

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

William Jeffrey Young, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KEITH GADSDEN,

APPELLANT

Appellate Case No. 2012-211729

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General

Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorneys for Respondent

INDEX

INDEXi

TRIAL TRANSCRIPT DATED APRIL 9-12, 2012.....1

MOTION TO LIMIT TESTIMONY OF COUNSELOR.....2

OPENING STATEMENT BY MS. GORDON5

OPENING STATEMENT BY MS. GAY9

TESTIMONY

 MELVIN MAGWOOD

 Direct Examination by Ms. Gordon13

 Cross Examination by Ms. Gay.....18

 THEODERRICK NELSON

 Direct Examination by Ms. Gordon22

 Cross Examination by Ms. Gay.....44

 Redirect Examination by Ms. Gordon61

 Re-cross Examination by Ms. Gay.....62

 SHIRLEY SCOTT

 Direct Examination by Ms. Gordon63

 Cross Examination by Ms. Gay.....67

 BRENDA SHOKES

 Direct Examination by Ms. Gordon68

 Motion to limit testimony of counselor.....72

 JACQUELINE MCDONALD

 Direct Examination by Ms. Gordon84

 Cross Examination by Ms. Gay.....93

 Redirect Examination by Ms. Gordon100

 Re-cross Examination by Ms. Gay.....100

 DONALD ELSEY

 Direct Examination by Ms. Gordon102

 Cross Examination by Ms. Gay.....108\

KEITH GADSDEN
Direct Examination by Ms. Gay 109
Cross Examination by Ms. Gordon..... 134
Redirect Examination by Ms. Gay 137

CLOSING ARGUMENT BY MS. GAY 138

CLOSING ARGUMENT BY MS. GORDON..... 157

VERDICT 171

SENTENCING 172

INDICTMENT 173

SENTENCING SHEET 175

CERTIFICATE OF COUNSEL..... 176

1 provided on that. Just wanted to get the state's
2 position.

3 MS. GORDON: Your Honor, at this time I do
4 not expect to be calling any 404(b) witnesses.

5 THE COURT: All right.

6 MS. GAY: The other thing, Your Honor, is we
7 have an in limine motion about the rape shield statute.
8 I don't intend to delve into anything about the victim's
9 sexual activities at all.

10 THE COURT: Okay.

11 MS. GAY: So I'm aware of that, and then the
12 other in limine motion, which I'll just do verbally, Your
13 Honor, when I looked at the witness list, there is a
14 therapist, licensed professional counselor, her name is
15 Jacqueline McDonald. I've been provided a statement from
16 her, I guess records. I did talk to Ms. Gordon this
17 morning about limiting her testimony to the fact that he
18 came, made a report, whatever, but not referencing
19 anything that he told her, because I don't think it's
20 appropriate. I think it's hearsay. Whatever was said by
21 the victim to her, the victim is obviously going to be
22 here to testify to those kinds of things, but I do know
23 she testified to the fact that she met with him, but not
24 the content of what they discussed.

25 MS. GORDON: Your Honor, my position is this:

1 She will be here to testify to the diagnosis, the
2 treatment protocol, what he was seen for, and I think
3 under 803(d) she can testify that he disclosed a sexual
4 assault and when and where it occurred, and then she will
5 also testify just generally as an expert regarding child
6 sexual assault and the dynamics of child sexual assault.

7 THE COURT: Well, we might want to visit that
8 a little bit before we go forward. We are not going to
9 have one of those cases where --

10 MS. GORDON: She will not testify regarding
11 his credibility.

12 THE COURT: All right. We'll visit that in a
13 little bit.

14 MS. GAY: And Dr. Elsey is scheduled to come
15 in. He's never even met with the victim, but he's
16 scheduled to come in as a witness in this case about
17 child sexual cases, and I would also object to his
18 testimony and want to address that when it gets time.
19 He's never even seen the victim.

20 THE COURT: What are you planning on offering
21 him for?

22 MS. GORDON: He's expected to testify
23 regarding why -- this is a delayed report. This
24 gentleman doesn't tell it until he's an adult and to
25 testify regarding the reasons why children don't tell.

1 MS. GAY: Which I would have an objection to,
2 Your Honor, based on bolstering.

3 THE COURT: We'll visit that a little bit.
4 You got some law on your side on that?

5 MS. GORDON: On my side?

6 THE COURT: Yeah.

7 MS. GORDON: Oh, that experts -- child sexual
8 abuse is not something that the general lay person knows,
9 but I can try to find some case law. I think it would be
10 regarding expert opinions and that it's a matter that is
11 not that well-known by the general public and that he can
12 be helpful in discussing the dynamics of it.

13 THE COURT: All right. Well, you might want
14 to get me some law on that tonight. All right. Final
15 thing before they come in, Mr. Gadsden. Stand up for a
16 second.

17 You're on trial for this charge. You could
18 get up to 30 years for it, and the state is going to call
19 witnesses to testify against you. You got a lawyer
20 there. She's going to have the right to cross-examine
21 them, present any evidence that you want her to present.
22 That would include your desire to get up on the stand and
23 either deny it or tell your side of the story; in other
24 words, testify.

25 You have the right to testify in a case, but

1 MS. GORDON: Good afternoon. I know it's
2 been a long day and probably where you don't want to
3 spend your Monday of this beautiful week, but I'm
4 Elizabeth Gordon. I was introduced to you earlier, and
5 I'm an assistant solicitor of Charleston County. And I,
6 along with Marian Askins, represent the state in the case
7 that you're here to try this week, and that case is the
8 State of South Carolina versus Keith Gadsden.

9 Mr. Gadsden has been charged with criminal
10 sexual conduct with a minor in the first degree, and I
11 just want you to know what that means that we have to
12 prove. As Judge Young told you earlier, as the state, we
13 have the burden of proof, so I just want to give you a
14 framework of what it is exactly we'll be looking at to
15 see that we've met those elements.

16 What we have to prove is that there was a
17 sexual battery, and what a sexual battery means is an
18 intrusion, an intrusion of one person's body part into
19 the anal or genital or oral openings of another.

20 And we have to prove that the victim was less
21 than 11 years of age. This happened when Derrick was
22 seven or eight years old. You may have caught that when
23 they went through the indictment. Derrick is now an
24 adult, so this happened a long time ago. We went through
25 a sexual battery is an intrusion, however slight. The

1 defendant is charged with putting his penis into the anal
2 openings of Derrick Nelson when he was seven or eight
3 years old.

4 Now, in South Carolina, you may think how can
5 you bring that charge now? There is no statute of
6 limitations for that crime. I know when you heard this,
7 this was a case about child sexual abuse. I know that
8 probably isn't what you want to do this week. It isn't
9 something we would like to think about. We would like to
10 think it doesn't happen, but it does happen. It doesn't
11 happen in dark alleys. It's not usually strangers
12 snatching children off the street. It happens by people
13 who are trusted with children. They gain their trust,
14 and that's how they have access to them, and it's
15 something we don't want to think about, but that's how it
16 happens.

17 You are going to hear that it's not the most
18 violent thing that you might expect. It doesn't
19 necessarily leave physical, scars but the scars that it
20 leaves are real. You will hear from Derrick Nelson what
21 happened to him as a child at St. Julian Divine Community
22 Center in downtown Charleston when he was seven or eight
23 years old. You're going to hear that the defendant was
24 his basketball coach, and one day the defendant drove up
25 and saw Derrick sitting on the stoop outside of his

1 house, his apartment where he lived with his mom, and
2 said, Hey, do you want to be a starter on the basketball
3 team?

4 And like any seven- or eight-year-old whose
5 coach says, Do you want to be a starter? He says, Yes,
6 sure I do.

7 So come on. I'm going to teach you some
8 things over at the gym. So he gets in the car and he
9 goes with the defendant, Keith Gadsden, to St. Julian
10 Divine Center.

11 There is no one else there, but Keith has the
12 keys, so he goes in, takes him up to the third floor,
13 which is kind of a recreation center where they play
14 basketball, and Derrick doesn't think anything about this
15 because he's going to teach him how to be a starter, and
16 then he asked him to go into bathroom, and that seems a
17 little odd, but okay.

18 So he goes in, and that's where it happens,
19 and I'm going to let Derrick tell you the details, what
20 he remembers about being in that bathroom that day when
21 the defendant sexually assaulted him. He will tell you
22 what happened that day, and he's going to tell you how it
23 has continued to affect him his entire life. And he will
24 tell you why he finally decided, after all these years,
25 to come forward about what happened to him as a child.

1 You're also going to hear from Derrick's
2 co-workers. Derrick went back and worked as an adult at
3 the city of Charleston recreation department where,
4 unbeknownst to him, the defendant, Keith Gadsden, had
5 come back to work. When he realized this, he couldn't --
6 he couldn't handle that, and so he confided in some
7 co-workers, and they will tell you how Derrick appeared
8 when they came to them.

9 What is the evidence? How are we going to
10 prove what happened all those years ago? In addition to
11 Derrick telling you what happened, Derrick confronted the
12 defendant. With the help of the police, he had a
13 recording device, and they met over at the Target in
14 front of Citadel Mall, sat outside on a bench where
15 Derrick had a recorded conversation where Derrick asked
16 him, Why me? Why did you do this to me?

17 And you're going to get to hear that
18 conversation, and the defendant says, Why are you trying
19 to put me in jail for something I did all those years
20 ago? What is jail going to do for me?

21 What is jail going to do for the defendant?
22 That's his point. Not worried about what this did to
23 Derrick, but still only concerned about himself. The
24 defense is going to try to tell you there is another
25 explanation for that. They're not talking about a sexual

1 assault that occurred, but I want you to listen to all of
2 that audiotape, very clearly, and then listen to the
3 witnesses, and all of those pieces will come together,
4 that they were absolutely talking about the sexual
5 assault that had occurred when Derrick was seven or eight
6 years old at St. Julian Divine Center.

7 After hearing all of the evidence, we're
8 going to ask you to find the defendant guilty as charged
9 of criminal sexual conduct of a minor in the first
10 degree.

11 Thank you.

12 THE COURT: Ms. Gay?

13 MS. GAY: Thank you, Your Honor. May it
14 please the Court: Ladies and gentlemen: I would like to
15 welcome you today, as this is our Monday, we're here for
16 a couple of days. Obviously, as you know, my client has
17 pled not guilty to this charge, and one thing that you
18 should also know is that we went through an exorbitant
19 amount of effort to get you to be his jury of peers, and
20 you saw all the different qualifications, all the
21 eliminations, all the things that we did so that my
22 client chose a jury that he believed would be open and
23 receptive to his innocence until proven guilty, and I
24 believe the judge started with this, and this is where
25 we'll end it, really, is that that is the reality of an

1 American citizen: They are innocent until proven guilty
2 beyond a reasonable doubt.

3 Now, he says that reasonable doubt is what
4 leaves a person firmly convinced that something happened.
5 He will describe the law and what the definition of
6 reasonable doubt is, but I will tell you that my client
7 doesn't believe that the state can prove beyond a
8 reasonable doubt that he committed this offense because
9 he says he didn't do it. That's what pleading not guilty
10 is.

11 Ultimately, what you'll see in this case is
12 that many, many years ago, supposedly something happened
13 to Mr. Nelson, that that event was supposed to have been
14 so traumatic that somehow he felt the need to disclose
15 this in 2009.

16 If you take the solicitor's position, it was
17 terrible. His life was awful. He had all these
18 different things that impacted him, but the problem is
19 that Mr. Nelson and Mr. Gadsden live in the same
20 community and interacted with each other many times
21 during the last 20 something years, that there is an
22 issue, an extraneous situation going on between
23 Mr. Nelson's stepson, who is friends with my client's
24 son, and that this conversation that occurred at the
25 Target does have different contextual circumstances and

1 reasons to have existed, this conversation they had.

2 Certainly, my client had no idea this man was
3 wearing some type of recording device, and we have the
4 recording. Obviously, that's part of the evidence in
5 this case, but there is no specific reference to anything
6 that said, you know, you blank blank blanked me when I
7 was a child on this tape, but that is, as the judge said,
8 your job.

9 We're here today because we have a factual
10 dispute, and our factual dispute needs a jury to make a
11 decision as to what the reality is. My client has pled
12 not guilty. The state says it happened. Here we are, so
13 we're going to go through evidence in the next day or so,
14 and we're going to present different things that you're
15 going to ultimately consider at the end, and I'm not
16 going to -- you know, I'm not going to insult anybody's
17 intelligence. We're all people that come to this
18 situation with our own life experience.

19 Many of those life experiences were chosen
20 specifically to be on this jury because we believe it
21 would be relevant to how this case is perceived by y'all,
22 and I think what I'm trying to say is that you are the
23 jurors that Mr. Gadsden wants to know that at the end of
24 this that you can actually pick this apart.

25 This case is about credibility. This case

1 isn't about physical evidence. It's not about anything
2 you've seen on TV. There are no fingerprints. There is
3 no DNA. There are no medical evidence records. There is
4 nothing. It's a person who accused another person of
5 doing something, on the tape, and that is what we have
6 here is accusation, and I believe after you hear all the
7 evidence in this case, and at the end of time when I get
8 up and I say to you again, It's not enough. It's not
9 enough to prove that my client did this beyond a
10 reasonable doubt. It is merely an accusation and that
11 there are reasons in this family, multiple families, two
12 family dynamics that you can put all this stuff that
13 happened between these people in context, and there are
14 reasons why these people interacted with each other
15 throughout the years such that if he was so freaked out
16 and so upset about seeing Mr. Gadsden that he would have
17 reported something like this years ago.

18 Throughout the last -- from 2000 on, these
19 people have consistently seen each other in the community
20 and had consistent dealings with each other throughout,
21 and under no circumstances do we believe that this is
22 true, and we believe at the end of time, after you see
23 all this evidence, you will agree with us.

24 Thank you.

25 THE COURT: All right. Ms. Gordon, call your

1 first witness.

2 MS. GORDON: State calls Melvin Magwood.

3 MELVIN MAGWOOD,

4 having been first duly sworn,
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. GORDON:

8 Q. Good afternoon, Detective Magwood. Would you tell
9 us where you're employed.

10 A. I'm employed with the Charleston city police
11 department.

12 Q. What is your position there?

13 A. I'm a detective in special victims unit.

14 Q. Does that involve cases regarding child sexual
15 abuse cases?

16 A. That's correct.

17 Q. How long have you been in law enforcement with the
18 city of Charleston Police Department?

19 A. I've been with the police department 18 years, and
20 I've been in the unit for approximately 14 years.

21 Q. So 14 years as a detective?

22 A. That's correct.

23 Q. I want to turn your attention back to July of
24 2009. Did you have an occasion to meet with
25 Mr. Theoderrick -- or also known as Derrick Nelson?

1 A. Yes, I did.

2 Q. Tell me how that came about.

3 A. Mr. Nelson responded to the Charleston police
4 department in reference to an incident that occurred
5 earlier.

6 Q. Was that regarding a sexual assault?

7 A. That's correct.

8 Q. And was he able to give you an approximate time
9 of, like, how long this happened?

10 A. Yes, he did.

11 Q. And what information did you have about when the
12 incident had occurred?

13 A. It occurred several years before he responded to
14 the police department.

15 Q. In your experience as a detective in the special
16 victims unit, is that unusual for victims of child sexual
17 assault to delay many years before coming?

18 A. No, it's not unusual at all.

19 Q. Is it common?

20 A. It's common.

21 Q. Did you find out where the sexual assault had
22 occurred?

23 A. Yes, I did.

24 Q. Where did it occur?

25 A. At the St. Julian Divine Center in the city of

1 Charleston County.

2 Q. Is that also in the county of Charleston?

3 A. Yes, it was.

4 Q. Once you determined that this case was a case that
5 occurred within the city and county of Charleston, what
6 did you do next in your investigation?

7 A. I started my investigation.

8 Q. And as part of that, did you -- who did you talk
9 to?

10 A. I spoke with Derrick's co-workers at the center.

11 Q. Were you able to confirm some of the information
12 that you had learned from Mr. Nelson?

13 A. Yes.

14 MS. GAY: Your Honor, I would object to that.
15 Hearsay.

16 THE COURT: Sustained.

17 BY MS. GORDON:

18 Q. After speaking with the co-workers at the city of
19 Charleston recreation department, what else did you do?

20 A. I called Derrick and we set up a second meeting.

21 Q. At some point did it become -- did you begin to
22 believe that you might be able to get the victim to
23 confront the defendant?

24 A. Yes, I did.

25 Q. Okay. And what did you do after you realized that

1 might be a possibility?

2 A. After understanding that there was some type of
3 confrontation between the defendant and the victim, I set
4 up a meeting with the victim and the defendant at the
5 Citadel Mall.

6 Q. And do you know when that took place?

7 A. That took place on July the 31st of 2009.

8 Q. When you set that up, were you located in the area
9 where the confrontation took place?

10 A. Yes, I was.

11 Q. Where were you located?

12 A. I was in the parking lot of the Citadel Mall right
13 in front of the Target area.

14 Q. Were you in a marked police car or unmarked?

15 A. I was in an unmarked police car.

16 Q. Why is that?

17 A. I didn't want especially the defendant to know who
18 I was at that particular time.

19 Q. Did you have a visual contact with the -- with
20 Mr. Nelson and the defendant, Keith Gadsden?

21 A. Yes, I did.

22 Q. And did the audio confrontation take place that
23 day?

24 A. Yes, it did.

25 Q. Were you able to keep eye contact on them during

1 the entire conversation?

2 A. Yes.

3 Q. When that conversation was over, did you obtain
4 that recording?

5 A. Yes, I did.

6 Q. How did you obtain the recording?

7 A. I kept the victim under surveillance the entire
8 time. I followed him to an area away from the mall where
9 I obtained the digital recording device from him at that
10 time.

11 Q. And did you confirm -- did you listen to the
12 recording device?

13 A. Yes, I did.

14 Q. And based on your review of it, along with the
15 rest of your investigation, what did you do?

16 A. I obtained warrants for the defendant,
17 Mr. Gadsden, for criminal sexual conduct in the first
18 degree.

19 Q. In your estimation -- when you heard that
20 recording, did it appear to be a confession?

21 A. Yes.

22 MS. GORDON: Court's indulgence.

23 BY MS. GORDON:

24 Q. Did you also make a copy from that digital
25 recording? Did you make a copy and put it available on

1 CD?

2 A. Yes, I did.

3 Q. And did you provide that to the solicitor's
4 office?

5 A. Yes, that's correct.

6 Q. And does this appear to be the CD that you
7 provided to the solicitor's office?

8 A. Yes..

9 MS. GORDON: May I have this marked as
10 State's Exhibit 1.

11 (CD marked for identification as State's
12 Exhibit No. 1.)

13 MS. GORDON: Nothing further from the state,
14 Your Honor.

15 THE COURT: Cross?

16 CROSS-EXAMINATION

17 BY MS. GAY:

18 Q. Detective Magwood, I have obviously been provided
19 some information in this file, and I know you have a copy
20 of your report. Have you had a chance to review that
21 this morning?

22 A. Yes.

23 Q. And you believe that report is about eight pieces
24 of paper. Do you have anything more than eight pieces of
25 paper in your file?

1 A. No, I don't believe so.

2 Q. And pursuant to your report, I believe you did, in
3 fact, meet with Mr. Nelson and y'all set up this meeting?

4 A. That's correct.

5 Q. And I believe that your report is written
6 indicating, I guess, memorializing your meeting with
7 Mr. Nelson and your plans to get the tape; isn't that
8 what's in your report?

9 A. Yes.

10 Q. And then it's also saying that you had, I believe,
11 met with some people. Did any of those people have any
12 direct information and/or relevant evidence to the
13 incident that was supposed to have occurred in '85 or
14 '87?

15 A. No.

16 Q. And then I believe your other piece of paper
17 regarding this is that you then decided after listening
18 to the tape to make an arrest.

19 A. That's correct.

20 Q. And that's it.

21 A. I attempted to interview the defendant also.

22 Q. Well, in this report, which I believe you've
23 agreed with me is the total report which is eight pages,
24 there is nothing else listed as anything else that you've
25 done towards this case.

1 A. That's correct.

2 Q. So there is no medical report that you may have
3 acquired pursuant to the incident that was supposed to
4 have occurred in 1985 to '87?

5 A. No.

6 Q. One of the issues that I know she talked to you
7 about just in common cases that there is no specific time
8 frame, it's like a two-year time frame, that is alleged
9 in this warrant and in this charge; isn't that true?

10 A. Yeah. There is no specific time frame because it
11 happened so long ago he could not remember the exact
12 dates.

13 Q. Or how old he was, because he would have been a
14 different age in '85 and a different age in '87, so he
15 couldn't remember whether he was seven or nine.

16 A. That's correct, yes.

17 Q. And that pursuant to your investigation, as I
18 said, there was no documentation, whether it be incident
19 report and/or medical information that would have
20 given -- documented, I guess is the right word, the
21 incident having occurred?

22 A. I have no documentation, no evidence that it
23 occurred.

24 Q. So other than Mr. Nelson's rendition of the facts
25 and this -- we understand that there is a tape of some

1 sort of conversation between the two of them, there is no
2 other corroborating evidence in this case other than,
3 like, documentation of medical records, nothing else
4 corroborates the existence of an assault in a
5 contemporaneous timely manner, 1985 to 1987 in this case?

6 A. Nothing else.

7 MS. GAY: All right. Hold on one moment,
8 Your Honor, Court's indulgence.

9 BY MS. GAY:

10 Q. Now, Detective Magwood, when you make these
11 charges, because this is your special victim unit, I know
12 you do this, it's often a range. It's not uncommon for
13 there to be a range in an arrest warrant, like from
14 certain years to certain years. It's not uncommon for
15 that, right?

16 A. No.

17 Q. And do you often in your investigations -- are you
18 able to go back and find either incident reports or
19 medical records that would have been -- that do, in fact,
20 corroborate other people's situations?

