

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Benjamin H. Culbertson, Circuit Court Judge

The State of South Carolina.....Respondent,

v.

Timothy E. Young Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT NO. 2009-GS-26-1684

State of South Carolina)
vs.)
Timothy Young.)
Defendant.)
ORDER TO SEAL EXHIBIT

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HORRY COUNTY
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MELANIE HUGGINS-WARD
CLERK OF COURT

IT APPEARING that the undersigned presiding judge reviewed various materials in camera to determine whether or not such materials are discoverable by the defendant in this case; and

IT FURTHER APPEARING that the undersigned presiding judge ruled at a pre-trial hearing in this case on March 17, 2011, that the materials marked as "Court Exhibit #1" are not discoverable but, should be added to the court file in this case.

NOW, THEREFORE, it is hereby

ORDERED, that Court Exhibit #1 shall be sealed and not opened except by court order or direction of an appellate court with jurisdiction in this case.

AND IT IS SO ORDERED.

Benjamin H. Culbertson
Benjamin H. Culbertson
Presiding Judge

March 22, 2011
Georgetown, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT
The State) WARRANT NO: J-739445
vs.) INDICTMENT NO: 09-1284
Timothy E. Young)
) ORDER FOR RECORDS
) (IN CAMERA INSPECTION)
) MELANIE HUGGINS WARD
) CLERK OF COURT

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HORRY CO.

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This matter comes before the court for an *IN CAMERA* review of psychotherapy records of a child victim in the above-mentioned case. Defendant has filed a motion to have said records disclosed in preparation for the trial of this case. Defendant is charged with Criminal Sexual Conduct with a Minor First degree and Lewd Act on a Minor. The psychotherapist is Denise Searce, who is in private practice in Wilmington, N.C. The Defendant has filed for discovery under Rule 5 and Brady and included a request for the records involving therapy of the child. The State is not in possession of the psychotherapist's records and contends that said records are not discoverable pursuant to Rule 5(a)(1)(D) of the Rules of Criminal Procedure; however, the State will consent to an *in camera* review of said records for a limited purpose.

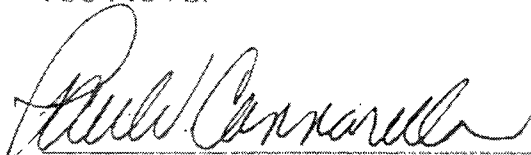
This Order shall require Denise Searce to provide a copy of the child victim's therapy records to Assistant Solicitor, Candice Lively, who shall then deliver the records to the trial judge under seal for his review.

This order is not meant to address the admissibility of these counselor/therapy records, only that the records are to be reviewed for the limited purpose of addressing possible exculpatory material for the defense. After the trial judge has reviewed said

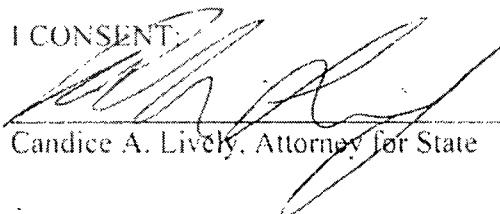
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records, he shall notify counsel as to his findings and hear any follow up motions regarding admissibility and relevance to the trial of the case at that time.
AND IT IS SO ORDERED.

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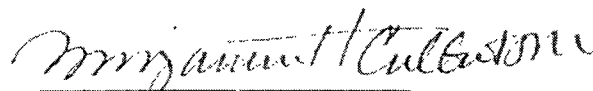

Paul Cannarella, Attorney for Defendant

I CONSENT:


Candice A. Lively, Attorney for State

Date Jan. 7, 2011

Place Conway, SC



Presiding Judge
Fifteenth Judicial Circuit
Horry County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT
WARRANT NO.: J739445

STATE OF SOUTH CAROLINA)

Vs.)

MOTION AND NOTICE OF MOTION

TIMOTHY YOUNG,)

DEFENDANT.)

TO: CANDICE LIVELY, ASSISTANT SOLICITOR, FIFTEENTH JUDICIAL CIRCUIT:

PLEASE TAKE NOTICE that the undersigned will move before the Court on the tenth day after service or as soon thereafter as counsel can be heard for a Court Order pursuant to S.C. Code Section 19-11-95(D)(1) granting the defense access to all counseling results or reports regarding the alleged victim in this case, child D/O/B 07/06/2001, from 08/18/08 to present, at the following locations:

Denise M. Searce, MSW, LCSW,
7032 Wrightsville Ave., Suite 103B
Wilmington, North Carolina 28403
(910)256-6163 and fax no.: (910)256-6748

And at any and all locations where the child has undergone psychotherapy treatment, as she has with Dr. Searce.

This motion is grounded based upon the fact that, subsequent to the initial forensic interviews in this case, the alleged victim made sexual abuse allegations against her own mother and then against Defendant. The bizarre nature of some of these allegations are such that a reasonable person would likely doubt their creditability, especially with an absence of supporting medical evidence as in this case. This investigation was initiated based upon sexual allegations made by child

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MELANIE HUGHES-WARD
CLERK OF COURT

identifying her mother as the perpetrator of sexual abuse. Defendant has some of Dr. Searce's notes from discovery.

Defense seeks to discover to what extent the victim's care, treatment, mental illness (if any), and emotional condition stem from victim's inconsistent accusations of sexual abuse. In this case, a jury's determination of Defendant's guilt would depend upon whether it believes the victim, and contradictory statements by the victim are critical to Defendant's defense.

Additionally, defense has reason to believe, based upon reports previously disclosed by the State, that the records and reports at issue may contain evidence of prior sexual knowledge and/or activity of the alleged victim in this case, [REDACTED] with persons other than the Defendant. See *State v. Grovenstein*, 340 S.C. 210, 530 S.E. 2d 406 (Ct. App. 2000), holding that "evidence of a child victim's prior sexual experience is relevant to demonstrate that the Defendant is not necessarily the source of the victim's ability to testify about alleged sexual conduct." Should the records and reports at issue contain such evidence, Defense will make the proper motion for an *in camera* hearing to determine whether such evidence is admissible.

Respectfully Submitted,



Paul V. Cannarella
Attorney For Defendant
Post Office Box 38
Hartsville, SC 29551
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(843)332-0108 fax

Hartsville, South Carolina
May 28, 2010

1 THE COURT: All right.

2 MR. CANNARELLA: From Hartsville.

3 THE COURT: All right, what do we want to take up
4 first?

5 MS. LIVELY: Thank you, Your Honor, the first thing
6 that we want to do is just make sure that the Court's clear
7 exactly what it is that we're proceeding on here today. There
8 have been several motions filed in this case. I understand
9 that the Court is at this time still reviewing therapist
10 records provided through State's witness Denise Searce and
11 that one of the motions by defense was to allow the defense to
12 review those records. It is my understanding that he is
13 withdrawing that request to review the total records that were
14 sent to Your Honor that you are reviewing in camera. Your
15 Honor, there were some piecemeal records by Denise Searce
16 that were a part of the original law enforcement file that Mr.
17 Cannarella does have in his possession. The State is aware of
18 that because I have those same records, but the in total
19 package of counsel records is the - is only in your possession
20 and for your review. So, it's my understanding defense does
21 withdraw the request to review those.

22 MR. CANNARELLA: That's correct, Judge.

23 THE COURT: All right.

24 MR. CANNARELLA: I feel like I have what I need.

25 THE COURT: All right.

1 MR. CANNARELLA: From - as Mrs. Lively said I do have
2 some information from discovery that pertains to Mrs. Searce.

3 THE COURT: All right, so, I don't, I don't need to
4 do an in-camera review anymore or do you want me to still go
5 through that?

6 MS. LIVELY: That was his request.

7 THE COURT: Your motion was to review the entire.

8 MR. CANNARELLA: Yes, sir.

9 THE COURT: All right, so, am I still to go through
10 it and then I make a decision or are you withdrawing your
11 request to get anything out of it?

12 MR. CANNARELLA: Well, Judge, what I wanted to do was
13 I wanted to look at it with a guard standing beside me in a
14 closed room.

15 THE COURT: Right.

16 MR. CANNARELLA: But I still would ask the Court to
17 continue to peruse it to see if there's anything exculpatory
18 in there that I might be entitled to.

19 THE COURT: Okay, all right, I understand, and ---

20 MS. LIVELY: And that was just for that limited
21 purpose which is what the order stated, and if Your Honor does
22 find anything that it deems to be exculpatory, then the order
23 provided you would allow counsel to come back before you
24 regarding whether or not that information should be disclosed.

25 THE COURT: All right, and that's - this is what I -

1 I don't know if you're ready to do it now but I have perused
2 it and I'm willing to hear from you on this. There is a -
3 there were a couple of letters and what I considered to be a
4 medical record that might be subject to disclosure and I want
5 you to take a look at those.

6 MS. LIVELY: Yes, sir.

7 THE COURT: And then let me hear from you. I have
8 excluded the vast majority of what was turned in to me because
9 I do find that those were simply notes that are not subject to
10 disclosure.

11 MS. LIVELY: Yes, sir, Your Honor, and what I'll do is
12 and Mr. Cannarella can also see this as well, the January
13 18th, 2011, letter written by Denise Searce was made a part
14 of the record and a part of the motion regarding her concerns
15 of the child testifying. The medical release authorization,
16 the defense, that's just allowing us to get the records for
17 the Court. So, those were basically just, you know, work
18 product - not work product but - and the basis for us filing
19 the motion. Now, Mr. Cannarella has the letter from 10-22-09
20 that was written by Denise Searce from - to Attorney-At-Law
21 William H. Phipps.

22 THE COURT: Okay.

23 MS. LIVELY: So, that he already has.

24 THE COURT: All right.

25 MS. LIVELY: The other thing that you're showing me is

1 the record from Dr. Carol Rahter which was a part of the
2 forensic interview and evaluation and he - Mr. Cannarella also
3 has that.

4 The other thing, Your Honor, that you've provided to me
5 is a January 26th, '09, letter to the Columbus County School
6 superintendent, which Mr. Cannarella also has a copy of.

7 THE COURT: All right.

8 MS. LIVELY: The January 16th, 2009, letter by Denise
9 Searce he also has a copy of that. It's been redacted with
10 the victim's name removed, but he can actually have a full
11 copy of that. I'll provide it to him. As a matter of a fact
12 I was going to use it at today's hearing, and then the other
13 record is the actual CRC interview at the - CRC being
14 Children's Recovery Center, on February 17th of '09, which he
15 has been provided as well, as well as the actual audio and
16 video of the, of the interview.

17 MR. CANNARELLA: That's correct, Judge.

18 MS. LIVELY: The only thing out of the stuff that
19 you've given me, Your Honor, that it appears he does not have
20 is a letter to Denise Searce from William W. Phipps which is
21 the attorney in North Carolina. I have no problem with him
22 having a copy of that in regards to the records. Well, the
23 Judge just handed it to me. So, I'll ask Your Honor.

24 THE COURT: If you've got another copy, I don't need
25 to hold on to a copy.

1 MS. LIVELY: Okay, and for the record I will actually
2 hand your copies over to him so he can have these even as an
3 abundance of caution that he has all of those. The only thing
4 I will need to make a copy of, Your Honor, is the Phipps Law
5 Firm letter to Ms. Searce and a copy of a subpoena that was
6 provided to her in her records.

7 THE COURT: Okay.

8 MS. LIVELY: So, I guess I should maybe just hand this
9 back up to you so we can make sure we get this from you at the
10 end of our hearing.

11 THE COURT: Okay, now, as far as these other
12 materials one of them was just a Medicaid identification card.
13 I didn't put it in there. I don't know that that's -- has any
14 pertinence to this information. So, I didn't put that in
15 there. The rest are just notes that I find are not
16 discoverable; and so, how do we want to handle these? I
17 mean, I don't know whether we need to put it under seal or if
18 I just hold on to them or I return them to you or how do we
19 deal with these?

20 MS. LIVELY: Well, Your Honor, since it is a part of
21 the record I would ask that you probably have to put them
22 under seal because you actually reviewed them in camera and
23 that way it protects the record because if there has to be on
24 an appeal an issue as to whether or not there was anything in
25 the records that should have been disclosed then the - it

1 would be there available for the appellate court.

2 MR. CANNARELLA: A Court's Exhibit, Judge.

3 MS. LIVELY: Yes, as a Court's Exhibit ---

4 THE COURT: Okay.

5 MS. LIVELY: --- under seal and just to be made a part
6 of the record in that regard.

7 THE COURT: All right, so, this will be Court's
8 Exhibit One.

9 MS. LIVELY: Yes, sir.

10 THE COURT: And it is to be put under seal. Do you
11 do that?

12 MS. LIVELY: The clerks.

13 THE COURT: The clerks will do it, okay, all right.
14 All right, anything else regarding I guess the Defendant's
15 motion for discovery on those issues?

16 MR. CANNARELLA: About Counselor Searce, no, Your
17 Honor.

18 THE COURT: Okay, all' right, so, what do we have
19 next?

20 MS. LIVELY: Your Honor, the next matter is going to
21 be based upon a motion that was filed by the State on February
22 the 15th of 2011 where we provided notice to the Court as well
23 as the defense of our request to have the minor child victim
24 testify outside the presence of the Defendant, Timothy Young.
25 I filed that motion, provided it to Mr. Cannarella as well as

1 I-L-L-E.

2 DIRECT EXAMINATION

3 BY MS. LIVELY:

4 Q Good morning, Chad.

5 A Good morning.

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

8 A Okay.

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

10 A Michael Chad Turbeville.

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

13 A Thirty ---

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

16 A 10-23-76.

17 Q How old are you?

18 A 34.

19 Q Are you married?

20 A Yes, ma'am.

21 Q What's the name of your wife?

22 A Jennifer Turbeville.

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

24 A This July will be six years.

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

1 married in 2005?

2 A Yes, ma'am.

3 Q All right, July of 2005. Now, have you ever been married
4 before?

5 A Yes, ma'am.

6 Q And who were you married to?

7 A Nicole Skovinski.

8 Q Nicole Skovinski. And how long were you and Nicole
9 married?

10 A A little over a year.

11 Q Okay, how long were you and Nicole together?

12 A It'd be three years altogether.

13 Q Three years altogether.

14 A Yes, ma'am.

15 Q Okay, and this was obviously before you married Jennifer
16 in 2005?

17 A Yes, ma'am.

18 Q All right, now, do you have any children from your
19 marriage with Nicole Skovinski?

20 A Yes, ma'am.

21 Q Tell us the names and date of birth of those children.

22 A There's sister 12-18-98, and child
23 [REDACTED], 6-16-2001.

24 Q Okay, 6-16-2001. So, that makes child how old?

25 A She will be ten this June.

1 Q This June, okay, and how old is sister

2 A She is 12.

3 Q She's 12 years old, all right, and you stated that you
4 and Nicole are no longer together and were divorced. Do you
5 remember exactly when the divorce occurred?

6 A 2001.

7 Q It was 2001.

8 A If I'm not mistaken, yes, ma'am.

9 Q Okay, so, since 2001 who has had primary custody of those
10 two girls?

11 A I have.

12 Q And where have you lived with those two girls?

13 A Stayed in Tabor City, North Carolina, at a house I had
14 bought and put on family property and until me and Jennifer
15 got married and we moved to where we're staying now.

16 Q Okay, and where are you living now?

17 A Sandy Plains.

18 Q Sandy Plains.

19 A Yes, ma'am.

20 Q Is that still Tabor City?

21 A Yes, ma'am.

22 Q Okay, and does Jennifer have any children?

23 A Yes, ma'am.

24 Q All right, so, was she married before you?

25 A Yes, ma'am.

- 1 Q How many children does she have from that prior marriage?
- 2 A Two.
- 3 Q All right, what are their names?
- 4 A [REDACTED] and [REDACTED].
- 5 Q And how old are they?
- 6 A [REDACTED] is 12 and [REDACTED] is 10 - 11, he just turned 11 in
- 7 March.
- 8 Q Okay, so, you have four children in the home; is that
- 9 correct?
- 10 A No, ma'am, we have five.
- 11 Q Five, okay, do you and Jennifer have a child together?
- 12 A Yes, ma'am.
- 13 Q And what is that child's name?
- 14 A [REDACTED].
- 15 Q [REDACTED]. How old is [REDACTED]?
- 16 A She is four.
- 17 Q Four years old, okay. So, you have five children at
- 18 home?
- 19 A Yes, ma'am.
- 20 Q All right, now, do you have primary custody or do you and
- 21 Jennifer have primary custody of all those children?
- 22 A Yes, ma'am.
- 23 Q All right, what is the arrangement for your biological
- 24 daughters not including [REDACTED]?
- 25 A Yes, ma'am.

1 Q Okay, we're going to leave [REDACTED] out of the mix right
2 now. What is the arrangement for Nicole, your ex-wife, to see
3 those girls?

4 A There is no visitation.

5 Q There is no visitation?

6 A No, ma'am.

7 Q What was it before there was no visitation?

8 A Every other weekend.

9 Q Okay, all right, and did she exercise every other weekend
10 with the girls?

11 A Most of the time.

12 Q Okay, now, you were in here during opening statements;
13 correct?

14 A Yes, ma'am.

15 Q All right, and there was some mention of the high
16 conflict between you and Nicole.

17 A Yes, ma'am.

18 Q Would you please describe to this jury what type of a
19 situation you had with the mother of child who is
20 the relevant person in this case?

21 A There was constant - she was always having different guys
22 come with her pick the children up. There was drug abuse.
23 There was times where she was supposed to meet, bring me the
24 children or pick the children up and I would wait for an hour,
25 hour and a half, she would never show, no call. There was

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

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

6 A Yes, ma'am.

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

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

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

21 A No, ma'am.

22 Q Have you ever threatened him in any way?

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

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

1 sister

2 A Nicole solely.

3 Q Okay, and that was for you said maybe since 2001 when you
4 all divorced?

5 A Ever since we separated, yes, ma'am.

6 Q Okay, all right, when Timothy Young, the Defendant, came
7 into the picture how did you feel about him being involved
8 with Nicole?

9 A He seemed like a very level headed, nice guy. He was
10 from the South. He was, he was just an everyday Southern guy
11 from what I, you know, took from him when I talked to him and
12 I was actually when they got married I was very relieved that
13 she had finally married someone and there wouldn't be a
14 constant, you know, different person in the children's life,
15 they could get stability down there as well as when they were
16 staying with us. I was actually very relieved.

17 Q Okay, all right, so, do you recall about when it was that
18 they got married, and if you don't that's fine?

19 A I do not.

20 Q That's fine, and whenever you - you said that you married
21 Jennifer in was it July of '05?

22 A July 2005.

23 Q Okay, July of '05. So, how long after you and Jennifer
24 were married was it that you actually met Timothy? Do you
25 remember how long it was after that?

1 A Maybe two, three years maybe.

2 Q Okay, all right.

3 A Somewhere along in that timeframe.

4 Q So, whenever Timothy, the Defendant, and Nicole got
5 married were you still having problems between yourself and
6 Nicole and visitation with the kids?

7 A When they got married?

8 Q Uh-huh.

9 A When they got married it seemed to level off.

10 Q Okay.

11 A There was, there was nothing - a few times I picked the
12 children up they were sick, hadn't been taken to the doctor
13 and I just, you know, of course as a parent and as a father,
14 "Why didn't you take the - take **sister** to the doctor." Said,
15 "I didn't have the money to take them." I would go on and
16 take them to the doctor and I just said, "Hey, I've told you
17 if you need something, call me. We would have come picked her
18 up and taken her to the doctor," but other than that nothing
19 sticks out.

20 Q Okay, and whenever - explain to the jury so they can
21 understand how was the exchange actually taking place? I
22 mean, what time on Friday, who would pick up, drop off and
23 then what time on Sunday?

24 A On her visitation every other weekend she would be at our
25 home at four p.m. and we would return to their home at - I

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

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

10 A Yes, ma'am, very much so.

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

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

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

17 A No, ma'am.

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

21 A Not, not after she was married.

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

23 A Yes, ma'am.

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

25 A Yes, ma'am.

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

4 A No, ma'am.

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

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

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

11 A Yes, ma'am.

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

14 A Just from the children.

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

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

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

4 Q How did you handle that?

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

13 Q Okay, well, let me back up, did you ever seek the
14 assistance of a professional in regards to the problems that
15 child and sister were having? Well, let's just specifically
16 deal with child the problems that she was having?

17 A Yes, ma'am.

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

20 A Ms. Denise Searce.

21 Q All right, and what is she?

22 A She's a therapist, child therapist.

23 Q Okay, and who referred you to her?

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

1 Q Okay, and had you ever taken your children to a
2 therapist?

3 A No, ma'am.

4 Q All right, had you ever needed to take your children to a
5 therapist?

6 A No, ma'am.

7 Q All right, did you know exactly what was going on with
8 child whenever you set this up with Denise Searce?

9 A I had no idea.

10 Q Okay, had you filed any action in court, in family court
11 to change the visitation or stop the visitation whenever you
12 took them to see Denise Searce?

13 A Not before I took them to see her, no, ma'am.

14 Q All right, so, no action in family court going on,
15 nothing at all?

16 A No, ma'am.

17 Q All right, okay, so, you take child and sister to see
18 Denise; correct?

19 A Yes, ma'am.

20 Q Okay, when was that?

21 A That was on August 18th, 2008.

22 Q Okay, so, this is the end of the summer right before the
23 school year ---

24 A Yes, ma'am.

25 Q --- 2008. All right, how did child respond to the

1 counseling?

2 A She made some revelations, startling revelations.

3 Q All right, now, and you can't tell me exactly what it is
4 that she revealed; okay?

5 A Okay.

6 Q But tell me have you ever talked to child about what it
7 is that she told Ms. Searce?

8 A No, ma'am.

9 Q Have you ever discussed with her any of the statements
10 that she made against Nicole or the Defendant?

11 A No, ma'am.

12 Q And why?

13 A I, I was just so shocked I didn't - my mind doesn't work
14 that way. I don't, I don't think of human beings as doing
15 such as that, especially not parents and people that have
16 their own children and I just decided to let the professionals
17 handle it and I was just going to offer any support as a
18 father I could but I, I didn't really want to hear it.

19 Q Okay, I understand, and how did you - well, let me ask
20 you this, and Mr. Cannarella already brought this up in his
21 opening. I'm going to ask you, what was - who was the first
22 revelation involving?

23 A Nicole.

24 Q Nicole, all right, Nicole, your ex-wife?

25 A Yes, ma'am.

1 Q Okay, as a result of the - do you know who the revelation
2 was actually or the disclosure was made to?

3 A My wife Jennifer.

4 Q Okay, and was Denise Searce made aware of the
5 revelation?

6 A Yes, ma'am.

7 Q Okay, and after all that happened did you do what you
8 were - you felt required to do in order to assist in the
9 investigation?

10 A Yes, ma'am.

11 Q All right, now, let me ask you this, at that time when
12 the disclosure came out regarding Nicole do you remember about
13 when that was and Nicole, not the Defendant?

14 A It was January of '09.

15 Q And you're telling me about the Defendant. Tell me about
16 Nicole. Let me ask you this, let me back up. Do you remember
17 about when the last visitation ---

18 A Yes, ma'am.

19 Q --- that might help you. That last visitation that child
20 and sister had ---

21 A Yes, ma'am.

22 Q --- at the home of Nicole and the Defendant ---

23 A That was ---

24 Q --- do you remember?

25 A --- October 31st, 2008.

1 Q Okay, and what happened after that visitation?

2 A I - when she made the revelation or after that visitation
3 we knew something was going on, kind of got a feeling, I
4 called, like I said, the Department of Social Services after
5 they, they advised me to probably not let them go back until
6 they made their findings, and when they made their findings
7 they told me I was under their rule not to let the children go
8 back.

9 Q Okay, so, had you filed an action at that time?

10 A No, ma'am.

11 Q Okay, so, so, the children didn't go back after October
12 of 2008?

13 A No, ma'am.

14 Q At that time was there ever any concern in your mind that
15 the Defendant had done something inappropriate with your
16 child?

