

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions

Robert E. Hood, Circuit Court Judge

Case No. 2017-001476

ORIGINAL

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SC Court of Appeals

The State of South Carolina Respondent,

v.

BRANDON COX

Appellant.

RECORD ON APPEAL

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June 26, 2015

Pickens County Solicitor's Office
Pickens County Courthouse
214 E. Main Street, B-120
Pickens S.C. 29671

Re: Brandon Lee Cox
2015A3910500183

Dear Solicitor:

Please be advised that I represent the above referenced on the charges indicated. I am also enclosing my Motion for Discovery.

Sincerely,



David D. Cantrell, Jr.

enclosure

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

IN THE GENERAL SESSIONS

The State of South Carolina,)
vs.)
Defendant.)

MOTION FOR DISCOVERY AND
DISCLOSURE OF EVIDENCE AND
RULE SIX NOTICE

.....
The above named Defendant, through his/her counsel named below, respectfully requests the following:

1. Any relevant written or recorded statements made by the Defendant, or copies thereof, within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; the substance of any oral statement which the prosecution intends to offer in evidence at the trial made by the Defendant whether before or after the arrest in response to interrogation by any person then known to the Defendant to be a prosecution agent;
2. A copy of Defendant's prior criminal record, if any, as is within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution.
3. Any books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the prosecution and which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the Defendant;
4. Any results or reports of physical or mental examinations and of scientific tests or experiments, or copies thereof, which are within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may be known, to the attorney for the prosecution, and which are material as evidence to the preparation of the defense or are intended for use by the prosecution as evidence in chief at trial;
5. The names and addresses of any witnesses who have given written or oral statements of information concerning the incident(s) in question;
6. A copy of the original incident report and any supplemental reports produced by the arresting or investigating agency or agencies;

7. Any other information or evidence within the knowledge or possession of the State that tends to indicate the innocence of the Defendant, or tends to mitigate any punishment should the Defendant be found guilty of the charge(s);

THIS MOTION is made pursuant to South Carolina Criminal Practice Rule 5 and Brady vs. Maryland, 373 U.S. 83 (1963)

FURTHERMORE, pursuant to Rule 6 of the South Carolina Rules of Criminal Procedure, Defendant objects to the introduction of the chemist's or analyst's report without such person being present to testify at trial. The Defendant also demands the appearance in Court of all persons within the chain of custody of all physical evidence.

Respectfully submitted,

Date:
Easley, S.C.

David D. Cantrell, Jr.
Attorney for the Defendant

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS) COURT OF GENERAL SESSIONS

State of South Carolina,)
)
 v.) Case No. 16-GS-39-1107 *et. al.*
)
Brandon Cox,)
)
 Defendant.)

TRANSCRIPT OF HEARING

The within Jury Trial in the above-captioned matter was held on June 19th and 20th, 2017, before The Honorable Robert Hood in Courtroom 2 of the Pickens County Court of General Sessions; attended by counsel as follows:

APPEARANCES:

Chris Jones, Assistant Solicitor
Scott Todd, Assistant Solicitor
13th CIRCUIT SOLICITOR'S OFFICE
...Appearing for State

David Cantrell, Esq.
Melanie Rumfelt, Esq.
...Appearing for Defendant

Deborah Garrison
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DEFENSE EXHIBITS

-- None Entered --

COURT'S EXHIBITS

-- None Entered --

1 (DEFENDANT PRESENT)

2 (ROLL CALL)

3 (STATUTORY JURY QUALIFICATION)

4 THE COURT: Ladies and gentlemen, we
5 are now on the record in 16-GS-39-11107 (sic)
6 and 17-GS-39-701. This is the State of South
7 Carolina versus Brandon Cox.

8 Mr. Cox has been indicted by the Pickens
9 County grand jury for one count of criminal
10 sexual conduct with a minor, first degree,
11 and one count of the exploitation of a minor
12 in the third degree. To these charges, Mr.
13 Cox has pled not guilty. He is presumed to
14 be innocent and he has requested a trial by
15 jury.

16 We will now go forth with the jury
17 selection in this case. The first thing that
18 I am going to do, ladies and gentlemen, is to
19 remind you that before we start this trial
20 that this trial will be different from what
21 you might expect.

22 Many people do not have the opportunity
23 to attend actual court sessions as you are
24 now doing. People may think from TV or
25 movies or from reading books that trials are

1 always full of high drama, intense action and
2 riveting circumstances. While all of these
3 things may be true at times, this trial is
4 not for entertainment purposes. This trial
5 is a fundamental part of our democracy.

6 This is a search in an effort to make
7 sure that justice is done between the parties
8 before the court. Making sure that justice
9 is done is often slow, deliberate and
10 repetitive, the opposite of which you may
11 have seen on TV, read in books or seen in
12 movies.

13 This courtroom is a place of honor
14 dedicated to the protection and the
15 preservation of citizens' rights through what
16 many have called the greatest justice system
17 that has ever been created.

18 The attorneys that will appear before you
19 in this case are advocates for the sides, for
20 the parties that they represent.

21 But, first and foremost, they are
22 officers of this court. They are sworn to
23 uphold the integrity and the fairness of our
24 judicial system and to help you in the search
25 for justice being done between the parties.

1 You should expect them to be
2 professional, competent and ethical in their
3 representation. Remember that if you get
4 selected on this case, you will take an oath
5 to try this case and reach a fair and just
6 verdict. You are also expected to be
7 professional, reasonable and ethical.

8 Thank you for accepting this important
9 responsibility by your jury service and for
10 your contribution today to our justice
11 system.

12 The founding fathers believed that jury
13 service is a key democratic check on our
14 judicial system. This is your control of the
15 judicial branch of government. Jury service
16 is your part in participatory democracy, just
17 like voting. Voting and service on a jury
18 are a citizen's part in a participatory
19 democracy.

20 So we are ready to select a jury. Is the
21 State ready to proceed?

22 SOLICITOR JONES: State is ready to
23 proceed, Your Honor.

24 THE COURT: All right. Mr. Jones? Is
25 that right?

1 SOLICITOR JONES: That's right, Your
2 Honor.

3 THE COURT: You may call your case.

4 SOLICITOR JONES: Your Honor, the State
5 calls Brandon Cox, 17-GS-39-0701, exploita-
6 tion of a minor third degree; and 16-GS-39-
7 1170, criminal sexual conduct with a minor
8 third degree.

9 THE COURT: All right. Ladies and
10 gentlemen, the State has called its case.

11 The first indictment before you is an
12 indictment for criminal sexual conduct with a
13 minor, first degree. This indictment, which
14 I hold in my hand, alleges that Mr. Brandon
15 Cox did, in Pickens County, on or between the
16 dates of April the 1st and May the 26th, 2015,
17 commit a sexual battery on G.I., who was less
18 than eleven years of age; in violation of the
19 South Carolina Code of Laws, as amended.

20 The second indictment before you alleges
21 that Mr. Brandon Cox did, in Pickens County,
22 on or about the 26th day of May, 2015,
23 knowingly and willfully possessed material
24 that contained a visual representation of a
25 minor engaging in sexual activity or

1 appearing in a state of sexually explicit
2 nudity when a reasonable person would infer
3 that purpose was sexual stimulation.

4 Now, these indictments which I hold in my
5 hand, which I have now read to you, are
6 allegations. They are not proof of anything,
7 they are not evidence of anything, they are
8 simply the documents that give this court the
9 authority to hear this case, nothing more.
10 Okay?

11 Now, to these indictments the defendant
12 has pled not guilty. This plea puts the
13 burden on the state to prove his guilt to a
14 jury unanimously beyond a reasonable doubt.

15 So you were sworn in this morning and you
16 are still under oath. What I told you this
17 morning is -- I don't know how it could be
18 more important but it is even more important
19 at this point in time.

20 If you watch TV or follow the news, you
21 see that it often takes days or weeks in
22 other parts of the country for them to just
23 pick a jury. We're going to pick a jury in
24 about an hour. Okay?

25 Part of the reason we are able to do it

1 so fast and part of why it is able to be so
2 efficient is because we believe that you're
3 going to tell us the truth. If you were
4 connected to this case, on either side of it,
5 in just some way casually connected, you
6 would want to go into this week believing and
7 knowing that the jurors were going to answer
8 the judge's questions truthfully. That is
9 just part of how this system works.

10 We have faith and we believe that the
11 jurors are going to tell us the truth. It is
12 absolutely essential that you tell us the
13 truth in response to these questions. Okay?

14 I want you to err on the side of giving
15 us too much information as opposed to too
16 little information. I am going to give you
17 an example so that you can understand,
18 because sometimes I think I don't explain
19 myself well enough. I was trying a case in
20 Richland County and in my jury panel there
21 was a lawyer on the front row. I didn't know
22 him. There are thousands of lawyers in
23 Richland County and there's no way that I can
24 know all of them. Okay? But -- I didn't
25 know who he was, had never seen him before.

1 He'd stood up, just like y'all did this
2 morning, and said, 'I'm a lawyer, I work at
3 XYZ Firm.' So in just a moment, I am going
4 to ask you if you know these lawyers in this
5 case. Okay? Just like in that case, I asked
6 the panel 'does anybody know the lawyers
7 involved in the case?' No one stood up,
8 which isn't uncommon. When all the question-
9 ing was over, the lawyers that were trying
10 the case said, 'Can we approach, Judge?' I
11 said sure. They came up and they said, 'You
12 know the lawyer on the front row?' I said,
13 'yeah.' They said, 'Well, we all went to law
14 school with him, all three years we sat in
15 class with him, near him.' Okay? Now, they
16 had never had a meal together. Right?
17 They'd never had lunch. They'd never been to
18 each other's homes or apartments or wherever
19 they lived in law school, but they knew who
20 each other was. Does that make sense? So
21 when I ask you these questions, I mean it in
22 the broadest sense possible. Okay? I don't
23 mean, 'have you been to their house seven
24 times after church on Sunday?' But y'all
25 know there are people who you see in church.

1 You know who they are but you don't
2 necessarily hang out with them socially. But
3 if somebody like that was involved in this
4 case, I would expect you to stand up and say,
5 'Yeah, I know XYZ, we go to church together.'
6 That's perfectly fine. You just need to let
7 us know that. Okay? Does that make sense?

8 So when you answer these questions, I
9 want you to answer them in the broadest sense
10 possible.

11 The first thing we are going to do is let
12 the solicitors stand up, introduce themselves
13 and tell you where they work.

14 SOLICITOR JONES: Thank you, Your Honor.
15 My name is Chris Jones, I'm an Assistant
16 Solicitor here in Pickens.

17 SOLICITOR TODD: My name is Scott Todd
18 and I'm an Assistant Solicitor here in
19 Pickens.

20 THE COURT: All right. Is anybody
21 related by blood or marriage, close personal
22 friends with or have any connections with --
23 business, personal, social or otherwise --
24 Mr. Jones or Mr. Todd? (No response.

25 Or have any connection at all to the

1 Thirteenth Circuit Solicitor's Office. The
2 Thirteenth Circuit Solicitor is Walt Wilkins
3 and that office encompasses Greenville and
4 Pickens counties.

5 Does anybody have any connection to
6 either of these gentlemen or to the
7 Solicitor's Office in any way, shape or form?

8 JUROR NUMBER 136: (Stands).

9 THE COURT: All right, tell me your
10 name.

11 JUROR NUMBER 136: [REDACTED]

12 THE COURT: Your last name is what?

13 JUROR NUMBER 136: [REDACTED]

14 THE COURT: [REDACTED] is Juror Number
15 136. What is your connection, sir?

16 JUROR NUMBER 136: My cousin is an
17 investigator for the City of Liberty. I
18 don't know if they have any ---

19 THE COURT: So your cousin works for
20 the City of Liberty?

21 JUROR NUMBER 136: Yes, sir.

22 THE COURT: Would that affect your
23 ability to be fair and impartial?

24 JUROR NUMBER 136: No.

25 THE COURT: Are you willing to make

1 your decision based on the evidence and the
2 law?

3 JUROR NUMBER 136: Yes.

4 THE COURT: And will you do so?

5 JUROR NUMBER 136: Yeah, (affirmative
6 nod).

7 THE COURT: Okay. Thank you very much.
8 At this point in time, Mr. Cantrell, if you
9 will please stand up and introduce yourself
10 and your client.

11 MR. CANTRELL: May it please the
12 court, my name is David Cantrell. I'm an
13 attorney, I have an office in Easley.

14 Also, for the jury's information, this is
15 Melanie Rumfelt, an attorney in our office,
16 is going to be sitting here, assisting me.

17 Brandon Cox is my client. Brandon, stand
18 up.

19 DEFENDANT: (Complies).

20 THE COURT: All right. Thank you very
21 much. Is anybody related by blood or
22 marriage, have any business or personal
23 dealings with either Mr. Cantrell or Mr. Cox?
24 (No response).

25 As to Mr. Cantrell, have you ever been

1 represented by him or been on the other side
2 of a case from him? If so, please stand.

3 JUROR NUMBER 68: (Standing).

4 THE COURT: Tell me your name, please,
5 ma'am.

6 JUROR NUMBER 68: [REDACTED]

7 THE COURT: Your last name?

8 JUROR NUMBER 68: [REDACTED]

9 THE COURT: Who do you know, Ms.

10 [REDACTED]

11 JUROR NUMBER 68: Mr. Cantrell. He
12 was my son's lawyer a few years ago.

13 THE COURT: Would this affect your
14 ability to be fair and impartial?

15 JUROR NUMBER 68: No, sir.

16 THE COURT: Are you willing to base
17 your decision on the evidence and the law?

18 JUROR NUMBER 68: Yes, sir.

19 THE COURT: And will you do so?

20 JUROR NUMBER 68: (Affirmative nod),
21 yes.

22 THE COURT: Thank you, ma'am. That was
23 Juror Number 68. You all probably can't hear
24 this but there is a vent right here that
25 makes what y'all say real quiet. So speak up

1 as loud as you can. Okay. Thank you.

2 So does anybody else know Mr. Cantrell or
3 Mr. Cox, or have any kind of relationship
4 with them in any way, shape or form? (No
5 response). Okay.

6 The next thing I am going to do is to
7 read you a list of potential witnesses in
8 this case. This does not mean that they all
9 will be called but they could be called. So
10 if you hear a name and you know that person
11 or you think that you know that person, or
12 you may know that person, I want you to stand
13 up and tell us. Okay?

14 So the question is, are you related by
15 blood or marriage, are a close personal
16 friend with, have any business, personal or
17 social relationship with, any connection to
18 any of the witnesses that I am about to read:

19 Jimmy Bishop

20 Michael Hendricks

21 Daniel Ingram

22 Catherine Leisey, with SLED

23 Dr. Mary Crosswell

24 Is anybody related by blood or marriage
25 or who is a close personal friend of, have

1 any connection with those people? If so,
2 please stand. (No response)

3 Anyone further?

4 MR. CANTRELL: I do have a witness list
5 as well, (tendering).

6 THE COURT: Okay. The list continues
7 with:

8 Anthony John Martocchio

9 Joseph Gordon Connell

10 Stephon Jamar Austin

11 Matthew Dean Chapman

12 Dennis Cox

13 The same as to those witnesses, potential
14 witnesses, is anyone related by blood or
15 marriage, is close personal friends with or
16 have any connection -- personal social or
17 otherwise? If so, please stand. (Jurors
18 stand).

19 Tell me your name, in the back?

20 JUROR NUMBER 71: [REDACTED]

21 THE COURT: [REDACTED]

22 JUROR NUMBER 71: Yes, sir.

23 THE COURT: All right, let me find you

24 ---

25 CLERK: She is Juror Number 71.

1 2:00 o'clock. Do not discuss the case
2 with anyone in any way, shape or form. Do
3 not do any independent research on the case.
4 Do not have any contact with the parties. Be
5 right back here at 2:00 o'clock, we'll jump
6 right into the case.

7 We'll probably be working until about
8 5:00 or 5:30 tonight. The way that works is
9 that if we're five minutes of 5:00 and the
10 next witness is short, we'll do it. If the
11 next witness is long, we'll stop for the day
12 and come back the next morning so that
13 everybody is fresh and ready to go. Okay.
14 All right.

15 They'll show you how to come in and go
16 out. Thank you very much.

17 (JURY OUT @ 12:00 NOON)

18 THE COURT: What do we need to take up
19 pretrial? Mr. Cantrell?

20 MR. CANTRELL: Your Honor, two
21 issues; both in the nature of a suppression.
22 One would be that there is video that was
23 taken from the cellphone of the defendant.
24 I'd ask the court to hear me on a Motion to
25 suppress that.

1 THE COURT: Okay.

2 MR. CANTRELL: It was done in a two-
3 step like process. The phone was taken from
4 -- allegedly taken from the defendant by
5 another individual. That individual called
6 the Sheriff's Department. The Sheriff's
7 Department then put into motion a search
8 warrant. So there's a several step process
9 that I would ask to be heard on to get a
10 ruling from the court.

11 THE COURT: Okay.

12 MR. CANTRELL: There will also be one
13 brief statement allegedly made by the
14 defendant. It is also a multilayered
15 situation where the allegations could be -- I
16 believe, and the solicitor can correct me if
17 I am wrong -- that this defendant made a
18 statement while in the emergency room in the
19 hospital after his arrest and he was taken
20 into custody. I don't remember off the top
21 of my head whether he had already been
22 through the LEC and then taken to the
23 emergency room. There was allegedly a
24 statement, a very short statement made in the
25 emergency room that the State will attempt to

1 present and there will be several issues as
2 to that statement.

3 THE COURT: Okay. Are you ready to go
4 forward on those?

5 SOLICITOR JONES: Yes, sir, Your Honor.

6 THE COURT: Which one do you want to do
7 first?

8 MR. CANTRELL: The cell phone. The
9 video from the cell phone.

10 THE COURT: All right, let's do it.

11 MR. CANTRELL: Your Honor, the basis
12 for this Motion is as I indicted earlier, the
13 cell phone belonged to the defendant. The
14 cell phone was taken from him, not
15 voluntarily given up. The cell phone was in
16 fact taken from him by the father of the
17 alleged victim in this case, not because the
18 father believed that this defendant had done
19 anything to his daughter. But he took the
20 phone and was looking at it without
21 permission, viewing it and saw some of what
22 he believed to be incriminating evidence that
23 led to these charges.

24 He called the Sheriff's Department and
25 turned it over to the Sheriff's Department.

1 I believe the contents of the phone, the
2 videos, were observed by the responding
3 officers at that time and then subsequently
4 there was a warrant secured.

5 But, Your Honor, our position would be
6 that this was done without -- that it was
7 improperly done. Certainly it was taken from
8 the defendant without his permission, it was
9 viewed by the individual as well as law
10 enforcement prior to any consent or any
11 permission received from the court. From
12 that point forward anything would be a
13 violation of his Constitutional rights and
14 would be, among other things, fruit of the
15 poisonous tree because of the initial illegal
16 taking of the phone.

17 THE COURT: Mr. Jones?

18 SOLICITOR JONES: Yes, sir, Your Honor.
19 Briefly -- to kind of clarify a couple of
20 things that Mr. Cantrell said. The defendant
21 was living in the house with a man named
22 Daniel Ingram. Daniel Ingram had a child
23 named [REDACTED] and also his wife was
24 living there.

25 Mr. Ingram suspected that the defendant

1 was having an affair with his wife, so Mr.
2 Ingram took the defendant's phone and began
3 looking for text messages, videos that would
4 support some sort of affair.

5 In doing so, he found three videos of
6 what showed the defendant's hands sexually
7 abusing his five-year-old daughter.

8 So Mr. Ingram did not actually call law
9 enforcement. After he saw the videos, he
10 began physically assaulting Mr. Cox. Some
11 other third party called law enforcement.
12 So law enforcement responded to what they
13 thought was a physical altercation.

14 Law enforcement would testify that when
15 they arrived on scene they knocked on the
16 door and Mr. Ingram brought Mr. Cox outside.
17 At that point, again the officer thought that
18 he was responding to an altercation. Mr.
19 Ingram held up the cell phone and showed the
20 officer what he found, showed the officer the
21 videos.

22 At that point the officer, still in the
23 initial investigation of the charges, called
24 the detective. The detective got on scene
25 and they started to show him the video. The

1 detective said, 'okay, let's stop right
2 here.' He went and got a search warrant.

3 So, one, the argument from the State
4 would be that Daniel Ingram is not a State
5 actor, so the Fourth Amendment does not apply
6 to him. He showed the phone to the officer
7 and the officer was still gathering
8 information to see what was going on. I
9 believe that there was no Fourth Amendment
10 violation, because Mr. Ingram was not a State
11 actor.

12 If there was a Fourth Amendment
13 violation, the detective came on scene and
14 got a search warrant; so I would argue that
15 it would also be inevitable discovery.

16 THE COURT: Okay.

17 SOLICITOR JONES: Again, we have the
18 video at whatever point that you'd like to
19 watch it.

20 THE COURT: All right. Do you want
21 to respond to that, or do you want to call
22 witnesses or anything of that nature?

23 MR. CANTRELL: Your Honor, in all
24 candor, I think even though we may differ on
25 some of the maybe more minor details of what

1 happened, I think I cannot argue that you're
2 not getting a pretty fair picture of what
3 happened, but the only thing that I would
4 state -- or two things.

5 THE COURT: Okay.

6 MR. CANTRELL: One is that we would
7 differentiate that that video shows my client
8 molesting this young girl. This video shows
9 two hands.

10 THE COURT: Okay.

11 MR. CANTRELL: It does not show any
12 identifying -- it fails to identify the faces
13 of either individual.

14 I would point out that to the best of my
15 knowledge -- perhaps Mr. Jones does not have
16 all of the evidence -- that there was never
17 anything located in this home to determine
18 any type of relationship between my client
19 and this man's wife. So that needs to be
20 taken into account as being some reason for
21 looking for something on his phone, and he
22 discovered the video here.

23 But there again it was an unwilling
24 taking. Obviously it was accompanied by
25 violence. We would certainly stipulate to

1 that.

2 And it was immediately shown -- well,
3 immediately upon the arrival of law
4 enforcement -- to law enforcement. I cannot
5 argue that they didn't pretty quickly after
6 that secure a search warrant. I would not
7 disagree with that.

8 THE COURT: All right.

9 MR. CANTRELL: It's not a matter of
10 when they got it.

11 THE COURT: Okay.

12 MR. CANTRELL: I do still believe
13 that for those reasons that is a violation
14 of this defendant's rights and that this
15 evidence should be suppressed.

16 THE COURT: Response to that, Mr.
17 Jones?

18 SOLICITOR JONES: No, Your Honor, I
19 believe that my first argument is pretty
20 simple and to the point. I think that this
21 is quite simply a factual issue for the jury
22 to consider as to the identity of who was on
23 the video.

24 THE COURT: Right.

25 SOLICITOR JONES: But as to whether his

1 Fourth Amendment rights were violated, I
2 think that, first and foremost, Daniel Ingram
3 is not a police officer, so the Fourth
4 Amendment does not apply to him. And when
5 the detective got on the scene, he did very
6 quickly get a search warrant for the phone.

7 THE COURT: The search warrant was
8 signed by a magistrate?

9 SOLICITOR JONES: That's correct.

10 THE COURT: Okay. Then executed by law
11 enforcement?

12 SOLICITOR JONES: That's correct, Your
13 Honor.

14 THE COURT: Okay. I find that the -- I
15 am going to deny the Motion to suppress. Mr.
16 Ingram is not a State actor in this incident,
17 he is not a government official, he's not
18 somebody that is working on behalf of or for
19 law enforcement. He took it upon himself to
20 engage Mr. Cox and to seize or to take this
21 phone from him, which led to a physical
22 altercation, which led to the Sheriff's
23 Department being called. Once the detective
24 is on the scene, he does realize immediately
25 that they need to have a search warrant

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1 before doing any type of search or going into
2 the phone, which they properly obtained --
3 again, based on the information that they
4 learned. I find that Mr. Ingram was not
5 acting on behalf of the State, and that the
6 Sheriff's Department acted properly in
7 getting the search warrant when they did and
8 I am going to deny the Motion to suppress on
9 the Fourth Amendment grounds.

10 Then the statement by the defendant? Do
11 we need to do a *Denno* hearing?

12 SOLICITOR JONES: Your Honor, the
13 State's position is that this was not a
14 statement as the result of a custodial
15 interrogation. I do have the officer that
16 the defendant gave the statement to. I will
17 be happy to call him as a witness.

18 THE COURT: Yeah, let's go ahead and
19 call him and create that record.

20 SOLICITOR JONES: Jimmy Bishop.

21 (WITNESS TAKES STAND)

22 JAMES BISHOP, having been sworn to tell
23 the truth, and nothing but the truth,
24 testified as follows:

25 DIRECT EXAMINATION

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1 BY SOLICITOR JONES:

2 Q. Mr. Bishop, state your name, please.

3 A. James Bishop.

4 Q. And where do you currently work?

5 A. I work for Furman University at this
6 time.

7 Q. And where were you working in May of
8 2015?

9 A. Pickens County Sheriff's Office.

10 Q. What was your position there?

11 A. I was a road patrol deputy.

12 Q. And on May 26th, 2015, did you
13 respond to 200 Georgetown Road?

14 A. I did.

15 Q. Is that in Pickens County?

16 A. Yes.

17 Q. And did you make contact with
18 Brandon Cox?

19 A. I did.

20 Q. Okay. Skipping when you initially
21 arrived on scene, tell the court specifically
22 about any statements that the defendant made
23 to you -- first, did he make a statement to
24 you?

25 A. He did make a statement; not on

1 scene, after he was placed under arrest.

2 Q. After he was placed under arrest,
3 are you aware did anybody read the *Miranda*?

4 A. He was read the *Miranda* by
5 Lieutenant Rackley.

6 Q. Was that in your presence?

7 A. It was, (affirmative nod).

8 Q. What was his response to that?

9 A. At that time he said that he didn't
10 want to speak without a lawyer, so we didn't
11 question him.

12 Q. So after he said that he would not
13 speak to you without a lawyer, did you ask
14 him any questions?

15 A. I didn't, (negative gesture).

16 Q. Okay. So then fast-forwarding to
17 when the defendant actually did make a
18 statement, where did that statement occur?

19 A. After placing him under arrest, I
20 transported him to Cannon Hospital to be
21 checked for his injuries. While there, he
22 made the statement that the only reason that
23 he had those videos on his phone was because
24 he was going to take them to the police for
25 evidence.

1 Q. Before he made that statement, had
2 you asked him any questions?

3 A. No.

4 Q. Had you told him anything?

5 A. No.

6 Q. How long after you'd, or someone,
7 had given Mr. Cox his *Miranda* rights was that
8 statement made?

9 A. Less than an hour. Around an hour
10 maybe. It wasn't long.

11 Q. For a quick timeline, after you took
12 him from the scene of the crime, where did you
13 go?

14 A. From the scene of the crime, we took
15 him to the Sheriff's Office, the detention
16 center.

17 Q. Why then did you take him to the
18 hospital?

19 A. The detention center told me that I
20 needed to take him to have him checked out
21 because ---

22 Q. Because he had injuries?

23 A. --- he had injuries to his face.

24 Q. Okay. Then when you're at the
25 hospital, were there any other law enforce-

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1 ment officers with you?

