

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SAMUEL DINGLE,

APPELLANT

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

CASE NO. 2010-GS-38-0912

versus

)
)
) TRANSCRIPT OF RECORD

SAMUEL DINGLE,

)
) DATE:

DEFENDANT

)
) MAY 31, 2011

BEFORE:

HONORABLE EDGAR DICKSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

GLENN JUSTIS, ESQUIRE
HARRISON BELL, ESQUIRE

ASSISTANT SOLICITORS

FOR THE STATE



ASH CHISOLM, ESQUIRE
DOUGLAS MELLARD, ESQUIRE

PUBLIC DEFENDERS

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1 DATE:

2 MAY 31, 2011

3 (The following takes place
4 out of the presence of
5 of the jury venire.)

6 THE COURT: ALRIGHT. NOW, IS IT MOTION TIME? IS
7 MR. MELLARD, OR ARE YOU GOING TO MAKE THE ARGUMENT?

8 MR. CHISOLM: YOUR MELLARD, MR. MELLARD'S GOING
9 TO MAKE THE ARGUMENT WE WERE DISCUSSING BEFORE, AND
10 THERE'S A COUPLE OF OTHER PRETRIAL MATTERS. WE CAN
11 START IF YOU'D LIKE TO GO AHEAD.

12 THE COURT: YEAH, YEAH, I'M READY TO GET STARTED.

13 OKAY, MS. HARRY DOT, THIS CASE, JUST SO YOU'LL
14 KNOW -- DO I HAVE THE INDICTMENT IN THIS? DO YOU
15 WANT TO CALL THE CASE, SOLICITOR, SO I CAN KNOW WHAT
16 IT IS?

17 SOLICITOR JUSTIS: AT THIS TIME THE STATE CALLS
18 THE CASE OF STATE OF SOUTH CAROLINA VERSUS SAMUEL
19 DINGLE. HE'S CHARGED ON A TRUE BILLED INDICTMENT
20 2010-GS-38-0912 WITH ONE COUNT OF CRIMINAL SEXUAL
21 CONDUCT WITH A MINOR, SECOND DEGREE.

22 THE COURT: ALRIGHT. WE'RE GOING TO START DOING
23 SOME MOTIONS RIGHT NOW. IS THAT CORRECT?

24 MR. CHISOLM: YES, YOUR HONOR.

25 THE COURT: OKAY. YOUR MOTION, MR. CHISOLM?

1 MR. CHISOLM: THANK YOU, YOUR HONOR. MAY IT
2 PLEASE THE COURT?

3 THE COURT: YES, SIR.

4 MR. CHISOLM: MR. PRINGLE HAS ANOTHER CSC CASE
5 THAT'S PENDING. WE WOULD MAKE A MOTION TO EXCLUDE
6 ANY MENTION OF THE OTHER CASES PENDING. I BELIEVE THE
7 ALLEGED INCIDENT OCCURRED AFTER ALL THE STUFF WE'RE
8 HERE FOR TODAY. IT WOULD BE OUR POSITION THAT'S IT'S
9 NOT RELEVANT TO THIS CASE, AND IT WOULDN'T BE
10 ADMISSIBLE UNDER THAT.

11 THE COURT: WELL, HE HASN'T BEEN CONVICTED OF
12 THAT, HAS HE?

13 SOLICITOR JUSTIS: NO, YOUR HONOR. THEY WERE
14 ACTUALLY INVESTIGATED, THEY WERE ACTUALLY BEING
15 INVESTIGATED AT THE SAME TIME, EVEN THOUGH THEY HAVE
16 BEEN YEARS APART.

17 THE COURT: OKAY.

18 SOLICITOR JUSTIS: AND I'VE INSTRUCTED MY
19 VICTIMS NOT TO MAKE ANY MENTION OF THAT WHEN I ASK
20 THEM MY QUESTIONS.

21 THE COURT: OKAY. ALRIGHT. SO, WE'RE NOT GOING
22 TO TALK ABOUT IT. IF YOU DON'T GET INTO IT WE OUGHT
23 TO BE OKAY.

24 MR. CHISOLM: YES, SIR.

25 THE COURT: ALRIGHT, SIR.

1 MR. CHISOLM: NEXT WOULD BE A MOTION TO EXCLUDE
2 ANY MENTION OF MR. DINGLE'S SPEAKING TO INVESTIGATORS
3 OR GIVING STATEMENTS WHILE IN PRISON, OR WHILE
4 IMPRISONED BEING THE IMPORTANT PART HERE, YOUR HONOR.
5 AGAIN, THAT WOULDN'T BE RELEVANT AND HIGHLY
6 PREJUDICIAL.

7 SOLICITOR JUSTIS: YOUR HONOR, I KNOW WHAT HE'S
8 TALKING ABOUT. THE SECOND MEETING WITH MR. DINGLE HE
9 WAS ACTUALLY INCARCERATED, IN PRISON FOR A DIFFERENT
10 CHARGE, A TOTALLY DIFFERENT CHARGE. SO, WHEN THEY
11 SPOKE TO HIM AND THEY OBTAINED AN ORAL STATEMENT FROM
12 HIM, OBVIOUSLY, HE'S INCARCERATED AT THAT TIME, AND IT
13 WOULD BE MY INTENT DURING THE JACKSON V. DENO TO LET
14 THAT COME OUT. BUT AS FAR AS IN FRONT OF THE JURY,
15 I'VE ASKED MY OFFICERS NOT TO MENTION ANYTHING ABOUT,
16 I THINK WE'LL JUST HAVE TO CHANGE SOME OF THE
17 QUESTIONS A LITTLE BIT SO THAT NOTHING'S REVEALED THAT
18 HE'S ACTUALLY SITTING IN THE PRISON BEING INTERVIEWED
19 THE SECOND TIME.

20 THE COURT: OKAY.

21 SOLICITOR JUSTIS: SO, THE STATE WOULD HAVE NO
22 PROBLEM KEEPING ALL THAT OUT.

23 THE COURT: OKAY. SO, WE'RE NOT GOING TO MENTION
24 HIM BEING IN PRISON WHEN HE'S BEING -- OKAY, THANKS.
25 ALRIGHT.

1 MR. CHISOLM: NEXT WOULD BE, I ACTUALLY HAVE A
2 MOTION, IT WOULD BE BASED ON ANTICIPATED TESTIMONY
3 FROM INVESTIGATOR COAXUM. I'M NOT SURE IF IT WOULD
4 BEST BE HEARD AFTER THE JACKSON-DENO TO KIND OF FEEL
5 OUT WHAT HER ACTUAL TESTIMONY WOULD BE, OR I CAN GO
6 AHEAD NOW IF YOU'D LIKE.

7 THE COURT: HOWEVER YOU FEEL MOST COMFORTABLE
8 DOING IT, MR. CHISOLM.

9 MR. CHISOLM: BASICALLY, IN INVESTIGATOR COAXUM'S
10 NOTES THERE'S A STATEMENT IN THERE THAT SAYS HE, BEING
11 MR. DINGLE, NEVER DENIED THE CHILD WAS HIS. IT WOULD
12 BE OUR POSITION, -- NOW, THIS IS DURING A MEETING,
13 INVESTIGATOR COAXUM, I'M NOT SURE IF INVESTIGATOR
14 ETHEREDGE WAS THERE AS WELL, BUT WHEN THEY WERE
15 MEETING WITH MR. DINGLE, OUR POSITION WOULD BE, FIRST,
16 HE HAS A RIGHT TO REMAIN SILENT, HE DOESN'T HAVE TO
17 ANSWER EVERY ACCUSATION.

18 SECONDLY, LACK OF A DENIAL WOULDN'T PROVE
19 ANYTHING.

20 BUT MOST IMPORTANTLY HERE, THE STATEMENT IS, HE
21 NEVER DENIED THE CHILD WAS HIS. ONE OF THE PRECEDING
22 SENTENCES BASICALLY MY UNDERSTANDING IS, INVESTIGATORS
23 APPROACHED HIM WITH RESULTS FROM DNA TESTS. WHEN THEY
24 HANDED HIM THE RESULTS HIS STATEMENT WAS, IT'S NOT
25 POSSIBLE, WHICH, BASICALLY, OUR POSITION WOULD BE,

1 THAT ISN'T DENIAL IN ITSELF. YOU SHOW SOMEONE DNA
2 RESULTS THAT WOULD TEND TO IMPLICATE THEM IN THE
3 CRIME, AND THEY SAY, THAT'S NOT POSSIBLE, AS FAR AS
4 US, THAT IS A DENIAL.

5 THE COURT: UH-HUH. OKAY. SO, AM I ANTICIPATING
6 TESTIMONY ABOUT THAT?

7 SOLICITOR JUSTIS: I DON'T BELIEVE SO, YOUR
8 HONOR. WHAT HE'S REFERRING TO, THEY'RE THE ACTUAL
9 INVESTIGATOR NOTES THAT THEY MAKE WHEN THEY'RE DOING
10 THEIR CASE, AND IT DOES STATE IN THERE THAT THE
11 DEFENDANT SAID, IT'S NOT POSSIBLE, OR SOMETHING TO
12 THAT NATURE. AND I THINK WHAT HE WAS READING ABOUT
13 NOT DENYING, I THINK THOSE ARE JUST INVESTIGATOR
14 COAXUM'S THOUGHTS, WHICH SIMPLY MEANS - - -

15 THE COURT: OKAY. SO, THAT'S NOT GOING TO COME.
16 HE'S NOT GOING TO TESTIFY TO THAT?

17 SOLICITOR JUSTIS: WELL, HER THOUGHTS, WE WOULD
18 JUST ASK THAT SHE REVEAL WHATEVER THE DEFENDANT SAID
19 AND NOT HER OWN THOUGHTS, WHAT SHE THOUGHT ABOUT THE
20 SITUATION.

21 THE COURT: OKAY. SO, SHE WOULD, IF ASKED, SHE
22 WOULD SAY THAT HE SAID, IT IS NOT POSSIBLE?

23 SOLICITOR JUSTIS: YES, YOUR HONOR. AND SHE'S
24 RIGHT HERE, YOUR HONOR, I'M SURE SHE WILL AGREE WITH
25 THAT.

1 THE COURT: OKAY. AND MR. CHISOLM, YOU
2 UNDERSTAND THAT? IF ASKED SHE WILL SAY THAT.

3 MR. CHISOLM: YES, SIR.

4 THE COURT: OKAY. THANK YOU, SIR.
5 WHAT ELSE HAVE WE GOT?

6 MR. CHISOLM: NEXT WOULD BE, THIS ALSO WOULD COME
7 UNDER POTENTIALLY ANTICIPATED TESTIMONY.

8 THE COURT: SO, NOW WE'VE GONE INTO ANTICIPATED,
9 AND NOW WE'RE INTO POTENTIALLY ANTICIPATED?

10 MR. CHISOLM: YES, SIR.

11 THE COURT: OKAY. ALRIGHT.

12 MR. CHISOLM: AND I'M NOT SURE, I HAVEN'T SEEN A
13 WITNESS LIST YET SO I'M NOT SURE IF THESE PEOPLE ARE
14 PLANNING TO BE CALLED OR NOT BUT - - -

15 THE COURT: WHICH WITNESS? OH, HE'LL GIVE IT TO
16 YOU. OKAY. THANK YOU. I'M GOING TO NEED THIS
17 ANYWAY.

18 SOLICITOR JUSTIS: POTENTIAL WITNESSES, YOUR
19 HONOR.

20 THE COURT: OKAY. IS SHE ON THE LIST?

21 MR. CHISOLM: YES, YES, SIR.

22 THE COURT: OKAY. WHO?

23 MR. CHISOLM: BASICALLY, YOUR HONOR, I BELIEVE
24 IT'S FROM INVESTIGATOR NOTES AGAIN AS WELL. THERE'S A
25 WITNESS, SAMANTHA BROWN. AND THE INVESTIGATOR NOTES,

1 OR IT MIGHT BE ACTUALLY -- THERE'S A STATEMENT TO THE
2 EFFECT THAT THE VICTIM IN THE CASE TOLD HER WHAT HAD
3 HAPPENED BASICALLY, TOLD HER THAT SHE HAD BEEN, YOU
4 KNOW, ASSAULTED. OUR POSITION WOULD BE THAT THESE
5 STATEMENTS SHOULD BE EXCLUDED. WHAT SHE TOLD THE
6 INVESTIGATORS SHOULD BE EXCLUDED UNDER HEARSAY.

7 THE COURT: OKAY. ALRIGHT, MR. JUSTIS, THIS IS
8 APPARENTLY SAMANTHA BROWN?

9 SOLICITOR JUSTIS: SAMANTHA BROWN IS ACTUALLY THE
10 MOTHER OF THE VICTIM IN THE OTHER CASE. AND OBVIOUSLY,
11 SHE'S SORT OF RELATED TO OUR VICTIM HERE BY MARRIAGE.
12 AND THEN, AS I MENTIONED, BOTH OF THESE CASES WERE
13 INVESTIGATED, THEY KIND OF CAME TO LIGHT AT THE SAME
14 TIME.

15 THE COURT: THE SAME TIME?

16 SOLICITOR JUSTIS: SO, THAT'S WHY THERE'S SOME
17 REFERENCES TO SAMANTHA BROWN IN THERE ALSO. BUT I
18 WOULDN'T ANTICIPATE HAVING MS. BROWN MAKE THOSE
19 STATEMENTS ON THE STAND IF SHE WERE TO TESTIFY.

20 THE COURT: OKAY. IF SHE'S GOING TO TESTIFY AT
21 ALL?

22 SOLICITOR JUSTIS: THAT'S CORRECT, YOUR HONOR.

23 THE COURT: ALRIGHT. OKAY. SO, NOW, AFTER
24 POTENTIAL ANTICIPATED, DO WE HAVE A HOPEFULLY, OR
25 WHAT'S NEXT?

1 MR. CHISOLM: IT'S JUST ANTICIPATED, YOUR HONOR.

2 THE COURT: WE'RE BACK TO ANTICIPATED. WHAT'S
3 THE NEXT ONE?

4 MR. CHISOLM: WE WOULD MAKE A MOTION TO EXCLUDE
5 ANY STATEMENTS COMING FROM INVESTIGATORS COAXUM AND
6 ETHEREDGE THAT THEY SAY █████ █████ MADE TO THEM.

7 THE COURT: OKAY. MR. JUSTIS, THEY WANT TO
8 EXCLUDE ANY STATEMENTS MADE BY MS. █████ TO COAXUM AND
9 TO BROWN, IS THAT WHAT YOU'RE SAYING?

10 MR. CHISOLM: OR ETHEREDGE.

11 THE COURT: ETHEREDGE.

12 SOLICITOR JUSTIS: WELL, WE WOULD ANTICIPATE,
13 SINCE MS. █████ IS THE VICTIM, SHE WOULD BE
14 TESTIFYING. SHE WOULD BE ABLE TO TESTIFY TO THAT.

15 THE COURT: OH, YEAH, SHE CAN TESTIFY TO WHAT SHE
16 SAID. YEAH.

17 SOLICITOR JUSTIS: WE WOULDN'T NEED THOSE
18 OFFICERS TO, TO ...

19 THE COURT: OKAY.

20 MR. CHISOLM: IF THEY DO, WE'LL TRY TO IMPEACH
21 HER.

22 THE COURT: OKAY.

23 SOLICITOR JUSTIS: WHAT IF THEY TRY TO IMPEACH
24 HER? IF THEY TRY TO IMPEACH HER, YOU KNOW - - -

25 THE COURT: WELL, NOW, IF HE TRIES TO IMPEACH

1 HER, THAT'S A WHOLE DIFFERENT BALL GAME.

2 SOLICITOR JUSTIS: AND THEN WE WOULD ANTICIPATE
3 THEY WOULD TESTIFY TO WHAT SHE SAID.

4 THE COURT: OKAY. ALRIGHT. SO, YOU PLAN ON
5 CALLING MS. [REDACTED] THEN? SHE CAN TESTIFY TO WHAT SHE
6 SAID.

7 SOLICITOR JUSTIS: YES, SIR.

8 THE COURT: OKAY. OKAY.

9 MR. CHISOLM: THE NEXT WOULD BE BASICALLY A
10 MOTION TO SEQUESTER THE WITNESSES.

11 THE COURT: OKAY. OKAY. ANY PROBLEM WITH
12 SEQUESTERING THE WITNESSES EXCEPT FOR THE MAIN
13 INVESTIGATING OFFICER?

14 SOLICITOR JUSTIS: NO, YOUR HONOR, THAT WOULD BE
15 FOR BOTH SIDES.

16 THE COURT: OKAY. WE'RE GOING TO DO THAT ON BOTH
17 SIDES, THEN.

18 MR. CHISOLM: AND IF WE COULD JUST, AT SOME
19 POINT, GET A LIST OF THE WITNESSES SO THAT WE KNOW WHO
20 ARE ANTICIPATED?

21 THE COURT: OKAY. WELL, I GUESS THEY'RE GOING TO
22 GIVE ME A POSSIBLE LIST SO I WILL BE ABLE TO ASK THE
23 JURY?

24 SOLICITOR JUSTIS: YES. I THINK I NEED TO PRINT
25 IT UP. I'LL HAVE IT UP HERE IN FIVE MINUTES.

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1 THE COURT: OKAY. THAT'S FINE. ALRIGHT, WHAT
2 ELSE?

3 SOLICITOR JUSTIS: AND I WOULD JUST ADD, YOUR
4 HONOR, OBVIOUSLY, WE WOULD JUST ASK THAT THE LEAD
5 INVESTIGATOR AND THE VICTIM BE ALLOWED TO STAY ALSO.

6 THE COURT: YEAH, THE LEAD INVESTIGATOR AND THE
7 VICTIM WILL BE ABLE TO STAY. BUT OTHER THAN THAT,
8 NOBODY ELSE. OKAY?

9 MR. CHISOLM: BUT THAT WOULD BE, I'M NOT SURE IF
10 THE CHILD INVOLVED IN THIS CASE IS HERE OR NOT, THE
11 SON OF THE ALLEGED VICTIM. IF HE IS HERE I WOULD ASK
12 THE COURT TO DISALLOW HIM FROM BEING PRESENT,
13 BASICALLY IN THE STANDS. OUR POSITION WOULD BE, THIS
14 WOULD BE PURELY A PLAY FOR SYMPATHY. THERE'S NO
15 RELEVANCE OR INVOLVEMENT AS FAR AS HE'S CONCERNED,
16 WITH THIS CASE. I THINK THE ONLY THING, THE RESULT
17 FROM HAVING HIM IN HERE SITTING ON THE STAND WOULD BE
18 TO POTENTIALLY CONFUSE THE JURY AS TO WHAT WE'RE HERE
19 ABOUT.

20 SOLICITOR JUSTIS: OKAY. AND YOUR HONOR, HIS
21 NAME'S ACTUALLY ON THE WITNESS LIST, SO HE'LL BE
22 SEQUESTERED. HE WOULD ONLY BE IN THE COURTROOM WHEN
23 HE WAS CALLED TO TESTIFY.

24 THE COURT: AND JUST SO I'LL KNOW, WHO IS THAT?

25 SOLICITOR JUSTIS: [REDACTED]

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THE COURT: OKAY. SO, - - -

SOLICITOR JUSTIS: AND HE WOULD ACTUALLY BE THE SECOND CHILD INVOLVED IN THE CASE. THE FIRST CHILD IS THE VICTIM. OF COURSE, SHE WAS A CHILD WHEN THIS HAPPENED.

THE COURT: AND WHO IS -- SINCE I DON'T KNOW ANYTHING ABOUT THE CASE, WHO IS THE VICTIM IN THIS CASE?

SOLICITOR JUSTIS: THE VICTIM WOULD BE [REDACTED]

THE COURT: OKAY.

SOLICITOR JUSTIS: AND SHE WAS A MINOR WHEN THIS INCIDENT OCCURRED.

THE COURT: OKAY. DOES THAT ANSWER YOUR QUESTION THAT MR. [REDACTED] MAY BE CALLED AS A WITNESS?

MR. CHISOLM: YES.

THE COURT: HE'LL BE SEQUESTERED UNTIL SUCH TIME AS HE'S CALLED.

MR. CHISOLM: YES, SIR.

THE COURT: ALRIGHT, WELL, THANK YOU, SIR.

ALRIGHT, AND NOW, MR. MELLARD.

MR. MELLARD: YES, SIR, I'VE JUST GOT TO - - -

THE COURT: THAT AND CLEANUP, I BELIEVE.

MR. MELLARD: YES, SIR.

THE COURT: YES, SIR.

1 MR. MELLARD: WE HAVE A MOTION REGARDING THE
2 INDICTMENT, YOUR HONOR.

3 THE COURT: YES, SIR.

4 MR. MELLARD: THE INDICTMENT THAT WAS TAKEN TO
5 THE GRAND JURY BASICALLY SAYS THAT HE'S CHARGED WITH
6 CRIMINAL SEXUAL CONDUCT WITH A MINOR IN THE SECOND
7 DEGREE; THAT THE DEFENDANT DID ENGAGE IN SEXUAL
8 BATTERY UPON A MINOR WHO WAS FOURTEEN YEARS OF AGE OR
9 LESS BUT AT LEAST ELEVEN.

10 THE COURT: RIGHT.

11 MR. MELLARD: AND SPECIFICALLY, THAT HE DID HAVE
12 SEXUAL INTERCOURSE WITH HER. THE ALLEGATIONS, IF
13 YOU'LL LOOK AT THEIR WITNESS LIST, AND I THINK YOU'RE
14 GOING TO HEAR THIS AS WE PROGRESS ALONG, BUT THE
15 ALLEGATIONS THAT THE STATE ARE GOING TO PROVE IS THAT
16 THE DEFENDANT HAD SEXUAL RELATIONS WITH MS. [REDACTED] AND
17 THAT AS A RESULT MS. [REDACTED] BECAME PREGNANT AND GAVE
18 BIRTH TO A BABY BOY. THERE'S GOING TO BE DNA EVIDENCE
19 THAT IS BEING PUT INTO THIS. SO, THAT'S BASICALLY
20 GOING TO BE THEIR CASE. AND I THINK IF YOU LOOK AT
21 THEIR WITNESS LIST, THAT'S PRETTY MUCH WHAT YOU SEE.

22 THE COURT: ALRIGHT, SIR.

23 MR. MELLARD: [REDACTED] WAS BORN ON [REDACTED] THE
24 [REDACTED] [REDACTED]. THE CHILD WHO IS ON
25 THEIR WITNESS LIST, [REDACTED] WAS BORN [REDACTED]

1 [REDACTED] [REDACTED] BY MY MAP THAT MEANS THIS
 2 CHILD WAS CONCEIVED AROUND OCTOBER OF TWO THOUSAND AND
 3 ONE. NOW, AS I SAID, HE'S, MR. DINGLE IS CHARGED WITH
 4 ENGAGING WITH SEXUAL BATTERY WITH A VICTIM WHO IS
 5 FOURTEEN YEARS OF AGE OR LESS, BUT WHO IS AT LEAST
 6 ELEVEN YEARS OF AGE. IN OTHER WORDS, IT'S OUR
 7 POSITION, THIS PARTICULAR SECTION APPLIES TO VICTIMS
 8 BETWEEN THEIR ELEVENTH BIRTHDAY AND THEIR FOURTEENTH
 9 BIRTHDAY.

10 THE COURT: BUT NOT TO FOURTEEN PLUS ONE.

11 MR. MELLARD: CORRECT.

12 THE COURT: OKAY.

13 MR. MELLARD: THERE'S A CUT OFF DATE. AND IF YOU
 14 LOOK AT SECTION B OF THIS STATUTE, SECTION A SAYS,
 15 BATTERY OF A VICTIM WHO IS FOURTEEN YEARS OF AGE OR
 16 LESS, BUT AT LEAST ELEVEN YEARS OF AGE. SECTION - - -

17 THE COURT: YOU MEAN, SECTION -- YOU'RE - - -

18 MR. MELLARD: THAT'S B, ONE, YOUR HONOR.

19 THE COURT: OKAY. HOLD ON. BEAR WITH ME ONE
 20 SECOND. OKAY. B, ONE, RIGHT. OKAY. I'M WITH YOU.

21 MR. MELLARD: B, TWO, THE ACTOR ENGAGES IN SEXUAL
 22 BATTERY WITH A VICTIM WHO IS AT LEAST FOURTEEN YEARS
 23 OF AGE BUT IS LESS THAN SIXTEEN YEARS OF AGE. SO,
 24 IT'S OUR POSITION THAT WE'RE DEALING WITH CUT OFF
 25 DATES HERE BETWEEN THESE TWO SECTIONS, SIXTEEN, WHICH

1 WOULD BE THE AGE OF CONSENT FOR SECTION B, DOWN TO THE
2 AGE OF OVER FOURTEEN. AND THEN, IN SECTION A, FROM
3 THE ELEVENTH BIRTHDAY TO THE FOURTEENTH BIRTHDAY.

4 THE COURT: OKAY.

5 MR. MELLARD: IN OTHER WORDS, THERE WOULD BE NO
6 OVERLAPPING OF THE FOURTEEN. IF YOU'RE GOING TO SHOW
7 THAT THE PERSON IS OVER FOURTEEN YEARS OF AGE THEN YOU
8 HAVE TO SHOW CERTAIN OTHER THINGS, FAMILIAL
9 RELATIONSHIPS, THINGS OF THAT NATURE, COERCION AS
10 DEFINED IN SECTION B, TWO.

11 THE COURT: ALRIGHT, SIR.

12 MR. MELLARD: NOW, BY MY MAP, THE, WHEN THIS
13 CRIME OCCURRED, YOU KNOW, WHEN THEY'RE ALLEGING THIS
14 CRIME OCCURRED, [REDACTED] WAS FOURTEEN AND A HALF
15 YEARS OLD.

16 THE COURT: WELL, WHEN SHE GOT PREGNANT?

17 MR. MELLARD: CORRECT.

18 THE COURT: OKAY.

19 MR. MELLARD: SHE WAS FOURTEEN AND A HALF YEARS
20 OLD. AND THAT WOULD BE UNDER B, TWO, NOT B, ONE.
21 THERE'S - - -

22 THE COURT: COULDN'T IT BE UNDER EITHER ONE?

23 MR. MELLARD: NO, SIR, NOT IN OUR POSITION,
24 BECAUSE WHAT I FEEL IS, WE'RE DEALING WITH CUT OFF
25 DATES HERE. IF YOU'RE SHOWING THAT SOMEBODY'S

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FOURTEEN AND A HALF YEARS OLD, THAT WOULD BE UNDER SECTION B, TWO, IN WHICH CASE THEY WOULD HAVE TO SHOW THAT THE ACTOR IS IN A POSITION OF FAMILIAL, CUSTODIAL OR OFFICIAL AUTHORITY TO COERCE THE VICTIM. SO, THERE WOULD BE ADDITIONAL ELEMENTS THAT THEY WOULD HAVE TO PROVE. SO, IT'S -- THE SAY THE STATUTE IS WRITTEN THERE IS NO OVERLAP, IN OUR OPINION, YOUR HONOR.

THE COURT; OKAY. ALRIGHT.

MR. MELLARD: SO, IN THIS CASE HE WAS INDICTED UNDER SECTION B, ONE, THE WORDING OF B, ONE. THEY'RE PUTTING EVIDENCE IN THIS CASE THAT WOULD PUT IT UNDER SECTION B, TWO. I MEAN, THAT'S BASICALLY THEIR CASE, IT WOULD BE UNDER SECTION B, TWO. SO, IF THEY'RE GOING TO GO FORWARD WITH THIS INDICTMENT WE WOULD SAY THAT THIS CASE NEEDS TO BE LIMITED TO WHAT IS IN THIS INDICTMENT, IN OTHER WORDS, BETWEEN THE AGES OF ELEVEN, AND BETWEEN THE AGES OF, UP TO THE FOURTEENTH BIRTHDAY, WHICH TAKE OUT, IN THEIR CASE, THE DNA, THE PREGNANCY, THE CONCEPTION, ALL OF THAT EVIDENCE, BASED ON HOW IT WAS INDICTED. AND THIS IS WHAT WAS TAKEN TO THE GRAND JURY. I MEAN, THE GRAND JURY RETURNED THIS. AND THE WHOLE POINT OF AN INDICTMENT IS TO PUT THE DEFENDANT ON NOTICE, IS TO APPRAISE THE DEFENDANT THE ELEMENTS OF THE CRIME, AND TO LET THE COURT KNOW WHAT JUDGEMENT TO PRONOUNCE IF THE DEFENDANT IS FOUND

1 GUILTY. SO, IF THEY'RE GOING TO FIND HIM GUILTY OF
2 THE INDICTMENT AS WRITTEN, THEY CAN'T BASE IT ON FACTS
3 WHICH ARE OUTSIDE OF THE INDICTMENT.

4 THE COURT: GO OVER THAT LIST AGAIN. PUT HIM ON
5 NOTICE, TO PROVIDE HIM WITH THE ELEMENTS OF THE CRIME,

6 - - -

7 MR. MELLARD: CORRECT.

8 THE COURT: --- AND TO TELL HIM WHAT PENALTY HE'S
9 FACING?

10 MR. MELLARD: TO LET THE COURT KNOW WHAT
11 JUDGEMENT TO PRONOUNCE. IN OTHER WORDS, IF YOU FIND
12 HIM -- IF HE'S FOUND GUILTY, ALRIGHT, AND OBVIOUSLY,
13 THAT WOULD BE SOMETHING THE JURY WOULD HAVE TO
14 CONSIDER, - - -

15 THE COURT: RIGHT.

16 MR. MELLARD: --- BASED ON THIS INDICTMENT THEY
17 WOULD HAVE TO FIND THAT THE EVIDENCE PRESENTED
18 OCCURRED BETWEEN THE AGES OF ELEVEN AND FOURTEENTH
19 BIRTHDAY, ACCORDING TO MY READING OF THE STATUTE. AND
20 THEY'RE GOING TO PUT IN, BASED ON MY READING OF THE
21 STATUTE, MOST OF THEIR CASE IS GOING TO BE OUTSIDE OF
22 THAT. THE MEAT OF THEIR CASE IS GOING TO BE OUTSIDE
23 THE WORDING OF THIS INDICTMENT, YOUR HONOR.

24 THE COURT: ALRIGHT. BUT MR. MELLARD, LET ME
25 JUST ASK YOU A QUESTION.

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MR. MELLARD: YES, SIR.

THE COURT: SHE WAS FOURTEEN. IF SHE WENT TO THE DOCTOR'S OFFICE WHEN SHE WAS PREGNANT WITH THAT CHILD,

- - -

MR. MELLARD: YES, SIR.

THE COURT: --- SHORTLY AFTER SHE CONCEIVED, AND SHE WROTE DOWN ON THE DOCTOR'S NOTES HOW OLD SHE WAS, SHE'S GOING TO WRITE DOWN, FOURTEEN, IS THAT CORRECT?

MR. MELLARD: SHE'S GOING TO PUT FOURTEEN WITH A DATE OF BIRTH, YOUR HONOR.

THE COURT: YEAH, RIGHT.

MR. MELLARD: WHICH, AND OBVIOUSLY, THAT WOULD BE AT LEAST FOURTEEN YEARS, - - -

THE COURT: RIGHT.

MR. MELLARD: --- MORE THAN FOURTEEN UNDER SECTION B.

THE COURT: UH-HUH.

MR. MELLARD: SO, WE'RE DEALING WITH, IT'S LIKE A SHOPLIFTING CASE WHERE IT'S ZERO TO TWO THOUSAND, AND TWO THOUSAND AND ABOVE. IF IT'S TWO THOUSAND DOLLARS AND TWENTY-FIVE CENTS WE DON'T LOOK AT THE TWO THOUSAND, ZERO TO TWO, WE LOOK ABOVE THE TWO THOUSAND. AND THE SAME WAY WITH THIS STATUTE, ELEVEN TO FOURTEEN. IF IT'S FOURTEEN AND A HALF WE LOOK ABOVE FOURTEEN.

1 THE COURT: OKAY. ALRIGHT, SIR.

2 MR. MELLARD: SO, IT'S OUR POSITION THAT THE DNA,
3 THE PREGNANCY, THE BIRTH, THE CONCEPTION SHOULD ALL BE
4 EXCLUDED, BECAUSE IT'S OUTSIDE THE INDICTMENT.

5 THE COURT: OKAY. ALRIGHT, THANK YOU, SIR.

6 ANYTHING ELSE YOU NEED TO TELL ME?

7 MR. MELLARD: NOT ON THIS.

8 THE COURT: OKAY.

9 MR. MELLARD: I MEAN, OBVIOUSLY, - - -

10 THE COURT: YEAH, BECAUSE I'M NOW GOING TO GET
11 MR. JUSTIS TO TELL ME WHAT HE THINKS. MR. JUSTIS, OR
12 I'M SORRY, I'M SORRY, YOU'RE SENDING IN YOUR CLOSER,
13 MR. HARRISON BELL, EXCUSE ME.

14 SOLICITOR BELL: THANK YOU, YOUR HONOR, IF IT
15 PLEASE THE COURT. FIRST OF ALL, JUST FOR THE RECORD
16 I'D LIKE TO SAY THAT THE INDICTMENT TRACKS THE
17 LANGUAGE EXACTLY AS SIXTEEN, DASH, THREE, DASH, SIX
18 FIFTY-FIVE, B, ONE, WHICH IS, THE ACTOR ENGAGES IN
19 SEXUAL BATTERY WITH A VICTIM WHO IS FOURTEEN YEARS OF
20 AGE OR LESS, BUT WHO IS AT LEAST ELEVEN YEARS OF AGE.
21 WHAT I WANT TO POINT OUT TO THE COURT IS THE WHOLE
22 STATUTE. FOR INSTANCE, CRIMINAL SEXUAL CONDUCT WITH A
23 MINOR IN THE FIRST DEGREE, THE LEGISLATURE WROTE, THAT
24 THE ACTOR ENGAGES IN SEXUAL BATTERY WITH A VICTIM WHO
25 IS LESS THAN ELEVEN YEARS OF AGE, WHICH MEANS, THAT'S

1 THE CUT OFF. ANYTHING UNDER ELEVEN IS SPECIFICALLY
2 CSC WITH A MINOR, FIRST DEGREE. THEY PUT THAT CUT
3 OFF. THEY ALSO PUT THE CUT OFF WITH SIXTEEN, LESS
4 THAN SIXTEEN, IN SECOND. BUT I WILL SAY THAT THE
5 LANGUAGE IS FOURTEEN YEARS OF AGE OR LESS. THEY DON'T
6 SAY, WHO IS LESS THAN FOURTEEN YEARS OF AGE. AND BY
7 MY WAY OF THINKING AND AS I'VE ALWAYS SEEN IT, I'VE
8 SEEN NOTHING THAT CHANGES IT, YOU'RE FOURTEEN UP UNTIL
9 YOUR FIFTEENTH BIRTHDAY. FOR EXAMPLE, YOU CAN'T BUY
10 ALCOHOL IN THE STATE OF SOUTH CAROLINA AFTER YOUR
11 TWENTIETH BIRTHDAY, YOU HAVE TO WAIT UNTIL YOUR
12 TWENTY-FIRST BIRTHDAY. YOUR ARGUMENT IS, YOU'RE
13 TWENTY-ONE ONCE YOU'RE PAST YOUR TWENTIETH BIRTHDAY.
14 THAT'S THE WAY I HEAR THE ARGUMENT. THE SAME AS
15 VOTING. YOU KNOW, YOU CAN'T VOTE AFTER YOUR
16 SEVENTEENTH BIRTHDAY, YOU'VE GOT TO WAIT UNTIL YOUR
17 EIGHTEENTH BIRTHDAY, THAT'S WHEN YOU BECOME EIGHTEEN.
18 AND IN THIS ONE, FIFTEEN IS ON YOUR FIFTEENTH
19 BIRTHDAY, IT'S NOT FOURTEEN AND A HALF. AND THAT'S IN
20 THE PLAIN LANGUAGE OF THE STATUTE, THAT'S THE
21 LEGISLATIVE INTENT. NOW, IT'S EVEN STRICTLY CONSTRUED
22 AGAINST THE STATE IN THIS LANGUAGE. AND I'LL ALSO
23 NOTE TO THE COURT, I'LL LOOK DOWN AND JUST LIKE THIS
24 PARTICULAR SECTION HAS BEEN AMENDED ABOUT THREE OR
25 FOUR TIMES SINCE TWO THOUSAND FIVE, AND THIS LANGUAGE

1 HAS NOT BEEN CHANGED. SO, THE LEGISLATURE KNOWS THE
2 LANGUAGE IS THERE. THEY'RE MEANING, WE'RE TALKING
3 ABOUT ELEVEN TO FOURTEEN YEARS OF AGE -- NOT LESS THAN
4 FOURTEEN, BUT FOURTEEN YEARS OF AGE. AND I THINK
5 THAT'S WHAT WE HAVE TO PROVE IN THIS.

6 I WILL ALSO NOTE FOR THE COURT, AND THIS DIDN'T
7 DEAL WITH THAT ISSUE BUT THERE IS A CASE, STATE VERSUS
8 REED, IT'S A COURT OF APPEALS CASE, IT'S SIX SEVENTY-
9 NINE, SOUTH EAST, SECOND, ONE NINETY-FOUR. IN THAT
10 CASE THE PERSON WAS CHARGED WITH ATTEMPTED CRIMINAL
11 SEXUAL CONDUCT, SECOND DEGREE, WITH THIS PARTICULAR
12 STATUTE, THE SIXTEEN, DASH, THREE, DASH, SIX FIFTY-
13 FIVE, B, ONE, THE ELEVEN TO FOURTEEN. BASICALLY WHAT
14 THEY WERE CHARGED WITH WAS GETTING IN A CHAT ROOM AND
15 TALKING WITH A FOURTEEN YEAR OLD. AND JUST, THAT'S BY
16 WAY OF ILLUSTRATION, YOUR HONOR, I MEAN, IT'S NOT
17 PRECEDENT ON THAT, BUT IT TALKS ABOUT, YOU KNOW, THE
18 GUY THOUGHT HE WAS TRYING TO ENGAGE WITH CRIMINAL
19 SEXUAL CONDUCT WITH A MINOR WITH A FOURTEEN YEAR OLD
20 IN THAT CASE, AND I MEAN, THAT SAYS THE AGE. I THINK
21 FOURTEEN IS FOURTEEN ALL THE WAY UP TO YOUR FIFTEENTH
22 BIRTHDAY, YOUR HONOR. I MEAN, THERE'S NO WAY YOU CAN
23 CONSTRUE IT, OR WE HAVE A MESS IN OTHER WAYS IN THE
24 STATE OF SOUTH CAROLINA.

25 THE COURT: ALRIGHT. THANK YOU, MR. BELL.

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ANYTHING IN REPLY?

MR. MELLARD: YES, AND JUST BRIEFLY IN REPLY.

THE STATUTE AS WRITTEN INCLUDES DIFFERENT ELEMENTS FOR THE DIFFERENT SECTIONS. SECTION B, ONE, SIMPLY SAYS, ELEVEN TO FOURTEEN. SECTION B, TWO, SAYS, FOURTEEN TO SIXTEEN, BUT THEN YOU HAVE ALL THESE POSITIONS OF AUTHORITY AND THAT KIND OF STUFF. SO, OBVIOUSLY, THE LEGISLATURE IS LOOKING AT THIS, AND THEY'RE NOT JUST SAYING FOURTEEN. IF IT'S GOING TO BE FOURTEEN IT HAS TO BE ADDITIONAL ELEMENTS THAT THE STATE HAS TO PROVE.

THE COURT: OKAY.

MR. MELLARD: AND NONE OF THAT WAS TAKEN TO THE GRAND JURY.

THE COURT: ALRIGHT, THANK YOU, MR. MELLARD.

MR. MELLARD: SO, BASICALLY, IT'S A TWO PART MOTION, EITHER EXCLUDE ALL THIS DNA, PREGNANCY THAT OCCURRED AFTERWARDS, OR A MOTION TO QUASH THE INDICTMENT BECAUSE IT DOESN'T ALLEGE THE PROPER OFFENSE THAT WAS STATED THEREIN.

THE COURT: ALRIGHT. AND MR. MELLARD, I HAVE READ THE STATUTE, AND I DO REALIZE THAT B, ONE, SAYS FOURTEEN, AND B, TWO, ALSO SAYS FOURTEEN. SO, I UNDERSTAND YOUR ARGUMENT USING THE DOLLAR AMOUNT, WHICH I WOULD ALSO UNDERSTAND MR. BELL'S ARGUMENT. AND I'M LOOKING AT JUST THE PLAIN READING OF THE

1 STATUTE. IF THEY INDICTED HIM UNDER B, ONE IT SEEMS
2 TO ME THE PLAIN MEANING OF THE STATUTE SAYS, THE
3 VICTIM IS FOURTEEN YEARS OF AGE AT THE TIME SHE GOT
4 PREGNANT, OR LESS, DOWN TO ELEVEN. AND YOU KNOW, I
5 UNDERSTANDING YOUR READING, BUT I AM GOING TO DENY
6 YOUR MOTION TO EITHER QUASH THE INDICTMENT OR TO
7 EXCLUDE THE EVIDENCE. I AM GOING TO PRESERVE YOUR
8 OBJECTION FOR THE RECORD BECAUSE I'M THINKING YOU WANT
9 TO OBJECT TO MY RULING.

10 MR. MELLARD: MOST DEFINITELY, YOUR HONOR.

11 THE COURT: YES, SIR.

12 MR. MELLARD: ALSO, OBVIOUSLY, WE'RE GOING TO
13 OBJECT DURING THE TRIAL, TOO.

14 THE COURT: YES, SIR.

15 MR. MELLARD: I GUESS WE COULD MAKE IT STREAM
16 LINE. IT'S OBVIOUS THAT WE OBJECT AND WE HAVE
17 CONTINUING OBJECTION.

18 THE COURT: RIGHT. BECAUSE I WANT TO PROTECT IT,
19 I THINK IT'S AN INTERESTING ARGUMENT, BUT MY
20 INTERPRETATION FOR PURPOSES OF THIS IS THE PLAIN
21 MEANING OF THE STATUTE ALLOWS THEM TO GO FORWARD UNDER
22 SIXTEEN, THREE, SIX FIFTY-FIVE, B, ONE, AS WRITTEN.
23 OKAY?

24 MR. MELLARD: I JUST -- PLEASE NOTE MY OBJECTION.

25 THE COURT: YES, SIR, I WILL, AND WE WILL

1 PRESERVE IT, AND IF WE NEED TO WE'LL MAINTAIN WHENEVER
2 ELSE WE NEED TO. BUT HOPEFULLY THIS WILL BE PRESERVED
3 IF YOU DECIDE TO APPEAL.

4 MR. MELLARD: YES, SIR.

5 THE COURT: OKAY. THANK YOU, SIR.
6 ANY OTHER MOTIONS?

7 MR. MELLARD: THERE IS ONE MORE MOTION, YOUR
8 HONOR.

9 THE COURT: YES, SIR.

10 MR. MELLARD: IT INVOLVES THE STATEMENT OF [REDACTED]
11 [REDACTED] SHE GAVE A WRITTEN STATEMENT, IT WAS, I
12 BELIEVE, ON JULY TWENTY-THIRD, TWO THOUSAND NINE. WE
13 WOULD MOVE TO REDACT THE VARIOUS THINGS FROM THE
14 STATEMENT FOR VARIOUS REASONS WHICH I'LL GET TO,
15 MOSTLY ON THE GROUNDS THEY'RE NOT RELEVANT AND THEY'RE
16 HIGHLY PREJUDICIAL. SO, IF I COULD JUST BRIEFLY GO
17 OVER THAT.

18 THE COURT: OKAY.

19 MR. MELLARD: WHAT THEY HAVE TO SHOW IS, BASED ON
20 YOUR RULING, IS, THERE WAS A, ACCORDING TO THE
21 INDICTMENT THERE WAS SEXUAL INTERCOURSE BETWEEN ELEVEN
22 AND FOURTEEN YEARS OF AGE. THAT'S WHAT THEY HAVE TO
23 SHOW. THERE ARE VARIOUS THINGS IN HER STATEMENT,
24 GIVING YOU AN EXAMPLE, AT ONE PART OF THE STATEMENT
25 THERE IS, SHE SAYS THAT MR. DINGLE WAS ABUSIVE TO MY

1 MOTHER. THAT'S NOT RELEVANT IN THIS CASE, IT'S HIGHLY
2 PREJUDICIAL. IT DOESN'T GO TO ANY OF THE ELEMENTS
3 THAT THEY HAVE TO PROVE.

4 SHE ALSO SAYS, HE WOULD MANIPULATE ME AND MAKE ME
5 FEEL LOWER THAN DIRT. AGAIN, THAT HAS, IT'S
6 PREJUDICIAL AND IT'S NOT RELEVANT TO WHAT THEY HAVE TO
7 PROVE HERE, YOUR HONOR.

8 MY MOM WOULD NEVER LEAVE HIM AFTER HE BEAT HER
9 UP, IS ANOTHER STATEMENT WHICH IS IN THIS. AGAIN,
10 IT'S HIGHLY PREJUDICIAL, IT'S NOT RELEVANT TO WHAT
11 THEY HAVE TO PROVE.

12 SHE ALSO PUTS IN THERE THAT, MY SISTER SAID OUT
13 LOUD, I WAS PREGNANT. SHE TOLD ME TO HOLD MY SHIRT
14 UP, AND THEN TOOK ME TO THE HOSPITAL. ALL THAT IS
15 BASED ON WHAT THE SISTER IS SAYING, WHICH IS HEARSAY.

16 THE COURT: OKAY.

17 MR. MELLARD: THERE IS A QUESTION IN HERE ON THE
18 SECOND PAGE, HOW OLD WERE YOU WHEN HE STOPPED
19 MOLESTING YOU? WE OBVIOUSLY OBJECT TO THAT, THAT'S
20 HIGHLY PREJUDICIAL.

21 AND YOUR HONOR, THERE'S ALSO A STATEMENT IN HERE
22 TALKING ABOUT THAT HE, WE WERE ON LIMESTONE ROAD, HE
23 TOLD ME TO PULL MY PANTS DOWN. HE WAS DRIVING, STUCK
24 HIS FINGER IN MY PRIVATE, HE PULLED IT OUT, LOOKED AT
25 ME AND SAID, YOU'RE PREGNANT. WE WOULD MOVE TO GET


1 RID OF THAT ON THE GROUNDS THAT, NUMBER ONE, THAT'S
 2 NOT SOMETHING THEY HAVE TO PROVE. WHAT THEIR
 3 INDICTMENT SAYS IS, THEY HAVE TO PROVE SEXUAL
 4 INTERCOURSE. SEXUAL INTERCOURSE DOES NOT INCLUDE
 5 THAT. YOU KNOW, IT MIGHT INCLUDE A LOT OF THINGS BUT
 6 IT DOES NOT INCLUDE THAT. SO, I WOULD ASK THE COURT
 7 TO REDACT THAT PART. THAT IS NOT SOMETHING THAT THEY
 8 HAVE TO PROVE IN ORDER TO MAKE THEIR CASE, AND IT IS
 9 HIGHLY PREJUDICIAL, YOUR HONOR.

10 THE COURT: ALRIGHT, MR. JUSTIS.

11 SOLICITOR JUSTIS: WELL, FIRST OF ALL, YOUR
 12 HONOR, I DON'T KNOW WHY HER STATEMENT WOULD ACTUALLY
 13 COME IN, HER WRITTEN STATEMENT. SHE'S HERE TO
 14 TESTIFY, THAT WOULD JUST BE HEARSAY. I MEAN, UNLESS
 15 THEY IMPEACHED HER ON THE STATEMENT, AND THEN WE WOULD
 16 ASK THAT THE ENTIRE STATEMENT COMES IN, NOT JUST BITS
 17 AND PIECES OF IT.

18 AS FAR AS THE RELEVANCE OF SOME OF THE COMMENTS
 19 THAT SHE MAKES IN THAT STATEMENT ABOUT, I THINK
 20 BEATING THE MOTHER AND EVERYTHING, WE THINK THAT IS
 21 RELEVANT BECAUSE IT GOES TO HER STATE OF MIND, WHY SHE
 22 DID NOT REPORT THIS INCIDENT FOR NINE YEARS.

23 AND ALSO, THE INCIDENT ON LIMESTONE ROAD, THAT
 24 GOES TO, THAT, WE FEEL, IS ALSO RELEVANT. I MEAN,
 25 AFTER ALL, AS MR. MELLARD JUST SAID A FEW MINUTES AGO,

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1 ALL THE EVIDENCE WE HAVE IS REVOLVING AROUND THIS
2 PREGNANCY. AND I THINK IT WOULD BE HIGHLY RELEVANT
3 HOW SHE FIRST HAD AN IDEA THAT SHE WAS PREGNANT. SHE
4 WAS TOLD BY THE DEFENDANT THAT SHE WAS PREGNANT AFTER
5 HE PERFORMED HIS OWN LITTLE TEST ON HER. SO, WE THINK
6 IT'S HIGHLY RELEVANT.

7 BUT AS FAR AS THE ACTUAL WRITTEN STATEMENT, I
8 DON'T FORESEE IT COMING IN, I DON'T KNOW WHY IT WOULD
9 COME IN.

10 MR. MELLARD: AND YOUR HONOR, OBVIOUSLY, THIS
11 STATEMENT IS PROBABLY HOW SHE'S GOING TO TESTIFY, SO
12 WE, TO THE EXTENT SHE'S GOING TO TESTIFY TO ANY OF
13 THIS - - -

14 THE COURT: WELL, I MEAN, I -- WHAT SHE NEEDS TO
15 TESTIFY TO, AND WHAT I'M ASSUMING SHE IS PREPARED TO
16 TESTIFY IS HER RELATIONSHIP WITH MR. DINGLE, AND WHAT
17 HAPPENED, LIKE THAT. I -- YOU KNOW, WHETHER OR NOT
18 MR. DINGLE WAS ABUSIVE TO HER MOTHER OR NOT, TO USE AS
19 -- I DON'T SEE THAT THAT IS RELEVANT.

20 MR. MELLARD: RIGHT. THERE ARE, I KNOW, PRIOR
21 BAD ACTS, AND WE UNDERSTAND THAT, AND SHE CAN'T
22 TESTIFY TO PRIOR BAD ACTS.

23 THE COURT: RIGHT. BUT AS LONG AS HER TESTIMONY
24 IS LIMITED TO THEIR INTERACTION, YOU KNOW, AND NOT
25 WHAT HER SISTER SAID, ANYTHING LIKE THAT, YOU KNOW, I

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MEAN, I THINK, SHE'S JUST GOING TO TESTIFY TO THEIR INTERACTION.

NOW, THAT DOES NOT MEAN THAT IF SHE PERCEIVED THAT SHE WAS BEING MANIPULATED BY HIM, I THINK SHE CAN TESTIFY TO THAT, YOU KNOW.

MR. MELLARD: AS LONG AS YOU NOTE OUR OBJECTIONS.

THE COURT: YEAH, NO, NO, I UNDERSTAND THAT, I DO NOTE YOUR OBJECTION TO THAT. BUT I DON'T KNOW THAT THE -- I MEAN, I DON'T THINK THEY'RE GOING TO TRY AND MOVE TO PUT THE STATEMENT IN.

MR. MELLARD: RIGHT. I JUST, WHAT THEY'RE ALLEGING IS SEXUAL INTERCOURSE WITH [REDACTED]

THE COURT: WHICH IS WHAT SHE CAN TESTIFY ABOUT, AND THEIR RELATIONSHIP.

MR. MELLARD: RIGHT.

THE COURT: I THINK, I GET THE IMPRESSION - - -

SOLICITOR JUSTIS: AND YOUR HONOR, IF I MIGHT ADD, AND OF COURSE, SINCE THIS WAS SOMETHING THAT WAS REPORTED NINE YEARS LATER, I THINK WE HAVE A NEED TO INTRODUCE SOME TESTIMONY AS TO WHY IT TOOK SO LONG FOR HER TO REPORT THAT. AND SO, SOME OF, YOU KNOW, HER STATE OF MIND AND THINGS RELATED TO WHY SHE TOOK NINE YEARS TO REPORT SOMETHING I THINK IS HIGHLY RELEVANT, BECAUSE THE JURY IS GOING TO QUESTION, WHY DID IT TAKE SO LONG? AND I'M SURE THE DEFENSE IS GOING TO

1 QUESTION THAT, TOO, IN THEIR CLOSING ARGUMENT.

2 MR. MELLARD: AND YOUR HONOR, MY UNDERSTANDING IS
3 THAT WE'RE NOT EVEN GOING TO GET INTO WHY IT TOOK SO
4 LONG TO BRING ALL THIS STUFF UP. SO THEREFORE, I
5 MEAN, I UNDERSTAND HIS ARGUMENT, WE'RE NOT EVEN GOING
6 THERE.

7 THE COURT: WELL, IF THEY'RE NOT GOING TO GO INTO
8 THE WHY, OKAY, THEN I DON'T KNOW THAT THERE'S ANY
9 REASON TO GO INTO IT, BUT IF Y'ALL DO GO INTO IT, THEN
10 Y'ALL ARE GOING TO BE ABLE TO GO INTO IT, IS THE WAY I
11 LOOK AT IT. I MEAN, FOR ME THIS SHOULD BE JUST
12 STRAIGHT, WHAT WAS THEIR RELATIONSHIP, THE -- YOU
13 KNOW, SHE, ALLEGEDLY, MR. DINGLE GOT HER PREGNANT,
14 WE'VE GOT DNA RESULTS, I THINK, OR SOMETHING LIKE
15 THAT, FOR THE CHILD. AND SO, IF WE DON'T GET INTO THE
16 WHY - - -

17 SOLICITOR JUSTIS: WELL, I THINK IT WOULD BE
18 NECESSARY FOR US TO GET INTO IT A LITTLE BIT, MAYBE
19 NOT, YOU KNOW, BECAUSE I SAW HIM BEAT MY MOTHER, BUT I
20 WAS AFRAID.

21 THE COURT: OKAY, WELL, LET ME - - -

22 SOLICITOR JUSTIS: BUT I THINK, YOU KNOW, THE
23 FACT THAT, YOU KNOW, HE'S A FATHER FIGURE TO HER, SHE
24 WAS INTIMIDATED BY HIM, HE'S BIGGER, HE'S LARGER, HE'S
25 OLDER, YOU KNOW, HE, HE, YOU KNOW, HE MADE THREATS,

1 THE STATE WOULD ALLEGE HE MADE THREATS TO HER THAT HE,
 2 HE WAS THE MONEY MAKER AND THAT THEY WOULD BE HOMELESS
 3 IF SHE SAID ANYTHING. I THINK THOSE REASONS ARE
 4 VALID, AND I THINK SHE CAN TESTIFY TO THAT.

5 AS FAR AS THE RELATIONSHIP HE HAD WITH THE
 6 MOTHER, BEATING THE MOTHER, OR WHAT NOT, THAT SHE
 7 ALLEGES, YOU KNOW, THOSE, I THINK DO GET INTO THE
 8 LITTLE PRIOR BAD ACTS, AND I BELIEVE WE WOULD STAY
 9 AWAY FROM THAT. BUT, YOU KNOW, SOME OF THE OTHER
 10 THINGS.

11 MR. MELLARD: AND YOUR HONOR, JUST BRIEFLY,
 12 BASICALLY, WHAT HE'S ARGUING IS SECTION B, TWO. HE'S
 13 ARGUING THAT THERE WERE FAMILIAL RELATIONSHIP, THAT
 14 THERE WAS COERCION, AND THAT WAS MY WHOLE POINT.
 15 THAT'S THEIR WHOLE CASE, THEY'RE ARGUING SECTION B,
 16 TWO. AND IT'S OUR POSITION THAT NONE OF THAT IS
 17 RELEVANT, BASED ON THE WAY YOU RULED.

18 SOLICITOR JUSTIS: WE WOULD TELL YOU IT IS
 19 RELEVANT BECAUSE WE'RE ARGUING, YEAH, WE ARE, WE'RE
 20 NOT REALLY ARGUING SECTION B, TWO, BECAUSE B, TWO
 21 SAYS, YOU HAVE TO BE FOURTEEN TO SIXTEEN. OKAY. BUT
 22 THESE THINGS HAPPENED WHEN SHE WAS THIRTEEN, TOO. SO,
 23 WE'RE ARGUING, YOU KNOW, THE INITIAL ENCOUNTER
 24 HAPPENED WHEN SHE WAS THIRTEEN. SO, THE REASON WHY
 25 SHE DIDN'T TELL WAS BASED ON CONVERSATIONS AND

1 INTERACTIONS SHE HAD WITH HIM STARTING AT THIRTEEN.

2 THE COURT: OKAY. WHAT THEY'VE GOT TO PROVE IS
3 THAT HE ENGAGED IN SEXUAL BATTERY WITH HER WHILE SHE
4 WAS FOURTEEN, OR LESS.

5 MR. MELLARD: THAT'S IT, OR LESS.

6 THE COURT: RIGHT. AND SO, YOU KNOW, I MEAN,
7 THAT'S ALL Y'ALL HAVE GOT TO PROVE. RIGHT? I MEAN, -
8 - - -

9 SOLICITOR JUSTIS: PER THE STATUTE.

10 THE COURT: YEAH. WELL, I MEAN, THAT'S WHAT
11 WE'RE CONVICTING HER UNDER, I MEAN, OR THAT'S WHAT YOU
12 ARE ATTEMPTING TO CONVICT HIM UNDER, JUST THE STATUTE.
13 RIGHT?

14 SOLICITOR JUSTIS: THAT'S RIGHT.

15 THE COURT: AND AS I UNDERSTAND IT, WE'VE GOT A
16 BABY SON WITH DNA.

17 SOLICITOR JUSTIS: THAT'S CORRECT, YOUR HONOR.

18 THE COURT: AND EVERYBODY CAN DO THE MATH AS TO
19 WHEN SHE GOT PREGNANT. AT LEAST, I HOPE SO.

20 SOLICITOR JUSTIS: I WENT TO THE CITADEL, YOUR
21 HONOR, MY MATH ISN'T TOO GOOD.

22 THE COURT: WELL, I UNDERSTAND, I UNDERSTAND.
23 BUT, I MEAN, I DON'T REALLY KNOW, I MEAN, TO MY WAY OF
24 THINKING, I DON'T KNOW THAT IT HAS ANY RELEVANCE AT
25 THIS POINT AS TO WHY IT TOOK SO LONG. I MEAN, I JUST

1 THINK IT'S JUST, IT SHOULD BE JUST CLEARLY, JUST AS
 2 SIMPLY AS WE'VE STATED IT. NOW, IF THEY GET INTO
 3 ANYTHING TO WANT TO QUESTION THAT THEN I THINK YOU CAN
 4 BRING IN ANYTHING YOU WANT TO. BUT MY FEELING IS,
 5 IT'S A SEXUAL BATTERY CASE WHEN THE CHILD IS FOURTEEN
 6 OR YOUNGER. SO, I MEAN, IT SEEMS TO ME THAT THAT'S
 7 ALL YOU NEED TO PROVE TO COMPLY WITH THE STATUTE,
 8 WHICH IS WHAT SHE WAS INDICTED UNDER -- WHAT HE WAS
 9 INDICTED UNDER. SO, THAT'S KIND OF THE WAY I'LL LEAVE
 10 IT, BUT IF WE WANT TO GET INTO DURING THE TRIAL I'M
 11 NOT GOING TO MAKE ANY -- MR. MELLARD? EXCUSE ME. I
 12 WAS JUST GOING TO SAY, THAT'S THE WAY I LOOK AT IT.
 13 I'M NOT GOING TO MAKE ANY RULINGS ON IT. I'LL TAKE IT
 14 UP AS WE GO ALONG, BUT MY IMPRESSION IS THAT IT SHOULD
 15 BE AS SIMPLE AND CLEAN AS THE CASE COULD BE, BECAUSE
 16 WE'VE GOT A SIMPLE STATUTE THAT HE'S BEING INDICTED
 17 UNDER, AND WE DON'T NEED TO GET ANYWHERE FURTHER.

18 OKAY. ANYTHING ELSE?

19 MR. MELLARD: AND YOUR HONOR, ONE MORE THING
 20 ABOUT THE INDICTMENT.

21 THE COURT: YES, SIR.

22 MR. MELLARD: IT GOES THROUGH DECEMBER THIRTY-
 23 FIRST, OF TWO THOUSAND TWO. THAT WOULD BE WHEN SHE
 24 WAS FIFTEEN YEARS OLD, [REDACTED] OF TWO THOUSAND
 25 AND TWO, I BELIEVE IS WHEN SHE TURNED FOURTEEN. SO,

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1 WE WOULD ASK THAT YOU LIMIT TESTIMONY BETWEEN JANUARY
2 OF TWO THOUSAND AND [REDACTED] OF TWO THOUSAND TWO,
3 BECAUSE THEY'RE STARTING TO GET INTO WHAT SHE - - -

4 SOLICITOR JUSTIS: HER BIRTHDAY?

5 MR. MELLARD: THAT WILL BE FINE.

6 SOLICITOR JUSTIS: A DAY BEFORE HER BIRTHDAY.
7 THAT WOULD MAKE HER FIFTEEN, SO WE'LL JUST DO IT TO
8 THE DAY BEFORE SHE TURNED FIFTEEN. THE STATE WOULD
9 HAVE NO OBJECTION OVER AMENDING THE INDICTMENT FOR
10 THAT.

11 THE COURT: OKAY. I'LL GO ALONG WITH THAT, I'LL
12 GO ALONG, SINCE THE STATE IS GOING ALONG WITH THAT.

13 MR. MELLARD: WE'RE NOT ASKING THEM TO AMEND IT,
14 WE'RE JUST LIMITING IT.

15 THE COURT: OKAY. BUT I NEED, AT SOME POINT SHE
16 DELIVERED THE CHILD AFTERWARDS, WHEN SHE WAS FIFTEEN.
17 I MEAN, YOU KNOW, WE'RE GOING TO GET INTO THE FACT
18 THAT SHE DELIVERED THE CHILD, THAT SHE WAS PAST HER
19 BIRTHDAY WHEN SHE DELIVERED THE CHILD.

20 MR. MELLARD: WE UNDERSTAND THAT, BUT IF THERE
21 ARE ANY OTHER INSTANCES - - -

22 THE COURT: OH, YEAH, ANY OTHER INSTANCES WILL
23 STOP ON HER FIFTEENTH BIRTHDAY. YOU KNOW, I THINK
24 THAT'S, I DON'T HAVE ANY PROBLEMS WITH THAT. OKAY.

25 ANYTHING ELSE, MR. MELLARD?

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MR. MELLARD: NO, SIR.

THE COURT: ANYTHING ELSE, MR. CHISOLM?

MR. CHISOLM: NOTHING FURTHER.

THE COURT: ALRIGHT, ANYTHING FROM THE STATE?

SOLICITOR JUSTIS: WELL, I BELIEVE I WOULD LIKE TO POSSIBLY OFFER SOME STATEMENTS THAT THE DEFENDANT MADE, SO I THINK AT THIS TIME THE STATE WOULD BE WILLING TO BE READY TO CONDUCT THE JACKSON V. DENO ON THOSE TWO STATEMENTS, A WRITTEN STATEMENT AND ALSO AN ORAL STATEMENT THAT WAS GIVEN TO INVESTIGATOR COAXUM OF THE SHERIFF'S DEPARTMENT.

THE COURT: OKAY. ARE Y'ALL READY TO PROCEED WITH THAT? HAVE Y'ALL LOOKED OVER THE STATEMENT?

MR. CHISOLM: YES, SIR, I'VE LOOKED OVER THE WRITTEN STATEMENT.

THE COURT: ALRIGHT.

SOLICITOR JUSTIS: AND IF I MIGHT COULD JUST HAVE TWO MINUTES, WE CAN GET THESE PREMARKED?

THE COURT: OH, YES, GO AHEAD AND DO THAT. OKAY? WHILE Y'ALL DO THAT I'M GOING TO STEP DOWN FOR A SECOND.

(State's Exhibit One
First Waiver of Rights,
State's Exhibit Two,
Statements of defendant,

1 State's Exhibit Three
2 Second Waiver of Rights,
3 and State's Exhibit Four,
4 DNA,
5 marked for identification.)

6 (Recess)

7 THE COURT: IS THE STATE READY?

8 SOLICITOR JUSTIS: THE STATE'S READY, YOUR HONOR.

9 THE COURT: IS THE DEFENSE READY?

10 MR. CHISOLM: THE DEFENSE IS READY.

11 SOLICITOR JUSTIS: THE STATE WOULD CALL
12 INVESTIGATOR JENNIFER COAXUM.

13 COURT REPORTER: WOULD PLEASE SPELL COAXUM?

14 SOLICITOR JUSTIS: C-O-A-X-U-M.

15 COURT REPORTER: DO YOU HAVE A WITNESS LIST FOR
16 ME?

17 SOLICITOR JUSTIS: I CAN GIVE YOU ONE. SHE'LL BE
18 THE ONLY ONE IN THIS HEARING.

19 COURT REPORTER: OKAY.

20 THE COURT: MS. COAXUM, IF YOU'LL PUT YOUR LEFT
21 HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND, PLEASE,
22 MA'AM.

23 (Whereupon, Jennifer Coaxum
24 is duly sworn.)

25 THE COURT: OKAY, THANK YOU, MA'AM. IF YOU'D GET

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SEATED, GET COMFORTABLE. OKAY.

ALRIGHT, MR. JUSTIS, YOUR WITNESS.

SOLICITOR JUSTIS: THANK YOU, MAY IT PLEASE THE
COURT.

THE COURT: YES, SIR.

