear because you're going to hear words like sexually
12 battery, ass, clitoris, gonorrhea. Now, in my world,
13 unfortunately, these are things that I hear and talk about
14 every day. But the fear part comes in is that when these
15 charges are brought, it's the fear that the Judge is going
16 to tell you you must set aside and apply the that he gives
17 you.

18 Ladies and gentlemen, after all the evidence is put
19 up, I'm going to come back up and I'll have one more
20 opportunity to just get to you all to myself again and
21 speak about this case. At that time, we will ask that you
22 find Mr. Stroman not just not guilty, but innocent of
23 these crimes because that's what the evidence will prove.

24 Thank you.

25 THE COURT: All right. Thank you very much.

1 Okay. We started the afternoon with the stipulation.
2 Now, we're also going to do something that's a little bit
3 out of the ordinary. In all the cases that I do, either
4 criminal or civil -- it's usually more difficult in civil
5 cases, but sometimes getting experts witnesses into court
6 at the exact appropriate time, because you don't ever
7 really know how long parts of a case can take, can be
8 very, very difficult. I mean, I was on the phone this
9 morning with people in an entirely unrelated case trying
10 to schedule with an expert is to come and you never really
11 know how long things are going to take. So we're going to
12 take a witness completely out of order as the first
13 witness in an effort to get him in and get him examined
14 and get him back out. So the first witness that's going
15 to be called is a Defense witness.

16 Now, remember I told you the burden of proof is upon
17 the State and that burden of proof is proof beyond a
18 reasonable doubt. The Defense does not have to put up any
19 witnesses, but they are allowed to if they want to and
20 they have chosen to. So the first witness out of the box
21 is actually going to be a Defense witness. I just wanted
22 to explain that to you before it happens.

23 So Ms. Zmroczek, you may call your first witness.

24 MS. ZMROCZEK: Thank you. Your Honor, We call
25 Professor Alan Hirsch.

1 THE COURT: All right. Please come forward, sir.

2 ALAN HIRSCH, after being duly
3 sworn, testified as follows:

4 THE CLERK: Once you're seated, state your full name,
5 spelling your last name, please.

6 THE WITNESS: Alan Hirsch, H-I-R-S-C-H.

7 DIRECT EXAMINATION

8 BY MS. ZMROCZEK:

9 Q Mr. Hirsch, please introduce yourself to the jury.
10 Tell them a little bit about where you're from and what
11 you do.

12 A I'm from Massachusetts. When I woke up this morning,
13 there was snow on the ground. It's quite delightful here.
14 You don't know how good you have it. My primary
15 occupation is I teach law-related courses at Williams
16 College at Williamstown, Massachusetts. My official title
17 is instructor in the humanities and I'm also a chair of
18 the justice and law program at Williams.

19 Q How long have you taught at Williams?

20 A Eleven years.

21 Q Describe for the jury a little bit about your
22 educational background.

23 A I receive my undergraduate degree from Amherst
24 College, which is a small liberal arts college in
25 Massachusetts, and a law degree from Yale Law School.

1 Q While at Yale, did you concentrate on any particular
2 area of law?

3 A Yes, I took a special interest in the intersection of
4 law and psychology.

5 Q How have you maintained your interest in that area?

6 A Through teaching, through writing and through serving
7 as an expert trial consultant.

8 Q Now, are you a psychologist?

9 A No.

10 Q Okay. Are there different types of confession
11 experts?

12 A Yes, there are two types. There would be the mental
13 health professional, the clinical psychologist or
14 psychiatrist who could evaluate a defendant and determine
15 is that someone who is particularly susceptible to give a
16 false confession. And then there are legal scholars, like
17 myself, or social psychologists whose principle expertise
18 is in the interrogation methods that contribute to false
19 confessions. And we're also -- at least, I am acquainted
20 with all other aspects of the literature, but my primary
21 expertise is in interrogation methods. And I'm not a
22 medically professional, make no claims to be one.

23 Q What are some of the law-related work that you've
24 done with America's criminal justice system?

25 A So after law school, I spent one year as a law clerk

1 for a judge on the United States Court of Appeals for the
2 Third Circuit in Philadelphia. Then I spent three years
3 at this government agency as an attorney, slash, writer
4 called the Federal Judicial Center in Washington, D.C.

5 And since then, most of my law-related work has consisted
6 of teaching and writing and serving as a trial consultant.

7 Q Is there an area or subject that you have focused on?

8 A For more than a decade now, my primary focus has been
9 on interrogations and false confessions.

10 Q Have you written about that subject?

11 A Yes, I've written extensively on it, both scholarly
12 articles in law journals and, also, articles in mainstream
13 publications, like the Los Angeles Times.

14 Q When you said scholarly articles and journals, what
15 publications -- what are the journals that you published
16 on that subject?

17 A Ohio State's Criminal Law Journal, Berkeley's
18 Criminal Law Journal, North Dakota's Law Journal and
19 Howard's Law Journal.

20 Q Have you done anything else related to interrogations
21 and confessions?

22 A I started and still operate the first website devoted
23 to this subject.

24 Q And what's the name of that website?

25 A Truth about False Confessions.

1 Q And what's the purpose?

2 A Primarily to educate the public and the defense bar.

3 Q What is on that website?

4 A So there is some permanent material, frequently asked
5 questions, recommended reading. And then also, I do post
6 analysis of aspects of the subject from time to time.

7 Q Has your website received any official recognition?

8 A Yes, in 2007, the American Bar Association listed it
9 as one of their top 100 law-related websites and listed it
10 first among criminal-law-related websites.

11 Q And you mentioned that you do work as an expert
12 consultant witness, how many cases have you been retained
13 as an expert?

14 A Well, over a hundred.

15 Q How many of those cases have you testified?

16 A Twenty-six.

17 Q Have you ever testified as an expert in South
18 Carolina?

19 A I have.

20 MS. ZMROCZEK: Your Honor, at this time, we would
21 move to qualify Professor Hirsch as an expert in
22 interrogations and false confessions.

23 THE COURT: Voir dire?

24 MS. PATTERSON: Yes, sir.

25 THE COURT: All right.

VOIR DIRE

BY MS. PATTERSON:

Q Mr. Hirsch, you're from Massachusetts?

A That's correct.

Q And how did you get here to South Carolina?

A You mean my form of transportation?

Q Yes.

A I flew.

Q When did you fly in?

A I got in around 10:00 a.m. this morning.

Q And are you a paid expert?

A Yes.

Q All right. And how much did the Defense pay you to be here?

A I don't know exactly, but a few thousand dollars, several thousand dollars.

Q And you've testified about 26 times?

A That's correct.

Q And how much do you usually get paid to come and testify in court?

A Coming this distance, if I have to fly and spend a few business days, it's typically a flat fee of \$3,000, plus the work I do preparing.

Q And how much did you charge in preparing for testifying?

1 A I haven't submitted an invoice in this case yet.

2 Q Isn't it true you have a \$300 hourly rate?

3 A That's correct.

4 Q And then to get to the airport last night, I think
5 you had to get a limo driver, correct?

6 A It was actually at 4:00 a.m. this morning.

7 Q And you got a limo driver, correct?

8 A Yes.

9 Q So you have very expensive testimony, correct?

10 A I'm not sure I follow the question.

11 Q You charge a lot to come here and testify on behalf
12 of the Defense, correct?

13 A I charge what I charge.

14 MS. ZMROCZEK: Your Honor, I'm sorry to interrupt,
15 but my objection is to I thought we were just voir diring
16 on his expert qualifications.

17 MS. PATTERSON: And I think this is part of, Your
18 Honor, his qualifications.

19 THE COURT: All right. I'll let you come back to
20 that on cross-examination. You need to stick to his
21 qualifications now.

22 BY MS. PATTERSON:

23 Q You graduated from Yale Law School?

24 A That's correct.

25 Q Are you currently admitted to practice in any

1 jurisdiction?

2 A Yes.

3 Q And what jurisdiction is that?

4 A The District of Columbia.

5 Q All right. And where do you live again?

6 A Massachusetts.

7 Q So do you ever practice in the District of Columbia?

8 A No, I don't primarily practice law.

9 Q Have you ever prosecuted anyone who has given a
10 confession to law enforcement?

11 A Prosecuted, no.

12 Q Have you ever defended anyone who has given a
13 confession to law enforcement?

14 A I've been involved in the defense, yes.

15 Q Do you have any law enforcement experience?

16 A No.

17 Q Have you ever interviewed anyone suspected or charged
18 with a serious crime?

19 A Yes. I interviewed -- not in a formal law
20 enforcement capacity, I've talk to many people who have
21 been.

22 Q All right. Do you have any law enforcement training?

23 A No.

24 Q But you feel comfortable coming six or seven states
25 away to testify about what Detective Ellisor did?

1 A I sure do.

2 Q And have you had any training in -- any training in
3 interviewing?

4 A Training, no.

5 Q Okay. Have you ever received any certifications in
6 interviewing?

7 A No.

8 Q In fact, you've only read books about interviewing,
9 correct?

10 A I'm not sure what you mean by that. My education in
11 interrogation methods involves a number of things.
12 Certainly, being acquainted with the voluminous literature
13 on interrogation method is a big part of that.

14 Q Okay. Some you're well read in interrogation or
15 interviewing?

16 A I've participated in many conferences about it. I've
17 given many lectures about it. I've written extensively
18 about it.

19 Q Have you done any scientific studies --

20 A And -- I'm sorry. And I have been involved in well
21 over a hundred cases with it. No, I have not conducted
22 scientific studies.

23 Q And this website that you speak of, isn't it
24 relatively easy to set up a website?

25 A Not in my case, it wasn't.

1 Q Isn't it true a website could be set up in about an
2 hour?

3 A I wouldn't know. Took me a lot longer.

4 Q And once a website is set up, you can post just about
5 anything you want to on a website?

6 A Yes, I have control of the site.

7 Q So what you've posted on this website is things in
8 your opinion based on the voluminous amount of things that
9 you've read about false confessions?

10 A There's opinions, there are links to cases and
11 articles, there's literature, there's a lot of factual
12 stuff, as well.

13 Q But you haven't participated in any scientific
14 studies concerning investigative interviews and
15 interrogations?

16 A No, I have not.

17 Q In fact, this is not a well-developed area, is it?

18 A I would disagree with that. There are hundreds and
19 hundreds of articles, dozens of books. There's truly
20 voluminous literature on all aspects of the subject.

21 Q Based on people's opinions, correct?

22 A No, based on observational studies of interrogations,
23 based on detailed analysis of proven false confessions,
24 based on a lot of things, which I assume I'll talk about
25 more on direct examination, but there's multifaceted

1 literature that's been 20 years in the making.

2 Q And are you a lecturer or a professor?

3 A My title is lecturer. College professor is what
4 people would normally think of as my vocation.

5 Q And what's the difference between a lecturer and a
6 professor?

7 A I think at Williams, they reserve the title of
8 professor for people who have tenure.

9 Q And you don't have tenure?

10 A No.

11 Q You don't qualify for tenure?

12 A It has nothing to do with that. If you want me to go
13 into the bureaucratic aspects of why I'm in the position
14 I'm in, I could do that, but I don't know if that would be
15 interesting to anybody.

16 Q So yes or no, you don't qualify for tenure?

17 A I'm not tenured.

18 Q And what type of law-related classes do you teach?

19 A I teach the introduction to justice and law studies,
20 which is an introductory course on all aspects of
21 America's criminal justice system. And then I teach the
22 senior seminar on justice and law studies, which is about
23 anything I want it to be. The only requirement being that
24 it's interdisciplinary. So I taught about law and
25 philosophy, law and psychology, law and literature, law

1 and -- law and whatever.

2 Q And, in fact, you are a part-time lecturer?

3 A I have a half-time teaching load. That enables me to
4 do things like this.

5 Q To charge a lot of money to fly all over the country?

6 A Is that a question?

7 Q Yes.

8 A I charge a lot of money to fly all over the country.
9 I charge the fee that I charge to do this work and of
10 course, my flights are covered.

11 Q And how many hours a week do you teach?

12 A My class hours are three-and-a-half.

13 Q And do you serve on any committees at Williams
14 College?

15 A No.

16 Q So you teach three-and-a-half hours a week and the
17 rest of the time is devoted to consulting about false
18 confesses?

19 A No, no, there's a lot of work that goes into teaching
20 besides the time in the classroom. It's preparation and
21 grading and meeting with students and so forth.

22 Q And you've testified in court before?

23 A Yes.

24 Q And have you testified in South Carolina before?

25 A Yes, I have.

1 Q What case was that?

2 A State V. Perkins.

3 Q And you didn't testify in the Billy Wayne Cope case
4 in York County?

5 MS. ZMROCZEK: Your Honor, may we approach?

6 THE COURT: Sure.

7 (WHEREUPON, a bench conference was held.)

8 BY MS. PATTERSON:

9 Q But you commented about that case on your website,
10 correct?

11 A Yes.

12 Q And do you remember what you said about that case?

13 A I know very recently I commented on him dying and
14 mentioning that the case was a tragedy.

15 Q Okay. And I'm quoting from your website and you
16 correct me if I'm wrong, did you, in fact, say, Billy
17 Wayne Cope spent the last 16 years of his life in prison
18 for a crime he almost certainly did not commit?

19 A Yes.

20 Q What did you base that comment on?

21 A A long analysis of the case. My colleague on the
22 Williams faculty, who is probably the leading expert on
23 false confessions in the country, helped get me into the
24 field, was an expert in the case. So I've had long
25 discussions with him about the case and read some other

1 things about it, as well.

2 Q And what was his name?

3 A Saul Kassin.

4 Q And Mr. Kassin teaches with you at Williams College?

5 A Not anymore. He's now at John Jay School of Criminal
6 Justice.

7 Q All right. When did he leave Williams College?

8 A Fairly recently.

9 Q All right. So before that, you and Mr. Kassin both
10 serve as false experts?

11 A Well, yes.

12 Q Is it some type of specialty at Williams College?

13 A No.

14 Q And are you aware that in that case -- it was a
15 homicide by child abuse case, right?

16 A Yes.

17 Q All right. In that case, the defendant had two more
18 daughters that corroborated the minor 's statement,
19 correct?

20 A I don't recall. What I recall is that DNA exonerated
21 him and pointed to somebody else, at which point, the
22 prosecution completely changed the theory of the case and
23 alleged that this man, who they had claimed was the rapist
24 and killer of his own daughter. When DNA proved he was
25 not, they decided that he had pimped out his daughter to

1 this stranger, someone with whom they never established
2 any connection, someone he lived nowhere near. There was
3 no evidence he even knew. Someone who had committed
4 crimes like this. Other crimes look just like this.

5 Q Okay.

6 A And I know, as well, that Mr. Cope was interrogated
7 for many, many, many hours, fed false information. I know
8 many things about the case that are very troubling.

9 Q So he was interviewed for many hours?

10 A Yes.

11 Q And you also testified in a federal case, United
12 States vs. Michael Jacques?

13 A Jacques, but yes. That was a case the judge did not
14 permit me to testify.

15 Q Isn't it true he refused to allow you to testify as
16 an expert because he say your testimony was merely
17 anecdotal evidence and speculation?

18 A So there are hundreds and hundreds, maybe thousands,
19 in fact, certainly, thousands by now of cases in which
20 confession experts, myself and a few dozen others, are
21 offered to testify primarily by the defense. And there
22 are some in which the judges rule that this testimony is
23 not permissible. In most, the judges rule this testimony
24 is permissible. That was one of the cases where the judge
25 excluded my testimony. One of the few in my experience.

1 Q In fact, he said you had no unique training that
2 would qualify you as an expert, didn't he?

3 A That's correct.

4 Q So are you certified in this Reid Technique of
5 interviewing?

6 A Am I certified in it?

7 Q Yes.

8 A No.

9 Q Okay. But --

10 A As in to conduct interviews?

11 Q Yes.

12 A No.

13 Q But there are classes that you can go get certified
14 in, correct?

15 A Yes.

16 Q And you've never done that, right?

17 A That's correct.

18 Q In fact, you just read the manual about the Reid
19 interviewing technique.

20 A You asked me how I learned about Reid?

21 Q Yes.

22 A No, I've certainly read the manual and written about
23 it exhaustively, but I've also studied proven cases of
24 false confessions which deal with Reid. I've studied the
25 voluminous literature on the Reid Technique. So reading

1 the manual, you start with that. And I've critiqued the
2 manual and written about it, but you can't do that without
3 a deep knowledge of the manual.

4 Q All right. And you got that deep knowledge from
5 reading, correct?

6 A Reading and my experience now going on over 10 years
7 with cases involving the Reid Technique.

8 Q And what's your experience again? Anything
9 scientific?

10 A I'm not sure it would qualify as scientific. I think
11 the knowledge in this area is social science. It's not
12 like chemistry or biology in a laboratory, that kind of
13 way.

14 Q But there have been some studies that you referred
15 to, laboratory studies, correct?

16 A That's correct.

17 Q Tell us about this laboratory study.

18 A There were a few. There was one that my college
19 professor, Kassin, did, which is probably the best known.
20 You want me to describe the study?

21 Q Yes, briefly.

22 A Sure. It's hard to do it too briefly, but people
23 were brought in and told to enter data on a computer.
24 They were led to believe that's what they were doing, all
25 they were doing was entering data. But they were warned

1 if they hit a certain key, it would cause the computer
2 system to crash. They were cautioned, whatever you do,
3 don't hit the Alt key. At a certain point after they're
4 typing, the experimenter charges in and says, Oh, my God,
5 you hit the Alt key. You caused the system to crash. Of
6 course, all of the subjects said, No, I didn't, because
7 they didn't.

8 At which point -- with a controlled group, some of
9 the people -- someone's like sitting where that gentlemen
10 is the whole time, who is a confederate of the experiment
11 or that's playing -- acting as if they're doing something
12 else comes over and says, I saw you. You did. You hit
13 the Alt key. When confronted with this objective evidence
14 of their guilt, a large number of these subjects actually
15 confessed and signed written confessions.

16 But the more interesting part about it is --
17 obviously, this does not -- this is not like confessing to
18 a real crime. There were not serious consequences. This
19 is a laboratory experiment. But the interesting part of
20 it is that a lot of them actually came to believe that
21 they had hit the Alt key and some of them even described
22 in detail how it happened. So it's a piece of the puzzle
23 about what we know about false confessions. I would say
24 it's a tiny piece.

25 Q All right. And you said this was the best example

1 you had?

2 A No, I said it was the best known.

3 Q Best known. And this example --

4 A There are other -- I'm sorry.

5 Q And this example isn't even directly related or
6 applied to criminal cases or nonpolice cases?

7 A Well, I think it is insofar as it sheds light on the
8 phenomenon of what we called the internalized false
9 confession where the person comes to believe they
10 committed the crime, even though they did not.

11 Q But again, in that case, no one was facing serious
12 consequences?

13 A Right. The other thing that's interesting about this
14 case that is relevant to the Reid Technique, which I'm
15 sure we'll get into, is it shows the potency of
16 confronting someone with objective evidence. When someone
17 is told you did something and we've got a witness or we
18 know you did it, it has a capacity to get people to
19 confess in many circumstances.

20 There's also an experiment which shows the other
21 component of the Reid Technique at work, which is
22 minimization. I don't think you want to hear about the
23 whole thing, but it shows that when people are promised
24 lenient treatment in an experimental setting, they're much
25 more likely to say that they did something they did not

1 do.

2 Q Again, these students were not facing serious
3 consequences, were they?

4 A That's correct. The experiment has been replicated
5 with some consequences, but, obviously, not -- it would be
6 unethical to conduct experiments in which people were sent
7 to jail.

8 MS. PATTERSON: Thank you, Your Honor. No further
9 questions.

10 THE COURT: All right, ladies and gentlemen, normally
11 a person is not allowed to give opinion testimony.
12 Normally, when a person testifies, they have to testify to
13 what they saw, heard or did or something of that nature.
14 However, there is an exception under the rules when
15 someone is qualified because of their education or
16 experience. That person is permitted to give their
17 opinion in certain areas if I qualify them in that way.

18 This witness will be qualified as an expert in the
19 area of interrogation and false confessions. He will be
20 allowed to give opinion testimony in that area. That does
21 not mean that you have to accept his opinion, but it is
22 evidence for you to use in any way you see fit and give at
23 the weight and credibility you believe is appropriate.

24 CONTINUED DIRECT EXAMINATION

25 BY MS. ZMROCZEK:

1 Q You mentioned the Reid Technique, Professor. I want
2 to talk about how do we know or do we know what the
3 frequency of false confessions are?

4 A We have no idea in terms of actual -- any precision,
5 but there is someday data about how surprisingly frequent
6 they are, which I'd be happy to share.

7 Q Certainly.

8 A So the Innocence Project exonerates people or test
9 people who insist on their innocence by DNA testing. And
10 they have found well over 300 people who have been found
11 guilty of crimes that DNA testing proves were innocent.
12 And, surprisingly, one-fourth of them, roughly, had
13 confessed to their crimes. And this began in the late
14 1980's. It's continued to this day.

15 But spurred by that discovery, legal scholars and
16 social scientists started digging for proven false
17 confessions and have found hundreds. Experts in the field
18 are virtually unanimous that hundreds of proven false
19 confessions are just the tip of the iceberg.

20 Q We talked about -- I want to go back real quick.
21 Ms. Patterson had asked you about you're a paid expert.
22 Are you paid for your testimony? Are you paid to provide
23 a specific opinion?

24 A Of course not.

25 Q In fact, I believe you said that you had been

1 retained in how many cases?

2 A Over 100.

3 Q How many have you actually testified in?

4 A Twenty-six.

5 Q Okay.

6 A And I take it your point, which is that in many of
7 those other cases, the assessment that I gave the attorney
8 was such that they would not have wanted me to testify.

9 Q Okay. I want to go back to talk about the literature
10 on this subject. How acquainted with -- you talked about
11 the Reid manual. You have no training, but how acquainted
12 with the literature are you?

13 A I'm very acquainted. It might help if I described
14 the Reid Technique.

15 Q That would be great.

16 A So it consists technically nine steps, but for our
17 purposes, I tend to reduce them to two because they really
18 come down to two essential steps. Which is a suspect is
19 confronted, the first step is confrontation, with
20 certainty that he is guilty. Maybe not at the beginning
21 of the interrogation, but at some point, the interrogator
22 will say you did it. I know you did it. You'll never
23 convince us otherwise. Sometimes they're confronted with
24 false or exaggerated evidence that they did it. But in
25 any case, the message is sent we know you did and it

1 maintaining innocence is futile.

2 At some point along the way, the second step is
3 what's called minimization, which is various ways of
4 suggesting to the suspect, even telling you're not right
5 in some cases, if only you confess, it won't be that bad.
6 The minimization themes are you might have had the
7 secondary role. You might have been justified, provoked
8 by the **minor** , maybe alcohol led you to it. There are all
9 kinds of themes which imply that there will be lenient
10 treatment because what you did isn't so bad.

11 So the idea is if you make the person feel that
12 saying they're innocent is getting them nowhere and will
13 not get them anywhere, whereas admitting guilt will
14 produce consequences that are fairly benign, it makes
15 sense for someone to confess.

16 And the problem with the Reid Technique is it is a
17 brilliant technique for breaking down guilty people.
18 That's why it was implemented. But they didn't realize
19 that it also will break -- it's so potent, it's too
20 effective, it will also break down innocent people in
21 certain circumstances, especially because the circumstance
22 in which it takes place is typically a small windowless
23 interrogation room designed precisely to make people feel
24 stressed, anxious and eventually desperate. And under
25 those circumstances, even innocent people will, on

1 occasion, feel the only way of getting out of this
2 situation is to confess and it won't be that bad. That's
3 the minimization slice of it. So that's, obviously, a
4 very condensed version, but I think it gives you the idea.

5 Q Now, is the Reid Technique the only interrogation
6 technique?

7 A No. It's the most widespread, the most influential.
8 And there are also many, many schools and manuals which
9 are not called Reid, but amount to more or less the same
10 thing.

11 Q So the premise behind them is the same?

12 A Right. Those two steps, that's what key whether it's
13 called Reid or not.

14 Q Are there organizations that train law enforcement in
15 interrogation?

16 A Yes. And Reid and Associates is the most well known.
17 That's why it's called the Reid Technique.

18 Q Do they have a manual? I think you said you've read
19 the manual?

20 A I've read and written about the manual.

21 Q You've read and written about the manual. What's
22 that called?

23 A Criminal Interrogations and Confessions.

24 Q So the name of the manual is Criminal Interrogations
25 and Confessions?

1 A Correct.

2 Q And you've read and studied that, correct?

3 A Correct.

4 Q And I believe you addressed the concerns about the
5 technique that's involved, correct?

6 A The concern is that it contributes to false
7 confessions. I could explain how we know that, but it's
8 basically --

9 Q And how do we know that?

10 A So the few experiments we were talking about give us
11 some way of visualizing it, seeing it in action in an
12 experimental way. But in the real world, we study proven
13 false confessions, cases where we know someone confessed
14 falsely. Because of DNA or some other reason, we just
15 know they're innocent. And in those cases, we find very
16 often that the Reid Technique is used.

17 Finally, and very importantly -- actually, a couple
18 more things, but there's literature which applies basic
19 principles of decision making to this area of the Reid
20 Technique and interrogations. And when we understand the
21 way the Reid Technique works -- and I gave you a very
22 condensed version of, it suddenly makes sense that people
23 would confess even when they are innocent. Again, when
24 that's the only way out. When they're led to believe by
25 an authority figure that maintaining innocence is getting

1 them nowhere and never will, acknowledging guilt will get
2 them off fairly easy. If you genuinely believe that, it
3 makes sense you will confess.

4 The final piece of the puzzle is a self-report study
5 of interrogators in 2007. These are professional
6 interrogators, who themselves estimated that roughly five
7 percent of innocent suspects confess, which is a
8 staggering thing. And that's the interrogators themselves
9 giving that estimate.

10 Q I want to turn to this case. When I retained you,
11 did you agree to give a particular opinion?

12 A No, I told you I would give my honest assessment.

13 Q Have there been cases where you found that there's
14 nothing problematic with the interrogation that led to the
15 confession?

16 A Sure.

17 Q And does that happen?

18 A Yes, many times.

19 Q So there are people who actually confess and that
20 they are guilty?

21 A Well, of course. And there are interrogations where
22 there's nothing done that seems particularly risky.

23 Q Okay. What did you do in this case to make an
24 assessment?

25 A Well, you asked me to assess the interrogation

1 methods and I watched the videotape of the Defendant's
2 interrogation.

3 Q Now, we haven't seen that videotape yet. It will be
4 played for jury, but that's the same videotape that you
5 watched; is that correct?

6 A Yes, I assume so.

7 Q And what was your assessment of the interrogation
8 techniques used in this video that the jury will see?

9 A Detective Ellisor used the Reid Technique
10 aggressively.

11 Q And explain where and how you saw that?

12 A So the interrogation with friendly, patient,
13 open-ended questioning. And then at a certain point,
14 maybe 10, 15 minutes in, he basically told the Defendant I
15 know you're guilty. You're lying. Why would a girl make
16 this up and so forth.

17 From that moment on, he maintained an unshakeable
18 conviction of the Defendant's guilt. That is standard
19 confrontation. At one point, he raised his voice,
20 screamed you're lying, which again, is not unusual. That
21 kind of confrontation, communicating you did it, I know
22 you did it. You won't convince me otherwise.

23 He then introduced the minimization theme
24 particularly of helping the Defendant, the Defendant
25 helping himself if only he confessed. So he said at one

1 point, If it's only one time, well, that's one thing. The
2 implication, again, being that's not so bad. He
3 explicitly say, The only way I can help you if you admit
4 it. And you're not helping yourself, he said at one point
5 when the Defendant was maintaining his innocence. There
6 was this consistent theme of you will help yourself by
7 confessing. That is a fairly common minimization theme.
8 So you have the aggressive confrontation combined with
9 minimization, just basic Reid Technique.

10 Q Are there -- does the literature on interrogations
11 and confessions indicate that there are certain categories
12 of people who are more likely to falsely confess than
13 others?

14 A Yes.

15 Q Would people with cognitive disabilities be one such
16 category?

17 A Yes.

18 Q What's a cognitive disability?

19 A People are -- well, mental retardation would be one
20 end of the spectrum, but people who are not overly
21 intelligent, I think is a lay definition.

22 MS. ZMROCZEK: Thank you. Please answer any more
23 questions the State may have.

24 THE COURT: All right. Cross-examination?

25 CROSS-EXAMINATION

1 BY MS. PATTERSON:

2 Q Now, you said you've studied this Reid Technique?

3 A Yes.

4 Q And isn't it true in the manual, it says the purpose
5 of the interrogation is to learn the truth, correct?

6 A They say that. Which edition are you looking at?

7 Q This is the most recent --

8 A 2011, okay.

9 Q 2016, actually.

10 A Oh, they've updated it. They do make the statement.
11 that the search for truth is the goal of an interrogation.
12 But there's an important issue there which I will expound
13 on if invited.

14 Q And in preparing for this case, you only reviewed the
15 video that Ms. Zmroczek sent you, correct?

16 A Primarily, yes.

17 Q And when did she send you that video?

18 A A week ago.

19 Q Okay. So you've never interviewed Jamie Stroman?

20 A No.

21 Q You've never interviewed Detective Ellisor?

22 A No.

23 Q You've never interviewed Minor ?

24 A No.

25 Q You've never reviewed anything else about this case?

1 A No, because I'm not out to determine the truth or
2 falsity of the confession of the Defendant's innocence or
3 guilt. That's for the jury to do. My expertise is on
4 interrogation methods, so I reviewed the interrogation.

5 Q So you're just basing your opinion on watching this
6 -- how long was the interview?

7 A Basically, it was a little less than an hour. I'm
8 basing my opinion on the interrogation on watching the
9 interrogation, yes.

10 Q Okay. And nothing else?

11 A That's correct.

12 Q And so would you think those other things wouldn't be
13 helpful to you at all?

14 A They would be helpful to the jury. They would be
15 helpful to me if I were the fact finder and my goal was to
16 determine whether the Defendant was innocent. Since my
17 goal is to educate the jury about the interrogation
18 methods, I stick to my expertise, which is interrogation
19 methods.

20 Q So you don't know if this Defendant has any cognitive
21 disabilities?

22 A That, I've been told.

23 Q Okay. And --

24 A And shown evidence of, but that's not my expertise.

25 Q And although you've had no training in interviewing

1 techniques, you watched the interview and you're
2 critiquing Detective Ellisor's interviewing techniques,
3 correct?

4 A I'm describing that Detective Ellisor used certain
5 tactics and what is known about those tactics, yes.

6 Q Okay. And you said the interview was about an hour?

7 A Correct.

8 Q Was Detective Ellisor in the room with him the whole
9 time?

10 A No, the first short period of time, the Defendant was
11 alone.

12 Q So the total exchange of communication was less than
13 an hour?

14 A That's correct.

15 Q And Detective Ellisor was the only officer in the
16 room?

17 A That's correct.

18 Q And you said at one point, he raised his voice?

19 A That's correct.

20 Q At a grown man?

21 A Uh-huh.

22 Q So he didn't yell and holler for any prolonged period
23 of time, did he?

24 A No, I think once or twice he said in a very loud
25 voice, You're lying. The rest of the time, his voice was

1 not the issue.

2 Q And he --

3 A Which is not uncommon, I may add. The Reid
4 Technique, they don't teach people to yell.

5 Q He was even sitting back just exchanging a causal
6 conversation with Mr. Stroman, wasn't he?

7 A No -- at the outset. After that, he was trying very
8 hard to break him down.

9 Q Well, wouldn't it be reasonable for an officer who is
10 confronting someone about such a serious offense maybe to
11 get a little emotional?

12 A I can only tell you about the risky tactics that are
13 used. Whether it's reasonable for an officer to get
14 emotional is something I don't have any particular insight
15 into.

16 Q Especially when someone is slowing coming off
17 committing such a serious offense on the child? Wouldn't
18 that cause emotion?