2 A. No.

3 Q. Were there any doctors around?

4 A. I don't believe so, not at that
5 time..

6 Q. Do you remember where the defendant
7 was when he made that statement?

8 A. It was in the emergency room, I
9 don't remember the actual emergency room
10 number.

11 Q. So was it like in a triage/treatment
12 room?

13 A. Yeah.

14 Q. Not the waiting room?

15 A. No.

16 Q. After the defendant made the state-
17 ment to you, did you respond to him?

18 A. I didn't ask any questions.

19 Q. Did you make a report for this case?

20 A. I did.

21 Q. Did you include that statement in
22 your report?

23 A. I did.

24 SOLICITOR JONES: No further questions,
25 Your Honor.

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1 THE COURT: Mr. Cantrell.

2 CROSS EXAMINATION

3 BY MR. CANTRELL:

4 Q. When you arrived at the scene, who
5 did you encounter?

6 A. Mr. Ingram, Daniel Ingram, and Mr.
7 Cox, Brandon Cox.

8 Q. Where were you -- strike that.
9 Where were they when you encountered them?

10 A. They actually came -- when I first
11 arrived on scene, I could hear profanity
12 coming from the residence, but I -- I believe
13 that I knocked on the door and they came out
14 the side door. I believe that I knocked on
15 the front door and they came out of the door
16 where the driveway would be.

17 Q. Did they come out at the same time,
18 or one after the other? How did they come
19 out?

20 A. They came out at the same time.

21 Q. Did Mr. Ingram have physical custody
22 or Mr. Cox or not?

23 A. I don't know if he -- he may have
24 had him by the arm but I can't say for -- I
25 don't remember for sure. I remember him

1 saying that I needed to arrest Mr. Cox and I
2 asked him why.

3 Q. What did he say?

4 A. At that time he gave me Mr. Cox's
5 phone and showed me the videos that were on
6 the phone.

7 Q. Tell me what was the first thing
8 that you noticed or observed about Brandon
9 Cox when you saw him.

10 A. He was -- he'd been assaulted.

11 Q. How so? What was the evidence?
12 What was the visual evidence of that?

13 A. He had some blood on his face and
14 swollen marks on his face.

15 Q. On his face and head, or just on his
16 face?

17 A. From what I remember, it was his
18 face. Maybe lips.

19 Q. Did he say anything to you?

20 A. Not at that time, no.

21 Q. Did you look at his eyes, observe
22 anything about his eyes that were unusual?

23 A. Not that I recall.

24 Q. Did he appear to have all his mental
25 faculties about him?

1 A. He seemed maybe a little slow that
2 day. My -- he didn't really talk a lot.

3 Q. Did he seem slow because of his
4 condition or anything related to his
5 condition, in your opinion?

6 A. I don't know. I don't know if he
7 was intoxicated or from being beaten. I
8 couldn't really tell you.

9 Q. Did he appear to you to be
10 intoxicated, in any fashion?

11 A. Possibly. But -- again, I'm not
12 sure. I don't know if it was from him, just
13 not wanting to make any statement or if he
14 was actually under the influence. He really
15 didn't talk a whole lot that day.

16 Q. So it did appear that he could
17 have been under the influence and/or addled,
18 let's say, because of the physical assault?

19 A. Possibly.

20 Q. Didn't you in fact place him in
21 custody?

22 A. Eventually I did. Not as soon as I
23 arrived on scene but after looking at the
24 video and observing the evidence on the
25 video, I did.

1 Q. How long would you say that you were
2 on the scene, approximately?

3 A. We were on the scene for around
4 about an hour.

5 Q. How soon after the arrest did you
6 leave with him?

7 A. Whenever -- if I remember correctly,
8 I advised dispatch that he was under arrest
9 and we left.

10 Q. So in your opinion, it would have
11 taken about an hour for everything that
12 you've described as far as talking to them,
13 seeing the phone, -- did other people arrive
14 in the meantime?

15 A. Yes, Lieutenant Rackley and the
16 detective.

17 Q. You may have said this, so I
18 apologize. But did you arrest him prior to
19 them arriving there?

20 A. No.

21 Q. Was it you that placed him under
22 arrest?

23 A. I believe so; yes, sir.

24 Q. And can you tell you approximately
25 how long it would have taken you to get to

1 the LEC from there?

2 A. Fifteen minutes, maybe.

3 Q. What happened there?

4 A. After we arrived to the detention
5 center, I brought Mr. Cox in to be booked in.
6 At that time we started taking his property
7 and I noticed that he didn't have a bracelet
8 on that was in the video, that was -- he was
9 wearing it on the scene. When I put the
10 handcuffs on him, he was wearing it. It was
11 also on him when I put him in the car. After
12 we arrived at the detention center, I asked
13 him where the bracelet was and he said that
14 he must have lost it. I then went back
15 outside to my patrol car and found the
16 bracelet stuck under my backseat.

17 Q. When was the last time you had seen
18 the bracelet?

19 A. When I was putting him in the car.

20 Q. Was he cuffed at the time?

21 A. He was.

22 Q. I'm sorry but to back up, where did
23 you say that you found the bracelet?

24 A. In the back seat of my patrol car.
25 There's like a -- you've got like the seat

1 rest and where you actually sit on it. It
2 was actually stuffed down in the -- up under
3 the seat.

4 Q. Is there where his feet would have
5 been?

6 A. No, it's actually where his hands
7 were behind his back would be.

8 Q. After that, how soon did you leave
9 to take him to the hospital?

10 A. Ten to fifteen minutes.

11 Q. And you did that based on
12 instructions from the detention staff?

13 A. Yes.

14 Q. You believe that to be because they
15 saw the injuries about his face and head?

16 A. It was because of his injuries, yes.

17 Q. Did he do much talking to you there
18 at the LEC?

19 A. No.

20 Q. Was he quiet?

21 A. I believe so, (affirmative nod).

22 Q. Did he -- was he asked questions
23 about the booking process?

24 A. Yeah.

25 Q. Did he response to any questions

1 during that?

2 A. You mean to the detention staff?

3 Q. Yes.

4 A. I think he did but I can't tell you
5 about -- I don't remember him being hard to
6 get along with or anything like that.

7 Q. Did it still appear to you that he
8 could have been under the influence or addled
9 from whatever had gone on earlier, while he
10 was at the LEC?

11 A. I really don't -- I mean, I don't
12 remember if he was rattled (sic) or anything
13 like that.

14 Q. I guess maybe a better way of asking
15 the question is, did he still act the same
16 way that he did at the scene?

17 A. He was quiet. He wasn't -- I don't
18 remember him being boisterous or anything
19 like that.

20 Q. And the hospital was about a three
21 or four-minute drive from the LEC?

22 A. Yeah, it's not far.

23 Q. Was he transported in your car?

24 A. He was, (affirmative nod).

25 Q. Same backseat as before?

1 A. Yes.

2 Q. How long had you been at the ER
3 before you were in this exam room?

4 A. I don't think we had to wait in the
5 waiting room or anything like that, that I
6 remember.

7 Q. Was he in custody?

8 A. Yes.

9 Q. Was he in cuffs?

10 A. Yes. I think he was probably cuffed
11 to the bed in the ER, you know, like that.

12 Q. How long were you in this treatment
13 room before this comment was made?

14 A. I don't know how long I was there
15 before he made it. We were there for a
16 decent amount of time, probably a couple of
17 hours I'd say. But I don't know exactly --
18 the exact time when he said what he said.

19 Q. So you were there in the ER a couple
20 of hours or so?

21 A. Probably. I think I cleared from
22 the call at 5:00 o'clock that day, so I was
23 probably there for a while.

24 Q. And do you remember at what point at
25 that time the comment was made?

1 A. If I remember correctly it was
2 almost -- I don't want to say that it was
3 when we were getting ready to leave, because
4 I'm not positive.

5 Q. All right. During this time, was he
6 sitting on a chair or was he on the examining
7 table? Where was he during that two-hour
8 period?

9 A. In -- I think in a bed.

10 Q. Did he stay awake the whole time?

11 A. I think so. I think so but I can't
12 say a hundred percent for sure whether he was
13 to not. I don't remember him sleeping or
14 anything like that.

15 Q. Could he have dozed off or nodded
16 off or anything during that time?

17 A. I am sure that he could have.

18 Q. Did he say anything else to you
19 during that time, that two-hour period.

20 A. That is the only thing that I recall
21 him saying.

22 Q. Did he ask you why he was there?

23 A. No, I don't think so.

24 Q. Did he appear to know who you were?

25 A. Yes.

1 Q. Was Mr. Cox ever unconscious when
2 you saw him at the house?

3 A. No.

4 MR. CANTRELL: I don't have any
5 further questions. Thank you.

6 THE COURT: Anything else, Mr. Jones?

7 SOLICITOR JONES: Briefly.

8 REDIRECT EXAMINATION

9 BY SOLICITOR JONES:

10 Q. Mr. Bishop, are you aware -- or did
11 the hospital keep Mr. Cox there for any
12 period of time?

13 A. Yes.

14 Q. Are you aware that they treated him
15 for anything?

16 A. No.

17 Q. So to your knowledge he did not have
18 a concussion?

19 A. No. He was checked out and released
20 to go back to the LEC.

21 Q. Checked out and released?

22 A. (Affirmative nod).

23 Q. Did you smell any alcohol or any
24 other type of drugs on ---

25 A. I didn't smell any alcohol.

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1 Q. Was he able to walk of his own
2 volition?

3 A. Yes.

4 Q. At any time did he ever say that he
5 did not understand what was going on?

6 A. No.

7 Q. And did his responses to the *Miranda*
8 warning make sense?

9 A. (Affirmative nod), yeah.

10 SOLICITOR JONES: No further questions,
11 Your Honor.

12 THE COURT: Mr. Cantrell, any follow
13 up?

14 MR. CANTRELL: Nothing, Your Honor.

15 THE COURT: After he made this
16 statement at the hospital, did you start
17 talking to him?

18 OFFICER BISHOP: No, sir, he'd said he
19 didn't want to talk, so I didn't question him
20 any more.

21 THE COURT: That's fine. I was just
22 curious. Thank you very much. You may step
23 down.

24 (WITNESS STEPS DOWN)

25 THE COURT: Any further witnesses from

1 the State?

2 SOLICITOR JONES: No, sir, Your Honor.

3 THE COURT: Mr. Cantrell, would you
4 like to call any witnesses on this issue?

5 MR. CANTRELL: None, Your Honor.

6 THE COURT: I will be happy to hear
7 from either side. Would you like to start,
8 Mr. Jones?

9 SOLICITOR JONES: Sure, Your Honor.
10 Your Honor, although the defendant was in
11 custody it was certainly not the result of an
12 interrogation. It was a voluntary statement
13 by the defendant, an excited utterance for
14 lack of a better term. So I don't think that
15 any Constitutional rights were violated.

16 As to whether he -- it appeared that Mr.
17 Cantrell was trying to make some sort of
18 argument that he was under the influence of
19 something, but I think that would be an issue
20 for the jury to decide.

21 So far as suppressing the statement and
22 keeping it out because law enforcement
23 violated some sort of right, I think that
24 would be inaccurate and I would ask that the
25 statement be admitted into evidence.

1 THE COURT: All right. Mr. Cantrell?

2 MR. CANTRELL: Your Honor, I think
3 that we start with the fact that we do have a
4 statement made while he was in custody.

5 THE COURT: No doubt about he was
6 clearly in custody. He was clearly in
7 custody, he'd clearly invoked.

8 MR. CANTRELL: Right. Given that,
9 I think that we take the overall totality of
10 the circumstances. The fact that it was seen
11 fit by law enforcement that he needed to go
12 to the hospital to be treated for his
13 injuries, that his mental and physical
14 condition were impaired -- while it does not
15 appear that this statement was elicited by a
16 question from the officer, that this
17 statement was custodial in nature and his
18 physical and mental condition made it less
19 certain -- certainly less than a voluntary
20 statement. There is much too much room for
21 inaccuracy or unduly prejudicial influences
22 in this given situation due to these
23 circumstances. It warrants the suppression
24 of this statement. Based on that, I would
25 ask that the court suppress this statement.

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1 THE COURT: Mr. Jones, do you want to
2 say anything before I rule?

3 SOLICITOR JONES: No, sir, Your Honor.

4 THE COURT: In this area, I am going
5 to find that the defendant's statement to
6 Deputy Bishop is admissible and these are the
7 reasons why:

8 One, I find that the defendant was
9 clearly in custody. He was taken into
10 custody at the incident location. There is
11 no doubt that he was in custody. He was in
12 handcuffs, he was taken to the law enforce-
13 ment center to be booked.

14 He was taken to the hospital by
15 Deputy Bishop as the jail -- as the law
16 enforcement center told him to do. Clearly
17 he's in custody. He was in custody when he
18 was at the hospital.

19 Also clearly he invoked. Clearly on
20 scene he invoked his right to counsel after
21 he'd been told his *Miranda* warnings by
22 another officer in the presence of Deputy
23 Bishop. He invoked. It is also very clear
24 from the testimony that that indication by
25 Mr. Cox on scene was scrupulously honored by

1 law enforcement. There is no evidence that
2 in any way, shape or form anyone connected to
3 law enforcement attempted to contact him or
4 to discuss -- "contact" is not the right
5 word, but to question him after he invokes.
6 They all adhered to the rule that he invoked,
7 'don't talk to him or question him about the
8 case.' They honored that privilege in the
9 investigation.

10 We end up with a situation where he
11 is still in custody and he'd invoked. The
12 evidence that is before the court right now
13 is that he of his own volition, without any
14 questioning at all by law enforcement makes
15 this statement at the hospital. So we're
16 really in one of the situation where law
17 enforcement has honored the invocation of the
18 right to counsel.

19 There is no evidence -- the evidence
20 is that any interrogation that was going on
21 at that moment ceased. No interrogation
22 occurred from that point forward. There is
23 no evidence of any coaxing, there is no
24 evidence of any goading, there is no evidence
25 of any pressure, there's no evidence of any

1 of those types of situations where police
2 officers were talking about the case or
3 prodding or trying to talk to him, to put any
4 pressure on him, anything like that. The
5 deputy basically says, 'I didn't talk to the
6 guy, we were sitting at the hospital and he
7 makes this statement.' Even after he made
8 the statement, Deputy Bishop chooses to not
9 interrogate him or question him about the
10 case.

11 I find they were in a situation where
12 essentially Mr. Cox initiated the situation
13 -- I don't know that he initiated the
14 questioning but he freely and voluntarily,
15 knowingly and intelligently made the
16 statement to Deputy Bishop at the hospital
17 outside of any -- there is suspicion of
18 evidence that he may have been under the
19 influence but there is not enough to render
20 any type of statement involuntary.

21 There is a case -- I want to say the
22 *State v. Terry* (phonetic), that's going off
23 of memory of about ten years ago where the
24 evidence was clear that the defendant/suspect
25 was intoxicated, almost completely and

1 totally out of his mind to being legally --
2 beyond the point of being legally
3 intoxicated, and they determined that the
4 person's statement was freely and voluntarily
5 given.

6 So I do not find that Deputy Bishop's
7 suspicion that he may have been intoxicated,
8 there was no evidence that he smelled of
9 alcohol or that he was stumbling, you know,
10 that there were liquor bottles everywhere,
11 that there were beer cans everywhere or there
12 was any type of statement by either side that
13 they had been drinking or doing anything else
14 -- any type of illegal drugs or anything --
15 to render the statement involuntary. So I
16 find that the statement was freely,
17 voluntarily, knowingly and intelligently
18 given.

19 He was afforded his *Miranda* warnings, he
20 invoked his right to counsel and questioning
21 ceased at that moment and it was never
22 started again. He simply was not questioned
23 by law enforcement but made the statement of
24 his own free will while in custody. I find
25 the statement to be admissible.

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1 Okay, the next legal issue?

2 MR. CANTRELL: None from the defense
3 at this time.

4 THE COURT: Okay. Y'all were trying to
5 talk with me about this video, so now we're
6 going to deal with this video. How -- let's
7 start with, how long is the video?

8 SOLICITOR JONES: There are three short
9 videos.

10 THE COURT: When you say short, do you
11 mean like sixty seconds or like ---

12 SOLICITOR JONES: The total for all
13 three videos combined is maybe three minutes.

14 THE COURT: All right. What witness
15 will these come in through?

16 SOLICITOR JONES: Deputy Bishop, the
17 first officer on the scene.

18 THE COURT: Okay. Are they graphic?

19 SOLICITOR JONES: All it shows are hands
20 touching a vagina. Yes, they are very
21 graphic.

22 THE COURT: What are you concerned
23 about -- are we going to play them on a TV or
24 a video machine?

25 SOLICITOR JONES: We are going to roll

1 down the screen there and put it on the
2 projector. I was concerned that you might
3 want to -- because it is essentially child
4 pornography, you might want to clear the
5 courtroom. I will leave that to the Your
6 Honor, however you want to ---

7 THE COURT: That's fine. Do you have
8 a position on that, Mr. Cantrell?

9 MR. CANTRELL: Your Honor, at this
10 point I would share the same concern as the
11 Solicitor and defer to your judgment.

12 THE COURT: Okay. What witness do you
13 think Mr. Bishop is?

14 SOLICITOR JONES: He will be first.

15 THE COURT: First. Okay. So before we
16 start and before the jury comes in, I will
17 tell whoever is in the audience, which there
18 probably won't be anybody, that anybody that
19 doesn't want to watch this kind of stuff 'now
20 is your opportunity to leave.' I don't know
21 that I can close the courtroom. I guess that
22 I probably could, but there's just not that
23 many people in here right now. If we have a
24 big crowd show up, I'll reconsider that
25 issue.

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1 SOLICITOR JONES: Thank you. Again,
2 it is a close up, zoomed in of a female's
3 vagina.

4 THE COURT: Everybody that is in here
5 now knows what you're going to be watching if
6 you want to stay in here. So if you don't
7 want to watch it, don't come back.

8 What else, Mr. Jones?

9 SOLICITOR JONES: Nothing else from the
10 State.

11 THE COURT: What else, Mr. Cantrell?

12 MR. CANTRELL: Nothing from the
13 defense at this time.

14 THE COURT: Everybody good?

15 SOLICITOR JONES: Yes, sir.

16 MR. CANTRELL: (Affirmative nod).

17 THE COURT: All right, let's start at
18 2:00 o'clock. Y'all have never been in front
19 of me before but feel free to move around the
20 courtroom, if you want to approach a witness
21 then approach the witness, enter exhibits, do
22 whatever you guys need to do to try your
23 case. If anybody acts crazy, I will stop
24 you. I don't get the impression that anybody
25 would. Keep your voices up, make sure that

1 the witnesses are good, make sure the court
2 reporter is good -- able to hear. You don't
3 need to ask permission to approach the
4 witness. Do your job, try your case.

5 See you at 2:00. Thank you very much.

6 (LUNCH RECESS)

7 (DEFENDANT PRESENT)

8 THE COURT: When the first witness
9 comes in there is going to be a video played
10 that is extremely graphic in nature. To say
11 that it is extremely graphic is probably an
12 understatement.

13 So if you do not want to view that video
14 or you do not think that you need to view
15 that video or if you do not think that you
16 can see that video and maintain your
17 composure, when the first witness is called
18 to the witness stand you need to excuse
19 yourself out the back door. Okay?

20 That is fair warning. This is a public
21 courtroom and I understand -- while I
22 appreciate the fact that we have public
23 courtrooms throughout this country, if you
24 can't keep your composure throughout that
25 video or if you just don't need to watch it

1 for whatever reason, just excuse yourself
2 very quietly when the first witness is
3 called. Then you can come right back in as
4 soon as the video is over.

5 Does everyone understand me? Does anyone
6 have any issues with that? (No response).

7 THE COURT: Anything before we bring
8 the jury in?

9 SOLICITOR JONES: Not from the State,
10 Your Honor.

11 THE COURT: Is the defense ready?

12 MR. CANTRELL: Yes, Your Honor.

13 THE COURT: Okay, bring in the jury.

14 (JURY IN @ 2:05 P.M.)

15 THE COURT: Ladies and gentlemen,
16 welcome back. Thank you very much for being
17 on time.

18 We are ready to continue now. The first
19 thing that we are going to do this afternoon
20 is you are going to be sworn in. You took an
21 oath this morning to tell us the truth in
22 response to the questions that I asked you.
23 This oath is different. This is your oath
24 not only to me but to the parties, to the
25 lawyers, to the litigants in the case, to

1 each other and to yourself that you're going
2 to try this case fairly and impartially, with
3 no one to reward and no one to punish. That
4 you are going to sit there, fairly and
5 impartially listen to the evidence and apply
6 the evidence to the law that I give you at
7 the conclusion of the case. So this is your
8 oath that you're going to follow the
9 instructions that I give you and try this
10 case fairly and impartially. If you will
11 stand, the clerk will swear you in.

12 (WHEREUPON JURY SWORN)

13 THE COURT: Thank you very much. Now,
14 ladies and gentlemen, the first thing that I
15 am going to do is appoint a foreperson over
16 this case. Where is Ms. Rogers?

17 JUROR NUMBER 127: (Raises hand).

18 THE COURT: Ms. Rogers, you're going to
19 be the foreperson over the case. Not right
20 now but when we come back in, if you'll sit
21 right where this gentleman on the end is
22 seated. Okay?

23 JUROR NUMBER 127: Yes, sir.

24 THE COURT: You don't get paid any
25 more, your vote doesn't count any more than

1 anyone else. But someone has got to be in
2 charge in the jury room and in charge of
3 communicating with me. So you will be that
4 person. Okay.

5 Now, before we begin the actual trial of
6 the case, I thought that it might be helpful
7 to explain to you how the trial will proceed.

8 First the State will be allowed to make
9 an opening statement.

10 Now, the opening statements that you will
11 hear are not evidence. They are simply an
12 outline to help you understand what that
13 party expects the evidence will show.

14 The defendant may, if he chooses, make an
15 opening statement but he does not have to,
16 for reasons that I will explain to you in
17 just a moment.

18 Following the opening statements you will
19 hear testimony and evidence in the case. I
20 say the word "evidence" a lot, so you need to
21 listen as I explain to you what is evidence
22 and what is not evidence. Okay? "Evidence"
23 is a very defined term that I will use
24 throughout this trial.

25 So you will hear the testimony and the

1 evidence in this case. This will consist of
2 testimony from the State's witnesses as well
3 as any physical exhibits which will be
4 introduced into evidence. Following the
5 completion of the testimony, the attorneys
6 will again have the opportunity to make what
7 are called closing arguments or closing
8 summations to you. This is an opportunity
9 for the attorneys to summarize the case from
10 their respective points of view.

11 Again, the opening statements and closing
12 arguments of the attorneys are not evidence.

13 Following the closing statements by the
14 attorneys, I will tell you or instruct you on
15 what the law is in South Carolina as it
16 pertains to the issues that have arisen in
17 the case.

18 When I've completed my instructions to
19 you at the very end of the case, you will
20 then be permitted to begin your deliberations
21 in order to reach a verdict.

22 You are now the jury in this case and you
23 have duties that you must fulfill as the
24 jurors in this case, and I need to give you
25 some instructions.

1 Again, at the end I will give you much
2 longer and much more detailed instructions on
3 your duties and responsibilities.

4 Basically your duty is this, it is your
5 duty to decide from the evidence what the
6 facts are. You and you alone are the judges
7 of the facts. You will hear the evidence,
8 decide what the facts are and then apply
9 those facts to the law which I will give you.
10 That is how you will reach a verdict.

11 In doing so, you must follow the law that
12 I give you whether you agree with it or not.

13 Evidence will consist of the testimony of
14 the witnesses, documents, and any other thing
15 received into evidence as an exhibit; any
16 facts on which the lawyers agree; or anything
17 that I tell you to accept.

18 You should not take anything that I say
19 or do during the trial as any indication of
20 what I think of the evidence or what I think
21 your verdict should be. So basically you're
22 in control of the facts, I'm in control of
23 the law. Okay?

24 I can't tell you what the facts are
25 unless all the parties agree, that there is

1 some kind of stipulation. And you can't tell
2 me what the law is. You have to follow the
3 law that I give you whether you agree with it
4 or not.

5 Now, this is a criminal case brought by
6 the State of South Carolina. The State has
7 charged the defendant with criminal sexual
8 conduct with a minor in the first degree and
9 sexual exploitation of a minor in the third
10 degree.

11 The charges against the defendant are
12 contained in the indictments, which I read to
13 you earlier today. These indictments are not
14 evidence of anything, they are not proof of
15 anything. They are simply the documents
16 which give this court the authority to hear
17 this case.

18 To these charges the defendant has pled
19 not guilty and he is presumed to be innocent
20 unless and until he is proven guilty beyond a
21 reasonable doubt.

22 Proof beyond a reasonable doubt is proof
23 that leaves you firmly convinced of a
24 defendant's guilt.

25 A defendant has the right not to testify

1 and he never has to prove innocence or
2 present any evidence at all. The burden
3 of proof is always on the State of South
4 Carolina.

5 Now, some things that you hear during the
6 trial are not evidence and you must not
7 consider them as evidence in deciding what
8 the facts are:

9 One, the statements and arguments of
10 the attorneys are not evidence.

11 Two, the questions and the
12 objections of the attorneys are not evidence.

13 Three, anything that I tell you to
14 disregard. It happens in almost every single
15 trial that somebody says something and I tell
16 you 'disregard what that person just said.'
17 You literally have to wipe it out of your
18 mind and not consider it in determining the
19 facts of the case. Okay.

20 Now, there are two types of evidence that
21 you will consider. Evidence maybe direct or
22 it may be circumstantial evidence.

23 Direct evidence is what somebody saw,
24 heard, did, touched. 'I saw this paper towel
25 was white, or I saw this napkin.' Or 'the

1 judge had on a black robe.' You physically
2 saw that today. Okay.

3 Circumstantial evidence is indirect
4 evidence. It is proof of one or more facts
5 from which you can find another fact. I'll
6 explain that more to you in the charge at the
7 conclusion of the case.

8 You are allowed to consider both direct
9 evidence and circumstantial evidence. The
10 law permits you to give equal weight to both.
11 It's for you to determine how much weight to
12 give any evidence.

13 Now, in this courtroom and throughout
14 this trial there are Rules that apply to
15 everything, down to the order of the
16 witnesses; which side gets to go first,
17 things of that nature. Okay?

18 So there are rules of court and there are
19 rules of evidence. This book right here is
20 the evidence book. Okay?

21 Now, when a lawyer asks a question or
22 offers an exhibit into evidence and a lawyer
23 on the other side thinks that that piece of
24 evidence or that question is not permitted by
25 the Rules, that lawyer may object.

1 Now, if I overrule the objection, the
2 question can be answered or the exhibit can
3 be received.

4 If I sustain the objection, then the
5 question cannot be answered or the exhibit
6 cannot be received. Whenever I sustain an
7 objection to a question or deny a Motion to
8 admit an exhibit into evidence, you must
9 ignore the question or the existence of the
10 exhibit, and you must not guess what the
11 answer would have been or what the exhibit
12 would have shown.

13 Now, in every single trial that I have
14 ever done in my entire life it becomes
15 necessary for me to request that you leave
16 the courtroom while we discuss legal issues
17 with the lawyers. This happens in every
18 single case. Regardless of the court (sic),
19 it occurs. When this happens, do not
20 speculate about what we're discussing or why
21 you were asked to leave the room. There are
22 procedures that the law requires when certain
23 issues with the law arise.

