

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY

Thomas L. Hughston, Jr., Circuit Court Judge

Case No. 2013-000638

RECEIVED

NOV 07 2014

SC Court of Appeals

The State of South Carolina,

v.

Respondent,

George White,

Appellant.

RECORD ON APPEAL

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STATE'S EXHIBIT # 17 (DVD

Certificate of Counsel

DSO20080100533
WITNESSES
Geretha Waring
Charleston City Police Department
AGENCY CASE NUMBER
0801506
ARREST WARRANT NUMBER
K298254
DATE OF ARREST
January 23, 2008
ACTION OF GRAND JURY
Foreperson of Grand Jury Date: AUG 04 2008
VERDICT GUILTY
Foreperson of Petit Jury Date: 5/21/2013
INDICT

DOCKET NO 2008GS1006275
The State of South Carolina
County of Charleston
COURT OF GENERAL SESSIONS
August Term 2008
THE STATE
vs.
GEORGE WAYNE WHITE
DOB: 1944-04-14
W/M
Indictment for
Criminal Sexual Conduct with a Minor, 2nd
Degree

2008 AUG 12 PM 3:58
CLERK OF COURT
BY

08 05 07 (01)

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on August 4, 2008 the Grand Jurors of Charleston County present upon their oath:

Criminal Sexual Conduct with a Minor, 2nd Degree

That GEORGE WHITE, DOB 04/14/1944, did in Charleston County between August 2007 and January 21, 2008, engage in sexual battery upon Minor, to wit: sexual intercourse. This is in violation of §16-3-655 of the 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.


ELIZABETH GORDON
ASSISTANT SOLICITOR

1 State of South Carolina)
2 County of Charleston) Court of General Sessions
3) Indictment Nos.
4) 2008-GS-10-6275
5) 2008-GS-10-6277
6)
7 STATE OF SOUTH CAROLINA)
8 vs.) Transcript of Record
9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

8 B E F O R E:

9 THE HONORABLE THOMAS L. HUGHSTON, JR.

10 and

11 THE HONORABLE DEADRA L. JEFFERSON
12 (Presiding over 3/18/13 morning session only)

13 A P P E A R A N C E S:

14 Elizabeth Sumner Gordon, Assistant Solicitor
15 Attorney for the State

16 Donald H. Howe
17 Attorney for the Defendant

18 Karen V. Andersen, RMR, CSR
19 Court Reporter

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18 Court's Exhibit No. 3 440
19 Transcript of the Videotape

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13.

1 list?

2 MR. HOWE: No, ma'am, Your Honor. And I do not
3 know, but high likelihood the defendant may not testify.
4 I have not made that final decision.

5 THE COURT: Would there be any record the State
6 would be seeking to introduce to impeach Mr. White's
7 credibility?

8 MS. GORDON: No, Your Honor.

9 THE COURT: So that motion then is moot,
10 correct, Mr. Howe?

11 MR. HOWE: Sounds like it, Your Honor. Thank
12 you.

13 THE COURT: Is there a forensic interview tape?

14 MS. GORDON: Yes, Your Honor.

15 MR. HOWE: Yes.

16 THE COURT: How long does it take?

17 MS. GORDON: It is 40 minutes, is my
18 recollection.

19 THE COURT: Would the State be calling any
20 witnesses on Mr. Howe's motion to determine the
21 reliability of the forensic interview tape?

22 MS. GORDON: Yes, Your Honor. That would be
23 Molly -- her name was Horton at the time. Her new last
24 name is -- let me make sure I've got it correct, Dadin,
25 D-a-d-i-n.

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1 THE COURT: D-a-d-i-n?

2 MS. GORDON: Yes.

3 THE COURT: And I would assume that you all
4 could do that prior to showing the tape, or did you plan
5 to do that before then?

6 MS. GORDON: My plan was to do it at the time.

7 THE COURT: That's what I assumed.

8 MS. GORDON: She's in practice so I wanted --

9 THE COURT: I didn't have a preference one way
10 or the other. I just wanted to make sure that my
11 assumption was accurate, if that is when we would be
12 doing that. And that's all of your pretrial motions,
13 correct, Mr. Howe? We will exclude the 4B evidence, they
14 have a motion to include it, and the reliability of the
15 forensic interview tape.

16 MR. HOWE: That's correct, Your Honor.

17 THE COURT: And then the motion for prior
18 convicted person, 609 is moot because there are none.

19 MR. HOWE: Correct, Your Honor.

20 MS. GORDON: Your Honor, the State does have two
21 additional standard motions, just the rape shield
22 motion -- and I don't think that either of them are
23 applicable in this case, but out of abundance of
24 caution --

25 THE COURT: How old is the child?

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1 (Whereupon Judge Hughston presides over the
2 remainder of the case.)

3 THE COURT: I've got some motions here on the
4 desk from Mr. Howe. Have these been heard or are they
5 outstanding or what's the status?

6 MR. HOWE: I think we've kind of gotten them
7 under control. Motion one had to do with impeachment on
8 a prior record, and they don't have a prior record they
9 are going to be using.

10 THE COURT: No need to deal with that?

11 MR. HOWE: No need to deal with that. The other
12 two I think will be dealt with, the 4B material, but the
13 specific witnesses as I understand are in Columbia or
14 somewhere out of town and they will be here tomorrow. So
15 we will have to take that up in camera tomorrow.

16 THE COURT: You are talking about prior bad
17 acts?

18 MR. HOWE: Yes, Your Honor.

19 THE COURT: Tomorrow?

20 MR. HOWE: And then the videotape of the
21 interview of the child, basically they just have to lay
22 the proper foundation for it, as I understand.

23 MS. GORDON: Yes, Your Honor. Molly Thorton is
24 the therapist who did the interview.

25 THE COURT: What?

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1 MS. GORDON: Molly Thorton is the therapist who
2 did the interview. And she will be here to testify. If
3 it is okay with you, I will just have her testify right
4 after the motion instead of bringing her twice. She's on
5 maternity leave, but she will come in.

6 THE COURT: Sounds reasonable as far as that's
7 concerned. You all have to educate me a little bit about
8 what we are talking about as far as allowing the
9 videotape. What is it that governs that?

10 MS. GORDON: There's a statute, Your Honor. Let
11 me pull the statute. I can give you a copy of it.

12 THE COURT: First time I've ever dealt with that
13 issue.

14 MS. GORDON: Your Honor, it's South Carolina
15 Code Section 17-23-175, when the child is 11 --

16 THE COURT: Let me read it. Let me look at it.
17 Let me ask you this: Do you plan on putting the child up
18 before the statement, before the tape or whatever it is?

19 MS. GORDON: Yes, Your Honor.

20 THE COURT: Okay. Well, I don't know whether it
21 would be better before or after.

22 MS. GORDON: Well, I think the statutes --

23 THE COURT: Cross-examination, subject to
24 cross-examination, the elements in the making of the
25 out-of-court statement, so I don't know, I don't know how

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1 you can cross-examine concerning out-of-court's statement
2 until maybe -- I don't know.

3 MS. GORDON: Your Honor, I think under the
4 statute, she has to testify first and be subject to
5 cross-examination.

6 THE COURT: How do you -- I'm thinking through
7 that. How do you cross-examine somebody about a
8 statement that hadn't been introduced at that point?

9 MS. GORDON: Well, what your cross-examining her
10 about is that she made a statement previously. And he
11 can cross-examine her about those allegations because
12 he's not going to get to cross-examine her about the
13 video. The video will be admitted and he won't have an
14 opportunity to cross-examine the video, but he can
15 cross-examine her about the substance of it when she
16 testifies.

17 THE COURT: Do you have anything to say about
18 that?

19 MR. HOWE: Yeah. I think, actually, the way I
20 read, it is my first time on this specific statute as
21 well, Your Honor, is what I would be cross-examining her
22 about when she's on the stand is maybe the setting and
23 how it went -- not, you know, maybe not as many specific
24 statements, you know.

25 THE COURT: Since it is a new kind of

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1 proceeding, I just -- I have -- I mean, sounds good, but
2 how do you deal with it?

3 MR. HOWE: Right.

4 MS. GORDON: Well, how I've done it in the past
5 is -- I have had done before. The child testifies.
6 She's subject to cross-examination. And then at some
7 point during the testimony, the person who did the
8 interview has to testify. And we can do that in camera
9 to -- and you can watch the video to determine if the --
10 if it was videotaped, which it will have been, and did
11 they follow -- was this person trained in forensic
12 interviewing, which you will get to hear her testimony
13 about, and did they follow the protocol pursuant to the
14 child's age. And you will get to hear that testimony.
15 And then at that point, the tape should be -- you should
16 make a ruling about the admissibility of the tape.

17 Your Honor, if you are unsure about that, then I
18 would ask if you've got a question about it, I would ask
19 that we would do that first, and I will try to get Molly
20 here.

21 THE COURT: I can say I'm just trying to think
22 through the process as far as how it will work, how it
23 should work.

24 Mr. Howe, do you have any concern about
25 whether --

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1 MR. HOWE: The way I interpret it, Judge, in all
2 honesty, is that the videotape comes in basically as an
3 exception to the hearsay rule because of the indicia of
4 reliability outlined in the statute. Does that make
5 sense? That's the way I see it --

6 THE COURT: Right.

7 MR. HOWE: -- conceptually. So I think that
8 Ms. Gordon is probably correct, as a result, child goes
9 first, and you get to look at those portions where the
10 indicia of reliability would be --

11 THE COURT: I could see how you could
12 cross-examine her about that. But as far as a search and
13 cross-examination, whatever, about the statement that she
14 made out of court, I don't see how you can conduct that
15 until that's been introduced into evidence in some way.

16 MR. HOWE: Yes. And I will have to cross that
17 bridge when I come to it.

18 THE COURT: That's what I'm saying. I don't
19 know how you can cross-examine about the statement itself
20 unless the -- until the statement has come in.

21 All right. Well, I won't try to manage it. I
22 will let you all present your case and I will deal with
23 it as it comes up.

24 MR. HOWE: Your Honor, I have one other thing.
25 Ms. Kristin Kulpepper is maybe going to testify. I don't

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1 know what order she's going to be in. She's kind of like
2 an outcry witness. And in her statement to the police,
3 she used a phrase where she said that she thought my
4 client "fit the profile of a pedophile." Okay. And
5 she's not an expert. She's just a neighbor. And I just
6 want to ask for a ruling in limine, I guess. Let her --
7 I don't want her getting into expert testimony when she
8 obviously is not qualified to make that -- I don't want
9 that cat to get out of the bag and be too late.

10 THE COURT: Any response you want to make to
11 that?

12 MS. GORDON: Yes, Your Honor. She's not -- I'm
13 not planning to have her testify about fitting a profile.
14 She will testify that she had concerns about behavior
15 that she observed between the defendant and the child.

16 THE COURT: I don't know that she should testify
17 about concerns. I think she can testify about what she
18 observed.

19 MS. GORDON: Well, yes, Your Honor --

20 THE COURT: I will just tell you, know off the
21 top of my head that, you know, I don't think you can
22 testify about concerns. You can testify about what you
23 saw, heard, smelled, felt, those kinds of things, but
24 concerns --

25 MS. GORDON: Well, Your Honor, the reason this

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1 will be a little more evident when it comes out, the
2 reason that it is relevant in this case --

3 THE COURT: I understand. I'm going to tell
4 you --

5 MS. GORDON: -- it's the reason why they
6 approached the child.

7 THE COURT: Well, again, I don't know that the
8 reasons why are relevant. Facts are what's relevant, not
9 what you may have thought, but the facts are what's
10 relevant, what you observed, but not what you concluded.

11 MS. GORDON: I don't think I'm going to ask her
12 about what she concluded.

13 THE COURT: Okay.

14 MS. GORDON: But --

15 THE COURT: All right. How are we doing on the
16 jury?

17 THE CLERK: Jury is all here.

18 THE COURT: Who is the Foreperson? Oh, I see it
19 here. So you all ready with your opening statements to
20 the jury, not arguments, but statements?

21 MS. GORDON: Your Honor, we are ready.

22 THE COURT: All right. Bring the jury in.

23 (Whereupon, the Jury came into open court at
24 approximately 2:35 p.m.)

25 THE COURT: All right. We have the jury with

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1 advice.

2 MS. GORDON: If you would allow me just a minute
3 to speak to that witness so I can --

4 THE COURT: Go ahead. Go ahead. Go ahead.

5 (Whereupon, the Jury came into open court at
6 approximately 2:47 p.m.)

7 THE COURT: We do have the jury back with us.
8 And now, Ms. Gordon, do you want to make an opening
9 statement?

10 MS. GORDON: Yes, Your Honor. Thank you. Good
11 afternoon, ladies and gentlemen of the jury. I
12 introduced myself earlier, but I'm Elizabeth Gordon. And
13 I'm a special victim's prosecutor for the State of South
14 Carolina. And you have been chosen to hear the case
15 today of State of South Carolina vs. George White.

16 You are going to hear a lot about the defendant
17 today and through the week, but I don't want you to
18 forget who this is also about, and that's
19 Minor . And Minor is in the courtroom today. She
20 was 11 years old when this happened to her back in late
21 2007 and early 2008. This is a case of criminal sexual
22 conduct with a minor and lewd act on a minor. But what
23 this also is is a case of a wolf in sheep's clothing.

24 MR. HOWE: I'm sorry, Your Honor, I have an
25 objection. I will be glad to put it on the record.

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1 THE COURT: Sorry. Members of the jury panel, I
2 need you to leave the courtroom again please.

3 (Whereupon, the Jury exited the courtroom at
4 approximately 2:50 p.m.)

5 THE COURT: All right, Mr. Howe.

6 MR. HOWE: Your Honor, this is one of the
7 fundamental rules of any criminal trial, is that you
8 cannot put the character of the defendant into evidence.
9 And to begin the entire trial with a characterization of
10 a person as a wolf is not proper and I would move for a
11 mistrial. A wolf is a stereotype of a predator. And a
12 predator is a characteristic of a person and it is their
13 character. She started off this entire trial with a
14 characterization of my client as a bad guy. She got up
15 here and walked in front of that jury and said, ladies
16 and gentlemen, let's get one thing straight, this is a
17 really bad guy. It wouldn't be okay. Calling him a wolf
18 is the same thing only worse. It is a predator.
19 Child abusers are called predators. It characterized him
20 in a way that is way outside of the lines, and I will
21 move for a mistrial at this time.

22 THE COURT: What do you want to say in response
23 to that?

24 MS. GORDON: Your Honor, I don't think this is
25 an attack on his character. It is a description of what

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1 they are about to hear, that someone that they thought
2 was a -- what he was to this family, they thought he was
3 a nice guy, but it turns out he was something different.
4 And that's just a general usage of that term, a wolf in
5 sheep's clothing, something that wasn't what they
6 thought.

7 MR. HOWE: Cats out of the bag, Judge. When you
8 call a lawyer a shark that's to hit a stereotype, when
9 you call --

10 THE COURT: Shyster.

11 MR. HOWE: Shyster, shark, some people would say
12 advocate. But it goes to the -- I mean, there are -- as
13 you know in the literature, there are types of things,
14 stereotypes, and a wolf is a characterization. And to
15 start off with that, it cannot be repaired at this point.
16 There's no way.

17 THE COURT: Well, I would certainly have
18 preferred that it not be said, but I'm not going to
19 declare a mistrial at this point in time. I hope that we
20 won't have any more instances of anything like that,
21 because I do think it is certainly, at least at this
22 point in the trial, not a good way to refer to the
23 defendant. Bring the jury in.

24 MR. HOWE: I will only say I hope it stops.

25 (Whereupon, the Jury came into open court at

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1 approximately 2:53 p.m.)

2 THE COURT: We have the jury back with us. You
3 may continue with your opening statement.

4 MS. GORDON: Thank you, Your Honor. As I was
5 saying, this is a case of criminal sexual conduct of a
6 minor in the second degree and lewd act on a minor. And

7 Minor is the child, the victim in this case.

8 You will hear about how George White came to
9 meet this family. They lived in a house in Mount
10 Pleasant and they had some problems with the bathroom.
11 So their landlord sent over a handyman. That handyman
12 was George White.

13 But he didn't just come and fix the bathroom.
14 He started finding additional reasons to take a little
15 longer with this, find other things to do. And the
16 family just thought that he was being just a nice guy.

17 It turns out the victim's family had known some
18 people of the defendant's family a long time ago and they
19 had maybe attended an oyster roast or something together.
20 Suddenly they were like, oh, we know some people in
21 common. But he also started paying particular attention
22 to Minor. She lived with her grandmother and her aunt.
23 And he paid particular attention to her, 11 years old, 55
24 pounds at 11 years old, a tiny little girl.

25 But, again, they just thought he was being a

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1 nice guy. He offered to tutor Minor wanted to build
2 her a playhouse in the backyard, started taking him with
3 her on jobs. And they thought, that's so nice, he's kind
4 of like a grandfather to her. Her grandfather was
5 deceased. Started asking to take her to church, would
6 pick her up on Sunday morning in his van, and they
7 thought he was taking her to church.

8 What he was really doing was taking her in the
9 back of that van where he had outfitted a bed and having
10 sex with her. He was taking her to another house
11 downtown where he was supposed to be doing work and
12 taking her in the bathroom and having sex with her.

13 Minor I, as you will hear her on the stand,
14 she's a little bit older now. But she is still the same
15 meek, shy, timid little girl who was never going to tell.
16 She didn't tell until someone finally asked her. Someone
17 observed some things and someone finally asked, is
18 something else happening. But still Minor 's immediate
19 response wasn't to tell. She just started crying.

20 She was so afraid that this was her fault and
21 that she was going to be taken away from the only two
22 people who have taken care of her that she just didn't
23 want to tell. She finally told, but begged them, please
24 don't call the police, they will take me away from you.

25 You are going to get to hear from Minor You

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1 are going to hear from her family. You are going to get
2 to hear from the person who saw -- who observed some
3 behaviors between Mr. White and, Minor You are going
4 to hear from the person that she disclosed to.

5 After you've heard all of the evidence -- I take
6 that back. You are also going to hear from the woman who
7 happened to live next-door to that house downtown, who
8 also just happened to see George White with a young girl
9 there on on a Sunday, who thought, well, what is he doing
10 here, he doesn't usually work here on Sunday, what is he
11 doing here with a little girl. You will hear from her as
12 well.

13 When we think of criminal sexual conduct with a
14 minor, it is something we don't want to believe happens.
15 We sometimes think it must be violent, must be very
16 painful, it must leave physical scars that anybody would
17 have seen, and that's just not the case.

18 There's something called grooming. You will
19 hear about that. A brief definition so you will kind of
20 know what to be listening for, is grooming when the
21 perpetrator infiltrates himself into their life, they
22 gain the trust of the people around them, and make the
23 child feel like it would be their fault. And that's
24 exactly what you will hear about.

25 The scars are not physical because the defendant

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1 wanted her to come back. He wants her to participate.
2 He can't leave a scar that somebody is obviously going to
3 see. But the emotional scars are every bit as painful.

4 At the end of this testimony we would ask that
5 you return a verdict that speaks the truth. And that is
6 that the defendant, George White, is guilty of criminal
7 sexual conduct of a minor in the second degree and lewd
8 act upon a minor. Thank you.

9 MR. HOWE: May it please the Court.

10 THE COURT: Mr. Howe.

11 MR. HOWE: Judge Hughston, Ms. Gordon,
12 Mr. Foreman, ladies and gentlemen, my name is Donald
13 Howe. I introduced myself a little earlier. It is my
14 privilege today to be here in court with you. I know you
15 are a captive audience. Nobody volunteers for this job,
16 but it is a very important job and one I take very
17 seriously, and I hope you take very seriously.

18 I represent Mr. George White. George is 67,
19 from Mount Pleasant, married. And he is a fellow citizen
20 that is depending upon you to do what's right in this
21 case. You've taken an oath to look at this evidence
22 fairly. And Judge Hughston has given you a couple of
23 guidelines about how you approach this case.

24 There are basically three rules. Listen to all
25 the evidence before you make up your mind. Pretty fair

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1 rule. Hold the State -- well, presume the defendant to
2 be not guilty, to be innocent until you are satisfied
3 otherwise beyond a reasonable doubt. Okay? You have to
4 look at him right now and see him in that chair and say,
5 I don't think that guy did anything. You have to do that
6 with your full heart and your full mind, or you are not
7 living up to your oath.

8 What does that mean as a practical matter? It
9 means to approach this case with a healthy sense of
10 skepticism. Say, hmmm, I'm not going to assume
11 something. I want something proven to me. I'm not going
12 to guess about something. I want to make sure that the
13 dots are connected, that at the end of the case, what
14 Ms. Gordon says she will prove is actually proven.

15 Now, we believe that when you look and listen to
16 the testimony, you will see that there are several
17 problems, a lack of physical evidence, many of the key
18 details are uncorroborated, many of the details of the
19 uncorroborated evidence have changed over time. And
20 many, or some I should say, of the details of the
21 accusations themselves are quite questionable because of
22 how they arose. So I'm going to ask you to pay close
23 attention to the details, because in this case the
24 details will matter. They will matter a lot.

25 Each charge that has been brought, and the judge

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1 will instruct you on this later, they have their own
2 definitions. But this whole process is a little
3 backwards because we don't explain the rules. We explain
4 the rules at the end. But he will explain to you what
5 the elements are, what the things that need to be shown
6 for lewd act are and what they are for criminal sexual
7 conduct in the end.

8 And if you listen carefully, and if you pay
9 attention to the details, and if you demand the proof
10 that every citizen in this country is entitled to, we are
11 confident that you will find Mr. White not guilty. Thank
12 you very much.

13 THE COURT: All right. Call your first witness.

14 MS. GORDON: State calls Kristin Kulpepper.

15 KRISTIN KULPEPPER,

16 having been duly sworn, testifies as follows:

17 THE CLERK: State your name for the record.

18 THE WITNESS: My name is Kristin Elizabeth
19 Kulpepper. Last name is spelled K-u-l-p-e-p-p-e-r.

20 DIRECT EXAMINATION

21 BY MS. GORDON:

22 Q. Good afternoon, Ms. Kulpepper. How are you?

23 A. Okay.

24 Q. Can you tell the ladies and gentlemen of the
25 jury where you are employed?

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1 A. I'm an independent contractor. I'm a social
2 worker for the Department of Health and Human Service.

3 Q. And how do you know Minor ?

4 A. My husband and son and I moved here to
5 Charleston, to Mount Pleasant around 2003. And I first
6 met Minor's family there.

7 Q. Where were you living at that time when you met
8 them?

9 A. Apartments.

10 Q. And at some point, did Ms. Graham and Teresa
11 Doyle, Minor's grandmother and aunt, and Minor, did
12 they move away from Street ?

13 A. Yes, they did.

14 Q. Do you know where they moved to?

15 A. Yes.

16 Q. Where did they move to?

17 A. I believe it's Street 1, Mount Pleasant.

18 Q. Did you maintain your friendship with them?

19 A. Yes, I did. They are like family to me.

20 Q. How old was Minor when you first met her?

21 A. Around six.

22 Q. How would you describe Minor ?

23 A. She was always -- really struck me at how quiet
24 and docile and sweet and obedient she was. That's the
25 first child I've ever seen who never talked back or

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1 smarted off to her family, so I was pretty impressed by
2 the girl.

3 Q. How would you describe her stature compared to
4 other children her age?

5 A. Very shy, very childlike, kind of maybe a little
6 behind others --

7 Q. And what about --

8 A. -- in development.

9 Q. What about her size?

10 A. Pretty thin, pretty tiny.

11 Q. Have you ever met the defendant, George White?

12 A. I had seen him around. We were never officially
13 introduced, but I was over there frequently and would see
14 him come and go quite often.

15 Q. Tell me your observations of the interactions
16 that you observed between Mr. White and Minor .

17 A. At first it was a gut feeling of discomfort
18 about the man. But I started to observe some things
19 which struck me as inappropriate.

20 Q. Tell me what you observed.

21 A. The first thing was her birthday party when she
22 was turning 11, he appeared obsessed with her to me.
23 Normally --

24 Q. Describe that; like what makes you say that?

25 A. Because to me with all children's birthday

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1 parties that I've been to in the past, the men usually
2 gather together, but he was circling around Minor He
3 seemed very obsessed with Minor . And he was snapping
4 pictures. And he had also provided her with 20 presents,
5 which I thought was over the top. And they were
6 elaborately decorated. I've never seen anything like
7 that before. And that seemed odd to me. And he was
8 fussing even at other children to get out of the way, he
9 couldn't see Minor . And I thought that seemed a bit
10 odd and obsessive.

11 Q. Were there any other occasions when you observed
12 behavior between them?

13 A. Yes. In January of '08, my son had gotten off
14 the bus and stayed with Minor's family until I got off
15 work to go get him. And I walked in the house, and
16 there's a foyer when you first walk in. And to the right
17 there's --

18 THE COURT: Walked in what house?

19 THE WITNESS: Minor's house. And I looked
20 straight ahead. In the kitchen I could see the aunt and
21 grandmother straight ahead. To the right was George and
22 Minor in the living room.

23 MS. GORDON:

24 Q. And describe how -- where Minor was seated.

25 A. She was sitting in a La-Z-Boy recliner..

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1 Q. And how was she seated?

2 A. She was sitting kind of on her feet, sitting
3 kind of on her feet off to the side, just tucked in,
4 knees kind of pulled up, and she had her homework and
5 everything laid out across her.

6 Q. And where was Mr. White?

7 A. He was squatted at the floor, on the floor,
8 supposed to be tutoring her. I thought that was very
9 odd, to be tutoring in that -- his head was on her lap
10 area, you know, even with her lap area and her knees. I
11 think that was odd. I thought they should be at the
12 kitchen table, you know, face-to-face.

13 Q. Based on your observations, was there -- well,
14 were there any other observations that were really
15 pertinent?

16 A. Not of inappropriateness. I've seen him hug her
17 and the other children, but he wasn't doing anything that
18 I felt was inappropriate. It was a grandfatherly-type
19 hug, you know.

20 Q. Based on your observations, what did you do?

21 A. Well, I got very angry when I saw him sitting
22 there. I felt a little bit like I wanted to be
23 physically aggressive with him, which is not like me. I
24 felt very angry; literally I felt like I had steam coming
25 out of my ears, just wanted him to get away from her.

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1 And I bit my tongue though. I left with my son. And
2 then her aunt, Minor's aunt followed me out, said they
3 noticed that I had a funny look on my face and something
4 appeared to be wrong. And I told her that I could not be
5 quiet anymore, I didn't want to offend them because this
6 was a friend of their family's, and that I didn't want to
7 wrongly accuse anyone, but I felt like something was up,
8 something was wrong, something was going on. I felt like
9 he was grooming the family. I felt like he was trying to
10 get to --

11 MR. HOWE: Objection, Your Honor.

12 THE COURT: Jury panel needs to go out in the
13 hallway for a few minutes.

14 (Whereupon, the Jury exited the courtroom at
15 approximately 3:09 p.m.)

16 THE COURT: All right. What do you have to say?

17 MR. HOWE: This idea that he was grooming, she
18 used the term grooming, which apparently is a sort of
19 expert's conclusion about how people of a certain kind go
20 about doing -- getting the trust of children. And I
21 think that's the kind of thing that you are going to have
22 to have more than just lay knowledge to testify about,
23 and that's my objection.

24 THE COURT: It is the kind of thing that I was
25 mentioning earlier, you know, as far as I'm concerned.

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1 Actually, there were a couple of other words that she
2 used previous to that, you know, that were again, in my
3 opinion anyway, as far as opinions, about things that are
4 not facts. And so I sustain the objection to the use of
5 that word. And there were some other words that came
6 before that. So I want to emphasize to the witness, you
7 know, the rules are that you can testify about what you
8 saw, heard, felt, tasted, physical senses, not what you
9 concluded about something that you saw, heard, or
10 whatever, you know. You understand? You shouldn't
11 characterize things like saying that I concluded that he
12 was grooming the family. That's a conclusion. That's
13 not a fact. You understand what I'm saying? So those
14 are the kinds of things that you need to stay away from
15 in your testimony. You can testify about facts, things
16 you saw, heard, basically that's what you are limited to.
17 Okay?

18 THE WITNESS: Yes, sir.

19 THE COURT: Bring the jury back in.

20 So be ready with another question.

21 MS. GORDON: Yes, Your Honor.

22 THE COURT: A fact question.

23 (Whereupon, the Jury came into open court at
24 approximately 3:11 p.m.)

25 THE COURT: You may continue to examine the

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1 witness.

2 MS. GORDON: Thank you, Your Honor.

3 BY MS. GORDON:

4 Q. Ms. Kulpepper, to kind of get you back on track,
5 you were stating --

6 THE COURT: Ask a question.

7 MS. GORDON: I just want to make sure she
8 understands where we are and give her some parameters.

9 BY MS. GORDON:

10 Q. What you did -- can you tell the jury what you
11 did in response to the behaviors that you observed?

12 A. Yes. I told Minor's aunt that it was my
13 belief --

14 THE COURT: Don't go into what you believe.
15 That's what I'm just telling you not to do. You are not
16 supposed to express your opinions about things, only what
17 you saw or heard basically, that's what you are supposed
18 to talk about.

19 THE WITNESS: Well, I expressed my opinions --

20 THE COURT: So ask another question.

21 MS. GORDON: Thank you.

22 BY MS. GORDON:

23 Q. You spoke to Ann?

24 A. Yes, I expressed my opinions to Ann.

25 THE COURT: That's what you are not supposed to

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1 do. I'm telling you, you are not supposed to express
2 your opinion about things. You are only talking about
3 what you saw and what you heard.

4 THE WITNESS: I had a conversation with her
5 aunt.

6 THE COURT: Don't go about what you told
7 somebody. Ask another question, a factual question.

8 BY MS. GORDON:

9 Q. After you --

10 THE COURT: Don't say after you. Ask another
11 question.

12 BY MS. GORDON:

13 Q. Ms. Kulpepper, how did you -- did you confront
14 Minor's family about what you observed?

15 A. Yes, I did.

16 Q. And do you know if they did anything about that?

17 A. Yes.

18 THE COURT: Were you there for anything they'd
19 done?

20 THE WITNESS: She told me --

21 THE COURT: No, not what somebody told you.

22 Again I'm telling you, talk about what you saw, felt,
23 things that are based on your physical senses, not
24 opinions, not what somebody else told you.

25 MS. GORDON: That's all, Your Honor.

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1 THE COURT: Okay. Ask another question if you
2 have any more questions.

3 MS. GORDON: That's all, Your Honor. No more
4 questions, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. HOWE:

7 Q. Ms. Kulpepper, I apologize again I've got to ask
8 you about some things that are delicate that came up, but
9 it is just the nature of this trial. I will try to be as
10 graceful as I can. I'm not sure how to do that, but I
11 will do my best. Okay?

12 A. Okay.

13 Q. You never liked George White from the beginning
14 that you saw him, did you?

15 A. That's correct.

16 Q. You said you had a gut feeling and you just
17 didn't like him?

18 A. That's correct.

19 Q. And I believe you used the term he gave you the
20 creeps?

21 A. Yes.

22 Q. Now, when you walked in, in this -- I guess it
23 was a tutoring session you would call it -- that's what
24 supposedly was going on, right?

25 A. Yes, sir.

KRISTIN KULPEPPER - CROSS-EXAMINATION BY MR. HOWE 78

1 Q. Okay. You don't know who sat down first or how
2 they happened to get in that configuration, do you?

3 A. No.

4 Q. And for whatever reasons, it sounded -- and I
5 think you said you got so angry you almost felt like you
6 wanted to be physically acting out?

7 A. Yes.

8 Q. And it was so evident that one of the ladies in
9 the house came and said, what's wrong; correct?

10 A. That's correct.

11 Q. You came back to the house later that evening,
12 didn't you?

13 A. Yes, sir.

14 Q. And let's get a little timeline going here.
15 What time about was this that you left the house?

16 A. Approximately -- this is very approximate, 5 1/2
17 years ago.

18 Q. Yeah.

19 A. Maybe 5:00, 5:30, 6:00.

20 Q. Okay. Late afternoon?

21 A. Yes, after work.

22 Q. And then you came back to the house?

23 A. Yes.

24 Q. And I believe that might have been more like
25 around eight o'clock, but you correct me if I am wrong.

KRISTIN KULPEPPER -- CROSS-EXAMINATION BY MR. HOWE 79

1 A. That's correct.

2 Q. And how were things at the house at that time?

3 A. Minor was crying profusely. Everyone was
4 upset.

5 Q. Okay. And I'm sorry, I just missed a word. Was
6 crying --

7 A. Profusely. Everyone was upset.

8 Q. And where -- I'm not familiar with the house,
9 but kind of where was Minor? You come in the front
10 door, where do you see Minor?

11 A. I believe it was the sunken den, not the living
12 room, by the front door, like a sunken den further back.

13 Q. Who else was there with Minor?

14 A. Ann Doyle, Linda Graham, her father.

15 Q. And let's sort of go through that because I tend
16 to get these mixed up and the jury -- Ann Doyle is what
17 relation?

18 A. Minor's aunt.

19 Q. Okay. And Linda is the --

20 A. Grandmother.

21 Q. Grandmother. And the father's name is --

22 A. Melvin Howard?

23 Q. And he and Ann are brother and sister; is that
24 correct?

25 A. That's correct.

KRISTIN KULPEPPER - CROSS-EXAMINATION BY MR. HOWE 80

1 Q. So that's kind of the family unit there?

2 A. Yes, sir.

3 Q. All right. And when you came in, Minor was
4 crying?

5 A. Yes.

6 Q. Were other people crying?

7 A. Yes.

8 Q. And everybody was upset?

9 A. Yes, sir.

10 Q. Was it fair to say pretty emotionally-charged
11 setting?

12 A. Yes.

13 Q. And I believe you asked Minor some questions
14 about what had happened in the past between her and
15 Mr. White; is that correct?

16 A. Probably, to the best of my recollection 5 1/2
17 years ago.

18 Q. You gave a statement to the police later that
19 night some time thereafter?

20 A. Yes.

21 Q. Would you like a copy of that to look at --

22 A. Sure.

23 Q. -- if that would help you, because I'm going to
24 ask you some things that are pretty specific. I just
25 hand you that. Do you recognize that statement sort of

KRISTIN KULPEPPER - CROSS-EXAMINATION BY MR. HOWE 81

1 generally? Take a second and look at it and make sure
2 you do.

3 A. Yes, sir, it is vaguely familiar.

4 THE COURT: I'm sorry, if you say something, I
5 need to hear it.

6 THE WITNESS: Yes, sir, this looks familiar,
7 looks like it.

8 BY MR. HOWE:

9 Q. And it says statement of Kristin Kulpepper;
10 that's you, correct?

11 A. Yes.

12 Q. And the date is January 21st, 2008, correct?

13 A. That's correct.

14 Q. And the time 22:45, so about 10:45 for us
15 nonmilitary folks; does that sound about right?

16 A. Sure.

17 Q. And it begins, it says: This is the written
18 statement of Kristin Kulpepper as told to and written by
19 Detective Byrd of the Mount Pleasant Police Department;
20 is that correct?

21 A. Yes.

22 Q. So we are on the same page. Is that kind of the
23 logistics of how it went? You were telling him that,
24 he's writing it down as you are saying it?

25 A. Sort of. He's trying to apparently put my words

KRISTIN KULPEPPER - CROSS-EXAMINATION BY MR. HOWE 82

1 into -- I didn't get to write this, but he was taking the
2 facts and putting it into the report.

3 Q. Right, but you do sign it at the bottom, I have
4 received a copy?

5 A. Yes.

6 Q. And is that your signature on the first page?

7 A. Yes.

8 Q. And the other pages after that, there are three
9 pages in addition to that?

10 A. Yes, that's my signature.

11 Q. And the witness is the Officer Byrd that took it
12 down; is that correct?

13 A. Yes.

14 Q. Okay. And if you will look at the second page,
15 about four lines up from the bottom, quotes -- and I
16 guess I should ask it this way, be a little more
17 procedurally correct, did you ask Minor : Did he,
18 George White, put his wiener up inside you? Did you ask
19 her that question?

20 A. Yes.

21 Q. And on this statement, if you could help me, it
22 says: She said, and it had "no", but then no is crossed
23 out and then it has "yes" and all initials around it. Do
24 you see where I'm talking about?

25 A. Yes.

KRISTIN KULPEPPER - CROSS-EXAMINATION BY MR. HOWE 83

1 Q. Any recollection of why the "no" went to "yes"?

2 A. I have trouble reading his writing. I don't
3 know why that was there. I think it was just a mistake.
4 He asked me to initial that he made a mistake and was
5 crossing it out. It looks like his initials, and then I
6 initialed that he was crossing out a word that it looks
7 like he just missed -- put a word in there that didn't
8 belong, based on what I'm reading here on the sentence.

9 Q. Okay. But it said no and crossed out and has
10 yes?

11 A. I believe that's his initials. It looks like J
12 and B to me.

13 Q. All right. See right next to -- above "yes",
14 it's got two quotation marks with "no" in it.

15 A. I'm sorry, where are you looking? Fourth line
16 did you say?

17 THE COURT: You can go up there and show her if
18 you want to.

19 MR. HOWE: Thank you, Judge.

20 THE WITNESS: I'm sorry, I thought you were
21 talking about fourth line down there.

22 MS. GORDON: I'm sorry, you're talking about
23 what line?

24 MR. HOWE: She said --

25 THE WITNESS: It was determined that she wasn't

KRISTIN KULPEPPER - CROSS-EXAMINATION BY MR. HOWE 84

1 really sure. She was only 10 or 11 years old.

2 BY MR. HOWE:

3 Q. I'm asking you a really specific question about
4 why a word was changed on a piece of paper. So I want a
5 direct --

6 A. I don't know. I don't remember. It's been 5
7 1/2 years.

8 Q. And do you remember telling Minor , saying:
9 There was a hole there where baby's come out and if he
10 had put his wiener up inside there, it would probably
11 hurt; do you remember talking to her about that?

12 A. Sounds vaguely familiar.

13 THE COURT: I'm sorry, I have to hear --
14 understand you.

15 THE WITNESS: I'm sorry. I said that sounds,
16 vaguely familiar. If it is in here, I'm sure it is
17 correct. I was trying to use terms she would understand,
18 she was so young.

19 THE COURT: Do you want to take time to read
20 over the whole thing? You are welcome to do that if you
21 want to.

22 THE WITNESS: Sure.

23 BY MR. HOWE:

24 Q. Just let me know when you are ready.

25 A. Okay. Okay, I'm done.

KRISTIN KULPEPPER - CROSS-EXAMINATION BY MR. HOWE 85

1 Q. Just by way of -- when was the last time you've
2 looked at that statement?

3 A. Last time, my recollection is when it was
4 written.

5 Q. So not between then and now?

6 A. I don't recall --

7 Q. Okay. Fair enough.

8 A. -- having seen it again.

9 Q. Fair enough. And so did you tell Minor that
10 there was a hole down there where babies come out, and if
11 he had put his wiener up inside there, it would probably
12 hurt?

13 A. Yes.

14 Q. And at first, she said she wasn't sure, because
15 she thought she was sliding around on top of him?

16 A. Yes.

17 Q. Later I heard her say that it did hurt?

18 A. Yes.

19 Q. And then did you ask her -- and this is in line
20 with what you said, in a sunken den, you were hanging out
21 sort of watching TV and you asked her if she saw any
22 white, gooey stuff coming out of his penis?

23 A. Yes. We were trying to get details.

24 Q. Okay. And so you were trying to get details,
25 correct?

KRISTIN KULPEPPER - CROSS-EXAMINATION BY MR. HOWE 86

1 A. Yes, to determine what had happened.

2 Q. And you were trying to use words that to the
3 best of your ability she might understand?

4 A. That's correct.

5 Q. Okay. And you used the words that we've
6 outlined?

7 A. That's right.

8 Q. These are fairly accurate of the words and the
9 kinds of questions that you used?

10 A. Yes, sir.

11 Q. And this was -- this would have been in the
12 eight o'clock time period of this -- of the night that we
13 talked about, January 23rd?

14 A. Yes, that's when it started.

15 Q. And then this was written down just a few hours
16 later?

17 A. That's correct.

18 Q. And the scene generally was one of what I would
19 call, and I think you would agree, to be very emotionally
20 charged?

21 A. Yes.

22 Q. She was crying profusely?

23 A. Yes.

24 Q. And that was kind of the time when you were
25 asking these questions?

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1 A. That's correct.

2 MR. HOWE: That's all I have.

3 THE COURT: Anything on redirect?

4 MS. GORDON: Nothing further, Your Honor.

5 THE COURT: Thank you very much. You can go
6 wherever they direct you to go. Leave that paper up
7 there if you would or give it back to Mr. Howe. I think
8 he gave it to you, didn't he?

9 THE WITNESS: Yes, sir.

10 THE COURT: Give it back to him on the way out.
11 She could give you that paperback.

12 MS. GORDON: Sure. Thanks.

13 THE COURT: All right. Call your next witness.

14 MS. GORDON: State calls Minor

15 Minor

16 having been duly sworn, testifies as follows:

17 THE CLERK: Say your full name and spell your
18 last name.

19 THE WITNESS: Minor

20 M-i-n-o-r .

21 DIRECT EXAMINATION

22 BY MS. GORDON:

23 Q. Good afternoon, Minor . Can you tell what your
24 birth date is?

25 A. Birth date .

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1 THE COURT: I'm sorry. I couldn't hear you.

2 BY MS. GORDON:

3 Q. Can you say it one more time and just try to
4 speak into the microphone as best you can. I know it is
5 hard. Can you tell us what your birthday is?

6 A. Birth .

7 Q. Minor who do you live with?

8 A. My aunt, grandmother, cousin, and sister, and
9 great grandmother.

10 Q. And what's your aunt's name?

11 A. Teresa Doyle.

12 Q. Do people call her Ann?

13 A. Yes.

14 Q. And your grandmother, is that Linda?

15 A. Yes.

16 Q. And you all live at the same house?

17 A. Yes.

18 Q. And that's in Mount Pleasant?

19 A. Yes.

20 Q. Minor, where do you go to school?

21 A. School

22 Q. And when you were in the fifth grade, where did
23 you go to school?

24 A. School

25 Q. When you were in the fifth grade at School .

Minor - Direct Examination by Ms. Gordon 89

1 School , did you meet Mr. White?

2 A. Yes.

3 Q. Where were you living at that time?

4 A. Neighborhood .

5 Q. Neighborhood ?

6 A. Uh-huh.

7 Q. Is that on Street ?

8 A. Yes.

9 Q. Is that the same house you live in now?

10 A. Yes.

11 Q. Tell me the first time you remember meeting

12 Mr. White.

13 A. When he came to fix the bathroom.

14 Q. And did you talk to him that day?

15 A. I just said hi because I'm really shy, so ...

16 Q. Did he continue to come to your house?

17 A. Yes.

18 THE COURT: Let me be sure the jury knows. I'm
19 having trouble hearing her, understanding what she's
20 saying and all. It is very important that you hear and
21 understand everything she says. So if you are having
22 trouble hearing and understanding her, please let me
23 know, raise your hand. Maybe it is just my hearing, but
24 I want to make sure that you the jury, everybody on the
25 jury can hear and understand everything that she's

Minor - Direct Examination by Ms. Gordon 90

1 saying. So, again, let me know if you are having any
2 problems hearing and understanding any responses,
3 anything that she's saying.

4 BY MS. GORDON:

5 Q. Minor, you said that he came to your house to
6 fix the bathroom. Did he come back -- did he ever come
7 back to your house?

8 A. Yes.

9 Q. What did he come back to your house to do?

10 A. To finish the bathroom and he would build us a
11 playhouse.

12 (State's Exhibit. No. 1, Photograph of
13 Playhouse, was marked for identification.)

14 BY MS. GORDON:

15 Q. Minor, I'm going to show you what's been
16 marked State's Exhibit 1; do you recognize that?

17 A. Yes.

18 Q. What is that?

19 A. The playhouse.

20 Q. Who built that playhouse?

21 A. He did.

22 Q. When you say "he", can you say who it was?

23 A. George.

24 MS. GORDON: Your Honor, the State moves to
25 admit State's Exhibit 1 into evidence?

Minor - Direct Examination by Ms. Gordon 91

1 THE COURT: Any objection?

2 MR. HOWE: No, Your Honor.

3 (State's Exhibit 1 was moved into evidence.)

4 MS. GORDON: I'm going to just publish the
5 pictures.

6 THE COURT: Jury panel, let me tell you,
7 anything that's actually introduced into evidence,
8 physical evidence, such as that photograph or whatever,
9 sometimes they want to pass it around, pass it around to
10 the jury here now or show it to you like that and all.
11 You will have anything like that with you in the jury
12 room at the end of the case when you are considering your
13 verdict. So don't think this is the only chance you will
14 get to look at that photograph. Anything that's actually
15 introduced into evidence, you will have it with you in
16 the jury room at the end of the case.

17 Go ahead.

18 BY MS. GORDON:

19 Q. Minor, did you ever go anywhere with George
20 White?

21 A. Yes.

22 Q. Can you tell us the kinds of places?

23 THE COURT: Do you want to ask any more
24 questions about that?

25 MS. GORDON: No.

Minor - Direct Examination by Ms. Gordon 92

1 BY MS. GORDON:

2 Q. Can you tell us the kinds of places you would go
3 with George White?

4 A. To church. I would help him on a job sometimes
5 and to go feed a wolf.

6 Q. Minor, where would you go feed a wolf?

7 A. Downtown somewhere, I don't know the exact
8 place.

9 (State's Exhibit 2, Photograph of an animal,
10 marked for identification.)

11 BY MS. GORDON:

12 Q. I'm just going to put this up on the screen.

13 And if you can tell me, do you recognize that?

14 A. Yes.

15 Q. What is that?

16 A. The wolf.

17 Q. And is that a real wolf, or is it a dog or do
18 you know?

19 A. I don't know. I was told it was a wolf.

20 Q. And is that the wolf that you would go feed?

21 A. Yes.

22 Q. And tell me again, where is that wolf located?

23 A. Downtown.

24 Q. Was there ever a time that when you would --

25 THE COURT: Do you want to put that in evidence?

Minor - Direct Examination by Ms. Gordon 93

1 MS. GORDON: I'm sorry, Your Honor. The State
2 would move Exhibit 2 into evidence.

3 MR. HOWE: No objection.

4 (State's Exhibit 2 is moved into evidence.)

5 BY MS. GORDON:

6 Q. When Mr. White would pick you up, what kind of
7 car did he drive?

8 A. A white van.

9 THE COURT: Any other questions about the wolf?

10 MS. GORDON: Not now, Your Honor. You might
11 want to leave that on because I've got several pictures.

12 (State's Exhibit 3, Photograph of white van,
13 marked for identification.)

14 (State's Exhibit 4, Photograph of back of white
15 van, marked for identification.)

16

17 (State's Exhibit 5, Photograph, marked for
18 identification.)

19 (State's Exhibit 6, Photograph, marked for
20 identification.)

21 THE COURT: Assuming they are properly
22 identified, any objection?

23 MR. HOWE: No objection.

24 BY MS. GORDON:

25 Q. Minor, I'm going to show you what has been

Minor - Direct Examination by Ms. Gordon 94

1 marked as State's Exhibit 3. Do you recognize that?

2 A. Yes.

3 Q. What is that?

4 A. His van.

5 Q. And when you say "his", do you mean George
6 White?

7 A. Yes.

8 MS. GORDON: Your Honor, state would move
9 state's Exhibit 3 into evidence.

10 THE COURT: Without objection?

11 MR. HOWE: Correct.

12 (State's Exhibit 3 is moved into evidence.)

13 BY MS. GORDON:

14 Q. I'm going to show you what's been marked as
15 State's Exhibit 4. Do you recognize that?

16 A. Yes.

17 Q. What is that?

18 A. The back of the van.

19 Q. And what is this; can you tell me what this is?

20 A. The bed that was put in there.

21 Q. The state would move State's Exhibit 4 into
22 evidence.

23 THE COURT: Without objection.

24 MR. HOWE: No objection, Your Honor.

25 (State's Exhibit 4 is moved into evidence.)

Minor - Direct Examination by Ms. Gordon 95

1 BY MS. GORDON:

2 Q. This is Number 5, do you recognize that?

3 A. Yes.

4 Q. What is that?

5 A. The same bed.

6 Q. And I'm also going to show you 6, Exhibit 6,

7 State's Exhibit 6; do you recognize that?

8 A. Yes.

9 Q. What is that?

10 A. Back of the van.

11 Q. And is that Mr. George White's van?

12 A. Yes.

13 Q. Your Honor, State moves 5 and 6 into evidence.

14 THE COURT: Okay. Without objection?

15 MR. HOWE: No objection.

16 (State's Exhibit 5 is moved into evidence.)

17 (State's Exhibit 6 is moved into evidence.)

18 BY MS. GORDON:

19 Q. I think that's all. Minor, was there ever a
20 time that you went to the back of George White's van?

21 A. Yes.

22 Q. Can you tell us about that? When did you go
23 back there? Who went back first?

24 A. He did.

25 Q. And did you go back there with him?

Minor - Direct Examination by Ms. Gordon 96

1 A. Yes.

2 Q. How did you get back there?

3 A. He just told me to come. I was so young, so I
4 just did what I was told.

5 THE COURT: I'm sorry, I could not understand
6 you.

7 THE WITNESS: He told me to, and I was so young
8 so I just did what I was told.

9 MS. GORDON: I could hear her.

10 BY MS. GORDON:

11 Q. Minor, when you got back to the van, what did
12 George do?

13 A. He just pulled my pants down and sat me on his
14 lap.

15 Q. Where were his pants?

16 A. Off.

17 Q. Did you see him take his pants off?

18 A. Yes.

19 Q. And you said he pulled your pants down. Did he
20 take them all the way off or just pulled them down?

21 MR. HOWE: Your Honor, I know with younger
22 people you've got to lead a little bit, but it is getting
23 a little too direct.

24 THE COURT: All right. Don't lead the witness.
25 Go ahead.

Minor - Direct Examination by Ms. Gordon 97

1 BY MS. GORDON:

2 Q. Describe exactly like where your pants were.

3 A. Sometimes they would be all the way off,
4 sometimes not.

5 Q. And after he took your pants off or pulled them
6 down, what did he do?

7 A. Sat me on his lap.

8 Q. And where were you sitting when you said he sat
9 you on on his lap. You said the back of the van, what
10 part of the van?

11 A. On the bed.

12 Q. And where was he?

13 A. On the bed.

14 Q. And so was he -- can you describe how he was
15 sitting?

16 A. Just like you, sitting in a chair.

17 Q. And how did you get on his lap?

18 A. He would put me on there.

19 Q. Can you describe how he would put you on there?

20 A. Just picked me up and sit me down.

21 Q. When he put you on his lap, were you -- can you
22 describe how you were sitting, like face to face or front
23 to back?

24 A. Face to face.

25 Q. Where were his hands when he would sit you on

Minor - Direct Examination by Ms. Gordon 98

1 his lap?

2 A. On my back.

3 Q. And what did he do with his hands?

4 A. He would just push me back and forth.

5 Q. And how did that feel?

6 A. Not good.

7 Q. What would make him stop? Do you need some
8 water? I think I interrupted you. Can you say again
9 what would make him stop?

10 A. I don't know.

11 Q. Did that happen in the van one time or more than
12 one time?

13 A. More than once.

14 Q. How often would that happen in the van?

15 A. Any time I would go off with him.

16 Q. Did he ever do something like that in another
17 place other than the van?

18 A. Yes.

19 Q. Where else did this happen?

20 A. In the house by the wolf.

21 THE COURT: In the house by the wolf?

22 THE WITNESS: Yes.

23 (State's Exhibit No. 7, Photograph of House,
24 marked for identification.)

25 BY MS. GORDON:

Minor- Direct Examination by Ms. Gordon 99

1 Q. Minor, I'm going to show you what's been
2 marked as State's Exhibit 7. Minor, do you recognize
3 this?

4 A. Yes.

5 Q. What is that?

6 A. The house.

7 Q. The house that you were talking about where you
8 went inside?

9 A. Uh-huh, yes.

10 Q. Your Honor, State would move State's Exhibit 7
11 into evidence?

12 THE COURT: Any objection?

13 MR. HOWE: No objection, Your Honor.

14 (State's Exhibit 7 is moved into evidence.)

15 BY MS. GORDON:

16 Q. Minor, you said this is across the street from
17 the wolf; where is that located?

18 A. Downtown.

19 Q. Somewhere downtown?

20 A. Yes.

21 Q. Do you know the address?

22 A. No.

23 Q. What happened inside that house?

24 A. Same thing that would happen in the van.

25 Q. And where would you be in the house?

Minor- Direct Examination by Ms. Gordon100

- 1 A. In the bathroom.
- 2 Q. And tell me, where was George sitting?
- 3 A. On the toilet.
- 4 Q. And where were his pants?
- 5 A. Off.
- 6 Q. And tell me about your clothes; where were your
7 clothes?
- 8 A. They were also off.
- 9 Q. Was it just your pants or top and bottom?
- 10 A. Kind of just the bottom.
- 11 Q. And when he would -- when this happened in the
12 house, can you describe where you were -- you said he was
13 on the toilet, where were you?
- 14 A. On his lap.
- 15 Q. And how did you get on his lap at that time?
- 16 A. He would pick me up and put me there.
- 17 Q. And can you describe where his hands would be at
18 that time when it happened in the house?
- 19 A. On my back.
- 20 Q. And what would he do? Did he move his hands?
- 21 A. They wouldn't move.
- 22 Q. Well, did you move?
- 23 A. Yes.
- 24 Q. How did you move?
- 25 A. He would push me back and forth.

Minor- Direct Examination by Ms. Gordon101

1 Q. And what would make him stop?

2 A. I don't know.

3 Q. How did it feel when this happened, Minor ?

4 A. Not good.

5 Q. Do you know if any part of him was inside of
6 you.

7 MR. HOWE: Objection. That's getting a little
8 leading.

9 THE COURT: I will allow that question. Can you
10 answer that question?

11 THE WITNESS: I don't remember.

12 BY MS. GORDON:

13 Q. Can you tell us how it felt though?

14 A. It hurt.

15 Q. How did you feel or how did your body feel after
16 it would happen?

17 A. It would hurt for a little bit, but then it
18 would stop.

19 Q. Minor, when this was happening, did you tell
20 anybody what happened?

21 A. No.

22 Q. Why not?

23 A. I was scared.

24 Q. What were you scared of?

25 A. Being taken.

Minor - Direct Examination by Ms. Gordon102

- 1 Q. Can you say what you were scared of?
- 2 A. Being taken.
- 3 Q. Being taken from whom?
- 4 A. My aunt and grandma.
- 5 Q. Did there come a time when your aunt and
- 6 grandmother asked you about this?
- 7 A. Yes.
- 8 Q. And what did you say then?
- 9 A. First I said no.
- 10 Q. Why did you say no?
- 11 A. Because I was still scared of being taken.
- 12 Q. And did they ask you again?
- 13 A. Yes.
- 14 Q. Was that like immediately after?
- 15 A. Yes.
- 16 Q. And same night?
- 17 A. Yes.
- 18 Q. And what did you say?
- 19 A. I came out and told them.
- 20 Q. Did you make any request of them after you
- 21 told?
- 22 A. Yes.
- 23 Q. What did you ask them to do?
- 24 A. Begged them not to call the police.
- 25 Q. Why did you not want the police called?