17 A No, ma'am.

18 Q Okay, so, once again, you thought this was all Nicole?

19 A Yes, ma'am.

20 Q All right, now, so, you were - you just said that you
21 weren't - you had to agree not to allow the children to have
22 contact with Nicole; is that my understanding?

23 A Pretty much, yes, ma'am.

24 Q Okay, and did you comply with that?

25 A Yes, ma'am.

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

5 A That was on a Wednesday.

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

8 A I go to church from seven to eight.

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

10 A Every Wednesday, yes, ma'am.

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

13 A No one.

14 Q No one, and why is that?

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

17 Q They stayed home with Jennifer.

18 A Yes, ma'am.

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

21 A Jennifer, [REDACTED], sister [REDACTED], child and [REDACTED].

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

23 A Yes, ma'am.

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

1 concern?

2 A Yes, ma'am.

3 Q What happened?

4 A child went into one of her little, for lack of a better
5 word, a fit. She didn't want me to leave. She was crying.
6 She was just throwed down on the floor and begging me not to
7 leave saying, "Daddy, Daddy, please don't leave me." I told
8 her I had to go to church. I had obligations I had to fulfill
9 there, kind of got her calmed down for me to leave and
10 Jennifer, you know, kind of calmed her down and then I told
11 her I would be back in an hour and I left to go on to church.

12 Q Okay, and let me ask you this just as a general question,
13 were the kids still in counseling at that time?

14 A I think so, yes, ma'am.

15 Q Okay, all right, so, so, Denise was still involved?

16 A Yes, ma'am.

17 Q All right, so, child throws this fit on Wednesday night,
18 you leave to go to church. So, when you leave everything was
19 calm?

20 A Yes, ma'am.

21 Q All right, tell this jury what happened when you got
22 home, what was the scene when you got home?

23 A When I got home the children were sitting at the table.
24 I think they were playing Monopoly or something. I can't
25 exactly remember. I came home, kissed Jennifer, told her how

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

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

6 A Okay.

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

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

10 Q And how did you feel when she told you what child had
11 disclosed to her?

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

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

16 A No, ma'am.

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

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

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

21 A Yes, ma'am.

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

24 A The next day?

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

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

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

4 A child was interviewed by Ms. Daniels of the Columbus
5 County DSS.

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

8 A Ms. Denise Searce sent a letter reporting the sexual
9 abuse.

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

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

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

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

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

22 A Yes, ma'am.

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

1 A Yes, ma'am.

2 Q All right, now, let me ask you this, were you aware of
3 whether or not Nicole and the Defendant were still together as
4 of January 17th, 2009?

5 A I had no idea.

6 Q Okay.

7 A I had no contact with them since October.

8 Q Okay.

9 A Since the last visitation.

10 Q Since the last visitation, so, you were not aware of
11 their marital status, separation, anything?

12 A No, ma'am.

13 Q Okay, had you had any contact whatsoever with the
14 Defendant?

15 A No, ma'am.

16 Q All right, and how about Nicole, had you had any contact
17 with her?

18 A No, ma'am.

19 Q Were there any court hearings from whether it was DSS or
20 a private action during that timeframe?

21 A Did we actually go to court?

22 Q I'm asking you. You tell me.

23 A No, ma'am, we didn't go to court.

24 Q Okay, and had you - have you personally through an
25 attorney filed anything during that timeframe before child

1 disclosed?

2 A No, ma'am.

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

5 A February 18th, 2009.

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

8 A Yes, ma'am.

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

12 A Yes, ma'am.

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

15 A Yes, ma'am.

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

18 A Yes, ma'am.

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

22 A No, ma'am.

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

25 A DSS social workers and Ms. Denise Searce and the

1 Carousel Center and the Children's Recovery Center.

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

4 A No, ma'am, no.

5 Q And why not?

6 A I don't want to know.

7 Q I'm sorry?

8 A I don't want to know.

9 Q Okay, you don't want to know?

10 A No, no, ma'am.

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

16 A No, ma'am.

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

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

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

22 A No, ma'am.

23 Q Were you aware of a hearing that was scheduled January
24 13th, 2009?

25 A No, ma'am.

1 Q Okay, when did you become aware of a hearing scheduled
2 January 13th, 2009?

3 A I got a letter in the mail from my attorney. He was up
4 at the courthouse doing some other stuff and came across it
5 and wrote a letter that he had a jury trial and wouldn't be
6 able to go. So, it got postponed.

7 Q Okay, and let me - and this is what I want you to do for
8 me. I'm going to have you actually step down because it's
9 been made kind of an important issue, the timeline of this
10 matter. If I could, Your Honor, if I could ask the ---

11 THE COURT: As long as he's near a microphone ---

12 MS. LIVELY: Yes, sir.

13 THE COURT: --- so the court reporter can pick up his
14 testimony.

15 MS. LIVELY: I will do that and make sure that we can.

16 BY MS. LIVELY:

17 Q Okay, I'm going to have you - all right, because you've
18 got to make sure that you speak loudly because she can't see
19 you. Can you see?

20 MR. CANNARELLA: I'll, I'll walk over.

21 MS. LIVELY: You'll walk over there? Okay?

22 BY MS. LIVELY:

23 Q All right, and I just want you to talk into that
24 microphone. You let me do the writing; okay?

25 A Okay.

1 Q Okay, all right, Nicole and Chad divorce in 2001; right?
2 A Yes, ma'am.
3 Q Thank you, okay, two girls, child and sister right?
4 A Yes, ma'am.
5 Q 2005, what happens?
6 A I get married to Jennifer.
7 Q Okay, Chad and Jennifer marry. Okay, now, and she has
8 two kids?
9 A Yes, ma'am.
10 Q All right, when do you have little [REDACTED]?
11 A July '06.
12 Q Okay, and we're going to stick that on here. July '06
13 you have [REDACTED].
14 A Yes, ma'am; yes, ma'am.
15 Q Is it A-N or Y-N?
16 A Y-N.
17 Q Okay, okay, during this time you said there - and I'm
18 going to ask you was there still some high conflict between
19 you and Nicole?
20 A Between '05 and '06?
21 Q Uh-huh, or was it getting better?
22 A It was getting better, yes, ma'am.
23 Q Okay, that's - I just want the jury to understand the
24 timeline of what's going on; okay?
25 A Yes, ma'am.

1 Q Okay, so, 2007, does anything significant happen in 2007?

2 A I think that's when Nicole and Tim were together.

3 Q Okay, so, you believe that's whenever the Defendant and
4 Nicole together.

5 A Yes, ma'am.

6 Q All right, okay, so, at that point in time in 2007 is
7 when you believe Defendant and Nicole are together. At that
8 point in time how was the relationship between you and Nicole
9 proceeding?

10 A It was smooth.

11 Q Okay, any court actions filed?

12 A No, ma'am.

13 Q All right, now, 2008, you said summer of 2008 what's
14 significant, once again for the summer of 2008, right before
15 the kids started school?

16 A That's when child started having her behavior and
17 emotional problems.

18 Q Okay, all right, okay, so, we've got child and I'm just
19 going to put problems. Okay, had you or even Nicole were
20 there any pending family court actions at that time when you
21 noticed problems with child

22 A No, ma'am.

23 Q Okay, you testified you hired Denise Searce; correct?

24 A Yes, ma'am.

25 Q Okay, that was August 2008?

1 A Yes, ma'am.

2 Q Okay, when you hired Ms. Searce was it for the purpose
3 of having her testify in court?

4 A No, ma'am.

5 Q Okay, why did you hire Denise Searce in August of 2008?

6 A To try to make my daughter better.

7 Q Okay, now, you've already testified about October 31st,
8 2008, what's the significance of that?

9 A It's the last visitation they had.

10 Q Okay, so, this is therapy, this is last visitation. All
11 right, in November of 2008 what happens? What comes out in
12 2008?

13 A Disclosures about the mother.

14 Q Okay, child tells about Nicole. Oops, I didn't spell
15 that right. Okay, in December 2008 what agency had you sign a
16 safety plan about contact?

17 A North Carolina Department of Social Services.

18 Q Okay, North Carolina DSS plan. All right, now, did you
19 file anything?

20 A No, ma'am.

21 Q Okay, and you learned that something had been filed
22 against you; correct?

23 A Yes, ma'am.

24 Q All right, who filed it?

25 A Nicole.

- 1 Q Nicole, do you know when she did that?
- 2 A I do not know, no, ma'am.
- 3 Q Do you know what the date of the hearing was?
- 4 A January the 13th.
- 5 Q Okay, January 13, 2009, hearing. Did a hearing take
- 6 place?
- 7 A No, ma'am.
- 8 Q Okay, did you file anything?
- 9 A No, ma'am.
- 10 Q All right, when did child make a disclosure against the
- 11 Defendant?
- 12 A Wednesday, January 14th, 2009.
- 13 Q So, she didn't disclose the day before you were supposed
- 14 to go to court?
- 15 A No, ma'am.
- 16 Q When she disclosed January the 14th, 2009, who did you go
- 17 to the next day?
- 18 A The Department of Social Services.
- 19 Q January 16th, who was involved?
- 20 A Ms. Denise Searce.
- 21 Q Searce, and then January 17th what did you do?
- 22 A I called the Myrtle Beach Police Department.
- 23 Q Myrtle Beach PD, is that how it happened?
- 24 A Yes, ma'am.
- 25 Q Have you been involved in, once again, and discussed

1 anything regarding the disclosures made by child
2 with her?

3 A No, ma'am.

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

6 A We never told her anything like that.

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

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

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

14 A No, ma'am.

15 Q Do you have pornography in the home?

16 A Do ma'am.

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

19 A No, ma'am.

20 Q Do you have a computer in the home?

21 A Yes, ma'am.

22 Q Okay, and where is it?

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

24 Q Okay, and are the children allowed on it?

25 A Only with me or Jennifer around.

1 Q Okay, do you allow her to watch movies by herself, old
2 grownup movies, so, you know, rated, R-rated movies?

3 A No, ma'am, we don't, we don't even have an R-rated movie
4 in our home.

5 Q Okay, has she ever walked in on you and Jennifer having
6 sexual intercourse?

7 A No, ma'am.

8 Q Okay, and finally you said that - you've already
9 testified that you - your attorney filed papers February 18th
10 of 2009 to stop visitation with Nicole. Do you recall stating
11 that?

12 A Yes, ma'am.

13 Q So, in essence, the visitation had already stopped by
14 then; correct?

15 A Yes, ma'am.

16 Q So, what if any motive would you have for these
17 allegations to come out against Mr. Young?

18 A I have none. He's, he had no ties to the children or
19 anything. It was nothing - I have no motive whatsoever.

20 Q Thank you very much, Mr. Turbeville. Please answer any
21 questions that Mr. Cannarella has for you.

22 CROSS EXAMINATION

23 BY MR. CANNARELLA:

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

1 behavior?

2 A Not that I recall, no, sir, but I've had, well, not
3 before this happened, no, sir.

4 Q Not before January 14, 2009?

5 A No, sir.

6 Q You're sure?

7 A Far as I can remember, no, sir.

8 Q You brought some papers to Mrs. Lively, some family
9 court papers, she provided them to me. I'm going to show them
10 to you?

11 A Yes, sir, those are it.

12 Q Okay, now, the ones that Mrs. Lively handed to me just
13 one of them, Chad, it relates to the thing filed by Nicole;
14 right?

15 A Yes, sir.

16 Q Okay.

17 MR. CANNARELLA: Your Honor, I'd offer this as Defense
18 Exhibit Number One.

19 THE COURT: Any objection?

20 MS. LIVELY: No, Your Honor, no objection.

21 THE COURT: All right, Defense Exhibit Number One
22 admitted into evidence without objection.

23 (Whereupon, Defense Exhibit Number One [Family Court -
24 Motion and Order to Show Cause] admitted into evidence and
25 appropriately marked.)

1 BY MR. CANNARELLA:

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

4 A No, sir.

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

7 A Yes, sir.

8 Q Okay, is this the same thing?

9 A It appears to be, yes, sir.

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

12 A Yes, sir.

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

15 A This is Defense One.

16 Q Right?

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

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

19 A Yes, sir.

20 Q Okay, and you live at [REDACTED]?

21 A Yes, sir.

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

24 A Yes, sir.

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

1 A Return of service.

2 Q That's where somebody got served with this paper; right?

3 A Yes, sir.

4 Q And on January the 2nd of 2009 Jennifer accepted service
5 of this at you all's house at [REDACTED]?

6 A Yes, sir.

7 Q Now, doesn't it appear to you that these papers were
8 left at your house; isn't that fair to say?

9 A It appears that way.

10 Q Okay, and what, and what it relates to is when Nicole
11 went to the Family Court up there on December the 12th of '08;
12 right?

13 A Yes, sir.

14 Q And it does say that there was a hearing scheduled for
15 January 13th of '09?

16 A That's what it says, yes, sir.

17 Q And I'm not - so, but if, if this is true, if the
18 sheriff's deputies served it to Jennifer on January the 2nd at
19 your house on Sandy Plains Road you didn't know anything about
20 it?

21 A As I recall my testimony was I don't remember us ever
22 being served and that's my, that's my answer now.

23 Q But this is ---

24 A I don't remember it.

25 Q I know you don't remember it but it appears, is it fair

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

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

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

6 THE COURT: Any objection?

7 MS. LIVELY: No, Your Honor.

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

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

13 BY MR. CANNARELLA:

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

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

20 Q Okay, and January 13th was on Tuesday?

21 A Yes, sir.

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

23 A Yes, sir.

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

1 A Yes, sir.

2 Q And in your household there's - are Jennifer, you,
3 sister child is that right?

4 A Yes, sir.

5 Q Madison, Madison lives there?

6 A Yes, sir.

7 Q Robbie?

8 A Yes, sir.

9 Q And Jordyn?

10 A Yes, sir.

11 Q Five children?

12 A Yes, sir.

13 Q Mama and daddy?

14 A Yes, sir.

15 Q And they were at home when this event was disclosed or
16 revelation and you were at church?

17 A Yes, sir.

18 Q And then you, and then you came back and found out about
19 it from Jennifer?

20 A Yes, sir.

21 Q On, on - and that was on Wednesday, January the 14th of
22 '09?

23 A Yes, sir.

24 Q The day after there was supposed to be a contempt
25 hearing?

1 A Yes, sir.

2 Q The day after the papers were served at your house?

3 A Not the - well, the papers were served the 12th. She
4 revealed the 14th.

5 Q You're right, right.

6 A Two, two days.

7 Q That's right, on January 2nd, the day after there was
8 supposed to be a hearing on those papers that were served on
9 you?

10 A Yes, sir.

11 Q On November the 4th of 2008 Jennifer picked child up from
12 school and that's when child said something about her mama,
13 Nicole, to Jennifer; do you remember that?

14 A Vaguely, I mean.

15 Q Okay, well, Jennifer then revealed that revelation of
16 child s to you on November the 4th.

17 A I don't remember the exact date but I was told of it,
18 yes, sir.

19 Q Okay, well, on November the - well, we know, you've
20 already testified, we know that on October the 31st of 2008
21 that was the last weekend, starting that Friday, that was the
22 last weekend that the children visited with Nicole and Tim?

23 A Yes, sir.

24 Q Because we remember it was Halloween?

25 A Yes, sir.

1 Q The children spent Halloween down there?

2 A Whatever day Halloween was it was that weekend, yes,
3 sir.

4 Q Okay, so, that would've been Friday the 31st, Saturday
5 one, two, three, four, that would've been - well, I'm saying
6 November the 4th of '08 is when these disclosures against
7 Nicole, these revelations against Nicole were made, just, just
8 right after that weekend because remember you said they came
9 home acting even funnier that weekend; remember?

10 A Yes, sir.

11 Q And on November the 6th quite naturally you sent her to
12 Denise Searce?

13 A Not November the 6th, no, sir.

14 Q Okay, what date?

15 A It was ---

16 Q Well, Chad, it's okay. If I were sitting where you were
17 I couldn't remember the dates of my stuff either. So, it's
18 okay.

19 A It was January - no, it was August 18th, 2008, is the
20 first time they saw her.

21 Q Okay, all right, well, so, these revelations were made
22 to Jennifer; yes?

23 A Yes, sir.

24 Q Like Tuesday after Halloween, on the 4th, November the
25 4th, and you sent her - but didn't you send her to Denise

1 Searce right after that? That would've been a normal thing
2 to do?

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

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

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

11 Q Both child and sister were her clients?

12 A Yes, sir.

13 Q They were both having problems?

14 A Yes, sir.

15 Q Because of a high conflict situation?

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

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

19 A Disagree with her?

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

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

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

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

4 A Okay.

5 Q Did Denise Searce ever want to sit down and talk with
6 Nicole?

7 A She mentioned it at the beginning of therapy.

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

11 A I do not know, no, sir.

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

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

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

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

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

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

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

25 A Of course it's important.

1 Q I know. Well, did you ever - did Ms. Searce ever try
2 to get Nicole to sit down and talk with you all?

3 A Like I stated earlier I don't know. I don't know if she
4 contacted her or not.

5 Q Did she ever ask you about it?

6 A I don't recall her, I don't, I don't.

7 Q Did you ever discourage her from talking - did you ever
8 discourage Ms. Searce from talking to Nicole?

9 A Not that I recall, no, sir.

10 Q Now, some of this stress that on August 18th they started
11 seeing, seeing Ms. Searce?

12 A Yes, sir.

13 Q That was at the end of the summer?

14 A Yes, sir.

15 Q Visitation was every other weekend?

16 A Yes, sir.

17 Q Any - did they get any special visitation to come down
18 to Myrtle Beach during the summer?

19 A I think they got one week a month at one time.

20 Q Do you know if they - did you know if they got those
21 weeks during the summer?

22 A I think they exercised them, yes, sir.

23 Q And they seemed to enjoy themselves, didn't they, when
24 they came down here?

25 A Sometimes they did, sometimes they didn't.

1 Q Well, I mean, after all you said you never had any
2 trouble with Tim?

3 A Never, no, sir.

4 Q And they would get to come down here to Myrtle Beach
5 because it's only like what 45 miles away?

6 A Yes, sir.

7 Q And there was sometimes I think that the children would
8 come back home and mention to you about the mama wanting them
9 to come live with them, about Nicole wanting to come live with
10 them?

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

12 Q Well, any correspondence that you had with your lawyer,
13 Mr. - any correspondence between Mr. Phipps and Ms. Searce,
14 Mr. Phipps is your lawyer, she wrote him letters he would've
15 made you aware of what Ms. Searce's letter said; wouldn't he
16 ---

17 A If he thought it ---

18 Q --- in representing you?

19 A If he thought I needed to know he wouldn't - he was the
20 lawyer. I paid him. He done his job. That's ---

21 A Okay, do you know whether or not Nicole ever told the
22 children that she wanted them to live with her and visit you
23 only on the weekends?

24 A That, she may have. I don't really recall that, sir.

25 Q But a lot of it was, a lot of this stress was because

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

3 A Yes, sir, that did come out.

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

9 A Yes, sir.

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

12 A Yes, sir.

13 Q And you got your timeline there with you now?

14 A Yes, sir.

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

18 A Yes, sir.

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

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

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

25 A Yes, sir.

1 Q And as a result of that you didn't let the children, on
2 advice of counsel you didn't let the children see their mama?

3 A That was on the advice of the social service, social
4 worker and my attorney.

5 Q Okay, social worker, Searce and DSS?

6 A Social worker at DSS and my attorney, Mr. Phipps.

7 Q Right, okay. Now, on December the 8th, on December the
8 12th is when Nicole went to North Carolina and filed that
9 contempt action for not being able to see the children?

10 A Yes, sir.

11 Q Well, she wasn't aware of the fact that the
12 investigation against her had been concluded.

13 MS. LIVELY: Objection, Your Honor, as to speculation
14 as to what Nicole would be aware of.

15 THE COURT: Sustained.

16 MR. CANNARELLA: I'll withdraw it, Judge.

17 BY MR. CANNARELLA:

18 Q Okay, so, but my Exhibits One and Two, it's - whose,
19 whose signature is that right there, Nicole Turbeville Young.

20 A Yes, sir.

21 Q And I know you recognize her signature?

22 A That's, her name's on it. So, I guess it's hers.

23 Q Okay, well, she - this was filed on December the 12th?

24 A Yes, sir.

25 Q Okay, now, and on - and your child, sister was born on?

- 1 A December the 18th, 1998.
- 2 Q December the 18th, 1998, and that is - and something
- 3 happened at school that day?
- 4 A I don't know if it was that day or not.
- 5 Q Would, well, would it sound logical that it might be
- 6 that day since it's - if Nicole showed up there?
- 7 A The incident you're talking about was within a day or so
- 8 of that day, yes, sir.
- 9 Q Okay, so, Nicole went to the school?
- 10 A Yes, sir.
- 11 Q To leave a card or something for sister tried to make
- 12 contact with sister
- 13 A Yes, sir.
- 14 Q Okay, and as a result of that, as a result of some
- 15 events that followed that Jennifer was told not to come back
- 16 on the school grounds?
- 17 A Yes, sir.
- 18 Q For a while; right?
- 19 A Yes, sir.
- 20 Q Of course, she was understandably upset I would say?
- 21 A Yes, sir.
- 22 Q That - because of everything that had been going on
- 23 because right then you got this DSS investigation that was
- 24 just concluded; right?
- 25 A Yes, sir, but that - well, she would had have been told

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

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

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

8 Q Who had?

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

11 Q Well, who's the school board attorney?

12 A Mr. Phipps.

13 Q Who's your lawyer in Family Court?

14 A Mr. Phipps.

15 Q Okay.

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

18 Q Okay, but Mrs. Searce later wrote a letter on January
19 26 that says please let Jennifer come back on the school
20 grounds?

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

22 Q Did anybody prompt her to do that?

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

24 Q She just did it on her own?

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

1 happened and she did what she did.

2 Q She asked who?

3 A She asked us how things were going. We had our
4 discussion with her and told her things that were going on and
5 what had happened and she, she elected to write the letter.
6 She wrote it.

7 Q She wasn't requested to?

8 A Not that I remember, no, sir, and as - and in answer to
9 your question about the school board thing and the school we
10 did hire an attorney from Wilmington, North Carolina, and he
11 got it straight and she was allowed back on the school grounds
12 shortly thereafter with no harm, no record or anything. It
13 was ---

14 Q What does - okay, what does that mean she hired an
15 attorney?

16 A I didn't say she. I said we.

17 Q We?

18 A Yes, sir.

19 Q Okay, well, well why did you do that?

20 A To get it straight.

21 Q I don't want to be petty but who recommended that lawyer
22 in Wilmington?

23 A A friend I go to church with.

24 Q Okay, you say you have never talked to child about this?

25 A I've never sat down and asked her what happened. I've

1 never - I don't - no, sir.

2 Q Okay, you don't know who she's talked to about this.

3 A Yeah, I think I do.

4 Q How do you know that?

5 A Because I've taken her to most of the appointments, me
6 or Jennifer either one.

7 Q And you know she talked with Mrs. Searce about it?

8 A Yes, sir.

9 Q You know she talked to the DSS people about it?

10 A Yes, sir.

11 Q You knew she talked to a forensic interviewer on
12 videotape in North Carolina about Nicole?

13 A Yes, sir.

14 Q You know she talked - she saw a medical, a forensic
15 medical examiner in North Carolina?

16 A Yes, sir.

17 Q Okay, and you know she's been down here to South
18 Carolina and she's had - talked to a medical examiner down
19 here about it?

20 A Yes, sir.

21 Q And she had to talk to a forensic interviewer about it?

22 A Yes, sir.

23 Q You carried her to the forensic interview?

24 A Yes, sir.

25 Q And did you talk to the forensic interviewer?

1 A We spoke briefly if I remember correctly.

2 Q Who provided the forensic interviewer in South Carolina
3 with the information?

4 A I did. She had not - well, information, she asked me
5 what, she asked me certain few questions and I told her what I
6 was aware of.

