

ORIGINAL

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Thomas W. Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LARRY HEYWARD,

APPELLANT

APPELLATE CASE NO. 2016-002033

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
State’s Exhibit No. 1 (CD)

1 reasonable doubt, to meet its burden of proof. And the
2 first thing that the State has to prove beyond a
3 reasonable doubt is that the defendant breached some
4 duty to the public, some duty of public concern, not to
5 an individual, a private individual, outside of his
6 responsibilities as an officer, but the duty of public
7 concern.

8 And under the law, a school resource officer has a
9 duty to the public to perform his job honestly and in
10 good faith. A resource officer, then, has a duty to
11 enforce the law, to preserve the law. The State has to
12 prove to you, first of all, that he breached that duty.
13 And secondly, the State has to prove beyond a reasonable
14 doubt that the defendant breached that duty with
15 criminal intent.

16 Now, criminal intent is always a matter that you
17 have to determine from the circumstances surrounding the
18 situation. There's no way the law can prove intent to a
19 mathematical certainty. You can't crawl in somebody's
20 head and look down in their brain, and figure out what
21 they had in their mind at the time. So, the law says
22 that criminal intent is to be determined by the
23 circumstances which surround the situation. Criminal
24 intent can be established, then, the same as any other
25 fact, by taking into consideration the acts of the

1 parties and all of the facts and circumstances in this
2 case.

3 So, in order to prove criminal intent in this case,
4 the State has to prove that the breach of duty by the
5 defendant was done willfully and corruptly. Now, to do
6 something willfully means you do it intentional. It is
7 not an accident. It is not innocently done. It is done
8 willfully, intentionally. And an act is done corruptly
9 if it is done dishonestly, without integrity, and with
10 the intent to gain an advantage that is not consistent
11 with official duties and is not consistent with the
12 rights of the others. That's the crime of misconduct in
13 office.

14 The next indictment charges criminal sexual conduct
15 in the second degree, the victim being between eleven
16 and fourteen years of age. There are three counts to
17 that indictment. Three separate charges, actually,
18 within that single indictment, although the conduct
19 complained of is the same. It's alleged in the
20 indictment that it happened on three different
21 occasions, in three different locations. And so, there
22 are three charges in that particular indictment. I'll
23 tell you later, when you are considering these, you will
24 consider each charge on its own, and write a separate
25 verdict as to each of these charges.

1 And so, what, then, is criminal sexual conduct with
2 a minor in the second degree? The State has to prove
3 beyond a reasonable doubt, first of all, that the
4 defendant engaged in a sexual battery with the victim.

5 When I was reading the indictments, I used the term
6 *sexual battery* on two occasions. I told you that I was
7 going to explain to you later what we meant by sexual
8 battery, and here it is, so listen up. Sexual battery
9 means sexual intercourse, or it means oral sex or anal
10 intercourse. So, the State has the burden of proof,
11 first of all, under this indictment, in proving that the
12 defendant in this case engaged in sexual battery, that
13 is, either sexual intercourse or oral sex or anal
14 intercourse, any one of those, with the victim in this
15 case, beyond a reasonable doubt. The State has also
16 then to prove beyond a reasonable doubt that the victim
17 was at least eleven years of age at the time, but not
18 more than fourteen years at the time the sexual battery
19 was committed.

20 Now, I tell you, ladies and gentlemen, as you have
21 heard during the course of this trial, that consent of
22 the victim, the willingness of the victim, the
23 indifference of the victim, or ignorance on the part of
24 the minor, if any, as to what was taking place does not
25 in any way affect or excuse the charge of criminal

1 sexual conduct with a minor, because a child, under the
2 law, under the age of fourteen, and under our law,
3 cannot legally consent to sexual intercourse.

4 Now, the third language charges lewd act upon a
5 child. This is the charge that I told you is divided
6 into two parts, according to a change in the law. So,
7 what is a lewd act upon a child? Lewd act upon a minor
8 is when the defendant is charged with committing a lewd
9 act on a child under the age of sixteen. The State has
10 to first prove beyond a reasonable doubt that the
11 defendant himself was over the age of fourteen. And
12 next, the State has to prove beyond a reasonable doubt
13 that the defendant willfully and lewdly committed a lewd
14 or lascivious act on the body of the child, who is under
15 the age of sixteen, and he did that with the intent of
16 arousing or appealing to, or gratifying the lust or the
17 passions or sexual desires of the defendant or of the
18 child.

19 Now, the act has to have been done willfully.
20 Willfully, once again, means voluntarily. It means
21 intentionally, with the intent to do something that the
22 law forbids.

23 What is lewd? Lewd means it's obscene. It's
24 lustful; it's indecent; it's lecherous. Lascivious
25 means it tends to incite lust, or indecency, or

1 obscenity, or tends to deprave the morals in respect to
2 sexual relations.

3 Now, in order for the State to meet its burden as
4 to the charge of lewd act of a minor, the State has to
5 meet that burden of proof as I have just instructed you
6 on each of those elements; that the defendant was over
7 fourteen; that the victim was under sixteen; and that
8 the lewd lascivious act was done with intent to arouse
9 or appeal or gratify the lust and the passions and the
10 sexual desires of the defendant or the child; and for
11 the purpose of this particular charge, that it occurred
12 between August of 2010 and June the 17th of 2012, when
13 the law was changed, and made this same activity a
14 different crime, and that is the crime of criminal
15 sexual conduct with a minor in the third degree.

16 As I have said, the conduct is the same, but this
17 law took effect on June the 18th of 2012. A person is
18 guilty of criminal sexual conduct with a minor in the
19 third degree if the actor is over fourteen, and the
20 actor willful and lewdly attempts or commits a lewd and
21 lascivious act upon the body of a child, who is under
22 sixteen, with the intent of arousing or appealing to or
23 gratifying the lust or passions or sexual desires of the
24 defendant or of the child.

25 I need not reiterate what the meanings of those

1 words are. They're exactly the same with this statute
2 as they were on the other. And so, the burden of proof
3 as to this charge means that the State has to prove
4 beyond a reasonable doubt that the defendant was over
5 fourteen; the child was under sixteen; and that the
6 defendant willfully and lewdly committed lewd or
7 lascivious acts upon the child for the reasons that I
8 just mentioned; and that it was committed between June
9 the 18th of 2012 and November the 30th of 2012.

10 Now, ladies and gentlemen, the State attempts to
11 meet its burden of proof in this regard by presenting
12 two types of evidence to you, direct evidence and
13 circumstantial evidence. Direct evidence is evidence
14 that generally is presenting during the course of the
15 trial that directly proves the existence of a fact, and
16 it doesn't require any deduction or any conclusions or
17 any reason to be drawn. In other words, it is generally
18 eyewitness testimony. It's something somebody comes in
19 and says, I saw it, here's what I saw; or, I heard it,
20 and this is what I heard, direct evidence.

21 Circumstantial evidence, however, is proof of a
22 chain of facts that leads to the conclusion of another
23 fact. Now, circumstantial evidence is sufficient to
24 prove crimes, and crimes can be proven by circumstantial
25 evidence, and the law doesn't make any distinction

1 between the weight or the value that you will give to
2 either direct or circumstantial evidence. But when the
3 State relies on circumstantial evidence, all of the
4 circumstances have to be consistent with each other, and
5 when they're taken together, they have to point
6 conclusively to the guilt of the accused beyond a
7 reasonable doubt.

8 Now, if the circumstances taken together merely
9 portray the defendant's behavior as suspicious, then,
10 the proof has failed. So, the State has the burden of
11 proving the defendant guilty beyond a reasonable doubt,
12 and the burden rests upon the State, regardless of
13 whether the State relies upon direct evidence or
14 circumstantial evidence, or some combination of the two.

15 Now, during the course of the trial, as you
16 listened to the tape, you saw on the screen a transcript
17 of what purported to be the transcript of what you were
18 actually hearing. Sometimes the nature and the quality
19 of the tape itself, portions of it, might be difficult
20 for you to actually understand when you are hearing it
21 for the first time, without the benefit, perhaps, of
22 earphones or loud volume. And so, the transcript was
23 provided to you to assist you in listening to that tape.
24 But I tell you right now that any difference in
25 understanding the meaning of what was said, or not, that

1 can be caused by such factors as the inflection in the
2 voices or the inaccuracies of the tape, and those things
3 can occur. But I tell you, you should rely upon what
4 you hear in your own ear, rather than what you read, if
5 you find that there is some difference between what you
6 hear and what you've read on that screen. In other
7 words, the transcript is not there to control. It is
8 not the last word. The last word is your opinion of
9 what you hear.

10 The transcript will not even be available to you in
11 the jury room as you are discussing this case and trying
12 to reach a verdict. However, the tape itself will be
13 there, and you can listen to that as often as you need
14 to, as many times as you need to, at whatever volume you
15 can get, if you need to, in order to make a decision in
16 your own mind as to what the tape actually says.

17 Now, ladies and gentlemen, you have heard
18 testimony, a statement that was made by the defendant in
19 this particular case to law enforcement during the
20 course of this investigation. As the Court, I determine
21 whether or not you can hear the evidence of the
22 statement, but you as a jury have to determine whether
23 the statement was actually made. And most importantly,
24 you have to decide whether it was voluntarily given.
25 You have to make the ultimate determination of whether

1 or not he made the statement, and if you determine that
2 he made the statement, then, you have to decide, was
3 that statement voluntarily given. And finally, you have
4 to decide what weight, if any, you will give to the
5 statement. You have to determine whether the alleged
6 statement was the product of a free mind, an
7 unrestrained choice, willingly made by the maker. The
8 State has to prove that voluntariness beyond a
9 reasonable doubt.

10 And if you determine beyond a reasonable doubt that
11 the statement was freely and voluntarily made, then, you
12 can give it whatever weight you think it should receive
13 under the evidence. If you determine that the
14 statement was not free and voluntarily given, that it
15 was not a free and voluntarily willed expression of the
16 defendant, then, you don't consider it for any purpose
17 at all.

18 Now, when you're trying to decide whether the
19 defendant's will was overcome, that is, whether the
20 defendant made the statement voluntarily, the law
21 requires you to look at the totality of the
22 circumstances surrounding the making of the statement.
23 And that means you take into account the characteristics
24 of it, of the defendant, and the circumstances
25 surrounding the questions themselves. You can consider

1 the age of the defendant, his educational background,
2 his mental ability and capacity. You can consider all
3 of those facts and circumstances surrounding the taking
4 of the statement.

5 And you also have to consider whether the defendant
6 was advised of his constitutional rights, and whether he
7 understood those constitutional rights, because the law
8 requires that, before any interrogation, that is, before
9 any questions can be asked of a person in custody, the
10 law enforcement has to advise him of his *Miranda* rights.
11 That means that they have to tell him he has the right
12 to remain silent; that any statement he makes can be
13 used against him in court; that he has a right to have a
14 lawyer present; if he can't afford one, one will be
15 appointed to represent him; that he can stop making
16 statements at any point in time.

17 And you have to carefully scrutinize all of the
18 surrounding circumstances before you decide to give any
19 weight to the alleged statement. You have to be
20 satisfied beyond a reasonable doubt that the statement
21 was made by him, uninfluenced by any promise of reward
22 or threat of harm; that it was given voluntarily, after
23 he had full advice of the constitutional rights which
24 were his.

25 Now, finally, ladies and gentlemen, -- that's a

1 word you've been hanging on for a while to hear, right?
2 Finally? Finally, ladies and gentlemen, let me tell you
3 that you are not partisans or advocates for either the
4 State of South Carolina or for this defendant. You
5 don't serve as jurors to punish your enemies, nor to
6 reward your friends. You have been selected by both the
7 State and this defendant to be fair and impartial
8 jurors. And so, it is your duty, then, by your adjoined
9 deliberations to determine the truth of this case,
10 giving this defendant the benefit of every reasonable
11 doubt on each and every issue. And then, to the facts
12 that you determine to be true, you take and apply the
13 law that I'm giving you to those facts, and as I said
14 earlier, those two things will come together. The truth
15 that you find and the law that I give you will result in
16 a verdict which will speak the truth of this case. And
17 once you have done that, you will have satisfied your
18 obligation as jurors, and you will have fulfilled the
19 oath which you took before this trial began to well and
20 truly try this case and to render a true verdict
21 according to the evidence, so help you God. We have
22 every right to expect you will do just that, every
23 expectation that you will do nothing less than that.

