VOLUME I OF II

State of South Carolina
In the Court of Appeals

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S.C. SUPREME COURT

APPEAL FROM HORRY COUNTY
The Honorable Benjamin H. Culbertson, Trial Judge
The Honorable Paul M. Burch, Post-Conviction Relief Judge

Appellate Case No: 2017-000240

TIMOTHY YOUNG, RESPONDENT,

v.

STATE OF SOUTH CAROLINA, PETITIONER.

AMENDED APPENDIX

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	2011-GS-26-1088, 1089
COUNTY OF HORRY	)	
The State,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	Trial Transcript
	)	
Timothy Eugene Young,	)	April 4-7, 2011
	)	
Defendant.	)	

B E F O R E :

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

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Circuit Court Reporter

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(On the record, April 4, 2011.)

THE COURT: All right, what have we got?

MS. LIVELY: Your Honor, under the State of South Carolina versus Timothy Young indictment 2011-GS-26-1088 and 1089 we wanted to go ahead and address some pretrial matters, get some guidance from the Court as to procedurally how we are going to proceed in this case and what I'll do is I'll state -- I will start with the State's pretrial motions or issues so that we can address them and then Mr. Cannarella can go.

THE COURT: All right.

MS. LIVELY: First of all, just for the record, since I handled this this morning in chambers, you have been provided with a copy of the forensic interview from the Children's Recovery Center.

THE COURT: Yeah, and I was going over that. I can't get the video part. I can get the audio. I can't get a picture of it.

MS. LIVELY: Okay, well, what I will do, Your Honor, is I will actually pull that up for you and ---

THE COURT: Okay.

MS. LIVELY: --- and that way and you can even use my computer if need be ---

THE COURT: All right.

MS. LIVELY: --- so that you can actually view it as well as go through it with the transcript. For the record,

Mr. Cannarella had actually sent me an e-mail based upon the statute 17-25-175. He's reviewed the interview as well as myself in detail regarding the requirements under that statute, which the Court still has to make findings on the record but he does not object and he's not asking for a proffer of the forensic interviewer in order to have that video reviewed by the Court and admitted if the Court deemed it appropriate.

THE COURT: All right.

MR. CANNARELLA: Your Honor, I just basically insofar as the forensic interview itself is concerned I filed some motions objecting to the introduction of the video and I'll just for the record stand on those written arguments in that response to the motion by Ms. Lively to admit.

THE COURT: All right, I don't understand. You filed a written motion ---

MR. CANNARELLA: Yes, Sir.

THE COURT: --- objecting to the introduction of the videos?

MR. CANNARELLA: But I just waive any oral argument on that.

THE COURT: Okay, you're waiving oral arguments. So, I just have to read - I haven't even seen your motion. So, I need to see your motion and then I can make a decision without oral arguments on it?

MR. CANNARELLA: Yes, sir.

THE COURT: All right, Ms. Lively, do you want oral arguments on it?

MS. LIVELY: No, Your Honor. I'm sorry. I misunderstood your e-mail from last week then. You said that the Judge was probably going to let them in so that you weren't going to argue the quality of the interview.

MR. CANNARELLA: Well, I'm sorry if I - if you all misunderstood me but I want - in order to protect the record, Your Honor, not really knowing whatever is going to come down from Columbia I feel like I need to at least have these arguments on the record.

THE COURT: Well, let's go ahead and do this. Let's just follow it in the normal course. We'll go ahead, we'll present the forensic interview. You have any objections you can raise it and we'll just put it all on the record.

MR. CANNARELLA: I'm sorry if I caused Ms. Lively misunderstanding.

THE COURT: That's no problem. We'll do that this afternoon. Okay?

MS. LIVELY: And Your Honor, I have a copy of his motion if you want it. It's a standard motion regarding a prior statement and bolstering, the usual issues that come up in regards to this. If you want my copy that'll be fine because I'm very familiar with the arguments.

THE COURT: Okay, it doesn't matter. I'd like to have a copy from somebody so I can take a look at it.

MS. LIVELY: Your Honor, I'm handing up Defendant's motion in regards to the forensic interview.

THE COURT: All right.

MS. LIVELY: Okay, the - so, since we're going to handle that later on this afternoon the next thing that the Court, that I need to address with the Court is we need to have the Court actually find that the victim, Victim [redacted], since she's only nine years old is actually a competent witness to testify in court. I had my victim advocate go ahead and bring her up. The Defendant is at lunch. He's not here. So, we made sure there wouldn't be any incidental contact between the two. I'd like to go ahead and do that for the record and have the Judge make a finding, have Your Honor make a finding so that we don't have to have the victim in the courtroom again until her actual testimony.

THE COURT: All right, sir, and I apologize, Cannarella, is that how you pronounce it?

MR. CANNARELLA: Yes, sir, Judge, if you take - if you just slash in between the A and the R, Cannarella it's easier to see that way.

THE COURT: Okay, got you, Cannarella, all right, is that agreeable with you to go ahead and do that?

MR. CANNARELLA: Yes, sir; yes, sir.

THE COURT: All right, do we want to go ahead and do that now?

MS. LIVELY: Yes, sir, if we can.

THE COURT: All right, all right.

MS. LIVELY: All right, the State would call Victim [redacted].

Whereupon, Victim [redacted] was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Thank you.

EXAMINATION

BY MS. LIVELY:

Q Victim, will you state your full name for the record?

A Victim [redacted].

Q And I want you to talk into that microphone the whole time; okay?

A Yes, ma'am.

Q All right, now, Victim, how old are you?

A Nine years old.

Q And what's your date of birth?

A [redacted].

Q What grade are you in in school?

A Fourth-grade.

Q All right, and how are you doing in school?

A Good.

Q Good, what kind of grades do you make?

A I made the A-B honor roll last month, the last report card.
Q Very good, now, Victim, do you understand, I mean, you can just answer this yes or no, do you understand the difference between telling the truth and telling a lie?
A Yes, ma'am.
Q All right, now, if you were to tell a lie at home what would happen?
A I would get a spanking.
Q Okay, if you were to tell a lie at school what would happen?
A They would, they would probably call the principal and tell him to spank me or the teacher would spank me.
Q Okay, now, Victim do you understand that by being here in a courtroom today that you've sworn to tell the truth?
A Yes, ma'am.
Q And if you, if you don't tell the truth do you think that would make the judge unhappy?
A Yes, ma'am.
Q And do you understand that everything you're supposed to say here today is about, is supposed to be about things that actually happened?
A Yes, ma'am.
Q All right, okay, if you were to tell a lie or make something up while you're here in court today do you think

that would be a bad thing?
A Yes, ma'am.
Q Okay, so, are you prepared then to tell just the truth?
A Yes, ma'am.
Q Okay, all right, if you would, answer any questions that Mr. Cannarella will have for you; okay, and maybe even the Judge.

EXAMINATION

BY MR. CANNARELLA:
Q Hey, Victim Victim, have you ever told a lie before?
A Yes, ma'am; yes, sir.
Q What was it about?
A How my stomach hurts.
Q What do you mean?
A I used to tell a lie that my stomach hurts when I was in school.
Q Why would you do that?
A To come home.
Q Why did you want to come home?
A I didn't want to go to school.
Q Besides that what other lies can you think about, Victim, that you've told? It's okay to tell the truth. Have you ever told any lies to your daddy?
A Yes, sir.
Q About what?

A My stomachaches in school.
Q How about to your step-mama, Jennifer?
A Yes, sir
Q Have you lied to both of them before?
A Yes, sir.
Q Can you think of anybody else that you've talked with that you might have told a lie to in this case?
A My teacher.
Q What was that?
A The same, the stomachaches and stuff when I was in second grade.
Q So, just to your daddy, your step-mama and your teacher?
A Yes, sir.
Q That's all?
A Yes, yes, sir.
Q Okay, thank you, Victim.

EXAMINATION

BY THE COURT:

Q All right, Victim now, I need you to talk into that microphone in front of you, okay, so we can hear everything you say; is that okay?
A Yes, sir.
Q All right, now, if I told you that this book was blue would that be the truth or would that be a lie?
A A lie.

Q Okay, if I told you this book was red would that be the truth or would that be a lie?
A The truth.
Q Okay, now, if I asked you a question and you didn't know what the answer to the question was how would you answer it?
A I don't know.
Q Okay, and if you said, "I don't know," and you didn't know that would be the truth; wouldn't it?
A Yes, sir.
Q All right, if I asked you a question and you knew the answer to the question but you said, "I don't know," would that be a truth or a lie?
A A lie.
Q Okay, and you know in here we're only supposed to tell the truth?
A Yes, sir.
Q Okay, and you're just going to tell the truth if they question you?
A Yes, sir.
Q All right, any questions in response to mine?
MS. LIVELY: Not from the State, Your Honor.
THE COURT: Anything from Defense?
MR. CANNARELLA: No, Your Honor.
THE COURT: All right, you can step down. Thank you, Victim.

MS. LIVELY: Your Honor, that's it in regards to the competency of this particular victim to testify in trial and we would just ask the Court to find that she is competent.

THE COURT: All right, Mr. Cannarella, any arguments?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, I find that Victim [redacted] is qualified to testify in this case.

MS. LIVELY: Thank you, Your Honor.

THE COURT: Thank you.

MS. LIVELY: The next issue I am asking the Court to allow for the witnesses to be sequestered in this matter and I'm pretty sure that Mr. Cannarella is going to join in that motion under the circumstances with the type of case it is, with credibility being a huge issue. I believe that in the interest of justice it would be better for us to sequester the witnesses in this case.

THE COURT: All right, Mr. Cannarella?

MR. CANNARELLA: Your Honor, I've given Ms. Lively a list of potential witnesses.

THE COURT: Okay.

MR. CANNARELLA: I don't think that all of them are going to testify. I'm sure of certain ones that are going to testify, and if you'll just give me an opportunity at some point in time in the next hour or two to give me a chance to talk to them because some of them may, some of them just

probably will not testify and I don't think that they would want to be excluded and sequestered. So, I know Nicole Young is going to testify. So, she'd have to be sequestered. A child named Minor 5 [redacted] is going to testify. So, she'd have to be sequestered and Betty Jenkins.

THE COURT: Okay, well, I'll tell you what I'm going to do, I'm going to go ahead, I'm going to grant the motion to sequester the witnesses. Whoever is going to testify will be sequestered with the exception the Defendant can be present in the courtroom and who are we having from the prosecution?

MS. LIVELY: The father of the victim, Chad Turbeville, and the stepmother, and I will tell you for the - just because since it is my motion I am going to just have the father in here. He's going to testify first anyway, and then when his testimony is over with the stepmother will be testifying and then the both of them can sit in here because they will have already testified. So, sequestration would not be an issue, and I will have the stepmother sit out while the father is testifying. That way there will be no concerns about any comparisons ---

THE COURT: Okay.

MS. LIVELY: --- of testimony.

THE COURT: All right, we'll go ahead.

MS. LIVELY: The child obviously is not going to be in here.

THE COURT: That's right. Well, after anybody testifies they can stay in the courtroom but I'll go ahead and grant your motion. All witnesses will be sequestered with the exception of the Defendant who will be able to be present in the courtroom and then like you say I guess it'll be still sequestering all witnesses but the father after he testifies can remain in the courtroom. After the stepmother testifies she can remain in the courtroom and whoever else after they testify can remain in the courtroom.

MS. LIVELY: Okay.

MR. CANNARELLA: And the ones that I know are going to testify for me, Judge ---

THE COURT: Right.

MR. CANNARELLA: --- after I talk with them I'll make sure that they're sequestered and I'll talk to Ms. Lively.

THE COURT: All right.

MS. LIVELY: That's fine.

MR. CANNARELLA: Make sure there's no contamination.

THE COURT: That's good, sounds good.

MS. LIVELY: That'll be, that'll be fine.

THE COURT: All right.

MS. LIVELY: Okay, then the other thing is, before I get into the more complicated thing, one thing that's kind of simple but I wasn't sure how the Court was going to address this and even if the Court was going to address it, whenever

the child is actually testifying in the adjacent courtroom which we've set up because you granted the closed-circuit television testimony by the child as her being a special witness, I was wondering how you were going to address that with the jury because, of course, I will not be in the courtroom, Mr. Cannarella will not be in the courtroom. We will be next door and so that the jury understands that whether it's you made a finding that this was appropriate in this case or how you wanted to handle us doing that.

THE COURT: My, my inclination is to just kind of handle it like a deposition rather than saying it's an out-of-court statement. I'm just going to say that there's going to be some testimony presented via closed-circuit television that is being presented live and is to be treated and judged as to credibility just as though the witness and the questioning attorneys were here in the courtroom.

MS. LIVELY: Okay, perfect.

THE COURT: And not even get into why it's being done closed circuit ---

MS. LIVELY: Yes.

THE COURT: --- or anything of that nature.

MR. CANNARELLA: I agree.

MS. LIVELY: And that's fine.

MR. CANNARELLA: I agree with that, Judge, because I wouldn't want you to tell them that because ---

THE COURT: Yeah.

MR. CANNARELLA: --- obviously have to go to Ms. Scearce's testimony.

THE COURT: Yeah.

MS. LIVELY: And I, yeah, and that's what I mean is I didn't know how far you were going to take it. So, I wanted to be sure in any of my statements that I don't misstate or say anything inappropriate.

THE COURT: I think just all we're going to have to do is just say that the State is now presenting testimony via closed-circuit television.

MS. LIVELY: Okay.

THE COURT: And that they're to - and then I'll instruct them that they're to judge it just like they would any other witness here in the courtroom testifying in front of them.

MS. LIVELY: Okay, that's fine.

THE COURT: All right.

MS. LIVELY: Now, the other issue, Your Honor, is that this - in this case the child had two disclosures. She had one in November of 2008 that was against her biological mother that there was some inappropriate touching of her private parts and that the mother would walk around nude in front of the child and she during that interview did not mention the Defendant Timothy Young and did not make a disclosure as to

Timothy Young. This was done in North Carolina through the Department of Social Services there and through their Carousel Center which is kind of like our Children's Recovery Center here in Horry and Georgetown County, and they interviewed the child, an anatomical doll was used and the child was asked about any inappropriate contact, and she disclosed against the mother. DSS did an investigation and made a finding against the biological mother, Nicole Young, okay, who was married to the Defendant, Timothy Young, at the time.

After that disclosure was made, about a month and a half maybe even two months, it was in January of '09 the child made a disclosure that the Defendant actually also touched her inappropriately, and then when that disclosure was made that's how the Children's Recovery Center interview came about because there was a different forensic interview because of a different disclosure; and so, that is the interview that you've actually been provided, Your Honor, for review for the forensic interview to be introduced.

Now, it's my understanding from speaking with Mr. Cannarella, and of course, I'll allow him to make his argument, he is wanting to put in the November '08 interview from the Carousel Center as extrinsic evidence to show the child made a prior inconsistent statement, meaning that she was interviewed regarding sexual touching, inappropriate touching, bad touching, that type of thing and she disclosed

against the mother at that time and failed to disclose against Timothy Young, her stepfather. The State's position is that, first of all, in her forensic interview here at the Children's Recovery Center she disclosed, once again, about the mother, was consistent in that statement, then she also further discloses against the Defendant, which is obviously why we're here. In the forensic interview in Carousel, and I use that term lightly because it was a 13 minute interview by the nurse practitioner there. So, it was a real quick interview, and I don't even believe it meets the standards under our statute and that would be one thing the court would have to determine, but in all fairness to both the State and the Defense after reviewing everything, we are willing, me and the State are willing to stipulate that there was a prior statement made by the child where she failed to disclose against the Defendant. You know, my position is that it's not an inconsistent statement, it was an incomplete statement. Now, of course, Your Honor can look at that and make a determination and watching the video wouldn't be cumbersome because it really only takes about 12 to 13 minutes, but in the interview the questions that were asked of the child were not clear. There were compound questions and some of the questions were even the child was correcting the interviewer. Under those circumstances I think in order for the Court to make a determination that it was a prior inconsistent statement first

of all the victim would have to deny making that prior statement like in any other case, and then at that time if the victim or the witness denies making that prior inconsistent statement then at that time the Defense is allowed the latitude to come in and make extrinsic showing of what that prior statement is. Example, if somebody wrote a letter saying, "I know it was me that had the gun, I know I was the one that shot it, whoever, you know, and if we go into this trial together I promise, you know, I'm going to have your back," and then they get up there and deny ever making that statement, well, then the Defense should be allowed to come in with the statement and impeach that witness. Well, here we would ask Victim Victim do you remember there was an interview back in November of '08 you didn't say anything about Timothy Young at that time. Well, why didn't you? Well, isn't that true you didn't say anything," and if she denies it, "No, I don't know what you're talking about," then the Defense should be allowed to bring in the extrinsic evidence of the interview, but if she says, "Yeah," and she explains it then right there bringing in extrinsic evidence would not be proper and the cases, Your Honor, that I would cite in regards to that for inconsistent, prior inconsistent statements the most recent one that I was looking into which gets into this issue is the Supreme Court case of State v. Stokes. It goes into very detailed information talking about,

it even goes into the Crawford issues, you know, testimonial and all. We're not even getting into that. What we're talking about here is a statement where the State on several levels would state that it shouldn't come in because it wasn't a proper forensic interview, but if we just look at it as a statement in general then the victim has to first deny or say, "I don't know," or give some reason as to why extrinsic evidence would be appropriate to impeach her on, and that would be the position of the State is that it should only come in at that time.

THE COURT: All right, Mr. Cannarella.

MR. CANNARELLA: Your Honor, Rule 613(B) if a witness admits the prior statement, extrinsic evidence that the prior statement was made is inadmissible, but this provision does not apply to the admission of a party opponent as defined in Rule 801(D)(2). So, I would take the position that if I so chose I would want to admit that as a prior inconsistent statement against the party opponent because the child is really the true party in interest as against me here, if I decided I wanted to, the videotape of her in North Carolina because daddy and step-mama are North Carolina residents, the mama and step-daddy that's on trial are South Carolina residents, just across state lines and this allegedly occurred on the weekend. That's why we have videos in North Carolina and in South Carolina. The November 25th, 2008, North

Carolina video is short like Mrs. Lively said and it's real crisp and clear. It's nothing like the quality of the one that we have in connection with the main event, but she says she's asked, "Has anyone else bothered you," and Victim shook her head no, "Nobody else has bothered me," and, "Is there anything else you want to tell me that has been done to you," and she shook, and the child shook her head no.

THE COURT: All right, well, as I understand I agree that it's, it's - you call it an inconsistent statement but it's not inconsistent unless and until she denies making it or testifies to something inconsistent. So, I'm going to grant the State's motion to suppress it unless the door is opened. I think you can question her on cross examination did she in a prior interview when she was asked, "Had anybody else touched you," and she said no, if she admits that, yes, she said that, then it doesn't come in.

MR. CANNARELLA: It doesn't.

THE COURT: But if she denies it then you've got the inconsistent statement where it comes in.

MR. CANNARELLA: I think Mrs. Lively is going to bring it out she said. Are you going to bring the inconsistent statement out?

MS. LIVELY: Oh, I'm going to ask her, absolutely.

THE COURT: Okay, well, what I'm saying is is if the child testifies in line with what the prior statement says, if

she admits, "Yes, I said that," then it doesn't come in.

MR. CANNARELLA: Right, she concedes.

THE COURT: She concedes to it but only if she denies, you know, in other words you can offer it as to her credibility if her testimony is inconsistent with that prior statement.

MR. CANNARELLA: Right.

MS. LIVELY: Yes, sir, and that was my understanding and I do intend to ask her about it and that goes - that kind of the segue into one of the other issues. I do not believe there's any way and I don't think Mr. Cannarella is going to disagree with me on this for us to not get into the allegation against the biological mother. I mean, it's almost res gestae in a way as to how everything else came out. So, how do you propose - I want to make sure and I want to make sure that we address that because Paul Cannarella has not, the Defense has not made any motion to redact anything out of the forensic interview and the child consistently discloses against things that the mother did that was inappropriate both in the one from November as well as the one that was done in February of '09 at the Children's Recovery Center. So, for me in order to understand the details of the child's, you know, disclosures through time it starts with she tells about mom and than gets into step-dad. So, I just want to make sure as for the State because I've had it done both ways where the

Defense has asked to redact anything regarding a third-party guilt issue. This has not occurred in this case. So, it's my understanding that it's all out there and there are no restrictions in regards to that issue.

MR. CANNARELLA: I don't think there really would be any restrictions in regard to that issue because I have all idea that His Honor is going to admit the forensic interview that was done here pursuant to the statute.

THE COURT: Well, and I haven't reviewed it but ---

MR. CANNARELLA: But I don't have - well, well, see, I find myself in a awkward situation from a PCR standpoint because I don't ever know what the Supreme Court is going to - how they're going to rule on these interviews when they finally thrash them all out. So, I really want to say I have no objections to that interview except - I have no objections to the interview itself, go ahead and admit it. It complies with the statute if that statute is constitutional. See, that's the dilemma I'm in.

THE COURT: Well, and I guess, and I think the point, the point of the matter is is from what I understand there are portions of that interview where the victim makes allegations against the mother which certainly is not proof, again, as - that the stepfather did anything and I think Ms. Lively's question is is are you seeking to redact anything.

MR. CANNARELLA: No, I'm not seeking to redact

anything. If it comes in I want it all to come in.

THE COURT: Okay.

MS. LIVELY: That's all I wanted to know.

MR. CANNARELLA: And I don't really, I don't really object to it. It's, it's - I'm not - just ignore any arguments I've made, I'll roll the dice on that.

THE COURT: Okay, all right, now, well, what is the status of the allegations that were made against the mom? What happened?

MS. LIVELY: The - in North Carolina Department of Social Services made a finding against her for threat of harm, neglect and sexual abuse. The - so, that was made. I think there was a pending action at one time and a private action but there were no criminal charges made and I have the Investigator Joe Graham in regards to that because of the way and you'll hear - the allegations were that the mother put Neosporin on her private part and that it hurt and that she would rub her and she said it made her feel uncomfortable. The problem is is that we would have to show beyond a reasonable doubt that that was sexual in nature.

THE COURT: Right.

MS. LIVELY: So, because of that, I mean, I know North Carolina made their findings but under ---

THE COURT: But that ---

MS. LIVELY: --- in a criminal matter and ---

THE COURT: Yeah, but that finding was just by the state agency.

MS. LIVELY: Exactly.

THE COURT: Okay, all right.

MS. LIVELY: That's it.

THE COURT: So, the findings by the state agency would stay out, but as far as the allegations in the forensic interview you're not objecting to that?

MR. CANNARELLA: No, Sir.

THE COURT: Okay, is that right?

MS. LIVELY: Okay, that's fine.

THE COURT: Okay.

MS. LIVELY: Okay, and I think ---

MR. CANNARELLA: Judge, one thing quickly, too, I have a - this is just an only - I mean, this is just the audio portion ---

THE COURT: Okay.

MR. CANNARELLA: --- of the South Carolina interview.

THE COURT: All right.

MR. CANNARELLA: It might be better than the one you have because you got audio and video. This is just the audio.

THE COURT: Well, I can't get the video to come through on mine. That's the problem. I've got - I can get the audio on my laptop back in my office but I can't get the video unless I'm obviously just not mashing some button that

I'm supposed to mash and I don't know which one it is.

MS. LIVELY: No, it's just what happens is they put a special code on it so that ---

THE COURT: Okay.

MS. LIVELY: --- it doesn't, can't be duplicated without, you know, consent.

THE COURT: Okay.

MS. LIVELY: So, and I have that code on my computer. So, what I'll do is I'll probably just bring my laptop back there and let you review it, Your Honor.

THE COURT: Okay, all right.

MS. LIVELY: Okay.

THE COURT: That sounds good.

MS. LIVELY: And other than that those were the motions from the State.

THE COURT: All right, anything from the Defense?

MR. CANNARELLA: Of course, Judge, I just bring this out because I know it's going to come up when you get to Carol R-A-H-T-E-R, I don't know how to pronounce her name.

MS. LIVELY: Rahter.

MR. CANNARELLA: Rahter.

MS. LIVELY: Rahter.

MR. CANNARELLA: She did the medical exam in South Carolina.

THE COURT: All right.

MR. CANNARELLA: And that's really all we're focusing on. Well, when she - when - what she does is she says, you know, "I find a normal exam," which she did.

THE COURT: All right.

MR. CANNARELLA: But then she goes on to say in her report, which does not rule in or rule out sexual abuse, when that happens, when that comes up I'm going to object to that because that is - would be improper vouching in the back door for a witness.

THE COURT: Okay, let me hear from you on that, Ms. Lively.

MS. LIVELY: Well, I would disagree, Your Honor. What she's doing is she has a special machine that actually is able to look at close to internally the body of a child to determine whether or not there's been any type of sexual trauma to the child. So, her testimony is not going to be, is not going to necessarily be that it rules in or out sexual abuse to this child. It's going to be in the context of, "When I look at any child and I don't see any particular trauma that doesn't mean I have to rule it in or rule it out," because she's a doctor. She can make that finding. That is what she is qualified to do and I'm going to ask that she be qualified as a doctor in child sexual abuse trauma, and she is qualified from looking at thousands of these to determine whether or not there is physical evidence of child sexual

assault or not and then she will testify as a medical doctor knowing how the body heals that she cannot make a final diagnosis to rule it in or out because of the way that a body heals. So, that's how I'm going to have her do it in the context of a general statement regarding her diagnosis as the doctor.

THE COURT: All right, I'm going to deny your motion in limine to suppress it. I'm going to have to wait until it comes up, raise your objection at that time, and if I think it's bolstering in violation of the rules I'll grant your motion. If I don't think it's bolstering but it's more of an explanation then I'll go ahead and probably admit it but I'm not going to rule it inadmissible in a motion in limine.

MR. CANNARELLA: Your Honor, a heads up on one other thing, too, I know Ms. Lively has already told me she's going to attempt to qualify the forensic interviewer, Dianne Nordeen, as an expert and we would ask the Court to not allow Ms. Nordeen to do that because what she's going to do is she's going to then be able to give her impression of what her conclusions were from the interview when she says, "My impression is that Tim Young did it." That's basically what it would be. Now, she might can be, she might can - because there's no - our Supreme Court has said there's really no reason to qualify a forensic interviewer as an expert. They may be trained in some techniques insofar as how they conduct

the interview but if you let her testify to her impression, "That in my opinion this child was abused or in my opinion Tim Young was the abuser," that is taking the fact-finding province clearly away from the jury and putting the ultimate issue in the hands of the forensic interviewer.

THE COURT: All right.

MR. CANNARELLA: And what was her opinion - if she - if they're going to qualify her as an - if they want to qualify her as an expert what is her opinion going to be about other than really going to the ultimate issue of guilt or innocence?

THE COURT: All right, well, let me hear from you on that as far as, you know, I'm just going to have to wait until she raises the issue as far as whether she's qualified as an expert but I agree with you, what is her expert opinion going to be if she is qualified? Is she going to say, "My expert opinion is that Tim Young did it"?

MS. LIVELY: No.

THE COURT: Okay.

MS. LIVELY: Nobody can say that except for the child, absolutely not.

THE COURT: All right.

MS. LIVELY: And the only thing that I ever do whenever I have the forensic interviewer in is - State v. Douglas did say that it was unnecessary in that case to qualify the

forensic interviewer because she didn't do anything other than talk about her observations during the interview.

THE COURT: Right.

MS. LIVELY: I understand that. What Dianne Nordeen is going to do because of how many interviews she's done and the type of training that she's had, she is also going to discuss things like delayed disclosure or partial disclosures by the child, you know, in her opinion whether or not it is - that the, the statement was coherent and if she was in the - of the belief that in her opinion do children always disclose everything during forensic interview, what her experiences are as an expert and, "Give me in your expert opinion is it unusual for a child to have a partial disclosure," and she is - knows the peer review articles. She knows all of the information that supports her opinion in regards to that. So, I'm not just going to talk to her about her observations because actually I'm very limited in what I can do because the video speaks for itself. What I'm going to do is ask her more for her experience as a forensic interviewer and in child abuse disclosure and how she deals with that.

THE COURT: All right, all right, I'm going to deny your motion at least in an in limine situation. Like I said, there are certain parts or certain opinion testimony that probably could be suppressed if you raise the objection and I deem they're inappropriate but as far as given the limitations

what Ms. Lively says that the witness will be testifying to I don't see where that's inadmissible at least in an in limine situation assuming the groundwork is laid.

MR. CANNARELLA: I understand, Judge.

THE COURT: All right, anything else?

MR. CANNARELLA: Is she going to be qualified as a scientific expert or just a nonscientific expert? What's she going to be?

MS. LIVELY: As a nonscientific expert.

THE COURT: Okay, all right, anything else from the Defense?

MR. CANNARELLA: Nothing else at this time, Your Honor.

THE COURT: All right, anything else from the State?

MS. LIVELY: No, Your Honor.

THE COURT: All right, I think - well, it's 1:15. I think we got the jury coming back in at two. I guess we'll - let's take about an hour break, come back at 2:15, pick the jury. I'll probably, I'm assuming, turn them loose for the remainder of the day while I look at the interview or how much time or what do we want to do?

MS. LIVELY: Well ---

THE COURT: I mean ---

MS. LIVELY: --- we might just have to do it that way just because if we're going to - do you want to review - do

you want to watch it out here and me have Dianne Nordeen come here and testify as to the interview because ---

THE COURT: I think that's the best way ---

MS. LIVELY: Okay.

THE COURT: --- if he's not going to stipulate to certain things ---

MS. LIVELY: Okay.

THE COURT: --- then we're going to have to do that.

MS. LIVELY: Yes, sir, well, then, let's just - we'll cue, we'll cue it up out here. It'll be easier for you. I'll just get the video back from you if you don't mind. I'll have it ready to go after we pick the jury, cut them loose and then we'll watch the - I'll have Ms. Nordeen come in, do some general questioning about the interview and then we'll watch it.

MR. CANNARELLA: Judge, when you said not stipulate to it what were you in reference to because I'm going ahead and conceding that the interview comes in under that, under the statute.

THE COURT: Okay.

MR. CANNARELLA: That it's appropriate, even though I filed those objections early on, I'm withdrawing them. I want, I want the interview in.

THE COURT: Okay, so, you're going to withdraw your motion?

MR. CANNARELLA: Right, I'm withdrawing my objection, and that's, that's the Catch-22 I find myself in because of strategy versus what may come down later on in time regarding this ---

THE COURT: Right.

MR. CANNARELLA: --- that may be in the pipeline over there.

THE COURT: Okay, well, if you're withdrawing your motion then I can just review it back in my office. We'll come back at 2:15, pick the jury. I'll tell you my decision on that, and I guess we can at least, you know, hopefully, I guess, just progress, go ahead and do opening charges, opening statements and see how far we get.

MS. LIVELY: Yes, sir.

MR. CANNARELLA: That's fine.

THE COURT: Okay, all right, sounds good.

MS. LIVELY: Okay, I'll bring my computer to the back, Your Honor, so that you're going to pull it up.

MR. CANNARELLA: You want to try that? This, this might sound better.

MS. LIVELY: See, he needs to be able to see it.

MR. CANNARELLA: I know that.

THE COURT: Yeah, I need to, I've got to see the video part.

MR. CANNARELLA: There's a transcript, too.

THE COURT: Yeah, she gave me a copy of the transcript so I can follow along. All right.

MS. LIVELY: Okay.

THE COURT: Let's come back, come back at 2:15, okay?

MS. LIVELY: Yes, sir, thank you.

MR. CANNARELLA: Thank you, Judge.

THE COURT: Well, let me ask you this, how long does this video take?

MS. LIVELY: It's a little over an hour.

THE COURT: Well, then we might better say 2:30.

MS. LIVELY: That's fine.

THE COURT: Even though we'll have the jury sitting up here for 30 minutes or - because I'm going to need to take a look at it. Where's - what's the jury going to be?

OFFICER: We can keep them downstairs in the jury pool room, Your Honor.

THE COURT: All right, and then bring them up at 2:30?

OFFICER: Whenever you tell us to.

THE COURT: Yeah, let's do that, bring them up at 2:30. Okay.

MS. LIVELY: Thank you.

THE COURT: All right, thank you.

OFF THE RECORD

(On the record.)

(Whereupon, the following takes place in the presence of

the jury venire.)

THE COURT: All right, good morning, ladies and gentlemen, or good afternoon. My name is Judge Ben Culbertson and I'm a resident circuit judge for the Fifteenth Circuit which is comprised of Horry and Georgetown Counties and it's my pleasure to be in Horry County, my home circuit, for this week of General Sessions Court or what's commonly referred to as criminal court. I don't know if it was explained to you but during your qualifications but our circuit courts are divided into two courts. A court of common pleas which is commonly referred to as civil court, that's where someone has charged someone with a civil violation, whether it be a car wreck or a breach of contract or a slander action or something of that nature and they're seeking damages as a result of that alleged civil wrongdoing. Well, we're not doing that this week in my court. This is General Sessions Court or what's commonly referred to as criminal court and that is where the State has charged someone with violating the criminal statute and they're seeking a conviction for that alleged criminal activity and that's what we will be doing here today.

Now, you have been qualified to serve as jurors for this week of court. However, I have some questions to go over with you now that are commonly referred to as voir dire questioning. That's to determine whether or not you are eligible to serve as jurors on this particular case and it

also gives the attorneys some additional information about you that will assist them in their jury selection process. So, as I go over these questions with you if any of the questions are applicable to you please stand when I direct you to do so. Now, one thing you're going to learn as jurors is that you're constantly taking oaths and this is no different. So, if I could please get everyone to stand and raise your right hand.

(Whereupon, the jury is sworn by the Court.)

THE COURT: All right, you may be seated and put your hands down. Is there anybody in the jury panel who did not respond to the oath by saying I do? If so, please stand.

(No response.)

THE COURT: All right, now, ladies and gentlemen, we are getting ready to begin the case of the State of South Carolina versus Timothy Eugene Young. Mr. Young has been charged and indicted by the grand jury with the crime of committing a lewd act on a minor, which alleges that between May and November of 2008 he willfully and lewdly committed a lewd or lascivious act on the body of a child less than 16 years of age by fondling the genitalia and the - with the intent of arousing, appealing to or gratifying lusts and passion. He's also charged with criminal sexual conduct with a minor in the first degree that states between those same dates, May of 2008 and November of 2008 he willfully and unlawfully committed the crime of criminal sexual conduct with

a minor in the first degree by engaging in a sexual battery with a minor less than 11 years of age. Now, the Defendant in this case is Timothy Eugene Young. The alleged victim in this case is - what's the name?

MS. LIVELY: Victim [redacted], Your Honor.

THE COURT: Victim [redacted].

MS. LIVELY: She's listed on our witness list.

THE COURT: All right, the alleged victim is Victim [redacted]. The Defendant is Timothy Eugene Young. Is there any member of the jury panel related by blood or marriage, have a close personal relationship, social relationship, business relationship or any other type of relationship with either the Defendant or the alleged victim; if so, please stand.

(No response.)

THE COURT: All right, the possible witnesses in this case, I'll need you to listen up carefully. Thank you, sir.

MR. CANNARELLA: Thank you, Judge.

THE COURT: All right, the possible witnesses in this case are the Defendant, Timothy Young; Chad Turbeville; Jennifer Turbeville; Denise Scearce, Denise Scearce; Dianne Nordeen; Carol Rahter, Rahter; how do you pronounce it?

MS. LIVELY: Rahter, Your Honor.

THE COURT: Carol Rahter; Joe Graham; Victim [redacted]; Yolanda Daniels or Yolanda Daniels; Minor 1

Minor 1 [redacted]; Dianne Guida; Johanna Stout; Tonya Schoolcraft; Betty Jenkins; Lisa Eggers; Tim Hayes; Martha Frances Hayes; Nicole Young; Minor 5 [redacted]; Yolanda Daniels; and Gail Ward.

Any member of the jury panel related by blood or marriage, have a close personal relationship, social relationship, business relationship or any other type of relationship with any of these potential witnesses; if so, please stand.

MR. PEEK: I'm not sure. There's two names on there that sound familiar to me, Gail Ward.

THE COURT: All right, excuse me, first, and I apologize for interrupting but if you stand I'll need me to give me your name and jury number.

MR. PEEK: Tom Peek, P-E-E-K, 239, I believe.

MS. LIVELY: 229, Your Honor.

THE COURT: 229.

MR. PEEK: 229.

THE COURT: Okay, Mr. Peek, who is it that you say you know or may know?

MR. PEEK: Gail Ward was a teacher that my son had. If that person is a teacher then I might know her.

THE COURT: Okay, do you know where was she a teacher?

MR. PEEK: At St. James Middle School.

THE COURT: All right, do we know if that could be the ---

MR. CANNARELLA: I don't think so. Mrs. Ward is from Jefferson, South Carolina, Judge.

THE COURT: Okay, this would be from Jefferson.

MR. PEEK: And the other was the Nordeen. I didn't get the first name, if you'd tell us.

THE COURT: Dianne, Dianne Nordeen.

MR. PEEK: Would she be with social services or DHEC?

THE COURT: I believe she could be, yes, sir.

MR. PEEK: I may know her. Her son may be a good friend of my son's.

THE COURT: Okay, is there any other type of relationship other than your son and her son being friends?

MR. PEEK: No, sir.

THE COURT: All right, would that relationship affect your ability to give both the State and the Defendant in this case a fair and impartial trial?

MR. PEEK: Not at all.

THE COURT: All right, would you be able to disregard that relationship in its entirety?

MR. PEEK: Absolutely.

THE COURT: All right, and could you base your decision in this case exclusively on the testimony and evidence in this case?

MR. PEEK: Absolutely.

THE COURT: All right, thank you for bringing that to

our attention, Mr. Peek.

All right, anyone else know of any of these witnesses; if so, please stand.

(No response.)

THE COURT: All right, now, the State of South Carolina in this case is represented by Attorney Candice Lively of the Fifteenth Circuit Solicitor's Office. The Defendant in this case is represented by Attorney Paul V. Cannarella from Hartsville, South Carolina.

Is there any member the jury panel related by blood or marriage, have a close personal relationship, social relationship, business relationship or any other type of relationship with either of these attorneys; if so, please stand.

(No response.)

THE COURT: Has any member of the jury panel ever been represented by either of these attorneys; if so, please stand.

(No response.)

THE COURT: Has any member of the jury panel ever been involved in any legal action in which either of these attorneys represented another party to that action; if so, please stand.

(No response.)

THE COURT: Is there any member of the jury panel who either personally or has a family member or close personal

friend employed with the Fifteenth Circuit Solicitor's Office or the law office of Paul V. Cannarella; if so, please stand.

(No response.)

THE COURT: Has any member of the jury panel formed or expressed an opinion about any issue or matter involved in this case; if so please stand.

(No response.)

THE COURT: Is any member of the jury panel aware of any bias or prejudice towards either the State of South Carolina or the Defendant in this case; if so, please stand.

(No response.)

THE COURT: Is there any member of the jury panel who is a member of the grand jury that issued the indictments in this case; if so, please stand.

(No response.)

THE COURT: Is there any member of the jury panel who is a member of or a contributor to any group which has as its primary concern the promotion of law-enforcement or victims' rights? Some of these groups are MADD, Mothers Against Drunk Drivers; SADD, Students Against Drunk Drivers; CAVC, Citizens Against Violent Crime; or CASA, Citizens against Spousal Abuse, if you're a member of or a contributor to any such organization, please stand.

(No response.)

THE COURT: Is there any member of the jury panel who

either personally or has a family member or a close personal friend that has ever been investigated by child protective services for allegations of abuse or neglect; if so, please stand.

All right, ma'am, your name and number?

MS. WILSON: 338, Rebecca Wilson.

THE COURT: All right, hold for one second, Ms. Wilson.

MS. WILSON: All right, thank you.

THE COURT: All right, Ms. Wilson, was this you or a family member?

MS. WILSON: A family member.

THE COURT: Okay, a family member, and what was the relationship of the family member to you?

MS. WILSON: My niece and three of my cousins.

THE COURT: Okay.

MS. WILSON: With my uncle.

THE COURT: All right, and how long ago was that?

MS. WILSON: Four years ago.

THE COURT: All right, would that occurrence or circumstance or investigation affect your ability to give both the Plaintiff and the Defendant - excuse me, the State and the Defendant in this case a fair and impartial trial?

MS. WILSON: It would not interfere, no, not at all.

THE COURT: All right, would you be able to disregard

that investigation in its entirety and base your decision in this case exclusively on the testimony and evidence in this case?

MS. WILSON: Yes, I can.

THE COURT: Okay, thank you very much.

MS. WILSON: Uh-huh.

THE COURT: Yes, ma'am, your name and number?

MS. HUFFMAN: My name is Amy Huffman. I'm not sure what my number was.

THE COURT: Juror Number 145, Ms. Huffman. All right, Ms. Huffman was this you or a family member or ---

MS. HUFFMAN: It was my granddaughter when she was two and she's 13 now by her grandfather.

THE COURT: Okay, and how long ago was the investigation?

MS. HUFFMAN: He served 13 months, 12 years ago.

THE COURT: Okay.

MS. HUFFMAN: When she was two he went to prison. She'll be 14 in August.

THE COURT: Okay, would that occurrence affect your ability to give the State and the Defendant in this case a fair and impartial trial?

MS. HUFFMAN: I, I, I really, I mean, I wouldn't want to stand up against someone like that because, I mean, myself I thought my husband should have been hung. He got 13 months.

So, I mean.

THE COURT: Well, and the - well, and the point I'm trying to make is that every trial is, every case is to be judged exclusively on the testimony and evidence in that case without any influence from any outside source whatsoever; and so, if you are influenced in any way, shape or form by anything that will not be presented as evidence in this case then the attorneys need to know that and the Court needs to know that. So ---

MS. HUFFMAN: You know, I'd be, I'd be strictly against him. I mean, I, I don't think I would give him a fair trial, I mean, to be honest with you.

THE COURT: Okay, all right, Ms. Huffman, thank you for bringing that to our attention. I'll excuse you from this case but if you'd stay with us for right now. Thank you.

MS. HUFFMAN: Okay, thank you.

THE COURT: Thank you.

All right, ma'am, your name and number?

MS. FERGUSON: Patricia Ferguson, 99. My brother-in-law is currently in prison for child abuse.

MS. LIVELY: Your Honor, if I - may we approach for one moment, please?

THE COURT: Yes, come on up.

MS. LIVELY: Thank you.

(Whereupon, a bench conference is held in the presence

but out of the hearing of the jury venire.)

THE COURT: All right, Ms. Ferguson, if you'd come forward, please?

(Whereupon, an on-the-record bench conference is held with Juror Number 99, Patricia Ferguson, in the presence but out of the hearing of the jury venire.)

THE COURT: All right, now, what happened in your case?

MS. FERGUSON: I've only met my brother-in-law once at my wedding eight years ago and he lives in another state and since we've been in South Carolina we found out that he and his wife were molesting their granddaughter.

THE COURT: Okay, that was an investigation?

MS. FERGUSON: And he's in prison for it.

THE COURT: Okay, would that and this was your brother-in-law?

MS. FERGUSON: Uh-huh.

THE COURT: And how long ago was that?

MS. FERGUSON: Let's see, I guess he's been in prison four years.

THE COURT: Okay, would that affect your ability to be fair and impartial to the State and the Defendant in this case?

MS. FERGUSON: No, sir.

THE COURT: Okay, could you disregard that occurrence

in its entirety?

MS. FERGUSON: Yes, I almost even forgot about it because, like I said, we have no contact with him other than, you know, through his mother.

THE COURT: Okay, thank you for bringing that to our attention. Thank you very much.

(Whereupon, the following takes place in open court.)

THE COURT: Ms. Wilson.

MS. WILSON: Yes.

THE COURT: If you'd come forward, please.

(Whereupon, an on-the-record bench conference is held with Juror Number 338, Rebecca L. Wilson, in the presence but out of the hearing of the jury venire.)

THE COURT: Tell me again, the allegation was against who?

MS. WILSON: My uncle.

THE COURT: It was against your uncle?

MS. WILSON: That's correct.

THE COURT: For abusing who?

MS. WILSON: Pretty much everybody but myself and my daughter, my nieces and my cousins including his own grandchildren.

THE COURT: Okay.

MS. WILSON: Again, I'm sorry, it was my uncle towards my nieces and pretty much every female in the family but me and my daughter, his stepchildren, his grandchildren. It was

about four years ago.

THE COURT: Okay, all right, we just - I just wanted to put that on the record.

MS. WILSON: Okay, thank you.

THE COURT: Okay, thank you, ma'am.

MS. WILSON: Thank you.

(Whereupon, the following takes place in open court.)

THE COURT: All right, is there anyone else who either personally or had a family member or a close personal friend investigated by child protective services for allegations of abuse or neglect; if so, please stand.

(No response.)

THE COURT: Has any member of the jury panel ever been the victim of a crime in Horry or Georgetown County and had your case assigned to the Fifteenth Circuit Solicitor's Office; if so, please stand.

(No response.)

THE COURT: Has any member of the jury panel ever been prosecuted for committing a crime by the Horry or Georgetown County Solicitor's Office; if so, please stand.

(No response.)

THE COURT: Is there any member the jury panel who has heard anything, read anything, knows anything or discussed anything about this case; if so, please stand.

(No response.)

THE COURT: Is there any member of the jury panel know of any reason whatsoever why he or she should not serve as a juror in this case with particular emphasis being placed on your ability to be fair and impartial to both the Defendant in this case and the State of South Carolina; if so, please stand.

(No response.)

THE COURT: Any additional questioning from the State?

MS. LIVELY: None from the State, Your Honor.

THE COURT: Any from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, all right, ladies and gentlemen, the way we go about selection process in a General Sessions or a criminal trial is your names have been fed into a computer and have been printed out on a list at random and your names will be called out at random and when your name is called if you would please come forward and stand in front of the bench here and face the attorneys and the State of South Carolina, Ms. Lively, she'll look at you a little while and then she'll look back at her notes a little while and then she'll look back at you a little while and then she'll review some lists for a little while and then she'll decide if she wants to select you as a juror and then after she selects you if she decides to select you as a juror well then Mr. Cannarella will look at you a little while and he'll look back

at his notes for a little while and then he'll look back at you a little while and talk to his client a little while and then he'll decide if he wants you and we go through this process until we get a series of or whittle the case down to 12 jurors and one or two alternates?

MS. LIVELY: Your Honor, if we have enough for two alternates I'd prefer two.

THE COURT: All right, is that agreeable?

MR. CANNARELLA: Yes, Your Honor.

THE COURT: All right, so, we will be getting 12 jurors and two alternates and we'll go, follow this process until we get those jurors and alternates. So, if your name is called if you would please come forward and stand in front of me, face the attorneys. If you have any pocketbooks, jackets or anything with you please bring those with you when you come and we'll direct you when you get, get up here. All right, the State gets five strikes, defense gets?

MR. CANNARELLA: Ten.

THE COURT: Ten?

MS. LIVELY: Ten, Your Honor.

THE COURT: And then on each alternate the State'll get one and the Defense will get two.

All right.

THE CLERK: Juror Number 281, Mary Smith.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Excuse Ms. Smith, please.

THE CLERK: You're excused from this particular case.

93, Garrett Elliott.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Seat Mr. Elliott, Please.

THE CLERK: Please be seated in the jury box.

122, Catherine Gohl.

What say the State?

MS. LIVELY: Excuse the juror from the trial of this case.

THE CLERK: You're excused from this particular case.

292, Cecile Sullivan.

Is that pronounced Cecile?

MS. SULLIVAN: Cecile.

THE CLERK: I'm sorry.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Excuse Ms. Sullivan, please.

THE CLERK: You're excused from this particular case.

MS. SULLIVAN: Excuse me, I have a question. Do I still

have to call tonight on another case?

THE COURT: I'll direct you in just a minute.

MS. SULLIVAN: Okay.

THE COURT: I'll let you know on that.

THE CLERK: 226, William Paulhus.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Excuse Mr. Paulhus, please.

THE CLERK: You're excused from this particular case.

195, Amanda Matthews.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Seat Mrs. Matthews, please.

THE CLERK: Please be seated in the jury box.

170, Carol Koutroubas.

MS. KOUTROUBAS: Koutroubas.

THE CLERK: Koutroubas.

What say the State?

MS. LIVELY: Please excuse this juror.

THE CLERK: You're excused from this particular case.

338, Rebecca Wilson.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Excuse Ms. Wilson, please.

THE CLERK: You're excused from this particular case.

79, Jill Decaro.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Excuse Mrs. Decaro, please.

THE CLERK: You're excused from this particular case.

213, Korey Moricle.

What say the State?

MS. LIVELY: Excuse the juror from the trial of this case.

THE CLERK: You're excused from this particular case.

99, Patricia Ferguson.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Excuse Mrs. Ferguson, please.

THE CLERK: You're excused from this particular case.

23, Penny Boling.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Seat Mrs. Boling, please.

THE CLERK: Please be seated in the jury box.
136, Bryan Hemingway.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Seat Mr. Hemingway, please.
THE CLERK: Please be seated in the jury box.
132, Ellison Hardee.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Seat Mr. Hardee, please.
THE CLERK: Please be seated in the jury box.
189, Barbara Martin.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Excuse Mrs. Martin, please.
THE CLERK: You're excused from this particular case.
115, Shanti Gettys.
MR. CANNARELLA: What number?
THE CLERK: 115.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?

MR. CANNARELLA: Seat Mrs. Gettys, please.

THE CLERK: Please be seated in the jury box.

96, Nadine Faulk.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Excuse Mrs. Faulk, please.

THE CLERK: You're excused from this particular case.

59, Cindi Conner.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Seat Mrs. Felton, please.

THE CLERK: Please be seated in the jury box.

148, Timothy Hutchens.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Seat Mr. Hutchens, please.

THE CLERK: Please be seated in the jury box.

39, Stanley Burke.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Seat Mr. Burke, please.

THE CLERK: Please be seated in the jury box.
336, Kenneth Wicker.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Excuse, excuse Mr. Wicker, please, ma'am.
THE CLERK: You're excused from this particular case.
318, Debra Valdez.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Excuse Mrs. Valdez, please.
THE CLERK: You're excused from this particular case.
27, James Bowen.
What say the State?
MS. LIVELY: I'm sorry. What was your number? What was the number?
MR. CANNARELLA: 27.
MS. LIVELY: 27, thank you.
Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Seat Mr. Bowen, please.
THE CLERK: Please be seated in the jury box.
328, Terrell Wallace.

What say the State?

MS. LIVELY: Excuse the juror from this case.

THE CLERK: You're excused from this particular case.

147, Ida Hussey.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: The tally is ten, isn't it, already?

THE COURT: Yes.

THE CLERK: Yes.

MR. CANNARELLA: Seat Mrs. Hussey, please.

THE CLERK: Please be seated in the jury box.

9, Keith Bartelotte.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Seat the juror, please.

THE CLERK: Please be seated in the jury box.

THE COURT: That's our 12.

The first alternate the State gets one strike, the Defense gets two.

THE CLERK: 200, Joseph McGee.

What say the State?

MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Excuse Mr. McGee, please.
THE CLERK: You're excused from this particular case.
205, David Merryman.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Seat Mr. Merryman, please.
THE CLERK: Please be seated in the jury box.
THE COURT: All right, the second alternate, the State gets one strike, the Defense gets two.
THE CLERK: 5, Jessica Archibald.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Excuse Mrs. Archibald, please.
THE CLERK: You're excused from this particular case.
229, Thomas Peek.
What say the State?
MS. LIVELY: Present the juror.
THE CLERK: Defense?
MR. CANNARELLA: Excuse Mr. Peek, please.
THE CLERK: You're excused from this particular case.
343, Nathalie Wright.
What say the State?
MS. LIVELY: Present the juror.

THE CLERK: Defense?

MR. CANNARELLA: Seat Mrs. Wright, please.

THE CLERK: Please be seated in the jury box.

THE COURT: All right, ladies and gentlemen, you are the jury that will preside over this first case. I'm going to bring you out in just a minute to give you some preliminary instructions, but for the few seconds here I'm going to excuse you back to the jury room so you'll see where you'll be deliberating. At this point in time do not deliberate and we'll let you know when you can begin your deliberations, but I've got to take up some legal matters with the attorneys and turn the rest of the jury panel loose with some further instructions.

Now, when you get back to the jury room if I could get you to do me one favor and that would be to select a foreperson for this jury. Now, I know you don't know everyone on the jury and if you're unable to select a foreperson don't worry about it. I can appoint someone and many judges appoint forepersons for their jury. I like to give the jury the opportunity to select one on their own if they're able to do so, but now, the foreperson has no more authority, no more influence, no more importance than any other juror. The foreperson is simply the liaison between the Court and the jury. If the jury has a need the foreperson lets the Court know. If the jury has a question the foreperson lets the

Court know. When it's time to deliberate the foreperson will preside over the deliberations and tell the Court when the jury has reached a verdict, but other than that the foreperson has no more influence, no more authority or no more importance than any other juror. Now, the only restrictions would be that our alternates in this case, Mr. Merryman and Ms. Wright, you could not serve as forepersons for this jury because you are alternates at this point in time.

Now, when you come back into the courtroom the alternates will always occupy the seats where you now sit. The foreperson will sit in this first seat closest to the jury, closest to the witness and other than that everyone else is at liberty to sit wherever you like. If you want to sit in the same seat throughout the trial of the case you can. If you want to alternate seats during the trial of the case you can. The only restriction is that the foreperson sits closest to the witness and the two alternates occupy the alternate seats. When you choose a foreperson just write the foreperson's name on a sheet of paper with the jury number, give it to the bailiff and they'll bring it back into the court. I've got some legal matters I need to take up with the attorneys. I'm going to excuse you back to the jury room and I'll bring you back out in just one second. Thank you very much. Everyone else please remain seated while the jury is excused.

(Whereupon, the following takes place outside the

presence of the jury.)

THE COURT: All right, any challenges to the selection or composition of the jury by the State?

MS. LIVELY: None from the State, Your Honor.

THE COURT: Any from the Defense?

MR. CANNARELLA: No, Your Honor.

(Whereupon, jury panel excused by Court with call-in instructions.)

(Remaining jury panel exits courtroom.)

THE COURT: All right, let's give the jury about five, ten minutes, see if they can select a foreperson. If not, I'll bring them back in and appoint someone.

We'll bring them back in. I'll go ahead and give the preliminary charges that I usually do. If you have anything specific you want me to charge let me know, but usually preliminary standard charges are what I give. Then we'll start straight with opening arguments and see how long that takes us as to whether or not - do you have a witness today you can present and how long would it be or not?

MS. LIVELY: Your Honor, I do. My witness I was planning on beginning with is Chad Turbeville. He's the biological father of the victim in the case. The only thing is is that I don't know how long a witness he would be because he does kind of lay a lot of the foundation for the jury to understand who everybody is in the case and things like that.

He was who I was going to call first because of that purpose.