7 Q But you don't know - you wouldn't know who else child
8 might have discussed this with?

9 A I mean, I have a pretty good idea. She lives with me,
10 so.

11 Q Okay, so, is there anymore than I mentioned?

12 A Jennifer, Jennifer, Denise, social workers, the Carousel
13 Center, Children's Recovery Center, that's as far as I know
14 that's all.

15 Q Well, do you think that - you mentioned something about
16 child having stomachaches?

17 A Yes, sir.

18 Q You had to go pick her up from school?

19 A Yes, sir.

20 Q Was her stomach really hurting?

21 A Not - sometimes it was, sometimes it wasn't.

22 Q What do you mean by sometimes it was and sometimes it
23 wasn't?

24 A One day I would pick her up and it would really be
25 hurting and other days it probably wasn't.

1 Q What do you mean by probably wasn't?

2 A Probably wasn't hurting. She was just wanting to come
3 home. She was scared.

4 Q She was scared?

5 A That's, that's the word I would use, yes, sir.

6 Q Okay, well, so, so, **child** discloses bad things about her
7 mama; right?

8 A Yes, sir.

9 Q And she believes those things?

10 A Yes, sir.

11 Q And at the end of the summer you send them to Mrs.
12 Searce?

13 A On advisement of the social services, yes, sir.

14 Q Well, you talked to social services. They were involved
15 in the case in August or had they been involved in the case
16 before then?

17 A It was in December the 11th remember the findings were
18 made against the mother. So, and their - the way they work I
19 guess they were still calling and checking and then they told
20 me they advised me to get her to counseling. So, that's what
21 I done and they recommended Ms. Searce.

22 Q Well, Ms. Searce started on, I'm confused, on August
23 the 18th?

24 A Yes, sir, but you asked me about them seeing her on the
25 findings of the mother.

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

4 A You don't ---

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

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

9 Q Right.

10 A --- thing that they do.

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

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

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

20 A Yes, sir, every other weekend.

21 Q They were interrupted for a period of time though?

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

23 Q The Walmart pictures?

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

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

1 involved in it?

2 A I don't, I don't think Yolanda was then. It was Ms.
3 Freeman was the caseworker in that - at that case, I believe.
4 Ms. Daniels was the one that done this one.

5 Q Okay, there was some issue about some pictures?

6 A Yes, sir.

7 Q From Walmart?

8 A Yes, sir.

9 Q That had been taken by Nicole?

10 A Yes, sir.

11 Q And DSS conducted an investigation?

12 A Yes, sir.

13 Q That involved child

14 A Yes, sir.

15 Q Visitation privileges were naturally interrupted during
16 a period of time?

17 A Yes, sir.

18 Q Okay, so, then, so, then from '06 to '08 there's not
19 much problems going on seem to be?

20 A Not that I can remember, no, sir.

21 Q And the children are visiting Nicole and Tim down here?

22 A Yes, sir.

23 Q And they're enjoying their weekends with Tim and Nicole
24 most of the time.

25 A Yes, sir, as far as I know, yes, sir.

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

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

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

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

12 Q Well, child would lie to her teacher about
13 stomachaches?

14 A Of course she would.

15 Q Because she wanted to be home with her daddy?

16 A Yes, sir.

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

22 A Uh-huh.

23 Q There was a big to-do about that?

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

1 Q Well, were the children made to believe that if the mama
2 showed up at school she might kidnap them and take them away
3 from you and Jennifer?

4 A Never, no, sir.

5 Q So, they wouldn't have any reason to say anything like
6 that to Mrs. Searce; would they?

7 A I couldn't tell you. I don't know.

8 MR. CANNARELLA: I beg the Court's indulgence just 30
9 seconds.

10 THE COURT: All right, sir.

11 MR. CANNARELLA: Thank you, Tim. You've been very
12 helpful.

13 I don't have any other questions, Your Honor.

14 A My name is Chad, sir.

15 MR. CANNARELLA: Chad, I'm sorry.

16 THE COURT: Redirect.

17 MS. LIVELY: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q Chad, Mr. Cannarella asked you about child and the
21 stomachaches and lying about the stomachaches. Since all this
22 has been disclosed in 2008 and then January the 14th of 2009,
23 have you had these same problems with child and the
24 stomachaches?

25 A No, ma'am.

1 Q How has she been doing?

2 A She's getting better every day. She's doing wonderful.

3 Q Okay, and she hasn't had any contact with Tim or Nicole?

4 A No, ma'am.

5 Q All right, and let me ask you this, how is she doing in
6 school?

7 A A-B honor roll every six weeks, no behavioral problems.
8 The teachers just - they can't say enough good things about
9 her.

10 Q Okay, so, no more stomachaches and having to go pick her
11 up from school?

12 A No, ma'am.

13 Q Okay, so, the question that Mr. Cannarella snuck in
14 there about her lying about her stomachaches you don't know
15 whether she was lying or not; do you?

16 A I don't, I don't - couldn't tell you yes or no, no,
17 ma'am.

18 Q Okay, so, as a father if the school calls and says your
19 child has got a stomachache what do you do?

20 A I'm going to see her.

21 Q Okay, and that's what you did?

22 A Yes, ma'am.

23 Q All right, now, he asked you about things that the
24 children were saying that Nicole said about you. Now, I
25 didn't ask you about any of this on direct but since Mr.

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

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

7 Q Okay, and on December 18th of '08 whenever Nicole showed
8 up at the school when you found out about that because of
9 everything that had been disclosed and everything your
10 children had been through how did you feel about it?

11 A Felt betrayed and I was very angry.

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

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

14 Q Okay, and was it handled?

15 A Yes, ma'am.

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

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

1 as that.

2 Q Okay, so, if - one of the things he asked you about
3 whether or not the kids were concerned about being kidnapped
4 from school or from anywhere else like Mr. Cannarella asked.
5 If they had relayed that to Ms. Searce you wouldn't know?

6 A No, ma'am.

7 Q You weren't in those counseling sessions?

8 A No, ma'am.

9 Q Okay, and do you - but did you ever disclose to Mrs.
10 Searce the concerns in child nightmares about the robber?

11 A Yes, ma'am.

12 Q Okay, so, she was aware of that.

13 A Yes, ma'am.

14 Q All right, but any of this information that came out and
15 we've talked - everything seems to be about Nicole. So, let
16 me bring it back down to the Defendant Timothy Young. Had you
17 ever up until the disclosure, January the 14th, 2009, by child
18 discussed with her any sexual contact or inappropriate
19 behavior?

20 A No, ma'am.

21 Q And to this day have you done so?

22 A No, ma'am.

23 Q Okay, thank you. That's all the questions I have.

24 THE COURT: All right, sir, you may step down.

25 All right, ladies and gentlemen, we're going to take a

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

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

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

12 THE COURT: All right.

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

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

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

19 THE COURT: All right, Ms. Lively.

20 MS. LIVELY: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. LIVELY:

23 Q Jennifer, how old are you?

24 A I am 32.

25 Q And are you married?

1 A Yes, ma'am.

2 Q And who's your husband?

3 A Chad Turbeville.

4 Q Okay, and how long have you and Chad been married?

5 A We have been married going on six years. This June will
6 be six years.

7 Q And do you have any children from a prior marriage?

8 A I do.

9 Q And what are their names?

10 A [REDACTED] and [REDACTED].

11 Q And what are their ages?

12 A Their ages, [REDACTED], my girl is, she's 12 and [REDACTED], he
13 is ten or 11. I'm sorry, he just turned 11.

14 Q Okay, and do you have any children between you and Chad?

15 A We do.

16 Q And what's the name of that child?

17 A [REDACTED].

18 Q And how old is she?

19 A She is four.

20 Q And whenever you met Mr. Turbeville did he have his own
21 children?

22 A Yes, ma'am.

23 Q And what were the names of his children?

24 A sister and child

25 Q And whenever you started having a relationship with Chad

1 what was his arrangement in regards to his daughters?

2 A His arrangement was Tuesday afternoons, every other
3 weekend with their, with their mom.

4 Q Okay, and the majority of the time the primary custody
5 was with whom?

6 A With Chad.

7 Q Did you have the opportunity to have a relationship or
8 get to know his ex-wife Nicole?

9 A Not really, just by going to pick up the kids on that
10 Sunday afternoon I would ride with Chad and on Tuesdays when
11 he was working and I stayed home I would take them to meet her
12 but as far as conversations and relationship, no, ma'am.

13 Q Okay, did you ever have any problems with her?

14 A No, ma'am.

15 Q Did you ever have any altercations with her?

16 A Not that I can think of right now, no, ma'am.

17 Q Okay, were you ever present whenever Chad and Nicole had
18 any altercations if any?

19 A Yes, ma'am.

20 Q Okay, well, tell the jury about that.

21 A It would be maybe in the afternoons when we went to pick
22 up the kids on that Sunday afternoons I would stay in the car
23 and he would be out talking to her and you could tell it was a
24 heated conversation but I was not actually there. I would
25 stay in the car.

1 Q Okay, and was this before the two of you got married
2 that these heated conversations took place?

3 A No, ma'am, after.

4 Q After, and when and you said that you've been married
5 it'll be six years in July; correct?

6 A Yes, ma'am.

7 Q All right, okay, so, how were things between Nicole and
8 Chad in about 2007 and early 2008?

9 A They were about the, about the same as I told you. I
10 mean, everything ran smoothly but there would be some
11 disagreements.

12 Q Okay, and when the disagreements would occur where would
13 the children be?

14 A With Chad, some, some with Chad. It would be mostly
15 with the pickups, picking them up.

16 Q Okay.

17 A On that Sunday afternoon.

18 Q Okay, all right, and do you know what those
19 disagreements or problems would be?

20 A Some would be visitations like for when she was supposed
21 to get them, visitations during the summer. One that I can
22 remember vaguely would be during the summer months that she
23 was supposed to pick up she would actually have her dates
24 wrong and she was trying to tell Chad that they weren't, but

25 ---

1 Q Okay, all right, so.

2 A --- stuff like that.

3 Q So visitation type stuff.

4 A Yes, ma'am.

5 Q Things like that. Was there ever whenever you were
6 present any conversations or concerns about abuse?

7 A No, ma'am.

8 Q Okay, all right, up until all of this was disclosed by
9 **child** had you ever heard any allegations while you were with
10 Chad of any type of abuse?

11 A No, ma'am.

12 Q Okay, all right; now, let me back up for just a minute,
13 where are you and Chad and the kids living?

14 A In Tabor City.

15 Q In Tabor City, okay, and how long have you lived in
16 Tabor City?

17 A I've lived there my whole life.

18 Q All right, who were you married to prior to Chad?

19 A Daniel Spencer.

20 Q Daniel Spencer and where does he live?

21 A He lives in Horry County, Loris.

22 Q And what does he do?

23 A He is actually a - he works with Horry County Police
24 Department. He's a detective.

25 Q Okay, and what is your relationship with your ex?

- 1 A Actually, very well, we've always got along well. We,
2 we - very well.
- 3 Q All right.
- 4 A Good relationship.
- 5 Q Okay, and do you work?
- 6 A Yes, ma'am.
- 7 Q What do you do?
- 8 A I work with children.
- 9 Q All right, and in what capacity?
- 10 A I work with a child-care center. I am assistant
11 director and a lead teacher.
- 12 Q Okay, so, you're around children every day?
- 13 A Yes, ma'am.
- 14 Q And then you go home and you're around children all
15 night?
- 16 A Yes, ma'am.
- 17 Q Okay, and you've got five children at home.
- 18 A Yes, ma'am.
- 19 Q All right, now, you've already stated that you haven't
20 really had any altercations or problems with Nicole; correct?
- 21 A Yes, ma'am.
- 22 Q All right, tell me then why in August of '08 of 2008,
23 child and sister began seeing a counselor.
- 24 A It was their behaviors after visiting with Nicole that
25 we were concerned about, the lashing out, the screaming, the

1 unusual behaviors that just didn't seem like them.

2 Q Was one child more affected than the other?

3 A Yes, ma'am.

4 Q And who was more affected?

5 A Actually **sister** was.

6 Q Okay, and what kind of behavior was **sister** exhibiting?

7 A Angry behavior. She was, she was, she was always tired.
8 She was yelling and bad mouthing, smart to the other kids and
9 it was just unusual behavior for her.

10 Q Okay, and she's the older daughter; correct?

11 A Yes, ma'am.

12 Q Okay, well, what about **child** what kind of - well, tell
13 me what kind of child **child** is anyway. I want to hear from
14 you being a childcare person. What kind of child is she?

15 A **child** she - the first thing that comes to my mind is
16 she is just extremely smart. She's laid-back. She's, she's
17 quiet. So, I mean, she just goes with the flow.

18 Q Okay.

19 MR. CANNARELLA: Excuse me, what, I didn't understand
20 that. She's what?

21 A She goes with the flow. She's easy-going.

22 Q Okay, what type of behaviors did you actually personally
23 observe in regards to **child**

24 A **child** headaches, ill-natured, very short temper,
25 stomachaches, that's about it.

1 Q Okay, all right, did you become aware of any problems at
2 school in regards to these behaviors?

3 A Yes, ma'am.

4 Q Okay, and what did you and Chad do as a result of what
5 you learned from school?

6 A Well, we just kept taking her to Ms. Denise.

7 Q Okay, Denise Searce?

8 A Denise Searce, yes, ma'am.

9 Q And Denise Searce would be the therapist.

10 A The therapist.

11 Q Okay, and that began in August of 2008?

12 A Yes, ma'am.

13 Q All right, so, you continued to take her there. Now,
14 was there ever a time whenever you would be called from the
15 school to get child

16 A Yes, ma'am.

17 Q All right, well, tell us about what those type of
18 situations would be.

19 A One in particular I would - I was actually at work and
20 they called me there at work and I could hear child screaming
21 in the background, and when I got there the stomachache, she
22 was scared, don't really know what she was scared about, never
23 said, but you know, that she was scared, that sort of
24 behavior, and when I got there she had calmed down, but we
25 went ahead and went home.

1 Q Okay, so, you would take her home.

2 A Yes, ma'am.

3 Q Were you ever aware of whether or not she was truly
4 having a stomachache or, I mean, did you ever take her to the
5 doctor or anything like that?

6 A No, ma'am. We took her to the emergency room one time
7 because it kept happening over and over again and there was
8 really no diagnosis.

9 Q Okay, all right, whenever you - you said you had heard
10 her screaming. Was that when she was still at the school you
11 could hear it?

12 A Yes, ma'am.

13 Q And did you relay this to Chad?

14 A Yes, ma'am, I did.

15 Q What were your concerns?

16 A Honestly, I really had no clue what was going on. I was
17 hoping the therapist would help us out. So, we kept taking
18 her there to get her straightened out.

19 Q And are you qualified as a therapist to talk to child
20 about her behaviors?

21 A No, ma'am.

22 Q Okay, did you attempt to talk to her about her
23 behaviors?

24 A No, ma'am. Well, I tried to ask her, you know, what was
25 going on and all she could tell me is that she was scared or

1 her stomach hurt or she had a headache, that sort of thing.

2 Q All right, now, when was the last time you recall child
3 and sister having visitation at the home of the Defendant and
4 Nicole?

5 A The last time that I recall them going over there would
6 be two weekends before the Halloween weekend in October.

7 Q Okay.

8 A The last visitation she was with her.

9 Q Okay, that's when you recall.

10 A That's when I recall, yes, ma'am.

11 Q All right, after that last visitation, let's just say in
12 October, the last visitation, what if anything did you observe
13 in regards to child behavior whenever you and Chad picked
14 her up?

15 A She was tired, exhausted. Later on, the day after, her
16 stomach hurt. She didn't want Chad to go anywhere. She
17 wanted to be right there with him. It was more wanting to be
18 with Chad than with me, that sort of thing.

19 Q Now, around the beginning of November and I think it was
20 actually brought up probably November 4th of 2008 did you have
21 a conversation with child

22 A I did.

23 Q You can't tell me exactly what she said, but as a result
24 of that conversation what did you do?

25 A I first - well, first of all I hugged her and was

1 crying; second, I told Chad.

2 Q After you told Chad what took place next?

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

5 Q After DSS got involved was **child** interviewed by anybody?

6 A Yes, ma'am.

7 Q Okay, did you ever interview her?

8 A No, ma'am.

9 Q Did you ever talk to **child** about it other than what she
10 disclosed to you?

11 A No, ma'am.

12 Q And why not?

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

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

20 A They didn't have any more visitations.

21 Q Okay, and who's they?

22 A **sister** and **child**

23 Q So, **sister** and **child** did not go back to the Myrtle Beach
24 house.

25 A No, ma'am.

1 Q Okay, and that's where the Defendant and Nicole were
2 living; correct?

3 A Yes, ma'am.

4 Q Were you aware at that time whether or not Nicole and
5 the Defendant were still even together?

6 A I was not very much aware, no, ma'am.

7 Q You were not aware.

8 A We, child might've told us but I honestly really didn't
9 know if they were or not.

10 Q Okay, so, you had no personal knowledge is what you're
11 saying?

12 A Right, yes, ma'am.

13 Q And let me just clarify for - to make sure we all
14 understand, whenever the exchanges would take place would you
15 come with Chad to Myrtle Beach?

16 A Yes, ma'am.

17 Q Okay, and what day would that be that you all would come
18 here?

19 A On Sunday.

20 Q Okay, and so, you would come with Chad to the beach on
21 Sunday to actually retrieve the girls from their visitation.

22 A Yes, ma'am.

23 Q Okay, would you get out of the car or stay in the car?

24 A Stay in the car.

25 Q Okay, whenever you got there were there times - well,

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

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

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

7 A One time, yes, ma'am.

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

11 A No, ma'am.

12 Q Had you even ever talked to him?

13 A I have talked to him.

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

16 A No, ma'am.

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

19 A Yes, ma'am.

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

22 A Yes, ma'am.

23 Q Okay, now, after all that took place tell me about what
24 happened December of '08 at an incident at the school
25 involving sister and child.

1 A The mother went and left the cards there for sister and
2 child and she did not see them but she left it for the
3 principal and the principal delivered the letters.

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

6 A Yes, ma'am, we did.

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

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

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

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

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

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

4 A Yes, ma'am.

5 Q Did you - were you involved in the counseling sessions
6 when child would actually talk to Ms. Searce?

7 A No, ma'am.

8 Q Okay, so, anything that was discussed with her and child
9 was in her confidence?

10 A Yes, ma'am.

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

13 A Yes, ma'am.

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

16 A I did.

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

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

21 Q Okay, and has there been times when you would do things
22 like this even though child and sister are not your biological
23 girls, that you would take these necessary steps for them?

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

1 Q At that point were you frustrated with the situation?

2 A I was.

3 Q Okay, okay, had you had any contact with Nicole Young?

4 A No, ma'am.

5 Q All right, how about the Defendant, had you had any
6 contact with him?

7 A No, ma'am.

8 Q Now, let me ask you about this, did you have an
9 opportunity to receive some papers at the home that you signed
10 for from the Columbus County Clerk of Court?

11 A No, ma'am, not that I remember.

12 Q You don't recall that?

13 A No, ma'am.

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

15 THE COURT: Yes, ma'am.

16 MS. LIVELY: Thank you.

17 BY MS. LIVELY:

18 Q I'm going to show you what has already been put into
19 evidence as Defense Exhibit Number Two and ask you to look at
20 that and if you've ever seen that before.

21 A No, ma'am, I haven't.

22 Q Okay, well, let me ask you if you'll flip it over
23 please.

24 A All right.

25 Q Okay, and if you'll look at that whose signature is on

1 that document?

2 A It is my signature.

3 Q Okay, well, then explain to me and the jury how you've
4 never seen that before if you signed for it.

5 A I don't remember it. I'm sorry. I honestly really
6 don't.

7 Q Do you know what that is?

8 A To my knowledge now this may be the paper where we went
9 to court in Whiteville and it may be where she had not seen
10 the kids.

11 Q Okay.

12 A And she was wanting to see the kids. Ms. Denise Searce
13 went with us.

14 Q Okay.

15 A And she told her lawyer that she does not think it's -
16 that the kids need to see her today.

17 Q Okay.

18 A But this was when, if I'm, if I'm mistaken, I'm not sure
19 about the terminology that the lawyers use.

20 Q Okay.

21 A But she was needing to fulfill certain things before she
22 would be able to and give to the DSS ---

23 Q Okay.

24 A --- before she would be able to have visitations. I
25 believe that's what this is on 1-2 of '09.

1 Q Okay, but you're not sure.

2 A I'm not sure. I'm thinking that's what this is. I'm
3 pretty sure that's what this is.

4 Q Okay.

5 A That would be the only thing that we have went to court
6 for ---

7 Q Is for the DSS?

8 A --- between that time.

9 Q Is for the DSS action against Nicole?

10 A Yes, ma'am.

11 Q Okay, so, had you any knowledge as to whether or not
12 Chad had filed anything at that time?

13 A Not to my knowledge, no, ma'am.

14 Q Okay, were you aware of him filing the action with Mr.
15 Phipps as his lawyer in February of '09. If not, that's okay.

16 A I don't remember. I'm sorry.

17 Q No, no, that's fine, that's fine.

18 Now, let me ask you this, and you were - and let me give
19 that back to you if I may approach again. I'm sorry. You
20 said things were kind of hectic around that time?

21 A Yes, ma'am.

22 Q Okay, January 13th, '09, can you tell me what the
23 significance of that date is on that piece of paper? It
24 should be on the front at the bottom.

25 A It does not ring a bell.

1 Q Okay.

2 A I'm sorry.

3 Q It's okay and that's fine.

4 A It was pretty hectic at that time. There was a lot of

5 things going on.

6 Q Can you tell me what that says?

7 A January 13th of '09.

8 Q What does that say right there?

9 A Date of hearing.

10 Q Date of hearing, okay. Do you recall going to a hearing

11 on that date?

12 A Yes, ma'am, I do.

13 Q Okay, and was there actually a hearing in front of a

14 judge?

15 A We did not actually go in front of the judge.

16 Q Okay.

17 A That I recall.

18 Q All right, and at that time was it because the DSS

19 action had already been handled?

20 A I'm not sure what you mean by being handled. It was, it

21 was not under investigation anymore, yes, ma'am.

22 Q Okay, thank you. I'm sorry.

23 A Yes, ma'am.

24 Q So, by that time the DSS investigation was completed.

25 A Yes, ma'am.

1 Q Okay, now, as a result of that investigation what was
2 the visitation between Nicole and the girls?

3 A She would have to do what the DSS had asked her to do
4 before she would be able to get visitations with the girls.

5 Q Okay, thank you. Thank you. All right, now, after that
6 date, January 13th, 2009, tell me what happened on January the
7 14th, 2009.

8 A January ---

9 Q That was a Wednesday.

10 A --- the 14th that's when **child** had come to me and
11 disclosed about the Defendant.

12 Q Okay, all right, you can't tell me what she said. Okay.
13 Let me ask you this, tell me what happened before the
14 disclosure came out.

15 A Before, I was getting her some medicine because her
16 stomach was hurting and she then told me about something
17 sexual conduct that may have happened.

18 Q Okay, where was Chad when this disclosure came about?

19 A He was at church.

20 Q What happened before he left for church?

21 A Before she was - seemed to be pretty quiet and then
22 right after he left because I was there by myself she had come
23 to me about her stomach hurting.

24 Q Okay, all right, and when she came - after she told you
25 or made the disclosure and you can't tell me exactly what she

1 said but after she made the disclosure what did you do?

2 A I waited for Chad to come home to tell him. We just
3 stayed at home to tell him.

4 Q And how did you feel?

5 A At first I felt very confused. I really didn't know
6 which way to go with it. She just kind of sat on the bed and
7 looked at me like, "What now," and I honestly didn't know what
8 to do from that time. Then when Chad come home that's when I
9 knew I had to tell him.

10 Q Was it hard for you to do that?

11 A Yes, ma'am.

12 Q And how did he react?

13 A He was upset, very upset.

14 Q At any time prior to January the 14th of 2009 did you
15 have any concerns regarding child and sister and the
16 Defendant?