19 A I thought you said that the purpose of this
20 interrogation is to determine the truth. And now what
21 you've just indicated is he knew truth. And that's a big
22 problem with the Reid Technique. They think they're only
23 interviewing people who are guilty. And they have a whole
24 training in figuring out whether people are guilty by body
25 language and other means that I didn't testify about

1 because I don't know if that was used in this case. But
2 the point is they have this idea that people must be
3 guilty who they're interviewing, so they don't worry about
4 the fact that they're using these tactics that are so
5 effective at breaking people down, even if they are not
6 guilty.

7 Q Well, let's talk about body language. Since you
8 watched the interview, did you hear Detective Ellisor call
9 Jamie Stroman out on some body language?

10 A Yeah, that was disturbing, because that is one of
11 problems with the Reid Technique, is they claim to train
12 people in assessing innocence or guilt or truthfulness
13 based on watching their body language. And it's been
14 debunked by study after study.

15 Q But isn't using body language common sense?

16 A No. I mean, if it is, it's common sense that we need
17 to be uneducated in. Human beings are poor lie detectors.
18 The literature is unambiguous about this. Study after
19 study shows that we cannot tell -- the Reid Technique will
20 tell you that I could pick out which one of you are in
21 deceptive postures, as they put it. They even have
22 photographs of people, now, there's a deceptive posture.
23 So the officer's supposed to say I know that person's
24 guilty by the way they're sitting.

25 And again, you can think that's common sense or not.

1 If you study it, you know it's bogus. And even people
2 trained in it, who are no better in it than anybody else.
3 They might well flip a coin. They're right roughly
4 50 percent of the time. The only difference between
5 trained interrogators and lay people in assessing truth or
6 falsity based on body language is that the interrogators
7 have confidence in their judgments, which are right about
8 half the time.

9 Q And wouldn't you agree there are far more true
10 confessions than false confessions?

11 A Yes.

12 Q And would it make more sense for someone not to
13 falsely admit they did something if they thought they
14 could be sent away for a long time?

15 A There were too many nots in that sentence. I didn't
16 follow..

17 Q If someone confronts another person about a crime and
18 they are told they could be sent away for a long time, why
19 did they confess if they didn't do it? That doesn't make
20 sense.

21 A I think what you'll see in this interview and what's
22 not uncommon about Reid is he was told he will be sent
23 away for a long time if you do not confess. The
24 implication was he would not be sent away for such a long
25 time if he did confess. And that does make sense, that if

1 you'd believe those two propositions that you would
2 confess.

3 Q So you want us to believe that it makes sense for
4 this grown man, who is in an interview with one officer
5 for less than an hour to confess to a serious crime he
6 didn't commit?

7 A What I want you to know, not just believe is that we
8 know this happens much more often than anybody would have
9 imagined.

10 Q And you're basing all this on a bunch of books that
11 you've read?

12 A Well, if you call the studies of proven false
13 confessions books, which they're not. I'm basing this on
14 a number of things that I've indicated, but, largely,
15 proven false confessions.

16 Q But none of that has been proven scientifically, has
17 it?

18 A Oh, sure. Most of these proven false confessions
19 were via DNA evidence.

20 MS. PATTERSON: Beg the court's indulgence.

21 (Pause.)

22 MS. PATTERSON: No further questions.

23 THE COURT: Redirect?

24 MS. ZMROCZEK: Just briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MS. ZMROCZEK:

2 Q There was one question that Ms. Patterson asked you
3 about. In this book right here, the Reid Technique
4 Investigative, Interviewing and Advanced Technicians, it
5 specifically says that it's a search for truth. Can you
6 expound on that?

7 A Well, what I said before, it's a search for
8 confessions. The book is about obtaining confessions.
9 And the way they would reconcile those two statements is
10 what I indicated before, they claim that they know in
11 advance whether you're guilty, largely, through body
12 language and response to verbal cues and sometimes through
13 other means..

14 MS. ZMROCZEK: Beg the Court's indulgence.

15 (Pause.)

16 Thank you. I have no further questions.

17 THE COURT: Recross?

18 MS. PATTERSON: Beg the Court's indulgence, Your
19 Honor.

20 (Pause.)

21 RECROSS-EXAMINATION

22 BY MS. PATTERSON:

23 Q And you would agree that the purpose of an
24 interrogation is to learn the truth?

25 A I hope so, but -- yeah.

1 Q Isn't it true the Reid Technique also talks about a
2 number of possible outcomes as successful interrogation?

3 A They do and, thankfully, in their latest editions
4 after 50 years, they have acknowledged the reality of
5 false confessions when they could no longer hold out
6 against that.

7 Q And isn't one of the possible outcomes the subject is
8 identified as innocent?

9 A Yes.

10 Q And isn't another one, the subject did not commit the
11 offense under investigation, but lied about the aspect of
12 the investigation?

13 A Yes.

14 Q All right. And another one, the subject did not
15 commit the offense under investigation?

16 A Of course.

17 Q So it's totally not to get someone to testify
18 about -- I mean, to confess to something they didn't do?

19 A Well, they have paid lip service to the after truth,
20 but they make no bones about the fact that they believe
21 they interrogate only guilty people and, therefore,
22 they're not particularly concerned that their relentless
23 interrogation tactics are so effective at breaking people
24 down.

25 Q So now, the Reid Technique is lying, also?

1 A Is lying?

2 Q Yes.

3 A I'm not sure I said that.

4 MS. PATTERSON: Okay. No further questions.

5 THE COURT: All right. Thank you very much. Have a
6 great day.

7 MS. ZMROCZEK: Your Honor, may this witness be
8 excused?

9 MS. PATTERSON: Please. Thank you.

10 THE COURT: All right. Thank you very much.

11 All right. Now, the State may call its first
12 witness.

13 MS. PATTERSON: Your Honor, the State calls **Minor**

14

15 THE COURT: All right. **Minor**, please come
16 forward.

17 So now, we're switching back to starting the State's
18 case. We just took that one witness out of order.

19 THE CLERK: Place your left, raise your right.

20 **Minor**, after being
21 duly sworn, testified as follows:

22 THE CLERK: Have a seat right up there. Once you're
23 seated, state your full name on the record.

24 THE WITNESS: **Minor**

25 DIRECT EXAMINATION

1 BY MS. PATTERSON:

2 Q All right. Minor , can you spell your last name?

3 A Minor .

4 Q Minor , how are you doing today?

5 A Good.

6 Q Have you been here all day?

7 A Yes.

8 Q All right. Little nervous?

9 A Yes.

10 Q All right. Just take your time and remember to speak
11 out when I ask you your questions, okay?

12 A Yes, ma'am.

13 Q How old are you?

14 A Eleven.

15 Q And when is your birthday?

16 A [REDACTED] .

17 Q All right. And do you know what year you were born?

18 A 2006.

19 Q And what grade are you in?

20 A Fifth.

21 Q And what school do you go to?

22 A H. B. Rhame Elementary.

23 Q All right. Do you like school?

24 A Yes.

25 Q What's your favorite subject?

1 A Social studies.

2 Q Okay. What other kind of things do you like once you
3 get out of school? What kind of things do you like to do?

4 A I like to go outside and play with my friends.

5 Q All right. Do you have a lot of friends?

6 A Yes.

7 Q All right. Okay. Do you have a little brother and
8 sister?

9 A Yes.

10 Q All right. That live with you?

11 A Yes.

12 Q And what are they're names?

13 A E. J. And Serenity.

14 Q How old is E. J.

15 A Ten.

16 Q How old is Serenity?

17 A One.

18 Q Do you like being a big sister to E. J. And Serenity?

19 A Yes, ma'am.

20 Q And do you know the difference between the truth and
21 a lie?

22 A Yes.

23 Q All right. And what's -- what does it mean to tell
24 the truth?

25 A To tell what really happened.

1 Q And what does it mean to tell a lie?

2 A That it's not what happened.

3 Q And is it bad to tell the truth?

4 A No.

5 Q Is it bad to tell a lie?

6 A Yes.

7 Q All right. And what can happen to someone if they
8 tell a lie?

9 A It's going to be a consequence.

10 Q Oh, that's a big word. Can you tell us the truth
11 today?

12 A Yes.

13 Q Do you know someone named Knot?

14 A Yes.

15 Q All right. And how do you know Knot?

16 A He used to be my mom's boyfriend.

17 Q Do you know his real name?

18 A Yes.

19 Q What's his name?

20 A Jamie.

21 Q Do you know his last name?

22 A (Nods in the affirmative.)

23 Q What's his last name?

24 A Stroman.

25 Q Do you remember ever living with Knot?

1 A A little bit.

2 Q Okay. Do you remember where you were living when you
3 lived with him?

4 A Yes.

5 Q And where were you living?

6 A [REDACTED].

7 Q And is that a house or an apartment?

8 A Apartment.

9 Q Do you remember what town it's in?

10 A Lexington.

11 Q And when Knot lived with you, who all lived with you
12 in that apartment?

13 A Me, Knot, my mom and my brother.

14 Q Okay. Now, Minor, do you ever remember a time
15 when Knot did something to you you didn't like?

16 A Yes.

17 Q And what would he do?

18 A He would put his private in my private and put his
19 finger in my bottom and he would use his tongue and put it
20 in my bottom.

21 Q And when he would touch your private with his
22 private, would your clothes be on or off?

23 A Off.

24 Q And how would they get off?

25 A He would pull them off.

1 Q And when his finger touched -- when his private
2 touched your private, did it go inside or outside or
3 something else?

4 A Inside.

5 Q How do you know?

6 A Because I felt it, and it hurt.

7 Q And when his finger touched your bottom, would your
8 clothes be on or off or something else?

9 A Off.

10 Q And when his finger would touch your bottom, would it
11 go inside, outside or something else?

12 A Ma'am?

13 Q When his finger touched your bottom, would it be
14 inside or outside or something else?

15 A Inside.

16 Q And how do you know?

17 A Because I felt it.

18 Q Could you describe what that felt that?

19 A It hurt.

20 Q And you said he used his tongue to touch your bottom?

21 A Yeah.

22 Q Would your clothes be on or off?

23 A Off.

24 Q And would it go inside or outside or something else?

25 A Would what go inside?

1 Q His tongue?

2 A Inside.

3 Q And how do you know that?

4 A Because I felt it, and it hurt.

5 Q Now, when he would do these things to your body,
6 where would you -- what time of the day would it be?

7 A Nighttime.

8 Q And where would you be at?

9 A In my room.

10 Q And where did everybody sleep when you were living in
11 this apartment?

12 A I slept in my room. My mom slept in her room and my
13 brother slept in his room and Knot slept with my mom.

14 Q And so do you know what time you went to bed?

15 A Yes.

16 Q All right. What time did you go to bed?

17 A 8:30.

18 Q And it happened inside your bedroom?

19 A Yeah.

20 Q Can you kind of describe what -- were you asleep?

21 A Yes, but when he came in my room, I woke up.

22 Q Okay. And how were you sleeping, Minor ? How did
23 you sleep?

24 A On my side.

25 Q All right. So when he would come in, did he know you

1 were awake?

2 A No, ma'am.

3 Q Would you pretend to still be asleep?

4 A Yes, ma'am.

5 Q All right. So did you ever say anything to him while
6 he was doing these things?

7 A No, ma'am.

8 Q Did he ever say anything to you?

9 A No, ma'am.

10 Q And how did you know it was his private part going
11 inside of your private part?

12 A Because when I woke up, I would look like this, but
13 he couldn't see my head turned.

14 Q So would you see his private part?

15 A Yes.

16 Q Would you ever see anything come out of his private
17 part?

18 A Yes, ma'am.

19 Q And what did that look like?

20 A It was yellow and a little bit of brown.

21 Q Would that get on your body?

22 A Yes.

23 Q And what would you do?

24 A When he was out of my room, I would get out of my bed
25 and wipe it off with a towel.

1 Q And what would you do with that towel?

2 A I would put it in my dirty clothes basket.

3 Q All right. Did he ever ask you to do anything to his
4 body?

5 A No.

6 Q And would his clothes be on or off?

7 A Off.

8 Q Now, do you remember how old you were when he would
9 touch you?

10 A Yeah.

11 Q How old were you?

12 A Six, seven, and eight.

13 Q Now, did he touch you once or more than one time?

14 A More than one time.

15 Q And how do you remember how old you were?

16 A Because I was in -- I was in -- when he moved in,
17 that's when we moved in. So I was in kindergarten when I
18 was six. And then I would -- I started to go to
19 counseling when I was seven and then went on when I was
20 eight.

21 Q And how do you remember it happening when you were
22 eight?

23 A Because I was still in counseling.

24 Q And you were in counseling because of what your daddy
25 did to you?

1 A Yes, ma'am.

2 Q All right. And when you told your mom about what
3 your daddy did to you, why didn't you tell her about Knot?

4 A Because Knot was at home, and I didn't want her to
5 fight Knot.

6 Q And who did you decide to tell this was going on to?

7 A About Knot?

8 Q Yes.

9 A My counselor.

10 Q And what's her name?

11 A Miss Lacy.

12 MS. PATTERSON: Beg the Court's indulgence.

13 (Pause.)

14 MS. PATTERSON: Thank you, Minor. You can step
15 down.

16 THE COURT: All right. Go ahead and step down.
17 Thank you.

18 Okay. We agreed previously she is going to be
19 cross-examined a little bit later, so she is going to have
20 a seat. And then we'll have a couple more witnesses and
21 then she'll come back on the witness stand, okay.

22 MS. ZMROCZEK: May we approach?

23 THE COURT: Sure.

24 (WHEREUPON, a bench conference was held.)

25 MR. POGUE: Your Honor, the State would now call Lacy

1 Musgrave.

2 LACY MUSGRAVE, after being duly
3 sworn, testified as follows:

4 THE CLERK: Once you're seated, state your name,
5 spelling your last, please.

6 THE WITNESS: My name is Lacy Musgrave,
7 M-U-S-G-R-A-V-E.

8 DIRECT EXAMINATION

9 BY MR. POGUE:

10 Q Good afternoon, Ms. Musgrave. How are you doing?

11 A Doing all right.

12 Q Good, good. Where are you currently employed?

13 A Currently, I work at Palmetto Health Richland.

14 Q How long have you been there?

15 A About a month.

16 Q All right. What's your job title?

17 A I'm an acute care coordinator.

18 Q What all does that involve?

19 A Discharge planning, resources for people going home
20 from the hospital.

21 Q And where were you employed previously before your
22 employment at Palmetto Health?

23 A At the Dickerson Children's Advocacy Center.

24 Q What is that?

25 A It's a center where victims -- or alleged victims of

1 child abuse come to have different services, ranging from
2 forensic interviews, forensic medical exams, counseling,
3 outreach, advocacy.

4 Q And what was -- in what capacity were you employed
5 there?

6 A I started as an intern. I was later moved to a
7 therapist and forensic interviewer. Then eventually, I
8 was promoted to the director of clinical services for
9 programs and quality assurance.

10 Q And how long were you employed at the Dickerson
11 Center?

12 A About five years.

13 Q Were you counseling **Minor** in June of 2014?

14 A I was.

15 Q And how long -- do you remember how long or how many
16 sessions you had been counseling **Minor** ?

17 A I saw her for a total of 16 sessions between April
18 and August of 2014.

19 Q And do you remember anything in particular about the
20 counseling session that you had on June 3rd of 2014?

21 A Yes, I do. We were moving towards sort of the later
22 parts of the therapy and I would -- I had met with mom and
23 we discussed some things. Then I met with **Minor** and we
24 talk about mom's boyfriend coming back into the home and
25 what that was going to be like.

1 Q All right. And who was mom's boyfriend that she was
2 referring to?

3 A His name was Knot, nickname.

4 Q And just to clarify, what was the purpose for
5 **Minor** being in counseling with you at that time?

6 A We were doing trauma focus cognitive behavioral
7 therapy.

8 Q As a result of?

9 A Allegations of sexual abuse.

10 Q And do you know who the alleged perpetrator was while
11 you were counseling her?

12 A Yes, her father.

13 Q Do you remember his name, by chance?

14 A Eric English.

15 Q On the June 3rd date when -- did you ever speak with
16 **Minor** about your conversation with **Minor**'s mom,
17 Sarah, about Knot coming home in the near future?

18 A I did.

19 Q What was her reaction when you -- well, first of all,
20 what did you ask her?

21 A I just was kind of asking her -- because I realized
22 she didn't really know that that was a potential issue for
23 him coming back in the home, and so I just kind of asked
24 her her feelings about it, you know, how do you feel about
25 him coming back.

1 Q What was her reaction to your question?

2 A She got really -- she seemed surprised at first, like
3 huh, and then she got really, really upset and began
4 crying and was pretty much inconsolable.

5 Q And during this therapy session, just in regard to
6 time and place, did she make any sort of disclosure to
7 you?

8 A Yes, later on during the session.

9 Q What was that disclosure with regard to time and
10 place?

11 A In between the ages of seven and eight at [REDACTED]
12 Apartment [REDACTED] this happened.

13 Q What happened?

14 A Sexual abuse.

15 Q Did Minor 's mother, Sarah, learn of what Minor
16 had disclosed to you?

17 A She did after --

18 Q Go ahead.

19 A After Minor told me and it was -- Minor wanted
20 her mom in the room because she wasn't any more calmed
21 down. She was very upset. So we brought Sarah in and I
22 told her.

23 Q And you told her?

24 A I told her the disclosure Minor had told me.

25 Q And what was Sarah's reaction to that?

1 A Instant almost panic attack, just began crying really
2 heavily, almost hyperventilating.

3 Q Would it be safe to say she was upset?

4 A Oh, absolutely.

5 Q And that was what date again?

6 A That was June 3rd, 2014.

7 MR. POGUE: Beg the Court's indulgence.

8 (Pause.)

9 BY MR. POGUE:

10 Q And after learning of the disclosure that Minor
11 made to you, what did you do next?

12 A After I brought mom into the room?

13 Q Yes.

14 A Well, I realized that everybody was upset and I
15 needed to kind of deescalate the situation, so I brought
16 in our clinical director at the time. And she came in and
17 stayed in my office with Sarah, mom, and I took Minor
18 into her office, which was across the hall, and Minor
19 and I just sort of played and did some relaxation stuff.

20 Q After the counseling session had concluded, did you
21 take any other steps?

22 A I did do a minimal facts interview for my law
23 enforcement report to make sure that --

24 Q So you say you reported to law enforcement?

25 A I did.

1 Q Who did you report the disclosure to?

2 A I believe initially to the sheriff's department,
3 Lexington County Sheriff's Department.

4 Q And that was the agency -- why did you report to that
5 particular agency?

6 A Well, we were in the jurisdiction of Lexington County
7 and that's normally who I would call.

8 MR. POGUE: Beg the Court's indulgence.

9 (Pause.)

10 MR. POGUE: Lacy, I don't have any more questions.
11 Please answer any questions the Defense counsel may have.
12 Thank you.

13 THE WITNESS: Thanks.

14 CROSS-EXAMINATION

15 BY MS. ZMROCZEK:

16 Q Good afternoon.

17 A Hello.

18 Q I just want to clarify a few dates, if that's okay.

19 A Sure.

20 Q All right. And I'm going to use these boards, these
21 calendars to kind of help clarify them?

22 A Yes, ma'am.

23 Q You said that you had 16 counseling sessions?

24 A Yes, ma'am.

25 Q All right. And on what date did that begin?

1 A April 1st, 2014.

2 Q Okay. So on April 1st, I'm going to put T for
3 treatment. Is that what you call that?

4 A Sure.

5 Q So your first one was on April 1st. And then when
6 was the next one?

7 A April 14th.

8 Q All right. And then the one after that?

9 A April 24th.

10 Q All right. And then the next one?

11 A May 1st.

12 Q And then the next one after that, I'm sorry?

13 A May 20th, then May 28th, and then June 3rd.

14 Q And June 3rd, that's the one where this disclosure
15 was made to you, correct?

16 A Yes, ma'am.

17 Q So I'm going to circle that one, okay?

18 A Keep going?

19 Q Sure.

20 A June 12th, 16th, 24th.

21 Q And I only have June, so we'll stop there.

22 A Okay.

23 Q But it continued, I think, you said until August?

24 A Until August, yes, ma'am.

25 Q All right. Did you actually complete the therapy?

1 A Not in its entirety.

2 Q Why did you not complete the therapy in its entirety?

3 A Well, the -- I don't think we were ever able to have
4 more appointments made.

5 Q Who makes those appointments?

6 A Well, normally, we schedule it with the caregivers
7 after a therapy sessions ends and it's the caregiver's
8 responsibility to maintain the appointments and make them
9 if they do miss one or something.

10 Q When you say caregivers, you mean whoever care the
11 child is in?

12 A Yeah, nonoffending caregiver.

13 Q So I notice that it appears that the -- it's kind of
14 a set schedule, like every two weeks or a so. Is that --

15 A The best practice of trauma focus cognitive
16 behavioral therapy indicates that weekly therapy is best,
17 but it's semistructured and flexible. So depending on
18 like a busy caregiver's work schedule, sometimes you have
19 to go every other week, sometimes miss a week in between.

20 Q And as part of your duties as a therapist, do you
21 participate in any multidisciplinary team meetings?

22 A Yes.

23 Q Tell the jury -- explain to the jury what those are.

24 A So a multidisciplinary team, or MDT, is comprised --
25 well, with children's advocacy center because there's

1 MDT's in hospitals and other places, is comprised of the
2 different disciplines that help investigate child abuse.
3 So there's seven disciplines for CAC, Children's Advocacy
4 Center MDT's. That includes CAC itself, medical
5 providers, forensic interviewers, DJJ, mental health, oh
6 gosh, it's been a while. You can tell I haven't worked
7 there in about a month or so. Solicitor's office and
8 victim advocacy. I believe that's all of them.

9 Q Okay.

10 A So every month, we would have a meeting, every third
11 Thursday to discuss every case to make sure that no child
12 fell through the cracks.

13 Q And you did that in this case, correct?

14 A I don't have the information in front of me, but I'm
15 assuming we did.

16 Q Okay.

17 A For any children who had forensic interviews in
18 Lexington County.

19 Q So ideally, a member of each of those disciplinary
20 agencies would attend; is that correct?

21 A Ideally.

22 Q Okay. As part of the multidisciplinary team
23 meetings, do you keep logs and notes?

24 A The MDT coordinator typically keeps those.

25 Q In this case, in particular, did you send an e-mail

1 addressing a concern that you had? Would it refresh your
2 recollection to see --

3 A Yeah, it would.

4 Q I'm sorry. I'm not trying to test you.

5 A That's okay. My memory's not that strong. Yep. But
6 I did also send a followup to that.

7 Q All right. Okay. So you sent two e-mails?

8 A Let me find the other one. It might have actually
9 been in a session note. Sorry. I'm looking for my
10 response to that.

11 Q Oh, oh, I have it.

12 A Okay.

13 Q I'm sorry. I wasn't trying to trick you.

14 A Oh, yes. That's the one. Thank you.

15 Q You're welcome. So does that refresh your
16 recollection?

17 A Yes.

18 Q On about what dates were those e-mails sent?

19 A You took them away.

20 Q Oh. I'm terrible.

21 A It's been three years. So I sent one on May 20th and
22 I did a followup the next day, on May 21st, because I had
23 a therapy session on May 20th.

24 Q So as part of your therapy -- and I just put the E
25 for e-mails. And it was the 20th, you said, and then a

1 followup on the 21st, right?

2 A Uh-huh.

3 Q As part of your therapy, you start out by discussing
4 things with the parent or the caregiver?

5 A Sometimes.

6 Q Okay.

7 A Typically, the caregiver is an important part of the
8 child's treatment.

9 Q And they give you information upon which you rely on
10 to then continue therapy?

11 A Uh-huh.

12 Q And that's what you did in this case?

13 A Uh-huh.

14 Q All right. And that's how we ended up on June 3rd?

15 A After -- yes.

16 Q And I believe that you said the disclosure was made
17 to you and then mom came in the room. Do you have your
18 notes from that session?

19 A I do. It wasn't a full disclosure. After I brought
20 mom in, then I did my first responder interview, but she
21 became so upset, I had to stop. Pushing her would have
22 been too much.

23 Q Okay. So explain what you mean by that. So, at
24 first, it's just you and **Minor** in the room, correct?

25 A That day, her little brother was there, too, but he

1 was not involved in the conversation.

2 Q Certainly. But I mean before mom came into the room?

3 A Yes, ma'am.

4 Q I'm sorry. I didn't mean to confuse you.

5 A No, you're fine.

6 Q Before mom comes in the room and you asked -- you
7 testified that you asked about how **Minor** -- what were
8 her feelings about Mr. Stroman coming back into the home?

9 THE COURT: Are we on June 3rd?

10 MS. ZMROCZEK: Yes, sir, sorry.

11 BY MS. ZMROCZEK:

12 Q On June 3rd, right?

13 A Uh-huh.

14 Q And you asked her how she was feeling and you said
15 that she disclosed at that point?

16 A Yes.

17 Q But actually she said she didn't want to talk about
18 it; is that correct?

19 A Well, I can't really say what she said, right? Isn't
20 that hearsay? There was -- how about I'll say there was a
21 minimal disclosure made.

22 Q Okay. Okay. So there was a minimal disclosure made
23 and then she asked for her mom?

24 A Yeah.

25 Q All right. And your notes reflect -- you said that

1 they reflect that **Minor** became inconsolable or was it
2 Sarah who became inconsolable?

3 A Both of them were extremely upset.

4 Q But in the report, in your session note, who does it
5 indicate were inconsolable?

6 A I didn't write the word inconsolable, but I did write
7 about the child being scared and afraid. And I remember
8 that she was crying, but I don't know if I documented in
9 my note.

10 Q Okay. Okay. You don't recall if you documented
11 that?

12 A No.

13 Q But you do recall that the mom was crying. You do
14 recall documenting that?

15 A Yes, I do. Right here.

16 Q Okay. So you documented that Sarah was crying?

17 A Uh-huh.

18 MS. ZMROCZEK: I believe those are all the questions
19 I have. Thank you.

20 THE COURT: Redirect?

21 MR. POGUE: No questions, Your Honor,.

22 THE COURT: All right. Thank you, Ms. Musgrave.

23 THE WITNESS: Thank you.

24 THE COURT: Have a nice day.

25 THE WITNESS: You, too.

1 THE COURT: We're going to take an afternoon break.
2 You can take a break here, go to the restroom, get a
3 drink, a snack: You are not allowed to discuss the case
4 in any way, shape, or form. You are to keep an open mind
5 about the case, and we will see you back -- it is 2:50.
6 We will see you back at 3:05. 3:05. Okay. All right.
7 See you then.

8 (WHEREUPON, the jury left the courtroom at 2:50
9 p.m.)

10 THE COURT: All right. Now, **Minor**, can you hear
11 me? You need to stand up for me, Sweetie. Can you hear
12 me?

13 **MINOR** : Yes, sir.

14 THE COURT: You're not allowed to talk about your
15 testimony with anybody in any way, shape, or form until
16 you come back up here and sit down again, deal?

17 **MINOR** : Deal.

18 THE COURT: Can you do that for me?

19 **MINOR** : Yes, sir.

20 THE COURT: Okay. Great. Thank you.

21 Okay. Break until 3:05.

22 MS. ZMROCZEK: Thank you.

23 MR. POGUE: Thank you, Judge.

24 (WHEREUPON, a short break was taken.)

25 MS. ZMROCZEK: Judge, while they're doing that, we

1 can put this on the record. She asked, Now, you're sure
2 you're okay with the jail stuff? And my client and I have
3 discussed it. This is a trial strategy to not redact the
4 jail.

5 THE COURT: All right.

6 All right. So Mr. Stroman -- stand up. So I
7 normally wouldn't let the jury know that you were in jail
8 for some period of time.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Of course, in this video, they kind of
11 talk about how you're getting out of jail or going into
12 jail or something like that. If you looked at me and said
13 I don't want the jury to know that, I'd cut it out. Does
14 that make sense?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: It makes perfect sense from a timing
17 issue and everything else that there's obviously a certain
18 period where you're guaranteed, you know, out of the house
19 kind of thing. Are you okay with all that coming in?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you agree with that decision,
22 Ms. Zmroczek?

23 MS. ZMROCZEK: I do, Your Honor.

24 THE COURT: Okay. That's fine.

25 MS. ZMROCZEK: Thank you.

1 MS. PATTERSON: Thank you.

2 THE COURT: You can't change your mind about it
3 later. That doesn't mean your whole criminal history is
4 admissible if you testify. If you testify, we'll go
5 through your criminal history charge by charge and there's
6 a rule that I apply to it. So that doesn't mean
7 everything in your criminal history is coming in, that
8 just means this portion right here is going to be in. Is
9 that okay?

10 THE DEFENDANT: Yes, sir.

11 MR. POGUE: Your Honor, if it's okay, I just want to
12 make sure this is working properly.

13 THE COURT: Sure.

14 (Pause.)

15 THE COURT: Are you ready?

16 MS. PATTERSON: Yes, sir.

17 THE COURT: All right. Bring them in.

18 (WHEREUPON, State's Exhibit No. 3 was marked for
19 identification only.)

20 (WHEREUPON, the jury entered the courtroom at 3:10
21 p.m.)

22 THE COURT: All right. Welcome back.

23 You may call your next witness.

24 MS. PATTERSON: The State calls Brooke Wymer.

25 THE COURT: All right. Ms. Wymer, come on forward.

1 BROOKE WYMER, after being duly
2 sworn, testified as follows:

3 THE CLERK: Once your seated, state your name,
4 spelling your last name.

5 THE WITNESS: My name is Brooke Wymer. That's
6 spelled B-R-O-O-K-E, and last name W-Y-M-E-R.

7 DIRECT EXAMINATION

8 BY MS. PATTERSON:

9 Q All right. Ms. Wymer, where are you currently
10 employed?

11 A I'm currently employed by Columbia College, but I'm
12 on leave this year because I'm in school. And I'm also
13 employed at Firm Foundations Counseling and Wellness.

14 Q And how long were you employed with Columbia College
15 before you were on leave?

16 A Since August 2014, and I worked there for two years
17 before taking leave this year.

18 Q Where did you work prior to working at Columbia
19 College?

20 A I work for the Dickerson Children's Advocacy Center.

21 Q And how long were you employed by the Dickerson
22 Center?

23 A I was employed for four years at the Dickerson
24 Center.

25 Q And what type of services does the Dickerson Center

1 provide?

2 A Dickerson Center is a child advocacy center and the
3 type of services that child advocacy centers and Dickerson
4 provides are forensic interviews, forensics medical
5 examinations, therapy services for children and families,
6 and they also provide victim advocacy services. And
7 another thing that they do is coordinate the
8 multidisciplinary team. So all the individuals involved
9 in the investigations, they coordinate meetings between
10 them.

11 Q And what was your job title at the Dickerson Center?

12 A It was the director of clinical services and I was a
13 forensic interviewer.

14 Q All right. And what were some of your duties in each
15 capacity as a forensic interviewer and the director of
16 clinical services?

17 A As a forensic interviewer, I provided the
18 investigative interview for lawful and the department of
19 social service in cases of child abuse and neglect. And
20 as the director of clinical services, I provided therapy
21 services to children and families and I also supervised
22 the clinical services of our staff and interns.

23 Q All right. And what's your educational background
24 and training?

25 A I have a Bachelor's Degree in social work as well as

1 a Master's Degree in social work. I am a licensed
2 independent social worker clinical practitioner. So that
3 requires additional course work as well as 3,000 hours of
4 direct practice and 150 hours of clinical supervision.

5 Q And what type of training did you receive to become a
6 forensic interviewer?

7 A I received my initial training in October of 2010 and
8 that was a week-long training that was provided by the
9 Children's Law Center of the University of South Carolina,
10 as well as the National Child Protection Training Center
11 and the Assessment and Resource Center. They're the ones
12 that offer the training. It's a week-long training that
13 requires you to practice, doing mock interviews, take
14 examinations and complete course work.