THE COURT: Okay.

MS. LIVELY: So, but I just want to make sure the Court knew he's here, he's ready to testify. As a matter of a fact he's sitting here in the courtroom, so, but that's who I'm starting with.

THE COURT: And I know - I don't want to hold you to this, but when you say you don't know how long his testimony is going to be you think it might be more than an hour?

MS. LIVELY: Probably.

THE COURT: Okay, well, with it being 3:30 by the time we finish opening charges and opening statements we might want to go ahead and break. I don't mind going on, you know, until 5:30 or so, but I don't want to - I don't want to be starting an hour witness at a quarter till five or anything of that nature.

MR. CANNARELLA: I agree.

THE COURT: Any feelings on that? Any problems?

MS. LIVELY: No, Your Honor, I'm fine with that. Also before we get - bring the jury back in I did go ahead and have Ms. Nordeen come from the Children's Recovery Center regarding the forensic interview. I know that Mr. Cannarella had said that he wasn't objecting to the forensic interview, but just in case the Court needed to have me proffer any of her testimony in order for you to make a decision regarding the

forensic interview that was done in February of '09 I had her come. I didn't want there to be anything left out of the record that the Court would be concerned about regarding what the interview had in it and if you needed to question her.

THE COURT: Well, and I'm going to - now that you mention it I think I guess before we bring the jury back in we probably do need to put her up just to insure that the questioning was conducted in an investigative interview with the child. What was the other one? It's something as to her qualifications.

MS. LIVELY: That she's got ---

THE COURT: Yeah, whether the interviewer was trained in conducting investigative interviews ---

MS. LIVELY: Yes.

THE COURT: --- things of that nature.

MS. LIVELY: Yes, sir.

THE COURT: So, I think we need to get that on the record and then as soon as you get those on the record then I can go ahead and rule on that; okay?

MS. LIVELY: Okay.

THE COURT: All right, do we want to go ahead and do that now?

MS. LIVELY: Do it now?

THE COURT: Okay, let's go ahead and do that.

MS. LIVELY: Make it quick.

Yes, sir, Your Honor, the State would call Dianne Nordeen to the stand.

Whereupon, Dianne Nordeen was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: If you'll state your full name and spell your last name.

MS. NORDEEN: Dianne Nordeen, N-O-R-D-E-E-N.

EXAMINATION

BY MS. LIVELY:

Q Ms. Nordeen, where are you currently employed?

A Children's Recovery Center.

Q And how long have you been there?

A Four years.

Q And what are your duties at the Children's Recovery Center?

A I am the forensic coordinator. So, I manage all of the files and I'm a forensic interviewer. So, I interview children.

Q Okay, how many forensic interviews have you done since you've been employed in that capacity?

A Over 500.

Q Okay, and have you had any specific training to help you to be able to conduct a forensic interview?

A Yes, I've had Finding Words, which is a 40-hour intensive training. I've also received Beyond Finding Words

training and Advanced Finding Words training. I've also had 200 - wait, let me make sure. I want to be sure about that, 225 hours specific forensic interviewing training.

Q Okay, and is this the training that has come out of the RATAC method or through Corner House which actually started forensic interviewing?

A It is.

Q Okay, and is that the method that your agency or your actual, the Children's Recovery Center uses?

A It is.

Q Okay.

MS. LIVELY: Now, Your Honor, I'm going to reserve the right to qualify her. I'm just going to address the issues of the forensic interviewing at this time.

THE COURT: That's correct, yes.

MS. LIVELY: Thank you.

BY MS. LIVELY:

Q Now, in regards to your training and how many of them have you done, in this particular interview that you conducted did you use the format that you were trained to use in Finding Words?

A I did.

Q Okay, and in that format that you use what type of questions do you present to the child?

A We - well, for Victim age, being that she is seven years

old, for a seven year old we use who, what, where and how questions. Seven year olds may also be possibly able to answer a when question but when may be too developmentally advanced for them.

Q Okay, and you also do you have training in child development?

A I do.

Q Okay, and does that help to assist you in knowing what type of questions to pose to a child during a forensic interview?

A Yes.

Q Okay, and once again, did you actually implement those questions in this particular interview based upon her child development?

A I did.

Q Okay, was the interview coherent and were your responses, the responses from the child easy to understand and follow?

A The responses were easy for me to understand and follow. I do understand that the actual recording had trouble. At that time we had some buzzing in our recording equipment which we have since then fixed, but her statements were clear, coherent and flowing.

Q Okay, so, were you able to in your mind and in your experience just in regards to the forensic interviewing part did it flow in such a way to where it was - that you were able

to get a disclosure from the child?
A It did, and yes.
Q Okay, all right, and once again, you used the RATAC method which is building a rapport, an anatomical identification by the child, was she able to identify her body parts?
A Yes, she was.
Q And then the touch inquiry which is did she talk about someone possibly touching her inappropriately, were you able to go through that?
A Yes, we were.
Q Okay, and then the abuse scenario and then closure or conclusion?
A Yes.
Q And that is the format you followed?
A That is.
Q Okay, thank you. That's all the questions I have. Answer any Mr. Cannarella may have or Judge Culbertson may have for you.
THE COURT: Mr. Cannarella.
MR. CANNARELLA: Nothing as to her qualifications, Judge.
THE COURT: All right.
MR. CANNARELLA: She's qualified.
THE COURT: All right.

MR. CANNARELLA: That part.

THE COURT: Anything as to any of the other requirements of 17-23-175 statute.

EXAMINATION

BY MS. LIVELY:

Q It was recorded, correct?

A It was.

Q Audio and video recorded; correct?

A Yes.

Q Okay, and you already stated - did you ask any leading questions that specifically gave the answer to the child in regards to any of the abuse scenario?

A I did not.

Q Thank you.

THE COURT: Mr. Cannarella, anything?

MR. CANNARELLA: No, no questions, Your Honor.

THE COURT: All right, you may step down. Thank you.

MS. LIVELY: Thank you, Your Honor. That's all from the State.

THE COURT: All right, Mr. Cannarella, any challenges?

MR. CANNARELLA: Not as to her qualifications to conduct it, Your Honor, no.

THE COURT: Okay, all right, I'm going to rule that the out-of-court interview of the child is admissible. Okay.

MS. LIVELY: Thank you, Your Honor.

THE COURT: All right, let's take about a five-minute break, give them an opportunity to select a foreperson, then we'll come back and get started; okay?

MS. LIVELY: Yes, sir, thank you.

THE COURT: All right, thank you.

OFF THE RECORD

(On the record.)

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

THE COURT: Sorry I took so long. The jury has chosen Keith Bartelotte, is that how you pronounce it, oh, it's on the second page, Keith B., I guess it's Bartelotte, Juror Number Nine, as the foreperson. All right, and they just wrote Mr. Bartelotte's name on a sheet of paper and his phone number rather than his jury number. So, we'll just put that as Court's Exhibit Number One.

(Whereupon, Court's Exhibit Number One [Foreperson Selection] appropriately marked.)

THE COURT: All right.

MR. CANNARELLA: A firefighter from Horry County.

THE COURT: Oh, is that who that is?

MR. CANNARELLA: I think so.

THE COURT: Okay, all right, anything from the State before we bring the jury back in?

MS. LIVELY: Your Honor, Mr. Cannarella brought up a

good point regarding sequestration because if we do start with Chad Turbeville tonight the only problem is is that we have provided him, his wife and the minor child victim in this case with a hotel. So, he'd be going back to stay with them and I did not even think about that with us getting started would just be, you know, I think it might be in the best interest of everybody if we start with openings today and then actually get into testimony tomorrow because there's really no one else that I could call as a short witness that's going to make any sense to the jury at this point.

THE COURT: All right, that makes sense. We'll do it that way. So, we'll just bring them in, I'll go ahead and give them my preliminary charge and we'll start with opening charges; okay?

MS. LIVELY: Yes, sir.

THE COURT: All right, anything from the State before we bring the jury in?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's go ahead and bring the jury in.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: All right, ladies and gentlemen, welcome

back. I understand Mr. Bartelotte - how do you pronounce?

MR. BARTELOTTE: Bartelotte, sir.

THE COURT: How?

MR. BARTELOTTE: Bartelotte.

THE COURT: Bartelotte, all right, Mr. Bartelotte, you've been chosen as foreperson. I thank you for serving in that capacity. If you'll always sit where you are sitting at this point in time. Mr. Merryman and Ms. Wright, if you will always occupy your seats. As I told the remainder of you you're at liberty to sit in whichever seat you like throughout the trial of this case, whether you want to sit in the same seat or alternate seats. It really doesn't matter.

Now, before we get started I want to go ahead and introduce you to some of the court personnel that we'll be working with this week during the trial of this case.

(Court personnel introduced.)

THE COURT: Now, we are getting ready to start the trial as I told you earlier, the case of the State of South Carolina versus Timothy Eugene Young, and as I told you earlier before or if you get selected on a jury and during the jury qualification process jurors are constantly taking oaths and that's no different. So, I'll need everyone to please stand and raise your right hand while the clerk administers the oath for you to serve as jurors in this particular case.

(Whereupon, the jury is sworn by the clerk.)

THE COURT: All right, ladies and gentlemen, there are some preliminary instructions I need to give you before we get started in the trial of this case. Some of the general guidelines we'll follow this week, if I could get everyone to please follow these guidelines for me, if you have any pagers or cell phones or any other type of communication devices if you'd please turn them off while you're in the courtroom. I'll give you plenty of opportunities to check messages, return calls and things of that nature, but we don't want your attention interrupted during the trial of this case. So, if you have any cell phones or pagers or other communication devices please turn them off completely while you're in the courtroom.

Number two, you're not to have any contact with any of the parties, any of the lawyers or any of the witnesses in this case or in any case coming before the Court. That doesn't want to - I don't want to imply that anybody would do anything improper or wrong, but if you had a case in front of the court and you saw one of the jurors talking to one of the witnesses on the other side it might raise a suspicion in your mind. So, to avoid even that appearance of any impropriety we ask that you not contact or have any discussions with any witnesses, parties or lawyers during this week with cases coming before the Court. They likewise have been instructed not to talk to you. So, if you have a friend that is a party

or a witness or a lawyer and they don't speak to you this week they're not being rude. They're just following the instructions of the Court; and so, we ask for everybody to cooperate in that manner.

You will be excused from time to time during the week and when you're told to be back please be prompt. It doesn't mean that we'll get to the jury immediately but we cannot conduct any of the Court's business without your presence. So, please be prompt and return when you're told to do so. Now, we understand that from time to time emergencies arise, and if you have an emergency that's okay. Please just call us and let us know that you do have an emergency and don't leave us in the dark as to where you are or why you haven't returned on time. Oftentimes we can help you with whatever the emergency is. Certainly if it's a transportation problem or something of that nature we can assist you in that regard. So, please make sure you call us and let us know why you haven't returned if an emergency presents itself.

Now, during this age of technology in some jurisdictions there has arisen some problems, whether it's interfering with trials or a lot of media trying to find out what's going on about a trial. So, as a result of that our chief justice of our Supreme Court has issued an administrative order that says this week while you are serving jury duty you are not to discuss any case with anyone. You cannot read or listen to

any news reports about a case. You cannot use a computer, a cellular phone or other electronic device with communication capabilities while in attendance at trial. You cannot disclose any information whatsoever about a case to anybody, any party, any entity or anyone outside of the court. You cannot discuss any information about a party, a witness, an attorney, a court officer or a fellow juror. You cannot give any news accounts about a case. You cannot give out any information collected through jury qualifications and you cannot give out any information regarding any topic or testimony offered by a witness.

Now, once your duty as jurors has concluded at the end of this week you are at liberty to talk to whomever you want to talk to about whatever you want to talk to, talk to them about. You don't have to talk to anybody if you don't want to, but the only restriction is this week while you are serving jury duty you cannot talk to anybody about any case appearing before the Court and we ask your cooperation in that regard, and I want to thank you for that.

Now, before we begin the trial of this case I want to tell you that this trial will probably be different from what you're accustomed to from watching television, the movies, reading in books. Trials are often full of a lot of suspense, a lot of action and things of that nature, and while that might be the case in the trial it probably won't be. The

primary function of this case is to - is a search for the truth to find out what truly happened in this case and that is often a slow and deliberate and repetitive process, the exact opposite of what you might be accustomed to from watching the movies or TVs or things of that nature.

The attorneys appearing before you are advocates for the parties they represent, but first and foremost they're officers of the court. They're sworn to uphold the integrity and the fairness of our judicial system and to help you in a search for the truth in this case. You can expect them to be professional, competent and ethical in the representation of their client's interest.

Now, what I now say to you is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law in this case or instruct you on the law applicable to this case at the end of the trial before you retire to begin your deliberations. This is merely an explanation of the procedure that we will follow in the trial of this case so that you can better understand what is happening in this case.

Now, the Defendant in this case has been charged and indicted on two indictments, one indictment being performing a lewd action on a minor child. The other indictment alleges that he committed criminal sexual conduct with a minor in the first degree. Now, these indictments are simply the charges

by which the case is brought into court. These indictments are not in any sense evidence of any of the allegations contained in the indictments. The Defendant has pled not guilty to these indictments; and therefore, the State has the burden of proving each element of the indictment beyond a reasonable doubt. It will be your duty, ladies and gentlemen, to decide whether the State has met that burden. Your purpose as jurors is to find and determine the facts of this case. You are the sole judge of the facts of this case. If at any time I make any comment regarding the facts you must disregard my comments. You are to determine the facts from the testimony you hear and any other evidence introduced in court. It is up to you to determine the inferences which you feel may properly be drawn from this evidence. It is especially important that you perform your duty of determining the facts diligently and conscientiously because ordinarily there is no way to correct an erroneous determination of the facts in a case.

On the other hand and with equal emphasis, the same law that makes you the judge of the facts of this case makes me the judge of the law of this case. The law as given by the Court is the only law that you may consider. You must accept and follow the law even though you may disagree with the law. Just as I cannot tell you what the facts of this case are, you cannot disagree with me about the law to be applied in this

case. Your job is to take the law as I give it to you and apply it to the facts as you find those facts to be from the testimony of the witnesses and any other evidence that is introduced at trial. After doing that you will render your verdict, a true and just verdict under the oath that you just took as jurors. Now, until I advise you to begin your deliberations you must not discuss this case with anyone. You cannot discuss it with your fellow jurors, with friends, family members or anyone involved in the case. After the case is submitted to you you must discuss it only in the jury room with your fellow jurors. The attorneys and the parties in this case have been advised that they are not to talk to you at all. So, if you see anyone involved in the case and they do not even say hello they're just following the instructions of the Court.

As I told you earlier, during the course of this trial you're not to read or listen to any news reports about a case. Don't go on the Internet and try to do any independent investigation into the case. Don't try to do any research into the case. Everything that you need to base your decision in this case will be presented to you here in court.

Now, it is important for you to keep an open mind and not decide any issue in this case until all of the evidence has been presented to you and the parties have made their closing arguments and I've instructed you on the law in this case. It

is your solemn responsibility to determine the guilt or innocence of the Defendant and your verdict must be based solely on the evidence as it is presented to you in this trial and on the law as I instruct you during and at the close of the trial.

Now, in just a moment the Solicitor will make what is called an opening statement in which the Solicitor will explain to you the issues in this case or at least what the Solicitor thinks the issues of this case are. The attorney for the Defendant may also make an opening statement, although he is not required to do so. What the attorneys tell you during their opening statements is not evidence in this case. It is just their contention as to what they feel the issues are. The evidence in this case will be presented to you by the testimony of sworn witnesses from the witness stand and by any other exhibits that may be introduced into evidence.

Now, in determining what the true facts are in this case you must decide whether or not the testimony of a witness is believable. It'll be my responsibility to rule as a matter of law as to whether certain testimony is admissible at trial or not, but once testimony is admitted into evidence, whether or not you believe it is solely for you to determine. In deciding whether to believe a witness, you have the right to consider the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness

to have seen the matters and things about which the witness may testify and the way the witness acts on the witness stand. You have the right to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means that it is your duty to pay close attention to these witnesses, to observe the witnesses, to listen to them and to pay close attention to the attorneys and to the Court. Don't let your thoughts wander, but give strict attention to the testimony in this case so at the end of all of the testimony, after the arguments of counsel and the charge on the law by the Court you will then be in a position to determine what the true facts are and to apply the law to those facts and thus render a true and just verdict.

All right, any challenges to the opening charges by the State?

MS. LIVELY: Not from the State, Your Honor.

THE COURT: Any from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, Ms. Lively, you can make your opening statement.

MS. LIVELY: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, ma'am.

MS. LIVELY: As the judge told you, my name is Candice Lively and I'm an assistant solicitor here for Horry and

Georgetown County, and in this circuit my duty as an attorney as well as someone representing our county is to present evidence to you in cases where someone is charged with a crime, and this evidence that I present to you has to be the relevant, admissible evidence. It's my duty, my ethical duty to present that information to you, and you as jurors have sworn to listen to the testimony, listen to the evidence, apply the evidence and the facts to the elements of the crimes charged. Now, that sounds like a bunch of lawyer mumbo-jumbo. So, let me get to the point. We have two charges that this person is charged with, and I'm sure from hearing the charges you're going to understand we're going to have to talk about some pretty uncomfortable things in this courtroom, things that people don't want to hear, things that are hard for me to talk about sometimes and I've been doing this for four years now, but I will tell you this, it is unfortunately the kind of crime that happens every day. So, what I have to do is I have to bring in a child who's going to tell you what happened to her. That child is named Victim [redacted], and what she's going to tell you is that while living with her biological father, Chad Turbeville, she would go on visitations at her mother's home. They're divorced. Her name is Nicole Young. She was remarried to the Defendant, Timothy Young. Timothy Young and Nicole lived in Myrtle Beach in the city limits. While living there Nicole would get every other weekend

visitation, maybe a little bit more, maybe a little bit less. Mr. Turbeville had primary custody over their two daughters, the youngest one being Victim. You will hear evidence through that witness stand about the fact that Mr. Turbeville noticed a change in his daughter. That change then prompted him, and he will tell you, to get and seek some counseling for his child, and you will hear from both the counselor as well as Mr. Turbeville and most importantly from Victim herself what was going on, why we are all here today, and when you hear that information and what happened what I have to do as the prosecutor and the solicitor is I've got to meet a burden of beyond a reasonable doubt on each of the elements of the crime. So, I'm going to try and just keep this short for you and tell you what I am asking all of you to look for during this case, things that should trigger in your mind. Put the burden on me. I welcome that burden. This is what I am going to ask you to listen for. Criminal sexual conduct with a minor in the first degree, it's a really long term. It basically means a sexual battery on the body of a child. The child has to be under the age of 11. So, Victim will testify about how at the time she made the disclosure of abuse she was seven years old. So, if you believe her account of how old she was at the time whenever she testifies then that will meet that one element of the crime. The other thing that the State would have to show is that it was a sexual battery. A sexual

battery and this is where we get into some uncomfortable stuff but that is my job. I have to just tell it like it is. It means that on her body there had to have been some type of a battery. It could have been some form of oral sex. It could be an intrusion into any of her genital area, however slight. So, it doesn't have to be violent. It doesn't have to be something where it was even excruciatingly painful for the child for it to be a battery. It can be however slight and that meets the terms of battery and Your Honor will actually give you the law at the end the case. If you believe the account of Victim [redacted], her account of the abuse I'm going to ask you at the end of this case to find the Defendant guilty of that charge. He's also charged with lewd act on a minor. Now, lewd act on a minor is something that might in your mind if I equate it to child molestation make more sense. Lewd act on a minor is one of those types of charges that encompasses the purpose that a person might do something like this because there's no reason why I can explain to you something like this happens, but our legislature has got this law that states that anyone over the age of 14 who touches the body of a child under the age of 16 for the specific purposes of some form of sexual gratification for either himself or herself and the child that is what lewd act on a minor means. It means he wasn't just touching somebody like spanking them on the bottom or something like that. It went further. It

became sexual in nature. If after hearing Victim account of what occurred to her at the hands of her stepfather, Timothy Young, you deem that to be sexual in nature then I'm going to ask you to find him guilty of lewd act on a minor.

Now, our state recognizes sexual abuse of a child happens in private. If we get a videotape of it, guess what, that's child pornography. That's not what we're here for. Child abuse happens in private. Our legislature recognizes that. We have a law that states that because of that when you're dealing with children or any sexual assault that no corroboration is necessary because our legislature understands there usually isn't going to be a videotape or blatant evidence. I mean, it's just not going to happen, and you're going to hear testimony from individuals who deal with this a lot who are going to explain that to you because it's something that may be hard as jurors to understand why that is. Our state has also allowed in prosecutions of these cases for us to now admit videotapes of the child right after the disclosure occurs, and if you think about it that is pretty huge for us to be able to do that now because beforehand these cases could take two or three years to come to court, a child could be nine or 10, by the time they get to court 13 or 14 years old. So, our laws now allow us to play the videotape and you're going to see the videotape of Victim [redacted] at the age of seven when she was interviewed about the sexual

abuse. You're going to get to see that and she's also going to be here, too. She's now nine. So, ladies and gentlemen, I'm just going to ask you to listen for those things that I've told you about, about what I have to show on behalf of the state in order to give the elements of each crime, and I'm going to ask you to let it click in your mind if and when Victim [redacted] says, "He touched my private parts," if and when Victim [redacted] says, "His finger went outside, inside," if and when Victim tells you the things, and I'd submit to you she will, I'm going to ask you to find him guilty. Thank you.

THE COURT: All right, does the Defense wish to make an opening statement?

MR. CANNARELLA: Thank you, Your Honor.

You know, it sounds like Tim and I we ain't even got a chance, we ain't even got a chance. If you've already made up your mind inside your heart and your soul that he is guilty and you really know that you feel that way then you put your hands on a Bible a while ago and you swore basically to keep an open mind about this, but we're not naive enough to believe that deep down inside of you right now, right now you know these are horrendous charges. It's easier for me to stand up here and defend somebody for shooting somebody than child sexual abuse. It is, and I know that. We're not naive to it, but the call on the field right now is not guilty. Can you really disabuse yourself of that for a moment and give us a

chance because we've exercised our right to come in here and Tim is going to testify. It's not going to be any of this he don't have to testify if he doesn't want to. We know you want to hear from him. We know you've got to hear from him and I'm telling you right now he is going to testify because if he doesn't testify we don't have a chance because you got to sit up there and you got to - it's going to come down to it in the end it's going to come down really to who you believe. You going to believe Victim or you're going to believe Tim, and you know, either way, this is bad either way. This is bad either way. If she's not telling the truth that little child needs even more therapy and that's sad, and it's also sad if Tim really did it. So, you're going to have to decide, you're going to really have to sit down and look at that and evaluate both of them. That's what it's going to come down to.

In - see, you got - Tim and Nicole, South Carolina, and Chad and Jennifer Turbeville, North Carolina. We're right across the lines here, Myrtle Beach and Tabor City. Well, probably 1997 Chad Turbeville started seeing a lady named Nicole Skovinski and they dated and they had a child named Minor 1 in 1998. They got married in 2000. They weren't together very long. They separated off and on until they finally got a divorce in '05 I think if I remember right. Well, so, so, Chad, Chad and Nicole had Minor 1. Then they got married. Then they separated on and off a bunch but in June

of '01 Victim, the child that made these statements, she was born. They never were really together. You'll hear Denise Scearce the psychotherapist, she'll say that this was a very high conflict situation because it was a lot of conflict going on between Chad and Nicole. In 2005 both of them have remarried. Chad in North Carolina he marries Jennifer and Nicole marries Tim. So, in the North Carolina household we've got Chad, we've got Jennifer, we've got Minor 1 and Victim and we've also got over there Jennifer's children. We've got Minor 2, a female, and we've got Minor 3 a male. Now, those children, coincidently enough, they were - Minor 1 and Minor 2 were born about the same time and Victim and Minor 3 were born about the same time. Now, Minor 4, he is a child of Chad's and Jennifer's.

So, Nicole, she ain't been a nice person. She'll come in here and she'll tell you that, but in - and in 2000, about 2004 Chad has, Chad has custody of Minor 1 and Victim and Nicole, she gets weekend visitations. So, we're crossing the state line, Myrtle Beach, Tabor City, back and forth. She's got weekend visitations. They in and out of court a lot, you all, this high conflict situation, and in '06, well '05, '05, '05 is when Tim and Nicole start dating, and Nicole's got weekend visitation. In '06 Tim and Nicole they get married; and so, things are kind of settled down from '06 to '07. '07 to the middle part of '08 we stop right there because, because

Victim and Minor 1 because of the high conflict situation that's between Chad and Nicole fighting back and forth, I'm not passing judgment on who's at fault in that, but you know, it takes two to tango and you can't - one of them is not going to take 100 percent of the fault. That wouldn't be fair. Well, in August of '08 Denise Scearce begins to see these children. Chad takes them to Denise Scearce, a psychotherapist in Wilmington. Now, Denise Scearce has two patients, Victim and Minor 1, and the reason they both needed to go there is because all the fighting that's been going on back-and-forth between Chad and Nicole. In November, in November Victim discloses to Denise Scearce, the psychotherapist, that her mother, she thinks her mother's abusing her; and then, so, so, Chad says, "You're not going over there anymore. You all, you kids aren't going back over there at all." So, visitation was suspended by Chad; and you know, rightfully so. I'm not passing judgment on that but we've got two children in psychotherapy in August and then in November this child says her mama has abused her. Okay, and here comes December. Well, you know, when a child makes allegations like that to a therapist they have a duty to disclose those allegations because they were just made. They not passing on the truth or the falsity of what the child says, just the child says it, you've got to report it. So, it gets reported because that's Scearce's responsibility. So, that's why we have some people

from North Carolina involved in this.

In December Nicole goes to North Carolina, on December the 12th to ask the Family Court Judge to get visitation back and a hearing is scheduled for January the 13th, 2009. That hearing never takes place, but on January the 14th Victim discloses to Jennifer that Tim has bothered her on January the 14th, and Victim disclosed to Jennifer in November the year before that her mama was bothering her. It'll - I'll bring it out one day they were on the way home from school on a Tuesday, I think it was November the 4th, Victim says, "I think my mama is trying to get me not to mind you," and I really, and she says, "By the way, my mama does things, nasty things to me," but even as I stand up here right now, I've got to be careful about what I say and what everybody in this courtroom hears because I really want it to stay right here, not go anywhere else, and that initiated the investigation against her mama. She believed her mama was abusing her for putting cream on her with her knuckles, and Nicole, she'll come in here and tell you that. Well, I try to do the best I can with not rambling off the timeline, but on January 14th when Victim, when Victim told Jennifer that Tim was doing things to her, too, on the 16th, January the 16th, Victim goes to see Denise Scearce, the psychotherapist. A psychotherapist is a person who treats mental disorders through talking. They don't make a diagnosis. They not a medical doctor. It's a masters in

social work is what Ms. Scearce has. Well, and Ms. Scearce will have to tell you when she testifies that Victim tells her, discloses abuse on the part of Tim in the room, in the bedroom while Nicole was in the living room and cartoons were on and Minor 1 was in another room because this is a small little six or 700 square foot house that they were renting, and she says "Well, well," it just pops right out, and she says, "Well," Ms. Scearce says, "Well, Victim why didn't you tell me about Tim back in November." "I just wanted to do it - I just wanted to tell on them one at a time," and in this she says, in Ms. Scearce's letter dated January 16th because she's going to testify, "Well, I knew mom was bad as well as Tim." Those, those are adult words. That's contamination, crosstalk. That's what it is, but I've gone a pretty long way in telling you all all this to begin with. So, I darn well better prove to you I know when this trial starts because I'm telling there's something in the milk just ain't right, you all, something in the milk just ain't right about this. So, so, give me a chance, give me a chance because right now the referee call on the field is not guilty right now. That's, that's the law we operate under, and I know how horrible these charges are and I ain't no fool to that, but just give us a chance, give us a chance, give me a chance to prove. So, so, try as terrible as these charges sound and as - when you hear about it, uh, I know, but just please for me follow your oath

and give me a shot at it, give me a shot at it. Just keep an open mind and give us a shot at it because something in the milk just ain't right. Thank you.

THE COURT: All right, ladies and gentlemen, at this point in time is when the State will begin the presentation of their evidence in this case through testimony or any other exhibits they wish to introduce but given the time of the day, it's 4:30, and I think this first witness might take a while. So, I think we're going to go ahead and break for the day, and we'll start the testimony in this case tomorrow morning. I ask that you be back in your jury room at 9:15 tomorrow morning. We're going to try to get started right at about 9:30. So, please be back in your jury room at 9:15. Do not discuss the case even among yourselves at this point in time. Don't conduct any independent investigations. Don't go looking for any newspaper accounts or anything regarding this case. We'll give you all the information you need during the trial of this case. I hope everybody has a good evening and we'll see you back at 9:15 tomorrow morning. Now, as - before you go let me tell you just some guidelines. We're going to try to get started at about 9:15 or 9:30 every morning. We're going to try to end as close to five as we can. Now, sometimes we may go over past five o'clock. Certainly if we have a witness that we can get in and get done before six, I might go to six some evening because we are limited to this

week for the trial of this case. So, particularly Tuesday, Wednesday, Thursday, we might go a little bit past five. I certainly don't want to go much later than six if we can avoid it, but I give you that information to let you know that even though we'll try to stop as close to five as we can this week sometimes we might go a little bit later. So, if you have to make arrangements for the care of children or to fix dinner for family members or to do something of that nature you might want to go ahead and make arrangements for this week just in case we run over.

I hope everybody has a good week, has a good evening and we'll see you back tomorrow morning. Thank you very much. Follow the bailiff that way and they'll show you how to return. Thank you.

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

THE COURT: All right, anything from the State before we break for the evening?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, we have sworn the jury. So, Mr. Young, jeopardy has attached at this point in time. I'm going to allow you to go - is he out on bond?

MR. CANNARELLA: Yes, sir, he's been out on bond,

never missed a roll call, no, no pretrial violations and he's staying with his mama, with his mama and his daddy, Judge. They, they here if you ---

THE COURT: No, I just want to make sure that Mr. Young understands that you must return. If you don't return then the trial will go forward even in your absence; okay? So, even though I am going to allow you to go home or go about your business and not be incarcerated because usually what happens is we take a Defendant into custody at this point in time once the Defendant [sic] has already been sworn and they're detained throughout the trial of the case. I'm not going to do that tonight. It might change from day to day but for tonight I'm not going - since we haven't presented any evidence or anything at this point in time I'm not going to have you detained overnight, but please keep in mind that if you don't come back the trial will still go forward even in your absence. Okay?

MR. YOUNG: Yes, sir.

THE COURT: All right, anything else before we break?

MS. LIVELY: No, Your Honor. Thank you.

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, I'd like to get the jury back at 9:15 because they usually have coffee and doughnuts or something for them in the morning. I'm going to try to get started right at 9:30. Okay?

MS. LIVELY: Yes, Sir.

THE COURT: If you have anything preliminary I'll be here before then if you need to see me. Okay?

MS. LIVELY: Thank you.

THE COURT: Thank you.

OFF THE RECORD

(On the record, Tuesday, April 5, 2011.)

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

THE COURT: All right, I met in chambers with the attorneys just so we can go ahead and get this on the record. Let me see, Juror Number 93, Garrett P. Elliott, contacted the bailiff, said that he needed to talk to the Judge about something. So, I got the attorneys, Mr. Elliott in my office. Mr. Elliott said that when he left court yesterday he went by his shop at work and he was approached I think he said by one of his employees wanting to know what case he was on. He said he could not discuss it with anybody and she said, "Well, if it is this case," and referenced this case, it turned out that one of his employees was a neighbor or something of the Defendant or the Defendant's wife or something of that nature and that the employee continued to discuss the case with him even though he tried not to discuss the case. He admitted that he did not think he could be fair and impartial any further in this case. So, we're going to excuse Mr. Elliott

and we will need to seat one of the alternates. Anything else we need to put on the record in that regard, Ms. Lively?

MS. LIVELY: Not from the State, Your Honor.

THE COURT: All right, anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, so, our alternates are Juror Number 205, David E. Merryman, and Juror Number 343, Nathalie - I don't know if it's Nathalie or Nathalie, N-A-T-H-A-L-I-E, E. Wright. All right, I've written those names on a sheet of paper. I'm just going to drop them into a cup and who do we want to choose out of it? Let the clerk, court reporter, my law clerk?

MS. LIVELY: Yes, sir.

THE COURT: All right, I'm just going to let the clerk draw, draw one of the names. All right, the clerk has drawn Juror Number 205, David E. Merryman. So, Mr. Merryman will be seated. All right, let's go ahead and bring in Mr. Elliott, and I'm going to go ahead and mark this David E. Merryman where the name was drawn as Court's Exhibit Two.

(Whereupon, Court's Exhibit Number Two [Alternate Selection] appropriately marked.)

(Whereupon, Garrett P. Elliott, Juror Number 93, enters courtroom.)

THE COURT: Mr. Elliott?

MR. ELLIOTT: Yes, sir.

THE COURT: Thank you for bringing that matter to our attention this morning, and I want to assure you you haven't done anything wrong, but just out of a sense of precaution we are going to go ahead and excuse you from this jury.

MR. ELLIOTT: Okay, yes, sir.

THE COURT: And seat one of the alternates and that's why we have alternates.

MR. ELLIOTT: Yes, sir.

THE COURT: Because from time to time these situations occur through no fault of anybody.

MR. ELLIOTT: Yes, sir.

THE COURT: I do want to thank you for your service. You're at liberty to stay with us if you want to stay with us or you're excused. What does he need to do? Call back after six?

CLERK: Yes, sir.

THE COURT: All right, so, just call back after six o'clock today if you choose to leave and that'll give you some further directions; okay?

MR. ELLIOTT: Yes, sir.

THE COURT: All right, let's - can we go ahead and bring in - anything before we bring the jury in?

MS. LIVELY: No, Your Honor, we're ready to proceed.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's go ahead and bring the jury in. Just have him wait out in the hall so you can go in and get your stuff ---

MR. ELLIOTT: Okay.

THE COURT: --- once the jury comes back in and I'll explain to them what has transpired.

MR. ELLIOTT: Yes, sir.

THE COURT: Okay?

MR. ELLIOTT: Thank you, sir.

THE COURT: Thank you very much, Mr. Elliott.

MR. ELLIOTT: Yes, sir.

THE COURT: I appreciate your service.

MR. ELLIOTT: Yes, sir.

(Whereupon, Juror Number 93, Garrett P. Elliott, exits courtroom.)

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: All right, ladies and gentlemen, welcome back. I hope everyone had a good evening, a restful evening. We're ready to resume the trial of this case. I want to remind you if you have any cell phones or pager devices please turn them off at this point in time while we're in the trial of this case. Also, to bring you up-to-date on what has happened, one of the jurors, through no fault or nothing improper, anything of that nature, but we have excused one of

the jurors in this case, Mr. Elliott; and so, one of the alternates who will be Mr. Merryman you are now a part of the regular jury; okay? So, you'll be at liberty to sit in whichever seat you like as long as it is not the foreman seat right there.

MR. MERRYMAN: As long as it's what?

THE COURT: Not the foreman's seat right here on the first one, but any other seat you can occupy, as I said, the same throughout the trial of the case or whatever the case may be. Our other alternate if you would always occupy that seat where you are now. All right, anything from the State before we call witnesses?

MS. LIVELY: No, Your Honor, the State's ready.

THE COURT: Anything from Defense?

MR. CANNARELLA: The Defendant is ready, Your Honor.

HE COURT: All right, the State can call its first witness.

MS. LIVELY: Yes, Your Honor, the State would call Michael Chad Turbeville to the stand.

THE COURT: All right.

Whereupon, Michael Chad Turbeville was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Please state your full name and spell your last name.

MR. TURBEVILLE: Michael Chad Turbeville, T-U-R-B-E-V-

I-L-L-E.

DIRECT EXAMINATION

BY MS. LIVELY:

Q Good morning, Chad.

A Good morning.

Q If you could just make sure that microphone is close enough to where we can hear everything you're saying.

A Okay.

Q Okay. State your full name for the record, please.

A Michael Chad Turbeville.

Q How old are you? I didn't know that was going to be a difficult question.

A Thirty ---

Q I'll start with the easy ones. Okay, what's your date of birth?

A 10-23-76.

Q How old are you?

A 34.

Q Are you married?

A Yes, ma'am.

Q What's the name of your wife?

A Jennifer Turbeville.

Q And how long have the two of you been married?

A This July will be six years.

Q Six years, okay. So, this July is 2011. So, you were

married in 2005?
A Yes, ma'am.
Q All right, July of 2005. Now, have you ever been married before?
A Yes, ma'am.
Q And who were you married to?
A Nicole Skovinski.
Q Nicole Skovinski. And how long were you and Nicole married?
A A little over a year.
Q Okay, how long were you and Nicole together?
A It'd be three years altogether.
Q Three years altogether.
A Yes, ma'am.
Q Okay, and this was obviously before you married Jennifer in 2005?
A Yes, ma'am.
Q All right, now, do you have any children from your marriage with Nicole Skovinski?
A Yes, ma'am.
Q Tell us the names and date of birth of those children.
A There's Minor 1 [redacted], and Victim [redacted], Victim [redacted].
Q Okay, Victim [redacted]. So, that makes Victim how old?
A She will be ten this June.

Q This June, okay, and how old is Minor 1?
A She is 12.
Q She's 12 years old, all right, and you stated that you and Nicole are no longer together and were divorced. Do you remember exactly when the divorce occurred?
A 2001.
Q It was 2001.
A If I'm not mistaken, yes, ma'am.
Q Okay, so, since 2001 who has had primary custody of those two girls?
A I have.
Q And where have you lived with those two girls?
A Stayed in Tabor City, North Carolina, at a house I had bought and put on family property and until me and Jennifer got married and we moved to where we're staying now.
Q Okay, and where are you living now?
A Sandy Plains.
Q Sandy Plains.
A Yes, ma'am.
Q Is that still Tabor City?
A Yes, ma'am.
Q Okay, and does Jennifer have any children?
A Yes, ma'am.
Q All right, so, was she married before you?
A Yes, ma'am.

Q How many children does she have from that prior marriage?
A Two.
Q All right, what are their names?
A Minor 2 [redacted] and Minor 3 [redacted].
Q And how old are they?
A Minor 2 is 12 and Minor 3 is 10 - 11, he just turned 11 in March.
Q Okay, so, you have four children in the home; is that correct?
A No, ma'am, we have five.
Q Five, okay, do you and Jennifer have a child together?
A Yes, ma'am.
Q And what is that child's name?
A Minor 4 [redacted].
Q Minor 4 [redacted]. How old is Minor 4?
A She is four.
Q Four years old, okay. So, you have five children at home?
A Yes, ma'am.
Q All right, now, do you have primary custody or do you and Jennifer have primary custody of all those children?
A Yes, ma'am.
Q All right, what is the arrangement for your biological daughters not including Minor 4?
A Yes, ma'am.

Q Okay, we're going to leave Minor 4 out of the mix right now. What is the arrangement for Nicole, your ex-wife, to see those girls?
A There is no visitation.
Q There is no visitation?
A No, ma'am.
Q What was it before there was no visitation?
A Every other weekend.
Q Okay, all right, and did she exercise every other weekend with the girls?
A Most of the time.
Q Okay, now, you were in here during opening statements; correct?
A Yes, ma'am.
Q All right, and there was some mention of the high conflict between you and Nicole.
A Yes, ma'am.
Q Would you please describe to this jury what type of a situation you had with the mother of Victim [redacted] who is the relevant person in this case?
A There was constant - she was always having different guys come with her pick the children up. There was drug abuse. There was times where she was supposed to meet, bring me the children or pick the children up and I would wait for an hour, hour and a half, she would never show, no call. There was

times I had to go find them, pick the children up on my visitation. There was just constant lack of regard to the court orders that she was supposed to abide by all the time.

Q Okay, do you have an actual court order that grants you custody?

A Yes, ma'am.

Q Okay, now, let me get away from the custody thing for a minute. Tell me about when you first met the Defendant in this case, Timothy Young.

A The first time I met Timothy he came with Nicole to pick the children up at our home. Nicole had stepped on the porch to talk to Jennifer to get the children. I walked out to the car and introduced myself. I asked him what his name was, where he was from, was trying to get some information on him and told him, you know, that I loved my children and just, you know, I just - I wanted the kids to be happy when they went down there and just, you know, just please respect me with my children and if they needed anything to call me.

Q Okay, all right, did you have - did you ever threaten him that day?

A No, ma'am.

Q Have you ever threatened him in any way?

A We have never had a cross word, no, ma'am.

Q Okay, all right, so, the - let me ask you this, who was the person that you had problems with in regards to Victim and

Minor 1?
A Nicole solely.
Q Okay, and that was for you said maybe since 2001 when you all divorced?
A Ever since we separated, yes, ma'am.
Q Okay, all right, when Timothy Young, the Defendant, came into the picture how did you feel about him being involved with Nicole?
A He seemed like a very level headed, nice guy. He was from the South. He was, he was just an everyday Southern guy from what I, you know, took from him when I talked to him and I was actually when they got married I was very relieved that she had finally married someone and there wouldn't be a constant, you know, different person in the children's life, they could get stability down there as well as when they were staying with us. I was actually very relieved.
Q Okay, all right, so, do you recall about when it was that they got married, and if you don't that's fine?
A I do not.
Q That's fine, and whenever you - you said that you married Jennifer in was it July of '05?
A July 2005.
Q Okay, July of '05. So, how long after you and Jennifer were married was it that you actually met Timothy? Do you remember how long it was after that?

A Maybe two, three years maybe.
Q Okay, all right.
A Somewhere along in that timeframe.
Q So, whenever Timothy, the Defendant, and Nicole got married were you still having problems between yourself and Nicole and visitation with the kids?
A When they got married?
Q Uh-huh.
A When they got married it seemed to level off.
Q Okay.
A There was, there was nothing - a few times I picked the children up they were sick, hadn't been taken to the doctor and I just, you know, of course as a parent and as a father, "Why didn't you take the - take Minor 1 to the doctor." Said, "I didn't have the money to take them." I would go on and take them to the doctor and I just said, "Hey, I've told you if you need something, call me. We would have come picked her up and taken her to the doctor," but other than that nothing sticks out.
Q Okay, and whenever - explain to the jury so they can understand how was the exchange actually taking place? I mean, what time on Friday, who would pick up, drop off and then what time on Sunday?
A On her visitation every other weekend she would be at our home at four p.m. and we would return to their home at - I

want to say it was six on Sunday, that Sunday of the same weekend to pick the children up and bring them back home. For a long time it was she had to bring them to the Tabor City Police Department and then there was another time we had to meet halfway I think on CVS on Highway 57 and Highway 9. So, but then when they got married we were - she would come pick them up and we would go pick them up.

Q Okay, and whenever they got married would, you know, from your history with Nicole did the conflict seem to subside?

A Yes, ma'am, very much so.

Q All right, so, let me ask you this, when you went to pick up the girls on Sundays who was there to meet you for you to get the children?

A Sometimes it was Nicole and Tim. Sometimes it was just Nicole. Other times it was just Tim.

Q Okay, all right, and did you have a problem with that?

A No, ma'am.

Q Okay, was there any type of requirement in the court orders that the children couldn't be left with other persons other than you or Nicole?

A Not, not after she was married.

Q Okay, so, as long as she was married ---

A Yes, ma'am.

Q --- the kids could be alone with Tim?

A Yes, ma'am.

Q Okay, and when you would pick up the girls and they would be alone with the Defendant were you ever concerned about that?

A No, ma'am.

Q Okay, now, at what point did you, if ever, notice some concerns about the behavior of your daughters?

A It was probably around 2008 around the summertime, late starting to get into the fall of 2008.

Q Okay, and you've already testified that the conflict had subsided since she married the Defendant.

A Yes, ma'am.

Q Correct, okay, so, tell me what the problems were, were they with Nicole or Tim or were they just from the children?

A Just from the children.

Q All right, tell this jury exactly what it was that you observed personally regarding the children.

A Victim was starting to - she would call - well, we'd get constant calls from the schoolhouse her stomach was hurting, she pooped in her pants, she was laying in a fetal position and she was screaming and hollering. I'd drop her off at school. She would get out the car and run back, open the door, grab my leg and wouldn't let me leave, telling me she was scared and she had never been that way before. She had always just loved school, loved to go, looked forward to it and she was starting to wake up at night, constant headaches,

having nightmares saying that she was scared a robber was going to come take me away and kill me and it was just numerous, just stuff of that nature.

Q How did you handle that?

A I - the first thing I did was talk to my wife and we talked to Victim several times to see if we could figure something out. We never could. So, we just finally come to the conclusion that most of the time it was happening as she was coming back from her visitation. So, we - I called Department of Social Services and asked for their help. The caseworker came and interviewed her and that's everything happened after that.

Q Okay, well, let me back up, did you ever seek the assistance of a professional in regards to the problems that Victim and Minor 1 were having? Well, let's just specifically deal with Victim the problems that she was having?

A Yes, ma'am.

Q Okay, and what is the name of that professional that you actually went to see?

A Ms. Denise Scearce.

Q All right, and what is she?

A She's a therapist, child therapist.

Q Okay, and who referred you to her?

A Ms. Daniels from the Columbus County Department of Social Services.

Q Okay, and had you ever taken your children to a therapist?
A No, ma'am.
Q All right, had you ever needed to take your children to a therapist?
A No, ma'am.
Q All right, did you know exactly what was going on with Victim whenever you set this up with Denise Scearce?
A I had no idea.
Q Okay, had you filed any action in court, in family court to change the visitation or stop the visitation whenever you took them to see Denise Scearce?
A Not before I took them to see her, no, ma'am.
Q All right, so, no action in family court going on, nothing at all?
A No, ma'am.
Q All right, okay, so, you take Victim and Minor 1 to see Denise; correct?
A Yes, ma'am.
Q Okay, when was that?
A That was on August 18th, 2008.
Q Okay, so, this is the end of the summer right before the school year ---
A Yes, ma'am.
Q --- 2008. All right, how did Victim respond to the

counseling?
A She made some revelations, startling revelations.
Q All right, now, and you can't tell me exactly what it is that she revealed; okay?
A Okay.
Q But tell me have you ever talked to Victim about what it is that she told Ms. Scearce?
A No, ma'am.
Q Have you ever discussed with her any of the statements that she made against Nicole or the Defendant?
A No, ma'am.
Q And why?
A I, I was just so shocked I didn't - my mind doesn't work that way. I don't, I don't think of human beings as doing such as that, especially not parents and people that have their own children and I just decided to let the professionals handle it and I was just going to offer any support as a father I could but I, I didn't really want to hear it.
Q Okay, I understand, and how did you - well, let me ask you this, and Mr. Cannarella already brought this up in his opening. I'm going to ask you, what was - who was the first revelation involving?
A Nicole.
Q Nicole, all right, Nicole, your ex-wife?
A Yes, ma'am.

Q Okay, as a result of the - do you know who the revelation was actually or the disclosure was made to?
A My wife Jennifer.
Q Okay, and was Denise Scearce made aware of the revelation?
A Yes, ma'am.
Q Okay, and after all that happened did you do what you were - you felt required to do in order to assist in the investigation?
A Yes, ma'am.
Q All right, now, let me ask you this, at that time when the disclosure came out regarding Nicole do you remember about when that was and Nicole, not the Defendant?
A It was January of '09.
Q And you're telling me about the Defendant. Tell me about Nicole. Let me ask you this, let me back up. Do you remember about when the last visitation ---
A Yes, ma'am.
Q --- that might help you. That last visitation that Victim and Minor 1 had ---
A Yes, ma'am.
Q --- at the home of Nicole and the Defendant ---
A That was ---
Q --- do you remember?
A --- October 31st, 2008.

Q Okay, and what happened after that visitation?
A I - when she made the revelation or after that visitation we knew something was going on, kind of got a feeling, I called, like I said, the Department of Social Services after they, they advised me to probably not let them go back until they made their findings, and when they made their findings they told me I was under their rule not to let the children go back.
Q Okay, so, had you filed an action at that time?
A No, ma'am.
Q Okay, so, so, the children didn't go back after October of 2008?
A No, ma'am.
Q At that time was there ever any concern in your mind that the Defendant had done something inappropriate with your child?
A No, ma'am.
Q Okay, so, once again, you thought this was all Nicole?
A Yes, ma'am.
Q All right, now, so, you were - you just said that you weren't - you had to agree not to allow the children to have contact with Nicole; is that my understanding?
A Pretty much, yes, ma'am.
Q Okay, and did you comply with that?
A Yes, ma'am.

Q All right, now, after that occurred tell the jury when you became aware or when it was brought to your attention that - let me ask you like this, tell me what happened on the night of January the 14th, 2009. What night was that?

A That was on a Wednesday.

Q It was on a Wednesday. What do you do on Wednesday nights?

A I go to church from seven to eight.

Q All right, and is that a normal occurrence for you?

A Every Wednesday, yes, ma'am.

Q Every Wednesday, okay, and that night who went with you to church?

A No one.

Q No one, and why is that?

A The children didn't have church that night. They stayed home with Jennifer.

Q They stayed home with Jennifer.

A Yes, ma'am.

Q Okay, so, who all was home with Jennifer on the night of January the 14th, 2009?

A Jennifer, [redacted], [redacted], [redacted], [redacted] and [redacted].

Q Okay, so, all the kids were home with Jennifer?

A Yes, ma'am.

Q All right, now, when you were leaving that night on January the 14th, 2009, did anything happen that gave you

concern?
A Yes, ma'am.
Q What happened?
A Victim went into one of her little, for lack of a better word, a fit. She didn't want me to leave. She was crying. She was just throwed down on the floor and begging me not to leave saying, "Daddy, Daddy, please don't leave me." I told her I had to go to church. I had obligations I had to fulfill there, kind of got her calmed down for me to leave and Jennifer, you know, kind of calmed her down and then I told her I would be back in an hour and I left to go on to church.
Q Okay, and let me ask you this just as a general question, were the kids still in counseling at that time?
A I think so, yes, ma'am.
Q Okay, all right, so, so, Denise was still involved?
A Yes, ma'am.
Q All right, so, Victim throws this fit on Wednesday night, you leave to go to church. So, when you leave everything was calm?
A Yes, ma'am.
Q All right, tell this jury what happened when you got home, what was the scene when you got home?
A When I got home the children were sitting at the table. I think they were playing Monopoly or something. I can't exactly remember. I came home, kissed Jennifer, told her how

church went. She told me she had to tell me something and she needed to tell me right away. So, we went in our bedroom and locked the door and she sat me on the bed and told me what Victim had told her.

Q Okay, and you can't tell me what Victim told her; okay?

A Okay.

Q All right, what was Jennifer's demeanor when she told you this?

A She looked like she had been punched in the stomach.

Q And how did you feel when she told you what Victim had disclosed to her?

A I pretty much felt the same way. I had anger. I had hurt, disbelief, shock. It was pretty bad for a few minutes.

Q All right, and Chad, once again, have you ever talked to Victim about what she told Jennifer?

A No, ma'am.

Q Have you ever told Victim to say any of those things that she's disclosed?

A No, ma'am. I would never put her through that.

Q Okay, now, that was January the 14th, correct, 2009?

A Yes, ma'am.

Q All right, the next day, what did you and - what did you do?

A The next day?

Q January the 15th, 2009, what took place on that day?

A I reported the sexual abuse to the Department of Social Services.

Q Okay, and what happened after the 15th of 2009?

A Victim was interviewed by Ms. Daniels of the Columbus County DSS.

Q All right, and after that interview by the DSS what happened on the 16th?

A Ms. Denise Scearce sent a letter reporting the sexual abuse.

Q Okay, and then after the 16th of January what did you do?

A I - on the 17th I called Myrtle Beach Police Department. I actually called Horry County Police Department first but they told me was in the jurisdiction of the city. So, then I called Myrtle Beach Police Department and reported it to them.

Q Okay, and at that time were you - were you even sure what exactly was going to happen next in regards to your daughter?

A I had no idea. I never seen it, never been a part of it, never - I was in unchartered waters for lack of a better word. I didn't know.

Q Okay, and the allegation involving your ex-wife Nicole was that ever reported to law enforcement?

A Yes, ma'am.

Q Okay, all right, and I don't want you to talk about what that is. Victim will talk about that, but this you did go and report to the Myrtle Beach Police Department?

A Yes, ma'am.
Q All right, now, let me ask you this, were you aware of whether or not Nicole and the Defendant were still together as of January 17th, 2009?
A I had no idea.
Q Okay.
A I had no contact with them since October.
Q Okay.
A Since the last visitation.
Q Since the last visitation, so, you were not aware of their marital status, separation, anything?
A No, ma'am.
Q Okay, had you had any contact whatsoever with the Defendant?
A No, ma'am.
Q All right, and how about Nicole, had you had any contact with her?
A No, ma'am.
Q Were there any court hearings from whether it was DSS or a private action during that timeframe?
A Did we actually go to court?
Q I'm asking you. You tell me.
A No, ma'am, we didn't go to court.
Q Okay, and had you - have you personally through an attorney filed anything during that timeframe before Victim

disclosed?

A No, ma'am.

Q All right, and when was it that you finally filed something in court regarding modification of visitation?

A February 18th, 2009.

Q Okay, and as a matter of a fact you brought those papers and we've provided them to the defense; isn't that correct?

A Yes, ma'am.

Q Okay, all right, so, February 18th, 2009, was the first time that you actually filed anything regarding stopping visitation?

A Yes, ma'am.

Q Okay, prior to then was the reason for the visitation being stopped for you to comply with DSS?

A Yes, ma'am.

Q All right, now, on January the 14th, 2009, once again that was the date that Victim disclosed to your wife; correct?

A Yes, ma'am.

Q All right, had she ever been questioned by you or has Jennifer in your presence ever questioned her about these matters?

A No, ma'am.

Q Who did you allow to question and talk to your daughter about these matters?

A DSS social workers and Ms. Denise Scearce and the

Carousel Center and the Children's Recovery Center.

Q Have you ever read the transcript of these interviews or watched the videos of these interviews?

A No, ma'am, no.

Q And why not?

A I don't want to know.

Q I'm sorry?

A I don't want to know.

Q Okay, you don't want to know?

A No, no, ma'am.

Q Have you had - you said as of January or February when you filed or your attorney filed the action to modify visitation you had not had any contact with Nicole. Since that private action was filed to modify visitation have you had any contact with Nicole?

A No, ma'am.

Q Did she ever show up for any hearings regarding visitation?

A Not that I'm aware of, no, ma'am.

Q Okay, have you been served with anything from her regarding visitation?

A No, ma'am.

Q Were you aware of a hearing that was scheduled January 13th, 2009?

A No, ma'am.