24 Now, ladies and gentlemen, I'm going to explain to
25 you the forms of the verdict that exist in this case.

1 I'm going to give this verdict form to the foreperson,
2 as he's the one who is going to fill it out. But I tell
3 you at the outset, ladies and gentlemen, the verdict is
4 not his alone. The verdict has to be unanimous, and Mr.
5 Foreman, you're not authorized to write the verdict or
6 sign this form until all twelve of your number can agree
7 as to what the verdict shall be.

8 There are, in this particular case, four
9 indictments. One of the indictments has three charges
10 on it. So, that means that, in all, there are actually
11 six charges for you to consider. You will write six
12 separate verdicts. You must consider the evidence on
13 each charge separate from the others on the other
14 charges, because the defendant can be convicted or
15 acquitted on any or all of the charges contained in this
16 indictment. So, your verdict on one charge does not
17 control your verdict on another.

18 The order in which the forms of verdict are written
19 on this form don't mean a thing in the world. I write
20 them in the order that I find easiest to explain.

21 Mr. Foreman, there is the verdict form.

22 And ladies and gentlemen, for your benefit, I'll
23 just read the verdict form, so you'll know what he's
24 looking at. The verdict form says that:

25 *We the jury, by unanimous consent,*

1 *find the defendant, Larry Heyward, Number*
2 *1, as to the indictment charging misconduct*
3 *in office, --*

4 If you find that the State has met its burden of
5 proof, your verdict as to that charge would be guilty.
6 If that's the verdict you arrive at, Mr. Foreman, you
7 will put an X or cross mark in the space where you see
8 we have provided for you.

9 If you find that the State has failed to meet its
10 burden of proof as to the charge of misconduct in
11 office, your verdict will be not guilty.

12 In that event, Mr. Foreman, you will, likewise,
13 indicate that by putting an X or a check mark by the
14 words *not guilty*.

15 As to Count 2 as to indictment, the next
16 indictment, criminal sexual conduct with a minor in the
17 second degree, this is the indictment that charges
18 criminal sexual conduct with a minor in the second
19 degree on three different occasions, at three different
20 locations. The State has the burden of proving it as to
21 each of those charges; that it has met its burden of
22 proof beyond a reasonable doubt; that the defendant
23 committed the crime of criminal sexual conduct with a
24 minor in the second degree.

25 As to the first count at Middle School, if

1 the State has met its burden of proof as to that
2 particular count, the verdict would be guilty, and you
3 would express that the same way I told you to express
4 guilt in the other one.

5 If the State fails to meet its burden of proof,
6 then, you'll -- or is not guilty, likewise, Mr. Foreman,
7 you will indicate that in the same way.

8 The next count of the indictment, which will be
9 considered separately, of course, from the one before,
10 is whether or not the State has met its burden of
11 proving that the defendant committed criminal sexual
12 conduct with a minor in the second degree at the
13 defendant's residence. Once again, the verdict form is
14 guilty or not guilty, depending upon whether or not the
15 State has met its burden of proof.

16 And finally, the same charge charges the same
17 offense, this time at the defendant's deceased father's
18 home. Once again, the verdict will either be guilty or
19 not guilty, depending upon whether the State has met its
20 burden of proof. You'll indicate that by exercising the
21 form, which I told you earlier.

22 The next charge is lewd act upon a child. This is
23 that charge that was divided, according to time, because
24 the law has changed. The first conduct was called *lewd*
25 *act upon a child*, because it occurred, allegedly,

1 between August of 2010 and June the 17th of 2012. If
2 the State has met its burden of proving that the
3 defendant committed a lewd act upon the victim during
4 that period of time, the verdict would be guilty, and
5 indicate that indicating as I have shown you.

6 If the State has failed to meet its burden of proof
7 as to that count, the verdict would be not guilty, and
8 likewise, you would indicate.

9 And finally, on the last count, the last charge, is
10 criminal sexual conduct with a minor in the third
11 degree, the same conduct complained of in the charge
12 above. This time, the allegations are that it occurred
13 between June the 18th of 2012 and November the 30th of
14 2012. Once again, the charges and verdict are the same.

15 Now, ladies and gentlemen, I remind you again that
16 you are to consider the charges on each of these
17 particular indictments and each count of the indictment
18 separate and independent from the charges on the other.
19 Your charge and verdict on one charge does not control
20 your verdict on the other. You can convict him or
21 acquit him of any or all of these charges, depending
22 upon your view of the evidence.

23 Now, I'm going to send you to your jury room for
24 just a moment, ladies and gentlemen. I'm going to ask
25 you to wait just a moment before you start your

1 deliberation. I've got to talk to the lawyers. I may
2 have left something out of this charge. You might find
3 that hard to believe. Or I may have mistaken something.
4 It actually only took thirty-five minutes. I thought it
5 was going to take forty.

6 And if I have made a mistake that I have to
7 correct, or if I've left something out that I need to
8 add, I'll bring you back out, and I'll do it. But if I
9 don't have to bring you back out, we will send in the
10 items of evidence. And once the items of evidence have
11 been brought in, Mr. Foreman, that will be your signal
12 to start your deliberations. Please do not do it
13 before.

14 Once you have begun your deliberations, you will
15 deliberate until you have reached verdicts in this case.
16 Once you have done that, Mr. Foreman, you will fill out
17 the verdict form. You will knock on the door, advise
18 the bailiff. We'll bring you out to receive the
19 verdict.

20 Thank you, folks. Please retire to your jury room
21 right now. Do not yet begin your deliberations. Mr.
22 Ramsey, Mr. Lewis, Mr. Witt, you all stay right where
23 you are for the time being, please.

24 JURORS LEAVE COURTROOM 3:09 P.M.

25 THE COURT: Mr. Thornton, any exceptions or

1 additions from the State?

2 SOLICITOR THORNTON: None, your Honor.

3 THE COURT: Thank you. Mr. Lee?

4 MR. LEE: No, sir, your Honor.

5 THE COURT: All right. Thank you. All right.

6 Gentlemen, if you all have checked with the court
7 reporter, and make sure all the evidence is in place.

8 Once that has been done, then, the evidence can be
9 brought in, and the jury can be instructed to start
10 their deliberations.

11 RELEASING ALTERNATE JURORS:

12 BY THE COURT:

13 THE COURT: Mr. Ramsey, Mr. Lewis, Ms. Smith, you
14 all have figured out by now that you are alternate
15 juror, of course, as you knew from the outset, and that
16 your role would be to take the place of any of those
17 twelve jurors if something had happened during the
18 course of this trial that made it impossible for them to
19 continue as a juror in the case. Thankfully, they have
20 all survived the case in good fashion, and they're back
21 there now ready to begin their deliberations.

22 But if something had happened to any of those, if
23 they had had a family emergency or an illness or
24 something that prevented them from continuing to serve,
25 and if you had not been there to take the place of any

1 of those who fell ill or something like that, we would
2 have had to start this whole case over from scratch.

3 Again, we can't finish it with eleven. We have to
4 have twelve. We knew this case was going to last
5 several days, and so, we needed three of you as backups,
6 in effect, to see if we were going to be able to get
7 through it, without having to excuse any of these
8 jurors. We have not had to do that, thankfully. And
9 so, that means that we don't have to use you as jurors.
10 You are perfectly as capable as any of those twelve in
11 the jury room to render a verdict in this case. You've
12 paid as good attention as they have, and so, we
13 appreciate that. But we're not going to have to bother
14 you anymore. You have discharged your duties, and I'm
15 going to let you go.

16 You are free now to talk about this case with
17 anybody, if you want to. If you don't want to talk with
18 anybody, you don't have to. It's entirely up to you.
19 You'll get a check some time in the mail the next few
20 days. It's not going to begin to pay you for the time
21 you've spent with us, but accept our gratitude for the
22 peace of mind, quite frankly, that you have given me as
23 the trial judge in this case, that you have given all of
24 us, in knowing that we're going to be able to get this
25 case completed this week. Regardless of whether all

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BY THE COURT

1 twelve of these original jurors were able to try the
2 case or not, you have given us that peace of mind.
3 Thank you. You all are free to go. Thank you.

4 ALTERNATE JURORS LEAVE COURTROOM 3:12 P.M.

5 THE COURT: Folks, we're still in order, please.
6 Thank you.

7 BAILIFF: Come to order please.

8 SOLICITOR THORNTON, MR. LEE, COURT

9 REPORTER GOING OVER EXHIBITS.

10 COURT REPORTER: Your Honor, all of the exhibits
11 have been gone over and are ready to be taken back to
12 the jurors.

13 THE COURT: Very good. Mr. Bailiff?

14 SOLICITOR THORNTON: Your Honor, are we going to
15 send the disc back with them? They don't have a way to
16 really play it, but I do think it needs to go back.

17 THE COURT: It needs to go back. They need to know
18 it's back there, and they can ask us if they need to
19 play it.

20 If you'll instruct the jury, they can begin their
21 deliberations.

22 BAILIFF: Yes, sir.

23 THE COURT: Okay. All right, folks. We'll stand
24 at ease now until we hear from the jury. Thank you so
25 much for your wise use of time. You all have made good

1 use of the time, and I commend you for the way that
2 you've been able to resolve a lot of issues in this case
3 that could have been very divisive and unsettling in a
4 manner that does not do injustice to either of the sides
5 that you represent in this case.. Thank you very much.

6 SOLICITOR THORNTON: Thank you, Judge.

7 MR. LEE: Yes, sir.

8 THE COURT: We'll be at ease until we hear from the
9 jury.

10 COURT REPORTER: Exhibits and verdict forms to
11 jurors at 3:15 P.M.

12 OFF THE RECORD 3:15 P.M.

13 BACK ON THE RECORD 3:37 P.M.

14 QUESTION FROM JURORS:

15 THE COURT: Thank you, folks. If you all will be
16 seated.

17 Ladies and gentlemen, now that we're in session,
18 the bailiff came to chambers and said that the juror had
19 requested to hear the tape. We are bringing the jury
20 into the courtroom to hear the tape for obvious reasons.
21 I will instruct the jury as they leave here, in the
22 future, to send notes out, so that we can make it a
23 little cleaner. All right. Bring us the jury.

24 JURORS ENTER COURTROOM 3:38 P.M.

25 THE COURT: Everybody in place? Okay. Folks, we

1 received word that you would like to hear the tape once
2 again. The tape is keyed up. The audio portion of it
3 will be played for you right now. Please give your
4 attention to it. Thank you. It will not be shown on
5 the screen. Okay?

6 RE-PLAYING STATE'S EXHIBIT NUMBER 1,
7 C.D. WITH WORD OVERLAY, DATED
8 DECEMBER 12, 2012.

9 END PLAYING STATE'S EXHIBIT NUMBER 1.

10 THE COURT: Ladies and gentlemen, if you'll retire
11 to your jury room and continue deliberations. Let me
12 tell you that, should further questions arise that you
13 want us to resolve out here, Mr. Foreman, if you will
14 write those down and give them to the bailiff. He'll
15 bring it out, and we'll deal with them outside of your
16 presence. Actually, that's, of course, the right way to
17 handle this matter. Okay? Thank you. Thank you.

18 JURORS LEAVE COURTROOM 3:41 P.M.

19 THE COURT: Yes, we can tape the tape back there so
20 that it'll be evidence in their room. If you will give
21 that piece of evidence to the bailiff, he can take it
22 back to the jury room, please, as a reminder of its
23 existence, in case they need to know that, if they need
24 to hear it again.