24 Now, there will be occasions when I tell
25 the attorneys or the attorneys say, 'may we

1 approach the bench?' We do that in order to
2 keep you from going in and out, back and
3 forth. Okay?

4 So if it is something that I can handle
5 real quick right here, I'll handle it real
6 quick and then we will go right back in to
7 what we need to go back into. I'll do this
8 as quickly as possible as often as possible
9 so that you won't be needing to go in and
10 out, in and out, back and forth, back and
11 forth.

12 If I ask the attorneys to step to the
13 bench or I ask you to leave the courtroom,
14 please do not think that anybody is trying to
15 keep anything from you or hide anything from
16 you, this is simply a procedure used by all
17 lawyers and by all courts to determine and to
18 decide legal questions.

19 So one thing that I do, that I don't know
20 if all people do but I like to, when the
21 lawyers say 'Judge, can we approach', y'all
22 can stand up. You're sitting in these
23 chairs, you just ate lunch, you're a little
24 bit sleepy, it's afternoon, so when the
25 lawyers say 'can we approach', you all stand

1 up and stretch/twist. Don't talk about the
2 case. But, you know, that gives you an
3 opportunity to kind of catch up with us,
4 stretch a little bit and kind of make sure
5 everything is still working. Okay?

6 Now, to decide the facts of this case,
7 you have to decide which witnesses to believe
8 and which witnesses not to believe. You may
9 believe everything that a witness says. You
10 may believe none of what a witness says. You
11 may believe part of what a witness says.

12 In deciding what to believe, you may
13 consider but you're not limited to what was
14 that witness' ability to see, hear or know
15 what he or she testified to.

16 Two, how good was the witness' memory.

17 Three, what was the witness' demeanor
18 while they were on the witness stand.

19 Four, does the witness has an interest
20 in the outcome of the case or do they have a
21 motive, bias or prejudice?

22 Five, was the witness contradicted by
23 anything that the witness said or wrote
24 before the trial or by other evidence.

25 Six, how reasonable was the witness'

1 testimony when considered in the light of
2 everything else, of the other evidence which
3 you believe.

4 The bottom line is this, y'all judge
5 people's credibility every single day of your
6 life. Multiple times a day you have made a
7 credibility decision whether a person was
8 telling you the truth. Right? When the
9 children come downstairs in the morning, you
10 say 'did you brush your teeth?' You make a
11 credibility decision with that child right
12 there whether they are telling you the truth
13 or not.

14 What you use for that is you use your
15 common sense. So when you came back in the
16 building this afternoon, you didn't leave
17 your common sense at the metal detector.
18 Okay? Just use your good, God-given common
19 sense in determining the credibility of the
20 witnesses.

21 Now, as I told you earlier, you are not
22 allowed to discuss this case with anyone,
23 including each other. That means friends,
24 family members and anyone involved in the
25 case. This includes face to face, telephone,

1 e-mail, text messages, blog, Facebook,
2 Twitter, some other kinds of social media
3 that I don't even know what it is. Whatever
4 it is, you can't use it to discuss the case.

5 You're not allowed to use the computer or
6 a cell phone or anything else electronically
7 to get or send information about the case.
8 Do not do any research about this case in any
9 way, shape or form. Do not try to get
10 information about the case, information about
11 a party, a witness, an attorney or court
12 officers, to go look up news accounts about
13 the case. Don't go research something about
14 the case.

15 If somebody says a word today, you can't
16 go home and pull out the dictionary to look
17 it up. That's the extent to which this is.
18 You can't say, 'well, I would really like to
19 know this, so I'm going to go home and look
20 that up.' That's not the way this works.

21 You have to base your decision on what
22 happens in court based on the evidence and
23 the law, the evidence and the law only.

24 During the trial, do not read, watch or
25 listen to any news reports about the case. I

1 don't know of any news reports about the case
2 but if you're reading the newspaper or see
3 the news and you think that you see this
4 case, just turn it off. Okay?

5 Once the case is submitted to you, you
6 can only discuss it with each other. Again
7 that's at the end of the case. The attorneys
8 and parties in this case have been told not
9 to talk to you. So if they see you in the
10 hall, they're not mean. If they don't say
11 hello they are not being unfriendly, they are
12 just following my instructions.

13 It is important that you keep an open
14 mind and not decide any issue in this case
15 until you have seen all of the evidence, the
16 parties have made their closing arguments and
17 I've told you what the law is. Until then,
18 you're to keep an open mind about this case.

19 It is your responsibility to determine
20 the guilt or the innocence of the defendant
21 and your verdict must be based solely on the
22 evidence presented to you during this trial
23 and the law that I give to you at the close
24 of the trial.

25 Madam Forelady, it is your duty to

1 preside in the jury room and be the jury
2 spokesperson here in court. It will also be
3 your duty to write the verdict but I will
4 explain that to you at a later time.

5 Now, I do not allow note taking. So if
6 anybody has a pad or paper or pen, put them
7 up. What happens is that when people start
8 taking notes, they stop listening. Your
9 notes are not the official record of what
10 happens. What happens in here, the official
11 record belongs to Ms. Garrison (court
12 reporter). Okay. That's what we have her
13 for.

14 While this is a very important trial, I
15 do not expect it to be a very lengthy trial.
16 So I will not allow any note taking.

17 Are there any exceptions to the opening
18 charge from the State?

19 SOLICITOR JONES: None from the State,
20 Your Honor.

21 THE COURT: Any exceptions from the
22 defense?

23 MR. CANTRELL: None, Your Honor.

24 THE COURT: Is the State ready to
25 proceed?

1 SOLICITOR JONES: The State is ready,
2 Your Honor.

3 THE COURT: All right. Mr. Jones.

4 SOLICITOR JONES: May it please the
5 Court? Mr. Cantrell.

6 THE COURT: Yes, sir.

7 SOLICITOR JONES: Brandon Cox inserted
8 his finger into the vagina of a five-year-old
9 child. He used his cell phone to video
10 record himself doing that. Then when he got
11 caught, he tried to hide a piece of evidence.

12 The defendant is charged with criminal
13 sexual conduct with a minor in the first
14 degree and sexual exploitation with a minor
15 in the third degree.

16 I want to briefly go over the elements
17 that I have to prove to you beyond a reason-
18 able doubt. These are the elements that you
19 should be looking for throughout the trial.

20 For the criminal sexual conduct with a
21 minor in the first degree, I have to show
22 that the defendant committed a sexual battery
23 on the victim and the victim was under the
24 age of eleven.

25 The statute defines sexual battery as

1 sexual intercourse, anal intercourse,
2 cunnilingus, fellatio or any intrusion,
3 however slight, in the anal or genital
4 openings of another person. For this case,
5 keep in mind "any intrusion, however slight."
6 That is what this defendant did.

7 For the sexual exploitation of a minor
8 third degree, I have to show that the
9 defendant knowingly possessed material that
10 contained a visual representation of a minor
11 and that minor was engaged in sexual activity
12 or was in the state of sexually-explicit
13 nudity. For that statute, a minor is someone
14 under the age of eighteen.

15 As to the evidence you'll see in the
16 trial, you will see the video that was found
17 on the defendant's phone. As I mentioned,
18 it is a shockingly disturbing video.

19 It's important that you pay close
20 attention to the details in the video,
21 because you're also going to see photographs
22 taken of the defendant when he was arrested.
23 I want you to notice the bracelet that you
24 see in the video, then notice the bracelet
25 that the defendant was wearing when he was

1 arrested. Notice the details of the hands in
2 the video, the feet in the video and compare
3 that with the photographs of the defendant
4 when he was arrested.

5 You are also going to hear from several
6 witnesses:

7 Deputy Jimmy Bishop was the first officer
8 on the scene. He is going to tell you who he
9 talked to, what he saw when he arrived, and
10 what he did.

11 Detective Michael Hendricks also arrived
12 on the scene and he will tell you what he
13 learned in his investigation.

14 Daniel Ingram is the father of the
15 victim. He's going to tell you why the
16 defendant was living at their house. He will
17 tell you how he came across the video on the
18 phone and also about what he did after he
19 found the video.

20 As I mentioned, this is a shocking video
21 and it's very uncomfortable for me to talk
22 about but it's important that you pay
23 attention to the details, because the only
24 way that justice is going to be reached in
25 this case is if you watch the video,

1 participate in the trial and find the
2 defendant guilty. Thank you.

3 THE COURT: Thank you very much, Mr.
4 Jones. Mr. Cantrell, do you wish to make an
5 opening statement?

6 MR. CANTRELL: If it may please the
7 court?

8 THE COURT: Yes, sir.

9 MR. CANTRELL: You have heard the
10 instructions from the judge and I am not
11 going to pretend to go back through that
12 because the court has told you what your job
13 is, what job you are to do in this courtroom.

14 Brandon Cox is presumed innocent as he
15 sits here today until when and if the State
16 proves his guilt to you beyond a reasonable
17 doubt. You've heard that that must be done
18 through evidence that you hear in this trial.
19 You will be the ones who decide what evidence
20 is good evidence, what evidence is not so
21 good, what evidence is simply bad evidence.

22 And you've heard that it is up to the
23 State to prove the allegations. They must
24 construct a case for you that proves each
25 element to you beyond a reasonable doubt.

1 That is one of the cornerstones, one of the
2 basic foundations of this criminal justice
3 system that we are all here to participate in
4 right this minute. Proof beyond a reasonable
5 doubt is something that is required of the
6 State and must be done to your satisfaction.

7 You also heard that what Mr. Jones and I
8 have to say doesn't matter a whole lot. It's
9 not evidence. I would be shocked and
10 probably disappointed if you let Mr. Jones or
11 myself, either one, tell you what to do or
12 tell you what you must do. Our job is to
13 present evidence to you.

14 With that in mind, all that I think
15 anyone has a right to do is to ask you to
16 listen, to pay close attention. As the
17 judge said, we just ask that you use your
18 common sense, or some would say your "horse
19 sense", as you deliberate based on what you
20 hear, the evidence presented and the law as
21 the judge charges it to you. You use your
22 common sense as to 'what does this proof tell
23 us beyond a reasonable doubt?'

24 If this was a simple case, if this case
25 were cut-and-dried, we wouldn't need you, we

1 wouldn't need anybody here if it was just so
2 simple that it could come out of a computer
3 like the names on the jury list. If it were
4 that simple, we wouldn't need any of us to be
5 here. It's not that simple.

6 There are two opposite ends of this TV
7 issue. One is that this case won't start and
8 stop in an hour, nor is it a sequel of a
9 couple hours. That not what real law is,
10 that's not the way real courts are. TV makes
11 it look simple, but this is a real trial with
12 real people. The evidence is here, the
13 testimony will be here. Once you hear that,
14 you will deliberate and reach a verdict which
15 speaks the truth, which is all anyone in this
16 courtroom can ask you to do.

17 Please listen carefully to everything
18 that is presented, take into account what is
19 presented, what is not presented, how things
20 are presented. It is not a straight shot,
21 not a straight journey. There are curves in
22 the road, it can be confusing. So please pay
23 attention so you can make a decision that
24 speaks the truth. Neither Mr. Jones nor I
25 can tell you what to do, but I submit to you

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1 that once you've considered all the
2 evidence that you will be comfortable in
3 returning a verdict of Not Guilty.

4 THE COURT: Thank you very much, Mr.
5 Cantrell. The State may call its first
6 witness.

7 SOLICITOR JONES: Thank you, Your Honor.
8 The State calls Deputy Jimmy Bishop.

9 (WITNESS TAKES STAND)

10 JAMES BISHOP, having been sworn to tell
11 the truth, and nothing but the truth,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY SOLICITOR JONES:

15 Q. Deputy Bishop, where do you
16 currently work?

17 A. I work for Furman University Police
18 Department.

19 Q. What is your position there?

20 A. I am a police officer.

21 Q. How long have you been working for
22 Furman?

23 A. About six months. Since January.

24 Q. Before that where did you work?

25 A. Pickens County Sheriff's Office.

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1 Q. In May of 2015 where did you work?

2 A. Pickens County Sheriff's Office.

3 Q. What was your position in May of
4 2015?

5 A. I was a deputy on road patrol.

6 Q. Deputy on road patrol.

7 A. (Affirmative nod).

8 Q. On May 26th, 2015, did you respond to
9 200 Georgetown Road?

10 A. I did, (affirmative nod).

11 Q. Is that in Pickens County?

12 A. It is.

13 Q. Tell the jury what was your
14 understanding when you responded to the
15 scene?

16 A. The call came out as, I believe, a
17 fight in progress call. When I arrived on
18 scene, there wasn't anyone outside but I did
19 hear shouting/profanity coming from inside
20 200 Georgetown Road.

21 Q. So you heard shouting and profanity
22 from inside?

23 A. Yes.

24 Q. And what did you do when you got on
25 scene?

1 A. I got out and knocked on the door,
2 knocked on the front door. At that time,
3 after I'd knocked on the front door, Mr. Cox
4 and Mr. Ingram came out the side door.

5 Q. They came out the side door?

6 A. (Affirmative nod).

7 Q. Describe what you saw when Mr. Cox
8 and Mr. Ingram came out the side door.

9 A. Mr. Cox appeared to have been
10 assaulted about the head, had blood on his
11 face, the side of his face was a little
12 swollen.

13 Q. All right.

14 A. Mr. Ingram told me ---

15 THE COURT: Whoa, whoa, wait a minute.

16 MR. CANTRELL: Objection to what Mr.
17 Ingram told him.

18 SOLICITOR JONES: I will ask another
19 question, Your Honor.

20 THE COURT: Fair enough. Sustained.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR JONES:

23 Q. Just don't say what another person
24 told you, just based on what your observa-
25 tions were.

1 A. Okay.

2 Q. As you were standing outside, you
3 made contact with Mr. Cox and with Mr.
4 Ingram; is that correct?

5 A. That's right.

6 Q. What did you do after you made
7 contact with them? Again, don't say what
8 anybody told you but if you did anything or
9 what you saw?

10 A. I viewed three videos on an iPhone
11 of what appeared to be a male attempting to
12 penetrate a young girl's vagina with his
13 fingers.

14 Q. All right. Did Mr. Cox say anything
15 to you as you were watching the videos?

16 A. He didn't.

17 Q. Was anybody else on scene when you
18 arrived? Any other officers?

19 A. Not when I arrived. Eventually
20 other officers did arrive on scene.

21 Q. Did you know who the phone belonged
22 to?

23 A. I was informed who it belonged to
24 but I didn't have any information.

25 Q. What did you see in the video that

1 led you to believe -- did you see anything in
2 the video that led you to believe the
3 identity of who the person was in the video?

4 A. I did. In the video -- you can see
5 a bracelet in the video. It's a pretty
6 distinctive design on the bracelet in the
7 video. Mr. Cox was wearing a bracelet at the
8 time.

9 SOLICITOR JONES: (Tenders document to
10 be marked as exhibit).

11 COURT REPORTER: State's Exhibit 26,
12 marked for identification.

13 DIRECT EXAMINATION CONTINUED
14 BY SOLICITOR JONES:

15 Q. I hand you State's Exhibit 26.
16 Would you take a look at that for me?

17 A. (Complies).

18 Q. Can you tell the jury what that is?

19 A. This is the bracelet that Mr. Cox
20 was wearing the day that I arrived on the
21 scene. It's also the bracelet that I could
22 see in the video.

23 Q. Has it been altered in any way?

24 A. No.

25 Q. And that is the exact bracelet that

1 you found on the scene?

2 A. Yes.

3 SOLICITOR JONES: Your Honor, at this
4 point I would like to move State's Exhibit 26
5 into evidence.

6 THE COURT: Any objection?

7 MR. CANTRELL: No objection.

8 THE COURT: State's Exhibit 26 into
9 evidence without objection.

10 (SO ENTERED AS STATE'S EXHIBIT 26)

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR JONES:

13 Q. Mr. Gibson, I am handing you State's
14 Exhibit 1. Would you take a look at that for
15 me?

16 A. Yes, (complies).

17 Q. Do you recognize that?

18 A. I do.

19 Q. What is it?

20 A. It's a copy of the videos that were
21 on the cell phone.

22 Q. Are they true and accurate
23 depictions of the videos that you found on
24 the cell phone?

25 A. They are.

1 Q. Have they been altered or changed in
2 any way?

3 A. No.

4 SOLICITOR JONES: Your Honor, the State
5 moves to have State's Exhibit 1 admitted into
6 evidence.

7 THE COURT: State's Exhibit 1 is
8 admitted over the defense's objection which
9 was properly made at the appropriate time,
10 which has been properly renewed. The Court
11 understands that the objection is herewith
12 renewed, and State's Exhibit 1 is hereby
13 admitted.

14 MR. CANTRELL: Thank you, Your Honor.

15 (SO ENTERED AS STATE'S EXHIBIT 1)

16 SOLICITOR JONES: Thank you, Your Honor.
17 I would like to publish the videos for the
18 jury.

19 THE COURT: All right. We've got to
20 play with the lights until you get ---

21 SOLICITOR JONES: We would ask that all
22 the lights be cut off.

23 (WHEREUPON STATE'S EXHIBIT 1 PUBLISHED)

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR JONES:

1 Q. Deputy Bishop, what did you do after
2 you observed the video?

3 A. I believe at that time Lieutenant
4 Rackley read Mr. Cox his *Miranda*. We
5 attempted to ask him questions about the
6 video.

7 Q. What was his response?

8 A. He said that he wasn't going to talk
9 to us without a lawyer.

10 Q. And did you call anybody else at the
11 scene?

12 A. I believe that Lieutenant Rackley
13 had called Detective Hendricks to come to the
14 scene. He was on the scene with us.

15 Q. How long would you say that you were
16 at the residence?

17 A. Approximately an hour.

18 Q. What did you do after Lieutenant
19 Rackley read his *Miranda*? When Detective
20 Hendricks got there, what happened next?

21 A. We kind of looked at the video and
22 compared it to the bracelet that Mr. Cox was
23 wearing, compared his hands and decided to
24 place him under arrest.

25 Q. After you placed him under arrest,

1 what did you do?

2 A. I transported him to the Pickens
3 County Detention Center.

4 Q. When you got to the detention
5 center, what did you do?

6 A. We attempted to book him in. During
7 the booking process we were taking his
8 personal belongings and ---

9 Q. Is that standard procedure?

10 A. Yes, that is standard procedure. We
11 take his clothes and all that, dress him out
12 in like a jail outfit. When I placed the
13 handcuffs on him, he still had the bracelet
14 on. As I put him in the patrol car he still
15 had the bracelet on. But when I got to
16 detention center to book him in, the bracelet
17 was gone. I asked him where the bracelet was
18 and he stated that he must have lost it.

19 At that time, I went back out to the
20 sally port where you drive the patrol vehicle
21 in and the gates come down. I looked in my
22 patrol car and found the bracelet in the
23 backseat area. The bracelet had been broken
24 off his wrist and stuffed into the back of
25 the seat; like where his hands would be, it

1 was stuffed in between the seat and the back
2 of the seat.

3 Q. So was it found on top of the seat?

4 A. Like the seat back rests and then
5 where you sit, it was stuffed down between
6 the back and the seat.

7 Q. Did you have to do anything to the
8 seat in order ---

9 A. I had to pull the seat apart to get
10 to where the bracelet was.

11 Q. Deputy Bishop, handing you State's
12 Exhibits 2, 3 and 4.

13 A. Okay.

14 Q. Would you please take a look at
15 those for me?

16 A. (Complies).

17 Q. Do you recognize those?

18 A. I do.

19 Q. What does State's Exhibit 2 depict?

20 A. It is a picture of Mr. Cox in the
21 booking area.

22 Q. And State's Exhibit 3, what does
23 that depict?

24 A. A picture of Mr. Cox's feet.

25 Q. State's Exhibit 4?

1 A. Mr. Cox's hands.

2 Q. Are those true and accurate
3 depictions of what those looked like at the
4 time of his arrest?

5 A. They are.

6 Q. Handing you State's Exhibits 5, 6, 7
7 and 8. What does State's Exhibit 5 depict?

8 A. A picture of the palms of Mr. Cox's
9 hands.

10 Q. State's Exhibit 6?

11 A. Mr. Cox's left hand, it shows a
12 small freckle or scab on his index finger
13 knuckle.

14 Q. State's Exhibit 7, what does that
15 depict?

16 A. A zoomed-in, closer shot of that
17 left hand, the freckle or scab.

18 Q. And State's Exhibit 8, what does
19 that depict?

20 A. A picture of the bracelet that Mr.
21 Cox was wearing.

22 Q. And are State's Exhibits 5 through 8
23 true and accurate depictions of what you saw
24 when Mr. Cox was placed under arrest?

25 A. It is.

1 Q. State's Exhibits 2 through 8 that I
2 just showed you -- have any of those that I
3 just showed you been altered or changed in
4 any way?

5 A. They have not.

6 SOLICITOR JONES: Your Honor, I would
7 like to move State's Exhibits 2 through 8
8 into evidence.

9 THE COURT: Without objection.

10 (SO ENTERED AS STATE'S EXHIBITS 2-8)

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR JONES:

13 Q. Handing you State's Exhibit 9, can
14 you take a look at that for me, please, sir?

15 A. (Complies).

16 Q. Do you recognize that, sir?

17 A. I do.

18 Q. What does that depict?

19 A. It is a still picture from the video
20 of the bracelet that Mr. Cox was wearing in
21 the video.

22 Q. Is that a true and accurate
23 depiction, the still photograph from the
24 video?

25 A. It is, (affirmative nod).

1 Q. Has it been altered or amended in
2 any way?

3 A. No.

4 SOLICITOR JONES: Your Honor, at this
5 point State would move State's Exhibit 9 into
6 evidence.

7 MR. CANTRELL: No objection.

8 THE COURT: Without objection.

9 (SO ENTERED AS STATE'S EXHIBIT 9)

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR JONES:

12 Q. I hand you what has been admitted
13 into evidence as State's Exhibit 8. Would
14 you take a look at that for me along with
15 State's Exhibit 9. Do you see any
16 similarities in those photos?

17 A. I do.

18 Q. Can you tell the jury what
19 similarities those are?

20 A. The design of the bracelet, the gold
21 and silver. It's the same bracelet shown in
22 the video. It has small rectangular designs
23 with the silver in the middle and the gold on
24 the outside.

25 Q. State's Exhibits 2 and 11. Can you

1 take a look at that for me, sir?

2 A. (Complies).

3 Q. Do you recognize that?

4 A. Yes.

5 Q. What is that?

6 A. These are still shots from the
7 video.

8 Q. What in particular from the video?

9 A. Of the crotch area of the victim and
10 also the scab or freckle on Mr. Cox's hand.

11 Q. Are those true and accurate
12 depictions of what you see in the video?

13 A. They are.

14 SOLICITOR JONES: Your Honor, I would
15 move State's Exhibits 9 and 10 into evidence.

16 MR. CANTRELL: No objections.

17 THE COURT: Without objection.

18 (SO ENTERED AS STATE'S EXHIBIT 9)

19 (SO ENTERED AS STATE'S EXHIBIT 10)

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR JONES:

22 Q. I show you State's Exhibit 7 which
23 has already been entered into evidence. Can
24 you compare that with -- State's Exhibit 7,
25 what was that, again?

1 A. State's Exhibit 7, 10 and 11.

2 Q. What does State's Exhibit 7 depict?

3 A. It depicts the freckle or small scab
4 on his left knuckle. You can see it on his
5 left knuckle in the video.

6 Q. Okay.

7 SOLICITOR JONES: Your Honor, I would
8 like to hand these at this time to the jury.

9 THE COURT: All right. Ladies and
10 gentlemen, every attorney does things
11 differently. Some of them like to hand you
12 the exhibits, some of them like to put them
13 on posterboards, some of them like to put
14 them up on a screen.

15 You'll have any exhibit that has been
16 admitted into evidence back with you in the
17 jury room when it is time to deliberate. So
18 you can look at them as much as you want to
19 right now or wait until later, whichever way
20 you prefer. Okay? You'll have them with
21 you back in the jury room.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR JONES:

24 Q. Deputy Bishop, I'm handing you
25 State's Exhibits 12 and 13. Could you take

1 a look at those for me?

2 A. (Complies).

3 Q. What do they depict?

4 A. These are also still pictures from
5 the video. Exhibit 12 shows Mr. Cox's foot
6 and Exhibit 13 shows Mr. Cox's finger from
7 the video, as well.

8 Q. Do they appear to be true and
9 accurate depictions of what you saw in the
10 video?

11 A. They do.

12 Q. Have they been altered or amended in
13 any way?

14 A. No.

15 SOLICITOR JONES: Your Honor, the State
16 moves State's Exhibits 12 and 14 into
17 evidence.

18 MR. CANTRELL: No objection.

19 THE COURT: All right. Without
20 objection.

21 (SO ENTERED AS STATE'S EXHIBIT 12)

22 (SO ENTERED AS STATE'S EXHIBIT 13)

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR JONES:

25 Q. I hand you State's Exhibit 3 and

1 State's Exhibit 12, which have both been
2 moved into evidence. Would you take a look
3 at that for me, please, sir?

4 A. Yes, (complies).

5 Q. Tell the jury what those depict,
6 please.

7 A. State's Exhibit 3 is a picture of
8 Mr. Cox's feet when he was in the booking
9 area at the Pickens County Detention Center.

10 State's Exhibit 12 is the picture of his
11 left foot, I believe that is a still picture
12 from the video.

13 Q. Can you point out any similarities
14 for the jury as to the feet and toes?

15 A. His toes are very similar, they're
16 kind of short and stubby. Toenails appear to
17 be the same length. I guess his middle or
18 the second and third toes look the same in
19 both. These toes (Exhibit 3) and these toes
20 (Exhibit 12) look the same.

21 SOLICITOR JONES: Your Honor, I would
22 like to give State's Exhibits 12 and 3 to the
23 jury.

24 THE COURT: All right.

25 DIRECT EXAMINATION CONTINUED

1 BY SOLICITOR JONES:

2 Q. Deputy Bishop -- let's wait until
3 all the jury has had a chance to look at
4 those photographs. (Jurors complete review).
5 Okay.

6 Deputy Bishop, after you noticed that the
7 bracelet was missing and you found it in your
8 patrol car, take the jury from there as to
9 what happened after that?

10 A. After I noticed the bracelet was
11 missing, I attempted to look at Mr. Cox's --
12 the supervisor at the detention center
13 advised me that I needed to take him to the
14 hospital just to be checked out for the
15 injuries that he had on his face. So at that
16 time we went to Cannon Hospital, to the
17 emergency room and allowed for him to be
18 checked out there.

19 Q. How long would you say that you
20 stayed at the hospital?

21 A. At least a few hours.

22 Q. At any time while in the hospital,
23 did the defendant tell you anything?

24 A. While in the emergency room, he did
25 state that the only reason he had those

1 videos on this phone was -- I believe his
2 exact words were, "The reason I had those
3 videos on my phone was because I was going
4 to take them to the police for evidence."

5 Q. So he told you that the reason that
6 he had those videos on his phone was so that
7 he could take them to the police?