Q Okay, when did you become aware of a hearing scheduled January 13th, 2009?
A I got a letter in the mail from my attorney. He was up at the courthouse doing some other stuff and came across it and wrote a letter that he had a jury trial and wouldn't be able to go. So, it got postponed.
Q Okay, and let me - and this is what I want you to do for me. I'm going to have you actually step down because it's been made kind of an important issue, the timeline of this matter. If I could, Your Honor, if I could ask the ---
THE COURT: As long as he's near a microphone ---
MS. LIVELY: Yes, sir.
THE COURT: --- so the court reporter can pick up his testimony.
MS. LIVELY: I will do that and make sure that we can.
BY MS. LIVELY:
Q Okay, I'm going to have you - all right, because you've got to make sure that you speak loudly because she can't see you. Can you see?
MR. CANNARELLA: I'll, I'll walk over.
MS. LIVELY: You'll walk over there? Okay?
BY MS. LIVELY:
Q All right, and I just want you to talk into that microphone. You let me do the writing; okay?
A Okay.

Q Okay, all right, Nicole and Chad divorce in 2001; right?
A Yes, ma'am.
Q Thank you, okay, two girls, Victim and Minor 1; right?
A Yes, ma'am.
Q 2005, what happens?
A I get married to Jennifer.
Q Okay, Chad and Jennifer marry. Okay, now, and she has two kids?
A Yes, ma'am.
Q All right, when do you have little Minor 4?
A July '06.
Q Okay, and we're going to stick that on here. July '06 you have Minor 4.
A Yes, ma'am; yes, ma'am.
Q Is it Min or Min?
A Min.
Q Okay, okay, during this time you said there - and I'm going to ask you was there still some high conflict between you and Nicole?
A Between '05 and '06?
Q Uh-huh, or was it getting better?
A It was getting better, yes, ma'am.
Q Okay, that's - I just want the jury to understand the timeline of what's going on; okay?
A Yes, ma'am.

Q Okay, so, 2007, does anything significant happen in 2007?
A I think that's when Nicole and Tim were together.
Q Okay, so, you believe that's whenever the Defendant and Nicole together.
A Yes, ma'am.
Q All right, okay, so, at that point in time in 2007 is when you believe Defendant and Nicole are together. At that point in time how was the relationship between you and Nicole proceeding?
A It was smooth.
Q Okay, any court actions filed?
A No, ma'am.
Q All right, now, 2008, you said summer of 2008 what's significant, once again for the summer of 2008, right before the kids started school?
A That's when Victim started having her behavior and emotional problems.
Q Okay, all right, okay, so, we've got Victim and I'm just going to put problems. Okay, had you or even Nicole were there any pending family court actions at that time when you noticed problems with Victim?
A No, ma'am.
Q Okay, you testified you hired Denise Scearce; correct?
A Yes, ma'am.
Q Okay, that was August 2008?

A Yes, ma'am.
Q Okay, when you hired Ms. Scearce was it for the purpose of having her testify in court?
A No, ma'am.
Q Okay, why did you hire Denise Scearce in August of 2008?
A To try to make my daughter better.
Q Okay, now, you've already testified about October 31st, 2008, what's the significance of that?
A It's the last visitation they had.
Q Okay, so, this is therapy, this is last visitation. All right, in November of 2008 what happens? What comes out in 2008?
A Disclosures about the mother.
Q Okay, Victim tells about Nicole. Oops, I didn't spell that right. Okay, in December 2008 what agency had you sign a safety plan about contact?
A North Carolina Department of Social Services.
Q Okay, North Carolina DSS plan. All right, now, did you file anything?
A No, ma'am.
Q Okay, and you learned that something had been filed against you; correct?
A Yes, ma'am.
Q All right, who filed it?
A Nicole.

Q Nicole, do you know when she did that?
A I do not know, no, ma'am.
Q Do you know what the date of the hearing was?
A January the 13th.
Q Okay, January 13, 2009, hearing. Did a hearing take place?
A No, ma'am.
Q Okay, did you file anything?
A No, ma'am.
Q All right, when did Victim make a disclosure against the Defendant?
A Wednesday, January 14th, 2009.
Q So, she didn't disclose the day before you were supposed to go to court?
A No, ma'am.
Q When she disclosed January the 14th, 2009, who did you go to the next day?
A The Department of Social Services.
Q January 16th, who was involved?
A Ms. Denise Scearce.
Q Scearce, and then January 17th what did you do?
A I called the Myrtle Beach Police Department.
Q Myrtle Beach PD, is that how it happened?
A Yes, ma'am.
Q Have you been involved in, once again, and discussed

anything regarding the disclosures made by Victim [redacted] with her?

A No, ma'am.

Q At what time, if any, did you and Jenny tell Victim to say these things about Timothy or Nicole?

A We never told her anything like that.

Q Was all this a setup to stop visitation for Nicole?

A No, ma'am, everything I've been through with those children I would never, ever do anything like this to put her through something like this again, no, ma'am.

Q You can have a seat back in the witness stand. Have you ever even discussed anything sexual in nature with your child?

A No, ma'am.

Q Do you have pornography in the home?

A Do ma'am.

Q Are they allowed to roam the Internet if they wanted to?

A No, ma'am.

Q Do you have a computer in the home?

A Yes, ma'am.

Q Okay, and where is it?

A It's on the desk in the dining room.

Q Okay, and are the children allowed on it?

A Only with me or Jennifer around.

Q Okay, do you allow her to watch movies by herself, old grownup movies, so, you know, rated, R-rated movies?
A No, ma'am, we don't, we don't even have an R-rated movie in our home.
Q Okay, has she ever walked in on you and Jennifer having sexual intercourse?
A No, ma'am.
Q Okay, and finally you said that - you've already testified that you - your attorney filed papers February 18th of 2009 to stop visitation with Nicole. Do you recall stating that?
A Yes, ma'am.
Q So, in essence, the visitation had already stopped by then; correct?
A Yes, ma'am.
Q So, what if any motive would you have for these allegations to come out against Mr. Young?
A I have none. He's, he had no ties to the children or anything. It was nothing - I have no motive whatsoever.
Q Thank you very much, Mr. Turbeville. Please answer any questions that Mr. Cannarella has for you.

CROSS EXAMINATION

BY MR. CANNARELLA:

Q Mr. Turbeville, have you ever had to discipline any of the children because of any inappropriate sexual type

behavior?
A Not that I recall, no, sir, but I've had, well, not before this happened, no, sir.
Q Not before January 14, 2009?
A No, sir.
Q You're sure?
A Far as I can remember, no, sir.
Q You brought some papers to Mrs. Lively, some family court papers, she provided them to me. I'm going to show them to you?
A Yes, sir, those are it.
Q Okay, now, the ones that Mrs. Lively handed to me just one of them, Chad, it relates to the thing filed by Nicole; right?
A Yes, sir.
Q Okay.
MR. CANNARELLA: Your Honor, I'd offer this as Defense Exhibit Number One.
THE COURT: Any objection?
MS. LIVELY: No, Your Honor, no objection.
THE COURT: All right, Defense Exhibit Number One admitted into evidence without objection.
(Whereupon, Defense Exhibit Number One [Family Court - Motion and Order to Show Cause] admitted into evidence and appropriately marked.)

BY MR. CANNARELLA:

Q Chad, Jennifer wouldn't keep anything from you, would she?

A No, sir.

Q Okay, now, what I've got just marked as Defense Exhibit Number One you see that; right?

A Yes, sir.

Q Okay, is this the same thing?

A It appears to be, yes, sir.

Q Well, what I handed you that's Jennifer's signature right there; isn't it?

A Yes, sir.

Q It's on the back of Defense One; right? This is not on yours; is it?

A This is Defense One.

Q Right?

A It's not on the back of this one.

Q Right, okay, but the one I just showed you it is; right?

A Yes, sir.

Q Okay, and you live at [redacted]?

A Yes, sir.

Q Okay, now, Chad, on the back of the one I've got does it say that it was received by the Sheriff on 12-15-08?

A Yes, sir.

Q All right, and what's at the top up there?

A Return of service.
Q That's where somebody got served with this paper; right?
A Yes, sir.
Q And on January the 2nd of 2009 Jennifer accepted service of this at you all's house at [redacted]?
A Yes, sir.
Q Now, doesn't it appear to you that these papers were left at your house; isn't that fair to say?
A It appears that way.
Q Okay, and what, and what it relates to is when Nicole went to the Family Court up there on December the 12th of '08; right?
A Yes, sir.
Q And it does say that there was a hearing scheduled for January 13th of '09?
A That's what it says, yes, sir.
Q And I'm not - so, but if, if this is true, if the sheriff's deputies served it to Jennifer on January the 2nd at your house on Sandy Plains Road you didn't know anything about it?
A As I recall my testimony was I don't remember us ever being served and that's my, that's my answer now.
Q But this is ---
A I don't remember it.
Q I know you don't remember it but it appears, is it fair

to say, that this paper was served at your house on January the 2nd?

A Of course, it's right there, yes, sir.

MR. CANNARELLA: Offer this as Defense Two, Your Honor.

THE COURT: Any objection?

MS. LIVELY: No, Your Honor.

THE COURT: Defense Exhibit Number Two admitted into evidence without objection.

(Whereupon, Defense Exhibit Number Two [Motion and Order to Show Cause] admitted into evidence and appropriately marked.)

BY MR. CANNARELLA:

Q So, if you don't know, if you don't remember anything about it and you never knew anything about it then, then Jennifer must not have given it to you?

A That's not the case. I merely said I didn't remember getting it or seeing it and I don't to this day I don't remember it.

Q Okay, and January 13th was on Tuesday?

A Yes, sir.

Q And on January the 14th you went to church?

A Yes, sir.

Q And then the revelation was revealed to you by Jennifer when you got back?

A Yes, sir.
Q And in your household there's - are Jennifer, you, Minor 1, Victim; is that right?
A Yes, sir.
Q Minor 2 Minor 2 lives there?
A Yes, sir.
Q Minor 3?
A Yes, sir.
Q And Minor 4?
A Yes, sir.
Q Five children?
A Yes, sir.
Q Mama and daddy?
A Yes, sir.
Q And they were at home when this event was disclosed or revelation and you were at church?
A Yes, sir.
Q And then you, and then you came back and found out about it from Jennifer?
A Yes, sir.
Q On, on - and that was on Wednesday, January the 14th of '09?
A Yes, sir.
Q The day after there was supposed to be a contempt hearing?

A Yes, sir.
Q The day after the papers were served at your house?
A Not the - well, the papers were served the 12th. She revealed the 14th.
Q You're right, right.
A Two, two days.
Q That's right, on January 2nd, the day after there was supposed to be a hearing on those papers that were served on you?
A Yes, sir.
Q On November the 4th of 2008 Jennifer picked Victim up from school and that's when Victim said something about her mama, Nicole, to Jennifer; do you remember that?
A Vaguely, I mean.
Q Okay, well, Jennifer then revealed that revelation of Victim's to you on November the 4th.
A I don't remember the exact date but I was told of it, yes, sir.
Q Okay, well, on November the - well, we know, you've already testified, we know that on October the 31st of 2008 that was the last weekend, starting that Friday, that was the last weekend that the children visited with Nicole and Tim?
A Yes, sir.
Q Because we remember it was Halloween?
A Yes, sir.

Q The children spent Halloween down there?
A Whatever day Halloween was it was that weekend, yes, sir.
Q Okay, so, that would've been Friday the 31st, Saturday one, two, three, four, that would've been - well, I'm saying November the 4th of '08 is when these disclosures against Nicole, these revelations against Nicole were made, just, just right after that weekend because remember you said they came home acting even funnier that weekend; remember?
A Yes, sir.
Q And on November the 6th quite naturally you sent her to Denise Scearce?
A Not November the 6th, no, sir.
Q Okay, what date?
A It was ---
Q Well, Chad, it's okay. If I were sitting where you were I couldn't remember the dates of my stuff either. So, it's okay.
A It was January - no, it was August 18th, 2008, is the first time they saw her.
Q Okay, all right, well, so, these revelations were made to Jennifer; yes?
A Yes, sir.
Q Like Tuesday after Halloween, on the 4th, November the 4th, and you sent her - but didn't you send her to Denise

Scearce right after that? That would've been a normal thing to do?

A No, ma'am. No, sir. We contacted Department of Social Services to have her interviewed and let them - they took it from there. Whatever they told me to do I abided by.

Q Okay, and as a result of that, at some point in time they went to Ms. Scearce because Ms. Scearce is the one who reported it to them?

A As I stated previously August the 18th, 2008, was the first counseling session they had with Ms. Denise.

Q Both Victim and Minor 1 were her clients?

A Yes, sir.

Q They were both having problems?

A Yes, sir.

Q Because of a high conflict situation?

A That's not what it was, no, sir.

Q Well, would you disagree with Ms. Scearce if she said it was a high conflict situation?

A Disagree with her?

Q Yeah, I mean, if she, if she described it as a high conflict situation would you disagree with the psychotherapist?

A No, sir, that, that was her opinion when they first started counseling because of Victim s thought of me getting hurt, the robber, the nightmares, but then as things

progressed she went a completely different route. If you'll read her whole report you'll see that.

Q Well, thank you, but I don't have her whole report.

A Okay.

Q Did Denise Scearce ever want to sit down and talk with Nicole?

A She mentioned it at the beginning of therapy.

Q Do you know if she was ever contacted by, did you know if Ms. Scearce ever contacted Nicole to sit down and talk with her?

A I do not know, no, sir.

Q Didn't Ms. Scearce ever ask you if it was okay with you to contact Nicole?

A I don't recall that, no, sir.

Q If she had made a request like that would you have referred - would you have sought the advice of Mr. Phipps, your lawyer?

A I guess. I don't really know. I don't recall that ---

Q In other words it would've been important for Ms. Scearce to talk to Nicole to help with the girls; right?

A I'm not a therapist. I don't know.

Q You mean you don't think it would be appropriate for the daddy and the mama to cooperate with each other, sit down and talk to Ms. Scearce, the therapist?

A Of course it's important.

Q I know. Well, did you ever - did Ms. Scearce ever try to get Nicole to sit down and talk with you all?
A Like I stated earlier I don't know. I don't know if she contacted her or not.
Q Did she ever ask you about it?
A I don't recall her, I don't, I don't.
Q Did you ever discourage her from talking - did you ever discourage Ms. Scearce from talking to Nicole?
A Not that I recall, no, sir.
Q Now, some of this stress that on August 18th they started seeing, seeing Ms. Scearce?
A Yes, sir.
Q That was at the end of the summer?
A Yes, sir.
Q Visitation was every other weekend?
A Yes, sir.
Q Any - did they get any special visitation to come down to Myrtle Beach during the summer?
A I think they got one week a month at one time.
Q Do you know if they - did you know if they got those weeks during the summer?
A I think they exercised them, yes, sir.
Q And they seemed to enjoy themselves, didn't they, when they came down here?
A Sometimes they did, sometimes they didn't.

Q Well, I mean, after all you said you never had any trouble with Tim?
A Never, no, sir.
Q And they would get to come down here to Myrtle Beach because it's only like what 45 miles away?
A Yes, sir.
Q And there was sometimes I think that the children would come back home and mention to you about the mama wanting them to come live with them, about Nicole wanting to come live with them?
A I don't recall that, no, sir.
Q Well, any correspondence that you had with your lawyer, Mr. - any correspondence between Mr. Phipps and Ms. Scearce, Mr. Phipps is your lawyer, she wrote him letters he would've made you aware of what Ms. Scearce's letter said; wouldn't he ---
A If he thought it ---
Q --- in representing you?
A If he thought I needed to know he wouldn't - he was the lawyer. I paid him. He done his job. That's ---
A Okay, do you know whether or not Nicole ever told the children that she wanted them to live with her and visit you only on the weekends?
A That, she may have. I don't really recall that, sir.
Q But a lot of it was, a lot of this stress was because

the children felt like some harm was going to come to you because of some things Nicole supposedly said?

A Yes, sir, that did come out.

Q Okay, and then and I know I'm jumping around. I'm trying to stay on this timeline as much as I can and to everybody I apologize, but in - so, so, there was an investigation into allegations made against Nicole in North Carolina by North Carolina DSS; right?

A Yes, sir.

Q Okay, and those investigations would have started in November right after, after the Halloween?

A Yes, sir.

Q And you got your timeline there with you now?

A Yes, sir.

Q Okay, all right, and then, so, then, so, then those investigations, that investigation by the North Carolina DSS it ended on December the 11th?

A Yes, sir.

Q Now, on January the 8th, '09 you got a letter from North Carolina DSS about their investigation?

A I don't recall the date but I did receive a letter, yes, sir.

Q Okay, and it was indicative of what their investigation had revealed?

A Yes, sir.

Q And as a result of that you didn't let the children, on advice of counsel you didn't let the children see their mama?
A That was on the advice of the social service, social worker and my attorney.
Q Okay, social worker, Scearce and DSS?
A Social worker at DSS and my attorney, Mr. Phipps.
Q Right, okay. Now, on December the 8th, on December the 12th is when Nicole went to North Carolina and filed that contempt action for not being able to see the children?
A Yes, sir.
Q Well, she wasn't aware of the fact that the investigation against her had been concluded.
MS. LIVELY: Objection, Your Honor, as to speculation as to what Nicole would be aware of.
THE COURT: Sustained.
MR. CANNARELLA: I'll withdraw it, Judge.
BY MR. CANNARELLA:
Q Okay, so, but my Exhibits One and Two, it's - whose, whose signature is that right there, Nicole Turbeville Young.
A Yes, sir.
Q And I know you recognize her signature?
A That's, her name's on it. So, I guess it's hers.
Q Okay, well, she - this was filed on December the 12th?
A Yes, sir.
Q Okay, now, and on - and your child, Minor 1, was born on?

A [redacted].

Q [redacted], and that is - and something happened at school that day?

A I don't know if it was that day or not.

Q Would, well, would it sound logical that it might be that day since it's - if Nicole showed up there?

A The incident you're talking about was within a day or so of that day, yes, sir.

Q Okay, so, Nicole went to the school?

A Yes, sir.

Q To leave a card or something for Minor 1, tried to make contact with Minor 1?

A Yes, sir.

Q Okay, and as a result of that, as a result of some events that followed that Jennifer was told not to come back on the school grounds?

A Yes, sir.

Q For a while; right?

A Yes, sir.

Q Of course, she was understandably upset I would say?

A Yes, sir.

Q That - because of everything that had been going on because right then you got this DSS investigation that was just concluded; right?

A Yes, sir, but that - well, she would had have been told

by the school board attorney she could not come on school grounds and the principal allowed her on the school grounds anyway. So, that, I mean, yes, she was upset about it.

Q She had - what do you mean she had not been told by the school board attorney?

A I didn't say she had not. I said she had been told by the school board attorney and the ---

Q Who had?

A Nicole and the principal had been notified as far as I know.

Q Well, who's the school board attorney?

A Mr. Phipps.

Q Who's your lawyer in Family Court?

A Mr. Phipps.

Q Okay.

A Actually the school board made a decision. Mr. Phipps did not.

Q Okay, but Mrs. Scearce later wrote a letter on January 26 that says please let Jennifer come back on the school grounds?

A I think she did, yes, sir, and as ---

Q Did anybody prompt her to do that?

A Not that I'm aware of, no, sir.

Q She just did it on her own?

A She asked how things were going. We told her what

happened and she did what she did.
Q She asked who?
A She asked us how things were going. We had our discussion with her and told her things that were going on and what had happened and she, she elected to write the letter. She wrote it.
Q She wasn't requested to?
A Not that I remember, no, sir, and as - and in answer to your question about the school board thing and the school we did hire an attorney from Wilmington, North Carolina, and he got it straight and she was allowed back on the school grounds shortly thereafter with no harm, no record or anything. It was ---
Q What does - okay, what does that mean she hired an attorney?
A I didn't say she. I said we.
Q We?
A Yes, sir.
Q Okay, well, well why did you do that?
A To get it straight.
Q I don't want to be petty but who recommended that lawyer in Wilmington?
A A friend I go to church with.
Q Okay, you say you have never talked to Victim about this?
A I've never sat down and asked her what happened. I've

never - I don't - no, sir.
Q Okay, you don't know who she's talked to about this.
A Yeah, I think I do.
Q How do you know that?
A Because I've taken her to most of the appointments, me or Jennifer either one.
Q And you know she talked with Mrs. Scearce about it?
A Yes, sir.
Q You know she talked to the DSS people about it?
A Yes, sir.
Q You knew she talked to a forensic interviewer on videotape in North Carolina about Nicole?
A Yes, sir.
Q You know she talked - she saw a medical, a forensic medical examiner in North Carolina?
A Yes, sir.
Q Okay, and you know she's been down here to South Carolina and she's had - talked to a medical examiner down here about it?
A Yes, sir.
Q And she had to talk to a forensic interviewer about it?
A Yes, sir.
Q You carried her to the forensic interview?
A Yes, sir.
Q And did you talk to the forensic interviewer?

A We spoke briefly if I remember correctly.
Q Who provided the forensic interviewer in South Carolina with the information?
A I did. She had not - well, information, she asked me what, she asked me certain few questions and I told her what I was aware of.
Q But you don't know - you wouldn't know who else Victim might have discussed this with?
A I mean, I have a pretty good idea. She lives with me, so.
Q Okay, so, is there anymore than I mentioned?
A Jennifer, Jennifer, Denise, social workers, the Carousel Center, Children's Recovery Center, that's as far as I know that's all.
Q Well, do you think that - you mentioned something about Victim having stomachaches?
A Yes, sir.
Q You had to go pick her up from school?
A Yes, sir.
Q Was her stomach really hurting?
A Not - sometimes it was, sometimes it wasn't.
Q What do you mean by sometimes it was and sometimes it wasn't?
A One day I would pick her up and it would really be hurting and other days it probably wasn't.

Q What do you mean by probably wasn't?
A Probably wasn't hurting. She was just wanting to come home. She was scared.
Q She was scared?
A That's, that's the word I would use, yes, sir.
Q Okay, well, so, so, Victim discloses bad things about her mama; right?
A Yes, sir.
Q And she believes those things?
A Yes, sir.
Q And at the end of the summer you send them to Mrs. Scearce?
A On advisement of the social services, yes, sir.
Q Well, you talked to social services. They were involved in the case in August or had they been involved in the case before then?
A It was in December the 11th remember the findings were made against the mother. So, and their - the way they work I guess they were still calling and checking and then they told me they advised me to get her to counseling. So, that's what I done and they recommended Ms. Scearce.
Q Well, Ms. Scearce started on, I'm confused, on August the 18th?
A Yes, sir, but you asked me about them seeing her on the findings of the mother.

Q You - well, you - when did you seek it - well, you say you - I'm, I'm confused now. You sent, you sent her to, you sent them to DSS.

A You don't ---

Q You sent - well, tell me, tell me that again. I'm confused.

A When the revelations were made against her mother, yes, I contacted DSS. They do their whole ---

Q Right.

A --- thing that they do.

Q But DSS - okay, thank you. DSS hadn't been involved in it before then?

A Not that I'm aware of, no, sir, not that I can remember, not, not involved like they were with the case but I had Ms. Daniels, I just asked them about a therapist and they recommended Ms. Denise, so.

Q Well, okay, I got you. Now, in like in '03 Nicole started getting weekend visitation privileges before she had even met Tim; isn't that right?

A Yes, sir, every other weekend.

Q They were interrupted for a period of time though?

A It probably was. I can't remember that, I mean.

Q The Walmart pictures?

A Yes, sir, they were interrupted for a time.

Q And then - and that's the first time Yolanda got

involved in it?
A I don't, I don't think Yolanda was then. It was Ms. Freeman was the caseworker in that - at that case, I believe. Ms. Daniels was the one that done this one.
Q Okay, there was some issue about some pictures?
A Yes, sir.
Q From Walmart?
A Yes, sir.
Q That had been taken by Nicole?
A Yes, sir.
Q And DSS conducted an investigation?
A Yes, sir.
Q That involved Victim
A Yes, sir.
Q Visitation privileges were naturally interrupted during a period of time?
A Yes, sir.
Q Okay, so, then, so, then from '06 to '08 there's not much problems going on seem to be?
A Not that I can remember, no, sir.
Q And the children are visiting Nicole and Tim down here?
A Yes, sir.
Q And they're enjoying their weekends with Tim and Nicole most of the time.
A Yes, sir, as far as I know, yes, sir.

Q Okay, and sometimes the children would come back home and they would say, they would say, "Well, mama is trying to get us stay with her."

A Like I said, I don't recall that, but they, they may have.

Q Well, that, well, that was some of the things that she was - that they were talking to Ms. Scearce about?

A Okay, well, if that's - they said it then yes. All I said was I don't recall them coming directly to me and saying that, that that was quite a bit ago. They've - they probably did say that.

Q Well, Victim would lie to her teacher about stomachaches?

A Of course she would.

Q Because she wanted to be home with her daddy?

A Yes, sir.

Q And especially around the event on [redacted] or whenever it was when there was a big to-do about when mama showed up at the school to give her something, give Minor 1 something for her birthday, December the 18th, around there, and that's when they wouldn't let Jennifer come back?

A Uh-huh.

Q There was a big to-do about that?

A It was, it was an incident but I wouldn't say a big to-do?

Q Well, were the children made to believe that if the mama showed up at school she might kidnap them and take them away from you and Jennifer?
A Never, no, sir.
Q So, they wouldn't have any reason to say anything like that to Mrs. Scearce; would they?
A I couldn't tell you. I don't know.
MR. CANNARELLA: I beg the Court's indulgence just 30 seconds.
THE COURT: All right, sir.
MR. CANNARELLA: Thank you, Tim. You've been very helpful.
I don't have any other questions, Your Honor.
A My name is Chad, sir.
MR. CANNARELLA: Chad, I'm sorry.
THE COURT: Redirect.
MS. LIVELY: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MS. LIVELY:
Q Chad, Mr. Cannarella asked you about Victim and the stomachaches and lying about the stomachaches. Since all this has been disclosed in 2008 and then January the 14th of 2009, have you had these same problems with Victim and the stomachaches?
A No, ma'am.

Q How has she been doing?
A She's getting better every day. She's doing wonderful.
Q Okay, and she hasn't had any contact with Tim or Nicole?
A No, ma'am.
Q All right, and let me ask you this, how is she doing in school?
A A-B honor roll every six weeks, no behavioral problems. The teachers just - they can't say enough good things about her.
Q Okay, so, no more stomachaches and having to go pick her up from school?
A No, ma'am.
Q Okay, so, the question that Mr. Cannarella snuck in there about her lying about her stomachaches you don't know whether she was lying or not; do you?
A I don't, I don't - couldn't tell you yes or no, no, ma'am.
Q Okay, so, as a father if the school calls and says your child has got a stomachache what do you do?
A I'm going to see her.
Q Okay, and that's what you did?
A Yes, ma'am.
Q All right, now, he asked you about things that the children were saying that Nicole said about you. Now, I didn't ask you about any of this on direct but since Mr.

Cannarella asked you about it what were the children telling you Nicole was saying about you?

A That I lied all the time, nothing I said was the truth, I was trying to keep them from her, I was going to take them and never let her see them again, I was just bad and all stuff like that.

Q Okay, and on [redacted] of '08 whenever Nicole showed up at the school when you found out about that because of everything that had been disclosed and everything your children had been through how did you feel about it?

A Felt betrayed and I was very angry.

Q Okay, so, as a father what did you naturally do?

A I picked up the phone and I called the principal.

Q Okay, and was it handled?

A Yes, ma'am.

Q Okay, now, were you involved in the actual counseling sessions with Denise Scearce and the children?

A No, ma'am, she would - we would get to Ms. Denise's office and she would bring, she would ask me and Jennifer if we needed to talk to her about anything, that sometimes we would tell her some behaviors she was exhibiting. That would be the end of our talk and she had Victim in the room with her, just her and Victim most of the time, then once or twice she did a all family session so the other children wouldn't feel left out. She would come out and have us play a game and such

as that.
Q Okay, so, if - one of the things he asked you about whether or not the kids were concerned about being kidnapped from school or from anywhere else like Mr. Cannarella asked. If they had relayed that to Ms. Scearce you wouldn't know?
A No, ma'am.
Q You weren't in those counseling sessions?
A No, ma'am.
Q Okay, and do you - but did you ever disclose to Mrs. Scearce the concerns in Victim nightmares about the robber?
A Yes, ma'am.
Q Okay, so, she was aware of that.
A Yes, ma'am.
Q All right, but any of this information that came out and we've talked - everything seems to be about Nicole. So, let me bring it back down to the Defendant Timothy Young. Had you ever up until the disclosure, January the 14th, 2009, by Victim discussed with her any sexual contact or inappropriate behavior?
A No, ma'am.
Q And to this day have you done so?
A No, ma'am.
Q Okay, thank you. That's all the questions I have.
THE COURT: All right, sir, you may step down.
All right, ladies and gentlemen, we're going to take a

short break. We've been at it a while and it's time to give you an opportunity to stretch your legs, use the restroom. You may check your phone messages, return calls, but please do not discuss anything about this case even among yourselves at this point in time. It's too early for deliberations. Now, I did notice during that testimony there were some people taking some notes, and I will allow you to take notes if you want to. I need to instruct you, however, the Court will provide you with a pad and with a pencil for you to take notes. You must leave your notes here in the jury box and not take them back into the jury room with you at this point in time. You're not required to take notes. You are permitted to take notes if you want to, but the purpose of taking notes is not to take down everything that is said but it's simply to refresh your memory as to what you think is important during a person's testimony. Now, I'll instruct you later on note-taking but suffice it to say that some people take notes better than others. Some people listen and can recall without taking notes better than others. So, just because somebody took down a note does not mean that their recollection of the testimony or evidence is any better than anybody else who did not take down a note. It is personal to you to refresh your memory as to what you think is important during the trial of this case. Okay. So, we will get you some pads. We'll get you some

pencils. Please use those pads and pencils for your note-taking. You'll be - you will write your name on the front of it and you'll leave them here in the courtroom, but I'm going to excuse you back to the jury room for a break. Please do not discuss the case even among yourselves at this point in time. Thank you very much.

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

THE COURT: All right, anything from the State before we take a break?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Judge.

THE COURT: All right, who's your next witness?

MS. LIVELY: It's going to be the step-mom, Jennifer Turbeville.

THE COURT: Okay.

MS. LIVELY: And then after that will be the closed circuit of the victim.

THE COURT: All right, and I just, before we take a break, I've just kind of jotted down these instructions when it comes time to take Victim testimony.

MS. LIVELY: Yes, sir.

THE COURT: I'm just going to instruct the jury - I'm going to say, "Testimony will now be presented to you via

closed-circuit television. You are to consider this testimony as if the witness were present in this courtroom testifying before you in person. You are not to make any distinction between this testimony and other testimony in this case simply because it is presented to you via closed-circuit television. In other words, you are to listen to this testimony, determine its believability and give it the weight you think it deserves."

MS. LIVELY: Perfect.

THE COURT: Does that sound all right?

MR. CANNARELLA: Yes, Judge.

THE COURT: All right.

MS. LIVELY: Thank you.

THE COURT: That's the instructions I'll give them. All right, let's stand in recess about 15 minutes, okay.

MS. LIVELY: Yes, sir.

THE COURT: All right, thank you.

OFF THE RECORD

(On the record.)

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

THE COURT: Anything from the State before we bring in the jury?

MS. LIVELY: Yes, sir, Your Honor, just on

scheduling matters, what I was just talking to Mr. Cannarella about and also Mr. Monckton who has graciously agreed to sit with the Defendant at the time of the closed-circuit television testimony is just to get an idea of what the Court intends to do in regards to lunch because what's going to happen is I'm calling Jennifer Turbeville who is the step-mom. She's not going to have - I'm not going to have her go into all of the background. I'm just going to have her and her involvement more close to the time of disclosure. She shouldn't be too long of a witness and then Victim is next, which is the closed-circuit television. So, I'm just trying to help Mr. Monckton who says he's got to be in federal court later this afternoon get an idea of what the Court would normally do.

THE COURT: Well, I mean, it's 11:30 now. I usually starting at 12 starting to look to break - in other words I can break anywhere from 12 until one. Once you get past 1:00 then I'm just looking for a break as soon as we can take a break and do it. I don't - in other words I hate to hold a jury until two o'clock for a lunch break.

MS. LIVELY: I understand and that's the reason why I wanted ---

THE COURT: Yeah.

MS. LIVELY: --- to bring it to your attention where we

were in regards to ---

THE COURT: What time does he have to be in federal court?

MR. CANNARELLA: 2:30.

MR. MONCKTON: 2:30, Your Honor.

THE COURT: Oh, gosh, all right.

MR. MONCKTON: I can push it back. I've already got my office contacting Judge Rogers but much past - if I'm here much past two o'clock I'd be in trouble.

THE COURT: And you need to leave here at what time? I mean, where are you in federal court?

MR. MONCKTON: Florence

THE COURT: Okay.

MS. LIVELY: Well, what we can do is we can go ahead and do Jennifer's and immediately break for a fast lunch and then - and while everybody else is lunching we can make sure that the closed-circuit television is up, ready to go, have the screen down and then immediately do her testimony and then Mr. Monckton can leave.

THE COURT: Well, let's do it this way. Let's go ahead - I tell you what, rather than everybody cutting loose, let's go ahead and order the jury lunch so that we'll have lunch when we take a lunch break ---

MS. LIVELY: Okay.

THE COURT: --- and they can just eat here;

okay?

THE COURT: All right.

MS. LIVELY: That'll be - that's a great idea.

THE COURT: All right.

MS. LIVELY: That way we can keep everybody from having to flow back in.

THE COURT: Okay, all right. All right, sounds good. All right, anything else what - so, we'll - what we'll do is we'll just take a very short lunch break when, you know, when I decide to take a lunch break but we'll have lunch here. Just let me know when lunch gets here for the jury, and - yeah, let's go ahead and order it now.

All right, anything from the State before we ---

MS. LIVELY: No, Your Honor, we're ready to proceed.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's go ahead and bring the jury in.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Ladies and gentlemen, welcome back. I see that you have been given pads and writing utensils, pens, pencils, whatever the case may be. Please put your name on your pad. As I said, you're not required to take notes.

It's up to you and it's a personal decision that you can make. If you do take notes please do not share your notes with anyone. As I said they are for you and you alone to refresh your memory as to what you feel is important. Also, please do not try to take down everything that is said. That would distract you from listening to the testimony.

All right, Ms. Lively, you can call your next witness.

MS. LIVELY: Yes, Your Honor, thank you. I'd call Jennifer Turbeville to the stand.

THE COURT: All right.

Whereupon, Jennifer Turbeville was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Thank you. Please state your full name and spell your last name.

MS. TURBEVILLE: Jennifer Cartrette Turbeville, T-U-R-B-E-V-I-L-L-E.

THE COURT: All right, Ms. Lively.

MS. LIVELY: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. LIVELY:

Q Jennifer, how old are you?

A I am 32.

Q And are you married?

A Yes, ma'am.
Q And who's your husband?
A Chad Turbeville.
Q Okay, and how long have you and Chad been married?
A We have been married going on six years. This June will be six years.
Q And do you have any children from a prior marriage?
A I do.
Q And what are their names?
A Minor 2 and Minor 3 [redacted].
Q And what are their ages?
A Their ages, Minor 2, my girl is, she's 12 and Minor 3, he is ten or 11. I'm sorry, he just turned 11.
Q Okay, and do you have any children between you and Chad?
A We do.
Q And what's the name of that child?
A Minor 4.
Q And how old is she?
A She is four.
Q And whenever you met Mr. Turbeville did he have his own children?
A Yes, ma'am.
Q And what were the names of his children?
A Minor 1 [redacted] and Victim [redacted].
Q And whenever you started having a relationship with Chad

what was his arrangement in regards to his daughters?
A His arrangement was Tuesday afternoons, every other weekend with their, with their mom.
Q Okay, and the majority of the time the primary custody was with whom?
A With Chad.
Q Did you have the opportunity to have a relationship or get to know his ex-wife Nicole?
A Not really, just by going to pick up the kids on that Sunday afternoon I would ride with Chad and on Tuesdays when he was working and I stayed home I would take them to meet her but as far as conversations and relationship, no, ma'am.
Q Okay, did you ever have any problems with her?
A No, ma'am.
Q Did you ever have any altercations with her?
A Not that I can think of right now, no, ma'am.
Q Okay, were you ever present whenever Chad and Nicole had any altercations if any?
A Yes, ma'am.
Q Okay, well, tell the jury about that.
A It would be maybe in the afternoons when we went to pick up the kids on that Sunday afternoons I would stay in the car and he would be out talking to her and you could tell it was a heated conversation but I was not actually there. I would stay in the car.

Q Okay, and was this before the two of you got married that these heated conversations took place?
A No, ma'am, after.
Q After, and when and you said that you've been married it'll be six years in July; correct?
A Yes, ma'am.
Q All right, okay, so, how were things between Nicole and Chad in about 2007 and early 2008?
A They were about the, about the same as I told you. I mean, everything ran smoothly but there would be some disagreements.
Q Okay, and when the disagreements would occur where would the children be?
A With Chad, some, some with Chad. It would be mostly with the pickups, picking them up.
Q Okay.
A On that Sunday afternoon.
Q Okay, all right, and do you know what those disagreements or problems would be?
A Some would be visitations like for when she was supposed to get them, visitations during the summer. One that I can remember vaguely would be during the summer months that she was supposed to pick up she would actually have her dates wrong and she was trying to tell Chad that they weren't, but ---

Q Okay, all right, so.
A --- stuff like that.
Q So visitation type stuff.
A Yes, ma'am.
Q Things like that. Was there ever whenever you were present any conversations or concerns about abuse?
A No, ma'am.
Q Okay, all right, up until all of this was disclosed by Victim had you ever heard any allegations while you were with Chad of any type of abuse?
A No, ma'am.
Q Okay, all right, now, let me back up for just a minute, where are you and Chad and the kids living?
A In Tabor City.
Q In Tabor City, okay, and how long have you lived in Tabor City?
A I've lived there my whole life.
Q All right, who were you married to prior to Chad?
A Daniel Spencer.
Q Daniel Spencer and where does he live?
A He lives in Horry County, Loris.
Q And what does he do?
A He is actually a - he works with Horry County Police Department. He's a detective.
Q Okay, and what is your relationship with your ex?

A Actually, very well, we've always got along well. We, we - very well.
Q All right.
A Good relationship.
Q Okay, and do you work?
A Yes, ma'am.
Q What do you do?
A I work with children.
Q All right, and in what capacity?
A I work with a child-care center. I am assistant director and a lead teacher.
Q Okay, so, you're around children every day?
A Yes, ma'am.
Q And then you go home and you're around children all night?
A Yes, ma'am.
Q Okay, and you've got five children at home.
A Yes, ma'am.
Q All right, now, you've already stated that you haven't really had any altercations or problems with Nicole; correct?
A Yes, ma'am.
Q All right, tell me then why in August of '08 of 2008, Victim and Minor 1 began seeing a counselor.
A It was their behaviors after visiting with Nicole that we were concerned about, the lashing out, the screaming, the

unusual behaviors that just didn't seem like them.
Q Was one child more affected than the other?
A Yes, ma'am.
Q And who was more affected?
A Actually Minor 1 was.
Q Okay, and what kind of behavior was Minor 1 exhibiting?
A Angry behavior. She was, she was, she was always tired. She was yelling and bad mouthing, smart to the other kids and it was just unusual behavior for her.
Q Okay, and she's the older daughter; correct?
A Yes, ma'am.
Q Okay, well, what about Victim what kind of - well, tell me what kind of child Victim is anyway. I want to hear from you being a childcare person. What kind of child is she?
A Victim, she - the first thing that comes to my mind is she is just extremely smart. She's laid-back. She's, she's quiet. So, I mean, she just goes with the flow.
Q Okay.
MR. CANNARELLA: Excuse me, what, I didn't understand that. She's what?
A She goes with the flow. She's easy-going.
Q Okay, what type of behaviors did you actually personally observe in regards to Victim
A Victim headaches, ill-natured, very short temper, stomachaches, that's about it.

Q Okay, all right, did you become aware of any problems at school in regards to these behaviors?
A Yes, ma'am.
Q Okay, and what did you and Chad do as a result of what you learned from school?
A Well, we just kept taking her to Ms. Denise.
Q Okay, Denise Scearce?
A Denise Scearce, yes, ma'am.
Q And Denise Scearce would be the therapist.
A The therapist.
Q Okay, and that began in August of 2008?
A Yes, ma'am.
Q All right, so, you continued to take her there. Now, was there ever a time whenever you would be called from the school to get Victim
A Yes, ma'am.
Q All right, well, tell us about what those type of situations would be.
A One in particular I would - I was actually at work and they called me there at work and I could hear Victim screaming in the background, and when I got there the stomachache, she was scared, don't really know what she was scared about, never said, but you know, that she was scared, that sort of behavior, and when I got there she had calmed down, but we went ahead and went home.

Q Okay, so, you would take her home.
A Yes, ma'am.
Q Were you ever aware of whether or not she was truly having a stomachache or, I mean, did you ever take her to the doctor or anything like that?
A No, ma'am. We took her to the emergency room one time because it kept happening over and over again and there was really no diagnosis.
Q Okay, all right, whenever you - you said you had heard her screaming. Was that when she was still at the school you could hear it?
A Yes, ma'am.
Q And did you relay this to Chad?
A Yes, ma'am, I did.
Q What were your concerns?
A Honestly, I really had no clue what was going on. I was hoping the therapist would help us out. So, we kept taking her there to get her straightened out.
Q And are you qualified as a therapist to talk to Victim about her behaviors?
A No, ma'am.
Q Okay, did you attempt to talk to her about her behaviors?
A No, ma'am. Well, I tried to ask her, you know, what was going on and all she could tell me is that she was scared or

her stomach hurt or she had a headache, that sort of thing.
Q All right, now, when was the last time you recall Victim and Minor 1 having visitation at the home of the Defendant and Nicole?
A The last time that I recall them going over there would be two weekends before the Halloween weekend in October.
Q Okay.
A The last visitation she was with her.
Q Okay, that's when you recall.
A That's when I recall, yes, ma'am.
Q All right, after that last visitation, let's just say in October, the last visitation, what if anything did you observe in regards to Victim s behavior whenever you and Chad picked her up?
A She was tired, exhausted. Later on, the day after, her stomach hurt. She didn't want Chad to go anywhere. She wanted to be right there with him. It was more wanting to be with Chad than with me, that sort of thing.
Q Now, around the beginning of November and I think it was actually brought up probably November 4th of 2008 did you have a conversation with Victim
A I did.
Q You can't tell me exactly what she said, but as a result of that conversation what did you do?
A I first - well, first of all I hugged her and was

crying; second, I told Chad.

Q After you told Chad what took place next?

A We got in touch with DSS and then we went to the therapist.

Q After DSS got involved was Victim interviewed by anybody?

A Yes, ma'am.

Q Okay, did you ever interview her?

A No, ma'am.

Q Did you ever talk to Victim about it other than what she disclosed to you?

A No, ma'am.

Q And why not?

A I didn't need to. I didn't want to really. She had - the DSS interviewed her and we didn't talk about it. Whenever she wanted to come to me to talk then that's what she would do but as far as speaking about it we never did.

Q Okay, in that conversation - well, whenever you went to DSS and she was interviewed what actually occurred after those interviews took place in regards to visitation?

A They didn't have any more visitations.

Q Okay, and who's they?

A Minor 1 and Victim.

Q So, Minor 1 and Victim did not go back to the Myrtle Beach house.

A No, ma'am.

Q Okay, and that's where the Defendant and Nicole were living; correct?
A Yes, ma'am.
Q Were you aware at that time whether or not Nicole and the Defendant were still even together?
A I was not very much aware, no, ma'am.
Q You were not aware.
A We, Victim might've told us but I honestly really didn't know if they were or not.
Q Okay, so, you had no personal knowledge is what you're saying?
A Right, yes, ma'am.
Q And let me just clarify for - to make sure we all understand, whenever the exchanges would take place would you come with Chad to Myrtle Beach?
A Yes, ma'am.
Q Okay, and what day would that be that you all would come here?
A On Sunday.
Q Okay, and so, you would come with Chad to the beach on Sunday to actually retrieve the girls from their visitation.
A Yes, ma'am.
Q Okay, would you get out of the car or stay in the car?
A Stay in the car.
Q Okay, whenever you got there were there times - well,

who was there? Was it always Nicole, always Nicole and Tim, tell me about that.

Q It was Nicole and Tim, sometimes just Nicole but sometimes Nicole and Tim, too.

Q Okay, were there any times whenever you would get there and it was only Tim there?

A One time, yes, ma'am.

Q Okay, all right, and at any point in time just you personally did you have any run-ins or problems with this Defendant?

A No, ma'am.

Q Had you even ever talked to him?

A I have talked to him.

Q Okay, and did you have any concerns in regard to this Defendant and the children?

A No, ma'am.

Q Now, after Victim started counseling you stated that she made a disclosure in November of '08; correct?

A Yes, ma'am.

Q Okay, after that happened you said then also that the kids did not go back for visitations; right?

A Yes, ma'am.

Q Okay, now, after all that took place tell me about what happened December of '08 at an incident at the school involving Minor 1 and Victim

A The mother went and left the cards there for Minor 1 and Victim and she did not see them but she left it for the principal and the principal delivered the letters.

Q Had you or Chad provided notice to the school about the information and the investigation with DSS?

A Yes, ma'am, we did.

Q So, what was your concerns whenever you learned that these cards were delivered?

A My concern was the behaviors may get worse, that I didn't really know what to expect when they got home or maybe two weeks or a month down the road I didn't know what to expect. I was worried that it would make the behaviors worse that we were trying to work on.

Q Okay, how were things in the home when all this was going on between you and Chad and the kids?

A We were - it was hectic with the screaming and the crying. It was for a while it would be just the every other weekend when she was supposed to go she would get this feeling and the headaches and the stomachache and the screaming, the sacredness, she didn't want to sleep. She would get up and walk around at night and I would sleep on the couch. She would go into our bedroom just kind of standing over us just looking at us and she said she was scared to sleep in her bedroom. She was scared, you know, that something might happen to her, remember about a robber or something like that

coming to get her, but that sort of thing. It was a little hectic with that going on.

Q Did you and Chad report these things back to Ms. Scearce?

A Yes, ma'am.

Q Did you - were you involved in the counseling sessions when Victim would actually talk to Ms. Scearce?

A No, ma'am.

Q Okay, so, anything that was discussed with her and Victim was in her confidence?

A Yes, ma'am.

Q All right, okay, but you did relay some of your concerns to Ms. Scearce?

A Yes, ma'am.

Q Okay, did you ever ask Ms. Scearce to write a letter regarding that incident that happened at the school?

A I did.

Q You did, okay, good, and when you did that why did you want to get her involved in that?

A Because I was upset that maybe it might happen again and I didn't want it to.

Q Okay, and has there been times when you would do things like this even though Victim and Minor 1 are not your biological girls, that you would take these necessary steps for them?

A No, ma'am, actually I would let Chad handle it but considering the circumstances I felt like I needed to.

Q At that point were you frustrated with the situation?
A I was.
Q Okay, okay, had you had any contact with Nicole Young?
A No, ma'am.
Q All right, how about the Defendant, had you had any contact with him?
A No, ma'am.
Q Now, let me ask you about this, did you have an opportunity to receive some papers at the home that you signed for from the Columbus County Clerk of Court?
A No, ma'am, not that I remember.
Q You don't recall that?
A No, ma'am.

MS. LIVELY: If I may approach the witness, Your Honor.

THE COURT: Yes, ma'am.

MS. LIVELY: Thank you.

BY MS. LIVELY:
Q I'm going to show you what has already been put into evidence as Defense Exhibit Number Two and ask you to look at that and if you've ever seen that before.
A No, ma'am, I haven't.
Q Okay, well, let me ask you if you'll flip it over please.
A All right.
Q Okay, and if you'll look at that whose signature is on

that document?
A It is my signature.
Q Okay, well, then explain to me and the jury how you've never seen that before if you signed for it.
A I don't remember it. I'm sorry. I honestly really don't.
Q Do you know what that is?
A To my knowledge now this may be the paper where we went to court in Whiteville and it may be where she had not seen the kids.
Q Okay.
A And she was wanting to see the kids. Ms. Denise Scearce went with us.
Q Okay.
A And she told her lawyer that she does not think it's - that the kids need to see her today.
Q Okay.
A But this was when, if I'm, if I'm mistaken, I'm not sure about the terminology that the lawyers use.
Q Okay.
A But she was needing to fulfill certain things before she would be able to and give to the DSS ---
Q Okay.
A --- before she would be able to have visitations. I believe that's what this is on 1-2 of '09.

Q Okay, but you're not sure.
A I'm not sure. I'm thinking that's what this is. I'm pretty sure that's what this is.
Q Okay.
A That would be the only thing that we have went to court for ---
Q Is for the DSS?
A --- between that time.
Q Is for the DSS action against Nicole?
A Yes, ma'am.
Q Okay, so, had you any knowledge as to whether or not Chad had filed anything at that time?
A Not to my knowledge, no, ma'am.
Q Okay, were you aware of him filing the action with Mr. Phipps as his lawyer in February of '09. If not, that's okay.
A I don't remember. I'm sorry.
Q No, no, that's fine, that's fine.
Now, let me ask you this, and you were - and let me give that back to you if I may approach again. I'm sorry. You said things were kind of hectic around that time?
A Yes, ma'am.
Q Okay, January 13th, '09, can you tell me what the significance of that date is on that piece of paper? It should be on the front at the bottom.
A It does not ring a bell.

Q Okay.
A I'm sorry.
Q It's okay and that's fine.
A It was pretty hectic at that time. There was a lot of things going on.
Q Can you tell me what that says?
A January 13th of '09.
Q What does that say right there?
A Date of hearing.
Q Date of hearing, okay. Do you recall going to a hearing on that date?
A Yes, ma'am, I do.
Q Okay, and was there actually a hearing in front of a judge?
A We did not actually go in front of the judge.
Q Okay.
A That I recall.
Q All right, and at that time was it because the DSS action had already been handled?
A I'm not sure what you mean by being handled. It was, it was not under investigation anymore, yes, ma'am.
Q Okay, thank you. I'm sorry.
A Yes, ma'am.
Q So, by that time the DSS investigation was completed.
A Yes, ma'am.

Q Okay, now, as a result of that investigation what was the visitation between Nicole and the girls?
A She would have to do what the DSS had asked her to do before she would be able to get visitations with the girls.
Q Okay, thank you. Thank you. All right, now, after that date, January 13th, 2009, tell me what happened on January the 14th, 2009.
A January ---
Q That was a Wednesday.
A --- the 14th that's when Victim had come to me and disclosed about the Defendant.
Q Okay, all right, you can't tell me what she said. Okay. Let me ask you this, tell me what happened before the disclosure came out.
A Before, I was getting her some medicine because her stomach was hurting and she then told me about something sexual conduct that may have happened.
Q Okay, where was Chad when this disclosure came about?
A He was at church.
Q What happened before he left for church?
A Before she was - seemed to be pretty quiet and then right after he left because I was there by myself she had come to me about her stomach hurting.
Q Okay, all right, and when she came - after she told you or made the disclosure and you can't tell me exactly what she

said but after she made the disclosure what did you do?
A I waited for Chad to come home to tell him. We just stayed at home to tell him.
Q And how did you feel?
A At first I felt very confused. I really didn't know which way to go with it. She just kind of sat on the bed and looked at me like, "What now," and I honestly didn't know what to do from that time. Then when Chad come home that's when I knew I had to tell him.
Q Was it hard for you to do that?
A Yes, ma'am.
Q And how did he react?
A He was upset, very upset.
Q At any time prior to January the 14th of 2009 did you have any concerns regarding Victim and Minor 1 and the Defendant?
A No, ma'am.
Q Had you ever talked about the Defendant in the presence of Victim and Minor 1
A No, ma'am.
Q Have you ever said anything ill or demeaning about the Defendant in the presence of the children?
A No, ma'am.
Q Did you have an opinion of the Defendant?
A No, ma'am.

Q Have you ever watched or been present for any of the interviews of Victim by professionals?
A No, ma'am.
Q And why is that?
A I wasn't allowed to go in there.
Q Okay, and whenever she disclosed to you about what had happened did you question her about it?
A I didn't do much questioning.
Q Okay, what happened the next day, after you told Chad and you discussed it what did you do the next day?
A We called DSS.
Q Okay.
A And went from there.
Q You went from there, all right. After DSS was contacted who did you then also get involved?
A I got involved Ms. Denise Scearce, the counselor.
Q Okay.
A We went to see her.
Q And did you ever contact law enforcement?
A Chad did.
Q Chad did, okay. Was this all around the same time?
A Like right around the same time, yes, ma'am.
Q Have you ever watched the forensic interviews given to Victim
A No, ma'am.

Q Have you read any transcripts or seen any dictation from any of these interviews?
A No, ma'am.
Q Well, since that time how has Victim progressed?
A She's doing very well now. About a year and a half after that she was stomachaches, screaming, she's scared, wanting to be home. Now, about the last half a year she's done very well, very well in school, making friends again. She's doing very well.
Q And how many times have you picked her up from school with stomachaches this year?
A None.
Q How about headaches?
A None.
Q Have you called and had her screaming in the background?
A No, ma'am.
Q Have you ever discussed anything sexual in nature with Victim
A No, ma'am.
Q Okay, other than what she's told you have you even discussed what she calls her anatomy parts?
A No, ma'am.
Q Has there ever been a time whenever Victim may have accidentally walked in on you and Chad in a compromising position?

A No, ma'am.
Q How about the Internet, do you allow the children to go on the Internet?
A I do, now I do.
Q Okay.
A Then I didn't.
Q Okay, if the children are on the computer who's with them?
A Chad would be there or I would be there.
Q Okay, do you allow the children to watch R-rated movies?
A No, ma'am.
Q Do you have any idea as to and from your personal experience with Victim how she would have any sexual knowledge?
A No, ma'am.
Q That's all I have. Answer any questions that Mr. Cannarella has for you.

CROSS EXAMINATION

BY MR. CANNARELLA:

Q Mrs. Turbeville, do you discipline Victim
A I do.
Q How?
A Sometimes I make her write sentences. Sometimes we go into this little thing called timeout and I've had to spank her once or twice.
Q Spank her once or twice?