Minor- Direct Examination by Ms. Gordon103

1 A. Because, once again, I'm scared to be taken.

2 Q. Minor, when you went inside the house, was
3 anybody there?

4 A. No.

5 Q. Other than going to the house and going in the
6 back of his van, did you ever do fun things with
7 Mr. White?

8 A. We went to the park once, and that was it.

9 Q. Did he ever take you out to eat?

10 A. We would go to breakfast on Sunday mornings.

11 Q. And when you went to that house, do you remember
12 what day of the week it was?

13 A. Sunday.

14 Q. And why do you know it was a Sunday?

15 A. Because it was the day we were supposed to be
16 going to church.

17 Q. Did he ever let you drive the van?

18 A. Yes.

19 Q. Tell me about that.

20 A. I would just get to steer around the
21 neighborhood.

22 Q. Minor, if your aunt had not asked you --
23 grandmother had not asked you that night, were you
24 planning to tell?

25 A. No.

Minor - Direct Examination by Ms. Gordon104

1 Q. Why didn't you want to tell?

2 A. Because, again, I was scared to be taken.

3 Q. When you were sitting on his lap, can you
4 describe how his body felt, any part of his body?

5 A. No.

6 Q. Did you feel any part of his body?

7 A. Yes.

8 Q. And describe what that felt like.

9 A. I don't really know what it felt like. I just
10 know that I felt -- I can't really describe it.

11 Q. Well, can you just give whatever description you
12 can of what it felt like?

13 A. I guess wet. I don't know.

14 THE COURT: I couldn't understand that. I
15 couldn't understand you.

16 THE WITNESS: Wet.

17 MS. GORDON: She said wet. Court's indulgence.

18 BY MS. GORDON:

19 Q. Minor, I've got one more picture I would like
20 to show you.

21 (State's Exhibit No. 8, Photograph of seat, was
22 marked for identification.)

23 BY MS. GORDON:

24 Q. It is a little bit dark, but tell me if you can
25 recognize -- can you see what that is?

Minor- Direct Examination by Ms. Gordon105

1 A. Yes.

2 Q. What is that?

3 A. A seat.

4 Q. And what is this? Can you see what that is?

5 A. Not really.

6 Q. If I hand it to you, you might be able to see

7 it. It is a little bit dark. I don't know if you can

8 tell the context of what this is or not. Can you tell

9 where that picture is taken?

10 A. Yes.

11 Q. Okay. What is that?

12 A. It's the sheet that he had behind the van.

13 THE COURT: I couldn't understand you. Couldn't

14 understand you.

15 BY MS. GORDON:

16 Q. Can you tell the judge one more time what that

17 is?

18 A. It is like the curtain that he had put up behind

19 the seats in the van.

20 THE COURT: All right.

21 MS. GORDON: State moves State Exhibit 8 into

22 evidence.

23 THE COURT: Any objection?

24 MR. HOWE: I'm sorry, Your Honor, no, no.

25 (State's Exhibit No. 8 is moved into evidence.)

Minor - Cross by Mr. Howe

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1 MS. GORDON: Nothing further at this time, Your
2 Honor.

3 CROSS-EXAMINATION

4 BY MR. HOWE:

5 Q. Minor, my name is Donald Howe. I just have a
6 few questions for you, I think. One of the things I've
7 noticed; and I just want you to explain so you are not as
8 nervous. She's asked you sometimes, you can't nod your
9 head because she can't write that down. She's got to
10 write down yes or no. She's not picking at you. And I'm
11 not going to be picking at you if I ask yes or no,
12 because we've got to be able to read this later. We
13 can't read that. Okay? Fair enough?

14 A. Yes.

15 Q. All right. Yes is the answer. How old are you
16 now?

17 A. 16.

18 Q. And where are you in school?

19 A. School.

20 Q. And what grade are you in?

21 A. Ninth.

22 Q. What's your best subjects?

23 A. Math.

24 Q. Now, Mr. White did a variety of different kinds
25 of work around the house, didn't he?

1 A. Yes.

2 Q. He fixed some things in the garage?

3 A. Yes.

4 Q. And he would get called over there for

5 emergencies sometimes?

6 A. Yes.

7 Q. And the playhouse, that wasn't a free thing;

8 that was something your parents paid for, wasn't it, or

9 do you know?

10 A. No.

11 Q. Okay.

12 A. They didn't pay for it.

13 Q. Okay. You are not aware that that was a

14 paid-for job?

15 A. No, sir.

16 Q. And apparently at some point he was doing some

17 tutoring for you; is that correct?

18 A. Yes.

19 Q. Now, the first time that you told anybody about

20 anything that happened between you and Mr. White, who

21 was -- where were you and who was in the room?

22 A. I was at my house with my aunt and grandma.

23 Q. And just the three of you?

24 A. Yes.

25 Q. Okay. And then later, do you remember

- 1 Ms. Kulpepper came over a little bit later?
- 2 A. Yes.
- 3 Q. Did she speak with you about some of the things
- 4 that happened?
- 5 A. Yes.
- 6 Q. And do you remember being pretty upset at that
- 7 time?
- 8 A. Yes.
- 9 Q. Your aunt and grandmother were pretty upset
- 10 too?
- 11 A. Yes.
- 12 Q. Was Ms. Kulpepper pretty upset?
- 13 A. Yes.
- 14 Q. And later that night, the police came and you
- 15 talked to some people then too, didn't you?
- 16 A. Yes.
- 17 Q. And then -- and I'm a little confused on this,
- 18 so you help me out. At some point you talked to some
- 19 people at the Medical University. Do you remember that?
- 20 You talked to some doctors and they did an examination?
- 21 Do you remember anything about that?
- 22 A. Yes.
- 23 Q. Do you remember telling them that nothing really
- 24 had happened?
- 25 A. No.

1 Q. Did you also talk to a lady named Molly, Molly
2 Wharton, now Molly Daily?

3 A. Might have. I'm not so good with names.

4 Q. Okay. Do you remember going to a place where
5 she had like a little dry erase board or -- not a
6 chalkboard, but Magic Marker board or something like
7 that, and she asked you about what happened and that kind
8 of stuff?

9 A. Yes.

10 Q. When was that? Was that like the next day or
11 before after the hospital? What can you tell me?

12 A. If I remember right, it was after the
13 hospital.

14 Q. Okay. And do you remember her telling you that
15 it was on camera and that kind of stuff?

16 A. What was on the camera?

17 Q. The interview, when Molly talked to you that she
18 was going to talk to you and it would be recorded, do you
19 remember any of that?

20 A. Yes.

21 Q. And things weren't quite as upset in that room,
22 didn't have mom and other people crying or anything
23 around you, did they?

24 A. No.

25 Q. And she was pretty even-keel, nice lady, wasn't

Minor - CROSS BY MR. HOWE

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1 she?

2 A. Yes.

3 Q. Did she make you feel relatively comfortable and
4 unthreatened?

5 A. Yes.

6 Q. Okay. This was back in 2007, maybe 2008. You
7 were around 11, correct?

8 A. Yes.

9 Q. And you are how old now, did you say?

10 A. 16.

11 Q. Okay. Since that time, have you learned a
12 little bit more, I guess, about what I call the birds and
13 the bees? Do you know what I mean by that?

14 A. Yes, sir.

15 Q. Well, it is a harder question, but have you been
16 to like sex education classes or learned more about how
17 babies are made and those kinds of things?

18 A. Yes.

19 Q. Have you had some of that at school?

20 A. Yes, with my ROTC class we have to learn about
21 it.

22 Q. Oh, so you are in ROTC?

23 A. Yes, sir.

24 Q. What do you have to do for -- tell me a little
25 bit about that ROTC.

Minor - CROSS BY MR. HOWE

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1 A. It is pretty much just like the Air Force. You
2 drill and you learn what you would be doing in the Air
3 Force.

4 Q. Okay. And how long have you been involved in
5 the ROTC?

6 A. I just joined Monday.

7 Q. I'm sorry?

8 A. I just joined my ninth grade year.

9 Q. Okay. Which year?

10 A. Ninth grade.

11 Q. So this year is your first year?

12 A. Yes, sir.

13 Q. Are you enjoying it?

14 A. Yes, I love it.

15 Q. They got you marching?

16 A. Yes.

17 Q. A little bit?

18 A. I'm going to be in all four years hopefully.

19 Q. Is that your hope, maybe to go into the Air
20 Force?

21 A. Maybe, depends.

22 Q. You are not ready to sign up and commit at this
23 point?

24 A. No.

25 Q. Fair enough. In connection with your ROTC,

1 you've had some sex education class, class or classes of
2 some sort?

3 A. Yes.

4 Q. And have you also learned a little bit more
5 about that, I guess with your peers and family; you've
6 talked about some of those things?

7 A. Yes.

8 Q. You've been asked about something and you
9 answered that it felt wet. Do you remember what I'm
10 talking about?

11 A. Yes.

12 Q. Had you told anybody about that? Did you tell
13 your grandmother that or anybody else about that anywhere
14 along the way?

15 A. No, because I never got asked.

16 Q. And did you try to tell your grandmother the
17 truth and stuff when they asked you about this?

18 A. The second time I told them.

19 Q. Right, because the first time you say you said
20 nothing, but then later, that second time, that's kind of
21 when you put it -- put the cards on the table, right?

22 A. Yes.

23 MR. HOWE: Just a moment, Your Honor.

24 BY MR. HOWE:

25 Q. Excuse me, Minor. You mentioned that you

Minor- CROSS BY MR. HOWE

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1 would sometimes do some work with George on the job,
2 sites.

3 A. Yes.

4 Q. What kinds of things would you do?

5 A. I would just go into whatever house he was
6 working on.

7 Q. Would you like help pick up a little bit or
8 something?

9 A. Yes, and hand him the tools.

10 Q. Watch him doing work?

11 A. Yes.

12 Q. Did you have -- there was another relative,
13 maybe a boy, older boy that did some work with him
14 sometimes too?

15 A. My cousin helped him build a box for my
16 grandmother's angel.

17 Q. A little hard to understand. Say that one more
18 time.

19 A. My cousin helped him build a box for my
20 grandmother's angel.

21 Q. For your grandmother's angel?

22 A. Yes.

23 MR. HOWE: I think that's all the questions I
24 have. Thank you very much, Your Honor. "

25 THE COURT: Anything on redirect?

Minor - CROSS BY MR. HOWE

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1 MS. GORDON: Briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. GORDON:

4 Q. Minor, why did you tell your aunt, finally
5 tell your aunt and grandmother what happened?

6 A. Because they told me that I needed to if
7 anything -- if he wasn't doing anything, it was the right
8 thing to do and I wouldn't be in trouble.

9 MS. GORDON: I have one more picture, Judge.
10 Judge, could you understand that?

11 THE COURT: Did the jury hear it? Okay.

12 (State's Exhibit No. 9, Photograph of Angel
13 Box, marked for identification.)

14 BY MS. GORDON:

15 Q. Minor, I'm going to show you what's been
16 marked as State's Exhibit 9. Do you recognize that?

17 A. Yes.

18 Q. What is that?

19 A. That's the box that my cousin helped him build
20 for my grandmother's angel.

21 Q. He helped George build that box?

22 A. Yes.

23 MS. GORDON: Move State's Exhibit 9 into
24 evidence.

25 MR. HOWE: No objection, Your Honor.

Minor - Redirect by Ms. Gordon 115

1 (State's Exhibit 9 is moved into evidence.)

2 THE COURT: Nothing further, Your Honor.

3 MR. HOWE: I have one follow-up. I apologize, I
4 forgot.

5 THE COURT: All right.

6 RECROSS-EXAMINATION

7 BY MR. HOWE:

8 Q. You mentioned when you were talking about you
9 were worried about being taken -- do you remember that?

10 A. Yes.

11 Q. You had been removed from your home with your
12 mom sometime back; is that correct?

13 A. Yes.

14 Q. And Mr. George didn't have anything to do with
15 that, did he?

16 A. No.

17 Q. That's how you ended up kind of with your
18 grandmother and your aunt?

19 A. Yes.

20 MR. HOWE: All right.

21 THE COURT: Thank you very much. You can go
22 wherever Ms. Gordon tells you to go.

23 THE COURT: All right. We are going to take
24 just a short break at this point and let you go in the
25 jury room for a five-, ten-minute break, just a short

1 recess.

2 (Whereupon, the Jury exited the courtroom at
3 approximately 4:09 p.m.)

4 (Whereupon, the Jury came into open court at
5 approximately 4:18 p.m.)

6 THE COURT: All right. We have the jury back
7 with us. Okay. Everybody is here. Call your next
8 witness.

9 MS. GORDON: State calls Linda Graham.

10 LINDA GRAHAM,

11 having been duly sworn, testifies as follows:

12 THE CLERK: State your full name and spell your
13 last name for the record.

14 THE WITNESS: Linda Jo Graham, G-r-a-h-a-m.

15 DIRECT EXAMINATION

16 BY MS. GORDON:

17 Q. Ms. Graham, how are you doing this afternoon?

18 A. Okay.

19 Q. Can you tell the jury where you live?

20 A. I live at address Mount Pleasant,
21 South Carolina.

22 Q. And how long have you lived in Mount Pleasant?

23 A. Well, I've lived there about 20 years, but I
24 lived in this place it will be six or seven years.

25 Q. And do you have a granddaughter named Minor ?

LINDA GRAHAM - DIRECT BY MS. GORDON

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- 1 A. Yes, ma'am, I do.
- 2 Q. And what's her full name?
- 3 A. Minor .
- 4 Q. And where does Minor live?
- 5 A. She lives with us.
- 6 Q. Who else lives at the house with you?
- 7 A. My daughter, her sister, and my grandson and my
- 8 mama lives with me because she has Alzheimer's and I'm
- 9 taking care of her.
- 10 Q. You said her sister; whose sister?
- 11 A. Minor's sister.
- 12 Q. What's her name?
- 13 A. Sister , excuse me.
- 14 Q. Is she older or younger than Minor ?
- 15 A. She's younger than Minor .
- 16 Q. Tell me, do you know George White?
- 17 A. Yes.
- 18 Q. Has he ever been to your house on Street ?
- 19 A. Yes, ma'am.
- 20 Q. Tell me the first time he came to your house on
- 21 Street in Mount Pleasant.
- 22 A. He came to fix the bathroom in our bedroom.
- 23 Q. And how -- who sent him there?
- 24 A. My landlord.
- 25 Q. And when he came, did you recognize him?

LINDA GRAHAM - DIRECT BY MS. GORDON

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1 A. Not at first, no, ma'am.

2 Q. And at some point did you realize that you might
3 have known him previously?

4 A. Yes, he started talking about my husband, my
5 passed husband, and talking about the parties that we
6 used to have. And I knew his wife once he told me who he
7 was.

8 Q. And you said parties, what kind of parties were
9 these?

10 A. We used to have oyster roasts, birthday parties
11 or something. And my cousins would come down from North
12 Carolina and play music and stuff.

13 Q. What did you think of George?

14 A. I thought he was, you know, okay. I mean, I
15 knew his wife more better than I knew him, but sounds
16 like he was a real religious person, so ...

17 Q. How long did it take to repair the bathroom?

18 A. I guess a week or two. I'm not sure exactly.

19 Q. After he finished with the bathroom, did he
20 continue to come over?

21 A. Yeah, he started talking about -- I think it was
22 out in the garage, closing it in for a bedroom. And at
23 that time Minor's dad was there. He's gone now, so ...

24 Q. Did Mr. White close in that room for you?

25 A. Yes. He asked our landlords and he told him he

LINDA GRAHAM - DIRECT BY MS. GORDON

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1 could do it, so...

2 Q. Did he ask you to pay him for that?

3 A. I think I offered to pay. I always wanted to
4 offer to pay for something going on for me.

5 Q. Did he take your money?

6 A. I think so, he took some.

7 THE COURT: I'm sorry, you said I think so?

8 THE WITNESS: Yes, sir. Best I remember, yes,
9 sir.

10 BY MS. GORDON:

11 Q. Did he do other things?

12 A. Yes. Then when he started talking about
13 building a playhouse for the two girls. And so I offered
14 to pay that, and he said he was going to do the work.

15 Q. Did you pay him for labor or materials or --

16 A. If anything it was materials. It was not labor,
17 because he offered to do that.

18 Q. Did he do other things around your house?

19 A. Just if he seen anything wrong or something --
20 he did put up a rail that went down my steps going down
21 into the den or game room as we call it now.

22 Q. Were these things that you asked him to do or
23 things that --

24 A. Just something I might -- not the playhouse or
25 the garage or anything, I did not say anything about

LINDA GRAHAM - DIRECT BY MS. GORDON

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1 that. Now, the rail I was talking about one time, he
2 didn't have a rail going down and I was scared people was
3 going to fall, and he come up with the rail.

4 Q. Did he take an interest in anybody specific in
5 your house?

6 A. Well, he act like he was, you know, kind to all
7 of us. And so, I mean, he would come over and, you know,
8 and he would have Minor get tools or something for him
9 when he was working on the bathroom and stuff like that.

10 Q. Did he ever -- did he do other things with
11 Minor that he didn't do with the other people?

12 A. He asked Minor could she go to church with him.
13 And there was a dog over here in Charleston that they
14 called the wolf, and he even took us to see the wolf.
15 And so that Sunday -- one Sunday, he asked Minor to go
16 with him. So we let Minor go with him to see the wolf.
17 And then one time she was supposed to be going to help
18 him work and stuff and he took her to church.

19 Q. Did she go to church with him one time or more
20 than one time?

21 A. It was more than one time, but I'm not sure
22 about how many times. His wife was with him one time.

23 Q. Were there times that he picked her up when his
24 wife wasn't there?

25 A. Yes, sir -- yes, ma'am.

LINDA GRAHAM - DIRECT BY MS. GORDON

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1 Q. Did he come to Minor 's birthday party?

2 A. Yes, ma'am.

3 Q. What did he do at her birthday party?

4 A. Well, he was taking pictures, and he brought a
5 lot of gifts. And he just kept taking a lot of pictures
6 , and a lot of them was with Minor , you know, and other
7 people.

8 Q. Did he ever help her with homework or do other
9 things?

10 A. Yes. She was having problems with math, I'm
11 pretty sure that's what it was, and he offered to tutor
12 with her. And he would sit in the living room and tutor
13 her.

14 Q. What did you think about that?

15 A. Well, I thought it was kind of nice at that
16 time.

17 Q. At some point did it come to your attention that
18 Kristin didn't have the same opinion?

19 A. Right, yes, ma'am.

20 Q. And did she express her concerns to you?

21 A. Well, she was kind of -- it is kind of like to
22 all of us. But I told her the night that we found out
23 that I was going to try to put her mind to ease. And she
24 was talking to Ann too, my daughter. And I was going to
25 try to put her mind to ease, because I was going to ask

LINDA GRAHAM - DIRECT BY MS. GORDON

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1 Minor

2 Q. Now, you can't say exactly what Minor told
3 you.

4 A. Okay.

5 Q. You are limited to time and place, but when you
6 asked Minor that night if something had happened, did
7 she disclose a sexual assault?

8 A. Not at first. She was just scared. And I told
9 Minor, you can be real honest, please just tell us the
10 truth, and she come out with it and told us.

11 Q. Did she tell you where it happened?

12 A. At the time she told me one of the places.

13 Q. And where about did she say it happened?

14 A. Down seeing the wolf, into the house that he was
15 working on down -- right down the road from the wolf.

16 Q. And did she tell you when it had happened?

17 A. It was on that Sunday that he carried her over
18 there.

19 Q. Describe Minor as she was telling you. What
20 was her expression or demeanor?

21 A. She was just so scared that she was going to be
22 taken away from us. And she just, I think, in a way got
23 to blame herself because she hadn't told, but she was too
24 scared to tell. That's what it was. And she's such a
25 sweet girl.

Linda Graham - Cross by Mr. Howe

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1 MS. GORDON: Ms. Graham, that's the only
2 questions I have for you. Answer any questions that
3 Mr. Howe has for you. Okay?

4 CROSS-EXAMINATION

5 BY MR. HOWE:

6 Q. Ms. Graham, do you want to get a little water or
7 anything for a second?

8 A. No.

9 Q. Okay. Take your time for a minute. I'm going
10 to get a couple of things.

11 George had been over there, as you said, quite a
12 bit, hadn't he?

13 A. Yes, sir.

14 Q. And he had tutored some of the other kids as
15 well, hadn't he?

16 A. No, sir, just Minor.

17 Q. Just Minor?

18 A. Just Minor.

19 Q. And you never had any inkling of anything in
20 your contact of anything --

21 A. Nothing.

22 Q. -- going on?

23 A. Not that I remember.

24 Q. And the first conversation that you had, I
25 believe was in January, maybe the 21st, is that kind

Linda Graham - Cross by Mr. Howe

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1 of -- same night the police came and all that kind of
2 stuff, right?

3 A. I'm old, I can't remember all, but, yes.

4 Q. Now, who all -- you described who was in the
5 house now. Who was in the house then?

6 A. The same people except her daddy did live there
7 then.

8 Q. He's not living there anymore?

9 A. No, sir. He left.

10 Q. Where did he go?

11 A. He found a women he was more interested in, I
12 guess you would say.

13 Q. Where does he live now?

14 A. I have no idea.

15 Q. Now, how did Minor come to live with you?

16 A. When her daddy had custody of her and they were
17 staying with -- when we all moved into that house, that's
18 because she was -- her mother had lost custody of her,
19 so --

20 Q. So her mother -- she was living with her mother,
21 correct, way back?

22 A. Not for years after which we moved in our house.
23 She had been in our house about eight years when we moved
24 there.

25 Q. Mother had custody and she actually lost

1 custody?

2 A. Correct.

3 Q. Because of neglect?

4 A. Yeah.

5 Q. That was long before this? It didn't have
6 anything to do with George White, did it?

7 A. Long before. She hadn't even seen Minor in
8 eight years.

9 Q. And when she talked about being worried about
10 being taken, that sort of goes back to --

11 A. That's what she was afraid of.

12 Q. That's what she's really talking about?

13 A. Yes, that's exactly what she was talking about.

14 Q. Because she had been through some of those same
15 traumas before?

16 A. Yeah.

17 Q. Now, as I understand it, there's -- sort of
18 taking you through the evening when you found all this
19 out, a timeline for a second, okay. So we start off I
20 guess would be -- let's do it this way. You have sort of
21 a play date with Ms. Kulpepper's child?

22 A. Yeah.

23 Q. Okay. And then a little bit later after they
24 leave, you talk to Minor; is that correct?

25 A. Right.

1 Q. And then Ms. Kulpepper actually comes back
2 over?

3 A. Right.

4 Q. Okay. And were you there when she talked to
5 Minor?

6 A. When she talked to Minor?

7 Q. Yes.

8 A. It was after we already found out.

9 Q. And she started asking her some pretty specific
10 questions; were you there when she did that?

11 A. In the room with her, no; but I was in the
12 house, but not in the same room.

13 Q. You weren't right there; you didn't actually
14 hear the questions?

15 A. No.

16 Q. Okay. Fair enough. And then a little bit
17 later, that's when the police came?

18 A. I think, yes. I think she arrived before the
19 police; I'm pretty sure of it.

20 Q. The police were there pretty late in the evening
21 as it looked like to me.

22 A. Yes, about 9:30, ten o'clock maybe. I'm not
23 sure.

24 Q. Maybe even a little later. I got a copy of the
25 statement that you gave. Do you remember giving a

Linda Graham - Cross by Mr. Howe

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1 statement it looks like 10:20 was about the time that
2 happened?

3 A. Yes, sir.

4 Q. Does that sound about right?

5 A. Yes, sir.

6 Q. Hang on a second. And if you will look on Page
7 3 of 6, it reflects that you asked her, sounds like that
8 same time, little earlier. I asked her did he ever
9 insert anything in a place where she peed and she said
10 no. Is that correct?

11 A. Yes, sir.

12 Q. All right. And is that correct, were you
13 telling the police the correct thing at the time?

14 A. Yes, sir.

15 Q. Were you pretty upset when you learned about
16 this?

17 A. Very.

18 Q. It was an upsetting evening overall?

19 A. Very upset.

20 Q. For everybody, right?

21 A. And her.

22 Q. And Minor, you, Ms. Kulpepper, everybody at the
23 house, wasn't it?

24 A. Yes.

25 Q. It was a tough time?

Linda Graham - Cross by Mr. Howe

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1 A. Yes, sir.

2 Q. Okay. Everybody crying?

3 A. Yes, sir, I imagine. I know I was.

4 Q. All right. Fair enough. And you did not hear
5 the questions that Ms. Kulpepper was asking specifically,
6 correct? You have to answer. She can't write down --

7 A. No, sir, not that I can remember, no, sir.

8 Q. Good enough. And the one question you asked, if
9 anything had been put in her, she had told you no,
10 right?

11 A. Right, but she did explain what had happened.

12 Q. Right. About rocking back and forth and all
13 that, right?

14 A. Rocking back and forth did you say?

15 Q. They sat -- she went through and gave you an
16 idea what was going on, right?

17 A. Exactly.

18 Q. And that's when you asked, that specific
19 question? You have to answer out loud. I'm sorry.

20 A. Yes.

21 MR. HOWE: Thank you very much. Hang on one
22 second, Your Honor.

23 That's all I have, Your Honor.

24 THE COURT: Anything on redirect?

25 MS. GORDON: Just briefly, Your Honor.

Linda Graham - Cross by Mr. Howe

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1 REDIRECT EXAMINATION

2 BY MS. GORDON:

3 Q. Ms. Graham, Mr. Howe referred you to your
4 statement, the third page regarding the question: Did he
5 insert anything any place. And you said she actually
6 did -- she described what happened?

7 A. Right, yes.

8 Q. And you wrote that in your statement. Can you
9 read for the jury what you said after that about: I
10 asked her if he ever inserted anything.

11 A. I can't see.

12 Q. The next sentence after what Mr. Howe asked you
13 starts with "would". Can you read yours? I don't know
14 if you can read this one better.

15 A. I could tell you what I said.

16 Q. Okay.

17 A. She told me that he sat her down on the commode
18 and made her pull her clothes off.

19 Q. Well, you can't say everything she said because
20 we are specifically dealing with this particular rule for
21 this admission.

22 A. Just rocking her back and forth and up and
23 down.

24 Q. Okay. And when Minor was telling you about it
25 that night, how was she?

- 1 A. Extremely, extremely upset.
- 2 Q. And then do you have a copy of your statement in
3 front of you?
- 4 A. Third page.
- 5 Q. Just the statement. Can you tell us what date
6 you gave that statement?
- 7 THE COURT: Help her find the date.
- 8 BY MS. GORDON:
- 9 Q. I'm sorry. Should be at the very top.
- 10 A. I can't see very good.
- 11 Q. I didn't tell you to bring your glasses, did I?
12 The date is right here.
- 13 MR. HOWE: Top right.
- 14 BY MS. GORDON:
- 15 Q. Can you read it?
- 16 A. 1/4/2008.
- 17 Q. Let me give you this copy.
- 18 A. It is not written very good.
- 19 Q. This one might be a little bit darker. Can you
20 see that one?
- 21 A. Yeah. 1/2/2008 or 21.
- 22 Q. 1/21/2008?
- 23 A. Yeah.
- 24 Q. When you gave this statement, how many months
25 had it been that you had known Mr. White?

Linda Graham - Redirect by Ms. Gordon

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1 A. Well, I've known him for years, but I just --
2 like I said, I knew his wife more than I knew him. He
3 had been coming in for months.

4 Q. He had been there around Minor 's birthday?

5 A. Right.

6 Q. Before, and that was the year previous?

7 A. Yes, yes.

8 Q. When is her birthday?

9 A. Her birthday is Birth date .

10 Q. So that would have been: Birth date '?

11 A. Uh-huh.

12 Q. And he had been around before her birthday?

13 A. Yeah, uh-huh.

14 MS. GORDON: Thank you.

15 RECROSS-EXAMINATION

16 BY MR. HOWE:

17 Q. Quick follow-up. Did you go with her to
18 M.U.S.C. for a physical exam?

19 A. I probably did. I'm not sure of it. I can't --
20 I went to the Lowcountry Children's thing, yes, I did.

21 Q. I know that they did one at Lowcountry
22 Children?

23 A. Yeah.

24 Q. And you were present for that physical exam?

25 A. Yes.

March 18, 2013

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1 Q. I think they might have done one at M.U.S.C.,
2 are you aware of that?

3 A. I'm not aware of that, but I remember the
4 Lowcountry Center, yeah.

5 MR. HOWE: That's all I have.

6 THE COURT: Thank you very much. You can go
7 wherever Ms. Gordon wants you to go. Call your next
8 witness.

9 MS. GORDON: Your Honor, may we approach for
10 scheduling?

11 THE COURT: Sure.

12 (Whereupon, a bench conference was held.)

13 THE COURT: All right. Members of the jury
14 panel, I think the best thing to do is to stop now, take
15 our evening recess and come back tomorrow morning and
16 resume with the trial. You cannot discuss the case with
17 family, friends or anyone else over the evening recess.
18 It is about 20 minutes to 5:00 now and we will resume
19 tomorrow morning at 9:30. Again, you cannot discuss the
20 case with family, friends or anyone else. The only time
21 you are to discuss it is when the 12 of you are together.
22 At the conclusion of the case and in the jury room,
23 that's when you will discuss it. That's when you will
24 talk about it. That's when you will make your decision
25 on how you find the facts after hearing all the evidence,

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1 (Whereupon, proceedings continued on March 19,
2 2013).

3 (State's Exh. No. 10A, Sleeping Bag, was marked
4 for identification.)

5 (State's Exh. No. 10B, Blue Sheet, was marked
6 for identification.)

7 (State's Exh. No. 11A, Comforter, was marked
8 for identification.)

9 (State's Exh. No. 11B, Paper bag with paper
10 towels, was marked for identification.)

11 THE COURT: We have the jury with us. All
12 right. Be seated and the parties are present with all
13 their attorneys. I hope you had a nice evening. We will
14 continue now with the trial we started yesterday. Call
15 your next witness.

16 MS. GORDON: State calls Teresa Doyle. Teresa
17 Doyle.
18)

19 TERESA DOYLE,
20 having been duly sworn, testifies as follows.

21 THE CLERK: State your name, your full name and
22 spell your last name please.

23 THE WITNESS: Teresa Ann Doyle, D-o-y-l-e.
24

25 DIRECT EXAMINATION

Teresa Doyle - Direct by Ms. Gordon

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- 1 BY MS. GORDON:
- 2 Q. Teresa, how are you this morning?
- 3 A. Fine. Thank you.
- 4 Q. Now, Teresa, do you go by something other than
- 5 Teresa?
- 6 A. Ann.
- 7 Q. And, Ann, where do you live?
- 8 A. Street , Mount Pleasant, South Carolina.
- 9 Q. And have you lived there since about 2007?
- 10 A. Yes.
- 11 Q. Where did you live prior to 2007?
- 12 A. We lived in Apartment , and that's
- 13 also in Mount Pleasant.
- 14 Q. Who lives with you at the house on Street ?
- 15 A. It's me, my son, my mom, my grandmother,
- 16 Minor , and her sister, Sister.
- 17 Q. And Minor , how is she related to you?
- 18 A. She's my niece.
- 19 Q. And then her sister, Sister, you call her
- 20 Sister?
- 21 A. Yeah.
- 22 Q. She also lives there?
- 23 A. Yes.
- 24 Q. And do you have custody of those children?
- 25 A. Yes, I do.

Teresa Doyle - Direct by Ms. Gordon

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1 THE COURT: I'm going to make sure; she's your
2 niece, and that's through your sister; is that right?

3 THE WITNESS: No, it is through my brother.

4 THE COURT: Through your brother. Okay. I
5 couldn't follow the family relationship. So she's your
6 brother's child?

7 THE WITNESS: Yes.

8 THE COURT: Okay. Good.

9 BY MS. GORDON:

10 Q. Do you know the defendant, George White?

11 A. Yes.

12 Q. When did -- has Mr. White ever been to your
13 house on the street ?

14 A. Yes.

15 Q. When was the first time he came to your house?

16 A. He came to do our -- we had some work to do with
17 our shower, and our landlord sent him there. So it is
18 about a few months after we lived there. I'm not exactly
19 sure of the right date, but he was there a few months.

20 Q. That was sometime in the summer of 2007?

21 A. Yeah.

22 Q. And how long did it take for him to do the work
23 on the bathroom?

24 A. Anywhere between three to four days, maybe a
25 week. I'm not sure exactly.

Teresa Doyle - Direct by Ms. Gordon

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1 Q. And did he continue to come back to your
2 house?

3 A. Yes.

4 Q. Why was that?

5 A. We came to find out that he knew parts of my --
6 my stepfather, his wife did mainly, and then he used to
7 come to some of the parties we used to have when we lived
8 a while back when my dad was living. But he came back
9 and started getting real close to my niece, Minor. And
10 he figured out he wanted to do some other stuff for us,
11 like building all kinds of clubhouse and fixing a room, a
12 bedroom out there. And he fixed the stairway and things
13 that we didn't come up with.

14 Q. What did you think about the attention that he
15 started showing Minor?

16 THE COURT: Think about? You object?

17 MR. HOWE: Sure. Yeah. No conclusions, just
18 facts, Judge. I'm sorry.

19 BY MS. GORDON:

20 Q. Did you have any problem with his relationship
21 with Minor?

22 MR. HOWE: That's going to be the same question.

23 MS. GORDON: May we approach, your Honor?

24 THE COURT: I will be glad to hear you. Members
25 of the jury panel need to step out in the hallway please.

Teresa Doyle - Direct by Ms. Gordon

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1 (Whereupon, the jury exited the courtroom at
2 9:37 p.m.)

3 THE COURT: The question was: What did you
4 think about or were there any problems with that, or
5 something like that; is that what your question was?

6 MS. GORDON: That's correct, your Honor. The
7 State would --

8 THE COURT: Well, let's hear what her response
9 is.

10 BY MS. GORDON:

11 Q. What did you think about Mr. George White's
12 relationship with Minor?

13 A. At first, I didn't think of anything. And then
14 when it started getting more and more into her, I still
15 didn't think nothing of it until it came to our attention
16 that we needed to.

17 THE COURT: What do you mean by that, when it
18 came to your attention?

19 THE WITNESS: By -- one of our friends told --
20 had suspicions and she came and talked to me and told me
21 that she thought something was going on that we needed to
22 maybe question Minor about it, because she just was
23 suspicious about it.

24 MS. GORDON: Your Honor, we would offer that her
25 opinion about their relationship and whether or not she

Teresa Doyle - Direct by Ms. Gordon

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1 thought there was anything to be concerned about is just
2 a lay opinion which was clearly admissible under Rule
3 701.

4 THE COURT: I don't agree with that.

5 MS. GORDON: I mean, it is the type of opinion
6 that she can have based on her ordinary experience.

7 THE COURT: You are saying in effect that it is
8 an opinion that somebody has committed a crime;
9 otherwise, it wouldn't be admissible, you know. So I
10 don't think there is such a thing as a lay opinion that
11 somebody is committing a crime.

12 MS. GORDON: Well, she's actually having an
13 opinion that she didn't think anything was happening.

14 THE COURT: I'm sorry?

15 MS. GORDON: Her opinion was that she didn't
16 recognize anything. And I think that's her lay opinion
17 that would be admissible. The defense has sort of been
18 that somebody has suggested this or they were trying to
19 make this something, you know, make the child say
20 something, and I think that's clearly admissible.

21 THE COURT: I disagree. I sustain the
22 objection. All right. Bring the jury back in.

23 (Whereupon, the jury came into open court at
24 approximately 9:40 p.m.)

25 THE COURT: All right. Jury is back with us.

Teresa Doyle - Direct by Ms. Gordon

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1 Can I have another question?

2 MS. GORDON: Thank you, Your Honor.

3

4 BY MS. GORDON:

5 Q. Teresa, can you describe the relationship that
6 you observed between George White and Minor?

7 THE COURT: Not what you may have thought; what
8 you saw them do. Do you understand the question?

9 THE WITNESS: Yes. First he came really friendly
10 with her. He -- I observed him taking her off to
11 different places, like church, taking her downtown to see
12 a dog that I thought -- they kept saying it was a wolf,
13 but it was a dog. He took her off with him to go buy
14 supplies, do different jobs, stuff like that. That was
15 getting really friendly with her.

16 BY MS. GORDON:

17 Q. And did he take her to church or come by to take
18 her to church one time or more than one time?

19 A. More than one time.

20 Q. And did he take her to go work with him one time
21 or was that more than one time?

22 A. More than one time.

23 Q. At some point, did something happen that made
24 you question Minor about what had happened between her
25 and George?

Teresa Doyle - Direct by Ms. Gordon . 141

1 A. Yes.

2 Q. On that night -- or what time of day was it?

3 A. It was that evening. It was around five, maybe
4 five o'clock.

5 Q. And what prompted you to ask Minor ?

6 A. Our friend, Kristin, had came by --

7 MR. HOWE: I'm going to object.

8 THE COURT: I sustain the objection. Just ask
9 her about her question. You don't have to ask about what
10 led up to it unless it's some act. So ask about what she
11 did, not what led up to it.

12 BY MS. GORDON: "

13 Q. Where were you when you asked Minor ?

14 A. We were upstairs in my room and my mother's
15 room.

16 Q. And who was there?

17 A. Me, my mom, and Minor .

18 Q. Was anybody else in the room?

19 A. No.

20 Q. What time of day was it?

21 A. It was that evening. I'm not sure of the
22 approximate time. It was at least seven, maybe a little
23 bit later.

24 Q. And when you asked Minor -- you can't say what
25 she said, you are limited to time and place -- but did

Teresa Doyle - Direct by Ms. Gordon

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1 she disclose a sexual assault?

2 A. At first no.

3 Q. Tell me what she did.

4 A. At first she said no, and then she started

5 getting shaky and started wanting to cry. And that's

6 when my mother came up, and grandmother asked her:

7 Minor, be honest with us, did Mr. White do anything to

8 you inappropriately? And that's when she started really

9 crying and saying: Yes, he did.

10 Q. Did she tell you where it happened at that

11 time?

12 A. Yes.

13 Q. Where did she say it happened?

14 A. In the van, in the house downtown.

15 Q. And did she say when it happened?

16 A. She didn't say approximately the dates, but she

17 said about every time she went to church or when she went

18 to go with him to do a job.

19 Q. And at this time when she disclosed those

20 details to you, was Kristin at the house?

21 A. No.

22 Q. When did Kristin come back?

23 A. Kristin came back afterwards when we called her

24 to tell her what we found out, because she was the one

25 that led us to do that.

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1 Q. Now, describe how when Minor was telling you
2 what happened in that bedroom, describe her demeanor.

3 A. Oh, she was terribly upset. She was crying,
4 shaking. She was scared to death she was going to be
5 taken away, told us not to call the police. We just had
6 to calm her down basically.

7 Q. Did you call the police then?

8 A. Yes.

9 Q. And did you give your statement that night?

10 A. Yes.

11 Q. And was that around January 21st of 2008?

12 A. Yes.

13 MS. GORDON: That's all, your Honor. If you
14 will answer any questions Mr. Howe may have.

15 CROSS-EXAMINATION

16 BY MR. HOWE:

17 Q. Good morning, Ms. Doyle. My name is Donald
18 Howe. I just have a few questions. Just a follow-up on
19 the relationship, you and Melvin are brother and
20 sister?

21 A. Yes.

22 Q. Okay. And the lady that testified yesterday is
23 your mom?

24 A. Yes.

25 Q. Melvin no longer lives with you?

Teresa Doyle - Cross by Mr. Howe

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1 A. No.

2 Q. When Melvin first lived there, he slept on the
3 sofa?

4 A. Yes.

5 Q. And it was after George fixed an area in the
6 garage that he was able to stop sleeping on the sofa?

7 A. Right.

8 Q. So the purpose of the work in the garage was so
9 Melvin didn't have to sleep on the sofa?

10 A. Exactly.

11 Q. And you weren't present for every conversation
12 Melvin and George had about getting Melvin off the
13 sofa?

14 A. No.

15 Q. You obviously -- tell me about yourself. How
16 far did you go in school?

17 A. I graduated from high school.

18 Q. Okay. You've never had any training in anything
19 on how to question children with these kinds of
20 circumstances, have you?

21 A. No, no.

22 Q. Your Mama hasn't either?

23 A. No.

24 Q. And Ms. Kulpepper hadn't?

25 A. No.

Teresa Doyle - Cross by Mr. Howe

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1 Q. You are aware that Ms. Kulpepper had been a
2 victim in the past?

3 A. Yes.

4 Q. It is fair to say that it was a very emotionally,
5 tense and charged evening, wasn't it?

6 A. Yes.

7 Q. Were you crying?

8 A. Yes.

9 Q. Mom was crying?

10 A. Oh, yes.

11 Q. Minor was crying?

12 A. Yes.

13 Q. And that really didn't start until after the
14 first question was, did anything happen, and that was no,
15 correct?

16 A. Right.

17 Q. And then the crying started when it was
18 reinstigated as to what happened?

19 A. Right.

20 Q. And you mentioned -- you have mentioned that
21 Minor was quite concerned about being "taken away".

22 A. Right.

23 Q. She came to you as a result of being taken from
24 her mother?

25 A. Right.

Teresa Doyle - Cross by Mr. Howe

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1 Q. And then her father got custody as a result of
2 mother?

3 A. Right.

4 Q. Okay. That didn't have anything to do with
5 George, did it?

6 A. No.

7 Q. That had happened sometime before?

8 A. No, exactly.

9 Q. Whole different set of circumstances?

10 A. Yes. That was seven years apart.

11 Q. But the experience of being taken was something
12 that made her scared?

13 A. Exactly.

14 Q. All right. After your initial interview with or
15 that seven o'clock interview, let's call it,
16 Ms. Kulpepper came back over?

17 A. Right.

18 Q. Were you present when she asked Minor about
19 the details of what happened?

20 A. Yes, I was.

21 Q. Okay. And do you remember some of the specific
22 questions that she asked?

23 A. She did ask her -- she got pretty into details
24 asking her how he did this.

25 Q. Okay.

Teresa Doyle - Cross by Mr. Howe

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1 A. She asked her, did she understand what she was
2 talking about. Of course, Minor was only 11, she
3 didn't understand that, so --

4 Q. Let me ask you. Do you remember a specific
5 question about where he said something -- she asked: Did
6 he put his wiener up --

7 A. Yes.

8 Q. She did ask her that?

9 A. Yes, she did ask her that.

10 Q. And do you remember that she said, made a
11 statement: If he had done it, it would have hurt?

12 A. Yes.

13 Q. Okay. And so at that point, it was -- sort of
14 tell me where you were and how this conversation was
15 done?

16 A. We were down in our -- we got more like a den
17 but we got it as a game room, but it was a den at the
18 time. We were down in there and Minor was sitting on
19 the couch.

20 Q. Like a sunken area?

21 A. Yes, like a sunken den. So we were in there.

22 And that's when Kristin and me and Minor, we were
23 trying to calm Minor down, she was scared to death.

24 And that's when Kristin started asking her this stuff so
25 we would know.

Teresa Doyle - Cross by Mr. Howe

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1 Q. So she was scared to death?

2 A. Yes.

3 Q. And were you sitting on each side of her?

4 A. Yes. Kristin was on the side and Minor was in
5 the middle of us.

6 Q. Hang on one second. I need to put my hand on
7 something. I think I may have covered this but I want to
8 make sure. Do you remember Minor saying that she
9 wasn't sure about whether there had been basically any
10 penetration?

11 A. Yes.

12 Q. And she asked her specifically did she see
13 anything come out of his penis?

14 A. Yes.

15 Q. And she said she didn't know about that
16 either?

17 A. Right.

18 Q. Prior to all of this, it is my understanding you
19 didn't -- Minor never -- let me sort of go through a
20 list. Okay?

21 A. Okay.

22 Q. She never complained of any like, stomach aches
23 or anything like that that were unusual?

24 A. No.

25 Q. No headaches or anything like that?

Teresa Doyle - Cross by Mr. Howe

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- 1 A. No.
- 2 Q. No not wanting to go to school?
- 3 A. No.
- 4 Q. Not being clingy or not wanting to go
5 anywhere?
- 6 A. No.
- 7 Q. Never expressed any fear of going anywhere with
8 George White?
- 9 A. No.
- 10 Q. Never had any particular other acting out or
11 moody problems --
- 12 A. No.
- 13 Q. -- any of that kind of stuff? No bedwetting?
- 14 A. No.
- 15 Q. No -- I think that pretty much covers it. Let
16 me check my list. No eating problems?
- 17 A. That's -- she's always had problems.
- 18 Q. We all understand that. Now, after this initial
19 night -- I'm getting back to my timeline just for a
20 second, I know we hopped around a little bit. So there's
21 a meeting with Minor . Then this Kulpepper comes over.
22 Then the police are called after that; is that correct?
- 23 A. Yes.
- 24 Q. And then the police come later that evening?
- 25 A. Right.

Teresa Doyle - Cross by Mr. Howe

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1 Q. Okay. And that's when the statements are taken?

2 A. Exactly.

3 Q. And then it is the next day that at some point

4 you go to M.U.S.C., or does she go to M.U.S.C.?

5 A. She goes to LCC.

6 Q. Okay. Was there ever an exam at M.U.S.C.?

7 A. No, LCC.

8 Q. Okay.

9 THE COURT: LCC?

10 THE WITNESS: Lowcountry Center.

11 MR. HOWE: Lowcountry Children's Center.

12 THE WITNESS: Uh-huh.

13 BY MR. HOWE:

14 Q. Were you present for that exam?

15 A. Yes.

16 Q. And who else was present for that exam?

17 A. I was the one in the room with her, only one.

18 Q. And they did a physical exam; is that correct?

19 A. Yes.

20 Q. And they also asked her a lot of the same

21 questions I just asked you?

22 A. Exactly.

23 Q. Those were not the first time you heard those

24 questions?

25 A. No.

Teresa Doyle - Cross by Mr. Howe

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1 Q. And you probably knew where I got them from?

2 A. Yep.

3 Q. Fair enough. Now, where is Melvin now?

4 A. I have no idea.

5 Q. When did he leave?

6 A. It will be three years July.

7 Q. And he just disappeared?

8 A. He met a woman and he decided to leave.

9 MR. HOWE: Just a second, your Honor.

10 BY MR. HOWE:

11 Q. You had a son that did some work with George?

12 A. Yes, he helped him.

13 Q. And what's his name?

14 A. Cousin.

15 Q. And how long did he do some work -- he did work
16 for quite a while with George, didn't he?

17 A. Yeah.

18 Q. How long a period of time?

19 A. I'm not sure. I can't remember.

20 Q. More than just a month or two?

21 A. Yes, at least.

22 MR. HOWE: That's all. Thank you very much.

23 THE COURT: Anything on redirect?

24 MS. GORDON: Yes, your Honor. Thank you.

25 REDIRECT EXAMINATION

Teresa Doyle - Redirect by Ms. Gordon

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1 BY MS. GORDON:

2 Q. Ann, how long was it between that first time
3 when Minor said no, and then you and your mom asked her
4 again?

5 A. Within matter of minutes, I mean ...

6 Q. Why did you ask her a second time?

7 A. Because the first time where she said no, we
8 didn't -- we could tell it was not what she really wanted
9 to say.

10 MR. HOWE: Objection.

11 BY MS. GORDON:

12 Q. How could you tell?

13 MR. HOWE: That's --

14 THE COURT: I sustain the objection. Jury step
15 out in the hallway please.

16 (Whereupon, the jury exited the courtroom at
17 9:55 a.m.)

18 THE COURT: All right. Ask your question again
19 and see what the answer is.

20 BY MS. GORDON:

21 Q. What about Minor's demeanor made you ask her
22 again?

23 A. She immediately started crying. So we knew it
24 was not everything she wanted to say. So, basically, we
25 asked her again.

Teresa Doyle - Redirect by Ms. Gordon

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1 MS. GORDON: Your Honor, if we can instruct her
2 to stop with she immediately began crying, I think then
3 we are not going into the reason.

4 MR. HOWE: Cat's out of the bag, Judge.

5 THE COURT: Wait. Anyway --

6 MS. GORDON: It is most certainly relevant as to
7 why, because they cross-examined this witness regarding
8 the initial disclosure and why they asked her a second
9 time. The reason why is obvious, is relevant.

10 THE COURT: I don't know that it is. You know,
11 I don't know the crying indicates that what she said
12 before was not accurate.

13 MS. GORDON: Well, she doesn't have to say
14 that --

15 THE COURT: That's what you want to say. You
16 want to say that what she said first was not the truth
17 and what she said second is the truth. I don't know that
18 crying indicates one or the other.

19 MS. GORDON: She doesn't have to say --

20 THE COURT: That's what you want the implication
21 to be. What is it then if it is not what you want the
22 implication to be?

23 MS. GORDON: Well, that was her perception, no
24 doubt. But the question is why she did something. And
25 the crying -- the jury is welcome to draw their own

Teresa Doyle - Redirect by Ms. Gordon

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1 conclusions, but it is absolutely relevant as to why she
2 asked her again.

3 THE COURT: What do you have to say about that?

4 MR. HOWE: She can ask -- say what she did. She
5 can say what she saw. But what she said is, you know, I
6 could tell that she wasn't telling the truth, like she
7 had some divination there. And that's where I have a
8 hard time with it. And now that cat is out of the bag.

9 THE COURT: I don't know about the cat being out
10 of the bag, unless you want me to give some instruction
11 or whatever, there's no need to argue that part. But
12 anyway, it is what we do now, as far as this having been
13 said. And I say, I don't see how -- I mean, you are
14 asking her -- what you are asking her, in effect, is:
15 When she said no, why did you think she was lying? And
16 you are saying the answer to that is she was crying.

17 MS. GORDON: Well, the defense's argument is
18 that they just kept asking her until she said what they
19 wanted her to say, is what the other argument is. And if
20 she can't explain why she asked her again, then you are
21 just opening it up --

22 THE COURT: She can respond to that question if
23 she wants to, you know, if they want to ask her that.
24 But to ask -- for you to ask her why did you not believe
25 her to start with, you know, I don't see that that's a

Teresa Doyle - Redirect by Ms. Gordon

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1 proper question. That's what you are in effect asking.

2 MS. GORDON: When she has been cross-examined on
3 asking her a second time and indicated she said no the
4 first time and then that she 'didn't say yes until you
5 continued to ask her, I think it is absolutely more
6 relevant that we knew why she asked her a second time.
7 And the jury should be entitled to hear that.

8 THE COURT: You are saying that you think
9 Mr. Howe opened the door to this by asking her -- I don't
10 remember exactly what he asked about that.

11 MR. HOWE: All I asked -- it came up in direct,
12 again in direct, we asked her, she said it didn't happen,
13 we asked her again, she became upset, and then she
14 changed her story. I simply was bringing out that there
15 had been a prior inconsistent statement, and I'm entitled
16 to do that. And I don't know that I opened the door by
17 asking it to what everybody thought just by asking about
18 a prior inconsistent statement.

19 THE COURT: Well, I will allow you to ask
20 this -- let's do it this way. I will allow you to ask
21 her, you know, what, if anything, did Minor do between
22 when you asked her the first time and she said no and
23 when you asked her the second time, what did she do. And
24 I guess the answer is she was crying. Bring the jury in.

25 (Whereupon, the jury came into open court at

Teresa Doyle - Redirect by Ms. Gordon

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1 approximately 10:00 a.m.)

2 THE COURT: All right. We have the jury back
3 with us. The parties are present along with their
4 attorneys. All right. I apologize. It took me a little
5 longer than I thought for me to deal with that issue.
6 When I send you out there like that, if you want to walk
7 up and down the hall, you are welcome to do that. But I
8 try to keep you from having to go all the way down to the
9 last room and come all the way back. Saves some time
10 sometimes that way. This time it didn't. Go ahead ask
11 another question.

12 BY MS. GORDON:

13 Q. Ms. Doyle, what, if anything, did Minor do
14 between that moment when you asked the first question and
15 when you asked her the second time?

16 A. She started crying and shaking.

17 Q. Can you describe Minor, what kind of child she
18 is?

19 A. Minor is a very quiet child. She's a sweet
20 girl. I mean, she's basically -- all I can say, she's
21 very sweet. She stays to herself a lot. She stays with
22 her sister. She has friends. She's a quiet, good,
23 decent child. She's not one that's shows herself or
24 anything like that.

25 MS. GORDON: Thank you. I have nothing further

Teresa Doyle - Recross by Mr. Howe

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1 from this witness, your Honor.

2 RECROSS-EXAMINATION

3 BY MR. HOWE:

4 Q. Very brief. She's bright enough, isn't she?

5 A. I'm sorry?

6 Q. She's bright enough in school?

7 A. Yes.

8 Q. Doing okay in school?

9 A. Yes.

10 Q. Has a group of friends?

11 A. Yes.

12 Q. Fairly articulate young lady?

13 A. Uh-huh.

14 MR. HOWE: That's all I have.

15 THE COURT: Thank you very much. You can return

16 to your place or wherever Ms. Gordon wants you to go.

17 Call your next witness.

18 MS. GORDON: State calls D. Waring.

19 GERETHA WARING,

20 having been duly sworn, testifies as follows.

21 THE CLERK: State your full name and spell your

22 last name for the record.

23 THE WITNESS: My name is Geretha Waring.

24 G-e-r-e-t-h-a, W-a-r-i-n-g.

25 DIRECT EXAMINATION

Geretha Waring - Direct by Ms. Gordon 158

1 BY MS. GORDON:

2 Q. Ms. Waring, do you go by Dee?

3 A. Yes, I do.

4 Q. Ms. Waring, can you tell the ladies and
5 gentlemen of the jury where you were previously employed?

6 A. I was previously employed by the City of
7 Charleston Police Department.

8 Q. And are you retired from that position?

9 A. Yes, I am.

10 Q. When did you retire?

11 A. I retired in April 2008.

12 Q. And then did you go back to work for them as
13 well?

14 A. Yes, I did.

15 Q. And you retired a second time?

16 A. Yes, I did.

17 Q. And when was that?

18 A. That was January 2012.

19 Q. Back in January of 2008, just before your first
20 retirement, what was your title at City of Charleston?

21 A. I worked as a detective investigating physical
22 sexual abuse cases involving children.

23 Q. And at some point in January of 2008, did you
24 get assigned a case regarding the defendant George
25 White?

Geretha Waring - Direct by Ms. Gordon .159

1 A. Yes, I did.

2 Q. Tell me how you became involved in this case.

3 A. I became involved in the case when I received a
4 telephone call from Mr. Howard, who was the child's
5 father. I was also contacted by Molly Wharton of
6 Lowcountry Children's Center and officers from Mount
7 Pleasant Police Department.