21 A. Sometimes.

22 Q. Okay.

23 MS. GAY: I have no further questions, Your
24 Honor.

25 THE COURT: Redirect?

1 MS. GORDON: Nothing, Your Honor.

2 THE COURT: You can step down. Thank you.

3 Next witness?

4 THEODERRICK NELSON,

5 having been first duly sworn,

6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. GORDON:

9 Q. Mr. Nelson, good afternoon. How are you?

10 A. Fine.

11 Q. Can you tell us what your date of birth is.

12 A. August 8, 1977.

13 Q. You said 1977?

14 A. Yes.

15 Q. Okay. And where do you live now?

16 A. West Ashley area.

17 Q. And do you work?

18 A. Yes, I do.

19 Q. Where do you work?

20 A. DoubleTree Hotel.

21 Q. What do you do at the DoubleTree?

22 A. Night turn bellman.

23 Q. You're a bellman during the nighttime?

24 A. Yes.

25 Q. Did you work last night?

1 A. No.

2 Q. Just making sure you haven't been up for 24 hours

3 Are you married?

4 A. Yes, I am.

5 Q. What is your wife's name?

6 A. Tara Nelson.

7 Q. And do you have Tara have children?

8 A. Yes, we do.

9 Q. How many children do you have?

10 A. We have two girls and I have a stepson.

11 Q. How old are you girls?

12 A. Thirteen and fourteen.

13 Q. And you have a stepson, and who is that?

14 A. Tarik Robinson.

15 Q. Is Tarik a little bit older than your two girls?

16 A. Yes.

17 Q. What are your girls' names?

18 A. Aaliyah N. and Jamaica Nelson

19 Q. And Tarik is about 21?

20 A. Yes.

21 Q. And that is your wife's child from a previous
22 relationship?

23 A. Correct.

24 Q. Do you know the defendant, Keith Gadsden?

25 A. Yes, I do.

1 Q. How do you know Keith?

2 A. He was an ex-coach of mine as I was growing up, in
3 the Charleston area.

4 Q. What did he coach for you?

5 A. Basketball, mainly.

6 Q. How old were you when you played basketball for
7 Keith Gadsden?

8 A. Between the ages of seven and eight.

9 Q. Derrick, did something happen with Keith Gadsden
10 that made you stop playing basketball?

11 A. Yes.

12 Q. Tell me about, and tell the jury, what happened.

13 A. It was one evening when I was on the porch by
14 myself, and just sitting there, playing around, whatever
15 the case may be, and Mr. Gadsden pulled up, and he asked
16 me what I was doing.

17 I just kind of told him nothing, and he asked me
18 if I want to come and practice and if I want to be a
19 starter on the basketball team and whatever the case may
20 be, and --

21 Q. What was your response to that?

22 A. Yes.

23 Q. Were you excited about the possibility of being a
24 starter?

25 A. Yes, ma'am.

1 Q. What did you do after he asked you if you wanted
2 to be a starter, or what did he do?

3 A. He just asked me to come with him, to get ready
4 for practice and everything else, so I went in the house,
5 talked to my mom to let her know I was going. She came
6 outside just to see where I was going to -- who I was
7 going to go with and make sure who he was and just wanted
8 to make sure he was taking me to the center.

9 Q. Did you trust Keith Gadsden?

10 A. I did.

11 Q. Why did you trust him?

12 A. A lot of the kids around there was playing for him
13 and everything else, so, you know, I guess I just wanted
14 to be on the winning team and that is what my goal was,
15 to have trophies and whatever the case may be, and I
16 didn't hear nothing bad about him at the time.

17 Q. When this happened, you said you lived downtown.
18 Where did you live downtown?

19 A. [REDACTED].

20 Q. I'm going to show you a picture -- I've got a few
21 of them.

22 Derrick I'm showing you what has been marked
23 as State's Exhibit 2. Do you recognize that?

24 A. Yes. That's my old address.

25 Q. That is the [REDACTED]?

1 A. That's correct.

2 Q. And on this picture --

3 MS. GORDON: At this time, Your Honor, I
4 would move to admit State's Exhibit 2.

5 MS. GAY: Without objection, Your Honor.

6 THE COURT: Admitted.

7 (Photograph marked for identification and
8 admitted into evidence as State's Exhibit No. 2.)

9 BY MS. GORDON:

10 Q. Derrick, I'm going to put this picture up on the
11 screen, and I think you've told me, it doesn't show
12 exactly where you were sitting, but can you show the jury
13 where you were sitting in relation to that picture when
14 the defendant pulled up that day?

15 A. This part right here is like the end of the
16 building, and there is, like, a porch that is on the
17 other side of that building. I was sitting right on that
18 concrete porch, by myself.

19 Q. Where did you -- how did you get to St. Julian the
20 Divine Center with Mr. Gadsden?

21 A. Through his vehicle.

22 Q. So he drove you?

23 A. Yes.

24 Q. And what happened -- where did you go when you got
25 to St. Julian the Devine?

1 A. On the third floor.

2 Q. I'm going to show you a couple more pictures. I'm
3 going to show you 4 first.

4 A. This is the back of St. Julian the Divine.

5 Q. And I'm going to show you Exhibit 3.

6 A. That's the third floor.

7 Q. That's the third floor?

8 A. Uh-huh.

9 MS. GORDON: Move State's Exhibits 3 and 4
10 into evidence, Your Honor.

11 MS. GAY: Without objection.

12 THE COURT: Admitted.

13 (Photographs marked for identification and
14 admitted into evidence as State's Exhibit Nos. 3 and 4.)

15 BY MS. GORDON:

16 Q. You said this is the St. Julian the Divine Center?

17 A. Yes.

18 Q. And that's in downtown Charleston?

19 A. Yes, ma'am.

20 Q. That's where defendant took you?

21 A. Uh-huh.

22 Q. And then I'm also going to show you this picture.
23 What is this?

24 A. That's the third floor of the center.

25 Q. Did you go on the third floor that day?

1 A. Yes, we did.

2 Q. Tell me what happened and how you ended up on the
3 third floor.

4 A. We went up the elevator and we sat down in the
5 chair at the table. We just started talking, and --

6 Q. Is the third floor where you play basketball
7 sometimes?

8 A. Sometimes we had our basketball practices there,
9 just in case it rained or whatever the case may be.

10 Q. Tell us what happened when you got to the third
11 floor.

12 A. We were just talking at the table, and he was just
13 saying something about, I really want you to be a part of
14 the team and being a star of the team, and I was, like,
15 okay.

16 So after that, he is, like, Just go to the
17 bathroom.

18 And I was, like, Okay.

19 Q. Did you know what was going to happen in the
20 bathroom?

21 A. No.

22 Q. What did you think about that?

23 A. I don't know what I think.

24 Q. What happened when you got in the bathroom?

25 A. He followed me.

1 Q. And after you went into the bathroom and he
2 followed behind you, tell the jury what happened then.

3 A. He told me to down my pants and I downed my pants;
4 told me to lay on the floor, I laid on the floor.

5 Q. How did it feel?

6 A. It was -- I mean, you can't picture something like
7 that, how it would feel. I don't like to think about how
8 something like that would feel.

9 Q. Tell me what you remember about being on that
10 floor.

11 A. Nervous and scared. So after that, he got on top
12 of me, and --

13 Q. Did he say anything to you?

14 A. Just tell -- not at that point in time, no. But
15 he got on top of me and inserted his penis inside me.

16 Q. Where inside you? What part of your body? And I
17 know this is difficult and it's not fun to talk about,
18 but where on your body did he insert his penis?

19 A. My anus.

20 Q. And how did that feel?

21 A. It was -- I don't know.

22 Q. How did it make you feel?

23 A. Hurtful.

24 Q. What happened after he inserted his penis into
25 your anus?

1 A. He told me to get up, get a piece of hand towel
2 and wipe myself up and I did that, and he told me that
3 don't worry about it, a lot of the kids went through it,
4 and went down the elevator and I left.

5 Q. I'm going to show you -- if you can pull this up,
6 State's Exhibit 4, can you show the jury where on that
7 picture the bathroom is, where this occurred.

8 A. Right here (indicating).

9 Q. I'm going to put this up so we can see it. Do you
10 recognize this?

11 A. That was in that bathroom at the time.

12 Q. And is there anything about this picture in this
13 bathroom, anything that wasn't in the bathroom at that
14 time?

15 A. That wall.

16 Q. That kind of half wall?

17 A. Uh-huh.

18 Q. Can you show us on this picture where you were
19 when he asked you to lay down.

20 A. I was on the floor, right here.

21 Q. Kind of where that wall is?

22 A. Yeah. My head was facing this wall right here.

23 Q. What did you do after that happened? Where did
24 you go?

25 A. I went home.

1 Q. Did you tell anybody?

2 A. No.

3 Q. Why not?

4 A. I didn't know how to tell nobody.

5 Q. Did you ever think about telling somebody?

6 A. Yes.

7 Q. What made you decide not to?

8 A. Because I know how my family would react.

9 Q. How often did you think about telling what
10 happened?

11 A. Every chance I probably got. I was just so
12 scared.

13 Q. What did you think would happen if you told your
14 mom?

15 A. It would have got back to the rest of my family
16 members --

17 Q. You would take --

18 A. It would have got back to the rest of my family
19 members and cause just a big old mess.

20 Q. Were you embarrassed?

21 A. Very much so. Still to the day.

22 Q. Did you tell anybody, like, after you became a
23 teenager?

24 A. No.

25 Q. Why not?

1 A. I mean, growing up, especially where I'm from, if
2 you say something like that, first, they think if you're
3 gay or, you know, whatever the case may be.

4 Q. What made you finally decide to come forward in
5 2009?

6 A. I got employed with the city of Charleston as a
7 recreational leader, and there was one day I had to
8 deliver some football equipment to Mr. Gadsden, which I
9 didn't know he was working at that site. The site he was
10 working at was -- I think it's called Corrine
11 Jones/Hester Park area.

12 Q. And how did you come to find out he was working
13 over there?

14 A. Through my ex-supervisor.

15 Q. Were you ask -- what were you asked to do?

16 A. To deliver the equipment to him.

17 Q. And how did you find out that Keith Gadsden was
18 there?

19 A. My supervisor told me that he was there.

20 Q. I mean, did you ask -- I mean, how did it come up?

21 A. He just basically told me, I need to you deliver
22 this to Keith.

23 And I was, like, Keith who?

24 And he said, Keith Gadsden.

25 I told him, I'm not going.

1 Q. Did you tell him why you weren't going?

2 A. At that point in time I didn't want to relate what
3 happened.

4 Q. Did you end up having to go anyway?

5 A. Yes.

6 Q. And did you deliver the equipment directly to
7 Keith?

8 A. No, I didn't.

9 Q. Why not?

10 A. I didn't want to see him.

11 Q. What did you do with the equipment?

12 A. I dropped it off in front of the center.

13 Q. The defense has talked about there is an issue
14 with your son and Mr. Gadsden.

15 A. Uh-huh.

16 Q. Tell me how -- how you found out your son was
17 hanging out with Mr. Gadsden.

18 A. We had an argument, I think it was --

19 Q. How had an argument?

20 A. Me and him --

21 Q. Is him Tarik, your son?

22 A. Yes, yes.

23 Q. And how told was Tarik?

24 A. Like 17, 17 years old, something like that.

25 Q. What kind of argument did y'all have?

1 A. I can't remember what the logistics of it was, but
2 I think it was something like staying in the house
3 because of the type of area we had lived in. We had just
4 moved back from Myrtle Beach, South Carolina, and we
5 stayed up there and we moved on to Mary Street.

6 Q. Back downtown?

7 A. Back downtown, yes, and if I'm thinking of it
8 right, that was -- the argument was about curfew or
9 something like that.

10 Q. Just kind of normal teenage arguments?

11 A. Yes.

12 Q. And what happened after that argument?

13 A. My mom came inside to try to talk to him, and my
14 wife tried to talk to him, and I end up calling
15 Charleston Police Department because of -- just to kind
16 of have an officer come and talk to him.

17 Q. About trying to get him to stay home?

18 A. No, just about, you know, life, and, I guess,
19 attitudes and things like that, but none of those
20 conversations went well, so, you know, he wind up
21 leaving.

22 Q. And did you know he went?

23 A. No, I didn't.

24 Q. Okay. And then how did you find out Keith Gadsden
25 was involved?

1 A. Because of the vehicle.

2 Q. How -- tell me about that.

3 A. I happened to have seen his vehicle that I had to
4 drop off the equipment in front of Corrine Jones/Hester
5 Park area, and that same vehicle came -- as I was looking
6 out the window, came by and picked him up.

7 Q. So when your son left, somebody came and picked
8 him up?

9 A. Yes.

10 Q. And you recognized that vehicle?

11 A. Yes.

12 Q. As the one you had seen from Keith Gadsden when
13 you dropped off that equipment?

14 A. Yes.

15 Q. What did you think that day?

16 A. I didn't know what to think.

17 Q. Did you know your son knew Keith Gadsden?

18 A. No, I didn't.

19 Q. Did you tell anybody at that point?

20 A. No.

21 Q. Was it soon thereafter that you finally decided to
22 tell?

23 A. A little after, yes, ma'am.

24 Q. Was there another incident where you saw Keith at
25 work?

1 A. Yes. We were -- city of Charleston football
2 season was getting underway, and we had a coaches's
3 meeting at Burke High School, and that's where I saw him
4 coming inside as I was on my phone talking to some other
5 coaches to set up different other meetings for the city
6 of Charleston. And as I saw him coming in, I looked at
7 Thomas -- well, I looked at my supervisor and I told him,
8 I'll be right back, but which I never did show back up.

9 Q. So you just left that day.

10 A. I just left.

11 Q. Did you tell -- did you think about telling when
12 you saw Keith at the -- when you dropped off the
13 equipment?

14 A. I did.

15 Q. And what about when you saw him pick up your son?

16 A. I was more pissed than anything.

17 Q. Did you finally tell somebody at work?

18 A. Yes, I did.

19 Q. Who did you confide in at work?

20 A. Mrs. Shirley.

21 Q. And do you know Shirley's last name?

22 A. I think her name is Scott.

23 Q. And what happened when you told Ms. Shirley?

24 A. We went to her office for, like, 30 minutes and
25 had a conversation, and that's when some older employees

1 came down throughout St. Julian Divine Center, and all
2 the members of management came and we went up to
3 Mr. Brenda's office and had the conversation.

4 Q. Was Ms. Brenda one of the supervisors?

5 A. Yes.

6 Q. And at some point did you finally go to the
7 police?

8 A. Yes, I did.

9 Q. When you went to the police, did they set it up so
10 that you might confront the defendant?

11 A. Yes. There was first a phone conversation that
12 had supposed to take place, but Mr. Gadsden stated that
13 he didn't want to have a conversation on the phone, that
14 he wanted me to meet him somewhere, in which Detective
15 Magwood and myself and another friend of mine that was in
16 the office overheard the conversation, and we just met up
17 through -- at the target area.

18 Q. And that's in front of Citadel Mall?

19 A. Yes, ma'am.

20 Q. That's over in West Ashley?

21 A. Yes, ma'am.

22 Q. Was that conversation recorded?

23 A. Yes, it was.

24 Q. I want to go back real briefly. When you told
25 Ms. Shirley and Ms. Brenda about what happened, did you

1 tell them that a sexual assault had occurred?

2 A. Yes.

3 Q. When you had this confrontation with the
4 defendant, could you see Detective Magwood close by?

5 A. I really didn't have my focus on Detective Magwood
6 at the time, because I just wanted to have this
7 conversation with Mr. Gadsden.

8 Q. And when the conversation was over, did you
9 provide the recording device directly back to Detective
10 Magwood?

11 A. Yes.

12 MS. GORDON: Court's indulgence.

13 (Recess taken.)

14 THE COURT: All right. Folks, because of the
15 length of time and the end of the day, what we're going
16 to do is just admit it into evidence right now and break
17 for the day because it takes about 25 minutes, so we'll
18 just come back in the morning and resume from this point
19 on and hear that in the morning.

20 So let's do this: Let's go ahead and get
21 that marked and admitted. There is no objection to that;
22 is that correct?

23 MS. GAY: No, no.

24 THE COURT: All right. Folks, what we will
25 do is break for today, and we will -- if you would be

1 (In open court, jury present.)

2 THE COURT: Okay, folks. Welcome back.
3 We're going to resume now where we left off yesterday
4 afternoon with the state's direct examination of
5 Mr. Nelson.

6 Mr. Nelson, I'll remind you you're still
7 under oath. Ms. Gordon, if you're ready.

8 MS. GORDON: Thank you, Your Honor.

9 BY MS. GORDON:

10 Q. I just want to go back to clarify a couple of
11 things where we left off yesterday.

12 You had stated this happened at the St. Julian
13 Divine Center and that the defendant was your basketball
14 coach before. After that, did you ever go back to play
15 basketball for him?

16 A. No.

17 Q. Why not?

18 A. I was scared to.

19 Q. How did you feel about leaving basketball?

20 A. I didn't want to --

21 Q. Did you want to play basketball?

22 A. I wanted to, and a lot of my friends were playing
23 basketball too, so, I mean, it was what it was, so, I
24 mean, as the years went by, I wound up playing for
25 another coach.

1 Q. But you never went back to play for Mr. Gadsden?

2 A. I didn't.

3 Q. Okay. And were there several years where you
4 didn't get to play basketball at all?

5 A. Yes.

6 Q. We were discussing that you had gone to meet
7 Mr. Gadsden out by the Target at Citadel Mall, and you
8 confronted him; is that correct?

9 A. Correct.

10 Q. Can you tell me how that got set up.

11 A. I was first initial, like I said yesterday, it was
12 a phone conversation, but he stated on the phone, while I
13 was at the police department with Detective Magwood, that
14 he didn't want to talk on the phone. He would rather
15 meet in person.

16 So we made arrangements to meet at the Target at
17 the Citadel Mall in West Ashley, so we met there, and by
18 being escorted by Detective Magwood, we set that up
19 there.

20 Q. At that point did you confront him about what he
21 had done to you as a child?

22 A. Yes, I did.

23 Q. What was it that he had done to you as a child?

24 A. Had sex with me.

25 MS. GORDON: At this time I would move to

1 offer into evidence, which it's already been admitted,
2 but I offer it to show the evidence to the jury, what's
3 been admitted as State's Exhibit 1.

4 THE COURT: It's admitted without objection,
5 and you may publish.

6 (Whereupon, the CD was played for the jury.)

7 BY MS. GORDON:

8 Q. Mr. Nelson, I just wanted to ask you, in that
9 audio, that very first part where you're saying yes, sir,
10 yes, sir, do you know who you're talking to at that
11 point?

12 A. Detective Magwood.

13 Q. And what are you discussing with him?

14 A. To make sure it's working and everything else.

15 Q. Mr. Nelson, at this point are you just waiting on
16 Mr. Gadsden to arrive?

17 A. Yes.

18 Q. Are you okay, Derrick?

19 A. Uh-huh.

20 Q. I want to talk to you about a few things that we
21 hear in the audio, just so you can clarify what's going
22 on.

23 The defendant wants to move the conversation to
24 your son, Tarik. What was going with Tarik at that time?

25 A. He was just being a regular old teenager, a little

1 bit defiant, wouldn't listen to rules or whatever, that I
2 have in my household, and he decided to leave.

3 Q. And did you try to get your son to come back and
4 live at home with you?

5 A. I tried, but I only tried once.

6 Q. And then at some point he turns 18 very soon
7 thereafter?

8 A. Correct.

9 Q. And at that point you had no control or no way of
10 forcing that.

11 A. Correct.

12 Q. Y'all talk about Pam and Shirley, who had gone to
13 the defendant and told them what you had gone to them
14 with.

15 A. Uh-huh.

16 Q. What had you gone to Pam and Shirley and Brenda at
17 work about?

18 A. Them being recreational specialists, whatever the
19 case may be, for the city of Charleston. I confided in
20 them a situation that happened to me.

21 Q. Did you confide in them that he sexually assaulted
22 you?

23 A. Yes, I did.

24 Q. You also talked to the defendant about how you
25 have taken this out -- that you have dreams about this.

1 and that you're also taking it out on your family. Can
2 you describe how you were taking it out on your family?

3 A. I just have different mood swings all the time,
4 and, you know, taking it out on my wife, taking it out on
5 my kids.

6 Q. Did it ever make you question yourself?

7 A. At some point in time, yes.

8 Q. And how is that? What did you question?

9 A. Just my gender sometimes.

10 Q. Your what?

11 A. My gender.

12 Q. Your gender?

13 A. Yeah.

14 Q. How often were you having dreams about those?

15 A. Like, a weekly, two-week basis.

16 Q. And how did it affect your work?

17 A. Sometimes I can get the job done and sometimes I
18 can't. I will get sometimes written up for some things,
19 just slacking off of work or whatever the case may be,
20 hearing stuff on the news that you see, molestation
21 cases, and it just hits you sometimes, like, Okay. That
22 was me, and I'll just blank out sometimes.

23 Q. How did you feel about when you found out you were
24 having to work with the man who had molested you as a
25 child?

1 A. From that right there, I wanted to quit, but I
2 already knew that I needed to take care of my family, so
3 I didn't have another job, whatever the case may be,
4 until I found something else. The work environment
5 became a little strenuous, whatever the case may be, and
6 after everything else, I just decided just to leave.

7 MS. GORDON: Court's indulgence.

8 BY MS. GORDON:

9 Q. One more -- how did it make you feel when you
10 found out the man who had molested you was now hanging
11 out with your teenage son?

12 A. I was pissed, thinking that -- you know, what if
13 he might try the same thing with him too.

14 MS. GORDON: Thank you. Nothing further.

15 THE COURT: Ms. Gay?

16 CROSS-EXAMINATION

17 BY MS. GAY:

18 Q. Mr. Nelson, I have several questions, so just give
19 me a chance to get my life organized here. Certainly, as
20 we left yesterday afternoon and came in this morning, the
21 priority for the morning was to listen to the tape, and
22 we've done that and it's now in evidence. We've heard
23 the tape, and that is one day that I believe happened on
24 either the 30th or the 31st of July where that phone
25 conversation occurred.

1 A. Correct.

2 Q. Now, I have some other things that I want to ask
3 you about your life that went on other than that day, and
4 that's the day that you and Mr. Gadsden directly
5 discussed some stuff, but there is some other stuff I
6 want to talk to you about.

7 It's my understanding that Tarik Robinson was born
8 around 1991?

9 A. Uh-huh.

10 Q. And when he was, say, three or four years old,
11 which might have been around '94 and '95 is when you met
12 his mother, Tara?