A On her bottom.
Q Okay, well, does, does Mr. Turbeville discipline Victim the same way?
A Pretty much. We've got an understanding.
Q You would only spank her with your hands?
A There was the one or two times with a belt that you would wear, yeah.
Q But you would, and you'd spank Minor 3 the same way?
A Minor 3, yes.
Q That's your son.
A That's my son.
Q Has there ever been any inappropriate contact between the two of them in any way that you remember?
A Not that I know of.
Q Okay, and if it had been you would have known it?
A I sure hope so.
Q I mean, you know how children do sometimes.
A Right.
Q Explore, they never did any inappropriate exploring about that to your knowledge.
A Not to my knowledge.
Q Okay, do you - well, do you have any - not to your knowledge then does that mean you don't remember?
A Nothing has come to my attention.
Q Okay, how about Mr. Turbeville, does he use corporal

punishment on Victim?
A If it needs be, if it's the last resort if the timeout and the writing sentences if it's, if it's the last resort because that would be like our last resort.
Q Now, did you treat those stomachaches that she would always have?
A Yes, sir, we would.
Q No diagnosis?
A Not that I can remember there wasn't. I didn't - not that I can remember.
Q Fake the stomachache.
A I don't know if she did. If she did I do not know about it.
Q The altercation one weekend when you all went to pick up the kids you saw Chad and Nicole arguing.
A Yes, sir.
Q And you didn't know what they were arguing about?
A Yes, sir, I do.
Q What?
A It was about the week in the summer month, June summer month that Nicole was supposed to get and she missed it.
Q She had weekend visitations; right?
A Yes, sir.
Q She had some summer visitation?
A She had a week in each summer month.

Q Okay, did she exercise summer visitation during the summer of '08.
A Yes, sir.
Q Like a week at a time?
A Yes, sir.
Q So, the children got to come down here and spend time at the beach?
A Yes, sir.
Q Did they ever take pictures back home that they all - showing they all shared time together on the beach having fun?
A Not pictures, not pictures, no, sir.
Q Little mementos or something?
A Yes, sir.
Q And they had two dogs?
A I guess so.
Q You know Victim. Now, Minor 2 was born on [redacted]?
A Yes, sir.
Q Minor 3 was born on [redacted]?
A 2000.
Q 2000?
A Yes, sir.
Q Minor 1 was born?
A On [redacted] of [redacted].
Q Okay, and Victim?
A [redacted].

Q All right, now, when mama went, when Nicole, the mama, she went to the school on [redacted] or sometime around there?
A I believe it was the 17th.
Q And that's when you had a run-in with the principal?
A Yes, sir.
Q Okay, did you ever see the cards that were delivered to?
A Yes, sir.
Q What were they?
A They were - one was a birthday card to Minor 1 and then there was two "I miss you" cards.
Q "I miss you"?
A "I miss you cards" I believe that's what it was.
Q Yeah, was it, was there any inappropriate language used or was any hate language in those?
A No hate language, no.
Q So, it was just a mama trying to deliver cards to her on her birthday?
A Yes, the only one I read was Victim's because she gave it to me.
Q But, but after that then Victim started worrying about whether or not her mother would - may come to school one day and take her?
A Yes, because in the card it said, "Mama will fix this. I will see you soon."

Q Okay, so, then, so, then Victim all of a sudden after that she starts believing that her mama might kidnap her which would be normal; right?

A I don't know if that's what she believed or not.

Q Well, she did - you had some concerns about it though.

A Right.

Q That Nicole might show up there and snatch her children.

A Well, I wasn't concerned about her snatching her children. I was concerned that maybe the notes and seeing may make the behaviors worse in Victim's.

Q Because she might have wanted to see her mama.

A I'm not sure about that.

Q Well, Victim believed that her mama had sexually abused her.

MS. LIVELY: Objection, Your Honor, he's talking about what the child believed. I think he needs, he needs to keep the questions to what this witness has personal knowledge of.

MR. CANNARELLA: I'll withdraw the question, Judge.

THE COURT: All right.

MR. CANNARELLA: I'm sorry.

BY MR. CANNARELLA:

Q Okay, but on Victim [redacted] which is Victim's birthday the mama delivered some cards there for her. Now, that was after there was - that was within, the investigation in North Carolina was over then?

A I don't know if it was actually over. I know that it was still being investigated.
Q Okay, and now, on - right before that investigation in North Carolina started the revelation that Victim made about her mama was to you?
A Yes, sir.
Q I believe it was coming home from school one day.
A It was.
Q Did Victim say, "I believe that my mama, Nicole, was trying to get me not to mind you, Jennifer?"
A That's what she told me.
Q And then she said, "And my mama does nasty things to me?"
A That's what she told me.
Q And nasty was the word she used; is that right?
A That I can remember. It was along those lines.
Q And then these allegations came out about Tim.
A Yes, sir.
Q On January the 14th. So, "I knew my mama was bad as well as Tim."
A I'm not sure if that was her exact words.
Q Through her therapist it was.
A Okay, maybe so. I wasn't in there.
Q Now, you don't - you and Chad don't keep anything from each other; do you?

A We - no, sir, not that I know of.
Q You wouldn't intentionally hide anything from him; would you?
A No, sir.
Q And you said that you all went to the January 13th hearing.
A Okay.
Q Okay?
A Not that I know of, not that I know of. If it was January 13th, the hearing, yes, sir, that's right, if that's that paper that would be it.
Q If it was that, okay, and Chad knew about this?
A Yes, sir.
Q And you got served with this on January the 2nd of '09?
A Okay.
Q At [redacted].
A Yes, sir.
Q And this was an important piece of paper.
A Okay, yes, sir.
Q Wasn't it, and then you took that piece of paper that the deputy sheriff left there and when your husband got home you would quite naturally would have given it to him.
A I, I sure hope so. It was really hectic. I can't remember if I did or not.
Q Okay, well, you wouldn't have hid it from him. You

wouldn't have just ---

A I wouldn't have hid it from him on purpose.

Q Okay, and so, then the revelation, the revelation about Tim happened on January the 14th.

A Yes, sir, it was on a Wednesday.

Q And you signed for that piece of paper?

A It's got my signature.

Q And both revelations were to you.

A Yes, sir.

Q And you wouldn't have hidden that piece of paper right there from your husband.

A I wouldn't have. I didn't remember it until I saw it.

Q Okay. Thank you, ma'am. That's all the questions I have.

THE COURT: Redirect.

MS. LIVELY: Thank you.

REDIRECT EXAMINATION

BY MS. LIVELY:

Q Now, Jennifer, on the hearing on January the 13th, whether it was actually in the courtroom or whatever it ended up being, did anything at all change in regards to the visitation?

A No, ma'am.

Q Okay, all right, so, nothing actually changed or happened or was significant at that January 13th date.

A No, ma'am.
Q All right, so, keep the status quo, the children are not seeing mama.
A Yes, ma'am.
Q Now, Mr. Cannarella asked you about the conversation that you and Victim had on November the 4th of 2008. Do you recall that?
A Yes, ma'am.
Q All right, he said that, "I think my mom is trying to make me not mind you and then she does nasty things to me."
A Yes, ma'am.
Q Tell me exactly what she said her mama did to her.
A She told me that she would take baths with her. She would then get her out of the bath, lay her on her bed, mom's bed and put Neosporin on her knuckle and rub it on her.
Q Rub it on her what?
A Her private area.
Q What is she referring to as her private area?
A Between her legs, she pointed between her legs.
Q And did she tell you why this was happening or what in her mind why she thought it was happening?
A She did not tell me.
Q So, was that what you ended up reporting back to or who? Did you report that to Chad and then you all called DSS?
A Yes, ma'am.

Q At that time did you ever make any kind of comment about this being a sexual ---

A No, ma'am.

Q --- matter?

A No, ma'am, I didn't.

Q Okay, did you disclose it exactly as the child had disclosed it to you?

A I did to the best of my ability.

Q Okay, all right, so, Neosporin on the mother's knuckle rubbed on the child's private area.

A Yes, ma'am.

Q That's all I have. Thank you.

MR. CANNARELLA: Your Honor, I'd like to recross her.

THE COURT: Very briefly only as to any new matter. What new matter was brought up that was not on direct?

MR. CANNARELLA: Well, she went into the details of that statement.

MS. LIVELY: He opened the door.

THE COURT: Yeah, very briefly.

RECROSS EXAMINATION

BY MR. CANNARELLA:

Q So, the mother put Neosporin on the child's private part?

A Yes, sir.

Q Okay, and that's all.

A That I'm aware of.
Q Well, why was a big deal made about that?
A I would never put Neosporin on my children in that area when they were eight years old.
Q Okay, unless they wouldn't apply it themselves.
A Not Neosporin.
Q Maybe the child was confused about whether it was Neosporin.

MS. LIVELY: Objection, Your Honor, as to what the child - whether the child was confused.

THE COURT: Sustained.

MS. LIVELY: Thank you.

THE COURT: All right, you may step down.

A Thank you.

THE COURT: Call your next witness.

MS. LIVELY: Your Honor, the next witness is going to be Victim [redacted].

THE COURT: All right, all right, ladies and gentlemen, testimony will now be presented to you via closed-circuit television. You are to consider this testimony as if the witness were present in the courtroom testifying before you in person. You are not to make any distinction between this testimony and other testimony in this case simply because it is presented to you by closed-circuit television. In other words, you are to listen to this testimony, determine its

believability and give it the weight you think it deserves. All right. Yes, sir. It'll take us just a few seconds to get everything set up.

MS. LIVELY: Your Honor, may we approach?

THE COURT: Yes.

(Whereupon, a bench conference is held in the presence but out of the hearing of the jury.)

THE COURT: All right, ladies and gentlemen of the jury, when this testimony is presented if anybody is having trouble seeing the witness or hearing the witness just raise your hand and I'll address it at that time; okay?

Hold one second while we get the closed circuit feed in this courtroom.

All right, you can call your next witness and swear in the witness.

MS. LIVELY: Yes, sir, Your Honor, the State of South Carolina versus Timothy Young calls Victim [redacted] to the stand.

THE COURT: All right.

Whereupon, Victim [redacted] was called to the stand, duly sworn by the clerk and testified as follows via closed circuit television:

THE CLERK: Victim, whenever you speak make sure you speak into the microphone; okay?

If you'll state your name.

MISS TURBEVILLE: Victim [redacted].

DIRECT EXAMINATION

BY MS. LIVELY:

Q Victim, I'm going to bend this down just a little bit so that you're not having to pick your head up too much to talk into it; okay? How's that? Good? Say yes or no.

A Yes.

Q Would you like some water?

A Yes, ma'am.

Q Okay, okay, there you go.

Okay, Victim, tell us your full name.

A Victim [redacted].

Q How old are you?

A Victi years old.

Q What's your date of birth?

A Victi [redacted].

Q All right, so, you're going to have a birthday soon; huh?

A Uh-huh.

Q Yeah? Okay.

Now, Victim, tell us where you live.

A [redacted] in Tabor City, North Carolina.

Q Okay, talk a little bit slower. In Tabor City, North Carolina?

A Yes, ma'am.

Q All right, now, who lives in the home with you?
A My dad, my step-mom, my three sisters and my brother.
Q All right, do you have your own room?
A Yes, ma'am.
Q Okay, do you have any pets?
A One.
Q What kind of pet do you have?
A A dog.
Q A dog, what's the dog's name?
A Buddy.
Q Buddy, is it your dog or everybody's dog?
A Everybody's.
Q Okay, all right, now, Victim, are you in school?
A Yes, ma'am.
Q So, you're missing school today?
A Yes, ma'am.
Q All right, do you like school?
A Sometimes.
Q All right, how are you doing in school these days?
A Good.
Q What kind of grades you make?
A I made the A-B honor roll last report card.
Q Wow, A-B honor roll, okay.
Now, Victim if you were to be at school and told a lie at school would you get in trouble for that?

A Yes, ma'am.
Q Okay, who would be upset with you?
A My teachers, the principal and my parents.
Q All right, okay, now, do you or have you told lies at home before?
A Yes, ma'am.
Q Okay, what kind of lies have you told at home?
A I know I have told a lie but I can't think of it right offhand.
Q Okay, you told a lie but you can't think of it right offhand?
A Yes, ma'am.
Q Okay, all right, have you told lies to get other people in trouble, like your little brother or little sister?
A Yes, ma'am.
Q You have? Okay, have you told lies to get grownups in trouble?
A No, ma'am.
Q Okay, all right, do you know whether you're supposed to tell the truth or lies here in the courtroom today?
A I know to tell the truth.
Q Okay, and what does it mean to tell the truth?
A To tell what really happened and don't make up something.
Q To tell what really happened and don't make up something.
Okay, all right, now, Victim was there a time when you

didn't like going to school?
A Yes, ma'am.
Q Okay, has that been a long time?
A Yes, ma'am.
Q All right, okay, and just tell what you remember and that's all I'm asking is you be honest; okay? Have you ever told a lie to get out of being at school?
A Yes, ma'am.
Q Okay, well, explain, explain that to me and to Mr. Cannarella why you may have told a lie to get out of school.
A I told my parents that my stomach would hurt and I had a headache just to get out of school.
Q Okay, all right, were there things that were bothering you back then?
A No, I just wanted to get out of school.
Q Okay, you just wanted to get out of school, but how long has it been since you've told that lie and gotten out of school? Has it been a long time?
A Yeah, since I was in second grade.
Q Since second grade, okay. Do you know how old you were in second grade?
A I was seven or eight.
Q Okay, all right, you were seven or eight. So, if you were seven or eight that would have been, let's see when's your date of birth again?

A [redacted].

Q [redacted], so, seven or eight that would have been in 2008. So, that was when you were in second grade?

A I think so, yes, ma'am.

Q Okay, and that's the times when you would talk about or not say the truth about stomachaches and headaches?

A Yes, ma'am.

Q Okay, and since you've been in - what grade are you in now? Are you in fourth grade?

A Yes, ma'am.

Q Okay, in fourth grade, since you've been in fourth grade, have you told a lie about your stomachaches or your headaches?

A No, ma'am.

Q All right, and you're on the A and B honor roll?

A Yes, ma'am.

Q All right, okay, now, you remember why you're here today; right?

A Yes, ma'am.

Q Okay, all right, and you've actually met Mr. Cannarella?

A Yes, ma'am.

Q Okay, okay, they can't see him right now but he's over there; right?

A Yes, ma'am.

Q All right, this is what I want you to do for me today. We're going to talk about some stuff that I know is a little

bit embarrassing, okay? Is that a yes?
A Yes, ma'am.
Q Okay, now, let me, let me ask you about your, your real mom; okay? What's her name?
A Nicole.
Q Nicole, and is she married or was she married?
A She was when I used to go to her.
Q Okay, and what was the name of her husband?
A Timothy Young.
Q Timothy Young, okay, all right, and do you remember how often you would go and visit your mom and Timothy Young before the visitation stopped?
A I'd, I'd spend one week with my dad and then the next week with my dad, well, not the whole week, I'd spend the weekdays and then the weekend I'd stay with my mom.
Q Okay, so, you'd spend the weekends with your mom and weekdays with your dad.
A Because I stay, I'd stay a week with my dad and then the next week I'd just stay with him on the weekdays and then on the weekends stay with my mom.
Q Okay, make sure you say it into the microphone. We've got to make sure we can hear. So, then you'd stay the weekend with your mom?
A Yes, ma'am.
Q Whenever you would stay the weekend with your mom was

Timothy Young there?
A Sometimes.
Q Okay, so, there were times when you were there and Minor 1 were there for visitation and Mr. Young would be there?
A Yes, ma'am.
Q Okay, and did you all have fun sometimes?
A Yes, ma'am.
Q Would you go to the beach?
A Yes, ma'am.
Q Okay, and were there times when you wouldn't have fun?
A Yes, ma'am.
Q Okay, all right, now, I'm going to ask you if you recognize a picture and it's actually I put this little sticker on it. It says State's Exhibit Number One. Have you ever seen that house before?
A Yes, ma'am.
Q Okay, and that house - whose house was that?
A My mom's and my step-dad's.
Q And your step-dad and what's your step-dad's name?
A Timothy Young.
Q Okay, and so, is this where you would go for visitations?
A Yes, ma'am.
Q All right, okay, has it been a long time since you've been there?
A Yes, ma'am.

Q All right, okay, now, Victim I'm going to ask you if you don't mind to stand up for a minute and I'm going to get you to help me with something. It's real important, here we go, it's real important that we know what you call your body parts; okay? All right, and I need you to make sure that you stand real close to this, stand right there so we can hear you; okay? Let's do a test. Say yes, ma'am.

A Yes, ma'am.

Q Good job, all right, I'm going to show you - would you dim the lights? Okay, there's nothing here; right? Okay, here we go. I'm showing you State's Exhibit Number Two, and just need to make sure that every time you answer, and I know this is kind of a pain in the neck, that you turn around and you talk right there so we can hear you; okay? Is that a yes, ma'am?

A Yes, ma'am.

Q Thank you. All right, now, here we go. Victim what do you call this stuff on top of the girl's head?

A Hair.

Q Hair, all right, we're going to start with some easy ones. Okay, what do you call these?

A Eyes.

Q Eyes, I write anything wrong you correct me; okay? All right, what do we call this?

A The nose.

Q This is the nose, okay, and what do we call these?
A Lips.
Q Lips, all right, okay, what do you call this?
A Arms.
Q Arms, what do you call these?
A The boobies.
Q Boobies, okay, it's okay, don't be embarrassed. Okay, and what do you call this?
A Belly button.
Q Belly button, great, all right, what do you call these?
A Legs.
Q Legs, good, and what do you call this part here in the middle of the little girl?
A The front privacy part.
Q Front privacy part, okay, all right, now, what do we call this back part here?
A The butt.
Q The butt, and that was easy. All right, okay, so, are those what you call all your body parts?
A Yes, ma'am; yes, ma'am.
Q All right, okay, did I write anything wrong?
A No, ma'am.
Q All right, okay, now, Victim, do you remember talking to your step-mom, Jenny, and telling her about something that your mom had done?

A Yes, ma'am.
Q All right, will you tell me what your mom did that made you feel uncomfortable?
A She put Neosporin on her knuckles and then rub it on my front privacy part.
Q Okay, she put Neosporin on her knuckle and rubbed it on - can you point it out to me? Okay, and back back up, and she rubbed it right there?
A Yes, ma'am.
Q Okay, and do you remember telling then your step-mom that that had happened?
A Yes, ma'am.
Q All right, okay, and how did it feel when she did that?
A It felt weird.
Q It felt weird, okay, did she say anything to you when she did that?
A She said it'll help it.
Q It'll help it. What was wrong with your front privacy part?
A She said it looked red.
Q It looked red, okay. Was it bothering you?
A It hurt sometimes.
Q It hurt sometimes, okay. Now, Victim, did you say anything else that was bothering you that day when you were talking to your step-mom from school, I think you were coming

home from the car, did you tell her anything else that day about your mom?

A I don't think so.

Q Okay, do you remember talking to anybody else about it?

A I think I talked with Ms. Denise.

Q Ms. Denise, okay, is Ms. Denise - now, let me ask you about that, you - were you in counseling or therapy or did you have a special person you go and talk to?

A Yes, ma'am, Ms. Denise.

Q Ms. Denise, okay, was she nice?

A Yes, ma'am.

Q Did you trust her?

A Yes, ma'am.

Q Okay, all right, what I'm going to do is I'm going to back this up for a minute, I'm going to ask you some questions and you can leave the lights dim, if you'll just have a seat back down so you can take a little rest I'm going to ask you a couple of more questions, okay, all right, there you go.

Now, Victim, when you said those things about your mom were they the truth?

A Yes, ma'am.

Q Where did those things happen?

A In my bedroom.

Q In your bedroom where, was it in Myrtle Beach?

A Yes, ma'am.

Q Okay, who would be around when that happened?
A No one.
Q No one, all right, did you remember seeing Tim?
A No, ma'am.
Q Okay, so, he wouldn't be in there with your mom?
A No, ma'am.
Q All right, now, Victim, you said that you then talked to Ms. Denise about what your mom had done; right?
A Yes, I think so.
Q Okay, and whenever you talked to her about your mom, at that time when you told her about your mom did you tell her about Tim?
A No, ma'am.
Q All right, do you remember being asked whether or not anybody else had touched your front privacy and if it bothered you?
A Yes, ma'am.
Q Okay, and what did you tell them?
A No, ma'am.
Q All right, you told them no, all right. When you told them no was that the truth or a lie?
A I think it was the truth.
Q You think it was the truth, okay, and why do you think that that was the truth?
A Because I don't think Tim did it when my mom was doing

it. I think he started later on.

Q He started later on, okay. All right, because I'm trying to see how your mind is working here, Victim okay, so, help me out a little bit.

So, you told about your mom and what she did first; is that right?

A Yes, ma'am.

Q Okay, and correct me if I'm wrong because I don't want to put words in your mouth; okay? All right, so, when all this came out about your mom did you still go on visits to see your mom anymore?

A I don't, I don't think so.

Q Okay, all right, so, it's been a long time since you've been on a visit to see your mom; right?

A Yes, ma'am.

Q Okay, well, let me ask you this, do you remember whether your mom and Mr. Tim or Tim were still together the last time you all, you had visitation, you and Minor 1 Were they still married or were they not married?

A They were still married.

Q They were still married. Do you know why you may have referred to him as her ex-husband, as Nicole's ex-husband? Do you remember that?

A No, ma'am.

Q Okay, all right, did you know or did you ever hear Tim

and Nicole, your real mom, talking about getting a divorce or not being together?

A They were fussing at one time. I don't know if they quit.

Q You don't know if they quit, okay, all right.

Do you know if you told Ms. Denise about them fussing and that they might not be together?

A No, ma'am, I can't remember if I did.

Q That's okay, and that's fair. You don't remember, okay.

Now, after all this came out about your mom, okay, did you have to go to court like something like this about your mom?

A No, ma'am.

Q No, is this the first time other than when you came and visited me before and met me here? Is this the first time that you've had to come to court like this?

A Yes, ma'am.

Q Okay, now, you said that you did not talk about Tim the first time you were asked about somebody touching your private part; right?

A Yes, ma'am.

Q Do you remember when you finally did talk about Tim?

A I think it was a month later.

Q It was about, it was about a month later?

A I think so.

Q Okay, who did you tell that, that something had happened with Tim?
A My step-mom.
Q And that's Jennifer; right?
A Yes, ma'am.
Q Okay, do you call her Jenny, Jennifer or mom?
A Jenny.
Q Jenny, okay, tell me what was going on that night whenever you told Jenny what happened.
A I can't remember but we were in the kitchen.
Q You were in the kitchen, okay. So, you're in the kitchen. Is anybody in there with you?
A No, ma'am.
Q Okay, so, it was just you and Jenny?
A Yes, ma'am.
Q Okay, where was your dad?
A I think he was still working at the prison. I think he was there.
Q Okay, so, you think he wasn't there, he was at the prison working?
A Yes, ma'am.
Q Okay, could he have been maybe going to church or do you just not remember?
A I don't remember.
Q Okay, but he wasn't there; right?

A Yes, ma'am.
Q Okay, all right, now, Victim, tell me exactly what you said to Jenny that night if you can try your best to remember.
A I think I said he did the same thing but then I told her how he actually did it.
Q How he actually did it?
A Yes, ma'am.
Q Okay, can you tell me exactly and I know it's hard to talk about but tell me exactly what it is that he did to you that you told Jenny about.
A That he licked a little above my front privacy part and that he - sometimes he put his finger in my front privacy part.
Q Okay, so, sometimes he'd lick above your privacy part?
A Yes, ma'am.
Q And then sometimes he'd put your finger - his finger in your privacy part?
A Yes, ma'am.
Q Okay, what did Jenny do whenever you told her that?
A She started crying and told me to lay down on the couch.
Q Okay, she started crying and for you to go lay down on the couch?
A Yes, ma'am.
Q How did you feel after you told her what Tim had done to you?

A Relieved.
Q You were relieved?
A Yes, ma'am.
Q Had you been having nightmares?
A Yes, ma'am, I think so.
Q Okay, can you tell me about the nightmare that you had had about a robber?
A Yes, I thought, I thought he would come and take me and he would hurt my daddy.
Q And he'd hurt your daddy?
A Yes, ma'am.
Q Okay, had your mom ever told you she was going to take you?
A No, ma'am, she just, she just said she thought she'd have - she'd wish she had me forever, that's the only thing she said.
Q Okay, say it a little bit louder, honey, I couldn't hear you.
A She said she'd wish she had me forever.
Q Okay, she wished she had you forever. How do you feel about your mom? Do you love her?
A I love her. I just don't like the way she - I don't like the way - what she did to me.
Q Okay, it's okay. It's all right, honey. Okay, you okay? It's okay. You want to take, hey, take a sip. It's all

right. It's okay. Take a deep breath. Thank you. You okay to keep going?

A Yes, ma'am.

Q Yes, ma'am. Okay, all right, we're going to do this quick, okay? All right, I'm going to stand up with you again, all right? Okay, I'm going to put this back. All right, now, remember come right back over here because I want to make sure this microphone can hear everything you have to say, all right? And this time I'm going to let you use my big red pen, okay? All right, now, Victim, now, stand right here, baby, because I'm going to ask you something first, then I'm going to get you to, to show, all right. When Tim touched you you said he touched you with his finger?

A Yes, ma'am.

Q Okay, and he licked you?

A Yes, ma'am.

Q All right, when he touched you with his finger I want you to circle the part that he touched.

A (Complies with request.)

Q Okay, now, Victim, did he do this one time or more than one time?

A More than one time.

Q Okay, did he say anything to you when he did that?

A He said don't tell my mama.

Q Don't tell your mama?

A Yes, ma'am.
Q Okay, did you ever tell your mama?
A No, ma'am.
Q No, ma'am, okay. But you told Jenny?
A Yes, ma'am.
Q Okay, now, whenever he licked you can you put an "X" where he licks you?
A (Complies with request.)
Q Okay, so, he licked you right here?
A Yes, ma'am.
Q Did that happen one time or more than one time?
A I think it happened more than one time.
Q More than one time, okay, did he say anything to you when he did that?
A He said don't tell my mama.
Q He - so, he told you don't tell your mama again, okay, and where would you be then when this would happen?
A On his bed.
Q On his bed, okay, and how would your clothes be? Would the - did you have clothes on or not?
A Yes, ma'am.
Q Yes, ma'am, all right, what clothes did you actually have on? Do you remember? Was it different every time?
A I'd have my shirt on and he'd pull down my pants and I tried to pull them back up but then he would try to pull them

back down.
Q Okay, so, you'd have on a shirt and on pants and he'd pull them down and you'd try to pull them back up?
A Yes, ma'am.
Q Was he too strong for you?
A Yes, ma'am.
Q Okay, but you tried?
A Yes, ma'am.
Q Okay, all right, that's good.
Now, whenever, did you have panties on or not?
A Yes, ma'am.
Q All right, and where would your panties be?
A Pulled down on my legs.
Q On your legs, so, about how far down would he pull your panties?
A Right, right around above my knees.
Q Right above your knees. Put a little "X" right there.
A (Complies with request.)
Q Okay, all right, and what about your legs, how would they be - were you laying down or sitting up?
A My - I would be laying down and my legs would be sitting up.
Q Your legs would be sitting up, okay. So, your knees would be kind of pointing up to the ceiling?
A Yeah, they were like this going, so.

Q They were like this?
A Yes, ma'am.
Q Okay, and what would he do with your legs if anything? Did he touch your legs or not?
A No, he tried to, he tried to spread them apart, but I tried to, I tried to put them close together but he, but he wouldn't let me.
Q Okay.
THE COURT: Excuse me. You're going to need to get her to speak up just a little bit and into the microphone.
Q Okay, say that again if you don't mind.
A He tried to, he tried to pull my legs apart but I would put them back together but I tried to and he wouldn't let me.
Q Okay, all right, so, whenever he - so, when he actually would pull your legs apart is that whenever he would touch you?
A Yes, ma'am.
Q Okay, do you remember whether or not his finger when he touched you was on the outside or the inside of your private part?
A Sometimes it'll be inside and sometimes it'll be outside.
Q Okay, sometimes it would be inside, sometimes it would be outside. When it was inside how would that feel?
A It'll hurt a little bit.
Q It'll hurt a little bit?

A Yes, ma'am.
Q Okay, all right, did he ever show you any part of his body without clothes on?
A No, ma'am.
Q All right, okay, okay, now, Victim, whenever and you can sit back down; okay?
MS. LIVELY: And Your Honor, the State's going to be moving Exhibits One and Two into evidence.
THE COURT: Any objection?
MR. CANNARELLA: No objection.
THE COURT: All right, State's Exhibits Number One and Two admitted into evidence without objection.
(Whereupon, State's Exhibit Number One and Two admitted into evidence and appropriately marked.)
MS. LIVELY: Thank you, Your Honor.
BY MS. LIVELY:
Q That voice came from nowhere, huh? All right, here we go. Is that good?
A Yes, ma'am.
Q All right, now, Victim, after you told Jenny what happened with Tim did you also talk to Ms. Scearce about it?
A I think so.
Q Okay, all right, and when you talked to Ms. Scearce about it do you remember whether or not she asked you why you didn't bring this up whenever this stuff came out about your mama?

A Yes, I think I remember her asking me that.
Q Okay, all right, just make sure you're talking into the microphone. Now, you're trying to look at me, but whenever she asked you about that do you remember what you told her?
A I can't remember offhand.
Q Okay, do you remember ever telling her, "I felt like I needed to tell one at a time?"
A Yes, ma'am.
Q Okay, I mean, if you didn't say that that's fine. I just am asking if you remember. Do you remember making that statement?
A Yes, ma'am.
Q Okay, can you explain what you meant by that so we can understand why you would say you thought you needed to tell one at a time?
A I wanted to get one through with and then I would start on another one.
Q Okay, you wanted to get one - did anybody tell you to do it that way?
A No, ma'am.
Q All right, okay, all right, so, was this - and you were seven at the time; right?
A I think so, seven or eight.
Q Okay, and these things were happening - do you remember when the last time it was that Tim would have touched you,

Victim, before your last visitation?
A No, ma'am.
Q No, had it happened that summer or up until close to the time, your last time you saw your mom at the beach?
A I can't remember.
Q Okay, okay, if you had been asked about that in an interview earlier that probably would be an easier way for you to remember; wouldn't you agree?
A Yes, ma'am.
Q Okay, all right, it's been a long time; hasn't it?
A Yes, ma'am.
Q All right, now, how have you been sleeping lately? Do you sleep better now?
A Yes, ma'am.
Q Okay, have you had any more of those robber dreams?
A No, ma'am.
Q Okay, all right, is everything that you've told me today, Victim, the truth?
A Yes, ma'am.
Q Okay, has anybody told you what to say here today?
A No, ma'am.
Q All right, has your dad or Jenny told you to say these things about your mom or Tim?
A My dad has told me to tell the truth.
Q He told you to tell the truth, okay. Did these things

happen to you, Victim?
A Yes, ma'am.
Q Okay, all right. All right, Victim, thank you so much.
A You're welcome.
Q Answer any questions Mr. Cannarella may have for you.

CROSS EXAMINATION

BY MR. CANNARELLA:
Q Hey, Victim
A Hey.
Q How you doing?
A Good.
Q Victim, a while ago when, when Ms. Lively was asking you about why did you just tell on, tell on one at a time, you remember that?
A Yes, sir.
Q Well, I didn't really hear you real good, but I thought you said you were going to do one before you get started on the other one. Is that what you said?
A Yes, sir.
Q Do one before you get started on the other one; right?
A Yes, sir.
Q I just want to tell you I've seen them - I've seen some pictures of you, Victim, when you would come down here and you all would be visiting on the beach?
A Yes, sir.

Q Did you have a good time when you'd come visit your mama and Tim?
A Yes, sir.
Q Victim, do you remember like 2006 and 2007 and most of 2008 you all would come here, you and Minor 1 would come here regularly; wouldn't you, I mean, like all the time?
A Come where, sir?
Q That's good, thank you. Come, come here to the beach where we are, Myrtle Beach? We're in Conway right here, but I mean you would go to visit your mom on the weekend and it would be down - you all lived, in fact, she lived at the beach, down at Myrtle Beach; right?
A Yes, sir.
Q And you all would get to go play on the beach?
A Yes, sir.
Q And play with your dogs?
A Yes, sir.
Q Chelsea?
A Yes, sir.
Q What was the other one's name?
A I think it was Champ.
Q Champ, those were labs?
A Yes, sir.
Q And you all would go swimming at Compass pool?
A Yes, sir.

Q It was a lot of fun; wasn't it?
A Yes, sir.
Q Did you get to spend any long or weeks down here during the summer, Victim?
A No, sir.
Q It was just weekends most of the time?
A Yes, sir.
Q Did you really like it more in the summer than in the winter?
A Yes, sir.
Q Why is that?
A Because we got to go to the pool.
Q And do other - what other fun things would you do when you were here?
A We would go to the park and we, we would ride our bicycles.
Q And you'd ride them with Minor 5 sometimes?
A Yes, sir.
Q That's, she was your friend?
A I think she was our cousin. I'm not sure.
Q Your cousin, okay.
What, what are some other fun things you all did when you were down here?
A I think that's all.
Q Well, wouldn't it - it'd be fun - would it be fun to live

in Myrtle Beach?
A Well, I like it at Tabor City, too.
Q I'm sorry. I didn't hear you.
A I like it at Tabor City, too.
Q You like it in both places; right? Because you like being with your daddy and you like being with your mama; don't you?
A Well, I don't like being with my mama now.
Q Why?
A Because she did something bad to me.
Q Well, I'm sorry she did something bad to you, but wasn't she just trying to put some medicine on you though?
A Yes, sir.
Q She was? I'm sorry you're crying, but do you think your mama was really trying to hurt you really? She wasn't trying to hurt you; was she?
A I'm not sure.
Q You can wipe your eyes with that if you want to. You've been through a lot, haven't you, Victim?
A Yes, sir.
Q You - I'm not trying to be mean to you. I've got a little girl - I had a - I raised a little girl, too. Her name's Caroline. I've got two and I know how much they love their mama, but see what I don't understand, Victim, is why would you believe that mama was trying to hurt you when she

was putting medicine on you?
A Because I don't think it was supposed to go there.
Q You were - were you having a little bit of problems?
A I don't know.
Q Was it - you had some problems down there at times though, you told Ms. Nordeen that? Remember?
A No, sir.
Q Okay, well, when your mama did these things you said it would happen in your room?
A Yes, sir.
Q Did you ever tell Ms. Scearce that it happened in your mama's room?
A I don't remember.
Q When you told your step-mom about your mama treating you with medicine you told your step-mom it was with - your mama used her knuckles; right?
A Yes, sir.
Q But earlier you never did say anything about Tim using his knuckle? He didn't use his knuckle; did he?
A No, sir.
Q But you know you told Ms. Scearce he did it - he, he - that he did it with his knuckle?
A I don't remember it.
Q So, mom did it in mom's room with her knuckle and Tim did it in mom's room? That's what you're saying?

A No, my mama did it in my room with her knuckles and Tim did it in his room with his fingers.
Q And you said it was watching cartoons?
A Yes, sir.
Q And, and this, this is a tiny little house you all live in that you just looked at. It was a little tiny house; wasn't it?
A Yes, sir, it wasn't that big.
Q And when - one time when you said this, when you said this supposedly happened it was one morning and you were saying it in Tim's room watching cartoons and your mama was right out in the den on a sofa?
A Yes, sir, I think so.
Q That's what you said and that Minor 1 was in Minor 1 's room.
A Yes, sir.
Q Did your mama and Tim fuss in front of you all at times?
A Not in front of us.
Q They never did fuss in front of you; did they? Well, how about would Chad and your mom fuss? Would your daddy and mama fuss?
A My real mama?
Q Did Chad and your mama, would they fuss?
A I can't remember.
Q In Tabor City you live with, with Chad, your step-mama,

your sister, Minor 1, and your three step - you got two, what have you got two stepbrothers and one stepsister?

A I got one stepbrother, one stepsister and one half sister and one other sister.

Q Okay, well, would your daddy ever spank you?

A Yes, sir.

Q Sir - ma'am?

A Yes, sir.

Q And how would he spank you?

A With his belt.

Q Where would he spank you?

A In my bedroom.

Q What part of your body?

A My butt.

Q It would leave marks?

A It would be red.

Q Where he'd spanked you with a belt?

A Yes, sir.

Q How about your step-mom, does she ever spank you?

A No, sir.

Q She never has spanked you?

A Not, not that I can remember.

Q And Victim, you both times you said something happened to you you told your step-mom; right? Both times something - you - both times something happened to you you told your step-mom?

A I'm, I'm not sure, but I think I told her on Tim and I don't know if I told her on my mama.
Q Okay, so, you think you told, you think you told her on Tim?
A I know I told her on Tim.
Q Just aren't sure about your mama?
A I'm not sure about my mama.
Q Well, because - well, who do you think you told about your mama?
A I think I told my step-mom.
Q Jennifer?
A Yes, sir.
Q And that's the same one you told on about Tim, too?
A Yes, sir.
Q You know we were talking the other day and you would say that you would lie to the teacher and tell her your stomach hurt?
A Yes, sir.
Q And when did you stop lying to her?
A In, in third grade.
Q In the third grade, in the third grade, now, let me see you were born when?
A [redacted].
Q Okay, and do you remember what, what year were you in the third grade?

A 2009 through 2010.
Q Okay, and you stopped lying then?
A Yes, sir.
Q Okay, and now, you heard - have you ever heard anybody say that what your mama did to you is bad as well as Tim?
A I don't think I've heard that it was bad as well as Tim but I heard they were both bad.
Q You did? You heard they were both bad?
A Yes, sir.
Q If you told Ms. Scearce that Tim did something to you with his knuckles that would be a lie; wouldn't it?
A Yes, sir.
Q And you have talked to Jennifer about all of this?
A Yes, sir.
Q And you've talked to people in North Carolina about all this, North Carolina DSS?
A I think so.
Q And you talked to your - well, you talked to your daddy about this?
A Yes, sir.
Q And you talked to Minor 1 about this?
A No, sir.
Q You just talked to your daddy and talked to Jennifer about what happened?
A I think I talked a little bit with Ms. Scearce. I'm not

sure.
Q And with Ms. Scearce?
A Yes, sir.
Q And you've been to - you've been to North Carolina, talked to a lady there and had an exam there, you came down here later on and talked to a lady here and had an exam here; right?
A I think so.
Q But everything's fine with you, though. You're okay; right?
A Yes, sir.
Q Because you get checkups regularly? Does there - was there much conflict, Victim, between you - between your daddy and your mama over you two children? Did they fuss a lot over you all?
A My real mom?
Q Your - yes, yes, ma'am, your real, yeah, Nicole and Chad, they fussed a lot over you all; didn't they?
A I think so.
Q Because your mama really wanted you to come live with her; didn't she?
A Yes, sir.
Q And you told Ms. Scearce that; right?
A Yeah, I think so.
Q Well, how did you feel when you found out that your mama

tried to bring you a birthday card that time in December? Remember that in '08?

A Yes, sir.

Q How did you feel about that?

A I felt like she loved me.

Q I know, and she wouldn't, she wouldn't have come there to harm you; would she?

A I don't think so.

Q Why would you even hesitate to think that your mama would hurt you? What, what's made you believe that now, Victim?

A Because she did something bad to me.

Q Well, who, well, who's made you think that, Victim? Who made you think that your mama did something bad to you? You've got to tell us. Don't, don't, don't say anything that's not true about them. You've got to tell us the truth. Your mama wouldn't do anything bad to you by taking a card to the school. Are you, are you scared, Victim Are you afraid of anything?

A No, sir.

Q Huh?

A No, sir.

Q No or yes?

A No, sir.

Q Don't you want to see your mama?

A No.

Q When you would get punished by your daddy you said it would leave marks on you?
A Yes, a red mark.
Q But your mama, but Jennifer has never spanked you and put any red marks on you?
A She has.
Q Are you changing your mind?
A Well, she has but I thought - earlier I thought you were talking about my real mom.
Q Okay, I'm sorry. Your real mom never whipped you; did she?
A No, sir.
Q Okay, well, I'm just going to ask you a few more questions and then we'll go; okay?
A Yes, sir.
THE COURT: Can you hear?
JUROR: I don't understand when she's saying no, sir, or yes, sir. I can't differentiate between the two.
THE COURT: All right, if you could please get the witness to speak up clearly and into the microphone. The jury is having trouble interpreting what she is saying or understanding what she's saying.
Q Yeah, Victim, you've got to just kind of speak into that little black knob right there; okay?
A Yes, sir.

Q Did your mama want you and Victim, I mean, Minor 1 to come live with you all?
A Yes, sir.
Q At Myrtle Beach?
A Yes, sir.
Q And that you talked with your daddy and Jennifer about that?
A I think so. I'm not sure.
Q What made you worry about your father's safety like when you would talk to Ms. Scearce? Why were you worried about his safety?
A Because I thought my, my real mama and my daddy didn't like each other.
Q Didn't love each other?
A Yes, sir.
Q And you thought that one of them might hurt the other because of that?
A Yes, sir.
Q But you all never really had any problems when you were at your mama's house at Myrtle Beach as long as she just didn't say any bad things about your daddy; right?
A The only bad thing she done to me is what she did.
Q You're talking about putting medicine on you?
A Yes, sir.
Q Both you and, both you and Victim I mean, sorry, both you

and Minor 1 your older sister, Minor 1 both of you all started seeing Ms. Scearce?

A I thought it was just me at first and then went about a few times that the whole family went, then sometimes we'd both see her, yeah, I think we both saw her.

Q You all were like both paid clients of hers they'd sometimes say? You all both went to her together, right, because Minor 1 was having some problems, too?

A I think so.

Q Okay, I appreciate you talking with me and I'm not going to ask you any more question; okay? That's all I have, Victim. Thank you.

THE COURT: Anything on redirect?

MS. LIVELY: No, Your Honor.

THE COURT: All right, the witness can step down.

MS. LIVELY: Thank you.

THE COURT: All right, can we raise the screen? All right, I think we're going to go ahead and break for lunch. Do we want to wait for the other attorneys to come back in or can we go ahead and ---

MR. CANNARELLA: I think we can go ahead and break, Your Honor.

THE COURT: Okay, all right, ladies and gentlemen, we're going to go ahead and break for lunch. We've ordered lunch for you. So, you have lunch back there waiting for you.

Please do not discuss the case even among yourselves at this point in time. It's still too early for deliberations. We'll let you know when you can begin your deliberations on this case. We'll take a break for lunch. Everybody take your time eating lunch. Just let the bailiff know when everybody is through. Certainly you'll have plenty of opportunities to stretch your legs, return phone calls, whatever you wish to do over this lunch break. Okay, we'll probably take about an hour for lunch since we've got it for you.

Yes, sir.

JUROR: Is there any chance to ask a question about something we didn't hear in the last testimony?

THE COURT: Okay, no, you're not going to be able to at this point.

JUROR: The answer to a question, we didn't understand the answer to the question.

THE COURT: Okay, and unfortunately you're not going to be able to do that at this point in time, okay? If you've been taking notes please leave your notepads here. We'll be collecting them and we'll turn them back over to you when you come back into the courtroom, but please do not take them out with you, okay? All right, thank you very much. Everybody else please remain seated while the jury is excused.

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

THE COURT: All right, anything from the State before we break for lunch?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's take about an hour for lunch. We've got it for them back there. Let's come back - well, let's say about, well, 2:05. Let's take an hour; okay?

OFF THE RECORD

(On the record.)

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

THE COURT: All right, anything from the State before we bring the jury back in?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, I'm assuming they are through with lunch; right?

All right, let's go ahead and bring the jury back in.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: All right, ladies and gentlemen, welcome back. I hope everyone enjoyed their lunch. Make sure if you have notepads that you have your own notepad and you don't

have anyone else's. Also, if you have any cell phones or pager devices or anything of that nature if you would please make sure they're turned off.

All right, Ms. Lively, you can call your next witness.

MS. LIVELY: Yes, Your Honor, thank you. The State would call Denise Scearce to the stand.

THE COURT: All right.

Whereupon, Denise Scearce was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: State your full name and spell your last name.

MS. SCEARCE: My name is Denise Scearce. It is spelled S-C-E-A-R-C-E.

THE COURT: All right, Ms. Lively.

MS. LIVELY: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. LIVELY:

Q Ms. Scearce, where are you currently employed?

A I'm in private practice in Wilmington, North Carolina.

Q Okay, and what is the name of your practice?

A It's Coastal Care Counseling and my address is 7032 Wrightsville Avenue, Wilmington, North Carolina.

Q And how long have you had that business?

A I've been there seven years.

Q Okay, how long have you been in the business of

counseling?
A I have almost 18 years postgraduate experience, 17 1/2.
Q Okay, would you please provide myself, Your Honor and the jury the benefit of what your educational background is?
A Yes, I have a bachelor of science degree from the University of Maine at Presque Isle and I have a Masters of social work from Grambling State University. I have 18, 17 1/2 years postgraduate experience and I'm licensed in the State of North Carolina to practice mental health services for children and families.
Q Have you ever testified in court before?
A I have.
Q About how many times?
A I've primarily testified in over 75 custody cases and this is my second criminal case.
Q Okay, and what type of work do you normally do or what type of counseling do you normally do?
A I primarily work with families and children. I have worked with children who have been sexually abused and my expertise is also working with high conflict families. I'm also a trained parent coordinator for the State of North Carolina where I have had 11 cases to date of being court appointed as a parent coordinator.
Q Okay, and what is a parent coordinator?
A A parent coordinator is a person who is either a mental

health professional or an attorney who works with high conflict families in situations where it may be emotionally abusive for children or traumatizing. My job is to help decrease the conflict and help the parents to co-parent so it decreases the conflict.

Q Okay, and in your profession do you actually keep up with the literature and peer review articles that come out regarding different issues in the area of child sexual abuse, child abuse and high conflict family court cases?

A I do.

Q Okay, do you do any type of continuing education in regards to your particular area of counseling or expertise?

A I do.

Q Okay, and tell the jury what that is.

A I'm required with my license to have 40 hours of continued education. So, every other year my license is renewable. I'm also required to work with children who are sexually abused to have at least ten hours of continuing education per year.

Q Okay, and is your license current with the State of North Carolina?

A It is.

Q And also, have you continued and kept up-to-date your hours that you've just mentioned that are required with your license?

A Yes.
Q And does that include the child sexual abuse training?
A Yes.
Q Now, are you affiliated with any professional organizations or involved in any professional organizations in your particular area of expertise?
A I am. I'm a member of the National Association of Social Workers. I'm also a member of the AFCC which is the American Affiliation for Courts that I work with with high conflict families.
Q Okay, and once again, you said that you've actually been qualified or have - you said you testify in court. Have you been qualified as an expert in court before?
A Yes.
Q Okay, and what areas of expertise have you been qualified in?
A Mental health issues for children, child sexual abuse and high conflict families.
Q Okay.
MS. LIVELY: Your Honor, at this time the State would offer Ms. Denise Scearce as an expert in child sexual abuse counseling and treatment.
THE COURT: All right, any challenges or questions?
MR. CANNARELLA: Questions, questions, Your Honor.
THE COURT: All right.

EXAMINATION (RE: QUALIFICATIONS)

BY MR. CANNARELLA:

Q Mrs. Scearce, a psychotherapist is a person who treats mental disorders through talk?

A Yes.

Q Okay, and you don't diagnose a mental disorder because you're not a psychiatrist.

A I can make a diagnosis with my license.

Q Okay, are you a member of the National Organization of Forensic Social Work?

A I am not.

Q What does forensic mean?

A It's more of scientific nature of working more exclusively with cases that need more evaluation. I do, however, have training as a mental health evaluator for the State of North Carolina through the University of North Carolina in Chapel Hill where I have done child mental health evaluations for children who've been abused.

Q Okay, would you disagree with me if I said forensic means for the court?

A No, I would not disagree with you.

Q Are you a member of the Academy of Certified Social Workers?

A It is the same as NESW.

Q Okay, how about the National Association of Social

Workers, you're a member of that?
A Yes.
Q American Board of Medical Psychotherapists?
A I am not a member of that.
Q American Academy of Forensic Science?
A No.
Q You're not a psychiatrist?
A No.
Q You're not a psychologist?
A No.
Q You've never administered any tests, you don't administer tests; do you?
A No.
Q So, you're not trained to administer tests?
A No.
Q Nor interpret those results?
A No.
Q Have you reviewed the medical records of Victim?
A I'm sorry, would you repeat the question?
Q Have you reviewed the medical records of Victim [redacted]?
A No.
Q Have you reviewed the school records of Victim [redacted]?
A No.

Q Did you ever interview Victim mom, Nicole?
A No.
Q Did you ever do a formal evaluation of the family situation to determine the effects of the dynamics of that family on Victim ?
A I did not do an evaluation. There is a difference because I was engaged first as a therapist. So, an evaluation is different than engaging in psychotherapy.
Q So, your answer is no. You never did a formal evaluation of the family?
A I did an initial assessment when I first met them if that answers the question.
Q You talked with Chad Turbeville?
A Yes.
MS. LIVELY: Your Honor, I'm going to object. This is outside of the voir dire for her expertise. I can't - I mean, that's absolutely appropriate on cross-examination but I don't see how that goes to her qualifications.
THE COURT: Well, I'm trying to find - I need further clarification as to the extent of her expertise. What does her expertise entail or qualify her to do? That's what I'm not sure of.
MS. LIVELY: Sure.
THE COURT: All right, if you ---
MS. LIVELY: So, you ---

MR. CANNARELLA: I'm through, Judge. I don't.

THE COURT: All right, let's get some further clarification as far as what she is qualified to render an opinion.

DIRECT EXAMINATION (CONTINUED)

BY MS. LIVELY:

Q Okay, now, Ms. Scearce, in regards to you being a licensed in the State of North Carolina what does that actually allow you to do in regards to your therapy?

A I'm allowed to make assessments, to make diagnosis. I am allowed to ---

Q Could you expand, an assessment or diagnosis of what because, I mean, I know you understand what that means but we need to understand what that means.

A Right, an assessment would really be conducting like a psychosocial assessment of the whole family dynamics, interviewing the parents, the child, understanding what conflicts there may be, school issues, taking a whole psychosocial assessment of the entire situation or problem. I can also make diagnoses according to the DSM-IV which is a diagnostic manual. I can make referrals for either psychological evaluations or psychiatric or - yeah, psychiatric evaluations which would be to a medical doctor. I can conduct treatment such as to do with cognitive behavioral therapy, supportive using supportive approaches for

families, educating and any other, you know, like family therapy type of techniques that would help the family reduce its issues.

Q Okay, and once again, how long have you been focused on those areas, for how many years?

A At least 17 years.

Q And so, you - what you do is involved in the counseling and treatment but you don't actually treat in regards to what a psychiatrist would do.

A No.

Q Can you write prescriptions?

A No.

Q All right, can you make referrals, though, to a psychiatrist based on your assessments of a child's needs?

A Yes.

Q And have you done so?

A Yes.

Q Okay, and whenever you make these type of referrals is that something that you're expected to do in your line of work?

A Yes.

Q Okay, all right, and also based upon your - you said that you can make diagnoses based upon the DSM-IV. Whenever you can make these type of diagnoses is that information then relayed to the necessary parties if follow-up is necessary for

a child?
A Yes.
Q Okay, all right, and you do that as well?
A Yes.
Q Okay, so, is the focus then the counseling of the child and then the subsequent conclusion or treatment that you actually deem appropriate in a particular situation?
A Yes.
Q Okay, and once again have you read and kept up with peer review and literature in regards to the specific type of counseling, family counseling in child sexual abuse and abuse in the field?
A Yes.
Q And are you up-to-date with all the like give us an example of what the most recent literature is that's out there that deals with these type of issues.
A Well, right now just reading books on child sexual abuse, reading articles mainly from some of the top experts such as Dr. Thomas Lyons and Dr. Michael Lamb. I have contact very often with my colleagues in Chapel Hill who are also experts in the realm of child sexual abuse which is Mark Everson, Nancy Berson and I attend as many of the conferences that deal primarily with child sexual abuse, which they offer at least one conference per year that I will attend.
Q And is what your training and what follow-ups you do

standard for someone who's trying to keep their license and continue counseling in the State of North Carolina?

A Yes.

Q Okay.

MS. LIVELY: Your Honor, once again the State would offer Ms. Scearce as an expert in child abuse counseling and treatment.

THE COURT: All right.

EXAMINATION

BY THE COURT:

Q Excuse me, now, Ms. Scearce, you say you can make diagnoses, diagnoses of what?

A Mental health, a situation such as depression, posttraumatic stress disorder, ADHD, you know, attention deficit disorder with hyperactivity, adjustment disorders either with anxiety or anxiety disorders, and usually based on just the assessments of working with children I can make the referral to an M.D. psychiatrist who could then prescribe medication.

THE COURT: All right, any follow-up questions to my question?

MS. LIVELY: No, Your Honor.

THE COURT: Any further questioning from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, I find this witness to be an

expert in the field of child sexual abuse counseling and treatment.

Ladies and gentlemen of the jury, ordinarily a person can only testify as to what they personally know, in other words what they saw, what they tasted, what they felt, what they smelled, things of that nature. There is an exception and I'll give you some further instructions later on this but there is an exception for witnesses we call expert witnesses, a person who by training or experience or education is qualified as an expert in some field, whether it be a science, an art, a profession or whatever, they may be qualified as an expert which means that they are allowed to render an opinion in the field for which they are qualified as an expert and that's the only distinction between an expert witness and a lay witness is that an expert witness is allowed to render an opinion in addition to what they personally know. All right, Ms. Lively.

MS. LIVELY: Thank you, Your Honor.

DIRECT EXAMINATION (CONTINUED)

BY MS. LIVELY:

Q Now, Ms. Scearce, when did you first come into contact with the Turbeville family?

A I met them on August 18th, 2008, where they were referred to me I believe from the Carousel Center in North Carolina in Wilmington for me to work with both of their

children, Victim and Minor 1 [redacted].

Q Okay, and whenever someone is referred to you and you meet with them for the first time just give us an example of what exactly it is that you're looking for to know what to focus on.

A Well, the first question I would ask the parents is what is the concern that they would have for the children that they would bring them to me. In this case there was some concerns about behaviors that were associated with Victim being very anxious. There was some issues, the school had presented some issues that they would find her balled up in a fetal like position. She would have frequent angry outbursts and just very anxious. So, those were the presenting problems.

Q Okay, and were any problems presented to you regarding Minor 1?

A There were some issues about Minor 1 but they were, they were minor. They were just some behavior issues that the parents, well, Mr. Turbeville and his wife were presenting usually when the children would return from their mother's home in Myrtle Beach after a visit.

Q Okay, now, were you ever specifically told what concerns or what Mr. Turbeville believed may or may not be happening at the home of Nicole and Timothy Young?

A Would you repeat that question, please?

Q Sure, and I understand. You said that you got an

assessment, an initial assessment to find out what the focus needed to be; is that correct?

A Yes.

Q Okay, and you just now mentioned in your testimony that the behaviors were actually relayed to you as occurring sometimes after they had come back from a visitation in Myrtle Beach; is that fair to say or ---

A Yes.

Q Okay, now, along with that, was any other information given to you at that initial assessment by Mr. Turbeville of any specific issues or conduct that may be going on in the home in Myrtle Beach?

A No.

Q At any time during the entire time that you were counseling Victim and Minor 1 when, if ever, did Mr. Turbeville mention the words abuse?

A I don't believe he ever mentioned the word abuse.

