

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM JASPER COUNTY

Perry M. Buckner, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMES WATSON,

APPELLANT

APPELLATE CASE NO. 2012-213302

RECORD ON APPEAL

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INDEX

INDEX.....i

TRIAL TRANSCRIPT.....1

INDICTMENTS.....424

CERTIFICATE OF COUNSEL.....428

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF JASPER) IND. NO.: 2011-GS-27-00345
 2012-GS-27-00430

STATE OF SOUTH CAROLINA,)
)
 vs.) TRANSCRIPT OF RECORD
)
 JAMES EDWARD VINCENT WATSON,)
 II,)
)
 DEFENDANT.)

October 15-17, 2012
 Ridgeland, South Carolina

B E F O R E:

THE HONORABLE PERRY M. BUCKNER, JUDGE.

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INDEX				
	DIRECT	CROSS	REDIRECT	RECROSS
1				
2	Pretrial Motions			8
3	WITNESSES:			
4	MARY BETH HEFNER			
5	By Mrs. Vaux	18, 25	43	45
6	By Mr. Hughes		24, 37	
7	Defendant Duly Sworn			51
8	Plea			51
9	Plea Withdrawn			75
10	Voir Dire			76
11	Jury Selection			103
12	Jury Duly Sworn			115
13	Opening Statements			
14	By Mrs. Vaux			137
15	By Mr. Hughes			139
16	STATE'S WITNESSES:	DIRECT	CROSS	REDIRECT
17	ALAHANDRE RUIZ			
18	By Mrs. Vaux	142		
19	By Mr. Hughes		155	
20	GLADYS JANELL BARKER			
21	By Mrs. Vaux	157		170
22	By Mr. Hughes		167	173
23	Minor			
24	By Mrs. Vaux	177		
25	By Mr. Hughes		184	
	MARY BETH HEFNER			
	By Mrs. Vaux	192		234
	By Mr. Hughes		222	239

1	STATE'S WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
2	SARAH SCHUH				
	By Mrs. Vaux	242		270	
3	By Mr. Hughes		262		271
4	ERIC BAXTER				
	By Mrs. Vaux	274			
5	By Mr. Hughes				
6					
7	State Rests				279
8	Motions				280
9	Defendant Duly Sworn				284
10	Advisement of Defendant's Rights				284
11					
12	DEFENSE WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
13	MARILYN E. ULLMANN				
	By Mr. Hughes	288		298	
14	By Mrs. Vaux		294		299
15	KIMBERLY E. WATSON				
	By Mr. Hughes	313		330	
16	By Mrs. Vaux		322		331
17	JAMES E. V. WATSON, II				
	By Mr. Hughes	333		350	
18	By Mrs. Vaux		341		
19	Defendant Rests				350
20					
21	REPLY TESTIMONY				
	STATE'S WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
22	AMY SMITH				
	By Mrs. Vaux	352			
23	By Mr. Hughes				
24					
25					

1	Motions	356
2	Closing Arguments	
	By Mr. Hughes	362
3	By Mrs. Vaux	370
4	Jury Charge	382
5	Question by the Jury	403
6	Verdict	408
7	Jury Polled	409
8	Sentencing	415
9	Certificate of Reporter	423
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE'S EXHIBITS

		ID.	EV.
1.	Photograph	145	146
2.	Photograph	145	146
3.	Photograph	145	146
4.	Photograph	150	151
5.	Photograph	150	151
6.	Photograph	150	152
7.	Photograph	150	152
8.	Photograph	150	152
9.	Photograph	150	152
10.	DVD	209	210
11.	Report of Dr. Sarah Schuh	260	

DEFENDANT'S EXHIBITS

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

None.

1 **THE COURT:** Now before I start, I see that the
2 defendant is present with Mr. Hughes. I've read the
3 motion now.

4 Are both of you asking that I review the case law, in
5 addition to the statute? I'm familiar with the statute,
6 17-23-175, but if you think that I need to read the case
7 law -- Mr. Hughes, have you got copies of both of these
8 now?

9 **MR. HUGHES:** I have three cases here, Your Honor,
10 that she gave me.

11 **THE COURT:** I've been handed State versus Hill, 715
12 SE2d 368. I've been handed State versus Russell, 679 SE2d
13 542. Finally, I've been handed State versus Whitner,
14 W-H-I-T-N-E-R, which was filed on July the 11th, 2012.
15 It's Opinion Number 27142 of the South Carolina Supreme
16 Court.

17 Do you have all three of those?

18 **MR. HUGHES:** Yes, sir.

19 **THE COURT:** All right. Is Counsel requesting that I
20 review these cases prior to the start of the hearing or
21 not? I just want to make sure, because I haven't had a
22 chance to read them yet.

23 Y'all have come and brought them on the bench, but I
24 can't read and listen at the same time. I realize I
25 should be able to do that, but it impairs my ability to

1 listen when I'm trying to concentrate on reading. So I
2 need to ask you if you need me to do that, since you've
3 handed them up.

4 MRS. VAUX: Your Honor, I just wanted you to have
5 those available, because I'll be citing to them in my
6 argument, but in case -- so that you would have it
7 available to see it in full personally.

8 THE COURT: Mr. Hughes, are you asking that I review
9 them?

10 MR. HUGHES: Your Honor, I think it can wait. It's
11 basically the statute and the totality of the
12 circumstances is what you need to look at in the video.

13 THE COURT: Very well.

14 Solicitor, call your case for the record, please.

15 MRS. VAUX: Thank you, Your Honor. This is the State
16 versus James Watson. This is pretrial for -- he's charged
17 in Indictment 2011-GS-27-345 with criminal sexual conduct
18 in the first degree -- criminal sexual conduct with a
19 minor in the first degree.

20 Additionally, he's charged with unlawful conduct
21 towards a minor. That is Indictment 2012, I believe 435.
22 I apologize; 430.

23 Your Honor, the State's first motion is a motion for
24 admission of an out-of-court statement of a child,
25 pursuant to South Carolina Code Section 17-23-175. Under

1 that section, the legislature has allowed for an
2 out-of-court statement of a child to be admissible if it
3 is given in response to questioning conducted during an
4 investigative interview of the child; if there is an audio
5 and visual recording preserved on film, videotape, or
6 other electronic means; if the child testifies at the
7 proceeding and is subject to cross-examination on the
8 elements of the offense and the making of the statement;
9 and finally, if the Court finds in an in camera hearing,
10 which we're having now, that the totality of the
11 circumstances surrounding the statement provide a
12 particularized guarantee of trustworthiness.

13 There are several factors listed within the statute
14 that ---

15 **THE COURT:** That's subsection (b) in the statute; is
16 it not?

17 **MR. HUGHES:** Yes, sir.

18 **MRS. VAUX:** I believe so.

19 **THE COURT:** The issue of guarantees of
20 trustworthiness are actually set forth in 17-23-175(b),
21 and they list a number of factors, five factors I believe,
22 to determine whether a statement possesses particularized
23 guarantees of trustworthiness. The Court may consider,
24 but is not limited to, the factors listed in the statute.
25 Am I not correct?

1 **MRS. VAUX:** That's correct, Your Honor.

2 **THE COURT:** All right.

3 **MRS. VAUX:** Your Honor, in this case, there was a
4 statement. The victim in this case, **Minor** was
5 born May 15th, 2004. At the time of the statement made to
6 Mary Beth Hefner, a forensic interviewer at Hope Haven of
7 the Lowcountry, she was six years old.

8 Your Honor, the State -- the questioning that was
9 done was, in fact, an investigative interview. There is
10 an audio and video recording that the State is prepared to
11 show today. The child is expected to testify at the trial
12 of this case and will be subject to cross-examination by
13 the defense.

14 And it's the State's position that under the factors
15 listed in Subsection (b) that this video and the interview
16 and the statements that the State is seeking to admit meet
17 all of the elements for the particularized guarantees of
18 trustworthiness.

19 We are prepared to put up the testimony of Ms.
20 Hefner, if the Court would like to hear it, and
21 additionally we have the video for the Court to hear.

22 **THE COURT:** Very well.

23 **MRS. VAUX:** We believe that all of the elements of
24 the statute are met. We would ask that it be admitted.

25 **THE COURT:** I know that both of you can see the

1 television screen in the courtroom. My screen is also on
2 on my bench so that I don't have to step down, because I'm
3 viewing the exact same thing that y'all are viewing on the
4 screen on the bench.

5 Mr. Hughes, I understand that you represent Mr.
6 Watson, and he is present beside you in the courtroom.

7 MR. HUGHES: Yes, Your Honor.

8 THE COURT: Are there any people in the courtroom
9 that are here for jury duty? Please stand at this time.

10 (NO RESPONSE.)

11 THE COURT: Let the record reflect that no one is
12 standing in the courtroom, that this hearing is being
13 conducted in camera outside the presence of the jury,
14 pursuant to 17-23-175.

15 No one comes in this courtroom during this hearing.
16 Do you understand on my door?

17 BAILIFF: Yes, Your Honor.

18 THE COURT: Do you understand on my door?

19 BAILIFF: Yes, sir.

20 THE COURT: I don't want people walking in and having
21 a problem later on.

22 MR. HUGHES: Your Honor?

23 THE COURT: Yes, sir?

24 MR. HUGHES: I will be moving to sequester witnesses.
25 I believe one of my witnesses is in the courtroom. I will

1 instruct her to leave at this time.

2 I understand that Detective Baxter will be the
3 officer at the bench. I have no objection to his
4 presence, but I would ask the Court to find out if there
5 are any other witnesses.

6 **THE COURT:** Is there anyone in the courtroom who has
7 been advised by subpoena or orally by an attorney that
8 they are a witness or potential witness in the case of the
9 State of South Carolina versus James Watson? If so,
10 please stand at this time.

11 **MRS. VAUX:** Your Honor, Ms. Hefner is the forensic
12 interviewer. She's in the courtroom.

13 **THE COURT:** Well, obviously, she's going to testify
14 ---

15 **MRS. VAUX:** Right.

16 **THE COURT:** --- in connection with this hearing, Mr.
17 Hughes. And since she, apparently according to the
18 Solicitor, took the statement, you don't have any
19 objection to her presence. Because, obviously, we
20 couldn't conduct a hearing without her.

21 **MR. HUGHES:** None at all, Your Honor. I just wanted
22 to ---

23 **THE COURT:** Now is there anyone else that you're
24 referring to?

25 **MR. HUGHES:** Just Mrs. Watson -- Mrs. Watson. I'd

1 ask her to leave at this time.

2 THE COURT: Do you agree, Solicitor?

3 MRS. VAUX: Yes, Your Honor.

4 THE COURT: Ma'am, if you'll just step into the
5 solicitor's office so we can call you as soon as we need
6 you. Thank you.

7 Anything else, Mr. Hughes, before we start?

8 MR. HUGHES: Nothing else, Your Honor.

9 THE COURT: Let the record reflect there are no
10 witnesses in the courtroom, pursuant to the request of
11 defense counsel. There are also no potential jurors in
12 the courtroom.

13 It is my understanding that we need to have an in
14 camera hearing, that the Court is looking to whether or
15 not the statement was elicited by leading questions,
16 whether the interviewer has been trained in conducting
17 investigative interviews of children, and whether the
18 statement presents a detailed account of the alleged
19 offenses -- and, Solicitor, I'll need to see the
20 indictment in order to make that determination, which you
21 have not handed me yet -- whether the statement has
22 internal coherence and sworn testimony of any participant
23 which may be determined, as necessary, by the Court.

24 MRS. VAUX: The clerk is getting the indictments for
25 you, Your Honor.

1 **THE COURT:** Is the State ready to proceed?

2 **MRS. VAUX:** Yes, Your Honor.

3 **THE COURT:** I have the indictment.

4 Mr. Hughes, is the defendant ready to proceed?

5 **MR. HUGHES:** Yes, Your Honor.

6 **THE COURT:** Wait a minute. Now I'm being handed two
7 indictments.

8 **MRS. VAUX:** That's the second indictment. It's not
9 at issue in this motion, Your Honor.

10 **THE COURT:** All right, I don't need it for purposes
11 of this motion?

12 **MRS. VAUX:** Not for this motion, no, Your Honor.

13 **THE COURT:** All right. Let the record reflect that
14 I've been handed by the solicitor Indictment
15 2011-GS-27-00345, State versus James Watson. It's an
16 indictment charging him with the offense of criminal
17 sexual conduct with a minor under eleven years old, true
18 billed by the Jasper County Grand Jury.

19 This indictment alleges that this offense occurred in
20 Jasper County between January 2011 and May 2011. It is
21 alleged that the defendant, James Watson, who is alleged
22 to be an adult, did commit a sexual battery upon **Minor**
23 Watson, a minor, who was less than eleven years of age, in
24 violation of Code Section 16-3-655.

25 All right, Solicitor, pursuant to 17-23-175, I've now

1 reviewed the indictment. I've reviewed your motion. I
2 have also reviewed the statute. I still have the three
3 cases. I'm ready to begin.

4 I'm assuming, Margaret, my monitor is working with
5 what they are seeing. So whatever I see, they are also
6 seeing the exact same thing; is that correct?

7 CLERK: Yes, sir.

8 THE COURT: Solicitor?

9 MRS. VAUX: Thank you, Your Honor. Did you wish to
10 view the video before hearing from Ms. Hefner?

11 THE COURT: I'll leave that up to you.

12 Is there any objection, Bob?

13 MR. HUGHES: None at all.

14 MRS. VAUX: Thank you.

15 Do we have the sound up?

16 CLERK: You had it.

17 MRS. VAUX: It was up earlier.

18 CLERK: Plug -- take your cord in an out. It's on.

19 MRS. VAUX: It played earlier.

20 CLERK: I haven't did anything here. Do you have it
21 on mute?

22 MRS. VAUX: There we go.

23 And, Your Honor, just for purposes of the record,
24 this interview was conducted on June 15th, 2011, by Hope
25 Haven of the Lowcountry in Beaufort, their office.

1 (VIDEO WAS PLAYED.)

2 MRS. BURKE: Your Honor, while this is being queued
3 up, I'm Dawn Burke, Assistant Solicitor.

4 THE COURT: I can't hear you, Solicitor. You can't
5 talk over this. If you need to talk to me, stop the tape
6 and approach the bench.

7 (VIDEO CONTINUED TO PLAY.)

8 MRS. VAUX: Your Honor, there is about a four minute
9 delay, so I'll just fast-forward it to when she comes back
10 into the room.

11 THE COURT: You've seen the entire tape, Mr. Hughes?
12 Any objection?

13 MR. HUGHES: Not to that, Your Honor.

14 (VIDEO FAST-FORWARDED.)

15 MRS. VAUX: That's the end of the video, Your Honor.

16 THE COURT: Very well. Call your next witness.

17 MRS. VAUX: The State calls Mary Beth Hefner.

18 THE COURT: Would you get her for me, please? She's
19 in the Solicitor's Office. Oh, she's in the back.

20 If you would come forward, please, and be sworn by
21 the clerk for me?

22 CLERK: Raise your left hand and put your right hand
23 on the Bible.

24 MARY BETH HEFNER, after being duly sworn,
25 testified as follows:

1 **A** My position is forensic interviewer and part-time
2 therapist.

3 **Q** And in your job as a forensic interviewer, what
4 exactly does that entail?

5 **A** That entails conducting forensic interviews, meeting
6 with the families prior to the interview, and then
7 conducting the interview with the child and then meeting
8 with the family after the interviews, while law
9 enforcement and/or social services is present.

10 **Q** And will you please explain what exactly a forensic
11 interview is?

12 **A** A forensic interview is a fact-finding neutral
13 interview which is used to interview children so that they
14 can describe their experience. And typically we receive
15 referrals from law enforcement and the Department of
16 Social Services when there is an allegation of abuse. And
17 we conduct forensic interviews with those children.

18 **Q** Okay. And how many years have you been conducting
19 forensic interviews?

20 **THE COURT:** Speak up for me, Solicitor.

21 **MRS. VAUX:** I'm sorry, Your Honor.

22 **Q** How many years have you been conducting forensic
23 interviews with children?

24 **A** Five years.

25 **Q** Okay. What, if any, professional licenses, degrees,

1 or designations do you have in your current position?

2 A I have a professional -- I have a Master's Degree in
3 Professional Counseling that I obtained in 2005. And then
4 in 2010, I became licensed through the State of South
5 Carolina as a Licensed Professional Counselor.

6 Q And what exactly is the licensure process in South
7 Carolina?

8 A In South Carolina it entails approximately eighteen
9 hundred hours, direct client hours, and a hundred and
10 eighty hours of direct supervision by a licensed
11 supervisor through the state.

12 Q Okay. And what sort of -- do you have any special
13 certifications or training or seminars or courses in
14 forensic interviewing?

15 A Yes. I attended a forensic interview course in 2007.
16 It was called "Finding Words" at the time. It has now
17 been renamed to "Child First," and that was a forty hour
18 training conducted in Columbia at the ARC, which is the
19 Assessment Resource Center. And it was conducted by the
20 National Child Protection Training Center, and we learned
21 the protocol and forensic interviewing techniques at that
22 time.

23 I've also attended additional forensic interviewing
24 trainings consisting of thirty hours. And I've attended
25 two additional trainings there.

1 Q Have you had any training in delayed reporting or
2 partial reporting and why and when a child might disclose
3 sexual abuse?

4 A Yes, I have. The "Child First" training included
5 delayed reporting, dynamics of child sexual abuse,
6 investigations and forensic interviewing protocol.

7 Q Okay. And you keep talking about a protocol. Is
8 there a standard protocol for forensic interviewing?

9 A There is a standard protocol. It is nationally
10 recognized, and it is taught by the National Child
11 Protection Training Center.

12 They have taught over forty thousand individuals,
13 including law enforcement, mental health professionals,
14 and solicitors to conduct these interviews with children.
15 It's a semi-structured protocol, and we call this protocol
16 RATAAC.

17 Q Okay. Could you please explain what exactly RATAAC
18 is?

19 A RATAAC stands for the semi-structure of the interview.
20 The R stands for the rapport building phase of the
21 interview.

22 This is where the interviewer meets with the child,
23 engages the child in non-threatening discussions or
24 conversations. This is the opportunity for the
25 interviewer to assess a child's competency, how a child

1 responds to open-ended questions.

2 And then the A in RATAC stands for anatomy
3 identification. This is where a child will identify the
4 parts of the body so that the interviewer can use the
5 child's language to identify the body parts. It's
6 important that the interviewer and the child have the same
7 language.

8 The T stands for touch inquiry. This is the part of
9 the interview where it's determined if the child is aware
10 of the difference between okay or a not okay touch.

11 And then A is the abuse scenario. This gives the
12 child the opportunity to discuss what happened during the
13 abuse, some of the details, where, when, who, what, and
14 how. Sometimes a child is able to answer that.

15 And then C is the closing part of the interview.
16 It's bringing a respectful end to the interview, thanking
17 the child for coming. Typically we ask the child if they
18 have anymore questions and provide a safety plan.

19 Q Okay. And you said that that's the national protocol
20 that's widely and generally accepted in the field of
21 forensic interviewing?

22 A It is widely accepted, yes.

23 Q Have you read any articles on the RATAC method that
24 are subject to peer review?

25 A I have.

DIRECT EXAMINATION OF MARY BETH HEFNER BY MRS. VAUX

23

1 Q Okay. How many forensic interviews have you done in
2 your career?

3 A Approximately anywhere from nine hundred to a
4 thousand.

5 Q Okay. And have you ever testified in court before?

6 A I have.

7 Q On how many occasions?

8 A Two separate occasions for general sessions, multiple
9 times for family court.

10 Q And have you ever been qualified as an expert before?

11 A I have.

12 Q In the field of forensic interviewing?

13 A Forensic interviewing and delayed reporting.

14 THE COURT: And what, ma'am?

15 WITNESS: Delayed reporting.

16 THE COURT: Delayed reporting.

17 MRS. VAUX: Your Honor, at this time, I would move to
18 have her entered as an expert.

19 THE COURT: Any objection as to qualifications, Mr.
20 Hughes?

21 MRS. VAUX: And that would be in the field of
22 forensic interviewing and delayed reporting.

23 THE COURT: Forensic interviewing and delayed
24 reporting?

25 MRS. VAUX: Yes, Your Honor.

DIRECT EXAMINATION OF MARY BETH HEFNER BY MS. VAUX

25

1 A Yes..

2 Q How many times?

3 A Once.

4 Q So you've not appeared in the last year as an expert
5 witness?

6 A Not within the last year.

7 MR. HUGHES: Your Honor, as far as relevance, I have
8 some objections, but as far as her qualifications, I have
9 none.

10 THE COURT: Well, we're dealing just with
11 qualifications right now, and I haven't heard her
12 testimony, so ---

13 MR. HUGHES: Right.

14 THE COURT: --- I don't know how in the world you can
15 object to relevance at this point, Mr. Hughes, but you
16 have no objection as to qualifications.

17 MR. HUGHES: Not as far as being a ---

18 THE COURT: The witness is qualified in the field of
19 forensic interviewing and delayed reporting, without
20 objection.

21 You may proceed, Solicitor.

22 MRS. VAUX: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MRS. VAUX:

25 Q Ms. Hefner, you explained to us what a forensic

1 interview is. Will you please tell us the purpose of a
2 forensic interview?

3 A The purpose of the interview is to provide details of
4 the abuse, to assist law enforcement and social services
5 to assist in their investigation.

6 Q And how are these forensic interviews conducted to
7 assess the possible child abuse or sexual abuse?

8 A They are conducted at Hope Haven to provide the child
9 with a friendly environment and a non-threatening
10 environment. I meet with the child in a separate room,
11 while the caregiver does not watch. And law enforcement
12 and DSS are watching through the computer as the interview
13 is being conducted.

14 Q Okay. And will you please describe to us the intake
15 and interview process?

16 A Right. When we receive a call from law enforcement
17 or DSS, they schedule a time and a date to perform the
18 interview. I meet with the non-offending parent or
19 caregiver prior to the interview to obtain information
20 that would be helpful in my interview of the child and
21 also to help make recommendations subsequent to the
22 interview.

23 Q And what, if any, rules or guidelines are set for the
24 interview?

25 A With the child?

DIRECT EXAMINATION OF MARY BETH HEFNER BY MS. VAUX

27

1 Q With the child.

2 A With the child, typically I'll explain to the child
3 what Hope Haven is, what we do at Hope Haven, explain to
4 the child the existence of the audio and visual -- I mean
5 audio and -- the audio equipment and the -- I can't think
6 of the word.

7 Q The video?

8 A The video equipment.

9 Q Okay.

10 A I put that out to the child so that they're informed
11 of that. Another guideline or rule is talk about having a
12 contract to speak the truth during the interview and also
13 if they need to correct me at any time, that's a
14 possibility.

15 Q And you said that the parent or the guardian are not
16 present during the interview?

17 A They are not present.

18 Q And why is that?

19 A Generally it's recommended that caregivers do not
20 watch the interview, due to aiding the child's comfort.
21 When children know that parents or loved ones are watching
22 the interview, they in the past oftentimes held back
23 information that could be helpful to the investigation.

24 Children are very protective of loved ones and do not
25 want to bring attention to themselves to cause trouble, so

1 they do everything in their power to avoid trouble. So
2 they do not wish to let the parents know what happened
3 sometimes because of also feelings of guilt and shame and
4 confusion regarding the abuse.

5 Q And where are the interviews conducted? I know that
6 we saw on the video, but if you'll just explain what was
7 going on and where they were in that video.

8 A That was conducted at Hope Haven, and that is the
9 interview room that is next to my office. And I meet with
10 the child alone in that room while law enforcement or
11 social services are in the adjacent room watching the
12 interview while it's being conducted.

13 Q Okay. And you spoke a little bit to it earlier about
14 what, if any, methods are used to assess the child's level
15 of competency.

16 A Correct. During the pre-interview phase, it's
17 helpful to ask the parents or the caregivers if the child
18 has any cognitive deficits, if the child has attention
19 deficit hyperactivity disorder. Many times we see that in
20 children, and that is helpful to the interview in meeting
21 the child's needs, meeting the child where they are.

22 And also during the rapport-building at the first
23 structure of the interview, this gives the interviewer an
24 opportunity to observe the child and how the child
25 responds to questions, if the child is able to follow

1 directions, if the child is able to understand questions.

2 Q And why is this important, determining the competency
3 level of the child?

4 A Children have to understand the questions in order to
5 provide the answers.

6 Q And you spoke a little bit to this also, whether or
7 not the child's family or social history -- I know you
8 talked about their mental history, what about the family
9 or social history, is that obtained prior to the
10 interview?

11 A Briefly that is obtained, yes.

12 Q Okay. And why might that information be important?

13 A Again, that would be helpful if we need to make
14 referrals for counseling or other resources or other
15 services, that would be helpful to know.

16 Q Do you obtain a medical history prior to the forensic
17 interview?

18 A Not really, no.

19 Q What type of questioning is used in a forensic
20 interview?

21 A The questioning is basically a hierarchy of
22 questions. It starts with the most preferred line of
23 questioning using open-ended, non-direct, non-leading
24 questions. And the most preferred answer is a child's
25 free recall; however, with children it is very difficult

1 for them to disclose with total free recall. Many times
2 that's sparse.

3 So the next preferred level is focus recall where you
4 ask the child -- the child will make a statement, and then
5 you ask questions based on what the child just like
6 stated.

7 And then less preferred is multiple choice.
8 Sometimes children will have trouble with the focus
9 recall, so the interviewer asks them multiple choice
10 questions.

11 And then the least effective or helpful is the yes or
12 no questions.

13 Q Okay. What about the difference between, you know,
14 you just listed off the hierarchy of the questioning. Say
15 we had a three or a four-year-old versus **Minor** who is a
16 six or a seven-year-old, how would you approach the
17 questioning of the different ages like that using the
18 hierarchy?

19 A The three-year-old, the questioning is very limited.
20 Basically with a three-year-old, we can basically ask who
21 and what. If you try to elicit further details with a
22 three-year-old regarding the context of the abuse
23 incident, it becomes rather difficult for a child to
24 provide very concrete details. It becomes really, really
25 murky. So with a three-year-old, you can basically ask

1 who and what.

2 Children that are older, five, six, and seven, you
3 can ask where, when sometimes, and how.

4 Q Did you have an opportunity to conduct an interview
5 on the victim in this case, Minor

6 A I did.

7 Q And when did you conduct that interview?

8 A That was June 15th, 2011.

9 Q And how was Minor referred to your office?

10 A We received a call from Jasper County DSS.

11 Q And do you know why she was referred to you?

12 A She was referred to us for a forensic interview due
13 to sexual abuse allegations.

14 Q And how old was Minor at the time you did the
15 interview?

16 A She was seven.

17 Q And in your opinion, did she appear to be competent?

18 A She did.

19 Q Okay. And how did you determine that?

20 A Based on my observation in the initial phase of the
21 interview, she was able to answer questions in a very
22 logical, reasonable way.

23 Q And you said earlier that there's a standard protocol
24 used, I believe called the RATAAC. Was that used in this
25 interview?

1 **A** Yes.

2 **Q** Okay. And did you make an audio and video recording
3 of that interview?

4 **A** I did.

5 **THE COURT:** You have to say yes or no for me.

6 **WITNESS:** Yes, I did.

7 **Q** Is that something that's prepared or done regularly
8 in the normal course of these interviews?

9 **A** We audiotape and videotape every interview.

10 **Q** Okay.

11 **MRS. VAUX:** Your Honor, at that point in my
12 testimony, I would ask to enter the video. We've already
13 seen it, but just for clarification purposes.

14 **THE COURT:** Let the record reflect that defense
15 counsel, the defendant, and the solicitor, as well as
16 myself, have reviewed the video at this point for purposes
17 of this hearing. Proceed.

18 **MRS. VAUX:** Thank you, Your Honor.

19 **Q** Ms. Hefner, after reviewing the video, did the victim
20 give a detailed account of the abuse?

21 **A** She did.

22 **Q** And in your expert opinion as a forensic interviewer,
23 was her disclosure internally coherent?

24 **A** It was.

25 **Q** And can you explain sort of what that means to be

1 internally coherent?

2 A It means that the details of the abuse -- of the
3 abuse that she provided were consistent with making a
4 determination that sexual abuse had occurred. She had
5 direct experience with it, based on her demonstration and
6 the details that she provided.

7 Q Okay. And after watching that, she made some very
8 specific disclosures. Can you tell us what sort of acts
9 that she did disclose?

10 A Can you repeat that question, please?

11 Q After watching the video, what were some of the acts
12 that **Minor** -- or some of the information that **Minor**
13 disclosed in her interview regarding the abuse?

14 A She disclosed to a sexual abuse. She disclosed
15 digital penetration of her vagina, penial penetration of
16 her vagina and her butt.

17 Q At various points in the interview it seemed like she
18 wanted it to end.

19 A She did.

20 Q She kept asking, you know, one more question. Is
21 that common for children?

22 A It is very common. Children sometimes display that
23 avoidance or anxiety in other ways. They might try to
24 change the topic. They might even run around the room or
25 hide behind the chair, or they -- sometimes they leave the

1 room, but she -- she seemed to be very anxious.

2 She wanted the interview to be over. I had the sense
3 that the questioning was very sensitive for her.

4 Q At one point in the video, she said that her mother
5 and her grandmother knew, but when you asked how, she said
6 they just know. Why didn't you push her further on that?

7 A Because that is very typical of her age
8 developmentally, that children have a very difficult time
9 with pointing to the source of their knowledge. We call
10 that source monitoring.

11 It's very difficult for them to know what they know,
12 so to speak. It's a concept that's abstract. It's
13 difficult for six and seven-year-olds.

14 Q Okay. And did she say in the video if she told
15 anyone else about the abuse?

16 A No, she did not.

17 Q Okay. In the video it seemed like you repeated a lot
18 of what she said. When she would give an answer, you
19 seemed to repeat it. Why is that?

20 A Many times the audio is very low, and the
21 investigators need to hear the details to assist in the
22 investigation, and I repeat what the child says so that
23 the investigators are able to hear it. Also, it's helpful
24 for the child too.

25 Q Is that the first time that you met **Minor**

- 1 A This was the first time, yes.
- 2 Q And did you have any occasion to meet with her after
3 conducting that interview?
- 4 A I did not.
- 5 Q Okay. Let me ask you a little bit about the delayed
6 disclosure. What is meant by the term delayed disclosure
7 in sexual abuse cases?
- 8 A The delayed disclosure simply means that the child
9 did not report intentionally the abuse immediately after
10 it happened.
- 11 Q Okay. So just that it wasn't reported at the time
12 that the abuse actually occurred?
- 13 A Or thereafter -- shortly thereafter.
- 14 Q Okay. And in your expert opinion, how common is
15 delayed reporting?
- 16 A It is extremely common.
- 17 Q Okay.
- 18 A It is the rule rather than the exception. Most
19 children do not report, or they delay their disclosure.
- 20 Q So what factors commonly play a role in a child's
21 delayed reporting?
- 22 A There's many factors. One of them could be -- well,
23 one of them could be the -- well, is that we see the
24 person who is the perpetrator, children have direct
25 contact with the perpetrator. They feel intimidated or

1 threatened.

2 Children often fear the threat of family disruption.
3 They know intuitively that by their disclosure something
4 is going to happen, something bad might happen.

5 Children also accommodate to the abuse, to the
6 elements of secrecy, helplessness, and entrapment. And
7 they don't disclose because that secret takes on monstrous
8 proportions to a child.

9 The secret takes on the promise, the promise of
10 safety. And you know, children just intuitively know that
11 if you don't tell, everything will be okay, just by that
12 factor of the secrecy element.

13 Also, children don't tell because of the shame and
14 guilt and confusion and embarrassment. Many times they
15 feel that they are the only ones that this has happened
16 to. They feel stigmatized and alone.

17 And other times, too, they don't understand the
18 wrongfulness of the abuse, especially when it's given by a
19 family member, someone who they're supposed to, you know,
20 believe in and trust and love.

21 **MRS. VAUX:** And, Your Honor, this actually might --
22 the testimony for purposes of the video, I could go
23 further into it for purposes of relevance, but as to the
24 video, what she has already testified to would be the
25 basis for the trustworthiness.

1 some sound of children or something somewhere else on the
2 audio. Would that have been Minor

3 A Possibly. I can't recall that day how many children
4 were at Hope Haven.

5 Q Did you have any contact with Minor beforehand?

6 A No, I did not.

7 Q Did anyone from Hope Haven have contact with Minor
8 beforehand?

9 A No, we did not.

10 Q I mean before the interview itself.

11 A Well, yes, they did.

12 Q Okay. Was that recorded?

13 A No, it was not.

14 Q Why not?

15 A We typically don't record interchanges in the lobby.
16 We typically record the forensic interview, but not just
17 when the child is greeted at the front door. We don't
18 videotape that.

19 Q How long before Minor -- how long was Minor in the
20 lobby or somewhere else before the interview?

21 A I don't recall how long. I know I met with her
22 foster care mother and the case manager at DSS
23 approximately a half an hour.

24 Q And who was Minor with in that half-hour?

25 A I can't recall. We typically have staff that watch

CROSS-EXAMINATION OF MARY BETH HEFNER BY MR. HUGHES

39

1 the children while I meet with the caregivers, and I'm not
2 really sure who was sitting at the desk watching the
3 children that day.

4 Q A number of times during the tape the audio went out.
5 Why was that?

6 A I'm not sure why the audio went out. I don't know.

7 MR. HUGHES: No further questions, Your Honor.

8 THE COURT: Redirect?

9 MRS. VAUX: Nothing from the State, Your Honor.

10 THE COURT: I assume you want Ms. Hefner to remain
11 for purposes of the trial later on?

12 MRS. VAUX: Yes, Your Honor. Well, actually her
13 testimony won't more than likely be before tomorrow, so
14 unless you need anything further ---

15 THE COURT: I understand that, but do you want to
16 excuse her for the balance of today?

17 MRS. VAUX: Yes, Your Honor.

18 THE COURT: Any objection?

19 MR. HUGHES: No, Your Honor.

20 THE COURT: Ms. Hefner, you may step down from the
21 witness stand, and you're excused for the balance of
22 today. We'll see you tomorrow, according to the
23 solicitor's order.

24 WITNESS: Okay.

25 THE COURT: Mr. Hughes, is there an objection to the

1 videotape?

2 MR. HUGHES: Yes, Your Honor.

3 THE COURT: Be happy to hear from you.

4 MR. HUGHES: The question to be shown for the video
5 is the totality of the circumstance. By Ms. Hefner's own
6 admission, the audio went out in there a number of times.
7 We do not know what was being said in that interview, Your
8 Honor. I would object ---

9 THE COURT: Solicitor, one of the questions I have, I
10 assume that you -- did you express to her as to whether or
11 not that what we viewed represented the entire interview?

12 MRS. VAUX: I -- I'm not sure I understand the
13 question.

14 THE COURT: There were some gaps, and I don't know if
15 that was mechanical or not, that Mr. Hughes is referring
16 to. And then it would come back on and they would --
17 there would be an answer to the question that was asked,
18 but I couldn't tell whether anything was left out or not.

19 MRS. VAUX: Oh. I did not ask her about that, but
20 that was my impression. I think what it may be ---

21 THE COURT: You think that's the computer doing that,
22 rather than the interview?

23 MRS. VAUX: That's correct, Your Honor, because I
24 believe -- I don't think that any part of her statements
25 were excluded. As you said, there might have been a

1 slight silence of the running of the computer, but there
2 was never that it cut her off or that it was half an
3 answer. It was -- it was, I believe, the video --
4 actually the running in the disk. I don't think that any
5 testimony was excluded, though.

6 **THE COURT:** Well, as an officer of this court,
7 Solicitor, I'm going to ask you -- you've excused her
8 until tomorrow, but I have to rule on the admissibility of
9 the video. Of course, it won't come in before tomorrow
10 probably anyway based on time, but I need to know that.

11 And I think Mr. Hughes is absolutely right to raise
12 the fact that there were -- because anyone that views this
13 tape is going to see that there's stop and starting, and I
14 need to know the answer to that.

15 As an officer of this court, you're telling me
16 nothing was left out and your understanding is that was
17 just the computer?

18 **MRS. VAUX:** That's correct, Your Honor.

19 **THE COURT:** But you're going to verify that with the
20 witness and advise the Court before I make a ruling.

21 **MRS. VAUX:** I will, Your Honor.

22 **THE COURT:** Proceed, Mr. Hughes.

23 **MR. HUGHES:** Your Honor, also we do have interaction
24 between the victim and people with Hope Haven, coworkers
25 of Ms. Hefner, prior to the taping. We do not know what

1 was said. We do not know exactly what was going on.

2 And, Your Honor, while I understand you can't have a
3 video of everything that goes on in the young girl's life,
4 for this video here, we need to know what happened before.
5 There was some child arguing, I don't know what it was
6 about, beforehand on the -- you can hear it in the audio.

7 **THE COURT:** It doesn't necessarily -- you asked her
8 about that, Mr. Hughes. You asked her about the sounds
9 you heard, and I assume -- do you have any evidence to
10 present that it involved this child, or it could have been
11 some other child?

12 **MR. HUGHES:** I have no idea, Your Honor. That's what
13 I was trying to find out.

14 **THE COURT:** But you, of course, will have the right
15 to cross-examine her about that.

16 You can have a seat, Solicitor. One lawyer in my
17 courtroom stands at a time, and nobody interrupts another
18 lawyer.

19 Go ahead, Mr. Hughes. You've got the floor.

20 **MR. HUGHES:** Your Honor, I object to the video,
21 because I don't think we're seeing the totality of the
22 circumstances. There are gaps in it. There are
23 stoppages. There are times when the sound is no longer
24 working.

25 We do not know what was being said there. I

1 understand the solicitor was going to converse with Ms.
2 Hefner and find out exactly what was going on, but until
3 that time, I would object to that video coming in, Your
4 Honor.

5 **THE COURT:** All right.

6 Solicitor, I see that your witness is back in the
7 courtroom. I'll give you a moment. We're in camera, and
8 I want to make sure I understand. I'll let you bring her
9 back to the witness stand.

10 Ma'am, if you would come back, please, ma'am? I
11 thought I was excusing you, but a matter has come up that
12 I want to make sure -- Mr. Hughes has raised to me, and I
13 want to make sure I understand. You're still under oath,
14 if you'll come right back up to the witness stand.

15 You want to ask the question, Solicitor? I'll be
16 happy to let you, because I'm going to let Mr. Hughes
17 cross-examine again, in light of the fact that he's raise
18 the issue.

19 **MRS. VAUX:** Yes, Your Honor.

20 DIRECT EXAMINATION

21 **BY MRS. VAUX:**

22 **Q** Ms. Hefner, thank you. I apologize.

23 On the video, I know that Mr. Hughes asked you about
24 there was some silence, there's some gaps. To your
25 knowledge, has any part of Alison's testimony or her

1 interview been excluded in those gaps? Was that a full
2 representation of what the forensic interview was at the
3 time that it was conducted?

4 A Yes, it was.

5 Q Okay. And so in those gaps, having viewed it as
6 well, do you think that anything was cut out or
7 misunderstood or ---

8 A I don't believe so.

9 Q Okay. And do you know why those gaps were occurring?

10 A I don't know. Typically when we play back the
11 interviews, it doesn't contain those gaps of audio.

12 Q And also Mr. Hughes touched on there was some sound
13 in the beginning of the video. It sounded like, when
14 nobody was in the room and the video was showing, and it
15 sounded like children playing or something going on. What
16 could that have been? Do you know?

17 A Well, we have a waiting room that's down the hall
18 from the interview room, and we have other children who
19 come to Hope Haven for counseling and perhaps another
20 forensic interview that might have been conducted at the
21 same time, it could have been those children, or it might
22 have been **Minor** I'm not sure.

23 Q Okay. And so when that video was on and it was
24 picking up that sound, would the door have been opened or
25 closed at that point to the interview room?

CROSS-EXAMINATION OF MARY BETH HEFNER BY MR. HUGHES

45

1 A Open.

2 Q Okay. So that -- how -- and approximately -- you
3 said down the hall. If there were children playing in the
4 lobby, would that have been able to pick up the children
5 playing in the lobby?

6 A Most definitely.

7 Q Okay. And is it common that it's somewhat loud in
8 your office ---

9 A Yes.

10 Q --- when there are children around?

11 A Yes, it is.

12 Q Okay. Thank you.

13 MRS. VAUX: No further questions.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION

16 BY MR. HUGHES:

17 Q Ms. Hefner, did you review the video and the audio
18 before you gave it to law enforcement and the solicitor?

19 A No, I did not.

20 Q Okay. When was the last time you saw -- when was --
21 have you seen the video that we just saw since the
22 interview?

23 A Yes, I have.

24 Q Okay. When was that?

25 A That was this morning at Hope Haven.

1 Q Okay. So between July or June of last year and
2 October of this year, you have not seen it at all?

3 A Well, I take that back. I saw it in court when I
4 testified in family court in this courtroom.

5 Q But you're basing your statement that there was
6 nothing missing on your memory of a year and three months
7 ago or four months ago.

8 A I saw it this morning, and I did not see any gaps on
9 the interview, but I viewed it at Hope Haven and I viewed
10 it in a computer system.

11 Q What I'm trying to ask is, have you seen this, the
12 video, enough to know that there are no things missing
13 from her statement or your statement?

14 A There was -- to my knowledge, there was nothing
15 missing from her statement.

16 Q Okay. But you will agree that there are gaps in the
17 audio and occasionally the video does seem to hang up.

18 A It appears that way, yes.

19 Q Thank you.

20 MR. HUGHES: No further questions.

21 THE COURT: Redirect?

22 MRS. VAUX: Nothing from the State, Your Honor.

23 THE COURT: Once again, Ms. Hefner, I'm going to ask
24 you to step down. Any objection now to her being excused
25 again?

1 **MRS. VAUX:** No, Your Honor.

2 **THE COURT:** Mr. Hughes?

3 **MR. HUGHES:** None at all, Your Honor.

4 **THE COURT:** All right. I've listened carefully to
5 the tape. And like Mr. Hughes, my first concern is why
6 there would be -- what Mr. Hughes is talking about, and
7 obviously an appellate court, if they get the chance to
8 review it, would see it freezes and then it starts back
9 again, would be the best way I know to describe what we
10 viewed in the courtroom this morning.

11 I make note also that Ms. Hefner was in the back of
12 my courtroom the entire time I was watching the tape this
13 morning. So she says she reviewed the tape this morning
14 at Hope Haven, and she also saw it when it was played for
15 the entire courtroom in camera on the screen, just as the
16 lawyers, the defendant, my law clerk and the people that
17 are present that are allowed to be in the in camera
18 hearing saw it on the screens in the courtroom.

19 Mr. Hughes feels that this Court should look, and
20 he's correct, that I should look at the totality of the
21 circumstances surrounding the making of the statement to
22 see whether or not the statement provides particularized
23 guarantees of trustworthiness. I looked to whether or not
24 the interviewer was trained in conducting investigative
25 interviews with children; whether the statement contains a

1 detailed account of the alleged offense; whether the
2 statement has internal coherence, which Ms. Hefner defined
3 in her testimony as the details of the abuse, were they
4 consistent, and any other sworn testimony which may be
5 determined.

6 My understanding is, Solicitor, that you have no
7 other testimony for purposes of this motion; is that
8 correct?

9 MRS. VAUX: That's correct, Your Honor.

10 THE COURT: Does the defendant wish to put up any
11 testimony for purposes of this motion?

12 MR. HUGHES: No, Your Honor.

13 THE COURT: Do you wish to put up any evidence for
14 purposes of this motion, Mr. Hughes?

15 MR. HUGHES: No, Your Honor.

16 THE COURT: Very well.

17 I've listened carefully to what Ms. Hefner said.
18 She's reviewed the tape. She's been to family court and
19 has seen the tape. She's reviewed the tape this morning
20 at Hope Haven on a computer. She's watched the tape
21 again, and although Mr. Hughes has pointed out there are
22 -- and there's more than one, I didn't count them, but
23 there are a number of what I will call freezing, and then
24 it catches back up in the interview. Ms. Hefner says to
25 her knowledge nothing was left out in the tape.

1 I will admit, Mr. Hughes, that one of the things that
2 you did not argue to me, but I will raise of my own
3 motion, is I looked to whether or not the statement was
4 elicited by leading questions. I am very much aware that
5 the interview was conducted of a seven-year-old child.
6 I'm very much aware that some leading has to occur in
7 order to have some type of effective communication. On
8 the other side of that fence, unfair or illegal leading, I
9 believe is a factor I should consider in looking at the
10 totality of the circumstances.

11 I am also aware that Mr. Hughes heard and objected to
12 the fact that we should know everything that occurred
13 before the interview. Mr. Hughes had -- will have the
14 opportunity to cross-examine Ms. Hefner, and has already
15 done so twice during this in camera hearing.

16 Ms. Hefner has opined to this Court that the
17 interview room was open. We happened to be able to hear
18 audio, but we couldn't see anybody but two empty chairs on
19 the video portion of the interview, and we heard the sound
20 of children talking before the alleged victim and Ms.
21 Hefner actually came into the interview room on the video.

22 Mr. Hughes opines to this Court that I should somehow
23 have more information as to what occurred prior to that,
24 but I believe that goes to weight and not admissibility.
25 I understand his concern.

1 My concern was with the freezing. I think the
2 witness has given me an explanation that it contains --
3 that she doesn't believe that it omits anything that
4 occurred during the interview of the child, from her
5 reviewing the video portion of the interview, which now
6 was two times today.

7 Because of that, I believe that -- it is my ruling
8 that under the totality of the circumstances surrounding
9 the making of this statement, it does provide sufficient
10 guarantee of trustworthiness, and I will admit the video
11 into evidence into the trial of this case, over your
12 objection, Mr. Hughes. And that objection being that we
13 don't have all of the information that occurred beforehand
14 but you could have elicited during this in camera on
15 cross. And that objection being also that you felt there
16 was -- you called them gaps, but there's no evidence
17 there's gaps, but I agree with you there were stoppages,
18 freezing, and then it started back. However, I listened
19 carefully to that, because I have a monitor on the bench,
20 and you're looking at a big screen television on the wall
21 in the courtroom, to determine whether or not the audio
22 response was consistent with the prior audio question
23 every time there was a freezing. It was my determination,
24 as the judge who reviewed this in camera, that I never
25 felt like some other information was being elicited

1 separate from what had previously been asked, but was just
2 a stoppage, and then we got the information responsive to
3 the last question, from my review of the video. And that
4 is the purpose of -- or the basis of my ruling.

5 Counsel, it is now twenty after 1:00. I want y'all
6 to get a chance to have some lunch break.

7 The jury comes in at 2:00 or 2:30, Margaret?

8 CLERK: 2:00 o'clock, Your Honor.

9 THE COURT: 2:00 o'clock. Court is in recess until
10 2:00 o'clock this afternoon.

11 (WHEREUPON, THIS CASE WAS RECESSED UNTIL 3:33 P.M.

12 THEREAFTER, THE FOLLOWING PROCEEDINGS WERE HELD IN
13 CHAMBERS OUT OF THE PRESENCE OF THE JURY PANEL:)

14 THE COURT: All right. Ronda, are you ready?

15 COURT REPORTER: Yes, sir.

16 THE COURT: Margaret, are you ready?

17 CLERK: Yes, sir.

18 Mr. Watson, will you raise your right hand?

19 JAMES WATSON, after being duly sworn, testified
20 as follows:

21 THE COURT: Call your case, Solicitor.

22 MRS. VAUX: Thank you, Your Honor. Standing before
23 you, or sitting before you, is James Watson. He's charged
24 with Indictment 2012-GS-27-430 with unlawful conduct
25 towards a child and 2011-GS-27-345, criminal sexual

1 conduct with a minor in the first degree.

2 The State is allowing him to plead to a count two of
3 the CSC first with a minor to lewd act upon a child for a
4 negotiated fifteen year sentence, and additionally plead
5 to the unlawful conduct towards a minor for a negotiated
6 ten year sentence. Those are to be run concurrent.

7 THE COURT: So the negotiations would be he is
8 pleading to lewd act, and was that a statutory offense?

9 MRS. VAUX: Yes, sir.

10 THE COURT: You don't mention the statute in there.

11 MRS. VAUX: I apologize.

12 THE COURT: I know you have it on the sentence sheet,
13 but it's not on the indictment.

14 Hold on a second. She's got it right there, Bob.

15 LAW CLERK: It needs to be checked they are running
16 concurrent as well.

17 MRS. VAUX: Wait. What was the ---

18 LAW CLERK: 16-15-140.

19 MRS. VAUX: 16-15 ---

20 LAW CLERK: 140.

21 MRS. VAUX: 140.

22 THE COURT: All right. My understanding again,
23 Solicitor, before I inquire, and Mr. Hughes, is the State
24 has now negotiated a plea on Indictment 2012-430, which is
25 unlawful neglect, he's pleading as indicted, true billed.

1 **MRS. VAUX:** Correct.

2 **THE COURT:** On Indictment 2011-345, which was count
3 one, criminal sexual conduct with a minor under eleven,
4 first degree -- under eleven years of age, count two, was
5 lewd act upon a child, in violation of 16-15-140.

6 The lewd act carries up to fifteen years. The
7 unlawful neglect carries up to ten years. You have
8 negotiated a plea for sentences to run concurrent for
9 fifteen years. Is that correct?

10 **MRS. VAUX:** Yes, and additionally, the State has
11 agreed to nol pros the charges against Kimberly
12 Young-Watson, who is the victim's mother in this case, and
13 that is Indictment Number 2011-GS-27-404, and that's also
14 for unlawful conduct towards a child. That is conditioned
15 solely upon the defendant's plea today.

16 **THE COURT:** All right. And also, the defendant is
17 only pleading to count two under Indictment 2011-345,
18 which would be a lewd act on a waiver of presentment,
19 since it is not a lesser included offense, and he is not
20 pleading to criminal sexual conduct with a minor first
21 degree.

22 **MRS. VAUX:** That's correct.

23 **THE COURT:** Is that everything now?

24 **MRS. VAUX:** Yes, Your Honor.

25 **THE COURT:** All right, Mr. Hughes, I understand --

1 and let the record reflect it's now about 3:40, 3:35 to
2 3:40 in the afternoon. I heard a pretrial motion in this
3 case that lasted a couple of hours this morning, in which
4 I viewed a video which I ruled was permissible, pursuant
5 to our statute. And I also heard testimony of I think it
6 was Ms. Hefner; was it not, ---

7 **MRS. VAUX:** Yes, Your Honor.

8 **THE COURT:** --- in court and heard her
9 cross-examination by Mr. Hughes. Later -- we took a break
10 for lunch. The jury came in. The parties advised me that
11 they had negotiated a plea and everybody was in agreement
12 with the terms.

13 I first of all ask you, Mr. Hughes, has the solicitor
14 accurately stated for the record any and all negotiations?

15 **MR. HUGHES:** Yes, sir.

16 **THE COURT:** All right.

17 Madam Clerk, I understand that the defendant has been
18 sworn.

19 **CLERK:** Yes, sir.

20 **THE COURT:** All right. I'm going to ask you some
21 questions to determine the conditions of your plea. If
22 you don't understand something, you let me know. I'll
23 repeat it for you.

24 **DEFENDANT, MR. WATSON:** Yes, Your Honor.

25 **THE COURT:** All right. I need for you to give me a

1 verbal answer. That is, say yes or no.

2 **DEFENDANT, MR. WATSON:** Yes, sir.

3 **THE COURT:** Don't nod your head or shake your head.
4 Say yes or no, so Ronda, my court reporter, can take it
5 down correctly.

6 Please do not say uh-huh or uh-uh, so I'll understand
7 what you're telling me and the court reporter can
8 accurately transcribe your answers. You understood what
9 I've just told you?

10 **DEFENDANT, MR. WATSON:** Yes, sir.

11 **THE COURT:** I need you to speak up so everybody in
12 this room can hear you.

13 Let the record reflect that the jury is in the
14 courtroom waiting, because we were going to begin the
15 trial of this case. We are in the jury room. The only
16 people present are Mr. Watson, his attorney, Bob Hughes,
17 my security, the Clerk of Court of Jasper County, the
18 solicitor, my law clerk, court reporter, and myself.

19 These negotiations have continued for some hour and
20 included the calling of the Deputy Solicitor in order to
21 obtain authority for these negotiations, which I
22 understand the defendant has now agreed to. So we're
23 going to begin outside the presence of the jury.

24 All right. State your full name for the record,
25 please.

1 **DEFENDANT, MR. WATSON:** James Edward Vincent Watson,
2 **II.**

3 **THE COURT:** Mr. Watson, how old are you?

4 **DEFENDANT, MR. WATSON:** Twenty-nine.

5 **THE COURT:** Twenty-nine. How far have you gone in
6 school?

7 **DEFENDANT, MR. WATSON:** Twelfth grade.

8 **THE COURT:** Twelfth grade. You have your high school
9 diploma?

10 **DEFENDANT, MR. WATSON:** No, sir.

11 **THE COURT:** All right. So you went through eleventh,
12 didn't finish the twelfth grade?

13 **DEFENDANT, MR. WATSON:** Um, no, sir. I graduated,
14 but I was in a resource class, so they only give you a
15 certificate of completion.

16 **THE COURT:** All right. What kind of work do you do?

17 **DEFENDANT, MR. WATSON:** Mmm, it varies. I did
18 restaurant work for several years, even became a manager.
19 Did construction just on the side, under the table work.
20 I did landscaping with my cousin. I did some Subway work,
21 just making sandwiches and stuff like that, prep'ing food
22 and whatnot.

23 **THE COURT:** Are you married?

24 **DEFENDANT, MR. WATSON:** Yes, sir.

25 **THE COURT:** Do you have any children?

1 **DEFENDANT, MR. WATSON:** Yes, sir.

2 **THE COURT:** How many?

3 **DEFENDANT, MR. WATSON:** Uh, three.

4 **THE COURT:** What are their ages?

5 **DEFENDANT, MR. WATSON:** Uh, uh, well, my daughter is
6 eight. My son is six, and my other son is -- I think he's
7 like three or four.

8 **THE COURT:** All right. Have you ever been treated in
9 the past for drug abuse, alcohol abuse, or mental illness?

10 **DEFENDANT, MR. WATSON:** No, sir.

11 **THE COURT:** Have you taken any drugs or alcohol or
12 anything else, prescribed or otherwise, within the past
13 twenty-four hours which might keep you from understanding
14 what you're doing in court today?

15 **DEFENDANT, MR. WATSON:** No, sir.

16 **THE COURT:** All right.

17 Now, Mr. Hughes, I understand that you represent Mr.
18 Watson. Have you advised him of the charges in the
19 indictment? Also, have you advised him of count two in
20 one of the indictments, and have you advised him as to
21 count two of his right of presentment to the Grand Jury?
22 Have you advised him of the maximum possible penalty or
23 punishment for the indicted charges, including count two?
24 Have you advised him of his constitutional rights?

25 **MR. HUGHES:** Yes, sir, I have.

1 **THE COURT:** In your opinion, Mr. Hughes, does Mr.
2 Watson understand each of the charges, including count one
3 and two in Indictment 2011-345? Does he understand his
4 right of presentment to the Grand Jury of Jasper County?
5 Does he understand the maximum penalty or punishment for
6 each of these charges, as well as the direct consequences,
7 as well as his constitutional rights?

8 **MR. HUGHES:** Yes, he does.

9 **THE COURT:** And how does he, Mr. Hughes, that is Mr.
10 Watson, indicate to you, Mr. Hughes, that he desires to
11 plead; guilty or not guilty?

12 **MR. HUGHES:** Guilty.

13 **THE COURT:** All right.

14 Mr. Watson, you've heard your lawyer, Mr. Hughes,
15 tell me that he's advised you of the charges in these
16 indictments. He's advised you as to count two in one of
17 the indictments, as to your right to have it presented to
18 the Grand Jury of Jasper County. He's advised you of the
19 maximum penalty or punishment for these charges and its
20 direct consequences, and he's advised you of your
21 constitutional rights.

22 And according to your lawyer, you understand each of
23 the charges in the indictment. You understand the maximum
24 punishment or penalty for the charges. You understand
25 your right of presentment to the Grand Jury as to count

1 two, which is lewd act upon a child. You understand the
2 punishment, the direct consequences, the charges in each
3 of the indictments and your constitutional rights. Is
4 that correct, Mr. Watson?

5 **DEFENDANT, MR. WATSON:** Yes, sir.

6 **THE COURT:** All right. I've been handed, first of
7 all, by the solicitor in this hearing Indictment Number
8 2012-GS-27-00430, the State versus James Watson. It is an
9 indictment for unlawful neglect of a child. It has been
10 true billed by the Jasper County Grand Jury.