13 A. Correct.

14 Q. And started dating her?

15 A. Correct.

16 Q. And I believe Tara Nelson and you have two
17 daughters that were born after you were married or
18 sometime during your time together?

19 A. Correct.

20 Q. During the period of time all this was going on,
21 it's my understanding that you were in your early 20's
22 when you got married?

23 A. Uh-huh.

24 Q. About 22 or 23?

25 A. Twenty-one.

1 Q. You were born in '77?

2 A. Uh-huh.

3 Q. And so in about 2000, I understand that's when you
4 got married?

5 A. Uh-huh.

6 Q. And I believe your wedding reception was at one of
7 the facilities for the city of Charleston recreation
8 department?

9 A. Correct.

10 Q. Is that the St. Julian?

11 A. Correct.

12 Q. So you and Tara, you're 21, I assume she's a
13 little younger than you?

14 A. She's older.

15 Q. I'm going to show you State's Exhibit 4 and ask
16 you to identify this. Is this the St. Julian Center?

17 A. Yes.

18 Q. Y'all see this? So this place is where y'all had
19 your wedding reception?

20 A. Correct.

21 Q. Do you recall there being people there that also
22 worked for the city of Charleston recreation department
23 that were staffers being in the building?

24 A. Just one.

25 Q. You think there was just one person that was

1 there?

2 A. There was just one.

3 Q. But you did have your wedding reception here.

4 A. Yes, I did.

5 Q. And as Tarik got older and did different things,
6 one of the things he did was go to Burke Middle School?

7 A. Burke Middle School?

8 Q. Well, the middle school that would have been
9 feeding into Burke High School. What was its name?

10 A. I never got the name -- I don't think it was Burke
11 Middle School.

12 Q. Do you recall during that period of time is when
13 he became friends with a boy named CJ?

14 A. I don't know none of his friends.

15 Q. So you don't remember in 2008 going to the eighth
16 grade graduation and seeing any of his friends, one of
17 which would have been CJ?

18 A. I don't know none of his friends.

19 Q. Coming into this time frame, close to 2009 when
20 you went to the police on this, I believe there was a
21 period of time when y'all moved to Myrtle Beach?

22 A. Uh-huh.

23 Q. I believe you had a job in Myrtle Beach?

24 A. Yes.

25 Q. And then you came back and lived on Mary Street,

1 which is in the downtown area?

2 A. Correct.

3 Q. So once you went -- and that's approximately when
4 you started working for the city of Charleston. I
5 believe your start date is sometime in 2008?

6 A. Correct.

7 Q. Do you recall the exact day that you started
8 working?

9 A. No.

10 Q. But you agree with me it was in the year 2008?

11 A. Yes.

12 Q. Okay. And during the period of time from 2008
13 that you worked -- I think you were a recreational
14 leader, doing the same type of stuff that Mr. Gadsden did
15 up until the time you alleged that this happened and he
16 was then terminated, right? That was in 2009, in August
17 of 2009.

18 A. I didn't know he was working there when I was
19 working there.

20 Q. But you started working there in 2008?

21 A. Correct.

22 Q. And you're aware that after these charges the city
23 of Charleston terminated him pursuant to these charges.

24 A. Correct.

25 Q. And that would have been after he was arrested,

1 which would have been in August of 2009?

2 A. I don't know the exact date he was arrested.

3 Q. Sometime after this date in July, July 31st, I
4 believe.

5 A. Uh-huh.

6 Q. So do you remember going to staff meetings, where
7 you were required as an employee of the city of
8 Charleston rec department to come to meetings?

9 A. I went to one staff meeting there because they
10 only have one staff meeting there, and I was getting
11 ready for the summer program.

12 Q. So that would have been the summer of 2008 or the
13 summer of 2009?

14 A. I think it was 2008, I think it was.

15 Q. And then you worked there throughout, doing
16 different duties at this St. Julian's Center primarily,
17 and in the rec department, a lot of times people are
18 designated to certain centers: There is Hester Park,
19 there is Martin Park, there is the Julian Center, there
20 are different sites that you can work at, right?

21 A. Well, the position I had, I had to travel to all
22 different sites.

23 Q. Okay. But sometimes people sort of stay in a
24 site, and that's what they do. That's their location
25 where they work.

1 A. Correct.

2 Q. Now, back to Tarik. After the 2008 eighth grade
3 graduation when he was friends with CJ, he became more
4 like a teenager, I believe your testimony was he
5 became -- let's just call him obstinate and not listening
6 well?

7 A. Uh-huh.

8 Q. In 2007 didn't he run away from home for a period
9 of time where he left and -- like, he left. It wasn't as
10 if you asked him to leave, but he left on his own in
11 2007.

12 A. Not that I know of.

13 Q. Okay. Well, do you recall a conversation -- and I
14 think you've referenced it the last time we talked at the
15 mall. Do you recall a conversation you had with
16 Mr. Gadsden at the mall, the Citadel Mall, in 2007 when
17 you worked at Hat Place?

18 A. I wasn't working in 2007 at Hat Check.

19 Q. Let me look at your employment paperwork from the
20 city. It's my understanding -- and if you need me to
21 show it to you I can -- that you actually put in your
22 application that you worked for the Hat Place in 2007?

23 A. Those dates are probably wrong.

24 Q. Okay.

25 A. I probably put in wrong, but 2007, I wasn't

1 working at Hat Check.

2 Q. Well, we can look at that. That's part of the
3 city records, and I'll show one of the ladies.

4 A. You can call Hat Check as well.

5 Q. I have a document I'll be happy to show it to the
6 lady that works for the city.

7 Now, do you recall having a conversation with
8 Mr. Gadsden about Tarik running away from your home
9 sometime in 2007? If it's not at the hat shop, somewhere
10 in the mall area?

11 A. No, ma'am.

12 Q. You say that didn't occur?

13 A. That did not occur. He never ran away.

14 Q. Okay.

15 A. I didn't recall him running away, not one time.

16 Q. Say that again?

17 A. I don't recall him running away, not one time.

18 Q. Do you recall him being gone from your house for a
19 period of time in 2007?

20 A. No. The only time that incident happened is when
21 we had that blow up, that was it.

22 Q. And that is in 2008?

23 A. 2008.

24 Q. That blowup happened, I believe, after he went to
25 the fair, and I think he went to the fair and rode with

1 Mr. Gadsden and his son, CJ, because it was in October of
2 2008. That's when the fair was. Do you recall it being
3 that time frame?

4 A. I think it was Mother's Day or something like
5 that, that the incident happened. As a matter of fact,
6 it was Mother's Day.

7 Q. Mother's Day of what year?

8 A. 2008, I think it was.

9 Q. Okay. So your position is in 2008 --

10 A. I was living on Mary Street, and that is when the
11 incident happened.

12 Q. You're saying that happened in May of 2008?

13 A. I don't know what the exact month was. The only
14 thing I remember was it was Mother's Day when we had the
15 blowup. That's all I can remember. It was Mother's Day.
16 I don't know the exact date for Mother's Day, I
17 apologize, but I know was Mother's Day because I bought
18 my wife a puppy that day.

19 Q. Would you agree with me after that blowup that
20 Mr. Tarik Robinson did not live with you after that?

21 A. No, he did not. You said 2007? 2007 and 2008 is
22 two different years.

23 Q. 2007 is when I said he ran away. 2008 is when he
24 moved out. You agree with me in 2008 he moved out of
25 your house?

1 A. He moved out.

2 Q. And part of the reason he moved out is there had
3 just been enough, and you wanted him to leave?

4 A. I didn't want him to leave. That was his choice.

5 Q. Well, he's only 17 years old. He wasn't an adult
6 yet.

7 A. What do you want me to do?

8 Q. He left your house in 2008.

9 A. Yes, he did.

10 Q. And at that point he actually went to live with
11 Mr. Gadsden and his son, CJ, in his house?

12 A. The cops was called, and you can verify that if
13 you want to. The cop told me there is nothing he can do.
14 If he wants to leave, he can leave. Who he went out with
15 that day, I didn't know until I oped my curtain.

16 Q. When you opened the curtain in 2008, it was either
17 Mother's Day or some other time, that is when you
18 realized that this car I think you said was
19 Mr. Gadsden's -- and he had been the one that picked him
20 up?

21 A. Correct.

22 Q. And you were aware at that time that Mr. Gadsden's
23 son was friends with your stepson?

24 A. I don't know who he was friends with, once again.
25 He had different friends. Only friend I knew he have was

1 just a load of kids that lived in the area, that's it, in
2 my street, that's it. Who his friends was beyond my
3 street, I cannot tell you.

4 Q. So with regard to what happened then, he then
5 starts living somewhere else other than your house, and
6 you eventually, through some form of information, find
7 out that in 2008 he's living in the house with
8 Mr. Gadsden?

9 A. Okay. Well, why is this case focussed on my son?
10 It's supposed to be focussed on something else. This has
11 nothing do with it, if that's what you're trying to
12 mention. We really need to get off of this because I
13 don't want to talk about it no more.

14 Q. I have questions that I have to ask you.

15 THE COURT: Mr. Nelson, if there is an
16 objection to relevance, the prosecution will make it.
17 Otherwise, you need to answer the questions that she asks
18 you.

19 All right. Go ahead.

20 BY MS. GAY:

21 Q. So during the time that Mr. Nelson -- that
22 Mr. Robinson did not live in your house, and this goes
23 back to things that are discussed in the tape, just to
24 put some context on it, one of the things that
25 Mr. Gadsden talks about is the money problem, money

1 issue. That has to do with social security for Tarik
2 Robinson, doesn't it?

3 A. Yes.

4 Q. And I believe that at the time because Tarik
5 Robinson was a minor that he was getting some type of
6 social security check that was his mother, because he was
7 a minor, was considered the payee of that check.

8 A. Correct.

9 Q. But at some point in time, after Mr. Robinson
10 moved out of your house, he got his cousin, whose name is
11 Nakesha Robinson, to go down to social security and
12 change the payee of that check so he could have access to
13 the money; isn't that right?

14 A. I guess so, because when my wife made the phone
15 call, she said the mother came down here and transferred
16 all that stuff. That's exactly what she said.

17 Q. I believe the situation is that somehow the entire
18 time, from either Mother's Day or October or whenever
19 that Mr. Robinson, Tarik Robinson, didn't live in your
20 house. The social security check that was paid to his
21 mom went into your household, like whatever months they
22 were, and I believe April 1, 2009 was when the check was
23 issued in someone else's name for the first time.

24 Do you recall that?

25 A. I don't know who it was transferred to. I don't

1 keep track of that stuff.

2 Q. It was transferred to someone else other than his
3 mother, Tara.

4 A. I don't know. You're asking the wrong person.

5 Q. Didn't you go down to social security and claimed
6 there had been fraud?

7 A. Me and my wife went down there. I can't talk
8 about it because my name wasn't on it.

9 Q. I understand that, but you and your wife did go to
10 social security and claim there had been fraud once
11 Mr. Robinson's check did not come to your household?

12 A. Exactly, because once she had spoke to one of the
13 workers over at social security. She said, Well,
14 Mrs. Robinson, you came down here and you switched it.
15 They said mother switched it.

16 My wife was, like, No, I did not come down here
17 and switch anything, so whoever went down there, they
18 lied and said it was mother of Tarik.

19 Q. However, during the period of time between the
20 time Mr. Robinson, Tarik Robinson, was not in your house,
21 during all those months before April 1 of 2009 --

22 MS. GORDON: Your Honor, I would like to
23 object at this point. I've kind of let it go on because
24 there was reference to it in the audio, but I think we've
25 gone beyond the relevance.

1 THE COURT: Where are we going on relevance?

2 MS. GAY: Well, Your Honor, I believe he's
3 established that he did go down there and say there was
4 fraud and that's all I said. My next question --

5 MS. GORDON: Can we do this at the bench?

6 THE COURT: If you've got a point, let's make
7 it and then move on to something new.

8 BY MS. GAY:

9 Q. The last question I would ask you, Mr. Nelson,
10 from that point on, the check did go somewhere else, and
11 eventually Mr. Robinson, Tarik Robinson, turned 18 and
12 all of that was handled by him directly; isn't that true?

13 A. I guess so.

14 Q. So that was the money issue that was referred to
15 in the tape.

16 Now, with regard to you as a person, after -- we
17 know, because we've all listened to the tape, that much
18 of the conversation in the tape is about Tarik and about
19 his relationship with you and what Mr. Gadsden says about
20 his thoughts on you and your son, your stepson, and, I
21 mean, I think if we add up all the words, the majority of
22 them are about Mr. Robinson, but I think what I'm most
23 concerned about is you talk to him about therapy and
24 things like that, and you wanted him to go to a therapist
25 with you?

1 A. It was part of the conversation.

2 Q. At the end, when you said would you go to a
3 therapist with me --

4 A. Yes, I did.

5 Q. Okay. Did you have somebody in mind?

6 A. My regular therapist was McDonald, but that was
7 not going to take place.

8 Q. I understand. Now, when you were working for the
9 city, I believe that there was an occasion where you had
10 a problem and got disciplined while you were working for
11 the city. I think they said you were cussing at some
12 child.

13 A. That's hearsay. Just like you said this is
14 hearsay, that's hearsay.

15 Q. They eventually disciplined you for that, did they
16 not?

17 A. No, they did not.

18 Q. So your position is that they didn't ultimately
19 discipline you, even though they decided that you had, in
20 fact, cussed at the kid?

21 A. No, they did not.

22 Q. Okay. And at this point in time, I believe that
23 we still -- are you still in a situation where you do not
24 have any type of relationship, if we want to call it
25 that, or good communication might be a good way to say

1 it, with Tarik Robinson?

2 A. That is your opinion?

3 Q. I'm asking you.

4 A. We had a decent relationship because of my
5 grandson.

6 Q. So you do say you do have a decent relationship
7 with him?

8 A. Uh-huh. We don't talk like we're supposed to, but
9 we're trying to work on it.

10 Q. So you're working on it. Good.

11 MS. GAY: I would like to confer with my
12 client for just a second, Your Honor.

13 THE COURT: All right.

14 MS. GAY: I just want to look at one other
15 place.

16 BY MS. GAY:

17 Q. So in conclusion, Mr. Nelson, it's your testimony
18 today that the times that you saw, physically saw,
19 Mr. Gadsden is limited in past between -- between 2009
20 and 2000 when you were in your 20's that they were
21 limited to seeing him once or twice and that the last
22 time you saw him, I think you said you took some -- what
23 did you say, you were supposed to go to a meeting or
24 something and he was there?

25 A. Uh-huh.

1 Q. And your position and testimony to the jury is
2 that is the only time you've seen him face to face?

3 A. The last time I seen him? The last time I seen
4 him was at a Burke homecoming game. That's last time.

5 Q. Okay. Before the charges were done. I understand
6 you saw him at a Burke homecoming game after the arrest,
7 but before the charges were brought, your testimony is
8 the last time you saw him was when? Other than the
9 conversation.

10 A. Football registration at Burke High School.

11 Q. Do you know about when that would have been?

12 A. No.

13 Q. Okay. And that you didn't ever have this
14 conversation in the mall when you worked at Hat Shop?

15 A. No, never had a conversation at a mall when I
16 worked at a hat shop.

17 MS. GAY: Okay. I have no further questions,
18 Your Honor.

19 THE COURT: Redirect?

20 MS. GORDON: Briefly, Your Honor. May I
21 approach, Your Honor?

22 THE COURT: Yes.

23 MS. GORDON: I move State's Exhibit 6 into
24 evidence, I believe without objection.

25 MS. GAY: No objection, Your Honor.

1 THE COURT: Admitted.

2 REDIRECT EXAMINATION

3 BY MS. GORDON:

4 Q. I'm showing you your employment verification that
5 you gave to the city of Charleston that shows when you
6 started -- when you came back to work there. Can you
7 verify what day you started working?

8 A. 8/15/08.

9 Q. So you didn't come back to the city until the end
10 of August of '08?

11 A. Correct.

12 Q. So you wouldn't have been there from the beginning
13 of the summer program from 2008?

14 A. No, ma'am.

15 Q. So you could have been confused and that was
16 actually in '09?

17 A. Yes, ma'am.

18 Q. And could you also be messed up on that it could
19 have been 2008 when the incident occurred on Mother's
20 Day?

21 A. When I first started with the city of Charleston,
22 I was working under the recreational program which I was
23 a recreational leader. I got transferred to another
24 department. I had to go to different sites. I forgot
25 which month that was. I think it was probably '09,

1 probably, when I switched positions.

2 THE COURT: Recross?

3 RECCROSS-EXAMINATION

4 BY MS. GAY:

5 Q. You acknowledged from August 15, 2008 is when you
6 started, so back to this conversation about when
7 Mr. Robinson no longer lived in your house for whatever
8 reason --

9 MS. GORDON: Objection, Your Honor. This is
10 beyond the scope.

11 THE COURT: This is related to redirect.

12 MS. GAY: I'm asking him whether he remembers
13 whether it was before and after he went back to work for
14 them on August 8.

15 THE COURT: Go ahead.

16 BY MS. GAY:

17 Q. Did this incident happen with Mr. Robinson leaving
18 your home before or after August 8 of '08?

19 A. The incident between me and Tarik?

20 Q. Uh-huh.

21 A. It happened -- I think it's after.

22 Q. And so your employment during the period of
23 time -- Mr. Nelson, you sued the city of Charleston,
24 Shirley and Brenda and the city of Charleston --

25 MS. GORDON: Objection, Your Honor.

1 BY MS. GAY:

2 Q. -- about your employment.

3 THE COURT: What is the relevance?

4 MS. GORDON: Objection, Your Honor. May we
5 approach?

6 THE COURT: It's not brought up on redirect,
7 so it's not going to be brought up in recross.

8 MS. GAY: All right. Well, I'll deal with it
9 later. Thank you.

10 THE COURT: All right. You may step down.

11 Okay, folks. Let's take a ten-minute break
12 right now. Don't begin deliberations or discussions
13 about the case and we'll see you back in ten minutes.

14 (Recess taken.)

15 THE COURT: Call your next witness.

16 MS. GORDON: The state calls Shirley Scott.

17 SHIRLEY CURNELL-SCOTT,

18 having been first duly sworn,

19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. GORDON:

22 Q. Good morning, Ms. Scott. How are you this
23 morning?

24 A. I'm okay, I guess.

25 Q: You've recently retired?

1 A. Yes, March 30th, 31 years, five months, two weeks,
2 and four days.

3 Q. And we have brought you here just off retirement?

4 A. Yes, ma'am, one week.

5 Q. I apologize for bringing you here one week into
6 your retirement. You told the jury, you worked for the
7 city of Charleston recreation department. That's been
8 your whole career?

9 A. Yes, ma'am.

10 Q. And you worked there for over 31 years?

11 A. Yes.

12 Q. Did you work there, do you remember, way back in
13 the 80's, Keith Gadsden being a basketball coach for the
14 city of Charleston?

15 A. I remember him coaching, yes.

16 Q. And years later did you have occasion to work with
17 Derrick Nelson when he worked for the City of Charleston
18 Recreation Department?

19 A. He worked in the playground, and I worked at the
20 St. Julian Divine. It was under the umbrella, but we
21 didn't work hand in hand.

22 Q. But you saw him on occasion?

23 A. Yes.

24 Q. At some point did he come to you with a problem he
25 was having at work, something that had happened to him

1 that he wanted to talk to you about?

2 A. Yes, yes.

3 Q. And you can't tell me exactly what he said, but
4 when he came to you, did he disclose to you that he had
5 been sexually assaulted?

6 A. Yes.

7 Q. Did he tell you -- you're limited, so I don't want
8 you to say what he told you. Did he tell you when it had
9 happened? And I don't mean the day or anything, but --

10 A. Yes, yes.

11 Q. -- in reference to time. When did he say it had
12 happened to him?

13 A. When he was a little boy.

14 Q. And did he tell you where it had happened?

15 A. Yes.

16 Q. Where did he say it happened?

17 MS. GAY: Your Honor, I would object to
18 hearsay. I know this is her understanding, but she is
19 basically just repeating what he said.

20 THE COURT: No, she's allowed to tell date
21 and location.

22 BY MS. GORDON:

23 Q. Did he tell you where it had happened?

24 A. Yes.

25 Q. Okay. Where did he say it happened?

1 A. In the third floor bathroom.

2 Q. Of what building?

3 A. St. Julian Divine.

4 Q. When he came to you that day, how did he appear?

5 A. He was upset.

6 Q. What did you think when you heard that?

7 A. I thought he was coming to the wrong person,
8 again, but I knew that because he was upset that he
9 needed to talk to somebody else, and because of where I
10 was, it wasn't the right place, either I was at the pool,
11 so --

12 Q. Tell me where you were. Where were you when this
13 conversation took place, and what were you doing?

14 A. I was sitting at the pool. I took my summer camp
15 route for recreational swimming at Martin Luther King
16 Pool on Jackson Street. I was sitting on the side.

17 Q. Do you remember, like, what time of the day it was
18 or what day it was?

19 A. It was between the hours of 1 p.m. and 3 p.m.
20 because it was during recreational swim time.

21 Q. And what did you tell him to do?

22 A. That he needed to go speak to the supervisor. He
23 needed to go talk to Brenda.

24 Q. And did you accompany him to see Brenda?

25 A. We walked over to the building together because

1 the kids were leaving the swimming pool, so I walked from
2 the swimming pool back to St. Julian Divine, and he
3 walked over there with me, yes.

4 MS. GORDON: Court's indulgence. Nothing
5 further, Your Honor.

6 THE COURT: Cross?

7 MS. GAY: One moment, please.

8 CROSS-EXAMINATION

9 BY MS. GAY:

10 Q. Hi, Ms. Shirley. How are you? A long time to
11 work at one place, 31 years, five months, two weeks, and
12 five days. During that period of time I'm sure you've
13 seen and heard a whole lot about what has gone on on
14 those rec grounds, and you said you remembered
15 Mr. Gadsden being some kind of coach in the early '80s.
16 Do you remember him being a baseball coach also?

17 A. Yeah.

18 Q. Do you by any chance remember the age group that
19 he taught or coached in baseball?

20 A. No.

21 Q. Would you remember the year?

22 A. It was a long time.

23 Q. Yeah, it was a long time. Do you remember at all
24 what year Mr. Gadsden came to work for the city of
25 Charleston? It would be your personal memory. If you

1 don't, that's fine.