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part of record has been omitted. Headers on testimony
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DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

40

1 DIRECT EXAMINATION, IN CAMERA, OF JENNIFER COAXUM
2 BY SOLICITOR JUSTIS:

3 Q. INVESTIGATOR COAXUM, WHERE DO YOU WORK?

4 A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

5 Q. AND DID YOU HAVE AN OPPORTUNITY TO CONDUCT AN
6 INVESTIGATION INTO CRIMINAL SEXUAL CONDUCT
7 INVOLVING SAM DINGLE?

8 A. YES, I DID.

9 Q. AND DURING THAT INVESTIGATION DID YOU HAVE AN
10 OPPORTUNITY TO SPEAK WITH MR. DINGLE?

11 A. YES.

12 Q. AND WHEN WAS THE FIRST TIME YOU SPOKE TO MR.
13 DINGLE?

14 A. THE FIRST MEETING I HAD WITH MR. DINGLE WAS ON
15 AUGUST SEVENTEENTH OF TWO THOUSAND AND NINE.

16 Q. OKAY. AND WHERE WAS THAT MEETING?

17 A. TEN THIRTY-TWO CHESTNUT, THE OCID OFFICES.

18 Q. OKAY. AND WHO WAS PRESENT DURING QUESTIONING AT
19 THAT TIME?

20 A. DURING THAT TIME IT WAS JUST MYSELF AND MR.
21 DINGLE.

22 Q. WAS MR. DINGLE UNDER THE INFLUENCE OF ANY DRUGS
23 OR ALCOHOL TO THE EXTENT THAT WOULD IMPAIR HIS
24 ABILITY TO UNDERSTAND WHAT WAS BEING SAID?

25 A. NO, NOT TO MY KNOWLEDGE.

- 1 Q. AND TELL THE COURT A LITTLE BIT ABOUT THE
- 2 PHYSICAL SURROUNDINGS OF THE ROOM WHERE THIS TOOK
- 3 PLACE?
- 4 A. YOU HAVE THE OFFICES ITSELF, IT'S JUST AN OPEN
- 5 SPACE, IT'S SEPARATED BY CUBICLES. THE FIRST AREA
- 6 IS JUST LIKE, I GUESS YOU'D SAY THE
- 7 ADMINISTRATIVE AREA WHERE SECRETARIES ARE, AND
- 8 THE REST OF IT IS JUST DIVIDED INTO CUBICLES.
- 9 YOU HAVE A SEX OFFENDER ROOM AND THEN YOU HAVE
- 10 WHAT'S CALLED AN NCIT ROOM THERE ALSO. AND THE
- 11 AREA IN THE BACK. AND THE ROOM WHERE THE ACTUAL
- 12 INVESTIGATION TOOK PLACE, OR THE INTERVIEW TOOK
- 13 PLACE IS JUST AN OPEN ROOM WITH A TABLE, AND I
- 14 THINK MAYBE THREE OR FOUR CHAIRS.
- 15 Q. ARE THERE OTHER OFFICERS WALKING AROUND?
- 16 A. THEY ARE BUT NOT IN THE ACTUAL INTERVIEW ROOM,
- 17 BECAUSE THAT WOULD BE A CLOSED AREA.
- 18 Q. OKAY. AND HOW LONG WAS MR. DINGLE QUESTIONED?
- 19 A. MAYBE FORTY-FIVE MINUTES TO AN HOUR, IF THAT
- 20 LONG.
- 21 Q. OKAY. WAS, WAS HE DENIED ANY ACCESS TO A
- 22 TELEPHONE?
- 23 A. NO, SIR.
- 24 Q. TO A BATH ROOM?
- 25 A. NO.

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

42

1 Q. WAS HE DENIED FOOD OR DRINK?

2 A. NO.

3 Q. WERE THERE ANY THREATS OR PROMISES MADE IN
4 EXCHANGE FOR HIS STATEMENT?

5 A. NO.

6 Q. WAS HE UNDER ARREST AT THE TIME?

7 A. NOT -- NO, NOT FOR THIS CHARGE, NO, SIR.

8 Q. OKAY. AND WAS HE FREE TO GO AT ANYTIME?

9 A. YES, FOR THIS PARTICULAR CHARGE, YES, HE WAS.

10 Q. DID THE DEFENDANT COME AND SPEAK WITH YOU
11 VOLUNTARILY OR WAS HE, WAS HIS PRESENCE
12 COMPELLED?

13 A. I GUESS YOU COULD SAY A LITTLE OF BOTH. HE WAS
14 THERE FOR AN UNRELATED CHARGE THAT HE WAS
15 ALREADY INCARCERATED AND WAS BROUGHT. BUT WHEN
16 WE CALLED HIM HE COULD HAVE CHOSE NOT TO COME, SO
17 I GUESS YOU COULD SAY HE CAME VOLUNTARILY. WHEN
18 WE CALLED HIM HE CAME.

19 Q. OKAY. AND WAS THE DEFENDANT ADVISED OF THE
20 NATURE OF THE INVESTIGATION?

21 A. YES, HE WAS.

22 Q. AND WAS HE ADVISED OF HIS CONSTITUTIONAL RIGHTS?

23 A. YES, HE WAS.

24 Q. AND HOW WAS HE ADVISED OF THOSE CONSTITUTIONAL
25 RIGHTS?

1 A. BEFORE I SPEAK WITH ANYONE THAT'S ACCUSED OF ANY
 2 CRIME I ALWAYS LET THEM SIGN A MIRANDA FORM, AND
 3 THAT'S, ON THE TOP OF THE FORM IT'S JUST
 4 BASICALLY ADVISING HIM OF HIS RIGHTS, AND THEY
 5 ASK YOU TO INITIAL. YOU READ THEM TO THEM AND
 6 ASK THEM DO THEY UNDERSTAND. HE INITIALS EACH
 7 ONE, AND THEN THE PART THAT SAYS, I UNDERSTAND MY
 8 RIGHTS, HE SIGNS THERE. AND THEN, THE ACTUAL
 9 WAIVER OF RIGHTS AS WELL, HE SIGNS THERE AND THE
 10 INVESTIGATORS ALSO SIGN.

11 Q. OKAY. INVESTIGATOR COAXUM, I'M SHOWING YOU
 12 WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER ONE.
 13 DO YOU RECOGNIZE THAT?

14 A. YES.
 15 COURT REPORTER: FOR ID?

16 Q. FOR ID PURPOSES.

17 A. YES.

18 Q. DO YOU RECOGNIZE THAT?

19 A. YES, I DO.

20 Q. AND WHAT IS THAT?

21 A. THAT'S THE MIRANDA FORM THAT MR. DINGLE SIGNED.

22 Q. OKAY. AND COULD YOU EXPLAIN A LITTLE BIT ABOUT
 23 THE FORM, HOW IT'S SET UP?

24 A. AGAIN, THE FORM ITSELF, THE FIRST PART IS JUST
 25 THE ADVISEMENT OF YOUR RIGHTS. YOU HAVE THE

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

44

1 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE
2 USED AGAINST YOU IN COURT. HE INITIALED THERE.
3 IT'S FIVE DIFFERENT STEPS. YOU HAVE THE RIGHT TO
4 TALK TO A LAWYER FOR ADVICE BEFORE ANSWERING ANY
5 QUESTIONS. HE INITIALED THAT. NUMBER THREE, IF
6 YOU CANNOT AFFORD A LAWYER ONE WILL BE APPOINTED
7 FOR YOU BEFORE ANY QUESTIONING IF YOU WISH. HE
8 INITIALED. IF YOU DECIDE TO ANSWER QUESTIONS
9 WITHOUT A LAWYER PRESENT YOU STILL HAVE THE
10 RIGHT TO STOP ANSWERING AT ANYTIME. AGAIN, HE
11 INITIALED. AND HE ALSO INITIALED NUMBER FIVE
12 WHERE HE'S ASKED, YOU ALSO HAVE THE RIGHT TO STOP
13 ANSWERING AT ANYTIME BEFORE YOU TALK TO A
14 LAWYER. AND I PRETTY MUCH ASKED HIM, DO YOU
15 UNDERSTAND ALL YOUR RIGHTS, ANYTHING YOU NEED ME
16 TO EXPLAIN? AND THEN THEY'LL SIGN THAT AS WELL,
17 AND HE DID. THE BOTTOM PART IS THE ACTUAL WAIVER
18 OF RIGHTS, SAYING THAT YOU'VE READ THE STATEMENT
19 OF YOUR RIGHTS, YOU UNDERSTAND WHAT YOUR RIGHTS
20 ARE, YOU'RE WILLING TO MAKE A STATEMENT AND
21 ANSWER QUESTIONS, YOU DON'T WANT A LAWYER PRESENT
22 AT THIS TIME, YOU UNDERSTAND AND KNOW WHAT YOU
23 ARE DOING. NO PROMISES OR THREATS HAVE BEEN MADE
24 TO YOU, AND NO PRESSURE OR COERCION OF ANY KIND
25 HAS BEEN USED AGAINST YOU. THAT'S WHERE THE

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

1 ALLEGED DEFENDANT SIGNED AND THE INVESTIGATOR AT
2 THAT TIME, AND HE DID SIGN AS WELL AS MYSELF.

3 Q. OKAY. AND WHEN, WHEN, DID HE READ THESE RIGHTS
4 HIMSELF OR WERE THEY READ TO HIM?

5 A. A LITTLE BIT, NORMALLY, AS A RULE OF THUMB FOR ME
6 I READ TO THEM, AND THEN GET THEM TO SIGN. AND
7 THEN I GIVE THEM THE SHEET AND GIVE THEM THE
8 OPPORTUNITY TO LOOK OVER IT THEMSELVES PRIOR TO
9 SIGNING.

10 Q. AND HE DID THAT?

11 A. YES, SIR, HE DID.

12 Q. AND YOU WITNESSED HIM SIGN THAT FORM?

13 A. YES.

14 Q. DID HE APPEAR TO HAVE ANY TROUBLE UNDERSTANDING
15 HIS RIGHTS?

16 A. NO, BUT AGAIN, YOU ALSO, I ASK THEM, YOU KNOW,
17 AND I TELL THEM NOT TO BE FUNNY, CAN YOU READ AND
18 WRITE? AND IF THEY ANSWER YES, THEN I AGAIN, YOU
19 KNOW, AGAIN READ OVER THE STATEMENT WITH THEM,
20 GIVE IT TO THEM, LET THEM READ AND INITIAL. AT
21 THAT POINT IT DIDN'T APPEAR TO ME THAT HE DID.
22 IF SO, HE DIDN'T TELL ME.

23 Q. OKAY. DID HE SEEM UNDER THE INFLUENCE OF ANY
24 DRUGS OR ALCOHOL?

25 A. NOT TO MY KNOWLEDGE.

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DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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1 Q. DID THE DEFENDANT'S ANSWERS TO YOUR QUESTIONS,
2 DID THEY APPEAR RATIONAL?

3 A. YES.

4 Q. RESPONSIVE?

5 A. YES.

6 Q. DID ANYONE IN YOUR PRESENCE THREATEN OR COERCE
7 HIM?

8 A. NO.

9 Q. HOW DID THE DEFENDANT RESPOND WHEN ASKED WHETHER
10 HE WANTED AN ATTORNEY BEFORE SPEAKING?

11 A. HE SIGNED, AGAIN, HE'S ASKED THAT QUESTION IN THE
12 ADVISEMENT OF RIGHTS, AND HE STATED HE DID NOT,
13 HE WAS WILLING TO TALK WITH ME AT THAT POINT
14 WITHOUT HIS LAWYER PRESENT.

15 Q. AT ANY POINT LATER DID HE CHANGE HIS MIND AND ASK
16 TO SPEAK TO AN ATTORNEY?

17 A. NOT WITH, NOT TO US.

18 Q. DID HE ASK TO STOP QUESTIONING AT ANYTIME?

19 A. NO.

20 Q. TO THE BEST OF YOUR KNOWLEDGE WAS HIS STATEMENT
21 FREELY AND VOLUNTARILY GIVEN?

22 A. YES, IT WAS.

23 Q. AND WAS HIS STATEMENT REDUCED TO WRITING?

24 A. YES.

25 Q. I'M SHOWING YOU WHAT'S BEEN MARKED FOR ID AS

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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STATE'S EXHIBIT NUMBER TWO. DO YOU RECOGNIZE
THAT DOCUMENT?

A. YES, I DO.

Q. WHAT IS THAT?

A. IT WAS A STATEMENT THAT I WROTE FOR MR. DINGLE AT
HIS REQUEST ON THE SEVENTEENTH OF AUGUST, TWO
THOUSAND NINE.

Q. AND DID THE DEFENDANT -- YOU STATED THAT YOU
WROTE IT FOR HIM - - -

A. UH-HUH.

Q. --- AT HIS REQUEST. DID HE HAVE AN OPPORTUNITY
TO REVIEW THE STATEMENT?

A. YES.

Q. AND HOW DID HE INDICATE ON THAT STATEMENT THAT HE
HAD REVIEWED THE STATEMENT?

A. AT THE END -- WELL, THE STATEMENT'S OVER HALF, OR
WHATEVER SPACE IS LEFT YOU LET THEM INITIAL. AND
THEN ON THE BACK PAGE, THE VERY LAST PAGE OF THE
STATEMENT AGAIN YOU DO THE SAME THING, THEY
INITIAL AT TWO SPOTS, THE TOP AND THE BOTTOM, AND
THEY SIGN, AND THEN THE WITNESSES SIGN, OR MYSELF
AS A NOTARY SIGNS.

Q. OKAY. AND WAS THAT DONE IN THIS CASE?

A. YES, IT WAS.

SOLICITOR JUSTIS: OKAY, THANK YOU. NO FURTHER

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DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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1 QUESTIONS, YOUR HONOR. PLEASE ANSWER ANY QUESTIONS
2 MR. CHISOLM MIGHT HAVE FOR YOU.

3 THE COURT: ALRIGHT, MR. CHISOLM, YOUR WITNESS.

4 (NOTE: Blank lines on this page do not indicate any
5 part of record has been omitted. Headers on testimony
6 pages and hard page breaks between testimony are now
7 required by the Court. See next ensuing page for
8 sequential continuation of record.)

CROSS, IN CAMERA, JENNIFER COAXUM
BY MR. CHISOLM

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CROSS-EXAMINATION, IN CAMERA, OF JENNIFER COAXUM

BY MR. CHISOLM:

Q. JUST A MINUTE AGO YOU SAID YOU READ HIM HIS RIGHTS BEFORE YOU TOOK ANY STATEMENTS?

A. YES, I DID.

Q. OKAY. AND THAT'S ON THE, I GUESS THE ADVISEMENT OF RIGHTS FORM IS WHAT YOU WENT OVER?

A. YES.

Q. DID YOU HAVE ANYMORE IN DEPTH CONVERSATION ABOUT WHETHER HE WOULD LIKE TO HAVE AN ATTORNEY PRESENT BEYOND WHAT WAS ON THAT FORM?

A. NO. JUST WHEN I ASK THEM, YOU KNOW, DURING THE INTERVIEW, IF THEY SAY THAT THEY DON'T, THEN ...

Q. WHO ALL WAS PRESENT WHEN THE STATEMENT WAS GIVEN, YOU SAY IT WAS JUST YOU?

A. AT THE FIRST ONE, YES.

Q. AND YOU SAID THE SETTING IS AN OFFICE SETTING, CUBICLES, THINGS OF THAT NATURE?

A. UH-HUH.

Q. BUT WHERE HE GAVE THE STATEMENT IS LIKE A SEPARATE ROOM, LIKE AN INTERROGATION ROOM OR ...

A. IT'S NOT AN INTERROGATION ROOM, IT'S JUST AN INTERVIEW ROOM WHERE IT'S MORE PRIVATE TO KEEP OFFICERS FROM WALKING BY. I THINK THAT'S WHERE MR. DINGLE AND I WERE AT THAT POINT.

- 1 Q. OKAY. WHAT'S THE ROOM LIKE, HOW BIG IS IT, WOULD
2 YOU SAY?
- 3 A. MAYBE A NINE BY NINE, I GUESS, BUT THAT'S NOT --
4 YEAH.
- 5 Q. ANY WINDOWS OR ANYTHING?
- 6 A. NO.
- 7 Q. WHAT KIND OF FURNITURE IS IN THERE?
- 8 A. TABLE AND CHAIRS, A SQUARE TABLE PRETTY MUCH LIKE
9 THE TABLE THAT YOU GUYS ARE SITTING AT, BUT A
10 LITTLE SMALLER THAN THAT.
- 11 Q. ANYTHING ELSE OF NOTE IN THERE BESIDES THE TABLE
12 AND CHAIRS?
- 13 A. NOT THAT -- IT'S LIKE A PAINTING OR SOMETHING ON
14 THE WALL.
- 15 Q. OKAY. IS THERE ANY AUDIO OR VIDEO RECORDING
16 EQUIPMENT IN THERE?
- 17 A. IT IS, BUT AT THAT POINT TO MY KNOWLEDGE THE
18 EQUIPMENT WASN'T OPERABLE, AND IT DEFINITELY
19 WASN'T TURNED ON.
- 20 Q. YOU SAID YOU ASKED MR. DINGLE IF HE WAS ABLE TO
21 READ AND WRITE?
- 22 A. YES.
- 23 Q. AND HE TOLD YOU HE WAS?
- 24 A. HE SAID THAT HE WAS.
- 25 Q. OKAY. WAS HE HANDCUFFED AT THE TIME?

CROSS, IN CAMERA, JENNIFER COAXUM
BY MR. CHISOLM

1 A. I DON'T REMEMBER. NORMALLY WHEN I DO INTERVIEWS
2 THEY'RE NOT.

3 Q. DID YOU GIVE HIM AN OPPORTUNITY TO WRITE THE
4 STATEMENT HIMSELF?

5 A. I DID ASK HIM, AND HE REFUSED.

6 Q. HE REFUSED?

7 A. UH-HUH.

8 Q. DO YOU USUALLY TRY TO GET THEM TO WRITE IT
9 THEMSELVES - - -

10 A. YES.

11 Q. --- TO CLEAR UP CONFUSION?

12 A. YES.

13 Q. SO HE REFUSED TO WRITE ANY STATEMENT BUT HE
14 AGREED TO SIGN OFF ON IT?

15 A. HE REFUSED TO WRITE IT, HE SAID THAT SPELLING AND
16 WRITING WASN'T HIS STRONG SUIT, SO I DIDN'T PUSH
17 THAT ISSUE.

18 Q. OKAY. AND YOU SAID YOU DIDN'T VIDEO TAPE IT
19 BECAUSE ALL OF THE EQUIPMENT IS INOPERABLE?

20 A. AT THAT POINT IT WAS.

21 Q. AUDIO AND VIDEO?

22 A. YES.

23 Q. AND THIS WAS AUGUST SEVENTEENTH, IS THAT RIGHT?

24 A. AUGUST SEVENTEENTH, TWO THOUSAND NINE.

25 Q. AND IT WAS NEVER TURNED ON, RIGHT?

- 1 A. NO.
- 2 Q. DO YOU HAVE A CELL PHONE?
- 3 A. YES.
- 4 Q. DOES IT RECORD AUDIO, VIDEO OR ANYTHING LIKE
- 5 THAT?
- 6 A. I THINK SO, ACTUALLY, I DON'T KNOW, I'VE NEVER
- 7 TAKEN PICTURES OR ANYTHING WITH IT, THOUGH. THE
- 8 ONLY THING I DO IS CALL AND ANSWER VOICE MAILS,
- 9 THAT'S IT.
- 10 Q. I SEE. AND Y'ALL HAVE GOT FORENSIC LABS AND ALL
- 11 KIND OF TECHNOLOGY. HAS ANYBODY GOT ANY SMART
- 12 PHONES IN THERE?
- 13 A. NOT AT THAT POINT WE DIDN'T, BECAUSE THERE WAS NO
- 14 ONE IN THERE BUT HE AND I.
- 15 Q. NO ONE ELSE WAS IN THE OFFICE AT ALL?
- 16 A. NOT DURING THAT INTERVIEW, NO.
- 17 Q. AND YOU SAID HE WAS ALREADY INCARCERATED. DID
- 18 YOU GO MEET HIM AT THE JAIL BEFORE HE WAS BROUGHT
- 19 OVER?
- 20 A. NO. I CALLED -- WHEN I WAS INFORMED THAT HE WAS
- 21 INCARCERATED I WENT AND PICKED HIM UP AND BROUGHT
- 22 HIM BACK OVER TO OUR OFFICES.
- 23 Q. OKAY. SO, YOU WENT OVER THERE AND TRANSPORTED
- 24 HIM YOURSELF?
- 25 A. I CAN'T REMEMBER, HE WAS BROUGHT OVER FOR ME OR

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EITHER I WENT AND GOT HIM, I DON'T REMEMBER.

Q. IF HE WAS BROUGHT OVER BY SOMEONE ELSE, HOW DOES THAT TYPICALLY WORK?

A. IF SOMEONE IS OVER THERE I'LL SAY, HEY, COULD YOU BRING UP, YOU KNOW, SINCE YOU AT CODE -- WHAT'S CALLED CODE TEN, COULD YOU BRING UP MR., WHATEVER THE INDIVIDUAL IS, WHOEVER THE INDIVIDUAL IS YOU'RE LOOKING FOR.

Q. DOES SOMEONE USUALLY SPEAK WITH THEM BEFORE YOU DO THAT OR YOU JUST KIND OF - - -

A. HUH-UH. THEY'LL JUST BRING THEM OVER AND SAY, YOU KNOW, INVESTIGATOR SO AND SO NEEDS TO TALK WITH YOU, AND THAT'S IT.

Q. OKAY.

MR. CHISOLM: I BEG THE COURT'S INDULGENCE.

THE COURT: SURE.

MR. CHISOLM: NOTHING FURTHER.

THE COURT: OKAY. ANYTHING FURTHER?

SOLICITOR JUSTIS: BRIEFLY, YOUR HONOR.

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REDIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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REDIRECT-EXAMINATION, IN CAMERA, OF JENNIFER COAXUM

BY SOLICITOR JUSTIS:

Q. I JUST WANT TO CLARIFY, YOU SAID THAT MR. DINGLE,
YOU KNOW, REFUSED TO WRITE THE STATEMENT. WHAT
DID YOU MEAN BY THAT?

A. HE DIDN'T REFUSE, HE SAID HE WOULD GIVE A
STATEMENT BUT WRITING -- SPELLING AND WRITING
WERE NOT HIS STRONG SUITS SO HE ASKED IF I WOULD
WRITE FOR HIM. AND THAT WAS ON THE VERY FIRST
INTERVIEW, ON THE SEVENTEENTH.

Q. RIGHT.

SOLICITOR JUSTIS: NOTHING FURTHER ON THE FIRST
INTERVIEW, YOUR HONOR.

THE COURT: OKAY. THIS IS THE FIRST INTERVIEW?

SOLICITOR JUSTIS: YES, SIR.

THE COURT: OKAY.

MR. CHISOLM: AT THE APPROPRIATE TIME, I WOULD
LIKE TO CALL MR. DINGLE.

THE COURT: IS SHE GOING TO TESTIFY AS TO THE
SECOND INTERVIEW?

SOLICITOR JUSTIS: SHE WILL, UNLESS YOU WANT TO -
- HOWEVER YOU WANT TO DO IT.

THE COURT: IF YOU WANT TO GO ONE AT A TIME I CAN
BRING MR. DINGLE -- IF YOU WANT TO STEP DOWN, AND
WE'LL DO ONE AT A TIME. DO YOU WANT TO DO IT THAT

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WAY?

SOLICITOR JUSTIS: HOWEVER YOU WANT ME TO DO IT,
SITUATION BY SITUATION OR - - -

THE COURT: OKAY. IF YOU'LL STEP DOWN, PLEASE,
MA'AM.

AND MR. DINGLE, IF YOU'LL COME ON UP, PLEASE,
SIR. AND MR. DINGLE, IF YOU WOULD PUT YOUR LEFT HAND
ON THE BIBLE AND RAISE YOUR RIGHT HAND, PLEASE, SIR.

(Whereupon, Samuel Dingle
is duly sworn.)

THE COURT: OKAY. IF YOU'D HAVE A SEAT AND GET
COMFORTABLE, MR. DINGLE.

ALRIGHT, YOUR WITNESS.

MR. CHISOLM: THANK YOU, YOUR HONOR.

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pages and hard page breaks between testimony are now
required by the Court. See next ensuing page for
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DIRECT, IN CAMERA, SAMUEL DINGLE BY MR. CHISOLM

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DIRECT EXAMINATION, IN CAMERA, OF SAMUEL DINGLE

BY MR. CHISOLM:

1 Q. MR. DINGLE, HOW WERE YOU NOTIFIED THAT YOU WERE
2 BEING BROUGHT IN FOR INVESTIGATION?

3 A. I WAS LOCKED UP. I CAUGHT A CHARGE AND I WAS
4 LOCKED UP, AND SHE CAME OVER AND TOOK ME BACK
5 OVER TO HER OFFICE AND SHE SPOKE WITH ME THEN.
6 THAT'S HOW I WAS NOTIFIED.

7 Q. SO, INVESTIGATOR COAXUM PICKED YOU UP HERSELF?

8 A. YES, SHE DID.

9 Q. I SEE. AND HOW WOULD YOU DESCRIBE THIS OFFICE
10 THAT YOU WERE IN?

11 A. IT WAS A LITTLE BOOTH. AS SOON AS YOU GO IN THE
12 BACK DOOR IT'S BOOTHS ALL AROUND. I NEVER WENT
13 IN THE BACK ROOM WHERE A TABLE LIKE THAT WAS, IT
14 WAS JUST A LITTLE BOOTH.

15 Q. OKAY. LIKE A CUBICLE?

16 A. YEAH, LIKE A CUBICLE.

17 Q. ARE YOU ABLE TO READ AND WRITE?

18 A. YES, SIR.

19 Q. WERE YOU HAND CUFFED?

20 A. YES, I WAS.

21 Q. THEY WERE NEVER TAKEN OFF?

22 A. NEVER TAKEN OFF.

23 Q. DO YOU REMEMBER BEING ASKED ABOUT YOUR RIGHTS,
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WHETHER YOU WANTED AN ATTORNEY AND YOUR RIGHTS
AND ALL THAT?

A. YES.

Q. NOW, WERE YOU GIVEN AN OPPORTUNITY TO WRITE YOUR
OWN STATEMENT?

A. SHE STARTED WRITING THE STATEMENT SO I LET HER
FINISH.

Q. DID YOU EVER, DID SHE EVER ASK YOU IF YOU WANTED
TO WRITE YOUR OWN?

A. NO.

Q. SO THIS IS NOT YOUR WRITING. DID YOU SEE ANY
RECORDING EQUIPMENT IN THERE WHILE YOU WERE
THERE?

A. NO.

MR. CHISOLM: I BEG THE COURT'S INDULGENCE.

THE COURT: OKAY.

Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
STATE'S EXHIBIT TWO. IS THAT YOUR STATEMENT?

A. THAT'S WHAT SHE WROTE DOWN.

Q. DOES THIS STATEMENT CONSIST OF WHAT YOU TOLD HER?

A. MOST OF IT.

Q. NOW, IS THAT OUR SIGNATURE ON THERE?

A. YES, IT IS.

MR. CHISOLM: NO FURTHER QUESTIONS.

THE COURT: ALRIGHT. ANYTHING ON CROSS?

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SOLICITOR JUSTIS: YES, YOUR HONOR.

THE COURT: YES, SIR.

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CROSS, IN CAMERA - SAMUEL DINGLE BY SOL. JUSTIS

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1 CROSS-EXAMINATION, IN CAMERA, OF SAMUEL DINGLE
2 BY SOLICITOR JUSTIS:

3 Q. MR. DINGLE, HOW FAR DID YOU GO IN SCHOOL?

4 A. TWELFTH GRADE.

5 Q. DID YOU GRADUATE?

6 A. YES, I DID.

7 Q. OKAY. WHAT ABOUT JOBS, TELL ME A LITTLE BIT
8 ABOUT JOBS THAT YOU'VE HELD IN YOUR CAREER?

9 A. OOH.

10 Q. WHAT KIND OF JOBS?

11 A. WELL, MECHANIC, I'VE BEEN A DETAILER FOR YEARS, I
12 WORKED AT LOGGING COMPANIES, I DID A WHOLE LOT OF
13 MECHANIC WORK, I WORKED FOR FREDDIE FORDS,
14 SMILEY'S RIGHT ACROSS THE STREET. OH, I HAVE A
15 HISTORY OF WORK.

16 Q. OKAY. AND WHAT ABOUT, LET'S GO OVER YOUR
17 CRIMINAL BACKGROUND A LITTLE BIT. YOU WERE
18 ARRESTED AND CONVICTED IN NINETEEN EIGHTY OF
19 BREACH OF TRUST, IS THAT CORRECT?

20 A. YES.

21 Q. AND THEN IN EIGHTY-EIGHT YOU WERE CONVICTED OF
22 FOUR COUNTS OF FORGERY, OR EIGHTY-THREE, I'M
23 SORRY, NINETEEN EIGHTY-THREE, SOME FORGERY
CHARGES, DO YOU REMEMBER THAT?

A. THERE WAS ONE COUNT, WASN'T IT? JUST FOR

1 DIFFERENT CHECKS.

2 Q. WELL, I THINK IT WAS FOUR, IT WAS COMBINED ALL
3 INTO ONE INCIDENCE.

4 A. OKAY. THAT'S RIGHT.

5 Q. AND IN NINETEEN EIGHTY-EIGHT YOU WERE CONVICTED
6 OF ARMED ROBBERY?

7 A. YES.

8 Q. AND IN TWO THOUSAND SEVEN - - -

9 MR. CHISOLM: YOUR HONOR, I WOULD OBJECT, I DON'T
10 SEE HOW HIS CRIMINAL BACKGROUND WOULD BE RELEVANT TO
11 THIS HEARING.

12 SOLICITOR JUSTIS: IT SHOWS HIS PRIOR CONTACT
13 WITH LAW ENFORCEMENT AND HE'S VERY FAMILIAR WITH HOW
14 MIRANDA RIGHTS WORK AND THE INVESTIGATION PROCESS
15 WORKS, YOUR HONOR. I THINK IT'S VERY RELEVANT TO THIS
16 HEARING.

17 THE COURT: WELL, I MEAN, FOR THE PURPOSES OF
18 THIS HEARING, I MEAN, I'LL LET YOU GO FORWARD, BUT IF
19 YOU JUST WANT TO ASK HIM IF HE'S FAMILIAR WITH THE
20 CRIMINAL PROCESS AND NOT GO THROUGH ALL THAT, I MEAN,
21 THAT'S FINE WITH ME, TOO. BUT IF YOU WANT TO GO
22 THROUGH EACH ONE OF THEM - - -

23 SOLICITOR JUSTIS: WELL, I CAN JUST SUMMARIZE.

24 THE COURT: YEAH. IF YOU WANT TO SUMMARIZE - - -

25 SOLICITOR JUSTIS: JUST FOR TIME PURPOSES.

1 THE COURT: YES, FOR TIME PURPOSES.

2 Q. I'M SHOWING YOU'VE BEEN CONVICTED FIVE DIFFERENT
3 TIMES FOR FIVE DIFFERENT OFFENSES, WOULD THAT BE
4 ACCURATE? MOST RECENTLY, TWO THOUSAND NINE,
5 BREACH OF TRUST?

6 A. OKAY.

7 Q. OKAY. SO, ARE YOU FAMILIAR WITH THE CRIMINAL
8 JUSTICE SYSTEM AND HOW IT WORKS?

9 A. YES.

10 Q. AND WERE YOU DENIED ANY FOOD OR WERE YOU MADE ANY
11 PROMISES?

12 A. AIN'T NOBODY OFFERED ME ANY FOOD.

13 Q. TO GIVE A STATEMENT?

14 A. NO, NO.

15 Q. WERE YOU ASKED IF YOU WANTED TO GIVE A STATEMENT?

16 A. YES.

17 Q. OKAY. AND DID YOU, IN FACT, GIVE A STATEMENT?

18 A. YES, I DID.

19 Q. AND THAT STATEMENT WAS WRITTEN DOWN ACCORDING TO
20 THE TESTIMONY BY THE INVESTIGATOR?

21 A. UH-HUH, AND SHE WAS ASKING ME QUESTIONS AND
22 WRITING DOWN AT THE SAME TIME, SHE WAS.

23 Q. OKAY. AND ON THIS, WHAT'S MARKED AS STATE'S
24 EXHIBIT TWO FOR ID, ON THIS STATEMENT, THAT'S HER
25 HANDWRITING, CORRECT?

- 1 A. YES, IT IS.
- 2 Q. STATEMENT, AND THAT'S YOUR SIGNATURE AT THE END?
- 3 A. YES.
- 4 Q. AND THOSE ARE YOUR INITIALS BY THE BIG XES,
5 CROSSING OUT THE BLANK SPOTS?
- 6 A. YES.
- 7 Q. NOW, DID SHE READ THE STATEMENT TO YOU AFTER SHE
8 WROTE IT, OR DID YOU READ IT YOURSELF?
- 9 A. WELL, SHE WAS READING THE STATEMENT TO ME AND
10 ASKED ME WOULD I SIGN.
- 11 Q. OKAY. AND YOU STATED THAT MOST OF IT WAS
12 CORRECT?
- 13 A. UH-HUH.
- 14 Q. DID YOU ATTEMPT TO CORRECT THOSE PARTS THAT
15 WEREN'T CORRECT WHEN SHE READ IT TO YOU?
- 16 A. NOT AT THAT TIME, NO.
- 17 Q. OKAY. DID THAT EVER DAWN ON YOU TO DO THAT?
- 18 A. NO.
- 19 Q. SAYING, WELL, THAT'S NOT WHAT I SAID?
- 20 A. NO.
- 21 Q. DID INVESTIGATOR COAXUM MAKE ANY THREATS TO YOU?
- 22 A. NO.
- 23 Q. AND WERE YOU UNDER ANY KIND OF INFLUENCE, DRUGS
24 OR ALCOHOL AT THE TIME?
- 25 A. NO, NO.

CROSS, IN CAMERA - SAMUEL DINGLE BY SOL. JUSTIS

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1 Q. WERE YOU CLEAR OF MIND THAT DAY?

2 A. YES, I WAS.

3 Q. OKAY.

4 SOLICITOR JUSTIS: NO FURTHER QUESTIONS, YOUR
5 HONOR.

6 THE COURT: ANYTHING ON REDIRECT?

7 MR. CHISOLM: THAT'S IT.

8 THE COURT: OKAY. YOU CAN STEP DOWN, MR. DINGLE.
9 ANY OTHER WITNESSES?

10 MR. CHISOLM: NO OTHER WITNESSES.

11 THE COURT: OKAY. ALRIGHT. ARE WE GOING TO GO --
12 -- DO WE WANT TO TAKE CARE OF THIS ONE, SINCE WE DID IT
13 IN THIS ORDER?

14 MR. CHISOLM: THAT'S FINE.

15 THE COURT: OKAY. ALRIGHT, SO DO YOU HAVE A
16 MOTION FOR ME ON THIS ONE?

17 MR. CHISOLM: YES, SIR. I MAKE A MOTION TO
18 EXCLUDE THIS STATEMENT. IT WOULD BE -- FOR THE RECORD,
19 IT WOULD BE OUR POSITION THAT THIS WAS NOT FREELY AND
20 VOLUNTARILY GIVEN. MR. DINGLE'S TESTIMONY, HE SAID HE
21 WAS BASICALLY TRANSPORTED TO, IT SOUNDED LIKE A
22 CUBICLE WHILE HE WAS HANDCUFFED. HE SAID HE WAS NOT
23 GIVEN THE OPPORTUNITY TO WRITE HIS OWN STATEMENT. HE
24 SAID THAT HE BASICALLY SIGNED OFF ON INVESTIGATOR
25 COAXUM'S STATEMENT. THAT BEING SAID IT WOULD BE OUR

1 POSITION THAT IT WAS NOT FREELY AND VOLUNTARILY GIVEN.

2 THE COURT: OKAY. ALRIGHT.

3 SOLICITOR JUSTIS: AND YOUR HONOR, I WOULD JUST
4 SAY THAT BASED ON, YOU KNOW, I KIND OF CONCEDE THAT,
5 YOU KNOW, HE MIGHT HAVE BEEN IN CUSTODIAL
6 INTERROGATION, THAT'S WHY MIRANDA WAS GIVEN. HE
7 WAIVED HIS RIGHTS. HIS FAMILIARITY WITH THE CRIMINAL
8 JUSTICE SYSTEM, HIS HIGH EDUCATION LEVEL, HIS WORK AS
9 A MECHANIC, OBVIOUSLY HE'S A BRIGHT MAN. YOU KNOW, HE
10 KNEW WHAT HE WAS DOING THAT DAY AND HE WAIVED HIS
11 RIGHTS VOLUNTARILY AND GAVE THAT STATEMENT.

12 THE COURT: OKAY. ALRIGHT, WITH REGARD TO THIS
13 FIRST STATEMENT, I FIND THAT HE WAS GIVEN HIS MIRANDA
14 WARNINGS WHILE HE WAS IN CUSTODY. I FIND THAT THIS
15 WAS A VOLUNTARY STATEMENT, AND I WILL ALLOW IT IN.

16 MR. CHISOLM: PLEASE NOTE MY OBJECTION.

17 THE COURT: OKAY. ALRIGHT, THANK YOU, SIR, AND
18 I'LL NOTE YOUR OBJECTION OF MY RULING FOR THE RECORD
19 SO IT WILL BE PRESERVED. OKAY?

20 DO WE HAVE ANOTHER STATEMENT AS WELL?

21 SOLICITOR JUSTIS: YES, WE DO, YOUR HONOR, WE
22 RECALL INVESTIGATOR COAXUM.

23 THE COURT: OKAY. ALRIGHT, INVESTIGATOR COAXUM,
24 YOU KNOW YOU ARE ALREADY SWORN, YOU ARE UNDER OATH,
25 SO I'M NOT GOING TO RE-SWEAR YOU. OKAY? THANK YOU,

1 MA'AM.

2 ALRIGHT, AS SOON AS YOU GET COMFORTABLE.

3 ALRIGHT, MR. JUSTIS, YOUR WITNESS.

4 SOLICITOR JUSTIS: THANK YOU, YOUR HONOR.

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6 part of record has been omitted. Headers on testimony
7 pages and hard page breaks between testimony are now
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DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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1 DIRECT EXAMINATION, IN CAMERA, OF JENNIFER COAXUM
2 BY SOLICITOR JUSTIS:

3 Q. INVESTIGATOR COAXUM, DID YOU HAVE AN OPPORTUNITY
4 TO MEET AGAIN WITH THE DEFENDANT, MR. DINGLE?

5 A. I DID.

6 Q. AND WHEN WAS THAT?

7 A. THE SECOND MEETING WAS ON THE EIGHTH, JANUARY
8 EIGHTH OF TWO THOUSAND TEN.

9 Q. OKAY. AND ON THAT DATE, AND WHO WAS PRESENT FOR
10 QUESTIONING BESIDES MR. DINGLE AND YOURSELF?

11 A. INVESTIGATOR ETHEREDGE.

12 Q. OKAY. AND WAS, AGAIN, DID HE APPEAR TO BE UNDER
13 THE INFLUENCE OF ANY DRUGS OR ALCOHOL?

14 A. NO.

15 Q. OKAY. WHAT ABOUT THE SURROUNDINGS, OR WHERE DID
16 YOU HAVE THIS MEETING?

17 A. AGAIN, HE WAS INCARCERATED, AND AT THAT POINT HE
18 HAD BEEN TRANSPORTED TO, I THINK IT WAS BROAD
19 RIVER FACILITY, AND WE WENT UP THERE WITH THE
20 WHOLE PROCESS OF GETTING IN, AND THEY BROUGHT HIM
21 UP FROM WHATEVER AREA HE WAS IN AT THE PRISON AT
22 THAT POINT. WE WENT IN LIKE A LITTLE, SOMEONE
23 ELSE'S OFFICE. IT WAS JUST A SMALL ROOM WITH NO
24 TABLES IN THERE, JUST A FEW CHAIRS, AND IT HAD A
25 LITTLE TABLE WITH MAGAZINES ON IT, AND THE THREE

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

1 OF US WERE IN THERE AND WE SPOKE WITH HIM.

2 Q. OKAY. AND HOW LONG, HOW LONG DID YOU QUESTION

3 HIM OR SPEAK WITH HIM?

4 A. MAYBE THIRTY, FORTY-FIVE MINUTES.

5 Q. OKAY. WAS HE DENIED ANY PHONE?

6 A. NO.

7 Q. BATH ROOM?

8 A. NO.

9 Q. DRINKS, FOOD?

10 A. NO.

11 Q. WERE THERE ANY THREATS OR PROMISE MADE IN

12 EXCHANGE FOR HIS STATEMENT?

13 A. NO.

14 Q. WHAT WAS THE PURPOSE OF YOUR MEETING THAT DAY?

15 A. WHEN I SPOKE WITH MR. DINGLE THE FIRST TIME, YOU

16 KNOW, WE GOT DNA FROM HIM, AND I TOLD HIM, I

17 SAID, YOU KNOW, WHEN WE GET THE RESULT FROM DNA

18 I WILL INFORM YOU OF THE RESULTS. AND THAT IS,

19 WE TOOK THAT TO HIM, THE RESULTS AND ALLOWED HIM

20 TO SEE IT AND READ IT FOR HIMSELF TO LET HIM KNOW

21 WHAT THE RESULTS WERE. AND AGAIN, THIS WAS ALL

22 AFTER HE HAD BEEN MIRANDIZED.

23 Q. OKAY. AND WAS HE UNDER ARREST AT THE TIME FOR

24 THIS CHARGE?

25 A. NO, HE WAS NOT.

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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- 1 Q. OKAY. AND SO, AS FAR AS THIS CHARGE WAS
2 CONCERNED, WAS HE FREE TO GO?
- 3 A. YES.
- 4 Q. AND WAS HE SPEAKING WITH YOU VOLUNTARILY ON THIS
5 CHARGE OR WAS HE BEING COMPELLED TO SPEAK WITH
6 YOU ABOUT THIS CHARGE?
- 7 A. TO MY KNOWLEDGE VOLUNTARILY, YOU KNOW, WE ADVISED
8 HIM, WE TOLD THE AUTHORITIES THERE THAT WE HAD
9 CAME TO SEE HIM, AND THEY BROUGHT HIM UP. NOW,
10 IF HE HAD THE RIGHT TO SAY NO, YES OR NO,
11 INVESTIGATOR ETHEREDGE AND MYSELF WOULDN'T HAVE
12 KNOWN THAT. BUT HE DID COME UP VOLUNTARILY AND
13 SPEAK WITH US.
- 14 Q. AND WAS HE ADVISED OF HIS CONSTITUTIONAL RIGHTS
15 REGARDING MIRANDA?
- 16 A. YES, HE WAS.
- 17 Q. WHAT I'M SHOWING HAS BEEN MARKED AS STATES
18 EXHIBIT NUMBER THREE FOR IDENTIFICATION PURPOSES.
19 DO YOU RECOGNIZE THAT?
- 20 A. YES, I DO.
- 21 Q. WHAT IS THAT?
- 22 A. THAT IS A MIRANDA FORM, PRETTY MUCH THE SAME FORM
23 AS THE OTHER ONE, JUST A DIFFERENT, IT WAS A
24 CLEAR FORM UNTIL HE SIGNED IT.
- 25 Q. A DIFFERENT DATE?

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

1 A. DIFFERENT DATE, YES, SIR.

2 Q. A NEW FORM?

3 A. UH-HUH.

4 Q. AND WHAT DID YOU DO WITH THAT FORM?

5 A. AGAIN, I ADVISED HIM OF HIS RIGHTS. HE WAS

6 FAMILIAR WITH IT. HE INITIALED, SIGNED, MYSELF

7 AND INVESTIGATOR ETHEREDGE SIGNED AFTER HE SIGNED

8 THE WAIVER OF RIGHTS PART AS WELL.

9 Q. AND COULD YOU GO THROUGH THE RIGHTS THAT YOU

10 ADVISED HIM OF?

11 A. THE WAIVER OF RIGHTS OR THE FIRST PART OF THE - -

12 -

13 Q. START WITH THE FIRST PART.

14 A. THE FIRST PART AGAIN IS, YOU HAVE THE RIGHT TO

15 REMAIN SILENT. ANYTHING YOU SAY CAN BE USED

16 AGAINST YOU. YOU HAVE THE RIGHT TO TALK TO A

17 LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS

18 AND TO HAVE HIM WITH YOU DURING QUESTIONING. IF

19 YOU CANNOT AFFORD A LAWYER ONE WILL BE APPOINTED

20 FOR YOU BEFORE ANY QUESTIONING IF YOU WISH. IF

21 YOU DECIDE TO ANSWER QUESTIONS WITHOUT A LAWYER

22 PRESENT YOU WILL STILL HAVE THE RIGHT TO STOP

23 ANSWERING AT ANYTIME. YOU ALSO HAVE THE RIGHT TO

24 STOP ANSWERING AT ANYTIME UNTIL YOU TALK TO A

25 LAWYER. THEY'RE NUMBERED ONE THROUGH FIVE, AND

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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1 HE INITIALED, THERE'S A SPACE BESIDE FOR HIM TO
2 INITIAL, AND AGAIN, HE INITIALED AND SIGNED THAT
3 THE UNDERSTOOD ALL OF HIS RIGHTS. THE BOTTOM PART
4 IS THE WAIVER OF RIGHTS FORM. THE WAIVER OF
5 RIGHTS SAYS, I HAVE READ THE STATEMENT OF MY
6 RIGHTS, I UNDERSTAND WHAT MY RIGHTS ARE. I WANT
7 TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO
8 NOT WANT A LAWYER PRESENT AT THIS TIME. I
9 UNDERSTAND AND KNOW WHAT I AM DOING. NO PRESSURE
10 OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE
11 OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.
12 AGAIN, MR. DINGLE SIGNED, I SIGNED UNDER HIM, AND
13 INVESTIGATOR ETHEREDGE SIGNED ON THE LEFT SIDE.

14 Q. OKAY. THANK YOU. DID HE APPEAR TO UNDERSTAND
15 WHAT HE WAS DOING?

16 A. YES.

17 Q. DID HE APPEAR RATIONAL?

18 A. YES.

19 Q. COULD HE UNDERSTAND ENGLISH?

20 A. YEAH.

21 Q. COULD HE READ?

22 A. YES.

23 Q. DID HE SEEM UNDER THE INFLUENCE?

24 A. NOT TO MY KNOWLEDGE, NO.

25 Q. DID YOU OR INVESTIGATOR ETHEREDGE OR ANYONE ELSE

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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IN YOUR PRESENCE THREATEN HIM IN ANY FASHION?

A. NO.

Q. OFFER HIM ANY KIND OF REWARD?

A. NO.

Q. AND WHEN ASKED ABOUT WANTING AN ATTORNEY BEFORE SPEAKING WITH YOU, HOW DID HE RESPOND?

A. HE, HE SIGNED THE FORM PRIOR TO THAT, AND NO, HE DIDN'T SAY ANYTHING ABOUT WANTING HIS ATTORNEY THEN, NO.

Q. OKAY. DID HE STOP AT ANY POINT AND ASK FOR AN ATTORNEY?

A. HE REFUSED TO GIVE A STATEMENT AT THAT POINT, AND THE INTERVIEW AS OVER. HE WAS, LIKE -- YEAH, THAT WAS IT.

Q. SO, HE DIDN'T GIVE ANY KIND OF STATEMENT?

A. NO, NO WRITTEN STATEMENT AT THAT POINT.

Q. OKAY. DID HE MAKE ANY VERBAL COMMENTS AFTER HE WAIVED HIS RIGHTS?

A. HE LOOKED AT IT AND HE SAID THAT WAS IMPOSSIBLE THAT THE DNA WAS HIS SON'S, THAT IT WAS POSSIBLY HIS SON'S DNA.

Q. OKAY. SO, AFTER, AFTER HE WAIVED HIS RIGHTS IS THAT WHEN YOU TOLD HIM ABOUT THE DNA RESULTS?

A. YES.

Q. AND HIS RESPONSE TO THAT WAS?

DIRECT, IN CAMERA, JENNIFER COAXUM
BY SOL. JUSTIS

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1 A. THAT'S NOT POSSIBLE. .

2 SOLICITOR JUSTIS: ALRIGHT. NO FURTHER
3 QUESTIONS.

4 THE COURT: MR. CHISOLM, YOUR WITNESS.

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6 part of record has been omitted. Headers on testimony
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CROSS, IN CAMERA, JENNIFER COAXUM
BY MR. CHISOLM

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CROSS-EXAMINATION, IN CAMERA, OF JENNIFER COAXUM
BY MR. CHISOLM:

Q. SO, YOU WENT TO THE BROAD RIVER FACILITY, - - -

A. UH-HUH, YES.

Q. --- WITH INVESTIGATOR ETHEREDGE, - - -

A. UH-HUH.

Q. --- TO MEET WITH HIM? AND YOU READ HIM HIS RIGHTS?

A. YES.

Q. AND YOU SAID YOU GAVE HIM THE RESULTS FROM THE DNA TESTING?

A. YES. BECAUSE AT THAT POINT HE KNEW WHY WE WERE THERE, YES.

Q. AND YOU SAID, HE SAID, THAT'S NOT POSSIBLE?

A. THAT'S NOT POSSIBLE.

Q. AND HE SAID IT WAS HIS SON'S DNA?

A. YES. HE'S NOT. HE SAID, THAT'S NOT POSSIBLE, THAT'S NOT MY CHILD. I, YOU KNOW, JUST KIND OF, YOU KNOW, IT'S NOT POSSIBLE, IT'S NOT MY CHILD, I NEVER TOUCHED HER, THAT KIND OF STUFF.

Q. OKAY. AT WHAT POINT DID HE REFUSE TO TALK TO YOU ANY FURTHER?

A. HE WAS NEVER REALLY RUDE AS FAR AS REFUSING, HE JUST SAID, YOU KNOW, THAT'S IT, I'M NOT WRITING A STATEMENT. AND YOU KNOW, WE LET HIM GO BACK.

1 WE HAD TO WAIT UNTIL SOMEONE CAME TO GET HIM, BUT
2 THEN HE WENT ON BACK.

3 Q. I MEAN, DID HE SAY THAT DIRECTLY AFTER YOU SAID
4 HE SAID IT WAS HIS SON'S DNA?

5 A. YEAH, THAT'S IT.

6 Q. DID EITHER ONE OF YOU TAKE ANY KIND OF AUDIO
7 RECORDING EQUIPMENT WITH YOU?

8 A. NO.

9 Q. HOW COME?

10 A. THEY, I DIDN'T REALLY SEE THE NEED TO, YOU KNOW.
11 I KEPT MY WORD TO HIM. HE ASKED TO BE INFORMED
12 OF THE DNA RESULTS, AND THAT'S WHAT WE DID, WE
13 LET HIM KNOW WHAT THE RESULTS WERE. HE ASKED AND
14 I TOLD HIM I WOULD LET HIM KNOW.

15 Q. I GUESS YOU ANTICIPATED GETTING A STATEMENT
16 THOUGH, DIDN'T YOU?

17 A. NO. THERE WAS NO ANTICIPATION, I WAS JUST
18 KEEPING MY WORD TO HIM.

19 Q. BUT YOU READ HIM HIS RIGHTS?

20 A. AFTER I READ HIM HIS RIGHTS.

21 Q. AND HE WOULDN'T GIVE A WRITTEN STATEMENT?

22 A. HE DIDN'T, NO.

23 MR. CHISOLM: I BEG THE COURT'S INDULGENCE.

24 THE COURT: SURE.

25 Q. SO, OUTSIDE OF HIM SAYING, THAT'S NOT POSSIBLE,

CROSS, IN CAMERA, JENNIFR COAXUM
BY MR. CHISOLM

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ALLUDING TO THE DNA BEING HIS SON'S?

A. UH-HUH.

Q. AND THAT'S IT, HE DIDN'T SAY ANYTHING ELSE?

A. THAT WAS ALL THAT I CAN REMEMBER AT THIS POINT,
YEAH.

MR. CHISOLM: NO FURTHER QUESTIONS.

THE COURT: ANYTHING ON REDIRECT?

SOLICITOR JUSTIS: NOTHING.

THE COURT: OKAY. THANK YOU, MA'AM, YOU MAY STEP
DOWN. I APPRECIATE IT.

ALRIGHT. ANY WITNESSES FROM THE DEFENSE?

MR. CHISOLM: NO WITNESSES.

THE COURT: OKAY. ALRIGHT. ANY MOTIONS FROM THE
DEFENSE?

MR. CHISOLM: BRIEFLY, FOR THE RECORD, I WOULD
ASK THAT YOU FIND THAT THIS STATEMENT WAS NOT FREELY
AND VOLUNTARILY GIVEN.

THE COURT: OKAY. DO YOU WANT TO COMMENT ON
THAT?

SOLICITOR JUSTIS: NOT REALLY, YOUR HONOR.

THE COURT: ALRIGHT.

SOLICITOR JUSTIS: I THINK YOU HAVE ENOUGH.

THE COURT: I KNOW THE DRILL. I'VE ALREADY HEARD
THE TESTIMONY. I FIND THAT HE WAS MIRANDIZED. I FIND
THE STATEMENTS THAT HE MADE WERE VOLUNTARY, AND

1 ADMISSIBLE. OKAY?

2 MR. CHISOLM: NOTHING FURTHER, YOUR HONOR.

3 THE COURT: OKAY. WE'RE SUPPOSED TO BE BACK IN
4 THIRTY-FIVE MINUTES. ANYTHING FROM THE STATE?

5 SOLICITOR JUSTIS: NOTHING FROM THE STATE, YOUR
6 HONOR.

7 THE COURT: OKAY. WE'RE SUPPOSED TO BE BACK IN
8 THIRTY-FIVE MINUTES SO WE CAN START, SO I WOULD LIKE
9 TO HAVE A LITTLE BIT MORE TIME MYSELF, BUT I TOLD THE
10 JURY THAT WE WOULD BE BACK HERE AT TWO. SO, Y'ALL,
11 ARE Y'ALL ANTICIPATING ANY PROBLEM WITH BEING BACK AT
12 TWO?

13 SOLICITOR JUSTIS: NO, YOUR HONOR.

14 THE COURT: MR. MELLARD?

15 MR. MELLARD: I LIKE TO EAT, BUT THAT'S FINE.

16 THE COURT: I KNOW, I LIKE TO EAT MYSELF, BUT WE
17 WILL TRY AND GET BACK. IF Y'ALL ARE RUNNING A LITTLE
18 LATE I CAN UNDERSTAND IT, BUT TRY NOT TO BE TOO LATE.
19 OKAY? THANK YOU.

20 ALRIGHT, WE'RE IN RECESS UNTIL TWO.

21 (Recess)

22 (Whereupon, the following
23 takes place in the presence
24 of the jury venire.)

25 THE COURT: LADIES AND GENTLEMEN, WE ARE -- I

1 APPRECIATE Y'ALL -- BY THE WAY, LET ME TELL YOU, I
2 APPRECIATE Y'ALL GETTING BACK. I HOPE Y'ALL ENJOYED
3 YOUR LUNCH. WE WERE BUSY AND THE REASON I'M RUNNING
4 LATE IS, WE DIDN'T FINISH UP IN HERE UNTIL ABOUT
5 ONE:THIRTY, SO EVERYBODY RAN TO GET SOMETHING TO EAT,
6 AND SO, WE ARE NOW BACK, BUT I APOLOGIZE FOR Y'ALL
7 AGAIN WAITING. BUT WE ARE GETTING READY TO PICK A
8 JURY IN THE STATE OF SOUTH CAROLINA VERSUS SAMUEL
9 DINGLE.

10 MR. DINGLE, DO YOU MIND STANDING AND INTRODUCING
11 YOURSELF? JUST STANDING UP SO THE JURY CAN SEE YOU?
12 ALRIGHT, YOU CAN BE SEATED. THANK YOU, SIR.

13 ALRIGHT. LADIES AND GENTLEMEN, IS THERE ANY
14 MEMBER OF THE JURY PANEL RELATED BY BLOOD OR MARRIAGE
15 OR A CLOSE PERSONAL FRIEND OF MR. SAMUEL DINGLE? IF
16 SO, WOULD YOU PLEASE STAND AT THIS TIME.

17 (No one stands.)

18 THE COURT: ALRIGHT, NO ONE IS STANDING.

19 NOW, THE, MR. DINGLE IS REPRESENTED BY MR. ASH
20 CHISOLM. MR. CHISOLM, IF YOU WOULD STAND UP AND
21 INTRODUCE YOUR CO-COUNSEL, I ASSUME YOU'RE CO-COUNSEL.
22 OKAY.

23 MR. CHISOLM: YES. THAT'S DOUG MELLARD.

24 THE COURT: OKAY. THEY'RE BOTH WITH THE PUBLIC
25 DEFENDER'S OFFICE. Y'ALL CAN BE SEATED, THANKS.

1 IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD
2 OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF MR. ASH
3 CHISOLM OR MR. DOUG MELLARD, OR HAS ANY MEMBER OF THE
4 JURY PANEL BEEN REPRESENTED BY THE PUBLIC DEFENDER'S
5 OFFICE? IF SO, PLEASE STAND AT THIS TIME.

6 (No one stands.)

7 THE COURT: ALRIGHT, NO ONE IS STANDING.

8 ALRIGHT, THE STATE IS REPRESENTED BY MR. GLENN
9 JUSTIS. MR. JUSTIS, PLEASE STAND AND INTRODUCE YOUR
10 CO-COUNSEL.

11 SOLICITOR JUSTIS: CO-COUNSEL FOR THIS CASE WOULD
12 BE MR. HARRISON BELL.

13 THE COURT: THANK YOU, SIR. LADIES AND GENTLEMEN,
14 IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR
15 MARRIAGE OR A CLOSE PERSONAL FRIEND OF MR. GLENN
16 JUSTIS OR MR. HARRISON BELL? ADDITIONALLY, HAS ANY
17 MEMBER OF THE JURY PANEL HAD THEM ON THE OTHER SIDE OF
18 THE CASE? IN OTHER WORDS, HAVE THEY PROSECUTED YOU OR
19 ANYTHING LIKE THAT? IF SO, PLEASE STAND.

20 (No one stands.)

21 THE COURT: ALRIGHT, NO ONE IS STANDING.

22 IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD
23 OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF ANY MEMBER
24 OF THE SOLICITOR'S OFFICE? IF SO, PLEASE STAND. AND
25 JUST TO BE ON THE SAFE SIDE, MR. JUSTIS, DO YOU MIND

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TELLING THE JURY PANEL THE NAMES OF THE OTHER ATTORNEYS IN THE SOLICITOR'S OFFICE?

SOLICITOR JUSTIS: YES, YOUR HONOR. MAY IT PLEASE THE COURT. THE ELECTED SOLICITOR IS DAVID PASCOE. OUR DEPUTY SOLICITOR, MR. TOMMY SCOTT, DON SORENSON, SARAH FORD, ROBERT CLARIDAY, BRYAN JEFFRIES, CRYSTAL CHAPMAN, TED LUFTON, AND I BELIEVE OBVIOUSLY, MR. BELL, AND MYSELF ARE THE ATTORNEYS IN THAT OFFICE.

THE COURT: OKAY. NOW THAT HE HAS READ OFF THE NAMES OR TOLD YOU THE NAMES OF THE OTHER ATTORNEYS IN THE SOLICITOR'S OFFICE, IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF ANY OF THESE ATTORNEYS IN THE SOLICITOR'S OFFICE? IF SO, PLEASE STAND AT THIS TIME.

(No one stands.)

THE COURT: ALRIGHT, NO ONE IS STANDING. NOW, THERE ARE A NUMBER OF WITNESSES THAT MAY BE CALLED DURING THIS TRIAL. AND I'M GOING TO GO THROUGH THE LIST ONE AT A TIME AND ASK, ESSENTIALLY ASK YOU, THE JURY PANEL, THE SAME QUESTIONS THAT I HAVE JUST ASKED. A POSSIBLE WITNESS IS JENNIFER COAXUM, SHE'S WITH THE ORANGEBURG COUNTY SHERIFF'S OFFICE. IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF JENNIFER COAXUM? AND MS. COAXUM ACTUALLY IS HERE. MS. COAXUM, WOULD YOU

1 MIND STANDING SO THE JURY CAN SEE YOU? ALRIGHT, THANK
2 YOU, MA'AM. ANYONE RELATED BY BLOOD OR MARRIAGE OR A
3 CLOSE PERSONAL FRIEND OF MS. COAXUM?

4 (No one stands.)

5 THE COURT: ALRIGHT, NO ONE IS STANDING.

6 GERALD CARTER, IS HE HERE?

7 SOLICITOR JUSTIS: I BELIEVE HE'S OUT IN THE
8 HALLWAY, YOUR HONOR.

9 THE COURT: OKAY. GERALD CARTER ALSO OF THE
10 ORANGEBURG COUNTY SHERIFF'S OFFICE MAY BE CALLED AS A
11 WITNESS IN THIS CASE. IS ANY MEMBER OF THE JURY PANEL
12 RELATED BY BLOOD OR MARRIAGE OR A CLOSE PERSONAL
13 FRIEND OF GERALD CARTER? IF SO, PLEASE STAND.

14 (No one stands.)

15 THE COURT: NO ONE IS STANDING.

16 KIMBERLY PUGH, OF THE ORANGEBURG COUNTY SHERIFF'S
17 OFFICE MAY ALSO BE CALLED AS A WITNESS IN THIS CASE.
18 IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR
19 MARRIAGE OR A CLOSE PERSONAL FRIEND OF KIMBERLY PUGH?
20 IF SO, PLEASE STAND.

21 (No one stands.)

22 THE COURT: NO ONE IS STANDING.

23 STEPHANIE STANLEY FROM STATE LAW ENFORCEMENT
24 DIVISION, SLED, MAY BE CALLED AS A POSSIBLE WITNESS IN
25 THIS CASE. IS ANY MEMBER OF THE JURY PANEL RELATED BY

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BLOOD OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF
STEPHANIE STANLEY? IF SO, PLEASE STAND.

(No one stands.)

THE COURT: NO ONE IS STANDING.

[REDACTED] MAY BE CALLED AS A WITNESS. IS ANY
MEMBER OF THE JURY PANEL RELATED BY BLOOD OR MARRIAGE
OR A CLOSE PERSONAL FRIEND OF [REDACTED]

(One juror stands.)

THE COURT: YES, MA'AM, YOUR NAME?

JUROR UTSEY: GWENDOLYN UTSEY.

THE COURT: OKAY, HOLD ON ONE SECOND. YOUR LAST
NAME, PLEASE?

JUROR UTSEY: UTSEY.

THE COURT: UTSEY. OKAY, MS. UTSEY, BEAR WITH ME
FOR ONE SECOND. YOU ARE GWENDOLYN UTSEY, JUROR NUMBER
ONE SEVENTY-EIGHT?

JUROR UTSEY: YES.

THE COURT: OKAY. MS. UTSEY, ARE YOU RELATED TO
[REDACTED]

JUROR UTSEY: NO. HER MOTHER AND - - -

THE COURT: WAIT A MINUTE. OKAY. YOU'RE RELATED
TO HER MOTHER?

JUROR UTSEY: NO. A FRIEND OF THE FAMILY.

THE COURT: OH, SHE'S A FRIEND OF -- HER MOTHER
IS A FRIEND OF YOUR FAMILY?

1 JUROR UTSEY: YES.

2 THE COURT: OKAY. ALRIGHT, MS. UTSEY, AND WHAT
3 IS [REDACTED] MOTHER'S NAME?

4 JUROR UTSEY: ELLA, ELLA, RICKENBAKER.

5 THE COURT: OKAY. THE FACT THAT YOU ARE A FRIEND
6 OF HER MOTHER, WOULD THAT AFFECT YOUR ABILITY TO
7 LISTEN TO THE EVIDENCE IN THIS CASE AND RENDER A FAIR
8 AND IMPARTIAL VERDICT?

9 JUROR UTSEY: NO.

10 THE COURT: IT WOULDN'T?

11 JUROR UTSEY: NO.

12 THE COURT: OKAY. ALRIGHT, THANK YOU, MA'AM.

13 JUROR UTSEY: YOU'RE WELCOME.

14 THE COURT: ALRIGHT, ANYONE ELSE?

15 (No one stands.)

16 THE COURT: ALRIGHT. ANOTHER POTENTIAL WITNESS
17 IS SAMANTHA BROWN. IS ANY MEMBER OF THE JURY PANEL
18 RELATED BY BLOOD OR MARRIAGE OR A CLOSE PERSONAL
19 FRIEND OF SAMANTHA BROWN? IF SO, PLEASE STAND.

20 (No one stands.)

21 THE COURT: ALRIGHT, NO ONE IS STANDING.

22 IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD
23 OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF [REDACTED]

24 [REDACTED] IF SO, PLEASE STAND.

25 (No one stands.)

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THE COURT: NO ONE IS STANDING.

IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF CHAKAYLA WILLIAMS? IF SO, PLEASE STAND.

(No one stands.)

THE COURT: NO ONE IS STANDING.

IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF ELOISE RICKENBAKER? IF SO, PLEASE STAND. AND MS. UTSEY, YOU'VE ALREADY STOOD SO YOU DON'T NEED TO STAND AGAIN.

(No one stands.)

THE COURT: ALRIGHT. LADIES AND GENTLEMEN, MR.

DINGLE HAS BEEN CHARGED WITH CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE. IS THERE ANY REASON ANY MEMBER OF THIS JURY PANEL COULD NOT GIVE BOTH THE STATE AND MR. DINGLE A FAIR AND IMPARTIAL TRIAL AND BE A FAIR AND IMPARTIAL JUROR AND LISTEN TO ALL OF THE EVIDENCE IN THIS CASE AND RENDER A FAIR AND IMPARTIAL JUDGEMENT OF HIM? ANY MEMBER OF THE JURY PANEL UNABLE TO DO THAT?

(No one stands.)

THE COURT: ALRIGHT. IS ANY MEMBER OF THE JURY

PANEL AWARE OF ANY OF THE CIRCUMSTANCES REGARDING THESE CHARGES, THE FACTS, THE BASIC FACTS IN THESE CHARGES? IF SO, PLEASE STAND.

1 (One juror stands.)

2 THE COURT: OKAY, MS. UTSEY, I'M GOING TO GET YOU
3 TO COME UP HERE, PLEASE, MA'AM. ATTORNEYS.

4 (Whereupon, a bench conference
5 is had with Juror Utsey and attorneys
6 out of the hearing of the jury venire
7 and court reporter.)

