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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANGEL LUIS SANCHEZ, JR.

APPELLANT

APPELLATE CASE NO. 2017-001157

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

ORIGINAL

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SC Court of Appeals

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 4 (DVD-CRC INTERVIEW)**

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State of South Carolina) Court of General Sessions
County of Horry) 2016-GS-26-04080

State of South Carolina)
vs.) Transcript of Record
Angel Luis Sanchez, Jr.)

ORIGINAL

May 8 to May 11, 2017
Conway, South Carolina

BEFORE:

Honorable Paul M. Burch, Judge.

APPEARANCES:

Joshua D. Holford, Esq.
C. Leigh Andrew, Esq.
Attorneys for the State

James Galmore, Esq.
Attorney for the Defendant

Teresa J. F. Bautz, RPR
Official Court Reporter

I N D E X

	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
1					
2	WITNESS				
3	Haydee Sencion				
4	Ms. Andrew	56	--	--	--
5	Mr. Galmore	--	--	--	--
6	King E. Hemingway				
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1 (The hearing commenced at approximately
2 10:54 a.m.).

3 THE COURT: I'm not from your circuit. I'm Paul
4 Burch and I'm from the upper part of the state,
5 Chesterfield County. And being circuit judges, we are
6 assigned around the State by court administration to
7 hold terms of court. And we've got several judges here
8 this week, and we're going to need some jurors. And so
9 that's why I'm down here with y'all this morning to get
10 you qualified to handle some trials for us. We've got
11 civil court running, and we've also got criminal court
12 running.

13 Those of you that are not familiar with the Court
14 system, we are basically on the Old English system, and
15 that means that when you hear the term General Sessions
16 court, you will be concerned with trying criminal
17 cases. And if you hear Common Pleas court, that means
18 the civil side. So I'm not sure how they've got that
19 divided up here. I assume that both courts will be
20 running with the same panel, that's what they normally
21 do in the counties. But every county is a little
22 different.

23 And I've always said when you're in Rome and
24 you're not from Rome, you do as the Romans do. So I'm
25 not from Horry County, I've got family here. But while

1 we are in Horry County, we'll do as the Horry Countians
2 do. It's a pleasure to be back. I'll be back later on
3 in the year, even though we've got some travel
4 restrictions because of the budget in Columbia being
5 short of money, which seems to be a constant problem
6 here for the last 20 or so years.

7 I've been around a while. I've been almost 26
8 years. I've been -- several times I've been assigned
9 as chief administrative judge over here. But that's
10 changed a bit in the last 10 or 15 years, they try to
11 keep the administrative judges in the particular
12 circuit they reside in. So things have changed over
13 the years. It used to be the chief administrative
14 judge had both civil and criminal, and that's been
15 divided with the docket system or the docket growing
16 over the years and it's been a lot of divisions.

17 But anyway, it's a pleasure to be back. I'm from
18 Pageland, South Carolina. How many of you know where
19 Pageland is? Quite a few hands. If you go to
20 Charlotte, North Carolina, chances are you're going to
21 go through Pageland. Basically three towns of any size
22 in Chesterfield County would be Pageland, Cheraw and
23 Chesterfield. We're on the western end, Cheraw is on
24 the eastern end, and Chesterfield, the county seat, is
25 in the middle.

1 Our favorite son in the Pageland area, and if
2 you've ever been through there on the main
3 thoroughfare, it's named Van Lingo Mungo Boulevard.
4 And I love to tell the story to jurors as I travel
5 around the State just to give them some idea of my
6 background.

7 My daddy was a baseball player and played in the
8 minor leagues. He didn't make the major leagues. I
9 had a brother that was going to the major leagues, and
10 unfortunately World War II came along and messed both
11 of them up. And my uncle was killed in World War II,
12 and my dad came back and played a little baseball after
13 the war when he returned from Europe.

14 But they were friends with a man named Van Lingo
15 Mungo that that road is named after. How many of you
16 have ever heard of Van Lingo Mungo? Shame, I don't
17 have any baseball fans here, do I. How many of you are
18 old enough that you remember the Brooklyn Dodgers
19 before they moved to Los Angeles? See some hands.

20 Well, Van Lingo Mungo was a fast ball pitcher for
21 the Brooklyn Dodgers, was very close friends with Babe
22 Ruth and also Ernest Hemingway. Now, all of you have
23 heard of Ernest Hemingway; right? Okay. They were
24 very close friends, and in the off season Van Lingo
25 Mungo would go down to Cuba and would fish with Ernest

1 Hemingway. He was a partier and was quite close to
2 Babe Ruth. And all of you know that Babe Ruth was
3 quite a partier and then got both of them in some
4 trouble from time to time.

5 Some interesting facts about Van Lingo Mungo. He
6 made the all-star game several years, I believe either
7 three or four years, but did not make the Hall of Fame
8 because he eventually developed some elbow problems and
9 had to retire. But he was on the mound at Ebbets Field
10 when the Hindenberg came over on that fatal flight and
11 was still pitching on the mound when the Hindenberg
12 exploded over in the New Jersey side.

13 How many of you ever saw the movie, The Natural,
14 with Robert Redford? Okay. If you remember from that
15 movie, the mob offered the pitcher in that movie
16 \$10,000 to throw the pennant that year. And as you
17 remember, Redford refused to take the bribe and
18 reported it. Well, that was an actual -- that was
19 taken from an actual incident with Van Lingo Mungo.

20 He was offered by the New York mob \$10,000 to
21 throw that pennant that year that they were in it. And
22 he refused to do it and reported it. And they had to
23 hide him for several weeks to keep from retribution
24 from the mob getting him. So interesting story about a
25 man from Pageland that I had the occasion to know.

1 After I finished law school, I came back to
2 Pageland to practice law, and I got appointed on the
3 Election Commission. And Mr. Mungo was chairman of the
4 Election Commission, so I served with him several years
5 and enjoyed knowing him, enjoyed playing golf with him
6 every once in a while. And unfortunately, several
7 years ago he passed away of a heart attack. That's a
8 little bit about Pageland.

9 I know a good bit about Conway because, as I say,
10 I got family here. And it's a pleasure to be here and
11 to work with you. And we want y'all to be comfortable.
12 We want y'all to be not only willing, but understand
13 that it is a right, a privilege as an American to be
14 able to serve on a jury.

15 A lot of people don't like serving on a jury
16 because, you know, it can be a little anxiety attached
17 to it if you look at it in the wrong way. But we have
18 the best system that's ever been developed. We did
19 adopt basically the English system because South
20 Carolina was an original English colony. So we had a
21 lot of the common law that we still follow today in
22 South Carolina.

23 South Carolina is unique in many aspects compared
24 to other states about our laws. Probably the most
25 unique state as far as law is the State of Louisiana.

1 All of you know that that was basically a French colony
2 down around New Orleans. So they adopted the
3 Napoleonic code over there, so a little different from
4 what we have.

5 The mere fact that you were asked to be here this
6 morning does not make you a juror. You have to be
7 qualified to be a juror. And that comes from the old
8 English system. You have to -- you have to qualify and
9 meet certain common law and statutory requirements.

10 And because of that, I have to ask you some
11 questions. These questions are not meant to cause you
12 any embarrassment, and I hope they won't. But to
13 ensure that they don't, some of them may be more
14 sensitive to you. And if you would like to come
15 forward and talk with me up here at the court
16 reporter's box about a particular response, I want you
17 to feel free to do so.

18 Most of the questions I will pose to you are very
19 straightforward, and you shouldn't have any problem
20 responding if you need to. But please keep in mind, if
21 you would rather not respond out loud from where you
22 sit, come up and talk with us up here.

23 Before I get into the questions, I got to make
24 sure I've got the record protected. Are they under
25 oath?

1 THE CLERK: Yes, sir, they are.

2 THE COURT: Okay. Do I have anybody on the panel
3 who did not take that oath administered a few minutes
4 ago? Let the record reflect that everyone is under
5 oath to answer the Court's questions truthfully.

6 First question, do I have anybody on the panel who
7 is not a United States citizen? Do I have anybody on
8 the panel who is not a resident of Horry County?

9 If you have at least one of these three items or
10 documents, you will be fine. You haven't got to have
11 all three of them, but you got to have at least one.
12 That is a driver's license issued by the State of South
13 Carolina, or a State issued identification card issued
14 by the State of South Carolina, or a voter registration
15 certificate issued by the Horry County Voter
16 Registration Board. Do I have anybody on the panel who
17 doesn't have at least one of those?

18 Now, some more sensitive questions. Remember what
19 I told you about coming up, if you would rather wait
20 until all of the questions have been posed, you may
21 come up. Do I have anybody on the panel who has less
22 than a sixth grade education or its equivalent? If so,
23 we need to talk about that, feel free to come up in a
24 few minutes. If you are unable to read, write, speak
25 or understand the English language, we need to know

1 about that.

2 And I admit, that is a stupid question. Because
3 if you don't understand the English language, I don't
4 know how you're going to answer me. But anyway, I'm
5 required by law to ask you that.

6 If you have a doctor's excuse or you're unable to
7 render efficient jury service because of any medical
8 problem, mental, physical or combination of both, you
9 need to come up and present that excuse to us or talk
10 with us about that.

11 If you are a clerk or a deputy clerk of the Court,
12 a constable, sheriff, probate judge, county councilman,
13 county commissioner or any elected county officer, a
14 magistrate, a city judge or you worked in any
15 courthouse, then you're not qualified to be a juror
16 and we need to know about that. And when I say any
17 courthouse, that doesn't necessarily mean just this
18 one. That means the magistrate's court, a city court
19 or a federal court or even another county court.

20 Do I have any law enforcement or corrections
21 officers on the panel? That's unusual, we usually have
22 some. Yes, sir.

23 A JUROR: Retired corrections.

24 THE COURT: Okay. Active. Do I have any active
25 law enforcement or corrections officers?

1 All right. The next situation that I have to pose
2 to you concerns criminal records. And I had a real
3 problem in Horry County 20 something years ago over
4 here in the old courthouse because a gentleman did not
5 respond to this question and created a real problem.

6 We got into the third day of a murder case, and it
7 was discovered that he had hidden his criminal record.
8 And I never will forget it as long as I live. He had
9 been convicted of trafficking in cocaine. We found out
10 about it, and thank goodness I had seated two
11 alternates on that particular jury. So I was able to
12 salvage the trial and continue with it.

13 But I had to deal with him because of what he had
14 caused and would have cost the county taxpayers a lot
15 of money if I had not seated some alternates. So I had
16 to do something with him, and he was rather arrogant
17 about the whole situation. And I sentenced him to 90
18 days with the county jail.

19 The sheriff made it to the back door of the big
20 courtroom over there, and the man collapsed on the
21 floor with a heart attack. It was a no-win situation
22 for me. Wound up costing Horry County \$60,000, because
23 he had to go to the hospital and stay. So that is my
24 horror story about jury qualifications. It is a
25 serious matter.

1 And the moral of that story is do not try to hide
2 a criminal record from us. Now, computer systems are a
3 lot better now, the NCIC, we can usually trace it out
4 and we don't have situations to occur like that
5 anymore, hopefully. But there are still flaws in the
6 criminal records situation, and we don't want anything
7 like that to ever happen again.

8 So this is the question. If you have been
9 convicted by plea or by trial in a state or federal
10 court of record of a crime punishable by more than one
11 year and you have not received a pardon or amnesty,
12 then you're not qualified to be on the jury and we need
13 to take care of that. So if that applies, make sure
14 that you come up and talk with me when we complete
15 these questions, okay.

16 Now, if there is any question about whatever you
17 may have pled to or you were convicted of, come up and
18 talk with us about it. Chances are it may have been
19 something that won't disqualify you. If you were
20 sentenced in, say, city court over in Myrtle Beach for
21 simple assault or some traffic offense over there, that
22 doesn't disqualify you. But don't take any chances
23 with it, come up and talk with us about it.

24 All right. If you have already served on a jury
25 in the circuit court this year, then you're not

1 qualified to serve again, and we need to let you go.

2 So has anybody already served?

3 Now, there's certain criteria that you can ask to
4 be exempted. If you've served on the grand jury during
5 the past five years or you served on a petty jury
6 during the years 2016 and 2015, you may ask to be
7 exempted. That doesn't mean you're not qualified, and
8 if you wish to serve, we would certainly encourage you
9 to do so, to stay and help us. But that would be your
10 call.

11 Other exemptions. If you do not work and you stay
12 at home and you look after a child or children under
13 the age of seven or a disabled or elderly person, you
14 may ask for an exemption. Yes.

15 JUROR #240: I have two children under the age of
16 seven.

17 THE COURT: Okay. And do you work?

18 JUROR #240: No, sir.

19 THE COURT: What are their ages?

20 JUROR #240: Four and six.

21 THE COURT: You have my deepest sympathy. We need
22 your juror number or name or both.

23 JUROR #240: It's 240, and it's Cassie Mejia.

24 THE COURT: Would you like to be exempted?

25 JUROR #240: Yes, Your Honor.

1 THE COURT: Are you absolutely sure? Good home
2 and take care of those children.

3 JUROR #240: Thank you.

4 THE COURT: You're free to go. If you got a
5 badge, we need you to turn it in.

6 JUROR #240: Thank you. Y'all have a good day.

7 THE COURT: Same to you. I got my five-year old
8 grandchild with us down here staying for the week, so
9 far I haven't committed any offenses. I got a little
10 hair left.

11 (Discussion off the record.)

12 THE COURT: Another thing I need to talk with you
13 about, if I've got any school teachers or school staff
14 that need to be at work, you may ask to have your
15 service deferred until the end of the school year,
16 which we very seldom have anybody ask for that because
17 that's your vacation if you're a teacher.

18 I know we're -- most of the colleges have finished
19 up, but there may be some still going through exams.
20 Do I have any students that need to be in class this
21 week? Because as much as tuition costs now, if I had a
22 kid in school I'd want them there. All right.

23 Now, let's speak about transfers. It may not be a
24 good time for you to serve this week. For example,
25 you've already paid two or \$3,000 to take your four and

1 five-year-old children down to Disney World. We don't
2 want you to lose that money. We can transfer you. You
3 had to lock the doors on a business this morning and
4 you put other people out of work, which wouldn't be
5 true later on in the year, we can transfer you.

6 Lord forbid, you've had a death in the family or
7 you've got a loved one who is facing a medical
8 procedure this week, or you're facing a medical
9 procedure, we can transfer you. Those are all valid
10 reasons.

11 Now, what is not a valid reason is the fact that
12 you're here this morning and you're losing money from
13 your regular job. Please don't even go there, unless
14 it is a seasonal type occupation you have. And the
15 most classic example is a farmer. I know a lot of the
16 farmers are trying to get their crops in the field.
17 And they would rather serve during the period between
18 planting and harvesting. So if it's a situation like
19 that, we can help with that.

20 So if you've got a legitimate reason for a
21 transfer, let us know. If you know of any valid reason
22 why you're not qualified to be a juror in the state of
23 South Carolina, please step forward and let us know
24 that. Now, I don't have my check-off list. Have I
25 overlooked anything? I think I covered everything.

1 Oh, yeah. I overlooked one on the exemptions. If
2 you are 65 years of age or older, you may ask to be
3 exempted. I was down here several years ago, and I had
4 eight individuals on a jury panel like y'all, they were
5 all over 65, and all eight of them chose to stay and
6 serve. I thought that was very commendable for you
7 folks here.

8 (Discussion off the record.)

9 THE COURT: Let me go over that again with you.
10 If you had to close the door on your business this
11 morning and you put other people out of work, and that
12 wouldn't be true at someone later time, let us know
13 because we can transfer you. Yes, sir.

14 JUROR #119: Yeah, I own an establishment up on
15 Main Street in Myrtle Beach, and I own the store. And
16 if I don't work tomorrow I have to close the store, if
17 I have to be here tomorrow.

18 THE COURT: If we give you a transfer to later on
19 that you can --

20 JUROR #119: After October any time.

21 THE COURT: Pardon?

22 JUROR #119: After the season.

23 THE COURT: After the season?

24 JUROR #119: Yes, sir, yes, sir.

25 THE COURT: We'll take care of that. Just check

1 in with madam clerk.

2 JUROR #119: 119, I believe. John Engonidis.

3 THE COURT: Yes, ma'am.

4 JUROR #241: Barefoot Landing in North Myrtle
5 Beach. Same thing, October or after will be much
6 better.

7 THE COURT: Okay. Your name and number?

8 JUROR #241: 241, Debra Mendenhall.

9 THE COURT: Come on around, Ms. Mendenhall.

10 (Discussion off the record.)

11 THE COURT: I saw another hand. Yes.

12 A JUROR: I come up there the next time and let
13 you know my situation.

14 THE COURT: Okay. Come on around.

15 A JUROR: I have a question. I had a traffic
16 ticket, a speeding ticket in 2014, I think and I paid
17 it. Does that disqualify me?

18 THE COURT: No. I got one down here when I was 18
19 years old, I paid mine too. All right, we got juror
20 number 80, Ms. Cook, same situation. They need her
21 until the heavy season is over.

22 THE CLERK: Till when?

23 JUROR #80: They have it on there. I think they
24 said January October -- October to January.

25 THE CLERK: Okay. You can go, you'll get another

1 pink slip.

2 JUROR #80: Okay.

3 THE CLERK: Thank you, ma'am.

4 JUROR #80: So I can go home?

5 THE CLERK: Yes, ma'am.

6 BAILIFF: Number 196.

7 THE COURT: We need you to come up here so madam
8 court reporter can hear you. 196 will be transferred
9 to later on in the year because of seasonal employment.

10 THE CLERK: Okay. So after July?

11 JUROR #196: Yes. Like between October and
12 January, that's when we're not real busy.

13 THE CLERK: Okay, thank you.

14 JUROR #196: Thank you. Do you need this?

15 THE CLERK: No, ma'am. You'll get another pink
16 slip.

17 BAILIFF: Number 244.

18 JUROR #244: I have a trip planned already, and it
19 has the -- I planned it in March and it's -- I leave
20 tomorrow. And I'm supposed to be gone for a week to
21 see my dad in Idaho and my little sister.

22 THE COURT: Only if I can go. We can take care of
23 that.

24 JUROR #244: Okay.

25 THE COURT: We'll transfer you. As much as plane

1 tickets cost now, we definitely want you to go.

2 JUROR #244: Thank you, Your Honor.

3 THE CLERK: Number 244, transfer.

4 JUROR #244: We got it. Thank you.

5 THE CLERK: Enjoy your trip, be safe.

6 (Discussion off the record.)

7 BAILIFF: Juror number 326.

8 THE COURT: How are you?

9 JUROR #326: I could be better. Because I could
10 be at work only -- I know you don't want to hear this,
11 about the money situation. But I had a bad accident
12 last year and I have hospital bills. And I go from
13 paycheck to paycheck. I really need to work.

14 I'm going to be paying my bills, hospital bills,
15 for at least three years.

16 THE COURT: When do you go back in to see a
17 doctor?

18 JUROR #326: I don't. I broke my ankle on both
19 sides and four bones on the top of my foot.

20 THE COURT: Okay.

21 JUROR #326: So I'm still healing. But I can't --
22 I have to work to pay my bills. If I don't pay them,
23 they're going to send me to collections. Puts me in a
24 bad situation too.

25 THE COURT: All right. What I'm going to do, I'm

1 going to transfer you over to the fall.

2 JUROR #326: Okay.

3 THE COURT: When you do have to go back in to see
4 a doctor, try to talk them into getting a note saying
5 because of hardship and your injuries, you need to be
6 excused.

7 JUROR #326: Okay. I mean, it's not just his
8 bill, the hospital bills.

9 THE COURT: Right.

10 JUROR #326: Thank you so much. I really
11 appreciate it.

12 THE COURT: Okay.

13 THE CLERK: Thank you.

14 JUROR #326: Just call me when or send --

15 THE CLERK: We'll send another pink slip, yes,
16 ma'am.

17 JUROR #326: Thank you so much.

18 THE CLERK: Number 326 transferred to fall.

19 THE BAILIFF: Number 50.

20 THE COURT: Hey, good morning.

21 JUROR #50: I'm just asking about one day. I'm
22 chaperoning my son's field trip on Friday.

23 THE COURT: Okay. Protect her on Friday.

24 THE CLERK: Okay. Number 50.

25 THE COURT: Should be okay.

1 JUROR #50: Okay.

2 THE CLERK: You will be okay because he just had
3 us protect you.

4 JUROR #50: Thank you. Thank you.

5 THE CLERK: Number 50 protected for Friday.

6 THE BAILIFF: Number 175.

7 JUROR #175: How you doing.

8 THE COURT: Good morning.

9 JUROR #175: I'm a contractor, I just heard a
10 bunch of people this morning to open a new contract,
11 and my season is just starting to go on right now,
12 actually to be honest with you. I sub off of Jeff
13 Penneger.

14 THE COURT: We'll transfer you.

15 THE CLERK: And when would be a better time, sir?

16 JUROR #175: Probably the fall, like I said.

17 THE CLERK: October?

18 JUROR #175: Yes, ma'am.

19 THE CLERK: September?

20 JUROR #175: Yeah, September, October. Whatever
21 is convenient for y'all, you know what I mean.

22 THE CLERK: Okay. I'll transfer you to September,
23 you'll get another pink ship.

24 JUROR #175: Okay. Thank you, ma'am. Just leave?

25 THE CLERK: Yes, sir. Number 175 transferred to

1 September.

2 THE BAILIFF: Number 328.

3 THE COURT: Good morning.

4 JUROR #328: I got several things. I have two
5 kids that are out of school for being expelled, two
6 teenage kids. And one of them hadn't had the -- he had
7 the hearing, but I hadn't gotten the results for that.
8 He's going to be on homebound.

9 And plus, I work for Chik-Fil-A on 10th Avenue,
10 and we been closed for a month. And tomorrow is the
11 grand opening, and I haven't been to work for a month.

12 THE COURT: Okay. That's a hardship with the
13 children, we'll transfer you to end of the year and
14 give you a chance to recover from this.

15 JUROR #328: Okay. Thank you.

16 THE CLERK: Her number is 328. Transferred to
17 December. All right?

18 JUROR #328: Yes.

19 THE CLERK: Okay. Thank you, ma'am. 328 transfer
20 December.

21 THE BAILIFF: Number 169.

22 THE COURT: Good morning, sir.

23 JUROR #169: I own my own construction company
24 right there. I got two jobs running right now, one in
25 Myrtle Beach, and one in Conway. I mean, any way I can

1 get out of that? Later in the year would be fine,
2 wintertime when it ain't so...

3 THE COURT: We'll transfer you.

4 THE CLERK: Okay, November?

5 JUROR #169: That would be fine.

6 THE COURT: Okay.

7 THE CLERK: Thank you, sir. 169 transfer
8 November.

9 THE BAILIFF: Number 106.

10 JUROR #106: I just have a question about my
11 criminal history. Because I'm not trying to do jail
12 time when I've never done any jail time before.

13 THE COURT: Thank you.

14 JUROR #106: I don't think I've had anything that
15 was any -- had driving under suspended licence. I
16 don't know. I know it's been a really long time since
17 I been in any trouble.

18 THE COURT: I don't think we have anything. What
19 did you say it was, a suspension?

20 JUROR #106: I had driving under suspended
21 license, that's been forever ago. I had obstruction of
22 justice that was probably about 20 years ago.

23 THE COURT: Well, did you plead or --

24 JUROR #106: It was in virginia.

25 THE COURT: And you were found guilty or plead?

1 JUROR #106: I got community service for it, and
2 that was it.

3 MR. HOLFORD: We don't have an NCIC on this.

4 THE COURT: They don't have anything, you're fine.

5 JUROR #106: Okay.

6 THE CLERK: Okay.

7 JUROR #106: I just wanted to double check and
8 make sure.

9 THE CLERK: Thank you for checking.

10 JUROR #106: When I heard them say something, I
11 just wanted...

12 THE COURT: Number 106 stays.

13 THE BAILIFF: Number 411.

14 JUROR #411: I just have a question more about
15 daily routine. I have to pick my two kids up by six,
16 and I don't know, 20 minutes away.

17 THE COURT: We don't -- where is that?

18 JUROR #411: Forestbrook Road. It's not too far,
19 but I just wanted to make sure, you know. I'm fine
20 with being here, I just have to make sure --

21 THE COURT: How many minutes is that from here?

22 JUROR #411: It could be 30.

23 THE COURT: We shouldn't go past five. If we do,
24 won't be but a few minutes.

25 JUROR #411: Okay. Then that should be fine.

1 THE COURT: Thank you.

2 THE CLERK: Number 411 is staying.

3 THE BAILIFF: Number 390.

4 JUROR #390: Hello, good morning. I just have an
5 issue with child care. To be quite honest with you, in
6 the afternoon my husband is not in a position to be
7 able to help me pick them up, take them to their
8 baseball games, so on and so forth. I'd rather do a
9 transfer if you have anything during the summer, it
10 would be easier for me.

11 THE COURT: During the summer?

12 JUROR #390: Yes.

13 THE COURT: Okay.

14 THE CLERK: Transfer to June?

15 JUROR #390: That would be fine.

16 THE CLERK: Okay. You'll get another pink slip.

17 JUROR #390: Okay.

18 THE CLERK: Thank you.

19 JUROR #390: All right, thank you. So I'm free to
20 go as of now?

21 THE COURT: Yes.

22 THE CLERK: Yes, ma'am. Number 390 transfer to
23 June.

24 THE BAILIFF: 208.

25 THE COURT: Good morning.

1 JUROR #208: Good morning. Judge, I worked as a
2 jury specialist for the U.S. District Court, Southern
3 District of Iowa, before I moved here. And I did a
4 little case management, too, for them.

5 THE COURT: Do you still go up there any time and
6 work for them?

7 JUROR #208: No, nu-uh, no. I still have friends
8 within the marshall's office and stuff like that.

9 THE COURT: All right. If you're not actively
10 working, you're fine, there won't be any conflict.

11 JUROR #208: Perfect. Thank you.

12 THE COURT: Thank you for letting us know.

13 THE CLERK: Number 208 stay.

14 THE BAILIFF: Number 290.

15 THE COURT: Good morning.

16 JUROR #290: I have two girls that get off the bus
17 in the afternoons, and I'm their sole parent. My
18 husband -- I'm widowed. And there's a neighbor that
19 could, like today I talked to her, but she's really
20 iffy, it's not preferable.

21 THE COURT: Yeah. What about after school is over
22 with, what's your situation with the children?

23 JUROR #290: They are home with me.

24 THE COURT: Just on the children's end she
25 qualifies to be excused. Even though they're not there

1 in the morning, they are there in the afternoon. And
2 in a week or two is going to be a situation she has.
3 So transfer won't work, that's just an outright excusal
4 that I can grant on that.

5 THE CLERK: Okay.

6 JUROR #290: Thank you, sir.

7 THE COURT: What are their ages? We need to
8 establish that.

9 JUROR #290: Seven and ten.

10 THE COURT: Okay. That's fine.

11 THE CLERK: Thank you.

12 JUROR #290: Thank you.

13 THE CLERK: Number 290 excused.

14 THE BAILIFF: Number 378.

15 THE COURT: Yes, ma'am.

16 JUROR #378: I have trouble reading.

17 THE COURT: How far did you go in school?

18 JUROR #378: Eleventh.

19 THE COURT: Ms. Vaught, if I were to give you a
20 newspaper, can you read most of it?

21 JUROR #378: Not really. Some of it.

22 THE COURT: Okay. Can you write me a letter?

23 JUROR #378: Um-hum, yeah.

24 THE COURT: You'll be fine.

25 JUROR #378: Okay.

1 THE COURT: You won't be a problem.

2 THE CLERK: Number 378 is staying.

3 THE BAILIFF: Number 289.

4 THE COURT: Good morning.

5 JUROR #289: I work for IT person, and I usually
6 help four stores with all of the IT work. And we've
7 been having a lot of problems. And if I don't be able
8 to get back there to try to help them, it could put
9 like a hundred people out of work.

10 THE COURT: What's the best time of the year you
11 can serve?

12 JUROR #289: Well, I'm actually training someone
13 now. So it's just like a weird timing. So as soon as
14 they get them trained up, I should be fine.

15 THE COURT: The fall?

16 JUROR #289: Um-hum.

17 THE COURT: Transfer. You get them straight now?

18 THE CLERK: Number 289 transfer to the fall.

19 THE BAILIFF: Number 97.

20 JUROR #97: I'm a single mother of a seven year
21 old. I don't have any help, I have no family or
22 anything down here to get him off the bus or anything.
23 Not only that, but we're moving to the state of
24 Tennessee come June when he gets out of school.

25 THE COURT: Who's going to look after him when

1 school is out?

2 JUROR #97: That's why we're moving to Tennessee.
3 That's where all of my family is.

4 THE COURT: When are you moving?

5 JUROR #97: Probably about a week after he gets
6 out of school. When he gets out of school.

7 THE COURT: Okay. All I can do at this point is
8 transfer you, and then when another pink slip comes out
9 it will be returned. So they will know that you have
10 moved.

11 JUROR #97: Okay.

12 THE COURT: So transfer for right now.

13 JUROR #97: Okay.

14 THE CLERK: To July.

15 JUROR #97: Yeah, I guess. Because I'll be gone
16 in June.

17 THE CLERK: You'll get another pink slip, it will
18 come back.

19 JUROR #97: Okay.

20 THE CLERK: Thank you.

21 JUROR #97: Thank you.

22 THE CLERK: Number 97 transfer to July.

23 THE BAILIFF: Number 19.

24 JUROR #19: I just need to go to a funeral today.

25 THE COURT: Say that again.

1 JUROR #19: I need to go to a funeral today.

2 THE COURT: No problem. No problem. We won't
3 start any trials until tomorrow.

4 JUROR #19: Okay.

5 THE COURT: I won't.

6 JUROR #19: Okay.

7 THE COURT: She's protected for today.

8 THE CLERK: Okay.

9 THE COURT: What time is it?

10 JUROR #19: 2:30.

11 THE COURT: We'll have you out of here.

12 THE CLERK: Okay.

13 THE COURT: But stay with us for a few more
14 minutes.

15 JUROR #19: Okay.

16 THE CLERK: Thank you. Number 19 protect today.

17 THE BAILIFF: Number 323.

18 JUROR #323: I don't have any paperwork. I have a
19 seven year old who's in school. I didn't know I was
20 supposed to, I was out of town, I didn't get my mail
21 until last night. I also take care of my mother who's
22 disabled. If I had time to like make arrangements, I
23 could have been here, but...

24 THE COURT: We'll transfer you.

25 JUROR #323: I mean, any time after June 1st.

1 They get out of school June 1st, and I can make
2 arrangements for someone to keep him and take care of
3 my mother.

4 THE COURT: Transfer her to July.

5 THE CLERK: Okay. Transfer to July, and you'll
6 get another pink slip.

7 JUROR #323: Awesome, thank you so much.

8 THE COURT: Yes, ma'am. Number 323 transfer July.

9 THE BAILIFF: Number 103.

10 JUROR #103: I am unemployed with a seven year
11 old. I'm self-employed so I work my schedule around my
12 getting him. I'm sad about today because today's his
13 art gallery, 3:30 this afternoon. So I don't know if
14 it works that I can come the rest of the week or if I
15 get out early enough today. Like, I mean, most things
16 I can work out. But I'm so sad, I'm missing his art
17 gallery.

18 THE COURT: We'll get you out of here in a little
19 bit. We'll protect you for today.

20 JUROR #103: Okay. Thank you.

21 THE CLERK: Okay. Thank you.

22 JUROR #103: So I can stay, and then they'll let
23 me know --

24 THE CLERK: Stay. And then you'll leave in just a
25 little bit.

1 JUROR #103: Okay, thank you.

2 THE CLERK: And then be back tomorrow.

3 JUROR #103: Yeah.

4 THE COURT: What time does it start?

5 JUROR #103: It starts at 3:30, and I live 30
6 miles away.

7 THE CLERK: Oh, what you might want to do is call
8 that number on that sheet after 6 o'clock tonight.

9 JUROR #103: Okay. But I can stay and then call?

10 THE CLERK: Um-hum. Number 97 protect today.

11 THE BAILIFF: Number 343.

12 JUROR #343: I just had a quick question. It's
13 actually not even my pink slip. Back in the state of
14 Pennsylvania about -- I want to say about two years
15 ago, I was -- I had a simple assault charge due to a
16 domestic violence case.

17 THE COURT: Simple assault. No, you're fine.

18 JUROR #343: Okay, all right.

19 THE CLERK: That was 343? 343 stay.

20 BAILIFF: 220.

21 JUROR #220: Actually, last year I got a simple
22 possession charge. Would that exempt me?

23 THE COURT: No, you're okay. Well, was it
24 marijuana?

25 JUROR #220: Yes, sir.

1 THE COURT: Yeah, you're fine.

2 JUROR #220: Also, I do have a job interview
3 tomorrow with Dave and Buster's. They will be opening
4 up next month.

5 THE COURT: Yeah, we can protect you for tomorrow.

6 JUROR #220: Okay.

7 THE CLERK: Just have a seat.

8 JUROR #220: Okay.

9 THE CLERK: Number 220 protect tomorrow.

10 THE BAILIFF: Number 349.

11 THE COURT: Good morning.

12 JUROR #349: I hate to come up. I own The Country
13 Store. And it's busy as -- I left the girl there, but
14 she's out in left field.

15 THE COURT: When is the best time of year for you,
16 sir?

17 JUROR #349: Probably in the winter.

18 THE CLERK: December?

19 JUROR #349: Yeah. Because it will slow down all
20 that beach traffic.

21 THE CLERK: We'll transfer you to December, you'll
22 get another pink slip.

23 JUROR #349: Um-hum.

24 THE CLERK: Okay.

25 JUROR #349: I just I don't mind doing it, but get

1 home and go to work.

2 THE COURT: I understand.

3 THE CLERK: 349 transfer to December.

4 THE BAILIFF: 283.

5 JUROR #283: You're not going to be proud of me,
6 I'm 68 years old and I would rather -- but my aches,
7 pains, and everything else. And I've served in earlier
8 years, about five, six years ago. I hate to use it as
9 an excuse, but I'm going to.

10 THE CLERK: You're excused, sir. You can go home.

11 JUROR #283: Thank you very much.

12 THE CLERK: I hope you feel better.

13 JUROR #283: Thank you.

14 THE COURT: Thank you, come again. He's exempted.

15 THE CLERK: Number 283 excused.

16 THE COURT: I got three up here. How about 285?

17 THE CLERK: You want me to call him?

18 THE COURT: He answered the roll.

19 (Discussion off the record.)

20 THE CLERK: Yes, sir. Number 285, Patrick
21 Pickerell. Can you come forward, please.

22 THE COURT: We have a computer report. What's
23 your date of birth?

24 JUROR #285: [REDACTED]/83.

25 THE COURT: Let me see what the problem was.

1 Indicating on this particular Patrick Pickerell, St.
2 Lawrence County Court, a conviction for forgery. Was
3 that you?

4 JUROR #285: I have no idea about that. I don't
5 even know where that county is.

6 THE COURT: A lot of time, you know, just like me,
7 there's about 20 Paul Burches. What does NCO hate
8 charge mean?

9 AN ATTORNEY: Like a conspiracy for attempted
10 solicitation.

11 THE COURT: Whatever it was is it says completed.
12 (Discussion off the record.)

13 THE COURT: Are you originally from New York?

14 JUROR #285: Originally from Jersey.

15 THE COURT: This is indicating New York. Just
16 wanted to make sure.

17 JUROR #285: I visited New York City like twice.

18 THE COURT: I think that's just a crossover of
19 some type. Just wanted to make sure we had to take the
20 record.

21 JUROR #285: Yeah. I don't know nothing about a
22 forgery.

23 THE CLERK: All right. You're good, sir. Thank
24 you.

25 THE COURT: 136.

1 THE CLERK: Number 136, Jason Fowler, would you
2 please come forward.

3 THE COURT: How you doing?

4 JUROR #136: Good.

5 THE COURT: We have a computer printout on a Jason
6 Roderick Fowler. What's your date of birth?

7 JUROR #136: [REDACTED]/71. And mine is Walter, Jason
8 Walter.

9 THE COURT: Okay. And you don't know anything
10 about a conviction, or do you know anything about it,
11 unlawful driving away of a motor vehicle in the 16th
12 circuit court, Mt. Clemmons, what's MI, Michigan?

13 JUROR #136: I'm an Horry County boy. I don't
14 know of it.

15 THE COURT: Born and raised here?

16 JUROR #136: Yeah.

17 THE COURT: Same jurisdiction. Got another
18 Michigan one, stalking. Another -- no, this is M-O, is
19 that Missouri, yeah, St. Louis. Domestic assault
20 third.

21 JUROR #136: He's a busy fellow.

22 THE COURT: Okay, it's not you. Thank you, sir.
23 You're fine.

24 THE CLERK: Thank you. 136 stay.

25 THE COURT: 264.

1 THE CLERK: Number 264, Nicholas Naples.

2 THE COURT: Good morning.

3 JUROR #264: Good morning.

4 THE COURT: We get these computer printouts, some
5 of them are fairly accurate, some of them are not.
6 Your date of birth?

7 JUROR #264: [REDACTED]/75.

8 THE COURT: It indicates a conviction on this
9 particular report for possession of a stolen motor
10 vehicle in Lexington, North Carolina.

11 JUROR #264: No, sir.

12 THE COURT: And it was a dismissal without
13 leaving. How about malicious injury to property?

14 JUROR #264: No, sir. My ex-wife's husband stole
15 my identity. So his record carries over to mine as an
16 alias.

17 THE COURT: The rest of them are traffic offenses.

18 JUROR #264: There's one down on the bottom, on
19 the page you were just on, on the last page you were
20 just on. This one right here. That's when he was
21 arrested, and he used my name and my social security
22 number.