2 A. I don't know.

3 Q. Okay. Do you remember if when he was coaching
4 baseball that it was shortly after he started or was it a
5 while after he started, do you recall?

6 A. I always remember him being our main coach, so --

7 Q. Main coach for baseball?

8 A. Youth sport.

9 Q. Youth sports. I understand.

10 MS. GAY: And I don't believe I have any
11 further questions for this witness, Your Honor. Thank
12 you very much, Ms. Shirley.

13 THE COURT: Redirect?

14 MS. GORDON: Nothing.

15 THE COURT: You may step down. Next witness.

16 MS. GORDON: State calls Shirley Scott.

17 MS. GAY: We just did.

18 MS. GORDON: I'm sorry, Brenda Shokes.

19 BRENDA SHOKES,

20 having been first duly sworn,

21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. GORDON:

24 Q. Good morning, Ms. Brenda, how are you? It's a
25 busy week at the city of Charleston Recreation

1 Department?

2 A. It is.

3 Q. I apologize for taking you out of work. Can you
4 tell the jury how long you've been working for the
5 recreation department with the city?

6 A. As of February 14th, 35 years.

7 Q. And what is your position there?

8 A. I am a recreation program manager.

9 Q. Do you recall Keith Gadsden working for you years
10 ago?

11 A. Yes.

12 Q. And then he quit at some point, or left?

13 A. Yes.

14 Q. And then came back?

15 A. Yes.

16 Q. Many years later. Did you also -- did were you
17 also at some point the supervisor for Derrick Nelson?

18 A. Yes.

19 Q. Do you recall a day when Derrick came to you and
20 said he had something that he needed to talk to you
21 about?

22 A. Yes.

23 Q. And tell me what you remember about that day.

24 A. He came to my house on a Monday morning, along
25 with Shirley Scott, and wanted to tell me what he told

1 her about something that happened to him prior to me
2 being in charge. And he went on to tell me about an
3 assault that happened --

4 Q. Don't tell me exactly what he said. You're going
5 to be limited about what you can tell me. Did he tell
6 you -- did he disclose that he had been sexually
7 assaulted?

8 A. He did.

9 Q. Did he tell you where it had happened?

10 A. He did.

11 Q. Where did he say it happened?

12 A. The East Side Community Center.

13 Q. Is that also known as St. Julian Divine?

14 A. St. Julian Divine.

15 Q. Did he tell you where in the building it happened?

16 A. He did.

17 Q. Where did he say it happened?

18 A. On the third floor.

19 Q. And did he tell you when it had happened?

20 A. He told me how old he was when it happened.

21 Q. What did he say?

22 A. He said when he was, like, nine years old, maybe
23 eight to nine years old. He was promised --

24 MS. GAY: Your Honor, I would object at that
25 point. It goes beyond the scope of time.

1 THE COURT: Yes, she's limited to just time
2 and date.

3 BY MS. GORDON:

4 Q. You can't --

5 THE COURT: Or time and location.

6 BY MS. GORDON:

7 Q. You can't say exactly what he told you, so you're
8 limited in that, okay? What did you do after he told
9 you -- after he made that disclosure to you?

10 A. I called my supervisor and discussed what he
11 discussed with me, and I took him to her office to meet
12 with her.

13 MS. GORDON: Court's indulgence.

14 BY MS. GORDON:

15 Q. How did Derrick appear when he came to talk to
16 you?

17 A. His voice was shaking and he was holding back
18 tears when he was discussing what had happened.

19 MS. GORDON: Nothing further, Your Honor.

20 THE COURT: Cross?

21 CROSS-EXAMINATION

22 BY MS. GAY:

23 Q. People that work there 35 years, they get
24 confusing. Now, when you were a supervisor at the
25 recreational department, you, I believe, testified you

1 jury room by 1:30, we will start back then. Again, go to
2 lunch with anybody you want to, just don't talk about the
3 case, witness demeanor, anything about the case at all,
4 and if anybody does approach you to talk to you about the
5 case, please report that when you get back.

6 All right? Enjoy your lunch. See you back
7 at 1:30.

8 (Recess taken.)

9 A F T E R N O O N S E S S I O N

10 (In open court, jury not present.)

11 MS. GORDON: This morning you had asked for
12 some cases on whether or not rape trauma evidence was
13 admissible.

14 THE COURT: Okay.

15 MS. GORDON: The leading cases, which are
16 Schubert, which was the first case in South Carolina to
17 say rape trauma evidence is allowed as proper testimony
18 and then Weaverling, which goes on to say that it does
19 not matter if the expert has physically interviewed the
20 victim or not, that it's still admissible, and then I
21 handed you -- this is a case of a child sexual assault,
22 but it expands it and makes it clear that it is not only
23 admissible in child sexual assault cases, but also in
24 adult sexual assault cases.

25 THE COURT: The thing I think we need to be

1 really careful about is to make sure that the testimony
2 does not go into, essentially, the witness vouching for
3 the veracity of the testimony of the victim. In fact,
4 that's pretty much clear they cannot say whether or not
5 they think in their opinion they're telling the truth,
6 they can only go into what the characteristics are of
7 rape trauma and is the defendant's symptoms consistent --
8 or excuse me, the victim's symptoms consistent with that,
9 and that's pretty much it.

10 MS. GORDON: That's correct, Your Honor.

11 There will be -- Mr. Elsey will discuss delayed
12 disclosure and why, particularly men, do not disclose,
13 and that has been researched for a long, long time.

14 MS. GAY: That, I believe, is more in line
15 with what you initially said, Your Honor, was that
16 somehow bolstering up the fact that this victim telling
17 late could, in fact, be somehow probative of some type of
18 evidence that it existed or it happened.

19 Obviously, all these cases are weighed
20 against probative value versus prejudice, and, obviously,
21 my argument initially is that it's overly prejudicial to
22 have this person come and testify. There are two people,
23 and I believe one of them I can understand, and I don't
24 believe I have much of an argument on that one, but --

25 THE COURT: Which is the one you don't have

1 an argument on?

2 MS. GAY: Jacqueline McDonald. That's the
3 woman that saw him and has some records that have been
4 provided and has had specific contact with the victim,
5 and she's not presented to me as a sexual expert. She's
6 presented as a family counselor or some kind of
7 counselor.

8 I'm sure she's going to say he has
9 PTSD because that's what I've been given. The problem is
10 with Dr. Elsey. Dr. Elsey has never seen my client.
11 Yes, there is this case that she did give me that said
12 that people who have never seen the person can come to
13 have some type of, you know -- in fact, it may in fact be
14 relevant and probative, but the reality is it's really
15 not, because all the stuff that she just said about what
16 he's going to testify about, men specifically not
17 reporting because it may be difficult for them to report,
18 that is all way, way too prejudicial to my client to have
19 a scientist or person who comes in as an expert to say
20 that that's what happens in situations.

21 I think that it's a fact in this case, a
22 factual fact, that he's alleging something happened when
23 he was a child. He's now coming in as an adult. The
24 jury has their own common sense on these things, that
25 they know those are the facts in this case and they're

1 going to make a decision about whether they think it
2 happened when he was a child or not, but to have an
3 expert come in to say oftentimes men do not disclose
4 until they're older because they may, in fact, have some
5 type of personal issues about it or fear or anxiety is
6 basically bolstering the fact that the event would have
7 occurred and that is what the prejudice versus probative
8 is.

9 It's beyond the scope of anything that's
10 probative, and it's highly prejudicial to my client. And
11 I do agree there is a case that says that a person who
12 hasn't seen the victim can testify, but as to what
13 they're testifying to, that is what my problem is, and
14 who this man is, and he's the director of the Lowcountry
15 Children's Center.

16 MS. GORDON: May I respond, Your Honor?

17 THE COURT: Yes.

18 MS. GORDON: One, he's not the director of
19 the Lowcountry Children's Center, but he is a therapist
20 at the Lowcountry Children's Center; and, secondly,
21 delayed disclosure is a recognized phenomenon in clinical
22 psychology. It has been studied and researched, and it
23 is not the type of thing that the jury would necessarily
24 know about. So therefore it does meet the criteria for
25 what an expert would be allowed to testify to.

1 It is exactly what these cases, the Schubert,
2 Weaverling, and White cases anticipate. It is behavioral
3 testimony related to rape trauma. Ms. Gay has brought up
4 on cross-examination that he didn't tell and that he
5 could have told, and I think it is relevant as to why he
6 delayed in disclosing that clinical phenomenon of why
7 people do not disclose, even though they may have had an
8 opportunity to.

9 MS. GAY: Your Honor, all three of these
10 cases have situations where these people were
11 contemporaneously reporting their assault. None of these
12 cases have situations where somebody now, 30 years later,
13 25 years later, comes in and says it happened.

14 Every single one of them -- two of them, the
15 victim was seen by the person who was coming in to
16 testify. Schubert, the victim was seen by his wife, the
17 victim was seen by the person, so there was some
18 understanding or some contemporaneousness to the trauma
19 of the event that had just happened, and it says
20 specifically that they were there to testify as to the
21 trauma of it.

22 Now, there is trauma and there is behavior,
23 but I believe what she's trying to do is take this
24 witness and establish this whole -- and it could be
25 considered furtherance of her client's version of

1 reality, by saying that, you know, this doctor says that
2 people oftentimes don't tell for this reason and that
3 reason and that there is this all -- you know, there is
4 some type of research on it.

5 If we limit it to the doctor saying there is
6 this phenomena and there be no details about it, because
7 this is not a stupid jury, Your Honor. I think they're
8 very aware that there is either a phenomena or there, in
9 fact, was a delayed report situation, so I have a
10 significant problem, and I do believe it's prejudicial
11 for Dr. Elsey to testify beyond the fact that there is an
12 existence of the phenomena, and what the details of that
13 phenomena is, I think the jury then takes what the victim
14 said and adds it to what the doctor said and then creates
15 this whole reality that proves something that isn't even
16 there.

17 He didn't contemporaneously report to
18 Dr. Elsey. He didn't contemporaneously report to anyone
19 for him to be able to be able to use the benefit of this
20 behavioral trauma witness and testimony is prejudicial to
21 my client. And as I said, every single one of these
22 cases is a contemporaneous case where they did report it
23 at that time and people did meet with them and testify to
24 what had occurred, and that's the reason trauma is there.
25 How are they acting from the trauma of the event at the

1 time that the event occurred?

2 MS. GORDON: Your Honor, may I respond
3 briefly?

4 THE COURT: Sure.

5 MS. GORDON: I think what Ms. Gay has pointed
6 out is that she also doesn't understand the late
7 disclosure because she is -- in her opinion, there can
8 only be trauma if you had it immediately and if you
9 reported it immediately.

10 But that just simply is not the case. That's
11 not something that is -- may necessarily be known to
12 people that don't work in that field, but it is not just
13 a phenomena, it is something that actually happens. It
14 is something that has been researched. It is something
15 that has been documented, and it is something that would
16 clearly help this jury understand why that kind of thing
17 happens.

18 And the standard is not whether or not the
19 testimony is prejudicial. Everything that comes into
20 this court is prejudicial one way or the other. The
21 question is whether it is overly prejudicial, more
22 prejudicial than probative, and in this case, it would be
23 more probative so that this jury understands exactly what
24 delayed disclosure is.

25 MS. GAY: I think it would be different if

1 Dr. Elsey met with the victim, which he didn't do. He's
2 going to be brought in as a witness to say things that
3 are totally and completely irrelevant to the facts of
4 this case, and it is, I believe, overly prejudicial, and
5 it's probative value to go into what that is -- I don't
6 have a problem with him referring to it as a phenomenon,
7 I just have a big problem with him describing details of
8 it because, in a sense, he's describing to the jury the
9 sense the victim might have, and he has not even seen
10 this victim. He never even met this victim. He never
11 even reviewed anything in this victim's case.

12 THE COURT: Well, of course, the critical
13 issue is that no doctor met with him when he was seven
14 years old, so there is not ever going to be a
15 contemporaneous interview, so the question is, is it
16 proper to go into this issue of a -- first of all, does
17 he have rape trauma or post-traumatic stress disorder,
18 and then what is the effect of a delayed disclosure? Is
19 that the sort of thing that's normal or abnormal, where
20 you have a child who was the victim of a sexual assault?

21 So I think as to the first -- well, it's not
22 a doctor. Jacqueline McDonald, she was the counselor.
23 She's going to be able to testify, presumably she wants
24 to testify as to her diagnosis of him and the basis for
25 that diagnosis is going -- and the ultimate diagnosis, I

1 gather, is going to be post-traumatic stress disorder.

2 Then we go in -- and I gather the defense has
3 no real objection to Ms. McDonald, as you said.

4 MS. GAY: We don't object to her being
5 present. We did discuss with the solicitor limiting her
6 testimony to that he came in, that he met with her, not
7 discussing in detail what he said, but that she did
8 believe pursuant to her time with him that he has PTSD.

9 That was my understanding of what the
10 solicitor was going to do. If she's going to go into her
11 records and say every single thing that he said to her on
12 any given day, I don't think that's appropriate.

13 MS. GORDON: I -- may I respond, Your Honor?
14 She is not -- it is not my intention to call her for her
15 to relay every verbatim -- what was said in the
16 counselling sessions, but I think she has to rely on
17 those statements for her diagnosis, and if something were
18 relevant for that purpose, if there was a statement made
19 relevant for the purpose of that diagnosis, then that
20 would be an exception to the hearsay rule and would be
21 admissible.

22 THE COURT: Well, she's going to be
23 basically --

24 MS. GORDON: She is not coming in to go into
25 the details of everything that the victim said in

1 counselling.

2 THE COURT: To the extent that she relies on
3 the statements for date and location, obviously those
4 come in for the purposes of making a medical diagnosis.
5 To the extent she can make a diagnosis, it can come in
6 for that. As to Don Elsey, we are focussing in on
7 delayed disclosure, and I think the threshold issues are
8 what are the symptoms of this delayed disclosure
9 syndrome? How does that lead to a diagnosis?

10 And then you will be able, presumably, to
11 testify, based on the records, that what he has seen with
12 the victims are consistent with that or not. And so to
13 the extent that he can testify that he's reviewed the
14 records and that those records indicate that the victim's
15 symptoms are consistent with the diagnosis of this
16 delayed disclosure, then he'll be allowed to do that.

17 There is, obviously, a prejudicial effect to
18 it, but I think that the state has the right to bring
19 this in, under the case law, and under the theory that
20 they need to be able to answer a reasonable juror's
21 question as to why did you take so long to report this to
22 anyone, and to the extent that this is not an unusual
23 phenomenon, based on studies and evidence that these
24 folks have developed over the years, then the probative
25 value of that, I think, substantially outweighs any

1 prejudicial effect and he will be allowed to testify to
2 that.

3 Both of these people are not going to be
4 allowed to testify as to whether or not they think the
5 victim is telling the truth or not, only whether or not
6 his symptoms are consistent with a diagnosis of syndrome
7 or disorder.

8 So to answer your question about, well, he's
9 never met with this victim, I think the answer to the
10 case law is, well, that simply goes to the weight, and
11 you cross-examine him on that, if he's never met with the
12 victim before, but under the case law, that doesn't
13 preclude this expert or most experts from testifying that
14 they have met with a victim.

15 MS. GAY: Your Honor, I think that begs the
16 issue of -- I've never been provided -- of course I filed
17 my discovery request. I have an ongoing discovery
18 request. I've never been provided with any information
19 about Dr. Elsey's opinion after reviewing anything in
20 this case, so I don't know if there's an opportunity for
21 me to talk with him before he testifies, but I have never
22 been told that he's seen anything in this case.

23 THE COURT: When did you come up with
24 Dr. Elsey?

25 MS. GORDON: Your Honor, he is not going

1 to -- he's going to testify generally about the late
2 disclosure. He did not do a report. I did tell Ms. Gay
3 that he was going to be a witness, but I have no
4 objection to her talking to Dr. Elsey.

5 THE COURT: I just kind of would like to move
6 along with the trial. When did you disclose to her you
7 would be calling Dr. Elsey?

8 MS. GORDON: Last week.

9 MS. GAY: There is some confusion about that
10 because I thought she was going to do that in e-mail. I
11 honestly did not see his name until yesterday on the
12 witness list, but, once again, my problem, you described
13 what he could testify to, what would be a reasonable
14 thing that would be helpful to this jury for him to say,
15 some kind of reference about the victim in this
16 situation, and, once again, the solicitor has said no.
17 He's not going to say anything about this victim. He's
18 just going to describe randomly some of these things,
19 which I believe is still overly prejudicial to my client
20 because he's not even going to have, is what she's
21 describing to me, some kind of connection to this case,
22 and I just don't think it's an appropriate witness to
23 bring in with information, just general information.

24 Why does it need to be specific about this
25 case? That's why I have no problem with Ms. McDonald. I

1 understand she was somebody who saw the victim in this
2 case directly, Mr. Nelson, but Dr. Elsey isn't even
3 intending to connect up something he saw in this case.
4 That's what my point was.

5 MS. GORDON: I might be asking him a
6 hypothetical based on what happened in this courtroom and
7 I'm allowed to do that.

8 THE COURT: Yeah. Well, again, you made your
9 record; I've made my ruling. If, after we finish with
10 Ms. McDonald -- I'll give you ten, fifteen minutes to
11 talk with him, if you haven't before.

12 Okay. Are we ready?

13 MS. GAY: Yes, sir.

14 (In open court, jury present.)

15 THE COURT: We're going to resume now with
16 the state calling the next witness.

17 MS. GORDON: Thank you, Judge. State calls
18 Jacqueline McDonald.

19 JACQUELINE McDONALD,

20 having been first duly sworn,

21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. GORDON:

24 Q. Good afternoon, Ms. McDonald. Could you tell the
25 jury where you're employed.

1 A. I'm in private practice, and my office is in the
2 West Ashley area on Gamecock Avenue.

3 Q. What do you do? What is your practice?

4 A. I practice psychotherapy and I specialize in
5 trauma.

6 Q. How long have you been a psychotherapist?

7 A. About 20 years.

8 Q. What degree do you have related to that?

9 A. I have a master's in clinical counselling.

10 Q. And are you -- do you hold any certifications?

11 A. Yes. I'm certified as a clinical forensic
12 counselor.

13 Q. And are you a member of any professional
14 association?

15 A. Yes, I'm a member of the American Counselling
16 Association.

17 Q. Have you treated patients -- in your 20 some odd
18 years of being a counselor, have you treated patients who
19 have been the victims of childhood sexual abuse?

20 A. Yes.

21 Q. Could you approximate how many you've seen.

22 A. Maybe hundreds.

23 MS. GORDON: Your Honor, at this time I would
24 admit Jacqueline McDonald as an expert in the field of
25 psychotherapy and treatment related to trauma.

1 THE COURT: Any objection or do you wish to
2 voir dire?

3 MS. GAY: No, Your Honor.

4 THE COURT: Folks, remember I told you
5 yesterday, normally when a witness talks or testifies,
6 they're not allowed to give you their opinion. They
7 basically testify about what they have touched, they
8 felt, they smelt, they saw, that sort of thing. We don't
9 let them get up and tell us what they think about
10 something.

11 The law says, however, that some witnesses,
12 because of education, experience, or background in a
13 field, we do allow them to come in and testify as
14 experts, and they not only are allowed to tell you about
15 their observations, but they are also allowed to tell you
16 what their opinion is about those observations and what
17 the basis of that opinion is.

18 Those are expert witnesses. This witness has
19 now been qualified as an expert in the field just stated,
20 and that she will be allowed to tell you not only about
21 her observations, but her opinions. An expert witness,
22 you're not required to give her testimony any greater
23 weight than you would any other witness in this trial.
24 You decide how much weight to give her testimony based on
25 all of the evidence that you hear in the trial, and if

1 you decide ultimately that because she doesn't have the
2 qualifications to testify or that her testimony is
3 inconsistent with other testimony that you've heard
4 throughout the trial, you can decide to reject it.

5 You can decide to accept it. You ultimately
6 decide how much weight to give her testimony, but you're
7 not required to accept it or give it any greater weight
8 than you would any other testimony in this trial.

9 All right? Go ahead.

10 BY MS. GORDON:

11 Q. Thank you, Your Honor. Did you have an occasion
12 to have Derrick Nelson as a patient?

13 A. Yes, I did. He came in -- let's see. I
14 originally met him on August the 11th, 2009.

15 Q. And what were you treating him for?

16 A. Trauma, post-traumatic stress disorder.

17 Q. And what was that trauma related to?

18 A. Childhood sexual assault.

19 Q. You said you were treating him for trauma. Could
20 you explain to the jury what trauma does to the brain,
21 what effect it has on the brain.

22 A. Well, trauma actually damages the brain. The Yale
23 studies have shown that the hippocampus of the brain is
24 actually reduced, and when this level of trauma in sexual
25 assault is a very high level of trauma happens to a

1 child, their brain is developing during that period, so
2 the effects are even more pronounced.

3 Q. Did you make a diagnosis for Derrick Nelson?

4 A. Yes, I did.

5 Q. And what was your diagnosis?

6 A. Post-traumatic stress disorder.

7 Q. And what is -- do they call that PTSD?

8 A. Yes, yes.

9 Q. We've heard of that from -- you know, veterans
10 that come back from war, they sometimes have that. Is
11 that the only time that you would see PTSD?

12 A. Oh, no, not at all. Any time there is a trauma
13 that is life threatening, that's invasive to the body
14 of -- or life threatening to a loved one around you,
15 those -- that level of trauma and certain symptoms follow
16 after a period of time. This could be diagnosed as
17 post-traumatic stress disorder. Certain criteria have to
18 be met.

19 Q. You said life threatening. Do you mean physically
20 life threatening or -- explain that.

21 A. Physically life threatening, or physically
22 invasive, or if someone is threatened, has a severe
23 threat to their personal physical integrity or to the
24 integrity to someone near them, for instance.

25 Q. And what were -- what was the basis of your

1 diagnosis of Derrick for PTSD?

2 A. The symptoms that he presented with were -- and,
3 of course, he had the qualifying trauma, which is a
4 requirement for the diagnosis. He had intrusive
5 distressing thoughts and images recalling the traumatic
6 event. That means he saw these images over and over and
7 over in his head of the event that happened to him.