8 A. Yes.

9 Q. Was that as a result of you
10 questioning the defendant?

11 A. It was not, (negative gesture).

12 Q. Did you say anything to the
13 defendant in response?

14 A. No, I didn't question him or say
15 anything else.

16 Q. Did he say anything else to you?

17 A. Not that I recall, I don't remember
18 him saying anything more.

19 Q. Are you aware if the defendant was
20 treated for anything in the hospital?

21 A. He was checked out and released. I
22 don't know if was diagnosed with anything.

23 Q. Did he have to stay the night in the
24 hospital?

25 A. No.

1 Q. You said he was released.

2 A. (Affirmative nod).

3 Q. Then what did you have to do with
4 him?

5 A. He was released and taken back to
6 the Pickens County Detention Center, booked
7 in and served with a warrant for criminal
8 sexual conduct.

9 Q. Let me show you State's Exhibits 4
10 and 5 again. If you would, take a look at
11 those for me.

12 A. (Complies).

13 Q. These have already been admitted
14 into evidence. Again, what do those depict?

15 A. The hands/palms of Mr. Cox.

16 Q. Do you see any distinct markings on
17 his hands?

18 A. I do. His index fingernails --
19 well, all his fingernails are very short but
20 his left index fingernail, you can tell, is
21 very short. You can also see the mark,
22 whether it be a freckle or a scab, on his
23 left index knuckle area.

24 Q. Do you see any tattoos on his hands?

25 A. No, no tattoos.

1 Q. Are those the way that his hands
2 looked when he was arrested?

3 A. It is.

4 SOLICITOR JONES: Showing the jury
5 State's Exhibits 4 and 5, (tendering to
6 juror).

7 DIRECT EXAMINATION CONTINUED
8 BY SOLICITOR JONES:

9 Q. Just to reiterate, Deputy Bishop,
10 was the defendant wearing a bracelet when you
11 placed him under arrest?

12 A. He was wearing -- yes.

13 Q. Did the defendant -- did you discuss
14 with the other officers in his presence the
15 similarities in the video?

16 A. He was around when we were talking
17 about the similarities in the video, yes.

18 SOLICITOR JONES: No further questions,
19 Your Honor.

20 THE COURT: Mr. Cantrell?

21 MR. CANTRELL: May it please the
22 court.

23 THE COURT: Yes, sir.

24 MR. CANTRELL: Thank you.

25 CROSS EXAMINATION

1 BY MR. CANTRELL:

2 Q. Is this the picture that you used to
3 identify the mark on his knuckle?

4 A. I believe so.

5 COURT REPORTER: Exhibit number?

6 MR. CANTRELL: I'm sorry. That is
7 State's Exhibit 7.

8 CROSS EXAMINATION CONTINUED

9 BY MR. CANTRELL:

10 Q. Is that correct?

11 A. Yes, sir.

12 Q. Are you talking about a mark that is
13 up above his knuckle?

14 A. We are talking about this mark here.

15 Q. What about these other marks that
16 you see on his hand? What are those from?

17 A. I don't know what they're from.
18 Could be fighting or working. I'm not sure.

19 Q. Did those marks from fighting or
20 working show up on the video, that you're
21 aware of?

22 A. I'm not sure.

23 Q. Do you remember seeing any like that
24 on the video?

25 A. I don't remember seeing those. I

1 remember seeing the freckle. I don't
2 remember this.

3 Q. The fact of the matter is that we
4 know that Brandon had been in a fight right
5 before you got there. Correct?

6 A. Correct.

7 Q. So you've already identified this
8 mark as a freckle or a scab. Right?

9 A. That's what it appears to be, yes.

10 Q. But also we've got these other marks
11 that are scabs or injuries also. Is that
12 right? On this picture?

13 A. Yes, that's what it appears to be.

14 Q. Who else was at the residence when
15 you got there?

16 A. Mr. Ingram, Mr. Cox, and I believe
17 Mr. Ingram's wife was possibly there as well.

18 Q. Anyone else?

19 A. Not that I recall.

20 Q. How long were you there?

21 A. On the scene?

22 Q. Yes.

23 A. About an hour.

24 Q. Were you aware that there were
25 children or young people living in that

1 house?

2 A. Yes. I don't believe that the child
3 was there at the time.

4 Q. How about -- you're talking about
5 the victim?

6 A. Yes.

7 Q. Did you meet any of her siblings?

8 A. I didn't, no.

9 Q. So you don't know whether they'd
10 been there, were there? You didn't see them
11 yourself?

12 A. I didn't see them there that day,
13 no.

14 Q. Were you made aware of the existence
15 of another bracelet identical to this
16 bracelet that you're talking about in these
17 pictures?

18 A. No, I wasn't.

19 Q. No one told you that there was
20 another bracelet like that?

21 A. Not -- not at the house, no.

22 Q. Are you aware of any other bracelet
23 identical to that?

24 A. No.

25 Q. I'd like to show you State's Exhibit

1 12 and State's Exhibit 3. Would you take a
2 look at those, please, sir?

3 A. (Complies).

4 Q. Can you tell us any noticeable
5 difference in the pants in those pictures?

6 A. Yeah, one is blue jean and one is
7 another.

8 Q. When you first saw Brandon Cox, he
9 was, I assume, safe to say disheveled? Had
10 injuries about his face and head? Is that
11 correct?

12 A. That's correct.

13 Q. And when you took him, a little bit
14 later, to the law enforcement center the
15 people in charge of detention noticed that
16 also?

17 A. Yes.

18 Q. Would that be safe to say?

19 A. Yes.

20 Q. Based on that, they instructed you
21 to take him to the emergency room for medical
22 treatment?

23 A. Just to make sure that were not
24 greater injury.

25 Q. Is it fair to say that he didn't

1 have much to say or was fairly quiet most
2 of the time that you were around him?

3 A. For the most part, yeah.

4 Q. Did he appear to be addled or even
5 under the influence or any sort of question
6 as to the condition that he was in?

7 A. He was quiet. I don't know whether
8 he was under -- it's possible that he was
9 under the influence. I'm not sure whether he
10 was or not. I didn't smell any alcohol or
11 anything like that.

12 Q. So if he was under the influence it
13 would not have been alcohol?

14 A. I didn't smell any.

15 Q. And you were at the -- you were at
16 the emergency room two hours, give or take a
17 few minutes?

18 A. (Affirmative nod), approximately.

19 Q. And it was your testimony that the
20 only thing that he said in that two-hour
21 period of time was some comment about videos
22 and law enforcement?

23 A. That's the only thing that I recall
24 him saying. He may have said something else
25 but that's the only thing that I remember him

1 saying.

2 Q. I think you said you believe that is
3 what he said but you don't remember word for
4 word exactly how he phrased it or what he
5 said?

6 A. I mean, that's what he said. He
7 said that the reason he had the videos on his
8 phone was because he was going to take them
9 to law enforcement.

10 Q. And -- sorry, but let me back up one
11 more time. At the scene you placed him under
12 arrest, is that correct?

13 A. As we were leaving, I advised
14 dispatch that he was under arrest; as we
15 were leaving to go to the detention center.

16 Q. You placed him under arrest and told
17 him what he was charged with, correct?

18 A. Yeah.

19 Q. What did you tell him that he was
20 charged with?

21 A. Criminal sexual conduct.

22 Q. There was no charge of sexual
23 exploitation of a minor, was there?

24 A. Not that I charged him that I
25 charged, that I told him.

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1 MR. CANTRELL: I have no further
2 questions. Thank you.

3 THE COURT: Mr. Jones?

4 SOLICITOR JONES: Beg the court's
5 indulgence, Your Honor, -- no further
6 questions, Your Honor.

7 THE COURT: Thank you, Mr. Bishop. You
8 may step down.

9 (WITNESS STEPS DOWN)

10 THE COURT: Any objection to this
11 witness being excused?

12 MR. CANTRELL: None, Your Honor.

13 SOLICITOR JONES: None from the State.

14 THE COURT: Have a nice day.
15 Solicitor, call your next witness.

16 SOLICITOR TODD: At this time the State
17 calls Michael Hendricks.

18 (WITNESS TAKES STAND)

19 MICHAEL HENDRICKS, having been sworn to
20 tell the truth, and nothing but the truth,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR TODD:

24 Q. Investigator Hendricks, who do you
25 work for?

1 A. Pickens County Sheriff's Office.

2 Q. Were you the responding detective on
3 this call back on May 26th, 2015?

4 A. Yes, sir.

5 Q. What did you do when you got there?
6 Who did you talk to?

7 A. When I arrived on scene Lieutenant
8 Rackley, I believe, had done left. I spoke
9 with Deputy Bishop and the father of the
10 victim, Daniel Ingram.

11 Q. What did you learn in your initial
12 investigation?

13 A. I was informed that there was a
14 video on a phone that belonged to Mr. Cox
15 and that it was a video of the child being
16 molested. It was Daniel Ingram's -- I was
17 informed that it was Daniel Ingram's
18 daughter, five-year-old daughter.

19 Q. Do you recall who had the phone when
20 you got on scene?

21 A. My recollection was Daniel Ingram.
22 But we were in close proximity: me, Daniel
23 Ingram, Deputy Bishop.

24 Q. What did you do with the phone?

25 A. The phone was placed into evidence.

1 Q. Did you watch the video on the
2 phone?

3 A. I was shown part of the video on my
4 arrival, when I was being briefed on what had
5 happened. At some point I was told by the
6 father that there was a bracelet in the video
7 that matched the bracelet of Mr. Cox.

8 Q. Did you get a search warrant for the
9 phone?

10 A. I did, yes

11 Q. When did you get a search warrant?

12 A. Immediately as soon as we left, we
13 went straight from there to the Sheriff's
14 Office and drew up a search warrant and took
15 it to the judge.

16 Q. Could you just describe to the jury
17 what the search warrant process is?

18 A. Basically what you do is you try to
19 articulate why you think you need to search
20 the phone, why it has importance to your
21 case.

22 Once you draw it up, you take it to a
23 judge and if the judge agrees with you then
24 he will issue a search warrant, which gives
25 you permission to look at the phone in

1 detail.

2 Q. I am going to show you what has been
3 marked for State's identification as State's
4 Exhibits 20, 21, 22, 23 and 24.

5 A. (Review).

6 Q. Referring first to State's Exhibit
7 20, could you please describe what that is?

8 A. That is a picture of Brandon Cox
9 taking a selfie. In the picture you can see
10 him holding the phone that we had the search
11 warrant on.

12 Q. Where did that picture come from?

13 A. That picture came from -- after we
14 had the search warrant, we did a phone
15 extraction and that picture came from Brandon
16 Cox's phone.

17 Q. Is that a true and accurate
18 depiction?

19 A. It is.

20 Q. Has it been altered in any way?

21 SOLICITOR TODD: At this point I would
22 move this into evidence, State's Exhibit 20.

23 THE COURT: Any objection?

24 MR. CANTRELL: No objection.

25 THE COURT: Without objection.

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1 (SO ENTERED AS STATE'S EXHIBIT 20)

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR TODD:

4 Q. Next I am going to hand you State's
5 Exhibits 21, 22, 24 and 25. Would you please
6 explain what each of those are?

7 A. This is a work schedule from Subway.
8 It has the employee name to the left here,
9 then it has the hours and the dates that --
10 in the photo, you can see Brandon's name as
11 one of the employees.

12 COURT REPORTER: Which exhibit is that?

13 WITNESS: Twenty-one (State's Exhibit
14 21).

15 COURT REPORTER: Thank you.

16 SOLICITOR TODD: Yes, please state
17 which exhibit number it is as you explain to
18 the jury what it is.

19 COURT REPORTER: Thank you.

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR TODD:

22 Q. What is the next exhibit?

23 A. This is Exhibit 22, again a work
24 schedule from Subway. Again it has the hours
25 and you can see Brandon's name on the left

1 with the hours that he was scheduled to work.

2 The next one is item number 24. Again,
3 it is a work schedule from Subway, has the
4 hours that they are scheduled to work and it
5 has the employees' names to the left. At
6 the bottom on the left you can see Brandon's
7 name.

8 The last one is, again, a work schedule
9 with the hours that they worked or were
10 scheduled to work. It has Brandon's name to
11 the left as one of the employee.

12 COURT REPORTER: That exhibit number?

13 WITNESS: Exhibit 25.

14 COURT REPORTER: Thank you.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR TODD:

17 Q. Where did those come from?

18 A. When we did the phone extraction
19 from Brandon's phone, these were on the
20 phone.

21 Q. Are they true and accurate
22 depictions?

23 A. They are, yes.

24 Q. Have they been altered in any way?

25 A. No.

1 SOLICITOR TODD: At this time I would
2 like to move these into evidence.

3 THE COURT: That is State's Exhibits
4 20, 21, 22, 24 and 25.

5 MR. CANTRELL: No objection.

6 THE COURT: Without objection.

7 (SO ENTERED AS STATE'S EXHIBIT 20)

8 (SO ENTERED AS STATE'S EXHIBIT 21)

9 (SO ENTERED AS STATE'S EXHIBIT 22)

10 (SO ENTERED AS STATE'S EXHIBIT 24)

11 (SO ENTERED AS STATE'S EXHIBIT 25)

12 SOLICITOR TODD: Wish to publish to the
13 jury.

14 THE COURT: Yes, sir.

15 SOLICITOR TODD: (Tenders to juror).

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR TODD:

18 Q. Investigator Hendricks, what
19 significance do those photos show in regard
20 to phone ownership?

21 A. Well, the only reason that would be
22 on the phone is because it is his phone and
23 he would -- it shows that he needed to keep a
24 record of when his work schedule was, that he
25 took a photo of the schedule.

1 Q. Investigator Hendricks, you said
2 that you watched a video?

3 A. I did, yes.

4 Q. And what did the video show, that
5 you watched?

6 A. The video that I watched showed a
7 hand molesting a child.

8 Q. Were there any dates on these
9 videos?

10 A. There were.

11 Q. What was the date?

12 A. The date was May 25th, 2015, the day
13 before we responded to that location.

14 Q. Did the video have a time stamp?

15 A. They did, (affirmative nod).

16 Q. What were the times on the videos?

17 A. There were three videos. There was
18 three time stamps starting around 8:00
19 o'clock and ending around 10:30.

20 Q. Was that a.m. or p.m.?

21 A. It was in the a.m.

22 Q. Investigator Hendricks, what led you
23 to believe that the individual in the video
24 was the defendant?

25 A. The most obvious thing was the

1 bracelet. The bracelet was the same as the
2 one that the defendant was wearing that
3 particular day. There is also -- they were
4 also on his phone. They were on his phone,
5 which would make one think that he was the
6 one that placed them there. There is also
7 markings on the hands in the video that match
8 the markings that were taken at the time that
9 the defendant was arrested.

10 Q. Let me show you what has previously
11 been entered into evidence as State's Exhibit
12 2 and State's Exhibit 9. Is that the
13 bracelet that was on the defendant when you
14 were on scene?

15 A. It is.

16 Q. And does it appear to be the same
17 bracelet from the still shot of the video?

18 A. It does.

19 Q. Can you describe the bracelet as you
20 saw it? The details?

21 A. The bracelet is silver in color, has
22 some little shiny pattern on it.

23 Q. What about the bracelet, is it the
24 same?

25 A. (Affirmative nod), it's an exact

1 match.

2 SOLICITOR TODD: Permission to publish
3 to the jury?

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR TODD:

7 Q. Investigator Hendricks, did you or
8 another officer take photos of the home where
9 the defendant was living?

10 A. Yes, one of our ID officers -- I
11 asked one of the ID officers to go to the
12 location and take some pictures of the home.

13 Q. Have you ever been in the home
14 yourself?

15 A. I have, yes.

16 Q. Investigator Hendricks, I am showing
17 you State's Exhibits 16, 17, 18 and 19. If
18 you could, just like before, take each one
19 individually, refer to it by number, and
20 describe to the jury what it depicts.

21 A. (State's Exhibit) Number 16 is a
22 picture of 200 Georgetown Road where the
23 incident took place, it's a picture of the
24 home, the outside of the house.

25 Q. The next item, seventeen (State's

1 Exhibit 17) is a picture of the living area.
2 It has some couches, chairs and a TV; things
3 that you'd normally see in the living area of
4 a home. Also there are some stains on the
5 carpet.

6 Item eighteen (State's Exhibit 18) is
7 just another view of the living area. There
8 is a chair, a wooden chair in the photo.
9 There's some kind of a game console sitting
10 on that chair. There's a sleeping bag on the
11 couch.

12 Item nineteen (State's Exhibit 19) is the
13 carpet at the incident location. Correction,
14 it's some carpet in 200 Yorktown (sic) Road
15 and there are some stains on the carpet.

16 Q. Are those pictures true and accurate
17 of what the house looked like?

18 A. Yes.

19 Q. Have they been altered in any way?

20 A. No.

21 SOLICITOR TODD: At this time I would
22 like to admit these into evidence.

23 THE COURT: Tell me the numbers.

24 SOLICITOR TODD: Sixteen through
25 nineteen.

1 THE COURT: Any objection?

2 MR. CANTRELL: No objection.

3 THE COURT: Without objection, State's
4 Exhibits 16, 17, 18 and 19 are admitted.

5 (SO ENTERED AS STATE'S EXHIBIT 16)

6 (SO ENTERED AS STATE'S EXHIBIT 17)

7 (SO ENTERED AS STATE'S EXHIBIT 18)

8 (SO ENTERED AS STATE'S EXHIBIT 19)

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR TODD:

11 Q. Investigator Hendricks, I want to
12 show you what has previously been entered
13 into evidence as State's Exhibit 12. If you
14 could, compare that to State's Exhibit 19.

15 A. Okay.

16 Q. What similarities do you see --
17 first of all, explain to the jury what I just
18 handed you.

19 A. Item number twelve (State's Exhibit
20 12) is a still shot from the video of
21 someone's foot. It also shows the carpet --
22 the carpet in the still shot from the video
23 is an exact match to the carpet that our ID
24 officers went out to 200 Georgetown and took
25 a picture of. They are the same.

1 Q. What are you referring to when you
2 say that they are the same?

3 A. The stain. You can also see the
4 sleeping bag that is in this picture here.

5 SOLICITOR TODD: Permission to publish
6 to the jury?

7 THE COURT: Yes, sir.

8 SOLICITOR TODD: (Tenders to juror).

9 DIRECT EXAMINATION CONTINUED
10 BY SOLICITOR TODD:

11 Q. Let me show you what has been marked
12 for identification purposes as State's
13 Exhibit 15. Would you please explain to the
14 jury what that is?

15 A. It's another still shot from the
16 video. It shows the chair that was in the
17 other picture. It has a game controller on
18 top of the chair, which matches the picture
19 that we had up here earlier that the ID
20 officer had taken of the inside of the house
21 shortly after the incident.

22 Q. Is that a true and accurate
23 depiction of what you'd seen?

24 A. Yes, it is.

25 Q. Has it been altered in any way?

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1 A. No.

2 Q. At this point I would like to move
3 this exhibit into evidence.

4 THE COURT: Number?

5 COURT REPORTER: State's Exhibit 15.

6 MR. CANTRELL: No objection.

7 THE COURT: Exhibit 15 admitted without
8 objection.

9 (SO ENTERED AS STATE'S EXHIBIT 15)

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR TODD:

12 Q. Investigator, let me hand you what
13 was previously admitted into evidence as
14 State's Exhibit 18. Can you describe what I
15 just handed you?

16 A. You just handed me a picture that
17 our ID officer had taken of the living area
18 in the home.

19 Q. What similarities do you see between
20 the two?

21 A. There's a chair in the picture that
22 the ID officer took and you can see this
23 wooden chair with the gaming control (sic) in
24 the still shot taken from the video. You see
25 the exact same chair, the exact same game

1 controller.

2 Q. Thank you. Investigator Hendricks,
3 through your investigation were you ever able
4 to learn the child's name?

5 A. Yes.

6 Q. What was the child's name and date
7 of birth?

8 A. Her name was [REDACTED] Her
9 date of birth was [REDACTED]

10 Q. [REDACTED]?

11 A. (Affirmative nod).

12 Q. So how old would that have made her
13 at the time?

14 A. She was five.

15 Q. Five years old at the time?

16 A. (Affirmative nod).

17 Q. Did the child ever allege sexual
18 abuse?

19 A. No.

20 Q. Why do you think that is?

21 A. It appears that she was asleep in
22 the video and was not aware of what took
23 place.

24 Q. Why do you think that she was
25 asleep?

1 A. In the video she flinches and moves
2 as if, uh, somebody that would be asleep.

3 Q. Investigator Hendricks, how were you
4 able to confirm that the individual in the
5 video was the victim and that they were
6 eleven years old or less.

7 A. Well, the number one thing is that
8 the father said that is his daughter in the
9 video. I also met her after that, shortly
10 after that, and there's -- there's no other
11 females of that age that live in the home.

12 Q. I would like to show you State's
13 Exhibit 14, which is marked for identifica-
14 tion. If you could, explain to the jury what
15 that photo depicts?

16 A. This is a still shot of the video.
17 It shows the victim had a pair of shorts on,
18 item number fourteen (State's Exhibit 14).

19 Q. Is that a true and accurate
20 depiction?

21 A. It is, yes.

22 Q. Has it been altered in any way?

23 A. No.

24 SOLICITOR TODD: At this point I put
25 State's Exhibit 14 into evidence.

1 MR. CANTRELL: No objection.

2 THE COURT: Without objection.

3 (SO ENTERED AS STATE'S EXHIBIT 14)

4 SOLICITOR TODD: If we could premark
5 this?

6 COURT REPORTER: State's Exhibit 27 for
7 identification.

8 SOLICITOR TODD: (Affirmative nod), for
9 identification. Thank you.

10 DIRECT EXAMINATION CONTINUED
11 BY SOLICITOR TODD:

12 Q. Investigator, I'm handing you what
13 has been marked for identification purposes
14 as State's Exhibit 27. Could you please
15 explain to the jury what that is?

16 A. That is the green shorts that is in
17 this still shot from the video.

18 Q. How do you know those are the same
19 shorts?

20 A. They look the same. Also the father
21 said that they are his daughter's shorts. He
22 produced these shorts and said that they are
23 his daughter's shorts. They are the shorts
24 in the video.

25 Q. Who collected those shorts?

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1 A. I did.

2 Q. Do they appear to have been altered
3 in any way?

4 A. No.

5 Q. How do you know that?

6 A. Because they've been put in storage
7 at our evidence locker or the Evidence room.
8 It is locked and secure, secured building.

9 SOLICITOR TODD: At this time I would
10 like to move State's Exhibit 26 into
11 evidence.

12 COURT REPORTER: Twenty-seven (27).

13 SOLICITOR TODD: Twenty-seven.

14 MR. CANTRELL: No objection.

15 THE COURT: State's Exhibit 27 in
16 without objection.

17 (SO ENTERED AS STATE'S EXHIBIT 27)

18 SOLICITOR TODD: Permission to publish
19 this exhibit to the jury.

20 THE COURT: Yes, sir. How many more
21 questions do you have?

22 SOLICITOR TODD: Three or four.

23 THE COURT: All right. Let's go ahead
24 and take a break, ladies and gentlemen. Do
25 not discuss the case in any way, shape or

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1 form. Keep an open mind. We will be back
2 with you in about ten or fifteen minutes.

3 Everyone else remain seated. Thank you
4 very much.

5 (JURY OUT @ 3:30 P.M.)

6 THE COURT: Investigator, you may
7 step down. Do not discuss your testimony
8 with anyone in any way, shape or form.

9 Be back right there when we resume,
10 please, sir. Thank you.

11 All right, a fifteen-minute break.

12 (BRIEF RECESS)

13 (DEFENDANT PRESENT)

14 (WITNESS RESUMES WITNESS STAND)

15 THE COURT: Bring in our jury, please,
16 Mr. Carr (bailiff).

17 (JURY IN @ 3:45 P.M.)

18 THE COURT: Welcome back, ladies and
19 gentlemen. We will continue with Mr.
20 Hendricks in his direct examination. Mr.
21 Todd.

22 SOLICITOR TODD: Thank you, Your Honor.

23 DIRECT EXAMINATION RESUMED

24 BY SOLICITOR TODD:

25 Q. Investigator Hendricks, do you see

1 the individual who was wearing this bracelet
2 here in the courtroom today?

3 A. I do, yes.

4 Q. Could you please point him out to
5 the jury?

6 A. (Pointing to defense table), Brandon
7 Cox.

8 SOLICITOR TODD: Please let the record
9 reflect that the witness has identified the
10 defendant.

11 THE COURT: It so reflects.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR TODD:

14 Q. Investigator Hendricks, what other
15 males lived in the home?

16 A. There were two other young children
17 that were siblings to the victim.

18 Q. How did you rule the other males out
19 in your investigation?

20 A. On the video it obviously is an
21 adult hand. The two other males in the home,
22 other than the father, are children. Young
23 children.

24 Q. And it was clear that the hands in
25 the video couldn't have belonged to a child?

1 A. Correct.

2 SOLICITOR TODD: Objection, Your Honor.

3 I am not sure there is any way that he can
4 say that.

5 THE COURT: That would be speculation.
6 Sustained. Disregard that statement and that
7 answer, ladies and gentlemen.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR TODD:

10 Q. Investigator Hendricks, how long did
11 you say that you'd been employed in your
12 capacity?

13 A. In my current capacity, I've been in
14 the special victims unit for three years.
15 Prior to that I worked in investigations for
16 eight years, property crimes.

17 Q. So it is safe to say that you're
18 around the jail frequently?

19 A. Yes.

20 Q. Are you aware of individuals -- that
21 an inmate can receive a tattoo in jail?

22 A. Yes.

23 Q. What can you tell us about all that?
24 Does that happen frequently?

25 A. I can just tell you that it does

1 happen and that it happens in our jail.

2 SOLICITOR TODD: Beg the Court's
3 indulgence.

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR TODD:

7 Q. Investigator Hendricks, speaking
8 about hands, how were you able to rule out
9 the father, his hands?

10 A. His hands are just different than
11 the one in the video. He has a more stocky
12 build type hands, I guess that's how I would
13 describe it. They obviously are not the same
14 hands.

15 SOLICITOR TODD: Thank you. I have
16 no further questions. Please answer any
17 questions that the defense may have.

18 THE COURT: Mr. Cantrell.

19 CROSS EXAMINATION

20 BY MR. CANTRELL:

21 Q. First of all, Detective, we can all
22 agree that these videos are not the highest
23 quality of video from the standpoint of
24 definition, brightness or any of those
25 qualities, can we not?

1 A. I think they're pretty good videos.

2 Q. So you think that they are good and
3 clear, in your opinion?

4 A. Yes.

5 Q. And you based your investigation on
6 the fact that the videos are good, clear
7 videos?

8 A. Yes.

9 Q. Are you aware of any other
10 individuals coming in and out of that home,
11 staying there, spending the night there or
12 things of that nature?

13 A. Through my investigation, I know of
14 no males that come and stay at that home.
15 No.

16 Q. Were you told that by Mr. Ingram?

17 A. Yes.

18 Q. He told you that nobody else came
19 and stayed there?

20 SOLICITOR JONES: Objection to hearsay,
21 Your Honor.

22 THE COURT: Overruled.

23 CROSS EXAMINATION CONTINUED

24 BY MR. CANTRELL:

25 Q. He did tell you that no one else

1 came and stayed there?