25 All right. Gentlemen, any exceptions from the

1 State in that regard?

2 SOLICITOR THORNTON: No, your Honor.

3 THE COURT: Thank you. From the Defense?

4 MR. LEE: No, sir, your Honor.

5 THE COURT: Thank you. All right. Continue to
6 stand at ease, folks. All right.

7 OFF THE RECORD 3:42 P.M.

8 BACK ON THE RECORD 4:43 P.M.

9 QUESTIONS FROM JURORS:

10 BAILIFF: Come to order.

11 THE COURT: Thank you, folks. Please be seated.

12 Folks, the jury has sent out two questions. The
13 first is, *what date was the tape recorded*. The evidence
14 in the record indicates that it was recorded on December
15 28, 2012.

16 The next is, *what do the dates on the indictments*
17 *specify for Indictments 3 and 4?* Indictment --
18 actually, it's -- that's the number on the verdict form
19 that refers to Number 3 as a lewd act charge. And
20 Number 4 is a CSC in the third degree charge. The same
21 offense, the same conduct complained of, it's just the
22 difference in the dates. And I can understand the
23 confusion on that. I'll try to straighten that out as
24 best I can. Bring us the jury please.

25 JURORS ENTER COURTROOM 4:46 P.M.

1 THE COURT: Folks, thank you. We have received the
2 notes, and there are two questions. The first question
3 was: *what date was the tape recorded?* The State has
4 introduced evidence in the record indicating that the
5 tape was recorded on December the 28th, 2012. December
6 the 28th, 2012, is the evidence in the record in that
7 regard.

8 The next question is, *what did the indictments --*
9 *excuse me -- what did the dates on the indictments*
10 *specify for Indictments 3 and 4?* The dates on those two
11 indictments, one charge is lewd act on a minor, and the
12 other charge is criminal sexual conduct with a minor in
13 the third degree. The dates there indicate a change in
14 the law. The lewd act on a minor law was changed on
15 June the 17th of 2012. And so, on your verdict form,
16 you have the dates August the 10th -- excuse me --
17 August of 2010, to June the 17th of 2012 the State is
18 charging the defendant with lewd act on a minor. That
19 was the law that described the conduct of committing a
20 lewd act on a child under the age of sixteen by someone
21 who is over the age of fourteen. I don't need to charge
22 you again on that, unless you have some difficulty with
23 that charge. But that was the name of the charge. That
24 was the name of the crime until June the 17th of 2012.
25 The law was changed so that, after June -- on or after

1 June the 18th of 2012, there was no longer a crime that
2 was called lewd act on a minor. The name of the crime
3 was changed, and was called, then, criminal sexual
4 conduct with a minor in the third degree. The conduct
5 was exactly the same. The conduct complained of is
6 exactly the same. That is, when a person over the age
7 of fourteen lewdly and willfully commits a lewd,
8 lascivious act upon a child under the age of sixteen.
9 Same as the other charge. But now, the different name,
10 because the law was changed. And so, that law came into
11 effect on June the 18th of 2012, and carried throughout
12 the balance of the time that's mentioned on the
13 indictment. And so, the conduct complained of in
14 Indictments -- or the charges Number 3 and Number 4 is
15 exactly the same conduct, same elements, same burden of
16 proof as to each of them. The only distinction is that
17 those in Number 3 complain of conduct that occurred
18 before June the 18th, that is, up to June the 17th of
19 2012. And the other complains of conduct that occurred
20 on June the 18th for the rest of them. Does that make
21 any sense?

22 JUROR: And when --

23 THE COURT: Same conduct, just different dates.

24 JUROR NUMBER: And when was the tape made?

25 THE COURT: Ma'am? The tape was made on -- the

1 evidence in the record is that the tape was made on
2 December the 28th, 2012. Everybody can remember that
3 date? Question about that? All right. If you'll go
4 back to your jury room, folks, continue your
5 deliberations, and let me know if you need anything
6 further.

7 JURORS LEAVE COURTROOM 4:50 P.M.

8 THE COURT: Any exceptions or additional questions
9 from the State in connection with those remarks, Mr.
10 Thornton?

11 SOLICITOR THORNTON: None, your Honor.

12 THE COURT: Thank you. Mr. Lee?

13 MR. LEE: No, sir, your Honor.

14 THE COURT: Thank you. All right. Folks, we'll
15 stand down until we hear from the jury further.

16 OFF THE RECORD 4:50 P.M.

17 BACK ON THE RECORD 5:12 P.M.

18 QUESTION FROM JURORS:

19 ITEM IDENTIFIED AS QUESTION FROM JURORS

20 MARKED COURT'S EXHIBIT NUMBER 8..

21 BAILIFF: All rise. Court will come to order.

22 THE COURT: Thank you, folks. Please be seated.

23 Folks, we have received another question -- a set
24 of questions from the jury. Court's Exhibit 8 has these
25 questions: Number 1:

1 *If the tape was made December the 28th,*
2 *2012, does Number 3 apply? Number 3 is the*
3 *indictment for lewd act. We have two*
4 *doubtfuls. And, does a guilty on 3 and 4*
5 *change the penalty for Mr. Heyward?*

6 We'll bring the jury in and deal with those
7 questions.

8 JURORS ENTER COURTROOM 5:18 P.M.

9 THE COURT: Ladies and gentlemen, I have the
10 questions you've sent this time. I will answer them, in
11 turn. The first is:

12 *If the tape was made December the 28th,*
13 *2012, does Number 3 apply?*

14 Number 3 is the indictment charging lewd act on a
15 child under the age of sixteen. That indictment alleges
16 that, between August of 2010 and June the 17th of 2012,
17 the defendant committed the lewd act on the victim in
18 this particular case. I need not go over that again
19 with you.

20 The question of whether or not Number 3 applies
21 deals with the conduct between August of 2010 and June
22 the 17th of 2012. You have to decide whether or not the
23 State has met its burden of proof that the defendant
24 committed a lewd act on the victim from between those
25 two dates, August of 2010, June the 17th of 2012.

1 Whether or not the tape made on December the 28th, 2012
2 is relevant to that particular charge or evidence of
3 that particular charge, is for you all to determine.
4 You have to decide what that tape means and what its
5 relevance is, and what, if anything, it applies to. I
6 cannot comment on that. That's a matter of -- a factual
7 matter that you all have to decide.

8 All I can tell you is that Indictment Number 3 is
9 the indictment that alleges wrongful conduct between
10 August of 2010 and June the 17th of 2012. Once again,
11 you have to decide the relevance, if any, of that tape
12 on December the 28th to those particular charges.

13 The next question is:

14 *Does a guilty verdict on 3 and 4 --*

15 That's the lewd act charge that I just referred to,
16 and the criminal sexual conduct with a minor in the
17 third degree charge, both of which, as I've said,
18 contain the same elements and the same crime, just with
19 different names and different dates, for reasons I've
20 already mentioned. And so, the question is, does a
21 guilty verdict on those two charges change the penalty
22 for Mr. Heyward?

23 Ladies and gentlemen, the penalty is within the
24 province of the Court. It is not the province of the
25 jury. I'm not trying to be curt in that regard, or

1 certainly dismissive or your role, which is the most
2 important one. Your job is to determine whether or not
3 the State has met its burden of proof of proving the
4 defendant guilty on these charges. The penalty is in
5 the hands of the Court. And so, that's all I can tell
6 you about that. All right? Everybody understand all
7 that? Okay? Thank you, folks. If you'll retire to
8 your jury room and continue to deliberate. Let us know
9 if we can help you.

10 JURORS LEAVE COURTROOM 5:178 P.M.

11 THE COURT: Any exceptions or additional questions
12 from the State, Mr. Thornton?

13 SOLICITOR THORNTON: None, your Honor.

14 THE COURT: Thank you. Mr. Lee?

15 MR. LEE: No, sir.

16 THE COURT: Thank you. All right. We'll stand
17 down until we hear further.

18 OFF THE RECORD 5:18 P.M.

19 BACK ON THE RECORD 5:42 P.M.

20 QUESTION FROM JURORS:

21 ITEM IDENTIFIED AS QUESTION FROM JURORS

22 MARKED COURT'S EXHIBIT NUMBER 9.

23 COURT REPORTER: Court's Exhibit 9.

24 THE COURT: Thank you. Folks, I'm sorry, you can
25 sit down. I apologize. That is a sign of dotage. Used

1 to be, a judge down in the Lowcountry part of our state,
2 he was a delightful fellow who was long past his time.
3 And I remember, when I was a lawyer, we stood for about
4 an hour and a half one day before he realized and told
5 us to sit down. So, I apologize. If it gets to that
6 point, I'll stop.

7 Ladies and gentlemen, we have a note from the jury
8 that says:

9 *We have a verdict for all indictments*
10 *except Number 3. We cannot come to a*
11 *unanimous decision for Number 3.*

12 I am going to instruct them an *Allen Charge*, a hung
13 jury charge, as to that remaining count, and ask them to
14 go back and -- obviously, I don't know what the verdicts
15 are, but I do know that they have not reached a verdict
16 as to that particular charge. Let the record reflect
17 right this minute, it is twenty minutes until 6:00.
18 They began their deliberations, I think, at 3:15,
19 thereabout. And so, they have not been out an
20 inordinate length of time for these issues. I'm going
21 to ask them to continue to work for a little bit longer
22 on Number 3, to see if they cannot come to a unanimous
23 decision in that regard as well. Bring the jury,
24 please.

25 JURORS ENTER COURTROOM 5:44 P.M.

1 ALLEN CHARGE:

2 THE COURT: Ladies and gentlemen, I have your note
3 that says:

4 *We have a verdict for all indictments*
5 *except Number 3. We cannot come to a*
6 *unanimous decision for Number 3.*

7 I commend you on your efforts and the efforts that
8 you've made thus far, and for the fact that you have
9 come to an agreement, whatever that happens to be, on
10 those other charges. We certainly do not need to know
11 and inquire into that at this juncture. And so, we're
12 pleased, at least, that there's a measure of agreement
13 in that regard.

14 And I would give you an additional instruction,
15 which I hope will allow you to continue to work and
16 perhaps reach a unanimous agreement as to that one as
17 well.

18 And so, let me give you a few remarks about the
19 problem of trying to reach a verdict, because,
20 hopefully, you can make an effort to get that one
21 resolved as well. As I've already told you, ladies and
22 gentlemen, you are the sole judges of the facts and the
23 evidence in the case. And as the judge, I'm not
24 permitted to give you even a hint as to how I may feel
25 about the facts of the matter. And certainly, I could

1 give you no hint about what I think your verdict ought
2 to be in this case. It's my duty to state the law which
3 applies to the case, as I've done, and it is your duty
4 to bring in the verdict.

5 But I can say this. When a matter is in dispute,
6 as this one certainly is, it is not always easy for even
7 two persons to agree. And when twelve persons have to
8 agree, we understand that it becomes that much more
9 difficult. But it is important that litigation, and
10 this is litigation, can be ended, if it can be ended
11 without a single one of you doing violence to your own
12 conscience. I want to make sure that you understand
13 this. No juror is expected to give up an opinion based
14 on reasoning satisfactory to that juror, merely for the
15 purpose of being in agreement with each other.

16 Now, you're not often called upon to try cases.
17 Many of you, perhaps, never have been in this position
18 before, and I imagine it would be okay with you if you
19 never get in this position again. But on the other
20 hand, I have taken part in quite a number of case, first
21 as a lawyer, and now about twenty-five years as a judge,
22 and I think you should know that it is very, very
23 unusual for a jury to go out and return promptly with a
24 verdict, because that's what would happen if you were in
25 agreement before the deliberations ever began. But at

1 the same time, almost every jury eventually is able to
2 return a verdict. And what that means is this. While
3 it is normal for jurors to disagree at first, but the
4 fact that you normally get a verdict also means that,
5 after reasonable persons lay aside all extraneous
6 matters and determine to decide a case on the basis of
7 the law and the evidence, they nearly always come to a
8 common understanding and reach a verdict.