15 Q How many forensic interviews did you conduct?

16 A Before leaving the Dickerson Center, I had conducted
17 305 forensics interviews.

18 Q And explain to the jury briefly what is a forensic
19 interview.

20 A A forensic interview is a neutral fact finding
21 interview that's conducted by trained professionals as a
22 part of an investigation.

23 Q And what type of questioning format is used a
24 forensic interview?

25 A The format of the questions are to be nonleading,

1 nonsuggestive questions that allow for the child to
2 provide their own narrative about experiences that they
3 may or may not have had.

4 Q And on June 18th, 2014, did you ever interview a
5 child named **Minor** ?

6 A Could you repeat the date for me?

7 Q June 18th, 2014.

8 A June 12th, 2014.

9 Q June 12th, I apologize. And how did you get involved
10 in that -- what agency referred **Minor** to you to do a
11 forensic interview?

12 A The Lexington Police Department.

13 Q And during that interview, did **Minor** respond to
14 your questions?

15 A She did.

16 Q Okay. What, if anything, did she tell you concerning
17 the time of a sexual assault?

18 A She occurred -- she stated that they occurred at
19 nighttime and were between the ages of six and seven, as
20 well as the last time being when she was eight years old.

21 Q All right. And what, if anything, did she tell you
22 concerning the place or places that the sexual assault
23 occurred?

24 A She stated that it happened at the apartment where
25 she lived in her bedroom, in her white princess bed that

1 had Tinkerbelle on it.

2 Q And was this interview preserved or saved by
3 electronic means?

4 A It was.

5 Q And how did you save it?

6 A It was recorded to a DVD.

7 Q And I'm going to show you what's been marked as
8 State's Exhibit No. 3 and ask you to take a look at that.
9 And do you recognize that object that I passed up to you?

10 A I do.

11 Q And what is that?

12 A This is the DVD of the recording of my forensic
13 interview.

14 Q And how do you recognize that that is the recording
15 of your interview?

16 A Because I initialed it and dated it.

17 MS. PATTERSON: Your Honor, at this time, the State
18 moves State's Exhibit No. 3 into evidence.

19 MS. ZMROCZEK: Without objection, Your Honor.

20 THE COURT: State's 3 without objection.

21 (WHEREUPON, State's Exhibit No. 3 was admitted
22 into evidence.)

23 MS. PATTERSON: Permission to publish, Your Honor?

24 THE COURT: Okay. Granted.

25 We're going to show you this video. Now, two things

1 we've got to make sure with anything we do that's blown up
2 or big. I've got to make sure you can see it and make
3 sure you can hear it. So we may tinker with the lights a
4 little bit. I want to make sure you can see it and hear
5 it. That will be true with every piece of evidence that
6 comes in, but this is our first video, so we'll just play
7 with the acoustics a little bit to see what's best for
8 you.

9 Are you ready?

10 MS. ZMROCZEK: Your Honor, we may need to move the
11 podium.

12 THE COURT: What about the podium? Do we need to
13 move it? If you can't see or hear, wave at me. We'll get
14 it adjusted.

15 MR. POGUE: Your Honor, we may need to dim the
16 lights.

17 THE COURT: All right. Let's play with the lights
18 there, Mr. Jones.

19 Somebody tell me when you -- how's that? Good?
20 Everybody okay?

21 Now, this is about an hour?

22 MS. PATTERSON: Yes, sir.

23 THE COURT: All right. So this is about an hour.
24 I'm just telling you that now just to prepare you. It's
25 going to be about an hour that we're watching this. Okay.

1 Ms. Wymer, you just stay right there. Thank you.

2 (WHEREUPON, the video was played for the jury.)

3 THE COURT: All right. Turn the lights back on.

4 All right. Any further questions for Ms. Wymer?

5 MS. PATTERSON: Just a couple.

6 (WHEREUPON, State's Exhibit Nos. 4 and 5 were
7 marked for identification only.)

8 BY MS. PATTERSON:

9 Q Ms. Wymer, I'm going to show you what's being marked
10 as State's Exhibit No. 4 and 5 and ask you to take a look
11 at those documents. Do you recognize what I just passed
12 up to you?

13 A I do.

14 Q All right. And how do you recognize that?

15 A These are the anatomical drawings that we used during
16 the forensic interview and that I wrote on. That's my
17 writing.

18 Q And do they fairly and accurately represent the ones
19 you used in the video?

20 A They do. They are a copy of the ones I used in the
21 video.

22 Q All right. And have they been changed or altered in
23 any way?

24 A It doesn't look like it.

25 MS. PATTERSON: Your Honor, at this time, I'd move.

1 State's Exhibit 4 and 5 into evidence.

2 MS. ZMROCZEK: Without objection, Your Honor.

3 THE COURT: All right. State's 4 and 5 without
4 objection.

5 (WHEREUPON, State's Exhibit Nos. 4 and 5 were
6 admitted into evidence.)

7 BY MS. PATTERSON:

8 Q All right. Can you explain to the jury why you use
9 these drawings during a forensic interview?

10 A Yes, there's a few different reasons that we use
11 them. One reason is that we use them so that the child
12 can explain to us what they call their body parts because
13 we want to use the child's words. So they're a way that
14 we can ask them what they call their body parts. Another
15 reason that we use them is to make sure that the child
16 doesn't feel they have to show us on their own body what
17 has happened if they're explaining something that has
18 happened to them. So we want to make sure they don't have
19 to point to their own body parts. And another reason that
20 we use them is to make sure we can clarify information
21 because if the child is just pointing to their body, we
22 might not know exactly what they're talking about. So
23 sometimes having the drawings can help to clarify which
24 body parts they're referring to.

25 Q Why in this case did you use a little boy?

1 A So the anatomical drawings are generally used before
2 a child discloses and sometimes right after they've
3 started disclosing information. And so we want to use the
4 drawings that match the ethnicity and the age of the child
5 because it should look like the child. We don't want to
6 introduce new information to them, so we would use kids
7 that are their age in the drawings because they haven't
8 necessarily disclosed who has done different things to
9 them. We don't know how old that person might be, so we
10 just use drawings that are relevant to that child's age.

11 THE COURT: Thank you, Ms. Wymer. Please answer any
12 questions Ms. Zmroczek may have.

13 CROSS-EXAMINATION

14 BY MS. ZMROCZEK:

15 Q Good afternoon.

16 A Hi.

17 Q Ms. Wymer, you said that you have interviewed and we
18 heard on the video that you have interviewed **Minor**
19 before this date, right?

20 A I did.

21 Q Okay. I want to talk about this date first. I'm
22 sorry. I'm going to use the calender if that's okay with
23 you?

24 A Sure.

25 Q So this was on June 12th?

1 A The interview that we just watched was June 12th.

2 Q All right. And that was 2014?

3 A It was.

4 Q Is that also the same day she had a treatment?. I
5 think I already have a T up there. Is it common to do
6 treatment and interviews on the same day? I'm going to
7 put an I -- I'm going to put an I for interview.

8 A I'm not sure what time her treatment appointment was,
9 but it would be common to have the child seen after the
10 interview.

11 Q After the interview. Okay. And then you said that
12 you had done another interview previous, correct?

13 A I had.

14 Q And what date was that?

15 A That was March 18th, 2014.

16 Q So this is March of 2014. So you saw her on the
17 18th?

18 A Yes.

19 Q I'm going to put another I there for interview. And
20 is there another video?

21 A There is.

22 Q Okay. I'm not going to move it in. I'm just going
23 to ask if you can identify -- whatever I'll just put it.

24 (WHEREUPON, Defendant's Exhibit No. 1 was marked
25 for identification only.)

1 BY MS. ZMROCZEK:

2 Q I'm just going to show you what's been marked just
3 for identification as Defense 1 and ask you if you
4 recognize that. You can hold it and take it out if you
5 want.

6 A I'm not certain because I don't know if I reviewed
7 this one because I don't see my initials on it, but it
8 does have my name and her name and the date and that it
9 was a copy. So I'm not certain who made that copy.

10 Q Okay. But, typically, it does have your name on it,
11 right?

12 A Typically, it would.

13 Q Okay. And it would have the date?

14 A Typically, it does.

15 Q And what's the date on there?

16 A March the 18th, 2014.

17 Q Thank you. All right. So do you recall that video?

18 A The one that I completed on March the 18th?

19 Q Correct.

20 A I have not reviewed it since it was not something I
21 needed to review for this particular trial, but I do
22 recall doing that interview.

23 Q Do you kind of do it the same way? Do you do your
24 interviews the same way is my point?

25 A We do.

1 Q So you start off by telling them what the rules are,
2 right?

3 A We do.

4 Q And the March 18th video, just as you did in the
5 June 12th video, you explained the rules about telling the
6 truth?

7 A I'm certain that I probably did.

8 Q Okay. And you made sure to get the details or to get
9 the narrative of what had happened, correct?

10 A Sure.

11 Q And you asked if anybody else had ever done this to
12 her, correct?

13 A I usually do. Like I said, I haven't reviewed this
14 one, so I don't know for sure that I said that, but
15 generally we do ask that.

16 Q And in addition to doing a forensic interview, what
17 else is part of kind of what you do or what's facilitated
18 in these when there is a disclosure?

19 A After -- so with the child that I would do the
20 interview with?

21 Q Right.

22 A Generally, it would just be doing the interview.
23 Someone else generally completes the treatment with the
24 child. We don't do treatment with a child that we did an
25 interview with and vice versa.

1 Q So you let somebody else do the treatment. Now, you
2 can do the treatment, but somebody else does, correct?

3 A We could, I guess, but it wasn't something that we
4 did.

5 Q And in this case, do you recall June 3rd of 2014, the
6 day the disclosure was made? Do you have any recollection
7 about that date?

8 A I don't really.

9 Q Okay. And then you said that you were also in
10 charge, for lack of a better term, of the Dickerson
11 Center. Was that part of your -- or the lead counselor,
12 I'm sorry?

13 A I was the lead counselor, but I wasn't necessarily
14 the supervisor of everyone in the office.

15 Q Do you write summaries when people leave treatment?

16 A I do in my own cases.

17 Q Okay. Did you write one in this case?

18 A If I did, I don't recall doing that. Do you mean
19 from like treatment, writing a summary of the treatment?

20 Q Right.

21 A If I did treatment with a child, I would write a
22 summary.

23 Q So that would be something common?

24 A Yes.

25 Q So everybody who does treatment kind of writes their

1 own summary?

2 A Right. Generally, that's how we close out the file.

3 Q When you go through your -- there's a protocol that
4 you have to follow -- or that you do follow, correct?

5 A It's a semistructured type of protocol, so it's been
6 flexible, but we do have a method of how we do things,
7 generally.

8 Q But you're given some discretion?

9 A Yes.

10 Q All right. So if something didn't make sense to you,
11 you would say I'm confused and ask for clarification?

12 A I would.

13 Q And I think that we -- that video hasn't been
14 altered, right?

15 A No.

16 Q And I wanted to ask you about when you leave the room
17 and the child is -- obviously, you can see or somebody can
18 watch the child. When you leave the room, tell the jury
19 what you do from there.

20 A So we have an observation room where individuals who
21 are involved with the case, that would be law enforcement,
22 DSS or a therapist or someone that's involved in the case,
23 might potentially watch the interviews so they can know
24 the information they might need to know to do their jobs.

25 Q All right. Do they give you specific questions to

1 ask?

2 A Sometimes they do.

3 Q So when you came back and you asked about describe a
4 certain part, why were you asking that?

5 A So it might have been something that the law
6 enforcement officer may have felt needed to be asked as
7 part of their investigation.

8 Q Now, was there a law enforcement officer there that
9 day?

10 A I believe there was a law enforcement victim advocate
11 present.

12 Q Okay.

13 A Representing the police department that day.

14 Q So you were asking specifically about alcohol use?

15 A Uh-huh.

16 Q Right?

17 A Yes.

18 Q And that was -- I think nana was the person that said
19 drank beer or she initially said nana and papa?

20 MS. PATTERSON: Objection, Your Honor, she's going
21 beyond time and place of this witness. The video speaks
22 for itself.

23 THE COURT: What's the objection?

24 MS. PATTERSON: She's asking her questions that --
25 she can only testify about time and place. I mean, we saw

1 the video. The video speaks for itself. She can't ask
2 her about stuff that **Minor** told her in the video.

3 THE COURT: All right. Sustained.

4 BY MS. ZMROCZEK:

5 Q All right. Let ask this, when you start an
6 interview, you get information and I believe you were
7 writing it on the board, right?

8 A Yes.

9 Q About who lives where?

10 A I do.

11 Q And you did that in both of the interviews that you
12 conducted, correct?

13 A It's likely that I did.

14 Q Okay. And I want to clarify a specific to time. So
15 you said that she turned eight on [REDACTED]?

16 A That's what her date of birth states.

17 Q Okay. And then you saw -- you first initially saw
18 her on March 18th, correct?

19 A Yes.

20 Q And then some weeks later on June 12th?

21 A Yes.

22 Q Okay. In addition to getting the general information
23 and the truth and the lie, you go through how it's
24 important to establish a rapport with the child, right?

25 A Yes.

1 MS. ZMROCZEK: Okay. I have no further questions.

2 Thank you.

3 MS. PATTERSON: Your Honor, I have nothing.

4 THE COURT: Thank you, ma'am. Have a nice day.

5 THE WITNESS: Thank you.

6 THE COURT: All right.

7 All right. Miss **Minor**, come on back up, okay?

8 Come on back up.

9 All right. Do you remember how earlier you put your
10 hand on the Bible and promised to tell the truth?

11 THE WITNESS: Yes, sir.

12 THE COURT: Okay. You still have to do it. You
13 don't have to do it again. You still have to tell us the
14 truth, okay?

15 THE WITNESS: Okay.

16 THE COURT: All right.

17 CROSS-EXAMINATION

18 BY MS. ZMROCZEK:

19 Q Hi, **Minor**. Is it okay if I call you **Minor** ?

20 A Uh-huh.

21 Q My name is Aimee. We haven't met before, have we?

22 A No.

23 Q I just want to ask you a few questions, okay?

24 A Okay.

25 Q And I know this is all personal stuff. So I just

1 want to ask you a few questions, okay?

2 A Okay.

3 Q I want to just get some clarifying, okay? You just
4 watched the video with us, right?

5 A Yes.

6 Q And that was you in the video?

7 A Yes.

8 Q And when you were talking about nana, who's -- tell
9 the jury who your nana is.

10 A My nana is my dad's mom.

11 Q That's your dad's mom?

12 A Uh-huh.

13 Q Okay. Was nana the one that you said was drinking
14 beer?

15 A No.

16 Q Oh. Who is that?

17 A My grandma.

18 Q Your grandma. Okay. And where is your nana now?

19 A She's in Florida.

20 Q Okay. When's the last time you got to see your nana?

21 A When I went to go see my dad on the weekends.

22 Q And when was that? Do you remember the last time?

23 A No.

24 Q Okay. You don't remember. Did you ever talk to your
25 nana after you went to go see your dad on the weekends?

1 A Like after this all happened?

2 Q Right.

3 A No.

4 Q You never talk to her?

5 A No.

6 Q Okay. So when she was asking you about Knot --
7 that's what you talked about in the video, right?

8 A Yes.

9 Q And she was asking you about Knot. So when are
10 you -- when did you tell nana about Knot?

11 A When my dad was in jail.

12 Q All right. When your dad -- so you did talk to her
13 after?

14 A Oh, yeah.

15 Q Oh, okay. I'm not trying to trick you up. I'm just
16 trying to -- I know it was a long time ago, right?

17 A I didn't understand what you were saying.

18 Q That's okay. And if you don't understand something,
19 you say, Ms. Aimee, I don't understand what you're saying.
20 Can you ask it a different way. I don't want to confuse
21 you. That's not what I'm trying to do at all. I just
22 want -- so I can understand. So after your dad went to
23 jail, you still talked to your nana?

24 A Yes.

25 Q All right. Did you ever go see her?

1 A Yes.

2 Q Okay. So you would go -- sometimes you would go see
3 your nana. Did you ever stay with her?

4 A Not the night. I just went to go see her.

5 Q How many times do you think you went to go see her?

6 A (There was no response).

7 Q Let me ask you this way because I know it's hard.

8 Was it more than 10 or less than 10?

9 A Less.

10 Q And she's the one who was asking you about Knot?

11 A Yes.

12 Q You see my little calendar? I put [REDACTED] in a
13 balloon -- excuse me, [REDACTED]. Is that your birthday?

14 A Yes.

15 Q All right. Okay. That's your birthday. And so the
16 weekend before your birthday, where were you staying then?

17 A I don't understand.

18 Q Okay. So I'm going to put this board up here so I
19 don't have to hold it, okay. I'm not real coordinated as
20 it is, so I don't want to add anything to the mix. I want
21 to make sure you can see it, though. Can you see the
22 dates on there?

23 A Uh-huh.

24 Q Okay. So [REDACTED], that was your 8th birthday. Can
25 I write eight in the balloon?

1 A Uh-huh.

2 Q All right. So that was your eighth birthday. What
3 did you do for your eighth birthday? Do you remember
4 going to get an American doll?

5 A No.

6 Q You don't remember?

7 A No.

8 Q Did you have a party?

9 A Yeah.

10 Q Where was your party?

11 A At the park.

12 Q At the park?

13 A Yes..

14 Q Do you remember telling Ms. Brooke that you got an
15 American doll for your birthday with nana in Charlotte?

16 (Pause.)

17 A That was for my seventh birthday.

18 Q Oh, that was for your seventh birthday. Okay. So
19 that was for your seventh birthday, not your eighth
20 birthday. Do you remember at school when all of this kind
21 of started happening?

22 A Yes.

23 Q Do you remember what day that was?

24 A No.

25 Q Okay. But it was before your birthday, right?

1 A Yes.

2 Q All right. And it was after you had spent the
3 weekend where?

4 A At my dad's house.

5 Q At your dad's. And you went to the school nurse?

6 A Yes.

7 Q Did you talk to -- how many adults do you think
8 you've talked to about this?

9 MS. PATTERSON: Objection, Your Honor. She can't
10 remember how many adults she's talked to about this.
11 She's only 11 years old and she was eight at the time.

12 THE COURT: Overruled.

13 BY MS. ZMROCZEK:

14 Q I can ask the question a different way if it will
15 help you. Have there been a lot of adults that have
16 talked to you about this?

17 (Pause.)

18 A About 10 adults.

19 Q About 10 adults, okay. Did you spend some time
20 practicing getting to sit in the chair so that you could
21 feel comfortable?

22 A Yes.

23 Q So you had some of the people in the solicitor's
24 office help you, right?

25 A Yes.

1 Q And then you've had a lot of counselors help you,
2 right?

3 A Yes.

4 Q And then I think you said you talked to nana about
5 this, right?

6 A Yes.

7 Q And nana would tell you some things that daddy -- he
8 would send you messages, I guess? She said that daddy
9 said he loved you?

10 A Uh-huh.

11 Q And that was after he was in jail?

12 A While he was in jail.

13 Q While he was in jail, okay.

14 A And then she put me on the phone with him.

15 Q Oh, she put you on the phone with him. So you've
16 actually talked to your daddy after this?

17 A Yeah.

18 Q How many times do you think you've talked to him?

19 A I don't know.

20 Q More than once?

21 A Yes.

22 MS. ZMROCZEK: Beg the Court's indulgence.

23 (Pause.)

24 Minor , thank you for answering my questions. I
25 don't have any more for you, okay.

REDIRECT EXAMINATION

BY MS. PATTERSON:

Q **Minor** , how many nanas do you have?

A Three.

Q And the nana that lives in Charlotte, whose mother is that or how are you related to that nana?

A That's my Uncle Allen's girlfriend.

Q And so she's the nana in Charlotte?

A Yes.

Q And who is your other nana, your second nana?

A My dad's mom.

Q And who is your third nana?

A My mom's mom.

Q And when you talked about you told your nana what Knot did to you, that was your dad's mom?

A Yes.

Q And did you tell her before or after you told your mom what Knot was doing to you?

A After.

Q Okay. So you told Miss Lacy first?

A Yes.

Q Then your told your mama?

A Yes.

Q And then you told nana?

A Yes.

1 Q Did nana tell you to say those things about Knot?

2 A No.

3 Q Okay.

4 A She did say just say that Knot did it.

5 Q All right. And are you saying that today Knot is the
6 only one that did it?

7 A No.

8 Q Who touched your body?

9 A My dad.

10 Q And who else?

11 A And Knot.

12 MS. PATTERSON: Beg the Court's indulgence.

13 (Pause.)

14 MS. PATTERSON: No further questions, Your Honor.

15 MS. ZMROCZEK: I just have one follow up.

16 THE COURT: All right.

17 RECROSS-EXAMINATION

18 BY MS. ZMROCZEK:

19 Q **Minor** , I want to make sure that I didn't
20 misunderstand you, okay. You said that nana said to just
21 say that Knot did it, right?

22 A Right.

23 Q Okay. I was just checking. Thank you.

24 THE COURT: All right. Thank you very much. You can
25 step down, young lady.

1 Okay. Is that a good place to stop?

2 MS. PATTERSON: It is, Your Honor.

3 THE COURT: Okay. We're going to go ahead and stop
4 there for the day. We're a little bit before
5 5:00 o'clock, but the next witness is probably a little
6 bit lengthier than y'all want to stay here tonight, so
7 we're going to go ahead and stop.

8 Now, y'all have done a good job today. Everybody has
9 paid attention, stayed awake, stayed with me. Now, you're
10 about to take a break overnight, so that means I'm going
11 to remind you that you are not to discuss the case with
12 anyone in any way, shape, or form. You are not to do any
13 research. You are not to look up anything. You are to
14 keep an open mind about the case. You've only heard a few
15 witnesses in the case and there's still plenty to go. So
16 you're to keep an open mind and not do any research and
17 not discuss the case.

18 Now, you made that promise to me, number one, but you
19 also made it to the parties and you also made it to each
20 other, and you also made it to yourself. So in that
21 spirit, I would ask that you keep that promise that you're
22 not going to discuss the case with anyone, not do any
23 independent research, not have any contact with any of the
24 parties and to keep an open mind about the case.

25 We'll see you back here tomorrow morning. We'll be

1 ready to go at 9:30.

2 Everyone else remain seated.

3 The jury is excused. Thank you very much.

4 (WHEREUPON, the jury left the courtroom at 4:47
5 p.m.)

6 THE COURT: All right. Anything before we break from
7 the State?

8 MS. PATTERSON: No, sir, Your Honor.

9 THE COURT: From the Defense?

10 MS. ZMROCZEK: Nothing, Your Honor.

11 THE COURT: All right. What's the plan for tomorrow?

12 MS. PATTERSON: In the morning -- I think we have
13 four witnesses left, Your Honor.

14 THE COURT: Okay. All right. Sounds good. All
15 right. Thank you very much.

16 MS. PATTERSON: Thank you.

17 MS. ZMROCZEK: Thank you.

18 THE COURT: 9:30.

19 MS. PATTERSON: Yes, sir.

20 (WHEREUPON, Court was adjourned for the day to be
21 reconvened on Wednesday, March 29, 2017.)

22 WEDNESDAY, MARCH 29, 2017

23 THE COURT: Is the State ready to go?

24 MS. PATTERSON: Yes, Your Honor. The only thing that
25 I wanted to add, the State has decided to call Kate

1 Chappell, who was the SANE nurse. She wasn't on our
2 witness list, but she was on Ms. Zmroczek's witness list.

3 THE COURT: Okay.

4 MS. PATTERSON: So we confirmed her last night and
5 she will be here this morning.

6 THE COURT: Okay.

7 MS. ZMROCZEK: And I received an e-mail regarding the
8 same.

9 THE COURT: All right. Bring them in.

10 (WHEREUPON, the jury entered the courtroom at 9:34
11 a.m.)

12 THE COURT: All right. Welcome back. Thank you very
13 much for being on time. I hope you had a nice evening.
14 We will continue now.

15 The State can call its next witness.

16 MR. POGUE: Thank you, Your Honor. The State calls
17 Dr. Henry Gill Potter.

18 THE COURT: All right. Come forward.

19 HENRY GILL POTTER, M.D., after
20 being duly sworn, testified as follows:

21 THE WITNESS: Once you're seated, sir, please state
22 your full name, spelling your last.

23 THE WITNESS: I'm Dr. Henry G. Potter, P-O-T-T-E-R.

24 DIRECT EXAMINATION

25 BY MR. POGUE:

1 Q Dr. Potter, how are you this morning?

2 A Excellent.

3 Q Good. Good. Where are you currently employed?

4 A I'm currently employed with South Carolina Department
5 of Health and Environmental Control. I'm the medical
6 director for Midlands Public Health Region.

7 Q And how long have you worked there at DHEC?

8 A I've worked for DHEC for 14 years now.

9 Q How long have you been the medical director of the
10 Midlands Region?

11 A So we've gone through three organizations since I've
12 been here, so I started out as the Palmetto Health
13 District medical director. And then we became the Region
14 3 medical director. And then we merged to become the
15 Midlands, gaining more counties each time. I've also been
16 consultant for Low Country region and PeeDee region when
17 their medical directors are absent.

18 Q Tell the Court a little bit about your educational
19 background.

20 A I went to undergraduate school in Nashville,
21 Tennessee at Libscomb University. I graduated with a
22 Bachelor's Degree. I was in the Navy as an operational,
23 not medical for three years. And then I went to medical
24 school at Michigan State University in East Lansing,
25 Michigan. I came into the medical core of the Navy, then

1 serving in a board -- well, internship at a hospital in
2 Portsmouth. I was then ship medical Officer for the USS
3 Arkansas for a year and a half. Following that, I went to
4 the Navy Environmental Health Center, which was,
5 basically, the public health and occupational medicine
6 agency or advisor for the Bureau of Medicine. After that,
7 I went into the residency program at the University of
8 Washington in Seattle, where I served and earned my
9 Master's in public health and completed my preventive
10 medicine residency. Following that, I returned to
11 operational work in the Navy with preventive medicine
12 unit. Then I worked in headquarters again. I worked -- I
13 serve two tours with the Marine Corps as preventive
14 medicine office with Marine Corps, deployed to Desert
15 Storm. And came back, then again working at NHEC, Navy
16 Environmental Health Center, as a consultant and writer
17 for preventive health policy. And I finished my Navy
18 career at Naval Bremerton as a clinical epidemiologist. I
19 was the first clinical epidemiologist that was assigned to
20 a Navy hospital.

21 Q Are you a member of any boards or committees?

22 A I'm member of the American College of Preventive
23 Medicine. And this is the board agency which certifies
24 people in preventive medicine, occupational medicine and
25 those particular areas. I am a fellow of that, have been

1 a member since 1988.

2 Q Preventive medicine, what exactly is that? What does
3 that entail?

4 A Preventive medicine is what we would call population
5 health medicine. We look at wellness policies, health
6 policies trying to develop policies for the betterment of
7 communities. It's where we work in diabetes programs, you
8 know, trying to educate the public. We work in
9 cardiovascular disease and trying to prevent strokes,
10 heart disease. I've worked on the communicable disease
11 side of the house for most of my career and working with
12 outbreaks of infectious disease and including -- just the
13 routine every day diseases that you are reportable to the
14 State, including sexually transmitted diseases.

15 Q Tell us a little bit about your every day duties,
16 role as a medical director of the Midlands Region for
17 DHEC?

18 A As the medical director, I supervisor four areas, the
19 epidemiology, which works with primarily communicable
20 disease, our laboratory which does the diagnostics and
21 collects and ensures that our laboratories are under --
22 maintaining standards within federal regulations. I'm the
23 director of the pharmacy, as we distribute medications for
24 birth control, for TB treatment, for STD treatments. And
25 I supervisor the DIS, the Disease Intervention Specialist,

1 who primarily do partner services and contact tracing on
2 sexually transmitted disease, primarily syphilis and HIV.

3 Q Do you do any sort of -- I mean, you consult to the
4 DHEC. Do you actually work with patients themselves?

5 A I'm usually working with our nurses, our preventive
6 health nurses. DHEC delivers us clinical services
7 through registered nurses who are trained in their
8 individual programs.

9 We have what we call standing orders, and these are
10 orders that are written for guidance of the nurses. They
11 are written based upon the CDC guidelines and
12 recommendations and they're a very strict set of rules.
13 So patients who come in and meet the criteria for
14 diagnosis based upon those standing orders are
15 administered treatment based upon those standing orders.
16 When there's someone -- a question of the diagnosis or a
17 question of treatment or a person, for instance, who may
18 be unable to take the medications that are -- that our
19 nurses are allowed to administer, they will call me on
20 consultation to, perhaps, find a different medication that
21 might work for the patient.

22 Q And who -- do you consult on these standing orders
23 when they're -- when they are drafted, when they are
24 promulgated by DHEC?

25 A Yes, yes. The medical directors in the four regions

1 are a part of the standing orders committee along with the
2 program managers, who are experts and draft their
3 policies. So when the standing orders come out, I do have
4 the opportunity to review and comment on them, to fine
5 tune them or correct any errors that might have been
6 placed in the original draft.

7 Q What sorts of diseases do you typically consult on?
8 What sort of communicable diseases do you consult on your
9 every day duties?

10 A Outside the area of STDs, almost anything. We have a
11 lot of salmonella, we have a lot of outbreaks of
12 gastrointestinal. Right now, we're in the flu season, so
13 there's a lot of consults on the flu. But every year, the
14 State epidemiologists publishes a list of probably of a
15 hundred diseases or conditions that are reportable. All
16 of these come to my staff in epidemiology or the staff in
17 TB and they are managed in their situations. And so any
18 of those would be eligible for consult if they had issues
19 or questions on them.

20 Q Do you ever consult on sexually transmitted diseases?

21 A I do. Primarily, on syphilis and, occasionally, on
22 gonorrhea.

23 Q All right. How often do you typically consult on
24 gonorrhea?

25 A On gonorrhea, I probably have maybe two or three a

1 month, maybe every other week or so. Syphilis, I get more
2 calls because the staging of the disease of Syphilis is
3 more difficult and requires a little more cognitive
4 thought and look back.

5 Q Okay. Have you ever been asked to testify in court
6 before?

7 A No, I have not.

8 MR. POGUE: Your Honor, at this time, the State moves
9 to have Dr. Potter certified as an expert in the area of
10 public health and preventive medicine.

11 THE COURT: Voir dire?

12 MS. ZMROCZEK: No voir dire, Your Honor. We don't
13 challenge his qualifications.

14 THE COURT: All right. Ladies and gentlemen,
15 normally, a person is not allowed to give opinion
16 testimony. Normally, a person is required to testify to
17 what they heard, saw, smelled, sensed, something of that
18 nature. However, as I've explained to you before, there
19 is an exception when someone is qualified by education or
20 experience, that person is permitted to give their opinion
21 in certain areas if I qualify them in that way.

22 Dr. Potter will be qualified as an expert in the area of
23 public health and preventative medicine. He will be
24 allowed to give opinion testimony in that area. That does
25 not mean that you must accept his opinion, but it is

1 evidence that you must use in any way that you see fit and
2 give it the weight and credibility that you believe is
3 appropriate.

4 MR. POGUE: Thank you, Your Honor.

5 BY MR. POGUE:

6 Q Dr. Potter, what exactly is gonorrhea?

7 A Gonorrhea is a sexually transmitted disease
8 transmitted by the bacterium Neisseria gonorrhea. It is a
9 disease that's been known through the ages in antiquities
10 with probable references to it even in the Bible in the
11 Old Testament relating to some of the signs and symptoms.
12 As a sexually transmitted disease, it is almost always --
13 only in rare situations would it be transmitted other than
14 sexually. It affects the endocervix in the female, the
15 male urethra and it also can be acquired in the pharynx,
16 the throat and/or the rectum.

17 Q When you say that it's contracted sexually, is that
18 by sexual intercourse?

19 A By sexual intercourse, that is correct.

20 Q Can it be contracted any other way?

21 A It would be a very rare situation that it could be
22 transmitted by like a sex toy, but by nature of the
23 bacteria, which is pretty fragile outside of the body,
24 it's likely that you would not have that happen very often
25 because the bacteria would be incapacitated. It would be

1 inactive after a short duration outside of living tissues.