8 THE COURT: ALRIGHT, MS. UTSEY IS GOING TO BE
9 EXCUSED FROM THE JURY PANEL. THANK YOU, MS. UTSEY,
10 FOR COMING.

11 ALRIGHT. ANY OTHER QUESTIONS FOR THE JURY BY TH
12 STATE?

13 SOLICITOR JUSTIS: THE ONLY THING THE STATE WOULD
14 ADD, YOUR HONOR, IF YOU COULD ASK A QUESTION
15 CONCERNING THEIR ABILITY TO ACTUALLY PASS JUDGEMENT ON
16 SOMEONE AND WHETHER OR NOT THEY FEEL THEY COULD LISTEN
17 TO THE EVIDENCE AND WOULD COME TO A VERDICT ONE WAY OR
18 THE OTHER.

19 THE COURT: OKAY. ALRIGHT, ANYTHING FROM THE - -

20 -

21 MR. CHISOLM: YES, SIR.

22 THE COURT: OH, YOU HAVE SOME?

23 (Whereupon, Defense counsel
24 hands up list to Court.)

25 THE COURT: HOW NICE TO GET THEM NOW. OKAY.

1 BEAR WITH ME, LADIES AND GENTLEMEN. OKAY. LOOK AT
2 THOSE QUESTIONS. ANY QUESTIONS THAT Y'ALL HAVE ANY
3 PARTICULAR ISSUES WITH?

4 SOLICITOR JUSTIS: JUST SEVENTEEN, YOUR HONOR,
5 NUMBER SEVENTEEN.

6 THE COURT: SEVENTEEN? YEAH, I'M NOT -- I MIGHT
7 ASK THE FIRST PART OF THAT BUT I WOULDN'T GO INTO ANY
8 OTHER DETAIL, MAYBE THAT. OKAY?

9 IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD
10 OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF ANYONE WHO
11 WORKS FOR A LAW ENFORCEMENT AGENCY? IF SO, PLEASE
12 STAND. THAT WOULD BE SHERIFF'S DEPARTMENT OR -- OKAY.
13 (Several jurors stand.)

14 THE COURT: OKAY, IF Y'ALL WILL JUST REMAIN
15 STANDING THERE FOR JUST ONE SECOND. OKAY? ALRIGHT,
16 YOUR NAME, PLEASE, MA'AM, IN THE GREEN? YES, MA'AM?

17 JUROR MAAHS: I'M KELLY MAAHS.

18 THE COURT: DO YOU REMEMBER YOUR JURY NUMBER?

19 MR. CHISOLM: ONE SEVENTEEN.

20 THE COURT: FORTY-SEVEN?

21 MR. CHISOLM: ONE SEVENTEEN.

22 THE COURT: OH, ONE SEVENTEEN, I'M SORRY. MS.
23 MAAHS, KELLY MAAHS?

24 JUROR MAAHS: YES.

25 THE COURT: MS. MAAHS, DO YOU HAVE SOMEONE YOU'RE

1 THE COURT: OKAY. MR. HILLS, YOUR SON WORKS FOR
2 SUMTER?

3 JUROR HILLS: YES.

4 THE COURT: OKAY. THE FACT THAT YOU HAVE A SON
5 WORKING FOR SUMTER COUNTY SHERIFF'S DEPARTMENT, WOULD
6 THAT AFFECT YOUR ABILITY TO LISTEN TO THE EVIDENCE IN
7 THIS CASE AND RENDER A FAIR AND IMPARTIAL VERDICT,
8 SIR?

9 JUROR HILLS: NO.

10 THE COURT: OKAY. THANK YOU, SIR, IF YOU'D STAY
11 WITH US, PLEASE, SIR.

12 OKAY, NOBODY ELSE WAS STANDING. OKAY, GREAT.
13 OKAY.

14 HAS ANY MEMBER OF THE JURY PANEL EVER BEEN
15 EMPLOYED BY A CIVILIAN OR MILITARY LAW ENFORCEMENT
16 AGENCY, THAT MEANS YOU SPECIFICALLY. ANYBODY IN THE
17 JURY PANEL EVER BEEN EMPLOYED BY A CIVILIAN OR
18 MILITARY LAW ENFORCEMENT AGENCY? IF SO, PLEASE STAND.
19 (No one stands.)

20 THE COURT: ALRIGHT, NO ONE IS STANDING.

21 HAS ANY MEMBER OF THE JURY PANEL DISCUSSED THIS
22 CASE OR HEARD ANYONE ELSE DISCUSS THIS CASE TODAY OR
23 BEFORE TODAY OTHER THAN WHAT YOU'VE HEARD IN THE
24 COURTROOM SO FAR TODAY? ANYONE KNOW ANYTHING ABOUT
25 THIS CASE? IF SO, PLEASE STAND.

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(No one stands.)

THE COURT: ALRIGHT, NO ONE IS STANDING.

HAS ANY MEMBER OF THE JURY PANEL OR A MEMBER OF YOUR FAMILY OR ANY CLOSE PERSONAL FRIENDS EVER BEEN THE VICTIM OF A SEXUAL ASSAULT, WHETHER REPORTED OR UNREPORTED? IF SO, PLEASE STAND.

(Several jurors stand.)

THE COURT: OKAY. HOLD ON ONE SECOND. MS. MAAHS?

JUROR MAAHS: YES.

THE COURT: OKAY. MS. MAAHS, THE FACT THAT SOME OF YOUR FAMILY OR FRIENDS HAVE BEEN THE VICTIM OF A SEXUAL ASSAULT, WOULD THAT AFFECT YOUR ABILITY TO LISTEN TO THE EVIDENCE IN THIS CASE AND RENDER A FAIR AND IMPARTIAL VERDICT?

JUROR MAAHS: YES.

THE COURT: IT WOULD? OKAY. ALRIGHT. MS. MAAHS, THEN, I AM GOING TO HAVE TO EXCUSE YOU. OKAY? THANK YOU, MA'AM.

YES, SIR, YOUR NAME?

JUROR GARDNER: SCOTT GARDNER.

THE COURT: OKAY, MR. GARDNER, THE FACT THAT YOU OR SOME MEMBER OF YOUR FAMILY OR CLOSE PERSONAL FRIEND HAS BEEN THE VICTIM OF AN ASSAULT, WOULD THAT AFFECT YOUR ABILITY TO LISTEN TO THE EVIDENCE IN THIS CASE

1 AND RENDER A FAIR AND IMPARTIAL VERDICT?

2 JUROR GARDNER: I'M NOT QUITE SURE.

3 THE COURT: WELL, I NEED TO KNOW, YES OR NO.

4 JUROR GARDNER: NO, I MEAN, IT WOULD, IT WOULD.

5 THE COURT: IT WOULD AFFECT YOUR ABILITY? OKAY.

6 ALRIGHT, MR. GARDNER, I'M GOING TO EXCUSE YOU. THANK
7 YOU, SIR.

8 YES, MA'AM, YOUR NAME?

9 JUROR BOCHETTE: DEBORAH BOCHETTE.

10 THE COURT: MA'AM?

11 JUROR BOCHETTE: DEBORAH BOCHETTE, NUMBER ELEVEN.

12 THE COURT: OKAY. MS. BOCHETTE, THE FACT THAT
13 YOU OR A MEMBER OF YOUR FAMILY OR CLOSE FRIENDS HAVE
14 BEEN THE VICTIM OF A SEXUAL ASSAULT, WOULD THAT AFFECT
15 YOUR ABILITY TO LISTEN TO THE EVIDENCE IN THIS CASE
16 AND RENDER A FAIR AND IMPARTIAL VERDICT?

17 JUROR BOCHETTE: NO.

18 THE COURT: OKAY, THANK YOU, MA'AM, IF YOU'D STAY
19 WITH ME, PLEASE, MA'AM.

20 YES, MA'AM, YOUR NAME, PLEASE, MA'AM?

21 JUROR MILLER: SANDRA MILLER.

22 THE COURT: OKAY, HOLD ONE SECOND, MS. MILLER.

23 ALRIGHT, MS. MILLER, THE FACT THAT A MEMBER OF YOUR
24 FAMILY OR A CLOSE PERSONAL FRIEND HAS BEEN THE VICTIM
25 OF A SEXUAL ASSAULT, WOULD THAT AFFECT YOUR ABILITY TO

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LISTEN TO THE EVIDENCE IN THIS CASE AND RENDER A FAIR AND IMPARTIAL VERDICT?

JUROR MILLER: RIGHT NOW, SIR, IT SURE WOULD.

THE COURT: IT WOULD?

JUROR MILLER: YES.

THE COURT: OKAY. ALRIGHT, MS. MILLER, I WILL EXCUSE YOU THEN. THANK YOU, MA'AM. OKAY?

AND YOUR NAME, PLEASE, SIR?

JUROR CALDWELL: ANTHONY CALDWELL.

THE COURT: OKAY, MR. CALDWELL, THE FACT THAT A MEMBER OF YOUR FAMILY OR YOU OR A CLOSE PERSONAL FRIEND HAS BEEN THE VICTIM OF A SEXUAL ASSAULT, WOULD THAT AFFECT YOUR ABILITY TO LISTEN TO THE EVIDENCE IN THIS CASE AND RENDER A FAIR AND IMPARTIAL VERDICT?

JUROR CALDWELL: NO, SIR.

THE COURT: OKAY. IF YOU'D STAY WITH US, PLEASE, SIR. THANK YOU.

ALRIGHT, NOBODY ELSE IS STANDING.

ALRIGHT. HAS ANY MEMBER OF THE JURY PANEL EVER BEEN A MEMBER OF OR A PARTICIPANT IN A SUPPORT GROUP FOR SEXUAL ASSAULT? IF SO, PLEASE STAND.

(No one stands.)

THE COURT: ALRIGHT, NO ONE IS STANDING.

IS ANY MEMBER OF THE JURY PANEL, A MEMBER OF YOUR FAMILY OR A CLOSE PERSONAL FRIEND EVER BEEN THE VICTIM

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1 OF ANY -- WELL, I'M GOING TO SAY SERIOUS CRIME, ANY
2 SERIOUS CRIME, I'M NOT TALKING ABOUT PETTY LARCENY OR
3 SOMETHING LIKE THAT, I'M NOT TALKING ABOUT SHOP
4 LIFTING. OKAY? BUT IF YOU OR A MEMBER OF YOUR FAMILY
5 OR CLOSE PERSONAL FRIEND HAS EVER BEEN THE VICTIM OF A
6 SERIOUS CRIME, IF YOU WOULD PLEASE STAND.

7 (No one stands.)

8 THE COURT: ALRIGHT, NO ONE IS STANDING.

9 IS ANY MEMBER OF THE JURY PANEL, A MEMBER OF YOUR
10 FAMILY OR A CLOSE PERSONAL FRIEND A MEMBER OF SADD,
11 MADD, CAVE OR OTHER SIMILAR TYPE ORGANIZATIONS WHICH
12 HAS THE GOAL OF THE PROMOTION OF LAW ENFORCEMENT?
13 ANYBODY IN THAT SITUATION, IF YOU'D PLEASE STAND.

14 (No one stands.)

15 THE COURT: ALRIGHT, NO ONE IS STANDING. THANK
16 YOU.

17 HAS ANY MEMBER OF THE JURY PANEL EVER RECEIVED
18 ASSISTANCE FROM THE VICTIM'S ADVOCACY PROGRAM? IF SO,
19 PLEASE STAND.

20 (No one stands.)

21 THE COURT: ALRIGHT, NO ONE IS STANDING.

22 HAS ANY MEMBER OF THE JURY PANEL EVER SAT ON A
23 JURY BEFORE? IF SO, PLEASE STAND.

24 (Several jurors stand.)

25 THE COURT: ALRIGHT, GOOD, WE'VE GOT SOME

1 POTENTIAL JURORS HERE. GOOD. IT MIGHT MAKE IT A LOT
 2 EASIER FOR ME. ALRIGHT, THE ONLY THING I NEED TO
 3 KNOW, I JUST NEED TO MAKE SURE I'VE GOT YOUR NAME.
 4 OKAY, MS. BOCHETTE, YOU HAVE SAT ON A JURY BEFORE,
 5 YOU'RE NUMBER ELEVEN?

6 JUROR BOCHETTE: YES, SIR.

7 THE COURT: OKAY. THE GENTLEMAN -- YOU CAN SIT
 8 DOWN. THE GENTLEMAN IN THE ORANGE SHIRT?

9 JUROR MALVOISIN: SETH MALVOISIN.

10 THE COURT: OKAY, MR. MALVOISIN. OKAY. THANK
 11 YOU, SIR.

12 IN THE GRAY SHIRT AGAIN?

13 JUROR HILLS: TRACY HILLS.

14 THE COURT: OKAY, MR. HILLS, THANK YOU, SIR.

15 JUROR DANTZLER: THOMAS DANTZLER.

16 THE COURT: OKAY, MR. DANTZLER, THANK YOU.
 17 MA'AM?

18 JUROR BLOODWORTH: CINDY BLOODWORTH.

19 THE COURT: CINDY BLOODWORTH. OKAY, NUMBER NINE.
 20 YES, MA'AM, THANK YOU, MA'AM.

21 YES, SIR, YOUR NAME?

22 JUROR COCKE: MICHAEL COCKE.

23 THE COURT: OKAY, MR. COCKE, THANK YOU, SIR.
 24 OKAY, YES, SIR?

25 JUROR HAYWARD: SINDAY HAYWARD.

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1 THE COURT: OKAY, MR. HAYWARD, THANK YOU, SIR.

2 JUROR JENKINS: GARY JENKINS.

3 THE COURT: ALRIGHT, SIR, LET'S SEE. YES, SIR,
4 MR. JENKINS, THANK YOU, SIR.

5 YES, MA'AM?

6 JUROR DIXON: WILLIE M. DIXON.

7 THE COURT: I SHOULD BE ABLE TO REMEMBER DIXON,
8 SHOULD'N'T I? OKAY, THANK YOU, MA'AM.

9 YES, MA'AM, YOUR NAME?

10 JUROR FUNCHESS: LEOLA FUNCHESS.

11 TH COURT: OKAY, MS. FUNCHESS, THANK YOU, MA'AM.

12 JUROR COBBS: LINDA COBBS.

13 THE COURT: OKAY, MS. COBBS, THANK YOU.

14 AND YES, MA'AM?

15 JUROR SHIVERS: TABITHA SHIVERS.

16 THE COURT: OKAY, THANK Y'ALL. THANK Y'ALL.

17 ALRIGHT. ANY MEMBER OF THE JURY PANEL HAVE ANY
18 PROBLEM SITTING AS AN IMPARTIAL JUROR IN THIS MATTER
19 AND BEING ABLE TO REACH A VERDICT IN THIS, PASS
20 JUDGEMENT ON ANOTHER PERSON IN THIS TYPE SITUATION?
21 ANY MEMBER OF THE JURY PANEL HAVE ANY PROBLEMS PASSING
22 JUDGEMENT AS A JUROR IN THIS MATTER? IF SO, PLEASE
23 STAND.

24 (Juror stands.)

25 THE COURT: YES, SIR, YOUR NAME?

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JUROR STANTON: BROOKS STANTON.

THE COURT: OKAY. MR. STANTON, AFTER YOU DID ALL THAT GOOD ADVERTISING? MR. STANTON, YOU'RE TELLING THE COURT YOU WOULD HAVE TROUBLE BEING AN IMPARTIAL JUROR AND PASSING JUDGEMENT IN A CASE LIKE THIS?

JUROR STANTON: YES, BASED ON SPIRITUAL CONVICTIONS, YOUR HONOR. I DON'T HAVE THE HEART TO DO THAT.

THE COURT: ALRIGHT, SIR, MR. STANTON, I'LL EXCUSE YOU.

JUROR STANTON: THANK YOU.

THE COURT: THANK YOU, SIR.

ALRIGHT, ANYTHING FURTHER FROM THE STATE?

SOLICITOR JUSTIS: NOTHING FROM THE STATE, YOUR HONOR.

THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

MR. CHISOLM: NOTHING FROM DEFENSE, YOUR HONOR.

THE COURT: OKAY. ALRIGHT, LADIES AND GENTLEMEN, WHAT WE'RE GOING TO DO RIGHT NOW IS, WE'RE PUTTING YOUR NAMES INTO THE COMPUTER, AND IT'S GOING TO COME UP WITH A LIST OF POSSIBLE JURORS, AND IT WILL BE IN A DIFFERENT ORDER THAN THE ORDER THAT YOU HAVE. OKAY? YOU WILL BE ASSIGNED A NEW NUMBER. OKAY? AFTER THE COMPUTER HAS PUT EVERYTHING ON THE LIST THEY WILL GIVE ME THE LIST. THE CLERK'S OFFICE WILL HAVE IT. WE

1 WILL THEN CALL, EACH ONE OF Y'ALL WILL BE ASKED TO
2 COME FORWARD AS YOUR NAME IS CALLED. YOU WILL COME
3 AND STAND HERE AT THE PODIUM, TURN AND FACE THE
4 ATTORNEYS, AND THEN THEY WILL DECIDE WHETHER THEY WANT
5 TO SEAT YOU OR EXCUSE YOU AS A JUROR IN THIS TRIAL.
6 IT'S GOING TO TAKE A FEW MINUTES FOR US TO GET
7 EVERYTHING IN ORDER. I KNOW Y'ALL HAVE BEEN SITTING
8 HERE FOR ONLY ABOUT THIRTY, WELL, Y'ALL HAVE BEEN
9 SITTING HERE FOR ABOUT FORTY-FIVE MINUTES. WHAT I'M
10 GOING TO DO IS, IF ANYBODY WANTS TO STRETCH THEIR
11 LEGS, GO TO THE RESTROOM, ANYTHING LIKE THAT, I WILL
12 GIVE YOU TEN MINUTES TO DO THAT. OKAY? BUT THEN YOU
13 NEED TO BE BACK IN HERE AT TEN TIL SO WE CAN PICK THE
14 JURY. OKAY? SO, YOU'VE GOT TEN MINUTES IF YOU NEED
15 TO STRETCH OR GO TO THE RESTROOM OR ANYTHING LIKE
16 THAT. THANK YOU.

17 (Recess)

18 (Whereupon, the following
19 takes place out of the hearing
20 of the jury panel.)

21 THE COURT: JUROR NUMBER THIRTY, MR. COCKE,
22 MICHAEL COCKE, CAME FORWARD. HE SAID THAT HE IS A
23 FRIEND MR. CLARIDAY'S FAMILY. HE HAS ALSO WORKED AT
24 THE SAME COMPANY WITH MR. DINGLE. OKAY? HE HAS
25 STATED TO ME THAT EVEN THOUGH HE KNOWS THOSE PEOPLE,

1 THAT HE BELIEVES HE COULD BE A FAIR AND IMPARTIAL
2 JUROR. I JUST WANTED TO MAKE Y'ALL BOTH AWARE OF
3 THAT. OKAY? OKAY, THANK YOU.

4 OKAY. IS THE STATE READY TO PROCEED?

5 SOLICITOR JUSTIS: THE STATE IS, YOUR HONOR.

6 THE COURT: OKAY, IS THE DEFENSE READY TO
7 PROCEED?

8 MR. CHISOLM: WE'RE READY.

9 THE COURT: OKAY. ALRIGHT. ALL THE JURORS, IF
10 YOU'D GET THEM BACK IN HERE, PLEASE.

11 (Whereupon, the following
12 takes place in the presence
13 of the jury venire.)

14 THE COURT: LADIES AND GENTLEMEN, AS WE CALL YOUR
15 NAME, AGAIN I WILL ASK YOU TO COME FORWARD, GET TO THE
16 PODIUM UP HERE AND TURN AND FACE THE ATTORNEYS, AND
17 THEN WE'LL FIND OUT WHETHER YOU GET PICKED FOR A JURY
18 OR NOT. THE EXCITING PART BEGINS.

19 ALRIGHT, MADAM CLERK, YES, MA'AM, IF YOU'D CALL
20 THE FIRST NAME, PLEASE.

21 CLERK: FRANK B. ESTES, IV.

22 THE COURT: AND BY THE WAY, IF YOU HAVE ANY BOOKS
23 OR MAGAZINES OR POCKETBOOKS OR ANYTHING LIKE THAT, IF
24 YOU WILL BRING THOSE WITH YOU WHEN YOU COME FORWARD.

25 ALRIGHT, MR. ESTES, IT'S GOING TO BE UP TO YOU TO

1 SHOW EVERYBODY HOW IT'S DONE.

2 JUROR ESTES: ALRIGHT.

3 THE COURT: ALRIGHT. YOU'RE DOING A GREAT JOB.

4 JUROR ESTES: THANK YOU.

5 THE COURT: YES, SIR. ALRIGHT, WHAT SAYS THE
6 STATE?

7 SOLICITOR JUSTIS: PLEASE PRESENT MR. ESTES.

8 MR. CHISOLM: EXCUSE THE JUROR, YOUR HONOR.

9 THE COURT: OKAY. ALRIGHT, MR. ESTES, YOU CAN
10 SIT BACK DOWN. THANK YOU, SIR.

11 CLERK: CYNTHIA M. BLOODWORTH.

12 THE COURT: WHAT SAYS THE STATE?

13 SOLICITOR JUSTIS: PLEASE PRESENT MS. BLOODWORTH.

14 MR. CHISOLM: PLEASE EXCUSE THE JUROR.

15 THE COURT: OKAY. MS. BLOODWORTH, YOU CAN SIT
16 BACK DOWN, PLEASE, MA'AM. THANK YOU.

17 CLERK: DEBORAH W. BOCHETTE.

18 THE COURT: WHAT SAYS THE STATE?

19 SOLICITOR JUSTIS: PLEASE PRESENT MS. BOCHETTE.

20 MR. CHISOLM: PLEASE EXCUSE THE JUROR.

21 THE COURT: THANK YOU, MS. BOCHETTE.

22 CLERK: TABITHA N. SHIVERS.

23 THE COURT: WHAT SAYS THE STATE?

24 SOLICITOR JUSTIS: PLEASE PRESENT MS. SHIVERS.

25 MR. CHISOLM: PLEASE EXCUSE THE JUROR.

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CLERK: JAMES L. PEEPLES.

THE COURT: WHAT SAYS STATE?

SOLICITOR JUSTIS: PLEASE PRESENT MR. PEEPLES.

MR. CHISOLM: PLEASE SEAT THE JUROR.

THE COURT: MR. PEEPLES, RIGHT UP HERE.

CONGRATULATIONS, YOU'RE NUMBER ONE.

ALRIGHT, CALL THE NEXT ONE.

CLERK: DEBORAH O. RUTLAND.

THE COURT: WHAT SAYS THE STATE?

SOLICITOR JUSTIS: PLEASE PRESENT MS. RUTLAND.

THE COURT: WHAT SAYS THE DEFENSE?

MR. CHISOLM: PLEASE SEAT THE JUROR.

THE COURT: ALRIGHT, MS. RUTLAND.

CLERK: TRACY HILLS.

THE COURT: WHAT SAYS THE STATE?

SOLICITOR JUSTIS: PLEASE PRESENT MR. HILLS.

MR. CHISOLM: PLEASE EXCUSE THE JUROR.

CLERK: GARY L. JENKINS.

THE COURT: WHAT SAYS THE STATE?

SOLICITOR JUSTIS: PLEASE PRESENT MR. JENKINS.

THE COURT: WHAT SAYS THE DEFENSE?

MR. CHISOLM: PLEASE SEAT THE JUROR.

CLERK: RAYFIELD S. BELL.

THE COURT: ALRIGHT, WHAT SAYS THE STATE?

SOLICITOR JUSTIS: PLEASE PRESENT MR. BELL.

1 THE COURT: WHAT SAYS THE DEFENSE?

2 MR. CHISOLM: PLEASE SEAT THE JUROR.

3 CLERK: ELIZABETH VOGT.

4 THE COURT: WHAT SAYS THE STATE?

5 SOLICITOR JUSTIS: PLEASE EXCUSE MS. VOGT.

6 THE COURT: OKAY. NEXT.

7 CLERK: MICHAEL J. COCKE.

8 THE COURT: WHAT SAYS THE STATE?

9 SOLICITOR JUSTIS: PLEASE PRESENT MR. COCKE.

10 THE COURT: WHAT SAYS THE DEFENSE?

11 MR. CHISOLM: I BEG THE COURT'S INDULGENCE.

12 PLEASE SEAT THE JUROR.

13 THE COURT: ALRIGHT, MR. COCKE, THANK YOU, SIR.

14 CLERK: LEOLA SMALLS FUNCHESS.

15 THE COURT: WHAT SAYS THE STATE?

16 SOLICITOR JUSTIS: PLEASE PRESENT MS. FUNCHESS.

17 THE COURT: WHAT SAYS THE DEFENSE?

18 MR. CHISOLM: PLEASE SEAT THE JUROR.

19 CLERK: SINDAY HAYWARD.

20 THE COURT: WHAT SAYS THE STATE?

21 SOLICITOR JUSTIS: PLEASE PRESENT MR. HAYWARD.

22 THE COURT: WHAT SAYS THE DEFENSE?

23 MR. CHISOLM: PLEASE SEAT THE JUROR.

24 THE COURT: ALRIGHT, MR. HAYWARD.

25 CLERK: RANDALL L. SMITH.

1 THE COURT: WHAT SAYS THE STATE?
2 SOLICITOR JUSTIS: PLEASE PRESENT MR. SMITH.
3 THE COURT: WHAT SAYS THE DEFENSE?
4 MR. CHISOLM: PLEASE SEAT THE JUROR.
5 CLERK: ROBERT L. CHARLEY.
6 THE COURT: WHAT SAYS THE STATE?
7 SOLICITOR JUSTIS: PLEASE EXCUSE MR. CHARLEY.
8 THE COURT: NEXT.
9 CLERK: SONYA D. SIMS.
10 THE COURT: WHAT SAYS THE STATE?
11 SOLICITOR JUSTIS: PLEASE PRESENT MS. SIMS.
12 THE COURT: WHAT SAYS THE DEFENSE?
13 MR. CHISOLM: PLEASE EXCUSE THE JUROR.
14 CLERK: TINESHA S. FOGLE.
15 THE COURT: WHAT SAYS THE DEFENSE, I MEAN, WHAT
16 SAYS THE STATE? EXCUSE ME.
17 SOLICITOR JUSTIS: PLEASE PRESENT MS. FOGLE.
18 MR. CHISOLM: PLEASE EXCUSE THE JUROR.
19 CLERK: DIANE G. MACK.
20 THE COURT: WHAT SAYS THE STATE?
21 SOLICITOR JUSTIS: PLEASE PRESENT MS. MACK.
22 THE COURT: WHAT SAYS THE DEFENSE?
23 MR. CHISOLM: PLEASE EXCUSE THE JUROR.
24 CLERK: SHARON P. SMOAK.
25 THE COURT: WHAT SAYS THE STATE?

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SOLICITOR JUSTIS: PLEASE PRESENT MS. SMOAK.

THE COURT: WHAT SAYS THE DEFENSE?

MR. CHISOLM: PLEASE SEAT THE JUROR.

THE COURT: ALRIGHT, WHO'S NEXT?

CLERK: LINDA R. COBBS.

THE COURT: WHAT HAPPENED - - -

CLERK: HE WAS EXCUSED.

THE COURT: OH, YEAH, THAT'S RIGHT. THANKS.

OKAY. SORRY. YES, MA'AM. ALRIGHT, WHAT SAYS THE
STATE?

SOLICITOR JUSTIS: PLEASE PRESENT MS. COBBS.

MR. CHISOLM: PLEASE EXCUSE THE JUROR.

THE COURT: ALRIGHT.

CLERK: RICHARD D. ELLIS.

THE COURT: WHAT SAYS THE STATE?

SOLICITOR JUSTIS: PLEASE PRESENT MR. ELLIS.

MR. CHISOLM: PLEASE SEAT MR. ELLIS.

CLERK: RALPH E. WILLIAMS.

THE COURT: WHAT SAYS THE STATE?

SOLICITOR JUSTIS: PLEASE EXCUSE MR. WILLIAMS.

THE COURT: THANK YOU, MR. WILLIAMS.

NEXT?

CLERK: JAI K. SINGH.

THE COURT: WHAT SAYS THE STATE?

SOLICITOR JUSTIS: PLEASE PRESENT MR. SINGH.

1 MR. CHISOLM: PLEASE SEAT THE JUROR.

2 THE COURT: WHAT SAYS THE DEFENSE? PARDON?

3 MR. CHISOLM: I SAID, PLEASE SEAT THE JUROR.

4 THE COURT: OKAY. THANK YOU.

5 ALRIGHT, NEXT.

6 CLERK: BRANDO S. DARBY.

7 THE COURT: WHAT SAYS THE STATE?

8 SOLICITOR JUSTIS: PLEASE PRESENT MR. DARBY.

9 THE COURT: WHAT SAYS THE DEFENSE?

10 MR. CHISOLM: PLEASE SEAT THE JUROR.

11 THE COURT: ALRIGHT. NOW, ACCORDING TO MY
12 CALCULATIONS THAT IS THE TWELVE JURORS. NOW WE'RE
13 GOING TO PICK THE FIRST ALTERNATE. OKAY.

14 CLERK: PHILIP G. GABLE.

15 THE COURT: WHAT SAYS THE STATE?

16 SOLICITOR JUSTIS: PLEASE PRESENT MR. GABLE.

17 MR. CHISOLM: PLEASE SEAT THE JUROR.

18 THE COURT: OKAY. THAT'S OUR FIRST ALTERNATE.

19 CLERK: ANTHONY B. CALDWELL.

20 THE COURT: WHAT SAYS THE STATE?

21 SOLICITOR JUSTIS: PLEASE PRESENT MR. CALDWELL.

22 MR. CHISOLM: PLEASE EXCUSE THE JUROR.

23 CLERK: WILLIE L. HANTON.

24 THE COURT: WHAT SAYS THE STATE?

25 SOLICITOR JUSTIS: PLEASE PRESENT MR. HANTON.

1 THE COURT: WHAT SAYS THE DEFENSE?

2 MR. CHISOLM: PLEASE SEAT THE JUROR.

3 THE COURT: ALRIGHT. THAT WOULD BE ALTERNATE
4 NUMBER TWO.

5 ALRIGHT.

6 MR. MELLARD: YOUR HONOR, MAY WE APPROACH REAL
7 QUICK?

8 THE COURT: SURE. Y'ALL COME ON UP.

9 (Whereupon, a bench conference
10 is had out of the hearing of
11 the jury and court reporter.)

12 THE COURT: WE'RE GOING TO PICK A THIRD
13 ALTERNATE, OKAY?

14 CLERK: KEVIN T. ELMORE.

15 THE COURT: WHAT SAYS THE STATE?

16 SOLICITOR JUSTIS: PLEASE EXCUSE MR. ELMORE.

17 THE COURT: ALRIGHT. NEXT?

18 CLERK: ROBIN L. GUNTER.

19 THE COURT: WHAT SAYS THE STATE?

20 SOLICITOR JUSTIS: PLEASE PRESENT MS. GUNTER.

21 THE COURT: WHAT SAYS THE DEFENSE?

22 MR. CHISOLM: PLEASE EXCUSE THE JUROR.

23 CLERK: SETH G. MALVOISIN.

24 THE COURT: WHAT SAYS THE STATE?

25 SOLICITOR JUSTIS: PLEASE PRESENT MR. MALVOISIN.

1 THE COURT: WHAT SAYS THE DEFENSE?

2 MR. CHISOLM: PLEASE SEAT THE JUROR.

3 THE COURT: ALRIGHT, THAT WOULD BE ALTERNATE
4 NUMBER THREE.

5 ALRIGHT. NOW, ANY ISSUES REGARDING JURY
6 SELECTION FROM THE STATE BEFORE WE PROCEED?

7 SOLICITOR JUSTIS: NOTHING FROM THE STATE, YOUR
8 HONOR.

9 THE COURT: ANY ISSUES REGARDING JURY SELECTION
10 FROM THE DEFENSE BEFORE WE PROCEED?

11 MR. CHISOLM: JUST THE ISSUE WE BROUGHT TO YOUR
12 ATTENTION AT SIDE BAR.

13 THE COURT: THAT'S THE REASON WE PICKED THE
14 THIRD ALTERNATE. WE'LL TAKE UP THAT IN A LITTLE BIT.
15 OKAY? NOTHING ELSE?

16 MR. CHISOLM: NO.

17 THE COURT: OKAY. NOW, I'M GOING TO EXCUSE THE
18 REMAINING JURY PANEL. OKAY?

19 ALRIGHT, LADIES AND GENTLEMEN THAT DID NOT GET
20 CHOSEN, I'M SORRY Y'ALL WILL NOT BE HERE. I KNOW Y'ALL
21 WOULD HAVE DONE A GREAT JOB BEING JURORS.

22 UNFORTUNATELY, THIS IS THE ONLY TRIAL WE'RE GOING TO
23 HAVE THIS WEEK SO I WON'T HAVE TO CALL Y'ALL BACK TO
24 SEE IF Y'ALL ANOTHER CHANCE TO SERVE ON A JURY LATER
25 ON THIS WEEK. Y'ALL ARE NOW FREE TO GO. I HOPE YOU

1 HAVE A WONDERFUL DAY. HAVE A WONDERFUL WEEK. BE
2 CAREFUL OUT THERE. THANK YOU.

3 ALRIGHT, LADIES AND GENTLEMEN, WE'RE GOING TO GET
4 READY AS SOON AS WE CAN, AS SOON AS I CAN GET THE
5 DOORS CLOSED. WHAT WE'RE GOING TO DO IS, WE'RE GOING
6 TO TAKE ABOUT A TEN MINUTE BREAK. I'VE GOT TO TAKE UP
7 ONE MATTER NOT INVOLVING THIS CASE BEFORE I CAN GET
8 Y'ALL BACK HERE TO START THE TRIAL. I'M GOING TO GET
9 THE BAILIFFS TO SHOW Y'ALL WHERE THE JURY ROOM IS,
10 BECAUSE WHAT'S GOING TO HAPPEN IS, WHEN Y'ALL COME IN
11 TOMORROW MORNING THAT'S WHERE YOU WILL REPORT FOR JURY
12 SERVICE. OKAY?

13 RIGHT NOW, AGAIN, YOU DO NOT KNOW ANYTHING ABOUT
14 THIS CASE, AND THIS IS SOMETHING I'M GOING TO REPEAT
15 OVER AND OVER, AND YOU'RE GOING TO GET TIRED OF
16 HEARING ME SAY IT, BUT FIRST OF ALL, YOU DON'T KNOW
17 ANYTHING ABOUT THIS CASE SO YOU CAN'T START TALKING
18 ABOUT HIS CASE. YOU CAN TALK ABOUT ANYTHING ELSE
19 AMONG YOURSELVES BUT YOU CANNOT TALK ABOUT ANYTHING
20 RELATED TO THIS CASE UNTIL I TELL YOU YOU CAN BEGIN
21 TALKING ABOUT THE CASE.

22 NOW, RIGHT NOW IT'S GOING TO TAKE ME ABOUT TEN
23 MINUTES. I'M GOING TO LET Y'ALL GO BACK INTO THE JURY
24 ROOM, I THINK Y'ALL MIGHT HAVE SOME DRINKS OR
25 SOMETHING LIKE THAT THAT THEY CAN HAVE. SO, IF YOU

1 WILL GO BACK IN THERE I'LL CALL Y'ALL BACK OUT IN
2 ABOUT TEN MINUTES, AND WE'LL GET STARTED IN THIS
3 TRIAL. OKAY? THANK Y'ALL VERY MUCH.

4 (Whereupon, the jury retires
5 to the jury room and the following
6 takes place out of the presence
7 of the jury.)

8 THE COURT: RIGHT NOW, LET'S JUST PLACE ON THE
9 RECORD WHAT'S GOING ON RIGHT NOW. I BELIEVE, MR.
10 MELLARD, YOUR CLIENT HAS ADVISED YOU THAT JUROR NUMBER
11 NINE, WELL, HER JUROR NUMBER IS ONE SIXTY-THREE?

12 MR. MELLARD: YES, SIR.

13 THE COURT: OKAY. MS. SHARON SMOAK IS A COUSIN
14 OF - - -

15 MR. MELLARD: ONE OF THE WITNESSES.

16 THE COURT: ONE OF THE WITNESSES, SAMANTHA BROWN,
17 - - -

18 MR. MELLARD: YES.

19 THE COURT: --- ACCORDING TO HIM?

20 MR. MELLARD: ACCORDING TO HIM.

21 THE COURT: OKAY. AND I HAVE BEEN TOLD BY THE
22 SOLICITOR'S OFFICE THAT MS. BROWN IS NOT GOING TO BE
23 CALLED AS A WITNESS.

24 SOLICITOR JUSTIS: THAT'S CORRECT, YOUR HONOR.

25 THE COURT: IS THAT CORRECT? NOW, THE -- I THINK

1 WHEN I WENT THROUGH THE NAMES OF CALLING OUT
2 EVERYBODY'S NAME AND LIKE THAT, I THINK WHAT YOU'RE
3 CONCERNED ABOUT IS THAT IF SHE IS A COUSIN LIKE THAT
4 SHE DID NOT STAND UP AND SAY ANYTHING?

5 MR. MELLARD: CORRECT.

6 THE COURT: OKAY.

7 MR. MELLARD: SHE DID NOT ACKNOWLEDGE THAT SHE
8 WAS RELATED BY THESE PEOPLE.

9 THE COURT: OKAY. AND WHAT -- ANY SUGGESTIONS OF
10 HOW YOU WANT ME TO HANDLE THIS?

11 MR. MELLARD: WHAT I WOULD SUGGEST IS THAT YOU
12 JUST QUESTION HER. IF SHE IS A RELATIVE AND SHE SAYS
13 SHE IS A RELATIVE THEN I THINK SHE NEEDS TO BE
14 EXCUSED.

15 THE COURT: EXCUSED?

16 MR. MELLARD: YES.

17 THE COURT: OKAY. ALRIGHT. AND THEN BE REPLACED
18 BY THE FIRST ALTERNATE?

19 MR. MELLARD: THAT'S FINE, YES, SIR.

20 THE COURT: WELL, I MEAN - - -

21 MR. MELLARD: YES, SIR, I'D SAY THAT THE
22 ALTERNATES GO IN THE ORDER IN WHICH THEY'RE PICKED.

23 THE COURT: RIGHT. OKAY. AND MR. JUSTIS, YOUR
24 POSITION, IF ANY?

25 SOLICITOR JUSTIS: THAT WOULD BE FINE, YOUR

1 HONOR, IF SHE IS A RELATIVE.

2 THE COURT: OKAY. DO YOU JUST WANT ME TO DO IT
3 AT THE END OF THE DAY, SINCE EVERYBODY IS GOING TO BE
4 SITTING HERE WATCHING, OR DO YOU WANT ME TO GO AHEAD
5 AND TRY AND DO IT RIGHT NOW?

6 MR. MELLARD: I WOULD JUST GET THIS ISSUE OUT OF
7 THE WAY AND JUST DO IT RIGHT NOW.

8 THE COURT: OKAY.

9 MR. MELLARD: AND LIKE I SAY, IT REALLY DOESN'T
10 HAVE TO BE ANYTHING FORMAL, YOU CAN JUST TALK TO HER.

11 THE COURT: ALRIGHT. OKAY. WHAT -- OKAY. YES,
12 WOULD YOU ASK MS. SMOAK TO COME IN HERE, PLEASE?
13 OKAY. AND WHAT I'M GOING TO DO IS, I'M GOING TO ASK
14 HER TO -- COULD YOU GET HER TO JUST COME BACK IN
15 CHAMBERS?

16 (Recess)

17 THE COURT: ALRIGHT, GENTLEMEN, I MET -- THE
18 CAUSE OF THE CONCERN EXPRESSED, I MET WITH JUROR
19 NUMBER ONE SIXTY-THREE, SHARON SMOAK. MS. SMOAK
20 ADVISED ME THAT SAMANTHA BROWN WOULD HAVE BEEN HER
21 STEP FATHER'S NIECE'S CHILDREN. SO, SHE DID NOT, YOU
22 KNOW, SHE KNOWS WHO THEY ARE, DOESN'T HAVE ANY REAL
23 CONNECTION WITH THEM. SHE AGAIN REITERATED SHE
24 THOUGHT SHE COULD BE A FAIR AND IMPARTIAL JUROR. SO,
25 I'M GOING TO ALLOW HER TO STAY ON THE JURY. IF YOU

1 HAVE ANY OBJECTIONS TO THAT - - -

2 MR. MELLARD: I DO HAVE AN OBJECTION, YOUR HONOR.

3 THE COURT: OKAY.

4 MR. MELLARD: AND THE OBJECTION IS SIMPLY THAT
5 YOU ASKED WAS SHE RELATED BY BLOOD OR MARRIAGE TO ANY
6 OF THESE, THE POTENTIAL WITNESSES IN THIS CASE, AND
7 SHE ANSWERED NO, AND IN FACT, SHE IS. AND SO, IT IS
8 OUR POSITION SHE SHOULD BE EXCUSED BECAUSE OF THAT.

9 THE COURT: OKAY. ALRIGHT, THANK YOU, SIR.

10 ALRIGHT, ANYTHING ELSE BEFORE WE CALL THE JURY
11 BACK OUT?

12 MR. MELLARD: NO, YOUR HONOR. YOUR HONOR.

13 THE COURT: OKAY.

14 SOLICITOR JUSTIS: THERE'S ONE THING, I BELIEVE
15 THE WITNESSES WERE GOING TO BE SEQUESTERED. I BELIEVE
16 THAT SAMANTHA BROWN IS IN THE COURTROOM. AND I
17 BELIEVE WE ALSO STATED THAT WE WERE TAKING HER OFF OF
18 OUR WITNESS LIST.

19 THE COURT: SAMANTHA BROWN IS NOT GOING TO BE
20 CALLED AS A WITNESS.

21 SOLICITOR JUSTIS: I JUST WANTED TO MAKE SURE.

22 THE COURT: OKAY. NO OTHER WITNESSES?

23 SOLICITOR JUSTIS: NO, YOUR HONOR, THE OTHER ONES
24 THAT ARE ON THE WITNESS LIST ARE ALL OUTSIDE THE
25 COURTROOM WITH THE EXCEPTION OF THE VICTIM AND MY

1 INVESTIGATOR.

2 THE COURT: OKAY. ALRIGHT, ANYTHING ELSE MR.
3 MELLARD?

4 MR. MELLARD: NO, SIR.

5 THE COURT: OKAY. ALRIGHT, THANK YOU, SIR.
6 ALRIGHT, IF YOU'LL BRING THE JURY BACK IN. Y'ALL
7 ARE ALL READY? THE STATE'S READY?

8 SOLICITOR JUSTIS: THE STATE'S READY, YOUR HONOR.

9 THE COURT: IS DEFENSE READY?

10 MR. CHISOLM: YES.

11 THE COURT: OKAY.

12 (Whereupon, the jury enters
13 the courtroom and the following
14 takes place in the presence
15 of the jury.)

16 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, BEFORE
17 WE GET STARTED, BEFORE WE CAN -- THE FIRST THING I'VE
18 GOT TO DO IS GET Y'ALL SWORN IN AS JURORS. SO, IF
19 Y'ALL WOULD AGAIN STAND UP AND RAISE YOUR RIGHT HAND I
20 WOULD APPRECIATE IT.

21 DO YOU WANT TO SWEAR THEM? OKAY.

22 (Whereupon, the jury is
23 duly sworn and impaneled.)

24 THE COURT: ALRIGHT, IF YOU SAID, I DO, YOU CAN
25 SIT DOWN AGAIN. THANK Y'ALL.

1 ALRIGHT, LADIES AND GENTLEMEN, WE ARE GETTING
2 READY TO BEGIN THE CASE OF THE STATE OF SOUTH CAROLINA
3 VERSUS SAMUEL DINGLE. WHAT I'M GOING TO DO IS GIVE
4 Y'ALL AN INTRODUCTION TO THE TRIAL OF THIS CASE. IT
5 IS NOT A CHARGE ON THE LAW, I WILL NOT CHARGE YOU ON
6 THE LAW UNTIL THE END OF THE CASE. WHAT I'M SIMPLY
7 TRYING TO DO IS TO GIVE YOU AN IDEA OF WHAT TO EXPECT
8 DURING THIS TRIAL.

9 NOW, I NEED TO REMIND YOU THAT THE DEFENDANT HAS
10 BEEN INDICTED FOR THE CRIME OF CRIMINAL SEXUAL CONDUCT
11 WITH A MINOR IN THE SECOND DEGREE. THE INDICTMENT IS
12 SIMPLY A CHARGE BY WHICH THIS CASE IS BROUGHT INTO
13 COURT. IT IS NOT IN ANY SENSE OF THE WORD EVIDENCE OF
14 ANY OF THE ALLEGATIONS THAT IT CONTAINS. THE
15 DEFENDANT HAS PLED NOT GUILTY AND THE STATE HAS THE
16 BURDEN OF PROVING EACH OF THE ELEMENTS OF THE
17 INDICTMENT BEYOND A REASONABLE DOUBT, AND IT WILL BE
18 YOUR DUTY TO DECIDE WHETHER THE STATE HAS MET THAT
19 BURDEN.

20 YOUR JOB, YOUR DUTY AS JURORS IS TO FIND AND
21 DETERMINE THE FACTS. YOU ARE THE SOLE JUDGES OF THE
22 FACTS. IF AT ANYTIME DURING THIS TRIAL I MAKE
23 COMMENT REGARDING THE FACTS I AM ASKING YOU NOW TO
24 DISREGARD IT. YOU ARE TO DETERMINE THE FACTS IN THIS
25 CASE FROM THE TESTIMONY THAT YOU WILL HEAR FROM THE

1 WITNESS STAND AND ANY OTHER EVIDENCE THAT IS
2 INTRODUCED IN COURT. IT IS UP TO YOU TO DETERMINE THE
3 INFERENCES WHICH YOU FEEL MAY BE PROPERLY DRAWN FROM
4 THIS EVIDENCE. IT IS ESPECIALLY IMPORTANT THAT YOU
5 PERFORM YOUR DUTY OF DETERMINING THE FACTS DILIGENTLY
6 AND CONSCIENTIOUSLY BECAUSE ORDINARILY THERE'S NO WAY
7 TO CORRECT AN ERRONEOUS DETERMINATION OF THE FACTS BY
8 A JURY.

9 THE LAW THAT MAKES YOU THE JUDGES OF THE FACTS
10 MAKES ME THE JUDGE OF THE LAW. THE LAW AS I GIVE IT
11 TO YOU IS THE ONLY THAT YOU MAY CONSIDER. YOU MUST
12 ACCEPT AND FOLLOW IT EVEN THOUGH YOU DISAGREE WITH IT.
13 I CANNOT TELL YOU WHAT THE FACTS ARE, AND YOU CANNOT
14 DISAGREE WITH ME ABOUT WHAT THE LAW IS OR SHOULD BE.
15 YOUR DUTY IS TO TAKE THE LAW AS I GIVE IT TO YOU AND
16 APPLY IT TO THE FACTS AS YOU FIND THEM FROM THE
17 TESTIMONY OF THE WITNESSES AND ANY OTHER EVIDENCE THAT
18 IS INTRODUCED. AFTER DOING THAT YOU WILL RENDER YOUR
19 VERDICT, A TRUE AND JUST VERDICT ON THE SOLEMN OATH
20 THAT YOU JUST TOOK AS JURORS.

21 UNTIL I TELL YOU TO BEGIN YOUR DELIBERATION YOU
22 MUST NOT DISCUSS THIS CASE WITH ANYONE, INCLUDING YOUR
23 FELLOW JURORS. YOU CANNOT DISCUSS IT WITH FAMILY,
24 FRIENDS OR ANYONE INVOLVED IN THIS CASE.

25 NOW, AFTER THE CASE IS SUBMITTED TO YOU, YOU MUST

1 DISCUSS IT ONLY IN THE JURY ROOM AMONG YOUR FELLOW
2 JURORS. THE ATTORNEYS AND THE PARTIES IN THIS CASE
3 HAVE BEEN ADVISED THAT THEY ARE NOT TO TALK TO YOU AT
4 ALL. SO, IF YOU SEE ANYONE IN THE HALL OR ON THE
5 STREET HEADING INTO THE COURTROOM OR AROUND TOWN,
6 THEY'RE NOT BEING UNFRIENDLY, THEY CANNOT TALK TO YOU.

7 OKAY, DURING THE TRIAL I WANT TO REMIND YOU, DO
8 NOT READ, LISTEN TO OR WATCH ANY NEWS REPORTS ABOUT
9 THIS CASE. I DON'T ANTICIPATE THERE ARE GOING TO BE
10 ANY, BUT IF YOU HAPPEN TO OPEN THE NEWSPAPER AND YOU
11 SEE SOMETHING ABOUT THIS CASE, DO NOT READ IT. OKAY?
12 YOU WILL HEAR -- I DON'T ANTICIPATE THERE BEING --
13 THERE ARE NO CAMERAS IN THE COURTROOM TODAY SO I DON'T
14 ANTICIPATE WE'RE GOING TO HAVE ANY T.V. COVERAGE OR
15 ANY RADIO COVERAGE ABOUT THE CASE. SHOULD SOMETHING
16 LIKE THAT HAPPEN THOUGH, YOU ARE NOT TO WATCH ANY
17 REPORTS ON T.V.

18 ADDITIONALLY, YOU WILL PROBABLY HEAR TESTIMONY
19 ABOUT WHERE THE CASE, WHERE THIS HAPPENED OR WORDS TO
20 THAT EFFECT OR SOMETHING. YOU ARE NOT TO INVESTIGATE,
21 YOU ARE NOT TO GOOGLE ANYTHING, YOU ARE NOT TO GO ON
22 LINE AND CHECK PAST NEWS REPORTS ABOUT THIS OR
23 ANYTHING. EVERYTHING THAT YOU NEED TO DETERMINE, TO
24 COME A VERDICT IN THIS CASE, TO DETERMINE THE FACTS
25 AND COME TO A VERDICT YOU ARE GOING TO HEAR IN THIS

1 COURTROOM. THAT IS THE ONLY PLACE THAT YOU ARE TO GET
 2 ANY EVIDENCE. YOU ARE NOT SUPPOSED TO DO ANY
 3 INVESTIGATION, AND YOU MAY NOT TALK TO ANYBODY ABOUT
 4 THIS CASE OUTSIDE OF THE COURTROOM, OR EVEN IN THE
 5 COURTROOM, OR IN THE JURY ROOM UNTIL I TELL YOU THAT
 6 YOU CAN BEGIN YOUR DELIBERATIONS.

7 NOW, IT IS IMPORTANT THAT YOU KEEP AN OPEN MIND
 8 AND NOT DECIDE ANY EVIDENCE IN THIS CASE OR ANY ISSUES
 9 IN THIS CASE UNTIL ALL THE EVIDENCE HAS BEEN
 10 PRESENTED, THE PARTIES HAVE MADE THEIR CLOSING
 11 ARGUMENTS, AND I HAVE INSTRUCTED YOU ON THE LAW. IT
 12 IS YOUR SOLEMN RESPONSIBILITY TO DETERMINE THE GUILT
 13 OR INNOCENCE OF THIS DEFENDANT, AND YOUR VERDICT MUST
 14 BE BASED SOLELY ON THE EVIDENCE AS IT IS PRESENTED TO
 15 YOU IN THIS TRIAL AND ON THE LAW AS I INSTRUCT YOU
 16 DURING AND AT THE CLOSE OF THE TRIAL.

17 IN A MINUTE THE SOLICITOR WILL MAKE WHAT IS
 18 CALLED AN OPENING STATEMENT, AND IN THAT HE WILL
 19 EXPLAIN WHAT HE BELIEVES TO BE THE ISSUES IN THIS
 20 CASE. AFTER HE MAKES HIS OPENING STATEMENT THE
 21 ATTORNEY FOR THE DEFENDANT MAY ALSO MAKE AN OPENING
 22 STATEMENT ALTHOUGH HE IS NOT REQUIRED TO DO SO. WHAT
 23 THE ATTORNEYS TELL YOU DURING THEIR OPENING STATEMENTS
 24 IS NOT EVIDENCE IN THIS CASE, IT IS ONLY THEIR
 25 CONTENTION AS TO WHAT THEY BELIEVE THE ISSUES ARE IN

1 THIS CASE. THE EVIDENCE WILL BE PRESENTED TO YOU BY
2 TESTIMONY OF SWORN WITNESSES FROM THIS WITNESS STAND
3 RIGHT HERE. EVERYONE WILL COME UP, WILL BE SWORN IN,
4 THEY WILL BE ASKED QUESTIONS, AND THAT IS THE
5 TESTIMONY THAT YOU'RE GOING TO, YOU WILL HEAR IN THIS
6 CASE. ADDITIONALLY, THERE MAY BE SOME EXHIBITS THAT
7 ARE INTRODUCED INTO EVIDENCE.

8 FROM TIME TO TIME DURING THE TRIAL THERE MAY BE
9 SOME QUESTIONS OF LAW OR YOU MAY SEE THE ATTORNEYS
10 APPROACH THE BENCH AS THEY HAVE DONE SO WHILE WE WERE
11 GETTING READY TO PICK THE JURY. IN SOME OF THESE
12 SITUATIONS IT MIGHT BE NECESSARY FOR ME TO EXCUSE YOU
13 FROM THE COURTROOM FOR A SHORT WHILE, WHILE THE
14 ATTORNEYS AND I DISCUSS MATTERS OF LAW. THE REASON
15 FOR THIS IS BECAUSE SOMETIMES WHEN WE DISCUSS MATTERS
16 OF LAW WE MAY, OR I MAY HAVE TO MAKE SOME COMMENT AS
17 TO THE FACTS IN THE CASE, PARTICULARLY AS TO HOW THE
18 LAW APPLIES TO CERTAIN FACTS THAT, OR CERTAIN
19 TESTIMONY THAT HAS COME INTO EVIDENCE. SINCE I AM NOT
20 SUPPOSED TO TELL YOU WHAT TO THINK ABOUT THE FACTS I
21 WILL EXCUSE YOU FROM THE COURTROOM SO THAT THESE
22 DISCUSSIONS WILL IN NO WAY INFLUENCE YOU. AND AGAIN,
23 I WANT TO REITERATE, IF I SAY ANYTHING DURING THIS
24 TRIAL THAT MAKES YOU THINK I HAVE AN OPINION ABOUT THE
25 FACTS I WANT YOU TO DISREGARD IT. I DO NOT HAVE AN

1 OPINION ABOUT THE FACTS. THAT IS YOUR JOB. YOU HAVE
2 TO DETERMINE THE FACTS IN THIS CASE, NOT ME.

3 IN DETERMINING WHAT THE TRUE FACTS ARE IN THIS
4 CASE YOU MUST DECIDE WHETHER OR NOT THE TESTIMONY OF A
5 WITNESS IS BELIEVABLE. IT WILL BE MY RESPONSIBILITY
6 TO RULE AS A MATTER OF LAW AS TO WHETHER CERTAIN
7 TESTIMONY IS ADMISSIBLE, BUT ONCE THE TESTIMONY IS
8 ADMITTED, WHETHER OR NOT YOU BELIEVE IT IS SOLELY FOR
9 YOU TO DETERMINE.

10 IN DECIDING WHETHER TO BELIEVE A WITNESS YOU HAVE
11 THE RIGHT TO CONSIDER THE INTEREST OF ANY WITNESS, THE
12 BIAS OF ANY WITNESS, THE PREJUDICE OF ANY WITNESS, THE
13 OPPORTUNITY FOR THE WITNESS TO HAVE SEEN THE MATTERS
14 AND THINGS ABOUT WHICH THE WITNESS MAY TESTIFY, AND
15 THE WAY THE WITNESS ACTS ON THE WITNESS STAND. YOU
16 HAVE A RIGHT TO CONSIDER ANYTHING THAT IS IN THE
17 RECORD THAT WILL HELP YOU EVALUATE THE TESTIMONY OF
18 THE WITNESSES. THAT MEANS IT IS YOUR DUTY TO PAY
19 CLOSE ATTENTION TO THESE WITNESSES, TO OBSERVE THEM,
20 TO LISTEN TO THEM, AND PAY CLOSE ATTENTION TO THE
21 ATTORNEYS AND TO THE COURT. PLEASE GIVE STRICT
22 ATTENTION TO THE TESTIMONY IN THIS CASE SO THAT AT THE
23 END OF THE TESTIMONY, AFTER THE ARGUMENTS OF COUNSEL
24 AND AFTER I CHARGE YOU ON THE LAW YOU WILL THEN BE IN
25 A POSITION TO DETERMINE WHAT THE TRUE FACTS AND TO

1 APPLY THE LAW TO THOSE FACTS AND THUS RENDER A TRUE
2 AND JUST VERDICT.

3 NOW, WE'RE GETTING READY TO GET STARTED.

4 MR. JUSTICE, I BELIEVE YOU'RE GOING TO GIVE THE
5 OPENING STATEMENT? OH, MR. BELL, I'M SORRY. WHEN YOU
6 WERE POINTING I THOUGHT YOU WERE -- OKAY, EXCUSE ME.
7 MR. BELL IS GOING TO GIVE THE OPENING STATEMENT.

8 SOLICITOR BELL: THANK YOU, YOUR HONOR.

9 THE COURT: YES, SIR.

10 SOLICITOR BELL: MAY IT PLEASE THE COURT.

11 THE COURT: YES, SIR.

12 SOLICITOR BELL: MR. CHISOLM, MR. MELLARD.

13 OPENING STATEMENT BY SOLICITOR BELL

14 LADIES AND GENTLEMEN OF THE JURY, BACK BETWEEN
15 THE YEARS OF TWO THOUSAND AND TWO THOUSAND TWO, [REDACTED]
16 [REDACTED] WHO IS THE VICTIM IN THIS CASE, YOU SEE HER
17 HERE IN THE GREEN SHIRT, WAS THIRTEEN OR FOURTEEN
18 YEARS OLD. AND SHE SHOULD HAVE BEEN CONCERNED WITH
19 THOSE THINGS THAT TEENAGE GIRLS WORRY ABOUT AND
20 CONCERN THEMSELVES. HOWEVER, IN THIS CASE SHE WAS
21 BEING FORCED TO HAVE SEXUAL INTERCOURSE WITH THIS MAN,
22 HER STEP FATHER, SAMUEL DINGLE. IN FACT, IN TWO
23 THOUSAND ONE SHE BECAME PREGNANT, AND IN TWO THOUSAND
24 TWO, JULY OF TWO THOUSAND TWO, TWO MONTHS AFTER HER
25 FIFTEENTH BIRTHDAY SHE GAVE BIRTH TO A SON, [REDACTED]

1 WHO WAS THIS MAN'S SON. LADIES AND GENTLEMEN, THAT'S
 2 WHY WE'RE HERE TODAY. THIS MAN, SAMUEL DINGLE, HAS
 3 BEEN CHARGED WITH CRIMINAL SEXUAL CONDUCT WITH A MINOR
 4 IN THE SECOND DEGREE.

5 AS YOU HEARD, MY NAME IS HARRISON BELL, AND ALONG
 6 WITH GLENN JUSTIS WE REPRESENT THE STATE OF SOUTH
 7 CAROLINA. AND AS PART OF THAT IT IS OUR DUTY AND OUR
 8 PRIVILEGE TO BRING THIS CASE BEFORE Y'ALL. WE HAVE
 9 THE BURDEN OF PROOF IN THIS CASE, REPRESENTING THE
 10 STATE. WE MUST PROVE THE CASE BEYOND ALL REASONABLE
 11 DOUBT.

12 THE DEFENDANT HAS NO BURDEN. HE SITS INNOCENT
 13 THERE, AND HE'S INNOCENT UNTIL WE PROVE HIM GUILTY
 14 BEYOND ALL REASONABLE DOUBT. AND IN ORDER TO DO THAT
 15 WE MUST PROVE THE CHARGE AGAINST HIM AND THE ELEMENTS
 16 OF THAT CHARGE. SO I WANT TO JUST BRIEFLY GO OVER
 17 THOSE.

18 AS I SAID, HE WAS CHARGED WITH CRIMINAL SEXUAL
 19 CONDUCT WITH A MINOR IN THE SECOND DEGREE. THE STATE
 20 MUST PROVE THAT A SEXUAL OCCURRED. SEXUAL INTERCOURSE
 21 YOU WILL BE CHARGED LATER IS SEXUAL BATTERY. THAT THE
 22 VICTIM MUST BE ELEVEN TO FOURTEEN YEARS OF AGE. AND
 23 IN THIS CASE [REDACTED] WAS THIRTEEN OR FOURTEEN
 24 YEARS OF AGE WHEN THIS WAS GOING ON. AND THAT THE
 25 DEFENDANT IS AT LEAST EIGHTEEN YEARS OF AGE. AND HE

1 IS IN HIS FORTIES, PUSHING FIFTY AT THIS TIME. HE WAS
2 BACK IN HIS THIRTIES AND FORTIES BACK IN TWO THOUSAND,
3 TWO THOUSAND ONE, TWO THOUSAND TWO. WE MUST PROVE
4 EACH OF THOSE CHARGES BEYOND ALL REASONABLE DOUBT.

5 NOW, LADIES AND GENTLEMEN, I DON'T EXPECT THIS
6 TRIAL TO BE TERRIBLY LONG AS TRIALS GO. DON'T HOLD ME
7 TO IT, BUT HOPEFULLY WE MAY BE FINISHED TOMORROW
8 AFTERNOON OR THURSDAY MORNING AT THE LATEST, BUT
9 TRIALS SOMETIMES GO WEIRD AND THAT MAY CHANGE, SO
10 DON'T HOLD ME TO THAT TIME FRAME. BUT THAT'S WHAT I
11 EXPECT. BUT I WANT TO LET YOU KNOW, IT'S NO LESS
12 IMPORTANT BECAUSE IT'S A SHORT TRIAL. IT'S IMPORTANT
13 BECAUSE THE STATE'S HERE TO ENFORCE ITS LAW TO PROTECT
14 PEOPLE LIKE [REDACTED] IT'S IMPORTANT TO THE
15 DEFENDANT BECAUSE HIS LIBERTY IS AT STAKE.

16 NOW, WE WILL PRODUCE AND BRING TO YOU A NUMBER OF
17 WITNESSES. YOU WILL HEAR FROM [REDACTED] ABOUT WHAT
18 HAPPENED, WHAT WENT ON WITH HER AND HER STEP FATHER
19 DURING THAT PERIOD OF TIME. YOU WILL ALSO HEAR
20 TESTIMONY FROM LAW ENFORCEMENT WHO MET WITH HER. THEY
21 TOOK SAMPLES. THEY TOOK SAMPLES OF HER SALIVA, HER
22 SON'S SALIVA, AND OF THE DEFENDANT'S SALIVA, AND THEY
23 TOOK IT TO SLED WHERE IT WAS ANALYZED. AND AS I SAID,
24 HER SON IS THE DEFENDANT'S SON.

25 LADIES AND GENTLEMEN, ALL I CAN DO DURING THIS

1 CASE IS ASK YOU TO LISTEN CAREFULLY TO ALL THE
2 TESTIMONY THAT'S BROUGHT TO YOU UP HERE ON THIS
3 WITNESS STAND. OBSERVE ANY ITEMS OF EVIDENCE THAT ARE
4 PRESENTED IN THIS CASE.

5 YOU HEARD WHAT THE JUDGE SAID, YOU HAVE TAKEN AN
6 OATH TO FOLLOW THE LAW IN THIS CASE. WHAT HE SAYS
7 ABOUT THE LAW IS WHAT YOU MUST FOLLOW. IF YOU DON'T
8 LIKE THE LAW, IF YOU THINK IT'S WRONG, THAT CANNOT
9 ENTER INTO IT, BECAUSE THE LAW THAT HE GIVES YOU IS
10 THE LAW THAT YOU MUST FOLLOW.

11 AND YOU KNOW WHAT, YOU'RE HERE AND YOU'VE HEARD
12 FROM JUDGE DICKSON ALL DAY, AND YOU'RE GOING, AH, HE'S
13 THE JUDGE. BUT GUESS WHAT, LADIES AND GENTLEMEN, HE'S
14 NOT THE ONLY JUDGE IN THIS COURTROOM. HE IS THE JUDGE
15 OF THE LAW, BUT YOU, LADIES AND GENTLEMEN,
16 INDIVIDUALLY AND TOGETHER, ARE JUDGES, TOO. YOU ARE
17 THE SOLE JUDGES OF THE FACTS IN THIS CASE. AND IT'S
18 YOUR DUTY TO LISTEN TO THE TESTIMONY, OBSERVE ALL THE
19 EVIDENCE, LOOK AT THE EVIDENCE AND TRY TO FIND THE
20 FACTS OF THIS CASE. AND THAT'S WHAT YOU ARE, THE
21 JUDGE OF THE FACTS. AND AS HE SAID, YOU WILL TAKE
22 THOSE FACTS AT THE END OF THIS CASE, YOU WILL BE
23 CHARGE THE LAW, AND YOU WILL GO BACK TO YOUR JURY ROOM
24 AND APPLY THE FACTS TO THE LAW THAT YOU'VE BEEN
25 CHARGED, AND RENDER A VERDICT. AND A VERDICT MEANS TO

1 SPEAK THE TRUTH, AND THAT'S WHY WE'RE HERE, LADIES AND
2 GENTLEMEN, TO FIND OUT WHAT IS THE TRUTH.

3 AND YOU'RE PROBABLY ASKING YOURSELF, WELL, YOU
4 KNOW, PEOPLE GET UP ON THE STAND AND THEY TESTIFY, AND
5 YOU'RE GOING TO BE ASKED TO JUDGE THEIR CREDIBILITY.
6 AND CREDIBILITY MEANS BELIEVABILITY. DO YOU BELIEVE
7 THEM OR YOU DON'T? AND YOU'RE GOING, WELL, HOW DO I
8 DO THAT, HOW CAN I DO THAT? WELL, I CAN'T TELL YOU
9 HOW TO DO THAT, NOBODY CAN TELL YOU HOW TO DO THAT. I
10 CAN SUGGEST YOU DO LIKE YOU DO IN YOUR EVERYDAY LIFE,
11 WHEN YOU TALK TO FRIENDS OR FAMILY OR EVEN STRANGERS.
12 YOU LOOK AT THEM, YOU OBSERVE, YOU HEAR WHAT THEY SAY,
13 YOU APPLY YOUR OWN COMMON SENSE, YOUR OWN KNOWLEDGE,
14 AND YOU DETERMINE WHETHER THEY'RE TELLING YOU THE
15 TRUTH OR NOT, ARE THEY LYING OR NOT, OR BEING STRAIGHT
16 WITH YOU. YOU DO THE SAME THING HERE, LADIES AND
17 GENTLEMEN, YOU HAVEN'T CHANGED WHEN YOU CAME THROUGH
18 THAT DOOR.