9 Now, it has never been intended that the verdict of
10 the jury should be the verdict of any one person. On
11 the other hand, the verdict of the jury is the
12 collective reasoning of all of you put together. And
13 that's why we have a jury, so that we can get the
14 benefit of your collective thought and your collective
15 reasoning.

16 It is the duty of each of you to tell the other
17 jurors how you feel about the case and why you think as
18 you do, and I'm sure you've been doing that. And on the
19 other hand, it becomes the other jurors' duty to
20 exchange their views with you. And you should listen to
21 each other, and give to each other the thought such
22 meaning as you think it should have. And so, to some
23 degree, it can be said that jury service is a matter of
24 give and take.

25 Now, in this trial of a case is an unfortunate

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ALLEN CHARGE

1 thing. And if you don't agree upon a verdict as to this
2 outstanding charge, it doesn't mean that either side
3 wins. It just means that some future term of court,
4 before some other judge, perhaps, twelve more citizens
5 will sit where you are to try to decide that unresolved
6 case. The same participants will come. The same
7 lawyers will probably come, and they'll ask the same
8 questions that they've asked in this trial, and I
9 imagine they'll get basically the same answers. And so,
10 the whole process will be gone through once again. I
11 don't have any reason to think that there are any other
12 twelve citizens of Hampton County who are any more
13 capable than you all in resolving the controversy than
14 you are. And so, I'm going to ask you to deliberate
15 further, and see if you can't reach a verdict on that
16 remaining unresolved matter.

17 I want to close these instructions by reminding you
18 of what I told you a moment ago. While it is important
19 that litigation be ended, it should be ended in the form
20 of a verdict which does no violence to any jurors'
21 conscience. No juror is expected to give up an opinion
22 based on reasoning satisfactory to himself or herself
23 merely for the purpose of being in agreement with the
24 others.

25 Folks, with that added instruction, I want you to

1 go back and try to deliberate further and see if you
2 cannot resolve this, and continue your reference in that
3 regard. And if I can help you any more with any further
4 charges that you need, I'll be glad to consider those,
5 if that comes to be an issue that is causing some
6 apprehension in this regard.

7 Ladies and gentlemen, please retire to your jury
8 room and continue to deliberate. Thank you.

9 JURORS LEAVE COURTROOM 5:49 P.M.

10 THE COURT: Mr. Thornton, any exceptions or
11 requests of additional charges from the State?

12 SOLICITOR THORNTON: None, your Honor.

13 THE COURT: Thank you. Mr. Lee?

14 MR. LEE: No, sir, your Honor.

15 THE COURT: Thank you. Okay. We'll stand down
16 until we hear from the jury.

17 OFF THE RECORD 5:50 P.M.

18 BACK ON THE RECORD 6:07 P.M.

19 VERDICT:

20 BAILIFF: All rise. Court come to order.

21 THE COURT: Thank you, folks. You all can be
22 seated.

23 Ladies and gentlemen, we're advised that the jury
24 has reached verdicts in these cases. Momentarily, we'll
25 bring the jury in to receive the verdicts. Of course,

1 none of us at this juncture know what the verdicts
2 happen to be.

3 I recognize that those of you who have sat here
4 throughout the trial of this case have a great deal of
5 interest in it, personal, perhaps professional, or
6 otherwise, but you have a good bit invested in this,
7 certainly emotionally, and we understand that. We
8 appreciate that fact that throughout this trial, which
9 has been difficult for all of you who have concerns on
10 either side of the aisle, have continued to exercise
11 decorum and dignity and conducted yourselves in that
12 way.

13 In a moment, when the verdicts are announced, I
14 would imagine that, on one side of the courtroom or the
15 other, there might be disappointment or there might be
16 relief, and I'm not sure what there will be. But it is
17 important that you recall where you are, and that you
18 continue to exercise the same restraint and the same
19 dignity that you have exercised throughout these
20 proceedings. If you feel that you might have some
21 difficulty controlling your emotions when the verdicts
22 are announced, regardless of what they might be, I will
23 give you this chance to leave the courtroom, if you feel
24 that you cannot control yourself in the face of the
25 verdicts. Because, if you remain in the courtroom, we

1 expect you to maintain the dignity and the decorum that
2 this courtroom and all courtrooms deserve and demand, in
3 fact.

4 All right. Are both sides ready for the verdict?

5 SOLICITOR THORNTON: The State's ready, your Honor.

6 MR. LEE: Yes, your Honor.

7 THE COURT: Bring us the jury.

8 JURORS ENTER COURTROOM 6:10 P.M.

9 THE COURT: Madam Clerk?

10 MADAM CLERK: Mr. Foreman, have you reached a
11 verdict?

12 FOREPERSON: Yes, we have.

13 THE COURT: *In the State of South Carolina,*
14 *County of Clarendon [sic], in the Court of General*
15 *Sessions, the State of South Carolina versus*
16 *Larry Heyward, we, the jury, by unanimous*
17 *consent, find the defendant, Larry Heyward,*
18 *as to Indictment 2013-GS-25-00053, misconduct*
19 *in office, guilty.*

20 *As to Indictment 2015-GS-25-00140,*
21 *criminal sexual conduct with a minor in the*
22 *second degree at Middle School, not*
23 *guilty; at the defendant's residence, not*
24 *guilty; at the defendant's deceased father's*
25 *home, not guilty.*

1 As to Indictment 2015-GS-25-00141, lewd
2 act on a child under the age of sixteen, from
3 August of 2010 to June the 17th, 2012, guilty.

4 As to Indictment 2015-GS-25-00142, criminal
5 sexual conduct with a minor in the third
6 degree, attempt to commit a lewd act, June
7 the 18th, 2012 to November the 30th, 2012,
8 guilty.

9 Signed, Roger Harris III, Foreperson. Dated
10 today's date.

11 Ladies and gentlemen of the jury, if this is the
12 verdict of each of you, will you please indicate by
13 raising your right hand? Thank you. The record will
14 reflect that all hands are raised.

15 Madam Clerk, will you please poll the jury?

16 Ladies and gentlemen, you are going to be polled
17 now. That means that the clerk is going to call your
18 names individually, and as your names are called, you'll
19 stand right in place, right where you are, and she will
20 ask you, were these your verdicts, and are they still
21 your verdicts, and you will give whatever the
22 appropriate answer happens to be to those questions.

23 Madam Clerk?

24 JURORS POLLED:

25 MADAM CLERK: Robert Walter, was this your

1 verdicts?

2 JUROR NUMBER 274: Guilty.

3 MADAM CLERK: Is it still your verdict?

4 JUROR NUMBER 274: Excuse me?

5 MADAM CLERK: Is it still your verdict?

6 JUROR NUMBER 274: Yes, it is.

7 MADAM CLERK: Blondell White, was this your
8 verdict?

9 JUROR NUMBER 285: Yes.

10 MADAM CLERK: And is it still your verdict?

11 JUROR NUMBER 285: Yes.

12 MADAM CLERK: Philip Ricks, was this your verdict?

13 JUROR NUMBER 220: Yes, ma'am.

14 MADAM CLERK: Is it still your verdict?

15 JUROR NUMBER 220: Yes, ma'am.

16 MADAM CLERK: Jemaine Roberts, was this your
17 verdict?

18 JUROR NUMBER 227: Yes, ma'am.

19 MADAM CLERK: Is it still your verdict?

20 JUROR NUMBER 227: Yes, ma'am.

21 MADAM CLERK: Roger Harris. Was this your verdict?

22 JUROR NUMBER 122: Yes.

23 MADAM CLERK: And is it still your verdict?

24 JUROR NUMBER 122: Yes.

25 MADAM CLERK: Infiniti Loadholt, was this your

1 verdict?

2 JUROR NUMBER 160: Yes.

3 MADAM CLERK: And is it still your verdict?

4 JUROR NUMBER 160: Yes.

5 MADAM CLERK: Darin Williams, was this your

6 verdict?

7 JUROR NUMBER 290: Yes.

8 MADAM CLERK: And is it still your verdict?

9 JUROR NUMBER 290: Yes.

10 MADAM CLERK: Gordan Walker, Is this your verdict?

11 JUROR NUMBER 274: Yes.

12 MADAM CLERK: Is it still your verdict?

13 JUROR NUMBER 274: Yes.

14 MADAM CLERK: Janice Fields, is this your verdict?

15 JUROR NUMBER 84: Yes.

16 MADAM CLERK: And is it still your verdict?

17 JUROR NUMBER 84: Yes.

18 MADAM CLERK: Kassie Buchanan? Is it still -- is

19 this your verdict?

20 JUROR NUMBER 31: Yes.

21 MADAM CLERK: And is it still your verdict?

22 JUROR NUMBER 31: Yes.

23 MADAM CLERK: Leslie Moore, is this your verdict?

24 JUROR NUMBER 184: Yes.

25 MADAM CLERK: Is it still your verdict?

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BY THE COURT

1 JUROR NUMBER 184: Yes.

2 MADAM CLERK: Barbara Mood, is this your verdict?

3 JUROR NUMBER 183: Yes.

4 MADAM CLERK: And is it still your verdict?

5 JUROR NUMBER 183: I would like to say one thing.

6 THE COURT: Can you answer that question first, and

7 --

8 JUROR NUMBER 183: Yes, it is still my verdict.

9 THE COURT: All right. Thank you, ma'am.

10 JUROR NUMBER 183: I would like to say one thing.

11 THE COURT: Well, is it still your verdict, that's

12 the only answer that's appropriate at this time.

13 JUROR NUMBER 183: Okay.

14 THE COURT: At some other point in time, if you
15 wish to make a statement, we'll be glad to hear it.

16 JUROR NUMBER 183: Okay.

17 THE COURT: Right this minute, we just need to be
18 assured, this is your verdict?

19 JUROR NUMBER 183: Yes.

20 THE COURT: And is it still your verdict?

21 JUROR NUMBER 183: Yes.

22 BY THE COURT:

23 THE COURT: Thank you. All right. All twelve
24 jurors have been polled and concede to the verdict.

25 Folks, I apparently had a moment of momentary

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BY THE COURT

1 homesickness. I read County of Clarendon, which is my
2 home county, instead of County of Hampton. I apologize
3 for that mistake.

4 Is there anything further before this jury is
5 dismissed, from the State?

6 SOLICITOR THORNTON: No, your Honor..

7 THE COURT: Mr. Lee, from the Defense?

8 MR. LEE: No, sir, your Honor.

9 THE COURT: Thank you. Ladies and gentlemen, now I
10 want to thank you for your services that you have
11 rendered during the trial of this case. It has not been
12 an easy case, and you have given it considerable
13 thought. You did not rush to judgment in this case.
14 You obviously asked questions that were relevant
15 questions, and you have given this case the
16 consideration and the thought that it deserves to have.

17 The restraint which I have given you earlier about
18 not talking about this case among yourselves or letting
19 anybody else talk with you about it no longer applies.
20 You can talk with anybody that you want to talk with
21 about this case, and you'll be asked about this case,
22 given the interest that is in the community. And if you
23 want to talk with those folks when they ask you about
24 it, you can, but you don't have to.

25 And so, if someone should ask you about this case,

1 and if you choose not to talk with them about it, just
2 tell them that you don't want to talk to them about it.
3 If they persist in their efforts to talk with you after
4 you have made it plain to them that you don't want to
5 talk with them, if you'll contact the Clerk of Court,
6 she'll contact me, and we'll have that matter taken up
7 through the proper courses, so that you can be free from
8 any concern or harassment in that regard.