2 Q Can it be contracted by digital penetration? And I
3 apologize for the crudeness, but in other words, can it be
4 contracted by quote, unquote fingering an infected female?

5 A If the finger had recently been contaminated. For
6 instance, if there was -- if the male had manipulated --
7 was infected and manipulated his penis or something and
8 had fluid on it, that would be a possibility, but most of
9 the time most of the experts, CDC and other STD experts,
10 almost always conclude 99 percent of the time that it is
11 sexual transmission.

12 Q CDC, I apologize, what is that?

13 A CDC is the Centers for Disease Control.

14 Q Is that the federal?

15 A That's the federal institution. CDC is the Center
16 for Disease -- Centers for Disease Control and Prevention
17 is the full title. They're based in Atlanta and they have
18 programs in all areas of public health preventive
19 medicine.

20 Q What are the symptoms of gonorrhea?

21 A In the female, it would usually be pruritic itching
22 in the vagina and probably a discharge, a yellow to
23 greenish-yellow, perhaps, white discharge from the
24 inflammation in the vagina.

25 In the male, it's usually a purulent discharge from

1 the penis. It could cause rectal itching and pain and,
2 perhaps, even a rectal discharge. From the pharynx,
3 perhaps, sore throat, but many times, those are more
4 occult and not noticed by symptomatology, only by
5 diagnosis.

6 Q Does everyone that becomes infected with gonorrhea
7 become symptomatic?

8 A Not always. Asymptomatic in females is probably more
9 common than in males. Almost all males, probably
10 90 percent of males who are infected will be symptomatic
11 and have dysuria, pain on urination, and/or a discharge.

12 Females are variable because the cervix is far up in
13 the vaginal canal, so it may take a while. Ordinarily,
14 they would at some point usually become symptomatic with
15 itching and a discharge.

16 Q Is it more likely that a young child, a young female
17 who is infected would become symptomatic?

18 A I would think they probably would. This would be --
19 being young, they haven't been exposed to -- prepubertal
20 wouldn't have been exposed to estrogens, so the vaginal
21 wall would be thinner. And therefore, if an in-cervical
22 inflammation would -- with inflammatory materials would
23 more likely cause an inflammation of the vaginal walls
24 than, perhaps, in a mature female.

25 Q And how long does it usually take from the time that

1 a minor child becomes infected with gonorrhea to become
2 symptomatic?

3 A The incubation period is usually two to seven days.
4 And sometimes -- in one publication I read, it said that
5 the prepubertal might take a little bit longer, maybe up
6 to 10 to 13 days. But most infections become prominent
7 within two to seven days.

8 Q So it only takes two to five days -- or two to seven
9 days, you said, to --

10 A In most cases.

11 Q In most cases. From the time that a young female
12 would become infected to the time that they most likely
13 would become symptomatic, sometime in that timeframe?

14 A Young female or any female.

15 Q How long from the time that a person -- before I ask
16 you that, what is the treatment for gonorrhea?

17 A We, unfortunately, are becoming -- our treatments are
18 becoming resistant. Over the past -- if you go back 50
19 years from the time of penicillin, penicillin was a
20 wonderful drug. It worked beautifully. It was very
21 quickly overcome by the bacteria that developed
22 resistance. Doxycycline was then used a lot. The
23 organisms have become resistant to Doxycycline now. The
24 Quinolones have been one of the primary uses, such as
25 Ciprofloxacin, which is a very common drug. They're

1 resistant to that now, so we can't use that.

2 Cephalosporins, third generation cephalosporins are about

3 the only treatment we have left. And the one drug that we

4 have left right now available to us is Ceftriaxone, which

5 is an injectable. That was only about three years ago.

6 Before that, we also had an agent called Suprex, which was

7 an oral medication that could be used, but it has become

8 resistant to that -- gonorrhea has become resistant to

9 that also at this point.

10 Q How long from the time that a person begins treatment
11 for gonorrhea does it usually take to clear the body?

12 A Usually within hours, the body is noninfectious. It
13 may still have complications. It still may have some
14 discharge and irritation because of inflammatory process,
15 but usually within 24 hours, the person will be
16 noninfectious.

17 Q Within 24 hours. So just to clarify, within 24 hours
18 of them getting treatment, you would not expect for them
19 to be infectious or be able to communicate that disease to
20 somebody else?

21 A That's correct.

22 Q Would you expect a child to clear gonorrhea faster or
23 slower than an adult?

24 A Treated or untreated?

25 Q Treated.

1 A I would think that it -- you mean by the infection --
2 by infection, they should be clear within 24 hours.
3 Symptomatically, it would be hard to say. I would be
4 unsure of that one.

5 Q Okay.

6 A We don't have too many prepubertal girls who have
7 that disease.

8 Q Let me ask you this, Dr. Potter, what is the
9 likelihood of an adult male contracting gonorrhea from an
10 infected female partner?

11 A Studies done quite a number of years ago and a figure
12 that is in common use by everyone, it's about -- from an
13 infected female to a male is about a 20 percent chance of
14 infection with a single sexual intercourse.

15 Q Now, I want to make sure I'm understanding you
16 correctly. If an eight-year-old little girl was infected
17 with gonorrhea and an adult male had sexual intercourse
18 with her, are you saying that the likelihood that he would
19 contract gonorrhea would be 20 percent?

20 A That's what is the general consensus of the experts.

21 Q So under that same scenario, would you expect that
22 adult male to test positive for gonorrhea? Assuming that
23 he was to have sexual intercourse with an infected female,
24 would you expect days later for him to test positive for
25 gonorrhea?

1 A Likely not. Like I say, there's only a 20 percent
2 chance of infection. With those probabilities, I wouldn't
3 suspect they would be positive.

4 MR. POGUE: Beg the Court's indulgence.

5 (Pause.)

6 MR. POGUE: No further questions, Dr. Potter. Please
7 answer anything the Defense counsel may ask.

8 CROSS-EXAMINATION

9 BY MS. ZMROCZEK:

10 Q Good morning.

11 A Good morning.

12 Q I'm going to use a calender, if you don't mind.

13 A Okay..

14 Q Now, Doctor, is it Potter?

15 A Yes, ma'am.

16 Q Dr. Potter, you were asked to consult in this case
17 for the State?

18 A Yes, ma'am.

19 Q Is that something you do as part of your normal
20 duties?

21 A No. This is not a routine thing of my duties and
22 functions.

23 Q So they retained you to do this?

24 A Well, I've received nothing except their thanks, I
25 suppose.

1 Q Certainly. Did they ask you to review any
2 documentation in this case?

3 A No.

4 Q But you're a medical doctor?

5 A Yes, ma'am.

6 Q And you've been qualified as an expert in this court,
7 correct?

8 A Yes, ma'am.

9 Q Are you familiar that there was gonorrhea found in
10 this case in a minor child?

11 A That's what I was told.

12 Q Okay. And are you familiar that that was discovered
13 on March 4th?

14 A I have no knowledge of the dates.

15 Q Okay. I'll just hand you these records to review
16 because I don't want to --

17 MR. POGUE: Can I see?

18 MS. ZMROCZEK: Excuse me.

19 (Pause.)

20 BY MS. ZMROCZEK:

21 Q All right. I ask you to review this report and the
22 date real quick.

23 (Pause.)

24 A Okay. I've just been looking at the clinical parts
25 if that's all right.

1 Q Certainly. Does that help -- would it help answer
2 your questions?

3 A Yes.

4 Q I've leave it up there so I don't have to keep coming
5 back and forth. So the date that Minor was
6 diagnosed with gonorrhea, that would be March 4th, 2014?

7 A The day of arrival here was 3/24. I'm assuming
8 that's the date that the exam occurred.

9 Q Okay. Let me give you this one. I didn't realize on
10 the medical history...

11 A These pages are copied on 3/7, so that was probably
12 about the time it would take for dictations to reach
13 records.

14 Q Okay. Okay.

15 MS. ZMROCZEK: Beg the Court's indulgence.

16 (Pause.)

17 MR. POGUE: Your Honor, can we speak with you a
18 minute?

19 THE COURT: Sure.

20 (WHEREUPON, a bench conference was held.)

21 BY MS. ZMROCZEK:

22 Q All right. I'll take that back from you. You said
23 the incubation date was two to seven days?

24 A Usually, it's two to seven days, yes, ma'am.

25 Q So say -- let's just pick a date, March 4th. Let's

1 say that was a positive gonorrhea result. So it would be
2 incubating for two to seven days prior to that, correct?

3 A That would be the time that it would take for the
4 infection introduced until it would show signs and
5 symptoms.

6 Q Okay. So let's say that it was --

7 A : A person could have carried for a longer period of
8 time.

9 Q Okay. Let's say if it was introduced on a Saturday,
10 then it could be positive on a Monday or on a Tuesday?

11 A That's a possibility, yes.

12 Q Okay. And you're saying that there's a 20 percent
13 chance that a female could pass it to a male, so there's
14 an 80 -- does that mean that there's an 80 percent chance
15 that a male wouldn't get it from a female, right?

16 A That would be the assumption, yes.

17 Q All right. Okay. So then, typically -- and it's
18 almost always through medical -- excuse me, through sexual
19 contact?

20 A That is -- in a prepubertal female, yes, that would
21 be the general consensus. Anything at that age is
22 considered sexual.

23 Q So I think -- I believed you said there could be oral
24 transmission?

25 A Yes. It wouldn't be detected from the genital tract,

1 but the pharynx could be infected. The rectum could be
2 infected, as well.

3 Q Okay. So --

4 A Those are the usual sites of infection.

5 Q So, hypothetically, if someone had gonorrhea, a
6 female had vaginal gonorrhea and a male was putting their
7 mouth in that same area, would you expect to see oral --

8 A Infection in the male?

9 Q Yes.

10 A Not usually. The pharyngeal infection is usually
11 from penile insertion into the mouth.

12 Q Okay. And are you familiar with the results of
13 Mr. English in this case?

14 A I'm not.

15 Q You weren't provided that?

16 A No. I had no details of the case.

17 Q So if someone tested positive -- if a male tested
18 positive for gonorrhea on March 6th of 2014, could they --
19 they could have been carrying that for some period of
20 time?

21 A That's true, yes.

22 Q If someone tested negative for gonorrhea and it was
23 collected on March 5th of 2014?

24 A Okay.

25 Q And they had not received any treatment, would you

1 anticipate that they had gonorrhea during this period of
2 time?

3 A If they tested negative --

4 Q Right.

5 A -- on the 5th?

6 Q Correct.

7 A And had not had any treatment?

8 Q Correct.

9 A Well, they may not have been infected at all.
10 Sometimes over a long period of time, people will combat
11 and their bodies will defeat the infection, but it usually
12 leaves sequelae behind, scarring and things like that.

13 Q And you said that 99 percent of males test positive?

14 A About 90 percent of males have symptoms.

15 Q Have symptoms?

16 A Have symptoms when they have gonorrhea.

17 Q Okay. And then -- but if there's an actual blood
18 test for it and they -- even if they didn't have symptoms,
19 if they had the disease, it would still test positive?

20 A We don't test with blood for gonorrhea.

21 Q Okay, sorry.

22 A It would be -- for males, you would either -- they
23 would either do a urethral swab, look for it on a slide
24 with gram stain, put it into a culture. More often than
25 not, in today's technology, we use what's called a DNA

1 amplification test, which is collected from urine. And it
2 is the most usual -- most usual sample that's taken today.
3 We also when looking for rectal and pharyngeal, we'll do
4 swabs of the rectum and pharynx and also do the same NAT
5 test on those.

6 Q Okay. I'll ask the question again, if you do this
7 NAT test on March 5th and that person test negative, would
8 you expect that they had the disease during this time?

9 A I would say at that time, they didn't have it. It
10 would be impossible to say what they may or may not have
11 had before.

12 Q Okay. And the way to get rid of it is treatment,
13 right?

14 A Yes, ma'am.

15 MS. ZMROCZEK: Thank you, Doctor.

16 MR. POGUE: Your Honor, just briefly.

17 THE COURT: Sure.

18 REDIRECT EXAMINATION

19 BY MR. POGUE:

20 Q All right. Just to clarify, Dr. Potter, were you
21 paid anything to come here to testify today?

22 | A No.

23 Q Were you paid anything to speak with us?

24 | A No.

25 Q By us, I mean the State?

1 A Sir?

2 Q My us, I mean myself and Ms. Patterson? Were you
3 paid anything to speak to us?

4 A No, absolutely not.

5 Q Did you receive any sort of compensation for your
6 testimony today?

7 A Handshake.

8 Q You did, indeed, sir. You did, indeed. Those
9 records that she handed up to you, were those generated by
10 you?

11 A No.

12 Q Just to clarify one more time, if a female, a young
13 female becomes infected with gonorrhea and she begins
14 treatment, how long is she able to be able -- how long
15 would she potentially be able to communicate that disease
16 once she starts treatment?

17 A Less than 24 hours.

18 Q And after 24 hours -- excuse me, within that 24-hour
19 period -- I want to make sure I understand what you're
20 saying, if a male were to have intercourse with that
21 particular infected female in that 24-hour period that
22 they were infected and they were under treatment, it's
23 your testimony that there would only be a 20 percent
24 chance that they would contract gonorrhea at all?

25 A That's about the highest percentage that would be

1 considered possible.

2 Q In fact, even if they were not under treatment, is
3 sit your testimony -- I believe you said this and correct
4 me if I'm wrong, that even if they were not under
5 treatment, if they were just infected, it's still only a
6 20 percent chance that a male is going to get gonorrhea
7 from having sexual intercourse with a female?

8 A Yes. The accepted standard for that, I guess you
9 call it a standard, but from studies in the past, they
10 have shown that there's a 20 percent chance of a male
11 getting gonorrhea from an infected female on a single
12 sexual exposure.

13 MR. POGUE: Thank you, Your Honor -- I mean, thank
14 you, Dr. Potter. No more questions, Dr. Potter.

15 MS. ZMROCZEK: Just briefly.

16 RECROSS-EXAMINATION

17 BY MS. ZMROCZEK:

18 Q The infection -- he was asking you about the
19 infection and sexual intercourse, the infection
20 symptomatic of a female include discharge?

21 A It can.

22 Q Odor?

23 A It can, yes.

24 Q And redness?

25 A Redness, inflammation.

1 Q And pain?

2 A Yes.

3 MS. ZMROCZEK: Thank you.

4 THE COURT: Have a nice day, Doctor.

5 Call your next witness.

6 MS. PATTERSON: Let's me make sure she's here.

7 (Pause.)

8 MS. PATTERSON: State calls Heather Smith.

9 THE CLERK: Right here, Ms. Smith.

10 HEATHER SMITH, after being duly
11 sworn, testified as follows:

12 THE CLERK: Have a seat. Once you're seated, state
13 your name, spelling your last on the record, please.

14 THE WITNESS: My name is Heather Marie Smith.

15 DIRECT EXAMINATION

16 BY MS. PATTERSON:

17 Q Ms. Smith, where are you employed?

18 A I work at the Children's Advocacy Center in Richland
19 County. It's called the Assessment and Resource Center.

20 Q How long have you been employed at the Assessment and
21 Resource Center?

22 A I've been there 14 years.

23 Q All right. And what type of services do you provide
24 at the Assessment and Resource Center?

25 A I conduct forensic interviews and I'm the treatment

1 services coordinator. I also provide training for the
2 State.

3 Q And what are some of your duties as a treatment
4 services coordinator?

5 A I consult with treating therapists all over the state
6 regarding trauma informed treatment for children and
7 families.

8 Q And you said you're a trained forensic interviewer,
9 as well?

10 A Yes, I am.

11 Q What kind of training do you receive to become a
12 forensic interviewer?

13 A So there are different protocols. There are a few
14 protocols all over the country. In South Carolina, it's
15 the Child First protocol. And you receive an intensive
16 40-hour course in the techniques of forensic interviewing
17 using the protocol. You learn about child development.
18 You learn about the dynamics of children who have been
19 abused. You also learn how to structure your interviews
20 so that the questions are appropriate and not leading and
21 suggestive.

22 And then also I have -- I've had advanced training in
23 many different types of interviewing in children with
24 disabilities or children that may have deficits that need
25 specific specialized questions for forensic interviewing.

1 And then I currently train for the state DSS workers, law
2 enforcement and forensic interviewers in the protocol.

3 Q And about how many forensics interviews have you
4 conducted?

5 A Over 3,000.

6 Q All right. And about how many child victims of
7 sexual -- do you counsel?

8 A I do.

9 Q All right. And about how many children have you
10 counseled?

11 A In my career, probably over 1,000.

12 Q And have you been previously qualified to testify in
13 court?

14 A Yes.

15 Q And how many times have you testified in court?

16 A So I've testified upwards of 60 times. I've
17 testified in criminal court, family court in the State of
18 South Carolina and also in U.S. courts marshals.

19 Q And is that military court?

20 A Yes, it is.

21 Q And what areas have you been qualified in?

22 A I've been qualified in trauma informed care. I've
23 been qualified in mental health assessment of children.
24 I've been qualified in forensic interview techniques.
25 I've been qualified in child abuse dynamics and

1 disclosure.

2 MS. PATTERSON: Your Honor, at this time, the State
3 moves Ms. Smith be qualified as an expert in the area of
4 child abuse dynamics and disclosure.

5 THE COURT: Voir dire?

6 MS. ZMROCZEK: Yes, Your Honor.

7 THE COURT: Okay.

8 VOIR DIRE

9 BY MS. ZMROCZEK:

10 Q Ms. Smith, you testified for the State how many
11 times?

12 A It's approximately 50 times in the last 15 years.

13 Q Okay. And do you have any Master's or any Doctorate
14 degrees?

15 A I do. I have a Master's Degree in counseling from
16 the University of South Carolina School of Medicine. I'm
17 a licensed professional counselor in the State of South
18 Carolina.

19 Q And counseling, it's primarily clinical work,
20 correct?

21 A Correct. It's working with, you know, diagnosing and
22 treating people with medical treatment disorders.

23 Q Do you do any research in the area?

24 A The only research that I've worked on is a research
25 study through the Assessment and Resource Center where we

1 looked at truth, lie in children.

2 Q So the only one study you've kind of researched is
3 the one where you work, correct?

4 A Correct.

5 Q So you haven't done any research nationally?

6 A No. My focus has been on direct service with the
7 children and families, providing services to them.

8 Q And are there any peer-reviewed -- are there any
9 articles that you've written on this subject?

10 A No.

11 Q Have you done any scientific testing on this subject?

12 A No, I haven't.

13 Q Okay. Is there any scientific testing to be done on
14 social sciences?

15 A There is.

16 Q And you've not participated in any of those?

17 A No.

18 MS. ZMROCZEK: Your Honor, we would renew our
19 objection previous to -- what we argued previously.

20 THE COURT: All right. Overruled.

21 Ms. Smith will be an expert in the area of child
22 abuse dynamics and disclosure. She will be allowed to
23 give opinion testimony in that area. That does not mean
24 you have to accept her opinion, but it is evidence for you
25 the use in any way you see fit and give it the weight and

1 credibility that you believe is appropriate as you are
2 required to do with each and every witness that appears
3 before you.

4 Can someone move that thing in the middle of the
5 floor?

6 Thank you. Thank you, Mr. Pogue.

7 MS. PATTERSON: Thank you. I'm going to use it with
8 Ms. Smith.

9 THE COURT: That's fine.

10 THE CLERK: Don't go so far.

11 THE COURT: I didn't know you were going to use it
12 with her.

13 MS. PATTERSON: You can leave it right there. I'm
14 sorry.

15 CONTINUED DIRECT EXAMINATION

16 BY MS. PATTERSON:

17 Q And Ms. Smith, what is meant by delayed disclosure?

18 A So in the field of forensic interviewing and children
19 who disclose some type of abuse, particularly sexual
20 abuse, they -- delayed disclosure is a term that we use to
21 describe why children wait to tell. Because it's what we
22 would call counter-intuitive to what an adult would do.
23 If someone is hurting you or if an adult is in danger,
24 they, typically, would call someone to help them get out
25 of danger. Children don't do that. Particularly, with

1 sexual abuse because it's something done in secret, it's
2 not something that there's eyewitnesses for, children
3 often do not tell right away.

4 Q And what are some of the reasons that children may
5 delay disclosure?

6 A So the way that we have seen the pattern, this is
7 also supported by the research, but also my clinical work
8 and my forensic work with children, is that there are
9 three categories of kind of why children wait to tell.
10 One is reasons to do with themselves, things that they
11 might -- barriers that they might have personally. Then
12 there are barriers for the family that they're concerned
13 about, particularly, their mothers. And then third is
14 concerns or worries that they might have about the
15 suspect, the perpetrator.

16 Q Okay. And this is where I use the board. You said
17 one reason is personal reasons?

18 A Yes.

19 Q And two is?

20 A Family.

21 Q Family. And three is?

22 A Suspect.

23 Q And what are some of the reasons personally why they
24 may delay disclosure?

25 A So for children that have been abused or that are

1 being abused, they often are told not to tell. So one of
2 the things for the child is they're just following what a
3 grownup or an adult has told them to do, which they're
4 told throughout their childhood they're supposed to obey
5 adults. So for the child, particularly, if it's someone
6 that's in the home that takes care of them that they're
7 supposed to listen to, they're just following the rules
8 not to tell.

9 So for a child, they may be worried that if they do
10 tell, they'll get in trouble. They may worry that -- they
11 may have been told that they'll get in trouble, even go to
12 jail or something like that. So they're worried about
13 their own safety.

14 Q And what are some of the issues they may have -- or
15 some of the reasons they may not want to tell due to their
16 family?

17 A So what we see is that children often tell us that
18 the reason they waited to tell was because they were
19 worried the family would get split up. They were worried
20 that people would have to go to foster care, their
21 siblings would get split up. Maybe the breadwinner of the
22 family would not be there anymore, so then bills wouldn't
23 get paid, they wouldn't have a place to live.

24 They also may worry that their mother or -- research
25 has shown that the maternal link to worries is very high

1 with children, so they're worried that their mother might
2 get in trouble or their mother might have some type of a
3 breakdown or have an emotional reaction.

4 Q And what are some of the suspect or perpetrator
5 reasons that a child may delay disclosure?

6 A Well, oftentimes, in sexual abuse, children report
7 this is a person they love, someone that's in their
8 family, that is a part of the family. And so they're
9 worried about that person getting in trouble. They're
10 worried about telling on that person and then things
11 happening negatively to that person.

12 So, oftentimes, children will tell us that, you know,
13 they didn't want that person to get in trouble with anyone
14 and, you know, they're really protecting the person.

15 Q And based on your experience, how common is delayed
16 reporting among victims of sexual abuse?

17 A So different studies have shown different
18 percentages. Some children will flat out deny at first
19 and then some children will tell just a little bit, but
20 it's a very common occurrence for children to wait.
21 Sometimes the wait could be a month. Sometimes it could
22 be years. It varies.

23 Q And would it surprise you to hear that a child has
24 kept a secret from the nonoffending parent?

25 A No, that's very common.

1 Q And why may they keep that secret from the
2 nonoffending parent?

3 A Well, I think it falls under the family dynamic of
4 worried about that nonoffending caregiver, which is
5 typically a mother, worried about their response, whether
6 they're going to have a breakdown or get emotional or will
7 it split the family up.

8 Q And do children typically tell everything all at once
9 when they disclose abuse?

10 A So we see that children, oftentimes, when they do
11 decide to tell, whether it's because they accidentally
12 tell or they make a conscious decision to tell, for
13 children, oftentimes, it's an accidental disclosure.
14 Maybe they do something and then someone notices something
15 abnormal and says why are you doing that. Then they'll
16 tell.

17 For older children, they may make a conscious
18 decision to tell, but when they do, they'll tell just a
19 little bit to see what the response is going to be. We
20 call that a tentative disclosure, testing the waters just
21 to see, you know, are people going to get in trouble. Is
22 my family going to get split up. So they're really kind
23 of looking to see what's going to happen. Then they may
24 tell more later if they're in counseling or depending on
25 what the response is, they may tell more at a forensic

1 interview or then later in counseling.

2 Q And why may a child tell more once they're in
3 counseling?

4 A The counseling relationship is a safe environment.
5 It's place where they build a lot of trust with a
6 counselor. That's the first step in counseling is having
7 a rapport and trust. So over time, they may feel more
8 comfortable with the counselor and be able to talk.

9 Q And have you heard of the fight and flight response
10 when is someone is being harmed?

11 A Yes.

12 Q And what does that mean?

13 A So, oftentimes, when dangerous things happen to
14 people, we talk about the fight or flight response.
15 Fighting is, you know, taking matters into your own hands
16 and protecting yourself versus flight, which is just
17 fleeing and getting out of there.

18 Q All right. And, typically, how would a child in an
19 abused situation react?

20 A So with children, again, they can't fight because
21 they're not big and they really, oftentimes, can't flee if
22 it happens within their home, which is often where sexual
23 abuse happens. So what we see with children is what we
24 call freeze. They often just let it occur, particularly,
25 if it's someone that's in a position of power over them

1 and not tell and keep a secret.

2 Q All right. And what is meant by chronic and acute
3 abuse?

4 A So sometimes children are abused one time. Sometimes
5 it occurs with a stranger. Sometimes it can occur with a
6 friend or a sibling. Sometimes it might happen with a
7 parent or someone in position of power over them. And
8 then it may happen for a long period of time.

9 So chronic abuse is when it happens over a long
10 period of time. Acute is more of a single event with
11 someone that they don't know very well.

12 Q And if it's a chronic abuse situation, can a child
13 typically remember everything that's happened to them?

14 A So what we see with chronic abuse is when we're
15 trying to either interview them and gather details or when
16 we're trying to treat them and work with them is that
17 they, oftentimes, will talk about the abuse in a general
18 sense. In other words, it always happened this way. Just
19 like we would do as adults if we do something every day.
20 If I were to ask someone as an adult, what was your
21 morning routine back, you know, two months ago, you
22 probably aren't going to remember exactly step by step
23 what you did.

24 For children, it's the same way. So with abuse, if
25 it happens many years or many months, to ask them to

1 identify details about what happened on one occasion will
2 be very difficult for them. So they often will talk about
3 it in a generalized sense of it always happened this way
4 or that way. Oftentimes, it's easier for them to maybe
5 recall the last time something happened because that would
6 be closer in time, in chronological time in their memory.
7 So really asking them more about the last time it happened
8 or something different, a different time is a way to get
9 more detail.

10 Q All right. And what is usually the way a child
11 remembers details in a chronic abuse situation?

12 A So they're overlapped. They're often what we call
13 script versus episodic. So a scripted memory retrieval is
14 it always this happened way. This is always how it --
15 something happened.

16 With an episodic, you're really trying to focus on an
17 event, a one-time incident, which might be difficult for
18 children who have been chronically abused. So those --
19 getting those specific unique details to one time might be
20 very difficult.

21 Q And how might a child who is abused by two suspects
22 differentiate the details between the two?

23 A So, typically, when being asked about multiple -- we
24 call it multiple suspects for children, you want to be
25 very clear when you're interviewing them to keep those two

1 separate because, oftentimes, with sexual abuse, it might
2 be the same similar acts that are occurring. So really,
3 for people that are trying to gather information or do
4 some fact finding, they need to be asking -- trying to
5 keep those people separate. We do see children who have
6 been abused by more than one person and so while it may be
7 similar in acts, you also want to be able to try and
8 gather specific details, if possible, but it's hard for
9 children.

10 MS. PATTERSON: Beg the Court's indulgence.

11 Thank you, Ms. Smith. Please answer any questions
12 Ms. Zmroczek may have.

13 CROSS-EXAMINATION

14 BY MS. ZMROCZEK:

15 Q Ms. Smith, I wanted to clarify something before we
16 continue. You keep talking about older children and
17 younger children?

18 A Yes.

19 Q Can you differentiate, what do you mean older and
20 what do you mean younger?

21 A Okay. So younger children are typically children
22 between the ages of what we call preschool, early school,
23 so three to eight, seven, eight, nine would be the younger
24 children. And by the time children understand -- by nine
25 and ten is when they really understand the moral -- they

1 have moral development at that point, so they really
2 understand the impact of sexual abuse, that it's wrong,
3 that it's not okay, that other children aren't
4 experiencing that. I had a child tell me one time, you
5 know, and daddies aren't supposed to do that. So by the
6 time they reached ten, they oftentimes can make an active
7 decision to tell.

8 Q Talk to the jury and tell them a little bit about
9 what is susceptibility?

10 A Susceptibility, are you asking in the sense of
11 suggestibility?

12 Q Correct.

13 A So susceptibility or suggestibility is something
14 where children are influenced by external environmental
15 things that could lead them to -- when telling about it or
16 talking about it could lead them to talk about something
17 that either didn't happen or could lead them to talk about
18 things in a confusing way.

19 Q Okay. So what are some reasons -- or what are some
20 influences that make children -- and you would agree with
21 me -- before I go to that other question, you would agree
22 with me that younger children are more susceptible or
23 suggest -- or open to suggestibility as opposed to older
24 children, correct?

25 A Yes, that's true.

1 Q So that school, preschool, up to about eight or nine
2 are more susceptible?

3 A Yes.

4 Q And so what are some of the reasons -- or how are
5 some of the reasons that children are susceptible or
6 suggested to do things?

7 A Sure. Sure. So when either -- as I had talked about
8 earlier, sometimes younger children may disclose because
9 of an accidental occurrence where then someone is asking
10 the child questions. So for younger children, if the
11 questions are being asked in a highly emotional way or in
12 an inappropriate way, that can cause confusing responses,
13 uncertain responses.

14 Also, we see sometimes when there are divorce or
15 custody issues that sometimes there are influences that
16 children are either outright told to tell things or, in
17 some cases, they are just influenced to talk about a
18 parent in a divorce or custody situation. Those are
19 really the two big ones.

20 Q All right. That you see?

21 A Yes.

22 Q And you say outright told, so that means like an
23 adult or older person or family member could say so and so
24 did it? I mean, that's being someone outright told to say
25 it?

1 A That's correct. We call that coaching.

2 Q Okay. And you talked about there are reasons that
3 people delay -- or children, excuse me, delay disclosure?

4 A That's correct.

5 Q Would these same reasons also influence the reasons
6 that younger children change their story or make up their
7 story?

8 A I would say that in terms of changing or making up --
9 changing a disclosure, I'm not sure if that means adding
10 to it or outright, you know, saying -- I said --
11 recanting, we call it. I said one thing, but I lied or
12 did not mean that. Sure, we see sometimes when children
13 recant, they may say one thing and say no, that really
14 didn't happen that way. It could be for a family reason
15 or a personal reason.

16 Q Okay. So --

17 A Or to protect the suspect.

18 Q Or to protect the suspect. Okay. So let's start
19 with the family reason. So you do a lot of trauma and
20 treatment therapy, correct?

21 A I do.

22 Q All right. And do you -- and you work with these
23 multidisciplinary teams with the Department of Social
24 Services?

25 A In my county, right, Richland County.

1 Q Right, in your county. And then the families. You
2 want to make sure that the child whom you're counseling is
3 in a safe environment, right?

4 A Yes.

5 Q And in a therapeutic environment, right?

6 A If something has been disclosed, correct.

7 Q Correct. And I'm sorry, all of my questions are
8 encapsulated in this area of disclosure?

9 A Okay.

10 Q So if someone is having -- if a child, a young child
11 is having contact with someone who has given them
12 gonorrhea, is that something that would be therapeutic?

13 A Say that one more time.

14 Q If someone was abused by their father?

15 A Yes.

16 Q And they're now in treatment, but are allowed to
17 have, at least, telephone contact with them, is that
18 something you would consider therapeutic?

19 A Really, it would depend on what was ordered, I think,
20 in a court setting. Sometimes that happens where children
21 are ordered to have contact. And I would think that that
22 would be something decided on in a therapeutic
23 relationship, so the therapist would need to recommend
24 that.

25 Q All right. So if that wasn't recommended, then -- if

1 it were recommended, it would be in the records, correct?