17 A No, ma'am.

18 Q Had you ever talked about the Defendant in the presence
19 of child and sister

20 A No, ma'am.

21 Q Have you ever said anything ill or demeaning about the
22 Defendant in the presence of the children?

23 A No, ma'am.

24 Q Did you have an opinion of the Defendant?

25 A No, ma'am.

1 Q Have you ever watched or been present for any of the
2 interviews of child by professionals?

3 A No, ma'am.

4 Q And why is that?

5 A I wasn't allowed to go in there.

6 Q Okay, and whenever she disclosed to you about what had
7 happened did you question her about it?

8 A I didn't do much questioning.

9 Q Okay, what happened the next day, after you told Chad
10 and you discussed it what did you do the next day?

11 A We called DSS.

12 Q Okay.

13 A And went from there.

14 Q You went from there, all right. After DSS was contacted
15 who did you then also get involved?

16 A I got involved Ms. Denise Sccearce, the counselor.

17 Q Okay.

18 A We went to see her.

19 Q And did you ever contact law enforcement?

20 A Chad did.

21 Q Chad did, okay. Was this all around the same time?

22 A Like right around the same time, yes, ma'am.

23 Q Have you ever watched the forensic interviews given to
24 child

25 A No, ma'am.

1 Q Have you read any transcripts or seen any dictation from
2 any of these interviews?

3 A No, ma'am.

4 Q Well, since that time how has child progressed?

5 A She's doing very well now. About a year and a half
6 after that she was stomachaches, screaming, she's scared,
7 wanting to be home. Now, about the last half a year she's
8 done very well, very well in school, making friends again.
9 She's doing very well.

10 Q And how many times have you picked her up from school
11 with stomachaches this year?

12 A None.

13 Q How about headaches?

14 A None.

15 Q Have you called and had her screaming in the background?

16 A No, ma'am.

17 Q Have you ever discussed anything sexual in nature with
18 child

19 A No, ma'am.

20 Q Okay, other than what she's told you have you even
21 discussed what she calls her anatomy parts?

22 A No, ma'am.

23 Q Has there ever been a time whenever child may have
24 accidentally walked in on you and Chad in a compromising
25 position?

1 A No, ma'am.

2 Q How about the Internet, do you allow the children to go
3 on the Internet?

4 A I do, now I do.

5 Q Okay.

6 A Then I didn't.

7 Q Okay, if the children are on the computer who's with
8 them?

9 A Chad would be there or I would be there.

10 Q Okay, do you allow the children to watch R-rated movies?

11 A No, ma'am.

12 Q Do you have any idea as to and from your personal
13 experience with child how she would have any sexual knowledge?

14 A No, ma'am.

15 Q That's all I have. Answer any questions that Mr.
16 Cannarella has for you.

17 CROSS EXAMINATION

18 BY MR. CANNARELLA:

19 Q Mrs. Turbeville, do you discipline child

20 A I do.

21 Q How?

22 A Sometimes I make her write sentences. Sometimes we go
23 into this little thing called timeout and I've had to spank
24 her once or twice.

25 Q Spank her once or twice?

- 1 A On her bottom.
- 2 Q Okay, well, does, does Mr. Turbeville discipline child
3 the same way?
- 4 A Pretty much. We've got an understanding.
- 5 Q You would only spank her with your hands?
- 6 A There was the one or two times with a belt that you
7 would wear, yeah.
- 8 Q But you would, and you'd spank [REDACTED] the same way?
- 9 A [REDACTED], yes.
- 10 Q That's your son.
- 11 A That's my son.
- 12 Q Has there ever been any inappropriate contact between
13 the two of them in any way that you remember?
- 14 A Not that I know of.
- 15 Q Okay, and if it had been you would have known it?
- 16 A I sure hope so.
- 17 Q I mean, you know how children do sometimes.
- 18 A Right.
- 19 Q Explore, they never did any inappropriate exploring
20 about that to your knowledge.
- 21 A Not to my knowledge.
- 22 Q Okay, do you - well, do you have any - not to your
23 knowledge then does that mean you don't remember?
- 24 A Nothing has come to my attention.
- 25 Q Okay, how about Mr. Turbeville, does he use corporal

1 punishment on child .

2 A If it needs be, if it's the last resort if the timeout
3 and the writing sentences if it's, if it's the last resort
4 because that would be like our last resort.

5 Q Now, did you treat those stomachaches that she would
6 always have?

7 A Yes, sir, we would.

8 Q No diagnosis?

9 A Not that I can remember there wasn't. I didn't - not
10 that I can remember.

11 Q Fake the stomachache.

12 A I don't know if she did. If she did I do not know about
13 it.

14 Q The altercation one weekend when you all went to pick up
15 the kids you saw Chad and Nicole arguing.

16 A Yes, sir.

17 Q And you didn't know what they were arguing about?

18 A Yes, sir, I do.

19 Q What?

20 A It was about the week in the summer month, June summer
21 month that Nicole was supposed to get and she missed it.

22 Q She had weekend visitations; right?

23 A Yes, sir.

24 Q She had some summer visitation?

25 A She had a week in each summer month.

- 1 Q Okay, did she exercise summer visitation during the
2 summer of '08.
- 3 A Yes, sir.
- 4 Q Like a week at a time?
- 5 A Yes, sir.
- 6 Q So, the children got to come down here and spend time at
7 the beach?
- 8 A Yes, sir.
- 9 Q Did they ever take pictures back home that they all -
10 showing they all shared time together on the beach having fun?
- 11 A Not pictures, not pictures, no, sir.
- 12 Q Little mementos or something?
- 13 A Yes, sir.
- 14 Q And they had two dogs?
- 15 A I guess so.
- 16 Q You know child . Now, [REDACTED] was born on 8-28-98?
- 17 A Yes, sir.
- 18 Q [REDACTED] was born on March 19th of 2001?
- 19 A 2000.
- 20 Q 2000?
- 21 A Yes, sir.
- 22 Q sister was born?
- 23 A On 12-18 of '98.
- 24 Q Okay, and child
- 25 A 6-16-01.

1 Q All right, now, when mama went, when Nicole, the mama,
2 she went to the school on December the 18th or sometime around
3 there?

4 A I believe it was the 17th.

5 Q And that's when you had a run-in with the principal?

6 A Yes, sir.

7 Q Okay, did you ever see the cards that were delivered to?

8 A Yes, sir.

9 Q What were they?

10 A They were - one was a birthday card to sister and then
11 there was two "I miss you" cards.

12 Q "I miss you"?

13 A "I miss you cards" I believe that's what it was.

14 Q Yeah, was it, was there any inappropriate language used
15 or was any hate language in those?

16 A No hate language, no.

17 Q So, it was just a mama trying to deliver cards to her on
18 her birthday?

19 A Yes, the only one I read was child because she gave it
20 to me.

21 Q But, but after that then child started worrying about
22 whether or not her mother would - may come to school one day
23 and take her?

24 A Yes, because in the card it said, "Mama will fix this.
25 I will see you soon."

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

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

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

6 A Right.

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

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

11 Q Because she might have wanted to see her mama.

12 A I'm not sure about that.

13 Q Well, child believed that her mama had sexually abused
14 her.

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

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

19 THE COURT: All right.

20 MR. CANNARELLA: I'm sorry.

21 BY MR. CANNARELLA:

22 Q Okay, but on December the 18th which is child birthday
23 the mama delivered some cards there for her. Now, that was
24 after there was - that was within, the investigation in North
25 Carolina was over then?

1 A I don't know if it was actually over. I know that it
2 was still being investigated.

3 Q Okay, and now, on - right before that investigation in
4 North Carolina started the revelation that child made about
5 her mama was to you?

6 A Yes, sir.

7 Q I believe it was coming home from school one day.

8 A It was.

9 Q Did child say, "I believe that my mama, Nicole, was
10 trying to get me not to mind you, Jennifer?"

11 A That's what she told me.

12 Q And then she said, "And my mama does nasty things to
13 me?"

14 A That's what she told me.

15 Q And nasty was the word she used; is that right?

16 A That I can remember. It was along those lines.

17 Q And then these allegations came out about Tim.

18 A Yes, sir.

19 Q On January the 14th. So, "I knew my mama was bad as well
20 as Tim."

21 A I'm not sure if that was her exact words.

22 Q Through her therapist it was.

23 A Okay, maybe so. I wasn't in there.

24 Q Now, you don't - you and Chad don't keep anything from
25 each other; do you?

1 A We - no, sir, not that I know of.

2 Q You wouldn't intentionally hide anything from him; would
3 you?

4 A No, sir.

5 Q And you said that you all went to the January 13th
6 hearing.

7 A Okay.

8 Q Okay?

9 A Not that I know of, not that I know of. If it was
10 January 13th, the hearing, yes, sir, that's right, if that's
11 that paper that would be it.

12 Q If it was that, okay, and Chad knew about this?

13 A Yes, sir.

14 Q And you got served with this on January the 2nd of '09?

15 A Okay.

16 Q At [REDACTED].

17 A Yes, sir.

18 Q And this was an important piece of paper.

19 A Okay, yes, sir.

20 Q Wasn't it, and then you took that piece of paper that
21 the deputy sheriff left there and when your husband got home
22 you would quite naturally would have given it to him.

23 A I, I sure hope so. It was really hectic. I can't
24 remember if I did or not.

25 Q Okay, well, you wouldn't have hid it from him. You

1 wouldn't have just ---

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

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

5 A Yes, sir, it was on a Wednesday.

6 Q And you signed for that piece of paper?

7 A It's got my signature.

8 Q And both revelations were to you.

9 A Yes, sir.

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

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

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

15 THE COURT: Redirect.

16 MS. LIVELY: Thank you.

17 REDIRECT EXAMINATION

18 BY MS. LIVELY:

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

23 A No, ma'am.

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

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

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

3 A No, ma'am.

4 Q --- matter?

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

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

8 A I did to the best of my ability.

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

11 A Yes, ma'am.

12 Q That's all I have. Thank you.

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

14 THE COURT: Very briefly only as to any new matter.

15 What new matter was brought up that was not on direct?

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

18 MS. LIVELY: He opened the door.

19 THE COURT: Yeah, very briefly.

20 RECCROSS EXAMINATION

21 BY MR. CANNARELLA:

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

24 A Yes, sir.

25 Q Okay, and that's all.

1 A That I'm aware of.

2 Q Well, why was a big deal made about that?

3 A I would never put Neosporin on my children in that area
4 when they were eight years old.

5 Q Okay, unless they wouldn't apply it themselves.

6 A Not Neosporin.

7 Q Maybe the child was confused about whether it was
8 Neosporin.

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

11 THE COURT: Sustained.

12 MS. LIVELY: Thank you.

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

14 A Thank you.

15 THE COURT: Call your next witness.

16 MS. LIVELY: Your Honor, the next witness is going to
17 be child

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

1 MISS TURBEVILLE: child

2 DIRECT EXAMINATION

3 BY MS. LIVELY:

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

7 A Yes.

8 Q Would you like some water?

9 A Yes, ma'am.

10 Q Okay, okay, there you go.

11 Okay, child tell us your full name.

12 A child [REDACTED].

13 Q How old are you?

14 A Nine years old.

15 Q What's your date of birth?

16 A June 16th, 2001.

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

18 A Uh-huh.

19 Q Yeah? Okay.

20 Now, child tell us where you live.

21 A [REDACTED] in Tabor City, North
22 Carolina.

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

25 A Yes, ma'am.

- 1 Q All right, now, who lives in the home with you?
- 2 A My dad, my step-mom, my three sisters and my brother.
- 3 Q All right, do you have your own room?
- 4 A Yes, ma'am.
- 5 Q Okay, do you have any pets?
- 6 A One.
- 7 Q What kind of pet do you have?
- 8 A A dog.
- 9 Q A dog, what's the dog's name?
- 10 A Buddy.
- 11 Q Buddy, is it your dog or everybody's dog?
- 12 A Everybody's.
- 13 Q Okay, all right, now, child are you in school?
- 14 A Yes, ma'am.
- 15 Q So, you're missing school today?
- 16 A Yes, ma'am.
- 17 Q All right, do you like school?
- 18 A Sometimes.
- 19 Q All right, how are you doing in school these days?
- 20 A Good.
- 21 Q What kind of grades you make?
- 22 A I made the A-B honor roll last report card.
- 23 Q Wow, A-B honor roll, okay.
- 24 Now, child if you were to be at school and told a lie at
- 25 school would you get in trouble for that?

- 1 A Yes, ma'am.
- 2 Q Okay, who would be upset with you?
- 3 A My teachers, the principal and my parents.
- 4 Q All right, okay, now, do you or have you told lies at
- 5 home before?
- 6 A Yes, ma'am.
- 7 Q Okay, what kind of lies have you told at home?
- 8 A I know I have told a lie but I can't think of it right
- 9 offhand.
- 10 Q Okay, you told a lie but you can't think of it right
- 11 offhand?
- 12 A Yes, ma'am.
- 13 Q Okay, all right, have you told lies to get other people
- 14 in trouble, like your little brother or little sister?
- 15 A Yes, ma'am.
- 16 Q You have? Okay, have you told lies to get grownups in
- 17 trouble?
- 18 A No, ma'am.
- 19 Q Okay, all right, do you know whether you're supposed to
- 20 tell the truth or lies here in the courtroom today?
- 21 A I know to tell the truth.
- 22 Q Okay, and what does it mean to tell the truth?
- 23 A To tell what really happened and don't make up something.
- 24 Q To tell what really happened and don't make up something.
- 25 Okay, all right, now, child was there a time when you

1 didn't like going to school?

2 A Yes, ma'am.

3 Q Okay, has that been a long time?

4 A Yes, ma'am.

5 Q All right, okay, and just tell what you remember and
6 that's all I'm asking is you be honest; okay? Have you ever
7 told a lie to get out of being at school?

8 A Yes, ma'am.

9 Q Okay, well, explain, explain that to me and to Mr.
10 Cannarella why you may have told a lie to get out of school.

11 A I told my parents that my stomach would hurt and I had a
12 headache just to get out of school.

13 Q Okay, all right, were there things that were bothering
14 you back then?

15 A No, I just wanted to get out of school.

16 Q Okay, you just wanted to get out of school, but how long
17 has it been since you've told that lie and gotten out of
18 school? Has it been a long time?

19 A Yeah, since I was in second grade.

20 Q Since second grade, okay. Do you know how old you were
21 in second grade?

22 A I was seven or eight.

23 Q Okay, all right, you were seven or eight. So, if you
24 were seven or eight that would have been, let's see when's
25 your date of birth again?

- 1 A June 16th, 2001.
- 2 Q 2001, so, seven or eight that would have been in 2008.
- 3 So, that was when you were in second grade?
- 4 A I think so, yes, ma'am.
- 5 Q Okay, and that's the times when you would talk about or
- 6 not say the truth about stomachaches and headaches?
- 7 A Yes, ma'am.
- 8 Q Okay, and since you've been in - what grade are you in
- 9 now? Are you in fourth grade?
- 10 A Yes, ma'am.
- 11 Q Okay, in fourth grade, since you've been in fourth grade,
- 12 have you told a lie about your stomachaches or your headaches?
- 13 A No, ma'am.
- 14 Q All right, and you're on the A and B honor roll?
- 15 A Yes, ma'am.
- 16 Q All right, okay, now, you remember why you're here today;
- 17 right?
- 18 A Yes, ma'am.
- 19 Q Okay, all right, and you've actually met Mr. Cannarella?
- 20 A Yes, ma'am.
- 21 Q Okay, okay, they can't see him right now but he's over
- 22 there; right?
- 23 A Yes, ma'am.
- 24 Q All right, this is what I want you to do for me today.
- 25 We're going to talk about some stuff that I know is a little

1 bit embarrassing, okay? Is that a yes?

2 A Yes, ma'am.

3 Q Okay, now, let me, let me ask you about your, your real
4 mom; okay? What's her name?

5 A Nicole.

6 Q Nicole, and is she married or was she married?

7 A She was when I used to go to her.

8 Q Okay, and what was the name of her husband?

9 A Timothy Young.

10 Q Timothy Young, okay, all right, and do you remember how
11 often you would go and visit your mom and Timothy Young before
12 the visitation stopped?

13 A I'd, I'd spend one week with my dad and then the next
14 week with my dad, well, not the whole week, I'd spend the
15 weekdays and then the weekend I'd stay with my mom.

16 Q Okay, so, you'd spend the weekends with your mom and
17 weekdays with your dad.

18 A Because I stay, I'd stay a week with my dad and then the
19 next week I'd just stay with him on the weekdays and then on
20 the weekends stay with my mom.

21 Q Okay, make sure you say it into the microphone. We've
22 got to make sure we can hear. So, then you'd stay the weekend
23 with your mom?

24 A Yes, ma'am.

25 Q Whenever you would stay the weekend with your mom was

- 1 Timothy Young there?
- 2 A Sometimes.
- 3 Q Okay, so, there were times when you were there and sister
- 4 were there for visitation and Mr. Young would be there?
- 5 A Yes, ma'am.
- 6 Q Okay, and did you all have fun sometimes?
- 7 A Yes, ma'am.
- 8 Q Would you go to the beach?
- 9 A Yes, ma'am.
- 10 Q Okay, and were there times when you wouldn't have fun?
- 11 A Yes, ma'am.
- 12 Q Okay, all right, now, I'm going to ask you if you
- 13 recognize a picture and it's actually I put this little
- 14 sticker on it. It says State's Exhibit Number One. Have you
- 15 ever seen that house before?
- 16 A Yes, ma'am.
- 17 Q Okay, and that house - whose house was that?
- 18 A My mom's and my step-dad's.
- 19 Q And your step-dad and what's your step-dad's name?
- 20 A Timothy Young.
- 21 Q Okay, and so, is this where you would go for visitations?
- 22 A Yes, ma'am.
- 23 Q All right, okay, has it been a long time since you've
- 24 been there?
- 25 A Yes, ma'am.

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

8 A Yes, ma'am.

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

16 A Yes, ma'am.

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

19 A Hair.

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

22 A Eyes.

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

25 A The nose.

1 A Yes, ma'am.

2 Q All right, will you tell me what your mom did that made
3 you feel uncomfortable?

4 A She put Neosporin on her knuckles and then rub it on my
5 front privacy part.

6 Q Okay, she put Neosporin on her knuckle and rubbed it on -
7 can you point it out to me? Okay, and back back up, and she
8 rubbed it right there?

9 A Yes, ma'am.

10 Q Okay, and do you remember telling then your step-mom that
11 that had happened?

12 A Yes, ma'am.

13 Q All right, okay, and how did it feel when she did that?

14 A It felt weird.

15 Q It felt weird, okay, did she say anything to you when she
16 did that?

17 A She said it'll help it.

18 Q It'll help it. What was wrong with your front privacy
19 part?

20 A She said it looked red.

21 Q It looked red, okay. Was it bothering you?

22 A It hurt sometimes.

23 Q It hurt sometimes, okay. Now, child did you say
24 anything else that was bothering you that day when you were
25 talking to your step-mom from school, I think you were coming

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

3 A I don't think so.

4 Q Okay, do you remember talking to anybody else about it?

5 A I think I talked with Ms. Denise.

6 Q Ms. Denise, okay, is Ms. Denise - now, let me ask you
7 about that, you - were you in counseling or therapy or did you
8 have a special person you go and talk to?

9 A Yes, ma'am, Ms. Denise.

10 Q Ms. Denise, okay, was she nice?

11 A Yes, ma'am.

12 Q Did you trust her?

13 A Yes, ma'am.

14 Q Okay, all right, what I'm going to do is I'm going to
15 back this up for a minute, I'm going to ask you some questions
16 and you can leave the lights dim, if you'll just have a seat
17 back down so you can take a little rest I'm going to ask you a
18 couple of more questions, okay, all right, there you go.

19 Now, child when you said those things about your mom
20 were they the truth?

21 A Yes, ma'am.

22 Q Where did those things happen?

23 A In my bedroom.

24 Q In your bedroom where, was it in Myrtle Beach?

25 A Yes, ma'am.

- 1 Q This is the nose, okay, and what do we call these?
- 2 A Lips.
- 3 Q Lips, all right, okay, what do you call this?
- 4 A Arms.
- 5 Q Arms, what do you call these?
- 6 A The boobies.
- 7 Q Boobies, okay, it's okay, don't be embarrassed. Okay,
- 8 and what do you call this?
- 9 A Belly button.
- 10 Q Belly button, great, all right, what do you call these?
- 11 A Legs.
- 12 Q Legs, good, and what do you call this part here in the
- 13 middle of the little girl?
- 14 A The front privacy part.
- 15 Q Front privacy part, okay, all right, now, what do we call
- 16 this back part here?
- 17 A The butt.
- 18 Q The butt, and that was easy. All right, okay, so, are
- 19 those what you call all your body parts?
- 20 A Yes, ma'am; yes, ma'am.
- 21 Q All right, okay, did I write anything wrong?
- 22 A No, ma'am.
- 23 Q All right, okay, now, child do you remember talking to
- 24 your step-mom, Jenny, and telling her about something that
- 25 your mom had done?

- 1 Q Okay, who would be around when that happened?
- 2 A No one.
- 3 Q No one, all right, did you remember seeing Tim?
- 4 A No, ma'am.
- 5 Q Okay, so, he wouldn't be in there with your mom?
- 6 A No, ma'am.
- 7 Q All right, now, child you said that you then talked to
- 8 Ms. Denise about what your mom had done; right?
- 9 A Yes, I think so.
- 10 Q Okay, and whenever you talked to her about your mom, at
- 11 that time when you told her about your mom did you tell her
- 12 about Tim?
- 13 A No, ma'am.
- 14 Q All right, do you remember being asked whether or not
- 15 anybody else had touched your front privacy and if it bothered
- 16 you?
- 17 A Yes, ma'am.
- 18 Q Okay, and what did you tell them?
- 19 A No, ma'am.
- 20 Q All right, you told them no, all right. When you told
- 21 them no was that the truth or a lie?
- 22 A I think it was the truth.
- 23 Q You think it was the truth, okay, and why do you think
- 24 that that was the truth?
- 25 A Because I don't think Tim did it when my mom was doing

1 it. I think he started later on.

2 Q He started later on, okay. All right, because I'm trying
3 to see how your mind is working here, child okay, so, help me
4 out a little bit.

5 So, you told about your mom and what she did first; is
6 that right?

7 A Yes, ma'am.

8 Q Okay, and correct me if I'm wrong because I don't want to
9 put words in your mouth; okay? All right, so, when all this
10 came out about your mom did you still go on visits to see your
11 mom anymore?

12 A I don't, I don't think so.

13 Q Okay, all right, so, it's been a long time since you've
14 been on a visit to see your mom; right?

15 A Yes, ma'am.

16 Q Okay, well, let me ask you this, do you remember whether
17 your mom and Mr. Tim or Tim were still together the last time
18 you all, you had visitation, you and sister Were they still
19 married or were they not married?

20 A They were still married.

21 Q They were still married. Do you know why you may have
22 referred to him as her ex-husband, as Nicole's ex-husband? Do
23 you remember that?

24 A No, ma'am.

25 Q Okay, all right, did you know or did you ever hear Tim

1 and Nicole, your real mom, talking about getting a divorce or
2 not being together?

3 A They were fussing at one time. I don't know if they
4 quit.

5 Q You don't know if they quit, okay, all right.

6 Do you know if you told Ms. Denise about them fussing and
7 that they might not be together?

8 A No, ma'am, I can't remember if I did.

9 Q That's okay, and that's fair. You don't remember, okay.

10 Now, after all this came out about your mom, okay, did
11 you have to go to court like something like this about your
12 mom?

13 A No, ma'am.

14 Q No, is this the first time other than when you came and
15 visited me before and met me here? Is this the first time
16 that you've had to come to court like this?

17 A Yes, ma'am.

18 Q Okay, now, you said that you did not talk about Tim the
19 first time you were asked about somebody touching your private
20 part; right?