23 THE COURT: I just got to cover on the record
24 those that would be a problem.

25 JUROR #264: Um-hum.

1 THE COURT: Let's see. Driving under suspension,
2 breaking into an automobile or tanks?

3 JUROR #264: No, sir.

4 THE COURT: Grand larceny?

5 JUROR #264: No, sir.

6 THE COURT: Both of those were in 2002.. And the
7 other breaking and entering in one, two, three --

8 JUROR #264: I didn't move down here until 2004.

9 THE COURT: So you've had -- you have had no
10 convictions for breaking into an automobile --

11 JUROR #264: No, sir.

12 THE COURT: -- or grand larceny?

13 JUROR #264: No.. Like I said, his record follows
14 me since he used my name and social security number
15 when he was arrested.

16 THE COURT: I think we've covered everything. Oh,
17 no, there's still another one.. Burglary third?

18 JUROR #264: No, sir.

19 THE COURT: Okay. Not you. Thank you.

20 THE CLERK: Thank you, sir. Is that it?

21 THE COURT: All right. I find the panel
22 qualified. I need the Court staff to -- I mean, the
23 civil court, do they need to draw a jury from this
24 particular panel?

25 AN ATTORNEY: Yes, Your Honor.

1 THE COURT: Okay. Do y'all know when you want to
2 do that? Because I'm going to get a mini panel of 40.

3 AN ATTORNEY: I think we're going to go ahead and
4 draw for the civil now and probably send them upstairs
5 to pick the jury.

6 THE COURT: How many you got there?

7 (Discussion off the record.)

8 THE COURT: All right. It's like a three-ring
9 circus, we got various courts running. We already see
10 we're going to need three juries. So 40 of you are
11 going to be drawn to come up, and I got some further
12 questions to ask up there and we will seat a jury. 30
13 of you will be drawn and sent up to Judge Culbertson's,
14 take care of that.

15 Then we're going to have to send everybody back
16 that's not drawn, come up with another panel for a
17 third case. We will be saving -- by y'all's patience
18 and being willing to do that with us, y'all are all
19 taxpayers of Horry County, it's going to be saving the
20 taxpayers considerable money if we can make all this
21 mesh, rather than having you go and return and, you
22 know, tomorrow or whatever. So bear with us.

23 If you need a restroom break, it's going to take
24 them a few minutes to get these mini panels drawn. So
25 if you'll go back to the -- I have no idea where the

1 restrooms are, but if you need to take a short break,
2 go ahead and do that. Be back in about ten minutes.

3 THE CLERK: Please pay attention to where you're
4 sitting and who is sitting by you, so that when you get
5 back we'll know who's missing. Okay, Thank you.

6 (The hearing concluded at approximately
7 11:52 a.m.)

8 (WHEREUPON, the jury pool came into open court at
9 approximately 12:29 p.m.)

10 THE COURT: All right. Good afternoon. Again, I
11 would like to welcome you to courtroom 3-E, I believe
12 it is. I told you downstairs that I had some
13 additional questions, these are case specific
14 questions. If you are from the South, it is pronounced
15 voir dire. If you are from up North, it's pronounced
16 some other way. But I'm from the South, and we are in
17 the South, so it is case specific voir dire. If
18 anybody wants to argue with me about that, we'll wait
19 until later, okay.

20 All right. I've already told you that I'm sitting
21 down here this week for the general sessions term.
22 Judge Culbertson is handling common pleas, probably
23 down the hall. The case that the Court is calling for
24 trial -- counsel, if you please correct me if I
25 misquote something here -- is entitled, the State

1 versus Angel Luis Sanchez, Jr. He is charged by the
2 grand jury under a true bill of Horry County, grand
3 jury of Horry County, with the offense of criminal
4 sexual conduct with a minor, first degree.

5 Mr. Sanchez is present in court represented by
6 Mr. Galmore. At this time, Mr. Galmore, I need him to
7 stand and face the jury to see if he might be related
8 to anyone. Thank you, sir.

9 Additional questions, please. Now, have anybody
10 on the panel who is related by blood or by marriage or
11 has any business, social, religious or fraternal
12 relationship with the Defendant, Mr. Sanchez? If so,
13 we need you to stand and be recognized.

14 I have some additional potential witnesses that
15 I'm going to call their names, and it will be the same
16 question. Have anybody on the panel who has any
17 relationship either by blood or by marriage or has any
18 business, social or religious or fraternal relationship
19 with any of these individuals: Complaining Witness , Ann
20 Arnett, Child Witness , Allen Berrena, King Hemingway,
21 Haydee Sencion, Stacey Ennis, that's spelled E-N-N-I-S,
22 Tracy Lee Skelnik, that's spelled S-K-E-L-N-I-K, Angel
23 Sanchez. And I assume that would be Angel Sanchez, Jr.

24 Okay, any additional names that I need to
25 supplement from the State or from the Defense?

1 MS. ANDREW: No, Your Honor.

2 MR. GALMORE: No, sir.

3 THE COURT: If so, we need you to stand and be
4 recognized at this time. Looking at the allegations in
5 the indictment, this alleged incident occurred on or
6 about April the 15th, 2016. The victim, you had a date
7 of birth of [REDACTED]/2007, allegedly was Complaining Witness .

8 Now, have anybody on the panel that has any
9 personal knowledge concerning any matters in this case
10 or has developed any opinion or bias in this case? We
11 need to know about that.

12 Has anybody read any newspaper or media coverage
13 concerning this case? Do I have anybody on the panel
14 who cannot be a fair and impartial juror if seated on
15 this case?

16 Do I have anybody on the panel who cannot serve as
17 a juror to listen to the facts, find the facts and
18 apply the law of the case thereto that I, the judge,
19 will charge you with and thus reach a verdict? Does
20 anybody have any moral belief or any problem whatsoever
21 with following those instructions?

22 Does anybody know of any reason whatsoever why you
23 could not be both a fair and impartial juror towards
24 the Defendant and the State of South Carolina? Please
25 stand at this time, and don't make any comment until I

1 ask you to. Let's see. Any additional voir dire?

2 MR. HOLFORD: Your Honor, may we approach?

3 THE COURT: Sure.

4 (WHEREUPON, a bench conference was held off the
5 record in the presence of the jury panel but out
6 of the hearing of the jury panel.)

7 THE COURT: Now, have anybody on the panel who has
8 been the victim or accused of a violent crime? If so,
9 we need you to raise your right hand.

10 And I apologize, I should have covered this
11 question, I just overlooked it. I need to ask about
12 any relationship to the attorneys. And I'm going to
13 ask all of them that are involved in this case to stand
14 at this time and introduce themselves and anybody else
15 that may be associated with the case just to make sure
16 we have any representation or any relationship by blood
17 or marriage, or any business.

18 MS. ANDREW: I'm Leigh Andrew, I'm an assistant
19 solicitor, attorney for the State.

20 MR. HOLFORD: I'm Josh Holford, I'm an assistant
21 solicitor here for the State as well.

22 MR. GALMORE: I'm James Galmore. I work at the
23 public defender's office. This is Cole Cable, he also
24 works at the public defender's office.

25 MR. HEMINGWAY: King Hemingway, detective for

1 Horry County Police Department.

2 THE COURT: Once again, anybody related by blood
3 or by marriage to any of these individuals, or have you
4 been represented in the past or presently represented
5 by any of those individuals? And let me add this too,
6 anybody presently represented or represented in the
7 past by the solicitor's office here or by the public
8 defender's office? Anything further?

9 MS. ANDREW: Nothing further from the State.

10 MR. GALMORE: No, sir.

11 THE COURT: All right. Madam clerk, let's strike
12 a jury. Let's see, this will be five and ten; correct?

13 MS. ANDREW: Yes, sir.

14 MR. GALMORE: Yes, sir.

15 THE COURT: And we want to seat, because I've
16 talked with you about this, all you jurors, it's a
17 little unique this week because we do have a holiday
18 Wednesday. So this case is not going to take that
19 long, but because of Wednesday it may affect us
20 somewhat.

21 But with that in mind, we're going to seek two
22 alternates, okay. And strikes, of course, are one for
23 the State, two for the Defense, per alternate on that.

24 THE CLERK: When I call your name or your number,
25 if you want to come to the front of the room here, and

1 if you have any belongings, you can bring them. If
2 you're not picked, then we're going to ask you to sit
3 back down in your seat just until it's over. If you
4 are and you bring your belongings, we'll seat you in
5 the jury box.

6 So don't let it make you feel weird or anything,
7 just come stand up here. We're going to ask both sides
8 if they want to pick you as a juror, and we'll go from
9 there.

10 THE CLERK: 386, Susan Waller.

11 MS. ANDREW: Please present this jury.

12 THE CLERK: Defense?

13 MR. GALMORE: Please seat the juror.

14 THE CLERK: Please be seated in our jury box.

15 273, Edward Oskandy. What say the State?

16 MS. ANDREW: Please excuse this juror from this
17 case.

18 THE CLERK: You're excused from this particular
19 case. You'll just go back to your seat. 198, Carol
20 Kayser. What say the State?

21 MS. ANDREW: Please seat this juror.

22 THE CLERK: Defense?

23 MR. GALMORE: Please seat the juror.

24 THE CLERK: Please be seated in our jury box. 90,
25 Patrick Dann. What say the State?

1 MS. ANDREW: Please present this juror.

2 THE CLERK: Defense?

3 MR. GALMORE: Please seat the juror.

4 THE CLERK: Please be seated in our jury box.

5 135, Day Fowler. What say the State?

6 MS. ANDREW: Please present this juror.

7 THE CLERK: Defense?

8 MR. GALMORE: Please excuse the juror from the
9 trial of this case.

10 THE CLERK: You're excused from this particular
11 case. 379, Ronald Veshinski. What say the State?

12 MS. ANDREW: Please present this juror.

13 THE CLERK: Defense?

14 MR. GALMORE: Please excuse the juror in the trial
15 of this case.

16 THE CLERK: You're excused from this particular
17 case. 264, Nicholas Naples. What say the State?

18 MS. ANDREW: Please excuse this juror from this
19 case.

20 THE CLERK: You're excused from this particular
21 case. 142, Randy Gatesman. What say the State?

22 MS. ANDREW: Please excuse this juror from the
23 trial in this case.

24 THE CLERK: You're excused from this particular
25 case. 402, Karen Wilmot. What say the State?

1 MS. ANDREW: Please present this juror.

2 THE CLERK: Defense?

3 MR. GALMORE: Please excuse the juror in the trial
4 of this case.

5 THE CLERK: You're excused from this particular
6 case. 193, Christopher Jordan. What say the State?

7 MS. ANDREW: Please present the juror.

8 THE CLERK: Defense?

9 MR. GALMORE: Please seat the juror.

10 THE CLERK: Please be seated in our jury box. 26,
11 April Blockinger. What say the State?

12 MS. ANDREW: Please present the juror.

13 THE CLERK: Defense?

14 MR. GALMORE: Please seat the juror.

15 THE CLERK: Please be seated in our jury box.
16 324, Stephen Shaw. What say the State?

17 MS. ANDREW: Please present the juror.

18 THE CLERK: Defense?

19 MR. GALMORE: Please seat the juror.

20 THE CLERK: Please be seated in our jury box.
21 294, Jeffrey Raeburn.

22 MS. ANDREW: Please present the juror.

23 THE CLERK: Defense?

24 MR. GALMORE: Please seat the juror.

25 THE CLERK: Please be seated in our jury box.

1 120, Edna Erazo-Rivera.

2 MS. ANDREW: Please present the juror.

3 THE CLERK: Defense?

4 MR. GALMORE: Please seat the juror.

5 THE CLERK: Please be seated in our jury box. 37,

6 Christy Broughton.

7 MS. ANDREW: Please present the juror.

8 THE CLERK: Defense?

9 MR. GALMORE: Please excuse the juror in the trial
10 of this case.

11 THE CLERK: You're excused from this particular
12 case. 363, Kimberly Todd.

13 MS. ANDREW: Please present the juror.

14 THE CLERK: Defense?

15 MR. GALMORE: Please excuse the juror in the trial
16 of this case.

17 THE CLERK: You're excused from this particular
18 case. 205, Margaret Kirk.

19 MS. ANDREW: Please present the juror.

20 THE CLERK: Defense?

21 MR. GALMORE: Please excuse the juror in the trial
22 of this case.

23 THE CLERK: You're excused from this particular
24 case. 194, Ginri Jordan.

25 MS. ANDREW: Please present the juror.

1 THE CLERK: Defense?

2 MR. GALMORE: Please excuse the juror from the
3 trial of this case....

4 THE CLERK: You're excused from this particular
5 case. 376, Arlene Valentinsen.

6 JUROR #376: Correct.

7 THE CLERK: What say the State?

8 MS. ANDREW: Please present this juror.

9 THE CLERK: Defense?

10 MR. GALMORE: Please seat the juror.

11 THE CLERK: Please be seated in our jury box.
12 408, Gary Woodle.

13 MS. ANDREW: Please present the juror.

14 THE CLERK: Defense?

15 MR. GALMORE: Please seat the juror.

16 THE CLERK: Please be seated in our jury box.
17 226, Jeffrey Manphy?

18 JUROR #226: Yes.

19 MS. ANDREW: Please present this juror.

20 THE CLERK: Defense?

21 MR. GALMORE: Please seat the juror.

22 THE CLERK: Please be seated in our jury box.
23 387, Christopher Ward.

24 MS. ANDREW: Please present this juror.

25 THE CLERK: Defense?

1 MR. GALMORE: Please seat the juror.

2 THE CLERK: Please be seated in our jury box.

3 299, Jessica Reidell. What say the State?

4 MS. ANDREW: Please present this juror.

5 THE CLERK: Defense?

6 MR. GALMORE: Please excuse the juror in the trial
7 of this case.

8 THE CLERK: You're excused from this particular
9 case. 282, James Peyton.

10 MS. ANDREW: Please present this juror.

11 THE CLERK: Defense?

12 MR. GALMORE: Please seat the juror.

13 THE CLERK: Please be seated in our jury box.

14 THE COURT: Alternate one.

15 THE CLERK: 285, Patrick Pickerell.

16 MS. ANDREW: Please excuse the juror from this
17 case.

18 THE CLERK: You're excused from this particular
19 case. 385, Benjamin Walker.

20 MS. ANDREW: Please present this juror.

21 THE CLERK: Defense?

22 MR. GALMORE: Please seat the juror.

23 THE CLERK: Please be seated in our jury box.

24 THE COURT: Thank you, madam clerk. Any matters
25 concerning jury selection by the State?

1 MS. ANDREW: Nothing from the State, Your Honor.

2 THE COURT: From the Defendant?

3 MR. GALMORE: No, sir.

4 THE COURT: Thank you, counsel. All right. Y'all
5 straighten me out now if I misdirect them about our
6 timing. Ladies and gentlemen of the jury, I have
7 several things I need to talk with you about, then I'll
8 be back with the panel that's out here. We will not
9 start this case today. I have other matters that are
10 scheduled for this afternoon, and it's almost 1 o'clock
11 now. So we need you to report back in the morning,
12 back at the courthouse, at 9:30. Mr. Bailiff, he's
13 going to take you and show you the room that you will
14 need to report to and give you reporting instructions.

15 Before I let you go, I need to inform you of
16 certain things that we have to talk to you about. Do
17 not allow anybody to contact you in any form or fashion
18 and communicate with you about this case. There are
19 all kinds of ways that that could be attempted. Could
20 be in person, it could be through third parties, it
21 could be by telephone, it could be by internet,
22 numerous ways out there. Do not allow anybody to
23 communicate with you about this case.

24 Do not do any independent research on this case.
25 This case is to be tried on the evidence that's

1 presented to you in court and not on anything
2 extraneous, okay.

3 Please if you bring a cell phone to the Court,
4 follow the rules that the Horry County court has
5 established for that. I'll let Mr. Bailiff explain
6 that to you. Some of the counties take them up during
7 the actual trial, others will allow you to keep them as
8 long as you keep them on silent or turned off. I don't
9 know their policy here, so if you will cover that with
10 them, Mr. Bailiff.

11 We need to promptly report in the morning. And I
12 understand the traffic problems and the patterns you
13 have here. So try your best to leave a little bit
14 early, and let's make sure we get here on time if at
15 all possible. All right. I've already discussed with
16 you about Wednesday. If the case goes on into the
17 week, Wednesday is a holiday, so we will not be holding
18 court on Wednesday. So you can make your plans
19 accordingly; all right?

20 Anybody got any questions concerning our timing?
21 All right. This panel is dismissed. Mr. Bailiff, he
22 will show you what we have for our facilities and where
23 you will report. If y'all will follow him out.

24 I'm just informed by madam clerk, if you'll come
25 on in a little early, they will have some breakfast for

1 you.

2 MR. GALMORE: Your Honor, what time is the jury
3 supposed to report back here?

4 THE COURT: 9:30. 9:30. Thank you.

5 (WHEREUPON, the jury exited the courtroom at
6 12:55 p.m.)

7 THE COURT: All right. To the panel, thank you
8 very much for coming and being willing to take part
9 here. Unless I am correct, the sheriff, they need them
10 back downstairs for that third panel. So if y'all will
11 report back downstairs, hopefully they will have you
12 out of here in a few minutes.

13 (WHEREUPON, the remainder of the jury pool exited
14 the courtroom at 12:55 p.m.)

15 THE COURT: All right. Counsel, what time y'all
16 want to fire back up, about 2:15, or do you need a
17 little longer?

18 MS. ANDREW: That's fine with us, Your Honor.

19 THE COURT: Mr. Galmore?

20 MR. GALMORE: That's fine, sir.

21 THE COURT: All right. We'll meet back about
22 2:15. Everybody enjoy your lunch.

23 (WHEREUPON, a brief recess was taken at
24 12:56 p.m.)

25 (The hearing commenced at approximately 2:28 p.m.)

1 MS. ANDREW: Your Honor, we're here on the State
2 versus Angel Luis Sanchez, Jr. It's Indictment No.
3 2016-GS-26-04080. The State would like to make a
4 motion to admit the Children's Recovery Center audio
5 videotaped interview with the victim, Complaining Witness .
6 And we're prepared to offer witness testimony and play
7 the video for you.

8 MR. GALMORE: We would object to the introduction
9 of the video. But I understand the standard, we're
10 prepared to go forward with the hearing.

11 THE COURT: Okay. You may proceed.

12 MS. ANDREW: Thank you. The State calls Haydee
13 Sencion.

14 HAYDEE SENCION, after being duly sworn, testified
15 as follows:

16 THE CLERK: Please state your full name for the
17 Court, and spell your first and last name.

18 THE WITNESS: Haydee Sencion, H-A-Y-D-E-E,
19 S-E-N-C-I-O-N.

20 DIRECT EXAMINATION

21 BY MS. ANDREW:

22 Q Ms. Sencion, where did you work in May 2016?

23 A Children's Recovery Center.

24 Q And where is the Children's Recovery Center
25 located?

HAYDEE SENCION-DIRECT BY MS. ANDREW

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1 A Myrtle Beach.

2 Q What is the Children's Recovery Center?

3 A It is the child advocacy center for Horry County.

4 And basically what we do is we help investigating
5 agencies find out details to allegations of abuse.

6 Q So how do you do that?

7 A We do that by questioning the child through a
8 protocol known as RATAC.

9 Q Um-hum. And does the Children's Recovery Center
10 have any accreditations or certifications that you're
11 aware of?

12 A It's accredited through the National Children's
13 Alliance.

14 Q Okay. What is your position there?

15 A I'm a forensic interviewer.

16 Q And what does being a forensic interviewer entail?

17 A Basically when the allegation is made, I interview
18 the child based on the allegations.

19 Q Okay. And what sort of education did you receive
20 to be a forensic interviewer?

21 A I was trained through what was known as Child
22 First using the RATAC protocol.

23 Q Okay.

24 A The RATAC protocol is basically how we interview
25 children. It's a pneumatic device, R being rapport

1 building, A is for anatomy identification, T is for
2 touch inquiry, the next A is for abuse scenario, and
3 the last is C for conclusion, or ending the interview.

4 Q Okay. Could you describe just very briefly how
5 the interview takes place. From start to finish, what
6 you do, how you bring the child in.

7 A Well, the case is referred by usually law
8 enforcement. And the child comes in. There's an
9 intake process that takes place. After the intake is
10 done I review the file. Then I walk out to the waiting
11 room, I introduce myself, I take the child back to our
12 interview room. The child and myself sit in an
13 interview room, and we go through the RATAC protocol.

14 Q Okay. And how long have you been a forensic
15 interviewer?

16 A Four years.

17 Q And in your four years as a forensic interviewer,
18 how many children have you interviewed approximately?

19 A A little over 500.

20 Q Okay. Did you have a chance to conduct an
21 interview with the victim in this case, [REDACTED]

22 [REDACTED]?

23 A I did.

24 Q And at the time of the interview do you know how
25 old Complainant Witness was?

HAYDEE SENCION-DIRECT BY MS. ANDREW

1 A Eight years old.

2 Q How did you come to interview ^{Complaining Witness}?

3 A She was referred over by law enforcement.

4 Detective King Hemingway had referred her over.

5 Q Okay. Where did that interview take place?

6 A In the Myrtle Beach office.

7 Q Who was present at the interview in the interview
8 room?

9 A Myself and ^{Complaining Witness}.

10 Q Okay. What if any equipment did you use to
11 preserve the interview?

12 A The interview was audio and video recorded.

13 Q Okay. Which of the techniques that you discussed
14 earlier did you use in the interview with ^{Complaining Witness}

15

16 A We went through the RATAC protocol, the rapport
17 building, anatomy identification and touch inquiry,
18 abuse scenario and conclusion.

19 Q Okay. When you asked her questions, what type of
20 questions did you ask?

21 A Nonleading questions.

22 Q Was ^{Complaining Witness} able to provide details of the
23 alleged sexual abuse during the interview?

24 A She was.

25 Q And what detail -- did the detail she provided

1 appear to be consistent?

2 A Yes.

3 Q Did they appear to be logically connected?

4 A Yes.

5 Q Did it appear to be an internally consistent
6 statement?

7 A Yes.

8 Q Was her statement recorded that day?

9 A It was.

10 Q Okay. Let me show you what's been marked as
11 States Exhibit A. I've showed you this previously. Is
12 this an audio video recording of the interview that you
13 conducted with ^{Complaining Witness}?

14 A Yes.

15 Q Thank you. Have you had a chance to review it
16 prior to coming to court?

17 A Yes.

18 Q And does it appear to be a fair and accurate
19 representation of what took place that day?

20 A Yes.

21 Q Okay. To your knowledge, have any additions or
22 deletions been done to this video?

23 A Just the opening and the ending.

24 Q Okay.

25 MS. ANDREW: Your Honor, we would like to tender

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1 the CRC interview for the Court to review to determine
2 if it's admissible.

3 THE COURT: All right. Any questions up to this
4 point, Mr. Galmore?

5 MR. GALMORE: No, sir.

6 THE COURT: All right.

7 (WHEREUPON, the video was played at 2:34 p.m.)

8 MS. ANDREW: That's the end, Your Honor. I'd like
9 to put on the record that this version is a redacted
10 copy that was redacted by the solicitor's office. We
11 redacted the victim's birthday, and that's at 9:49 and
12 35 seconds to 9:39 and 38 seconds. We redacted talk
13 about the truth room, that is from 9:57 and 23 seconds
14 to 9:57 and 51 seconds.

15 We redacted talk from the forensic interview about
16 what is real and what is not. That's from 10 o'clock
17 and 2 seconds to 10 o'clock and 10 seconds. And we
18 redacted the part where the forensic interviewer told
19 the alleged victim about people touching her private
20 parts, and that's from 10 o'clock and -- 10:48 and 41
21 seconds to 10:50 and 10 seconds. And we've provided a
22 copy of this redacted version to the Defense prior to
23 trial.

24 MR. GALMORE: Yes, sir, that's correct.

25 MS. ANDREW: We would like to admit the video at

1 trial. The child victim is going to testify and be
2 available for cross-examination.

3 THE COURT: You've got your objection. Anything
4 you would like to add?

5 MR. GALMORE: Well, Your Honor, I know that the
6 State is looking at South Carolina Code 17-23-170. And
7 my concern has to do with the, number one, leading
8 questions, and also whether or not the statement that's
9 given by ^{Complaining Witness} is internally coherent.

10 The Court has heard the statement for itself. I
11 don't think any questions to Ms. Sencion would add
12 anything to those issues. But the questions appear to
13 me to be leading questions. The statement that
14 ^{Complaining Witness} gave did not seem to be consistent and
15 coherent throughout the one-hour interview.

16 MS. ANDREW: Your Honor, the State would argue
17 that the statement was not elicited by leading
18 questions. Occasionally the forensic interviewer would
19 repeat what the child said, but for the most part they
20 were very open-ended questions. The majority of what
21 was stated on the video came from the child herself, it
22 was her testimony.

23 The interview was conducted by a trained
24 interviewer. There is internal consistence, the child
25 tells a pretty consistent story about what happened,

HAYDEE SENCION-DIRECT BY MS. ANDREW

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1 she gives very consistent details. And as I said,
2 she's going to be available for cross-examination at
3 trial.

4 THE COURT: Okay. I don't see any problem with
5 the -- I did catch a couple leading questions, but
6 really they didn't -- they weren't to the heart of the
7 issue in this matter. So I didn't have any real
8 concern about the couple I heard.

9 But it pretty well speaks for itself. I mean, I
10 could understand most everything that was said, and
11 seems to be pretty straightforward, nothing really
12 unusual about it. Some serious allegations there. All
13 right. Counsel, let's go back to chambers and let's
14 talk a little bit.

15 MR. GALMORE: Yes, Your Honor.

16 THE COURT: Court stands at ease for a few
17 minutes.

18 (WHEREUPON, a brief recess was taken at 3:38 p.m.)

19 MR. GALMORE: Your Honor, I think we need to go
20 ahead and do the Jackson v. Denno whenever we can get
21 it scheduled. We're not going to be able to work out
22 any kind of plea.

23 THE COURT: Okay. I tell you what I just thought
24 about, though. Why can't we go ahead and do a few
25 minutes and stop. We can do that and complete it in

KENT E. HEMINGWAY-DIRECT BY MR. HOLFORD

1 the morning. That way we won't be holding the jury too
2 long.

3 MR. HOLFORD: Yes, Your Honor.

4 THE COURT: Okay.

5 MS. ANDREW: Your Honor, we still have the witness
6 for the CRC video. I'd just like to ask the Court to
7 make a finding on the record that it met the statutory
8 requirements for admission and --

9 THE COURT: I so find.

10 MS. ANDREW: Thank you, Your Honor.

11 (Witness excused.)

12 MR. HOLFORD: Your Honor, the State calls
13 Detective Kent Hemingway.

14 KENT EDWARD HEMINGWAY, after being duly sworn,
15 testified as follows:

16 THE CLERK: If you'll state your full name, and
17 spell your first and last name for the Court.

18 THE WITNESS: Kent Edward Hemingway.. First name,
19 K-I-N-G, last name H-E-M-I-N-G-W-A-Y.

20 DIRECT EXAMINATION

21 BY MR. HOLFORD:

22 Q Detective Hemingway, where are you employed?

23 A Horry County Police Department.

24 Q And how long have you been with Horry County?

25 A Fourteen years.

KENT E. HEMINGWAY-DIRECT BY MR. HOLFORD

1 Q How long have you been a detective there?

2 A Going on three years.

3 Q And have you been involved in interviewing
4 suspects?

5 A I have.

6 Q Did you interview the Defendant in this case?

7 A I did.

8 Q Did you provide -- well, tell me about that. Did
9 you respond to him directly?

10 A No, I did not. I responded to the victim first.
11 And then after interviewing the victim, I then located
12 Mr. Sanchez and interviewed him.

13 Q How long after the victim had told you what
14 happened did you interview Mr. Sanchez?

15 A Within hours.

16 Q Okay. And where did you interview him?

17 A At the Horry County Police Department.

18 Q Was he in custody, had you arrested him at that
19 time?

20 A He was detained.

21 Q Did you have arrest warrants prepared?

22 A I did not.

23 Q Was he a suspect at that time?

24 A He was.

25 Q And did you question him about his involvement?

1 A I did.

2 Q Did you provide a written advisement of his
3 Miranda rights?

4 A I did.

5 Q And would you recognize a copy of these rights if
6 I showed them to you?

7 A Yes, sir.

8 Q Going over Miranda with him, did you explain each
9 of the requirements?

10 A I did.

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

13 MR. HOLFORD: I'll pause because I've asked the
14 court reporter to mark it for me.

15 Q I'm going to hand you --

16 MR. HOLFORD: May I approach, Your Honor?

17 THE COURT: Sure.

18 Q I'm going to hand you what's been marked as
19 State's Exhibit 1 for ID. Can you identify what that
20 is.

21 A This is the advisement of his Miranda rights that
22 I did before I conducted an interview with Mr. Sanchez.

23 Q And did you sign this form?

24 A I did.

25 Q And did the Defendant sign this form?

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1 A He did, printed and signature.

2 MR. HOLFORD: Your Honor, the State would seek to
3 introduce State's-1 in evidence for this hearing.

4 MR. GALMORE: No objection, sir.

5 THE COURT: Without objection.

6 (WHEREUPON, State's Exhibit No. 1 was admitted in
7 evidence.)

8 Q And included in these Miranda rights, does it
9 include all of the basic Miranda rights?

10 A It does.

11 Q And did the Defendant say that he understood these
12 rights?

13 A He did.

14 Q Did he ever stop you at any time?

15 A No, sir, he did not.

16 Q How long was he in custody before you actually
17 started to interview him?

18 A I would say 15 minutes.

19 Q Was he deprived of water or food?

20 A No, sir, he was not.

21 Q Did you threaten him or force him or coerce him to
22 give any statements?

23 A No, sir, I did not.

24 Q Did you promise him anything for his statements?

25 A No, sir, I did not.

1 Q Did you use routine police tactics in eliciting a
2 statement from him?

3 A No, sir, I did not.

4 Q Did you ask him basic questions?

5 A I did.

6 Q And did he eventually give you a statement?

7 A He did.

8 Q Was this statement audio and video recorded?

9 A Yes, sir, it was.

10 Q And would you recognize a CD of the interview if I
11 showed it to you?

12 A Yes, sir.

13 MR. HOLFORD: Can I have this one marked as 2.

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

16 Q Detective, I'm handing you what's been marked as
17 State's-2 for ID. Can you identify what that is for
18 us?

19 A Yes, sir, I can.

20 Q And what is it?

21 A That is a CD that I had given to the solicitor's
22 office with the audio and video interview with
23 Mr. Sanchez took place at the police department.

24 Q Have you reviewed that interview after it was
25 recorded?

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1 A I did.

2 Q Is that a true and accurate copy of what took
3 place in that interview room?

4 A Yes, sir, it is.

5 Q Did you make any additions or deletions or edit
6 the video in any way?

7 A No, sir, I did not.

8 Q And it reflects what the Defendant told you that
9 day?

10 A Yes, sir, it does.

11 Q Video and audio?

12 A Video and audio.

13 MR. HOLFORD: Your Honor, the State would seek to
14 introduce State's-2 in evidence for this hearing.

15 MR. GALMORE: No objection, sir.

16 THE COURT: Admitted without objection.

17 MR. HOLFORD: Thank you.

18 (WHEREUPON, State's Exhibit No. 2 was admitted in
19 evidence.)

20 MR. HOLFORD: Your Honor, permission to publish to
21 the Court.

22 (WHEREUPON, the video was played at 4:09 p.m.)

23 Q All right. What just came up on the screen, is
24 this the interview room?

25 A Yes, sir, it is.

1 Q And is that you on the video?

2 A That is.

3 Q And who else is in the video?

4 A Mr. Sanchez and Officer Bradley Baker.

5 Q And what's the time and date stamp right here?

6 A It is April the 16, 2016 at 12:57 a.m.

7 Q And is this when he first came into the interview
8 room?

9 A Yes, sir, it is.

10 Q Had you talked to him beforehand?

11 A No, sir.

12 (WHEREUPON, the video resumed playing at
13 4:10 p.m.)

14 Q The time stamp on it now, can you see that?

15 A It is 1:03:21 seconds a.m. on April the 16, 2016.

16 Q Okay. And so that was approximately five minutes
17 and 53 seconds of the interview?

18 A Yes, sir.

19 Q And is there a second portion?

20 A There is.

21 Q All right. And what is the time stamp on the
22 beginning of this second portion?

23 A 1:03:22 seconds a.m.

24 Q Okay. So that starts the next second?

25 A Yes, sir.

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1 Q So there's nothing that was cut out in the middle
2 of it?

3 A Nothing cut out.

4 Q Okay. It just came in two forms?

5 A Yes, sir.

6 Q Two file sizes?

7 A That's the way the camera system divides videos.

8 Q Okay. And is the remainder of the interview on
9 this file?

10 A Yes, sir, it is.

11 (WHEREUPON, the video resumed playing at
12 4:17 p.m.)

13 THE COURT: Let's stop it here and complete it in
14 the morning.

15 Q Detective Hemingway, did we stop it on 4/16/2016,
16 Saturday, 01:19:10 seconds?

17 A Yes, sir. I believe it was Sunday.

18 Q Okay. But 4/16/2016, 01:19 and 10 seconds?

19 A Yes, sir.

20 Q Okay. And there is still some left, but we'll
21 resume in the morning.

22 A Okay.

23 THE COURT: All right. I think it will be safe to
24 start at 9:30, give the jury a little time to get here.

25 All right, see you at 9:30.

1 (The hearing adjourned at approximately 4:34 p.m.)

2 (The hearing resumed on Tuesday, May 9th, 2017, at
3 approximately 9:34 a.m.)

4 THE COURT: Okay.

5 MR. HOLFORD: Good morning, Your Honor. We're
6 back on the record for 2016-GS-26-04080, the State v.
7 Angel Sanchez. This is a Jackson v. Denno hearing.
8 James Galmore, Defense counsel, is present.
9 Mr. Sanchez is not present. I believe the Defense is
10 waiving his presence this morning.

11 MR. GALMORE: That's correct, Your Honor.

12 THE COURT: He's en route?

13 MR. HOLFORD: Just for the remainder of the
14 Defendant's statement.

15 THE COURT: Right. In fact, he's here.

16 Good morning.

17 THE DEFENDANT: Good morning, good morning, sir.
18 Sorry I'm late.

19 THE COURT: Oh, you're fine. Your attorney
20 explained to me what happened. We're going to go ahead
21 and finish this video while the jury is coming in.

22 MR. HOLFORD: Okay. Detective Hemingway. I
23 believe Detective Hemingway is still under oath.

24 THE COURT: He is.

25 MR. HOLFORD: May I approach, Your Honor.

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1 KENT E. HEMINGWAY, after previously being duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION (continued)

4 BY MR. HOLFORD:

5 Q Detective, can you identify what I'm handing you.

6 A This is the CD that I submitted to the solicitor's
7 office that has the interview with Mr. Angel Sanchez.

8 Q Okay. And this is State's Exhibit 2?

9 A Yes.

10 Q And this is what we were in the middle of watching
11 yesterday?

12 A Yes, sir.

13 Q Okay. I believe we left off maybe a minute or so
14 after 01:18:30. I'm just going to start it there.

15 THE COURT: Hold up just a minute. I need to
16 speak with you. Come around.

17 (Discussion off the record.)

18 Q Detective Hemingway, on the screen, what's the
19 timestamp now?

20 A It is 01:18:30 a.m.

21 Q Okay.

22 (WHEREUPON, the video was played at 9:40 a.m.)

23 Q Detective Hemingway, at 1:29:45, what did you just
24 do in the video?

25 A Left the room.

1 Q And who's in the room now?

2 A Mr. Angel Sanchez.

3 Q Anyone else?

4 A No, sir.

5 (WHEREUPON, the video resumed playing at 9:51
6 a.m.)

7 Q At 1:38:05, did you come back in the room?

8 A Yes, I did.

9 (WHEREUPON, the video resumed playing at
10 9:59 a.m.)

11 Q All right. Detective Hemingway, it's 01:44:13.

12 Is that the entirety of your conversation with the
13 Defendant?

14 A Yes, it was.

15 Q Have you both exited the room at this point?

16 A Yes, sir, we did.

17 Q And the tape actually stops at what time?

18 A 1:44:19 seconds.

19 MR. HOLFORD: Your Honor, I have no further
20 questions at this time.

21 THE COURT: Okay.

22 CROSS-EXAMINATION

23 BY MR. GALMORE:

24 Q Mr. King, just to have an understanding of what

25 happened here, you interviewed Mr. Sanchez starting at

KENT E. HEMINGWAY-CROSS BY MR. GALMORE

75

1 what time?

2 A I don't remember the exact time.

3 Q Okay. When you interviewed him, you went over the
4 Miranda form with him; is that correct?

5 A Yes, sir, I did.

6 Q And you asked about any drug use?

7 A Yes, sir.

8 Q And he indicated that there was no drug use?

9 A Yes, sir.

10 Q He indicated that there was no alcohol use?

11 A Yes, sir.

12 Q He indicated that he had a high school education?

13 A Yes, sir.

14 Q Did you explain to him that he had a right to stop
15 questioning at any time?

16 A Yes, sir, I did.

17 Q All right. And he appeared to understand that?

18 A Yes, sir.

19 Q Now, he didn't have to give his tape recorded
20 statement; did he?

21 A No, sir, he did not.

22 Q And whether or not he gave a statement that night,
23 he would have been detained; is that correct?

24 A Yes, sir.

25 Q And he would have been arrested and charged?

1 A Yes, sir.

2 Q So from the beginning of the tape, you knew that
3 he was a suspect and that he would be arrested and
4 charged as a Defendant in this case?