8 He had nightmares concerning that event, frequent
9 nightmares. He had a sense that the event was
10 reoccurring, as in flashbacks. We all heard of
11 flashbacks, but that feeling that this thing is about to
12 happen again. Any time he was exposed to any kind of
13 reminder or trigger of the event, he had intense
14 distress, a very high anxiety level, and he had
15 physiological reactivity when he was exposed to internal
16 or external cues that symbolize the events. For
17 instance, when he saw the perpetrator, he went into full
18 blown panic, and this panic mode just remained for a long
19 period of time.

20 He avoided thoughts, feelings, and conversations
21 about the event. He did not want to talk about it. He
22 did not want his family to know about it. He could not
23 bear to have conversations about this. He avoided any
24 activity, places, or people associated with those events
25 or that reminded him of those events. He lost interest,

1 and his participation and activities that he used to
2 participate in diminished.

3 He had a sense of detachment from other people.
4 He felt like he was very alone in the world with this.
5 He had a pessimistic, fatalistic attitude regarding the
6 future. He didn't think he would have a normal life span
7 of other people or that his dreams would come true, and
8 he was terrified for the safety of his children.

9 His sleep was disturbed. Folks with PTSD have
10 trouble getting to sleep, staying asleep, trouble waking
11 up because they haven't had enough sleep. They often
12 fall asleep during the day because of the sleep
13 deprivation. He was irritable and had a lack of
14 concentration, of course. This affects folks in their
15 vocational pursuits and their educational pursuits, just
16 the inability to maintain focus on anything because of
17 all of this intrusion.

18 He was hypervigilant. What that means is he was
19 on the lookout the entire time, any small movement, any
20 small shadow, a light change in the night, the smallest
21 little sound would have him sitting straight up in a bed,
22 hypervigilant attitude. He had an exaggerated startle
23 response. The least little thing would really make him
24 jump, and he had very sad affect about what had happened
25 to him and had other signs of depression as well.

1 Q. When he came to you, did Derrick understand what
2 his symptoms were or why he was behaving -- or why he had
3 these symptoms?

4 A. No, he had no idea. He was totally confused, and
5 his wife was confused about what was going on. He
6 thought he was losing his mind, and she thought she was
7 losing her partner, and with some education they came to
8 see that post-traumatic stress disorder is actually a
9 response to a very abnormal happening. It's not an
10 abnormal response, it's a fairly normal response to that
11 level of trauma.

12 Q. Is it possible for someone to experience this
13 trauma as a child but then start having symptoms more
14 noticeable as an adult?

15 A. Yes. As a matter of fact, he had symptoms all
16 along in his life, and these symptoms have caused him
17 some issues, but when he saw the perpetrator, that's when
18 he went into full blown PTSD.

19 Q. Can you explain to the jury what dissociative
20 behavior is?

21 A. Dissociative behavior is an automatic response of
22 the brain, and little children are more capable in
23 dissociation than adults are. It's actually the brain's
24 way of protecting the child. Some horrible things can
25 happen to the child, but the brain says, No, you have to

1 grow up. You need to develop. You can think about this,
2 and it will sort of suppress that a little bit so the
3 child can go to school, can play sports, to do these
4 things, but the effects of dissociation also get in the
5 way -- for instance, if there is a trigger of a certain
6 level, the person may just not be there. Their body is
7 there, but their mind is somewhere else.

8 Q. Why would it be difficult for Derrick get up on
9 that stand and explain exactly what happened to him as a
10 child?

11 A. Well, this list of symptoms that he has would
12 interfere with just about anything in his life. But when
13 trauma victims remember the past, they remember in vivid
14 detail, but -- and maybe we all do this to a certain
15 extent. If we can think about any memory from our own
16 past, we remember a childhood event as if we are the size
17 we are now, as if we are as smart as we are now, as if we
18 are as wise as we are now, when, in fact, of course we
19 aren't.

20 A three-year-old might said, well, I really should
21 have done this and this and this, totally disregarding
22 the fact that that person was three years old, or seven
23 years old. And because of this phenomena, for a victim
24 of trauma, if the victim remembers the traumatic event as
25 if they are this size that they are now, then they also

1 remember the perpetrator proportionately as large, which
2 means the threat is that much larger as a child.

3 MS. GORDON: Nothing further, Your Honor.

4 THE COURT: Ms. Gay?

5 MS. GAY: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. GAY:

8 Q. Hi, Dr. McDonald. My name is Melisa Gay, and I'm
9 another attorney in this process. Very nice to meet you.

10 I have just a few questions. Your testimony
11 was regarding your time with Mr. Nelson, and certainly I
12 understand that your sessions with him and your meetings
13 with him caused you to have the opinions that you
14 presented to the jury this morning.

15 A. Uh-huh.

16 Q. And I understand from some stuff that I've been
17 given that you met with him, I believe, seven times.

18 A. Yes.

19 Q. And this is very important, that the first time
20 that you met with him was August 11th of 2009. You need
21 to check your notes, or I have something I can show you.

22 A. That's correct.

23 Q. I don't want to get too specific about what he
24 said to you, that's not the point, but was it your
25 understanding when you were meeting with him that the

1 perpetrator had already been arrested?

2 A. At some time --

3 Q. Do you know for an answer on that?

4 A. I don't recall.

5 Q. Okay. And --

6 A. I think it was sometime during that process, or
7 before I saw him. I don't recall.

8 Q. Is it possible that he had been arrested before
9 you saw him?

10 A. Perhaps.

11 Q. And I believe that you said -- and I understand, I
12 think some of us have a general idea of what PTSD is, and
13 PTSD, much of what you've described, irritability,
14 distressful thoughts, images over and over, which is what
15 I would refer to as ruminating, which is part of an
16 anxiety type framework, a lot of that stuff comes from
17 what the person actually tells you about their life;
18 like, they have to tell you some stuff for you to write
19 down or to assume or to make a conclusion that he was, in
20 fact, distressed that his life -- during his life he had
21 been irritable or depressed, those types of things come
22 from him verbally telling you about his life
23 circumstances?

24 A. That's correct.

25 Q. And I believe that some of this stuff that you

1 refer to was that he had different things that affected
2 him, like sleep disturbances, and I think there was
3 actually one point where you said light sleeper, light
4 might wake him up; you never did a sleep study on
5 Mr. Nelson, did you?

6 A. No, I did not.

7 Q. So when Mr. Nelson came to you those seven times,
8 you would have somehow asked him some questions about how
9 he was sleeping, and he would have answered verbally
10 whether or not he slept well the night before or ever
11 slept well?

12 A. Yes, and also, his wife was with him also, and I
13 interviewed her as well concerning his sleep habits.

14 Q. And so not to get too complicated, but some of the
15 stuff, the things that y'all talk about in therapy, are
16 more objective; we'll call that stuff the things Mr.
17 Nelson tells you as subjective findings, things that you
18 make a decision because he tells you information and you
19 are subjectively deciding what your point of view is on
20 that information.

21 A. That's correct.

22 Q. Okay. There is also in the world of therapy
23 objective instruments, things that are tests you take.
24 Perhaps -- you can't take somebody's blood and say, you
25 know, are you PTSD; you can't stick their finger in water

1 and see if it's blue to see if they're PTSD, but in the
2 field that you're in, there are some objective tests that
3 say something about someone's stress level, right?

4 A. Yes.

5 Q. But a lot of that, objective tests, even, have to
6 come from somebody giving them verbal answers on those
7 questions about how they feel, about how something makes
8 them feel, maybe it's acute, maybe it's a picture or a
9 trigger for something, they have to describe to you how
10 it makes them feel.

11 A. Please repeat the question.

12 Q. I guess what I'm asking you is, in your assessment
13 of Mr. Nelson, and you use subjective tests, did you use
14 any objective tests?

15 A. Yes, I did.

16 Q. And is it your opinion based on the objectivity of
17 those tests that he suffered from the type of symptoms
18 that PTSD patients have?

19 A. Yes.

20 Q. Which would be a very high level of anxiety,
21 right?

22 A. Correct.

23 Q. And that anxiety, I think, would have manifested
24 in some type of physical symptoms?

25 A. Yes.

1 Q. I believe that you referred to that as
2 somatization. Is that physical symptoms?

3 A. Actually, that is different. That is in addition
4 to the symptoms that are required for posttraumatic
5 stress disorder.

6 Q. Well, I was reading about somatization, and it
7 says things like having back pain, having pain in the
8 extremities, having chest pain, having shortness of
9 breath; you do know that Mr. Nelson, his job was
10 recreation and moving things around, right?

11 A. Yes. If you'll refer back to the notes, that is
12 listed as a secondary problem, not the primary problem.

13 Q. But also people who do that stuff, recreational
14 things, moving things around, heavy equipment, they
15 oftentimes suffer from some physical problems as they get
16 older?

17 A. Yes, but that was not related to the diagnosis of
18 PTSD.

19 Q. But it's in your report as something that you
20 noted because he told you that he had those kind of
21 symptoms?

22 A. Correct.

23 Q. And you believe that you said that your decision
24 to diagnose him with PTSD, you specifically said he came
25 into therapy with your meetings with him with a

1 qualifying event, and I believe you said that the
2 qualifying event was that he told you that there had been
3 a sexual assault when he was a child.

4 A. That's correct.

5 Q. And that in your therapy with him there was no
6 other event that he described that would have been what
7 we call a qualifying event, so is that right?

8 A. That's correct.

9 Q. So everything that y'all talked about was to refer
10 back to this incident that was supposed to have occurred
11 when he was about seven or eight years old?

12 A. Not everything that we talked about, but quite a
13 bit of what we talked about is referring back to that.

14 Q. So it wouldn't have been referring back to any
15 type of thing in his life that may have been distressful
16 or anxiety ridden for him. Y'all didn't really discuss
17 that as being any other type of traumatic event in his
18 life, you just discussed the fact that he was a victim of
19 this sexual assault?

20 A. Yes.

21 Q. And is it true that your seven meetings that you
22 had with him that started in August 11 of 2009 was all
23 about, maybe is the right word, the fact that he came to
24 you and said that this event had occurred?

25 A. Our therapy sessions were all about his

1 maintaining and being able to live a more normal life now
2 and being able to address his symptoms with his wife's
3 help. They both participated in terms of education,
4 interventions that they might do to quiet anxiety,
5 improving sleep level, make him feel safer in his
6 environment, that sort of thing.

7 Q. When he came to you, he was approximately 30
8 something years old?

9 A. He was 34.

10 Q. There was no discussion about any other events in
11 his lifetime, it was primarily the situation that
12 allegedly happened to him as a child?

13 A. Well, as I recall, he talked about events that
14 happened throughout his life, how this had affected him.
15 He talked about his profession, his coaching career; we
16 talked about many things.

17 Q. And you, of course, knew, as part of your
18 treatment of him, that he worked at the same place that
19 Mr. Gadsden worked? Did you know that he worked at the
20 same place?

21 A. I recall that he saw him at his workplace.

22 Q. Did he ever mention to you or -- in the course of
23 your therapy with him, did he ever talk with you about
24 his son, or his stepson, Tarik Robinson?

25 A. Yes, he did mention him.

1 MS. GAY: I have no further questions, Your
2 Honor.

3 THE COURT: Redirect?

4 MS. GORDON: Just briefly.

5 REDIRECT EXAMINATION

6 BY MS. GORDON:

7 Q. Was the focus of treatment, what was bothering
8 Derrick, was it related to his son?

9 A. No.

10 Q. What was it related to?

11 A. His posttraumatic stress disorder and the symptoms
12 of that disorder. We were focussing on those symptoms
13 and trying to get his general health improved.

14 Q. And the intrusive thoughts and the treatments,
15 what were they about?

16 A. They were about the original event, the sexual
17 assault that had happened to him.

18 MS. GORDON: Thank you.

19 THE COURT: Recross?

20 MS. GAY: Yes, sir, thank you. Briefly.

21 RECROSS-EXAMINATION

22 BY MS. GAY:

23 Q. Now, once again, after the seventh time he came to
24 see you, that would have been in October of 2009?

25 MS. GORDON: Objection, Your Honor. This is

1 beyond the scope.

2 THE COURT: Sustained.

3 BY MS. GAY:

4 Q. When you said that it was related to the incident
5 that happened to you and not related to his stepson,
6 that's because of what he was choosing to tell you.

7 Obviously, when you're seeing somebody, the person comes
8 in and what they tell you is all you know?

9 A. That's correct.

10 MS. GAY: I have no further questions.

11 THE COURT: All right. You may step down.

12 Okay, folks. Before we have the next
13 witness, for scheduling, we need to take about a
14 15-minute break, so let me send you back to the jury
15 room. Don't talk the case or any of the witnesses or
16 anything like that. If anybody wants to take a smoke
17 break, they'll escort you down. We'll have you back in
18 about 15 minutes, all right? Thank you.

19 (Recess taken.)

20 (In open court, jury not present.)

21 THE COURT: Place Gay, did you have enough
22 time?

23 MS. GAY: Yes, sir.

24 THE COURT: Y'all ready then?

25 MS. GORDON: Yes, sir.

1 THE COURT: Let's bring the jury in.

2 (In open court, jury present.)

3 THE COURT: All right. Folks, we are going
4 to resume now with the state's next witness.

5 MS. GORDON: The state calls Don Elsey.

6 DONALD ELSEY,

7 having been first duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. GORDON:

11 Q. Could you tell the jury where you're employed?

12 A. At the Dee Norton Lowcountry Children's Center in
13 downtown Charleston.

14 Q. What do you do there?

15 A. I'm the director of the clinical services at the
16 center.

17 Q. And do you have -- what is your educational
18 background?

19 A. I have an undergraduate degree in psychology in
20 sociology; I have a graduate degree in clinical
21 counselling; I have a doctorate in childhood development.

22 Q. Do you treat patients who have been the victim of
23 childhood sexual abuse?

24 A. I do.

25 Q. How many people have you seen related to that?

1 A. Over 5,000.

2 Q. Do you have any certifications?

3 A. I do. I am a licensed professor counselor and a
4 licensed professor counselor supervisor. I'm a member of
5 the American Professional Society on the Abuse of
6 Children.

7 Q. Have you ever testified in a court of law
8 regarding childhood sexual abuse?

9 A. Yes, ma'am.

10 Q. Approximately how many times have you had to
11 testify?

12 A. About 120 times.

13 MS. GORDON: At this time I would offer
14 Dr. Elsey as an expert in the field of childhood sexual
15 abuse.

16 THE COURT: Any objection or do you wish to
17 voir dire the witness?

18 MS. GAY: No, Your Honor.

19 THE COURT: All right. He is admitted as an
20 expert in the field as stated by the solicitor. Again,
21 the same instructions I gave you on the previous witness
22 on expert witnesses apply to this witness as well. You
23 decide how much weight to give his testimony based on all
24 the evidence you hear throughout the trial. All right?
25 You may continue.

1 BY MS. GORDON:

2 Q. Thank you. Dr. Elsey, can you tell the jury what
3 is meant by the term delayed disclosure.

4 A. It means the person has provided information about
5 something that happened to them sometime after the actual
6 event occurred.

7 Q. Why was this area ever looked at?

8 A. Because it was discovered early on in talking
9 about child abuse that kids were not telling right away.
10 There is a misperception when a child is hurt they come
11 right out and tell mom and dad, and the evidence and
12 reality, that is just not true, for many reasons.

13 Q. Do you find this common in your clinical practice?

14 A. Absolutely, yes, ma'am.

15 Q. And I call this is a phenomenon of delayed
16 disclosure. Has that been documented in literature and
17 research?

18 A. It has. From research starting back in the '80s
19 certainly up until recently, there has been study after
20 study showing that kids do not talk about this right
21 away. Studies in 2000 at the medical university showed
22 roughly five years. There's been studies showing a delay
23 of a year or two.

24 I run a group for men at our center, and I always
25 ask how long between the event happening and you telling

1 someone, and the average, in my group, is 27 years.

2 That's just my group.

3 Q. Are these peer reviewed?

4 A. Yes, ma'am.

5 Q. You said this has been well documented since the
6 1980s?

7 A. Yes, ma'am.

8 Q. You stated that you run a counselling group for
9 men who were the victims of childhood sexual abuse. In
10 your clinical experience, are there any differences in
11 why or when boys or men disclose versus females?

12 A. There are, and it's not just my clinical
13 experience. There also has been research to show this.

14 Q. What is that?

15 A. Boys are often trained to be macho and you take
16 care of yourself, you're rougher, and when a child finds
17 themselves being hurt by an older person, usually
18 somebody in some sort of authority, somebody the family
19 knows, they don't know what to do. They're not prepared
20 for that. They're terrified, confused; they feel like
21 it's their fault: I should have stopped this and I
22 didn't.

23 Maybe the parent -- a good parent will say to
24 their child, Don't let anybody hurt you, but in reality
25 they can't stop that, so they feel like it's their fault,

1 which leads to that perpetuation of not wanting to talk
2 about that perpetuation of silence.

3 Also for boys it's different because most of the
4 time people that hurt kids are men, and for a little boy
5 to be sexually hurt by an older man, it's confusing
6 because their private part might feel good when this is
7 happening, so they wonder does this mean I'm gay or not
8 gay?

9 We clearly educate kids this has nothing to do
10 with gay. It's inappropriate, whoever hurts you, but for
11 a little boy, it can be devastating think this might mean
12 something about their sexuality.

13 Q. What is meant by the term grooming?

14 A. Preparing a child for more.

15 Q. And can you explain what grooming means in terms
16 of childhood sexual abuse.

17 A. Yes, and I'll give an example of that. You may
18 have someone who leave a Playboy magazine in the
19 bathroom. The child goes in there and says, Oh, there is
20 a Playboy magazine. I'm going to tell my mom.

21 And the person who left it in there may say, Oh,
22 yeah, let's go tell your mom. That should never have
23 happened.

24 Or the child who says, Hmmm, that's kind of
25 curious. Can I look at it? And the person who put it in

1 there may say, Let's look at it together, that's the
2 child -- the person is learning through this grooming
3 process that this child is more interested in it. It's
4 preparing the child for more. It's also giving that
5 child buy-ins because they may feel it's their fault too,
6 they didn't stop it earlier on.

7 Q. Would a promise of a reward also be grooming?

8 A. It certainly could be.

9 Q. If I gave you a hypothetical, would the promise of
10 being a starter on the basketball team, would that be
11 considered grooming or would that be considered something
12 else?

13 A. In and of itself, that might be a nice thing, but
14 if it's leading to something more, then it's really part
15 of the grooming process.

16 Q. In your practice, do you find it more common that
17 the offender is a stranger or someone that the child
18 knows and trusts?

19 A. Both in my practice and in the research, it's far
20 more often someone the child knows and trusts. In my
21 personal experience of seeing thousands and thousands of
22 children, we have to put that in a report, was this
23 person somebody the child knew or not knew, it's been a
24 stranger in my practice, twice, of close to 6,000 kids
25 that I've seen. It's rarely a stranger.

1 MS. GORDON: Court's indulgence. Nothing
2 further, Your Honor.

3 THE COURT: Ms. Gay?

4 CROSS-EXAMINATION

5 BY MS. GAY:

6 Q. Dr. Elsey, I understand you're on staff at the
7 Lowcountry Children's Center and that that is a place in
8 this community that is designed and created to meet with
9 and see people who have had these kind of things happen
10 to them.

11 A. Well, it's when there's allegations of them
12 happening.

13 Q. In this particular case, this is Derrick Nelson,
14 this is Keith Gadsden, you have absolutely no information
15 to provide to this jury about these two people at all?

16 A. That's correct.

17 MS. GAY: I have no further questions, Your
18 Honor.

19 THE COURT: Redirect?

20 MS. GORDON: Nothing further, Your Honor.

21 THE COURT: You may step down. Anything
22 further from the state?

23 MS. GORDON: State rests, Your Honor.

24 THE COURT: Okay. Folks, we need to take
25 about a ten-minute break here while we take up a matter

1 KEITH GADSDEN,

2 having been first duly sworn,

3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. GAY:

6 Q. Mr. Gadsden, how are you today?

7 A. Okay.

8 Q. We sat here for a couple days. You obviously know
9 why we're here. We're going to talk to the jury for a
10 while, and I wanted you to tell the jury a little bit
11 about yourself, how old you are, what area you live in,
12 what kind of work you're doing now, if any.

13 A. I'm Keith Gadsden, and I'm 49 years old. And
14 right now I'm working part time at at TJ Maxx as a floor
15 tech.

16 Q. Okay. Now, you previously worked for the city of
17 Charleston rec department and the school board.

18 A. Yes.

19 Q. I believe your employment ended in 2009?

20 A. Yes.

21 Q. After this arrest?

22 A. After this arrest.

23 Q. Were you working at both those places, Charleston
24 rec department and the school board, at the time of your
25 arrest?

1 A. Yes.

2 Q. And I believe you were arrested -- do you remember
3 specifically what day you were arrested?

4 A. I think it was August 1st or August 2nd.

5 Q. Of 2009?

6 A. 2009.

7 Q. Okay. So at that time, you had both of those
8 jobs?

9 A. Yes.

10 Q. How would that work? How would you have both of
11 those jobs?

12 A. I used to go to work at 6:00 in the morning until
13 2:30 in the evening, at the school, and leave the school
14 and go to the rec department from 4:00 until 7.

15 Q. Were you ever part of that cleanup crew in the
16 evenings?

17 A. When I used to work at the East Side Center.

18 Q. So in 2009 you didn't work at the East Side
19 Center?

20 A. No. I work at Cory Jones playground.

21 Q. When did you start working at the rec center?

22 A. At East Side Center?

23 Q. Yeah. Isn't that your first job?

24 A. 1987.

25 Q. How old were you?

1 A. I was about 24, about 24.

2 Q. Okay. What is your date of birth?

3 A. February 2, 1963.

4 Q. Okay. So you were 24. You were born in '63, and
5 that is when you started working there. Can you describe
6 to the jury a little bit about who you worked with. Were
7 any of the people in this courtroom any of the people you
8 worked with then?

9 A. When I started in '87, I worked with Pam DeVeaux
10 and Shirley Scott.

11 Q. Shirley Scott is the same Shirley Scott that
12 testified here that day?

13 A. Yes.

14 Q. Did y'all have the same types of job
15 responsibilities, or how did that work?

16 A. We had the same type. All us was responsible for
17 keeping the community center clean and keeping the kids
18 active in some activities.