11 This indictment alleges that you did, on or about
12 January 1st, 2011, and April 30th, 2011, in Jasper County,
13 while having charge or custody or being the parent or
14 guardian or being responsible for the welfare of the minor
15 child, **Minor** age six, that you, James Watson, did
16 place the child at unreasonable risk of harm, affecting
17 the child's life, physical or mental health or safety, in
18 violation of the Code of Laws of South Carolina, 20-7-50.

19 **MRS. VAUX:** Your Honor, I apologize for interrupting,
20 but I just realized that there is an error in the
21 indictment. That is the former child -- or children's
22 code. It has been repealed. The statute is actually 63
23 ---

24 **THE COURT:** 62, I believe.

25 **MR. HUGHES:** I think it's 63-15 ---

1 **THE COURT:** Hold on a second and let's get the
2 paperwork right, Mr. Watson.

3 **MRS. VAUX:** It's 63-5-70. The State would move to
4 amend the indictment.

5 **THE COURT:** 63- what?

6 **MRS. VAUX:** 5-70.

7 **THE COURT:** Why don't I have that in my book?

8 **MR. HUGHES:** It's under the numbers. It's not under
9 the alphabetized.

10 **THE COURT:** It's under where?

11 **MR. HUGHES:** Look up -- may I?

12 **MRS. VAUX:** I had trouble finding it when I was
13 trying to look up the charge, too. So I think it's
14 because the law was changed.

15 **THE COURT:** All right, Solicitor, my understanding is
16 the charge is unlawful neglect of a child, but rather than
17 the code section that's in the indictment, you're actually
18 charging him with 63-5-70, which is also entitled unlawful
19 neglect of a child. Is that correct?

20 **MRS. VAUX:** That's correct, Your Honor. Actually,
21 the CDR code did not change.

22 **THE COURT:** The code section calls it unlawful
23 conduct toward a child, even though Stricker calls it
24 unlawful neglect. It says it is unlawful for a person who
25 has charge -- you better look at the language -- charge or

1 custody of a child, or who is a parent or guardian of a
2 child, or who is responsible for the welfare of the child,
3 as defined in 63-7-20, to place the child at unreasonable
4 risk of harm affecting the child's life, physical or
5 mental health, or safety. To do or cause to be done
6 unlawfully or maliciously any bodily harm to the child so
7 that the life or the health of the child is endangered or
8 likely to be endangered, wilfully abandon -- or wilfully
9 abandon the child. It carries -- it's a felony, and it
10 carries ten years or a fine in the discretion of the
11 Court, or both.

12 Mr. Hughes, you agree that the proper section for the
13 indictment, if she moves to amend it, would be 63-5-70?

14 MR. HUGHES: Yes.

15 THE COURT: Unlawful conduct toward a child.

16 Solicitor, are you moving to amend?

17 MRS. VAUX: Yes, Your Honor.

18 THE COURT: Please put the amendment on it, without
19 objection from the defendant, and place your initials and
20 hand it to Mr. Hughes and let him show his client and have
21 him initial it as well.

22 MRS. VAUX: I also just saw a scrivener's error where
23 it says "age" is repeated twice, if I could just cross out
24 one of the ages.

25 THE COURT: The word A-G-E is repeated twice. Any

1 objection to crossing one out and initialing it, Mr.
2 Hughes?

3 MR. HUGHES: None at all.

4 THE COURT: So ordered, without objection.

5 Now, hand it to Mr. Hughes so he can show his client
6 and they can initial it.

7 All right. Let the record reflect, Ronda, the
8 solicitor has moved to amend, without objection, on
9 2012-430. They have now scratched through the old code
10 section number and put in 63-5-70 on one side of the
11 indictment and on the other side. They have also
12 scratched through and initialed the word age, A-G-E, which
13 was typed twice in the body of the indictment describing
14 the offense.

15 All right. Once again now, Mr. Watson, I'll start
16 over. I've been handed by the solicitor Indictment
17 2012-GS-27-00430, State versus James Watson, indictment
18 for unlawful -- the indictment says neglect of a child.
19 My law clerk has handed me the code section. The new code
20 section says unlawful conduct in the title towards a
21 child, but according to the solicitor, the language is the
22 same.

23 Right, Solicitor?

24 MRS. VAUX: Yes, Your Honor.

25 THE COURT: Is that correct, Mr. Hughes?

1 **MR. HUGHES:** Yes, sir.

2 **THE COURT:** All right. This indictment now charges
3 you under Code Section 63-5-70. It alleges that on or
4 about January 1st, 2011, and April 30th, 2011, in Jasper
5 County, while having charge or custody or being the parent
6 or guardian or being responsible for the welfare of the
7 child **Minor** age six, that you, James Watson, did
8 place the child at unreasonable risk of harm affecting the
9 child's life, physical or mental health or safety, in
10 violation of Code Section 63-5-70 of the Code of Laws of
11 South Carolina.

12 Do you understand that charge in that indictment for
13 the offense of unlawful conduct or unlawful neglect toward
14 a child under Code Section 63-5-70?

15 **DEFENDANT, MR. WATSON:** Yes, sir.

16 **THE COURT:** Do you understand if I accept your plea
17 to that charge that I can sentence you to a maximum term
18 of imprisonment of up to ten years, and/or a fine in the
19 discretion of the Court?

20 **DEFENDANT, MR. WATSON:** Yes, sir.

21 **THE COURT:** Any other direct consequences of that
22 plea in which counsel for the State is aware?

23 **MRS. VAUX:** No, Your Honor.

24 **THE COURT:** Any other direct consequences of that
25 plea in which counsel for the defendant is aware?

1 **MR. HUGHES:** No, Your Honor.

2 **THE COURT:** All right. Next I've been handed
3 Indictment 2011-GS-27-00345, the State versus James
4 Watson. This originally was an indictment for criminal
5 sexual conduct with a minor, victim under eleven years of
6 age, which would allegedly make it CSC with a minor first
7 degree.

8 That indictment, as to count one, was true billed by
9 the Jasper County Grand Jury; however, today the solicitor
10 has written a count two on the indictment, committing or
11 attempting lewd act upon a child under sixteen. I note
12 there's been no action, Mr. Watson, as to count two by the
13 Grand Jury of Jasper County. Do you understand that you
14 have the right to have count two of the indictment
15 presented to the Grand Jury of Jasper County, where it
16 would take twelve of the eighteen grand jurors in order to
17 return a true bill on the indictment?

18 **DEFENDANT, MR. WATSON:** Yes, sir.

19 **THE COURT:** Do you wish to give up that right of
20 presentment and proceed today as to count two, lewd act
21 upon a child, without presentment to the grand jury?

22 **DEFENDANT, MR. WATSON:** Yes, sir.

23 **THE COURT:** And have you placed your initials on this
24 sentence sheet, indicating your desire in writing to waive
25 presentment to the grand jury as to count two, lewd act

1 upon a child?

2 **DEFENDANT, MR. WATSON:** Yes, sir.

3 **THE COURT:** Count two alleges -- Camden, it's
4 16-15-140.

5 Count two alleges that you did in Jasper County,
6 South Carolina, between January 2011 and May 2011, that
7 you, James Watson, an adult over the age of fourteen,
8 wilfully and lewdly committed or attempted a lewd or
9 lascivious act upon the body or its part of a child under
10 the age of sixteen years, with the intent of arousing,
11 appealing to, or gratifying the lust or passions or sexual
12 desires of the person or of the child, in violation of
13 Code Section 16-15-140 of the Code of Laws of South
14 Carolina, which is the code section at that time for lewd
15 act upon a child. Do you understand that charge in count
16 two of that indictment?

17 **DEFENDANT, MR. WATSON:** Yes, sir.

18 **THE COURT:** And you understand that if I accept your
19 plea under Section 16-15-140 that I can sentence you to a
20 maximum term of imprisonment of up to fifteen years,
21 and/or a fine in the discretion of the Court?

22 **DEFENDANT, MR. WATSON:** Yes, sir.

23 **THE COURT:** Do you understand that this offense, lewd
24 act upon a child, is a violent offense? Do you understand
25 that?

1 **DEFENDANT, MR. WATSON:** Yes, sir.

2 **THE COURT:** Do you understand as to any sentence of
3 imprisonment that I might impose, you would have to
4 assume, because it is violent, that you would have to
5 serve day-for-day as to any sentence of imprisonment I
6 might impose, if I accept your plea?

7 **DEFENDANT, MR. WATSON:** Yes, sir.

8 **THE COURT:** You understand that if I accept your plea
9 to lewd act upon a child under sixteen years of age that
10 it would require mandatory GPS monitoring?

11 **DEFENDANT, MR. WATSON:** Yes, sir.

12 **THE COURT:** Do you understand also that in addition
13 to active electronic monitoring that must be required, do
14 you understand also that this is an offense for which you
15 will have to register for the remainder of your life with
16 the sheriff of the county in which you reside?

17 **DEFENDANT, MR. WATSON:** Yes, sir.

18 **THE COURT:** Do you understand also that lewd act upon
19 a child, because of registration, that this is potentially
20 -- this is a sexually violent offense, which could in the
21 future cause you to be determined to be a sexually violent
22 offender? And you would be entitled to a trial on that,
23 where the burden of proof would be beyond a reasonable
24 doubt. But you could face indefinite civil confinement in
25 the future if you were adjudicated in the future as a

1 sexually violent offender, and that the offense which
2 triggers this is whether or not you've been convicted of
3 sexually violent offenses, and that lewd act in this case
4 would be a sexually violent offense. Do you understand
5 that?

6 **DEFENDANT, MR. WATSON:** Yes, sir.

7 **THE COURT:** Do you understand that if I accept your
8 plea to the offense of lewd act upon a child that you
9 would be required to give a DNA sample to law enforcement,
10 where your DNA would be kept in a data bank by law
11 enforcement?

12 **DEFENDANT, MR. WATSON:** Yes, sir.

13 **THE COURT:** Solicitor, what about the Central
14 Registry of Child Abuse and Neglect. It would be required
15 for both, would it not?

16 **MRS. VAUX:** I believe so, Your Honor, but I ---

17 **THE COURT:** It would be required for both the
18 unlawful neglect of a child, as well as the lewd act, I
19 believe, under Section -- you can check it with Mr.
20 Hughes, that would be Section 17-25-135. I believe it
21 requires that he be placed on the Central Registry of
22 Child Abuse and Neglect, in addition to registration.

23 16-15-140 is the section number for lewd act, and
24 63-5-70 is the section for unlawful neglect of a child.
25 And I believe they're both enumerated in 17-25-135.

1 **MRS. VAUX:** Does Your Honor -- for purposes of the
2 section, sexual abuse means actual or attempted sexual
3 contact with a child. It doesn't enumerate the charge or
4 either of the charges, but it just says the act on which
5 the conviction or the plea of guilty or nolo contendere
6 involves sexual or physical abuse of a child.

7 **THE COURT:** And both of these involve sexual abuse of
8 a child; do they not?

9 **MRS. VAUX:** Yes, Your Honor.

10 **THE COURT:** You agree, Mr. Hughes?

11 **MR. HUGHES:** On the lewd act, definitely. On the
12 neglect, I'm not sure.

13 **THE COURT:** Well, so you'll know, but the Stricker
14 book carries it as registry ---

15 **MRS. VAUX:** It says sexual or physical abuse.

16 **MR. HUGHES:** Yeah, okay.

17 **THE COURT:** I'm not talking about -- now there's a
18 Child Abuse Registry now, because it involves unlawful
19 neglect of a child.

20 **MR. HUGHES:** Right. Yes.

21 **MRS. VAUX:** Your Honor?

22 **THE COURT:** Yes?

23 **MRS. VAUX:** I know we spoke to it, but I wanted to
24 put on the record that the law has been changed to
25 criminal sexual conduct with a minor third degree. Lewd

1 act has been repealed, but the defendant is getting the
2 benefit of the offer that was given at the time that the
3 crime was committed. So that would have been formerly the
4 lewd act section.

5 THE COURT: And the law was not retroactive.

6 MRS. VAUX: Right.

7 THE COURT: And obviously, the defendant would be
8 entitled to the benefit of that, because at the time of
9 the alleged offense, it hadn't been changed, Solicitor?

10 MRS. VAUX: That's correct, Your Honor.

11 THE COURT: All right. Mr. Hughes, you've been over
12 that with Mr. Watson?

13 MR. HUGHES: Yes, sir.

14 THE COURT: All right. Mr. Watson, once again on the
15 lewd act, it is up to fifteen years and/or a fine, as I
16 discussed with you. I told you it was violent and you
17 would have to assume you would have to serve day-for-day
18 as to any sentence of imprisonment I might impose, that
19 you would have to have active electronic monitoring, and
20 also that you would have to register for the remainder of
21 your life as a sex offender, that you would be placed on a
22 Child Abuse Registry, that you would have to give a DNA
23 sample where your DNA would be kept in a database by law
24 enforcement, and I believe that covers everything.

25 Any other direct consequences of that plea in which

1 counsel for the State is aware?

2 MRS. VAUX: Not that I'm aware of, Your Honor.

3 THE COURT: Any other direct consequences of that
4 plea in which counsel for the defendant is aware?

5 MR. HUGHES: No, Your Honor.

6 THE COURT: All right, Mr. Watson, understanding each
7 of the charges against you, one being the unlawful neglect
8 of a child, the other being the committing or attempting a
9 lewd act upon a child, understanding the maximum penalty
10 for each of them and its direct consequences, I ask you
11 now, how do you wish to plead, guilty or not guilty?

12 DEFENDANT, MR. WATSON: Guilty.

13 THE COURT: Do you understand by pleading guilty that
14 you're giving up your constitutional right to remain
15 silent?

16 DEFENDANT, MR. WATSON: Yes, sir.

17 THE COURT: Do you understand by pleading guilty that
18 you're giving up your constitutional right to a trial by
19 jury?

20 DEFENDANT, MR. WATSON: Yes, sir.

21 THE COURT: You understand if you had a jury trial
22 you would have the right to confront any witnesses or
23 evidence which the State of South Carolina may have
24 against you, and if you had a jury trial, the State would
25 be required and would have the burden of proving your

1 guilt beyond a reasonable doubt, and if you had a jury
2 trial, you could put up any witnesses or evidence in your
3 defense, if you so chose. Do you understand you have each
4 of those rights as to a jury trial?

5 **DEFENDANT, MR. WATSON:** Yes, sir.

6 **THE COURT:** Understanding your rights as to a jury
7 trial, do you now want a jury trial, or do you wish to
8 plead guilty?

9 **DEFENDANT, MR. WATSON:** Plead guilty.

10 **THE COURT:** Now you heard the solicitor tell me at
11 the outset of this hearing, and it was confirmed to me by
12 your attorney, Mr. Hughes, that there are negotiations in
13 regards to your plea. Those negotiations were published
14 to me as a sentence of fifteen years, sentences to run
15 concurrent.

16 Obviously, you can't get fifteen years on the offense
17 that only carries ten, which is the unlawful neglect. So
18 that would be a fifteen year sentence on the lewd act, ten
19 years concurrent on the unlawful neglect, and that they
20 would nol pros the charge against your wife.

21 And you gave the indictment number, did you not,
22 Solicitor?

23 **MRS. VAUX:** Yes, Your Honor.

24 **THE COURT:** And I've been over the other
25 consequences, I believe, such as registration for the

1 remainder of your life as a sex offender in the county
2 where you reside with the sheriff of the county in which
3 you reside.

4 Is that all of the negotiations, Solicitor?

5 MRS. VAUX: I believe so, Your Honor.

6 THE COURT: Is that everything, Mr. Hughes?

7 MR. HUGHES: Yes, sir.

8 THE COURT: Now I ask you, Mr. Watson, is that your
9 understanding of the negotiations?

10 DEFENDANT, MR. WATSON: Yes, sir.

11 THE COURT: All right. Now negotiations are a
12 contract between the solicitor and your attorney. I
13 cannot change those negotiations, but I do not have to
14 accept your plea of guilty. Do you understand that?

15 DEFENDANT, MR. WATSON: Yes, sir.

16 THE COURT: All right. Other than the negotiations,
17 which you tell me you understand and that they've told me
18 about, has anybody promised you anything in order to try
19 to get you to plead guilty?

20 DEFENDANT, MR. WATSON: No, sir.

21 THE COURT: Has anybody threatened you in any manner
22 in order to try to get you to plead guilty?

23 DEFENDANT, MR. WATSON: No, sir.

24 THE COURT: Are you fully satisfied with the services
25 of your attorney?

1 DEFENDANT, MR. WATSON: Yes, sir.

2 THE COURT: Has he done everything in your behalf
3 that you feel like he should or could have done?

4 DEFENDANT, MR. WATSON: Yes, sir.

5 THE COURT: Have you had enough time to talk to your
6 lawyer?

7 DEFENDANT, MR. WATSON: I don't believe so, no.

8 THE COURT: I'll give you time to talk to your
9 lawyer. Do you want some more time to talk to your
10 lawyer? I'll be happy to give it to you.

11 MR. HUGHES: Do you need to talk to me?

12 DEFENDANT, MR. WATSON: Yes.

13 MR. HUGHES: Okay.

14 (WHEREUPON, AT 4:04 P.M., A BREAK WAS TAKEN.

15 THEREAFTER, AT 4:09 P.M., THE FOLLOWING PROCEEDINGS WERE
16 HELD ON THE RECORD IN CHAMBERS:)

17 DEFENDANT, MR. WATSON: I'm sorry.

18 THE COURT: Mr. Hughes, are we ready to proceed?

19 MR. HUGHES: Yes, Your Honor.

20 THE COURT: All right, Mr. Watson. I've given you
21 time now in private with your lawyer. Have you had enough
22 time to talk to your lawyer?

23 DEFENDANT, MR. WATSON: Yes, sir.

24 THE COURT: Have you understood all of your talks
25 with your lawyer?

1 DEFENDANT, MR. WATSON: Yes, sir.

2 THE COURT: Are you completely satisfied with your
3 lawyer?

4 DEFENDANT, MR. WATSON: Yes, sir.

5 THE COURT: Do you have any complaints against any
6 law enforcement officers, court officials, or members of
7 the solicitor's office?

8 DEFENDANT, MR. WATSON: No, sir.

9 THE COURT: Are you pleading guilty to each of these
10 offenses of your own freewill and your own accord?

11 DEFENDANT, MR. WATSON: Yes, sir.

12 THE COURT: You understand you have the right to
13 appeal my sentence and this plea, but you must do so
14 within ten days of today by filing a Notice of Intention
15 to Appeal?

16 DEFENDANT, MR. WATSON: Yes, sir.

17 THE COURT: Have you understood each of my questions?

18 DEFENDANT, MR. WATSON: Yes, sir.

19 THE COURT: Have your answers to my questions been
20 truthful answers?

21 DEFENDANT, MR. WATSON: Yes, sir.

22 THE COURT: Have they been your own answers and not
23 suggested to you by anyone else?

24 DEFENDANT, MR. WATSON: Yes, sir.

25 THE COURT: Your own answers?

1 **DEFENDANT, MR. WATSON:** Yes, sir.

2 **THE COURT:** Are you, in fact, guilty of committing or
3 attempting a lewd act upon a child in Jasper County
4 between January 2011 and May 2011, being **Minor** your
5 daughter? Is that right? Am I pronouncing that
6 correctly?

7 **MRS. VAUX:** Yes, sir.

8 **THE COURT:** The indictment says **Minor** Are
9 you, in fact, guilty?

10 **DEFENDANT, MR. WATSON:** No. I'm pleading guilty.

11 **THE COURT:** No, sir.

12 Hold on, Bob. You go talk to him. I'm not accepting
13 it if he tells me he's not guilty. He gets a trial if
14 he's not. You go talk to him.

15 (WHEREUPON, AT 4:11 P.M., A BREAK WAS TAKEN.

16 THEREAFTER, AT 4:16 P.M., THE FOLLOWING PROCEEDINGS WERE
17 HELD ON THE RECORD IN CHAMBERS:)

18 **MR. HUGHES:** Your Honor, we're withdrawing the plea.

19 **THE COURT:** Pardon?

20 **MR. HUGHES:** We're withdrawing the plea.

21 **THE COURT:** Very well.

22 **DEFENDANT, MR. WATSON:** I apologize.

23 **THE COURT:** That's entirely your right.

24 Erin, I give you back the indictment, which you've
25 written on. I give you back these sheets, which you've

1 also written on. And I also give you back ---

2 **LAW CLERK:** That's yours.

3 **THE COURT:** --- that's mine. All right. I'll give
4 that back to my law clerk. That goes back.

5 Let's go to work.

6 (WHEREUPON, THE JURY PANEL WAS QUALIFIED ON OCTOBER
7 15, 2012, AT 5:45 P.M. THEREAFTER, ON OCTOBER 16, 2012,
8 AT 9:30 A.M., THE FOLLOWING PROCEEDINGS WERE HELD ON THE
9 RECORD:)

10 **THE COURT:** Good morning. Please be seated.

11 Have we got everybody, Margaret?

12 **CLERK:** Yes, sir, forty-two.

13 **THE COURT:** Wonderful. We're on time, then.

14 Ladies and gentlemen of my jury panel, thank you for
15 being here on time. We're going to start on time this
16 morning. I can promise you that.

17 Solicitor, call your case.

18 **MRS. VAUX:** Thank you, Your Honor. State versus
19 James Watson, Indictment 2011-GS-27-345, the offense of
20 criminal sexual conduct with a minor in the first degree
21 and Indictment 2012-GS-27-430, with unlawful conduct
22 towards a child.

23 **THE COURT:** Very well.

24 Ladies and gentlemen of the jury panel, first of all
25 I want to remind you that yesterday I had the clerk swear

1 you. The actual oath says to swear or affirm that you
2 would tell the truth to the questions asked by the Court.

3 I'm now going to ask you questions to ensure your
4 impartiality to serve as a juror in the trial of this
5 case. I remind you that your responses to my questions
6 concerning any case are also under that oath which you
7 took yesterday from the Clerk of Court of Jasper County.

8 I'd like for you first of all to know that the State
9 has called for trial the case of the State of South
10 Carolina versus James Watson. Mr. Watson is charged by
11 these two pieces of paper, which have been handed to me by
12 the solicitor, which we call indictments.

13 The indictment is simply the formal written
14 instrument by which the case is brought into this court,
15 and it is not evidence of any of the allegations contained
16 in the indictment. I'll be talking to you about those
17 allegations in a moment.

18 The defendant is charged with unlawful neglect of a
19 child and criminal sexual conduct with a minor under
20 eleven years of age. To these indictments, the defendant
21 has pled not guilty. That places the burden on the State
22 of South Carolina to prove each and every element of these
23 offenses beyond a reasonable doubt. And it will be your
24 duty, if you are selected as a juror in the trial of this
25 case, to determine whether or not the State has met that

1 burden.

2 Now, I want you to meet the lawyers that are going to
3 be trying this case. First, for the State of South
4 Carolina, they're going to stand and face you and
5 introduce themselves, and then for the defendant.

6 And, Mr. Hughes, I will expect you to have your
7 client stand and face my jury panel and introduce your
8 client when it is your turn. You understand?

9 **MR. HUGHES:** Yes, sir.

10 **THE COURT:** Beginning with counsel for the State of
11 South Carolina.

12 **MRS. VAUX:** Thank you, Your Honor.

13 Good morning. My name is Erin Vaux. I'm an
14 assistant solicitor in the Fourteenth Circuit.

15 Sitting with me as well is Dawn Burke. She's also an
16 assistant solicitor, who will be sitting second chair.

17 I also have Detective Baxter of the Jasper County
18 Sheriff's Office and Deputy Ruiz of the Jasper County
19 Sheriff's Office.

20 **THE COURT:** Thank you.

21 Counsel for the defendant.

22 **MR. HUGHES:** Good morning. I'm Robert Hughes. I'm a
23 public defender. I work for the Fourteenth Circuit Public
24 Defender's Office. Gene Hood is our circuit-wide public
25 defender. I am in charge, basically, in the Jasper County

1 Public Defender's Office. With me today is Mr. James
2 Watson from Grays.

3 **THE COURT:** Mr. Watson is from where, Mr. Hughes?

4 **MR. HUGHES:** From the community of Grays, Your Honor.
5 Grays.

6 **THE COURT:** Grays in Jasper County.

7 All right, ladies and gentlemen, you've now met
8 counsel for the State of South Carolina, counsel for the
9 defendant and the defendant, James Watson, who is from
10 Grays, South Carolina, here in Jasper County.

11 I'm now going to ask you certain questions to
12 determine your impartiality to serve as a juror in the
13 trial of this case. Is there any member of my jury panel
14 who is related by blood, connected by marriage, or a close
15 personal friend of the defendant, James Watson, of Grays,
16 South Carolina? If you're connected by blood, connected
17 by marriage, or a close personal friend of the defendant,
18 James Watson, please stand at this time.

19 (NO RESPONSE.)

20 **THE COURT:** Let the record reflect no one is
21 standing.

22 Now, you've met the attorneys that are going to be
23 trying this case. Erin Vaux, Dawn Burke, they've stood.
24 They represent the State of South Carolina.

25 Any member of my jury panel related by blood,

1 connected by marriage, or a close personal friend of any
2 of the attorneys for the State of South Carolina in this
3 case? If so, please stand at this time.

4 (NO RESPONSE.)

5 **THE COURT:** Let the record reflect no one is
6 standing.

7 Any member of my jury panel been represented in the
8 past or currently represented by counsel for the State of
9 South Carolina in this case either -- either lawyer for
10 the State of South Carolina? If so, please stand at this
11 time.

12 (NO RESPONSE.)

13 **THE COURT:** Let the record reflect no one is
14 standing.

15 You've also met counsel for the defendant, Mr. Robert
16 Hughes or Bob Hughes, who is with the Jasper County Public
17 Defender's Office. Any member of my jury panel related by
18 blood, connected by marriage, or a close personal friend
19 of counsel for the defendant, Bob Hughes? If so, please
20 stand at this time.

21 (NO RESPONSE.)

22 **THE COURT:** Let the record reflect no one is
23 standing.

24 Any member of my jury panel ever been represented by
25 Bob Hughes in the past or the Jasper County Public

1 Defender's Office, or currently represented by Mr. Bob
2 Hughes? If so, please stand at this time.

3 (NO RESPONSE.)

4 **THE COURT:** Let the record reflect no one is
5 standing.

6 Now, ladies and gentlemen, I've told you that what is
7 in these two indictments is not evidence, and it is not.
8 It is allegations. This is simply the means by which the
9 case is brought into this court.

10 If you are selected as a juror in the trial of this
11 case, you must base your decision solely upon evidence,
12 but I need to tell you a little bit about the allegations
13 in order for you to have an understanding of whether or
14 not you could be a fair and impartial juror. You'll
15 understand what I mean by my questions in just a moment.

16 Counsel, approach. Sidebar.

17 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
18 RECORD OUT OF THE HEARING OF THE JURY PANEL. THEREAFTER,
19 THE FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD AS
20 FOLLOWS:)

21 **THE COURT:** All right, first of all ladies and
22 gentlemen, in Indictment 2011-GS-27-00345, it is entitled
23 the State versus James Watson, who you have met, the
24 defendant in this case from Grays, South Carolina. It
25 charges him with the offense of criminal sexual conduct

1 with a minor under eleven years of age.

2 It is alleged in this indictment that this offense
3 occurred in Jasper County, South Carolina, between January
4 2011 and May 2011. It is alleged that the defendant,
5 James Watson, an adult, did commit a sexual battery upon
6 Minor [REDACTED] a minor who was less than eleven years of
7 age, which is in violation of the Code of Laws of South
8 Carolina.

9 In Indictment 2012-GS-27-00430, entitled the State
10 versus James Watson, indictment for unlawful neglect of a
11 child, this indictment alleges that on or about January
12 1st, 2011, and April 30th, 2011, in Jasper County, while
13 having charge or custody or being the parent or guardian
14 or being responsible for the welfare of the minor child,
15 Minor [REDACTED] age six, the defendant, James Watson, did
16 place the child at an unreasonable risk of harm affecting
17 the child's life, physical or mental health or safety, in
18 violation of the Code of Laws of South Carolina.

19 Now those are allegations, ladies and gentlemen. I
20 tell you about those allegations in order to ask you this:
21 Has any member of my jury panel read about, heard about,
22 or know anything whatsoever about the facts which are
23 alleged in these two indictments? If so, please stand at
24 this time.

25 (NO RESPONSE.)

1 **THE COURT:** Let the record reflect no one is
2 standing.

3 I am advised that the following people will be
4 potential witnesses in the trial of this case. By
5 potential, I mean -- that doesn't mean they will
6 necessarily be called as a witness, but they are potential
7 witnesses.

8 I'm going to call out a list which has sixteen names
9 on it. Please pay attention.

10 Some of these witnesses are in the courtroom. I will
11 have them stand and face you. I will give you a name, as
12 well as either an occupation or a hometown.

13 Counsel, approach. Sidebar.

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
15 RECORD OUT OF THE HEARING OF THE JURY PANEL. THEREAFTER,
16 THE FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD AND
17 WITHIN THE HEARING OF THE JURY PANEL:)

18 **THE COURT:** Have them come on in.

19 **BAILIFF:** Yes, sir.

20 **THE COURT:** I'm bringing in a couple of potential
21 witnesses who are outside, ladies and gentlemen, so you
22 have the opportunity to see them, as well as hear their
23 names. Give me one moment, please.

24 They're in your office, right?

25 **MRS. VAUX:** Right in the holding room, Your Honor.

1 **THE COURT:** Yes, ma'am, if you'll just come on in and
2 have a seat right here for me in the courtroom. Thank
3 you.

4 How many others do we have? One more? Two more?
5 Yes, ma'am, if you'll come on in, please, and have a
6 seat in the courtroom for me. Thank you so much.

7 Is that everybody now, Solicitor?

8 **MRS. VAUX:** I believe so, Your Honor.

9 **THE COURT:** Is that everybody?

10 **MR. HUGHES:** Yes, Your Honor.

11 **THE COURT:** Very well.

12 All right, ladies and gentlemen, as I told you, I
13 have a list of potential witnesses. When I call their
14 names, if they're present in the courtroom, and I've asked
15 three more to come into the courtroom so that you can see
16 a face with the name -- I -- there may be some who are not
17 present. I will try to give you their hometown or where
18 they work so that you will have some idea, because many
19 people, I know, have common names, and I want to make sure
20 you understand who are the potential witnesses, because
21 I'm going to ask you about your relationship to the
22 potential witnesses in the trial of this case. So I want
23 you to listen carefully.

24 Deputy Ruiz, ---

25 **DEPUTY RUIZ:** Ruiz.

1 THE COURT: Am I pronouncing it correctly? Ruiz?

2 DEPUTY RUIZ: Ruiz.

3 THE COURT: How is it pronounced?

4 DEPUTY RUIZ: Ruiz.

5 THE COURT: Ruiz, Jasper County Sheriff's Office. If
6 you'll face my jury panel. Thank you, sir. You may be
7 seated.

8 Detective Eric Baxter, Jasper County Sheriff's
9 Office. Thank you. You may be seated.

10 Ashley Bratcher, B-R-A-T-C-H-E-R, Hope Haven. Mary
11 Beth Hefner, Hope Haven. Dr. Sarah Schuh, Medical
12 University of South Carolina.

13 Janell Barker. If you would stand and face my jury
14 panel? Varnville, South Carolina. It's B-A-R-K-E-R.

15 Thank you, ma'am. You may be seated.

16 **Minor** Grays, South Carolina.

17 Janiqua Reed, standing to my left, your right.
18 Department of Social Services. R-E-E-D.

19 Thank you, Ms. Reed. You may be seated.

20 Anna Eady, E-A-D-Y. Department of Social Services.
21 Standing to my left, your right.

22 Thank you, ma'am. You may be seated.

23 Amy Smith, nurse, Ridgeland Elementary School.

24 Sharleen Hodges. She's standing.

25 Ms. Hodges, if you would, please, I'm going to ask

1 you to sit over on the other side.

2 Ms. Hodges is a nurse with Ridgeland/Hardeeville High
3 School.

4 Thank you, Ms. Hodges. You may be seated.

5 Ms. Job. Teacher. Ridgeland Elementary School.

6 Do I have a first name for Ms. Job?

7 **MRS. VAUX:** I don't, Your Honor. I apologize.

8 **THE COURT:** Ms. Kidd, K-I-D-D. Teacher. Ridgeland
9 Elementary School.

10 James Watson.

11 Mr. Watson, stand and face my jury panel. Grays,
12 South Carolina. This is the defendant, ladies and
13 gentlemen, James Watson.

14 Thank you. You may be seated.

15 Kimberly Watson, Grays, South Carolina. Ladies and
16 gentlemen, standing to your right, my left, Grays, South
17 Carolina.

18 Thank you, Mrs. Watson. You may be seated.

19 Marilyn Ullmann. Standing to my left, your right.
20 Grays, South Carolina. That's U-L-L-M-A-N-N.

21 Any additional witnesses from the State of South
22 Carolina?

23 **MRS. VAUX:** Nothing from the State, Your Honor.

24 **THE COURT:** Any additional witnesses from the
25 defendant?

1 **MR. HUGHES:** No, Your Honor.

2 **THE COURT:** Any member of my jury panel related by
3 blood, connected by marriage, or a close personal friend
4 of any of the potential witnesses in the trial of this
5 case whose names I have just called? If so, please stand
6 at this time.

7 Yes, ma'am, if you would come forward, please?

8 One from each.

9 (WHEREUPON, A BENCH CONFERENCE WAS HELD ON THE RECORD
10 OUT OF THE HEARING OF THE JURY PANEL:)

11 **CLERK:** Her number?

12 **BAILIFF:** Teresa Hicks, Number Sixty-seven.

13 **THE COURT:** Number Sixty-seven. How are you doing
14 this morning?

15 **JUROR:** Fine.

16 **THE COURT:** This is Juror Number Sixty-seven, Ms.
17 Pinckney?

18 **JUROR:** Hicks.

19 **THE COURT:** Hicks.

20 You got it?

21 **COURT REPORTER:** Yes, sir.

22 **THE COURT:** H-I-C-K-S?

23 **JUROR:** Yes, sir.

24 **THE COURT:** Ms. Hicks, I asked you whether or not
25 you're related by blood or connected by marriage or a

1 close personal friend, so just give me a yes or a no, if
2 you would.

3 Are you related by blood to any of the witnesses?

4 JUROR: No.

5 THE COURT: Are you connected by marriage to any of
6 the witnesses?

7 JUROR: Yes.

8 THE COURT: Which witness are you connected by
9 marriage to?

10 JUROR: Anna Eady.

11 THE COURT: All right. Anna Eady with DSS who stood
12 in the courtroom. And how are you connected to Ms. Eady
13 by marriage?

14 JUROR: Well, I've known her for a long time, and her
15 uncle is married to my great-grandmother.

16 THE COURT: Her uncle is married to your
17 great-grandmomma. Don't ask me to tell you -- Margaret,
18 can you tell me the relation?

19 CLERK: No, sir.

20 THE COURT: I don't know what that is, but you're
21 doing exactly -- you're doing exactly what I asked you to
22 do. I can't tell you what degree of kinship that is.

23 The fact that her uncle is married to your grandmom,
24 would that in any way affect your ability to give the
25 State of South Carolina or the defendant, James Watson, a

1 fair and impartial trial if she were a potential witness,
2 Ms. Eady, in the trial?

3 JUROR: Okay.

4 THE COURT: Pardon?

5 JUROR: I said okay.

6 THE COURT: I know, but I -- I understand. Would
7 that affect your ability to be fair and impartial?

8 JUROR: No.

9 THE COURT: You believe you can put aside any type of
10 marital relationship and decide this case solely upon
11 evidence introduced in this courtroom when both sides are
12 present, with the right of cross-examination?

13 JUROR: Yes.

14 THE COURT: Thank you very much.

15 MR. HUGHES: Your Honor, before you send her back,
16 would you mind asking her ---

17 THE COURT: You talk to me.

18 MR. HUGHES: Yes, sir.

19 THE COURT: Hold on. You step back a minute.

20 Come here, Counsel. You don't speak in front of a
21 juror.

22 MR. HUGHES: I'm sorry.

23 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
24 RECORD OUT OF THE HEARING OF THE JURY PANEL. THEREAFTER,
25 THE FOLLOWING PROCEEDINGS WERE HELD AT THE BENCH ON THE

1 RECORD OUT OF THE HEARING OF THE REMAINING JURY PANEL:)

2 THE COURT: Ms. Hicks, it's been called to my
3 attention that you also said in addition to the marital
4 relationship that Ms. Eady was a long-time friend of
5 yours; is that right?

6 JUROR: We're not close friends. I've known her all
7 my life.

8 THE COURT: You've known her all your life, but she
9 is not a close friend. Is that what you're telling me?

10 JUROR: Yes.

11 THE COURT: The fact that you've known her all your
12 life, would that in any way affect your ability to give
13 the State ---

14 JUROR: No.

15 THE COURT: --- and the defendant in this case a fair
16 and impartial trial?

17 JUROR: No.

18 THE COURT: Thank you, ma'am. You're doing exactly
19 what I asked you to do, and I appreciate it. You may
20 return to your seat.

21 MR. HUGHES: Thank you, Your Honor.

22 THE COURT: Uh-huh.

23 All right, ladies and gentlemen, has any member of my
24 jury panel formed any opinion about the facts which are
25 alleged in this case? If so, please stand at this time.

1 (NO RESPONSE.)

2 **THE COURT:** Let the record reflect no one is
3 standing.

4 Was any member of my jury panel formerly a member of
5 the Jasper County Grand Jury which found the indictments
6 in this case? If so, please stand at this time.

7 (NO RESPONSE.)

8 **THE COURT:** Let the record reflect no one is
9 standing.

10 Has any member of my jury panel formed any opinion
11 about the alleged guilt or innocence of the defendant in
12 this case, James Watson? If so, please stand at this
13 time.

14 (NO RESPONSE.)

15 **THE COURT:** Let the record reflect no one is
16 standing.

17 Any member of my jury panel ever been charged with or
18 accused of committing sexual abuse towards a child, even
19 if no charges were ever filed? If so, please stand at
20 this time.

21 (NO RESPONSE.)

22 **THE COURT:** Let the record reflect no one is
23 standing.

24 Any member of my jury panel or member of their
25 immediate family ever been the victim of sexual abuse or

1 child abuse? If so, please stand at this time.

2 Yes, ma'am. If you would come forward, please,
3 ma'am?

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD ON THE RECORD
5 OUT OF THE HEARING OF THE REMAINING JURY PANEL:)

6 CLERK: Number One-nineteen.

7 THE COURT: Good morning, Ms. Reeves.

8 JUROR: Good morning.

9 THE COURT: How are you this morning?

10 JUROR: Pretty good.

11 THE COURT: Got a cold hand and a warm heart, don't
12 you? Ms. Reeves, I asked you if you or any member of your
13 immediate family, and by immediate family I mean your
14 husband, mother, father, brother, sister, or child, have
15 ever been the victim of child abuse or sexual abuse, and
16 you stood. Would you tell me why you stood?

17 JUROR: I was abused by my brother.

18 THE COURT: Okay. The fact that this case involves
19 allegations of criminal sexual conduct and you were the
20 victim in that case involving your brother -- was a case
21 actually brought involving your brother in which you were
22 involved, a criminal case brought? That's what I'm
23 asking.

24 JUROR: No, sir.

25 THE COURT: But you were the victim.

1 **JUROR:** Yes, sir.

2 **THE COURT:** I understand. And you're doing exactly
3 what I asked you to do. And I know it's hard.

4 The fact that you were the victim of sexual abuse by
5 your brother and the fact that this case involves criminal
6 sexual conduct against a child allegedly under the eleven
7 years of age, would that in any way affect your ability to
8 give the State of South Carolina or the defendant in this
9 case a fair and impartial trial?

10 **JUROR:** I -- I feel it's possible.

11 **THE COURT:** Can you put aside whatever your feelings
12 were from your being a victim and decide this case solely
13 upon the evidence introduced during the trial of this case
14 and be fair to both the defendant and the State of South
15 Carolina?

16 **JUROR:** I think so. I mean, it's so -- I feel
17 responsible. It's hard.

18 **THE COURT:** I know how hard it is, and I tell you
19 what I'm going to do. I'm going to excuse you from
20 service in the trial of this case, because I understand,
21 ma'am.

22 **JUROR:** Thank you.

23 **THE COURT:** Have a seat. Okay? Thank you very much.
24 I'm taking her out.

25 What was her number? Sixty-seven?

1 **CLERK:** Sixty-seven.

2 **THE COURT:** Ms. Hicks.

3 **CLERK:** Yes.

4 **THE COURT:** Ms. Hicks, Number Sixty-seven.

5 **CLERK:** Yes.

6 **THE COURT:** Ms. Hicks, come on up.

7 This is Juror Number Sixty-seven, Counsel, Teresa
8 Hicks.

9 Ms. Hicks, I asked if you or a member of your
10 immediate family had been the victim of sexual abuse or
11 child abuse, and by immediate family I'm referring to your
12 husband, mother, father, brother, sister, child. And you
13 stood up. Would you tell me why you stood?

14 **JUROR:** Because I was the victim of child abuse.

15 **THE COURT:** You were the victim of child abuse. Was
16 a criminal case brought in connection with that?

17 **JUROR:** No.

18 **THE COURT:** It was not. All right.

19 And the fact that you were the victim of child abuse,
20 do you feel that would affect in any way your ability to
21 give the State of South Carolina in this case or the
22 defendant in this case a fair and impartial trial?

23 **JUROR:** No.

24 **THE COURT:** You can put aside any of your feelings
25 about previously being a victim and decide this case

1 solely upon evidence introduced in this courtroom?

2 JUROR: Yes.

3 THE COURT: Thank you, ma'am. You may return to your
4 seat.

5 CLERK: Ms. Glass.

6 THE COURT: What number?

7 CLERK: Fifty-three, Elizabeth Glass.

8 THE COURT: Good morning, Ms. Glass. How are you
9 this morning?

10 JUROR: Pretty good. How are you?

11 THE COURT: I'm doing fine. Thank you.

12 Ronda, this is Juror Number Fifty-three, Elizabeth A.
13 Glass.

14 Ms. Glass, I asked whether or not you or a member of
15 your immediate family had ever been the victim of sexual
16 abuse or child abuse, and by immediate family I'm defining
17 that as your husband, brother, sister, mother, father, or
18 child, and you stood up. Will you tell me why you stood?

19 JUROR: Yes, my sister when she was two years old was
20 actually abused by my father.

21 THE COURT: Your sister was abused by your father?

22 JUROR: Yes.

23 THE COURT: Okay. Was a criminal case brought in
24 connection with that?

25 JUROR: No.

1 **THE COURT:** Now the fact that your sister was the
2 victim of abuse -- you, yourself, were not a victim; is
3 that right?

4 **JUROR:** Yes.

5 **THE COURT:** All right. Would that in any way affect
6 your ability to give the State in this case or the
7 defendant in this case, because there are some allegations
8 of criminal sexual conduct, as well as neglect of a child,
9 would that in any way, the fact that your sister had that,
10 affect your ability to be fair and impartial in this case?

11 **JUROR:** I don't -- it was thirty-six years ago.

12 **THE COURT:** Let me ask it another way. It was how
13 many years ago?

14 **JUROR:** Thirty-six.

15 **THE COURT:** Thirty-six years ago. Can you put aside
16 any of the feelings that you have concerning your sister
17 and your father and decide this case solely upon the
18 evidence introduced in this case?

19 **JUROR:** Yes, sir.

20 **THE COURT:** Thank you, ma'am.

21 **JUROR:** Thank you.

22 **THE COURT:** You may return to your seat, Ms. Glass.
23 Thank you.

24 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD ON
25 THE RECORD IN THE PRESENCE AND HEARING OF THE JURY PANEL:)

1 **THE COURT:** All right, let the record reflect no one
2 else has come forward in response to my last question.

3 Any member of my jury panel ever been the victim of a
4 violent crime? If so, please stand at this time.

5 All right, sir. If you would give me your name and
6 juror number, please?

7 **JUROR:** My name is Raymond Brown. Raymond Brown,
8 Number Sixteen.

9 **THE COURT:** Counsel, this is Juror Number Sixteen,
10 Raymond Brown.

11 Mr. Brown, you, yourself, were the victim of a
12 violent crime?

13 **JUROR:** Yes, sir.

14 **THE COURT:** All right. The fact that you previously
15 were a victim, would that in any way affect your ability
16 to give the State of South Carolina and the defendant in
17 this case a fair and impartial trial?

18 **JUROR:** It wouldn't be a problem. Not a problem,
19 sir.

20 **THE COURT:** Thank you, sir. You may be seated.
21 Yes, Ms. Reeves, I've already excused you; have I
22 not, from the trial of this case?

23 **JUROR:** Yes, sir.

24 **THE COURT:** Yes, ma'am. You may be seated.

25 Anyone else ever been the victim of a violent crime?

1 (NO RESPONSE.)

2 THE COURT: Let the record reflect no one is
3 standing.

4 Any member of my jury panel know of any bias or
5 prejudice they may have about the facts which are alleged
6 in this case? If so, please stand at this time.

7 (NO RESPONSE.)

8 THE COURT: Let the record reflect no one is
9 standing.

10 Any member of my jury panel a member of or a
11 contributor to any group which has as its primary concern
12 the promotion of law enforcement or victim's rights?
13 These groups would include, but certainly not be limited
14 to MADD, SADD, CAVE, or CADRE. If so, please stand at
15 this time.

16 Yes, sir? Your name and juror number, please.

17 JUROR: Raymond Brown, Number Sixteen.

18 THE COURT: And you're a member of?

19 JUROR: I've supported many groups when I lived in
20 Arizona.

21 THE COURT: Including MADD, SADD, CAVE, or CADRE?

22 JUROR: Some of those, yes, sir, but many others.

23 THE COURT: Very well. Thank you, sir. You may be
24 seated.

25 Anyone else?

1 (NO RESPONSE.)

2 THE COURT: Let the record reflect no one else is
3 standing.

4 Does any member of my jury panel know of any reason
5 whatsoever why he or she should not serve as a juror in
6 this case, with particular emphasis being placed on your
7 ability to be fair and impartial to both the State of
8 South Carolina and the defendant, James Watson? If so,
9 please stand at this time.

10 (NO RESPONSE.)

11 CLERK: Mr. Brown raised his hand after he sat down.

12 THE COURT: Do what now?

13 CLERK: Juror Number Sixteen raised his hand after he
14 sat down and while you asked the next question. He had
15 his hand raised.

16 THE COURT: Mr. Brown, please come forward.

17 (WHEREUPON, A BENCH CONFERENCE WAS HELD ON THE RECORD
18 OUT OF THE HEARING OF THE REMAINING JURY PANEL:)

19 THE COURT: This is Juror Number Sixteen, Raymond
20 Brown.

21 Good morning to you. Mr. Brown, my clerk said that
22 while I was reading my last question that you raised your
23 hand, as if you had a question.

24 JUROR: Yes.

25 THE COURT: Do you have a question ---

1 JUROR: Yes.

2 THE COURT: --- that you want to ask the Court?

3 JUROR: Yes.

4 THE COURT: About one of my questions?

5 JUROR: Well, it's been eight years. I'm the past
6 President of Bikers Against Child Abuse in Arizona. I
7 forgot to mention that. I'm just so nervous.

8 THE COURT: The fact that you are the past president
9 of an organization involving child abuse, would that in
10 any way affect your ability to give the State or the
11 defendant in this case a fair and impartial trial?

12 JUROR: Not a problem.

13 And I had one other question. I'm not sure, but I
14 believe I've worked with Officer Ruiz at Coastal Carolina
15 Hospital, but it's been five years since I've worked
16 there. Just -- I just recognized him.

17 THE COURT: I understand that. That happens all the
18 time.

19 JUROR: Okay.

20 THE COURT: That's what I want you to do. The fact
21 that you may have worked with Officer Ruiz at Coastal
22 Hospital, would that in any way affect your ability ---

23 JUROR: No, sir.

24 THE COURT: --- to be fair and impartial ---

25 JUROR: No, sir.

1 **THE COURT:** --- to ---

2 **JUROR:** No, sir.

3 **THE COURT:** --- let me finish my question, and then
4 you can answer.

5 **JUROR:** I'm sorry.

6 **THE COURT:** Would that affect your ability to be fair
7 and impartial to either the State of South Carolina or the
8 defendant?

9 **JUROR:** Not a problem, sir.

10 **THE COURT:** Thank you, sir. You're doing exactly
11 what I asked you to do.

12 **JUROR:** Okay.

13 **THE COURT:** You may return to your seat.

14 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD ON
15 THE RECORD IN THE PRESENCE AND HEARING OF THE JURY PANEL:)

16 **THE COURT:** Any additional voir dire from the State?

17 **MRS. VAUX:** Nothing from the State, Your Honor.

18 **THE COURT:** Any additional voir dire from the
19 defendant?

20 **MR. HUGHES:** No, Your Honor.

21 **THE COURT:** All right, Counsel, it is my
22 understanding that you both agree to waive an alternate
23 juror and proceed with whatever number necessary to
24 complete the trial of the case.

25 Is that correct, from the State?

1 **MRS. VAUX:** Yes, Your Honor.

2 **THE COURT:** Correct from the defendant?

3 **MR. HUGHES:** Yes, Your Honor.

4 **THE COURT:** Also, the strikes are ten for the
5 defendant and five for the State.

6 Is that correct from the State?

7 **MRS. VAUX:** Yes, Your Honor.

8 **THE COURT:** Is that correct from the defendant?

9 **MR. HUGHES:** Yes, sir.

10 **THE COURT:** Madam Clerk, the strikes are ten and
11 five. They will waive an alternate juror. Will you give
12 us a jury, please?

13 **CLERK:** Yes, sir.

14 **THE COURT:** Now, ladies and gentlemen, what's
15 happening right now is that Margaret Bostic is on her
16 computer. My sons like to tell me that I'm -- I think the
17 nicest way they put it, ladies and gentlemen, is I'm past
18 the speed limit now. When I first started practicing law,
19 we had a big, huge drum, and the clerk would reach in the
20 drum and pull out a capsule, and we would unscrew the top
21 and pull out a piece of paper, and that's the way we drew
22 a juror.

23 Now no human hands touch anything. The computer
24 selects potential jurors completely at random from those
25 people I have found qualified and have not excused from

1 the trial of this case.

2 So what's happening right now is the computer is
3 drawing a potential list of qualified jurors. She will
4 print that list out in her printer at the desk. She will
5 hand one to me, the court reporter, and my law clerk.

6 We will then call the names in the order in which the
7 computer has drawn them. You will come down the middle
8 isle. You will come to the clerk's desk and turn around
9 and face, the way I'm seated right now, to the back of the
10 courtroom so both sides can see you.

11 Each side will then get an opportunity to exercise
12 their preemptory strikes. The defendant will have ten.
13 The State will have five. We will draw and strike until
14 we reach a jury of twelve persons, so that you know
15 exactly what's going on right now.

16 Have you got a copy?

17 **COURT REPORTER:** Yes, sir.

18 **THE COURT:** Are you ready?

19 **CLERK:** Yes, sir.

20 **THE COURT:** Is the State ready to proceed?

21 **MRS. VAUX:** Yes, Your Honor.

22 **THE COURT:** Defense read to proceed?

23 **MR. HUGHES:** The defendant is ready, Your Honor.

24 **THE COURT:** Madam Clerk, please give us a jury.

25 **CLERK:** Juror Number Nine, Gwen Blakely. How says

1 the State?

2 MRS. VAUX: Please present the juror.

3 CLERK: How says the defense?

4 MR. HUGHES: Please seat the juror.

5 CLERK: Have a seat in the jury box, ma'am.

6 Number Thirty, David Daily. How says the State?

7 MRS. VAUX: Please present the juror.

8 CLERK: How says the defense?

9 MR. HUGHES: Please excuse the juror from the trial
10 of this case.

11 CLERK: Thank you, sir. Please have a seat with the
12 jury panel.

13 Number Seven, Rudolph Bascom. How says the State?

14 THE COURT: Good morning.

15 CLERK: How says the State?

16 MRS. VAUX: Please present this juror.

17 CLERK: How says the defense?

18 MR. HUGHES: Please seat the juror.

19 CLERK: Have a seat in the jury box, sir.

20 Number One-thirty-two, Florrie Singleton. How says
21 the State?

22 MRS. VAUX: Please present this juror.

23 CLERK: How says the defense?

24 MR. HUGHES: Please seat the juror.

25 CLERK: Have a seat in the jury box, ma'am.

1 Number Twenty-one, Bruce Carlson. How says the
2 State?

3 **MRS. VAUX:** Please excuse this juror.

4 **CLERK:** Thank you, sir. Please have a seat back in
5 the audience.

6 Juror Number Sixty, Timothy Greene.

7 **THE COURT:** Good morning.

8 **JUROR:** Good morning.

9 **CLERK:** How says the State?

10 **MRS. VAUX:** Please present this juror.

11 **CLERK:** How says the defense?

12 **MR. HUGHES:** Please excuse the juror from the trial
13 of this case.

14 **CLERK:** Thank you, sir. Have a seat back in the
15 audience.

16 Juror Number One-eleven, Della Polite. How says the
17 State?

18 **MRS. VAUX:** Please present this juror.

19 **CLERK:** How says the defense?

20 **MR. HUGHES:** Please seat the juror.

21 **CLERK:** Have a seat in the jury box, ma'am.

22 Juror Number Five, Harry Aragon. How says the State?

23 **MRS. VAUX:** Please present this juror.

24 **CLERK:** How says the defense?

25 **MR. HUGHES:** Please seat the juror.

1 **CLERK:** Have a seat in the jury box, sir.

2 Number One-fifty-nine, Demetrius West. How says the
3 State?

4 **MRS. VAUX:** Please present this juror.

5 **CLERK:** How says the defense?

6 **MR. HUGHES:** Please seat the juror.

7 **CLERK:** Have a seat in the jury box, sir.

8 Number Seventeen, Willie Mae Brown. How says the
9 State?

10 **MRS. VAUX:** Please excuse the juror from this trial.

11 **CLERK:** Thank you, ma'am. Please have a seat with
12 the jury panel.

13 Number One-thirty-seven, Sybil Smith. How says the
14 State?

15 **MRS. VAUX:** Please present this juror.

16 **CLERK:** How says the defense?

17 **MR. HUGHES:** Please excuse the juror from the trial
18 of this case.

19 **CLERK:** Thank you, ma'am. Have a seat back in the
20 audience.

21 Juror Number Ninety-seven, Christine Mitchell. How
22 says the State?

23 **MRS. VAUX:** Please excuse this juror from this trial.

24 **CLERK:** Thank you, ma'am. Please have a seat back in
25 the audience.

1 State three, defense three.

2 Juror Number Fifty-four, Jeremy Glass. How says the
3 State?

4 MRS. VAUX: Please present this juror.

5 CLERK: How says the defense?

6 MR. HUGHES: Please excuse the juror from the trial
7 of this case.

8 CLERK: Thank you, sir. Have a seat back in the
9 audience.

10 Number Sixty-six, Rodrick Hickman. How says the
11 State?

12 MRS. VAUX: Please excuse the juror from this case.

13 CLERK: Thank you, sir. Please have a seat back in
14 the audience.

15 THE COURT: What number was that?

16 CLERK: Number sixty-six. State's four.

17 THE COURT: Sixty-six?

18 CLERK: His juror number is sixty-six. His juror
19 number is sixty-six. He's State's four.

20 THE COURT: Hold on a second. What number strike do
21 you have for the State?

22 CLERK: Four.

23 THE COURT: Defendant's?

24 CLERK: State's four.

25 THE COURT: Okay.

1 CLERK: Number Fifty-two, Mary Glass-Clark. How says
2 the State?

3 MRS. VAUX: Please present the juror.

4 CLERK: How says the defense?

5 MR. HUGHES: Please seat the juror.

6 CLERK: Have a seat in the jury box, ma'am.

7 Number One-thirty, Johnnie Simmons. How says the
8 State?

9 MRS. VAUX: Please present the juror.

10 CLERK: How says the defense?

11 MR. HUGHES: Please seat the juror.

12 CLERK: Have a seat in the jury box, sir.

13 Number One-sixty-six, James Williams. How says the
14 State?

15 MRS. VAUX: Please present this juror.

16 CLERK: How says the defense?

17 MR. HUGHES: Please seat the juror.

18 THE COURT: Have a seat in the jury box, sir.

19 Number One-fifty-five, Jerry Wallager. How says the
20 State?

21 MRS. VAUX: Please excuse this juror.

22 CLERK: Thank you, sir. Have a seat back in the
23 audience.

24 Number One-twenty-six, Charles Scott. Does the State
25 have cause for strike?

1 **MRS. VAUX:** No.