21 A Yes, ma'am.

22 Q Do you remember when you finally did talk about Tim?

23 A I think it was a month later.

24 Q It was about, it was about a month later?

25 A I think so.

- 1 Q Okay, who did you tell that, that something had happened
- 2 with Tim?
- 3 A My step-mom.
- 4 Q And that's Jennifer; right?
- 5 A Yes, ma'am.
- 6 Q Okay, do you call her Jenny, Jennifer or mom?
- 7 A Jenny.
- 8 Q Jenny, okay, tell me what was going on that night
- 9 whenever you told Jenny what happened.
- 10 A I can't remember but we were in the kitchen.
- 11 Q You were in the kitchen, okay. So, you're in the
- 12 kitchen. Is anybody in there with you?
- 13 A No, ma'am.
- 14 Q Okay, so, it was just you and Jenny?
- 15 A Yes, ma'am.
- 16 Q Okay, where was your dad?
- 17 A I think he was still working at the prison. I think he
- 18 was there.
- 19 Q Okay, so, you think he wasn't there, he was at the prison
- 20 working?
- 21 A Yes, ma'am.
- 22 Q Okay, could he have been maybe going to church or do you
- 23 just not remember?
- 24 A I don't remember.
- 25 Q Okay, but he wasn't there; right?

1 A Yes, ma'am.

2 Q Okay, all right, now, child tell me exactly what you
3 said to Jenny that night if you can try your best to remember.

4 A I think I said he did the same thing but then I told her
5 how he actually did it.

6 Q How he actually did it?

7 A Yes, ma'am.

8 Q Okay, can you tell me exactly and I know it's hard to
9 talk about but tell me exactly what it is that he did to you
10 that you told Jenny about.

11 A That he licked a little above my front privacy part and
12 that he - sometimes he put his finger in my front privacy
13 part.

14 Q Okay, so, sometimes he'd lick above your privacy part?

15 A Yes, ma'am.

16 Q And then sometimes he'd put your finger - his finger in
17 your privacy part?

18 A Yes, ma'am.

19 Q Okay, what did Jenny do whenever you told her that?

20 A She started crying and told me to lay down on the couch.

21 Q Okay, she started crying and for you to go lay down on
22 the couch?

23 A Yes, ma'am.

24 Q How did you feel after you told her what Tim had done to
25 you?

- 1 A Relieved.
- 2 Q You were relieved?
- 3 A Yes, ma'am.
- 4 Q Had you been having nightmares?
- 5 A Yes, ma'am, I think so.
- 6 Q Okay, can you tell me about the nightmare that you had
- 7 had about a robber?
- 8 A Yes, I thought, I thought he would come and take me and
- 9 he would hurt my daddy.
- 10 Q And he'd hurt your daddy?
- 11 A Yes, ma'am.
- 12 Q Okay, had your mom ever told you she was going to take
- 13 you?
- 14 A No, ma'am, she just, she just said she thought she'd have
- 15 - she'd wish she had me forever, that's the only thing she
- 16 said.
- 17 Q Okay, say it a little bit louder, honey, I couldn't hear
- 18 you.
- 19 A She said she'd wish she had me forever.
- 20 Q Okay, she wished she had you forever. How do you feel
- 21 about your mom? Do you love her?
- 22 A I love her. I just don't like the way she - I don't like
- 23 the way - what she did to me.
- 24 Q Okay, it's okay. It's all right, honey. Okay, you okay?
- 25 It's okay. You want to take, hey, take a sip. It's all

1 right. It's okay. Take a deep breath. Thank you. You okay
2 to keep going?

3 A Yes, ma'am.

4 Q Yes, ma'am. Okay, all right, we're going to do this
5 quick, okay? All right, I'm going to stand up with you again,
6 all right? Okay, I'm going to put this back. All right, now,
7 remember come right back over here because I want to make sure
8 this microphone can hear everything you have to say, all
9 right? And this time I'm going to let you use my big red pen,
10 okay? All right, now, child now, stand right here, baby,
11 because I'm going to ask you something first, then I'm going
12 to get you to, to show, all right. When Tim touched you you
13 said he touched you with his finger?

14 A Yes, ma'am.

15 Q Okay, and he licked you?

16 A Yes, ma'am.

17 Q All right, when he touched you with his finger I want you
18 to circle the part that he touched.

19 A (Complies with request.)

20 Q Okay, now, child did he do this one time or more than
21 one time?

22 A More than one time.

23 Q Okay, did he say anything to you when he did that?

24 A He said don't tell my mama.

25 Q Don't tell your mama?

- 1 A Yes, ma'am.
- 2 Q Okay, did you ever tell your mama?
- 3 A No, ma'am.
- 4 Q No, ma'am, okay. But you told Jenny?
- 5 A Yes, ma'am.
- 6 Q Okay, now, whenever he licked you can you put an "X"
- 7 where he licks you?
- 8 A (Complies with request.)
- 9 Q Okay, so, he licked you right here?
- 10 A Yes, ma'am.
- 11 Q Did that happen one time or more than one time?
- 12 A I think it happened more than one time.
- 13 Q More than one time, okay, did he say anything to you when
- 14 he did that?
- 15 A He said don't tell my mama.
- 16 Q He - so, he told you don't tell your mama again, okay,
- 17 and where would you be then when this would happen?
- 18 A On his bed.
- 19 Q On his bed, okay, and how would your clothes be? Would
- 20 the - did you have clothes on or not?
- 21 A Yes, ma'am.
- 22 Q Yes, ma'am, all right, what clothes did you actually have
- 23 on? Do you remember? Was it different every time?
- 24 A I'd have my shirt on and he'd pull down my pants and I
- 25 tried to pull them back up but then he would try to pull them

1 back down.

2 Q Okay, so, you'd have on a shirt and on pants and he'd
3 pull them down and you'd try to pull them back up?

4 A Yes, ma'am.

5 Q Was he too strong for you?

6 A Yes, ma'am.

7 Q Okay, but you tried?

8 A Yes, ma'am.

9 Q Okay, all right, that's good.

10 Now, whenever, did you have panties on or not?

11 A Yes, ma'am.

12 Q All right, and where would your panties be?

13 A Pulled down on my legs.

14 Q On your legs, so, about how far down would he pull your
15 panties?

16 A Right, right around above my knees.

17 Q Right above your knees. Put a little "X" right there.

18 A (Complies with request.)

19 Q Okay, all right, and what about your legs, how would they
20 be - were you laying down or sitting up?

21 A My - I would be laying down and my legs would be sitting
22 up.

23 Q Your legs would be sitting up, okay. So, your knees
24 would be kind of pointing up to the ceiling?

25 A Yeah, they were like this going, so.

1 Q They were like this?

2 A Yes, ma'am.

3 Q Okay, and what would he do with your legs if anything?
4 Did he touch your legs or not?

5 A No, he tried to, he tried to spread them apart, but I
6 tried to, I tried to put them close together but he, but he
7 wouldn't let me.

8 Q Okay.

9 THE COURT: Excuse me. You're going to need to get
10 her to speak up just a little bit and into the microphone.

11 Q Okay, say that again if you don't mind.

12 A He tried to, he tried to pull my legs apart but I would
13 put them back together but I tried to and he wouldn't let me.

14 Q Okay, all right, so, whenever he - so, when he actually
15 would pull your legs apart is that whenever he would touch
16 you?

17 A Yes, ma'am.

18 Q Okay, do you remember whether or not his finger when he
19 touched you was on the outside or the inside of your private
20 part?

21 A Sometimes it'll be inside and sometimes it'll be outside.

22 Q Okay, sometimes it would be inside, sometimes it would be
23 outside. When it was inside how would that feel?

24 A It'll hurt a little bit.

25 Q It'll hurt a little bit?

1 A Yes, ma'am.

2 Q Okay, all right, did he ever show you any part of his
3 body without clothes on?

4 A No, ma'am.

5 Q All right, okay, okay, now, child whenever and you can
6 sit back down; okay?

7 MS. LIVELY: And Your Honor, the State's going to be
8 moving Exhibits One and Two into evidence.

9 THE COURT: Any objection?

10 MR. CANNARELLA: No objection.

11 THE COURT: All right, State's Exhibits Number One and
12 Two admitted into evidence without objection.

13 (Whereupon, State's Exhibit Number One and Two admitted
14 into evidence and appropriately marked.)

15 MS. LIVELY: Thank you, Your Honor.

16 BY MS. LIVELY:

17 Q That voice came from nowhere, huh? All right, here we
18 go. Is that good?

19 A Yes, ma'am.

20 Q All right, now, child after you told Jenny what happened
21 with Tim did you also talk to Ms. Searce about it?

22 A I think so.

23 Q Okay, all right, and when you talked to Ms. Searce about
24 it do you remember whether or not she asked you why you didn't
25 bring this up whenever this stuff came out about your mama?

1 A Yes, I think I remember her asking me that.

2 Q Okay, all right, just make sure you're talking into the
3 microphone. Now, you're trying to look at me, but whenever
4 she asked you about that do you remember what you told her?

5 A I can't remember offhand.

6 Q Okay, do you remember ever telling her, "I felt like I
7 needed to tell one at a time?"

8 A Yes, ma'am.

9 Q Okay, I mean, if you didn't say that that's fine. I just
10 am asking if you remember. Do you remember making that
11 statement?

12 A Yes, ma'am.

13 Q Okay, can you explain what you meant by that so we can
14 understand why you would say you thought you needed to tell
15 one at a time?

16 A I wanted to get one through with and then I would start
17 on another one.

18 Q Okay, you wanted to get one - did anybody tell you to do
19 it that way?

20 A No, ma'am.

21 Q All right, okay, all right, so, was this - and you were
22 seven at the time; right?

23 A I think so, seven or eight.

24 Q Okay, and these things were happening - do you remember
25 when the last time it was that Tim would have touched you,

- 1 child before your last visitation?
- 2 A No, ma'am.
- 3 Q No, had it happened that summer or up until close to the
4 time, your last time you saw your mom at the beach?
- 5 A I can't remember.
- 6 Q Okay, okay, if you had been asked about that in an
7 interview earlier that probably would be an easier way for you
8 to remember; wouldn't you agree?
- 9 A Yes, ma'am.
- 10 Q Okay, all right, it's been a long time; hasn't it?
- 11 A Yes, ma'am.
- 12 Q All right, now, how have you been sleeping lately? Do
13 you sleep better now?
- 14 A Yes, ma'am.
- 15 Q Okay, have you had any more of those robber dreams?
- 16 A No, ma'am.
- 17 Q Okay, all right, is everything that you've told me today,
18 child the truth?
- 19 A Yes, ma'am.
- 20 Q Okay, has anybody told you what to say here today?
- 21 A No, ma'am.
- 22 Q All right, has your dad or Jenny told you to say these
23 things about your mom or Tim?
- 24 A My dad has told me to tell the truth.
- 25 Q He told you to tell the truth, okay. Did these things

1 happen to you, child

2 A Yes, ma'am.

3 Q Okay, all right. All right, child thank you so much.

4 A You're welcome.

5 Q Answer any questions Mr. Cannarella may have for you.

6 CROSS EXAMINATION

7 BY MR. CANNARELLA:

8 Q Hey, child

9 A Hey.

10 Q How you doing?

11 A Good.

12 Q child a while ago when, when Ms. Lively was asking you
13 about why did you just tell on, tell on one at a time, you
14 remember that?

15 A Yes, sir.

16 Q Well, I didn't really hear you real good, but I thought
17 you said you were going to do one before you get started on
18 the other one. Is that what you said?

19 A Yes, sir.

20 Q Do one before you got started on the other one; right?

21 A Yes, sir.

22 Q I just want to tell you I've seen them - I've seen some
23 pictures of you, child when you would come down here and you
24 all would be visiting on the beach?

25 A Yes, sir.

1 Q Did you have a good time when you'd come visit your mama
2 and Tim?

3 A Yes, sir.

4 Q child do you remember like 2006 and 2007 and most of
5 2008 you all would come here, you and sister would come here
6 regularly; wouldn't you, I mean, like all the time?

7 A Come where, sir?

8 Q That's good, thank you. Come, come here to the beach
9 where we are, Myrtle Beach? We're in Conway right here, but I
10 mean you would go to visit your mom on the weekend and it
11 would be down - you all lived, in fact, she lived at the
12 beach, down at Myrtle Beach; right?

13 A Yes, sir.

14 Q And you all would get to go play on the beach?

15 A Yes, sir.

16 Q And play with your dogs?

17 A Yes, sir.

18 Q Chelsea?

19 A Yes, sir.

20 Q What was the other one's name?

21 A I think it was Champ.

22 Q Champ, those were labs?

23 A Yes, sir.

24 Q And you all would go swimming at Compass pool?

25 A Yes, sir.

- 1 Q It was a lot of fun; wasn't it?
- 2 A Yes, sir.
- 3 Q Did you get to spend any long or weeks down here during
- 4 the summer, child
- 5 A No, sir.
- 6 Q It was just weekends most of the time?
- 7 A Yes, sir.
- 8 Q Did you really like it more in the summer than in the
- 9 winter?
- 10 A Yes, sir.
- 11 Q Why is that?
- 12 A Because we got to go to the pool.
- 13 Q And do other - what other fun things would you do when
- 14 you were here?
- 15 A We would go to the park and we, we would ride our
- 16 bicycles.
- 17 Q And you'd ride them with Sidney sometimes?
- 18 A Yes, sir.
- 19 Q That's, she was your friend?
- 20 A I think she was our cousin. I'm not sure.
- 21 Q Your cousin, okay.
- 22 What, what are some other fun things you all did when you
- 23 were down here?
- 24 A I think that's all.
- 25 Q Well, wouldn't it - it'd be fun - would it be fun to live

- 1 in Myrtle Beach?
- 2 A Well, I like it at Tabor City, too.
- 3 Q I'm sorry. I didn't hear you.
- 4 A I like it at Tabor City, too.
- 5 Q You like it in both places; right? Because you like
- 6 being with your daddy and you like being with your mama; don't
- 7 you?
- 8 A Well, I don't like being with my mama now.
- 9 Q Why?
- 10 A Because she did something bad to me.
- 11 Q Well, I'm sorry she did something bad to you, but wasn't
- 12 she just trying to put some medicine on you though?
- 13 A Yes, sir.
- 14 Q She was? I'm sorry you're crying, but do you think your
- 15 mama was really trying to hurt you really? She wasn't trying
- 16 to hurt you; was she?
- 17 A I'm not sure.
- 18 Q You can wipe your eyes with that if you want to. You've
- 19 been through a lot, haven't you, child
- 20 A Yes, sir.
- 21 Q You - I'm not trying to be mean to you. I've got a
- 22 little girl - I had a - I raised a little girl, too. Her
- 23 name's [REDACTED]. I've got two and I know how much they love
- 24 their mama, but see what I don't understand, child is why
- 25 would you believe that mama was trying to hurt you when she

1 was putting medicine on you?

2 A Because I don't think it was supposed to go there.

3 Q You were - were you having a little bit of problems?

4 A I don't know.

5 Q Was it - you had some problems down there at times
6 though, you told Ms. Nordeen that? Remember?

7 A No, sir.

8 Q Okay, well, when your mama did these things you said it
9 would happen in your room?

10 A Yes, sir.

11 Q Did you ever tell Ms. Searce that it happened in your
12 mama's room?

13 A I don't remember.

14 Q When you told your step-mom about your mama treating you
15 with medicine you told your step-mom it was with - your mama
16 used her knuckles; right?

17 A Yes, sir.

18 Q But earlier you never did say anything about Tim using
19 his knuckle? He didn't use his knuckle; did he?

20 A No, sir.

21 Q But you know you told Ms. Searce he did it - he, he -
22 that he did it with his knuckle?

23 A I don't remember it.

24 Q So, mom did it in mom's room with her knuckle and Tim did
25 it in mom's room? That's what you're saying?

1 A No, my mama did it in my room with her knuckles and Tim
2 did it in his room with his fingers.

3 Q And you said it was watching cartoons?

4 A Yes, sir.

5 Q And, and this, this is a tiny little house you all live
6 in that you just looked at. It was a little tiny house;
7 wasn't it?

8 A Yes, sir, it wasn't that big.

9 Q And when - one time when you said this, when you said
10 this supposedly happened it was one morning and you were
11 saying it in Tim's room watching cartoons and your mama was
12 right out in the den on a sofa?

13 A Yes, sir, I think so.

14 Q That's what you said and that sister was in sister
15 room.

16 A Yes, sir.

17 Q Did your mama and Tim fuss in front of you all at times?

18 A Not in front of us.

19 Q They never did fuss in front of you; did they? Well, how
20 about would Chad and your mom fuss? Would your daddy and mama
21 fuss?

22 A My real mama?

23 Q Did Chad and your mama, would they fuss?

24 A I can't remember.

25 Q In Tabor City you live with, with Chad, your step-mama,

- 1 your sister, sister and your three step - you got two, what
2 have you got two stepbrothers and one stepsister?
- 3 A I got one stepbrother, one stepsister and one half sister
4 and one other sister.
- 5 Q Okay, well, would your daddy ever spank you?
- 6 A Yes, sir.
- 7 Q Sir - ma'am?
- 8 A Yes, sir.
- 9 Q And how would he spank you?
- 10 A With his belt.
- 11 Q Where would he spank you?
- 12 A In my bedroom.
- 13 Q What part of your body?
- 14 A My butt.
- 15 Q It would leave marks?
- 16 A It would be red.
- 17 Q Where he'd spanked you with a belt?
- 18 A Yes, sir.
- 19 Q How about your step-mom, does she ever spank you?
- 20 A No, sir.
- 21 Q She never has spanked you?
- 22 A Not, not that I can remember.
- 23 Q And child you both times you said something happened to
24 you you told your step-mom; right? Both times something - you
25 - both times something happened to you you told your step-mom?

1 A I'm, I'm not sure, but I think I told her on Tim and I
2 don't know if I told her on my mama.

3 Q Okay, so, you think you told, you think you told her on
4 Tim?

5 A I know I told her on Tim.

6 Q Just aren't sure about your mama?

7 A I'm not sure about my mama.

8 Q Well, because - well, who do you think you told about
9 your mama?

10 A I think I told my step-mom.

11 Q Jennifer?

12 A Yes, sir.

13 Q And that's the same one you told on about Tim, too?

14 A Yes, sir.

15 Q You know we were talking the other day and you would say
16 that you would lie to the teacher and tell her your stomach
17 hurt?

18 A Yes, sir.

19 Q And when did you stop lying to her?

20 A In, in third grade.

21 Q In the third grade, in the third grade, now, let me see
22 you were born when?

23 A June 16th, 2001.

24 Q Okay, and do you remember what, what year were you in the
25 third grade?

- 1 A 2009 through 2010.
- 2 Q Okay, and you stopped lying then?
- 3 A Yes, sir.
- 4 Q Okay, and now, you heard - have you ever heard anybody
- 5 say that what your mama did to you is bad as well as Tim?
- 6 A I don't think I've heard that it was bad as well as Tim
- 7 but I heard they were both bad.
- 8 Q You did? You heard they were both bad?
- 9 A Yes, sir.
- 10 Q If you told Ms. Searce that Tim did something to you
- 11 with his knuckles that would be a lie; wouldn't it?
- 12 A Yes, sir.
- 13 Q And you have talked to Jennifer about all of this?
- 14 A Yes, sir.
- 15 Q And you've talked to people in North Carolina about all
- 16 this, North Carolina DSS?
- 17 A I think so.
- 18 Q And you talked to your - well, you talked to your daddy
- 19 about this?
- 20 A Yes, sir.
- 21 Q And you talked to sister about this?
- 22 A No, sir.
- 23 Q You just talked to your daddy and talked to Jennifer
- 24 about what happened?
- 25 A I think I talked a little bit with Ms. Searce. I'm not

1 sure.

2 Q And with Ms. Searce?

3 A Yes, sir.

4 Q And you've been to - you've been to North Carolina,
5 talked to a lady there and had an exam there, you came down
6 here later on and talked to a lady here and had an exam here;
7 right?

8 A I think so.

9 Q But everything's fine with you, though. You're okay;
10 right?

11 A Yes, sir.

12 Q Because you get checkups regularly? Does there - was
13 there much conflict, child between you - between your daddy
14 and your mama over you two children? Did they fuss a lot over
15 you all?

16 A My real mom?

17 Q Your - yes, yes, ma'am, your real, yeah, Nicole and Chad,
18 they fussed a lot over you all; didn't they?

19 A I think so.

20 Q Because your mama really wanted you to come live with
21 her; didn't she?

22 A Yes, sir.

23 Q And you told Ms. Searce that; right?

24 A Yeah, I think so.

25 Q Well, how did you feel when you found out that your mama

1 tried to bring you a birthday card that time in December?

2 Remember that in '08?

3 A Yes, sir.

4 Q How did you feel about that?

5 A I felt like she loved me.

6 Q I know, and she wouldn't, she wouldn't have come there to
7 harm you; would she?

8 A I don't think so.

9 Q Why would you even hesitate to think that your mama would
10 hurt you? What, what's made you believe that now, child

11 A Because she did something bad to me.

12 Q Well, who, well, who's made you think that, child Who
13 made you think that your mama did something bad to you?

14 You've got to tell us. Don't, don't, don't say anything
15 that's not true about them. You've got to tell us the truth.

16 Your mama wouldn't do anything bad to you by taking a card to
17 the school. Are you, are you scared, child Are you afraid
18 of anything?

19 A No, sir.

20 Q Huh?

21 A No, sir.

22 Q No or yes?

23 A No, sir.

24 Q Don't you want to see your mama?

25 A No.

1 Q When you would get punished by your daddy you said it
2 would leave marks on you?

3 A Yes, a red mark.

4 Q But your mama, but Jennifer has never spanked you and put
5 any red marks on you?

6 A She has.

7 Q Are you changing your mind?

8 A Well, she has but I thought - earlier I thought you were
9 talking about my real mom.

10 Q Okay, I'm sorry. Your real mom never whipped you; did
11 she?

12 A No, sir.

13 Q Okay, well, I'm just going to ask you a few more
14 questions and then we'll go; okay?

15 A Yes, sir.

16 THE COURT: Can you hear?

17 JUROR: I don't understand when she's saying no,
18 sir, or yes, sir. I can't differentiate between the two.

19 THE COURT: All right, if you could please get the
20 witness to speak up clearly and into the microphone. The jury
21 is having trouble interpreting what she is saying or
22 understanding what she's saying.

23 Q Yeah, child you've got to just kind of speak into that
24 little black knob right there; okay?

25 A Yes, sir.

1 Q Did your mama want you and child I mean, sister to come
2 live with you all?

3 A Yes, sir.

4 Q At Myrtle Beach?

5 A Yes, sir.

6 Q And that you talked with your daddy and Jennifer about
7 that?

8 A I think so. I'm not sure.

9 Q What made you worry about your father's safety like when
10 you would talk to Ms. Searce? Why were you worried about his
11 safety?

12 A Because I thought my, my real mama and my daddy didn't
13 like each other.

14 Q Didn't love each other?

15 A Yes, sir.

16 Q And you thought that one of them might hurt the other
17 because of that?

18 A Yes, sir.

19 Q But you all never really had any problems when you were
20 at your mama's house at Myrtle Beach as long as she just
21 didn't say any bad things about your daddy; right?

22 A The only bad thing she done to me is what she did.

23 Q You're talking about putting medicine on you?

24 A Yes, sir.

25 Q Both you and, both you and child I mean, sorry, both you

1 and sister your older sister, sister both of you all started
2 seeing Ms. Searce?

3 A I thought it was just me at first and then went about a
4 few times that the whole family went, then sometimes we'd both
5 see her, yeah, I think we both saw her.

6 Q You all were like both paid clients of hers they'd
7 sometimes say? You all both went to her together, right,
8 because sister was having some problems, too?

9 A I think so.

10 Q Okay, I appreciate you talking with me and I'm not going
11 to ask you any more question; okay? That's all I have, child
12 Thank you.