19 NOW, AS I SAID, LADIES AND GENTLEMEN, ALL I CAN
20 DO IS TO ASK YOU TO LISTEN CAREFULLY TO ALL THE
21 TESTIMONY, OBSERVE THE EVIDENCE CAREFULLY, AND AT THE
22 END OF THIS TRIAL THE STATE WILL PRESENT MORE THAN
23 ENOUGH EVIDENCE FOR YOU TO FIND SAMUEL DINGLE GUILTY
24 OF CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE WITH A
25 MINOR.

1 THANK YOU.

2 THE COURT: THANK YOU, MR. BELL. ALRIGHT, MR.
3 CHISOLM.

4 MR. CHISOLM: MAY IT PLEASE THE COURT.

5 THE COURT: YES, SIR, THANK YOU, SIR.

6 OPENING STATEMENT BY MR. CHISOLM

7 GOOD AFTERNOON. MY NAME IS ASH CHISOLM. AS YOU
8 HEARD BEFORE, THIS IS DOUG MELLARD SITTING BESIDE ME.
9 WE REPRESENT MR. SAMUEL DINGLE, WHO'S SITTING AT THE
10 END OF THE TABLE THERE.

11 I'D LIKE TO START OUT BY THANKING Y'ALL FOR BEING
12 HERE. I KNOW FOR SOME OF YOU OR PROBABLY MORE OR LESS
13 MOST OF YOU THIS IS ABOUT THE LAST PLACE ON THE PLANET
14 YOU'D LIKE TO BE. SO, AGAIN, I THANK YOU FOR BEING
15 HERE, FOR YOUR SERVICE, AND I HOPE Y'ALL GET A LUNCH
16 IN.

17 NOW, YOU'VE HEARD THE SOLICITOR'S SHORT VERSION
18 OF FACTS ON THIS CASE. I WANT TO TELL YOU A LITTLE BIT
19 ABOUT MR. DINGLE'S SIDE, AND THEN WE'RE GOING TO JUMP
20 RIGHT IN TO THE TESTIMONY. I THINK YOU'LL BE PRETTY
21 RELIEVED TO HEAR THAT MY OPENING STATEMENT IS GOING TO
22 BE VERY BRIEF.

23 NOW, OBVIOUSLY, OUR PRESENCE HERE TODAY INDICATES
24 THAT MR. DINGLE HAS DECIDED TO PLEAD NOT GUILTY TO
25 THIS CHARGE. NOW, THIS ISN'T SURPRISING. SINCE DAY

1 ONE, SINCE THE FIRST TIME HE MET WITH THE POLICE, UP
2 UNTIL TODAY HE'S DENIED THIS CHARGE, THIS ACCUSATION
3 AGAINST HIM. NOW, ALL I'M GOING TO ASK, AS THE
4 SOLICITOR ASKED YOU, IS THAT YOU PAY CLOSE ATTENTION
5 TO EVERYTHING THAT YOU'RE GOING TO HEAR HERE TODAY.
6 KEEP AN OPEN MIND AND LISTEN TO WHAT YOU HEAR FROM THE
7 WITNESS STAND AS WELL AS WHAT YOU DON'T HEAR. AND
8 YOU'VE ALL GOT INGRAINED COMMON SENSE AND WISDOM,
9 YOU'LL BE ABLE TO TELL WHEN THERE'S INCONSISTENCIES
10 FROM THE STAND. SO, ALL I ASK IS THAT YOU PAY CLOSE
11 ATTENTION.

12 NOW, WHILE YOU'RE LISTENING TO EVERYTHING, JUST
13 KEEP IN MIND, MR. DINGLE, BY LAW, IS PRESUMED
14 INNOCENT. HE SITS THERE AN INNOCENT MAN. NOW, HIS
15 PRESENCE HERE IN THE COURTROOM ALONE MEANS ABSOLUTELY
16 NOTHING AS FAR AS HIS GUILT. JUST BECAUSE HE'S HERE
17 DOES NOT MEAN HE HAS DONE ANYTHING. SO, I WOULD JUST
18 ASK YOU TO KEEP THAT IN MIND.

19 NOW, THAT'S GOING TO STAY THE CASE, HE'LL BE
20 PRESUMED INNOCENT UNTIL AND UNLESS THE STATE CAN PROVE
21 HIM GUILTY BEYOND A REASONABLE DOUBT. NOW, YOU'VE
22 PROBABLY HEARD THAT PHRASE BEFORE, AND IT MIGHT BE
23 EASIER FOR ME TO EXPLAIN TO YOU WHAT IS NOT BEYOND A
24 REASONABLE DOUBT MORE SO THAN WHAT IS BEYOND A
25 REASONABLE DOUBT. BEYOND A REASONABLE DOUBT DOES NOT

1 MEAN THAT YOU WOULD FIND MR. DINGLE GUILTY IF AT THE
2 END OF THIS TRIAL YOU THINK HE COULD HAVE DONE WHAT
3 HE'S ACCUSED OF, OR THAT HE MIGHT HAVE DONE WHAT HE'S
4 ACCUSED OF, OR EVEN THAT HE PROBABLY DID WHAT HE'S
5 ACCUSED OF. THE ONLY WAY YOU SHOULD FIND MR. DINGLE
6 GUILTY IS IF YOU FIND THE STATE HAS PROVEN HIM GUILTY
7 BEYOND A REASONABLE DOUBT. IN SOME CASES CLOSE ENOUGH
8 IS GOOD ENOUGH; IN CRIMINAL LAW THAT'S DEFINITELY NOT
9 THE CASE.

10 NOW, AGAIN, I'D JUST ASK YOU TO PAY ATTENTION TO
11 EVERYTHING THAT YOU'RE GOING TO HEAR TODAY, AND I
12 THINK IF YOU LISTEN TO EVERYTHING FROM START TO FINISH
13 WITH AN OPEN MIND, BY THE CONCLUSION OF THIS TRIAL
14 YOU'RE GOING TO FEEL THAT THE STATE HAS NOT PROVEN
15 THEIR CASE BEYOND A REASONABLE DOUBT, AND FOR THAT
16 REASON WE'RE GOING TO ASK YOU TO RETURN A VERDICT OF
17 NOT GUILTY.

18 THANK YOU.

19 THE COURT: THANK YOU, MR. CHISOLM.

20 IS THE STATE READY TO CALL ITS FIRST WITNESS?

21 SOLICITOR JUSTIS: THE STATE IS, YOUR HONOR.

22 THE COURT: OKAY. IF YOU'D CALL YOUR FIRST
23 WITNESS, PLEASE, SIR.

24 SOLICITOR JUSTIS: THE STATE CALLS [REDACTED]
25 PLACE YOUR HAND ON THE BIBLE.

1 (Whereupon, [REDACTED]
2 is duly sworn.)

3 THE COURT: THANK YOU, MA'AM. YOU CAN BE SEATED
4 AND GET COMFORTABLE, PLEASE, MA'AM.

5 CLERK: WOULD YOU STATE YOUR NAME FOR THE RECORD,
6 PLEASE?

7 WITNESS: ALRIGHT. [REDACTED]

8 (NOTE: Blank lines on this page do not indicate any
9 part of record has been omitted. Headers on testimony
10 pages and hard page breaks between testimony are now
11 required by the Court. See next ensuing page for
12 sequential continuation of record.)

DIRECT - [REDACTED] BY SOL. JUSTIS

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DIRECT EXAMINATION OF [REDACTED]

BY SOLICITOR JUSTIS:

Q. MS. [REDACTED] WHERE DO YOU LIVE?

A. I LIVE IN COLUMBIA, SOUTH CAROLINA.

Q. AND WHO DO YOU LIVE WITH?

A. MY SISTER AND MY MOTHER.

Q. OKAY. AND WHO ELSE, IS THERE ANYONE ELSE THAT LIVES WITH YOU?

A. MY SON.

Q. YOUR SON?

A. YES, SIR.

Q. WHAT'S YOUR SON'S NAME?

A. [REDACTED]

Q. AND HOW OLD IS [REDACTED]

A. HE'S EIGHT.

Q. MAKE SURE YOU LIFT YOUR VOICE BECAUSE MS. HARRY DOT HAS TO HEAR EVERYTHING.

A. OKAY.

Q. AND WE WANT TO MAKE SURE THE JURY CAN HEAR YOU. YOU HAVE MICROPHONES, BUT THEY DON'T PICK UP BACK THERE, SO JUST, IF YOU NEED TO MOVE IT DOWN YOU CAN MOVE IT DOWN A LITTLE BIT. THERE YOU GO. AND YOU CAN MOVE YOUR SEAT CLOSER IF YOU'D LIKE.

THE COURT: DID YOU CHECK AND MAKE SURE THAT THING'S ON? ALRIGHT, THANK YOU, SIR.

DIRECT - [REDACTED] BY SOL. JUSTIS

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1 Q. JUST DO A LITTLE TESTING, TESTING AND SEE.

2 A. TESTING.

3 THE COURT: ALRIGHT, I THINK WE'RE PICKING IT UP.
4 YOU MIGHT WANT TO SIT A LITTLE CLOSER IF YOU DON'T
5 MIND.

6 Q. JUST TRY TO SPEAK UP BECAUSE WE WANT TO MAKE SURE
7 EVERYONE CAN HEAR YOU.

8 A. OKAY. ALRIGHT.

9 Q. AND WHEN WAS [REDACTED] BORN?

10 A. [REDACTED]

11 Q. OKAY. NOW, LET'S TURN YOUR ATTENTION TO THE
12 YEARS FROM TWO THOUSAND TO TWO THOUSAND AND TWO.
13 HOW OLD WERE YOU IN TWO THOUSAND?

14 A. THIRTEEN.

15 Q. AND WHERE DID YOU LIVE BACK IN TWO THOUSAND?

16 A. IN MACK'S TRAILER PARK.

17 Q. AND WHERE IS THAT LOCATED, IS THAT IN ORANGEBURG?

18 A. YES, SIR.

19 Q. AND WHO LIVED WITH YOU BACK THEN?

20 A. MY MOTHER, MY SISTER, MY BROTHER AND SAM.

21 Q. AND WHEN YOU SAY SAM, WHO ARE YOU TALKING ABOUT?

22 A. MY STEP FATHER.

23 Q. OKAY. AND HOW LONG, HOW LONG HAD YOU LIVED WITH
24 SAM AT THAT POINT?

25 A. MAYBE A YEAR.

DIRECT - [REDACTED] BY SOL. JUSTIS

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1 Q. OKAY. AND WHEN YOU WERE THIRTEEN DID YOU HAVE
2 ANY BOYFRIENDS?

3 A. NO, SIR.

4 Q. DID SAM DINGLE EVER TALK TO YOU ABOUT BOYS?

5 A. ONCE.

6 Q. COULD YOU TELL US ABOUT THAT?

7 A. HE SAID - - -

8 MR. MELLARD: YOUR HONOR, WE WOULD OBJECT TO
9 THAT. WE SPOKE ABOUT SOME CERTAIN GROUNDS, AND THIS
10 WOULD NOT BE RELEVANT TO WHAT THEY HAVE TO PROVE. SO,
11 IT WOULD BE MY CONTENTION THAT WHAT THEY SPOKE ABOUT
12 IS NOT RELEVANT HERE.

13 THE COURT: OKAY. I'M GOING TO OVERRULE YOUR
14 OBJECTION. I THINK WE'RE LIMITING WHAT HE'S ASKING,
15 BUT I DON'T KNOW EXACTLY WHERE HE'S GOING WITH IT, BUT
16 AT THIS POINT I'M GOING TO OVERRULE YOUR OBJECTION.

17 OKAY, GO AHEAD.

18 Q. WHEN WAS THE FIRST TIME SAM TALKED TO YOU ABOUT
19 BOYS, HOW OLD WERE YOU?

20 A. I WAS THIRTEEN.

21 Q. OKAY. AND DO YOU REMEMBER WHERE YOU HAD THIS
22 CONVERSATION WITH HIM?

23 A. YES, SIR.

24 Q. WHERE WAS IT?

25 A. IN HIS MOTHER'S BACK YARD.

DIRECT - [REDACTED] BY SOL. JUSTIS

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1 Q. OKAY. AND WHERE DOES HIS MOTHER LIVE?

2 A. IN BRANCHVILLE.

3 Q. AND IS THAT IN ORANGEBURG COUNTY?

4 A. YES, SIR.

5 Q. OKAY. AND WHAT DID HE TELL YOU ABOUT BOYS?

6 A. THAT IT WASN'T NO GOOD FOR ME AND THEY COULDN'T
7 BUY ME A FIFTY CENTS SODA.

8 Q. OKAY. DID HE SAY OR DO ANYTHING ELSE?

9 A. YES, SIR.

10 Q. WHAT DID HE DO?

11 A. HE GRABBED MY CHEST.

12 Q. WAS THAT ALL HE DID THAT DAY?

13 A. YES, SIR.

14 Q. DID HE DO ANYTHING ELSE LATER ON?

15 A. I DON'T UNDERSTAND WHAT YOU'RE SAYING. THAT DAY?

16 Q. DID HE EVER TALK TO YOU ABOUT BOYS AGAIN?

17 A. NO, SIR.

18 Q. OKAY. AFTER THIS INCIDENT AT YOUR GRANDMOTHER'S
19 HOUSE, DID MR. DINGLE EVER TOUCH YOU AGAIN?

20 A. YES, SIR.

21 Q. AND WHEN WAS THAT?

22 A. IT WAS THE SAME YEAR BUT I CAN'T REMEMBER THE
23 DATE.

24 Q. WAS IT A WEEK LATER, A MONTH LATER, HOW SOON?

25 A. MAYBE A WEEK LATER.

DIRECT - [REDACTED] BY SOL. JUSTIS

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- 1 Q. OKAY. AND WHAT HAPPENED?
- 2 A. WELL, WE - - -
- 3 Q. EXPLAIN TO ME A LITTLE BIT, WHERE WERE YOU?
- 4 A. WE WAS, I CAN'T REMEMBER WHERE WE WAS.
- 5 Q. WERE YOU IN A HOUSE, WERE YOU IN A CAR?
- 6 A. YES, SIR.
- 7 Q. WHICH?
- 8 A. YES, SIR, IN A CAR.
- 9 Q. OKAY. AND WERE YOU PARKED SOMEWHERE?
- 10 A. YES, SIR.
- 11 Q. DO YOU REMEMBER WHERE YOU WERE PARKED?
- 12 A. NO, SIR, I DON'T KNOW.
- 13 Q. WAS IT SOMEWHERE IN ORANGEBURG?
- 14 A. YES, SIR.
- 15 Q. WAS IT ON SOMEBODY'S PROPERTY, WAS IT A PUBLIC
- 16 PROPERTY?
- 17 A. IT WAS, MOST OF THE TIME IT WOULD BE OUT WHERE
- 18 NOBODY COULD SEE.
- 19 Q. AND YOU STATE, MOST OF THE TIME, HOW MANY TIMES
- 20 WOULD YOU SAY THAT YOU WERE ALONE WITH HIM, MORE
- 21 THAN TWICE?
- 22 A. YES, SIR.
- 23 Q. MORE THAN TEN TIMES?
- 24 A. YES, SIR.
- 25 Q. AND WHEN YOU WERE ALONE WITH HIM, WHAT WOULD

1 HAPPEN?

2 A. HE WOULD JUST, I DON'T KNOW, HE ALWAYS MADE ME
3 FEEL COMFORTABLE AROUND HIM, HE DID. HE WOULD
4 START MESSING WITH ME.

5 Q. AND WHEN YOU SAY, MESSING WITH YOU, WHAT KINDS OF
6 THINGS WOULD HE DO TO YOU?

7 A. HE WOULD TOUCH MY PRIVATE AREA.

8 Q. OKAY. AND WHAT WOULD HE TOUCH YOUR PRIVATE AREA
9 WITH?

10 A. HIS HAND AND HIS PRIVATE.

11 Q. DID YOU EVER HAVE TO TAKE YOUR CLOTHES OFF?

12 A. YES.

13 Q. WOULD HE TAKE HIS CLOTHES OFF?

14 A. YES.

15 Q. I KNOW THIS IS VERY TOUGH FOR YOU, BUT DID HE,
16 DID HE ASK YOU TO GO TO THESE PLACES, OR DID YOU
17 GO WITH HIM?

18 A. HE WOULD ALWAYS ASK ME.

19 Q. OKAY. NOW, WHEN YOU SAY HE WOULD ALWAYS ASK YOU,
20 HOW WOULD HE DO THAT?

21 A. HE WOULD PROBABLY, LIKE, GO TO THE STORE OR,
22 LIKE, THERE'S CERTAIN PLACES HE WOULD GO, OR HE
23 WOULD ALWAYS GO, SAY HE WOULD GO TO HIS MOM'S
24 HOUSE AND, LIKE, DETAIL CARS, BECAUSE I WAS
25 WORKING WITH HIM DETAILING CARS. AND HE WOULD

DIRECT - [REDACTED] BY SOL. JUSTIS

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1 JUST, YOU KNOW, LIKE, GIVE ME THE CAR, LIKE THAT.

2 Q. HE WOULD ASK YOU TO GO WITH HIM?

3 A. YES, SIR.

4 Q. WOULD THERE BE ANYBODY ELSE THAT WOULD GO WITH
5 YOU WHEN YOU WENT?

6 A. NO, SIR. SOMETIME WE WOULD GO TO HIS MOM'S
7 HOUSE, AND THEN LATER ON IN THE DAY OR SOMETHING
8 WE WOULD LEAVE.

9 Q. OKAY. SO, YOU WOULD GO WITH OTHER PEOPLE, OR A
10 BUNCH OF PEOPLE WOULD GO TO YOUR GRANDMOTHER'S
11 HOUSE?

12 A. YES, SIR, LIKE MY BROTHER AND MY SISTER AND MY
13 MOM WOULD GO VISIT HIS MOM, AND THEN LATER ON IN
14 THE DAY OR SO WE WOULD, ME AND SAM WOULD LEAVE,
15 AND LIKE, MAYBE GO TO THE STORE OR SOMETHING, AND
16 THAT'S HOW IT WOULD END UP HAPPENING.

17 Q. OKAY. AND WHEN YOU SAY THAT'S HOW IT WOULD END
18 UP HAPPENING, DID YOU EVER HAVE SEXUAL
19 INTERCOURSE WITH SAM?

20 A. YES.

21 Q. DID HE EVER WEAR A CONDOM?

22 A. ONCE.

23 Q. ONCE? HOW MANY TIMES WOULD YOU SAY YOU HAD
24 SEXUAL INTERCOURSE WITH SAM?

25 MR. MELLARD: YOUR HONOR, AT THIS POINT I WOULD

DIRECT - [REDACTED] BY SOL. JUSTIS

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1 RENEW THAT OBJECTION THAT I MADE PRIOR TO, AT
2 PRETRIAL.

3 THE COURT: OKAY. AND I NOTE YOUR OBJECTION.
4 AGAIN, I AM OVERRULING IT AND PRESERVING IT FOR THE
5 RECORD.

6 MR. MELLARD: COULD WE HAVE A CONTINUING
7 OBJECTION, YOUR HONOR?

8 THE COURT: YOU HAVE A CONTINUING OBJECTION ON
9 THE RECORD. OKAY, THANK YOU, SIR.

10 Q. MS. [REDACTED] HOW MANY TIMES, CAN YOU GIVE US SOME
11 ESTIMATE OF HOW MANY TIMES?

12 A. I THINK MORE THAN A HUNDRED.

13 COURT REPORTER: I'M SORRY, I DIDN'T UNDERSTAND
14 YOU.

15 SOLICITOR JUSTIS: I THINK SHE SAID, MORE THAN A
16 HUNDRED.

17 Q. YOU MENTIONED EARLIER THAT YOU HAVE A SON,
18 [REDACTED] AND WHEN WAS HE BORN?

19 A. [REDACTED]

20 Q. OKAY. AND WHEN WAS THE FIRST TIME YOU THOUGHT,
21 OR YOU REALIZED THAT YOU MIGHT BE PREGNANT?

22 A. WE WAS, IT WAS SNOWING AND WE WERE GOING DOWN THE
23 ROAD, AND HE STICK HIS FINGER IN MY PRIVATE AND
24 THAT'S WHEN HE TOLD ME, THAT'S WHAT HE TOLD ME.
25 AND THEN WHEN I WENT TO THE HOSPITAL MAYBE A

DIRECT - [REDACTED] BY SOL. JUSTIS

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1 COUPLE OF DAYS LATER THEY TOLD ME I WAS FIVE
2 MONTHS PREGNANT.

3 Q. OKAY. SO, YOU SAY YOU WERE DRIVING, RIDING DOWN
4 THE ROAD, AND WHO WAS WITH YOU?

5 A. SAM.

6 Q. WAS ANYONE ELSE IN THE CAR?

7 A. NO.

8 Q. AND YOU STATED THAT HE STUCK HIS FINGER IN YOU,
9 AND THEN WHAT DID HE SAY TO YOU?

10 A. YES, YOU'RE PREGNANT.

11 Q. DID HE SAY ANYTHING ELSE?

12 A. I DON'T REMEMBER.

13 Q. YOU ALSO STATED THAT A FEW DAYS LATER YOU WENT TO
14 THE DOCTOR. TELL THE JURY ABOUT, HOW DID THAT
15 COME ABOUT?

16 A. I WAS LAYING ON THE CHAIR AND MY OLDER SISTER
17 SAID, MAMA, [REDACTED] LOOK LIKE SHE'S PREGNANT. AND
18 MY MAMA SAID, COME HERE, [REDACTED] AND SHE TOLD ME
19 TO HOLD MY SHIRT UP. AND SHE SAID, LOOK AT THAT
20 LINING IN HER STOMACH.

21 MR. MELLARD: OBJECTION, YOUR HONOR.

22 THE COURT: ALRIGHT, HOLD ON.

23 MR. MELLARD: AND WE DISCUSSED THIS ALSO.

24 THE COURT: YEAH, NOW, YOU OBJECT TO THE HEARSAY
25 TESTIMONY. AND I AM GOING TO SUSTAIN THAT OBJECTION.

- 1 Q. SO, YOU WERE AT HOME?
- 2 A. YES.
- 3 Q. AND AS A RESULT OF THAT, YOU STATED YOU WENT TO
- 4 THE DOCTOR?
- 5 A. YES, SIR.
- 6 Q. NOW, WHEN YOU -- DID SAM GO WITH YOU TO THE
- 7 DOCTOR?
- 8 A. NO, SIR.
- 9 Q. DID SAM FIND OUT, OR DID SAM TALK TO YOU ABOUT
- 10 BEING PREGNANT WHEN YOU FOUND OUT FROM THE DOCTOR
- 11 YOU WERE PREGNANT?
- 12 A. YES, SIR.
- 13 Q. AND WHAT DID SAM SAY TO YOU?
- 14 A. YOU'RE GOING TO BE ALRIGHT. [REDACTED] GOING TO BE
- 15 TAKEN CARE OF.
- 16 Q. AND WHILE YOU WERE PREGNANT, DID SAM HAVE SEXUAL
- 17 INTERCOURSE WITH YOU?
- 18 A. YES.
- 19 Q. DID HE TELL YOU WHY HE WAS HAVING SEXUAL
- 20 INTERCOURSE WITH YOU WHILE YOU WERE PREGNANT?
- 21 A. YES.
- 22 Q. WHAT WAS HIS REASON?
- 23 A. IT WOULD HELP ME HAVE THE BABY EASY.
- 24 Q. WHEN YOU GAVE BIRTH TO [REDACTED] WAS SAM DINGLE
- 25 THERE AT THE HOSPITAL?

DIRECT - [REDACTED] BY SOL. JUSTIS

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- 1 A. AFTER I HAD HIM.
- 2 Q. WHEN DID YOU FINALLY TELL SOMEONE ABOUT SAM
- 3 DINGLE HAVING SEX WITH YOU?
- 4 A. TWO THOUSAND NINE, JULY TWENTY-THIRD.
- 5 Q. OKAY. AND WHO DID YOU TELL?
- 6 A. CHAKAYLA.
- 7 Q. AND WHO IS CHAKAYLA?
- 8 A. MY FRIEND FROM HIGH SCHOOL.
- 9 Q. DID YOU TELL ANYONE ELSE?
- 10 A. NO.
- 11 Q. OKAY. AFTER YOU TOLD CHAKAYLA, DID YOU EVER
- 12 CONTACT THE POLICE?
- 13 A. YES.
- 14 Q. AND DID YOU TELL THE POLICE WHAT HAPPENED?
- 15 A. YES.
- 16 Q. AND DID YOU HAVE AN OPPORTUNITY TO GIVE A WRITTEN
- 17 STATEMENT TO THE POLICE?
- 18 A. YES.
- 19 Q. DO YOU REMEMBER THE NAME OF THE OFFICER YOU MET
- 20 WITH?
- 21 A. MS. JENNIFER.
- 22 Q. AND IS THAT WHO YOU GAVE THE STATEMENT TO?
- 23 A. YES.
- 24 Q. DID YOU GIVE, DID YOU GIVE ANYTHING ELSE TO LAW
- 25 ENFORCEMENT, TO POLICE?

DIRECT - [REDACTED] BY SOL. JUSTIS

140

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A. YES.

Q. WHAT DID YOU GIVE THEM?

A. SHE SWABBED MY MOUTH.

Q. OKAY. NOW, [REDACTED] DO YOU SEE SAM IN THE
COURTROOM TODAY?

A. YES.

Q. COULD YOU POINT HIM OUT FOR THE JURY?

A. (Witness points towards defendant.)

SOLICITOR JUSTIS: PLEASE LET THE RECORD REFLECT
THAT THE WITNESS HAS IDENTIFIED THE DEFENDANT, SAM
DINGLE.

THE COURT: WE'LL NOTE THAT IN THE RECORD.

SOLICITOR JUSTIS: I BEG THE COURT'S INDULGENCE.

THE COURT: ALRIGHT.

Q. AND ONE FINAL QUESTION, MS. [REDACTED] WHAT'S YOUR
BIRTHDAY?

A. [REDACTED]

SOLICITOR JUSTIS: THANK YOU, NO FURTHER
QUESTIONS. PLEASE ANSWER ANY QUESTIONS THE DEFENSE
MIGHT HAVE.

THE COURT: MR. MELLARD, YOUR WITNESS.

(NOTE: Blank lines on this page do not indicate any
part of record has been omitted. Headers on testimony
pages and hard page breaks between testimony are now
required by the Court.)

CROSS - [REDACTED] BY MR. MELLARD

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1 CROSS-EXAMINATION OF [REDACTED]

2 BY MR. MELLARD:

3 Q. YOU SAID YOU SPOKE TO OFFICER COAXUM?

4 A. YES, MS. JENNIFER.

5 Q. JENNIFER COAXUM. DO YOU REMEMBER SPEAKING TO
6 OFFICER WALTON?

7 A. I CAN'T REMEMBER.

8 Q. DID YOU SPEAK TO ANY OTHER LAW ENFORCEMENT PEOPLE
9 BESIDE, BEFORE YOU SPOKE TO MS. COAXUM?

10 A. YEAH, BUT I CAN'T REMEMBER THEIR NAME.

11 Q. AND THE REASON I'M ASKING IS BECAUSE THE
12 SOLICITOR HAS SAID IN HIS OPENING ARGUMENT THAT
13 THIS SEX WAS FORCED. IT'S MY UNDERSTANDING YOU
14 TESTIFIED THAT Y'ALL HAD SEX MORE THAN A HUNDRED
15 TIMES, IS THAT CORRECT?

16 A. YES.

17 Q. AND HE WOULD ASK YOU TO GO PLACES WITH HIM?

18 A. YES.

19 Q. OKAY. AND YOU FELT, YOU WOULD MAKE YOU FEEL
20 COMFORTABLE, CORRECT?

21 A. YES.

22 Q. OKAY. I DON'T MEAN TO EMBARRASS YOU, BUT THIS
23 WAS NOT FORCED SEX, WAS IT?

24 A. YES.

25 Q. AND HOW WAS IT FORCED SEX, DID HE THREATEN YOU

1 WHEN YOU WERE IN THE CAR?

2 A. SOMETIMES.

3 Q. OKAY. BUT YOU WERE BASICALLY, WHAT YOU TESTIFIED
4 TO WAS THAT HE MADE YOU FEEL COMFORTABLE,
5 CORRECT?

6 A. YES.

7 Q. NOW, THE STATEMENT THAT YOU GAVE TO JENNIFER
8 COAXUM, - - -

9 A. YES.

10 Q. --- ALRIGHT, DO YOU REMEMBER GIVING HER THAT
11 STATEMENT?

12 A. YES.

13 Q. OKAY. AND DO YOU REMEMBER STATING IN THAT
14 STATEMENT THAT, I MADE UP MY MIND THAT SEX WAS
15 NOT SOMETHING THAT I WANTED TO DO SO I COMPLETELY
16 STOPPED?

17 A. YES.

18 Q. OKAY. SO, YOU HAD CONTROL OVER WHEN THE SEX
19 WOULD STOP?

20 A. YES.

21 Q. OKAY.

22 MR. MELLARD: ONE SECOND, YOUR HONOR.

23 THE COURT: OKAY.

24 Q. WHEN YOU SPOKE TO THE OTHER OFFICER - - -

25 A. UH-HUH.

CROSS - [REDACTED] BY MR. MELLARD

143

- 1 Q. --- OKAY, DO YOU REMEMBER THAT YOU TOLD THAT
2 OFFICER THAT THE SEX STOPPED WHEN YOU GOT
3 PREGNANT, DO YOU REMEMBER THAT?
4 A. IT STOPPED AFTER.
5 Q. IT STOPPED AFTER YOU GOT PREGNANT?
6 A. AFTER A COUPLE MORE TIMES.
7 Q. OKAY. SO, YOU DON'T REMEMBER TELLING OFFICER
8 WALTON THAT THE PREGNANCY, I MEAN, THAT THE SEX
9 STOPPED WHEN YOU GOT PREGNANT?
10 A. I DON'T REMEMBER BUT IT STOPPED AFTER.
11 Q. ALRIGHT.

12 MR. MELLARD: THAT'S ALL I HAVE.

13 THE COURT: OKAY. ANYTHING ON REDIRECT?

14 SOLICITOR JUSTIS: JUST A FEW, YOUR HONOR.

15 (NOTE: Blank lines on this page do not indicate any
16 part of record has been omitted. Headers on testimony
17 pages and hard page breaks between testimony are now
18 required by the Court. See next ensuing page for
19 sequential continuation of record.)

REDIRECT - [REDACTED] BY SOL. JUSTIS

144

1 REDIRECT EXAMINATION OF [REDACTED]

2 BY SOLICITOR JUSTIS:

3 Q. HOW DID, YOU STATED -- HOW DID SAM MAKE YOU FEEL
4 COMFORTABLE?

5 A. LIKE, HE WOULD, HE STARTED ME SMOKING AND
6 DRINKING. SO, LIKE, I COULDN'T SMOKE AROUND MY
7 MOM OR AT THE HOUSE. HE WOULD, LIKE, SAY, OKAY,
8 WELL, YOU CAN CALL ME AND I'LL GO BUY YOU A BEER,
9 I'LL BUY YOU SOME CGA -- WELL, HE WOULD HAVE
10 CIGARETTES OR IF HE DIDN'T HE WOULD GO BUY ME
11 SOME. AND HE WOULD HIDE THEM FOR ME, AND HE
12 WOULD JUST GIVE ME MONEY AND TAKE ME SHOPPING,
13 AND LIKE, BUY ME SNEAKERS, AND WELL, JUST
14 BASICALLY BUY ME ANYTHING I WANTED, AND MY MOM
15 WOULDN'T BUY ME, WELL, SHE WOULDN'T BUY ME --
16 WELL, SHE WOULD BUY ME STUFF, BUT, LIKE, HE WOULD
17 JUST TAKE ME PLACES WHERE I WOULD WANT TO GO AND
18 JUST BUY ME STUFF.

19 Q. SO, WOULD IT BE FAIR TO SAY THAT HE TREATED YOU
20 WELL?

21 A. YES, SIR.

22 Q. OTHER THAN - - -

23 SOLICITOR JUSTIS: NO FURTHER QUESTIONS.

24 THE COURT: THANK YOU, SIR. ANYTHING ON RECROSS?

25 MR. MELLARD: NO, SIR.

1 THE COURT: ALRIGHT, SIR.

2 YOU MAY STEP DOWN, MS. [REDACTED]

3 WITNESS: THANK YOU.

4 THE COURT: ALRIGHT. CALL YOUR NEXT WITNESS MR.
5 JUSTIS.

6 SOLICITOR JUSTIS: THE STATE CALLS [REDACTED]

7 MR. CHISOLM: YOUR HONOR, MAY WE APPROACH?

8 THE COURT: OKAY.

9 (Whereupon, a bench conference
10 is had out of the hearing of
11 the jury and court reporter.)

12 THE COURT: DID YOU CALL HIM IN?

13 SOLICITOR JUSTIS: [REDACTED]

14 THE COURT: OKAY. ALRIGHT.

15 (Whereupon, the witness
16 enters the courtroom.)

17 THE COURT: ARE YOU GOING TO OBJECT AFTER HE
18 GIVES HIS TESTIMONY ON THE RECORD, OR ARE WE GOING TO,
19 -- I MEAN, NOT ON THE RECORD, BUT I MEAN, BUT I'M
20 NOTING RIGHT NOW THAT WE'LL PUT YOUR OBJECTIONS ON
21 THE RECORD AFTER.

22 MR. CHISOLM: CORRECT.

23 THE COURT: OKAY. THANK YOU, SIR.

24 SOLICITOR JUSTIS: [REDACTED] PUT YOUR HAND RIGHT
HERE, RAISE YOUR OTHER HAND UP AND LOOK AT THAT LADY

1 RIGHT THERE AND JUST LISTEN TO HER.

2 (Whereupon, [REDACTED]
3 is duly sworn.)

4 THE COURT: YOU NEED TO SAY EITHER YES OR NO. DO
5 YOU SWEAR TO TELL THE TRUTH?

6 CLERK: SPEAK INTO THE MICROPHONE.

7 SOLICITOR JUSTIS: SAY EITHER YES OR NO, DO YOU
8 SWEAR TO TELL THE TRUTH?

9 WITNESS: YES.

10 COURT REPORTER: YOU NEED TO PUSH THAT DOWN A
11 LITTLE BIT, NOT SO FAR THAT IT WILL FALL OFF, BUT --
12 THAT SHOULD BE GOOD.

13 THE COURT: OKAY, YOU CAN PUT YOUR HAND DOWN.

14 SOLICITOR JUSTIS: ALRIGHT, YOU CAN PUT YOUR HAND
15 DOWN.

16 (NOTE: Blank lines on this page do not indicate any
17 part of record has been omitted. Headers on testimony
18 pages and hard page breaks between testimony are now
19 required by the Court. See next ensuing page for
20 sequential continuation of record.)

DIRECT - [REDACTED] BY SOL. JUSTIS

147

1 DIRECT EXAMINATION OF [REDACTED]

2 BY SOLICITOR JUSTIS:

3 Q. CAN YOU TELL US YOUR NAME?

4 A. [REDACTED]

5 Q. [REDACTED] AND WHAT'S YOUR LAST NAME?

6 A. [REDACTED]

7 Q. AND WHO IS YOUR MOM?

8 A. [REDACTED]

9 Q. AND DO YOU SEE HER IN THE COURTROOM HERE TODAY?

10 A. YES, MA'AM.

11 Q. COULD YOU POINT HER OUT TO US?

12 A. (Witness points toward [REDACTED])

13 Q. AND WHAT IS SHE WEARING, WHAT COLOR SHIRT?

14 A. GREEN.

15 Q. A GREEN SHIRT?

16 SOLICITOR JUSTIS: OKAY, THANK YOU.

17 NO FURTHER QUESTIONS.

18 THE COURT: OKAY. ANYTHING ON CROSS?

19 MR. CHISOLM: NOTHING FROM THE DEFENSE, YOUR
20 HONOR.

21 THE COURT: OKAY. THANK YOU, SIR, YOU MAY STEP
22 DOWN. I APPRECIATE IT.

23 MR. MELLARD: THAT'S SUBJECT TO OUR OBJECTIONS.

24 THE COURT: YES, SUBJECT TO YOUR OBJECTIONS, YES,
25 RIGHT.

1 THE COURT: DOES THE STATE HAVE ANOTHER WITNESS
2 THAT THEY'RE READY TO CALL?

3 SOLICITOR JUSTIS: ARE YOU READY?

4 THE COURT: YES, SIR.

5 SOLICITOR JUSTIS: THE STATE CALLS JENNIFER
6 COAXUM.

7 (Whereupon, Jennifer Coaxum
8 is duly sworn.)

9 CLERK: THANK YOU, PLEASE HAVE A SEAT AND STATE
10 YOUR NAME FOR THE RECORD.

11 WITNESS: JENNIFER COAXUM.

12 (NOTE: Blank lines on this page do not indicate any
13 part of record has been omitted. Headers on testimony
14 pages and hard page breaks between testimony are now
15 required by the Court. See next ensuing page for
16 sequential continuation of record.)

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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DIRECT EXAMINATION OF JENNIFER COAXUM

BY SOLICITOR JUSTIS:

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3 Q. INVESTIGATOR COAXUM, WERE YOU ASKED TO CONDUCT AN
4 INVESTIGATION REGARDING A CRIMINAL SEXUAL CONDUCT
5 ALLEGATION AGAINST MR. SAM DINGLE?

6 A. I WAS.

7 Q. AND DID YOU CONDUCT THAT INVESTIGATION?

8 A. I DID.

9 Q. ARE YOU PREPARED TODAY TO TELL US THE RESULTS OF
10 THAT INVESTIGATION?

11 A. YES.

12 Q. BEFORE WE DO LET'S LEARN A LITTLE BIT ABOUT YOU.
13 WHERE DO YOU WORK?

14 A. ORANGEBURG COUNTY SHERIFF'S OFFICE, SERGEANT IN
15 INVESTIGATIONS.

16 Q. AND HOW LONG HAVE YOU WORKED THERE?

17 A. TEN YEARS.

18 Q. AND WHAT DO YOU AS AN INVESTIGATION SERGEANT?

19 A. I'M RESPONSIBLE FOR EVERYBODY'S CASES BUT AT THE
20 SAME TIME I STILL HAVE MY OWN CASE LOAD THAT I
21 HAVE TO INVESTIGATE. DURING THE TIME OF THIS
22 INCIDENT I WAS CURRENTLY ASSIGNED TO INVESTIGATE
23 ALL CRIMINAL SEXUAL CONDUCT CASES AND CRIMES
24 AGAINST CHILDREN.

25 Q. AND ARE YOU MARRIED?

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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A. YES.

Q. AND DO YOU HAVE ANY CHILDREN?

A. ONE, AND ONE ON THE WAY.

Q. ALRIGHT, LET'S TALK ABOUT THE INVESTIGATION.

WHAT WAS THE FIRST THING YOU DID WHEN YOU WERE
ASSIGNED TO THE CASE?

A. I MET WITH THE VICTIM, MS. [REDACTED]

Q. OKAY. AND WHEN YOU MET WITH HER WHERE DID YOU
MEET WITH HER?

A. AT CID OFFICES.

Q. OKAY.

A. ON CHESTNUT.

Q. OKAY. AND WHEN YOU MET WITH HER, WHAT WAS HER
DEMEANOR?

A. WHEN SHE CAME IN SHE, YOU KNOW, SHE SAT DOWN AND
SHE TALKED WITH ME, BUT ONCE -- IT WAS VERY HARD
FOR [REDACTED] TO JUST OPEN UP AND EVEN TALK ABOUT THE
CASE. IT TOOK A WHILE, YOU KNOW, YOU JUST
COULDN'T RUSH IN AND JUST ASK HER QUESTIONS. YOU
KNOW, BETWEEN THE CRYING AND PAUSES THERE WERE
CERTAIN QUESTIONS THAT I HAD TO ASK HER THAT IT
TOOK HER A WHILE TO ANSWER. SO YOU HAD TO GIVE
HER AN OPPORTUNITY TO COMPOSE HERSELF, GET
HERSELF TOGETHER, BUT SHE WAS -- EVEN LATER IT
STILL BOTHERED YOU, YOU KNOW, THE SAME EMOTIONS

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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- 1 SHE HAD ON THE STAND WAS THE SAME EMOTIONS SHE
2 SHOWED WHEN SHE CAME TO MY OFFICE.
- 3 Q. ALRIGHT. DID SHE GIVE A WRITTEN STATEMENT THAT
4 DAY?
- 5 A. YES, SHE DID.
- 6 Q. AND BASED ON OUR MEETING WITH HER THAT DAY WERE
7 YOU ABLE TO DEVELOP A SUSPECT?
- 8 A. SHE WAS VERY, SHE HAD NO PROBLEM TELLING ME WHO
9 THE SUSPECT WAS.
- 10 Q. AND WHO WAS THAT PERSON?
- 11 A. THE DEFENDANT, MR. DINGLE.
- 12 Q. AND WAS THERE ANYTHING ELSE YOU DID THAT DAY? OR
13 WHAT WAS THE NEXT THING YOU DID IN YOUR
14 INVESTIGATION?
- 15 A. WE WERE ABLE TO GET MOUTH SWABES FROM HER AND
16 [REDACTED] AND THAT WAS JUST FOR A COMPARISON TO
17 SEND OFF. ONCE WE MET WITH MR. DINGLE WE SENT
18 HIS OFF AS WELL.
- 19 Q. OKAY. AND AFTER YOU GOT THOSE SWABES FROM THE
20 VICTIM AND HER SON DID YOU MAKE ANY ATTEMPT TO
21 MAKE CONTACT WITH MR. DINGLE?
- 22 A. SEVERAL ATTEMPTS WERE MADE BY MYSELF AND OTHER
23 INVESTIGATORS IN THE OFFICES FROM DIFFERENT
24 DIVISIONS, WHETHER IT WAS PATROL, INVESTIGATIONS,
25 TO TRY TO LOCATE HIM, AND ALL ATTEMPTS AT THAT

1 POINT WERE UNSUCCESSFUL.

2 Q. DID YOU HAVE AN ADDRESS FOR HIM?

3 A. YES, THE ADDRESS THAT WE HAD AT THAT TIME WAS, I
4 THINK IT WAS, IT'S [REDACTED] IN
5 BRANCHVILLE.

6 Q. OKAY. AND DID OFFICERS MAKE ATTEMPTS TO GO TO
7 THAT LOCATION?

8 A. YES.

9 Q. AND HOW LONG DID IT TAKE TO LOCATE THE DEFENDANT?

10 A. IT WAS MONTHS LATER, IT WASN'T IMMEDIATE.

11 Q. AND ON WHAT DATE DID YOU FINALLY GET TO MEET WITH
12 MR. DINGLE?

13 A. THE FIRST TIME I MET WITH MR. DINGLE WAS ON
14 AUGUST SEVENTEENTH OF TWO THOUSAND NINE.

15 Q. OKAY. AND WHERE DID YOU MEET WITH HIM?

16 A. AGAIN AT THE CID OFFICES ON CHESTNUT.

17 Q. OKAY. AND WHO WAS PRESENT DURING THAT
18 CONVERSATION?

19 A. MYSELF AND MR. DINGLE.

20 Q. DID, DID MR. DINGLE APPEAR UNDER THE INFLUENCE OR
21 ANY DRUGS OR ALCOHOL THAT DAY?

22 A. NO, HE DID NOT.

23 Q. AND YOU SAID IT WAS AT YOUR OFFICE, CAN YOU
24 DESCRIBE KIND OF THE SURROUNDINGS OF THE OFFICE A
25 LITTLE BIT?

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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- 1 A. INVESTIGATIVE OFFICES, WHEN YOU WALKED IN, COMING
2 IN THROUGH THE FRONT DOORS YOU HAVE, LIKE A
3 WAITING AREA WITH VICTIM'S ADVOCATES AND TRAINING
4 ROOM. COME THROUGH THE SECOND DOOR IS WHERE YOU
5 ACTUALLY HAVE CID OFFICES. IT'S AN OPEN ROOM
6 THAT'S DIVIDED BY CUBICLES. THE FIRST AREA IS
7 JUST LIKE A RECEPTION AREA WHERE THE
8 ADMINISTRATIVE STAFF IS THERE, SECRETARIES DOING
9 THEIR BUSINESS.
- 10 Q. RIGHT. AND DID YOU MEET WITH HIM IN LIKE A
11 LITTLE MEETING ROOM OR INTERVIEW ROOM?
- 12 A. WE HAVE TWO DIFFERENT ROOMS THAT WE COULD HAVE,
13 THAT WE TALK WITH INDIVIDUALS, AND ONE IS AN
14 ACTUAL INTERVIEW ROOM, AND THEN THE AREA WHERE
15 THE CUBICLES ARE. THAT'S LIKE YOUR LITTLE, YOUR
16 DESK AREA, MY AREA.
- 17 Q. RIGHT. AND WHEN YOU MET WITH HIM HOW LONG WAS HE
18 THERE FOR, WOULD YOU SAY?
- 19 A. MAYBE FORTY-FIVE MINUTES TO AN HOUR. IT WASN'T,
20 YOU KNOW, HOURS AND HOURS, IT WAS MAYBE AN HOUR
21 MAX.
- 22 Q. DID YOU DENY HIM THE USE OF A TELEPHONE?
- 23 A. NO.
- 24 Q. DID YOU DENY HIM ANY BATHROOM BREAKS?
- A. NO.

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Q. FOOD, WATER?

A. NO.

Q. WERE THERE ANY THREATS OR PROMISES MADE TO HIM
WHEN YOU MET WITH HIM?

A. NO.

Q. AT THAT TIME WAS HE UNDER ARREST FOR THIS CHARGE?

A. NO.

Q. WAS HE FREE TO END THE CONVERSATION AT ANYTIME?

A. YES.

Q. DID YOU ADVISE HIM THE NATURE OF THE
INVESTIGATION?

A. YES, ONCE I MET WITH HIM INITIALLY, GAVE HIM HIS
MIRANDA RIGHTS AND THEN TOLD HIM WHY I NEEDED TO
SPEAK WITH HIM, WHY, YOU KNOW, WHY I BROUGHT HIM
OVER, HE WAS BROUGHT OVER TO TALK WITH ME.

Q. AND WHEN YOU SAY YOU GAVE HIM HIS MIRANDA RIGHTS,
WOULD THAT BE HIS CONSTITUTIONAL RIGHTS?

A. YES.

Q. AND HOW DID YOU DO THAT, OR HOW WAS IT DONE?

A. WE HAVE A FORM THAT WE USE, JUST A MIRANDA FORM,
AND THAT'S WHAT WE WENT OVER WITH HIM, OR WHAT I
WENT OVER WITH HIM.

Q. INVESTIGATOR COAXUM, I'M SHOWING YOU WHAT'S BEEN
MARKED AS STATE'S EXHIBIT NUMBER ONE FOR
IDENTIFICATION PURPOSES. DO YOU RECOGNIZE THAT

1 DOCUMENT?

2 A. YES, I DO.

3 Q. WHAT IS THAT?

4 A. THE MIRANDA FORM THAT WE USED ON AUGUST
5 SEVENTEENTH.

6 Q. AND DOES THAT HAVE, EXPLAIN A LITTLE BIT WHAT'S
7 ON THAT FORM?

8 A. THE FORM IS BASICALLY BROKEN UP INTO TWO PARTS.
9 YOU HAVE YOUR TOP PART HERE THAT I'LL READ,
10 "THESE ARE YOUR RIGHTS. PLEASE READ CAREFULLY."
11 AND IT SAYS, "BEFORE WE ASK YOU ANY QUESTIONS YOU
12 MUST UNDERSTAND YOUR RIGHTS." AND THEN THERE'S A
13 SPACE BESIDE EACH, EACH SECTION IS NUMBERED, AND
14 WE ASK FOR HIM TO PUT HIS INITIALS THERE AFTER IT
15 IS READ TO HIM OR AFTER HE READS THEM, THAT HE
16 UNDERSTANDS. THE FIRST ONE WAS, "YOU HAVE THE
17 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE
18 USED AGAINST YOU." HE INITIALED. NUMBER TWO
19 WOULD BE, "YOU HAVE THE RIGHT TO TALK TO A LAWYER
20 FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO
21 HAVE HIM WITH YOU DURING QUESTIONING." AGAIN, HE
22 INITIALED. NUMBER THREE, "IF YOU CANNOT AFFORD A
23 LAWYER ONE WILL BE APPOINTED FOR YOU BEFORE ANY
24 QUESTIONING IF YOU WISH." HE INITIALED. "IF YOU
25 DECIDE TO ANSWER QUESTIONS WITHOUT A LAWYER

1 PRESENT YOU WILL STILL HAVE THE RIGHT TO STOP
2 ANSWERING AT ANYTIME." AGAIN, HE INITIALED. AND
3 NUMBER FIVE, WHICH HE INITIALED, "YOU ALSO HAVE
4 THE RIGHT TO STOP ANSWERING AT ANYTIME UNTIL YOU
5 TALK TO A LAWYER." AFTER THAT THE QUESTION IS
6 ASKED, "DO YOU UNDERSTAND YOUR RIGHTS?" HE
7 SIGNED THAT HE DID. THE BOTTOM PART IS CALLED OF
8 RIGHTS, AND BASICALLY, WHAT THAT IS SAYING IS, "I
9 HAVE READ THE STATEMENT OF MY RIGHTS AND I
10 UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO
11 MAKE A STATEMENT AND ANSWER QUESTIONS AT THIS
12 TIME. I DO NOT WANT A LAWYER AT THIS TIME. I
13 UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES
14 OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE
15 OR COERCION OF ANY KIND HAS BEEN USED AGAINST
16 ME." AND HE SIGNED AGAIN AND I SIGNED UNDER
17 THAT. SO, HE WAS ADVISED OF EVERYTHING AND HE
18 HAD THE OPPORTUNITY TO ASK QUESTIONS IF HE DID
19 NOT UNDERSTAND.

20 Q. THANK YOU.

21 SOLICITOR JUSTIS: AT THIS TIME, YOUR HONOR, THE
22 STATE WOULD OFFER STATE'S EXHIBIT NUMBER ONE INTO
23 EVIDENCE.

24 THE COURT: ANY OBJECTION?

25 MR. CHISOLM: NO OBJECTION, YOUR HONOR.

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THE COURT: ALRIGHT. IT IS IN EVIDENCE.

COURT REPORTER: STATE'S ONE.

THE COURT: STATE'S ONE.

(State's Exhibit One
marked and filed.)

Q. DID YOU ACTUALLY WITNESS HIM SIGNING THIS
DOCUMENT?

A. YES, HE WAS SITTING THERE, WE WERE TOGETHER.

Q. DID HE APPEAR TO HAVE ANY TROUBLE UNDERSTANDING
THOSE RIGHTS?

A. NO, HE DIDN'T.

Q. COULD HE READ?

A. HE SAID, YES.

Q. WAS HIS ANSWERS TO YOUR QUESTIONS RATIONAL?

A. THEY WERE.

Q. RESPONSIVE?

A. YES.

Q. AND WHEN YOU ASKED HIM IN HIS RIGHTS WHETHER HE
WANTED AN ATTORNEY DID HE SAY HE WANTED AN
ATTORNEY?

A. NO, HE SAID HE WANTED TO TALK WITH ME WITHOUT HIS
ATTORNEY BEING PRESENT AT THAT TIME.

Q. DID HE EVER LATER CHANGE HIS MIND AND ASK FOR AN
ATTORNEY?

A. NO.

1 Q. TO THE BEST OF YOUR KNOWLEDGE WAS HIS STATEMENT
2 FREELY AND VOLUNTARILY GIVEN?

3 A. YES, IT WAS.

4 Q. AND WAS THIS STATEMENT REDUCED TO WRITING?

5 A. YES.

6 Q. I'M SHOWING WHAT'S BEEN MARKED AS STATE'S EXHIBIT
7 NUMBER TWO. WOULD YOU TAKE A LOOK AT THAT. COULD
8 YOU TELL US WHAT THAT IS?

9 A. IS THE STATEMENT WRITTEN AGAIN ON AUGUST
10 SEVENTEENTH, TWO THOUSAND NINE, AT THE CID
11 OFFICES BY MYSELF. I WAS GIVEN PERMISSION BY MR.
12 DINGLE TO WRITE THE STATEMENT. AND THE REASON
13 FOR THAT WAS BECAUSE HE SAID HE HAD ISSUES, HE
14 WASN'T COMFORTABLE WITH WRITING AND SPELLING.

15 Q. OKAY. SO, YOU ACTUALLY WROTE THE STATEMENT FOR
16 HIM?

17 A. YES, I DID.

18 Q. DID, DID YOU HAVE AN OPPORTUNITY, OR DID HE HAVE
19 AN OPPORTUNITY TO READ THIS STATEMENT?

20 A. YES.

21 SOLICITOR JUSTIS: AT THIS TIME, YOUR HONOR, THE
22 STATE WOULD LIKE TO OFFER STATE'S EXHIBIT NUMBER TWO
23 INTO EVIDENCE.

24 THE COURT: ANY OBJECTION? SIR? NO OBJECTION?

25 MR. CHISOLM: NO OBJECTION.

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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1 THE COURT: OKAY. IT IS NOW IN EVIDENCE.

2 COURT REPORTER: STATE'S TWO.

3 (State's Exhibit Two
4 marked and filed.)

5 Q. NOW, I'M SHOWING YOU WHAT'S BEEN MARKED AS
6 STATE'S NUMBER TWO, THE STATEMENT. IS HIS
7 SIGNATURE ON THAT STATEMENT?

8 A. HIS SIGNATURE AND HIS INITIALS ARE ON ALL PAGES
9 OF THE STATEMENT, YES.

10 Q. OKAY. AND EXPLAIN A LITTLE BIT MORE HOW THAT
11 STATEMENT WAS WRITTEN?

12 A. WHEN YOU TAKE A STATEMENT IT'S BETTER IF YOU CAN
13 GET THEM TO WRITE THE STATEMENT, BUT IF YOU HAVE
14 AN INDIVIDUAL, FOR WHATEVER REASON THEY DON'T
15 FEEL COMFORTABLE WRITING IT OR EMOTIONALLY
16 DISTRAUGHT, YOU TAKE THE STATEMENT, BUT IT'S
17 GIVEN, YOU WRITE EXACTLY WHAT THEY SAY. YOU
18 KNOW, THERE'S NO DETERRING FROM WHAT THE SAY.
19 SO, YOU KNOW, IF THEY'RE TALKING YOU JUST HAVE TO
20 KEEP REMINDING HIM THAT AS YOU, YOU KNOW, I'M
21 WRITING AS YOU'RE TALKING, SO YOU CAN TALK A LOT
22 FASTER THAN I CAN WRITE. AND THAT IS EXACTLY
23 WHAT THE INDIVIDUAL GIVING THE STATEMENT SAYS.

24 Q. AND CAN YOU READ WHAT HIS STATEMENT SAYS, READ
25 HIS STATEMENT?

1 A. THE FIRST PART, IT SAYS, "I AM WRITING THIS
2 STATEMENT AT THE REQUEST OF MR. DINGLE. THIS IS
3 MY WRITING BUT THESE ARE HIS WORDS." THAT HOW I
4 STARTED THE STATEMENT OFF. THE OTHER PART, THE
5 ACTUAL STATEMENT READS, "HER MOTHER CAUGHT ME
6 HAVING SEX ONE TIME. I KNOW SHE WAS HAVING SEX
7 WHEN SHE WAS YOUNGER. WE BOTH CAUGHT HER IN
8 COMPROMISING POSITIONS. EVER SINCE THEN I JUST
9 TRIED TO PROTECT HER. EVERY TIME I JUMPED IN THE
10 CAR SHE WAS THERE. SHE ALWAYS WANTED TO BE BY
11 ME. I TREATED HER BETTER THAN I TREATED MY OWN
12 DAUGHTER." THE NEXT PART WAS ABOUT THE QUESTION
13 AND ANSWER. I WOULD ASK HIM QUESTIONS AND THEN
14 WAIT FOR HIM TO RESPOND. THE FIRST QUESTION WAS,
15 "HOW LONG WERE YOU AND [REDACTED] STAYING IN THE SAME
16 HOUSE?" AND HE SAID, "ABOUT FIVE YEARS. EVEN
17 WHEN WE WEREN'T TOGETHER SHE WOULD FIND ME. I
18 TOLD HER I WOULD ALWAYS BE THERE FOR [REDACTED]
19 THE SECOND QUESTION IS, "HOW DO YOU KNOW SHE WAS
20 PREGNANT?" AND HIS ANSWER WAS, "JUST BY THE WAY
21 SHE WAS ACTING." THE THIRD QUESTION WAS, "WHY DO
22 YOU THINK [REDACTED] -- WHO DO YOU THINK [REDACTED]
23 FATHER IS?" AND HIS ANSWER WAS, "SOME BOY FROM
24 BOWMAN, I FORGOT HIS NAME." THE NEXT QUESTION
25 WAS, "HAVE YOU EVER HAD SEX WITH [REDACTED] AND HE,

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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1 THE ANSWER WAS, "NO, I HAVEN'T." HE ENDED IT BY
2 SAYING, I'M NOT MAD WITH HER. I JUST DON'T
3 UNDERSTAND. I DON'T UNDERSTAND, ME AND [REDACTED]
4 NEVER HAD ANY PROBLEMS." AND THEN I JUST PUT A
5 LINE THROUGH AND HE INITIALED ABOVE AND BELOW THE
6 LINE ON THAT PAGE, AND THE SAME THING ON THE LAST
7 PAGE BEFORE SIGNING IT, AND I NOTARIZED IT.

8 Q. OKAY, THANK YOU. DID YOU HAVE AN OPPORTUNITY TO
9 ASK MR. DINGLE FOR A DNA SAMPLE?

10 A. YES, I DID.

11 Q. AND DID HE PROVIDE A DNA SAMPLE?

12 A. HE DID.

13 Q. PRIOR TO PROVIDING A DNA SAMPLE DID YOU GET A
14 WAIVER FROM HIM?

15 A. I DID.

16 Q. I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S
17 EXHIBIT NUMBER FOUR. DO YOU RECOGNIZE THAT?

18 A. YES, I DO.

19 Q. AND WHAT IS THAT?

20 A. THAT IS THE WAIVER THAT MR. DINGLE SIGNED ON
21 AUGUST SEVENTEEN, TWO THOUSAND NINE.

22 Q. AND WHAT IS THAT WAIVER FOR?

23 A. IT SAYS, "I, SAM DINGLE, DO HEREBY FREELY AND
24 VOLUNTARILY CONSENT TO GIVE A SAMPLE OF MY BLOOD,
25 HAIR, HEAD, PUBIC OR OTHER BODY HAIR, OR SALIVA

1 TO MEMBERS OF THE ORANGEBURG COUNTY SHERIFF'S
2 DEPARTMENT OR ANY AGENT ACTING ON THEIR BEHALF.
3 I HAVE NOT BEEN THREATENED, COERCED OR PROMISED
4 ANYTHING INTO GIVING A SAMPLE. I UNDERSTAND THAT
5 I HAVE THE RIGHT TO AN ATTORNEY TO ADVISE ME
6 CONCERNING THIS MATTER BUT CHOOSE TO GIVE THE
7 SAMPLE WITHOUT THE ADVICE OF AN ATTORNEY.
8 FURTHERMORE, I UNDERSTAND THAT THIS EVIDENCE MAY
9 BE USED AGAINST ME IN COURT."

10 Q. OKAY. AND DID YOU ACTUALLY COLLECT IT OR DID
11 SOMEONE ELSE COLLECT IT?

12 A. IF I'M NOT MISTAKEN I THINK LIEUTENANT CARTER
13 COLLECTED THE SAMPLE FROM SAM.

14 Q. AT THAT TIME IN YOUR INVESTIGATION DID YOU HAVE
15 ANYMORE CONVERSATIONS WITH MR. DINGLE?

16 A. AT THAT TIME, NO.

17 Q. OKAY. WAS THERE A TIME IN THE FUTURE WHEN YOU
18 DID HAVE ANOTHER CONVERSATION WITH MR. DINGLE?

19 A. I DID, AFTER GETTING HIS PERMISSION TO GET THE
20 DNA. HE WANTED TO BE ADVISED OF THE RESULTS, AND
21 I THOUGHT IT WAS ONLY FAIR. I TOLD HIM, I SAID,
22 ONCE WE GET THE RESULTS I WOULD LET YOU KNOW,
23 WHEREVER YOU ARE I WILL TRY TO CONTACT YOU AND
24 GIVE YOU THE RESULTS OF DNA. ON JANUARY EIGHTH,
25 TWO THOUSAND TEN, THE RESULTS HAD COME IN, AND

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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1 MYSELF AND ANOTHER INVESTIGATOR MET WITH HIM AND
2 ADVISED HIM OF THE RESULTS OF THE DNA TEST.

3 Q. OKAY. AND WHEN YOU MET WITH HIM ON THAT DAY WHO
4 WAS PRESENT DURING THAT MEETING?

5 A. MYSELF AND INVESTIGATOR ETHEREDGE.

6 Q. AND DID HE APPEAR UNDER THE INFLUENCE OF ANY
7 DRUGS OR ALCOHOL THAT DAY?

8 A. NO.

9 Q. AND WHEN YOU MET WITH HIM WAS HE DENIED ANY
10 BATHROOM BREAKS?

11 A. NO.

12 Q. FOOD?

13 A. NO.

14 Q. WATER?

15 A. NO.

16 Q. ANY OTHER COMFORTS?

17 A. NO, SIR.

18 Q. WERE THERE ANY PROMISES OR THREATS MADE TO HIM?

19 A. NO.

20 Q. WAS HE UNDER ARREST FOR THIS CHARGE AT THAT TIME?

21 A. NO.

22 Q. WAS HE FREE TO END THE CONVERSATION AT ANYTIME?

23 A. YES, HE WAS.

24 Q. AND DID YOU, DID YOU ADVISE HIM OF HIS
25 CONSTITUTIONAL RIGHTS PURSUANT TO MIRANDA - - -

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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1 A. YES, I DID.

2 Q. --- BEFORE QUESTIONING HIM? I'M SHOWING YOU
3 WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER
4 THREE. DO YOU RECOGNIZE THAT?

5 A. I DO, IT'S THE MIRANDA FORM THAT WE USED ON
6 JANUARY EIGHTH, TWO THOUSAND TEN.

7 Q. OKAY. AND IS THAT THE SAME TYPE OF MIRANDA FORM
8 YOU USED PREVIOUSLY?

9 A. SAME TYPE OF FORM, SAME VERBIAGE, EVERYTHING ON
10 IT'S THE SAME. JUST, ANYTIME I GO BACK TO TALK
11 WITH AN INDIVIDUAL, AN ALLEGED SUSPECT I GET
12 ANOTHER MIRANDA FORM JUST TO BE ON THE SAFE SIDE.

13 Q. AND YOU REVIEWED THOSE RIGHTS WITH HIM?

14 A. I DID.

15 Q. AND DID HE INITIAL?

16 A. HE INITIALED AND SIGNED ALONG WITH MY SIGNATURE
17 AND INVESTIGATOR ETHEREDGE'S SIGNATURE AS WELL.

18 SOLICITOR JUSTIS: YOUR HONOR, AT THIS TIME THE
19 STATE WOULD OFFER STATE'S EXHIBIT NUMBER THREE INTO
20 EVIDENCE.

21 THE COURT: ANY OBJECTION?

22 MR. CHISOLM: NO OBJECTION.

23 THE COURT: OKAY. STATE'S EXHIBIT NUMBER THREE
24 IS IN EVIDENCE.

25 COURT REPORTER: STATE'S THREE.

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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- 1 (State's Exhibit Three
2 marked and filed.)
- 3 Q. AND YOU SAW HIM SIGN THAT FORM?
4 A. YES.
- 5 Q. DID HE APPEAR TO HAVE ANY TROUBLE UNDERSTANDING
6 HIS RIGHTS?
7 A. NO.
- 8 Q. COULD HE STILL UNDERSTAND ENGLISH FROM THE LAST
9 TIME YOU MET WITH HIM?
10 A. YES.
- 11 Q. AND WERE HIS ANSWERS RATIONAL AND RESPONSIVE?
12 A. YES.
- 13 Q. AND DID ANYONE THREATEN OR COERCE HIM?
14 A. NO.
- 15 Q. WHEN YOU SPOKE TO THE DEFENDANT AND ADVISED HIM
16 OF THE RESULT OF THIS DNA TEST, DID THE DEFENDANT
17 MAKE ANY STATEMENTS?
18 A. ONCE HE WAS ADVISED OF THE RESULTS HE, HIS
19 COMMENT WAS, "THAT'S NOT POSSIBLE." BUT HE NEVER
20 DENIED THAT THE CHILD WAS HIS.
- 21 Q. DID, DID HE SAY ANYTHING ELSE?
22 A. NO, HE -- "THAT'S NOT POSSIBLE, THAT'S MY SON'S
23 DNA, YOU KNOW, THAT'S NOT MINE. MY SON AND I
24 HAVE THE SAME DNA."
25 Q. OKAY. AND DID HE CONTINUE THE CONVERSATION WITH

1 YOU?

2 A. NO, HE JUST KEPT RANTING, YOU KNOW, IT'S NOT
3 MINE, IT'S NOT POSSIBLE. AND SOMETHING TO THE
4 EFFECT OF, THAT'S IMPOSSIBLE, OR YOU KNOW. AND
5 YOU COULD TELL THAT HE WAS READY, HE'S READY TO
6 GO.