2 **CLERK:** How says the defense?

3 **MR. HUGHES:** Please seat the juror.

4 **CLERK:** Have a seat in the jury box, sir.

5 Number Seventy-four, Dennis Jackson. Does the
6 defense have cause for -- I'm sorry, does the State have
7 cause for strike?

8 **THE COURT:** Any strikes for cause from the State?

9 **MRS. VAUX:** No, Your Honor.

10 **CLERK:** How says the defense?

11 **MR. HUGHES:** Please excuse the juror from the trial
12 of this case.

13 **CLERK:** Thank you, sir. Have a seat back in the
14 audience.

15 Number Thirty-one, Linda Dailey. Does the State have
16 cause for strike?

17 **MRS. VAUX:** No, we do not.

18 **CLERK:** How says the defense?

19 **MR. HUGHES:** Please excuse the juror from the trial
20 of this case.

21 **CLERK:** Thank you, ma'am. Have a seat back in the
22 audience.

23 Number Forty-eight, Patricia Garraway.

24 Does the State have cause for strike?

25 **MRS. VAUX:** No, we do not.

1 CLERK: How says the defense?

2 MR. HUGHES: Please seat the juror.

3 CLERK: Have a seat in the jury box, ma'am.

4 Juror Number One-forty-three, Teneeka Stiney.

5 Does the State have cause for strike?

6 MRS. VAUX: No, we don't.

7 CLERK: How says the defense?

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

10 CLERK: Thank you, ma'am. Have a seat in the
11 audience.

12 Juror Number One-hundred-five, Cecily O'Laughlin.

13 Does the State have cause for strike?

14 MRS. VAUX: We don't.

15 THE COURT: How says the defense?

16 MR. HUGHES: Please excuse the juror from the trial
17 of this case.

18 CLERK: Thank you, ma'am. Have a seat back in the
19 audience.

20 Juror Number One-forty-one, James Steedley.

21 Does the State have cause for strike?

22 MRS. VAUX: We do not.

23 CLERK: How says the defense?

24 MR. HUGHES: Please seat the juror.

25 CLERK: Have a seat in the jury box, sir.

1 **THE COURT:** Are there any matters of law pertaining
2 to the selection of the jury that needs to be decided
3 before the jury is sworn; from the State of South
4 Carolina?

5 **MRS. VAUX:** Nothing from the State, Your Honor.

6 **THE COURT:** From the defendant?

7 **MR. HUGHES:** Nothing, Your Honor.

8 **THE COURT:** Ladies and gentlemen of my jury panel,
9 I'm going to ask you if you would step to your jury room
10 for just a moment. I'll be right back with you.

11 / Please do not discuss the case. You have not heard
12 any evidence in this case. We're going to start, but I
13 want you to have a break.

14 You can use the restroom, stretch your legs, and I'll
15 be right back with you in just a moment. Please retire to
16 your jury room.

17 Who left their jacket? Hold on. Somebody left a
18 jacket. Thank you, ma'am.

19 Now a hat. Thank you, ma'am.

20 (OCTOBER 16, 2012, 10:26 A.M., WHEREUPON, THE JURY

21 RETIRES FROM THE COURTROOM, AND THE FOLLOWING

22 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.

23 REMAINING JURY PANEL WAS RELEASED. THEREAFTER, THE

24 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF

25 THE PRESENCE OF THE JURY:)

1 **THE COURT:** Counsel, when I start, we're going to
2 work. It's 10:30. We started at 9:30.

3 There's sequestration. Both of you are responsible
4 to take your witnesses out. Know where they are, because
5 I'm not going to go on an easter egg hunt for witnesses
6 during this trial. So you've got to be able to bring them
7 in. You work that out with law enforcement so they know
8 where they are and you can bring them in.

9 Didn't you ask for sequestration?

10 **MR. HUGHES:** Yes, I did, Your Honor.

11 **THE COURT:** It applies to your witnesses, too. So
12 you have a place where you can go get them, because we're
13 not going to hold this jury up any longer while we look
14 for witnesses during the trial of this case.

15 Both of you are responsible during this break to go
16 explain that to your witness, because you're responsible
17 for your own witnesses. If you're going to call a reply
18 witness, don't let them come back in the courtroom if
19 there's a potential for reply.

20 You understand that, Solicitor?

21 **MRS. VAUX:** Yes, Your Honor.

22 **THE COURT:** You understand that, Mr. Hughes?

23 **MR. HUGHES:** Yes, sir.

24 **THE COURT:** This is your one and only break for the
25 morning. You better take it right now. Use the bathroom,

1 because when we come back, we're going to work. We'll
2 take five minutes.

3 (WHEREUPON, AT 10:33 A.M., A BREAK WAS TAKEN.
4 THEREAFTER, AT 10:41 A.M., THE FOLLOWING PROCEEDINGS WERE
5 HELD ON THE RECORD:)

6 THE COURT: All right. Have you talked with your
7 witnesses?

8 MR. HUGHES: Yes, I did, sir.

9 THE COURT: All right. We're going to put the train
10 back on the track.

11 MRS. VAUX: Erin, have you talked to your witnesses?

12 (WHEREUPON, MRS. BURKE WHISPERS TO MRS. VAUX.)

13 THE COURT: You can't talk to her when I'm talking to
14 her, Mrs. Burke.

15 Have you talked to your witnesses?

16 MRS. VAUX: Yes, sir.

17 THE COURT: All right. I'm granting the defense
18 motion for sequestration. Both sides are responsible for
19 their own witnesses.

20 Mr. Hughes has told me he has talked to his. None of
21 his witnesses, other than the defendant, are in the
22 courtroom.

23 Other than the investigating officer, no other
24 witnesses for the State are in the courtroom. The
25 solicitor has advised her witnesses, and the defense

1 counsel has advised his witnesses.

2 Sequestration applies to both sides from this moment
3 on. Both lawyers, stand up and turn around and assure the
4 Court that none of your witnesses are in the courtroom at
5 this time.

6 Solicitor?

7 MRS. VAUX: None, Your Honor.

8 THE COURT: And you've advised the ones outside of
9 the courtroom, and you know where they are?

10 MRS. VAUX: Yes, Your Honor.

11 THE COURT: Thank you.

12 Mr. Hughes, are any of your witnesses in the
13 courtroom?

14 MR. HUGHES: No, sir.

15 THE COURT: And you've advised your witnesses
16 concerning my order of sequestration, and you understand
17 you're responsible for your witnesses?

18 MR. HUGHES: Yes, sir.

19 THE COURT: Very well.

20 Is the State ready to proceed?

21 MRS. VAUX: Yes, Your Honor.

22 THE COURT: All right, now one of the things, Mrs.
23 Burke, that's going to happen is when I'm talking, you're
24 not going to talk to her. Do you understand that?

25 MRS. BURKE: Absolutely.

1 **THE COURT:** All right. That's fine, but I'm going to
2 warn you, because if I'm speaking to her, she can't talk
3 to you and listen to me. And we're not going to have that
4 conflict during this trial. You can talk to her when I'm
5 not talking to her. Do you understand?

6 **MRS. BURKE:** Absolutely.

7 **THE COURT:** Good.

8 Bring me the jury, please.

9 **MRS. VAUX:** Your Honor, may I move this podium?

10 **THE COURT:** Pardon?

11 **MRS. VAUX:** May I move this podium over?

12 **THE COURT:** You may.

13 (OCTOBER 16, 2012, 10:41 A.M., WHEREUPON, THE JURY
14 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
15 WERE HELD IN THEIR PRESENCE.)

16 **THE COURT:** Slip all the way down for me, please, so
17 nobody's got to crawl over anybody, and I'll talk to you
18 about that in just a moment.

19 Madam Clerk, would you please swear the jury?

20 **CLERK:** Yes, sir.

21 Would you stand and raise your right hand, please?

22 (WHEREUPON, THE JURY WAS DULY SWORN.)

23 **THE COURT:** Please be seated.

24 All right. Ms. Mary Glass, raise your hand for me.

25 **JUROR:** It's Mary Glass-Clark.

1 **THE COURT:** Ms. Glass, I'm going to appoint you to be
2 foreperson.

3 Sir, would you trade seats with Ms. Glass for me?

4 Ms. Glass, if you'll come down here, he's going to
5 wait on you to come on down.

6 Y'all want to slip down one? That way nobody will
7 have to crawl over anybody.

8 All right, Ms. Glass, you're going to be the
9 foreperson of the jury. That will be your seat.

10 The rest of you can sit anywhere you want to, but as
11 you've already seen, I want everybody to slide all the way
12 down. If you want to sit by somebody, that's fine, just
13 line up in your jury room that way.

14 You'll come in last, because that's going to be your
15 seat, Ms. Glass. Now let me tell you about your duties.
16 It is your job to see that each and every member of my
17 jury has a full and a fair opportunity to voice their
18 opinions once deliberations begin. And I'll tell you when
19 they'll begin in the trial of this case.

20 Just like the chairperson of a committee would
21 preside in the jury room, you will preside in the jury
22 room as foreperson to see that every member of my jury
23 gets a chance to voice their opinions, once I tell you to
24 begin your deliberations.

25 It will also be your job, Ms. Glass, as the

1 foreperson of the jury to write the jury's verdict. But I
2 will prepare a verdict form for you, and I will give you
3 instructions on how to do that in my charge to you on the
4 law at the conclusion of the case.

5 Finally, it will be your job as the foreperson, if
6 the need arises during the trial of the case, you will
7 speak for the entire jury. So if you need to -- if the
8 jury has some reason to want to ask a question, you as the
9 foreperson, would speak for the jury. Do you understand?

10 **FOREPERSON:** Yes.

11 **THE COURT:** The foreperson speaks for the entire
12 jury. The foreperson signs the verdict form on behalf of
13 all twelve of the jurors, and the foreperson presides in
14 the jury room to see that each and every member of the
15 jury has a full and a fair opportunity to voice their
16 opinions once deliberations begin.

17 All right. Now, a couple of housekeeping matters,
18 because I'm going to put -- hopefully put us back on
19 track, and we won't be running out of time where you have
20 to sit and wait for a long period of time, ladies and
21 gentlemen. First of all, while you're on jury duty, I'm
22 going to ask you this. We're going to work now until 1:00
23 o'clock, when we're going to stop for lunch.

24 Normally I'm going to take a five to ten minute
25 midmorning break, and a five to ten minute midafternoon

1 break. So you're not going to be sitting all day at any
2 time. So know that I try to break it around testimony,
3 because we never know exactly.

4 Now you've had your midmorning break now, so we're
5 going to work until lunch. We'll go to lunch at 1:00
6 o'clock, and that's the hours of court.

7 We normally start at 9:30. We take one midmorning
8 break. We work until approximately 1:00 or 1:30. We go
9 to lunch for an hour. We come back. We work until 5:00
10 or 5:30 in the afternoon, and we take one midafternoon
11 break. So you can plan your life around that schedule.

12 I don't think this case is going to take that long,
13 ladies and gentlemen. I told you I would try to get you
14 home early this week, but there's no way for a judge or
15 anyone to accurately predict the exact length.

16 I don't know how long you're going to deliberate. I
17 don't know how long a witness is going to last, because I
18 don't know exactly what questions will be asked. I don't
19 know what matters of law might come up during the trial of
20 the case.

21 I have not heard the evidence in this case, nor have
22 you, and it's so you can keep an open mind and I can keep
23 an open mind. So that will give you some idea of our work
24 hours.

25 I ask while you're on jury duty that you not discuss

1 this case with other people, including your fellow jurors.
2 I'll tell you when it's time for you to begin your
3 deliberations. And it is improper for you to engage in
4 any type of premature deliberations until the entire
5 matter has been submitted to you under my instructions
6 after my charge on the law, which will come at the end of
7 the case.

8 It is also -- I ask you not to read or listen to any
9 news reports about the case. I ask you not to watch
10 television or listen to the radio or read the newspaper.
11 You must decide this case based on evidence introduced
12 during the trial of this case when both sides are present
13 with the right of cross-examination.

14 I'm going to ask you not to use a computer or a
15 cellphone or any other electronic device with
16 communication capability while you're on jury duty. These
17 devices, I know everybody has got one, and just so y'all
18 know, my wife when I say this, she doesn't believe this,
19 but I have never -- this is, for those of you who don't
20 know what this is, this is an iPhone, and I have never
21 turned this phone on ring, and I've had it for a year and
22 a half. Never have I allowed this phone to ring. I don't
23 even know what the ring sounds like. It stays on vibrate
24 if the battery isn't dead, because I don't take telephone
25 calls -- well, my law clerk will tell you, we spend half

1 the night returning telephone calls, but during the day, I
2 don't.

3 So I'm going to ask you not to use a phone or any
4 other electronic device, smartphone, or computer. And let
5 me tell you why, because even if you thought -- some
6 jurors have thought: Oh, I can research on my computer
7 information about a party or a witness or an attorney or a
8 court officer or a news account of the case.

9 Any information that you collect on a computer or a
10 smartphone or any electronic device on any topic, even
11 though you, as a juror, might think that the information
12 would be helpful to you in deciding the case, is improper.
13 You must decide a case based on the evidence presented.

14 They have the absolute right to know what you're
15 basing your decision on, and that's why you can't read the
16 newspaper, watch television, listen to the radio, or use a
17 computer to do any type of research. You must decide this
18 case only and solely upon evidence introduced during the
19 trial of this case.

20 Please do not communicate with anyone about the case
21 on your cellphone or through E-mail, Blackberry, iPhone,
22 text messaging, or on Twitter, or through any blog, or
23 website, through any Internet chat room or by way of any
24 other social networking websites, which include Facebook,
25 MySpace, LinkedIn, or YouTube. It is improper for you to

1 do so. So I ask you while you are on jury duty, please
2 remember to follow my instruction concerning that.

3 Now, before we begin this trial, I want to tell you
4 that this trial probably will be different from what many
5 of you might expect. You know, most people don't have the
6 time or the chance to attend actual court sessions, as
7 each of you are doing right now. And many people think
8 from watching television such shows as Cold Case and CSI
9 or going to a movie or reading a book that trials are
10 always full of high drama and intense action and riveting
11 and entertaining circumstances. And most people think
12 from watching television that at any moment a person in a
13 white lab coat is going to walk in and tell us they've
14 solved the issue and that here it is, it's in a test tube
15 we have in the laboratory.

16 All of that is entertainment, ladies and gentlemen,
17 that you watch on television or you see in a movie or you
18 read in a book. And let me tell you, while entertainment
19 -- while in an actual trial it may at times have some
20 entertainment, an actual trial is not for entertainment.
21 It's not like your television show. It's not like a
22 movie, and it's not like a book you may have read.

23 An actual trial is a fundamental part of our
24 democracy. It is a search for the truth in an effort to
25 make sure that justice is done between the parties before

1 the Court.

2 Searching for the truth and making sure that justice
3 is done is often slow. It is often deliberate. It is
4 often repetitive. It takes time. It is the exact
5 opposite of what you may have seen on television or read
6 in a book or seen in a movie.

7 This courtroom, ladies and gentlemen, is a place of
8 honor. It is dedicated to the protection and the
9 preservation of citizen's rights, through what many people
10 call the greatest justice system that has ever been
11 created.

12 The attorneys appearing before you are advocates for
13 the parties they represent, but first and foremost, they
14 are officers of this court. And as an officer of this
15 court, the attorneys took an oath, just like you just took
16 an oath. And I also took that oath that the attorneys
17 took. And each of us swore in our oath to uphold the
18 integrity and the fairness of our judicial system. And to
19 help you, ladies and gentlemen, in their oath the
20 attorneys know that they are to assist you in a search for
21 the truth.

22 You should expect the attorneys to be professional.
23 You should expect them to be competent. You should expect
24 them to be ethical in the representation of their client's
25 interest.

1 Now I want to remind each of you that now each of you
2 have taken an oath as jurors to try this case, to listen
3 to the evidence in this case and reach a fair and a just
4 verdict in this case. So each of you now, under the oath
5 which you just took from the clerk of court, are expected
6 as jurors to be professional, to be reasonable, and to be
7 ethical in the discharge of your duty as jurors.

8 Before we begin the trial, I want to thank each and
9 every one of you for accepting this very important
10 responsibility of jury service. I want to thank you in
11 advance for your contribution today to our justice system.
12 Without you, ladies and gentlemen of the jury, justice
13 could not be accomplished in the courtroom.

14 Now, Madam Foreperson, ladies and gentlemen of the
15 jury, the case we're about to try is the case of the State
16 of South Carolina versus James Watson. Mr. Watson is
17 charged in these two pieces of paper.

18 Now, Ms. Glass, you're not going to have these in
19 your jury room, but I can assure you that this young man
20 seated behind me that I introduced y'all to, my law clerk,
21 -- can you see him, Ms. Glass? He's so far behind me.

22 **FOREPERSON:** I can barely see him, yes.

23 **THE COURT:** He's standing up for you. His name is
24 Camden Hodge. Whatever you write on your verdict form,

25 ---

1 **FOREPERSON:** Uh-huh.

2 **THE COURT:** --- it's going to be his job to not let
3 you leave this courtroom until you write the same words on
4 these two pieces of paper after the trial is over with.
5 You understand?

6 **FOREPERSON:** Yes.

7 **THE COURT:** So whatever is on the verdict form has to
8 be on these two pieces of paper. These two pieces of
9 paper are indictments. I told you they are not evidence
10 of any of the allegations contained in the indictments.

11 The defendant is charged in one indictment with the
12 offense of criminal sexual conduct with a minor, the
13 victim under eleven years of age allegedly. The defendant
14 is charged in the second indictment with the unlawful
15 neglect of a child. Those are the two indictments. I've
16 read those indictments to you.

17 The elements of each of those charges I will explain
18 to you in my charge to you on the law at the conclusion of
19 the case. So don't worry about knowing the elements of
20 the offenses that the defendant is charged with. I'll
21 explain that to you.

22 You should understand that the indictment is simply
23 the charge by which the case is brought into this court,
24 that the indictments are not in any sense evidence of any
25 of the allegations contained therein.

1 Now the defendant has pled not guilty to the
2 indictments. The State of South Carolina, therefore, has
3 the burden of proving each of the material elements or
4 essential elements beyond a reasonable doubt. And it will
5 be your duty, ladies and gentlemen of the jury, to decide
6 whether or not the State of South Carolina has met that
7 burden.

8 It is your solemn responsibility to determine the
9 guilt or the innocence of the defendant, but your verdict
10 must be based solely and only on the evidence as it is
11 presented to you in this trial and on the law as I
12 instruct it to you to be during the trial and at the close
13 of the trial.

14 Now in just a minute the assistant solicitor will
15 make what is called an opening statement, in which she
16 will explain to you the issues in this case, or at least
17 what she contends, as an advocate for the State of South
18 Carolina, to be the issues in this case. And following
19 that, the attorney for the defendant will make an opening
20 statement.

21 Now I want to tell you right now that the attorneys
22 have worked hard. I've heard a number of matters already,
23 legal matters, before this case began. And they've worked
24 hard to prepare the case for their respective clients, the
25 State of South Carolina and the defendant, but I want to

1 tell you, what the attorneys tell you in opening
2 statement, what the attorneys argue to you in their
3 closing argument, what the attorneys suggest to you by the
4 questions that they ask witnesses, is not evidence.

5 The attorneys are advocates for the parties they
6 represent, and they're just doing their job for their
7 respective clients, the State of South Carolina and the
8 defendant. So when they are talking to you in opening
9 statement, it is only their contention as to what they
10 believe the issues will be in this case as an advocate for
11 one of the parties to the case.

12 You, as a juror, should decide this case solely upon
13 evidence introduced during the trial of this case. What
14 is evidence?

15 Evidence may take several forms. It may be sworn
16 testimony from this witness stand. You notice it's
17 located on the side of the courtroom in closest proximity
18 to you.

19 It may also be an exhibit. But the attorneys know as
20 to any exhibit, they can't show it to you until they have
21 offered it through me. I decide what goes into evidence.
22 That's one of my jobs.

23 So an exhibit might be a photograph or a model, and
24 you'll hear them say -- and we'll mark them. Ronda has
25 got little -- my court reporter here, Ronda Cummings, has

1 little stickers. She's going to put a mark on it, and
2 we'll refer to it by exhibit number.

3 We'll say: It's State's Exhibit One.

4 You'll hear me say: It is in evidence.

5 That means it can be published to you. And you will
6 also have any exhibit with you in your jury room once
7 deliberations begin.

8 So evidence can be sworn testimony from the witness
9 stand. It may be an exhibit which is introduced by either
10 one of the parties during the trial of the case.

11 Evidence may even take the form of what we call a
12 stipulation, an agreement between the parties that a fact
13 is true and therefore not necessary to be proved.

14 Now in the consideration of this evidence, you should
15 remember that under the Constitution of the State of South
16 Carolina, you, and you twelve jurors alone, are the sole
17 judges of the facts in this case. And the same law that
18 makes you the sole judges of the facts in this case, makes
19 me the sole judge of the law.

20 I cannot invade your province and tell you what the
21 facts are or make any comment to you about what the facts
22 are. You decide that based on evidence introduced during
23 the trial of the case.

24 You should also not invade my province and differ
25 from me about what the law is. Everything that I say

1 during the course of this trial is being taken down by my
2 court reporter down here, Ronda Cummings. If I make a
3 mistake as to the law to the detriment of either side,
4 they can appeal the case to an appellate court, and if the
5 appellate court thinks that I've made a mistake on the
6 law, they will reverse the case and send it back for a new
7 trial.

8 So don't you on the jury ever worry about whether or
9 not I told you the law correctly. That is somebody else's
10 worry. That is not your concern.

11 Your job is to take the law as I give it to you and
12 apply it to the facts as you find them to be, based on the
13 evidence introduced during the trial of the case, and that
14 means testimony from the witness stand, any exhibit that
15 may be introduced into evidence, or any stipulation that
16 may occur in the trial of this case. And after doing
17 that, you will render your verdict, a true and a just
18 verdict, under that solemn oath that each of you just took
19 from the clerk of court.

20 Now, from time to time during the course of a trial,
21 you may hear one of the lawyers say something like: Your
22 Honor, we have a question of law or a matter of law we'd
23 like to discuss with you.

24 Or you've already seen me tell them come to the
25 sidebar.

1 Or: Counsel, approach.

2 Or I might ask you to step to your jury room while I
3 discuss a matter of law. I might find it necessary that
4 you actually be excused from the courtroom while the
5 attorneys and I discuss a matter of law. I try to
6 minimize that, and the attorneys know that; however, you
7 probably think we're trying to hide something from you.
8 Not at all.

9 Let me tell you why we take up something down here
10 where you can't hear us, why I whisper, why I'd send you
11 to your jury room; just exactly what I just told you about
12 our roles. You're the sole judges of the facts. I'm the
13 sole judge of the law.

14 Sometimes when I'm talking to the attorneys, I have
15 to make a comment to them about the facts in order to rule
16 on whether or not a particular piece of law applies to
17 this case. Since I'm not supposed to make any comment to
18 you so you won't be influenced by anything that I might
19 say or do in ruling on whether or not a particular piece
20 of law applies to this case, the custom in this state is
21 to either try to take it up out of your earshot at a
22 sidebar or ask you to step to your jury room so that you
23 will not be influenced by anything that I might say or do
24 in ruling on whether or not a particular piece of law
25 applies to this case.

1 And in that connection, let me tell each of you
2 before we start right now, that you, and you alone, are
3 the sole judges of the facts in this matter. And if you
4 should gather from anything that I might say or do during
5 the course of this trial that I have any opinion as to the
6 facts in this case, please erase that from your mind,
7 because as I have said, you are the sole judges of the
8 facts. No one else but you, the jury, will be permitted
9 to weigh or consider the evidence and determine the facts
10 of this case.

11 Now, in determining what the true facts are in this
12 case, ladies and gentlemen, you, of necessity, must pass
13 upon what we call the credibility or the believability of
14 the witnesses who are going to take that witness stand.
15 It will be my responsibility, as the presiding judge, to
16 rule as a matter of law as to whether certain testimony is
17 admissible at all or not. But once I have allowed the
18 testimony to be admitted into evidence, whether or not you
19 as a juror believe the testimony, is solely a matter for
20 you, the jury, to consider and to determine.

21 And in passing upon the credibility or the
22 believability of the witnesses who will take this witness
23 stand, you have the right as a jury to take into
24 consideration the interest of any witness; the bias, if
25 any, of any witness; the prejudice, if any, of any

1 witness; the opportunity for the witness to have observed
2 the matters and things about which he or she may testify.
3 You may even take into consideration what we call the
4 demeanor of the witness, the appearance of the witness
5 while the witness is on the witness stand.

6 Anything that is in evidence, ladies and gentlemen of
7 the jury, you as a juror have the right to consider that
8 you feel -- anything that is in evidence that will aid you
9 and assist you in evaluating the testimony of the
10 witnesses, you have the right to consider.

11 And that means, Madam Foreperson, and that means,
12 ladies and gentlemen of the jury, that it is your duty
13 under your sworn obligation that you just took from the
14 clerk of court to pay close attention to the witnesses, to
15 listen to the witnesses. Don't let your thoughts wander.
16 Give strict attention to the evidence during the trial of
17 this case so that at the conclusion of all of the evidence
18 in this case, all of the testimony, and after you have
19 heard the final arguments of the attorneys, of counsel,
20 and after you've heard my charge at the conclusion of the
21 case on the law, you will have placed yourself as a juror
22 in a position from listening to determine what the true
23 facts are in this case and apply the law as I give it to
24 you at the conclusion of the case to the facts as you find
25 them to be, based on evidence introduced during the trial

1 of the case, and thus render a just verdict.

2 Now you must not consider anything that you may have
3 read or heard about this case outside of this courtroom,
4 whether before or during this trial. And until this case
5 is submitted to you by me and I tell you to go to your
6 jury room and actually begin your deliberations, you must
7 not discuss it with anyone, not even your fellow jurors.

8 After I submit this case to you, you must discuss it
9 only with your fellow jurors in your jury room. It's very
10 important, ladies and gentlemen, that each of you keep an
11 open mind and not decide the case until the entire matter
12 has been submitted to you. Why? Because it may be the
13 very last thing in my charge, or an argument, or the last
14 witness, the very last thing you hear that might make a
15 difference to you as a juror in determining the facts of
16 this case. And until you've heard it all, both -- all of
17 the information, whether it be the law or the evidence in
18 this case and get the case submitted to you under my
19 instructions, it would be improper for you to engage in
20 any type of premature deliberations.

21 Now it will be your added duty, Madam Foreperson, to
22 preside in the jury room. You will be the jury
23 spokesperson, should that need arise during the trial of
24 the case out here in the courtroom.

25 It will also be your duty to write the verdict. I

1 will prepare a verdict form for you, and Camden is going
2 to get you to sign where it says "Verdict" on the
3 indictments, and he'll tell you how to do that. So don't
4 leave the courtroom without signing the indictments after
5 the verdict form has been published in the courtroom.

6 Now, a couple of housekeeping matters, and we're
7 ready to start. First of all, we keep it quiet in here.
8 You notice you don't hear people talking. They know to be
9 respectful. It's like going to church. Nobody is
10 supposed to be talking a lot in church, although sometimes
11 that does happen. Sometimes it happens here, but I can
12 assure you I'm here to make sure it stays quiet so you can
13 hear, so Ronda can hear, so my parties can hear, but if
14 anybody on this jury can't hear, raise your hand at any
15 time.

16 We've got microphones for everything in here. I talk
17 loud. I'm used to it. I'm always having to talk loud.
18 That's just the nature of the beast.

19 I've shot a shotgun all my life. I didn't wear ear
20 protection when I should have, and now I've lost the
21 hearing in this ear. So I talk loud.

22 The lawyers, when they go outside and I'm not around,
23 talk about Judge Buckner yelling at them, but the truth of
24 the matter is I just talk loud because I'm deaf in my
25 right ear. So I want you to know that.

1 You're not going to have any problem hearing me, but
2 we are going to (WHEREUPON, THE COURT MOVES HIS LIPS BUT
3 DOES NOT SPEAK OUTLOUD.)

4 You're going to wonder what they said, because
5 they're going to talk real meek. If you can't hear, you
6 let me know, because I want my jury to be able to hear at
7 all times throughout the trial of the case.

8 Now, lawyers love to do this. They love to ask a
9 witness to step down. We've got a portable microphone,
10 but that takes -- you see where Ronda is? She can turn
11 and look at the witness talking, just like she can see my
12 mouth right now when I'm talking. When a witness steps
13 down in front of you because of some exhibit, they've got
14 their back to my court reporter. She can't always tell
15 what they're saying. So another problem that I have to
16 make sure is the court reporter can hear when they want to
17 walk around.

18 Lawyers love to walk back to their table and look
19 down at their file or have their co-counsel talk to them.
20 When they do, then they start asking questions and nobody
21 can understand what the question is. I'll make them speak
22 up. If you can't hear a question, if they engage in
23 conversation when they should be speaking where you can be
24 heard -- or you can hear, you let me know by raising your
25 hand, ladies and gentlemen, because I want you to be able

1 to hear.

2 If an exhibit is admitted into evidence in the trial
3 of this case, and you're not going to see it until I say
4 it's in evidence, but if I admit it into evidence and you
5 can't see it, raise your hand. I want my jurors to be
6 able to hear and to see at all times throughout the trial
7 of the case.

8 Now, Madam Foreperson, we normally do not allow
9 jurors to ask questions out here in the courtroom. If at
10 anytime a member of the jury has a question, here's the
11 procedure we have to follow. If you're not already in
12 your jury room, the entire jury will retire to the jury
13 room. You will write the question on a piece of paper.
14 You'll knock on that door and give the question to my
15 beloved Jo down here. She's going to bring it to me, and
16 then I'll have to rule whether or not the question can or
17 cannot be answered, just as I would any question asked by
18 either one of the attorneys during the trial of the case.
19 Do you understand?

20 **FOREPERSON:** Yes, sir.

21 **THE COURT:** All right. Now, I've tried it both ways.
22 I ask that you do not take notes. Why? You're going to
23 see me up here with a pen writing, and you're going to see
24 Camden, although he's hidden down there in the well, he's
25 writing down there. I can tell you that much. And you're

1 going to wonder: Well, they're writing.

2 Why? I'll tell you why, because I've tried it and
3 I've found that if one of my jurors takes written notes
4 and they make a mistake in their notes, the notes can be
5 harmful back there in the jury room, rather than helpful.
6 So I'm going to ask you not to take written notes.

7 Now Ronda is taping testimony, just audio, not video,
8 and she's making a tape of it. So don't worry about
9 having to remember. If you want to replay the testimony
10 of a witness, we can actually play an audio recording of a
11 witness.

12 Please do not take notes. The time-tested system is
13 for each of you to listen and listen carefully, and I'm
14 sure each of you will do that throughout the trial of this
15 case.

16 Now, I do not intend that you or anyone should
17 construe these remarks that I've just made as a charge on
18 the law, because it hasn't been that. I will charge you
19 the law that applies to this case.

20 I don't know what law applies to this case. Why?
21 Because I haven't heard any evidence, just like you. I
22 don't know what the evidence is going to be in this case,
23 and it's intended that way, so that I'll have an open mind
24 and you'll have an open mind.

25 I will charge you the law that applies to this case

1 at the conclusion of the trial. This has been merely an
2 attempt on my part to briefly explain to you some of the
3 procedure that we will follow in the trial of the case so
4 that you'll have a better understanding as to what may be
5 happening from time to time.

6 Nevertheless, in order to preserve everyone's rights,
7 I will give the parties an opportunity to object or except
8 to anything that I have said. Any exceptions or
9 objections to the Court's comments to the jury from the
10 State of South Carolina?

11 MRS. VAUX: Nothing from the State, Your Honor.

12 THE COURT: From the defendant?

13 MR. HUGHES: None, Your Honor.

14 THE COURT: We will now begin the trial of the case,
15 ladies and gentlemen. I ask you to please give the
16 lawyers your careful consideration.

17 Solicitor?

18 MRS. VAUX: Thank you, Your Honor.

19 Good morning, ladies and gentlemen. It's never easy
20 to sit on a jury panel, and today is no exception.

21 Parents are supposed to provide for their children.

22 They're supposed to love and care for them.

23 They're supposed to protect them. They are supposed
24 to be their ultimate protectors, because they cannot
25 protect themselves.

1 James Watson did not protect his daughter, Minor

2 He raped her, and he robbed her of her childhood.

3 You'll hear testimony about the home that he was
4 raising his children in, about how there were feces on the
5 ground, how it smelled of urine, how it was filthy.

6 You'll hear from the officer who removed Minor and her
7 brother from the home after he went to the home when
8 Minor came to school with a black eye.

9 You'll hear from the foster mother whose care Minor
10 was placed in, how about a month into that foster care she
11 started acting out, acting sexually towards her brother,
12 using objects in the home, and how she made allegations of
13 sexual abuse, and how as a result of that sexual abuse she
14 went to see a forensic interviewer.

15 You will see a video of that testimony. You will
16 also hear from Minor herself, a six-year-old little girl
17 who is now eight years old today. And that's one of the
18 things that makes this hard, because essentially this
19 trial will come down to the believability and the
20 credibility of an eight-year-old little girl.

21 You'll also hear from a couple of other witnesses who
22 will hopefully explain to you the behavior and
23 characteristics of children of sexual abuse. You'll hear
24 from the doctor that examined Minor

25 And after hearing all of this testimony at the end of

1 this case, you will have heard how the defendant, James
2 Watson, committed a sexual battery on his daughter, who
3 was less than eleven years old, and how he placed her at
4 an unreasonable risk of harm for her life, her safety, her
5 mental health. And after hearing all of this evidence and
6 the testimony in this case, I think -- I am confident that
7 you will find that the State has met their burden and
8 proved beyond a reasonable doubt that the defendant, James
9 Watson, is guilty of criminal sexual conduct with a minor
10 in the first degree and of unlawful conduct towards a
11 child. Thank you.

12 **THE COURT:** Mr. Hughes?

13 **MR. HUGHES:** If it please the Court?

14 **THE COURT:** Proceed.

15 **MR. HUGHES:** Good morning. We've been introduced,
16 but I'm going to introduce myself again. I'm Bob Hughes.
17 I'm one of the public defenders. My job is to handle
18 cases in Jasper County.

19 Now, speaking of Jasper County, it is said that if
20 you don't like the weather, wait a day and it will change.
21 Yesterday it was warm. Today it is cool, and this
22 courtroom is fairly cool. I don't mind. I'm wearing a
23 suit and tie, but if you're uncomfortable, let the judge
24 know and he'll have Ms. Margaret change the temperature in
25 here. I want y'all to be comfortable.

1 I'm going to tell y'all a secret. Y'all are going to
2 be bored during part of this. It's not like television.
3 It's not like anything you've ever seen on television.

4 And I know you find it hard to believe that a case
5 like this could ever have boring parts, but it's going to
6 be boring at times, because I'm going to ask questions,
7 she's going to ask questions. People are going to be
8 talking, and depending on whether or not it's at an
9 exciting point or it's at an important part, we're going
10 to be asking some housekeeping questions, and you're going
11 to get bored.

12 I'm going to ask you to overcome that. I'm going to
13 ask you to pay attention. I'm going to ask you to listen
14 carefully to everybody.

15 You don't have to leave your life experience and your
16 common sense at the door when you were chosen as a juror.
17 So listen to everything, watch everything, but base it
18 upon your life experience. Be comfortable.

19 I walk around. I talk a lot, but when I talk, I use
20 my hands. I walk around. I rarely use notes.
21 Occasionally I'll have a notepad here, but I rarely use
22 it.

23 If for some reason or another you didn't hear me, you
24 didn't understand me, I mumbled or something, let the
25 judge know. Judge Buckner is very, very good about

1 telling me to speak up or to repeat what I said.

2 It is important that you hear everything. Listen to
3 everything that is said. Watch everything that you're
4 shown, and more importantly, watch the person talking.
5 Why are they saying that?

6 This is a case with a delicate subject. It is a case
7 that I don't think I'd want my momma hearing some of the
8 things that are going to be said. I apologize to you
9 beforehand.

10 The solicitor and I are going to try to either use
11 words that a child would use to describe the human body
12 and the act of sex, or we're going to use the scientific
13 terms. We're doing that because we don't want you
14 uncomfortable either.

15 We want you to understand what is accused of
16 happening. At the same time, we don't want you to pay
17 more attention to the words that were used instead of what
18 was said.

19 I ask you to keep an open mind, listen carefully, and
20 always remember that you did not leave your common sense
21 at the door, and you did not leave your life experience
22 there. Thank you.

23 **THE COURT:** Call your first witness.

24 **MRS. VAUX:** Thank you, Your Honor. The State calls
25 Deputy Ruiz.

1 ALAHANDRE RUIZ, after being duly sworn,
2 testified as follows:

3 THE COURT: Have a seat for me. Make yourself
4 comfortable. Pull that chair up. Move it up to the
5 microphone. I want you to speak into it. It's going to
6 amplify your voice for the jury.

7 Please begin by stating your full name and spelling
8 your last name for my court reporter.

9 WITNESS: Alahandre Ruiz, R-U-I-Z.

10 THE COURT: Okay. Good. Mr. Ruiz, you've got a good
11 voice. Speak up for me. You don't have to get right on
12 top of it. Just speak up.

13 WITNESS: Okay.

14 THE COURT: Your witness, Counsel.

15 MRS. VAUX: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MRS. VAUX:

18 Q Good morning, Deputy Ruiz.

19 A Good morning.

20 Q Obviously, you're in a uniform. Can you please tell
21 the jury where it is that you work?

22 A Jasper County Sheriff's Office, Patrol Division.

23 Q Okay. And how long have you been an officer or
24 worked with the Jasper County Sheriff's Office?

25 A Five years.

DIRECT EXAMINATION OF ALAHANDRE RUIZ BY MRS. VAUX

143

1 Q And what exactly is your position or your rank?

2 A I am a private first class.

3 Q And what exactly do you do as a private first class?

4 Where do you work?

5 A Currently I'm on Patrol Division. Prior to that I
6 was a school resource officer.

7 Q And were you on duty on May 2nd of 2011?

8 A Yes, ma'am.

9 Q And where were you working that day?

10 A Ridgeland School Campus.

11 Q So you were working as a school resource officer at
12 that point?

13 A Yes, ma'am.

14 Q And where exactly is the Ridgeland School Campus?

15 A It's 250 Jaguar Trail, right off of Grays Highway
16 here.

17 Q Okay. And that's in Jasper County?

18 A Yes, ma'am.

19 Q Can you please tell us what happened on May 2nd that
20 led to your involvement in this case?

21 A On that date I was summoned to the elementary
22 conference room with DSS to sit in on an interview with a
23 child and faculty.

24 Q Okay. And why was that? Why were you called to that
25 interview?

1 A From what I was advised prior to coming to the
2 office, there was a child that was struck in the eye. She
3 was also instructed to lie to the faculty.

4 Q That the child was instructed to lie?

5 A Yes, ma'am.

6 Q And who was that child involved in that interview?

7 A It was Minor

8 Q And you said that she had been struck in the eye.

9 What exactly do you mean?

10 A While I sat in on the interview, I observed that she
11 had a black eye. I can't remember which eye it was. She
12 was interviewed by DSS. I sat there and just observed the
13 meeting.

14 Q And what did you learn as a result of that meeting?

15 A I learned that Minor was hit in the eye. She said
16 that ---

17 MR. HUGHES: Your Honor?

18 MRS. VAUX: You can't tell us what ---

19 THE COURT: Just a moment.

20 MR. HUGHES: This would be hearsay, I believe.

21 THE COURT: Sustained.

22 Mr. Ruiz, please don't testify to what someone else
23 said, unless I instruct you to do so.

24 WITNESS: Okay.

25 THE COURT: Just what you know of your own knowledge

DIRECT EXAMINATION OF ALAHANDRE RUIZ BY MRS. VAUX

145

1 that you saw. Okay? And not what someone else said, that
2 you perceived with your senses.

3 The objection is sustained. Rephrase the question.
4 Direct examination.

5 MRS. VAUX: Thank you, Your Honor.

6 Actually, may I approach, please, to get an exhibit?

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

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

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

13 THE COURT: You may approach, Counsel.

14 MRS. VAUX: I apologize. Thank you, Your Honor.

15 THE COURT: Hand them to the witness and step back,
16 and do not block the witness's view of the witness -- the
17 jury's view of the witness.

18 Q Deputy Ruiz, I've handed you what's marked as State's
19 Exhibits One, Two, and Three. Do you recognize those
20 items?

21 A Yes, ma'am.

22 Q And could you please tell us what those are?

23 A It's Minor [REDACTED] She was in the front conference
24 room of the Ridgeland Elementary School.

25 Q And how do you recognize those pictures?

1 A I sat in while those pictures were taken.

2 Q Okay. And do those photographs fairly and accurately
3 depict Alison's injuries on that day?

4 A Yes, ma'am.

5 Q And have any alterations or deletions been made to
6 those pictures?

7 A No, ma'am.

8 MRS. VAUX: Your Honor, I would enter State's
9 Exhibits One, Two, and Three into admission -- into
10 evidence.

11 THE COURT: Any objection as to State's Numbers One,
12 Two, and Three, Mr. Hughes?

13 MR. HUGHES: None at all, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury, State's
15 Exhibits One, Two, and Three will now be admitted into
16 evidence in the trial of this case, without objection.

17 (WHEREUPON, State's Exhibit No. 1 was admitted into
18 evidence.)

19 (WHEREUPON, State's Exhibit No. 2 was admitted into
20 evidence.)

21 (WHEREUPON, State's Exhibit No. 3 was admitted into
22 evidence.)

23 THE COURT: You may now publish One, Two, and Three
24 to the jury as you desire, Counsel.

25 MRS. VAUX: Thank you, Your Honor.

DIRECT EXAMINATION OF ALAHANDRE RUIZ BY MRS. VAUX

147

1 **THE COURT:** Proceed.

2 **MRS. VAUX:** Actually, may I have Deputy Ruiz step
3 down, if you don't mind?

4 **THE COURT:** Let me have the portable microphone.

5 Ronda, you let me know if you've got a problem.

6 **MRS. VAUX:** Or, Judge, I could actually use the
7 projector, if that will be easier.

8 **THE COURT:** Which ever. It's up to you. Which one
9 do you want to do?

10 **MRS. VAUX:** That way he can stay with the microphone
11 and then the whole jury can see.

12 **THE COURT:** All right.

13 **MRS. VAUX:** May I step up? Thank you.

14 **THE COURT:** Mr. Hughes, can you and your client see
15 on the screen?

16 **MR. HUGHES:** Yes, Your Honor.

17 **THE COURT:** Can everybody on the jury see the screen?

18 **FOREPERSON:** Yes.

19 **THE COURT:** Give the exhibit number for the record
20 when you proceed.

21 **MRS. VAUX:** I apologize. I'm technologically --
22 there we go.

23 **Q** This is State's Exhibit One. Deputy Ruiz, can you
24 please explain -- actually, I may actually need you to
25 step down so that you can point out to the jury.

1 THE COURT: Get me the portable microphone, please.

2 MRS. VAUX: I apologize, Your Honor.

3 THE COURT: Come back here so my jury can see.

4 Ask a question, Counsel.

5 Can you see, Mr. Hughes?

6 MR. HUGHES: Yes, sir.

7 THE COURT: Let me know if you cannot see or hear,
8 any member of the jury panel or opposing party.

9 You may proceed, Solicitor, on direct examination.

10 MRS. VAUX: Thank you, Your Honor.

11 Q Deputy Ruiz, will you please explain to the jury what
12 this is a picture of?

13 A It's a picture of Minor [REDACTED] She has some
14 bruising to her left eye and bruising to her left arm.

15 Q Okay. And can you point out the bruising on the
16 picture, please?

17 A Right in here of the arm, and right there on the left
18 eye.

19 Q Okay. And this is State's Exhibit Two, and I
20 apologize for the quality of the pictures. It's a little
21 difficult to see, but you will be able to have these
22 later. And can you please explain what exactly this is?

23 A It's a picture of the bruising of the left eye.

24 Q Okay. And this is State's Exhibit Three.

25 A It's a closer photograph of the bruising to the eye.

DIRECT EXAMINATION OF ALAHANDRE RUIZ BY MRS. VAUX

149

1 Q Okay. Thank you. Step back up to your seat, please.

2 THE COURT: Come on back up to the witness stand.

3 You can give that to Jo. Have a seat and make yourself
4 comfortable. Readjust the microphone.

5 Proceed.

6 MRS. VAUX: Thank you, Your Honor.

7 Q Deputy Ruiz; in the meeting and the interview with
8 Minor did you ask her how she got the black eye?

9 A No, I did not.

10 Q What happened after your meeting at the school?

11 A Myself and Ms. Reed, a representative of DSS, we went
12 to go do a home visit.

13 Q Okay. And where was that?

14 A I don't know the exact address, but it was on Mill
15 Pond Road and Grays Highway.

16 Q Okay. And when was that home visit conducted?

17 A That was on the same date, May 2nd.

18 Q Okay. And whose home was it that you went to?

19 A It was Mr. Watson and Mrs. Watson's residence.

20 Q And what did you find when you went to the home?

21 A As we entered -- as I entered the residence, I
22 observed the house was a little disheveled. I observed
23 dog feces on the ground. As we were standing there, a dog
24 walked right past us and urinated on a pile of laundry.

25 Q Okay.

1 (WHEREUPON, State's Exhibit No. 4 was marked for
2 identification only.)

3 (WHEREUPON, State's Exhibit No. 5 was marked for
4 identification only.)

5 (WHEREUPON, State's Exhibit No. 6 was marked for
6 identification only.)

7 (WHEREUPON, State's Exhibit No. 7 was marked for
8 identification only.)

9 (WHEREUPON, State's Exhibit No. 8 was marked for
10 identification only.)

11 (WHEREUPON, State's Exhibit No. 9 was marked for
12 identification only.)

13 **MRS. VAUX:** Your Honor, if I may approach?

14 **THE COURT:** You may approach.

15 **Q** Deputy Ruiz, do you recognize those?

16 **A** Yes, ma'am.

17 **Q** And what are they, please?

18 **A** That's a picture of the living room, and you continue
19 to see pictures of the dog feces on the ground.

20 **Q** Where were those photographs taken?

21 **A** Inside the residence.

22 **Q** And how are you able to recognize those?

23 **A** I was there. I was present during the taking of the
24 photos.

25 **Q** And do they fairly and accurately depict the home on

DIRECT EXAMINATION OF ALAHANDRE RUIZ BY MRS. VAUX.

151

1 May 2nd?

2 A Yes, ma'am.

3 Q Okay. And have they been altered or deleted or
4 changed in any way?

5 A No, ma'am.

6 Q Thank you.

7 MRS. VAUX: Your Honor, the State would move to enter
8 exhibits, I believe it's Four through Nine into evidence
9 and ask to publish them to the jury.

10 THE COURT: Have you seen them?

11 MR. HUGHES: Let me ---

12 THE COURT: Hand them to opposing counsel.
13 Four through Nine, inclusive?

14 MRS. VAUX: Yes, Your Honor.

15 THE COURT: Four, Five, Six, Seven, Eight, and Nine,
16 Mr. Hughes.

17 MR. HUGHES: No objections, Your Honor.

18 THE COURT: Ladies and gentlemen of the jury, State's
19 Exhibit Numbers Four, Five, Six, Seven, Eight, and Nine
20 will be admitted into evidence in the trial of this case,
21 without objection.

22 (WHEREUPON, State's Exhibit No. 4 was admitted into
23 evidence.)

24 (WHEREUPON, State's Exhibit No. 5 was admitted into
25 evidence.)

1 (WHEREUPON, State's Exhibit No. 6 was admitted into
2 evidence.)

3 (WHEREUPON, State's Exhibit No. 7 was admitted into
4 evidence.)

5 (WHEREUPON, State's Exhibit No. 8 was admitted into
6 evidence.)

7 (WHEREUPON, State's Exhibit No. 9 was admitted into
8 evidence.)

9 **THE COURT:** You may publish to the jury.

10 **MRS. VAUX:** Thank you, Your Honor.

11 **Q** Deputy, I think you can probably sit there if you can
12 see.

13 **THE COURT:** Turn around. There's a monitor above
14 you. Tell me if you can't see it.

15 **Q** Maybe explain to the jury -- this is exhibit --
16 State's Exhibit Number Four, what this is a picture of?

17 **A** That is the living room, and the dog was on the
18 couch.

19 **Q** Okay. This is State's Exhibit Number Five.

20 **A** Dog feces on the newspapers. Some of it might have
21 been there for a long time, because it was gray,
22 dehydrated, dry.

23 **Q** Okay. And where was this? Do you remember what
24 room?

25 **A** I believe that was also in the living room.

DIRECT EXAMINATION OF ALAHANDRE RUIZ BY MRS. VAUX

153

1 Q Okay. This is State's Exhibit Six. And I know the
2 quality, I apologize, it's a little difficult.

3 A That's dog feces as well.

4 Q Okay. And are we still in the living room here?

5 A Yes, ma'am.

6 Q This is State's Exhibit Seven.

7 A That was the bathroom.

8 Q And State's Exhibit Eight?

9 A Same bathroom.

10 Q And this is State's Exhibit Nine.

11 THE COURT: Ask a question, Solicitor.

12 MRS. VAUX: I apologize.

13 Q Can you please identify what this is a picture of?

14 A That is a picture of the refrigerator, which was
15 located outside of the residence.

16 Q Where was that located?

17 A On the back side of the residence on the porch area.

18 Q Okay. Deputy Ruiz, how would you describe the Watson
19 household?

20 A A mess.

21 Q And what did you do after seeing the condition of the
22 home?

23 A I EPC'd the children.

24 Q And what do you mean by EPC'd?

25 A I took them into custody, emergency protective

1 custody.

2 Q And what does that entail?

3 A On observation of the safety of the children, they
4 were turned over to DSS where they were placed in
5 temporary foster care.

6 Q And why was that? What was the basis for the
7 emergency protective custody?

8 A I felt at that time it was not a good situation for
9 the children to be at that residence, due to the condition
10 of the residence and the reason why we were there.

11 Q And what was that?

12 A Because of the child being struck in the eye.

13 Q Okay. Who was home at the time you went to the
14 house?

15 A Mr. and Mrs. Watson.

16 Q Okay. And did you speak to either of the parents?

17 A No. I just observed what was going on.

18 Q Okay. And do you recognize the defendant in the
19 courtroom today?

20 A Yes, ma'am.

21 Q And will you please point him out?

22 A Mr. Watson.

23 Q Say what he is wearing.

24 A He's wearing a flannel kind of shirt, glasses.

25 MRS. VAUX: Your Honor, will you please let the

CROSS-EXAMINATION OF ALAHANDRE RUIZ BY MR. HUGHES

155

1 record reflect that the witness pointed out the defendant
2 and identified him?

3 **THE COURT:** Proceed.

4 **Q** Deputy Ruiz, what was the reaction of the parents
5 when you took the children into protective custody?

6 **A** They had minimal reaction.

7 **Q** Okay. And what about the children?

8 **A** The children were pretty shaken up. They were
9 crying, because they were taken out of the residence.

10 **Q** And you said in describing the home that you would
11 describe it as a mess. In your experience as a police
12 officer, have you seen a home like that before?

13 **A** Very seldom do I go into a residence like that.

14 **Q** Okay. Thank you. Please answer any questions that
15 the defense may have.

16 **A** Yes, ma'am.

17 **THE COURT:** Cross-examination?

18 **MR. HUGHES:** Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. HUGHES:

21 **Q** Deputy Ruiz, good morning.

22 **A** Good morning, sir.

23 **Q** Did you see **Minor** get injured in any way,
24 shape, or form?

25 **A** No, I was not present when she got injured.

1 Q And you said the house was a mess.

2 A Yes, sir.

3 MR. HUGHES: No further questions, Your Honor.

4 THE COURT: Redirect?

5 MRS. VAUX: Nothing from the State, Your Honor.

6 THE COURT: As to this witness, may he be excused
7 from the trial of this case, or are you going to ask him
8 to remain, subject to my order pretrial?

9 MRS. VAUX: He can be excused, Your Honor.

10 THE COURT: Any objection, Mr. Hughes?

11 MR. HUGHES: None at all, Your Honor.

12 THE COURT: Deputy Ruiz, you may step down from the
13 witness stand, and you are excused from the trial of this
14 case, and you may leave the courtroom, as you desire.

15 WITNESS: Thank you, sir.

16 THE COURT: Call your next witness.

17 MRS. VAUX: The State calls Janell Barker.

18 THE COURT: Please come around and be sworn by the
19 clerk.

20 GLADYS JANELL BARKER, after being duly sworn,
21 testified as follows:

22 THE COURT: Watch your step there for me. Have a
23 seat. Make yourself comfortable.

24 Pull that chair up and adjust that microphone. It's
25 going to amplify your voice. You can pull it up or down

DIRECT EXAMINATION OF G. JANELL BARKER BY MRS. VAUX

157

1 or sideway, anything you want to do.

2 WITNESS: Okay.

3 THE COURT: State your full name, and spell your last
4 name for my court reporter.

5 WITNESS: Okay. My full name is Gladys Janell
6 Barker, and my last name is B-A-R-K-E-R.

7 THE COURT: Your witness, Counsel. Direct
8 examination.

9 MRS. VAUX: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MRS. VAUX:

12 Q Good morning, Ms. Barker.

13 A Good morning.

14 Q Would you please tell the jury a little bit about
15 yourself? You are **Minor** and James' foster mother; is
16 that correct?

17 A That's right.

18 Q Okay. How long have you been a foster parent?

19 A Well, I was a foster parent a good many years. Back
20 in '85 I was a foster parent, and my husband passed away.
21 So when he passed away, I sort of went away from it for a
22 little while, and then I started back. It's something I
23 love to do, because I love children.

24 Q Ms. Barker, how did you become involved in this case?

25 A Well, they were placed with me in my care.

1 Q Okay. And when was that?

2 A May 2nd, I think it was.

3 Q Okay. And do you know why they were removed from
4 their home and placed in foster care?

5 A I believe it was for physical abuse.

6 MR. HUGHES: Your Honor?

7 THE COURT: Yes, sir?

8 MR. HUGHES: I believe that would be hearsay.

9 THE COURT: Sustained. Don't ask her to give a legal
10 opinion or matters for which she is not so qualified,
11 Counsel. Do you understand?

12 MRS. VAUX: Yes, Your Honor.

13 THE COURT: Proceed.

14 MRS. VAUX: Thank you.

15 THE COURT: The objection is sustained.

16 Ladies and gentlemen of the jury, please disregard
17 the last answer from that witness.

18 Direct examination. Proceed.

19 MRS. VAUX: Thank you, Your Honor.

20 Q Ms. Barker, how old were the children at the time
21 they were placed in your care?

22 A **Minor** was six and James was four.

23 Q Okay. And will you please tell us a little bit about
24 them when they first arrived at your house?

25 A Well, they were loving kids. They had problems, a

DIRECT EXAMINATION OF G. JANELL BARKER BY MRS. VAUX

159

1 lot of behavioral problems that you would expect from
2 young children, you know, jumping on beds and, you know,
3 things like that, but they were very loving kids.

4 Q And how did they appear when you first got them?

5 A Well, you know, they were a little quiet. **Minor** had
6 a black eye and a bruise on her arm. Little James seemed
7 calm, and other than that, you know, they were just
8 lovable children.

9 Q And how was their health at the time that they came
10 to you?

11 A Well, there was -- they needed to go to the dentist,
12 which their teeth were pretty bad. And I took them to the
13 dentist in Walterboro. They had to go to the pediatrician
14 for a check-up, and I took them there.

15 James was born with arhythmic heart rate, and when I
16 found this out, I took him to Charleston to see Dr. Reid,
17 because I wasn't sure of what, you know, after birth up
18 until then if there were any problems, and I needed to
19 know this for myself.

20 So when I took him up there, Dr. Reid says: I am so
21 glad to see James, because he was supposed to come to me
22 every year for a check-up, and this was the first time he
23 had seen him in four years.

24 He checked him out, and James seemed to be doing
25 pretty good.

1 Q Good. And how about their hygiene, how was the
2 children's hygiene?

3 A Well, the children, when they came to me didn't know
4 how to brush their teeth. They didn't know how to bathe.
5 And you would take them in and you would put the soap and
6 everything on a cloth, and you had to teach them. And it
7 took a while, but we had to teach them their hygiene.