Q If he had would you have looked into that?

A Yes.

Q Did he ever mention anything about sexual contact between the daughters and anybody at all in the Myrtle Beach home before the disclosure made by Victim?

A No.

Q How about Jennifer Turbeville, did she ever mention anything about any sexual contact or anything inappropriate

from the Myrtle Beach home?

A No.

Q Please tell this jury when you first became aware and how you first became aware of anything of that nature occurring in the Myrtle Beach home.

A On November, on November 6th I had a session with Victim where prior to them coming Victim had reported to her stepmother regarding her biological mother with inappropriate type of behaviors where she was walking around the house naked, which made - Victim said she felt uncomfortable. The other part to that was that Victim had stated her mother would usually pick her up after a bath, lay her on the bed and put Neosporin on her vagina, her private parts. That is when I did not know if this was just inappropriate boundaries and I knew that I had to make a child protective service report to Columbus County Department of Social Services, which I did.

Q Okay, and you said that was on November 6th of 2008?

A Eight.

Q Okay, now, Ms. Scearce, what is meant by a mandated reporter?

A It means that I am bound, duty-bound to make a report if there's any suspicion of abuse or neglect and for the process to start for investigative purposes.

Q Why did you have an opinion that the event that took place between Minor 1 not Minor 1 I'm sorry, Victim and her

biological mother was kind of crossed the line?
A My thought was that it either, either this was a mother that had - just had poor boundaries. I was not certain at that point whether it might be abuse. I thought it could be, but I felt that the Department of Social Services needed to investigate that in order to rule that out. There was a concern because during that time Victim behaviors were - there was many concerns about her behaviors. During that time she was having nightmares about someone coming to her home, kidnapping her and hurting her family. More particularly she seemed very focused on her father and stepmother that they would be hurt. So, there was concerns about her behaviors and how she was reacting to some of those things.
Q Okay, and whenever this information was being relayed to you about the nightmares who was telling you about that? Was it Victim herself or was it her step-mom and father?
A It was both parties were telling me that.
Q Okay, all right, and would you talk to Victim about that during your counseling sessions?
A Yes.
Q And in your expert opinion what was her reactions to discussing these things? What type of emotional responses would she give you?
A She was very much in distress and there was a lot of anxiety. There was some acting out. It seemed she was more

anxious than she was angry, but there was a concern that she was having trouble sleeping, she was already looking like a child who was becoming sick. When she would come to my office I would see that she had dark circles under her eyes, and when I asked her how she was sleeping at night she said, "I'm not sleeping at all," and that's when I made a referral as well to a psychiatrist to assess her for depression.

Q Okay, and was that done?

A Yes.

Q And what was the result of that assessment from the psychiatrist? Were you notified?

A Yes. I referred Victim to Dr. Frank Stevens who was practicing in Wilmington. He is now retired but he diagnosed her with posttraumatic stress disorder and prescribed Prozac for her.

Q And are you aware of whether or not Victim actually was taking the Prozac?

A Yes, she was.

Q And did you have the opportunity in your capacity as her counselor to observe her both before she began taking the Prozac and after?

A I did.

Q And how did she progress?

A She made improvements. She was already beginning to look healthier and her emotions were becoming more stabilized.

Q Okay, do you have the exact timeline for - I know you said that they came in August the 18th of '08. How long did you actually treat and counsel Victim

A I saw Victim from August 18th, 2008, and my last visit with her was August 4th, 2010.

Q August 4, 2010, okay.

A Yes.

Q And whenever you were counseling Victim did you actually get to the point where you made a diagnosis yourself as a therapist in regards to what her mental condition was?

A Yes. I felt that - I initially I gave her a diagnosis of an adjustment disorder with anxious mood. As time progressed and since Dr. Stevens diagnosed her with posttraumatic stress disorder I had, you know, changed that diagnosis to that.

Q And in your expert opinion what is her diagnosis?

A Presently?

Q Yes.

A I would say that it is - it's - her symptoms have subsided. So, I would go back to an adjustment disorder with depressed mood.

Q Okay, and so, these things, and let me see if I understand. In your line of work these things are obviously changing at all times, a person's diagnoses, is that a fair assessment?

A Yes.
Q Okay, all right, is that the purpose of your counseling of the child and/or families?
A Yes.
Q All right, well, let me get back to, let me get back to whenever Victim actually disclosed about her mother. You said that you reported it to DSS. Did you have any other involvement in that particular disclosure and its investigation?
A The social worker from Columbus County Department of Social Services had called me and was making the appropriate referrals. Usually after there is a disclosure they will schedule a child medical examination which I believe Victim had one on November 25th, 2008, at the Carousel Center.
Q Okay, at that point in time had you been given any reason from Victim to be concerned about any additional inappropriate contact in the home in Myrtle Beach?
A Would you repeat that question?
Q Sure, in November you stated that Victim disclosed about her mother and you've already told us what it was that was disclosed at that time. When all that came out, having contact with Victim like you did as her counselor, did you get any indication that another person in the home or anyone else had done anything inappropriate to her at that time?
A Not at that time. When the Department of Social

Services became involved with the investigation the visits with her mother had stopped until they could complete the investigation. During that time Victim her - it seemed to be - she seemed to be improving. So, things were going fairly well until, you know, January.

Q All right, well, wasn't there a problem in December, an event where Nicole attempted to get in contact with the children?

A Yes, there was a situation where the biological mother had gone to Victim school to take some correspondence to her and apparently it was after that that Victim became very upset. She was very much in distress over this where she talked about in a session that she was - she just felt afraid. She just wasn't sure what to expect, you know, about her mother's visit. It was unexpected and she became very upset.

Q And remind us, how old was Victim at this time when you were treating her?

A Seven, seven years old.

Q Seven years old, did she appear to be competent and understand what it was that was going on?

A Yes.

Q Okay, in your opinion as an expert in dealing with children was she on her developmental level?

A Yes.

Q Okay, all right, and you know what I mean, I'm talking

not only educational but just emotional and mentally?
A She seemed very mature. I won't say mature for her age, but she seemed articulate. She gave, you know, just details to explaining things, and usually when she was asked a question she responded, it just - she gave enough detail to whatever the response was, which I felt was very appropriate for a seven year old.
Q Okay, all right, now, whenever the event occurred in December of '08 where the mother attempted to have contact with the children did you do anything in response to that in regards to the school?
A I did. I wrote a letter to the school because apparently the school became upset with step-mom, and I'm trying to find that letter. Hang on just a moment, but in that - in there Mrs. Turbeville, Victim stepmother, became very concerned and upset that biological mom had taken correspondence to the school and tried to deliver it to Victim and Minor 1 and apparently the school either allowed the contact but it was afterwards that Victim became very upset about the interaction and it seemed to me that her anxiety increased. In fact, I would even say that Victim behaviors actually regressed. She was acting out at home. She was having increased nightmares. Her behaviors seemed to be odd where she would get up in the middle of the night and this is all reported from the parents, she would talk about, you know,

people coming to get her and kidnapping her and hurting her father and stepmother, and it seemed that the family was very upset and trying to figure out what they could do to help her.

Q And did Victim ever relay to you whether or not she - when she got that correspondence whether or not she missed or wanted to see her mom?

A No, she didn't - she did not indicate that. In fact, let me see, she had told me that she just was afraid to see her mom.

Q Okay, now, after you did - well, what was the date of that letter that you had done for the school?

A Actually I did it in January, on January 26th.

Q Okay, all right, well, let me back up for a minute, you said that you were continuing to counsel Victim. Were you ever subpoenaed or asked to go to court for a hearing January 13th of 2009 that you recall?

A Was it January 13th? I was - I did go to court but I did not testify at all in that situation.

Q Okay, so, no testimony from you was taken? Is that a yes?

A Yes.

Q Okay, all right, just wanted to make sure, and at that time was that involving the DSS case?

A I believe it was.

Q And at that time had any disclosure been made about the

Defendant Timothy Young?
A That was - that was made January 16th, 2009.
Q That's when you learned of it; correct?
A Yes.
Q Okay, all right, are you aware of whenever Victim actually disclosed it to Jenny Turbeville; do you have those records?
A I don't have the exact date that she disclosed that to her stepmother. I saw Victim almost, soon after that on January 16th, 2009.
Q And the purpose of her coming to you at that time was for what?
A To actually tell me what she had told her stepmother.
Q And that would be Jenny Turbeville, the stepmother?
A Yes.
Q Okay, all right, now, and did you talk to Victim about what she had told Jenny Turbeville?
A I did.
Q And did she disclose to you what she - well, you knew a little bit about what she had told Jenny; correct?
A Yes.
Q All right, when you talked to Victim did she disclose information to you regarding what she had told Jenny?
A Yes.
Q Now, you can't tell me exactly what she disclosed. She's already testified, but based upon what she told you during

that meeting on January the 16th, 2009, what did you do in regards to mandated reporting, etcetera?

A I did. I wrote a report immediately and sent it to the Department of Social Services in Columbus County where the social worker took care of that situation. In addition to that I believe it was sent to law enforcement here in Horry County.

Q And did anything that you did to your knowledge have anything to do with whether or not law enforcement was involved with either Nicole Young or Timothy Young?

A I'm sorry I don't ---

Q Okay, is anything that you did, in regards to when these cases were investigated, was any of that information, did you push it through law enforcement or through the Department of Social Services?

A I actually sent it to the Department of Social Services.

Q Okay.

A Which I believe they're the ones that took it to law enforcement.

Q Okay, all right, so, so, do you have any knowledge after it went to DSS as to what they did with it from that point forward other than having you possibly be a witness?

A No.

Q All right, now, Ms. Scearce, let me ask you something, did you have concerns whenever you met with Victim on January

the 16th, 2009, about the fact that she had not disclosed this information to you earlier?

A I had asked her that question of why she didn't tell me about the second situation when she told me about the first situation with her mother and she said that she needed to tell me one at a time and from her standpoint meaning that she needed to tell about her mother first.

Q Did you discuss that with her?

A I did, but it was, you know, again, I was making the assessment of how she was reacting to things. She felt that - she just felt - she, she was concerned and did not really give an explanation as to why she told me first about her mother. I have my opinion about why she may have done that, and of course, with the way children at this age anyway will disclose the information, you know, there was a lot of things happening during that time. I do feel that she was in a situation where she felt that she could tell about her mother first because her mother actually had made a threat about the safety of her father and her stepmother and also it was a situation where during that time Victim didn't have contact with her mother, that the second disclosure I believe she felt safer to talk about that situation.

Q Okay, was the disclosure that she gave in November of 2008 different from the one that she gave in January of 2009?

A Yes.

Q Okay, were the details different?
A Yes.
Q Before January of 2009 had you ever discussed other sexual inappropriate contact that may have been done by her mother, and in other words, let me ask you this because I know that's - I can tell from the look on your face it's confusing. Let me ask it another way. Have you ever performed an actual forensic interview of the child?
A No.
Q Forensic interview meaning going through details, body parts and anatomical and that kind of thing. Okay, so, here's where my question is, did you whenever you questioned Victim about what had happened with her mother in November ask her, "Well, did somebody else touch you here with their finger, their mouth, their private part?" Did you go into other type of sexual details with Victim about any kind of abuse?
A Not, not for that one.
Q Okay.
A I was just mainly getting more of the details about what she was disclosing about her mother.
Q Okay, so, your focus was on what she was giving to you?
A Yes.
Q Did you add anything to it?
A Add, how do you mean?
Q Add any of those sexual types of behaviors to it?

A No.
Q Okay, all right, and I'm sorry. I'm just trying to - I wanted to see if you give her any kind of other information regarding sexual contact with another person.
A Okay.
Q Did you have any concerns from talking with Chad or Jenny that they were worried the child was being exposed to pornography or on the internet when they were in Myrtle Beach?
A No.
Q Okay, did you have any type of information that maybe Victim and Minor 1 had been exposed to any type of sexual conduct by Timothy and Nicole while they were visiting in Myrtle Beach?
A Would you repeat that question, please?
Q Had they ever said we think they might've walked in on them having sex?
A No.
Q Okay, all right, when Chad came to you and hired you in August of 2008 did he tell you he was going to want you to come to court and be an expert witness for a custody action?
A No.
Q Was there a custody action pending at any time whenever you were caring or counseling these girls?
A No.
Q Because you're used to that; aren't you?

A Yes.
Q And does that happen to you often?
A Yes, it does.
Q Okay, what is meant by a delayed or piecemeal disclosure by a child who is of the age of seven to 10 who's had this type of abuse occur to him or her?
A The literature, the research is saying that children - it is not unusual for children of that age to delay any sort of disclosure or even not disclose at all, and when they say piecemeal, sometimes children and it depends on certain situations or factors or just the child itself, children will, you know, disclose sometimes in increments of what they feel they can talk about. Some children may feel that they, if they tell about abuse that no one will believe them or, number two, they start thinking, "Well, if I tell about this situation what will it do to my family? Will I be hurt? Will somebody else be hurt," and so, from that standpoint children sort of test out the waters to see who is going to believe them and what will happen if they tell.
Q Okay, and what type of things might affect other than just what you're saying but what about family dynamics? How might that affect the way a child discloses sexual abuse?
A It would affect it very much so because many children feel that they are responsible for the abuse. They may also even feel that if they tell they may be taken out of the home,

I mean, they can imagine all kinds of things, that it's pretty frightening for them.

Q Would you be surprised - well, let me ask you this, whenever a child makes a disclosure, an initial disclosure, in your experience as a counselor in sexual abuse, is that disclosure usually the entire event or events?

A No, the research indicates and most people who are involved in working with children who have been sexually abused they're, they're saying that children need more than one interview to actually get all the information that's needed and that children will give reliable, detailed accounts of things but it takes more than one interview.

Q And how many counseling sessions did you have with Victim to build a rapport before she actually does - the disclosure came out about her mother?

A I had about five sessions.

Q Okay, and how long was it then - I think it happened maybe about a month and a half later that Victim disclosed about the Defendant. What - how many sessions had you had with her at that time?

A Six.

Q Okay, you had mentioned that fear and anxiety can really affect a child's, obviously their demeanor and what they feel safe in saying and doing; is that a fair assessment?

A Yes.

Q Was that the case with Victim?
A Yes.
Q And were you surprised as an expert in child abuse therapy and counseling as to how her disclosure took place?
A Was I ---
Q In regard - as it being a piecemeal disclosure?
A Not at all. I believe that children, it's not an unusual situation for her to give it in incremental ways or to delay it or just give bits and pieces of it. That's - it's, it's the norm for children.
Q Can you tell the jury what post traumatic stress disorder is?
A Yes, it's, it's usually a very reactionary situation. Usually children or even adults who have been exposed to any sort of traumatic event will experience extreme anxiety. They'll have nightmares about events. They may have startled responses. You will see acting out behaviors where sometimes for children they will or they'll sexually act out or they will become aggressive, very angry. Usually these are children that may have trouble sleeping, trouble eating, problems at school, not able to focus or concentrate. So, it's sort of a plethora of symptoms that they have that looks like several different things but if it's related to a trauma we'll see those symptoms.
Q And in your expert opinion were her symptoms consistent

with what you would normally have to deal with in the treatment for sexual abuse?

A Yes.

MR. CANNARELLA: I object to that, Your Honor.

THE COURT: All right, sustained. The jury should disregard that last answer.

Q In regards to let's just say any type of abuse or trauma you said that the child was actually diagnosed by the doctor, what was his name Stevens?

A Dr. Frank Stevens.

Q Dr. Frank Stevens with posttraumatic stress disorder.

A Yes.

Q Okay, and in posttraumatic stress disorder is that a symptom or a diagnosis that's consistent with a child who has suffered abuse?

A Yes.

MR. CANNARELLA: I object to that again, Your Honor.

THE COURT: Yeah, I sustain it. That's beyond her expertise.

Q In your expertise of child sexual abuse counseling and treatment and your treatment of Victim were her symptoms and behaviors that you personally observed consistent with a child who had been abused?

MR. CANNARELLA: I object again, Your Honor.

MS. LIVELY: She's an expert in child sexual abuse

counseling and treatment.

THE COURT: Treatment but she said she - she never said she could diagnose that. So, I'll sustain, sustain the objection.

BY MS. LIVELY:

Q What did you diagnose Victim with?

A I originally diagnosed her with an adjustment disorder with anxious mood.

Q Okay, and because of the problems that she was having who did you refer her to?

A Dr. Frank Stevens.

Q Okay, and Dr. Frank Stevens did he provide you with his diagnosis of what he believed Victim was suffering from?

A Yes.

Q Did you use his diagnosis which was what?

A Posttraumatic stress disorder.

Q Posttraumatic stress disorder, did you use his diagnosis and his treatment in forming an opinion in regards to your treatment of the child as to whether or not she was exhibiting behaviors that were consistent with a child who suffers from child sexual abuse?

MR. CANNARELLA: Same objection, Your Honor.

MS. LIVELY: Under 703, Your Honor, she can use other opinions in ---

THE COURT: Yeah, she's relying on someone else's

opinion as to her treatment. So, ladies and gentlemen of the jury, let me make this clear, the purpose of this answer is to show how Ms. Scearce or why she treated the child the way that she did. It is not a diagnosis as to whether or not there was sexual abuse, but it simply explains why she treated the child in the way she did. All right, go ahead.

Q In response, when you received that information and you continued your treatment or the treatment that you continued to give to Victim and the behaviors that you had personally witnessed and experienced were those consistent with what you normally deal with in child abuse treatment?

A Yes.

Q Thank you. Now, you said that you stopped your treatment of Victim in - when was that again?

A It was in the - I think the summer, August, around September, or I'm sorry, July or August 2009. There was some issues that the family was concerned about with Victim s behavior that it seemed as if she was becoming a behavior problem and they were having difficulty managing her behaviors and felt that the therapy was intensifying the symptoms, which I agreed with. I felt that it would probably be helpful for her to probably do some things at home that would be helpful, and we developed a behavior modification plan for her to focus on her behaviors but to also put into place incentive so that she could see that she was improving with her behaviors and it

was successful, it was working for her.
Q Okay, and the last time you saw her in August of 2010 was she in your opinion on the right track in regards to her behaviors and her ---
A Yes.
Q --- her emotional health. I'm sorry, was that your final answer or were you looking at your final report? I apologize.
A I'm sorry, I, I believe that was my final answer.
Q That is it, okay. I just wanted to make sure. So, there was no - you didn't have any recommendations for follow-ups at that time?
A Actually I was, I was following up with the family at that time. They were very consistent with using the behavior plan that we had developed and they would often send me examples of her behavior charts indicating that her behaviors had improved.
Q Okay, great. Thank you so much, Ms. Scearce. Answer any questions that Mr. Cannarella may have for you.
THE COURT: All right, before we start that let me see the attorneys for a second.
(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)
THE COURT: All right, ladies and gentlemen, we're going to go ahead and take a short break. That direct lasted

about an hour. So, let's before we get into cross examination we'll take about a ten, 15 minute break, give you an opportunity to get something to drink, stretch your legs, whatever the case may be. Please, if you took notes, have your notepads, leave those here in the jury box. Do not discuss the case even among yourselves at this point in time. We'll bring you back out in just a second. Thank you very much.

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

THE COURT: All right, Ms. Scearce, we're still in the middle of your testimony. So, please do not discuss your testimony with anyone, whether it be something you've already testified to or something you anticipate testifying to. You can't discuss it with anybody at this point in time. Okay?

A Yes, sir.

THE COURT: All right, anything from the State before we break?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's take about a 10, 15 minute break; okay?

OFF THE RECORD

(On the record.)

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

THE COURT: All right, anything from the State before we bring the jury in?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, get us a bailiff to bring the jury back in. Yes, Ms. Scearce, if you'd come back up and take the stand, please. You're still under oath.

But I mean, they hadn't gotten back yet?

OFFICER: No, sir.

THE COURT: Okay, all right, well, we can wait another five, five minutes or so. Just let me know when they all get back; okay? All right.

OFF THE RECORD

(On the record.)

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

THE COURT: All right, anything before we bring the jury in?

MS. LIVELY: No, sir.

THE COURT: Anything from Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: Are they ready? All right, let's go ahead and bring them in.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: All right, Mr. Cannarella, you can begin your cross examination.

MR. CANNARELLA: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. CANNARELLA:

Q Ms. Scearce, so, you never did a formal evaluation of the family situation in terms of like talking with the - with Chad, Nicole, the parents and the children, all the children in the family?

A I did - I met with most of the family except the biological mother, Nicole.

Q Well, wouldn't it be important to meet with her, too?

A It would've been. In fact, my plan was to meet her.

Q Okay, and my - that's why you purposely put in correspondence between you and Mr. Phipps the attorney, you purposely put in there that as of 10-28-08 and I'm reading from one of your letters, you had not had contact with Mrs. Young, "due to Mr. Turbeville's concerns and his request that I speak with Mr. Phipps his lawyer about it"; right?

A Yes.

Q Well, and you never really, in fairness to you, you

never really pushed that issue about trying to get, about trying to get input from Nicole on a one-to-one basis?

A It's my recollection that I encouraged that contact. It didn't happen but it's not because it was not encouraged.

Q By you?

A By me.

Q Okay, and in all, in all of your studies, if you will, and in reading all the professional literature that's out there, maybe like one of the experts you rely on is like Dr. Lamb he's here from San Diego?

A Yes.

Q Now, is it - it's fair to say and you took this case in I believe as a high conflict situation case; right?

A I didn't take it, I didn't know at the time. I mean, I did not take it because it was a high conflict case. I see children just for - that need help with psychotherapy. This was a referral for that I believe, and I even had noted in my notes that this may potentially be a high conflict case.

Q High conflict situation, insofar as the family dynamics are concerned in everything that was going on ---

A Yes.

Q --- in this family based on the history that was reported to you?

A Yes.

Q Okay, and in reading the literature isn't it fair to say

that it's not unusual now in the reported literature in high conflict situations like this that there's been false allegations of child abuse. You've studied that I know.

A Yes, in some high conflict situations there have been cases where there has been false allegations.

Q And that's in the literature you're talking about?

A Yes.

Q Okay, in August 18th, 2008, that's the first time you saw your patients?

A Yes.

Q All right, and your patients were Victim and ---

A Minor 1

Q --- Minor 1 because both of them were reported to you as having problems?

A Yes.

Q And another thing, too, Ms. Scearce, you know, in reading the literature there's no laundry, cluster, there's no cluster or groups of symptoms that any expert can point to that would without a doubt indicate sexual abuse?

A When you mean - what do you mean by cluster?

Q Cluster of symptoms, yeah.

A Do you want me to ---

Q I'm going to read what you - excuse me. Go ahead. I'm sorry.

A Would you - did you want me to respond to that or ---

Q Yes, ma'am. I asked you. It's fair for you to respond.
A Although they - when they say symptoms or cluster of symptoms I'd have to say the field is not going by just a cluster of symptoms. They're looking at many other factors involved in it. Symptoms are important but it does depends on, you know, any detailed information that children give in their disclosures, whether or not they do disclose, but I think what I'm trying to understand your question is that the field is not really looking at a cluster of symptoms ---
Q Right.
A --- to say that this is sexual abuse.
Q I mean, you don't have a checklist you can go by and say ---
A No.
Q --- ooh, yeah, that's it right there.
A No, their - the field is not doing that.
Q That's not, that's not - no, okay, thank you. Now, in August the 18th you took on the - both girls as clients?
A Yes.
Q And they were referred to you by North Carolina DSS?
A No, it's a - it was a child advocacy center and it probably was just a phone call to say who works with kids who, you know, have behavior problems, and I believe that's how the parents got my name.
Q You were recommended?

A Yes.
Q Okay, and this was for private counseling?
A Yes.
Q Taking care of - I mean, your bill's taken care of by Mr. Turbeville; right?
A It's - it was paid through Medicaid.
Q Okay, not any private insurance?
A No.
Q And you testified that you saw - I want you to tell me because I know you said five times before, but can we track them like August the 18th is the first visit?
A Yes.
Q Okay, can you tell me the next time? That was with both kids; right?
A Yes, and with the family. That was my first initial assessment with the family.
Q Okay, does that take place like - is that like group therapy?
A No, usually because Victim and Minor 1 were separate clients it was a two-hour appointment. I met initially with the parents to find out what the concerns or issues were. Then I met with the children individually.
Q Okay, August the 18th is the first time?
A August 18th was the first time.
Q Next?

A August 25th.
Q Next?
A September 8th.
Q September the 8th, that's, okay three, four?
A October 20th.
Q Okay, five?
A November 6th, this is 2008.
Q Right.
A And then January 16th.
Q That's number six?
A Yes.
Q January 16th of '09?
A Yes, February 5th, 2009.
Q Okay.
A Did I - February 24th, 2009; March 13th, 2009; April 14th, April 22nd, June 11th, July 22nd, August 19th, August 24th, September 9th, October 9th, November, November 6th, 2009.
Q Okay.
A And then my last was August 4th, 2010.
Q Okay, thank you, ma'am, and around December the 28th you reported some of your - you reported some of your concerns to Mr. Phipps?
A On December 28th.
Q No, no, ma'am, October the 28th?
A Okay.

Q It was by a letter?
A Yes.
Q And that the history of the case showed many examples of what would be considered a high conflict situation?
A Yes.
Q And that in there you said there's been significant neglect and substance abuse problems related to the kids', the girls' mother, Nicole; right?
A Yes.
Q And on your, and on your October the 20th session both of them were experiencing stress, both were experiencing stress and anxiety regarding the visits with their mother?
A Yes.
Q Because the girls report to you that Nicole wants them to live with her; yes?
A That's what the girls had reported.
Q To you?
A To me.
Q And they reported to you visit the father only on the weekends?
A I'm sorry, would you repeat that?
Q I will. So, it said, well, the girls reported to you that the mama wants them to live with her in Myrtle Beach and visit with Chad only on the weekends?
A That's what the girls reported, yes.

Q Right, and that their mother has threatened them if they stick up for their father?
A Yes.
Q And that they were worried about the safety of their father?
A Yes.
Q That she will get them in trouble and hurt their step-mama?
A The girls were reporting that, that they felt that their dad was - they were worried about his safety and they were worried about their step-mom, Mrs. Turbeville.
Q And that they wished their parents would become friends?
A Yes.
Q So, insofar as the two children are concerned in your recognition of those statements is why you said, "Hey, this is a high conflict situation?"
A Initially I thought that, yes, but this letter was before the first disclosure that Victim gave.
Q Okay, and you also state in that letter that you encouraged contact with Mrs. Young but none ever happened?
A No.
Q You didn't take it upon yourself to try to find her or contact her to get her in; right?
A I actually had her number and I did try to call her but then there were - there was the disclosure, I had contacted

the Department of Social Services and that contact was just - it just disappeared.

Q All right, and on January 16th of 2009?

A Yes.

Q Well, excuse me a second, let me back up. It's been testified to the last time there was any contact between the kids and Nicole and Tim was Halloween weekend October the 31st of 2008. Do you, do you remember that?

A I do.

Q Okay, and then the significance is that on November the 6th , just really let's say just a week later, okay?

A Yes.

Q Fair, fair to say, that the children came to see you on that November the 6th visit?

A Yes.

Q And you had gotten a telephone call from Chad or Jennifer about the statement that Victim had made to Jennifer?

A That's, that's how the session was prompted ---

Q Right.

A --- was that Victim had told her stepmother that.

Q About, some things about her mama?

A Yes.

Q Okay, so, they come home from a weekend visiting with their mama and on - actually I think, and on the 4th, on November the 4th is when these, this statement, these

statements were supposedly made by Victim to her step-mama?
A It was on November the 4th, yes.
Q Right, right, okay.
A And then I saw Victim on November the 6th.
Q November 6th, okay, and she told you about things that her mother was doing to her?
A Yes.
Q Right, okay, and on November the 12th you reported that to ---
A Yes.
Q --- mandated reporting ---
A Yes.
Q --- about that and Victim had told you that her mother, that Victim felt like what her mother did to her was inappropriate?
A I'm sorry, would you repeat that again?
Q Yeah, okay, and Victim, when you talked to Victim on the 6th you had already had information from her daddy or the step-mama about what the reason was for coming there?
A I don't recall I had a conversation with them. Usually when I see parents - they called me in a crisis. I got them in as soon as I could see them in my appointment. I spoke with them before I met with Victim.
Q Right, because in that - kind of would, quite naturally that would kind of give you some heads up of what, what you're

dealing with before the child gets there; right?
A Yes.
Q Okay, and then as a result of that did - well, did Victim describe to you that her mother was applying ointment to her private by her mother using her knuckle?
A Yes.
Q Well, isn't that the same thing that she described to you on January the 16th that Tim was doing, his knuckle?
A She did use that, the knuckle, but she also described that he used his finger.
Q Right, and in that letter, to whom it may concern, Victim said that Nicole, the second, I'll help you follow where I'm reading, the second paragraph and that Victim said that Nicole would often take her into her mother's room?
A Are you looking at the second paragraph?
Q I'll show you.
A Okay, okay, after - okay, yes.
Q So, so, you reported that Victim said that her mama would do these things to her in her mama's room?
A Yes.
Q And then she went on to say that Tim would touch her private parts with his knuckle, too?
A Yes.
Q So, it's knuckle mama, knuckle Tim; right?
A That's what she had told me.

Q Right, and you felt it important to report that she said - well, I will - I just - you asked her, "Well, why didn't you tell me this before," because you'd seen her a number of times, "Why didn't you tell me that before?" You asked her that about Tim, "When you disclosed about the mama."
A Yes.
Q And she said to you, too, that, "Well, I knew mama was," let's see, "I knew - she knew that her mother was bad as well as Tim." So, so, so, she says they're both bad?
A That's what she said to me is that she felt that she needed to tell me one at a time and I believe the next sentence says that she knew her mother was bad as well as Tim.
Q So, she didn't say anything like then, "I thought I would finish one before I started on the other"?
A A child wouldn't say that. I think ---
Q Go ahead, I don't want to interrupt you.
A Well, I'm just saying that I don't - I don't think she would have been able to articulate why she told one at a time. I think that in the situation she just felt that she needed to do it one at a time, and at that time there was a lot of things that were happening around the home. First of all, the visits with her mother stopped, which secondly would probably lead to the second disclosure.
Q Right, but a language like, "Finish one before I started on another," that wouldn't sound like a child's talk; would

it?
A I don't recall her saying that.
Q Well, if she said - well, it's not in your - that's not in yours?
A Yeah, I don't believe ---
Q Yeah, she didn't say that. That, that sounds like - but it's fair to say that sounds like adult talk?
A Yeah, I would, I would question that, yes.
Q Sounds like adult talk?
A I would - yes.
Q Would you agree that in the context of what we're all here for that contamination, in the context of what we're here for, contamination is false memories constructed by talking with others; is that fair to say?
A In this, in this situation?
Q Yeah, well, if you, if you read in your professional literature contamination could a definition of that be false memories constructed by talking with others?
A I think with contamination it would be more than that. It would be very inconsistent reporting, the child could recant. It would be more, contamination would be more.
Q Okay, but it could be using, a nine-year-old child using language that you would expect to come from an adult like you just admitted a while ago about one, about before I started on another one?

A Well, I don't, I don't see how that would be related to false memory. You know, children, children will say things, things that they may hear, but I don't know what, in what context ---

Q Okay.

A --- that statement would be made in.

Q Okay, and in the context of your profession crosstalk would be a child overhearing other people talking about something that might be related to the subject. I mean it's fair, fair to say that that could be ---

A Yes.

Q --- the definition of that. Okay, you said that in your letter, Ms. Scearce, and you purposely reported, this is on the second page, and during your, during your interview of her on January 16th of 2009, you know the, I'm going to say it's the third to the last paragraph when you said the context is unknown as to the reasons why Victim mother would tell her this. I'll show it to you.

A Yes, I see that. I see that.

Q Well, was - so, she said, so Victim said, I mean, kind of rambling, her mother at one time told, Nicole told her at one time when Minor 1 was a baby when she would poop she put a stick that she found behind the toilet up Minor 1 behind. She said that right here?

A Yes, she did. She, she was referring to ---

Q Suppositories probably?
A More than likely she was referring to that but she added that to the end of my session with her, and of course, I had added that I'm not sure in what context it may have been the statement that she felt that her mother was bad that she related the suppository incident to her - about her sister Minor 1 and that's why I had added the context is unknown as to the reason why Victim mother would tell her that.
Q Did the children ever disclose to you any corporal punishment on the part of Chad? Did Victim ever disclose any corporal punishment on the part of Chad?
A No.
Q Did she ever disclose any corporal punishment on the part of - well, did Minor 1 ever disclose any corporal punishment when you ---
A No.
Q --- when you would counsel her? Did you review any school records or any medical records?
A The only medical records that I reviewed was the child medical examination from the Carousel Center that was done on November 25th, 2008.
Q That's the Carousel Center, that's in North Carolina?
A Yes.
Q And that, so the jury will understand, so, when you made your report after, after November the 6th of '08 about the,

about Nicole you made a report to DSS?
A Yes.
Q And as a result of that they conducted an investigation?
A Yes.
Q Against the mama?
A Yes.
Q Okay, and then part of that was going to the Carousel Center.
A The Carousel Center, uh-huh.
Q Which is for children?
A Yes.
Q And two things happen, one is there is a forensic, what they call a forensic interview. I know you what - a forensic interview was where they put them on videotape.
A Uh-huh.
Q And then they do a medical exam?
A Yes.
Q And you reviewed the medical exam from there?
A Yes.
Q Okay, so, on January - let me back up a minute. Yeah, you wrote - okay, now, I'm trying to keep it under control with the timeline so as not to confuse, but, so, I'll ask you in your January - you wrote a letter that Mrs. Lively asked you about on January the 26th?
A Yes.

Q You wrote that letter to the superintendent of Columbus County schools; yes?
A Yes.
Q Dan Strickland?
A Yes.
Q Who is Dan Strickland?
A He must be the superintendent of the school.
Q Allen Falk?
A I'm not sure if he may have been the principal, or I'm sorry, Ms. Debra Hammond was the principal. I'm not sure who Mr. Allen Falk was. He was probably on the school, school administration board.
Q The letter pertains to [redacted] of 2008?
A Yes.
Q And you know [redacted] is the date Victim was born? It is.
A I think Victim s - what, I'm sorry, what did you say?
Q No, I'm sorry, Minor 1 I get Victim and Minor 1 sometimes start rhyming to me and I miss it. I'm sorry. That, on [redacted] - Minor 1 was born on [redacted]; right?
A Yes.
Q So, so, so, and Nicole and you were - you were advised of the situation by someone to prompt you to write that January 26th, 2009, letter?

A Yes.
Q You wrote that letter at the request of?
A Mr. Turbeville and Mrs. Turbeville.
Q Okay, they, they asked you to write the letter?
A Yes.
Q Did you have any contact with Mr. Phipps about writing that letter?
A I did not.
Q Okay, and you wrote that letter to the school to tell them, "Hey, listen, you all don't really realize what's going on. Please let Jennifer Turbeville come back to the school"?
A My concern at that time was that Victim was upset over that situation and that during that time her behaviors, she was regressing in her behaviors. My concern was that the school was actually chastising Mrs. Turbeville about it where they were keeping her from the school, and I felt that Victim needed as much support as she could possibly get and that there may - while there was just - the school needed to be aware of this, that it needed to be corrected.
Q Right. Well, the school got pretty upset on [redacted]?
A That's from what I understand, yes.
Q And you understand that because they've told her not to come back on the school grounds that's why you had to write that letter?

A Yes.
Q Okay, so, was it your understanding that on Minor 1 birthday Nicole had gone to the school?
A I understand that she went to the school, yes.
Q And do you know she just gave some, gave them a - gave Minor 1 a birthday card or something, never saw her, just delivered something to the school because it was Victim - Minor 1 birthday.
A I did not know it was Minor 1 birthday but I did understand that because there was a current Department of Social Services investigation that contact with Victim and her mother either needed to be supervised or it was a situation that Columbus County Department of Social Services needed to be aware of and take care of.
Q Right, okay, because actually at that time the investigation into the mama by North Carolina DSS that had ended at that time, the investigation, the fact-finding process had ended by then, that ended on November the 13th; do you agree with that?
A Yes, but I also knew that the children did not have contact with her, which I'm not certain why ---
Q Well, after ---
A --- during that time.
Q --- after, so, so, on [redacted] Stephanie - Jennifer, I mean, Jennifer, she finds out that Nicole has gone

to the school and left a - maybe a birthday card or something there for her daughter?

A Yes.

Q You don't have - you don't have any - you don't know whether - I mean, Nicole didn't actually try to make contact with the child; do you know?

A I am not certain but, but if she went to the school to give the children correspondence I don't know how that kind of fell into place and I don't know the other details how the school handled that situation.

Q Okay, so, the mama - did mama - I mean the step-mama, I mean, I don't know - she gets kind of like kicked off the school grounds, that's why you have to write that January 26th letter?

A Yes.

Q And then, then - so, then - so, then Minor 1 knows that her mama - we can fairly assume that Minor 1 knows her mama tried to contact her or give her some correspondence because the happy birthday my daughter?

A It was after that Victim became - she was in distress. She was upset.

Q I know. She was upset. She was upset. She was upset. The step-mama was upset and the step-mama had to get you to write a letter so she could get back on the school grounds. That's pretty chaotic; right?

A And it, it needed to be corrected if there was any misunderstanding.

Q Just over trying to - just over - just over trying to deliver a maybe a happy birthday card and that, and after that you testified then Victim because of all that she starts regressing?

A Yes.

Q And I mean, she starts - she goes back to having nightmares thinking something is going to happen to her daddy, thinking something is going to happen to maybe her step-mama and all these kind of things she's thinking something to that effect, I mean, you use your own words for it and I don't remember. What I'm trying to - what I'm trying to say is she got real stressed out and became real worried that something, that something was going to happen from just delivering the birthday card, a birthday card that was not going to her but that was going to Minor 1

A From what I understand Victim was aware that her mother was at the school and, and the other issue is that because there was a gap here, no one really knew, even though the investigation was over, there was nothing put in place about reestablishing any, any contact with mother. I don't know what happened. From what I understand the mother had left the State of North Carolina or South Carolina, but there was no contact. So, it just seemed that at that point, again, there

was some boundary issues here that, that I was - if I was to help in this situation Victim probably needed something that was much more predictable for her and for her mother just to come to the school unannounced out of the blue that put her a little bit in a tailspin. She became upset over that. So, I think that that was more of an issue of it would have been nice if there would've been some things put into place for Victim to have that more of a predictable time structure time with her mother if contact was re-initiated.

Q And so, so, mama going to the school to give Minor 1 a birthday card caused Victim to think that some bad things may happen to her daddy or her step-mama?

A At that time there were some things that was going on that Victim was concerned about it. It was beginning to subside probably around that time and then mom came to the school which sort of disrupted, you know, a more of a predictable schedule for her. Things were going fairly well from end of November to December and then mom just showed up at the school.

Q Well, sure, and then, and then, and then Debra Hammond the principal she wasn't very pleased by the way she was treated, her principal?

A From what I understand there was a lot of conflict between Mrs. Turbeville and Ms. Hammond.

Q Well, you said that on February the 5th you talked with -

you had a session with Victim of 2009?
A Yes.
Q And she admitted to you that she uses certain tactics to get what she wants?
A Who admitted to me?
Q Victim, I think Victim did.
A Yes, I see.
Q And that, and that, the patient admitted that she primarily fears stomachaches because of her need for the sole attention of her father?
A Yes.
Q And all of this was prompted when her mother delivered packages to the school?
A This, yeah, that's when Victim's behaviors changed again. I would say that they regressed. She was becoming very somatic, anxious, clingy, tearful. She was manipulative. She was demanding a lot of attention. She was becoming aggressive at home and they were having difficulties with her behavior.
Q Okay, so, insofar as her disclosure is concerned she was just going to - she would do - you asked her why she didn't tell you before about Tim, you asked her on January the 16th of 2009 you said, well, you were - you reported this that you asked her, "Well, why didn't you tell me about Tim when you told me about Nicole"?
A Yes.

Q And you encouraged the family, in order to do a thorough assessment, you encouraged the family in North Carolina, the Turbeville family to, to really let's talk with Nicole, too, about all this?

A Initially I did, but I believe the DSS that when they became involved in the investigation they substantiated abuse for, for mom's side I believe.

Q They substantiated abuse?

A Yes.

Q And then that's when - then that's when visitation was cut off?

A That's when visitation stopped with mother.

Q All right, and this has been introduced into evidence right here, Defense One and Defense Two. You testified that you did go to court on January the 13th of 2009?

A Yes, but I did not testify.

Q Okay, in the bottom left-hand corner is January the 13th, 2009; right?

A Yes.

Q Okay, but that - but you said it was the DSS action. Well, DSS might have been there but this is a contempt action that was brought by Nicole against the father because he cut off visitation; did you know that?

A I, I vaguely remember something to that effect.

Q Okay, so, then as far as you remember you went to

Whiteville, North Carolina, courthouse on January the 13th?
A Yes.
Q And you were there with Chad?
A I did not sit with the family. I had to sit in another room but I did see them.
Q Okay, but you all did go to court that day?
A Yes.
Q And nothing ever happened.
A Not for me.
Q Okay, January the 13th of '09?
A Yes, that's what the date says, yes.
Q That I was looking at.
A Yes.
Q Okay.

MR. CANNARELLA: I beg the Court's indulgence just 30 seconds, Your Honor, please.

THE COURT: All right, sir.

MR. CANNARELLA: Thank you, Mrs. Scearce. I don't have any other questions, Your Honor.

THE COURT: All right, redirect?

MS. LIVELY: Yes, sir.

REDIRECT EXAMINATION

BY MS. LIVELY:

Q Ms. Scearce, have you had a lot of experience in dealing with DSS matters like what Mr. Cannarella has asked you about

occurred in this case?
A Yes.
Q And whenever there's an investigation for abuse is it unusual for DSS to have the primary parents sign a safety plan?
A That's usually the process that's supposed to happen, yes.
Q Okay, are you aware of whether or not Chad actually signed a safety plan to keep the children from seeing Nicole?
A Yes, I was aware of that.
Q And if he were to allow the children, based upon your experience in high conflict cases, family court, testifying and all that, based upon your experience if he had allowed Nicole to have contact with those girls what could DSS have done?
A They could've taken the children out of his custody and put them in foster care.
Q Okay, so, would it be unusual then for a parent to be extremely upset if another parent who is being investigated by DSS just shows up at the school one day delivering "I miss you" cards and a birthday card unannounced and without permission?
A I could understand why that parent would be upset.
Q Okay, and once again, DSS has started their investigation November of '08; correct?

A Yes, yes.
Q And the mother appears for Minor 1 s birthday in December of '08?
A Yes.
Q At school, okay, all right. Mr. Cannarella asked you a lot of details out of your January 16th, 2009, letter which is the letter that came three days after - I'm sorry, two days after Victim discloses the abuse by the Defendant; right?
A Yes.
Q All right, he asked you about whether or not he describes or she describes him using a knuckle. What else does he - and you said and he also said what, what other part of his hand did he use?
A I have it in my note the lower part of his finger which was rubbing her.
Q That's pretty detailed, would you agree?
A Yes.
Q All right, now, what other thing separate and distinct did Victim tell you the Defendant did to her private part?
A She stated that he licked her private part.
Q Had she ever told you before that her mother had licked her private part?
A No.
Q Had she ever told you anybody had licked her private part?

A No.
Q Was that the first time you had ever heard anything like that?
A It was the first time.
Q In the October 28th letter that you had written right before the disclosure came out about Nicole, the biological mother, where there were - you were talking about some problems with the children, was there ever any mention that there was a problem with the Defendant?
A No, I mainly focused on the mom, Nicole Young.
Q So, when was the first time that you ever had any mention by Victim or anybody for that matter in this Turbeville family that there was a problem with this Defendant?
A On January 16th, 2009.
MS. LIVELY: One moment, Your Honor.
THE COURT: All right.
MS. LIVELY: That's all I have, Your Honor. Thank you.
THE COURT: All right, you may step down. Let me see the attorneys for a second.
MS. LIVELY: Yes, sir.
May this witness be excused, Your Honor?
THE COURT: Any objection?
MR. CANNARELLA: No objection.
THE COURT: All right, she's free to go.

MS. LIVELY: Thank you.

(Whereupon, a bench conference is held in the presence but out of the hearing of the jury.)

THE COURT: Ms. Lively, you can call your next witness.

MS. LIVELY: Yes, the State would call Officer Joe Graham to the stand.

THE COURT: All right.

Whereupon, Joe Graham was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Please state your full name and spell your last name.

MR. GRAHAM: Okay, Joe Graham, last name G-R-A-H-A-M.

DIRECT EXAMINATION

BY MS. LIVELY:

Q Officer Graham, where are you currently employed?

A I'm an investigator with the Myrtle Beach Police Department.

Q And how long have you worked at the Myrtle Beach Police Department?

A Approximately 21 years now give or take a few months.

Q Okay, and have you worked in several different capacities at that agency?

A Yes, I have. I've worked just about in every facet. Extensively I've spent most of my time in the investigative

field, whether it be as a detective or in the crime scene unit.

Q Okay, and in January of 2009 were you working in your capacity as a detective at Myrtle Beach Police Department?

A That's correct. I was assigned the crimes against persons unit or more familiarly known as the violent crimes unit.

Q Violent crimes unit, okay.

A Uh-huh.

Q So, did you have an opportunity to come in contact with an individual by the name of Michael Chad Turbeville in January of '09?

A Yes, I did. Initially from my understanding is Mr. Turbeville came in on the 17th and filed a police report. On the morning of the 20th a couple of days later that report and case file was actually assigned to me. From that point I proceeded with the investigation.

Q Okay, and is that standard procedure for a report to be made and that you maybe get it a couple of days later or gets assigned to you a couple of days later?

A Yes, unless it's something that is relatively freshly committed. Sometimes it may be a day or so before we have the personnel to assign somebody and actually get to work on it.

Q Okay, and based upon information that you had received on the 20th or whenever you actually got the file had the

crime or the alleged crime been freshly committed?
A No, this was actually from months previous. The biggest item I noted in the report that the child was safe with her current situation from what I could tell. So, I proceeded with a normal investigation.
Q Okay, and when you have information that the child is not in danger then that takes the urgency out of you necessarily having to get other agencies involved like DSS for emergency protective custody; is that right?
A That's correct. No emergency procedures were necessary at that moment.
Q Okay, so, if you would just let the jury know then whenever you actually got assigned the case what did you do to follow up in the investigation?
A Well, initially with the report I only had limited information. Apparently from the report I was able to deem that this had been continuing for quite some time as far as a custody dispute. There was also several children involved and some allegations of possibly some criminal wrongdoing. From reviewing the report my first steps were to contact the victim's father to get additional information. I also proceeded over the first week or so to contact the Carousel Center which is where one interview had already been done for Victim, also to contact Ms. Scearce's office and the Department of Social Services for Horry County and also for the North

Carolina agencies.

Q So, it sounds like you talked to all of the people who had had involvement in this case already before you even got involved.

A That's correct. Basically it was just for a fact-finding for the first week.

Q Okay, and were you able to gather enough information for you to then proceed to the level of actually interviewing the victim or the alleged victim, Victim [redacted]?

A Yes, after looking at some of the initial information I really had some concerns of some possible sexual assault issues that needed to be looked into. Because of the victim's age and me not being an expert with child interviews I immediately scheduled her for an interview with the Children's Recovery Center which is an agency locally we use who are experts in the field.

Q Okay, and you said because of the age of the child and the concerns that you had about questioning her, what type of training would - are you aware of that would need to be present for a person to actually conduct a forensic interview of the child; do you know?

A For smaller children it requires a little bit more extensive training in interviews. As far as standard interviews I've received extensive training myself but with children it's very easy to possibly lead and change questions

and things and I'm just not an expert in that field.
Q Okay, fair enough, now, Officer Graham, did you then make the referral to the Children's Recovery Center for a forensic interview?
A Yes, I did.
Q Do you recall when you did that?
A Actually, actually, around the 23rd or 24th if I'm not mistaken is actually when I made the appointment. We actually - actually the 17th of February before we could actually get an appointment there.
Q Okay, and what if anything did you provide to the Children's Recovery Center regarding the history of this particular matter?
A Because there was extensive history I basically provided almost - a copy of all the interviews and other data that they would need ---
Q Okay.
A --- to proceed with a good interview.
Q Did you actually sit in and observe the interview from a remote location while Victim was being talked to by the forensic interviewer?
A Unfortunately, no, I was able to meet the victim and her father briefly but other cases actually had called me away.
Q Okay, all right, but sometimes if an investigator wanted to they could sit and watch it from a remote location?

A Yes.
Q Within the building; correct?
A That's correct.
Q Okay, so, are you allowed in the interview room?
A No.
Q All right, okay, after the forensic interview was conducted by the Children's Recovery Center what was the next step you took in your investigation?
A Well, actually, it took several days or so before I could actually get some results from the Children's Recovery Center. Upon receiving those results I reviewed them noting that with the disclosure there was evidence of sexual assault and at that point in time I proceeded to pursue charges.
Q Okay, and who were those charges against?
A Against the Defendant, Timothy Young.
Q And what were those - what was the charge that you pursued?
A Criminal sexual conduct with a minor first degree.
Q First degree, okay. After you actually got the warrant for his arrest did you have anything further to do with this investigation?
A Other than the preliminary hearing specifically, no.
Q Okay, and so, since that time is this the first time that you've actually, other than discussing with me briefly, is this the first time that you've actually gone into detail

about anything involving your investigation of this case?
A Yes, ma'am.
Q Okay, thank you. Answer any questions that Mr. Cannarella may have for you.

CROSS EXAMINATION

BY MR. CANNARELLA:
Q Well, now, you get a report like this; right?
A Yes, sir.
Q You gather as much information as you can from different sources like you talked about?
A Correct, sir.
Q Okay, now, you got information from Yolanda Daniels?
A Yes, sir.
Q She was a North Carolina DSS worker?
A That's correct, sir.
Q You got it, you got documents from her?
A Yes, sir.
Q Then you know that this child specifically denied to Yolanda Daniels, that Tim never touched her. I got this through discovery right here. So, Ms. Lively's familiar with that paperwork that you - that was provided to me through discovery as required, as required by law.
A Uh-huh.
Q Just like when you got those allegations about this stuff you was required by law to go on what you believed the

witnesses were going to say when they got to the courtroom.
A Yes, sir.
Q Right, okay, and specifically in your investigation you see right there where Yolanda Daniels asked, "Did Tim ever bother you in a sexually inappropriate way," and she said no.
A That's correct, sir.
MS. LIVELY: Your Honor, I'm just going to object to him pitting the witnesses. Yolanda Daniels is not even here. He can ask that question. She's under subpoena.
THE COURT: Overruled, I'm going to allow it.
MS. LIVELY: Thank you.
THE COURT: Go ahead.
Q And then - Joe, I apologize for getting too excited about this.
A That's fine, sir.
Q I'm sorry. Okay, because you've been doing this a long time and I know you now do the crime scene investigation; right?
A That's correct, sir.
Q You run that whole unit?
A That's correct, sir.
Q And that's kind of like the crime lab, you set up the crime labs and stuff before; right?
A Yes, sir.
Q Okay, and part of your investigation in this case is

that you go, you go find the Defendant, you go find Tim Young and talk with him.

A In certain cases, yes, sir.

Q Well, I mean, you didn't have any trouble locating Tim though, did you?

A Actually initially, yes, I did, as far as trying to find him at his house. I wasn't able to initially locate him until several days into the ---

Q But at some point in time you made contact with him and he came in and talked with you?

A Once the, once the arrest warrant was made.

Q Okay, well ---

A Basically I had no contact with him until he was actually picked up and charged.

Q Okay, well, it's fair to say, you know, based on conversation we had before, I mean, you don't have any reason to believe he was dodging you or anything; do you?

A No, sir.

Q Okay, and you got him in there and you read him his rights.

A Yes, sir.

Q Okay, because you got the arrest warrant, he's in custody?

A Yes, sir.

Q Okay, and then you mirandize him, that means sign your

rights?
A Yes, sir.
Q And you mirandized him?
A Yes, sir.
Q I mean, I know - that's the point, I know you know to do that. Okay, then you mirandized him and then, and then, and then because you want to ask him some questions?
A Yes, sir.
Q And when you mirandize him he gives up his right to a lawyer.
A Correct, Sir.
Q He gives up his right to remain silent?
A If he wishes. He can stop at any time as the rights indicate.
Q That's right. So, you tell him, you say, "Now, if you want to talk to me that's fine without a lawyer if you sign my - your Miranda rights away."
A Actually with Myrtle Beach we request them to sign the Miranda rights form. If they want to talk with us they can whether they sign or not.
Q Okay, all right.
A So, the choice is theirs.
Q Okay, so, but then one thing you got to let them know, you got to let them know, "Well, look now, you might want to start talking to me. That's fine if you want to sign and

start talking to me that's fine," you tell them that?
A Yes, sir.
Q Do you also let them know now whenever you want to cut it off you can cut it off, that means they can shut up?
A That's correct, sir.
Q Or just zip up and stop, okay. So, so, halfway through an interview a subject can say, "I don't want to talk anymore"; right?
A That's correct, sir.
Q Okay, now, and in this interview with Tim it's fair to say that he cooperated with you 100 percent?
A Yes, sir.
Q He asked - he signed away his Miranda rights?
A Yes, sir.
Q He agreed to answer any questions you wanted him to answer?
A That's correct.
Q And then the thorough person you are you recorded all that; didn't you?
A That's correct, sir.
Q And you've provided the Solicitor with a copy of the report?
A Yes, sir.
Q Oh, I mean the audiotape?
A Yes, sir.

Q This is not video, this is just audio.
A Just audio, sir.
Q Okay.
MR. CANNARELLA: Offer this as Defense Three, Your Honor.
THE COURT: Any objection?
MS. LIVELY: Yes, Your Honor, I do have an objection. This is a self-serving statement. He's already stated in his opening that the Defendant was going to testify. It is not a statement where he made any type of admissions and he can question this officer about that all day long, but I think putting the statement in for a self-serving ---
THE COURT: I sustain the objection.
MS. LIVELY: Thank you.
THE COURT: I sustain the objection.
MR. CANNARELLA: Okay, then, that's all the questions I have. Thank you. Thank you.
THE COURT: All right, redirect, anything on redirect?
MS. LIVELY: Yes, sir.

REDIRECT EXAMINATION

BY MS. LIVELY:
Q Did you ever talk to Nicole Young?
A I was actually never able to speak with her.
Q Okay, all right, so, you never actually spoke to her but

you said that you did talk to Yolanda Daniels and you actually and Mr. Cannarella asked you about that. Did you talk to Ms. Denise Scearce in your investigation?

A Yes, I did.

Q Okay, and in your speaking with her did she disclose to you that the child had given details regarding the molestation?

A Yes, she did.

Q And you actually put that in your report as well as what you got from Ms. Daniels; isn't that right?