5 A I knew allegations were made. And the allegations
6 that were made would allow me probable cause to arrest
7 him.

8 Q So you knew that you had probable cause to arrest
9 him?

10 A I knew the allegations was made which would allow
11 me to have probable cause for an arrest.

12 Q Going into the interview, you knew that you were
13 going to arrest Angel Sanchez?

14 A Yes.

15 Q Did you ever tell him he would be arrested if he
16 didn't give a statement?

17 A No, sir, I did not.

18 Q You didn't tell him that he was going to be
19 arrested regardless of what statement he gave?

20 A No, sir, I did not.

21 MR. GALMORE: I don't have any further questions
22 for Detective Hemingway. Thank you.

23 MR. HOLFORD: No further questions, Your Honor. I
24 ask that the witness be excused for the purpose of this
25 hearing.

1 THE COURT: Step down.

2 (Witness excused.)

3 MR. GALMORE: Your Honor, we would move to
4 suppress the statement given. We would submit that it
5 was not knowingly and voluntarily given to the
6 detective. I think the statement indicates that it was
7 given at 1 a.m. Mr. Sanchez says on the tape that he
8 was at home asleep at the time.

9 Your Honor, you just heard from Detective King,
10 regardless of what was said on the statement,
11 regardless of whether he gave a statement or not, he
12 was going to be charged. Under those circumstances,
13 Your Honor, we think the police were not acting in a
14 forthright fashion. And I believe that he was coerced
15 into giving that statement with the impression that he
16 would not be charged, although testimony is that he was
17 going to be charged regardless.

18 THE COURT: Solicitor?

19 MR. HOLFORD: Yes, Your Honor. The detective met
20 with the Defendant the same -- well, it ended up being
21 the next day, but the same night as the crime occurred.
22 A long period of time had not taken place. The
23 Defendant was not in custody for a long period of time.
24 He was not deprived of food or drink. He was not
25 punished, he was not threatened, he was not promised

1 anything.

2 Miranda rights were provided both in written form
3 and audibly. The Defendant said that he understood his
4 rights. He signed that he understood his rights, and
5 he signed that he wished to waive the right to remain
6 silent. The State would argue that his statements to
7 law enforcement were knowing and voluntary and would
8 satisfy all of the requirements of Jackson v. Denno,
9 Your Honor, to be a knowing and voluntary waiver of his
10 rights in providing a statement.

11 We would ask that this statement be allowed, that
12 the Defendant's statement be ruled knowing and
13 voluntary.

14 THE COURT: Well, I watched all of it there. I
15 didn't see any undue duress or coercion. Pretty
16 straightforward interview and statement given there. I
17 don't see any problem with it. I find that it was
18 freely, voluntarily and, obvious to me, it was quite
19 intelligently the statement was given. And I find no
20 duress or undue coercion. So therefore, I'll overrule
21 your motion, Mr. Galmore. It can come in if the State
22 wants it to come in.

23 MR. GALMORE: Yes, sir, thank you.

24 MR. HOLFORD: Thank you, Your Honor.

25 THE COURT: Anything else before the jury?

1 MS. ANDREW: Your Honor, the State just has one
2 matter. Once the jury is sworn the Defendant's bond
3 will be extinguished. We ask that he remain in the
4 custody of the State today during the pendency of the
5 trial. We should be done by Thursday, so it should
6 just be a couple of days.

7 THE COURT: Okay.

8 MS. ANDREW: Thank you, Your Honor.

9 THE COURT: All right. Y'all need a minute or
10 two, or are you ready?

11 MS. ANDREW: We need a minute to get the TV ready.

12 THE COURT: All right. Court will stand at ease a
13 few minutes.

14 MS. ANDREW: Thank you.

15 MR. HOLFORD: Your Honor, I think the only other
16 matter is sequestration of witnesses.

17 MR. GALMORE: Yes, Your Honor, we would move to
18 sequester witnesses.

19 THE COURT: Okay. Both sides will take care of
20 their duties as to that.

21 MR. HOLFORD: And Detective Hemingway is the lead
22 detective. The victim in this case is a minor child,
23 so she'll only really be here when she's testifying.

24 THE COURT: Okay.

25 MR. HOLFORD: Thank you, Your Honor.

1 THE COURT: Thank you.

2 (WHEREUPON, a brief recess was taken at
3 10:12 a.m.)

4 (WHEREUPON, the jury came into open court at
5 approximately 10:17 a.m.)

6 THE COURT: Good morning, thank you for your
7 patience this morning. I gave you a little time for
8 breakfast, and we had some matters of law we had to
9 take care of. And I'm going to explain how that works
10 in the trial about your duties and my duties.

11 Before we get started we got to put you under
12 oath. And Susan Waller. Ms. Waller, you were the
13 first one drawn, so I am going to appoint you as
14 forelady of the jury. You can keep that seat for now,
15 but whenever we take a recess and come back, the
16 bailiff will show you your seat. Madam clerk.

17 (WHEREUPON, all jurors were duly sworn.)

18 THE COURT: Thank you, madam clerk. I just have a
19 few opening remarks to make to you to let you know how
20 we're going to proceed. First of all, when I conclude
21 my remarks to you, the State may open with an opening
22 statement followed by the Defense. The reason the
23 State will open first is they have the burden of proof
24 in this case.

25 As most of you probably know, the burden of proof

1 is on the State to prove guilt of the Defendant beyond
2 a reasonable doubt. That's a standard burden across
3 our United States, every state has that requirement in
4 the criminal court.

5 After opening statements will come the time that
6 you will receive the evidence. You as jurors are
7 charged with listening to that evidence and listening
8 to the facts because you are the finders of the facts
9 in the case. The judge does not get involved or have
10 any say or opinion about the facts in the case. A
11 judge in South Carolina is the judge of the law.

12 So the end result of any case, of course, is to
13 reach a verdict. Simply stated, it can be said that
14 you, the jury, find the facts, apply those facts to the
15 law that the judge will charge to you at the conclusion
16 of the case and thus reach a verdict. Evidence may
17 take many different forms. It may be testimony from
18 the stand, it may be documents, physical type items.
19 Vast array of things can be evidence. It is crucial
20 that you listen and observe the evidence because of the
21 duty I just spoke with you about.

22 After the evidentiary portion of the case is
23 completed will come time for what we call closing
24 arguments. That's where both sides in the case will be
25 given ample opportunity to give a closing argument to

1 you to try to persuade you to see the case as they see
2 it.

3 Now, what the lawyers say is not necessarily
4 evidence. They may refer back to evidence, quote the
5 evidence or compare the evidence. But what they say is
6 not evidence. So you'd have to keep that perspective
7 on it. The case is to be decided on the evidence
8 that's presented to you during the evidentiary portion
9 of the case.

10 After that phase of the closing arguments will
11 come the time for me to charge you the law of the case.
12 Please do not deliberate this case until you are
13 instructed to. Do not even discuss this case amongst
14 yourselves until that time comes. Do not allow anybody
15 else to discuss this case with you.

16 Do not do any independent research on this case.
17 It is to be determined from the evidence presented in
18 court with the application of the law that the Court
19 will give to you. Once again, it is the burden of the
20 State of South Carolina to prove the guilt of this
21 Defendant, as a matter of fact, any Defendant, guilty
22 beyond a reasonable doubt.

23 A Defendant comes in to the Court with a
24 presumption of innocence. A Defendant does not have to
25 prove anything to you. That presumption of innocence

1 would stay with this Defendant or any other Defendant
2 in any other case until the case is determined by the
3 jury with a verdict of guilty. And that verdict of
4 guilty is when that presumption would end. So up until
5 that very point that a jury may possibly find a verdict
6 of guilty, a Defendant, all defendants, are presumed
7 innocent.

8 So, once again, please pay attention. Don't fall
9 asleep on me. That happens from time to time,
10 especially after lunch. Some folks are used to taking
11 a nap after lunch, and it's easy to go out and have
12 lunch and come back and fall asleep, especially if it's
13 some type of testimony is lengthy. I can already tell
14 you there's going to be some evidence in here that's
15 going to take a little while to be presented to you.

16 All right. If you have any questions, they will
17 have to be written down. And I'm not saying it's
18 totally forbidden for a jury to ask any questions, but
19 the proper way and the normal way the questions would
20 come is after you are asked to deliberate. Because to
21 allow questions to be posed during an actual trial can
22 cause some disruptive factors to come into play. And
23 we just don't normally have that.

24 One other thing jurors ask about before we get
25 started with the actual trial, about taking notes.

1 Some judges don't want you taking notes. I don't care
2 about that. But if you do keep notes, you got to keep
3 them to yourself, you can't be sharing them with
4 anybody else.

5 Personally, if I were on a jury, I wouldn't keep
6 notes because I can remember back from my college days,
7 you had to be real careful about taking notes because
8 the professor would be up there spewing out his lecture
9 to you, and you'd be there writing down something that
10 you think you might ought to remember for the exam
11 later on. And while my mind was locked in on getting
12 that written down, he says something else important,
13 and I would miss it.

14 So, but people are different. I can watch TV, and
15 if there's anything else going on it causes a
16 disruption with me. But my wife can sit there and
17 watch three TVs at one time and comprehend everything
18 that's being said. So our brains work differently when
19 it comes to that. But personally I wouldn't keep
20 notes, but that will be up to you, okay.

21 All right. If you'll be patient with us,
22 remember, please, don't fall asleep on me. Let the
23 bailiff know or get my attention and we'll get some
24 coffee or Coca Cola or something with a little caffeine
25 and try to move on from there. We'll try to take a

1 break every hour or so, and of course we will keep
2 business hours.

3 When I first went on the bench 26 years ago, we
4 started a case, we may run to eight or 9 o'clock at
5 night. And it was causing disruptions with the Court
6 staff, they have family, jurors have family. So
7 finally, the chief justice at that time said, look,
8 don't go past five or 5:30, it's causing too much
9 disruption.

10 Things have changed over the years. It used to be
11 25 years ago once you were given a case to determine to
12 deliberate, you had to stay there until a verdict was
13 reached. I remember one time over in Darlington, I
14 spent the night in the courthouse and got a verdict at
15 7 o'clock in the morning. Well, the rules have changed
16 thankfully to where, you know, you can take a break
17 overnight and come back and resume deliberations.

18 So anyway, that's how we plan to proceed. Y'all
19 pay attention to the attorneys, I'm going to turn it
20 over for them to begin the case. Solicitor.

21 MS. ANDREW: Your Honor, we're here for State
22 versus Angel Luis Sanchez, it's Indictment No.
23 1016-GS-26-04080, criminal sexual conduct with a minor
24 in the first degree. May it please the Court.

25 THE COURT: Yes.

1 MS. ANDREW: Complaining Witness is nine years old.
2 She's in the third grade at [REDACTED] Elementary School.
3 She likes recess and lunch and doesn't like writing
4 because it makes her hand hurt. She lives with her
5 mom, Ann, and her little brothers, Child Witness who's seven
6 and Allen who's five. You're going to meet Complaining Witness
7 today because she's the victim in this case.

8 She's a typical little girl. But today she's
9 going to do something that's not at all typical of
10 little girls. She's going to walk through those doors,
11 she's going to take this witness stand and she is going
12 to tell you what the Defendant, Angel Sanchez, did to
13 her last year.

14 You're going to hear Complaining Witness tell you that she
15 was out playing with her little brothers, Allen and
16 Child Witness, and the Defendant's daughter, Victoria, on
17 April 15th, 2016 of last year. Her mom's roommates had
18 moved out that day just a few hours earlier, and her
19 mom wasn't home from work yet. So she was home alone
20 with the Defendant, Angel Sanchez.

21 When she came in from outside, the Defendant took
22 her into her mommy's bedroom, and he talked to her.
23 And she'll say she felt happy. But then he asked her a
24 couple questions. He said, do you love me. How much.
25 And Complaining Witness said, a lot. And then he Defendant took

1 down his pants, and he put his private part in her
2 mouth.

3 Complaining Witness will tell you that that made her feel sad
4 and scared, she was shaking, that she was choking and
5 couldn't breathe. And when it was all over, she went
6 into the living room and covered up with her favorite
7 blanket and cried.

8 While all this was going on, the other children
9 were outside. Her little brother Child Witness who is seven
10 years old and in the first grade at [REDACTED] Elementary
11 School, was outside the room that day. I'm really
12 hoping that Child Witness is going to come into this courtroom
13 and sit on the witness stand like Complaining Witness and tell you
14 what happened..

15 But sitting on the witness stand and talking in
16 front of everyone here is a scary proposition for
17 adults, so for little kids it's extremely scary.. I
18 don't know if Child Witness will be able to talk to you or
19 not, but we're going to try. Just be patient with us
20 on that part, okay.

21 I do know that Complaining Witness mommy, Ann, is going to
22 come in and talk to you. She's going to tell you that
23 when she came home from work that day, that Complaining Witness
24 ran up and wanted to talk to her. But she had to use
25 the bathroom so we went into the bathroom. Complaining Witness

1 followed her in and started talking, and then she
2 couldn't hold it in any longer, she started crying.
3 And she told her mom what the Defendant had done to
4 her.

5 Now, Ann is going to tell you -- she can't tell
6 you what ^{Complaining Witness} said, our court rules prohibit that.
7 She can't say who ^{Complaining Witness} said did that to her. She
8 can only tell you the time and the place. But what she
9 can tell you is what she did as a result of what
10 ^{Complaining Witness} told her that day.

11 And what she did was take her to the hospital and
12 end her involvement with the Defendant, Angel Sanchez.
13 They had been in a romantic relationship, they had been
14 living together and raising their children together,
15 and they had even talked about getting married. But
16 after this day, Ann, ^{Complaining Witness} mommy, ended all
17 involvement with the Defendant and hasn't had any
18 involvement since then.

19 Likewise with the detective, Detective King
20 Hemingway with the Horry County Police Department who
21 also you'll also hear from today, he can't tell you
22 what ^{Complaining Witness} said to him, but he can tell you what he
23 did as a result of what she said. And what he did was
24 arrest the Defendant and charge him with criminal
25 sexual conduct with a minor in the first degree.

1 As the judge told you earlier, you, the jury, are
2 the finders of fact. You get to decide who to believe.
3 The Defendant's charged with criminal sexual conduct
4 with a minor in the first degree. What that means, in
5 order to be convicted of that crime, you'll have to
6 find that he committed a sexual battery with the victim
7 who's under 11 years old. I've already told you that
8 Complaining Witness is only nine. She was eight at the time of
9 the incident.

10 And so you'll have to find that he committed a
11 sexual battery. Now, you don't have to guess what a
12 sexual battery is. The legislature has defined the
13 sexual battery. One of the ways they define that is
14 fellatio, which as most adults know, is one person
15 putting their penis in the mouth of another person.
16 And that's what the Defendant did.

17 That's what Complaining Witness is going to walk in this
18 courtroom at nine years old and tell you he did. And
19 by doing that, she really is asking two things from
20 you. She's asking you to believe her and to give her
21 justice. And you guys can do that with one word,
22 guilty.

23 MR. GALMORE: May it please the Court.

24 THE COURT: Yes, sir.

25 MR. GALMORE: Today I would like to talk to you

1 for a few minutes about roles and responsibilities.
2 And the reason why I'm talking to you about that is
3 because everyone in this courtroom today has a role or
4 has a responsibility regarding this case..

5 Madam court reporter, her responsibility is to
6 take down a written transcript of everything that is
7 said in court today. So from yesterday morning during
8 your jury qualifications all the way up to the verdict
9 at the end of this case, madam court reporter will be
10 recording that information.

11 You've already met your bailiffs and deputies.
12 They have a very important responsibility in this trial
13 for this week. And their responsibility is your
14 safety, your security and your comfort. Hopefully
15 they've done that so far.

16 Everyone has a job here. The judge has a very
17 important job. We call him the judge of the law. And
18 that is a very particular term. What that means is he
19 will tell you what the law of the State of South
20 Carolina is. And you, ladies and gentlemen, you are
21 the judges of the facts. What that means is you are to
22 take the evidence that is presented to you or the lack
23 thereof, and apply it to the law that the judge has
24 given to you. And in doing so, that is how you reach
25 your verdict.

1 So let me try to give you a little bit of
2 assistance in your job as jurors. You heard yesterday
3 that we have two kinds of cases in South Carolina,
4 general sessions and common pleas. And general
5 sessions means criminal court and common pleas means
6 civil court. Well, each of these courts comes with a
7 different standard of proof. You've heard the judge
8 say the burden of proof is on the State of South
9 Carolina to prove the claims that they are making.

10 The standard of proof has been laid down by the
11 Courts. And that standard of proof is beyond a
12 reasonable doubt. That means that each and every one
13 of you has to be firmly convinced of the guilt of the
14 accused beyond a reasonable doubt.

15 Now, let me explain to you how beyond a reasonable
16 doubt works. Well, I'm a football fan, so I'd like to
17 talk to you in terms of football. Let's imagine that
18 this is your hundred-yard football field, goal to goal.
19 Now, in a civil case or common pleas case, the burden
20 of proof is by a greater weight or preponderance of the
21 evidence. What does that mean, what are you talking
22 about, James?

23 When you prove a case in civil court, you only
24 have to get up to that 50 yard line and then just one
25 foot across the 50. That is a preponderance or greater

1 weight of the evidence. You have probably seen it
2 before when you see the scales of justice, the blind
3 lady standing there with a scale in her hand. The
4 scales are being weighted, and whichever has the
5 greater weight of the evidence is the side that
6 prevails. That is for civil court. That's where you
7 sue people for money.

8 This is criminal court, this is general sessions
9 court. People go to prison. And in general sessions
10 court, you can't go up to the 50 yard line and stick
11 your toe across, that's insufficient. In general
12 sessions court the State must carry its burden beyond a
13 reasonable doubt. That means you have to go up here
14 (indicating), to that end zone, 99 and a half yards.

15 They don't to have score a touch done, ladies and
16 gentlemen, because that would be beyond all doubt. And
17 it would be ridiculous for me to say, the State has to
18 prove their case beyond every doubt. I can doubt the
19 sun's going to rise in the morning, but it has for like
20 4 billion years, so y'all will probably look at me and
21 say, James, that's an unreasonable doubt. That would
22 be the equivalent of having to score that touchdown.
23 And that's why I said the State's burden of proof does
24 not require proof beyond every doubt. It requires
25 proof beyond a reasonable doubt.

1 Now, criminal cases come in three categories, they
2 are real simple. And it goes like this. Number one,
3 it didn't happen; number two, it happened but it wasn't
4 me; number three, it happened, it was me, but wait, let
5 me explain.

6 This case, as you will see from the evidence,
7 falls into the first category, it didn't happen.
8 You're going to hear that it happened, you're going to
9 hear all kinds of details about what happened. But
10 when you're in that jury room at the end of this case
11 when all evidence has been presented, this case is
12 over, you'll still be asking yourself, did it ever
13 happen. I ask you only to keep an open mind. I ask
14 you to not rush to judgment.

15 Let me say it in the way that the old judges used
16 to say. You have no friends to reward and no enemies
17 to punish. Now, the State has started off early and
18 they are going to come back heavy with a whole bunch of
19 sympathy. Let's talk about Complaining Witness she is nine years
20 old and in the third grade. I understand that.

21 Let's talk about the facts of this case. When
22 this case is concluded, I am confident that you will
23 agree with me that nothing happened to Complaining Witness. And
24 because you have no friends to reward, no enemies to
25 punish, no sympathies to be drawn, just facts to be

1 examined, you should, I trust, return a verdict of not
2 guilty.

3 Now, this case is not going to take very long.
4 Perhaps today and perhaps we'll go into Thursday
5 because tomorrow is a holiday. But regardless of how
6 long the case is, regardless of what the charge is,
7 whoever -- regardless of whoever is on trial, the
8 important thing here, the thing that makes everything
9 work is your presence. We can't have trials without
10 jurors. And we know that it's an inconvenience for you
11 to have to take off of your day, take off of work,
12 interrupt your families and come down here.

13 But this is significant. And you all were chosen
14 specifically. We chose you because of your walks in
15 life, because of your background. Some of you are
16 married, some of you are single, some of you work
17 construction, some of you work stenography. That's
18 what we want, a mix of average, regular people to look
19 at this case and make a determination based on the law
20 as presented by the judge and based on the evidence as
21 presented by the prosecution.

22 Again, it's not going to take a very long time to
23 try this case, but it is an important case, we ask that
24 you pay attention. We ask that you keep an open mind,
25 we ask that you do not reach any conclusions until

Complaining Witness -DIRECT BY MS. ANDREW

1 you've heard all of the evidence. And when you have, I
2 submit to you that you will return a verdict of not
3 guilty. Thank you.

4 THE COURT: Thank you.

5 MS. ANDREW: The State would call its first
6 witness, Complaining Witness .

7 Complaining Witness , after being duly sworn, testified
8 as follows:

9 DIRECT EXAMINATION

10 BY MS. ANDREW:

11 Q Good morning.

12 A Good morning.

13 Q Would you please state your name for the record.

14 A Complaining Witness .

15 Q And what's your last name, [REDACTED] ?

16 A [REDACTED]

17 Q And how old are you?

18 A Nine.

19 Q What grade are you in?

20 A Third.

21 Q Where do you go to school?

22 A [REDACTED] Elementary.

23 Q Put the microphone closer.

24 THE COURT: Solicitor, if you could stand on this
25 side.

1 MS. ANDREW: Sorry.

2 Q Complaining Witness, where do you live?

3 A Aynor.

4 Q Aynor. And who do you live with in Aynor?

5 A Mommy and my brothers.

6 Q What are your brothers' names?

7 A Child Witness and Allen.

8 Q And how old is Child Witness?

9 A Child Witness is seven and Allen is five.

10 Q Do you like your brothers?

11 A They are the only people I can play with.

12 Q Okay. Complaining Witness, do you remember Angel Sanchez?

13 A (Nodding.)

14 Q Can you say yes or no.

15 A Yes, ma'am.

16 Q Thank you. Did he live with you?

17 A Used to.

18 Q He used to. Do you remember the last time you saw
19 him?

20 A Um-hum.

21 Q You do. Do you remember what you called Angel
22 when he lived with you?

23 A Yes, ma'am.

24 Q What did you call him?

25 A Daddy.

Complaining Witness -DIRECT BY MS. ANDREW

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1 Q And do you remember what his relationship with
2 your mommy was?

3 A (Shaking head.)

4 Q No. Do you remember, when Angel and your mommy
5 lived together did they get along?

6 A Um-hum.

7 Q Can you say yes or no.

8 A Yes.

9 Q Thank you. That's fine. The last time you saw
10 Angel, do you remember being alone with him?

11 A Um-hum.

12 Q Can you say yes, please.

13 A Yes, ma'am.

14 Q Okay, thank you. Can you tell me what you were
15 doing just before you were alone with Angel?

16 A We were playing in the playroom.

17 Q Um-hum. And then what happened?

18 A He said we had to talk.

19 Q Okay. And where did you go to talk?

20 A In the bedroom.

21 Q Whose bedroom did you go in?

22 A Mommy's.

23 Q And what happened when you got in the bedroom?

24 A He said we need to talk, and he turned around and
25 locked the door.

1 Q Okay. And what did you talk about in the bedroom?

2 A He sat down on the bed and he told me to sit
3 beside him. And he said, do you love me. And he said,
4 you're the oldest, you need to take care of the young
5 ones.

6 Q Okay. And what did he do after that?

7 A He -- he unloosened his belt and pulled his pants
8 down.

9 Q Okay. And after he pulled his pants down, what
10 did he do?

11 A He stuck his no-no in my mouth.

12 Q Okay. And how did you feel when he stuck his
13 no-no in your mouth?

14 A Sad.

15 Q Sad. Do you remember if he -- when he stopped?

16 A When he stopped, mommy was on the way home.

17 Q Where was your mommy before she came home?

18 A She was at work because she had to take Macho to
19 the doctor. And then she picked him up at his --
20 Angel's mom's house. And she came home.

21 Q Okay. And where were you when your mommy came
22 home?

23 A I was in the living room. And then when mommy
24 pulled up, me, Victoria, my brothers, and her brother,
25 we went outside.

Complaining Witness -DIRECT BY MS. ANDREW

1 Q Okay. And who's Victoria?

2 A His daughter.

3 Q And when you say his, do you mean Angel's
4 daughter?

5 A (Nodding.)

6 Q Okay. So when your mommy came home, what did you
7 do?

8 A She said she had to use the bathroom, so I
9 followed her and told her.

10 Q Okay. And when you say you followed her, did you
11 follow her into the bathroom?

12 A Me and Victoria.

13 Q Okay. And when you followed her to the bathroom,
14 what did you tell her?

15 A I told her everything that Angel said and
16 everything he did.

17 Q Okay. And what did your mommy do?

18 A She went in there and she talked to him. And then
19 they came out and they walked into the dining room, and
20 I went and I walked behind mommy.

21 Q You did?

22 A (Nodding.)

23 Q And do you remember what happened after that; did
24 Angel stay there?

25 A No. But he kept saying that that was a lie, that

1 was a lie. And it wasn't, because mommy said, I knew
2 my daughter wouldn't say anything like that.

3 Q Okay. And did your mommy make Angel leave that
4 night?

5 A No. He said, take me to my mom's house. So I
6 stayed. We all went to Ms. -- mommy drove us to
7 Ms. B's house, and we stayed there. And then she went
8 and she took him to his mom's house and came back to
9 pick me up to take me to the hospital. And the boys
10 got to spend the night at Ms. B's house.

11 Q And who's Ms. B?

12 A Robert's sister.

13 Q Is she a friend of your family?

14 A (Nodding.)

15 Q Can you say yes.

16 A Yes, ma'am.

17 Q Thank you, ^{Complaining Witness}. And at the hospital, did you
18 meet a detective?

19 A Yes, ma'am.

20 Q Do you remember the detective's name?

21 A No, ma'am.

22 Q Can you see him sitting in the courtroom today?

23 A Over -- I think over there, I'm not sure.

24 Q In the purple shirt?

25 A (Nodding.)

Complaining Witness -CROSS BY MR. GALMORE

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1 MS. ANDREW: Please let the record reflect that
2 Complaining Witness identified Detective King Hemingway.

3 Q Okay. Did you tell Detective Hemingway what
4 happened to you that night?

5 A Yes, ma'am.

6 Q Okay. When Angel was in the bedroom before he
7 came out, did he say anything to you?

8 A He said, don't tell mommy.

9 Q Okay. Do you remember how you felt after that
10 happened to you?

11 A I felt scared.

12 Q You did. Have you seen Angel since that day?

13 A Nu-uh.

14 Q Okay.

15 MS. ANDREW: Thank you, Complaining Witness. Would you
16 please answer any questions Mr. Galmore has for you;
17 okay?

18 THE WITNESS: Okay.

19 MS. ANDREW: Thank you.

20 CROSS-EXAMINATION

21 BY MR. GALMORE:

22 Q Hi, Complaining Witness. How are you today?

23 A Good.

24 Q My name is James. Can I ask you some questions?

25 A Yes, sir.

1 Q Okay. If I ask you any questions and you don't
2 know what I mean, you know how to say, I don't know?

3 A Yes, sir.

4 Q Okay. And if I ask you anything that maybe you
5 don't remember, you know how to say, I don't remember?

6 A Yes, sir.

7 Q Okay, all right. Now, I understand that Angel
8 used to be your mommy's boyfriend?

9 A (Nodding.)

10 Q Your mommy have other boyfriends?

11 A After, yeah.

12 Q Okay. Did Angel stay at the house with you all
13 sometimes?

14 A Yeah. When mommy leaved to go to work, him and
15 Taylor mommy let stay there until they found a house.

16 Q Who's Taylor?

17 A Mommy's friend.

18 Q Is that a girl or a boy?

19 A A girl.

20 Q Okay. She's mommy's roommate?

21 A (Nodding.)

22 Q Okay. Does Taylor have a boyfriend?

23 A He goes to work everyday, so he's barely there.

24 But he comes at night while we're asleep and goes,

25 takes his shower and goes to bed because he's at work

Complaining Witness -CROSS BY MR. GALMORE

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1 all day.

2 Q Oh, what's his name?

3 A I can't remember.

4 Q Okay. Well, so you say Angel stays over at the
5 house sometimes, and Taylor stays over there sometimes
6 too?

7 A (Nodding.)

8 Q Okay. Did Angel's little girl stay at the house
9 too?

10 A (Nodding.)

11 Q And what's her name?

12 A Victoria.

13 Q Okay. And Angel has a son too; is that right?

14 A Yes, sir.

15 Q And what's his son's name?

16 A Macho.

17 Q Macho. Did Macho stay at the house sometimes too?

18 A (Nodding.)

19 Q Did you ever stay at Angel's house?

20 A Oh, mommy got a house on [REDACTED], so we
21 all stayed there.

22 Q Okay, okay. You ever been to Angel's mommy's
23 house?

24 A Um-hum.

25 Q Okay. Did you ever stay over there sometimes?

1 A Yeah. When they go to work or something, they
2 drop us off at her house.

3 Q Okay. Now, did Angel used to cook for you?

4 A Um-hum, him and mommy and Taylor.

5 Q Okay. And what about the school bus, did he walk
6 you to the bus sometimes?

7 A In the morning, mommy, Taylor or someone sits on
8 the porch with us.

9 Q Right.

10 A And we wait for the bus, and then we walk to the
11 end of mommy's car and we wait on the bus.

12 Q Okay. And who waits for you to get off the bus?

13 A It's either Taylor or Angel. Because mommy's at
14 work, or sometimes she'll be there.

15 Q Okay. Now, I understand that Taylor doesn't stay
16 with you all anymore?

17 A Nu-uh.

18 Q Okay. Do you play with the little kids in the
19 neighborhood?

20 A We stay inside because the kids in the -- there's
21 barely any kids. But my friend Miley, she stays in the
22 house in front of us, but we don't go to her house.

23 Q Okay. You have any other kids that stay in the
24 neighborhood with you?

25 A April. But she stays way down the road.

Complaining Witness -CROSS BY MR. GALMORE

- 1 Q All right. Did Angel ever get mad at you?
- 2 A Sometimes.
- 3 Q Why would he get mad at you?
- 4 A Whenever me and Victoria would play, one of us
- 5 would get mad at each other and hit them.
- 6 Q Okay. Did Angel ever hit you?
- 7 A Nu-uh.
- 8 Q Like with a belt or anything?
- 9 A Nu-uh.
- 10 Q Did he ever hit you with a paddle?
- 11 A No.
- 12 Q Can I ask you about good touches and bad touches?
- 13 A (Shrugged shoulders.)
- 14 Q Do you know what a good touch is?
- 15 A (Shaking head.)
- 16 Q Like maybe a hug?
- 17 A (Nodding.)
- 18 Q Okay. Do you know what a bad touch is?
- 19 A When someone hits you.
- 20 Q Yes, when someone hits you. Did your mommy talk
- 21 to you about good touches and bad touches?
- 22 A Nu-uh.
- 23 Q Okay.
- 24 A But she'd sometimes say it's not good to hit
- 25 someone.

1 Q Okay. What are you supposed to do if someone
2 tries to hit you or do anything that is a bad touch?

3 A Go tell someone.

4 Q Okay, very good. And who are you supposed to go
5 tell?

6 A Mommy.

7 Q Okay. Is there anybody else you can tell?

8 A Nu-uh.

9 Q Can you tell your teacher?

10 A (Nodding.)

11 Q Can you tell your neighbors?

12 A (Shaking head.)

13 Q Okay. I think you said that you and your brothers
14 and Victoria were playing; is that right?

15 A And Macho.

16 Q And Macho?

17 A (Nodding.)

18 Q Where were y'all playing at?

19 A In the playroom.

20 Q Where's the playroom at?

21 A It's in my mommy carpet room, and the bedroom is
22 hard floor. And we sleep in the bedroom and the door
23 stays shut at night, the playroom door. And when we
24 wake up we open the door and all our toys would be in
25 there. Because we have -- the boys have cars and

Complaining Witness -CROSS BY MR. GALMORE

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1 stuff, so that's why we play, all of our toys in the
2 bedroom, so we don't scratch the floor.

3 Q So the playroom is different from the bedroom?

4 A It's carpet.

5 Q Okay. So the playroom has carpet, and the bedroom
6 doesn't have carpet?

7 A (Nodding.)

8 Q Who do you sleep in the bed with?

9 A Me and Victoria sleep on the top bunk because we
10 have bunk beds, and all the boys would sleep at the
11 bottom.

12 Q Which boys was that?

13 A My brothers and Macho.

14 Q Okay. And what about Mason?

15 A She moved in when Taylor moved out.

16 Q Okay. Did Mason sleep in the room too?

17 A He slept on the top bunk, and me and my brother
18 slept on the bottom.

19 Q Okay. And who is Mason's mommy?

20 A Amanda.

21 Q Okay. Do you know Mason's daddy?

22 A (Shaking head.)

23 Q Okay. Who is Amanda?

24 A Mommy's friend. She moved in and she was a
25 roommate, and she got Taylor's old room, it's beside

1 the bathroom. And there's mommy's room, then there's
2 our bathroom, and then there's another room. So that
3 was her room.

4 Q Okay. So Taylor used to stay there, and now
5 Amanda stays there?

6 A Used to. But now we stay with Robert.

7 Q Who stays with Robert?

8 A Me, mommy and my brothers now.

9 Q Oh, y'all stay with Robert now?

10 A (Nodding.)

11 Q Okay. Who is Ms. B?

12 A His sister.

13 Q That's Robert's sister?

14 A (Nodding.)

15 Q I think you said that you were playing in the
16 playroom, and Angel said he wanted to talk to you?

17 A Um-hum.

18 Q Okay. Now, he talks to you a lot or used to?

19 A Used to. Because we'd all go in the living room
20 and watch a movie and stuff. And we would go in there,
21 and we play games, or we had just sit and talk about a
22 movie or something.

23 Q Okay. Well, tell me what happened when you went
24 in the room to talk to Angel.

25 A He said -- because we were all in there playing

Complaining Witness -CROSS BY MR. GALMORE

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1 and he said, [REDACTED], I have to talk to you. And I said,
2 okay. So I went in. And he turned around and locked
3 the door. And Victoria, Macho and my brothers came to
4 the door, and Victoria said, daddy, can I come in, and
5 he said, no.

6 Q Okay. Victoria said can she come in, and he said
7 no?

8 A (Nodding.)

9 Q What about your brothers, were they trying to come
10 in too?

11 A They were all trying to come in because they
12 all -- they always follow me except for when I go to
13 the bathroom. Because we always -- we play together,
14 and they were waiting on me to come back.

15 Q Okay. So Angel wanted to talk to you. And tell
16 me what happened after he talked to you.

17 A He -- he unloosened his belt and said, open your
18 mouth, and then stuck his no-no in my mouth.

19 Q Where did you get the word no-no?

20 A For his private spot.

21 Q I know. But who told you that word?

22 A Momma.

23 Q Okay. Did this happen for a long time or for a
24 little time?

25 A For a little time.

1 Q Okay. Did Angel hold you onto the bed?

2 A No, sir.

3 Q Okay. And I believe you said your mother came
4 home after that?

5 A (Nodding.)

6 Q All right. And you told your mother what
7 happened?

8 A (Nodding.)

9 Q And what did she do?

10 A She went in the bedroom and they started to fuss.
11 And then they came out, and they -- he walked into the
12 dining room, and mommy followed him. And then he was
13 standing here and mommy was standing here, and I looked
14 this way around and went behind mommy.

15 Q Okay. And were they fussing like a whole lot or
16 just a little bit?

17 A A lot.

18 Q Okay. Now, after your mommy and Angel were
19 fussing, what did she do?

20 A She took us to Ms. B's house after they stopped
21 fussing. And then she took him to his mommy's house.
22 And then she called the police and told them there was
23 a front door and a back door and one that he could get
24 out of.

25 Q At your house?

Complaining Witness -CROSS BY MR. GALMORE

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1 A At his mom's house.

2 Q At his mom's house, okay. Did you tell the
3 neighbors that Angel had done that to you?

4 A No, sir.

5 Q Okay. Did you call mommy on the phone and tell
6 her that Angel had done something to you?

7 A No. She got home, and Macho got out of the car
8 too, and they both walked inside. And I said, mommy, I
9 got to talk to you. She said, hold on a minute, I got
10 to use the bathroom really bad.

11 Q Oh, so Macho wasn't in the house playing with you
12 and your brothers?

13 A He was at the doctor's, but then he got home after
14 all of that. Before he left, we were all playing.

15 Q Okay. And when your mother came home, she brought
16 Macho with her?

17 A (Nodding.)

18 Q Did I ask you if you called your mommy and told
19 her what happened?

20 A Yes, sir.

21 Q Okay. Why didn't you call your mommy?

22 A I didn't have a phone because my phone, the screen
23 got shattered because I dropped it because my brothers.

24 Q I know what you mean. So your mommy took you and
25 your brothers to Ms. B's house?

1 A (Nodding.)

2 Q Okay. And where was Angel when she took you all
3 to Ms. B's house?

4 A He was in the car. And then she took him -- she
5 was driving him to his mom's house.

6 Q He rode to Ms. B's house with you?

7 A I can't remember.

8 Q Okay, that's cool. Did Victoria ride to Ms. B's
9 house with you?

10 A Nu-uh.

11 Q Okay. Now, your mommy dropped you off at Ms. B's
12 house, and then she came back and got you; is that
13 right?

14 A Came back and picked up Angel and took him to his
15 mom's house.

16 Q Okay. So she picked up Angel and took Angel to
17 his mother's house, and then she came back and got you?

18 A And my brothers.

19 Q And your brothers. I thought your brothers stayed
20 at Ms. B's house?

21 A They did. She had to pick them up and drive them
22 and then drop all of us off later, go back, get Angel
23 and take him to his mom's house. Then she came back
24 and picked up me and told the boys that they could
25 spend the night, and they were like, yay, because they

Complaining Witness -CROSS BY MR. GALMORE

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1 were happy.