9 You will receive at some time in the next few days
10 a check that's not going to begin to pay you for the
11 time that you spent with us. Add, please, the amount
12 of, I guess, gratitude that each of us feels for the
13 service that you have rendered. And if you can add that
14 gratitude to the small amount of that check, I hope
15 you'll be paid in some way.

16 Ladies and gentlemen, in the final analysis, you
17 only have to answer to your own conscience for the
18 verdicts which you have reached. You are not answerable
19 to anybody else. You have indicated that you now
20 consent, each of you, to these verdicts, and that's all
21 that you really have to say about it, unless you choose
22 to say more. And you don't have to explain that to
23 anyone, unless you choose to.

24 I can tell you, ladies and gentlemen, that you
25 don't have any need to fear your consciences for the

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BY THE COURT

1 verdict that you have reached in this case. I've heard
2 what you've heard, and I can tell you that you need not
3 fear your conscience for the decisions that you have
4 made in this case.

5 And finally, let me tell you this, that I hope that
6 you appreciate even more now than you did before the
7 importance of folks like you in our system, and why we
8 have to ask good folks like you to do the unpleasant
9 jobs that we've asked you to do in this particular case.
10 I hope that you don't find yourself caught up in this
11 system.

12 I hope you never find yourself seated over here, on
13 the victim's side, where victims of crimes sit; or this
14 side, where those folks who are charged with crimes sit.
15 But I can tell you folks that you don't need to
16 volunteer to get caught up in this system. You can get
17 brought into this courtroom whether you want to or not.
18 I hope that that never happens to any of you or to any
19 members of your family. But let me tell you that, if it
20 ever does, if you ever find yourself seated on either
21 side of this courtroom on Monday morning, like it was
22 Monday when you came in here, when you turn around and
23 look behind you into the faces of the jurors that have
24 been assembled to try the case that you have an abiding
25 interest in, that involves you or somebody that is dear

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BY THE COURT

1 to you, you're going to hope that you look into the
2 faces of people just like yourselves. You don't want us
3 to scrape around the streets of Hampton and see if we
4 can't find twelve people who don't have a better thing
5 to do than to try your case. You want people like you,
6 people who have better things to do, and would rather be
7 doing them, but are willing to set them aside to come
8 into this courtroom and hear your case, and decide it as
9 you have decided this one, one way or the other. That's
10 the kind of juror that everybody wants. That's the kind
11 of juror that both of these sides wanted when they
12 picked you. You have given us that type of juror, and
13 we're grateful for that.

14 Now, we have some matters of motions and some
15 matters of sentencing that do not involve you. As I
16 told you, that's the prerogative of the Court. I'm
17 going to excuse you now to the jury room, and if you
18 want to go, you can. You're free to go. If you want to
19 come back to the back of the courtroom somewhere and sit
20 and listen to the sentencing, you can do that as well.

21 And ma'am, I'll be glad to listen to you after I've
22 completed what I yet have to do, and to hear what your
23 concerns happen to be. But the only real concern that I
24 have a right to inquire of at this point in time is the
25 concern that I did earlier, and that is, of course, to

1 ensure these verdicts are your unanimous verdicts and
2 reached in that regard.

3 So, I'm going to send you to the jury room now. If
4 you wish to remain there, I'll be glad to come back and
5 answer questions or address you further in that regard,
6 and try to respond to your questions, and tell you
7 what's been going on out here. Or you can come back
8 into the courtroom and listen to the sentencing process,
9 or you're free to go home, enjoy your family again, with
10 our gratitude for your services. Thank you, folks.

11 ITEM IDENTIFIED AS DEFENDANT'S

12 PROPOSED VOIR DIRE PREVIOUSLY

13 MARKED COURT'S EXHIBIT NUMBER 2.

14 ITEM IDENTIFIED AS STATE'S

15 PROPOSED VOIR DIRE

16 MARKED COURT'S EXHIBIT NUMBER 3.

17 JURORS LEAVE COURTROOM 6:20 P.M.

18 MOTIONS, RENEWED MOTIONS, AND RULINGS:

19 THE COURT: Mr. Lee, I'll be glad now to hear
20 further motions from the Defense.

21 MR. LEE: Yes, sir, your Honor. As to the three
22 guilty verdicts, the defendant would make a motion for a
23 new trial, based upon previous issues and objections
24 raised, which you have fully considered and we have
25 fully argued. And you know, at this point, I would

1 reserve all my -- or renew, rather, all of my previous
2 motions, and again, make a motion for a new trial as to
3 the three indictments for which Mr. Heyward was found
4 guilty.

5 THE COURT: All right. Thank you. This was, as we
6 have indicated earlier, a quintessential jury question,
7 --

8 MR. LEE: Yes, sir.

9 THE COURT: -- as we discussed at the conclusion of
10 the State's evidence in this case. And I agree, Mr.
11 Lee, all of your motions have been ably argued and
12 preserved for appellate review. I will renew my earlier
13 rulings in that regard, as to each of those motions.
14 Respectfully deny those motions yet once again.

15 Is the State ready to proceed as a matter of
16 sentencing?

17 SOLICITOR THORNTON: Your Honor, the State needs
18 probably about five minutes. I've got to get the
19 sentencing sheets up here. I'll have them momentarily.

20 THE COURT: All right. Okay. Let's go stand down
21 for a moment, and give you a chance to fill those things
22 out. And if you'll round me up in chambers at that
23 time, we'll come out and continue the matter of
24 sentencing. I take it you've got to get the sentencing
25 sheets and fill them out. Is that right?

1 SOLICITOR THORNTON: Yes, sir. And I've got people
2 already downstairs grabbing them now. They'll be back
3 up momentarily, and we'll get them filled out. It
4 literally shouldn't take more than about five minutes,
5 your Honor.

6 THE COURT: All right. I still think it would
7 probably be best for me -- I don't need to be out here,
8 and we will need to keep this court in more while those
9 are being done. They're largely ministerial, and I'll
10 stand down while you are doing that.

11 I will inquire of this lady concerning her wishes
12 to talk to me. Let me tell you gentlemen at the outset,
13 if I choose to talk with her at all, it will be in your
14 presence and on the record, because I have no idea what
15 her concerns happen to be.

16 BAILIFF: She left.

17 THE COURT: She left?

18 BAILIFF: Took off and left.

19 THE COURT: Okay.

20 BAILIFF: I asked her if she wanted to stay, and
21 she said no.

22 THE COURT: All right.

23 BAILIFF: I guess she changed her mind.

24 THE COURT: Okay. Very good. She's gone, so.
25 I'll probably get a letter. Okay.

1 SOLICITOR THORNTON: Thank you, Judge.

2 THE COURT: All right. We'll stand down. Please
3 let me know soon as they --

4 SOLICITOR THORNTON: Yes, sir.

5 OFF THE RECORD 6:23 P.M.

6 BACK ON THE RECORD 6:38 P.M.

7 SENTENCING:

8 THE COURT: Thank you, folks. Please be seated.

9 All right. All right. Mr. Thornton, if you'll
10 hand up the sheets, please.

11 SOLICITOR THORNTON: Yes, your Honor.

12 THE COURT: Mr. Thornton, I'll be glad now to hear
13 from the State in the matter of sentencing and from the
14 victim or anyone on his behalf.

15 SOLICITOR THORNTON: Thank you. Your Honor, if
16 it's all right with the Court, Ms. Lessie Johnson, who
17 is the victim's mother, is going to come up and speak on
18 behalf of the victim. And then, I'll ask for the --
19 I'll give the State's position.

20 THE COURT: All right. Ms. Johnson, come forward,
21 please, ma'am. Ms. Johnson?

22 LESSIE JOHNSON: Yes, your most honorable judge.

23 THE COURT: Ma'am.

24 LESSIE JOHNSON: Judge Cooper, it's been a very
25 difficult and hard process, but we are happy to hear

1 that the verdict has been given and it has been shown
2 that -- or proven that Larry Heyward is a predator.
3 He's very manipulative -- excuse me -- very
4 manipulative, very deceptive, deceiving. Not just my
5 family, but his family as well, and the community as a
6 whole.

7 The heartaches, the sleepless nights, to see my son
8 in pain, the shock he's been through, the intrusion of
9 his body, uncontrollable gastro problems. Anyway, as
10 that what we've experienced. I do not want to see
11 another mother, another parent, or anyone experience
12 what he went through. It's been -- like I said, it's
13 been very unbearable in certain cases, but we made it
14 through to this point. And I ask that you will grant or
15 issue the maximum penalty for Larry Heyward. Even
16 though within my heart, Larry Heyward, I've forgiven
17 you, but to see how you have not just let my family
18 down, but as well as your family. And I just hope again
19 that another child will not be hurt or abused by Larry
20 Heyward again.

21 THE COURT: Thank you, Ms. Johnson.

22 SOLICITOR THORNTON: Your Honor, obviously, it's
23 been already discussed with you. Mr. Heyward does not
24 have a prior record. Obviously, if he did, he wouldn't
25 have had the position that he held. Your Honor, I'm not

1 going to go back into the facts. You've obviously been
2 here the entire time. You know what the facts are.

3 What is most egregious, though, in this case, is
4 its -- any one of these offenses by themselves is
5 certainly egregious, any time that harm is done to a
6 child, but when that harm is done under the color of the
7 authority of the Sheriff's Department, with a gun and a
8 badge and a taser and all of those things that come
9 along with that authority, the State's position is that
10 it is far more egregious that Larry Heyward used his
11 position as a school resource officer to target Complainant
12 Complainant. And certainly, the jury has found not only the
13 misconduct in office, but also that lewd acts were
14 committed upon Complainant .

15 There's never, obviously, been any remorse shown
16 by the defendant in this case, other than that he told
17 the Sheriff he was sorry for bringing shame to his
18 office.

19 Because, Judge, it's not just that a child has been
20 victimized, but that he used his position that the
21 Sheriff and the citizens of this community placed in him
22 in order to gain access to that child, the State would
23 ask for you to consider the maximum sentence, which is,
24 of course, zero to fifteen on each of the lewd -- the
25 lewd act and the criminal sexual conduct third.

1 I would ask you, Judge, I know it's not done often,
2 and I don't ask for it often, to consider some sort of
3 consecutive sentence with the misconduct in office,
4 because it is, in the State's opinion, so egregious,
5 using his position to gain access to the child. Thank
6 you, your Honor.

7 THE COURT: Thank you, Mr. Thornton. Anything
8 further from the State?

9 SOLICITOR THORNTON: No, sir.

10 THE COURT: Mr. Lee, I'll be glad to hear from you,
11 Mr. Heyward, or anyone on his behalf.

12 MR. LEE: Thank you, Judge. May it please the
13 Court? For us lawyers, it's always the most difficult
14 part of the procedure, because you've been waiting,
15 waiting, and then, it's there. But just, as you know,
16 Larry has a lot of family and friends out there who have
17 been here all week. Those people will always be there
18 for him now and forever. They've seen him through a
19 lot. His wife, unfortunately, has been very, very ill
20 the last several days, and not been able to attend.
21 She's been having some extreme medical issues, and
22 they're waiting for a diagnosis from some tests that she
23 had in the last couple weeks that they hope are not
24 cancer. But again, she would be here, obviously, his
25 wife of almost thirty-three years, Bonita. And you

1 heard some testimony about I think that was actually how
2 Sheriff Smalls originally knew Larry was meeting him
3 through his wife, who worked at the jail.

4 Larry's daughter Eula, daughter Danika, and son
5 Larry Andre are out there. Eula has moved home to
6 Garnett to take care of her mother because of her
7 failing health. Still works in Savannah. Danika was in
8 the Air Force, recently got out. Lives in Ladson. And
9 then, Larry Andre lives in Hampton. Between them, they
10 have seven grandkids that all call Larry Granddad.