2 A I would think so.

3 Q And, actually, there are safety plans that are put in
4 place?

5 A Yes, safety plans are put in place by the Department
6 of Social Services.

7 Q And so if someone -- if a young child is having
8 contact, let's say, with a family member who is -- has
9 ulterior motives or has a motive or a bias to coach them,
10 that could make the child more susceptible or that could
11 make the child say something, correct?

12 A Correct. Depending on who's asking and in what
13 context it occurred, sure..

14 Q Then you talked about that you train -- I want to go
15 back. In the beginning, you talked about that you train
16 law enforcement, solicitors, you train all kinds of people
17 involved in the area of prosecuting these cases, correct?

18 A I train in a multidisciplinary team response to child
19 abuse. So some of it's prosecuting, some of it's working
20 with children who have been abused, some of it's how to
21 talk with them and interview them. It's just a variety of
22 child abuse and maltreatment.

23 Q Okay. And is some of it investigating, too?

24 A Yes, the forensic interviewing is part of an
25 investigation.

1 Q Okay. And what about the law enforcement?

2 A So forensic interviewing, which is my specialty, is
3 for either law enforcement or the Department of Social
4 Services for them to investigate. And then they take what
5 is found at forensic interviewing and then do what they do
6 and investigate.

7 Q Investigate, right?

8 A Correct.

9 Q Do what they do, so go out and either confirm or deny
10 certain things?

11 A They make their decisions, correct.

12 Q Certainly.

13 A Yes.

14 MS. ZMROCZEK: Beg the Court's indulgence.

15 THE COURT: Yes, ma'am.

16 (Pause.)

17 BY MS. ZMROCZEK:

18 Q You said that oftentimes, in these delayed
19 disclosures, sometimes that children will delay
20 disclosure, for example, tell in a counseling session,
21 right?

22 A Tell more, correct.

23 Q All right. And how long does that usually take?

24 A It can vary. I have seen children within four
25 sessions want to talk and tell more. I've seen it take

1 months, nine months, a year.

2 Q Okay. And how long is the general treatment time?

3 A So it again varies on the child, you know, where the
4 child is. Typically, anywhere between nine months to a
5 year and a half, two years.

6 Q Okay. And then in your forensic interviewing and in
7 your research on delayed disclosure, you said you go
8 through the truth and lie protocol, I guess is what it is?

9 A Well, as part of forensic interviewing, there is a
10 discussion with children about what -- that this type of
11 interview is a serious interview, it's important to tell
12 the truth. You have a discussion about that with
13 children.

14 Q Okay. And once -- again, once they become 10 or 11,
15 the children become less susceptible to suggestibility and
16 coaching, correct?

17 A Well, for older children, they are definitively able
18 to -- their brains are more developed, so they're able to
19 kind of understand things more and so it's harder to
20 suggest or influence an older child.

21 Q Okay. So a younger child, if something is suggested
22 or coached or said to them, that's something they can
23 actually come to believe; is that correct?

24 A It can if it's not being -- so as part of the
25 forensic interviewing protocols that we have, you know,

1 the questions about sensory detail, questions about
2 experiential, what happened to your body helps with some
3 kind of -- reduce some kind of that influence, but
4 children who are told over a long period of time that
5 something has occurred, especially young children, could
6 believe that that is reality.

7 MS. ZMROCZEK: Thank you.

8 MS. PATTERSON: No followup, Your Honor.

9 THE COURT: Have a nice day.

10 THE WITNESS: Thank you.

11 MS. PATTERSON: Your Honor, may we approach one
12 second?

13 THE COURT: Sure.

14 (WHEREUPON, a bench conference was held.)

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to go ahead and take our morning break. It's 10:40.
17 We'll break for about 15 minutes. We'll see you back in
18 here. You are not allowed to discuss the case with
19 anybody in any way, shape, or form. Keep an open mind.
20 We'll see you back in about 15 minutes. Okay. Thank you.

21 (WHEREUPON, the jury left the courtroom at 10:42
22 a.m.)

23 THE COURT: All right. Anything else?

24 MS. PATTERSON: No, sir. Thank you.

25 THE COURT: All right. Fifteen minutes.

1 (WHEREUPON, a short break was taken.)

2 THE COURT: All right. You good to go?

3 MS. PATTERSON: Yes, Your Honor.

4 THE COURT: You ready?

5 MS. ZMROCZEK: Yes, sir.

6 THE COURT: All right. Bring them in.

7 (WHEREUPON, the jury entered the courtroom at
8 11:01 a.m.)

9 THE COURT: All right. Welcome back, ladies and
10 gentlemen. We will continue now.

11 And the State may call its next witness.

12 MS. PATTERSON: The State calls Kate Chappell.

13 THE COURT: All right. Please come forward
14 Ms. Chapel.

15 THE CLERK: Right here, Ms. Chappell.

16 KATE CHAPPELL, after being duly
17 sworn, testified as follows:

18 THE CLERK: Have a seat right up there, ma'am. Once
19 you're seated, state your full name, spelling your last,
20 please.

21 THE WITNESS: Kate, K-A-T-E; Chappell,
22 C-H-A-P-P-E-L-L.

23 DIRECT EXAMINATION

24 BY MS. PATTERSON:

25 Q All right. Ms. Chappell, where are you currently

1 employed?

2 A I'm a clinical association professor at the
3 University of South Carolina College of Nursing.

4 Q And how long have you been employed at USC's College
5 of Nursing?

6 A Ten years.

7 Q And what are some of your duties as a clinical
8 professor in nursing at USC?

9 A I teach nursing students, nurse practitioner
10 students, provide service within the college and
11 university community, and also, as part of nursing
12 practice, I provide forensic medical exams for children
13 with allegations of abuse or neglect.

14 Q And what is your educational background and training?

15 A I have a Bachelor's Degree in nursing and then a
16 Master's Degree in nursing focused on pediatric primary
17 care.

18 Q And have you ever performed any research in the area
19 of child sexual abuse?

20 A I have. Currently, I'm a candidate in the PhD
21 nursing program. And so I'm working with parents and
22 other caregivers to understand what they do to help
23 protect children in their lives from abuse. And then I've
24 also done some work looking at our statewide data from
25 exams across the state at different providers, locations

1 to see how consistent we are and how our quality results
2 stand up.

3 Q Have you receive any specialized training concerning
4 child sexual abuse examinations?

5 A I have.

6 Q And what type of specialized training have you
7 received?

8 A So I'm part of the state network of forensic medical
9 exam providers for child abuse and neglect. And in that,
10 in order to be a part of that network, you first go to a
11 national training, which is several days with, really, the
12 people who are kind of the pioneers of this work. And
13 then you're required to spend several days shadowing a
14 child abuse pediatrician in this state. I did my time for
15 that at MUSC. And also, I chose to do some extra time at
16 Palmetto Health Richland's group, as well. Then we have
17 ongoing requirements every year in addition to the
18 continuing education that I have to do as a nurse and as a
19 nurse practitioner. We also have to do additional hours
20 to make sure that we're staying current on that evidence.

21 Q How many child sexual abuse examinations have you
22 performed?

23 A Just over 500.

24 Q And have you been previously qualified as an expert
25 in the field of child sexual abuse examinations?

1 A I have.

2 Q How many times have you testified in court before?

3 A I believe actual testimony in court would be five
4 times, then subpoenaed more than that, I guess I should
5 say.

6 MS. PATTERSON: Your Honor, at this time, we move
7 Ms. Chappell to offer her as an expert in child sexual
8 abuse examinations?

9 THE COURT: Voir dire?

10 MS. ZMROCZEK: No objection.

11 THE COURT: All right. Ladies and gentlemen, this
12 witness will be an expert in the area of child sexual
13 abuse examinations. She will be allowed to give opinion
14 testimony in that area. That does not mean you have to
15 accept her opinion, but it is evidence for you to use in
16 any way that you see fit and give it the weight and
17 credibility that you believe is appropriate as you are
18 required to do with each and every witness that appears
19 before you.

20 BY MS. PATTERSON:

21 Q Ms. Chapel, how is a child referred to you for a
22 sexual abuse examination?

23 A So my exams are done at Child Advocacy Centers and
24 the referral is going to come from either law enforcement
25 or DSS or sometimes at the same time into that center and

1 they'll schedule an appointment to see the medical
2 provider.

3 Q How many Child Advocacy Centers do you go to to
4 conduct these examinations?

5 A Currently, I provide exams at the Child Advocacy
6 Center of Aiken, where I've been since I started. And
7 then I did right about a year and a half also provide
8 exams at the Dickerson Children's Center, which is in
9 Lexington County, to help make sure they were meeting
10 their needs for the children in this county.

11 Q And what is the first thing you do before performing
12 the examination?

13 A So I do get some information before I see the child.
14 Just like with any other medical exam or checkup, you want
15 to get history and you want to know about the child you're
16 going to see. So I do get a summary of -- if they've
17 already had a forensic interview, I get that summary.
18 Sometimes there's some sensitive pieces in there, perhaps
19 -- an example that rings out to me is a child who the
20 nickname for the person she was concerned about was bear.
21 And I happen to have a really big bear in my exam room, so
22 that was something that was good to be aware of so I could
23 not traumatize that child. And I also get history -- if
24 there's a parent or caregiver available, I get history
25 from them about the child's overall health and well-being.

1 Q Is getting that information important to you before
2 you start your examination?

3 A It's very important. A lot of times, caregivers have
4 noticed behavioral symptoms, like maybe a child has had a
5 change in behavior since something occurred, or maybe they
6 did have questions or concerns. Because I also talk to
7 them about what I'm going to do so they're not in the dark.

8 Q Okay. And describe the examination process.

9 A So like I tell the parents of the children who I do
10 exams on, there's not a whole lot different about this
11 exam than a regular head-to-toe checkup at a
12 pediatrician's office or another primary care because I'm
13 going to -- physically, from head to toe, I'm going to do
14 an examination. When I get to the genital area, I'm just
15 going to be looking on the outside. I don't have to use
16 any special invasive equipment because I'm really looking
17 just to see if there's any signs of infection or any signs
18 of past injury or acute injury, for that matter. And
19 oftentimes, depending on the age of the child, as far as
20 their concern, it's a regular checkup. I just also have
21 additional forensic training, so I'm looking at it through
22 a different lens, as well.

23 Q Ms. Chappell, have you ever had a patient named
24 Minor ?

25 A Yes.

1 Q And when did you see Minor ?

2 A June 26th, 2014.

3 Q All right. And who referred Minor to you for an
4 examination?

5 A She was referred by law enforcement.

6 Q And where was this examination performed?

7 A At the Dickerson Children's Center in Lexington
8 County.

9 Q And what date was she referred to you?

10 A She was referred on June 3rd, 2014.

11 Q And why did it take two weeks or so before she got in
12 for an examination?

13 A So when law enforcement or DSS is deciding who needs
14 to examine a child, a lot of it has to do with timeline.
15 So because they had a concern for a last contact that was
16 more than three days ago, there was no need for her to go
17 to the ER for an acute evidence collection and acute exam.
18 Because, particularly with a sexual abuse case, you're
19 dealing with soft tissue that's going to heal very
20 quickly, essentially, the findings are going to be the
21 same from about a week to two weeks later to even years
22 later. I'm going to essentially see the same findings.
23 So that plays into our decision as to where she gets
24 referred and then it also is going to be about appointment
25 availability.

1 Q So if you had -- so if there was information that the
2 abuse would have occurred within three days, you would
3 have sent her -- she would have been sent somewhere else?

4 A Even if she had not said the abuse had occurred
5 within three days, but she had had a last contact with an
6 alleged perpetrator, she would have gone to the ER.

7 Q Did you obtain some medical history for **Minor** ?

8 A I did.

9 Q And who did you get this information from?

10 A From her mother.

11 Q And did her mom have any behavior concerns regarding
12 **Minor** ?

13 MS. ZMROCZEK: Objection, Your Honor. That would be
14 hearsay.

15 MS. PATTERSON: Your Honor, this is for medical
16 diagnosis and treatment.

17 THE COURT: It's not offered for the truth of the
18 matter asserted. Overruled.

19 BY MS. PATTERSON:

20 Q Did her mother have any behavioral concerns
21 concerning **Minor** ?

22 A She did. She discussed concerns about the child
23 being kind of easily angered, being more clingy towards
24 her and having nightmares. She also talked about the
25 child having some sexualized behaviors.

1 Q And during her exam, did **Minor** give you any
2 additional information that was useful in your diagnosis
3 and treatment of her?

4 A So for this age, I don't talk to them about those
5 behaviors per se unless I see them in front of me, then
6 we'll talk a little bit about what's going on. But when I
7 was talking to **Minor** about safety, she did tell me --
8 so as I'm talking about safety, a lot of times, I'll talk
9 about being safe with bicycles or in the car, but then one
10 of the other areas I'm always going to talk about, because
11 a child has been referred here for abuse or neglect, so
12 someone has potentially hurt them, is how they can protect
13 themselves, what they can do if they feel unsafe or
14 someone is scaring them.

15 So I do three parts of that. The first part is what
16 parts of their body are not okay for other people to touch
17 or for someone to ask them to touch. And then I do what
18 they can say or do if someone is scaring them or hurting
19 them. So I don't make that specific to sexual abuse
20 because I want them to follow that instinct regardless. I
21 don't know what situations they're going to be in. We
22 usually talk about no or stop and we usually practice all
23 together because I want them to know how loud they can be
24 if they to be loud. And then the other piece is who they
25 can tell if they feel scared, if they feel worried about

1 something that's going on.

2 After we have done all three parts of the safety, she
3 said that two people had done that to her.

4 Q And why is that important for you to know how many
5 alleged perpetrators there are?

6 A So it's really important when I'm making a conclusion
7 if I were to have -- particularly, if I were to have a
8 physical finding, but regardless, even if it was behaviors
9 only, it's really important that I'm speaking accurately
10 to where that may be stemming from. Because, certainly,
11 with a physical finding, I think teenagers are probably a
12 good example of this.

13 If I have a teenager who has a consensual
14 relationship in the past and they also have an assault, I
15 need to know that so that I'm not calling a physical
16 finding as definitely occurring from that one situation
17 when it could have been one or the other because those are
18 all healed injuries by the time they see me.

19 Q And what kind of examination did you perform on
20 Minor ?

21 A I did a head-to-toe forensic medical exam for child
22 abuse and neglect.

23 Q Was there any lab work done on her?

24 A Yes. I did test for sexually transmitted infections,
25 so I tested for gonorrhea and Chlamydia and also HIV and

1 Syphilis.

2 Q And what were those results?

3 A Those were all negative.

4 Q And what were your findings on her examination?

5 A Her physical exam?

6 Q Yes.

7 A Her physical exam was within normal limits, which is
8 what I would have expected. I've made reference to
9 healing injuries, and in children who disclose that
10 there's been sexual abuse, you expect about 95 percent of
11 them to have a completely normal physical exam because
12 you're dealing with soft tissue and it heals quickly. So
13 much as if all of us were to be punched in the face,
14 somebody might get a nose broken and we might be able to
15 see that down the road, but a lot of us, within hours or a
16 few days, you're not going to see signs of that.

17 Q So if a child had been penetrated for greater than a
18 month, would you expect to find any physical findings on
19 her examination?

20 A It would be a less than five percent chance that I
21 would see some sort of residual scar or mark, yes.

22 Q So no scarring or tearing?

23 A No.

24 Q Would fondling or oral sex result in any type of
25 trauma?

1 A It would depend. With oral sex, most likely not
2 unless there was biting or something like that in
3 addition.

4 With fondling, it would really depend upon the
5 forcefulness and what objects were used in that, but not
6 generally expected.

7 Q In fact, a normal exam can still be consistent with
8 the **minor** 's medical history, correct?

9 A Correct. Again, less than five percent are going to
10 come up with a physical finding. And that would even
11 include cases where, perhaps, there's photographic
12 evidence or video evidence of an assault happening. You
13 may still have and you would expect to have a normal
14 physical exam beyond the first few days.

15 MS. PATTERSON: Beg the Court's indulgence.

16 (Pause.)

17 MS. PATTERSON: Thank you, Ms. Chappell. Please
18 answer any questions Ms. Zmroczek may have.

19 CROSS-EXAMINATION

20 BY MS. ZMROCZEK:

21 Q So you said that a normal exam, you would expect to
22 find?

23 A Yes.

24 Q So you're basing any -- then the reason that someone
25 is referred to you is not for physical findings, but

1 because of what someone says, right?

2 A It depends. I can be -- I can have a child referred
3 to me for a variety of reasons. If we're going to narrow
4 it to sexual abuse, sometimes it's even that a another
5 child in the home was positive for a sexually transmitted
6 infection. Sometimes it's that there's a concern who's
7 not verbal, so they're not even able yet to make a
8 disclosure.

9 Q And so those are referrals -- those are the other
10 kinds of referrals you get, right?

11 A Those are some of the other kinds.

12 Q So as an expert in this case, you said that past
13 history was important, correct?

14 A Past history is always going to be important because
15 I may hear about like, for instance, UTI symptoms and
16 those kinds of things, even in a child who hasn't said
17 something.

18 Q So past medical history of a UTI is important, right?

19 A Yes.

20 Q In fact, are you familiar that **Minor** had
21 reported not only to her pediatrician, but sometimes to
22 the hospital with past history of UTIs?

23 A Let me double check if I have that from -- it doesn't
24 look like I had any past information on other charts from
25 other medical locations, so I wasn't aware of that.

1 Q So nobody provided that documentation to you?

2 A Not that I have documented here.

3 Q But that would have been important to know?

4 A It would have been helpful medical history, yes.

5 Q All right. And then you talked about the acute kind
6 of -- when I say SANE, that's S-A-N-E, a SANE nurse?

7 A I'm not a SANE nurse.

8 Q But a SANE nurse is something that does the same kind
9 of examination or different?

10 A It's a different exam. A sexual assault nurse
11 examiner is going to see a potential victim in 72 or,
12 sometimes, 48 hours or less. Their primary goal is
13 really that acute evidence collection if there was to be
14 DNA present, if there was to be a very acute injury that
15 may be bleeding, those kinds of issues, whereas, I'm going
16 to see them in more the follow-up phase. So if a child
17 has a SANE exam, we're going to schedule an appointment to
18 see me so that we can see how things are progressing. And
19 then I'll see any child who has a disclosure that's older.

20 Q Okay. So there are some times that nurses perform
21 the same type of exam that you do and find physical
22 findings, correct?

23 A The other difference I should have mentioned is that
24 my exam can only be provided by a provider, so that would
25 be a physician, a physician's assistant or a nurse

1 practitioner, whereas, a SANE exam is performed by an R.N.

2 Q And you found no instances of any physical -- any
3 physical findings, correct?

4 A Her physical exam was within normal limits, yes.

5 Q Okay. Okay. But you said that that's what you would
6 expect to find in somebody who has been abused?

7 A More than 95 percent of children who disclose are
8 going to have a normal physical exam in followup.

9 Q And now you go through a little kind of checklist
10 before you get started with the physical exam, right?

11 A There's definitely information I seek, yeah.

12 Q Okay. And one of those is the reason for the
13 referral, correct?

14 A Correct.

15 Q And you have a box that talks about anal or penile
16 penetration?

17 A Uh-huh.

18 Q Did you check that box in this case?

19 A So the reason for referral is actually filled out by
20 administration --

21 Q Okay.

22 A -- in the advocacy center. And a lot of times,
23 they're basing that on whatever the first statement or the
24 first disclosure was from a child, so it doesn't
25 necessarily include things that a child may have said

1 later.

2 Q Right. Right. And this is a form that you rely on,
3 though?

4 A Uh-huh.

5 Q So let me ask the question again, which of the boxes
6 under sexual abuse were checked?

7 A Under reason for referral?

8 Q Yes.

9 A Fondling.

10 Q Okay. So anal, penile penetration, not checked?

11 A They were not.

12 Q Digital, anal penetration, not checked?

13 A It was not.

14 Q Digital, vaginal penetration, not checked?

15 A It was not.

16 Q Oral genital contact, not checked?

17 A It was not.

18 Q Penile discharge, not checked?

19 A She would not have had that.

20 Q Threat of harm, not checked?

21 A No.

22 Q Vaginal discharge?

23 A No.

24 Q Vaginal, penile penetration?

25 A No.

1 Q None of those were checked, correct?

2 A Correct.

3 Q Okay. And then you do a clinical history. Now, who
4 takes the clinical history? Is that you or another intake
5 at the CSC -- CAC?

6 A I get the history from a parent or caregiver if
7 they're available.

8 Q All right. And this is what you rely on to do your
9 reports, correct?

10 A Right. My aim is to get a total picture just as it
11 would be with any child wellness exam.

12 Q Okay. And the date that you completed this exam, do
13 you recall that -- I'm going to put a calender up here
14 just so I can see what the date is -- or so we can see
15 what the date is. Do you have that date in front of you?

16 A The date of the exam?

17 Q Yes.

18 A That was June 26th, 2014.

19 Q June 26th of 2014. I'm going to put an E for exam.

20 A Okay.

21 Q In your history, you put that this happened -- what
22 was the approximate time previous that it had happened
23 according to your notes?

24 A So there's a summary provided by the forensic
25 interviewer that indicates it was approximately two months

1 ago that the child reported contact.

2 Q Okay. So two months ago from your date or two months
3 ago from the forensic interviewer?

4 A I would assume from the forensic interview. That's a
5 summary, that's not just for me.

6 Q Okay. And two months ago means two months prior?

7 A I would assume so.

8 Q Okay. You also did a behavioral kind of analysis?

9 A Just like any checkup, you're going to -- as a
10 provider, you're going to want to know if the parent has
11 any concerns and any symptoms that may be going on,
12 including behaviors.

13 Q All right. And what did you put for school
14 performance?

15 A Mom had indicated excellent, so I documented
16 excellent.

17 Q And then you also have a section, and I'm referring
18 to Page 6 of -- is that your report that you have in front
19 of you?

20 A Uh-huh.

21 Q On Page 6, it talks about sexualized behaviors?

22 A Yes.

23 Q What were your notes from that?

24 A So mom had reported that the child was touching
25 herself a lot.

1 Q And then mom referred -- what kind of behavior was
2 that referred to?

3 A She was referring to touching herself in her private
4 areas.

5 Q Right, and mom said that was nasty?

6 A She said, I told her that's nasty. Go wash your
7 hands.

8 Q Okay. And at that point, you reinforce and
9 approached the hygiene issue and talked about stigmatizing
10 the genital area as nasty and encouraged mom to use the
11 appropriate language, correct?

12 A She and I had a conversation about what would be
13 better approaches, correct.

14 Q And then down in the kind of physical examination,
15 you said that the child did not appear to -- did not
16 appear apprehensive and interacted throughout the exam,
17 correct?

18 A Correct.

19 MS. ZMROCZEK: Beg the Court's indulgence.

20 (Pause.)

21 MS. ZMROCZEK: Thank you. I have no further
22 questions.

23 THE COURT: Redirect?

24 MS. PATTERSON: Yes, sir, just briefly.

25 REDIRECT EXAMINATION

1 BY MS. PATTERSON:

2 Q Ms. Chappell, what is a UTI?

3 A Urinary tract infection.

4 Q How common is that for little girls to have?

5 A In general?

6 Q Yes.

7 A It's a pretty common infection, especially for little
8 girls because versus boys, where bacteria is a lot closer
9 in proximity and they're still to figuring out how to wipe
10 from front to back and all those nice behaviors that
11 prevent you from getting a UTI.

12 Q Ms. Zmroczek had you talk about Page 2, the reason
13 for your referral, and she talked about boxes being
14 checked?

15 A Yes, ma'am.

16 Q Again, where did that information come from?

17 A That part is typically prefilled out for me as part
18 of the kind of demographic or referral information from
19 the administrative staff at a center.

20 Q On Page 3, the very next page after that, in the
21 section marked child statement, what boxes are checked
22 that the child did disclose?

23 A I have checked digital anal penetration, digital
24 vaginal penetration and vaginal, slash, penile contact.

25 Q And again, you stated that that is important for your

1 treatment and diagnosis of children?

2 A Yes, ma'am. Particularly, as it pertains to -- for
3 that particular piece, as it pertains to what testing
4 might need to be done. If a child doesn't disclose penile
5 contact for instance, I may not need to test for HIV or
6 Syphilis, which is a blood test, so.

7 Q But those are the things that she did disclose,
8 correct?

9 A Based upon that summary, that is what I marked, yes.

10 Q And these sexualized behaviors that you were just
11 asked about, are they common for children who have been
12 victims of sexual abuse?

13 A They can occur in any child, but they are more common
14 in children who had sexual abuse.

15 MS. PATTERSON: Thank you. No further questions.

16 MS. ZMROCZEK: Just very briefly.

17 RECROSS-EXAMINATION

18 BY MS. ZMROCZEK:

19 Q She asked you about Page 3?

20 A Yes, ma'am.

21 Q The boxes that weren't checked in child disclosure,
22 Anal, penile contact?

23 A Correct.

24 Q Was that not checked?

25 A Correct.

1 Q Was alleged offender oral contact with child
2 genitalia, was that checked?

3 A It was not.

4 MS. ZMROCZEK: That's all I have. Thank you.

5 THE COURT: Have a nice day, ma'am.

6 THE WITNESS: Thank you.

7 THE COURT: Call your next witness.

8 MR. POGUE: Your Honor, the State calls Chris
9 Ellisor.

10 THE COURT: All right. Please come forward and be
11 sworn.

12 CHRISTOPHER ELLISOR, after being
13 duly sworn, testified as follows:

14 THE CLERK: Have a seat, sir. Once you're seated,
15 state your full name, spelling your last, please.

16 THE WITNESS: Christopher Ellisor, E-L-L-I-S-O-R.

17 DIRECT EXAMINATION

18 BY MR. POGUE:

19 Q All right. Mr. Ellisor, where are you currently
20 employed?

21 A I am currently employed with Lexington School Direct
22 One.

23 Q All right. And what is your title or -- do you have a
24 title or a rank?

25 A I'm a director of safety and emergency services. I'm

1 a director.

2 Q And how long have you been employed there?

3 A Just about three years.

4 Q Okay. And where were you employed previously before
5 that position?

6 A I was in law enforcement, employed at the Lexington
7 Police Department.

8 Q Is that where you were employed during the time of
9 this incident?

10 A Yes, sir.

11 Q All right. In what capacity were you employed there?

12 A I was a detective at that time.

13 Q How long did you serve as a detective?

14 A Approximately three years.

15 Q All right. How long did you serve with the Lexington
16 Police Department all together?

17 A Just over eight years.

18 Q Okay. Were you employed anywhere before that?

19 A Several jobs before that, yes, sir. I was in
20 college.

21 Q You say college. What is your educational
22 background?

23 A University of South Carolina. I graduated with a
24 B.S. and a minor in education.

25 Q Okay. What are the different sorts of training that

1 you have received over your law enforcement career?

2 A I have received several trainings. I estimate
3 probably 200 plus hours a year in training that we had to
4 keep recertifying, but I was -- basic instruction through
5 this South Carolina Criminal Justice Academy, nine weeks
6 at the Academy to be a police officer. As it relates to
7 this case, I took a basic detective school at the Academy
8 and later years after being certified as a police officer.

9 I did take a course, Five States of Interviewing and
10 Interrogation Techniques through public agency training
11 counsel, but I've had several other trainings, as well.

12 Q Have you ever been trained or received any sort of
13 class -- or attended any sort of class in regard to the
14 Reid Technique?

15 A Not that I'm aware of, sir. I have not been
16 certified as a Reid Technique interviewer.

17 Q Have you -- are you aware of whether anybody that you
18 received any training from was certified as Reid Technique
19 -- or was certified as having classing or being trained in
20 the Reid Technique?

21 A I am not aware of that. Defense placed something on
22 the table yesterday that had the instructor for my class
23 where he had apparently worked for the Reid Company or
24 Reid Associates.

25 Q But you personally have never received anything --

1 A No, I have not.

2 Q Had you ever even heard of the Reid Technique before
3 you testified yesterday?

4 A No. I'm not familiar with the Reid Technique and
5 that terminology, no.

6 Q Okay.

7 A I don't recall that.

8 Q What was your -- I apologize. How did you become
9 involved in this particular case?

10 A This case was assigned to me on June 4th. Lexington
11 Police Department took a report on June 3rd, the
12 afternoon, from the Dickerson Center. Lacy had called and
13 reported the sexual assault -- or possibly, a sexual
14 assault on the child, Minor .

15 Q And what did you do when you received that report?

16 A First, I reviewed the report and what was being said.
17 The normal step would be to contact the minor or the
18 minor is a child, so I contacted her mother. Then set up
19 an interview, a forensic interview with the Dickerson
20 Center. That would be my next step in this sort of case.
21 We don't interview children. We're not certified to
22 interview children. You need that forensic interview to
23 do that. So I set up that interview, which took place
24 June 12th.

25 Q And after setting -- well, let me ask you this.

1 Where are -- the incidents that Minor alleged, where
2 were they alleged to have occurred?

3 A Sure. At [REDACTED] Apartments, Apartment [REDACTED], in the
4 Town of Lexington, Lexington County, Lexington, South
5 Carolina.

6 Q After you set up the forensic interview for
7 June 12th, did you receive anything or get a report,
8 anything from that forensic interview that took place?

9 A Yes, I did get a report from Brooke. She sent a
10 report over to our office on her findings of the
11 interview. She also sent a digital copy of a CD of the
12 recording.

13 Q Was that a video recording?

14 A Yes, sir.

15 Q And what did you do when you received that?

16 A I reviewed the video, took some brief notes of
17 interview with Minor and Brooke.

18 Q Okay. And what did you do after you reviewed the
19 video and read a copy of the report? What did you do
20 next?

21 A I then set up an interview with Mr. Stroman.

22 Q Okay. And where was that -- where did that interview
23 take place?

24 A The interview took place at the Lexington Police
25 Department.

1 Q All right.

2 MR. POGUE: Permission to approach the witness, Your
3 Honor?

4 MS. ZMROCZEK: I don't know that it's been introduced
5 yet, Your Honor. We have no problem with it. I just
6 don't know that it's been introduced yet.

7 MR. POGUE: I'm going to give it to him to identify
8 it.

9 MS. ZMROCZEK: Okay. Thank you.

10 BY MR. POGUE:

11 Q Detective Ellisor, former Detective Ellisor, I'm
12 handing you up what's marked as State's Exhibit 1 for ID.
13 Do you recognize that item?

14 A Yes, I do.

15 Q What is it?

16 A It's our Miranda rights advisement form through
17 Lexington Police Department.

18 Q Is there anything particular about that Miranda
19 rights form that you recognize?

20 A This is the one that I conducted with Jimmy Stroman
21 at our interview. I signed it at the bottom as a witness
22 on June 16th, 2014.

23 Q Does it appear to be in the same form as it was when
24 you took it that day?

25 A Yes, sir, it is.

1 Q Does it appear to be altered in any way?

2 A No, sir, other than a red sticker on it.

3 MR. POGUE: Your Honor, at this point, the State
4 would move to enter State's Exhibit 1 into evidence.

5 MS. ZMROCZEK: No objection, Your Honor.

6 THE COURT: Admitted without objection.

7 MR. POGUE: Permission to publish to the jury?

8 (WHEREUPON, State's Exhibit No. 1 was admitted
9 into evidence.)

10 BY MR. POGUE:

11 Q Detective Ellisor, do you have a copy of that form up
12 there with you?

13 MS. ZMROCZEK: Your Honor, they have an overhead to
14 publish it. I just feel like if it's being passed around
15 to the jury, they may not hear the questions or answers.

16 THE COURT: Overruled.

17 You'll have all of these exhibits back with you in
18 your jury room. You can spend as much time looking at
19 them as you want, too. All attorneys do it differently.
20 Some like to hand it to the jurors. Some like to blow it
21 up. Some like to put it on a poster board. Some tell you
22 about exhibits and never show them to you at all. So I
23 don't control the way that they do that, but you'll have
24 all the exhibits that are introduced into evidence in the
25 jury room and you can spend as much time looking at them

1 and going over them as you believe is necessary.