2 Q Okay, okay.

3 A And then she called Robert's brother. And then he
4 said the best thing to do is to take me to the
5 hospital, so she took me to the hospital. And it was a
6 long wait there.

7 Q Well, Robert's sister is Ms. B?

8 A Yes.

9 Q Who's Robert's brother, what's his name?

10 A Has two brothers, Keith and Paul.

11 Q Oh. So Uncle Paul?

12 A I guess so.

13 Q Okay. So Uncle Paul told your mother to take you
14 to the hospital?

15 A (Nodding.)

16 Q Do you know if the police ever came out to your
17 house?

18 A Nu-uh.

19 Q Okay. Detective Hemingway, he didn't come over to
20 your house?

21 A No. He came over to the hospital.

22 Q He came to talk to you at the hospital?

23 A (Nodding.)

24 Q Okay. And when he talked to you at the hospital,
25 did he have a tape recorder?

1 A Um-hum.

2 Q Do you know what it looked like?

3 A I think it was on his phone.

4 Q Oh, okay. All right. Complaining Witness I know you went
5 to talk to the lady at the children's place in Myrtle
6 Beach; do you remember that?

7 A (Nodding.)

8 Q Okay. Did you talk to anybody else?

9 A The people that say, you tell me what happened.

10 Q Right. That's the lady in Myrtle Beach?

11 A I think so.

12 Q Okay. And you talked to the doctors at the
13 hospital?

14 A The detective.

15 Q Right. I know you talked to the detective at the
16 hospital. But did you have to talk to doctors too and
17 the nurses?

18 A No, sir.

19 Q They didn't come in and check your heart?

20 A They gave me a shot.

21 Q They gave you a shot?

22 A (Nodding.)

23 Q Okay. Do you remember the name of the doctor?

24 A No, sir. He never told me.

25 Q Okay.

Complaining Witness -REDIRECT BY MS. ANDREW

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1 A It was a girl, though, but she never told me her
2 name.

3 Q Okay. It was -- the girl is the one that gave you
4 the shot?

5 A (Nodding.)

6 Q Did you talk to anybody else about the case?

7 A No, sir.

8 Q Okay.

9 MR. GALMORE: That's all the questions I have for
10 you, Complaining Witness. Thank you very much, you've been a
11 great witness; okay?

12 THE WITNESS: You're welcome.

13 MR. GALMORE: Okay.

14 MS. ANDREW: We would like to have this marked..

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

17 REDIRECT EXAMINATION

18 BY MS. ANDREW:

19 Q Complaining Witness, I'm going to show you a drawing; okay?

20 MR. GALMORE: Your Honor, I would object --

21 MS. ANDREW: Oh, I'm sorry, James.

22 MR. GALMORE: Oh, no. I'm objecting because the
23 solicitor had an opportunity to go into these issues on
24 direct examination and did not.

25 MS. ANDREW: Your Honor, Attorney Galmore opened a

1 door to this. I'm questioning when he asked her where
2 she learned the word no-no.

3 MR. GALMORE: She's your witness. I'm sorry, sir.

4 MS. ANDREW: So we're explaining where she got the
5 word no-no.

6 THE COURT: Okay. I'll overrule it based on that
7 explanation.

8 MR. GALMORE: Yes, sir.

9 MS. ANDREW: Thank you, Your Honor.

10 Q Complaining Witness I'm going to show you a drawing, and I
11 want you to point to the body part on this drawing that
12 you call a no-no, okay. Can you do that for me.

13 A (Nodding.)

14 Q Okay.

15 A (Indicating).

16 Q Point to it, there you go.

17 MS. ANDREW: Let the record reflect that Complaining Witness
18 pointed to the penis on State's Exhibit No. 3.

19 Q Thank you, Complaining Witness. And can you tell me who it
20 was that put their no-no in your mouth.

21 A Angel.

22 Q And is Angel present in the courtroom today?

23 A Yes, ma'am.

24 Q Can you just point to him.

25 A (Indicating.)

Complaining Witness -REDIRECT BY MS. ANDREW

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1 MS. ANDREW: Let the record reflect that she's
2 pointing to the Defendant, Angel Sanchez.

3 Q The man in the black pants and green jacket?

4 A Yes, ma'am.

5 Q Okay. Complaining Witness, has this ever happened to you
6 before or after that day?

7 A No, ma'am.

8 Q And you talked about Taylor and her boyfriend.
9 Did they move out before or after this happened with
10 Angel?

11 A Before.

12 Q And do you remember when they moved out; was it
13 what day?

14 A The same day.

15 Q The same day?

16 A (Nodding.)

17 Q What about Mason and his mom, when did they move
18 in with you?

19 A Way after that happened.

20 Q Way after that happened?

21 A (Nodding.)

22 Q Okay. And before this happened, did you like
23 Angel?

24 A (Shaking head.)

25 Q No. What about your mommy, did Angel and your

1 mommy fight a lot or have problems like that?

2 A Not a lot.

3 Q Okay.

4 MS. ANDREW: Thank you, ^{Complaining Witness} I appreciate
5 you answering the questions and being such a good
6 witness. Okay.

7 THE COURT: Any recross?

8 MS. ANDREW: That's all, Your Honor.

9 THE COURT: Okay, [REDACTED], you may step
10 down.

11 (Witness excused.)

12 THE COURT: Thank you.

13 MS. ANDREW: Your Honor, the State calls ^{Child Witness}

14

15 ^{Child Witness}, after being duly sworn, testified
16 as follows:

17 DIRECT EXAMINATION

18 BY MS. ANDREW:

19 Q Come sit in this chair. Okay, talk right in here.
20 Okay, can you please tell me your name.

21 A ^{Child Witness}

22 Q What's your last name, [REDACTED]?

23 A [REDACTED]

24 Q How old are you?

25 A Seven.

Child Witness

DIRECT BY MS. ANDREW

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1 Q And what grade are you in?

2 A First.

3 Q Where do you go to school?

4 A [REDACTED] Elementary.

5 Q And who do you live with, Child Witness?

6 A My mom, my sister and my brother.

7 Q Do you know where you live, what town?

8 A Aynor.

9 Q Child Witness, do you remember the Defendant, Angel
10 Sanchez? Do you know who he is?

11 A Yes.

12 Q Okay. Do you remember when he used to live with
13 you and your mommy and sister? Do you remember Angel's
14 children, Victoria and Macho?

15 A Yes.

16 Q Did they used to live with you?

17 A Yes.

18 Q Did Angel live with you too when they lived with
19 you?

20 A Yes.

21 Q Do you remember one day Angel and Victoria going
22 into mommy's bedroom?

23 A No.

24 Q Do you remember the last time you saw Angel at
25 your house? Do you remember when your mommy took you

1 to stay with Ms. B?

2 A Yeah.

3 Q Do you remember what happened earlier that night
4 that your mommy had to take you to stay with Ms. B?

5 A No.

6 Q Do you remember Victoria -- I mean, do you
7 remember Complaining Witness being upset about something? By
8 upset, I mean, do you remember her crying?

9 A Yes.

10 Q And where was she crying?

11 A On the couch.

12 Q Okay. And right before she was crying, what was
13 she doing, where was she?

14 A In the room.

15 Q In whose room?

16 A My mom's.

17 Q And who was in the room with her? Was she by
18 herself before she came out of the bedroom?

19 A No.

20 Q Do you remember if a grown-up was in the bedroom
21 with her? Do you remember if Angel was in the bedroom
22 with her? It's okay, if you don't remember you can say
23 I don't remember, okay. That's okay. Do you remember
24 when Complaining Witness was in mommy's bedroom if you tried to go
25 in to see her?

Child Witness

-CROSS BY MR. GALMORE

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1 A Yeah.

2 Q And could you get in the bedroom when you went in
3 to try to see her?

4 A No.

5 Q And why couldn't you get in there?

6 A The door is locked.

7 Q It was locked. And right after ^{Complaining Witness} came out
8 of the bedroom, what did she do; do you remember? I
9 know you just told me, I just want to ask you again.

10 A Lay on the couch and cried.

11 Q She did.

12 MS. ANDREW: Thank you, Child Witness Would you please
13 answer any questions Mr. Galmore has for you.

14 CROSS-EXAMINATION

15 BY MR. GALMORE:

16 Q It's ^{Child Witness}; right?

17 A Yes, sir.

18 Q Okay, ^{Child Witness}. My name is James. I have to ask
19 you some questions; okay?

20 A Okay.

21 Q Okay. Who do you live with, [REDACTED]?

22 A My mom.

23 Q And who else lives in the house with you?

24 A My brother and my sister.

25 Q And who else? Does Robert live with you?

1 A Yeah.

2 Q Who is Robert; is that your mommy's boyfriend?

3 A No. They are friends.

4 Q Okay. Did Angel used to stay with you all also?

5 A Yeah.

6 Q Okay. Then Angel's daughter and son stayed with
7 you all, too?

8 A Yeah.

9 Q And what are their names?

10 A Macho and Victoria.

11 Q Do you remember how old Victoria is?

12 A No.

13 Q No?

14 A (Shaking head.)

15 Q Do you remember how old Macho is?

16 A No.

17 Q Okay. Macho a baby? He's a big boy, not as big
18 as you?

19 A (Shaking head.)

20 Q And he runs and plays with you all?

21 A Yeah.

22 Q Okay. Now, when Angel used to stay with you, did
23 Taylor stay with you, too?

24 A Yeah.

25 Q Okay. And who is Taylor?

Child Witness

-CROSS BY MR. GALMORE

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1 A My mom's friend.

2 Q Okay. And did Taylor have a child too?

3 A Yeah.

4 Q And what's his name?

5 A Mason.

6 Q And he stayed there too?

7 A Yeah.

8 Q Okay. Now, where did Mason sleep?

9 A In the room with her.

10 Q In the room with who? Did Mason sleep in the room
11 with you and your brother and your sister?

12 A No.

13 Q Okay. Did you and Mason maybe share a bunk bed
14 together? Well, let me ask you this. Did Angel used
15 to cook for you?

16 A Yes.

17 Q Okay. And what else did Angel do, get you up for
18 the school bus in the morning?

19 A Yes.

20 Q Okay. Would he get you when it was time to get
21 off the school bus? Child Witness do you remember when

22 Complaining Witness was crying?

23 A Yeah.

24 Q Okay. And you said that Complaining Witness was in the room
25 with Angel?

1 A Yes.

2 Q Where were you?

3 A On the couch with my brother watching TV.

4 Q Okay. Do you know what ^{Complaining Witness} and Angel were
5 doing in the room?

6 A I think they were talking.

7 Q Okay. But you weren't in the room; were you?

8 A No.

9 Q Okay. Did you try to go in the room?

10 A Yeah.

11 Q Okay. Who was with you when you tried to go in
12 the room?

13 A My brother.

14 Q Okay. What about Victoria?

15 A Who?

16 Q Victoria.

17 A She wasn't.

18 Q I didn't hear you, I'm sorry.

19 A No.

20 Q Victoria didn't try to go in the room?

21 A No.

22 Q Okay. Was Victoria talking to her dad? When
23 Angel was in the room with ^{Complaining Witness} was anybody else
24 in the room?

25 A No.

Child Witness

-CROSS BY MR. GALMORE

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1 Q Okay. You said you weren't in the room. Do you
2 know if your brother was in the room with Angel and
3 Complaining Witness? Well, let me ask you this, Child Witness Do you
4 know if Victoria was in the room with Angel and
5 Complaining Witness?

6 A No.

7 Q Where was Victoria? Did she try to go in the --
8 THE COURT: All right, I'm confused about that.
9 last question and answer. You said, do you know if
10 they -- if whoever was in the room, and he said no.
11 Does that -- we got to get that clarified.

12 MR. GALMORE: Yes, sir.

13 THE COURT: Did that mean no, there was not in the
14 room, or no, he doesn't know.

15 MR. GALMORE: Okay. Yes, sir.

16 Q Do you know who was in the room with Angel and
17 Complaining Witness?

18 A No, I don't.

19 Q Okay. Do you know what they were doing in the
20 room?

21 A Talking.

22 Q Okay. Did you go in the room?

23 A No.

24 Q Okay. Do you know if Victoria went in the room?

25 A No.

1 Q I'm sorry?

2 A No.

3 Q Okay. Did your brother try to go in the room?

4 A Yeah.

5 Q Okay. After your mother came home, what happened?

6 Can you tell us what happened when your mommy got home.

7 A I think she was washing our clothes.

8 Q Okay, all right. And after she washed clothes,

9 what did y'all do?

10 A Sitting on the couch.

11 Q Sitting on the couch, all right. Did you ever try

12 to go in the room with Angel and Complaining Witness If you

13 don't remember, it's okay to say I don't remember.

14 A I don't remember.

15 Q Okay. Did you get to go to Ms. B's house that

16 day?

17 A Yeah.

18 Q And did you get to spend the night at Ms. B's

19 house?

20 A Yes.

21 Q Okay. Who took you to Ms. B's house?

22 A My mom.

23 Q And who else was in the car?

24 A Me, my brother and my sister.

25 Q Okay. Well, where was Angel when y'all went to

Child Witness

REDIRECT BY MS. ANDREW

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1 Ms. B's house?

2 A I don't know.

3 Q Okay. And Angel talked to you sometimes in the
4 room, like if you were being bad or something? Well,
5 let me ask you this, Child Witness. Did Angel ever beat you
6 like with a belt or a paddle or a shoe?

7 MR. GALMORE: Well, Child Witness thank you for talking
8 to me. You've been a great witness. Okay?

9 THE WITNESS: Thank you.

10 MR. GALMORE: All right, thank you. Have a good
11 day, all right.

12 THE WITNESS: Thank you.

13 MS. ANDREW: One second, Child Witness. I have a couple
14 questions; okay? Thank you.

15 REDIRECT EXAMINATION

16 BY MS. ANDREW:

17 Q Child Witness was anybody in the room with Complaining Witness and
18 Angel?

19 A No.

20 Q And did you try to open the door?

21 A Yeah.

22 Q And could you open the door?

23 A No.

24 Q Why not?

25 A It was locked.

1 Q Okay.

2 MS. ANDREW: Thank you, Child Witness That's all the
3 questions I have. May he be excused?

4 MR. GALMORE: Nothing further, sir.

5 THE COURT: Yes.

6 (Witness excused.)

7 THE COURT: Thank you, sir. Okay. We need to
8 take a brief recess, let's try to hold it to about 12
9 minutes.

10 MR. HOLFORD: Yes, Your Honor.

11 (WHEREUPON, the jury exited the courtroom at
12 11:27 a.m.)

13 (WHEREUPON, a brief recess was taken at
14 11:28 a.m.)

15 (WHEREUPON, the jury came into open court at
16 approximately 11:48 a.m.)

17 THE COURT: Okay.

18 MR. HOLFORD: The State calls Ann Arnett.

19 ANN ARNETT, after being duly sworn, testified as
20 follows:

21 THE CLERK: Please state your full name, and spell
22 your first and last name for the Court.

23 THE WITNESS: Ann Nicole Arnett, A-N-N,
24 A-R-N-E-T-T.

25 DIRECT EXAMINATION

ANN N. ARNETT-DIRECT BY MR. HOLFORD

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1 BY MR. HOLFORD:

2 Q Ms. Arnett, you can pull that up if you need to.

3 Can you tell the jury where you live right now.

4 A I live in Aynor.

5 Q And what's your address?

6 A [REDACTED].

7 Q You live on [REDACTED]. And who lives in the
8 house with you now?

9 A A friend of mine, a police officer for the county,
10 Robert Butler.

11 Q Robert Butler. Who else lives with you?

12 A My children.

13 Q And can you tell the jury your children's names?

14 A Complaining Witness, Child Witness, and Allen.

15 Q So Complaining Witness is your daughter?

16 A Yes.

17 Q And Child Witness and Allen are your sons?

18 A Correct.

19 Q And what are their ages?

20 A Complaining Witness is nine, Child Witness is seven and Allen is five.

21 Q And you refer to Complaining Witness as [REDACTED]?

22 A Yeah.

23 Q Okay. Now, were you living in the same place on
24 April the 15th, 2016?

25 A No.

1 Q Where were you living at that time?

2 A I lived at [REDACTED], also in Aynor.

3 Q [REDACTED] in Aynor?

4 A Um-hum.

5 Q Is that in Horry County?

6 A It is.

7 Q Okay. Now, is Robert your boyfriend?

8 A No.

9 Q Okay. Was he living with you back on April
10 the 15th, 2016?

11 A Robert?

12 Q Yeah.

13 A No.

14 Q Who all was living with you on [REDACTED] in
15 April 2016?

16 A Angel and his two children. And we had another
17 couple, but they had moved out that day.

18 Q Okay. So who are Angel's two children?

19 A Victoria and Alexander.

20 Q And when you say Angel, who are we talking about?

21 A The Defendant.

22 Q The Defendant, okay. He has two kids?

23 A The two youngest ones are with him. I believe
24 he's got an older daughter.

25 Q Okay. But two were staying with you, and their

ANN N. ARNETT-DIRECT BY MR. HOLFORD

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1 names were?

2 A Victoria and Alexander.

3 Q And Alexander, okay? Who is Macho?

4 A Alexander.

5 Q Okay. He goes by Macho?

6 A Yeah. It's kind of his nickname.

7 Q Okay. And then you said there were two other
8 people staying with you; who were they?

9 A Their names were Taylor and John, and they had an
10 infant son.

11 Q Okay. What was their infant son's name?

12 A William, I believe. But we called him Liam.

13 Q How old was he? You said infant.

14 A About a year old.

15 Q Okay. And how old were Victoria and Alexander,
16 Macho?

17 A I believe they were six and three.

18 Q At the time?

19 A I believe so.

20 Q Okay. And so how old would [REDACTED] have been April
21 15?

22 A Eight.

23 Q Okay. And you said that John and Taylor moved
24 out; when did they move out?

25 A They left my house at 7:15 on the 16th.

1 Q Okay.

2 A P.M., 7:15 p.m.

3 Q On the 16th, the day after?

4 A Well...

5 Q Do you remember if it was a Friday or a Saturday?

6 A I'm not sure.

7 Q Okay. Did these events span from one night into
8 the next morning?

9 A Could you be more specific.

10 Q Like so when -- well, let's walk through your day
11 on the 15th, on April the 15th. What did you do that
12 morning?

13 A I got up and got ready for work.

14 Q Okay. Where did you work?

15 A I worked at Carolina Health Force.

16 Q And what did you do there?

17 A I was a PCA, a personal care aid.

18 Q Okay.

19 A I basically go and take care of someone in their
20 own home.

21 Q Okay. And so about what time did you wake up and
22 go to work?

23 A I would say I woke up probably about seven, and I
24 had to be at work about eight, 8:30.

25 Q Okay. And who stayed in the house with the kids?

ANN N. ARNETT-DIRECT BY MR. HOLFORD

- 1 A Normally Taylor would.
- 2 Q Okay. Where was Angel that day?
- 3 A I believe he had stayed home.
- 4 Q Okay. Did the kids have to go to school that day?
- 5 A They did.
- 6 Q And so how long were you at work?
- 7 A All day.
- 8 Q All day until what time?
- 9 A I got home at 8 p.m.
- 10 Q 8 p.m.?
- 11 A Um-hum.
- 12 Q Okay. When did you leave work?
- 13 A About 6:30.
- 14 Q Okay.
- 15 A 7 o'clock.
- 16 Q And where were you working, how long would it take
- 17 you to get home?
- 18 A I was -- my last client was at the beach.
- 19 Q Okay.
- 20 A Close towards Surfside. So it depended on the
- 21 traffic.
- 22 Q Okay. And did you have to pick Macho up or take
- 23 him anywhere?
- 24 A I had to pick him up that day. He had had an
- 25 appointment to get his shots for school.

1 Q Okay. Did you take him to get his shots?

2 A No. His grandmother did.

3 Q Okay. So was Macho at home when you left earlier
4 that day?

5 A If I remember correctly, I believe I dropped him
6 off --

7 Q Okay.

8 A -- at his grandmother's.

9 Q And at some point his grandmother took him to get
10 shots?

11 A Yes.

12 Q And then you picked him up on the way back home?

13 A Yeah, to take him home.

14 Q Okay. And who is his grandmother?

15 A Her name is Illiana.

16 Q What do the kids refer to her as?

17 A Nana.

18 Q Nana. What's her last name?

19 A The one she uses the most is Colon.

20 Q Okay. So you picked Macho up. About what time
21 was that?

22 A Was probably about 7:30, 7:40 maybe.

23 Q Okay. And how close was that to your house?

24 A It's about 20, 25-minute drive.

25 Q Okay. And then where did you go from there?

ANN N. ARNETT-DIRECT BY MR. HOLFORD

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1 A I went straight home.

2 Q And about what time did you get home?

3 A I got home at eight.

4 Q Okay. And what did you do when you got home?

5 A I went in, I helped Macho get his things out of
6 the car. I went inside, put my bag and scrub jacket
7 and stuff in my room, and I went to the restroom.

8 Q Do you remember who you saw when you walked in the
9 house?

10 A The kids were on the couch.

11 Q Was Taylor or John there?

12 A They had already left.

13 Q How do you know that they had left?

14 A Taylor had text me to let me know that they had
15 left.

16 Q And they weren't there when you got home?

17 A No.

18 Q Was Angel there?

19 A He was.

20 Q Where was he?

21 A He was in the bedroom.

22 Q And who was on the couch?

23 A All the kids.

24 Q Who are?

25 A Complaining Witness, Child Witness Allen and Victoria.

1 Q Okay. And so you went to the bathroom?

2 A Um-hum.

3 Q And then what happened?

4 A Victoria and [REDACTED] went in with me.

5 Q Okay. Now, you can't say exactly what anyone
6 said. But did [REDACTED] talk to you about anything?

7 A She did.

8 Q And did she make any allegations?

9 A She did.

10 Q Against who?

11 A Against Angel.

12 Q Did she make any allegations against Taylor or
13 John?

14 A None.

15 Q Anyone else?

16 A Nope.

17 Q Had she ever said anything like this to you
18 before?

19 A Never. She had never known anything like that.

20 Q Has she made any allegations like this since that
21 day?

22 A No.

23 Q And you can talk about the time. What time did
24 she say that it happened?

25 A She just said it was before I got home and after

ANN N. ARNETT-DIRECT BY MR. HOLFORD

1 Taylor had -- Taylor and John had left.

2 Q And where did she say it happened?

3 A In my bedroom.

4 Q Now, where is your bedroom in the house?

5 A It's the room that was to the left of the
6 bathroom.

7 Q Okay. Is it in front or the back of the house?

8 A It's around about right in the middle.

9 Q Okay. And so after she tells you what happened,
10 she tells you where, what did you do?

11 A I told both the girls to go sit on the couch, so
12 that I could calm down and compose myself.

13 Q What was [REDACTED] -- what was her mannerisms at the
14 time?

15 A Crying, scared.

16 Q Was this normal behavior for her?

17 A No.

18 Q And so after you told them to sit down, you said
19 you needed to calm down. What did you do after that?

20 A I walked into the room, and I confronted him.

21 Q Okay. What room was that?

22 A Into my bedroom.

23 Q And him is?

24 A Angel.

25 Q And what did you say to Angel?

1 A I simply asked him, am I not good enough.

2 Q Had you gotten in a fight with Angel earlier that
3 day?

4 A No.

5 Q Had you been fighting with him that past week?

6 A We may have had a small argument but not a huge
7 fight.

8 Q How long had you been with Angel?

9 A Almost a year.

10 Q Now, before this happens up until then, how was
11 the relationship?

12 A It was a good relationship.

13 Q What were your plans for the future?

14 A We had talked about the possibility of getting
15 married.

16 Q On that day when you came home, did you plan to
17 leave him?

18 A No.

19 Q Was there anything going on that was wrong?

20 A No.

21 Q And so after you confronted him, what did you do
22 then?

23 A We talked for a minute and he denied everything.

24 And I went out and asked all the children something.

25 Q Okay. Now you can't say what the kids said, but

ANN N. ARNETT-DIRECT BY MR. HOLFORD

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1 what did you do as a result after you talked to them?

2 A I made a phone call for someone to watch the three
3 of my children.

4 Q Okay. And then where did you go?

5 A I took Angel to -- and his children to his
6 mother's house.

7 Q Okay. So you took Angel and Victoria and Macho to
8 his mom's house?

9 A Um-hum.

10 Q And who stayed at your house?

11 A I taken my kids to a friend of mine.

12 Q Okay. So you took your kids first?

13 A Yes.

14 Q To a friend's house?

15 A Yes.

16 Q And then what, you came back to the house?

17 A I -- no. Everyone got into the car. I dropped my
18 children off, and I took Angel, Macho and Victoria to
19 his mother's house.

20 Q Okay. And then what did you do?

21 A I went and picked my daughter up and took her to
22 the hospital.

23 Q Okay. So you took her to a friend's house,
24 dropped them off, your kids?

25 A Um-hum.

1 Q You took Angel and his kids to his mom's house?

2 A (Nodding.)

3 Q And then you came back and got [REDACTED]

4 A Correct.

5 Q And where did you go with [REDACTED] from there?

6 A Well, we went to the hospital. When we left the
7 hospital, we went straight home.

8 Q Okay. When you got to the hospital, did anyone
9 come meet you there?

10 A No.

11 Q Who did -- who did you see at the hospital?

12 A I went in and asked the receptionist to see a
13 doctor, and there was a police officer sitting with
14 them behind the desk.

15 Q Okay. Did you talk to the police officer?

16 A I did. I had told them what happened, and she
17 walked out into the parking lot because there were two
18 county officers in the parking lot.

19 Q Okay. Did the county officer ever come in?

20 A He did.

21 Q Do you remember who it was?

22 A No, I don't.

23 Q Okay. Did he talk to you?

24 A Briefly.

25 Q Did he talk to [REDACTED]

ANN N. ARNETT-DIRECT BY MR. HOLFORD

1 A Yes.

2 Q Were you with [REDACTED] when she was talking to the
3 doctors?

4 A I was. She didn't want to be alone.

5 Q Okay. Now, did the doctors ever do a full sexual
6 assault kit?

7 A No, I don't believe so.

8 Q Okay. Do you know why?

9 A Because she stated that nothing below the waist
10 had been touched.

11 Q Okay. What the doctors do for [REDACTED]?

12 A They checked her throat and told her to, you know,
13 maybe eat popsicles and drink, you know, really cold
14 water, because her throat was swelled.

15 Q Okay. How long were you at the hospital?

16 A For a few hours.

17 Q And do you remember about what time you left the
18 hospital?

19 A It's about one something in the morning.

20 Q And where did you go after that?

21 A We went home.

22 Q What did the detective do; do you know?

23 A He came in and he talked with [REDACTED]

24 Q And then, did you see him after that?

25 A When I took her to the children's place at the

1 beach.

2 Q Okay. So when was that? You took her to the
3 children's place; what did you do there?

4 A She went in to speak with someone.

5 Q Okay. And did she tell that person what had
6 happened?

7 A She did.

8 Q Were you in the room at the time?

9 A No, I was -- I waited in the waiting room.

10 Q Do you remember when that was, when that interview
11 was?

12 A I want to say it was, I think, towards the end of
13 April, maybe. Not really sure.

14 Q Not the next day or the day after?

15 A I don't believe so.

16 Q Okay. Now, not saying what she said, but did
17 she -- did [REDACTED] tell the doctors the same thing that
18 she had told you earlier that night?

19 A She did.

20 Q Did she tell the detective the same thing?

21 A She did.

22 Q Have you -- did you ever get back with Angel?

23 A Nope.

24 Q Did you talk to him after that?

25 A No.

ANN N. ARNETT-CROSS BY MR. GALMORE

1 Q Did he attempt to call you?

2 A He did.

3 Q Did you answer?

4 A I may have, to ask him what he wanted. And he
5 said something, I hung up on him.

6 Q Has [REDACTED] ever changed her story about what
7 happened?

8 A No, she has not.

9 MR. HOLFORD: I have no further questions, Your
10 Honor.

11 MR. GALMORE: Can I have this marked for
12 identification as Defense-1.

13 (WHEREUPON, Defendant's Exhibit No. 1 was marked
14 for identification only.)

15 CROSS-EXAMINATION

16 BY MR. GALMORE:

17 Q Ms. Arnett, let me hand you what's been marked for
18 identification purposes as Defense Exhibit No. 1 and
19 ask you if you recognize those documents.

20 A It looks like my daughter's hospital stuff.

21 Q The hospital records from Conway Hospital?

22 A Is what it looks like.

23 Q Did you go pick up those records from Conway
24 Hospital and take them to the solicitor's office as
25 part of this case? It's okay.

1 A I don't believe I did.

2 Q Oh, you didn't go get those records?

3 A I'm not sure. I know I picked some up.

4 Q You picked up some records from the hospital?

5 A For my benefit.

6 Q Right. Did you take them to the solicitor's
7 office?

8 A No, I did not.

9 Q Okay. Can you tell me where in those records it
10 says that the throat was checked for a sore throat.

11 A I really can't read medical records, so I can't
12 tell you.

13 Q I understand, ma'am. Does it say anywhere where
14 she's supposed to eat popsicles and cold ice water?

15 A I doubt it would be stated in there. It's just
16 what the doctor had told me to do for her.

17 Q Okay. But doctors will -- yes, ma'am, I
18 understand that. Now, I understand that you and Angel
19 were dating; is that correct?

20 A That is correct.

21 Q And you dated for almost a year?

22 A Correct.

23 Q You were living together at some point?

24 A Correct.

25 Q You were talking about getting married?

ANN N. ARNETT-CROSS BY MR. GALMORE

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1 A Correct.

2 Q Would it surprise you to know that Angel has four
3 kids, not three?

4 A Not really.

5 Q All right. Back to April 15th. You said you were
6 at work that day?

7 A (Nodding.)

8 Q Okay. And you came home and the first thing that
9 happened is what?

10 A I put my things down.

11 Q Okay. And your daughter came to talk to you about
12 these allegations; right?

13 A Yes.

14 Q And you went to confront Angel?

15 A Correct.

16 Q Was ^{Complaining Witness} with you when you confronted Angel?

17 A No, she was not.

18 Q Where was she?

19 A She was in the living room on the couch.

20 Q So tell us how this confrontation went down.

21 A I walked in the room and looked at him and asked
22 him if I was enough, or why was I not enough.

23 Q And this is immediately after ^{Complaining Witness} told you
24 that he had sexually assaulted her?

25 A It was a few moments in between.

1 Q What did you need a few moments for?

2 A I have a bad temper sometimes. I didn't want to
3 go in there and get physical.

4 Q I suppose I would understand if you said, I went
5 into the room and started stabbing Angel with a butcher
6 knife. But you didn't do that; did you?

7 A No.

8 Q You went and talked to him. And he denied the
9 allegation?

10 A Correct.

11 Q After he denied the allegation, he said, take me
12 home; right?

13 A Right.

14 Q And you said, okay?

15 A Correct.

16 Q Did you call the police?

17 A I took my daughter straight to the hospital.

18 Q No, you didn't?

19 A After -- after I got him out of my house.

20 Q You took the kids to Robert's sister's house, and
21 then you took Angel home. And then you took the kid to
22 the hospital; is that correct?

23 A Yes.

24 Q And at what point during these two, three
25 different trips did you call the police?

ANN N. ARNETT-CROSS BY MR. GALMORE

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1 A I didn't.

2 Q Okay. So Angel's accused of molesting your
3 daughter, you didn't attack him with a butcher knife,
4 you gave him a ride home. Wait a minute, first you
5 gave -- you took the kids to Ms. B's house. Was Angel
6 still at your house?

7 A No. He was sitting in the car.

8 Q Well, he rode to Ms. B's house with you?

9 A I wanted him out of my house, so yes, he was in
10 the car.

11 Q So you put ^{Complaining Witness} in the car with Angel, and the
12 whole group of you rode to Ms. B's house?

13 A Yeah.

14 Q And Ms. B is Robert's brother -- Robert's sister?

15 A Yes.

16 Q And Robert is the person you live with but don't
17 date at the moment?

18 A Correct.

19 Q Did you used to date?

20 A A few years ago.

21 Q Is Robert the father of these three kids?

22 A No.

23 Q Okay. So Angel rode with you to take the kids to
24 Robert's sister's house?

25 A Yes.

1 Q Complaining Witness rode also?

2 A In the back seat behind me, yes.

3 Q Okay. And Macho and Victoria and Child Witness and
4 Allen, they rode also?

5 A Yes.

6 Q Were there discussions of these allegations in the
7 car?

8 A Not around the kids.

9 Q How long a trip is it from [REDACTED] to
10 Robert's sister's house?

11 A Less than five minutes.

12 Q Does Robert's sister live in Aynor or Galivants
13 Ferry or out in the country, or where exactly?

14 A She has a house in Aynor.

15 Q In Aynor. Did you stop at the Aynor Police
16 Department?

17 A No.

18 Q Did you stop at a gas station or convenience store
19 to say, hey, can I use your phone to call 911?

20 A No.

21 Q Do you have a cell phone?

22 A Do I have a cell phone?

23 Q Yes, ma'am.

24 A I do.

25 Q Did you have a cell phone April 15th, 2016?

ANN N. ARNETT-CROSS BY MR. GALMORE

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1 A I did.

2 Q Did you use it to call 911?

3 A No, I didn't.

4 Q You used it to call Ms. B; right?

5 A Yeah.

6 Q Did you call Robert too?

7 A Yeah.

8 Q Did you call Robert's brother, Paul?

9 A No.

10 Q Paul is a policeman?

11 A He was.

12 Q So after this five-minute trip that you took to
13 drop the kids off, you didn't have to go back to your
14 house because Angel was in the car with you. That's
15 when you went to Conway to drop Angel off?

16 A Right.

17 Q Was there any discussion of the allegations in the
18 car during that ride?

19 A I asked him again if he did it.

20 Q Did he admit it?

21 A He's not going to admit it.

22 Q So you mean he denied it?

23 A Yeah.

24 Q Okay. Once you dropped Angel off at his mother's
25 house, did you stay there and talk to him for a little

1 while?

2 A Maybe a minute.

3 Q Would it be more fair to say that you stayed there
4 for about 15 minutes talking to Angel in the parking
5 lot?

6 A I was not there 15 minutes.

7 Q But it was some period of time that you talked to
8 Angel in the parking lot?

9 A It was a minute or two.

10 Q A minute or two.. But at this point, 911 still
11 hadn't been called?

12 A Correct.

13 Q Were you going to call them at all?

14 A Wasn't thinking. My daughter just told me she was
15 assaulted.

16 Q Whose idea was it to go to Conway Hospital?

17 A Mine.

18 Q It wasn't Paul's idea?

19 A He mentioned it.

20 Q So that means it was Paul's idea?

21 A He gave me different options as to how I could go
22 about things.

23 Q Okay.

24 A I chose to go to the hospital.

25 Q And what point did you choose to call 911?

ANN N. ARNETT-CROSS BY MR. GALMORE

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1 A I didn't.

2 Q So you got to the hospital and saw the security
3 guard at the desk and told him what happened?

4 A No. There was a City of Conway police officer at
5 the desk.

6 Q And he got a county policeman for you; right?

7 A She did.

8 Q She did. If you had went to the Aynor Police
9 Department, do you think they would have gotten a
10 county officer for you?

11 A Most likely.

12 Q And that would have been right there in the
13 neighborhood where you live; right?

14 A Most likely.

15 Q Once at the hospital, ^{Complaining Witness} had an opportunity
16 to talk to Detective King. Were you present for that?

17 A I was.

18 Q So you were in the room with them when they were
19 talking?

20 A I was.

21 Q Okay. Did he ever separate the two of you and
22 talk to you individually?

23 A Not at the hospital.

24 Q Now, I understand that -- or from hospital records
25 indicates that you were going to seek counselling for

1 Complaining Witness?

2 A I did.

3 Q You did?

4 A I did.

5 Q Where was that at?

6 A The pastor of my church.

7 Q Okay. How many counselling sessions did she
8 attend?

9 A She did about four or five.

10 Q And your pastor is not here today; is he?

11 A He's not. They are on a youth revival thing.

12 Q Okay, right. Was Angel known to sometimes carry a
13 utility knife or a pocket knife?

14 A He does.

15 Q When y'all were living together for those eight
16 months, did you have an opportunity to wash his
17 clothes?

18 A Yes.

19 Q Does Angel own white underwear?

20 A No.

21 Q Say again, please, ma'am.

22 A No.

23 Q Were the two of you breaking up that day?

24 A I hadn't intended on breaking up with him.

25 Q Isn't it true that Angel broke up with you earlier

ANN N. ARNETT-REDIRECT BY MR. HOLFORD

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1 that day, and you asked him to stay until the roommates
2 left?

3 A No.

4 Q Isn't it true that after you contacted the police
5 regarding this allegation, you called DSS on Angel and
6 his mother?