7 Q. AND DID HE LEAVE AT THAT POINT?

8 A. HE HAD TO WAIT LONG ENOUGH FOR US TO GET SOMEONE
9 TO TAKE HIM BACK, BUT YES.

10 Q. BUT DID YOU STOP YOUR QUESTIONING AT THAT POINT?

11 A. THAT WAS IT.

12 Q. AND WAS THAT THE LAST TIME YOU MET WITH THE
13 DEFENDANT?

14 A. YES.

15 Q. AND DID THAT CONCLUDE YOUR INVESTIGATION?

16 A. THAT PART OF IT DID. THEN I HAD TO GO AND SPEAK
17 WITH THE MAGISTRATE AS FAR AS PURSUING THE ISSUE
18 FURTHER, BUT YES, AS FAR AS SPEAKING WITH HIM,
19 THAT WAS IT.

20 Q. OKAY. AND WHAT DID YOU DO AFTER THAT?

21 A. WHEN I GOT BACK TO ORANGEBURG LATER ON THAT
22 AFTERNOON I WENT AND SPOKE WITH THE MAGISTRATE
23 ABOUT OBTAINING THE WARRANT FOR THIS CHARGE.

24 Q. FOR MR. DINGLE?

25 A. YES, SIR.

DIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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1 Q. AND HOW OLD WOULD THE DEFENDANT HAVE BEEN WHEN
2 THESE ACTS WERE COMMITTED, BASED ON YOUR
3 DISCUSSIONS WITH HIM AND HIS BIRTHDAY?

4 A. MID-THIRTIES, EARLY FORTIES.

5 Q. OKAY. AND SINCE THAT TIME, SINCE YOU STARTED
6 INVESTIGATING THIS CASE UP TO THE PRESENT TIME,
7 HAS ANYONE ELSE COME FORWARD TO GIVE DNA SAMPLES
8 IN THIS CASE?

9 A. NO.

10 SOLICITOR JUSTIS: THANK YOU, NO FURTHER
11 QUESTIONS. PLEASE ANSWER ANY QUESTIONS THAT THE
12 DEFENSE MIGHT HAVE.

13 THE COURT: OKAY, BEFORE YOU DO THAT WE'VE GOT A
14 LITTLE THING WE'VE GOT TO TAKE CARE OF RIGHT NOW. MR.
15 HAYNE, YOU'VE GOT -- IS IT MR. HAYNE THAT'S GOT HIS
16 WIFE'S KEYS HE'S GOT TO EXCHANGE WITH HER? SO, CAN
17 YOU GIVE YOUR KEYS TO THE BAILIFF? WE'VE ALREADY
18 GOTTEN YOUR KEYS TO HER SO WE JUST NEED TO EXCHANGE
19 THOSE SO SHE CAN GET THEM. OKAY. ALRIGHT.

20 OKAY. ALRIGHT, NOW WE'RE READY TO PROCEED.
21 OKAY, YOUR WITNESS, MR. CHISOLM.

22 MR. CHISOLM: THANK YOU, YOUR HONOR. JUST A FEW
23 QUESTIONS.

24 (NOTE: Blank lines on this page do not indicate any
25 part of record has been omitted. See next ensuing

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page for sequential continuation of record.)

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CROSS-EXAMINATION OF JENNIFER COAXUM

BY MR. CHISOLM:

Q. GOOD AFTERNOON, INVESTIGATOR.

A. HOW ARE YOU?

Q. OBVIOUSLY, YOU INVESTIGATED THIS CASE?

A. UH-HUH. I DID.

Q. AND PART OF YOUR INVESTIGATION YOU MET WITH MR. DINGLE A COUPLE OF TIMES?

A. YES.

Q. AND YOU TOOK SOME STATEMENTS FROM HIM?

A. YES.

Q. AND WHEN HE GAVE THOSE STATEMENTS HE DIDN'T HAVE TO TALK WITH YOU AT ALL, HE WAIVED HIS RIGHTS TO HIS ATTORNEY AND HE BASICALLY GAVE UPS HIS RIGHTS AND VOLUNTEERED TO TALK, MORE OR LESS, IS THAT CORRECT?

A. YES, HE DID, UH-HUH.

Q. OKAY. NOW, WHEN YOU TOOK THE WRITTEN STATEMENT WAS THERE ANY AUDIO OR VIDEO EQUIPMENT AVAILABLE?

A. AVAILABLE, NO. IT'S IN THE OFFICE BUT IT WAS, TO MY KNOWLEDGE IT WASN'T OPERABLE.

Q. I SEE. AND DID YOU ATTEMPT TO SEE IF ANYONE ELSE IN THE BUILDING MIGHT HAVE HAD ANY KIND OF AUDIO

- - -

A. NO.

- 1 Q. --- VIDEO RECORDING EQUIPMENT?
- 2 A. HUH-UH.
- 3 Q. YOU DIDN'T? YOU DIDN'T CHECK TO SEE IF ANYBODY
- 4 HAD ANY CELL PHONES THAT MIGHT BE ABLE TO RECORD
- 5 SOMETHING LIKE THIS?
- 6 A. NO.
- 7 Q. OKAY. NOW, THE DNA SAMPLE, YOU SAID MR. DINGLE,
- 8 AGAIN, DIDN'T REQUEST AN ATTORNEY, DIDN'T WANT TO
- 9 SPEAK WITH AN ATTORNEY, WAIVED ALL OF HIS RIGHTS,
- 10 AND VOLUNTARILY GAVE UP A DNA SAMPLE, IS THAT
- 11 CORRECT?
- 12 A. HE DID, UH-HUH.
- 13 Q. AND THEN YOU SAID YOU WENT AND YOU TALKED TO HIM
- 14 AGAIN?
- 15 A. AFTERWARDS, BECAUSE I TOLD HIM THAT, YOU KNOW, HE
- 16 SAID, HOW WOULD I KNOW THE RESULTS? AND I TOLD
- 17 HIM, I SAID, ONCE WE GOT THEM I WOULD LET YOU
- 18 KNOW.
- 19 Q. AND HE TOLD YOU HE NEVER TOUCHED MS. [REDACTED]
- 20 A. YES.
- 21 Q. IN FACT, HE TOLD YOU THAT MS. [REDACTED] SON COULD
- 22 BE HIS SON, KEVIN'S, SON, ISN'T THAT CORRECT?
- 23 A. HE TOLD ME SOME BOY FROM BOWMAN, AND THEN HE TOLD
- 24 ME ABOUT HIS SON, KEVIN.
- 25 Q. I SEE. AND THAT'S KEVIN BROWN?

CROSS - JENNIFER COAXUM BY MR. CHISOLM

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- 1 A. I THINK THE LAST NAME IS BROWN, IF I'M NOT
2 MISTAKEN.
- 3 Q. OKAY. WELL, WHAT DID KEVIN BROWN SAY WHEN YOU
4 SPOKE TO HIM?
- 5 A. I NEVER SPOKE TO KEVIN BROWN.
- 6 Q. YOU DIDN'T TRY TO GET IN TOUCH WITH HIM AT ALL?
7 A. HE DIDN'T PROVIDE ANY INFORMATION ON HIM AS TO
8 WHERE HE WAS, NO.
- 9 Q. OKAY. SO, I GUESS THAT BEING THE CASE YOU NEVER
10 GOT A COPY OF KEVIN BROWN'S DNA FOR A SAMPLE, DID
11 YOU?
- 12 A. NO, I DIDN'T.
- 13 Q. OKAY. NOW, I COULDN'T HELP BUT NOTICE YOU SAID
14 MR. DINGLE DID NOT DENY THE CHILD WAS HIS?
- 15 A. UH-HUH.
- 16 Q. DO YOU HAVE A COPY OF YOUR INVESTIGATIVE NOTES?
17 A. I DO.
- 18 Q. I DON'T THINK IT SAYS THAT IN YOUR NOTES. HE
19 SAID, WHEN YOU PRESENTED THE RESULTS, HE SAID,
20 IT'S NOT POSSIBLE.
- 21 A. THAT THAT'S NOT POSSIBLE, YES.
- 22 Q. IS THAT NOT A DENIAL?
23 A. HE JUST SAID IT'S NOT POSSIBLE, YOU KNOW. I GUESS
24 YOU COULD VIEW IT AS A DENIAL, IT DEPENDS ON HOW
25 YOU LOOK AT IT.

CROSS - JENNIFER COAXUM BY MR. CHISOLM

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1 Q. IT SAYS, THE DNA RESULT WERE NOT POSSIBLE,
2 CORRECT?

3 A. HE SAID, IT'S NOT POSSIBLE.

4 Q. YOU DIDN'T VIEW THAT AS A DENIAL THAT THE CHILD
5 WAS HIS?

6 A. NO, SIR.

7 MR. CHISOLM: I BEG THE COURT'S INDULGENCE.

8 THE COURT: TAKE YOUR TIME.

9 MR. CHISOLM: NO FURTHER QUESTIONS.

10 THE COURT: ANYTHING ON REDIRECT?

11 SOLICITOR JUSTIS: BRIEFLY, YOUR HONOR.

12 THE COURT: OKAY.

13 (NOTE: Blank lines on this page do not indicate any
14 part of record has been omitted. Headers on testimony
15 pages and hard page breaks between testimony are now
16 required by the Court. See next ensuing page for
17 sequential continuation of record.)

REDIRECT - JENNIFER COAXUM BY SOL. JUSTIS

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REDIRECT EXAMINATION OF JENNIFER COAXUM

BY SOLICITOR JUSTIS:

Q. THIS PERSON, KEVIN BROWN, THE SON OF THE
DEFENDANT?

A. UH-HUH.

Q. DID HE EVER COME TO YOU AND GIVE YOU A DNA SAMPLE
TO HELP OUT HIS DAD?

A. NO, HE DIDN'T.

SOLICITOR JUSTIS: THANK YOU, NO FURTHER
QUESTIONS.

THE COURT: ANYTHING ON RECROSS?

MR. CHISOLM: NOTHING, YOUR HONOR.

THE COURT: OKAY. YOU MAY STEP DOWN. THANK YOU,
INVESTIGATOR COAXUM.

SOLICITOR JUSTIS: YOUR HONOR, IF I MIGHT ADD ONE
THING, I'M NOT SURE IF ITEM NUMBER FOUR WAS OFFERED
INTO EVIDENCE?

COURT REPORTER: NOT YET.

SOLICITOR JUSTIS: THAT WOULD BE THE ONLY THING
WE WOULD ASK, THAT IT BE ADMITTED INTO EVIDENCE. I
THINK THE FOUNDATION WAS MADE.

THE COURT: ANY OBJECTION?

MR. CHISOLM: NO OBJECTION.

COURT REPORTER: WOULD YOU HAND IT TO ME, PLEASE.

THE COURT: NUMBER FOUR IS ADMITTED INTO

1 EVIDENCE.

2 DO Y'ALL WANT TO TAKE A FIVE MINUTE BREAK, ARE
3 YOU READY?

4 SOLICITOR JUSTIS: WE'RE READY.

5 COURT REPORTER: STATE'S FOUR.

6 (State's Exhibit Four
7 marked and filed.)

8 THE COURT: STATE'S FOUR IS ADMITTED INTO
9 EVIDENCE.

10 YOU CAN CALL YOUR NEXT WITNESS, THEN.

11 SOLICITOR JUSTIS: THE STATE CALLS ELOISE
12 RICKENBAKER.

13 (Whereupon, the witness
14 enters the courtroom.)

15 SOLICITOR JUSTIS: PUT YOUR LEFT HAND ON THAT
16 BIBLE AND RAISE YOUR RIGHT HAND.

17 (Whereupon, Eloise Rickenbaker
18 is duly sworn.)

19 CLERK: THANK YOU, YOU MAY BE SEATED. PLEASE
20 STATE YOUR NAME FOR THE RECORD.

21 WITNESS: ELOISE RICKENBAKER.

22 THE COURT: OKAY. YOUR WITNESS.

23 SOLICITOR JUSTIS: THANK YOU, YOUR HONOR, MAY IT
24 PLEASE THE COURT.

25 THE COURT: YES, SIR.

DIRECT - ELOISE RICKENBAKER BY SOL. JUSTIS

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DIRECT EXAMINATION OF ELOISE RICKENBAKER

BY SOLICITOR JUSTIS:

1 Q. MS. RICKENBAKER, WHERE DO YOU LIVE?

2 A. COLUMBIA.

3 Q. OKAY. AND HOW DO YOU KNOW [REDACTED]

4 A. SHE'S MY DAUGHTER.

5 Q. AND HOW MANY CHILDREN DO YOU HAVE?

6 A. FOUR.

7 Q. AND HOW MANY GRANDCHILDREN?

8 A. SIX.

9 Q. AND HOW DO YOU KNOW SAM DINGLE?

10 A. HE'S MY HUSBAND.

11 Q. AND ARE YOU CURRENTLY TOGETHER?

12 A. NO, SIR.

13 Q. AND WHEN DID YOU SEPARATE?

14 A. THE LAST WE WAS TOGETHER WAS JUNE THE TWENTY-
15 FOURTH.

16 Q. OF WHAT YEAR?

17 A. TWO THOUSAND, I MEAN, TWO THOUSAND NINE.

18 Q. AND LET'S TURN OUR ATTENTION TO THE YEARS TWO
19 THOUSAND TO TWO THOUSAND AND TWO. WERE YOU WITH
20 SAM BACK THEN?

21 A. YES, SIR.

22 Q. AND WHO WERE YOU LIVING WITH?

23 A. WE WAS, HAD BEEN WITH MY DAUGHTERS AND SON.
24
25

DIRECT - ELOISE RICKENBAKER BY SOL. JUSTIS

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1 Q. OKAY. WAS SAM LIVING WITH YOU?

2 A. YES, SIR.

3 Q. AND WHERE WERE YOU LIVING?

4 A. WE WAS LIVING AT MACK'S TRAILER PARK.

5 Q. OKAY. WHAT, IF ANYTHING, CAN YOU TELL US ABOUT
6 THE RELATIONSHIP BETWEEN [REDACTED] AND SAM BASED ON
7 YOUR OBSERVATION?

8 A. IT WAS A GOOD RELATIONSHIP.

9 Q. WERE THEY FRIENDLY TO EACH OTHER?

10 A. YES, SIR.

11 Q. DID [REDACTED] HAVE A BOYFRIEND BACK THEN?

12 A. NO, SIR.

13 Q. AND DID YOU EVER CATCH HER HAVING SEX WITH
14 ANYONE?

15 A. NO, SIR.

16 Q. DID YOU CATCH HER IN ANY COMPROMISING POSITIONS
17 WITH ANYONE?

18 A. NO, SIR.

19 Q. WHEN DID YOU FIND OUT SHE WAS PREGNANT?

20 A. SHE WAS ABOUT FIVE MONTHS, AND I WAS OVER AT MY
21 DAUGHTER'S HOUSE ON THE KENNERLY ROAD, AND SHE
22 USED TO WEAR A LOT OF BIG SHIRTS BECAUSE SHE
23 PLAYED A LOT OF BASKETBALL. AND MY OLDEST
24 DAUGHTER SAID THAT, [REDACTED] - - -

25 MR. MELLARD: OBJECTION.

DIRECT - ELOISE RICKENBAKER BY SOL. JUSTIS

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1 Q. JUST DON'T TELL US WHAT OTHER PEOPLE SAID. SO,
2 YOU WERE AT THE HOUSE, AND DID YOU GO TO, WAS SHE
3 TAKEN TO THE DOCTOR THAT DAY?

4 A. YES, SIR, SHE WAS.

5 Q. AND IS THAT WHEN YOU FOUND OUT SHE WAS PREGNANT?

6 A. YES, SIR.

7 Q. AND WHAT WAS YOUR REACTION?

8 A. I SAID, WE'LL JUST HAVE TO DO WHAT WE HAVE TO DO.

9 SOLICITOR JUSTIS: I BEG THE COURT'S INDULGENCE.
10 NO FURTHER QUESTIONS, PLEASE ANSWER ANY QUESTIONS
11 THE DEFENSE MIGHT HAVE.

12 THE COURT: ANYTHING ON CROSS?

13 MR. CHISOLM: I BEG THE COURT'S INDULGENCE, YOUR
14 HONOR.

15 THE COURT: YES, SIR.

16 MR. CHISOLM: NO QUESTIONS, YOUR HONOR.

17 THE COURT: THANK YOU, SIR.

18 ALRIGHT, YOU MAY STEP DOWN. THANK YOU, MA'AM.

19 ARE YOU READY TO CALL YOUR NEXT WITNESS?

20 SOLICITOR BELL: THE STATE WOULD CALL LIEUTENANT
21 GERALD CARTER.

22 THE COURT: OKAY.

23 (Whereupon, the witness
24 enters the courtroom.)

25 THE COURT: HOLD ON A SECOND, MR. BELL, WHILE WE

1 GET MR. CARTER UP HERE. WE'VE GOT TO GET THE KEYS
2 RIGHT. WE'RE HAVING MORE FUN WITH THE KEYS RIGHT NOW.

3 OKAY. ARE WE OKAY NOW? ALRIGHT.

4 (Whereupon, Gerald David Carter
5 is duly sworn.)

6 CLERK: THANK YOU. PLEASE BE SEATED AND STATE
7 YOUR FULL NAME.

8 WITNESS: GERALD DAVID CARTER.

9 THE COURT: ALRIGHT, YOUR WITNESS, MR. BELL.

10 (NOTE: Blank lines on this page do not indicate any
11 part of record has been omitted. Headers on testimony
12 pages and hard page breaks between testimony are now
13 required by the Court. See next ensuing page for
14 sequential continuation of record.)

DIRECT - GERALD DAVID CARTER BY SOL. BELL

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1 DIRECT EXAMINATION OF GERALD DAVID CARTER

2 BY SOLICITOR BELL:

3 Q. IT'S LIEUTENANT CARTER, IS THAT CORRECT?

4 A. YES, IT IS.

5 Q. WHERE ARE YOU EMPLOYED, SIR?

6 A. THE ORANGEBURG COUNTY SHERIFF'S OFFICE.

7 Q. HOW LONG HAVE YOU BEEN WITH THE ORANGEBURG COUNTY
8 SHERIFF'S OFFICE?

9 A. ALMOST NINETEEN YEARS.

10 Q. AND IS THAT THE EXTENT OF YOUR LAW ENFORCEMENT
11 CAREER, OR HAVE YOU BEEN, HAVE YOU GOT MORE THAN
12 THAT?

13 A. AS A FULL TIME PAID OFFICER, YES, SIR. I HAVE
14 RESERVE YEARS I DON'T COUNT.

15 Q. OKAY. AND WHAT IS YOUR CURRENT, WHAT ARE YOU
16 CURRENT DUTIES WITH THE SHERIFF'S DEPARTMENT?

17 A. I'M LIEUTENANT OVER THE FORENSIC SERVICES UNIT.

18 Q. OKAY. AND HOW LONG HAVE YOU BEEN DOING THAT?

19 A. ABOUT SIX YEARS.

20 Q. OKAY. AND WHAT IS THE FORENSIC SERVICES UNIT?

21 A. CRIME SCENE INVESTIGATIONS. CSI, COMMONLY CALLED
22 CSI.

23 Q. AND SO, WHAT DO YOU DO?

24 A. TYPICALLY WE RESPOND TO CRIME SCENES AND PROCESS
25 THAT SCENE FOR EVIDENCE, DOCUMENT THE SCENE BY

1 PHOTOGRAPH OR SKETCHES. ONCE WE'VE DOCUMENTED IT
2 WE'LL COLLECT THE EVIDENCE WHATEVER IT MAY BE,
3 PACKAGE IT, AND THEN STORE IT INTO EVIDENCE UNTIL
4 SUCH TIME AS IT'S NEEDED IN COURT.

5 Q. OKAY. AND WHAT KIND OF TRAINING HAVE YOU HAD IN
6 REGARDS TO YOUR CRIME SCENE INVESTIGATION?

7 A. I'M A GRADUATE OF THE NATIONAL FORENSIC ACADEMY,
8 THAT'S TEN WEEKS AT THE UNIVERSITY OF TENNESSEE.
9 I HAVE ANOTHER SIX HUNDRED HOURS OF FORMAL CRIME
10 SCENE TRAINING IN VARIOUS DISCIPLINES FROM BLOOD
11 STAIN PATTERN ANALYSIS TO FINGERPRINT COMPARISON,
12 GUN SHOT RECONSTRUCTION, BASICALLY ANY DISCIPLINE
13 YOU WOULD RUN INTO PROCESSING A CRIME SCENE.

14 Q. NOW, LIEUTENANT CARTER, ARE YOU FAMILIAR WITH THE
15 CASE OF THE STATE VERUS SAM DINGLE?

16 A. YES, SIR, I AM.

17 Q. OKAY. AND HOW DID YOU GET INVOLVED WITH THIS
18 PARTICULAR CASE THAT WE'RE HERE ON?

19 A. INVESTIGATOR JENNIFER COAXUM, WHO IS A CRIMINAL
20 INVESTIGATOR FOR ORANGEBURG, ASKED ME, OR
21 REQUESTED ME TO OBTAIN SOME BUCCAL SWABS OR ORAL
22 SWABS FROM SEVERAL PERSONS INVOLVED IN THE CASE.

23 Q. OKAY. DO YOU RECALL WHO THE FIRST PEOPLE YOU
24 WERE ASKED TO GET BUCCAL SWABS FROM?

25 A. THE FIRST, IT WAS A MOTHER AND SON I BELIEVE,

DIRECT - GERALD DAVID CARTER BY SOL. BELL

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1 [REDACTED] AND [REDACTED] MOTHER AND CHILD.

2 Q. OKAY. NOW, LET ME ASK YOU THIS, BUCCAL SWABS, DO
3 YOU RECALL HOW THAT'S SPELLED FOR THE COURT
4 REPORTER?

5 A. B-U-C-C-A-L, I BELIEVE.

6 Q. OKAY. WHAT ARE BUCCAL SWABS?

7 A. THEY'RE ORAL SWABS. ACTUALLY, YOU TAKE A Q-TIP
8 AND RUB ALONG THE GUM LINE AND THE CHEEK. YOU
9 WILL OBTAIN, OR COLLECT SALIVA AND SKIN CELLS
10 FROM THAT AREA FOR A DNA ANALYSIS.

11 Q. OKAY. DO YOU RECALL ABOUT WHEN YOU TOOK THOSE
12 SAMPLES FROM THE MOTHER AND CHILD, [REDACTED] AND

13 [REDACTED]
14 A. YES, SIR, THAT WAS JULY THE TWENTY-THIRD OF TWO
15 THOUSAND AND NINE.

16 Q. AND SO, THEY WERE THERE WITH INVESTIGATOR COAXUM,
17 IS THAT CORRECT?

18 A. YES, THEY WERE.

19 Q. AND WHAT DID YOU DO?

20 A. ONCE SHE ASKED ME TO TAKE THE SWABS, I WOULD GO
21 TO WHERE I GET SUPPLIES, I WOULD GET TWO SETS OF
22 LATEX TYPE GLOVES, EXAMINATION GLOVES, I WOULD
23 GET TWO SETS OF Q-TIPS WHICH ARE SEALED IN
24 STERILE PACKS, AND TWO COIN ENVELOPES THAT I
25 WOULD DOCUMENT THE DATE AND THE TIME AND THAT

1. KIND OF THING, OF THE COLLECTION.
2. Q. OKAY. AND THEN WHEN YOU WENT TO COLLECT THEM
3. WHAT EXACTLY DID YOU DO?
4. A. I EXPLAINED TO EACH OF THE SUBJECTS WHAT I WAS
5. GOING TO DO, IT WAS PAINLESS AND I NEEDED TO
6. COLLECT THE SAMPLE FROM INSIDE THEIR MOUTH WITH A
7. Q-TIP. AT THAT TIME I WOULD SHOW THE INDIVIDUAL
8. ONE AT A TIME, BEFORE TAKING THE SAMPLE, AS I
9. OPENED THE STERILE PACK, IT'S A ONE TIME USE,
10. THEN I WOULD TAKE THE SWABS AND GENTLY RUB IT
11. INSIDE THEIR GUM, AND THEN I WOULD TAKE IT AND
12. SECURE IT UNTIL IT COULD DRY.
13. Q. OKAY. AND HOW DO YOU SECURE IT TO DRY, I MEAN,
14. HOW DO YOU DRY THEM, NUMBER ONE?
15. A. WELL, THEY HAVE TO AIR DRY. YOU CAN'T PUT HEAT
16. TO THEM, IT WILL DESTROY THE DNA, AND OF COURSE,
17. YOU CAN'T BLOW ON THEM BECAUSE YOU PUT YOUR DNA
18. ON IT. BASICALLY, YOU JUST HAVE TO LET THEM AIR
19. DRY.
20. Q. OKAY. AND WHERE DO YOU DO THAT?
21. A. NORMALLY WHEN I'M AT, IT'S A SUBSTATION IS WHERE
22. INVESTIGATIONS IS AT, AND THAT'S ALSO WHERE MY
23. OFFICE IS LOCATED, I'LL ACTUALLY SECURE IT IN MY
24. OFFICE AND LET THEM DRY IN THERE.
25. Q. DO YOU HAVE SOME PLACE YOU PLACE THEM SPECIAL OR

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A. I'VE GOT A FILE CABINET THAT I KEEP CLEAR JUST FOR THAT.

Q. OKAY. AND YOU PUT THEM IN SOME TYPE OF APPARATUS TO HOLD THEM OR - - -

A. ACTUALLY, IT'S PRETTY SIMPLE. I PUT THEM ON TOP OF THE CABINET WHERE THEY'RE NOT TOUCHING ANYTHING, AND THE STEM ON THESE Q-TIPS IS ABOUT SIX INCHES LONG, AND I PUT SOMETHING ON THE BACK OF IT JUST TO HOLD THEM IN PLACE WHILE THEY DRY.

Q. AND HOW LONG DO YOU ALLOW THEM TO DRY GENERALLY?

A. NORMALLY, THIRTY MINUTES TO AN HOUR, NORMALLY.

Q. OKAY. AND THEN AFTER YOU DRY IT WHAT DO YOU DO WITH THEM?

A. ONCE THEY'VE DRIED I'LL BREAK THE STEM OFF ON THE Q-TIPS -- I'LL GLOVE UP BEFORE THE EXAMINATION GOES ON AGAIN, I'LL BREAK THE STEMS OFF SO THEY WILL FIT IN A COIN ENVELOPE, PUT IT IN THE ENVELOPE AND SEAL THE ENVELOPE.

Q. OKAY. AND WHAT DO YOU DO WITH THE ENVELOPE?

A. ONCE I'VE SEALED IT I TAKE IT TO OUR EVIDENCE STORES WHERE I LOG IT INTO OUR MAIN EVIDENCE.

Q. DO YOU MAKE ANY NOTATIONS ON THE ENVELOPE?

A. DATE, TIME, NAME OF THE INDIVIDUAL I COLLECTED THE SAMPLE FROM, MY INITIALS.

1 SOLICITOR BELL: IF I COULD GET THESE MARKED FOR
2 IDENTIFICATION, PLEASE, MA'AM?

3 COURT REPORTER: WHICH ONE?

4 SOLICITOR BELL: EITHER ONE.

5 COURT REPORTER: EITHER ONE?

6 SOLICITOR BELL: YES.

7 COURT REPORTER: ID?

8 SOLICITOR BELL: YES, ID AT THIS POINT.

9 COURT REPORTER: STATE'S FIVE AND SIX, ID.

10 (Whereupon, State's Five and Six,
11 SLED Evidence Bags,
12 marked for identification.)

13 Q. LIEUTENANT CARTER, I WANT TO HAND YOU FIRST
14 WHAT'S BEEN MARKED STATE'S FIVE FOR
15 IDENTIFICATION AND A PAIR OF SCISSORS SO YOU CAN
16 GET INTO IT. I WOULD ASK IF YOU COULD IDENTIFY
17 STATE'S FIVE FOR IDENTIFICATION?

18 A. OKAY, INITIALLY, IT'S A SLED EVIDENCE, AND IT HAS
19 BEEN HEAT SEALED, AND I'M GOING TO HAVE TO CUT IT
20 OPEN. THE SLED BAG CONTAINS A PAPER COIN
21 ENVELOPE WHICH I FILLED OUT THE INFORMATION ON
22 THE OUTSIDE OF THIS ENVELOPE.

23 Q. OKAY. AND WHOSE SAMPLE IS THAT?

24 A. THIS SAMPLE BELONGS TO [REDACTED] IT WAS MY
25 ITEM NUMBER ONE THAT DAY, AND IT'S ORAL SWABS

DIRECT - GERALD DAVID CARTER BY SOL. BELL

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1 DATED SEVEN/TWENTY-THREE/O-NINE AT NINE:FORTY
2 A.M.

3 Q. OKAY. AND WHAT DID YOU DO WITH THIS PARTICULAR
4 ITEM IN YOUR HAND, THE COIN FOLDER?

5 A. ONCE IT WAS IN THIS CONDITION AND SEALED SHUT, OR
6 TAPED SHUT, IT WAS TAKEN TO OUR EVIDENCE STORAGE
7 WITH INSTRUCTIONS TO SEND TO SLED FOR FURTHER
8 ANALYSIS.

9 Q. OKAY. AND YOU HAD NOTHING TO DO WITH THE SLED
10 BAG THAT YOU MENTIONED?

11 A. NO, I DID NOT.

12 Q. OKAY. IF YOU COULD JUST PUT THAT BACK IN THE BAG
13 FOR A MOMENT.

14 COURT REPORTER: WHAT STATE'S NUMBER IS THAT?

15 SOLICITOR BELL: STATE'S FIVE. OKAY.

16 Q. NOW, LIEUTENANT CARTER, I WANT TO ASK YOU WHAT'S
17 BEEN MARKED AS STATE SIX FOR IDENTIFICATION AND
18 ASK IF YOU COULD OPEN IT AND IDENTIFY THAT,
19 PLEASE?

20 A. STATE'S SIX INITIALLY IS ANOTHER SLED HEAT SEALED
21 BAG CONTAINING ANOTHER COIN ENVELOPE. IT
22 CONTAINS A COIN ENVELOPE AGAIN, ALSO LABELED BY
23 MYSELF.

24 Q. OKAY. AND WHOSE SAMPLE IS THAT?

25 A. THIS SAMPLE IS FOR [REDACTED] IT'S MY ITEM

1 NUMBER TWO, ORAL SWAB TAKEN SEVEN/TWENTY-THREE OF
2 O-NINE AT SEVEN A.M.

3 Q. OKAY. AND WHAT DID YOU DO WITH THAT COIN FOLDER?

4 A. ONCE IT WAS SEALED I TOOK IT TO OUR EVIDENCE
5 STORAGE WITH INSTRUCTIONS TO FORWARD TO SLED FOR
6 FURTHER ANALYSIS.

7 Q. OKAY. AND AGAIN, YOU HAD NOTHING TO DO WITH THE
8 SLED EVIDENCE BAG?

9 A. NO, SIR, I DID NOT.

10 Q. OKAY. IF YOU WILL PUT IT BACK.

11 COURT REPORTER: YOU'RE NOT PUTTING THOSE IN YET?

12 SOLICITOR BELL: NO, I'M NOT, MA'AM.

13 COURT REPORTER: OKAY.

14 Q. NOW, YOU SAID YOU TOOK SAMPLES FROM SEVERAL
15 INDIVIDUALS, DID YOU TAKE SAMPLES FROM ANY OTHER
16 INDIVIDUALS?

17 A. YES, SIR, ONE OTHER INDIVIDUAL.

18 Q. FROM WHOM DID YOU TAKE THAT ONE?

19 A. SAMUEL DINGLE.

20 Q. DO YOU SEE THAT PERSON THAT YOU TOOK A SAMPLE IN
21 THE COURTROOM THIS AFTERNOON?

22 A. YES, SIR, I DO, HE'S SITTING AT THE END OF THE
23 DEFENSE TABLE IN THE POWDER LIGHT BLUE SHIRT AND
24 BLUE TIE.

25 SOLICITOR BELL: YOUR HONOR, I'D ASK THAT THE

DIRECT - GERALD DAVID CARTER BY SOL. BELL

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1 RECORD WOULD REFLECT THAT THE WITNESS HAS IDENTIFIED
2 THE DEFENDANT.

3 THE COURT: THE RECORD WILL SO REFLECT THAT THE
4 DEFENDANT HAS BEEN IDENTIFIED.

5 Q. DO YOU RECALL WHEN YOU TOOK THE SAMPLE FROM THAT
6 INDIVIDUAL, SAMUEL DINGLE?

7 A. YES, SIR. I TOOK THE SAMPLE FROM MR. DINGLE ON
8 AUGUST THE SEVENTEENTH OF TWO THOUSAND NINE.

9 Q. AND WHERE DID YOU DO THAT?

10 A. AT THE SAME SHERIFF'S OFFICE SUBSTATION ON
11 CHESTNUT WHERE MY OFFICE IS AT.

12 Q. AND WHO WAS PRESENT AT THAT TIME?

13 A. INVESTIGATOR COAXUM WAS THERE.

14 Q. THIS WAS DONE AT HER REQUEST AS WELL?

15 A. YES, SIR, IT WAS.

16 Q. OKAY. AND YOU DID THE SAME PROCEDURE WITH THE
17 DEFENDANT, SAMUEL DINGLE, AS YOU DID WITH [REDACTED]

18 [REDACTED] AND [REDACTED]

19 A. YES, SIR, IDENTICAL PROCEDURE.

20 Q. OKAY. YOU TOOK A Q-TIP AND RUBBED IT INSIDE THE
21 MOUTH TO GET A SAMPLE?

22 A. YES, SIR, ONCE I GLOVED UP WITH A NEW SET OF
23 GLOVES, I TOOK A STERILE SET OF Q-TIP SWABS AND
24 AGAIN RUBBED BETWEEN THE GUM LINE AND THE CHEEK
25 TO OBTAIN A SAMPLE OF SALIVA AND SKIN CELLS FOR

1 DNA ANALYSIS.

2 Q. OKAY. AND WHAT DID YOU DO WITH THAT SAMPLE AFTER
3 YOU GOT YOUR SAMPLE FROM HIM?

4 A. AS BEFORE, I SECURED IT IN MY OFFICE TO DRY
5 BEFORE I PERMANENTLY SEALED IT.

6 Q. OKAY. DO YOU RECALL HOW LONG IT DRIED IN YOUR
7 OFFICE ON THIS PARTICULAR OCCASION?

8 A. ON THIS PARTICULAR OCCASION I LEFT IT THERE FOR
9 ABOUT TWO DAYS. I ACTUALLY SEALED IT AND
10 PACKAGED IT ON THE NINETEENTH.

11 Q. OKAY. AND YOUR OFFICE, IS IT A SECURE OFFICE?

12 A. YES, SIR, IT IS.

13 Q. WHO HAS ACCESS TO YOUR OFFICE?

14 A. ONLY I.

15 Q. OKAY. AND THEN, LET ME SHOW YOU WHAT'S BEEN - -

16 -

17 SOLICITOR BELL: LET ME MARK IT FIRST, PLEASE,
18 FOR IDENTIFICATION.

19 COURT REPORTER: STATE'S SEVEN, ID.

20 (State's Exhibit Seven
21 SLED Evidence bag,
22 marked for identification.)

23 SOLICITOR BELL: ARE YOU READY?

24 COURT REPORTER: YES, SIR.

25 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S

DIRECT - GERALD DAVID CARTER BY SOL. BELL

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1 SEVEN FOR IDENTIFICATION AND ASK IF YOU CAN
2 IDENTIFY THAT? AND THAT ONE HAS BEEN OPENED, IS
3 THAT CORRECT?

4 A. YES, SIR, THIS WAS ANOTHER SLED HEAT SEALED BAG,
5 BUT IT HAS ALREADY BEEN OPENED.

6 Q. DID YOU OBSERVE THAT BEING OPENED TODAY?

7 A. YES, SIR, I DID.

8 Q. AND WHO OPENED IT?

9 A. THE ORANGEBURG COUNTY SHERIFF'S OFFICE EVIDENCE
10 CUSTODIAN, KIMBERLY PUGH, IS THE ONE WHO ACTUALLY
11 OPENED IT.

12 Q. OKAY. AND CAN YOU IDENTIFY WHAT'S INSIDE THE
13 SLED BAG?

14 A. YES, SIR. THERE'S AN OUTER ENVELOPE, IT'S BEEN
15 LABELED, THAT'S MY HANDWRITING. IT HAS THE
16 ORANGEBURG COUNTY SHERIFF'S OFFICE CASE NUMBER
17 PERTAINING TO THIS CASE, SOME OTHER NOTATIONS,
18 COLLECTED BY MYSELF, CODE ONE HUNDRED, IN THE
19 INTERVIEW ROOM AT THAT OFFICE.

20 Q. OKAY. IS THERE ANYTHING INSIDE THAT PARTICULAR
21 ENVELOPE?

22 A. YES, SIR, THERE IS. ALRIGHT, INSIDE THIS
23 ENVELOPE, AND IT'S BEEN TORN OPEN, IS THE ACTUAL
24 COIN ENVELOPE THAT I ORIGINALLY COLLECTED THE
25 SWABS, PACKED THE SWABS IN.

1 Q. AND WHEN WAS THAT DONE?

2 A. THIS WAS DONE, THE COLLECTION WAS ON THE
3 SEVENTEENTH, IT WAS ON AUGUST SEVENTEENTH OF TWO
4 THOUSAND NINE, AND EVERYTHING WAS PACKAGED ON
5 AUGUST THE NINETEENTH, TWO THOUSAND NINE.

6 COURT REPORTER: JUST ONE MOMENT, PLEASE.
7 YOU MAY GO AHEAD.

8 SOLICITOR BELL: THANK YOU.

9 Q. AND WHAT DID YOU DO WITH THIS PARTICULAR
10 ENVELOPE, OR THESE ENVELOPES?

11 A. I PACKAGED -- ONCE I PACKAGED THEM ON THE
12 NINETEENTH I DELIVERED THEM TO OUR EVIDENCE
13 STORAGE ON THE TWENTIETH, AUGUST THE TWENTIETH,
14 WITH INSTRUCTIONS TO FORWARD TO SLED.

15 Q. OKAY. THANK YOU. LIEUTENANT CARTER, ARE YOU
16 AWARE WHO HAS THE ACCESS TO YOUR AREA, THE
17 EVIDENCE STORAGE FACILITY?

18 A. AT PRESENT IT WOULD BE KIMBERLY PUGH AND MYSELF.

19 Q. AND WHAT ABOUT BACK IN TWO THOUSAND NINE, DO YOU
20 RECALL?

21 A. I WAS THE ONLY -- WELL, IT WOULD HAVE BEEN MYSELF
22 AND KIMBERLY PUGH.

23 Q. OKAY. AND WHO IS KIMBERLY PUGH?

24 A. SHE IS THE EVIDENCE CUSTODIAN FOR ORANGEBURG
25 COUNTY.

DIRECT - GERALD DAVID CARTER BY SOL. BELL

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1 Q. SO, ONCE YOU TURN IT OVER IT GOES INTO HER
2 CUSTODY, IS THAT CORRECT?

3 A. YES, SIR, IT DOES.

4 Q. OKAY.

5 SOLICITOR BELL: THANK YOU, LIEUTENANT CARTER,
6 PLEASE ANSWER ANY QUESTIONS DEFENSE MAY HAVE FOR YOU.

7 THE COURT: CROSS-EXAMINATION.

8 MR. CHISOLM: THANK YOU, YOUR HONOR.

9 THE COURT: THANK YOU, SIR. MR. CHISOLM, YOUR
10 WITNESS.

11 (NOTE: Blank lines on this page do not indicate any
12 part of record has been omitted. Headers on testimony
13 pages and hard page breaks between testimony are now
14 required by the Court. See next ensuing page for
15 sequential continuation of record.)

CROSS-EXAMINATION OF GERALD DAVID CARTERBY MR. CHISOLM:

1 Q. GOOD AFTERNOON, MR. CARTER.

2 A. GOOD AFTERNOON.

3 Q. SO, YOU SAID YOU TOOK DNA SAMPLES FROM [REDACTED]
4 [REDACTED] AND MR. DINGLE, YOU PERSONALLY TOOK ALL
5 THREE?
6

7 A. YES, SIR, I DID.

8 Q. OKAY. DID YOU READ MR. DINGLE HIS RIGHTS BEFORE
9 YOU TOOK A SAMPLE?
10

11 A. I DID NOT. HE HAD JUST CONCLUDED AN INTERVIEW
12 WITH INVESTIGATOR JENNIFER COAXUM AND I WAS
13 INFORMED THAT HE HAD VOLUNTARILY CONSENTED TO
14 GIVE DNA.

15 Q. I SEE. SO, YOU DIDN'T PERSONALLY READ HIM HIS
16 RIGHTS?

17 A. I DIDN'T PERSONALLY DO IT, NO, SIR.

18 Q. I'VE GOT YOU. DID HE ASK FOR HIS ATTORNEY OR
19 HESITATE OR ANYTHING BEFORE HE GAVE YOU THE
20 SAMPLE?

21 A. NO.

22 Q. NOW, IN YOUR REPORT IT SAYS YOU TOOK THE SAMPLE
23 AT CODE ONE HUNDRED. WHAT IS CODE ONE HUNDRED?

24 A. YEAH, THAT WAS A NOTATION I PUT ON THERE SO I
25 WOULD KNOW WHERE WE WERE AT. IT'S A SUBSTATION

CROSS - GERALD DAVID CARTER BY MR. CHISOLM

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- 1 FOR THE SHERIFF'S OFFICE. IT'S LOCATED ON
2 CHESTNUT STREET. IT'S PLAINLY MARKED IN A
3 SHOPPING CENTER THERE, I BELIEVE IT'S TEN THIRTY-
4 TWO CHESTNUT.
- 5 Q. THE STRIP MALL WHERE THE MEXICAN RESTAURANT IS
6 AT?
- 7 A. THAT'S IT.
- 8 Q. OKAY. I'VE GOT YOU. YOU SAID YOU LEAVE THE
9 SAMPLES TO DRY IN YOUR OFFICE?
- 10 A. YES, SIR.
- 11 Q. ON TOP OF A FILE CABINET?
- 12 A. IN MY OFFICE, YES, SIR.
- 13 Q. IT'S KIND OF OPEN AIR JUST LAYING THERE?
- 14 A. OPEN AIR.
- 15 Q. I SEE. NOBODY ELSE COMES IN YOUR OFFICE?
- 16 A. NO.
- 17 Q. OKAY.
- 18 A. I'VE GOT THE ONLY KEYS TO THAT OFFICE.
- 19 Q. I SEE. DOES ANYBODY ELSE HANDLE THE SWABS?
- 20 A. NO.
- 21 Q. NOBODY ELSE TOUCHED THEM?
- 22 A. NO, THAT'S WHY THEY ASKED ME TO DO IT, BECAUSE
23 THE CRIMINAL INVESTIGATORS REALLY DON'T WANT TO
24 BE HANDLING THEM, SO THEY ASK ME TO DO IT.
- 25 Q. I SEE. HOW MANY OTHER PEOPLE WERE PRESENT WHEN

1 YOU TOOK THE SWABS?

2 A. I HONESTLY CAN'T REMEMBER. IT WAS EITHER ME
3 ALONE OR INVESTIGATOR COAXUM MAY HAVE BEEN
4 STANDING THERE, BUT I CAN'T REMEMBER.

5 Q. I SEE. HOW MANY PEOPLE WOULD YOU ESTIMATE WERE
6 AT CODE ONE HUNDRED WHEN IT HAPPENED, WHEN YOU
7 TOOK THE SWABS?

8 A. IN THE BUILDING?

9 Q. UH-HUH.

10 A. OH, I DON'T HAVE ANY IDEA. IT GOES UP AND DOWN.
11 IT COULD HAVE BEEN JUST THE CLERK OR STAFF OF
12 FOUR OF FIVE PEOPLE TO MAYBE A DOZEN PEOPLE,
13 DEPENDING ON WHAT INVESTIGATORS WERE DOING AT THE
14 TIME.

15 Q. I SEE.

16 MR. CHISOLM: I BEG THE COURT'S INDULGENCE.

17 THE COURT: TAKE YOUR TIME.

18 MR. CHISOLM: NOTHING FURTHER, YOUR HONOR.

19 THE COURT: ANYTHING ON REDIRECT?

20 SOLICITOR BELL: NO, YOUR HONOR.

21 THE COURT: OKAY. CAN I SEE THE ATTORNEYS UP
22 HERE JUST A MINUTE?

23 (Whereupon a bench conference is had
24 out of the hearing the jury and
25 court reporter.)

1 THE COURT: OH, I'M SORRY, YOU CAN STEP DOWN, I
 2 APPRECIATE YOU WAITING. THAT WAS NICE OF YOU. THANK
 3 YOU, SIR, THANK YOU, SIR.

4 LADIES AND GENTLEMEN, IT'S AFTER FIVE. I TOLD
 5 Y'ALL WHEN Y'ALL WERE GETTING READY TO GET STARTED
 6 WITH THIS THAT WE WOULD TRY AND TAKE A BREAK SOMETIME
 7 AROUND FIVE. AND WE HAVE AN OPPORTUNITY TO TAKE A
 8 BREAK NOW BEFORE WE TAKE ANY OTHER WITNESSES, SO
 9 THAT'S WHAT WE'RE GOING TO DO FOR TODAY. I WOULD ASK
 10 Y'ALL TO BE BACK IN THE JURY ROOM AT NINE:THIRTY IN
 11 THE MORNING. THAT GIVES Y'ALL A CHANCE IF Y'ALL HAVE
 12 TO RUN ANY ERRANDS OR DO ANYTHING BEFORE YOU GET HERE.
 13 AND THEN WHEN YOU GET HERE AT NINE:THIRTY HOPEFULLY WE
 14 WILL BE READY TO GO.

15 ONE OTHER THING. MR. PEEPLES?

16 JUROR PEEPLES: YES, SIR.

17 THE COURT: I'M GOING TO MAKE YOU THE FOREMAN OF
 18 THIS JURY.

19 JUROR PEEPLES: ALRIGHT, SIR.

20 THE COURT: ALRIGHT. SO, YOU'RE GOING TO GET TO
 21 SIT IN THAT SEAT RIGHT THERE AND YOU'RE GOING TO BE UP
 22 CLOSE AND PERSONAL WITH ME. YOU'RE THE ONE THAT'S
 23 GOING TO HAVE TO, HAVE TO HANDLE THE DISCUSSIONS IN
 24 THE JURY ROOM WHEN I TELL Y'ALL TO BEGIN YOUR
 25 DELIBERATIONS, - - -

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1. JUROR PEEPLES: ALRIGHT, SIR.

2. THE COURT: --- AND YOU'RE THE ONE THAT'S GOING
3 TO HAVE TO FILL OUT THE VERDICT FORM.

4. JUROR PEEPLES: YES, SIR.

5. THE COURT: OKAY. ALRIGHT, SIR. NOW, THE -- I
6 TOLD Y'ALL AT THE BEGINNING, I TOLD Y'ALL YOU WOULD
7 GET TIRED OF HEARING ME SAY THIS. YOU HAVE ONLY HEARD
8 SOME OF THE WITNESSES IN THIS CASE SO YOU CANNOT TALK
9 ABOUT THIS CASE AMONG YOURSELVES TO ANYBODY WHEN YOU
10 GO HOME. IF SPOUSES OR SIGNIFICANT OTHERS OR FRIENDS
11 WANT TO KNOW WHAT'S GOING ON THE ONLY THING YOU CAN
12 TELL THEM IS YOU GOT LUCKY AND YOU ARE DOING JURY DUTY
13 AND YOU'RE IN THE MIDDLE OF A TRIAL. AND YOU CAN'T
14 TALK ABOUT ANYTHING ELSE.

15 NOW, AGAIN, DON'T GO ON THE INTERNET, YOU KNOW,
16 TO TRY AND FIND OUT ANYTHING ABOUT THIS CASE. IF
17 SOMETHING, IF YOU HAPPEN TO SEE SOMETHING IN THE NEWS,
18 RADIO, T.V. OR ANYTHING LIKE THAT, DON'T LISTEN TO IT,
19 AND IF ANYBODY TRIES TO CONTACT YOU AND TALK ABOUT
20 THIS CASE I NEED TO KNOW IT FIRST THING IN THE
21 MORNING. OKAY? YOU CANNOT TALK TO ANYBODY ABOUT THIS
22 CASE. OKAY? I'LL SEE Y'ALL FIRST THING IN THE
23 MORNING, BUT I WANT Y'ALL TO GO BACK INTO THE JURY
24 ROOM AND THEN SHE'S TO RELEASE Y'ALL IN JUST ONE
25 SECOND. OKAY? OKAY, THANK YOU.

1 (Whereupon, the jury leaves
2 the courtroom for the day
3 and the following takes place
4 out of the presence of the jury.)

5 THE COURT: OKAY. HE'S GOING TO TELL -- OKAY,
6 YOU NEED TO TELL THEM TO GO ON FOR TODAY AND BE BACK
7 AT NINE:THIRTY, AND LET THEM KNOW HOW TO GET IN.
8 OKAY.

9 OKAY. ALRIGHT, WE'LL SEE Y'ALL AT NINE:THIRTY IN
10 THE MORNING.

11 MR. CHISOLM: WE DO HAVE A MATTER.

12 THE COURT: OKAY. AS SOON AS SHE GETS BACK WE'LL
13 TAKE THAT UP.

14 MR. CHISOLM: WE'D JUST RENEW ANY OBJECTIONS
15 WE'VE MADE.

16 THE COURT: OH YEAH, THAT'S RIGHT, I WANTED TO
17 GET THAT ON THE RECORD BEFORE WE CLOSE DOWN FOR THE
18 DAY, ABOUT [REDACTED]

19 MR. CHISOLM: YES, SIR.

20 THE COURT: OKAY. ALRIGHT. IT'S GOING TO BE
21 ABOUT FIVE MINUTES IF Y'ALL NEED TO STRETCH YOUR LEGS
22 OR SOMETHING. COME BACK HERE IN ABOUT FIVE MINUTES.

23 (Recess)

24 THE COURT: ALRIGHT, WE'RE GOING TO GO BACK ON
25 THE RECORD, AND JUST SO I THINK IT WILL BE PLAIN ON

1 THE RECORD BEFORE WE GET TO IT, AT THE POINT WHERE THE
2 STATE CALLED [REDACTED] TO TESTIFY, THE ATTORNEYS
3 APPROACHED THE BENCH. THE DEFENSE ATTORNEYS, MR.
4 MELLARD IN PARTICULAR, VOICED HIS OBJECTION TO HAVING
5 MR. [REDACTED] TESTIFY AND WENT INTO SOME DETAIL AS TO WHY
6 HE OBJECTED. THE COURT ALLOWED MR. [REDACTED] TO TESTIFY
7 AND THEN WHEN WE WERE BACK ON THE RECORD WE NOTED THE
8 OBJECTION ON THE RECORD AND SAID THAT WE WOULD COME
9 BACK LATER AND PUT ALL OF THE OBJECTION ON THE RECORD.
10 WE ARE NOW BACK ON THE RECORD JUST SO WE CAN HAVE A
11 RECORD OF THAT OBJECTION.

12 MR. MELLARD: YES, SIR.

13 THE COURT: NOW, MR. MELLARD, YOUR TURN.

14 MR. MELLARD: THANK YOU.

15 THE COURT: YES, SIR.

16 MR. MELLARD: YES, SIR, IT'S OUR OPINION THAT
17 UNDER RULE SIX O TWO HE LACKED PERSONAL KNOWLEDGE TO
18 TESTIFY AS TO WHAT HE TESTIFIED TO. BASICALLY, HIS
19 TESTIMONY WAS, I BELIEVE, THAT MY MOM WAS [REDACTED]
20 [REDACTED] IS MY MOM, I THINK IS WHAT THE TESTIMONY WAS,
21 I'M HER SON. THAT WAS HIS TESTIMONY. HE'S AN EIGHT
22 YEAR OLD CHILD, IT'S, YOU KNOW, THE COURT NEVER WENT
23 INTO DETAIL TO ASK HIM ABOUT HIS ABILITY TO KNOW THIS,
24 HOW HE KNEW THIS, ANY OF THAT INFORMATION. ANYTHING
25 THAT HE -- HE HAS NO CLUE AS AN EIGHT YEAR OLD CHILD

1 WHO GAVE BIRTH TO HIM. HE COULD HAVE BEEN ADOPTED, HE
2 DOESN'T KNOW. SO, TO ALLOW HIM TO TESTIFY TO THAT, I
3 BELIEVE IT WAS NOT PROPER.

4 ADDITIONALLY, THERE'S NO RELEVANCY HERE. [REDACTED]
5 HAD ALREADY TESTIFIED THAT HE WAS HER SON. NOBODY
6 NEEDED TO PUT HIM ON THE STAND TO DO THAT. SO, THERE
7 WAS NO RELEVANCY. AND IT WAS DONE JUST TO INFLAME THE
8 JURY, JUST TO GET THE CHILD UP THERE AND JUST FOR THEM
9 TO LOOK AT THE CHILD AND FEEL SORRY FOR THE CHILD OR
10 FEEL SORRY FOR [REDACTED] OR SOME REASON OTHER THAN
11 RELEVANT TESTIMONY.

12 SO, ON THOSE GROUND WE WOULD, WE DID, AND WE
13 CONTINUE TO OBJECT TO THE TESTIMONY OF [REDACTED]

14 THE COURT: OKAY. ALRIGHT. AND I NOTE YOUR
15 OBJECTIONS. FOR THE RECORD, I DID ALLOW THE CHILD TO
16 TESTIFY EVEN THOUGH THE CHILD ONLY TESTIFIED AS I
17 RECALL THAT HIS MOM WAS WEARING THE GREEN IN THE
18 COURTROOM. I DON'T KNOW THAT HE TESTIFIED TO MUCH
19 OTHER THAN THAT. AND THAT WOULD IDENTIFY MS. [REDACTED]

20 [REDACTED] WHEREAS, I UNDERSTAND THAT, I UNDERSTAND YOUR
21 OBJECTION. I THINK, TO ME ACTUALLY CALLING THE CHILD
22 WAS MORE IN THE WAY OF JUST PRESENTING SOMEONE TO THE
23 COURT JUST FOR A VIEWING, YOU KNOW. AND THAT WAS - -

24 -

25 MR. MELLARD: AND THAT WOULD HAVE BEEN THE WAY

1 THAT I WOULD SAY THEY SHOULD HAVE DONE IT.

2 THE COURT: RIGHT. AND THAT WOULD HAVE BEEN
3 WHAT, IN FAMILY COURT WHEN WE DO PATERNITY CASES WE'RE
4 ALLOWED TO BRING THE CHILD IN JUST FOR A VIEWING. AND
5 MUCH THE SAME WAY THAT, IN CRIMINAL CASES WHEN
6 IDENTIFICATION IS AN ISSUE YOU CAN HAVE THE DEFENDANT
7 PRESENTED TO THE JURY ESSENTIALLY. AND SO, I LOOKED
8 AT IT THAT WAY. I DO UNDERSTAND YOUR OBJECTION. I
9 WANTED TO MAKE SURE WE HAD PRESERVED AND NOTED YOUR
10 OBJECTION TO MY RULING FOR THE RECORD. OKAY?

11 MR. MELLARD: THANK YOU, YOUR HONOR.

12 THE COURT: ALRIGHT, THANK YOU, SIR.

13 OKAY, WE WILL START BACK AT NINE:THIRTY. I'VE GOT
14 A SETTLEMENT I THINK AT ABOUT NINE:FIFTEEN. SO, AND
15 IF Y'ALL, GENTLEMEN, IF Y'ALL HAVE ANYTHING IN
16 PARTICULAR AS FAR AS CHARGES OR ANYTHING LIKE THAT I
17 WOULD LIKE TO GET THEM IN THE MORNING FIRST THING SO I
18 CAN LOOK THEM OVER. BUT UNLESS THERE'S SOMETHING
19 REALLY GOING ON I THINK IT'S MY IMPRESSION THAT THE
20 STANDARD CHARGES WILL DO. BUT FEEL FREE TO GIVE ME
21 ANYTHING Y'ALL WANT TO GIVE ME. OKAY? I'M NOT TRYING
22 TO DISCOURAGE YOU.

23 MR. MELLARD: RIGHT.

24 THE COURT: OKAY.

25 COURT REPORTER: I NEED FOR Y'ALL GIVE ME ALL THE

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EXHIBITS.

THE COURT: AND THEN I NEED TO MAKE SURE - - -

COURT REPORTER: UNLESS YOU NEED SOME OF THEM
TONIGHT. I'M SORRY.

THE COURT: BEFORE Y'ALL LEAVE, MR. JUSTIS, IF
Y'ALL WILL MAKE SURE WE HAVE ALL THE EXHIBITS.

COURT REPORTER: THANK YOU, JUDGE.

THE COURT: THANK YOU.

(Recess for the day)

DATE:

JUNE 1, 2011

MR. MELLARD: MR. CHISOLM WILL BE HERE IN ONE
SECOND, YOUR HONOR.

THE COURT: OKAY.

(Whereupon, Mr. Chisolm
enters the courtroom.)

THE COURT: IS THE STATE READY TO PROCEED?

SOLICITOR JUSTIS: THE STATE'S READY, YOUR HONOR.

THE COURT: IS THE DEFENSE READY TO PROCEED?

MR. CHISOLM: WE'RE READY TO PROCEED, YOUR HONOR.

THE COURT: OKAY. AND I THINK THE JURY IS HERE,
SO IF YOU'D BRING THEM ON IN, AND REMEMBER, MR.
PEEPLS GETS THE FAVORITE SEAT. OKAY, THANK YOU.

(Whereupon, the jury enters
the courtroom and the following

1 takes place in the presence
2 of the jury.)

3 THE COURT: LADIES AND GENTLEMEN, I'M GLAD TO
4 HAVE Y'ALL BACK THIS MORNING. IT'S A WONDERFUL
5 WEDNESDAY. WE'RE GOING TO GET READY TO GET STARTED ON
6 THE TRIAL. I WANT TO MAKE SURE THAT NOBODY READ
7 ANYTHING, NOBODY CONTACTED YOU OR ANYTHING LIKE THAT?
8 (Negative response from jury.)

9 THE COURT: OKAY, GOOD. ALRIGHT, OKAY. WELL,
10 THEN, WE'RE READY TO GET STARTED.

11 MR. JUSTIS, CALL YOUR NEXT WITNESS. MR. BELL,
12 CALL YOUR NEXT WITNESS. IT'S SO MUCH MORE FUN WHEN WE
13 DO IT THIS WAY.

14 SOLICITOR BELL: THANK YOU, THAT'S FINE.

15 THE COURT: THANK YOU, SIR.

16 SOLICITOR BELL: THE STATE WOULD CALL KIMBERLY
17 PUGH TO THE STAND.

18 THE COURT: ALRIGHT.

19 (Whereupon, the witness
20 enters the room.)

21 CLERK: PLEASE PLACE YOUR LEFT HAND ON THE BIBLE
22 AND RAISE YOUR RIGHT HAND.

23 (Whereupon, Kimberly Pugh
24 is duly sworn.)

25 CLERK: THANK YOU. PLEASE STATE YOUR NAME FOR

1 THE RECORD.

2 WITNESS: KIMBERLY PUGH.

3 THE COURT: OKAY. AND IF YOU'D JUST GET
4 COMFORTABLE, SIT DOWN AND RELAX AND GET COMFORTABLE.

5 ALRIGHT, SOLICITOR BELL, YOUR WITNESS.

6 (NOTE: Blank lines on this page do not indicate any
7 part of record has been omitted. Headers on testimony
8 pages and hard page breaks between testimony are now
9 required by the Court. See next ensuing page for
10 sequential continuation of record.)

DIRECT - KIMBERLY PUGH BY SOL. BELL

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DIRECT EXAMINATION OF KIMBERLY PUGH

BY SOLICITOR BELL:

Q. MS. PUGH, WHERE ARE YOU EMPLOYED?

A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND HOW ARE YOU EMPLOYED THERE?

A. I'M THE EVIDENCE ROOM CUSTODIAN.

Q. AND WHAT ARE YOUR DUTIES AS BEING THE EVIDENCE ROOM CUSTODIAN?

A. I ACCEPT THE EVIDENCE FROM THE OFFICERS. I STORE IT, I TAKE IT TO SLED, BRING IT BACK, AND KEEP IT FOR COURT.

Q. AND HOW LONG HAVE YOU BEEN THE EVIDENCE ROOM CUSTODIAN?

A. ABOUT THREE YEARS.

Q. AND YOU WERE EMPLOYED AS SUCH BACK IN TWO THOUSAND NINE?

A. YES.

Q. TELL US HOW, TELL US ABOUT THE SECURITY OF THE EVIDENCE ROOM?

A. THE EVIDENCE ROOM IS SECURED BY THREE LOCKS. THERE'S A LOCK ON THE DOOR. AT THE TIME THAT I TOOK THIS EVIDENCE WE WERE IN A TEMPORARY OFFICE THAT WAS LOCKED. THERE WAS AN EXTERIOR LOCK, AND THEN YOU'D WALK THROUGH THE ROOM AND THEN THERE WAS AN INTERIOR LOCK BEYOND THAT ONE.

DIRECT - KIMBERLY PUGH BY SOL. BELL

205

1 Q. OKAY. AND WHO HAD CONTROL OVER THAT ROOM?

2 A. THE ONLY PEOPLE WERE MYSELF AND LIEUTENANT
3 CARTER.

4 Q. NOW, LET ME SHOW YOU NOW WHAT'S BEEN MARKED
5 STATE'S FIVE FOR IDENTIFICATION AND ASK IF YOU
6 RECOGNIZE THAT AND THE CONTENTS OF THAT BAG?

7 A. I DO.

8 Q. OKAY. AND WHAT IS THAT?

9 A. IT IS AN ORAL SWAB FROM [REDACTED]

10 Q. OKAY, AND WHERE -- WHO DID YOU RECEIVE THAT FROM?

11 A. FROM LIEUTENANT CARTER.

12 Q. OKAY. AND DID YOU PHYSICALLY RECEIVE IT OR HOW
13 DID YOU GET THAT?

14 A. HE BROUGHT IT TO ME.

15 Q. OKAY. AND WHAT DID YOU DO WHEN YOU RECEIVED IT?

16 A. I TOOK IT, I ENTERED IT INTO MY SPREAD SHEET AND
17 THEN I PUT IT INTO A BOX, AND A FEW DAYS LATER I
18 TOOK IT TO SLED.

19 Q. OKAY. AND WHAT EXACTLY DID YOU GET FROM
20 LIEUTENANT CARTER?

21 A. IT WOULD HAVE BEEN A LARGER ENVELOPE THAT HAD
22 [REDACTED] AND [REDACTED] ORAL SWABS IN TWO
23 LITTLE ENVELOPES INSIDE.

24 Q. SUCH AS THE ENVELOPE THAT'S INSIDE THAT BAG?

25 A. YES.

DIRECT - KIMBERLY PUGH BY SOL. BELL

206

1 Q. OKAY. AND WAS THAT SMALLER ENVELOPE, OR DID YOU
2 SEE IF THAT WAS SEALED?

3 A. I DIDN'T LOOK AT THE SMALLER ENVELOPES. THE
4 LARGER ENVELOPE WAS SEALED.

5 Q. OKAY. AND WHILE I'M DOING THAT LET ME SHOW YOU
6 WHAT'S BEEN MARKED AS STATE'S SIX FOR
7 IDENTIFICATION AND ASK IF YOU RECOGNIZE THAT?

8 A. YES.

9 Q. AND WHAT IS THAT?

10 A. [REDACTED] ORAL SWAB.

11 Q. OKAY. IN THE SMALL ENVELOPE?

12 A. YES.

13 Q. AND YOUR TESTIMONY IS THAT WHAT IS NOW STATE'S
14 FIVE AND SIX FOR IDENTIFICATION WERE IN A LARGER
15 ENVELOPE?

16 A. THEY WERE IN A LARGER SIZED ENVELOPE.

17 Q. OKAY. AND YOU PUT THEM IN A -- WHEN YOU RECEIVED
18 THAT, WHO DID YOU RECEIVE STATE'S SIX FOR
19 IDENTIFICATION FROM?

20 A. FROM LIEUTENANT CARTER.

21 Q. OKAY. AND WHAT DID YOU DO WITH STATE'S SIX FOR
22 IDENTIFICATION WHEN YOU RECEIVED IT FROM
23 LIEUTENANT CARTER?

24 A. I TOOK THE LARGER ENVELOPE AND PUT IT IN A BOX,
25 AND KEPT IT UNTIL I TOOK IT TO SLED.

DIRECT - KIMBERLY PUGH BY SOL. BELL

207

- 1 Q. OKAY. AND WHAT DATE DID YOU RECEIVE THOSE TWO,
2 STATE'S FIVE AND SIX FOR IDENTIFICATION, FROM
3 LIEUTENANT CARTER?
4 A. ON JULY TWENTY-THIRD, TWO THOUSAND NINE.
5 Q. OKAY. AND EVENTUALLY WHAT DID YOU DO WITH
6 STATE'S FIVE AND SIX?
7 A. I TOOK THEM TO SLED.
8 Q. OKAY. WHEN DID YOU TAKE THEM TO SLED?
9 A. I TOOK THEM TO SLED ON JULY TWENTY-EIGHTH.
10 Q. OKAY. AND SLED IS THE STATE LAW ENFORCEMENT
11 DIVISION, IS THAT CORRECT?
12 A. THAT'S CORRECT.
13 Q. AND SLED DOES THE ANALYSIS FOR ITEMS SUCH AS
14 THIS?
15 A. YES.
16 Q. OKAY. WHEN YOU TOOK IT TO SLED WHAT DID YOU DO
17 WITH IT, YOU DROVE IT PHYSICALLY TO SLED?
18 A. I DROVE IT TO SLED, I SAT IN THE LOBBY UNTIL IT
19 WAS MY TURN, I GO BACK, SPEAK WITH ONE OF THE
20 EVIDENCE INTAKE PEOPLE AND SIGN IT OVER TO THEM.
21 Q. AND WHAT HAPPENS THEN?
22 A. THEY TAKE IT AND I'M NOT SURE WHAT HAPPENS
23 EXACTLY AFTER THAT BUT THE - - -
24 Q. DO THEY -- NOW, THE BAGS THAT THESE ARE IN, DID
25 YOU EVER SEE THESE BAGS BEFORE?