19 Q. Well, in '87, did you have a team?

20 A. No. I wasn't training because I really didn't
21 want to get involved with sports because I didn't know
22 anything about the sport at that time, but Pam did my
23 training, and that is when I started to get into sports.
24 In '88 is really when I started getting my first team.

25 Q. You made the comment when they made Pam your

1 trainer?

2 A. How to get all kids together.

3 Q. Do you recall what types of teams you had -- there
4 has been references that all the records from the city of
5 Charleston no longer exist, but what is your personal
6 recollection? What types of teams or what types of
7 sports were you involved in early on, '87, '88?

8 A. Mostly it was baseball, because I didn't know
9 anything about basketball and football at that time, and
10 I didn't really deal with the younger kids because all
11 they did was cry, so I deal most with the older kids.

12 Q. Now, did you have an occasion in your memory that
13 you actually had Mr. Derrick Nelson on your team?

14 A. Yes, and he was 13, 14, in baseball.

15 Q. And how long would that have lasted?

16 A. He --

17 Q. How long was the season?

18 A. The season lasted for two months.

19 Q. Before the time that you say that you had him on
20 your baseball team when he was 13 or 14, had you ever had
21 occasion to have personal contact with Mr. Nelson?

22 A. No.

23 Q. Had you ever talked to him when he was seven,
24 eight, nine yours old?

25 A. No.

1 Q. Had you ever been alone at the center with him?

2 A. No, because I never had keys to get in the
3 building at that age, when I was 24 years old.

4 Q. When do you recall being able to get keys?

5 A. About five, five years later.

6 Q. And why is that five years important, five-year
7 mark?

8 A. Because when you first started working for the
9 city, they don't trust handing the keys to just anybody,
10 so about five years, my manager called me and said, Well,
11 I need you to start working Saturdays, so she had to give
12 me a key.

13 Q. So you remember that being what year,
14 approximately what year?

15 A. Probably about '91, '92.

16 Q. Okay. So it's your testimony before that you
17 never would have had keys to the building?

18 A. No.

19 Q. Let me ask you a question: There is testimony
20 that you picked up Mr. Nelson when he was a small child
21 off the Johnson Street projects in a car. Did you have
22 access to a car?

23 A. No. I didn't have a car at that time.

24 Q. Okay. When you say no, can you give the jury a
25 little bit more about why you remember not having a car

1 at that time.

2 A. Because I lived so close to the center I didn't
3 need a car to walk to work. I was real close. I could
4 have walked to work.

5 Q. How about your mama, did she have a car?

6 A. No.. My mom don't even drive, no.

7 Q. Has she ever driven?

8 A. No.

9 Q. How old is she?

10 A. Seventy-two.

11 Q. Does she still live downtown?

12 A. No. She lives in West Ashley.

13 Q. Okay. How about you, at the time of this
14 incident, alleged incident supposedly in '87, '88, '85,
15 somewhere in there, did anybody in your household have a
16 car?

17 A. No.

18 Q. Any of your friends that you might could have
19 borrowed a car from?

20 A. No.

21 Q. So it's your testimony today that you did pick up
22 Mr. Nelson on Johnson Street in a car?

23 A. No.

24 Q. Okay. And then -- we've all seen the picture.

25 This is the rec center. How about taking Mr. Nelson as a

1 child into this rec center for any reason?

2 A. No. No.

3 Q. Never? What about when he was a 13 or 14 years
4 old, when he was playing baseball? Would you have had
5 occasion to be in this rec center with him there?

6 A. No, baseball was dealing outside.

7 Q. I was going to say, are there any baseball -- I
8 guess you call them courts or -- what do you call them,
9 diamonds, near this place?

10 A. No. We had to walk from the center to Martin
11 Park. That was the nearest park.

12 Q. So your involvement with him in baseball, what's
13 your testimony, did it put in you in contact with this
14 building or not?

15 A. No.

16 Q. Okay. And I believe that there is another picture
17 that we've looked at, which we keep looking at, which is
18 the third floor of the rec center. Were you ever with
19 Mr. Nelson at any point -- at any time?

20 A. No.

21 Q. At any age on the the third floor?

22 A. No, ma'am.

23 Q. How about in the bathroom, which we also have a
24 picture of?

25 A. No, ma'am.

1 Q. Any occasions as Exhibit 5, any time ever in his
2 lifetime, whether he was a little kid or even a pre-teen
3 when you admit to being involved with the baseball, were
4 you ever in this bathroom with him?

5 A. No.

6 Q. Okay. Now, I want to take you further out. There
7 was -- in 2000, I believe you were still working for the
8 city, do you recall what part of the city rec department
9 you were working for in 2000?

10 A. I was still working for the East Side Center.

11 Q. And did you have occasion to attend the wedding
12 reception --

13 A. Yes.

14 Q. -- of Mr. Nelson and Tara?

15 A. Yes.

16 Q. Who is Tarik's parents?

17 A. Yes.

18 Q. Why were you there?

19 A. I was one of the staff members.

20 Q. And were other staff members there?

21 A. No, just me and Pam.

22 Q. You and Pam?

23 A. Yes.

24 Q. Were you part of the maintenance crew?

25 A. Yeah, to keep the bathrooms clean.

1 Q. Did you see Mr. Nelson then in 2000 at the wedding
2 reception?

3 A. Yes.

4 Q. And after that from 2000 on, did you have occasion
5 to see Mr. Nelson in the community or at the rec center
6 from 2000 to sometime later on?

7 A. Yes, because he started coaching basketball, and
8 we used to compete against each other on the playground
9 at the summer program. It's called midnight basketball.
10 I coached against him a couple time.

11 Q. What year would that have been?

12 A. That was in the 90's, 2000, 2003, 2002.

13 Q. Okay. And I know that sometime in 2006 your son
14 graduated from the eighth grade?

15 A. Yes.

16 Q. And there was a graduation at the middle school
17 that he went to?

18 A. Yes.

19 Q. Is that the graduation that was referred to by
20 Tarik Robinson?

21 A. Yes.

22 Q. You went there for your son?

23 A. Yes. I work in the school, so I was around the
24 graduation.

25 Q. Did you have occasion to see and/or speak to

1 Mr. Derrick Nelson?

2 A. That's when he introduced me to Tarik, but I
3 already know Tarik from my son, earlier, in eighth grade,
4 during the year.

5 Q. All right. So Mr. Nelson introduced you to his
6 son, but it turned out his son was somebody you knew
7 because he was your son's friend?

8 A. Yes.

9 Q. Now, from 2006 on, these boys are middle school
10 age, or getting into high school now. Can you tell the
11 jury when the next occasion occurred in your life that
12 you had some kind of contact with or communication with
13 Mr. Nelson.

14 A. In 2007.

15 Q. Okay. Can you tell the jury what happened.

16 A. Tarik had ran away from home.

17 Q. How did you know that?

18 A. A friend of mine who was his friend called and
19 said, Well, you know Tarik ran away from home, and I
20 said, For what?

21 And he told me him and Derrick got into it, so I
22 told -- I was going to go talk to Derrick because I know
23 Derrick worked in the mall at the Hat Shop. So when I
24 went to talk to Derrick about Tarik, Derrick said Tarik
25 didn't listen. He stole this money.

1 And I said, No, Tarik is not that type of kid,
2 what I see from him.

3 Q. Okay. Let's back up a minute. So you went to the
4 Citadel Mall, and where did you go to talk to Mr. Nelson?

5 A. Inside the hat store inside the Citadel Mall.

6 Q. Was there anyone else around besides you two?

7 A. It was just me and him.

8 Q. And you discussed what?

9 A. About Tarik running away. What's going on between
10 you and Tarik?

11 Q. Did he make any comment to you whatsoever about
12 anything that was supposed to have happened between the
13 two of y'all when he was a child?

14 A. No.

15 Q. Any of these other occasions that you saw him, did
16 he ever mention anything about it?

17 A. No.

18 Q. Okay. So after 2007, what happened with Derrick
19 and Tarik?

20 A. Well, 2008, Tarik went to the fair with me and my
21 son C.J.

22 Q. When was the fair?

23 A. August 30, 31st -- it was Halloween night.

24 Q. I think that's October. Halloween was October
25 31st.

1 A. It was Halloween night, and we went to the fair
2 and we got out of the fair about 2:00 something in the
3 morning.

4 So after the fair, I went and said, Well, let me
5 take you home, Tarik, took him home. Tarik went and
6 knocked on the door. No answer. Tarik called. No
7 answer.

8 I did not want to leave him out there in the
9 street on the east side, so I said no, you come and go
10 with me, and I'll bring you back tomorrow morning, early,
11 so he did.

12 So early that morning I got up. I had him call
13 home to let them know where he was. He started arguing
14 on the phone, so I said, Tarik, let me take you home.

15 I took Tarik home, so about five, six hours later,
16 my girlfriend, who was staying with me, Tammy Simmons,
17 who is C.J.'s mama, say, You got a telephone call.

18 So I answered the phone, so that was Tarik, say
19 well, Derrick --

20 MS. GORDON: Objection, Your Honor. Hearsay.

21 BY MS. GAY:

22 Q. You don't need to tell me exactly what was said.
23 Let's just cut to the chase. Tarik called you back and
24 needed you?

25 A. To pick him up.

1 Q. So did you pick him up?

2 A. No, he called a cab.

3 Q. What was your understanding of why Tarik was
4 leaving the house?

5 A. That his stepfather put him out.

6 Q. Okay. Now, did he come stay with you at that
7 point or did he stay with someone else?

8 A. He came with me that night, and after that night,
9 I took him to Ravenel, to his cousin house.

10 Q. Did you ever have occasion -- this is now October
11 2008. Did you ever have occasions from October 2008
12 until this recorded phone call that we have to talk to
13 Mr. Nelson, either on the phone or in person?

14 A. No.

15 Q. So did you call him?

16 A. No.

17 Q. Now, when he called you to talk with you, was that
18 surprising to you? This day, the day in July when this
19 conversation occurred. Was it surprising to you that he
20 called you?

21 A. No, 'cause he know Tarik was down there, and I
22 wanted him to talk to him about Tarik.

23 Q. When you say you wanted him to talk to you about
24 Tarik, how would that have been communicated?

25 A. He called me and asked me about Tarik, and I said,

1 Well, we need to talk about Tarik.

2 Q. Before this conversation, before this date?

3 A. On that same day.

4 Q. On the same day?

5 A. Uh-huh.

6 Q. So when you got the call from Mr. Nelson to talk
7 to him, what did you believe that the conversation would
8 be about?

9 A. I thought it was going to be about Tarik.

10 Q. And when you got there, what did you intend to
11 talk about?

12 A. We started talking about Tarik.

13 Q. Let's back up a minute. Was there an occasion
14 where -- and I'm not asking you to tell me what they
15 said, where some people at the rec department had said
16 some stuff to you about what Mr. Nelson was saying, about
17 you?

18 A. They came to me and said --

19 Q. Who is them?

20 A. Well, Ms. Scott say --

21 Q. That's Shirley Scott?

22 A. And Pamela, asked me what was going on --

23 MS. GORDON: Objection, Your Honor.

24 BY MS. GAY:

25 Q. You can't say what they said. You can say they

1 came and talked to you.

2 A. They came and talked to me about something.

3 Q. And during this conversation, the one we have on
4 the recorded device, there is things that you say which
5 we can talk more specific about, references to people
6 saying stuff to you. Is that what you were referring to?

7 A. Yes.

8 Q. Okay. That they had said some stuff to you.
9 Okay. So before -- between 2008 and July of 2009, you
10 never had any face to face and/or telephone communication
11 with Mr. Nelson about Tarik?

12 A. No.

13 Q. But you believe that you had indicated to him that
14 you wanted to talk to him about it?

15 A. Yes.

16 Q. And in this -- were you aware of the situation
17 with the social security money?

18 A. Not at first.

19 Q. Did you become aware sometime between --

20 A. After his cousin went to the social security
21 building.

22 Q. So that would have been sometime after March or
23 April of 2008?

24 A. Yes.

25 Q. Were you involved in any of that at all?

1 A. No. I didn't want to get involved because I told
2 him you shouldn't wait until you turn 18 to get the
3 money, because --

4 Q. And he was going to be 18?

5 A. In a couple months.

6 Q. Didn't he turn 18 in July of 2009?

7 A. Yes.

8 Q. And so as of right now, Mr. Robinson still lives
9 in your house?

10 A. Yes.

11 Q. Is he a paying tenant?

12 A. Yes. He help.

13 Q. So he's, like, a roommate?

14 A. Well, it's me, him, and my brother stay together.

15 Q. I understand. So he pulls his own weight.

16 A. Yes.

17 Q. What was your understanding of whether he had the
18 ability to go back to his mother and Mr. Nelson's house?

19 A. I tried to talk him into going back home, but --

20 Q. It didn't work out?

21 A. No. He wouldn't go for it.

22 Q. And we've discussed this tape, you know, the tape
23 exists, so -- I can't even remember everything that's on
24 it, but you've listened to it a few times.

25 Will you explain to the jury -- I don't want to

1 play it because they can play it in the back if they
2 want, but would you explain to the jury some of these
3 comments that you made about, I don't want to go to jail.
4 I'm too old to go to jail.

5 A. That came up because I thought he was trying to
6 get me for cutting his behind when he was 13, 14. I used
7 to punish them by cutting their behind with a ping-pong
8 paddle when they were 13, 14. That was their punishment
9 when they do something wrong.

10 Q. When you say their punishment, that means you did
11 that to other members of the team also?

12 A. Yes.

13 Q. And you also had fear, you said, that somehow
14 because Mr. Tarik Robinson was a minor --

15 A. He was a minor, and I didn't want to have me
16 arrested for upholding his child, saying I kidnapped his
17 child.

18 Q. Did you believe Mr. Nelson thought that you were
19 majorly involved with keeping him from coming home?

20 A. Yes.

21 Q. Okay. Now, there is other stuff that's on here,
22 that is about Tarik. Explain to the jury what your goal
23 was in talking to him that day about Tarik Robinson.

24 A. To get them two to sit down and work their
25 difference out, for him to say, Tarik, come on back home.

1 Q. And why did you think that was necessary or
2 important?

3 A. Because I feel that child needs to be with his
4 family.

5 Q. Okay. And when you were saying things that were
6 not about that, other subject matter, why did you say
7 that? I mean, this is what the jury wants to know. Why
8 did you say that? Why did you say, I'm too old to go to
9 jail? That's when I was younger?

10 A. I felt like he was trying to get me arrested for
11 harboring his child and probably for cutting his behind,
12 figuring he was going to try to charge me with child
13 abuse from cutting his behind.

14 Q. But you definitely do refer -- when he's saying
15 things that happened to me when I was younger, had there
16 been an event that was sexual in nature between you and
17 Mr. Nelson?

18 A. No.

19 Q. Had there ever been an event sexual in nature
20 between you and Mr. Nelson, even when he was on your
21 baseball team, when he was 13 or 14?

22 A. No.

23 Q. So you're saying that what you were talking about
24 is corporal punishment?

25 A. Yes.

1 Q. Or about Tarik?

2 A. Mostly about Tarik. The whole conversation really
3 be about Tarik.

4 Q. On your behalf?

5 A. Uh-huh.

6 MS. GAY: I would like to have a moment, Your
7 Honor.

8 I think I need to hear this, Your Honor. I
9 think it would be beneficial to his testimony.

10 THE COURT: Start it.

11 (Whereupon, the CD was played for the jury.)

12 MS. GAY: I don't have a problem if you fast
13 forward it to him talking.

14 BY MS. GAY:

15 Q. All right. Mr. Gadsden, there is just a few
16 things I want to talk to you about this tape that we just
17 listened to.

18 In the beginning of the tape, there is reference
19 to a talk in the gym sometime around -- do you remember
20 that?

21 A. Yes.

22 Q. When would the talk in the gym have occurred?
23 This was before the tape.

24 A. In March. The city was having a March madness
25 tournament, and it was in March.

1 Q. And you would have discussed with Mr. Nelson what
2 at that time?

3 A. About Tarik. I wanted to sit down and talk about
4 Tarik.

5 Q. That would have been March of 2009?

6 A. 2009.

7 Q. There is a point in the tape where you're talking
8 about grudges and a reference to in the mall that day.
9 What is your understanding of what that reference was?

10 A. Being in the mall was the day we talked in the hat
11 store.

12 Q. What year would that have been?

13 A. 2008.

14 Q. Is that when he ran away?

15 A. That's when he ran away, 2007.

16 Q. 2007?

17 A. Yes.

18 Q. Okay. So first reference to a conversation that
19 he had with you was in March of 2008, March madness,
20 about Tarik.

21 A. Right.

22 Q. First reference in the mall that day, and that
23 would have been a reference that y'all had that day about
24 Tarik in 2007?

25 A. Yes.

1 Q. Now, you heard the tape; I heard the tape. Did
2 you also hear that he was referring to, When I'm going to
3 the therapist about a month and a half? Do you remember
4 that?

5 A. Yes.

6 Q. Okay. The day of this tape, I believe, was
7 maybe --

8 MS. GORDON: Objection, Your Honor. She's --
9 the attorney is testifying.

10 THE COURT: Could you stand? I can't see or
11 hear you.

12 MS. GORDON: Ms. Gay is testifying.

13 MS. GAY: I'm asking about references to the
14 tape because I need him to talk about it.

15 THE COURT: You can refer him to an area.

16 BY MS. GAY:

17 Q. In this particular conversation that's recorded
18 happened on the 30th or 31st of July, 2009, right?

19 A. Yes.

20 Q. Which would have been at least 12 or so days --

21 MS. GORDON: Objection, Your Honor. Ms. Gay
22 is still testifying. She's not referring to the tape.
23 She's testifying.

24 BY MS. GAY:

25 Q. Let me ask it this way: August 11, 2009 is how

1 many days after July 31, 2009?

2 A. August what?

3 Q. August 11, 2009 was how many days after July 31 of
4 2009?

5 A. 19 days.

6 Q. Some time after, right?

7 A. Yes.

8 Q. So certainly we both heard on this tape that there
9 was a reference to going to therapy for a month and a
10 half by Mr. Nelson.

11 A. Yes.

12 Q. You also mentioned in the tape that you had seen
13 Mr. Nelson coaching, that you both had been coaching and
14 had talked to him during that period of time.

15 A. Yes.

16 Q. Can you describe to the jury what those occasions
17 would have been.

18 A. Some of the midnight basketball tournaments.

19 Q. Okay. How many do you think there were?

20 A. Usually about ten, ten games during the season,
21 during the summertime, usually from June till July.

22 Q. Okay. Why did you say to him, I feel like you're
23 trying to get me locked up?

24 A. Because I thought he was talking about me cutting
25 his behind. I thought he was trying to get me locked up

1 for child abuse, cutting his behind when he was 13, 14.

2 Q. Okay. And then there is reference, I believe, to
3 Shirley, Pam, and Brenda being your friends?

4 A. Yes.

5 Q. And I believe that you talked some more about
6 Tarik, and you mentioned to Derrick that he's your friend
7 also:

8 A. Yes.

9 MS. GORDON: Your Honor, I hate to keep
10 objecting, but there hasn't been a question.

11 THE COURT: Please don't lead. If you need
12 to move him someplace, move him to a direction, but don't
13 testify. He's just answering yes or no to your
14 questions.

15 MS. GAY: I understand. I'm trying to figure
16 out how to do that because the tape doesn't have any
17 special references, so --

18 BY MS. GAY:

19 Q. There is discussion on the tape about Demetrius,
20 who is the brother of Mr. Nelson.

21 A. Yes.

22 Q. Tell the jury what, if anything, you ever did with
23 Demetrius or to Demetrius.

24 A. Cut his behind.

25 Q. So was he on one of your teams also?

1 A. No, no, because he always -- no. He played one
2 year, basketball, 11 and 12, and after that, he always
3 went to play for whoever.

4 Q. So at a certain point in this tape, there is stuff
5 about what you did to him also. What was your
6 understanding of what that meant?

7 A. At first I didn't know what he was talking about,
8 because I didn't do a damn thing to Demetrius but cut his
9 behind, and that is what I was talking about, me beating
10 Demetrius like I did him.

11 Q. All right. And then when you were -- what do you
12 recall about him talking to you about when Tarik left his
13 house, under what circumstances he left his house?

14 A. He say Tarik walk out of his house.

15 MS. GORDON: Objection. Hearsay.

16 THE WITNESS: I said when Tarik walked out of
17 the house, left the house himself.

18 BY MS. GAY:

19 Q. Was there a reference to putting him out?

20 A. No. Tarik told me.

21 Q. On the tape itself, do you remember hearing that?

22 A. Yes.

23 MS. GORDON: Objection, Your Honor.

24 MS. GAY: It's about the tape.

25 THE WITNESS: It's about the tape, yes. He

1 put him out.

2 BY MS. GAY:

3 Q. I don't see any other way to ask the question --

4 THE COURT: Go ahead.

5 BY MS. GAY:

6 Q. When stuff was talked about it being hurtful, what
7 did that all mean to you, when Mr. Nelson was saying it
8 was hurtful? What did that mean to you?

9 A. Really, I didn't know what he was talking about.
10 I thought he was talking about I hurt him cutting his
11 behind.

12 Q. Okay. And then in the part where you agreed to go
13 to therapy, why did you say that?

14 A. Because I wanted to calm him down because he
15 seemed like he was upset. I wanted to calm him down and
16 get the opportunity to get him and Tarik back together,
17 and I said, well, I want to see what this is about.

18 Q. And so when you said there is a portion of the
19 tape that says something, I did that 30 years ago, what
20 did that mean to you?

21 A. That mean I thought, like I say, he was talking
22 about me cutting his behind.

23 Q. All right.

24 A. And I did cut his behind.

25 Q. And last question I have is, did you ever sexually

1 assault Derrick Nelson when he was a seven- or
2 eight-year-old kid.

3 A. No, ma'am.

4 MS. GAY: No further questions.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MS. GORDON:

8 Q. Thank you, Your Honor. Good afternoon, Mr.
9 Gadsden. How are you?

10 A. Okay.

11 Q. I just want to get some background. I understand
12 that you started working for the city sometime back in
13 the 80's, and then you worked for them for several years
14 and stopped; is that right?