7 A For the situation with the grandmother.

8 Q So you accused Angel of being neglectful towards
9 his grandmother?

10 A Not his grandmother. That wasn't what it was -- I
11 didn't call DSS on him.

12 Q Who did you call DSS on?

13 A His mother.

14 Q On his mother. And you accused his mother of
15 being neglectful to his grandmother?

16 A I've seen it.

17 Q Okay. Did you also call DSS and try to get
18 Victoria removed from his home?

19 A I did.

20 Q Did you offer to take Victoria into your home?

21 A I did.

22 MR. GALMORE: No further questions.

23 REDIRECT EXAMINATION

24 BY MR. HOLFORD:

25 Q Ms. Arnett, you said you talked to Paul a little

1 bit; right?

2 A Briefly, yes.

3 Q And what did Paul do?

4 A He just gave me different options of what I could
5 do, because I wasn't in my right state of mind.

6 Q Where was Paul employed?

7 A He was chief deputy sheriff, Horry County.

8 Q And based on the options, did you decide to get
9 your daughter care?

10 A I did.

11 Q You took her to the hospital?

12 A I did.

13 Q Was your first thought to try and get Angel locked
14 up?

15 A No, it wasn't.

16 Q Your first thought was to take care of your
17 daughter?

18 A Yes.

19 Q I don't know why this is important, but why would
20 you want Victoria to be with you instead of Angel?

21 A Because I loved his kids.

22 Q Did you want Victoria to be hurt?

23 A No.

24 Q Right when you got to the hospital, first time you
25 saw a police officer, did you tell him what happened?

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1 A I walked in and told him my daughter was sexually
2 assaulted.

3 Q And did a detective come immediately while you
4 were still at the hospital?

5 A After the county officer had come in, they had
6 told me they had a detective on the way.

7 Q Okay. You didn't wait a day, you didn't wait more
8 hours?

9 A No. He was at the hospital that night.

10 Q So you reported it the same day?

11 A Yeah.

12 Q Did you want to kill Angel, did you when you heard
13 what happened?

14 A I wanted to hurt him.

15 Q But is that what you did?

16 A No.

17 Q Would that have been the right thing to do?

18 A No.

19 Q And you've never got back together with him?

20 A No.

21 Q You kicked him out of the house immediately?

22 A Um-hum.

23 Q And [REDACTED] never said anything like this has
24 happened before or after?

25 A Never.

1 Q And she's always maintained the same thing?

2 A She has.

3 MR. HOLFORD: No further questions.

4 THE COURT: Cross?

5 MR. GALMORE: Nothing further, sir.

6 THE COURT: You may step down, thank you.

7 (Witness excused.)

8 MR. HOLFORD: Your Honor, would you like the State
9 to call another witness?

10 THE COURT: What kind of timing we got?

11 MR. HOLFORD: May we approach?

12 THE COURT: Sure.

13 (WHEREUPON, a bench conference was held off the
14 record in the presence of the jury but out of the
15 hearing of the jury.)

16 THE COURT: We better break for lunch now. The
17 next witness is going to take a while. Let's break
18 until 1:45. Any problems with anybody?

19 MR. GALMORE: No, sir.

20 MR. HOLFORD: No, sir.

21 THE COURT: That gives us an hour and 20 minutes,
22 that should be ample time. You all know as much about
23 Conway as I do. There's local establishments, some of
24 you may want to run home. I'll leave that strictly up
25 to you. There's various restaurants up and down around

1 town. So we need you back at 1:45.

2 MR. GALMORE: Your Honor?

3 THE COURT: Yes.

4 MR. GALMORE: Would you admonish the jury.

5 THE COURT: Oh. Don't discuss the case, don't

6 allow anybody to approach you. Thank you, counsel.

7 MR. GALMORE: Yes, sir.

8 (WHEREUPON, the jury exited the courtroom at

9 12:24 p.m.)

10 THE COURT: All right, enjoy your lunch.

11 MR. HOLFORD: Thank you, Your Honor.

12 (WHEREUPON, a luncheon recess was taken at 12:24

13 p.m.)

14 (The hearing commenced at approximately 1:50 p.m.)

15 THE COURT: Be seated. Thank you. Ready?

16 MR. HOLFORD: Yes, Your Honor.

17 MR. GALMORE: Yes.

18 (WHEREUPON, the jury came into open court at

19 approximately 1:52 p.m.)

20 THE COURT: All right. You can resume, solicitor.

21 MR. HOLFORD: Thank you, Your Honor. The State

22 calls Detective King Hemingway.

23 KING HEMINGWAY, after being duly sworn, testified

24 as follows:

25 THE CLERK: Please state your full name.

1 THE WITNESS: King Hemingway. First name K-I-N-G,
2 last name H-E-M-I-N-G-W-A-Y.

3 DIRECT EXAMINATION

4 BY MR. HOLFORD:

5 Q Detective Hemingway, where are you employed?

6 A Horry County Police Department.

7 Q And how long have you been with the County?

8 A Going on 15 years.

9 Q Okay. How long have you been a detective there?

10 A Just over two years.

11 Q And what did you do before being a detective?

12 A I was a uniform patrol officer.

13 Q Okay. Will you tell the jury just a little bit
14 about the training that you go through to be a police
15 officer and then to be a detective.

16 A Every year we go through, I guess you can call it
17 updated academy classes where we do physical stuff, do
18 book work stuff, learn the new laws and just go over
19 basic day-to-day stuff to help us with our job duties.

20 Q Do you do -- you said you do continuing education
21 on it?

22 A Yes, sir.

23 Q And then you've already been through the police
24 academy?

25 A Yes, sir.

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1 Q Graduated --

2 A Yes, sir.

3 Q -- in order to be a police officer?

4 A Yes, sir.

5 Q Okay.

6 A When I went it was nine weeks.

7 Q Okay. Now, tell me the difference between a road
8 officer, a responding officer, and a detective. How
9 are the roles different?

10 A The patrol officer responds to in-progress calls,
11 they are usually notified by dispatch of complaints
12 coming in, citizens calling in, complaints. And they
13 respond to that as a uniform patrol. As a detective, I
14 get the after-call call to where they respond, feel the
15 need that an investigator needs to respond and
16 investigate something, then I get the call and I
17 respond.

18 Q Okay. And did you respond to a call on April the
19 15th, 2016?

20 A Yes, sir, I did.

21 Q And what was the nature of that call?

22 A Sexual assault.

23 Q And where did you respond?

24 A I went to Conway ER.

25 Q Okay. And who was at Conway ER?

1 A Ms. Complaining Witness and her mother, Ms. Ann
2 Arnett.

3 Q Okay. And how old is Complaining Witness?

4 A She was eight years old at the time.

5 Q Okay. And her mother was present?

6 A Yes, she was.

7 Q Do you remember about what time you responded to
8 the ER?

9 A It was that morning. I got the call at 11 p.m. I
10 believe I responded there like 11:45, I want to say --

11 Q Okay.

12 A -- when I arrived.

13 Q At 11:45 p.m., at night?

14 A P.M., yes, sir.

15 Q Okay. Did this investigation eventually take into
16 the next morning?

17 A Yes, sir, it did.

18 Q So you got the call on April the 15th, but then it
19 spanned into April the 16th?

20 A Yes, sir, it did.

21 Q Okay. When you arrived at the hospital -- now,
22 can't say exactly what Complaining Witness might have said, but
23 did she make certain allegations?

24 A She did.

25 Q Based on her statements, did you develop a suspect

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1 in this case?

2 A Yes, I did.

3 Q And who was that?

4 A Mr. Angel Sanchez, the Defendant.

5 Q Okay. As to the time that the victim stated the
6 crime occurred, when about was that?

7 A She had stated it occurred between, I want to say
8 within two hours prior or one hour prior.

9 Q Okay. And --

10 A I'm sorry, let me correct that. It was between
11 8 p.m.

12 Q Do you have a report with you?

13 A I do.

14 Q And is that something that you normally create in
15 a case?

16 A Yes, sir.

17 Q You create a report to say what you learned at the
18 time?

19 A Yes, sir.

20 Q And at times if I ask you specific questions about
21 times, this was a little over a year ago; right?

22 A Yes, sir.

23 Q And so sometimes you might need to refer to your
24 notes about specifics?

25 A Yes, sir.

1 Q But you remember this case specifically?

2 A I do.

3 Q Were you the lead detective?

4 A I was.

5 Q And so, who else did you talk to at the ER?

6 A Just ^{Complaining Witness} and her mother.

7 Q Okay. When ^{Complaining Witness} told you about what had
8 happened, where did she say it occurred?

9 A At her residence at Aynor. The address is [REDACTED]
10 [REDACTED] in Galivants Ferry.

11 Q Okay. Is that close to Aynor?

12 A Yes, sir, it is.

13 Q And is that in Horry County?

14 A It is.

15 Q And so after you had talked to ^{Complaining Witness} and her
16 mother, what did you do after that?

17 A After that I went back to the police department
18 and checked the criminal histories of Sanchez and
19 looked up locations where he could be. I was given an
20 address for him, but I just wanted to confirm that was
21 an address. I then went to that address and located
22 Mr. Sanchez. And at that point he voluntarily came
23 with me to the police department to be interviewed.

24 Q Okay. What address was he at; do you remember?

25 A He was at [REDACTED], Apartment [REDACTED], in

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1 Conway.

2 Q So he was not at the location where ^{Complaining Witness} said
3 the incident occurred?

4 A No, sir, he wasn't.

5 Q Okay. He was at a different address?

6 A Yes, sir.

7 Q About what time was that; was that -- would this
8 have been the next morning on the 16th?

9 A I located Mr. Sanchez at approximately about
10 12:50 a.m.

11 Q Okay. Now, let me back up to the ER just a
12 second. When you saw ^{Complaining Witness} there, how was she
13 acting, what were her mannerisms that you were able to
14 determine?

15 A When I went into the room, she was curled up in
16 the fetal position on the bed, and her mother was
17 beside her. It was pretty clear to me that she was
18 distraught or not her normal self, I would assume.
19 Because she was very quiet at first, crying. And I
20 didn't feel it was necessary to interview her by myself
21 without her mother being present.

22 Q Did her mother ever give her answers or tell her
23 how to answer?

24 A No, sir, she did not.

25 Q How was her mother's behavior?

1 A She was -- you could tell she was bothered by the
2 accusations. She remained pretty quiet. But she was
3 very frustrated and appeared to be upset about what
4 happened.

5 Q Did her mother -- did her mother tell you that
6 Complaining Witness told her what happened?

7 A She did.

8 Q And did what Complaining Witness tell you match the same
9 thing that her mom said?

10 A It did.

11 Q All right. So now, let's move -- well, do you
12 know, was a full CSC kit done?

13 A No, sir, it was not.

14 Q What's commonly referred to as a rape kit?

15 A No, sir, it was not.

16 Q Okay. And why was that not done?

17 A Because she had indicated it was just oral, an
18 oral assault. And they didn't feel the need to do a
19 full rape kit on her.

20 Q And who is they?

21 A The hospital.

22 Q Okay. Now, let's move forward. You said that you
23 met with the Defendant at another residence in Conway?

24 A Yes, sir, I did.

25 Q And then, did you handcuff him and take him into

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1 custody at that time?

2 A At that time, I did place him under investigative
3 detention.

4 Q Okay. Did you have an arrest warrant for him yet?

5 A No, sir, I did not.

6 Q At this time, was he a suspect?

7 A He was.

8 Q Was he the only suspect?

9 A Yes, sir, he was.

10 Q Based on your investigation up to that point, was
11 anyone else a suspect?

12 A No, sir.

13 Q You took him back to where?

14 A To the Horry County Police Department.

15 Q And did you interview him?

16 A I did.

17 Q Did you provide him what is commonly referred to
18 as Miranda rights?

19 A Yes, sir, I did.

20 Q And can you explain those.

21 A It's the right that we give to anyone we question
22 directly about a crime. And it's usually something
23 that is done on either audio or handwritten or video
24 recorded and audio recorded.

25 Q Do you also provided a paper copy?

1 A We do.

2 Q Did you do so in this case?

3 A I did.

4 MR. HOLFORD: Your Honor, may I approach?

5 THE COURT: Yes.

6 Q I'm handing you what's been marked for ID as
7 State's-1. Can you identify what I've handed you.

8 A This is an advisement of Miranda rights that was
9 given to Mr. Sanchez prior to my interview with him.

10 Q And did you advise him of those rights?

11 A I did.

12 Q Did you sign that form?

13 A I did.

14 Q Did he sign that form?

15 A Yes, he did.

16 Q In your presence?

17 A Yes, sir.

18 MR. HOLFORD: Your Honor, the State would
19 introduce State's-1 in evidence.

20 MR. GALMORE: No objection.

21 THE COURT: In without objection.

22 (WHEREUPON, State's Exhibit No. 1 was admitted in
23 evidence.)

24 Q Now, on this form, what does it say?

25 A It says, you have the right to remain silent,

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1 anything you say can and will be used against you in a
2 court of law. You have the right to talk with a lawyer
3 and have him or her present with you while you are
4 being questioned. If you cannot afford to hire a
5 lawyer, one will be appointed to represent you at no
6 cost to you before any questioning if so you so desire.
7 If you make a statement or answer questions, you have
8 the right to stop at any time.

9 Q And did you read that to Mr. Sanchez?

10 A I did. And at the end of each line, I had him
11 acknowledge he did understand it.

12 Q And how do you know he understood it?

13 A He acknowledged with a, yes, I understand.

14 Q And did he also write on there anything?

15 A He did write that he do understand his rights.

16 Q And did he exercise his rights, or did he waive
17 his rights?

18 A He waived his rights.

19 Q Meaning he chose to speak to you; right?

20 A He chose to speak with me, yes, sir.

21 Q Did you record that statement?

22 A I did.

23 Q And he did speak with you about what happened?

24 A Yes, sir.

25 Q About what time was that in the morning; do you

1 remember?

2 A Around 1 a.m. in the morning.

3 Q Okay. Had you kept him in jail overnight?

4 A No, sir.

5 Q Had you deprived him of food or water?

6 A No, sir.

7 Q Did you threaten him or punish him or --

8 A No, sir.

9 Q -- any physical action in order to get him to
10 speak?

11 A No, sir.

12 Q Did you promise him anything?

13 A No, sir.

14 Q What kind of education did he say he had?

15 A He said he had a high school education, and he
16 attended some college.

17 Q Okay. Was he under the influence of drugs or
18 alcohol?

19 A I asked him, and he said no.

20 Q Okay. Did he appear to understand your questions?

21 A Yes, sir, he did.

22 Q And did he appear to give voluntary answers?

23 A Yes, sir, he did.

24 Q When you asked him about what happened, did he
25 admit that he had taken ^{Complaining Witness} into the room?

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- 1 A He did.
- 2 Q What did he say about who else was in there?
- 3 A No one else was there but him and Complaining Witness.
- 4 Q Okay. Did he say the door was locked?
- 5 A No, sir, he did not.
- 6 Q Okay. Was that a point of contention?
- 7 A Yes, sir.
- 8 Q Did he tell you what he and Complaining Witness had talked
- 9 about?
- 10 A He did.
- 11 Q What did he say that he was asking her or talking
- 12 to her about?
- 13 A About her being responsible for the other kids
- 14 because she's the oldest. And that's pretty much the
- 15 reason he gave me for wanting to talk to her.
- 16 Q Okay. Did you ask him if he normally took her in
- 17 the room and talked to her?
- 18 A I did.
- 19 Q And what did he say to that?
- 20 A He said yes.
- 21 Q Okay. Did he -- he never admitted to this; did
- 22 he?
- 23 A No, sir, he did not.
- 24 Q He did not. Did he ever talk about loving her and
- 25 how she's the oldest and needs to be responsible?

1 A He did.

2 Q Did the statements that he told you, did they
3 match with what ^{Complaining Witness} had previously told you?

4 A Yes, they did.

5 Q Who did he -- who else was in the house, did he
6 say, at the time he took her into the room?

7 A He said his daughter, and ^{Complaining Witness} brothers were
8 also in the house.

9 Q Did he say Taylor and John were at the house?

10 A No, sir.

11 Q Did he say Ann, the mother, was there?

12 A No, sir.

13 Q He didn't say anyone else was in the home?

14 A No, sir, he did not.

15 Q So it was him and the kids?

16 A Him and the kids.

17 Q And he admitted to taking ^{Complaining Witness} into the room?

18 A Yes, sir.

19 Q Did you ask him if there was a reason why ^{Complaining Witness}
20 would say these things?

21 A I did.

22 Q Did he give you a reason?

23 A He did not.

24 Q Did he say that she was upset with him?

25 A He did not.

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1 Q Did she say that they had gotten in an argument?

2 A He did not.

3 Q Did he say that he and the mother were fighting?

4 A He did not.

5 Q Did he say anything about them breaking up earlier
6 that day?

7 A No, sir, he did not.

8 Q That's never came up before; has it?

9 A That's never came up.

10 Q In talking with the mother and ^{Complaining Witness} and the
11 Defendant, had there been any turmoil in the house that
12 day or the day before or in the weeks prior?

13 A None of those incidents came up during my
14 interview with either one of them.

15 Q Did he say that someone was outside the door?

16 A He did.

17 Q Now, he said it was never locked; right?

18 A Yes, sir, he did.

19 Q How did he describe the door in the beginning of
20 the interview?

21 A In the beginning he described the door as being
22 partially opened, maybe a foot open, is how he
23 described it in the beginning.

24 Q How did he describe the door at the end of the
25 interview?

1 A He said that the door was shut to where you could
2 just tap it, and it will open back up.

3 Q Did he ever deny being alone in the room with
4 Complaining Witness?

5 A No, he did not.

6 Q Now, tell me about what he was wearing.

7 A I don't remember exactly. But I do know he --
8 during the interview he mentioned he had two sets of
9 underwear on, a pair of pants, and I think two shirts
10 and a jacket.

11 Q Okay. Now, when we say underwear, are there
12 different types of underwear?

13 A There are.

14 Q What kind of underwear was he wearing?

15 A I believe they were boxers.

16 Q Okay. So sometimes you say underwear, but he was
17 actually wearing boxers?

18 A Wearing boxers.

19 Q Both types of under garments?

20 A Yes, sir.

21 Q But there's a small distinction?

22 A Yes, sir.

23 Q Now, how do you know he had two pairs of boxers
24 on?

25 A He showed me.

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- 1 Q He showed you. In his interview?
- 2 A In the interview.
- 3 Q Did he say why he wears two pairs of boxers?
- 4 A He did. But I can't remember his response.
- 5 Q Okay. Did you take a buccal swab in this case?
- 6 A I did.
- 7 Q Tell the jury what that is.
- 8 A It's where we -- first I read him advisement of
- 9 voluntary consent form to allow me to take a sample of
- 10 his DNA which is a swab of the mouth. It's called a
- 11 buccal swab where we take two Q-tips, run it inside the
- 12 mouth, place it in a sealed container and it's then
- 13 sent to SLED.
- 14 Q Okay. And did you send that to SLED in this case?
- 15 A Yes, I did.
- 16 Q Was it sent with any other evidence?
- 17 A No, sir, it was not.
- 18 Q Okay. Why not?
- 19 A I don't remember why. I did collect his
- 20 undergarment for comparison, but that would have been
- 21 the purpose of getting the buccal swab, to compare it
- 22 to Complaining Witness underwear.
- 23 Q Okay. So --
- 24 A Or her clothes for DNA comparison.
- 25 Q But nothing else was ever sent in this case?

1 A Nothing else was sent.

2 Q And so a buccal swab by itself, you didn't have
3 anything to compare it to in this case?

4 A I did not.

5 Q Okay. So even though that was taken and sent, if
6 there's nothing to compare it to, then?

7 A Then it's destroyed after a certain amount of
8 time.

9 Q Okay. Are there times in other cases where you
10 have evidence to compare it to?

11 A Yes, there is.

12 Q But you didn't collect any in this case?

13 A I did not.

14 Q Why is that?

15 A I don't remember. I believe he mentioned that
16 he -- I asked him if he was wearing the same clothes he
17 had on, and I believe he said yes. And I don't
18 remember why I didn't collect clothes that day.

19 Q Now, you were talking to him at about 1 a.m. on
20 the 16th; right?

21 A Yes, sir.

22 Q Is when you started. You said that [REDACTED] said
23 this happened sometime around eight?

24 A Yes, sir.

25 Q And so you didn't respond directly to the house;

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1 did you?

2 A I did not.

3 Q Do you know if he was wearing the same clothes?

4 A I do not know.

5 Q Was there time for him to change clothes?

6 A There was.

7 Q Did you ever respond to the house itself?

8 A No, sir, I did not.

9 Q And so you didn't observe the scene at the time?

10 A No, sir.

11 Q And so you couldn't have collected something if
12 you didn't show up there; right?

13 A No, sir, I could not.

14 Q Based upon -- sorry, let me go back. There was
15 about five hours between the point when [REDACTED] said the
16 incident occurred and when you met up with the
17 Defendant, maybe four hours?

18 A Yes, sir.

19 Q And he was already in another house; do you know
20 whose house that was?

21 A He was at his mother's residence.

22 Q At his mother's house. Based on your -- based on
23 your investigation, everyone you talked to, all the
24 statements that were given as well as your conversation
25 with the Defendant, did you -- what did you do as a

1 result?

2 A I arrested Mr. Sanchez and charged him with
3 criminal sexual conduct with a minor in the first
4 degree.

5 Q And why the first degree?

6 A Because the age of the victim is under 11 years
7 old.

8 Q Okay. And so based on your investigation, based
9 on talking to ^{Complaining Witness} and the mother and the
10 Defendant, you eventually arrested him; correct?

11 A Yes, sir.

12 Q Is there any question I haven't asked you that you
13 need to speak about or explain?

14 A During the interview -- I'm not sure if I can
15 mention it or not.

16 Q You can say what he said, but you can't talk about
17 what ^{Complaining Witness} or the mother said.

18 A Okay. During the interview there was a period
19 where I left him in the room by himself. He got on the
20 money and was speaking Spanish to his mother. And I
21 believe the translation was, make sure --

22 MR. GALMORE: Objection. I've never had this
23 statement. I don't know what he -- he's referring to
24 something in a different language that has not been
25 presented to the Court previously.

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1 THE COURT: Ladies and gentlemen of the jury,
2 you're going to have to step out and let me hear
3 counsel out on this, please.

4 (WHEREUPON, the jury exited the courtroom at
5 2:14 p.m.)

6 THE COURT: I think the simplest way to approach
7 this is to ask the detective, do you understand and
8 comprehend Spanish?

9 THE WITNESS: No, sir.

10 THE COURT: How did you determine what was said?

11 THE WITNESS: The next day I had a -- our victim's
12 advocate come in and view the video and translated it.

13 THE COURT: I think we're going to have to have --
14 well, sounds like the simplest way is to get a
15 certified translator in here to explain -- to translate
16 it in front of the jury. Otherwise, I think we may be
17 risking a problem here on the record.

18 MR. HOLFORD: Yes, sir, Your Honor. Just for the
19 record, though, Defense was provided a copy of the
20 Defendant's statement that's audio and video recorded.
21 He certainly had notice of the statement. His client's
22 the one who made the statement, and so if his client
23 speaks Spanish like he did in the video, his client
24 would be able to tell him what exactly he said.

25 This is -- the point is, Your Honor, it's not a

1 statement that has been hidden from the Defense or he
2 wasn't on notice of. It's the same statement that we
3 watched in court for the Jackson v. Denno.

4 MR. GALMORE: Respectfully, Your Honor, this
5 statement was not part of a custodial interrogation.
6 You saw from the video that the detective left the
7 room, and Mr. Sanchez is in the room by himself. I
8 believe he has an expectation of privacy when he whips
9 out his cell phone and calls his mother. They could
10 have taken the cell phone from him, they already had
11 him in handcuffs.

12 THE COURT: He was in an interrogation room.

13 MR. GALMORE: The interrogation had taken a break.

14 THE COURT: I don't agree with that, now.

15 MR. GALMORE: So part of the interrogation was to
16 go out of the room and watch and see what he does?

17 THE COURT: Could have been.

18 MR. GALMORE: Yeah. That wasn't testified to,
19 though.

20 THE WITNESS: It was testified that I left the
21 room.

22 MR. GALMORE: Also, Your Honor, if we're going to
23 bring in an interpreter, that is an additional witness
24 who was not listed on the witness list and who was not
25 provided -- that name was not provided to the Defense,

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1 nor was it provided to the jury. I think it's
2 inappropriate to try to add an additional witness at
3 this point. They could have put the interpreter's name
4 on the witness list Monday morning.

5 THE COURT: I've never had this to come up before.

6 MR. GALMORE: And you could have determined
7 whether or not what was said in Spanish was knowingly
8 and voluntarily given.

9 THE COURT: I don't agree with that, either.

10 MR. GALMORE: Well, you can't rule that what he
11 said in Spanish was knowingly given if you don't know
12 what he said.

13 THE COURT: I definitely don't agree with that
14 statement.

15 MR. GALMORE: I can understand that the statement
16 is voluntarily given insofar as he's speaking to a
17 police officer, answering questions from a police
18 officer. Then the policeman leaves the room, and he
19 talks to his mother in a different language.

20 THE COURT: Which makes it even worse on his part
21 when he was fluent in English.

22 MR. GALMORE: But my point is the State could have
23 listed the interpreter as a witness, and they could
24 have called the interpreter as a witness. At this
25 point they've attempted to use the detective to

1 interpret Spanish when he says he doesn't even speak
2 Spanish.

3 THE COURT: Anybody got any law on this issue?

4 MR. HOLFORD: Your Honor, we do not have law on
5 this issue.

6 THE COURT: Well, I know a cure for it. The
7 tape's in evidence, I've already ruled on that. There
8 may be a juror that perfectly understands Spanish.

9 MR. HOLFORD: Your Honor, I believe at this time
10 the State is going to move on from its questioning, not
11 have this witness translate the Spanish.

12 THE COURT: All right. We are out of the presence
13 of the jury.

14 MR. HOLFORD: Yeah, yeah. Yes, Your Honor.

15 THE COURT: So --

16 MR. HOLFORD: At this time we're not going to have
17 this witness testify as to what the Defendant said if
18 he needs a translator. We don't have a translator on
19 the witness list. I don't think -- just for purposes
20 of the record, though, I don't think that the jury
21 hearing that statement -- it's already been through
22 Jackson v. Denno, the purpose of that is to know that
23 the Defendant's statements were knowingly and
24 voluntarily given, not for coercion or duress.

25 Certainly if the detective is not in the room and

KING HEMINGWAY-DIRECT BY MR. HOLFORD

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1 he makes a phone call, there's no coercion or duress,
2 he's voluntarily making a statement to somebody. It is
3 in Spanish. A translator has translated it and given
4 it to the detective, which is part of his investigation
5 to see what the Defendant said.

6 THE COURT: And I think that's a potential
7 problem.

8 MR. HOLFORD: Yes, Your Honor.

9 THE COURT: To me, my gut reaction is it may not
10 be a problem. But what I think doesn't necessarily
11 mean what the Court of Appeals might think.

12 MR. HOLFORD: Yes, Your Honor. And so for those
13 reasons, I think that it's in the State's best interest
14 to move on passing that line of questioning. I don't
15 think that anything would be improper or wrong if he
16 were to testify to that or if the jury were to hear the
17 statement as it was said in Spanish, whether they can
18 interpret it or not, it is a statement. It speaks for
19 itself, I guess.

20 But I believe at this time we're going to move on
21 from this line of questioning and, if necessary, we'll
22 deal with it at a later time. But certainly the
23 Defendant speaks Spanish, he knows what he said, and
24 his attorney knows what he said.

25 THE WITNESS: And the victim advocate is bilingual

1 also.

2 MR. GALMORE: The victim advocate --

3 THE WITNESS: I'm sorry, the interviewer, forensic
4 interviewer from the Children's Recovery Center who is
5 a witness.

6 MR. GALMORE: She's here for a forensic interview.
7 Now she's doing interpretation work for the Court?

8 THE COURT: All right. Well, he's withdrawn the
9 question so --

10 MR. HOLFORD: I'll withdraw the question.

11 THE COURT: -- that solves that problem.

12 MR. GALMORE: Is it --

13 THE COURT: If you play the tape, you already know
14 how I'm going to rule on your objection because we've
15 already discussed that. If you've got a juror that
16 understands Spanish, I don't know what the
17 interpretation was.

18 MR. GALMORE: I guess my concern, sir, is that
19 line of questioning over, or are they going to try to
20 bring in another witness to try to interpret what he
21 said? Because I need to prepare accordingly.

22 MR. HOLFORD: We're not going to call another
23 witness, other than the Children's Recovery Center
24 witness.

25 THE COURT: Now, I'm not trying to run y'all's

KING HEMINGWAY-DIRECT BY MR. HOLFORD

1 business. But if you have a certified court
2 interpreter to come in and you play that tape, I'm
3 certainly going to allow that interpreter to translate
4 it. That's not a witness, in my opinion. That's a
5 translator.

6 But y'all are going to have to sort all of that
7 out if you want to do -- see, the problem I have, I
8 don't know what was said. Because I'm certainly not
9 fluent in Spanish. I took three years of French, and I
10 can't even remember a fourth of what I learned in
11 French class. But anyway, problem solved if you're
12 withdrawing the question for right now.

13 MR. GALMORE: I'm sorry, sir. But I still need to
14 know if it's being withdrawn just for this witness, or
15 permanently is that issue resolved?

16 MR. HOLFORD: I don't think we have to give our
17 entire intentions as to lines of questioning from here
18 on out.

19 MR. GALMORE: I need to know if I need to object
20 to the next witness.

21 MR. HOLFORD: We can handle that objection when we
22 call the next witness.

23 MR. GALMORE: I don't think the next witness is
24 competent to testify about a statement from another
25 witness. She's not a certified court reporter -- or

1 court interpreter, not to my knowledge.

2 MR. HOLFORD: Your Honor, if we choose to enter
3 the statement at a later time, it would be under a
4 certified court reporter -- or court interpreter.

5 THE COURT: Okay, all right. We safe to go on,
6 with that said?

7 MR. GALMORE: So I guess the -- what is the
8 ruling?

9 THE COURT: I don't want to bring the jury back in
10 here --

11 MR. GALMORE: Yes, sir.

12 THE COURT: -- and then have to send them back
13 out. Well, the ruling on its moot now because he
14 withdrew the question.

15 MR. GALMORE: Yes, sir.

16 (WHEREUPON, the jury came into open court at
17 approximately 2:25 p.m.)

18 Q You don't speak Spanish; do you?

19 A No, I do not.

20 Q As a result of your conversation with the
21 Defendant, did you arrest him?

22 A I did.

23 MR. HOLFORD: No further questions, Your Honor.

24 THE COURT: Your witness.

25 CROSS-EXAMINATION

KING HEMINGWAY-CROSS BY MR. GALMORE

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1 BY MR. GALMORE:

2 Q Detective Hemingway, your first involvement with
3 the case was when you reported to Conway Hospital; is
4 that correct?

5 A Yes, sir.

6 Q And what time was that?

7 A I got there around 11:45, I believe.

8 Q All right. And you said you spoke with
9 Ms. ^{Complaining Witness} and you spoke with her mother?

10 A Yes, I did.

11 Q And you did not separate them during the
12 interview?

13 A No, sir.

14 Q So anything that ^{Complaining Witness} said to you would have
15 been in her mother's presence?

16 A Yes.

17 Q So if, for example, ^{Complaining Witness} might have wanted to
18 recant that story, she would have had to do so in her
19 mother's presence?

20 A Yes.

21 Q You didn't give her an opportunity to speak to you
22 separately from her mother?

23 A The condition she was in when I observed her, I
24 didn't think it was a good idea to separate her from
25 her mother at that time.

1 Q So the interview you conducted with Complaining Witness was
2 with another person in the room?

3 A Her mother, yes.

4 Q Now, I think you testified that a rape kit was not
5 done in this case?

6 A Yes, sir.

7 Q I think your testimony was they said it wasn't
8 necessary?

9 A The hospital staff, yes, who does the rape kits.

10 Q Don't they do those kits at the direction of the
11 detectives?

12 A No, sir.

13 Q So if you said, dear, doctor, I would like you to
14 perform a rape kit on this young lady, the doctor would
15 refuse or could refuse?

16 A They could.

17 Q Has that ever happened in any of your cases?

18 A No, not any of my cases.

19 Q Okay. So what kind of detective are you, like
20 major crimes or vice?

21 A At this time of this incident I was in special
22 victims unit.

23 Q Special victims unit. So you're like trained to
24 deal with victims of sexual assault?

25 A I'm trained to deal with all victims of any crime.

1 Q Okay. Is it sometimes the case that victims of
2 sexual assault don't relate the entire story?

3 A Yes.

4 Q And sometimes they might say it didn't happen when
5 it really did?

6 A Yes, sir.

7 Q And sometimes they might say it was oral when it
8 was really vaginal or anal?

9 A Yes, sir.

10 Q And that happens with these young victims too;
11 does it not?

12 A It happens with all types of victims.

13 Q Okay. Wouldn't it be better to do a rape kit to
14 determine whether or not any of those other activities
15 took place?

16 A It depends on the situation. In this particular
17 case, there was no vaginal or anal penetration, only
18 oral copulation. And the medical staff did not believe
19 a rape kit, a sexual assault kit, was necessary in that
20 case.

21 Q Wouldn't that sexual assault exam also show if
22 there was any previous sexual activity?

23 A I would assume it would.

24 Q But the kit wasn't done in this case?

25 A No, sir, it was not.

1 Q As part of the rape kit, they collect underwear,
2 victims' underwear; is that correct?

3 A Yes, sir.

4 Q And they would turn those underwear over to you?

5 A Yes, sir.

6 Q Okay. But that wasn't done in this case?

7 A Because there was no assault in her vaginal or
8 anal area.

9 Q Because you didn't check?

10 A No. Because she stated there was no assault in
11 her vaginal or anal area.

12 Q Right. And you did not follow up and check?

13 A It wasn't my duties at the time to override what
14 the victim is telling me, when there is no evidence of
15 any sexual assault to her vaginal or anal area.

16 Q Now, had that DNA test been done, they could
17 compare the DNA that's found on the victim with a
18 suspect; is that correct?

19 A I would assume they would be able to.

20 Q Did you interview the doctor in this case?

21 A No, sir, I did not.

22 Q What about the nurse?

23 A No, sir, I did not.

24 Q After you met with ^{Complaining Witness} and her mom, you went
25 to pick up Angel; is that correct?

KING HEMINGWAY-CROSS BY MR. GALMORE

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1 A Yes, sir.

2 Q Okay. And you found him where they told you he
3 would be?

4 A Yes, sir.

5 Q At his mother's house?

6 A Yes, sir.

7 Q Was he climbing out the window when you showed up?

8 A No, sir.

9 Q Did he take off in a sprint once the police
10 knocked on the door?

11 A No, sir.

12 Q He went with you to the ML Brown building?

13 A Yes, sir, he did.

14 Q And then you sat down and interviewed him?

15 A Yes, sir, I did.

16 Q Was this interview tape recorded?

17 A Yes, sir.

18 Q Do you usually tape record the interviews that you
19 had with suspects?

20 A Yes, sir.

21 Q That's like a matter of course; right?

22 A Yes, sir.

23 Q And the interview in this case was tape recorded
24 too?

25 A Yes, sir.

1 Q Right over here?

2 A Yes, sir.

3 Q You brought it to court today?

4 A The solicitor's office did, I believe.

5 Q Okay. So you gave a copy of the interview you had
6 with Angel to the solicitor's office?

7 A Yes, sir.

8 Q So I mean, I'm not making up some fictional
9 interview?

10 A No, sir.

11 Q It really happened?

12 A It happened.

13 Q You were in the room?

14 A Yes, sir.

15 Q Angel was in the room?

16 A Yes, sir.

17 Q And the interview lasted for about an hour?

18 A Yes, sir.

19 Q And it was on videotape?

20 A Video and audio, yes, sir.

21 Q Video and audio?

22 A Yes, sir.

23 Q And you brought the video and audio and give it to
24 them?

25 A Yes, sir.

KING HEMINGWAY-CROSS BY MR. GALMORE

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1 Q And they have it right now?

2 A I believe so, yes, sir.

3 Q Would that video and audio play on this TV right
4 here?

5 A Yes, sir, it will.

6 Q Could it be plugged up and turned on right now?

7 A I would assume so, it's in the courtroom.

8 Q Right, okay. Now, on that tape that lasted for an
9 hour that the police have that they are not showing
10 you, did you discuss the issue of underwear, Angel's
11 underwear?

12 A I asked him if he was wearing the same clothes
13 that he wore when the incident occurred.

14 Q You asked him that on the video?

15 A Yes, sir.

16 Q And he told you that he was wearing the same
17 clothes?

18 A He did.

19 Q And he said that on video?

20 A Yes, sir.

21 Q And the video is right here?

22 A Yes, sir.

23 Q Did Angel then get up and show you his underwear?

24 A He did.

25 Q So on video Angel stands up, pulls up his shirt

1 and shows you his underwear?

2 A Yes, sir.

3 Q Were his underwear white?

4 A I don't recall the color.

5 Q Well, in the video, I think you said there was an
6 Army and there was blue and orange. Do you recall
7 that?

8 A No, sir, I don't.

9 Q Do you recall if Angel had one pair of underwear
10 on?

11 A He had two pair.

12 Q He had two pair of underwear on. Did he tell you
13 in the tape that he always wears two pair of underwear?

14 A He did.

15 Q And that's the tape that you brought down here and
16 gave to the solicitor?

17 A Yes, sir.

18 Q So he stood up on tape and showed you two pair of
19 underwear?

20 A Yes, sir.

21 Q If they played that tape right now, we'd see Angel
22 standing up and showing two pair of underwear?

23 A Yes, sir.

24 Q Okay. And neither pair was white?

25 A I don't recall the exact colors.

KING HEMINGWAY-CROSS BY MR. GALMORE

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1 Q But it is on that video; right?