DIRECT - KIMBERLY PUGH BY SOL. BELL

208

1 A. YES. THEY SEAL THEM IN THESE BAGS. I WATCH THEM
2 SEAL THE BAGS, AND I SIGN MY NAME, OR MY
3 SIGNATURE ACROSS THE SEAL OF THE BAG.

4 Q. OKAY. AND WHEN YOU TOOK THESE PARTICULAR,
5 STATE'S FIVE AND SIX FOR IDENTIFICATION, TO SLED,
6 YOU SAID THEY WERE TOGETHER IN ONE LARGE
7 ENVELOPE?

8 A. YES.

9 Q. DID ANYTHING HAPPEN TO THAT ENVELOPE WHEN YOU
10 TOOK IT?

11 A. THEY TOOK THEM OUT OF THE LARGER ENVELOPE AND PUT
12 THEM INTO SMALLER CLEAR BAGS.

13 Q. OKAY. AND YOU WITNESSED THAT?

14 A. YES.

15 Q. THESE TWO BAGS OR - - -

16 A. YES.

17 Q. AND THEY SEALED THESE BAGS IN YOUR PRESENCE?

18 A. YES.

19 Q. AND YOUR INITIALS ARE ON THAT?

20 A. YES.

21 Q. COULD YOU SHOW THE JURY WHERE YOUR INITIALS ARE
22 ON EACH, STATE'S FIVE AND SIX? WHICH ONE IS
23 THAT?

24 A. THIS IS [REDACTED]

25 Q. WHAT'S THE EVIDENCE NUMBER, I'M SORRY?

DIRECT - KIMBERLY PUGH BY SOL. BELL

209

- 1 A. NUMBER SIX.
- 2 Q. OKAY. STATE'S SIX FOR ID.
- 3 A. AND THERE'S MY INITIALS AND THE DATE ACROSS THE
- 4 TOP SEAL, AND MY NAME AND DATE ON THE BOTTOM OF
- 5 THAT BAG.
- 6 Q. OKAY. AND WHAT ABOUT THE OTHER, STATE'S FIVE?
- 7 A. ACROSS THE SEAL AND ON THE BAG.
- 8 Q. OKAY. AND AT THAT TIME DID YOU RELINQUISH
- 9 CONTROL TO SLED AT THAT POINT?
- 10 A. YES.
- 11 Q. OKAY. AND THE BAG WAS SEALED?
- 12 A. YES.
- 13 Q. AND WHEN YOU EXAMINED THE SMALLER ENVELOPES WERE
- 14 THEY SEALED AS WELL, OR DID YOU - - -
- 15 A. I DIDN'T, I DIDN'T LOOK AT THE SMALLER ENVELOPES.
- 16 THEY, THEY PUT THEM IN AND HANDED THE LARGER BAG
- 17 TO ME.
- 18 Q. BUT THE LARGER ENVELOPE THAT WAS IN YOUR PRESENCE
- 19 WAS SEALED ALL THE TIME THAT YOU HAD IT?
- 20 A. YES.
- 21 MR. MELLARD: OBJECTION, YOUR HONOR, HE'S
- 22 LEADING.
- 23 THE COURT: I'M GOING TO OVERRULE IT. GO AHEAD.
- 24 Q. OKAY. AND AT SOME POINT DID YOU GET THESE ITEMS
- 25 BACK?

DIRECT - KIMBERLY PUGH BY SOL. BELL

210

- 1 A. YES.
- 2 Q. DO YOU RECALL WHEN THAT WAS?
- 3 A. IT WOULD HAVE BEEN MARCH OF TWO THOUSAND TEN.
- 4 Q. AND WHEN YOU RECEIVED THEM THEY HAD BEEN ALTERED
- 5 A LITTLE BIT, IS THAT CORRECT?
- 6 A. THERE WAS ANOTHER -- IT WAS ANOTHER SIGNATURE
- 7 WHERE SOMEONE HAD OPENED THEM AND TAKEN THEM OUT
- 8 AND THEN RESEALED THEM.
- 9 Q. OKAY. AND WHEN YOU -- WHAT CONDITION WAS IT WHEN
- 10 YOU RECEIVED THOSE?
- 11 A. IT WAS COMPLETELY SEALED WITH A NEW SIGNATURE.
- 12 Q. OKAY. AND NOW THEY'RE OPEN AND WERE THEY -- DID
- 13 YOU BRING THEM TO COURT YESTERDAY?
- 14 A. YES.
- 15 Q. WERE THEY SEALED WHEN YOU BROUGHT THEM TO COURT?
- 16 A. THEY WERE SEALED.
- 17 Q. OKAY. THANK YOU. NOW, MS. PUGH, LET ME SHOW YOU
- 18 WHAT'S BEEN MARKED AS STATE'S SEVEN FOR
- 19 IDENTIFICATION AND ASK IF YOU RECOGNIZE THAT?
- 20 A. I DO.
- 21 Q. AND WHAT IS THAT?
- 22 A. MR. DINGLE'S ORAL SWAB.
- 23 Q. OKAY. AND WHO DID YOU RECEIVE THAT FROM?
- 24 A. FROM LIEUTENANT CARTER.
- 25 Q. OKAY. WHEN DID YOU RECEIVE THAT FROM LIEUTENANT

DIRECT - KIMBERLY PUGH BY SOL. BELL

211

- 1 CARTER?
- 2 A. I RECEIVED IT ON AUGUST TWENTIETH, TWO THOUSAND
- 3 NINE.
- 4 Q. OKAY. AND HOW, WHAT DID YOU ACTUALLY RECEIVE
- 5 FROM LIEUTENANT CARTER?
- 6 A. THIS LARGE SACK, LARGER SIZED ENVELOPE.
- 7 Q. OKAY. AND WHAT DID YOU DO WITH IT ONCE YOU
- 8 RECEIVED IT FROM LIEUTENANT CARTER?
- 9 A. I LOGGED IT INTO EVIDENCE AND PUT IT IN A BOX
- 10 PENDING MY TAKING IT UP TO SLED.
- 11 Q. OKAY. AND WAS -- THAT BROWN ENVELOPE INSIDE THE
- 12 PLASTIC BAG, WAS IT SEALED WHEN YOU RECEIVED IT?
- 13 A. YES.
- 14 Q. OKAY. AND THEN WHAT DID YOU DO WITH THAT
- 15 ENVELOPE?
- 16 A. I TOOK IT TO SLED AND AGAIN THEY PUT IT IN THE
- 17 LARGER ENVELOPE AND I SIGNED THE SEAL.
- 18 Q. OKAY. WHEN DID YOU TAKE THAT ENVELOPE TO SLED?
- 19 A. I TOOK IT ON AUGUST TWENTY-FIFTH, TWO THOUSAND
- 20 NINE.
- 21 Q. AUGUST TWENTY-FIFTH, TWO THOUSAND NINE?
- 22 A. YES.
- 23 Q. AND WHEN YOU TOOK IT TO SLED YOU JUST TOOK THE
- 24 BROWN ENVELOPE, CORRECT?
- 25 A. YES.

DIRECT - KIMBERLY PUGH BY SOL. BELL

212

- 1 Q. AND WHAT HAPPENED TO IT WHEN YOU GOT, WHEN YOU
2 BROUGHT IT INTO SLED?
3 A. THEY SEALED IT IN THE PLASTIC ENVELOPE.
4 Q. THAT PLASTIC BAG THAT YOU'RE HOLDING THERE?
5 A. UH-HUH.
6 Q. OKAY. AND THAT WAS THE LAST TIME YOU SAW IT, AND
7 DID YOU SIGN YOUR INITIAL ON THE SEAL?
8 A. I DID.
9 Q. WOULD YOU SHOW THE JURY?
10 A. I SIGNED IT ACROSS THE SEAL ON THE BAG AND DATED
11 IT.
12 Q. OKAY. AND THAT'S THE LAST TIME YOU SAW IT UNTIL
13 YOU RETRIEVED IT, IS THAT CORRECT?
14 A. THAT IS CORRECT.
15 Q. AND WHEN DID YOU RETRIEVE THAT PARTICULAR BAG?
16 A. IN MARCH OF TWO THOUSAND TEN.
17 Q. OKAY. AND YOU BROUGHT THAT TO COURT YESTERDAY?
18 A. YES.
19 Q. AND IT WAS SEALED AT SOME POINT?
20 A. YES.
21 Q. DID YOU OPEN, DID YOU CUT THAT OPEN?
22 A. I CUT THIS SEAL YESTERDAY?
23 Q. OKAY. YESTERDAY. AND IT WAS SEALED UP UNTIL
24 YESTERDAY?
25 A. YES, SIR.

DIRECT - KIMBERLY PUGH BY SOL. BELL

213

- 1 Q. OKAY. AND JUST TO MAKE SURE, STATE'S SEVEN WAS
2 TAKEN TO SLED BY YOU ON AUGUST TWENTIETH, IS THAT
3 CORRECT?
- 4 A. ON, IT WAS TAKEN TO SLED ON AUGUST TWENTY-FIFTH.
- 5 Q. I'M SORRY, AUGUST TWENTY-FIFTH.
- 6 A. YES.
- 7 Q. OKAY. AND STATE'S FIVE AND SIX FOR
8 IDENTIFICATION WERE TAKEN ON JULY TWENTY-FIFTH,
9 IS THAT CORRECT?
- 10 A. JULY TWENTY-EIGHTH.
- 11 Q. JULY TWENTY-EIGHTH. SO, FIVE AND SIX WEREN'T
12 TAKEN AT THE SAME TIME THAT STATE'S SEVEN FOR
13 IDENTIFICATION WAS TAKEN?
- 14 A. NO.
- 15 Q. OKAY. AND STATE'S SEVEN, YOU SAID YOU RETRIEVED
16 ON MARCH TWENTIETH, TWO THOUSAND TEN, WAS THAT
17 CORRECT, OR DID I - - -
- 18 A. IT WAS IN MARCH OF TWO THOUSAND TEN.
- 19 Q. MARCH OF TWO THOUSAND TEN, AND IT HAS BEEN IN
20 YOUR POSSESSION EVER SINCE?
- 21 A. IT HAS.
- 22 Q. LET ME GO BACK TO STATE'S SEVEN FOR
23 IDENTIFICATION. AND YOU SAID WHEN YOU GOT IN
24 MARCH OF TWO THOUSAND HAD IT BEEN CHANGED IN ANY
25 WAY?

DIRECT - KIMBERLY PUGH BY SOL. BELL

214

1 A. IT WAS WRITTEN ON, SLED WROTE ON IT. OTHER THAN
2 THAT, NO. THEY CUT THE SEAL AND SIGNED THE SEAL,
3 WHOEVER OPENED IT AND ANALYZED IT.

4 Q. SO, IT WAS OPENED AND THERE'S A NEW SEAL PUT ON
5 IT?

6 A. THERE'S A NEW SEAL AND A SIGNATURE.

7 Q. OKAY.

8 SOLICITOR BELL: THANK YOU, MS. PUGH, PLEASE
9 ANSWER ANY QUESTIONS THAT THE DEFENSE MAY HAVE FOR
10 YOU.

11 THE COURT: MR. CHISOLM.

12 MR. CHISOLM: THANK YOU, YOUR HONOR.

13 THE COURT: YES, SIR.

14 (NOTE: Blank lines on this page do not indicate any
15 part of record has been omitted. Headers on testimony
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17 required by the Court. See next ensuing page for
18 sequential continuation of record.)

CROSS - KIMBERLY PUGH BY MR. CHISOLM

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CROSS-EXAMINATION OF KIMBERLY PUGH

BY MR. CHISOLM:

Q. GOOD MORNING, MS. PUGH.

A. GOOD MORNING.

Q. I JUST HAVE A FEW QUESTIONS FOR YOU. NOW, YOU'VE GOT, -- BASICALLY SAMPLES WERE SUBMITTED TWO TIMES, IS THAT CORRECT?

A. YES.

Q. AND YOU SAID [REDACTED] AND [REDACTED] YOU GOT FROM LIEUTENANT CARTER?

A. I DID.

Q. YOU SAID YOU ALSO GOT MR. DINGLE'S SAMPLE FROM LIEUTENANT CARTER, IS THAT CORRECT?

A. YES.

Q. OKAY. AND ONCE YOU GET THESE SAMPLES, HOW DID YOU STORE THEM DID YOU SAY?

A. THEY'RE PUT IN A BOX AND THEY WAIT TO GO TO SLED. USUALLY I GO ONCE A WEEK.

Q. OKAY. LIKE A CARD BOARD BOX?

A. IT WAS A CARD BOARD BOX, YES.

Q. AND YOU TRANSPORTED BOTH SETS OF SAMPLES YOURSELF, IS THAT RIGHT?

A. YES.

Q. OKAY. YOU TOOK THEM BOTH TO WHAT, COLUMBIA, I GUESS, TO SLED?

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A. TO SLED.

Q. OKAY. AND WHO DID YOU GIVE THE SAMPLES ON THESE TRIPS?

A. THE FIRST SET WHICH WOULD HAVE BEEN [REDACTED] AND [REDACTED] I GAVE TO DORIS YARBOROUGH, AND MR. DINGLE'S I GAVE TO AMIE STEVENS.

Q. DO YOU HAVE ANY IDEA WHAT HAPPENED TO THE SAMPLES AFTER YOU DELIVERED THEM TO THEM?

A. THEY PUT THEM IN A BIN AND I DON'T KNOW WHAT HAPPENS EXACTLY TO THEM AFTER THAT.

Q. DO YOU KNOW WHO UNSEALS THEM OR - - -

A. NO.

Q. --- WHEN THEY'RE UNSEALED OR ANYTHING LIKE THAT, YOU DON'T HAVE ANY KNOWLEDGE OF ANY OF THAT?

A. NO.

Q. AND YOU RECEIVED MR. DINGLE'S SAMPLE ON A DIFFERENT DATE THAN [REDACTED] AND [REDACTED]

A. I DID.

Q. IT WAS, LIKE, YOU SAID IT WAS IN AUGUST COMPARED TO JULY FOR THE FIRST SETS?

A. YES.

MR. CHISOLM: I BEG THE COURT'S INDULGENCE.

THE COURT: TAKE YOUR TIME.

Q. OKAY. MS. PUGH, DID ANYBODY ELSE HAVE ANY CONTACT WITH THESE SAMPLES BESIDES YOU AND

CROSS - KIMBERLY PUGH BY MR. CHISOLM

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1 LIEUTENANT CARTER, WAS ANYBODY ELSE EVER AROUND
2 THE EVIDENCE ROOM?

3 A. NO.

4 Q. NOBODY ELSE?

5 A. NO.

6 MR. CHISOLM: ALRIGHT. THANK YOU. NO FURTHER
7 QUESTIONS.

8 THE COURT: THANK YOU. ANYTHING ON REDIRECT?

9 SOLICITOR BELL: NO, YOUR HONOR.

10 THE COURT: ALRIGHT. THANK YOU, MA'AM, YOU MAY
11 STEP DOWN. I APPRECIATE IT.

12 SOLICITOR BELL: AND MAY SHE BE EXCUSED AS WELL,
13 YOUR HONOR?

14 THE COURT: ANY OBJECTION TO MS. PUGH BEING
15 EXCUSED?

16 MR. CHISOLM: NO OBJECTION.

17 THE COURT: ALRIGHT, SHE IS EXCUSED. THANK YOU,
18 MA'AM.

19 ALRIGHT, CALL YOUR NEXT WITNESS.

20 SOLICITOR JUSTIS: THE STATE CALLS STEPHANIE
21 STANLEY.

22 (Whereupon, the witness
23 enters the courtroom.)

24 CLERK: PLEASE PLACE YOUR LEFT HAND ON THE BIBLE
25 AND RAISE YOUR RIGHT HAND.

1 (Whereupon, Stephanie Stanley
2 is duly sworn.)

3 CLERK: THANK YOU. PLEASE STATE YOUR NAME FOR
4 THE RECORD.

5 WITNESS: STEPHANIE STANLEY.

6 (NOTE: Blank lines on this page do not indicate any
7 part of record has been omitted. Headers on testimony
8 pages and hard page breaks between testimony are now
9 required by the Court. See next ensuing page for
10 sequential continuation of record.)

DIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

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DIRECT EXAMINATION OF STEPHANIE STANLEY

BY SOLICITOR JUSTIS:

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3 Q. MS. STANLEY, WERE YOU ASKED TO PERFORM SOME DNA
4 ANALYSIS IN A CASE INVOLVING SAMUEL DINGLE?

5 A. I WAS.

6 Q. AND DID YOU PERFORM THAT ANALYSIS?

7 A. I DID.

8 Q. AND ARE YOU PREPARED TODAY TO TELL US THE RESULTS
9 OF THAT ANALYSIS?

10 A. I AM.

11 Q. BEFORE WE GET TO THAT POINT LET'S TALK ABOUT YOUR
12 QUALIFICATIONS A LITTLE BIT. WHERE ARE YOU
13 EMPLOYED?

14 A. I'M EMPLOYED BY THE SOUTH CAROLINA LAW
15 ENFORCEMENT DIVISION WHICH IS COMMONLY REFERRED
16 TO AS SLED.

17 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

18 A. SINCE FEBRUARY OF TWO THOUSAND AND FIVE.

19 Q. AND WHAT IS YOUR JOB TITLE?

20 A. I'M A FORENSIC SCIENTIST ASSIGNED TO THE DNA CASE
21 WORK DEPARTMENT.

22 Q. AND WHAT DOES THAT ENTAIL, WHAT ARE SOME OF YOUR
23 JOB DUTIES AS A FORENSIC SCIENTIST?

24 A. I RECEIVE EVIDENCE SAMPLES FROM LAW ENFORCEMENT
25 AGENCIES AROUND THE STATE OF SOUTH CAROLINA. I

1 ATTEMPT TO DEVELOP A DNA PROFILE FROM THOSE
2 ITEMS. I THEN COMPARE THAT DNA PROFILE TO THE
3 DNA PROFILE DEVELOPED FROM KNOWN STANDARDS TO SEE
4 IF THEY MATCH. I WILL GENERATE A REPORT BASED ON
5 MY FINDINGS AND TESTIFY IN COURT IF NEEDED.

6 Q. OKAY. AND LET'S TALK ABOUT YOUR EDUCATION, WHAT
7 TYPE OF EDUCATION DO YOU HAVE?

8 A. I HAVE A BACHELORS OF SCIENCE DEGREE IN
9 BIOLOGICAL SCIENCES FROM CLEMSON UNIVERSITY.

10 Q. OKAY. AND WHAT ABOUT ANY SPECIALIZED TRAINING
11 THAT YOU HAVE?

12 A. YES. I HAVE RECEIVED TRAINING IN DNA ANALYSIS AT
13 MARSHALL UNIVERSITY, APPLIED BIO SYSTEMS IN
14 ROCKVILLE, MARYLAND, SEROLOGY TRAINING AT THE
15 NATIONAL FORENSIC SCIENCE TECHNOLOGY CENTER. I
16 WAS TRAINED BY COURT QUALIFIED ANALYSTS AT SLED
17 IN EVIDENCE HANDLING, DNA ANALYSIS, SEROLOGY,
18 INTERPRETATION OF MY REPORTS, REPORT WRITING,
19 STATISTICS AS IT RELATES TO DNA ANALYSIS, AND
20 COURTROOM TESTIMONY.

21 Q. AND WHEN YOU SAY SEROLOGY, WHAT DOES THAT MEAN,
22 COMMONLY?

23 A. SEROLOGY IS THE IDENTIFICATION AND
24 CHARACTERIZATION OF BODY FLUIDS, USUALLY BLOOD,
25 SEMEN AND SALIVA.

DIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

221

1 Q. OKAY. HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT
2 TO TESTIFY IN COURT?

3 A. I HAVE.

4 Q. AND APPROXIMATELY HOW MANY TIMES HAVE YOU BEEN
5 QUALIFIED AS AN EXPERT?

6 A. TWELVE TIMES.

7 Q. AND DO YOU ALWAYS TESTIFY FOR THE STATE?

8 A. NO, I DO NOT. I TESTIFY FOR THE STATE, I TESTIFY
9 FOR THE DEFENSE, WHOEVER NEEDS US IN THAT CASE.

10 Q. OKAY.

11 SOLICITOR JUSTIS: AT THIS TIME, YOUR HONOR, THE
12 STATE WOULD LIKE TO OFFER MS. STANLEY AS AN EXPERT IN
13 FORENSIC DNA ANALYSIS.

14 THE COURT: ANY OBJECTION?

15 MR. CHISOLM: NO OBJECTION.

16 THE COURT: ALRIGHT. SHE IS SO QUALIFIED AS AN
17 EXPERT IN FORENSIC DNA ANALYSIS.

18 SOLICITOR JUSTIS: THANK YOU, YOUR HONOR.

19 Q. AT THIS TIME LET'S TURN YOUR ATTENTION TO WHAT
20 YOU DID IN THIS CASE, HOW YOU DID IT, AND WHY YOU
21 DID IT. FIRST OF ALL, WHAT DID YOU DO IN THIS
22 CASE?

23 A. I RECEIVED THREE SETS OF BUCCAL SWABS. THEY'RE
24 MY ITEMS ONE, TWO AND THREE. I RECEIVED BUCCAL
25 SWABS FROM [REDACTED] [REDACTED] AND SAMUEL

1 DINGLE. I DEVELOPED A DNA PROFILE FROM THOSE
2 ITEMS, AND WAS ABLE TO WRITE A REPORT BASED ON
3 THOSE FINDINGS.

4 Q. OKAY. AND FOR THE EDUCATION OF MYSELF AND
5 EVERYONE IN THE COURTROOM, WHAT IS DNA?

6 A. DNA IS AN ABBREVIATION FOR DEOXYRIBO NUCLEIC
7 ACID. IT'S A CHEMICAL THAT'S FOUND IN ALL OF OUR
8 CELLS WITH THE EXCEPTION OF RED BLOOD CELLS. DNA
9 IS RESPONSIBLE FOR THE PASSING OF GENETIC
10 INFORMATION FROM GENERATION TO GENERATION. HALF
11 OF YOUR DNA COMES FROM YOUR MOTHER AND HALF OF
12 YOUR DNA COMES FROM YOUR FATHER. IN OUR LAB WE
13 LOOK AT FIFTEEN LOCATIONS ON THE DNA. NOW, MOST
14 OF US, WE ALL HAVE TWO ARMS, TWO LEGS, MOST OF
15 OUR DNA IS THE SAME AMONG INDIVIDUALS. IN
16 FORENSICS WE'RE INTERESTED IN THE VERY SMALL
17 PORTION OF OUR DNA THAT MAKES US DIFFERENT. IT
18 ALLOWS US TO TELL INDIVIDUALS APART. WE LOOK AT
19 THOSE FIFTEEN LOCATIONS AND THE INFORMATION FROM
20 THOSE LOCATIONS COMBINED GIVES US WHAT IS KNOWN
21 AS A DNA PROFILE. NO TWO PEOPLE WILL HAVE THE
22 SAME DNA PROFILE WITH THE EXCEPTION OF IDENTICAL
23 TWINS.

24 Q. DO YOU HAVE ANY KNOWLEDGE OF WHETHER MR. DINGLE
25 IS AN IDENTICAL TWIN?

DIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

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- 1 A. I DO NOT.
- 2 Q. WHAT I'M SHOWING YOU HAS BEEN MARKED AS STATE'S
- 3 EXHIBIT NUMBER FIVE. DO YOU RECOGNIZE THAT?
- 4 A. I DO.
- 5 Q. AND WHAT IS THAT?
- 6 A. THIS IS A HEAT SEALED POUCH THAT CAME FROM THE
- 7 SLED LABORATORY. I'M ABLE TO RECOGNIZE IT, THIS
- 8 IS MY CASE NUMBER THAT'S ASSOCIATED WITH THIS
- 9 CASE. THERE'S AN ITEM NUMBER THAT'S ASSOCIATED
- 10 WITH IT. IT'S ITEM NUMBER ONE, AND IT TELLS ME
- 11 THAT IT IS BUCCAL SWABS FROM [REDACTED] IT WAS
- 12 SEALED BY THE AGENCY AND THIS IS WHERE I'VE
- 13 SEALED THE EVIDENCE.
- 14 Q. OKAY. AND WHEN YOU GET A SAMPLE LIKE THAT WHAT
- 15 WOULD DO, DO YOU OPEN IT, WHO OPENS IT?
- 16 A. YES, I OPEN IT. THIS IS WHERE I'VE CUT ALONG
- 17 THIS POUCH AND REMOVED THE INNER ENVELOPE.
- 18 Q. AND AFTER YOU'RE DONE TESTING WHAT DO YOU DO WITH
- 19 IT?
- 20 A. WE HEAT SEAL IT AND I HAVE INITIALED AND DATED
- 21 THE SEAL ALONG THE SIDE.
- 22 Q. NOW, WHEN YOU RECEIVE IT, YOU'RE NOT THE PERSON
- 23 THAT RECEIVES IT FROM OUR EVIDENCE CLERK HERE IN
- 24 ORANGEBURG, ARE YOU?
- 25 A. NO.

- 1 Q. WOULD SOMEONE ELSE AT SLED ACTUALLY RECEIVE IT
2 FROM THAT PERSON?
- 3 A. YES, THEY WOULD.
- 4 Q. AND ARE YOU FAMILIAR WITH WHAT THEY DO WITH IT AT
5 THAT POINT?
- 6 A. YES.
- 7 Q. AND WHAT DO THEY DO?
- 8 A. AGENCIES COME TO SLED TO OUR EVIDENCE CONTROL
9 UNIT. THEY WILL LOG IN THE CASES WITH
10 INFORMATION ABOUT THE CASE, INFORMATION ABOUT THE
11 ITEMS, AND CHAIN OF CUSTODY BEGINS AT THAT POINT
12 FOR THE SLED LABORATORY. IT WAS SUBMITTED,
13 ACCORDING TO THIS CHAIN OF CUSTODY, FROM KIMBERLY
14 PUGH OF THE ORANGEBURG COUNTY SHERIFF'S OFFICE
15 AND IT WAS GIVEN TO A FORENSIC TECHNICIAN IN OUR
16 EVIDENCE CONTROL UNIT. THEY WILL STORE THE
17 EVIDENCE UNTIL MY DEPARTMENT IS READY FOR IT.
- 18 Q. OKAY. DOES ANYONE -- WHO OPENS THE EVIDENCE AT
19 SLED?
- 20 A. A TECHNICIAN COULD OPEN IT IF IT IS A BLOOD
21 STANDARD THAT NEEDS TO BE PRESERVED, BUT MOST
22 POUCHES ARE NOT OPENED UNTIL I RECEIVE THEM.
- 23 Q. AND WHAT ABOUT THIS POUCH, WAS IT OPENED PRIOR TO
24 YOU RECEIVING IT?
- 25 A. IT WAS NOT.

DIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

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1 Q. AND HOW WOULD YOU KNOW THAT?

2 A. THE POUCH IS, IT'S OPEN NOW, BUT THE POUCH WAS
3 SEALED ALONG THIS SIDE. THIS SIDE WAS NOT CUT
4 INTO, AND THE ONLY PLACE WHERE IT HAD BEEN OPENED
5 WAS UP HERE WHERE IT WAS INITIALED BY THE AGENCY
6 THAT SHE SEALED IT WHEN SHE DROPPED IT OFF.

7 SOLICITOR JUSTIS: AT THIS TIME THE STATE WOULD
8 LIKE TO OFFER STATE'S EXHIBIT NUMBER FIVE INTO
9 EVIDENCE.

10 MR. CHISOLM: I WOULD OBJECT TO THIS, YOUR HONOR.
11 I THINK THE STATE'S FAILED TO ESTABLISH CHAIN OF
12 CUSTODY.

13 THE COURT: OKAY. AND HOW -- AND THE REASON?

14 MR. CHISOLM: BASICALLY, YOUR HONOR, WE HAVE
15 TESTIMONY FROM KIMBERLY PUGH THAT SHE SUBMITTED IT,
16 BUT WE HAVEN'T HAD ANY TESTIMONY OF WHERE IT WENT FROM
17 KIMBERLY PUGH TO MS. STANLEY, ALL THE LINKS IN
18 BETWEEN.

19 THE COURT: OKAY. ALRIGHT. IT APPEARS TO ME
20 THAT KIMBERLY PUGH GAVE A SEALED PLASTIC ENVELOPE TO
21 SLED TECHNICIANS. SLED TECHNICIANS THEN PASSED IT ON
22 TO MS. STANLEY, AND MS. STANLEY SAID SHE WAS THE ONE
23 THAT OPENED IT, NO ONE ELSE DID. SO, I'LL NOTE YOUR
24 OBJECTION FOR THE RECORD BUT I AM GOING TO ADMIT IT
25 INTO EVIDENCE, OKAY, FOR THOSE REASONS. THANKS.

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COURT REPORTER: STATE'S FIVE.

(State's Exhibit Five
marked and filed.)

Q. MS. STANLEY, WHAT I'M SHOWING YOU HAS BEEN MARKED
AS STATE'S EXHIBIT NUMBER SIX. DO YOU RECOGNIZE
THIS ITEM?

A. I DO.

Q. AND WHAT IS IT?

A. ONCE AGAIN, THIS IS MY LAB NUMBER ASSOCIATED WITH
THE CASE, AND THE ITEM NUMBER, I NOTICE MY
INITIALS ON THE SIDE. THIS IS MY ITEM TWO WHICH
CORRESPONDS TO BUCCAL SWABS FROM [REDACTED]

Q. AND WHEN YOU RECEIVED THAT ITEM WAS IT SEALED?

A. IT WAS.

Q. AND HOW DO YOU KNOW IT WAS SEALED?

A. THERE WERE NO TEARS ALONG THE BAG. THE ONLY PLACE
THAT IT HAD BEEN OPENED WAS HERE WHEN IT WAS
SIGNED BY THE AGENCY WHEN THEY DROPPED IT OFF AT
SLED.

Q. AND DID YOU OPEN THE BAG?

A. I DID.

Q. AND WHEN YOU WERE FINISHED DOING YOUR ANALYSIS
WHAT DID YOU DO?

A. I SEALED THE BAG WITH A HEAT SEAL AND INITIALED
AND DATED MY SEAL.

DIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

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Q. AND IS THAT YOUR HANDWRITING ON THE BAG - - -

A. IT IS.

Q. --- WHERE YOU DID THAT?

SOLICITOR JUSTIS: AT THIS TIME, YOUR HONOR, THE STATE WOULD LIKE TO OFFER STATE'S EXHIBIT NUMBER SIX INTO EVIDENCE.

THE COURT: ALRIGHT. AND MR. CHISOLM, I WILL NOTE OUR SAME OBJECTION?

MR. CHISOLM: YES, SIR, YOUR HONOR.

THE COURT: OKAY. AND MY SAME RULING. THANK YOU, SIR, SO IT WILL BE PRESERVED. THANK YOU, SIR.

MR. CHISOLM: YOUR HONOR, - - -

THE COURT: YES, SIR?

MR. CHISOLM: AFTER -- COULD WE APPROACH?

THE COURT: SURE.

(Whereupon, a bench conference is had out of the hearing of the jury and court reporter.)

COURT REPORTER: STATE'S SIX.

(State's Exhibit Six marked and filed.)

SOLICITOR JUSTIS: THANK YOU.

THE COURT: IT'S INTO EVIDENCE.

Q. MS. STANLEY, I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER SEVEN. DO YOU

1 SOLICITOR JUSTIS: THANK YOU.

2 Q. MS. STANLEY, I'M SHOWING YOU WHAT'S BEEN MARKED
3 AS STATE'S EXHIBIT NUMBER EIGHT. DO YOU
4 RECOGNIZE THAT?

5 A. I DO.

6 Q. AND WHAT IS THAT?

7 A. THIS APPEARS TO BE A MUCH LARGER VERSION OF THE
8 TABLE I PREPARED FOR MY REPORT.

9 Q. OKAY. AND IS THAT AN ACCURATE DUPLICATION OF THE
10 TABLE THAT YOU PREPARED?

11 A. YES, I BELIEVE IT IS.

12 SOLICITOR JUSTIS: AT THIS TIME, YOUR HONOR, THE
13 STATE WOULD LIKE TO HAVE STATE'S EXHIBIT NUMBER EIGHT
14 MOVED INTO EVIDENCE.

15 THE COURT: HAVE YOU SEEN THAT?

16 MR. CHISOLM: YES.

17 THE COURT: OKAY.

18 MR. CHISOLM: NO OBJECTION.

19 THE COURT: ALRIGHT, SIR. IT IS ADMITTED INTO
20 EVIDENCE.

21 COURT REPORTER: STATE'S EIGHT.

22 (State's Exhibit Eight.
23 marked and filed.)

24 SOLICITOR JUSTIS: AT THIS TIME, YOUR HONOR, WE
 WOULD ASK THAT THE WITNESS COULD STEP DOWN AND USE

DIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

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1 THIS TABLE TO AID IN EXPLAINING TO THE JURY HOW SHE
2 CREATED THESE NUMBERS.

3 THE COURT: OKAY. MR. CHISOLM, ARE YOU GOING TO
4 GET INTO A POSITION SO YOU CAN SEE? OKAY. THANKS.

5 Q. OKAY, MS. STANLEY, COULD YOU EXPLAIN WHAT THAT
6 TABLE IS?

7 A. THIS IS A COPY OF THE TABLE I PREPARED IN MY
8 REPORT. WHAT IT'S SHOWING YOU IS THE, ON THIS
9 HORIZONTAL LINE THESE ARE THE LOCATIONS OF THE
10 DNA THAT WE'RE TESTING, AND THESE ARE THE ITEM
11 NUMBERS ASSOCIATED WITH THE DNA. ITEM NUMBER ONE
12 BELONGS TO [REDACTED] NUMBER TWO IS [REDACTED]
13 [REDACTED] NUMBER THREE IS SAMUEL DINGLE.

14 Q. AND YOU MENTIONED EARLIER THAT YOU TEST FIFTEEN
15 LOCATIONS?

16 A. YES.

17 Q. ARE THOSE THE FIFTEEN LOCATIONS?

18 A. THESE ARE THE LOCATIONS THAT WE'RE TESTING.

19 Q. OKAY. AND COULD YOU JUST BRIEFLY FOR THE JURY
20 EXPLAIN MAYBE ONE OR TWO, KIND OF HOW YOU
21 DETERMINE WHETHER THERE'S SOME SORT OF MATCH?

22 A. IN A CASE OF PATERNITY, WHAT WE'RE LOOKING FOR
23 IS, WE'RE GOING TO GO THROUGH THE MOTHER'S
24 PROFILE AND DETERMINE WHETHER SHE COULD BE A
25 BIOLOGICAL RELATIVE OF THE CHILD. WE FIRST WANT

1 TO MAKE SURE THAT, YES, THE MOM IS ACTUALLY THE
2 BIOLOGICAL MOM OF THE CHILD. THE SECOND THING
3 THAT WE'RE GOING TO DO IS MAKE SURE THAT THE
4 ALLEGED FATHER, ITEM THREE IN THIS CASE, COULD
5 POTENTIALLY BE A PATERNAL FATHER FOR THE CHILD IN
6 QUESTION. AND THE WAY THAT WE DO THAT IS, AT
7 EACH LOCATION WE'RE GOING TO SEE WHAT THE MOM HAS
8 ON THE DNA, AND SEE THAT SHE DONATED ONE-HALF TO
9 THE CHILD. IN THIS CASE IT WOULD BE THIRTEEN
10 CAME FROM THE MOTHER, WHICH LEAVES A COMBINATION
11 OF TWELVE THAT WE'RE LOOKING FOR FROM AN ALLEGED
12 FATHER. THE ALLEGED FATHER IN THIS CASE HAD THE
13 TWELVE SO WE MOVE TO THE NEXT LOCATION. IN THIS
14 CASE THE MOTHER IS AT TWENTY-NINE THIRTY-FIVE,
15 AND THE CHILD IS TWENTY-NINE THIRTY-TWO POINT
16 TWO. THE MOTHER WOULD HAVE CONTRIBUTED THE
17 TWENTY-NINE, SO WE'RE LOOKING FOR A THIRTY-TWO
18 POINT TWO IN THE ALLEGED FATHER. AND IT IS HERE,
19 SO WE MOVE ON TO THE NEXT LOCATION, AND WE DO
20 THAT ALL THE WAY ACROSS.

21 Q. AND IF YOU DON'T GET A MATCH - - -
22 A. A TRUE PATERNITY CAN RESULT IN UP TO TWO
23 INCONSISTENCIES, BUT IF THERE'S ANY MORE THAN
24 THAT THEN THE ALLEGED FATHER IS EXCLUDED AS A
25 PATERNAL RELATIVE.

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Q. AND IN THIS CASE WHEN YOU WENT THROUGH THE FIFTEEN LOCATIONS HOW MANY INCONSISTENCIES DID YOU FIND?

A. THERE WERE NO INCONSISTENCIES.

Q. OKAY. THANK YOU. YOU MAY SIT BACK DOWN. AND WHEN YOU COMPLETED YOUR TESTING DID YOU REPORT THESE IN SOME SORT OF WRITTEN REPORT?

A. I DID.

Q. AND WAS THAT REPORT MADE AVAILABLE TO LAW ENFORCEMENT?

A. IT WAS.

Q. AND WHAT WAS THE RESULTS THAT YOU CAME UP WITH IN THIS CASE?

A. THE DNA PROFILE DEVELOPED FROM [REDACTED] IS CONSISTENT WITH BEING A BIOLOGICAL OFFSPRING OF [REDACTED] AND SAMUEL DINGLE.

SOLICITOR JUSTIS: I BEG THE COURT'S INDULGENCE.

THE COURT: ALRIGHT, SIR. TAKE YOUR TIME.

Q. MS. STANLEY, YOU MENTIONED BEFORE THAT NO TWO PEOPLE HAVE THE SAME DNA?

A. CORRECT.

Q. WHAT ABOUT SOMEONE WHO'S RELATED TO THE ALLEGED FATHER, MAYBE THE SON OF AN ALLEGED FATHER, WOULD IT BE POSSIBLE FOR HIM TO HAVE THE SAME DNA AS THE FATHER AND SHOW UP AS THE FATHER FOR THE

1 ALLEGED, THE CHILD IN THIS CASE?

2 A. THE ONLY TWO PEOPLE THAT ARE GOING TO HAVE THIS
3 SAME EXACT DNA PROFILE ARE IDENTICAL TWINS.
4 PARENTS DO SHARE WITH CHILDREN, AND YOU SHARE
5 HALF YOUR DNA, YOU GET HALF FROM MOM AND HALF
6 COMES FROM YOUR FATHER, AND THAT MAKES UP A
7 CHILD. SO, YOU WILL SHARE SOME WITH YOUR MOM AND
8 WITH YOUR DAD. I WASN'T GIVEN ANYBODY ELSE TO
9 TEST, SO THE ONLY ONE I HAVE TO GO BY IS SAMUEL
10 DINGLE IN THIS CASE. SO, I CAN'T SAY HOW MUCH HE
11 SHARES WITH A SON OR ANY OTHER RELATIVE.

12 Q. AND DO THEY -- WHEN YOU REPORTED YOUR FINDINGS,
13 ARE THERE ANY OTHER ANALYSIS THAT YOU DO?

14 A. NOT AS FAR AS ANALYSIS. WE WILL DO A STATISTICAL
15 CALCULATION AND THAT IS TO GIVE WEIGHT TO GIVE
16 WEIGHT TO OUR, A MATCH, OR A WEIGHT TO AN
17 EXCLUSION.

18 Q. AND DID YOU DO THAT IN THIS CASE?

19 A. I DID.

20 Q. AND WHAT WERE THE RESULTS OF THAT ANALYSIS OR
21 STATISTICAL?

22 A. IT'S AT LEAST APPROXIMATELY NINETY-SIX THOUSAND
23 TIMES MORE LIKELY TO SEE THESE GENETIC RESULTS IF
24 THE ALLEGED FATHER WAS THE TRUE BIOLOGICAL FATHER
25 THAN IF A RANDOM MAN WAS THE FATHER. WITH THE

DIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

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1 GENETIC RESULTS OBTAINED GREATER THAN NINETY-NINE
2 POINT NINE NINE PERCENT OF RANDOMLY TESTED MEN
3 WOULD BE EXCLUDED AS POTENTIAL CONTRIBUTORS.

4 Q. SO, NINETY-NINE POINT NINE NINE PERCENT GREATER
5 THAN THAT WOULD BE EXCLUDED AS THE FATHER, RANDOM
6 PEOPLE THAT WERE TESTED?

7 A. CORRECT.

8 Q. SO, IF YOU WERE TO TEST ME OR ANYONE IN THIS ROOM
9 OTHER THAN MR. DINGLE THERE'S A NINETY-NINE POINT
10 NINE NINE PERCENT CHANCE THAT THEY'D BE, GREATER
11 THAN THAT, THAT THEY'D BE EXCLUDED AS THE FATHER?

12 A. YES, THAT IS CORRECT.

13 SOLICITOR JUSTIS: THANK YOU, NO FURTHER
14 QUESTIONS. PLEASE ANSWER ANY QUESTIONS THE DEFENSE
15 MIGHT HAVE.

16 THE COURT: THANK YOU, SIR.

17 YOUR WITNESS.

18 MR. CHISOLM: THANK YOU, YOUR HONOR.

19 (NOTE: Blank lines on this page do not indicate any
20 part of record has been omitted. Headers on testimony
21 pages and hard page breaks between testimony are now
22 required by the Court. See next ensuing page for
23 sequential continuation of record.)

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CROSS-EXAMINATION OF STEPHANIE STANLEY

BY MR. CHISOLM:

Q. GOOD MORNING, MS. STANLEY.

A. GOOD MORNING.

Q. A FEW QUESTIONS FOR YOU HERE. WHO DID YOU GET THESE SAMPLES FROM?

A. LET ME REFER TO MY CHAIN OF CUSTODY. I RECEIVED THE SAMPLES FROM A LOCATION KNOWN AS DNA STORAGE, AND THAT IS A SECURE LOCATION IN OUR DNA DEPARTMENT.

Q. DO YOU HAVE, I GUESS, FIRST HAND KNOWLEDGE OF WHERE THE DNA SAMPLES WERE FROM THE TIME THEY WERE RECEIVED UNTIL THE TIME THAT THEY GOT TO YOU, OUTSIDE OF THE NOTES, I MEAN, OBVIOUSLY, BUT DO YOU HAVE FIRST HAND KNOWLEDGE OF THAT?

A. I DO NOT HAVE FIRST HAND KNOWLEDGE, I'M GOING OFF OF A VERIFIED CHAIN OF CUSTODY. THAT MEANS THAT EVERY PERSON THAT HAS HANDLED A PIECE OF EVIDENCE HAS VERIFIED THAT IS, IN FACT, WHAT HAPPENED.

Q. OKAY. NOW, THE SAMPLES THEMSELVES, THEY COME ON SWABS, AND CORRECT ME IF I'M WRONG, I BELIEVE YOU SAID YOU TEST THEM BY PUTTING A SOLUTION ON THE SWABS TO BRING OUT THE DNA, IS THAT ROUGHLY?

A. SAMPLES USUALLY COME IN SWABS OR CUTTINGS FOR DNA ANALYSIS. IN THIS CASE I BELIEVE THEY WERE

1 SWABS. AND WE TAKE A SMALL CUTTING FROM THE
2 ACTUAL SWAB. IT'S PUT IN A VERY SMALL EXTRACTION
3 TUBE, AND WE REMOVE THE DNA FROM THE SWAB.

4 Q. WOULD IT MATTER IF THE SWAB BEFORE IT GOT TO YOU
5 WAS OPENED TO SOME KIND OF CONTAMINATION?

6 A. LIKE WHICH KIND OF CONTAMINATION?

7 Q. IF IT WAS EXPOSED TO OTHER PEOPLE'S DNA, ANYTHING
8 ALONG THOSE LINES?

9 A. WHEN YOU'RE COLLECTING DNA EVIDENCE YOU DO WANT
10 TO TRY TO KEEP IT AS CLEAN AS POSSIBLE. YOU
11 DON'T WANT TO TALK OVER THE EVIDENCE WHEN YOU'RE
12 COLLECTING IT. YOU WANT TO MAKE SURE THAT IT
13 DRIES AND IT'S PACKAGED AND SUBMITTED, LIKE, TO
14 SLED. YOU DON'T WANT TO KEEP IT OUT TOUCHING ANY
15 OTHER ITEMS OR ANYTHING LIKE THAT. BUCCAL SWABS
16 GENERALLY HAVE A LARGE AMOUNT OF DNA, AND I WOULD
17 BE ABLE TO DETECT CONTAMINATION.

18 Q. I SEE. THAT BRINGS ME TO ANOTHER QUESTION. THE
19 CENTER WHERE YOU WORK, HAVE YOU HAD CASES OUT
20 THERE WITH CROSS CONTAMINATION BEFORE?

21 A. ABSOLUTELY, YES.

22 Q. SO, IT DOES HAPPEN ON OCCASION?

23 A. WE'RE DEALING WITH SUCH A SMALL PORTION OF DNA, A
24 VERY SMALL AMOUNT CAN GIVE YOU A DNA PROFILE.
25 SO, CONTAMINATION DOES OCCUR. WE WEAR LAB COATS

1 AND GLOVES, OR IN THE LABORATORY. THE MASKS ARE
2 AVAILABLE, WE WORK BEHIND GLASS SHIELDS, BUT
3 CONTAMINATION CAN OCCUR, AND IT CAN OCCUR FROM
4 SAMPLE TO SAMPLE OR IT CAN OCCUR FROM AN OUTSIDE
5 SOURCE INTO A SAMPLE.

6 Q. I'D LIKE TO TALK A LITTLE BIT ABOUT DNA IN
7 GENERAL. AND CORRECT ME IF I'M WRONG, I'M NOT A
8 DNA EXPERT. MY UNDERSTANDING IS THAT YOU'RE
9 DEALING WITH PERCENTAGES AND BASICALLY YOU'RE
10 DEALING WITH PROBABILITIES. WOULD THAT BE A FAIR
11 STATEMENT?

12 A. FOR THE STATISTICAL PART, YES.

13 Q. YES, MA'AM. NOW, IT'S ALSO MY UNDERSTANDING,
14 WITH DNA TESTS, THE ONE THING YOU'RE LOOKING AT
15 IS THE BASE PAIRS. I BELIEVE THOSE ARE BUILDING
16 BLOCKS OF DNA, IS THAT RIGHT?

17 A. CORRECT.

18 Q. AND AREN'T THERE AROUND THREE BILLION OF THESE?

19 A. YES, THERE ARE QUITE A FEW.

20 Q. OKAY. SO, WE'RE TALKING BIG NUMBERS?

21 A. RIGHT.

22 Q. OKAY. NOW, ISN'T IT TRUE THAT IN THE FORENSIC
23 ANALYSIS IN THIS CASE LESS THAN ONE PERCENT OF
24 THE DNA WAS TESTED?

25 A. WE TEST FIFTEEN LOCATIONS ON THE DNA, AND THOSE

CROSS - STEPHANIE STANLEY BY MR. CHISOLM

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1 LOCATIONS ARE WIDELY ACCEPTED NATIONWIDE,
2 INTERNATIONALLY. THEY'RE WHAT THE FBI USES, AND
3 WE TEST THOSE. IT'S A COMMERCIALY AVAILABLE
4 KIT. AND SO, THAT'S WHAT WE'RE TESTING TO DO OUR
5 COMPARISON.

6 Q. BUT WOULD IT BE LESS THAN ONE PERCENT OF THE
7 TOTAL DNA?

8 A. I DON'T KNOW THE PERCENTAGE.

9 Q. OKAY. WE'RE TALKING ABOUT LOCATIONS, RIGHT?

10 A. UH-HUH.

11 Q. CAN YOU SEE THAT?

12 A. UH-HUH.

13 Q. THESE ARE THE LOCATIONS YOU'RE TALKING ABOUT, ON
14 THE TOP COLUMN, IS THAT CORRECT?

15 A. CORRECT.

16 Q. AND YOU'VE GOT FIFTEEN OF THEM ON HERE?

17 A. CORRECT.

18 Q. HOW MANY POTENTIAL LOCATIONS ARE THERE?

19 A. THERE ARE QUITE A FEW LOCATIONS. IN FORENSICS
20 THERE'S A VERY SMALL PERCENTAGE OF THEM THAT VARY
21 BETWEEN INDIVIDUALS. THEY ALLOW US TO TELL
22 INDIVIDUALS APART, AND THAT'S WHY WE USE THOSE.

23 Q. ROUGH ESTIMATE, HOW MANY LOCATIONS TOTALLY ARE
24 THERE?

25 A. I DO NOT KNOW. THERE ARE LOCATIONS THAT CODE FOR

1 ARMS, THERE'S LOCATIONS THAT CODE FOR LEGS,
2 THERE'S LOCATIONS THAT CODE FOR HAIR. THESE ARE
3 THE ONES THAT WE USE.

4 Q. MORE THAN A HUNDRED?

5 A. I DO NOT KNOW.

6 Q. I SEE. MORE THAN FIFTEEN?

7 A. YES, THERE ARE MORE THAN FIFTEEN.

8 Q. IF YOU TESTED, SAY, THREE MORE OF THESE LOCATIONS
9 AND YOU GOT INCONSISTENT RESULTS WOULD THAT
10 AFFECT YOUR ANALYSIS?

11 A. IT WOULD AFFECT, BUT HAVING THIS NUMBER BE A
12 MATCH, IT'S VERY UNLIKELY THAT YOU'RE GOING TO
13 TEST AN ADDITIONAL LOCATION AND FIND AN
14 INCONSISTENCY.

15 Q. BUT IF YOU HAD AND YOU DID RECEIVE INCONSISTENT
16 RESULTS, WOULD THAT EXCLUDE MR. DINGLE?

17 A. AS LONG AS THERE WERE MORE THAN TWO INCONSISTENT
18 RESULTS IT WOULD BE AN EXCLUSION.

19 Q. OKAY. ALRIGHT. YOU SAID YOU -- WERE YOU ASKED
20 TO TEST ANY OF MR. DINGLE'S RELATIVES?

21 A. I WAS NOT.

22 Q. SO, YOU ONLY TESTED HIM AGAINST MS. [REDACTED] AND
23 [REDACTED]

24 A. YES.

25 Q. IT'S MY UNDERSTANDING THAT THE PATERNITY

- 1 STATISTIC WE'RE DEALING WITH HERE IS BASED ON
2 UNRELATED INDIVIDUALS, IS THAT TRUE?
- 3 A. IT IS.
- 4 Q. BECAUSE YOU DIDN'T HAVE A SAMPLE TO TEST IT
5 AGAINST, I'M ASSUMING?
- 6 A. CORRECT.
- 7 Q. OKAY. AND STATISTICS WOULD SAY THAT THERE'S A
8 NINETY-NINE POINT NINE PERCENT PROBABILITY THAT
9 MR. DINGLE IS THE FATHER, YOU SAID?
- 10 A. NO, THAT'S NOT WHAT I'M SAYING. I'M SAYING THAT
11 NINETY-NINE POINT NINE NINE PERCENT OF RANDOMLY
12 SELECTED MEN COULD BE EXCLUDED AS THE FATHER.
- 13 Q. I SEE. BUT LET ME REPHRASE IT. AGAIN, FOR
14 UNRELATED INDIVIDUALS, UNLESS A HUNDRED PERCENT
15 OF THE DNA IS ANALYZED THERE'S NO WAY TO BE ONE
16 HUNDRED PERCENT SURE EXACTLY WHO THE FATHER OF
17 THE OFFSPRING IS, IS THAT AN ACCURATE STATEMENT?
- 18 A. NO, I DON'T THINK IT IS.
- 19 Q. SO, YOU CAN BE ONE HUNDRED PERCENT SURE OF WHO
20 THE FATHER IS WITHOUT ANALYZING A HUNDRED PERCENT
21 OF THE DNA?
- 22 A. I THINK YOU'RE COMBINING THE STATISTIC, WHICH
23 SAYS SOMETHING DIFFERENT, TO A DNA MATCH FROM
24 FIFTEEN LOCATIONS, WHICH ALSO SAYS SOMETHING
25 DIFFERENT. THEY'RE NOT COMBINED TOGETHER. A

1 FIFTEEN LOCATION DNA MATCH IN A GENERAL CASE TO A
2 BLOOD SWAB COULD GIVE YOU A NUMBER IN A
3 QUADRILLION WHICH IS MUCH GREATER THAN THE
4 WORLD'S POPULATION. SO, YOU HAVE A REASONABLE
5 DEGREE OF SCIENTIFIC CERTAINTY THAT THE DNA WAS
6 DONATED BY A PARTICULAR INDIVIDUAL. IN PATERNITY
7 CASES WE'RE CALCULATING BASED ON RANDOMLY
8 SELECTED MEN. IF WE TESTED RANDOMLY SELECTED MEN,
9 NINETY-NINE POINT NINE NINE PERCENT OF THEM WOULD
10 BE EXCLUDED AS THE FATHER.

11 Q. OKAY. IN THE FIRST SCENARIO YOU SAID YOU COULD
12 COME TO A REASONABLE DEGREE OF CERTAINTY?

13 A. YES.

14 Q. NOT A HUNDRED PERCENT?

15 A. A REASONABLE DEGREE OF SCIENTIFIC CERTAINTY, YOU
16 KNOW, GENERALLY, WHEN WE GET ABOVE THE WORLD'S
17 POPULATION.

18 Q. BUT IT WOULDN'T BE A HUNDRED PERCENT, RIGHT?

19 A. I DON'T KNOW.

20 Q. DO THE TEST RESULTS OF THE DNA INDICATE THE RACE
21 OF THE FATHER IN THIS CASE?

22 A. THE DNA TESTING THAT WE DO DOES NOT INDICATE
23 RACE.

24 Q. HOW MANY PEOPLE WORK IN THESE CENTERS WHERE ALL
25 THE DNA WORK IS DONE?

CROSS - STEPHANIE STANLEY BY MR. CHISOLM

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1 A. IN THE CENTERS OR AT SLED?

2 Q. WELL, IN THE CENTERS WHERE THEY DO THE TESTING, I
3 GUESS.

4 A. AT SLED?

5 Q. SURE.

6 A. THERE ARE TEN TO FIFTEEN DNA ANALYSTS ASSIGNED TO
7 MY DNA CASE WORK UNIT.

8 Q. AND THEN YOU HAVE OTHER TECHS THAT DO INTAKE, OR
9 IS THAT INCLUDED IN THAT TEN TO FIFTEEN?

10 A. WE HAVE OTHER INDIVIDUALS THAT HAVE OTHER JOBS.

11 Q. A FAIR AMOUNT OF PEOPLE?

12 A. CORRECT.

13 Q. OKAY.

14 MR. CHISOLM: I BEG THE COURT'S INDULGENCE.

15 THE COURT: TAKE YOUR TIME.

16 MR. CHISOLM: NO FURTHER QUESTIONS.

17 THE COURT: ALRIGHT. ANYTHING ON REDIRECT?

18 SOLICITOR JUSTIS: BRIEFLY, YOUR HONOR.

19 (NOTE: Blank lines on this page do not indicate any
20 part of record has been omitted. Headers on testimony
21 pages and hard page breaks between testimony are now
22 required by the Court. See next ensuing page for
23 sequential continuation of record.)

REDIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

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REDIRECT EXAMINATION OF STEPHANIE STANLEY

BY SOLICITOR JUSTIS:

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2
3 Q. MR. STANLEY, I BELIEVE YOU WERE DISCUSSING
4 CONTAMINATION, AND ARE THERE PROCEDURES IN PLACE
5 IF YOU COME ACROSS A SAMPLE THAT HAS SOME
6 CONTAMINATION IN IT?

7 A. YES, THERE ARE.

8 Q. AND WHEN WE SAY CONTAMINATION, WHAT KIND OF
9 THINGS WOULD WE BE TALKING ABOUT?

10 A. USUALLY IT WILL BE A MIXTURE OF DNA. WE WILL BE
11 ABLE TO TELL THAT MORE THAN ONE PERSON
12 CONTRIBUTED TO THAT SAMPLE, AND WE ATTEMPT TO
13 IDENTIFY WHETHER IT HAPPENED IN THE LABORATORY OR
14 DURING COLLECTION.

15 Q. OKAY. SO, WHEN YOU SAY DURING COLLECTION, THAT
16 COULD BE LIKE AN OFFICER WHEN HE'S COLLECTING THE
17 DNA, GET SOME OF HIS ON IT?

18 A. IT COULD BE AN OFFICER COLLECTING, YOU KNOW,
19 HOLDING THE SWAB WITHOUT A GLOVE. IT COULD BE
20 SOMEBODY IMPROPERLY DRYING THE SWAB OR PACKAGING
21 IT. IT COULD HAPPEN SEVERAL WAYS.

22 Q. AND THERE'S PROCEDURES IN PLACE WHEN YOU COME
23 ACROSS THAT TO TAKE SOME STEPS TO DO -- WHAT KIND
24 OF PROCEDURES WOULD YOU, WOULD YOU IMPLEMENT IF
25 YOU FOUND CONTAMINATION?

REDIRECT - STEPHANIE STANLEY BY SOL. JUSTIS

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1 A. WE FIRST NOTIFY OUR TECHNICAL LEADER THAT WE
2 THINK THAT WE HAVE A CONTAMINATION. WE WILL
3 ATTEMPT TO IDENTIFY WHERE IT CAME FROM, WE WANT
4 TO MAKE SURE IT'S NOT AFFECTING OTHER CASES, WE
5 WANT TO MAKE SURE IT'S NOT SOMETHING THAT'S GOING
6 TO HAPPEN AGAIN IN THE LABORATORY. WE WILL WRITE
7 A STATEMENT BASED ON WHAT HAPPENED, AND WE WILL
8 NOT USE THE DNA RESULTS IN THOSE CASES.

9 Q. OKAY. AND IN THIS CASE DID YOU DETECT ANY
10 CONTAMINATION?

11 A. I DID NOT.

12 SOLICITOR JUSTIS: THANK YOU, NO FURTHER
13 QUESTIONS.

14 THE COURT: ANYTHING ON RECROSS?

15 MR. CHISOLM: NO RECROSS, YOUR HONOR.

16 THE COURT: OKAY. ALRIGHT, THANK YOU, MA'AM, YOU
17 MAY STEP DOWN. APPRECIATE IT.

18 WITNESS: THANK YOU.

19 THE COURT: CALL YOUR NEXT WITNESS.

20 SOLICITOR JUSTIS: AT THIS TIME, YOUR HONOR, THE
21 STATE RESTS.

22 THE COURT: ALRIGHT. LADIES AND GENTLEMEN, I'M
23 GOING TO ASK Y'ALL TO GO BACK INTO THE JURY ROOM FOR A
24 WHILE. NOW, REMEMBER WHAT I'VE TOLD Y'ALL ALL ALONG,
25 Y'ALL HAVE NOT HEARD ALL THE EVIDENCE IN THIS CASE,

1 YOU'VE NOT HEARD CLOSING ARGUMENTS, YOU'VE NOT HEARD
2 ME CHARGE ON THE LAW, SO YOU CANNOT BEGIN DISCUSSING
3 THIS CASE. YOU CAN TALK ABOUT ANYTHING ELSE, IT'S
4 HOT, YOU KNOW, THE MAVERICKS LOST, YOU KNOW, WHATEVER
5 YOU WANT TO TALK ABOUT, BUT YOU CANNOT TALK ABOUT THIS
6 CASE YET. OKAY? SO, I'M GOING TO EXCUSE Y'ALL TO GO
7 BACK INTO THE JURY ROOM FOR A FEW MINUTES. OKAY?
8 THANKS.

9 (Whereupon, the jury retires
10 to the jury room and the following
11 takes place out of the presence
12 of the jury.)

13 THE COURT: ALRIGHT, MS. HARRY DOT, WE'RE STILL
14 ON THE RECORD. LET ME JUST MAKE A NOTE. AFTER I
15 RULED ON THE, INTRODUCING STATE'S EXHIBIT NUMBER FIVE
16 INTO EVIDENCE THE ATTORNEYS APPROACHED THE BENCH. MR.
17 MELLARD ADVISED ME THAT HE WANTED TO MOVE FOR A
18 MISTRIAL BECAUSE I HAD IMPROPERLY COMMENTED ON THE
19 FACTS, I BELIEVE, WAS - - -

20 MR. MELLARD: YES, SIR.

21 THE COURT: YES, SIR. LET ME HEAR FROM YOU,
22 PLEASE, SIR.

23 MR. MELLARD: ALRIGHT. BECAUSE YOU SAID --
24 STANLEY WAS TESTIFYING AND THE STATE TRIED TO
25 INTRODUCE, I BELIEVE IT WAS FIVE. WE OBJECTED TO THE

1 CHAIN. AS THE COURT IS AWARE THE CHAIN IS UP TO THE
2 JURY TODAY. THEY DETERMINE THE FACTS IN THIS CASE,
3 THEY GIVE IT THE WEIGHT. BUT IN THIS CASE THE COURT,
4 THE COURT COMMENTED ON THE FACTS. AND IT'S OUR
5 POSITION IT TOOK THE CHAIN OUT OF THE JURY'S HANDS.
6 AND YOU DID THAT BECAUSE WHEN WE OBJECTED TO IT, YOU
7 DIDN'T SEND THE JURY OUT BUT YOU COMMENTED THAT THE
8 CHAIN WAS GOOD BECAUSE PUGH GAVE IT TO THE TECHNICIAN
9 WHO GAVE IT TO STANLEY AND IT WAS SEALED, AND YOU
10 SAID, THAT ESTABLISHES THE CHAIN. YOU TOLD EVERYBODY
11 IN THIS COURTROOM THAT THAT'S ENOUGH TO ESTABLISH THIS
12 CHAIN AND THIS CHAIN IS GOOD. SO, IT'S OUR POSITION
13 YOU TOOK THAT ISSUE AWAY FROM THE JURY. AND IT'S OUR
14 POSITION THAT YOU CAN'T UNRING THIS BELL. THE JURY
15 HEARD YOU SAY THAT THIS IS A GOOD CHAIN, THERE IS NO
16 MORE ISSUE OF FACT ON THAT, YOU'VE ALREADY TOLD THEM
17 THAT. SO, YOU CAN'T UNRING THAT BELL. THEY'VE HEARD
18 IT, AND WE WOULD ASK FOR A MISTRIAL, YOUR HONOR.

19 THE COURT: OKAY. ALRIGHT, MR. BELL.

20 SOLICITOR BELL: WELL, YOUR HONOR, I MEAN, I
21 THINK EVEN IN THE NEWEST CASE, STATE VERSUS HATCHER,
22 THE STATE MUST RULE ON THE ADMISSIBILITY OF EVIDENCE,
23 AND I THINK THAT'S WHAT YOU DID, YOU SAID THAT
24 BASICALLY THE STATE ESTABLISHED THE CHAIN TO THE
25 SATISFACTION OF THE COURT. AND NOW THE JURY CAN ALSO

1 DO THE SAME. I DON'T SEE HOW IT'S A COMMENT ON THE
2 FACTS. YOU JUST MERELY SAID THAT THE STATE HAS, BY
3 LAW, ESTABLISHED THE CHAIN OF CUSTODY.

4 THE COURT: OKAY. ALRIGHT. Y'ALL GIVE ME A
5 SECOND AND LET ME THINK ABOUT IT.

6 SOLICITOR BELL: AND I WOULD ADD, YOU COULD
7 CERTAINLY DO, FASHION A JURY CHARGE TO TELL THE JURY
8 THEY MUST FIND THAT THE CHAIN OF CUSTODY IS
9 ESTABLISHED, IT'S NOT UP TO THE COURT, IT'S UP TO THE
10 JURY ALSO TO ESTABLISH, DEFINE THE CHAIN OF CUSTODY.

11 THE COURT: DOES ANYBODY HAVE A CHAIN OF CUSTODY
12 CHARGE?

13 MR. MELLARD: YOUR HONOR, IT'S OUR POSITION THAT
14 NO CURATIVE INSTRUCTION CAN CURE THAT.

15 THE COURT: NO, I UNDERSTAND THAT, BUT MY
16 QUESTIONS WAS, DOES ANYBODY HAVE A CHAIN OF CUSTODY
17 CHARGE? BECAUSE I'VE BEEN LOOKING FOR ONE.

18 MR. MELLARD: I DON'T HAVE ONE.

19 THE COURT: OKAY. ALRIGHT, WE'LL STAND DOWN FOR
20 A MINUTE AND LET ME THINK ABOUT IT. OKAY?

21 MR. CHISOLM AND MR. MELLARD, DO Y'ALL, ARE Y'ALL
22 GOING TO GO FORWARD?

23 MR. MELLARD: WELL, YOUR HONOR, I ALSO NEED TO
24 MAKE A DIRECTED VERDICT MOTION.

25 THE COURT: WELL, YEAH, I KNOW THAT. I'M JUST

1 EVEN THOUGH I DID NOT HAVE THAT CASE IN FRONT OF ME, I
2 REMEMBERED THAT. I DO UNDERSTAND YOUR OBJECTION AND
3 REFERRING TO SOME LANGUAGE IN SOME EARLIER CASES AND
4 SOME OTHER LANGUAGE IT SAYS THAT, "REMARKS MADE BY A
5 JUDGE DURING THE PROGRESS OF A TRIAL IN PASSING ON THE
6 ADMISSIBILITY OF EVIDENCE DID NOT BECOME REVERSIBLE
7 ERROR UNLESS THE REMARKS WERE MADE IN SUCH A MANNER
8 AND UNDER SUCH CIRCUMSTANCES AS TO IMPRESS ON THE JURY
9 THE JUDGE'S OPINION AS TO SOME VITAL FACT IN ISSUE."
10 NOW, I UNDERSTAND, YOUR CONCERN IS THAT YOU BELIEVE
11 THAT I PERHAPS DID IT IN SUCH A MANNER THAT I TRIED TO
12 IMPRESS ON THE JURY MY OPINION AS TO THAT RATHER THAN
13 JUST COMMENTING ON WHETHER OR NOT IT WAS ADMISSIBLE OR
14 NOT.