2 All right. Go ahead.

3 MR. POGUE: Thank you, Your Honor.

4 BY MR. POGUE:

5 Q Detective Ellisor, when you brought Mr. Stroman, the
6 Defendant, up to the police department to interview him,
7 which day was that?

8 A It was June the 16th, 2014.

9 Q Okay. And when he arrived, was -- let me state it
10 this way. When he arrived, what did you do?

11 A He arrived from Lexington County Detention Center and
12 so I had to escort him into the room. I then removed --
13 had him sit in a chair while I got my stuff prepared and
14 came back into the room. So I interviewed him once he
15 arrived, ultimately.

16 Q Was he handcuffed at all when he arrived?

17 A He was. He had what we call -- I like to call them
18 belly chains, but this particular one was a leather belt
19 with two shackles on each side which had a handcuff on
20 each side.

21 Q When you sat him down, what did you do next?

22 A Well, upon entering the room, I -- you know, as a
23 part of my policy or our policy and procedure, I have to
24 Mirandize him before I talk to him or get him to make any
25 statements or ask him any questions. So I went through

1 our Miranda rights and advisement form that you just
2 showed me.

3 Q And what are the Miranda rights that you advised him
4 of?

5 A I could read them to you from this form if you would
6 like. I have here in front of me a copy of it.

7 Q That would be fine.

8 A You have the right to remain silent. Anything you
9 say can be used against you in a court of law. You have
10 the right to talk to a lawyer and have him present with
11 you. If you cannot afford to hire a lawyer, one may be
12 appointed to represent you if you qualify. You can decide
13 at any time to exercise these rights. And I read them
14 just as I just read them to you. That's what I do in the
15 interview room.

16 Q All right. Did you have him indicate in any way if
17 he understood those rights?

18 A I did ask him if he had any questions regarding his
19 rights.

20 Q Did you have him make any marks on it to show that he
21 understood?

22 A I did. I asked him to initial by each one of these
23 lines if he understood his Miranda rights.

24 Q Did he do that?

25 A He did.

1 Q All right. What did you do next?

2 A I then asked him to read the waiver at the bottom,
3 read it out loud. And if he agreed to talk to me, I
4 needed him to sign the form.

5 Q Did he read it out loud?

6 A He did read it out loud.

7 Q All right. Did he have any questions for you after
8 reading it out loud?

9 A He did not.

10 Q What did you have him do after reading it out loud?

11 A I asked him to sign it at the bottom if he agreed to
12 talk to me, and he did so.

13 Q All right. Whose signature appears below his there?

14 A Below his signature is my signature. I witnessed the
15 form. I was the only one in the room with him.

16 Q Okay. Did the Defendant appear to have any trouble
17 understanding his rights?

18 A No, sir.

19 Q Did the Defendant appear to you to be able to read
20 and understand English?

21 A He did.

22 Q Did the Defendant appear to be under the influence of
23 any sort of drugs or alcohol at the time?

24 A He did not.

25 Q Did the Defendant appear to be under any sort of

1 physical or mental -- did he appear to have any sort of
2 physical or mental disability that would prevent him from
3 understand what he was doing?

4 A No, sir, not in my opinion.

5 Q Okay. Did the Defendant's answers to the questions
6 that you were asking appear to be rational and responsive
7 to what you were asking?

8 A Yes, they did.

9 Q Did you have your service weapon on you at the time
10 of this interview?

11 A I did.

12 Q And did you ever unholster it?

13 A No, I did not.

14 Q Did you ever even place your hand on it?

15 A I did not.

16 Q Was there anybody else in the room with you during
17 the time of the entire interview?

18 A No, there was not. Just he and I.

19 Q Did the Defendant -- excuse me, during the
20 questioning, was the Defendant -- other than having his
21 one arm in a cuff as you indicated, was he restrained in
22 any other way?

23 A No. In fact, back when I first Mirandized him before
24 I started this, I asked him to stand up and I uncuffed his
25 right hand. So he had his right hand free. He did have

1 his left hand still in a cuff, yes.

2 Q And do you remember how long you actually questioned
3 Mr. Stroman?

4 A I'd estimate around 40 minutes.

5 Q Did he ever ask to take a break?

6 A He did not.

7 Q All right. Did he ever ask to go to the bathroom?

8 A He did not.

9 Q Did he ever have ask for a drink of water?

10 A He did not.

11 Q Did he ever ask for anything to eat?

12 A No, sir, he did not.

13 Q In fact, when did this interview take place?

14 A In the afternoon. It was some time after lunch, but
15 before, you know, the dinner hour.

16 Q Were there any verbal or nonverbal threats made by
17 you to Mr. Stroman?

18 A No, there were not.

19 Q Were there any promises of leniency made by you to
20 Mr. Stroman?

21 A No.

22 Q Did Mr. Stroman later change his mind and ask to stop
23 questioning because he wanted an attorney?

24 A He did. After the interview had been conducted --
25 what I'd normally do in an interview is once I've

1 interviewed them, I'd ask them to write a statement.
2 After I had conducted my interview, he had confessed. I
3 asked him to write a statement. That's when he said I'd
4 like to see an attorney -- or I feel like I need an
5 attorney.

6 Q Did you question him after?

7 A I did not, no.

8 Q Was the statement recorded in any way by video or
9 audio?

10 A Yes, it was a video, has audio, also.

11 (WHEREUPON, State's Exhibit No. 6 was marked for
12 identification only.)

13 BY MR. POGUE:

14 Q All right. I'm handing you what was marked as
15 State's Exhibit 6 for ID purposes. Do you recognize that?

16 A Yes, this is the interview with Mr. Stroman.

17 Q And have you had a chance to review it?

18 A I did.

19 Q In its entirety?

20 A Yes, sir.

21 Q And how do you know that?

22 A I've signed here at the bottom after I reviewed it.
23 It has my signature on it.

24 Q And after reviewing it, was it an accurate
25 representation of the interview that took place in the

1 Lexington Police Department between you and Mr. Stroman?

2 A It is.

3 MR. POGUE: Your Honor, at this time, the State would
4 move to enter the videotape of the interview of
5 Mr. Stroman and Detective Ellisor into evidence.

6 MS. ZMROCZEK: Without objection.

7 THE COURT: All right. Admitted without objection.

8 MR. POGUE: Permission publish to the jury?

9 MS. ZMROCZEK: Actually, Your Honor, it would be
10 subject to my previous objection.

11 THE COURT: All right. Same ruling.

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

14 MR. POGUE: Your Honor, we may need to dim the
15 lights.

16 THE COURT: All right.

17 (WHEREUPON, the videotape was played for the
18 jury.)

19 Q All right. Now, is there any interaction between you
20 and Mr. Stroman in the first five minutes of this video?

21 A No, there's not.

22 (WHEREUPON, the video was continued to be played
23 to the jury.)

24 MR. POGUE: I apologize, Your Honor. For whatever
25 reason, this file only contains half of the video, so I'm

1 going to have to restart it. And I've talk with Defense
2 counsel, she's fine with us moving it to the five-minute
3 mark.

4 THE COURT: Okay.

5 MS. ZMROCZEK: Your Honor, we stipulate the first
6 five minutes there is no contact. Mr. Stroman is sitting
7 in a room.

8 THE COURT: Okay.

9 BY MR. POGUE:

10 Q At this point in the interview, Detective Ellisor,
11 have you threatened him verbally in any way or have you
12 screamed at him?

13 A No, sir.

14 Q Have you gotten up, made any threatening gestures to
15 him?

16 A No, sir.

17 Q Have you made any promises to him whatsoever?

18 A No.

19 (WHEREUPON, the videotape was continued to be
20 played to the jury.)

21 (WHEREUPON, The videotape was stopped.)

22 BY MR. POGUE:

23 Q When did the Defendant confess to assaulting Minor
24 to you?

25 A He did not confess at first as you saw from the

1 video, but then he gradually stated that he rubbed her on
2 the ass -- pulled her panties down and rubbed her on the
3 ass. I believe in that exact line if you're watching the
4 video, he starts to rub his crotch with his right hand,
5 which stems me to continue asking him questions. Because
6 he's telling me something different by his gestures in my
7 mind. He then admits to rubbing her clitoris, I believe
8 he called it, and then admits to digital penetration,
9 fingering her. And he's doing his hand like this as he's
10 telling me this story throughout that interview, which is
11 what I go back to on my -- in my interview and
12 interrogation class, that's one of the topics is nonverbal
13 cues. So while he's telling me something different, he's
14 showing me something different with his hand. That's why
15 I'm continuing to ask him questions.

16 Q In regards to -- when did the Defendant say -- what
17 timeframe did the Defendant say that he assaulted

18 **Minor** ? In other words, when and where did it happen?

19 A I'm sorry. Sure, it was at [REDACTED] Apartments,
20 Apartment [REDACTED], where he had been living for the past two
21 years, is what he told me in the interview. It was in her
22 bedroom. He would go into her bedroom at night is what he
23 stated.

24 Q And when did that happen?

25 A Well, he mentioned, I believe, May, June 2013 in the

1 video.

2 MR. POGUE: Beg the Court's indulgence.

3 (Pause.)

4 BY MR. POGUE:

5 Q Mr. Ellisor, are you sure about the timeframe that he
6 stated on the video in regard to May 2013 or do you need
7 to refer to the transcript of the confession?

8 A I'm sorry. Let me...

9 Q It's okay.

10 A It may have been August. Yeah, it would have been
11 July, August, I'm sorry, 2013.

12 Q July or August 2013 is what he said to you?

13 A Yes. I'm confusing with May -- the date he went to
14 jail I believe is what I was thinking.

15 Q That's fine. That's fine. Who did the Defendant
16 say -- did the Defendant say **Minor** took her clothes off
17 before the bath or did he say that he took her clothes off
18 before the bath?

19 A I'm sorry, say that one more time. I couldn't hear
20 the last part.

21 Q Did the Defendant say that **Minor** undressed herself
22 to take a bath or that he undressed her to take a bath?

23 A No, he stated that he undressed them to take their
24 baths, referring to **Minor** and E. J.

25 Q After the interview, did you do any sort of followup

1 investigation regarding like trying to collect any
2 possible evidence or physical evidence at the apartment
3 from Minor 's bedroom in this case?

4 A I did not. He admitted to digital penetration from
5 over -- it would have been almost a year previous. She
6 talked about in her interview of wiping herself off and
7 placing it into the laundry basket, I believe is the way
8 she said it, to be washed.

9 Finding evidence that would be credible or usable
10 would be impossible almost, or practically. I didn't feel
11 it was needed in this case. In fact, if I had sent
12 something to SLED, it most likely would have been sent
13 back because of the timing of it. No telling how many
14 times that would have been washed prior to me collecting
15 it, if that makes sense.

16 Q What was your case load during this time? How many
17 cases did you actually have after you got this confession
18 from him to doing this?

19 A Usually, our case loads range from 20 to 30 a day.
20 Every two days, I was getting more or taking less or
21 moving some. It's a cycle. So as I was closing them, I
22 was continuing to get more as my shift worked. I worked
23 as part of a shift, being that the black and white cars
24 you see on the road, whenever they would have a case that
25 needed a detective to look into it, it was assigned. To

1 me.

2 MR. POGUE: No further questions at this time, Your
3 Honor.

4 THE COURT: All right.

5 CROSS-EXAMINATION.

6 BY MS. ZMROCZEK:

7 Q Mr. Ellisor, I want to make sure that I just heard
8 what you just said correctly, that you didn't investigate
9 this case any further because of your case load?

10 A No, ma'am, I didn't say that.

11 Q Okay. So why is it that you didn't investigate?

12 A Because I felt that any evidence collected at that
13 point was irrelevant to the gentlemen admitting to
14 committing the crime.

15 Q So you thought it was irrelevant to go and check and
16 see what color comforter she had?

17 A No, I didn't feel that was -- it was already in the
18 testimony of the child.

19 Q Right. You didn't feel that you needed to go check
20 that out?

21 A I did not.

22 Q Let's talk a minute just about your training and your
23 history. Now, you talked about you were trained at the
24 Academy?

25 A Correct.

1 Q Not only in report writing, right?

2 A I'm sorry?

3 Q You received training in report writing?

4 A I believe we did, yes.

5 Q Investigations?

6 A I went back and received training in basic detective,
7 yes.

8 Q Okay. In fact, I believe you testified on direct you
9 received over 200 hours a year in some sort of trainings
10 or investigations, right?

11 A Correct.

12 Q All right. Let's talk about that a little bit. So
13 you received the Five Stages of Interview and
14 Interrogation Techniques training?

15 A Correct.

16 Q That was a two-and-a-half day seminar?

17 A 18.2 hours by my certificate.

18 Q So two-and-a-half days?

19 A 18.2 hours. I don't remember if it was two and a
20 half days. I always say two and a half days.

21 Q Let me ask you this way, did you go 18.2 hours
22 straight?

23 A I assume I did because I have the certificate saying
24 I went 18.2 hours.

25 Q Did you go straight?

1 A I'm sorry?

2 Q You didn't go 18.2 hours of straight training, did
3 you?

4 A I would assume that I did because I got a certificate
5 saying 18.2 hours of certification.

6 Q Okay. My point is, that probably took more than one
7 day?

8 A It did take more than one day. It wasn't -- 18 hours
9 wasn't done in a day, so it probably was two days. It may
10 have been two and a half. I don't remember that half day.
11 I'm sorry.

12 Q No worries.

13 A It's been a while.

14 Q And then you said you've never heard of this Reid
15 Technique?

16 A I do not recall the terminology Reid Technique. I do
17 not.

18 Q But you would agree with me that your instructor was
19 a former police officer in the Chicago area and was on
20 staff at John E. Reid's and Associates?

21 A I would agree that you put a paper on the table
22 yesterday saying that that was my instructor. And yes,
23 that is the instructor from the certificate. I was not
24 aware of what he had done prior to this. It wasn't
25 expressed to me at the time.

1 Q So regardless of whether or not you heard about the
2 Reid Technique, you were trained for 18-point however many
3 hours by someone who was on staff at the Reid and
4 Associates College or area or interview association,
5 whatever they are?

6 A I don't know if he was on staff at that time. I have
7 no clue.

8 Q Okay. But you would agree me that you received
9 training by someone who had taught that --

10 MR. POGUE: Your Honor, asked and answered at this
11 point.

12 THE COURT: Sustained.

13 BY MS. ZMROCZEK:

14 Q Is that just something you don't want to agree with
15 me on? It's fine. We'll move on.

16 THE COURT: Move on.

17 BY MS. ZMROCZEK:

18 Q Let's talk about the other things that you received
19 in that training, okay? Can you remember?

20 A It's been awhile, ma'am.

21 Q Okay. And that training, you received on August 23rd
22 of 2013 -- or August 21st, 2013 to August 23rd, 2013,
23 right?

24 A Yes.

25 Q Okay. And it was all about interviewing and

1 interrogation techniques?

2 A It's the Five Stages of Interviewing and
3 Interrogation Techniques, yes.

4 Q You also -- let's just move on to some other training
5 that you received. Courtroom preparations?

6 A Is that part of this training?

7 Q No, let's just move on to other trainings that you've
8 received.

9 A I don't recall. I have a large sum of trainings, I'm
10 sorry.

11 Q That's okay.

12 A Sure. That makes it easier for me. Thank you.

13 Q Sure.

14 A Yes, this is a form filled out at the police
15 department. Looks like our attorney gave this training
16 for four hours.

17 Q Of courtroom preparation?

18 A Uh-huh, correct.

19 Q Evidence collection, control and storage?

20 A Yeah, on November 20th, 2011.

21 Q Okay.

22 A What was the last part you said about collection and
23 storage? What was the last part?

24 Q Evidence collection, control and storage?

25 A This is an online certificate for yes, evidence

1 collection, control and storage through an online. I
2 think it's a government-run training that was available to
3 us, probably half an hour online.

4 Q Okay. These are all the 200 plus hours of things
5 that you're including, right?

6 A Yeah, I mean, that's the reality.

7 Q Your basic detective class?

8 A Uh-huh.

9 Q That was a yes?

10 A Yes.

11 Q All right.

12 A Yes, I've taken that.

13 Q Another interview and interrogations in 2011?

14 A Yes, again, an online half-hour class.

15 Q Then you also attended a special child abuse
16 investigation and training that talked about case
17 management for law enforcement and other professionals?

18 A I'm not sure what this form is right here, personnel
19 record of attendance. Does this have my name on it
20 somewhere? Am I missing it? This is an award of
21 continuing education certificate to me, child abuse
22 investigating training, August 5th and 6th, 2010. This
23 second form, I'm not familiar with.

24 Q Does the second form have the name of the class and
25 the same date as the certificate?

1 A It has something pink that's you've highlighted. It
2 says case management, law enforcement and other
3 professionals. It doesn't say anything about a child
4 abuse investigations training class, no.

5 Q Okay.

6 A Am I missing it?

7 Q What's the date on the form?

8 A August 5th and 6th, 2010.

9 Q What's the date on your certificate?

10 A August 6th, 2010.

11 Q So same date range?

12 A Possibly, yes.

13 Q Okay.

14 A I'm just not familiar with this form. It doesn't
15 have my name on it anywhere.

16 Q What about identifying and reporting child abuse and
17 neglect?

18 A I've taken several child abuse trainings over the
19 years, yes.

20 Q Okay. So you're familiar with the things that you
21 need to do to fully and accurately prepare for an
22 investigation in a child abuse or neglect case?

23 A Yes.

24 Q And you said that you followed policies that the
25 Lexington Police Department has, right?

1 A Yes, ma'am.

2 Q And they have policies specifically on interrogation
3 and interviews, right?

4 A I would assume so, but I haven't look at them in
5 years, so...

6 Q How about I let you look at them?

7 A That will be fine.

8 Q But you were familiar with them, certainly, when you
9 were a detective for three years, right?

10 A I felt I was.

11 Q And you adhered to them?

12 A To the best of my ability, yes, ma'am.

13 MS. PATTERSON: Your Honor, may we approach?

14 THE COURT: Sure.

15 Y'all stand up, stretch your legs..

16 (WHEREUPON, a bench conference was held.)

17 THE COURT: Keep going.

18 MS. ZMROCZEK: Thank you.

19 BY MS. ZMROCZEK:

20 Q Okay. So you would agree with me that your policies
21 say that you should never leave a suspect in a room alone?

22 A Do I need to read this entire thing to find that or
23 can you define which page it's on for me?

24 Q I'll give you an unmarked copy. I already have it
25 marked for you so we can turn to the same pages. Let's

1 turn to Page 9. Are you with me?

2 A I am.

3 Q All right. It talks about interviews and
4 interrogations?

5 A Sure.

6 Q Okay. And it talks about interviews may be conducted
7 with witnesses, victims and other persons -- and I'm
8 looking at letter D.

9 A Thank you.

10 Q You're welcome. Interviews may -- it talks about who
11 interviews can be conducted with?

12 A Sure.

13 Q And then it talks about, on letter E, interrogations,
14 right?

15 A Uh-huh.

16 Q And they say suspects, right?

17 A Yeah, interrogations may be used for suspects and
18 those persons who are directly involved in criminal
19 investigation.

20 Q So you would agree with me that there's a difference
21 between interview and interrogation?

22 A Yeah, I would assume so, yeah.

23 Q Okay. If then you turn and you look to F, it
24 describes about the interview rooms?

25 A Under which -- are we still under interviews and

1 interrogations? I thought I heard you turn the page,
2 that's why I'm asking. Yes.

3 Q All right. So the interview, it talks about the
4 interview and interrogation room, right?

5 A For the next category, yeah, it does. Interview room
6 area and procedures, is that what you're talking about?

7 Q Yes.

8 A Okay.

9 Q All right. So let's describe -- let's take the jury
10 into this room. How big is it?

11 A I think I estimated it's probably from this wall over
12 here to the edge of that column. It may be just a little
13 bit more. It's kind of a square room.

14 Q Okay. So it's a square room?

15 A Uh-huh.

16 Q Is it greater than eight by eight, eight feet by
17 eight feet?

18 A Ma'am, I don't have the measurements, I'm sorry.

19 Q That's okay..

20 A I'm just estimating by looking at it.

21 Q All right. Is it a large room?

22 A By large room like this, no, it's not a large room.
23 You can see it on the video.

24 Q Okay. Are there any windows?

25 A There is a window.

1 Q Where is that window located?

2 A In that video, I'm sitting directly in front of that
3 window. It's to my back. You can see the light coming
4 through.

5 Q Do we have a picture of that window?

6 A I didn't take a picture of the window, no, ma'am.

7 Q And there is minimal furniture?

8 A There is a table, round table, two chairs. I believe
9 at that time in the corner, there was a DVD or a player
10 there and a telephone on the table, if I recall.

11 Q Okay. And then let's go to that same area, that same
12 section, under G, the following guidelines adhere for
13 arrestee or detainees while they're in the interview room.

14 A Uh-huh.

15 Q You with me?

16 A Yes, ma'am.

17 Q All right. What does number four say?

18 A No arrest detainees are to be left in interview areas
19 unsupervised. If only one officer is conducting an
20 interview and he or she needs to leave, they must have
21 another officer remain with or in direct visual contact of
22 the arrestee or detainee.

23 Q So who did you have watching this?

24 A He was brought over from Lexington County Detention
25 Center by a road unit, a marked unit. That's part of the

1 policy and procedure, also. We wanted that -- I could not
2 go pick him up and bring him over, in other words. We
3 needed a partition from the front seat and back seat in
4 order to bring a detainee over. I do not recall who that
5 officer was. Unfortunately, it's been a long time. But
6 there was an officer who was watching on a video screen in
7 our office area the entire time this was going on. So
8 there would be a visual observance of the individual left
9 in the room alone.

10 Q Okay. You just don't recall who it was?

11 A I'm sorry, I do not.

12 Q You didn't put it in your report?

13 A I don't recall having that in my report, but I'd have
14 to pull the report out.

15 Q Okay. So you get him over there and you're there to
16 investigate some allegations, right?

17 A I am there to investigate the interview that is
18 observed from **Minor** and her statements that she made,
19 yes.

20 Q All right. So the allegations. And you believe he's
21 guilty?

22 A I didn't believe anything. I believed that the child
23 had reported what she had reported. I needed to interview
24 him.

25 Q So when you slap your hand down on him and you say,

1 You're telling me a lie. I know. You're saying you
2 didn't believe he was guilty at that point?

3 A I didn't slap my hand down quite as hard as you did
4 and I didn't yell at him like you yelled at me, but I did
5 not believe he was guilty until he told me he had done it,
6 correct.

7 Q Until he had told you he had done it?

8 A Yes, when he admitted to assaulting the child, yes.
9 At that point, I do believe him, yes.

10 Q All right. And prior to that when he was saying for
11 26 times I didn't do it, I didn't do it, you believed him
12 at that point?

13 A During those times, he was motioning with his hands.
14 Again, there were things I was picking out. I did not --
15 those statements he is making 26 times were very -- you
16 know, we didn't discuss these straight topics for 26
17 times. So I'm not sure exactly what you're referring to
18 me not believing him. Yeah, I mean, I had a job to do. I
19 had to interview him. If I believed every time somebody
20 said no, I didn't do it, then I wouldn't be a very good
21 investigator or doing my job right.

22 Q Right. And if you believed every time they said they
23 did do it and you didn't follow, that would also make you
24 --

25 A I'm sorry, say it again. If I believed what?

1 Q You said if I believed every time someone said they
2 didn't do it, that wouldn't make me a very good officer or
3 investigator, correct?

4 A The first time I heard it during an investigation
5 like this, yeah, I wouldn't be very good at my job, that's
6 right.

7 Q So the 20th time?

8 A I don't recall exactly when the 20th time was in this
9 interview.

10 Q Okay.

11 A So I can't really answer that question properly.

12 Q But the fact that he kept saying it didn't matter to
13 you?

14 A Not at this point, no. I mean, honestly, I wanted
15 him to tell his side of the story and he was doing so.

16 Q Well, he was doing so where he said, I never touched
17 her, I didn't do it. I had nothing to do with this. And
18 then all of the sudden, you say, I know you're lying to
19 me. Eight-year-olds don't make this up. Right?

20 A I did say that.

21 Q So prior to that, he's denying it?

22 A Sure.

23 Q Okay. But you said, No, I know you're lying to me.
24 So you actually knew he was lying to you before he said
25 anything. You already believed that he had done

1 something?

2 A Because an eight-year-old, I felt, wouldn't make this
3 stuff up, right.

4 Q Because you felt an eight-year-old wouldn't make this
5 stuff up, right?

6 A To some degree. I had some experience with this
7 prior to, but yes.

8 Q I'm sorry?

9 A I had worked other cases involving sexual assault, so
10 I had a belief -- I wouldn't say a belief. I had an
11 understanding that through a forensic interview, again,
12 like I mentioned on the video, that, you know, it would be
13 tough for a child to lie during the interview and that
14 interviewer not pick that up.

15 Q Okay. It would be tough for a child to lie and an
16 interviewer not pick that up. So you knew that she had
17 been interviewed on May 18th?

18 A No, I did not know that she was interviewed on
19 May 18th. She was interviewed by our department on
20 June 12th.

21 Q Okay. So she was interviewed with your department --
22 or he was interviewed with your department on June 12th --
23 or she was interviewed June 12th. When was he
24 interviewed?

25 A June the 16th.

1 Q June the 16th, he was interviewed, right?

2 A Yes.

3 Q And you had received this case or notification of
4 this case on June -- I believe the notification came in on
5 the 3rd and you received it on the 4th?

6 A The case was written on the 3rd and yes, I
7 received -- it was assigned to me on the 4th.

8 Q Okay. So from the 4th, 5th, 6th, 7th, all the way to
9 the 16th, you were doing an investigation to prepare for
10 this, right?

11 A I can't -- I don't recall that timeframe exactly, no,
12 ma'am.

13 Q Okay. So you don't --

14 A You're saying I was investigating this case during
15 that time?

16 Q I'm asking, I'm not saying.

17 A I don't recall. I believe I had a vacation during
18 that time, somewhere in there.

19 Q Okay. So you had a vacation?

20 A Uh-huh.

21 Q But then you came back. And before you interview a
22 suspect, you want to make sure that you have as much
23 information as possible, right?

24 A I had reviewed the video of **Minor** , correct.

25 Q Did you do any other investigation, Investigator

1 Ellisor?

2 A I spoke to the mother. I reviewed the video of
3 Minor 's statement. I talked to the Dickerson Center.
4 I had their report, as well, as well as the video.

5 Q All right. So you spoke to the mother, right?

6 A Yes.

7 Q And the mother said that they had broken up on
8 May 7th?

9 MR. POGUE: Objection, Your Honor. We're getting
10 into hearsay.

11 MS. ZMROCZEK: Okay. I'll come back to that.

12 THE COURT: All right.

13 BY MS. ZMROCZEK:

14 Q You had gathered information to investigate, right?

15 A I just explained that, yes, ma'am.

16 Q This wasn't the first time that you had heard the
17 name Sarah Stoudemayer; is that correct?

18 A As I recall, it was the first time, but I don't
19 recall every -- again, I carry a heavy case load. I don't
20 recall every case that I work. I don't recall all the
21 details of every case. I don't recall every name in every
22 case. So...

23 Q And that's why we write it down in reports, right?

24 A Exactly why we have reports, yes, ma'am.

25 Q Okay. So it's possible that you spoke with Detective

1 Stoner in March or April of 2014 about having contact
2 Ms. Stoudemayer?

3 A I don't recall that, no.

4 Q Okay. But it's possible?

5 A I don't recall.

6 Q You're saying you don't recall?

7 A I'm telling you I worked a lot of cases. There were
8 a lot of cases worked. Some of them open, shut, others
9 took longer. I don't recall.

10 Q Okay. So on April 14th, then, of 2014, you don't
11 recall advising that you had spoken --

12 MR. POGUE: Your Honor, asked and answered again.

13 MS. ZMROCZEK: I'm just clarifying it for impeachment
14 later, Your Honor.

15 THE COURT: Is this a question you've already asked
16 him? Is this about talking to Investigator Stoner?

17 MS. ZMROCZEK: Yes.

18 THE COURT: All right. Sustained.

19 BY MS. ZMROCZEK:

20 Q So you had no knowledge of any prior allegations
21 about this eight-year-old?

22 A I don't recall any knowledge of Sarah Stoudemayer or
23 a case involving her. I do not recall that. I don't
24 recall ever having information from Minor

25 Q Okay. How old is E. J.?

1 A Again, I had a lot of cases. Per Mr. Stroman, I
2 believe he was four years old.

3 Q Okay.

4 A But I don't know that for a fact. I didn't meet E.J.

5 Q All right. So you never learned that he was not four
6 years old, in fact, that he was seven when **Minor** was
7 eight? You never learned that?

8 A I did not.

9 Q You didn't follow up on that?

10 A I didn't feel it was necessary in my case, ma'am.

11 Q Okay. And you've been with the Lexington Police
12 Department for nine years?

13 A I left there just over eight years, eight years, two
14 months, I think.

15 Q In fact, you left there -- your official termination
16 date was August 1st of 2014; isn't that correct?

17 A It was right around there, yes, ma'am.

18 Q So did this case get passed off to somebody else or
19 was it closed at that point?

20 A It was closed with an arrest, ma'am.

21 Q Okay. No more investigation needed?

22 A Is that a question?

23 Q Correct.

24 A My case was close with an arrest, ma'am.

25 Q And do you recall the oath that you took and signed

1 when you became a police officer?

2 A That's a long time ago.

3 Q Would it refresh your recollection to see it?

4 A Bring it on up. Yes, ma'am.

5 Q All right. Does that help refresh your recollection?

6 A I mean, I remember, yes, being sworn in.

7 Q Okay.

8 A If you're going to go detail for detail, it might
9 help to have that paper, but it's been a long time.

10 Q That's okay. But the detail was to diligently seek
11 and detect the crimes, correct?

12 A If I could see that note, that's what it says. Where
13 are we at on here? Would you like me to read this to
14 them? I don't see anything about diligently on here.
15 Help me out. There you go. I will diligently seek to
16 detect crime and apprehend perpetrators of crime.

17 Q Okay.

18 A Yeah.

19 Q You would agree that your training, over 200 plus
20 hours, included investigations into those crimes?

21 A I've said yes, I received investigation training.

22 Q Now, I want to talk about, lastly, you said -- in
23 fact, the interview was stopped. So at this point, you've
24 made no promises, right?

25 A Correct.

1 Q So you would agree with me, Detective Ellisor, that
2 you said, I will help you. I will talk to the solicitor's
3 office?

4 A I did make mention of I could help you by talking to
5 the solicitor's office.

6 Q Okay. What kind of help does that mean?

7 A It just simply means I would define for them that he
8 cooperated, okay. What they did with that information is
9 totally up to them, but that's what it means to me.

10 Q And what that means to you is that they get less
11 time, right?

12 A What happens with them, I do not know, ma'am.

13 Q So you just say it without knowing what it means?

14 A Again, it means to me that I can tell them that hey,
15 he cooperated with me. He was cooperative during the
16 investigation.

17 Q So that they can get less time?

18 A I do not know what happens with them, okay. I don't
19 -- case for case, I do not know what the solicitor's
20 office decides to do with those subjects -- or suspects.

21 Q So then what would be the point of you talking to
22 them?

23 A To let them know that he cooperated.

24 Q You would agree with me that you told him he was
25 going to get life for those lies that were being told

1 about him, didn't you?

2 A You can hear it on the video, yes.

3 Q Those were your words?

4 A I did say life, yes.

5 MS. ZMROCZEK: Beg the Court's indulgence. I have no
6 further questions for this witness.

7 MR. POGUE: Just a few more questions, Your Honor.

8 REDIRECT EXAMINATION.

9 BY MR. POGUE:

10 Q Detective Ellisor, did you see any relevance to
11 putting into your report who was watching the Defendant in
12 the interview room when you left for a moment to go get
13 the key?

14 A No, sir, I didn't. It's standard policy and
15 procedure. I knew there was a unit there watching the
16 video screen at the time I walked out of the room to get
17 that key.