8 Q. Now, did this case originally come directly to
9 the city, or was it with another jurisdiction first?

10 A. It was with Mount Pleasant first.

11 Q. And how did it get to you instead?

12 A. The case came to me after there was a forensic
13 interviewer at the Lowcountry Children's Center, they
14 were able to establish that the incident --

15 MR. HOWE: Objection.

16 THE COURT: You want to be heard?

17 MS. GORDON: Yes, Your Honor.

18 THE COURT: Members of the jury panel, you need
19 to go out in the hallway please.

20 (Whereupon, the jury leaves the courtroom at
21 approximately 10:05 a.m.)

22 THE COURT: Let's see what she has to say. Go
23 ahead.

24 THE WITNESS: I was going to say that it was
25 established that the incident took place in City of

Geretha Waring - Direct by Ms. Gordon

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1 Charleston after the child had been interviewed.

2 THE COURT: What incident?

3 THE WITNESS: I'm sorry?

4 THE COURT: Oh, you are talking about one of the
5 alleged events, as far as criminal sexual conduct, took
6 place in the city?

7 THE WITNESS: Yes, Your Honor.

8 MS. GORDON: That's the sole purpose of the
9 question.

10 THE COURT: You said something about a threat
11 against the Lowcountry Children's Center somewhere along
12 the line there, at least that's what I heard. That's
13 what I thought you said.

14 THE WITNESS: No, sir.

15 THE COURT: All right. I misunderstood that.

16 MR. HOWE: I just heard forensic interview
17 determined that, and I was worried where that was going.

18 THE WITNESS: Oh, no.

19 THE COURT: I misunderstood. What did I hear
20 that said something about the Lowcountry. --

21 MS. GORDON: That she had an interview and they
22 determined that the jurisdiction was the City of
23 Charleston.

24 MR. HOWE: That's all it is. That's fine.

25 THE COURT: That wasn't what I heard or

Geretha Waring - Direct by Ms. Gordon

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1 anything, but anyway, just so -- it is -- one of the
2 incidents supposedly happened in the City of Charleston?

3 THE WITNESS: Yes sir.

4 THE COURT: Bring the jury back in.

5 (Whereupon, the jury came into open court at
6 approximately 10:06 a.m.)

7 THE COURT: We've got the jury back with us.

8 You can ask another question.

9 BY MS. GORDON:

10 Q. Ms. Waring, you were saying -- how did it come
11 to the city of -- it was transferred from Mount Pleasant
12 to the City of Charleston; how did it get to the City of
13 Charleston?

14 A. The case came to the City of Charleston Police
15 Department after the child had been interviewed.

16 THE COURT: Just say did they think one of the
17 incidents happened in the city, right?

18 THE WITNESS: Yes, sir.

19 THE COURT: Next question.

20 THE WITNESS: Thank you, Your Honor.

21 BY MS. GORDON:

22 Q. Once you were assigned the case, Ms. Waring,
23 what did you do?

24 A. After having taken the report, I reviewed the
25 records where the child had been interviewed. I spoke

Geretha Waring - Direct by Ms. Gordon

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1 with the child's father and I obtained an arrest warrant
2 for Mr. White.

3 Q. Were you able to establish the address of the
4 alleged incident location?

5 A. Yes, I met with the family and they pointed out
6 the address, the family of the victim.

7 Q. Was that address located in the City of
8 Charleston?

9 A. Yes, ma'am.

10 Q. Is that also in the County of Charleston?

11 A. Yes, ma'am.

12 Q. Did you notate the exact address?

13 A. Yes, ma'am, I did.

14 Q. And do you recall that?

15 A. The address was address in City of
16 Charleston.

17 Q. Ms. Waring, I'm going to show you what's been
18 entered at State's Exhibit 7; do you recognize that?

19 A. Yes, ma'am, I do.

20 Q. And what is that?

21 A. Street, Charleston.

22 Q. And that's the address that you determined was
23 the incident location?

24 A. Yes, yes, ma'am.

25 Q. Did you do anything else?

Geretha Waring - Direct by Ms. Gordon

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- 1 A. Yes, I did.
- 2 Q. What else did you do?
- 3 A. After having an arrest warrant obtained, I
- 4 waited for the warrants division to apprehend Mr. White.
- 5 Q. Did you obtain a search warrant?
- 6 A. I did.
- 7 Q. For what?
- 8 A. For Mr. White's van.
- 9 Q. And do you know where his van was located?
- 10 A. His van was located at Jennings's Towing Company
- 11 on Meeting Street in the City of Charleston.
- 12 Q. The city towed it there?
- 13 A. Yes, ma'am.
- 14 Q. Did you execute the search warrant or did
- 15 somebody from crime scene do that?
- 16 A. Crime scene executed the search warrant, did an
- 17 inventory of the van, obtained photographs, and left a
- 18 copy of the search warrant on the seat of the van.
- 19 Q. Did you actually go down to the house at
- 20 street ?
- 21 A. Yes, ma'am, I did.
- 22 Q. And did you observe a dog or anything close by?
- 23 A. Across the street, yes, ma'am, there was a dog
- 24 that looked like a wolf.
- 25 Q. And where is that in relation to the house?

Geretha Waring - Cross by Mr. Howe

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1 A. Almost directly across the street.

2 MS. GORDON: Thank you, your Honor. I have
3 nothing further. If you will answer any questions of
4 Mr. Howe.

5 CROSS-EXAMINATION

6 BY MR. HOWE:

7 Q. Good morning, Detective. How are you?

8 A. I'm fine.

9 Q. Former detective, retired detective.

10 A. That's correct. Thank you, Mr. Howell.

11 Q. I may have gotten a little confused. You might
12 be able to straighten this out. Let me just hand you
13 this. This is a copy of the warrant. Tell me if you
14 recognize that.

15 A. Yes, I do.

16 Q. And there's a lady or a -- it says you've talked
17 to Dr. Anne Abel; is that correct?

18 A. No, sir, I obtained her medical exam.

19 Q. Do you know, is she connected with Lowcountry
20 Children or is she with M.U.S.C.?

21 A. Both.

22 Q. Oh, okay. Okay.

23 A. The exam was done at Lowcountry Children's
24 Center, but it was Dr. Anne Abel performed the procedure
25 there.

Geretha Waring - Cross by Mr. Howe

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1 Q. Okay. So she's with M.U.S.C. but the exam they
2 had actually physically been at Lowcountry Children's?

3 A. That's correct.

4 Q. Fair enough. Thank you.

5 A. Thank you.

6 Q. Did you do an incident report --

7 A. Yes, sir.

8 Q. -- in connection with this? What's an incident
9 report; how does that work?

10 A. It's a report. It only -- it's an official
11 document which identifies the incident, victim,
12 witnesses, subject or suspect.

13 Q. Summarize -- it is kind of a summary of your
14 investigation at the specific time?

15 A. That's correct.

16 Q. Is this a copy of the incident report that you
17 prepared in connection with this case?

18 A. Yes, sir.

19 Q. And when was that incident report generated?

20 A. January 23rd, '08.

21 Q. So about two days after?

22 A. Yes.

23 Q. And where did you identify that this had
24 happened, if you will look on it.

25 A. The incident location that was given initially

Geretha Waring - Redirect by Ms. Gordon

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1 was Street , because the child did not know --

2 Q. And that's what you identified there?

3 A. That is correct, until I learned of the actual
4 address.

5 MR. HOWE: I think that's all the questions I
6 have.

7 That's all I have, Your Honor.

8 THE COURT: Anything on redirect?

9 MS. GORDON: Yes, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. GORDON:

12 Q. Ms. Waring, where is Street ? Is there a
13 Street downtown?

14 A. Yes, Street is in the City of Charleston.

15 Q. How far is it from the address from Street
16 ?

17 A. Oh, it is right around the corner, yes, very
18 close proximity.

19 Q. Did you actually -- you went to that house?

20 A. Yes, I did.

21 Q. Do you know if there's any furniture inside?

22 A. I do not. I'm not sure.

23 MS. GORDON: Thank you, Your Honor.

24 THE COURT: Thank you very much. You can return
25 to your place or be excused, whatever Ms. Gordon wants.

Geretha Waring - Redirect by Ms. Gordon

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1 Call your next witness.

2 MS. GORDON: Court's indulgence for one moment

3 Your Honor. State calls Henry Middleton.

4 HENRY MIDDLETON,

5 having been duly sworn, testifies as follows:

6 THE CLERK: Please state your full name and

7 spell your last name for the record.

8 THE WITNESS: Henry Alfonso Middleton,

9 M-i-d-d-l-e-t-o-n.

10 DIRECT EXAMINATION

11 BY MS. GORDON:

12 Q. Good morning, Officer Middleton. Can you tell

13 the ladies and gentlemen of the jury where you are

14 employed?

15 A. I'm a retired member of the Charleston Police

16 Department.

17 Q. Back in 2008, what were your job duties at the

18 Charleston Police Department?

19 A. I was a crime scene technician for Charleston

20 Police.

21 Q. And in January of 2008, were you assigned to

22 execute a search warrant on a van owned by George White?

23 A. I was.

24 Q. Tell me where you went to execute that search

25 warrant.

Henry Middleton - Direct by Ms. Gordon

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1 A. At one of the tow -- Jennings's Tow lot, I think
2 at the time it was called Jennings's, up on the upper end
3 of Meeting Street.

4 Q. When you went there, what did you find?

5 A. Well, I found a working van that had, in
6 addition to the tools of his trade in there, piled on one
7 side there, there was a makeshift bunk that was attached
8 to the side of the -- one side of the van. And it was
9 held up with a -- with chains and stuff to keep it from
10 falling down, keep it flat and even.

11 Q. Officer Middleton, if they will turn this on,
12 I'm going to show you some pictures and see if you
13 recognize it. I'm showing you what has already been
14 entered State's Exhibit 3. Do you recognize that?

15 A. That it looks like the van.

16 Q. And I'm going to now show you what's already
17 been entered as State's Exhibit 4. Do you recognize
18 that?

19 A. That's the way the van appeared from the rear
20 door, yes. That's the way the van appeared from the rear
21 door opened.

22 Q. And this is just a Number 5, is that the same?

23 A. Yes.

24 Q. And that's the van that you saw at Jennings's
25 Towing?

Henry Middleton - Direct by Ms. Gordon

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1 A. That's correct.

2 Q. Did you take these pictures?

3 A. Yes.

4 Q. And I'm going to also show you -- did you obtain
5 anything out of the van?

6 A. Yes, I did.

7 Q. What kind of items did you take from the van?

8 A. I took from the van a sleeping bag with a sheet
9 in it, a bed comforter, a fake like blanket sheet, more
10 like a quilt, and then multiple paper towels that were in
11 those -- in that item.

12 Q. Officer Middleton, I'm going to show you what
13 has been marked as State's Exhibit 10A and 10B and ask if
14 you recognize that, if you can see from down there. If
15 you want gloves, I've got gloves.

16 A. This the comforter.

17 THE COURT: I'm sorry. I can't hear you.

18 THE WITNESS: This is the comforter, I'm sorry,
19 the sleeping bag and the bed sheet. I don't see the
20 comforter here, and a whole a lot of paper towels.

21 BY MS. GORDON:

22 Q. That's correct. And how do you know that this
23 is what you took from the van?

24 A. Because this my tag, my evidence.

25 Q. And when you took them from the van, what did

Henry Middleton - Direct by Ms. Gordon

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1 you put them in?

2 A. I put them in a paper bag.

3 Q. And then this box is labeled with your
4 information; is that right?

5 A. That's correct.

6 Q. And when you -- after you took this from the
7 van, where did you take it?

8 A. I carried it back to the crime scene office.

9 Q. And then did you turn it into evidence?

10 A. Well, first thing I do when I take it down to
11 the crime scene office is I want to make sure we label
12 them. And I did that and put them in separate
13 containers. I didn't separate these two items because
14 they were together. And I put them in this box. And I
15 put them into evidence, and that was my last contact with
16 it.

17 Q. So when you took them from the van, you had them
18 in a bag?

19 A. That's correct.

20 Q. And when you got back to your office, you
21 labeled it and put it in a box?

22 A. That is correct.

23 Q. And you turned it into evidence?

24 A. I turned it into evidence.

25 Q. I'm also going to show you what has been

Henry Middleton - Direct by Ms. Gordon

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1 previously marked 11A and 11B.

2 THE COURT: What is this labeled?

3 MS. GORDON: This is labeled 10A and B. We
4 labeled them separately for the sleeping bag and the
5 sheet, but they were in the same box.

6 THE COURT: 10A and B, okay.

7 MR. HOWE: Which one is sleeping bag?

8 MS. GORDON: 10A is the sleeping bag, and 10B is
9 the sheet.

10 MR. HOWE: Thank you very much.

11 THE WITNESS: This is the container that I put
12 the paper towel in. And this -- I don't see my markings
13 on it, but this is my handwriting here, and this is
14 the --

15 THE COURT: Speak up.

16 THE WITNESS: This is the comforter that was
17 collected there. And this is the container that I put
18 the paper towels in.

19 BY MS. GORDON:

20 Q. And your signature is also on this?

21 A. Yes.

22 Q. Okay. And do those appear to be the same items
23 you took --

24 THE COURT: This is 11 what?

25 MS. GORDON: A and B. 11A is a comforter and

Henry Middleton - Direct by Ms. Gordon

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1 11B is a paper bag marked multiple paper towels.

2 BY MS. GORDON:

3 Q. Are these the same items that you took from
4 Mr. White's van?

5 A. Yes.

6 Q. Did you do anything with them between taking
7 them from the van, and other than what you've described,
8 putting them in the box?

9 A. No.

10 Q. Did you wash them, clean them, add anything to
11 them?

12 A. Nothing else.

13 THE COURT: Let me ask you. When you say you
14 turned them into evidence, what do you mean by that?
15 Where did you actually put them?

16 THE WITNESS: We have a locked container. And
17 I'm not sure exactly what time period this was, but we
18 have a locked container in our office setting where
19 everyone has keys to these, has locks on these
20 containers. But we put the lock on there and we take the
21 key. And we put the key in a container where the person
22 who picks up this evidence would pick it up from -- with
23 that key.

24 BY MS. GORDON:

25 Q. And when you turned it in, would it have been

Henry Middleton - Direct by Ms. Gordon

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1 unsealed this way?

2 A. No, it would be sealed, yeah.

3 Q. And why do you seal it?

4 A. We seal it so that we know when someone has
5 tampered with it or not, want to make sure it is not
6 exposed to other evidence, and so no one can get into it
7 as well.

8 Q. Would these be the seals that have occurred on
9 this box?

10 A. That is correct.

11 Q. And what happens when somebody opens it?

12 A. Whenever someone opens it and they close it
13 back, they put their seal on it as well as whatever they
14 have done.

15 MS. GORDON: Thank you, Mr. Middleton. If you
16 will answer any questions that Mr. Howe has for you.

17 THE COURT: Any questions?

18 MR. HOWE: Just a couple, Judge. I need to look
19 at one picture.

20 CROSS-EXAMINATION

21 BY MR. HOWE:

22 Q. I'm going to hand you what's been marked as
23 State's Exhibit Number 4. That's a picture of the van?

24 A. Yes, sir, from the rear.

25 Q. And the area of this is -- I guess it looks like

Henry Middleton - Cross by Mr. Howe

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1 a little bit of a chain that's holding this up so it can
2 fold up; is that correct?

3 A. Uh-huh.

4 Q. And it is just a piece of plywood with a piece
5 of blue no-grip on it, isn't it?

6 A. That's -- yes.

7 Q. Did you measure how long it was, or anything like
8 that?

9 A. No, I didn't.

10 Q. Did you also find tools in there?

11 A. There were tools, but I didn't handle them.

12 Q. You weren't looking for tools?

13 A. No.

14 Q. You were looking for bed sheets or whatever
15 those things were?

16 A. Well, I was looking for items that the detective
17 was interested in.

18 Q. Right.

19 A. And she was more interested on the right side
20 where that bedding was. And so while I photographed the
21 overall van inside, it was that part of the van that I
22 focused on.

23 Q. And you call it bedding; that's your description
24 of it?

25 A. That's correct.

Henry Middleton - Cross by Mr. Howe

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1 Q. Didn't measure how long it was?

2 A. No.

3 Q. Clearly there's no mattress or anything on it?

4 A. No.

5 Q. And the sleeping bag, was that where it was when
6 you opened it up, or where did you find the sleeping bag
7 and everything?

8 A. As it is in the photograph, that's the way I
9 found it.

10 Q. Okay. And what's under -- this looks like -- is
11 there a box for tools and stuff under that?

12 A. You know, he had that designed so that he could
13 put a lot of stuff in there. And, yes, there was a
14 toolbox. But when you lifted it up, it folded up, the
15 bedding folded up against the wall, and he still had a
16 place there where he could store tools or take stuff out.

17 Q. Pretty typical work truck in that way?

18 A. That's what it looks like.

19 MR. HOWE: Thank you. That's all I have.

20 THE COURT: Anything on redirect?

21 MS. GORDON: Nothing further, Your Honor.

22 THE COURT: Thank you, Mr. Middleton. You can
23 return to your place or be excused according to
24 Ms. Gordon.

25 THE WITNESS: Thank you.

Susan Payne - Direct by Ms. Gordon

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1 THE COURT: Next witness.

2 MS. GORDON: State calls Susan Moody.

3 SUSAN PAYNE,

4 having been duly sworn, testifies as follows:

5 THE CLERK: Please State your full name and
6 spell your last name for the record.

7 THE WITNESS: Susan Marie Payne, P-a-y-n-e.

8 DIRECT EXAMINATION

9 BY MS. GORDON:

10 Q. Ms. Payne, was your previous last name Moody?

11 A. It was, yes, ma'am.

12 Q. Can you tell us where you are employed?

13 A. I work for the Charleston Police Department.

14 Q. And what are your job duties there?

15 A. I was the laboratory technician and the
16 administrator.

17 Q. Did you work in the evidence department?

18 A. Yes, ma'am.

19 Q. And were you employed there back in 2008?

20 A. Yes, ma'am.

21 Q. During January of 2008, did you receive some
22 evidence into the evidence department related to a case
23 against George White?

24 A. Yes, ma'am.

25 Q. And do you recall what you received?

Susan Payne - Direct by Ms. Gordon

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1 A. According to the submittal, I received a
2 sleeping bag, a blue flat sheet and a comforter.

3 Q. And were they boxed when you received them?

4 A. Yes, ma'am.

5 Q. I'm going to show you what has been marked
6 State's Exhibit 10A and B.; do you recognize this? You
7 probably want to see this stuff.

8 A. Yes, ma'am, I do.

9 Q. And what is that?

10 A. This is the evidence package that contained the
11 evidence.

12 Q. And how do you know that's the package?

13 A. We have stickers identifying on the front and
14 we've got the seals that are initialed by the --

15 THE COURT: Keep your voice up because I have to
16 hear you too.

17 BY MS. GORDON:

18 Q. Do you notate on that box that you received
19 something?

20 A. Yes, it is on the chain of custody.

21 Q. And who submitted it?

22 A. I received it from Henry Middleton.

23 Q. So Henry Middleton brings it to you and then you
24 receive it into evidence?

25 A. Yes, I received it from the secure storage.

Susan Payne - Direct by Ms. Gordon

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1 THE COURT: I'm sorry. You received it from
2 where?

3 THE WITNESS: A secure storage location.

4 BY MS. GORDON:

5 Q. And when you received it, then you notate that
6 you received it?

7 A. Yes, ma'am.

8 Q. Did you open it up and do anything with it?

9 A. No, ma'am.

10 Q. What did you do with it when you received it?

11 A. I entered into the lab database and assigned a
12 lab number and placed it in the lab secure evidence
13 location.

14 Q. What happens with it from placing it in the
15 secure evidence location after it's been logged in?

16 A. The analyst receives it.

17 Q. And so when you received it, did you ever cut it
18 or open it?

19 A. No, ma'am.

20 Q. When you received it, was it still sealed?

21 A. Yes, ma'am.

22 Q. And I don't know if you can see on here; where
23 was it sealed?

24 A. Where the analyst's initials are, they sealed it
25 along all the seams.

Susan Payne - Direct by Ms. Gordon

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1 Q. So this is where somebody else has resealed it
2 after they've opened it?

3 A. Yes, ma'am.

4 Q. But when you received it, it had been sealed by
5 Mr. Middleton?

6 A. Yes, ma'am.

7 Q. Also going to show you what's been marked as 11A
8 and B. Let me take this out of your way. Do you
9 recognize this? I'm not sure if you actually would have
10 had to have touched this one. I think this one got
11 separated afterwards?

12 A. Uh-huh.

13 Q. Nevermind, I'm trying to keep all this straight.
14 Do you remember the analyst that worked with the items?

15 A. Yes, ma'am.

16 Q. Who was that?

17 A. That was Jenny Leiser.

18 Q. So she got it after you?

19 A. Yes, ma'am.

20 THE COURT: Who?

21 THE WITNESS: Jennifer Leiser.

22 BY MS. GORDON:

23 Q. After Jennifer did what she needed to do with
24 it -- she's like the technician who actually analyzed?

25 A. Yes, ma'am.

Susan Payne - Direct by Ms. Gordon

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1 Q. Did it come back to you?

2 A. Yes, ma'am.

3 Q. And did you notate that as well?

4 A. Yes, ma'am.

5 Q. And would that also be notated on this box

6 that's marked 11A and B?

7 A. Yes, ma'am, that's on the chain of custody.

8 Q. So I want to make sure I got it straight. It
9 went from Detective Middleton submitted it to you, and
10 then you put it in evidence, and Jennifer Leiser got it,
11 and after Jennifer Leiser got it, it came back to you?

12 A. Yes, ma'am.

13 Q. When it came back to you, was it resealed?

14 A. Yes, ma'am.

15 Q. And did it have any markings on it?

16 A. It had the laboratory sticker on it and her
17 reseal initials.

18 Q. And what does that mean to you?

19 A. It means that we got it and she sealed it.

20 MS. GORDON: Thank you. I have no further
21 questions from this witness, Your Honor. If you will
22 answer any questions Mr. Howe.

23 MR. HOWE: No questions, Your Honor.

24 THE COURT: All right. Thank you very much.

25 You can return to your place or be excused.

Susan Payne - Direct by Ms. Gordon

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1 Next witness.

2 MS. GORDON: Your Honor, may we approach?

3 (Bench conference.)

4 THE COURT: Witness is on the way, but is close
5 by, but not quite here yet. So we are going to take a
6 short break until she gets here. Let's go to the jury
7 room for however long it takes to get her here.

8 (Whereupon, the jury exited the courtroom at
9 10:33 a.m.)

10 (Whereupon, the jury came into open court at
11 approximately 10:44 a.m.)

12 THE COURT: All right. Next witness.

13 MS. GORDON: State calls Jennifer Leiser.

14 JENNIFER LEISER,

15 having been duly sworn, testifies as follows:

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

18 THE WITNESS: My name is Jennifer Leiser. Last
19 name is spelled L-e-i-s-e-r.

20 DIRECT EXAMINATION

21 BY MS. GORDON:

22 Q. Ms. Leiser, where are you employed?

23 A. I am employed by the Charlotte-Mecklenburg
24 Police Department in the chemistry section of their crime
25 lab.

Jennifer Leiser - Direct by Ms. Gordon

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1 Q. Did you drive here from Charlotte this morning?

2 A. I did.

3 Q. Did you just get here?

4 A. I did.

5 Q. Back in 2008, were you employed with the City of
6 Charleston Police Department?

7 A. Yes. Back in 2008, I was employed by the
8 Charleston Police Department in the chemistry detection
9 section of their crime lab.

10 Q. What's your educational background?

11 A. I have a Bachelor's of Science from the College
12 of Charleston. I have attended the South Carolina Law
13 Enforcement School in urine analysis. I have attended
14 classes at West Virginia University in the analysis of
15 controlled substances.

16 THE COURT: Keep your voice up. I have to hear
17 you.

18 THE WITNESS: Okay. I have also attended the
19 Drug Enforcement Administration's Chem Center.

20 BY MS. GORDON:

21 Q. And when you were employed with the City of
22 Charleston, did you train under anyone in the area of
23 involving serology?

24 A. Yes, I did. I trained under the area of
25 serology under my supervisor at the time, Nicky Mitchell.

Jennifer Leiser - Direct by Ms. Gordon

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1 It was about a three-month long process which I trained
2 with her, did readings, took proficiency tests before I
3 started my own evidence analysis.

4 THE COURT: What is serology?

5 THE WITNESS: Serology is the study of body
6 fluids.

7 BY MS. GORDON:

8 Q. And during your time at the City of Charleston,
9 did you have an opportunity to test items of evidence
10 that contained possible body fluids?

11 A. Yes, I did.

12 Q. Have you ever had to testify regarding that
13 testimony?

14 A. I have not.

15 MS. GORDON: Your Honor, at this time we would
16 offer Ms. Leiser as an expert in the area of serology.

17 THE COURT: Any questions you want to ask her
18 about her qualifications to do a serology analysis?

19 MR. HOWE: I guess so.

20 VOIR DIRE EXAMINATION

21 BY MR. HOWE:

22 Q. So what is a serology analysis? What are you
23 analyzing exactly?

24 A. Serology analysis is determining the presence
25 and type of body fluid.

Jennifer Leiser - Voir Dire by Mr. Howe

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1 Q. Okay. And most of the training -- I saw
2 something that was drug enforcement, controlled substance
3 in West Virginia; is that correct?

4 A. That's correct.

5 Q. All your -- give me the part on serology real
6 quick.

7 A. The training that I did in serology was all
8 in-house and conducted by my supervisor I was with,
9 Elizabeth Mitchell.

10 THE COURT: And that was who? Who was your
11 supervisor?

12 THE WITNESS: Elizabeth Mitchell.

13 THE COURT: Do you know anything about her
14 background, qualifications or anything?

15 THE WITNESS: I know she also has a Bachelor of
16 Science from College of Charleston.

17 THE COURT: When you say Bachelor's of Science,
18 that could be a whole a lot of different things. What
19 kind of -- what was your BS in, so to speak?

20 THE WITNESS: My bachelor of science was in
21 biology and Nicky's, or Elizabeth's, is in chemistry.

22 BY MR. HOWE:

23 Q. Are you certified in any way as a serologist by
24 any independent organizations?

25 A. No.

Jennifer Leiser - Voir Dire by Mr. Howe

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1 Q. Have you been involved in publication of any
2 papers, books, papers, articles, or anything of any kind,
3 whether you are the primary author or the assistant
4 author of doing anything on serology?

5 A. No, not in serology.

6 Q. Have you taken any particular college-type
7 courses about serology?

8 A. I have not taken any college courses regarding
9 serology specifically, no.

10 Q. Your training was all by this one lady?

11 A. Yes, in addition to my biology degree.

12 Q. Okay.

13 THE COURT: Tell me about that. What do you
14 actually do when you do a serology analysis? Tell me
15 what you actually do.

16 THE WITNESS: To do a serology analysis, our lab
17 identified saliva, blood, and semen.

18 MR. HOWE: Objection. She's going into --

19 THE COURT: No, I'm not talking about in this
20 particular case or anything. I want to know what -- as a
21 general rule, how do you go about doing a serology
22 analysis?

23 THE WITNESS: A serology analysis would find a
24 body fluid stain and then identify it.

25 THE COURT: What you think is there?

Jennifer Leiser - Voir Dire by Mr. Howe

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1 THE WITNESS: Yes, and then identify it.

2 THE COURT: Okay. How do you do that?

3 THE WITNESS: There are several tests to do
4 that. Specifically, many body fluid stains are found
5 using UV light and then --

6 THE COURT: UV light, what does that mean?

7 THE WITNESS: UV light? Body fluids,
8 fluorescence, when it hit with 365 nanometers of light.
9 So we will shine a UV light at 365 nanometers on an
10 object. Body fluids on that object will emit a
11 fluorescence.

12 THE COURT: Then what do you do?

13 THE WITNESS: Once body fluid stains are found,
14 depending on what kind of testing, whether we suspect
15 blood or semen type of stains, there are levels of
16 testing we can go from there.

17 THE COURT: Such as?

18 THE WITNESS: We would begin with a presumptive
19 test to narrow down the number of stains that we think
20 contain a body fluid. Once we determine what stains are
21 likely to contain a body fluid, we then use another set
22 of tests to determine which stains actually contain a
23 body fluid from a human.

24 THE COURT: Then?

25 THE WITNESS: That is where serology ends.

Jennifer Leiser - Voir Dire by Mr. Howe

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1 THE COURT: That's what where begins?

2 THE WITNESS: That's where serology ends.

3 THE COURT: Oh, that's where it ends. All
4 right. Tell me about your training that you did at the
5 College of Charleston in biology. I presume you took
6 chemistry; maybe a couple of chemistry courses along the
7 way. Did any of the stuff you learned at college have
8 any application to what you do in a serology examination?

9 THE WITNESS: Yes, it did. I learned through my
10 college education what an antigen is, what an antibody
11 is. Both of those are specific for some of the tests
12 that I use to determine or confirm the presence of a
13 human body fluid.

14 THE COURT: Go ahead.

15 THE WITNESS: I also use biology background to
16 understand a cell, the difference between a sperm cell
17 and seminal fluid. And also, I use my chemistry
18 background in addition to the biology background to
19 understand how the tests work and how those processes
20 give me the results that I see.

21 THE COURT: Did you do that kind of testing and
22 that kind of work while you were getting your BS in
23 biology and chemistry?

24 THE WITNESS: Yes.

25 THE COURT: Did you take chemistry?

Jennifer Leiser - Voir Dire by Mr. Howe

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1 THE WITNESS: I did take chemistry, yes.

2 THE COURT: Did you do that sort of similar
3 stuff while you were at the college?

4 THE WITNESS: Yes, I did.

5 THE COURT: Anything else you want to ask her?

6 MR. HOWE: You did a good job, Your Honor.

7 BY MR. HOWE:

8 Q. The stuff you did in college, okay, was that
9 actual serology-type testing?

10 A. No, we did not test evidence or anything like
11 evidence in college.

12 Q. Well, but I want to be a little more narrow than
13 that. Did you ever test any body fluids in college?

14 A. Not human body fluids, no.

15 Q. Which ones did you test? What kind of things
16 did you test?

17 A. We did tests with animal body fluids. We used
18 salivas, amino acids, things like that.

19 THE COURT: Tell me about what you did during
20 this three-month training process with Ms. Mitchell.

21 THE WITNESS: During my three-month training
22 process with Ms. Mitchell, I would shadow her when she
23 received evidence. I watched her go through the process
24 of analyzing evidence. During that time I was also doing
25 my own reading regarding the type of tests she was

Jennifer Leiser - Voir Dire by Mr. Howe

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1 conducting on the evidence. After awhile, I got to start
2 participating in testing the evidence myself under her
3 supervision. I continued to do readings. I was asked
4 several questions and did oral examinations. After I
5 reached a certain proficiency level as indicated by my
6 supervisor, I was allowed to start analyzing a
7 proficiency sample which was an unknown sample. I
8 successfully completed the analysis of that item. And I
9 received my proficiency in you serology testing and I was
10 granted the permission to start testing evidence.

11 THE COURT: How many serology exams would you
12 say that you've done by now.

13 THE WITNESS: During the three and a half years
14 I was employed by Charleston Police Department, I
15 probably did about 8 to 10 a year.

16 THE COURT: 8 to 10 yourself?

17 THE WITNESS: Yes.

18 THE COURT: But now how many would you say
19 you've done? Do you still do it?

20 THE WITNESS: I do not continue to do serology.

21 THE COURT: Not now?

22 THE WITNESS: No.

23 THE COURT: So all your serology testing was
24 done while you were employed by the Charleston Police
25 Department?

Jennifer Leiser - Voir Dire by Mr. Howe

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1 THE WITNESS: That's correct.

2 THE COURT: Okay. All right.

3 BY MR. HOWE:

4 Q. How long were you employed overall?

5 THE COURT: With Charleston?

6 THE WITNESS: With Charleston, yes, sir. I'm
7 - sorry. We are on the same wave length here.

8 THE WITNESS: I was employed by Charleston for
9 three and a half years.

10 BY MR. HOWE:

11 Q. Okay. And of the three and a half years that
12 you were there, how long were you sort of deemed
13 qualified for the city's purposes to be a serologist?

14 A. For about two and a half years I did serology
15 cases.

16 Q. Are there independent courses that you can go
17 take about serology around the country? Can you go to a
18 seminar on it, or does law enforcement have seminars on
19 that kind of stuff?

20 A. Yes.

21 Q. Okay. And you've never been to one?

22 A. I have not.

23 Q. Are there independent certifications that you
24 can get maybe other than the certificate from a specific
25 seminar or training period; do you know, is there any?

Jennifer Leiser - Voir Dire by Mr. Howe 191

1 A. I'm not aware of any specific certification.

2 Q. Society of International Serologists? I'm
3 trying to find out a little bit about is there any
4 professional organizations that you know of?

5 A. Not that I'm aware of.

6 MR. HOWE: That's all the questions that I have.

7 THE COURT: Statement of position by either one
8 of you? Jury panel needs to go out in the hallway for
9 just a minute please. Let me talk to the lawyers.
10 Hallway please.

11 (Whereupon, the jury exited the courtroom at
12 10:57 a.m.)

13 MR. HOWE: I'm going to object to her being used
14 as an expert in the area of serology. Basically, she's
15 had some general training college-wise in certain courses
16 like biology and chemistry, but when it comes to the
17 actual area of her expertise for this trial, basically
18 what she's had is -- it sounded to me like a three-months
19 of in-house training with a lady that we don't know
20 really what her certification, qualifications, or
21 anything about her ability to be -- to put the Good
22 Housekeeping seal of approval on anybody. In addition
23 she said, I did some reading on my own. But we don't
24 know what she read and what it was. And there's no way
25 for us to know how relevant that was to her training.

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1 There are apparently some national type courses
2 that you can get a certificate from, but she's never been
3 to any of those. And I just don't think that that's
4 going to rise to the level of being expert in the field
5 of serology, as I understand it.

6 THE COURT: What do you have to say about that?

7 MS. GORDON: Thank you, Your Honor. Ms. Leiser
8 has indicated that she has both training, experience and
9 education in the area of serology. She did say that she
10 did eight to ten cases a year while she was there.

11 THE COURT: I think she said eight to ten cases
12 during the whole time you were there; wasn't it?

13 THE WITNESS: It was a year, in two and a half
14 years.

15 THE COURT: I'm sorry? Are you saying -- I just
16 want to clarify to make sure. Are you saying eight to
17 ten years during the whole time you were employed at
18 Charleston Police Department?

19 THE WITNESS: No, about eight to ten a year.

20 THE COURT: So how many -- what does that
21 translate into total then?

22 THE WITNESS: Approximately 25 cases.

23 THE COURT: All right. Go ahead. I just want
24 to clarify that. If you want to clarify that before the
25 jury, you can. But anyway, all right, anything else?

Jennifer Leiser - Voir Dire by Mr. Howe 193

1 MS. GORDON: Your Honor, that is the standard
2 for admitting someone as an expert.

3 THE COURT: What is?

4 MS. GORDON: That she have training, knowledge,
5 and experience above that of a layperson in an area that
6 is not commonly known to a layperson. That is her
7 training and experience, we would offer, as an expert.
8 No one says you have to be the preeminent expert in a
9 field, just that you have particularized training,
10 knowledge and experience, and she does have all of those.

11 THE COURT: I appreciate your position, but I
12 will overrule your objection. I will allow her to
13 testify. You could explore all this on cross, but I
14 think she's qualified to testify about -- as I understand
15 the process, what it involves, she's trained enough, has
16 enough experience to be able to testify about it. So I
17 will overrule your objection and I'll allow her to
18 testify on the area of serology involved in this case.
19 Bring the jury back in.

20 (Whereupon, the jury came into open court at
21 approximately 11:00 a.m.)

22 THE COURT: All right. You may continue to
23 examine your witness.

24 MS. GORDON: Thank you, your Honor. Just for
25 the record, the State moves to admit Ms. Leiser as an

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1 expert.

2 THE COURT: You can ask her opinion questions
3 now. Go ahead.

4 MS. GORDON: I just want to make sure she had
5 been admitted as an expert.

6 THE COURT: She's been admitted for the purpose
7 of asking her opinion questions in that area.

8 MS. GORDON: Thank you, Your Honor.

9 BY MS. GORDON:

10 Q. Ms. Leiser, in January of 2000 -- well, I
11 believe it was January 2008 -- did you receive some
12 evidence in relation to a case regarding suspect George
13 White?

14 A. January?

15 Q. I apologize, it was October of 2008, I believe.

16 A. I actually received evidence in September of
17 2008.

18 THE COURT: September when?

19 THE WITNESS: 2008.

20 THE COURT: Okay.

21 BY MS. GORDON:

22 Q. And you completed your analysis, is that October
23 23rd of 2008?

24 A. That's correct.

25 Q. I'm going to show you what has been marked

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 State's Exhibit 10A and B. Do you recognize that?

2 A. Yes. This is a box containing the evidence I
3 analyzed in this case.

4 Q. And what was that evidence that you received,
5 that you analyzed?

6 THE COURT: You can open it up if you want to.

7 THE WITNESS: This box contained the comforter
8 that was analyzed as well as a paper bag full of paper
9 towels.

10 BY MS. GORDON:

11 Q. I think you are looking at maybe the wrong one.

12 THE COURT: You can look in there if you want
13 to, as I said.

14 BY MS. GORDON:

15 Q. I'm also showing you what's marked as 11A and B.

16 A. This one contains the --

17 THE COURT: 10A and B is what?

18 THE WITNESS: This is 10A and B?

19 THE COURT: I think it is, isn't it?

20 BY MS. GORDON:

21 Q. Those are our markings, not yours, 10A and B.

22 That's 10, and she's got a sticker on there for 10A.

23 A. This one, 10A and B, contains the sleeping bag
24 and fitted flat sheet I analyzed in this case.

25 THE COURT: Sleeping bag and sheet, is that what

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 you said?

2 THE WITNESS: Yes.

3 BY MS. GORDON:

4 Q. And then this is 11A and B?

5 A. And then this contains -- 11B is the paper bag
6 with the paper towels, as well as the floral comforter
7 that I analyzed.

8 Q. When you received the items, were they sealed?

9 A. Yes.

10 Q. And was there any evidence of any tampering when
11 you received them?

12 A. No, there was not.

13 Q. What did you do -- I'm going to take them so
14 they are not sitting in front of you. What did you do
15 with the items when you received them?

16 A. When I received the items, I signed for the
17 property on the property control sheet and on the
18 evidence itself.

19 Q. And then did you at some point unseal them?

20 A. Yes, I unsealed them.

21 Q. And did you take them out of their container?

22 A. Yes, I took the items outside, out of the boxes,
23 and I made notes on the items that I received.

24 Q. And did you then kind of label them for your
25 purposes, like Item 1, Item 2?

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 A. Yes.

2 Q. What was Item 1?

3 A. The first item that I analyzed, or Item 1, was
4 orange and gray sleeping bag.

5 Q. Let me double check with you. And you may need
6 to look back, I'm not sure. Do you remember who you
7 received the items from? Who was the last person to have
8 them before you had them?

9 A. I received the items from Susan Moody. Susan
10 Moody was the technician in our lab at the time.

11 Q. And so you take them out and what's the first
12 thing you did when with the sleeping bag?

13 A. The first thing I did with the sleeping bag is I
14 described the item. I spread the item out in our
15 laboratory, and I used a UV light source to look for
16 stains.

17 Q. And the UV source, that's a light?

18 A. Yes, it's a light.

19 Q. And is there like, kind of room? Is there a way
20 you need to have the lights in the room to do that?

21 A. Yes, I turn all the lights down in the room.
22 That's the best way to see the stains when I'm using the
23 UV light.

24 Q. And on the sleeping bag, which you have marked
25 as Item 1, did any items fluoresce?

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 A. Yes, on the sleeping bag, I found 47 spots
2 fluoresced.

3 Q. And is the fluorescent light test, is that just
4 kind of your screening test, your first kind of test?

5 A. Yes, the UV light is just a very general
6 screening tool that we use to find the stains themselves.

7 Q. And then from there, once you've identified some
8 areas of possible interest, what's the next thing that
9 you do?

10 A. In this case, after I located the stains, I used
11 what is known as an AP test to further narrow --

12 THE COURT: You used a what?

13 THE WITNESS: It's an AP spot test.

14 THE COURT: AP, like A & P Store?

15 THE WITNESS: Yes, which is short for acid
16 phosphatase. The test was used to determine which stains
17 contained acid phosphatase.

18 BY MS. GORDON:

19 Q. And I'm actually going to pull this out for you.
20 When you found the 47 places, did you mark those?

21 A. Yes, I marked them on the sleeping bag itself.

22 Q. And you described that as an orange and gray
23 sleeping bag; is that correct?

24 A. That's correct.

25 Q. And would these be your markings?

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 A. Yes, the circles with the number on the sleeping
2 bag are markings that I made when during the UV light
3 examination I saw a stain. So I used a permanent marker
4 to circle the stain for additional analysis.

5 Q. And then you saw also -- are those also your
6 markings on the other side?

7 A. Yes. And I also did the inside of the sleeping
8 bag.

9 Q. Now, I also see a place here that's a cut; what
10 would that indicate?

11 A. The cutting would indicate that it was removed
12 for additional analysis.

13 Q. So the circles just mark that those illuminated
14 for something with the UV light?

15 A. Yes.

16 Q. And then you did the acid phosphatase test?

17 A. Yes.

18 Q. And did any of the places that you tested with
19 the acid phosphatase, did they test positive for acid
20 phosphatase?

21 A. Out of the 47 spots, only Spot Number 46 was a
22 positive for the presence of acid phosphatase.

23 Q. And is that the spot that you did a cutting on?

24 A. Yes.

25 Q. What is acid phosphatase?

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 A. Acid phosphatase is an enzyme that is secreted
2 by the prostate.

3 Q. And is it indicative or presumptive for
4 something or a particular body fluid?

5 A. Yes, it provides a presumptive indication of the
6 presence of seminal fluid.

7 Q. After you did the acid phosphatase test, you
8 said one item came back as presumptive for semen or
9 seminal fluid, did you do any additional test?

10 A. Yes, I took a cutting of Spot Number 46, and I
11 ran a confirmatory test trying to determine the presence
12 of human semen or seminal fluid. That was an abacus
13 test. It is an ABP-30 test.

14 THE COURT: I couldn't understand you. What did
15 you do next after you cut out Number 46? I guess is that
16 correct?

17 THE WITNESS: Yes.

18 THE COURT: Did you do something after you cut
19 out Number 46?

20 THE WITNESS: Yes, I used the cutting from Spot
21 Number 46 to determine if a PSA, or prostate-specific
22 antigen was present, which would indicate that the
23 seminal fluid was of human origin.

24 BY MS. GORDON:

25 Q. And how did that test come out? What were the

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 results of that test?

2 A. I found Spot 46 positive, meaning that it did
3 contain human semen.

4 Q. Did that conclude your test on the sleeping
5 bag?

6 A. Yes.

7 Q. Did you also test the blue flat sheet?

8 A. Yes, I did.

9 Q. And did you undergo the same type of test for
10 the blue flat sheet?

11 A. Yes. I again went through using a UV light to
12 find stains on the item. I circled those stains with a
13 permanent marker. I went back through and did the AP
14 spot test, the test looking for the acid phosphatase. I
15 found two spots to be positive. Cuttings were taken from
16 those. And again, I did a prostate-specific test for the
17 presence of human semen.

18 Q. Is this the blue flat sheet?

19 A. Yes.

20 Q. And so the markings, the circles are where you
21 marked for the UV light; is that right?

22 A. That's correct.

23 Q. And then you did the acid phosphatase?

24 A. Yes.

25 Q. And the ones that tested positive for acid

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 phosphatase are the ones you did the cuttings on?

2 A. Yes.

3 Q. You said you did two cuttings?

4 A. Yes. Well, I found -- I did one cutting on Spot
5 19 because it was a very strong positive.

6 Q. And what was the result of the test -- I
7 think -- is it called a P-30 or AP-30?

8 A. It's a P-30.

9 Q. What was the result of the test for the cutting?

10 A. The spot -- the cutting, it was positive on the
11 cutting that I took on Spot Number 19.

12 Q. And that's also the antigen or antibody for
13 semen, for human semen?

14 A. Yes.

15 Q. When you were finished with your examination of
16 the comforter and the blue flat sheet, what did you do?

17 A. Those items were then repackaged.

18 Q. And did you seal them back up?

19 A. Yes. The blue evidence tape that you see on
20 that box is the evidence tape that we use in the lab. I
21 resealed the box with that evidence tape and then I
22 initialed the box after I sealed it.

23 Q. And would these be your initials here?

24 A. Yes.

25 Q. SL?

JENNIFER LEISER - DIRECT BY MS. GORDON

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1 A. Yes.

2 Q. And then once you -- then did you also package
3 the comforter and the paper towels?

4 A. Yes, that was repackaged the same way.

5 Q. And are those your initials as well as?

6 A. Yes, you will see JSL on the tape.

7 Q. Did you find anything of evidentiary value on
8 the comforter or on the paper towels?

9 A. I did not find anything on the paper towels. I
10 did not find any specific human semen on the comforter.

11 Q. After you resealed it, what did you do with the
12 evidence?

13 A. After I resealed the evidence, the evidence was
14 given to Susan Moody to return to crime scene.

15 Q. Also want to -- I need to have these marked.

16 (State's Exhibit 12, Envelope Containing
17 Cuttings, was marked for identification.)

18 BY MS. GORDON:

19 Q. I'm showing you what is marked as State's
20 Exhibit 12. Do you recognize that?

21 A. State's Exhibit 12, the envelope inside is the
22 envelope where I packaged the cuttings that I had taken
23 from the items for additional analysis.

24 Q. So you would be the first person who actually
25 opened up the sleeping bag and the sheet and made any

Jennifer Leiser - Cross by Mr. Howe

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1 kind of change to it?

2 A. Yes.

3 Q. And that were these cuttings?

4 A. Yes.

5 Q. And what did you do with the cuttings after you
6 were finished?

7 A. These cuttings were also submitted to crime
8 scene and they were recommended for DNA analysis.

9 Q. When you submitted them back, who did you give
10 them to, when you say you admitted them back to evidence?

11 A. When I submitted them back to evidence, means
12 that I gave them back to Susan Moody, who took custody of
13 it to return it to crime scene.

14 MS. GORDON: Thank you, Jennifer. I have no
15 further questions. If you will answer any questions of
16 Mr. Howe.

17 CROSS-EXAMINATION

18 BY MR. HOWE:

19 Q. I'll briefly summarize it to make sure I got it
20 straight. You first start off with the light test,
21 right?

22 A. Yes.

23 Q. UV?

24 A. Yes.

25 Q. All right. And that tells you sort of like, arc

JENNIFER LEISER - CROSS-EXAMINATION BY MR. HOWE 205

1 there anybody body fluids?

2 A. Yes, the UV light will help me determine any
3 stains that I cannot see with my naked eye.

4 Q. And how many different body fluids will show up;
5 saliva, if I drool on it?

6 A. Yes.

7 Q. What else would show up?

8 A. It could show saliva, urine, and several other
9 stains.

10 Q. Sweat?

11 A. Sweat is one of them.

12 Q. Gross, but would that work; sneeze, a bad one?

13 A. Sneeze.

14 Q. And that's all of them, that's the 40-something
15 pieces and parts all over the bag and whatever the number
16 was on the sheet?

17 A. Yes.

18 Q. And then on the sleeping bag, you used the AP
19 test?

20 A. Yes. It's known as an AP spot test.

21 Q. And that was one that shows that it may be
22 seminal fluid of some sort?

23 A. That's correct.

24 Q. And so there was one spot on the sleeping bag?

25 A. Yes; there was one spot on the sleeping bag that

JENNIFER LEISER - CROSS-EXAMINATION BY MR. HOWE 206

1 was positive for the presence of --

2 Q. And two spots on the sheet?

3 A. Yes, there are two spots on the sheet. One was
4 significantly stronger than the other one.

5 Q. And I think you used the word presumptive.

6 A. Yes.

7 Q. Okay. So that is not exclusive. I mean, that's
8 a term of art that's important here, right?

9 A. Right.

10 Q. So it is presumptive, but it is not exclusive?

11 A. That's correct.

12 Q. And it doesn't tell you how long anything has
13 been there, does it?

14 A. No, it does not tell me how long the stain has
15 been there.

16 Q. And it doesn't tell you where the bag was when
17 it got there?

18 A. No, it does not.

19 Q. And it doesn't say whose it was?

20 A. No, it does not.

21 MR. HOWE: Thank you very much.

22 THE COURT: Anything on redirect?

23 MS. GORDON: No, Your Honor.

24 THE COURT: Thank you very much. Appreciate you
25 coming. You can step down, be excused.

Jennifer Wooley - Direct by Ms. Gordon

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1 MS. GORDON: We would ask she be excused so she
2 can return --

3 THE COURT: Mr. Howe, any objection to excusing
4 this lady?

5 MR. HOWE: None whatsoever, Your Honor.

6 THE COURT: Thanks for coming. You are free to
7 go.

8 THE COURT: Next witness.

9 MS. GORDON: State calls Jennifer Wooley.

10 JENNIFER WOOLEY,

11 having been duly sworn, testifies as follows:

12 THE CLERK: Please state your full name and
13 spell your last name for the record.

14 THE WITNESS: Jennifer Lynn Wooley, W-o-o-l-e-y.

15 DIRECT EXAMINATION

16 BY MS. GORDON:

17 Q. Ms. Wooley, where are you employed?

18 A. Charleston Police Department.

19 Q. And were you employed there back in 2008?

20 A. Yes, ma'am.

21 Q. During that time, where were you -- what section
22 of the department were you employed?

23 A. I'm assigned to the crime scene unit.

24 Q. And what do you do as part of your crime scene
25 duties?

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1 o'clock. Have a nice break.

2 (Whereupon, the jury exited the courtroom at
3 11:35 a.m.)

4 THE COURT: Bring the jury in.

5 (WHEREUPON, the jury enters open court at 1:00
6 p.m.)

7 THE COURT: Who is your next witness?

8 MS. GORDON: Tracy Williams Halasz.

9 THE COURT: Parties are present along with their
10 attorneys. Okay. You can be seated and call your next
11 witness.

12 MS. GORDON: State calls Tracy Williams Halasz.

13 TRACY WILLIAMS HALASZ,

14 having been duly sworn, testifies as follows:

15 THE CLERK: Please state and spell your name.

16 THE WITNESS: Tracy Williams Halasz,
17 H-a-l-a-s-z.

18 EXAMINATION

19 BY MS. GORDON:

20 Q. Ms. Halasz, can you tell us where you are
21 employed?

22 A. Medical University of South Carolina,

23 Q. And what is your position there?

24 A. Pediatric nurse practitioner.

25 THE COURT: You are a what?

Tracy William Halasz - Direct by Ms. Gordon 220

1 THE WITNESS: Pediatric nurse practitioner.

2 BY MS. GORDON:

3 Q. And to be a pediatric nurse practitioner, do you
4 have educational background for that?

5 A. I do. I have a four-year Bachelor of Science
6 degree from Clemson University and a master's from the
7 Medical University of South Carolina University.

8 Q. And after you graduated from getting your
9 bachelor's in nursing, did you work?

10 A. Yes, I did.

11 Q. Where did you work then?

12 A. At the Medical University of South Carolina.

13 Q. And what did you do?

14 A. Pediatric nurse practitioner, and I worked for
15 the violence intervention prevention division.

16 Q. And then you subsequently earned your master's
17 degree in that; is that correct?

18 A. My master's is specifically in pediatrics as a
19 nurse practitioner.

20 Q. And what kind of -- do you have additional
21 training in the area of pediatric nurse practitioner?

22 A. I've done various trainings related to child
23 abuse and neglect. I've been to San Diego twice --

24 THE COURT: You need to kind of speak up a
25 little bit.

Tracy William Halasz - Direct by Ms. Gordon 221

1 THE WITNESS: Okay. Sorry. I've been sick
2 recently, so I apologize if my voice is scratchy.
3 So I've worked -- the question was the training?

4 BY MS. GORDON:

5 Q. Yes, additional trainings other than -- you
6 worked at M.U.S.C. -- tell me when did you start working
7 at M.U.S.C.

8 A. I started at M.U.S.C. 2003, but with my
9 master's, I started in 2007 after I graduated as a nurse
10 practitioner.

11 Q. And then in addition to your work at M.U.S.C. as
12 a nurse practitioner, what additional trainings as a
13 nurse practitioner do you have?

14 A. I've gone to San Diego twice, specifically for
15 training in relation to child abuse and neglect. And
16 then I've also worked closely with child abuse
17 pediatricians with direct one-on-one training at the
18 Medical University of South Carolina.

19 Q. Have you ever presented seminars in the area of
20 forensic pediatric nurse practitioner exams?

21 A. Yes, I have.

22 Q. And do you hold any licenses or certifications?

23 A. I have a nursing license as an advanced practice
24 nurse as well as certified through the pediatric nursing
25 certification board.

Tracy William Halasz - Direct by Ms. Gordon 222

1 Q. How many exams in the area of forensic pediatric
2 exams, how many would you estimate you've performed?

3 A. Probably close to a thousand.

4 Q. And have you ever been admitted as an expert in
5 the area of forensic pediatric nurse examinations?

6 A. Yes, I have.

7 Q. How many times have you been admitted as an
8 expert in that area?

9 A. I believe five.

10 MS. GORDON: Your Honor, at this time we would
11 offer Ms. Halasz as an expert in the area of forensic
12 pediatric nurse examinations.

13 THE COURT: Any questions you want to ask?

14 MR. HOWE: No objections.

15 THE COURT: All right. Go ahead.

16 BY MS. GORDON:

17 Q. Ms. Halasz, back in early of 2008, you were
18 employed by the Medical University of South Carolina?

19 A. Yes, I was.

20 Q. In addition to working at M.U.S.C., did you have
21 responsibilities at any clinics or affiliated
22 organizations?

23 A. Yes, as part of my job, I worked at two child
24 advocacy centers, the Lowcountry Children's Center and
25 the Dorchester Children's Center, and provided medical

Tracy William Halasz - Direct by Ms. Gordon 223

1 exams there.

2 Q. Did you have occasion to examine a child by the
3 name of Minor ?

4 A. I did.

5 Q. When was that?

6 A. January 22nd, 2008.

7 Q. As part of your exam, did you attempt to obtain
8 a history from Minor ?

9 A. Typically, no, I don't obtain a history from the
10 child. Usually when families present to a child advocacy
11 center, we get the history from the parent. The purpose
12 of the child advocacy center is so that the child can
13 come and talk to someone and not have to keep telling
14 their story over and over again. A lot of times we will
15 get the majority of our history from the caregiver, as
16 well as whoever is referring the child to the agency.