2 A Yes, sir.

3 Q I mean, we could look at the video and see the
4 color of his underwear?

5 A Yes, sir.

6 Q Okay. You also discussed a DNA swab?

7 A Yes, I did.

8 Q Yes. Is DNA collection something you do during
9 the course of investigations?

10 A Yes, sir.

11 Q That's kind of routine; right?

12 A Yes, sir.

13 Q Just about as routine as videotaping the
14 interview?

15 A Yes, sir.

16 Q Now, what is the process of giving over a DNA
17 sample? Tell the jury about that.

18 A What do you mean, the process?

19 Q Okay. Let's say a detective wants a DNA sample
20 from a suspect; what do you do?

21 A We first ask for it voluntarily.

22 Q Did you do that in this case?

23 A Yes, I did.

24 Q Okay. And Angel responded to you?

25 A Yes, he did.

1 Q What was his response?

2 A He was willing to give me a sample of his DNA.

3 Q Okay. But it's not that easy. You have to sign a
4 form; right?

5 A Yes, sir.

6 Q You have to fill out a DNA form?

7 A Yes, sir.

8 Q Now, before Angel gave a video and audio tape
9 recorded statement, he had to sign a Miranda form to
10 give the statement; right?

11 A Yes, sir.

12 Q Okay. And before Angel gives a DNA sample, he has
13 to sign a form giving the DNA; is that correct?

14 A Yes, sir. He voluntarily signed it. He doesn't
15 have to.

16 MR. GALMORE: Can I have that marked, please.

17 (WHEREUPON, Defendant's Exhibit No. 2 was marked
18 for identification only.)

19 Q Let me hand you what's been marked for
20 identification purposes as Defense Exhibit No. 2 and
21 ask you if you recognize this document.

22 A Yes, sir, I do.

23 Q And what is that document?

24 A It's the consent for DNA collection.

25 Q Is your signature on that document?

KING HEMINGWAY-CROSS BY MR. GALMORE

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1 A Yes, sir.

2 Q Is Angel Sanchez's signature on that document?

3 A Yes, sir.

4 Q Did you watch Angel sign that in your presence?

5 A Yes, sir.

6 Q Did he sign that on that video that they refuse to
7 play?

8 A Yes, sir.

9 Q Okay. So if they played that video, we'd see
10 Angel signing that piece of paper?

11 A Yes, sir.

12 MR. GALMORE: Permission to move Defense Exhibit
13 No. 2 into evidence as a Defense exhibit.

14 MS. ANDREW: Without objection.

15 THE COURT: In without objection.

16 (WHEREUPON, Defendant's Exhibit No. 2 was admitted
17 in evidence.)

18 MR. GALMORE: Permission to publish?

19 THE COURT: Yes, sir.

20 MR. GALMORE: Please hand it down.

21 Q So you collected that DNA sample; right?

22 A Yes, sir, I did.

23 Q On video?

24 A Yes, sir.

25 Q How exactly did you take that sample; was that a

1 blood draw, are you a nurse?

2 A No, sir.

3 Q Okay. Did you --

4 A We collected from a buccal swab, which is a Q-tip
5 inside the mouth.

6 Q That sounds pretty simple, Q-tip inside the mouth?

7 A Yes, sir.

8 Q Even a detective can do it?

9 A Yes, sir.

10 Q And you did it?

11 A Yes, sir.

12 Q In this case?

13 A Yes, sir.

14 Q On video?

15 A Yes, sir.

16 Q Angel agreed to give a sample, you took a sample?

17 A Yes, sir.

18 Q Where's that sample now?

19 A I'm pretty sure it's still with SLED, or it's
20 either been destroyed, I'm not sure.

21 Q Did you submit it into property and evidence?

22 A I did.

23 Q Do you have a log sheet where you signed it into
24 property and evidence?

25 A There should be one.

KING HEMINGWAY-CROSS BY MR. GALMORE

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1 Q Can I see it?

2 A I do not see one in my case file, but there should
3 be one, though.

4 Q Okay. That's okay about the paperwork. Suffice
5 it to say, you didn't take the DNA sample and throw it
6 in the trash can; did you?

7 A No, sir.

8 Q You sent the sample off for testing?

9 A It should have been sent off, yes, sir.

10 Q I mean, you're the detective, you're the lead
11 detective, you don't know if the sample you took on
12 video was actually sent for testing?

13 A My job is to collect it, enter it into evidence.
14 And evidence sent it at their leisure.

15 Q Who would be the person that I need to talk to
16 about evidence, then?

17 A I would assume the gentleman that's over evidence.

18 Q Well, you're over the case; right?

19 A Yes, sir.

20 Q You're the lead detective?

21 A Yes, sir.

22 Q I don't see any other detectives in here today; do
23 you?

24 A No, sir.

25 Q So that would be you?

KING HEMINGWAY-CROSS BY MR. GALMORE

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1 A Not for evidence sending to SLED, no, sir.

2 Q So you disavow knowledge of half the stuff that
3 went on in this case?

4 A No, sir. I disavow that I don't know if the
5 evidence was sent, what time it was sent.

6 Q That's right, you don't even have the log sheet.
7 But the DNA was collected on video; right?

8 A Yes, sir.

9 Q Okay.

10 A Okay. It was not used because there was nothing
11 to compare it to.

12 Q Let's talk about that. What could that DNA have
13 been compared to, her panties?

14 A No, sir.

15 Q Well, they weren't collected.

16 A There was no need to collect her panties.

17 Q I understand that. Did you go to the crime scene?

18 A No, sir, I did not.

19 Q Do you know where the crime scene's at?

20 A Yes, sir.

21 Q Where?

22 A At [REDACTED].

23 Q Did you go to [REDACTED]?

24 A No, sir, I did not.

25 Q Did you go to this room where it allegedly

1 occurred?

2 A No, sir, I did not.

3 Q Did you take a picture of the bed that it happened
4 on?

5 A No, sir, I did not.

6 Q Did you take a picture of that lock that y'all
7 keep swearing the door was locked on?

8 A No, sir.

9 Q If you went to the house, do you think maybe you
10 would have saw some DNA since this was only two, three
11 hours?

12 A No, sir, I do not.

13 Q Okay. But you didn't check?

14 A No, sir.

15 Q Perhaps you could have found DNA on a pillow case?

16 A I don't believe I would have, being that she was
17 standing up, and he was sitting on the bed allegedly.

18 Q Well, the allegation is that it happened on the
19 bed; right?

20 A Yes. And she was supposedly standing up.

21 Q You didn't go see the bed?

22 A No, sir, I did not.

23 Q You didn't go test the bed?

24 A No, sir.

25 Q You didn't go look at the bed?

1 A No, sir.

2 Q Now, you interviewed Angel, came to the police
3 department, signed the Miranda form, agreed to an
4 interview. Did he have to agree to an interview?

5 A No, sir.

6 Q Now, let's get this one thing straight. Whether
7 Angel gave you an interview or not, you were going to
8 arrest him?

9 A Yes, sir. Based on the probable cause, yes.

10 Q Did you tell Angel, whether you give us an
11 interview, we're going to look into it?

12 A No, sir.

13 Q Did you tell him the flip side, if you don't give
14 us an interview, we're going to arrest you?

15 A No, sir.

16 Q But in your mind, it didn't matter what he said in
17 the interview, he was going to be arrested?

18 A Based on the probable cause, yes.

19 Q Did you tell him that, Mr. Sanchez, we'd like to
20 have an interview with you, doesn't matter what you say
21 because we're going to arrest you regardless, but we'd
22 like to have an interview with you?

23 A No, sir.

24 Q So you just said, we'd like to have an interview
25 with you?

KING HEMINGWAY-CROSS BY MR. GALMORE

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1 A Yes, sir.

2 Q But you knew that no matter what he said, you were
3 still going to arrest him?

4 A Based on the probable cause, I had enough to
5 arrest him.

6 Q So when you go into this interview, you know what
7 the outcome is going to be?

8 A No, sir, I don't.

9 Q You knew you were going to arrest him?

10 A I knew I had probable cause to arrest him.

11 Q So you're saying you're going to have probable
12 cause and not arrest him?

13 A That's possible, yes, sir. He can give an
14 explanation in an interview that can match something
15 that I found. It did not in this case.

16 Q You didn't find anything, you didn't look
17 anywhere.

18 A Because there was no need to go to the house with
19 this type of investigation.

20 Q Yes, it was.

21 A It was oral copulation. The fact of no evidence
22 being found doesn't mean it didn't happen.

23 Q After oral copulation, perhaps the young lady spat
24 out some DNA. Did you go check a trash can?

25 A No, sir, I did not.

1 Q Did you check a tissue or napkin?

2 A No, sir.

3 Q So if it was a completed act, DNA would have been
4 around, you didn't go get it; would that be fair to
5 say?

6 A Yes, sir.

7 Q Also in this interview you told Mr. Sanchez that
8 you had interviewed the kids, and they said the door
9 was locked. But that wasn't true; was it?

10 A According to the kids, the victim in the case.

11 Q No, no, no, no.

12 A Yes, sir.

13 Q When did you interview the kids? I know when you
14 interviewed Complaining Witness when did you interview her
15 brothers?

16 A At the Children's Recovery Center.

17 Q What's that date?

18 A The exact date?

19 Q May 10th, 2016; is that correct?

20 A Yes, sir, May the 10th.

21 Q Okay. And you interviewed Angel on April 15th,
22 2016.

23 A Yes, sir.

24 Q So that's 25 days?

25 A Yes, sir.

KING HEMINGWAY-CROSS BY MR. GALMORE

1 Q In your interview with Angel on April 15th, you
2 told him you had interviewed those kids; did you not?

3 A No, sir. I said I interviewed Complaining Witness

4 Q Well, you know, we have a tape.

5 A Yes, sir.

6 Q They won't play it. But if they did play it, we
7 could see it for ourselves.

8 A Okay.

9 Q Just to try and get a complete understanding of
10 what your investigation was, we had DNA that wasn't
11 tested; correct?

12 A I had his DNA that wasn't compared to any other
13 DNA, yes.

14 Q Okay. So you had a DNA sample from Angel, and you
15 did not test it against anything?

16 A No, sir.

17 Q You claim to have interviewed the kids, but you
18 did not actually interview the two boys until 25 days
19 after you interviewed Angel?

20 A Yes, sir.

21 Q But on the tape you told him something different?

22 A I don't recall telling him anything different.

23 Q Okay. Now, Angel's daughter, Victoria, you never
24 interviewed her, you didn't interview her at all?

25 A No, sir, I did not.

1 Q You interviewed the boys 25 days later, you didn't
2 interview the girl at all?

3 A No, sir, I did not.

4 Q You went to the hospital but did not collect any
5 physical evidence?

6 A There was no physical evidence to collect.

7 Q No panties; correct?

8 A There was no reason to collect her panties.

9 Q No rape protocol kit?

10 A No sexual assault kit, no, sir.

11 Q Okay, thank you. And you did not go to the crime
12 scene?

13 A No, sir, I did not.

14 Q You did not check the mattress for any signs of
15 DNA?

16 A No, sir.

17 Q In addition, I think she said her tooth was
18 bleeding. Did you check the mattress for any blood?

19 A No, sir, I did not.

20 Q And you did not collect any underwear from
21 Mr. Sanchez, even though he stood up and showed you his
22 underwear on video?

23 A Yes, sir.

24 Q Did he tell you that he assaulted Complaining Witness

25 A No, sir, he didn't.

KING HEMINGWAY-REDIRECT BY MR. HOLFORD

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1 Q Okay. So this one-hour interview, every time you
2 asked him about it, he denies that an assault occurred?

3 A Yes, sir.

4 Q Is that correct?

5 MR. GALMORE: I don't have any further questions.

6 THE COURT: Solicitor?

7 MR. HOLFORD: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. HOLFORD:

10 Q Detective Hemingway, when you interviewed the
11 Defendant, did you give him an opportunity to confess?

12 A I did.

13 Q Did he ever confess?

14 A No, he did not.

15 Q Was that interview about 45 minutes long?

16 A Yes, sir.

17 Q Do you know what a self-serving statement is?

18 A I do not.

19 Q Okay. Do all defendants confess when you
20 interview them?

21 A No, they do not.

22 Q Does everyone who commits a crime, do they always
23 confess?

24 A No, they do not.

25 Q Does that mean they didn't commit a crime?

1 A No, it does not.

2 Q Do you think the State would want to play an
3 interview where he just denies it the whole time?

4 A No, sir.

5 Q Can the Defense call witnesses?

6 A Yes, they can.

7 MR. GALMORE: Objection, Your Honor. Burden
8 shifting.

9 THE COURT: I'm going to instruct the jury to
10 disregard that last question and answer.

11 MR. GALMORE: Thank you, sir.

12 Q No question, this interview was recorded?

13 A No question.

14 Q And videoed?

15 A Yes, sir.

16 Q And did you tell us that the Defendant said -- he
17 agreed he took ^{Complaining Witness} in that room?

18 A Yes, he did.

19 Q By herself?

20 A By herself.

21 Q Okay. But he denies anything happened?

22 A Yes, sir, he does.

23 Q Does that mean it didn't happen?

24 A It does not.

25 Q And based on your conversation with ^{Complaining Witness} the

KING HEMINGWAY-REDIRECT BY MR. HOLFORD

1 mom and the Defendant, you did arrest him?

2 A I did.

3 MR. HOLFORD: No further questions.

4 MR. GALMORE: Nothing further, sir.

5 THE COURT: You may step down. Thank you, sir.

6 (Witness excused.)

7 MR. HOLFORD: I'd ask that this witness be
8 excused.

9 MR. GALMORE: No objection, sir.

10 THE COURT: The witness is excused.

11 MS. ANDREW: Your Honor, the State's next witness
12 requires videotaped testimony, so we'd like a minute to
13 set it up.

14 THE COURT: Does any juror need a brief recess?
15 The Court stands at ease while we getting the technical
16 aspects set up. Being this is going to take a little
17 while, does anybody need any coffee or Coca-Cola?

18 All right. If you feel yourself getting drowsy,
19 please remember what I said, don't fall asleep on me.
20 Let Mr. Bailiff know, and we'll take care of a cup of
21 coffee or whatever you need.

22 MS. ANDREW: The State calls Haydee Sencion.

23 THE COURT: Come around and be sworn, please.

24 HAYDEE SENCION, after being duly sworn, testified
25 as follows:

1 THE CLERK: Please state your full name and spell
2 your first and last name for the Court.

3 THE WITNESS: Haydee Sencion. H-A-Y-D-E-E, last
4 name S-E-N-C-I-O-N.

5 DIRECT EXAMINATION

6 BY MS. ANDREW:

7 Q Ms. Sencion, where are you currently employed?

8 A Children's Recovery Center.

9 Q And how long have you been working at the
10 Children's Recovery Center?

11 A Four years.

12 Q And can you tell us what the Children's Recovery
13 Center is.

14 A The Children's Recovery Center is a child advocacy
15 center for Horry County. We help investigating
16 agencies talk to children about allegations that have
17 been made.

18 Q Who refers the children to you to begin with?

19 A Normally law enforcement does.

20 Q Okay. And why do they refer the children to you
21 to be interviewed?

22 A We've been trained, we have a 40-hour training
23 that we attend. And we're specifically trained to talk
24 to children using protocol, it's called the RATAC.

25 Q Ms. Sencion, did you have a chance to conduct an

HAYDEE SENCION-DIRECT BY MS. ANDREW

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1 interview with the victim in this case, ^{Complaining Witness}

2 [REDACTED]

3 A Yes.

4 Q And at the time of the interview, how old was

5 Complaining Witness

6 A She was eight years old.

7 Q And who referred her to be interviewed?

8 A King Hemingway from Horry County Police.

9 Q Who was present at the interview?

10 A It was -- she and I were in the interview room.

11 Q And do you know what date the interview occurred?

12 A 2016. I don't remember the actual date.

13 Q I think we'll see it in the video when we put it
14 in. It's May 10, 2016; sound correct to you?

15 A Yes.

16 Q What equipment, if any, was used to record the
17 video? The interview, I'm sorry.

18 A The interview was audio and video recorded.

19 Q Okay.

20 MS. ANDREW: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes.

23 Q I'm going to show you this.

24 MS. ANDREW: Can I have this marked.

25 (WHEREUPON, State's Exhibit No. 4 was marked for

1 identification only.)

2 Q And I'm going to show you what's been marked as
3 State's Exhibit 4. Can you identify this for me,
4 please. You can hold it.

5 A This is the interview I conducted.

6 Q Okay. Have you had a chance to review this
7 interview?

8 A I have.

9 Q And is it an accurate representation of what
10 occurred that day?

11 A It is.

12 MS. ANDREW: Your Honor, the State moves to
13 introduce Complaining Witness CRC interview into
14 evidence, State's Exhibit 4.

15 MR. GALMORE: I would object, Your Honor. It's
16 cumulative and not relevant because the witness herself
17 has testified, Ms. Arnett.

18 THE COURT: I'll have to overrule that objection.
19 (WHEREUPON, State's Exhibit No. 4 was admitted in
20 evidence.)

21 MS. ANDREW: Thank you, Your Honor. Permission to
22 publish this to the jury?

23 THE COURT: Yes.

24 Q Ms. Sencion, could you tell me what the date on
25 this video; can you see it?

HAYDEE SENCION-CROSS BY MR. GALMORE

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1 A May 10th, 2016.

2 Q Is this the interview room where the video
3 occurred?

4 A It is.

5 Q Where the interview occurred. Okay. Thank you.

6 (WHEREUPON, the video was played at 2:57 p.m.)

7 Q That was your interview with Complaining Witness. Did
8 that conclude your interview with her?

9 A It did.

10 Q Did you ask her any questions or talk about
11 allegations of this case with her after the tape ended
12 in the interview?

13 A I did not.

14 Q Did you talk about the allegations in this case
15 before you started the interview on the tape?

16 A I did not.

17 MS. ANDREW: Thank you. Please answer any
18 questions Mr. Galmore has.

19 CROSS-EXAMINATION

20 BY MR. GALMORE:

21 Q Just a few questions, Mrs. Sencion. What
22 specifically is your job?

23 A I'm a forensic interviewer.

24 Q Okay. And you work for whom?

25 A Children's Recovery Center.

1 Q Is the Children's Recovery Center a State agency?

2 A It's not.

3 Q Is it a County agency?

4 A It's not. It's a private nonprofit.

5 Q Do the interviewers at the Children's Recovery

6 Center offer therapy to the people they interview?

7 A We do not.

8 Q Do you offer any medicine?

9 A No.

10 Q Okay. Do you have any counselling services for
11 the people you interview?

12 A We refer out for counselling.

13 Q Okay. So people are referred to you, and then you
14 refer them for further counselling?

15 A We're not counselors. I'm a forensic interviewer.

16 Q Okay. So people are referred to your agency by
17 the police department?

18 A Yes.

19 Q Do you get your funding from police departments?

20 A No.

21 Q What is the source of funding for the Children's
22 Recovery Center?

23 A Grants, fund raisers.

24 Q Okay. So you interview these children. And I'm
25 trying to figure out, what is it that you do in an

HAYDEE SENCION-CROSS BY MR. GALMORE

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1 interview that a detective doesn't do in an interview?

2 A I'm not sure I'm understanding the question.

3 Q My question is, if you have a victim of sexual
4 assault, why doesn't that victim interview with the
5 detective?

6 A So what I'm -- I'm going to answer that by saying
7 that the child advocacy center is a neutral space, and
8 it gives the child a place to be able to speak freely
9 without the fear of being in trouble for anything that
10 they can say.

11 Q A child can speak to a detective, right?

12 A I'm not sure how to answer that.

13 Q Well, I'm just trying to figure out if your role
14 in this case is even necessary. Because the child met
15 with the detective, so why is the child meeting with
16 you?

17 A The services we provide are specifically geared
18 toward children.

19 Q The services you provide are geared towards
20 collecting information and evidence to be used in
21 court?

22 A With the training being able -- my training is so
23 that I can speak to children.

24 Q Okay. But the information you collect, you don't
25 offer therapy to the children with it, with the

1 information you collect from the interview?

2 A No. We refer out.

3 Q Right. The information you collect, you then come
4 to court and present it to the Court and police
5 departments?

6 A The information is -- yes, is sent out.

7 Q So your job is to collect information to be used
8 in court. This case you interviewed ^{Complaining Witness} at the
9 request of the police department?

10 A That's correct.

11 Q All right. That would be Detective King. So
12 basically he gives the family a number and says,
13 contact these people?

14 A No.

15 Q No. How does that work?

16 A We receive the referral with information including
17 the victim, their name and whatever else. Our intake
18 or children's advocate calls the family and sets the
19 appointment up.

20 Q Okay. So the family doesn't open the phone book
21 and contact the Children's Recovery Center?

22 A That's correct.

23 Q The family didn't ask to go be interviewed by the
24 Children's Recovery Center, they are given a referral
25 from the police?

HAYDEE SENCION-CROSS BY MR. GALMORE

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1 A That's correct.

2 Q And this case, the interview was scheduled for
3 May 10th, 2016; correct?

4 A Correct.

5 Q Okay. And the allegations occurred April 15th,
6 2016; is that correct?

7 A I don't know. I don't have the referral in front
8 of me.

9 Q All right. Well, let's just assume that the
10 allegations occurred on April 15th. From April 15th to
11 May 10th is 25 days. Did you ask ^{Complaining Witness} who she
12 talked with about this case during this 25-day period?

13 A I don't believe I did.

14 Q Do you think it would be important to know if
15 other people were putting thoughts and ideas into her
16 head, if she was discussing this case with others?

17 A During the interview I asked her if someone had
18 spoke to her regarding the interview and if she was
19 asked if she was told to say -- if she was told to say
20 something -- I'm sorry, say something specific or
21 something she should not say, to which she said no.

22 Q So she said she didn't discuss this with anyone
23 during that 25-day gap?

24 A That wasn't the question.

25 Q Oh, okay. So do you know if she discussed this

1 case with anyone during that 25-day gap?

2 A I don't know the answer to that.

3 Q And you said you your agency doesn't refer people
4 for -- or refers people for counselling; right?

5 A We refer out to counselling, yes.

6 Q Okay. Did you refer ^{Complaining Witness} for counselling in
7 this case?

8 A I don't have her file in front of me. I would
9 assume that, yes, that we did. But I don't know for
10 sure right now.

11 Q Who does your agency refer the young people to for
12 counselling?

13 A We refer out to therapists who have been trained,
14 trauma focussed, cognitive behavioral therapy --
15 therapists.

16 Q You use trained therapists exclusively?

17 A Yes.

18 Q Okay. So you wouldn't refer somebody to the
19 pastor?

20 A No.

21 Q Earlier you were talking about the RATAC method.
22 That's something you learned in your training?

23 A Yes.

24 MS. ANDREW: Objection, Your Honor.

25 MR. GALMORE: I'll move on, sir.

HAYDEE SENCION-CROSS BY MR. GALMORE

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1 THE COURT: Okay.

2 MR. GALMORE: Can I ask if she knows who invented
3 that method, since she is using it on children?

4 THE COURT: Any objection?

5 MS. ANDREW: I'm sorry?

6 MR. GALMORE: I said, does she know who invented
7 the RATAC method since she's using it on children.

8 MS. ANDREW: Your Honor, may we approach?

9 THE COURT: Sure.

10 (WHEREUPON, a bench conference was held off the
11 record in the presence of the jury but out of the
12 hearing of the jury.)

13 Q Do you know who invented the RATAC method?

14 A Corner House. Not the person specifically, but
15 it's a Corner House method.

16 Q The answer is not specifically?

17 A Not the person who came up with the technique, no.

18 Q All right. Okay. I think you said that you refer
19 people to counselling, you refer people to trained
20 counselors only and not to church pastors. Do you know
21 if ^{Complaining Witness} had any follow-up counselling in this case?

22 A I can't answer that without having the file in
23 front of me.

24 Q All right. Do you know if she talked to maybe a
25 school counselor?

1 A No.

2 Q During your interview did you discuss any bruising
3 that would have been on Complaining Witness

4 A Yes.

5 Q Did she tell you that she had any bruising?

6 A She denied any bruising.

7 Q Did she tell you that her mother sometimes beats
8 her?

9 A She said her mother sometimes spansks her.

10 Q Okay. And she said her mother spansks her brothers
11 also?

12 A That's correct.

13 Q And I think she said with a paddle and a flip
14 flop, and she doesn't use a belt anymore?

15 A That's correct.

16 Q And you put that information in your report?

17 A Yes.

18 Q Are you required by law to list that information
19 if it comes out? Are you a mandatory reporter?

20 A I am a mandatory reporter.

21 Q So if a young child says that she's physically
22 abused, you have to report her?

23 THE COURT: Whoa, whoa, wait a minute, now.

24 Ladies and gentlemen of the jury, y'all better step
25 out.

HAYDEE SENCION-CROSS BY MR. GALMORE

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1 (WHEREUPON, the jury exited the courtroom at
2 4:08 p.m.)

3 THE COURT: Last time I had any track of this
4 trial which was about two minutes ago, Mr. Sanchez was
5 the one on trial here now. I can't allow an attack on
6 a third party unless you've got some evidence that you
7 can show this Court that there was some wrongdoing on
8 the mother of this child. I just in good conscience
9 cannot allow this case to try some other person other
10 than the Defendant. Where are you headed with such a
11 question?

12 MR. GALMORE: Your Honor, my concern is that the
13 young lady may be coached into saying what she has said
14 and that that coaching is reinforced by physical
15 punishment.

16 THE COURT: If you don't have any evidence
17 somewhere to show me, this is highly extraordinary for
18 me to allow that to continue.

19 MR. GALMORE: I understand, sir. I will.

20 THE COURT: Now, if you tell me you've got some
21 evidence you're going to bring in, that's a different
22 story. But I can't -- in good conscience I cannot
23 allow this case to shift to trying someone else.

24 MR. GALMORE: Yes, sir. I will leave that line of
25 questioning alone.

1 THE COURT: Okay. Let's -- I know since I sent
2 them out, some of them will go to the restroom. Let's
3 stand at ease just a few minutes.

4 MR. GALMORE: Yes, sir.

5 THE COURT: Let's hold it to about five or six
6 minutes.

7 (WHEREUPON, a brief recess was taken at 4:10 p.m.)

8 MS. ANDREW: Before the jury comes in, may I take
9 up a matter? We all saw that tape, and the ending
10 where she's talking about her mother spanking her. I
11 don't think anyone thinks that she was abused. But
12 because of what the Defense asked the witness right
13 before the jury left, I'd like to ask in redirect the
14 witness, did she have to report anyone else as a result
15 of the allegations -- as a result of anything she heard
16 in the forensic interview.

17 Because the fact that she is a mandatory reporter
18 came up, and she didn't report anyone for physical
19 abuse. I just don't want anyone to get the impression
20 that there was any kind of report of physical abuse
21 against the mother.

22 THE COURT: You might object to it, but I don't
23 see any problem with it.

24 MS. ANDREW: Okay.

25 (WHEREUPON, the jury came into open court at

HAYDEE SENCION-CROSS BY MR. GALMORE

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1 approximately 4:24 p.m.)

2 THE COURT: All right. You may continue.

3 Q During the forensic interview, ^{Complaining Witness} mentioned
4 something about two doors and then two doors at the
5 back. Do you know what that was about?

6 A I'm not sure. I'm thinking she was describing her
7 residence at the time.

8 Q Okay. Do you know if that had any bearing on the
9 case?

10 A I don't know.

11 Q Also, during the interview she mentioned that
12 Macho was at the house during the time that the
13 allegations were taking place; is that what she said in
14 the interview?

15 A No. My understanding was that he was at a
16 doctor's appointment.

17 Q Okay. During the interview she mentioned that her
18 eyes sometimes turn green when she gets mad. Did she
19 say that?

20 A She did.

21 Q Did you happen to see them turn green that day?

22 A No.

23 MR. GALMORE: I don't have any further questions,
24 ma'am.

25 MS. ANDREW: Briefly, Your Honor.

REDIRECT EXAMINATION

1
2 BY MS. ANDREW:

3 Q How common is it that the police would refer a
4 child victim of a sexual assault to the Children's
5 Recovery Center to be interviewed rather than do it
6 themselves?

7 A That's the protocol is my understanding, they
8 refer to the child advocacy center for us to interview
9 the child.

10 Q And do you see a lot of children at the Children's
11 Recovery Center?

12 A We do.

13 Q Do you know if that's a statewide practice in
14 South Carolina?

15 A It is a statewide practice.

16 Q Okay. And is your role as interviewer just to
17 interview the child to hear the story, to hear what
18 happened to them?

19 A It is.

20 Q Okay. And as a result of that interview, did you
21 have to report anyone other than the Defendant to the
22 authorities?

23 A I did not.

24 MS. ANDREW: Thank you. That's all the questions
25 I have for this witness.

1 THE COURT: Anything further?

2 MR. GALMORE: No, sir.

3 THE COURT: You may step down. Thank you.

4 (Witness excused.)

5 MS. ANDREW: Your Honor, the State rests at this
6 time.

7 THE COURT: All right. Any matters?

8 MR. GALMORE: Yes, sir, we do have a matter of law
9 for the Court.

10 THE COURT: Any reason why we can't just go ahead
11 and send the jury home at this time?

12 MR. GALMORE: That would be fine, sir.

13 MS. ANDREW: No objection from the State, Your
14 Honor.

15 THE COURT: Okay. All right, ladies and gentlemen
16 of the jury, y'all may step out, I have to take up some
17 matters of law. We'll need you back 9:30 Thursday
18 morning. Tomorrow is a holiday, therefore, we will
19 resume then. Remember, don't discuss the case with
20 anyone, don't do any independent research. Do not
21 allow anybody to contact you or discuss this case with
22 you. Don't even discuss it with family members. Y'all
23 enjoy tomorrow, and we will see you back here Thursday
24 morning.

25 (WHEREUPON, the jury exited the courtroom at

1 4:28 p.m.)

2 THE COURT: Thank you, sir. Okay.

3 MR. GALMORE: Your Honor, I would make a motion
4 for a directed verdict at this time. Just looking at
5 the case in the light most favorable to the State, the
6 evidence here rises only to a mere suspicion of guilt.
7 When we look at the evidence, there's no corroborating
8 evidence that has been brought forth. The only
9 evidence that they have is a statement of Complaining Witness

10 [REDACTED]. Your Honor, her statement was given, as you
11 can see from the interview some 25 days later, some 25
12 days after the incident, if there even was an incident.

13 Your Honor, I would just submit that there is no
14 indicia of reliability that surrounds her statement.
15 And for that reason, we would ask for a directed
16 verdict.

17 THE COURT: What say the State?

18 MS. ANDREW: Your Honor, the State's met its
19 burden in presenting its case. We have direct
20 testimony from the victim herself that the crime
21 occurred. She stated that the victim placed -- I mean,
22 that the Defendant placed his penis in her mouth on the
23 witness stand, she was subject to cross examination.
24 That certainly meets the definition of criminal sexual
25 conduct with a minor in the first degree. She stated

1 that her age is under 11. So the State would argue
2 that it's met its burden in presenting the evidence.

3 THE COURT: Well, it's the opinion of the Court
4 there is enough evidence to send it on to the jury at
5 this point in time.

6 MR. GALMORE: Yes, sir. Thank you, sir.

7 THE COURT: I guess officially I should say the
8 motion is denied.

9 MS. ANDREW: Thank you, Your Honor.

10 MR. GALMORE: Kind of got that feeling.

11 THE COURT: All right. We'll stop for today. I
12 told the jury 9:30, I didn't even ask if y'all had seen
13 it. But I saw the memorandum, they sort of want you to
14 stick to 9:30 around here, so we will. Any questions?

15 MR. GALMORE: No, sir.

16 MS. ANDREW: No, sir.

17 THE COURT: Well, y'all have a good holiday.
18 Thank you.

19 (The hearing adjourned at approximately 4:31 p.m.)

20 (The hearing resumed on Thursday, May 11, 2017, at
21 approximately 9:37 a.m.)

22 MR. GALMORE: We are not going to put up a
23 defense. I don't know if you want to go straight into
24 the argument and charge. I know some judges want to
25 bring the jury out so we can rest in front of them. I

1 don't know what your policy is on that, sir.

2 THE COURT: I don't have a policy.

3 MR. GALMORE: Okay. Well, in that case --

4 THE COURT: But I would prefer that y'all waive.

5 MR. GALMORE: Well, I think I have to go first. I
6 think I admitted a piece of evidence.

7 THE COURT: No. I meant y'all on the record waive
8 me bringing them back.

9 MR. GALMORE: Oh, yes, sir. No problem, no
10 problem.

11 MS. ANDREW: Your Honor, we'd just like to put on
12 the record that the Defendant understands his rights
13 and he voluntarily waives them, his right to testify.

14 THE COURT: I can cover that, too.

15 MR. GALMORE: Yes, sir.

16 MS. ANDREW: Thank you, Your Honor.

17 THE COURT: Mr. Sanchez?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Good morning to you. I need to
20 discuss with you your Fifth Amendment rights. It won't
21 take but a few minutes, but I need your undivided
22 attention about that. As you probably already know,
23 you have a right to testify at your own defense. But
24 there's also a constitutional right and privilege that
25 under our United States Constitution that you certainly

1 have a right not to incriminate yourself; in other
2 words, you have a constitutional right to remain
3 silent.

4 If you elect not to testify, I can't even mention
5 that to the jury except to tell them that you have that
6 right. I can't mitigate for or against you. I explain
7 that to them. So, in other words, in no way could the
8 jury hold that against you, you exercising that right.

9 Now, if you were to testify, then you would be
10 treated just like any other witness, and you could be
11 impeached and cross-examined just like any other
12 witness. Have you discussed this with your attorney?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And have you made a decision, a final
15 decision, as to what you want to do?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And that decision, as I understand it
18 from counsel, is that you wish to invoke your Fifth
19 Amendment right and not testify; is that correct?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Is that your decision and your
22 decision alone?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And are you freely, voluntarily and
25 intelligently entering into that decision?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Well, I have to ask you
3 one final question. Do you wish to testify?

4 THE DEFENDANT: No, sir.

5 THE COURT: All right. Anything else?

6 MR. GALMORE: No, sir.

7 MR. HOLFORD: Your Honor, the State's current
8 understanding of the law based on the Defense entering
9 a piece of evidence is that not by the legislature but
10 by a Supreme Court ruling that the State would open in
11 full on the facts in the law, then the Defense would
12 go, and then the State would have rebuttal. Except
13 that first opening by the State can be waived by the
14 Defense, but it needs to be waived by the Defense. I
15 don't know if that's the Court's interpretation.

16 MR. GALMORE: I will waive it, sir.

17 THE COURT: I think you're right.

18 MR. HOLFORD: Okay. So the Defense would open,
19 and then the State would just have second argument.

20 MR. GALMORE: Yes, sir.

21 MR. HOLFORD: All right, thank you.

22 THE COURT: Suits y'all, suits me. We got all of
23 them, I hope?

24 THE DEPUTY: I believe, sir. I'll check. If we
25 do, you ready?

1 THE COURT: We're ready.

2 MR. GALMORE: Your Honor, are there any particular
3 jury charges that you need to discuss?

4 THE COURT: I'll just go straight through my
5 regular charge unless you got some specific things you
6 want me to cover.

7 MR. GALMORE: Well, I was just concerned about the
8 statute, South Carolina code 17-23-170. That's the
9 statute that refers -- that talks about the videotape
10 and how it's admissible. And I didn't know if the
11 Court was intending on charging on that. I was hoping
12 that you would not.

13 THE COURT: Do you want it? Not an issue.

14 MS. ANDREW: Your Honor, we would want you to
15 charge that the tape is admissible. And I have some
16 proposed charges to hand up to you.

17 THE COURT: All right. Have you seen them,
18 Mr. Galmore?

19 MS. ANDREW: I haven't, I need to give them. They
20 are the standard charges.

21 THE COURT: Okay, good.

22 (WHEREUPON, the jury came into open court at
23 approximately 9:42 a.m.)

24 THE COURT: We can take a short recess after the
25 arguments.

1 MS. ANDREW: Thank you, Your Honor.

2 MR. HOLFORD: Your Honor, may we approach?

3 THE COURT: Yeah. Bear with me just a minute.

4 Good morning, everybody.

5 (WHEREUPON, the following was held in the presence
6 of the jury but out of the hearing of the jury:)

7 MR. GALMORE: Your Honor, the Defense has rested,
8 and we would make a motion for a directed verdict just
9 based on the insufficiency of the evidence. We made
10 this motion at the conclusion of the State's case, we'd
11 make the motion again at the conclusion of all
12 evidence. And we would ask for a directed verdict in
13 this case.

14 THE COURT: I see no reason for me to change my
15 previous ruling on it based on the evidence before the
16 Court. I'll have to deny the motion.

17 MS. ANDREW: Thank you.

18 (End of off-the-record discussion.)

19 THE COURT: All right. The Defense has rested.
20 We will proceed with closing arguments. I hope y'all
21 had a very nice holiday yesterday, beautiful weather,
22 got a little bit warm. I thought I would be able to go
23 fishing and couldn't go, so did a little work and back
24 this morning. I'm going to turn it over to counsel.
25 Mr. Galmore.

1 MR. GALMORE: Ladies and gentlemen, we are at the
2 point in this case where you are about to begin your
3 deliberations. The question is, what comes next. The
4 answer is the evidence will soon be in your hands.
5 Once you have this evidence, you'll go in the back and
6 you'll argue and you'll debate, and you'll fuss and
7 you'll fight it out. But you will reach a verdict,
8 because I'm confident that each and every one of you
9 will do what you said you would do when you took that
10 oath on Monday.