18 Q In your experience as a detective, do suspects always
19 tell you immediately when you ask them whether they did
20 something or not?

21 A No. I wish they did, but no.

22 Q Even ones that were actually guilty or confessed?

23 A Correct. Correct.

24 Q She mentioned that you were terminated. Were you
25 terminated?

1 A Not at all. No, I was not terminated by the police
2 department. I took a better job, in my opinion. I moved
3 up.

4 Q When you get a confession that corroborates the
5 details made in an allegation, normally, as a detective,
6 in your experience, is there a need for much more
7 investigation after that?

8 A No, I have enough probable cause for an arrest.

9 Q Did you make a promise to that Defendant for
10 leniency --

11 A No.

12 Q -- in your statement?

13 A No, I did not.

14 Q And what did you say that you would do?

15 A That I would talk to the solicitor's office.

16 Q And did you talk to the solicitor's office?

17 A Not until this case got called up. Or, actually, I
18 think I did make a phone call to -- I think it's in my
19 notes, Shawn Graham. I spoke to him in reference to how
20 many times -- he admits to, I think, three times or two or
21 three times digital penetration. In writing my warrants,
22 I wanted to clarify that one warrant or would it be two
23 warrants, three warrants. And I decided on one warrant
24 for his arrest.

25 Q All right. And do you control in any way the

1 prosecution of a case? In other words, if we want to go
2 forward with -- the solicitor's office wants to go forward
3 with the prosecution or if the solicitor's office wants to
4 drop the charges all together or reduce the charges, do
5 you have any control over that whatsoever?

6 A None whatsoever.

7 MR. POGUE: No further questions, Your Honor.

8 MS. ZMROCZEK: No further questions, Your Honor.

9 THE COURT: All right. Thank you very much.

10 THE WITNESS: Thank you, sir.

11 THE COURT: You can take a seat.

12 Okay. Ladies and gentlemen, it's 1:00 o'clock.

13 We're going to break for lunch. You've done a great job
14 this morning staying with us. We are going to start --
15 hold on one second.

16 Y'all approach real quick.

17 (WHEREUPON, a bench conference was held.)

18 THE COURT: All right. So we're going to come back
19 at 2:30. Okay. There's a legal matter I'm going to need
20 to take up outside of your presence, which we'll be doing.
21 And so we're going to take a little bit of an extended
22 lunch break. Come back at 2:30 ready to go. Do not
23 discuss the case. You are to keep an open mind about the
24 case. I think it's a fairly nice day outside, so enjoy
25 your lunch. We'll see you back at 2:30 ready to go.

1 Thank you very much.

2 Everyone else remain seated.

3 (WHEREUPON, the jury left the courtroom at 1:00
4 p.m.)

5 THE COURT: Thank you, Mr. Jones.

6 All right, so the State is going to rest right after
7 lunch; is that right?

8 MS. PATTERSON: Yes, sir.

9 THE COURT: All right. And where are you on putting
10 up the case, Ms. Zmroczek?

11 MS. ZMROCZEK: Your Honor, I'm ready to -- I mean,
12 they have Sarah Stoudemayer here. I'm going to put her
13 up. I'll have Detective Stoner, who's under subpoena.
14 I'll have her on her way.

15 THE COURT: Okay.

16 MS. ZMROCZEK: I have -- if you would like to do the
17 colloquy with my client, if you want to do that now.

18 THE COURT: What's his criminal history?

19 MS. ZMROCZEK: Yeah, so I think we need to go through
20 that, Your Honor.

21 THE COURT: Let's start with what the State thinks is
22 admissible and then work backwards from there.

23 MS. PATTERSON: Your Honor, I have his certified
24 convictions. He has a 2007 petit larceny, which is a
25 crime of dishonesty. He has a 2009 disposition date for

1 receiving stolen goods, value less than 1,000. A 2009
2 breach of trust under 1,000. And those are the three that
3 would be used for the State to prove crimes of dishonesty
4 and veracity.

5 THE COURT: That's it?

6 MS. PATTERSON: Yes, sir.

7 THE COURT: Are you okay with those three?

8 MS. ZMROCZEK: I'm fine with that.

9 THE COURT: Okay.

10 MS. ZMROCZEK: I mean, obviously, they can ask him
11 about him it, but putting his convictions in, I think, is
12 inappropriate. I know she said certified convictions.

13 THE COURT: Okay.

14 MS. PATTERSON: That's just to prove that the date
15 was within the 10-year timeframe, Your Honor.

16 THE COURT: I understand.

17 MS. PATTERSON: And with regards to -- I heard her
18 say Tricia Stoner, Your Honor.. We made a motion before we
19 started this trial to limit the information regarding the
20 Eric English case. She was the chief investigator in that
21 case. I don't know if we got a clear answer how far Ms.
22 Zmroczek can go. I mean, we stipulated --

23 THE COURT: What's the purpose of calling Ms. Stoner?

24 MS. ZMROCZEK: Well, Your Honor, it's very limited to
25 impeachment -- well, it depend. I may need her to impeach

1 Ms. Stoudemayer as well, but right now, it's limited to
2 her notes reflect that on August -- excuse me, April 13th
3 or 14th, that she had a conversation with Christopher
4 Ellisor regarding a restraining order between Sarah
5 Stoudemayer and Eric English's mom:

6 THE COURT: Okay.

7 MS. ZMROCZEK: So that's it. Right now, that's the
8 limited purpose. I mean, she's not going to go into
9 Eric's whole case. That has nothing do with this.

10 THE COURT: All right. Cool.

11 Mr. Stroman, stands up for me and raise your right
12 hand.

13 JAMIE L. STROMAN, after being
14 duly sworn, testified as follows:

15 THE COURT: Okay. You understand me, okay?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. At this time, I'm going to
18 explain some of your rights to you. If you do not
19 understand anything that I say, just let me know, okay.
20 If you want me to explain anything in more detail, just
21 let me know. So if I say something and you're like that
22 doesn't make sense, Judge, or I don't understand what
23 you're saying, just let me know. I'll try to answer it or
24 your attorney can try to answer it. This should be a
25 nonpressure-type of situation, okay.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. So we have now reached the stage
3 of the trial where you may present your defense. You have
4 the right, like a Constitutional right to claim the
5 protections given to you by the 5th Amendment to the
6 Constitution of the United States of America. This
7 amendment states in part that no person shall be compelled
8 in any criminal case to be a witness against themselves.
9 Okay?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: This means that you cannot be required to
12 testify in this case, okay?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You have the right to testify on your own
15 behalf if you want to. However, no one can make you
16 testify and no one will make you testify, okay?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: This is a personal right. It belongs to
19 you. This is one of those things that only you can
20 decide. Does that make sense?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Now, if you decide to testify, you will
23 be subject to the same rules that govern other witnesses
24 and you may be examined and cross-examined by the State on
25 any relevant issue in the case.

1 In addition, your convictions for petty larceny,
2 receiving stolen goods and breach of trust could be
3 admitted against you as crimes of dishonesty. I would
4 determine that the probative value of these outweigh any
5 prejudicial effect to you. The solicitor would be able to
6 introduce that part of your criminal history to attack
7 your credibility. Does that make sense?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: So if you decide to testify, this
10 decision on your part must be made freely, it must be made
11 voluntarily, it must be made intelligently with the
12 knowledge of the protections given to you by the 5th
13 Amendment and the consequences of your decision to do so.

14 If you decide not to testify, I'll tell the jurors
15 they cannot give the fact that you did not testify any
16 consideration whatsoever and there is to be absolutely no
17 prejudice to you because you did not testify. It is left
18 entirely up to you whether or not to testify. You may
19 talk with your attorney or your family or anyone else, but
20 the final decision is yours and yours alone. Do you
21 understand what I've explained to you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have any questions about what I've
24 explained to you?

25 THE DEFENDANT: No, sir.

1 THE COURT: Sir?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have you discussed this issue prior to
4 today with Ms. Zmroczek?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And do you wish to talk to her any more
7 at this time?

8 THE DEFENDANT: No, sir.

9 THE COURT: Okay. And do you want to testify?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay. All right. That's fine. Great.
12 Okay. You can sit down.

13 All right. Anything further? So we're going to come
14 back at 2:00 -- let's come back at 2:00 o'clock and do
15 directed verdict motions and all that kind of stuff. No,
16 let's do 2:15 and then when the jury comes back in, we can
17 rest and then Ms. Zmroczek can call her first witness.

18 MS. PATTERSON: Yes, sir..

19 THE COURT: Are you good with that, Ms. Zmroczek?

20 MS. ZMROCZEK: I'm good with that.

21 THE COURT: Now, for the record, the video that was
22 shown of Mr. Stroman's statement to Detective Ellisor, we
23 stopped that video prior to Mr. Stroman's invocation of
24 his right to counsel.

25 MS. PATTERSON: Yes, sir.

1 MR. POGUE: Correct, Your Honor. We were going to
2 send that back to the jury, though. We do need make a
3 redaction.

4 THE COURT: My next note says we need to make sure
5 that video is redacted at that point. So him invoking is
6 not something we can get into in front of the jury.

7 MS. ZMROCZEK: And I think it might have come out on
8 direct prior to that, Your Honor. What they previously
9 told me, Your Honor, is it had been redacted after he had
10 asked for a lawyer, so anything after that.

11 MR. POGUE: But I stopped it.

12 MS. ZMROCZEK: No, no, no, I know, I meant during --

13 MR. POGUE: Oh, oh.

14 MS. ZMROCZEK: During direct examination, I believe
15 that Detective Ellisor did say that he -- I believe he
16 said did any time he ask for a lawyer and he said yes.

17 MR. POGUE: That's correct, Your Honor.

18 THE COURT: Okay.

19 MS. ZMROCZEK: So I believe that's out there, but --

20 THE COURT: Well, we stopped the video. There was no
21 objection made at that time.

22 MS. ZMROCZEK: Right. Right.

23 THE COURT: And make sure the video is redacted
24 before it's sent back.

25 Okay. Anything else?

1 MS. PATTERSON: No, sir. Thank you.

2 THE COURT: All right. 2:15. 2:15.

3 MS. PATTERSON: Yes, sir.

4 (WHEREUPON, a lunch break was taken.)

5 THE COURT: All right. The State's going to rest
6 before the jury comes back in; is that right?

7 MS. PATTERSON: Yes, sir.

8 THE COURT: All right. Let's hear your motions,
9 Ms. Zmroczek.

10 MS. ZMROCZEK: Thank you. Well, when the State is
11 going to rest, Your Honor, at this time, we would rule --
12 at that time, we would move under Rule 19 for a directed
13 verdict. I know the Court knows what the standard is.
14 It's substantial circumstantial evidence. And in this
15 case, we don't believe that the testimony presented thus
16 far represents that. In fact, they, to this point,
17 haven't established that he was even there --
18 specifically, on the second -- the 2016 indictment, we
19 would move for a directed verdict, Your Honor, because
20 it's a specific time period and that nobody has testified
21 that they lived there -- that Mr. Stroman had access or
22 lived there during that specific time period. And I
23 believe that time period was May -- or March 4th to
24 May 7th.

25 THE COURT: All right. Ms. Patterson.

1 MS. PATTERSON: Yes, sir, Your Honor. Jamie Stroman
2 is charged with criminal sexual conduct with a minor in
3 the first degree. The State must prove that the Defendant
4 performed a sexual battery with a minor less than 11 years
5 old. The minor, by her own admission, stated that her
6 date of birth was [REDACTED], 2016 [sic], which would have
7 made her seven and eight years old during the time of the
8 allegations.

9 A sexual battery is sexual intercourse, cunnilingus,
10 fellatio, anal intrusion or any intrusion, however slight.
11 The minor testified that the Defendant would touch her
12 butt and her private areas and would go inside. And she
13 knew this because it hurt and she felt it and it felt
14 nasty. She stated the Defendant used his mouth to touch
15 her butt. The Defendant, by his own admission, stated he
16 fingered her. This can clearly be interpreted to mean he
17 uses his fingers to go inside her vagina. He stated he
18 rubbed her butt and her clitoris.

19 He stated, Your Honor, that this happened
20 approximately a year prior to his interview with Detective
21 Ellisor, and then he went back and said between July and
22 August of 2013. The minor stated she remembered it
23 happened when she was eight years old. She started
24 stating that she remembered what school and what grade she
25 was in. She, again, turned eight years old [REDACTED] of

1 2014.

2 The Defendant in his interview with Detective
3 Stroman -- I mean, Detective Ellisor also said that he
4 live at the [REDACTED] Apartments, Apartment [REDACTED], up until
5 he was locked up and went to jail March 7th.

6 The State will argue we've met the requirements in
7 order for this case to proceed before the jury and ask for
8 the Defense's motion for a directed verdict to be denied.

9 THE COURT: All right. Based upon Rule 19 and the
10 South Carolina Rules of Criminal Procedure, the standard
11 before me is whether or not substantial -- circumstantial
12 evidence exist to consider that the State has proven its
13 case. And the standard is evidence in the light most
14 favorable to the nonmoving party. Considering the
15 existence of the evidence, not the weight of the evidence,
16 there's clearly, based upon the testimony the minor in
17 this case and the confession of the Defendant, enough
18 evidence for this case to go forward to the jury. The
19 State has proven the elements of the crime sufficiently
20 and to the appropriate standard considering the evidence
21 in the light most favorable to the nonmoving party and the
22 existence of the evidence.

23 All right. Do we need to revisit whether or not he
24 wants to testify?

25 MS. ZMROCZEK: Yeah, and one other thing -- yes, Your

1 Honor, and one other thing. So he didn't quite -- when he
2 sat down, I said, Do you understand you just said you're
3 not going to testify? He goes, No.

4 THE COURT: Okay.

5 MS. ZMROCZEK: That's why I think we need to revisit
6 it.

7 THE COURT: Stand back up. Do you understand you're
8 still under oath?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you understand everything I said to
11 you earlier about your rights?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you want me to go over any of it
14 again?

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you understand them?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand what I'm saying?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And do you understand what will happen if
21 you do testify?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand that if you don't want
24 to testify, that's fine with me. I'm going to tell the
25 jury they can't hold it against you, they can't use it

1 against you. In fact, they can't even bring it up. But
2 if you decide to testify, you're subject to the same rules
3 of cross-examination like everybody else and those three
4 convictions we talked about earlier would be admissible
5 against you to impeach you. Do you understand all that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: So do you want to testify or not testify?

8 THE DEFENDANT: Testify.

9 THE COURT: Okay. You want to testify. Okay.

10 That's great. That's great.. Do you have any questions
11 for me about that?

12 THE DEFENDANT: No, sir.

13 THE COURT: Do you need any more time to think about
14 that?

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you need any more time to talk to your
17 lawyer about that?

18 THE DEFENDANT: No, sir.

19 THE COURT: Anybody forced you or threatened you to
20 get you to make that decision?

21 THE DEFENDANT: No, sir.

22 THE COURT: Are you doing it freely and voluntarily?

23 THE DEFENDANT: Yes.

24 THE COURT: Great. Thank you very much.

25 MS. ZMROCZEK: And on that, Your Honor, there is one

1 issue that I don't think the State is going to bring up,
2 so I want to make sure that they don't. So he had written
3 several letters to the solicitor's office against my
4 advice talking about wanting to plea, wanting to plea. I
5 would believe those are not admissible under negotiations
6 and prior suggestions of negotiations, but we need a
7 ruling on that because that may change my advice on
8 whether or not he gets on the stand.

9 THE COURT: Okay.

10 MS. PATTERSON: Your Honor, I was going to ask him
11 about the letters if he testified. And I wasn't going to
12 ask him about the content of the letter, but, basically,
13 the format of the letter. He understands how to read and
14 write and he wrote me, at least, four letters. For the
15 most part, it was grammatically correct, well-written
16 letters. So I was going to ask him about writing the
17 letters, but not necessarily about the content of letters.

18 THE COURT: Okay.

19 MS. ZMROCZEK: Your Honor, if we may, I would like to
20 know just if we can proffer what -- I mean, you wrote me
21 letters, that makes -- I just don't understand.

22 MS. PATTERSON: Well, I mean, basically, what I said.
23 It just depends on how the flow of his testimony goes. I
24 don't want him to get up here and act like he's illiterate
25 or anything.

1. MS. ZMROCZEK: And I don't think he's going to do
2. that.

3. THE COURT: The problem is, Ms. Zmroczek, you've
4. created this idea in everybody's mind that -- or you're
5. going to attempt to that Mr. Stroman has some form of
6. deficiency they would cause him incapable of understanding
7. what happened with Detective Ellisor to the point where he
8. is so deficient that he knowingly gave a false confession.
9. And so the State is going to, I would assume, attempt to
10. show through that questioning that hey, you were able
11. to -- not only did you communicate with Detective Ellisor
12. perfectly clearly, you were able to communicate in writing
13. perfect clearly.

14. But you're not going to get into you told me, you
15. know, X number of times you wanted to plea guilty, is that
16. right, Ms. Patterson?

17. MS. PATTERSON: That's right, Your Honor.

18. THE COURT: What about that, Ms. Zmroczek?

19. MS. ZMROCZEK: Your Honor, what I've created or
20. attempted to create is the fact that there are abilities
21. and persuasive questions that are used and techniques that
22. are used to help people or to encourage or coerce is what
23. the word is, I guess, them into saying things that they
24. didn't. I'm not going to get up there and say that, you
25. know, he's dumb. Obviously, they can see him. They can

1 see how he interacts. You know, I didn't ask in front of
2 the jury Detective Ellisor anything about did you inquire
3 into his education, did you inquire --

4 THE COURT: No, but you did of your own expert.

5 MS. ZMROCZEK: Right.

6 THE COURT: You put in through your own expert that
7 the Defendant had cognitive -- I don't know the
8 appropriate term, something about his cognitive level of
9 functioning and how that could -- is a factor in
10 considering whether or not someone gave a false confession
11 and your expert testified that he had seen a report to
12 that fact.

13 MS. ZMROCZEK: That he had seen his IQ.

14 THE COURT: Right.

15 MS. ZMROCZEK: So as long as they don't go into the
16 content, I mean, they can question him about if he can
17 read and write. That's fine.

18 THE COURT: Great.

19 MS. ZMROCZEK: It was the content I was concerned
20 about.

21 THE COURT: Okay.

22 MS. ZMROCZEK: Lastly, Your Honor, my first witness I
23 intend to call is Sarah Stoudemayer.

24 THE COURT: Okay.

25 MS. ZMROCZEK: And under Rule 611, Your Honor, I

1 would call her as an adverse witness, which would allow
2 for cross-examination techniques because, clearly, she is
3 an adverse witness to this case.

4 MR. POGUE: Your Honor, the State would respectfully
5 put forth that she would need to testify and show that
6 she's adverse before she begins questioning her as an
7 adverse witness.

8 THE COURT: I mean, why is she directly adverse?
9 That's my question. For all we know, she was in a
10 relationship with the Defendant.

11 MS. ZMROCZEK: Right, but being the mother -- well,
12 the testimony, Your Honor, was from, I believe, it was
13 Lacy how she all of a sudden became so emotional and so
14 distraught and so broke down that she required independent
15 counseling that day. And then -- I mean, obviously, I
16 guess it will come out, Your Honor, the fact that she went
17 to go see Mr. Stroman at the jail one time and the
18 statements that she made to medical providers regarding
19 Mr. Stroman. For those reasons, we would say she is an
20 adverse witness. However, Your Honor, if she just goes
21 along with --

22 THE COURT: Well, let's see what happens with her
23 testimony before we just declare her adverse.

24 MS. ZMROCZEK: Certainly.

25 MR. POGUE: Your Honor, I think she's referencing a

1 visit that she made to him before Minor disclosed that
2 he allegedly had sexually assaulted her.

3 THE COURT: I don't know what she's referencing.
4 Let's see -- I mean, we'll -- if we get into the middle
5 of, then I'll give you some kind of sign or I'll just --
6 or they start objecting to you leading and I determine
7 that she's adverse, I'll just rule that way.

8 MS. ZMROCZEK: Okay.

9 THE COURT: I'll say this is a witness under 611 and
10 you'll all know at that point, I've declared that she's
11 adverse or hostile and you can lead her.

12 MS. ZMROCZEK: Thank you.

13 MR. POGUE: Thank you, Your Honor.

14 THE COURT: Anything else?

15 MS. PATTERSON: Nothing from the State.

16 THE COURT: Okay.

17 MS. ZMROCZEK: And actually, she'll be our second
18 witness. I'm going to go ahead and call him first.

19 THE COURT: Okay. All right. So come back in. You
20 say you rest. You say you renew your motions, and then
21 I'll ask if you want to present any witnesses and we can
22 go right into it.

23 MS. PATTERSON: Yes, sir.

24 THE COURT: Got it. Let's bring them in, please.

25 (WHEREUPON, the jury entered the courtroom at 2:33

1 p.m.)

2 THE COURT: All right. Welcome back, ladies and
3 gentlemen. Thank you very much for being on time.

4 Ms. Patterson, you may call your next witness.

5 MS. PATTERSON: Your Honor, at this time, the State
6 rests.

7 THE COURT: All right. Ladies and gentlemen, the
8 State has rested its case.

9 Ms. Zmroczek, would you like to renew your motions?

10 MS. ZMROCZEK: I would, Your Honor.

11 THE COURT: Okay. Your motions are renewed for the
12 record and my ruling on them is the same.

13 Now, as I told you before, ladies and gentlemen, the
14 burden of proof is upon the State in this case. The
15 Defense does not have to put on a case if they do not want
16 to. However, they may if they choose to.

17 Ms. Zmroczek, would you like to call a witness?

18 MS. ZMROCZEK: We already have, but yes, we can call
19 another one.

20 THE COURT: I forgot we started with one.

21 MS. ZMROCZEK: Yeah.

22 THE COURT: I apologize. Would you like to call your
23 next witness or do you have any further witnesses you
24 would like to call?

25 MS. ZMROCZEK: I do, Your Honor. At this time, we

1 call Jamie Stroman.

2 THE COURT: All right. Please come forward,
3 Mr. Stroman, and be seated.

4 JAMIE STROMAN, after being duly
5 sworn, testified as follows:

6 THE CLERK: Once you're seated, state your name,
7 spelling your last.

8 THE WITNESS: Jamie Stroman, Stroman, S-T-R-O-M-A-N.

9 DIRECT EXAMINATION

10 BY MS. ZMROCZEK:

11 Q All right. Mr. Stroman, how old are you?

12 A Thirty-eight.

13 Q And I just want to clear this up, add it to our
14 calender. When did you go to jail in 2014?

15 A March -- May 27th.

16 Q Was it May 7th?

17 A May 7th. May 7th.

18 Q So May 7th, you went to jail, right?

19 A Yes, ma'am.

20 Q All right. And what was that for?

21 A Probation violation and I violated my weekend time.

22 Q Okay. So you had got on probation for what? Did you
23 receive probation for some sort of receiving stolen goods
24 or some sort of charge like that?

25 A Yes, ma'am.

1 Q All right. Okay. So after May 7th, did you -- you
2 had an interview with the police while you were still in
3 jail, right?

4 A Yes, ma'am.

5 Q Okay. I want to talk about -- a little bit about
6 your history, okay. Where did you grow up?

7 A In Pelion.

8 Q All right. Where did you go to school?

9 A Pelion High School.

10 Q Pelion?

11 A And Wagoner High School.

12 Q How far did you get in school?

13 A Eleventh grade.

14 Q What kind of classes were you in?

15 A Special ed classes.

16 Q All right. Can you read and write?

17 A Yes, ma'am.

18 Q You're not illiterate?

19 A No, ma'am.

20 Q All right. But you can read and write?

21 A Yes, ma'am.

22 Q All right. Did you finish the 11th grade?

23 A No.

24 Q What did you do after that?

25 A I got kicked out.

1 Q Okay. And then what did you do?

2 A Just lived my life.

3 Q Okay. So let's talk a little bit about that. Where
4 have you actually lived as in stayed in places? When you
5 grew up, what was your address -- not what the address
6 was, but did you stay in the same place?

7 A Yes.

8 Q With who?

9 A My mom.

10 Q Do you remember what that address was?

11 A No.

12 Q How often did you move around?

13 A Not that often.

14 Q Okay.

15 A Not that often.

16 Q All right. If you didn't live with your mom, where
17 else would you live?

18 A With my sister. That's about it.

19 Q With your sister. Okay. Did you ever live with
20 Sarah Stoudemayer?

21 A Oh, yes, ma'am.

22 Q So you lived with her. When did that start, do you
23 think?

24 A I don't recall.

25 Q Okay. And that's okay. But when they moved into

1 ██████████ Apartments?

2 A Yes, ma'am.

3 Q Did you move into ██████████ Apartments, too?

4 A Yes, ma'am.

5 Q All right. Did you stay there every single night,
6 every day, every week?

7 A Yes, ma'am.

8 Q All right. Did you ever -- when did you move out?

9 A When some -- somebody got in contact with her and
10 told her that I was a fleeing felony because I was going
11 to run from my probation violation. I had a bench
12 warrant.

13 Q Uh-huh.

14 A And they told her that if they caught me in the
15 house, they'd kick her out. So she kicked me out.

16 Q When was that?

17 A That same day. I'm not sure what date it was.

18 Q Okay. Do you know Eric English?

19 A Yes, ma'am.

20 Q Do you know when he was arrested?

21 A No, ma'am.

22 Q Okay. Was it before or after that? Or you don't
23 know when he was arrested?

24 A It was after that. It was after that.

25 Q Okay. Was it before or after you got arrested?

1 A It was before I got arrested.

2 Q Okay. So it was before you got arrested?

3 A Yes, ma'am.

4 Q All right. And, in fact, when you got arrested on
5 May 7th, where were you?

6 A At Sarah's house. She was taking me back to my
7 cousin's house in Pelion.

8 Q So you were in the car?

9 A Yes, ma'am.

10 Q Okay.

11 MS. PATTERSON: Objection, Your Honor. I mean, he
12 said he was at Sarah's house and then she said in a car,
13 so she's answering for him.

14 THE COURT: Sustained. This is direct examination,
15 not cross-examination.

16 MS. ZMROCZEK: I'll ask the question differently.

17 BY MS. ZMROCZEK:

18 Q When did the police arrest you? Where were you
19 physically located?

20 A In the car.

21 Q Well, why did you say at the house?

22 A (Indicating in the negative.)

23 Q So when the police put you in jail on May 7th, they
24 got you from where?

25 A Out of the car.

1 Q Who else was in the car that day?

2 A Sarah, me and Sarah.

3 Q Okay. Have you ever had any contact with DSS?

4 A No, ma'am.

5 Q Okay. Did DSS send you to get any testing done?

6 A No, I went and got my testing done on my own.

7 Q Okay. When was that?

8 A I'm not really sure what date that was.

9 Q Okay.

10 A But it was after all that happened.

11 Q After all that happened?

12 A Yes, ma'am.

13 Q All right. And you turned your test results in to
14 DSS, right?

15 A Yes, ma'am.

16 Q And did you have any disease?

17 A No, ma'am.

18 Q Did you have any contact with Sarah after you were
19 arrested?

20 A Yes.

21 Q Okay. What kind of contact was that?

22 A She came to visit me once or twice.

23 Q Okay.

24 A And then I called her on the cell phone, talked to
25 her.

1 Q Okay. When did that stop? You can't tell us what
2 she told you, but just when did that stop?

3 A After all that -- after all this happened.

4 Q Okay. After the police came to talk to you?

5 A Yeah, after the police came to talk to me.

6 Q Okay. Now, I want to talk about that for a little
7 bit. The police come in and talk to you. Obviously,
8 you've seen the video, right?

9 A Yes, ma'am.

10 Q Do you remember the police coming and talking to you?

11 A Yes, ma'am.

12 Q What did you tell them about these incidents?

13 A What did I tell them about these incident?

14 Q Uh-huh.

15 A What you mean?

16 Q What did -- did you molest **Minor** ?

17 A No, ma'am.

18 Q Did you touch her on the butt?

19 A No, ma'am.

20 Q Did you touch her on the clitoris?

21 A No, ma'am.

22 Q Did you put your fingers anywhere?

23 A No, ma'am.

24 Q Then, Mr. Stroman, why did you tell the police that
25 you did?

1 A I was ready to get out of jail. I've been locked up
2 for like four months. I was ready to get out of jail.

3 Q You were ready to get out of jail?

4 A Yes, ma'am.

5 Q So what made you think that telling them that would
6 get you out of jail?

7 A Because he promised he would help me out if I let him
8 know what happened.

9 Q Okay. What did that mean to you?

10 A That meant like talk to the solicitors, get me
11 probation or something.

12 Q Okay.

13 A Just help me out. Keep me from not going to prison.

14 Q Keep you from not going to prison?

15 A Yes, ma'am.

16 Q Every time that you have been arrested before, what's
17 happened to you?

18 A I got probation.

19 Q Okay. So when he was saying help you out, that meant
20 to you getting out of prison?

21 A Getting out of jail, yes.

22 Q Okay.

23 A Or helping me get out of jail.

24 Q Helping you get out of jail?

25 A Yes, ma'am.

1 Q Okay.

2 MS. ZMROCZEK: Beg the Court's indulgence.

3 (Pause.)

4 MS. ZMROCZEK: Please answer any questions the State
5 may have.

6 THE COURT: Yes, ma'am.

7 CROSS-EXAMINATION

8 BY MS. PATTERSON:

9 Q Mr. Stroman, you're 38 years old, correct?

10 A Yes, ma'am.

11 Q You're a pretty big man. How tall are you?

12 A About 5'8", 5'9" somewhere in there.

13 Q How much do you weigh?

14 A 240.

15 Q And you can read and write, correct?

16 A Yes, ma'am.

17 Q You've never been diagnosed with any cognitive
18 disabilities, correct?

19 A Yes, ma'am.

20 Q And when you spoke with Detective Ellisor, you knew
21 he was coming, correct?

22 A Yeah, Sarah told me he was coming.

23 Q So Sarah told you he was coming. So you went to jail
24 May 7th, correct?

25 A Correct.

1 Q You had contact with Sarah a couple of times after
2 you went to jail?

3 A Correct.

4 Q But when all this came out, she cut off all ties,
5 didn't she?

6 A Yes.

7 Q And you moved in to the [REDACTED] Apartment with
8 Sarah and her two kids in 2012, correct?

9 A Correct.

10 Q And Sarah worked, and sometimes she would work two
11 jobs, wouldn't she?

12 A Yes.

13 Q And you didn't ever work, did you?

14 A Well, when we first moved in, she didn't have no job.
15 When we first moved in, she didn't have a job. She got a
16 job a couple months later on.

17 Q So she worked?

18 A Yes, she work.

19 Q And for most of that time, you didn't work, did you?

20 A No.

21 Q And when you talked to Detective Ellisor, at any
22 time, did you tell him you didn't understand the rights
23 that were given to you?

24 A No, ma'am.

25 Q At any time, did you ask him for a break? At any

1 time did you ask him for anything?

2 A No, ma'am.

3 Q As a matter of fact, you never complained about a
4 thing in that interview with Detective Ellisor, did you?

5 A No, ma'am.

6 Q And you remember when Eric got arrested, correct?

7 A Correct.

8 Q All right. And you were still living in the house
9 with Sarah and her kids, right?

10 A Correct.

11 Q And you knew **Minor** had been diagnosed and given
12 treatment for gonorrhea, right?

13 A Correct.

14 Q And you also knew when she finished that treatment
15 didn't you?

16 A No, I didn't.

17 Q And you were just going to let Eric take all the
18 blame for this, weren't you? You weren't going to say a
19 thing, were you?