17 Q. When you examined Minor, did you ask her any
18 questions?

19 A. I did.

20 Q. And how did she appear when she was in the exam
21 room at that point?

22 A. She was -- during the exam when I was asking her
23 questions, she appeared guarded.

24 Q. Describe for the jury what that means, guarded.

25 A. Kind of reluctant. Typically kids don't like to

Tracy William Halasz, - Direct by Ms. Gordon 224

1 come see me a lot of times because I do a full
2 head-to-toe exam, where I look in eyes, ears, nose,
3 throat, listen to heart and lungs, and then I also do an
4 exam of their genital area and anal area. And that can
5 sometimes be uncomfortable for kids because it is
6 something they are not used to. So a lot of times kids
7 will present guarded, kind of reluctant to talk to me and
8 kind of want to, you know, be apart of it during part of
9 the exam.

10 Q. Can you describe whether this exam was acute or
11 nonacute?

12 A. Yes.

13 THE COURT: What do you mean by that?

14 MS. GORDON: I will ask her what that means.

15 THE COURT: Start with it.

16 BY MS. GORDON:

17 Q. Is it acute or nonacute, and then I will ask you
18 to describe what that means?

19 A. I did a nonacute exam.

20 Q. And describe what that means.

21 A. So there are two types of exams that we do when
22 there's a concern for any type of allegations of sexual
23 abuse or neglect. There's an acute exam and nonacute.
24 An acute exam is an exam where we are seeing the child
25 when the alleged event occurred within 72 hours. And

Tracy William Halasz - Direct by Ms. Gordon 225

1 nonacute exam is an exam that's over 72 hours. And in
2 this case it was over 72 hours from the allegations. So
3 I was doing a nonacute exam.

4 Q. How does that affect the exam that you do?

5 A. So the acute exam, because it's happened -- the
6 alleged events happened within 72 hours, we are typically
7 doing evidence collection. We are looking for DNA, such
8 as like saliva, semen, anything on the body. We swab the
9 mouth, the genital area, we swab the anal area, anyplace
10 on the body that was an area of concern, where we are
11 looking for specific DNA, saliva, semen, that kind of
12 thing.

13 And a nonacute exam, we are not looking for that
14 kind of stuff. We don't do those swabs. It's just kind
15 of a full head-to-toe exam, because the likelihood after
16 72 hours, most kids have gone to the bathroom. They've
17 wiped. They brushed their teeth. They've evented,
18 changed their clothes, bathed, they showered. So there's
19 no likelihood of any evidence on their body.

20 Q. And can you remind me what type this was?

21 A. A nonacute exam.

22 Q. When you examined Minor, you said you did a
23 full head-to-toe, did you determine like, her height and
24 her weight?

25 A. Yes, I did.

Tracy William Halasz - Direct by Ms. Gordon 226

1 Q. And what was her height and weight?

2 A. Can I refer to the record?

3 Q. Would it refresh your recollection to refer to
4 your records?

5 A. It would.

6 MS. GORDON: Your Honor, we ask that she be --

7 THE COURT: Go ahead.

8 THE WITNESS: She was 56 pounds and 52 inches.

9 BY MS. GORDON:

10 Q. How would you describe that for an 11-year-old,
11 is that normal, big, small?

12 A. I don't have noted in her record the actual
13 percentile where she fell, but just kind of off the top
14 of my head, typically like 11-year-old would be 56
15 pounds, 52 inches. She probably would be in right at or
16 below the fifth percentile for her height and weight.

17 Q. In terms of her, did you also determine her
18 developmental level as a female?

19 A. Yes. As part of the exam, we look to see how
20 are they are developing into the stages of puberty. We
21 look specifically, look at Tanner stages. And so we look
22 at basically from Tanner Stage I to 5, with 5 being full
23 development puberty, with one being no development.

24 Q. And where was she in the Tanner stages?

25 A. She was a Tanner Stage II.

Tracy William Halasz - Direct by Ms. Gordon 227

1 Q. And what does that mean?

2 A. So Tanner Stage II means typically they have
3 what we call breast buds, kind of like what you would say
4 kind of beginning development of breasts, as well as on
5 her pubic hair and on her vaginal area. She probably had
6 some kind of downing, beginning of some pubic hair in
7 that region.

8 Q. What were the results of your exam?

9 A. She had a normal genital exam and area
10 anal/genital exam.

11 Q. What does that tell you?

12 A. Tells me that everything in her body looked nice
13 and healthy. There were no signs of injury or infection
14 on her body. She was growing, developing pretty much as
15 she should, obviously on the smaller side.

16 Q. How is it possible that an 11-year-old could be
17 sexually assaulted and have penetration without having a
18 finding of some type of injury?

19 A. There's a couple of things. So, typically, when
20 we think of any type of injuries, the tissue in your
21 genital area and your anal area is kind of like the
22 inside of your mouth. If you think about if you've ever
23 eaten a piece of pizza, I'm sure everybody's eaten
24 something hot, and you burn the roof of your mouth or bit
25 the side of your cheek, typically in about a day or two,

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1 it is healed. And that's kind of what the tissue is like
2 in your genital and anal area.

3 If there had been an injury -- and I haven't
4 seen her over the 72-hour period -- the likelihood is
5 that that injury probably would have been healed by the
6 time I was seeing her for her exam. As well as also when,
7 you describe -- I believe you used the word penetration;
8 is that correct?

9 Q. Yes.

10 A. Penetration doesn't have to be completely the
11 penis going into the vaginal ball, into the anus or into
12 the mouth. It has to be just simply -- like when we are
13 talking about the vaginal area -- spreading of what we
14 call the labia, which are the two kind of, I guess
15 probably the best way, little folds slips on the front of
16 your --

17 Q. Would it be helpful for you to draw that?

18 A. Yes. I'm not an artist, so please bear with me.
19 So if this is kind of how -- the way I'm looking at when
20 I'm examining. These are legs, your buttocks here. This
21 is not drawn to scale, but obviously this would be the
22 top, kind of what we would consider your vagina, where
23 you normally would have hair here, your pubic hair.
24 Right here you would have your urethra and then you have
25 your vaginal opening here. And you have these folds

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1 right here that are your labia that kind of cover it.
2 And so for there to be penetration, we consider
3 penetration doesn't have to go all the way back into here
4 into the vaginal ball, just has to be spreading of these
5 tissues touching the mucosal tissues.

6 Q. Could you also describe -- we've heard of hymen,
7 and I think there is a common conception that you can
8 tell if someone has had sex by looking at their hymen.
9 Can you explain that?

10 A. Yes. I get these calls a lot from parents, they
11 want me to examine their child and see if they are
12 sexually active, which you can't actually do when -- one
13 of the common myths is -- this is your vaginal opening
14 right here. One of the common myths is that the tissue
15 of your hymen, is this tissue that covers across right
16 here, and the first time that you have sex, you break
17 that, and then you have bleeding, kind of the slang, pop
18 the cherry.

19 THE COURT: Keep your voice up.

20 THE WITNESS: I'm sorry. Do you need me to
21 repeat that? Do you her to repeat that?

22 THE COURT: Did the court reporter get that?

23 THE COURT REPORTER: Yes.

24 THE WITNESS: So that's actually a myth. And
25 I'm just going to get my finger here. So, actually, it

Tracy William Halasz - Direct by Ms. Gordon 230

1 is the tissue -- again, this is not real to scale. It is
2 cell tissue that just circles around the edges here. So
3 that if I was actually looking at this, I could see all
4 the way back to her vaginal ball to her cervix, the
5 opening where it starts to her uterus. And we describe
6 them and also look at them at development with puberty as
7 well, and we describe them differently. Hers, I believe
8 I described it was smooth and crescentic, which is shaped
9 like this, kind of looks like a moon shape. Okay? So
10 the edges are nice and smooth.

11 And we see this before kids go through puberty.
12 And as they go through puberty, they get this increase of
13 estrogen. So then it actually begins to look like this,
14 nice little folds around here. And there's a lot of
15 elasticity with it that you can see.

16 BY MS. GORDON:

17 Q. And for her you said she was Tanner Stage II and
18 so did hers look like that?

19 A. Hers was smooth. And if I draw it over here, it
20 was smooth, like crescentic like this. So it kind of was
21 smooth right there and she didn't have any signs of
22 estrogen on her exam.

23 Q. Had she started menstruation?

24 A. No, she had not, I don't believe so.

25 Q. Now, Ms. Williams, you said --

Tracy William Halasz - Direct by Ms. Gordon 231

1 THE COURT: Are you through?

2 THE WITNESS: Yes. I was just looking on there
3 to make sure, yes.

4 BY MS. GORDON:

5 Q. You said that after 72 hours, it is unlikely
6 that you would be able to collect evidence where you can
7 see an injury. If that's said, why do you all even do an
8 exam on a child like this?

9 A. To assess and make sure everything looks nice
10 and healthy, there are no old signs of old injuries that
11 have not yet healed, as well as we also check for
12 infection. And then also with kids, it is really
13 important, especially after something has happened to
14 them, to reassure, let them know their body is okay.

15 MS. GORDON: The Court's indulgence.

16 BY MS. GORDON:

17 Q. Do you know if the child had a forensic
18 interview before your exam or was she scheduled to have
19 one after?

20 A. Typically, they have them before they have any
21 medical exam, but in this particular case, looks like she
22 had her medical exam and then she had her forensic
23 interview.

24 MS. GORDON: Nothing further. If you will
25 answer any questions Mr. Howe has for you.

Tracy Williams Halasz - Cross by Mr. Howe 232

1 CROSS-EXAMINATION

2 BY MR. HOWE:

3 Q. I've been given -- I think what you have is
4 probably this. Are we on the same sheet of papers,
5 right?

6 A. Yes.

7 Q. So when Minor came to see you, do you remember
8 about what time day it was?

9 A. I do not recall.

10 Q. But it was before the interview with Molly
11 Wharton, if I got the name right?

12 A. Yes.

13 Q. And she had some family members with her?

14 A. Yes.

15 Q. And do you remember who they were? Can you look
16 at your notes and tell me?

17 A. Yes, she presented with -- do you want me to say
18 the name? I have father.

19 Q. Relationship is fine.

20 A. Father, and then during the medical exam, I have
21 noted her aunt was present during that time.

22 Q. Okay. So her father came and her aunt was sort
23 of in the room and that would be to give her
24 reassurance?

25 A. Yes. And that's not unlikely. A lot of times,

1 especially if she presents with the opposite sex, that
2 there's somebody available that -- yes.

3 Q. So better to have a female than a male for that?

4 A. Yes, yes.

5 Q. And you are supervising her on a number of
6 levels, correct?

7 A. Correct.

8 Q. And one of the things you got is a history,
9 correct?

10 A. Correct.

11 Q. One of the things you've got is sort of an, I
12 guess, symptom exam of past history in terms of what you
13 know about her generally?

14 A. Uh-huh.

15 Q. And how she's been doing psychologically?

16 A. Correct.

17 Q. And then how she's been doing physically?

18 A. Correct.

19 Q. Get history on that, all history still?

20 A. Uh-huh.

21 Q. And then you get to your exam, which is actually
22 looking and --

23 A. Correct.

24 Q. But you want as much information as you can;
25 that's part of your protocol as a nurse practitioner for

1 this kind of case?

2 A. Correct, uh-huh.

3 Q. Now, what kind of -- what history did you get
4 about her background?

5 A. I guess initially I got history, that was
6 provided by at some point, police department as to why
7 she was being referred.

8 Q. Okay. And how about any, I guess, more remote
9 history?

10 A. I spoke with the father as far as the reason
11 that she was presenting as well, what their concerns,
12 allegations were. We typically do like, a pertinent past
13 medical history which involves like, any history of any
14 burns, broken bones, head injuries, poison exposure,
15 prior pregnancy, prior abuse allegations.

16 Q. And there had been some -- she had been -- you
17 knew she had been removed from her home before?

18 A. Correct.

19 Q. And I don't want to get too far ahead. I'm
20 looking on, looks like, the second page.

21 A. Can you tell me on the bottom where it says --

22 Q. Says 4 of 4. That's where I was messed up, and
23 I'm looking at number 3, impressions.

24 MS. GORDON: Can you show me?

25 THE WITNESS: I don't have a Page 4 of 4.

1 BY MR. HOWE:

2 Q. All right. Then let me see what the front of
3 yours looks like. I've got that. Second page?

4 A. Second page looks like this.

5 Q. Oh. Okay. I think I'm with you now. And then
6 so that has -- that's your pertinent past medical
7 history?

8 A. Yes, that was what I was reading about the
9 burns, fractures.

10 Q. And then next page, hope I've got the right
11 page, pertinent family history?

12 A. Correct.

13 Q. Okay. What did you find that was pertinent
14 there?

15 A. There was a prior involvement with DSS and law
16 enforcement that was reported.

17 Q. And what was that?

18 A. Can I read what it has on here? 17-year-old
19 sister, Brittany Freeman, ran away while he was at work;
20 physical abuse and sexual abuse allegations unfounded.

21 Q. Okay. And apparently there was some running
22 away?

23 A. Yes.

24 Q. Okay. And then there's review of symptoms of
25 behavioral --

Tracy Williams Halasz - Cross by Mr. Howe 236

1 A. Uh-huh.

2 Q. And you've got kind of a list: Having
3 difficulty sleeping, correct?

4 A. She did not report having difficulty sleeping,
5 but that is on the list.

6 Q. Right. Right. You have a whole list of things
7 you go over?

8 A. Yes.

9 Q. And I'm assuming this list is because those are
10 typical things you look for?

11 A. Those are some things that can stand out as far
12 as when there's concerns for allegations of abuse or
13 neglect, but not necessarily all of --

14 Q. I understand, but you've got a good list of them
15 and you want to make sure you go through that list?

16 A. Correct, which I did.

17 Q. Sleeping; any problems sleeping?

18 A. No.

19 Q. Any problems cleaning or wiping?

20 A. No.

21 Q. Any problems fearful of being left alone?

22 A. No.

23 Q. Any problems sad or crying easily?

24 A. No.

25 Q. Any problems with being quiet or withdrawn?

1 A. No.

2 Q. Any problems hitting, biting? I guess that's
3 for little kids hopefully.

4 A. Yes.

5 Q. Okay.

6 A. The answer is no but, yes, that is correct.
7 Sorry.

8 Q. Hadn't run away from home?

9 A. No.

10 Q. Hadn't tried to hurt herself?

11 A. No.

12 Q. Not doing poorly in school?

13 A. No.

14 Q. No drinks, nothing about alcohol, drugs,
15 sexualized behavior, any of those other things?

16 A. No.

17 Q. And then there's another box that says other.
18 Is there anything else that might have been on somebody's
19 radar?

20 A. Uh-huh.

21 Q. And was anything else on anybody's radar?

22 A. It's blank.

23 Q. And so the box that you checked up on, X'd off
24 was: No behavioral changes identified?

25 A. Correct.

Tracy Williams Halasz. - Cross by Mr. Howe 238

1 Q. Then on the next page, there's a physical review

2 of symptoms. I got the ROS, right?

3 A. Yes, yes.

4 Q. First I've got to ask you, what is dysuria?

5 A. Painful burning when you pee or urinate.

6 Q. Could be a sign of urinary tract infection?

7 A. Correct, could be.

8 Q. There was none of that, correct?

9 A. Correct.

10 Q. No bedwetting?

11 A. No.

12 Q. No urinated tract infections?

13 A. No.

14 Q. Constipation?

15 A. No.

16 Q. No swelling of underpants?

17 A. No.

18 Q. No change in appetite?

19 A. No.

20 Q. No frequent stomach aches?

21 A. No.

22 Q. No frequent headaches?

23 A. No.

24 Q. No genital itching?

25 A. No.

Tracy Williams Halasz - Cross by Mr. Howe 239

1 Q. No anal itching?

2 A. No.

3 Q. No genital pain?

4 A. No.

5 Q. No anal pain?

6 A. No.

7 Q. Genital bleeding?

8 A. No.

9 Q. Anal bleeding?

10 A. No.

11 Q. Vaginal discharge?

12 A. No.

13 Q. And you also have another box there for "other",

14 and it says, specify; so that's basically your catch-all.

15 Was there anything else?

16 A. Correct.

17 Q. And was there anything else?

18 A. No, sir.

19 Q. All right. So your exam was negative pertinent

20 physical review of symptoms?

21 A. Correct.

22 Q. Now, the allegations are -- let's say the

23 involvement of the authorities had apparently come up the

24 night before; are you aware of that?

25 A. I don't know that -- I have to look back to the

1 history. I don't know that I knew as far as like, the
2 night before.

3 Q. Oh. But the police were involved before they
4 got to you?

5 A. Correct. I mean, that's who referred, I guess,
6 as far as to the center, yes.

7 Q. All right.

8 A. I do know that much.

9 Q. And you are part of the process?

10 A. Correct.

11 Q. And Minor knew you were part of the process?

12 A. I can't speak for that.

13 Q. Okay. What did you tell her about what you were
14 going to do for her and what your role was?

15 A. Typically when I meet with children, I explain
16 to them that my job is to check and make sure that their
17 body is nice and healthy. I let them know I'm going to
18 do a full head-to-toe exam, like I said, look in their
19 eyes, ears, nose, throat, look in the lungs. And part of
20 the exam is I do have to look at their genitals and anal
21 area. And I use terms that she would use.

22 Q. And apparently at some point you did ask her
23 directly had anybody touched her or done anything?

24 A. Correct.

25 Q. And what did she tell you?

Tracy Williams Halasz - Cross by Mr. Howe 241

1 A. Can I read on here as far as what --

2 Q. Just tell me what you told her.

3 A. Okay. Well, I asked as far as if anyone ever
4 touched or hurt her in her private area that she didn't
5 want to, and she was guarded and said no.

6 Q. Okay.

7 A. And typically I will ask those questions while
8 I'm doing the exam of the genital area and anal area.

9 Q. She knew what you were talking about?

10 A. Yes.

11 Q. There wasn't any miscommunication about what you
12 were asking about?

13 A. I don't think so, no.

14 Q. Now, there's a page, it looks like 10 of 12, one
15 of the diagrams here?

16 A. Yes.

17 Q. And it's got a picture of the body?

18 A. Correct.

19 Q. And it's got a picture of kind of what you drew
20 up a little bit?

21 A. Yes, that's much better than my picture.

22 Q. I don't know. But anyway, it says: Any
23 findings or comments; you marked zero?

24 A. Yes, in the top part.

25 Q. And is there anything drawn on anything there

1 that was of significance about her area?

2 A. No.

3 Q. And that was your conclusion and that's what you
4 reported?

5 A. Correct.

6 Q. Are there times when a child her age has had
7 sex, even if it has been awhile, are there times when you
8 notice physical changes in the hymen?

9 A. Can you repeat the question?

10 Q. Sure. Are there times when -- let's say it is
11 not Minor. Let's make up a Sally. Okay? Sally comes
12 to you. She's general age of Minor, about, but she's
13 been fairly sexually active. Okay?

14 A. Uh-huh.

15 Q. Would you expect to see the same kind of hymen,
16 different kind of hymen, or are there sometimes tears,
17 wears? What physical signs can there be? Does that make
18 sense? Do you see where I'm going?

19 A. Yes, it's a wide range of questions. I mean,
20 obviously every -- I don't know how to say this.

21 Q. Every person is different?

22 A. Every vagina you look at looks different,
23 differently, depending on too-also, every 11-year-old has
24 different levels of pubertal development. So that there
25 can be the difference in looking and what the tissue is.

1 Have I seen as far as kids that have had findings as far
2 as -- yes, I have.

3 Q. Sure. Okay. And what kind of findings would
4 you find?

5 A. I think that's kind of --

6 Q. Give me a top three examples.

7 A. Wide variety. I've seen kids that have had
8 injuries following allegations of sexual abuse and
9 neglect. I've seen children as far as, that are known
10 typically -- they are a lot much older than 11 years of
11 age, that are sexually active that might have some
12 changes in their hymenal tissue, is what I described.

13 Q. And there's no typical -- you can't give me an
14 idea of what a typical result would be to a typical young
15 lady's hymen area if she was having vaginal
16 intercourse?

17 A. I don't see there's a typical. I see tons of
18 kids that tell me that they are sexually active and have
19 completely normal exams. And there's no -- I have seen
20 kids as far as -- can I?

21 Q. Sure.

22 A. -- as far as, that are sexually active that are
23 much older when they have kind of this hymen we see here
24 because there's lots of -- a lot of elasticity where
25 there might be more like, a shallow area of hymen there

Tracy Williams Halasz - Redirect by Ms. Gordon 244

1 in that area, if that makes sense.

2 Q. The bottom line is hers was normal?

3 A. Correct, yes.

4 Q. And when you asked her had anybody been touching
5 her down there, she told you no?

6 A. Yes, she told me no. She was guarded during
7 that time.

8 MS. GORDON: I understand. Thank you very much.

9 THE COURT: Anything on redirect?

10 REDIRECT EXAMINATION

11 BY MS. GORDON:

12 Q. Yes, your Honor. Ms. Halasz, you used the term
13 "touch her there."

14 A. Yes.

15 Q. Did you ask --

16 A. Actually, I will tell you exactly what I said.
17 I said "ever touched or hurt."

18 Q. You didn't specifically ask her about what
19 happened with George White?

20 A. No, that's not my practice. I never would
21 typically ask a direct question like that.

22 Q. And did you ask her anything about whether or
23 not someone's private part had been in contact with her
24 private part?

25 A. No, I did not.

Tracy Williams Halasz - Redirect by Ms. Gordon 245

1 Q. Do you know what it means to be a concrete
2 thinker?

3 A. Yes.

4 Q. Can you explain that to the jury?

5 MR. HOWE: I think that's a little beyond the
6 scope of a nurse practitioner. I don't know where we are
7 heading.

8 THE COURT: I appreciate that. I overrule the
9 objection. I will allow it.

10 THE WITNESS: Probably I guess the best way,
11 concrete is very black and white. Like, I'm trying to
12 think of the best way to articulate. Not really -- I
13 guess concrete, not being able to think abstractly.

14 BY MS. GORDON:

15 Q. Can you give an example?

16 A. That's what I'm trying to think. Concrete, you
17 know, when we talk to kids, when I talk to kids --

18 THE COURT: Don't make it case-specific. How
19 would you define concrete thinking or concrete actions in
20 a person?

21 THE WITNESS: Very literal, to take it what it
22 is.

23 BY MS. GORDON:

24 Q. In your questions?

25 A. Yes.

Tracy Williams Halasz - Recross by Mr. Howe 246

1 Q. How common or uncommon is it for you to find a
2 physical injury to a child who has reported being
3 sexually abused or sexually active?

4 A. Can you repeat the question, I guess?

5 Q. How common or uncommon is it for you to have a
6 physical finding of having had some type of sexual
7 conduct?

8 A. It's usually uncommon to have a physical
9 finding. It is often -- more often that we see kids that
10 they have, after they disclose -- even children that I've
11 seen that have been witnessed or the person that is
12 doing -- done something to them has admitted to it, they
13 typically have had normal exams.

14 MS. GORDON: That's all, your Honor.

15 RECROSS-EXAMINATION

16 BY MR. HOWE:

17 Q. As you said, you tried to put it in terms she
18 would understand when you were talking to her and asked
19 the question?

20 A. The question, yes. Sorry. Sorry.

21 Q. One of the parts of the question at least was,
22 did anyone hurt you here, wasn't it?

23 A. Yes, I said, has anyone ever touched or hurt her
24 private area.

25 Q. And hurt is pretty concrete, easy term for a

Tracy Williams Halasz - Recross by Mr. Howe 247

1 child, don't you think?

2 A. I would think so.

3 Q. Okay. And she said no to hurt?

4 A. Correct.

5 THE COURT: Thank you. You can return to your
6 place and be excused.

7 MS. GORDON: We ask she be excused.

8 THE COURT: Thank you for coming. You are free
9 to go. Call your next witness.

10 MS. GORDON: The State calls Christine White.

11 CHRISTINE WHITE,

12 having been duly sworn, testifies as follows:

13 THE CLERK: Please state your full name,
14 spelling your last name.

15 THE WITNESS: My name is Christine White,
16 W-h-i-t-e.

17 DIRECT EXAMINATION

18 BY MS. GORDON:

19 Q. Ms. White, how are you doing today?

20 A. I'm getting better.

21 Q. Ms. White, are you related to George White?

22 A. Yes, I'm his wife.

23 Q. And how long have you been married?

24 A. Since 19 --

25 Q. Since 1992?

Christine White - Direct by Ms. Gordon

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1 A. Yes, ma'am.

2 Q. And do you know a child by the name of Minor.

3 ?

4 A. Yes, ma'am.

5 Q. Did you know -- what kind of work did your
6 husband do?

7 A. He was a contractor.

8 Q. And do you know if he did some work for the
9 family, for Minor's family?

10 A. Yes.

11 Q. Did he do other things with Minor
12 other than do work at her family's house that you know
13 of?

14 A. He took her to church.

15 Q. And did he take her to church? Were you always
16 with him when he took her to church?

17 A. No.

18 Q. Do you recall him going to her birthday party?

19 A. Yes.

20 Q. What did you have to do in regards to that?

21 A. I just made the gift bags and wrapped the gifts.

22 Q. Who asked you to get the gifts?

23 A. Well --

24 Q. Who asked you to get the gifts for Minor?

25 A. Well, it was my idea to get some of the gifts

1 and it was George's idea too.

2 Q. Was he close with Minor?

3 A. Well, I figure since he was working there and he
4 did a lot of things for the family that, I guess, you
5 know, it's the child's birthday party.

6 Q. Did you go to the birthday party?

7 A. No, I was sick.

8 Q. I want to show you some pictures.

9 (State's Exhibit 16, Photograph, was marked
10 for identification.)

11 BY MS. GORDON:

12 Q. I'm showing you State's Exhibit 16. Ms. White,
13 do you recognize that picture; what is that?

14 A. That is his van.

15 Q. How do you know that's his van?

16 A. Because you see the license plate on the front
17 and the bumper is kind of off-colored in a section. I
18 know that's his van.

19 Q. We move State's Exhibit 16 into evidence.

20 MR. HOWE: Without objection, your Honor.

21 (State's Exhibit 16 is moved in evidence.)

22 BY MS. GORDON:

23 Q. Also going to show you what has been entered as
24 State's Exhibit 4; do you recognize that?

25 A. It looks like the inside of the van.

1 Q. Were you aware of the bed that he had in the
2 back of the van?

3 A. Well, that really wasn't originally a bed. It
4 was to put his -- like, he's got a circular saw and he's
5 got this equipment to put tile in walls and floors and
6 stuff. And naturally, that's what that was for. So he
7 went down the road because all of this on the side has
8 shelves, metal shelves, and so it was so big equipment,
9 could go sit up there without sliding all over the place.

10 Q. I know this is a personal question. Did you
11 ever have any sexual relations with George in that van?

12 A. No.

13 MS. GORDON: Court's indulgence. Nothing
14 further from this witness, your Honor.

15 CROSS-EXAMINATION

16 BY MR. HOWE:

17 Q. Just a couple of questions. Ms. White, I'm
18 going to call you Chris. We've known each other quite
19 awhile, haven't we?

20 A. Yes.

21 Q. Know each other from a cousin of mine in the
22 movie business, haven't we?

23 A. Yes.

24 Q. You've apparently been pretty under the weather.
25 You have to answer out loud. She can't write a nod of

1 the head.

2 A. Yes.

3 Q. I know you have some chronic obstructive
4 pulmonary problems.

5 A. Yes.

6 Q. And had pretty bad acute stuff going on;
7 correct?

8 A. Correct.

9 Q. And had to go to the ER?

10 A. Yes.

11 Q. Last weekend you've been pretty much in bed?

12 A. Yes.

13 Q. So you crawled out of bed to get here today?

14 A. Yes.

15 Q. All right. How long -- when did you and George
16 get married?

17 A. We got married in 1998.

18 Q. And how did you meet George?

19 A. He was driving a bus, a Greyhound bus.

20 Q. And you were taking a trip on the bus?

21 A. Yes, I caught the bus in Wilmington and he was
22 coming back toward Charleston.

23 Q. And you all just hit it off?

24 A. Yeah. I mean, talked to each other for several
25 weeks before we, you know, started dating and that.

1 Q. And George is a contractor, correct?

2 A. Correct.

3 Q. That's his working van, isn't it?

4 A. Yes.

5 Q. All right. And as you said, that area on the --
6 in this picture, I'm just going to hold it up -- it's got
7 chains?

8 A. Uh-huh.

9 Q. That was built as a work bench?

10 A. Yes.

11 Q. Now, were there any curtains in the van?

12 A. Yes, there is.

13 Q. What is the purpose of the curtains?

14 A. Because he had so many tools in there that we
15 were afraid maybe somebody -- you could see in the front
16 what's in the back and you could see in the back what's
17 in the front, so we just put curtains there to protect
18 his -- the van was full of tools.

19 Q. That's his livelihood, isn't it?

20 A. Right.

21 Q. Now, was there a time where he went out to
22 Arizona in the van?

23 A. Yes.

24 Q. And when was that in relation to when he was --
25 when this incident came about; do you remember about when

Christine White - Cross by Mr. Howe

253

1 it was?

2 A. It was in November. He took the whole month and
3 went to Arizona to see his sister.

4 Q. All right. And --

5 THE COURT: November of what year; do you know?

6 THE WITNESS: 2008, I think.

7 BY MR. HOWE:

8 Q. Okay. But the November before he got
9 arrested?

10 A. Yes.

11 Q. Okay. And what kind of -- did he take some
12 things with him on the trip?

13 A. Oh, yeah, he took a sleeping bag and he
14 took a -- the camping equipment, you know, little heaters
15 and pots and dishes because he was -- he wasn't going to
16 stay with his sister in the house. He was just going to,
17 you know, sleep in the van.

18 Q. Did you have any understanding of where he would
19 sleep in the van?

20 MS. GORDON: Objection, your Honor, speculation.

21 THE COURT: Ask another question.

22 BY MR. HOWE:

23 Q. How big is this work bench shelf?

24 A. I don't know how to measure too well, but I know
25 that I stood in the van and I had to lean over. Like,

1 this top of the van is right here and that board bench
2 was -- it comes up to here.

3 Q. Okay.

4 A. And to sit on it, it would be up to here, so I
5 don't know how in distance or inches what that is.

6 Q. How about, how long is it? If you laid down on
7 it, would you go over the end?

8 A. If I laid down on it, I would choke to death on
9 the chains because it is not very wide.

10 Q. I get the family part people mixed up, but maybe
11 Minor's brother or cousin that actually worked with
12 George for awhile, were you aware of that, that he did
13 some work with him or some relative?

14 A. Cousin was a young boy.

15 Q. In his teens?

16 A. Ann -- is that her name? Ann's son.

17 Q. Right, he worked with George some?

18 A. Yes.

19 Q. And you all had known these guys, as I say,
20 through another life? You realized there was a
21 connection between these people that apparently came up
22 later through your side of the family; is that right?

23 A. Yeah. Well, through marriages. See, I wasn't
24 really close to these people, Minor and her family.

25 Q. Right.

1 A. It is because they are -- they married into a
2 family and that -- I married into the family and,
3 therefore -- well, I can't explain this. My aunt married
4 into the family which made me indirectly related to them.

5 Q. As you say, there was a connection, but not
6 worry about the details. Fair enough. All right. And
7 would they sometimes call George to come over there and
8 fix things?

9 A. Oh, yeah.

10 MS. GORDON: Objection, your Honor, hearsay.

11 THE COURT: Well, do you know yourself?

12 BY MR. HOWE:

13 Q. Did you ever answer the phone?

14 A. Yes.

15 Q. Okay. And what were your personal experiences
16 on answering the phone with anybody from that household?

17 A. The grandmother called one night at ten o'clock
18 at night and expected my husband --

19 MS. GORDON: Objection, your Honor, hearsay.

20 THE COURT: Well, you are talking about what she
21 said to you, that's what he's wanting to know.

22 THE WITNESS: She wanted to know if my husband
23 would come --

24 MS. GORDON: Your Honor, objection. What I'm
25 saying is hearsay.

Christine White - Cross by Mr. Howe

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1 THE COURT: I will allow it.

2 THE WITNESS: She called and she wanted my
3 husband to come over and fix the thermostat at ten
4 o'clock at night because the children were cold.

5 BY MR. HOWE:

6 Q. Okay.

7 A. And I told him no.

8 Q. Okay. And did you answer any other phones or
9 have any other calls?

10 A. Yes, they called several times. I mean, they
11 would call on Sundays. They would call, you know, two or
12 three times a week, and usually they would talk to
13 George. And there was another time too.

14 Q. And do you remember what the specifics on that
15 were?

16 A. Yeah. She called one Saturday when we were --
17 7:30 in the morning, and wanted my husband to come over
18 because she felt like there was a pipe that blew up or
19 something and there was water all in front of her big
20 screen TV.

21 MR. HOWE: Okay. Hang on just one second.

22 I think that's all the questions I have. Thank
23 you very much.

24 THE COURT: Any other questions?

25 MS. GORDON: No, your Honor.

Christine White - Cross by Mr. Howe

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1 THE COURT: Thank you very much. Appreciate it.

2 You may step down. Do you want to excuse her?

3 MS. GORDON: Sure. Yes, your Honor.

4 THE COURT: Thank you for coming. You are free

5 to go. Call your next witness.

6 MS. GORDON: State calls Tammy Tanner.

7 TAMMY TANNER,

8 having been duly sworn, testifies as follows:

9 THE CLERK: State your full name, spelling your
10 last name for the record.

11 THE WITNESS: My name is Tammy Sue Tanner,
12 T-a-n-n-e-r.

13 DIRECT EXAMINATION

14 BY MS. GORDON:

15 Q. Ms. Tanner, how are you doing today?

16 A. Good.

17 Q. Ms. Tanner, can you tell the ladies and
18 gentlemen of the jury where you live?

19 A. I live at Address .

20 Q. And is that downtown Charleston?

21 A. It is downtown, uh-huh.

22 Q. And can you describe for them where you live on
23 Street in relation to where Street would
24 be?

25 A. Okay. Street is -- if you go out of my house,

Tammy Sue Tanner - Direct by Ms. Gordon

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1 it is a half block to the left.

2 Q. Does Street and Street
3 intersect?

4 A. Yes, they do.

5 Q. Now, did you know the defendant, George White?

6 A. Yes, I do.

7 Q. Tell me how you knew him.

8 A. My father owns several houses and he came to do
9 handiwork.

10 Q. I'm going to show you a picture. Do you
11 recognize that? Can you see it?

12 A. I can't see it that well. Oh, yeah, that's the
13 house next-door to me.

14 Q. So you live right next-door to this house?

15 A. Yes.

16 Q. That's Address ?

17 A. Correct.

18 Q. And who owns that house?

19 A. My father.

20 Q. And you said -- I believe you said George White
21 did some work for your father?

22 A. Right.

23 Q. Did he ever work at that house?

24 A. Yes, he did.

25 Q. Was he working at that house back late 2007

1 early 2008?

2 A. Yes.

3 Q. Did you ever go in that house during that time?

4 A. Sure.

5 Q. What was the status of the house at that time?

6 A. Well, it was vacant and he was redoing the
7 kitchen.

8 Q. Was there any furniture in there?

9 A. No.

10 Q. Did you ever see Mr. White there at a time that
11 was unusual?

12 A. Yes.

13 Q. Tell me about that.

14 A. Well, I believe it was on a Sunday, and I saw
15 his van parked across the street, which he only worked on
16 the houses Monday through Friday. And I thought it was
17 very unusual. So I looked all around the yard, couldn't
18 find him, couldn't find him. And I was sitting in the
19 front room. I could see out the front door and I saw him
20 and a little girl coming out of that house right there.
21 And so I knew where he was then, in the house.

22 Q. Did you say anything to him when he came out of
23 the house?

24 A. No. I believe he's the one that said to me, oh,
25 we were in the house making a box for her sister's

Tammy Sue Tanner - Direct by Ms. Gordon

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1 birthday.

2 Q. Are you familiar with the dog that lives across
3 the street from the house?

4 A. Uh-huh.

5 Q. What do people call that dog?

6 A. The wolf dog.

7 Q. And has that dog been there a long time?

8 A. Oh, yeah.

9 Q. Is he still there?

10 A. Yes.

11 Q. Do people ever come see him?

12 A. Yeah, uh-huh.

13 Q. Did you see Mr. White and the little girl
14 interact with the dog that day?

15 A. After he spoke to me, the van was parked right
16 there in front of the wolf dog, and they did go there and
17 feed the dog or talk to the dog. I'm not sure, but they
18 were with the dog.

19 Q. You said this was on a Sunday?

20 A. Uh-huh.

21 Q. How long was it after you saw his van outside --
22 did you see him pull up?

23 A. No.

24 Q. At some point you saw his van out there?

25 A. Uh-huh.

Tammer Tanner - Cross by Mr. Howe

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1 Q. You didn't see him enter the house?

2 A. No.

3 Q. How long after you noticed his van there was it
4 before he came out?

5 A. Probably 30, 45 minutes.

6 MS. GORDON: Nothing further, your Honor.

7 CROSS-EXAMINATION

8 BY MR. HOWE:

9 Q. Good afternoon, Ms. Tanner. My name is Donald
10 Howe. I have a couple questions for you.

11 A. Okay.

12 Q. It sounds like the dog is kind of like a
13 neighborhood item almost?

14 A. Right.

15 Q. Wolf dog?

16 A. Right.

17 Q. Is it?

18 A. Yes.

19 Q. And that's, I guess, just because it looks that
20 much like a wolf?

21 A. Yes.

22 Q. And other people go by and feed and stuff, so it
23 is kind of like the neighborhood thing to visit?

24 A. Well, kind of, if he's not barking at you.

25 Q. Fair enough. And the particular day that you

Tammer Tanner - Cross by Mr. Howe

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1 were talking with Mr. White, apparently he and a little
2 girl came out of the house, and it was after that they
3 went over and saw the dog?

4 A. Right.

5 Q. How long were they milling about or whatever you
6 want to call it with the dog?

7 A. I would say about five minutes.

8 Q. All right. Were they feeding it or patting it?

9 A. I couldn't see.

10 Q. Where were you? Where were you? Did you walk
11 out to him?

12 A. No, I was on my front porch.

13 MR. HOWE: Okay. That's all the questions I
14 have. Thank you very much.

15 THE WITNESS: Thank you.

16 THE COURT: All right. Thank you very much.

17 You can step down. Excuse her. Thanks for coming. You
18 are free to go.

19 MS. GORDON: Your Honor, may I have one minute
20 to see if our witness from Columbia has arrived?

21 THE COURT: Sure.

22 MS. GORDON: She's here. Just wanted to make
23 sure. I told her two o'clock.

24 MS. GORDON: The State calls Amanda Webb.

25

Amanda Webb - Direct by Ms. Gordon

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1 AMANDA WEBB,
2 having been duly sworn, testifies as follows:

3 THE CLERK: Please have a seat and state your
4 full name, spelling your last name for the record.

5 THE WITNESS: Amanda Carrie Webb.

6 DIRECT EXAMINATION

7 BY MS. GORDON:

8 Q. Ms. Webb, where are you employed?

9 A. With the South Carolina Law Enforcement
10 Division.

11 Q. And what is your position there?

12 A. I'm a forensic DNA analyst.

13 Q. How long have you been employed by SLED?

14 A. Little over five years.

15 Q. And to become a forensic analyst for SLED, do
16 you have to have an educational background in that area?

17 A. Yes, that's correct.

18 Q. What is your educational background?

19 A. I have a Bachelor of Science in forensic
20 chemistry, and I also have a Master of Science in
21 forensic science.

22 Q. Do you have additional training in the area of
23 forensic and DNA analysis?

24 A. Yes. After completing my educational degrees,
25 once I was hired on to SLED, I had training that I went

1 through for about a year and a half before I started
2 doing my own independent casework.

3 Q. As part of that, do you also do forensic
4 serology?

5 A. Yes, that's correct, I do.

6 Q. And what's the difference between serology and
7 DNA testing?

8 A. Serology is identification of body fluids, but
9 particularly the ones that we have interest in at SLED,
10 and test for, are semen, saliva and blood, and then DNA
11 analysis, attempting to get a DNA profile from an
12 evidentiary item from a crime scene, and also we extract
13 DNA from known samples, and those known samples can be
14 from victims and/or suspects and you compare the DNA
15 profile developed from any evidence items to a victim or
16 suspect, then you can say whether someone matches or does
17 not match.

18 Q. How many -- could you estimate how many times
19 you've performed serology testing while employed at SLED?

20 A. Probably on about 500 or so cases.

21 Q. And what about DNA testing?

22 A. About 600 cases.

23 Q. Have you ever been qualified as an expert in the
24 field of serology and DNA testing?

25 A. Yes, I have.

Amanda Webb - Direct by Ms. Gordon

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1 Q. How many times?

2 A. About 14.

3 MS. GORDON: Your Honor, at this time we would
4 offer Ms. Webb as an expert in the area of serology and
5 DNA analysis.

6 MR. HOWE: No objection, your Honor.

7 BY MS. GORDON:

8 Q. Ms. Webb, did you receive any evidence in the
9 case regarding George White?

10 A. Yes, I did.

11 Q. And can you tell the jury what you received?

12 A. I received a cutting from an item labeled as
13 Number 46 and a cutting from an item labeled Number 19,
14 and a cutting from an item Numbered 32.

15 Q. I'm going to show you what's already been
16 entered as State's Exhibit 12; do you recognize that?

17 A. Yes, I do. This is the pouch that I received
18 for analysis. It has the SLED lab number and it's also
19 been sealed and only opened by me. And it contains the
20 items that I just stated, the cuttings from 46, 19, and
21 32.

22 Q. When you received it, was it sealed?

23 A. Yes, it was.

24 Q. And then did you open them up?

25 A. Yes, I did.

1 Q. And I just want to be clear. You didn't receive
2 this -- I don't know if you can see -- the sheet and the
3 sleeping bag, they didn't send that to you for testing;
4 is that right?

5 A. That's correct. I only received the agency,
6 Charleston City PD, made cuttings and sent the cuttings
7 and that's what I received.

8 Q. Are you aware that those cuttings had tested
9 presumptive or indicative for semen?

10 A. Yes, that's correct.

11 Q. And then what kind of analysis did you do on
12 those items?

13 A. I also performed serology testing for semen on
14 these items.

15 Q. And what were the results of that?

16 A. On the cutting from Number 46, I got no semen
17 identified, so my test for semen was negative.

18 Q. Okay. And what about the other?

19 A. And Number 19.

20 Q. Yes.

21 A. Test for semen was positive, so I have semen
22 indicated. And the cutting from Number 32, my test for
23 semen was negative, and so no semen was identified.

24 Q. Can you determine like, who -- let me ask you
25 this. Does the body fluid deteriorate over time in your

1 ability to test it? Does that affect your ability to
2 test it?

3 A. Yes, it's possible the body fluid would
4 deteriorate over time. The semen is the fluid that
5 carries the sperm and the semen would deteriorate much
6 faster than the sperm, sperm or the little moving wiggly
7 things we see when we think of semen, and that's actually
8 what I get the DNA from. So the semen is the fluid that
9 carries the DNA and it travels much faster than the sperm
10 did.

11 Q. What happened when you did your analysis?

12 A. I did mine on July of 26, 2012, was when I did
13 the lab work. The actual write-up on my report was
14 August 31st of 2012.

15 Q. So that's a long time after they were collected?

16 A. I would assume so. I believe the incident date
17 for this is 2008.

18 Q. Now, does the semen itself contain DNA?

19 A. No, not the semen itself. It would be from the
20 sperm that has the DNA.

21 Q. Were you able to develop a DNA profile?

22 A. No, I was not.

23 Q. How is it possible that you could have human
24 semen and then not find DNA? We've all seen CSI, they
25 can find it from any --

Amanda Webb - Direct by Ms. Gordon

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1 A. Oh, absolutely. Well, when I have semen
2 indicated, it means that my tests for this one cutting,
3 cutting Number 19, the test said that it was positive for
4 semen. But, again, no DNA profile was developed. So
5 sometimes semen can be -- the test can also produce a
6 positive result for male urine or sometimes blood can
7 give that result. I wouldn't assume blood in this
8 instance because I didn't see a dark red or dark stain on
9 the fabric.

10 Q. Is it possible it is just not a sperm cell?

11 A. It is possible there is no sperm, that
12 oftentimes you can find semen and no sperm. Sometimes
13 people have a low sperm count or don't produce sperm, so
14 that's a possibility as well as. And again, I don't know
15 the conditions. I think it might have been -- as far as
16 what I can see from the incident report -- in a hot
17 vehicle. Sometimes heat can deteriorate DNA as well.

18 MS. GORDON: Thank you, your Honor. I have no
19 further questions from this witness. If you will answer
20 any questions Mr. Howe has for you.

21

22 CROSS-EXAMINATION

23 BY MR. HOWE:

24 Q. Did you say it just could have been urine?

25 A. Well, the test that I test for semen, it's been

1 known that sometimes male urine can produce a positive
2 result for that test, especially male individuals who
3 have heightened levels of a specific protein, and that
4 can be maybe male individuals who have prostate cancer,
5 that's one of the proteins they test for in prostate
6 exams.

7 Q. So the answer is yes?

8 A. It is possible.

9 Q. There's no way for you to know if it is one or
10 the other?

11 A. No way to know.

12 Q. You had three samples, correct?

13 A. Yes, I did.

14 Q. Two of them were no semen?

15 A. Correct.

16 Q. And one of them was possible semen, possible
17 urine?

18 A. Possible semen. I didn't do a test specifically
19 for urine, so I can't say.

20 Q. Can't rule it out?

21 A. Can't rule it out. It's a possibility.

22 Q. And let's assume somehow that -- well, whatever
23 body fluid it was, you don't know when it got on the
24 material, do you?

25 A. No, I don't.

Amanda Webb - Cross by Mr. Howe

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1 Q. You don't know where the material was when it
2 got on the material?

3 A. No, I don't.

4 Q. And you don't know whose it was?

5 A. No, I don't.

6 Q. And Ms. Gordon mentioned that there was maybe a
7 long time between 2008 when it was collected and July of
8 2012 when the lab work was done that may have had some
9 consequences; George White didn't do anything to cause
10 that delay, did he?

11 A. Not that I'm aware of.

12 MR. HOWE: Thank you. That's all I have.

13 THE COURT: Any other questions?

14 MS. GORDON: Nothing further, Your Honor.

15 THE COURT: Thank you very much. You can step
16 down.

17 THE WITNESS: Thank you.

18 THE COURT: We will excuse you. Thank you for
19 coming.

20 MS. GORDON: Your Honor, at this time I think we
21 have a matter of law to take care of.

22 THE COURT: Members of the jury panel need to go
23 to the jury room for a few minutes please. I will send
24 for you just as soon as I can.

25 (Whereupon, the jury leaves open court at 2:06

March 19, 2013

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1 tomorrow morning at 9:30. Leave your note pads with the
2 bailiffs as you leave. Again, you are not to discuss the
3 case with family friends or anyone else. Be back with us
4 tomorrow morning in the jury room back here 9:30. We
5 will get started just as soon as we can after that. Have
6 a nice evening.

7 (Whereupon the jury leaves open court at 3:07
8 p.m.)

9 THE COURT: All right. So you've got somebody
10 to put up now?

11 MS. GORDON: Her name is Molly Wharton, and let
12 me check and see if she's here.

13 MR. HOWE: Off the record.

14 (Off-the-record conference.)

15 MOLLY WHARTON,
16 having been duly sworn, testifies as follows:

17 MS. GORDON: Your Honor, one of the things you
18 have to do is look at this video. And I don't know if
19 you want to just do that. I don't know if you have to do
20 that with her here. I think you've got my copy of the
21 statute, but do you still have that?

22 THE COURT: I'm going to be looking at it at
23 some point. I've already looked at it a lot.

24 MS. GORDON: I don't have another copy with me
25 and I would like to be able to look at it too.

March 19, 2013

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1 THE COURT: We'll try to make a copy.

2 MS. GORDON: So that I've got every element,
3 could I get an extra copy?

4 THE COURT: We will get to the point we make one
5 somehow or another.

6 (Video Playing.)

7 THE COURT: All right. Thank you very much. We
8 will be back here tomorrow morning.

9

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March 20, 2013

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1 (Whereupon the proceedings continue on March
2 20, 2013).

3 THE COURT: All right. Let's see.

4 MR. HOWE: Judge --

5 THE COURT: I've got the transcripts supposedly.

6 MR. HOWE: I could report on the saga of the
7 transcript from yesterday. I called a court reporter who
8 I have worked with in the past, gave her a copy of the
9 video, and she took it home last night, finished around
10 ten o'clock. She did not have -- she called me in a bit
11 of a panic saying she would not be able to get it to me
12 with the Court's copy and the sealed stuff. But I handed
13 what she has given me as the original to the court
14 reporter. And I've made copies for us as we look at it
15 in-camera. They are still making the other 12 copies for
16 the jury now in my office.

17 THE COURT: 14 I hope. We've got 14.

18 MR. HOWE: Hang on. It will be 14 in just a
19 minute, Judge. Thank you. And I will have a motion at
20 that time, not to give -- because I want them to look and
21 not be reading, but we will take that up as we go ahead.
22 That occurred to me as I read the statute again this
23 morning.

24 THE COURT: Okay.

25 MR. HOWE: But we will take that up at that

March 20, 2013

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1 time. So I think --

2 THE COURT: All right.

3 MR. HOWE: -- at least we got the first part
4 down.

5 THE COURT: And I would expect to give some
6 instructions to them along the lines saying that when I
7 was watching this yesterday, I realized that I couldn't
8 hear it, and so I was afraid that they couldn't hear it.
9 And I asked about this, and we produced this. And
10 there's no guarantee that this is completely accurate.
11 There's really no guarantee that this is completely
12 accurate. It is still up to them to listen and watch and
13 to decide what is said. And just because it's in this
14 so-called transcript doesn't mean that that's accurate
15 and exactly what was said. They should listen, they
16 should watch, and they have to decide whether this is
17 what was said or not.

18 I mean, if they think it is something else, they
19 rely on their hearing rather than what somebody else says
20 was said, something along those lines.

21 But anyway, first of all, I've got to make these
22 other decisions and everything now. So how are you on
23 getting this going today.

24 MS. GORDON: We will see, Judge.

25 THE COURT: I'm going to go back there and tell

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1 the jury it is going to be about 15 or 20 minutes more.
2 I wanted to just tell them so they wouldn't think we
3 forgot about them.

4 MS. GORDON: It is 30 minutes.

5 THE COURT: Is that all right?

6 (Recess is taken.)

7 MS. GORDON: All right. We spent yesterday, I
8 don't know how much time we spent, and then we spent
9 about an hour today with this and we are not able to do
10 it, or at least that's what it appears to me, for
11 whatever reason. And how much more time do you want to
12 spend trying to get it where you could play it for the
13 jury?

14 MS. GORDON: Your Honor, I think it is vitally
15 important. I think it is admissible.

16 THE COURT: Answer my question. How much more
17 time do you want to try to get it where you can play it
18 for the jury?

19 MS. GORDON: Until I get it right.

20 THE COURT: Well, I'm not going to give you
21 that.

22 MS. GORDON: I can't punish the victim for
23 technical difficulties.

24 THE COURT: It is not punishment.

25 MS. GORDON: It is.

March 20, 2013

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1 THE COURT: I'm not punishing the victim or
2 anybody else. We've got to make a decision about whether
3 we are just going to sit here and keep on working on it
4 or whatever when it is not working. I don't know enough
5 about it to make any kind of technical judgment about it.
6 All I can say is we spent, you know, good bit of time, 30
7 minutes or more yesterday trying to do it, and we spent
8 an hour today trying to do it, and we haven't gotten it
9 done. So I'm looking at that.

10 Now, I'm looking at the statute and so forth and
11 everything. If you want to, you know, this becomes a
12 question of whether I should be an activist judge or just
13 a strike judge, you know, as far as the situation is
14 concerned. You know, of course, you can have -- and just
15 throwing this out there -- you can have an out-of-court
16 statement by a child that's not recorded, but is
17 testified to, you know, under these circumstances, one of
18 which is saying that audio recording equipment is not
19 available. Well, it is not that it wasn't available, it
20 just didn't work. And that's the equivalent of being not
21 available. I think I can make a finding of that, if I
22 found all the rest of the stuff, and I'm not saying that
23 I am. I'm saying if you want to consider using the
24 old-fashioned way of talking about an out-of-court
25 statement for us to move on, then, you know, you could do

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1 that.

2 MS. GORDON: Your Honor, I would suggest if this
3 doesn't work --

4 THE COURT: If you want to stop and take a few
5 minutes and confer, you are welcome to do that, but we
6 are not going to spend forever.

7 MS. GORDON: I understand, but if we can't get
8 this to work in the next few minutes, I would suggest we
9 bring just an old-fashion television, DVD player.

10 THE COURT: Do what you've got to do.

11 (Whereupon a recess is taken.)

12 (Whereupon the video is played outside the
13 presence of the jury.)

14 THE COURT: All right. I looked and heard
15 videos, so wanted to go through procedures as far as --
16 you want to discuss its admissibility, I guess?

17 MS. GORDON: Yes, Your Honor. And for that
18 purpose, we would called Molly Wharton.

19 THE COURT: Let me ask you this. I'm looking at
20 it and everything. You are going to introduce it through
21 her. And her testimony is -- of course, would have to be
22 as far as who she is in regard to it being an
23 investigative interview by a qualified person or
24 whatever.

25 MS. GORDON: Correct.

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1 THE COURT: Is there anything else about that?

2 MS. GORDON: The only thing related to the
3 admissibility that we would be asking her is whether or
4 not she has been trained in conducting an interview and
5 what kind of interview it was, was she there for the
6 purpose of investigating.

7 THE COURT: Okay. Do you have a question about
8 that, Mr. Howe, or not?

9 MR. HOWE: I'm thinking, Judge. Hang on one
10 second.

11 THE COURT: Why don't you tell me what you think
12 she's going to say about that.

13 MS. GORDON: Yes, Your Honor. Her name is Molly
14 Wharton. She is married and her last name is now Dadin.
15 And she would testify that she is a clinical -- licensed
16 social worker, that she has a master's degree in that,
17 that she previously worked at Lowcountry Children's
18 Center, she's now in private practice, that she's been
19 trained in the area of forensic interviewing of children.

20 THE COURT: So the questioning was not done by a
21 law enforcement officer? So what was she at the time she
22 did this?

23 THE COURT: That she was working with Lowcountry
24 Children's Center, which is where Charleston County
25 conducts child forensic interviews for children, that she

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1 was trained in how to do child forensic interviews, that
2 she took classes on that.

3 THE COURT: Slow down. Okay. Lowcountry
4 Children's Center is what?

5 MS. GORDON: That's the child advocacy center in
6 Charleston and they have an agreement with law
7 enforcement --

8 THE COURT: Do they?

9 MS. GORDON: -- that they do the interviews of
10 children who have suspected child abuse or sexual abuse.

11 THE COURT: Is that in writing, or is that just
12 something somebody -- that she's told you, somebody has
13 told you?