15 MR. MELLARD: THAT'S CORRECT, YOUR HONOR.

16 THE COURT: OKAY.

17 MR. MELLARD: I MEAN, ADMISSIBILITY WOULD BE JUST
18 ALLOWING IT INTO EVIDENCE - - -

19 THE COURT: RIGHT.

20 MR. MELLARD: --- VERSUS COMMENTS ON THE FACT
21 THAT PUGH GAVE IT TO THE TECHNICIAN WHO GAVE IT TO
22 STANLEY, THAT IT WAS SEALED, AND THEREFORE, IT'S GOOD.

23 THE COURT: I UNDERSTAND, I UNDERSTAND, I
24 CERTAINLY UNDERSTAND YOUR ARGUMENT AND YOUR REQUEST
25 FOR A MISTRIAL ON THIS. HOWEVER, I AM NOT GOING TO

1 GRANT THE MISTRIAL AT THIS STAGE. I WILL NOTE YOUR
2 OBJECTION TO MY RULING.

3 MR. MELLARD: PLEASE NOTE MY OBJECTION.

4 THE COURT: AND SO THAT -- ALL OF THE POINTS THAT
5 YOU'VE MADE ARE PRESERVED ON THE RECORD FOR PURPOSES
6 OF APPEAL SHOULD YOUR CLIENT OR YOU DECIDE TO FILE
7 THAT APPEAL.

8 MR. MELLARD: YES, SIR.

9 THE COURT: ALRIGHT, SIR. THANK YOU, SIR. NOW,
10 WHO'S GOING TO MAKE THE MOTION FOR A DIRECTED VERDICT?

11 MR. MELLARD: THAT'S ME, YOUR HONOR.

12 THE COURT: OKAY.

13 MR. MELLARD: YOUR HONOR, - - -

14 THE COURT: OH, MS. HARRY DOT, WE DID GET
15 EVERYTHING, WE WERE ON THE RECORD, I HOPE?

16 COURT REPORTER: YES, SIR.

17 THE COURT: OKAY, OKAY. WE CAN DO THAT AGAIN, BUT

18 - - -

19 MR. MELLARD: NO, THAT'S FINE.

20 THE COURT: ALRIGHT.

21 MR. MELLARD: AT THIS TIME WE'D MOVE FOR A
22 DIRECTED VERDICT. SOUTH CAROLINA CODE SECTION
23 SEVENTEEN, DASH, NINETEEN, DASH, TEN SAYS THAT A
24 DEFENDANT IN CRIMINAL CASES WILL BE TRIED ON THE
25 CHARGES SET FORTH IN THE INDICTMENT. THE CHARGES SET

1 FORTH IN THE INDICTMENT HERE ARE THAT BETWEEN JANUARY
2 OF TWO THOUSAND AND DECEMBER, TWO THOUSAND TWO, THERE
3 WAS A SEXUAL BATTERY UPON A MINOR WHO WAS FOURTEEN
4 YEARS OF AGE OR LESS BUT AT LEAST ELEVEN YEARS OF AGE,
5 AND THAT THE DEFENDANT DID HAVE SEXUAL INTERCOURSE.
6 THE, IT IS -- I DON'T WANT TO REARGUE WHAT WE'VE
7 ALREADY ARGUED BUT - - -

8 THE COURT: YES, SIR, YES, SIR.

9 MR. MELLARD: --- THERE'S TWO SECTIONS TO THE
10 CRIMINAL SEXUAL CONDUCT. ONE AS WE'VE TALKED ABOUT IS
11 ELEVEN TO FOURTEEN, ONE'S FOURTEEN TO SIXTEEN WITH A
12 FAMILIAL RELATIONSHIP?

13 THE COURT: SIXTEEN, YES, SIR.

14 MR. MELLARD: THE EVIDENCE WE'VE HEARD, THE
15 SPECIFIC EVIDENCE THAT WE'VE HEARD IN THIS CASE
16 CONCERNING THE PREGNANCY, THE CONCEPTION, THE DNA
17 TESTS ALL OCCURRED OUTSIDE OF SECTION, IT WOULD THE
18 SECTION FROM ELEVEN TO FOURTEEN, YOUR HONOR. WE'VE
19 HEARD TESTIMONY THAT MR. DINGLE IS IN A POSITION OF
20 FAMILIAL AUTHORITY, HE WAS THE STEP FATHER. WE'VE
21 HEARD TESTIMONY ABOUT, OR EVIDENCE ABOUT COERCION.
22 SOS, THE ENTIRE CASE PRESENTED BY THE STATE DOES NOT
23 INVOLVE THE SECTION THAT WE, IN OUR OPINION. SO,
24 WHAT, THE SECTION BETWEEN ELEVEN AND FOURTEEN, THE
25 ACTUAL SPECIFICS DEAL WITH THE OTHER STATUTE, THE

1 FOURTEEN TO SIXTEEN. SO, YOUR HONOR, AT THIS TIME WE
2 WOULD MOVE FOR A DIRECTED VERDICT ON THE GROUNDS THAT,
3 NUMBER ONE, THE EVIDENCE THAT WAS PRESENTED IN THIS
4 CASE DOES NOT SHOW THAT THE SEXUAL INTERCOURSE WHICH
5 IS SET FORTH IN THE INDICTMENT AND WHICH WAS PROVEN BY
6 THE STATE OCCURRED BETWEEN THE AGES OF ELEVEN AND
7 FOURTEEN.

8 THE COURT: OKAY, JUST SO I CAN MAKE SURE I'VE
9 GOT IT RIGHT. THE PREGNANCY, BECAUSE SHE WAS FOURTEEN
10 AND A HALF, ROUGHLY, - - -

11 MR. MELLARD: CORRECT.

12 THE COURT: --- YOU'RE SAYING IT'S OUTSIDE OF
13 THAT RANGE?

14 MR. MELLARD: IT'S OUTSIDE OF THAT RANGE. ALSO,
15 THERE'S NO CREDIBLE EVIDENCE AS TO THE AGE OF [REDACTED]
16 [REDACTED] THERE WAS NO BIRTH CERTIFICATE PRESENTED, THE
17 MOTHER OF [REDACTED] TESTIFIED BUT I DON'T BELIEVE
18 SHE STATED WHEN SHE GAVE BIRTH TO [REDACTED] THE DATE OF
19 [REDACTED] BIRTHDAY. SO, IT'S OUR POSITION THEY HAVEN'T
20 ESTABLISHED THE AGE IN THIS CASE. AND AGAIN, THE
21 FACTS THAT THEY HAVE DEALT WITH DEALS WITH A CODE
22 SECTION WHICH THIS DEFENDANT HASN'T BEEN INDICTED ON.
23 SO, WE WOULD ASK THAT THE COURT DIRECT A VERDICT IN
24 FAVOR OF THE DEFENDANT FOR THE STATE'S FAILURE TO
PROVE THE, THAT A SEXUAL INTERCOURSE OCCURRED UPON A

1 MINOR BETWEEN THE AGES OF ELEVEN AND FOURTEEN YEARS
2 OF AGE.

3 THE COURT: OKAY, THANK YOU, SIR.

4 MR. JUSTIS.

5 SOLICITOR JUSTIS: I WOULD JUST SAY BRIEFLY,
6 YOUR HONOR, OBVIOUSLY, THE WHOLE A SECTION, B SECTION
7 I THINK YOU'VE ALREADY RULED ON THAT, BUT AS FAR AS
8 THE BIRTH DATE, YOU KNOW, MS. [REDACTED] TESTIFIED HERSELF
9 WHEN HER BIRTHDAY IS. I WOULD ASSUME SHE WOULD KNOW
10 WHEN HER BIRTHDAY IS, I KNOW WHEN MY BIRTHDAY IS TO
11 REPLY TO THAT ARGUMENT. AND WHEN I GO TO DMV TO GET A
12 DRIVERS LICENSE OR ANYTHING LIKE THAT OR GIVE MY
13 BIRTHDAY TO ANYONE, ANY DOCUMENTS, THAT DOESN'T MEAN
14 I'VE GOT A BIRTH CERTIFICATE EVERY TIME I WRITE DOWN
15 MY BIRTHDAY. I WOULD THINK THE PERSON WHOSE BIRTHDAY
16 IT IS WOULD KNOW WHAT THEIR BIRTHDAY IS. SO, I THINK
17 WE'VE ESTABLISHED THAT. WE'VE HAD TESTIMONY FROM THE
18 OFFICERS - - -

19 THE COURT: MR. JUSTIS, I DON'T MEAN TO INTERRUPT
20 YOU, BUT THAT SORT OF GOES ALONG WITH MR. MELLARD'S
21 EARLIER ARGUMENT WHEN [REDACTED] TESTIFIED ABOUT HIS
22 MOTHER, IS THAT YOU ALWAYS JUST TAKE FOR GRANTED, I
23 MEAN, YOU KNOW, YOU ARE TOLD WHO YOUR MOTHER IS, OR
24 YOU ARE ALSO TOLD WHEN YOUR BIRTHDAY IS. YOU KNOW,
25 YOU DON'T ACTUALLY, I MEAN, I'M JUST, I BELIEVE THAT'S

1 HIS ARGUMENT. WE DON'T HAVE ANYTHING IN THE RECORD,
2 WE DON'T HAVE A BIRTH CERTIFICATE OR ANYTHING LIKE
3 THAT TO INDICATE THAT THAT IS - - -

4 SOLICITOR JUSTIS: RIGHT.

5 THE COURT: YEAH, OKAY.

6 SOLICITOR JUSTIS: BUT WE DO HAVE, INSTEAD OF A
7 BUSINESS RECORD WE ACTUALLY HAVE TESTIMONY FROM A LIVE
8 WITNESS WHICH NORMALLY THE COURT PREFERS LIVE
9 WITNESSES OVER PAPER. SO, WE DO HAVE THAT. WE DO
10 HAVE INVESTIGATOR COAXUM WHO TESTIFIED TO, BASED ON
11 THE DOCUMENTATION THAT SHE RECEIVED ON MR. DINGLE'S
12 AGE THAT HE WAS AT LEAST EIGHTEEN WHEN HE COMMITTED
13 THESE ACTS. AND AS FAR AS THE SEXUAL BATTERY,
14 OBVIOUSLY, WE HAVE THE VICTIM THAT TESTIFIED TO THE
15 SEXUAL BATTERY AND LABELED MR. DINGLE AS THE PERSON
16 THAT COMMITTED THAT. SO, WE BELIEVE THERE'S BEEN
17 ENOUGH EVIDENCE TO AT LEAST ALLOW IT TO GO THE JURY
18 AND LET THEM DECIDE WHETHER OR NOT THE EVIDENCE IS
19 STRONG ENOUGH TO CONVICT.

20 THE COURT: ALRIGHT, THANK YOU, SIR.
21 ANYTHING -- YES, SIR?

22 MR. MELLARD: JUST TO REITERATE, LIKE WE DID WITH
23 [REDACTED] THE PERSON DOESN'T HAVE FIRST HAND KNOWLEDGE
24 OF YOUR, THE DAY YOU WERE BORN. I MEAN, YOU ASSUME,
25 YOU HEAR IT FROM OTHER PEOPLE, PEOPLE TELL YOU, BUT

1 THE FIRST HAND KNOWLEDGE WOULD EITHER BE A BIRTH
2 CERTIFICATE, WHICH WOULD BE A SELF-AUTHENTICATING
3 DOCUMENT IF THEY WENT AND GOT ONE, OR THE MOTHER OF
4 [REDACTED] OR SOME OTHER FAMILY MEMBER WHO ACTUALLY
5 WITNESSED THE BIRTH. SO, IT'S OUR POSITION THAT THERE
6 WAS NO TESTIMONY FROM A PERSON OR ANY OTHER EVIDENCE
7 OF FIRST HAND KNOWLEDGE OF THIS PERSON'S AGE.

8 THE COURT: ALRIGHT. THANK YOU, MR. MELLARD.

9 MR. MELLARD, I AM GOING TO DENY YOUR MOTION FOR A
10 DIRECTED VERDICT. THERE HAS BEEN TESTIMONY THAT SHE
11 IS FOURTEEN. I REALIZE AGAIN YOUR ARGUMENT IS THAT
12 THERE IS -- THAT FOURTEEN IS A CUT OFF DATE, AND GOING
13 BACK TO YOUR EARLIER ARGUMENT, HE SHOULD HAVE BEEN
14 CHARGED UNDER B, TWO RATHER THAN B, ONE, INDICTED
15 UNDER B, ONE. IS THAT CORRECT?

16 MR. MELLARD: THAT'S, THAT'S WHAT THEY'VE TRIED
17 TO DO.

18 THE COURT: YES, SIR. NO, I UNDERSTAND THAT.
19 AND I WILL NOTE YOUR OBJECTION TO MY RULING ON YOUR
20 DIRECTED VERDICT MOTION.

21 MR. MELLARD: AND THE AGE THING, TOO, YOUR HONOR.

22 THE COURT: YES, SIR. AND LET'S MAKE SURE WE'VE
23 GOT THE AGE THING STRAIGHT. WE'VE STILL GOT THAT
24 PRESERVED FOR THE RECORD, TOO.

25 MR. MELLARD: YES, SIR.

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THE COURT: OKAY. WHAT ELSE DO WE NEED?

MR. MELLARD: THAT'S ALL WE HAVE AT THIS TIME.

THE COURT: ALRIGHT, SIR. IS THE DEFENDANT GOING TO TESTIFY? HAVE Y'ALL DECIDED YET, OR DO Y'ALL NEED TIME TO TALK WITH HIM?

MR. CHISOLM: JUST GIVE US A BRIEF SECOND TO TALK TO HIM AGAIN, YOUR HONOR, BASED ON WHAT JUST OCCURRED.

THE COURT: OKAY. AND HOW MUCH TIME DO YOU NEED, TEN MINUTES?

MR. CHISOLM: TEN MINUTES, YOUR HONOR.

THE COURT: OKAY. AND THEN WE'LL COME BACK ON THE RECORD AND I'LL QUESTION HIM ON THE RECORD, WHICHEVER WAY.

MR. CHISOLM: YES, SIR.

THE COURT: THANK YOU.

(Recess)

THE COURT: MR. CHISOLM OR MR. MELLARD -- MR. CHISOLM, EXCUSE ME. IS THE DEFENSE GOING TO PUT UP A CASE?

MR. CHISOLM: NO, SIR.

THE COURT: OKAY. ALRIGHT, SIR. AND YOU'VE HAD AN OPPORTUNITY TO GO OVER EVERYTHING WITH MR. DINGLE?

MR. CHISOLM: YES, SIR.

THE COURT: OKAY. AND MR. DINGLE, I NEED TO GO OVER SOME THINGS WITH YOU, PLEASE, SIR. OKAY?

1 IF YOU DON'T MIND STANDING UP, PLEASE, SIR. IF
2 YOU WOULD RAISE YOUR RIGHT HAND.

3 (Whereupon, Samuel Dingle
4 is duly sworn.)

5 THE COURT: OKAY, YOU CAN PUT YOUR ARM DOWN.

6 ALRIGHT, NOW, I'M GOING TO GO OVER YOUR RIGHTS
7 WITH YOU, AND I'M CERTAIN, IF I LEAVE ANYTHING OUT
8 YOUR ATTORNEYS WILL ADVISE ME OF THAT SO WE CAN MAKE
9 SURE THAT WE'VE CLEARED EVERYTHING, BUT IF, WHEN I'M
10 EXPLAINING THIS TO YOU, IF THERE IS SOMETHING THAT YOU
11 DO NOT UNDERSTAND I WOULD ASK YOU TO ASK ME TO REPEAT
12 IT SO THAT I CAN MAKE SURE YOU DO UNDERSTAND THAT.

13 OKAY?

14 ALRIGHT, SIR.

15 (NOTE: Blank lines on this page do not indicate any
16 part of record has been omitted. Headers on testimony
17 pages and hard page breaks between testimony are now
18 required by the Court. See next ensuing page for
19 sequential continuation of record.)

EXAM, IN CAMERA, SAMUEL DINGLE BY THE COURT

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EXAMINATION, IN CAMERA, OF SAMUEL DINGLE

BY THE COURT:

Q. WE'VE REACHED THE STATE OF THE TRIAL WHERE YOU MAY PRESENT YOUR DEFENSE, AND I HAVE BEEN TOLD THAT Y'ALL ARE NOT GOING TO PRESENT A DEFENSE, THAT'S WHAT I'VE BEEN TOLD SO FAR. OKAY? YOU HAVE THE RIGHT TO CLAIM THE PROTECTIONS GIVEN TO YOU BY THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF [REDACTED] WHICH STATES IN PART THAT NO PERSON SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF. THAT MEANS YOU CANNOT BE REQUIRED TO TESTIFY IN THIS CASE. YOU HAVE THE RIGHT TO TESTIFY ON YOUR BEHALF. HOWEVER, NO ONE CAN MAKE YOU TESTIFY. THIS IS A PERSONAL RIGHT THAT NO ONE CAN WAIVE EXCEPT YOU. IF YOU DECIDE TO TESTIFY YOU WILL BE SUBJECT TO THE SAME RULES THAT GOVERN OTHER WITNESSES AND YOU MAY BE EXAMINED AND CROSS-EXAMINED ON ANY RELEVANT ISSUE IN THE CASE.

IN ADDITION, IF YOU HAVE ANY CONVICTIONS INVOLVING DISHONESTY OR FALSE STATEMENT OR FOR CRIMES PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR AND THIS COURT DETERMINES THAT THE PROBATIVE VALUE OF ADMITTING THIS EVIDENCE OUTWEIGHS ITS PREJUDICIAL EFFECT TO YOU. THE

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1 SOLICITOR WILL BE ABLE TO INTRODUCE YOUR RECORD
2 TO ATTACK YOUR CREDIBILITY.
3 IF YOU DECIDE TO TESTIFY THIS DECISION ON YOUR
4 PART MUST BE FREELY, VOLUNTARILY AND
5 INTELLIGENTLY MADE WITH KNOWLEDGE OF THE
6 PROTECTIONS GIVEN TO YOU BY THE FIFTH AMENDMENT
7 AND THE CONSEQUENCES OF YOUR DECISION TO TESTIFY.
8 IF YOU DECIDE NOT TO TESTIFY I WILL INSTRUCT THE
9 JURORS THAT THEY CANNOT GIVE THE FACT THAT YOU
10 DID NOT TESTIFY ANY CONSIDERATION WHATSOEVER, AND
11 THERE IS TO BE ABSOLUTELY NO PREJUDICE TO YOU
12 BECAUSE YOU DID NOT TESTIFY. IT IS LEFT ENTIRELY
13 UP TO YOU WHETHER OR NOT YOU TESTIFY. NOW, I
14 KNOW YOU'VE ALREADY TALKED WITH YOUR ATTORNEYS,
15 YOU MAY TALK WITH THEM AGAIN, YOU MAY TALK WITH
16 ANY FAMILY MEMBERS OR FRIENDS IF YOU WISH TO, OR
17 ANYBODY ELSE, BUT THE FINAL DECISION IS LEFT UP
18 TO YOU.

19 DO YOU UNDERSTAND EVERYTHING THAT I'VE EXPLAINED
20 TO YOU?

21 A. YES, SIR.

22 Q. ALRIGHT, SIR. DO YOU HAVE ANY QUESTIONS ABOUT
23 WHAT I'VE EXPLAINED TO YOU?

24 A. NO, SIR.

Q. OKAY. HAVE YOU DISCUSSED WITH YOUR LAWYERS

EXAM, IN CAMERA, SAMUEL DINGLE BY THE COURT

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1 WHETHER OR NOT YOU SHOULD TESTIFY?

2 A. YES, SIR.

3 Q. OKAY. ALRIGHT, SIR. HAVE YOU UNDERSTOOD
4 EVERYTHING THEY'VE TOLD YOU? SIR?

5 A. YES, SIR.

6 Q. OKAY. DO YOU WISH TO TALK WITH YOUR LAWYERS
7 ANYMORE AT THIS TIME?

8 A. NO, SIR, I WOULD LOVE TO TALK TO ONE OF MY FAMILY
9 MEMBERS.

10 Q. OKAY. WHO -- IS YOUR FAMILY MEMBER HERE?

11 A. YES, SIR.

12 Q. OKAY. WHERE IS YOUR FAMILY MEMBER?

13 A. MY MAMA'S HERE.

14 THE COURT: OKAY. OKAY. WHERE CAN HIS MOM TALK
15 TO HIM? IF YOU'LL GO RIGHT BACK IN THERE. OKAY?

16 (Whereupon, the defendant
17 leaves the courtroom momentarily
18 and then returns to the courtroom.)

19 THE COURT: OKAY. WE'RE BACK ON THE RECORD.

20 Q. ALRIGHT, MR. DINGLE, WE HAVE ALSO GIVEN YOU A FEW
21 MINUTES TO TALK WITH YOUR MOTHER, IS THAT
22 CORRECT?

23 A. YES, SIR.

24 Q. ALRIGHT, SIR. AND HAVE YOU FINISHED TALKING WITH
25 HER?

EXAM, IN CAMERA, SAMUEL DINGLE BY THE COURT

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1 A. YES, SIR.

2 Q. AND ANYBODY ELSE THAT YOU NEED TO TALK TO?

3 A. YES, SIR.

4 Q. OKAY. YOU'VE GOTTEN ALL THE LEGAL ADVICE YOU
5 NEEDED?

6 A. YES, SIR.

7 Q. ALRIGHT, SIR. NOW, MY QUESTION TO YOU IS, DO YOU
8 WISH TO TESTIFY IN THIS CASE?

9 A. NO, SIR.

10 THE COURT: ALRIGHT, SIR. THANK YOU, SIR, I
11 APPRECIATE IT.

12 ALRIGHT, WHAT -- MR. CHISOLM, SO I'LL BRING THE
13 JURY BACK IN HERE, ASK YOU, THEN I'LL LET YOU REST ON
14 THE RECORD, AND THEN I'M GOING TO EXCUSE THEM. IT'S MY
15 UNDERSTANDING, I'M GOING TO ASK THEM TO COME BACK AT
16 ONE. THAT WILL GIVE US TIME TO DO THE OTHER MOTIONS
17 THAT WE HAVE TO DO AND THEN WHEN THEY COME BACK AT ONE
18 WE WILL DO THE CLOSINGS AND THE CHARGE.

19 MR. CHISOLM: THAT'S FINE.

20 THE COURT: OKAY. ALRIGHT, THANK YOU, SIR.

21 AND SINCE Y'ALL DIDN'T PUT UP ANY TESTIMONY OR
22 ANY EVIDENCE AND LIKE THAT, Y'ALL GET TO CLOSE LAST.
23 THAT'S Y'ALL INTENTION ON THIS, IS THAT CORRECT?

24 MR. CHISOLM: YES, SIR.

25 THE COURT: OKAY. AND MR. JUSTIS, YOU RECOGNIZE

1 THAT FACT AS WELL, I'M SURE?

2 SOLICITOR JUSTIS: YES, SIR.

3 THE COURT: ALRIGHT, SIR. ANYTHING ELSE THAT WE
4 NEED TO DISCUSS BEFORE I BRING THE JURY BACK OUT HERE?

5 SOLICITOR JUSTIS: NO, SIR.

6 MR. CHISOLM: NO, SIR.

7 THE COURT: OKAY. ALRIGHT, IF YOU'D BRING THE
8 JURY BACK OUT.

9 (Whereupon, the jury enters
10 the courtroom and the following
11 takes place in the presence
12 of the jury.)

13 THE COURT: WHEN WE STARTED OUR BREAK THE
14 SOLICITOR'S OFFICE HAD CONCLUDED THE STATE'S CASE AND
15 NOW WE'RE GETTING READY TO PROCEED WITH THE
16 DEFENDANT'S PORTION OF THE CASE.

17 MR. CHISOLM.

18 MR. CHISOLM: YOUR HONOR, AT THIS TIME THE
19 DEFENSE WOULD REST.

20 THE COURT: ALRIGHT. LADIES AND GENTLEMEN, THE
21 DEFENSE HAS CHOSEN TO REST AT THIS TIME, SO YOU HAVE
22 NOW HEARD ALL OF THE EVIDENCE THAT YOU ARE GOING TO
23 HEAR IN THIS CASE. WE ARE NOW GOING TO GET PREPARED
24 TO DO THE CLOSING ARGUMENTS AND MY CHARGE TO YOU. BUT
25 AS Y'ALL CAN SEE, THE TIME IS NOW ABOUT ELEVEN:THIRTY,

1 AND THE CLOSING ARGUMENTS AND THE CHARGE WILL TAKE A
2 LITTLE BIT OF TIME TO DO, SO RATHER THAN GO LATE WE'RE
3 GOING TO LEAVE EARLY FOR LUNCH. OKAY? I'M GOING TO
4 ALLOW Y'ALL TO LEAVE EARLY FOR LUNCH. I'M GOING TO
5 ASK Y'ALL TO BE BACK IN THE JURY ROOM AT ONE O'CLOCK
6 SO THAT WE CAN START, SO YOU WILL HAVE A LITTLE OVER
7 AN HOUR AND A HALF.

8 NOW, AGAIN, EVEN THOUGH YOU HAVE HEARD ALL OF THE
9 EVIDENCE IN THIS CASE, YOU HAVE NOT HEARD THE CLOSING
10 ARGUMENTS, I HAVE NOT CHARGED YOU ON THE LAW, SO
11 AGAIN, AS I HAVE TOLD YOU UNTIL I KNOW YOU ARE GETTING
12 TIRED OF IT, YOU CANNOT TALK ABOUT THE CASE AMONG
13 YOURSELVES OR TO ANYBODY ELSE, OR LET ANYBODY COME AND
14 TALK TO YOU. YOU CAN'T INVESTIGATE ANYTHING ABOUT IT,
15 READ, SEE OR DO ANYTHING ABOUT THE CASE. OKAY?

16 ALRIGHT, I WILL EXCUSE Y'ALL SO Y'ALL CAN GO EAT
17 LUNCH AND ASK Y'ALL TO BE BACK IN HERE AT ONE O'CLOCK.
18 OKAY? THANK Y'ALL.

19 (Whereupon, the jury leaves
20 the courtroom and the following
21 takes place out of the
22 presence of the jury.)

23 THE COURT: ALRIGHT, MS. HARRY DOT, THE -- LET'S
24 SEE, EXCUSE ME. IS IT, OKAY, MR. MELLARD, ARE YOU
25 GOING TO DO THE MOTIONS?

1 MR. MELLARD: YOUR HONOR, AT THIS TIME - - -

2 THE COURT: YES, SIR.

3 MR. MELLARD: --- WE WOULD RENEW OUR MOTION FOR A
4 DIRECTED VERDICT ON THE SAME GROUNDS THAT WE DID
5 BEFORE.

6 THE COURT: ALRIGHT, SIR.

7 MR. MELLARD: IF YOU WANT ME TO GO INTO DETAIL I
8 CAN, BUT I - - -

9 THE COURT: WELL, WE JUST DID THAT ON THE RECORD
10 BEFORE, SO, AND TO MY KNOWLEDGE I DON'T THINK ANYTHING
11 HAS CHANGED, BUT FOR PURPOSES OF THE RECORD, I
12 UNDERSTAND THE ARGUMENTS THAT YOU MADE, AND I WILL
13 MAINTAIN MY DENIAL, BUT WE WILL PRESERVE YOUR
14 OBJECTION TO MY DENIAL OF THE DIRECTED VERDICT.

15 ANY OTHER, ANYTHING ELSE DO YOU BELIEVE WE NEED
16 TO GET ON THE RECORD TO MAKE SURE IT'S PRESERVED?

17 MR. MELLARD: I DON'T BELIEVE WE -- WE TALKED
18 ABOUT THE MISTRIAL MOTION?

19 THE COURT: RIGHT.

20 MR. MELLARD: I MEAN, THAT'S THE ONLY THING WE
21 APPROACHED YOUR HONOR WITH.

22 THE COURT: ALRIGHT, SIR. AND THERE WAS THE --
23 WELL, THE OTHER WHICH I -- WE HAD AN EARLIER MOTION
24 REGARDING ██████████ TESTIMONY - - -

25 MR. MELLARD: YES, SIR.

1 THE COURT: --- UNDER SIX O TWO. SO, THOSE ARE
2 THE THREE THINGS THAT WE ARE ALL PRESERVING YOUR
3 OBJECTIONS TO MY RULINGS ON.

4 MR. MELLARD: AND OBVIOUSLY, OUR INITIAL
5 OBJECTION TO START THIS TRIAL AS FAR AS THE
6 INDICTMENT.

7 THE COURT: OH, YEAH, AND THE INDICTMENT. SO,
8 THERE ARE FOUR THINGS THAT WE'VE GOT HOPEFULLY
9 PRESERVED FOR THE RECORD. OKAY. ALRIGHT, SIR.

10 AND ANY OTHER -- AND THE ONLY THING THAT YOU
11 TALKED ABOUT AS FAR AS MY CHARGES WERE, YOU JUST
12 WANTED ME TO MAKE THE READING, AS I RECALL, AS IS DONE
13 IN - - -

14 MR. MELLARD: WELL, THERE WAS A SECTION IN RALPH
15 KING ANDERSON, A CRIMINAL SEXUAL CONDUCT WITH A MINOR.

16 THE COURT: RIGHT.

17 MR. MELLARD: AND THE WAY HE PHRASES THE SECTION
18 IS WITH GOING TO TRIAL IS, - - -

19 THE COURT: YES, SIR.

20 MR. MELLARD: --- THE VICTIM WAS AT LEAST ELEVEN
21 YEARS OLD BUT NOT MORE THAN FOURTEEN YEARS OLD AT THE
22 TIME OF THE SEXUAL BATTERY.

23 THE COURT: OKAY. AND YOU WANT IT TO READ THAT
24 WAY?

25 MR. MELLARD: YES, SIR.

1 THE COURT: OKAY, ALRIGHT, SIR. AND ANYTHING
2 ELSE REGARDING ANY CHARGES?

3 MR. MELLARD: NO.

4 THE COURT: AND I'LL GO OVER -- WELL, LET ME JUST
5 MAKE SURE, I'LL RUN OVER THE CHARGES WITH Y'ALL JUST
6 SO Y'ALL WILL MAKE SURE YOU HAVE THEM.

7 PRESUMPTION OF INNOCENCE.

8 REASONABLE DOUBT, AND I GIVE BOTH DESCRIPTIONS, I
9 GIVE BOTH DEFINITIONS, THAT WAY EVERYBODY GETS
10 SOMETHING TO ARGUE ABOUT.

11 DUTIES OF JURY AND TRIAL JUDGE.

12 DIRECT AND CIRCUMSTANTIAL EVIDENCE.

13 CREDIBILITY OF WITNESSES.

14 EXPERT WITNESS.

15 FAILURE OF DEFENDANT TO TESTIFY.

16 THE CRIMINAL SEXUAL CONDUCT, SECOND DEGREE, WITH
17 A MINOR.

18 AND THEN MY CLOSING. OKAY?

19 ALRIGHT. AND THERE IS A COMMENT, IT SAYS THAT
20 CONSENT, DOES ANYBODY WANT TO KNOW ANYTHING ABOUT THE
21 AGE OF CONSENT? WHAT IS THE AGE OF CONSENT, MR.
22 JUSTIS?

23 SOLICITOR JUSTIS: SIXTEEN.

24 THE COURT: DO Y'ALL AGREE WITH THAT?

25 MR. MELLARD: I WOULD SAY IT'S FOURTEEN UNDER

1 CERTAIN CIRCUMSTANCES, YOUR HONOR.

2 THE COURT: OKAY, WELL, WHAT'S THIS CIRCUMSTANCE?

3 MR. MELLARD: WELL, I DON'T KNOW WHAT YOU'RE
4 LOOKING AT BUT IF A PERSON IS EIGHTEEN YEARS OR
5 YOUNGER, - - -

6 THE COURT: HUH?

7 MR. MELLARD: --- IF THE ACTOR IS EIGHTEEN YEARS
8 OR YOUNGER, DEALING WITH THE CIRCUMSTANCE.

9 THE COURT: OKAY. OTHERWISE, IT'S SIXTEEN?
10 OKAY. ALRIGHT. OKAY.

11 MR. MELLARD: WELL, OBVIOUSLY, WE WOULD DISAGREE
12 WITH THE SIXTEEN BEING THE ONLY AGE OF CONSENT.

13 THE COURT: OH, NO, -- YEAH, OKAY.

14 MR. MELLARD: AS IS APPLICABLE IN THIS CASE.

15 THE COURT: YEAH, AS APPLICABLE IN THIS CASE.
16 OKAY. ALRIGHT.

17 MR. MELLARD: AND WE WOULD JUST ASK, YOUR HONOR,
18 THAT THE STATUTE LANGUAGE BE USED FOR THE ACTUAL
19 CHARGE.

20 THE COURT: OKAY. WELL, WHAT I -- IN THE -- JUST
21 SO YOU'LL KNOW, THE CHARGE THAT IS IN THE CHARGE BOOK
22 SAYS THAT THE VICTIM IS AT LEAST ELEVEN YEARS OF AGE,
23 -- THE STATE MUST THEN PROVE BEYOND A REASONABLE DOUBT
24 THAT THE VICTIM WAS AT LEAST ELEVEN YEARS OLD BUT NOT
25 MORE THAN FOURTEEN YEARS OLD AT THE TIME OF THE SEXUAL

1 BATTERY. THAT'S WHAT I HAVE IN MY CHARGE BOOK, WHICH
 2 IS THE SAME THING THAT HE HAD. AND I HAD MADE SOME
 3 CHANGES BECAUSE I -- BUT I WILL CHARGE YOUR WORDING.
 4 SO, I'LL JUST LET YOU KNOW HOW I'M GOING TO CHARGE IT.
 5 OKAY? SO, HERE.

6 ALRIGHT. ANYTHING FROM THE STATE?

7 SOLICITOR JUSTIS: NOTHING, YOUR HONOR.

8 THE COURT: OKAY. ANYTHING FROM THE DEFENSE?

9 MR. MELLARD: NOTHING, YOUR HONOR.

10 THE COURT: OKAY. WHO'S GOING TO DO -- YOU'RE
 11 GOING TO DO THE CLOSING? OKAY. SO, MR. MELLARD DOES
 12 ALL THE HARD WORK AND YOU GET THE GLORY?

13 MR. CHISOLM: I DON'T KNOW HOW GLORIOUS IT IS,
 14 YOUR HONOR.

15 THE COURT: OKAY. ALRIGHT, GENTLEMEN, WE'LL SEE
 16 Y'ALL BACK IN HERE AT ONE. OKAY, THANK Y'ALL.

17 (Recess)

18 THE COURT: IS THE STATE READY TO PROCEED?

19 SOLICITOR JUSTIS: THE STATE'S READY, YOUR HONOR.

20 THE COURT: IS THE DEFENSE READY TO PROCEED?

21 MR. CHISOLM: THE DEFENSE IS READY.

22 THE COURT: ALRIGHT. IF YOU'LL BRING THE JURY ON
 23 BACK OUT.

24 (Whereupon, the jury enters
 25 the courtroom and the following

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1 takes place in the presence
2 of the jury.)

3 THE COURT: LADIES AND GENTLEMEN, I HOPE Y'ALL HAD
4 A GOOD LUNCH. OKAY, WE'RE NOW GETTING READY TO GET
5 INTO THE FINAL STAGE OF THE TRIAL RIGHT NOW. WHAT'S
6 GOING TO HAPPEN NOW IS, WE ARE GOING TO HEAR - Y'ALL
7 ARE GOING TO HEAR THE CLOSING ARGUMENTS FO THE
8 ATTORNEYS. AFTER YOU HEAR THE CLOSING ARGUMENTS OF
9 THE ATTORNEYS I'M THEN GOING TO CHARGE YOU ON THE
10 LAW. AFTER I CHARGE YOU ON THE LAW I WILL GIVE YOU A
11 CHANCE TO GO BACK INTO THE JURY ROOM.

12 NOW, WHEN YOU GO BACK INTO THE JURY ROOM AT THAT
13 TIME YOU ARE NOT GOING TO BEGIN YOUR DELIBERATIONS AT
14 THAT TIME. THE REASON FOR THAT IS, AFTER I CHARGE YOU
15 ON THE LAW IF I'VE MADE ANY MIS-STATEMENTS OF THE LAW
16 OR IF THERE IS SOMETHING ELSE THAT THE ATTORNEYS FEEL
17 I NEED TO CLARIFY I WILL THEN BRING YOU BACK OUT HERE,
18 CHARGE YOU ON WHATEVER OTHER AREA OF THE LAW I NEED TO
19 CHARGE YOU ON, AND THEN LET YOU GO BACK INTO THE JURY
20 ROOM. THEN, WE WILL GATHER UP ALL THE EVIDENCE, WE
21 WILL SEND THE VERDICT FORM AND THE EVIDENCE BACK INTO
22 THE JURY ROOM WITH YOU, AT WHICH TIME YOU WILL BE TOLD
23 TO BEGIN YOUR DELIBERATIONS.

24 AND MR. FOREMAN, YOU WILL BE IN CHARGE OF THE
25 DELIBERATIONS, MAKING SURE EVERYBODY HAS THEIR SAY SO

1 IN WHATEVER VERDICT YOU ARRIVE AT. AND THE VERDICT
2 THAT YOU ARRIVE AT HAS TO BE UNANIMOUS, ALL TWELVE OF
3 YOU HAVE GOT TO AGREE ON THE VERDICT. AND I WILL GO
4 OVER THAT A LITTLE BIT MORE WHEN I DO MY CHARGES. BUT
5 UNTIL YOU ARE TOLD TO BEGIN YOUR DELIBERATIONS, AGAIN,
6 EVEN THOUGH WE AT THIS FINAL STAGE OF IT, YOU CANNOT
7 BEGIN DISCUSSING THIS CASE. OKAY?

8 ALRIGHT, MR. JUSTIS, ARE YOU READY?

9 SOLICITOR JUSTIS: YES, YOUR HONOR.

10 THE COURT: ALRIGHT, SIR.

11 SOLICITOR JUSTIS: MAY IT PLEASE THE COURT.

12 THE COURT: YES, SIR.

13 CLOSING ARGUMENT BY SOLICITOR JUSTIS

14 LADIES AND GENTLEMEN OF THE JURY, THAT MAN,
15 SAMUEL DINGLE, HAD SEXUAL INTERCOURSE WITH HIS STEP
16 DAUGHTER, MS. [REDACTED] ACCORDING TO HER, OVER A
17 HUNDRED TIMES WHILE SHE WAS THIRTEEN AND FOURTEEN
18 YEARS OLD. HE RAPED HER. HE RAPED HER PHYSICALLY, HE
19 RAPED HER, EMOTIONAL, AND HE RAPED HER MENTALLY.

20 NOW, LADIES AND GENTLEMEN, ON BEHALF OF MYSELF,
21 SOLICITOR BELL, THE STATE OF SOUTH CAROLINA, THE
22 DEFENDANT, AND MOST IMPORTANTLY, THE VICTIM IN THIS
23 CASE, MS. [REDACTED] I WANT TO THANK YOU FOR YOUR
SERVICE ON THIS JURY THIS WEEK. I WANT TO THANK YOU
FOR YOUR ATTENTION IN THIS CASE. THIS IS A CASE THAT

1 DEALT WITH ISSUES THAT PEOPLE DON'T LIKE TO HEAR
2 ABOUT, AND PEOPLE DEFINITELY DON'T LIKE TO TALK ABOUT.
3 BUT YOUR ATTENTION IN THIS CASE WAS NOTICED AND
4 APPRECIATED BY ME AND MR. BELL, AND MOST IMPORTANTLY,
5 BY THE VICTIM.

6 NOW, WHEN YOU TOOK YOUR OATH AS A JUROR YOU TOOK
7 AN OATH TO SET ASIDE ALL BIAS AND TO JUDGE THIS CASE
8 ON THE EVIDENCE, THE EVIDENCE AND THE LAW. AND I'M
9 GOING TO TALK TO YOU REAL BRIEFLY ABOUT THE LAW IN
10 THIS CASE.

11 MR. DINGLE IS CHARGED WITH CRIMINAL SEXUAL
12 CONDUCT WITH A MINOR IN THE SECOND DEGREE.

13 MR. MELLARD: YOUR HONOR, I WOULD OBJECT. I
14 BELIEVE HIS FORWARD IS A MIS-STATEMENT OF THE LAW.
15 THE SECTION OF THE CODE WE'RE PROCEEDING UNDER I DON'T
16 BELIEVE, UNLESS THE DEFENDANT IS AT LEAST EIGHTEEN
17 YEARS OLD, IS AN ELEMENT IN THIS CASE.

18 THE COURT: I DON'T HAVE THE WORDING IN FRONT OF
19 ME AND I -- LADIES AND GENTLEMEN, SO I CAN GO OVER
20 THIS AND MAKE SURE WE GET EVERYTHING STRAIGHT WITHOUT
21 MAKING ANY COMMENTS TO YOU I'M GOING TO LET Y'ALL GO
22 BACK INTO THE JURY ROOM AGAIN. IF YOU WILL JUST GO IN
23 THERE FOR JUST A MINUTE. REMEMBER, YOU CANNOT TALK
24 ABOUT THE CASE. BUT IF Y'ALL WOULD GO THERE.

25 (Whereupon, the jury retires

1 to the jury room and the following
2 takes place out of the presence
3 of the jury.)

4 THE COURT: ALRIGHT, LET ME HEAR FROM YOU, MR. --
5 YOU DON'T WANT HIM TO HAVE THAT LAST LINE ON THERE
6 THAT SAYS THE GUY IS OVER EIGHTEEN?

7 MR. MELLARD: YES, SIR. THE SECTION WE'RE
8 PROCEEDING UNDER, THAT IS NOT AN ELEMENT THAT'S
9 INCLUDED IN THERE.

10 SOLICITOR JUSTIS: WE'LL BE HAPPY TO CROSS THE
11 ELEMENT OFF.

12 THE COURT: OKAY. CAN YOU JUST WHITE IT OUT OR -
13 - DO YOU HAVE SOMETHING YOU CAN DARKEN IT WITH, OR
14 COVER IT UP, OR TAPE OVER IT OR - - -

15 SOLICITOR JUSTIS: WE HAVE A MARKER.

16 THE COURT: THIS GOES ALONG WITH YOUR ARGUMENT?

17 MR. MELLARD: YES.

18 THE COURT: THAT WILL BE FINE. I CAN READ IT
19 FROM HERE.

20 SOLICITOR JUSTIS: AND IT'S ONLY THREE WORDS.
21 THOSE ARE THE ONLY TWO THAT I'M GOING TO USE.

22 THE COURT: I'M SORRY. OKAY. ANYTHING ELSE
23 BEFORE I BRING THE JURY BACK IN?

24 MR. MELLARD: NO, SIR.

25 THE COURT: OKAY. ALRIGHT, MR. JUSTIS, I'M SORRY

1 TO INTERRUPT YOU ON THAT.

2 (Whereupon, the jury enters
3 the courtroom and the following
4 takes place in the presence
5 of the jury.)

6 THE COURT: LADIES AND GENTLEMEN, WE JUST WANTED
7 TO MAKE SURE YOU GOT A LITTLE BIT OF EXERCISE AFTER
8 LUNCH. OKAY. ALRIGHT, MR. JUSTIS, IF YOU'D CONTINUE,
9 PLEASE, SIR.

10 SOLICITOR JUSTIS: THANK YOU, YOUR HONOR.

11 THE COURT: YES, SIR.

12 SOLICITOR JUSTIS: MAY IT PLEASE THE COURT.

13 THE COURT: YES, SIR.

14 SOLICITOR JUSTIS: AS I WAS SAYING, THE LAW IN
15 THIS CASE FOR CRIMINAL SEXUAL CONDUCT WITH A MINOR IN
16 THE SECOND DEGREE, A SEXUAL BATTERY, FOR EXAMPLE,
17 SEXUAL INTERCOURSE. YOU HEARD FROM [REDACTED] HERSELF THAT
18 THE DEFENDANT, SAM DINGLE, HAD SEXUAL INTERCOURSE WITH
19 HER A HUNDRED TIMES.

20 SECONDLY, THAT THE VICTIM, [REDACTED] IS
21 BETWEEN THE AGES OF ELEVEN AND FOURTEEN YEARS OLD. NO
22 LESS THAN ELEVEN, UP TO FOURTEEN YEARS OLD. WE HAVE
23 TESTIMONY THAT SHE WAS THIRTEEN WHEN THIS, WHEN THESE
24 INCIDENTS STARTED, AND WE KNOW FROM THE EVIDENCE THAT
25 HER SON WAS BORN PRIOR TO TURNING FIFTEEN. TWO

1 MONTHS BEFORE SHE TURNED FIFTEEN YEARS OLD IS WHEN SHE
2 HAD, WHEN SHE GAVE BIRTH TO [REDACTED]

3 SO THAT'S THE LAW IN THE CASE.

4 ALSO, NOTICE, THERE'S NO ISSUE WITH CONSENT HERE,
5 BECAUSE IN SOUTH CAROLINA THE LAW SAYS A PERSON UNDER
6 THE AGE OF SIXTEEN CANNOT LEGALLY CONSENT. SO,
7 WHETHER OR NOT SHE AGREED TO HAVE SEX WITH MR. DINGLE
8 IS A NON ISSUE, THAT'S NOT REQUIRED BY THE STATUTE.

9 ALSO YOU WILL NOTICE, THERE'S NO REQUIREMENT OF
10 ANY KIND OF FORCE. BUT WHAT DO WE KNOW ABOUT THIS
11 CASE? DID HE FORCE HER PHYSICALLY TO HAVE SEX? NO
12 EVIDENCE OF THAT. BUT SHE DID TESTIFY THAT HE GAVE
13 HER STUFF, ALCOHOL, CIGARETTES, SNEAKERS, BOUGHT HER
14 THINGS, TREATED HER GOOD, IN AN EFFORT TO MAKE SURE
15 SHE KEPT QUIET.

16 NOW, ANOTHER INTERESTING PART OF THE LAW WITH
17 CRIMINAL SEXUAL CONDUCT WITH A MINOR IS, AND THE JUDGE
18 WILL INSTRUCT YOU ON THIS, CORROBORATION IS NOT NEEDED
19 IN A CRIMINAL SEXUAL CONDUCT WITH A MINOR CASE. WHAT
20 THAT MEANS IS, CORROBORATION OF THE VICTIM'S
21 TESTIMONY. THAT MEANS THAT [REDACTED] HERSELF
22 GETTING ON THIS STAND, PLACING HER HAND ON THIS BIBLE,
23 TAKING AN OATH TO TELL THE TRUTH, THE WHOLE TRUTH, AND
24 NOTHING BUT THE TRUTH, HER WORDS HERSELF CONVICTS HIM
25 OF CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE. THERE

1 NEED NOT, ACCORDING TO LAW, BE ANY CORROBORATION. YOU
2 CAN FIND HIM GUILTY JUST BASED SOLELY ON HER
3 TESTIMONY. AND THE JUDGE WILL INSTRUCT YOU ON THAT
4 LAW.

5 AND THE AGE HERE, ELEVEN THROUGH FOURTEEN YEARS
6 OLD, THE JUDGE WILL INSTRUCT YOU ON THE AGE THERE.
7 SHE WAS THIRTEEN WHEN THIS STARTED, AND SHE WAS
8 FOURTEEN WHEN SHE HAD [REDACTED] WHICH MEANS SOMETIME IN
9 BETWEEN THERE IS WHEN SHE GOT PREGNANT. BUT SHE WAS
10 TWO MONTHS SHY OF HER FIFTEENTH BIRTHDAY WHEN SHE GAVE
11 BIRTH.

12 NOW, ANOTHER THING IS REASONABLE DOUBT. YOU HEAR
13 ABOUT REASONABLE DOUBT. LET ME TELL YOU WHAT
14 REASONABLE DOUBT ISN'T. IT ISN'T DOUBT, IT ISN'T
15 BEYOND ANY AND ALL DOUBT, IT'S A REASONABLE DOUBT.
16 IT'S THAT AMOUNT OF DOUBT WHICH MAKES A REASONABLE
17 PERSON HESITATE TO ACT. THERE ARE MANY THINGS THAT WE
18 DOUBT IN THIS WORLD. YOU MIGHT EVEN DOUBT THAT THE
19 EARTH REVOLVES AROUND THE SUN, BUT IS THAT A
20 REASONABLE DOUBT? RARELY IS ANYTHING A HUNDRED PER
21 CENT.

22 NOW, THIS IS THE ONLY TIME I'M GOING TO TALK TO
23 YOU. AFTER I FINISH MR. CHISOLM WILL MAKE HIS CLOSING
24 ARGUMENT. SO, I WANT TO TALK ABOUT A FEW THINGS,
25 REMIND YOU A FEW THINGS. FIRST OF ALL IN HIS OPENING

1 STATEMENT HE ASKED YOU TO USE YOUR COMMON SENSE.
 2 THAT'S WHAT YOU DO AS JURORS, YOU USE YOUR COMMON
 3 SENSE. AND HE ASKED YOU TO DO THAT. I ASK YOU NOW TO
 4 DO THAT ALSO, USE YOUR COMMON SENSE.

5 LET'S TALK ABOUT SOME OF THE ASSERTIONS THAT
 6 MIGHT BE MADE IN THIS CASE, ABOUT WHAT THE DEFENSE
 7 THINKS THE EVIDENCE SHOWS. FIRST OF ALL, IT WASN'T
 8 SAM, IT WAS HIS SON. ACCORDING TO SAM'S SECOND
 9 STATEMENT, THE VERBAL STATEMENT, HE STATED, IT'S NOT
 10 POSSIBLE, IT MUST BE MY SON, WE HAVE THE SAME DNA.
 11 OKAY. THEY'RE GOING TO TRY TO GET YOU TO BELIEVE THAT
 12 THAT'S WHO IT WAS. IT WASN'T SAM, IT WAS HIS SON WHO
 13 IS THE FATHER OF [REDACTED] BUT THERE'S A COUPLE OF
 14 PROBLEMS WITH THAT. NUMBER ONE, THE VICTIM -- WHO DID
 15 THE VICTIM IDENTIFY? SHE WENT INTO THE POLICE AND SHE
 16 WAS ADAMANT, IT WAS SAM DINGLE, NO ONE ELSE, SAM
 17 DINGLE, NO ONE ELSE. HER TESTIMONY ALONE CONVICTS
 18 HIM. BUT THEN WE GET DNA RESULTS THAT POINT TO WHO?
 19 SAM DINGLE. AND NOTICE WHEN HE MAKES THE STATEMENT
 20 THAT, IT'S MY SON, HE MAKES THAT STATEMENT AFTER HE
 21 KNOWS THE RESULTS OF THE DNA. IN HIS FIRST STATEMENT,
 22 THE WRITTEN STATEMENT WHICH YOU WILL HAVE BACK THERE,
 23 YOU'LL GET TO READ IT, NOWHERE IS IT MENTIONED THAT IT
 24 WAS MY SON, OR IT MAY BE MY SON. IN FACT, HE BLAMES
 25 SOME BOY FROM BOWMAN. HE DOESN'T BLAME HIS SON. IT

1 WAS ONLY AFTER HE KNOWS THE RESULT OF THE DNA,
2 THINKING TO HIMSELF, I'VE GOT TO COME UP WITH A STORY,
3 I'LL SAY IT'S MY SON, WE'VE GOT THE SAME DNA. SO,
4 THAT'S THE FIRST ASSERTION. DOES THAT MAKE COMMON
5 SENSE, LADIES AND GENTLEMEN? USE YOUR COMMON SENSE.

6 NEXT WAS, THE DEFENDANT, THEY MIGHT TRY TO
7 ASSERT, THE DEFENDANT WAS UP FRONT, I MEAN, HE CAME
8 IN, HE GAVE A STATEMENT, GAVE TWO STATEMENTS, A
9 WRITTEN STATEMENT AND A VERBAL STATEMENT. HE GAVE HIS
10 DNA. IF HE WAS GUILTY WHY WOULD HE GIVE HIS DNA?
11 WELL, THE INTERESTING THING ABOUT THAT, WHEN DID HE
12 COME IN AND GIVE THAT WRITTEN STATEMENT? AFTER THE
13 POLICE HAD BEEN LOOKING FOR HIM, AFTER THEY HAD BEEN
14 BY HIS HOUSE MULTIPLE TIMES SAYING, HAVE YOU SEEN HIM?
15 WE NEED TO TALK TO HIM. HE DOESN'T COME IN RIGHT
16 AWAY. THEY HAVE TO GO GET HIM EVENTUALLY. AND IT'S
17 WEEKS BEFORE THEY FINALLY FIND HIM AND HE COMES IN.
18 DOES IT MAKE COMMON SENSE, IF HE TRULY WAS INNOCENT HE
19 WOULDN'T COME IN IMMEDIATELY?

20 AND A THIRD ASSERTION, AND THEY MIGHT MAKE MORE,
21 BUT THESE ARE JUST THE TOP THREE. DNA IS NOT A
22 HUNDRED PERCENT. YOU HEARD WHEN STEPHANIE STANLEY,
23 THE SLED AGENT, WAS ON THE STAND. DID YOU TEST EVERY
24 PIECE OF DNA IN THE HUMAN BODY, EVERY POSSIBLE STRAND?
25 THEY DIDN'T TEST EVERYTHING SO YOU CAN'T BELIEVE IT.

1 THAT'S WHAT THEY'RE GOING TO SAY, THERE'S NOT A
2 HUNDRED PERCENT MATCH. IT DOESN'T SAY EXACTLY A
3 HUNDRED PERCENT. AS I MENTIONED BEFORE, FEW THINGS IN
4 THIS WORLD THAT WE KNOW A HUNDRED PERCENT. BUT YOU
5 KNOW WHAT? FIRST OF ALL, THIS IS HOW IT'S DONE
6 THROUGHOUT THE COUNTRY, AND YOU HEARD HER TESTIFY,
7 YES, THE FBI USES FIFTEEN POINTS. IN FACT, IT'S THE
8 WAY THEY DO IT ALL OVER THE WORLD. THIS IS NOT JUST
9 THE WAY SOUTH CAROLINA DOES IT, EVERYBODY DOES IT THIS
10 WAY. SHE TESTIFIED TO THAT. BUT YOU KNOW WHAT'S
11 INTERESTING, THEY ASKED, WELL, DID, YOU KNOW, IF YOU
12 WOULD TESTED SEVENTEEN OR EIGHTEEN, A FEW MORE, YOU
13 KNOW, COULD YOU HAVE FOUND, YOU KNOW, NOT A MATCH OR A
14 LITTLE MIXUP, COULD YOU HAVE? WELL, ANYTHING IS
15 POSSIBLE. BUT YOU KNOW WHAT? THE IMPORTANT THING TO
16 REMEMBER IS, ALL FIFTEEN THEY DID TEST MATCHED. EVERY
17 ONE THEY TESTED MATCHED.

18 NOW, THERE'S A SAYING IF THE FACTS ARE NOT ON
19 YOUR SIDE, ARGUE THE LAW. IF THE LAW IS NOT ON YOUR
20 SIDE ARGUE THE FACTS. IF NEITHER, CONFUSE THE JURY.

21 NOW, LET'S LOOK AT THE STUBBORN FACTS OF GUILT IN
22 THIS CASE. LET'S LOOK AT MS. [REDACTED] WHO TOOK THE
23 STAND, TWENTY-THREE, NEARLY A TWENTY-FOUR YEAR OLD
24 WOMAN, BUT WHEN YOU LISTEN TO HER TESTIMONY SHE DIDN'T
25 SOUND LIKE A TWENTY-THREE OR TWENTY-FOUR YEAR OLD

1 WOMAN. SHE STILL SOUNDED LIKE THAT THIRTEEN YEAR OLD
2 GIRL THAT HE RAPED. SHE COULD HARDLY EVEN TALK ABOUT
3 IT. SHE SAT THERE CRYING. SHE -- AND THE AMAZING
4 THING IS, SHE USED TERMS LIKE, HE MESSED WITH ME, HE
5 TOUCHED MY PRIVATES. THAT'S SOMETHING LIKE A THIRTEEN
6 YEAR OLD WOULD SAY, NOT A TWENTY-THREE, TWENTY-FOUR
7 YEAR OLD WOMAN. BUT SHE'S STUCK IN THAT, SHE'S SO
8 TRAUMATIZED BY FOR TWO YEARS, OVER A HUNDRED TIMES
9 HAVING THIS MAN RAPE HER, THE MAN THAT'S SUPPOSED TO
10 PROTECT HER, LOOK OUT FOR HER.

11 LOOK AT INVESTIGATOR COAXUM, WHEN SHE TESTIFIED
12 ONE THING SHE SAID, I ASKED HER ABOUT THE DEMEANOR OF
13 THE VICTIM WHEN SHE CAME TO HER OFFICE TO GIVE HER
14 INITIAL STATEMENT, AND SHE SAID, IT TOOK A WHILE, SHE
15 WAS CRYING, SHE WAS UPSET, MUCH LIKE SHE WAS ON THE
16 STAND TODAY.

17 NOW, I'M NOT GOING TO GO THROUGH ALL OF HER
18 TESTIMONY, BUT I DO WANT TO POINT OUT A COUPLE OF
19 CONSISTENCIES BETWEEN HER TESTIMONY AND THE STATEMENT
20 THAT SAM DINGLE GAVE, BECAUSE THERE WERE SOME
21 CONSISTENT, HE CORROBORATED SOME OF HER STATEMENTS.
22 HE SAID IN HIS WRITTEN STATEMENT WHICH YOU'LL HAVE,
23 READ IT, "I TOLD HER I WOULD ALWAYS BE THERE FOR
24 [REDACTED] THAT'S WHAT SHE SAID ON THE STAND THAT HE
25 SAID. HE'S A STEP DAD TO HER. BUT THE STATE SAYS

1 HE'S ALSO THE DAD TO [REDACTED] THAT'S WHY HE'S ALWAYS
 2 GOING TO BE THERE FOR [REDACTED] THE OTHER THING WAS,
 3 HE'S ASKED IN HIS STATEMENT, HOW DID YOU KNOW SHE WAS
 4 PREGNANT, OR WHEN DID YOU REALIZE, OR HOW DID YOU KNOW
 5 I THINK IT IS? JUST BY THE WAY SHE WAS ACTING. SHE
 6 TESTIFIED TO THAT, TOO. YOU'RE IN THE CAR DRIVING AND
 7 WHAT DOES HE DO? HE TAKES HIS FINGER, AND AS SHE SAYS,
 8 STICKS IT IN HER PRIVATES, PULLS IT OUT AND SAYS, YES,
 9 YOU'RE PREGNANT. THAT'S HIS WAY OF CONTROLLING HER,
 10 SHOWING HER THAT HE HAS POWER OVER HERE. HE DOESN'T
 11 SAY, I GOT A PHONE CALL, YOU KNOW, SHE WAS THE
 12 HOSPITAL, THE DOCTOR SAID SHE'S PREGNANT. NO, HE
 13 SAID, I COULD TELL BY THE WAY SHE WAS ACTING. HE'S
 14 CORROBORATING WHAT SHE SAID ABOUT THAT DRIVE IN THE
 15 CAR.

16 NOW, LET'S LOOK AT SOME OF HIS INCONSISTENCIES IN
 17 HIS STATEMENTS. HE CLAIMS IN HIS WRITTEN STATEMENT
 18 THAT IT WAS SOME BOY FROM BOWMAN, CAN'T REMEMBER HIS
 19 NAME. THAT'S WHO HAD SEX WITH HER, THAT'S WHO THE
 20 FATHER IS. SOME BOY, HE DOESN'T KNOW HIS NAME. BUT
 21 REMEMBER, LATER, AFTER HE FINDS OUT THE DNA RESULTS,
 22 HE DROPS THAT STORY AND CHANGES IT TO, WELL, IT MUST
 23 BE MY SON. ALRIGHT. HE ALSO SAYS IN HIS STATEMENT
 24 THAT THE MOM CAUGHT HER HAVING SEX ONE TIME. WELL,
 25 ELOISE, SHE TOOK THE STAND, I ASKED HER THAT QUESTION,

1 DID YOU EVER CATCH HER HAVING SEX WITH ANYONE? NO.
2 DID YOU EVER CATCH HER IN A COMPROMISING POSITION?
3 NO. AND THEN, FINALLY, I KNOW SHE WAS HAVING SEX WHEN
4 SHE WAS YOUNGER. THAT'S PROBABLY TRUE, SHE WAS
5 HAVING SEX WITH HIM.

6 THE ONLY EVIDENCE IN THIS CASE IS THAT HE'S
7 GUILTY. REMEMBER, THE JUDGE IS GOING TO TELL YOU, THE
8 EVIDENCE IN THIS CASE COMES FROM THAT WITNESS STAND
9 AND THE PHYSICAL EVIDENCE THAT'S INTRODUCED. THAT'S
10 IT, THAT'S WHAT YOU ARE TO CONSIDER, THAT IS ALL YOU
11 ARE TO CONSIDER. AND ALL THE EVIDENCE POINTS TO HIS
12 GUILT. I SUBMIT TO YOU, LADIES AND GENTLEMEN, THAT
13 THIS CONVICTS SAM DINGLE, JUST THIS EVIDENCE I'VE
14 TALKED ABOUT CONVICTS SAME DINGLE BEYOND A REASONABLE
15 DOUBT. BUT WE GOT MORE.

16 THERE'S ONE MORE ADDITIONAL PIECE OF
17 CORROBORATION. DNA, GREATER THAN NINETY-NINE POINT
18 NINE NINE PERCENT. IT'S NOT A HUNDRED PERCENT. I
19 SUBMIT THAT'S PROOF BEYOND ANY DOUBT. WHEN YOU
20 COMBINE THAT WITH HER TESTIMONY, THAT'S PROOF BEYOND
21 ANY DOUBT, LADIES AND GENTLEMEN.

22 HE WAS HER STEP FATHER, HE'S THE MAN THAT'S
23 SUPPOSED TO PROTECT HER. BUT WHAT DID HE DO? HE
24 VIOLATED HER. AND WHAT DID SHE DO? FOR HALF HER LIFE
25 SHE KEPT QUIET. AND THEN SHE FINALLY TOLD HER STORY.

1 AND SHE CAME IN HERE YESTERDAY IN FRONT OF A GROUP OF
2 STRANGERS, TOOK THAT STAND, AND TESTIFIED ABOUT
3 INTIMATE DETAILS, EMBARRASSING DETAILS. BUT SHE MADE
4 HER VOICE BE HEARD. AND SINCE THIS TRIAL STARTED
5 YOU'VE HAD TO SIT THERE AND NOT SAY A WORD. YOU CAN'T
6 TALK ABOUT THE CASE, NOTHING. YOU'VE BEEN THE MOST
7 QUIETEST PEOPLE IN THE COURTROOM. BUT YOU'RE GOING TO
8 HAVE THE LOUDEST VOICE. WHEN YOU GO BACK TO THAT ROOM
9 AND YOU DELIBERATE AND YOU COME OUT HERE AND YOU ISSUE
10 YOUR VERDICT YOU WILL HAVE THE LOUDEST VOICE.

11 AND WHEN YOU LOOK AT THE EVIDENCE, THE ONLY
12 EVIDENCE IN THIS CASE, THERE'S ONLY ONE WORD YOU CAN
13 COME BACK WITH, AND THAT'S GUILTY.

14 THANK YOU.

15 THE COURT: THANK YOU, MR. JUSTIS.

16 MR. CHISOLM:

17 MR. CHISOLM: THANK YOU, YOUR HONOR.

18 THE COURT: YES, SIR.

19 MR. CHISOLM: MAY IT PLEASE THE COURT.

20 THE COURT: YES, SIR.

21 CLOSING ARGUMENT BY MR. CHISOLM

22 GOOD AFTERNOON. THIS IS THE LAST CHANCE I'M
23 GOING TO HAVE TO SPEAK TO Y'ALL, AND I THANK YOU AGAIN
24 FOR BEING HERE. I HOPE EVERYBODY GOT A GOOD LUNCH.
25 YOU'VE BEEN PAYING CLOSE ATTENTION TO ALL THE

1 TESTIMONY. I WAS LOOKING AT YOU AND I NOTICE Y'ALL
2 WERE PAYING CLOSE ATTENTION.

3 AND REALLY, LET'S GO AHEAD AND GET RIGHT INTO THE
4 FEATHER IN THE CAP OF THE STATE'S CASE. LET'S TALK
5 ABOUT THE DNA. THEY LEFT THIS UP HERE FOR YOU, SO
6 THAT'S WHERE WE CAN START. WHAT DID WE LEARN ABOUT
7 DNA? WHAT DID WE LEARN FROM THE STATE'S EXPERT,
8 SCIENTIST STANLEY? WELL, SHE SAID DNA DEALS IN A
9 MATTER OF PROBABILITIES. I ASKED HER, I SAID, CAN YOU
10 BE A HUNDRED PERCENT CERTAIN THAT SOMEONE IS THE
11 FATHER OF A CHILD IF YOU DON'T TEST ONE HUNDRED
12 PERCENT OF THE DNA? THAT'S A SIMPLE QUESTION, SO I
13 THOUGHT. SHE RESPONDED BY TALKING ABOUT REASONABLE
14 DEGREES OF CERTAINTY OR PROBABILITIES OF EXCLUSIONS
15 AND THINGS OF THAT NATURE. A SIMPLE QUESTION, IT'S
16 NOT A SIMPLE ANSWER. YOU CAN DRAW YOUR OWN
17 CONCLUSIONS FROM THAT. WHAT ABOUT NEXT? I ASKED HER,
18 MS. STANLEY, WHAT PERCENTAGE OF THE DNA WAS TESTED?
19 SHE DIDN'T KNOW. NOW, ADMITTEDLY, I'M NO DNA EXPERT.
20 I'M NOT A SCIENTIST. SHE IS. SHE'S THE EXPERT.
21 SHE'S THE ONE THAT DID THE TESTING, AND SHE CAN'T TELL
22 US WHAT PERCENTAGE OF THE DNA WAS TESTED. GOING ON, I
23 ASKED HER ABOUT THE LOCATIONS, THE LITTLE CHART THEY
24 WERE HOLDING UP THAT SHE WAS SAYING YOU CAN MATCH THIS
TO THAT. SHE TESTED FIFTEEN OF THEM. I ASKED HER, I

1 SAID, HOW MANY LOCATIONS ARE THERE, HOW MANY POSSIBLE
 2 LOCATIONS ARE IN THE DNA? SHE SAID, I DON'T KNOW. I
 3 MEAN, I TRIED TO GET AN ESTIMATE OUT OF HER. WHAT ARE
 4 YOU TALKING ABOUT, TWENTY, YOU KNOW? SHE COULDN'T
 5 TELL ME, TWENTY, A HUNDRED, A MILLION, SHE DIDN'T
 6 KNOW. AGAIN, THIS IS THEIR DNA EXPERT. SO, SHE DID
 7 SAY THIS ABOUT THE LOCATIONS. SHE SAID THAT IF SHE HAD
 8 TESTED TWO MORE AND IF THEY WEREN'T CONSISTENT SHE
 9 WOULD HAVE EXCLUDED MR. DINGLE AS THE FATHER OF THIS
 10 CHILD. BUT SHE DIDN'T, SHE DIDN'T TEST ANYMORE, SHE
 11 STOPPED THERE.