8 Q And how did the children get along together? How did
9 James and **Minor** play together?

10 A Well, they did pretty good, but **Minor** from time to
11 time, she always wanted to be in charge. And she would
12 hit her brother from time to time. Then when I would put
13 them down to watch cartoons, she would want to kiss him in
14 the mouth. And I had to talk to her about that to let her
15 know this is not what little girls, you know, are supposed
16 to do. And I had to watch them with that.

17 Q When was the first time that you noticed something a
18 little bit different about **Minor**

19 A Well, in June I had put the kids out in the pool, and
20 I keep a close watch on them when I've got them together.
21 And when I happened to look out, I seen **Minor** and she had
22 **JW** penis in her hand and was pulling her bathing suit
23 to one side. And I walked out to the pool, and her back
24 was to me and I walked up. She didn't even know I was
25 there hardly.

DIRECT EXAMINATION OF G. JANELL BARKER BY MRS. VAUX

161

1 So I didn't say anything. I said: Okay. It's time
2 to go in. We've got to have lunch.

3 So I took them in, give them their clothes, got them
4 dressed. We had lunch and then I sat both of them down.
5 And the conversation was the right touch and wrong touch,
6 what you're supposed to do and what you're not supposed to
7 do.

8 Q And what happened after the pool incident?

9 A Well, after that, Minor was a little quiet when she
10 come out, but then she started things like picking up
11 objects and she'd go in the bathroom and she would want to
12 stay longer than a child normally. So I had to start
13 watching her, and she got to where I would find her with
14 the hairbrushes.

15 (WHEREUPON, WITNESS BEGAN CRYING.)

16 A This is very emotional.

17 Q I understand.

18 THE COURT: Give her some water. Take your time.

19 MRS. VAUX: Take your time.

20 THE COURT: I'm going to get you some water. Ma'am,
21 would you like a tissue?

22 A She would use different objects, and I was afraid she
23 was going to hurt herself.

24 Q And when you say -- I'm sorry. I know it's
25 difficult, but when you say she would use different

1 objects, what was she doing?

2 A Putting them in her vagina.

3 Q Okay.

4 A And then she got to where she -- I walked in one day,
5 and she was masturbating.

6 Q And what did you do at that point?

7 A Well, I noticed, you know -- excuse me. I told her
8 that I wished, you know, that she wouldn't do these
9 things, because I was afraid that she would end up hurting
10 herself. And she said: No, I won't hurt myself.

11 MR. HUGHES: Your Honor, that would be hearsay, I
12 believe.

13 THE COURT: Sustained. Don't refer to what someone
14 else said, unless I instruct you to do so.

15 Proceed.

16 MRS. VAUX: Thank you, Your Honor.

17 Q Did you notify anybody after what you saw happen in
18 the pool?

19 A Yes, I did. I called Ms. Anna Eady and those at DSS
20 and reported what had happened.

21 Q And did you ask **Minor** any questions about what
22 happened?

23 A No, ma'am.

24 Q And what happened when you notified DSS?

25 A When I notified DSS, they set up an appointment for

DIRECT EXAMINATION OF G. JANELL BARKER BY MRS. VAUX

163

1 her to go to Hope Haven, and we took her to Hope Haven.
2 And from Hope Haven, we took her to Charleston to
3 forensic.

4 Q Let me ask you, what did they do at Hope Haven? Do
5 you know?

6 A Well, I think they took **Minor** in. I was in the
7 waiting room. I was not in the room with her. I think
8 they did an interview with **Minor**

9 Q And you said after that -- so you weren't involved in
10 the interview, but are you aware of what was disclosed in
11 the interview?

12 A I didn't know until court when we seen the tapes of
13 all that she said and did, you know, at that time.

14 Q Okay. And what about -- you said after the interview
15 she had a medical exam?

16 A Yes, ma'am.

17 Q Okay. And did you attend that with her?

18 A Yes, I did.

19 Q All right. And did she make any statements regarding
20 any sexual abuse to the doctor?

21 A The one thing I heard her mention she said: ---

22 **MR. HUGHES:** Your Honor, again, this is hearsay.

23 **MRS. VAUX:** Don't ---

24 **THE COURT:** Sustained.

25 Do not elicit statements from another person.

1 The objection is hearsay. The objection is
2 sustained.

3 Proceed, Counsel.

4 MRS. VAUX: Thank you.

5 Q Don't -- I apologize if I'm asking the question
6 wrong, ---

7 A Okay.

8 Q --- but try not to tell us what was told to you, just
9 what you know.

10 A Okay.

11 Q Did you notice any change in Alison's behavior after
12 the pool incident?

13 A She got to where she wasn't bothering James as bad
14 after we had the talk, but I still had to watch them. But
15 she got a little worse with the masturbation part. And
16 then she would want to talk, and we would sit and listen.

17 Q And what was she talking about? Don't tell us what
18 she said, but what was the substance?

19 A She was talking about the sex and things that was
20 done.

21 Q And done in what way do you mean?

22 A Sexual things done to her, being kissed in the mouth,
23 penis in her mouth.

24 Q Okay. Don't tell us what she said.

25 A No.

DIRECT EXAMINATION OF G. JANELL BARKER BY MRS. VAUX

165

1 Q I apologize. Besides the pool incident and the
2 masturbation, did you ever see Minor exhibit any other
3 behaviors?

4 A One time I seen her standing in front of the mirror.
5 She had pulled her gown up and was playing with her
6 breasts.

7 Q Okay. Anything else that you saw?

8 A No.

9 Q How old was Minor at the time that all of this was
10 going on?

11 A Minor was six and turned seven.

12 Q In all your years as a foster parent, have you ever
13 seen anything like this before?

14 A No, ma'am.

15 Q How did you deal with it?

16 A Well, we've always been told when we go to workshops
17 every month and -- when -- on abuse and all kinds of
18 things that go on, and the one thing that we were told is
19 you listen to a child. You make that child feel safe, but
20 you do not pound them with questions.

21 Q And you said that Minor disclosed to you that she
22 had been the victim of sexual abuse. Did she ever say
23 that there was more than one person ---

24 THE COURT: Just a moment.

25 MR. HUGHES: Your Honor, she's eliciting hearsay.

1 **THE COURT:** Leading and hearsay, Counsel.
2 Objection is sustained.
3 Direct examination. Proceed.
4 **Q** Ms. Barker, is **Minor** still living with you now?
5 **A** No, ma'am.
6 **Q** And why is that?
7 **A** With everything that went on, they put **Minor** in a
8 therapeutic home so that she could get therapy.
9 **Q** And what about James?
10 **A** James is still with me.
11 **Q** And how is he doing?
12 **A** James is doing wonderful.
13 **Q** Do you have any children of your own, Ms. Barker?
14 **A** Yes, I have three.
15 **Q** What about grandchildren?
16 **A** I have three grandchildren, four great-grandchildren
17 -- I mean, four step-grandchildren.
18 **Q** And in your experience with them, have you dealt with
19 anything that you dealt with like you did with **Minor**?
20 **A** No, ma'am.
21 **Q** Thank you. Please answer any questions that the
22 defense might have.
23 **THE COURT:** Cross-examination?
24 **MR. HUGHES:** Thank you, Your Honor.
25 CROSS-EXAMINATION

CROSS-EXAMINATION OF G. JANELL BARKER BY MR. HUGHES

167

1 BY MR. HUGHES:

2 Q Good morning, Ms. Barker.

3 A Good morning.

4 Q I'm also going to try to avoid asking any questions
5 that might elicit hearsay or be leading. How was Alison's
6 behavior from the time you got her up until the pool?

7 A Up until the pool? Well, up until that, she would,
8 you know, hit her brother. She would try to kiss her
9 brother when they were watching cartoons. She would want
10 to get on James and kiss him, and I had to constantly keep
11 her separated from James. And then the pool incident
12 happened, and ---

13 Q But didn't you have problems with her getting up in
14 the middle of the night, wetting the bed, wetting herself,
15 not listening to you?

16 A Yes, sir. She did get up in the middle of the night,
17 and I was constantly putting her back into her bed. At
18 first when this happened, I was -- my understanding was
19 that they had a room together, her and her brother. And
20 when this first happened, I thought that she was used to
21 being in the room with JW and that she was wanting to
22 be in the room with JW, but I didn't know at that time
23 that ---

24 Q Okay. But you didn't ---

25 THE COURT: Hold on a second, Counsel. Let her

1 finish her answer.

2 Q Okay. I'm sorry. Go ahead.

3 THE COURT: Don't cut her off.

4 Q I apologize.

5 THE COURT: Finish your answer.

6 A I didn't know at the time that it was anything like
7 this. It was after this that everything started coming
8 out, the pool incident, and the kissing of the mouth and
9 all of this.

10 Q Okay.

11 A And then I understood, as a mother and as a
12 grandmother, this was not normal behaviors.

13 Q Now you say that after the pool incident, you found
14 her masturbating with objects; correct?

15 A Yes, sir.

16 Q And was she inserting the objects or ---

17 A No, sir. She wasn't inserting them. She was playing
18 with herself with the objects.

19 Q Okay. Now, let's see. You -- have you had any
20 training as a forensic interviewer?

21 A No.

22 Q What training have you had as far as handling
23 children who may or may not have been abused?

24 A I have had adult children that came into my care
25 because of pornography, but I've never had any small child

CROSS-EXAMINATION OF G. JANELL BARKER BY MR. HUGHES

169

1 in my care as far as all the sex and masturbation and all
2 the stuff that I've had with **Minor**

3 Q Okay. So the answer would be none. You had no ---

4 A Right.

5 Q Okay. Now, you used the word penis earlier. What do
6 you generally refer to the male organ as? I'm sorry if
7 that's an embarrassing question, but there's a reason for
8 it.

9 A Well, I say penis, because ---

10 Q Okay. And most adults do. You say penis.

11 A That's what I say.

12 Q Okay. That's all I had -- all I wanted to know was
13 just that. I know that's a very embarrassing question.

14 A Yes, it is.

15 Q And I don't think ---

16 **THE COURT:** Proceed, Counsel. Ask a question. Don't
17 make a statement.

18 **MR. HUGHES:** I apologize. I apologize, Your Honor.

19 Q How long was it from the time of the pool to going to
20 Hope Haven?

21 A I think I went to Hope Haven in June.

22 Q Okay. And the pool I believe was in late ---

23 A June. Around the first of June.

24 Q Okay. So it was about a week, two weeks?

25 A I'd say maybe June 15th. I'm really not sure of the

1 date, but I know it was in June.

2 Q So about two weeks.

3 A Probably.

4 Q Did **Minor** get injured often when she was in your
5 care, bruising and things like that?

6 A No.

7 Q Didn't you catch her jumping on the bed a number of
8 times?

9 A Well, she jumped on the bed, but she never fell off,
10 because I would always -- I kept a close eye on these
11 children. I always have.

12 Q And so she had not been injured when she went to Hope
13 Haven at your place.

14 A No.

15 Q Okay.

16 MR. HUGHES: No further questions, Your Honor.

17 THE COURT: Redirect?

18 MRS. VAUX: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MRS. VAUX:

21 Q Ms. Barker, you said that **Minor** would wake up in the
22 night. What would she do when she was waking up?

23 A She would get up and go to **JW**'s room.

24 Q And what was she doing in **JW**' room? Do you know?

25 A Well, she -- when I would hear her, because I'm not a

REDIRECT EXAMINATION OF G. JANELL BARKER BY MRS. VAUX

171

1 very heavy, heavy sleeper, and I would go in, and she
2 didn't want to be alone. That would be her words, she
3 didn't want to be alone.

4 And just like I said before, I think it was because
5 she shared a room with JW, and she was so used to being
6 there with him, until being in a foster home, which is
7 very difficult for a young kid, too. So she probably felt
8 safer by going into the room with her brother, because
9 that's what she was used to.

10 Q You said you caught her playing with herself with
11 objects. What sort of objects?

12 A Well, she started in the bathroom with the plunger,
13 and I took it and put it away. And then I caught her with
14 hairbrushes. Then one day I caught her, she had a plastic
15 clothes hanger in between her legs, and I was very scared
16 she was going to hurt herself. And so I finally told her
17 that, you know, we can't be doing this, because you're
18 going to end up hurting yourself. And then I caught her
19 masturbating.

20 Q And you said that these were not normal behaviors, in
21 your opinion.

22 A In my opinion they're not, not for little girls.

23 Q And how did you deal with these, you know, if it
24 wasn't something that you were used to? Did you contact
25 anybody? I know that you told Mr. Hughes that you didn't

1 have any training.

2 A I have no training as far as in, you know, doctors
3 and all that. I've got a little medical training as far
4 as a nursing assistant, but I did what I was supposed to
5 do as a foster parent, make sure that this child was taken
6 care of, report anything that came up.

7 And that's why I called DSS, because I felt like if
8 this was going on, there was something else. I couldn't
9 say what, but it had to be reported.

10 Q And what about after she went to Hope Haven, did
11 **Minor** ever receive any treatment?

12 A She went to counseling twice in Hampton, while she
13 was with me. And when they transferred her to a
14 therapeutic home, I'm not sure if she got counseling, but
15 I'm sure she probably did.

16 Q Okay. And did you ever speak to the counselor?

17 A Yes, I did.

18 Q And did you ask her at all how to handle these
19 behaviors?

20 A Well, you know, she said just don't ask questions,
21 because really and truly, I wouldn't have been trained to
22 ask questions to this child. The only thing I could do
23 was listen and be there to at least let her know that what
24 happens is not her fault.

25 Q And you said that you reported -- you contacted DSS

RE-CROSS-EXAMINATION OF G. JANELL BARKER BY MR. HUGHES

173

1 when these behaviors were happening.

2 A Right. Right.

3 Q Did you also notify her counselor of these behaviors?

4 A Ms. West, yes.

5 Q Thank you.

6 MRS. VAUX: Nothing further, Your Honor.

7 THE COURT: Recross, limited to redirect?

8 RE-CROSS-EXAMINATION

9 BY MR. HUGHES:

10 Q Did you ever take her to DSS to have them talk to
11 her?

12 A Yes, I did. I took her up there to see Ms. Eady and
13 I believe Ms. Janiqua Reed.

14 Q And something -- you said she wanted to sleep with
15 her brother. Why didn't you let her?

16 A Wanted to do what?

17 Q You said she got up in the middle of the night to go
18 into her brother's room, and you thought she wanted to
19 sleep with her brother. Why didn't you let her?

20 A Because the law is with a foster parent, each child
21 has to have their own room. We're not supposed to put
22 them in the bed together.

23 Q Thank you.

24 MR. HUGHES: No further questions, Your Honor.

25 THE COURT: As to this witness, Solicitor? May she

1 be excused?

2 MRS. VAUX: We would ask that she remain, subject to
3 recall, Your Honor.

4 THE COURT: And you've advised her of my order?

5 MRS. VAUX: Um, ---

6 THE COURT: Counsel, approach.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
8 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
9 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THEIR
10 PRESENCE AND HEARING:)

11 THE COURT: Ms. Barker, I'm going to ask you to step
12 down from the witness stand, and I'm going to ask you to
13 remain with us. One of the attorneys for the State is
14 going to speak to you briefly and give you instructions
15 about where you'll need to go and what you'll need to do.
16 Okay?

17 WITNESS: Okay.

18 THE COURT: Thank you very much.

19 WITNESS: Thank you.

20 THE COURT: Watch your step leaving the witness
21 stand.

22 Counsel, ---

23 MRS. VAUX: Thank you, Your Honor.

24 THE COURT: --- please instruct the witness, per my
25 previous order, Counsel.

1 (WHEREUPON, A BREAK WAS TAKEN. THEREAFTER, THE
2 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
3 PRESENCE AND HEARING OF THE JURY:)

4 MRS. VAUX: Thank you, Your Honor.

5 THE COURT: Call your next witness.

6 MRS. VAUX: The State calls Minor

7 THE COURT: Counsel, approach.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
9 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
10 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
11 PRESENCE AND HEARING OF THE JURY:)

12 THE COURT: All right, ladies and gentlemen, I'm
13 going to ask those of you that are in the courtroom to
14 please step out during this next witness, please. Please
15 step out of the courtroom at this time.

16 Minor she's going to open the door for you. Watch
17 your step right there, because I've got a big step. Have
18 a seat for me right there. Make yourself comfortable.

19 Pull her chair up a little bit, Jo. There we go.

20 All right, Minor we've got it. Now that microphone
21 is going to make ---

22 WITNESS: Hello.

23 THE COURT: Yeah, it's going to make you talk loud.

24 All right.

25 Minor my name is Perry Buckner, and I understand

1 your name is Minor [REDACTED] is that right?

2 WITNESS: Yes.

3 THE COURT: All right. I need to ask you a couple of
4 questions. Okay?

5 WITNESS: Yes.

6 THE COURT: Obviously you see I'm wearing a robe.
7 I'm the judge in the trial. You understand that?

8 WITNESS: (NODDED AFFIRMATIVELY.)

9 THE COURT: Minor [REDACTED] let me ask you this; how old are
10 you?

11 WITNESS: I'm eight years old.

12 THE COURT: Eight years old.

13 Do you know the difference between right and wrong?

14 WITNESS: Yes, sir.

15 THE COURT: Do you know it's right to tell the truth,
16 and it's wrong to tell something that is not the truth?

17 WITNESS: Yes, sir.

18 THE COURT: All right. You know it would be bad if
19 you told something that was not the truth. Do you
20 understand that?

21 WITNESS: Yes, sir.

22 THE COURT: Will you be telling us the truth today?

23 WITNESS: Yes, sir.

24 THE COURT: Now what's going to happen is this nice
25 lady right below me is going to ask you to put your hand

DIRECT EXAMINATION OF **Minor** BY MRS. VAUX

177

1 on a Bible. You know what a Bible is?

2 **WITNESS:** Uh-huh.

3 **THE COURT:** All right. She's going to ask you to put
4 your hand on the Bible. Can you stand there?

5 And she's going to ask you to raise your right hand.
6 Raise your other hand up in the air. All right.

7 And she's going to ask you to promise to tell the
8 truth. Do you understand what that is?

9 **WITNESS:** Yes, sir.

10 **THE COURT:** All right.

11 **Minor** after being duly sworn, testified
12 as follows:

13 **THE COURT:** Thank you. You can put your hand down.

14 Now, I want you to talk into the microphone so that
15 everybody on the jury can hear you and the people out here
16 in the courtroom can hear you. Okay, **Minor**

17 **WITNESS:** Okay.

18 **THE COURT:** All right.

19 All right, Counsel, you may proceed. Direct
20 examination.

21 **MRS. VAUX:** Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MRS. VAUX:

24 **Q** Hi, **Minor**

25 **A** Hi.

- 1 Q I know you told us that you're eight. When is your
2 birthday?
- 3 A May 15, 2012.
- 4 Q Okay. So you just turned eight not too long ago;
5 right?
- 6 A Yes.
- 7 Q Okay. And do you have any brothers or sisters?
- 8 A Yes, ma'am.
- 9 Q What do you have?
- 10 A I have a brother, **JW**, and my sister who died, and
11 my other baby brother named **AW**.
- 12 Q Okay. And, **Minor** where do you go to school?
- 13 A
- 14 Q What grade are you in?
- 15 A Second grade.
- 16 Q Do you like school?
- 17 A Yes, ma'am.
- 18 Q Do you do well in school?
- 19 A Yes, ma'am.
- 20 Q Good. **Minor** do you know why you're here today?
- 21 A Yes, ma'am.
- 22 Q Okay. I'm going to show you some pictures.
- 23 **MRS. VAUX:** Your Honor, if I may approach?
- 24 **THE COURT:** You may.
- 25 Q This is State's Exhibit One, Two, and Three. **Minor**

1 can you tell me what this is?

2 A That's where my -- that's when my dad punched me in
3 the eye when he was playing a game.

4 Q Okay. Can you tell me what this is, State's Exhibit
5 Two, what that's a picture of?

6 A That's when he punched me in my eye and gave me a
7 black eye.

8 Q Okay. And this is State's Exhibit Three. What is
9 that?

10 A Black eye again.

11 Q Okay. And those are you in the picture?

12 A Yes, ma'am.

13 Q Okay. Minor [REDACTED] you said you got those because your
14 dad punched you in the eye. Why did he punch you in the
15 eye?

16 A Because one morning he woke me up and -- and he -- he
17 was playing a game that morning, and he was -- and he told
18 me everyday to hold him on his lap while he was playing
19 the game so he won't -- so he will not lose the game. And
20 then he just punched me. I went in the corner of the bed.

21 Q Okay. What -- what -- was anybody else home when
22 this happened?

23 A Yes, ma'am.

24 Q Who was home?

25 A My grandmom, Marilyn, was and my mom and he was, my

1 dad.

2 Q And did you go see a doctor after that happened?

3 A No, ma'am.

4 Q Okay. And did you tell anyone what happened?

5 A No, ma'am.

6 Q Okay. And were your mom or your grandmother, were
7 they in the room when that happened?

8 A No, ma'am, only my brother.

9 Q And why didn't you tell anybody what happened?

10 A Because my dad told me not to tell anyone, even my
11 mom, because -- because if I did, he would keep on doing
12 it.

13 Q Okay.

14 A Over and over again.

15 Q Minor was that the first time that your dad hit
16 you?

17 A Yes, ma'am.

18 Q And other than when he hit you in the eye, did he
19 touch you anywhere else on your body?

20 A Yes, ma'am.

21 Q Okay. Can you tell me about that?

22 A Yes, ma'am.

23 Q Where did he touch you?

24 A On my bottom and on my coochie.

25 Q Okay. And what did he do when he touched your bottom

1 and your coochie?

2 A He was -- he was being disgusting and doing something
3 that he wasn't supposed to be doing to me.

4 Q Okay. And what -- what exactly was he doing, and I'm
5 sorry, I know it's hard but I want you to tell us, because
6 all these jurors, they don't know what happened. So I
7 want you to tell us. Okay?

8 A He was sexually abusing me, and it kept on hurting.
9 And one morning when my mom was spending the night two
10 days with her mom and her dad, he was doing something to
11 my coochie, and he made it bleed.

12 Q And how did that feel, Minor

13 A It -- it felt bad, and I was afraid.

14 Q And where did this happen?

15 A On the bed in the bedroom.

16 Q Okay. And do you know how many times it happened?

17 A That was the first time.

18 Q And was anybody else home when that happened?

19 A Yes, ma'am. Only my two -- my grandma's two dogs and
20 my mom.

21 Q Your mom was home when that happened?

22 A (NODDED AFFIRMATIVELY.)

23 THE COURT: You have to say yes or no, Minor Don't
24 shake your head. Say yes or no.

25 WITNESS: Yes.

- 1 **THE COURT:** That's right. Okay.
- 2 **Q** Okay. And did you tell your mom?
- 3 **A** No, ma'am.
- 4 **Q** Why not?
- 5 **A** Because my dad told me not to.
- 6 **Q** Okay. And did you ever tell anybody else what
7 happened?
- 8 **A** No, ma'am.
- 9 **Q** And why not?
- 10 **A** Because my dad told me not to tell anyone.
- 11 **Q** **Minor** how did it feel when your dad was doing those
12 things to you?
- 13 **A** It felt really bad, and it was really worse.
- 14 **Q** Worse. Did it hurt?
- 15 **A** Yes, ma'am.
- 16 **Q** And you said that there was some blood. Where did
17 the blood come from?
- 18 **A** My coochie.
- 19 **Q** And what happened to the blood after you bled?
- 20 **A** He put a blood diaper on me.
- 21 **Q** Okay. And, **Minor** when this happened, I know that
22 you said that blood came out of your coochie; did anything
23 come out of your dad's body?
- 24 **A** No, ma'am.
- 25 **Q** Did you ever tell anybody about the blood?

1 A No, ma'am -- I mean, yes, ma'am. I told my grandmom.

2 Q Okay. And what did your grandmother do? Did she do
3 anything?

4 A No, ma'am.

5 Q Okay. Did you ever go to a doctor?

6 A No, ma'am.

7 Q Minor [REDACTED] has anybody else touched you on your body or
8 in your private parts?

9 A No, ma'am.

10 Q And I'm sorry, just a couple more questions. Minor [REDACTED]
11 you said -- I asked you where did this happen when your
12 dad touched you, and you said the bedroom. Did it happen
13 anywhere else?

14 A Yes, ma'am.

15 Q And where was that?

16 A Mine and my brother's bedroom and the bathroom.

17 Q Okay. And this is the bedroom and the bathroom at
18 your house?

19 A Yes, ma'am.

20 Q Okay. And was anybody home when those other times
21 happened?

22 A No, ma'am.

23 Q Okay. Thank you, Minor [REDACTED] Answer some questions,
24 okay, that Mr. Hughes is going to ask you. Okay?

25 THE COURT: Cross-examination?

1 MR. HUGHES: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. HUGHES:

4 Q Good afternoon, **Minor**. My name is Bob Hughes. I am
5 an attorney. I've just got a few questions for you. How
6 old are you?

7 A I'm eight years old.

8 Q Okay. Do you go to school?

9 A

10 Q Are you doing good in school?

11 A Yes, sir.

12 Q What's your favorite subject?

13 A Art and science.

14 Q Where are you living now?

15 A I'm living in foster care.

16 Q Okay. What city?

17 A South Carolina.

18 Q Okay. Now, do you remember living with Ms. Baker?

19 I'm sorry, Ms. Barker, the lady that was ---

20 A Yes, ma'am -- yes, sir.

21 Q Okay. You remember living with her?

22 A Yes, sir.

23 Q She was nice living there?

24 A Yes, sir.

25 Q Do you remember talking to her about things that your

- 1 father had done?
- 2 A Yes, sir.
- 3 Q Now, did she ask you questions?
- 4 A No, sir.
- 5 Q What did she tell you?
- 6 A That -- that it's all right. We'll be here for a
7 couple of years.
- 8 Q Okay. Now, did you talk to anybody with DSS?
- 9 A Yes, sir.
- 10 Q Ms. Anita, did you talk with her?
- 11 A Yes, sir.
- 12 Q Did she ask you questions?
- 13 A Yes, sir.
- 14 Q Did she ask you a lot of questions?
- 15 A No, sir, just some.
- 16 Q About how long did it take?
- 17 A Well, a couple of minutes.
- 18 Q Okay. And do you remember talking to Ms. Hefner?
- 19 A No, sir.
- 20 Q Okay. Now, you say your daddy put something in your
21 coochie?
- 22 A Yes, sir.
- 23 Q How far in did he put it?
- 24 A For two weeks.
- 25 Q Okay. And that hurt bad?

- 1 A Yes, sir.
- 2 Q And it made you bleed?
- 3 A Yes, sir.
- 4 Q Okay. Did he -- and this happened in his -- your --
5 his bedroom?
- 6 A Yes, sir.
- 7 Q Now when you got the black eye, do you remember what
8 your daddy was playing?
- 9 A Yes, sir.
- 10 Q You do or don't? You do?
- 11 A Yes, sir.
- 12 Q What was he playing?
- 13 A He was playing um the shooting -- the shooting game.
- 14 Q And who else was in there with you?
- 15 A Just my brother and me and my dad.
- 16 Q Now you were sitting next to your brother?
- 17 A No, I was sitting next to my dad, and my brother was
18 sitting next to me.
- 19 Q And do you remember a little chair down at the bottom
20 of the bed, a little plastic chair?
- 21 A Yes, sir.
- 22 Q Now, didn't you tell people you fell off and hit that
23 chair?
- 24 A Yes, sir.
- 25 Q Okay. Now, what type of dogs did your grandma have?

- 1 **A** Lilly um -- Lilly and Lasha.
- 2 **Q** Okay. Were they big dogs or little dogs?
- 3 **A** Little dogs.
- 4 **MR. HUGHES:** Where are the exhibits?
- 5 **FOREPERSON:** Right here.
- 6 **MR. HUGHES:** May I approach the witness, Your Honor?
- 7 **THE COURT:** You may.
- 8 **Q** I'm going to show you what has been marked State's
- 9 Exhibit Four. I know that sounds strange, but that's the
- 10 way we talk here. Who is that?
- 11 **A** That is Lilly.
- 12 **Q** That's Lilly? Okay. And Lilly stayed in the home?
- 13 Lilly stayed at the house with you?
- 14 **A** Yes, sir.
- 15 **MR. HUGHES:** May I show the jury what I pointed out,
- 16 Your Honor?
- 17 **THE COURT:** You may. It's in evidence.
- 18 **MR. HUGHES:** Okay. All I did was just show her the
- 19 dog.
- 20 **Q** Now, Lilly stayed inside?
- 21 **A** Yes, sir.
- 22 **Q** About how old is Lilly?
- 23 **A** About two months.
- 24 **Q** About two months? Okay. Lilly's a puppy?
- 25 **A** Yes, sir.

1 **MR. HUGHES:** I don't think I have any further
2 questions, Your Honor.

3 **THE COURT:** Redirect?

4 **MRS. VAUX:** Nothing from the State, Your Honor.

5 **THE COURT:** As to this witness?

6 **MRS. VAUX:** We would ask that she be excused.

7 **THE COURT:** Any objection, Mr. Hughes?

8 **MR. HUGHES:** None at all, Your Honor.

9 **THE COURT:** **Minor** it was very nice to have met you.
10 Thank you very much.

11 Watch your step. I'm going to let you step down, and
12 Jo is going to open that door for you, and you can leave
13 the courtroom. Watch your step. There we go.

14 All right, if there is anyone waiting outside, they
15 can come back in.

16 Call your next witness.

17 **MRS. VAUX:** Your Honor, may I approach for a moment?

18 **THE COURT:** Counsel, approach.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
20 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
21 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
22 PRESENCE AND HEARING OF THE JURY:)

23 **THE COURT:** Madam Foreperson, ladies and gentlemen of
24 the jury, I have a matter of law that I have to take up.
25 I'll be right back with you in just a moment.

1 Please retire to your jury room. Do not discuss the
2 case.

3 (OCTOBER 16, 2012, 12:24 P.M., WHEREUPON, THE JURY
4 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
5 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

6 **THE COURT:** All right, Mr. Hughes, I understand you
7 have a matter of law you wish to raise. I was informed by
8 the Solicitor that the next witness is Mary Beth Hefner,
9 and you wish to take up a matter of law outside the
10 presence of the jury. What is it?

11 **MR. HUGHES:** Your Honor, on the video that we saw
12 yesterday, ---

13 **THE COURT:** Yes, sir, I had a two hour hearing after
14 I viewed the video, and you cross-examined Ms. Hefner,
15 pursuant to a motion which was made pursuant to the
16 statute to admit that evidence. Do you recall that?

17 **MR. HUGHES:** Yes, sir.

18 **THE COURT:** It was a motion for admission for the
19 out-of-court statement of a child, pursuant to 17-23-175.

20 **MR. HUGHES:** And, Your Honor, I assumed because of
21 what was on the video that that would be what the young
22 girl testified to. She did not testify to that incident.
23 She testified to what could be considered another
24 incident.

25 I was not able to cross-examine her, based upon the

1 incident that she reported on the video; therefore,
2 showing the video without me having a chance to
3 cross-examine her based upon what she said under a sort of
4 oath, she was asked to tell the truth on the video, it's a
5 direct violation of the confrontation clause in this
6 matter, Your Honor.

7 **THE COURT:** I completely disagree, Mr. Hughes. I
8 think that goes to the weight, not admissibility. That
9 objection is overruled.

10 You've seen the video a number of times. You were
11 aware of it before you cross-examined the last witness.
12 You had every right to cross-examine the witness about
13 anything you desired. You finished and told me you had no
14 other questions. And although there may be
15 inconsistencies, as you feel, between the testimony and
16 the video, that, in and of itself, is an insufficient
17 reason to deny the admission of the video into evidence in
18 the trial of this case. Your objection is overruled.

19 Bring me the jury.

20 **MRS. VAUX:** Your Honor, if I may?

21 **THE COURT:** Just a moment.

22 **MRS. VAUX:** I'm sorry.

23 **THE COURT:** Counsel, I'm ready to move forward. What
24 is it?

25 **MRS. VAUX:** I need to queue up the ---

1 **THE COURT:** Queue it up now.

2 **MRS. VAUX:** But I need to make sure the ---

3 **THE COURT:** Queue it up now. That should have
4 already been done.

5 Go ahead and bring me the jury.

6 (OCTOBER 16, 2012, 12:27 P.M., WHEREUPON, THE JURY
7 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
8 WERE HELD IN THEIR PRESENCE.)

9 **THE COURT:** Watch your step for me. There we go.

10 All right, Madam Foreperson and ladies and gentlemen
11 of the jury, we'll now continue with the testimony in the
12 trial of this case.

13 Solicitor, you may call your next witness.

14 **MRS. VAUX:** The State calls Mary Beth Hefner.

15 **THE COURT:** Ms. Hefner, if you would come around and
16 be sworn, please, by the clerk?

17 MARY BETH HEFNER, after being duly sworn,
18 testified as follows:

19 **THE COURT:** Make yourself comfortable. Adjust the
20 chair and the microphone for me. State your full name and
21 spell your last name, please, for the court reporter.

22 **WITNESS:** My name is Mary Beth Hefner, and it is
23 spelled H-E-F-N-E-R.

24 **THE COURT:** Your witness, Counsel.

25 **MRS. VAUX:** Thank you, Your Honor.

DIRECT EXAMINATION

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BY MRS. VAUX:

Q Good afternoon, Ms. Hefner.

A Good afternoon.

Q Can you please tell us where you work?

A I am employed at Hope Haven of the Lowcountry in Beaufort, South Carolina.

Q And what exactly is Hope Haven of the Lowcountry?

A Hope Haven is a child advocacy center and a rape crisis center. At the advocacy center we provide interviews with children that have been sexually abused, and/or physically abused, and we also offer counseling to those children and their families and adults of sexual assault.

Q Thank you. And what is your position with Hope Haven?

A My position is a forensic interviewer, and I also provide counseling as a therapist.

Q And your job as a forensic interviewer, what exactly does that entail?

A That entails meeting with the parents, the non-offending caregiver or guardians prior to the interview and then conducting interviews with children ages three to seventeen. We conduct the forensic interviews to assist with either law enforcement and

DIRECT EXAMINATION OF MARY BETH HEFNER BY MRS. VAUX

193

1 social services whenever there is a report of abuse,
2 whether it be sexual abuse or physical abuse and even
3 emotional abuse.

4 Q Can you please explain exactly what a forensic
5 interview is?

6 A Yes. A forensic interview is a fact-finding event.
7 It is an interview with children. We talk to children so
8 that we can help them describe their experience. And it
9 is a very neutral, unbiased interview where I can -- the
10 interviewer cannot ask direct questions, non-leading and
11 non-suggestible questions of the child.

12 Q And how many years have you been conducting forensic
13 interviews with children?

14 A I have been conducting forensic interviews for about
15 five and a half years.

16 Q And what, if any, professional licenses or degrees or
17 designations do you have in your current position?

18 A I have a Master's Degree in Professional Counseling,
19 which I obtained in 2005, and I'm also licensed with the
20 State of South Carolina as a professional counselor.

21 Q And what is the licensure process to be a licensed
22 professional counselor in South Carolina?

23 A To be a licensed professional counselor, after you
24 finish your master's program, it takes approximately two
25 years. You have to meet with a supervisor for clinical

1 supervision. That's clocked at about a hundred and eighty
2 hours, and then roughly eighteen hundred hours of direct
3 client contact.

4 Q And what sort of special certifications or training
5 or seminars have you had in the field of forensic
6 interviewing or delayed reporting?

7 A In 2007 I attended a forty hour training in Columbia.
8 It was sponsored by the National Child Protection Training
9 Center that's based out of Minneapolis, Minnesota. And we
10 received training regarding forensic interviewing in
11 Columbia at this time.

12 I've also received advanced forensic training
13 courses. They were about thirty hours each, and I
14 received two of those, in addition to the original
15 training.

16 Q And in forensic interviewing, is there a standard
17 protocol that's used when you conduct an interview?

18 A There is. There is a standard protocol that is
19 nationally recognized. And in this field we use acronyms
20 a lot, and it is called RATAAC. And do you want me to
21 explain what RATAAC is?

22 Q Yes, please.

23 A RATAAC, the R in the interview stands for rapport
24 building. This is the part of the interview where we
25 establish rapport with the child, assess the child's

1 competency, assure that the child feels comfortable and
2 confident. This is the part of the interview where we
3 talk about non-threatening topics so that the child is
4 able to feel comfortable and confident.

5 And then the A in the RATAAC is anatomy
6 identification. We provide an anatomy diagram of both
7 female and male bodies, and the child identifies the parts
8 of the body, because it's very important when talking
9 about this sensitive topic that children -- that we use
10 the same language that children use so that children can
11 communicate about their abuse in a confident and
12 comfortable way.

13 And then we talk about the T, which is touch inquiry.
14 This is the part where I ask a child what part of the body
15 should not be touched. Children have to be able to
16 discern the difference between what's an okay, what's not
17 an okay touch in order to engage in the interview.

18 And then the A in RATAAC is the abuse scenario. This
19 gives the child the ability to talk about their abuse,
20 provide the details. It's the opportunity for the
21 interviewer to ask any other questions that's needed to
22 assist in the investigation.

23 And then the C is closure, bringing a respectful end
24 to the interview, thanking the child for coming, asking
25 the child if they have any other questions. Or typically

1 we do provide a safety plan if any future not okay touches
2 were to occur, who could the child tell.

3 Q Thank you. And is the RATAAC method something that's
4 widely and generally accepted in the field of forensic
5 interviewing?

6 A It is widely recognized on a national level. The
7 National Child Protection Training Center has trained over
8 forty thousand individuals nationwide, including law
9 enforcement, solicitors, mental health -- mental health
10 professionals, social workers, and it is widely acclaimed.

11 Q And have you read any articles on the method that are
12 subject to peer review?

13 A Yes.

14 Q What about for delayed disclosure?

15 A Yes.

16 Q How many forensic interviews have you done in your
17 career, approximately?

18 A Anywhere from nine hundred to a thousand.

19 Q And have you ever testified in court before?

20 A I have.

21 Q On how many occasions have you testified?

22 A I have testified previously in two criminal court
23 cases and multiple times in family court.

24 Q And have you ever been qualified as an expert before?

25 A I have.

DIRECT EXAMINATION OF MARY BETH HEFNER BY MRS. VAUX

197

1 Q In the field of forensic interviewing and delayed
2 disclosure?

3 A That's correct.

4 MRS. VAUX: At this time, Your Honor, the State moves
5 to admit this witness as an expert in the field of
6 forensic interviewing and delayed disclosure.

7 THE COURT: Mr. Hughes, any objection as to
8 qualifications in the field of forensic interviewing and
9 delayed disclosure?

10 MR. HUGHES: None, Your Honor.

11 THE COURT: Ladies and gentlemen of the jury, you're
12 about to hear the testimony of a witness who claims to
13 have special knowledge, skill, experience, training, or
14 education in the field of forensic interviewing and
15 delayed disclosure. Normally the law does not permit
16 witnesses to get on the witness stand and give opinion
17 testimony. An exception to this rule is for those
18 witnesses whom we call expert witnesses, who if qualified
19 by the Court, are permitted to give opinion testimony.

20 In this case, the witness is qualified in the field
21 of forensic interviewing and delayed disclosure, without
22 objection; therefore, the witness will be permitted to
23 give an opinion as an expert in the matters in which she
24 claims to be so skilled. In determining the weight to be
25 given to such an expert opinion, you should consider the

1 qualifications and the credibility or believability of the
2 expert and the reasons given for his or her opinions. You
3 are not bound by such expert opinion. You give it the
4 weight, if any, to which you deem it should be entitled.

5 The witness is qualified, Counsel, in the field of
6 forensic interviewing and delayed disclosure, without
7 objection. You may proceed.

8 MRS. VAUX: Thank you, Your Honor.

9 Q Ms. Hefner, you explained to us sort of what a
10 forensic interview is. What's the purpose of a forensic
11 interview?

12 A The purpose of the forensic interview is to allow for
13 the child's competency and developmental issues and
14 spontaneity and also to assist law enforcement and child
15 protective services in the investigation of sexual abuse
16 allegations and/or physical abuse allegations.

17 Q And how are these interviews conducted to assess
18 possible child abuse or sexual abuse?

19 A We conduct the interviews at Hope Haven, which is a
20 child-friendly environment. In the waiting area, we have
21 toys and games and books. And then the interview is
22 conducted in a separate forensic interview room.

23 I meet individually with the child. No one else is
24 present in that room, which law enforcement and CPS sit in
25 an adjoining room and watch the interview as it is being

DIRECT EXAMINATION OF MARY BETH HEFNER BY MRS. VAUX

199

1 conducted through a computer. The reason that they're
2 watching is so that if there's other questions that are
3 needed to assist in the investigation, I come back into
4 the room and ask for their assistance, and then I go back
5 and ask the child any further questions.

6 Q Will you please describe the intake and interview
7 process once Hope Haven receives the referrals?

8 A Uh-huh, yes. We will receive a call from law
9 enforcement or child protective services. They -- we
10 obtain the necessary information, just basic information,
11 the name and address of the non-offending parent and the
12 child, the name of the investigator from the referring
13 agency, whether it be CPS, DSS, or law enforcement.

14 When they contact us, we arrange for a date and a
15 time for the interview. And the parent agrees to bring
16 the child to the interview to engage in the forensic
17 interview process.

18 Q And what about once they arrive for the interview?
19 What's the process before you actually go into the room
20 and begin?

21 A Initially I meet with the investigator to see if
22 there's any updates on the investigation, any other needed
23 information that's necessary for us to conduct the
24 interview, and then I meet with the non-offending parent
25 and speak to the parent about the allegations. And I also

1 obtain a very minimal psychosocial background of the
2 child's experience at school, any behavioral problems, any
3 changes or concerns in the child's mood or behavior that's
4 concerning to the parent.

5 Also we do just a really brief medical history.
6 Sometimes we see children that are attention deficit
7 hyperactivity disorder, and those are important -- that's
8 important information to know while conducting the
9 interview. And then we need to see if the child has
10 received medication.

11 Other times, too, we ask the medical history to see
12 if the child has any cognitive deficits, because the
13 interviewer wants to meet the child in all their needs and
14 meet them where they're at.

15 Q Thank you. And what, if any, guidelines or rules are
16 set for the interview with the child?

17 A The child is informed -- I always point out the audio
18 and video equipment to the child. And we also talk about
19 the difference between truth and a lie. And I have them
20 make a promise to speak about the truth. And I also
21 inform them that if I say anything wrong, they can always
22 correct me, because I might not always say the right
23 thing. And just to, you know, have them promise to tell
24 the truth.

25 Q Now you said that in the interview it's just you and

1 the child. So the parents or the guardians are not
2 present during that time?

3 A They are not.

4 Q And why is that?

5 A We do not allow parents to watch the interview. We
6 explain this to the parents, that when children know that
7 parents are watching the interview, it could affect how
8 they disclose.

9 Oftentimes children are very protective of parents
10 and their emotions. They gauge their own emotions on the
11 reactions from parents.

12 And oftentimes, too, they feel that they are to blame
13 for the abuse. There's a lot of self-guilt and self-blame
14 and shame and embarrassment. And basically, they don't
15 want to upset their parent.

16 Q And you said that the interview is conducted at Hope
17 Haven in a child-friendly room. What, if any, methods are
18 used to assess the child's level of competency?

19 A Again, the -- the assessment prior to the interview
20 is really important to assess what the child's competency
21 level is, talking to the parents, how the child does in
22 school. And then during the rapport building part of the
23 interview is my opportunity to observe the child, ask the
24 open-ended questions to see how the child responds to
25 those questions and observe if the child is able to answer

1 the questions in a logical and reasonable way.

2 Q Okay. And you said that prior to going out, you get
3 a little bit of background information. Is the child's
4 family or social history obtained?

5 A Yes, brief, brief social and family history.

6 Q And why might this be important to the forensic
7 interview and your assessment?

8 A Again, it's important to help us assist in the
9 forensic interview, also for further recommendations. We
10 ask about if the child has ever received counseling, if
11 parents have ever had counseling before for any issues
12 that they might have. And this is helpful in making our
13 recommendations at the end of the forensic interview.

14 Q And what type of questioning is used in a forensic
15 interview?

16 A The -- the type of questioning that is used is called
17 a funnel approach and a hierarchy of questions. The most
18 preferred question is what we call free recall, where you
19 ask a child an open-ended question and they just freely
20 recall what's happened to them. That's very difficult
21 with small children, because lots of times the free recall
22 is sparse and incomplete.

23 So then the interviewer asks -- goes down that funnel
24 approach or the hierarchy. The interviewer will then ask
25 focus recall questions, based on what the child just said

DIRECT EXAMINATION OF MARY BETH HEFNER BY MRS. VAUX

203

1 in the interview, to kind of narrow it down.

2 And then the next line of questioning would be
3 multiple choice. You know, we offer a selection of
4 choices so that the child can pick one.

5 And then the least preferred is simply asking a
6 question that requires yes or no. Again, the most
7 preferred question is the first one, the free recall, but
8 it's very difficult with small children.

9 Q Did you have an occasion to conduct an interview with
10 the victim in this case, Minor

11 A I did.

12 Q And when was that interview conducted?

13 A That was June 15th, 2011.

14 Q And how was Minor referred to your office?

15 A She was referred to us from Jasper County DSS.

16 Q Why was she referred to you?

17 A Because of sexual abuse allegations.

18 Q And where did this interview take place?

19 A This took place at Hope Haven of the Lowcountry.

20 Q And how old was Minor at the time of the interview?

21 A She was seven.

22 Q And in your opinion, did she appear to be competent?

23 A She did.

24 Q Okay. And is that something you determined, you
25 explained earlier, during your initial speaking to her?

1 A Correct.

2 Q And why is it important that she be competent or be
3 determined to be competent?

4 A Children have to understand the questions and be able
5 to respond to the questions in order to conduct the
6 interview.

7 Q And you said earlier that the standard protocol is
8 RATAAC. Was that used in your interview with **Minor**

9 A Yes, it was.

10 Q Okay. And did you make an audio and video recording
11 of the interview that you did with **Minor**

12 A We did.

13 Q And is that something that's prepared or done
14 regularly in the course of an interview?

15 A Every time that we interview children, an audio and
16 videotape is made.

17 THE COURT: Counsel, approach.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
19 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
20 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
21 PRESENCE AND HEARING OF THE JURY:)

22 THE COURT: Madam Foreperson and ladies and
23 gentlemen, I understand from conferring with the attorneys
24 that the next matter is going to take about forty minutes
25 to show, and because we've reached the lunch hour and I've

1 made arrangements for your lunch, we're going to stop at
2 this point. Please over the lunch break, when you retire
3 to your jury room, I've arranged for transportation for
4 you.

5 And for purposes of the people in the courtroom, the
6 jury will be going to Jasper's Porch for lunch, so I
7 instruct you to find other places for lunch so that the
8 jury can eat lunch there.

9 Please don't discuss this case with anyone during the
10 lunch break. We'll be back with you. I understand that
11 we can do this with the transportation the clerk has
12 efficiently arranged for, we can do this in about an hour
13 so we can start back. So I want everybody to get a lunch
14 break, including you.

15 I hope everybody has a pleasant lunch. Please don't
16 discuss the case during lunch, and we'll be back with you
17 in about an hour. You may retire to your jury room at
18 this time.

19 Ms. Hefner, you just remain right there. Thank you.

20 (OCTOBER 16, 2012, 12:50 P.M., WHEREUPON, THE JURY
21 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
22 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

23 **THE COURT:** All right. I've got -- who are the
24 deputies you want to use, Margaret? I've got another one
25 downstairs?

1 **CLERK:** Yes, sir.

2 **THE COURT:** Who is the other one?

3 **CLERK:** Who is it?

4 **BAILIFF:** Lowther.

5 **CLERK:** Yes.

6 **THE COURT:** Does anybody -- do y'all want me to have
7 Margaret swear the deputies, or are y'all satisfied the
8 deputies will keep the jurors segregated from anyone else
9 during the lunch break? Does the State so require?

10 **MRS. VAUX:** No, Your Honor.

11 **THE COURT:** The defendant?

12 **MR. HUGHES:** No, Your Honor.

13 **THE COURT:** All right, Margaret. Have the people
14 come around to the jury room and let's take the jury to
15 lunch.

16 Ms. Hefner, you're in the middle of your testimony.
17 I don't like normally breaking like this, but when I have
18 an exhibit that lasts that long and we've made
19 arrangements for 1:00 o'clock for the jury, and we have to
20 get them to Jasper's Porch by 1:00 o'clock. The lawyers
21 were aware of that.

22 Shut that door for me, please.

23 The lawyers were aware of the situation, and I was
24 too, because we're trying to utilize time, because we got
25 a little bit behind time yesterday, and we're trying to

1 utilize effective court time for both sides today. During
2 the lunch break, feel free to take your lunch break, enjoy
3 lunch. Just do not discuss the case, not only with the
4 solicitor, but anybody else, the defense attorney or
5 anyone, because you're in the middle of your testimony.
6 That's why we try not to break it. So I'm going to ask
7 you not to discuss your testimony with anybody.

8 Solicitor, I want you and Mr. Hughes, the defendant
9 and everybody else to get lunch. Is there anything on the
10 record outside the presence of the jury before we start
11 back?

12 Margaret tells me the van is outside waiting right
13 now. They're going straight to Jasper's Porch and will be
14 brought straight back in. She says we can do it in an
15 hour. It's now eight minutes to 1:00. I'd like to start
16 back at 2:00 o'clock.

17 Anything on the record?

18 **MRS. VAUX:** Nothing from the State.

19 **THE COURT:** From the defendant?

20 **MR. HUGHES:** No, Your Honor.

21 **THE COURT:** Ladies and gentlemen, we'll break for
22 lunch until 2:00 o'clock this afternoon.

23 (WHEREUPON, A LUNCH BREAK WAS TAKEN. THEREAFTER, AT
24 2:12 P.M., THE FOLLOWING PROCEEDINGS WERE HELD ON THE
25 RECORD OUT OF THE PRESENCE OF THE JURY:)

1 THE COURT: Is the State ready to proceed?

2 MRS. VAUX: Yes, Your Honor.

3 THE COURT: Is the defense ready to proceed?

4 MR. HUGHES: Yes, Your Honor.

5 THE COURT: Would you bring us the jury, please?

6 BAILIFF: Yes, sir.

7 THE COURT: Where is Ms. Hefner? Have her come on
8 back to the witness stand.

9 (OCTOBER 16, 2012, 2:12 P.M., WHEREUPON, THE JURY
10 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
11 WERE HELD IN THEIR PRESENCE.)

12 THE COURT: Ms. Hefner, I remind you, you're still
13 under oath.

14 WITNESS: Yes, sir.

15 THE COURT: Direct examination. You may proceed,
16 Counsel.

17 MRS. VAUX: Thank you, Your Honor.

18 Q I believe when we were finishing before lunch I asked
19 you did you make an audio and video recording of the
20 interview that you conducted with **Minor**

21 A Yes, we did.

22 Q Okay. And is that something that's prepared
23 regularly in the course of interviews and the process?

24 A With every interview, we make an audio and video of
25 the interview. We store it on a DVD.

DIRECT EXAMINATION OF MARY BETH HEFNER BY MRS. VAUX

209

1 **MRS. VAUX:** Your Honor, may I approach?

2 **THE COURT:** You may.

3 (WHEREUPON, State's Exhibit No. 10 was marked for
4 identification only.)

5 **Q** Ms. Hefner, I'm showing you -- I apologize. Will you
6 please identify this for the Court? It's State's Exhibit
7 Ten.

8 **A** This is a DVD of the interview with **Minor**
9 that was conducted on June 15th, 2011.

10 **Q** Okay. And have you reviewed this video prior to
11 today?

12 **A** Yes, I have.

13 **Q** Okay. And is it a true and accurate depiction of the
14 interview that you conducted on June 15th, 2011?

15 **A** Yes, it is.

16 **Q** And has it been tampered with or deleted or altered
17 in any way?

18 **A** Not to my knowledge.

19 **MRS. VAUX:** Your Honor, at this time the State moves
20 State's Exhibit Ten into evidence and asks to publish it.

21 **THE COURT:** As to State's Ten?

22 **MR. HUGHES:** I renew my previous objections, Your
23 Honor.

24 **THE COURT:** And subject to my earlier ruling in the
25 trial of this case, State's Exhibit Ten will be admitted

1 into evidence in the trial of this case, over objection.

2 MRS. VAUX: Permission to publish it at this time,
3 Your Honor?

4 THE COURT: You may publish at this time.

5 Ladies and gentlemen, State's Exhibit Number Ten will
6 be admitted into evidence in the trial of this case.

7 (WHEREUPON, State's Exhibit No. 10 was admitted into
8 evidence.)

9 THE COURT: You may publish at this time, Solicitor.

10 MRS. VAUX: Thank you, Your Honor.

11 (WHEREUPON, STATE'S EXHIBIT NUMBER TEN WAS PUBLISHED
12 TO THE JURY.)

13 Q Ms. Hefner, after reviewing the video and that day in
14 the interview, did the victim give a detailed account of
15 the abuse?

16 A She did.

17 Q And in your expert opinion as a forensic interviewer,
18 was the victim's disclosure internally coherent?

19 A It was.

20 Q Can you please explain what exactly internally
21 coherent means?

22 A Alison's disclosure, she provided many details,
23 contextual details, that seemed to be consistent
24 throughout the interview. It was very logical and
25 reasonable.

DIRECT EXAMINATION OF MARY BETH HEFNER BY MRS. VAUX

211

1 She was also able to draw a diagram, which added to
2 the consistency and the internal coherence that you
3 referred to. She was also able to demonstrate with her
4 own body the experience that she had.

5 Q Now she said that she told Ms. Janell. Do you know
6 who Ms. Janell is?

7 A Yes. Ms. Janell is Ms. Janell Barker. She was
8 Alison's foster care mother.

9 Q And a lot of times when we were speaking earlier you
10 referred to the non-offending parent. What exactly do you
11 mean by the non-offending parent?

12 A The non-offending parent is -- is the parent that has
13 not committed abuse.

14 Q Okay. So in Alison's case, when you said, you know,
15 when you -- before the interview you would speak to the
16 non-offending parent, who did you speak to in this case?

17 A Ms. Barker.

18 Q In the interview, **Minor** made some very specific
19 disclosures. Can you kind of summarize what exactly she
20 disclosed in the video?

21 A She disclosed to penial penetration of her vagina and
22 her butt and also digital penetration of her vagina.

23 Q And at various points in the interview, it seemed
24 like she wanted it to end. She asked how many more
25 questions and one more question. Is that common for

1 children?

2 A That is common, because children often have a lot of
3 anxiety and avoidance when it comes to talking about their
4 abuse. Children will demonstrate that anxiety and that
5 avoidance in many ways. With **Minor** asking when the next
6 -- when is the last question, how many more, that's very
7 typical for a child that's been impacted by abuse.

8 Sometimes we see children run out of the room,
9 because of the avoidance and the fear of talking about the
10 topic of abuse. Sometimes they hide behind the chair.
11 Many times they'll try to change the subject, try to talk
12 about something else that is less threatening. But
13 what -- what she demonstrated was very normal for kids to
14 manifest.

15 Q At one point in the video she said that her mom and
16 her grandmother knew about the abuse, but when you asked
17 her how they knew, she just said: They just know.

18 And why didn't you ask her any questions further on
19 that?

20 A Because children at that age, developmentally it's
21 very difficult for them to identify how they know what
22 they know. They just know it. We call that source
23 monitoring, and it's a rather abstract question for
24 children to -- to respond to and to answer in a logical
25 way. Although she said she knew, she couldn't explain how

1 she knew.

2 Q Did she say if she told anyone else about the abuse?

3 A She -- I believe it was Ms. Janell she said.

4 Q In the video, you repeated a lot of what she said.

5 Why was that?

6 A Many times during the interview children will speak
7 in a low volume voice, and I just repeat what the child
8 says in order for the law enforcement or social services
9 to hear what the child has said. Sometimes it's difficult
10 to hear. And also it helps with the child feeling that
11 they're being listened to and the interviewer is
12 understanding what they're saying.

13 Q At the beginning of the video while we were waiting
14 for y'all to come into the interview room, we could hear
15 some noise picking up on the microphone. What -- do you
16 know what that noise was?

17 A That would most likely be our waiting room. There's
18 a waiting room as you come into Hope Haven. This is the
19 room where the kids play with the toys and books and the
20 games and the videos. And there might have been other
21 children there at the time to receive services, perhaps
22 another forensic interview or counseling services.