2 A. There was a female that had stayed
3 there that I did learn about. But as far as
4 other men, no.

5 Q. That's based on what Mr. Ingram
6 told me?

7 A. That's based on what Mr. Ingram told
8 me when I found out, yes.

9 Q. Did he initially tell you about the
10 other female or did you have to find that out
11 some other way?

12 A. She was there on one of my visits.
13 I think she had just spent the night.

14 Q. Do you know the ages of the other
15 siblings that lived in the home?

16 A. I know that they were below the age
17 of eleven. I couldn't give you their exact
18 ages.

19 Q. Everything that you know about this
20 incident, all the allegations are based on
21 this phone, this video; is that true?

22 A. Could you repeat the question?

23 Q. Everything that you know about this
24 incident, the allegations of this incident
25 that led you to charge -- or that led Brandon

1 Cox to be charged -- are based on this video?

2 A. I would say the video is a strong
3 part of the case but there are other parts of
4 it; yes, sir.

5 Q. Did you secure any DNA in this case?

6 A. Yeah, it was sent to SLED.

7 Q. So DNA was secured?

8 A. Yes.

9 Q. Would that have been at your
10 direction?

11 A. Yes.

12 Q. Were you present when Brandon Cox
13 was cuffed and placed in Officer Bishop's
14 patrol car?

15 A. No, he was in -- when I arrived on
16 scene, he was already in the back of Deputy
17 Bishop's car. But it was my interpretation
18 that he was there more for his protection.

19 Q. Did you observe that he was cuffed
20 at the time?

21 A. I remember walking over to the car
22 to see his wrist, to see if there was a
23 bracelet on his wrist. I remember that. I
24 can't -- yes.

25 Q. So you saw a bracelet? Based on

1 your testimony, you saw a bracelet at that
2 time?

3 A. Yes.

4 Q. And you saw handcuffs on that same
5 wrist, or was it the other wrist, at that
6 time?

7 A. To be honest with you, I can't
8 recollect. I can't remember if he had cuffs
9 on then or if he had cuffs on after we looked
10 at the wrist. I cannot recollect.

11 Q. But it's safe to say that sooner or
12 later cuffs were placed on both wrists?

13 A. Correct.

14 Q. And he was cuffed with his hands
15 behind his back?

16 A. Correct.

17 Q. Then he would -- after being cuffed
18 he presumably would have been seated in the
19 back of the patrol car?

20 A. Correct.

21 Q. I assume that all the deputies and
22 detectives have the same type of handcuffs to
23 use?

24 A. That's correct.

25 Q. And I'm assuming that they are not

1 flimsy. They want them to be safe and
2 secure, so they're heavy cuffs?

3 A. I wouldn't say that they are real
4 heavy but they are quality cuffs, yes.

5 Q. And I am not sure how it would be
6 categorized, would you be considered to be
7 the lead officer or the lead detective or
8 lead investigator in this case?

9 A. That's correct.

10 Q. But the actual warrant was secured
11 by Officer/Deputy Bishop or did you secure
12 it?

13 A. I secured the warrant.

14 Q. Bishop took him into custody, I
15 guess, physically but you were the one that
16 actually secured the warrant?

17 A. That's correct.

18 Q. And you went to the magistrate and
19 secured a warrant for criminal sexual conduct
20 first degree?

21 A. Correct.

22 Q. No other charges at all?

23 A. At that point, no.

24 Q. Do you know, were other charges
25 placed against Brandon Cox?

1 A. Yes.

2 Q. When?

3 A. Before the grand jury, he was
4 indicted for sexual exploitation of a minor.

5 Q. That was done last month, wasn't it?

6 A. I believe so, yes.

7 Q. This incident happened over two
8 years ago?

9 A. Correct.

10 Q. You don't remember what Brandon Cox
11 was wearing when he was taken into custody?

12 A. No, sir.

13 Q. Would the picture from the LEC
14 accurately reflect what he had on?

15 A. Yes, that's an accurate picture.
16 Yes.

17 MR. CANTRELL: I have no further
18 questions.

19 THE COURT: Redirect?

20 SOLICITOR TODD: Briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY SOLICITOR TODD:

23 Q. Investigator Hendricks, when an
24 individual is placed in handcuffs in the back
25 of a patrol car, what -- is it tight where

1 there is no movement allowed at all?

2 What can you tell us about that?

3 A. They are not put to point where it
4 causes the subject pain. Obviously they're
5 put so that they can't get out of them. They
6 are called double-lock so that they won't
7 tighten down on an individual.

8 SOLICITOR TODD: Thank you. No
9 further questions.

10 MR. CANTRELL: Just real quickly.

11 RE CROSS EXAMINATION

12 BY MR. CANTRELL:

13 Q. So does that mean the more movement
14 the tighter they get?

15 A. No, that's what I am saying, that
16 they would not -- they're double locked, so
17 they would not tighten down. If you did not
18 double lock them, that would be the case but
19 they are double locked so that they will not
20 tighten down and cause the subject pain.

21 Q. So with that being the case, if they
22 are double locked they can't ---

23 A. They can't move at all, no.

24 Q. They would be put on secure enough
25 to secure the individual?

1 A. Correct.

2 MR. CANTRELL: Thank you.

3 THE COURT: Thank you very much. Have
4 a nice day.

5 (WITNESS STEPS DOWN)

6 THE COURT: Call your next witness.

7 SOLICITOR JONES: Thank you, Your Honor.

8 The State calls Dr. Mary Frances Crosswell.

9 (WITNESS TAKES STAND)

10 MARY FRAN CROSSWELL, having been sworn
11 to tell the truth, and nothing but the truth,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY SOLICITOR JONES:

15 Q. Good morning, Dr. Crosswell. How
16 are you?

17 A. I'm doing well. Thank you.

18 Q. Where do you current work?

19 A. I am employed at the Greenville
20 Heath System in Greenville, South Carolina.

21 Q. What's your occupation, ma'am?

22 A. I am a child abuse pediatrician at
23 the Greenville Health System.

24 Q. And how long have you been a child
25 abuse pediatrician?

1 A. I have been employed in that
2 position for eleven years.

3 Q. Can you tell the jury about your
4 education, please?

5 A. I received my undergraduate degree
6 from Wake Forest University; my medical
7 degree from the Louisville University School
8 of Medicine; I completed a Pediatrics program
9 at the Greenville Health System.

10 Q. Do you have any other special
11 training regarding child sexual assault?

12 A. Yes, I am board-certified in both
13 general pediatrics and in child abuse
14 pediatrics.

15 I've done numerous continuing medical
16 education courses in the field of child
17 abuse, specifically child sexual abuse.

18 Q. How many years have you been in
19 practice?

20 A. I've been in practice in this
21 position for eleven years, almost.

22 Q. How about prior to that?

23 A. Prior to that I was general
24 pediatrics for three years after residency.

25 Q. Approximately how many child sexual

1 exams have you performed?

2 A. I would estimate that I evaluate
3 approximately a hundred and fifty to two
4 hundred children a year for child sexual
5 abuse examinations. So well over a thousand
6 child sexual abuse examinations.

7 Q. Have you ever testified as an expert
8 before?

9 A. Yes, I have.

10 Q. How many times?

11 A. I would estimate that I've testified
12 at least forty times.

13 Q. In what courts?

14 A. In both criminal and in family
15 courts in the state of South Carolina.

16 Q. Each time that you testified, that
17 was as an expert?

18 A. The overwhelming majority, uh, yes.

19 Q. So just to be clear, how many times
20 have you testified as an expert?

21 A. I would testify that at least
22 thirty-five times I've been certified as an
23 expert.

24 SOLICITOR JONES: Your Honor, I would
25 offer the witness as an expert in child

1 sexual assault examinations.

2 MR. CANTRELL: No objection, Your
3 Honor.

4 THE COURT: All right. Ladies and
5 gentlemen, normally a person is not allowed
6 to give opinion testimony. Normally when a
7 person testifies that person must testify as
8 to what they saw, what they heard, sensed by
9 smell, some that they did or something of
10 that nature.

11 There's an exception under the Rules
12 when someone is qualified by education or
13 experience that that person is permitted to
14 give their opinion in certain areas if I
15 qualify in that way. This witness will be
16 qualified as an expert in the area of child
17 sexual abuse examinations and child abuse
18 pediatrics. She will be allowed to give
19 opinion testimony in that area.

20 Now, that does not mean that you have to
21 accept her opinion but it is evidence for you
22 to use in any way that you see fit and give
23 it the weight and credibility that you
24 believe is appropriate.

25 All right.

1 SOLICITOR JONES: Thank you, Your Honor.

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR JONES:

4 Q. Dr. Crosswell, tell the jury an
5 overview of what you do in a child sexual
6 assault examination.

7 A. Typically I am evaluating these
8 children in the outpatient setting. So they
9 come to a child advocacy center, which for us
10 is the Julie Valentine Center.

11 They are greeted by a child life
12 specialist who brings them back to my exam
13 room and has the child -- describes the
14 entire medical procedure with the child,
15 using a doll, so that the child knows what to
16 expect.

17 Next I will talk with the caregiver,
18 usually the parent, and obtain a thorough
19 past medical history from the parent.

20 Next I will attempt to obtain a history,
21 briefly, from the child.

22 Then I will perform a medical exam, a
23 physical exam which entails a head to toe
24 pediatric exam: looking in the eyes, the
25 ears, nose, listening to the heart and the

1 lungs. The final piece of that exam is the
2 genital exam. I perform that piece of the
3 exam with the use of a piece of medical
4 equipment called a colposcope. For me the
5 colposcope is utilized as a good light
6 source, it will magnify. If there are any
7 physical findings, it will photo-document
8 those findings.

9 Next I will determine if there is a
10 sexually-transmitted infection testing that
11 is indicated.

12 Then made recommendations for the child.

13 Q. Do you always find signs of sexual
14 abuse when you examine a child?

15 A. No, I do not.

16 Q. Why would that be?

17 A. With the nature of child sexual
18 abuse, many times there is not an injury that
19 can be seen with the eye. Sometimes if there
20 is an injury that injury can heal very
21 rapidly, in the matter of days, so that it
22 doesn't leave any scars that would be visible
23 to the eye.

24 More recent studies have shown that over
25 ninety-seven percent of child sexual abuse

1 exams are actually normal exams.

2 Q. Can you go on about -- is there
3 anything in particular about the tissue that
4 would prohibit you from seeing signs of
5 abuse?

6 A. The tissues in the genital area are
7 mucous tissues, so they're very vascular,
8 which means that they have a good blood
9 supply that promotes healing very rapidly.
10 So many times these injuries, if they are
11 there, are not seen days later.

12 Q. Can you tell the jury what is the
13 hymen?

14 A. The hymen is a piece of tissue that
15 partially covers the opening into the vagina.

16 Q. Can you discuss some common myths or
17 misunderstandings about the hymen?

18 A. Many people expect that a child
19 victim of sexual abuse would have signs on
20 the hymen that would indicate sexual abuse.
21 As I described, even if there are injuries
22 to the hymen they can heal rapidly without
23 seeing signs that an injury was there.

24 Q. Would it help with your explanation
25 to the jury if you were able to draw a

1 picture of what you're explaining?

2 A. Sure.

3 SOLICITOR JONES: Your Honor, I would
4 ask that the witness be allowed to draw a
5 picture.

6 THE COURT: Keep your voice up.

7 SOLICITOR JONES: I believe that there
8 is a marker over there.

9 THE COURT: Mr. Cantrell, you may move
10 to where you can see.

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR JONES:

13 Q. If you'd just explain as you're
14 drawing so that the jury ---

15 A. Okay. So, (sketching), when you're
16 first looking at the female genitalia, the
17 first layers of tissue that you come to are
18 fatty layers of tissue called the labia
19 majora. This isn't ---

20 THE COURT: How about another marker?

21 CLERK: (Tenders).

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR JONES:

24 Q. Continue, please.

25 A. The next layer of tissue is a

1 thinner layer of tissue that circles around
2 and is called the labia minora.

3 At the superior portion of the labia
4 minora is the clitoris.

5 Then below that is an opening where urine
6 comes out, called the urethra.

7 Deeper in the opening to the vagina, the
8 hymen is this layer of tissue that partially
9 covers that opening.

10 Q. Thank you. Dr. Crosswell, could a
11 normal exam be consistent with a medical
12 history of sexual assault?

13 A. Yes. It could, (affirmative nod).

14 Q. You mentioned it but could you
15 briefly explain why?

16 A. It could be consistent with sexual
17 abuse or sexual assault of a child because
18 either the nature of the abuse did not cause
19 an injury to the area or if there was an
20 injury that resulted from the abuse it can
21 heal rapidly, within a matter of days.

22 Q. Did you have the opportunity to
23 examine the victim, [REDACTED]?

24 A. Yes, I did.

25 Q. What was the date of that exam?

1 A. June 15th, 2015.

2 Q. What type of exam was performed?

3 A. It was a chronic sexual abuse,
4 meaning that it was not done in the E.R.
5 where a sexual assault kit would have been
6 performed on the child.

7 Q. What areas of the anatomy of the
8 child were examined?

9 A. Her entire body, from head to toe,
10 including her genitals.

11 Q. And what were the findings?

12 A. She had a normal exam.

13 Q. Showing you State's Exhibit 1, do
14 you recognize that?

15 A. I do.

16 Q. What is it?

17 A. It is a CD of some videos that you
18 shared with me.

19 Q. Are there any characteristics of the
20 female in the video that would allow you to
21 estimate the age?

22 A. So, uh, in describing female anatomy
23 and sexual development, there was a staging
24 system that was developed to characterize the
25 general progression of sexual development or

1 pubertal development of those males and
2 females. In a female, it looks at breast
3 development and pubic hair development.

4 Hair stages is called the Tanner stages,
5 named after the physician who developed them.
6 There are five stages.

7 Stage one is the prepubertal child, so a
8 child from birth until they first begin --
9 when pubic hair staging is first developing
10 or you can see -- you can visualize pubic
11 hair. Then he progresses the amount of pubic
12 hair development.

13 On this video, what I can describe is
14 that the child had a genital anatomy that was
15 consistent with Tanner one, meaning that she
16 had not entered any stages of development of
17 puberty. There were no pubic hairs.

18 Now, the Tanner stages were not developed
19 to estimate an age but what we know from
20 medical studies is that when most girls have
21 gone through Tanner stage one to Tanner stage
22 two, meaning at Tanner stage two there are --
23 there is the development of a few pubic
24 hairs.

25 One of the more recent studies that I've

1 looked at shows that in looking at Caucasian
2 females, who were non-Hispanic, the average
3 age of development of pubic hair for
4 progression to Tanner stage two was 10.6
5 years. Seventy-five percent of those
6 children in that study had gone through to
7 Tanner stage two by 11.5 years.

8 So I can't give you an age. I can say
9 that in this study that most white, non-
10 Hispanic females had gone through or past
11 through Tanner stage one to Tanner stage two
12 by the time that they were eleven and a half.

13 Q. Could the video that you saw --
14 could that genitalia be consistent with a
15 five-year-old female?

16 A. Yes, it could and most likely would.

17 SOLICITOR JONES: Beg the court's
18 indulgence.

19 THE COURT: Yes, sir.

20 SOLICITOR JONES: No further questions,
21 Your Honor.

22 THE COURT: Cross-examination?

23 MR. CANTRELL: No questions for this
24 witness, Your Honor.

25 THE COURT: Thank you, you may step

1 down. May she be excused?

2 SOLICITOR JONES: Yes, sir.

3 THE COURT: Any objections, Mr.
4 Cantrell?

5 MR. CANTRELL: No objection.

6 THE COURT: All right, have a nice day.

7 (WITNESS STEPS DOWN)

8 THE COURT: You may call your next
9 witness.

10 SOLICITOR JONES: Your Honor, the State
11 has no further witnesses for today.

12 THE COURT: All right. Ladies and
13 gentlemen, we are going to go ahead and stop
14 here for the day. Y'all have been going
15 since early this morning, so we are going to
16 go ahead and take our break for the day now.

17 As I release you for the evening,
18 remember that you made a promise, took an
19 oath, not only to me but to the parties, to
20 the litigants, to the attorneys in this case
21 and to each other that you will not discuss
22 this case with anyone in any way, shape or
23 form. You will not discuss anything about it
24 or anything involved in it with anyone at
25 all. You can tell people that you are on a

1 trial, that it is a criminal trial and that's
2 it. Okay?

3 You need to be back here tomorrow morning
4 at 9:30. We will all be here, ready to go
5 at 9:30.

6 Do not do any research on any topics that
7 came up today or think that, 'well, I really
8 would like to know what that word meant', you
9 aren't even able to look it up. Okay?

10 Go enjoy your evening. It's a beautiful
11 day outside, real hot -- not as hot as it is
12 in Columbia.

13 Thank you very much. You are free to go
14 and we'll see you in the morning. Be ready
15 to go at 9:30.

16 (JURY OUT @ 4:20 P.M.)

17 THE COURT: Anything from the State
18 before we break?

19 SOLICITOR JONES: Nothing from the
20 State, Your Honor.

21 THE COURT: From the defense?

22 MR. CANTRELL: Nothing from the
23 defense, Your Honor.

24 THE COURT: Okay, let's talk about
25 scheduling.

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Jury Trial of June 19th-20th, 2017
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(OFF RECORD DISCUSSION)

(COURT IN RECESS)

(TRANSCRIPT CONTINUED NEXT PAGE)

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1
2 JUNE 20, 2017

9:30 A.M.

3
4 (DEFENDANT PRESENT)

5 THE COURT: All right, we are ready to
6 continue in the case of 16-GS-39-1107, the
7 State of South Carolina versus Brandon Cox.

8 Mr. Cox is present again with his
9 attorney, Mr. Cantrell.

10 The State is present, represented by Mr.
11 Jones and Mr. Todd.

12 I understand that we have a couple
13 matters to take up before we get back into
14 the testimony.

15 The parties approached me this morning
16 about a sleeping juror, who was sleeping
17 yesterday. I noticed the juror. The juror
18 is Juror Number 134, Mr. Siha. He slept --
19 I don't want to say that he slept through
20 all of the testimony yesterday but he was
21 certainly asleep at various points during the
22 testimony yesterday. He did inform us prior
23 to jury selection that he had worked third
24 shift, all night long, had not been asleep.
25 I was half paying attention to him for just

1 that very reason. At one point I actually
2 even had one of the courthouse staff hand him
3 some water during part of the testimony, to
4 try to give him something to do to keep him
5 awake. So he slept through the majority of
6 the testimony. The defense and the State are
7 in agreement that he needs to be excused and
8 an alternate sat.

9 Is that correct, Mr. Jones?

10 SOLICITOR JONES: That is correct, Your
11 Honor.

12 THE COURT: Is that correct, Mr.
13 Cantrell?

14 MR. CANTRELL: Yes, it is, Your
15 Honor.

16 THE COURT: Do you agree with that
17 decision, Mr. Cox?

18 DEFENDANT: Yes, sir.

19 THE COURT: I believe that -- I really
20 do believe that's the appropriate thing to
21 do.

22 I watch the jurors a good bit to see who
23 is paying attention and who is not. I've
24 heard a lot of boring testimony in my life
25 and that that we were hearing yesterday

1 wasn't really boring. It wasn't like we were
2 in the middle of some long-winded math expert
3 on accounting issues where it's hard for
4 everybody in the room to stay awake.

5 So I think it is appropriate to excuse
6 him from serving in this case and seat an
7 alternate. I think that's the right
8 decision.

9 The proper procedure is to draw from the
10 alternates a name out of a hat for the
11 alternate that will be sat. We will place
12 both names in a "hat" and we'll allow the
13 court reporter to draw.

14 COURT REPORTER: (Complies, tenders
15 slip of paper to Judge).

16 THE COURT: Okay. Samantha Everett
17 will now be moved to the regular jury. She
18 is Juror Number 39. She was the second
19 alternate selected.

20 Anything further on that issue, Mr.
21 Jones?

22 SOLICITOR JONES: No, sir, Your Honor.

23 THE COURT: Mr. Cantrell?

24 MR. CANTRELL: No, Your Honor.

25 THE COURT: And we have two stipula-

1 tions that we're going to tell the jury about
2 this morning. Is that right, Mr. Jones?

3 SOLICITOR JONES: That's correct, Your
4 Honor. First of all, for the record's
5 purposes, the State and the Defense has
6 stipulated as to the chain of evidence for
7 the DNA swab that was taken from the child,
8 [REDACTED] We're stipulating that what
9 the DNA analyst tested was from the swab
10 taken from [REDACTED] and we are
11 stipulating that that swab was taken at 9:51
12 p.m. on May 26th, 2015.

13 THE COURT: May 26th?

14 SOLICITOR JONES: (Affirmative nod),
15 May the 26th, 2015. And the State and Defense
16 are also stipulating that law enforcement
17 checked for semen on [REDACTED] and they
18 found none.

19 THE COURT: Is all of that right, Mr.
20 Cantrell?

21 MR. CANTRELL: That's correct, Your
22 Honor.

23 THE COURT: All right. So when they
24 come back in -- you can go ahead and excuse
25 the juror, Mr. Siha, and I'll tell Ms.

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1 Everett that she going to be a normal juror
2 now.

3 Then I will tell them that we have
4 stipulations between the parties and that a
5 stipulation is a fact agreed upon by both
6 sides and there is no other proof necessary
7 for those facts. All right.

8 MR. CANTRELL: Your Honor, if I could
9 mention one other thing?

10 THE COURT: Yes, sir.

11 MR. CANTRELL: Briefly.

12 THE COURT: Yes, sir.

13 MR. CANTRELL: Just as a matter of
14 protocol, I guess, at the conclusion of the
15 State's case, I would ask for maybe a
16 fifteen-minute break while I discuss some
17 issues with Mr. Cox.

18 THE COURT: Okay. Perfect. That's
19 fine.

20 MR. CANTRELL: Thank you.

21 THE COURT: Do y'all have a clean
22 computer or something that those videos can
23 be played on?

24 MR. CANTRELL: We have the laptop
25 there. It doesn't have any files on it.

1 There is no Wi-Fi up here, that I'm aware of.

2 CLERK: We have Wi-Fi.

3 SOLICITOR JONES: Or we don't know
4 how, so we just don't connect it to the
5 Ethernet.

6 THE COURT: Okay.

7 SOLICITOR JONES: Obviously with your
8 instruction.

9 THE COURT: Okay.

10 (JURY IN @ 9:40 a.m.)

11 THE COURT: Welcome back, ladies and
12 gentlemen. Where is Ms. Everett?

13 JUROR NUMBER 39: (Raises hand).

14 THE COURT: Okay, you are going to be a
15 normal juror. So come on and sit down on the
16 front row. You are now being seated as a
17 normal juror, not as an alternate. That's
18 why we have alternates.

19 Ladies and gentlemen, we are going to
20 start this morning with a stipulation -- and
21 a stipulation is an agreement or a fact that
22 is agreed upon by both sides, and no other
23 proof is necessary. There are a couple of
24 stipulations in this case.

25 If you will listen to Mr. Jones, he is

1 going to tell you what the stipulations
2 between the parties are or the fact that is
3 agreed upon by both sides. No other proof of
4 this is necessary. Mr. Jones?

5 SOLICITOR JONES: Thank you, Your Honor.
6 The vaginal swab that the DNA analyst tested
7 was taken from [REDACTED] at 9:51 on May
8 26th, 2015.

9 The other stipulation is that as part of
10 the testing, law enforcement checked for
11 semen and they found no semen.

12 THE COURT: Is that correct, Mr.
13 Cantrell?

14 MR. CANTRELL: That is correct, Your
15 Honor.

16 THE COURT: Thank you very much. All
17 right. Mr. Jones, Mr. Todd, you may call
18 your next witness.

19 SOLICITOR JONES: Thank you, Your Honor.
20 The State calls Catherine Leisey.

21 (WITNESS TAKES STAND)

22 CATHERINE LEISEY, having been sworn to
23 tell the truth, and nothing but the truth,
24 testified as follows:

25 DIRECT EXAMINATION

1 BY SOLICITOR JONES:

2 Q. Ms. Leisey, where are you currently
3 employed?

4 A. I currently work for the South
5 Carolina Law Enforcement Division, more
6 commonly referred as to SLED.

7 Q. What is your position at SLED?

8 A. I am a forensic scientist assigned
9 to the DNA and Serology Unit.

10 Q. Tell the jury what are some of your
11 responsibilities?

12 A. My responsibilities include process-
13 ing forensic cases; generating reports based
14 on the results and conclusions drawn;
15 testifying to those reports if necessary.

16 I am also responsible for assisting in
17 the training of new-hire analysts.

18 I am responsible for certain quality
19 control issues within the lab.

20 Q. How many years experience do you
21 have in this field?

22 A. I have been with SLED in this
23 capacity for eleven years. Prior to come
24 to SLED, I spent four years working as a
25 forensic DNA analyst at a private testing

1 facility known as Orchid Cellmark -- at the
2 time it was located in Germantown, Maryland
3 -- where I performed basically the same types
4 of testing/analyses that I do at SLED.

5 Q. Tell the jury about your education,
6 please?

7 A. I have a Bachelor's of Science
8 degree in Genetic Engineering from Cedar
9 Crest College in Allentown, Pennsylvania.

10 Q. And do you have any specialized
11 training as to your particular field?

12 A. Yes, sir. I am required to undergo
13 training by other court-qualified analysts in
14 any type of test or analysis that I will
15 perform at SLED.

16 I am also required to participate in
17 continuing education, which requires me to
18 attend seminars or training courses in new
19 types of analyses that may be used in our
20 laboratory.

21 I also undergo proficiency testing twice
22 a year to show that I am able to correctly
23 test the samples of profiles that are already
24 known, to show that I am capable of
25 performing the protocols that are required.

1 Q. Do you have any special certificates
2 as to this particular field?

3 A. I am a member of the American
4 Academy of Forensic Scientists.

5 I have been certified as a forensic
6 analyst by SLED and we are an accredited
7 laboratory, which means that we participate
8 in a program that shows that we meet certain
9 standards and guidelines that have been put
10 in place to ensure quality and consistency in
11 our testing.

12 Q. Have you ever testified in court
13 before?

14 A. I have, (affirmative nod).

15 Q. What type of court?

16 A. I have testified in General Sessions
17 courts in various jurisdictions throughout
18 South Carolina. I have also testified in Los
19 Angeles County; New Jersey; Florida; the
20 District of Columbia; and the United States
21 Federal Court in Florence, South Carolina.

22 Q. When you say General Sessions, what
23 do you mean? Would that be criminal or
24 civil?

25 A. That would be criminal cases.

1 Q. How many times would you say that
2 you've testified?

3 A. Approximately seventy.

4 Q. Have you ever -- in those times,
5 were you testifying as an expert in the field
6 of DNA analysis?

7 A. Yes, sir.

8 SOLICITOR JONES: Your Honor, at this
9 time I would offer Ms. Leisey as an expert in
10 the field of DNA analysis.

11 THE COURT: *Voir dire?*

12 MR. CANTRELL: No, Your Honor. We
13 will stipulate to her expertise.

14 SOLICITOR JONES: Okay.

15 THE COURT: All right. Ladies and
16 gentlemen, as I told you yesterday, normally
17 a person is not allowed to give opinion
18 testimony. A witness has to testify to what
19 they saw or heard or sensed by smell or
20 something of that nature.