15 A. Yes.

16 Q. And you're aware the records from that first
17 employment no longer exist?

18 A. I didn't know.

19 Q. Your attorney tried to get them as well, and
20 they've been destroyed.

21 A. I didn't know.

22 Q. But at some point, you come back to work for the
23 city of Charleston recreation department?

24 A. Yes.

25 Q. You were gone for a number of years?

1 A. Yes.

2 Q. When you came back, you came back as a part-time
3 employee, right?

4 A. Yes.

5 Q. And as a recreational leader?

6 A. Yes.

7 Q. Kind of the same position you had earlier,
8 recreational leader?

9 A. Yes.

10 Q. At this time you were only part-time; is that
11 correct?

12 A. Yes.

13 Q. You were full time originally?

14 A. No, I've always part-time.

15 Q. And when you were -- when you came back as a
16 recreational leader, you were issued a key to the
17 facility, right?

18 A. No. I wasn't put at that facility. I was put on
19 the playground.

20 Q. Well, what key did you have?

21 A. I had a key at Hazel park playground.

22 Q. You had keys to where you worked?

23 A. Yes.

24 Q. And at some point you gave that key to somebody
25 that wasn't supposed to have it?

1 A. No.

2 Q. Did you get written up for that, for giving your
3 key to someone?

4 A. I got written up for -- they had me.

5 Q. What?

6 A. They had me to go work on Mall Park for a
7 basketball tournament, called midnight basketball, and I
8 was supposed to be staff at the park, make sure the park
9 was open, for the keys to use the bathroom in and out,
10 and I had to leave, so I left the key with Edward Jones,
11 who was the director of the program.

12 Q. And you got written up for giving the key to
13 somebody that wasn't supposed to have it?

14 A. Yes, yes.

15 Q. Okay. You are 49 years old?

16 A. Forty-nine.

17 Q. Forty-nine. And over the years, you have taken in
18 lots of children from DSS?

19 A. Yes, I had a couple.

20 Q. And even the day that you came to the Citadel
21 Mall, you had one in the car with you?

22 A. Yes.

23 Q. And you thought of Derrick Nelson when he was a
24 child like a son?

25 A. Yes.

1 Q. And you were his coach?

2 A. Yes.

3 MS. GORDON: Nothing further, Your Honor.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION

6 BY MS. GAY:

7 Q. Well, in light of the last question I would ask
8 you, have you ever sexually assaulted any of the young
9 men that lived in your home?

10 A. No, ma'am.

11 Q. Have you ever assaulted Tarik Robinson?

12 A. No, ma'am.

13 MS. GORDON: Objection.

14 MS. GAY: No further questions, Your Honor.

15 THE COURT: You can step down. Anything
16 further from the defense?

17 MS. GAY: No, Your Honor. Defense rests.

18 THE COURT: State going to have any reply?

19 MS. GORDON: One moment, Your Honor.

20 Yes, Your Honor. Your Honor, the state calls
21 Sheila Laval.

22 THE COURT: I remind you, ma'am, you're still
23 under oath, all right?

24 THE WITNESS: Yes, sir.

25

1 MS. GAY: Thank you, Your Honor. I'm sorry.
2 I meant to turn this when we were on our break, and I'll
3 do that now.

4 Good morning. It's been a long three days.
5 I know everybody is tired. I know I am. I know this has
6 been emotionally traumatic for pretty much everybody in
7 this room. There is a few housekeeping matters I would
8 like to resolve and then kind of say to y'all, and I
9 guess I'm going to start with apologizing to Derrick
10 Nelson's mother.

11 She is really not going to like what I say,
12 and I know she is a woman who has some health issues and
13 I know she's extremely emotional about this case, but I
14 have a job to do, and my job is to protect a man who has
15 pled not guilty who the judge has said is cloaked in
16 innocence until such time as you, the jury, decide
17 otherwise.

18 So what I'm going to say is really going to
19 upset her, and I apologize, but I have to. It's what I
20 saw in this trial. It's what I've seen in this case, and
21 it's what I know that you, ladies and gentlemen of the
22 jury, have also seen. So it's my job to bring these
23 points out that are going to show you why at the end of
24 this day, you will find my client not guilty, and it's
25 going to hurt some people's feelings.

1 You know, I'm a professional. Ms. Gordon is
2 a professional. We go home. These facts affect us in a
3 lot of ways, but it doesn't affect us on a personal
4 level, because we don't live with the consequences of
5 your decision, but these people in the courtroom that you
6 determined from the testimony, who all know each other,
7 who have known each other well for years, all of what
8 will happen today will affect them significantly, but I
9 can't change that. That's why we're here. That's why,
10 as I said in the beginning, that we have a factual
11 dispute and we've asked you to resolve it.

12 There is a few things I would like to say
13 about the judge's charges. Most of the things that are
14 important, the law, the burden of proof, the type of
15 evidence that's presented, the credibility of witnesses,
16 things like that are all things that the judge is going
17 to tell you, but I will just refer to a couple of them.

18 One of them is burden of proof because it is
19 the state's burden of proof, not my client's as he told
20 you, and it's the state who must prove beyond a
21 reasonable doubt that my client is, in fact, guilty of
22 this charge.

23 I think the judge referred to it in the
24 beginning as leaving you firmly convinced. Well, to be
25 beyond firmly convinced or to be beyond a doubt that

1 makes you question whether or not, you know, this is
2 real, is it true, is it not true, those are the kind of
3 things that as we sat here under oath in this trial, and
4 after I tell you what I believe we heard, are going to be
5 so evident to you, there will be so many doubts that you
6 will find him not guilty. I'm sorry, but that's what was
7 presented. That's what we're here about today.

8 The other thing that we will talk about, that
9 the judge will talk about, that is incredibly important
10 in this case is the credibility of the witnesses. The
11 credibility of the witnesses has to be determined by you.
12 You people decide whether or not you believe all of
13 somebody's testimony, part of somebody's testimony, and
14 that will be referred to by the judge as part of what
15 he's going to tell you.

16 What is the credibility of a witness? Well,
17 we bring common sense into the courtroom when we come
18 into these situations. Y'all were chosen for specific
19 reasons, and your common sense is what you're going to
20 take back there to decide.

21 well, do I believe this person or not? Do I
22 believe what this person said happened a long time ago?
23 Do I believe what this person said even in the courtroom
24 as we sat here under oath? And that's going to become
25 the most important thing.

1 The solicitor is going to refer to a couple
2 of things in her opening argument, the elements of the
3 offense, an intrusion of a body part in a sexual manner,
4 and the judge will describe those elements to you, and I
5 totally agree. That is what it takes to have a criminal
6 sexual conduct with a minor first degree; however, I
7 don't believe it is in this case, so I don't dispute
8 anything that's going to be said about the law in this
9 matter. I just say it didn't happen that way in this
10 case. It didn't happen because there is no way we can
11 believe what Derrick Nelson said, and I can tell you why,
12 because as I said, even stuff we heard in this courtroom
13 under oath, we can show that Derrick Nelson didn't tell
14 the truth in the courtroom under oath.

15 But I have documents. I have corroborated
16 information to bring to you. I'm not just telling you
17 that because I think it, I'm telling you that because
18 that is what was before you in the trial. And so a few
19 things we like to talk about, and I'm not making this up.
20 It's in this case.

21 Derrick Nelson has sued the city of
22 Charleston, Brenda Shokes, and Keith Gadsden in a federal
23 civil lawsuit. Okay? It's still pending, so Derrick
24 Nelson is suing the city of Charleston, Brenda Shokes,
25 and my client. Why do people sue people? Why do people

1 sue people? Because they want money.

2 Okay. That's the truth. That's why people
3 sue people. Okay. Did Derrick Nelson sue these people
4 because he wants money? I don't know. It wasn't
5 testified in this case that that was the reason, but it
6 was testified in this case that there is a federal civil
7 action going on against the city of Charleston who has a
8 deep pocket, Brenda Shokes, who testified for him, and
9 eventually also my client.

10 There is a few things I want to talk about
11 initially that we just want to get out of the way.
12 Dr. Elsey is a nice guy. He's a good person. He works
13 for the Lowcountry Children's Center. He said the main
14 clinical therapist, he is a great person. He came here
15 and he shared with you some research facts and what he
16 does for a living.

17 He goes and he said he had hundreds of
18 thousands of patients that he saw about some type of
19 sexual assault, but ultimately what he told you is he had
20 no idea what went on between these people, and he's
21 never, ever spoken to either Derrick Nelson or my client.
22 He knew absolutely nothing about this case.

23 What did he tell you? He told you some
24 statistics. He told you that a large percentage of them
25 don't report until approximately 27 years later. He told

1 you that people have long-term problems that affect their
2 lives because of sexual assaults. I don't disagree with
3 any of that. I come to you today saying that that is
4 absolutely true, that people who are assaulted as
5 children have significant problems in their life,
6 significant issues, and let's now take it to the next
7 person that came in and was qualified as an expert in
8 this case, and that is Dr. McDonald. Very nice lady,
9 seemed to be very honest about her interpretation of
10 Mr. Nelson, what Mr. Nelson told her.

11 Well, what does she specifically say? She
12 said Mr. Nelson came into her office with a qualifying
13 trauma. Do you know what a qualifying trauma is? A
14 qualifying trauma is a trauma. He described an event in
15 his life to her that's a trauma, and based on that, she
16 was able to take some physical symptoms, some anxiety
17 issues, some sleep disorder issues, things that -- she
18 did admit she didn't do any sleep studies on him, some
19 stuff that he related to her, and subjectively she made
20 decisions to determine that he had PTSD, post-traumatic
21 stress disorder. Okay?

22 Well, let's remove this trauma for a minute.
23 Let's just say there was no trauma, because ultimately
24 that's what I'm saying. There was no trauma. Okay? So
25 let's remove that trauma, and guess what? We don't have

1 PTSD. What else? We have sleep disorders. We have
2 uncomfortableness and back pain and aches and anxiety
3 issues and some mild depression.

4 Okay. This is a 33-year-old man who works
5 labor, basically. Now, I don't know how many other
6 33-year-old men that you know that don't have any aches
7 and pains, but for the most part, people have aches and
8 pains as they age, plus about 30-ish is when people start
9 having that mid-life crisis. How is my life going? Is
10 it going the way I want?

11 Plus, as Mr. Derrick Nelson described himself
12 he has issues with his wife, he has issues with his
13 children. These are all regular life issues that people
14 have.

15 Well, if you take the qualifying trauma out,
16 what you have -- let's call it unspecified anxiety
17 disorder. I don't know how many people you know have
18 unspecified anxiety disorder. There is a lot of people
19 out there that just have basically issues that life is
20 just hard. So, as I said, assuming this didn't happen,
21 this trauma, Mr. Nelson does not have PTSD. That is
22 Dr. McDonald's testimony. He has PTSD because he comes
23 into it with a qualifying trauma.

24 What is the most telling thing Dr. McDonald
25 testified to? Mr. Nelson did not come to her office

1 until after the arrest, until August 11, 2009. August
2 11, 2009 was like 12 days after this recorded
3 conversation, and there are some specific things we're
4 going to talk about that recorded conversation because
5 the prosecutor calls it a confession.

6 So we're going to pick it apart a little bit,
7 but the first thing I want to talk about that, to set it
8 up, is that in this case, Mr. Nelson got on the stand and
9 took an oath to tell the truth. Problem is that the
10 things he said under oath on that stand we, later, in my
11 case later, proved was not true, sitting here on the
12 stand under oath.

13 Those are what I'm going to call those
14 corroborated untruths. I don't want to call them lies, I
15 just want to call them corroborated untruths because
16 they're not true, and they were not true by either facts
17 or circumstances as presented in this case.

18 Okay. Let's look at Derrick Nelson's
19 testimony under oath in this trial. He didn't know Keith
20 Gadsden. He didn't know that his stepson, Tarik
21 Robinson, knew Keith Gadsden before the recorded
22 conversation. He claims under oath he testified he never
23 saw him before he talked to him, rarely saw him before he
24 talked to him in the recorded conversation. He testified
25 that he saw him at a football coaching meeting in some

1 time early 2009, and that is what sort of brought this up
2 for him.

3 He testified that he did not talk to him in
4 2007 at the mall where he worked with Tarik Robinson.
5 This is very, very important, because this
6 specifically -- I asked him multiple times, did you talk
7 to Mr. Gadsden, my client, in 2007 when Tarik Robinson
8 ran away, and he said no, I didn't.

9 Then there was this whole issue about whether
10 he worked at a hat shop or not, which ultimately his wife
11 even said he worked at a place in the mall. He said,
12 also, he testified that Tarik Robinson left the house in
13 2008 on his own choice. Okay? But during the recorded
14 conversation that is Mr. Nelson's testimony in this
15 trial, whether he was under oath or not, when he
16 testified in this trial, when he brought that recorded
17 conversation up, what he said is obviously allegedly
18 true. It's part of the recorded conversation.

19 References were made to when they talked at
20 the gym, because if you remember the testimony in this
21 case is these people worked at the same place. These
22 people had, like, a whole lifetime, like ten years of
23 knowing each other and knowing -- and, you know, crossing
24 in and out of paths. His wedding reception in 2000 was
25 held at the place where he was supposed to have been

1 sexually assaulted. His wedding reception was attended
2 by staff members of the city of Charleston, one of which
3 was my client.

4 This is the most important thing. Derrick,
5 himself, refers to the conversation at the mall. He said
6 when we talked at the mall. Okay? He's claiming, in his
7 testimony under oath, that he never talked to this man
8 beforehand, that there was never any significant
9 conversation between the two of them, but in that
10 recorded conversation, he specifically says, when we
11 talked at the mall. But he swore under oath that he
12 never talked to my client at the mall about Tarik
13 Robinson in 2007.

14 Then he said -- oh, this is the best part.
15 What did he say? He said that therapy started August 11,
16 2009. Well, he's apparently been rehearsing for those
17 therapy sessions for about a month and a half, because in
18 that recorded conversation, he specifically says, to
19 Mr. Gadsden, I want you to come to therapy with me. I
20 want you to come because it's so hard and it makes me
21 feel so bad, and, you know, it's so hard on me and I get
22 so much out of those sessions. I want you to come with
23 me. I've been going for about a month and a half.

24 And then under oath, I asked him, who were
25 you talking about? Which therapist were you talking

1 about to take Mr. Gadsden to?

2 And he said, My regular therapist,
3 Dr. McDonald.

4 He didn't even see Dr. McDonald until August
5 11, 2009, so, like I said, rehearsals for the PTSD,
6 rehearsals for the anxiety, rehearsals for the I have
7 nightmares, whatever, he is telling Mr. Gadsden on the
8 phone that he has -- in the conversation that he's had,
9 therapy sessions that don't even exist, under oath he
10 told me he was going to take him to Dr. McDonald.

11 What about after the recorded conversation?
12 After the recorded conversation, Derrick testified he was
13 referring to therapy with his regular therapist, Ms.
14 McDonald. We talked again about Ms. McDonald. We've
15 covered that. Other incidents of corroborated untruths.
16 What I mean by that is when Mr. Nelson says something
17 under oath and some other piece of evidence or some other
18 witness contradicts him, and it's pretty apparent that
19 that other witness or document is pretty much accurate,
20 so therefore Mr. Nelson's testimony was not true.

21 One of those is Derrick testified there was
22 no wall partition in the bathroom. It becomes important
23 because the bathroom is really small, and what he says
24 happened, the wall can't exist, and so here is this wall
25 that you will see pictures of and that you will see in

1 the jury room that is made out of cinderblock, that's
2 made out of the exact same wall material as the wall, and
3 Pam Deveaux, who has worked at the city since 1985,
4 testified that that wall had been there since she started
5 working there in 1985. So she specifically testified
6 that that isn't true.

7 Derrick testified that he had never been
8 reprimanded by the city, got really adamant with me, at
9 one point got really aggressive. He got really adamant
10 with me that he had not been reprimanded. Well, Brenda
11 Shokes, who has been sued by him in federal court in a
12 civil case, who has testified pursuant to the state
13 calling her as a witness came and specifically identified
14 a document that she had signed where Derrick Nelson had
15 been reprimanded.

16 What is it about? Does it matter what he had
17 been reprimanded about? No, it doesn't matter at all
18 what he was reprimanded about. It wasn't about that. It
19 was the fact that he wouldn't tell me on the stand under
20 oath that he had been. But then she later confirmed it
21 happened.

22 Been Derrick Nelson wants everybody to
23 believe it his way. He wants everybody to believe what
24 he says is truth because it benefits him somehow. How?
25 I don't know. Maybe it's just the civil suit. Maybe

1 it's his family, I don't know, but he specifically wants
2 people to believe his testimony under oath when other
3 things in this case have proved that it's not true.

4 One thing that's going to happen -- and when
5 I sit down, this is it for me. I don't get to come back
6 up. This is the last time I get to talk to y'all, but I
7 already know that Ms. Gordon is planning to say that my
8 witness, Pam Deveaux, I don't know, is somehow lying to
9 help Mr. Gadsden.

10 Ms. Deveaux has worked for the city of
11 Charleston for 35 years. This is a nice lady. She took
12 an oath to tell the truth. She's not in love with
13 Mr. Gadsden. She's not in a relationship with Mr.
14 Gadsden. She doesn't have a personal bond with Mr.
15 Gadsden. She's a city employee who has been here every
16 single day. As she told you, she knows all these people.
17 All these people know each other, and she told you she's
18 here to tell you what she knows about a specific time
19 frame that was supposed to be between 1985 and 1987 or
20 so. She testified to you what she knew.

21 Now, somewhere Ms. Gordon is going to try to
22 make her look bad because she's Mr. Gadsden's friend.
23 She is also Mr. Nelson's friend. She also worked with
24 both of them. She's not going to throw her integrity out
25 the window just because she's friends with Keith Gadsden,

1 but what she specifically said in this case is she said
2 that that wall was there since 1985.

3 She said that Keith Gadsden did not have a
4 car, that she would give him rides. Said Keith Gadsden
5 came to work in '85. He was, like, 24 years old. She
6 knew for a fact he wasn't driving. She knew for a fact
7 that he did not have keys. I think the last thing she
8 said when he stood up and asked her the last question was
9 he didn't have any keys. She said in order for him to
10 lock or get into the building he had to come to her
11 because he was her trainee she also said he coached
12 baseball.

13 She said he didn't really mess with the young
14 kids. That wasn't his thing. He was into the older
15 kids, 11, 12-year-old kids at the time that he started
16 doing his coaching, but in the beginning he didn't coach.

17 One thing Ms. Gordon is going to say is,
18 Well, she after a couple years of coming there had some
19 keys.

20 Let's even assume it was two or three years
21 when a person got keys. That would have put Mr. Gadsden
22 having keys somewhere around 2009, which, by the way, is
23 outside of the scope of the age limit that she says that
24 it happened. She also testified -- Ms. Gordon is also
25 going to say, Well, Mr. Gadsden had keys when he started

1 working there in 2007 because he got reprimanded for
2 giving some keys to somebody.

3 By 2007, Mr. Gadsden had a relationship with
4 the city of Charleston that had gone on for 22 years, 22
5 years. I think it would make sense for somebody who
6 worked there for 22 years to have some keys to Hester
7 Park. It's an outdoor place.

8 A couple of other real quick things to wrap
9 it up. Brenda Shokes is a nice lady. She came. She
10 gave us no information relevant to this case. She didn't
11 know anything. She admitted, corroborated the fact he
12 reported it. I understand that. The people that I put
13 up were put up to show you the ongoing relationship
14 between the people. Obviously, it's not relevant to
15 whether or not something happened in the '80s, but it's
16 extremely relevant to the relationship between these
17 people, and it puts this conversation that was recorded
18 in context, because what the solicitor is trying to do is
19 take out certain parts of this conversation and say it's
20 the confession or an admission about something that
21 happened in the 80's.

22 This conversation has huge context that
23 involves families, people that have known each other for
24 a long time. The last thing that I really want to share
25 with you is that -- when you go back, I'm not going to

1 talk to you about what I think are Derrick Nelson's
2 version of the facts, because I don't believe they're
3 true, but that's my opinion. You got to decide.

4 Mr. Gadsden testified. Whatever you decide
5 about him is your choice. I'm not going to tell you
6 that. We're going to tell you that he testified under
7 oath that he didn't do it. Now, if you choose to believe
8 him, we go home not guilty. If you choose not to, that's
9 your choice. You are the ones that have to decide.

10 What I'm here to tell you about is the other
11 stuff, the stuff that Mr. Nelson has said in this case
12 that's not true, and if a person is going to lie about
13 certain things, they're going to lie about other things
14 to help themselves, to protect themselves, to make
15 themselves look better.

16 She's going to tell you my client is doing
17 it. I'm going to tell you the victim is doing it, but I
18 have documentation and testimony in this case showing you
19 that Mr. Nelson is doing it.

20 You know, after my client testified that
21 Mr. Nelson was on his baseball team, the rebuttal
22 evidence was Mr. Nelson's mother. She said, We didn't
23 live there during that time period.

24 I couldn't add it all up, but I think my
25 client said he was about 11 or 12 at the time. But you

1 know who didn't come back and testify? Mr. Nelson. He
2 didn't come back and testify he'd he never been on my
3 client's baseball team. He did not come up on rebuttal
4 and say, I've never been on that baseball team.

5 That's a decision you have to make, whether
6 or not you believe he was on the baseball team or not.
7 My client testified under oath that he was. The
8 corroborated untruths don't exist in this case for my
9 client. There is nothing that he said specifically that
10 they can come in and say, This isn't true.

11 She said, You've been reprimanded. He said
12 yes. I left early. I gave him the keys. That's it.
13 Nothing else bad other than he said he didn't do it.

14 I think what the solicitor ultimately is
15 saying is that in order for you to find my client guilty,
16 that you have to suspend your disbelief, and you have to
17 overlook the inconsistencies in this case and you have to
18 accept the facts as presented by Mr. Nelson as true,
19 despite all these untruths corroborated by his own
20 testimony in the recorded conversations, presented from
21 the witness stand under oath.