14 MS. GORDON: Well, I know there is a writing. I
15 have not asked her to bring that writing. Everybody that
16 works in that area, that's just sort of common knowledge,
17 but if you require a writing --

18 THE COURT: I didn't know that, because the
19 statute says, you know, or other professional
20 interview -- professional interviewing a child on behalf
21 of one of these. And one of these, of course, is law
22 enforcement agency.

23 MS. GORDON: Correct, Your Honor.

24 THE COURT: Or DSS. So I didn't know that, and
25 so I don't know.

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1 MS. GORDON: And she would testify that the
2 Mount Pleasant Police Department came to them and
3 referred this child to be interviewed by the Lowcountry
4 Children's Center, that she's been through the training
5 specifically for interviewing children, that that's
6 different --

7 THE COURT: What kind of training for
8 interviewing children?

9 MS. GORDON: There's a particular program called
10 Finding Words, which is the standard that South Carolina
11 used -- it still uses. They teach that in Columbia.
12 That she had to do additional training on the job. She
13 would testify to how many children she has interviewed.
14 She would discuss that there is a protocol that they use
15 that's called the RATAC program.

16 THE COURT: I would rather just hear from her.
17 Bring her in.

18 MS. GORDON: State calls Molly Wharton Dadin.

19 MOLLY WHARTON DADIN,
20 having been duly sworn, testifies as follows:

21 THE CLERK: State your full name and spell your
22 last name for the record.

23 THE WITNESS: My name is Molly Wharton Dadin,
24 D-a-d-i-n.

25

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1

2

EXAMINATION

3 BY MS. GORDON:

4 Q. Ms. Dadin, tell us what you do for work.

5 A. Currently I'm a therapist in private practice.

6 THE COURT: I'm sorry?

7 THE WITNESS: I'm a therapist in private
8 practice.

9 BY MS. GORDON:

10 Q. And prior to being a therapist --

11 THE COURT: What kind of therapist?

12 THE WITNESS: I specialize in trauma, in child
13 abuse, in child victims of trauma. And I do general
14 therapy, mental health therapy.

15 THE COURT: Go ahead.

16 BY MS. GORDON:

17 Q. Prior to being in private practice, where were
18 you employed?

19 A. I was working at the Dee Norton Lowcountry
20 Children's Center.

21 Q. When you were employed at the Dee Norton
22 Lowcountry Children's Center, what were you employed
23 there -- what was your job responsibilities?

24 A. Therapist and forensic interviewer.

25 Q. And what's the difference between a forensic

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1 interview and a therapeutic interview?

2 A. A forensic interview is a fact-finding
3 interview, typically requested by law enforcement or DSS
4 to gather information about a concern someone raises
5 about a child.

6 A therapeutic interview is more to establish a
7 therapeutic relationship moving into the future with
8 kids.

9 Q. While you were working at Lowcountry Children's
10 Center, were you asked to interview a child by the name
11 of Minor ?

12 THE COURT: Those kinds of questions could be --
13 just ask her did you -- not why you did it. I want you
14 to just ask questions that say, did you interview the
15 child?

16 BY MS. GORDON:

17 Q. Did you interview, while you worked at
18 Lowcountry Children's Center, did you interview Minor
19 _ ?

20 A. I did.

21 Q. And I think Your Honor wanted to know why you
22 did instead of law enforcement. Do you have an agreement
23 with law enforcement that interviews are done at
24 Lowcountry Children's Center?

25 A. I don't have an agreement with law enforcement.

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1 Lowcountry Children's Center has an agreement with law
2 enforcement, yes.

3 Q. And do you have special training in conducting
4 forensic interviews?

5 A. I do.

6 THE COURT: I guess you could ask her who asked
7 you to interview her. I guess you could ask that for the
8 purposes of the statutes, got to ask her that, I guess.
9 I think you can ask her: Who asked you to interview her?
10 I will ask that question.

11 THE WITNESS: Can I review the CAFTA? I believe
12 it was the Mount Pleasant Police Department, was their
13 referring agency.

14 MS. GORDON: Would you like to review to make
15 sure?

16 THE WITNESS: Yes, yes. Yes, it was Detective
17 Chaney at the Mount Pleasant Police Department.

18 BY MS. GORDON:

19 Q. And I believe I was asking you, was there a
20 particular protocol that you used when interviewing a
21 child?

22 A. There is.

23 Q. And what is that called?

24 A. It is the Finding Words protocol and --

25 THE COURT: It's the what?

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1 THE WITNESS: The Finding Words protocol, is the
2 Training protocol. The specific protocol for the
3 interview is known as the RATAAC.

4 THE COURT: That's nice.

5 BY MS. GORDON:

6 Q. And tell us what it stands for; what does that
7 mean?

8 A. It basically identifies the several components
9 of a forensic interview, rapport building, anatomy
10 identification, touch inquiry, abuse scenario and
11 closure. It is a semi-structured interview.

12 THE COURT: Rat pack?

13 THE WITNESS: RATAAC.

14 BY MS. GORDON:

15 Q. And before doing forensic interviews, did you
16 take the training?

17 A. I did.

18 Q. And did you have any additional training in
19 forensic interviews?

20 A. I did.

21 Q. And tell us about that.

22 A. I had several additional trainings. I did some
23 advanced forensic interviewer training. I've been to
24 several local state and national conferences addressing
25 forensic interview training, and got regular supervision

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1 on the forensic interviews I completed.

2 Q. And do you have an educational background
3 related to child abuse or psychology?

4 A. I do. I have a Bachelor's of Science in
5 psychology and a master's of social work.

6 Q. And do you hold any licenses?

7 A. I do. I have a license of independent practice
8 in clinical social work.

9 Q. And could you estimate how many forensic,
10 interviews you have conducted?

11 A. Over 500.

12 MS. GORDON: Your Honor, those are the only
13 questions that we have related to her training.

14 THE COURT: Do you want to ask her any questions
15 about her qualifications to conduct an investigative
16 interview?

17 VOIR DIRE

18 BY MR. HOWE:

19 Q. Just a couple things. I was maybe a little
20 confused. The Finding Words and the RATAAC, is that the
21 same thing, or is that sort of two complimentary things?

22 A. Finding Words is sort of the umbrella term. And
23 that's what the group that trains forensic interviewers
24 at the state level refers to that training. RATAAC is the
25 actual protocol.

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1 Q. Okay. And I guess the purpose basically is as a
2 set of people being interviewed, children present a
3 particular challenge; is that correct?

4 A. Yes.

5 Q. And some of the reasons that they present to be
6 a challenge is depending on their age and stage, their
7 own intellectual level may not be that of an adult,
8 correct?

9 A. Correct.

10 Q. They tend to be intimidated by authority, I
11 guess, or reactive to authority in some way, correct?

12 A. Some children, yes.

13 Q. Well, you all have a little room there, and I
14 know you have the chairs are the same, you want to -- you
15 don't want to be in a position of authority, that's part
16 of the RATAC thing, is to get that authority out of the
17 mixture, isn't it?

18 A. To build rapport so the kids are comfortable
19 with an adult.

20 Q. Right. And, specifically, and I get the RATAC
21 method, says you want not to be a figure of authority in
22 the room; you want a rapport, correct?

23 A. Yes, yes.

24 Q. You want an equal rapport?

25 A. Yes.

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1 Q. I guess the reason I was asking about Finding
2 Words is, in the course of the interview, you are trying
3 to elicit their terms, not provide them terms; that's one
4 of the big parts, isn't it?

5 A. Correct.

6 Q. And is part of the training that you are taught
7 to try to avoid leading questions as much as possible?

8 A. Yes.

9 Q. In fact, that's the worst kind of question you
10 could ask?

11 A. Yes.

12 Q. Just briefly, so you went to college where?

13 A. College of Charleston.

14 Q. And graduated with what?

15 A. Bachelor's of Science in psychology.

16 Q. And went from there to?

17 A. University of South Carolina.

18 Q. And that's where you got your master's?

19 A. Yes.

20 Q. And that was a master's in?

21 A. Social work.

22 Q. And then you had specific training in
23 interviewing children forensically?

24 A. Yes.

25 Q. And that's sort of the focus there, is the child

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1 in the interview?

2 A. Yes. And I have a copy of my CV if you guys
3 would like it.

4 MR. HOWE: I think that's what I needed.
5 Insofar as her performing and asking questions and her
6 qualifications to ask those questions, that's all I have,
7 Judge.

8 THE COURT: All right. Well, it is
9 particularly -- this is your chance to get any
10 information that you want to get from her to challenge --

11 MR. HOWE: I do have something to go beyond.

12 THE COURT: -- to challenge her qualifications
13 to do an investigative interview is -- at this point,
14 that's what we are dealing with, as I see it under the
15 statute, is whether she's qualified to do an
16 investigative interview or not.

17 MR. HOWE: I do have some questions I would like
18 to ask about this particular interview and how it was
19 done and how it may or may not have been tainted.

20 THE COURT: Do you want to go ahead and ask
21 those now?

22 MR. HOWE: Thank you, sir.

23 BY MR. HOWE:

24 Q. Part of the interview process that you went
25 through was to get a little background about what the

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1 history was and how the child came to you and all that
2 stuff, right?

3 A. It can be, yes.

4 Q. It wasn't in this case?

5 A. Typically we already have that information.

6 Typically, at Lowcountry Children's Center we interview
7 the caregiver before we interview the children.

8 Q. Right. And did you do that?

9 A. Yes.

10 Q. Did you have any information about the nature
11 and types of questions that the child was asked by a
12 neighbor by the name of Kristen Kulpepper the day before?

13 A. Can I review the CAFTA?

14 Q. Uh-huh.

15 A. Not that I recall.

16 THE COURT: Do you want to review some notes?

17 THE WITNESS: Yes.

18 THE COURT: Go ahead. These are your notes?

19 THE WITNESS: Yes, sir. It looks as though my
20 interview with the family, which included Minor's
21 father, her paternal grandmother and her aunt, it looks
22 like Kristine (sic) spoke to them about her concerns.
23 They then, the father, the paternal grandmother, and the
24 aunt, spoke with Minor and asked her about
25 inappropriate touching. I don't have in my notes that

1 Kristine (sic) directly questioned Minor.

2 Q. Okay. And you don't know anything about the
3 nature and types of questions that she asked?

4 A. What I have here is that they said they wanted
5 to talk to Minor and wanted her to be honest. They
6 asked her if George had touched her in a way he should
7 not be touching her. And then I can go into what she
8 responded.

9 Q. I have a pretty specific question. And that is,
10 they didn't tell you about any specific questions that
11 Kristen Kulpepper asked?

12 A. Not that I recall and not that I have
13 documented, no.

14 Q. There is a police report statement that was
15 generated from Kristen Kulpepper. Have you ever reviewed
16 that?

17 A. Not that I recall.

18 Q. Let me back up and talk to you a little bit
19 about the method again. I'm going to switch and come
20 back. Okay?

21 A. Uh-huh.

22 Q. From what I can tell, Number one, you want to
23 build a rapport. We've gone over that, correct?

24 A. Yes.

25 Q. And in building rapport, you're seated in the

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1 room, there are two chairs face-to-face, you are not
2 sitting behind a desk, up on a bench like a judge, you
3 are trying to take away those barriers, aren't you?

4 A. Yes.

5 Q. And part of that is to remove yourself as sort
6 of this authority figure. You want open communication,
7 correct?

8 A. Yes.

9 Q. Another thing that you want is you want the
10 child to feel comfortable, correct?

11 A. Correct.

12 Q. And for it not to be an emotionally-charged
13 setting, correct?

14 A. Yes.

15 Q. And when I talk about an emotionally-charged
16 setting, there's two aspects of that that I want to touch
17 base with you on. First of all, you want to look calm,
18 don't you?

19 A. Yes.

20 Q. You don't want to come in there with an angry
21 face or stomping in there; that would be totally against
22 everything in your forensic training, wouldn't it?

23 A. It would.

24 Q. And just by way of example, if a case came in
25 and you somehow knew the victim or something like that

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1 and you were upset, you wouldn't do that interview; you
2 would get somebody else to do it, wouldn't you?

3 A. Yes.

4 Q. Because you don't want to project that, because
5 that engenders bias, doesn't it?

6 A. It would or could.

7 Q. The other side of that is you want to be -- and
8 you tell me if these words are fair -- you want to be
9 calm and you want to be neutral?

10 A. Yes.

11 Q. By the same token, you want to have the same
12 stuff with the child as much as possible under the
13 circumstances; you want them calm and you want them
14 neutral, don't you?

15 A. As much as they can be. And then --

16 Q. Recognizing you are the professional and they
17 are not, but that's at least the goal; and I think you
18 said as much as they can be?

19 A. Correct.

20 Q. Okay. The next thing that you do --

21 THE COURT: Let me butt in. I really want you
22 to limit your cross-examination to the things that I have
23 to decide about admissibility. You might want to go over
24 some of this other stuff in front of the jury. But as
25 far as admissibility is concerned --

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1 MR. HOWE: Judge, let me tell you where I'm
2 heading, if that's okay, if I can find the section. You
3 have to make a determination that the overall process and
4 interview was a good interview. My position is --

5 THE COURT: Where do you see that? I tend to
6 agree with you, but I don't think it says that in the
7 record, in the statute. What it says, possesses
8 particular right, guarantees of the trust. Do you think
9 what you are doing will lead to that?

10 MR. HOWE: Yes, exactly. And what I mean --
11 obviously, it --

12 MS. GORDON: Your Honor, may I approach briefly
13 about that?

14 THE COURT: Yes.

15 MS. GORDON: Actually, the statute then goes on
16 to say what you need to use --

17 THE COURT: I read what it says, but it also
18 says --

19 MR. HOWE: Call such witnesses, yes.

20 THE COURT: Something like that is determined
21 necessary by the Court or whatever.

22 MR. HOWE: Right, Section 5.

23 THE COURT: Last thing kind of is a catchall,
24 but anyway, go ahead.

25 MS. GORDON: Last is that testimony.

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1 MR. HOWE: Thank you, your Honor.

2 BY MR. HOWE:

3 Q. The nature of the questions you ask, the sort
4 of ultimate no-no is the leading question, right?

5 A. Yes.

6 Q. And that's because you are supplying facts and
7 you don't want to be -- well, let's not say facts,
8 details or facts, and you want to be eliciting facts,
9 right?

10 A. Yes, but there is a piece of the RATAC protocol
11 that says -- so we sort of refer to it as the reverse
12 triangle. So initially you ask limited questions, try to
13 get as much information from a child as they are willing
14 to give. And then from there, the questions become more
15 narrow and more narrow and more specific in order to
16 elicit particular information.

17 Q. But I've noticed from your questions, you start
18 general and work specific?

19 A. Yes, when I'm --

20 Q. And you hope you don't have to get too
21 specific?

22 A. Correct. And that's typically in an attempt to
23 clarify information.

24 Q. Okay. I will just represent to you that there
25 has been some testimony that in a setting where everybody

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1 was crying, and immediately after this and everybody was
2 upset, that Ms. Kulpepper asked a question that basically
3 went the nature of, you know: If there had been
4 penetration, it would have hurt. That's not the kind of
5 question you would ever ask, is it?

6 A. No.

7 Q. Because that suggests an answer that it would
8 have hurt, right?

9 A. In a forensic interview, I would not ask that
10 question. I would try to gather information about
11 whether or not there was pain.

12 Q. And why -- you don't suggest it because once the
13 child gets the detail, they can stick to it, don't they?

14 A. It depends on the child.

15 Q. That's the risk?

16 A. It depends on their level of suggestibility.

17 Q. And, but that is why the interview method is as
18 it is, is to avoid the problem of suggesting?

19 A. Or -- well, yes.

20 Q. And children are suggestible?

21 A. Not always.

22 Q. Different children at different ages, but you
23 have gone through a whole method because they are
24 suggestible; isn't that part of it?

25 A. Well, you've gone through a whole method in

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1 order to elicit facts in a nonsuggested manner.

2 Q. Right. And you don't want to suggest, because
3 they are suggestible?

4 A. They can be. Some children are. Minor was.
5 not.

6 Q. And why do you say that?

7 A. So you will see several times throughout the
8 interview where she actually resisted suggestion. In the
9 very beginning in the rapport piece of the interview, I
10 asked her, I think it was, what was her favorite cake.

11 Q. She may have been not -- because of your
12 training -- not suggestible in your setting, but that's
13 not the setting -- you don't know what the setting was
14 the day before, do you?

15 A. I don't, no.

16 MR. HOWE: That's all I have.

17 THE COURT: All right. Anything else you want
18 to ask her about the qualification or, no, to admit the
19 video at this point?

20 MS. GORDON: Just one question, actually, will
21 answer the last question for Mr. Howe.

22 MS. GORDON: What tools did you use to determine
23 whether or not Minor was suggestible?

24 THE WITNESS: So I gave her the opportunity
25 several times to correct me, and sort of in a benign way

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1 to see if she would. She did correct me. She did
2 clarify information and she did resist suggestion. Also,
3 if I didn't understand something, you see several times
4 in the video, she is sort of helping me understand in her
5 own way. So it was my opinion at the time that she was
6 not actually suggestible.

7 MS. GORDON: Thank you.

8 THE WITNESS: You're welcome.

9 THE COURT: Let's go through it and have a
10 statement of position. You want to lead off?

11 MS. GORDON: Yes, Your Honor. Your Honor, the
12 State submits that the forensic interview, which has been
13 taped and video and audiotaped, is admissible under
14 17-23-175. The child does meet the criteria that she is
15 under the age of 12, which is the first level that we
16 have to meet.

17 THE COURT: You know, stating this first time
18 I've had a chance to look at it, you know, and I'm
19 looking at it in the form that one of you gave me here,
20 because I don't have the actual book before me, but if
21 I'm looking at it correctly and reading it correctly,
22 that part about the child under 12 is in the title but
23 not in the body of the statute.

24 MS. GORDON: Actually, it is, Your Honor, it is
25 under Section C.

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1 THE COURT: It defines the child later on as
2 being --

3 MS. GORDON: That's right, Your Honor, Section
4 C.

5 THE COURT: I see that now. In Section C it
6 defines child as being a person under the age of 12 at
7 the time of making the statement, a child. Okay. So
8 we've got that clear.

9 MS. GORDON: Yes, Your Honor.

10 THE COURT: So go ahead then. Let's go through
11 the statute.

12 MS. GORDON: Thank you, Your Honor. The first
13 part of the statute in the written section is the
14 statement was given in response to a question conducted
15 during an investigative interview of the child, which
16 Ms. Wharton has testified that it was.

17 THE COURT: I think I can check that off as
18 saying that's been complied with, that's present.

19 MS. GORDON: That audio and visual recording of
20 the statement is preserved on film, videotape, or other
21 electronic means.

22 THE COURT: Somewhat.

23 MS. GORDON: It is preserved. Whether or not we
24 were able to view it nicely in the courtroom, but it is
25 preserved. And if necessary, we can make other

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1 arrangements.

2 THE COURT: All right.

3 MS. GORDON: The child has testified and has
4 been subject to cross-examination on the elements of the
5 offense and on making the statement.

6 THE COURT: What do you have to say about that,
7 Mr. Howe? Do you agree with that?

8 MR. HOWE: I'm sorry, Judge.

9 THE COURT: Talking about Number 3, the child
10 testifies in the proceeding and is subject to
11 cross-examination on the elements of the offense and,
12 yes, you can say she was subject if you wanted to in the
13 making of the out-of-court statement.

14 MR. HOWE: Narrowly, I agree it probably meets
15 what the statute requires. I've got some
16 constitutionality problems, but I will save that.

17 THE COURT: What bothers me about it is, I don't
18 know how you can -- how you can cross-examine a witness
19 when the out-of-court statement has not been introduced
20 yet.

21 MS. GORDON: Just like with any other statement,
22 if it were a written statement and you cross-examined her
23 on it. Mr. Howe could have, if he wanted to, could have
24 used that statement and published it to the jury in
25 cross-examination, just like you would any other

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1 statement.

2 THE COURT: Why would you do that if you don't
3 know whether it is going to come in yet or not or any
4 way? That doesn't make sense to me. That doesn't make
5 sense to me, but anyway, go ahead.

6 MS. GORDON: It is a matter of strategy. Some
7 attorneys entered it thinking it helped them.

8 THE COURT: That may be. In terms of complying
9 with the statute and everything --

10 MS. GORDON: Well, Your Honor.

11 THE COURT: Anyway, go ahead.

12 MS. GORDON: She did testify. He actually did
13 cross-examine Minor on whether or not she remembers
14 going to Lowcountry Children's Center and remembers
15 making the statement, which she did. She did remember
16 making the statement.

17 THE COURT: Go ahead.

18 MS. GORDON: We have also had a hearing outside
19 the presence of the jury.

20 THE COURT: Correct.

21 MS. GORDON: To determine the totality of the
22 circumstances, to make sure that it has particularized
23 guarantees of trustworthiness.

24 THE COURT: Let's go into that.

25 MS. GORDON: Whether the statement was elicited

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1 by leading questions.

2 THE COURT: What do you have to say about that?

3 MS. GORDON: That it was not asked by leading
4 questions, that Ms. Wharton asked very open-ended
5 questions, such as, tell me about that, tell me what
6 happened, what can you tell me about -- she might direct
7 the child to -- after she had said something happened in
8 the van, she might say, tell me what happened in the van
9 to direct the child. But those are not leading
10 questions. It was very open-ended questions to the
11 child. That the interviewer has been trained in
12 conducting investigative interviews of children. We've
13 established she has gone to Finding Words. She knows the
14 RATAC patrols, done advanced training and interviewed
15 over 500 children.

16 Whether the statement represents a detailed
17 account of the allegations, Your Honor, we did hear that,
18 and the child describes several instances. She's able
19 not only -- she verbalizes it in a way that is
20 appropriate for a child of her age and experience. But
21 she's also able to demonstrate sort of how it happened,
22 give some like -- when she has trouble finding the words,
23 she is able to use a physical demonstration.

24 Whether the statement has internal coherence.
25 The child was responsive to the questions asked and she

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1 was coherent.

2 And we have had the sworn testimony of
3 Ms. Wharton, or Ms. Dadin. We've had the testimony of
4 the child, and all the other witnesses who were there.

5 THE COURT: What are you talking about now?

6 MS. GORDON: Number 5 is just the sworn
7 testimony of any participants which may be deemed
8 necessary.

9 THE COURT: What does 4 mean, whether the
10 statement has any internal coherence?

11 MS. GORDON: Whether or not the -- you know,
12 whether or not the statement made sense. Like, was she
13 responsive to questions? If the child had said, I got
14 here on a space ship, somebody hit me, I want to go watch
15 television, that wouldn't have internal coherence. But
16 this child was responsive to the questions. She was
17 coherent. The statement was coherent. It followed the
18 path. She was answering the questions that she was
19 asked, and that has internal coherence, Your Honor.

20 And then under Section C, she is under the age
21 of 12 and she has alleged sexual assault, one that would
22 be required to register pursuant to the statute.

23 THE COURT: Now, I will hear from Mr. Howe.
24 What do you have to say about it?

25 MR. HOWE: Yes, Judge. I want to approach it

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1 from a little bit more general, just to begin with. I
2 see there being like 404B there's maybe some rule
3 problems, but there's constitutionality problems too.
4 Basically, what's going on is --

5 THE COURT: Let's deal with the statute first
6 and then you can get the kind of constitutional problems
7 solved. Why do you think, if you do, think that I should
8 not admit it because it has not -- it does not meet the
9 requirements of the statute?

10 MR. HOWE: Primarily because we know from
11 testimony of a good -- most of which Ms. Dadin now, would
12 not know about, but the testimony of Ms. Kulpepper and
13 how these initial facts came out and what setting they
14 came out, they kind of break all the rules of forensic
15 interviewing. We also know that --

16 THE COURT: So you are saying that -- you are
17 talking about for general reasons, so to speak,
18 considering the totality of the circumstances, I
19 shouldn't let it in because of the well has been
20 poisoned, so to speak, tainted by what went on before
21 this was done?

22 MR. HOWE: Right. And part of that, I would
23 like to list, part of that would be the emotional scene
24 that night. Part of that, I guess a little different
25 aspect in terms of internal coherence was that, you know,

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1 the lady from M.U.S.C., the nurse practitioner that
2 testified, asked her specifically had anybody hurt her in
3 that area, and she said no. Okay? And so to say there's
4 internal coherence between saying no one day and saying
5 yes another day, it is pretty hard to say that's internal
6 coherence.

7 I think you've got to look when it uses the term
8 totality of circumstances, those circumstances go beyond
9 just the interview itself. The interview is built on the
10 foundation of what's happened before. If the foundation
11 is a crumbly foundation, that affects the interview. And
12 that's my position on that part.

13 THE COURT: Actually, I don't think the statute
14 says totality of the circumstances, but in the last
15 sentence it said, after certain of these factors and
16 additional factors the Court deems important, I think
17 that could be interpreted like that.

18 But anyway, all right, anything else? That's in
19 regard to the statute as far as whether or not it
20 complies with the requirements of the statute part to be
21 heard?

22 MR. HOWE: Correct.

23 THE COURT: And you want to say anything in
24 response to that, Ms. Gordon?

25 MS. GORDON: Yes, Your Honor. I would say that

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1 Mr. Howe's arguments may go to weight as to what -- he
2 can argue that to the jury, but that does not go to the
3 admissibility.

4 THE COURT: All right. I appreciate that.
5 Well, I have considered this and thought about it a great
6 deal since we started this case and been thinking about
7 it since we've gone along. And done particularized
8 thinking about it over the time that we've been involved.
9 I think it does comply with the statute as far as its
10 admissibility. I think that it is admissible under this
11 statute, having considered everything that I'm told to
12 consider. I have considered it all, and I think that it
13 does comply with the statute and is admissible.

14 I think it is, given in response to questioning
15 and conducted by an investigative interview by somebody
16 that's trained and authorized to do it under the statute.
17 It was -- it is basically recording, however poorly it
18 may be, and bothers me the way -- if the jury sees it the
19 way we have to see it, I don't think that's very good.
20 But anyway, that's the way it goes. And she has
21 testified at the trial and was subject to
22 cross-examination, however convoluted that may have been.
23 and all, as far as being able to cross-examine her about
24 a statement that hadn't come in yet, you know.

25 And if you wanted to re-call her, I certainly

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1 would allow you to re-call her if you wanted to
2 cross-examine her now that the statement has come in. I
3 think I would let you do that, but anyway I've conducted
4 this hearing outside the presence of the jury and the
5 totality of the circumstances. There's that language
6 surrounding making the statement. Does provide me with
7 some particularized guarantees of its trustworthiness.

8 And in regard to that, I would say as far as
9 leading questions are concerned, there were some leading
10 questions sometimes, but not enough to make in my opinion
11 the statements made by the person, the child,
12 untrustworthy. There were some leading statements, but
13 not such enough and in such quality as to lead me to feel
14 that the interview and the contents of basic stuff as far
15 as the interview was concerned was untrustworthy, her
16 responses were untrustworthy. Again, she's been trained,
17 interviewer has been trained properly.

18 I would say that when it said the detail account
19 of the alleged offense, I wouldn't call it a detailed
20 account, but it's enough of an account, bear essentials
21 of the account of what happened, and that it does conform
22 with what she testified to in court. You know, that's
23 what it does to me. That's the most important part to
24 me, is -- I wouldn't call it a detailed account, but it's
25 the same account that she's given here in court. So

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1 that's the way -- that's what I would say in regard to
2 three and all that.

3 When you say internal coherence, I interpret
4 that to mean that it makes sense, that I can understand
5 what she's saying, it is coherent, and that it's not off
6 the wall or anything of that sort. I can understand her
7 both in her testimony she made in court in person and
8 also this testimony here. It is coherent and it goes
9 together. That's what I would say about that.

10 Let's see if there's anything else that I noted.
11 So after considering all of this and all of the other
12 things that I have been instructed by this statute to
13 consider, I find that it is admissible and I will allow
14 it into evidence.

15 Now, but you want to make some other objections
16 as far as constitutional objections?

17 MR. HOWE: Yes, sir. Briefly, to make sure to
18 preserve the record, the nature of what's going on here
19 is, if she were not this age and there was no statute,
20 this is just classic bolstering. You can't say, did you
21 say this to this person. Everybody says that's a
22 violation of due process. That's out of bounds,
23 Constitution of United States, and Constitution of South
24 Carolina both have due process. That's textbook stuff.

25 This statute looks and says, there's a

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1 particularized need for children of certain age and
2 stage, and with these indicia, we are going to carve out
3 an exception to what's basically a constitutional right.
4 And as you pointed out, there's some confrontation clause
5 problems, but there's also just basic due process. And I
6 think in this particular case, where there's been so much
7 time between this statement, it is five years now, and
8 she's 16 years old. And so she -- the need for this
9 bolstering has basically gone out of the window by the
10 facts and circumstances of this case.

11 I think it's -- even if you look -- I think the
12 statute itself is unconstitutional. And I want to make
13 that motion, but in the particular circumstances of this
14 case, the exception that it seeks to carve out is no
15 longer a problem. And so they can't use it to sort of
16 boot strap themselves in a way into a spot of bolstering
17 some testimony when the underlying need and the purpose
18 of the statute no longer apply.

19 THE COURT: I appreciate your position, but I
20 overrule your objection on those grounds.

21 MR. HOWE: Thank you very much.

22 THE COURT: Now, let's take a short break and we
23 will be back, get back, we'll get the jury in and
24 proceed.

25 (State's Exhibit No. 17, was marked for

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1 identification.)

2 (A recess transpired.)

3 THE COURT: All right. Mr. Howe, anything
4 before I bring the jury in?

5 MR. HOWE: Yes, sir. I know Molly Dadin will be
6 testifying. In speaking with Ms. Gordon earlier today,
7 there was a diagnosis of post-traumatic stress syndrome
8 on there. And I said, are you going to ask about it?
9 She said no. Fine. And I said what about this idea of
10 grooming and attributes of people. She said, yes, she
11 planned on asking her about that. And I think that goes
12 completely beyond any of the expertise she has to
13 testify.

14 THE COURT: I guess I would just say that will
15 be something I need to take up here nonjury and make a
16 decision on. So you go into that kind of thing, say,
17 judge, we need to discuss something, whatever, matter of
18 law, however you want to say it, and we will stop and I
19 will hear it nonjury and make a decision.

20 MS. GORDON: Okay, Your Honor. Yes, sir.

21 THE COURT: And you are going to call Ms. Dadin,
22 I believe it is? I'm bad on names. Okay? Get much
23 beyond Smith and Jones, I'm in bad shape. Bring the jury
24 in.

25 Hold the jury. All right, Mr. Howe?

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1 MR. HOWE: Yes, sir, Your Honor, because of the
2 technical difficulties we were having, the Court asked we
3 try to get a transcript, which we accomplished last
4 night. I've looked at the transcript. And in the
5 process of me watching the transcript and watching the
6 tape, certainly my experience, two things. One, it is
7 not a perfect transcript. Number two, it is very
8 distracting to try to look and evaluate what you are
9 seeing and be reading at the same time. I understand
10 that the audio quality is not perfect, and that presents
11 a problem. But I do think, as we know, as all lawyers
12 learned at seminars, you remember so much of what you see
13 and so much what you hear. It is what you do at the same
14 time. And they need to be seeing and hearing what she
15 says and evaluating her. I believe the transcripts are
16 distractive and I would ask that they not be introduced.

17 THE COURT: I appreciate the position, but I
18 overrule your objection. By the way, I will give you an
19 opportunity. Any other objection to bring to my
20 attention, if there is anything in the transcript that
21 you object to, otherwise, other than just the use of the
22 transcript?

23 MR. HOWE: That's all. There were a couple of
24 terms that weren't perfect, but I didn't see anything
25 that was damaging.

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1 THE COURT: All right. Bring the jury in then.

2 Now, you are going to call her first though, right?

3 MS. GORDON: Yes, Your Honor.

4 (Whereupon, the jury enters open court at 11:40
5 a.m.)

6 THE COURT: It is about 20 minutes of 12:00 now
7 and you have been here since 9:30, at least, sometime
8 before that. And again, I want to tell you we have been
9 working, and I will explain to you a little later, give
10 you a better idea about why I had to keep you back there
11 in the jury room all this time this morning and all, but
12 I assure you, we have been working since 9:30 this
13 morning in here.

14 Ms. Gordon, call your next witness.

15 THE WITNESS: The State calls Molly Dadin.

16 MOLLY WHARTON DADIN,
17 having been duly sworn, testifies as follows:

18 THE CLERK: Please state your full name and
19 spell your last name.

20 THE WITNESS: Molly Wharton Dadin, D-a-d-i-n.

21 DIRECT EXAMINATION

22 BY MS. GORDON:

23 Q. Good morning, Ms. Dadin. Can you tell the
24 ladies and gentlemen what you do for work?

25 A. I'm a therapist in private practice.

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1 Q. And how long have you been in private practice?

2 A. Since 2008.

3 Q. And prior to being in private practice, where
4 did you work?

5 A. I worked at the Dee Norton Lowcountry Children's
6 Center.

7 Q. And what is your job at Dee Norton Children's
8 Center?

9 A. I was a therapist and forensic interviewer.

10 Q. Do you have any particular training in forensic
11 interviewing?

12 A. I do.

13 Q. Tell us about that.

14 A. I received the State training, which is called
15 Finding Words, around a particular protocol that is the
16 RATAAC protocol.

17 Q. Can you explain what the RATAAC protocol is why
18 you use it?

19 A. Yes. It is a semi-structured interview protocol
20 for interviewing kids about a concern. And the RATAAC
21 stands for rapport, anatomy identification, touch
22 inquiry, abuse scenario and closure.

23 Q. And why do you have a protocol for interviewing
24 children?

25 A. It is important to have a semi-structured

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1 protocol so that you are not asking leading questions and
2 you are eliciting facts in a structured fashion.

3 Q. Were you asked to interview Minor ?

4 A. I was.

5 Q. And who asked you to interview her?

6 A. The Mount Pleasant Police Department.

7 Q. And do you recall when you interviewed her?

8 A. I believe it was January 22nd, 2008.

9 Q. And tell us what your educational background is
10 in terms of being a therapist.

11 A. I have a Bachelor's of Science in psychology and
12 a master's of social work.

13 Q. And how many forensic interviews have you
14 performed?

15 A. Over 500.

16 Q. Can you tell this jury what the difference is
17 between a forensic interview or investigative interview
18 and a therapeutic interview?

19 A. A forensic interview is more fact-finding, and
20 so it is basically like a one-session interview. A
21 therapeutic interview is more focused on building a
22 therapeutic relationship moving into the future.

23 Q. What type of interview did you do on Minor ?

24 A. A forensic interview.

25 MS. GORDON: Your Honor, at this time the State

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1 moves State's exhibit -- let me ask you one more
2 question.

3 BY MS. GORDON:

4 Q. Do you remember how old Minor was at the time
5 she was interviewed?

6 A. She was 11.

7 MS. GORDON: Your Honor, at this time State
8 moves State's Exhibit 17 into evidence.

9 THE COURT: And that's the video; is that what
10 it is.

11 MS. GORDON: Yes, Your Honor.

12 THE COURT: The video of the interview, is that
13 what it is?

14 MS. GORDON: Yes, Your Honor.

15 (State's Exhibit 17 admitted into evidence.)

16 THE COURT: And, Mr. Howe, this is to be
17 admitted over your continued objections. Okay. Now, I
18 can tell you what we will be doing. I will ask the
19 bailiffs, if you would, to distribute these to the jury.
20 You are going to watch a video. And we've had tremendous
21 technical difficulties with the video and all. We've
22 been working ever since yesterday to try to make this
23 video work so that you can see it and all. And that's
24 really what has largely occupied us all yesterday
25 afternoon, not me, but these people that know how to work

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1 the computers and the videos and so forth and so on. I
2 didn't have anything to do with it.

3 But they had to try to get it where it plays for
4 you, you know. We've had a lot of technical
5 difficulties. That's all I can say. That's the best way
6 I can explain it. I don't know anything other than that,
7 but it wouldn't work right.

8 But we think we've got it to the point now where
9 you can watch it and hear it. One thing that happened
10 was that I couldn't understand a lot of what was being
11 said and done on the video. So I asked them yesterday,
12 did they have a transcript. They did not. And I asked
13 them if they would try to get one prepared over the
14 evening recess, and they have. And that's what I've just
15 now given to you and all.

16 I can't guarantee you that that transcript is
17 100 percent accurate. You are going to have to listen to
18 and watch, and I would invite you to pay particular
19 attention to the video. Hear it the way you hear it, not
20 the way the lady was -- not this lady here, but another
21 lady did the transcript that you have. But anyway, a
22 court reporter did it, but it's her impression, of
23 course, about what was said on the video.

24 You have to listen to it. You have to decide
25 what was said and done on the video, not what that

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1 transcript is. But I think it will help you perhaps in
2 your listening to the video.

3 If it was me and all, I would say I couldn't
4 hear and understand 90 percent of what was being said on
5 the video. And so I wouldn't have even let it come in
6 without some way of hopefully you being able to hear and
7 understand what is being said and done on the video, you
8 know. So that's why I had that transcript prepared. But
9 again, I tell you, it is up to you to decide what's being
10 said and done when you look at and listen to that video.

11 That transcript is just one impression of what
12 somebody thinks was said and done during the course of
13 that video. So don't let the transcript distract you
14 completely from what is being said and done on the video.
15 All right? And if you want to have it played back again
16 later on, you know, I can have it played back again for
17 you later on if you need that, if you feel like you need
18 that.

19 You know, but with those remarks and all, I hope
20 I've covered everything I think I need to tell you in
21 regard to it. We will let you see and hear the video at
22 this point.

23 All right. Go ahead.

24 MS. GORDON: Thank you, your Honor.

25 (Whereupon, State's Exhibit No. 17, video, is

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1 playing.)

2 THE COURT: All right. I ask you to pass your
3 transcript down to the end there. We will pick those up.
4 Just keep those right now for the time being. All right.
5 Do you have some more questions for the witness?

6 MS. GORDON: Thank you, your Honor. I believe
7 Mr. Howe had a motion about some remaining questions, a
8 legal issue regarding my remaining questions of this
9 witness.

10 THE COURT: All right. Members of the jury
11 panel, I need you to go to the jury room for a few
12 minutes. Glad we got through that without technical
13 difficulties. I can't tell you how many times we had to
14 try. Glad we got straight through it.

15 (Whereupon, the jury leaves open court at 12:19
16 p.m.)

17 THE COURT: All right. Why don't you go ahead
18 and examine the witness and let's see what happens.

19 MS. GORDON: Your Honor, at this time we would,
20 based on her previous testimony, we would move to have
21 Ms. Dadin admitted as an expert in forensic interviewing
22 in the area of child abuse, in the area of child abuse
23 psychology.

24 THE COURT: You want to move her as an expert in
25 the area of forensic interviewing? Tell me what exactly

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1 it is you are saying.

2 MS. GORDON: In forensic interviews of children
3 related to child abuse.

4 THE COURT: Of children what?

5 MS. GORDON: Related to child abuse and in child
6 abuse psychology.

7 THE COURT: Well, I guess your position depends
8 on what she's asking her.

9 MR. HOWE: I really don't have any problem.
10 Let's speed this up. I do not object to her being an
11 expert in applying of this RATAAC method.

12 THE COURT: Interviewing style?

13 MR. HOWE: Right. But where else she goes, I
14 will just have to see.

15 THE COURT: So we will see. Okay. Go ahead and
16 ask your questions.

17 BY MS. GORDON:

18 Q. Ms. Dadin, in the field of child abuse
19 psychology, is there --

20 THE COURT: What does that mean?

21 BY MS. GORDON:

22 Q. Can you tell us what child abuse psychology is,
23 the area of child abuse psychology entails?

24 A. So, I'm assuming what you mean is sort of the
25 psychological impact that child abuse could have on.

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1 someone, their responses to it.

2 THE COURT: Psychological impact on the child?

3 THE WITNESS: And any sort of --

4 THE COURT: What?

5 THE WITNESS: Any sort of -- I would say any
6 sort of impact on the child.

7 BY MS. GORDON:

8 Q. Would a better term be the dynamics of child
9 abuse?

10 A. Yes, yes.

11 THE COURT: Dynamics of child abuse?

12 MS. GORDON: We would offer her as an expert in
13 dynamics of child abuse.

14 THE COURT: Dynamics of child abuse. What do
15 you mean by that?

16 THE WITNESS: Me?

17 THE COURT: Yes.

18 THE WITNESS: Sorry. I guess again the impact
19 of child abuse, sort of the far-reaching impact on the
20 child.

21 THE COURT: Impact of child abuse, again.

22 MS. GORDON: May I explore that further?

23 THE COURT: Wait. I have to write down her
24 answer so I understand what we are talking about. Go
25 ahead.

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1

2 BY MS. GORDON:

3 Q. In the area of the dynamics of child abuse, is
4 there a common term delayed disclosure?

5 A. Yes.

6 THE COURT: What?

7 MS. GORDON: Delayed disclosure.

8 THE COURT: Delayed disclosure.

9 BY MS. GORDON:

10 Q. What does that term mean?

11 A. It's a very common occurrence where children who
12 were sexually abused don't report right away.

13 Q. And is that documented in the literature?

14 A. Yes.

15 Q. And has it been studied?

16 A. Yes.

17 Q. And what are the reasons that children don't
18 tell?

19 A. There could be a variety of reasons, given the
20 situation. Some relatively common ones are a close
21 relationship to the offender.

22 THE COURT: What?

23 THE WITNESS: I said there could be many
24 reasons. Some of the more common reasons and the ones
25 that have probably been studied the best are relationship

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1 to the offender. Oftentimes, there's sort of a perceived
2 special relationship with the offender, fear of getting
3 in trouble, often fear of the offender getting in
4 trouble, fear of the impact on the family, and sort of
5 general disruption, fear of discomfort in telling and
6 having to give details about a very uncomfortable topic.

7 Q. Is grooming one of the reasons?

8 A. It could be, yes.

9 Q. And tell us what grooming is.

10 A. So grooming is a commonly used term typically to
11 describe when a person attempts to sort of gain access to
12 a child by encouraging a special relationship. So that
13 could be in terms of gifts, giving special gifts, having
14 certain rituals that are special to that offender and
15 that child.

16 THE COURT: Wait a minute. I'm trying to think
17 how we got there other than the leading question that you
18 asked. Now, anyway, we were talking about delayed
19 disclosures before that, and you were telling me why the
20 reasons were delayed disclosure, and then you got this
21 question. Is grooming a part of what? I don't know. Is
22 grooming a part of what?

23 THE WITNESS: Can I address that? So often
24 children who we believe have been groomed, typically we
25 see a delay in disclosure. And that can largely be

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1 related to the grooming behaviors. So, for example, if
2 someone has established this close relationship with the
3 child and the family, a child is more inclined to be
4 aligned with the offender and less likely to tell.

5 THE COURT: I'm not sure I understood that.

6 BY MS. GORDON:

7 Q. Can you give some examples of what grooming is?

8 THE COURT: Well, I know what grooming is. I
9 don't know how it fits into what she's talking about, how
10 it is relevant what you asked about.

11 BY MS. GORDON:

12 Q. Has grooming been studied in the area of
13 dynamics of child abuse?

14 A. Yes.

15 Q. And is there literature on that?

16 A. Yes.

17 Q. And has it -- there are publications about
18 grooming?

19 A. Yes, many.

20 Q. And what does the -- do you -- have you
21 experienced the effects of grooming in your clinical
22 practice?

23 A. Yes.

24 Q. And can you describe what kind of effect
25 grooming has on a child?

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1 A. So, typically, it creates some complications for
2 children in terms of their interpretation of the abuse.
3 Some children don't understand that it is not okay
4 because they have this close relationship with the
5 offender. For some children, when they are being groomed
6 and being offered gifts and special attention, sometimes
7 they enjoy that special attention and, you know, crave
8 more of it oftentimes.

9 Q. Do children generally know whether or not they
10 are being groomed?

11 A. No.

12 Q. And is there something -- is there grooming of
13 adults or grooming of families?

14 A. Grooming, often when children are groomed, the
15 families are also sort of groomed at the same time. And
16 by that I mean, sometimes when someone is trying to gain
17 access to the child, they have to build trust within the
18 child's family in order to gain access to the child.

19 Q. And what effect, if any, does that have on a
20 child's ability to tell or willingness to tell?

21 A. It can certainly impact their ability and
22 willingness to tell negatively.

23 THE COURT: You trailed off.

24 THE WITNESS: I said it could certainly
25 negatively impact their ability and willingness to tell

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1 about the abuse.

2 MS. GORDON: Your Honor, those are the
3 additional questions I have regarding delayed disclosure.

4 THE COURT: Any question or statement of
5 position, Mr. Howe? However you want to do it.

6 MR. HOWE: I can state my position. I don't
7 think I need to ask any questions, because I don't think
8 they've gone far enough.

9 THE COURT: All right.

10 MR. HOWE: There's two areas that I object to.

11 THE COURT: All right.

12 MR. HOWE: One is she has said that she's going
13 to talk about a delayed response. However, it is my
14 understanding when an expert witness testifies, what they
15 have to do is they have to say, based on X, Y, Z, it is
16 my opinion to a reasonable degree of certainty in my
17 field there was a delayed response because.

18 Now, in this particular case, this is not the
19 kind of delayed response where a child just comes out of
20 nowhere and reports it. We have all the details of how
21 it came up, why it came up. And the child herself has
22 specifically said, I didn't say anything before because I
23 was scared I would be taken out of the home again like I
24 was before.

25 And so there's no reason for all of this stuff.

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1 All this lady has said is, you know, sometimes it happens
2 with this and there are cases and there are cases. Those
3 cases don't matter, Judge. This case matters, and she
4 hasn't directed anything in this case and looking at
5 those and making why that delay was anything other than
6 what the witness herself has testified to. So that's
7 number one on the delayed response.

8 As for the grooming, that's just another
9 backdoor way of getting in what the character of the
10 defendant is like. She's not talking -- she's trying to
11 say, oh, it was delayed response because she was groomed
12 because George White's a groomer and you know what
13 groomers are, groomers are predators or pedophiles and
14 that's what happened in this case.

15 At that point she's not talking about -- the
16 focus really shifts and the impact focuses -- shifts from
17 the child to the defendant saying that the defendant is
18 doing -- and this is the irony of it, Judge -- the
19 defendant is doing prior bad acts of grooming, and we
20 know he is because that's what other people do like the
21 defendant. In other words, they are putting him in a
22 class of groomers. Groomers are pedophiles. Pedophile
23 is a defendant. And so now she's out of her area and
24 she's into analyzing him and putting his character in.
25 And it would be completely inadmissible and way outside

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1 the bounds of her expertise and not even relevant to this
2 case. We know the reason. The child said it.

3 MS. GORDON: Your Honor, may I be heard?

4 THE COURT: Sure.

5 MS. GORDON: We can certainly go farther. I
6 just wanted you to hear the testimony regarding what
7 grooming and delayed disclosure is. Your Honor, the
8 standard for an expert testimony is whether or not this
9 witness has training and experience in an area that is
10 not common knowledge and the dynamics of child abuse are
11 not common knowledge. Grooming is one of the areas that
12 is common in the dynamics of child abuse and delayed
13 disclosure. It is one of the areas that is not common to
14 everyday people, but it is common in the area of the
15 dynamics of child abuse.

16 We are just asking this witness to explain what
17 that means, is it common in her field. And we can go on
18 to ask specifically related to specific instances. We
19 are not putting his character in evidence. We are
20 talking about incidents that happened as part of this
21 crime.

22 THE COURT: All right. I appreciate the
23 position. I overrule your objection. I will allow
24 what's been said so far. Bring the jury in.

25 MR. HOWE: Can I put one thing on the record,

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1 Judge, just to preserve? The idea of gaining someone's
2 confidence is that you do not need an expert opinion for
3 that. That grooming, that idea of ingratiating yourself
4 as a common theme, kids know that from age two. They are
5 young --

6 THE COURT: I've admitted her. I've allowed her
7 to testify. We don't need to go into in front of the
8 jury admitting for experts or whatever. You just ask the
9 questions that you asked heretofore, and if she goes
10 beyond that, you object further, Mr. Howe.

11 MS. GORDON: You said you do not want me to --

12 THE COURT: You don't need to go into anything
13 as far as offering her for what opinions -- I mean, you
14 know, offering her as an expert in whatever it is you
15 said she was going to be an expert in.

16 MS. GORDON: I'm going to admit her as an
17 expert --

18 THE COURT: I've admitted her. I will allow you
19 to ask her opinions about what you've asked for so far.

20 MS. GORDON: I just want to be clear.

21 THE COURT: That's all that an expert is, she's
22 allowed to give some opinions.

23 Bring the jury in.

24 (WHEREUPON, the jury came into open court at
25 approximately 12:32 p.m.)

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1 THE COURT: All right. We do have the jury with
2 us and the parties are present along with their
3 attorneys.

4 I don't remember exactly where we were when we
5 sent the jury out. I don't remember whether you had
6 asked background questions. Any further background
7 questions of this witness or not?

8 MS. GORDON: Your Honor, I think we had asked
9 the background questions before the video and then we
10 just watched the video.

11 THE COURT: Okay. But I mean as far as any of
12 her qualifications and so forth, so if you want to ask
13 her any of her qualifications to testify, you can go
14 ahead with that. I don't know whether you did or not.

15 BY MS. GORDON:

16 Q. I think we went through your qualifications
17 before. You correct me if I am wrong. Did we go through
18 your qualifications in front of the jury?

19 A. I believe we did, yes.

20 Q. And you are a licensed therapist?

21 A. Yes, I'm a licensed independent social worker of
22 clinical practice.

23 Q. And what is your area of specialty?

24 A. Trauma in child abuse.

25 THE COURT: What? Keep your voice up.

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1 THE WITNESS: Trauma in child abuse.

2 BY MS. GORDON:

3 Q. In that area of trauma in child abuse, do you
4 study the dynamics of child abuse?

5 A. I do.

6 Q. In your field --

7 THE COURT: What do you mean by the dynamics of
8 child abuse?

9 THE WITNESS: So the impact of child abuse, what
10 I specifically look at now in treatment is the impact of
11 child abuse on children and families, and often address
12 any sort of things leading up to the child abuse and the
13 impact that might have on children moving forward.

14 BY MS. GORDON:

15 Q. Is there -- can you explain to the jury what the
16 term delayed disclosure means?

17 A. Delayed disclosure is a common occurrence in
18 children who have been sexually abused. Typically what
19 happens is they may not tell right away for a variety of
20 reasons.

21 Q. And can you give us some of those reasons?

22 A. There could be many reasons. Some of the more
23 common ones are relationship to the offender, if there's
24 a close relationship to the offender; fear of getting in
25 trouble; concerns of the impact on the family; concerns

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1 of the offender getting in trouble sometimes; and then
2 often just general embarrassment talking about something
3 that's uncomfortable and that kids don't always have the
4 language to talk about.

5 Q. How is -- can you tell us what the term grooming
6 means.

7 MR. HOWE: This is subject to my objection
8 earlier.

9 THE COURT: Your position is maintained. What
10 does grooming mean?

11 BY MS. GORDON:

12 Q. What does grooming mean?

13 A. Grooming is another term commonly used in the
14 area of child sexual abuse, meaning that someone attempts
15 to establish a close relationship with the child and
16 essentially gain their trust, thereby gaining access to
17 the child. It can be --

18 Q. Go ahead.

19 A. Can be sometimes in the form of having special
20 rituals, offering gifts, flattery, sometimes pornography
21 is shown to children, sometimes flattering comments about
22 bodies or personality or things like that are often used.

23 Q. How does grooming have an effect on a child's
24 willingness to tell?

25 A. It can certainly impact their willingness to

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1 tell in a negative manner for the reasons I stated.

2 Q. And what is -- is there ever grooming of adults
3 or grooming of the child's family?

4 A. Yes.

5 Q. And what is that?

6 A. So sometimes if someone is attempting
7 consciously or unconsciously to gain access to a child,
8 they sort of establish a level of trust with the family
9 in order to see the child more often.

10 Q. And how does that affect a child's willingness
11 to tell?

12 A. It can inhibit the child's willingness to tell
13 because they see this close relationship with the family.
14 And generally, what it implies to a child is that the
15 impact on the family is going to be substantial and
16 pretty uncomfortable for everyone.

17 MS. GORDON: Thank you, Your Honor. I have no
18 further questions. If you will answer any questions
19 Mr. Howe has.

20 THE COURT: All right. Mr. Howe, 20 minutes to
21 1:00 now, would you like to reserve your
22 cross-examination for after lunch?

23 MR. HOWE: It will probably go a lot quicker,
24 Judge, if I did that. I can break it up if I had time to
25 pull it together.

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1 THE COURT: I thought that might be the case.
2 In view of time, we will stop now and resume after lunch.
3 It is twenty minutes 'til 1:00 now. I ask you to be back
4 at two o'clock so we can get started as soon as we can
5 after that.

6 Again, I remind you not to discuss the case with
7 member of the jury or anyone else over the lunch break.
8 Leave your note pads with the bailiffs as you go out if
9 you want to. You have to go down to the jury room, if
10 you have to, take it down there, or the bailiffs will
11 take it down there for you, either one. Be back in the
12 jury room at 2:00 o'clock. Have a nice lunch.

13 (Whereupon, the jury leaves open court at 12:38
14 p.m.)

15 THE COURT: All right. Everybody stay in here
16 for a few minutes. Let the jury have an opportunity to
17 clear the courthouse.

18 MS. GORDON: Your Honor, my plan is to re-call
19 Christine White for the purpose of just the issue about
20 prostate cancer that was brought up with the SLED agent
21 for cross-examination, that if he had prostate cancer it
22 could be urine. That was after testimony. She has
23 indicated to my investigator that her husband does not
24 have prostate cancer. He's never told her about it,
25 never been treated.

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1 THE COURT: You want to re-call her for some
2 purpose?

3 MS. GORDON: Just for that purpose.

4 THE COURT: Anything else?

5 MS. GORDON: That would be it. She would be
6 very short and then we would be done.

7 THE COURT: All right. Thank you very much. We
8 will be back at two o'clock.

9 (Luncheon recess was taken.)

10 (Whereupon, the jury came into open court at
11 approximately 2:02 p.m.)

12 THE COURT: All right. We do have the jury with
13 us. Parties are present with all of their attorneys. We
14 stopped where Mr. Howe, you were about to cross-examine
15 the witness.

16 MR. HOWE: Yes, sir.

17 THE COURT: You are still under oath.

18 CROSS-EXAMINATION

19 BY MR. HOWE:

20 Q. Just a few questions probably and a few less
21 since I've had a chance to reorganize.

22 There's sort of a team approach to this, I
23 guess, what happens at the Lowcountry Children's Center,
24 correct? I mean, you did the interview. There's
25 somebody else that did the physical exam?

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1 A. Yes.