21 However, there is an exception when some-
22 one is qualified by education or experience,
23 then that person is permitted to give their
24 opinion in certain areas if I qualify them in
25 that way.

1 This witness will be qualified as an
2 expert in the area of forensic DNA analysis.
3 She will be allowed to give opinion testimony
4 in that area.

5 That does not mean that you must accept
6 her opinion but it is evidence that you may
7 use in any way that you see fit. Give it
8 the weight and credibility that you feel is
9 appropriate, as you're required to do with
10 each and every witness that appears before
11 you.

12 DIRECT EXAMINATION CONTINUED
13 BY SOLICITOR JONES:

14 Q. Ms. Leisey, what is DNA?

15 A. DNA stands for deoxyribonucleic
16 acid. It is genetic material found in all of
17 our body cells with the exception of our red
18 blood cells.

19 DNA is packaged into structures called
20 chromosomes which contain our genes. Genes
21 are simply strands of DNA going to our
22 physical characteristics such as our height
23 or our eye color. We inherit one copy of DNA
24 from our mother and one copy from our father,
25 therefore we have two copies of every gene.

1 Approximately 99.9 percent of an individual's
2 DNA is identical to that of everyone else's.
3 It is the variation in that remaining point-
4 one (.1) percent that allows us to tell
5 people apart.

6 Q. Can you describe to the jury how
7 someone might leave their DNA on an object?

8 A. Typically what we're testing for is
9 the transfer DNA through either bodily fluids
10 such as blood, semen or saliva. Or through
11 what we refer to as touch DNA.

12 With touch DNA, we mean that an
13 individual has come into physical contact
14 with an item and their skin cells have been
15 transferred from their body to that
16 particular item.

17 Q. Do people typically leave DNA -- is
18 it more likely to leave DNA through touching
19 or through another process?

20 A. We tend to see a higher concentra-
21 tion or a larger amount of DNA when we're
22 testing for bodily fluids as opposed to when
23 we're testing for touch DNA.

24 Q. What is the test that you perform in
25 your office?

1 A. The type of analysis that we run is
2 called PCR STR testing. PCR stands for
3 polymerase chain reaction. It is a technique
4 that allows us to make copies of the specific
5 locations in DNA that we need to test. Those
6 locations are referred to as STRs or short
7 tandem repeats. Those are simply locations
8 in our DNA where a short portion of DNA
9 repeats a certain number of times.

10 The number of times that it repeats vary
11 from person to person, so by counting the
12 number of repeats at these different
13 locations we can compare the profile of an
14 unidentified profile from, say, a piece of
15 evidence to the profile of a known individual
16 to determine if that individual is the
17 contributor of the evidence.

18 Q. Does the timing of someone being
19 touched and the timing of when you receive
20 the swab to do the analysis, does that affect
21 whether or not it is more or less likely that
22 you will find DNA?

23 A. The time between the transfer of DNA
24 and the collection of DNA can have an impact
25 on whether or not we're able to develop a

1 profile. Typically the longer the amount of
2 time between transfer and collection, the
3 less likely we are to see a profile.

4 Q. So the longer time between the
5 contact and when the DNA was collected, the
6 less likely it is that you would see a match?

7 A. In most circumstances, that's
8 correct. It would make it less likely that
9 we would be able to develop a profile.

10 Q. Describe to the jury what "secondary
11 transfer" is.

12 A. Well, as I mentioned, with touch DNA
13 what we're referring to is when an individual
14 comes in contact with an item, they're
15 transferring their cells and their DNA. With
16 secondary transfers, what we're referring to
17 is cells of DNA from an item and then
18 transferring it to another item.

19 So, say, when I use my computer and I
20 touch the mouse there may be transfer of my
21 skin cells to the mouse. If someone else
22 comes behind me and touches my computer
23 mouse, they may pick up enough of my skin
24 cells from that item to potentially transfer
25 it to another item that they would touch.

1 That would be considered secondary transfer
2 because I was not directly transferring my
3 DNA to that item.

4 Q. Is there a particular study that
5 you're aware of where they discovered
6 secondary transfer? If so, can you describe
7 what happened in the study?

8 A. There are several studies that have
9 discussed and looked into the secondary
10 transfer.

11 One with which I am familiar, they were
12 testing -- scientists working in a forensic
13 laboratory -- to develop, to determine how
14 much contact that there needed to be between,
15 say, fingers and a glass microscope slide.
16 Would there be able to be enough material
17 present to develop a DNA profile. It was a
18 female analyst who when they ran her profile
19 -- or ran the item that she had touched, they
20 came up with a mixture of both female and
21 male DNA. They repeated the test and found
22 the same result. What they determined was
23 that she had been sharing a vehicle with her
24 boyfriend and they determined -- or at least
25 assumed -- that she had been picking up

1 enough of his skin cells from the steering
2 wheel or the vehicle that she was then
3 transferring that to the microscope slide in
4 the laboratory.

5 Q. Would the cleanliness of a home or
6 the cleanliness of an area affect whether or
7 not you'd find more or less DNA on a person?

8 A. It could depending on how recently
9 someone had come in contact with an item, how
10 recently it had been cleaned. It is really
11 just a matter of how many potential donors
12 there are and how many different sources of
13 DNA were on an item when they came in contact
14 with it.

15 Q. Do you expect for a home that is
16 cleaned on a regular basis that you find less
17 DNA around the house. Is that correct?

18 A. I think that would be a safe
19 assumption. If you recently cleaned an item,
20 you'd be less likely to find a source of DNA
21 on it during testing.

22 Q, And how easily can DNA be removed --
23 can touch DNA be removed from someone?

24 A. From an individual or from an item?

25 Q. From an individual?

1 A. Uh, from an individual -- you know,
2 if you bathe; if you use the restroom, it
3 could have been wiped away. DNA can be wiped
4 away, it can be washed away. It can be
5 fairly easily removed.

6 Q. Fairly easily?

7 A. (Affirmative nod).

8 Q. Okay. So if someone had touched an
9 individual's hand and then that individual
10 merely wiped their hands with a cloth, could
11 they have wiped away the DNA that was -- that
12 had been on their hand?

13 A. It is possible. It would depend on
14 how much DNA was deposited in the first place
15 and how firmly they wiped their hands. There
16 are a lot of factors that would go into it,
17 but it could be removed by wiping.

18 Q. Does bathing typically remove DNA?

19 A. That would be one source of removal
20 that we worry about during collection.

21 Q. How does your office receive samples
22 of DNA for analyses?

23 A. Cases are submitted to SLED by law
24 enforcement agencies throughout the state, be
25 it County, State or Federal.

1 Q. Who brings items for analyses?

2 A. Again, local law enforcement, County
3 law enforcement agencies, State agencies;
4 anyone who needs assistance with analysis of
5 forensic samples.

6 Q. Describe briefly how the chain of
7 custody is maintained, how you know that the
8 swab that you receive was the one taken from
9 a particular individual?

10 A. When items are submitted to the
11 laboratory, each case is provided a unique
12 SLED case number. Each item within that case
13 is provided a unique item number, so that we
14 can keep everything separate and identify
15 them properly. Those items are placed into
16 plastic pouches that are then heat-sealed.
17 The seal is dated and initialed by the
18 individual submitting the evidence. That
19 pouch then has a bar code placed on it. We
20 can scan the bar code and it keeps track in
21 our computer system for each individual that
22 scanned the bar code, so that we can keep
23 track of who has custody of the item at a
24 particular time and where it is located
25 throughout the laboratory.

1 Q. Did you perform a DNA analysis on
2 SLED 15-10239?

3 A. Yes, I did.

4 Q. What specific samples were submitted
5 in this case?

6 A. The items that I tested in this case
7 were:

8 SLED Item 1.4, which was identified
9 as a buccal swab from [REDACTED]

10 SLED 1.2, identified as a vaginal
11 swab from [REDACTED]

12 SLED Item 2, buccal swabs from
13 Brandon Cox.

14 SLED Item 4, buccal swabs from
15 Daniel Ingram.

16 Q. Okay. What tests did you perform on
17 those? You answered this earlier, but what
18 tests did you specifically perform on these
19 samples?

20 A. Again, I performed what we refer to
21 as PCR/STR testing.

22 Q. Did those results mean that one
23 hundred percent someone matching the DNA
24 found would have touched the victim?

25 A. The results would just indicate that

1 at some point there was some transfer to the
2 victim, assuming that the profile developed
3 was foreign to the victim.

4 A vaginal swab is what we consider an
5 intimate sample, meaning when we collect a
6 swab of this type from a person we expect
7 their DNA to be there because it is being
8 taken directly from their body.

9 Q. And what were the results of the
10 tests performed?

11 A. The initial tests that I ran showed
12 that the DNA profile developed is attribute-
13 able to the DNA profile of [REDACTED]

14 I then ran a second test that focused
15 solely on Y chromosomes. Basically what I
16 am looking for there is just to determine if
17 there is any male DNA present that may be
18 masked by the presence of the female victim.
19 I was able to develop a partial Y-STR profile
20 that is from an unidentified male individual.

21 Q. So the male DNA that was found -- was
22 there male DNA found in the sample that you
23 received?

24 A. There was, (affirmative nod).

25 Q. Did that match Brandon Cox?

1 A. It does not.

2 Q. Does it match Daniel Ingram?

3 A. No, it does not.

4 Q. Okay. So after thirty-six hours
5 from contact, if a child has bathed, urinated
6 and wiped, would you expect to find DNA?

7 A. Again, it depends on the circum-
8 stances of an individual case. Again, the
9 longer we go between transfer and collection
10 we expect to see a reduction in the amount of
11 DNA. Bathing could reduce it, using the
12 restroom could reduce it. So it is possible
13 that any DNA would possibly have been
14 removed.

15 Q. Again, is it correct to say that
16 DNA, touch DNA, is easily removed?

17 A. It can be, again depending on the
18 circumstances.

19 SOLICITOR JONES: I beg the court's
20 indulgence. No further questions, Your
21 Honor.

22 THE COURT: Mr. Cantrell?

23 CROSS EXAMINATION

24 BY MR. CANTRELL:

25 Q. Good morning.

1 A. Good morning.

2 Q. The simple fact is, and you've just
3 stated it a few times, that it is possible or
4 that DNA can be removed, but you have no way
5 of knowing whether it was removed, when it
6 was removed or any of the circumstances
7 surrounding the hygiene, the touchings --
8 anything of the fact situation in any case
9 that you're involved in?

10 A. That's correct. Essentially we're
11 trying to determine if DNA is present on an
12 item when we test it. What led up to that,
13 I can't speak to.

14 Q. The simple fact is that you ran the
15 tests that have been described here, that are
16 scientifically well beyond my comprehension
17 but certainly not yours. But you've run all
18 the tests with the proper protocol within
19 your office and you determined that there was
20 no DNA of Brandon Cox. Is that ---

21 A. Again, the DNA profile that was
22 developed did not come from Brandon Cox.
23 No, sir.

24 Q. But you did find the DNA profile of
25 an unidentified male individual?

1 A. Correct.

2 Q. And that was from your examination
3 or your testing of the vaginal swab taken
4 from [REDACTED]

5 A. That's correct.

6 MR. CANTRELL: No further questions.

7 THE COURT: Redirect?

8 SOLICITOR JONES: Just briefly, Your
9 Honor.

10 REDIRECT EXAMINATION

11 BY SOLICITOR JONES:

12 Q. Ms. Leisey, the DNA that was found.
13 The male DNA that was found, is it possible
14 that it made contact with the victim through
15 secondary contact?

16 MR. CANTRELL: Your Honor, I would
17 object. That is not responsive to anything
18 raised on cross-examination.

19 THE COURT: Overruled. I am not going
20 to allow much more questioning, but I will
21 allow that question.

22 WITNESS: Again, secondary transfer
23 is possible if you come into contact with an
24 item that contains someone's DNA if there is
25 enough DNA material, there can be transfer to

1 the individual.

2 Q. Could that be DNA on a towel?

3 A. That would be one possible source if
4 there was a sufficient amount of DNA on a
5 towel and you wiped yourself down with it,
6 that could lead to transfer.

7 SOLICITOR JONES: No further questions.

8 THE COURT: Do you want to follow up on
9 that, Mr. Cantrell?

10 MR. CANTRELL: Yes, sir.

11 RECROSS EXAMINATION

12 BY MR. CANTRELL:

13 Q. Again, you're saying it could be.
14 You have no idea what happened or how this
15 DNA was deposited on this young girl?

16 A. That's correct.

17 MR. CANTRELL: That's all, Your
18 Honor.

19 THE COURT: Thank you, Ms. Leisey.
20 Have a nice day. You may step down.

21 Any objection to this witness being
22 excused?

23 MR. CANTRELL: No, sir, Your Honor.
24 She is also here under my subpoena also. I
25 release her from that subpoena.

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1 THE COURT: You are excused. Thank
2 you, ma'am.

3 (WITNESS STEPS DOWN)

4 THE COURT: You may call your next
5 witness.

6 SOLICITOR JONES: The State calls Daniel
7 Ingram.

8 (WITNESS TAKES STAND)

9 DANIEL INGRAM, having been sworn to tell
10 the truth, and nothing but the truth,
11 testified as follows:

12 DIRECT EXAMINATION

13 BY SOLICITOR JONES:

14 Q. Mr. Ingram, where did you live in
15 May 2015?

16 A. At 200 Georgetown Road.

17 Q. Is that in Pickens County?

18 A Yes, it is.

19 Q. Do you have any children?

20 A. Yes, I have three.

21 Q. What are their names?

22 A. [REDACTED]
23 [REDACTED]

24 Q. What is [REDACTED] s date of birth?

25 A. [REDACTED]

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1 Q. Are you married?

2 A. No, I'm not.

3 Q. Okay. Who is the mother of those
4 children?

5 A. Roseanna Howard.

6 Q. Is she the mother of all three of
7 those children?

8 A. Yes, she is.

9 Q. Do y'all currently live together?

10 A. Yes, we do.

11 Q. And you said that you're not married
12 but do you call -- do you call it anything
13 else?

14 A. I call it common law marriage.
15 We've been together for sixteen years.

16 Q. Okay. And in all of those -- did
17 all of those that you've just mentioned live
18 in your home on Georgetown Road in 2015?

19 A. Yes.

20 Q. Where do you work?

21 A. I work at Blue Tooling -- Blue Ridge
22 Tooling.

23 Q. Are you a little nervous?

24 A. Yes.

25 Q. That's fine. Totally understand-

1 able.

2 Q. When did you start working for Blue
3 Ridge Tooling?

4 A. November 25th, 2014.

5 Q. 2014?

6 A. (Affirmative nod).

7 Q. What hours do you work?

8 A. I go in at 4:15 until 2:45 in the
9 morning.

10 Q. You go in at 4:15 p.m.?

11 A. Yes.

12 Q. Is that called like a third shift,
13 second shift or ---

14 A. They call it a split shift.

15 Q. Okay.

16 Q. From 4:15 p.m. until 4:15 a.m.?

17 A. Until 2:45 a.m.

18 Q. Okay. How long have you been on
19 that particular shift, that work schedule?

20 A. Since I first started.

21 Q. So what are the normal hours when
22 you wake up and when you go to bed?

23 A. I usually get up around noon and I
24 go to work at 3:00 o'clock; you know, head
25 towards work. When I get off at 2:45, I

1 would stay up and watch a show to relax, get
2 the kids on the bus and then go to sleep.

3 Q. Do you know Brandon Cox?

4 A. Yes, I do.

5 Q. How did you first meet Brandon Cox
6 or how do you know him?

7 A. I was at home and I had a friend,
8 Jamar, go down to the gas station and get
9 some drinks. He went down there, ran into
10 Brandon Cox and brought him back to the
11 house.

12 Q. Do you remember about when was that?
13 Was that in 2015? Was it before that?

14 A. I want to say that was -- it was
15 before that. It was back in 2014.

16 Q. 2014?

17 A. (Affirmative nod).

18 Q. Did Brandon Cox ever live at your
19 house?

20 A. Yes, he did.

21 Q. Did he live at your house on
22 Georgetown Road?

23 A. Yes.

24 Q. Do you know where Mr. Cox worked at
25 the time that he was living at your house?

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1 A. At the Subway.

2 Q. Do you remember -- did he have a
3 usual work schedule? Do you remember what
4 that was?

5 A. It was usually, I want to say,
6 around 2:00 to 4:00 p.m. until 10:00, 10:30
7 or 11:00.

8 Q. And just briefly, why was Mr. Cox
9 living at your house in May of 2015?

10 A. His father had kicked him out of the
11 house.

12 Q. Okay. So how long would you say
13 that he stayed at your house?

14 A. About three months.

15 Q. About three months?

16 A. (Affirmative nod).

17 Q. Where did Mr. Cox normally sleep in
18 your house?

19 A. He slept in my sons' room.

20 Q. Okay.

21 SOLICITOR JONES: I beg the court's
22 indulgence, Your Honor.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR JONES:

25 Q. I am handing you State's Exhibit 16.

1 Do you recognize that?

2 A. Yes, that was my house.

3 Q. That's your house?

4 A. (Affirmative nod).

5 Q. If you can, show the picture to the
6 jury and point/describe where -- what each
7 room is in the house?

8 A. All right. It was a split foyer
9 when you walked in the house, you had stairs
10 that went up or went down.

11 You could go up the stairs, here is the
12 front room. The back side would be the
13 kitchen. On the right side there was a
14 master bedroom, but I wasn't using it at the
15 time. It was for storage.

16 When you went downstairs, there was three
17 bedrooms. This bedroom was the boys' room,
18 the bedroom on the back of the house was my
19 little girl's room, and this bedroom was mine
20 and my wife's.

21 Q. Where was the boys' room?

22 A. Right here in the front.

23 Q. Who stayed in that room when Brandon
24 Cox was there?

25 A. Both my boys, [REDACTED] and [REDACTED]

1 and Brandon.

2 Q. Okay. And describe the room. About
3 how big was it?

4 A. The room was ten-by-ten, had two
5 beds in it.

6 Q. What size beds would you say?

7 A. I had a twin and a, uh, ---

8 Q. One a little bit bigger than a twin?

9 A. Yeah, (affirmative nod). Queen.

10 Q. What were the sleeping arrangements
11 in that room?

12 A. Both of my boys slept in the twin
13 and he slept in the queen, as I remember.

14 Q. Did you have a living room where the
15 TV was?

16 A. Yes, the living room was when you
17 walked in the door and upstairs. The living
18 room was in the top left corner.

19 Q. I am going to hand you State's
20 Exhibit 17. Would you take a look at that
21 for me, please, sir.

22 A. (Complies).

23 Q. Do you recognize that, sir?

24 A. Yes, sir.

25 Q. What is it?

1 A. That's my front room.

2 Q. Okay. Show that to the jury. Then
3 hold up State's Exhibit 16 again, please, and
4 tell the jury what that depicts.

5 A. That would be that room, right
6 there.

7 Q. So that would be your living room?

8 A. Yeah, that room right there
9 (indicating).

10 Q. You can set those down.

11 A. (Complies).

12 Q. You said [REDACTED] -- you described
13 what room that [REDACTED] slept in. Did [REDACTED]
14 ever sleep anywhere else?

15 A. Yes, she'd sleep on the couch.

16 Q. What couch was that?

17 A. Pretty much the long one that's in
18 this photo.

19 Q. Okay. And why would she sleep on
20 the couch sometimes?

21 A. If we stayed up and watched a movie,
22 cartoon show or whatever.

23 Q. So she'd fall asleep on the couch
24 and y'all would leave her there?

25 A. Yes.

1 Q. Tell the jury what happened on the
2 morning of May 26th, 2015?

3 A. I woke up and, uh, -- I had had a
4 bad feeling in my gut that something wasn't
5 right with Brandon. I thought that he was
6 cheating with my wife. I looked at his phone
7 and ---

8 Q. Take us back. You said that you
9 woke up. Had you had to work the previous
10 day?

11 A. No, I didn't.

12 Q. Why is that? Do you recall why that
13 was?

14 A. What?

15 Q. Why didn't you have to work the
16 previous day?

17 A. Because it was a holiday weekend.

18 Q. Was it Memorial Day?

19 A. Yes.

20 Q. So you woke up about what time,
21 would you say?

22 A. About 9:00 o'clock

23 Q. About 9:00 o'clock?

24 A. Yes.

25 Q. Go forward. You said that you had a

1 weird feeling about ---

2 A. I had a weird feeling. I knew the
3 code to his phone; I'd used his phone, so he
4 had given it to me. I looked on his phone
5 and ---

6 Q. He had given what to you?

7 A. The passcode to unlock his phone.

8 Q. So you knew the passcode to unlock
9 his phone -- or are you saying that he'd
10 given you the phone?

11 A. He'd gave me the code.

12 Q. So you knew the code?

13 A. (Affirmative nod).

14 Q. Okay. Do you remember how that came
15 up when he'd given you the code?

16 A. He'd gave me the code a couple of
17 weeks ago because I'd just needed to use his
18 phone.

19 Q. Go ahead. On May 26th, you knew the
20 code to his phone and you ---

21 A. So I was looking at the messages,
22 didn't see nothing. I went to the photo
23 gallery and that is when I seen the videos.

24 Q. Describe for the jury what the
25 videos were of?

1 A. The videos were of my daughter
2 sleeping on the couch and him touching her
3 in the vagina.

4 Q. How do you know that it was your
5 daughter?

6 A. Because of the little green shorts
7 and yellow underwear. And the little legs.
8 I know my little girl. You know, she's my
9 child.

10 Q. Handing you State's Exhibit 27,
11 could you take a look at that for me?

12 A. Yes.

13 Q. Do you recognize those?

14 A. Yes.

15 Q. What are they?

16 A. Those are [REDACTED]'s shorts.

17 Q. Were those shorts that she wore all
18 the time or she wore for a particular
19 purpose?

20 A. No, she wore them all the time.

21 Q. She wore them all the time?

22 A. (Affirmative nod).

23 Q. Can you look in there and see what
24 size they are or do you know what size they
25 are?

1 A. They should be 5T.

2 Q. 5T?

3 A. (Affirmative nod).

4 Q. Are those the same shorts that you
5 saw on the video?

6 A. Yes.

7 Q. Handing you State's Exhibit 10, what
8 do you see in that photo?

9 A. That is my little girl's shorts and
10 that is Brandon Cox's hand.

11 Q. Are those the same shorts that ---

12 A. Yes, those are the same shorts.

13 Q. So State's Exhibit 10, it's the same
14 shorts as State's Exhibit 27?

15 A. Yes.

16 Q. Is that what you're saying?

17 A. Yes.

18 Q. So you saw the videos, recognized
19 that it was your daughter.

20 A. (Affirmative nod).

21 Q. What did you do after that -- well,
22 let's take a step back. You recognized that
23 it was your daughter. How did you recognize
24 that it was Brandon Cox?

25 A. It was on Brandon's phone.

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1 Q. That was a kind of silly question?

2 A. Yeah, (affirmative nod).

3 Q. And was there anything else that
4 made you think of Brandon Cox?

5 A. The bracelet that he was wearing in
6 the video. That was his bracelet.

7 Q. I am handing you State's Exhibit 9
8 and State's Exhibit 8. Can you take a look
9 at those for me?

10 A. (Complies).

11 Q. Can you tell the jury what State's
12 Exhibit 8 is, please?

13 A. That is Brandon's bracelet.

14 Q. What is State's Exhibit 9?

15 A. That is the bracelet on Brandon's
16 hand.

17 Q. Can you show that to the jury,
18 please?

19 A. (Displaying).

20 Q. Okay. So after you looked at the
21 video, recognized that it was your daughter,
22 recognized that it was Brandon Cox, what did
23 you do next?

24 A. I made a phone call to his dad.

25 Q. What did you say to his dad?

1 A. I said, 'You need to come get your
2 son before I kill him.'

3 Q. Then what did you do?

4 A. I woke Brandon up and I beat him.

5 Q. Okay. Did you say anything to
6 Brandon?

7 A. I kept asking him why would he touch
8 my daughter.

9 Q. Did he say anything?

10 A. He kept asking to see the video.

11 Q. Did you show him the video?

12 A. Yes.

13 Q. Did he say anything?

14 A. No.

15 Q. Okay. So where was he when you
16 showed him the video?

17 A. He was asleep on the couch in the
18 front room.

19 Q. Was it on the same couch that you
20 pointed to, that [REDACTED] was sleeping on?

21 A. No, it was ---

22 Q. I'll show you a picture, State's
23 Exhibit 17. Can you point to the couch that
24 he was sleeping on, show the jury?

25 A. (Indicating), it was this red couch

1 with the stripes.

2 Q. Thank you. Describe the process a
3 little better, please. Elaborate. When you
4 approached the defendant, he was asleep?

5 A. Yes.

6 Q. Elaborate, please, on what you said,
7 what he said.

8 A. I woke him up and I asked him, I
9 said, 'What are these videos on your phone?'

10 He was just, like, out of it.

11 I woke him up again and I said, 'What are
12 these videos on your phone?'

13 And he said -- it was like he -- he was
14 out of it. He said, 'I don't know what's
15 going on.'

16 I hit him.

17 Q. Okay.

18 A. And then he said, 'Show me the
19 videos.'

20 So I showed him the video and he just
21 tried saying that it wasn't him.

22 I was, like, 'it's on your phone.'

23 Q. Um-humm.

24 A. I just started beating him up.

25 Q. At any point did law enforcement

1 arrive?

2 A. Yes, they did.

3 Q. Did you call law enforcement?

4 A. No.

5 Q. So tell the jury what happened. How
6 were you made aware that law enforcement was
7 there?

8 A. They knocked on my front door.

9 Q. Then what did you do?

10 A. I stood him up and I walked him out
11 the side door. Walked him up front ---

12 Q. Did your front door not work?

13 A. No, it didn't.

14 Q. So the front door didn't work, so
15 you walked him out the back door?

16 A. (Affirmative nod), the side door.

17 Q. The side door?

18 A. (Affirmative nod).

19 Q. So tell the jury what you told law
20 enforcement as soon as they arrived?

21 A. As soon as they arrived and I walked
22 him out to the front, the cop had seen that
23 he had been beaten up. When the cop come
24 over to us, he separated us; put Brandon on
25 the porch and was going to have me go stand

1 by the front of his cruiser car.

2 I had Brandon's phone in my hand and I'd
3 told the cop to look at the videos, that it
4 was videos of Brandon molesting my daughter.
5 I showed him the video and I showed him that
6 bracelet. I said, 'he's wearing that
7 bracelet right now.'

8 Q. When you watched the video, did you
9 know when the abuse occurred?

10 A. No, I didn't.

11 Q. Are you aware of the defendant
12 having the opportunity to be with the victim
13 alone?

14 A. Yeah, there were times when they
15 would be alone but ---

16 Q. Was that because of your work
17 schedule?

18 A. Yes.

19 Q. Are you aware of any time when you
20 would have come home from work and gone to
21 sleep and the defendant would have been able
22 to be with the victim alone?

23 A. Not very much because my wife would
24 have been there.

25 Q. But on the 25th, did the children

1 have to go to school that day?