20 A I didn't do nothing. Why should I?

21 Q But you did admit to doing something, didn't you?

22 A Because the detective promised to help me out if I
23 let him know something.

24 Q Even before Detective Ellisor raised the tone of his
25 voice, you admitted to touching **Minor** , didn't you?

1 A Yes, ma'am, I did.

2 Q Then you swore to God and on your grandfather's grave
3 that you never touched her?

4 A Yes, ma'am, I did.

5 Q But then you went back and said yeah, I did touch
6 her, I rubbed her ass.

7 A (Nods in the affirmative.)

8 Q Correct?

9 A Correct, correct.

10 Q And then you admitted to fingering her, right?

11 A Correct.

12 Q All right. Let's talk about that. What does it mean
13 to you when a man says he fingers a female?

14 A Stick his finger in her.

15 Q Okay. And so this is what you told Detective Ellisor
16 you did to that eight-year-old child, correct?

17 A Correct.

18 Q And you admitted to being a father figure to

19 **Minor** , right?

20 A Correct.

21 Q In fact, you helped Sarah get them off the bus, do
22 their homework, correct?

23 A Correct.

24 Q Cook dinner? You helped put them in bed almost every
25 night, didn't you?

1 A No, they get in bed their own self.

2 Q But when it was bath time, you helped them get out of
3 their clothes?

4 A No.

5 Q Isn't that what you said on that video?

6 A No.

7 Q You didn't say that?

8 A What I meant was I get their clothes out for them to
9 take a bath. They put on their own clothes and take their
10 own clothes off.

11 Q And you were also responsible for helping discipline
12 those children, weren't you?

13 A Yes, ma'am.

14 Q So those threats that you made to Minor , they were
15 real to her, weren't you?

16 A What do you mean?

17 Q Have you threaten her before -- I mean, haven't you
18 disciplined her before?

19 A Yeah.

20 Q Okay. And then you threatened her not to tell what
21 you were going to her, right?

22 A No.

23 Q And we watched the interview and the jury can watch
24 it later, but in the interview you told Detective Ellisor,
25 I get their clothes off. I get their clothes off of them

1 and then they go bathe themselves. So you're not saying
2 that's what you said?

3 A No, I said I get the clothes out for them to go take
4 a shower. They take their own clothes off and put them
5 on. I did not say I take their clothes off and then they
6 take a shower, no.

7 Q Then you just testified earlier that you went and got
8 tested for gonorrhea on your own, correct?

9 A Correct.

10 Q But then you tell Detective Ellisor DSS made you get
11 tested?

12 A They told Sarah that we had to get tested. Anybody
13 that -- all the males that was around **Minor** had to go
14 get tested.

15 Q So this wasn't something you did on your own, DSS
16 told you that?

17 A No, no, no, no. I had already went and got my
18 testing before DSS told her that. By the time DSS told
19 her that, I had my tests already.

20 Q All right. Well, then why do you tell Detective
21 Ellisor DSS made you get tested and all the men around
22 her?

23 A That's what they told Sarah.

24 Q Not only did you tell Detective Ellisor what you did
25 to that eight-year-old child, you told him why you did it,

1 didn't you?

2 A Yes, ma'am.

3 Q And you told him when Sarah didn't want to have sex,
4 you would go in there and mess with an eight-year-old
5 little girl, didn't you?

6 A Yes, ma'am.

7 Q All right. Why didn't you wake Sarah up? She's a
8 grown woman. She's the one you're dating. Why didn't you
9 wake her up?

10 A Because I didn't do nothing. It's all a lie.

11 Q And that's a lie you told, right?

12 A No, ma'am.

13 Q You didn't touch her?

14 A No, I didn't touch her.

15 Q Then why would you admit to something so sickening if
16 you didn't touch that child?

17 MS. ZMROCZEK: Objection, Your Honor.

18 THE COURT: Overruled.

19 THE WITNESS: Like I said before, if he promised to
20 help me out of jail, I'll do anything to get out of jail.
21 I relied on his promise to help me out. And he said he
22 would help me out if I let him know what happened. That
23 means helping me get out of jail.

24 BY MS. PATTERSON:

25 Q And you've had prior convictions for petit larceny,

1 correct?

2 A Correct.

3 Q Receiving stolen goods, correct?

4 A Correct.

5 Q Breach of trust, correct?

6 A Correct.

7 Q And you were about to get out of jail on this
8 probation violation, weren't you?

9 A Yes, ma'am.

10 Q So if you were about to get out of jail, why were you
11 worry about not getting out of jail?. That doesn't make
12 sense.

13 A Because if he said he's going to help me out, I
14 thought he could get me out of jail before my couple of
15 days was up, before I got out of jail. He could get me
16 out before my last -- I had 20 days left and I thought he
17 could get me out before my 20 days was up. That's why I
18 said it. That's why I confessed, because I was ready to
19 get out of jail.

20 Q And then you talk about when this happened. Not only
21 what happened, why, but then you said when, correct?

22 A I'm not -- I'm not sure.

23 Q Didn't you tell him that you would go in there and
24 you would touch **Minor** a year, July, August of 2013?

25 A Yes, ma'am.

1 Q All right. So not only -- so you told him what you
2 did, why you did it and when you did it?

3 A Correct.

4 Q And is it just a big coincidence that all of that
5 corroborated exactly what that eight-year-old said?

6 A Correct.

7 MS. PATTERSON: Beg the Court's indulgence.

8 (Pause.)

9 MS. PATTERSON: No further questions, Your Honor.

10 MS. ZMROCZEK: Just a few followup.

11 REDIRECT EXAMINATION

12 BY MS. ZMROCZEK:

13 Q Ms. Patterson asked you about discipline. So you
14 disciplined the children?

15 A Yes, ma'am.

16 Q All right. Okay. And you were about to get out in
17 20 days?

18 A Yes, ma'am.

19 Q Can you tell this jury what a cognitive disability?

20 A No, ma'am.

21 Q Okay. She asked you if you had a cognitive
22 disability. Do you know what that means?

23 A No, ma'am, I don't.

24 Q Okay. She kept asking you -- so why did you go to
25 get tested?

1 A To -- to clear myself, to clear my name.

2 Q Okay. So did you just go on your own or did you go
3 because somebody told you to?

4 A I went on my own..

5 Q Okay.

6 A I went on my own. And then after -- probably a
7 couple of days after I went and got tested, I think DSS or
8 somebody told her to all the males had been around
9 Minor , they had to go get tested.

10 Q And do you remember what date that was that you got
11 tested?

12 A No, ma'am.

13 Q Okay. If I show you your medical report, will that
14 refresh your memory recollection?

15 A Yes, ma'am.

16 MS. ZMROCZEK: Beg the Court's indulgence.

17 (Pause.)

18 BY MS. ZMROCZEK:

19 Q All right. Do you remember where you went?

20 A Yes, ma'am.

21 Q Where was that?

22 A In Swansea.

23 Q Swansea Medical Center?

24 A Yes, ma'am.

25 Q And -- I can't find the report right now. So was it

1 before or after **Minor** went to the hospital?

2 A I think it was after.

3 Q Okay.

4 MS. ZMROCZEK: Thank you. I have no further
5 questions.

6 MS. PATTERSON: Nothing further.

7 THE COURT: All right. Thank you very much,
8 Mr. Stroman. You may step down.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. You may call your next
11 witness.

12 MS. ZMROCZEK: Thank you, Your Honor. We'd call
13 Sarah Stoudemayer.

14 THE COURT: All right. Ms. Stoudemayer, please come
15 forward and be sworn.

16 SARAH STOUDEMAYER, after being
17 duly sworn, testified as follows:

18 THE CLERK: Once you're seated, state your full name,
19 spelling your last, please.

20 THE WITNESS: All right. My name is Sarah
21 Stoudemayer. Stoudemayer is S-T-O-U-D-E-M-A-Y-E-R.

22 DIRECT EXAMINATION

23 BY MS. ZMROCZEK:

24 Q Ms. Stoudemayer, how old are you?

25 A Twenty-seven.

- 1 Q All right. Where do you live?
- 2 A I live on Broad River Road.
- 3 Q Okay. Where did you live prior to that?
- 4 A [REDACTED] Apartments.
- 5 Q Do you remember when you moved in?
- 6 A February 2012.
- 7 Q Tell the jury a little bit about [REDACTED]
- 8 Apartments. What kind of housing was that?
- 9 A Section eight, subsidized.
- 10 Q Section eight subsidized housing?
- 11 A Uh-huh.
- 12 Q Did you have to fill out some papers?
- 13 A Yeah.
- 14 Q To stay there?
- 15 A Yes, ma'am.
- 16 Q Did you have to list everybody who lived there?
- 17 A I did.
- 18 Q Did you list Jamie Stroman as living there?
- 19 A No, I did not.
- 20 Q Were you aware that that could affect your section
- 21 eight housing?
- 22 A Of course.
- 23 Q So you purposely didn't put his name on there?
- 24 A That's right.
- 25 Q Okay. When did you start working? When did you

1 start working?

2 A My first job, I think it was either Taco Bell and
3 then Firehouse. That was, I think, July 2012.

4 Q Okay.. What hours did you work?

5 A Mostly 10:00 to 2:00.

6 Q Mostly?

7 A And then I had a second job, and that was from 11:00
8 at night or 10:00 at night until 5:00 in the morning.

9 Q All right. And what job was that?

10 A Cookout. Now, when it started, that was maybe a year
11 after that.

12 Q So a year --

13 A In 2013.

14 Q So in 2013, you were at Cookout?

15 A Yeah.

16 Q From 10:00 p.m. to 5:00 a.m.?

17 A Yes, ma'am.

18 Q Which Cookout was that?

19 A Well, whenever I had to train, it was on the
20 northeast side of Two Notch. And then when it built, it
21 was right there on West Main Street.

22 Q You know Eric English?

23 A Of course.

24 Q How old were you when you got pregnant with **Minor** ?

25 A I was 15 years old.

1 Q And Eric is the father?

2 A He is.

3 Q How old is he?

4 A He was 17.

5 Q Okay. And **Minor** was born in what year?

6 A 2006.

7 Q And then when was E. J. Born?

8 A In 2007.

9 Q All right. And E. J., Eric, Jr.?

10 A That's correct.

11 Q And he was born in 2007?

12 A Yes, ma'am.

13 Q So just a year younger than **Minor** ?

14 A Eleven months apart.

15 Q Eleven months. All right. When did you start seeing
16 Jamie Stroman, dating him?

17 A About 2011. I'm not sure of the date. I know it
18 was 2011 because we had been together three years.

19 Q You'd been together three years?

20 A Yes, ma'am.

21 Q Did you have any formal arrangement with regards to
22 visitation with Eric?

23 A Not court, no.

24 Q Tell the jury a little bit about what your
25 arrangement was.

1 A Can you explain that further?

2 Q Sure. Tell the jury about how you let Eric see the
3 kids?

4 A Before all this happened?

5 Q Certainly.

6 A Okay. Well, I mean, we weren't together, but when he
7 wanted her or wanted both of them, he got them on the
8 weekends, or whenever it was spring break, he got them
9 some days, or the summertime, he got them some days. He
10 also had family that wanted them, which was his aunts and
11 uncles.

12 Q Now, who did he live with?

13 A Who did Eric live with?

14 Q Correct.

15 A His mother.

16 Q And who else?

17 A I guess her former boyfriend at the time.

18 Q And his mother is who?

19 A Sharon Jones.

20 Q All right. And how did **Minor** refer to her?

21 A Nana.

22 Q She also referred to his grandmother as nana?

23 A No. Grandma.

24 Q As grandma. Did she refer to your mother as nana?

25 A She did, but she never really met her. She died

1 before that.

2 Q So she had passed?

3 A She passed away when she was about five months.

4 Q So if she's using the term nana, who is she referring
5 to?

6 A She has a nana in Charlotte, which is my aunt, that
7 would be her great aunt by marriage. That's who gave her
8 the American doll, of course. And then there would be
9 Sharon Jones and then my mother.

10 Q Okay. But she never met your mother, right?

11 A Not remember, no.

12 Q All right. You remember having conversations with
13 the school and the school nurse around March of 2014?

14 A Are you referring to about her underwear?

15 Q Yes.

16 A Yes, I do recall that.

17 Q All right. What do you recall?

18 A The nurse calling me -- I was at work, they called me
19 on my job phone telling me, just letting me know that she
20 had complained about drainage in her underwear and she
21 would change them for her since they had an extra pair.
22 They would send the ones home to be washed or whatever I
23 wanted to do with them.

24 Q Did they call you back that same day?

25 A No, not that I can recall.

1 Q So they only called you that one time. And what day
2 was that?

3 A The 4th of March, 2014.

4 Q Okay. So then what happened -- so the 4th of March
5 of 2014, you get a call from the school. And then what
6 happens the rest of that day?

7 A Well, I asked -- when she got off the bus, I asked to
8 see the underwear. She showed me. And I can remember
9 seeing crusty, greenish color on her panties. And I knew
10 there was automatically something wrong. I was really
11 kind of upset at that point. I said we're about to go to
12 the doctor to make sure that you're fine.

13 And then by that time, I had backed up to take her to
14 the doctor and I asked her what happened, what's going on
15 with you. We're going to go to the doctor and they're
16 going to tell me something's wrong. You need to tell me
17 what's going on. Has anybody touched you?. She wouldn't
18 tell me at that time. I kept pushing it. Minor ,
19 please tell me what happened to you. The doctor will tell
20 me. And she told me her father had done it. When she
21 said done it, touched her.

22 MR. POGUE: Your Honor, may we approach?

23 THE COURT: Sure.

24 (WHEREUPON, a bench conference was held.)

25 BY MS. ZMROCZEK:

1 Q All right. So you're in the car. The very first
2 place that you go is where?

3 A I was heading to the doctor at that point, and then
4 she finally told me. We were kind of close to the doctor
5 at that point. She told me what happened. I was getting
6 really upset, so I pulled over because I wouldn't stop
7 crying and I couldn't drive like that. So me and Minor
8 was really upset, crying together, hugging each other. I
9 tried to get myself together. By that point, anger filled
10 me. And I remember driving saying that I was going to
11 hurt him.

12 We did go to nana's house, which would be that's
13 where he lived, and he wasn't there. I remember all of
14 them, his family meeting me there. And I was really
15 upset, you know. We were both talking loud. They all
16 questioned Minor what was going on. And then I
17 remember her aunt saying, Well, we need to take her to the
18 emergency room, which I was going to do that anyway, so we
19 all left and went. Her aunt -- I mean, her nana couldn't
20 go in there. Her aunt wasn't allowed to either. So it
21 was just me and Minor , which would be the ER.

22 Q So you and Minor went to the ER?

23 A That's correct.

24 Q Now, when did -- you have a brother?

25 A I do.

1 Q When did your brother move in?

2 A It was shortly, because I'm not sure exactly what
3 happened for him to move in. He didn't stay long at all,
4 maybe a month or so before all that happened..

5 Q Before all that happened?

6 A Maybe.

7 Q Okay. And what's his name?

8 A Joel.

9 Q And so Joel moved in or did he stay with you
10 sometimes?

11 A Yeah.

12 Q When Joel -- so when you go to the ER, they send you
13 to another ER?

14 A We went to Palmetto Richland, the children's
15 hospital.

16 Q Okay.

17 A For the forensic swab.

18 Q Okay. And at that point, did DSS get involved?

19 A I'm sure they did. I can't recall, it's been awhile.

20 Q Okay.

21 A But I mean, things like that, they would be called,
22 yes.

23 Q So did DSS set up a safety plan with you?

24 A I can't remember.

25 Q Okay. Do you recall any involvement in a

1 multidisciplinary team or any involvement talking to law
2 enforcement?

3 A There was a lot of things. There was a lot of people
4 I talked to, so I'm sure there was.

5 Q On May 20th of 2014, do you recall telling law
6 enforcement that -- that Eric English had --

7 MR. POGUE: Objection, Your Honor. I mean, this is
8 clearly -- she's going into hearsay at this point.

9 MS. ZMROCZEK: If I'm asking her what she said, I
10 don't believe that's hearsay.

11 THE COURT: If it's an out-of-court statement offered
12 for the truth of the matter asserted, then there's no
13 exception that applies.

14 MS. ZMROCZEK: I believe we have a matter of law.

15 THE COURT: Okay. All right. Ladies and gentlemen,
16 go back to your jury room. Do not discuss the case. Keep
17 an open mind. We'll be back with you in just a moment.

18 (WHEREUPON, the jury left the courtroom at 3:07
19 p.m.)

20 THE COURT: All right. What's the question?

21 MS. ZMROCZEK: So, Your Honor, the question was did
22 you say the alleged perpetrator has learned his lesson and
23 that she wants him to get out of jail. And I don't
24 understand how that's hearsay if she's here to be
25 cross-examined on the question.

1 THE COURT: Well, how is it relevant?

2 MS. ZMROCZEK: How is it relevant that she tells --
3 because on May 20th, she tells the counselor or some law
4 enforcement officer that Eric English has learned his
5 lesson and she wants him to get out of jail, and then two
6 weeks later, Jamie Stroman is identified as the
7 perpetrator, Your Honor? That how we believe it's
8 relevant. Because it goes to bias and motive.

9 THE COURT: That fact has nothing to do with whether
10 or not Mr. Stroman inappropriately touched the minor .

11 MS. ZMROCZEK: But it all goes back to what Minor
12 said she had discussed with nana about nana saying --

13 THE COURT: No, no, you're making a jump that doesn't
14 exist. What does what Ms. Stoudemayer said to the police
15 have to do with whether or not this offense occurred?

16 MS. ZMROCZEK: Well, because it goes to family
17 pressure and bias. They put up somebody who talked about
18 why somebody would delay in disclosing. And one of the
19 reasons that they put was family and family pressures and
20 keeping people in trouble and keeping people out of
21 trouble.

22 THE COURT: Okay. You haven't established any of
23 that exist with Ms. Stoudemayer.

24 MS. ZMROCZEK: That's what I'm trying to establish.

25 THE COURT: Okay. You're making a big jump in

1 between defendants that doesn't exist. How does what she
2 said or didn't say to law enforcement have anything to do
3 with establishing any bias or prejudice or motive towards
4 Mr. Stroman?

5 MS. ZMROCZEK: Because all of these conversations
6 occurred two weeks prior to him being identified.

7 THE COURT: So?

8 MR. POGUE: Your Honor, that's not correct. These
9 conversations took place in June that she's talking about
10 with nana. That's clearly established. She said that --
11 as a matter of fact --

12 THE COURT: I mean, it's established that Minor
13 tells -- that nana talks about Knot after Minor --
14 after Minor discloses.

15 MR. POGUE: Exactly.

16 THE COURT: I mean, that's already established.

17 MR. POGUE: She said that Lacy was the first person
18 that she even told.

19 THE COURT: Yeah, that the conversation with nana,
20 whichever nana it may be, was after -- she said Minor
21 says she told Lacy, she told her mom, and then she told
22 nana. I don't understand what Ms. Stoudemayer --

23 So you're saying Ms. Stoudemayer said to the police,
24 Eric English has learned his lesson. He needs to be let
25 out of jail?

1 MS. ZMROCZEK: Correct.

2 THE COURT: Who cares? What does that have to do
3 with this case? Nothing is the answer to that question.
4 How does that establish any bias or prejudice against
5 anybody other than -- I mean, I can't even imagine what it
6 has to do with this case.

7 MR. POGUE: Your Honor, the State's position is she's
8 just trying to confuse the timeline to make it -- to
9 create some sort of bias by misrepresenting the order in
10 which the disclosures happened. And that's the issue
11 here, is that she clearly established that she -- when she
12 testified on the stand that she told Lacy first and that
13 was the first person that she spoke to. And all these
14 statements in regard -- she's trying to say that nana
15 spoke to her and told her to say it was not, all that was
16 after she had already said that Knot had -- she had
17 already alleged that Knot had sexually assaulted her.

18 THE COURT: All right. I mean, I'm listening,
19 Ms. Zmroczek.

20 MS. ZMROCZEK: Well, Your Honor, I understand that's
21 what now an 11-year-old testified to on the stand, but I
22 think I'm certainly allowed to inquire as to if that
23 statement were truthful if she had not talked to nana
24 prior to that.

25 THE COURT: Well, fine. I mean, you can establish

1 that if you want to, but you haven't.

2 MS. ZMROCZEK: Okay. All right.

3 THE COURT: You haven't established anything that is
4 contrary -- as to who the child talked to that's contrary
5 to that.

6 MS. ZMROCZEK: All right. I will --

7 THE COURT: I mean, what Ms. Stoudemayer said to the
8 police about Eric English is just not relevant.

9 MS. ZMROCZEK: Okay. I'll withdraw that question,
10 Your Honor, and I'll move on.

11 THE COURT: All right. Bring them back in.

12 (WHEREUPON, the jury entered the courtroom at 3:12
13 p.m.)

14 THE COURT: All right. Welcome back.

15 You may continue.

16 MS. ZMROCZEK: Thank you.

17 BY MS. ZMROCZEK:

18 Q Ms. Stoudemayer, did you have occasion to call the
19 police in April of -- did you have an occasion to call the
20 police regarding harassing phone calls?

21 A Yeah.

22 Q Okay. When was that?

23 A (There was no response.)

24 Q Let me ask it this way. Did that happen before or
25 after the accusations of Eric, about Eric?

1 A I believe it was after.

2 Q Okay. And who was calling you?

3 A Sharon Jones.

4 Q And who is Sharon Jones?

5 A Nana.

6 Q All right. And why was nana calling you?

7 A She was harassing me about Knot, I'm guessing. It's
8 been a while, but I remember calling police.

9 Q You remember calling the police?

10 A Banging on my door. Banging on my door. I wasn't
11 even home. My neighbors used to call the police for me.

12 Q That Sharon Jones would bang on your door and the
13 neighbors would even have to call the police?

14 A Yeah.

15 Q Okay. And then I want to talk about May 7th when --
16 do you remember when Jamie got arrested?

17 A I do.

18 Q Okay. Where were you?

19 A Coming back from Pelion.

20 Q Were you in a -- were you walking, driving, in an
21 apartment or in a vehicle?

22 A I had a vehicle.

23 Q Okay. So you were coming back from Pelion. And that
24 was on May 7th?

25 A Yes, ma'am.

1 Q And after May 7th, he went to jail, right?

2 A That's correct.

3 Q Did you see or talk to him afterwards?

4 A Yeah.

5 Q Okay.

6 A We were dating.

7 Q So you hadn't broken up at that time?

8 A No.

9 Q Okay.

10 A Because I was still visiting him and talking to him.

11 Q Can you tell this jury who Craig Williams is?

12 A That is my last child's father.

13 Q Okay. When did you find out that you were pregnant
14 with Craig Williams' child?

15 A In August.

16 Q You didn't tell the counselors in June?

17 A My due date of my daughter was April 17, 2015. That
18 would make me pregnant in August.

19 Q Okay. So you deny telling them in June?

20 A I told them I had a boyfriend, a friend. And yes, I
21 ended up getting pregnant right after that.

22 Q Okay.

23 A In August.

24 Q Okay. When you would go -- and I'm not trying to --
25 I'm sorry that I keep jumping around. I'm sorry. I want

1 to try to keep it straight. Do you remember -- back in
2 March when all this happened, do you remember taking Jamie
3 Stroman to get a test?

4 A Yeah.

5 Q And what date was that?

6 A I don't remember.

7 Q Okay. Was it before or after she came home from
8 school?

9 A After.

10 Q Okay. All right. And then --

11 A That day?

12 Q Okay.

13 A Are you talking about the underwear incident?

14 Q Yeah.

15 A It would be after that.

16 Q Would it have been the next day?

17 A Probably.

18 Q Okay.

19 A Maybe so.

20 Q Okay.

21 A If not, the 6th.

22 Q So either the 5th or the 6th. Do you recall then her
23 starting counseling, her, **Minor** ?

24 A Yeah.

25 Q And they would meet with you and talk with you prior

1 her session beginning?

2 A Yep.

3 Q All right. What kind of things would y'all talk
4 about?

5 A Life outside of counseling, school, home,
6 relationships.

7 Q Did you have a lot of stressors outside of
8 counseling -- did you have a lot of stressors in your
9 life?

10 A Finding baby-sitters, that's about it.

11 Q Who used to watch your children?

12 A Well, when we were dating, it would be Knot.

13 Q Okay. And he would -- what would he do as far as
14 their care?

15 A Get them off the bus, feed them, help them with
16 homework, make sure they got into the bed and the bathtub.

17 Q Now, did they know how to bathe themselves?

18 A Somewhat, yes.

19 Q In fact, that's what you told the --

20 A Yeah, they know how to bathe themselves. They might
21 miss a few spots, I'm sure.

22 Q But they knew how to bathe themselves?

23 A Yes, ma'am, I taught them.

24 Q Did they know how to dress and undress themselves?

25 A Yeah, sometimes they need help, not all the time.

1 Q And this went on for about two years?

2 A Yes, ma'am.

3 Q Okay. So you ended up calling the police because of
4 what Sharon Jones was doing, her behavior?

5 A Yeah.

6 Q Did you take out a restraining order?

7 A I did.

8 Q Okay. Do you recall when that was?

9 A No, I don't.

10 Q Okay. What, if any, contact did **Minor** have with
11 nana, and the nana that I'm referring to is Sharon Jones,
12 after March 4th?

13 A What kind of contact.

14 Q What, if any, kind of contact?

15 A It would be parental visitations with me and her
16 grandma -- or her nana.

17 Q Okay. So you were always there with her?

18 A Most of the time, yes.

19 Q Okay. But sometimes not?

20 A No.

21 Q And where would those visitations be?

22 A Sometimes at her aunt's, my daughter's aunt or her
23 house or her grandma's house right beside her aunt's
24 house.

25 Q When did you learn that she was still having contact

1 with Eric?

2 A When she told some of the counselors.

3 Q Okay. What did DSS do about any of that?

4 A They just told me to make sure she don't get in
5 contact with her again -- or him again, really.

6 Q Okay.

7 A But she loves her grandma -- or her nana.

8 Q Okay. When you were asked, who did you tell, by any
9 authority, who lived with you, who stayed at the house?
10 Like, for example, if the school asked, if DSS asked, if
11 the hospital and if those were different, separate them
12 out for me.

13 A I wouldn't really tell them that I had a boyfriend
14 because I was scared that I could get out of [REDACTED]
15 but, of course, I did not abide by that rule.

16 Q Okay. Did you tell -- so what did you tell the
17 hospital who lived with you?

18 A I can't remember that far back.

19 Q Okay.

20 A But I'm pretty sure I told them everything, the
21 truth.

22 Q So if you told them that Jamie Stroman stayed with
23 you sometimes, would that have been the truth?

24 A Yeah. He stayed with me all the time.

25 Q Okay.

1 MS. ZMROCZEK: Beg the Court's indulgence.

2 THE COURT: Yes, ma'am.

3 BY MS. ZMROCZEK:

4 Q I want to ask you just one thing. You said the only
5 time **Minor** had contact with nana was parental
6 visitation?

7 A And I also said sometimes.

8 Q Oh, yeah, sometimes. And were there phone calls,
9 also?

10 A Yeah.

11 Q Okay. And were you on the phone when those phone
12 calls happened?

13 A I gave my daughter the phone most of the time.

14 Q And some of those phone calls and contacts were prior
15 May 7th; is that correct?

16 A I'm sure, and after, maybe.

17 Q Okay.

18 A It's her nana.

19 Q So some before and some after?

20 A Yeah.

21 Q Okay.

22 A Like I really stopped talking to her after I got the
23 restraining order mostly. I just didn't want nothing to
24 do with her.

25 Q Okay.

1 MS. ZMROCZEK: Thank you. I have no further
2 questions.

3 MR. POGUE: Just briefly, Your Honor.

4 THE COURT: Okay.

5 CROSS-EXAMINATION

6 BY MR. POGUE:

7 Q You mentioned really quickly that **Minor** might not
8 remember your mother that she referred to -- that y'all
9 referred to as nana. Why is that?

10 A My mother passed away when I was 15 -- well, 16.

11 Q Where were you and Knot going when you were leaving
12 Pelion?

13 A Home.

14 Q Where is home?

15 A [REDACTED].

16 Q So you were headed back to [REDACTED] when he was
17 arrested?

18 A Yeah. I remember where I got pulled over at.

19 Q And when it was disclosed in this case by **Minor** in
20 regard to the allegations against the Defendant, after
21 that point did you go see him in jail?

22 A No.

23 Q After that, did you ever have any contact with him
24 whatsoever?

25 A No.

1 Q Did you want to have any contact?

2 A No.

3 Q Up until that point, were you dating still even when
4 he was in jail?

5 A Not him. I moved on with my life, yes.

6 Q I'm talking about before you found out about --

7 A I was dating him.

8 Q And at that point, what -- you broke up with him at
9 that point, correct?

10 A That's right.

11 Q Okay. When you and **Minor** were riding in the car
12 that Ms. Zmroczek asked you about after she brought the
13 panties home from school?

14 A Okay.

15 Q And you were upset and you put her in the car and
16 drove to Urgent Care, is that when **Minor** revealed who
17 had assaulted her --

18 A Yes.

19 Q -- at that point?

20 A She did.

21 Q And did she see a reaction?

22 A She did.

23 Q What was your reaction?

24 A Upset, hurt. I was crying.

25 Q Did you have to stop the car you were crying so hard?

1 A Yes.

2 Q All right. What was her reaction?

3 A She cried with me and she hugged me and said it was
4 going to be okay.

5 Q What was y'all's reaction at the counseling session
6 when she disclosed that Knot had been molesting her, as
7 well?

8 A I was devastated.

9 Q Tell me about that exchange that you had with
10 Minor

11 A We talked about it before she went to counseling to.
12 the -- oh, I talked to Ms. Lacy. When I talk to Ms. Lacy,
13 we were just talking about, you know, how is life, how is
14 work. You know, I really couldn't work that much because
15 I really didn't have a baby-sitter all the time. But I
16 was telling her, you know, I was happy because Knot was
17 getting out of jail because we were still dating. And
18 then we just finished up that conversation.

19 And about an hour, maybe not even in an hour, they
20 came back down to get me from Minor 's session with Lacy
21 and she told me Minor was upset, she wanted me to come
22 up there. So I did. I asked her what was wrong with her.
23 It took her a minute, but she told me that Knot did it,
24 too. And I started crying again. I was devastated again.
25 She was crying with me then, too, and I couldn't get it

1 together. It was really hard. And seeing my daughter
2 crying, it's like it's all my fault. It's all my fault.
3 It's not your fault, Minor . It's my fault. I'm
4 blaming myself. She's blaming herself. I couldn't stop
5 crying. I think they had to get Ms. Lacy and another
6 person to get Minor out because I couldn't stop crying.
7 And then we were talking and I finally calmed down. And
8 we were just talking for a little bit, trying to calm me
9 down and get everything together. And I think we all got
10 back in the same room and started talking after that.

11 MR. POGUE: No further questions, Your Honor.

12 THE COURT: Redirect?

13 MS. ZMROCZEK: I have no further questions.

14 THE COURT: All right. Thank you, Ms. Stoudemayer.
15 You may step down.

16 THE WITNESS: Thank you.

17 THE COURT: All right. You may call your next
18 witness.

19 MS. ZMROCZEK: Thank you, Your Honor. We'd call
20 Detective Tricia Stone.

21 THE COURT: All right.

22 MS. ZMROCZEK: We'll have to get her.

23 TRICIA STONER, after being duly
24 sworn, testified as follows:

25 THE CLERK: Once you're seated, state your name,

1 spelling your last.

2 THE WITNESS: Yes, ma'am. Detective Tricia Stoner,
3 S-T-O-N-E-R.

4 DIRECT EXAMINATION

5 BY MS. ZMROCZEK:

6 Q Detective stoner, where are you employed?

7 A The Lexington County Sheriff's Department.

8 Q And how did you become involved in a case with Sarah
9 Stoudemayer?

10 A Her daughter was a victim in a case I investigated.

11 Q Okay. And that's a case that we're not here about
12 today, correct?

13 A Correct.

14 Q All right. But as a detective, do you keep notes and
15 supplemental reports?

16 A Yes, ma'am.

17 Q Did I ask you to come in and just -- did you provide
18 those notes to me?

19 A I did not, but I believe the solicitor's office did,
20 yes, ma'am.

21 Q They were provided?

22 A Yes, ma'am.

23 Q All right. And can you refer to your notes regarding
24 if you had any contact Chris Ellisor from the Town of
25 Lexington?