23 Q So when **Minor** was talking about she was playing with
24 the food, would that be something in the waiting room?

25 A Right. We have plastic food stuff with a kitchen,

1 and children like playing with the food. There's all
2 different varieties of food stuff. She identified
3 chicken. I think she said green bean casserole.

4 Q Also in the video it seemed as though it paused at
5 some points or there was some catching up with the audio.
6 Had you -- I asked you earlier if you reviewed the video
7 prior to today.

8 A Yes.

9 Q And in doing so today, does it appear that that was a
10 complete -- a complete version of the interview, as it was
11 on the day that it was conducted at Hope Haven?

12 A It did appear that it was complete.

13 Q Were there any answers that were excluded or cut out?

14 A No, ma'am.

15 Q I'm going to go now a little bit into the actual
16 disclosure. What's meant by the term delayed disclosure
17 or delayed reporting in sexual abuse cases?

18 A Delayed reporting or delayed disclosure simply means
19 that the incidents of abuse were not reported or disclosed
20 immediately during the abuse or after the abuse.

21 Q And in your expert opinion, how common is delayed
22 reporting among victims of child abuse?

23 A It is extremely common. Most kids delay reporting.
24 It is more often delayed than reported immediately. A
25 very small percentage of children report immediately any

1 incidents of abuse.

2 Q And what factors commonly play a role in a child's
3 delayed reporting?

4 A There are several factors, primarily the feeling or
5 emotion of fear, which is overriding in a child; fear of
6 not being believed; fear of disrupting a family; fear of
7 someone getting in trouble, possibly that child; fear that
8 it will increase their sense of shame and guilt and
9 embarrassment and confusion. Children typically feel
10 ashamed and guilt-ridden and embarrassed and confused when
11 it comes to abuse.

12 Q And how might a child's disclosure be affected if the
13 perpetrator is a family member or someone who lives in the
14 home?

15 A It's very difficult for a child to report abuse when
16 the offender is a family member, especially if the family
17 member resides in the home. The close proximity is a
18 constant reminder that if you tell, something bad will
19 happen.

20 If the offender is an authority figure, that's
21 especially difficult for a child, because children are
22 taught to listen to authority figures, to defer to adults,
23 told to listen. Also, in a family if the offender is
24 controlling or domineering or physically abusive with kind
25 of a mild-mannered, passive, non-offending parent. And

1 also the elements of the secrecy, the helplessness, and
2 entrapment cause a child to accommodate and delay
3 reporting.

4 Secrets take on monstrous proportions to a child.
5 It's a source of constant fear, but yet the promise of
6 safety.

7 Q What is meant by the term piecemeal or partial
8 disclosure?

9 A Children initially -- there are stages of disclosure.
10 It's a process, not a single event. Children initially
11 oftentimes deny being sexually abused by a family member
12 from another family member, because of all the factors
13 that I just related. But sometimes, too, a child will
14 provide an initial disclosure, and they'll provide just a
15 piece of the truth of the abuse, maybe a single statement
16 to see what kind of response that child will receive from
17 a person that they're disclosing to. If that child feels
18 that the response is positive, that people are listening,
19 that people are believing, then they'll feel more safe and
20 comfortable and confident to say more.

21 Q Do you know a percentage of how many children give a
22 partial disclosure versus a full disclosure?

23 A I don't know exactly, but it's the majority of the
24 children give a partial disclosure. It's very unusual to
25 see a child give complete disclosure in the initial

1 stages. We call that active disclosure.

2 Q And what is the difference between purposeful versus
3 accidental disclosure?

4 A The accidental disclosure is basically what it
5 sounds. It's discovered accidentally or by chance.
6 Typically we see accidental disclosures with younger
7 children ages three to seven. Typically children who are
8 in this age range will, if they've been sexually abused,
9 make inappropriate statements, or we sometimes see
10 hypersexualized behaviors.

11 With purposeful disclosure, it's typically more an
12 older child, an adolescent, that will make a conscious
13 decision with purpose to disclose about their abuse to
14 typically another peer rather than an adult.

15 Q And what type of disclosure do we have in this case?

16 A I believe **Minor** was an accidental disclosure,
17 because according to the report, she was displaying some
18 hypersexualized behaviors. So as a result, I believe she
19 was asked about the behaviors, and she stated with purpose
20 what had happened to her regarding the abuse.

21 Q Are you aware -- you said that her disclosure was
22 informed in part by her actual behavior, the
23 hypersexualizing. Do you know exactly what types of
24 behaviors those were?

25 **MR. HUGHES:** Your Honor, I believe that would come

1 under hearsay.

2 THE COURT: Counsel, approach.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
4 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
5 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
6 PRESENCE AND HEARING OF THE JURY:)

7 THE COURT: Objection sustained. Rephrase the
8 question.

9 Q Ms. Hefner, actually I'll just ask a different
10 question. Have you had much experience with
11 hypersexualized children and behaviors in children?

12 A We've seen it, yes. It has occurred.

13 Q And what factors, in your professional opinion, might
14 lead to those types of behaviors?

15 A The hypersexualized behaviors?

16 Q Yes.

17 A Typically, it's related to being sexually abused, or
18 oftentimes children will mimick that behavior if they
19 observe pornography or an actual sexual act.

20 Q Okay. And is that type of behavior considered normal
21 or abnormal for a six or a seven-year-old girl?

22 A The hypersexualized behaviors?

23 Q Yes.

24 A That is considered abnormal.

25 Q Approximately how many interviews have you done with

DIRECT EXAMINATION OF MARY BETH HEFNER BY MRS. VAUX

219

1 children who have been sexually abused, if you can tell
2 us?

3 A That have actually been sexually abused? It's hard
4 to estimate. I've completed nine hundred to a thousand
5 interviews, and my guess is, oh ---

6 Q That's okay. I know that's a hard number to
7 quantify.

8 During an interview, do children necessarily disclose
9 all of the details of their abuse?

10 A Absolutely not. No.

11 Q And why is that?

12 A Again, when children disclose abuse, it's typically
13 their -- in their initial stages, and when they come to
14 Hope Haven, they do not disclose full disclosure of abuse.
15 They just disclose partial disclosure, typically.

16 And we see children that will disclose the inactive
17 stage of disclosure during counseling. When they become
18 more and more comfortable knowing that they can talk about
19 it and won't be judged or criticized, then more
20 information is revealed by the child about the abuse
21 events.

22 Q In your experience, do children necessarily recall
23 the specific dates or date that the abuse might have
24 occurred or how many times?

25 A No. Small children have no conception of timeframes

1 or time reference. It's very difficult for them to
2 remember dates and times. It's just not really within
3 their cognitive ability.

4 Q And in the video you asked **Minor** you know, how many
5 -- if it had happened more than once. You asked her how
6 many times, and she said one hundred. And in your
7 opinion, what does that indicate?

8 A When **Minor** said a hundred, I think, you know,
9 children like to be very concrete and literal, but in
10 child terms, child speak, I think she meant to say that it
11 happened a lot. You know, children count objects, not
12 experiences. So it's definitely very difficult for a
13 small child to quantify how many times.

14 Q And what about the specific details of the sexual
15 abuse? Is that something that they necessarily can recall
16 all of the specific details when they're disclosing?

17 A Absolutely. A six or a seven-year-old can remember
18 and recall specific details. Sometimes, though, when it's
19 chronic abuse, which means that it happens frequently,
20 children will confuse details of different events. We see
21 that happen, but typically when they recall the details,
22 they're most times very accurate.

23 Q Would it surprise you if different details are given
24 at different times to different people?

25 A Absolutely. Many of the reports from six and

1 seven-year-olds contain different answers at different
2 times, depending on how you ask the question. Many of
3 their disclosures contain contradictory elements, and they
4 often don't realize when they don't make sense to the
5 interviewer.

6 Q What factors may ultimately encourage a child to
7 reveal sexual abuse?

8 A Well, typically with an older child, an adolescent,
9 we see children disclose to a peer. Disclosing to a peer
10 is safe to them. They feel confident with that
11 disclosure. Many times with adolescents with a family
12 conflict or a fight, and the child will just blurt it out.

13 With the smaller children, it's often revealed
14 through accidental disclosure, when a child is acting out
15 sexually or makes a strange, inappropriate comment. But
16 most times, you know, small children do not disclose about
17 the abuse, out of the feeling of fear.

18 Q What, if any, recommendation did you make following
19 Alison's disclosures during her interview?

20 A We recommended that **Minor** receive what we call
21 Trauma Focused Cognitive Behavioral Therapy, and that is
22 the evidence-based counseling that we provide for kids
23 that have experienced sexual abuse and physical abuse and
24 are traumatized. We recommended that for **Minor**

25 Q Ms. Hefner, did you know **Minor** prior to the

1 interview that day?

2 A I did not know her.

3 Q Thank you.

4 MRS. VAUX: No further questions at this time.

5 THE COURT: Cross-examination?

6 MR. HUGHES: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. HUGHES:

9 Q Ms. Hefner, let's talk about memory first. Which is
10 the more accurate memory; something that happened -- a
11 memory of something that happened yesterday or last week?
12 Which is more likely to be remembered correctly?

13 A It depends. It depends on the event. Sometimes
14 recent memory isn't as accurate as remote memory,
15 depending on the experience and if it was associated with
16 trauma or there was something meaningful about that event
17 in remote memory.

18 Q Well, how about memory of the same event? Would I
19 have a better recall of what I did yesterday today, or
20 would I have better recall of what I did yesterday three
21 weeks from now?

22 A Again, that would depend on what that person attaches
23 to the memory, what kind of meaning that person would
24 attach, what kind of significance it would have.

25 Q Well, it's the same event, so we can assume it's the

CROSS-EXAMINATION OF MARY BETH HEFNER BY MR. HUGHES

223

1 same significance. Okay. I'm sorry.

2 A It's a tough question.

3 Q Okay. My point is, in a case of abuse, is it better
4 to find out quickly or to get the child or whoever to tell
5 you what happened as soon as possible, or does it hurt to
6 have it wait for a while?

7 A Well, that depends again, too. I mean, some children
8 have -- a six or a seven-year-old child would have a very
9 good ability to recall abuse that occurred months prior or
10 even a year prior. Typically with the younger children,
11 the three and four-year-olds, we like to interview the
12 children right away because of their lesser ability to
13 store information and retrieve it.

14 Q I believe short-term memory has -- is better -- or
15 long-term memory has to be stored. Short-term memory is
16 just recalled, I believe.

17 A Yes.

18 Q Okay. When you do the interviews, you ask questions,
19 I believe, according to the RATAAC formula?

20 A Correct.

21 Q And you said there are a lot of different stages of
22 answers, or free recall I believe is what you said was the
23 best?

24 A The most preferred.

25 Q The most preferred. And that is because of why?

1 A Free recall is not lending any suggestibility. A
2 child just freely recalls what has happened to them in
3 their own words without the interviewer's suggestion or
4 leading.

5 Q Okay. Why is the interviewer's suggesting or leading
6 not good?

7 A Because children of that age range are very
8 susceptible to pleasing interviewers. Most children know
9 what the interviewer is looking for, and so if you ask a
10 leading question, children might possibly answer in the
11 way that they think the interviewer wants them to answer.

12 Q Okay. And why is that a problem?

13 A Because we want children to recount their experiences
14 without leading questions, without suggestion.

15 Q Okay. So on the video when you asked her if he had
16 placed his penis anywhere else and then you pointed to the
17 vagina on the picture and she answered coochie, that would
18 be a leading question.

19 A I believe she stated that he did that previously. I
20 don't believe that I mentioned it.

21 Q Would you like us to show you the video again?

22 A (NO RESPONSE.)

23 Q Okay, that's not -- or, let's see, when you asked was
24 he mad when -- how did your father react? Was he mad? Is
25 that a leading question?

1 **A** I was going to provide a multiple choice question,
2 and she cut me off at that point. When I asked her if her
3 father was mad, I was going to say mad, happy, and I can't
4 remember the last multiple choice answer.

5 **Q** But a multiple choice also is a leading question, in
6 that it suggests a possible answer.

7 **A** Well, it's not a leading question. Like I said, the
8 most preferred kind of questioning uses free recall to say
9 what happened, how did that happen, where did it happen,
10 what happened, but with small children it's very difficult
11 for small children to talk with free recall for twenty
12 minutes at the time. It's even difficult for adults to
13 talk for twenty minutes with free recall.

14 So with small children you have to use focus recall
15 and multiple choice questions, and sometimes yes and no.
16 It's not preferred, but sometimes that's what we have to
17 use in these forensic interviews.

18 **Q** What does coaching mean?

19 **A** Coaching typically in my experience means that the
20 child was told what to say in an interview.

21 **Q** And why is that a problem?

22 **A** That is a problem because we want children to
23 disclose their own experiences, not report what someone
24 has told them to report.

25 **Q** Okay. When you -- you couldn't tell what was on the

1 video, I know because I've seen a number of them, you held
2 up a picture of a female with no clothes on, and she was
3 asked to identify the body parts?

4 A That was the anatomy diagram.

5 Q Right.

6 A Uh-huh.

7 Q And you asked -- you also showed a picture of a male,
8 and she identified the body parts, including the genitalia
9 as a penis.

10 A Correct.

11 Q But she used the adult word, or what we would
12 generally refer to as an adult word, instead of a child's
13 word for the male genitalia. I can think of a number of
14 them. Did you find that odd?

15 A No, I did not.

16 Q That she used a child's word for the vagina, but used
17 the word penis for male?

18 A No, I did not.

19 Q Okay.

20 A We do see children that come to Hope Haven and do use
21 accurate names for body parts.

22 Q Do you ever see them mixed up like that?

23 A Sure. We have.

24 Q Okay. I'm trying to avoid skipping around in my
25 questions, but let's continue with the interview. When

CROSS-EXAMINATION OF MARY BETH HEFNER BY MR. HUGHES

227

1 she blurted out, with no prompting of you really, "My
2 daddy put his penis in my butt," was that free recall?

3 A I believe it was.

4 Q Why didn't you let her continue?

5 A Pardon me?

6 Q Why didn't you let her continue?

7 A Why didn't I?

8 Q Yes. It appears you stopped her to go to the anatomy
9 aspect.

10 A Right. Well, I wanted to make sure that the
11 identification of body parts was -- what she identified on
12 the anatomy diagram, I wanted to make sure we were talking
13 about the same body parts. I wanted to use a common
14 language so that she could demonstrate and point to me on
15 the diagram.

16 Q Generally, how often do you have someone just blurt
17 something out like that at the start?

18 A It's happened before.

19 Q Okay. I'm not going to try to get you to say how
20 often.

21 A I don't know how often. It's a small percentage.

22 Q The solicitor asked you about hypersexuality.

23 A Uh-huh.

24 Q Explain that to the jury, please.

25 A Hypersexuality is a child engaging in sexual acts of

1 adult -- adult themes and activities. And oftentimes we
2 see hypersexualized children that have been sexually
3 abused or watched pornography or actual sexual acts.

4 Q Okay. And just because hypersexuality is shown, that
5 does not necessarily mean abuse.

6 A Most times it is an indicator of sexual abuse, or
7 watching someone like adults engage in sexual activity or
8 watching pornography of a sexual nature.

9 Q Right. Simply because they had seen pornography does
10 not mean that they had been abused.

11 A No.

12 Q Okay. Why do children masturbate?

13 A Children masturbate because they are basically sexual
14 beings and it feels good.

15 Q Okay. And it has been seen as early as I believe
16 infants; hasn't it?

17 A I'm not sure about infants. I don't know.

18 Q But it -- basically from very young to the grave.

19 A Very young, yes, but I don't know ---

20 Q Okay.

21 A --- I haven't read any studies about infants.

22 (WHEREUPON, A NOISE WAS HEARD IN THE COURTROOM.)

23 MR. HUGHES: I'm sorry, Your Honor. I ---

24 THE COURT: Just a moment. If I've got a phone or a
25 radio on in here, please see that it's cut off or removed

CROSS-EXAMINATION OF MARY BETH HEFNER BY MR. HUGHES

229

1 from the courtroom.

2 Proceed.

3 MR. HUGHES: Thank you, Your Honor. I'm sorry. I
4 got distracted there. I apologize.

5 Q That is a very controlled environment you have there.
6 The child is there to talk to you. Do they know why
7 they're there?

8 A Most times children do know the reason they're at
9 Hope Haven. Now Minor was in foster care, so she -- she
10 knew what she said to Ms. Barker. So when someone says
11 we're going somewhere and they're going to ask you
12 questions, most times children do know.

13 Q Yeah. Children are actually smarter than ---

14 A Yes, they are.

15 Q --- we give them credit for.

16 A Yes, they are.

17 Q Now, you're a trained professional.

18 A Yes.

19 Q You did a good job of interviewing her. I saw a few
20 times that I thought you had led her, but primarily you
21 interviewed her properly. What is the danger of someone
22 not trained like you asking her questions?

23 A The danger would be to ask leading and direct
24 questions and suggestible questions. That would be the
25 danger.

1 Q So why is that a danger?

2 A Because again, as I explained, children are very
3 suggestible. They're more suggestible at three and four
4 years old than six or seven, but when children are that
5 young at three and four, they -- they have a sense of what
6 the interviewer wants from them, and they're very people
7 pleasing, and they want to answer according to -- they
8 want to please the interviewer, so they answer according
9 to how a question is set up, according to what the
10 interviewer wants. They have this -- this way to know
11 what the interviewer is asking for.

12 Q So basically, if someone is not trained to properly
13 interview someone, a child in this matter, they could
14 actually be teaching them the wrong answers.

15 A It's possible, but it's more likely with a three and
16 four-year-old than an older child.

17 Q Okay.

18 A Three and four-year-olds are the most suggestible,
19 and then they become less suggestible as they grow older.

20 Q Now when you repeated what she said, not all the time
21 but sometimes, would that be reinforcing her statement to
22 her, potentially?

23 A No, I don't believe so. It shows to her by
24 reflecting back to her what she has stated, I am showing
25 to her that I am listening to her. She feels that she's

1 been understood and that she's listened to.

2 Q But since you don't do it on everything she says,
3 wouldn't that subconsciously point out to her what you
4 wanted her to say?

5 A No, I don't believe so, because most of what she did
6 tell me, I reflected back to her:

7 Q Well, I -- again, do we need to see the video, or
8 shall we wait at another time on that?

9 A (NO RESPONSE.)

10 Q We've talked about if a non-expert interviews, that
11 could taint the memory. How long could that taint last?

12 A I'm not sure how long it could last. I don't know a
13 length of time.

14 Q Could it last a year?

15 A Not with a small child. I don't believe a three,
16 four, five-year-old, I don't believe it could last that
17 long.

18 Q On the video she told you she lied, but you didn't
19 ask her about what; why?

20 A I think she was saying -- when I asked her what her
21 father said to her, she said: He lied to me.

22 Q I think she said: I lied to you.

23 A No. I ---

24 Q Okay.

25 A --- I interpreted it as she said that he lied to her.

1 Q She showed you a bruise on her side during the
2 interview. We couldn't see it on the tape. She said it
3 was caused by his penis. Do you remember the bruise?

4 A No, I do not.

5 Q Now this happened about a month and a half after
6 **Minor** was removed from the home, and I assume that any
7 bruise to have lasted a month and a half, you would have
8 seen.

9 A I don't recall seeing a bruise.

10 Q You saw the video where she said that though.

11 A Yes.

12 Q If the bruise was not there, why didn't you ask about
13 it?

14 A I'm not sure why I didn't ask her a follow-up on
15 that.

16 Q Okay. And if the bruise was there, would you have
17 noted it in any way, shape, or form?

18 A Yes, but I did not see a bruise.

19 Q Okay.

20 A She did not understand the question. I can't recall
21 if I asked her a question about that, but you know,
22 children's reports might be contradictory and they don't
23 realize when they don't make sense to the interviewer.
24 And, again, **Minor** was very -- she was avoidant, and there
25 were certain things that she did not want to talk about.

1 I knew that I couldn't press her when she told me -- when
2 she would ask: How many more questions? Are we done yet?

3 Q Okay. And you read that avoidance to be because of
4 why?

5 A Because of the impact the abuse had on her. She
6 seemed very avoidant on that, and she seemed very fearful.

7 Q Would you have seen the same avoidance if she thought
8 she was going to be caught in a lie?

9 A I don't believe so.

10 Q When you asked her to tell the truth, what impression
11 did you get of her, and as far as that question, did she
12 understand it?

13 A She appeared to know the difference.

14 Q Okay. Now, you recommended she go to -- and you said
15 a very long phrase, and I don't know what it was. After
16 the interview, what was that you recommended?

17 A That is our treatment protocol for abused children.
18 It's called Trauma Focused Cognitive Behavioral Therapy.
19 Basically it's a therapy for a child to talk about their
20 thoughts and feelings associated with the abuse.

21 Q And one final question. When I watched the video, I
22 noticed a couple of times that the microphone went out but
23 the movement continued, so it wasn't a stoppage of the
24 tape. Do you know anything about that?

25 A I'm not aware of why that occurred. On the video at

1 Hope Haven, it does not do that.

2 Q Okay.

3 MR. HUGHES: No further questions, Your Honor.

4 THE COURT: Redirect?

5 MRS. VAUX: Thank you, Your Honor.

6 REDIRECT EXAMINATION

7 BY MRS. VAUX:

8 Q Ms. Hefner, what do you look for in a forensic
9 interview as a sign or a red flag to indicate whether or
10 not a child has been coached?

11 A Typically we look for a child using statements that
12 are very adult-like. We've seen that before, adult-like
13 statements. When a child is coached, their narratives or
14 disclosure lack detail. Many times when you press further
15 for detail: I don't know. I don't remember.

16 Other times, like I said, there's exaggerated
17 statements or minimal statements like: That never
18 happens, or it always happens.

19 But typically it's statements that are repeated by a
20 parent that you'll -- that we can pick up on that's adult
21 language, and it just sounds rehearsed.

22 Q So when you were speaking about those details, were
23 those present in this interview with **Minor**

24 A Absolutely.

25 Q And do you know whether Ms. Barker or DSS asked

1 Minor any questions prior to her interview with you?

2 A I was aware that DSS did engage in an interview with

3 Minor to further explore what happened, and I believe Ms.

4 Barker did ask Minor as she stated, a couple questions,

5 but she was advised by Hope Haven not to question her any

6 further.

7 Q And as far as the child being interviewed prior to

8 your forensic interview, do you have any knowledge of

9 whether or not the DSS people are trained, for example,

10 not to interview the children prior to that process?

11 A Yes, they're trained not to interview the child.

12 Q So -- but in the event, like as in this case, the

13 referral came from DSS, so at that point, would there be

14 any questioning of the child? How would they know to

15 refer it to Hope Haven?

16 A Well, typically DSS would conduct what they call a

17 minimal fact interview, and it certainly wouldn't be the

18 length of details that I engaged in in the forensic

19 interview. It would be minimal facts, basically who,

20 what, where, and how. Sometimes they try to find out

21 when, but it's difficult in six and seven-year-olds.

22 Q And with that sort of questioning, would that affect

23 how a child would perform during a forensic interview? As

24 to a coaching allegation, would that be something that you

25 think would affect what they would disclose to you?

1 A I'm not sure I -- will you rephrase that?

2 Q Say, for example, a child was questioned by DSS. An
3 allegation was made and then they were brought in and
4 asked, you know, who, what, when, where, would that sort
5 of questioning, would that make you question your judgment
6 of this child in a forensic interview as to whether or not
7 they have been coached?

8 A Not really. Children -- DSS, they are trained not to
9 ask direct questions or leading questions, and that would
10 not affect my opinion or my observation of that child.

11 Q You spoke earlier when I asked about the intake
12 process for a forensic interview. What sort of background
13 information is sought before a forensic interview occurs?

14 A Basic information is about the child's education, how
15 they're doing in school, any previous counseling that
16 they've had, a brief medical history, whether they've been
17 diagnosed with any kinds of disorders or cognitive
18 deficits. Disorders like ADHD, we see that a lot, the
19 Attention Deficit Hyperactivity Disorder.

20 We also learn about the -- who lives in the home.
21 That's really important for the forensic interview, to
22 find out who lives in the home and the relationship of
23 those family members to the child. We also ask if there's
24 been any previous law enforcement or DSS involvement or
25 investigations.

1 Q Okay. And you said that Ms. Barker brought Minor to
2 the interview; correct?

3 A Correct.

4 Q And did she provide any information as to Alison's
5 background prior to the interview?

6 A She provided some information. She provided
7 information as to her observations of Minor her
8 concerns, and her questions.

9 Q And is that background information, is that used in
10 your assessment of doing a forensic interview with the
11 child?

12 A It is.

13 Q And in this case, did Ms. Barker provide you with any
14 information about behaviors that Minor was exhibiting?

15 A She did.

16 Q And what sort of behaviors were those?

17 A She reported hypersexualized behaviors that were
18 being exhibited by Minor

19 Q And what exactly -- what sort of hypersexualized
20 behaviors was Minor exhibiting?

21 A She -- do you want me to be specific?

22 Q I do.

23 A Okay. She reported that Minor was masturbating
24 using objects. She talked about Minor taking a plunger
25 to bed with her, hairbrushes. She also said that she

1 observed Minor in the pool with her brother, and Minor
2 was trying to manipulate her younger brother's penis into
3 her vagina.

4 Q And those sort of behaviors, you said it may be
5 normal for some children to masturbate, are those normal
6 behaviors for a child?

7 A Those are not normal behaviors. Those are very
8 concerning behaviors.

9 Q Does Hope Haven take any position or give any advice
10 with foster parents as to how they should -- or with a
11 non-offending parent who brought the child in, as to how
12 they should interact with the children who are making
13 these sort of allegations?

14 A Yes.

15 Q And what sort of position is that?

16 A A position of support and believing the child and
17 listening when that child needs to be listened to and
18 talking about the child's feelings and thoughts and
19 basically just being very supportive of the child.

20 Q And in your professional opinion, would more
21 interviews or more interaction and discussion, would that
22 affect a child's consistency if they had talked to other
23 people about the sexual abuse?

24 A Depending, again, how people presented the
25 information to the child or how the interviewer, the

RE-CROSS-EXAMINATION OF MARY BETH HEFNER BY MR. HUGHES

239

1 person asking the questions, asked the questions of the
2 child. It could affect, yes, how a child could respond.

3 Q And to your knowledge, has **Minor** been consistent as
4 to the sexual abuse that she has disclosed and who it was
5 committed by?

6 A Yes, she has.

7 Q Thank you.

8 THE COURT: Recross, limited to redirect.

9 RE-CROSS-EXAMINATION

10 BY MR. HUGHES:

11 Q You said DSS was trained in how to interview?

12 A I believe they are, yes.

13 Q Do you know if that was done in this case?

14 A I don't know what the DSS worker's qualifications
15 were or previous training. I'm not aware. She didn't
16 report to me what her training was.

17 Q Okay. So, no.

18 A Huh?

19 Q No. Now I believe you testified earlier that
20 hypersexuality, I believe I'm correct in the pronunciation
21 of that, it's got more than just abuse as a possible
22 cause.

23 A Correct.

24 MR. HUGHES: No further questions, Your Honor.

25 THE COURT: As to this witness, Solicitor?

1 **MRS. VAUX:** She may be excused, Your Honor.

2 **THE COURT:** Any objection to this witness being
3 excused from the trial of this case from the defendant?

4 **MR. HUGHES:** No, Your Honor.

5 **THE COURT:** Ms. Hefner, you may step down from the
6 witness stand, and you are excused from the trial of this
7 case.

8 Solicitor, give the court reporter State's Exhibit
9 Number Ten.

10 Madam Foreperson, ladies and gentlemen of the jury, I
11 see that it's 3:45. I'm going to take my one and only
12 midafternoon break at this point, let you get something to
13 drink, use the restroom, stretch your legs. Do I have any
14 smokers on the jury?

15 (LAUGHTER.)

16 **THE COURT:** Apparently I do. All right, I'll let you
17 go outside to smoke. Smoking is not permitted in the
18 courthouse. You can go outside during the break to smoke,
19 but I want to get started back as quick as I can.

20 Please do not discuss the case. You have not heard
21 all the evidence. I'll be right back with you. Thank
22 you.

23 (OCTOBER 16, 2012, 3:44 P.M., WHEREUPON, THE JURY
24 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
25 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

1 **THE COURT:** Counsel, approach.

2 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
3 RECORD OUT OF THE PRESENCE OF THE JURY. A BREAK WAS
4 TAKEN, AND THEREAFTER, THE FOLLOWING PROCEEDINGS WERE HELD
5 ON THE RECORD OUT OF THE PRESENCE OF THE JURY:)

6 **THE COURT:** Bring us the jury, please.

7 (OCTOBER 16, 2012, 4:00 P.M., WHEREUPON, THE JURY
8 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
9 WERE HELD IN THEIR PRESENCE.)

10 **THE COURT:** Madam Foreperson, ladies and gentlemen of
11 the jury, we'll now continue with the testimony in the
12 trial of this case.

13 Solicitor, you may call your next witness.

14 **MRS. VAUX:** Thank you. The State calls Dr. Sarah
15 Schuh.

16 **THE COURT:** Dr. Sarah Schuh.

17 Good afternoon. If you would come forward and be
18 sworn by my clerk, please?

19 SARAH E. SCHUH, after being duly sworn,
20 testified as follows:

21 **THE COURT:** Watch your step for me there, Dr. Schuh.

22 **WITNESS:** Thank you.

23 **THE COURT:** There we are. Have a seat and make
24 yourself comfortable. If you would like some water, we'll
25 be happy to provide some. Would you like some water?

DIRECT EXAMINATION OF SARAH E. SCHUH BY MRS. VAUX

243

1 thirty years, is the Division of -- it's called Violence
2 Intervention and Prevention. And the task of that
3 division of the Medical University is to see children when
4 there is a question about whether there may have been any
5 type of abuse or neglect leading to their coming into the
6 medical care.

7 Q And are you licensed in the State of South Carolina?

8 A Yes, I am.

9 Q And how long have you held that license?

10 A Since 1969.

11 Q And are you licensed in any other states?

12 A I have been licensed in New York and Georgia, but I
13 am no longer licensed there.

14 Q And can you please tell the Court about where you
15 went to school and where you received your medical degree?

16 A I went to medical school at Columbia University in
17 New York City and received my degree in 1961. And then I
18 did training in pediatrics also in New York at St. Luke's
19 Hospital, which is now part of St. Luke's Roosevelt
20 Hospital Center. And I completed my residency training
21 there and was board certified in pediatrics in 1967.

22 In 1968, '67 and '68, I returned to Columbia
23 University and received a Master's Degree in Public
24 Health, in addition to the certification in pediatrics.

25 Q What -- do you have any certifications or training or

1 courses in the field of child sexual assault assessment?

2 A I began -- became interested in the area of child
3 sexual abuse in the late 1979 and 1980, and at that time
4 began taking courses and doing reading of journals and
5 books and attending national and local meetings involving
6 child sexual abuse, but at that time, there was no
7 certification in that area. It was just a matter of
8 educating yourself and examining patients and becoming as
9 expert as you could without a definitive board
10 certification.

11 Q Okay. And do you have any training or teaching
12 experience, and have you published any articles?

13 A I have published in the area of child sexual abuse.
14 I published an article some years ago called *Medical*
15 *Interview With a Sexually Abused Child*.

16 And I've done a lot of teaching for the medical
17 school, of course, and in various divisions of the medical
18 school, but also for the State Department of Social
19 Services, for the Georgia State Department of Social
20 Services. And I've spoken at national meetings and taught
21 other groups that are interested in learning; People
22 Against Rape, which is an advocacy group, and also nursing
23 -- nursing profession, and some legal groups as well.

24 Q You said that you have over thirty years of
25 experience. Do you know or have an estimated number of

DIRECT EXAMINATION OF SARAH E. SCHUH BY MRS. VAUX

245

1 patients that you've seen in those thirty years?

2 A Well, for a long time I was seeing over three hundred
3 patients a year, and I know that I've seen for assessment
4 for child sexual abuse more than five thousand, but I
5 couldn't say how many.

6 Q Thank you. Have you ever testified in court before?

7 A Yes, I have.

8 Q And do you know on how many occasions?

9 A Many occasions.

10 Q And have you previously been qualified as an expert
11 before?

12 A Yes, I have.

13 Q What about in the field of child sexual assault
14 examinations?

15 A Yes, I have.

16 MRS. VAUX: At this time, Your Honor, the State moves
17 to admit this witness as an expert in the field of
18 physical and sexual child abuse and child sexual assault
19 examinations.

20 THE COURT: Mr. Hughes, any objection as to
21 qualifications?

22 MR. HUGHES: None whatsoever, Your Honor.

23 THE COURT: Ladies and gentlemen, recalling my
24 earlier instruction to you concerning expert testimony,
25 the witness is qualified, without objection.

1 Child sexual assault, physical and what, Solicitor?

2 MRS. VAUX: Physical and sexual child abuse and child
3 sexual assault examinations.

4 THE COURT: Very well. Without objection.

5 You may proceed. The witness is qualified.

6 MRS. VAUX: Thank you.

7 Q Dr. Schuh, you said that you were a part of the child
8 abuse pediatric program at MUSC. Can you please tell us
9 what exactly that is?

10 A Well, the Medical University acts, of course, as a
11 referral center for many areas, and the patients come to
12 us often with issues about how a child was injured or
13 whether a child was injured or whether a child's
14 behavioral -- behavioral or attitudes or problems are
15 related to some type of abuse or neglect within their
16 family. And in -- in the Medical University, the division
17 which assists in the medical assessment of those children
18 is called the Division of Violence Intervention and
19 Prevention.

20 Q And where do you receive referrals from exactly?

21 A Well, of course, many come from the Department of
22 Social Services, but we also receive them from physicians
23 who are not expert in the area from the community, from
24 physicians who are in other specialties who are not in
25 pediatrics within the University, and we receive them from

DIRECT EXAMINATION OF SARAH E. SCHUH BY MRS. VAUX

247

1 sometimes attorneys, from concerned family members,
2 occasionally from pastors or other people who are
3 religious advisers, and from law enforcement.

4 Q And is there -- what type of protocols are involved
5 when you receive referrals?

6 A Well, in South Carolina, there are two protocols
7 which are used in child sexual abuse or child physical
8 abuse evaluations. And one of those is called an acute
9 protocol, and the other one is called a child maltreatment
10 protocol.

11 The acute protocols are used primarily for sexual
12 abuse or sexual assault or rape. And those are used only
13 if the -- if the assault occurred within a matter of --
14 usually within three days, but for children sometimes more
15 within two days.

16 The child maltreatment protocol is a fourteen page
17 form, which is used statewide. It provides uniformity in
18 assessment and provides a guide for the types of things
19 that we would like to assure make the examinations as
20 complete as possible.

21 Q And what exactly is the purpose of a forensic medical
22 exam?

23 A Well, any medical exam -- in any medical exam, the
24 first purpose is to be sure that the child is okay. So
25 always, even though we call it a forensic exam, your first

1 interest is assuring that the child is not injured and
2 that any injury or infection or problem is attended to.

3 And the second purpose is to provide, for those who
4 are trying to assure that the child is safe, a competent
5 and thorough medical evaluation which can assist them in
6 interpreting what the findings are. So that would include
7 the Department of Social Services in many cases, but also
8 law enforcement.

9 Q And what are some classic signs of abuse in children?

10 A Well, children come in with many, many signs of
11 abuse. And I think usually when people who don't work in
12 this area think about an abused child, they think of a
13 child who is covered with bruises or has broken bones or
14 is unconscious or shaking, but children come in with many
15 other presented symptoms.

16 They may have all of the things that we just listed,
17 and they may be physical signs of trauma, but they may
18 also present with emotional problems. They may present
19 with learning difficulties, in that they can't pay
20 attention in school.

21 They may present with behavioral, sexually -- sexual
22 acting out, which is not common or appropriate for
23 children in their age group. They may come in with signs
24 of infection, like sexually transmitted diseases. So they
25 can present in many, many different ways.

1 Q And how common is it for there to be actual physical
2 signs of abuse?

3 A Well, it's partly dependent upon how long after the
4 abuse the examination occurs, so that if you see a child
5 in -- and are you specifically referring to sexual abuse
6 or to any form of abuse?

7 Q Really any form, but also speak to sexual abuse.

8 A Well, clearly, I think anyone -- anyone of us would
9 recognize that if you have a child who, for example, may
10 have been in foster care for four to six weeks before you
11 see them or who may have been afraid to talk about what
12 happened, and suddenly someone -- they talk to someone and
13 it's overheard and someone realizes that there's been an
14 injury in the past, bruises fade and go away and broken
15 bones heal, although there may be X-ray signs of injury
16 that occurred in the past, but anyone, any one of us would
17 understand that bruises fade away, and if you see a child
18 six weeks later, there may be very little to see, or there
19 may be a very minor scar where there used to be a big
20 scrape, scratch, or abrasion or a bite mark, for example.

21 And the same is true with injuries in the genital
22 area or in the rectal area. If you see the child
23 immediately, there may be redness, there may be signs of
24 irritation or injury, but if the child doesn't tell or
25 doesn't get to an examination for days or weeks or months,

1 there may be very little to show. And, in fact, in many
2 cases of child abuse and particularly child sexual abuse,
3 there is very little to see medically, unless there is
4 evidence of infection.

5 Q Did you have an opportunity to examine the victim in
6 this case, Minor [REDACTED]

7 A Yes, I did.

8 Q And do you know the date of that exam?

9 A I saw her on June 16th, 2011.

10 Q And what type of exam was performed on that day and
11 for what purpose?

12 A I performed the exam according to the child
13 maltreatment protocol, which we talked about earlier, and
14 it involved taking a general history, a past medical
15 history, which was limited, because she was there with a
16 foster parent, and I didn't have access to a lot of that
17 information, and an overall physical examination, and
18 laboratory studies.

19 Q And is there a standard protocol when you're
20 conducting these exams?

21 A Yes, there is.

22 Q And was it followed in this case?

23 A It is called the child maltreatment protocol, and it
24 is provided by the Children's Advocacy Medical Response
25 System through the State of South Carolina.

DIRECT EXAMINATION OF SARAH E. SCHUH BY MRS. VAUX

251

1 Q And how was the examination performed?

2 A Minor was brought to see me by her foster mother,
3 Ms. Barker. I had received information concerning the
4 exam and the reason for it, that the exam was considered
5 necessary from Hope Haven, and Alison had previously had a
6 forensic interview.

7 Q And do you recall what sort of -- you said that you
8 get general background information prior to the exam. Do
9 you recall what sort of information you were given in this
10 case?

11 A Well, the information that I had from Hope Haven was
12 that Minor had indicated that there had been sexual
13 behavior by an adult who inserted fingers and penis into
14 her mouth -- penis into her mouth and penis and fingers
15 into her rectum and genital areas.

16 Q And why is getting this medical history and
17 background information important for your diagnosis and
18 your treatment?

19 A Well, if you are going to look for evidence of injury
20 or infection, you would like to know what part of the body
21 the child says was touched or injured.

22 Q And what, if anything, was significant about Alison's
23 medical history and the symptoms that you were told about?

24 A In addition to the history given by the foster
25 mother, she had indicated that Minor had been inserting

1 objects into her own vaginal area and manipulating that
2 area and that she had seen some vaginal discharge. So
3 that additional history was known, and that is not
4 something that you normally expect young ladies to do.

5 Q And why or how may those described symptoms be
6 related to possible abuse?

7 A When children have their genitals manipulated or
8 things inserted into them, they learn things the average
9 child just doesn't invent on their own or discover on
10 their own. And they may go on to use things that are of a
11 sexual nature or are stimulating to the genital area,
12 which the average child does not. And this type of sexual
13 behavior is often an indicator that some type of sexual
14 trauma has occurred.

15 The vaginal discharge, of course, is of concern in
16 that there may be -- that she may have acquired an
17 infection of some kind as a result of inserting -- the
18 insertion of the penis or the finger or other foreign
19 objects into the vagina.

20 Q And did **Minor** herself reveal anything to you when
21 she came in for the exam?

22 A When **Minor** came to see me -- a lot of children are a
23 little bit anxious when they go to the doctor, although
24 many who have gone regularly are not, but in this case,
25 **Minor** was particularly anxious and even more anxious when

DIRECT EXAMINATION OF SARAH E. SCHUH BY MRS. VAUX

253

1 it got to the time when I told her that I had to look at
2 her private, which she called her coochie.

3 And she said several times: Are you going to put
4 anything in? Are you going to put anything in?

5 And I said: Well, did someone else put something in?

6 And she said yes. And I asked her about that.

7 Q What did she say?

8 A She said her daddy had put something in. And I asked
9 her, because I was looking for information about whether
10 there might have been injury.

11 It's common to believe that any insertion into the
12 vagina of a child is going to cause injury, and that's not
13 true. Just like you can put a thermometer in the rectum
14 and have no injury, you can put an object in the vagina
15 and have no injury either.

16 And -- but I asked her if there was any bleeding, and
17 she said yes. And I asked her how the blood got cleaned
18 up, and she said her mommy cleaned it up. And I asked her
19 what did she clean it up with, and she said with a paper
20 towel. And I said what did she do with a paper towel, and
21 she said she threw it in the trash.

22 So, that did suggest to me that there may have been
23 -- there would have been an injury and that I needed to
24 look for evidence of injury or healed injury.

25 Q And is it common for a child to come in and ask if

1 you are going to stick something in them?

2 A No. A lot of children are shy about having you look
3 at their private parts, but reassurance from a parent that
4 it's okay for the doctor to look usually takes care of
5 that. And they are much more likely to be anxious about
6 getting shots.

7 It is very uncommon for a child to ask about putting
8 anything in. It's not something that most children have
9 ever experienced. They would have no reason to be worried
10 about that.

11 Q And what were the results of your exam after looking
12 at **Minor**

13 A Well, the general examination was of a pretty healthy
14 little girl, actually. She had some really bad tooth
15 decay, and her foster mother was aware of that and had
16 made an appointment for her. And she had some very minor
17 bruises that children have sometimes from active play.

18 The rectal exam was completely normal. The genital
19 exam was of concern. There was an irregularity in her
20 hymen that was concerning for being left over from
21 previous injury.

22 Q Okay. And did you do any laboratory studies when you
23 had **Minor** in the exam?

24 A Yes, I did. We did studies. We did blood studies
25 for HIV, or human immune deficiency or AIDS virus, and for

1 syphilis, and for Hepatitis B, which can be sexually
2 transmitted. We also did a study called an NNHT, which is
3 an enzymatic study for gonorrhea and chlamydia, and we did
4 cultures for gonorrhea and chlamydia. We tested for
5 gonorrhea of the throat, vagina, and rectum; and
6 chlamydia, which is another sexually transmitted disease,
7 cultures of the rectum and of the vagina, because
8 chlamydia, some forms of chlamydia, can be normal flora in
9 the throat.

10 Q And do you know the results of those?

11 A Yes, they were all negative.

12 Q Okay. Going back to the hymen and the irregularity,
13 what exactly do you mean that there was -- that it caused
14 some concern?

15 A The hymen is a physiologic tissue, and normally you
16 expect to have a smooth margin, just like the margin of
17 your lip would be smooth. You wouldn't expect it to have
18 notches or lumps in it unless there had been a previous
19 injury. And in this case, her hymen had an area that was
20 irregular. It wasn't quite smooth, and I couldn't be sure
21 that it was caused by injury, but it suggested a prior
22 injury with healing.

23 Q I know you touched a little bit on it earlier, but
24 are there any common general misunderstandings about the
25 hymen that might affect people's perception?

1 A The hymen is that tissue which tends to be torn and
2 bleeds on first intercourse. And there are a lot of, kind
3 of, myths about that. One is that anytime anything goes
4 into the vagina it always is broken, and that's not true.

5 The hymen is an elastic tissue, just like your mouth
6 is somewhat elastic. If you put your fingers in your
7 mouth and pull, you can make it look -- look and actually
8 be a lot bigger than it is if you just open it normally,
9 and it doesn't tear anything. The hymen is like that, to
10 some -- to some extent, not to the same extent as the
11 mouth, but it is a little bit stretchy. So that's one.

12 Another one is that we used to believe, physicians as
13 well as other people believed, that once it was torn it
14 would never heal back together again, but once we started
15 seeing children for sexual assault examinations and seeing
16 them with torn hymens and seeing them back weeks later or
17 sometimes days later, we discovered that it can heal back
18 together. And it may heal back together, just as if you
19 had bitten your lip and you had a lesion in your mouth or
20 a cut in your mouth and in a week, it would be there and
21 it would be a little rough, and in a month it would be
22 there and it would be a little white line, but eventually
23 it would look completely normal. You could never tell
24 that anything ever happened there.

25 And we discovered that in many cases, not in all

DIRECT EXAMINATION OF SARAH E. SCHUH BY MRS. VAUX

257

1 cases, the hymen may heal in such a way, but in other
2 cases it may heal and a scar tends to contract or pull --
3 pull down, sort of like elastic. And in some cases, the
4 scar will retract the edges, leaving small notches or
5 irregularities in the hymen.

6 Q And would you always expect to find evidence of a
7 trauma following a sexual assault?

8 A No. Usually we do not find any in children,
9 particularly, as I said earlier, with the passage of a
10 good bit of time.

11 Q And is that -- why exactly is that, because of what
12 you just explained with the scarring and the healing?

13 A Yes.

14 Q And, in fact, could a normal exam still be consistent
15 with Alison's medical history of sexual assault?

16 A Yes.

17 Q And would you please explain that to us?

18 A Well, **Minor** did tell me that there had been
19 bleeding, but she could not tell me whether that bleeding
20 was from a scrape or scratching or from tearing. She had
21 no way of knowing.

22 And as I said, even if it had been torn, it could
23 have healed back by the time I saw her. When I saw her,
24 she had been in foster care for something like four to six
25 weeks, and so I had no way of exactly dating the time when

1 she saw the bleeding. But there certainly could have been
2 healing. And if it had been just a scraping lesion, it
3 would -- you would expect it in that area to heal without
4 a scar.

5 Q Based on your training and experience, is it uncommon
6 for past victims of sexual abuse to act out sexually?

7 A Is it uncommon?

8 Q Or is it common?

9 A It is extremely variable. I am not sure that you
10 could say it was -- it is unusual for children who have
11 had no sexual exposure to act out in a sexual way, I think
12 is a better way to phrase it.

13 Q And are sexual types of behaviors indicative of
14 abuse, sexual abuse?

15 A Very often, yes.

16 Q And in your professional opinion, should **Minor** have
17 seen a doctor?

18 A I think most parents, when a child has bleeding from
19 their private parts, would seek medical attention.

20 Q And you talked and touched a little bit earlier about
21 her teeth and said that she had some severe cavities in
22 her teeth. Could you please explain a little bit more
23 about that?

24 A Well, cavities in teeth start as little tiny brown
25 spots, and over time, they get bigger and bigger and

DIRECT EXAMINATION OF SARAH E. SCHUH BY MRS. VAUX

259

1 bigger. Hers were very large and actually eroded most of
2 the central part of some of her back upper teeth. So that
3 would take at least months.

4 Q And is that something that a parent or general dental
5 care would have caught?

6 A Well, certainly, general -- general dental care would
7 have caught it. And if the child had pain, most parents
8 would have looked. If she didn't complain of pain, they
9 were the back upper teeth, and some parents probably
10 wouldn't look in her mouth and wouldn't know.

11 But good -- what would be recommended is general
12 dental care. We usually recommend that children start
13 seeing the dentist at age two. So, yes, it would have --
14 it should have been caught well before it was -- it was
15 seen by the foster family.

16 Q Were there any other relevant findings in your exam?

17 A I think we have probably gone over -- I think we have
18 gone over just about everything.

19 Q And were your findings and your medical exam
20 consistent with Alison's medical history and background in
21 this case?

22 A Yes, they were.

23 Q Did you prepare a written report from your exam?

24 A Yes, I did.

25 Q And is that something that is typically done in the

1 regular course of your work?

2 A Yes, it is.

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

5 Q I'm showing you what has been marked States Exhibit
6 Eleven. Can you please tell us what that is?

7 A This is the child maltreatment protocol, which I
8 completed on June 16th. It is a copy from our electronic
9 health record at the Medical University, and I signed it
10 and dated it on Friday.

11 Q Okay.

12 A I provided it for you.

13 MRS. VAUX: Your Honor, the State would offer State's
14 Exhibit Eleven for admission into evidence.

15 THE COURT: As to State's Eleven?

16 MR. HUGHES: I would object, Your Honor.

17 THE COURT: No objection?

18 MR. HUGHES: I would object.

19 THE COURT: Counsel, approach.

20 Dr. Schuh, would you hand that to me, please?

21 WITNESS: Yes, sir.

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
23 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
24 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THEIR
25 PRESENCE AND HEARING:)

1 **THE COURT:** Objection is sustained, subject to my
2 ruling.

3 You may proceed, Counsel.

4 **MRS. VAUX:** Thank you, Your Honor.

5 **Q** Doctor, I am going to hand you what has been marked
6 State's Exhibit Eleven for identification purposes only.
7 Will you please look at what I believe is Page Six of your
8 report?

9 **A** Yes.

10 **Q** And it looks like in the bottom comments there
11 appears to be a comment about, again, about some blood.

12 **A** Yes. This was in the past history, not in any
13 physical finding at the time of the examination.

14 There's a part of the medical past history that you
15 take called a review of systems in which you go through
16 and ask about any problems the child may have had in any
17 other system. Usually it is about headaches or if they
18 have any eye problems or if they wear glasses.

19 When I asked about nosebleeds, **Minor** said that she
20 had had a nosebleed. And I asked her if she knew what
21 made it bleed, and she said: My daddy punched it.

22 But it was -- there was nothing on the physical exam
23 at the time I saw her.

24 **Q** And would there have been, if that had been weeks
25 earlier prior to your exam?

1 A Probably not.

2 Q Thank you, Doctor. I believe that is all that I have
3 for you at this time.

4 THE COURT: You can leave that up there for her.
5 That's marked just for identification.

6 Cross-examination?

7 MR. HUGHES: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. HUGHES:

10 Q Good afternoon, Dr. Schuh.

11 A Good afternoon.

12 Q You said that the hymen is very elastic; correct?

13 A It is somewhat elastic.

14 Q Somewhat elastic. How big of an object would need to
15 pass through it before it completely tore?

16 A It would depend on quite a few things. First of all,
17 it would depend on whether the object was lubricated. It
18 would depend on the degree of force and the suddenness
19 with which it was inserted.

20 So if you look at something like a sleeve of a
21 sweater, for example, you could put something through it
22 that was fairly -- fairly large, if it was moist and
23 inserted gently, but if you try to jam something through
24 in a hurry, it would tear more easily. So it's not --
25 it's not something to which there is an absolute answer.

CROSS-EXAMINATION OF SARAH E. SCHUH BY MR. HUGHES

263

1 Q Okay.

2 A I'd like to give you an absolute answer, but I don't
3 think there is one. I can't say that it would be one
4 centimeter or three centimeters.

5 Q Okay.

6 A I don't think that would be honest.

7 Q Okay. Doctor, my metric system is lost.

8 A I couldn't say that it was a half of an inch or a
9 quarter of an inch. I mean, two inches, yes, it would
10 tear, but you probably couldn't get it through. I don't
11 think there's an actual answer to that.

12 A finger almost certainly could be -- could be put
13 in a hymen opening without tearing it, as long as it was
14 gently inserted and if it was lubricated. The penis,
15 possibly.

16 And it would, you know, it would depend on the degree
17 with which it was, you know, how moist it was, whether
18 there was Vaseline on it, whether the opening had been
19 stretched by a finger previously. A lot of things would
20 have to do with whether it would tear.

21 Q How about a bathroom plunger?

22 A A bathroom plunger? The handle end I am assuming?

23 Q Yes, I apologize.

24 A The handle end, if it were -- you know, it might
25 tear.

1 Q Okay.

2 A It would depend on how far in it was and how hard it
3 was pushed in and how fast it was pushed in. It might go
4 in without tearing.

5 Q But would that cause some of the abrasions you saw on
6 the hymen?

7 A It could.

8 Q Okay.

9 A I didn't -- that's a misunderstanding. I did not see
10 any active abrasions. I saw an old -- what might have
11 been an old injury, but nothing fresh.

12 Q Would -- let me think of how to properly say this. I
13 apologize. Would masturbating with the plunger handle
14 have left something that you would have found,
15 necessarily?

16 A Not necessarily. Remember that I saw her sometime
17 after that occurred. I don't -- I don't have an exact
18 timeframe ---

19 Q All right.

20 A --- for when that occurred, but as I said, healing
21 can occur. In some cases, there is healing of complete
22 what's called a transection, a complete tear, has been
23 seen in a week.

24 Q But it leaves a sign or not?

25 A It may -- in time -- in a relatively short period of

CROSS-EXAMINATION OF SARAH E. SCHUH BY MR. HUGHES

265

1 time, the injury may be invisible.

2 Q How do you mean by relatively short period of time?

3 A It can be healed in a week and not visible in
4 somewhat more than a week maybe, but less than a month.

5 Q But that depends on the size and consistency and all
6 of that of whatever object tore it originally?

7 A Not necessarily, no. It depends on the child's -- it
8 depends on the child's healing potential and whether
9 there's an infection that keeps it going in a lot of --
10 and a lot of factors that we probably don't understand.
11 But the object that creates injury, except for its
12 capacity to cause infection, probably does not have a lot
13 of effect on the capacity to heal.

14 Q Doctor, I am going to give the analogy that you gave
15 earlier. You said that if we stick our fingers in the
16 mouth and like this, that it will go back to normal.

17 A Right.

18 Q And there's no tearing to my mouth or anything like
19 that. However, if I stuck a grapefruit in my mouth, you
20 would expect damage.

21 A Yes, if you could get it in. You probably would have
22 to tear something to get it in. That's true.

23 Q Okay. You found, other than the irregularities on
24 the hymen, you found no damage to the genitalia or the
25 rectum.

1 A No.

2 Q And speaking of the rectum, would that have scarred
3 if too large of an object had been placed in it?

4 A In terms of sexual assault assessments, it is
5 generally recognized that less than one percent will have
6 late findings in the absence of severe injury at the time
7 that it occurred. It is very uncommon. The rectum is
8 even more stretchy than the vaginal opening.

9 I think anybody who ever has had a constipated child
10 will understand that a very large object can come out of
11 the rectum without, you know, without creating any serious
12 damage, although it may be painful.

13 Q But it can cause bleeding at the time.

14 A It may cause bleeding at the time, and usually it
15 causes bleeding which is a superficial tearing of just the
16 mucosa, which is the pink covering of the rectum, and it
17 leaves something that's called a fissure, which is sort of
18 the equivalent of a deep paper cut that you would have on
19 skin which heals.

20 But in the rectum, it usually heals completely,
21 assuming that you take care of the -- that you don't
22 repeatedly -- that there's not repeated trauma to it. It
23 usually heals completely and eventually without scar,
24 although there may be scar transiently.

25 Q Now, you said that you -- in your report that you

CROSS-EXAMINATION OF SARAH E. SCHUH BY MR. HUGHES

267

1 found some bruises on Minor

2 A Yes. They were the kind of bruises we commonly see
3 on children, mostly on her shins and a couple on her
4 forearm.

5 Q Kids being kids.

6 A Kids being kids.

7 Q And you found no injury to either the genitalia or
8 the rectum.

9 A I found that irregularity of the hymen, which was
10 concerning but not diagnostic.

11 Q Something I read in your report that was never
12 answered, what caused -- what caused the discharge?

13 A In children, especially little girls, a small amount
14 of vaginal discharge occurs sometimes, and it usually
15 occurs when there are issues about hygiene, poor wiping,
16 occasionally little bits of toilet tissue will get into
17 the vagina. There is an organism called a pinworm which
18 can cause vaginal discharge. It's -- it's very
19 nonspecific. And obviously, the introduction of a dirty
20 object in the vagina can cause it as well.

21 In this case we did cultures, and I mentioned the
22 sexually transmitted diseases, we also cultured for other
23 kinds of germs, like E. coli is one you might have heard
24 of, a bowel organism. There are other organisms like
25 strep that might cause an infection. She didn't have any

1 of those, and so I believed it was a hygiene issue and we
2 discussed hygiene. And, in fact, it went away on its own
3 without treatment.