A I believe so, yes, ma'am.

Q Okay, and in your report you documented January 23rd, '09 that the child had disclosed against the Defendant and that he had performed fellatio on her or oral sex?

A That's correct.

Q Okay, that's all I have.

THE COURT: All right, you may step down. What do we want to do? Call ---

MS. LIVELY: Do you want to approach?

(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)

THE COURT: All right, ladies and gentlemen, we were just doing some planning to determine how long the next witness would be and things of that nature. So, we've decided we're going to go ahead and break for today. It's 4:30 and I

think this next witness would take us on a little bit long for today. So, we're going to go ahead and break for the day. If you took notes please leave your notepads in the jury box so the bailiff will pick those up. She'll give those back to you tomorrow when we resume the trial of this case. I remind you do not discuss the case even among yourselves at this point in time. It's still too preliminary to even begin deliberations. Don't conduct any independent investigations or try to find out anything else about the case. I hope everybody has a good evening. Please come back, be back in the jury room tomorrow morning let's say nine o'clock tomorrow morning. We'll try to take the bench at 9:15 but if you get back at nine o'clock that'll give you an opportunity to get some coffee, things of that nature. Hope everybody has a good evening and we'll see you back at nine o'clock tomorrow morning.

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

THE COURT: Anything from the State before we break for the evening?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, we'll stand in recess. I'll try to take the bench about 9:15 tomorrow morning. Okay, all right.

MS. LIVELY: Yes, sir, we'll be ready to go. Thank you.

MR. CANNARELLA: Thank you, Judge.

THE COURT: Thank you.

All right, where he tendered the investigator interview and I sustained the objection, do you want that proffered or do you want - since it was not marked - the court reporter says she does not have to hold on to it since it was not marked as an exhibit.

MR. CANNARELLA: No, I'm fine, Judge, the way it is.

THE COURT: Okay, all right, good. Thank you.

OFF THE RECORD

(On the record, April 6, 2011.)

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

THE COURT: All right, anything preliminary before we get started?

MS. LIVELY: Yes, Your Honor, the State would like to call the next witness, Dianne Nordeen, and have her - and proffer her as an expert outside the presence of the jury. That way we don't get into the - like we did yesterday where there's a long drawn-out voir dire in front of the jury, kind of going back and forth. I think that would be less confusing for the jury and we'd know whether or not to just skip over all that whenever we bring the jury out.

THE COURT: Well, you can go ahead and proffer her but I'm going to still allow them to cross examine her in the presence of the jury ---

MS. LIVELY: Oh, yes.

THE COURT: --- as far as her qualifications and challenges and things of that nature.

MS. LIVELY: Absolutely, absolutely, but this may actually if the Court deems, in fact it deems her not to be an expert in proffering then I could just move through ---

THE COURT: All right.

MS. LIVELY: --- through the line of questions that would be relevant to that in front of the jury.

THE COURT: All right, sounds good.

MS. LIVELY: Okay, all right, well, the State would call Dianne Nordeen to the stand.

THE COURT: All right.

And since we're being - since it's being proffered what - you're offering her as an expert in what field?

MS. LIVELY: In forensic interviewing and child development.

Whereupon, Dianne Nordeen was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: State your full name and spell your last name.

MS. NORDEEN: Dianne Nordeen, N-O-R-D-E-E-N.

EXAMINATION

BY MS. LIVELY:

Q Dianne, where do you work?

A The Children's Recovery Center.

Q How long have you worked there?

A Four years.

Q Prior to working at the Children's Recovery Center where did you work?

A I worked for the Department of Social Services in the division of manage treatment services for children.

Q Okay, and what kind of educational background do you have?

A I have a bachelor of science in psychology.

Q Okay, and do you have any additional training in the field of either child development and/or forensic interviewing?

A Yes, I do.

Q Okay, will you specify what training you've got in forensic interviewing?

A I have 225 hours specific to forensic interviewing. I've completed a 40-hour intensive forensic interviewing training called Child First. Well, when I took it it was called Finding Words. They've now changed the name to Child First. I also completed advanced Finding Words and Beyond

Finding Words and multiple other forensic interviewing courses.

Q Okay, is forensic interviewing a recognized field of expertise in the scientific and psychological community?

A It is.

Q Okay, and why is that?

A It is a specific training to elicit a statement from a child in a non-leading fashion in a child friendly manner.

Q Okay, in order for a forensic interview to be an appropriately done forensic interview do you have to follow specific standards?

A Yes, we do. We follow the RATAC protocol which was developed at Corner House and is recognized by APSAC.

Q And what is APSAC?

A APSAC is the American Society for - oh, I'm sorry.

Q That's okay. It's the American Professional Society ---

A Professional Society on the Abuse of Children.

Q Abuse of Children, exactly, okay, and is your children advocacy center where you work is it actually certified for forensic interviewing?

A Yes.

Q It is, okay, and what do you have to do in order to get that type of a status in a child advocacy center?

A We have completed an accreditation process through the National Children's Alliance and the National Children's

Alliance is the group that it's a federally funded group who oversees the children's advocacy centers throughout the United States.

Q Okay, and are you personally a member of any professional affiliations in regards to forensic interviewing and as it relates to child abuse?

A Yes, I'm a member of APSAC, SCPSAC, South Carolina Network of Children's Advocacy Centers, the National Children's Advocacy Center and the National Children's Alliance.

Q Okay, and in regards to child development what experience do you have in addressing the issues of child development as it relates to a forensic interview?

A I've had multiple trainings regarding child development in my past 19 years of working in this field. I've worked with children for over 19 years in many capacities, all requiring different types of interviewing. I've had courses regarding child development and then yearly we have refresher courses.

Q Okay, and are you up to date and taking refresher courses yearly in regards to child development?

A Yes, I am.

Q Okay, along with the forensic interviewing?

A Yes.

Q And why is it that child development is so clearly

intertwined with the forensic interviewing process?
A It's important to know what the child's developmental level is in order to know how to deliver the interview at a developmentally appropriate level for the child.
Q Okay, does it help you to know what kind of questions the child may be able to respond to?
A Yes.
Q Okay, does it help you to know where to go next in a particular interview based upon the child's responses?
A Yes.
Q Okay, and in regards to the RATAC method, which is rapport, anatomical I guess identification of the body parts, touch inquiry, abuse scenario and then conclusion, in order for you to follow that would it be important for you to know and use your skills in child development in order to follow that, that prescribed method of interviewing?
A Absolutely.
Q Okay, all right, and once again, RATAC is the method that has been approved and actually I guess has it been peer-reviewed?
A It's been peer-reviewed and it's approved by also a number of appellate courts throughout the United States.
Q Okay, all right, and once again, that's the method that your child advocacy center that's accredited uses; correct?
A It is.

Q And how many forensic interviews have you given using the RATAC method?
A Over 550.
Q Okay, have you ever testified in court regarding the forensic interviewing process and the RATAC method?
A I have.
Q How many times?
A Eight times.
Q And have you been qualified as an expert in forensic interviewing using the RATAC method?
A I have.
Q All right, have you been qualified as an expert on the issues of child development in the past?
A I have.
Q Okay.

MS. LIVELY: Your Honor, at this time the State would offer Dianne Nordeen as an expert in forensic interviewing using the RATAC method as well as child development.

THE COURT: Any challenges or cross examination or questions?

MR. CANNARELLA: Thank you, Your Honor.

EXAMINATION

BY MR. CANNARELLA:
Q And the - this method is recognized in the scientific laws?

A Yes, it is.
Q Tell me how that is.
A It's recognized through many research projects conducted both in its support and in an attempt to refute it. It's used - also recognized for the number of interviews that have been done using it.
Q And that method is the method that's accepted, that's generally accepted in the community I guess of forensic interviewers to ensure reliability?
A Yes.
Q Reliability in what way?
A Reliability that it's not leading, that it's a non-leading protocol to follow that allows the child to provide the details of what they've experienced in a non-leading fashion.
Q You mean in non-leading questions?
A Yes.
Q What's a non-leading question?
A A non-leading question would be an open-ended question such as, "Tell me - can you tell me what happened?" A close-ended question, "Tell me what happened next," a multiple-choice question or a yes and no question.
Q So, really, a leading question is a question that you would ask the child that suggests the answer you want?
A Yes.

Q Okay, now, you're being asked to be qualified as an expert so that you can give your opinion.
A No.
Q What are you being qualified as an expert to do then, to show that you know how to ask the right questions to get the information from the child that you're trying to get out?
A To provide the information about my interview process that I used to provide the jury information regarding the process that I used.
Q But not to give your ultimate opinion?
A No.
Q That would be not to give your ultimate opinion as to, "Hey, I believe she's telling me the truth"?
A I would not do that.
Q Okay.

MR. CANNARELLA: Your Honor, we accept that she's qualified as a forensic interviewer to know how to follow the scientific methods that's been recognized to ask the questions of the child to get the information. The only thing I'd obviously be concerned about is going to the ultimate issue that's to be decided by the jury, and she's already told me she's not going to try to voice an opinion about as if she was a human truth detector, if you will.

THE COURT: Okay, that was my question. If she's not going to be rendering any opinion testimony why do we need to

qualify her as an expert?

MS. LIVELY: Well, Your Honor, I'm qualifying her as an expert in the RATAC method to show that she actually uses a method, it's scientifically been accepted in the community and what that does is is I can ask her, "Did you follow this method?" "Yes." "Was the interview performed in a fashion," and I need her to explain though because the jury doesn't understand RATAC and all that.

THE COURT: Yeah, but what I - and I understand all that.

MS. LIVELY: Right.

THE COURT: But you don't have to be an expert to do that. You don't have to be an expert to say that you're trained in some field or that you followed the protocol. The only reason you have to qualify someone as an expert in court is if you're trying to elicit an opinion rather than a factual recitation of what they did, what they saw, what they tasted and things of that nature.

MS. LIVELY: Correct. What I'm - my ultimate opinion that I was going to ask her because I've told her she can't talk about whether or not she believes the child. Ms. Nordeen has done this several times. She knows that. So, that's what she means in regards to the opinion testimony. What I was going to ask her in her opinion as an expert forensic interviewer was and did this interview follow the RATAC method

as, as the scientific community actually approves it in both South Carolina as well as the majority of the states just to show that the jury will see that she actually followed the RATAC method and that in her expert opinion that she actually did the interview pursuant to those factors.

THE COURT: That's, that's actually or, excuse me, asking a factual question, did you follow the proper procedures. It's not an opinion. It's a factual question, are you trained to do A, B, C, did you do A, B, C. That's asking for a factual response.

MS. LIVELY: Okay.

THE COURT: That's not an opinion, based upon your opinion with a reasonable degree of certainty in your profession.

MS. LIVELY: Okay.

THE COURT: You know.

MS. LIVELY: Well, then, I definitely do want to go into the child development though because for her to be able to know what kind of questions to ask during the interview she does have to be an expert in child development. She's going to have to give opinions as to what kinds of questions you ask a particular age child in order to know what kind of responses that you get. So, I am going to ask her her opinion in regards to whether or not this child's development was appropriate for her age and based upon that did she ask

questions that were appropriate to the child and in her expert opinion was the child's responses, not in regards to credibility, but was the child competent so that she could actually go into the next line of questions in regards to the RATAC method. If she just wants to testify as to - if the Court doesn't see the need on a factual basis to have her qualified as a forensic interviewer then I understand the Court's concerns. However, in regards to child development that is a very specific issue that has to go into - we have to go into her expertise and experience as an expert in that field in order to give an opinion to the jury because she's going to have to give an opinion in regards to that.

THE COURT: All right, Mr. Cannarella, any questions or challenges on that?

MR. CANNARELLA: Well, Judge, yes, sir, I think that Mrs. Lively can bring out the information through this witness that she wants to to let the jury know that she's got training in this area of forensic interviewing, but to declare her an expert our Supreme Court says that's not even necessary. I mean, Judge, you know, Joe Graham he's trained to conduct interrogations of Defendants, but we don't declare him an expert in interrogation. He's got a lot of training.

THE COURT: Well, and I understand that but I think - but Ms. Lively has just stated that she wants this witness to testify as to her opinion regarding the victim's development.

Is she - I mean, as I understand is she developed enough - you're going to ask her opinion is the child developed enough to answer the questions, I mean, she answered them I guess.

MS. LIVELY: As for ---

THE COURT: So, I mean, let's go into - give me some examples as to what you're going to ask ---

MS. LIVELY: Sure.

THE COURT: --- because I don't know what kind of opinion.

MS. LIVELY: And Your Honor ---

THE COURT: I mean, I'm kind of, I'm kind of gray in this area, too, because there is a Supreme Court opinion out there that said, you know, when they were challenging the expertise of a forensic interviewer and the Supreme Court says it doesn't matter whether they're an expert or not an expert, you didn't ask an opinion of them. So, the testimony was admissible. My question is I don't want to confuse the jury into thinking that because a person is an expert that they are to give their testimony any more credibility simply because they're an expert because all an expert witness is allowed to do versus a lay witness is render an opinion.

MS. LIVELY: Render an opinion.

THE COURT: Yeah.

MS. LIVELY: And you're - and I completely agree with you and I can avoid an opinion question in regards to the

forensic interviewing. However, in regards to the child development what I was going to be getting into is with the - with her regarding the child is how a child may respond to certain questions.

EXAMINATION

BY MS. LIVELY:

Q In your expert opinion is it difficult for a seven to 10-year-old child to answer questions involving chronological order?

A It is.

Q It is, and why is that, in your expertise in child development why is that a problem?

A Cognitively developed brains can do that. A seven year old isn't - doesn't have that cognitive development, I'm sorry, cognitive development level to necessarily to provide a when response to categorize properly.

THE COURT: All right, that's sufficient. So, see, they are going to be rendering some opinion testimony with regard to child development. Do you have any questions or challenges in that regard?

MR. CANNARELLA: No, Your Honor.

THE COURT: Okay, all right, at this point in time I'm inclined to qualify her as an expert. Still they're going to be allowed to challenge her in front of the jury but I am inclined to find her as an expert in the field of forensic

interviewing and child development, more in the field of child development because I think that's where she's going to be rendering her opinion testimony rather than in the forensic interviewing portion part.

MS. LIVELY: Yes, sir.

THE COURT: All right.

MS. LIVELY: Yes, sir.

THE COURT: All right, anything else before we bring the jury in?

MS. LIVELY: Not from the State, Your Honor.

THE COURT: All right, do you want the witness down so you can call her up ---

MS. LIVELY: That's fine.

THE COURT: --- or do you want her sitting there when she ---

MS. LIVELY: You can come and just have a seat right back on the first pew.

THE COURT: Yeah.

MS. LIVELY: And then we'll just call you up.

THE COURT: Are you going to be calling her first?

MS. LIVELY: Yes, sir.

THE COURT: Okay. You can take your stuff with you or if you - since you're being called first whichever is easiest for you if you want to leave it there, whichever you prefer.

All right, anything from the Defense before we bring the jury in?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's go ahead and bring the jury in.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: All right, ladies and gentlemen, welcome back. I hope everyone had a good evening. We're now ready to resume the trial of the case. I will remind you if you have any cell phones or pager devices please turn those off. Make sure that if you have pads and you're taking notes that you do have your pad that you have previous to today.

All right, Ms. Lively, you can call your next witness.

MS. LIVELY: Thank you, Your Honor. May it please the Court? The State calls Dianne Nordeen to the stand.

THE COURT: All right.

Whereupon, Dianne Nordeen was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Please state your full name and spell your last name.

MS. NORDEEN: Dianne Nordeen, N-O-R-D-E-E-N.

THE COURT: All right, Ms. Lively.

MS. LIVELY: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. LIVELY:

Q Ms. Nordeen, where are you currently employed?

A Children's Recovery Center.

Q What is the Children's Recovery Center?

A The Children's Recovery Center is a child advocacy center.

Q Okay, and you and I both know what a child advocacy center is but will you please explain to the jury what exactly is that that center does?

A Children's advocacy centers exist throughout the country, actually throughout the world. The purpose of the children's advocacy center is to provide a child friendly location for - a place where a child can be interviewed and examined after an allegation of sexual abuse has occurred.

Q Okay, do you also handle interviews if physical abuse has occurred?

A Currently we do handle cases of physical abuse and cases where children have witnessed some kind of traumatic event.

Q And how many cases or how many interviews on average do you all conduct a year?

A In our Myrtle Beach office we conduct around 185 interviews a year.

Q Okay, and what is the cutoff age for children that you interview?

A 17.

Q Okay, so, they have to be 17 or younger?
A Yes.
Q Now, what do you actually do there at the center?
A I do a number of things. My main role is forensic interviewing.
Q Okay, and explain to the jury what a forensic interview is?
A A forensic interview is a non-leading interview that is used to elicit a factual statement from a child.
Q And when a child comes in and undergoes a forensic interview do you have a specific procedure that you follow?
A We do.
Q And what is that procedure?
A We use a training that was formerly known as Finding Words, now known as Child First, and in that procedure is a protocol called the RATAC protocol which is used - there are a number of different, number of different types of interviews, forensic interview processes, but the majority of them use that same RATAC protocol.
Q And RATAC would stand for the building a rapport with the child, anatomical labeling of body parts by the child, touch inquiry, abuse scenario and then the conclusion; is that accurate?
A That's accurate.
Q And do you follow that format whenever you give a

forensic interview?
A I do.
Q Is that format peer reviewed and accepted in the scientific community?
A Yes.
Q All right, and what kind of training do you personally have in regards to the forensic interviewing?
A In specific, in reference to specific forensic interview training I have over 225 hours of training.
Q Okay.
A I have - I completed a 40-hour intensive interview course for the Finding Words and then I also completed Beyond Finding Words and advanced Finding Words.
Q Okay, do you have any training - well, what is your educational background?
A I have a bachelor of science in psychology.
Q Have you ever worked - where did you work before you did the forensic interviewing at Children's Recovery Center?
A I worked for the Department of Social Services in the division of manage treatment services for children.
Q Okay, what experience do you have in child development?
A Well, working in - with the Department of Social Services for 10 and a half years I worked for the governor's office Continuum of Care for a year and a half. Both of those services - both of those agencies provide services to severely

emotionally disturbed children. Prior to that I worked at Sea Haven High Management Group Home for Girls at Coastal Carolina Hospital and I also did internships at Waccamaw Center for Mental Health and Tara Hall For Boys, and in working with children in those facilities it was pertinent that we learned about child development to understand how to deliver the services properly to children.

Q Okay, and on that same note, in order to do a forensic interview through the RATAC method, how important is understanding child development?

A It's very important to - it's important to understand their age level, their skills level in order to understand what questions are appropriate to ask them.

Q Okay, so, are they intertwined then the child development and forensic interviewing process?

A Yes.

Q Okay.

MS. LIVELY: Your Honor, at this time the State would move to offer Dianne Nordeen as an expert in regards to child development as it relates in forensic interviewing.

THE COURT: All right, any challenges or questions?

MR. CANNARELLA: Just a few questions.

THE COURT: All right.

EXAMINATION

BY MR. CANNARELLA:

Q So, what you've simply done is you've studied the method that's been developed, the RATAC method?
A Yes.
Q And you follow that RATAC method just to ask these children questions?
A Yes.
Q Okay, and you've already been - you understand why they're there?
A Yes.
Q Okay, and you have done this before?
A I have.
Q And you work for this organization called?
A Children's Recovery Center.
Q This is just simply interviewing the child where there's been some allegations. That's what you're doing?
A That's what I'm doing.

MR. CANNARELLA: I don't have any objection to that.

THE COURT: All right, I find this witness to be an expert in the field of child development as it relates to forensic interviewing.

MS. LIVELY: Thank you, Your Honor.

THE COURT: All right.

DIRECT EXAMINATION (CONTINUED)

BY MS. LIVELY:

Q Now, Ms. Nordeen, did you have an opportunity to become

involved in a case with a child by the name of Victim [redacted]?

A I did.

Q Okay, will you tell this jury how that case came to you?

A We received a referral on February 10th, 2009, from the Myrtle Beach Police Department, Investigator Joe Graham, regarding sexual abuse allegations of Victim [redacted]. The reason that we did the interview of the child is because the allegations were from Horry County. Had the allegations been in another county the advocacy center of that county would have interviewed that child.

Q Okay, and who typically can make referrals to the Children's Recovery Center? Like if I had somebody, a neighbor that I thought maybe their kid was being abused, could I just, and I'm not an attorney, could I just call you up and say, "Hey, I think my neighbor might be doing something to this kid," would you interview the kid?

A No, we take referrals from law enforcement agencies and the Department of Social Services regarding allegations. We require that a police report is made. We also will take referrals from doctors' offices and therapists when they have a suspicion that something may be going on with the child.

Q Okay, so, it has to be just a - it has to be just a level up from just a simple interview of a child. It has to be some type of a referral from an agency or a professional?

A Yes.
Q All right, and that occurred in this case on February 10th, 2009; right?
A Yes.
Q Now, whenever you get the information Officer Graham testified that he gives - gave everything that he had in his file to the Children's Recovery Center. Do recall that?
A I'm - I know that they have because I've reviewed the file, I reviewed the file afterward and I know that the information went to our child advocate for the doctor's review.
Q Okay, and in regards to what the doctors review and what you review how is that different?
A When I prepare to interview a child I look at the - we have an intake form that is completed. It's a one-page form with a little paragraph at the bottom why the child was referred and I look at the police report. I don't look at - and I look at our forms that we complete on the intake regarding their education level, if they have any special needs, if they're taking any medication, if there are any problems in the family, who is residing in each home which allows me to consider alternative hypotheses of what might've happened to a child.
Q Okay, and as an expert in child development why is that history important for you before you go into the interview?

A Well, it's important for me to know if a child is say in third grade but in a special education class functioning as a five year old because I would then interview that child as a five year old rather than an eight or nine year old. The developmental levels are different. Their, their processing is different regarding questions that they understand and what information they will be able to give back.

Q Now, Dianne, did you review any information regarding any prior interviews of this child?

A I did not.

Q And why not?

A I like to go into the interview of the child with a clear mind. It helps me to stay on track with my questioning of the child rather than going to something someone else has found in their, in their working with the child.

Q Okay, and in regards to the purpose of a forensic interview why is it important to not be jaded or become biased by a prior interview with the child?

A For a number of reasons. The most important is to keep an open mind and to consider that there might be an alternative explanation for why the child is, you know, having the complaint or symptoms they're having.

Q Okay, so, whenever you got the referral for Victim [redacted] and you got the information from Joe Graham was it just that one page that you actually reviewed and the police

report?
A I reviewed the one page, the intake page and the police report and then I reviewed our form that we complete. The child advocate interviews the parents when they first come in just to get some basic general information from the parents regarding the child's current problems, medications, education, any complaints they might have on that day.
Q Okay.
A Information like that.
Q Okay, now, Ms. Nordeen, was the process of what occurred with Victim [redacted] was there anything different about her referral that came to you or was it standard operations how you all normally get them?
A It was standard operations.
Q Okay, so, nothing unusual at all?
A No.
Q All right, so, when did the actual interview take place?
A February 17th, 2009.
Q All right, and did Victim appear for that interview?
A She did.
Q And when she appeared for that interview who was with her?
A Her father.
Q All right, and was anybody from the Department of Social Services or from the Myrtle Beach PD present for that

interview?
A Investigator Joe Graham was there.
Q Okay, and whenever you actually conducted the interview itself was anybody in the interview room with you and Victim
A No.
Q All right, and why is that?
A In the interview room only the interviewer and child go into the interview room and the reason for that is to avoid tainting the interview with, you know, the child might react differently if someone is in the interview room. They might feel like they have to say less or provide less details for reasons of fear or embarrassment. So, in order to do a non-leading interview, a non-tainted interview in a manner that's completely comfortable for the child only the child and interviewer go into the room.
Q Is that part of the RATAC protocol?
A It is.
Q Okay, and did you follow or were you able to follow that protocol with this particular child?
A I was for the most part. The RATAC protocol is a flexible, it's a semi-structured, flexible interview. It allows for the child to lead, to make the direction of the interview. If the child decides - sometimes children, the structure is we establish rapport with the child. Then we talk about body parts, anatomies, so they can - we get a

common language for body parts. So, instead of me introducing a name for a body part I allow the child to name the body parts and we use the child's name for the parts. Then we talk about - with very little children I talk about touch inquiry. Victim was a little older. So, we have an understanding that she's a normal development child. So, she understands what touching means. Then I set the format for her to share her abuse scenario and then at the end I give her a respectful closure. We do a respectful closure, and it can be quick closure or a long closure depending on the child and the interview is completely gauged by the child and how much information they are willing or can share. So, we touch on those throughout the interview. It doesn't necessarily go exactly in that order. We - sometimes children start sharing details of their abuse or details of another incident before we actually do - before we actually name the body parts and I don't stop the child. I let them go in whatever manner they need to go, whatever is comfortable for them.

Q Okay, and I think you've already stated this, but whenever you're going through the interview the point is to use non-leading questions or open-ended questions. Have you brought that up yet?

A No.

Q Or would you explain to the jury about that?

A Sure we use non-leading questions and non-leading

questions can be open-ended questions such as, "Tell me about that." A close-ended question would be, "And what happened next?" We also use multiple choice questions, you know, "Was it in the kitchen, the living room, the bathroom or somewhere else," and then we also use yes and no questions, and those are all non-leading questions, and they are acceptable questions to use when interviewing a child.

Q And in your opinion in regards to child development and dealing with a child at the age of seven, what type of questions are the types of questions that are going to be most beneficial in trying to get a clean interview?

A It's recommended to use only who, what, where and how questions. It's possible, during the ages of seven and eight children develop the ability cognitively to answer a when question. They may not develop it until nine. They may develop it at age seven but for seven and eight year olds a when question is going to be difficult, possibly maybe too developmentally advanced for a child to answer, but they can answer who, what, where and how.

Q Okay, and are there any times whenever you're dealing with a child when you make a decision regarding their development that an anatomical doll will assist in the description of the event?

A Anatomical dolls are used as a demonstration aid after a disclosure of sexual abuse or physical abuse has been made.

Q And in this particular interview did you find it necessary with the child's development to use an anatomical doll?
A I did.
Q Okay, you don't - do you always bring out the anatomical doll after a disclosure or is it just your discretion?
A I don't always but if I'm not very clear and the use of a doll helps to clarify details, again, as a demonstration aid for clarification and it allows the child to demonstrate where words can't necessarily show or explain what happened.
Q Okay, and in your opinion in dealing with Caila was her development appropriate for her age of seven at the time when you conducted the interview?
A Yes.
Q Okay, and was her development to such a fashion where she was able to answer the questions that you were just now mentioning the who, what, not the when, but the how and where?
A She did answer those questions and I did ask her when questions and they were difficult for her.
Q Okay, so, when questions were difficult. Would a child of that age being seven years old have difficulty answering like a double negative question or compound questions?
A Yeah, that can be can confusing cognitively for them.
Q Okay, all right, so, do you use those type of questions in a forensic interview?

A I avoid using those. However, from time to time I may begin a question and then rephrase it in my mind and state it again, so, and you'll see that in, you know, in the interview that I do that a couple of times.

Q Okay, all right, now, in regards to this particular child I noticed during the interview and the jury will - well, let me do this first, the interview that you actually do is it videotaped?

A It is.

Q And is that a part of the requirements in a forensic interview to actually record the interview of the child?

A It's not a requirement but it's highly recommended but there are centers who do not record their interviews.

Q Does your center record all interviews?

A We do.

Q Okay, and does that protect you and the child in regards to what is disclosed?

A Yes.

Q All right, and did you record the interview between yourself and Victim [redacted]?

A I did.

Q Okay, I'm going to show you what you've actually provided to me which has been marked as State's Exhibit Number Three and can you tell me whether or not that is a disk referencing Victim [redacted]?

A That is.
Q And what is that CRC number at the bottom?
A CRC 09-29.
Q Is that - what's the relevance of that?
A That means she was interviewed in the year 2009 and she was the 29th client in the Horry County office.
Q Okay, for that year.
A For the year of 2009.

MS. LIVELY: Your Honor, this matter has actually already been presented to the Court as Exhibit Three and moved into evidence - no, we haven't moved it in, okay. Well, the State would move it into evidence at this time.

THE COURT: All right, any challenges?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, State's Exhibit Number Three admitted into evidence without objection.

MS. LIVELY: Okay.

(Whereupon, State's Exhibit Number Three [Videotaped Interview of Victim [redacted]] admitted into evidence and appropriately marked.)

BY MS. LIVELY:
Q Specifically in regards to Victim interview was she a soft talker?
A She was a very quiet talker.
Q Okay, and did that pose a problem for you when you were

interviewing the child?
A It did pose a problem. At that time we were having some buzzing in our recording system. We had moved our camera around a few times and since - it has since then been fixed. It was a buzzing in wiring in the wall. We have a very old building, but because of that buzzing and because she was a soft talker, what I did is I just repeated her responses, and the reason for that is because when I complete the interview I go back and watch the interview and write the report and it's very important for me to know what the child has said. If I did not repeat what she said I might not have been able to write that report because the sound quality of that interview was very poor.
Q So, in repeating what the child said it gives you the opportunity to do your dictation after the interview has taken place?
A Yes, and I also - it also gives the child an opportunity to correct me ---
Q Okay.
A --- if I misunderstand them and if I don't hear them I can say, you know, "What, what was that or can you say that again"; and so, it gives the child an opportunity for clarifying or correcting me if I make mistakes.
Q Okay, all right, so, on two levels, the child can correct you and it also repeats it loud enough to where you

can hear it later on for your actual report?
A Yes, and I do that with many children. I don't do that with just Victim. We have a lot of children who are very loud talkers and it isn't necessary for me to repeat everything they say, but when we have a child and we have - we do get a considerable amount of children who find the interview process a little uncomfortable, and it's their first time - only time meeting me and being at our center; and so, they may be a little more quiet, a little more withdrawn, a little shy.
Q Okay, now, did you actually review a transcript that was provided from me that I received from the Defense of the child's interview ---
A I did.
Q --- that you conducted? Okay, and I've actually got a copy here marked as State's Exhibit Number Four. Did I provide you a copy of this transcript?
A You did.
Q Okay, all right, and have you had the opportunity in preparing for this particular case to go through the transcript and review the interview of the child?
A I did.
Q Okay, and were there any glaring inconsistencies in the transcript that gave you any concern being the person that gave the interview of the child?
A Yes, I found a few that were very concerning to me.

Q Okay, and would you please in regards to the transcript point out the page and the word that you, and of course the video is going to be the best evidence, but tell me the page and the word that you found to be inconsistent?
A On page 13.
Q Okay.
A Line 9.
Q Hold on just a second. Okay.
A The response is "inside". The transcriptionist put "this part" but the actual response is "inside".
Q Okay, and that's on page 13?
A On page 13, line 9.
Q And how did you come - how did you come to that conclusion in regards to that particular line?
A I - what I did is I sat down and watched the interview and went through line by line.
Q Okay.
A And I also compared it with my report with my notes that I had written during the interview.
MR. CANNARELLA: Your Honor, may I ask a question, line 9?
A Line 9 on page 13.
MR. CANNARELLA: And the answer should read?
A "Inside".
MR. CANNARELLA: Okay.

Q And what was the next, the next thing that you noticed in reviewing the interview and then going through the transcript?
A On page 15.
Q Yes, ma'am.
A On line 10.
Q Yes, ma'am.
A The first word says "not" but it actually should be "moved it".
Q Okay, "moved it"?
A "Moved it".
Q Okay, and what was the next thing?
A On page 16, lines 9 and 10.
Q Okay.
A It should say "he said because he liked doing it to little girls".
MR. CANNARELLA: So ---
A So ---
MR. CANNARELLA: --- page 16, line 9.
A --- page, line 9, see, you should cross out where ---
MR. CANNARELLA: Cross out?
A --- on line 10 where it says "lick".
MR. CANNARELLA: Okay, that word should be ---
A So, what the statement should actually say is "he said because he liked doing it to little girls". The word "lick"

was not in there.

MR. CANNARELLA: Okay.

A Okay, on line 16 on that same page, page 16.

Q Okay.

A Where it says "just your pants and panties", it should actually say "T-shirt, pants and panties".

MR. CANNARELLA: "T-shirt, pants and panties", okay.

A And on page 17, lines seven and eight, the word "he" should not be in either one of those two statements. It should say "like I did mama," and then I responded with the question, "like you did mama".

MR. CANNARELLA: Okay, so, okay, so, it's line seven is "like I did"?

A "Like I did mama."

MR. CANNARELLA: And then eight should be "like" --

A "Like you did mama."

MR. CANNARELLA: "Like you", okay.

A On the next page, let's see, page 18, the first line, line one should read "his finger was doing like that".

MR. CANNARELLA: That should be line one answer, "his finger was doing like that"?

A Yes.

MR. CANNARELLA: Excuse me a second. Judge, I have the sealed copy from Q and A Reporting if you want me to give it to you. I'm sorry, if you want it now - have you got one?

THE COURT: I've got a copy, yeah.

MR. CANNARELLA: Okay.

Q Was there anything else, Ms. Nordeen?

A On page 27, on line four, it's actually lines three and four it goes in - it's ---

MR. CANNARELLA: Page 27?

A Page 27, lines three and four and then it goes into five. On line four, lines three and four it should say, "you know I want to make sure that I really understand what Tim did to you".

Q Is that it?

A And well, there were a number of other errors, a number of other errors throughout the interview but they were in reference to names and other information that didn't pertain directly to this disclosure. There were a lot of points in the interview where the transcriptionist wrote no verbal response when, in fact, the child was either shaking her head no or nodding yes, and again, you'll see that when you watch the interview.

Q Okay, so, watching the video you'll be able to see what the child's response is if it is nonverbal.

A Right.

Q Okay, all right.

MR. CANNARELLA: That would be shaking their head up or ---

A Nodding or shaking her head no.
Q And Ms. Nordeen, other than that did the transcription flow with the interview as it was done with the video?
A Yes.
Q Okay, all right.
MR. CANNARELLA: Ms. Nordeen, when you're talking about a name on page 41, line 18?
A Yes.
MR. CANNARELLA: That says Nelson but shouldn't it say Minor 2
A It should actually say Minor 2.
MR. CANNARELLA: Okay.
MS. LIVELY: Your Honor, at this time what the State is prepared to do is make those changes to the transcript based upon the testimony of this witness and move that transcript into evidence. If I can be allowed some time from the Court since we'll be setting up the forensic interview and because of the fact that this child is a soft talker and problems even Your Honor noticed in regards to the video, I'd like to provide a transcript to the jury for their - for them to actually watch the video and follow along.
THE COURT: All right, Mr. Cannarella.
MR. CANNARELLA: Well, Your Honor, typically the jury is provided with a copy of the transcript to be able to follow it especially because it's pretty poor in this case as Ms.

Nordeen said, but insofar as offering that transcript as evidence is concerned that's just an aid to testimony or an aid to the jury to follow the video itself. The video is clearly an exhibit in evidence but she's offering that as an exhibit right now, and at this point in time I would object to that because that's just an aid to testimony, no more than that timeline is over there on that chart is not evidence.

THE COURT: All right.

MR. CANNARELLA: At this time I would object to it.

THE COURT: Yeah, I'll sustain the objection. The interview, actual interview that was conducted will be the exhibit.

MS. LIVELY: Yes, sir.

THE COURT: You can use this as an aid to assist them.

MS. LIVELY: Yes, sir, and I've made copies of the transcript for - to aid the jury to - for them to hold while they're actually watching the video. They don't have the changes in it. So, if Your Honor will give me about 10 minutes I'm going to along with Mr. Cannarella and the notes I've made make those changes Ms. Nordeen mentions, make copies for the entire jury so they can have it so there won't be any problems, if they can't hear at least they'll have the transcript in front of them while the video's playing.

THE COURT: All right, any objection to her making

those changes in the transcript?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, is that what you want to do now?

MS. LIVELY: Yes, sir, I'd like to - if that's okay with you if we can take like ten minutes would be all it would take for me to make these changes, make copies and then I'll have the video up and get the screen down and when the jury comes back out we'll immediately play it and have their transcripts in hand.

THE COURT: All right, all right, ladies and gentlemen, we're going to have to set this up. It'll take us a little bit - a little while to do that. So, let's go ahead and take about a 10, 15 minute break. Do not discuss the case even among yourselves at this point in time, but once we get everything set up and got these corrections made to the transcript we'll bring you back in.

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

THE COURT: All right, Ms. Nordeen, we're still in the middle of your testimony. So, you cannot discuss your testimony with anyone even what you have testified to thus far, what you anticipate testifying to in the future; okay?

A Okay.

THE COURT: All right, thank you very much.

A Thank you.

THE COURT: We'll stand in recess for about 10, 15 minutes.

MS. LIVELY: Thank you, Your Honor.

THE COURT: Thank you.

OFF THE RECORD

(On the record.)

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

THE COURT: Please be seated. All right, anything from the State before we bring the jury in?

MS. LIVELY: No, Your Honor, the State is ready to play the interview.

THE COURT: Anything from the Defense?

MR. CANNARELLA: The Defendant is ready, Your Honor.

THE COURT: All right, let's go ahead and bring the jury in.

MS. LIVELY: And Your Honor, the transcripts are on their seats.

THE COURT: And this is State's Exhibit Number Three; right?

MS. LIVELY: This is State's Exhibit Number Three in evidence, which is the forensic interview, yes, sir.

THE COURT: And we've got State's Exhibit Number Four which I ruled inadmissible.

MS. LIVELY: Correct.

THE COURT: But it's been marked.

MS. LIVELY: It's been marked and it's just going to be used for ID purposes and for them to follow along with the video and then we'll collect the transcripts?

MR. CANNARELLA: Your Honor, you want that - just make - just maybe think about one thing, ultimately maybe should we mark that as a Court's Exhibit later on. I just bring that up. Might ---

THE COURT: Yeah, it's not going to go to them. We've got it.

MR. CANNARELLA: Okay.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Ladies and gentlemen, welcome back. The State can go ahead and publish State's Exhibit Number Three to the jury now.

MS. LIVELY: Yes, sir, Your Honor, thank you.

(Whereupon, State's Exhibit Number Three played in open court.)

MS. LIVELY: Your Honor, if I could pause it for a minute I think we might be able to get a better sound on this.

THE COURT: All right.

MS. LIVELY: Might not but we're just going to give it

a try. I apologize.

(Whereupon, State's Exhibit Number Three played in open court.)

MS. LIVELY: That's the conclusion of the interview, Your Honor.

THE COURT: All right.

MS. LIVELY: Do you want to turn on the lights and raise the screen back up?

THE COURT: Yeah, let's go ahead and raise the screen.

Continue with your direct examination.

MS. LIVELY: Thank you.

BY MS. LIVELY:

Q Ms. Nordeen, after the interview takes place what's the next step in the process at the Children's Recovery Center?

A I write a report based on the content of the interview. Immediately following the interview I go and speak with the family regarding recommendations if we're recommending therapy or any kind of follow ups for the child.

Q Okay, and based on your interview with the child you became aware that she was already in therapy; correct?

A Yes.

Q Okay, so, your recommendation was what in regards to therapy?

A To continue her therapy with her current therapist.

Q Okay, and did anything else take place at the Children's Recovery Center by a medical doctor that day?
A We have a forensic medical doctor who does forensic medical exams and she would have seen Victim that same day.
Q Okay, all right, and is this doctor affiliated with the Children's Recovery Center?
A She is.
Q All right, and so, Ms. Nordeen, after the interview and your dictation and recommendations to the family did you have any further contact or involvement with this particular child in this case?
A I did not.
Q Okay, so, until you came in here today to testify regarding the interview have you done anything or had any other contact with this child?
A No.
Q Okay, and is that standard?
A That is standard.
Q Okay, all right, thank you. Answer any questions that Mr. Cannarella might have for you.
A Okay.

CROSS EXAMINATION

BY MR. CANNARELLA:

A Mrs. Nordeen, is it standard in these interviews to like going to page four, line 13, lines 12 and 13 and also there's

something that maybe the police need to know? Is that something that you normally say to them?

A Page four, line 13? Yes, I always tell the kids that if they tell me something that is important for the police to know that it is my responsibility to tell the police.. I am a mandated reporter.

Q Okay, page six, line, starting at line 21 it does say, "You go to your mom's on the weekend, but the child says she didn't go anymore because of what her mama did to her?"

A Yes.

Q On page seven.

MS. LIVELY: Is that a question? I'm sorry. I mean, is he just reading through the transcript.

MR. CANNARELLA: Well, well, I - okay, I'll ask a question.

BY MR. CANNARELLA:

Q On page seven, line two did Victim say that she put some Neosporin on the carpet?

A No, she said she put some Neosporin on her knuckle and that was one of - another one of the many errors.

Q Okay, and we've corrected that.

A We have not - that was not one that we corrected.

Q We overlooked that a while ago because I wasn't sure.

A Yeah, we - we did not correct that.

Q So, page seven, three?

A Line three.
Q The knuckle?
A It should say "her knuckle and" instead of "the carpet".
Q Her knuckle?
A "And she rubbed it in".
Q And, okay, and on page nine, around line 11, Victim says that she dries her mom off and runs the rest of the children out the room?
A Her mother dries her off and then when her mother applies the Neosporin she has everyone - she has the other girls leave the room and applies it privately.
Q Okay, page 10, she says - and Victim says, line 11, and Victim says - didn't Victim say, "My mama lays me on the bed"?
A The actual full line is "She has me to lay on the bed and open my legs".
Q Okay, so, she had her - has Victim spread Victim legs on Nicole's bed in Nicole's bedroom?
A Yes, no, actually, I don't - I believe that is in her bedroom.
Q Oh, it's in her bedroom?
A That is in her bedroom.
Q Okay, and on page 11, around between lines five and eight, now, I'm saying that so everybody can get to where I am when I ask it. So, and she repeats again, Victim repeats

again about mama using her knuckles with Neosporin on it?
A Yes.
Q And on page 12, line 24 you've asked her about Tim, line 23, she says her ex-husband, she's - Victim talking about Nicole's ex-husband, Tim?
A Yes.
Q Right, and on page 13, she says that beginning sort of down around the bottom part of the page, Mrs. Nordeen?
A Yes.
Q Victim says that this happened in her mama's - that Tim did something to her in her mama's bedroom?
A She actually said it was his bedroom.
Q Okay, the master bedroom?
A Yes.
Q Okay, all right, and now, and you asked her if anybody else was around?
A If anyone else was home.
Q And she said, am I correct, that she said, mama's in the living room?
A Yes.
Q When this happened?
A Yes.
Q And Minor 1, the sister was in Minor 1 room?
A In the girls' room.
Q In the girls' room which would be where they stayed?

A Yes.
Q Okay, on page 14, Mrs. Nordeen, she said - Minor 1 says and that's where you get that line six it says, "Mama did it in, in my room, in Minor 1 room," and then she, and then she says Tim did it in his room; right?
A That's correct.
Q Page 16, on line 17 you - well, let's start on line 16, question, "T-shirt, pants and panties, okay, and did your clothes stay on," and she said, "Uh-huh"?
A Yes.
Q Why wasn't that a leading question?
A It was a yes, no question.
Q Okay?
A And a yes, no question is not a leading question.
Q Because part of your training is to try not to lead them?
A Yes.
Q And leading means ---
A Giving them the answer.
Q --- suggesting the answer ---
A Uh-huh.
Q --- in your questioning.
A Yes. If that was a leading question it would be phrased like, "And your clothes were on; right," or, "Your clothes stayed on, is that correct"?

Q And that ---
A Suggesting the response.
Q Yeah, and what you said, "And did your clothes stay on" ---
A Which is a yes or a no question.
Q Okay, line - page 17, at five, it says, five, question, line five, it says, question, "On the bed, okay, and how were you positioned on the bed," and Victim answered, "Like I did mama"?
A Yes.
Q Okay, page 18, you asked her a question, on page 18, "You felt like somebody was going in there and he was the only one around, so you guess it was him"?
A Now, that's not a question. I was actually responding to her answer. I was repeating her answer.
Q Go ahead, I'm sorry?
A I'm sorry, again, repeating the answer - repeating what they say gives them the opportunity to correct me.
Q Okay, so, well, let's 16, "It felt like somebody was going in there," and we all agree it's inaudible I guess.
A Well, and the actual statement which is in my report, "It felt like somebody was going in there and he was the only one around, so, I guess it was him".
Q "So, I guess it was him"?
A Yes.

Q And at that time, and then mama was in the living room?
A Yes.
Q And Minor 1 was in the other room?
A Yes.
Q On page 19, line four, you asked her, "Did you ever see Tim go in the room with Minor 5"?
A Yes.
Q Did you establish that Minor 5 was a playmate of hers in Myrtle Beach when she would come here on the weekends?
A She told me that Minor 5 was her step-cousin.
Q Okay.
A And gave me a long list of how they were connected.
Q Yeah, okay, and I - see, we're all at somewhat - line six, and there's no verbal response. I don't mean that that was - but that probably was a yes or a no?
A That was a no.
Q Okay, and question, "Uh-huh, okay," and answer, "He might have did"?
A Yes.
Q Who might have did what; do you know?
A He's - she's saying Tim might have did - gone in the room with Minor 5.
Q And on line - and she says he might've gone in the room with Minor 5 when mama was at Walgreens.
A When she went to Walgreens with her mother.

Q Okay, to suggest that Minor 1 and Tim might have been home by themselves in the context of that query?

A Of Minor 5 and Minor 5, yes.

Q Minor 5, yeah, okay.

A Uh-huh.

Q And page 23, I'm doing it this way, Ms. Nordeen, because I'd just rather than firing questions at you you might not remember what's all in that transcript. That's why I'm doing it this way.

A Sure.

Q Okay?

A Okay.

Q Page by page, and on page 23, on line five and six, you asked her if Tim had ever hurt her and she said no; right?

A Correct, if he had ever threatened her.

Q Okay, no threats, and of course, page 24 you established, let me see, sometimes I have to make sure I'm putting the right he and she pronouns together but "they screamed and cussed" I guess, I believe they were talking about - was that the daddy and Jennifer and Jennifer?

A I'm sorry, which page are you on?

Q Page 24 and I'm almost through.

A Okay, which line are you on on page 24?

Q Page 24 - well, it says, "They screamed and cussed." So, I have to go back to the other page.

A Okay.
Q But you asked - well, anyway, let's see if I can move it along quicker, okay, because you were asking, you asked her, you asked them questions about corporal punishment?
A Yes.
Q Right, and you established that she had gotten spankings from her daddy and her step-mama and from Nicole?
A Pops from Nicole with her hand.
Q Yeah, okay, and if you need to refer to anything, refer to anything because I'm doing this to move us along; okay?
A Okay.
Q Okay, and, you know, the belt, sometimes daddy put the belt on her and she said it would leave red marks; right?
A Yes.
Q And her mama spanked her, too, but I don't think she didn't - she said no marks were left on her; right?
A That's correct.
Q Okay, and then when Nicole would pop her, too, she said it didn't hurt.
A Right.
Q Okay, and of course, you asked her questions about conflict between the mama and daddy and, you know, "mom says daddy lies," and, "daddy says mama was bad for doing things to me," you established, you asked them those questions.
Thank you, Ms. Nordeen.

MR. CANNARELLA: I don't have any other questions, Judge.

THE COURT: Redirect?

MS. LIVELY: Just a couple.

REDIRECT EXAMINATION

BY MS. LIVELY:

Q Now, Dianne, it sounds like from the interview it lasted for about an hour and five minutes; right?

A Yes.

Q And from the questions that Mr. Cannarella was asking you regarding her responses it sounds like you had a pretty good rapport was Victim

A I believe by the time we finished the interview we had established a good rapport, yeah.

Q And clearly through the 50 pages or however many pages of the transcript in the hour-long interview it looked like she was responding to everything and basically telling on everyone whether it was her biological father or whomever else?

MR. CANNARELLA: Your Honor, I object to that, Judge.

MS. LIVELY: He was specifically asking questions about did Tim threaten her.

THE COURT: Yeah, but you're asking her an opinion - I'm going to give you a little bit of leeway.

MS. LIVELY: Okay.

BY MS. LIVELY:

Q All right, well, let me rephrase the question, okay, you've already said you established rapport, and in the hour and five minute long interview you go through several things, corporal punishment as well as the sexual abuse and everything?

A Yes.

Q Correct? And is that the point of the forensic interview?

A Yes, it is standard in the forensic interview to also assess if the child has been physically abused, if the child has been exposed to pornography, if the child has been offered alcohol or drugs, if the child has witnessed criminal domestic violence, if the child has been exposed to weapons. We've now also added whether the child has been photographed or videotaped without their clothes or if someone has asked them to send a picture on their cell phones without their clothes because we're getting a lot of those cases as well. So, those are standard questions. What I asked her are questions that I ask almost every child, and I say almost every child because we wouldn't necessarily go into that with a three-year-old.

Q Okay, so, once again, the forensic interview is completely open-ended. You ask all these questions and they are standard and what the kid gives you is just free-flowing is the point of the interview.

A It's ---
Q Feel free to tell you about everybody?
A Yes, and it's important, it's the reason we ask the questions we do to assess the child's, to determine from the child's report if they are also currently safe and currently in a safe place.
Q And was she?
A And she was.
Q Thank you.
MS. LIVELY: That's all I have.
THE COURT: All right, you may step down.
Let me see the attorneys for a second.
(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)
THE COURT: All right, you can call your next witness.
MS. LIVELY: Yes, sir, Your Honor, the State would call Johanna Stout to the stand.
THE COURT: All right.
Whereupon, Johanna Stout Wilson was called the stand, duly sworn by the clerk and testified as follows:
THE CLERK: State your full name and I need you to spell your first and last name.
MS. STOUT: Okay, Johanna Stout Wilson, first name is J-O-H-A-N-N-A and last name Wilson, W-I-L-S-O-N.

MS. LIVELY: May it please the Court, Your Honor?

THE COURT: Yes, ma'am

MS. LIVELY: Thank you.

DIRECT EXAMINATION

BY MS. LIVELY:

Q Ms. Wilson, where do you work?

A I'm a counselor at Tabor City Elementary School in Tabor City, North Carolina.

Q And how long have you worked there in that capacity?

A I've been a counselor for 20 years, at Tabor City for 13.

Q Okay, and as a counselor at the school what are your duties?

A They are to assist with student services in any way. Also, I handle testing. I coordinate all of the extracurricular programs for the, for the school.

Q Okay, and how might a child come to see you as in your capacity as a counselor?

A I go into the classroom every week; and so, the children know me from going in through classroom guidance, and also they can come to me just through their request asking to come to me if they want to by asking me or their teacher and the word gets to me.

Q Okay, and Ms. Wilson, did you have or have you had the opportunity to meet a child by the name of Victim [redacted]?

A Yes, I have.
Q Okay, and when was the first time you remember actually putting a name with a face and getting to know Victim?
A Probably kindergarten, during kindergarten registration.
Q Okay.
A When she first enrolled.
Q Okay, and what were your impressions of her as a child when she first came to the school?
A Happy, giggly, bubbly, a very, just a very nice little girl.
Q Okay, and did you have the opportunity to meet her father, Chad Turbeville?
A Uh-huh, I knew Chad earlier because of his other daughter Minor 1 when he had enrolled her in school.
Q And so, they all went to the same school?
A Yes, they have, yes.
Q How about his stepchildren, are they at the school?
A They are.
Q All right, and do you know his wife, Jennifer Turbeville?
A Yes, I do.
Q Now, will you tell this jury what if anything you noticed changed in regards to Victim [redacted] while a student at the school?
MR. CANNARELLA: Your Honor, I'm going to object to

that because I don't know if she's leading up to creating an inference of why the child's behavior changed. She's not an expert in, in what that she - that they want to get into.

THE COURT: Well, I'm going to overrule your objection at this point in time. She can testify as to what she observed. I'm going to allow it at this point in time. If, if it gets to anything else objectionable you need to raise your objection at that time.

MR. CANNARELLA: Yes, sir, okay.

BY MS. LIVELY:

Q Okay, just as to your personal observations of the child, okay, what - because you said you noticed her in kindergarten as being a bubbly, you know, giggly, happy child?

A Yes.

Q Okay, now, she may not have changed. I'm just asking you, your own personal observations as to what you saw if anything change in Victim [redacted] while she was at school?

A In the year, in the school year and because I work for the school system I go by the school year.

Q Sure.

A In the school year 2008-2009 she was in the second grade. Victim became very anxious, fearful, clingy.

Q Did you personally see this yourself with your own eyes?

A Oh, yes, her - we all witnessed it, anyone that had anything to do with the child. She - her personality became

very different.
Q Okay, I mean, give us an example of something you actually observed so we can understand why you're qualifying that as her anxiety.
A Well, I just, I can recall one day when her grandmother brought her to school because she had - she developed a type of school phobia. She did not want to come to school. She did not want to stay at school and I can recall her grandmother, us having to hold Victim as her grandmother left.
Q Okay, and did she exhibit any other type of behaviors that you became personally aware of?
A She was - she cried very easily. Anything seemed to upset her. She was very sensitive to any type of change. She also complained constantly of feeling sick and her stomach hurting and wanting to go home and she cried quite frequently.
Q Okay, and what if anything would ever change her demeanor?
A Generally when, when she had to be in a public setting at school, when her family, when her stepmother or Chad or her grandmother left.
Q Okay.
A And they, and they had trouble getting her to come to school and then once she was at school she would get - she would become upset and her teacher, Ms. Schoolcraft, would then call me and I would talk with the child and then I would

call Jennifer or Chad to let them know what was going on and they were very concerned.

Q Was there - did you actually go back and check any attendance records in regards to Victim?

A I did.

Q How did that change?

A She was out of school, I went back and checked. I think the year before her first grade year she was out about five days. Her second grade year she was out 15 days, and that's not like her, and then I checked also for her third grade year, last year, and then also this year, and she was out maybe three days last year and I'm not sure of this year though.

Q Okay.

A But I mean, the attendance spiked, being out of school spiked.

Q And were you aware of any change in her grades or progress in school?

A She's very bright. She - her grades remained the same.

Q Okay.

A She, she did very well in school.

Q She's a - so you said she's a very bright child?

A She's a very bright child. She's been on the honor roll and in third grade and fourth grade and in kindergarten, K-2, they get, they get graded one, two, three, three being the top

and she was - she made all threes.

Q Okay, have you had any contact with this Defendant, Timothy Young?

A No, I have not.

Q Have you had any contact with Nicole Young, who is the, who is the biological mother of Minor 1 and Victim?

A No, I have not.

Q Have you had any dealings with either one of them at all?

A No, I have not.

Q Thank you. Answer any questions Mr. Cannarella may have for you.

A Thank you.

CROSS EXAMINATION

BY MR. CANNARELLA:

Q Mrs. Stout, would it surprise you if I told you that Victim lied about her stomachaches?

A I knew she was upset and I knew that she was upset about her stomach aching and everything.