2 Q. Do you remember her name?

3 A. I believe it was Tracy Williams.

4 Q. Right. Right. She's got a new name now.

5 Everybody does in this case. And so she's doing the
6 physical stuff and looking for certain signs, correct?

7 A. Yes.

8 Q. And you get the advantage of that as you are
9 doing your evaluation, maybe not in the room, but overall
10 evaluation of the child; your contact with the child;
11 don't you?

12 A. Not always. In some cases we have that
13 information prior, and some cases we don't.

14 Q. Okay. And there's a review of symptoms that you
15 go through. You are familiar with that? And I will hand
16 it to you. Make sure -- that's probably not the first
17 time you've seen a form like that. I can get you the
18 whole --

19 A. Is this from Tracy's report?

20 Q. Yes.

21 A. Okay.

22 Q. For my purposes right now that's just part of
23 your standard protocol for things that you look for?

24 A. These are things that Tracy looks for, yes.

25 Q. Right, right. Yes, yes.

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1 A. Right.

2 Q. And you would look for it too if you noticed
3 some of those things, wouldn't you?

4 A. The behavioral things, yes.

5 Q. And you have to tell me if I'm wrong on this.
6 My understanding is, we all, whether we are children or
7 adults, we can internalize things, and internal this way
8 that might pop out somewhere else in some other symptom;
9 is that correct?

10 A. Yes.

11 Q. Okay. And I'm not -- simple as, boy, you know,
12 I come home and my wife says, you look worried, what's
13 going on? Doesn't necessarily have to be anything
14 drastic, does it?

15 A. I'm not sure what you are asking.

16 Q. When there's a lot of pressure, something
17 happened, it shows sometimes, doesn't it?

18 A. Sometimes, depending on the person and the
19 situation; sometimes not.

20 Q. Right. And sometimes it's as simple as, gee,
21 darling, you must have had a bad day, you don't look
22 good; whatever that look good might be on my face,
23 right?

24 A. Yes.

25 Q. Maybe my shoulder is a little hunched over,

1 right?

2 A. Could be.

3 Q. Might be distracted?

4 A. Sure.

5 Q. Might be short-tempered? Might be
6 short-tempered all the time, I don't know. But y'all and
7 by y'all, I mean the Lowcountry, use this: Difficulty
8 sleeping is one that you look for, isn't it?

9 A. That's actually more of a treatment question.
10 That's not a typical question that we ask during a
11 forensic interview.

12 Q. That's really not what my question is with you.

13 A. Okay.

14 Q. I'm going to cut you off. A typical symptom is,
15 if a child is having trouble sleeping, that could be the
16 externalization of other problems; couldn't it?

17 A. It could be.

18 Q. And same thing with someone who gets clingy or
19 whiny?

20 A. It could be, or it could be a temperament issue.

21 Q. Fearful of being left alone?

22 A. Yes. But just to clarify, this is not -- this
23 is -- looks like it's the medical report. This is not
24 the report that I would complete.

25 Q. I'm not even asking you that.

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1 A. Okay.

2 Q. You are a licensed medical worker. You deal
3 with child abuse and you just said you are an expert in
4 that area.

5 A. I'm licensed social worker.

6 Q. Okay, licensed social worker, and you are an
7 expert.

8 A. Yes.

9 Q. And these concepts are not new to you.

10 A. No.

11 Q. And I don't care which piece of paper they are
12 written on. Throw the paper away. Okay? I'm not
13 talking about the piece of paper. I'm talking about in
14 your world, all right, kids who are sad or cry easily,
15 that is a symptom that you would be on the lookout for,
16 isn't it?

17 A. Yes.

18 Q. And whether they were quiet, became quiet and
19 withdrawn?

20 A. Yes.

21 Q. Whether they were acting out in some way that
22 was inconsistent with their normal behavior?

23 A. Yes.

24 Q. Okay. Whether they began drinking or using
25 drugs?

1 A. Yes.

2 Q. Whether they started getting changes in
3 appetite?

4 A. Yes.

5 Q. All right. Whether they started complaining
6 about stomach aches all of a sudden --

7 A. Uh-huh.

8 Q. -- and there's no other real reason? Headaches
9 is another thing, correct?

10 A. Yes, could be.

11 Q. And you are familiar with the fact that in
12 Minor case, she didn't have any of those, did she?

13 A. It indicates on Tracy's report that no
14 behavioral changes were identified.

15 Q. Okay.

16 A. But she did report to me during my interview
17 that she was having trouble sleeping and that she was
18 fearful.

19 Q. But she said -- she didn't sleep the night
20 before, is all she had, isn't it?

21 A. Uh-huh.

22 Q. Wasn't a general, I'm having trouble sleeping?

23 A. I would need to watch back.

24 Q. Tracy asked her -- Tracy got that she wasn't --

25 MS. GORDON: Objection, Your Honor, misstating

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1 the evidence. May we approach?

2 THE COURT: No. Ask another question.

3 BY MR. HOWE:

4 Q. You've got Tracy's report in front of you, don't
5 you?

6 A. I have two pages of Tracy's report.

7 Q. Let's get the whole thing if you've got a
8 problem with it.

9 A. I can't testify to Tracy's report though.

10 Q. Just tell me what you can testify to.

11 A. Okay. But --

12 MS. GORDON: Your Honor, I'm going to object to
13 her trying to testify to the accuracy of someone's report
14 that she didn't create, she didn't review.

15 THE COURT: Do you rely on that in any way?

16 THE WITNESS: No.

17 THE COURT: You don't? Okay. Ask another
18 question.

19 BY MR. HOWE:

20 Q. In your treatment of a child who comes to the
21 Lowcountry Center, you don't rely on reports like
22 Tracy's?

23 A. Well, what I was doing was not treatment.

24 Q. In your day-to-day practice, you do or do not
25 rely on reports like that that Ms. Tracy Williams

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1 prepared in this case; is that correct or incorrect?

2 A. Sir, the professional opinion that I came to in
3 my report was based on my interview with Minor and with
4 her family, not based on Tracy's information.

5 Q. Okay. So you didn't even look at Tracy's
6 information to come up with your report?

7 A. I don't recall.

8 Q. Well, you don't -- now you don't recall?

9 A. That's correct.

10 Q. Okay.

11 A. It would indicate in my report what contact I
12 had with Tracy before I saw Minor .

13 Q. Okay. What does it say?

14 A. I don't have my report. Can I see a copy? So
15 it looks like I met with the detectives from Mount
16 Pleasant.

17 THE COURT: Answer the question. You have a
18 question.

19 THE WITNESS: Could you restate the question
20 please?

21 BY MR. HOWE:

22 Q. Question is pretty simple. Did you rely -- you
23 said you could not remember whether or not you relied on
24 Tracy's report in any way in your connection with this
25 child. And you said you had to look at your report.

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1 A. Well, I was saying I could not recall if I had
2 Tracy's information prior to seeing Minor. It looks
3 like as though I did not.

4 Q. Okay.

5 A. But my opinion was based on my interview with
6 Minor and her family.

7 Q. That's fine. Now, you've been trained as a --
8 give me the right term -- forensic what, interviewer; is
9 that the right technical term?

10 A. I was trained as a forensic interviewer. I have
11 not done that job in five years.

12 Q. Okay. So you no longer are doing that, but you
13 used to do it?

14 A. Correct.

15 Q. And you went through lots of training on that?

16 A. Yes.

17 Q. And there's a special method that you've learned
18 called the RATAQ, RATAQ?

19 A. RATAC.

20 Q. R-A-T-A-C, right?

21 A. Yes.

22 Q. And there's also, I think, was one part of the
23 protocol and there was another one called Word
24 Friendly?

25 A. Finding Words is kind of a relative term for the

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1 training class.

2 Q. And why is it called Finding Words? What are --
3 is that just talking about how you find words to
4 communicate about these things?

5 A. I honestly don't recall why it was named what it
6 was named.

7 Q. Okay.

8 A. It's been a long time.

9 Q. The RATAC method, R is first for rapport,
10 correct?

11 A. Correct.

12 Q. In connection with rapport, you want to make the
13 child comfortable?

14 A. Yes.

15 Q. You want it to be in a calm setting?

16 A. Yes.

17 Q. And as I noticed in your picture, you are in two
18 chairs face-to-face, correct?

19 A. Correct.

20 Q. Not behind a desk like going to see the
21 principal at school or anything like that?

22 A. Right.

23 Q. And you don't want to be projecting that aura of
24 authority; do you?

25 A. No.

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1 Q. And so the setting is important, an important
2 part of the rapport part of the RATAc, isn't it?

3 A. Yes.

4 Q. Now, it is also true that children pick up on
5 the emotions of adults, don't they?

6 A. Some children do, yes, they can.

7 Q. And adults pick up on the -- that's part of our
8 interchange?

9 A. Some adults do, yes.

10 Q. Some better than others?

11 A. Correct.

12 Q. Okay. Did you find that Minor had any problem
13 interpreting emotions or anything like that? Did you
14 make a diagnosis that she -- I mean, Asperger's, for
15 instance, is a condition where that's exactly what they
16 lack, those facial cues, right?

17 A. Right.

18 Q. She didn't have anything like that, did she?

19 A. No, not that I identified.

20 Q. And so as part of -- I'm still talking about the
21 setting. You want to come in, you want to be calm, don't
22 you?

23 A. Yes.

24 Q. You don't want to project anger, do you?

25 A. No.

1 Q. You don't want to project any particular
2 concern?

3 A. Right..

4 Q. You don't want -- certainly don't want to
5 project any fear or upsetness or anything like that?

6 A. Right.

7 Q. And if a next-door neighborhood or a cousin's
8 child or something came in and had you upset, you
9 wouldn't do that interview, would you?

10 A. I would not.

11 Q. Because you are projecting or you could at least
12 probably -- you would be worried about projecting some
13 type of emotion, right?

14 A. Right.

15 Q. And that could lend to bias in the interview?

16 A. It could, yes.

17 Q. Now, so that's what entails you as a
18 professional -- very simply, you want your game face on;
19 you want to be quiet, focused, and you want to be
20 soothing?

21 A. Yes.

22 Q. For the child you also want the child to be at
23 ease, don't you?

24 A. Yes.

25 Q. Have there been times in your practice when, if

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1 the child seemed particularly upset or something, you
2 just said, this isn't really a good time or maybe you
3 ought to give five minutes, ten minutes, or let things
4 calm down; do you do that sometimes?

5 A. Yes, in cases of extreme emotional distress,
6 yes.

7 Q. And so that sort of takes care -- we want the
8 setting neutral, emotionally neutral; fair enough?

9 A. Fair enough, yes.

10 Q. We want you with the game face on, sort of
11 emotionally neutral?

12 A. Yes.

13 Q. And we want the child as calm as the child can
14 be under the circumstances?

15 A. Yes.

16 Q. Recognizing that if you are a child of any age,
17 the circumstances of being taken to a place for an
18 interview are going to have some anxiety with it?

19 A. Yes, likely.

20 Q. Now, once you get all that straight, this is all
21 part of RATAC, right?

22 A. It is.

23 Q. You want to ask the right kinds of questions?

24 A. Correct.

25 Q. And you want to be as general as you can as much

1 as you can; is that fair?

2 A. Yes, uh-huh.

3 Q. And the reason is, you want to be eliciting the
4 details from the child not providing the details?

5 A. Right.

6 Q. Simply said, you don't want to be putting words
7 in their mouth or in their head?

8 A. Right.

9 Q. And so you never want to ask leading
10 questions?

11 A. Correct.

12 Q. Kind of questions I'm asking you now, right; you
13 want to stay away from those, correct?

14 A. Correct, yes.

15 Q. Let's talk about a little bit what that is, just
16 to make sure the jury understand. If I'm concerned, my
17 son Robert got knocked down and hurt because he got
18 knocked down on the sidewalk at recess, okay, by his
19 friend John. All right? A nice open-ended question
20 would be: Did you see John today? That might get it
21 started, right?

22 A. It could, sure.

23 Q. And if it didn't, I might say: Play with John
24 at recess any? That's a -- I'm not -- that doesn't
25 suggest any details, right?

1 A. Right.

2 Q. If I'm getting: Huh? You know, sometimes you
3 get the attitude. You might go to: Did you have any
4 trouble with John today? How are you and John getting
5 along? Something sort of general like that, right?

6 A. You could, sure.

7 Q. The question you wouldn't want to say is: Did
8 John knock you down on the sidewalk and hurt you? That's
9 what you want to get away from, isn't it?

10 A. Well, I think the example you are giving is an
11 example as a parent. And this is very different. This
12 was me interviewing her in a professional setting. As a
13 parent, I would try to ask open-ended questions as well,
14 but primarily because I was doing this as a forensic
15 interviewer, I don't know that's information that parents
16 outside of this field would have.

17 Q. Exactly. Exactly. So if you are a parent, you
18 are not armed with that, you might ask the kinds of
19 questions; you might start off with the leading
20 question?

21 A. You could sure.

22 Q. Which is the same question you are trained not
23 to ask?

24 A. Right.

25 Q. And there are reasons not to ask it that way?

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1 A. Yes.

2 Q. So -- well, and the reason is because it gives
3 detail? That's one reason anyway, it provides detail?

4 A. Yes, it does.

5 Q. Minor never described for you, other than
6 pointing at the picture -- well, she never really said
7 she saw a penis, did she?

8 A. She did not, no.

9 Q. And she never described any position other than
10 being face-to-face with legs down?

11 A. Right.

12 Q. And she never described seeing -- I'm sorry
13 about the indelicacy of this, but she never described
14 seeing any semen or ejaculation?

15 A. Right.

16 Q. And she never described any wet feeling to you?

17 A. She did not, no.

18 Q. And she never described the need to get cleaned
19 up in any way?

20 A. No.

21 Q. Never got wiped down with paper towel, either
22 her or George?

23 A. Not that she reported, no, to me.

24 Q. And she didn't describe George making any
25 particular noises or anything that might be consistent

1 with sexual passion?

2 A. She did not describe noises, no.

3 Q. And you never found any physical findings that
4 Tracy didn't find, did you?

5 MS. GORDON: Objection, Your Honor; beyond the
6 scope of expertise.

7 BY MR. HOWE:

8 Q. Did you find any physical findings?

9 A. I was not looking for physical findings, so, no.

10 Q. You specifically asked her if he did anything
11 with his hands, didn't you?

12 A. Yes.

13 Q. And she didn't remember anything with his
14 hands?

15 A. She had described him using his hands to move
16 her back and forth.

17 Q. Fair enough. Fair enough. Right, right.

18 A. Yes.

19 Q. But no fondling in her private area?

20 A. No, not that she reported in my interview, no.

21 Q. And no digital penetration?

22 A. Not that she reported to me, no.

23 Q. No lifting up her legs to gain access to that
24 area in some way?

25 A. She did not report lifting up her legs to me.

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1 MR. HOWE: That's all the questions I have.

2 THE COURT: Anything on redirect?

3 MS. GORDON: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. GORDON:

6 Q. Ms. Dadin, Mr. Howe had shown you Ms. Tracy's
7 report with a list of symptoms?

8 A. Yes.

9 Q. Do all children have symptoms?

10 A. No.

11 Q. In your experience, in your professional and
12 expert experience, how often does child sexual abuse go
13 undetected by the family?

14 A. More often than not.

15 Q. Are you familiar with the term coping?

16 A. Yes.

17 Q. Can you explain that in terms of the dynamics of
18 child sexual abuse?

19 A. Uh-huh. So generally kids have sort of a
20 natural coping mechanism, whether it is -- Mr. Howe
21 suggested internalizing. Sometimes internal behaviors,
22 such as stomach aches, headaches, things like that. A
23 lot of times children who don't tell do internalize the
24 situation. And sometimes we see physical symptoms, but
25 not always.

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1 Q. And do they generally tell their family about
2 those symptoms if they have them?

3 A. Typically no.

4 Q. Mr. Howe was asking you questions about the
5 leading questions, and what he was really getting at is
6 the term suggestibility. Can you tell the jury what that
7 means in terms of child abuse, dynamics of child abuse?

8 A. Uh-huh. So there's a concern that children are
9 more suggestible than adults, meaning that if they are
10 provided information, they may sort of take on that
11 information and parrot it back.

12 Q. Did you do anything in your interview to
13 determine whether or not Minor was suggestible?

14 A. I did.

15 Q. And what was that and what were the results?

16 A. So some of the concrete examples are, I asked
17 her about favorite things and then offer my favorite to
18 see if she will change what she says. A lot of younger
19 kids typically, you know, between three and probably as
20 old as eight, when I had set my favorite is chocolate,
21 might have said, my favorite is chocolate too. She
22 resisted suggestions several times though.

23 Q. Did you ever ask her about noises, if Mr. White
24 made any noises?

25 A. I believe I asked her if he said anything. I

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1 don't think I asked her specifically about noises.

2 Q. And is it ever necessary when interviewing a
3 child to ask more than: Just tell me what happened?

4 A. Yes.

5 Q. Why is that?

6 A. A lot of times kids don't necessarily have the
7 language to share what they are trying to say.
8 Typically, the semi-structured protocol suggests that you
9 start with very open-ended questions. And then you get
10 to more direct information trying to clarify things. So,
11 for example, you would not ask a direct question of a
12 child who, A, was suggestible; or, B, had not made a
13 disclosure already.

14 Q. And before they come to you, do they have to
15 have at least made some disclosure?

16 A. Typically they've either made a disclosure or
17 there are behavioral concerns that have come to
18 somebody's attention.

19 MS. GORDON: Thank you. I have nothing further.

20 THE COURT: Thank you very much. You can go
21 wherever Ms. Gordon wants you to go. Thank you for
22 coming.

23 MS. GORDON: Your Honor, we would ask for her to
24 be excused.

25 THE COURT: Thank you very much. You are free

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1 to go. Call your next witness.

2 MS. GORDON: The State re-calls Christine White.

3 CHRISTINE WHITE,

4 having been duly sworn, testifies as follows:

5 MS. GORDON: Your Honor, will she be under oath?

6 THE COURT: You are still under oath.

7 REDIRECT EXAMINATION

8 BY MS. GORDON:

9 Q. I just want to recall to make sure I understand
10 correctly. You've been married to George White since
11 1992?

12 A. Correct.

13 Q. Have you ever known him to have prostate
14 cancer?

15 A. No.

16 MS. GORDON: Thank you. I have nothing further.

17 THE COURT: Any questions?

18 MR. HOWE: Yes, sir.

19 RECROSS-EXAMINATION

20 BY MR. HOWE:

21 Q. As I understand it, George isn't a big fan of
22 doctors?

23 A. No, he doesn't go to doctors unless he's
24 absolutely passed out.

25 Q. Does he have a family doctor?

1 A. No.

2 Q. Do you know whether he's ever been checked for
3 having any kind of prostate problems or anything like
4 that?

5 A. No.

6 Q. So you don't really even know if he knows?

7 A. Right.

8 Q. One other thing I want to follow-up on is there
9 was something about some birthday presents for --

10 MS. GORDON: Your Honor, this is beyond the
11 scope for recall.

12 THE COURT: Actually, under the rules it is
13 allowed.

14 MR. HOWE: Yeah, it is not redirect -- I mean,
15 it is not.

16 THE COURT: Go ahead.

17 BY MR. HOWE:

18 Q. There was apparently a whole group of presents
19 for somebody's birthday?

20 A. Right.

21 Q. Are you familiar with that?

22 A. Yes.

23 Q. Tell us about that.

24 A. Well, a couple of days before, George and I went
25 to Walmart. I got -- I remember this. I got shorts and

1 shirts for both the little girls. And then there was a
2 Pound Puppy, little box of little puppy plastic whatever
3 that she was into, Minor. So in Walmart George and I
4 got that. And then we went to the dollar store and I got
5 a bunch of little goodies and decorated the little bags.
6 So that was it.

7 Q. Okay. So the number of presents was little
8 dollar store trinket things?

9 A. Yeah, but the little things were in the bags,
10 you know.

11 Q. So they could be opened separately?

12 A. Right. And then Minor had a pair of shorts
13 and a top that I bought at Walmart.

14 Q. Right.

15 A. And another -- it was a box. And then, of
16 course, the Pound Puppy, whatever the name of those.
17 whatever --

18 Q. Right, but the number was reflected more in the
19 things from Dollar General?

20 A. Oh, yeah, there was just a lot of little things.

21 Q. And so you could have the surprise of opening
22 lots of presents?

23 A. Right. Well, I did so that both girls -- well,
24 you know, the birthday girl could have her birthdays, but
25 also the littlest one could have some too.

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1 Q. Didn't want to be totally left out?

2 A. Yes.

3 Q. Wanted it to be a good birthday not a jealous
4 birthday?

5 A. Right.

6 Q. All right. Then you also mentioned yesterday
7 that you looked in the van and where the work bench area
8 is; is that correct?

9 A. Yes.

10 Q. How tall are you?

11 A. I'm 5 foot 1 1/2. Can I push the half?

12 Q. And how tall is George?

13 A. Six-foot, one

14 Q. And when you stand up, if you would do this
15 again, you sort of showed yesterday where the bench comes
16 up on you.

17 A. You want me to stand up and show you?

18 Q. Yes, ma'am.

19 A. Okay. It's like right here. You see this
20 countertop, it's a little bit higher than this.

21 Q. Okay. So not as high as your waist but not as
22 low as your knee?

23 A. My hip, whatever this is.

24 Q. When you stand up straight in the van -- or can
25 you stand up straight in the van?

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1 A. I cannot stand straight up in the van. I
2 actually have to lean over.

3 Q. And if you sat on the work bench, would you be
4 able to sit straight up?

5 A. No. I actually feel tall.

6 MR. HOWE: That's all the questions I have.
7 Thank you.

8 REDIRECT EXAMINATION

9 BY MS. GORDON:

10 Q. Ms. White, do you remember me coming out to your
11 house with my investigator, Amanda?

12 A. Yes.

13 Q. And we talked?

14 A. Yes.

15 Q. And I asked you about the birthday presents?

16 A. Yes.

17 Q. And do you remember telling me at that time that
18 George made you go buy those presents?

19 A. Well, he didn't actually make me; he suggested
20 that we go together and do this.

21 Q. Do you remember telling me that he made you do
22 it?

23 A. No, I don't remember that.

24 Q. And that bench in the back he told you was for
25 the purpose of sleeping and laying down on, correct?

1 A. Well, when he built that, he made it for two
2 things; one for a work bench, and one for when he went
3 out to see his sister in Arizona, that he could just
4 maybe perhaps lay down on it. But if you lay down on it,
5 you are going to get choked either way by both those
6 chains or the center chain.

7 Q. Which was the purpose, that's why he made it,
8 for going out and being able to sleep back there?

9 A. Yeah.

10 MS. GORDON: Thank you.

11 THE COURT: Thank you very much.

12 MR. HOWE: No other questions from me.

13 THE COURT: You can go wherever they want you to
14 go.

15 MS. GORDON: We will ask for Ms. White to be
16 excused, Your Honor.

17 MR. HOWE: Yes, please.

18 THE COURT: Any other witnesses?

19 MS. GORDON: The State rests, your Honor.

20 THE COURT: All right. Members of the jury
21 panel, I need you to go to the jury room for a few
22 minutes, please. I have to go over timing matters, so to
23 speak, and procedural matters with the lawyers. I will
24 be back with you as soon as I can. If you would go to
25 the jury room please.

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1 (Whereupon, the jury leaves open court at 2:32
2 p.m.)

3 THE COURT: All right. The State has concluded.
4 Mr. Howe, any motions?

5 MR. HOWE: Yes, sir, Judge, if I could put my
6 hand on it. I'm going to move for a directed verdict at
7 this time.

8 Well, first of all, to make sure I cover myself,
9 I want to renew my earlier motion for a mistrial in terms
10 of the opening argument.

11 THE COURT: Opening statement.

12 MR. HOWE: Opening statement, excuse me. And
13 would add to that that I believe in the context of the
14 case, that the evidence you allowed over my objection
15 regarding the grooming and delayed response sort of
16 intensified that and made that more of an error and has
17 compounded that. I renew that motion at this time.

18 THE COURT: I deny your motion for a mistrial.

19 MR. HOWE: As to directed verdict, obviously
20 there are two different charges. I make it as to both,
21 but I want to restrict my argument as to the criminal
22 sexual conduct charge.

23 The criminal sexual conduct, as I understand it,
24 Judge, requires that there be some amount of penetration.
25 I acknowledge it has to be slight, but it has to be some

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1 degree. Where we are at this point is that there is no
2 physical evidence of penetration. The mechanics of
3 what's described don't exactly lend themselves to
4 penetration. And the eyewitness, Minor, has basically
5 said she doesn't know. Now, there are some cases
6 where --

7 THE COURT: Which witness are you talking about?

8 MR. HOWE: The victim.

9 THE COURT: Oh.

10 MR. HOWE: Minor. She said she
11 doesn't know. The strongest evidence that she has given,
12 and this is consistent with some cases, but I think
13 there's a distinction here, is that it hurt.

14 Now, there's a couple of problems with that.
15 And so group of problems A.: My reading of the other
16 cases --

17 THE COURT: Let me interrupt you just a second,
18 if you don't mind. Does anybody have a copy of the CSC
19 statute involved? I haven't brought it out here with me.

20 MR. HOWE: I think this is it, Judge.

21 THE COURT: Well, actually, I've got it here. I
22 wanted to see the definition of sexual battery. I
23 couldn't remember the exact language. I've got it here.
24 It says: Any intrusion, however slight, of any part of a
25 person's body into the genital or anal openings of

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1 another person's body.

2 Now we are going to get -- what I understood the
3 testimony of the nurse examiner, the only person that
4 examined her, was basically from a physical standpoint
5 anyway, is what I understood her testimony to be. What
6 was her name?

7 MS. GORDON: Ms. Halasz, Tracy Halasz.

8 THE COURT: Yeah, right. What she described as
9 penetration was -- and I don't recall her exact language,
10 but do any of you all? But it was spreading of the lips.

11 MR. HOWE: I think that's probably right.

12 THE COURT: Or something similar to that. At
13 least that's the way I interpreted it and the way I wrote
14 it down in my notes and so forth and all, as far as
15 whether that constitutes intrusion into a genital
16 opening.

17 MR. HOWE: I think it probably would. I mean, I
18 wish it wasn't quite that -- but I think I'm still okay,
19 and I will go to that argument.

20 THE COURT: All right. So that's what I
21 understand the testimony to support as far as that
22 testimony. And then I understand as far as about hurt,
23 but I don't think that's -- again, I don't know whether
24 that's enough or not anything. But I think that that's
25 the most --

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1 MR. HOWE: Liberal?

2 THE COURT: If I'm trying to decide the issue of
3 whether or not the testimony has established that, that's
4 the testimony that I look to most.

5 MR. HOWE: Right.

6 THE COURT: Is that if she says that -- you
7 don't have to have the physical signs otherwise that you
8 might think of in terms of the hymen and so forth and
9 everything, but that what can happen is that there can be
10 an intrusion that spreads the lips.

11 MR. HOWE: Right. And I agree with that. The
12 question is, is there testimony to show that it did
13 happen, and that's where I think the State falls short.
14 And I would like to talk about that.

15 THE COURT: All right. Go ahead. All right.
16 Go ahead with that then.

17 MR. HOWE: The young lady who was the victim has
18 testified she just doesn't know. There's no physical
19 evidence and there's the only eyewitness with
20 uncorroborated evidence saying she just doesn't know.

21 Now, there are some cases that say if the minor
22 says there was pain, I felt pain, then that might be
23 enough under certain circumstances. I don't think
24 those -- I think those cases are distinguishable.

25 And the one I looked at was Mathis, I believe it

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1 was, Judge. That's a 6-year-old child that says there's
2 pain. This young lady is 16 years old now. She's been
3 to sex education classes. She's articulate. She's
4 bright. And if she doesn't know, I don't think it's fair
5 to ask the jury to find beyond a reasonable doubt what
6 she doesn't know herself. And the only evidence in this
7 case to get you there is that she says it hurt.

8 There's another step. So that's problem number
9 one. And that's compounded with problem number two. We
10 don't know exactly what she means when she says it hurt.
11 They say privates, and they show her a picture, and you
12 can't see the picture of what they show her. So when she
13 says it hurt, it could be the inside of her area. It
14 could be the outside of her area. It could be the folds
15 of her legs next to it. It could be her tummy up on top.
16 It was never identified with any specificity in this
17 case.

18 And, you know, like I said to the jury, but I
19 say to the Court, the details matter. And they have not
20 sufficiently filled in the details to prove their case,
21 and that's the basis of my motion. She never localized
22 the pain in any specific area and certainly never said it
23 hurt inside.

24 THE COURT: All right. What do you want to say
25 in response to that?

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1 MS. GORDON: Thank you, your Honor. I think the
2 case is directly on point in State vs. Mathis. And I
3 will provide you a copy of it. The relevant part is
4 regarding the directed verdict.

5 THE COURT: Let me look at it first before I
6 hear further. Okay.

7 I don't think you've given me anything that
8 speaks to that.

9 MS. GORDON: Your Honor, I can point you to it.
10 State v. Mathis, it is the portion that says directed
11 verdict. I had it turned to the section. And it is
12 Number 5.

13 THE COURT: Okay. Okay. Okay. Got it. Well,
14 I agree with you; what this says supports that idea.

15 MS. GORDON: Your Honor, in addition, the child
16 did testify that she was sitting naked, her pants off,
17 his pants off, with her private part to his private part,
18 and that he was moving her back and forth. She not only
19 said that it hurt, but then asked how her private part
20 felt afterwards, she said, it hurt for a little bit and
21 then it got better.

22 Your Honor, I would submit that in the likeness
23 favorable to the State, that clearly meets the elements
24 and perhaps the jury issue regarding penetration.

25 MR. HOWE: We just add that until they identify

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1 private part with a little more specificity in the
2 context of this case with the girl of this level of
3 sophistication, and the only way of doing that is showing
4 a picture we haven't seen on tape and can't produce,
5 that's not sufficient.

6 THE COURT: I appreciate your position. I deny
7 your motion.

8 All right. Anything else?

9 MR. HOWE: That's it at this time, Your Honor.
10 And I will tell you that I've spoken with Mr. White, he
11 does not plan on testifying, and we do not plan on
12 putting up a defense.

13 THE COURT: All right.

14 MR. HOWE: We reserve our final argument.

15 THE COURT: All right. So, Mr. White, I want to
16 ask you now. Your lawyer, Mr. Howe, has just told me
17 that he's discussed this situation with you; is that
18 correct?

19 MR. HOWE: Yes, your Honor.

20 THE COURT: You can stay seated. That's all
21 right. And he's explained your right to testify?

22 MR. HOWE: Yes, Your Honor.

23 THE COURT: And I want to emphasize that to you,
24 that you do have the right to testify for the jury at
25 this point, tell them anything and everything you want to

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1 say about this case; do you understand that, within the
2 rules of evidence?

3 MR. HOWE: That's fair enough.

4 THE COURT: Within the rules of evidence and
5 procedure; do you understand that?

6 MR. HOWE: Yes, Your Honor.

7 THE COURT: All right. Do you want to discuss
8 it any further with him?

9 MR. HOWE: Maybe I better.

10 THE COURT: All right. Go right ahead. Take
11 your time.

12 MR. HOWE: I think he's changed his mind, Your
13 Honor; he would like to testify.

14 THE COURT: All right. Is that right,
15 Mr. White?

16 MR. HOWE: Yes, Your Honor.

17 THE COURT: All right. Bring the jury in.

18 (WHEREUPON, the jury came into open court at
19 approximately 2:47 p.m.)

20 THE COURT: All right. We have the jury back
21 with us and the parties are present along with the
22 attorneys. We have concluded that we've finished all the
23 testimony that the State wishes you to hear and see in
24 this case.

25 Now we switch and Mr. White can present any

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1 testimony or evidence that he wishes you to consider.

2 So, Mr. Howe, would you like to call any

3 witnesses on behalf of your client?

4 MR. HOWE: Yes, Your Honor. At this time we

5 call Mr. George White.

6 GEORGE WHITE,

7 having been duly sworn, testifies as follows:

8 THE CLERK: Mr. White, speak into this mic and
9 state your full name and spell your last name for the
10 record.

11 THE WITNESS: George Wayne White, W-h-i-t-e.

12 DIRECT EXAMINATION

13 BY MR. HOWE:

14 Q. And, George, I will tell you, if you speak up
15 out loud, we will all be able to hear you. Fair enough?

16 A. Fair enough.

17 Q. All right. But you have to be a little close to
18 the mic sometimes. If somebody can't hear you, they will
19 raise their hand or something like that. Okay?

20 A. Yes, sir.

21 Q. All right. George, how old are you?

22 A. 68, going on 69.

23 Q. And are you married?

24 A. Yes, sir.

25 Q. From Mount Pleasant?

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1 A. Yes, sir.

2 Q. And do you have any children?

3 A. No, sir.

4 Q. And --

5 A. But I do have, I guess you would say, a son, but
6 he's not a child.

7 Q. Okay. You have a son?

8 A. Yes.

9 Q. How old is he?

10 A. Well, to be honest with you, that would be a
11 little bit of a story and I'm not sure that it would be
12 part of the evidence, Your Honor. But if the Lord would
13 allow me and if the Court would allow me a little bit of
14 leeway, I would explain.

15 Q. Just how old is he now?

16 A. I really don't know.

17 Q. Okay. That's okay.

18 THE COURT: Do you want to explain why you don't
19 know?

20 THE WITNESS: That's why I wanted to say.

21 THE COURT: I will allow you to do that if you
22 want to.

23 THE WITNESS: The reason why I don't know is
24 because I gave him up because at the time I was not
25 married and at the time I was in jail. And so,

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1 therefore, I had to make a choice whether I was going to
2 bring up a child in the same way that I was brought up or
3 if I was going to actually give him a shot at having a
4 full family. And that's the reason why I don't know
5 exactly.

6 He was five months old the last time I saw him
7 and he was only three pounds when he was born. So he was
8 in the incubator for approximately two and a half months.
9 And so I didn't really get a chance to see him but twice
10 while he was alive.

11 Q. Okay.

12 A. But the closest I could get would be about 40,
13 45 years old, somewhere around there, about 40 years old.

14 Q. And Chris White is your wife?

15 A. Yes.

16 Q. And that's your -- is that your first or second
17 wife?

18 A. Yes, at least second wife.

19 Q. And you got married about 19 -- early 1990s, did
20 you say?

21 A. Yes, 1992.

22 Q. And how did you meet?

23 A. We met -- I was running Greyhound at the time,
24 and we met in Wilmington by her visiting friends in
25 Wilmington and was on her way home. And so I happened to

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1 be the operator of the bus.

2 Q. And I got a little ahead of myself talking about
3 Chris. You were in the service. Tell me where you grew
4 up and just a little bit about your background.

5 A. Well, actually, I was in an orphanage at a very
6 young age after having been what they called back in
7 those dates white slavery. I was sold into a family.
8 And it didn't last. I ran away. So they wound up
9 finding another home for me.

10 And at a very young age I wound up going in the
11 military. It was quite an experience.

12 Q. What branch? I'm sorry, which branch were you
13 in?

14 A. I was in the signal corps in Germany at the time
15 of Vietnam, but I didn't make it to Vietnam because my
16 MOS wasn't necessary at the time. And then so I got
17 honorable discharge.

18 Q. How long were you in the service altogether?

19 A. Approximately four years.

20 Q. What did you do after you got discharged?

21 A. After I got discharged, I wound up going into
22 the photography field, because that was my MOS in the
23 military. And that's when I wound up getting in trouble
24 and wound up going to jail, and I lost my son.

25 Q. How did you end up coming to the Charleston

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1 area?

2 A. Because of the Greyhound bus route that I made
3 from -- at the time was Richmond, Virginia to
4 Jacksonville, Florida.

5 Q. And I will say, the trouble you had, that was
6 back in the 1960s?

7 A. Yes, it was. That was back when I was young and
8 stupid, or I should say stupider. But there was one
9 thing that I had that I had gotten from the orphanage I
10 was in, I found that one of my gifts, if you want to
11 accept the fact that we all have gifts, one was working
12 with my hands, and the other one was I had a love for
13 children because I was in the orphanage. Never had any,
14 so to speak, but everybody I met seemed to have children,
15 whether it was in church or jobs, homes, wherever I went,
16 there was always children.

17 Sometimes the children were neglected in their
18 families, and sometimes they clung to me. Sometimes they
19 were all around me, particularly in this case.

20 Q. We will get to that in a minute. All right. So
21 you are on the Greyhound, you meet Chris, and that's how
22 you got to settle down in Charleston?

23 A. Yes. I came here with the agreement that when
24 her dad passed away, that we would move back to my home
25 in Virginia. But when the time came, she had already

1 lived here going on 30 years, and she didn't really want
2 to leave.

3 Q. So you lost that argument?

4 A. I lost out on that one.

5 Q. And you mentioned working with your hands. What
6 did you do work-wise?

7 A. Well, basically, anything that the hands can do,
8 concrete, finished carpentry. I was what they called a
9 master carpenter, but I never considered myself a master
10 at anything, just a jack of all trades.

11 Q. And there's been some talk and pictures you've
12 seen about the van; was that your van?

13 A. Yes, sir.

14 Q. And that's -- what kind of tools would you
15 normally carry in your van?

16 A. Well, I had three different types of saws. I
17 had what they call a chop saw and also what they call a
18 miter saw, and then skill saw, 7 and a half, 7 and a
19 quarter. And then I had other kinds of drills and
20 grinders. And I don't know, probably about, oh -- well,
21 I really don't want to say, probably about \$1,500 worth
22 of tools I carried in that box that you saw that was
23 called a bed, which it would have been nice, but only for
24 about a four-foot person. And that's -- I believe --
25 believe me, I did try it one time, as I shared with

1 Mr. Howe.

2 Q. Well, we will get to that in a second.

3 A. We will get there too. I'm sorry.

4 Q. You did some work for Ms. Graham and her
5 family?

6 A. Yes, sir, I did.

7 Q. And where was their house?

8 A. Well, it was located in Mount Pleasant. It was
9 an area that I wasn't familiar with because I didn't do
10 too much renovation in that area. So I wasn't familiar
11 with it, but the electrical company, which I did a lot of
12 work for and with, their son was the landlord to that
13 house. So one day he calls me in the office and he asks
14 me, he says, I've got a job I want you to go look at. So
15 I said okay, where is it? And he told me. And I said,
16 I'm not familiar with that area. He said, well, he said,
17 this is one street. And I said, yeah, I know how to get
18 to that one. And he said, when you get to this one -- so
19 he led me through it. And I went and checked it out and
20 it turned out to be --

21 Q. Go ahead.

22 A. A bathroom, a second floor shower, the tile had
23 broken up, and it was allowing water to seep down through
24 the ceiling in the bathroom below it and, therefore, the
25 sheetrock had dropped and it was a major problem.

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1 Q. Sounds like a mess.

2 A. It was a very good mess.

3 Q. And so tell me how you -- apparently you heard
4 some testimony that you all realized your paths had maybe
5 crossed in the past; was that correct?

6 A. Yes, sir, it did.

7 Q. Tell me a little bit about that.

8 A. Well, what happened was, as I was doing the job,
9 I've always got a tendency of talking to people,
10 especially about the Lord, because that's where I found
11 the Lord was back in my first time in jail, which was
12 back in the '60s. And, but I was young enough and
13 foolish enough that I didn't listen to the Lord. So I
14 got messed up in '73. And I thought I was doing somebody
15 a job, a help, believe it or not, I thought I was helping
16 them, but yet I knew it was wrong, and two wrongs don't
17 make a right, but I didn't know at that time the Lord
18 enough to listen. I was a little stubborn, and I guess
19 you could say prideful and thought that I could help.
20 And instead, I wound up getting in more trouble.

21 To make a long story short, I spent three and a
22 half years in prison. In that three and a half years
23 that I was there, I found a friend that I never knew
24 existed. Today I call him Father and God.

25 While I was at this house, a lot of things came

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1 back to me. One of the things that came back was a
2 relationship that my wife had with the family. And she
3 mentioned it to me one day, she said, you know that
4 person you are doing that floor for --

5 MS. GORDON: Objection, your Honor, hearsay.

6 THE COURT: Just ask another question. Ask
7 another question.

8 BY MR. HOWE:

9 Q. I will just ask another question. But let's
10 make it sure. Your paths had passed before there was a
11 connection with Chris' family somehow?

12 A. Yes.

13 Q. And so were you able to finish up the problem
14 with the bathroom and the seepage you've talked about?

15 A. Yes, I did.

16 Q. Were there other problems that came about?

17 A. Yes, because when I finished -- I finished the
18 bathroom floor, there was a weight problem. When I
19 finished the bathroom floor, it was either because the
20 pipe hadn't cured out, the concrete around the pipe,
21 or -- and it is very rare that I make a boo-boo on that
22 particular way of doing things. So the only thing I
23 could say -- anyway, what happened was it leaked.

24 Well, in its leaking process, I had to tear up
25 the whole thing again and redid it. Instead of taking

1 approximately a week for it to cure out properly, it took
2 me three weeks to redo the whole thing, meaning the first
3 week and then the two weeks added to it. Along while I
4 was there, I was talking to the --

5 Q. During those three weeks is when you got to know
6 them better?

7 A. Yes, that's when I got to know them, I would say
8 quite well.

9 Q. And who --

10 A. Quite well in the sense because the father, he
11 worked the same kind of work that I had at one time,
12 and --

13 Q. Was that Melvin?

14 A. Yes, I'm sorry, yes.

15 Q. Melvin?

16 A. That was Melvin.

17 Q. And then as I worked with him and talked with
18 him in the mornings. After I had been there for -- I
19 guess off and on for about a month and a half, because
20 while I was there with the three weeks, he asked me if I
21 would help him because he had no place to sleep. He said
22 he had been sleeping on a couch. He had been sleeping on
23 a couch for quite awhile. And he asked me could I do
24 something for him. And I said, what you got in mind?
25 And he said I want you to fix the garage for me. He

1 said, can you put a partition in.

2 And I started in my mind -- immediately I see
3 things. And I said, yeah, I can fix it for you. And he
4 said, well, I don't want you to spend a whole a lot of
5 money. And I said, no, it is not going to cost me any
6 money but it is going to cost you. I said, it is going
7 to cost you for the materials. I said, my time I will
8 freely give. The only reason why I'm giving it is
9 because I believe if I give, I get back. And I always
10 have.

11 So I'm free to give my time. I can't always
12 afford material things. But anyway, that was the
13 agreement and that was the way we did it.

14 Q. And were there some other things you did for
15 them as well?

16 A. Yes, because as I did it, as Ms. Graham said
17 very plainly, the day came when she had a problem with
18 the banister. She was afraid that somebody was going to
19 fall down the stairs. So as we worked in -- remember
20 this, I'm a contractor. I don't have to work from eight
21 o'clock in the morning until four o'clock, but I have to
22 make a living. So, therefore, I went to work on my
23 electrical jobs or what actually were renovations of
24 houses and stuff, a lot of times it was in the middle of
25 the afternoon, in the middle of the evening, I would get

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1 called out on jobs and stuff like that.

2 So what I did was, when I gave free time, I
3 would go when I was available and the person was
4 available. Sometimes they wouldn't see me all day long.
5 Sometimes for two or three days they wouldn't see me.
6 And then I would pop up. Why? Because they called me or
7 we had already agreed on a set day.

8 So what happened was, instead of me being there
9 all the time, I was there maybe two hours in the evening,
10 like from four o'clock until six o'clock. And that was
11 because he got home, Melvin, got home from work about
12 four o'clock or 3:30 or whatever time it was, just in
13 time for the children to get home from school or whatever
14 the circumstance were.

15 That's why it seemed like I spent a lot of time
16 there because sometimes my wife would say to me, honey,
17 you are spending a lot of time there; you are not making
18 any money. And I said, honey, I'm making fine. I'm
19 working it out, the Lord is taking care of it. What she
20 didn't stop and realize was, I was working my regular
21 job, plus I was working this job on the side.

22 Q. Okay. So long way to say, it was kind of a side
23 job that you did alone?

24 A. Yes.

25 Q. And that's one reason it took awhile?

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1 A. Yes.

2 Q. And so banister rails, bathroom twice; what else
3 did you do?

4 A. Well, I did the electrical panel.

5 Q. Right.

6 A. And that electrical panel was like going
7 into a -- I don't know what you want to call it. I guess
8 you can call it a -- after somebody dropped a grenade and
9 it was messed up. I mean, it was jerry-rigged and all
10 kinds of good stuff.

11 Q. Would you and Melvin do some of that stuff
12 together?

13 A. Yes. We pulled wires. I think it took us like
14 a week or more over the period of time of fixing the
15 wires.

16 Q. And there was a younger guy there?

17 A. His name was Cousin and he worked with me on
18 many jobs. And that was over a period of approximately
19 about a year.

20 Q. And those jobs weren't necessarily the jobs at
21 that house?

22 A. No.

23 Q. Tell me where some of those jobs were and what
24 kind of things you did with Cousin

25 A. Well, one of the jobs that we did downtown was

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1 the young women that was here yesterday testifying, she
2 lived next-door to ^{address} . And so I would imagine that
3 would be ^{address} because it was the next house to this house,
4 Street, which is off of Street downtown.

5 Q. Okay. And what kind of stuff were you doing
6 there?

7 A. Almost complete renovation, meaning by the time
8 I got finished tearing up all the floors where termites
9 had gotten through and literally ate the floor through,
10 and she was stepping through it in places.

11 Q. And Cousin helped you with some of that?

12 A. Yes. As a matter of fact, that young man was
13 with me most of the days that I worked there, which was
14 about three months straight.

15 Q. And is that -- we've heard a good bit of
16 testimony, but to shorten it, that's where the dog with
17 the wolf name --

18 A. All three of that was in the triangle right
19 there, one across the street, the other one was
20 diagonally the next house, yes.

21 Q. Tell me about how you met .

22 A. I met Minor when I was stuck up underneath the
23 sink doing the plumbing work in the bathroom with Sister
24 peaking over her shoulder.

25 Q. Sister is how much younger?

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1 A. I think Sister was -- at the time she was five.

2 I think, somewhere around there, three to five, yeah,

3 somewhere in there. I'm not sure on that one.

4 Q. All right. And so how did your relationship

5 with Becca sort of get going and where did it?

6 A. Well, the reason why we got together was because

7 I had a sister back when I was younger, and my job was

8 taking care of a six-month-old when I was only about six

9 going on seven myself. And my sister, Valerie, happens

10 to at that time look almost just like her. And so we

11 sort of hit it off, and Sister the same way, both of us --

12 only reason I didn't take Sister with me most of the time

13 is because Sister and Minor didn't seem -- I couldn't --

14 it was like I couldn't handle -- there was -- one was on

15 one schedule and one was on the other. One was more

16 active than the other one. And, of course, that was

17 because of their age.

18 When we went to the fishing pond, which was just

19 down the block together, I took both of them unless one

20 of them got punished for doing something they weren't

21 supposed to be doing during the daytime.

22 Q. Okay. And so you got to where you were seeing

23 Minor and seeing Sister and all that kind of stuff?

24 A. Yes.

25 Q. And there was something about that you tutored,

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1 I think came up; did you tutor her on some stuff
2 occasionally?

3 A. Because of my job, I'm blessed. I'm not smart,
4 but numbers come to me pretty easy. And I don't like to
5 see anybody behind. And I heard one day Minor and her
6 grandmother, Linda, talking. And I think Ann was in
7 there too. But anyway, they were telling her she had to
8 pick up on her grades, she had to pick up on her grades.
9 So I went in and I asked her, I said, look, I haven't got
10 a whole a lot of time to start with, I said, but I would
11 like to help. I said I could probably spend maybe half
12 hour in the evening after I got off from work, maybe an
13 hour at the most, but usually a half hour is what I dealt
14 with. And I said, I could stay about a half hour, after
15 then I have to go home; otherwise, I'll get in trouble
16 with my wife.

17 I can remember it was a very family-oriented
18 situation. And I really enjoyed it because it brought me
19 back to my old family when we were together. In the
20 orphanage, 16 children is a lot of fun. Small families,
21 and just my wife and I, and, you know, about yesterday,
22 Happy said -- that was her nickname, Happy.

23 Q. You are talking about Chris?

24 A. No, Happy, Harriet --

25 Q. Let's not go into that.

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1 A. The only reason I mentioned her was because the
2 way we were getting along. Excuse me. Go ahead.

3 Q. So the tutoring was usually like a half hour in
4 the evening some time?

5 A. Yes, yes, yes. That was maximum most of the
6 time, like I said.

7 Q. All right. Did you ever take anybody in the
8 house to see the dog that's the wolf?

9 A. Yes.

10 Q. Who all did you take?

11 A. Well, let's see, to start with, my wife I think
12 was the first one I took there. And that was because I
13 was doing the job next-door to the house. And that one
14 took me almost a year to do. I worked off and on on that
15 house. Because the owner, as they got the money, they
16 called me back, you know, whenever they got around to it.

17 Q. Pretty typical in your business?

18 A. Yes. It starts out as a small job and winds up
19 sometimes three or four months, six months, not all at
20 one time, but little bit at a time.

21 Q. And how about in that family, who did you take
22 down to -- was the wolf kind of a celebrity of the
23 neighborhood? I mean, Ms. Tanner talked about that.

24 A. It is called a wolf. The only ones that call it
25 dogs, don't know wolves. But once you really get a good

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1 look at it, it was like a combination, cross between a
2 wolf and an Eskimo husky. And in summertime they try to
3 keep it inside because it wasn't acclimated for warm
4 weather. But for inside -- I mean, in the wintertime
5 they left it out, and I took -- the whole family had been
6 there except for Melvin. He was the only one I think
7 maybe -- wait a minute now. I even take that back.
8 Melvin was there too because I remember there was a time
9 when Melvin worked on the same house with me which was
10 right next to the house that we was working on.

11 Q. So you and Melvin did some work together too?

12 A. Yes, yes, but it was only a couple of days
13 because it turned out that he couldn't take off from
14 work. He was making more money with me than he was on
15 his job, but he couldn't afford to get off a full-time
16 job for a part-time job, is what it turned out to be.

17 Q. All right. There was also some talk about, I
18 guess, a birthday party?

19 A. Yes.

20 Q. And you bought a number of presents and stuff;
21 what can you tell me about that?

22 A. That's a little trick that I learned from my
23 wife. At Christmastime she's always been the buyer of
24 gifts. She would save from one year to the next year.
25 Meaning we would start out in January for the following

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1 Christmas. And she would buy stuff all during the year
2 and then hide it all over the house, basically from the
3 grandchildren when they came so it wasn't where they
4 could get ahold of it and mess it up. But she had one
5 room specifically that she would stack stuff in. And she
6 would fill it up during the year.

7 Well, I saw what she did and I marveled at it.
8 What she would do is buy stuff at the dollar store and
9 break it down. And she would add little things to it,
10 little trinkets. Sometimes she would stick them on and
11 sometimes she would sew them on and sometimes she would
12 just use them fancy little, looked like to me, pipe
13 cleaners, wires, and she would wire them together.

14 So the idea I got from it with Sister and Minor
15 was -- like my wife said, you can't do for one without
16 doing the other one. So I said, okay, well, let's make a
17 game out of it. And knowing children were coming too, we
18 wound up getting a box that was approximately five feet
19 tall. Actually, if I remember correctly, what it was was
20 a washing machine for a dryer box, so you know
21 approximately what I'm talking about.

22 We took then with that her boxes from shoes.
23 Most women have a lot more shoes than men do. So my wife
24 over the years -- and she's kind of a pack rat. I don't
25 like to say that, but anyway, she likes to save things.

1 So she saves all of these boxes, all these different
2 kinds. If you were to come to my house, you would find
3 in the front porch up in the -- it's actually -- I've got
4 a drop-down stairway in it, and inside you've got all
5 kinds of boxes, I mean, all sizes. Because she saves
6 them, and not only her, but now I save them too, or did
7 save them. And I slowly but surely had to cut down on
8 some of them.

9 But anyway, what we would do is take the boxes.
10 And I cut them in half and make two boxes out of one box.
11 So what I did was I made something that was inexpensive
12 look very expensive, made something that looked like --
13 we would also save Christmas papers. And my wife has a
14 couple of financially well-to-do people. I've never seen
15 them. Physically I've never seen them. Now that may
16 sound strange but the reason why is --

17 Q. George, you are tending to ramble now. Tell us
18 about the presents.

19 A. That's the only thing I was going to say is the
20 paper, it was very expensive-looking. That's all I was
21 going to tell you. And that being the case, if a person
22 didn't know where the paper come from, it's very
23 expensive.

24 Q. But the end result was --

25 A. It was very inexpensive and it was basically

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1 what you would call a game for children. And everybody,
2 if they was to tell it, if you was to see it happen, you
3 are talking about, I don't know, 10, 12 children,
4 something like that that was there, and everybody was
5 taking the gifts out of his big box, and they were
6 passing them down the line to the other children to open.
7 Now, these are all Minor and Sister presents, but
8 everybody got presents to open. Why? Because some of
9 the children was only three years old, four years old,
10 and they were looking like, oh, oh, is that for me? I'm
11 sorry, but that's -- it was a game.

12 Q. Okay. But the presents, those kind of things
13 that would be in the box would cost what?

14 A. Well, my wife, I think, mentioned it. She went
15 to the dollar store and out of it was clothes. She
16 purchased the clothes at Walmart.

17 Q. Okay.

18 A. But the dollar store, it was like little round
19 balls that had little different colored things in them.
20 And when you shake them like that and roll them, they
21 would go so far and then they would roll back and then
22 they would go again. And then there was whistles inside
23 of it. Oh, I don't even remember now. You are talking
24 about four years ago so or five years ago.

25 Q. Tell me about this bed/bench in the van, how

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1 that came about; what that was?

2 A. Well, my wife and I, after getting -- I guess
3 you call it the empty-nest syndrome, is what she called
4 it, when the children started moving away, the
5 grandchildren started moving away, it was too far for us.
6 And with the animals, we had three or four animals at the
7 time, so then my sister, whom I never visited in Arizona,
8 kept asking me every few years, you know, when are you
9 going to come see me, brother, when are you going to come
10 see me, brother. And finally my wife and I agreed. At
11 first she didn't want me to go because we've never been
12 separated. We've never been basically out of each
13 other's sight since we've been married. So it was kind
14 of hard.

15 But anyway, when she really realized that, hey,
16 you know, go ahead, go visit your sister, you've never
17 seen her in Arizona, go there. So I said okay. So then
18 she started buying stuff, little things, cook stoves,
19 little pots and pans. She said, you need this, you need
20 this. And next thing I know, I've got a sleeping bag.
21 Then I got two sleeping bags. Why? Because she and I
22 was supposed to, when we did -- which we did one time, we
23 went to a place in Florida where they had Hurricane
24 Andrews, and we worked together there. So we both used
25 the sleeping bags. And that's why we had the sleeping

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1 bags to start with.

2 But anyway, she said, you've got to take your
3 sleeping bag with you. And I said okay. So these are
4 the things. We put a microwave in there. We put the
5 stove in there. Of course, I didn't use the stove. It
6 stayed in a cardboard box because the microwave did
7 anything and everything I needed. She made sure I had
8 groceries, like I said, pots and pans, paper towels, you
9 name it, we had it all in there.