4 Q How would that have felt to her?

5 A The vaginal discharge?

6 Q Yes.

7 A I asked her if she was having any discomfort, and she
8 said no.

9 Q Could it cause itching?

10 A It could.

11 Q Um ---

12 A She was not complaining of itching at the time.

13 Q Okay. All right. Hypersexuality and children, you
14 said it is a possible sign of sexual abuse?

15 A Yes.

16 Q Okay. But it is not a definite sign of sexual abuse.

17 A Well, you have to assume that the child learned those
18 behaviors somewhere. And so, whether you -- whether it
19 was because the child witnessed it or was physically
20 involved in it or however you want to name it, most
21 children do not just suddenly, out of the blue, engage in
22 sexual behaviors.

23 Q But ---

24 A So you assume it came from witnessing, or being
25 involved in, or in some other way introduced to it.

CROSS-EXAMINATION OF SARAH E. SCHUH BY MR. HUGHES

269

1 Q When you say witnessing, could a pornographic movie
2 or magazine ---

3 A You know, I don't think that the evidence is all in
4 on that yet. There is -- there is some -- beginning to be
5 some evidence in the literature that that may affect some
6 children, but the actual evidence in literature is not, I
7 don't think, definitive yet. You would certainly think
8 that it's possible, but it still wouldn't cause bleeding,
9 which the child described bleeding.

10 Q But we're getting a definite maybe out of you.

11 A Were getting a definite maybe. Exactly right.

12 I -- I think that, you know, if you intellectually
13 say: Will children copy what they see?

14 Then the answer is: They often do.

15 But if you're asking if there is scientific evidence
16 that this occurs, my answer is I haven't seen anything in
17 literature to-date that would convince me that that's true
18 in the case of pornography and children acting out
19 sexually.

20 Q I'm not exactly sure what you just said, but ---

21 A Well, what I'm saying is, you know, intellectually,
22 yes, kids copy what they see. And if they see
23 pornography, you would have to think maybe at least some
24 of what they see they might copy.

25 So maybe if a child sees somebody lying on top of

1 somebody in what the children call humping, maybe they
2 would lie on top of a child and hump. But -- but some of
3 the other things that have to do with pornography I think
4 would be more difficult to expect, and it would have to be
5 pretty hard-core, which would be inappropriate, obviously,
6 for children to be exposed to.

7 But I haven't seen a lot of literature in the sexual
8 abuse literature that says, you know, we have five hundred
9 cases of sexual abuse and of these five hundred cases,
10 fifty children said they learned it from pornography. I
11 don't think there is any literature to support it of that
12 nature.

13 I think that if you ask intellectually: Do kids copy
14 what they see?

15 The answer is: Very often they do.

16 Q So, basically, kids being kids.

17 A Kids being kids.

18 Q No further questions, Your Honor.

19 THE COURT: Redirect?

20 MRS. VAUX: Thank you, Your Honor.

21 REDIRECT EXAMINATION

22 BY MRS. VAUX:

23 Q Dr. Schuh, just touching very quickly on the
24 pornography aspect of it, with what you know of Minor s
25 medical history and behavioral history, would those sort

RE-CROSS-EXAMINATION OF SARAH E. SCHUH BY MR. HUGHES

271

1 of behaviors be something that if you just saw a
2 pornographic magazine or something on TV, would that
3 exposure that one time or, you know, even twice, would
4 that be enough for her to have acted the way she was, in
5 your medical opinion?

6 A I think that would fall into the realm of conjecture.
7 I'm not sure -- the answer is, it would depend what she
8 saw, how long she saw it, and under what circumstances.
9 And if you're asking me is it possible that some of her
10 behaviors might have occurred from that, the answer is
11 some of the behaviors might. But I think the insertion of
12 foreign objects and the other genital stimulation would
13 not be likely, unless she saw something more hard-core
14 than most of us have ever been exposed to.

15 Q And based on Alison's anxiety asking you about
16 sticking something in, the medical history of the
17 hypersexualized behaviors, the irregularity of the hymen,
18 the presence of the blood, in your opinion, is it more
19 likely or not that **Minor** is the victim of sexual abuse?

20 A In my opinion, it's likely that she was the victim.

21 Q Thank you.

22 THE COURT: Recross, limited to redirect?

23 RE-CROSS-EXAMINATION

24 BY MR. HUGHES:

25 Q Let me see if I can paraphrase what you said, and if

1 I'm wrong, please correct me. As far as the pornography,
2 that was a definite maybe?

3 A The pornography, I think we don't -- I -- I would
4 think maybe, but not likely.

5 Q And as far as the totality of the circumstance, a
6 maybe?

7 A As far as the totality of the circumstance, I think
8 it's likely that she was a victim of sexual abuse.

9 Q But you're not saying that she was a victim of sexual
10 abuse.

11 A I wasn't there to witness it.

12 Q Okay. So it's a maybe. Thank you.

13 A It's -- all right.

14 Q I'm sorry. You may -- I'm sorry. I did not mean to
15 cut you off.

16 A I -- in my professional opinion, I believe that she
17 was the victim of sexual abuse.

18 MR. HUGHES: No further questions, Your Honor.

19 THE COURT: As to this witness, Solicitor?

20 MRS. VAUX: We ask that she be excused.

21 THE COURT: Any objection, Mr. Hughes?

22 MR. HUGHES: None at all, Your Honor.

23 THE COURT: Dr. Schuh, you may step down from the
24 witness stand, and you are excused from the trial of this
25 case, and you may leave the courtroom.

1 **WITNESS:** Thank you very much, Your Honor.

2 **THE COURT:** Leave me my exhibits.

3 Counsel, for the record, -- if you'll hand that to me
4 there, State's Number ---

5 **WITNESS:** Yes, sir.

6 **THE COURT:** --- State's Number Eleven is for
7 identification, without objection. Right, Mr. Hughes?

8 **MR. HUGHES:** Without objection, Your Honor.

9 **THE COURT:** For identification only.

10 Call your next witness, Counsel.

11 **MRS. VAUX:** Thank you, Your Honor. The State calls
12 Detective Baxter.

13 **THE COURT:** Detective Baxter, come around and be
14 sworn by the clerk, please.

15 **WITNESS:** Yes, sir.

16 ERIC BAXTER, after being duly sworn, testified
17 as follows:

18 **THE COURT:** You know what to do.

19 **WITNESS:** Yes, sir, I do.

20 **THE COURT:** Unbutton your coat, or you're not going
21 to be able to sit up there. State your full name. Spell
22 your last.

23 **WITNESS:** It's Eric Baxter, B-A-X-T-E-R.

24 **THE COURT:** Your witness, Counsel. Direct
25 examination.

1 MRS. VAUX: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MRS. VAUX:

4 Q Detective Baxter, where do you work?

5 A Jasper County Sheriff's office.

6 Q And how long have you been an officer with the Jasper
7 County Sheriff's Office?

8 A For almost ten years now.

9 Q Okay. And did you work in law enforcement prior to
10 working with Jasper County?

11 A I did.

12 Q And where was that?

13 A Beaufort County.

14 Q For how long did you work with Beaufort County?

15 A Eight months.

16 Q And what is your position with the Jasper County
17 Sheriff's Office?

18 A I'm a criminal investigator, detective.

19 Q And will you please tell the jury how you became
20 involved in this case?

21 A My involvement in the case was a referral from DSS.
22 They notified one of our deputies of the incident, of
23 **Minor** being abused. That's how we became involved in it.

24 Q And when exactly did you become assigned to this
25 case?

1 A I was actually assigned to his case on June 15th,
2 2011.

3 Q And did you ever have an opportunity to speak to the
4 victim in this case, Minor

5 A No, I did not.

6 Q And why is that?

7 A I, typically as an investigator, don't speak to
8 children because I'm not professionally trained to
9 interview children.

10 Q And did you attend a forensic interview in this case?

11 A No, I did not.

12 Q Okay. And do you normally attend them?

13 A Normally, I do attend them.

14 Q Okay.

15 A Being that I am given ample time to be there.

16 Q Okay. And why did you not attend the interview in
17 this case?

18 A The interview was the same day that I was actually
19 assigned the case.

20 Q And what action did you take after you were assigned
21 to the case?

22 A After I was assigned to the case, I did a thorough
23 review of Hope Haven's written report and the videos and
24 what I had been provided from the deputy. I also reviewed
25 MUSC's medical report. And after that review, I felt that

1 the investigation would continue.

2 Q And ---

3 A I -- I'm sorry. Go ahead.

4 Q No, you're fine. And through your investigation,
5 what did you determine?

6 A I determined that **Minor** was a victim of sexual
7 abuse.

8 Q And who was the person suspected of committing the
9 sexual abuse?

10 A James Watson.

11 Q And according to your investigation, approximately
12 how old was the victim when she was sexually abused by the
13 defendant?

14 A At the time that it was reported, she was six years
15 old.

16 Q And do you know when the abuse actually took place?

17 A I do not know the definite time. I know it was in
18 the time period of her being six years old.

19 Q And did you interview anyone else regarding the
20 allegations?

21 A I did.

22 Q And who was that?

23 A I spoke to Kimberly Young Watson, Alison's mother. I
24 spoke to Marilyn Ullmann at a later date. I also spoke
25 with Ms. Hefner from Hope Haven. And I spoke to a nurse

1 at Ridgeland Elementary School. I believe it was Ms.
2 Smith.

3 Q Okay. And you said you spoke to Alison's mother in
4 this case. Did she make any statements to you?

5 A She did make a statement.

6 Q And was she charged with anything in this case?

7 A She was charged with unlawful neglect of a child.

8 Q And why was that?

9 A Because of a statement made in some of the interviews
10 with Hope Haven and MUSC that the mother knew of the abuse
11 and had actually participated in cleaning up blood from
12 one of the incidents.

13 Q And as a result of your investigation, was the
14 defendant arrested?

15 A Yes, ma'am.

16 Q And what was he charged with?

17 A CSC first with a minor -- or CSC with a minor first
18 degree, and I believe he was also indicted for unlawful
19 neglect as well.

20 Q And what exactly, in your knowledge as the
21 investigator, is CSC with a minor first degree?

22 A The easiest way to explain it would be ---

23 (WHEREUPON, DEFENSE COUNSEL STOOD UP.)

24 THE COURT: Just a moment.

25 Yes, sir?

1 **MR. HUGHES:** Your Honor, that is a matter I believe
2 for Your Honor.

3 **THE COURT:** Counsel, approach.

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
5 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
6 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
7 PRESENCE AND HEARING OF THE JURY:)

8 **THE COURT:** Objection sustained.

9 **Q** Detective Baxter, is the person that you arrested for
10 CSC with a minor first-degree in the courtroom today?

11 **A** Yes, ma'am.

12 **Q** Will you please point him out to the court and
13 describe what he is wearing?

14 **A** He is seated right there beside Mr. Hughes in what
15 I'm going to say is a plaid shirt.

16 **Q** Thank you.

17 **MRS. VAUX:** Your Honor, please let the record reflect
18 that the defendant -- that the witness has pointed out the
19 defendant, James Watson.

20 **THE COURT:** Proceed.

21 **MRS. VAUX:** No further questions.

22 **THE COURT:** Very well.

23 Cross-examination?

24 **MR. HUGHES:** No questions for Detective Baxter, Your
25 Honor.

1 **THE COURT:** Very well.

2 Mr. Baxter, you may step down from the witness stand.

3 **WITNESS:** Thank you, sir.

4 **THE COURT:** Thank you. You may remain with us.

5 Call your next witness, Counsel.

6 **MRS. VAUX:** Your Honor, may we approach?

7 **THE COURT:** Counsel, approach.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
9 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
10 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
11 PRESENCE AND HEARING OF THE JURY:)

12 **THE COURT:** Call your next witness.

13 **MRS. VAUX:** Your Honor, the State rests.

14 **THE COURT:** Very well.

15 Are there any matters of law that I need to take up
16 at this time, Mr. Hughes?

17 **MR. HUGHES:** Yes, Your Honor.

18 **THE COURT:** Madam Forelady, ladies and gentlemen of
19 the jury, if you would retire to your jury room and let me
20 take up the matter of law, I will be right back with you
21 in just a moment. Please do not discuss the case.

22 (OCTOBER 16, 2012, 5:02 P.M., WHEREUPON, THE JURY
23 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
24 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

25 **THE COURT:** Yes, sir, Mr. Hughes?

1 **MR. HUGHES:** Your Honor, at this time I would move
2 for a directed verdict. I do not believe the State has
3 met all of the elements of the crime my client is charged
4 with.

5 I also move at this time for dismissal on the grounds
6 that jurisdiction has not been established, nor has my
7 client been identified as the person accused of the crimes
8 committed.

9 **THE COURT:** Solicitor, I will be happy to hear from
10 you on that. Let's start with -- the first ground is
11 insufficient evidence; is that right?

12 **MR. HUGHES:** Yes, sir.

13 **THE COURT:** And then venue, and then that your client
14 was not identified as the person who committed any
15 offense; are those the three grounds?

16 **MR. HUGHES:** Yes, sir.

17 **THE COURT:** Solicitor, I'll be happy to hear from
18 you.

19 **MRS. VAUX:** Your Honor, under the rule, if there is
20 any direct evidence or circumstantial evidence reasonably
21 tending to prove the guilt, then the case should be
22 submitted to the jury. In this case, I think we have a
23 consistent -- a video interview, a consistent testimony by
24 the victim where she, in fact, alleged that she was abused
25 by her father, and additionally there was a medical doctor

1 who said that in her medical opinion more likely than not
2 that the victim had been a victim of sexual abuse. I
3 think there is ample evidence to take this to the jury as
4 to the first point of Mr. Hughes' argument.

5 As to the jurisdiction, I believe my officer
6 testified, the first officer, my first witness, Deputy
7 Ruiz, that the physical abuse and neglect, the address
8 where it happened. Additionally, the sexual abuse, when
9 **Minor** was asked where it happened, she said at home,
10 which had already been established that the Watson home
11 was actually in Jasper County.

12 And as to identification of the defendant, I did have
13 my first officer identify him as James Watson, the
14 victim's father. Additionally I had Deputy -- Detective
15 Baxter identify the defendant as the person that was
16 arrested and charged with criminal sexual conduct in the
17 first degree.

18 **Minor** said in her testimony that the person that
19 committed it was her father. So I think, again, identity
20 has been established in this case.

21 **THE COURT:** Very well. Thank you.

22 Briefly in reply, Mr. Hughes.

23 **MR. HUGHES:** Your Honor, as far as jurisdiction and
24 venue, the only testimony given was that this happened on
25 Mill Pond Road, no admission of either community or a

1 county.

2 As far as Deputy Ruiz, he was asked to identify --
3 point out the defendant, Your Honor. He was not asked to
4 point out the person that he talked to at a certain
5 location. He pointed out the defendant.

6 Deputy Ruiz is a law enforcement officer. He has
7 appeared in court a number of times. He knows very well
8 that the defendant is sitting next to me, who he also
9 knows.

10 Detective Baxter pointed out Mr. James Watson. In no
11 way, shape, or form did he make any connection between
12 what was done and who he arrested, other than the name
13 James Watson, no one involved in the crime, either Deputy
14 Ruiz, who investigated the condition of the home, nor did
15 **Minor** who also could have identified the person that she
16 spoke of as her father as the gentleman sitting next to
17 me. No one made any connection, whatsoever, between this
18 Mr. James Watson and the person they were talking about,
19 other than the fact that Deputy -- Detective Baxter did
20 arrest him.

21 **THE COURT:** Mr. Hughes, your motion, at the standard
22 I am required to utilize at this stage, is respectfully
23 denied for a number of reasons. There was testimony from
24 Detective Ruiz that he was summoned to Ridgeland
25 Elementary. He then went to the home, which he said was

1 in -- I don't know that he -- he gave a street address,
2 and he wasn't sure of the actual complete address, the
3 number address.

4 I think there's clearly evidence from which the jury
5 could infer that this occurred in Jasper County from the
6 testimony. But clearly, there was also testimony from
7 **Minor** that it occurred at her home.

8 I believe also there is sufficient evidence at this
9 stage for me to submit the case to the jury. So your
10 motion for directed verdict on jurisdiction, venue,
11 sufficiency of the evidence, is respectfully denied.

12 You also moved on what other ground?

13 **MR. HUGHES:** Let's see. No one has properly
14 identified this gentleman here as the person accused of
15 the crime.

16 **THE COURT:** I think clearly there was evidence from
17 the alleged victim, **Minor** as to the alleged
18 perpetrator of the event. It was both shown in her live
19 testimony, where you had an opportunity to cross-examine
20 her, and also in the exhibit which was shown to the jury
21 by video. Your motion is respectfully denied.

22 Would you and your client please come forward and be
23 sworn by the clerk?

24 Solicitor, does he have a record?

25 **MRS. VAUX:** He does not, Your Honor.

1 **CLERK:** Would you raise your right hand, sir?

2 **JAMES E. V. WATSON, II,** after being duly sworn,
3 testified as follows:

4 **THE COURT:** State your full name, please, for the
5 record.

6 **DEFENDANT, MR. WATSON:** James Edward Vincent Watson,
7 II.

8 **THE COURT:** Mr. Watson, at this time I am going to
9 explain to you certain of your rights. If you do not
10 understand anything I say, please let me know. If you
11 want me to explain anything in further detail, please let
12 me know. Do you understand?

13 **DEFENDANT, MR. WATSON:** Yes, sir.

14 **THE COURT:** We've now reached the stage of the trial
15 where you may present your defense. You have the right to
16 testify in your own behalf. However, no one can make you
17 testify. In the event you had a record, and I'm informed
18 by the solicitor that you have no record for any
19 conviction involving dishonesty or false statement or for
20 a crime punishable by imprisonment of more than one year,
21 if you had such a record and this Court determined that
22 the probative value of admitting that record, that
23 conviction record, outweighed its prejudicial effect if
24 you testify, the solicitor would be able to introduce that
25 record for impeachment purposes to try to attack your

1 credibility or believability. I understand from the
2 solicitor that you have no record for that.

3 If you elect not to take the witness stand, I'm going
4 to charge the jury that they are not to give the fact that
5 you did not testify any consideration whatsoever. And
6 there is to be absolutely no legal prejudice to you
7 because you did not testify. You have the constitutional
8 right to remain silent. The decision as to whether or not
9 you testify in this case will be left entirely up to you.
10 You may talk with your attorney, but the ultimate decision
11 as to whether or not you testify in this case is yours,
12 not your attorney's, and no one can force you to testify.
13 It is completely your decision. Have you understood what
14 I've just told you?

15 **DEFENDANT, MR. WATSON:** Yes, sir.

16 **THE COURT:** Would you like a moment to converse with
17 your attorney?

18 **DEFENDANT, MR. WATSON:** Yes, sir.

19 **THE COURT:** Bob, I'll be happy to give you some time
20 with your client.

21 (WHEREUPON, A BRIEF RECESS WAS TAKEN.)

22 **THE COURT:** Have you had enough time to talk to your
23 lawyer, Mr. Watson?

24 **DEFENDANT, MR. WATSON:** Yes, sir.

25 **THE COURT:** Have you made a decision about whether or

1 not you wish to testify in the trial of this case?

2 DEFENDANT, MR. WATSON: Yes, sir.

3 THE COURT: And what is your decision?

4 DEFENDANT, MR. WATSON: I wish to testify.

5 THE COURT: And that's your decision and not anybody
6 else's?

7 DEFENDANT, MR. WATSON: Yes, sir.

8 THE COURT: And nobody forced you into that decision?

9 DEFENDANT, MR. WATSON: No, sir.

10 THE COURT: You made that decision of your own
11 freewill and accord; is that correct?

12 DEFENDANT, MR. WATSON: Yes, sir.

13 THE COURT: Thank you very much. You may return to
14 your seat with your attorney.

15 Is the defendant ready to go forward?

16 MR. HUGHES: Your Honor, it's ten after 5:00 ---

17 THE COURT: I know what time it is, Mr. Hughes. Is
18 the defendant ready to go forward, as we discussed last
19 night?

20 MR. HUGHES: Yes, sir.

21 THE COURT: Counsel, approach.

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
23 RECORD OUT OF THE PRESENCE OF THE JURY. THEREAFTER, THE
24 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF THE
25 PRESENCE OF THE JURY:)

1 **THE COURT:** Is the State ready to proceed?

2 **MRS. VAUX:** Yes, Your Honor.

3 **THE COURT:** Defendant ready to proceed?

4 **MR. HUGHES:** Yes, Your Honor.

5 **THE COURT:** Bring us the jury, please.

6 (OCTOBER 16, 2012, 5:14 P.M., WHEREUPON, THE JURY
7 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
8 WERE HELD IN THEIR PRESENCE.)

9 **THE COURT:** Madam Foreperson, ladies and gentlemen of
10 the jury, you have heard the evidence from the State. We
11 will now hear from the defendant.

12 Mr. Hughes, you may call your first witness.

13 **MR. HUGHES:** The defense calls Marilyn Ullmann.

14 **THE COURT:** Ms. Ullmann, if you will come around and
15 be sworn by the clerk, please?

16 MARILYN E. ULLMANN, after being duly sworn,
17 testified as follows:

18 **CLERK:** Come right around and have a seat.

19 **THE COURT:** Watch your step there. There's a little
20 step up there.

21 **WITNESS:** Got it.

22 **THE COURT:** Make yourself comfortable. Pull the
23 chair up. I want you to put that chair close to that
24 microphone. It's going to amplify your voice. I want you
25 to speak up so everybody can hear you.

DIRECT EXAMINATION OF MARILYN ULLMANN BY MR. HUGHES

289

- 1 A Yes.
- 2 Q Okay. Who else lived there back when Minor lived
3 there?
- 4 A Her dad.
- 5 Q And you lived there also?
- 6 A Yes.
- 7 Q Did you get a chance to see how she and her father
8 interacted?
- 9 A Yes.
- 10 Q Would you please tell the jury about how they did?
- 11 A They had a wonderful, warm relationship. They were
12 always laughing and kidding around with each other. No --
13 that I could see, no hostility between either one of them.
14 They just got along fine.
- 15 Q Who was the disciplinarian in the family?
- 16 A Well, sometimes Jill and sometimes -- excuse me, not
17 Jill. Sometimes Kimberly and sometimes James.
- 18 Q And how was she punished?
- 19 A Mostly she had to stand in the corner.
- 20 Q Okay. And how did she take that?
- 21 A Well, she wasn't happy, but she did it.
- 22 Q You lived there full-time?
- 23 A Yes.
- 24 Q Did you go to work?
- 25 A No, I'm retired.

- 1 Q Did you ever leave James and Minor alone together?
- 2 A No.
- 3 Q You say that like you're sure.
- 4 A I'm sure, because it was either -- I was either with
5 them or the mom was with them or the dad. The children
6 were never left alone in the house, never.
- 7 Q Do you know of anything that happened between Minor
8 and James in the bathroom?
- 9 A No, I do not.
- 10 Q Would you have?
- 11 A I would have since -- if you knew the size of my
12 bathroom, it would be quite difficult for anything to
13 happen in that bathroom.
- 14 Q How big is your bathroom?
- 15 A I would say it's maybe six by five, with a shower, a
16 toilet, a linen closet, a sink, and a little cabinet.
- 17 Q Okay. How big is the little cabinet?
- 18 A About so big.
- 19 Q That long or wide?
- 20 A Long about from here to here. Not too big.
- 21 Q Anything on top of it?
- 22 A Yeah. Mostly the deodorant and stuff that you would
23 keep on a cabinet.
- 24 Q Okay.
- 25 A Hairspray and that kind of stuff.

DIRECT EXAMINATION OF MARILYN ULLMANN BY MR. HUGHES

291

1 Q That's kept on top of the cabinet?

2 A Right.

3 Q How many dogs do you have?

4 A Now I have three.

5 Q Now, there have been some pictures shown that show
6 the inside of the house with some dog feces on the floor.

7 A Yeah. They were puppies and they were being trained.
8 They are now trained and they are outside.

9 Q Okay.

10 MR. HUGHES: If I may approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 Q I'm going to show you a picture that has been
14 previously labeled State's Exhibit Number Four and ask you
15 what's in that picture?

16 A That's the living room going into the kitchen part.

17 Q I apologize.

18 A Yes. This is the living room, and that's the kitchen
19 on the other side.

20 Q There's a dog in that picture. Who is that?

21 A That's Lilly.

22 Q How old is Lilly in that picture?

23 A Lilly's dead. She was hit by a car.

24 Q Oh. And I see on the floor where some dog had an
25 accident?

1 A Yes.

2 Q And about how often would that happen?

3 A Not too often. And all of the rugs are now ripped
4 up, so there are no more rugs on the floor.

5 Q And what would y'all do once -- if the dog had an
6 accident?

7 A They went out in the yard. They stayed out in the
8 yard until she kind of relieved herself out in the yard,
9 rather than do it in-house.

10 Q Okay.

11 A It was a constant struggle.

12 Q But you cleaned up.

13 A Oh, yeah.

14 MR. HUGHES: May I approach again, Your Honor?

15 THE COURT: You may.

16 Q I'm going to show you States Exhibit Number Five and
17 ask you what that is?

18 A That's the puppy pads. That was usually put down at
19 night because they couldn't go out at night because they
20 didn't know where they were. It was too dark. I put the
21 papers down there, and then in the morning, I would pick
22 them up and throw them away and then they went out in the
23 yard.

24 Q Okay. Now I show you ---

25 MR. HUGHES: May I approach again, Your Honor?

DIRECT EXAMINATION OF MARILYN ULLMANN BY MR. HUGHES

293

1 **THE COURT:** You may.

2 **Q** --- State's Exhibit Number Nine and ask you what that
3 is?

4 **A** That's my refrigerator, my old refrigerator which is
5 no longer in existence. That was a refrigerator that was
6 left at the house until I got a new one.

7 **Q** And where was that refrigerator at?

8 **A** On the back porch.

9 **Q** And you replaced it?

10 **A** Oh, yeah. There's a new one in the house now.

11 **Q** Okay. Thank you.

12 Where did **Minor** sleep?

13 **A** In a bunk bed in a bedroom with her brother. They
14 had a bunk bed.

15 **Q** And how was she as far as sleep was concerned?

16 **A** She was fine, as far as I knew. It was hard to get
17 her up in the morning, but she usually went to sleep right
18 away. As I could tell, she never got up out of the bed
19 during the night that I ever knew.

20 **Q** How big is this house that we're talking about?

21 **A** Well, it's got one, two, three -- it's got four
22 bedrooms. No, excuse me. It's got two bedrooms and a
23 living room and a kitchen. It's not a big -- it's not a
24 big house.

25 **MR. HUGHES:** No further questions, Your Honor.

1 THE COURT: Cross-examination?

2 MRS. VAUX: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MRS. VAUX:

5 Q Hi, Ms. Ullmann.

6 A Hi.

7 Q What's your relationship to James Watson?

8 A I'm his grandmother -- his wife's grandmother.

9 Q Okay.

10 A His grandmother-in-law, if you want to put it that
11 way.

12 Q And you said that James Watson, Kimberly Watson, and
13 their children all lived with you; correct?

14 A Right.

15 Q And they lived with you in the home in these pictures
16 that Mr. Hughes just showed you?

17 A Uh-huh.

18 THE COURT: You have to say yes or no.

19 A Oh, yes. Yes.

20 Q Okay. And Mr. Hughes I know just showed you some of
21 these pictures, like States Exhibit Six, which shows the
22 dog feces on the ground, and States Exhibit Five, again,
23 showing the dog feces on the ground. And you said that
24 you are training some puppies; is that correct?

25 A Three puppies.

CROSS-EXAMINATION OF MARILYN ULLMANN BY MRS. VAUX

295

1 Q Okay. And you said that you usually put this down at
2 night?

3 A Yes.

4 Q But isn't it true that these pictures were taken in
5 the afternoon?

6 A I don't know when they were taken.

7 Q Were you not home when these were taken?

8 A I might have been. I might have went to the store.
9 My daughter might have been home-- excuse me, my
10 granddaughter might have been home. I don't recall.

11 Q Okay. Let me ask you another question.

12 THE COURT: Counsel, do you want to approach the
13 witness?

14 MRS. VAUX: I apologize.

15 THE COURT: Ask the Court's permission.

16 MRS. VAUX: May I approach the witness, Your Honor?

17 THE COURT: You may.

18 Q This is State's Exhibit Three. Do you recognize
19 this?

20 A Yes.

21 Q And what is this a picture of?

22 A **Minor** and a bruised eye.

23 Q Okay. And, Ms. Ullmann, did you see that black eye
24 on the day **Minor** received it?

25 A I heard the noise when she received it.

1 Q Okay. And did you take her to a doctor?

2 A No.

3 Q Okay. And you said -- you described the cabinet in
4 the bathroom.

5 A Uh-huh.

6 Q The cabinet that **Minor** described in her video. You
7 said it was a very small bathroom; correct? And you said
8 that it was about as big as the desk you are sitting at.

9 A Yeah, about that big.

10 Q Okay. And how big is **Minor** She's a little girl;
11 right?

12 A (NODDED AFFIRMATIVELY.)

13 Q And she was six at the time ---

14 COURT REPORTER: I'm sorry, Your Honor, ---

15 THE COURT: Hold on.

16 COURT REPORTER: --- I'm sorry. The witness is not
17 answering out loud.

18 THE COURT: You've got to give us a verbal answer.

19 WITNESS: Oh. I'm sorry.

20 THE COURT: Ask the question again. The court
21 reporter couldn't get it down because you moved to another
22 question. The witness nodded her head.

23 MRS. VAUX: I'm sorry.

24 Q You said that the cabinet was about as big as your
25 desk; is that correct?

CROSS-EXAMINATION OF MARILYN ULLMANN BY MRS. VAUX

297

1 A Right.

2 Q And you said that it wasn't very big.

3 A Right.

4 Q But **Minor** is a little girl; isn't she?

5 A Yeah.

6 Q And at the time that she was living in your home, she
7 was six years old; is that correct?

8 A Right.

9 Q And she was a little six-year-old girl; is that
10 correct?

11 A Right.

12 Q Would she have fit on that desk? Would she have been
13 able to sit on that desk?

14 A She would have been able to sit on it, but it would
15 have been a tight struggle. If she were to lay on that
16 desk, her head would have been in the bathroom sink and
17 her feet would have been up the wall.

18 Q Okay.

19 A That's how she would have had to lay.

20 Q Ms. Ullmann, isn't it true that you laughed when
21 Detective Baxter came to your house to ask you about the
22 allegations and about **Minor** and the sexual abuse with her
23 father?

24 A No. I wouldn't laugh at anything like that.

25 Q Isn't it also true that you told Detective Baxter

1 that you knew nothing about what James had done?

2 A I might have said that, because I didn't know of
3 anything he had done.

4 Q Thank you. No further questions.

5 THE COURT: Redirect?

6 REDIRECT EXAMINATION

7 BY MR. HUGHES:

8 Q Ms. Ullmann, a real quick question. You said you
9 heard when Minor got the black eye?

10 A Yes, I did.

11 Q What did you hear?

12 A I heard a lot of noise. I was in the living room,
13 which is approximately maybe six-foot from their bedroom
14 door. I heard a loud noise. Her mother was in the
15 kitchen.

16 She heard it, and both of us ran to the door and
17 said: What happened?

18 We opened the door. Minor was -- her dad was
19 holding Minor and she was crying.

20 She said: I fell off the bed and hit my eye on the
21 chair.

22 And I looked at her and I said: Oh, boy, you're
23 going to have black eye now.

24 And we put ice on it to calm her down. That's all
25 that happened.

RE-CROSS-EXAMINATION OF MARILYN ULLMANN BY MRS. VAUX

299

1 **MR. HUGHES:** No further questions, Your Honor.

2 **THE COURT:** Recrossed, limited to redirect?

3 RE-CROSS-EXAMINATION

4 BY MRS. VAUX:

5 **Q** Ms. Ullmann, isn't it true that **Minor** and James, her
6 brother, are now living in foster care?

7 **A** Yes.

8 **Q** And isn't it true that as a result of the allegations
9 that **Minor** has made that they have been removed from the
10 home and are now living separately in two different foster
11 homes?

12 **A** Yes.

13 **Q** And what would **Minor** have to gain by making all of
14 this up?

15 **MR. HUGHES:** Your Honor, (a), I don't see how this

16 ---

17 **THE COURT:** Hold on.

18 Counsel, approach.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
20 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
21 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
22 PRESENCE AND HEARING OF THE JURY:)

23 **THE COURT:** Objection overruled. Cross-examination.

24 Restate the question, Counsel.

25 **Q** Ms. Ullmann, what would **Minor** have to gain by lying

1 and having her family split up?

2 A I have no idea.

3 Q Thank you. No further questions.

4 THE COURT: As to this witness, Mr. Hughes?

5 MR. HUGHES: I ask that she be excused, Your Honor.

6 THE COURT: Any objection, Solicitor?

7 MRS. VAUX: No, Your Honor.

8 THE COURT: Ms. Ullmann, you may step down from the
9 witness stand, and you are excused from the trial of the
10 case. You may leave the courtroom at this time. Watch
11 your step.

12 MR. HUGHES: Your Honor?

13 THE COURT: Yes, sir?

14 MR. HUGHES: May she also be informed that she does
15 not have to leave the courtroom?

16 THE COURT: Yes.

17 Ms. Ullmann, if you would like -- well, subject to my
18 previous order, because I don't know -- you understand?
19 You have advised her?

20 MR. HUGHES: Yes, sir.

21 THE COURT: All right.

22 Approach.

23 Hold on a second, Ms. Ullmann. I want to make sure
24 that I am communicating with my lawyers.

25 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE

1 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
2 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
3 PRESENCE AND HEARING OF THE JURY:)

4 THE COURT: Ms. Ullmann, if you will remain at this
5 point, Mr. Hughes is going to speak to you concerning my
6 instructions to both sides concerning witnesses so you
7 will have a clear understanding. And you will be able to
8 either remain in the courtroom, or if you would like, you
9 can leave. That will be up to you, but Mr. Hughes will
10 give you that instruction. If you'll just have a seat in
11 the courtroom.

12 MR. HUGHES: Just have a seat right over there, Ms.
13 Ullmann.

14 THE COURT: Madam Foreperson, ladies and gentlemen of
15 the jury, I see that it's 5:30. I told you that we would
16 work until approximately 5:30.

17 We're going to stop at this point. We will finish
18 this trial tomorrow, ladies and gentlemen.

19 I'm going to ask that over the overnight recess that
20 you not discuss this case with anyone, not even a member
21 of your family. If somebody tries to talk to you about
22 it, just say: I'm on the jury and the judge asked me not
23 to talk about it.

24 If somebody persist in wanting to talk to you about
25 it, you get their name and give it to me. I'll handle

1 that problem for you, ladies and gentlemen. I promise you
2 that person won't bother you anymore.

3 I hope everybody has a pleasant evening. I need you
4 to be here -- I want to start at 9:30, because I am
5 planning the entire thing now for tomorrow, including your
6 lunch, because I have to anticipate things and I have to
7 think ahead in order to do that. So please be here by
8 9:30 so we can start by 9:30 in the morning.

9 I anticipate that the trial will be completed
10 tomorrow, and I thank you for your service and your
11 patience. You may leave the courtroom at this time.

12 Everyone else remain seated while the jury is
13 leaving.

14 (OCTOBER 16, 2012, 5:33 P.M., WHEREUPON, THE JURY
15 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
16 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

17 **THE COURT:** All right, Counsel, it is my
18 understanding from our discussion at the bench that you
19 both -- we start at 9:30. Both of you are giving me your
20 best estimate of two additional witnesses that we can
21 finish testimony by 11:00 o'clock.

22 I think argument and charge will take at least two
23 hours, which means right now, although Margaret is not in
24 the courtroom, and we estimate the earliest we can
25 complete it is 1:00 o'clock, which means I am going to try

1 to have lunch around 1:00 to 1:15 tomorrow. And I'm going
2 to try to have it where it is served here and we can work
3 straight through, because obviously nobody needs to leave
4 if the jury is deliberating, since they might have
5 questions and we don't know. And I don't know if we can
6 get it to the jury by then, but I'm anticipating that.

7 Both of you are aware that I do not like to give
8 juries cases after 3:30 in the afternoon, because
9 generally, they want to go home and they don't want to
10 consider the evidence, which is unfair to either party in
11 this case. So I'm trying my best to see that the trial
12 moves along in a timely fashion so that we don't run into
13 that problem. I'm certainly not going to put any time
14 limits on anyone, but I want to effectively use all of the
15 time that I have.

16 Anything from the State of South Carolina before we
17 adjourn for the evening?

18 **MRS. VAUX:** Nothing from the State.

19 **THE COURT:** Anything from the defendant?

20 **MR. HUGHES:** No, Your Honor.

21 **THE COURT:** All right, Counsel, I need to see you
22 briefly in chambers.

23 Mr. Hughes, first go to Ms. Ullmann and you explain
24 her my order of sequestration so she understands, and then
25 join me and the solicitor in chambers.

1 We're in recess until 9:30 a.m. tomorrow morning.

2 (WHEREUPON, THIS CASE WAS RECESSED. THEREAFTER, ON
3 OCTOBER 17, 2012, AT 9:46 A.M., THE FOLLOWING PROCEEDINGS
4 WERE HELD ON THE RECORD OUT OF THE PRESENCE OF THE JURY:)

5 **THE COURT:** I have met with the attorneys. I have
6 been over my draft of my charge with them this morning.
7 They are in agreement as to the verdict form.

8 They now know what I intend to charge, in part. I'm
9 going to take a break and go over the topics with you.

10 They've agreed that a verdict form that I've shown
11 them that I prepared last night is agreeable to both
12 sides.

13 Is that correct from the State?

14 **MRS. VAUX:** Yes, Your Honor.

15 **THE COURT:** Is that correct from the defendant?

16 **MR. HUGHES:** Yes, sir.

17 **THE COURT:** I asked my court reporter, Ronda
18 Cummings, to listen to testimony, in light of my ruling at
19 the conclusion of the State's case yesterday. First, she
20 told me she had listened to Detective Ruiz's testimony.

21 Question: And were you on duty on May 2nd of 2011?

22 Answer: Yes, ma'am.

23 Question: And where were you working that day?

24 Answer: Ridgeland School Campus.

25 Question: So you were working as a school resource

1 officer at that point?

2 Answer: Yes, ma'am.

3 Question: And where exactly is the Ridgeland School
4 Campus?

5 Answer: It's 250 Jaguar Trail, right off of Grays
6 Highway here.

7 Question: Okay. And that's in Jasper County?

8 Answer: Yes, ma'am.

9 Later in that testimony: What happened after your
10 meeting at the school?

11 He's -- he's explained that he was the school
12 resource officer at the Ridgeland School Campus. And he
13 said --

14 Question: What happened after your meeting at the
15 school?

16 Myself and Ms. Reed, a representative of DSS, we went
17 to go do a home visit.

18 Okay. And where was that?

19 I don't know the exact address, but it was on Mill
20 Pond Road and Grays Highway.

21 Okay. And when was that home visit conducted?

22 That was on the same date, May 2nd.

23 Okay. And whose home was it that you went to?

24 It was Mr. Watson and Mrs. Watson's residence.

25 For purposes of the motion for directed verdict on

1 jurisdiction and venue, I take judicial notice that you
2 cannot attend the Ridgeland school, the elementary school,
3 unless you are a resident of Jasper County. I think it is
4 clearly inferrable the intersection of Mill Pond Road and
5 Grays Highway is in Jasper County, because the
6 intersection was given, even though Grays Highway extends
7 beyond the county limits. For that reason, I respectfully
8 denied a motion for a directed verdict.

9 I stated yesterday there was an inference in the
10 testimony. I am now convinced that there was clearly
11 sufficient evidence in which to submit the case to the
12 jury on that basis.

13 There is other testimony. The court reporter also
14 listen to Detective Baxter and to Minor I
15 believe there may have also been some testimony, although
16 I don't have that in front of me at this time, from Ms.
17 Barker, which she was asked questions about where she
18 understood the incident may have occurred, but she did not
19 give a location by county, that I recall. However, from
20 what I have quoted, I think there is sufficient evidence
21 to submit the case, and I wanted there to be a record of
22 it. I understand Mr. Hughes's motion, but I respectfully
23 deny the motion in light of my review last night of the
24 testimony.

25 I've also been informed this morning by both lawyers

1 in our meeting that they agree that the charge should be
2 up or down on the indicted offenses, and there is no
3 request for any other offenses, other than the indicted
4 offenses.

5 Is that correct from the State?

6 MRS. VAUX: Yes, Your Honor.

7 THE COURT: Is that correct from the defendant?

8 MR. HUGHES: Yes, Your Honor.

9 THE COURT: Finally, we discussed -- Margaret, do you
10 have my indictments down there?

11 CLERK: Yes, sir, we do.

12 THE COURT: I invite Counsel to turn to 16-3-652,
13 which I think has been amended. Hold on one second. Let
14 me make sure.

15 It has. The amendment doesn't affect what I'm about
16 to talk about, I don't believe. It was amended June 11,
17 2010.

18 No, that's not the section, Camden. That -- that
19 defines criminal sexual conduct in the first degree. I'm
20 referring to the section where it says either the jury or
21 the judge must make a finding. Is that in 652, or is that
22 in a later section?

23 All right. My law clerk is telling me it's in
24 16-3-655, and that is in the supplement. It is Subsection
25 (c)(1) of Section 16-3-655. A person convicted of a

1 violation (a)(1). (a)(1) is that the actor engages in
2 sexual battery with a victim who is less than 11 years of
3 age.

4 A person convicted of a violation of Subsection
5 (a)(1) is guilty of a felony and upon conviction must be
6 imprisoned for a mandatory minimum of twenty-five years,
7 no part of which may be suspended nor probation granted,
8 or must be imprisoned for life. In the case of a person
9 pleading guilty or nolo contendere to a violation of
10 (a)(1), the judge must make a specific finding on the
11 record regarding whether the type of conduct constituted
12 the specific -- the sexual battery involved sexual or anal
13 intercourse by a person or intrusion by an object. In the
14 case of a person convicted at trial for a violation of
15 section (a)(1), the judge or jury, whichever is
16 applicable, must designate as part of the verdict where
17 the conduct that constituted the sexual battery involved
18 sexual or anal intercourse by a person or intrusion by an
19 object.

20 I understand that the parties wish to stipulate and
21 not ask the jury to make that finding, but asked the Court
22 to make that finding.

23 Solicitor, is that correct?

24 MRS. VAUX: That's correct, Your Honor.

25 THE COURT: Mr. Hughes, is that correct?

1 **MR. HUGHES:** Yes, sir.

2 **THE COURT:** Now, you're going to have to -- for
3 purposes of this case and because of the cross-examination
4 by Mr. Hughes of Dr. Schuh, as well as the
5 cross-examination of Ms. Hefner, there has been evidence
6 introduced in the trial of this case that the sexual
7 battery involved both sexual or anal intercourse by a
8 person. There is also inference testimony from the
9 cross-examination that the sexual or anal intercourse was
10 intrusion by an object.

11 How do the parties wish to stipulate to this finding
12 for purposes of this case, in light of the evidence that
13 has been presented?

14 Solicitor?

15 **MRS. VAUX:** Your Honor, it is the State's position
16 that there was sexual intercourse, vaginally and anally.
17 I don't think there's any testimony, even through the
18 cross about anything anally with an object. I agree that
19 there was testimony about an object vaginally.

20 **THE COURT:** Mr. Hughes?

21 **MR. HUGHES:** Your Honor, I agree the testimony did
22 not say anything about any insertion, other than
23 self-insertion.

24 **THE COURT:** Mr. Hughes, you agree that there is
25 sufficient evidence for sexual battery? I'm not asking

1 you to agree on your client's guilt, just on the evidence,
2 that there is sufficient evidence of both vaginal or anal
3 intercourse by a person, for purposes of this section?

4 **MR. HUGHES:** Testimony has been given to that effect.
5 Yes, sir.

6 **THE COURT:** Pardon?

7 **MR. HUGHES:** Testimony has been given to that effect.
8 Yes, sir.

9 **THE COURT:** All right. In light of that, I am making
10 a finding, by agreement of counsel, that the conduct that
11 constituted the sexual battery involved sexual or anal
12 intercourse by a person.

13 And, Mr. Hughes, if you want me to, I would also, if
14 y'all agree to it -- because for purposes of this
15 particular offense it can be by a person or intrusion by
16 an object -- but if you're satisfied with that
17 stipulation, I will leave it at that, since it's not going
18 to be a finding for the jury but for the Court. Are the
19 parties so satisfied?

20 Solicitor?

21 **MRS. VAUX:** Yes, Your Honor.

22 **THE COURT:** Mr. Hughes?

23 **MR. HUGHES:** Yes, sir.

24 **THE COURT:** All right. I think that now covers
25 everything that we discussed in our conference.

1 Anything further from the State before I bring the
2 jury in?

3 **MRS. VAUX:** Nothing from the State.

4 **THE COURT:** Anything further from the defendant
5 before I bring the jury in?

6 **MR. HUGHES:** No, sir.

7 **THE COURT:** Ronda, thank you very much for your
8 thorough and kind review to help me refresh my memory as
9 to exactly what evidence was elicited for purposes of Mr.
10 Hughes' motion.

11 All right. I think we are ready to start. Bring me
12 the jury.

13 (OCTOBER 17, 2012, 10:00 A.M., WHEREUPON, THE JURY
14 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
15 WERE HELD IN THEIR PRESENCE.)

16 **THE COURT:** Good morning.

17 **JURORS:** Good morning.

18 **THE COURT:** Good morning, Madam Foreperson.

19 **FOREPERSON:** Good morning.

20 **THE COURT:** Good morning, ladies and gentlemen of the
21 jury.

22 **JURORS:** Good morning.

23 **THE COURT:** We were here before 9:30. We started
24 working before 9:30. I had to take up some matters of law
25 this morning. I've dealt with those now. Thank you for

1 your patience. We will now continue with the testimony in
2 the trial of this case.

3 Mr. Hughes, you may call your next witness.

4 MR. HUGHES: Thank you, Your Honor. The defense
5 calls Kimberly Watson.

6 THE COURT: Somebody get Mrs. Watson for me. Where
7 is she, Mr. Hughes?

8 MR. HUGHES: She should be in the second office, sir.

9 KIMBERLY E. WATSON, after being duly sworn,
10 testified as follows:

11 THE COURT: Watch your step. You'll have to step up
12 right there, Mrs. Watson.

13 Make yourself comfortable. Pull that chair. Adjust
14 that microphone. It will pull down or side to side.
15 Adjust it to your height.

16 Speak into that microphone. It will amplify your
17 voice so that everybody on my jury can hear you.

18 I'd like for you to begin by stating your full name
19 and spelling your last name for the court reporter.

20 WITNESS: My name is Kimberly Elizabeth Watson,
21 W-A-T-S-O-N.

22 THE COURT: Everybody hear down there okay on the
23 jury?

24 Your witness, Mr. Hughes. Direct examination.

25 MR. HUGHES: Thank you.

DIRECT EXAMINATION OF KIMBERLY WATSON BY MR. HUGHES

313

DIRECT EXAMINATION

1

2 BY MR. HUGHES:

3 Q Mrs. Watson, where do you live?

4 A Grays, South Carolina.

5 Q And what do you do for a living?

6 A Stay-at-home mom.

7 Q How many children do you have?

8 A Three.

9 Q And who are they?

10 A James, Minor and Allen.

11 Q And how old are they?

12 A James is six. Minor is eight, and Allen is three --
13 I mean four. He just turned four.

14 Q And are you married?

15 A Yes.

16 Q Who is your husband?

17 A James Watson.

18 Q And is he in this courtroom?

19 A Yes, sir.

20 Q Could you point him out to the jury?

21 A (POINTING.)

22 MR. HUGHES: Let the record show that she is pointing
23 to my client, the defendant.

24 Q Tell us about your home life with James.

25 A Well, we're happy. We just got married before all

1 this happened. We -- he loved -- he loved to cook, so I
2 didn't have to.

3 I take care of the kids, mostly. I gave them baths.
4 And we ate as a family all the time.

5 Q Did you bathe the children or did they bathe
6 themselves?

7 A Well, I taught them how to do it, but when they got
8 old enough, **Minor** and James did it themselves.

9 Q Do they like taking baths?

10 A Yes.

11 Q Now, you said you're a stay-at-home mom.

12 A Yes, sir.

13 Q Did you ever leave the home for a period of time?

14 A Never by myself.

15 Q What do you mean by that?

16 A I've never had a license.

17 Q Who went to the store?

18 A We all did.

19 Q When you say all, who do you mean?

20 A My husband, when we had a car. It would be me, my
21 husband, and the kids.

22 Q Mrs. Watson, what was, would you say, what your
23 family's income was per year?

24 A Well, before we moved here he was getting paid five
25 hundred per week.

DIRECT EXAMINATION OF KIMBERLY WATSON BY MR. HUGHES

315

- 1 Q So about twenty-six thousand a year?
- 2 A Yes.
- 3 Q That's before taxes?
- 4 A Yes.
- 5 Q A family of five?
- 6 A Four. My -- Allen, he never lived with us.
- 7 Q Who else did you live with?
- 8 A My grandmother.
- 9 Q Why was that?
- 10 A Because he was -- I don't know why he was fired, but
- 11 after that, we couldn't afford where we were living, so we
- 12 had to live with my grandmother.
- 13 Q And the house y'all were living, that was your
- 14 grandmother's?
- 15 A Yes.
- 16 Q And that is who?
- 17 A Marilyn Ullmann.
- 18 Q How often would James be alone with the children?
- 19 A Never.
- 20 Q You say -- you sound very sure of that. Why is that?
- 21 A Because I was always with him.
- 22 Q How big a house are we talking about?
- 23 A Not very big, only two bedrooms.
- 24 Q Now, there has been some testimony about **Minor**
- 25 getting a black eye. Do you know about that?

1 A Yes, sir.

2 Q Tell the Court -- tell the jury what happened.

3 A Well, I don't remember the date or anything, it was
4 James, the dad, and the two kids were in the room. James
5 was playing a video game. I was in the living room with
6 my grandmother.

7 We heard a loud thump. I went running in there, and
8 **Minor** ran to -- as soon as I opened the door, I saw her
9 go to her father. She was crying.

10 I asked her what happened. She said she was standing
11 on the bed playing. I don't know what she was doing. She
12 said she was playing on the bed, and she said she fell
13 down and hit her eye on the chair.

14 Q What type of chair are we talking about?

15 A It was a little kid chair from one of those little
16 tables for kids.

17 Q What did y'all do then?

18 A Right after that, we put ice on her eye.

19 Q Did you ever carry **Minor** to the dentist?

20 A For a while, no, because we didn't have a vehicle,
21 but after a while we did.

22 Q Did y'all have health insurance?

23 A Yes.

24 Q How about taking your oldest son to Charleston to the
25 doctor there.

DIRECT EXAMINATION OF KIMBERLY WATSON BY MR. HUGHES

317

1 A We did take him, I think, one time. Then they took
2 him off of the medicine he was on. And then he said that
3 he looked fine and they didn't say we had to take him back
4 after that.

5 Q What was wrong with him?

6 A His heart.

7 Q Was that a birth defect?

8 A Yes.

9 Q Now, described the bathroom in that house for us,
10 please.

11 A It's a very small bathroom. It doesn't even have a
12 bathtub. You go in. There is a big closet here. There's
13 a small, I guess, like a counter. The thing is attached
14 to the counter. There's a shower. There's this much room
15 to get in the shower.

16 Q How big is this counter?

17 A Maybe this wide, and it has a mirror leaning up
18 against the wall on top of the counter.

19 Q Anything else on top of the counter?

20 A No.

21 Q Where did the children sleep?

22 A In their own room.

23 Q Their own room? Do they have separate rooms?

24 A Well, they have a bunk bed, because we only have two
25 bedrooms.

1 Q How -- how was Alison's behavior in the home?

2 A She was very -- she loved to read. She -- she loved
3 to be read to. Well, she couldn't read yet, but she liked
4 to be read to. She was always playful. She was normal, I
5 guess.

6 Q This is a hard question to ask. Have you ever found
7 her touching herself in a sexual manner?

8 A No, sir.

9 Q Have you ever discovered any injuries to her vagina?

10 A No, sir.

11 Q Have you ever noticed any blood around her vagina?

12 A No, sir.

13 Q Would you have been in a position to do so?

14 A To do?

15 Q To find -- if she had been ---

16 A Yes.

17 Q Who did the laundry?

18 A Me.

19 Q Did you ever find any blood in her panties?

20 A No, sir.

21 Q Did she ever -- and I know this is very personal, but
22 do you have any pornography in your house?

23 A Yes, sir. Well, we did. We don't anymore.

24 Q Where was it?

25 A It was in our closet.

DIRECT EXAMINATION OF KIMBERLY WATSON BY MR. HUGHES

319

1 Q Do you know if **Minor** ever saw any?

2 A Yes, she did.

3 Q I'm sorry?

4 A Yes.

5 Q How do you know that?

6 A Because I caught her looking at it.

7 Q I know this is embarrassing, but could you tell the
8 jury what type of pornography this was?

9 A What type?

10 Q Yes. I mean was it soft-core, hard-core?

11 A Hard-core.

12 Q Describe how you caught her looking at it.

13 A Well, they were -- they were playing hide and seek, I
14 think. For like a minute or so I didn't hear any noise.

15 That makes me nervous, because they get into everything.

16 I was looking for her, and I caught her. I finally
17 found her in my closet. It has like shelves, and I guess
18 she climbed like this high and found it. She was on the
19 floor in my closet looking at the magazines.

20 (WHEREUPON, A NOISE WAS HEARD IN THE COURTROOM.)

21 THE COURT: Hold on just a moment.

22 CLERK: We'll try to turn it off.

23 THE COURT: I'm sorry.

24 Q I apologize. Please go ahead and repeat what you
25 said.

1 A She climbed in our closet. It's like shelves in it.
2 She somehow found them and pulled them down, and when I
3 finally found her, she was on the closet floor looking at
4 them. When I caught her, she was like -- she was like --
5 she jumped up like she did something wrong.

6 Q Did she ask you any questions about what she had
7 seen?

8 A Not at that time, no, she didn't.

9 Q Did she later?

10 A Yes.

11 Q Could you tell us about that?

12 A She asked what they were doing and why they were
13 doing it. I couldn't answer it.

14 Q Do you know if she asked anyone else about that?

15 A (NODDED NEGATIVELY.)

16 THE COURT: You have to say yes or no. Don't shake
17 your head.

18 A No.

19 Q Does -- how do you describe Alison's playing? Does
20 she simply play in a small area, doing what she does, or
21 does she run around?

22 A She's running around all over the place.

23 Q Would you describe her as imaginative or
24 non-imaginative?

25 A Very.

DIRECT EXAMINATION OF KIMBERLY WATSON BY MR. HUGHES

321

1 Q I'm sorry. You're going to have to be more specific.

2 A She's very imaginative.

3 Q Could you give examples, please?

4 A She, outside, makes mud pies.

5 (WHEREUPON, WITNESS BEGAN CRYING.)

6 A This is hard, because it's been so long since I've
7 seen her.

8 Q Just take your time. Would you like some water?

9 A Yes, please.

10 MR. HUGHES: May I approach the witness, Your Honor?

11 THE COURT: You may.

12 Q Whenever you are ready. You were describing her
13 imagination.

14 A Yes. She's -- how can you describe a little kid's
15 imagination?

16 Q Would she make up stories?

17 A Yes. You can find her doing something that she's not
18 supposed to do, and she blames -- like, she's eating a
19 cookie, and she blames: Grandma said I can have it.

20 You go ask grandma, and she says: No, I didn't.

21 Q How did you punish her?

22 A Well, we stuck her in a corner, like timeout.

23 Q How did she feel about that?

24 A She didn't like it.

25 Q One final question, and this is -- could you please

1 tell the jury the size of your husband's genitalia?

2 A About seven inches long, about six inches around.

3 MR. HUGHES: No further questions, Your Honor.

4 THE COURT: Cross-examination?

5 MRS. VAUX: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MRS. VAUX:

8 Q Mrs. Watson, you said that you have three children?

9 A Yes.

10 Q Where does Allen live?

11 A With his aunt and uncle.

12 Q And why is that?

13 A Because at the time we had enough taking care of two,
14 so they offered to take him.

15 Q So you couldn't take care of him so you gave him to
16 your aunt and uncle?

17 A Yes, ma'am.

18 Q Okay. And you told us that the defendant was never
19 home alone?

20 A Never.

21 Q And you were always home.

22 A Yes.

23 Q And he was never with **Minor** and James by himself.

24 A Yes.

25 Q But then didn't you just tell us that you weren't in

CROSS-EXAMINATION OF KIMBERLY WATSON BY MRS. VAUX

323

1 the room with him when Minor got the black eye?