11 Judge, the one thing that the -- well, a couple
12 things. One is, we certainly hate that it came to this.
13 This is a small-type community. I don't live here. You
14 don't either, but it is clear that some lines were
15 drawn, and everybody knew about this, quite frankly.
16 And you know, I think it's going to take a little bit of
17 time for Hampton to heal from this and understand it.
18 And hopefully, that happens sooner, rather than later,
19 and goes smoothly.

20 We certainly never were looking to have to go to
21 trial, to put people on the stand, and have to testify
22 to embarrassing things, hear embarrassing things, say
23 embarrassing things. And I really, from a personal
24 standpoint, really felt sorry for everybody who had to
25 be involved in this. I mean, it's a shame that it came

1 to this.

2 As for the Solicitor had indicated that Larry had
3 not expressed any remorse. Obviously, if you don't know
4 whether you're going to plead or not, it's difficult to
5 express remorse, because it appears to be an admission,
6 and that certainly would be used against him. I know he
7 has remorse for lots of things.

8 He was in the Army National Guard for twenty-five
9 years, retired. He has been pastor at -- I always have
10 to look at it -- Varnville Miracle Revival Center for
11 twenty-eight years. He was a police officer and school
12 resource officer with a fantastic reputation. And it's
13 just so -- I've been doing this for twenty-three years,
14 and it's just -- it's so odd to have a client like
15 Larry, who is going to turn fifty-six in exactly a
16 month, right? ?

17 DEFENDANT HEYWARD: Yeah.

18 MR. LEE: Who, this is their first exposure to the
19 law. It's just an odd thing to see. And Larry, you
20 know, for the longest time, lived the righteous life and
21 did what he was supposed to do and had a great
22 reputation around town. Obviously, that will never be
23 the same. Everyone loses in this, unfortunately, in the
24 long run.

25 I would point out that, since -- I have the order

1 right here -- since the 27th of February 2013, Larry has
2 been on house arrest, as well as having an electronic
3 monitoring device around his ankle. He still has it.
4 It is \$70.00 a week. He has spent, what was it,
5 thirteen thousand? Thirteen, over thirteen thousand
6 dollars with the offender management through the
7 Solicitor's Office to have that monitor on him. So,
8 that certainly has been --

9 THE COURT: What was the date of that again?

10 MR. LEE: February 27, 2013.

11 THE COURT: Okay.

12 MR. LEE: And obviously, your Honor knows why I
13 bring that up, because the statute -- and I don't have
14 it in front of me, but I'm sure you're familiar with it
15 -- the statute that talked about credit for time served.
16 Also, it has somewhat recently been amended to say that
17 the judge may order credit for time served with
18 electronic monitoring on house arrest. So, you know, at
19 the end of the day, we're certainly going to ask you to
20 consider credit for the time that he has been on the
21 electronic monitor and on house arrest since February
22 27, 2013.

23 Judge, I don't know -- Barbara, would you like to
24 say something? Would his sister be permitted to speak
25 briefly? This is his sister, Barbara Peeples, who has

1 been here. Can you sit up there. Just identify
2 yourself, and you can walk up to the Bar, if that's
3 okay.

4 BARBARA PEEPLES: Your Honor, I'm Barbara Peeples.

5 THE COURT: Yes, ma'am.

6 BARBARA PEEPLES: And Larry's my baby brother. And
7 he has -- I mean, in his adult life, Larry has helped a
8 lot of people. He's done some great things in the
9 community. He's -- he's very -- a very loving and
10 giving person. He has a very big heart. And he's -- he
11 has served the community and in his church, his
12 community, anyone. He has mentored a lot of young
13 fellows, trying to keep them out of trouble.

14 He has -- he's not a vicious person. He's not --
15 he's not mean. He's not mean-spirited. He is my
16 brother, and I love him, and a lot of people -- a lot of
17 people have supported him from the time this happened
18 until right now. And we will continue to support him,
19 because we believe him -- in him. And no matter what
20 happens, we will always support and love him, and know
21 that he is -- he is -- he is not what this is -- has
22 actually been about.

23 And he's just done a lot of things for a lot of
24 people in his community and his church.

25 THE COURT: Thank you, ma'am.

1 MR. LEE: Judge, I think, lastly, again, on behalf
2 of all of us, I think we would apologize to the Johnson
3 family for what they've gone through, and I hope
4 everybody can move on. I think it's big of Ms. Johnson
5 to say that she's forgiven someone who's standing in
6 this position, and we appreciate that from them.

7 Judge, one more thing is, when whatever sentence
8 you impose on Larry, obviously, there's several reasons
9 for a sentence, but I would just remind the Court that
10 -- or ask the Court, rather, to understand, Larry
11 Heyward, who's going to be fifty-six next month, as a
12 former police officer and as a convicted sex offender is
13 not going to have a good time in jail. And whatever
14 time, if you choose to give him time, whatever time he
15 does is going to be hard time, and he's going to be
16 treated, quite frankly, a lot different than the average
17 inmate. And so, I would ask you to keep that in mind,
18 if you can, just to know that, you know, time for him is
19 a lot different than time for a eighteen-year-old, you
20 know, who can handle themselves and keep their own. So,
21 I would just ask you to consider that.

22 Would you like to say anything or not?

23 DEFENDANT HEYWARD: Well, your Honor, I'd like to
24 say that I don't agree with the verdict, but I respect
25 the verdict. I'm sorry to hurt my family or anybody

1 else that I may have inadvertently hurt by the
2 situation. As my sister said, I'm -- I've always tried
3 to help people, and that probably is part of my
4 downfall.

5 But I ask that, if you will, if you could find
6 mercy in your heart, I've got a wife that's ill at the
7 house that I'd like, you know, if I could, be able to
8 take care of her.

9 THE COURT: Thank you, Mr. Heyward. Mr. Lee,
10 anything else?

11 MR. LEE: No, sir.

12 THE COURT: Thank you.

13 VERNITA GADSON: Mr. Lee, I'd like to have
14 something to say.

15 MR. LEE: It's not up to me, ma'am.

16 THE COURT: Who is that?

17 MR. LEE: I'm not sure.

18 VERNITA GADSON: I am Mrs. Gadson, Vernita Gadson.

19 THE COURT: And what's your relation to Mr.
20 Heyward?

21 VERNITA GADSON: I was a former member of Miracle
22 Revival, which I'm still a member of Miracle Revival
23 Church.

24 THE COURT: Yes, ma'am.

25 VERNITA GADSON: And I'd just like to say to

1 everyone, --

2 THE COURT: Now, let me -- what I need to hear from
3 you -- is it Ms. Gatston?

4 VERNITA GADSON: Gadson.

5 THE COURT: Ms. Gadson, what I need to hear at this
6 juncture is any information that you can give to me that
7 would help me in deciding what sentence to pass on Mr.
8 Heyward.

9 VERNITA GADSON: Yes, sir.

10 THE COURT: I'm not interested in any other
11 disputes. I just need to know any information that
12 would be helpful to me. I'm trying to decide whether
13 he's going to get fifteen years in jail or twenty-five
14 years in jail, or forty years in jail right this minute.
15 So, I need for you to help me, if you're there to help
16 me, decide which of those sentences he's going to get.

17 VERNITA GADSON: Well, I wish there would be an
18 intervention program --

19 THE COURT: Yes, ma'am.

20 VERNITA GADSON: -- that he and the young man could
21 enter, that might rehabilitate them to whatever
22 faculties that have been displayed, and remove from
23 their mind and heart with all of this transaction that
24 went on; and that he would get a sentence that would
25 look and feel to all and everyone that we could all live

1 on one accord. Because I would like to say to you,
2 Judge, remember in the *Bible*, David became a man after
3 God's own heart, and he killed somebody because of his
4 wife. But God gave him grace and glory, and I ask you
5 to do the same.

6 THE COURT: Thank you so much.

7 MR. LEE: Your Honor, his younger daughter Eula has
8 asked to be able to say something. I'll leave it to the
9 Court's discretion.

10 THE COURT: Who is this?

11 MR. LEE: Eula, his daughter. She's living with
12 the family right now.

13 THE COURT: Ms. Eula, I'll be glad to hear from
14 you.

15 MR. LEE: Who is living with the family right now.

16 EULA HEYWARD: Your Honor, my name is Eula Heyward.

17 THE COURT: Can you speak loudly, so that I can
18 hear and the court reporter can hear you, please, ma'am.

19 EULA HEYWARD: Yes, sir. My name is Eula Heyward.
20 I'm the fourth of fifth children of Mr. Larry Heyward.

21 THE COURT: All right.

22 EULA HEYWARD: Your Honor, I have moved home to
23 help out my parents. And your Honor, I ask for mercy in
24 this situation. I understand that you have to make a
25 decision, but sir, I ask you, please, for mercy, because

1 we cannot bear the burden of having my father absent for
2 that amount of time, sir. So, I'm asking that you
3 please consider this, please consider my mother. And
4 just consider my sisters and my brother and my nieces
5 and my nephews.

6 THE COURT: Thank you, ma'am.

7 EULA HEYWARD: He's very important to our lives,
8 sir, please. Please. Thank you.

9 THE COURT: Thank you. Anything further?

10 MR. LEE: I don't think so, your Honor. I would
11 just add one more thing is, any time you have a case
12 like this that involves sexual offense, and you are
13 offered a plea offer, one of the things that makes it
14 very difficult to advise clients on is the sexually
15 violent predator law. And quite frankly, any time that
16 anybody is convicted or pleads guilty to any sexual
17 offense in South Carolina, they are subject to -- even
18 if they do all of their time, they're still subject to
19 remaining in prison, if the State of South Carolina
20 chooses to do so. So, I would also add that,
21 mitigation-wise, that you know, he still has that
22 hanging over his head. And obviously, as a result of
23 these sentences, the statute requires him to register as
24 a sex offender, so he will be doing that for the rest of
25 his life.

1 THE COURT: Right. I understand.

2 MR. LEE: Thank you, Judge.

3 THE COURT: Thank you.

4 Thank you, folks, for your patience as you've
5 waited while I'm doing what I have to do here.

6 The sentencing of any convicted criminal or one who
7 pleads guilty to that fact is always the most difficult
8 thing that a trial judge has to do. And there are many
9 things to take into account on each side of the aisle.
10 I need not recount all of those things, obviously. They
11 differ with each particular case. The conduct, of
12 course, of the defendant is the primary consideration.
13 If there is a prior record, that comes into account.
14 The impact of the crime on the victim is also a
15 consideration. The background of the defendant, even if
16 there is no record, is something that can be taken into
17 account as well.

18 I'm aware of the fact that the jury has found Mr.
19 Heyward, of course, not guilty on the more serious of
20 these offenses, which would carry up to twenty years in
21 jail, and which would be no parole offenses, eighty-five
22 percent offenses.

23 The offenses for which he has been convicted are
24 parolable offenses. He would be eligible for parole.
25 Whether he makes it or not is another question beyond

1 the purview of this Court. And of course, as you have
2 said, Mr. Lee, he is subject to sexually violent
3 predator treatment when he gets out, and that could
4 prolong his incarceration.

5 I take into account his background, the good that
6 he did with the National Guard, twenty-five years of
7 service, the fact that he has been a minister,
8 respected, obviously, in his community. I don't give
9 him any credit for being a school resource officer. He
10 used that position, of course, to gain access to young
11 men, or at least a young man, vulnerable as he was. And
12 he was in a position of trust that was violated to the
13 harm of at least one young person, whose mother has
14 spoken here today.

15 Mr. Thornton, I do not choose to impose a
16 consecutive sentence in this regard, although I
17 appreciate the fact that you have asked for it, and I
18 understand the reason why. And of course, you did not
19 ask for a consecutive sentence on the two lewd acts,
20 because you realize that, except for the change in the
21 date and the change in the law, that would only be one
22 offense to begin with. And so, you have wisely not
23 sought consecutive treatment of those two sentences.