Q Would it surprise you if I told you she lied about stomachaches?

A Yes, it would.

Q Okay, thank you, ma'am.

MR. CANNARELLA: That's all the questions I have, Judge.

THE COURT: Anything on redirect?

REDIRECT EXAMINATION

BY MS. LIVELY:

Q And why would that surprise you, Ms. Wilson?

A That she lied?

Q Uh-huh.

A I've never known her to do that.

Q Thank you, that's all I have.

THE COURT: All right, you may step down.

MS. LIVELY: May this witness be excused from her subpoena, Your Honor?

THE COURT: Any objection?

MR. CANNARELLA: No objection, Your Honor.

THE COURT: All right, you're free to go. Thank you very much. All right.

MS. LIVELY: My next witness will take a while, Your Honor, and so, we might want to consider breaking.

THE COURT: Now would be a good time. All right, ladies and gentlemen, it's 12 o'clock. I'm going to let you go to lunch on your own today. I'm going to excuse you. Please be back, let's see, it's 12 o'clock, one, be back at 1:15. Well, no, 1:30. I'll give you an hour and a half. That'll give you an hour and a half to eat lunch. Please be back in the jury room at 1:30 and we'll try to get started right then. Do not discuss the case even among yourselves at

this point in time. Don't conduct any independent investigations. If you took notes and the transcripts please leave all of those here in the jury box. Okay, thank you very much. I hope you have a good lunch. We'll see you back at 1:30.

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

THE COURT: All right, anything from the State before we break for lunch?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, for planning purposes do we look like we're still on schedule?

MS. LIVELY: Yes, sir.

THE COURT: Okay.

MR. CANNARELLA: Yes, sir.

THE COURT: All right, that sounds good. Thank you very much.

MS. LIVELY: Thank you.

OFF THE RECORD

(On the record.)

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

THE COURT: Please be seated.

Anything from the State before we bring the jury in?

MS. LIVELY: Ready to proceed, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's bring the jury in. Thank you.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: All right, ladies and gentlemen, welcome back. I hope everyone had a good lunch. I remind you if you have any cell phones or pager devices please turn those off. Ms. Lively, you can call your next witness.

MS. LIVELY: Thank you, Your Honor, the State would call Dr. Carol Rahter to the stand.

Whereupon, Carol Rahter was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Thank you. Please be seated. State your full name and spell your last name.

MS. RAHTER: Carol Ann Rahter, R-A-H-T-E-R.

MS. LIVELY: May it please the Court?

THE COURT: Yes, ma'am.

MS. LIVELY: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. LIVELY:

Q Dr. Rahter, what do you do for a living?

A I'm an emergency physician at Waccamaw Hospital and I'm also the medical director of the Children's Recovery Center
Q Okay, is that the same Children's Recovery Center that we've heard Dianne Nordeen testify about about two hours ago?
A Yes, she's the forensic interviewer at the Children's Recovery Center.
Q And what are your duties at the Children's Recovery Center, the medical duties?
A The medical duties, I examine all the children that come through there.
Q Okay, Dr. Rahter, give this jury the benefit of your medical background and education.
A I went to medical school in Kansas City and did a four-year medical school education. Then I did an internship in Dallas, Texas, and then I did a two-year emergency medicine residency in Pontiac, Michigan. I moved here in 1990. I became board certified in emergency medicine in 1993. I started doing exams on abused children in 1994 and have been doing that with the Children's Recovery Center for 17 years.
Q And have you had any specialty - well, you said you've been doing that for the Children's Recovery Center for all those years. Do you have any type of equipment that helps you in specializing in that particular area?
A Yes, the Children's Recovery Center we have two locations, Georgetown and Myrtle Beach. We have a culpascope

at both facilities. It's something you don't have in the emergency department to examine children. So, we like to examine them with the culpascope. It's kind of like a microscope hooked onto a TV so it magnifies everything you look at. So, when I examine the children we always start at their toes and then we look at their fingers and they get to see their fingerprints on the TV. We look at any scars they have on their arms and legs; and so, they're pretty comfortable by the time we get to the genital exam.

Q Okay, and you said that's something that's not normally in an emergency room for them to actually use if someone comes in regarding a sexual assault?

A Correct.

MS. LIVELY: Okay, well, Your Honor, at this time the State would offer Dr. Carol Rahter as an expert in child sexual assault and medical examinations.

THE COURT: All right.

MR. CANNARELLA: No objection, Your Honor.

THE COURT: All right, I find this witness to be qualified as an expert in the field of child sexual examination.

MS. LIVELY: Assault, yeah, child sexual assault medical examinations, Your Honor.

THE COURT: All right, child sexual assaults and medical examinations.

MS. LIVELY: Yes, sir.

THE COURT: All right.

BY MS. LIVELY:

Q Now, Dr. Rahter, did you have an opportunity to meet with a child by the name of Victim [redacted] in February of 2009?

A Yes, I did.

Q Okay, and if you would please tell the jury exactly what it was that your role, what your role was when she came to the Children's Recovery Center on that day?

A I performed her medical exam and did her medical interview. I used to do forensic interviews. I still occasionally do forensic interviews but now we're lucky enough to have a couple of good forensic interviewers. So, the medical interview is different than a forensic interview. It's just questions that I ask her in the medical exam and then I do a head-to-toe medical exam with the culpascope and that's what I did that day.

Q Okay, and how important is it to actually obtain a history regarding the child's, the child's medical history or anything that might be of use to you during the exam?

A Any patient that you see the - I actually the most important thing is the history, and particularly in children that are possibly abused, the important part of the history is whether or not they've had any injuries, accidental injuries to that area and to find out where they're living and who

their - who may - who they may possibly be around that is not safe for them to be around because you have to make a determination at the end whether or not it's even safe for them to go home with the person that brought them there. So, you need to know the social history, the medical history, the surgical history as part of and then do the exam and you kind of put it all together to make sure the child's safe.

Q Okay, and in gathering the history of Victim [redacted] was there anything that was provided to you that you were looking for or that you were concerned about?

A Yes.

Q And what was that?

A I was concerned about what she told me about both what her mother had done and what her mother's husband had done to her.

Q Okay, and were you able to determine from speaking to her what type of assault allegation that she had made in regards to what had actually happened to her body?

A Yes.

Q Okay, all right, in regards to the allegation - well, don't tell me who it was, okay, but in regards to her private part what was concerning to you about the allegation that she made regarding the private part? What were you looking for as a medical doctor?

A I was looking for whether or not there was any injury

down there.
Q Okay, and were you aware of the timeframe regarding the disclosure and when the assault had occurred on this child?
A It had, it had been definitely greater than 72 hours.
Q And why is 72 hours such an important timeframe in assessing child sexual assault?
A Is the majority of children, greater than 90 percent of children that are sexually abused have totally normal exams. The reason is because the majority of children have delayed disclosure. They don't tell you about it five minutes after it happened. So, when you examine them that tissue has healed. Even when we see pretty significant injuries, when we re-examine the children in 72 hours, then sometimes in a week or two weeks that injury that's a significant injury is healed. In this case what she was alleging occurred was not really an injury, I would not expect an injury from it. I certainly would not expect an injury from it greater than 72 hours out.
Q Well, let me ask you this in general as an expert in child sexual assault and medical examinations, if a disclosure involved a child being abused by oral sex in your opinion would you expect to find some type of injury on that child?
A You would not find injury. Occasionally, you will find an infection.
Q An infection, okay, if a child were to disclose to you

digital penetration, in your expert opinion what would the timeline be where you may expect to find injury if at all?

A If you saw a child within 24 hours after it occurred you might see some redness, some irritation but greater than 72 hours I would not expect to see anything.

Q Okay, when you examined Victim [redacted] in your office, I know that you weren't a part of the forensic interview but did she ever disclose to you the time and place of her allegations of a sexual assault?

A I don't believe she disclosed to me when it occurred but I had - I always review everything before I examine the child and I had the police report and that kind of information. So, I knew it had been a while.

Q Okay, and once again, that information is important to you in order to know what to look for?

A Correct.

Q Okay, now, whenever you - well, let me just ask you this, what was your conclusion in regards to your medical exam of Victim?

A That the physical exam was without abnormalities which does not rule in ---

MR. CANNARELLA: Objection to that second part. That's improper vouching for the witness now. It's in the back door.

THE COURT: All right, sustained.

Q What was - before, what was the first thing you said. Where you were stopped, I'm sorry, because when he jumped up I kind of lost what you had said. What was the result of her exam? Don't give me your opinion after that.

A That her physical exam was without abnormalities.

Q Okay, it was without abnormalities, okay, and in your expert opinion based on the information that you had would that be consistent with a child who had been sexually abused three and half to four months earlier?

A Yes.

Q Okay, you mentioned that the child actually disclosed to you about two individuals, and you haven't been here, Dr. Rahter, but there's been a lot of discussion about the child's biological mother and did she - did you say she had mentioned something to you about that?

A Yes, she did.

Q Okay, and in regards to what she mentioned to you about the biological mother, was there anything that struck you in that disclosure as being odd? If not, that's fine, but I'm just ---

A I thought, I thought it was odd because at seven years of age it's kind of unusual for a mother to be applying any kind of cream or ointment to a child's genitalia.

Q Okay.

A Number two, she described it as being applied with her

knuckle which is not normally the way somebody applies a diaper cream or something to an irritated area. So, I found that to be odd.

Q Was the child specific in telling you what it was that was used by her mother?

A Neosporin.

Q Neosporin, and what is Neosporin?

A It's a triple antibiotic ointment.

Q If a - as a medical doctor because you're dealing with, especially in child sexual assault examinations, medical examinations, if there is redness or a problem down there with the child do you recommend putting Neosporin on that child's genital area?

A No.

Q Why not?

A Well, Neosporin's a triple antibiotic. You really shouldn't have an infection down in that area that you need an antibiotic for. Sometimes girls don't wipe very well and they get some irritated tissue down there. Some girls get that from bubble baths; and so, what you use at that time is something that's soothing to the area like a Desitin cream or some kind of diaper cream, but not a triple antibiotic ointment.

Q In your experience as - in doing these sexual assault medical examinations on children have you ever seen any

abrasions or cuts or nicks that would occur from a fingernail in that area?

A Oh, absolutely.

Q Okay, so, is that a common occurrence if someone was digitally penetrated?

A Oftentimes you'll see a scratch from a fingernail or from some other object that was used, sometimes a full laceration, sometimes just an abrasion, sometimes just an irritation but obviously something that's not soft is going to cause more injury than something that is soft.

Q Thank you. That's all I have. Answer any questions Mr. Cannarella has for you.

CROSS EXAMINATION

BY MR. CANNARELLA:

Q Dr. Rahter?

A Yes.

Q I have to spell it phonetically, okay. Well, it was reported Neosporin?

A That's what the child told me.

Q You wouldn't apply Neosporin?

A Would I?

Q No, well, I mean it would be inappropriate to apply Neosporin?

A I have never advised a mother to apply Neosporin.

Q Right, well, I mean, if, in fact, that's really what it

was?
A That would be inappropriate, yes.
Q And that's just what the child said it was?
A Correct.
Q Okay, and well, if your child wouldn't apply it herself you would, you as the mother would use an applicator? How would you apply it if the child didn't, didn't want to do it themselves?
A I'm not quite sure what you're asking me because I would never put Neosporin in a child's genital area.
Q Okay, I know, but you see you're assuming that the child was right about it being Neosporin.
A Yes, I am assuming that.
Q So, the child could've been mistaken about what she called it. She could have been?
A That's correct.
Q You're just assuming it was Neosporin and you know that wouldn't be right, but anyway, let's say if you have to apply something to a seven year old and they won't do it themselves then you would use an applicator of some sort?
A No, I would use the fleshy part of the - my index finger.
Q Your finger, your own finger?
A Correct, if the child was not old enough or mature enough to do it herself.
Q Okay, so, or refused to do it themselves?

A Correct.
Q Okay, but you would as a mother use your own finger but you just wouldn't use the same knuckle technique?
A Yeah, I've just never heard of anybody putting cream on with a knuckle.
Q I know, but I understand that, but you just said that if it was even you and your daughter wouldn't apply it themself you would put it on the inside of your own finger and do it.
A On the, yes, but I think we need to make a distinction here ---
Q Okay.
A --- between the external genitalia and the internal genitalia. External genitalia does not hurt when you put cream on it. Okay.
Q Okay.
A Like when a child has a diaper rash most mothers put Desitin or A&D Ointment on with their finger and they rub it on the outside. That's not painful to a child.
Q Okay.
A What's painful to a child are the internal genital structures.
Q Okay, and, and ---
A And you wouldn't put anything on the internal genital structures.
Q Okay, what you mean you wouldn't, you would not?

A You would not put cream on the hymen, which is the painful part of the genitalia.
Q That's the inside of the part?
A Correct.
Q Okay.
A You wouldn't put any cream there.
Q You wouldn't put anything there?
A Absolutely not.
Q Okay, so, you have a normal exam?
A Correct.
Q Now, you - and help me with this because in your direct testimony you used the word consistent. Remember that, you said consistent.
A In what frame, what ---
Q Right.
A --- sentence?
Q Well, see, you found a normal exam?
A Correct.
Q And that would be consistent with no injury?
A A physical exam, a normal physical exam can be seen in a child who's sexually abused as well as a child who's not sexually abused.
Q Now, say, say that one more time for me so I can digest it.
A Okay, a normal physical exam can be seen in a child who

is sexually abused and in a child who's not sexually abused.
Q Okay, well, if you got a normal exam, then and you make the statement that you still could have some sexual abuse with a normal exam, right?
A Yes, that's what studies show.
Q Yeah, well, I know that's what studies show but what, what I - what we need to understand is if it's a normal exam but you say there still could have been some sexual abuse what studies are you basing that on? How do you arrive at that conclusion? Is that because you've got some more information to support that from studies?
A Correct.
Q Okay, well, then that ---
A Greater than 90 percent of children who are sexually abused have normal exams and the majority of the reason for that is delayed disclosure.
Q Okay, so, but there's 10 percent that have normal exams that have never been sexually abused?
A No, there's 10 percent of children who have abnormal exams who are sexually abused. I would expect all children who have never been sexually abused to have a normal exam unless they had an accidental injury.
Q Okay, say that one more time.
A Okay, you have children who have never been ---
Q Just like you, just like you said it.

A Okay, you have children who have never been sexually abused that should have a normal exam.
Q Okay.
A Unless they had an accidental injury that caused an abnormal exam.
Q Okay.
A Then you have 90 percent of children who have been sexually abused have normal exams when they are examined because of delayed disclosure and because of the different types of sexual abuse that sometimes don't cause any injury.
Q Okay, so ---
A So, it's very rare to find an - to have an abnormal finding in sexually abused children.
Q But you can have normal findings in children that have not been sexually abused?
A You should have normal findings in children that have not been sexually abused unless they've had an accidental injury which we see sometimes.
Q Okay, okay, I think I understand.
MR. CANNARELLA: That's all the questions I have, Your Honor.
THE COURT: All right, redirect.
MS. LIVELY: No, Your Honor.
THE COURT: All right, you may step down.
A Thank you.

THE COURT: Call your next witness.

MS. LIVELY: Your Honor, at this time the State rests.

THE COURT: All right, all right, ladies and gentlemen, the State has presented their case and now is the time for me to take up some matters of law with the attorneys. So, I'm going to excuse you back to the jury room while we address these matters of law. Now, the reason, excuse me, I excuse you back to the jury room and I don't want you to think we're hiding anything from you or anything of that nature but as I told you you and you alone decide what the facts of this case are. I determine what the law of this case is. Sometimes when we discuss these legal matters where I rule on the law it requires me and the attorneys to discuss factual issues. Well, what we discuss during these legal arguments is not evidence in the case and we don't want you to be influenced by anything that I might say or anything that the attorneys might say in deciding what factually happened in this case. So, that's why we excuse you back to the jury room. It's not that we're hiding anything from you. It's just to keep you from being influenced by anything that the attorneys might say or that I might say while we address these legal issues. So, I'm going to excuse you back to the jury room while we take up these legal matters. Do not discuss the case even among yourselves at this time. If you have pads, other notes, please leave them in the jury box.

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

THE COURT: All right, any motions at this time?

MS. LIVELY: Your Honor, the only thing that the State is wanting to address will be in regards to some issues as to witnesses that are listed for the Defense, and if you want me to go ahead and address that now or if you want Mr. Cannarella to address the usual DV motion then I can.

THE COURT: Yeah, let's, let's go ahead and see if there's any motions by the Defense.

MR. CANNARELLA: Well, Your Honor, insofar as protecting the record is concerned I'd move for a directed verdict of acquittal on both charges because the evidence in this case does not meet the standards that's required under the law.

THE COURT: All right.

MR. CANNARELLA: On both of them.

THE COURT: Your motion's noted. I'm going to deny that motion.

All right, on the witnesses.

MS. LIVELY: Yes, sir. Two witnesses, first of all on Yolanda Daniels she is the North Carolina DSS caseworker who handled the investigation, the majority of it being the investigation with Nicole Young. Whenever we began this case, Your Honor, one of the issues that was addressed by the Court

and the Court ruled in my favor was in regards to showing the other interview of the child where she had made an inconsistent statement, if you recall the one at the Carousel Center in North Carolina. I see Yolanda Daniels as being a witness who will also be questioned regarding the prior inconsistent statement. Now, Caila has already been questioned about that. I'm going to make an objection in that regard, but I just want to make sure that the record is clear that even though Mr. Cannarella had chosen on his cross-examination to open the door regarding a lot of hearsay outside the scope of what child sexual assaults normally are allowed, that being time and place, and that opened the door for us to get into a lot of issues that the child said in hearsay to other witnesses, it is not my intent to allow carte blanche, and I will be, I will be objecting to that. So, I'm asking the Court that if Yolanda Daniels is brought in and is questioned in regards to the prior inconsistent statement I just want to get your response in regards to that because it would be the same motion I had in regards to the Carousel Center interview and that is Caila has been questioned about it, she was available on cross-examination regarding that issue and clearly admitted to making the inconsistent statement, and Mr. Cannarella had a very long cross-examination of the child in that regard. So, if he's bringing Ms. Daniels in just for her findings and being involved in the

investigation that's fine. However, I would object to any hearsay information she would be providing on the child.

THE COURT: I'm trying to recall what the prior inconsistent statement was.

MR. CANNARELLA: Judge, I'm pretty sure that I got what I wanted yesterday out of Mr. Graham.

MS. LIVELY: Okay.

THE COURT: Okay.

MR. CANNARELLA: Because I showed him - I went up there and I showed him, I said, "Well, this is what we got from you," and I said specifically Yolanda Daniels asked Victim "Hey, Victim, did Tim Young touch you in any sexually inappropriate way and she denied it." See, she, she ---

THE COURT: Right, right, okay, okay, all right.

MR. CANNARELLA: So, so, I think I'm right about that; aren't I?

THE COURT: Well ---

MS. LIVELY: He did ask that question, however, you did not ask it of the actual witness who he has now subpoenaed to be in here and in follow-up because he went into the hearsay I then asked, "And didn't she - didn't you also find out that the Defendant had performed oral sex on the child," and that's what I mean, when he would kind of open the door I ran through it, but if he's calling these people on direct I am going to make an objection and I, and I do not want it to

be that because he has taken the opportunity to open the door every time in regards to hearsay information that it's a carte blanche across the entire case. I'm going to make my objections. You've already ruled that if the child testified and was available for cross-examination on the inconsistent statement that it doesn't come in.

THE COURT: Right, and I'm - I do ---

MS. LIVELY: And we can wait until it happens.

THE COURT: Yeah, and I think we're going to have to because I don't recall the child - we'll have to wait and see because what I'm going to have to do is recall to see if the child made a prior inconsistent statement. I don't recall you ever asking the child the questions.

MR. CANNARELLA: I didn't ask, I didn't ask the child, but I got it in, I think over Candice's, your, Mrs. Lively's objection when Joe Graham was on the stand.

THE COURT: Yeah, but I don't think that that opens the door for you to ---

MS. LIVELY: Exactly.

THE COURT: --- question - it's still going to be hearsay.

MR. CANNARELLA: Yeah, but my point is I've already, I've already gotten to the jury in my opinion on the fact that Yolanda Daniels specifically asked Victim [redacted] did Tim Young ever do anything sexually inappropriate to you or

whatever it was and I got it in through Mr. Graham. So, the jury already knows that Victim [redacted] denied Tim bothering her when Yolanda Daniels asked her the question.

THE COURT: Yeah, but I think Ms. Lively's objection is that you cannot ask Yolanda Daniels now on direct examination did the child deny.

MR. CANNARELLA: Right, and my - I - and I don't have a problem with that because I've already got that to the jury.

THE COURT: All right.

MR. CANNARELLA: Unless I missed something.

THE COURT: No, no, that's ---

MR. CANNARELLA: I already got it to the jury. So, why do I - I don't - so, all that out of state witness stuff I don't need anymore.

THE COURT: Okay.

MR. CANNARELLA: And I think it's best for me to go ahead because Judge Sasser right this very minute he may - my process server maybe has delivered his summons to Judge Sasser to order her to come here. So, I think we need to stop it, but she's on your witness list though.

MS. LIVELY: Well, I told her she was excused from mine once I finished with the victim and she actually admitted to making the prior statement against the mother and then a subsequent statement against Mr. Young. So, I told her that Your Honor had at that time decided not to use the Carousel

interview; and so, under those circumstances I excused her from my subpoena.

THE COURT: So, in other words, you're not going to call Yolanda Daniels.

MR. CANNARELLA: Yeah, Judge, yeah, I mean ---

MS. LIVELY: Okay.

MR. CANNARELLA: --- what I'm simply saying I don't need her anymore.

MS. LIVELY: Okay.

THE COURT: Okay.

MR. CANNARELLA: I got it in.

THE COURT: All right.

MR. CANNARELLA: So, I guess - so, I need to - so ---

MS. LIVELY: Okay.

MR. CANNARELLA: So, I'm - so, you don't want her. You - she's not under yours. I'm - I'm canceling mine.

THE COURT: Okay, all right, good.

MR. CANNARELLA: Yes, sir.

THE COURT: So, that's, that's not an issue anymore.

MR. CANNARELLA: No.

MS. LIVELY: Okay.

THE COURT: All right.

MS. LIVELY: The other thing is Mr. Cannarella asked, I believe it was Chad Turbeville on the stand about photos from Walmart in 2003.

THE COURT: Right.

MS. LIVELY: And then he just let it go. I asked Mr. Turbeville what the relevance was of those Walmart photos in 2003 and what it is is he's telling me that ---

THE COURT: He being Mr.?

MS. LIVELY: I'm sorry, Chad.

THE COURT: All right.

MS. LIVELY: I'm sorry, yeah, let me be real clear.

THE COURT: All right.

MS. LIVELY: And I asked Chad what the relevance of the Walmart 2003 photos, his rendition, his being Mr. Turbeville's rendition to me was Nicole, the biological mother of Victim had taken pictures of Victim's private part with the camera and got them developed at Walmart, and of course, Walmart, who correctly considered this child pornography, called DSS, law enforcement or whoever. I don't know exactly who they called because he just told me it was investigated, it was unfounded, the mother, biological mother was trying to say that there was redness there of the child and that she thought that maybe Mr. Turbeville had done something or that something had happened to the child while in his care, let me clarify that. Your Honor, this is going to end up being a divorce case. That's what it feels like to me right now, and that's a shame because this is about Victim and what happened to her from 2008 until her disclosure. That has absolutely no

relevance. It is, it's prejudicial.

THE COURT: So, what is your, what's your motion?

MS. LIVELY: I don't want it - if she - my motion is to, is to make sure that that evidence or testimony is excluded from the, from Nicole Young being able to talk about it because it's, it's a collateral issue. It has nothing to do with the allegations here in the case. That would've been, what is it, it was 2008, 2009 when the disclosure came out about Tim. So, that was six years ago.

THE COURT: All right, Mr. Cannarella, let me hear from you on that.

MR. CANNARELLA: Yeah, Judge, the - well, it is, it is relevant insofar as the high conflict situation that permeated these parties' relationship for an extended period of time, from 2001 all the way up through February of 2009, but - and I know we don't - we got to keep our eye on the ball and we don't want a three ring circus. We're only trying one trial. The pictures, the pictures were taken, I believe, of Minor 1 anyway. I think it was Minor 1 photographs of Minor 1 and she's not even involved in it.

MS. LIVELY: Well, then it even is less relevant.

THE COURT: Well, let me hear from your argument.

MR. CANNARELLA: Well, that's why ---

MS. LIVELY: I'm sorry.

THE COURT: She's moving in limine to exclude

anything ---

MR. CANNARELLA: Well ---

THE COURT: --- with regard to the pictures and allegations against Mr. Turbeville. What's your position on that?

MR. CANNARELLA: Yeah, I - my - well, my position on that is it is relevant to show that why Nicole's visitation with the child was interrupted and that just further compounded this high conflict situation between the parties. It goes to the issue of allegations being highly questionable in these high conflict situations just like Denise Scearce testified to for me, but I'm not going to dwell on it. All I'd say is, "Nicole, were your visitations interrupted at any particular point in time," and she'll say yes and I can say, Why?" She says, "Because of some pictures," and that'd be the end of it.

MS. LIVELY: Well, you can't just leave - I'm sorry.

THE COURT: Well ---

MR. CANNARELLA: This, Judge, this is pretty low level fight. I won't even get into that. I won't even, I won't even, I won't bring it up. I'll tell Nicole Young not to testify to anything about in 2003.

THE COURT: All right.

MR. CANNARELLA: So, that ends that.

THE COURT: All right, what else?

MS. LIVELY: That was it.

THE COURT: All right.

MS. LIVELY: So, no mention of the pictures; correct?

MR. CANNARELLA: Well, I mean, I ---

THE COURT: That's the way I understand it is you're ---

MR. CANNARELLA: Yeah, I'll just ---

THE COURT: --- voluntarily, okay.

MS. LIVELY: Okay, thank you.

THE COURT: Okay.

MS. LIVELY: That's all.

THE COURT: All right, all right, anything further from the Defense?

MR. CANNARELLA: No, sir. No, Your Honor.

THE COURT: All right, all right, you want me to go ahead and have you discussed testifying with your client?

MR. CANNARELLA: Yes, sir, he - yeah, he, he - yes, sir, I've discussed.

THE COURT: All right, Mr. Young, if you'd please raise your right hand.

(Whereupon, the Defendant is sworn by the Court.)

THE COURT: All right, all right, Mr. Young, at this time I'm going to explain to you certain rights you have. If you do not understand anything I say please let me know. If you want me to explain anything in more detail please let me

know and if you want to speak with your attorney at any point in time let me know. Do you understand that?

MR. YOUNG: Yes, sir.

THE COURT: All right, we've now reached the stage of the trial where you may present your defense. You have the right to claim the protections given to you by the Fifth Amendment of the United States Constitution which states in part that no person shall be compelled in any criminal case to be a witness against himself. This means that you cannot be required to testify in this case. You have the right to testify on your behalf. However, no one can make you testify. This is a personal right and no one can waive this right except for you. If you decide to testify you will be subject to the same rules that govern other witnesses and you may be examined and cross-examined on any relevant issue in this case. In addition, if you have any convictions involving dishonesty or false statement or for crimes punishable by imprisonment for more than one year and this Court determines that the probative value of admitting this evidence outweighs its prejudicial affect to you the Solicitor will be able to introduce your record to attack your credibility. If you decide to testify this decision on your part must be freely, voluntarily and intelligently made with knowledge of the protections given to you by the Fifth Amendment of the United States Constitution and the consequences of your decision to

testify. If you decide not to testify I will instruct the jurors that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify. It is left entirely up to you whether or not you testify. You may talk with your attorney, your family and friends or anyone else, but the final decision will be left entirely up to you. Do you understand what I've explained to you?

MR. YOUNG: Yes, sir.

THE COURT: All right, do you have any questions that you want to ask me or ask your attorney or ask anyone else about this?

MR. YOUNG: No, sir.

THE COURT: All right, have you discussed this issue with the lawyer?

MR. YOUNG: Yes, sir.

THE COURT: All right, Mr. Cannarella, have you had ample opportunity to discuss this with your client?

MR. CANNARELLA: Yes, Judge.

THE COURT: All right, all right, Mr. Young, do you wish to testify in this case?

MR. YOUNG: Yes, sir.

THE COURT: All right, Mr. Cannarella, anything else you want to put on the record in that regard?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, anything that the State wants to put on the record in that regard?

MS. LIVELY: None of his prior record, Your Honor, would be relevant for this particular case.

THE COURT: All right, so, there is to be absolutely nothing introduced for any prior record?

MS. LIVELY: Correct, correct.

THE COURT: Okay, all right.

MR. CANNARELLA: Judge, I don't - can you give me about a few minutes to kind of just regroup because I didn't know she was going to ---

THE COURT: That'll be fine.

MR. CANNARELLA: Okay.

THE COURT: How much time do you want?

MR. CANNARELLA: Well, 10, 10 minutes maybe?

THE COURT: All right, let's take about a 15 minute break; okay?

MR. CANNARELLA: Thank you.

MS. LIVELY: Thank you, Your Honor.

THE COURT: All right, thank you very much.

OFF THE RECORD

(On the record.)

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

THE COURT: All right, Mr. Cannarella, are you ready

to proceed?

MR. CANNARELLA: Yes, Your Honor.

THE COURT: All right, and since we did take a break I just want to make sure, Mr. Young, if I could get you to stand again. Do you wish to testify in this case?

MR. YOUNG: Yes, sir.

THE COURT: All right, do you have any questions you want to ask me or your attorney before we proceed?

MR. YOUNG: No, sir.

THE COURT: Okay, thank you very much.

All right, anything from the State before we bring the jury back?

MS. LIVELY: Your Honor, we just want to make sure that the State's Exhibit Number Four will be made a Court's Exhibit for appellate purposes since it was actually used during the playing of the forensic interview just for that purpose since we're not actually putting it into evidence, that you sustained the objection to put it in, but I do believe it needs to be made a part of the record and I've discussed this with Mr. Cannarella and he agrees. So, before we forget about it I'm asking the Court if - I don't - unless you're going to put it in.

MR. CANNARELLA: No, no, I'm not, no.

MS. LIVELY: Okay.

THE COURT: It's - I don't know if we need to put it

Court's Exhibit. It's marked as Exhibit Four and it's part of the record and I sustain the objection. So, it would be part of the record.

MS. LIVELY: It will be part of the record.

THE COURT: Yeah.

(Court and Court Reporter confer.)

MR. CANNARELLA: Okay.

MS. LIVELY: It won't go to the jury. I just wanted to make sure that it will be a part of the record. I wasn't sure how far we took it in regards to ---

THE COURT: Okay.

MS. LIVELY: --- where we were going to go with it but we're good. Okay, just wanted to make sure. That was just some housekeeping.

THE COURT: Now, having said that do we need to get those copies from the jury box?

MS. LIVELY: We do.

THE COURT: Because they - all right, let's go ahead and pick those up.

All right, anything from the State before we bring the jury back?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's go ahead and bring the

jury in.

(The following takes place in the presence of the jury.)

THE COURT: All right, ladies and gentlemen, welcome back. The State has presented their case. Now is the time of the trial where the Defense can present a defense should they choose to do so.

Mr. Cannarella, you can call your first witness.

MR. CANNARELLA: Nicole Young.

THE COURT: All right.

MR. CANNARELLA: Nicole.

Whereupon, Nicole Young was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: State your full name and spell your last name.

MS. YOUNG: My name is Nicole Young, or excuse me, Nicole Stephanie Young, last name is Y-O-U-N-G.

DIRECT EXAMINATION

BY MR. CANNARELLA:

Q Nicole, what was your birth name?

A Nicole Stephanie Skovinski.

Q Okay, where are you from?

A Originally I was born in Connecticut but I live here.

Q How did you end up coming to South Carolina?

A My father is a golfer and followed, followed the place

where the golf is, you know, abundance.
Q All right, now, is your mother living?
A My real mother has passed away.
Q Your biological father's name?
A Is Dwayne Thomas Skovinski.
Q Okay, have you ever testified in court before?
A Yes, sir.
Q How many brothers or sisters do you have?
A My father has been married three times. So, I do have two - a brother and sister from my dad's first marriage. I have me and my sister, Jessica, from the second marriage which we also had a brother that passed at birth with the umbilical cord around his neck and then met my stepmother who is my dad - who my dad is still currently married to and has been married to her for 25 years.
Q And you came down here with your father?
A Yes, that's correct.
Q How old were you?
A I believe I was 14.
Q And you've lived here ever since?
A Yes, sort of. I also made trips to Connecticut when my grandmother took sick and recently I just came back from two years staying in Connecticut.
Q Where did you say you were from in Connecticut?
A Lisbon, Connecticut.

Q Yeah, what's that's near, what's a city?
A Plainfield, Norwich area.
Q Okay, so, you moved down here when you were 14. Where did you go to school?
A I graduated from Socastee High School.
Q What did you do after graduation?
A Right after graduation I moved to Florida.
Q How long did you stay in Florida?
A Not long. I did not like Tampa at all. I moved back to - I moved actually up north again because my grandmother took sick.
Q But then you moved back down here with your father?
A Yes, I did.
Q How did you meet Chad Turbeville?
A He was an acquaintance, a friend through a friend.
Q What do you mean?
A I was dating a gentleman by the name of Stephan Hardee who broke up with me and I was brokenhearted and Chad Turbeville was his best friend and we also had another friend, you know, together, was Heather Butler but Chad and I started dating shortly after I saw him at the Crazy Horse that night of his birthday.
Q That's where you were working?
A Yes, I was a cocktail waitress at the Crazy Horse.
Q By that time you had broken up with Steve Hardee?

A Oh, yes, that didn't last long.
Q Okay, now, you and Chad started dating?
A Yes, sir.
Q When was that, Nicole, for the jury, the timeline?
A I am terrible with dates.
Q That's okay. Give us an idea. What, what year was it now, what year?
A '96 possibly, '96, '97.
Q Okay, what's Minor 1 birthday?
A [redacted].
Q That's your first child?
A Yes.
Q When did you and Tim get married?
A In September, September 9th of - I'm terrible with dates.
Q When, I'm sorry? I'm not asking you - when did you and Chad get married, I'm sorry. When did you and Chad ---
A Oh.
Q Minor 1 was born in '98?
A Right.
Q Okay.
A She was born [redacted] of '98 and she - Minor 1 was a year old at our wedding. She - we got married in January, January 8th.
Q In 2000?

A 2000.
Q Okay, how long did you all stay together before you, before you separated?
A Chad and I separated many, many times. We got back and forth. We separated over and over again. Six months after I married him I filed for a motion for a separation and we were separated.
Q Okay, all right, so, that would have been in 2000 you were - you filed for a motion?
A Yes.
Q You all were married in January of 2000?
A Correct.
Q And then six months later you filed for a separation?
A Yes.
Q Okay, what year was Victim born?
A She was born in 2001.
Q Did you all - so, obviously, you reconciled to some extent?
A Yes, we did. We took a weekend to try to work on our relationship to Maggie Valley, North Carolina, and during that weekend I had conceived Victim due to medical determination. We also had a paternity test done because when we got back from the mountains Chad and I realized that our relationship wasn't going to work. So, we were separated.

Q What was the, what was the status of the two children when you all separated?
A I had the girls with me.
Q And what year roughly would this have been in? I know you said you separated numerous times but what year was it? If you don't know ---
A 2001 I would say approximately.
Q You had the children with you?
A Yes.
Q Okay, what sort of arrangements did you and Chad make insofar as visitation with the children was concerned?
A I let him visit the kids anytime he wanted to.
Q Okay, now, well, did there come a time when you all went to court over the children?
A Yes, Chad had come to the house while I was extremely sick with a terrible flair up with my Crohn's Disease and they had put me on a lot of medication and at that point he thought that I couldn't care for the children. So, he took me to court and wanted to take custody of the children until I got better.
Q Okay, do you think that would have been in 2003 maybe, somewhere around there?
A Very possible.
Q You were living in South Carolina?

A Yes, sir.
Q And Chad was living in North Carolina?
A In what year?
Q In 2003?
A Yes.
Q Well, did you all ever live in North Carolina together while you were married?
A Yes, we did.
Q Okay, but when you separated you came back to where your family was here?
A Correct.
Q All right, and you've been here since then and Chad has been in North Carolina, basically?
A Yes, other than ---
Q Okay, well, did you all have and you all had to go to court over the children?
A Several times.
Q What was that about?
A It - I really don't know what you mean what was it about.
Q Well, were you all, were you all fussing over visitation and who was going to have the children?
A There were different, several different things that were brought up. He was having me investigated, different things came up, and every time he found out something he would take

me to court.
Q Well, Nicole, let's tell the jury right now.
A Yes.
Q You've been - you've been kind of - you've been convicted of perjury before?
A Yes, sir.
Q And that's lying under oath; right?
A It certainly is.
Q And you did time, you did 10 days?
A Ten very long days.
Q And was that in connection with a family court matter. I mean, who, well, you had to be found, you had - if you committed perjury was it in family court in North Carolina?
A Yes, it was.
Q And it was - and it was the family court matters that you all were involved in during that period of time?
A Yes.
Q Okay, and do you remember when you all were divorced?
A No, Chad was the one that informed me that we were divorced. I didn't have any paperwork regarding that.
Q Well, I want to show you something that you'll probably recognize to refresh your memory about when you all got divorced, what year. Well, just flip to the back and see if this order is signed by the judge granting you all a divorce.

I'm just trying to establish the divorce date, go all the way to the back of it. When's it signed by the judge?

A The judge signed it on this the 24th day of November, 2003.

Q Okay, so, you all were divorced in 2003?

A Correct, yes.

Q Okay, now, well, did things sort of settle down at that time between you all and the children after the divorce?

A No.

Q When you all got the divorce what was the custody and visitation arrangements?

A Well, we had to have a paternity test on Victim and that was one of the issues that needed to be brought up and the findings were that Chad is indeed Victim s father.

Q Okay, and that was determined way before you all got a divorce ---

A Yes.

Q --- in '03?

A Yes, as soon as she was old enough to do the test, yes.

Q Okay, now, now, follow me now, okay, because we're focusing on your two daughters?

A Okay.

Q All right, at about that time in '03 who had custody of the children? Where were the children living?

A I want to say with Chad.

Q Okay, what sort of rights were you given insofar as seeing the children is concerned?
A Weekend visitation and times during the summer.
Q Okay.
A And holidays alternating.
Q All right, and that continued all the way up to the point in time you met Tim you were getting weekend visitation?
A Yes, I was living with my mom and dad.
Q Okay.
A When I say mom I mean stepmother and father.
Q What's her name?
A Deborah Skovinski.
Q So, you would see, have the children with you on the weekends?
A Correct.
Q You met Tim in 2005?
A Yes.
Q All right, now, at that time what was, what was Chad's marital status if you know, was he single or was he married?
A In what year, sir?
Q 2005.
A I want to say they were, he was single.
Q Okay.
A I don't know the date that they got married.

Q They, they - okay, so, but they got married. We all know that.

A Yes, they did.

Q Okay, so, and all the children, his stepchildren and Victim and Minor 1 they all lived with Chad?

A Correct.

Q And in '05 you had, you had weekend, every other weekend visitation; right?

A Yes, alternating Christmas and holidays and so forth.

Q And that's, and it was that way up until 2000 - up until October the 31st, the weekend, Halloween weekend of '08?

A That's true but prior to that I have - Chad had several attempts that he had kept the kids from me due to baseball practices that he wanted to take them to, that in other instances where there was a - it was my time to have the children for my vacation time but he says it wouldn't work out. We couldn't communicate. So, it - a lot of times I didn't get to see the children because he wouldn't allow it.

Q Okay, so, were you, were you and Chad getting along in 2005?

A Chad and I have not gotten along at all ever since we've separated. He has a lot of hatred and animosity towards me.

Q Why?

A Because I broke his heart. I was his first true love and he just - I broke his heart.

Q Well, what was your relationship with Chad insofar as the children are concerned in '06, the same?

A Oh, absolutely. Up until the last time I saw my children anytime we had to have confrontation it was awful. There was no speaking to one another, communicating about how their - day was, their weekends. I was never notified about anything. Minor 1 split her head open on a playground. I was supposed to be notified any time the children are hurt. I wasn't notified. It's just we don't have a line of communication together.

Q Well, some of that's your fault; is it?

A No, I have tried on several attempts.

Q Well, Nicole, what about your, what about your lifestyle, though, for the benefit of the folks here ---

A Uh-huh.

Q --- what was your lifestyle like ---

A Terrible.

Q --- in the early, what do you mean?

A I got into a time in my life where I was using drugs and alcohol and I was on the wrong path but I turned my life around with the grace of God. He got me through it. I did it all on my own and I did it for my children because I was - I knew I wasn't happy. I wasn't happy with myself and I needed to learn to love myself and I have done that. I've been doing

very well for seven years. I've been walking a straight and narrow line, going to church every Sunday and enjoying life but missing my girls.

Q Well, it's 2011 now. That would be - so, are you telling us you tried to turn your life around in 2004?

A Absolutely.

Q Well, were you ready to get married when you did? Was that your first ---

A To, to Chad?

Q To Chad, yes.

A I did not want to marry Chad. Chad gave me an ultimatum. We had already had Minor 1 She was a year old at our wedding and he came up to me and said that, "I have everything I want. I have a beautiful house. We have beautiful cars. I have a great business. I love my life but I want a wife. I want a wife," and he gave me that ultimatum and I married him and I didn't want to marry him.

Q You had a child already though?

A Yes.

Q You and Tim got married September the 9th of 2006?

A Correct.

Q Had you been - and you met him in '05; right?

A Yes, at Walgreens where I was working.

Q Okay, all right, keep the timeline for us simple, okay. '05 to '06 you and Tim were seeing each other?

A Correct, yes.
Q Okay, and you were exercising weekend visitation privileges?
A Yes, with my mother's help.
Q How would that be?
A Because I did not have a driver's license. I was working on paying off my fines and so forth and that was when I was straightening out everything and I had a lot of tickets that I needed to pay and my mom and dad were helping me by transporting me back and forth to work and to pick up the children.
Q Well, what made - how did you, how did you and Tim make the decision to get married?
A How did we make the decision?
Q Yeah, when you all decided to get married; right?
A Yes, because we loved one another. It worked.
Q But you had been living together some before then?
A Yes.
Q From '05 to '06?
A Yes.
Q Where did Tim meet you?
A At Walgreens.
Q What were you doing at Walgreens?
A I was a photo tech and also working as a cashier, stocking, unloading trucks. They were also training me for a

SIMS coordinator because I really enjoyed the loss prevention, the theft.

Q Okay, well, let's - so, you just described that you all were seeing each other and living together '05, '06, okay.

A Yes.

Q All right, let's freeze it right there a minute, okay? What are you doing now for your occupation?

A Right now I'm working at Billy's Glass in Myrtle Beach, South Carolina.

Q Okay, how about with your father, do you do any work with your father?

A Yes, I'm also working, woodworking with my father building cabinets and stuff for beachwear stores, sanding, doing staining.

Q What's the, what's the name of his business?

A Skovinski Builders.

Q How long has he been in business?

A Since - well, he's - my grandfather started the business back in the day. So, it says established in 1946.

Q In Connecticut?

A Yes.

Q Okay, all right, now, we're still at current day, okay?

A Yes.

Q Who do you live with now?

A I live with my boyfriend, Andrew.

Q Where is he from?
A He's from Connecticut.
Q How long have you known him?
A I have known Andrew since I was 14 years old.
Q Who - how about your father and your stepmother they live here. Does anyone else live with them?
A With my mom and dad?
Q Yes.
A No, no one lives with them at this time.
Q Okay, where does Andrew, what's Andrew's last name, your boyfriend that you ---
A Burgera [spelled phonetically].
Q Okay, and you've known him since?
A I was 14.
Q Okay.
A He was my first true love.
Q All right, well, let's go back now. We're going back to 2005, 2006.
A Okay.
Q So, what - when did you and Tim get married?
A January.
Q Well, you got - what year did you all get married in? It's ---
A '08, or I mean not '08, '06.
Q Okay, and at that time what were your privileges from the

family court in North Carolina?

A To see the children every other weekend. There were Tuesday visitations as well that some of them because of my job I couldn't do but I would call and notify Chad and then during the holidays I would get them a week, three weeks in the summer, alternate holidays.

Q What was your relationship with your children like in 2007?

A We had a wonderful relationship. Every weekend we would go to the beach, go to the arcade, the kids, I'd give them $5 and they would just love the tokens and running around the arcade and getting the prizes. We'd do things that didn't cost any money, pack a lunch and go to the beach, things that didn't cost anything because life's a struggle. It was a struggle for us and - but we managed to have a happy home. We really did. I didn't cook. So, Tim did all the cooking; and so, we had a - everything worked out good. We had a really a great relationship.

Q How was it in the first part - how was it in '08? How was the relationship with you and your children in '08?

A It was wonderful up until probably a month prior to October. Probably in September I was noticing some changes in the children.

Q What do you mean by that?

A Just I would say that they were becoming a little bit

more quieter, not as rambunctious, standoffish, you know, separating themselves for, you know, just be putting distance, you know, distance.

Q Both Victim and Minor 1

A Yes.

Q Distance, standoffish towards whom or from whom?

A Everyone, anyone, it was just their attitude, their - they just changed. It looked - it appeared that they were acting different. They were very sensitive.

Q Where was Tim working when you all - like when you all got married up in '08 you're talking about where was Tim working? Was he employed?

A Yes, he was working for Electrical Services.

Q Were you working?

A I want to say yes, yes.

Q Yeah, okay, you stay focused on us. Don't, don't look ---

A Okay.

Q --- at anybody else.

A Yes, I was working at Custom Glass.

Q What was - how would you - what was the relationship like with Tim and your girls?

A They had a wonderful relationship. The kids loved him to death. When they would draw pictures they would write pictures and I love you Tim and mommy, I love you mommy and

Tim, they loved the fact that in the morning he would sit down and watch cartoons with them and Minor 1 likes to learn to cook and he was teaching her how to cook. We'd go to the pool together and stuff and he would go out there and do, jump cannonballs with the kids and they really enjoyed coming and spending time with Tim and I.

Q So, what other children would they interact with when they were at you all's house on the weekends?

A On the weekends Minor 5 would come over or my kids would go over to Minor 5 's house.

Q Okay, now, hold on, now was that Withers Swash house?

A Yes, yes.

Q Okay.

A On Withers Swash, Minor 5 would come over and spend the weekend, maybe Friday night Minor 5 would spend the night at my house and then Saturday night the three girls, my two children and Minor 5 would go and spend the night with Lisa which is Minor 5 's mom.

Q Lisa Eggers?

A Lisa Eggers.

Q That's like egg, E-R-S?

A E-G-G-E-R-S.

Q Right.

A Eggers.

Q Okay, and so, would they see - would your children and

Minor 5 play a lot on the weekends when they ---
A Absolutely, they were inseparable.
Q So, they looked forward to getting together?
A Yes, that was - they asked me as soon as they get in the car, "Where's Minor 5 " because sometimes I was able to get, pick up Minor 5 when I went to go pick up the girls and I'd go to the house with Minor 5 .
Q And she would, and she would, she lived right near you all or something?
A Yes, she lived probably four, five miles away on the - I mean a couple of avenues over. I was on Third Avenue and she was on 19th. So ---
Q And you all, you all would all do things together on the weekends?
A Absolutely. We all had dogs. We'd go to the dog park. I mean we just, cookouts, whatever.
Q What about Lisa, Minor 5 [redacted] who's her daddy?
A I don't know.
Q Well, who lived in Minor 5 s house?
A Slick, which is, excuse me, Ricky Young, which is Timothy Young's brother.
Q He was living there at the time?
A Yes.
Q Do they still live together now?
A No, they've broken up.

Q Would Lisa, would Minor 5 spend the night over at you all's house sometime?
A Yes, she would.
Q Describe what your house is like, your house was like.
A The house is very small. It might be anywhere from 500 to 700 square foot. It's very small. We had two bathrooms, one that my - me and the girls shared which had a tub and, you know, a shower curtain and had a huge closet space where I could put towels and so forth. That was a full bath and then we had a room that we made into a weight room, an office where I had my desk and so forth, and then the kids had their room right across from the living room, across from the other room, the exercise room, and my girls had a pair of - a set of oak bunk beds. Then right in the center was the kitchen and then a little dinette and then the dinette, the washer and dryer were in there with a little closet door, and then in the back of the house right, right around the corner from the kitchen was the entrance to the master bedroom, and in the master bedroom was just a square room with a small little bathroom, a toilet, sink and a standup shower.
Q So ---
A Which Tim used that shower.
Q So, that's the master bedroom shower?
A Correct.
Q Just so you got it, a living room, kitchen, dining area,

combo, it's all one wide open space like a typical ---
A Yes.
Q --- rental piece of property might be?
A Right, it's a small little house.
Q Okay, well, how far was it from your bedroom to the living room if you was going to walk it?
A Probably 10, 15 feet.
Q And then you would walk from - so, you would walk from your bedroom to the living room, but you would have to walk through the living room to get to the girls' rooms?
A Correct.
Q Where the bunk beds were?
A Right. The entrance to their door was right - the couch was right up against the entrance to their door.
Q Well, was there any - was there ever any hygiene issues with the girls?
A Yes.
Q Okay, and we're talking - we're kind of focusing some time whenever it was, Nicole, after 2005, 2006. We're not talking about anything before then now, okay?
A Yes, sir.
Q All right, so, when did - did you raise any issues about the girls' hygiene, the children's hygiene?
A I want to say it was the last weekend that I saw the girls. If it wasn't that weekend for - no, it wasn't. It was

the weekend before.

Q Well, let's keep it in our mind fixed.

A Okay.

Q You're talking about Halloween '08?

A Halloween '08.

Q Okay.

A Okay, Victim and Minor 1 had taken a shower and then it was Victim's turn. She didn't want to take a shower. So, she wanted to take a bath. So, I said okay. She took a bath and I said, "Did you wash up real good," because she washes herself and shut the door, give them privacy and she washed - she said she washed her body and she was ready to get out of the shower, out of the tub, and I said okay. So, she got out. I said, I said, but she had been itching and scratching. So, I said, "Let mommy see," and when I looked she had white cottage cheese discharge that was wrapped in her - like when she moved her skin out that was in there, and I said, "Honey," I said, "You didn't wash down there," I said, "because that will come off." I said, "Let me give you a wet, a warm washcloth and with no soap on it and we'll just wash it off," and I gave it to her and she did it herself, and then after she wiped it off the skin, her skin was red as fire. It was red, red, irritated, the external part of her vagina, and I said, "We've got to put some medicine on it to make it feel better," because she - it was hurting her even to rub it with

that warm washcloth. So, we went into the bedroom, in her room, and I said, "Let's put the medicine on it." I said, "You can do it," and I said, I said, "Minor 1 done it." I said, "You can do it." She's like, "I don't want to do it. I don't want to do it." She was crying and all upset, and I said, "Honey," I said, "Your, you can't leave your skin like that." So, I had her lay on the bed and I said, "It won't hurt. It might just tingle a little bit just for a second but it's got the pain relief in it which relieves the pain almost within a minute, two minutes."

Q What - well, Nicole, what was it?

A Neosporin, and ---

Q Okay.

A --- so, I asked her to sit and lay on the bed and I put it on her finger and she said she didn't want to do it. So, I said, do you - I said, "Mama is going to have to do it then." So, I put it on my knuckle. I put the Neosporin right on this knuckle. I feel like the finger is more intrusive. So, I didn't want to use my finger. So, I used my knuckle and I just gently, very gently and I had her watch me. I said, "Watch what mommy is doing so you can do it if it gets, if it gets red like this," and I said, "Just the exterior skin where it's red that's all you have to do," and within five minutes I asked her, I said, "How did this - how do you feel," and she said, "Mommy, I feel so much better. It doesn't itch. It

doesn't hurt. It's not burning, nothing" ---
Q That was ---
A --- but there were definitely tears about the fact that she just was very uncomfortable. I mean, it was just ---
Q Uncomfortable, what you mean?
A Uncomfortable because she's ashamed like she feels dirty like there's something wrong with her and, you know, I got the same thing and Minor 1 gone through the same thing.
Q Was this - that was the first time - was that like two - you got weekend visitation; right?
A Yes.
Q So, was that like two weekends before ---
A Yes.
Q --- Halloween?
A Yes, that would be my belief.
Q Well, how many times did that happen?
A I've put them on - put it on - Victim actually come to me in the past and said, "Mommy, my coo-coo's red." We called it coo-coo, and she said, "Mommy, my coo-coo's red," and I said, I said, "Okay." So, I put the Neosporin on her finger and she'd rub it on herself and she did fine. I mean, that happened about three times.
Q Over the course of what period of time?
A Gosh, a year.
Q Well, would that be like '07?

A Yeah, at least, yes.
Q Had things somewhat settled down in '06, '07 and most of '08 regarding you and Chad and the children?
A Settled down?
Q Yeah, I mean, was there constant, constant conflict?
A Yes, there was always conflict.
Q Was there any conflict between the two of you all over any other type of hygiene issues?
A Yes, the lice in their hair.
Q Well, now, help us now. You've got to help us about the timeframe sort of. Just give us a general idea of when that issue came up.
A I can't be certain of that, what the date was. I have the documents where I took her to the doctor and they - it was found positive. There were nits in her hair. I had taken her to Doctors Care in Myrtle Beach. The doctors checked her out because she also had a sore throat. So, I was afraid she had strep throat. So, I took her to the - to Doctors Care and they had looked under the microscope and so forth and found that there were definitely nits in her hair; and so, when - they also gave me a prescription for some medication, medicine, shampoo for her hair which was $131.99.
Q Okay.
A And so, anyways, I told Chad about it when he came to pick them up and then it got blown up. They brought them to

the - their doctor or the health department and so forth and --

Q To keep it kind of simple, there was controversy between you all over that?

A Absolutely.

Q You and Tim were, trying to keep everything in perspective now, and you and Tim were married and this was at Withers Swash?

A Yes.

Q Okay, were there any - did, did - was there anything else that ever created tension between you and Chad involving the children?

A Just the fact that he wouldn't let me see the children when it was my scheduled visitation.

Q Okay, how would the children act - well, back up. Would you all take turns picking them up?

A Whoever was going to be getting the children into their possession, like it's my weekend I'm going to pick them up and if it was him coming to get them because it was time for them to go home he would come and pick them up on Sunday. So, that's how it went. I would pick them up at his home and then he would pick them up at my home on Sunday.