10 Q. So when about was that built?

11 A. That was built -- well, I went to November, so I
12 would say it was probably in September. And believe it
13 or not, Melvin and Cousin Cousin did the helping on me
14 drilling the holes through and running chains up here and
15 doing all of this good stuff, and building of the box, of
16 course, I wound up cutting the wood, and I think Cousin
17 helped me put some of it together, screwed it together,
18 because I didn't use any nails. Everything was done with
19 screws.

20 Q. Okay. And you did go see your sister?

21 A. Yes, I did. I wound up going to see my sister
22 in Arizona. And I tried -- believe it or not, I did
23 try -- it wasn't built for a bed, but I was hoping I
24 could use it. I tried to be economical on the trip. And
25 so I figured, well, if I could, you know, escape spending

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1 \$40 a night for a motel and stay cramped maybe every
2 other night, I could try the bunk. Well, it only takes
3 three days to get there. And the first night out, I was
4 so tired after working that I wound up trying to sleep in
5 it. I slept maybe an hour or half hour a couple of
6 times, and it was cold. It didn't work.

7 I tried the fetal position, I guess you call it,
8 where your knees is almost stuck up in your chest. But
9 it didn't work too well. And I tossed and turned, like I
10 said, for a couple of hours, and then I got back in the
11 driver's seat and went on down the road.

12 Q. All right. There was also something, there was
13 a picture somewhere, box with an angel in it or
14 something?

15 A. Yes.

16 Q. Was that -- that was a present for somebody?

17 A. Yeah, actually, I wound up -- again, I have to
18 say, I gave my time freely.

19 Q. This?

20 A. Yes. I gave my time freely on that, but I did
21 not pay for that.

22 Q. Okay. Did you buy the angels?

23 A. It was actually --

24 Q. Build the box?

25 A. No, I didn't buy any -- I don't think there was

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1 anything in there that was from me. My sister when I
2 went to Arizona, she gave up some stuff, but I don't
3 think I had anything to do with that. I'm not sure on
4 that because I don't remember on that exactly how that
5 came down on the inside. I just know that Cousin said
6 you've got -- hey, I've got to help you pay for this.
7 And I said, fine, I will take it out in your work. And
8 that's exactly what I did. He worked for me and I took
9 it out of his pay.

10 Q. Who was that for, do you remember, the angel;
11 was that Sister or Minor or somebody else?

12 A. No, no, no, that's for Mrs. Graham.

13 Q. Okay. The grandmother?

14 A. Yeah, yeah. That was not -- see, that's what
15 I'm saying, when you look at something or you hear
16 something and you don't know exactly what went on --

17 Q. George, you've got to answer questions now. You
18 are getting the judge mad at you.

19 A. I'm sorry. I don't want to go --

20 THE COURT: Ask another question.

21 THE WITNESS: Go ahead.

22 BY MR. HOWE:

23 Q. How often would you see Minor -- well, the
24 incident, as we know, where the police came was January
25 21st, I think, or 22nd. So for the couple of months

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1 before that, let's say six months before that, how often
2 would you have seen Minor ?

3 A. Any time that I was there that she wasn't at
4 school, and I would see her coming and going. Same way
5 with Sister and same way with Cousin. Same way with Ann
6 when she wasn't working, and same way with Mrs. Graham
7 when she was there, which they weren't always there at
8 all times.

9 Q. Were there sometimes when you did take her to
10 church?

11 A. Yes, yeah.

12 Q. Were there sometimes when you took her to
13 breakfast?

14 A. Yes.

15 Q. Were there sometimes when you took her to see
16 the wolf?

17 A. Yes, there was.

18 Q. Were there times when you did any of those when
19 it was just the two of you?

20 A. Yes.

21 Q. Did you ever have any sex with her, take her
22 clothes off of her or do anything like that?

23 A. I'm sorry, I can honestly tell you no, I did
24 not. Why would she say it? I don't know. But as far as
25 me personally having -- I pled not guilty at the

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1 beginning of this and I still stand by that.

2 MR. HOWE: That's all the questions I have, Your
3 Honor. Thank you.

4 THE COURT: Any cross-examination?

5 MS. GORDON: Your Honor, there's one area that
6 I think I may take up.

7 THE COURT: Members of the jury panel need to go
8 to the jury room. Let me see what Ms. Gordon wants to
9 say. You all can stay in the hall out there if you want
10 to; don't have to go in the room.

11 (Whereupon, the jury leaves open court at 3:30
12 p.m.)

13 MS. GORDON: Your Honor, out of abundance of
14 caution, I wanted to do this in camera before I brought
15 it up. Mr. White spoke to the jury about Harriet Gray
16 Limehouse. And I do intend to ask him who that is and
17 the fact that that is his stepdaughter and that she does
18 not speak to him anymore.

19 THE COURT: I'm sorry. I didn't follow you.

20 MS. GORDON: On direct examination, Mr. White
21 was talking to -- telling the jury about Harriet, he
22 called her Happy, which is her nickname, and Mr. Howe was
23 trying to stop him, but he said, you remember Harriet,
24 she testified yesterday. And he was saying that to the
25 jury, and I want to have him clarify who Harriet

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1 Limehouse is, that that is his stepdaughter, and that she
2 does not speak to him. And that's as far as I will go.

3 MR. HOWE: Has absolutely no relevance to
4 anything in this case, and I object.

5 THE COURT: Okay.

6 MR. HOWE: They don't speak.

7 THE COURT: If you want to ask the questions
8 nonjury, let's see what you can, because I'm having a
9 little bit of trouble following exactly what you are
10 saying. And I will be glad to hear you and we can decide
11 at that time. So if you want to ask the question, go
12 ahead.

13 CROSS-EXAMINATION

14 BY MS. GORDON:

15 Q. Mr. White, you mentioned during your direct
16 examination somebody by the name of Happy; who is that?

17 A. That's my stepdaughter.

18 THE COURT: I'm sorry?

19 THE WITNESS: My stepdaughter, your Honor.

20 THE COURT: And by that, that's your wife's
21 daughter?

22 THE WITNESS: Yes, Your Honor.

23 BY MS. GORDON:

24 Q. And you've done some work for her in the past as
25 well, some handiwork?

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1 A. May I ask -- may I ask you a question first,
2 Your Honor, first before I answer?

3 THE COURT: Sure.

4 THE WITNESS: The reason why I mentioned Happy
5 was because of the question that was asked. She was a
6 daughter living in my home at the time. And so,
7 therefore, when I mentioned it, I mentioned it about
8 children not living at the home anymore. That's all I
9 mentioned, and that's the only reason I mentioned it.

10 THE COURT: Okay. All right. Any other
11 questions?

12 MS. GORDON: Actually, Mr. White, on direct
13 examination, you mentioned Ms. Limehouse testifying
14 yesterday.

15 THE WITNESS: The only reason why -- Your Honor,
16 the only reason why I mentioned that was because she was
17 here, so they would know when I said Happy, my daughter,
18 they would know who it was that I was relating to, not
19 anything else.

20 MS. GORDON: And isn't it true that she does not
21 speak to you anymore?

22 THE WITNESS: Your Honor, the reason --

23 THE COURT: Just -- just answer the question.
24 You don't have to say Your Honor.

25 THE WITNESS: Well, the reason why I asked or

1 answered that or the reason why she doesn't speak to me
2 is because of the case yesterday that you were talking
3 about. That's why.

4 MS. GORDON: Your Honor, I'm not going to try to
5 ask him to bring that up but if he wants to, that's fine.

6 THE COURT: Objection is to any of those
7 questions asked of him, right?

8 MR. HOWE: Yes, sir.

9 THE COURT: I sustain the objection. I don't
10 see any relevance to that of any issue involved. And I
11 don't think what he said earlier opened the door to that
12 line of examination.

13 All right. You got anything else you want to
14 ask?

15 MS. GORDON: One moment, Your Honor. Your
16 Honor, I think it is relevant because he started off by
17 saying he doesn't have any children. And then he started
18 talking about a child. And I just think it goes to show
19 this pattern of, you know, selective disclosure.

20 THE COURT: Bring the jury back in.

21 MS. GORDON: I assume you still sustain that
22 objection?

23 THE COURT: Yes.

24 MS. GORDON: Just to be clear.

25 (Whereupon, the jury came into open court at

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1 approximately 3:29 p.m.)

2 THE COURT: All right. We have the jury back
3 with us. All right. Any questions?

4 MS. GORDON: Thank you, your Honor.

5 CROSS-EXAMINATION

6 BY MS. GORDON:

7 Q. Mr. White, just a few areas. I first want to go
8 back to that birthday party. And you took the big box of
9 gifts and you told Minor those gifts were from Jesus,
10 didn't you?

11 A. Yes, everything comes from Jesus, every good
12 gift comes from Jesus.

13 Q. I just want to be clear. This is the dog that
14 you took her to see?

15 A. Yes.

16 Q. And they call that the wolf?

17 A. Yes, ma'am.

18 Q. And you spent some time with Minor ?

19 A. Yes, ma'am.

20 Q. And you and her family got along just fine?

21 A. Yes, ma'am.

22 Q. They liked you?

23 A. Yes, ma'am.

24 Q. You liked them?

25 A. Yes, ma'am.

1 Q. They let you take their child, Minor, their
2 granddaughter, their niece, their daughter, they let you
3 take her to church, wherever you were going?

4 A. I was asked to take her. I did not volunteer to
5 take her. I was asked by her father.

6 Q. Okay. And this is the playhouse that you built
7 for her?

8 A. There was a playhouse that was built for both of
9 them, for her and Sister

10 Q. And then this you did for the grandmother?

11 A. Yes.

12 Q. And you kind of took Cousin under your wing?

13 A. Yes.

14 Q. Teach him and --

15 A. Well, I was asked to because he needed money at
16 the time. He was a young man in school, not wanting to
17 and didn't have a job, and asked me if he could work with
18 me. I offered, yes, sure. He was a good strong young
19 man.

20 Q. You offered it or were you asked?

21 A. I was asked and I offered it, yes.

22 Q. And you also, you know, wanted to help out
23 Melvin?

24 A. Yes.

25 Q. The father?

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1 A. Yes.

2 Q. And you took the family out after you built this
3 bed to show it to them, and you called it a bed?

4 A. Well, no, I called it a work bench that was
5 hopefully on vacation would be used as a bed, but it
6 didn't turn out that way.

7 Q. And when you got arrested for this, this is how
8 it was set up?

9 A. No, ma'am. It was not set up that way when I
10 got arrested. It was opened up afterwards, evidently by
11 one of the police officers.

12 Q. This was still there, this --

13 A. Had to be there because the opposite side, which
14 it does not show you, happens to be a place of storage.

15 Q. And when you were arrested, you were arrested at
16 their house on Street ?

17 A. Working.

18 Q. You were working there?

19 A. Yes, ma'am, and nobody was there.

20 MS. GORDON: Court's indulgence:

21 BY MS. GORDON:

22 Q. And you took Minor downtown to that house
23 across the street from the wolf?

24 A. Yes, ma'am.

25 Q. And you took her to job sites?

George White - Cross by Ms. Gordon

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1 A. That was the job site.

2 Q. Okay. Did you ever take her to any other job
3 sites?

4 A. No, ma'am, not that I'm aware of.

5 Q. So the house downtown off of Street .?

6 A. Which is the two right, side-by-side, is the one
7 that I worked at.

8 Q. I will show you the picture to make sure. This
9 is the house --

10 A. Well, yes.

11 Q. -- what has been entered at State's Exhibit 7.
12 And I apologize to the court reporter, I used exhibits
13 and have not identified them.

14 And that's the house that Ms. Tanner lives right
15 next-door to?

16 A. Yes, ma'am.

17 Q. And you know Ms. Tanner?

18 A. Uh-huh.

19 Q. Her father owns the house that you were working
20 on?

21 A. Yes, both houses.

22 MS. GORDON: That's all, your Honor.

23 THE COURT: Anything on redirect?

24 REDIRECT EXAMINATION

25 BY MR. HOWE:

George White - Cross by Ms. Gordon

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1 Q. You don't believe the -- tell me, I didn't quite
2 get it, what was different about how things were arranged
3 in the van, the way you left them and how they might be
4 in this picture?

5 A. The sleeping bag was not opened on it. So
6 evidently; when they went through it, they opened it
7 up.

8 Q. Okay.

9 A. That's the only difference.

10 Q. Because you can't work on it with a sleeping bag
11 on it, can you?

12 A. No, you can't. That's the reason why it
13 wasn't there.

14 MR. HOWE: That's all, Your Honor.

15 THE COURT: Thank you very much. You can return
16 to your place in the courtroom.

17 Any other witnesses, Mr. Howe?

18 MR. HOWE: That's all we have, Your Honor.

19 THE COURT: Anything in reply?

20 MS. GORDON: Nothing, Your Honor.

21 THE COURT: Members of the jury panel, that's
22 all the testimony and evidence. I need you to go to the
23 jury room for a few minutes and I need to go over timing
24 with the lawyers now, and we'll be back with you in just
25 a minute.

George White - Cross by Ms. Gordon

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1 (Whereupon, the jury leaves open court at 3:34
2 p.m.)

3 THE COURT: All right. Now, Mr. Howe, anything
4 else?

5 MR. HOWE: Nothing other than whatever I need to
6 do, renewed the earlier motions.

7 THE COURT: Go ahead. And I want you to say
8 fully whatever you want to say.

9 MR. HOWE: Renew the motions for mistrial that
10 we've already discussed and argued and ruled on, and for
11 directed verdict as to both the lewd act and to the
12 criminal sexual conduct. And second, I don't know that
13 there's any material evidence. I just make those
14 motions.

15 THE COURT: All right. I appreciate it. I deny
16 your request for a mistrial and I deny your request for
17 directed verdicts.

18 All right. What's your pleasure as far as
19 proceeding is concerned? Do you want to go today? We
20 will be here for awhile, I can tell you that, or do you
21 want to go tomorrow morning?

22 MS. GORDON: Your Honor, I can do whatever the
23 Court wants to do. I'm fine. My concern is can the
24 jury -- does the jury -- do any of the jury members have
25 any reason they can't stay late, because my -- between

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1 (WHEREUPON, the proceedings continue on March
2 21, 2013.)

3 MR. HOWE: Court's Exhibit 3.

4 (Court's Exhibit No. 3, Transcript of the
5 Videotape, was marked for identification.)

6 MS. GORDON: Your Honor, I submitted a
7 requested jury charge.

8 THE COURT: I covered that. You will see how I
9 covered it in my instructions, but I'm going to give
10 this, but it will be incorporated in my other charges in
11 regard to credibility and believability and so forth and
12 so on.

13 MR. HOWE: Judge, I spoke with the court
14 reporter and I just wanted to make sure, and I think we
15 got it straight, the transcript will be part of like
16 the --

17 THE COURT: Doesn't go to the jury.

18 MR. HOWE: Doesn't go to the jury, but will be
19 part of the record in case we need it.

20 THE COURT: If they request to look at it again,
21 I would still let them do it and everything and all, but
22 doesn't go to the jury.

23 MR. HOWE: Sure.

24 THE COURT: We have all the jury now, so got
25 that taken care of. And it was traffic that was holding

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1 them up. We will give them a minute to catch their
2 breath and bring them out. So argument, as far as
3 arguments is concerned, State going to go first on the
4 law? And then you, Mr. Howe, and back to you for what
5 you want to say as the last argument.

6 MS. GORDON: Yes, Your Honor. Thank you.

7 THE COURT: But you are going to open on the
8 law?

9 MS. GORDON: I will open on the law, yes.

10 THE COURT: All right. Bring the jury in.

11 (Whereupon the jury enters open court at 9:47
12 a.m.)

13 THE COURT: All right. We have all the jury
14 back with us finally. And I say that with no malice or
15 anything like that. I understand a couple of you were
16 held up by traffic delays on 26 or somewhere, heavy
17 traffic that's going on there. And that's one of the
18 things that is common that we have to deal with, would be
19 downtown Charleston.

20 So we've got everybody here safe and sound.
21 Appreciate your efforts in getting here. And we will
22 continue now with the the trial.

23 As I told you yesterday, we have finished with
24 all of the testimony and the evidence. Now we are
25 getting to that part of the trial where the attorneys can

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1 summarize and argue to you. After that, I will discuss
2 with you more fully what your duties and responsibilities
3 are as a jury in this case and the laws that you may
4 apply in this case. And then you will go to the jury
5 room and you will deliberate and make your decision about
6 this case.

7 So that's the way -- that's what we've got ahead
8 of us now. Now, the order which we will hear from the
9 attorney's is, first of all, the rules provide for the
10 solicitor, the prosecuting attorney, to go first. And
11 she will talk with you about what the law is in regard to
12 this. That's the way we classify it. She's going to
13 discuss the legal things, what he's charged with, the
14 elements of the crimes, the things that they have to
15 prove beyond a reasonable doubt.

16 After that, we will switch. And then Mr. Howe,
17 who represents Mr. White, will argue fully to you again
18 on the law and the facts. You will go into the facts as
19 far as arguing that particular matter is concerned.

20 And then we will go back to the State and the
21 State gets to make the final argument basically focusing
22 on the facts. So that's the way we are going about
23 hearing from the attorneys. I would ask you to give your
24 attention now to them as they summarize and argue to you.

25 Ms. Gordon.

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1 MS. GORDON: Thank you, Your Honor.

2 Ladies and gentlemen of the jury, thank you. I
3 know it's been a long week. You've all had to listen to
4 a lot of testimony, some of it probably not the type of
5 stuff you deal with every day, not the type of stuff
6 that's the most comfortable to hear, but it is very
7 important.

8 As the judge mentioned to you at the beginning
9 of the trial, the State has charged Mr. White with
10 criminal sexual conduct with a minor in the second degree
11 and lewd act upon a minor. Now we finally get to tell
12 you what that actually means, what did we have proof,
13 what are we proving.

14 Criminal sexual conduct with a minor in the
15 second degree, the main elements, and this is what you've
16 really got to figure out: One, was the child under the
17 age of 16. Yes. That's no doubt. She was 10 and 11
18 years old. That's easy.

19 What you are going to focus on is the sexual
20 battery. And what we think of as a sexual battery, maybe
21 it is not necessarily what the law would consider sexual
22 battery, doesn't mean full intercourse, it is just a
23 intrusion into the genital area.

24 And the judge will instruct you it's an
25 intrusion, however slight, into the genital or anal

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1 openings of another individual. And that will be
2 important in this case. This happened to Minor when
3 she was less than 16, between August 2007 and January of
4 2008, when she was 10 and 11 years old.

5 He's also charged with lewd act on a minor.
6 What does that mean? It means that the defendant had to
7 be over the age of 14. And, again, he was over the age
8 of 14, and that the child was under the age of 16. We
9 have to prove that. And that it was a lewd or lascivious
10 act.

11 That's one of those things that the way it is
12 described, the way it is defined is lewd or lascivious.
13 It means an inappropriate sexual touching of some kind,
14 something that is not appropriate between individuals
15 unless it is of a sexual nature. That's what lewd and
16 lascivious is, for him to appeal to his lust or sexual
17 desires, just sexual kind of touching in nature. That is
18 basically what we have to prove happened.

19 You will also hear from Mr. Howe fully. And I
20 will come back to you to argue about the facts of this
21 case and how we have actually proved those elements.
22 Thank you.

23 THE COURT: Mr. Howe.

24 MR. HOWE: May it please the Court.

25 Mr. Foreman and ladies and gentlemen, let me get set up

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1 just a little bit. I finally get my chance, if I can get
2 it, to talk to you on the law and the facts. I'm not as
3 high-tech as the Solicitor's Office. I have to place the
4 board on an easel and a couple of things. I think you
5 understand this now, but what's going to happen is, I'm
6 going to talk to you some about the legal aspects and
7 about the factual aspects. Ms. Gordon will reply to what
8 I say. And then the judge is going to give you some
9 instructions about the law.

10 The first thing I want to do is echo her thanks.
11 You've obviously been an attentive jury, it's just that
12 some cases are as I said earlier, snake bit. We've had
13 incredible technical problems with some Internet -- not
14 Internet, but technical stuff. We've had accidents on
15 the highway. I apologize. Things out of our control and
16 you've been jerked around a little bit more than we would
17 like to.

18 In a funny way, though, I thought last night
19 sometimes maybe things are meant to be. These are hard
20 things to talk about, and nobody likes to be on a jury of
21 any kind, but we have to talk about private matters with
22 12 people you don't know about. Maybe by being together
23 a little bit you will be able to more comfortably talk
24 about some of the things that we've been talking about in
25 this case. So I hope there's a silver lining.

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1 I don't think there's much doubt about the fact
2 that this is probably the most important decision that
3 you will ever make about the life of someone else that is
4 not family. There's no other decision you will ever make
5 in your life that touches another human being as
6 importantly as your decision will affect George White
7 unless it is a child or a mother or some person in your
8 immediate family. It's an awesome experience.

9 Winston Churchill used to say the service of the
10 jury was the most important service a citizen could give
11 to their country in a time of peace. And I think when I
12 say what I've said, which is true, you understand why he
13 would make a statement like that. It is an awesome
14 responsibility. And we appreciate the time and the
15 attention that you've given.

16 I want to talk to you in big sense first of how
17 do you take on that responsibility. Because there's
18 actually some perhaps principles of fairness that I hope
19 will make you a little more comfortable about that.

20 I talked to you from the beginning about the
21 three big rules. First, listen to the evidence, which
22 you've done. Second, be mindful of the presumption of
23 innocence. And the judge will talk to you about that.
24 But even now, you are to look at Mr. White and you are to
25 think with your heart and your mind that he is innocent

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1 until you go back in that room, and if you become
2 satisfied beyond a reasonable doubt that each and every
3 element of these offenses has been proven to you beyond a
4 reasonable doubt.

5 Why? Why is that? First of all, Mr. White's
6 entitled to that as a citizen. Second of all, you are
7 entitled to that as a juror. You are not supposed to go
8 home and put your head on the pillow tonight and say, I
9 think I did the right thing, or, I hope I did the right
10 thing. You are entitled before you pass that kind of
11 judgment on a fellow human being, to say, I know I did
12 the right thing. And you've taken an oath that if you
13 have hesitation of reasonable doubt, that nobody is going
14 to put you in that position to say that you had to guess
15 or that you had to assume or that you had to make any
16 kind of leap of faith. Don't guess. Don't assume.
17 Demand facts. So you as a juror are entitled not to have
18 to go out on a limb.

19 The third thing, and this is sort of important,
20 and you could see this in the courtroom and what's
21 happened, think about the dynamics of what the process
22 is. This is not a case of Minor vs. George
23 White. This is the case of the State of South Carolina
24 vs. George White. And the State of South Carolina has an
25 army of professionals. And you have seen them at work in

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1 this case. The Mount Pleasant Police Department has been
2 involved. The Charleston City Police Department has been
3 involved. Serology experts from the City of Charleston
4 have been involved. DNA specialists from SLED have been
5 involved. Child forensic examiners have been involved,
6 and a number of lawyers, which you've seen coming in.
7 Bunch of them sitting out there now. You heard what I
8 said, I have one partner. And you heard they've got
9 about 25 lawyers. Well, is that a fair fight? No. No
10 citizen can withstand that kind of professional army on
11 their own. And so the burden is on them to prove the
12 case. They not only have the responsibility under the
13 law, they have the resources.

14 And so when you think about it, it is only fair
15 that they use those resources to make sure that you are
16 comfortable with your decision and that George gets the
17 benefit of the legal process. Okay? So that's the big
18 picture and that's how we start.

19 Let's focus a little bit more on the case
20 itself. There are two charges. There's lewd act and
21 there's criminal sexual conduct in the second degree.
22 You will have the option of finding George not guilty on
23 both, or not guilty on either, or guilty on both. They
24 are different charges. They have different definitions.
25 And you have to look at each element.

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1 So you look at them together to some extent, but
2 you want to focus on those elements. As a practical
3 matter, the first charge is the -- that I want to talk to
4 you about anyway -- is the criminal sexual conduct. And
5 you could see here again they have their high-tech
6 Internet. And I've got my little board I got from
7 Staples last night.

8 The key on the criminal sexual conduct, I think
9 I agree with Ms. Gordon on this, is, was there what's
10 called a sexual battery. And His Honor is going to give
11 you instruction to explain this. So if I misstate
12 something here, you hear it different from me, that part
13 the judge has 100 percent control over, but I think what
14 he will tell you is if they prove intrusion, however
15 slight, into genital or anal opening, okay, that could be
16 criminal sexual conduct.

17 But it is an essential element of the crime of
18 criminal sexual conduct. Let me give you an example.
19 One example, but a fair example. If I say to you, here
20 is butter pecan ice cream and it doesn't have pecans in
21 it, it is not butter pecan ice cream. It might be ice
22 cream, it might be something else, but you can't have
23 butter pecan ice cream without having pecans in it. You
24 can't have criminal sexual conduct second degree until
25 there's an intrusion. It is an essential element.

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1 Now, let's look at the facts. And again, some
2 of this is unpleasant, may make you a little
3 uncomfortable, it is just what we are here to do.

4 Minor herself, when asked by the forensic
5 interviewer to get the facts, who is trained in finding
6 facts on the stand in front of you, when asked about
7 whether or not there was any intrusion said, I don't
8 remember. Yet, the State wants you to be sure beyond a
9 reasonable doubt. How are they going to make that leap?
10 How could you be more sure than she's sure.

11 Well, I have not heard the argument. I have a
12 guess about that, and I want to talk to you about that.
13 They are going to bridge this gap by saying that her
14 privates hurt, or really what she said in quotes, if we
15 were -- she said, it hurt when it happened; it hurt. And
16 I want to go over it with you very specifically why "it
17 hurt" does not bridge that gap.

18 First of all, what was "it"? Do you remember
19 what the evidence was the one time she actually talked
20 about what she meant by her private area? It was a
21 picture that Molly Wharton, whose name was Wharton, Dadin
22 now, she's in that room and she shows you a picture. And
23 you can't see the picture in the video, and the picture
24 is not in evidence. And I don't know what the picture
25 was and I don't know what the angle of the picture was.

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1 And I don't know, and excuse my crudeness, I don't know
2 if the picture was this big or this big or this big, or
3 if it was from this angle, from this angle, from that
4 angle. All we know is it hurts, it hurt. And we don't
5 know what "it" was. It could be the outside rather than
6 the inside because there was no penetration of her
7 vaginal area, but not inside. It could be that, because
8 the picture could be, you know, of somebody standing like
9 this straight on, and it could very well be the outside
10 because of the way this thing was described of being
11 bumped back and forth.

12 It could be a little bit above on her tummy,
13 because remember, the facts according to Minor are they
14 sat face-to-face and he rocked her back and forth. Well,
15 if he had an erection, and she's a little girl, it's
16 going to be up high. There's no testimony that he used
17 his hands to try to line anything up or felt her down
18 there to try to, what I will call, gain access. There's
19 no testimony of that. He just put her on -- did that.
20 So it could be up a little bit above.

21 It could be an area between the opening and the
22 side of her leg. It could be the bottoms of her leg near
23 her butt, depending on where the thing was from, the
24 picture is from. If you say all of that is private area,
25 it could be skin rash from going back and forth. And it

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1 could be the inside area because of some penetration, but
2 we don't know what it is.

3 Now think about that. That's five reasonable
4 descriptions of what it is, five. If you make the
5 assumption that it was internal, you only have a 25
6 percent chance of being right. Now, how on earth is that
7 beyond a reasonable doubt? How on earth can one out of
8 five chance be the beyond a reasonable doubt.

9 Now, that's on the "it" side, because "it" is
10 vague, it's never been defined, it's never been proven.
11 We still don't know what "it" is because it's dependent
12 on some picture we haven't seen.

13 What about "hurt"? Where did "hurt" come from?
14 "Hurt" initiated from Kristin Kulpepper. Remember that
15 scene -- and this is the hard part where we have to catch
16 you back up. I will start with this. We learned about
17 the best way to interview a child. You get everybody
18 calmed down. You get them off to the side. Just in a
19 funny way, it is what they do professionally a lot of
20 times is what we know if there's something going on in
21 the playground, you get them over to the side and calm
22 them down and try to get them out, you say all right, get
23 your game face on, tell me what happened. And that's
24 what Molly Dadin did.

25 Unfortunately, with all good intentions, and I'm

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1 not blaming anybody, I'm not casting any aspersions or
2 anything, I think Ms. Kulpepper is a nice lady, she's a
3 good-hearted lady, but she, as you heard, has been a
4 victim herself. She's probably hypersensitive to some
5 stuff, and she saw something and she said, I had a gut
6 feeling about George from the beginning. And when she
7 comes over, and the whole house is crying and upset, and
8 you know she's mad because when she left, and you know
9 she's wearing her anger, because when she left that day,
10 Ann followed her out. Remember she said, I was so mad, I
11 wanted to do something physical to him, and before I got
12 in my car, Ann came out and said, what's the matter with
13 you? This is not somebody with their game face on like
14 Molly Wharton. Okay.

15 It was a perfect storm of breaking all the rules
16 to get accurate information. The interviewer was upset
17 and angry. She was a person in a position of authority
18 in this child's life. The child was crying profusely,
19 according to Ms. Kulpepper. So the setting was the worst
20 setting you could have. And the last thing you want to
21 do when you ask a question to anybody, particularly a
22 child in that setting, is a leading question. And her
23 question by all accounts was, if he had done this, it
24 would have hurt. And she said -- at first she said no,
25 but I think later on I heard her say yes. So there

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1 really is a question of where the concept of "hurt" came
2 from. The details matter. The details are the facts and
3 the facts matter.

4 And if that's not enough, there's another fact
5 that is undeniable that makes that make sense. This
6 little girl is being given a physical examination by the
7 doctor, by the professional from M.U.S.C. And we didn't
8 go into the details of it, but I think that it's
9 reasonable that we know that she actually looked in her
10 private area in sort of a more open way, because she had
11 to exam her hymen. Right? Remember that? So she's not
12 just showing her a picture. She's got her on the table
13 and she's looking on the inside, as opposed to a picture
14 of the outside. And do you remember what she asked? Did
15 anybody ever hurt you in this area? Minor said no.

16 So, when we've got a general "it", it may have
17 hurt. When we have a specific area that is the essential
18 element of the crime of criminal sexual conduct, we have
19 a no. Okay? And to the extent they want to say there's
20 intrusion, all they've got is "hurt". It just doesn't
21 add up. Doesn't add up to beyond a reasonable doubt.

22 I'm going to digress for a second, tell you a
23 story. Comes from my family. I can't help it. I had a
24 great aunt named Aunt Dora, a very peculiar lady, kind of
25 a recluse, no kids, lived over on Bee Street across from

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1 M.U.S.C. And she was in the hospital and she had gotten
2 up in age and everybody sort of helped take care of Aunt
3 Dora. And my mom and my aunt went to see her one time.
4 And they said, well, Dora, how are you getting along, how
5 is your hospital stay? She said, pretty good. She said,
6 the only thing that's giving me a problem is the man that
7 keeps coming in and out of the window. She's up on the
8 fourth floor. Okay? I think, well, I guess this is
9 Dora's last trip to the hospital, this doesn't sound too
10 good. They said, what do you mean? She said, well, he's
11 pleasant enough and he's always courteous and always
12 talks to me, but if just cutting back, I'm here and
13 trying to get my rest, and when a man just walks through
14 your window in a hospital, it's a little upsetting,
15 there's no notice or anything like that. Of course, they
16 knew she was nuts, something was going wrong, there was a
17 wire loose. So they're kind of looking at each other.
18 The wheels are spinning, and they are saying to
19 themselves, wonder what this means? About that time,
20 window opens, and man steps up, hi, Ms. Rhodes, how are
21 you doing, sorry to bother you again, be back in about
22 ten minutes.
23 Looked around and went and looked out the
24 window. He's the window washer. His scaffolding is
25 there by the window. And only way for him to get to the

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1 scaffolding and the rest of the hospital is my great
2 aunt's window. Okay.

3 They assumed, based on some knowledge and good
4 sense, that it must have been my aunt. What they didn't
5 do was go look out the window. You need to look out the
6 window. You've taken an oath to look out the window.
7 You are not supposed to assume. You are not supposed to
8 guess. Look out the window. Look at all the details.
9 Look at all the facts.

10 And when it comes to criminal sexual conduct,
11 you cannot get from I don't know and I'm not sure to you
12 being absolutely sure beyond a reasonable doubt based on
13 that testimony. It just doesn't add up. It just isn't
14 there.

15 Now, I want to turn now to the lewd act -- not
16 the lewd -- yes, to the lewd act charge. There are three
17 reasons. And I haven't written these up yet. I will try
18 to be quick. Lewd act does not hold up to fair scrutiny.

19 Number one, George testified. He denied it.
20 And he subjected himself to cross-examination and he put
21 himself on the stand and he looked you in the eye and he
22 said, just didn't do it, I didn't do it. And you had the
23 advantage to look at him and size him up a little bit.

24 And I want to tell you something, George is my
25 client, and as you heard from his wife, I've kind of

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1 known him for awhile, and it comes as no surprise and it
2 was obvious that George wanders, he can't answer a
3 question, he talks all over the place, he says things he
4 shouldn't, like he was in jail before, as his lawyer I
5 went, no, George. George is a little bit of a simpleton.
6 He's a simple man with simple things, but he puts his
7 cards on the table. He put a little too many on the
8 table when he testified yesterday about going to jail,
9 but that's just who he is.

10 Here's what I'm a little bit worried about about
11 that. George is not the sharpest tool in the shed. He
12 looks at life in simple ways. And you may not relate to
13 George because of that. And you may get a gut feeling
14 that you don't like him or he's different from you. This
15 is not a case about that feeling, ladies and gentlemen.
16 This is a case about proof. When you are at a beauty
17 parlor or a barber shop or coffee shop and you want to
18 beat on the table about what you think and you have a gut
19 feeling, you are entitled to do that. When you are a
20 juror passing on the fate of another human being, that's
21 out the window. We are talking about facts and we are
22 talking about details and we are talking about no
23 assumptions. We are talking about looking out the
24 windows. Okay.

25 And when you come to the lewd act, the second

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1 thing is that the story lacks essential details. What do
2 I mean by that? Well, the story is that in daylight --
3 because, remember, they were at one of the things, were
4 going to church, happened in the morning, so in the
5 daylight. George sits this young girl in his lap. They
6 both have no clothes on, and moves her back and forth.
7 Did you ever see his penis? No. Did you ever see
8 anything come out of the penis? No. Now we're years
9 later, remember something wet. Well, if there was
10 something wet, where was the cleanup process? Because if
11 you think of the mechanics, it should have been all over
12 him and all over her, somewhere on the front. And sure
13 if you are, quote, covering up a crime, the first thing
14 you are going to have to do is clean up before you take
15 somebody home. If you leave a big stain on them,
16 somebody is going to say what happened. Where was the
17 cleanup process? That's not in there.

18 Let's suppose you sent your niece or nephew to
19 the zoo and you said, I want you to write me a report on
20 the Riverbanks Zoo. Let's suppose they've never been to
21 a zoo, and they were unfamiliar with the zoo. And you
22 said, man, I want to hear about your trip to the zoo.
23 And they said, yeah, I saw some cool things at the zoo.
24 What did you see? I saw a zebra. What was it like?
25 Fine, it ran around and stuff, but they never mention the

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1 stripes. Did you see anything else? Yeah, polar bear.
2 What did you think about the polar bear? What did you
3 like? Never mention it is all white coat. And then a
4 giraffe comes up and never talk about the neck. And lion
5 comes up and they never talk about the mane. And the
6 leopard comes up and there's no spots. And at some point
7 you start wondering, did they go to the zoo? You can't
8 have the experience and miss all the essential details.
9 There's a problem with that. It is not adding up. And
10 that's a reasonable doubt. What's your reason? Where is
11 the details.

12 Now, I have to anticipate, this girl was only an
13 11-year-old, she doesn't know details. Then maybe.
14 She's 16 years old now. She's been to sex education.
15 She's gone through talks about this and how it works.
16 She has the advantage of hindsight and 20/20, and there's
17 still no details? Remember, they are sitting, you can't
18 get any closer than they were, and she's just a little
19 girl, and that's in theory, he has an erection or he has
20 his privates there somewhere, and she never ever sees
21 them and there's nothing that comes out, and there's no
22 noise that George seems to make? And, you know, they had
23 even with suggested neighbors and trained experts, they
24 don't have any facts about any of the essential elements.
25 What zoo did she go to.

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1 Number two -- or number three, she's gone
2 through a traumatic event and she has no symptoms. Molly
3 fought me as hard as she could fight me about those
4 symptoms. Didn't want to answer any questions. But the
5 protocol has a list of things that are common for people
6 that says, what did you notice about this person who went
7 through this trauma? Nobody's noticed a thing ever.
8 They hadn't noticed mood changes. She never avoided
9 George. She never said she wanted to be alone. She
10 never said she was getting stomach aches or headaches.
11 She never had a furrowed brow. She didn't have trouble
12 in school. She didn't have down-cast eyes. She didn't
13 have anything.

14 And not just when the interview went on two days
15 later. It is four or five years later and they haven't
16 come up with one thing to say, well, you know, with all
17 this stuff that went on, now that we look back on it, you
18 know, it is true that she did X, Y, or Z, not one single
19 symptom of a traumatic event after five years of analysis
20 by friends, family, teams of experts and armies of
21 professionals, not one. Hindsight, 2020, not one.

22 So, we have a story that lacks essential
23 details. And we have a trauma with absolutely no
24 symptoms. Does that add up? No. It can if you make an
25 assumption. It can if you don't look out the window. It

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1 can if you want to guess about something.

2 Now, the big question that we have is, why would
3 she say it? I don't know. I don't have to know. You
4 don't have to know. I don't know that anybody will ever
5 know. We know the girl's had a trouble past. We didn't
6 know much about it. As a practical matter, I don't have
7 any access to that. Number one, I don't have teams of
8 professionals to check it out and, number two, the law
9 doesn't allow me to send people for examination of her
10 past. It is not in the cards. But I don't have to know.
11 I don't have to give you a reason. That's not for today.
12 Knowing that reason, if you had an army of professionals,
13 you would probably never known, even if you had all the
14 access and all the shrinks in the world.

15 We know that when she was quite young, she was
16 taken from her mother because of some kind of neglect.
17 And we know that it was traumatic on her because she,
18 remember, didn't want to see the police, she was in fear
19 she was going to be taken. It obviously had an impact,
20 as it should. And we know with all of this going on, her
21 daddy left her. And, you know, I'm sorry it happened,
22 and I know it is hard for her. I don't know what that
23 means. I don't know how it adds up.

24 Don't get focused on the red herring. The red
25 herring from the State will be, well, they don't have a

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1 motive for this, they don't have a reason. That is not
2 the question. The question is, did they prove their
3 case?

4 There are a couple of specific things -- I
5 promise I'm getting close to through -- that I believe
6 Ms. Gordon is going to bring up. And I just want to
7 address, and I have to guess a little bit here. Number
8 one, she's going to say there is physical evidence. Of
9 course, there isn't. There is semen on the sleeping bag.

10 There's one spot of something that might be
11 semen on a sleeping bag that's been around for awhile.
12 And they don't know whose it is. They don't know when it
13 got there. They don't know where the sleeping bag was
14 when it got there. That's not physical evidence that
15 bridges any gaps. Okay? Don't know whose it is. Don't
16 know when it was there. You know; you can talk about a
17 camp and his wife, they went down after the hurricane to
18 help the people in Florida and all that stuff. One, that
19 said, well, she admitted -- the DNA lady admitted it
20 could have been urine. We are not even sure it is DNA.
21 So don't fall into that trap and make those assumptions.
22 That's a huge leap of assumptions.

23 Number two, what started this thing was Kristin
24 Kulpepper walking in and she didn't like the way George
25 was sitting relative to how Minor was sitting in a chair.

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1 I don't know if you all remember that. The guy gave her
2 the creeps and she didn't like him from the beginning and
3 with all her baggage. She doesn't know how long they
4 were sitting like that. She doesn't know how they got
5 like that. She doesn't know if Minor sat in the chair
6 down and he hopped down with his head in her lap, or they
7 were working on the floor, we don't have any idea how
8 they were like that or anything. So she takes this
9 little snapshot this big and it goes, boom, because of
10 this gut feeling. But, you know, the idea is that George
11 orchestrating the way they were sitting. There's no
12 evidence.

13 The presents, oh, gave this exorbitant number of
14 presents and stuff. And you heard that from Chris and
15 George. They did a big box and it went down, which maybe
16 some of you have done, I've certainly done it, you know.
17 The best thing about the present to the child is opening
18 the present. It is the anticipation. How many of us
19 have been around Christmas when the child opens this
20 present over here, as soon as they look at it, where is
21 the next present? All right. And so you can satisfy
22 that by giving lots of little trinkets and wrap them up
23 nicely. And you can do that inexpensively. And that's
24 what was done there. It was kind of a gag. And in the
25 end it was interpreted negatively.

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1 I will point out, it is funny when you are in
2 these trials, you remember from the first day when Judge
3 Jefferson was giving instructions, she said, now, don't
4 talk to any lawyers in the hall, it is going to look bad,
5 we don't anybody to interpret something into a simple
6 act. And that's what Ms. Kulpepper did. She saw a
7 simple act of kindness with some presents and she,
8 because of her background, interpreted something evil
9 into it. That's not looking out the window. That's not
10 being fair.

11 Almost done. My job is not to head off every
12 plausible story that may come up or version that may come
13 up. For instance, if she gets up here and says, well,
14 some child has coping skills and some child did this.
15 Well, we know this in general or this in general. And
16 they come up with a theory about how this could have
17 happened. That's not proving the case beyond a
18 reasonable doubt. That's not my job. That's her job.
19 Her job is to make sure there is no other reasonable
20 alternative. That is the burden of proof. That is the
21 presumption of innocence.

22 This case started with a gut feeling. In all
23 fairness to Ms. Kulpepper, it came from good intentions,
24 but she's overly sensitive, she handled it poorly, she
25 created a perfect storm with her questions, and things

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1 took off from there.

2 Ladies and gentlemen, justice in courts of law
3 is not based on gut feelings. Justice in a court of law
4 is based on facts. Proof of facts requires undeniable
5 facts. Proof of facts requires no assumptions, no
6 guesses, no leaps of faith; no, when you put your head on
7 a pillow, I was pretty sure about that. If you are
8 pretty sure, that's not enough.

9 I'm going to end now, and take a sigh of relief,
10 but as I do that, I put George White in your hands,
11 whether or not he gets a fair trial, whether or not the
12 State lives up to its burden of prove, whether or not he
13 enjoys presumption of innocence which he's entitled as a
14 defendant, which you could take to pass any judgment on a
15 fellow human being, will be in your hands. We believe if
16 you look at the details and follow the charges, you look
17 at the specifics of the law, that you will render a just
18 verdict of not guilty.

19 Thank you very much.

20 THE COURT: All right. Ms. Gordon.

21 MS. GORDON: Thank you, Your Honor. All right.
22 This is the last time you have to hear from any of us and
23 you will get to go back to the jury room and deliberate
24 after this.

25 I want to go back through and just point out

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1 some evidence for you. What we talked about a little bit
2 earlier, sexual battery, is the intrusion. And Mr. Howe
3 is right, Minor, she may not know. She may still not
4 know. 16-year-olds don't have to know what sex feels
5 like.

6 And I will give you my example. When I was
7 pregnant, 9 1/2 months pregnant, waiting for this baby to
8 come out, and I go to the doctor almost every day at that
9 time, are you having any contractions, are you having any
10 contractions? And I said, I don't know. I said, I've
11 got some feelings but I don't know. It wasn't that I
12 didn't know what a contraction was. I have been to all
13 the Lamaze classes. I've had sex education. I was
14 pregnant and about to give birth to a child, but I had no
15 frame of reference. So there was some weird feelings,
16 but I can't really explain what it is. And that's what
17 Minor has. She's got some really strange feelings down
18 there, but she doesn't know how to describe it. She's 11
19 years old.

20 But what she describes to you is that she showed
21 you in that video exactly with those dolls and she
22 described to you in detail on that stand that that man
23 picked her up, her little 55-pound body, and one leg on
24 this side and one leg on this side, with no pants on, and
25 he rocked her back and forth. She not only said what it

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1 was. She said it was her private part. She doesn't even
2 know what to call this private part. She could point to
3 it, just this part. That's how innocent she was. And he
4 took that from her.

5 The intrusion is any part of her genital area.
6 And I submit to you, you can't have your legs spread over
7 top of this man on his lap that way and it not have some
8 intrusion into her genital part. She not only said that
9 it hurt, but when asked, she said -- I said, how did your
10 private part feel afterwards? Well, it hurt for a little
11 while but then it was okay. Kristin Kulpepper never came
12 up with that. Kristin Kulpepper wasn't even there when
13 they asked her about it.

14 They are casting aspersions on Kristin
15 Kulpepper. But let me tell you what, she was right. She
16 had a gut feeling. This family loves that child, but
17 they didn't see the signs. If children who were sexually
18 assaulted and molested had a big X on their back after it
19 happened, we wouldn't be here. It would be obvious. But
20 that's not how it goes. His part, as she calls it, is
21 between her legs and he's rocking her back and forth.
22 She's got no frame of reference to come up with that.
23 That's what happened. And you know that's what happened
24 because she doesn't know how to describe it. How would
25 she know how to describe it.

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1 If she wanted to come in here today and make it
2 up after having some sex education classes, she could,
3 but she's telling you the truth. She's telling you in a
4 frame of reference that she has in the best way that she
5 can. And he doesn't get the benefit because she's so
6 innocent and he took her innocence.

7 The lewd act, this area down here, whatever she
8 wants to call it, if they're naked, his bottoms are off,
9 they don't have to be fully naked, he took his pants off
10 and her pants off, if those two area are touching, that's
11 a lewd act. He was 63 and she was 11.

12 We don't want to think that child sexual abuse
13 happens. It is not what we want to believe. It would be
14 a much nicer place in the world if it just didn't happen.
15 But it does. And it is not always a stranger snatching a
16 child off the street. In fact, it is rarely a stranger
17 snatching a child off the street. It is someone who
18 gains access to the child, gains their trust, gains the
19 family's trust. He wants the child to come back. He's
20 not going to like, leave physical signs behind.

21 You've heard that word grooming. You may have
22 heard it on the street. This man undertook a methodical
23 approach to grooming this family and grooming Minor.
24 He came there to fix that shower, and he had found him a
25 perfect family, sweet, nice family, very unassuming.

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1 They bought his line hook line and sinker, talking about
2 Jesus, talking about religion, he's such a nice guy, he
3 just wants to help Minor, he wants to help Melvin, he
4 wants to help Cousin he wants to give presents to the
5 grandmother. He comes in to the rescue. Any time
6 they've got a problem, he's there. He has got these
7 people snowed. Not to their fault. They were just nice,
8 simple people. And it's a shame that you can't be that
9 way.

10 But Kristin knew it. She didn't tell it to
11 Minor. And she bit her tongue for awhile. Minor
12 never knew how Kristin felt about it until after it had
13 all come out that she realized Kristin is the one that
14 asked to tell. But in that room Kristin is not even
15 there. And this family, it certainly wasn't what they
16 expected. Remember their response was, Kristin, he's a
17 nice guy, he's just a good grandfatherly guy, don't
18 worry, we will ask Minor, I'm sure it is nothing. And
19 Minor's response was shaky and crying. That tells you
20 why you can believe Minor.

21 We also do have the medical exam. And it is
22 just a common, common misconception. I had it myself.
23 Unless you deal with the stuff all the time, you wouldn't
24 know. It is so prominent, even some doctors think it is
25 true. Unless you deal with little kids and sexual

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1 assaults, and most pediatricians aren't looking at the
2 genital area of children. They are looking at head,
3 nose, throat. It's a special kind of person that has to
4 deal with looking at the genital area of children. And
5 they know, there is no test to see if there's been
6 penetration. There's no obvious signs. There's no
7 popping the cherry. That's just a total myth that's just
8 continued and continued and continued throughout history.

9 You've heard Tracy say, there is no physical
10 evidence unless it was just right then, and even then you
11 might not have any physical evidence. Every time
12 somebody has sex there's not necessarily physical
13 evidence that it happened. And she described it
14 something like we can all understand, it's kind of like
15 something inside your mouth. Even if there had been an
16 injury, even if it had been a little red, even if it had
17 been a little sore, in a couple of days, it's gone.

18 So why do we even do it? Well, because the
19 child might think, what's wrong with my body? They don't
20 know either. So they still have to do the exam just to
21 make sure, but they don't really necessarily expect to
22 find physical evidence.

23 The defense has made a big point of that she
24 told Ms. Williams, Ms. Halasz now, no. Well, let's think
25 about that. This 11-year-old is in a room with genitals

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1 exposed and 11 years old with her feet up in the stirrups
2 getting a genital exam. And Ms. Halasz, we don't know
3 the exact words she asked, but did somebody hurt you down
4 here. And you heard Minor say she doesn't remember
5 telling the woman no. Is it possible that either
6 Ms. Halasz asked the question in a way that Minor
7 didn't understand what she was asking, or is it possible
8 that Ms. Halasz just misunderstood the answer.

9 It is like when -- and I've done this,
10 admittedly, got my heel caught in the cobblestone streets
11 in downtown Charleston, embarrassed myself by falling in
12 the middle of the street, and brushing myself off and
13 everybody, are you hurt, and I'm like, no, no, no, I'm
14 fine, I'm fine. I mean, is there pain? Yes. Are my
15 knees all scratched and I'm marking it off, oh, my knee,
16 my knee. But I don't say I'm hurt. It hurt, but I'm not
17 hurt.

18 And they talking about no symptoms. You heard
19 Ms. Halasz say she didn't get any of that history from
20 Minor. She asked her family. Minor has been hiding
21 this from her family. She doesn't want her family to
22 know. If she had had trouble sleeping or a loss of
23 appetite or fearfulness of him, she wasn't going to let
24 it show because she is scared to death for somebody to
25 find out. She learned the lesson when she was taken from

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1 her mom, when her mom neglected her, she got taken away.
2 And she was scared to death that if something had
3 happened, if they found out that Mr. White had done
4 something to her while she was in the care of her
5 grandmother and her aunt and her dad, that they would
6 take her away. She wasn't going to let anybody know.
7 And she told you, if they hadn't asked that much, she
8 would have never told. She was never going to
9 voluntarily bring this up.

10 Why can you believe her? She could make it up,
11 but we heard she's not suggestible. They gave her lots
12 of options. Did he use his hands down there? No. Did
13 he ever put his mouth on you? No. She could have said
14 yes, but she didn't. It would be real easy just to say
15 yes. She's not elaborating. She's just telling you what
16 happened.

17 You get to judge her demeanor, how she presented
18 to you. How hard it was to tell an entire room full of
19 strangers about something so embarrassing. And that's
20 why they have that room at the Lowcountry Children's
21 Center, at least it is not in a room full of strangers
22 having to talk in front of the judge and jury and tell
23 about very, very personal details of things you never
24 ever wanted anybody to know. You saw how hard it was for
25 her.

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1 She explains it in terms she knows. Isn't it
2 nice that there are some 16-year-olds that don't know?
3 Don't judge her poorly because she's not as advanced as
4 some 16-year-olds. She's not sexually advanced. She's
5 just explaining it in a way that she knows.

6 Kristin Kulpepper did not tell her what to say.
7 Kristin Kulpepper wasn't in the room when she described
8 what happened between her and George. Kristin Kulpepper
9 didn't come until later that night. And when Kristin
10 Kulpepper was saying, well, did you see any white, gooey
11 stuff? That reminds me, yeah, yeah, there was some
12 white, gooey stuff. But she didn't, she said no, because
13 she didn't. I don't know, maybe there wasn't any on her,
14 or maybe she didn't see it because she was on his lap and
15 she doesn't really know what it is.

16 She had already told her aunt and grandmother
17 before Kristin came back. They called her and, of
18 course, they were emotional at that point. They are not
19 emotional when they go in to talk to her because they are
20 not expecting the answer. They are expecting her to say,
21 no, everything is fine.

22 And if you don't think it would be emotional
23 when your 11-year-old niece or your 11-year-old
24 granddaughter tells you that the man that they had
25 trusted and the man they had given her off to, taken her

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1 to church, he's so nice, I mean, the heart-wrenching gut
2 feeling that they would have had at that point, of course
3 they are emotional. But she had already told. She's the
4 one that started the emotion. The emotion originated
5 with Minor . It was hard for her to say, and of course,
6 that makes her aunt and her grandmother emotional.

7 She wasn't suggestible. She wasn't suggestible
8 on the stand. She wasn't suggestible in that interview.
9 She wasn't suggestible when Kristin Kulpepper said, could
10 it have been this, did you see this? She said no when it
11 was no. And she said yes when it actually happened, to
12 things that actually happened.

13 And her details are corroborated. The family,
14 they corroborate this. And, of course, by then, the
15 defendant takes the stand and corroborates a lot of this
16 stuff. That, yes, he took her with him all by himself to
17 an abandoned house downtown, he claims to take her to
18 church. It's not very churchly what was going on.

19 Christine White, oh, yes, he spent all kinds of
20 time over there. He said my wife said I was spending too
21 much time over there. He was grooming the family, that's
22 what he was doing.

23 George White corroborates it. Oh, yes, I built
24 this bed, it wasn't really a bed, it was a work truck, it
25 was a work truck, yeah. Well, I'm okay with you having a

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1 box in the back. The bed is a little weird to me, that
2 you put a sleeping bag on it and sheets. But if you want
3 to go there, fine, all right. But if you've got the
4 bench in the back and you put all your tools in it, then
5 why do you have that curtain behind it, because Christine
6 White says so you don't see the tools. But he built a
7 box for the tools.

8 He's got the windows covered and the curtain
9 behind the seat so that nobody can see what's going on in
10 back of that van with Minor .

11 Tammy Tanner just happens to see her at that
12 house on a Sunday when they are supposed to be going to
13 church. And she remembers it's a Sunday because he
14 doesn't work on Sundays. They weren't working in that
15 house for 30 minutes in the bathroom on the toilet seat.

16 And she corroborates -- why would he be on the
17 toilet seat? This is Minor's story. Minor says in
18 the interview, yeah, we were -- where were you? On the
19 toilet. You know, why would he be on the toilet in the
20 house? It's kind of like that story Mr. Howe said about
21 the man climbing in the window. Well, lo and behold,
22 there's no furniture in the house. How about that? If
23 it didn't happen, Minor could have said, oh, we laid on
24 a bed. She could have made something up. That would be
25 more what you might think would happen. But she says, we

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1 sat on a toilet. And lo and behold, there's no furniture
2 in that house because it's being gutted. And he said it
3 is gutted, went through the whole thing.

4 The family didn't want to hear this, so it is
5 not like they put it in her head. Kristin Kulpepper
6 wasn't there. She didn't put it in her head. He had
7 been so nice to them, they never, ever would have
8 suspected a thing.