22 He got up and he said things that I later was
23 able to show is not true, and in that recorded
24 conversation, which I know you will go back and pick
25 apart, I listened to every word of it. I listened to

1 every single thing that I heard Mr. Nelson himself say
2 that was inconsistent with what he testified to,
3 especially the rehearsal on the therapy. All this
4 business about therapy and sessions and he hadn't even
5 gone.

6 That would be one thing, but then under oath
7 he tells me he's going to take my client to Dr. McDonald,
8 yet he hadn't been to Dr. McDonald. Ultimately, what I
9 say is that you can't do that under the oath that you
10 took. You can't.

11 Under the oath that you took in this case and
12 what you're being told by this judge, you must acquit if
13 you find out. You must acquit if you are not left firmly
14 convinced. You must acquit that if something on that
15 stand is not true or could potentially not be true
16 because of bias or motive.

17 What is bias or motive? Is this about Tarik
18 Robinson? I don't know. Is this about a federal lawsuit
19 against the city of Charleston? I don't know. But is
20 there a motive and a bias? Yes. Can we leave this case
21 today finding him guilty? No, and I think that after you
22 hear all the evidence in this case, you're going to find
23 him not guilty.

24 I'll leave you with this one thought, because
25 this is what you have to decide. Dr. McDonald referred

1 to perpetrators and victims. Perpetrators and victims,
2 triggers stressors, seeing the perpetrator in certain
3 circumstances is a stressor. The conversation that went
4 on between these two people is not a victim and a
5 perpetrator. The conversation that went on between
6 these two people are two people that know each other.

7 The demeanor of that conversation -- and if
8 that word is a little big, I would just say, the attitude
9 that the people had towards each other, the
10 colloquialism, the friendliness, the knowledge that they
11 had of each other's lives, this is not a victim and a
12 perpetrator.

13 This is not a confession. This is a
14 situation where two people are talking about a
15 circumstance that involves a child, a child that was put
16 out, openly admittedly put out, on the street at 17 years
17 old that my client took in. Did my client say some
18 stupid stuff on that recording that may be considered,
19 you know, incriminating? Yeah, sure, he did. We hear
20 it, we know it, but he also had some idea about what was
21 being said beforehand.

22 He testified to you why he thought he was in
23 trouble. He testified that he did some things to the kid
24 when he -- beating him, whatever, when he was younger.
25 He testified that his understanding was that Mr. Nelson

1 was upset because of the child now lived with him, who
2 was a minor. There was all this business about an
3 SSI check and fraud and things like that. Those kind of
4 things are the things that were in Keith Gadsden's mind,
5 not somehow having assaulted him, sexually, in the 80's.

6 You have to decide what you think. I can't
7 tell you not to believe that there is some incriminating
8 stuff in there. I understand that, but ultimately when
9 you take all this together, he didn't confess. He
10 testified under oath it didn't happen, and I believe
11 you'll find my client not guilty.

12 Thank you.

13 THE COURT: Miss Gordon?

14 MS. GORDON: Thank you, Your Honor. Good
15 morning. It's Wednesday morning. This is your last day.
16 If you have children on spring break this week, maybe
17 you'll get to spend the day with them or two, so
18 hopefully you'll be done with this case today.

19 As I mentioned to you on Monday, this is the
20 State of South Carolina versus Keith Gadsden, and we are
21 here for criminal sexual conduct with a minor in the
22 first degree. Judge Young will go over the elements with
23 you, but I just wanted to touch on one very quickly, just
24 so you remember, that sexual battery is an intrusion.

25 Sometimes people think oh, it's got to be

1 like this very aggressive rape, and it really doesn't,
2 and with children, a lot of times it's not. Sometimes
3 it's not rough, but it hurts nonetheless. So all we have
4 to prove is that the penis ever so slightly entered his
5 anus. That's it, and then the victim was 11 years or
6 younger.

7 In South Carolina, the degrees for first
8 degree criminal sexual conduct with a minor, second
9 degree criminal sexual conduct with a minor is just based
10 on age. In this case, this happened to Derrick Nelson
11 when he was under the age of 11, and that's all we have
12 to prove for that.

13 Consent is not an issue. Whether Derrick
14 participated in it is not an issue. He was a child, and
15 the defendant was the adult. That's any intrusion,
16 however slight. That just means that we don't have to
17 prove it went all the way in or he penetrated him fully,
18 just that there was some attempt of putting it in there
19 and it touched that anus, that anal opening.

20 This case from the defense is smoke and
21 mirrors. They would like for you to look at everything
22 else but what actually happened. They want to talk about
23 Tarik Robinson; they want to talk about an SSI check;
24 they want to talk about whether the defendant might have
25 been a worker somewhere in the building when the victim.

1 had his wedding reception there unbeknownst to him. They
2 would like to talk about everything in the world except
3 about what actually happened.

4 This case is about the defendant as an adult
5 sexually molesting a child. So what is the evidence?
6 This is not CSI, and on Monday when you came in for jury
7 duty, you may have thought you're going to see some
8 DNA evidence or something really cool like you might see
9 on television or CSI, and, truthfully, its just not like
10 that, but I hope that it's been educational for you
11 despite that.

12 What we don't usually have, but we actually
13 do have in this case, is a smoking gun. We oftentimes
14 don't even have that, but in this one we actually do.
15 There is the smoking gun, and that is the audio. You got
16 to hear it. You got to hear exactly what that
17 conversation was about, and we'll talk about that a
18 little bit later as well.

19 Derrick Nelson: He was seven or eight years
20 old, and he knows that's when it happened because that's
21 when he moved downtown, and that's when he started -- he
22 went to play basketball for the city of Charleston, like
23 a lot of kids would do. It was at St. Julian Divine, on
24 the first floor bathroom, pulled his pants down, laid on
25 the floor, and the defendant and his coach laid on top of

1 him and put his penis inside of his anus. If you believe
2 Derrick, then we've met our burden of proof.

3 Why can you believe Derrick? If he wanted to
4 make something up about Keith Gadsden and he wanted to
5 come up on the stand and be the perfect witness, he --
6 well, he may not have the capability of being a perfect
7 witness because he's not that sophisticated to manipulate
8 the situation like that, but if he wanted to describe in
9 graphic detail what kind of horrible sex it was, he
10 could. I mean, he knows what sex is. He's an adult.
11 He's had children. But they -- he blocked some of that
12 out.

13 You can imagine how hard it must be to get on
14 the stand and talk in front of a room full of people,
15 including your wife and your children, your mother, a
16 room full of strangers, talk about even consensual sex,
17 much less talk about what happened to you as a child for
18 another man to anally rape you.

19 Imagine how hard -- that would be -- that is
20 incredibly hard for him. That would be incredibly hard
21 for anyone to do, but he did it. He's had to say it
22 before, but it is different talking to one person in a
23 room, telling a police officer in private, telling a
24 co-worker in private, but when he told those co-workers
25 they knew what -- he was holding back tears. He is still

1 trying to be the tough man that he thinks he's supposed
2 to be.

3 Ms. Gay would like you to think that because
4 Derrick can't remember a date or something specific that
5 you can't believe anything. There are some things that
6 we naturally forget. Do you remember if I -- if we
7 opened this courthouse in -- was it 2002 or 2001? We had
8 that conversation earlier this week in my office. We
9 don't remember. Was it this summer or that summer that
10 we moved downtown from North Charleston, when we used to
11 be up on Melbourne? Was that conversation in 2007 or
12 2008? Those kinds of things are things people naturally
13 forget.

14 They might get a date wrong. He didn't say,
15 I never had a conversation with him at the mall. He
16 said, I didn't work there in 2007. If I said that, I had
17 the date wrong, and I didn't talk to him at the mall when
18 I worked at the Hat Shop.

19 That's how she asked him. But you don't
20 forget -- you may not remember it was a Sunday or a
21 Tuesday. You may not remember if it was August or
22 December, but you don't forget when your coach pulls up
23 and takes you to the gym for what you think is to learn
24 how to be a starter on the basketball team and instead he
25 asked you to pull your pants down and he puts his penis

1 inside your butt. You don't forget that.

2 And how do we know -- how have we
3 corroborated that that happened, in addition to the
4 audio? Ms. Laval, who had no idea this happened, she
5 came in and told you, he quit basketball, which is what
6 he said, and that's what happens when something bad
7 happens.

8 They did not want to go back there, but she
9 thought it was because they lived in a bad part of town.
10 He just became withdrawn. She didn't know what to do,
11 and so that corroborates what he said happened at that
12 time, when he was a child.

13 Is it difficult to talk about? Yes. Is it
14 ever forgotten? No. Do people that are victims of
15 sexual assault go on to function day to day? Yes, but it
16 nevertheless affects them and affects them profoundly.
17 Whether or not we see it, when you interact with them or
18 not, it affects them.

19 Shirley and Brenda are his co-workers, and
20 they came to testify, and what is very important about
21 them coming to testify, very little, but what they tell
22 you is that Derrick disclosed a sexual assault to them,
23 that the defendant sexually assaulted him, in the
24 bathroom, on the third floor of St. Julian Divine Center.

25 That's how you know that's what is going on

1 on that audio, because the defendant says, I know you're
2 trying to get me locked up because Brenda and Shirley
3 came and told me what you told them.

4 The victim didn't go tell them, He hit me on
5 my bottom, he spanked me when I was 13 or 14 years old.
6 The defendant knew good and well what that conversation
7 was about, and that's how you know he knew what that
8 conversation was about, because he references Brenda and
9 Shirley and Pam, and you're trying to get me locked up
10 because you went to Brenda and Shirley and Pam with that
11 stuff. That stuff is that he told Brenda, Shirley, and
12 Pam was that the defendant sexually assaulted him when he
13 was a child.

14 And you're right, Pam is friends with the
15 defendant. She's known him for 27 years. She has not
16 known the victim for 27 years. She doesn't even remember
17 him. Oh, he may have played baseball, but she was very
18 good at coming up with dates. If Derrick wanted to make
19 this up, he could spit you out some dates and made it
20 look perfect. He's just telling you the truth.

21 When people remember exact dates from 30
22 years ago, it makes you question a little bit because
23 that kind of thing is hard to remember. She does not
24 know every single thing Keith Gadsden did. She was a
25 co-worker. That doesn't mean that you know everything a

1 co-worker did 30 years ago, whether he had access to a
2 car. She would like to believe that, and I think she
3 probably does, but it doesn't make it credible.

4 The experts. Why do we bring them in?
5 They're not here to tell you whether or not this did or
6 did not happen, but child sexual abuse is something,
7 number one, we don't like to think about and hopefully we
8 don't have to know that much about it, if we're lucky,
9 but, unfortunately, it happens and so they're here just
10 to kind of tell you a little bit and educate you a little
11 bit about the dynamics of it.

12 To explain why Derrick might have a hard time
13 talking about this on the stand, to just explain that
14 those symptoms that he had are consistent, and, yes,
15 people do have anxiety. I'm not doubting that, but what
16 Derrick went to her about was that event. What he kept
17 thinking about was the defendant raping him as a child,
18 and did he go to Ms. McDonald before that audio? Her
19 records indicate it was August the 12th, and whether
20 Derrick remembers now if that's where he was going at the
21 time -- but nobody ever said that's the first person he
22 ever talked to, and whether or not he remembers now if he
23 started seeing her ten days after or ten days before that
24 audio, he may have forgotten that.

25 Dr. Elsey was just here to tell you why

1 children don't tell, and you're right. He does not know
2 Derrick Nelson, but it just so happens that Derrick
3 Nelson is just like most of the other people who have
4 been victims of this, and to think that Derrick Nelson is
5 sophisticated enough to have done all the research to
6 figure out how do I make myself look like a victim is
7 just kind of ridiculous. He's not that sophisticated of
8 a person to have come up with all this and to
9 miraculously get the defendant to admit to it on an
10 audio.

11 And just to tell you why it's even harder for
12 boys, because boys are supposed to be the protector, and
13 you heard Ms. Laval. He was. He wanted to be the
14 protector of that family. He was the oldest. He wanted
15 to help his mom. He wanted to be tough. He wanted to be
16 the man of the house, but he was a child.

17 The confrontation: Ms. Gay would like to
18 make that about everybody in the room that it's not. The
19 defendant may not have wanted to talk about what he did
20 to the victim as a child, but that's what Derrick was
21 there about, and, of course, the defendant kept trying to
22 change the subject: Let's talk about Tarik. Let's talk
23 about this.

24 But Derrick said, This isn't about Tarik.
25 This is about what you did to me, and that is the purpose

1 of the conversation. It's audiotaped. You heard it.
2 You can listen to it again.

3 The defendant on that date, and today, he
4 wanted you to think and he wants Derrick to think this is
5 no big deal. Let's let bygones be bygones. I know I did
6 something to you, but let's just get over it. You're not
7 here to decide if the defendant is an evil person. You
8 don't have to do that. You just have to decide if what
9 he did -- if he actually did what Derrick said he did, if
10 he actually put his penis in Derrick's anus when he was a
11 child. That's all you have to decide, if that happened.

12 The defendant tells Derrick, You be the man.
13 You're a man. You're the adult. You know what? When
14 Derrick was seven or eight years old, the defendant was
15 the man, and he's the one responsible for what happened
16 in that bathroom. This is very important.

17 How do we know we're talking about a sexual
18 assault? He gives you the clues. He gives you the
19 answers. They're clearly discussing something that
20 happened 30 years ago: I don't want to get locked up for
21 something I did 30 years ago.

22 And how do we know it's about a sexual
23 assault? Just listen to the context of the things he
24 says. I don't deal like that anymore. I got a
25 girlfriend. I got a wife. I got babies. That's not

1 talking about whether or not he spanked a child.

2 You know why I think you're trying to get me
3 locked up? You went to Brenda with that; you went to
4 Shirley with that; you went to Pam. He went to Brenda,
5 and Shirley and Pam about a sexual assault, and they're
6 his friends and you didn't think they were going to come
7 back and tell me what you told them?

8 They told him about a sexual assault. They
9 talk about that twice, and if you want to go back and
10 relisten, I just put those times up there. It was
11 approximately when that happened. In that audio, he
12 still is trying to manipulate Derrick. He's the
13 manipulator, not Derrick. He's telling, you know,
14 they're my friends. Nobody is going to believe you.
15 They're coming to me. I'm in charge of this. People
16 will tell me what you're saying about me.

17 And then he tries to make him feel sorry for
18 him: I'm an old ass man. I'm 49. The older I get to
19 that, the more offense I take to that. Forty-nine is not
20 that old, but he says you're supposed to feel sorry for
21 me. I'm 49. I'm an old ass man, and he turns around and
22 makes it Derrick's fault.

23 I don't hate you. Well, he should. Derrick
24 should hate him. But the defendant said, I don't hate
25 you. I don't hate you. For what? What did Derrick do?

1 The defendant is the one that did something.

2 And then he tries to bribe him. This man
3 over here was doing stuff he wasn't supposed to be doing
4 at work, 30 years ago, he's still doing it now. I could
5 get you a job sitting on your ass all day making \$15 an
6 hour like me. I just play video games all day. You can
7 do that.

8 But Derrick said, I don't want to do that.
9 This isn't about that. He had already quit working for
10 the city. He just couldn't take it anymore, but he could
11 get him a job, sitting on his ass all day. This is not a
12 man who is following the rules at work.

13 He wants to make this Derrick's problem: Let
14 me be your friend. I'll be in your life. I can be your
15 friend. I don't hate you.

16 He's the one trying to manipulate Derrick.
17 He's the manipulator. Why can you not believe Keith?
18 Because the story, number one, doesn't make sense. We
19 know what Shirley and Pam and Brenda were told. It was
20 about a sexual assault. What he told you on that tape
21 that he didn't know you were going to get to hear is the
22 truth.

23 When he gets in here, he's had a couple years
24 to come up with a good story. I got to come up with
25 something better than that because that doesn't sound

1 good. So he gets on the stand and says, well, I didn't
2 even know Derrick until he was, like, 13 or 14 years old,
3 and he just played baseball for me for about three or
4 four months, so I didn't really know him.

5 But in the audio, you hear him say, Derrick
6 says, You were my coach. You were my coach.

7 And he goes, Yeah, I was more than a coach.
8 I was like a father to you. If you just knew this boy
9 when he was 13 or 14 years old for three or four months,
10 that's not -- you didn't think of him like a son. You
11 didn't think -- you did not think of yourself like a
12 father to him, and Derrick just happened to live in North
13 Charleston when was 13 or 14 years old.

14 He's just trying to come up with anything to
15 try to take away what happened, and what happened was
16 when Derrick was seven or eight, they went into that
17 bathroom. You the man. That's what he keeps telling
18 him: You the man.

19 Derrick was a boy. Derrick was a seven or
20 eight-year-old little boy, not the grown adult he is now,
21 and the judge is going to ask you about reasonable doubt.
22 And reasonable doubt doesn't mean beyond all doubt in the
23 world, because you will hear there are very, very few
24 things we will ever know beyond all doubt, and you didn't
25 have to be an eyewitness to the event. If you were an

1 eyewitness, you would have been on the witness stand
2 instead of on the jury panel.

3 When you came in here, you knew absolutely
4 nothing about what happened to Derrick Nelson. If you
5 now believe that the defendant did put his penis inside
6 Derrick's butt, then we have met that burden, and I
7 submit to you we have proven that and I ask that you
8 return a verdict of guilty.

9 Thank you.

10 THE COURT: All right, folks. We'll get them
11 to clear out.

12 All right, folks. It's now my job to charge
13 you on the law as it applies to the facts as you find it,
14 and I want to start by saying if there is something I've
15 said or done or indicated to you that I might have an
16 opinion about what the outcome of this case is, well,
17 then you read it wrong. Disregard that.

18 I don't have an interest in the outcome of
19 this lawsuit anymore than you have an interest in the
20 outcome of the lawsuit. I told you at the beginning of
21 the trial, my job is two-fold: One, to make sure that
22 both sides get a fair trial; and the other is to charge
23 you on the law, and we are now to the point where I
24 charge you on the law.

25 You are the sole judges of the facts. In

1 directed verdict.

2 THE COURT: I don't think it's necessary at
3 this point. Yeah. Let's get the evidence together.

4 (Jury begins deliberations at 10:35 a.m.)

5 THE COURT: Let the record reflect the
6 defendant is in the courtroom.

7 (11:36 a.m., in open court, jury present.)

8 THE COURT: All right. Mr. Foreman, I
9 understand the jury has reached a verdict; is that
10 correct?

11 THE FOREMAN: Yes, sir, we have.

12 THE COURT: Is it unanimous?

13 THE FOREMAN: Yes, it is.

14 THE COURT: Would you hand it to the bailiff,
15 please. Defendant will rise.

16 All right. Mr. Gadsden, on the indictment
17 2010-GS-10-4099, indictment for criminal sexual conduct
18 with a minor in the first degree, the verdict of the jury
19 is guilty. Signed and dated this date by the foreman.

20 If, in fact, this is your verdict, ladies and
21 gentlemen, would you please indicate that by raising your
22 right hand? All right. Let the record reflect all the
23 jurors have raised their right hand. Thank you. Okay.

24 Well, folks we will now -- do you wish to
25 have the jury polled?

1 like yourself that prey on them.

2 The disturbing testimony that I heard not
3 only from the victim that was absolutely compelling but
4 the repercussions that he had to live with, it changed
5 his life. Obviously, you just heard from the mother who
6 said that there were things that just didn't make any
7 sense from that point on, and it changed the entire
8 dynamics of his family and of his life.

9 The predator aspect of it is most disturbing
10 to me. The manipulation that I heard in the audio
11 transcript that we listened to were -- it was clear that
12 you were still trying to manipulate him and his feelings
13 and to exonerate and try to save yourself. Well, that
14 was just sickening and disturbing.

15 You got away with it for 30 years. The jury
16 found the evidence to be compelling, and I think that the
17 maximum sentence of 30 years is more than well deserved
18 in this case, so that is the sentence of this Court, is
19 you are remanded to the Department of Corrections for a
20 period of 30 years.

21 You get credit for time you already served,
22 if any. Good luck to you.

23 MS. GAY: Thank you, Your Honor.

24 MS. GORDON: I'll submit a sentencing sheet,
25 Your Honor. I went to have someone print that for me.

ESG20090804555

WITNESSES

MELVIN MAGWOOD

Charleston City Police Department

AGENCY CASE NUMBER

0913995

ARREST WARRANT NUMBER

K342620

DATE OF ARREST

August 6, 2009

ACTION OF GRAND JURY

TRIED

Foreperson of Grand Jury

JUN 07 2010

Date:

VERDICT

Guilty

4/11/2012

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS1004099

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June Term 2010

THE STATE

vs.

KEITH FRANCIS GADSDEN

DOB: 1963-02-15

B/M

Indictment for

Criminal Sexual Conduct with a Minor, 1st Degree

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

KEITH FRANCIS GADSDEN

INDICTMENT/CASE#: 2010GS1004099

A/W#: K342620

Date of Offense: 1/1/1985 - 12/31/1987

S.C. Code §: 16-03-0655(A)(1)

CDR Code #: 0159

AKA:

Race: BLACK Sex: M Age: 49

DOB: 02-15-1963 SS#:

Address:

City, State, Zip: 4060000

DL#: SID#: SC01379024

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Criminal Sexual Conduct w/ Minor 1st Degree

CONVICTED OF or PLEADS

SENTENCE SHEET

in violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0159

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Elizabeth Gordon SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

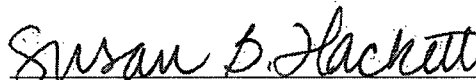
Clerk of Court/ Deputy Clerk Samuel Curry Court Reporter: Amanda Haltersten SCCA/217 (03/2011)

Presiding Judge Judge Code: 2139 Sentence Date: 4/11/12

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 19th, 2013



Susan B. Hackett
Appellate Defender

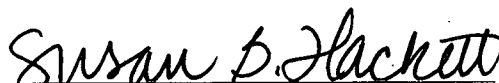
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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Susan B. Hackett
Appellate Defender

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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

William Jeffrey Young, Circuit Court Judge

RECEIVED
JUN 19 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

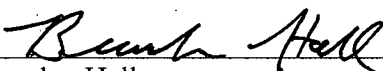
v.

KEITH GADSDEN,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William M. Blich, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 19th day of June, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 19th day of June, 2013.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: November 16, 2022.