Q Well, Nicole, do you have any explanation for their standoffishness now towards you two or three or whatever a month before Halloween? You mentioned something they started

getting standoffish now?
A Yeah.
Q What was that about; do you know?
A Have no idea. I just think that the, the animosity, the hatred between us. I mean, they had a lot of fear when it was time to go back to daddy and Jennifer.
Q What do you mean?
A One weekend Victim had left her flip-flops, her Rainbow flip-flops that were just bought for her birthday. So, it must have been after June, and left them at my mother's house which we called Nana, and we didn't have time to go get them, and they had got left there, and Victim cried like I have never seen in pure fear of what her daddy was going to do to her. She cried, and I'm not the only one that witnessed this and she was so afraid of what her daddy was going to do to her. She didn't know what he was going to say. I said, "Honey, I'll tell daddy that you forgot the - we forgot the flip-flops and mommy will handle it."
Q When they were standoffish, the children were standoffish towards whom at your house?
A They were just quiet, I mean, just at first.
Q What did - were they standoffish towards Tim?
A No, no.
Q Well, were you suspicious of any wrongdoing on Tim?
A Not at all, not at all. I just figured there was

something going on with - at their home with Chad and Jennifer.

Q The children enjoyed being at Myrtle Beach?

A Absolutely.

Q Well, did you ever ask them to say, "Hey, why don't you come live with me"?

A I never asked them. They've made the statement to me, "Why can't we live with you?" Victim herself has asked me, "Why can't we live with you," and I said to them, I said, "You two girls are a package deal." I said, "You two stick together." I said, "You're sisters, you're blood sisters." I said, "We stick together." I said, "And when you guys are ready to come to mommy's house," I said, "then you'll come together."

Q Where they were living in North Carolina ---

A Yes.

Q --- that was Chad, Jennifer ---

A They had a house full.

Q --- Minor 4, their child born by then?

A Yes.

Q So, there was one, two, three, four, five children between ---

A It was a, it was yours, mine and ours. Chad had two, she had two and then they had one together.

Q Two parents parenting five children?

A Correct.

Q Okay and they, your children, they expressed a desire to want to be with you?
A Yes, they were having problems with Jennifer's siblings. They were, they were acting out. Minor 3 was doing stuff and acting out. I mean, Minor 2 acting out. They just - they couldn't stand it anymore.
Q Would the children ever misbehave, would the two girls ever misbehave at your house?
A No, not at all. Victim Victim very seldom, very seldom, but I never spanked them. I'd pop them on the leg if it was bad but no, never.
Q What about when you and Chad were together as you could have been ---
A Uh-huh.
Q --- insofar as parenting the children regarding punishing them or disciplining them, what would you see?
A Chad, Chad would lose his temper very, very easily and I would not allow him to use a belt on the children. I did not believe in hitting a child with a belt. If you're going to spank a child you're going to spank them on their bare hinny but not, not with a belt. Not at all, that did not happen in my house.
Q When they were leaving that weekend that was the flip-flop weekend?
A Uh-huh.

Q What weekend was that? Do you remember? Was it Halloween? Was that the Halloween weekend, too?
A It must have been the Halloween weekend because I want to say it was not long after I went out to the school to bring the flip-flops to the school so she had her flip-flops.
Q You never saw your children after Halloween?
A No, sir, I have not.
Q Haven't seen them.
A It's been over two years since I've seen my little girls.
Q Well, what happened after Halloween insofar as your visitation, visitation is concerned with the children? What happened?
A I was going to - I already had plans that I was going to be moving to Connecticut and I was trying to get into court so I could get our visitation schedule revamped, but at the same time that I was trying to do all of this I was being accused of doing nasty things, turning the medical, applying medical - I can't talk. I'm sorry, medical care to my daughter and the fact that she didn't want to wash herself, turning in that - a shower with my little daughter into something nasty and that has created a lot of problems.
Q So, as a result of those - that investigation ---
A Yes, they investigated and I agreed.
Q --- in North, North Carolina?
A Right, and they also brought up about walking around the

house naked as well, which my mother did it and I was raised that way and I don't - I'm - I think it's a natural thing being naked. I'm sorry, I just - it's - it doesn't, it doesn't mean anything. It's just your birthday suit. I mean, it's natural to me, and it wasn't, you know, it's just a matter of trying to get ready.

Q You understand that might not be acceptable to other people though?

A I understand that now.

Q Okay, so, when did you leave?

A [redacted] of '08. I'd made several trips to Connecticut but that was the last trip I made.

Q Why did you leave, Nicole?

A To be with Andrew, to be with my family.

Q Well, what was your relationship with Tim like when these allegations break against you?

A Tim and - me and Tim's relationship was fine. I mean, we were amicable. We got along fine. We separated, you know, do you want this, do you want that. I mean, we, we didn't fight at all.

Q Well, did you separate because of this?

A We separated because Tim couldn't - Tim was tired of seeing Chad walk all over me and talk to me like I was piece of trash and because Tim knew better. Tim knew I worked very hard at turning my life around and I was a wonderful mother

and it burned him up that Chad and Jennifer every time they got a chance were derogatory comments and just, just being mean and hateful and the kids could sense it, the kids could see it. They were even afraid to wave or, you know, give me a kiss goodbye when they're around because they're afraid to show their love. Whereas, when they're with me they're all over me. They love me. They kiss me. They are just little girls that are growing up to be beautiful young women.

Q You all, you all, well, you all had a - you and Tim and Victim and Turbeville [sic], you all had a good time together down here on the weekends when the children would come.

A Yes, we did.

Q How, how often would you speak derogatorily about, about Chad to the girls?

A I would do my absolute best not to, not to at all. I pray for Chad. I pray for Chad that he could just stop. I've written him letters asking him if we could just try to make this easier on the children because it's hard and there's - they are being torn in two. They're, they're being torn because they're afraid to love their mother because they know that their father hates me and then they're - it's just, it's an awful situation to have the little girls in.

Q When they would visit you on the weekends ---

A Yes, sir.

Q --- would you ever notice any marks on them?

A I did one weekend. Victim was much younger. She was in the bathtub, and she had - they were much younger and I had - I was in there and washing them up, scrubbing their hair and rinsing it so they didn't get the soap in their eyes and Victim had - was hurting when she was sitting down, and I said, I said, "What's wrong?" She says, "Nothing." She didn't want to show me, and I said, and then Minor 1 spoke up and says, "She got a beating."

MS. LIVELY: Objection as to hearsay, Your Honor.

THE COURT: Sustained.

MS. LIVELY: Thank you.

Q Minor 1 spoke - I'll take you through it, okay?

A Okay.

Q Minor 1 spoke up, yes or no?

A Spoke up?

Q In other words she said something. You were about to say what Minor 1 said.

A Okay.

Q Okay, all right, now, you can't say what she said.

A Okay.

Q But as a result of what she said what if anything ---

A I asked Victim to show me, to stand up, and when I saw that I cried. I said, "What happened?" It was a mark on her. She said that her father had ---

MS. LIVELY: Objection, Your Honor, as to hearsay.

THE COURT: Sustained.

Q You can't, you can't say what somebody else said.

A I'm just saying.

Q Okay, that's okay, all right, so ---

A But yes, there was a mark on her.

Q And the children were fearful of him?

A Oh, yes, absolutely, but I guess Minor 3 got a beating as well.

MS. LIVELY: Objection, Your Honor. She guesses that Minor 3 gets a beating as well, where did that come, is that a hearsay statement. I don't even know where that came from. That's non-responsive. I ask that it be stricken from the record.

THE COURT: All right, sustained.

MS. LIVELY: Thank you.

Q Don't, yeah, don't - only - don't, don't do any - don't make any spontaneous remarks, okay?

A Yes.

Q Just answer my questions, okay.

A Yes, sir.

Q And don't say what anybody else ---

A Said.

Q --- told you.

A Okay.

Q Okay, all right.

A Sorry.
Q Well, well, Nicole, so, you - but you have said you knew you were investigated by North Carolina DSS for this?
A Yes.
Q And you didn't see the children?
A No.
Q So, that means that Chad wouldn't let you see them.
A Correct.
MS. LIVELY: Objection, Your Honor, as to what Chad would do. That's asking her to speculate.
THE COURT: Overruled. I'm going to allow that question. Go ahead.
Q Okay, so, you didn't see the children and now we're now - we're moving into November of '08, okay?
A Uh-huh.
Q Because we - Halloween is kind of the benchmark for all of us in our mind, see.
A Uh-huh.
Q All right, now, so, so, when did you and Tim separate?
A November of '08.
Q Did you separate because of the allegations against you or the investigation against the mama?
A No.
Q Did you - okay, did you all - did you separate for any other reason?

A We already had these plans of separating. We had been talking about it.
Q Had your daughters ever made any complaints to you about Tim?
A Never.
Q About anything sexually inappropriate that Tim had done to them?
A Never and I've told my daughters that they could tell me if anybody's ever made them uncomfortable.
Q And they never mentioned anything?
A Not to me, but it's after that weekend that I mentioned to the girls Chad had made - called me up and asked me why I'm talking to the girls about sex.
Q Okay, okay, don't, don't, don't get into any conversations with anybody else; okay?
A Okay.
Q All right, but me.
A Yes, sir.
Q And the lady and the folks over here, okay. So, so, now, so, you cut off, now, were you ever contacted by anybody from North Carolina DSS, Nicole?
A Yes.
Q Who was it?
A I was contacted by several because it took so long that it kept getting passed from one person to another person to

another person and I remember Yolanda Daniels. There was a lady by the last name Strickland.

Q Well ---

A Melinda Lane, I mean, there was several people that I had to speak with.

Q Would that have been sometime between let's say Halloween and November?

A Yeah, November, December.

Q Okay.

A Yes.

Q Well, were you ever notified in writing of anything from North Carolina ---

A Yes, I certainly was.

Q --- DSS? Do you remember about - was that in the month of December?

A Yes.

Q Okay, did you ever talk to anybody in North Carolina?

A Yes.

Q Do you remember when that was? We're not - I'm not trying to tell you what they said.

A No, I don't know what - what date that was.

Q Okay, did you ever go to North Carolina in '08 after Halloween for - to see DSS people?

A Yes.

Q You went up there and visited ---

A Yes.
Q --- somebody at North Carolina DSS?
A I explained to them that I was going to be leaving the state and that I wanted to give them the information so they could contact me in regards to this.
Q Had they asked you any questions about those - the knuckle thing?
A They asked me about the shower, yes, and the knuckles and the Neosporin.
Q And you went and talked with them in person?
A I certainly did.
Q Now, when - this is Defendant's Exhibit Two. The jury has already seen this, okay.
A Okay.
Q And you signed that; right?
A I did.
Q All right, and you took a copy home with you; right?
A Yes.
Q Okay, and when was the hearing going to be?
A January 13th, '09.
Q Well, why, I mean, it says right here why you did it, but tell the ladies and gentlemen of the jury why you - how you'd do - how'd you go about this piece of paper, getting this piece of paper done? What did you have to do? You had to get in the car here ---

A Uh-huh.
Q --- and then where'd you go?
A To the courthouse.
Q In North Carolina?
A Yes.
Q Okay, and you filled this out?
A Correct.
Q All right, and it's for the reasons stated in here; right? You don't have to read them because it's part of the record, but for the reasons all stated in here; right?
A Yes.
Q Okay, now, that was on what date was that? Well, I better show it to you. I'm sorry.
A 12 something.
Q Yeah, what date did you sign this? What date did you go up there? Let me just help you. There it is right there.
A 12-12-08.
Q Okay, and they gave you a hearing for January the 13th.
A Yes.
Q Okay, well, at that time had you already talked to the DSS people?
A Yes.
Q Well, had they told you don't go around the children anymore or do you know?
A I don't know.

Q Had you been served with any papers by anybody saying, "Hey, you can't have contact," legal papers, "Hey, you can't have contact with the children?"

A No, just a copy of that I wasn't allowed to go to the school.

Q It said you couldn't go to the school?

A Yes.

Q Well, what is Victim I mean, Minor 1 birthday?

A Which, whose birthday?

Q Minor 1 s?

A Minor 1 is 12-18-98.

Q Okay, so, on - so, obviously we can do the math there. That was on the 12th. So, on the 18th, six days later, right.

A I left town.

Q I know but did you ever go to their school?

A Yes, I did.

Q When?

A On that day on when I was leave - when I packed up my car, I had my dog, I had my hamster, and I had my fish, and I was headed to Connecticut, and I stopped at the school and I had already been notified that I'm not allowed to go into the school and so forth. So, I went to Debra Hammond, who was the principal of the school, and I asked her if she could possibly give these two cards to my children. I said, "Because I have not seen them and I am leaving and I just want them to know

how much I love them," and I said, "Will you please put these in her - in their hands," and she said, "I will do that for you."

Q And then you left?

A And then I left.

Q Now, why were you leaving at that time to go to Connecticut?

A I already had planned on leaving prior to any of this stuff starting.

Q Well, did you ever leave because of any allegations against Tim about messing with Victim?

A No, not at all, not at all. When I left they were - I thought everything was done and over with.

Q Done and over with what?

A With the investigation and then they came back ---

Q No, wait a minute, now, this would have been in December now.

A Uh-huh.

Q What investigation you talking about?

A The responsible individual list, the substantiation of allegations that - of abuse and neglect on my part, me, my daughters' mother.

Q Okay, so, that was - but that was - that was before anything had been said about Tim.

A Correct, yes.

Q Okay, so, on December the 8th you leave and you go.
A Yes.
Q All right, well, you know that your daughter has, Victim has made allegations against Tim about sexual abuse.
A Yes, I, I know that.
Q Well, they want to know this, well, what motive would she have to lie about him?

MS. LIVELY: Objection, Your Honor, that's vouching for the credibility of the or going into whether the child is a liar or not, goes into motive, which he is asking her which he could have cross examined the child on as to a motive. So, I object to him asking this particular witness about a motive. He should have asked the child that.

THE COURT: I'm going to - I think - I'm going to allow him a little bit of leeway if she knows of anything, but it's going to have to be based on anything that she knows personally.

Q Yeah, well ----

THE COURT: Overruled.

MS. LIVELY: Thank you.

Q --- what motive would this child have to lie about Tim?
A Manipulation. She's been manipulated by her father and stepmother.
Q And you believe that?
A Absolutely with all my heart.

Q What kind of relationship did Chad, I mean, did Tim have with those girls?
A A wonderful relationship.
Q Were they, were they ever left alone with him?
A No, no, and if, if, if they did it was always Minor 1 stayed home with him and Victim would go with me to the store or the grocery store. Victim was never left at the house with him.
Q Victim was clingy to you?
A Very clingy, very clingy.
Q Well, she's never - Victim never made any complaints to you about Tim; has she?
A Never.
Q And this was a small house?
A Yes.
Q And all you were trying to do was you might have not done it in the totally appropriate way but you were just trying to treat your child, Nicole?
A Absolutely, I would never hurt my children, never. I love those little girls with all my heart.
Q And Tim, how did he treat them?
A He treated them like they were his own children. Tim lost his son at such a - in such a horrific way that he told me on our wedding day that, "I will treat your daughters just like I would treat my own," because he realized that he was

not going to have any more children and that the loss of his son were just - on Christmastime, it just hurt.

Q Have you ever seen him act in any inappropriate way towards those girls?

A No, he asked - like if the girls came out in a t-shirt and underwear, which Victim loved to do, Minor 1 always put on sweatpants, but Victim would come out with t-shirt and underwear and Tim would say, "Huh-uh, get back in there and go put you on some pants, girl," just in a little country way, you know, "What you doing?"

Q Well, for this '06 you got married?

A Uh-huh.

Q Everything's okay with the family, you had - you all had a little family on the weekends down here.

A It was wonderful.

Q '07 and then, and then, then '08 it was ---

A It was good up until the end.

Q So, it's just really a good little family on the weekends; wasn't it?

A Yes, sir.

Q Just the two girls.

A Excuse me.

Q With two parents, just the girls had your attention and Tim's undivided attention on the weekends and they liked it.

A Yes.

Q And you all did a lot of things together.
A Yes, we did.
Q There was no divided attention. They got all you all's attention.
A They certainly did.
Q They liked that, too; didn't they?
A Yep, they certainly did.
Q Nicole, Ms. Lively is going to ask you some questions; okay?
THE COURT: Cross examination?
MS. LIVELY: Yes, sir.

CROSS EXAMINATION

BY MS. LIVELY:
Q So, when Victim tells or discloses that you use your knuckle to put Neosporin in her vaginal area she's telling the truth.
A Yes.
Q Okay.
A Not in, around her vaginal area.
Q Well, you put it on your knuckle; right?
A Yes, correct.
Q And you rubbed it in?
A Rubbed it around, on the red area on the outside of her vagina.
Q Okay, all right, that's fine. I'm not going to split

hairs with you but let me just ask you this, is it because you have fingernails that you did that, maybe didn't want to scratch her?

A I think it was less intrusive to, you know, but yes, I have fingernails and I didn't want to scratch her.

Q Okay, and let me ask you this, you said it's because it wasn't unusual because you and Minor 1 and Victim sometimes have female problems down there.

A Right, our bodies are just very closed up, and if you don't dry it properly it will cause yeast.

Q Right, okay, well, I'm going to ask you if you would, please, read on this and tell me where it's for treating yeast infections if you don't mind.

A It's not - it was to treat the skin, not the yeast infection.

Q Okay, okay, so, but tell me does Neosporin actually say for treatment of yeast infection or vaginal redness?

A No.

Q Take a look at it.

A No, it does not.

Q What does it say it treats?

A First aid to help prevention, prevent infection in minor cuts, scrapes and burns.

Q Cuts, scrapes and burns.

A Uh-huh.

Q Okay, so, and you said that you did - you had fingernails back then?
A Uh-huh.
Q You have them now?
A Yes.
Q A scrape could occur from somebody putting a finger inside a child's vaginal area; couldn't it?
A Can you repeat that question, please?
Q A cut or a scrape, if you had your finger - let's say you were using your fingernail ---
A Uh-huh.
Q --- could cause a scrape in a child's vaginal area if you put your fingernail in there?
A I didn't go in her. It was external skin that I rubbed it on.
Q That's not what I'm asking you. I'm asking you if you'd put your fingernail, if you did, inside the area of that child you could have scraped her; isn't that right?
A That's why I used my knuckle so I did not hurt my daughter.
Q Exactly, but if there was redness and the child would cry getting in the tub because there is burning, one of the things that you could have done and one of the reasons you could have used this Neosporin was because you knew that child had had a finger in her vagina; didn't you?

A No, no, absolutely not.
Q So, you're saying you had no idea that Tim was digitally penetrating your daughter?
A No, he did not.
Q No, I'm saying you had no idea if he was or was not is what you're telling me.
A Correct.
Q Okay, all right, because if there had been a scrape or a scratch or a cut down there that would be exactly what you would use Neosporin for according to the directions; isn't that true?
A If you had a scrape or a cut?
Q Or a cut, isn't that what the directions of Neosporin say is to heal scrapes and cuts?
A Yes.
Q Not vaginal yeast infections; correct?
A May I add that a doctor from when I had to use it on Minor 1 Dr. Corontzes had stated that to use that on her because Minor 1 had the same thing and that is what he asked me to use.
Q Real.
A So, yes, on the exterior redness of the skin.
Q Okay, can I see those medical records?
A I don't have those medical records.
Q Okay, so, we'll just have to take your word for it;

right?
A I'm just telling you the truth.
Q Okay, let's talk about you telling the truth, Nicole. You've already admitted that you've been convicted of perjury; correct?
A Yes, I was punished.
Q Uh-huh, ten days in jail for lying?
A Yes.
Q Let me ask you this, do you know that perjury is more than just lying. It means you actually take an oath to tell the truth by putting your hand on the Bible and then you testify and you're found to be lying; isn't that right?
A Yes, that is true.
Q Okay, all right, so, you admit that you're a liar?
A No, not any longer.
Q Okay.
A I learned a valuable lesson.
Q Okay, so, after ten days in jail for lying you say you don't lie anymore?
A Absolutely, I ---
Q Okay, you're - you used drugs?
A Used to.
Q Used, but you don't do that anymore either?
A No, I have been clean for seven years now.
Q Okay, all right, you don't - well, how about this, do you

drink?
A On occasion.
Q Okay, Bud Light?
A No, Miller Light.
Q Okay, did Tim drink Bud Light?
A Yes.
Q Okay, I was just curious as to who drank Bud Light at the house. All right, so, the - if Victim reported that you all drank Bud Light then that would be accurate; correct?
A On holidays and occasions, yes.
Q Okay, all right, that's fine. You admit that you didn't have a driver's license for a while because you've had all kinds of fines and things that you had to get cleared up?
A Correct.
Q Okay, and well, it sounds like with the perjury, lying, drugs, no driver's license that might be a problem for someone who is trying to have a cordial relationship with the mother of his biological children; wouldn't you agree?
A No.
Q No, so, you don't think it's a problem that you were using drugs, that you ---
A Yes, the drugs are an issue, yes.
Q Oh, all right.
A I thought you meant the driving.
Q Well, all three of them, the driving, the using the drugs

and lying, don't you think that that would cause a problem with the parents?
A But that's all in my past.
Q Okay, all right, well, then, let's talk about this. You say that you filed that paperwork regarding no visitation with your girls in December of '08.
A Correct.
Q Okay, and you also, whenever Mr. Cannarella asked you about it, said that you went that day or not that day but I guess right after that by the school and took a couple of cards to have the cards delivered to the children; right?
A Yes, it was the only way for me to contact them because I could not get them by phone.
Q Okay, all right, well, let me ask you this then, you said you'd been in contact with DSS social workers during that time; right?
A Yes.
Q Okay, and obviously you've had contact with DSS in the past as well and through other issues you said you had had a paternity test done on Victim; right? That's done through DSS; correct?
A No.
Q It wasn't? Was that a private action?
A Yes.
Q Okay, well, all right, well then, I'll just focus on this

particular instance. You said you had contact with the DSS social workers regarding the allegations against you; right?
A Yes.
Q All right, so, were you given an opportunity to show up in court and fight these charges?
A Yes.
Q You were, okay, and in regards to actually showing up and fighting these charges what happened?
A It was won in chambers. I won in chambers because there was no proof of anything and there was no - they found loopholes in this responsible individual list that the State of North Carolina has.
Q I'm confused. I thought you said they substantiated a case against you for abuse.
A Right, that's what I said.
Q Okay, well, maybe I didn't ask the question right. You were dealing with DSS all through that time. Who had custody of your children?
A Chad.
Q All right, and these people that you were talking to, whether it was Yolanda Daniels or whomever that you were talking to, those women were the ones who were providing you with information as to how and what you needed to do to comply with them in order to see your children; isn't that true?
A Not until we went to court.

Q Not until you went to court, okay. So, up until that time before you went to court you're saying that no treatment services or anything were offered to you in order for you to be able to see your girls again?
A No, because I was no longer in the state.
Q By your own choice; isn't that true?
A Yes, because I had no idea that this was going to - all this was going to blow up into a big menagerie.
Q Okay, but the, the situation is here, Ms. Young, or I'm sorry, Nicole ---
A Yep.
Q --- is that you are in a situation where your child has stated that you did something to her that was uncomfortable and that you walked around naked. If these children mean as much to you as they say - that you're saying they do ---
A Uh-huh.
Q --- why do you just up and voluntarily leave and go to Connecticut other than that you said, I think it was, "I left 12-18-08 to be with Andrew", is that it?
A Yes.
Q Okay, so, your boyfriend was more important than your two girls.
A That's not true.
Q And that is the bottom line truth; isn't it?
A No, that is not true.

Q Okay, but if you wanted to do something about these allegations to make it sound like exactly what you're telling all of us here today and that it was innocently done, you were trying to protect your daughter, you were trying to take care of her vaginal area by putting Neosporin on it, show proof that this Dr. Corontzes has told you to do that in the past for Minor 1 and that could have taken care of all of this. Instead you leave to go to be with your boyfriend in Connecticut.

A That's not it.

Q Well, then tell me what it is. Tell this jury.

A I have family in Connecticut.

Q I understand. I'm talking about your children here.

A I couldn't see my children here and I grew up with a divorced family. So, there's no reason why that I can fight this and then once it was fought now I could see my kids but it would have to be a different kind of visitation. My father left my mother. I was eight years old. My youngest sister was two. My mother was an alcoholic. I had to take care of my sister. So, it was like I grew up in a divorced family that where they absolutely hated each other. So, I know what these kids are going through.

Q So, once again, it's all about you, Nicole. It is not about your daughters. Is that what you're telling us, it's all about you and your terrible childhood. Is that what it

is?
A No, I'm not saying that.
Q Well, I'm trying to ask you what it is about your decision to leave and go to Connecticut, which you said it was to see Andrew, had to do with you being able to try and clear your name and get to see your girls and you don't ---
A I cleared my name while I was up there. I can - I made trips back and forth.
Q Okay, but there is a substantiation against you for abuse?
A There was. There is no longer.
Q There is no longer.
A Correct.
Q So, I'm assuming you, what, filed to see your kids now?
A Well, no, I can't until this matter is resolved because can you honestly think that I'd go to court and I try to get visitation with my children or whatever steps it's going to take to get my children, do you honestly think I'm going to get that when I was supposed to be the responsible one for the children and that if this allegations going on with Tim I've got to wait for this to be finished.
Q Oh, I see. So, you have to come in here and wait for him to be found not guilty so they won't hold it against you for failure to protect the children while they were in your care, that's why you're here; isn't it?

A No, the truth is is because Tim did not do this.
Q Okay.
A He is not that kind of person. He is a caring individual, loving, nurturing. He is the best person that anybody could ever know and he didn't do this.
Q Okay, because if he did you would have to admit that you were married to a monster; right?
A I was not married to a monster. He's a good man and my kids loved him.
MS. LIVELY: Just a couple of moments, Your Honor?
THE COURT: All right.
BY MS. LIVELY:
Q Isn't it true, Nicole, whenever you talked about the kids and hygiene issues that the head lice issue that you brought up that you said caused a lot of conflict and problems, the health department actually made findings those three times that you brought that up that there was no head lice; isn't that right?
A That's what they said in North Carolina.
Q Uh-huh, okay, but you were the one that brought that up and reported it and embarrassed the girls about it; didn't you?
A Head lice will spread. I was concerned. I took them to Doctors Care and they found them in their hair.
Q All right, weren't there times whenever Tim and Jennifer

would come to pick up the girls and actually they would be there alone with Tim while you were working at Walgreens?

A That's never happened.

Q It's never happened.

A No.

Q Would it surprise you that Victim - well, you said that Victim in your interpretation loved Tim as well as obviously you as the mother; correct?

A Yes.

Q Okay, and Tim was very aware of or would you say from your relationship with him that he was aware of how close you and him were and how you all felt about her?

A What do you mean by that question?

Q Okay, were you and Tim affectionate to one another and loving towards one another in the presence of the children and I'm not talking anything sexual. I'm just talking about were you all loving towards one another?

A Hugs, kisses, yes.

Q Okay, so, it was obvious to the girls that you cared for one another?

A Yes.

Q Okay, so, if someone were to either threaten Victim or tell Victim "If you say something about this it will break me and mommy up," knowing your daughter what would she do?

A I don't understand your question.

Q Okay, I'll ask it again. Knowing your daughter ---
A Uh-huh.
Q --- and she's a smart little girl; wouldn't you agree?
A She certainly is.
Q Okay, she loves you?
A I love her.
Q Okay, all right, so, your daughter if she's told, "Don't say anything about this because it could break up me and mommy," what would she do? Do you think she wouldn't say anything?
A I don't believe anything of that nature happened.
Q Well, I'm just asking you from what you know with your daughter. Do you think that your daughter would want to hurt you or disappoint you by telling on something like that?
A I have told my daughters they can tell me anything and I won't get mad. They can tell me anything.
Q Okay, all right, has Chad ever been convicted of any perjury or anything or lying in court before?
A No, not that I'm aware of.
Q And you also testified that you noticed some changes in the kids in September of '08; isn't that right?
A Uh-huh.
THE COURT: Excuse me, you need to give a verbal response.
A Yes, sorry.

Q Okay, did you ask to take the girls to counseling regarding those problems?
A I thought that they should be counseled absolutely but through the school. I was never involved in - the Denise Scearce lady never involved me in, in that counseling at all.
Q So, you must've talked to Ms. Stout or Ms. Stout Wilson at the school then, the counselor?
A No, I did not.
Q Okay.
A No, I called Denise Scearce's office and left numerous messages.
Q You did?
A Yes, I did, never a return call.
Q That's all.
THE COURT: Redirect.
Q Thank you.

REDIRECT EXAMINATION

BY MR. CANNARELLA:

Q She was asking you something about, "Don't say anything about this." Well, Victim never told you anything ---
A No.
Q --- bad about Tim; did she?
A No, never.
Q Because it never happened.
MS. LIVELY: Objection, Your Honor.

THE COURT: Sustained.

MS. LIVELY: Thank you.

THE COURT: Is that it?

MR. CANNARELLA: Yes, Your Honor.

THE COURT: All right, you may step down.

Ladies and gentlemen, let's take about a 10, 15 minute break, give you an opportunity to stretch your legs, use the restroom, get something to drink. Please do not discuss the case even among yourselves. If you have pad or notes leave them here in the jury box. Thank you very much.

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

THE COURT: All right, anything from the State before we take a break?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, put another witness up, take about a 15 minute break?

MR. CANNARELLA: Yes, sir.

THE COURT: Come back, put another one?

MR. CANNARELLA: Yeah, Judge.

OFF THE RECORD

(On the record.)

(Whereupon, the following takes place outside the

presence of the jury.)

THE COURT: All right, anything from the State before we bring the jury back in?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, let's go ahead and bring the jury in, please.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Ladies and gentlemen, welcome back. Mr. Cannarella, you can call your next witness

MR. CANNARELLA: Thank you, Judge, Deborah Skovinski. Ms. Deborah, you can walk right around there to that - wherever that lady is.

Whereupon, Deborah Skovinski was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: State your full name and spell your first and last name.

MS. SKIVINSKI: Okay, Deborah Skovinski, Deborah is D-E-B-O-R-A-H; Skovinski is S-K-O-V-I-N-S-K-I.

DIRECT EXAMINATION

BY MR. CANNARELLA:

Q Ms. Deborah?

A Yes.

Q Who is your husband?
A Dewayne Skovinski.
Q What is his relationship with Nicole Young?
A He is her father.
Q What is your relationship?
A I'm her stepmother.
Q How long have you all lived in Myrtle Beach?
A We've been here 23 years.
Q Do you know Caila and Taylor?
A Yes, I do.
Q How long have you known them?
A Since they were born.
Q Did you interact with them?
A Yes, I did.
Q How?.
A Visiting them, family gatherings, their birth, when they were - Chad was married to Nicole. Afterwards I'd have them on weekends, when we were able to see them at school functions when we were allowed, just as any regular grandmother.
Q When did you see the most of them?
A Most of the time was when Nicole would have visitation with them.
Q On the weekends?
A Yes.

Q When do you recall beginning to interact with the two grandchildren?
A I'm sorry, can you say that again?
Q Yeah, yeah, when do you recall, what year basically, Deborah, do you remember interacting with the children?
A Well, I believe Minor 1 was born in 1999 and that's, you know, I first started being with them the day she was born, Victim when she was born. So, I would see them quite often. I would see them when Chad and Nicole were married. I'd be at their house. I'd have them myself for the weekend. I had a lot of reaction, interactions with them.
Q How about when they separated, how about when Chad and Nicole separated?
A I would see them when Nicole had them.
Q Okay, and where would that be?
A A lot of times it would be at my house or if Nicole - we would go out with them, but most of the time right after they got separated there was a time that Nicole lived with me and the kids would stay the weekend at my house.
Q Was Tim in the picture then?
A Not at that time, no.
Q Okay, how much time would you spend with them when - after Tim and Nicole got married?
A Pretty much the same, the weekends. I would, you know, our family was always together with - I have other

stepchildren that lived in the area and we always had family functions. I have another daughter with grandchildren. The cousins would spend a lot of time together at my house or Nicole's house.

Q And what sort of relationship did Tim have with his two stepdaughters?

A A wonderful relationship.

Q Why do you say that?

A Because Minor 1 and Victim the times they would spend with me would tell me the things that Tim would do with them. He was teaching Minor 1 how to cook. Minor 1 was very interested in it. Him being from the same upbringing as pretty much as theirs in the country there was some foods that he would bring to them that they enjoyed, already had and he would show them how to cook them, at our house just the family functions what we did outside, we had volleyball or soccer set up for the kids and the parents to play together, and my husband and myself and there was a lot of interaction with them and the kids adored Tim.

Q Okay, what sort of things would Tim do - what was, what was Tim's relationship like with Victim specifically?

A There was no separations of a difference between Minor 1 and Victim. They spent a lot of time with their mom. He, you know, of course, lived there. They would do things as a family together. Tim has a brother that lived here and he had

a girlfriend that the families would interact together with their children. It was everything was always a family thing. It was never just Tim and the kids. It was always the family and the kids.

Q So, how long have you known Tim then, since he and Nicole got married; right?

A Yes.

Q Well, in '06 they dated some; right?

A Yes, yes.

Q Well, did you ever notice anything inappropriate about his behavior?

A Not at all, no.

Q Did you ever hear anybody complain about his behavior?

A No.

Q How about Victim, did she ever complain?

A No, not at all. Those two children adored him.

Q Did you ever notice anything unusual?

A No, and he was also around my other grandchildren, too, and I never had any uncomfortableness with him visiting our home.

Q Well, based on how long you've known him do you believe him to be a moral person?

A Yes, yes, most definitely.

Q No question about that in your mind?

A No question, that's why I'm here today.

Q If you had any children would you let them be alone with Tim?
A Yes, I would.
Q When was the first time we met?
A Today in the waiting room.
Q Have I - so, I've never talked to you about this before today; have I?
A No, you haven't.
Q We didn't even talk about your being a witness until today; did we?
A Correct.
Q But you're here for Tim?
A Yes, I believe in Tim 100 percent. Like I said, he's been around my other grandchildren. He's been with us many of times, other children, and the children, believe me, they have said many things to us. They love Tim. The only discomfort I can honestly see is that those children had fear sometimes because of their father's temper and wanting - not wanting to go home and letting him know where they were, no.
Q Well, on the weekends they were like a happy family.
A Oh, most definitely.
Q Two parents?
A Yes.
Q The two kids?
A Yes.

Q Had their undivided attention?
A Uh-huh.
Q And they had an extended family that they associated with?
A Correct.
Q That's you and Mr. Skovinksi?
A Yes.
Q Okay.
A Uh-huh.
Q Did you ever see the - did you ever see the children interact with any other children?
A Yes.
Q Who were they?
A Tim's brother's girlfriend's daughter, Sid. She was, I think, six months or seven months older than Minor 1 and they - she was either over at Nicole's house with the kids or they would be over there Lisa's house with the kids, my grandchildren.
Q How old are your grandchildren?
A Now they're five and three.
Q Would you let Tim baby-sit your children even alone?
A Most definitely, yes, I would.
Q Thank you, ma'am.
A Uh-huh.
Q Answer any questions Ms. Lively has.

A Okay.

CROSS EXAMINATION

BY MS. LIVELY:

Q How many times has he babysat your grandchildren?

A He hasn't.

Q Okay, thank you. He's such a wonderful guy then and you're the step-mom tell me why did Nicole leave Tim?

A I can't speak for their personal marital issues.

Q Okay.

A I, you know, I really can't speak for that. I don't know. You'd have to ask them.

Q I understand. I understand. All right, have you discussed any of these allegations at all with either Tim or Nicole?

A The only thing I've discussed with Tim is that he - I just wanted him to know that we were a believer of him and we would do anything we could to help him to prove to other people that it's all false, Nicole just talking to her coming to court today.

Q Okay, well, as a - even though a step-grandparent, as a grandparent of Victim and Minor 1 you obviously I'm assuming care about those two girls; correct?

A Yes, I do.

Q Okay, do you miss them?

A Very much.

Q And by the fact that Nicole made a choice to leave to be with another man in Connecticut instead of staying down here and fighting for her girls you haven't been able to see those girls since then; have you?
A Correct, and before Nicole left she wasn't able to see the kids either. Chad would not allow phone calls. We would call. If their answering machine was available to leave a message Nicole would leave a message or I would. I would call Chad's cell phone myself. He never got back with any of us. She just was not able - we would go there to pick up the kids and they wouldn't be available for her. I spent a lot of time with my stepdaughter when it came to the kids. The kids were very important to me.
Q Okay, and I, and I understand that.
A Uh-huh.
Q And I understand you're here for Tim as - and kind of in conjunction with that Nicole, but my question is after the disclosure by Victim of the knuckle and the Neosporin by her mother instead of staying and fighting it she left to be with another man. As a result, you have not seen those grandkids since then; right?
A No, I have not.
Q Okay, that's - I understand what - everything else you were saying.
A Right.

Q But I wanted to make sure we're clear on that.
A Yes.
Q And after she left, she being Nicole, did you have any contact with the Defendant?
A Only my mother-in-law passed away at the same time that Nicole left. That was the main reason she left immediately at the time she did because we all went home to spend two weeks to take care of family matters and stuff like that and I talked to Tim several times during that time because he called to see how my husband was and the rest of the family, but periodically I talked to him just once I'd say about two weeks ago. I don't know the exact date and I told him at that time if his attorney felt he needed me to let me know and I never heard from anybody, but I came today to support him and that's when I ended up being here.
Q Okay. Thank you.
A You're welcome.
THE COURT: Redirect.
MR. CANNARELLA: No, Your Honor.
THE COURT: All right, you may step down.
A Thank you.
THE COURT: Call your next witness.
MS. EGGERS: Lisa Eggers. Lisa Eggers, Your Honor.
THE COURT: All right.
Whereupon, Aneicsa Fox Eggers was called to the stand, duly

sworn by the clerk and testified as follows:

THE CLERK: Thank you. Please be seated. State your full name and spell your last name.

MS. EGGERS: Aneicsa Fox Eggers, E-G-G-E-R-S.

DIRECT EXAMINATION

BY MR. CANNARELLA:

Q Ms. Eggers.

A Yes, sir.

Q I'm over here, I'm over here, okay. Where are you from?

A Hickory, North Carolina.

Q Where do you live?

A Myrtle Beach, South Carolina.

Q How long have you lived here?

A Since 2004.

Q How many children do you have?

A Two.

Q Who are they?

A Minor 5 [redacted] that I brought in with me today and Minor 6 [redacted].

Q And who do you live with?

A I currently live with myself and my daughters.

Q Okay, do you know Nicole?

A Yes, I do.

Q Do you know Tim?

A Yes.

Q How long have you known them?
A Since 2006.
Q How did you meet them?
A I actually was their neighbor. I lived beside them. Timmy and Nicole lived in the house beside us and I was dating Tim's brother, Ricky.
Q Okay, how often would you all get together?
A When the kids came every other weekend we spent every other weekend together as far as like when Timmy and Nicole got the children. So, I'd say we were probably together several nights a week and then every other weekend the kids would play together.
Q You're talking about Minor 1
A Minor 1 and Victim and Minor 6 and Minor 5.
Q What kind of relationship did they have?
A They were all friends.
Q And when they would come here on the weekends how often would you see - how often would they get together on the weekends when they were here?
A Every weekend that they were. I mean, they would have play dates.
Q What sort of things would they do together?
A We would go to the beach together, go to the pool together, go to the park together, go out to dinner, go to the movies.

Q What kind of relationship in your opinion did Chad, I mean, did Tim have with his stepdaughters?
A They were very happy. They were very happy together. They - we all had - it was family time, you know, like you go to - we'd go have weekends together and we all hung out as families.
Q Did you ever notice anything unusual about the way Victim behaved?
A No, no, sir. What do you mean unusual?
Q Well, I mean, would she act withdrawn or would she shy away from Tim like she didn't want to be around him?
A No, sir.
Q How would he treat her? How did, how did Tim, how did, how did Tim treat Victim?
A Like his daughter, just like he treated my child, my children, Minor 5 and Minor 6 .
Q Well, was Tim ever left alone with any of your children?
A Yes, sir.
Q How do you know that?
A I'm - been a nurse for, a registered nurse for 17 years and I work, you know. Quite frankly I work 12-hour shifts and Timmy and Nicole lived - they lived beside us. So, Nicole, she would be at work and Timmy actually would watch Minor 5 for me, my littlest one.
Q Well, you know if Nicole was there when that was - when

he was watching them?
A Not all the time. I mean, we were, we were really like one big happy family. I mean, I - no, I would go to work. If I, if I had to work and Minor 5, I would leave Minor 5 with Timmy if I needed to.
Q You wouldn't hesitate?
A Absolutely not.
Q In your, in your opinion is, is he a moral person?
A Yes, sir.
Q Did Nicole ever bring any hygiene to your attention about either one of the children?
A Actually one weekend they came to stay or, you know, they came for the weekend. Minor 1 and Victim had came and they had lice in their hair.
Q How do you know that?
A Because it infected my house because they came over and actually spent the night with, with me, and I had to - Nicole and I had to treat Minor 1 Victim and Minor 5 and Minor 6 because they all had lice in their hair and I've been a nurse for 17 years and I know that's what it was. We treated them.
Q How many times did that happen?
A I think we treated them several different occasions.
Q Okay, now, me and you ---
A Uh-huh.
Q --- the first time we laid eyes on each other was today;

right?
A Yes, sir.
Q We go over your testimony any at all?
A No, sir.
Q And you would trust your own children with Tim?
A Absolutely.
Q No hesitation?
A No hesitation.
Q Alone?
A Alone.
Q By himself?
A Yes.
Q With just her?
A Yes.
Q Thank you, ma'am. Answer any questions the prosecutor has. Okay?
A Yes, sir.

CROSS EXAMINATION

BY MS. LIVELY:
Q Have you been in the home with Tim and Nicole and the children whenever they were there visiting?
A Absolutely.
Q Okay, so, you've been there. All right, and it's a small house; correct?
A Yes.

Q Okay, and did the girls have their own bedroom?
A Yes, they did.
Q They did, okay. And Tim and Nicole had the master bedroom; correct?
A Yes.
Q And there was the bathroom right there in the master bedroom; right?
A Yes.
Q Okay, at any time whenever you'd been over there did you see Nicole walking around naked?
A No.
Q Okay, at any time whatever you were over there or Minor 5 was over there and there was any mention that Nicole likes to walk around naked?
A No.
Q Okay, now, what about - you said about the hygiene. Is the lice incident the only hygiene issue that was brought to your attention regarding the kids?
A No, Victim at one point had had, it was like a yeast infection and Minor 1 had also had yeast infections and Nicole would converse with me because I am a nurse and, you know, she would ask me questions and we would talk about, you know, their condition and if she needed any type of, you know, consultation or whatever I would gladly give that to her.
Q Okay, did you ever get her - give her any medication to

help her out?
A No.
Q Did you ever recommend any kind of medication to help her out?
A No.
Q Would maybe an antifungal cream be something that you might would use in that situation?
A You can use a variety of creams.
Q Okay, but nothing that just jumps out off the top of your head as being a better one to you?
A No.
Q Okay. That's all I have.
THE COURT: Redirect?
MR. CANNARELLA: No, Your Honor.
THE COURT: All right, you may step down.
A Thank you.
THE COURT: All right, you can call your next witness.
MR. CANNARELLA: Gail Ward, Your Honor.
THE COURT: All right.
Whereupon, Gail Ward was called to the stand, duly sworn by the clerk and testified as follows:
THE CLERK: State your full name and spell your last name.
MS. WARD: It's Teresa Gail Ward and it's W-A-R-D.

DIRECT EXAMINATION

BY MR. CANNARELLA:
Q Ms. Ward, what is your relationship to Tim?
A He's my younger brother.
Q How old are you?
A I'm 46.
Q How many children are in the family? You and Tim and who else?
A Ricky is my older brother and then I have a younger sister, Regina.
Q Where do you live?
A In McBee, South Carolina.
Q That's kind of like in-between - that's like going to Charlotte from here or from Charlotte down to the beach; right, right, in McBee?
A Correct, uh-huh.
Q Okay, well, what's your occupation?
A I'm a custodian at McBee Elementary School.
Q What other type of occupations have you had in the past, Gail?
A I owned a daycare center and for two years in Jefferson and I worked at Caro-Knit for a while as a ---
Q Have you ever testified in court before?
A No, can't you tell.
Q I know you're a little nervous. I know. That's all right. We're all okay. All right, well, now, in your opinion

is your brother a moral person. Does he have good moral character?

A What do you mean? I don't know what it means.

Q Well, you know what he's accused of; right?

A Right, uh-huh.

Q Okay, so, what I'm asking you is and he's accused of something immoral, okay, meaning bad, bad morals?

A Right, okay.

Q All right, now, in your opinion is Tim a person like that? Does he have bad morals?

A No, I mean, you mean does he do bad things?

Q Yeah, like this.

A No, no. He don't do bad things like this.

Q So, he would be in your - we've never really rehearsed your testimony; have we?

A Huh-uh, no.

Q Gone over anything. That's the way I wanted it to be. Okay.

A Okay.

Q So, so, I'm asking you, you been around him all your life.

A I have.

Q Have you ever known him to be an immoral person or a nasty person like this?

A No, no, he's never been like that.

Q Well, what years did you run the daycare center?
A It was in about '87, '89. I'm not positive. I think it's around there.
Q Did he ever help you there?
A He did.
Q Did you all ever do anything for any children like children's benefits or anything?
A We would, you mean like donate, I mean, I don't know.
Q Yeah, yeah, donate something. Didn't you tell me that?
A We did toys, we donated toys and clothes and stuff.
Q We have talked about that before now; right?
A Uh-huh.
Q And what did that include doing? When you did all that what did Tim help you do? How did you all contribute to charity?
A Well, he would just help me get it up and get it together and take it to wherever we was going to take it and ---
Q Do you have any children?
A I've got two. I have a boy and a girl.
Q Okay, have there ever been any problems with Tim and your daughter?
A No, my daughter loves him. He's ----
Q How old is she now?
A Well, she's 17 now.
Q Well, has she ever been around him alone?

A Yeah.
Q Like by themselves in a house somewhere?
A Yeah, he's, he's watched my daughter before for me to - if I maybe go to work or whatever he's, he's watched my daughter.
Q Would you hesitate, I mean, I know he's your brother ---
A Uh-huh.
Q --- and you ain't going to say anything bad about him.
A Right.
Q Okay, but you've never known him to be a person like this?
A No.
Q And you trust him with your own daughter?
A I do.
Q Okay, answer any questions Ms. Lively has; okay?
A Okay.

MS. LIVELY: No questions.

THE COURT: All right, you may step down.

MR. CANNARELLA: Betty Jenkins.

Whereupon, Betty O'Neil Jenkins was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Please state your full name and spell your last name.

MS. JENKINS: Betty O'Neil Jenkins, J-E-N-K-I-N-S.

DIRECT EXAMINATION

BY MR. CANNARELLA:

Q Hey, Ms. Betty, I'm over here, okay.

A Okay.

Q Look at me, all right. Okay, now, Ms. Betty, what's your relationship with Tim?

A He's my son.

Q How many other children you got?

A I got three more besides him. I got four.

Q Okay, name them.

A Ricky, Regina and Gail.

Q Okay, have you ever testified in court before?

A No, sir.

Q All right, now, who are you married to?

A Jimmy Jenkins.

Q How long have you all been married?

A 42 years.

Q Do you all have any children together?

A One.

Q What's that person's name?

A Regina Jenkins.

Q And that's Regina sitting right back there?

A Yes, sir.

Q Okay, all right, now, and you've got a - Tim's your son. He's here. Any other family members of yours here?

A My two daughters.

Q Okay, and who are they?
A Gail and Regina.
Q Okay, all right, now, how about Jimmy? Where's Jimmy?
A Jimmy was feeling sick this morning.
Q How old is Jimmy?
A He'll be 65 in August.
Q Okay, you all come down here for the week?
A Yes, sir.
Q All right, how old, how old are you?
A I'm 66.
Q Okay, well, where, where did you work all your life?
A At Caro-Knit in Jefferson.
Q And did you retire from there?
A Yes, sir, sure did.
Q How about, how about Mr. Jenkins?
A He was a truck driver.
Q And he - is he retired, too?
A He's retired.
Q All right, and you all live in Jefferson?
A Yes, sir, in Jefferson.
Q And the two - who lives in you all's house?
A Well, right now me and my husband Jimmy and my son Tim.
Q Okay, Tim been living with you for a while?
A Yes, sir.
Q Well, let me ask you this. What kind of person is your

son, Tim?
A Tim is a good person. He is. He's a loving person. He's a sweet person. He always has been.
Q Have you ever had any trouble with him?
A No, sir, I sure haven't.
Q I mean, he might have been in a little bit of trouble from time to time but ---
A Oh, sure.
Q --- but he, he's, he's not ever been accused of anything like this before; has he?
A No, huh-uh, no.
Q So, is he a person of good, of good moral character?
A Yes, sir. What does that mean?
Q I know. I was waiting for you to ask me. It means somebody who has a kind of character that's inconsistent with what he's accused of.
A No.
Q Do you know what I mean?
A Yeah.
Q Have you ever noticed anything perverted about his behavior towards little children?
A No, sir; no, sir.
Q Any reason to believe that?
A No. He ain't never done nothing like that.
Q You ain't never heard of nothing; have you?

A No, I've never heard of it.
Q Have you ever been suspicious of it?
A No, sir, sure haven't.
Q Okay, well, you like to give little short - just short answers; don't you?
A Yes, sir.
Q Okay, well, Ms. Lively is going to ask you some questions about the situation. Okay?
A Okay.
Q All right, and that's Ms. Lively right there, Ms. Betty; okay?
A Hey.
Q If she chooses to ask you any questions.
MS. LIVELY: Ms. Jenkins?
A Yes, ma'am.
MS. LIVELY: I don't have any questions for you.
A Okay.
MS. LIVELY: Thank you.
A Thank you.
THE COURT: All right, you may step down.
MR. CANNARELLA: May we approach, Judge?
THE COURT: Yeah, come on up.
(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)
THE COURT: All right, ladies and gentlemen, we were

just trying to work on some scheduling matters before we proceeded. It's a little bit after five. So, the attorneys and I agree it's a good time for us to go ahead and break for the evening. I'm going to go ahead and excuse you to go home for the remainder of the evening. Please do not discuss the case even among yourselves at this time. Don't conduct any independent investigations into the case. Please be back in the jury room again tomorrow morning at nine o'clock. We'll try to get started right at 9:15 again tomorrow.

Hope everybody has a good evening. Leave your pads in the jury box and we'll see you tomorrow at nine o'clock.

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

THE COURT: All right, anything from the State before we recess?

MS. LIVELY: No, sir, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Your Honor.

THE COURT: All right, I'm in the process - I mean, it's still a little bit premature but I'm starting to get some of the standard charges that we get together as far as presumptions and duties of the judge and jury. If you have any jury charges you want me to consider try to get them to me tomorrow if you can. Okay?

MR. CANNARELLA: Okay.

THE COURT: All right.

MS. LIVELY: I'd just mention that 16-3-657 the statute that I actually brought up in the criminal sexual conduct with a minor or with any CSC charge that no corroboration of the victim is necessary.

THE COURT: Okay.

MS. LIVELY: I always ask for that to be charged in these CSC types of cases. That would be one that I know already in case the Court wanted to review it, but it is the statute.

THE COURT: That's the one, that's the subsection spelled out in the statute.

MS. LIVELY: Yes, sir.

THE COURT: Yeah.

MR. CANNARELLA: Yeah.

MS. LIVELY: It is.

THE COURT: I usually do charge that.

MR. CANNARELLA: Yeah, I think that's ---

THE COURT: Okay.

MS. LIVELY: Yeah, that's just one I know off the top of my head and anything else I'll get something in the morning. Thank you, Your Honor.

THE COURT: That sounds good. All right, we'll stand in recess till 9:15 tomorrow morning.

OFF THE RECORD

(On the record, April 7, 2011.)

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

THE COURT: I apologize for running late. Anything from the State before we bring the jury in?

MS. LIVELY: No, Your Honor.

THE COURT: Anything from the Defense?

MR. CANNARELLA: No, Judge.

THE COURT: All right, let's go ahead and bring the jury in.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Ladies and gentlemen, welcome back. I hope everyone had a good evening. We're now ready to resume the trial of this case, but before we do so I want to remind you if you have any cell phones or pager devices or anything of that nature please turn them off. If you are taking notes please make sure that you have your own notepad.

All right, Mr. Cannarella, you can call your next witness.

MR. CANNARELLA: Thank you, Judge. Tim Young.

THE COURT: All right.

Whereupon, Timothy Young was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Please state your full name and spell your

last name.

MR. YOUNG: Timothy Eugene Young, Y-O-U-N-G.

DIRECT EXAMINATION

BY MR. CANNARELLA:

Q Mr. Young, hey, I'm back here. Where are you from?

A Jefferson, South Carolina.

Q You used to live at the beach?

A Yes, sir.

Q When did you start living there?

A I moved to Myrtle Beach in April of 2005.

Q What happened on September, I mean, what happened on February the 25th of 2009?

A I was arrested at nine o'clock.

Q Where were you?

A I was at my home on 309 Withers Swash Drive.

Q Is that where you and Nicole lived?

A Yes, sir.

Q Where did you go after that - you were arrested?

A After I was arrested I went the same night.

Q No, you said you were arrested what time nine?

A Nine p.m. the 25th.

Q Where did you go?

A I went to jail.

Q Okay, who is Joe Graham?

A He's the investigator that interviewed me.

Q When did he interview you?
A On February 26th at a quarter after 12 that day.
Q The next day, you'd been in jail for about a half a day?
A 15 and a half hours to be exact.
Q Well, what rights did he inform you of?
A My rights to waive my lawyer and everything. I mean, I waived all my rights.
Q And what did you do?
A Nothing.
Q Did you talk with him?
A Yes, sir.
Q Did you answer all of his questions?
A 100 percent.
Q Okay, and then after you finished that interview what - where did you go after you talked with Joe Graham?
A I went back to my cell and later on that afternoon I was bailed out.
Q Where have you been since then?
A I stayed at the same residence until September - no, October of '09 and then I couldn't afford to stay there anymore by myself because I lost my job.
Q Have you worked since then?
A No, sir.
Q How have you been supporting yourself?
A I'm on unemployment unfortunately.

Q Have you been living in Jefferson?
A Yes, sir. Currently I'm in Jefferson with my parents.
Q October the 31st, 2008 ---
A Yes, sir.
Q --- is that on a Friday?
A Yes, sir.
Q Where were you living then?
A Withers Swash Drive, Myrtle Beach.
Q The same place you were living when you got arrested?
A Correct.
Q What happened unusual that weekend?
A Nothing, everything was normal as it had always been.
Q Well, who came to your house?
A The children did. That was Nicole's weekend to have her kids.
Q Did they come?
A Yes, sir, they sure did.
Q Well, when they came there where would they stay?
A They would stay at the house with me and Nicole.
Q I know, but be specific with them, with us, now. We want to know specifics now. You know, where did - when they came to that house to spend the weekend where did they sleep?
A In their bedroom.
Q How many bedrooms were in that house?
A There were two bedrooms and a storage room.