9 Using God, religion, and Jesus as a way to gain
10 access to an 11-year-old child is despicable, but that's
11 what he did.

12 The 63-year-old man, of no relationship to this
13 family, shows up to the birthday party. And I don't care
14 if he spent a dollar or a thousand dollars on those kids,
15 it's your right. To the child, if you want to groom the
16 child and get her in your favor, bring 20 gifts. And
17 that's what he did. Didn't have to cost him a lot of
18 money. Give and you shall receive is his words. He gave
19 the gifts and he got what he wanted.

20 And Mr. Howe is right, that child has nothing,
21 nothing to gain by telling you what happened there. She
22 had everything to lose. Whether it was true, she
23 believed that she would be taken away. There was no, no
24 incentive for her to testify.

25 And he wants to talk about what's the evidence.

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1 Well, the judge is going to tell you what the different
2 kinds of evidence are. No one can ever corroborate what
3 happens between two individuals when no one else is
4 watching. The only people who can do that are the people
5 who were there, and that is Minor and George White.

6 You ask, why don't you just ask him if he did
7 it. He's never going to admit that. There's no way I
8 can get him to crack. This is not Matlock. He's not
9 going to crack on the stand. All I need him to do is
10 confirm, tell the truth about everything else. And
11 that's why you can believe her about this.

12 The evidence is her testimony. The testimony of
13 everybody else that corroborates her. I don't care if
14 there's one spot of semen, one thousand spots of semen,
15 he had that sleeping bag in the back of the van for a
16 reason. Reasonable doubt does not mean beyond all doubt.

17 When you came into this courtroom, you knew
18 nothing about what had happened. The judge will instruct
19 you that you have to believe beyond a reasonable doubt,
20 that you have to be firmly convinced. And when you leave
21 after having heard -- if you are now convinced, firmly
22 convinced that it happened, that Minor is telling you
23 the truth, then we have met that burden.

24 It is not CSI. It doesn't have to be physical
25 evidence. It can be direct evidence, which can be

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1 testimony. It can be circumstantial evidence, like the
2 corroboration, hey, there really is no furniture in that
3 house and he really was there on a Sunday with her.

4 The only people who will ever know beyond all
5 doubt are George and Minor. And if you knew beyond all
6 doubt, you would have had to have been a witness and you
7 wouldn't be able to be a juror. And that's not the
8 standard.

9 Again, I reiterate, she has nothing, nothing to
10 gain and everything to lose. We ask that you render a
11 verdict that speaks the truth of what happened to Minor

12 , and that is that the defendant, George White,
13 committed a criminal sexual conduct with a minor in the
14 second degree and a lewd act upon a minor. Thank you.

15 THE COURT: All right. You've been sitting for
16 about an hour. One reason that we limit our church
17 services to about an hour is because we lose our ability
18 to focus. After that, the ministers realize that and
19 everything and all. So if you want to stand up for a
20 minute and stretch and everything, it's been about an
21 hour, feel free to do. So I'm going to do that, and get
22 me a little bit of water. Stand up and stretch. Still
23 have some more preaching to do.

24 (Whereupon, the jury leaves open court at 10:54
25 a.m.)

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1 (Whereupon, the jury returns to open court at
2 11:00 a.m.)

3 THE COURT: We do have all the jurors back with
4 us now. Mr. White is present along with his attorney and
5 the solicitor. All right.

6 Members of the jury, you've heard and seen the
7 evidence presented to you in this case and the arguments
8 and summations from the attorneys. It is now my duty and
9 responsibilities, under the codes of law in this state
10 and the constitution of this state, to discuss with you
11 what your role in this case is at this point and the law
12 that may be applied by you in this case. And then you go
13 to the jury room and you will deliberate and you will
14 decide, give your verdict in regard to these charges that
15 have been made against Mr. George White.

16 Of course, as I told you at the outset,
17 Mr. White has entered a plea of not guilty and said, I'm
18 not guilty of these charges. And that places the burden
19 of proving him guilty on the State. A person who is
20 charged with committing a crime is never required to
21 prove himself innocent. The burden of proof is always on
22 the State to convince you by evidence presented here in
23 court beyond a reasonable doubt that he's guilty. If the
24 State does not do that, then he's entitled to a verdict
25 of not guilty.

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1 A person who is charged is presumed innocent
2 from the moment of his arrest, throughout any
3 arraignment, throughout the trial itself, until you the
4 jury have reached a conclusion that he's guilty beyond a
5 reasonable doubt based on the testimony and evidence
6 that's been presented to you in this case.

7 This is a real presumption of innocence, as much
8 a fact in this case as anything that's been testified to
9 from the witness stand. And as I said, it remains with
10 the defendant, Mr. White, at all times until that
11 presumption of innocence has been removed by the
12 testimony and evidence presented to you as you find it to
13 be, as you find it to be beyond a reasonable doubt.
14 That's what the job is. That's what the law is in regard
15 to a criminal charge in this state. The burden of proof,
16 as I said is on the State.

17 Now what do we mean when we say the burden of
18 proof is on the State and that the State in must prove
19 someone guilty beyond a reasonable doubt? What do those
20 words reasonable doubt mean? What is a reasonable doubt?
21 It is not imaginary or fanciful doubt or weak doubt. The
22 term reasonable doubt may be best understood by giving
23 it's plain and ordinary meaning. A reasonable doubt is
24 the kind of doubt that would cause a reasonable person to
25 hesitate to act.

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1 If after considering all the evidence in this
2 case, you hesitate to convict Mr. White on the charges
3 that have been made against him on the basis of the
4 evidence presented in this case, then he's entitled to a
5 verdict of not guilty.

6 Reasonable doubt may arise from evidence which
7 has been presented in the case or from the lack or
8 absence of evidence in the case. You alone must make the
9 determination. You alone must make the decision of
10 whether or not reasonable doubt exists as to the guilt of
11 Mr. White here charged with criminal sexual conduct with
12 a minor and lewd act on a child. And I will define those
13 for you later on, but you are the sole judges of the
14 facts of this case.

15 If I've said or done anything during the trial
16 that you've interpreted in any way as an opinion that I
17 might have about the facts, please disregard them. I've
18 intended to be fair and impartial to both the State and
19 Mr. White.

20 Now, members of the jury, under the
21 constitutional laws, as I've said, you are the finders of
22 fact in this case. I don't have the right to say
23 anything or do anything insofar as the facts. And,
24 again, if I've said or done anything that you interpret
25 in any way as an opinion that I might have about the

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1 facts, please disregard them.

2 You are the judges of the credibility or
3 believability of the witnesses who have testified. In
4 passing upon that credibility, you must take into -- you
5 may take into consideration many things.

6 And oftentimes, I say to the jury, and I will
7 say this to you now, in going about deciding who and what
8 to believe, I would suggest that you go about it in much
9 the same way you decide that issue in your everyday life.
10 You and I have to decide every day whether to believe
11 what someone tell us. So much a part of everyday life
12 that we oftentimes don't think about any mental process
13 we may go through in deciding whether to believe someone,
14 but you do it every day, whether on your job, on the
15 street, wherever, at home, wherever. When someone comes
16 up to you and makes a factual statement to you, when
17 someone says something like, such and such just happened,
18 or, such and such is about to happen, or, you should do
19 this because, or, you should do that because; when a
20 person makes that type of statement to you, you have to
21 decide do I believe what that person tells me? How much
22 trust, how much faith do I put in what that person tells
23 me.

24 As I said, I would suggest you go about deciding
25 who and what to believe in regard to the credibility or

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1 the believability, how much trust, how much faith to put
2 in what they tell you in much the same way you decide
3 that issue in your everyday life.

4 But some of the things you may want to consider,
5 and this is by no means an exhaustive list, but just give
6 this to you for illustration purposes, some of the things
7 you may want to consider are such things as the demeanor
8 or manner of the witness who testified, whether the
9 witness had reason to be bias or prejudiced in some way
10 or the other, whether the witnesses' testimony was
11 contradicted on the one hand or supported and
12 corroborated on the other hand.

13 You certainly do not determine truth or
14 credibility or believability merely by counting the
15 number of witnesses who may have testified for one side
16 or the other, or who may have testified concerning some
17 particular fact that may be involved in the trial of this
18 case. You may believe a small portion of a witness'
19 testimony and disregard the larger, or vice versa.

20 And in connection with that, I want to tell you
21 that as in this case as in all cases really, testimony of
22 a witness need not be corroborated. That means it need
23 not be supported by some other testimony from some other
24 witness. You take each witness' testimony. You decide
25 who and what to believe in regard to that testimony and

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1 evidence and put it on one side or the other, either on
2 the State's side or defendant's side, as far as the way
3 the testimony may be concerned. I'm saying you may
4 believe the testimony of one witness or many witnesses or
5 just the opposite. You have to decide who and what to
6 believe in regard to every testimony, every witness'
7 testimony, how much weight to place on it. Leave a
8 little bit out of it. I don't believe this much, I
9 believe that much. That's your job, as I said. You have
10 to decide who and what to believe in regard to every
11 witness who testifies.

12 And as I said, you can believe one witness
13 against many or many against one. That's for you to
14 decide. You certainly do not determine truth or
15 credibility or believability merely by counting the
16 number of witnesses who may have testified for one side
17 or the other, or who may have testified concerning some
18 particular point or fact that may be involved in the
19 trial of this case.

20 Throughout this entire process of deciding who
21 and what to believe, you have one goal really, and that
22 is to seek the truth regardless of its source.

23 Now, the same constitution and code of laws that
24 makes you the finders of fact in this case, it also makes
25 me the instructor in the law. And that means you must

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1 accept the law as I explain it to be the correct law.
2 You should not be concerned with what you may think the
3 law should be but only with what the law is.

4 And in connection with -- I should have
5 mentioned this before, meant to mention this when I was
6 discussing the evidence before, and don't read into the
7 fact that I'm telling you this now after I just said what
8 I said or anything, I forgot to mention it earlier when
9 I'm discussing evidence and weighing it and that sort of
10 thing. And that is, I want to define for you or mention
11 to you what lawyers and judges, how we discuss evidence,
12 one way we discuss certain aspects of evidence.

13 There are two types of evidence which are maybe
14 generally presented during a trial, what we call direct
15 evidence and also circumstantial evidence. Direct
16 evidence is the testimony of a person who claims to have
17 actual knowledge of a fact, such as an eyewitness, a
18 person who says I saw something, I felt something, I
19 heard something based on the physical senses. Think
20 about an eyewitness, as I said.

21 Circumstantial evidence is proof of a claim of
22 facts and circumstances indicating the existence of a
23 fact. The law makes absolutely no distinction between
24 the weight or value to be given to either direct or
25 circumstantial evidence, nor is a degree of certainty

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1 required of circumstantial evidence that is not required
2 on direct evidence. You should weigh all the evidence in
3 the case.

4 And after weighing all the evidence, if you are
5 not convinced of the guilt of Mr. White beyond a
6 reasonable doubt, then you must find him not guilty.

7 Now, what are the charges in this case?

8 Relatively simple. I say that because sometimes you have
9 to go into a lot more detail than I'm going to have to go
10 into with you in defining the charges against him. But
11 in this case, those charges are relatively simple. And
12 they are contained in these two pieces of paper that I
13 have in my hands here. We call these indictments. They
14 are never evidence of the charges contained therein.
15 They are only the way that we allow person -- we put them
16 on notice as to what he's being charged with by
17 presenting to him one of these indictments.

18 And as I said, it is never evidence of the
19 charges against him, but it is the way that we let him
20 know what the charges are and it is the way that we give
21 the charge to you and allow you to let us know what your
22 decision is, because you are going to write your decision
23 on the back of each one of these indictments.

24 Each one of these indictments contains a
25 separate charge. The first one I'm going to talk about

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1 is the charge of criminal sexual conduct with a minor in
2 the second degree.

3 And what the State has to prove beyond a
4 reasonable doubt in connection with that is this. They
5 have to prove that Mr. George White -- in the statute
6 that's referred to as an actor, I like to refer to them
7 as person -- in this case, Mr. George White, the State
8 has to prove that Mr. George White did, between August of
9 2007 and January 21 of 2008, that's the time period
10 involved that they claim was involved, that he engaged in
11 a sexual battery.

12 I'm going to stop for you right there and I'm
13 going to stop and define for you what we mean when we say
14 sexual battery. What does that word mean? Sexual
15 battery in this case means intercourse. And by that, it
16 means any intrusion, however slight, of any part of his
17 body into the genital opening of Minor. I can't
18 remember her last name now, but we know who I'm talking
19 about. That's what the State must prove beyond a
20 reasonable doubt. And that she was 11 years old at the
21 time that that occurred.

22 That's the charge that's called criminal sexual
23 conduct with a minor in the second degree. That's just
24 we've got degrees of criminal sexual conduct, and that's
25 what's charged in this case, as I said, that he engaged

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1 in a sexual battery with Minor , and sorry I
2 didn't remember her last name, who was 11 years old at
3 the time, by sexual intercourse.

4 And sexual intercourse, again, means an
5 intrusion, however slight, of a part of his body into the
6 genital openings of her body. That's what the State must
7 prove beyond a reasonable doubt in order to be entitled
8 to a verdict of guilty on the charge of criminal sexual
9 conduct with a minor in the second degree.

10 The other charge is that he did engage in a lewd
11 act upon Minor during that same period of
12 time. And what the State says there is that he did
13 willfully, and that means he knew what he was doing, that
14 he did willfully commit or attempt to commit a lewd or
15 lascivious act upon the body of Minor with
16 the intent of arousing, appealing to, or gratifying his
17 lust or passions or sexual desires of himself or of her.
18 That's the way the law defines lewd act upon a child, in
19 this case, again, one that was 11 years old but less than
20 16 years old. That's again just the way that particular
21 act or that particular crime is defined.

22 Again, I will go over that for you. That he was
23 over 14 -- that's another element, I forgot to mention
24 that -- that he was over 14, and that he did willfully,
25 that means he knew what he was doing, attempt or commit

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1 to attempt a lewd or lascivious act upon the body of
2 Minor , and she was under 16 at the time,
3 that's what the law requires, with the intent, again,
4 with the intent of arousing, appealing to, or gratifying
5 the lust or passions or sexual desires of himself or of
6 the child. The State must prove all those elements
7 beyond a reasonable doubt as I have defined that for you.

8 Now, you will have with you in the jury room
9 these two pieces of paper, as I said, the indictments,
10 and you will see the name and the numbers on the back and
11 the charges on the other side. Again, the elements of
12 the crime that the State must prove beyond a reasonable
13 doubt are contained within each of these indictments.

14 And, Mr. Foreman, I would ask that you use, as I
15 said, the back of each of the indictments to write out
16 and let us know what your verdict is. Down at the bottom
17 of this side here you will see the printed word verdict
18 and there's some blank statements below that. And the
19 last line it is printed foreperson of the petit jury.
20 That's the technical term used to describe the trial
21 jury, any jury as supposed to the Grand Jury, and then a
22 date down there. So I would ask that you write out your
23 verdict, whether not guilty or guilty, whichever it is,
24 you write out your verdict on one of those lines, sign
25 your name below it, and we will know that's what your

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1 verdict is in regard to the charges. In regard to
2 consideration of each charge separately, let us know what
3 your verdict is.

4 Your verdict must be unanimous. All 12 of you
5 must agree what the verdict is before you could come back
6 in the courtroom and tell us you reach a verdict. We
7 don't have majority verdicts in South Carolina. We only
8 have unanimous verdicts, all 12 of you must agree.

9 Now, you were selected in this case both by the
10 State and by Mr. White as fair and impartial jurors. You
11 took an oath from the clerk to decide this case, that
12 oath said that you would decide this case based on the
13 testimony and the evidence that's been presented to you
14 from this witness stand and my instructions to you on the
15 law.

16 You have no friends to reward or enemies to
17 punish. Your job is to do what you said you would do in
18 your oath. Decide this case, as I said, based on your
19 full and fair evaluation of the testimony. Apply those
20 facts as you find them under the law as I've instructed
21 you the law to be. Reach your verdict. When you do
22 that, no one will have a right to criticize your verdict
23 regardless of what that verdict may be.

24 Now, I'm going to ask you to go to the jury room
25 for a moment. Don't start your deliberations yet. I

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1 need to look over my notes to make sure I've told you
2 everything I need to tell you. I have been referring a
3 little bit to notes during the course of this. And I
4 need to look over those to make sure I've told you
5 everything I need to tell you. If I have, I will send
6 these indictments, or these papers, these bookkeeping
7 papers with you to the jury room, along with the physical
8 evidence that's been introduced and you will know at that
9 time you can begin your deliberations. If I've
10 overlooked something, I will bring you back out and tell
11 you what I've overlooked before you start your
12 deliberations. If you would, go to the jury room please.

13 (Whereupon the jury leaves open court at 11:17
14 a.m.)

15 THE COURT: All right. Any exception to the
16 charge from the State?

17 MS. GORDON: Your Honor, just a couple that I
18 think we might need to add, one is regarding multiple
19 charges, that the -- that they have to consider those
20 separately and they can find him guilty on both, one or
21 the other.

22 THE COURT: I think I said something you must
23 consider each charge, whatever.

24 MS. GORDON: I may have just not heard.

25 THE COURT: I didn't emphasize that, but I don't

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1 think I have to.

2 MS. GORDON: That's fine. Also, have a charge
3 for juror notes, since they were allowed to take notes.

4 THE COURT: I gave the charge at the start. I
5 never have given a separate charge about that. What
6 would you want me to say?

7 MS. GORDON: I'm not -- I'm just going through
8 ones that I usually had and making sure --

9 THE COURT: Nobody ever requested that I say
10 anything other than what I told them at the start of the
11 trial.

12 MS. GORDON: These are actually ones that the
13 last trial the judge said they use.

14 THE COURT: I would be interested in seeing
15 whatever that is. I'm not going to bring them back out
16 to tell them anything about that, but I would be
17 interested in seeing what you thought I should tell them
18 now as opposed to what I told them in the beginning.

19 MS. GORDON: It would be the same. And the last
20 one we didn't cover, I don't object to them not, because
21 I think you've explained it when they testify, but a
22 charge or expert witnesses because we had experts about
23 whether -- about their determination of an expert
24 witness' testimony, they can give opinions.

25 THE COURT: I don't think I need to give that.

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1 All right? The only really expert witness in this case
2 was not really very expert, so to speak. It wasn't a big
3 part of the case as far as any expert opinion was
4 concerned. Well, most of them testified about facts, you
5 know. I don't remember any particular opinion and all.
6 But there was one that I will discuss with you all that I
7 want to mention to you about, I don't know how to handle.

8 MR. HOWE: I don't have any exception to that.

9 THE COURT: All right. We will give it to them.
10 After we have a chance to catch our breath, I will give
11 you my thoughts what went on during the trial.

12 THE COURT: They tell me we have a verdict.

13 MS. GORDON: Your Honor, we are missing
14 and her aunt.

15 THE COURT: Do you want to wait?

16 MS. GORDON: Yes, if you don't mind. I told
17 them they could get a drink. I wasn't expecting it to be
18 quite so fast.

19 THE COURT: All right. We have received word
20 from the bailiff that the jury has informed them that
21 they have a verdict. So I'm going to bring them in. And
22 I just say that both sides did a good job of presenting
23 their case. And I thought both sides did a good job.
24 And compliment you on that and appreciate the way you
25 handled and conducted the trial throughout.

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1 And I would state now, I will say that I don't
2 know what the verdict is going to be and all, but if you
3 feel that you cannot maintain your composure, whatever
4 that verdict is, you would need to leave now. So we
5 won't -- we want everybody in the courtroom to remain
6 composed once the verdict is received. So if anybody
7 feels like they cannot maintain your composure, you would
8 need to leave now and go out into the hallway.

9 All right. Bring the jury in.

10 (Whereupon, the jury returns to open court at
11 11:50 a.m.)

12 THE COURT: All right. If you will give that to
13 the bailiff there and they will bring it over to me. I
14 see somebody brought your note pad with you. Again, I
15 would remind you to tear any notes you made, tear them
16 up, whatever you want to do.

17 All right. We have the jury with us and they
18 are present and the parties are present and all of their
19 attorneys.

20 The jury has returned a verdict of guilty in
21 regard to each of the charges contained within the
22 indictments.

23 Anything prior to discharge of the jury?
24 Nothing from the State. Anything from the defendant?

25 MR. HOWE: I would like the jury polled.

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1 MR. HOWE: Your Honor, for the record, I would
2 renew my earlier motions in terms of making a motion for
3 mistrial and also now make a motion for judgment
4 notwithstanding the verdict, number one, based -- in
5 terms of the second motion, number one, based on the
6 arguments made earlier in terms of the State failing to
7 meet its burden of proof as to each charge, but also the
8 jury's verdict coming back so quick. I think maybe
9 between 20 and 25 minutes would not be enough time for
10 any reasonable discussion of the nature and magnitude of
11 the evidence that was generated in this case, and I think
12 gives great pause and concern about them following their
13 oath to accurately and fully discuss the evidence before
14 making their decision.

15 THE COURT: I appreciate that. The record, I
16 guess, does reflect when the jury went out and when they
17 came back in. I appreciate that, but I deny your motion.

18 MR. HOWE: Thank you, Your Honor.

19 THE COURT: So we will wait now for the sentence
20 sheets.

21 All right. We have now sentence sheets and I
22 will be glad to hear from the State anything you want to
23 say relative to sentencing.

24 MS. GORDON: I'm sorry, your Honor.

25 THE COURT: That's all right. Go ahead.

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1 MS. GORDON: I heard somebody needed to say
2 something, and I apologize my attention was distracted.
3 Can you repeat that, Your Honor?

4 THE COURT: Anything you want to say relative to
5 sentencing?

6 MS. GORDON: Yes, our position on sentencing,
7 thank you, Your Honor. You've heard all the testimony
8 today. Mr. White was offered a plea prior to this for 15
9 years and then when he wanted a trial, we extended the
10 offer again, but of course, it went up to 17 years after
11 we prepared for trial. He rejected both of those offers.
12 Your Honor, we would ask for the maximum sentence in this
13 case. As you know what happened here --

14 THE COURT: Well, tell me, any record.

15 MS. GORDON: Your Honor, his record is from --
16 is well in the past, but -- and it's a little bit
17 unclear. We've tried to get the certified convictions.
18 There is an arrest for a murder and a kidnapping and an
19 escape charge. But it is unclear because they are from
20 Baltimore what the actual conviction was. And then there
21 were additional charges of forgery.

22 THE COURT: You really don't know then?

23 MS. GORDON: I can't say. I'm not sure what it
24 is because we can't get certified convictions from that
25 far back out of state. We've tried and we were

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1 unsuccessful at obtaining the certified convictions, Your
2 Honor.

3 What I can say is that in addition to what
4 happened here, as you know, when he got -- he made bond
5 on this charge, and within two weeks, started the
6 grooming process of another child. And that child was
7 his step-granddaughter that you heard testify earlier
8 this week. He didn't get that far with her because she
9 told her mom pretty quickly. She didn't want to go back
10 with him, but he kept asking to come back and wanted to
11 take that child again, and was doing the same types of
12 things, letting her drive, taking her out to eat,
13 offering to do things for her. So his process has
14 started pretty immediately after making bond on that
15 case.

16 Because of that, we feel that he is a threat to
17 society. These are serious charges, and we ask that you
18 impose the maximum sentence, Your Honor.

19 THE COURT: All right. Appreciate that. All
20 right. Mr. Howe, happy to hear from you.

21 MR. HOWE: May it please the Court, Your Honor.
22 As you know, George is 68 years old. He has now been in
23 jail as of this month for four years. He's a carpenter
24 by trade. He's worked at -- sort of sad, but a jack of
25 all trades and I will say instead of master of none, he's

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1 a master of some. Worked in nuclear power plants and has
2 been a hard-working guy for most of his life.

3 Little background on the two charges. One
4 involved a fight that he was in. A guy basically bled --
5 he was taken to the hospital after the fight, and the guy
6 bled to death. And after a certain time in jail, they
7 got a deal for time served and he moved on. That was in
8 the 1960s.

9 In the '70s he was involved in an incident where
10 his common law wife at that time had some property
11 belonging to somebody else, and he went back and tried to
12 use their own methods and means of breaking in the house
13 to get their stuff back and everything sort of snowballed
14 from there. But that was in the early '70s. So from
15 early '70s to now, he's had no problems.

16 Just by way of background, Judge, I met George
17 about 20 years ago. He had been in a pretty bad
18 automobile accident and got knocked off the road. His
19 truck ran into the telephone pole. He was knocked
20 unconscious. And his wife, who was a good friend of my
21 cousin, was concerned because she couldn't get him to go
22 to the doctor. And she basically got him to come to me
23 so I would get him to go see somebody and to represent
24 him, but just saying, you know, George has got a hard
25 head, he doesn't like doctors, and he doesn't want to

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1 make anything out of this case, but please help him.

2 So I got to know both George and Chris at that
3 time. I helped them with a couple of little legal things
4 along the way through the years, all of which have been
5 minor. And they have been great clients to me on a
6 number of levels.

7 Just to give you an idea of that part and parcel
8 of George, they pay me a little bit of money to start,
9 and then when his -- he had bond problems because of
10 these additional charges out of Lexington involving the
11 thing Ms. Gordon was telling you, obviously he was unable
12 to pay the rest of the fee. And about -- one of the many
13 times this came up for trial, before we reached trial,
14 George said, I don't expect you to be representing me.
15 And I said, why not? And he said, I haven't been able to
16 pay you; I will never be able to pay you. He's a very
17 straight-up and as I said somewhat simple. Things are
18 what they are. And, you know, I told him in law, once
19 you are in, you are in, in for the penny, in for the
20 pound. But I found him to be a very fair man to deal
21 with and very straight-forward man to deal with.

22 In terms of the specific instances before the
23 Court, number one, I would point out that the other
24 charges -- there's some charges that are -- you heard
25 about them outside the presence of the jury. He's been

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1 charged with two lewd acts, both of which comprise he
2 touched this girl on her hip. And you need to look at
3 the tape, when you look at the tape she says he touched
4 me on the hip. I don't know what's going to happen --

5 THE COURT: As I indicated during the trial, I
6 don't convict people on the basis of other acts and I
7 don't punish them unless they've been convicted of other
8 acts.

9 MR. HOWE: Enough said on that then, Your Honor.
10 I will go on.

11 In terms of these specific offenses, I would say
12 that, you know, in all candor with the Court, the lewd
13 act if, you put it on a 1 to 10 scale, was probably more
14 aggravated as a lewd act; however, the criminal sexual
15 conduct is probably the least possible criminal sexual
16 conduct in many ways that you could do.

17 THE COURT: It is hard to quantify or qualify
18 those things.

19 MR. HOWE: No doubt about it. I would also
20 point out, though, Judge, that in terms of although there
21 are two charges, I would certainly say, again, 98 percent
22 of what the lewd act is subsumed or part and parcel and
23 not two completely separate acts. They overlap in vast
24 majority and degree. And I would just hope you would
25 take those things in consideration, particularly the

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1 amount of time he spent in county jail.

2 THE COURT: He will get credit for any jail
3 time, as automatically under the law. All right.

4 Now, return to Mr. White. You have an
5 opportunity to tell me anything that you want to tell me
6 prior to sentencing, anything that you want me to know
7 prior to sentencing. You pled not guilty. You are
8 entitled to maintain that. And so anything that you want
9 me to know really relative to sentencing; as I've said,
10 you pled not guilty and you are entitled to that, and you
11 are entitled to maintain that. But the jury has found
12 you guilty, and so that's where we are now. Anything you
13 would like for me to know prior to sentencing?

14 MR. WHITE: Honestly, Your Honor, my lawyer has
15 done way above and beyond the call of duty.

16 As far as my personal feelings towards anybody
17 in this courtroom or any other person, I wish them no ill
18 will. And I know everyone else makes mistakes just like
19 I have, so I don't hold anything in my heart against
20 them.

21 One thing I do want to say to you, Your Honor,
22 is I appreciate your honesty and your candor. And what
23 little bit I understand of Your Honor, the Lord's blessed
24 you and honored you with the calling that you have. And
25 I want to thank you for it.

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1 THE COURT: I appreciate that very much. All
2 right. If there's nothing else then, the sentence on the
3 lewd act charge is that you be confined to Department of
4 Corrections for a period of ten years.

5 Sentence on the criminal sexual conduct is that
6 you be confined South Carolina Department of Corrections
7 for a period of 12 years. Those sentences are
8 concurrent. And you get credit for jail time for those.

9 Good luck to you. Thank you very much. We are
10 in recess -- actually, adjourned until tomorrow morning
11 at 9:30 or 9:00.

12 (End of transcript.)

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March 21, 2013

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CERTIFICATE OF REPORTER

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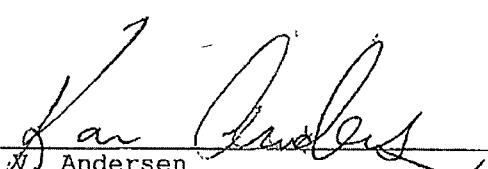
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I, Karen V. Andersen, Registered Merit Reporter
and Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing transcript is
a true, accurate and complete Transcript of Record of the
proceedings.

I further certify that I am neither related to
nor counsel for any party to the cause pending or
interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 17th day of May, 2013 at Charleston,
Charleston County, South Carolina.



Karen V. Andersen
Registered Merit Reporter
Certified Shorthand Reporter
My Commission expires:
September 14, 2016

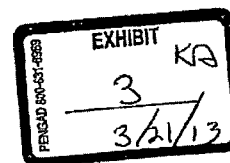
1
2 **ORIGINAL**

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4 TRANSCRIPTION

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6 CONFIDENTIAL MATTER

7 Minor , MINOR

8 DATE OF INTERVIEW - JANUARY 22, 2008
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Judy Galuppo, Court Reporter

1 SPEAKER: The date is January 22nd,
2 2008. The child being interviewed is Minor
3 . The interviewer is Molly Wharton (ph).

4 INTERVIEW BEGINS

5 BY MOLLY WHARTON

6 Q Come on in. You can have a seat in that
7 big blue chair right will. My name is Molly. I'm
8 going to write that up here so you can remember.
9 All right? And write your name over here for me.

10 A (Complying.)

11 Q How about write how old you are, too.

12 A (Complying.)

13 Q Eleven. So you're Minor and you're 11
14 years old. When did you turn 11?

15 A Birth date .

16 Q Birth date . So tell me everything
17 you remember about your birthday.

18 A That I had all my friends come over and
19 I got (inaudible).

20 Q You had your friends come over and you
21 got (inaudible) and you got a trampoline?

22 A (Nodding head.)

23 Q Okay. What did y'all do?

24 A (Inaudible.) Ate cake and hit the
25 pinata.

1 Q Ate cake and hit the pinata?
2 A (Nodding head.)
3 Q What's your favorite kind of cake?
4 A Ice cream cake.
5 Q Ice cream cake? My favorite is
6 chocolate cake.
7 So in September you had a birthday and
8 you had lots of friends came over and you got a
9 trampoline. Tell me what kind of tricks you can do
10 on the trampoline?
11 A None yet.
12 Q None yet?
13 A (Shaking head.)
14 Q Is it scary to jump on it?
15 A No, not really.
16 Q Not really? So what school do you go
17 to?
18 A School .
19 Q School .. Tell me about your
20 school?
21 A I've have a nice teacher and I've got
22 good friends.
23 Q You do? What's the first thing you do
24 when you get to school in the morning?
25 A Go eat breakfast and then copy my

1 homework.

2 Q Okay. So you eat breakfast and then you
3 copy homework? And then what?

4 A Sit down and wait for the teacher to
5 tell us to do.

6 Q Okay. And then what usually happens?

7 A Then we usually do our math.

8 Q Do your math, okay. What's your
9 favorite subject?

10 A Reading.

11 Q Reading? Are you a good reader?

12 A (Nodding head.)

13 Q Okay. Well, Minor., today while we're
14 talking I'm going to be asking you a lot of
15 questions about school and family and stuff you like
16 to do and all kinds of things. So I'm going to tell
17 you a little about me.

18 My name is Molly. And it's my job to
19 talk to kids. That's what I get to do all day. And
20 I'm not a nurse or a doctor so I don't look at
21 bodies or give shots. I just talk to kids, okay?
22 And Minor, I talk to kids in this special room.
23 The reason it's special is because behind that
24 window right there is a camera, and up on the
25 ceiling in that little black dot is microphone. I'm

5
1 making a tape of us talking today so I can remember
2 everything you tell me. Do you have any questions
3 about that?

4 A (Shaking head.)

5 Q No? Okay.

6 While we're talking, Minor, if I get
7 something wrong I want you to correct me and tell me
8 what the right thing is. So like if I called you
9 Sally, what could you say?

10 A My name is Minor .

11 Q Your name is Minor . And I might get
12 stuff wrong, but that's okay for you to tell me the
13 right thing. Or if I say something that doesn't
14 make sense, you could just tell and I'll ask it in a
15 different way.

16 Sometimes I ask the same question more
17 than once, that's probably because I forgot I asked
18 you already. Or, Minor , if I ask you a question
19 and you really just don't know the answer, you can
20 say "I don't know." I don't want you to guess or
21 make anything up. But if you do know the answer,
22 its really important that we talk about the truth in
23 here today. What would you say is the difference
24 between the truth and a lie?

25 A You get in trouble for lying, and you

1 don't get in trouble for telling the truth.

2 Q You get in trouble for lying and you
3 don't get in trouble for telling the truth, okay.

4 Is it the truth or a lie that your name
5 is Minor ?

6 A The truth.

7 Q Is it the truth or a lie that your birth
8 was in August?

9 A Lie.

10 Q Like. So the truth is what's real and
11 it really happened, and a lie is something that
12 really didn't happen.

13 Will you talk only about the truth with
14 me today, only things that really happened?

15 A (Nodding head.)

16 Q Okay.

17 Well, Minor , I want to know who lives
18 with you. And I'm going to write it up here so I
19 can remember. I'm going to put you first: Minor
20 and you're 11.

21 Who else lives with you?

22 A My little four-year-old sister.

23 Q Your four-year-old sister.

24 A My dad.

25 Q What's your sister's name?

7

1 A Her real name is Sister, but we call
2 her Sister

3 Q You call her Sister. I'll write Sister
4 So you, your sister and your dad, okay.

5 A And my grandma.

6 Q Grandma.

7 A My aunt.

8 Q And what's your aunt's name?

9 A Ann.

10 Q Ann. And?

11 A And my cousin Cousin

12 Q Cousin. How old is Cousin

13 A Sixteen. And that's it.

14 Q And that's it? Okay. So you
15 Dad, Grandma, Aunt Ann and Sister
16 Who takes good care of you?

17 A Mostly all of them.

18 Q All of them? What do they do to take
19 care of you?

20 A They make sure we have food and clothes
21 and stuff like that.

22 Q Okay. Who usually cooks dinner at your
23 house?

24 A My grandmama and my aunt, unless they're
25 not at home. Because my dad has to be at work at

1 4:00, so...

2 Q What's your favorite thing that they
3 cook?

4 A Tacos.

5 Q Tacos, okay. Now, who cooks if they're
6 not home?

7 A If my dad's home, he'll cook us
8 something. And then if neither one of them are
9 home, my cousin is usually home and he cooks us
10 something.

11 Q Okay. Do you know how to cook?

12 A My aunt is teaching me, so...

13 Q Okay. Minor, who makes sure that you
14 get up and you get to school in the morning?

15 A My dad. And then if my aunt's off he
16 says she gets me.

17 Q Okay. Was there ever a time in your
18 whole life when you didn't have enough food to eat
19 where you were living?

20 A It was with my mom, they went out to eat
21 and we had no food and they didn't ask us.

22 Q They didn't ask you? Did that happen
23 one time or more than one time?

24 A It had happened one time when we didn't
25 have any food.

1 Q How old were you when that happened?

2 A I don't really remember.

3 Q Okay. Was there ever a time when the
4 lights weren't working where you lived?

5 A (Shaking head.)

6 Q No? Okay. Well Minor , what do you
7 know about being here today?

8 A I'm here because of what the man,
9 George, did to me.

10 Q Because of what the man George did to
11 you? Tell me about that.

12 A My cousin goes to work with him on this
13 house and all the jobs somewhere. Sometimes I go to
14 work with him when I'm out of school. And then
15 there's this (inaudible) that we go see and feed,
16 and there's these two houses that he's working at,
17 and he would take me in there and take me in the
18 bathroom and he'd take off my clothes and take off
19 his clothes and start pushing me back and forth.

20 Q Start pushing you back and forth? What
21 did that feel like?

22 A It didn't feel good.

23 Q It probably didn't.

24 A And he did it once in his van.

25 Q He did it once in his van?

10

1 A (Nodding head.)

2 Q What does his van look like?

3 A It's white and it's big.

4 Q White and it's big? Okay. When you
5 said he did that once in his van, where was his van
6 when that happened?

7 A It was when we came from back from, I
8 can't remember where it was but it was his vacation,
9 and I went to church with him that Sunday and then
10 he stopped at this like hotel and then he took me in
11 the back of his van.

12 Q What was the hotel called?

13 A I don't remember the name of it.

14 Q Do you remember what it looked like?

15 A (Shaking head.)

16 Q No? Okay. When he stopped at that
17 hotel, did it take a long time to get there from
18 your house?

19 A Yeah, it's over the new bridge.

20 Q Over the new bridge, okay. Well,
21 Minor, when you told me about George you said he
22 would take off your clothes and take off his clothes
23 and put you in his lap and push you back and forth.
24 What did he push you back and forth with?

25 A He would put his hands on my back and

1 start pushing me back and forth.

2 Q Okay. So he would put his hands on your
3 back and start pushing you back and forth?

4 A (Nodding head.)

5 Q Did George do that one time or more than
6 one time?

7 A He did it a lot of times.

8 Q He did it a lot of times?

9 A Every time I went off with him if I
10 didn't have to be home at a certain time?

11 Q So you said almost every time you were
12 off with him if you didn't have to be home at a
13 certain time?

14 A (Nodding head.)

15 Q Do you remember how old you were that
16 first time George put you on his lap?

17 A (Shaking head.) Huh-uh.

18 Q Minor, when that happened, you said it
19 didn't feel very good?

20 A (Shaking head.)

21 Q Okay. Like what would make George stop
22 doing that?

23 A I don't really know.

24 Q Okay.

25 A He would just stop.

12

1 Q He would just stop, okay. Well, you
2 know what? I have dolls that sometimes I use for
3 kids to show me some things so I make sure I
4 understand what they're telling me. And I have
5 these dolls just to make sure I understand
6 everything. These are special dolls. They're not
7 the kind of dolls we play with. I wanted you to
8 show me -- I'm going to pull this chair out. I want
9 you to show me like if this was you and this was
10 George, show me what happened. And they have real
11 clothes because they come on and off just like real
12 people. They have, what do you call those?

13 A Underwear.

14 Q Underwear? And they have real body
15 parts just like real people do.

16 So show me -- I want you to think of one
17 time you remember the best when George put you on
18 his lap and show me everything that happened, like
19 how close you were and how your bodies were and
20 everything.

21 A Let's see. He would take my clothes off
22 and sit me back like this, and his clothes was off,
23 and he'd put his arm around me and on my back and
24 start pushing me back and forth like that.

25 Q Okay. Thank you for showing me that.

1 When that happened, Minor , would any
2 body parts be like touching?

3 A Like what do you mean?

4 Q Like what were body parts doing when
5 that happened?

6 A I don't know what -- like I don't know.

7 Q Yeah, actually let me show you these
8 drawings. Sometimes I use these for kids to tell me
9 what they call different body parts.

10 So earlier you were talking me George
11 would put you on his lap. Like were any body parts
12 touching when that happened?

13 A (Nodding head.)

14 Q Yeah? Show me which body parts were
15 touching each other?

16 A (Indicating.)

17 Q What do you call that part?

18 A Your private.

19 Q Your private? What do you call that
20 part?

21 A (Inaudible.)

22 Q Okay. What do you want to call that
23 part today? You can call it anything you want to.

24 A I don't know what you call it.

25 Q All right. Have you ever seen

1 somebody's that part?

2 A No.

3 Q No? Okay. So when you say that part
4 and that part would be touching, what did that feel?

5 A That didn't feel good.

6 Q Not very good? Okay. Minor did
7 something ever go in that part?

8 A I don't really know. All I know is when
9 he would do it it would hurt.

10 Q You know whenever he would do it it
11 would hurt?

12 A (Nodding head.)

13 Q Okay. Did George ever put something on
14 that part?

15 A I don't really know.

16 Q You don't know. Did something ever come
17 off this part?

18 A I don't really know.

19 Q Okay. Did George ever say something
20 when he was doing that?

21 A (Shaking head.)

22 Q No? Okay. Did he ever say something
23 about telling?

24 A (Shaking head.)

25 Q Okay. So I want you to think about the

1 time you remember the best when George put you on
2 his lap and moved you back and forth.

3 A He did this to me every time he did
4 that.

5 Q I mean think of the time that you
6 remember the best.

7 A Oh, well the last one I remember is when
8 the very last time we met, but that was a while ago.

9 Q The very last one that you went to the
10 church with him but that was a while ago?

11 Tell me everything you remember about
12 what you happened that night.

13 A He came and pick me up and then he ask
14 asked me what I wanted for breakfast, and I said
15 Ryan's. And so we went over the bridge where Ryan's
16 is. But before we went over there he pulled into
17 this hotel place, and that's when he took me back
18 into the back of his van, and he went back there.

19 Q Did George ever put that part somewhere
20 else on your body?

21 A (Shaking head.)

22 Q No? Did George ever do some things to
23 your private?

24 A No.

25 Q Did something ever happen with Maddox?

16

1 A No.

2 Q Is that stuff you're okay to talk about?

3 A (Shrugging.) No.

4 Q Okay. Did something ever happen with
5 hands?

6 A (Shaking head.)

7 Q Minor , did George ever put somebody
8 else on his lap?

9 A No, not that I know of.

10 Q Okay. Did you ever tell somebody about
11 what George did?

12 A When I went to last night because this
13 girl Christine came to pick up her little boy
14 because he had a play date, and he comes over about
15 4:00 or 4:30 to do my math with me, and then she
16 would come back and go get him and she would come
17 back and take care of him, she didn't want him back
18 here.

19 Q Aw.

20 A She thought that something was all wrong
21 and that's why we couldn't (inaudible) asked me if
22 there was anything I wanted to tell her, so I told
23 her that night.. And I didn't tell them when it
24 started because I was scared that I would be in
25 trouble.

1 Q Because you didn't tell them when it
2 started because you were scared you would get in
3 trouble?

4 A (Nodding head.)

5 Q Tell me about that.

6 A I don't know.

7 Q Did somebody say something about being
8 in public with George?

9 A No.

10 Q Okay.

11 A (Inaudible.) They said that last night
12 they said that they were going to call the cops, but
13 I really didn't want them because I was scared that
14 man or his sister would kidnap me. But I finally
15 had to let them come. Two of them. One cop came
16 in, and then there's this other one that's not
17 really a cop, and they came in and talked to me and
18 they said that they wasn't doing anything, I was
19 staying there.

20 Q Okay. Did something like that ever
21 happen to your sister?

22 A Not that I know of (inaudible.)

23 Q You don't remember ever a time when she
24 had gone shopping?

25 A Huh-uh.

18

1 Q Minor 1, what kinds of things would
2 George say to you?

3 A I don't know. He'd just talk to me
4 about stuff and (inaudible).

5 Q Okay. Did George ever say things to you
6 about your body?

7 A (Shaking head.)

8 Q No? Okay. Has somebody ever done
9 something like that to your body?

10 A (Shaking head.)

11 Q Okay. Well, Minor 1, I just want to
12 make sure that I'm understanding kind of where this
13 happened. You told me about there's one time in the
14 van. And you said the van was at a hotel. And then
15 you said sometimes he would take you to the houses
16 with you he was working on. Where were those
17 houses?

18 A It's over the bridge. My cousin and me
19 would have to -- (inaudible). He really knows where
20 it is more because (inaudible) that we always would
21 go feed and then there's these two houses that he
22 was working on. And while (inaudible) we were in
23 one -- and most of the time when he was working in
24 that house the wife wouldn't be in that home. And
25 then if there was and then he wasn't going in that

1 house, and the other house, he'd take me in that
2 house.

3 Q He would take you in that home? Okay.
4 Where in the house would he take you?

5 A Into the bathroom.

6 Q Into the bathroom, okay. And how would
7 your bodies be in the bathroom?

8 A He would sit down and then sit me on
9 him.

10 Q Okay. Did George ever do something else
11 to your body?

12 A (Shaking head.)

13 Q Okay. Did he ever say he was going to
14 do something else to your body?

15 A (Shaking head.)

16 Q Minor, did somebody ever ask to take
17 pictures of your body?

18 A (Shaking head.)

19 Q Did somebody offer body exams?

20 A (Inaudible.) Candy, and give me like
21 grapes and stuff.

22 Q Candy and give you little crepes and
23 stuff? Did he ever say something about buying you
24 anything?

25 A No.

1 Q When you were telling me that the houses
2 were over the bridge, do you know if it was like
3 over the bridge in Mount Pleasant or was it over the
4 bridge downtown or somewhere else?

5 A Do you know where the Residence
6 are?

7 Q Residence ? No, I don't know.

8 A Because we live over there, and we have
9 to go over the bridge to go back home. And so we
10 live over on that side. So coming from my house,
11 you have to go over the bridge. It's over on this
12 side.

13 Q Over on this side, okay?

14 A I think you have to go past where you
15 would turn to go to get here, I think you have to
16 but I don't really remember.

17 Q You think you have to go past, okay. So
18 you live by Residence and you said you have
19 to go over the bridge to get to the houses?

20 A (Nodding head.)

21 Q Did George ever do something to your
22 body on your side of the bridge?

23 A No.

24 Q Okay. Okay. Well, Minor I'm going to
25 ask you some different kinds of questions now. And

1 then I'm going to go back to what we talked about
2 with George, okay?

3 What usually happens at your house like
4 when you get in trouble?

5 A I usually get punished and I'll be
6 grounded for like a couple of days, that's basically
7 it.

8 Q Who usually grounds you?

9 A My grandma and daddy.

10 Q Okay. Do you have any questions for me?
11 I've been asking you a lot of questions.

12 A No.

13 Q No? You know what I want to do real
14 quick, is I just want to take a quick break and go
15 with the other guy and we'll think about what else I
16 need to ask you and then I'll come back I'll talk a
17 little bit more. And I'll knock on the door just so
18 you know it's me. You're doing a good job talking.
19 While I'm gone you can draw on the board if you want
20 or just kind of sit and hang out, whatever you want
21 to do. And I'll be back in just a minute. Okay?

22 I want you to think of any questions you
23 have for me, too, okay? I'll be right back. You're
24 doing a good job.

25 (At this time there is a brief break in the

1 interview from ^^^ to 15:16:42.)

2 Q Hey, did you draw something? What were
3 you doing?

4 A Sitting here.

5 Q Sitting here. Did you think of any
6 questions that you had for me?

7 A I don't have any.

8 Q Yeah. Is there anything you wanted to
9 ask me?

10 A (Shaking head.)

11 Q No? I have some more questions for you.
12 One thing is, Minor, when you told me about being
13 in the van when George would put you on his lap, you
14 had said something about going to the back of the
15 van.

16 A (Nodding head.)

17 Q Yeah? Tell me about that. Where would
18 George's body be when that happened?

19 A He was on the bed in the back of his van
20 for when he goes on vacations, and he would get me
21 to be in the same way as he is.

22 Q So he has a bed in the back of his van
23 that he uses when he goes on vacation, you're saying
24 that he would get you how he usually is?

25 A (Nodding head.)

1 Q So would George be sitting on something
2 when you would be on his bed?

3 A On the bed.

4 Q He would be on the bed?

5 A Yeah.

6 Q Did George ever sit somewhere else in
7 the van and put you on his lap?

8 A Huh-uh.

9 Q Would somebody ever lie down on the bed?

10 A (Shaking head.)

11 Q No? Okay. And another question I have,
12 Minor, when you were telling me about that George
13 had put you on his lap and move you back and forth
14 and I had asked what would make him stop, and you
15 said you didn't know, what would happen after?
16 After he had put you on his lap and moved you back
17 and forth?

18 A After?

19 Q Uh-huh.

20 A I don't know. He would just roll over
21 and take me out to eat breakfast and then we'd go
22 where we need to go do the work.

23 Q Okay. You'd go where you had to go to
24 eat breakfast or do the work?

25 A Yeah.

1 Q Okay. Did George ever put you on his
2 lap after you went to breakfast?

3 A No.

4 Q Did he ever put you on his lap after you
5 went to park?

6 A No.

7 Q Okay. So when you told me about being
8 on his lap and then you would kind of go do what you
9 were supposed to be doing, would George ever like do
10 something with his body after he had put you on his
11 lap?

12 A (Shaking head.) No.

13 Q Okay. Okay. Did George ever like do
14 something to his own part?

15 A No.

16 Q Okay. How would your private feel when
17 you had been sitting on George's lap?

18 A Not good.

19 Q It wouldn't feel good? Okay. Did
20 George ever do something to your private after you
21 had been on his lap?

22 A No.

23 Q Did George ever do something to his
24 private after you had been on his lap?

25 A No.

1 Q Okay. Okay. Did you ever see something
2 come out of George's private?

3 A No.

4 Q Okay. Another thing, I just want to
5 make sure I understood this, when you told me about
6 going to the hotel and you said that you guys were
7 in the van at the hotel, did you ever go into the
8 hotel?

9 A No.

10 Q Okay. When you were in the houses and
11 you were in the bathroom and you said that George
12 would sit down and put you in his lap, like what
13 would he sit on in the bathrooms?

14 A The toilet.

15 Q The toilet? Okay. Did George ever sit
16 somewhere else and put you on his lap?

17 A (Shaking head.)

18 Q Okay. So George had decided, then, the
19 toilets in the bathrooms at the houses and on the
20 bed in the van. Is there anywhere else that George
21 would put you on his lap?

22 A No.

23 Q No? Okay. Is there anything else that
24 you remember right now that George did?

25 A No.

1 Q Is there anything else that you want to
2 tell me about?

3 A (Shaking head.)

4 Q What do you think should happen?

5 A I don't know.

6 Q You don't know. If you could make
7 anything happen, what would that be?

8 A (Shrugging.)

9 Q Okay. Okay. Did you have to go to
10 school this morning?

11 A No.

12 Q No?

13 A Because I had to come here.

14 Q No school because you had to come here?

15 A Had to get out of school at 4:30.

16 Q How do you usually get to school?

17 A On Mondays I ride the bus there, but
18 they said they'd take me for a couple of days
19 because I was scared now. I'm scared he'll be
20 hiding somewhere.

21 Q You're scared he'll be hiding somewhere?
22 Okay. How are you sleeping?

23 A I didn't get to sleep very easily last
24 not. I didn't go to bed until late last night.

25 Q How are you feeling today?

1 A Tired.

2 Q Tired? Are you okay?

3 A (Nodding head.)

4 Q Minor , did somebody tell you what to

5 tell me today?

6 A No. Just told me to tell you the truth.

7 Q They told you to tell me the truth,

8 okay. Well, you did a good job talking today. You

9 know what I'm going to do, is I'm going to ask your

10 dad and your Nanny and your aunt if I can see you

11 again maybe in a week or two. And I'm not going to

12 ask you so many questions next time. I just kind of

13 want to see how you're doing. So if you think of

14 anything else you wanted to tell me or if you think

15 of any questions you have, we can talk about it next

16 time.

17 A Do y'all need to know his last name?

18 Q Yes. What is his last name?

19 A White. George White.

20 Q George White? What does George white

21 look like?

22 A I can't really describe him. My cousin

23 would have to probably describe him because he's

24 with him a lot more than I do.

25 Q When you're told me about George taking

1 off your clothes and George taking off his clothes,
2 what was his body like when his clothes were off?

3 A (Inaudible.)

4 Q (Inaudible.) Okay. Did you ever see
5 that part?

6 A (Shaking head.)

7 Q No? Well, Minor, you've done a really
8 good job talking with me here today. Is there
9 anything else that you think I should know, anything
10 else you want to tell me?

11 A No.

12 Q Okay. What are you going to do when you
13 leave here today?

14 A I don't know.

15 Q What do you hope you can do when you
16 leave here today?

17 A Go home and have fun and not worry about
18 what's going on.

19 Q Go home and have fun and not worry about
20 what's going on?

21 A (Shaking head.)

22 Q Okay. What's the most funnest thing you
23 do at home.

24 A (Inaudible.) This weekend we're going
25 to go see a movie.

1 Q Oh, okay. What movie?

2 A (Inaudible.)

3 Q I heard that was funny.

4 A I've already seen it. We're going to
5 see it again.

6 Q You have? What did you think of it?

7 A It's really good.

8 Q It's pretty good? Okay. Do you think
9 it's funny for grownups, too?

10 A Yeah, probably like it.

11 Q I'd probably like it? I'll have to
12 check that out.

13 A The lady that we went with the first
14 time, she liked it.

15 Q She did? Did she laugh?

16 A (Nodding head.)

17 Q Well let's go back out front and see
18 what your family's doing and tell them what a good
19 job you did talking today. All right?

20 INTERVIEW ENDED AT 15:24:45

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22

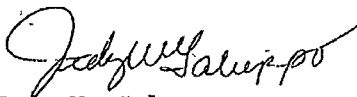
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1 CERTIFICATE

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4
5 I HEREBY CERTIFY that the above
6 transcription is a true and accurate copy of the
7 interview of Minor to the best of my
8 ability.
9

10 
11 Judy W. Galuppo

Court Reporter/Notary Public

12 Commission Expires 3/17/2023

13 **ORIGINAL**
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18 (The foregoing certification of this transcript
19 does not apply to any reproduction of the same by
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21 supervision of the certifying reporter.)
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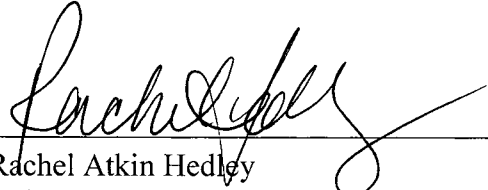
Judy Galuppo, Court Reporter

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 this Record on Appeal complies to the best of my ability with the April 15, 2014 Order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

October 22, 2014

By


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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Thomas L. Hughston, Jr., Circuit Court Judge

STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

GEORGE WHITE,

APPELLANT

Appellate Case No. 2013-000638

PROOF OF SERVICE OF RECORD ON APPEAL

I certify that a true copy of the **Record on Appeal** in the above referenced case has been served upon David Spencer, Esquire, at 1000 Assembly Street, Room 519, Columbia, SC 29201.

This 22 day of October, 2014

By: _____

Rachel Atkin Hedley

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SC Court of Appeals

SUBSCRIBED AND SWORN TO before me this 22 day of October, 2014.

Helen P. Smell (L.S.)
Notary Public for South Carolina

My Commission Expires: 01-26-2019