2 A No, I wasn't. I was in the living room.

3 Q So Minor and James were in the room with James
4 Watson by themselves, weren't they?

5 A With the door open, yes.

6 Q But you told us they were never alone with him.

7 A Never alone. I could always see them at all times.

8 Q You could always see them, but you didn't see when
9 Minor got a black eye, did you?

10 A No, I was watching TV.

11 Q And you said that she fell on a chair. Describe this
12 chair for us.

13 A It's a little kid's chair.

14 Q Okay. Is it metal, is it wood, is it plastic?

15 A It's metal.

16 Q So you're saying that Minor was sitting or standing
17 on the bed, playing some way that you don't know because
18 you didn't see and you weren't in there, and she fell
19 somehow, but you don't know because you didn't see it and
20 you weren't in there.

21 A Yes, ma'am.

22 Q And when she fell, she got a perfect round bruise on
23 her eye.

24 A Yes, ma'am.

25 Q And she didn't get a cut from that metal chair on her

- 1 eyebrow, did she?
- 2 A No, ma'am.
- 3 Q And she didn't have any other marks on her face?
- 4 A No, ma'am.
- 5 Q But you didn't see that happen.
- 6 A No, ma'am.
- 7 Q You just know what you were told by the defendant.
- 8 A No, I heard it happen.
- 9 Q Okay. Describe to us what you heard.
- 10 A A loud bang.
- 11 Q Okay. And you said that you didn't take the children
12 to the dentist for a while because you didn't have a car.
- 13 A No, ma'am.
- 14 Q But isn't it true that at the school they have free
15 medical care and free dental care?
- 16 A I didn't know that.
- 17 Q Isn't it true that the nurse told you that?
- 18 A No, ma'am.
- 19 Q That you were brought in to meet with the nurse about
20 hygiene issues when **Minor** came to school?
- 21 A No, ma'am.
- 22 Q And she told you that all you had to do was fill out
23 some paperwork and that you would qualify for free medical
24 and dental care?
- 25 A No, ma'am.

CROSS-EXAMINATION OF KIMBERLY WATSON BY MRS. VAUX

325

1 Q You don't remember that?

2 A No, ma'am.

3 Q Okay. Well, what about -- do you remember talking to
4 Detective Baxter?

5 A Yes, ma'am.

6 Q You told us that, when Mr. Hughes asked you, you
7 never saw **Minor** touching herself, you never saw her
8 acting out sexually.

9 A Yes.

10 Q Do you remember telling Detective Baxter ---

11 A Yes.

12 Q --- that you did actually catch her ---

13 A Yeah.

14 Q --- masturbating with a Barbie doll?

15 A Yeah. I -- I thought he meant with her hand.

16 Q Okay. Well, maybe now we have cleared that up a
17 little bit.

18 Now tell us a little bit about this pornography. You
19 said it was hard-core. Describe it for us. It was a
20 magazine?

21 A Yes. It showed males and females.

22 Q Doing what?

23 A Having sex.

24 Q In what way? What's hard-core about it? Explain it
25 to us. What would make a six-year-old little girl look at

1 a magazine and act out and do the things that she was
2 doing? What kind of pornography was it?

3 A It showed penis and butt and vagina.

4 Q Just pictures of them?

5 A Yes.

6 Q Okay. And did it show any pictures of a bathroom
7 with a cabinet with a mirror with somebody on the cabinet
8 with their legs in the air and somebody having anal
9 intercourse with them?

10 A Yes.

11 Q That was one of the pictures?

12 A Yes. It had -- it showed kitchens, bathrooms,
13 different places in the house.

14 Q Okay. So you're telling me that a six-year-old
15 little girl saw that picture for that brief moment of time
16 before you could find her hiding in the closet and she
17 remembered that, that she could act it out, that she could
18 describe it, that it would lead her to touch herself?
19 That's what you're trying to tell us?

20 (WHEREUPON, MR. HUGHES STOOD.)

21 THE COURT: Just a moment.

22 Yes, sir?

23 MR. HUGHES: Your Honor, could should give my client
24 -- I mean the witness a chance to answer?

25 THE COURT: Don't make an argument, Mr. Hughes. It's

CROSS-EXAMINATION OF KIMBERLY WATSON BY MRS. VAUX

327

1 cross-examination. Is there an objection?

2 MR. HUGHES: Yes, Your Honor.

3 THE COURT: Counsel, approach.

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
5 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
6 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
7 PRESENCE AND HEARING OF THE JURY:)

8 THE COURT: Proceed.

9 Q Mrs. Watson, going back to this pornography, what was
10 the name of this magazine?

11 A I don't remember.

12 Q Where did you get the magazine?

13 A From the store.

14 Q What kind of store?

15 A Gas station.

16 Q And when did you catch Minor looking at this
17 magazine?

18 A I don't remember a date.

19 Q A year? I mean was it six months prior to this
20 happening? When was it?

21 A When we lived in the trailer. I don't remember
22 exactly.

23 Q Okay. And you said that she asked you questions
24 about it but that you couldn't give her any answers; is
25 that correct?

- 1 A Yes, ma'am.
- 2 Q So you're telling me that she looked at that picture
3 without anybody telling her, assuming that the picture is
4 the exact same scenario as what we heard about in the
5 bathroom in your house, and that she was able to figure
6 out what was going on in that picture? Is that what
7 you're telling us?
- 8 A I -- she's very imaginative. Yes, ma'am.
- 9 Q Okay. **Minor** started school late didn't she?
- 10 A Yes, ma'am.
- 11 Q She was supposed to start when she was five, by law;
12 isn't that correct?
- 13 A I thought it was four.
- 14 Q So when did she start school?
- 15 A I think she was five.
- 16 Q Wasn't she six?
- 17 A I don't remember exactly.
- 18 Q Okay. You said that -- originally you told us -- to
19 Mr. Hughes, that you never caught **Minor** touching herself.
- 20 A Yes, ma'am.
- 21 Q And then you told us: Oh, wait, yes I did, but I
22 thought you meant just with her hand.
- 23 A Yes, ma'am.
- 24 Q What did you do when you caught her masturbating?
- 25 A I -- I told her it was wrong. Well, at first when I

CROSS-EXAMINATION OF KIMBERLY WATSON BY MRS. VAUX

329

1 caught her, she like, of course knew she was in trouble,
2 and I said: Why are you doing that?

3 And she said: I don't know.

4 Q And did you ask anybody else about why a six-year-old
5 little girl would be masturbating using a Barbie doll?

6 A No, ma'am.

7 Q Did you ever talk to a counselor?

8 A No, ma'am.

9 Q Did you ever think that maybe your husband was
10 sexually abusing her and that she learned those behaviors
11 from him?

12 A No, ma'am.

13 Q Because he's never alone with her, right?

14 A That's right.

15 Q You can always see what's going on when he was with
16 your daughter, **Minor**

17 A Yes, ma'am.

18 Q Mrs. Watson, where are your children living today?

19 A Foster care.

20 Q And are they living together?

21 A No, ma'am.

22 Q So they are in two separate homes?

23 A Yes, ma'am.

24 Q Do you think that this is what **Minor** wanted to
25 happen?

1 A I don't know. Probably not, no.

2 Q Do you think any six-year-old child wants to tear
3 their family apart, to be separated from their parents,
4 from their brother, to tear their whole life apart? Do
5 you think that's what a six-year-old would want?

6 A No, ma'am.

7 Q Do you think a six-year-old would see a magazine, see
8 a picture of what you describe as hard-core porn, be able
9 to make up this entire scenario, accuse her father of
10 sexually abusing her, vaginally penetrating her, anally
11 penetrating her, that she would make all of that up?

12 A Yes, ma'am.

13 Q Why?

14 A To get attention. To make sure she don't get in
15 trouble.

16 Q Do you think that this is the type of attention a
17 six-year-old wants, to be torn from their family?

18 A I don't know what a six-year-old wants.

19 Q No further questions.

20 THE COURT: Redirect?

21 REDIRECT EXAMINATION

22 BY MR. HUGHES:

23 Q Mrs. Watson, I apologize for not being clear. I
24 assume when -- when I asked if James was ever alone with
25 the children that you thought I meant was the home ---

RE-CROSS-EXAMINATION OF KIMBERLY WATSON BY MRS. VAUX

331

1 THE COURT: Counsel, this is direct examination.

2 This is redirect. Ask a question.

3 Q Were you -- was James ever home with the children
4 when you were not at the house?

5 A No, sir.

6 Q Do you know if James ever had anal or vaginal sex
7 with your daughter?

8 A No, sir.

9 Q And you say that -- do you know that he did not?

10 A Yes, sir.

11 Q How do you know that?

12 A Because he was never alone with her so that anything
13 could happen.

14 Q Thank you.

15 MR. HUGHES: No further questions, Your Honor.

16 THE COURT: Recross, limited to redirect.

17 RE-CROSS-EXAMINATION

18 BY MRS. VAUX:

19 Q Mrs. Watson, it must have been pretty exhausting to
20 stay at your house all the time, never being from your
21 husband's side, never being away from the children. That
22 must have been a pretty exhausting life, wasn't it?

23 A Sometimes.

24 MRS. VAUX: No further questions.

25 THE COURT: As to this witness, Mr. Hughes?

1 **MR. HUGHES:** I ask that she be excused, Your Honor.

2 **THE COURT:** From the trial?

3 **MR. HUGHES:** Yes, sir.

4 **THE COURT:** Any objection, Solicitor?

5 **MRS. VAUX:** No, Your Honor.

6 **THE COURT:** Mrs. Watson, you may step down from the
7 witness stand, and you are excused from the trial of this
8 case. You may leave the courtroom, subject to --

9 You have advised the witness concerning the Court's
10 order?

11 **MR. HUGHES:** Yes, sir.

12 **THE COURT:** Very well.

13 Call your next witness.

14 **MR. HUGHES:** The defense calls James Watson.

15 **THE COURT:** Mr. Watson, come around and be sworn by
16 the clerk.

17 **JAMES E. V. WATSON, II,** after being duly sworn,
18 testified as follows:

19 **THE COURT:** Watch your step. Step up. Have a seat.
20 Pull a chair up. Adjust the microphone to your height.
21 It will come down, sideways, whatever you need. Speak
22 into it.

23 Speak up so my jury can hear you. State your full
24 name and spell your last name for the court reporter.

25 **WITNESS:** James Edward Vincent Watson, II,

DIRECT EXAMINATION OF JAMES WATSON, II, BY MR. HUGHES

333

1 W-A-T-S-O-N.

2 THE COURT: Your witness, Counsel. Direct
3 examination.

4 DIRECT EXAMINATION

5 BY MR. HUGHES:

6 Q Mr. Watson, how old are you?

7 A I'm twenty-nine.

8 Q And where do you live?

9 A Well, right now I'm in the Jasper County Detention
10 Center.

11 Q Okay. Before then, where did you live?

12 A 26 Mill Pond Road, Early Branch, South Carolina.

13 Q And where do you work?

14 A I was not employed at the time.

15 Q Where did you work before then?

16 A I had experience with management in the restaurant
17 business. I did some landscaping work. I did some
18 construction, underhand -- you know, paid underhand. I
19 did some body work with some family members. I got paid
20 underhand with that as well.

21 I did some Subway work for a while. The restaurant
22 business, I worked there for about two and a half years
23 and managed it for about six months.

24 Q About how much money did you make a year?

25 A Well, it varied with different jobs, but at the

1 Galley Grill Restaurant where I managed, at a time before
2 I became manager it was seven-fifty an hour. So by the
3 year, I would say maybe about thirteen thousand. Then
4 once I became manager, I became on salary pay of five
5 hundred, and maybe twenty-two thousand a year. I'm not
6 entirely sure.

7 Q How long did you have that job?

8 A About six months, I mean total as management.

9 Q Where -- excuse me, when did you lose that job?

10 A I lost it -- I can't say specific. I know -- I know
11 I got the Subway job right after I lost that one, but it
12 took about a month.

13 Q Do you have a car?

14 A I do.

15 Q What type of car is it?

16 A It's a Ford Escort, 2002. It's not working right
17 now, but it was at the time I was working.

18 Q Do you have health insurance?

19 A I do not now. I mean, we had -- we had family health
20 insurance, I believe a family plan or some sort like that.

21 Q Describe your home life to the jury, please.

22 A I worked, came home, and the time that we was home,
23 we watched movies together. I always cooked dinner most
24 of the time. There was a couple times where my wife would
25 cook dinner sometimes, but it was usually me. My daughter

1 and my son both love my chicken and green bean casserole.
2 And usually by the time that they end up eating the
3 chicken, they want more chicken before they can finish the
4 rest of their food.

5 But the kids would usually run into my room early in
6 the morning, waking me up: Dad, come on let's go.

7 They were ready to go outside and play. They were
8 always wild, and they were always amped up, ready to go.

9 Q Who was the disciplinarian in the family?

10 A All of us really.

11 Q And how was discipline done?

12 A Based on the age of the child. Since Minor was six
13 at the time, she'd be punished with six minutes into the
14 corner. My son would be four, but he rarely got in
15 trouble.

16 Q Now, let's talk about when Minor got a black eye.
17 Tell the jury what happened that day. What time was this?

18 A I'd say about -- I don't know, lunchtime maybe. I'm
19 not sure about what time of day it was. We were -- we
20 were in the room, and I was playing a video game, and my
21 son was sitting right here. My daughter was next to me on
22 the other side of James.

23 The chair that she fell and hit was right there in
24 front of her. And I had told her once to stop bouncing on
25 the bed, otherwise, she might fall down and get hurt.

1 She sat down, but then she got back up and she
2 started bouncing. The next thing -- the next thing I
3 know, but you know I'm looking at the TV, but then I see
4 out the left corner of the eye, she fell.

5 And when she hit, she hit hard. And when she hit,
6 she ran screaming and crying to me. She death gripped me.

7 Q Now, what does the chair look like?

8 A The chair is -- it's blue, metal. It's got round
9 corners. It's all smooth. There's no jagged edges on it
10 or nothing like that. The part that she hit was on the
11 right corner of it, and it's very smooth, almost like
12 roundish, you know.

13 Q How tall is it?

14 A It's approximately maybe a foot and a half tall.

15 Q Is it for an adult or for a child?

16 A Oh, no, it's for a child.

17 Q And what was it doing near the bed?

18 A Well, they usually -- when we watch movies, they have
19 their own little chairs, because sometimes they like to
20 get closer to the TV. So they'll bring their chairs in,
21 but it -- it -- it was just right there for the TV.

22 Q Do you remember what you were playing?

23 A Yes, it was Call of Duty. It's a -- it's a
24 role-playing, shooting game.

25 Q Did you win or lose?

DIRECT EXAMINATION OF JAMES WATSON, II, BY MR. HUGHES

337

1 A I always win. Well, not always. I'm very, very
2 good.

3 Q Did you lose right before Minor got a black eye?

4 A No. The game wasn't even over yet.

5 Q Whose house was this that you were living in?

6 A This is -- well, we lived with her grandma, with my
7 wife's grandma. She pays rent. I'm not sure who the
8 owner is.

9 Q Why were you living there?

10 A Well, when I lost my job -- the reason we moved to
11 Ridgeland and we got our own place is because I got a good
12 paying job, five hundred a week, the management position
13 at a Galley Grill Restaurant inside Boat and RV Megastore.
14 But the reason why we left was because I lost the job and
15 I started working at Subway, which didn't pay very much at
16 all.

17 So we couldn't afford it, so I ended up having to
18 quit that job because it didn't pay enough to actually
19 ride all the way -- drive all the way from 26 Mill Pond
20 Road to Bluffton back and forth. I got paid just enough
21 -- got paid just enough money for gas.

22 Q You said you moved to Ridgeland. Where are you from?

23 A Well, I'm from Grays.

24 Q Now, changing the subject, have you ever had sex with
25 your daughter?

- 1 A No.
- 2 Q Did you take your daughter into the bathroom to have
3 sex with her?
- 4 A No. I would never go into the bathroom with her.
- 5 Q What do you mean?
- 6 A That's not my job. I mean, I don't go in the
7 bathroom when she's in there.
- 8 Q Explain that to the jury.
- 9 A Well, I mean, girls are girls. You know, if somebody
10 is going to take her in there, it's going to be a woman.
11 I mean, that's not a guy's job. To me, that's not a guy's
12 job.
- 13 Q Have you ever touched your daughter's genitalia?
- 14 A No. No. Absolutely not.
- 15 Q Have you ever touched her backside?
- 16 A Absolutely not.
- 17 Q And when I say touch, I mean in a sexual manner.
- 18 A Oh, definitely not. No, sir.
- 19 Q Did you ever spank her?
- 20 A No, sir.
- 21 Q Ever swat her on the butt?
- 22 A Not that I can remember, sir, no.
- 23 Q Speaking of butt, what did y'all teach the children
24 to call their genitalia?
- 25 A Well, she had questions, which I'm pretty sure I was

DIRECT EXAMINATION OF JAMES WATSON, II, BY MR. HUGHES

339

1 not the right one to answer. She asked what she had, and
2 I was -- you know, I was like what?

3 You know, I didn't want to be in a position, but I
4 just told her -- I was like, you have a pee-pee. That's
5 it.

6 So then she asked me what James has got, my little
7 son. I was like well, he's got a boy pee-pee, and you've
8 got a girl pee-pee. Just leave it at that, which she did.

9 Q Now, your wife said that you had a pornography
10 collection.

11 A Yes, sir.

12 Q Where was it kept, and what type was it?

13 A It was -- it was kept in the top part of our closet,
14 which had a door on it, but the kids -- she got in there
15 somehow. I'm not sure why she did it, but she did. Kids,
16 you know, do things.

17 Now, the porn -- I mean, I had DVDs and videos. I
18 had magazines. Now, the magazines were very hard-core.
19 They were Hustler, Barely Legal. It was very hard-core.

20 They show every scene, you know, usually it's like --
21 it's usually like pictures of going in and out and they
22 show them sometimes it's little pictures. Sometimes you
23 can open it up and there's big pictures. They are very,
24 very explicit on the type of material that's seen.

25 It shows sperm. It shows anal penetration. It shows

1 all that stuff.

2 Q Does it show different locations?

3 A Yes, it does. All -- I mean, in various pictures of
4 the same locations, different locations, and usually the
5 same characters.

6 Q You said it showed sperm. Let me rephrase that. Did
7 **Minor** ever ask you any questions about those pictures?

8 A Yes, she did.

9 Q And when was this?

10 A Well, after -- after I came home from work, my wife
11 tells me that the kids -- she got into it. And then

12 **Minor** had come up to me and ask me some questions about
13 what they were doing. I said they were just doing the
14 nasty. It's nasty stuff, you don't need to worry about
15 it.

16 Then she asked what was the white stuff that came out
17 at the boy pee-pee.

18 And I said: Well that's -- that's, you know, I
19 didn't want to answer, but I just told her bubblegum,
20 very, you know -- I didn't know what else to say.

21 I didn't want to be put in that position, but you
22 know, then she said she saw it in the girl's mouth, too,
23 that it went into the girl's mouth.

24 I was like: Yeah, she just likes bubblegum, I guess.

25 Q But you referred to it as nasty?

1 A Yes, sir.

2 Q And you used that word?

3 A Yes, sir.

4 Q What happened with the magazines and DVDs?

5 A Well, right after that, we threw them away.

6 Q Why?

7 A I didn't want it to happen again. I mean, that was
8 just embarrassing enough.

9 Q Was it your idea or your wife's?

10 A It was actually both of ours.

11 MR. HUGHES: No further questions, Your Honor.

12 THE COURT: Cross examination?

13 MRS. VAUX: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MRS. VAUX:

16 Q Mr. Watson, you told us that you never lose. You're
17 pretty good at video games; aren't you? You spend a lot
18 of time playing video games?

19 A Well, actually, I'm pretty good. My kids play with
20 me a lot. We have like four controllers.

21 Well, I mean, I don't know if there's four
22 controllers now. I haven't been there. I've been
23 incarcerated for fifteen months, so I don't know, but we
24 -- we had a lot of games that we played online together.
25 My son, being one of them, he was very good online.

1 We always did things, like I said, as a family. I
2 mean, we play all together, and I mean, I am pretty good.
3 But, you know, me and my son, we would play all the time.

4 And **Minor** plays with us. We played Little Big
5 Planet, or something like that.

6 Q So you're telling me that your four-year-old son is
7 really good at computer games?

8 A Yes -- not computer games. It's a PS3.

9 Q Okay.

10 A But he is very good.

11 Q Mr. Watson, why did you lose your management position
12 job?

13 A I lost -- well, actually, I was never fully informed.
14 I was told by the general manager, and the accountant was
15 there. The general manager told me that he wasn't happy
16 with my service, and then he let me go, which I
17 understood.

18 And then after that, I was informed that the
19 accountant was fired for like taking money or something.
20 So I figured that was it, because the lady did tell me
21 that I should come back and apply, but I never had a ride
22 to go back.

23 Q You told us that it wasn't your job to take **Minor** to
24 the bathroom, because she's a little girl; right?

25 A Yes, ma'am.

1 Q So you won't take your daughter to the bathroom, but
2 you will sit her down and explain hard-core porn to her.
3 Is that what you're telling us?

4 A No, I didn't explain everything. She just had like
5 one or two questions, and I didn't even want to answer
6 those. I gave the smallest, babies answer I could give,
7 because I did not want her to go ask anybody else those
8 questions.

9 Q Okay. But let's think this through. You tell a
10 six-year-old little girl that that magazine is nasty, that
11 you don't need to be concerned about that, that's nasty,
12 but that's bubblegum? That's bubblegum that they have in
13 their mouth? That's bubblegum that's coming out of his
14 penis?

15 Does that make sense to you to tell a six-year-old
16 little girl, that you know probably likes bubblegum and
17 chews bubblegum, but it's nasty?

18 A Which, I mean, I understand that, but at the time,
19 like I said, I did not want to say anything to her that
20 was like -- I just didn't want to talk about it. And it
21 hit me all of a sudden when she came out with that
22 question. I wasn't expecting that at all. It's something
23 that I would rather not have had to have done, ever.

24 Q Well, let's get back to this porn. He said it was
25 very hard-core.

1 A Yes.

2 Q You like it rough, don't you, Mr. Watson?

3 A Rough? No.

4 Q So, what exactly is hard-core porn? It's rough,
5 isn't it?

6 A Well, the pictures that you see is not rough. Like,
7 you don't see them hurting each other or something.

8 Q Is it graphic?

9 A Well, I mean, it's graphic. It shows all of the
10 stuff that any porn would.

11 Q Does it show grown men raping little girls in
12 bathrooms?

13 A No, but it does -- it does show scenes of men and
14 women having sex in bathrooms.

15 Q Are you in those pictures?

16 A What?

17 Q Were you in those magazines?

18 A No.

19 Q Then why would **Minor** make the connection between you
20 and what you claim she saw in a magazine?

21 A I haven't the foggiest idea, besides the fact that
22 she has -- she does have a wild imagination. She really
23 does.

24 Q Okay. She has a wild imagination, but you're telling
25 us when she saw this hard-core pornography magazine, she

1 only asked you two questions. You only talked to her
2 about two questions, because this little girl with a wild
3 imagination, she didn't have more than two questions about
4 the pictures you claim that she saw in these magazines?

5 A Well, if she did, she only asked me two.

6 Q Okay. Let's get back to the black eye you said that
7 she was right next to you on the bed and that she fell and
8 hit her eye on this metal chair.

9 A Actually, what I said was is that my son was here and
10 my daughter was over there right beside my son at a
11 great -- at a great distance. I mean, she was on -- she
12 was on right there at the corner of the bed.

13 Q Is an arm length a great distance?

14 A No, it's actually a little further than that.

15 Q How big was this bed? Isn't this a child's bunk bed?

16 A It's a queen. No, no. We're in my room. It's a
17 queen size bed.

18 Q Okay. So **Minor** falls after bouncing on the bed and
19 hits her eye? I mean, did she fall directly -- tell us
20 how this happened where it just hit that one little spot
21 around her eye ---

22 A Well, ---

23 Q --- but you didn't see it, right, because you are
24 watching the video is what you told us.

25 A No. No, I said I saw her fall, and when I saw her

1 fall, I looked over. I saw her hit the chair, and when
2 she hit the chair, she ran straight up to me crying. I
3 mean, she came to me because she wanted -- she wanted
4 comfort. She was in pain.

5 Q She wanted her dad to comfort her.

6 A Yeah.

7 Q Right. So you expect the jury to believe that she
8 fell and hit just a perfect circle, just like you expect
9 them to believe that she made up this entire scenario of
10 you sexually abusing her with details and emotions and
11 behaviors mimicking what she saw out of a magazine?
12 That's what you expect this jury to believe?

13 A Well, I hope. I mean, I actually do.

14 I mean, I know -- I know I'm not capable of such
15 things. I mean, you know, the chair was facing the
16 opposite way. The rest of her body hit the floor. I
17 mean, so that -- I mean...

18 Q Mr. Watson, do you think your daughter loves you?

19 A Yes, because at the time when we had visitation at
20 DSS, when they was going to take the kids away from us
21 again because we had visitation and we only got one hour,
22 the last time she was death gripping me and screaming and
23 crying, and my son -- my son would not stop.

24 Q So you're telling me that your own daughter, this
25 eight-year-old little girl that sat up in front of us

1 yesterday, that she loves you, but she sat there and told
2 us all these nasty things. She called it disgusting, and
3 she called you disgusting. You're telling us that she
4 just made that up because she loves you?

5 A I ain't saying that she made it up because she loves
6 me. She makes things up to get herself out of trouble.

7 I mean, there's one time that we was aware that a
8 foster parent had called and told DSS or something that
9 **Minor** -- she had told **Minor** to go somewhere or whatever
10 and she was going to get in trouble, and **Minor** plopped
11 down on the floor and said this is what daddy did.

12 And guess what? She got out of trouble.

13 She felt loved after that. She got attention.

14 There was many times where my son would -- my son and
15 my daughter would be doing something. My daughter would
16 make a mistake and do something bad, and then when you see
17 her doing it, you ask why did she do that?

18 And she says: James did it.

19 Or when you catch her doing something else, like
20 eating a cookie from the jar or whatever, you ask her who
21 gave you that?

22 Grandma did.

23 Or: Mommy did.

24 Or: James got one. Why can't I have one?

25 Q Mr. Watson, **Minor** was a six-year-old little girl,

1 wasn't she, the last time she was in your care?

2 A Yes, ma'am.

3 Q Isn't it normal for little kids to tell little white
4 lies if you get caught eating a cookie?

5 A Yeah, but ---

6 Q Are you trying to tell me the connection between
7 **Minor** and getting caught eating a cookie and saying that
8 somebody gave her permission is the same thing as a
9 six-year-old little girl telling somebody that her dad put
10 his penis in her butt and in her coochie? That's the same
11 thing as getting caught eating a cookie?

12 A No, I didn't say that's the same thing, but I did say
13 that she was ---

14 Q But you are comparing them, right?

15 A No, I'm comparing that she lies a lot on a lot of
16 things.

17 Q Okay. So you're telling us that she's a liar, she
18 wants attention, and that she did all of this because she
19 just wanted to get attention? But you also want us to
20 believe that you love her, you cared for her, that this is
21 a good home where y'all sat down and ate dinner and you
22 made them chicken and green bean casserole?

23 A Yes. I mean, I do love my kids. I love them with
24 all my heart. I mean, I would never hurt my kids.

25 Q Mr. Watson, what six-year-old little girl wants this

1 kind of attention?

2 A **Minor** was, at the time, she -- she wanted any type
3 of attention. If it's -- if it's like even if she's in
4 another person's home, she -- she would make up stuff to
5 get attention. She literally would.

6 Q She loved you so much that she made up something so
7 horrible that she would have to be removed from your home,
8 separated from her parents, and separated from her
9 brother. Is that what you're telling us?

10 A I'm saying that that's probably what happened, but
11 there's -- I mean, I don't think she actually wanted to
12 leave. From what I can tell, she was death gripping me,
13 squeezing me, crying, because she did not want to leave me
14 on several -- several occasions.

15 When they take the kids from the home, and when they
16 took the kids again at the visitation and the second
17 visitation, each time, it got worse and worse. They
18 wanted to come home.

19 If I would have done that, I mean, there ain't no way
20 in the world she would love me. There ain't no way in the
21 world she would want to be with me.

22 Q She wanted to come home.

23 A Yes, she wanted to.

24 Q But if she was making this up, she never said: I
25 lied. I want to go home.

1 State of South Carolina?

2 **MRS. VAUX:** Beg the Court's indulgence, Your Honor?
3 Your Honor, the State has one rebuttal witness.

4 **THE COURT:** Counsel, approach.

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
6 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
7 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
8 PRESENCE AND HEARING OF THE JURY:)

9 **THE COURT:** Subject to our bench conference
10 concerning an agreement, the State may call its reply
11 witness at this time.

12 **MRS. VAUX:** The State calls Nurse Amy Smith.

13 **THE COURT:** Would you get her for me?

14 **MRS. VAUX:** She is in the first room.

15 **THE COURT:** Come on up and please be sworn by my
16 clerk. She will give you instructions.

17 **AMY SMITH,** after being duly sworn, testified as
18 follows:

19 **THE COURT:** Watch your step right there. You have to
20 step up.

21 **WITNESS:** Okay.

22 **THE COURT:** Have a seat for me. Make yourself
23 comfortable.

24 Pull that chair up, and adjust that microphone to
25 your height. That microphone will bend down. The chair

1 pulls up. You can pull the whole microphone bottom piece
2 forward if you want to, if you want it closer to you.

3 WITNESS: Okay.

4 THE COURT: There you go. Speak into that
5 microphone. It's going to amplify your voice. State your
6 full name and spell your last name for my court reporter.

7 WITNESS: Amy Smith, S-M-I-T-H.

8 THE COURT: Your witness, Counsel. Direct
9 examination.

10 MRS. VAUX: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MRS. VAUX:

13 Q Ms. Smith, will you please tell us where you work and
14 what it is that you do?

15 A I am the nurse at Ridgeland Elementary School.

16 Q And what grades does that entail?

17 A It's K-4 through fifth grade.

18 Q And do you know Minor

19 A Yes, ma'am.

20 Q And did you have any occasion to deal with her when
21 you were a nurse at her school?

22 A Yes, ma'am.

23 Q Can you tell us a little bit about that?

24 A She came to me. Her teacher brought her to me. She
25 had reported to me that she wasn't feeling well, and she

DIRECT EXAMINATION OF AMY SMITH BY MRS. VAUX

353

1 told the teacher that when she went to the bathroom there
2 was blood in the toilet. The teacher brought her to me.

3 Q And what did you do when you saw Minor that day?

4 A I did my routine examination, and I called mom. It's
5 out of my practice to examine her below the belt, you
6 know, without any clothes on. So I called mom and asked
7 her to come please pick her up and take her to the doctor.
8 I told her what the complaint was, and I asked her if she
9 would bring me a doctor's note explaining what had
10 happened, what the doctor had found.

11 Q And did she ever bring you a doctor's note?

12 A No, ma'am.

13 Q And do you know if Minor saw the doctor?

14 A I do not know.

15 Q And do you know if Minor ever came back to the
16 nurses' office?

17 A She wasn't brought back to my office.

18 Q Okay. Can you describe Minor for us?

19 A She has -- I don't want to say blonde hair, maybe
20 strawberry blonde. It was to right about to her chin,
21 between her chin and her shoulder, and she had little
22 bangs.

23 Q And how would you describe her demeanor?

24 A I remember her. She just always looked very sad in
25 school. That's how come she sticks out so much to me,

1 because she would always wave to me and smile at me when
2 we passed in the hall, but she wasn't a very outgoing,
3 happy behaving child.

4 Q And what about her hygiene? Can you speak to that at
5 all?

6 A I only encountered her once or twice, nothing that
7 really stood out, out of the ordinary, as being a filthy,
8 unkept child. She just always looked really sad.

9 Q Nurse Smith, at the school, is there a program for
10 medical care and dental care available to the children?

11 A Yes, ma'am.

12 Q And what exactly is that?

13 A It's called Glasscho Hope Wellness. It's sponsored
14 through Beaufort/Jasper Comprehensive Health Services.
15 And we do have a dentist that comes on board, a hygienist,
16 a nurse practitioner, a social worker. The parents sign
17 the children up and they can be seen in school for
18 services.

19 Q And does that cost anything?

20 A It is -- the medical part is thirty dollars per year.
21 The dental is fifty, if you are not covered under
22 Medicaid. If it's Medicaid, then it's no charge to the
23 parents at all.

24 Q And do you know if **Minor** was enrolled in that
25 program?

DIRECT EXAMINATION OF AMY SMITH BY MRS. VAUX

355

1 A I am not familiar. I don't know if she was or not.

2 Q Thank you. Oh, I apologize. One more question. Do
3 you know when **Minor** started school?

4 A I don't know the date of when she was enrolled.

5 Q Do you know how old she was?

6 A She was a kindergarten student, so I am assuming she
7 was five maybe.

8 Q Thank you.

9 THE COURT: Cross-examination?

10 MR. HUGHES: No question, Your Honor.

11 THE COURT: Very well.

12 As to this witness, Solicitor?

13 MRS. VAUX: She may be excused, Your Honor.

14 THE COURT: Any objection, Mr. Hughes?

15 MR. HUGHES: None, Your Honor.

16 THE COURT: Very well.

17 Ms. Smith, you may step down, and you're excused from
18 the trial of this case. You may leave the courtroom.

19 WITNESS: Okay. Thank you.

20 THE COURT: Thank you very much.

21 Is there any further witnesses in reply from the
22 State of South Carolina?

23 MRS. VAUX: Nothing from the State, Your Honor.

24 THE COURT: Very well.

25 Madam Foreperson, ladies and gentlemen of the jury, I

1 have to take up a matter of law. We're going to take our
2 midmorning break.

3 Please do not discuss the case. I will be back with
4 you just as quickly as I can hear it. Please retire to
5 your jury room at this time. Thank you.

6 (OCTOBER 17, 2012, 11:02 A.M., WHEREUPON, THE JURY
7 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
8 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

9 **THE COURT:** All right. Let the record reflect that
10 we are outside the presence of the jury now. Counsel
11 agreed at the bench at the close of the defense's case
12 that Mr. Hughes would renew his motions for directed
13 verdict on the same grounds he made at the close of the
14 State's case.

15 Is that correct, Solicitor?

16 **MRS. VAUX:** That's correct, Your Honor.

17 **THE COURT:** All right. And now, Mr. Hughes, I
18 understand you wish to make a motion at the close of all
19 the testimony as well.

20 **MR. HUGHES:** Again, Your Honor, I move to dismiss --
21 excuse me, I move for a directed verdict, because the
22 State has not met all of the elements. I renew my motion
23 for a directed verdict for venue and for the
24 identification of my client.

25 **THE COURT:** Very well. And for the reasons I stated

1 at the close of the State's case, that I thought there was
2 sufficient evidence from the standard that I am required
3 to use at a directed verdict stage, your motion for a
4 directed verdict on the sufficiency of the evidence and on
5 jurisdiction and venue, and there was one other ground.
6 There were three.

7 **MR. HUGHES:** The identification.

8 **THE COURT:** The identification, is respectfully
9 denied.

10 Now, Counsel, I would like to have a quick charge
11 conference with you so that you know exactly what I am
12 going to charge. You already have some idea, and you have
13 approved the verdict form, but you don't know the
14 different aspects of the charge which I will go over with
15 you quickly in chambers. I think we ought to agree now,
16 it's five after 11:00, we ought to agree now on -- I
17 understand you both want thirty minutes; is that correct?

18 **MRS. VAUX:** Your Honor, I don't think I'll take the
19 full thirty.

20 **THE COURT:** That's all right. I just need to plan.
21 Mr. Hughes, didn't you ask me for thirty minutes?

22 **MR. HUGHES:** I generally always do, Your Honor, so
23 yes.

24 **THE COURT:** All right.

25 **MR. HUGHES:** I never take it, but I would like to

1 have it.

2 THE COURT: You've got it. In a case of this type, I
3 don't put any limit on the time. I just try to -- I've
4 got to plan some time for the clerk in feeding the jury is
5 all.

6 When you've argued twenty-five minutes, you will hear
7 the familiar what, Mr. Hughes?

8 (WHEREUPON, MR. HUGHES TAPPED ON HIS DESK.)

9 THE COURT: Correct. That's to let you know that
10 you've gone twenty-five minutes now and that you have five
11 more, but I don't get a hook and pull you down or anything
12 like that.

13 I will tell you my rule, which really -- I'm going to
14 tell them exactly what happened. We had a lawyer recently
15 in the 14th Circuit that argued for one and a half hours
16 to the jury in a case. Four jurors went sound asleep
17 after forty-five minutes, actually after thirty minutes,
18 and could not be aroused, no matter how loud the lawyer
19 talked. And the lawyer kept right on.

20 I teach Sunday School, periodically, and my class is
21 probably -- they are so much better prepared than I am.
22 They are -- they are very conscientious, and I have to
23 work hard usually on Saturday night at 12:00 or 1:00
24 o'clock to prepare my Sunday School lesson. What I have
25 found is that if I speak more -- twenty minutes is max.

1 Seventeen minutes is pushing it, because you lose their
2 attention, even for people who are prepared to receive the
3 information by reading the lesson, much like listening to
4 the evidence, Counsel.

5 I tell you that for what it's worth, because some
6 people believe length means thoroughness, and I understand
7 that, but some people also understand that you have to
8 make sure that what you're covering is also concise and to
9 the point and is being listened to by those to whom you
10 are addressing, whether it be my Sunday School class or
11 the jury.

12 All right. As to the order of closing arguments, I
13 assume you have no objection -- you want to let Mr. Hughes
14 just open in full and do his argument and then you close
15 in full, or is there a request to do it with a reply
16 argument? Mr. Hughes and Ms. Vaux, can y'all agree?

17 MR. HUGHES: I have no problem with me opening and
18 she closing.

19 THE COURT: Pardon?

20 MR. HUGHES: I have no problem with me opening and
21 she closing.

22 THE COURT: You agree, Solicitor?

23 MRS. VAUX: Yes, Your Honor.

24 THE COURT: All right. Mr. Hughes will open first in
25 full. He'll have thirty minutes. After twenty-five, he

1 gets a tap to remind him to try to wrap it up.

2 You will then close. You'll have thirty minutes.

3 You will get a tap after twenty-five.

4 Both of you have now approved the verdict form. We
5 will take our midmorning break so everyone in the
6 courtroom can take their restroom break, and I'll let
7 y'all use the restroom in my chambers. I'd like to see
8 the lawyers in chambers for a brief charge conference.

9 Are there any other requests to charge from the
10 State?

11 **MRS. VAUX:** Nothing from the State, Your Honor.

12 **THE COURT:** Any other requests to charge from the
13 defendant?

14 **MR. HUGHES:** None at all, Your Honor.

15 **THE COURT:** Very well.

16 We'll take a short break, and I'll see the lawyers in
17 conference in chambers.

18 (WHEREUPON, A BREAK WAS TAKEN. THEREAFTER, THE
19 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF THE
20 PRESENCE OF THE JURY:)

21 **THE COURT:** Let the record reflect I went over my
22 entire charge with counsel during the charge conference,
23 and there are no other requests to charge and that counsel
24 is completely aware of what I am going to charge.

25 Is that correct from the State?

1 **MRS. VAUX:** That's correct, Your Honor.

2 **THE COURT:** Is that correct from the defendant?

3 **MR. HUGHES:** Yes, Your Honor.

4 **THE COURT:** All right. Counsel has also been over
5 the verdict form. They are in agreement with the verdict
6 form, which I have shown to them in the charge conference.
7 They are in agreement as to the verdict form.

8 Is that correct, from the State?

9 **MRS. VAUX:** Yes, Your Honor.

10 **THE COURT:** Is that correct from the defendant?

11 **MR. HUGHES:** Yes, Your Honor.

12 **THE COURT:** Is the solicitor ready to proceed?

13 **MRS. VAUX:** We are, Your Honor.

14 **THE COURT:** Is the defendant ready to proceed?

15 **MR. HUGHES:** Yes, sir.

16 **THE COURT:** All right. The order of argument will be
17 Mr. Hughes first, followed by Mrs. Vaux. Each will have
18 thirty minutes. I think we're now ready.

19 Is my jury ready?

20 **BAILIFF:** Yes, sir.

21 **THE COURT:** Bring us the jury, please.

22 No one in or out of the courtroom during argument or
23 charge. If you need to leave, step out now.

24 (OCTOBER 17, 2012, 11:40 A.M., WHEREUPON, THE JURY
25 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS

1 WERE HELD IN THEIR PRESENCE.)

2 THE COURT: Come on in, ma'am. I'm talking to the
3 lawyers and the people in the courtroom.

4 You understand back there on my door? No one in or
5 out. Do you understand?

6 BAILIFF: Yes, sir.

7 THE COURT: All right. Madam Foreperson, ladies and
8 gentlemen of the jury, you will now hear the final
9 arguments of the attorneys, followed by my charge on the
10 law. I ask that you give the attorneys your careful
11 consideration.

12 Mr. Hughes?

13 MR. HUGHES: If it please the Court?

14 THE COURT: Yes, sir.

15 MR. HUGHES: I promised you yesterday morning this
16 was not going to be like anything you saw on television.
17 I promised you that y'all were going to hear things that
18 were going to upset you and make you feel uncomfortable.
19 For that, I apologize, but we had to to get to the truth.
20 And that is the main thing that is the problem, is the
21 truth.

22 We have a family, a poor family. Daddy is working
23 minimum wage. Mom is not working. She's a stay-at-home
24 mom. They live with her grandmom. They have dogs in the
25 house. Dogs do what they do.

1 Mom stays home with the children, but accidents
2 happen. A girl falls and gets a bruise. Like Dr. Schuh
3 said, kids being kids.

4 She jumped on the bed, and she fell off. It happens.
5 This time she hit her head on a chair. She got a black
6 eye. It's a shiner.

7 The State says it's nice and round. Children's
8 chairs have around corners so that when they do hit, they
9 bruise, they don't get cuts.

10 But law enforcement and DSS get to the house. The
11 house is a mess. They take the kids. It happens.

12 Kids are at foster care for about a month, maybe
13 longer. The foster mother starts noticing some things
14 that make her feel uncomfortable. Girls don't do that.
15 Well, unfortunately for her sensibilities, yes, some
16 children actually do masturbate that young. It can be
17 natural.

18 So, she talks to the child. Y'all saw **Minor**
19 That's a very, very smart young girl. If you talk to a
20 child about anything, they pick up on what answer you
21 want.

22 We don't know what Ms. Barker said to her. We don't
23 know what she asked. We do know that she talked to her.
24 Yes, she's had training, but she's not a professional.

25 So she asked questions. The little girl answers the

1 questions. We don't know exactly what questions were
2 asked. We don't know what answers were given, but we do
3 know that Ms. Barker contacted DSS around the first. But
4 it was about two weeks before they went to talk to Ms.
5 Hefner. She's the one that you see on the video.

6 Now, between that time, she talks to DSS. Again, DSS
7 is supposed to have been trained in how to properly
8 question, but we don't know what was said. All we know is
9 what we see on the video and what we saw on the stand.

10 Look at the video again. That girl had a job to tell
11 somebody something, and I don't think it was her job she
12 took on her own. It was given to her.

13 The little girl starts off within the first couple of
14 minutes: My daddy put his penis in my butt.

15 Well, to begin with, where did she learn the word
16 penis? She was told that was a pee-pee, but she didn't
17 say that.

18 Then on the stand: My daddy sexually assaulted me.

19 That's not something a little girl is going to say,
20 but you heard it. So, where did she learn that?

21 Truth. Children lie. Mrs. Vaux said they tell white
22 lies. Children don't like to get in trouble. Every child
23 knows you get in trouble for lying, and there are two ways
24 of getting out of trouble, admit it and take your
25 punishment or the easy way, you make up another lie. If

1 the person you're talking to is giving you hints on what
2 they want to hear, you tell them what they want to hear.

3 Children don't want to be yelled at. They don't want
4 to be in trouble. They don't want to stand in the corner.
5 They want to play. They want to go to -- no, they don't
6 want to go to school. They want to play. They don't even
7 want to go take naps.

8 So, she tells a lie, and then she tells another one.
9 She tells the person that she's talking to what she thinks
10 they want to hear. And then instead of everything going
11 away, she has to tell the same lie again, but they want
12 details.

13 We don't know everything DSS said. We don't know all
14 the questions that were asked, but we do know that she had
15 some idea of the mechanics of sex, because she saw a
16 hard-core pornography magazine, not one with violence, not
17 one with people tied up, but just people having sex.
18 That's what hard-core is. Soft-core is when it doesn't
19 show penetration.

20 So the little girl has the knowledge, and she feeds
21 it out, because she doesn't want to get in more trouble.
22 And we don't know the wrong answers she gave that were
23 corrected either by someone's action or reaction to what
24 she said. We do know that two weeks after what's supposed
25 to be the first time she's mentioned this, she's

1 interviewed on the video. Y'all will have a chance to see
2 the video again. Please observe it. Please observe
3 exactly what that little girl says, the way she says it,
4 and what she does.

5 Why has this continued? Because a lie has gotten so
6 big that it can't stop. Nobody has given her the chance
7 to back off. She can't back off. She's now at a
8 therapeutic home. She's getting attention. She wants
9 attention, but has anybody given her the option? We're
10 out for the best interest of the child.

11 The house is a mess. Oh, yeah. You ever tried to
12 raise puppies? Puppies go to the bathroom anywhere and
13 everywhere at all times and in an amount that you would
14 not believe would be inside that little puppy comes out.

15 Is it supposed to be cleaned up? Yes, it's supposed
16 to be cleaned up, but try to chase after three puppies.
17 It's a full-time job, especially if you have kids in the
18 home.

19 **Minor** is a smart little girl. She's very
20 intelligent. Why didn't she say this didn't happen?
21 Because she gave the answers the people she was with
22 wanted to hear.

23 Did James Watson have sex with her? No. Did James
24 Watson stick his penis in her butt? No. Did he stick his
25 penis in her coochie? No. In her mouth? No.

1 The solicitor wants to know why he called it
2 bubblegum. When a child asks you a question you don't
3 want to answer to, you don't think about the reason why or
4 what you actually should tell them. You definitely don't
5 want to try to explain sex to a six-year-old or a
6 seven-year-old, and you make up a story.

7 Was it a good story? No. Was it the right story?
8 No, but at the moment, it did what any parent who wants --
9 you have a child asking a question they don't want an
10 answer to, they gave them what they wanted. The child was
11 satisfied and he -- or she was not asking that question to
12 me right now.

13 This is a very hard case. We have a young girl who
14 says things that a young girl shouldn't know about, but in
15 this day and age, children know more than we feel
16 comfortable with them knowing.

17 A young child is doing things that a young child
18 shouldn't do, according to us. It's called
19 hypersexuality. She masturbates because it feels good,
20 and the fact that she does so upsets people. It upset Ms.
21 Barker.

22 Ms. Barker is a sweet old lady, and she grew up in a
23 time when young girls did not do that. So she talks to
24 Minor We don't know what she said, but it made an
25 impression.

1 Dr. Schuh, a very, very intelligent woman, very
2 knowledgeable. Was there a sexual assault? There's no
3 physical evidence, other than something on her hymen. The
4 hymen is intact. Yes, it can stretch. She talked about
5 putting things in your mouth and it stretches like that,
6 and it can heal. She talked about how a lip can heal
7 without a scar.

8 Y'all saw the size of **Minor** You heard me ask the
9 most embarrassing question I've ever ask anybody: How big
10 is your husband?

11 Seven inches long and six inches around. Six inches
12 is the length of a dollar bill around.

13 If you think that can go into a young girl the size
14 of **Minor** and not leave signs, then you're not basing it
15 on your life experience. She says it went in her butt.
16 The anus also tears.

17 This has been a hard case to try, because it's a
18 very, very touchy subject that a young girl should never
19 be involved in. She is a victim. A victim should never
20 know what she knows. She's a victim, not of her father.
21 She is a victim of the system wanting to get at a truth
22 about people who are not trained to ask the questions.
23 She is a victim of being trained by those people, not
24 intentionally, I don't have -- there's no malice involved.
25 They're not trying to get Mr. Watson, but they're trying

1 to get answers and they're giving the answers to the
2 little girl by their questions.

3 Watch the video. Watch when she says did he put it
4 any place else and points to the vagina before the girl
5 even says anything.

6 A trained professional makes mistakes like that.
7 Don't you think that an untrained amateur whose job it is
8 not to do -- that it's not their job to do that would even
9 make worst mistakes?

10 The lie started small. The lie built and built and
11 built, and we're here listening very, very uncomfortably
12 to a little girl say things that no little girl should
13 say, not because of what her father did, but because
14 people who were after a truth didn't get the truth.

15 James Watson did not have sex with his daughter.
16 James Watson did not neglect his daughter. You have no
17 choice. The standard is beyond a reasonable doubt.

18 Dr. Schuh, who has been a doctor since 1961 as an
19 intern, who is a professional, could only give you a
20 definite maybe as far as the child having sex, more likely
21 than not. That is not beyond a reasonable doubt.

22 The house is a mess. The house is filthy, but there
23 is love in that house. That is not neglect. That is
24 being poor. That is being messy. That is not neglect.

25 My client is not guilty of criminal sexual conduct in

1 the first degree. You have to find him not guilty. My
2 client is not guilty of unlawful neglect, and you have to
3 find him not guilty.

4 Thank you, ladies and gentlemen. I appreciate your
5 time.

6 **THE COURT:** Solicitor?

7 **MRS. VAUX:** Thank you, Your Honor.

8 **THE COURT:** Proceed.

9 **MRS. VAUX:** Ladies and gentlemen, I told you at the
10 beginning of this trial that it would not be easy, that it
11 would likely come down to the believability and the
12 credibility of an eight-year-old little girl. But the
13 fact of the matter is, parents should protect their
14 children. **Minor** needed protection from her father.

15 The judge is going to charge you on the law, and he's
16 going to charge you on the burden of proof. He's going to
17 tell you that the State has to prove beyond a reasonable
18 doubt that the defendant is guilty of the charges before
19 you. He's going to tell you that beyond a reasonable
20 doubt basically means that we can't erase every doubt, and
21 he's going to tell you that there's very few things that
22 we know with absolute certainty. The law does not require
23 that you erase every doubt, it's just that you use your
24 reason.

25 You heard it from the defendant himself, one of the

1 magazines that he claims that made Minor make all of this
2 up was called Barely Legal. Let's go to the law. The
3 judge is going to charge you on the law in this case.
4 He's going to tell you what the defendant has been charged
5 with, unlawful conduct towards a child and criminal sexual
6 conduct with a minor in the first degree.

7 Let's go first to the unlawful conduct. He's going
8 to tell you that unlawful conduct is when a parent or
9 guardian puts a child at an unreasonable risk of harm
10 affecting their life, their physical or mental health, or
11 their well-being and their safety.

12 What testimony or evidence did we hear yesterday and
13 today that goes to prove the defendant guilty of this
14 beyond a reasonable doubt? It started with Deputy Ruiz,
15 the school resource officer. He told you he was called
16 down to the office because Minor came to school with a
17 black eye, which she said her father punched her. As a
18 result of that, he went to the home.

19 Now, Mr. Hughes would have you believe that the home
20 was a mess because they were poor. Plenty of us are not
21 endowed with tons of money. Just because you are poor
22 does not give you the excuse to be unclean, and that house
23 was unclean. And I want you to go back and actually look
24 at these pictures. Spend some time.

25 There's a grandmother trying to say they were

1 training a puppy and that the dog feces, that was part of
2 the training. They followed behind and cleaned up the
3 puppy. Look at those pictures. There's piles. They
4 weren't cleaning up behind those dogs.

5 And then also look at the picture of **Minor** Look at
6 that black eye. Is this something that happened on a
7 chair; a perfect, round, punch-like circle on the eye?

8 He also told you about the smell of the house, how it
9 smelled like urine. And beyond that he sees feces on the
10 floor. It was just a mess, and he removed the kids
11 because of the physical abuse, because of the condition of
12 the home. He was concerned for their well-being and their
13 safety, and so he took them into emergency protective
14 custody and placed them into foster care.

15 You also heard from Ms. Barker, their foster care
16 mother, and she told you how when they first came, they
17 didn't even know how to bathe themselves. They didn't
18 know that you're supposed to brush your teeth every day,
19 twice a day.

20 She had to actually take the washcloth and take the
21 soap and show them what to do. These are not two and
22 three-year-olds. James, the little boy, was four years
23 old, and **Minor** was six. You saw her on that video.
24 She's a smart little girl. She should know how to bathe
25 herself.

1 She also told you that she had to take them to the
2 dentist. They hadn't been. She told you that she had to
3 take James back to the heart doctor, that he hadn't been
4 since he was an infant.

5 Ladies and gentlemen, poor does not give you an
6 excuse to neglect your children. There are so many
7 services in today's society that can help you if you can't
8 help yourself.

9 You heard from Nurse Amy Smith. She told you there's
10 a program at the school where you can sign up. All you
11 have to do is sign up, and you can get free dental care
12 and free medical care at the school. Whether you have a
13 car to take them to the doctor or not, it doesn't matter.
14 They come to you, and that was not done in this case.

15 You also heard from **Minor** She told you how she got
16 a black eye. She didn't say she fell. She sat here in
17 front of you yesterday and she told you he punched her.
18 And she said in the video he got mad. He was playing a
19 video game and he hit me with his fist.

20 You heard from Dr. Schuh. She told you that the
21 cavities in Alison's teeth were so bad that there were
22 huge holes. And while a parent wouldn't have noticed if
23 the child didn't complain, you would have noticed with
24 regular dental care. You would have prevented it with
25 regular dental care.

1 You also heard from Mary Beth Hefner, who is an
2 expert and trained in forensic interviewing and delayed
3 disclosure. And she told you about the delayed disclosure
4 and why it is that so many children don't tell right away.
5 And she told you about the mental health and the affect
6 that that kind of abuse can have on a child and how they
7 have fear, and shame, and anxiety, and guilt, all of these
8 things that play into the mind of a six-year-old little
9 girl.

10 I'm not sure how you can find that there wasn't an
11 unreasonable risk of harm to her life, to the physical or
12 mental health, to her safety. Take everything into
13 account, all of the testimony together, not just one, not
14 just the teeth, not just that the house was dirty, not
15 just that they were eating where there was dog feces on
16 the floor, not just that she hadn't been to the dentist
17 and she hadn't been to the doctor and that she started
18 school late. Take into account that she was a
19 six-year-old little girl who had been physically abused by
20 her father and sexually abused by her father. What kind
21 of affect would that have on you, on your mind?

22 Now let's talk about the criminal sexual conduct with
23 a minor in the first degree. It is a difficult subject,
24 and unfortunately, it happened. And in today's society we
25 see it in the national news, we see it in the churches, in

1 the schools, and while we don't like anything that
2 happens, it does, and it happened in this case to **Minor**

3 The judge is going to tell you that criminal sexual
4 conduct with a minor in the first degree involves proving
5 that there was a sexual battery. This is any intrusion,
6 however slight.

7 You had testimony here that there was anal
8 penetration, that there was vaginal penetration, that
9 there was oral penetration, that there was digital with
10 his finger. There is no doubt that a sexual battery
11 occurred.

12 You also have to prove that a child was less than
13 eleven years old. We know that **Minor** was taken from her
14 family in May of 2011 and she was six years old at the
15 time. She turned seven a couple weeks later in foster
16 care.

17 What about the testimony from the witnesses? You
18 heard from Ms. Barker, and it was very emotional for her,
19 as it would be, because as a mom, as a grandmother, as an
20 experienced foster care mother, she had never seen
21 anything like this. She told you it was not normal
22 behavior for an eight-year-old little girl, for a
23 six-year-old little girl, for any little girl.

24 She explained to you the hypersexualized behaviors.
25 And while it was difficult, I wanted you to know exactly

1 what we're talking about. And she told you how she caught
2 **Minor** with a plunger and with a hairbrush and with a
3 plastic clothes hanger, and how she was worried that she
4 was going to hurt herself.

5 And how would a little girl know how to do all of
6 these things? And why would a little girl be doing these
7 things?

8 You also heard how she caught **Minor** in the pool with
9 her brother, James. This wasn't just a little girl
10 self-exploring or masturbating. She was pulling her
11 brother's penis to her. That's not something that she
12 would know, unless she was shown or experienced.

13 She also told you about as a result of this
14 accidental disclosure, which Ms. Hefner kind of explained,
15 that after that, it opened the door and then **Minor** wanted
16 to talk and how she talked to Hope Haven and she talked to
17 the experts and they told her don't ask questions. And in
18 her training, she was told don't ask questions. You let
19 them talk. You let them feel safe. You tell them it's
20 okay, and that's what she did. And **Minor** herself even
21 said, when Mr. Hughes asked her if Ms. Barker asked her
22 any questions, she said no. This is not somebody putting
23 these thoughts into Alison's head.