2 A. No, they didn't.

3 Q. Why was that?

4 A. Because that was Memorial Day
5 weekend.

6 Q. So from 10:30 to 10:00 a.m., would
7 [REDACTED] have been at home?

8 A. Yes, she would've.

9 Q. Showing you State's Exhibit 18,
10 State's Exhibit 12, would you take a look at
11 those for me. What is State's Exhibit 18?

12 A. That is a picture of my couch.

13 Q. And specifically about the floor, do
14 you see anything?

15 A. Yes, there's stains.

16 Q. Would you show that to the jury,
17 please.

18 A. (Displaying), those red stains from
19 Kool-Aid.

20 Q. And State's Exhibit 12, what is
21 that?

22 A. Yes, this is -- that's a still shot
23 out of the video.

24 Q. What do you see there?

25 A. Identical stains to what's on my

1 carpet.

2 Q. Showing you State's Exhibits 15 and
3 17. Would you look at those for me, please.

4 A (Complies).

5 Q. What do you see in State's Exhibit
6 15?

7 A. There's an X-Box controller on a
8 chair, one of my kitchen chairs. There's a
9 pack of Brandon's cigarettes.

10 Q. Where is that picture taken from?

11 A. That is a still shot out of the
12 video.

13 Q. The other photograph, what number is
14 that?

15 A. Seventeen (17).

16 Q. What is State's Exhibit 17?

17 A. There's the chair with the X-Box
18 controller still on it but no cigarettes.

19 Q. Showing you State's Exhibit 1, do
20 you recognize that?

21 A. Yes.

22 Q. What is it?

23 A. That is the videos off of Brandon
24 Cox's phone.

25 Q. Those are the same videos that you

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1 saw on Brandon Cox's phone?

2 A. Yes.

3 Q. Do you see Brandon Cox in the
4 courtroom?

5 A. Yes, I do.

6 Q. Would you point him out?

7 A. He's right there (indicating
8 defendant).

9 SOLICITOR JONES: Let the record reflect
10 that the witness pointed to the Defendant.

11 THE COURT: So reflects.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR JONES:

14 Q. As you were standing there talking
15 to law enforcement, right when you came out
16 of the house, Brandon Cox was right beside
17 you?

18 A. He was right in front of me.

19 Q. Did he say anything to law
20 enforcement while you were standing right
21 there?

22 A. Nothing.

23 Q. And tell the jury, best you can,
24 what were you telling the officer as Brandon
25 Cox was standing right there?

1 A. I said, 'he needs to go to jail, he
2 touched my daughter.' That I'd failed as a
3 father to protect my daughter.

4 Q. Did you say anything about the video
5 that you'd saw?

6 A. Yeah, I showed him the video and ---

7 Q. Was Brandon standing right there
8 when you showed the officer the video?

9 A. No, Brandon was sitting on the front
10 porch.

11 Q. What was Brandon saying at that
12 point?

13 A. He wasn't saying nothing.

14 Q. Handing you State's Exhibit 26, do
15 you recognize that?

16 A. Yes, that's his bracelet.

17 Q. Whose bracelet?

18 A. Brandon Cox's bracelet.

19 Q. The same bracelet you saw in the
20 video?

21 A. Yes, it is.

22 Q. Is that the same bracelet that
23 Brandon Cox was wearing when he was arrested?

24 A. Yes, it is.

25 Q. Was he wearing that bracelet when

1 you began to assault him?

2 A. Yes, he was.

3 Q. Are you aware of anybody else that
4 has an identical bracelet to that?

5 A. No, I don't.

6 Q. From the several months that Brandon
7 lived at your house, how often did he wear
8 that bracelet?

9 A. Every day.

10 Q. Every day?

11 A. (Affirmative nod).

12 Q. Did he ever talk about the bracelet,
13 that you're aware of?

14 A. No.

15 Q. You just remember him wearing it
16 every day?

17 A. Yes.

18 Q. Would you say that that bracelet is
19 distinct to Brandon Cox?

20 A. Yes.

21 SOLICITOR JONES: No further questions,
22 Your Honor.

23 THE COURT: Cross-examination.

24 CROSS EXAMINATION

25 BY MR. CANTRELL:

1 Q. Mr. Ingram, there were two of those
2 bracelets; weren't there?

3 A. No, there wasn't.

4 Q. You're absolutely certain of that?

5 A. Yes.

6 Q. Did Brandon ever let your son or
7 anyone else wear the other bracelet?

8 A. No.

9 Q. To your knowledge, you know nothing
10 about another bracelet?

11 A. No.

12 Q. Now, first of all, you found these
13 videos on Brandon's phone.

14 A. (Affirmative nod).

15 Q. What else did you find about some
16 affair between him and your wife?

17 A. Nothing.

18 Q. So you just that morning, Memorial
19 Day morning, woke up with a gut feeling that
20 you needed to check his phone because he was
21 having an affair with your wife, in your
22 mind?

23 A. Yes.

24 Q. Was there any rationale basis for
25 that?

1 A. The way Brandon was talking with one
2 of our friend's wives, Jan McConnell.

3 Q. Was that to your wife or to someone
4 else's?

5 A. That was someone else's.

6 Q. How about your wife, what did she do
7 to make you think that?

8 A. It just seemed like whatever he
9 needed, if he needed his clothes washed for
10 Subway or if he wanted something to eat, she
11 took care of him.

12 Q. So this was a young man that you
13 allowed to live in your home and she was
14 doing -- washing his clothes for him or
15 fixing a meal for him?

16 A. (Affirmative nod).

17 Q. Is that what you're saying?

18 A. Yes.

19 Q. Did she fix your meals?

20 A. Yes.

21 Q. Did she fix meals for other people
22 when they were in the home?

23 A. I didn't have many people in my
24 house.

25 Q. So are you saying that you didn't

1 have people come over and stay or spend the
2 night other than -- males or females, for
3 that matter?

4 A. Yes, I have.

5 Q. Did your wife fix meals for them?

6 A. Yes.

7 Q. So when I asked you if there was any
8 rationale reason you woke up that morning and
9 decided to check his phone because of this
10 alleged affair, there was none; was there?

11 A. At that time, no.

12 Q. And the fact is that you had access
13 to his phone and you had the passcode, so you
14 could get in and use that phone?

15 A. Yes.

16 Q. Are you aware of anyone else in the
17 house having that passcode and using his
18 phone?

19 A. No.

20 Q. Are you saying that none of the
21 other children or none of the other
22 individuals that would come to the house had
23 access to his phone?

24 A. I don't know.

25 Q. You don't know who had access to his

1 phone, do you?

2 A. No.

3 Q. In fact, that morning before you
4 woke him up, you'd had an argument with your
5 wife also; didn't you?

6 A. I don't recall.

7 Q. You woke up thinking that your wife
8 was having an affair with this young man,
9 that eventually led to you beating him up and
10 finding the videos, but you don't remember
11 whether you had an argument with your wife?

12 A. I asked her, but we didn't have an
13 argument.

14 Q. That did not lead to an argument?

15 A. No, it didn't.

16 Q. That didn't lead to you being angry
17 or upset or ---

18 A. No, I just looked at his phone.

19 Q. Now, were you awake when Brandon --
20 sorry, let me back up. Were you awake when
21 Brandon got home that evening?

22 A. Yes.

23 Q. Where did he go when he got home?
24 Did he go into the living room?

25 A. Yes.

1 Q. Did he hit the sofa at that point?

2 A. Uhhh, -- I believe that he started
3 playing on the X-Box.

4 Q. Was [REDACTED] in there at that time?

5 A. Yes.

6 Q. And did you stay up much longer
7 after that?

8 A. Yes, I did.

9 Q. Were you in the living room also?

10 A. Yes.

11 Q. About what time did you go to bed
12 that night?

13 A. About 1:00 o'clock.

14 Q. Where was Brandon?

15 A. He was still on the couch.

16 Q. And where was [REDACTED]?

17 A. She was on the other couch.

18 Q. Was anyone else in there?

19 A. No.

20 Q. Was anyone else in your home that
21 night?

22 A. No.

23 Q. Was anyone else in your home that
24 night?

25 A. Just my wife and my other two boys.

1 Q. Where were the other two boys?

2 A. They were in their bedroom.

3 Q. Let me back up. Did you say that
4 the two boys slept on the twin bed while
5 Brandon slept on the larger bed?

6 A. Yes.

7 Q. But that night when you went to bed,
8 Brandon was on the sofa?

9 A. Yes.

10 Q. Was he still playing the game or was
11 he asleep?

12 A. Yes, he was still playing the game.

13 Q. Did he come home straight from work
14 that night?

15 A. I wouldn't know.

16 Q. So you don't know where he'd been?

17 A. Yes.

18 Q. Was it his routine to come home from
19 Subway in the evening?

20 A. Whenever he would get there, however
21 he'd find his way home.

22 Q. And you've already testified that
23 you woke Brandon up off the sofa?

24 A. Yes.

25 Q. He'd been sleeping ever since --

1 he'd been sleeping all evening apparently?

2 A. Apparently, yes.

3 Q. Because when you tried to wake him
4 up, you could not get him to wake up.

5 A. Yes.

6 Q. Did he appear to be under the
7 influence of anything?

8 A. I don't know.

9 Q. But when you woke him up, you
10 immediately started beating him up, talking
11 about the video?

12 A. Yes.

13 Q. That continued until the police got
14 there?

15 A. Yes.

16 Q. Then the police took him into
17 custody?

18 A. Yes.

19 Q. Does this appear to you to be --
20 sorry, this is State's Exhibit 2. Does this
21 appear to be Brandon that day?

22 A. Yes, that would be on the 26th.

23 Q. Did you have an opportunity to see
24 this photo, State's Exhibit 12?

25 A. Yes.

1 Q. What color are the pants in that
2 video?

3 A. Those are blue.

4 Q. What color are the pants in this
5 video of Brandon?

6 A. Those are brown.

7 Q. Okay. When you tried to wake
8 Brandon up, he was out of it and pretty
9 quickly you were beating him; but he still
10 said that was not him on the video, didn't
11 he?

12 A. No, he didn't.

13 Q. A while ago you said that he said
14 "it's not me." Are you still saying that, or
15 is that not true?

16 A. He kept asking me, "let me see the
17 video." Then he said "that wasn't me."

18 Q. Okay.

19 MR. CANTRELL: Just one second, Your
20 Honor.

21 THE COURT: Yes, sir.

22 CROSS EXAMINATION (CONTINUED)

23 BY MR. CANTRELL:

24 Q. Did the police come in the house
25 before you and Brandon came out of the house?

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1 A. No.

2 Q. So you heard the police there and
3 you brought him out ---

4 A. Yes.

5 Q. --- before they could get into the
6 house?

7 A. Yes.

8 Q. When they arrived, where were your
9 children?

10 A. They were at school.

11 Q. We decided a while ago that this was
12 Memorial Day.

13 A. When they arrived was the 26th, that
14 would have been a Tuesday and they would have
15 been gone to school.

16 Q. Who took them to school?

17 A. The bus.

18 Q. So what time did they get up to
19 leave?

20 A. Seven o'clock.

21 Q. And who got them up?

22 A. My wife.

23 Q. Were you still in bed?

24 A. Yes.

25 Q. So you don't know what transpired at

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1 that time?

2 A. No.

3 MR. CANTRELL: I have no further
4 questions. Thank you.

5 SOLICITOR JONES: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY SOLICITOR JONES:

8 Q. Daniel, I want to clarify some of
9 the dates. I think some of it might have
10 been a little confusing.

11 What was the date that you saw the videos
12 on the phone and you assaulted the defendant
13 and law enforcement came?

14 A. I assaulted him on the 26th.

15 Q. Okay. That was the 26th. What day
16 of the week was that?

17 A. I want to say that was a Tuesday.

18 Q. Okay. And we know from the earlier
19 testimony that the videos on the phone were
20 taken on May 25th between 8:00 a.m. and 10:00
21 a.m.

22 A. Yes.

23 Q. Okay, so that would have been
24 Monday; right?

25 A. Yes.

1 Q. And you said that Monday, May 25th,
2 was Memorial Day?

3 A. Yes.

4 Q. So on Memorial Day were the children
5 in school?

6 A. No, they weren't.

7 Q. So on Monday, May 25th, [REDACTED] was
8 not at school?

9 A. No.

10 Q. Defense counsel asked you about that
11 night, were you referring to Sunday night,
12 the 24th, before the abuse or where you
13 referring to the night of the 25th, the Monday
14 night, after the abuse? Does that make
15 sense?

16 A. I'm not ---

17 Q. You're not following me?

18 A. No.

19 Q. Defense counsel was asking what
20 night you saw Brandon and [REDACTED] in the
21 living room together on the couches?

22 A. That would have been Sunday night.

23 Q. Okay. And on Memorial Day, did you
24 and your family do anything? Do you
25 remember?

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1 A. Yes, I was looking for a place for
2 us to go swimming. I found a place in
3 Central. It's some little waterfalls. That
4 day me, my wife and our three kids went to
5 find this place.

6 Q. That day -- what day was that?

7 A. That would have been Monday.

8 Q. What time of day would you say that
9 y'all went?

10 A. It was after lunch.

11 Q. Okay.

12 A. I found this place and you had to
13 park on the side of the road and hike down
14 almost a mile, three-quarters of a mile, and
15 then there were these little waterfalls.

16 Q. Okay. Can you describe [REDACTED]'s
17 bathing habits? Did she take baths or
18 showers?

19 A. She took showers at night.

20 Q. Was it a regular thing or was it
21 kind of every other day, or what would you
22 say?

23 MR. CANTRELL: Your Honor, here again
24 we're getting outside of the scope of cross-
25 examination.

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1 THE COURT: Sustained.

2 SOLICITOR JONES: Okay.

3 REDIRECT EXAMINATION CONTINUED

4 BY SOLICITOR JONES:

5 Q. And you mentioned your other kids,
6 how old -- what were the ages of your other
7 children in 2015?

8 A. [REDACTED] would have been seven and
9 [REDACTED] would have been nine.

10 Q. Defense counsel showed you a photo-
11 graph, State's Exhibit 2 I believe, State's
12 Exhibit 4. On State's Exhibit 2 and Exhibit
13 4, what do you see?

14 A. I see Brandon Cox's hands on State's
15 Exhibit 4 and looks like a picture from when
16 he was checked in at the police station.

17 Q. Do you see any tattoos on his hands?

18 A. None.

19 Q. And when Brandon Cox lived with you,
20 did he have tattoos on his hands?

21 A. No, he didn't.

22 Q. When he was arrested, did he have
23 tattoos on his hands?

24 A. No, he didn't.

25 Q. Okay.

1 SOLICITOR JONES: No further questions,
2 Your Honor.

3 THE COURT: Recross?

4 RECROSS EXAMINATION

5 BY MR. CANTRELL:

6 Q. Just to make sure that we're clear,
7 what evening was it that you left Brandon on
8 the sofa and Georgia on the sofa in the
9 living room?

10 A. It would have been on Sunday night.

11 Q. And it was a day and a half later
12 that you decided to look at the video and
13 assaulted -- that this incident happened?

14 A. Yes.

15 Q. Where was Brandon on that Monday?

16 A. He went to work, I believe.

17 Q. So that Monday evening when he came
18 home, do you remember where he was or where
19 he slept that evening?

20 A. No, I don't.

21 Q. Did you not say that you woke him
22 up?

23 A. I woke him up Tuesday morning.

24 Q. And where was he sleeping?

25 A. On the couch.

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1 Q. Where had [REDACTED] slept that night?

2 A. She had slept in her bed.

3 Q. So he came in Monday night, also
4 from work, and fell asleep on the couch?

5 A. Yes.

6 Q. But that was not a night that
7 [REDACTED] was sleeping on the sofa?

8 A. No.

9 MR. CANTRELL: No further questions.

10 THE COURT: Thank you very much. You
11 may step down.

12 (WITNESS STEPS DOWN)

13 THE COURT: Call your next witness.

14 SOLICITOR JONES: Your Honor, may we
15 briefly approach?

16 THE COURT: Yes.

17 (OFF RECORD BENCH CONFERENCE)

18 THE COURT: Any further witnesses, Mr.
19 Jones?

20 SOLICITOR JONES: No, sir, Your Honor.
21 The State rests.

22 THE COURT: All right, ladies and
23 gentlemen. The State has rested its case.
24 We have been going for about an hour or so,
25 so we're going to go ahead and take our

1 morning break. This break will be at least
2 ten to fifteen minutes. So just relax.

3 Do not discuss the case. You are to keep
4 an open mind about the case and you're not
5 allowed to discuss the case in any way, shape
6 or form with any one, nor are you to allow
7 anyone to talk to you about the case.

8 So y'all can talk about the weather, the
9 rain last night or -- or how good Clemson is
10 going to be this year, but you can't talk
11 about the case.

12 We'll see you back in just about fifteen
13 minutes. Thank you very much.

14 (JURY OUT @ 10:45 a.m.)

15 THE COURT: Motions, Mr. Cantrell?

16 MR. CANTRELL: Your Honor, at this
17 point in time I would move for a directed
18 verdict in that the evidence is not
19 sufficient at this point in time -- there has
20 been insufficient evidence at this point, and
21 I would move for a directed verdict.

22 THE COURT: All right. Mr. Jones,
23 reply?

24 SOLICITOR JONES: Your Honor, I think
25 that there's ample evidence to get past the

1 directed verdict stage. The video clearly
2 shows someone inserting their finger into the
3 vagina of a child. There has been testimony
4 that the person on the video is [REDACTED]
5 [REDACTED]. Her date of birth causes her to be
6 under the age of eleven. And there is
7 evidence that the person on the video on the
8 phone, touching the child, is Brandon Cox.
9 I'd ask that you deny the defendant's Motion.

10 THE COURT: All right. The standard at
11 this point is considering the evidence in the
12 light most favorable to the nonmoving party.
13 That would be the State.

14 Also considering the existence of the
15 evidence and not the weight of the evidence,
16 based on the testimony of Daniel Ingram and
17 also based on the testimony of Detective
18 Hendricks and Deputy Bishop, I find that
19 there is sufficient evidence for this case to
20 go forward to the jury, that this is a jury
21 decision.

22 There has been testimony that this video
23 was found on Mr. Cox's phone, that his hand
24 or a hand similar to his or similar in nature
25 to his is the hand in the video. There has

1 also been evidence that this child was
2 [REDACTED] and there's also been evidence
3 that occurred in Pickens County and that the
4 child was under the age of eleven at the
5 time. Based on the charge of criminal sexual
6 conduct with a minor, the -- the video itself
7 is evidence that a sexual battery occurred on
8 a child under the age of eleven. This would
9 certainly fit under the sexual exploitation
10 of a minor considering the evidence in the
11 light most favorable to the State, I find
12 that there is sufficient evidence for the
13 case to go forward to the jury. Okay.

14 All right. Let me go ahead and explain
15 his rights to him, Mr. Cantrell, then if
16 y'all need more time to talk to you, I'll
17 give that to you. Is that fair?

18 MR. CANTRELL: Yes, sir, I would just
19 ask that after you do that we be allowed to
20 step back and have a short conference.

21 THE COURT: That's fine.

22 MR. CANTRELL: Thank you.

23 THE COURT: Stand up for me, Mr. Cox.

24 DEFENDANT: (Complies).

25 THE COURT: Raise your right hand.

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1 DEFENDANT: (Complies) .

2 THE COURT: Do you swear or affirm that
3 everything that you're about to tell me be
4 the truth, the whole truth and nothing but
5 the truth?

6 DEFENDANT: Yes, sir.

7 THE COURT: Great. Thank you. Have
8 you understood everything that I've said
9 throughout this trial?

10 DEFENDANT: (Affirmative nod), to the
11 best of my knowledge.

12 THE COURT: Okay. And do you under-
13 stand me okay?

14 DEFENDANT: Yes, sir.

15 THE COURT: How far did you go in
16 school?

17 DEFENDANT: To the ninth grade.

18 THE COURT: Ninth grade?

19 DEFENDANT: Yes, sir.

20 THE COURT: So you understand me
21 perfectly well?

22 DEFENDANT: Yes.

23 THE COURT: Did you grow up here in the
24 Pickens area?

25 DEFENDANT: Somewhat.

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1 THE COURT: Where else did you grow up?

2 DEFENDANT: West Virginia.

3 THE COURT: West Virginia.

4 DEFENDANT: (Affirmative nod).

5 THE COURT: All right. So I've got to
6 have a conversation with you now. Okay?

7 DEFENDANT: (Affirmative nod).

8 THE COURT: If at any time you don't
9 understand me or you want me to explain
10 something, all you have to do is ask and I'll
11 be happy to explain anything else to you that
12 you want me to. Okay?

13 DEFENDANT: Yes, sir.

14 THE COURT: All right. At this time
15 I am going to explain to you some of your
16 rights. If you don't understand anything
17 that I say, just let me know.

18 DEFENDANT: Okay.

19 THE COURT: If you want me to explain
20 anything in more detail, just let me know.

21 DEFENDANT: Okay.

22 THE COURT: Do you understand?

23 DEFENDANT: Yes, sir.

24 THE COURT: We have now reached the
25 stage of the trial where you may present your

1 defense.

2 You have the right to claim the
3 protections that are given to you by the
4 Fifth Amendment to the Constitution of the
5 United States. This amendment states, in
6 part, that no person shall be compelled in
7 any criminal case to be a witness against
8 themselves. This means that you cannot be
9 required to testify in this case. You have
10 the right to testify on your own behalf,
11 however no one can make you testify. This is
12 a personal right and nobody else can waive
13 this right except you.

14 If you decide to testify, you will be
15 subject to the same rules that govern other
16 witnesses and you may be examined and cross-
17 examined on any relevant issue in this case.

18 In addition, if you have any convictions
19 that involve dishonesty or false statements
20 or for crimes punishable by imprisonment for
21 more than one year and I determine that the
22 probative value of admitting this evidence
23 outweighs its prejudicial affect to you, the
24 solicitor will be able to introduce your
25 record to attack your credibility.

1 If you decide to testify, this decision
2 on your part must be made freely and
3 voluntarily and intelligently with the
4 knowledge of the protections given to you by
5 the Fifth Amendment and the consequences of
6 your decision to testify.

7 If you decide not to testify, I will
8 instruct the jurors that they will not give
9 the fact that you did not testify any
10 consideration whatsoever, and that there is
11 to be absolutely no prejudice to you because
12 you did not testify.

13 It is left entirely up to you whether or
14 not you testify. You may talk with your
15 attorney or anyone else but the final
16 decision will be left entirely up to you.

17 Do you understand everything that I've
18 explained to you so far?

19 DEFENDANT: Yes, Your Honor.

20 THE COURT: Do you have any questions
21 about what I have explained to you?

22 DEFENDANT: No, sir.

23 THE COURT: Okay. Prior to today have
24 you and Mr. Cantrell talked about whether or
25 not you should testify?

1 DEFENDANT: Yes, sir.

2 THE COURT: Would you like some more
3 time to speak with him?

4 DEFENDANT: Yes, sir.

5 THE COURT: And do you request that
6 also, Mr. Cantrell?

7 MR. CANTRELL: Yes, I do.

8 THE COURT: Okay. We are going to take
9 a break and I'll let y'all be alone and you
10 can talk about it.

11 When we come back out, Mr. Cox, you need
12 to be prepared to tell me whether you want to
13 testify. Okay?

14 DEFENDANT: Yes, sir.

15 THE COURT: Okay. Tell me how much
16 time that you think that you need, Mr.
17 Cantrell?

18 MR. CANTRELL: Your Honor, if I could
19 have as much as ten to fifteen minutes, I --
20 I do have some witnesses here and that would
21 give us enough time to speak with them also.

22 THE COURT: That's perfectly fine.
23 Just let one of the court staff know when you
24 are ready to go.

25 MR. CANTRELL: Yes, sir.

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1 THE COURT: Tell them to come get me
2 and we will go right into it.

3 MR. CANTRELL: Thank you.

4 THE COURT: Do you need to run rap
5 sheets on any of ---

6 SOLICITOR JONES: Yes, Your Honor, if I
7 could ---

8 THE COURT: If you could, get the date
9 of birth of any witnesses.

10 MR. CANTRELL: Yes, sir.

11 THE COURT: Mr. Cox's criminal history
12 is what?

13 SOLICITOR JONES: Your Honor, he has
14 one shoplifting. It's from West Virginia.
15 Sometimes NCICs are kinda difficult to read,
16 so I can't determine what year it is from but
17 he does have one shoplifting.

18 THE COURT: Okay, so if they were to
19 cross-examine you, there is a potential that
20 they could examine you on one shoplifting
21 conviction but no other criminal history.

22 DEFENDANT: That was in 2009.

23 THE COURT: Okay, so if it happened in
24 2009?

25 DEFENDANT: I was nineteen.

1 THE COURT: Okay. If it happened in
2 2009, then it would be admissible because it
3 would be a crime that involves dishonesty.

4 So if you decided to testify -- or your
5 attorney could ask you, either one, 'isn't it
6 true that you were convicted of a shoplifting
7 case, in 2009.' They couldn't go into the
8 specifics of the case or anything like that
9 but they would be able to ask you about that
10 in front of the jury.

11 Thank you very much, let me know when you
12 are ready to go.

13 (BRIEF RECESS)

14 (DEFENDANT PRESENT)

15 THE COURT: All right, the State has
16 rested its case and the Defense has made its
17 directed verdict Motion, which I have ruled
18 upon.

19 Mr. Cox, if you would, stand up for me
20 again.

21 DEFENDANT: (Complies).

22 THE COURT: We took a break about 10:15
23 and it is now about 11:40, so it's been
24 approximately fifty minutes. I know that you
25 haven't been meeting with your attorney that

1 entire time because he's been meeting with
2 witnesses, things of that nature. Also they
3 talked to me on a couple of legal issue. But
4 have you had enough opportunity to discuss
5 with your attorney your right to testify?

6 DEFENDANT: Yes.

7 THE COURT: And have you understood
8 your conversations with him?

9 DEFENDANT: Yes, sir.

10 THE COURT: And did you understand your
11 conversations with me earlier today?

12 DEFENDANT: Yes, sir.

13 THE COURT: Okay. Do you wish to
14 testify in this case?

15 DEFENDANT: Yes.

16 THE COURT: Very well. You may be
17 seated.

18 DEFENDANT: (Complies).

19 THE COURT: All right. Now we want
20 to proffer some testimony of somebody named
21 Matt; is that correct, Mr. Cantrell?

22 MR. CANTRELL: Yes, sir. Matthew
23 Chapman and Tim Chapman.

24 THE COURT: Okay, let's start with
25 Matthew.

1 MR. CANTRELL: And this is for the
2 limited purposes of proffer.

3 THE COURT: Sure.

4 (WITNESS TAKES STAND)

5 PROFFERED TESTIMONY

6 MATTHEW CHAPMAN, having been sworn to
7 tell the truth, and nothing but the truth,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CANTRELL:

11 Q. Would you state your full name for
12 the record?

13 A. Matthew Dean Chapman.

14 Q. And, Matthew, you're here under my
15 subpoena; is that correct?

16 A. Yes, sir.

17 Q. In this case, do you know Brandon
18 Cox?

19 A. Yes, sir.

20 Q. Do you also know Daniel Ingram and
21 the other members of his family?

22 A. Yes, sir.

23 Q. Again, you were subpoenaed here and
24 you were here yesterday, for part of the day;
25 is that correct?

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1 A. Yes, sir.