11 If you will recall, you sat in the jury box and
12 raised your right hand. And the clerk asked you to
13 well and truly try the issues joined therein and a true
14 verdict rendered according to the law and evidence.

15 We're going to go through the law, we're going to
16 go through the evidence. And this is the point in
17 which Angel's life is in your hands. This is as real
18 as it gets. This is not magistrate court in Surfside
19 Beach, this is not city court in North Myrtle Beach.
20 This is general sessions court, big court. As you
21 heard from the judge, this is the English common law,
22 800 years old.

23 English common law is divided into two classes,
24 felonies and misdemeanors. This is not a misdemeanor.
25 English common law is so serious that it has made its

1 way directly into the United States Constitution. Our
2 Constitution requires high crimes and misdemeanors.
3 It's the same principal. This is as real as it gets.
4 This man's life is in your hands.

5 The United States Constitution also specifically
6 mentions the crime of treason. And treason
7 specifically requires two witnesses. I mention that
8 because the law before us today for criminal sexual
9 conduct does not require any corroboration whatsoever.

10 You know what that means? The magnitude of that
11 is that you could pull the trigger right now. But I
12 asked you to keep an open mind, and you swore to well
13 and truly try the evidence. And when you do that, I am
14 confident that you will reach the conclusion that Angel
15 Sanchez is not guilty.

16 As jurors you are what we consider the last line
17 of defense. If a person's charged with a crime,
18 doesn't matter what the crime is, doesn't matter who's
19 sitting at that table, it works like this. First, the
20 police are supposed to investigate the case. They are
21 supposed to keep an open mind. They are supposed to
22 investigate for evidence of a crime. They are supposed
23 to investigate for evidence that a crime did not occur.

24 They didn't do that here. You heard Detective
25 Hemingway's testimony, Angel was going to be arrested

1 regardless. He didn't get a fair shake from Detective
2 Hemingway, he didn't get anything.

3 Second line of defense, the solicitors. They are
4 supposed to look at the case, they are supposed to give
5 you evidence. They are supposed to bring evidence,
6 witnesses from the witness stand, testimony, exhibits,
7 documents, something. And if they don't have it, they
8 are supposed to say, detective, go out and get it.

9 Remember when I asked of Detective King, where is
10 that DNA right now. And he said he didn't know. I
11 shouldn't have to be asking that question. They should
12 be asking that question. They should be outraged. You
13 mean to tell me, you're going to court and you've got
14 missing DNA. Can you go find it before the trial
15 starts, please. Man's life is on the line.

16 But instead of the solicitor asking for a more
17 thorough investigation, they bring the case to you.
18 And they ask you to find this man guilty. And they
19 give you a whole bunch of reasons for why they didn't
20 do a whole bunch of stuff. But the fact remains that
21 there is no evidence of any crime being committed.
22 There's no evidence of corroboration. There's no
23 evidence whatsoever.

24 Let's talk about the evidence that they are
25 supposed to have. We've got evidence that's not been

1 collected. We've got evidence that was collected but
2 not tested. We've got evidence that was lost. And we
3 have evidence that was collected but not shared with
4 you today. Let me go over that again.

5 They are asking each and every one of you to say
6 Angel was guilty. But did they collect a rape kit?
7 No, they didn't. When I asked Detective Hemingway
8 about it, he said, the doctor said it wasn't necessary.

9 Well, my question to him and my question to you
10 too, an eight-year-old victim may not be fully
11 forthcoming. Shouldn't we know? How hard is it to
12 collect a pair of panties. How hard is it to take a
13 DNA sample. They don't take it out the arm like you
14 might think. It's called a buccal swab, I think you
15 heard that phrase. Long story short, that's just a
16 Q-tip on the cheek. Takes all of ten seconds.

17 It was done for Angel. We know this to be true,
18 because even they wouldn't show you a tape, Detective
19 King testified that he did it on tape, on video. In
20 fact, Angel had to sign for it. They took the
21 evidence, did nothing with it.

22 Why is it important that they should have
23 collected evidence? So that we can have something to
24 compare it to. Now, when we go to number two, not
25 tested when collected, that's the DNA, well, we didn't

1 have anything to compare it to because we didn't
2 collect anything to compare it to. We didn't collect
3 underwear. We didn't take a buccal swab from Miss

4 Complaining Witness

5 And then they lost the evidence. As the young
6 kids say, where they do that at. Where do you lose
7 evidence and yet come to court and ask for a
8 conviction. Oh, it's okay, it's the evidence that we
9 didn't test. We didn't need it because we didn't check
10 anything else anyway. That's called a lack of an
11 investigation. Bad enough that they didn't collect
12 anything. What's worse is that what they did collect,
13 a one-hour video of Angel Sanchez categorically denying
14 the allegations, they refused to show it to you.

15 King Hemingway. Sir, is that video right here?
16 Yes, it is. Does it play on that TV right there? Yes,
17 it does. Is it a real video or is James just making it
18 up? No, it's an actual video. Are you on the video,
19 Detective Hemingway? Yes, I am. Is Angel Sanchez on
20 the video, Detective Hemingway? Yes, he is. You've
21 seen the video, Detective Hemingway? Yes, I have.
22 You've seen yourself on that video, you've seen Angel
23 on that video? It's a real video. Just because they
24 won't give it to you.

25 I dare say when this case is over, Chief Hill is

1 going to grant Detective Hemingway a few fishing days,
2 an opportunity to go home and think about how you're
3 supposed to collect evidence. I asked him, what kind
4 of detective are you. I wasn't trying to be smart
5 about it. Are you narcotics and vice, major crimes?
6 His answer, SVU.

7 So you are the detective that handles these types
8 of cases specifically. So you know about collecting
9 DNA. You actually did it on tape. Won't show us the
10 tape, but you did it on tape, and then you lost it. I
11 asked him from this witness stand, can you show me the
12 property log where you signed it in.

13 And he sat there, he flipped through his file,
14 page by page, and his answer was no. Do you know where
15 his DNA is right now? Answer is, no. Why is this
16 important? Because it would give us some
17 corroboration, any corroboration. I already got a
18 one-hour video that they don't want to show in which
19 Angel denies it. So give me some kind of
20 corroboration.

21 So let's talk about the evidence that they do
22 have. They have Complaining Witness statement, a CD. Actually
23 that's it right here, Complaining Witness statement. They have
24 Angel Sanchez's advisement of Miranda rights. This is
25 the one where they say, Angel, you have the right to

1 remain silent, would you like to give us a statement?

2 Yes, I would. Signed April 16th, 1 a.m. Very clear in
3 this Miranda form that he has the right to remain
4 silent. Very clear that he has the right to stop
5 questioning at any time.

6 Why they introduced the Miranda form and not the
7 statement itself, I don't know. But this is Angel's
8 statement. I'm going to put it over here because it
9 hasn't been introduced. That's it. That's all the
10 evidence they have.

11 What else should be over here? I'm just going to
12 use these cups. In addition to you supposing to have
13 Angel's statement but you don't, you should maybe have
14 some panties, you should maybe have Angel's underwear.
15 You should maybe have Angel's clothes. You should have
16 Complaining Witness buccal swab. You should have Angel's lost
17 buccal swab.

18 You should have an interview with Complaining Witness from
19 the hospital. You do have an interview 25 days later.
20 You should have maybe a picture of the crime scene,
21 just one. You should have a bed, a picture of that
22 lock that they claim the door was locked, the door was
23 unlocked. This is all the evidence that you should
24 have, but you don't.

25 And against that background, they ask you to .

1 convict. And it doesn't matter who's at that table.
2 You can take Angel Sanchez out of it, they are asking
3 you to convict a person. Not with that much evidence
4 missing.

5 So what do they have? Complaining Witness tape. Like I
6 said, that tape was given 25 days later. That tape was
7 not given to a detective, to a police officer. The
8 police officer who is trained as an SVU hands it off to
9 the lady in Myrtle Beach, a nice lady, has a very
10 specific job to do, interview children, gather evidence
11 to be used in court.

12 Now, let's talk about that tape. You're going to
13 have a chance to take it in back and play it as much as
14 you like, not at all. Totally your choice. Some of
15 you might want to hear portions of it, some of you may
16 not want to hear portions, might want to hear other
17 portions. You'll have that tape in the back and you
18 can play it.

19 And when you do, I think you'll agree with me that
20 this tape is full of inconsistencies, full of
21 implausibilities, and most importantly, it is full of
22 facts that are confirmed to not be true. In fact, I
23 spent some time with the tape, and I have identified 41
24 areas of concern. This tape's only one hour long, 41
25 areas of concern.

1 That's hitting the pause button every 90 seconds,
2 wait, there's a problem with that statement. Wait,
3 there's something wrong with that statement too. Wait,
4 there's another problem here. So let's go through
5 them.

6 At 9:50 on the tape there's a description of the
7 roommate, Amanda. What's important about this roommate
8 Amanda? Amanda is not the roommate that lived in the
9 house at the time the allegations occurred. That was
10 Kristen Taylor. So what we know is three weeks later
11 mommy's moved in another roommate. This is not an
12 ideal set of circumstances.

13 9:51 on the tape, the statement is made they play
14 outside, they swing on branches, it's a natural thing
15 for kids to do. But on the witness stand, Complaining Witness
16 said they don't play outside.

17 9:51 on the tape, Complaining Witness says they sleep in the
18 room, you've heard the details of that. Sleeping in
19 the room with her brothers, sleeping in the room with
20 children that are not related, sleeping in the top
21 bunk, two, three in a bed. Again, this is not an ideal
22 set of circumstances.

23 9:51, question was asked, who lives in your house.
24 Amanda, Mason, mom, Child Witness, Allen and Angel, Chris,
25 Taylor, Victoria, Macho, Complaining Witness Now, at a later

1 date, May 10th, who lives in the house. Complaining Witness Ann,
2 Child Witness, Allen and Robert. Third time, this is not an
3 ideal set of circumstances. Me, Child Witness, Allen sleep on
4 the bottom bunk. Mason sleeps on the top bunk by
5 himself.

6 9:58, Complaining Witness says on that tape, my eyes turn
7 colors, turn green when I'm angry. I don't need to
8 call a biologist for each and every one of you to know
9 that eyes don't turn colors. The problem with that is
10 that Complaining Witness has said something that is untrue; not
11 simply untrue, not possible. Now, when my son was
12 born, he had green eyes. And after about six months
13 they turned brown. And now he's 24 and they've never
14 turned back green. That cannot happen, you know that
15 cannot happen.

16 10:02, did somebody talk to you about what was
17 going to happen here today? Actually, her answer is
18 quite informative. Someone did talk to her and told
19 her that she would see herself on TV, told her that her
20 fingers and toes would look big. Now, the TV adds 20
21 pounds to you.

22 My concern, who else spoke to Complaining Witness during that
23 20-day period, 25-day period, April 15 to May 10. What
24 did they say? Common sense tells me that her mother
25 talked to her a few times during that 25 days, had to.

1 You're jurors, you're regular people. You don't
2 leave your common sense on the courthouse steps.
3 There's some event, no matter what the event is, if
4 it's considered major you're going to discuss it
5 sometime in a 25-day period.

6 10:03, Angel was one of mommy's boyfriends. I
7 think that one let's you know everything that you need
8 to know. In response, the examiner says, Angel was
9 mommy's boyfriend? Why is that important? Because she
10 cleaned it up. You have to recall, *Complaining Witness* in a
11 room with a professionally trained examiner, so
12 apparently better at her job than Detective Hemingway.
13 She knew that it would be ugly to say that mommy has a
14 lot of boyfriends, so she straightened it out. Now, I
15 would say that that statement raises more questions
16 than answers. But I think perhaps you've already come
17 to that conclusion.

18 10:04, first time *Complaining Witness* says his underwear are
19 on. Back of throat, was choking me, pulled it back out
20 a little bit, I couldn't breathe.

21 Problem with that statement is that there is no
22 evidence of injury. First, Angel denied it, he denied
23 it for an hour. He denied it for an hour on videotape,
24 same tape that is right here. Should be over there.

25 Ms. Ann Arnett testified about popsicles and ice

1 water. And I asked Ms. Arnett if you could show me in
2 these medical records where it says popsicles and ice
3 water. She could not. By the way, these records are
4 not evidence because they were not introduced as
5 evidence.

6 To be completely clear, this DNA collection form
7 is the only piece of Defense evidence. So in your jury
8 room you're going to have one, two, three. Two for
9 them, one for me, two red, one blue. What you don't
10 have are these (indicating).

11 No doctor testified as to any injuries Complaining Witness
12 may have sustained. If there were injuries, you would
13 have heard about it on the witness stand. You didn't
14 hear about it because they didn't present it.

15 We heard about the tooth. Again, no dentist
16 testified in this case. If there was injury to a
17 tooth, they would have brought a person to testify
18 about it, doctor, nurse, dentist, nurse practitioner,
19 somebody in the medical field, to say, I examined a
20 tooth, it seemed injured. That testimony does not
21 exist.

22 If we did have a doctor, we could ask him about
23 the rape protocol, about the collection of evidence.
24 Do you check for bruising, do you check for injuries to
25 genitalia, do you check for injuries that are

1 non-genitalia related. Do you check the wrists for any
2 bruising, the neck, the slap mark. Do the clothes have
3 leaves and grass on them. These are things that should
4 have been done last year.

5 Now, at 10:06 on the tape, the examiner begins the
6 process of grooming. They tell you about some swimming
7 clothes, do you go swimming, do you wear underwear, do
8 you wear swimming clothes, what are good places, bad
9 places, no-no places. That's designed to elicit
10 information, but it's also designed to direct the
11 interview.

12 Again, she's being interviewed by a professional
13 who interviews children for the purpose of bringing
14 them to court, looking for evidence. But before you
15 can find it, you got to make sure she's going to say
16 the right thing.

17 10:06, do you know what the word private means.

18 Complaining Witness shakes her head no.

19 10:08, that's where the no-no phrase comes in.

20 But the problem with the no-no phrase is that it's
21 brought in during this grooming process. Instead of
22 saying it, Complaining Witness tell us your story, what they've
23 done is, Complaining Witness we're going to give you a story.

24 And you just kind of agree where it is, follow my lead,
25 we'll get it.

1 Now, you will remember had a white chart and held
2 it up. It had some -- I'm sorry, this is an extra
3 piece of evidence. And this white chart and they held
4 it up and they showed it to her. And during the
5 interview on the tape, they start off with the
6 different body parts. What is this, the eyes, what is
7 this, the mouth. And they go all the way down. That's
8 deliberate because this is an alleged case of oral sex.
9 So you've got to plant the seed.

10 10:09, *Complaining Witness* says the belt hit her tooth and it
11 started to bleed. This is the most important part of
12 the case. Because there is no evidence of *Complaining Witness*
13 blood on Angel's person. No blood, there's no saliva,
14 there's no semen, it's not there.

15 There's no DNA on his clothes, there's no DNA on
16 her underwear, there's no DNA on his underwear, no DNA
17 on her clothing. Why is this important? Because DNA
18 transfers by the easiest possible thing that can
19 happen. Very simply, we shook hands right now, you
20 would get some of my oils and sweat on your hand, I
21 would get some of yours.

22 In the 1980s, Janet Reno released a report that
23 said that up to one third of the dollar bills in US
24 circulation had cocaine residue on them. How is that
25 possible? Because once one dollar got into a cash

1 drawer with another dollar, got to a convenience store
2 or went to the bank with the other money, it was all
3 commingled. The cocaine was spreading.

4 That's how DNA works. There's some right there,
5 just that quick. I hand you this piece of paper,
6 you've got DNA on it and I've got DNA on it. It's
7 easily identifiable in the 21st century.

8 At 10:10 on the date stamp -- now, there are two
9 date stamps when you look at the discs. There's like a
10 clock on the computer, on the video itself, so that's
11 the time I'm using. At 10:10 on that clock, Complaining Witness
12 says, it happened when mommy was coming home.

13 What's the problem with that statement, James?
14 Number one, she'll say mommy was picking up Macho.
15 You'll hear later on repeatedly Macho was there.
16 You'll hear later on that mommy was picking up Macho,
17 so Macho wasn't there. That's an inconsistency in this
18 case.

19 We don't know what time any of these so-called
20 allegations occurred. I have to keep reminding you
21 that Angel specifically denied it for an hour on
22 videotape. But when I'm talking to you, I'm kind of
23 talking to you from a different point of view. So I
24 have to remind you, number one, it didn't happen.

25 Why is this frame of reference important? Because

1 we could know whether any evidence was available.
2 First things first. If somebody molests your child,
3 you call 911. The reason why that's important is
4 because once you call 911, the dispatcher picks up, 911
5 dispatch, what's the nature of your emergency, click,
6 and they start the clock.

7 So then we would know a frame of reference. We
8 would be able to say, well, they called in at six, then
9 DNA lasts for eight hours, we need to get up there by
10 2 a.m. But without a frame of reference, there's
11 nothing to compare it to. Not that it matters, because
12 they didn't collect any evidence anyway. There is no
13 DNA up here.

14 We know she went to the hospital, we know that
15 Detective King went out there and talked to her.
16 Didn't spend very long, didn't tape record it, didn't
17 separate the witnesses. He said he went to the office,
18 looked in the computer, went and picked up Angel. The
19 only time we have is 1 a.m., which is on this form
20 where Angel agreed to speak. It says 1:01 a.m.,
21 April 16th.

22 10:10, Victoria followed us into the bathroom and
23 that's when I told her. Well, they brought us Child Witness
24 They didn't bring us Allen. They did put Allen's name
25 on the witness list, but they did not bring Allen as a

1 witness. Victoria, she wasn't on the witness list and.
2 she didn't testify.

3 You will recall the witness list even though you
4 didn't know there was a witness list. At the beginning
5 of this case when you all were still sitting out there
6 on Monday, the judge read off a whole lot of names and
7 asked, did you know any of these people by blood or
8 marriage. That's a witness list. Those are a list of
9 potential witnesses, some, all, may be called. And
10 it's important because if your name is not on the list,
11 you can't get called. Victoria's name is not on the
12 list. They never interviewed Victoria.

13 What they did lie about, Detective Hemingway said,
14 because I questioned him, you told Angel you
15 interviewed those kids, but you didn't interview those
16 kids. And we had to go back and clarify it child by
17 child. He said he interviewed ^{Child Witness}, he said he
18 interviewed Allen on May 10th, he said he didn't
19 interview Victoria at all.

20 Well, apparently Victoria is standing in the
21 bathroom. Someone should have interviewed her. And I
22 know what the State's going to say. She lives with
23 Angel, she's going to help her dad cover up for him or
24 whatever. Well, that's not exactly the case.

25 If you will recall from Ms. Ann Arnett's

1 testimony, she said, I called DSS and tried to get
2 Victoria removed from that house and tried to get DSS
3 to move her in with me. That's just weird. But she's
4 a witness in a case. If you think she is being
5 influenced by her dad, by her grandmother or by anybody
6 else, send the DSS people over there. They've
7 apparently already been called. Send the DSS people
8 over there. Go to the school, interview her in church
9 or do something. Don't tell me you interviewed a
10 witness when you didn't.

11 See, that's a police technique, they try to get a
12 confession. We already interviewed the witnesses,
13 Angel, you might as well confess. They didn't
14 interview the witness, and Angel didn't confess. Angel
15 didn't know that he didn't interview any witnesses.

16 10:10 on the tape, Victoria [sic] says she took
17 him and his two kids, Macho and Victoria, to Nana
18 before she dropped us off at Ms. B's. Well, we know
19 the testimony was not that ^{Complaining Witness} was dropped off at
20 Ms. B's. The testimony was they left the house, Angel,
21 his kids, Ann and her kids, all in one car. They went
22 to Ms. B's house. Ms. B is Robert's brother [sic].
23 Robert's the former boyfriend. It's a little weird
24 that you're taking your current boyfriend over to your
25 former boyfriend's sister's house. But he's now

1 currently the roommate that's not a boyfriend at the
2 moment or whatever that relationship is.

3 They take kids over there, drop off the boys and
4 then drove to Conway with Angel, with his kids, with
5 Victoria -- excuse me, with ^{Complaining Witness} in the car. You
6 think that's really a good idea to have this young lady
7 to ride in the car with her tormentor? The answer was,
8 and I quote, she was in the back seat.

9 That's about as poor an answer as, well, did you
10 run in there and stab him with a butcher knife, no.
11 That's about as poor an answer as, I went in the room
12 and I said, what, I'm not good enough. What kind of
13 statement is that? I'm not making this stuff up. It
14 all came from this witness stand.

15 At 10:11 on the tape, the examiner, Ms. Sencion,
16 knows that we have a problem. And she asked, do you
17 know when it happened. The problem is we don't have a
18 frame of reference. She's a trained examiner, she
19 knows what she's looking for because she knows that
20 this evidence will be used in court. Do you know when
21 it happened? The answer was, on a weekend. Do you
22 remember the month and year.

23 The interview goes from when it happened, because
24 Ms. Sencion could not get a specific answer, the
25 interview changed to where it happened. Now, where it

1 happened is important. It's the house, it's the
2 mother's bedroom, we've already gone through that
3 evidence. No pictures of the mattress, no pictures of
4 the box spring, no pictures of the pillow case, no
5 pictures of the trash can. No searching for DNA, take
6 that little purple light and run it over stuff, not
7 done.

8 As a matter of fact, didn't even go to the house
9 in Galivants Ferry. Just get me a picture of the lock,
10 because you said the door was locked and he denied that
11 too. Get me a picture of the lock, at least. Just let
12 me know it is a working lock. Anything will do.
13 Nothing was presented.

14 10:12, ^{Complaining Witness} says, he got up, I got up and
15 that's when he did it. This one falls into the
16 category of not physically possible. You see, Angel,
17 he's very short. And ^{Complaining Witness} she's also very short.
18 The statement was, he stood up and I stood up.

19 We're going to come back to that one because there
20 are other times in the statement where she says she was
21 sitting on the bed. These are not consistent. It's
22 one thing if her statement is not consistent with what
23 she said in court today, yeah, I know that was a year
24 ago. It's one thing if your statement is not
25 consistent with what you said at the emergency room,

1 that was not recorded at all. It's a real problem when
2 your statement is not consistent with the same
3 statement you're giving as you're giving it.

4 Victoria says, Macho, ^{Child Witness} and Allen are all
5 standing at the door -- I'm sorry, Victoria, Macho,
6 ^{Child Witness} and Allen are all standing at the door. We
7 already know Macho wasn't there. We've already talked
8 about Victoria, and she hasn't been presented here.

9 10:14, it happened when we were playing outside.
10 Darla, Austin, Bobby and his big brother Dylan, he was
11 somewhere else. Why is that inconsistent? On the
12 witness stand on Tuesday, I asked ^{Complaining Witness} about the
13 neighbors. She said in plain -- she doesn't play
14 outside, there's one kid across the street, a girl
15 across the street, there's a girl next door. Her
16 statement has boys in it, it has kids playing outside.
17 Her testimony under oath was that they don't play
18 outside, they don't play with the kid across the street
19 or something.

20 10:18, they're talking about Victoria again. Who
21 is her mom, who's her dad? ^{Complaining Witness} says, Angel and
22 Chop. Now, I don't know who Chop is, you don't know
23 who Chop is. I don't even know if Chop is a real
24 person. But again, the trained examiner knows that
25 this is a problem. So the examiner goes back over it.

1 I'm trying to understand. And they go over it
2 again and again until ^{Complaining Witness} says -- oh no, the
3 question was, who's Victoria's real dad, her real, real
4 dad. And the answer was, Angel. I don't know who Chop
5 is. I guess we'll never know who Chop is. But, again,
6 they want you to send someone to prison.

7 10:19, examiner is still trying to question her
8 about who is Chop, and ^{Complaining Witness} says, Robert was
9 mommy's boyfriend. We've talked about that issue.

10 10:21, we were all living together for a couple of
11 years. We know that to not be true. The testimony is
12 that they dated for about eight months, they were
13 thinking about getting married, not one year. Sorry,
14 but this is what's on that tape. And this is the tape
15 that they are asking to you use to send Angel to
16 prison, because they don't have anything else and
17 because he's denied it for an hour on video.

18 10:22 on the tape, Victoria says, I showed mommy
19 where I was sitting. Well, I really wish Detective
20 King had went out there and took a picture. Maybe if
21 he just said, is this the spot where you were sitting,
22 all you have to do is stand there and kind of just look
23 in a circle. Is there any evidence around here. If
24 you don't take the effort, we don't have anything in
25 court.

1 She mentions at 10:22 a hot blanket. I'm not sure
2 what that is, but if you ask Complaining Witness, is it a
3 particular blanket, a special blanket, maybe a blanket
4 that we need to check for DNA, which wasn't done.

5 10:22, the statement is made, Angel was lying and
6 mommy believed me, and mommy didn't believe him. And
7 mommy talked to Nana, that's Angel's mother, and mommy
8 said she had the evidence. And Nana didn't believe her
9 until mommy said she had the evidence.

10 The examiner asked the question, what evidence.
11 Right on the tape, go to 10:22, what evidence, to which
12 Complaining Witness said, "hmm-hmm." This is the case they are
13 relying upon. It's inconsistency after inconsistency
14 after consistency, implausibility after implausibility
15 after implausibility.

16 10:23, she talks about standing up and sitting
17 down. That's inconsistent with the statement from
18 10:12 where they were both standing up. That's what I
19 said, the statement is not only inconsistent with other
20 statements -- well, there aren't any other statements.
21 The statement is inconsistent with itself.

22 10:24, Victoria [sic] says, he laid on the bed, he
23 pulled me down too. She says, I was happy, then I was
24 sad. We're talking about, you're the oldest, you have
25 to be the most responsible. The examiner knows that

1 this is a problem. The trained professional has
2 already heard, wait a minute, you said he was standing
3 up and you were standing up, now you said you're
4 sitting down. We have an issue here, we need to
5 clarify this.

6 Instead of saying, ^{Complaining Witness} do you remember if he
7 was standing up or sitting down, instead of saying
8 that, the examiner says, were you both on the bed or
9 was one of you standing up. Seems to me that that
10 question suggests what the answer should be. And that
11 is a problem. That is why I said, ^{Complaining Witness} wasn't
12 telling a story, she was being told a story.

13 10:26, blood got on his underwear. This is the
14 most important issue in the case. Question, how was
15 his underwear? Answer, they were white. The examiner
16 asked if they were boxers or briefs, and she said she
17 didn't know. I don't suppose eight-year-old girl knows
18 much about boys underwear. But what she did say is
19 they were all white. She said they were clean, she
20 said mommy had washed clothes, she said they were
21 clean, white unders. Weird phrase, unders, but that's
22 the phrase she used at 10:26 on the clock.

23 Why, James, is that the biggest problem of all?
24 Well, because the police did not collect any bloody
25 white underwear. In fact, Angel's underwear were not

1 white. You heard from Detective Hemingway on that
2 video that they didn't want to show you, Angel stood
3 up, pulls up his shirt and shows his underwear to
4 Detective Hemingway. Detective Hemingway noted the
5 color of the underwear. First he noted that there were
6 two pair of underwear. That's a weird little sequence.
7 Not the worst problem in the world, the man wears two
8 pair of underwear.

9 Actually, that's probably the thing that saves
10 this case. Because she says it's one pair of underwear
11 and they are white. Angel's standing up with two pair
12 of underwear, one is Army green, and the other is blue
13 and orange. They didn't even collect the green and
14 blue and orange underwear. They didn't collect
15 anything.

16 Most importantly, Ann Arnett said it, words out of
17 her mouth, he doesn't own white underwear. I asked her
18 on that witness stand, y'all dated for eight months.
19 Did you wash his clothes? Yes. Does he own white
20 underwear? No. I was shocked. See, I knew what was
21 on the tape. I almost passed out in the courtroom. I
22 think I said, can you repeat yourself. And she said,
23 no, he doesn't own white underwear.

24 Now, in court we sequester witnesses. That's a
25 fancy way of saying we keep them out of the courtroom

1 so they won't hear the other people's testimony, no
2 overlap of testimony; i.e., if somebody lies, the next
3 person comes and covers up the lie.

4 So when Ann Arnett testified, Angel doesn't own
5 white underwear, she didn't know that the next thing
6 coming down the pike was her daughter saying that he
7 had on white underwear. Now, they went on about this
8 underwear for six minutes, 10:26 to 10:30. They get
9 off track just a second, the examiner brings her back
10 on target.

11 The answer was, I don't know what spot, but it was
12 on his no-no -- talking about blood. Question: Did
13 you see the blood on his underwear? Answer: Um-hum.
14 Did something happen to his underwear? Answer: My
15 blood was on it.

16 There's no doubt that Angel doesn't own white
17 underwear. I could have called his momma to testify to
18 that. But the lady that lived with him for eight
19 months already said that.

20 10:30, he made me stand up: We've talked about
21 those inconsistencies already.

22 10:31, he made me say, ah. Well, that's the first
23 time I ever heard that statement. That's the only time
24 I ever heard that statement. And that statement comes
25 to you after 25 days of influence on Complaining Witness The

1 examiner knows that she has to gather certain
2 information in this case, so she moved on from the
3 underwear.

4 10:31; what did you feel with your mouth, skin,
5 underwear, teeth. We know where she's try going to
6 with that. She's trying to figure out if there was an
7 ejaculation, if it was a completed act. The answer
8 was -- I'm sorry, I'm jumping a little ahead of myself.

9 10:37 on the tape, the question was, what did you
10 taste. The answer was, nothing. I don't know what
11 that answer means. I don't know if that answer means
12 it wasn't a completed act. I don't know if that answer
13 means there was semen and it had no taste to it. I
14 don't know what that answer means. Perhaps it should
15 have been flushed out a little more thoroughly.

16 10:36, says he did not have a hand on her head.
17 One hand was on his underwear, the other hand was down.
18 That concerns me. Does not sound like this event
19 occurred at all, because unless he's holding someone by
20 force, she'd probably just walk away.

21 10:33, we went to Ms. B's and Uncle Paul. And you
22 heard testimony that Paul is Robert's brother. Paul is
23 a police officer. Paul didn't call 911 either. Paul
24 didn't say, hey, wait, you know, you're over here with
25 the kids, let's call 911 and get the County out here.

1 He didn't say, I've got my cell phone, let me call them
2 right now.

3 The testimony was he gave her some options. I'm
4 not real sure what that means. I'm assuming the
5 options were you call 911 or you go to the hospital. I
6 don't know what other options there are out there, but
7 that's the story on the tape.

8 Lastly, 10:42 on the tape, the question is asked,
9 anybody ever touch you. The response was, all we did
10 was hug. So I think she's referring to some kids, I'm
11 not sure. But that is something that should have been
12 examined.

13 In the beginning I told you about reasonable
14 doubt. Reasonable doubt is defined as that doubt which
15 causes a juror to hesitate to act. What does that
16 mean? That means if you go in the back and you say,
17 I'm not so sure about this, that's a hesitation; is it
18 not?

19 And if you hesitate before writing in guilty, then
20 that means he's not guilty. The judge will tell you,
21 any inferences, any doubt, any reasonable doubt, any
22 speculation, any of that is to be resolved in the favor
23 of the Defendant.

24 Now, the State's going to tell you, we try our
25 case, James can't tell us how to try our case, James

1 can't tell us what evidence to put in, what evidence
2 not to put in, on and on. They're absolutely right, I
3 can't tell them what to do. They chose this on their
4 own. They chose to consciously have evidence that
5 we're not going to give here. You see, what they say
6 is, well, James, you could have put in that CD.

7 Oh, no. Because the law says Angel Sanchez or
8 whoever is on trial is presumed innocent. He doesn't
9 have to prove himself innocent. The State is the one
10 that's making the allegations, the State has to prove
11 him guilty. It's not my job to introduce this tape.

12 I'm perfectly happy saying, yeah, he was on there
13 denying everything for an hour, and y'all refused to
14 show it to the jury. He stood up and showed you his
15 underwear, and y'all refused to show it to the jury.
16 He offered a DNA swab and you took that swab on camera,
17 and you refused to show it to the jury. That's good
18 enough for me. It's their job, it's their burden.

19 That's why I told you, you're the last line of
20 defense. The police didn't do jack. These people
21 didn't do jack. But now they want you to send a man to
22 prison.

23 And there's one more thing I want to talk to you
24 about.

25 (Discussion off the record.)

1 MR. GALMORE: This is the indictment. It's not an
2 exhibit. It's what's called a charging document. That
3 means you don't get to court based on an arrest
4 warrant. You have to be indicted to come to court.
5 What's the important thing about this indictment?

6 This is the real one, the actual one. It's not a
7 copy. If I were to hypothetically tear it up right
8 now, we'd have to start this case over again because
9 the indictment's been destroyed. This indictment lists
10 on it witnesses. And it says, Kenneth Scott Hayes,
11 Horry County Police Department, and B. Scales.

12 Now, Kenneth Scott Hayes and B. Scales did not
13 testify. What did they have to say? It's important
14 enough that their name is on this official court
15 document. See, it's got a stamp, grand jury, true
16 bill, this is it. And it says, you have two witnesses.
17 But you didn't have two witnesses. This goes into this
18 category, evidence that we have that we're just not
19 turning over. And into that, they request a
20 conviction.

21 I asked you at the beginning to keep an open mind.
22 I told you at the beginning this was a case of it
23 didn't happen. Now, one thing that I can't tell you is
24 why all of this is going on. The law does not require
25 motive. So if Tommy shoots Kenny, the solicitor

1 doesn't have to prove that they had some kind of
2 animosity between them. They don't have to prove why
3 Tommy would possibly shoot Kenny, that's not part of
4 the crime.

5 We tell you that he denied it. He denies it right
6 now. He denied it on April 16th, denied it everyday
7 from then to now. With that, the burden is upon the
8 State. Like I mentioned on Tuesday, the burden of
9 proof is like a factual football field, and you've got
10 to be up here right now. You've got to be somewhere
11 where you're about to score. To score would be beyond
12 any doubt, so that's not possible. But when we talk
13 about reasonable doubt, reasons to hesitate before a
14 conviction, they are all over this case.

15 This is important, this is Angel's life. I ask
16 you to take this evidence into account, I ask you to
17 take this lack of evidence into account. I ask you to
18 be true to your oath. I remind you that you have no
19 friends to reward, no enemies to punish. I know you
20 will feel sympathy, I do. But that's not the point.
21 The point is he's denied it, he's denied it
22 continuously. He denied it repeatedly, he didn't
23 confess to it, and they haven't shown it. So I ask you
24 to return a verdict of not guilty. Thank you.

25 MR. HOLFORD: May it please the Court. Ladies and

1 gentlemen, what you just heard was a long list of
2 excuses. What the Defense attorney is hoping is that
3 you don't know procedures, that you don't know what's
4 going on, that you don't know the rules of Court, that
5 you don't know the things that we're bound by here, as
6 evidenced by the little game about the indictment.

7 The witness on the top is the officer who draws
8 the warrant. That's not always the person who
9 investigates the case. And the name below it is the
10 one who presents it to the grand jury. Now, what you
11 don't know is that usually one officer from the county
12 goes and has a whole stack of these and presents it to
13 the grand jury. Does that mean they are necessarily a
14 witness to the case, no.

15 Does the officer who requests the warrant to the
16 magistrate judge have the most knowledge about the
17 case, not always. But he's hoping you don't know that.
18 He's trying to throw doubt in there, trying to make
19 things up and confuse you.

20 That's what we went through with all of these
21 inconsistencies too. I tried to track them. I try not
22 to do this, I try not to go down the rabbit holes that
23 the Defense does because I don't think they are
24 important. You know, he wants you to look over here,
25 look at this shiny object. Forget the fact that his

1 client put his penis in a little girl's mouth. He
2 doesn't want you to think about that.

3 He wants you to think about this other stuff over
4 here, what wasn't done, what didn't happen. Because
5 what he doesn't want you to do is think about the fact
6 that a little girl had to get on the stand and testify,
7 a nine year old when she testified, eight year old at
8 the time.

9 We're adults in here. There are certain things
10 that I know, certain things that you know that little
11 kids don't. You can see that in her mannerisms, you
12 can see that in her actions. You can watch the video
13 again and judge for yourself whether she's being
14 inconsistent or consistent, whether she's acting like
15 an eight year old who's telling the truth or not.

16 Because that's the issue here, is she telling you
17 the truth. Did she tell the detective the truth, did
18 she tell her mom the truth, did she tell the
19 interviewer the truth? Yes. An inconsistency is
20 something that doesn't match you. Is Amanda a
21 roommate, true. Has she played outside, true. How the
22 kids sleep in the bunk bed, true. Who lives in the
23 house at this time versus that time, true. These are
24 not inconsistencies, they are true statements.

25 Eyes, it's a small thing. You're adults, you

1 probably know someone like me who has eyes. I bet mine
2 are blue right now, I'm wearing mostly blue. If I wear
3 green, my eyes tend toward green. It's not something
4 that's uncommon. This is not something that's
5 inconsistent or absurd. Certainly the eyes of her --
6 the color of her eyes don't mean that he didn't stick
7 his penis in her mouth. But that's where we want to
8 get off track, the Defense wants you to get off track
9 about something like that and not think about what
10 happened.

11 Angel was one of mommy's boyfriends. How is that
12 inconsistent? That's true. His underwear were on.
13 How is that inconsistent? That's true. It happened
14 when mommy was coming home, true. She told mom in the
15 bathroom, true. She doesn't know the exact time it
16 happened, true. Sitting on the bed versus standing up.
17 Before I talk to you, was I sitting or standing. Both.