24 You heard from **Minor** herself. She was six years old
25 when she was removed from the home. She was eight years

1 old when you saw her yesterday.

2 It has been at least a year since this happened. She
3 has been in counseling, because she needed it. So if she
4 gets up there and she uses a bigger word than what you
5 think an eight-year-old girl should know, she's been
6 through a lot more than an eight-year-old girl should. So
7 if she says sexually abused, maybe she heard that in her
8 counseling, but you also have a picture of her, a
9 seven-year-old little girl in that interview in that
10 video, and she's telling you in her own words. And every
11 detail may not have been the same, because she is a little
12 girl, and she's been through something a little girl
13 shouldn't have to go through. But the one thing that has
14 been consistent throughout her testimony is that her
15 father put his penis in her butt and in her coochie.

16 She had to come in here with a roomful of strangers
17 and tell you that. That has not changed, not what she
18 told Ms. Barker, not what she told Ms. Hefner, not what
19 she told DSS, not what she came in here and she told you.

20 What six-year-old wants their family torn apart?
21 What six-year-old is just looking for attention so much
22 that they want to be torn away from their mom and dad,
23 separated from her brother? This is not the attention
24 that anybody would want.

25 This is what she needed, was to get out of that

1 house, to be away from the person that has physically
2 abused her and told her not to tell. She couldn't tell
3 until she was away from that house, and that's why her
4 disclosure was delayed in this case.

5 And the defense would have you believe that there's
6 been coaching involved. Ms. Hefner, she's an expert,
7 testified to you that DSS is trained. They know, just as
8 well as now we know, that you're not supposed to ask
9 questions of children, because it is suggestible.

10 And she told you that in order to even refer them to
11 Hope Haven, they'd have to know that something happened.
12 They'd have to ask the very basic questions of who, what,
13 when, where. And that's what happened in this case.

14 **Minor** herself, told you that she talked for two
15 minutes, and sometimes it's hard for children to know
16 time. But we know, based off of what you saw in the
17 video, I asked Ms. Hefner, she said a hundred. What does
18 that mean? It means a lot. So when you say two minutes,
19 I think that means that not for that long.

20 And you heard from Ms. Hefner, and she told you and
21 in the video you saw how when **Minor** was asked why didn't
22 you tell anybody: He told me not to tell. I had to live
23 with him.

24 Somebody that can punch you in the eye, somebody that
25 raises you in a home like that, why wouldn't you put the

1 connection that maybe they could sexually abuse you just
2 as well? And if they are already doing it, if you have to
3 live with them, if you tell and have to come back home to
4 that, what's going to happen to you?

5 She also told you what she looks for as an expert
6 forensic interviewer to tell whether or not a child has
7 been coached. She looks for internal coherence. She
8 looks for consistency. She looks for details.

9 If you have any doubt that that was not a detailed,
10 internally coherent, and consistent disclosure, watch the
11 video again. See if you think that the questions coming
12 from Ms. Hefner are suggesting the answers coming from
13 **Minor** because they don't.

14 You also heard from Ms. Hefner. We touched on
15 hypersexualized behaviors and whether or not those are
16 normal for little girls. And she told you that some
17 exploration is and some masturbation might be, but not to
18 the extent that **Minor** was, not when you're sticking
19 things in or using household objects. And she said that
20 those very well, that hypersexualized behavior, can be an
21 indicator of sexual abuse.

22 You also heard from Dr. Schuh, and while the defense
23 would like to minimize the irregularity in the hymen, you
24 have a very experienced expert, a doctor for over thirty
25 years who specializes in child abuse and sexual abuse.

1 She told you from her very own mouth how often it is that
2 there is a lack of physical evidence, because the hymen is
3 stretchy and it heals and it's hard unless it's
4 immediately after the assault has happened, which we
5 learned from Ms. Hefner is rarely ever the case.

6 So in this case when it's been over a month when she
7 was actually removed from the home, how likely is it that
8 she's going to find anything? But she did. She found an
9 irregularity that gave her some concern.

10 And the defense wanted her to state that it was the
11 plunger that did it. And she said possibly, but she said
12 that this was an old injury, it was not something fresh.

13 She also talked about hypersexualized behaviors and
14 how to the extent that **Minor** was exhibiting them, in her
15 opinion, that indicated sexual abuse. In her expert
16 opinion, I asked her based on all of these factors,
17 Alison's anxiety when she came into the exam, asking are
18 you going to stick anything in me, the irregularity with
19 the hymen, the notch where it should have been smooth, the
20 history of the extreme hypersexualized behaviors, taking
21 her brother's penis and trying to stick it in her, using
22 household objects, the presence of blood, taking all of
23 that together she said more likely than not that it was
24 sexual abuse. She said that in her opinion, in her expert
25 medical opinion, it was sexual abuse.

1 And the defense wanted her to say that it was
2 pornography, the exposure to pornography. And she said --
3 he said it's a definite maybe. She said there's no
4 scientific basis for that. She had not read anything that
5 showed where looking at a magazine could lead a child to
6 act out the way that she was.

7 And the defense would have you believe that this is
8 all Alison's vivid imagination. I think it takes a vivid
9 imagination for somebody to get on that stand and tell us
10 that they were never, ever away from their spouse, that
11 the defendant was never, ever alone with **Minor** She
12 would have to have been exhausted.

13 What parent doesn't need some relief from her
14 children at some point to get out of the house? And he
15 was never alone with them? Well then why wasn't he?
16 Because she didn't trust him? Because you couldn't leave
17 him alone with her?

18 They want you to think that she's lying. They want
19 you to think that it's pornography. They want you to
20 think that she was coached. Which one is it?

21 The reality is **Minor** got up here and answered
22 straightforward questions, and she has said since she was
23 removed from that home in May, since she first disclosed
24 to Ms. Barker in the beginning of June: My dad put his
25 penis in my butt and in my coochie.

1 That has not changed. The defense would have you
2 believe that **Minor** is not the innocent little girl that
3 sat before you yesterday, that she's a liar, that she just
4 wants attention. And in a sense, maybe she's not that
5 innocent little girl, and that's because her dad took her
6 innocence from her. He raped **Minor**. He neglected
7 **Minor**. He placed her life at an unreasonable risk of
8 harm, and he robbed her of her innocence and of her
9 childhood. And for that, you should find him guilty.
10 Thank you.

11 **THE COURT:** Madam Foreperson, ladies and gentlemen
12 of the jury, it is now my duty to charge you on the law of
13 this case. The State of South Carolina has charged the
14 defendant, James Watson, with first-degree criminal sexual
15 conduct with a minor and the offense of unlawful conduct
16 of a child -- or an awful conduct towards a child. The
17 indictment numbers are 2011-345 and 2012-430.

18 I remind you, first of all, that the fact that the
19 defendant was arrested, the fact that the defendant was
20 charged, the fact that the defendant was indicted in this
21 case is not evidence in this case, nor does it create any
22 presumption or inference of guilt.

23 The indictment -- the indictments in this case are
24 simply the formal written instruments which contain the
25 charges made against the defendant. The indictments are

1 the formal documents by which the case is brought into
2 this court, the Court of General Sessions.

3 Now to the indictments, the defendant has pled not
4 guilty, and that plea puts the burden on the State of
5 South Carolina to prove the defendant guilty beyond a
6 reasonable doubt. A person charged with committing a
7 criminal offense is never required to prove himself or
8 herself innocent.

9 I charge you, ladies and gentlemen, that it is an
10 important rule of the law that the defendant in a criminal
11 trial, no matter what the seriousness of the charge may
12 be, will always be presumed to be innocent of the crime
13 for which the indictment was issued, unless guilt has been
14 proven by evidence satisfying you of that guilt beyond a
15 reasonable doubt. The presumption of innocence does not
16 end when you begin your deliberations, but it accompanies
17 the defendant throughout the trial until you, the jury,
18 reach a verdict of guilty based on evidence satisfying you
19 of that guilt beyond a reasonable doubt.

20 The presumption of innocence is not a mere legal
21 theory. It is not just a legal phrase. It is a
22 substantial right to which every defendant is entitled,
23 unless you, the jury, are satisfied from the evidence of
24 the defendant's guilt beyond a reasonable doubt.

25 What is a reasonable doubt in the law? A reasonable

1 doubt is the kind of doubt that would cause a reasonable
2 person to hesitate to act.

3 The State has the burden of proving the defendant
4 guilty beyond a reasonable doubt. Some of you may have
5 served as jurors in a civil case where you were told that
6 it is only necessary to prove that a fact is more likely
7 true than not true. We call that by the greater weight or
8 preponderance of the evidence in a civil trial.

9 In a criminal case, such as the case here, the
10 State's proof must be more than that. It must be beyond a
11 reasonable doubt. Proof beyond a reasonable doubt is
12 proof that leaves you firmly convinced of the defendant's
13 guilt.

14 Now there are very few things in this world that we
15 know with absolute certainty, and in criminal cases, the
16 law does not require proof that overcomes every possible
17 doubt. If, based on your consideration of the evidence,
18 you are firmly convinced that the defendant is guilty of
19 the crime or crimes charged, you must find the defendant
20 guilty. If, on the other hand, you think there's a real
21 possibility that the defendant is not guilty, you must
22 give the defendant the benefit of the doubt and find the
23 defendant not guilty.

24 I remind you, ladies and gentlemen, that during this
25 trial you and I have had certain duties to perform. As

1 the trial judge, it has been my responsibility to preside
2 over the trial of the case. I also have a duty to rule on
3 the admissibility of evidence that was offered during the
4 trial of the case.

5 You, as jurors, are to consider when I instruct you
6 to do so, only the competent evidence before you. If
7 there was any testimony ordered stricken from the record
8 by the Court during this trial, you must disregard that
9 testimony.

10 You are to consider only the testimony which has been
11 presented from the witness stand, any exhibits which have
12 been entered into evidence during the trial of this case
13 and made a part of the record in this case and any
14 stipulations, if any, which occurred between counsel.
15 That is what I told you, that the evidence could take
16 several forms, when we began the trial.

17 I have the additional duty as the presiding judge to
18 charge you the law that applies to this case. As the
19 presiding judge, I'm the sole judge of the law of this
20 case, and it is your duty as a juror to accept and apply
21 the law as I now state it to you.

22 If any of you on this jury, as many people do,
23 already have an idea or an opinion about what the law is
24 or what you think the law ought to be, or what you feel
25 the law should be and it does not agree with what I now

1 tell you the law is, you must abandon any of your
2 preconceived ideas or opinions, because you took an oath
3 that each of you would accept and you would apply the law
4 exactly as I now state it to you.

5 In every case tried in this courtroom before a jury,
6 the jury becomes the sole and the exclusive judges of the
7 facts in the case. A trial judge, such as myself, cannot
8 intimate, state, comment on or make any statement to a
9 trial jury, such as yourselves, about the facts or the
10 evidence in a case.

11 Since you, ladies and gentlemen of the jury, are the
12 sole judges of the facts in this case, you are not to
13 infer from what I have said during the progress of this
14 trial in ruling upon the admissibility of evidence or any
15 objection during the trial or otherwise, or anything that
16 I might say now during the course of this instruction to
17 you, that I have any opinion whatsoever about the facts in
18 this case. The law does not allow me to have an opinion
19 about the facts in this case. This is a matter solely for
20 you, the jury, to determine.

21 As jurors, it is your duty, as jurors, it is your
22 responsibility to determine the effect, the truth, the
23 value, and the weight of the evidence that's been
24 presented during the trial of this case.

25 Now like many things in the law, ladies and gentlemen

1 of the jury, there are names for things that we use in the
2 law. One of the names are two general types of evidence
3 which are generally presented during a trial. We call
4 these two types of evidence direct evidence and
5 circumstantial evidence.

6 Direct evidence is the testimony of a person who
7 claims to have actual knowledge of a fact, such as an
8 eyewitness to an event. Direct evidence is evidence which
9 immediately establishes the main fact to be proved.

10 Circumstantial evidence, as contrasted with direct
11 evidence, is proof of a chain of facts and circumstances
12 indicating the existence of a fact. Circumstantial
13 evidence is evidence which establishes collateral facts
14 from which the main fact may or may not be inferred.

15 Circumstantial evidence, as opposed to direct
16 evidence, is based on inference and not on personal
17 observation or personal knowledge. The law makes
18 absolutely no distinction between the weight or the value
19 to be given to either direct or circumstantial evidence,
20 nor is a greater degree of certainty required of
21 circumstantial evidence than of direct evidence.

22 You, ladies and gentlemen of the jury, should weigh
23 and consider all of the evidence in this case, both direct
24 and circumstantial. After weighing and considering all of
25 the evidence in this case, both direct and circumstantial,

1 if you are not convinced of the guilt of the defendant
2 beyond a reasonable doubt, you must find the defendant not
3 guilty. On the other hand, after weighing and considering
4 all of the evidence in this case, both direct and
5 circumstantial, if you are convinced of the guilt of the
6 defendant beyond a reasonable doubt, you must find the
7 defendant guilty.

8 Necessarily, you will as a juror have to determine
9 the credibility or the believability of the witnesses who
10 have testified in this case. Credibility simply means
11 believability. It therefore becomes your duty as jurors
12 to analyze. It becomes your duty as jurors to evaluate
13 the evidence and determine which evidence convinces you of
14 its truth.

15 In determining the believability of the witnesses who
16 have testified in this case, you may believe one witness
17 over several witnesses or several witnesses over one
18 witness. You may believe a part of the testimony of a
19 witness and reject the remaining part of the testimony of
20 that same witness.

21 You may believe the testimony of a witness in its
22 entirety, or you may reject the testimony of a witness in
23 its entirety. You may consider whether any witness in the
24 trial of this case has exhibited to you any interest, any
25 bias, any prejudice, or any other motive in this case.

1 You may also consider the appearance and the manner
2 of the witness while the witness was on the witness stand,
3 which we call the demeanor of the witness. Anything that
4 is in evidence, ladies and gentlemen of the jury, you as a
5 juror have the right to consider in weighing and
6 considering the believability or the credibility of the
7 witnesses who have testified during the trial of this
8 case.

9 I charge you, ladies and gentlemen, that there has
10 been evidence presented that witnesses may have made prior
11 statements which are not consistent with the witness's
12 present testimony during the trial of this case. You
13 decide and you may use this evidence to decide whether or
14 not to believe a witness.

15 You may also use evidence of an earlier statement or
16 contradictory statement to determine the truth of any
17 statement. It is up to you to decide, as a jury, whether
18 to believe the earlier statements or any testimony given
19 at trial.

20 If a witness is shown to have knowingly testified
21 untruthfully concerning any material matter, you may
22 consider this in determining whether to trust a witness's
23 testimony as to other matters. You may reject all
24 testimony of that witness or give all or part of that
25 testimony the weight you, as a jury, think it deserves.

1 Normally, ladies and gentlemen, I told you during the
2 trial the law does not permit a witness to get on the
3 witness stand and taken an oath and say my name is
4 such-and-such and my opinion is so-and-so. Normally a
5 person cannot just get on the witness stand and give
6 opinion testimony. When a person testifies, they must
7 testify as to what they either saw, sometimes under
8 limited circumstances under what they heard or sensed by
9 smell or something of that nature. However, there are
10 exceptions to the opinion rule when someone is qualified
11 because of education, training, or experience, and if
12 qualified by the Court, they are permitted to give their
13 opinion in certain areas, if the Court qualifies them that
14 way.

15 In this trial you have heard witnesses who have been
16 qualified in their respective areas of expertise. That
17 does not mean -- we call these witnesses expert witnesses.
18 These witnesses are qualified in an area to give opinion
19 testimony in their respective areas. That does not mean
20 that you must accept their opinions. You are not bound by
21 an expert's opinion. You give it the weight, if any, to
22 which you've deem any expert testimony should be entitled,
23 considering the qualifications and the credibility or the
24 believability of the expert or experts who may have
25 testified during the trial of this case.

1 Now, in order to establish criminal liability, ladies
2 and gentlemen, criminal intent is required; for example,
3 the mental state for any type of offense required to be
4 proven by the state for a particular crime, and I'm going
5 to give you examples of criminal intent now. It might be
6 purpose, it might be intent, it might be knowledge, it
7 might be recklessness, and in some cases even criminal
8 negligence. Those are just examples of criminal intent.

9 Criminal intent must be proven by the State in a
10 criminal case beyond a reasonable doubt. Criminal intent
11 is always a matter that must be determined by the jury
12 from the circumstances surrounding the situation based on
13 evidence introduced during the trial of the case.

14 There is no way for anyone to prove intent to a
15 mathematical certainty. There is no way medical science
16 can dissect a person's brain and determine what that
17 person had in mind. So the law says, ladies and gentlemen
18 of the jury, that criminal intent may be inferred from the
19 circumstances shown to have existed, based on evidence
20 introduced during the trial of the case. This, ladies and
21 gentlemen, is how you as a jury make any determination of
22 whether or not the element requiring any type of intent
23 was present. It is not necessary, ladies and gentlemen,
24 to establish intent by direct or positive evidence, but
25 criminal intent may be established by inference in the

1 same way as any other fact by taking into consideration
2 the acts of the parties, all the facts and circumstances
3 of the case based on evidence introduced during the trial
4 of the case.

5 Criminal intent is a mental state. It is a conscious
6 wrongdoing. It is up to you, the jury, to determine what
7 the defendant intended to do, based on the circumstances
8 shown to have existed from evidence introduced during the
9 trial of the case.

10 Criminal intent can arise from action or a failure to
11 act. It may arise from negligence or recklessness or an
12 indifference to duty or to consequences considered by the
13 law to be the equivalent of criminal intent.

14 All right, ladies and gentlemen, I charge you that
15 any prosecution such as the case here for criminal sexual
16 conduct in South Carolina, the law is that the testimony
17 of the victim need not be corroborated or confirmed in
18 order for you to find the defendant guilty.

19 I charge you, ladies and gentlemen, that the Code of
20 Laws of South Carolina, Code Section 16-3-655(1), defines
21 the offense first degree criminal sexual conduct with a
22 minor. The defendant in this case, James Watson, has been
23 charged in the indictment with the offense of criminal
24 sexual conduct with a minor in the first degree in an
25 indictment alleging that the event allegedly occurred in

1 Jasper County on or between January of 2011 and May 2011.

2 The first element of this offense, which the State
3 must prove beyond a reasonable doubt, is that the
4 defendant engaged in a sexual battery with the victim. A
5 sexual battery is sexual intercourse, cunnilingus,
6 fellatio, anal intercourse, or any intrusion, however
7 slight, of any part of a person's body or of any object
8 into the genital or anal openings of another person's
9 body, except when the intrusion is accomplished for
10 medically recognized treatment or diagnostic purposes.

11 If you find the State has not shown beyond a
12 reasonable doubt that a sexual battery occurred, you would
13 stop deliberating, and your verdict would have to be not
14 guilty. If you find that a sexual battery did occur, you
15 must then decide whether the State has proven beyond a
16 reasonable doubt that the victim was less than eleven
17 years of age at the time of the alleged incident.

18 I charge you, ladies and gentlemen, that consent,
19 willingness, indifference, or ignorance on the part of any
20 minor, if any, as to what was taking place, does not in
21 any way affect the charge of criminal sexual conduct with
22 a minor.

23 I charge you, ladies and gentlemen, that the
24 defendant in this case is also charged with the offense of
25 unlawful conduct towards a child. In this case the

1 indictment charges the defendant, James Watson, with
2 unlawful conduct towards a child, alleging that the events
3 occurred on or between January 1, 2011 and April 30, 2011,
4 in the County of Jasper. The State must prove for this
5 offense beyond a reasonable doubt that the defendant had
6 charge or custody of a child, was the parent or the
7 guardian of a child, or was responsible for the care and
8 support of the child. A person responsible for a child's
9 welfare includes the child's parent, the child's guardian,
10 or the child's foster parent.

11 For this offense, the State must also prove beyond a
12 reasonable doubt that the defendant placed the child at
13 unreasonable risk of harm affecting the child's life,
14 physical or mental health or safety, or unlawfully or
15 maliciously did, or caused to be done, any bodily harm to
16 the child so that the life or health of the child is
17 endangered or likely to be endangered, or that the
18 defendant willfully abandoned the child. Abandoned means
19 that the defendant willfully deserted the child or
20 willfully surrendered physical possession of the child,
21 without making adequate arrangements for the child's needs
22 for the continuing care of the child.

23 I charge you for the offense of unlawful conduct
24 towards a child, child for purposes of this code section,
25 under 63-5-70 of the Code of Laws of South Carolina, means

1 a person under the age of eighteen years, for purposes of
2 that offense.

3 Now, Madam Foreperson, I told you that I would
4 prepare a verdict form for you. Pay absolutely no
5 attention to the order in which I wrote the forms of
6 verdict. We obviously had to write one before the other,
7 and the order has no significance whatsoever.

8 I placed the title of this case at the top of your
9 verdict form. It says: State of South Carolina, County
10 of Jasper, the State of South Carolina versus James
11 Watson, defendant.

12 And I put the indictment numbers and I put the Court
13 of General Sessions. And the Indictment Number is
14 2011-GS-27-00345. 27 means Jasper County, in the year
15 2011, and Indictment Number 2012-GS-27-00430. Those are
16 the two indictment numbers, one being the offense of
17 criminal sexual conduct with a minor, victim under eleven
18 years of age, the other being the offense of unlawful
19 conduct toward a child. And I put that all in the title
20 for you.

21 Under the title on your verdict form, I have question
22 one. Question one, which is labeled number one: We, the
23 jury, by unanimous consent, find the defendant, James
24 Watson, in Indictment Number 2011-GS-27-00345, which is
25 the indictment number for criminal sexual conduct with a

1 minor in the first degree.

2 And the first form of verdict under question one is:
3 Guilty of criminal sexual conduct with a minor in the
4 first degree.

5 Madam Foreperson, if that be your form of verdict,
6 you would check for the entire jury on the line beside
7 that form a verdict.

8 The second form of verdict under question one: We,
9 the jury, by unanimous consent, find the defendant, James
10 Watson, on Indictment Number 2011-GS-27-00345 is not
11 guilty of criminal sexual conduct with a minor in the
12 first degree.

13 If that be your form of verdict, you would check on
14 the line, Madam Foreperson, for the entire jury beside
15 that form of verdict.

16 You must find under question one, one form or the
17 other. You cannot check both lines. There must be either
18 guilty or not guilty under question one of the offense of
19 criminal sexual conduct with a minor in the first degree.

20 The second question on your verdict form: We, the
21 jury, by unanimous consent, find the defendant, James
22 Watson, on Indictment Number 2012-GS-27-00430.

23 The first form of verdict under that question is:
24 Guilty of unlawful conduct towards a child.

25 If that be your form a verdict, Madam Foreperson, you

1 would check on the line beside that form of verdict for
2 the entire jury.

3 The second form of verdict under question two on the
4 verdict form, the question being: We, the jury, by
5 unanimous consent, find the defendant, James Watson, on
6 Indictment Number 2012-GS-27-0030 is not guilty of
7 unlawful conduct towards a child.

8 If that be your form of verdict, Madam Foreperson,
9 you put a check for the entire jury on the line beside
10 that form of verdict. You must, for question two, find
11 one form of verdict or the other. You cannot find both.
12 It must be either guilty or not guilty of unlawful conduct
13 towards a child under question two.

14 When you have checked the appropriate lines for the
15 jury, Madam Foreperson, on the verdict form, you would
16 then sign your name on the line where it says "Foreperson"
17 and fill in today's date on the line.

18 I then put instructions in italics on the bottom of
19 your verdict form. It says: Please indicate your finding
20 by checking the appropriate line and certify this finding
21 by the foreperson's signature.

22 When you have reached a verdict, you would knock on
23 the jury room door, and inform my bailiff that you have
24 reached a verdict, and we will bring you back out into the
25 courtroom to publish your verdict. I also will require

1 you that whatever you write on this verdict form, you also
2 write on the indictments, because we have a blank on the
3 indictment where it says verdict. So whatever you write
4 on the verdict form, you would also write on the
5 indictments, and my law clerk will be coming to you after
6 we publish the verdict. I'm handing the indictments to
7 him at this time so that he can get you to sign the exact
8 same thing on the verdict form and on the indictments.

9 Now, ladies and gentlemen, your verdict must be
10 unanimous. That is, all twelve of you must agree on a
11 verdict.

12 Now, Madam Foreperson, and ladies and gentlemen of
13 the jury, I've now charged you on the law to help guide
14 you to a fair and a just result in this case. You're the
15 judges of the facts in this case based on the evidence,
16 and based on your determination of the facts in this case
17 and the law as I've explained it to you, you are soon
18 going to begin your deliberations.

19 Each of you were selected as fair and impartial
20 jurors. You took an oath. You swore in your oath to
21 fairly and impartially try and determine the facts of this
22 case, and when you comply with that oath to fairly and
23 impartially do so, no one can criticize your verdict.

24 You are to decide this case based solely on the
25 evidence that you have heard, that being from the sworn

1 witnesses on the witness stand, any exhibits which have
2 been introduced into evidence, along with any stipulations
3 which may have occurred during the trial and nothing else.
4 You must decide the issues in this proceeding without any
5 bias, without any prejudice toward either party.

6 You cannot allow yourself to be governed by prejudice
7 for or against any person. You can't allow yourself to be
8 governed by public opinion or by any other arbitrary
9 factor, such as emotion, anything that is not in evidence
10 in the trial of this case. Both the defendant and the
11 State of South Carolina have the absolute right to expect
12 that each of you on this jury will carefully, each of you
13 on this jury will impartially, consider all of the
14 evidence in this case and that you will also follow the
15 law as I have instructed you it to be in reaching your
16 verdict in this case.

17 Now, Madam Foreperson, and ladies and gentlemen of
18 the jury, there is one -- what was the exhibit number on
19 my disk that was shown?

20 **COURT REPORTER:** Number Ten, Your Honor.

21 **THE COURT:** Ten?

22 **COURT REPORTER:** Ten. Yes, sir.

23 **THE COURT:** There's one exhibit, it's State's Exhibit
24 Number Ten, which will require that if you do want to look
25 at it again, because of equipment, I'm going to have to

1 bring you back out into the courtroom, because we have the
2 equipment to show you State's Exhibit Ten. I just want
3 you to be aware of that.

4 I'll keep State's Exhibit Ten here in the courtroom.
5 That is by agreement of the parties, so that we can play
6 it for you, if you so desire. All other exhibits, other
7 than States Exhibit Ten, which have been admitted into
8 evidence during the trial of this case, will be with you
9 in your jury room for your consideration.

10 All right, ladies and gentlemen, I'm going to ask you
11 now to retire to your jury room. Please do not begin your
12 deliberations. It may be necessary for me to bring you
13 back out into the courtroom for some brief additional
14 instruction.

15 When it is time for you to begin your deliberations,
16 I will send by my bailiff the verdict form in to you,
17 which I've explained to you, along with all the exhibits,
18 except for State's Exhibit Number Ten, which has been
19 introduced into evidence during the trial of this case,
20 and have my bailiff inform you that you may then commence
21 your deliberations. So do not begin until I instruct you
22 through the bailiff to do so. You may retire to your jury
23 room at this time.

24 (OCTOBER 17, 2012, 12:49 P.M., WHEREUPON, THE JURY
25 RETIRES FROM THE COURTROOM, AND THE FOLLOWING

1 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

2 THE COURT: Any exceptions or additions to the charge
3 from the State of South Carolina?

4 MRS. VAUX: None from the State, Your Honor.

5 THE COURT: Any exceptions or additions to the charge
6 from the defendant?

7 MR. HUGHES: No, Your Honor.

8 THE COURT: I do ask that Counsel come forward with
9 my court reporter, Ronda Cummings, and that you both state
10 on the record, after you have looked at it, that you are
11 satisfied the court reporter has all the exhibits, that
12 you have no objection to my bailiff taking the verdict
13 form and all the exhibits into the jury room and the
14 bailiff telling the jury they may now commence their
15 deliberation, and that you both agree that State's Exhibit
16 Number Ten will remain in the courtroom and not in the
17 jury room, because there's no ability to play State's
18 Exhibit Number Ten, except out here in the courtroom, by
19 agreement of counsel. Please come forward and do so.

20 (WHEREUPON, THE ATTORNEYS CAME FORWARD.)

21 THE COURT: Is the State so satisfied?

22 MRS. VAUX: Yes, Your Honor.

23 THE COURT: And you agreed to leave States Exhibit
24 Ten here for them to see it out here, rather than in the
25 jury room?

1 **MRS. VAUX:** Yes, Your Honor.

2 **THE COURT:** Is the defense so satisfied?

3 **MR. HUGHES:** Yes, sir.

4 **THE COURT:** And you agree to leave State's Exhibit
5 Ten out here? The jury has been instructed by me if they
6 want to see it just to let us know and they can see it out
7 here, and you agree to that; is that correct?

8 **MR. HUGHES:** Yes, sir.

9 **THE COURT:** All right. And both of you have no
10 objection to the bailiff taking the verdict form, which
11 I'm handing to the bailiff right now, as well as all of
12 the exhibits into the jury room and telling the jury they
13 may now commence their deliberations? Is that correct
14 from the State?

15 **MRS. VAUX:** Yes, Your Honor.

16 **THE COURT:** Is that correct from the defendant?

17 **MR. HUGHES:** Yes, sir.

18 **THE COURT:** Jo, you can take the verdict form and all
19 of the exhibits into the jury room and tell the jury they
20 may now commence their deliberations.

21 **BAILIFF:** Yes, sir.

22 (WHEREUPON, THE EXHIBITS AND VERDICT FORM WERE
23 DELIVERED TO THE JURY AT 12:53 P.M.)

24 **THE COURT:** Ladies and gentlemen that are waiting
25 now, thank you for your patience. I do not allow anyone

1 in and out of the courtroom during the charge or during
2 closing arguments by the attorneys. We're now going to
3 take a break until 2:00 o'clock, unless we get a question
4 from the jury or we get a verdict. So we're going to
5 break until at least 2:00 o'clock, at which time I will
6 start non-jury court. I have a number of matters.

7 I see that probation is here waiting on me and I have
8 a number of matters involving Mr. Plexico, who is over at
9 the jail getting people signed up, and the train will go
10 back down the track at 2:00 o'clock. We will be in recess
11 until 2:00 o'clock. Thank you very much.

12 (WHEREUPON, A BREAK WAS TAKEN. THEREAFTER, AT 2:15
13 P.M., THE FOLLOWING WAS HELD ON THE RECORD OUT OF THE
14 PRESENCE OF THE JURY:)

15 THE COURT: All right, I've just been handed a note
16 from the jury, and I've met with my attorneys in chambers.
17 The note asks two questions: Please explain the charge of
18 unlawful conduct of a child.

19 The second question: Does it include the physical
20 assault and unsanitary conditions of the home?

21 Both of the attorneys to the case agree that I will
22 recharge the jury on the charge I gave them of unlawful
23 conduct towards a child. I will then tell the jury as to
24 question two that you must decide this case based on the
25 evidence presented and the law as I have instructed it to

1 you to be.

2 They both agree the answer to question two would be a
3 comment on the facts of the case. Is that correct from
4 the State?

5 **MRS. VAUX:** Yes, Your Honor.

6 **THE COURT:** Is that correct from the defendant?

7 **MR. HUGHES:** Yes, Your Honor.

8 **THE COURT:** I'm going to ask Ronda to mark this as a
9 court's exhibit, which is the jury's note. What number
10 will it be?

11 **COURT REPORTER:** Number one, Your Honor.

12 **THE COURT:** All right. It will be Court's Exhibit
13 Number One.

14 Any objection from the solicitor?

15 **MRS. VAUX:** No, Your Honor.

16 **THE COURT:** From the defendant?

17 **MR. HUGHES:** No, sir.

18 **THE COURT:** Court's Exhibit Number One, without
19 objection.

20 (WHEREUPON, Court's Exhibit 1 was marked for
21 identification and received into evidence.)

22 **THE COURT:** One last thing that came to my attention
23 by the attorneys, during the cross-examination in the
24 trial of the defendant, James Watson, Mr. Hughes objected
25 because he felt that the solicitor had asked on cross or

1 recross-examination multiple questions without giving the
2 witness time to answer. On the record, I just said to
3 proceed, but it was agreed in our bench conference that
4 the solicitor would rephrase her question.

5 Have I accurately stated what occurred, Mr. Hughes?

6 **MR. HUGHES:** Yes, sir.

7 **THE COURT:** I wanted to make sure, since the record
8 only had me saying proceed and not a ruling on an
9 objection, that the record was clear that both sides
10 agreed the solicitor would rephrase her question that
11 occurred during Mr. Watson's cross-examination or recross,
12 and I wanted to make sure there was a record of it.

13 Bring us the jury, please, Jo.

14 (OCTOBER 17, 2012, 2:18 P.M., WHEREUPON, THE JURY
15 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
16 WERE HELD IN THEIR PRESENCE.)

17 **THE COURT:** Madam foreperson, I received your note
18 that you wrote for the jury. We've marked it as an
19 exhibit.

20 It reads: Please explain the charge of unlawful
21 conduct of a child.

22 I will now charge you again the law on unlawful
23 conduct towards a child. The defendant in this case is
24 charged with unlawful conduct of a child in an indictment
25 which alleges that the event occurred on or between

1 January 1, 2011, and April 30, 2011, in Jasper County.

2 For this offense, the State must prove beyond a
3 reasonable doubt that the defendant had charge or custody
4 of the child, was the parent or guardian of the child, or
5 was responsible for the care and support of the child. A
6 person responsible for a child's welfare includes the
7 child's parent, the child's guardian, or foster parent.

8 The State must also prove beyond a reasonable doubt
9 that the defendant either one, placed the child at
10 unreasonable risk of harm affecting the child's life,
11 physical or mental health, or safety. Or two, unlawfully
12 or maliciously did or cause to be done any bodily harm to
13 the child so that the life or the health of the child is
14 endangered or likely to be endangered. Or three,
15 willfully abandoned the child. Abandoned means that the
16 defendant willfully deserted the child or willfully
17 surrendered physical possession of the child without
18 making adequate arrangements for the child's needs or the
19 continuing care of the child.

20 For purposes of this offense, unlawful conduct
21 towards a child, child for purposes of this offense means
22 a person that is under the age of eighteen years. That is
23 my entire charge on unlawful conduct towards a child.

24 Again, the State must prove beyond a reasonable doubt
25 the defendant had charge or custody of the child, was a

1 parent or guardian of the child, or was responsible for
2 the care and support of the child. The State must also
3 prove beyond a reasonable doubt that the defendant, one,
4 placed the child at unreasonable risk of harm affecting
5 the child's life, physical or mental health, or safety;
6 or, two, unlawfully or maliciously did, or caused to be
7 done, any bodily harm to the child so that the life or
8 health of the child is endangered or likely to be
9 endangered; or, three, willfully abandoned the child.

10 Have I answered your first question, Madam
11 Foreperson?

12 **FOREPERSON:** Yes.

13 **THE COURT:** Your second question: Does it include
14 the physical assault and unsanitary conditions of the
15 home?

16 The answer to that question, ladies and gentlemen of
17 the jury, is: You must decide this case based on the
18 evidence presented and the law as I have just instructed
19 it to you to be.

20 With that, I ask you now to return to your jury room
21 and continue your deliberations. Thank you very much.

22 (OCTOBER 17, 2012, 2:23 P.M., WHEREUPON, THE JURY
23 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
24 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

25 **THE COURT:** Any exceptions or additions to the

1 Court's additional charge to the jury from the State?

2 MRS. VAUX: Nothing from the State, Your Honor.

3 THE COURT: From the defendant?

4 MR. HUGHES: No, sir.

5 THE COURT: I will hand the court reporter Court's
6 Exhibit One, which we've marked without objection, which
7 was the jury's question.

8 All right. With that, Counsel, I believe we can now
9 turn to non-jury matters, and I understand that you are
10 ready to get started.

11 (WHEREUPON, A BREAK WAS TAKEN IN THIS CASE.
12 THEREAFTER, AT 2:27 P.M., THE FOLLOWING PROCEEDINGS WERE
13 HELD ON THE RECORD OUT OF THE PRESENCE OF THE JURY:)

14 THE COURT: Solicitor and Mr. Hughes, I've just been
15 informed by the bailiff that the jury has reached a
16 verdict in the case we've been trying.

17 Anything from the State before we publish the
18 verdict?

19 MRS. VAUX: Nothing from the State, Your Honor.

20 THE COURT: Anything from the defendant?

21 MR. HUGHES: No, Your Honor.

22 THE COURT: Ladies and gentlemen, I'm happy for you
23 to remain in the courtroom when the jury publishes its
24 verdict, but I will not tolerate any outburst or show of
25 any type of emotion in the presence of this jury. If you

1 feel you cannot control your emotions, I ask you to step
2 out of the courtroom at this time before I bring the jury
3 in to publish the verdict, because I will enforce that
4 with the contempt powers of this Court. There will be
5 absolutely no outburst of emotion or any speaking of
6 anything about the verdict in the presence of the jury.
7 If you can't control your emotions, please step out at
8 this time. Very well.

9 Are you ready, Margaret?

10 **CLERK:** Yes, sir.

11 **THE COURT:** Are you ready, Jo?

12 **BAILIFF:** Yes, sir.

13 **THE COURT:** Bring us the jury.

14 (OCTOBER 17, 2012, 2:29 P.M., WHEREUPON, THE JURY
15 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
16 WERE HELD IN THEIR PRESENCE.)

17 **THE COURT:** Madam Foreperson, has the jury reached a
18 verdict?

19 **FOREPERSON:** Yes, we have.

20 **THE COURT:** Would you hand it to the clerk, please?
21 Madam Clerk, you may publish the verdict.

22 **CLERK:** State of South Carolina, County of Jasper,

23 ---

24 **THE COURT:** Please rise.

25 Go ahead.

1 **CLERK:** --- State of South Carolina versus James
2 Watson, Indictment Number 2011-GS-27-345 and Indictment
3 2012-GS-27-430, we, the jury, by unanimous consent find
4 the defendant, James Watson, in Indictment 2011-GS-27-345,
5 guilty of criminal sexual conduct with a minor in the
6 first degree.

7 Number two, we, the jury, by unanimous consent find
8 the defendant, James Watson, in Indictment Number
9 2012-GS-27-430, guilty of unlawful conduct toward a child.

10 Signed by the foreperson. Dated October 17, 2012.

11 **THE COURT:** Anything further from this jury, Mr.
12 Hughes?

13 **MR. HUGHES:** Request the jury be polled, Your Honor.

14 **THE COURT:** Madam Clerk, I ask that you poll the
15 jury. Ask each juror to stand. When you call their
16 names, ask them if that was their verdict. Get a
17 response. And is that still your verdict? And get a
18 response.

19 **CLERK:** Yes, sir.

20 Number nine, Gwen Blakely.

21 **JUROR:** Yes.

22 **CLERK:** Was this your verdict?

23 **JUROR:** Yes.

24 **CLERK:** Is this still your verdict?

25 **JUROR:** Yes.

1 **CLERK:** Thank you.
2 Rudolph Bascom, was this your verdict?
3 **JUROR:** Yes.
4 **CLERK:** Is this still your verdict?
5 **JUROR:** Yes.
6 **CLERK:** Thank you.
7 Florrie Singleton, was this your verdict?
8 **JUROR:** Yes.
9 **CLERK:** Is this still your verdict?
10 **JUROR:** Yes.
11 **CLERK:** Thank you.
12 Della Polite, was this your verdict?
13 **JUROR:** Yes.
14 **CLERK:** Is this still your verdict?
15 **JUROR:** Yes.
16 **CLERK:** Thank you.
17 Harry Aragon, was this your verdict?
18 **JUROR:** Yes.
19 **CLERK:** Is this still your verdict?
20 **JUROR:** Yes.
21 **CLERK:** Thank you.
22 Demetrius West, ---
23 **JUROR:** Yes.
24 **CLERK:** --- was this your verdict?
25 **JUROR:** Yes.

1 CLERK: Is it still your verdict?
2 JUROR: Yes.
3 CLERK: Thank you.
4 Mary Glass-Clark, was this your verdict?
5 JUROR: Yes.
6 CLERK: Is this still your verdict?
7 JUROR: Yes.
8 CLERK: Thank you.
9 Johnnie Simmons, was this your verdict?
10 JUROR: Yes.
11 CLERK: Is it still your verdict?
12 JUROR: Yes.
13 CLERK: Thank you.
14 James Williams, was this your verdict?
15 JUROR: Yes.
16 CLERK: Is it still your verdict?
17 JUROR: Yes.
18 CLERK: Thank you.
19 Charles Scott, was this your verdict?
20 JUROR: Yes.
21 CLERK: Is it still your verdict?
22 JUROR: Yes.
23 CLERK: Thank you.
24 Patricia Garraway, was this your verdict?
25 JUROR: Yes.

1 **CLERK:** Is it still your verdict?

2 **JUROR:** Yes.

3 **CLERK:** Thank you.

4 James Steedley, was this your verdict?

5 **JUROR:** Yes.

6 **CLERK:** Is it still your verdict?

7 **JUROR:** Yes.

8 **CLERK:** Thank you.

9 **THE COURT:** Mr. Hughes, the jury has been polled.

10 The verdict stands. Anything further concerning the jury,

11 from the defendant?

12 **MR. HUGHES:** No, Your Honor.

13 **THE COURT:** Please be seated with your client.

14 Madam Foreperson, ---

15 **FOREPERSON:** Yes?

16 **THE COURT:** --- ladies and gentlemen of the jury, on
17 behalf of Jasper County and this Court, I want to thank
18 you for your service this week. I realize that I've
19 worked you hard, and I thank you for that service. I told
20 you without you, the jury, justice can never be
21 accomplished in a courtroom.

22 This concludes your service for the week, so I'll be
23 excusing you to return to your families and your homes,
24 with my thanks for your service. All a judge can do is
25 ask a jury to listen, and I watched all twelve of you

1 throughout this trial, and that's exactly what you did,
2 and I thank you for that.

3 Now I need to tell you a couple of things.
4 Sentencing in this case is going to occur in just a
5 moment. I invite you to stay. You can stay right in that
6 jury box if you'd like, or Jo will let you leave and you
7 can go to the jury room, if you'd like not to remain for
8 sentencing.

9 If any of you need a work excuse for serving on the
10 jury, if you'll go downstairs to ---

11 **CLERK:** To the clerk's office.

12 **THE COURT:** --- to the clerk's office downstairs.

13 They will provide a work excuse for you to show your
14 employer of your service on the jury to excuse you while
15 you have been serving on a jury this week. We will also
16 be mailing you your check for your service. We will send
17 that to you in the mail at the address you provided us
18 when you came to court earlier this week.

19 Now if you would like to stay in the jury box for
20 sentencing, because it's going to occur, they have to fill
21 out a sentencing sheet, I'm happy for you to stay. Court
22 is a public proceeding, and I'll be happy for you to
23 remain right there. But for those of you that would like
24 to leave at this time, I will permit you to leave at this
25 time, if you so desire. Everyone else will remain seated

1 if any juror wishes to leave.

2 Would anyone like to leave at this time or would you
3 like to stay?

4 Yes, sir.

5 Madam Foreperson, my law clerk is now coming to you.
6 You just stay right where you are. We'll use that
7 railing. He's going to ask you to put on the indictments
8 the exact words you put on the verdict form. He'll show
9 you how it's done.

10 Thank you, Madam Foreperson.

11 All right, Mr. Hughes, are there any post verdict
12 motions on behalf of the defendant?

13 **MR. HUGHES:** No, Your Honor.

14 **THE COURT:** Very well.

15 Solicitor, do you have the sentence sheet?

16 **MRS. VAUX:** I do, Your Honor. I just need to get an
17 address filled out.

18 **THE COURT:** All right. Give it to Mr. Hughes.

19 Mr. Hughes, you and your client come forward for
20 sentencing.

21 All right. Solicitor, I do not know whether or not,
22 you tell me, because I'm going to hear from Mr. Hughes
23 regarding sentencing -- I will say, of course, I've got a
24 number of jurors in the courtroom, and I invited them to
25 stay for sentencing; does anyone, other than yourself and

1 the detectives, wish to be heard for purposes of
2 sentencing? Since I've heard the testimony in this case,
3 I want to make sure.

4 And, Mr. Hughes, I'm going to be asking you the same
5 question.

6 MRS. VAUX: Your Honor, if I may have a moment?

7 THE COURT: I'll give you a moment.

8 MRS. VAUX: Thank you.

9 THE COURT: Mr. Hughes, I'll also give you the same
10 opportunity.

11 MR. HUGHES: Thank you, sir.

12 MRS. VAUX: They do not wish to be heard, Your Honor.

13 MR. HUGHES: His father and his stepmother would like
14 to say something at the appropriate time.

15 THE COURT: His father and what?

16 MR. HUGHES: His stepmother.

17 THE COURT: All right. Mr. Hughes, I'll be happy
18 first to hear from you.

19 MR. HUGHES: Your Honor, you know most of the facts
20 of James' life. At the appropriate time I will comment on
21 what I think is probably the appropriate sentence in this
22 matter.

23 He is looking at twenty-five to life on the CSC with
24 a minor. He's looking at up to fifteen -- ten on the
25 other charge.

1 **THE COURT:** It's a mandatory minimum sentence on
2 criminal sexual conduct first degree with a minor of
3 twenty-five years.

4 **MR. HUGHES:** And, Your Honor also knows that this is
5 a serious and violent crime.

6 **THE COURT:** It's actually violent and most serious,
7 and it's also mandatory GPS.

8 **MR. HUGHES:** Yes sir. It is a two-strike crime. If
9 he is convicted of another serious or violent crime, he's
10 looking at a mandatory life without parole.

11 Your Honor, in this situation, he has no record. I
12 ask for the minimum sentence and for the sentences to run
13 concurrent with each other so that he be sentenced to
14 twenty-five years, as it is a no parole offense and no
15 suspension, as I understand. I've explained that to him.

16 Twenty-five years is a long time, Your Honor, and
17 when he gets out, he will be automatically on the sex
18 offender registry. It will be automatic GPS monitoring.
19 Let's don't end his life today, but let's give him
20 something to shoot for in the future.

21 **THE COURT:** Mr. Watson, is there anything you'd like
22 to tell this Court prior to sentencing?

23 **DEFENDANT, MR. WATSON:** Nothing I can think of.

24 **THE COURT:** Mr. Hughes, I'll be happy to hear from
25 the members of his family who wish to address the Court.

1 **MR. HUGHES:** Which one of you wants to speak first?
2 Ma'am, will you come forward and state your name for the
3 record?

4 **THE COURT:** If you'll come up to my microphone so the
5 court reporter can hear you and give me your name, please,
6 ma'am?

7 **MRS. S. WATSON:** Shirley Watson.

8 **THE COURT:** Mrs. Watson?

9 **MRS. S. WATSON:** BJ is my stepson, and I've known him
10 for a long time, almost twelve years. We have ten
11 children between us and nineteen grands, and of all my ten
12 children, BJ is the most kindest. He does not have a
13 violent bone in his body. He is not that kind of person.

14 We have other children in our family that give us
15 problems, but BJ has never given us not one problem. He's
16 a good boy, and I want the Court to know that today before
17 they let him go out of here labeled as a violent person,
18 because he is not a violent person. He is very good,
19 kind, and gentle.

20 **THE COURT:** I understand, Mrs. Watson. I have no
21 doubt of your love.

22 Yes, sir? Do you want to tell me something?

23 **MR. HUGHES:** Say your name.

24 **THE COURT:** Your name?

25 **MR. J. WATSON, SR:** My name is James Watson.

1 **THE COURT:** Yes, sir?

2 **MR. J. WATSON, SR.:** I could say everything she said,
3 but you know, you've already heard it. He's a great kid.
4 I just ask the Court to give him the minimum sentence,
5 Your Honor, and run it concurrent and get him back home as
6 quick as possible.

7 **THE COURT:** Very well.

8 Solicitor, I'll be happy to hear anything from anyone
9 on behalf of the State now.

10 **MRS. VAUX:** Your Honor, I don't believe that we have
11 anybody that would like to speak at this time.

12 **THE COURT:** Solicitor, anything you want to tell me?

13 **MRS. VAUX:** Your Honor, the State is asking for a
14 sentence of thirty years on the CSC and ten years on the
15 unlawful conduct and to run them concurrent.

16 **THE COURT:** Very well.

17 So that the jury understands, since they are here,
18 because I like to make sure they understand, the maximum
19 sentence for unlawful conduct toward a child is ten years.
20 The maximum sentence for criminal sexual conduct with a
21 minor under eleven years of age, first degree, CSC first
22 degree is up to life in prison, mandatory minimum of
23 twenty-five years. And as Mr. Hughes pointed out, it is
24 violent and most serious, and because it is CSC first,
25 because it is, if convicted in the future, the defendant

1 could, if convicted of a serious or most serious crime,
2 face the possibility of life imprisonment without any
3 possibility of parole, although he's facing life
4 imprisonment as a maximum sentence at this time.

5 Anything further from the defendant, in light of what
6 I have heard from the State, Mr. Hughes?

7 **MR. HUGHES:** Your Honor, I would point out again that
8 he has no record.

9 **THE COURT:** I'm aware of that, and I was told that
10 when I asked him at the close of the State's case whether
11 or not he wished to testify in the trial of this case, and
12 the solicitor informed me he had no prior criminal record.

13 **MR. HUGHES:** We're asking for mercy, Judge.

14 **COURT REPORTER:** I'm sorry, Your Honor, I couldn't
15 hear what he said.

16 **MR. HUGHES:** We're asking for mercy, Judge.

17 **THE COURT:** You got it, Ronda?

18 **COURT REPORTER:** Yes, Your Honor. Thank you.

19 **THE COURT:** I will say, Mr. Hughes, that there was
20 ample evidence from which the jury could reach a verdict
21 that they did in this case. I take into consideration the
22 evidence that was presented by the State of South Carolina
23 during the trial of this case. I also take into
24 consideration, Mr. Hughes, the fact that your client has
25 no criminal record.

1 As you know, Mr. Hughes, there is a mandatory minimum
2 sentence of twenty-five years. I agree with you, Mr.
3 Hughes, and with the State that the sentences in this case
4 should run concurrent.

5 Mr. Watson, the jury has found you guilty beyond a
6 reasonable doubt. I completely concur with the jury's
7 findings, based on the evidence in this case, although
8 that was their province. Sentencing is mine. I don't
9 know of any offense that can be more serious than the
10 offense with which you were charged.

11 On indictment 2011-GS-27-00345, the State versus
12 James Watson, criminal sexual conduct with a minor, victim
13 under eleven years of age, first-degree, the sentence of
14 this court is the defendant is committed to the State
15 Department of Corrections for a term of thirty years.

16 On Indictment 2012-GS-27-00430, the State versus
17 James Watson, indictment for unlawful conduct toward a
18 child, sentence of this Court is the defendant is
19 committed to the State Department of Corrections for a
20 term of ten years.

21 Those sentences will run concurrent to each other.
22 The defendant is to be given credit for time served. That
23 will be pursuant to South Carolina Code Section 24-13-40.
24 That is to be calculated and applied by the State
25 Department of Corrections.

1 This concludes sentencing in connection with this
2 matter. This concludes the trial of this case. The
3 defendant is to be taken into custody at this time.

4 **(END OF REQUESTED TRANSCRIPT OF RECORD.)**

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CERTIFICATE OF REPORTER

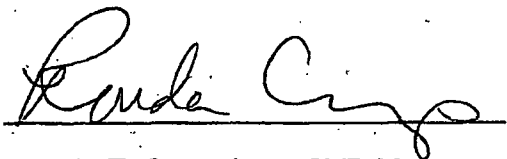
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STATE OF SOUTH CAROLINA }
COUNTY OF JASPER }

I, Ronda T. Cummings, Official Court Reporter for the
Judicial Department of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Jasper County, South Carolina, on the 15th thru 17th of
October, 2012.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

January 23, 2013



Ronda T. Cummings, CVR-M
Official Court Reporter

DOCKET NO. 2012GS2700430

WITNESSES

Baxter - JC SO

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

The State of South Carolina

County of Jasper

Defendant

COURT OF GENERAL SESSIONS

September Term 2012

Hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

JAS0203

THE STATE

vs.

James Watson

Defendant

ACTION OF GRAND JURY

TRUE BILL

NO BILL

FOREMAN *Shelma Alston*

DATE 09.27.12

Foreperson of Grand Jury
Date:

VERDICT *Hurtley*

Witness:

Indictment for

Children / Legal custodian, unlawful neglect of child

63-5-70 ^{EV} ^{SW}
SC Code: 20-07-0050-
CDR Code:2481

C.C.C. PLS. and G.S.

May Sherry Clark
Foreperson of Petit Jury
Date: Oct. 17, 2012

TRUE COPY
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY, SC
BY: *[Signature]*
DATE: 10/1/12

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF JASPER)

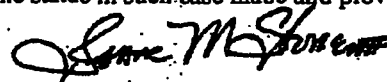
2012GS2700430

At a Court of General Sessions, convened on September 27, 2012, the Grand Jurors of Jasper County present upon their oath:

Children / Legal custodian, unlawful neglect of child

That on or about January 1, 2011 and April 30, 2011, in Jasper, while having charge or custody, or being the parent or guardian, or being responsible for the welfare of the minor child, ^{EW JW} ~~age~~ six, the Defendant, James Watson, did place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety; all in violation of Section ^{63-5-70 EW JW} ~~20-7-50~~, South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

Eric Baxter / JCSO

DOCKET NO. 2011GS2700345

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

The State of South Carolina

County of Jasper

Defendant

COURT OF GENERAL SESSIONS

August Term 2011

Hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

J368521

THE STATE

vs.

James Watson

Defendant

ACTION OF GRAND JURY

TRUE BILL ✓

NO BILL

FOREMAN *Sandy Belle*

DATE *August 13, 2011*

Foreperson of Grand Jury
Date:

VERDICT

Guilty

Witness:

Indictment for
Criminal sexual conduct with a minor - victim
under 11 years old

Mary Ann Clark
Foreperson of Petit Jury
Date: *Oct. 17, 2012*

SC Code: 16-03-0655(1)
CDR Code: 0385

C.C.C. PLS. and G.S. TRUE COPY
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY, SC
BY: *[Signature]*
DATE: *10-17-12*

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

INDICTMENT
2011GS2700345

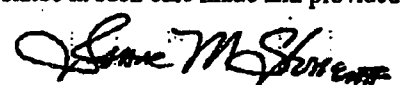
At a Court of General Sessions, convened on August 23, 2011, the Grand Jurors of Jasper County present upon their oath:

Criminal sexual conduct with a minor - victim under 11 years old

That in Jasper County, South Carolina, between January 2011 and May 2011, the Defendant, James Watson, an adult, did commit a sexual battery upon a minor who was less than eleven years of age, in violation of Section 16-3-655, Code of Laws of South Carolina, 1976, as amended.

COURT F. Committing or Attempting Lewd Act Upon Child Under Sixteen
That in Jasper County, South Carolina, between January 2011 and May 2011 the Defendant, James Watson, an adult over the age of fourteen years willfully and lewdly committed or attempted lewd or lascivious act upon the body or its parts of a child under the age of sixteen years, with the intent of arousing, appealing to or gratifying the lust or passions or sexual desires of the person or of the child in violation of Section 16-15-110, Code of Laws of SC.

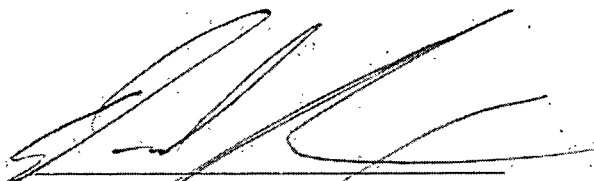
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the 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."

September 10, 2013



David Alexander
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

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."

September 10, 2013

A handwritten signature in black ink, appearing to read 'David Alexander', written over a horizontal line.

David Alexander
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

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Jasper County

Perry M. Buckner, Circuit Court Judge

RECEIVED
SEP 10 2013
SC Court of Appeals

THE STATE,

RESPONDENT,

v.

JAMES WATSON,

APPELLANT

APPELLATE CASE NO. 2012-213302

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and also served upon James Watson, 352843 at Lieber Correctional Institution, PO Box 205 Ridgeville, SC 29472 this 10th day of September, 2013.

Brandon Hall
Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 10th day of September, 2013 .

Talal McKay (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.