13 THE COURT: Anything on redirect?

14 MS. LIVELY: No, Your Honor.

15 THE COURT: All right, the witness can step down.

16 MS. LIVELY: Thank you.

17 THE COURT: All right, can we raise the screen? All
18 right, I think we're going to go ahead and break for lunch.
19 Do we want to wait for the other attorneys to come back in or
20 can we go ahead and ---

21 MR. CANNARELLA: I think we can go ahead and break,
22 Your Honor.

23 THE COURT: Okay, all right, ladies and gentlemen,
24 we're going to go ahead and break for lunch. We've ordered
25 lunch for you. So, you have lunch back there waiting for you.

1 have anyone else's. Also, if you have any cell phones or
2 pager devices or anything of that nature if you would please
3 make sure they're turned off.

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

5 MS. LIVELY: Yes, Your Honor, thank you. The State
6 would call Denise Searce to the stand.

7 THE COURT: All right.

8 Whereupon, Denise Searce was called to the stand, duly
9 sworn by the clerk and testified as follows:

10 THE CLERK: State your full name and spell your last
11 name.

12 MS. SCEARCE: My name is Denise Searce. It is spelled
13 S-C-E-A-R-C-E.

14 THE COURT: All right, Ms. Lively.

15 MS. LIVELY: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. LIVELY:

18 Q Ms. Searce, where are you currently employed?

19 A I'm in private practice in Wilmington, North Carolina.

20 Q Okay, and what is the name of your practice?

21 A It's Coastal Care Counseling and my address is 7032
22 Wrightsville Avenue, Wilmington, North Carolina.

23 Q And how long have you had that business?

24 A I've been there seven years.

25 Q Okay, how long have you been in the business of

1 counseling?

2 A I have almost 18 years postgraduate experience, 17 1/2.

3 Q Okay, would you please provide myself, Your Honor and
4 the jury the benefit of what your educational background is?

5 A Yes, I have a bachelor of science degree from the
6 University of Maine at Presque Isle and I have a Masters of
7 social work from Grambling State University. I have 18, 17
8 1/2 years postgraduate experience and I'm licensed in the
9 State of North Carolina to practice mental health services for
10 children and families.

11 Q Have you ever testified in court before?

12 A I have.

13 Q About how many times?

14 A I've primarily testified in over 75 custody cases and
15 this is my second criminal case.

16 Q Okay, and what type of work do you normally do or what
17 type of counseling do you normally do?

18 A I primarily work with families and children. I have
19 worked with children who have been sexually abused and my
20 expertise is also working with high conflict families. I'm
21 also a trained parent coordinator for the State of North
22 Carolina where I have had 11 cases to date of being court
23 appointed as a parent coordinator.

24 Q Okay, and what is a parent coordinator?

25 A A parent coordinator is a person who is either a mental

1 health professional or an attorney who works with high
2 conflict families in situations where it may be emotionally
3 abusive for children or traumatizing. My job is to help
4 decrease the conflict and help the parents to co-parent so it
5 decreases the conflict.

6 Q Okay, and in your profession do you actually keep up
7 with the literature and peer review articles that come out
8 regarding different issues in the area of child sexual abuse,
9 child abuse and high conflict family court cases?

10 A I do.

11 Q Okay, do you do any type of continuing education in
12 regards to your particular area of counseling or expertise?

13 A I do.

14 Q Okay, and tell the jury what that is.

15 A I'm required with my license to have 40 hours of
16 continued education. So, every other year my license is
17 renewable. I'm also required to work with children who are
18 sexually abused to have at least ten hours of continuing
19 education per year.

20 Q Okay, and is your license current with the State of
21 North Carolina?

22 A It is.

23 Q And also, have you continued and kept up-to-date your
24 hours that you've just mentioned that are required with your
25 license?

1 A Yes.

2 Q And does that include the child sexual abuse training?

3 A Yes.

4 Q Now, are you affiliated with any professional
5 organizations or involved in any professional organizations in
6 your particular area of expertise?

7 A I am. I'm a member of the National Association of
8 Social Workers. I'm also a member of the AFCC which is the
9 American Affiliation for Courts that I work with with high
10 conflict families.

11 Q Okay, and once again, you said that you've actually been
12 qualified or have - you said you testify in court. Have you
13 been qualified as an expert in court before?

14 A Yes.

15 Q Okay, and what areas of expertise have you been
16 qualified in?

17 A Mental health issues for children, child sexual abuse
18 and high conflict families.

19 Q Okay.

20 MS. LIVELY: Your Honor, at this time the State would
21 offer Ms. Denise Searce as an expert in child sexual abuse
22 counseling and treatment.

23 THE COURT: All right, any challenges or questions?

24 MR. CANNARELLA: Questions, questions, Your Honor.

25 THE COURT: All right.

1 EXAMINATION (RE: QUALIFICATIONS)

2 BY MR. CANNARELLA:

3 Q Mrs. Searce, a psychotherapist is a person who treats
4 mental disorders through talk?

5 A Yes.

6 Q Okay, and you don't diagnose a mental disorder because
7 you're not a psychiatrist.

8 A I can make a diagnosis with my license.

9 Q Okay, are you a member of the National Organization of
10 Forensic Social Work?

11 A I am not.

12 Q What does forensic mean?

13 A It's more of scientific nature of working more
14 exclusively with cases that need more evaluation. I do,
15 however, have training as a mental health evaluator for the
16 State of North Carolina through the University of North
17 Carolina in Chapel Hill where I have done child mental health
18 evaluations for children who've been abused.

19 Q Okay, would you disagree with me if I said forensic
20 means for the court?

21 A No, I would not disagree with you.

22 Q Are you a member of the Academy of Certified Social
23 Workers?

24 A It is the same as NESW.

25 Q Okay, how about the National Association of Social

- 1 Workers, you're a member of that?
- 2 A Yes.
- 3 Q American Board of Medical Psychotherapists?
- 4 A I am not a member of that.
- 5 Q American Academy of Forensic Science?
- 6 A No.
- 7 Q You're not a psychiatrist?
- 8 A No.
- 9 Q You're not a psychologist?
- 10 A No.
- 11 Q You've never administered any tests, you don't
- 12 administer tests; do you?
- 13 A No.
- 14 Q So, you're not trained to administer tests?
- 15 A No.
- 16 Q Nor interpret those results?
- 17 A No.
- 18 Q Have you reviewed the medical records of child
- 19 A I'm sorry, would you repeat the question?
- 20 Q Have you reviewed the medical records of child
- 21 [REDACTED] ?
- 22 A No.
- 23 Q Have you reviewed the school records of child
- 24 [REDACTED] ?
- 25 A No.

1 Q Did you ever interview child mom, Nicole?

2 A No.

3 Q Did you ever do a formal evaluation of the family
4 situation to determine the effects of the dynamics of that
5 family on child

6 A I did not do an evaluation. There is a difference
7 because I was engaged first as a therapist. So, an evaluation
8 is different than engaging in psychotherapy.

9 Q So, your answer is no. You never did a formal
10 evaluation of the family?

11 A I did an initial assessment when I first met them if
12 that answers the question.

13 Q You talked with Chad Turbeville?

14 A Yes.

15 MS. LIVELY: Your Honor, I'm going to object. This is
16 outside of the voir dire for her expertise. I can't - I mean,
17 that's absolutely appropriate on cross-examination but I don't
18 see how that goes to her qualifications.

19 THE COURT: Well, I'm trying to find - I need further
20 clarification as to the extent of her expertise. What does
21 her expertise entail or qualify her to do? That's what I'm
22 not sure of.

23 MS. LIVELY: Sure.

24 THE COURT: All right, if you ---

25 MS. LIVELY: So, you ---

1 MR. CANNARELLA: I'm through, Judge. I don't.

2 THE COURT: All right, let's get some further
3 clarification as far as what she is qualified to render an
4 opinion.

5 DIRECT EXAMINATION (CONTINUED)

6 BY MS. LIVELY:

7 Q Okay, now, Ms. Searce, in regards to you being a
8 licensed in the State of North Carolina what does that
9 actually allow you to do in regards to your therapy?

10 A I'm allowed to make assessments, to make diagnosis. I
11 am allowed to ---

12 Q Could you expand, an assessment or diagnosis of what
13 because, I mean, I know you understand what that means but we
14 need to understand what that means.

15 A Right, an assessment would really be conducting like a
16 psychosocial assessment of the whole family dynamics,
17 interviewing the parents, the child, understanding what
18 conflicts there may be, school issues, taking a whole
19 psychosocial assessment of the entire situation or problem. I
20 can also make diagnoses according to the DSM-IV which is a
21 diagnostic manual. I can make referrals for either
22 psychological evaluations or psychiatric or - yeah,
23 psychiatric evaluations which would be to a medical doctor. I
24 can conduct treatment such as to do with cognitive
25 behavioral therapy, supportive using supportive approaches for

1 families, educating and any other, you know, like family
2 therapy type of techniques that would help the family reduce
3 its issues.

4 Q Okay, and once again, how long have you been focused on
5 those areas, for how many years?

6 A At least 17 years.

7 Q And so, you - what you do is involved in the counseling
8 and treatment but you don't actually treat in regards to what
9 a psychiatrist would do.

10 A No.

11 Q Can you write prescriptions?

12 A No.

13 Q All right, can you make referrals, though, to a
14 psychiatrist based on your assessments of a child's needs?

15 A Yes.

16 Q And have you done so?

17 A Yes.

18 Q Okay, and whenever you make these type of referrals is
19 that something that you're expected to do in your line of
20 work?

21 A Yes.

22 Q Okay, all right, and also based upon your - you said
23 that you can make diagnoses based upon the DSM-IV. Whenever
24 you can make these type of diagnoses is that information then
25 relayed to the necessary parties if follow-up is necessary for

1 a child?

2 A Yes.

3 Q Okay, all right, and you do that as well?

4 A Yes.

5 Q Okay, so, is the focus then the counseling of the child
6 and then the subsequent conclusion or treatment that you
7 actually deem appropriate in a particular situation?

8 A Yes.

9 Q Okay, and once again have you read and kept up with peer
10 review and literature in regards to the specific type of
11 counseling, family counseling in child sexual abuse and abuse
12 in the field?

13 A Yes.

14 Q And are you up-to-date with all the like give us an
15 example of what the most recent literature is that's out there
16 that deals with these type of issues.

17 A Well, right now just reading books on child sexual
18 abuse, reading articles mainly from some of the top experts
19 such as Dr. Thomas Lyons and Dr. Michael Lamb. I have contact
20 very often with my colleagues in Chapel Hill who are also
21 experts in the realm of child sexual abuse which is Mark
22 Everson, Nancy Berson and I attend as many of the conferences
23 that deal primarily with child sexual abuse, which they offer
24 at least one conference per year that I will attend.

25 Q And is what your training and what follow-ups you do

1 standard for someone who's trying to keep their license and
2 continue counseling in the State of North Carolina?

3 A Yes.

4 Q Okay.

5 MS. LIVELY: Your Honor, once again the State would
6 offer Ms. Searce as an expert in child abuse counseling and
7 treatment.

8 THE COURT: All right.

9 EXAMINATION

10 BY THE COURT:

11 Q Excuse me, now, Ms. Searce, you say you can make
12 diagnoses, diagnoses of what?

13 A Mental health, a situation such as depression,
14 posttraumatic stress disorder, ADHD, you know, attention
15 deficit disorder with hyperactivity, adjustment disorders
16 either with anxiety or anxiety disorders, and usually based on
17 just the assessments of working with children I can make the
18 referral to an M.D. psychiatrist who could then prescribe
19 medication.

20 THE COURT: All right, any follow-up questions to my
21 question?

22 MS. LIVELY: No, Your Honor.

23 THE COURT: Any further questioning from the Defense?

24 MR. CANNARELLA: No, Your Honor.

25 THE COURT: All right, I find this witness to be an

1 expert in the field of child sexual abuse counseling and
2 treatment.

3 Ladies and gentlemen of the jury, ordinarily a person can
4 only testify as to what they personally know, in other words
5 what they saw, what they tasted, what they felt, what they
6 smelled, things of that nature. There is an exception and
7 I'll give you some further instructions later on this but
8 there is an exception for witnesses we call expert witnesses,
9 a person who by training or experience or education is
10 qualified as an expert in some field, whether it be a science,
11 an art, a profession or whatever, they may be qualified as an
12 expert which means that they are allowed to render an opinion
13 in the field for which they are qualified as an expert and
14 that's the only distinction between an expert witness and a
15 lay witness is that an expert witness is allowed to render an
16 opinion in addition to what they personally know. All right,
17 Ms. Lively.

18 MS. LIVELY: Thank you, Your Honor.

19 DIRECT EXAMINATION (CONTINUED)

20 BY MS. LIVELY:

21 Q Now, Ms. Searce, when did you first come into contact
22 with the Turbeville family?

23 A I met them on August 18th, 2008, where they were
24 referred to me I believe from the Carousel Center in North
25 Carolina in Wilmington for me to work with both of their

1 children, child and sister

2 Q Okay, and whenever someone is referred to you and you
3 meet with them for the first time just give us an example of
4 what exactly it is that you're looking for to know what to
5 focus on.

6 A Well, the first question I would ask the parents is what
7 is the concern that they would have for the children that they
8 would bring them to me. In this case there was some concerns
9 about behaviors that were associated with child being very
10 anxious. There was some issues, the school had presented some
11 issues that they would find her balled up in a fetal like
12 position. She would have frequent angry outbursts and just
13 very anxious. So, those were the presenting problems.

14 Q Okay, and were any problems presented to you regarding
15 sister

16 A There were some issues about sister but they were, they
17 were minor. They were just some behavior issues that the
18 parents, well, Mr. Turbeville and his wife were presenting
19 usually when the children would return from their mother's
20 home in Myrtle Beach after a visit.

21 Q Okay, now, were you ever specifically told what concerns
22 or what Mr. Turbeville believed may or may not be happening at
23 the home of Nicole and Timothy Young?

24 A Would you repeat that question, please?

25 Q Sure, and I understand. You said that you got an

1 assessment, an initial assessment to find out what the focus
2 needed to be; is that correct?

3 A Yes.

4 Q Okay, and you just now mentioned in your testimony that
5 the behaviors were actually relayed to you as occurring
6 sometimes after they had come back from a visitation in Myrtle
7 Beach; is that fair to say or ---

8 A Yes.

9 Q Okay, now, along with that, was any other information
10 given to you at that initial assessment by Mr. Turbeville of
11 any specific issues or conduct that may be going on in the
12 home in Myrtle Beach?

13 A No.

14 Q At any time during the entire time that you were
15 counseling child and sister when, if ever, did Mr. Turbeville
16 mention the words abuse?

17 A I don't believe he ever mentioned the word abuse.

18 Q If he had would you have looked into that?

19 A Yes.

20 Q Did he ever mention anything about sexual contact
21 between the daughters and anybody at all in the Myrtle Beach
22 home before the disclosure made by child

23 A No.

24 Q How about Jennifer Turbeville, did she ever mention
25 anything about any sexual contact or anything inappropriate

1 from the Myrtle Beach home?

2 A No.

3 Q Please tell this jury when you first became aware and
4 how you first became aware of anything of that nature
5 occurring in the Myrtle Beach home.

6 A On November, on November 6th I had a session with child
7 where prior to them coming child had reported to her
8 stepmother regarding her biological mother with inappropriate
9 type of behaviors where she was walking around the house
10 naked, which made - child said she felt uncomfortable. The
11 other part to that was that child had stated her mother would
12 usually pick her up after a bath, lay her on the bed and put
13 Neosporin on her vagina, her private parts. That is when I
14 did not know if this was just inappropriate boundaries and I
15 knew that I had to make a child protective service report to
16 Columbus County Department of Social Services, which I did.

17 Q Okay, and you said that was on November 6th of 2008?

18 A Eight.

19 Q Okay, now, Ms. Searce, what is meant by a mandated
20 reporter?

21 A It means that I am bound, duty-bound to make a report if
22 there's any suspicion of abuse or neglect and for the process
23 to start for investigative purposes.

24 Q Why did you have an opinion that the event that took
25 place between sister not sister I'm sorry, child and her

1 biological mother was kind of crossed the line?

2 A My thought was that it either, either this was a mother
3 that had - just had poor boundaries. I was not certain at
4 that point whether it might be abuse. I thought it could be,
5 but I felt that the Department of Social Services needed to
6 investigate that in order to rule that out. There was a
7 concern because during that time child behaviors were -
8 there was many concerns about her behaviors. During that time
9 she was having nightmares about someone coming to her home,
10 kidnapping her and hurting her family. More particularly she
11 seemed very focused on her father and stepmother that they
12 would be hurt. So, there was concerns about her behaviors and
13 how she was reacting to some of those things.

14 Q Okay, and whenever this information was being relayed to
15 you about the nightmares who was telling you about that? Was
16 it child herself or was it her step-mom and father?

17 A It was both parties were telling me that.

18 Q Okay, all right, and would you talk to child about that
19 during your counseling sessions?

20 A Yes.

21 Q And in your expert opinion what was her reactions to
22 discussing these things? What type of emotional responses
23 would she give you?

24 A She was very much in distress and there was a lot of
25 anxiety. There was some acting out. It seemed she was more

1 anxious than she was angry, but there was a concern that she
2 was having trouble sleeping, she was already looking like a
3 child who was becoming sick. When she would come to my office
4 I would see that she had dark circles under her eyes, and when
5 I asked her how she was sleeping at night she said, "I'm not
6 sleeping at all," and that's when I made a referral as well to
7 a psychiatrist to assess her for depression.

8 Q Okay, and was that done?

9 A Yes.

10 Q And what was the result of that assessment from the
11 psychiatrist? Were you notified?

12 A Yes. I referred child to Dr. Frank Stevens who was
13 practicing in Wilmington. He is now retired but he diagnosed
14 her with posttraumatic stress disorder and prescribed Prozac
15 for her.

16 Q And are you aware of whether or not child actually was
17 taking the Prozac?

18 A Yes, she was.

19 Q And did you have the opportunity in your capacity as her
20 counselor to observe her both before she began taking the
21 Prozac and after?

22 A I did.

23 Q And how did she progress?

24 A She made improvements. She was already beginning to
25 look healthier and her emotions were becoming more stabilized.

1 Q Okay, do you have the exact timeline for - I know you
2 said that they came in August the 18th of '08. How long did
3 you actually treat and counsel child

4 A I saw child from August 18th, 2008, and my last visit
5 with her was August 4th, 2010.

6 Q August 4, 2010, okay.

7 A Yes.

8 Q And whenever you were counseling child did you actually
9 get to the point where you made a diagnosis yourself as a
10 therapist in regards to what her mental condition was?

11 A Yes. I felt that - I initially I gave her a diagnosis
12 of an adjustment disorder with anxious mood. As time
13 progressed and since Dr. Stevens diagnosed her with
14 posttraumatic stress disorder I had, you know, changed that
15 diagnosis to that.

16 Q And in your expert opinion what is her diagnosis?

17 A Presently?

18 Q Yes.

19 A I would say that it is - it's - her symptoms have
20 subsided. So, I would go back to an adjustment disorder with
21 depressed mood.

22 Q Okay, and so, these things, and let me see if I
23 understand. In your line of work these things are obviously
24 changing at all times, a person's diagnoses, is that a fair
25 assessment?

1 A Yes.

2 Q Okay, all right, is that the purpose of your counseling
3 of the child and/or families?

4 A Yes.

5 Q All right, well, let me get back to, let me get back to
6 whenever child actually disclosed about her mother. You said
7 that you reported it to DSS. Did you have any other
8 involvement in that particular disclosure and its
9 investigation?

10 A The social worker from Columbus County Department of
11 Social Services had called me and was making the appropriate
12 referrals. Usually after there is a disclosure they will
13 schedule a child medical examination which I believe child had
14 one on November 25th, 2008, at the Carousel Center.

15 Q Okay, at that point in time had you been given any
16 reason from child to be concerned about any additional
17 inappropriate contact in the home in Myrtle Beach?

18 A Would you repeat that question?

19 Q Sure, in November you stated that child disclosed about
20 her mother and you've already told us what it was that was
21 disclosed at that time. When all that came out, having
22 contact with child like you did as her counselor, did you get
23 any indication that another person in the home or anyone else
24 had done anything inappropriate to her at that time?

25 A Not at that time. When the Department of Social

1 Services became involved with the investigation the visits
2 with her mother had stopped until they could complete the
3 investigation. During that time child her - it seemed to be
4 - she seemed to be improving. So, things were going fairly
5 well until, you know, January.

6 Q All right, well, wasn't there a problem in December, an
7 event where Nicole attempted to get in contact with the
8 children?

9 A Yes, there was a situation where the biological mother
10 had gone to child school to take some correspondence to her
11 and apparently it was after that that child became very upset.
12 She was very much in distress over this where she talked about
13 in a session that she was - she just felt afraid. She just
14 wasn't sure what to expect, you know, about her mother's
15 visit. It was unexpected and she became very upset.

16 Q And remind us, how old was child at this time when you
17 were treating her?

18 A Seven, seven years old.

19 Q Seven years old, did she appear to be competent and
20 understand what it was that was going on?

21 A Yes.

22 Q Okay, in your opinion as an expert in dealing with
23 children was she on her developmental level?

24 A Yes.

25 Q Okay, all right, and you know what I mean, I'm talking

1 not only educational but just emotional and mentally?

2 A She seemed very mature. I won't say mature for her age,
3 but she seemed articulate. She gave, you know, just details
4 to explaining things, and usually when she was asked a
5 question she responded, it just - she gave enough detail to
6 whatever the response was, which I felt was very appropriate
7 for a seven year old.

8 Q Okay, all right; now, whenever the event occurred in
9 December of '08 where the mother attempted to have contact
10 with the children did you do anything in response to that in
11 regards to the school?

12 A I did. I wrote a letter to the school because
13 apparently the school became upset with step-mom, and I'm
14 trying to find that letter. Hang on just a moment, but in
15 that - in there Mrs. Turbeville, child stepmother, became
16 very concerned and upset that biological mom had taken
17 correspondence to the school and tried to deliver it to child
18 and sister and apparently the school either allowed the
19 contact but it was afterwards that child became very upset
20 about the interaction and it seemed to me that her anxiety
21 increased. In fact, I would even say that child behaviors
22 actually regressed. She was acting out at home. She was
23 having increased nightmares. Her behaviors seemed to be odd
24 where she would get up in the middle of the night and this is
25 all reported from the parents, she would talk about, you know,

1 people coming to get her and kidnapping her and hurting her
2 father and stepmother, and it seemed that the family was very
3 upset and trying to figure out what they could do to help her.

4 Q And did child ever relay to you whether or not she -
5 when she got that correspondence whether or not she missed or
6 wanted to see her mom?

7 A No, she didn't - she did not indicate that. In fact,
8 let me see, she had told me that she just was afraid to see
9 her mom.

10 Q Okay, now, after you did - well, what was the date of
11 that letter that you had done for the school?

12 A Actually I did it in January, on January 26th.

13 Q Okay, all right, well, let me back up for a minute, you
14 said that you were continuing to counsel child Were you ever
15 subpoenaed or asked to go to court for a hearing January 13th
16 of 2009 that you recall?

17 A Was it January 13th? I was - I did go to court but I did
18 not testify at all in that situation.

19 Q Okay, so, no testimony from you was taken? Is that a
20 yes?

21 A Yes.

22 Q Okay, all right, just wanted to make sure, and at that
23 time was that involving the DSS case?

24 A I believe it was.

25 Q And at that time had any disclosure been made about the

1 Defendant Timothy Young?

2 A That was - that was made January 16th, 2009.

3 Q That's when you learned of it; correct?

4 A Yes.

5 Q Okay, all right, are you aware of whenever child actually
6 disclosed it to Jenny Turbeville; do you have those records?

7 A I don't have the exact date that she disclosed that to
8 her stepmother. I saw child almost, soon after that on
9 January 16th, 2009.