24 I choose not to give consecutive sentence on the
25 misconduct in office, although that, in fact, led to his

1 access, among other things, to the individual involved.
2 And while I choose not to impose a consecutive sentence,
3 Mr. Lee, at the same time, I choose not to give credit
4 for the time that he's already served. The jury has not
5 convicted him of a crime that would require no parole
6 treatment of a sentence of up to twenty years, but he
7 has been out for the period time. Even though he has
8 been subject to restriction, he has not been
9 incarcerated during that period of time. And so, I
10 choose not to give him credit for the time that he has
11 served.

12 Mr. Heyward, on the charge of misconduct in office,
13 you are to be committed to the Department of Corrections
14 for a period of ten years. On Indictment 141, charging
15 you with a lewd act on a child, you are to be committed
16 to the Department of Corrections for a period of fifteen
17 years. On Indictment 142, charging you with a lewd act
18 or criminal sexual conduct with a minor in the third
19 degree, you are to be committed to the Department of
20 Corrections for a period of fifteen years. These
21 sentences all run concurrent to each other.

22 SOLICITOR THORNTON: Thank you, your Honor.

23 THE COURT: Thank you, gentlemen.

24 MR. LEE: Thank you, sir.

25 THE COURT: Good luck, folks. Anything further?

1 MR. LEE: I do have one thing, your Honor. I
2 would, again, as part of it, I would ask the Court to
3 consider whether or not you would issue an appeal bond.
4 We have demonstrated some extenuating circumstances with
5 the health of his wife, and I would respectfully ask for
6 an appeal bond on this case.

7 THE COURT: All right. I appreciate that. I'm
8 sensitive -- I'm sorry about his wife's condition, but I
9 am not inclined to grant an appeal bond in this case.

10 MR. LEE: Yes, sir.

11 THE COURT: I'm sorry.

12 MR. LEE: Yes, sir.

13 THE COURT: Thank you.

14 MR. LEE: Thank you, sir.

15 THE COURT: All right. Folks, court is now
16 adjourned. Sine die. Thank you.

END DAY THREE, WEDNESDAY, SEPTEMBER

21, 2016, 7:04 P.M. END TRIAL.

9-21-16 STATE V HEYWARD

CERTIFICATE OF REPORTER

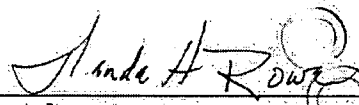
CERTIFICATE OF REPORTER

SEPTEMBER 19, 20, 21, 2016 TRANSCRIPT OF TRIAL
 STATE OF SOUTH CAROLINA
 COUNTY OF BEAUFORT

I, Wanda H. Rowe, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing September 19, 20, 21, 2016 Transcript of Trial is a true, accurate, and complete record of the proceedings had and exhibits admitted on said dates, in the case of State v Larry Heyward, Hampton County, Court of General Sessions, Case Numbers 2013-GS-25-00053, 2015-GS-25-00140, 2015-GS-25-00141, and 2015-GS-25-00142; that I am of neither kin, counsel, nor interest to any party hereto.

This Certificate of Reporter contains my original signature and is attached to a copy of this transcript requested by SCCID. Pursuant to SCACR 607, requests for copies of this transcript must be made to the court reporter. Unauthorized copying/emailing is prohibited.

Witness my signature December 29, 2016.

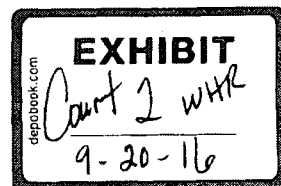

 Wanda H. Rowe, CVR-M
 Official Court Reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF HAMPTON) Indictment #s: 2013-GS-25-0053;
) 2015-GS-25-0140; -0141; & -0142
)
 STATE OF SOUTH CAROLINA)
)
 -versus-) DEFENDANT'S PROPOSED VOIR DIRE
)
 LARRY HEYWARD,)
 Defendant)

2016 SEP 19 AM 8:36
 CLERK OF COURT
 HAMPTON COUNTY, S.C.

The Defendant by and through the undersigned attorney, respectfully requests the Court to propound the following voir dire questions to all prospective jurors. The Defendant further requests that his attorney be permitted to individually question all jurors who answer any of the following questions in the affirmative, or in the alternative, that the court require such jurors to approach the bench for *in camera* questioning:

1. Are you or any members of your immediate family a former or present law enforcement employee?
2. Are any of your close personal friends former or present law enforcement employees?
3. Are you related to, or close personal friends with anyone employed by the Fourteenth Circuit Solicitor's Office?
4. Are you related to, or close personal friends with Larry Heyward during his employment with:
 - a) SC Army National Guard- 1979-2004,
 - b) Varnville Miracle Revival Center- 1998-present, or
 - c) Hampton County Sheriff's Office- 2008-2013
5. Are you related to, close personal friends with, or have ever been represented by Scott W. Lee, Esq. or Christopher W. Lempesis, Esq.?
6. Are you or any members of your immediate family a former or present member or contributor to CAPA (Child Abuse Prevention Association), CODA (Citizens Opposed to Domestic Abuse), MADD (Mother's Against Drunk Drivers), or any other victim's rights organizations?
7. Have you or any member of your family, or close personal friends been accused of, the victim of, or affected by a criminal sexual conduct, rape or molestation incident or allegation?
- ~~8.~~ Does any juror believe that the mere fact the Defendant has been charged with a crime means that he is probably guilty?
- ~~9.~~ Have you ever served on a criminal jury in the past?
- ~~10.~~ Given the nature of the allegations in the present case, would you find it difficult or uncomfortable to serve as a juror on this case?



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

JOHN DOE, a minor by his natural mother]
and guardian, MARY DOE,¹]

Plaintiff,]

vs.]

Civil Action No.: 9:15-cv-04449-DCN

LARRY HEYWARD,]

Defendant.]

COMPLAINT

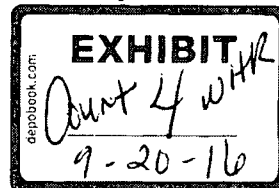
John Doe, through his natural mother and guardian Mary Doe, by his respective undersigned counsel of record, brings this civil rights action pursuant to 42 U.S.C. § 1983 against Larry Heyward.

PARTIES

1. Plaintiff John Doe is a citizen of South Carolina but currently resides in Jacksonville, Florida.
2. Defendant Larry Heyward is a citizen of South Carolina and resides in Hampton County, South Carolina, and a deputy sheriff for the Hampton County Sheriff's Department.
3. At all times relevant to this complaint, Defendant Larry Heyward, acted under color of state law, in the course and scope of their employment as a deputy sheriff for the Hampton County Sheriff's Department, with respect to the allegations herein.

JURISDICTION AND VENUE

¹ The allegations in this Complaint stem from alleged constitutional violations perpetrated on John Doe in the Hampton County Schools. Identifying John Doe by his initials does not sufficiently protect his identity in the community.



4. This Court has jurisdiction over the claims against Larry Heyward, pursuant to 28 U.S.C. § 1331 because those claims arise under federal law, 42 U.S.C. § 1983.

5. Venue is proper in the District of South Carolina, Beaufort Division, pursuant to 28 U.S.C. § 1391 (b)(1) & (2) as Defendant resides in the District and the acts or omissions complained of occurred within the District.

FACTUAL ALLEGATIONS

6. At all times relevant to this complaint, Plaintiff was a minor between 13 to 15 years of age.

7. This action arises out of continuing incidents that began in or around 2011 and continued through 2013, when Defendant Larry Heyward was employed by the Hampton County Sheriff's Department as a school resource officer stationed at Middle School.

8. At certain times relevant to this complaint, Middle School maintained at least one of two locations.

9. Upon information and belief, the conduct complained of in this action occurred upon both Middle School premises.

10. In or around 2011, when Plaintiff was only 13 years of age, Defendant Larry Heyward began to remove Plaintiff from classes without cause. Defendant would then lock Plaintiff in Defendant's office.

11. Upon information and belief, during each and every encounter where Defendant removed Plaintiff from classes without cause, and subsequently locked Plaintiff in Defendant's office, Defendant would use force upon the Plaintiff, including but not limited to the use of a Taser upon the Plaintiff. Defendant had no probable cause for this use of force, nor did

Defendant have any reason to fear for his safety or the safety of others in deploying this force upon the Plaintiff.

12. During these incidents, Plaintiff was in Defendant's custody and was not free to leave.

13. Furthermore, from when to when, when Defendant would lock Plaintiff in Defendant's office, Defendant would search Plaintiff's entire body without probable cause that Plaintiff possessed contraband and without sufficient evidence of ongoing criminal activity to justify a search.

14. At no time during any of Defendant's seizures did Defendant provide Plaintiff with an explanation regarding why Plaintiff had been seized, why he was being searched, or why punishment was being imposed.

15. The conduct of Defendant Heyward in seizing Plaintiff without probable cause, searching Plaintiff without probable cause, and deploying force upon Plaintiff without reason to fear for Defendant's safety or the safety of others constitute constitutional violations, and as a result of each and every one of Defendant's violations, Plaintiff suffered physical injury, severe emotional distress, and will require lifetime psychiatric and psychological treatment.

FOR A FIRST CAUSE OF ACTION
(Civil Rights Violation Against Defendant Heyward Pursuant to 42 U.S.C. § 1983 for
Illegal and Unlawful Seizure)

16. Plaintiff repeats and realleges the preceding paragraphs as if fully restated herein.

17. Defendant Heyward, as a School Resource Officer with the Hampton County Sheriff's Department, acted under color of state law at all times, and owed to Plaintiff a duty to refrain from unlawful seizures.

18. In his capacity as School Resource Officer, Defendant Heyward would pretextually remove Plaintiff from class and request that Plaintiff be sent to Defendant's office, at which time Defendant would lock Plaintiff in his office without probable cause that any criminal action occurred, or that Plaintiff had violated any policies, rules, or regulations.

19. Defendant Heyward detained Plaintiff knowing that Plaintiff committed no crime, nor violated any applicable policy, rule, or regulation, and knowing that Defendant lacked any justification to arrest or detain Plaintiff.

20. During each incident where Defendant detained Plaintiff without probable cause, Plaintiff was in Defendant's custody and control, and was not free to leave.

21. During each incident where Defendant detained Plaintiff without probable cause, Defendant never provided Plaintiff with an explanation as to the reason for Defendant's seizure.

22. Defendant Heyward's seizures of the Plaintiff were objectively unreasonable and undertaken intentionally with willful indifference for Plaintiff's constitutional rights.

23. As described more fully above, Defendant Heyward consciously violated Plaintiff's Fourth Amendment Rights against unlawful seizures in one or more of the following particulars:

1. Failing to identify any facts or circumstances to justify Defendant's repeated seizures of the Plaintiff;
2. Failing to abide by protocol, policies and procedures in effectuating seizures of the Plaintiff;
3. Disregarding policies and procedures regarding seizure and detention of a student;
4. Failing to protect Plaintiff from illegal seizures;
5. Disregarding policies and procedures regarding protocol upon a seized student;

6. Failing to protect Plaintiff from seizures beyond the acceptable scope of law enforcement practice;
7. Engaging in a pattern and practice using inappropriate practices outside of the applicable standard of law enforcement, contrary to law;
8. Failing to investigate and properly record seizures of the Plaintiff;
9. Such other particulars as may be revealed during discovery and a trial of this matter.

24. As a result of Defendant Heyward's violation of the Fourteenth Amendment, Plaintiff suffered physical injury, severe emotional distress, and will require lifetime psychiatric and psychological treatment.