18 While he was talking I was sitting, before I
19 talked to you I was sitting. Right before I talked to
20 you, I was standing. These are things that we have
21 common sense about. These are things that you can
22 listen to what she said, listen to the statements,
23 listen to the witnesses, listen to the evidence that's
24 been presented, and you can see that this little girl
25 is not making up a story. She's telling you the truth.

1 Kids playing outside, true. Victoria's dad. Now,
2 she, [REDACTED] called Angel daddy. Is he her real daddy,
3 no. Did she refer to him as daddy, yes. Does that
4 happen at times, do you probably know someone who has a
5 kid might refer to someone as daddy, but they actually
6 have a biological father? Is that crazy, is that an
7 inconsistency, absolutely not.

8 Does she have a blanket, was she sitting on the
9 couch with the blanket, true. Was Angel lying, true.
10 Did mommy believe [REDACTED] true. And not believe Angel,
11 true.

12 Now, the Defense made a big point about the
13 underwear. Now, I don't know, but I would tell you
14 right now, I don't own any white underwear. As a kid,
15 maybe I would have said that I did. I don't own white
16 boxers, but I make a distinction because I know the
17 difference. A kid referring to unders, do they make a
18 distinction between boxers and underwear like we do as
19 adults? Would her mom make a distinction between
20 underwear and boxers, probably.

21 He's wearing two pairs of boxers five hours later.
22 Do you think if he had blood on his underwear he's
23 going to keep those on around his boxers?

24 You know, it was a little frustrating for me to
25 watch that CRC interview with the interviewer who

1 couldn't quite understand, couldn't grasp the fact that
2 she's telling her that his underwear are up. But how
3 does he have his penis in his hand?

4 If you have boxers or you know someone who has
5 boxers, or you've ever used the restroom as a male, I
6 don't pull my boxers all the way down. Can I still pee
7 in the urinal? Absolutely. Are there ways that I can
8 pull my penis out without pulling my underwear or my
9 boxers all the way down, boxers especially, yes. We
10 all know this.

11 Now, this is uncomfortable for me. It's
12 uncomfortable to talk about penis, especially in an
13 eight-year-old's mouth. But these are things that we
14 need to talk about. The Defense wants to talk about
15 all the things that we didn't do, all the things that
16 the investigator didn't look at, didn't bring to you,
17 the interview.

18 You already know he denied it. We admitted that.
19 You already know he had a problem with the locked door,
20 we admitted that. We already talked about the
21 consistencies in his statement. We talked about what
22 he said on that video. The Defense talked about what
23 he said on that video. Do I want you to watch 45
24 minutes of him denying it, nope. Am I hiding anything,
25 no.

1 Does that make sense, that I wouldn't want you to
2 watch 45 minutes of a Defendant lying. Judge for
3 yourselves. I'm telling you, that's the case. Did I
4 hide the fact that he denied it, though, no. We
5 brought that up. Did I hide the fact that on there he
6 argues about a locked door, no. We brought that up.

7 Did I deny the fact that he said he had two pairs
8 of boxers on and he showed him, no. We brought that
9 up. Is there any denial that he signed this, no. You
10 know what's on the video. But do I want you to watch
11 45 minutes of him denying it? No. I hope that makes
12 sense to you.

13 What are his consistencies, though. He says, I
14 was home with the kids alone, consistent with what
15 [REDACTED] said. He says that Taylor and her boyfriend had
16 moved out, consistent with what [REDACTED] said. He says, I
17 took her in the room alone, consistent with what [REDACTED]
18 said. He said, I told her she was the oldest,
19 consistent with what [REDACTED] said. He says, I explained
20 to her that she had a bigger responsibility for the
21 younger kids, consistent with what [REDACTED] says. He
22 says, I asked her how much she loved me and did she
23 love me, consistent with what [REDACTED] says.

24 Now, where does it split? So we can know that
25 everything that she's told you on the stand, everything

1 that she said on that interview is true because the
2 Defendant admits it. What he won't admit is putting
3 his penis in her mouth.

4 Why? I'll let you answer that question. You
5 think he wants to admit what he did? That's what the
6 trial is for. That's what you're here for. You know,
7 I envy your position. Where I am, I'll never be able
8 to be a juror. I have a job. My job is to seek
9 justice for victims. My job is to seek justice for the
10 citizens of Horry County. My job is to represent the
11 State of South Carolina.

12 The Defense has a job, one job, defend that man at
13 all costs. The judge has a job, preside over the
14 trial, tell you what the law is. You, you're the most
15 important, you get to decide. This nine-year-old girl
16 who was eight at the time who sat here and told you the
17 story, was she lying to you? The same story that she
18 told on that interview, was she lying to the
19 interviewer? The same story she told Detective King,
20 was she lying to the detective? The same story she
21 told her mother immediately when her mother got home.

22 You know, I see a lot these cases. This is not a
23 delayed reporting case. This is an immediate, a child
24 immediately going and saying, this happened to me.
25 That's rare. She's not saying it happened a year ago,

1 someone did something inappropriate a year ago. She's
2 not going and making things up. Did he touch you below
3 the waist, no, it's never been alleged. You can rest
4 assured that what she's telling you and what she told
5 the detective, what she told her mom and what she told
6 the interviewer is true. You can see that.

7 You watched the video, you watched her testify. I
8 know that you can use your common sense, your good
9 judgment and know she had no reason to lie. The
10 Defendant told Detective King she had no reason to lie.
11 [REDACTED] loved Angel. He had been in her life for a
12 while. So did mommy. They were planning to get
13 married.

14 This was not a tumultuous situation, this isn't
15 something where boyfriend and girlfriend were
16 splitting, there's a dispute about the custody of
17 [REDACTED] and so allegations arise later. That's not what
18 we have. What we have is a good relationship with his
19 kids living in the house, with her kids living in the
20 house.

21 And when the roommates moved out and mom was on
22 her way home, that trust was broken. And a little girl
23 did something that a lot of grown women don't have the
24 courage to do. She immediately came and told mommy
25 what happened, because it was wrong. You can see mom's

1 reaction, kicked him out of the house, never gets back
2 with him. You can see the detective's reaction who
3 went to the hospital.

4 Why didn't they call 911 first? She's got the
5 daughter she took to the hospital and immediately met
6 with the cops that night. I'm not talking about the
7 next day or days later or a week later after a fight.
8 Police were notified the same day. She took her
9 daughter to the hospital. Can you really fault her for
10 that?

11 And if you do fault her for that, it still doesn't
12 change the fact of what this Defendant did to [REDACTED]
13 Whether she called 911 first or took her daughter to
14 the hospital first doesn't change the fact of what he
15 did. It doesn't change the fact of that she's telling
16 the truth. All these extraneous things don't change
17 the facts that you get to decide. They go to the
18 hospital immediately, tell the doctors. No reason to
19 make it up.

20 Sometime later she goes and gives the interview.
21 No reason to make it up. Is she an eight-year-old girl
22 on that tape who's talking about who she's living with
23 now, who she was living with then, when she plays with
24 kids, did other kids touch her inappropriately. Is she
25 trying to answer the questions as truthfully and

1 honestly as she can? Absolutely. I know that you can
2 see that. I know that you could see it up here.

3 You know, there's some comment about Allen not
4 coming to testify. As you've heard, [REDACTED] is now nine,
5 Child Witness is seven, Allen is five. Really? Do I need to
6 bring a five year old and put him on the stand when
7 I've already put a seven and nine year old on the
8 stand. I hope you don't hold that against us. A five
9 year old; that's a fault?

10 The seven year old already told you he tried to
11 open the door and it was locked. The Defendant already
12 admitted to the detective he took her in the room by
13 herself. He just won't admit what he did in that room.

14 Ladies and gentlemen, my colleague Leigh in the
15 beginning said what I thought was something that I
16 wrote down and was a perfect way to sum it up. The
17 State and the victim are asking for two things, justice
18 and that you believe her. And you can do that with one
19 word, and that word is guilty. Thank you.

20 THE COURT: Ladies and gentlemen, all right. That
21 concludes the closing arguments. The next phase of the
22 case will be the judge's charge of the law. I know
23 you've been sitting there now well over an hour and a
24 half. So we'll take a brief recess, come back and
25 we'll accomplish the charge. The jury may step out.

1 (WHEREUPON, the jury exited the courtroom at
2 11:09 a.m.)

3 THE COURT: Okay. You got some proposed charges?

4 MR. HOLFORD: Your Honor, as to the charge, arrest
5 indictment, presumption of innocence, reasonable doubt,
6 these were all pulled off the judge's book, so we know
7 that you have these. Duties of a trial judge, jury,
8 direct and circumstantial evidence, credibility of
9 witnesses, failure of Defendant to testify shall not be
10 taken into account.

11 The one that you may not have is testimony of
12 children, because we did hear testimony from children
13 in this trial, I would hand those up, as well as the
14 admissibility of the CRC interview. And the State has
15 first degree criminal sexual conduct with a minor, I
16 believe, that you have that one as well. If I can hand
17 up the testimony of a child.

18 I apologize, Your Honor, I'm making copies.

19 THE COURT: Okay. Everybody just stand at ease
20 until we give Defense a chance to look at these.

21 (WHEREUPON, a brief recess was taken at 11:11
22 a.m.)

23 MR. HOLFORD: As the State's proposed charge,
24 number one, testimony of children. I'm handing up to
25 the Court, I've provided Defense with copy, as the

1 State's proposed charge number two. I've provided
2 Defense a copy. That's about the CRC interview. It
3 states, and this is something I wrote based on the
4 statute, that the Court after hearing outside the
5 presence has determined that the out-of-court statement
6 of a child under 12 was admissible pursuant to SC code
7 of law 17-23-175.

8 However, as all direct and circumstantial evidence
9 presented, it is your job as the finders of facts to
10 determine the believability and credibility of the
11 witness and statement as well as determining what
12 weight, if any, to give to those statements.

13 It basically just says that even though it was
14 admitted, the Court found that it was admitted, it's
15 still their job to give it its due weight, if any, and
16 determine believability and credibility.

17 MR. GALMORE: Judge, we do not object to State's
18 proposed charge number one or two.

19 THE COURT: All right, anything else?

20 MR. HOLFORD: No, Your Honor.

21 THE COURT: Okay. Thank you.

22 MR. HOLFORD: Thank you, Your Honor.

23 THE COURT: Bring them in.

24 (WHEREUPON, the jury came into open court at
25 approximately 11:28 a.m.)

JURY CHARGE

1
2 THE COURT: All right. Madam forelady, ladies and
3 gentlemen of the jury, if I could have your attention,
4 I have noticed that you have very patiently listened to
5 the presentation of this case, and I thank you for
6 that. I thank you for not dozing off on me, as I asked
7 you not to do.

8 I also want to thank counsel for their able
9 presentations on the part of the Defense and for the
10 State, and I appreciate them working with the Court to
11 get this case presented to you, the jury. It is now my
12 duty as the trial judge under the constitution of this
13 state to charge and instruct you in the law applicable
14 to the case.

15 It is your duty as jurors to accept and apply the law
16 as the Court will now state it to you. As jurors, it
17 is your exclusive duty to decide all the issues of fact
18 in this case, and for that purpose to determine the
19 effect, the value and the weight of the evidence. Both
20 the State and the Defendant have a right to expect that
21 you will conscientiously consider and evaluate the
22 evidence and apply the law of the case thereto to the
23 end that both the State of South Carolina and the
24 Defendant will receive and obtain a fair and impartial
25 trial in this case.

1 When I use the word Defendant, I refer to Mr. Angel
2 Sanchez, Jr. The State of South Carolina, by the bill
3 of indictment in this case, charges the Defendant with
4 the offense known in law as criminal sexual conduct
5 with a minor, first degree. To this charge and to the
6 indictment the Defendant has entered a plea of not
7 guilty.

8 A plea of not guilty by a Defendant places the burden
9 of proof on the State to prove by evidence the guilt of
10 the Defendant beyond a reasonable doubt before you, the
11 jury, can find the Defendant guilty. The Defendant is
12 presumed in law innocent of the charge contained in
13 this indictment.

14 It is a cardinal and fundamental rule of the law of
15 evidence that a Defendant, irrespective of the enormity
16 of the charge against him, will always be presumed
17 innocent of the crime for which he's indicted unless
18 and until the guilt of the Defendant has been proved by
19 evidence that satisfies you, the jury, of his guilt
20 beyond a reasonable doubt.

21 The presumption of innocence is not a mere legal
22 theory, and it is not just a legal phrase. The
23 presumption of innocence is a substantial right to
24 which every accused is entitled. Our Supreme Court has
25 declared that the presumption of innocence is like a

1 robe of righteousness placed about the shoulders of the
2 Defendant, and it remains with him and assigns him to
3 that class, the innocent, until that presumptive robe
4 of righteousness has been stripped from his person by
5 evidence satisfying you, the jury, of the guilt of the
6 Defendant beyond a reasonable doubt.

7 The presumption of innocence accompanies a Defendant
8 from the time of his arraignment and appearance in the
9 court and continues with the Defendant throughout every
10 state of the trial and continues with the Defendant
11 after you retire to the jury room to deliberate your
12 verdict. The presumption of innocence continues in
13 existence to the benefit of the Defendant until you,
14 the jury, reach the conclusion that the State has
15 proved the guilt of the Defendant beyond a reasonable
16 doubt.

17 The State is not required to prove the guilt of the
18 Defendant beyond all doubt or beyond every doubt but
19 beyond a reasonable doubt. Proof beyond a reasonable
20 doubt is proof that leaves you firmly convinced of the
21 Defendant's guilt. There are very few things in this
22 world that we know with absolute certainty. And in
23 criminal cases the law does not require proof that
24 overcomes every possible doubt.

25 If based on your consideration of the evidence you are

1 firmly convinced that the Defendant is guilty of the
2 crime charged, you must find him guilty. If, on the
3 other hand, you think there's a possibility that he is
4 not guilty, you must give him the benefit of the doubt
5 and find him not guilty.

6 I charge you that the Defendant is entitled to every
7 reasonable doubt arising in the case. If, upon any
8 issue of fact central to conviction and a verdict of
9 guilty, you have a reasonable doubt as to how that
10 issue should be resolved, it would be your duty to
11 resolve that reasonable doubt in favor of the
12 Defendant.

13 A Defendant is not required to prove his innocence.

14 But the State is required in law to prove every
15 essential element of the offense charged against a
16 Defendant by evidence which satisfies you, the jury, of
17 the guilt of the Defendant beyond a reasonable doubt
18 before you could convict the Defendant and find him
19 guilty.

20 If, then, upon the whole case you have a reasonable
21 doubt as to the guilt or the innocence of the
22 Defendant, he is entitled to that reasonable doubt and
23 would be entitled to an acquittal and a verdict of not
24 guilty. But on the other hand, if upon the whole case
25 you find that the State has proved by evidence which

1 satisfies you, the jury, of the guilt of the Defendant
2 beyond a reasonable doubt, then in such circumstance it
3 would equally be your duty to convict the Defendant and
4 find him guilty.

5 I instruct you that the indictment in this case which
6 you will have later is not evidence and cannot be
7 considered by the jury as evidence in the case. The
8 indictment is simply the formal written instrument
9 which contains the charge against the Defendant, and it
10 serves as the formal document by which this case is
11 processed into the Court.

12 Now, during the trial of the case -- excuse me -- you
13 and I have certain duties to perform. As the trial
14 judge, it is my responsibility to preside over the
15 trial of the case, and I also have the duty to rule
16 upon or pass upon the admissibility of the evidence
17 offered during the progress of the trial.

18 You are to consider only the competent evidence before
19 you, and you are to disregard and disabuse from your
20 mind any testimony ordered stricken from the record of
21 this case from the progress of the trial, if there been
22 any. You are to consider only the testimony which has
23 been presented from the witness stand together with any
24 exhibits admitted into the record of this case and any
25 stipulations of counsel made into the record, if there

1 be any.

2 I have the additional duty to charge you the applicable
3 law of the case. As the presiding judge, I am the sole
4 judge of the law of the case and it is your duty to
5 accept and apply the law as I state it to you. If you
6 have a preconceived idea as to what the law is or what
7 the law ought to be in the case and it should not agree
8 with what I tell you the law is, you are obligated
9 under your oath to abandon this preconception on your
10 part, because you are sworn to accept the law precisely
11 as the Court states it to you.

12 In every case tried in the Court before a jury, the
13 jury becomes the sole and exclusive judge of the facts
14 of the case. You, the jury, are the judge of the facts
15 in this case, the Court is the judge of the law. The
16 constitution of this state has declared that a trial
17 judge shall not intimate, state, comment upon or make
18 any statement to a trial jury about the facts of the
19 case.

20 Since you are the sole judge of the facts, you are not
21 to infer from anything that I've said during the
22 progress of this trial in ruling upon the admissibility
23 of evidence or otherwise or anything that I say to you
24 during the course of this charge that I have an opinion
25 about the facts in the case.

1 The law does not permit me to have an opinion about the
2 facts in this case. That is a matter solely for you;
3 the jury, to determine. As jurors, then, it is your
4 duty to determine as I have stated to you the effect,
5 the value and the weight of the evidence presented,
6 during the course of this trial.

7 Necessarily, then, you must assess the credibility of
8 the witnesses who have testified in this case.

9 Credibility is simply a legalistic term which means
10 believability. I charge you that in determining the
11 question of credibility or believability of the
12 witnesses, you may believe one witness as against
13 several witnesses or several witnesses as against one
14 witness. You may believe a part of the testimony of a
15 witness and reject the remaining part of the testimony
16 of that same witness. You may believe the testimony of
17 a witness in its entirety or reject the testimony of a
18 witness in its entirety.

19 You may consider whether any witness has exhibited any
20 interest, any bias or any prejudice in the case, and
21 you may consider the demeanor of a witness, the
22 appearance of a witness from the witness stand. And
23 you may consider the opportunity for knowledge
24 concerning those things about which a witness
25 testified.

1 Now, in doing this, in exercising your mental
2 processes, the law simply requires that you exercise
3 your good judgment, your common sense, your sense of
4 logic and reason and your experiences in life. You
5 then apply these attributes of ability to the evidence
6 and determine the weight of the evidence into those
7 state of facts as determined by you, the jury. You
8 take and apply the law as I state it to you and thus
9 arrive at a verdict in the case.

10 Let me speak with you about the testimony of children.
11 During the trial you have heard testimony from a child.
12 Where a witness is a child, you must determine, as with
13 any witness, whether that testimony is believable. In
14 deciding believability, you may consider not only
15 matters that I have already discussed with you, but you
16 may also consider the age of the child, the child's
17 ability to observe and remember facts and the child's
18 ability to understand and answer questions.
19 Because young children may not fully understand what is
20 happening here, it is up to you to decide whether the
21 child understood the seriousness of appearing as a
22 witness at this criminal trial, whether the child
23 understood the question, whether the child has a good
24 memory and whether the child understands the difference
25 between lying and telling the truth.

1 In addition, young children may be influenced by the
2 way the questions are asked. It is up to you to decide
3 whether the child understood the questions asked.

4 I instruct you now and emphasize to you that the
5 election of a Defendant in the trial of a criminal case
6 not to testify in his own behalf is not a factor to be
7 considered by you in any of your deliberations and in
8 your consideration on the question of the guilt or
9 innocence of the accused. It must not be considered by
10 you in any manner whatsoever against the Defendant or
11 mitigate against him in any respect whatsoever.

12 A Defendant has a constitutional right to remain
13 silent. And the assertion of such constitutional right
14 cannot and must not be considered by you. Under your
15 oath, then, you are to reach no inference and draw no
16 conclusion whatsoever from the fact that a Defendant in
17 the case did not himself testify. This should not even
18 be discussed in the jury room.

19 The Court, after a hearing outside your presence, has
20 determined that the out-of-court statement of a child
21 under 12 was admissible pursuant to South Carolina Code
22 of Laws, Section 17-23-175. However, it is all
23 directly circumstantial evidence presented, it is your
24 job as the finders of the facts to determine the
25 believability and the credibility of the witness and

1 statement as well as determine what weight, if any, to
2 give to those statements.

3 Now, as you've already heard, the Defendant in this
4 indictment is charged with the offense of criminal
5 sexual conduct with a minor, first degree. I charge
6 you from Section 16-3-655 of the Code of Laws of the
7 State of South Carolina of 1976, as amended, which is
8 entitled, Criminal Sexual Conduct With Minors:

9 A person is guilty of criminal sexual conduct in the
10 first degree if the actor engages in sexual battery
11 with the victim who is less than 11 years of age. The

12 State must prove beyond a reasonable doubt the
13 Defendant engaged in a sexual battery with the victim.

14 A sexual battery is sexual intercourse, cunnilingus,
15 fellatio, anal intercourse or any intrusion, however
16 slight, of any part of a person's body or of any object
17 into the genital or anal openings of another person's
18 body except when the intrusion is accomplished for
19 medically recognized treatment for diagnostic purposes.

20 The State must then prove beyond a reasonable doubt
21 that the victim was less than 11 years of age at the
22 time of the sexual battery. Consent, willingness,
23 indifference or ignorance on the part of the minor, if
24 any, as to what was taking place does not in any way
25 affect the charge of criminal sexual conduct with a

1 minor, because an unmarried woman under the age of 14
2 cannot legally consent to sexual intercourse.

3 Ladies and gentlemen, you are not partisans or
4 advocates for the State or the Defendant. You do not
5 serve as jurors to reward friends or punish enemies.
6 Obviously, such a perverted system of justice would be
7 intolerable. You have been selected by both the State
8 and the Defendant to be fair and impartial jurors.

9 It is your duty, then, by your joint deliberations to
10 determine the facts in this case giving to the
11 Defendant the benefit of every reasonable doubt on each
12 and every issue, then to the facts which you determine.
13 You then take and apply the law which has been given to
14 you by the Court and thus arrive at a verdict. And
15 when you have accomplished these responsibilities, you
16 will have satisfied your oath as jurors, and you will
17 have discharged your duty to the Court.

18 I will now instruct you in the forms of the verdict in
19 this case. If the State has failed to prove the guilt
20 of the Defendant beyond a reasonable doubt, your
21 verdict would be two words, not guilty. If the State
22 has proved the guilt of this Defendant beyond a
23 reasonable doubt, your verdict will be one word,
24 guilty. The verdict that you render in this case must
25 be the verdict of each and every juror. It must be

1 your unanimous verdict. All 12 jurors must agree on
2 the verdict which you authorize madam forelady to write
3 for the jury.

4 Now, madam forelady, you will have this indictment
5 along with any exhibits in a few minutes. When I give
6 you the instructions that you may begin your
7 deliberations, when the jury reaches a verdict, it will
8 be your duty to go to this bottom left corner where it
9 says verdict, write in the appropriate verdict as found
10 by the jury, sign your name and date the verdict, okay.

11 Once again, your verdict will have to be a unanimous
12 verdict, all jurors will have to agree on the verdict.

13 Mr. Bailiff will be stationed immediately outside the
14 jury room to provide security for you and also provide

15 any assistance that you may need. When you have
16 reached a verdict, we'll ask you to knock on the door,
17 and we will receive the verdict back in the courtroom.

18 All right. I've covered everything that I had prepared
19 for the charge. Any exceptions or additions at this

20 time?

21 MS. ANDREW: Nothing from the State, Your Honor.

22 MR. GALMORE: No, sir.

23 THE COURT: Okay. All right. If y'all would
24 check off on the exhibits, we'll send them back. The
25 jury, the 12 jurors may retire to the jury room. I

1 need the two alternates to remain a few minutes in a
2 separate area.

3 Oh, one thing I did overlook. I'm asking the
4 alternates to stay for a few minutes. This very rarely
5 happens. But, madam forelady, if you were to get back
6 there in the jury room and you have a juror or jurors
7 that refuse to deliberate -- example, I'm not each
8 discussing this case -- immediately stop your
9 deliberations, notify the bailiff. And then I will
10 intervene, okay. All right. You may step back.

11 (WHEREUPON, the jury exited the courtroom at
12 11:49 a.m.)

13 (Discussion off the record.)

14 THE COURT: If you could just fetch the forelady.
15 We're sending, I think, a DVD back there okay. Should
16 the jury need to see that, if you'll let us know, we'll
17 get the equipment back to you, okay.

18 FOREPERSON: Okay. Thank you.

19 THE COURT: That will do it.

20 (WHEREUPON, the jury begins to deliberate at
21 11:52 a.m.)

22 (WHEREUPON, the jury came into open court at
23 approximately 12:45 p.m.)

24 THE COURT: All right. Madam clerk, you may
25 publish the verdict.

1 THE CLERK: Indictment No. 2016-GS-26-04080, the
2 State versus Angel Louis Sanchez, Jr., on the charge of
3 criminal sexual conduct with a minor first degree, we,
4 the jury, by unanimous consent find the Defendant
5 guilty. Signed by foreperson, Susan Waller, dated
6 5/11/2017.

7 Ladies and gentlemen of the jury, if this is your
8 verdict, so signify by raising your right hand.

9 (WHEREUPON, all jurors raised their hands.)

10 THE COURT: Anything further of the jury?

11 MR. GALMORE: Your Honor, we would request
12 polling.

13 THE COURT: All right. Madam clerk, would you
14 poll the jury.

15 THE CLERK: When I call your juror number, if you
16 will please stand, I'm going to ask you two questions.
17 And then, once you've answered those two questions, you
18 can sit back down.

19 Number 386, is this your verdict?

20 JUROR #386: Yes.

21 THE CLERK: Is it still your verdict?

22 JUROR #386: Yes.

23 THE CLERK: Number 26, is this your verdict?

24 JUROR #26: Yes.

25 THE CLERK: Is it still your verdict?

1 JUROR #26: Yes.

2 THE CLERK: Number 90, is this your verdict?

3 JUROR #90: Yes.

4 THE CLERK: Is it still your verdict?

5 JUROR #90: Yes, ma'am.

6 THE CLERK: 120, is this your verdict?

7 JUROR #120: Yes.

8 THE CLERK: Is it still your verdict?

9 JUROR #120: Yes, ma'am.

10 THE CLERK: 193, is this your verdict?

11 JUROR #193: Yes, ma'am.

12 THE CLERK: Is it still your verdict?

13 JUROR #193: Yes, ma'am.

14 THE CLERK: 198, is this your verdict?

15 JUROR #198: Yes.

16 THE CLERK: Is it still your verdict?

17 JUROR #198: Yes.

18 THE CLERK: 226, is this your verdict?

19 JUROR #226: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR #226: Yes, ma'am.

22 THE CLERK: 294, is this your verdict?

23 JUROR #294: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR #294: Yes, ma'am.

1 THE CLERK: 324, is this your verdict?

2 JUROR #324: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR #324: Yes..

5 THE CLERK: 376, is this your verdict?

6 JUROR #376: Yes.

7 THE CLERK: Is it still your verdict?

8 JUROR #376: Yes.

9 THE CLERK: 387, is this your verdict?

10 JUROR #387: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR #387: Yes, ma'am.

13 THE CLERK: 408. Is this your verdict?

14 JUROR #408: Yes, ma'am.

15 THE CLERK: Is it still your verdict?

16 JUROR #408: It is.

17 THE CLERK: Thank you.

18 THE COURT: Anything further?

19 MR. GALMORE: No, sir.

20 MS. ANDREW: Nothing from the State, Your Honor.

21 THE COURT: Madam forelady, ladies and gentlemen

22 of the jury, I want to thank you for your service and

23 for your patience. I know yesterday was a holiday, we

24 are under some Supreme Court orders about observing

25 holidays, so that put a little gap in the trial. But

1 we're here, you've completed your task, and I want to
2 thank you for your deliberations and for your service
3 to the Court.

4 Now, if you are drawn again this year, you
5 certainly do not have to serve. And if you're drawn in
6 the next two years, you have that exemption. Should
7 that happen and you be drawn in the future, I certainly
8 hope you will be willing to come and help.

9 The next portion of this trial will be what we
10 call mitigation and sentencing. That's where I will
11 hear from both sides concerning sentence, any criminal
12 record, should there been any, various aspects may
13 affect sentencing will be presented to the Court at
14 that time.

15 Now, your service for the week is complete. If
16 you would like to leave at this time, we need you to
17 turn your badge in, and you will be free to leave. If
18 you would like to stay and observe the rest of this
19 case, that will be fine. I'll leave that up to you.
20 So if anybody would like to leave at this time -- can
21 they go out that way, Mr. Bailiff?

22 BAILIFF: Yes, sir, I'll take them out.

23 THE COURT: Okay. He will help you get out the
24 back entrance way. If you would like to stay, you're
25 welcome to sit where you are. If you think you would

1 be more comfortable in the back, we can arrange for
2 that. But I'll leave that up to you. With that said,
3 is the Defendant secured?

4 MR. HOLFORD: Your Honor, our office is preparing
5 a sentencing sheet and bringing it up right now.

6 MS. ANDREW: May I approach, Your Honor?

7 THE COURT: Yes. Thank you. All right.

8 MS. ANDREW: Your Honor, in State versus Angel
9 Luis Sanchez, Jr., Indictment 2016-GS-26-04080, the
10 victims do not wish to speak at this time. The State
11 would just ask that you take into account the testimony,
12 at trial that they gave.

13 The Defendant has a conviction from 2014 for
14 criminal domestic violence, and he has a conviction
15 from 2016 for possession with intent to distribute
16 heroin. We just ask you to take that -- sorry, the
17 victim wants to speak. She would like to speak, the
18 victim's mother, Your Honor.

19 THE COURT: Yes.

20 MS. ARNETT: I just ask that any family or friends
21 of his, just not to contact me in any type of way.

22 THE COURT: All right.

23 MS. ARNETT: That's all I want.

24 THE COURT: All right, thank you. Anything else
25 from the State?

1 MS. ANDREW: Nothing else from the State, Your
2 Honor.

3 THE COURT: All right. Mitigation from the
4 Defense?

5 MR. GALMORE: Yes, sir, Your Honor. Mr. Sanchez
6 is 43 years old, he's single, he has four children.
7 Judge, he is from New York, he has lived here in South
8 Carolina for the past nine years. I have letters of
9 reference. One person has been associated with him for
10 seven of those nine years, the other has been
11 associated with him for five of the last nine years.
12 Your Honor, you've heard from the testimony, his only
13 family is his mother, his grandmother, she's 102, and
14 his kids.

15 Your Honor, he is employed with Telford Cleaning
16 Services, he's worked there for the past five years. I
17 had the pleasure of meeting his employer just this
18 Monday here at the courthouse. There is really not
19 much that I can say. I understand the Court's hands
20 are tied as far as sentencing is concerned.

21 We just want to point out to the Court this PWID
22 heroin charge, I'm not sure in that's a conviction
23 against Angel. I have represented Angel in the past.
24 I don't recall him having a PWID charge on his record.
25 I can tell you that in the past, there was a drug

1 charge. Angel cooperated with the State. He was able
2 to get that charge dismissed due to his level of
3 cooperation. So there are a lot of positive things
4 about Angel.

5 Again, I know there's not much that the Court can
6 do, but we ask for any leniency you could do.

7 THE COURT: The State?

8 MS. ANDREW: Your Honor, I would just like to tell
9 the Court we have a copy of the certified conviction
10 for PWID heroin from 2016.

11 THE COURT: We need to make that a part of the
12 record.

13 MS. ANDREW: Okay. May I approach, Your Honor?

14 THE COURT: Yes.

15 (WHEREUPON, Court's Exhibit No. 1 was marked for
16 identification only.)

17 MS. ANDREW: And the State would ask, too, that
18 you take into consideration the seriousness of the
19 charge and the victim's age in sentencing.

20 THE COURT: Everything matches up as far as the --

21 MR. GALMORE: I understand, Your Honor.

22 THE COURT: Mr. Sanchez, anything you want to say?

23 THE DEFENDANT: Your Honor, the only thing I got
24 to say is I got a family, a grandmother, this is crazy,
25 man. I don't even know what to say.

1 THE COURT: All right. It is my duty to pass
2 sentence on this. And before I get into that, I
3 just -- I need to make sure that you understand, which
4 I'm sure that counsel will explain to you, if you
5 desire to appeal this case, you got -- you have to, you
6 have to file a notice of appeal within ten days of
7 sentencing if you feel that there has been any error
8 made, okay.

9 MR. GALMORE: Yes, sir.

10 THE COURT: Make sure you understand that.

11 MR. HOLFORD: Your Honor, I apologize, before
12 sentencing, are there any Defense motions?

13 MR. GALMORE: Did you want to take those up now?
14 Your Honor, I would make a motion for a new trial. I
15 would make a motion for an order in arrest of
16 judgement, just based on the insufficiency of the
17 evidence that has been presented and based on the
18 insufficiency of the indictment.

19 Your Honor has heard the testimony. Our defense
20 is that the allegation was suspicious. Our defense is
21 that there was no corroboration to that testimony.
22 We'd ask the Court to employ this standard to enter the
23 appropriate judgment in arrest -- the appropriate order
24 in arrest of judgment.

25 THE COURT: I'll have to deny the motions at this

1 time. I'm not going to comment a whole lot about the
2 facts in the case. But I think a critical factor in
3 this case which was corroboration was the fact about
4 the locking of the door. And we had that evidence to
5 come in.

6 So legislature has pretty well prescribed the
7 punishment in this area that the trial bench has to
8 follow. And it doesn't give me a whole lot of leeway.
9 But taking into consideration the age of the child and
10 the circumstances, it's the sentence of the Court Angel
11 Sanchez, Jr. be confined to the State Department of
12 Corrections for a period of 35 years..

13 MR. GALMORE: Yes, sir.

14 MR. HOLFORD: Thank you, Your Honor.

15 MS. ANDREW: Thank you, Your Honor.

16 THE COURT: Jail credit, do we know?

17 MR. GALMORE: We would just ask for credit for
18 time served, sir.

19 MR. HOLFORD: I'm not sure how much time he served
20 before.

21 THE COURT: We'll let the Department of
22 Corrections retain it.

23 MR. HOLFORD: Thank you.

24 MS. ANDREW: Thank you, Your Honor.

25 THE COURT: Ladies and gentlemen of the jury,

1 thank you so much for your service. The legislature in
2 this particular offense has put in a minimum sentence
3 of 25 years up to life imprisonment.

4 Just as an interesting side note, I did not
5 realize this with all of my years of experience that
6 they had changed it to where on a second offense, the
7 death penalty can be sought. Now, whether the Supreme
8 Court in Washington will uphold that, that's another
9 question, but that's there.

10 All right. I thank everybody for their behavior.
11 And I'm going to step down off the bench and the jury
12 is free to go. And I would like to speak with the
13 victim just a second, okay, before they leave. All
14 right. The Court's in recess until tomorrow at
15 10 o'clock. We have a Georgetown plea, I understand,
16 that's be specially arranged.

17 MR. HOLFORD: Thank you.

18 (The hearing concluded at approximately 1:01 p.m.)

19 (End of Transcript of Record)
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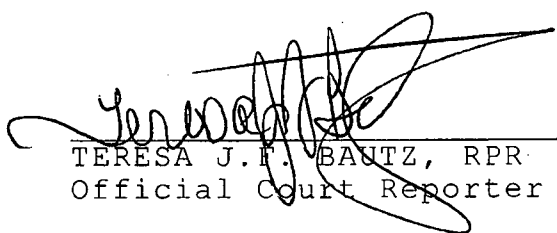
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

I, TERESA J.F. BAUTZ, Official Court Reporter for the Fifteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on the 19th day of September, 2017.

I FURTHER CERTIFY that I am neither of kin, counsel nor interest to any party hereto.


TERESA J.F. BAUTZ, RPR
Official Court Reporter

WITNESSES

Kenneth Scott Hayes Horry County Police
Department

B. Sales

ARREST WARRANT NUMBER

2016A2610200903

CDR: 0385 16-03-0655(A)(1)

DOA: 4/17/2016

ACTION OF GRAND JURY

TRUE BILL

B. Harris

Foreperson of Grand Jury **SEP 15 2016**
Date:

VERDICT

Guilty

Sharon Waller

Foreperson of Petit Jury
Date: **5-11-17**

DOCKET NO. 2016-GS-26- 04080

The State of South Carolina

County of Horry

Martin D. Spratt III

16H02030

COURT OF GENERAL SESSIONS

SEPTEMBER, 2016 TERM

THE STATE

vs.

Angel Luis Sanchez Jr
H/ M

Conway, SC 29526-3301

DOB: 1973

SSN:

ATTORNEY: James Cullen Galmore

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A MINOR,
FIRST DEGREE**

Jimmy A. Richardson, II, Solicitor

ORIGINAL

**FILED
HORRY COUNTY**

2016 SEP 19 AM 8:54

CLERK OF COURT

**RECEIVED FROM
GRAND JURY**

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

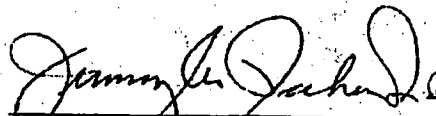
At a Court of General Sessions, convened on September 15, 2016, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

CDR: 0385 16-03-0655(A)(1)

That Angel Luis Sanchez Jr did in Horry County, State of South Carolina, on or about April 15, 2016, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in sexual battery with a minor who is less than eleven (11) years of age, to wit: ^{Complaining Witness} whose date of birth is [REDACTED] 2007, in violation of Section 16-3-655(A)(1), S. C. Code of Laws, 1976, as amended.

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

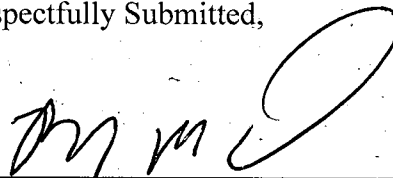


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 1st day of June, 2018.

RECEIVED

JUN 01 2018

SC Court of Appeals