10 Q And the purpose of her coming to you at that time was for
11 what?

12 A To actually tell me what she had told her stepmother.

13 Q And that would be Jenny Turbeville, the stepmother?

14 A Yes.

15 Q Okay, all right, now, and did you talk to child about
16 what she had told Jenny Turbeville?

17 A I did.

18 Q And did she disclose to you what she - well, you knew a
19 little bit about what she had told Jenny; correct?

20 A Yes.

21 Q All right, when you talked to child did she disclose
22 information to you regarding what she had told Jenny?

23 A Yes.

24 Q Now, you can't tell me exactly what she disclosed. She's
25 already testified, but based upon what she told you during

1 that meeting on January the 16th, 2009, what did you do in
2 regards to mandated reporting, etcetera?

3 A I did. I wrote a report immediately and sent it to the
4 Department of Social Services in Columbus County where the
5 social worker took care of that situation. In addition to
6 that I believe it was sent to law enforcement here in Horry
7 County.

8 Q And did anything that you did to your knowledge have
9 anything to do with whether or not law enforcement was
10 involved with either Nicole Young or Timothy Young?

11 A I'm sorry I don't ---

12 Q Okay, is anything that you did, in regards to when these
13 cases were investigated, was any of that information, did you
14 push it through law enforcement or through the Department of
15 Social Services?

16 A I actually sent it to the Department of Social Services.

17 Q Okay.

18 A Which I believe they're the ones that took it to law
19 enforcement.

20 Q Okay, all right, so, so, do you have any knowledge after
21 it went to DSS as to what they did with it from that point
22 forward other than having you possibly be a witness?

23 A No.

24 Q All right, now, Ms. Searce, let me ask you something,
25 did you have concerns whenever you met with child on January

1 the 16th, 2009, about the fact that she had not disclosed this
2 information to you earlier?

3 A I had asked her that question of why she didn't tell me
4 about the second situation when she told me about the first
5 situation with her mother and she said that she needed to tell
6 me one at a time and from her standpoint meaning that she
7 needed to tell about her mother first.

8 Q Did you discuss that with her?

9 A I did, but it was, you know, again, I was making the
10 assessment of how she was reacting to things. She felt that -
11 she just felt - she, she was concerned and did not really give
12 an explanation as to why she told me first about her mother.
13 I have my opinion about why she may have done that, and of
14 course, with the way children at this age anyway will disclose
15 the information, you know, there was a lot of things happening
16 during that time. I do feel that she was in a situation where
17 she felt that she could tell about her mother first because
18 her mother actually had made a threat about the safety of her
19 father and her stepmother and also it was a situation where
20 during that time child didn't have contact with her mother,
21 that the second disclosure I believe she felt safer to talk
22 about that situation.

23 Q Okay, was the disclosure that she gave in November of
24 2008 different from the one that she gave in January of 2009?

25 A Yes.

1 Q Okay, were the details different?

2 A Yes.

3 Q Before January of 2009 had you ever discussed other
4 sexual inappropriate contact that may have been done by her
5 mother, and in other words, let me ask you this because I know
6 that's - I can tell from the look on your face it's confusing.
7 Let me ask it another way. Have you ever performed an actual
8 forensic interview of the child?

9 A No.

10 Q Forensic interview meaning going through details, body
11 parts and anatomical and that kind of thing. Okay, so, here's
12 where my question is, did you whenever you questioned child
13 about what had happened with her mother in November ask her,
14 "Well, did somebody else touch you here with their finger,
15 their mouth, their private part?" Did you go into other type
16 of sexual details with child about any kind of abuse?

17 A Not, not for that one.

18 Q Okay.

19 A I was just mainly getting more of the details about what
20 she was disclosing about her mother.

21 Q Okay, so, your focus was on what she was giving to you?

22 A Yes.

23 Q Did you add anything to it?

24 A Add, how do you mean?

25 Q Add any of those sexual types of behaviors to it?

1 A No.

2 Q Okay, all right, and I'm sorry. I'm just trying to - I
3 wanted to see if you give her any kind of other information
4 regarding sexual contact with another person.

5 A Okay.

6 Q Did you have any concerns from talking with Chad or
7 Jenny that they were worried the child was being exposed to
8 pornography or on the internet when they were in Myrtle Beach?

9 A No.

10 Q Okay, did you have any type of information that maybe
11 child and sister had been exposed to any type of sexual
12 conduct by Timothy and Nicole while they were visiting in
13 Myrtle Beach?

14 A Would you repeat that question, please?

15 Q Had they ever said we think they might've walked in on
16 them having sex?

17 A No.

18 Q Okay, all right, when Chad came to you and hired you in
19 August of 2008 did he tell you he was going to want you to
20 come to court and be an expert witness for a custody action?

21 A No.

22 Q Was there a custody action pending at any time whenever
23 you were caring or counseling these girls?

24 A No.

25 Q Because you're used to that; aren't you?

1 A Yes.

2 Q And does that happen to you often?

3 A Yes, it does.

4 Q Okay, what is meant by a delayed or piecemeal disclosure
5 by a child who is of the age of seven to 10 who's had this
6 type of abuse occur to him or her?

7 A The literature, the research is saying that children -
8 it is not unusual for children of that age to delay any sort
9 of disclosure or even not disclose at all; and when they say
10 piecemeal, sometimes children and it depends on certain
11 situations or factors or just the child itself, children will,
12 you know, disclose sometimes in increments of what they feel
13 they can talk about. Some children may feel that they, if
14 they tell about abuse that no one will believe them or, number
15 two, they start thinking, "Well, if I tell about this
16 situation what will it do to my family? Will I be hurt? Will
17 somebody else be hurt," and so, from that standpoint children
18 sort of test out the waters to see who is going to believe
19 them and what will happen if they tell.

20 Q Okay, and what type of things might affect other than
21 just what you're saying but what about family dynamics? How
22 might that affect the way a child discloses sexual abuse?

23 A It would affect it very much so because many children
24 feel that they are responsible for the abuse. They may also
25 even feel that if they tell they may be taken out of the home,

1 I mean, they can imagine all kinds of things, that it's pretty
2 frightening for them.

3 Q Would you be surprised - well, let me ask you this,
4 whenever a child makes a disclosure, an initial disclosure, in
5 your experience as a counselor in sexual abuse, is that
6 disclosure usually the entire event or events?

7 A No, the research indicates and most people who are
8 involved in working with children who have been sexually
9 abused they're, they're saying that children need more than
10 one interview to actually get all the information that's
11 needed and that children will give reliable, detailed accounts
12 of things but it takes more than one interview.

13 Q And how many counseling sessions did you have with child
14 to build a rapport before she actually does - the disclosure
15 came out about her mother?

16 A I had about five sessions.

17 Q Okay, and how long was it then - I think it happened
18 maybe about a month and a half later that child disclosed
19 about the Defendant. What - how many sessions had you had
20 with her at that time?

21 A Six.

22 Q Okay, you had mentioned that fear and anxiety can really
23 affect a child's, obviously their demeanor and what they feel
24 safe in saying and doing; is that a fair assessment?

25 A Yes.

1 Q Was that the case with [REDACTED]?

2 A Yes.

3 Q And were you surprised as an expert in child abuse
4 therapy and counseling as to how her disclosure took place?

5 A Was I ---

6 Q In regard - as it being a piecemeal disclosure?

7 A Not at all. I believe that children, it's not an
8 unusual situation for her to give it in incremental ways or to
9 delay it or just give bits and pieces of it. That's - it's,
10 it's the norm for children.

11 Q Can you tell the jury what post traumatic stress
12 disorder is?

13 A Yes, it's, it's usually a very reactionary situation.
14 Usually children or even adults who have been exposed to any
15 sort of traumatic event will experience extreme anxiety.
16 They'll have nightmares about events. They may have startled
17 responses. You will see acting out behaviors where sometimes
18 for children they will or they'll sexually act out or they
19 will become aggressive, very angry. Usually these are
20 children that may have trouble sleeping, trouble eating,
21 problems at school, not able to focus or concentrate. So,
22 it's sort of a plethora of symptoms that they have that looks
23 like several different things but if it's related to a trauma
24 we'll see those symptoms.

25 Q And in your expert opinion were her symptoms consistent

1 with what you would normally have to deal with in the
2 treatment for sexual abuse?

3 A Yes.

4 MR. CANNARELLA: I object to that, Your Honor.

5 THE COURT: All right, sustained. The jury should
6 disregard that last answer.

7 Q In regards to let's just say any type of abuse or trauma
8 you said that the child was actually diagnosed by the doctor,
9 what was his name Stevens?

10 A Dr. Frank Stevens.

11 Q Dr. Frank Stevens with posttraumatic stress disorder.

12 A Yes.

13 Q Okay, and in posttraumatic stress disorder is that a
14 symptom or a diagnosis that's consistent with a child who has
15 suffered abuse?

16 A Yes.

17 MR. CANNARELLA: I object to that again, Your Honor.

18 THE COURT: Yeah, I sustain it. That's beyond her
19 expertise.

20 Q In your expertise of child sexual abuse counseling and
21 treatment and your treatment of child were her symptoms and
22 behaviors that you personally observed consistent with a child
23 who had been abused?

24 MR. CANNARELLA: I object again, Your Honor.

25 MS. LIVELY: She's an expert in child sexual abuse

1 counseling and treatment.

2 THE COURT: Treatment but she said she - she never
3 said she could diagnose that. So, I'll sustain, sustain the
4 objection.

5 BY MS. LIVELY:

6 Q What did you diagnose child with?

7 A I originally diagnosed her with an adjustment disorder
8 with anxious mood.

9 Q Okay, and because of the problems that she was having
10 who did you refer her to?

11 A Dr. Frank Stevens.

12 Q Okay, and Dr. Frank Stevens did he provide you with his
13 diagnosis of what he believed child was suffering from?

14 A Yes.

15 Q Did you use his diagnosis which was what?

16 A Posttraumatic stress disorder.

17 Q Posttraumatic stress disorder, did you use his diagnosis
18 and his treatment in forming an opinion in regards to your
19 treatment of the child as to whether or not she was exhibiting
20 behaviors that were consistent with a child who suffers from
21 child sexual abuse?

22 MR. CANNARELLA: Same objection, Your Honor.

23 MS. LIVELY: Under 703, Your Honor, she can use other
24 opinions in ---

25 THE COURT: Yeah, she's relying on someone else's

1 opinion as to her treatment. So, ladies and gentlemen of the
2 jury, let me make this clear, the purpose of this answer is to
3 show how Ms. Searce or why she treated the child the way that
4 she did. It is not a diagnosis as to whether or not there was
5 sexual abuse, but it simply explains why she treated the child
6 in the way she did. All right, go ahead.

7 Q In response, when you received that information and you
8 continued your treatment or the treatment that you continued
9 to give to child and the behaviors that you had personally
10 witnessed and experienced were those consistent with what you
11 normally deal with in child abuse treatment?

12 A Yes.

13 Q Thank you. Now, you said that you stopped your
14 treatment of child in - when was that again?

15 A It was in the - I think the summer, August, around
16 September, or I'm sorry, July or August 2009. There was some
17 issues that the family was concerned about with child
18 behavior that it seemed as if she was becoming a behavior
19 problem and they were having difficulty managing her behaviors
20 and felt that the therapy was intensifying the symptoms, which
21 I agreed with. I felt that it would probably be helpful for
22 her to probably do some things at home that would be helpful,
23 and we developed a behavior modification plan for her to focus
24 on her behaviors but to also put into place incentive so that
25 she could see that she was improving with her behaviors and it

1 was successful, it was working for her.

2 Q Okay, and the last time you saw her in August of 2010
3 was she in your opinion on the right track in regards to her
4 behaviors and her ---

5 A Yes.

6 Q --- her emotional health. I'm sorry, was that your
7 final answer or were you looking at your final report? I
8 apologize.

9 A I'm sorry, I, I believe that was my final answer.

10 Q That is it, okay. I just wanted to make sure. So, there
11 was no - you didn't have any recommendations for follow-ups at
12 that time?

13 A Actually I was, I was following up with the family at
14 that time. They were very consistent with using the behavior
15 plan that we had developed and they would often send me
16 examples of her behavior charts indicating that her behaviors
17 had improved.

18 Q Okay, great. Thank you so much, Ms. Searce. Answer
19 any questions that Mr. Cannarella may have for you.

20 THE COURT: All right, before we start that let me see
21 the attorneys for a second.

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

24 THE COURT: All right, ladies and gentlemen, we're
25 going to go ahead and take a short break. That direct lasted

1 about an hour. So, let's before we get into cross examination
2 we'll take about a ten, 15 minute break, give you an
3 opportunity to get something to drink, stretch your legs,
4 whatever the case may be. Please, if you took notes, have
5 your notepads, leave those here in the jury box. Do not
6 discuss the case even among yourselves at this point in time.
7 We'll bring you back out in just a second. Thank you very
8 much.

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

11 THE COURT: All right, Ms. Searce, we're still in
12 the middle of your testimony. So, please do not discuss your
13 testimony with anyone, whether it be something you've already
14 testified to or something you anticipate testifying to. You
15 can't discuss it with anybody at this point in time. Okay?

16 A Yes, sir.

17 THE COURT: All right, anything from the State before
18 we break?

19 MS. LIVELY: No, Your Honor.

20 THE COURT: Anything from Defense?

21 MR. CANNARELLA: No, Your Honor.

22 THE COURT: All right, let's take about a 10, 15
23 minute break; okay?

24 OFF THE RECORD

25 (On the record.)

1

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

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

6 MS. LIVELY: No, Your Honor.

7 THE COURT: Anything from the Defense?

8 MR. CANNARELLA: No, Your Honor.

9 THE COURT: All right, get us a bailiff to bring the
10 jury back in. Yes, Ms. Searce, if you'd come back up and
11 take the stand, please. You're still under oath.

12 But I mean, they hadn't gotten back yet?

13 OFFICER: No, sir.

14 THE COURT: Okay, all right, well, we can wait another
15 five, five minutes or so. Just let me know when they all get
16 back; okay? All right.

17 OFF THE RECORD

18 (On the record.)

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

21 THE COURT: All right, anything before we bring the
22 jury in?

23 MS. LIVELY: No, sir.

24 THE COURT: Anything from Defense?

25 MR. CANNARELLA: No, Your Honor.

1 THE COURT: Are they ready? All right, let's go
2 ahead and bring them in.

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

5 THE COURT: All right, Mr. Cannarella, you can begin
6 your cross examination.

7 MR. CANNARELLA: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MR. CANNARELLA:

10 Q Ms. Searce, so, you never did a formal evaluation of
11 the family situation in terms of like talking with the - with
12 Chad, Nicole, the parents and the children, all the children
13 in the family?

14 A I did - I met with most of the family except the
15 biological mother, Nicole.

16 Q Well, wouldn't it be important to meet with her, too?

17 A It would've been. In fact, my plan was to meet her.

18 Q Okay, and my - that's why you purposely put in
19 correspondence between you and Mr. Phipps the attorney, you
20 purposely put in there that as of 10-28-08 and I'm reading
21 from one of your letters, you had not had contact with Mrs.
22 Young, "due to Mr. Turbeville's concerns and his request that
23 I speak with Mr. Phipps his lawyer about it"; right?

24 A Yes.

25 Q Well, and you never really, in fairness to you, you

1 never really pushed that issue about trying to get, about
2 trying to get input from Nicole on a one-to-one basis?

3 A It's my recollection that I encouraged that contact. It
4 didn't happen but it's not because it was not encouraged.

5 Q By you?

6 A By me.

7 Q Okay, and in all, in all of your studies, if you will,
8 and in reading all the professional literature that's out
9 there, maybe like one of the experts you rely on is like Dr.
10 Lamb he's here from San Diego?

11 A Yes.

12 Q Now, is it - it's fair to say and you took this case in
13 I believe as a high conflict situation case; right?

14 A I didn't take it, I didn't know at the time. I mean, I
15 did not take it because it was a high conflict case. I see
16 children just for - that need help with psychotherapy. This
17 was a referral for that I believe, and I even had noted in my
18 notes that this may potentially be a high conflict case.

19 Q High conflict situation, insofar as the family dynamics
20 are concerned in everything that was going on ---

21 A Yes.

22 Q --- in this family based on the history that was
23 reported to you?

24 A Yes.

25 Q Okay, and in reading the literature isn't it fair to say

1 that it's not unusual now in the reported literature in high
2 conflict situations like this that there's been false
3 allegations of child abuse. You've studied that I know.

4 A Yes, in some high conflict situations there have been
5 cases where there has been false allegations.

6 Q And that's in the literature you're talking about?

7 A Yes.

8 Q Okay, in August 18th, 2008, that's the first time you saw
9 your patients?

10 A Yes.

11 Q All right, and your patients were child and ---^{sister}

12 A

13 Q --- sister because both of them were reported to you as
14 having problems?

15 A Yes.

16 Q And another thing, too, Ms. Searce, you know, in
17 reading the literature there's no laundry, cluster, there's no
18 cluster or groups of symptoms that any expert can point to
19 that would without a doubt indicate sexual abuse?

20 A When you mean - what do you mean by cluster?

21 Q Cluster of symptoms, yeah.

22 A Do you want me to ---

23 Q I'm going to read what you - excuse me. Go ahead. I'm
24 sorry.

25 A Would you - did you want me to respond to that or ---

1 Q Yes, ma'am. I asked you. It's fair for you to respond.

2 A Although they - when they say symptoms or cluster of
3 symptoms I'd have to say the field is not going by just a
4 cluster of symptoms. They're looking at many other factors
5 involved in it. Symptoms are important but it does depends
6 on, you know, any detailed information that children give in
7 their disclosures, whether or not they do disclose, but I
8 think what I'm trying to understand your question is that the
9 field is not really looking at a cluster of symptoms ---

10 Q Right.

11 A --- to say that this is sexual abuse.

12 Q I mean, you don't have a checklist you can go by and say
13 ---

14 A No.

15 Q --- ooh, yeah, that's it right there.

16 A No, their - the field is not doing that.

17 Q That's not, that's not - no, okay, thank you. Now, in
18 August the 18th you took on the - both girls as clients?

19 A Yes.

20 Q And they were referred to you by North Carolina DSS?

21 A No, it's a - it was a child advocacy center and it
22 probably was just a phone call to say who works with kids who,
23 you know, have behavior problems, and I believe that's how the
24 parents got my name.

25 Q You were recommended?

- 1 A Yes.
- 2 Q Okay, and this was for private counseling?
- 3 A Yes.
- 4 Q Taking care of - I mean, your bill's taken care of by
- 5 Mr. Turbeville; right?
- 6 A It's - it was paid through Medicaid.
- 7 Q Okay, not any private insurance?
- 8 A No.
- 9 Q And you testified that you saw - I want you to tell me
- 10 because I know you said five times before, but can we track
- 11 them like August the 18th is the first visit?
- 12 A Yes.
- 13 Q Okay, can you tell me the next time? That was with both
- 14 kids; right?
- 15 A Yes, and with the family. That was my first initial
- 16 assessment with the family.
- 17 Q Okay, does that take place like - is that like group
- 18 therapy?
- 19 A No, usually because child and sister were separate
- 20 clients it was a two-hour appointment. I met initially with
- 21 the parents to find out what the concerns or issues were.
- 22 Then I met with the children individually.
- 23 Q Okay, August the 18th is the first time?
- 24 A August 18th was the first time.
- 25 Q Next?

- 1 A August 25th.
- 2 Q Next?
- 3 A September 8th.
- 4 Q September the 8th, that's, okay three, four?
- 5 A October 20th.
- 6 Q Okay, five?
- 7 A November 6th, this is 2008.
- 8 Q Right.
- 9 A And then January 16th.
- 10 Q That's number six?
- 11 A Yes.
- 12 Q January 16th of '09?
- 13 A Yes, February 5th, 2009.
- 14 Q Okay.
- 15 A Did I - February 24th, 2009; March 13th, 2009; April 14th,
- 16 April 22nd, June 11th, July 22nd, August 19th, August 24th,
- 17 September 9th, October 9th, November, November 6th, 2009.
- 18 Q Okay.
- 19 A And then my last was August 4th, 2010.
- 20 Q Okay, thank you, ma'am, and around December the 28th you
- 21 reported some of your - you reported some of your concerns to
- 22 Mr. Phipps?
- 23 A On December 28th.
- 24 Q No, no, ma'am, October the 28th?
- 25 A Okay.

1 Q It was by a letter?

2 A Yes.

3 Q And that the history of the case showed many examples of
4 what would be considered a high conflict situation?

5 A Yes.

6 Q And that in there you said there's been significant
7 neglect and substance abuse problems related to the kids', the
8 girls' mother, Nicole; right?

9 A Yes.

10 Q And on your, and on your October the 20th session both of
11 them were experiencing stress, both were experiencing stress
12 and anxiety regarding the visits with their mother?

13 A Yes.

14 Q Because the girls report to you that Nicole wants them
15 to live with her; yes?

16 A That's what the girls had reported.

17 Q To you?

18 A To me.

19 Q And they reported to you visit the father only on the
20 weekends?

21 A I'm sorry, would you repeat that?

22 Q I will. So, it said, well, the girls reported to you
23 that the mama wants them to live with her in Myrtle Beach and
24 visit with Chad only on the weekends?

25 A That's what the girls reported, yes.

1 Q Right, and that their mother has threatened them if they
2 stick up for their father?

3 A Yes.

4 Q And that they were worried about the safety of their
5 father?

6 A Yes.

7 Q That she will get them in trouble and hurt their step-
8 mama?

9 A The girls were reporting that, that they felt that their
10 dad was - they were worried about his safety and they were
11 worried about their step-mom, Mrs. Turbeville.

12 Q And that they wished their parents would become friends?

13 A Yes.

14 Q So, insofar as the two children are concerned in your
15 recognition of those statements is why you said, "Hey, this is
16 a high conflict situation?"

17 A Initially I thought that, yes, but this letter was
18 before the first disclosure that child gave.

19 Q Okay, and you also state in that letter that you
20 encouraged contact with Mrs. Young but none ever happened?

21 A No.

22 Q You didn't take it upon yourself to try to find her or
23 contact her to get her in; right?

24 A I actually had her number and I did try to call her but
25 then there were - there was the disclosure, I had contacted

1 the Department of Social Services and that contact was just -
2 it just disappeared.

3 Q All right, and on January 16th of 2009?

4 A Yes.

5 Q Well, excuse me a second, let me back up. It's been
6 testified to the last time there was any contact between the
7 kids and Nicole and Tim was Halloween weekend October the 31st
8 of 2008. Do you, do you remember that?

9 A I do.

10 Q Okay, and then the significance is that on November the
11 6th, just really let's say just a week later, okay?

12 A Yes.

13 Q Fair, fair to say, that the children came to see you on
14 that November the 6th visit?

15 A Yes.

16 Q And you had gotten a telephone call from Chad or
17 Jennifer about the statement that child had made to Jennifer?

18 A That's, that's how the session was prompted ---

19 Q Right.

20 A --- was that child had told her stepmother that.

21 Q About, some things about her mama?

22 A Yes.

23 Q Okay, so, they come home from a weekend visiting with
24 their mama and on - actually I think, and on the 4th, on
25 November the 4th is when these, this statement, these

1 statements were supposedly made by child to her step-mama?

2 A It was on November the 4th, yes.

3 Q Right, right, okay.

4 A And then I saw child on November the 6th.

5 Q November 6th, okay, and she told you about things that
6 her mother was doing to her?

7 A Yes.

8 Q Right, okay, and on November the 12th you reported that
9 to ---

10 A Yes.

11 Q --- mandated reporting ---

12 A Yes.

13 Q --- about that and child had told you that her mother,
14 that child felt like what her mother did to her was
15 inappropriate?

16 A I'm sorry, would you repeat that again?

17 Q Yeah, okay, and child when you talked to child on the
18 6th you had already had information from her daddy or the step-
19 mama about what the reason was for coming there?

20 A I don't recall I had a conversation with them. Usually
21 when I see parents - they called me in a crisis. I got them
22 in as soon as I could see them in my appointment. I spoke
23 with them before I met with child

24 Q Right, because in that - kind of would, quite naturally
25 that would kind of give you some heads up of what, what you're

1 dealing with before the child gets there; right?