FOR A SECOND CAUSE OF ACTION
(Civil Rights Violation Against Defendant Heyward Pursuant to 42 U.S.C. § 1983 for
Illegal and Unlawful Search)

25. Plaintiff repeats and realleges the preceding paragraphs as if fully restated herein.
26. Defendant Heyward, as a School Resource Officer with the Hampton County Sheriff's Department, acted under color of state law at all times, and owed to Plaintiff a duty to refrain from unlawful searches.
27. In his capacity as School Resource Officer, and while Defendant Heyward detained Plaintiff in his locked office without probable cause that any criminal action occurred, Defendant Heyward unlawfully searched Plaintiff's person.
28. During each incident where Defendant detained Plaintiff without probable cause, Plaintiff was in Defendant's custody and control, and was not free to leave.
29. During each incident where Defendant detained Plaintiff without probable cause, Defendant never provided Plaintiff with an explanation as to the reason for Defendant's search.

30. Defendant Heyward's searches upon the Plaintiff were objectively unreasonable and undertaken intentionally with willful indifference for Plaintiff's constitutional rights.

31. As described more fully above, Defendant Heyward consciously violated Plaintiff's Fourth Amendment Rights against unlawful searches in one or more of the following particulars:

1. Failing to identify any facts or circumstances to justify Defendant's repeated searches of the Plaintiff;
2. Failing to abide by protocol, policies and procedures in conducting searches of the Plaintiff;
3. Disregarding policies and procedures regarding searches during detention of a student;
4. Failing to protect Plaintiff from illegal searches;
5. Disregarding policies and procedures regarding protocol when searching a student;
6. Failing to protect Plaintiff from searches beyond the acceptable scope of law enforcement practice;
7. Engaging in a pattern and practice using inappropriate practices outside of the applicable standard of law enforcement, contrary to law;
8. Failing to investigate and properly record searches of the Plaintiff;
9. Such other particulars as may be revealed during discovery and a trial of this matter.

32. As a result of Defendant Heyward's violation of the Fourteenth Amendment, Plaintiff suffered physical injury, severe emotional distress, and will require lifetime psychiatric and psychological treatment.

FOR A THIRD CAUSE OF ACTION
(Civil Rights Violation Against Defendant Heyward Pursuant to 42 U.S.C. § 1983 for Excessive Force)

33. Plaintiff repeats and realleges the preceding paragraphs as though repeated verbatim herein.

34. Defendant Heyward, as a School Resource Officer with the Hampton County Sheriff's Department, acted under color of state law at all times, and owed to Plaintiff a duty to refrain from using excessive, and unreasonably excessive, force.

35. In his capacity as School Resource Officer, Defendant Heyward seized Plaintiff and locked Plaintiff in Defendant's office and touched Plaintiff without appropriate justification or provocation, including but not limited to using a Taser upon Plaintiff...

36. At the time Defendant Heyward used this force upon the Plaintiff, the Plaintiff was passive and did not constitute a threat of harm.

37. At no point during Defendant's encounters with the Plaintiff did Defendant Heyward reasonably fear for his safety, nor for the safety of others.

38. Furthermore, at no point during Defendant's encounters with the Plaintiff did Defendant Heyward provide any justification whatsoever for his use of force upon the Plaintiff.

39. Defendant Heyward's use of force upon the Plaintiff was objectively unreasonable and undertaken intentionally with willful indifference for Plaintiff's constitutional rights.

40. Defendant Heyward's assaults on Plaintiff constitute excessive force within the meaning of the Fourth and Eighth Amendments.

41. As described more fully above, Defendant Heyward consciously violated Plaintiff's Fourth and Eighth Amendment Rights against excessive force in one or more of the following particulars:

1. Failing to identify any facts or circumstances to justify Defendant's repeated uses of force upon the Plaintiff;
2. Failing to abide by protocol, policies and procedures in effectuating uses of force upon the Plaintiff;
3. Disregarding policies and procedures regarding use of force during the detention of a student;
4. Failing to protect Plaintiff from use of excessive force;
5. Disregarding law enforcement training regarding the use of force upon a student and/or failing to obtain and maintain the necessary training regarding use of force;
6. Failing to protect Plaintiff from use of force with weapons and tactics beyond the acceptable scope of law enforcement practice;
7. Engaging in a pattern and practice using inappropriate practices outside of the applicable standard of law enforcement, contrary to law;
8. Failing to investigate and properly record uses of force upon the Plaintiff;
9. Such other particulars as may be revealed during discovery and a trial of this matter.

42. As a result of Defendant Heyward's violation of the Fourteenth Amendment, Plaintiff suffered physical injury, severe emotional distress, and will require lifetime psychiatric and psychological treatment.

FOR A FOURTH CAUSE OF ACTION
(Civil Rights Violation Against Defendant Heyward Pursuant to 42 U.S.C. § 1983 For Violation of Plaintiff's Substantive Due Process Rights)

43. Plaintiff repeats and realleges the preceding paragraphs as though repeated verbatim herein.

44. Defendant Heyward, as a School Resource Officer with the Hampton County Sheriff's Department, acted under color of state law at all times.

45. From 2011 through 2013, in his capacity as School Resource Officer, Defendant Heyward seized the Plaintiff on numerous occasions without probable cause that any criminal action had occurred, and locked Plaintiff in Defendant's Office to administer unwarranted searches upon the Plaintiff's person, including Plaintiff's buttocks and genitalia.

46. Furthermore, from 2011 through 2013, in his capacity as School Resource Officer, Defendant Heyward would administer a Taser upon Plaintiff's person, despite Defendant lacking any probable cause of criminal activity, and despite Defendant having no cause to fear for his own safety or the safety of others.

47. Defendant's conduct in executing search and seizures upon the Plaintiff without probable cause of any criminal activity, and administering corporal punishment upon the Plaintiff without cause constitute a violation of Plaintiff's substantive due process rights, guaranteed under the 14th Amendment.

48. The manner in which Defendant willfully disregarding Plaintiff's constitutional rights against illegal search and seizures, and the use of excessive force, was so egregious as to shock the conscious.

49. As a direct and proximate result of Defendant's conduct in violation of Plaintiff's Substantive Due Process Rights Plaintiff suffered physical injury, severe emotional distress, and will require lifetime psychiatric and psychological treatment

JURY DEMAND

43. Plaintiff demands a trial by jury.

Wherefore, Plaintiff demands actual, consequential, and punitive damages as determined by a jury, along with the costs and expenses associated with this action and attorneys' fees.

RESPECTFULLY SUBMITTED, this 2nd day of November, 2015.

STROM LAW FIRM, LLC

s/Mario A. Pacella

J. Preston Strom, Jr. (Fed. I.D. No. 4354)

Mario A. Pacella (Fed. I.D. No. 7538)

Jessica L. Fickling (Fed. I.D. No. 11403)

Bakari T. Sellers (Fed. I.D. No. 11099)

2110 Beltline Boulevard

Columbia, South Carolina 29204

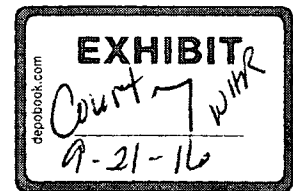
Tel: 803.252.4800

Fax: 803.252.4801

What date was the
tape recorded?

.12/28/12-

— What do the dates on the
indictments specify for
indictments III & IV?

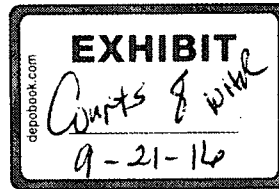


578

- If the tape was made Dec 28, 20,
does # 3 apply?
We have 2 doubts.

Pool

And does a guilty on # 3 & 4
change penalty for Mr. Hayward



WITNESSES
S/A James Ethridge (SLED)
[Handwritten signature]

ARREST WARRANT NUMBER
2015GS2500142
Date of Arrest: June 17, 2015

ACTION OF GRAND JURY
TRUE BILL

[Handwritten signature]
Foreperson of Grand Jury
Date: JUN 18 2015

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2015GS2500142

The State of South Carolina
County of Hampton

COURT OF GENERAL SESSIONS
June Term 2015

THE STATE

vs.

Larry Heyward

Indictment for
Sex/ Criminal sexual conduct with minor, 3rd
degree- Commit/ Attempt Lewd Act (victim
under 16 yrs & actor over 14 yrs)

SC Code: 16-03-0655(C)
CDR Code:3661

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2015GS2500142

At a Court of General Sessions, convened on June 18, 2015, the Grand Jurors of Hampton County present upon their oath:

Sex/ Criminal sexual conduct with minor, 3rd degree- Commit/ Attempt Lewd Act

That in Hampton County, South Carolina, between the dates of June 18, 2012 through November 30, 2012, the Defendant, Larry Heyward, did commit criminal sexual conduct with a minor in the third degree in that Larry Heyward, whose date of birth is 1960, was over fourteen (14) years of age, and that Larry Heyward did willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, on a child whose initials are ^{Complainant} and that said child was under sixteen (16) years of age with a date of birth of 1997, with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of himself or the child. All in violation of Section 16-3-655(C), S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

CLERK OF COURT



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

WITNESSES

S/A James Ethridge (SLED)

[Handwritten signature]

ARREST WARRANT NUMBER

2015GS2500141

Date of Arrest: June 17, 2015

ACTION OF GRAND JURY

TRUE BILL

[Handwritten signature]

Foreperson of Grand Jury

Date:

JUN 18 2015

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2015GS2500141

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

June Term 2015

THE STATE

vs.

Larry Heyward

Indictment for

Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

SC Code: 16-15-0140

CDR Code:2468

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2015GS2500141

At a Court of General Sessions, convened on June 18, 2015, the Grand Jurors of Hampton County present upon their oath:

Sex / Lewd Act, committing or attempting lewd act upon child under 16

That in Hampton County, South Carolina, between August 2010 and June 17, 2012, the Defendant, Larry Heyward, whose date of birth is 1960, a person over fourteen (14) years of age, did willfully and lewdly did commit or attempt to commit a lewd or lascivious act upon the body, or any part or member of thereof, of a child under the age of sixteen (16) years, to wit: minor victim with the initials ^{Complainant} whose date of birth is 1997, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of said child, in violation of Section 16-15-140, S.C. Code of Laws 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

LIBERTY

WITNESSES

S/A Jeff Croft-SLED

Inv. Donnie Hutto- 14th Circuit Solicitor's Office

DOCKET NO. 2013GS2500053

The State of South Carolina

County of Hampton

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

August Term 2016

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE

vs.

Larry Heyward

Amended Indictment For

Misconduct in Office

SC Code: 00-00-0000; 17-25-0030

CDR Code: 0819

Defendant.

Witness:

C.C.C. PLS. and G.S.

ARREST WARRANT NUMBER

2013A2510100005

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

INDICT

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF HAMPTON

AMENDED
INDICTMENT
2013GS2500053

At a Court of General Sessions, convened on August 18, 2016 the Grand Jurors of Hampton County present upon their oath:

Misconduct in Office

That in Hampton County, South Carolina, between the dates of August, 2010 through December, 2012, the Defendant, Larry Heyward, did, unlawfully and intentionally breach his duty of accountability to the public, as imposed by law, by failing to properly and faithfully discharge said duty, to wit: The Defendant, while employed by the Hampton County Sheriff's Office as a School Resource Officer at Middle School, did commit sexual battery upon a minor victim, whose initials are D.J. and whose date of birth is 1997. He further used a Department issued Taser to unlawfully and willfully assault said minor victim, all in violation of the Common Law of South Carolina.

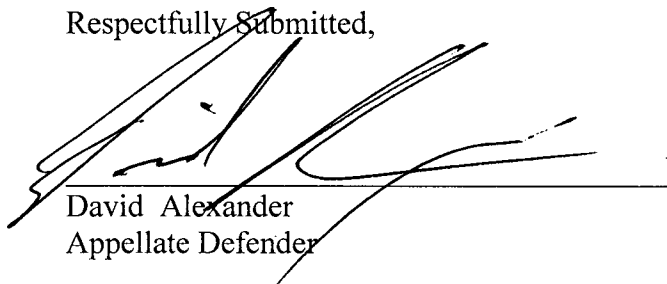
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "David Alexander", is written over a horizontal line. The signature is stylized and somewhat cursive.

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 10th day of July, 2017.