12 SHE ALSO SAID THE TESTING WAS DONE ASSUMING
 13 UNRELATED INDIVIDUALS. NOW, THIS IS THE CASE, EVEN
 14 THOUGH THERE'S TESTIMONY THAT MR. DINGLE'S SON WAS THE
 15 ACTUAL FATHER OF THE CHILD, NOBODY EVER TESTED HIM.
 16 NOW, WHEN YOU'VE GOT SOMEBODY THAT'S THE SUBJECT OF AN
 17 INVESTIGATION AND THEY SAY, I KNOW THE TRUE PERSON
 18 RESPONSIBLE FOR THIS. YOU WOULD THINK AT THAT POINT
 19 YOU MIGHT INVESTIGATE IT, YOU KNOW, TALK TO THEM. IN
 20 A CASE LIKE THIS YOU'D GET THEIR DNA SAMPLE. ALL IT
 21 IS IS A COTTON SWAB, ACCORDING TO ALL THE TESTIMONY.
 22 BUT THEY DIDN'T DO THAT, THEY DIDN'T EVEN LOOK INTO
 23 IT. NOW, WHY IS THAT, WHY DIDN'T THEY DO THAT? I
 24 DON'T KNOW. THAT COULD HAVE CLEARED UP A LOT OF
 25 CONFUSION HERE TODAY.

1 NOW, EVEN WITH ALL THIS TESTING, AND ALL THE
2 NINETY-NINE POINT NINETY-NINE PER CENT AND EVERYTHING
3 WE'RE HEARING HERE TODAY, WE ALSO LEARNED THAT DNA
4 CANNOT EVEN TELL YOU THE RACE OF THE FATHER, NOT EVEN
5 THE RACE. YOU CAN MESH THAT WITH THE NINETY-NINE
6 POINT NINETY-NINE PER CENT.

7 NOW, WHAT ELSE DID WE LEARN? WE LEARNED LOTS OF
8 PEOPLE WORK IN THESE LABS, AND FROM THE MOMENT THIS
9 EVIDENCE IS COLLECTED TO WHEN IT'S TRANSPORTED TO WHEN
10 IT'S STORED TO WHEN IT'S FINALLY TESTED LOTS OF PEOPLE
11 COME IN CONTACT WITH THIS EVIDENCE. NOW, BEYOND
12 THAT, LIKE ANYTHING ELSE INVOLVE DIN HUMAN CONTACT,
13 THERE'S A POTENTIAL FOR A MISTAKE. THERE ALWAYS IS,
14 BECAUSE HUMANS ARE PRONE TO ERROR BY THEIR VERY
15 NATURE. AND LET'S BE REAL, WE'RE NOT TALKING ABOUT
16 VERY STERILE ENVIRONMENTS WITH SOME OF THIS.
17 LIEUTENANT CARTER GOT HERE AND SAID HE STORES THE
18 SWABS ON TOP OF HIS FILE CABINET IN HIS OFFICE. AND
19 THAT'S NOT EXACTLY A STERILE ENVIRONMENT.

20 WE LEARNED ALSO THERE'S CASES OF CROSS-
21 CONTAMINATION OUT OF THIS LAB. THEY MAKE MISTAKES.
22 IN SHORT, WE'RE TALKING ABOUT SCIENTIFIC TESTING, BUT
23 IT'S ALWAYS NOT HOW IT APPEARS. NOW, THE STATE, THEY
24 WOULD HAVE YOU BELIEVE THAT DNA TESTING IS BULLET
25 PROOF. THAT'S WHY THEY'RE UP HERE SHOWING YOU THIS

1 LITTLE SIGN AND ALL, THAT IT'S A SIMPLE MATTER OF
2 SCIENCE. IS SCIENCE ALWAYS RIGHT? I'VE GOT A FEW
3 EXAMPLES I'D LIKE TO GO OVER WITH YOU.

4 FIRST IS ALCHEMY. THAT'S A BELIEF THAT PEOPLE
5 USED TO HAVE, YOU CAN TURN WORTHLESS BASE METALS INTO
6 SILVER AND GOLD. PEOPLE BELIEVED THAT. NOW, OF
7 COURSE, IF THAT WAS TRUE SUNSHINE AND ALL THESE OTHER
8 RECYCLING CENTERS WOULD BE OUT OF BUSINESS RIGHT NOW..
9 WE KNOW THAT'S NOT TRUE. BUT BACK THEN, IT WAS AN
10 ACCEPTED VIEW.

11 THE FLAT EARTH THEORY. THAT WAS A THEORY ALSO
12 THAT THE EARTH WAS FLAT AND YOU COULD GET IN A BOAT
13 AND YOU COULD GO ACROSS THE OCEAN AND EVENTUALLY YOU'D
14 HIT A POINT WHERE YOU'D GO OFF THE END OF THE WORLD.
15 NOW, IT SEEMS INSANE NOW, BUT BACK THEN IF YOU WOULD
16 HAVE SAID, WELL, THE EARTH IS ROUND, YOU'RE GOING TO
17 RUN INTO SOME OPPOSITION.

18 PLUTO, THE PLANET PLUTO. I JUST LEARNED THIS
19 MYSELF THE OTHER DAY. AND I THINK IT WAS AROUND TWO
20 THOUSAND SIX SCIENTISTS SAID THAT PLUTO WAS NOT
21 OFFICIALLY A PLANET. HOW MANY OF YOU WERE TAUGHT THAT
22 IT WAS IN SCHOOL? HOW MANY OF YOU HAD THAT IN YOUR
23 TEXT BOOKS? IF YOU WERE TO PLUTO IS NOT A PLANET ON
24 ONE OF YOUR TESTS HOW WOULD A TEACHER GRADE IT?
25 SCIENCE IS NOT ALWAYS RIGHT.

1 I'VE GOT A MORE MODERN COMPARISON, THIS IS MORE
2 ON POINT HERE. SCIENCE WOULD ALSO TELL YOU THAT BIRTH
3 CONTROL PILLS ARE NINETY-NINE PER CENT EFFECTIVE. HOW
4 MANY OF YOU KNOW SOMEONE OR HAVE HEARD OF SOMEONE
5 GETTING PREGNANT WHILE ON BIRTH CONTROL? I THINK
6 THAT'S A PERFECT EXAMPLE THAT WHEN YOU HAVE NINETY-
7 NINE POINT NINE PERCENT, IT'S NOT A HUNDRED PERCENT,
8 IT'S NOT ABSOLUTE CERTAINTY.

9 NOW, THE QUESTION IS, WHAT ARE WE GOING TO LEARN
10 ABOUT DNA TESTING TWENTY YEARS FROM NOW? WE MIGHT
11 LEARN THAT INSTEAD OF TESTING FIFTEEN OF THESE
12 LOCATIONS YOU NEED TO TEST A HUNDRED TO GET A RELIABLE
13 RESULT, BECAUSE SCIENCE CHANGES.

14 NOW, THE NEXT THING I WANT TO TALK A LITTLE BIT
15 ABOUT IS THE ALLEGED VICTIM IN THIS CASE. AND THIS IS
16 GOING TO BE PRETTY SHORT AND TO THE POINT. MR. DINGLE
17 HAS MAINTAINED HIS INNOCENCE FROM DAY ONE. HE'S HERE
18 TODAY CLAIMING HIS INNOCENCE. NOW, MS. [REDACTED] SHE'S
19 ACCUSED MR. DINGLE OF SEXUAL ASSAULT. SHE GOT UP
20 THERE AND TESTIFIED TO THAT. AND OF COURSE, THERE'S
21 NO WITNESSES TO ANY OF THIS, IT'S BASICALLY JUST HER
22 WORD. NOW, WHAT PEOPLE SAY ON THE STAND IN HERE
23 UNFORTUNATELY IS NOT ALWAYS TRUE. THE FACT THAT SHE'S
24 A STATE'S WITNESS DOES NOT MAKE HER ANYMORE
25 TRUSTWORTHY THAN ANYONE ELSE.

1 WELL, LET'S TALK ABOUT WHAT SHE SAID BECAUSE I'M
2 NOT REALLY SURE WHAT YOU'RE SUPPOSED TO BELIEVE
3 ANYWAY. WE'VE GOT SEVERAL VERSIONS OF EVENTS. NOW,
4 IN THE BEGINNING OF THE TRIAL THE SOLICITOR TOLD YOU
5 THAT MR. DINGLE FORCED HER TO HAVE SEX WITH HIM. AND
6 JUST A FEW MINUTES AGO THEY SAID, THERE'S NO EVIDENCE
7 OF FORCE, BUT HE RAPED HER. THAT SOUNDS LIKE FORCE.
8 BUT THEN, WHILE SHE WAS ON THE STAND SHE SAID THAT HE
9 WOULD MAKE HER COMFORTABLE BY BUYING HER CIGARETTES,
10 ALCOHOL, TAKING HER SHOPPING AND ALL THAT STUFF IN
11 EXCHANGE FOR SEX. THEN IN HER WRITTEN STATEMENT SHE
12 SAID ALL THIS ENDED WHEN SHE DECIDED IT WAS SOMETHING
13 THAT SHE DIDN'T WANT TO DO ANYMORE. WHAT IS IT? WHAT
14 ULTIMATELY IS HER STORY? WE'VE GOT THREE VERY
15 DIFFERENT VERSIONS. THERE'S A BIG DIFFERENCE IN BEING
16 FORCED OR RAPED AND WHATEVER YOU WANT TO CALL IT ON
17 THOSE LINES, AND HAVING SEX TO GET SOMETHING YOU WANT,
18 AND HAVING SEX CONSENTUALLY AND STOPPING IT WHEN YOU
19 DECIDE IT'S NOT SOMETHING YOU WANT TO DO ANYMORE. YOU
20 HEARD THREE DIFFERENT STORIES, AND WHICH ONE ARE YOU
21 SUPPOSED TO BELIEVE? I'D SUBMIT TO YOU, YOU SHOULDN'T
22 BELIEVE ANY OF THEM. THERE'S A REASON HER TESTIMONY
23 DOESN'T ADD UP. THE FARTHER YOU GO DOWN THE WORM HOLE
24 AND THE MORE LIES YOU TELL, EVENTUALLY YOU LOSE TRACK
25 OF YOUR STORY. THAT'S WHY WE'VE GOT THREE DIFFERENT

1 ACCOUNTS OF HOW THIS WHOLE THING TRANSPIRED.

2 NOW, WHAT DO WE REALLY HAVE HERE? THE STATE
3 LIKES TO TALK ABOUT, YOU KNOW, USING A KITCHEN SINK
4 DEFENSE, CONFUSION AND, YOU KNOW, MUDDYING WATERS AND
5 ALL THAT STUFF. WHAT WE'RE DEALING HERE WITH IS, ONCE
6 YOU GET PAST ALL THE SCIENTIFIC TALK, IS TWO THINGS.
7 A WITNESS WITH A WISHY WASHY ACCUSATION, THREE
8 DIFFERENT ACCOUNTS, AND YOU'VE GOT SCIENTIFIC TESTING
9 THAT DIDN'T EVEN INCLUDE MR. DINGLE'S SON OR ANY OF
10 HIS RELATIVES, AND A SCIENTIST THAT COULDN'T EVEN TELL
11 HOW MUCH DNA SHE TESTED. THAT'S IT. THERE'S NO WATERS
12 MUDDIED HERE, THERE'S NO NEED FOR CONFUSION. THAT'S
13 THE TWO ISSUES WE'RE HERE ON TODAY.

14 NOW ULTIMATELY THE STATE WOULD LIKE YOU TO SAY,
15 EVEN IF YOU'RE NOT COMPLETELY CONVINCED OF MR.
16 DINGLE'S GUILT, THAT'S CLOSE ENOUGH. WELL, CLOSE
17 ENOUGH DOES WORKS IN HORSE SHOES AND HAND GRENADES.
18 IT DOESN'T WORK IN A COURT OF LAW, ESPECIALLY IN A
19 CRIMINAL TRIAL. SO, THAT BRINGS ME TO MY CLOSING NOTE
20 HERE. IN THE VERY BEGINNING OF THIS TRIAL I TOLD YOU
21 THE JUDGE WOULD CHARGE YOU WITH THE LAW, AND HE'S
22 GOING TO TELL YOU THAT MR. DINGLE IS PRESUMED
23 INNOCENT. AND THE ONLY WAY THAT'S GOING TO CHANGE IS
24 IF YOU FIND THE STATE HAS PROVEN THEIR CASE BEYOND A
25 REASONABLE DOUBT. AND THE STATE HAS TO PROVE HIS

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1 GUILT, NOT THAT HE MAY HAVE DONE IT, NOT THAT HE COULD
2 HAVE DONE IT, NOT EVEN THAT HE PROBABLY DID WHAT HE'S
3 ACCUSED OF. THEY HAVE TO PROVE HIM GUILTY BEYOND A
4 REASONABLE DOUBT. IF THEY CAN'T DO THAT, YOU SHOULD
5 FIND HIM NOT GUILTY.

6 I'D LIKE TO THANK YOU AGAIN FOR BEING HERE. I
7 FEEL CONFIDENT, IF YOU LOOK AT THE INCONSISTENCIES IN
8 THE VERY CORE OF THE VICTIM'S STATEMENT, THREE
9 DIFFERENT VERSIONS OF WHAT HAPPENED, IF YOU LOOK AT
10 THE EVIDENCE ABOUT THE DNA, WHAT THE EXPERT COULDN'T
11 TELL US, HOW THEY COULDN'T TELL THE RACE, HOW THEY
12 COULDN'T TEST -- THEY DIDN'T TEST ANYONE ELSE THAT'S
13 RELATED TO MR. DINGLE, I FEEL CONFIDENT, IF YOU LOOK
14 AT ALL THESE INCONSISTENCIES, WHEN YOU RETURN YOUR
15 VERDICT YOU WILL RETURN NOT GUILTY.

16 THANK YOU.

17 THE COURT: THANK YOU, MR. CHISOLM.

18 CHARGE BY THE COURT

19 ALRIGHT, LADIES AND GENTLEMEN OF THE JURY, IT'S
20 NOW MY TURN TO CHARGE YOU WITH THE LAW IN THIS CASE.
21 THE INDICTMENT THAT WE HAVE IN THIS CASE CHARGES MR.
22 SAMUEL DINGLE WITH CRIMINAL SEXUAL CONDUCT WITH A
23 MINOR, SECOND DEGREE. THE FACT THAT HE WAS ARRESTED,
24 CHARGED AND INDICTED IN THIS CASE IS NOT EVIDENCE IN
25 THIS CASE AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE

1 OF GUILT, NOR DOES I CREATE ANY PRESUMPTION OR
2 INFERENCE OF GUILT. THE INDICTMENT IS SIMPLY THE
3 FORMAL WRITTEN INSTRUMENT WHICH CONTAINS THE CHARGE
4 MADE AGAINST THE DEFENDANT. IT IS A FORMAL DOCUMENT BY
5 WHICH THIS CASE IS BROUGHT INTO COURT.

6 THE DEFENDANT HAS PLED NOT GUILTY TO THIS
7 INDICTMENT, AND THAT PLEA PUTS THE BURDEN ON THE STATE
8 TO PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE
9 DOUBT. A PERSON CHARGED WITH COMMITTING A CRIMINAL
10 OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO PROVE
11 HIMSELF INNOCENT. I CHARGE YOU THAT IT IS AN
12 IMPORTANT RULE OF THE LAW THAT A DEFENDANT IN A
13 CRIMINAL TRIAL, NO MATTER WHAT THE SERIOUSNESS OF THE
14 CHARGE MAY BE, WILL ALWAYS BE PRESUMED TO BE INNOCENT
15 OF THE CRIME FOR WHICH THE INDICTMENT WAS ISSUED
16 UNLESS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING
17 YOU, THE JURY, OF THAT GUILT BEYOND A REASONABLE
18 DOUBT. THIS PRESUMPTION OF INNOCENCE DOES NOT END
19 WHEN YOU BEGIN YOUR DELIBERATIONS. IT ACCOMPANIES THE
20 DEFENDANT THROUGHOUT THE TRIAL UNTIL YOU REACH A
21 VERDICT OF GUILT BASED ON EVIDENCE SATISFYING YOU OF
22 THAT GUILT BEYOND A REASONABLE DOUBT. THE PRESUMPTION
23 OF INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS PLACED
24 ABOUT THE SHOULDERS OF THE DEFENDANT WHICH REMAINS
25 WITH THE DEFENDANT UNTIL IT HAS BEEN STRIPPED FROM THE

1 DEFENDANT BY EVIDENCE SATISFYING YOU OF THE
2 DEFENDANT'S BUILT BEYOND A REASONABLE DOUBT. THE
3 PRESUMPTION OF INNOCENCE IS NOT MERE LEGAL THEORY, IT
4 IS NOT JUST A LEGAL PHRASE. IT IS A REAL AND
5 SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED
6 UNLESS YOU, THE JURY, ARE SATISFIED FROM THE EVIDENCE
7 OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

8 WHAT IS REASONABLE DOUBT IN THE LAW? A
9 REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE
10 A REASONABLE PERSON TO HESITATE TO ACT. THE STATE HAS
11 THE BURDEN OF PROVING THE DEFENDANT BEYOND A
12 REASONABLE DOUBT. IN CRIMINAL CASES THE STATE'S PROOF
13 MUST BE BEYOND A REASONABLE DOUBT. PROOF BEYOND A
14 REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY
15 CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY
16 FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTELY
17 CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT
18 REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT.
19 IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU
20 ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF
21 THE CRIME CHARGED YOU MUST FIND THE DEFENDANT GUILTY.
22 IF ON THE OTHER HAND YOU THINK THERE IS A REAL
23 POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY YOU MUST
24 GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND
25 HIM NOT GUILTY.

1 DURING THIS TRIAL YOU AND I HAVE CERTAIN DUTIES
2 TO PERFORM. AS A TRIAL JUDGE IT IS MY RESPONSIBILITY
3 TO PRESIDE OVER THE TRIAL OF THIS CASE. YOU ARE TO
4 CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED
5 FROM THIS WITNESS STAND AND THE EXHIBITS THAT WERE
6 INTRODUCED INTO EVIDENCE. I HAVE THE ADDITIONAL DUTY
7 TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE
8 PRESIDING JUDGE I AM THE SOLE JUDGE OF THE LAW IN THIS
9 CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND
10 APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU
11 ALREADY HAVE ANY IDEA AS TO WHAT THE LAW IS, OR WHAT
12 THE LAW OUGHT TO BE, AND IT DOES NOT AGREE WITH WHAT I
13 NOW TELL YOU THE LAW IS, YOU MUST ABANDON THIS IDEA
14 BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE
15 LAW EXACTLY AS I STATE IT TO YOU.

16 IN EVERY CASE THE JURY IS THE SOLE AND EXCLUSIVE
17 JUDGE OF THE FACTS. A TRIAL JUDGE CANNOT INTIMATE,
18 STATE, COMMENT ON, OR MAKE ANY STATEMENT TO A TRIAL
19 JURY ABOUT THE FACTS IN A CASE. SINCE YOU, THE JURY,
20 ARE THE SOLE JUDGES OF THE FACTS IN THIS CASE YOU ARE
21 NOT TO INFER FROM ANYTHING THAT I HAVE SAID DURING THE
22 PROGRESS OF THIS TRIAL IN RULING UPON THE
23 ADMISSIBILITY OF EVIDENCE OR OTHERWISE OR ANYTHING
24 THAT I NOW SAY DURING THE COURSE OF THESE INSTRUCTIONS
25 TO YOU THAT I HAVE AN OPINION ABOUT THE FACTS IN THIS

1 CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION
 2 ABOUT THE FACTS, AND I DO NOT HAVE ONE. THIS IS A
 3 MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE. AS
 4 JURORS IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE,
 5 WEIGHT AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS
 6 TRIAL.

7 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
 8 GENERALLY PRESENTED DURING THE TRIAL, DIRECT EVIDENCE
 9 AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS THE
 10 TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL
 11 KNOWLEDGE OF A FACT SUCH AS AN EYE WITNESS. IT IS
 12 EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT
 13 TO BE PROVED. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A
 14 CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE
 15 EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY
 16 ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT
 17 MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON
 18 INFERENCE, NOT ON PERSONAL KNOWLEDGE OR OBSERVATION.
 19 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE
 20 WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
 21 CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF
 22 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
 23 DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE
 24 IN THIS CASE. AFTER WEIGHING ALL THE EVIDENCE, IF YOU
 25 ARE NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND

1 A REASONABLE DOUBT YOU MUST FIND THE DEFENDANT NOT
2 GUILTY.

3 NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY
4 OF WITNESSES WHO TESTIFIED IN THIS CASE. CREDIBILITY
5 SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS
6 JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND
7 DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH.
8 IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE
9 TESTIFIED IN THIS CASE YOU MAY BELIEVE ONE WITNESS
10 OVER SEVERAL WITNESSES, OR SEVERAL WITNESSES OVER ONE
11 WITNESS. YOU MAY BELIEVE PART OF THE TESTIMONY OF A
12 WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY
13 OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY
14 OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY
15 OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER
16 WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY INTEREST,
17 BIAS, PREJUDICE OR OTHER MOTIVE IN THIS CASE. YOU MAY
18 ALSO CONSIDER THE APPEARANCE AND MANNER OF A WITNESS
19 WHILE ON THE WITNESS STAND.

20 THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
21 WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN
22 EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL
23 EXPERT WITNESSES. A WITNESS WHO BY EDUCATION AND
24 EXPERIENCE HAS BECOME EXPERT IN SOME ART, SCIENCE,
25 PROFESSION OR CALLING, MAY STATE AN OPINION AS TO

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RELEVANT AND MATERIAL MATTER IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THE OPINION. YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED IN EVIDENCE IN THIS CASE AND LIKE ANY OTHER EVIDENCE GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THE OPINION OF AN EXPERT WITNESS IS NOT BASED ON SUFFICIENT EDUCATION AND EXPERIENCE OR IF YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND OR THAT THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE OPINION ENTIRELY. AND EXPERT WITNESS'S TESTIMONY IS TO BE GIVEN NO GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY BECAUSE A WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN EXPERT'S OPINION EVEN THOUGH IT IS NOT CONTRADICTED.

I INSTRUCT YOU AND EMPHASIZE TO YOU THAT THE FACT THAT THE DEFENDANT DID NOT TESTIFY IS NOT A FACT TO BE CONSIDERED BY YOU IN ANY WAY IN YOUR DELIBERATION AND IN YOUR CONSIDERATION ON THE QUESTION OF THE GUILT OR INNOCENCE OF THE DEFENDANT. IT MUST NOT BE CONSIDERED BY YOU IN ANY MANNER WHATSOEVER. A DEFENDANT HAS THE CONSTITUTIONAL RIGHT TO REMAIN SILENT, AND THE ASSERTION OF THIS RIGHT MUST NOT BE CONSIDERED BY YOU IN YOUR DELIBERATIONS. I REPEAT, UNDER YOUR OATH YOU ARE NOT TO DRAW ANY CONCLUSIONS WHATSOEVER FROM THE

1 FACT THAT THE DEFENDANT IN THIS CASE DID NOT TESTIFY.
2 THE FACT THAT THIS DEFENDANT DID NOT TESTIFY SHOULD
3 NOT EVEN BE DISCUSSED IN THE JURY ROOM. THE BURDEN OF
4 PROOF, AS I HAVE STATED BEFORE, IS ON THE STATE, THE
5 DEFENDANT IS NOT REQUIRED TO PROVE HIS INNOCENCE. THE
6 BURDEN OF PROOF REMAINS ON THE STATE TO PROVE BEYOND A
7 REASONABLE DOUBT.

8 THE DEFENDANT IS CHARGED WITH SECOND DEGREE
9 CRIMINAL SEXUAL CONDUCT WITH A MINOR. THE STATE MUST
10 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
11 ENGAGE IN A SEXUAL BATTERY WITH THE VICTIM. A SEXUAL
12 BATTERY IS SEXUAL INTERCOURSE, CUNNILINGUS, FELLATIO,
13 ANAL INTERCOURSE, OR ANY INTRUSION, HOWEVER SLIGHT, OF
14 ANY PART OF A PERSON'S BODY OR ANY OBJECT INTO THE
15 GENITAL OR ANAL OPENINGS OF ANOTHER PERSON'S BODY
16 EXCEPT WHEN THE INTRUSION IS ACCOMPLISH FOR MEDICALLY
17 RECOGNIZED TREATMENT OR DIAGNOSTIC PURPOSES. THE
18 STATE MUST THEN PROVE BEYOND A REASONABLE DOUBT THAT
19 THE VICTIM WAS AT LEAST ELEVEN YEARS OLD BUT NOT MORE
20 THAN FOURTEEN YEARS OLD AT THE TIME OF THE SEXUAL
21 BATTERY. CONSENT, WILLINGNESS, INDIFFERENCE, OR
22 IGNORANCE ON THE PART OF THE MINOR, IF ANY, AS TO WHAT
23 WAS TAKING PLACE DOES NOT IN ANY WAY AFFECT THE CHARGE
24 OF CRIMINAL SEXUAL CONDUCT WITH A MINOR.

25 THE TESTIMONY OF A VICTIM NEED NOT BE

1 CORROBORATED IN A CRIMINAL SEXUAL CONDUCT WITH A
2 MINOR, SECOND DEGREE, CASE.

3 I AM REQUIRED TO DECLARE THE LAW TO YOU AS I HAVE
4 DONE THROUGH THESE INSTRUCTIONS TO HELP GUIDE YOU TO A
5 JUST AND LAWFUL VERDICT. WHETHER SOME OF THESE
6 INSTRUCTIONS APPLY WILL DEPEND ON WHAT YOU FIND TO BE
7 THE FACTS. THE FACT THAT I HAVE INSTRUCTED YOU ON
8 VARIOUS SUBJECTS IN THIS CASE MUST NOT BE TAKEN AS
9 INDICATING AN OPINION OF THIS COURT AS TO WHAT YOU
10 SHOULD FIND TO BE THE FACTS OR AS TO WHICH PARTY IS
11 ENTITLED TO YOUR VERDICT.

12 YOUR VERDICT MUST REPRESENT THE CONSIDERED
13 JUDGEMENT OF EACH JUROR. IN ORDER TO RETURN A VERDICT
14 IT IS NECESSARY THAT EACH JUROR AGREE. YOUR VERDICT
15 MUST BE UNANIMOUS, ALL TWELVE OF YOU MUST AGREE ON THE
16 VERDICT. YOUR VERDICT CANNOT BE BASED ON SYMPATHY,
17 PASSION, PREJUDICE, EMOTION OR ANY OTHER CONSIDERATION
18 NOT IN EVIDENCE IN THIS CASE. REMEMBER, AT ALL TIMES
19 YOU ARE NOT PARTISANS FAVORING ONE PARTY OVER ANOTHER.
20 YOU ARE THE JUDGES OF THE FACTS AND YOUR SOLE INTEREST
21 IS TO SEEK THE TRUTH FROM THE EVIDENCE IN THIS CASE.

22 NOW, MR. FOREMAN, I AM GOING TO GO OVER THE
23 VERDICT FORM WITH YOU. I'M NOT GOING TO GIVE IT TO
24 YOU BECAUSE I TOLD YOU BEFORE, YOU'RE NOT GOING TO GET
25 THIS UNTIL I FIND OUT WE'RE ALL DONE. I WANT TO MAKE

1 SURE, THIS IS THE VERDICT FORM. THE VERDICT FORM,
2 IT'S GOT THE NAME OF THE CASE AND THE INDICTMENT
3 NUMBER. THE DECISION THAT YOU HAVE TO MAKE, THAT THE
4 JURY HAS TO MAKE IS, "WE, THE JURY, UNANIMOUSLY FIND
5 THAT THE DEFENDANT, SAMUEL DINGLE, IS," AND YOU HAVE
6 TWO CHOICES, AND IT'S EITHER GUILTY OF SECOND DEGREE
7 CRIMINAL SEXUAL CONDUCT WITH A MINOR, OR NOT GUILTY.
8 IT'S Y'ALL'S DECISION AND IT HAS TO BE A UNANIMOUS
9 DECISION. ONCE Y'ALL HAVE -- AFTER DUE DELIBERATIONS,
10 ONCE Y'ALL HAVE MADE YOUR DECISION, YOU WILL MARK
11 EITHER ONE OF THOSE BOXES, AND THEN YOU WILL SIGN IT.
12 OKAY?

13 JURY FOREMAN: I'VE GOT YOU.

14 THE COURT: ALRIGHT, SIR.

15 NOW, AS I TOLD YOU BEFORE, I'M GOING TO LET Y'ALL
16 GO BACK INTO THE JURY ROOM FOR A MINUTE, AND I WILL
17 QUESTION THE ATTORNEYS AND MAKE SURE THAT I CHARGED
18 Y'ALL ALL OF THE APPLICABLE LAW, THAT I DIDN'T LEAVE
19 ANYTHING OUT. IF I NEED TO CHARGE YOU WITH ANYTHING
20 ELSE I WILL BRING YOU BACK IN HERE AND I WILL EITHER
21 EXPLAIN OR MAKE ANY OTHER CORRECTIONS I NEED TO MAKE.
22 IF, HOWEVER, I DON'T NEED TO MAKE ANY CORRECTIONS OR
23 ADDITIONS TO THE LAW AS I HAVE CHARGED YOU, THE
24 BAILIFF WILL BRING THE EXHIBITS AND THE VERDICT FORM
25 BACK INTO THE JURY ROOM, AND SHE WILL TELL YOU THAT

1 YOU CAN BEGIN YOUR DELIBERATIONS. BUT UNTIL THAT TIME
2 YOU STILL CANNOT BEGIN TALKING ABOUT THIS CASE. OKAY?

3 I WILL LET Y'ALL GO BACK INTO THE JURY ROOM RIGHT
4 NOW, AND I'LL LET Y'ALL KNOW WHERE WE ARE IN JUST A
5 FEW MINUTES.

6 (Whereupon, the jury retires
7 to the jury room, and the following
8 takes place out of the presence
9 of the jury.)

10 THE COURT: IS THERE ANYTHING FROM THE STATE
11 REGARDING MY CHARGE?

12 SOLICITOR JUSTIS: NO EXCEPTIONS FROM THE STATE,
13 YOUR HONOR.

14 THE COURT: OKAY. MR. CHISOLM, ANYTHING FROM THE
15 DEFENSE?

16 MR. CHISOLM: NOTHING FROM THE DEFENSE.

17 THE COURT: OKAY. NOW, MR. MELLARD, BEFORE WE
18 BEGAN THE THING Y'ALL REVIEWED THE VERDICT FORM?

19 MR. MELLARD: WE'RE FINE, YOUR HONOR.

20 THE COURT: WE'RE FINE? OKAY. ALRIGHT. NOW,
21 WHAT I WOULD ASK Y'ALL TO DO, THEN, IF Y'ALL WOULD
22 MAKE SURE WE'VE GOT ALL THE EXHIBITS, AND IF ALL THE
23 EXHIBITS ARE IN ORDER I'LL SEND THEM ON BACK WITH THE
24 VERDICT FORM AND IF YOU WILL TELL THEM -- ONCE YOU GET
25 ALL THE EXHIBITS, IF YOU WOULD THEN GIVE THEM ALL THE

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1 EXHIBITS AND THE VERDICT FORM AND ASK THEM TO BEGIN
2 THEIR DELIBERATIONS. HAVE YOU GOT EVERYTHING?

3 COURT REPORTER: YES, SIR.

4 THE COURT: OKAY, WE'VE GOT EIGHT, IS THAT
5 CORRECT?

6 SOLICITOR JUSTIS: YES, YOUR HONOR.

7 THE COURT: OKAY, THANK YOU.

8 IS THERE ANYTHING FROM THE STATE THAT WE NEED TO
9 PUT ON THE RECORD BEFORE WE STAND DOWN?

10 SOLICITOR JUSTIS: NO, YOUR HONOR.

11 THE COURT: ANYTHING FROM THE DEFENSE BEFORE WE
12 STAND DOWN?

13 MR. CHISOLM: NO, YOUR HONOR.

14 THE COURT: ALRIGHT. LET'S SEE WHAT HAPPENS. OH,
15 I'M GOING TO BRING THE ALTERNATES OUT AND EXCUSE THEM.
16 OKAY?

17 MR. RICHARDSON, WOULD YOU MIND GETTING THE THREE
18 ALTERNATES BACK IN HERE? THANK YOU, SIR. AS MUCH AS
19 I KNOW THEY WANT TO STAY.

20 (Whereupon, the alternate jurors
21 enter the courtroom.)

22 THE COURT: GENTLEMEN, Y'ALL WERE ALL CHOSEN AS
23 ALTERNATES. I'VE GOT TO TELL YOU, I WATCHED DURING
24 THE TRIAL AND Y'ALL WERE PAYING ATTENTION. I
25 APPRECIATE IT. HAD WE NEEDED YOU IT WOULD HAVE BEEN -

1 - I KNOW Y'ALL WOULD HAVE BEEN ABLE TO STEP INTO THE -
2 - ANY OF THE JURORS' PLACES, IF I WOULD HAVE HAD TO
3 EXCUSE ANY OF THE JURORS. BUT SINCE WE'VE GOT A FULL
4 COMPLEMENT OF JURORS, EVERYBODY IS HERE AND THEY'RE
5 GETTING READY TO BEGIN THEIR DELIBERATIONS, Y'ALL ARE
6 FREE TO LEAVE. NOW, IF Y'ALL WANT TO Y'ALL CAN SIT IN
7 THE BACK OF THE COURTROOM AND WAIT AND SEE WHAT
8 HAPPENS, BUT YOU'RE ALSO VERY, Y'ALL ARE FREE TO GO.
9 AGAIN, I WANT TO THANK YOU FOR YOUR SERVICE, I
10 APPRECIATE EVERYTHING. OKAY? THANK Y'ALL.

11 (Whereupon, the jury begins
12 their deliberations at 2:00 p.m.)

13 (Recess)

14 THE COURT: WE'VE GOT A VERDICT. IS THE STATE
15 READY?

16 SOLICITOR JUSTIS: THE STATE'S READY, YOUR HONOR.

17 THE COURT: IS THE DEFENSE READY?

18 MR. CHISOLM: THE DEFENSE IS READY, YOUR HONOR.

19 THE COURT: OKAY. IF YOU'D BRING THE JURY ON IN.

20 (Whereupon, the jury returns
21 with a verdict at 2:28 p.m.)

22 THE COURT: ALRIGHT, MR. FOREMAN, HAVE YOU
23 REACHED A VERDICT?

24 JURY FOREMAN PEEPLES: YES, SIR, WE DID.

25 THE COURT: ALRIGHT, SIR. IS THAT VERDICT

1 UNANIMOUS?

2 JURY FOREMAN PEEPLES: YES, SIR.

3 THE COURT: IF YOU'D GIVE IT TO THE BAILIFF OR
4 THE COURT. APPRECIATE IT.

5 (Whereupon, the Court examines
6 the verdict.)

7 THE COURT: MADAM CLERK, WOULD YOU PUBLISH THE
8 VERDICT FOR ME.

9 VERDICT OF THE JURY

10 CLERK: WE, THE JURY, UNANIMOUSLY FIND THAT THE
11 DEFENDANT, SAMUEL DINGLE, IS GUILTY OF SECOND DEGREE
12 CRIMINAL SEXUAL CONDUCT WITH A MINOR.

13 THE COURT: ALRIGHT, THANK YOU, MA'AM, APPRECIATE
14 IT. HANG ON TO THAT.

15 ANYTHING FROM THE DEFENSE BEFORE I RELEASE THE
16 JURY?

17 MR. CHISOLM: I WOULD ASK THAT YOU POLL THE JURY,
18 YOUR HONOR.

19 THE COURT: ALRIGHT, MADAM CLERK, ARE YOU
20 PREPARED TO POLL THE JURY OR DO YOU WANT ME TO?

21 CLERK: I WANT YOU TO.

22 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, THE
23 DEFENSE HAS REQUESTED THAT I POLL THE JURY, SO WHAT I
24 WILL DO IS, I'M GOING TO GO THROUGH AND ASK EACH OF
25 Y'ALL ABOUT THE VERDICT IN THIS CASE. AND MR.

1 PEEPLES, YOU'RE THE FOREMAN OF THE JURY. THE VERDICT
2 IN THIS CASE WAS GUILTY?

3 JURY FOREMAN PEEPLES: YES, SIR.

4 THE COURT: OKAY. AND THAT WAS YOUR VERDICT?

5 JURY FOREMAN PEEPLES: YES, SIR.

6 THE COURT: OKAY. IS IT STILL YOUR VERDICT?

7 JURY FOREMAN PEEPLES: YES, SIR.

8 THE COURT: OKAY, THANK YOU, SIR.

9 MS. RUTLAND? OKAY, MS. RUTLAND, THE VERDICT WAS
10 GUILTY. WAS THAT YOUR VERDICT IN THIS CASE?

11 JUROR RUTLAND: YES, SIR.

12 THE COURT: IS IT STILL YOUR VERDICT.

13 JUROR RUTLAND: YES, SIR.

14 THE COURT: THANK YOU, MA'AM.

15 MR. JENKINS, THE VERDICT WAS GUILTY. WAS THAT
16 YOUR VERDICT IN THIS CASE?

17 JUROR JENKINS: YES, SIR.

18 THE COURT: IS IT STILL YOUR VERDICT?

19 JUROR JENKINS: YES, SIR.

20 THE COURT: THANK YOU, SIR.

21 MR. BELL, THE VERDICT WAS GUILTY. WAS THAT YOUR
22 VERDICT?

23 JUROR BELL: YES, SIR.

24 THE COURT: OKAY. IS IT STILL YOUR VERDICT?

25 JUROR BELL: YES, SIR.

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THE COURT: ALRIGHT. THANK YOU, SIR.

MR. COCKE, THE VERDICT WAS GUILTY. WAS THAT YOUR
VERDICT?

JUROR COCKE: YES, SIR.

THE COURT: IS IT STILL YOUR VERDICT?

JUROR COCKE: YES, SIR.

THE COURT: THANK YOU, SIR.

MS. FUNCHESS? MS. FUNCHESS, THE VERDICT WAS
GUILTY, WAS THAT YOUR VERDICT?

JUROR FUNCHESS: YES, SIR.

THE COURT: IS IT STILL YOUR VERDICT?

JUROR FUNCHESS: YES, SIR.

THE COURT: THANK YOU, MA'AM.

MR. HAYWARD? MR. HAYWARD, THE VERDICT WAS
GUILTY. WAS THAT YOUR VERDICT?

JUROR HAYWARD: YES, SIR.

THE COURT: IS IT STILL YOUR VERDICT?

JUROR HAYWARD: YES, SIR.

THE COURT: THANK YOU, SIR.

MR. SMITH, THE VERDICT WAS GUILTY. WAS THAT YOUR
VERDICT?

JUROR SMITH: YES, SIR.

THE COURT: IS IT STILL YOUR VERDICT?

JUROR SMITH: YES, SIR.

THE COURT: THANK YOU, SIR.

1 MS. SMOAK, THE VERDICT WAS GUILTY?

2 JUROR SMOAK: YES, SIR.

3 THE COURT: WAS THAT YOUR VERDICT?

4 JUROR SMOAK: YES, SIR.

5 THE COURT: IS IT STILL YOUR VERDICT?

6 JUROR SMOAK: YES, SIR.

7 THE COURT: THANK YOU, MA'AM.

8 MR. ELLIS? MR. ELLIS, THE VERDICT WAS GUILTY,
9 WAS THAT YOUR VERDICT?

10 JUROR ELLIS: YES, SIR.

11 THE COURT: IS IT STILL YOUR VERDICT?

12 JUROR ELLIS: YES, SIR.

13 THE COURT: THANK YOU, SIR.

14 MR. SINGH, THE VERDICT WAS GUILTY?

15 JUROR SINGH: YES, SIR.

16 THE COURT: WAS THAT YOUR VERDICT?

17 JUROR SINGH: YES, SIR.

18 THE COURT: IS IT STILL YOUR VERDICT?

19 JUROR SINGH: YES.

20 THE COURT: THANK YOU, SIR.

21 AND FINALLY, MR. DARBY. MR. DARBY, THE VERDICT
22 WAS GUILTY. WAS THAT YOUR VERDICT?

23 JUROR DARBY: YES, SIR.

24 THE COURT: IS IT STILL YOUR VERDICT?

25 JUROR DARBY: YES, SIR.

1 THE COURT: THANK YOU, SIR. APPRECIATE IT.
2 ANYTHING FURTHER FROM THE DEFENDANT?

3 MR. MELLARD: OBVIOUSLY, WE HAVE A MOTION.

4 THE COURT: YEAH, I KNOW, BUT NOTHING - - -

5 MR. MELLARD: THAT'S ALL RIGHT NOW.

6 THE COURT: ALRIGHT. LADIES AND GENTLEMEN,
7 AGAIN, IT'S BEEN A TWO DAY TRIAL. I APPRECIATE
8 Y'ALL'S ATTENTION, I APPRECIATE Y'ALL'S DELIBERATION.
9 Y'ALL HAVE BEEN A WONDERFUL JURY AS FAR AS PAYING
10 ATTENTION, AND I WANT TO THANK Y'ALL FOR DOING THAT.
11 I WANT TO THANK Y'ALL FOR BEING WILLING TO SERVE ON
12 THE JURY BECAUSE I KNOW THERE ARE OTHER THINGS THAT
13 YOU WOULD RATHER HAVE BEEN DOING. BUT AGAIN, THANK
14 YOU FOR YOUR SERVICE NOW. THE REWARD IS YOU DON'T
15 HAVE TO SERVE ANYMORE THIS YEAR. OKAY? AND YOU GET
16 PAID. SO, ANYWAY, WE DON'T HAVE ANYMORE TRIALS THIS
17 WEEK SO Y'ALL ARE NOW FREE TO GO. AGAIN, I WANT TO
18 THANK YOU ON BEHALF OF THE ATTORNEYS AND ON BEHALF OF
19 THE COURT STAFF AND THE COUNTY. IT'S REAL IMPORTANT
20 THE JOB THAT Y'ALL HAVE TO DO. I KNOW IT WAS TOUGH
21 DECISION, BUT I DO APPRECIATE IT. ANYWAY, Y'ALL ARE
22 NOW EXCUSED TO GO. THANK Y'ALL VERY MUCH.

23 (Whereupon, the jury leaves
24 the jury box.)

25 THE COURT: ALRIGHT, EITHER MR. CHISOLM OR MR.

1 MELLARD, WHOEVER WAS -- YES, SIR, MR. MELLARD?

2 MR. MELLARD: YES, SIR, AT THIS TIME WE WOULD
3 RENEW ALL OF OUR PRIOR OBJECTIONS AND MOTIONS.

4 THE COURT: YES, SIR.

5 MR. MELLARD: IT DOES INCLUDE THE MOTIONS WE MADE
6 ON THE INDICTMENT, THE MISTRIAL, DIRECTED VERDICT, AND
7 THE TESTIMONY OF [REDACTED]

8 THE COURT: ALRIGHT, SIR.

9 MR. MELLARD: I MIGHT COULD GO OVER THEM IF YOU
10 WANT ME TO. I THINK THEY'RE - - -

11 THE COURT: NO, I THINK WE'VE REFERRED TO THEM A
12 NUMBER OF TIMES, BUT WITH REGARD TO EACH OF THOSE THE
13 RULINGS THAT I MADE AT THE TIME I CONTINUE UNDER THOSE
14 RULINGS. I THINK EARLIER IN THE CASE AND ON THE
15 RECORD YOU NOTED ALL OF YOUR REASONS FOR EACH ONE OF
16 THOSE, AND I HAVE RECITED MINE FOR RULING AS I DID,
17 BUT THOSE ARE ALL PRESERVED FOR THE RECORD AND FOR ANY
18 APPEAL.

19 MR. MELLARD: YES, SIR. WE ALSO AT THIS TIME
20 WOULD MAKE A MOTION FOR A NEW TRIAL.

21 THE COURT: YES, SIR.

22 MR. MELLARD: IT'S OUR POSITION THAT A NEW TRIAL
23 SHOULD BE GRANTED WHEN THERE IS NO EVIDENCE TO SUPPORT
24 A CONVICTION. IN THIS CASE THE INDICTMENT IS UNDER
25 THE SECTION THAT ALLEGES ELEVEN TO FOURTEEN YEARS OF

1 AGE.

2 THE COURT: YES, SIR.

3 MR. MELLARD: ALL THE EVIDENCE PRESENTED BY THE
4 STATE, AS WE SAID IT WAS GOING TO BE AT THE BEGINNING
5 OF THIS TRIAL, WAS UNDER THE SECTION OF FOURTEEN TO
6 SIXTEEN YEARS OF AGE, THAT'S WHEN THE CONCEPTION
7 OCCURRED, THAT'S WHEN THE PREGNANCY OCCURRED, THAT'S
8 THE DNA EVIDENCE, ALL THAT IS IN THE FOURTEEN TO
9 SIXTEEN YEAR RANGE.

10 ADDITIONALLY, THEY PRESENTED EVIDENCE THAT MR.
11 DINGLE WAS IN A FAMILIAL RELATIONSHIP. IF YOU LOOK AT
12 THEIR BOARD THEY TRIED TO PUT ON THEIR BOARD THAT THE
13 ELEMENT THAT HE WAS OVER EIGHTEEN YEARS OF AGE, WHICH
14 WOULD OBVIOUSLY BE UNDER THE SECOND SECTION, I
15 BELIEVE, THE B, TWO, SECTION, - - -

16 THE COURT: YES, SIR.

17 MR. MELLARD: --- NOT THE B, ONE SECTION. SO
18 THEIR WHOLE CASE IS BASED ON SECTION B, TWO. BUT HE
19 WAS INDICTED UNDER SECTION B, ONE. SO, IT'S OUR
20 POSITION THERE WAS NO EVIDENCE THAT WOULD SUPPORT A
21 CONVICTION UNDER SECTION B, ONE, WHICH IS WHAT HE WAS
22 INDICTED ON.

23 THE COURT: ALRIGHT, THANK YOU, SIR.

24 MR. MELLARD: AND ONE MORE - - -

25 THE COURT: I'M SORRY, GO AHEAD.

1 MR. MELLARD: JUST ONE MORE THERE. WE WOULD MAKE
2 A VERDICT IN ARREST OF JUDGEMENT, YOUR HONOR. AGAIN,
3 IT'S BASED ON THE ,THE SECTIONS OF THE INDICTMENT,
4 IT'S B, ONE, AS WE'VE TALKED ABOUT IN LENGTH ABOUT
5 THIS.

6 THE COURT: YES, SIR.

7 MR. MELLARD: YOU CHARGED THE JURY THAT THEY MUST
8 FIND THE VICTIM WAS AT LEAST ELEVEN YEARS OLD BUT NOT
9 MORE THAN FOURTEEN YEARS OLD, WHICH WOULD MEAN NOT ONE
10 DAY PAST THE FOURTEENTH BIRTHDAY. I MEAN, YOU'RE BORN
11 ON TODAY, AND A YEAR FROM NOW THAT SHOULD, YOU'RE ONE
12 YEAR OLD, AND THEN AFTER THAT YOU'RE OVER ONE YEAR
13 OLD. SO, BASED ON THE CHARGE, BASED ON THE
14 INDICTMENT, THE JURY SHOULD NOT HAVE BEEN ALLOWED TO
15 HEAR EVIDENCE WHICH OCCURRED AT AGE FOURTEEN AND A
16 HALF, FIFTEEN, ANY OF THAT. SO, IT'S OUR POSITION,
17 YOUR HONOR, THAT THE INDICTMENT WAS INSUFFICIENT, IT
18 ALLEGED SOMETHING WHICH THE STATE DID NOT PROVE. SO,
19 WE WOULD SAY THAT THE INDICTMENT WAS INSUFFICIENT.
20 WE'D ALSO SAY THAT YOU LACKED JURISDICTION TO IMPOSE A
21 SENTENCE IN THIS CASE BASED ON THE FACT AGAIN THAT THE
22 INDICTMENT WAS ELEVEN TO FOURTEEN, BUT WHAT HE WAS
23 CONVICTED ON WAS DNA EVIDENCE AND CONCEPTION OF
24 PREGNANCY WHICH OCCURRED BETWEEN THE AGES OF FOURTEEN
25 AND SIXTEEN. SO, WE WOULD SAY BASED ON THAT YOU DON'T

1 HAVE JURISDICTION TO IMPOSE A SENTENCE THAT WAS BASED
2 ON EVIDENCE WHICH WAS OUTSIDE THE INDICTMENT.

3 THE COURT: ALRIGHT, SIR. ALRIGHT, MR. JUSTIS,
4 ANY RESPONSE, OR MR. BELL, WHOEVER? MR. JUSTIS, YES,
5 SIR.

6 SOLICITOR JUSTIS: I THINK OUR RESPONSE WAS NOTED
7 EARLIER.

8 THE COURT: YES, SIR.

9 SOLICITOR JUSTIS: SO, I'LL JUST REITERATE A
10 COUPLE OF THINGS.

11 THE COURT: OKAY.

12 SOLICITOR JUSTIS: I MEAN, THE STATUTE, AS MR.
13 BELL EXPLAINED EARLIER, YOU KNOW, THERE'S PARTS OF THE
14 STATUTE WHERE THEY SPECIFICALLY SAY, LESS THAN. THE
15 LEGISLATIVE INTENT THERE WAS CLEAR. THE PLAIN LANGUAGE
16 OF THE STATUTE, WHICH IS THE WAY WE CONSTRUE ALL
17 STATUTES, CLEARLY SAYS, YOU KNOW, FOURTEEN. AND SHE
18 WAS FOURTEEN WHEN THESE ACTS OCCURRED. SHE WAS
19 FOURTEEN WHEN SHE GAVE BIRTH. SHE WAS FOURTEEN WHEN
20 SHE BECAME PREGNANT. SO, WE FELT WE ARE WITHIN THAT A
21 SECTION OF THE STATUTE.

22 THE COURT: ALRIGHT. OKAY. FOR THE RECORD, MR.
23 MELLARD, THE INDICTMENT INDICATES, OR ALLEGES THAT HE
24 ENGAGED IN SEXUAL BATTERY UPON A MINOR WHO WAS
25 FOURTEEN YEARS OF AGE OR LESS, YOU KNOW. AND CLEARLY,

1 THE EVIDENCE, AT LEAST IN MY ESTIMATE, THE EVIDENCE
2 SUPPORTS THE FACT THAT HE ENGAGED IN SEXUAL
3 INTERCOURSE WITH HER WHILE SHE WAS FOURTEEN. I
4 UNDERSTAND YOUR TAKING THE POSITION BECAUSE B SAYS
5 FOURTEEN TO SIXTEEN, THAT AS SOON AS SHE TURNED
6 FOURTEEN AND ONE DAY SHE SHOULD HAVE BEEN CHARGED
7 UNDER THE B, TWO SECTION.

8 MR. MELLARD: YES, SIR, I'M TAKING THAT, AND ALSO
9 THE JURY CHARGE BOOK, I BELIEVE, WOULD AGREE WITH
10 THAT.

11 THE COURT: YES, SIR. AND, BUT MY READING AS THE
12 PLAIN MEANING OF THE STATUTE, SHE WAS FOURTEEN WHEN
13 SHE CONCEIVED THE CHILD. SHE TESTIFIED THAT BEFORE
14 THAT TIME THEY HAD HAD INTERCOURSE. SO, I AM GOING TO
15 DENY YOUR MOTION OR A NEW TRIAL. LIKEWISE, YOUR
16 REQUEST FOR A VERDICT IN ARREST OF JUDGEMENT, I WILL
17 DENY, BECAUSE I BELIEVE THEY DID PROVE THE ALLEGATIONS
18 THAT WERE ALLEGED IN THE INDICTMENT, AND BECAUSE OF
19 THAT I DON'T THINK -- I THINK I DO HAVE THE
20 JURISDICTION TO IMPOSE A SENTENCE ON THAT SO - - -

21 MR. MELLARD: AND - - -

22 THE COURT: YES, SIR.

23 MR. MELLARD: --- THAT WOULD ALSO MEAN THAT YOU
24 BELIEVE THE INDICTMENT WAS SUFFICIENT?

25 THE COURT: YES, SIR. THANK YOU, SIR. BUT I,

1 JUST FOR THE RECORD, I WANT TO MAKE SURE, YOU'RE
2 OBJECTING TO MY RULING?

3 MR. MELLARD: I'M OBJECTING TO ALL OF THAT.

4 THE COURT: YES, SIR. AND WE'RE PRESERVING THAT
5 OBJECTION FOR THE RECORD. OKAY, THANK YOU, SIR.

6 ALRIGHT, ANYTHING ELSE?

7 MR. MELLARD: THAT'S ALL.

8 THE COURT: OKAY. ALRIGHT. ALRIGHT, DO Y'ALL
9 NEED A FEW MINUTES BEFORE -- SO WE CAN GET ANYTHING
10 TOGETHER FOR SENTENCING OR - - -

11 MR. CHISOLM: YES, SIR, WE DO NEED ABOUT FIVE
12 MINUTES.

13 THE COURT: OKAY. I'LL GIVE Y'ALL ABOUT TEN
14 MINUTES. OKAY?

15 (Recess)

16 THE COURT: ALRIGHT, MR. JUSTIS, WHAT DO YOU WANT
17 TO TELL ME, ANYTHING?

18 SOLICITOR JUSTIS: WELL, FIRST OF ALL I'D JUST
19 LIKE TO PUT IN HIS PRIOR RECORD ON THE RECORD, YOUR
20 HONOR.

21 THE COURT: OKAY.

22 SOLICITOR JUSTIS: IN NINETEEN EIGHTY HE HAD A
23 BREACH OF TRUST WHICH HE WAS CONVICTED OF, SERVED SIX
24 MONTHS, OR RECEIVED SIX MONTHS PLUS A YEAR OF
25 PROBATION. IN NINETEEN EIGHTY-THREE HE WAS CONVICTED

1 OF FORGERY, FOUR COUNTS OF FORGERY, HE RECEIVED SOME
2 TIME AND PROBATION ON THAT. IN NINETEEN EIGHTY-EIGHT
3 HE RECEIVED TWENTY-ONE YEARS FOR ARMED ROBBERY. IN
4 TWO THOUSAND AND SEVEN HE WAS CONVICTED AND RECEIVED A
5 FINE FOR DRIVING UNDER SUSPENSION. AND THEN IN TWO
6 THOUSAND NINE HE RECEIVED TWENTY MONTHS FOR BREACH OF
7 TRUST OVER FIVE THOUSAND. AND I WOULD JUST LIKE TO
8 NOT THAT HE DOES HAVE TWO STRIKES ON HIS RECORD. THIS
9 ACTUALLY WOULD BE A THIRD STRIKE FOR HIM, THIS
10 CONVICTION HERE. IT IS A SERIOUS, VIOLENT OFFENSE.
11 THE STATE DID NOT SEEK LIFE WITHOUT PAROLE ON THIS
12 CHARGE. OBVIOUSLY, WE COULD HAVE. HE DOES HAVE HIS
13 OTHER PENDING CHARGE WHICH IS A MANDATORY LWOP CHARGE
14 OF CSC IN THE FIRST. YOU KNOW, BASED ON ALL THOSE
15 FACTORS THE STATE WOULD ASK FOR THE MAXIMUM SENTENCE
16 IN THIS CASE, WHICH WOULD BE TWENTY YEARS. WE THINK
17 THAT'S APPROPRIATE. THE ORIGINAL OFFER IN THE CASE
18 WAS FIFTEEN TO TWENTY YEARS, A RANGE OF FIFTEEN TO
19 TWENTY WHICH HE TURNED DOWN, AND THAT OFFER WAS
20 ACTUALLY OPEN AS OF LAST FRIDAY. HE COULD HAVE PLED
21 TO THAT BUT HE TURNED THAT DOWN AND HE DECIDED TO GO
22 TO TRIAL, EXERCISED HIS RIGHT TO DO SO. BUT WE WOULD
23 JUST ASK THAT THE MAXIMUM SENTENCE, BASED ON WHAT'S
24 BEEN PROVEN AT TRIAL, THE VICTIM HAVING TO TESTIFY.
25 AND BY THE WAY, YOUR HONOR, SHE DOES NOT WISH TO

1 SPEAK. OBVIOUSLY, THIS IS A VERY EMOTIONAL MOMENT FOR
2 HER. SHE DOES WISH TO THANK THE COURT AND THE
3 ATTORNEYS, THE JURY FOR THEIR WORK ON THIS TRIAL, BUT
4 I BELIEVE I WOULD BE EXPRESSING HER OPINION, TOO, THAT
5 THE ONLY APPROPRIATE SENTENCE IN THIS CASE WOULD BE
6 THE MAXIMUM SENTENCE OF TWENTY YEARS, YOUR HONOR.

7 THE COURT: ALRIGHT. THANK YOU, SIR.

8 MR. CHISOLM, MR. MELLARD, I DON'T KNOW -- DOES
9 ANYBODY WANT TO -- MR. CHISOLM, YES, SIR.

10 MR. CHISOLM: I'D LIKE TO SAY A FEW WORDS, YOUR
11 HONOR.

12 THE COURT: YES, SIR, IF DON'T MIND, THANK YOU,
13 SIR.

14 MR. CHISOLM: I'LL BE PRETTY BRIEF HERE.

15 THE COURT: ALRIGHT.

16 MR. CHISOLM: MR. DINGLE IS FIFTY-ONE YEARS OLD.
17 HE'S WORKED HIS ENTIRE LIFE. HE WAS IN THE ARMY, HE
18 RECEIVED AN HONORABLE DISCHARGE FROM THERE. HIS
19 MOTHER, I'D LIKE TO POINT OUT, IS IN ATTENDANCE HERE
20 TODAY, YOUR HONOR. SHE'S BEEN HERE DURING THE ENTIRE
21 TRIAL. SHE'S BEEN IN COMMUNICATION WITH ME SINCE I'VE
22 REPRESENTED MR. DINGLE, AND SHE'S ALWAYS BEEN THERE TO
23 SUPPORT HIM.

24 THE COURT: ALRIGHT. I THINK SHE MET WITH HIM
25 EARLIER TODAY?

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MR. CHISOLM: SHE DID. YOUR HONOR, MR. DINGLE
MAINTAINS HE IS NOT GUILTY OF THIS CHARGE. WE WOULD
JUST ASK FOR THE COURT'S MERCY.

THE COURT: ALRIGHT.

SENTENCE OF THE COURT

ALRIGHT, MR. DINGLE, THE SENTENCE OF THIS COURT
IS, YOU ARE COMMITTED TO THE STATE DEPARTMENT OF
CORRECTIONS FOR A PERIOD OF TWENTY YEARS.

I WILL GIVE YOU CREDIT FOR ANY TIME THAT YOU'VE
SERVED.

ALRIGHT, THANK Y'ALL.

SOLICITOR JUSTIS: THANK YOU, YOUR HONOR.

MR. CHISOLM: THANK YOU, YOUR HONOR.

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COUNTY: ORANGEBURG DATE: MAY 31, 2011
Case No.: 2010-GS-38-0912
VOIR DIRE (PAGE 1 OF 2)

Judge: EDGAR DICKSON

Pl./State: State/Pl's.Atty:
STATE OF SOUTH CAROLINA GLENN JUSTIS
HARRISON BELL

Defendant: Defense Atty:
SAMUEL DINGLE ASH CHISOLM
DOUGLAS MELLARD

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Sex	Pl.	Def.	Accept
47	FRANK B. ESTES, IV	W	M		X	
9	CYNTHIA M. BLOODWORTH	W	F		X	
11	DEBORAH W. BOCHETTE	W	F		X	
156	TABITHA N. SHIVERS	B	F		X	
140	JAMES L. PEEPLES	B	M			X
153	DEBORAH O. RUTLAND	W	F			X
87	TRACY HILLS	B	M		X	
105	GARY L. JENKINS	W	M			X
7	RAYFIELD S. BELL	B	M			X
180	ELIZABETH VOGT	B	F	X		
30	MICHAEL J. COCKE	W	M			X
59	LEOLA SMALLS FUNCHESS	B	F			X
86	SINDAY HAYWARD	B	M			X
162	RANDALL L. SMITH	B	M			X
26	ROBERT L. CHARLEY	B	M	X		
158	SONYA D. SIMS	B	F		X	
54	TINESHA S. FOGLE	B	F		X	

COUNTY: ORANGEBURG DATE: MAY 31, 2011
Case No.: 2010-GS-38-0912
VOIR DIRE (PAGE 2 OF 2)

Judge: EDGAR DICKSON

Pl./State: STATE OF SOUTH CAROLINA State/Pl's Atty: GLENN JUSTIS
HARRISON BELL

Defendant: SAMUEL DINGLE Defense Atty: ASH CHISOLM
DOUGLAS MELLARD

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Strikes:		Def.	Accept
			Sex	Pl.		
118	DIANE G. MACK	B	F		X	
163	SHARON B. SMOAK	B	F			X
29	LINDA R. COBBS	B	F		X	
45	RICHARD D. ELLIS	B	M			X
195	RALPH E. WILLIAMS	W	M	X		
159	JAI K. SINGH	O	M			X
36	BRANDON S. DARBY	B	M			X
ALTERNATE NO. 1						
61	PHILLIP G. GABLE	W	M			X
ALTERNATE NO. 2						
22	ANTHONY B. CALDWELL	B	M		X	
80	WILLIE L. HANTON	B	M			X
ALTERNATE NO. 3						
29	KEVIN T. ELMORE	B	M	X		
30	ROBIN L. GUNTER	W	F		X	
31	SETH G. MALVOISIN	B	M			X

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WITNESSES

Jennifer Mccree

Orangeburg County Sheriff

2009008319

ARREST WARRANT NUMBER

M213244

Arrested: April 12, 2010

**ACTION OF GRAND JURY
TRUE BILL**

May, J. W. Brown

Date JUN 16 2010

Foreperson of Grand Jury

Date: June 16, 2010

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS38-0912

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

June 14, 2010 TERM

THE STATE

vs.

Samuel Dingle

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH
MINOR - 2nd DEGREE**

TRUE COPY
Wynne B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

SC Code: 16-3-655(2)

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WYNNE B. CLARK
CLERK OF COURT
ORANGEBURG COUNTY, SC

2010 JUN 16 A 11:51

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Orangeburg
STATE VS Samuel Dingle
AKA:
Race: B Sex: M Age: 51
DOB:
Address:
DL#: SID#

INDICTMENT/CASE#: 2010GS38-0912
A/W#: M213244
Date of Offense: 8/1/2001
S.C. Code § 16-3-655(2)
CDR Code #: 0396

SENTENCE SHEET

CDL: Yes No CMV: Yes No Hazmat: Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was:
TO: Criminal Sexual Conduct with Minor - Victim 11 to 14 Yrs of Age inclusive - Second Deg.

In violation of § 16-3-655(2) of the S.C. Code of Laws, bearing CDR Code # 0396
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lowd Act) § 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Glenn P. Justin 76606 SC Bar# Samuel Dingle Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$ plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Dept. of Corrections
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.
SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:

Table with 2 columns: Description and Amount. Includes items like 14-1-206 (Assessments 107.5%), 14-1-211(A)(1) (Conv. Surcharge) \$100, 14-1-211(A)(2) (DUI Surcharge) \$100, 56-5-2995 (DUI Assessment) \$12, 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, 73.3, 1B TP (Law Enforce. Funding) \$25, 33.7, 1B TP (Drug Court Surcharge) \$150, 50-21-114 (BUI Breath Test Fee) \$50, 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 44-53-450(C) (Conditional Discharge) \$350, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ Beginning
\$ paid to Public Defender Fund
Other:

Jernetha G. Glen Clerk of Court/ Deputy Clerk
Harry Det Walker

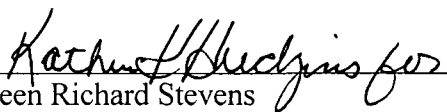
Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.
Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.
PRESIDING JUDGE
Judge Code: 2153
Sentence Date: June 1, 2011

ATTEST: TRUE COPY
Wynya B. Clark CLERK OF COURT
ORANGEBURG COUNTY, SC

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

July 2nd, 2012


Breen Richard Stevens
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

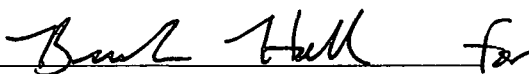
V.

SAMUEL DINGLE,

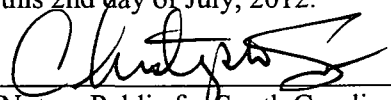
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 2nd day of July, 2012.


Emily Bryson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 2nd day of July, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 16, 2021.

RECEIVED
JUL 02 2012
SC Court of Appeals