2 A Yes.

3 Q Okay, and then as a result of that did - well, did child
4 describe to you that her mother was applying ointment to her
5 private by her mother using her knuckle?

6 A Yes.

7 Q Well, isn't that the same thing that she described to
8 you on January the 16th that Tim was doing, his knuckle?

9 A She did use that, the knuckle, but she also described
10 that he used his finger.

11 Q Right, and in that letter, to whom it may concern, child
12 said that Nicole, the second, I'll help you follow where I'm
13 reading, the second paragraph and that child said that Nicole
14 would often take her into her mother's room?

15 A Are you looking at the second paragraph?

16 Q I'll show you.

17 A Okay, okay, after - okay, yes.

18 Q So, so, you reported that child said that her mama would
19 do these things to her in her mama's room?

20 A Yes.

21 Q And then she went on to say that Tim would touch her
22 private parts with his knuckle, too?

23 A Yes.

24 Q So, it's knuckle mama, knuckle Tim; right?

25 A That's what she had told me.

1 Q Right, and you felt it important to report that she said
2 - well, I will - I just - you asked her, "Well, why didn't you
3 tell me this before," because you'd seen her a number of
4 times, "Why didn't you tell me that before?" You asked her
5 that about Tim, "When you disclosed about the mama."

6 A Yes.

7 Q And she said to you, too, that, "Well, I knew mama was,"
8 let's see, "I knew - she knew that her mother was bad as well
9 as Tim." So, so, so, she says they're both bad?

10 A That's what she said to me is that she felt that she
11 needed to tell me one at a time and I believe the next
12 sentence says that she knew her mother was bad as well as Tim.

13 Q So, she didn't say anything like then, "I thought I
14 would finish one before I started on the other"?

15 A A child wouldn't say that. I think ---

16 Q Go ahead, I don't want to interrupt you.

17 A Well, I'm just saying that I don't - I don't think she
18 would have been able to articulate why she told one at a time.
19 I think that in the situation she just felt that she needed to
20 do it one at a time, and at that time there was a lot of
21 things that were happening around the home. First of all, the
22 visits with her mother stopped, which secondly would probably
23 lead to the second disclosure.

24 Q Right, but a language like, "Finish one before I started
25 on another," that wouldn't sound like a child's talk; would

1 it?

2 A I don't recall her saying that.

3 Q Well, if she said - well, it's not in your - that's not
4 in yours?

5 A Yeah, I don't believe ---

6 Q Yeah, she didn't say that. That, that sounds like - but
7 it's fair to say that sounds like adult talk?

8 A Yeah, I would, I would question that, yes.

9 Q Sounds like adult talk?

10 A I would - yes.

11 Q Would you agree that in the context of what we're all
12 here for that contamination, in the context of what we're here
13 for, contamination is false memories constructed by talking
14 with others; is that fair to say?

15 A In this, in this situation?

16 Q Yeah, well, if you, if you read in your professional
17 literature contamination could a definition of that be false
18 memories constructed by talking with others?

19 A I think with contamination it would be more than that.
20 It would be very inconsistent reporting, the child could
21 recant. It would be more, contamination would be more.

22 Q Okay, but it could be using, a nine-year-old child using
23 language that you would expect to come from an adult like you
24 just admitted a while ago about one, about before I started on
25 another one?

1 A Well, I don't, I don't see how that would be related to
2 false memory. You know, children, children will say things,
3 things that they may hear, but I don't know what, in what
4 context ---

5 Q Okay.

6 A --- that statement would be made in.

7 Q Okay, and in the context of your profession crosstalk
8 would be a child overhearing other people talking about
9 something that might be related to the subject. I mean it's
10 fair, fair to say that that could be ---

11 A Yes.

12 Q --- the definition of that. Okay, you said that in your
13 letter, Ms. Searce, and you purposely reported, this is on
14 the second page, and during your, during your interview of her
15 on January 16th of 2009, you know the, I'm going to say it's
16 the third to the last paragraph when you said the context is
17 unknown as to the reasons why child mother would tell her
18 this. I'll show it to you.

19 A Yes, I see that. I see that.

20 Q Well, was - so, she said, so child said, I mean, kind of
21 rambling, her mother at one time told, Nicole told her at one
22 time when sister was a baby when she would poop she put a
23 stick that she found behind the toilet up sister behind.
24 She said that right here?

25 A Yes, she did. She, she was referring to ---

1 Q Suppositories probably?

2 A More than likely she was referring to that but she added
3 that to the end of my session with her, and of course, I had
4 added that I'm not sure in what context it may have been the
5 statement that she felt that her mother was bad that she
6 related the suppository incident to her - about her sister
7 sister and that's why I had added the context is unknown as to
8 the reason why child mother would tell her that.

9 Q Did the children ever disclose to you any corporal
10 punishment on the part of Chad? Did child ever disclose any
11 corporal punishment on the part of Chad?

12 A No.

13 Q Did she ever disclose any corporal punishment on the
14 part of - well, did sister ever disclose any corporal
15 punishment when you ---

16 A No.

17 Q --- when you would counsel her? Did you review any
18 school records or any medical records?

19 A The only medical records that I reviewed was the child
20 medical examination from the Carousel Center that was done on
21 November 25th, 2008.

22 Q That's the Carousel Center, that's in North Carolina?

23 A Yes.

24 Q And that, so the jury will understand, so, when you made
25 your report after, after November the 6th of '08 about the,

- 1 about Nicole you made a report to DSS?
- 2 A Yes.
- 3 Q And as a result of that they conducted an investigation?
- 4 A Yes.
- 5 Q Against the mama?
- 6 A Yes.
- 7 Q Okay, and then part of that was going to the Carousel
- 8 Center.
- 9 A The Carousel Center, uh-huh.
- 10 Q Which is for children?
- 11 A Yes.
- 12 Q And two things happen, one is there is a forensic, what
- 13 they call a forensic interview. I know you what - a forensic
- 14 interview was where they put them on videotape.
- 15 A Uh-huh.
- 16 Q And then they do a medical exam?
- 17 A Yes.
- 18 Q And you reviewed the medical exam from there?
- 19 A Yes.
- 20 Q Okay, so, on January - let me back up a minute. Yeah,
- 21 you wrote - okay, now, I'm trying to keep it under control
- 22 with the timeline so as not to confuse, but, so, I'll ask you
- 23 in your January - you wrote a letter that Mrs. Lively asked
- 24 you about on January the 26th?
- 25 A Yes.

1 Q You wrote that letter to the superintendent of Columbus
2 County schools; yes?

3 A Yes.

4 Q Dan Strickland?

5 A Yes.

6 Q Who is Dan Strickland?

7 A He must be the superintendent of the school.

8 Q Allen Falk?

9 A I'm not sure if he may have been the principal, or I'm
10 sorry, Ms. Debra Hammond was the principal. I'm not sure who
11 Mr. Allen Falk was. He was probably on the school, school
12 administration board.

13 Q The letter pertains to December the 18th of 2008?

14 A Yes.

15 Q And you know December the 18th is the date child was
16 born? It is.

17 A I think child - what, I'm sorry, what did you say?

18 Q No, I'm sorry, sister I get child and sister sometimes
19 start rhyming to me and I miss it. I'm sorry. That, on
20 December the 18th - sister was born on December the 18th, 1998;
21 right?

22 A Yes.

23 Q So, so, so, and Nicole and you were - you were advised
24 of the situation by someone to prompt you to write that
25 January 26th, 2009, letter?

1 A Yes.

2 Q You wrote that letter at the request of?

3 A Mr. Turbeville and Mrs. Turbeville.

4 Q Okay, they, they asked you to write the letter?

5 A Yes.

6 Q Did you have any contact with Mr. Phipps about writing
7 that letter?

8 A I did not.

9 Q Okay, and you wrote that letter to the school to tell
10 them, "Hey, listen, you all don't really realize what's going
11 on. Please let Jennifer Turbeville come back to the school"?

12 A My concern at that time was that child was upset over
13 that situation and that during that time her behaviors, she
14 was regressing in her behaviors. My concern was that the
15 school was actually chastising Mrs. Turbeville about it where
16 they were keeping her from the school, and I felt that child
17 needed as much support as she could possibly get and that
18 there may - while there was just - the school needed to be
19 aware of this, that it needed to be corrected.

20 Q Right. Well, the school got pretty upset on December
21 the 18th?

22 A That's from what I understand, yes.

23 Q And you understand that because they've told her not to
24 come back on the school grounds that's why you had to write
25 that letter?

1 A Yes.

2 Q Okay, so, was it your understanding that on sister
3 birthday Nicole had gone to the school?

4 A I understand that she went to the school, yes.

5 Q And do you know she just gave some, gave them a - gave
6 sister a birthday card or something, never saw her, just
7 delivered something to the school because it was child
8 birthday.

9 A I did not know it was sister birthday but I did
10 understand that because there was a current Department of
11 Social Services investigation that contact with child and her
12 mother either needed to be supervised or it was a situation
13 that Columbus County Department of Social Services needed to
14 be aware of and take care of.

15 Q Right, okay, because actually at that time the
16 investigation into the mama by North Carolina DSS that had
17 ended at that time, the investigation, the fact-finding
18 process had ended by then, that ended on November the 13th; do
19 you agree with that?

20 A Yes, but I also knew that the children did not have
21 contact with her, which I'm not certain why ---

22 Q Well, after ---

23 A --- during that time.

24 Q --- after, so, so, on December the 18th Stephanie -
25 Jennifer, I mean, Jennifer, she finds out that Nicole has gone

1 to the school and left a - maybe a birthday card or something
2 there for her daughter?

3 A Yes.

4 Q You don't have - you don't have any - you don't know
5 whether - I mean, Nicole didn't actually try to make contact
6 with the child; do you know?

7 A I am not certain but, but if she went to the school to
8 give the children correspondence I don't know how that kind of
9 fell into place and I don't know the other details how the
10 school handled that situation.

11 Q Okay, so, the mama - did mama - I mean the step-mama, I
12 mean, I don't know - she gets kind of like kicked off the
13 school grounds, that's why you have to write that January 26th
14 letter?

15 A Yes.

16 Q And then, then - so, then - so, then sister knows that
17 her mama - we can fairly assume that sister knows her mama
18 tried to contact her or give her some correspondence because
19 the happy birthday my daughter?

20 A It was after that child became - she was in distress.
21 She was upset.

22 Q I know. She was upset. She was upset. She was upset.
23 The step-mama was upset and the step-mama had to get you to
24 write a letter so she could get back on the school grounds.
25 That's pretty chaotic; right?

1 A And it, it needed to be corrected if there was any
2 misunderstanding.

3 Q Just over trying to - just over - just over trying to
4 deliver a maybe a happy birthday card and that, and after that
5 you testified then child because of all that she starts
6 regressing?

7 A Yes.

8 Q And I mean, she starts - she goes back to having
9 nightmares thinking something is going to happen to her daddy,
10 thinking something is going to happen to maybe her step-mama
11 and all these kind of things she's thinking something to that
12 effect, I mean, you use your own words for it and I don't
13 remember. What I'm trying to - what I'm trying to say is she
14 got real stressed out and became real worried that something,
15 that something was going to happen from just delivering the
16 birthday card, a birthday card that was not going to her but
17 that was going to sister

18 A From what I understand child was aware that her mother
19 was at the school and, and the other issue is that because
20 there was a gap here, no one really knew, even though the
21 investigation was over, there was nothing put in place about
22 reestablishing any, any contact with mother. I don't know
23 what happened. From what I understand the mother had left the
24 State of North Carolina or South Carolina, but there was no
25 contact. So, it just seemed that at that point, again, there

1 was some boundary issues here that, that I was - if I was to
2 help in this situation child probably needed something that
3 was much more predictable for her and for her mother just to
4 come to the school unannounced out of the blue that put her a
5 little bit in a tailspin. She became upset over that. So, I
6 think that that was more of an issue of it would have been
7 nice if there would've been some things put into place for
8 child to have that more of a predictable time structure time
9 with her mother if contact was re-initiated.

10 Q And so, so, mama going to the school to give sister a
11 birthday card caused child to think that some bad things may
12 happen to her daddy or her step-mama?

13 A At that time there were some things that was going on
14 that child was concerned about it. It was beginning to
15 subside probably around that time and then mom came to the
16 school which sort of disrupted, you know, a more of a
17 predictable schedule for her. Things were going fairly well
18 from end of November to December and then mom just showed up
19 at the school.

20 Q Well, sure, and then, and then, and then Debra Hammond
21 the principal she wasn't very pleased by the way she was
22 treated, her principal?

23 A From what I understand there was a lot of conflict
24 between Mrs. Turbeville and Ms. Hammond.

25 Q Well, you said that on February the 5th you talked with -

1 you had a session with child of 2009?

2 A Yes.

3 Q And she admitted to you that she uses certain tactics to
4 get what she wants?

5 A Who admitted to me?

6 Q child I think child did.

7 A Yes, I see.

8 Q And that, and that, the patient admitted that she
9 primarily fears stomachaches because of her need for the sole
10 attention of her father?

11 A Yes.

12 Q And all of this was prompted when her mother delivered
13 packages to the school?

14 A This, yeah, that's when child behaviors changed again.
15 I would say that they regressed. She was becoming very
16 somatic, anxious, clingy, tearful. She was manipulative. She
17 was demanding a lot of attention. She was becoming aggressive
18 at home and they were having difficulties with her behavior.

19 Q Okay, so, insofar as her disclosure is concerned she was
20 just going to - she would do - you asked her why she didn't
21 tell you before about Tim, you asked her on January the 16th
22 of 2009 you said, well, you were - you reported this that you
23 asked her, "Well, why didn't you tell me about Tim when you
24 told me about Nicole"?

25 A Yes.

1 Q And you encouraged the family, in order to do a thorough
2 assessment, you encouraged the family in North Carolina, the
3 Turbeville family to, to really let's talk with Nicole, too,
4 about all this?

5 A Initially I did, but I believe the DSS that when they
6 became involved in the investigation they substantiated abuse
7 for, for mom's side I believe.

8 Q They substantiated abuse?

9 A Yes.

10 Q And then that's when - then that's when visitation was
11 cut off?

12 A That's when visitation stopped with mother.

13 Q All right, and this has been introduced into evidence
14 right here, Defense One and Defense Two. You testified that
15 you did go to court on January the 13th of 2009?

16 A Yes, but I did not testify.

17 Q Okay, in the bottom left-hand corner is January the 13th,
18 2009; right?

19 A Yes.

20 Q Okay, but that - but you said it was the DSS action.
21 Well, DSS might have been there but this is a contempt action
22 that was brought by Nicole against the father because he cut
23 off visitation; did you know that?

24 A I, I vaguely remember something to that effect.

25 Q Okay, so, then as far as you remember you went to

1 Whiteville, North Carolina, courthouse on January the 13th?

2 A Yes.

3 Q And you were there with Chad?

4 A I did not sit with the family. I had to sit in another
5 room but I did see them.

6 Q Okay, but you all did go to court that day?

7 A Yes.

8 Q And nothing ever happened.

9 A Not for me.

10 Q Okay, January the 13th of '09?

11 A Yes, that's what the date says, yes.

12 Q That I was looking at.

13 A Yes.

14 Q Okay.

15 MR. CANNARELLA: I beg the Court's indulgence just 30
16 seconds, Your Honor, please.

17 THE COURT: All right, sir.

18 MR. CANNARELLA: Thank you, Mrs. Searce. I don't
19 have any other questions, Your Honor.

20 THE COURT: All right, redirect?

21 MS. LIVELY: Yes, sir.

22 REDIRECT EXAMINATION

23 BY MS. LIVELY:

24 Q Ms. Searce, have you had a lot of experience in dealing
25 with DSS matters like what Mr. Cannarella has asked you about

1 occurred in this case?

2 A Yes.

3 Q And whenever there's an investigation for abuse is it
4 unusual for DSS to have the primary parents sign a safety
5 plan?

6 A That's usually the process that's supposed to happen,
7 yes.

8 Q Okay, are you aware of whether or not Chad actually
9 signed a safety plan to keep the children from seeing Nicole?

10 A Yes, I was aware of that.

11 Q And if he were to allow the children, based upon your
12 experience in high conflict cases, family court, testifying
13 and all that, based upon your experience if he had allowed
14 Nicole to have contact with those girls what could DSS have
15 done?

16 A They could've taken the children out of his custody and
17 put them in foster care.

18 Q Okay, so, would it be unusual then for a parent to be
19 extremely upset if another parent who is being investigated by
20 DSS just shows up at the school one day delivering "I miss
21 you" cards and a birthday card unannounced and without
22 permission?

23 A I could understand why that parent would be upset.

24 Q Okay, and once again, DSS has started their
25 investigation November of '08; correct?

1 A Yes, yes.

2 Q And the mother appears for sister birthday in December
3 of '08?

4 A Yes.

5 Q At school, okay, all right. Mr. Cannarella asked you a
6 lot of details out of your January 16th, 2009, letter which is
7 the letter that came three days after - I'm sorry, two days
8 after child discloses the abuse by the Defendant; right?

9 A Yes.

10 Q All right, he asked you about whether or not he
11 describes or she describes him using a knuckle. What else
12 does he - and you said and he also said what, what other part
13 of his hand did he use?

14 A I have it in my note the lower part of his finger which
15 was rubbing her.

16 Q That's pretty detailed, would you agree?

17 A Yes.

18 Q All right, now, what other thing separate and distinct
19 did child tell you the Defendant did to her private part?

20 A She stated that he licked her private part.

21 Q Had she ever told you before that her mother had licked
22 her private part?

23 A No.

24 Q Had she ever told you anybody had licked her private
25 part?

1 A No.

2 Q Was that the first time you had ever heard anything like
3 that?

4 A It was the first time.

5 Q In the October 28th letter that you had written right
6 before the disclosure came out about Nicole, the biological
7 mother, where there were - you were talking about some
8 problems with the children, was there ever any mention that
9 there was a problem with the Defendant?

10 A No, I mainly focused on the mom, Nicole Young.

11 Q So, when was the first time that you ever had any
12 mention by child or anybody for that matter in this Turbeville
13 family that there was a problem with this Defendant?

14 A On January 16th, 2009.

15 MS. LIVELY: One moment, Your Honor.

16 THE COURT: All right.

17 MS. LIVELY: That's all I have, Your Honor. Thank
18 you.

19 THE COURT: All right, you may step down. Let me see
20 the attorneys for a second.

21 MS. LIVELY: Yes, sir.

22 May this witness be excused, Your Honor?

23 THE COURT: Any objection?

24 MR. CANNARELLA: No objection.

25 THE COURT: All right, she's free to go.

1 A I got to know the children August '05 right after me and
2 Nicole had met.

3 Q You and Nicole and them met in '05?

4 A Yes, sir.

5 Q When did you get married?

6 A We got married September the 9th, 2006.

7 Q Nicole was getting visitation from '05 to '06?

8 A Yes, sir.

9 Q Was there any problems with the children, Tim?

10 A None that I could see.

11 Q What do you mean none that you could see?

12 A I mean, they were fine when, I mean, they were fine when
13 they came down to see us.

14 Q Was there any particular reason why you all got married
15 on September the 6th of '06?

16 A Any particular reason?

17 Q Yeah, yeah, I mean, yeah, you all decided to get married
18 then?

19 A Yes, sir.

20 Q And you had been dating for a year?

21 A Yes, sir.

22 Q Did anything change regarding the visitation privileges?

23 A No, sir.

24 Q When the children would come - so, so, when did you start
25 - so, let's see, so, you saw them from '06, '07 up to October

1 (Complies with request and Court reviews verdicts.)

2 THE COURT: All right, I'll ask the clerk if she'd
3 please publish the verdicts.

4 THE CLERK: Indictment number 2011-GS-26-1089, the
5 State of South Carolina, County of Horry versus Timothy Eugene
6 Young on the charge of lewd act on a minor child, we, the jury
7 unanimously find the Defendant guilty. Indictment number
8 2011-GS-26-1088, State of South Carolina versus Timothy Eugene
9 Young, on the charge of criminal sexual conduct with a minor
10 first degree, we, the jury find the Defendant guilty, signed
11 by the foreperson, Keith Bartelotte.

12 Ladies and gentlemen of the jury, if this is your verdict
13 so signify by raising your right hand.

14 (All jurors raise right hand.)

15 THE CLERK: Thank you.

16 THE COURT: All right, any polling of the jury by the
17 Defendant?

18 MR. CANNARELLA: Yes, Your Honor, please.

19 THE COURT: All right, ladies and gentlemen, we are
20 going to poll the jury, which means that as your name is read
21 you will need to stand and you'll need to answer two questions
22 by the clerk. Question number one is is this your verdict and
23 question number two is this still your verdict. So, please
24 listen as your name is read.

25 THE CLERK: Juror Number 195, Amanda Matthews.

1 MR. CANNARELLA: That's all, Judge.

2 THE COURT: All right, does the victim, the victim's
3 family wish to say anything?

4 MS. LIVELY: No, Your Honor.

5 THE COURT: All right, any prior criminal record?

6 MS. LIVELY: Just what Mr. Cannarella mentioned, his
7 driving offenses, Your Honor.

8 THE COURT: All right, all right, Mr. Young, the jury
9 has found you guilty of the charge of committing a lewd act on
10 a minor and criminal sexual conduct with a minor in the first
11 degree. On the charge of committing a lewd act on a minor the
12 sentence of the Court is that you be confined to the State
13 Department of Corrections for 10 years. On the charge of
14 criminal sexual conduct with a minor in the first degree the
15 sentence of the court is that you be confined to the State
16 Department of Corrections for 25 years. You'll be given
17 credit for time served. The sentences will run concurrent.
18 That's the mandatory minimum sentence that can be imposed;
19 okay? Thank you very much.

20 MS. LIVELY: Thank you, Your Honor.

21 THE COURT: All right.

22 (Adjourned.)

23

24

25

1 process."

2 I don't know that her comments were improper. It
3 did vary a little bit from the evidence but I understand
4 the point she was trying to make as to, you know, a lot of
5 times you can't explain these crimes. I don't think she so
6 infected the trial that it denied the defendant of due
7 process so I'm going to deny the motion for a new trial.

8 Ms. Lively: Thank you, Your Honor.

9 Mr. Cannarella: Thank you, Your Honor.

10 The Court: All right, thank you.

11 End of requested transcript.....
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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Benjamin H. Culbertson, Circuit Court Judge

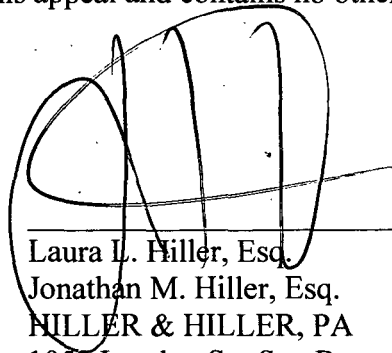
The State of South Carolina.....Respondent,

v.

Timothy E. Young Appellant.

CERTIFICATE OF COUNSEL

The undersigned attorney certifies that the Record on Appeal contains all material proposed to be included by the parties to this appeal and contains no other material.



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October 18, 2012

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Benjamin H. Culbertson, Circuit Court Judge

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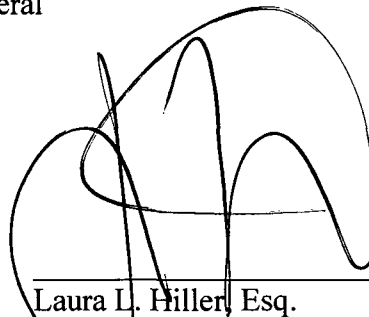
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PROOF OF SERVICE

The undersigned attorney hereby certifies that on this, the 18th day of October, 2012, he served a true copy of the Record on Appeal in the above-referenced matter on Julie K. Keeney, Assistant Deputy Attorney General, by U.S Mail with proper postage affixed and addressed as follows:

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