2 Q. And you were instructed to return
3 here today?

4 A. Yes, sir.

5 Q. While you were in the courthouse at
6 any point in time -- and let's go back to
7 yesterday, first of all.

8 A. Okay.

9 Q. Did you have conversations with
10 Daniel Ingram?

11 A. Yes, sir.

12 Q. You know Daniel Ingram, is that
13 right?

14 A. Yes, sir.

15 Q. You've known him for several years?

16 A. Yes, sir.

17 Q. These conversations, did Mr. Ingram
18 come up and talk to you or did you go up and
19 initiate the conversation with him?

20 A. He came up and talked to me.

21 Q. Did he talk to you about anything
22 pertaining to this case?

23 A. Yes, sir.

24 Q. Can you tell me if he talked to you
25 about your testimony in this case?

1 A. Yes, sir.

2 Q. All right, tell us exactly what he
3 said.

4 A. He was trying to tell me how to
5 answer questions and he told me some of the
6 evidence that the prosecution had in the
7 case.

8 Q. How did -- first of all, how did he
9 tell you to testify? What did he say that he
10 wanted you to say?

11 A. Basically the truth of what I was
12 already going to say, but it was really just
13 concerning about some questions that you were
14 asking me and how I was answering them.

15 Q. And did it have to do with the
16 incident that happened on Memorial Day and
17 the day after, two years ago?

18 A. Yes, sir.

19 Q. What did he tell you?

20 A. He told me what to say as far as
21 what day that I was there and where I slept
22 that night, to say that I was there.

23 Q. Did he talk to you about anything
24 involving water, recreation, anything like
25 that?

1 A. Yeah, he said -- he was telling me
2 that it happened the day before for her, the
3 day before that, and to tell them that I was
4 there the day after that.

5 Q. Also he talked about where you
6 slept?

7 A. Yeah.

8 Q. That was Monday night, Memorial Day?

9 A. Yes, sir.

10 Q. Is that true?

11 A. Yes, sir.

12 Q. Did he also tell you what to say
13 about what you were doing, whether you were
14 playing games or not?

15 A. Yes, sir.

16 Q. What else did he tell you about any
17 testimony that had come up?

18 A. About testimony?

19 Q. (Affirmative nod), about any of the
20 evidence that has come out?

21 A. He told me that the prosecutor had
22 DNA evidence that was matched to Brandon or
23 to him and that it was an unknown party's
24 DNA. He told me that they were going to try
25 to throw me under the bus for it.

1 Q. He told you that it was unidentified
2 DNA and that they were going to try to throw
3 you under the bus?

4 A. Yes, sir.

5 Q. Did you want to have these
6 conversations with him?

7 A. No, sir.

8 Q. At one point did he ask you to step
9 outside and talk?

10 A. Yes, sir.

11 Q. Was your mother with you yesterday?

12 A. Yes, sir.

13 Q. Did she hear that?

14 A. Yes, sir.

15 Q. Did she step outside when Brandon --
16 I'm sorry, when Daniel asked you to step
17 outside?

18 A. Yes, sir.

19 Q. Was she involved in that conversa-
20 tion also?

21 A. Yes, sir, she was in there with me.

22 Q. Did that conversation take place
23 outside, across the street in the parking
24 lot?

25 A. Yes, sir.

1 Q. Do you remember any other specifics
2 or any other information that Daniel gave you
3 or anything that he said to you?

4 A. Not really.

5 Q. Did any of that happen today or did
6 all of it happen yesterday?

7 A. It all happened yesterday.

8 Q. Did you feel intimidated?

9 A. Yeah, a little bit.

10 Q. Did you feel like you were being
11 told what to do and what to say in this
12 courtroom?

13 A. Yeah. A little bit, yeah.

14 Q. Do you have any need or desire to
15 talk to Daniel again?

16 A. No.

17 Q. Just to be clear, is this going to
18 change your testimony or make you say any-
19 thing other than the truth?

20 A. No.

21 Q. But you did feel intimidated by all
22 of this?

23 A. Yes, sir.

24 Q. Thank you. Please answer any
25 questions that Mr. Jones has.

1 A. Okay.

2 CROSS EXAMINATION

3 BY SOLICITOR JONES:

4 Q. Mr. Chapman, did Daniel Ingram tell
5 you to lie on the stand?

6 A. No, not that I'm aware of.

7 Q. Not that you're aware of?

8 A. (No verbal response).

9 Q. Did he tell you to say anything that
10 you felt was not the truth?

11 A. No, not that I am aware of.

12 Q. Did he tell you anything -- did he
13 direct you to testify about anything that you
14 weren't already going to say?

15 A. No, not that I'm aware of.

16 Q. Well, why did you feel intimidated?

17 A. Just because of the type of person
18 that he is towards me.

19 Q. Okay. So the conversations that
20 Daniel Ingram had with you did not and will
21 not change your testimony?

22 A. Not at all.

23 Q. And he did not ask you to change
24 your testimony in any way?

25 A. No, I don't think so.

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1 SOLICITOR JONES: No further questions,
2 Your Honor.

3 MR. CANTRELL: One or two, briefly.

4 REDIRECT EXAMINATION

5 BY SOLICITOR JONES:

6 Q. Matthew, to be clear, when these
7 conversations took place, you hadn't said
8 anything to Daniel or told him anything about
9 what your testimony was going to be?

10 A. No.

11 Q. He started immediately telling you
12 what your testimony should be?

13 A. Yes, sir.

14 MR. CANTRELL: No further questions.

15 RECROSS EXAMINATION

16 BY SOLICITOR JONES:

17 Q. Did he threaten you?

18 A. (Negative gesture).

19 Q. Answer out loud.

20 A. No, sir.

21 Q. Did he put his hands on you?

22 A. No, sir.

23 Q. Was it 'you better say this, or
24 else.'

25 A. No, sir, but I -- I -- just from the

1 type of person that he is and the past that
2 we have, I kinda got the feeling.

3 Q. Has he threatened you in the past?

4 A. He has threatened me about other
5 things before.

6 Q. Unrelated to this?

7 A. Yeah. Yes, sir.

8 THE COURT: But he didn't come out and
9 explicitly threaten you?

10 MATTHEW CHAPMAN: No, sir.

11 THE COURT: Did he come out and touch
12 you or get physical with you?

13 MATTHEW CHAPMAN: No, sir.

14 THE COURT: Any follow-up to that, Mr.
15 Jones?

16 SOLICITOR JONES: Yeah.

17 RE CROSS EXAMINATION CONTINUED

18 BY SOLICITOR JONES:

19 Q. Were y'all friends before this?
20 Friendly?

21 A. Yes, sir.

22 Q. So would you expect if you saw him
23 here, would you expect to talk to him anyway?

24 A. I don't know. Yeah, I guess.

25 Q. Did y'all have any other conversa-

1 tion about other stuff as you were
2 talking about this particular case?

3 A. Yeah.

4 Q. You did?

5 A. (Affirmative nod).

6 Q. Just a casual, friendly conversa-
7 tion?

8 A. Um-humm, (affirmative nod).

9 Q. Is that a "yes"?

10 A. Yes, sir.

11 THE COURT: Mr. Cantrell, you can
12 follow up on that if you want to.

13 MR. CANTRELL: Nothing at this time.

14 THE COURT: Okay. You can step down.
15 Thank you.

16 (WITNESS STEPS DOWN)

17 THE COURT: Ask your mom to come in for
18 us, please. Thank you very much.

19 (WITNESS TAKES STAND)

20 TAMMY CHAPMAN, having been sworn to tell
21 the truth, and nothing but the truth,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CANTRELL:

25 Q. Ms. Chapman, I have just a few

1 questions. Please answer out loud and clear,
2 lean forward to the microphone so that every-
3 body can hear you.

4 A. Okay.

5 Q. You are Matthew Chapman's mother; is
6 that correct?

7 A. Correct.

8 Q. Were you up here yesterday when he
9 came up pursuant to my subpoena?

10 A. Yes.

11 Q. And today also?

12 A. Yes.

13 Q. Now, do you know or have you been
14 friends with Daniel Ingram?

15 A. Matthew and them were friends. I've
16 been an acquaintance.

17 Q. Just acquaintances?

18 A. Pretty much, (affirmative nod).

19 Q. Let me ask you, yesterday when you
20 were up here with Matthew, did Daniel Ingram
21 come up and initiate a conversation with
22 Matthew?

23 A. Yes.

24 Q. And can you tell us, did he say
25 anything to Matthew about the testimony in

1 this case -- let's start first with Matthew's
2 testimony in this case.

3 A. Yes.

4 Q. What did he say?

5 A. He told Matthew to say when it
6 happened.

7 Q. What else? Did he expound on that?

8 A. He just said that it happened the
9 night that they had went to the water park.

10 Q. Anything else about that?

11 A. No. I don't think so.

12 Q. Did he at any point say anything to
13 Matthew about him being in the home that
14 weekend, about what Matthew was doing in the
15 home? Did you hear anything about that?

16 A. Told him to say that they were
17 playing the X-Box.

18 Q. And did Daniel say anything about
19 the evidence, particularly the DNA?

20 A. Him and his sister did, (affirmative
21 nod).

22 Q. Who did that?

23 A. Daniel and his sister.

24 Q. What did they say?

25 A. That they had DNA evidence but that

1 it didn't show that it was Brandon's, that it
2 didn't show that it was Daniel's, that it was
3 from an unknown source.

4 Q. Did he say anything else to Matthew
5 about that?

6 A. He just told Matthew that he thought
7 that they were going to try to put him under
8 the bus.

9 Q. Did Matthew initiate any conversa-
10 tion or talk about what his conversation was
11 going to be before all of this or did Daniel
12 just come up and initiated all of this on his
13 own?

14 A. Daniel just came up and initiated
15 it.

16 Q. Also to be clear about it, there
17 were no verbal threats or physical threats
18 or anything like that?

19 A. No.

20 Q. But that aside, did you and do you
21 believe that Matthew felt intimidated by this
22 conversation?

23 A. Yes.

24 Q. Did Daniel in fact ask Matthew to
25 come outside to talk?

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1 A. Yes.

2 MR. CANTRELL: No further questions,
3 Your Honor.

4 SOLICITOR JONES: No questions, Your
5 Honor.

6 THE COURT: Thank you. You may step
7 down.

8 (WITNESS STEPS DOWN)

9 THE COURT: Mr. Cantrell?

10 MR. CANTRELL: Your Honor, for the
11 purposes of the proffer, that's all that we
12 have.

13 THE COURT: Okay. All right. Do you
14 want to proffer any testimony?

15 SOLICITOR JONES: No, Your Honor.

16 (PROFFER CONCLUDED)

17 THE COURT: Okay.

18 SOLICITOR JONES: But I would ask that
19 that line of questioning not be allowed to be
20 introduced in front of the jury because it's
21 completely irrelevant.

22 The witnesses testified that Mr. Ingram
23 did not threaten them, did not tell them to
24 lie. He testified that Mr. Ingram did not
25 change his testimony at all, and he testified

1 that Mr. Ingram encouraged him, essentially,
2 to tell the truth, what he was going to tell
3 anyway.

4 So I think it is completely irrelevant to
5 the issue of whether Mr. Cox sexually abused
6 this child. I think that there is a very
7 real chance that it could muddy the waters,
8 confuse the issues for the jury. It's an
9 attempt to slander the father of the victim
10 and that would be the only purpose for
11 defense counsel to put that in evidence, Your
12 Honor.

13 So I would ask that he be restricted
14 from asking Mr. Chapman or Ms. Chapman any
15 questions as to what Daniel Ingram said to
16 them in the courthouse yesterday or today
17 concerning this trial.

18 THE COURT: All right. Mr. Cantrell?

19 MR. CANTRELL: Your Honor, I want to
20 disagree with Mr. Jones. I don't think that
21 we can say that Mr. Ingram was encouraging
22 the witness to tell the truth.

23 Mr. Chapman said that what Mr. Ingram
24 talked about was what he was going to say,
25 but it was not to encourage the witness to

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1 tell the truth.

2 Secondly, it isn't slander. I believe
3 he's telling the truth about a conversation.
4 There were no threats but I don't think that
5 necessarily means that there was no attempt
6 to intimidate or influence the testimony of a
7 witness.

8 Then, lastly, Your Honor, very simply
9 everyone in this courtroom has been here
10 every time that you've admonished the jury
11 about communications about this case. I
12 realize that is a discussion with jurors, but
13 I don't think that it can be missed by anyone
14 in this courtroom that communication about
15 this case -- especially and specifically
16 about upcoming witnesses -- is inappropriate.
17 Everyone who's been in this courtroom should
18 know that.

19 I do think it is relevant to the
20 testimony of this witness and it has
21 relevance to the testimony of a prior witness
22 based on good behavior. So I do believe it,
23 to be admissible as part of the evidence.

24 THE COURT: All right.

25 SOLICITOR JONES: Your Honor, the

1 record should reflect that upon questioning
2 by Mr. Cantrell that Matthew Chapman said
3 early on in his testimony, and I can't quote
4 it exactly, but he said that 'Mr. Ingram
5 essentially told me or encouraged me to tell
6 the truth, what I was going to say anything.'

7 I don't see how that can be -- I know
8 that he said that he took it as intimidating,
9 being intimidated because he felt slightly
10 threatened but I think this is just well
11 beyond what the issue in this trial is, so I
12 would ask that it be excluded.

13 THE COURT: Okay. At this point I am
14 going to exclude testimony down that line of
15 questioning about a conversation that
16 occurred between Mr. Ingram and Matthew
17 Chapman and/or Tammy Chapman. I don't find
18 that to be relevant to the issues at hand.
19 I also think under Rule 403 that it would be
20 confusion to the jury as to what the true
21 issues in this case are.

22 Now, that being said, I want to make sure
23 that everybody is clear on this from this
24 point forward, I'm not saying that the State
25 can't open the door to that on cross-

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1 examination because something could come out
2 in Matthew Chapman's testimony that the State
3 elicits that could make the conversation
4 between Mr. Ingram and Mr. Chapman
5 admissible. That's number one.

6 Number two, I need everybody to be clear
7 that we're not talking -- that no one is
8 talking to any witnesses unless you're an
9 attorney or someone working directly for an
10 attorney. You're not to be talking to any
11 witnesses in the case about anything, period.
12 Okay?

13 Have you got that, Mr. Ingram?

14 DANIEL INGRAM: Yes.

15 THE COURT: Have you got that, Ms.
16 McConnell?

17 MS. MCCONNELL: Yes, sir.

18 THE COURT: Who are these people back
19 here -- the same goes for y'all. This case
20 needs to be decided by the jurors, regardless
21 of what side of the case they are on, they
22 need to be free from intimidation and worry.
23 We want them to be come to court, we want
24 them to tell the truth. That's what a trial
25 is about. They need to be free from

1 intimidation, pressure or coercion. I'm not
2 going to tolerate anybody else talking to any
3 witnesses.

4 The next time someone talks to a witness,
5 I'm going to hold them in contempt. I could
6 put you in jail for six months based on just
7 a hearing that I will hold myself, no jury
8 trial or anything else. That's the way
9 contempt works.

10 I am not going to tolerate -- I never
11 said that in the beginning of this case. I
12 didn't know that -- we are not under a
13 sequestration Order or anything like that,
14 so it's a little bit different than if things
15 had been set up that way in the beginning.
16 But from this point forward, there's to be
17 no communication with any witnesses at all.

18 Mr. Chapman has testified that he plans
19 on telling the truth, that he plans on
20 telling his version of the story. Mr. Ingram
21 didn't change or alter his testimony, and
22 that there were no physical threats or
23 coercion though he felt intimidated.

24 His mother was present during the
25 majority of the conversations -- these

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1 conversations all happened in public places,
2 public parking lots, here at the public
3 courthouse which is completely open. It was
4 not a situation where I've certainly seen
5 before in the past of true witness
6 intimidation, pressure, force, threats,
7 coercion, things of that nature.

8 So at this point I am not going to allow
9 that testimony. I am not saying that a door
10 couldn't be opened but I don't -- I want
11 everybody to be clear that nothing like that,
12 in any way, shape or form, is going to be
13 tolerated by the court at all.

14 If anybody does violate that Order, I
15 will deal with them in a contempt hearing.
16 Okay? Everybody good? (No verbal response).
17 Okay.

18 Bring in the jury.

19 (JURY IN @ 12:00 NOON)

20 THE COURT: All right, ladies and
21 gentlemen. Welcome back. I'm sorry about
22 the extended delay. I take full responsi-
23 bility for that. We had some issues that
24 came up that I needed to take up outside of
25 your presence.

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1 Now, the State has rested its case and
2 now the defense has an opportunity if they
3 choose -- or course, the burden is not on the
4 defense and they do not have to if they --
5 because the defendant is presumed to be
6 innocent, the burden of proof lies with the
7 State to prove guilt beyond a reasonable
8 doubt. But the defense may present a case if
9 they choose to.

10 Mr. Cantrell, would you like to call any
11 witnesses?

12 MR. CANTRELL: Yes, we would, Your
13 Honor.

14 THE COURT: Okay.

15 MR. CANTRELL: Defense calls Anthony
16 Martocchio.

17 THE COURT: Please come forward, sir.

18 (WITNESS TAKES STAND)

19 ANTHONY MARTOCCHIO, having been sworn
20 to tell the truth, and nothing but the truth,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. CANTRELL:

24 Q. Anthony, would you repeat your name
25 and also spell your last name, please?

1 A. Anthony Martocchio. It is spelled
2 M-a-r-t-o-c-c-h-i-o.

3 Q. Okay. Where do you live?

4 A. Whispering Pines, Easley.

5 Q. What is the address?

6 A. 433 Rotterdam Road.

7 Q. How long have you lived there?

8 A. About the last five years.

9 Q. Is that near or across the street or
10 neighbors to where the Ingrams used to live?

11 A. It's directly across the street.

12 Q. And you were living there, near the
13 Ingrams when they lived there?

14 A. Yes.

15 Q. And -- well, let me back up and ask
16 you a couple or other questions before I get
17 into that.

18 A. Okay.

19 Q. As you know, anytime that someone
20 testifies, the court allows either party or
21 the court to inquire or determine if a
22 witness has any prior criminal convictions
23 that would impact their testimony. You have
24 some prior criminal convictions, is that
25 right?

1 A. Yes.

2 Q. And are any of those for any types
3 of thefts or inappropriate use of money?

4 A. I've never been convicted. I'm
5 being charged right now.

6 Q. What convictions have you had?

7 A. No convictions, just charges.

8 Q. Okay, so we've cleared that up and
9 gotten that out. Let me back up and ask you
10 also, when you were living across from the
11 Ingrams did you know or come to know Brandon
12 Cox?

13 A. Yeah, knew I him throughout the
14 neighborhood. I actually used to live on
15 the same street as his dad before I moved on
16 Rotterdam. I lived on Sharon Lane, where his
17 dad lived. You know, I knew him there. We'd
18 lived in the same neighborhood for quite a
19 while.

20 Q. So you'd known him for a while?

21 A. (Affirmative nod).

22 Q. Were you aware of him moving into
23 the Ingram residence?

24 A. Yes.

25 Q. Do you remember approximately how

1 long he lived there?

2 A. I don't remember exactly how long.

3 Q. To start at the end and work
4 backwards maybe, do you remember that Brandon
5 was in fact arrested for the incident
6 involved in this case?

7 A. Yes.

8 Q. And that's the last time he lived
9 across the street from you?

10 A. Yes.

11 Q. But he did live for some period of
12 time in that residence with the Ingrams?

13 A. Yes, sir.

14 Q. Let's back up beyond that, before
15 Brandon moved in did you know, become
16 acquainted or have any contact with the
17 Ingrams or any of their children?

18 A. [REDACTED] which I believe was
19 either [REDACTED]'s wife or girlfriend, and the
20 children came to play with the children that
21 we have at our house.

22 Q. Do you remember the approximate ages
23 of the Ingram children?

24 A. The oldest was [REDACTED], then [REDACTED] and
25 then [REDACTED] I don't remember their ages.

1 Q. All right. They would come over to
2 your house?

3 A. Yes.

4 Q. Did your children ever go over to
5 their house very much?

6 A. Not as much as they came over to our
7 yard. You know, they just played -- our
8 front yards were very close, so they stayed
9 mostly right there.

10 Q. Did you have any observations about
11 the Ingram children when they came over?

12 A. Other than they seemed just -- they
13 always kind of asked for food and things like
14 that. That's ---

15 SOLICITOR JONES: Your Honor, I would
16 object to the relevance of this line of
17 questioning.

18 MR. CANTRELL: Your Honor, I will
19 show the relevance with ---

20 THE COURT: All right. Overruled.

21 DIRECT EXAMINATION CONTINUED

22 BY MR. CANTRELL:

23 Q. Did they ever ask for anything else
24 or ask to use anything else at your
25 residence?

1 A. Yes. Rosie would come over and
2 she'd ask to use my cousin's cellphone. She
3 would sometimes use my cellphone if my cousin
4 wasn't there. The kids would sometimes also
5 play on the cellphone.

6 Q. Did you have Wifi on your phone?

7 A. Yeah, we have Wifi at the house.
8 Actually for a time there Daniel, I think,
9 was using our internet. We gave him the
10 password and everything like that, and we let
11 him use our internet. Then something
12 happened between my cousin, I think, and
13 Daniel, so they cut that off.

14 Q. So they would borrow phones and
15 borrow the Wifi?

16 A. Yeah, (affirmative nod).

17 Q. After Brandon moved in, did things
18 appear to be different?

19 A. They came over less, that's for
20 sure. They seemed to not come over to use a
21 phone or, you know, -- when they came over to
22 play, they asked for food. But they seemed
23 to not, because there seemed to be a better
24 quality over there once Brandon moved in, to
25 be honest with you.

1 Q. And they did not ask you to use your
2 cell phones?

3 A. No.

4 Q. Did you ever see anyone at the
5 Ingram residence using Brandon's cell phone?

6 A. Most of the time it would be Little
7 Daniel around the house with the phone, stuff
8 like that.

9 Q. Now, being across the street, did
10 you ever have an opportunity to observe
11 whether various people were coming in and out
12 of the Ingram household?

13 A. It would appear -- through all hours
14 of the day and night, there would be a lot of
15 people coming and going.

16 Q. How would you be able to tell that?

17 A. I am outside a lot. I smoke
18 cigarettes and I don't smoke in the house, so
19 I smoke cigarettes outside and I observe
20 everybody in the neighbor and they were just
21 right across the street.

22 Q. Did they come in by car or by foot,
23 or both?

24 A. Both. Sometimes people in the
25 neighborhood would come, people in cars would

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1 come.

2 Q. Did it appear, based on your
3 observations, that people would come and
4 spend the night?

5 SOLICITOR JONES: Objection. He's
6 leading this witness, Your Honor.

7 THE COURT: Sustained. Rephrase your
8 question.

9 DIRECT EXAMINATION CONTINUED
10 BY MR. CANTRELL:

11 Q. How long would people's vehicles
12 stay at the Ingram residence, that you've
13 observed?

14 A. Different variations of time.

15 Q. What would be the longest period of
16 time?

17 A. Some stayed overnight, would be
18 there the next morning.

19 Q. This happen often?

20 A. Yeah.

21 Q. Do you remember the day that Brandon
22 got arrested?

23 A. (Affirmative nod).

24 Q. Why would you know that, how would
25 you know that?

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1 A. I was actually upstairs in the
2 closest bedroom to the Ingram home and
3 observed him being put in a police car from
4 my window.

5 Q. So the thing that you've just
6 described occurred after Brandon arrived in
7 the house, as far as the children and that
8 sort of thing?

9 A. (Affirmative nod).

10 Q. As well as the cars coming in and
11 out?

12 A. Certainly.

13 Q. Did the children -- strike that.
14 After that did you have much additional
15 contact or communication with anybody in the
16 Ingram home?

17 A. No.

18 Q. Just to be clear about this, as far
19 as the allegations of the incident of what
20 may have happened there in the home, you have
21 no knowledge of that whatsoever?

22 A. No. I know what the allegations are
23 but as far as anything else, I don't know.

24 Q. Your testimony is just what you
25 observed about the household?

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1 A. Yes, sir.

2 MR. CANTRELL: No further questions.

3 CROSS EXAMINATION

4 BY SOLICITOR JONES:

5 Q. How do you say your last name again?

6 A. Martocchio (mar-ta-shee-oh).

7 Q. Mr. Martocchio, where do you work at
8 right now?

9 A. Right now I work at the Gilstrap
10 family dealerships. I work for Easley
11 Mitsubishi, the Truck Farm, Greer Mitsubishi
12 and the Greer Truck Farm.

13 Q. In May 2015, where did you work?

14 A. The Carwash, I believe.

15 Q. What were your hours then?

16 A. Would be probably from around 8:30
17 in the morning to 5:00 in the evening.

18 Q. Did you typically have regular hours
19 to go to sleep, did you go to bed about the
20 same time and wake up about the same time?

21 A. Usually, yes.

22 Q. About what time was that?

23 A. I usually go to bed around 11:00 or
24 so at night. Sometimes on the weekend or if
25 I have days off, I'd stay up later.

1 Q. So were you 24/7 watching the
2 Ingram's house?

3 A. I wasn't like spying on them or
4 anything like that, just normal observations
5 from living across the street.

6 Q. What kind of car does Daniel Ingram
7 drive, do you remember?

8 A. A Durango, a Dodge Durango.

9 Q. Did anybody else at the house have a
10 car that they drove?

11 A. There were several cars at the
12 house. I don't know whose was whose. I
13 wouldn't be able to answer that question.

14 Q. Okay. You said that you remember
15 when Mr. Cox was arrested?

16 A. (Affirmative nod).

17 Q. You were in a bedroom that was
18 overlooking the Ingrams' house; is that
19 right?

20 A. Yes, we're right across the street
21 so, I mean, it's basically on the same level
22 as their second floor and I was looking down
23 towards the street.

24 Q. Do you know how long Brandon Cox
25 stayed at the house, Mr. Ingram's house?

1 A. No, I don't remember the exact
2 period of time.

3 Q. Did you know Brandon before he lived
4 at the Ingrams' house or when he moved to the
5 Ingrams' house.

6 A. Like I told Mr. Cantrell, we lived
7 in the same neighborhood for quite a while,
8 so I knew him from around the neighborhood
9 and stuff like that; but moreso when he moved
10 in across the street.

11 Q. Okay. So y'all would hang out on a
12 fairly regular basis?

13 A. No, we'd just see each other around
14 mostly.

15 Q. You'd just see each other around?

16 A. Right.

17 Q. Did Brandon Cox ever come into your
18 house?

19 A. No.

20 Q. Did you ever go into the Ingrams'
21 house?

22 A. I have been on the front porch. I
23 never actually entered the residence.

24 Q. You said that -- or did you say that
25 the children, that Daniel Ingram's children

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1 would come over to your house?

2 A. Yeah, sometimes.

3 Q. But Brandon Cox never came over to
4 your house?

5 A. No.

6 Q. Right?

7 A. Yeah.

8 Q. Okay.

9 A. Mostly when the kids came over it
10 was prior to when Brandon moved in. After
11 Brandon moved in, they didn't come over as
12 much.

13 Q. And you remember some of the
14 children asking to use your cellphone; is
15 that what you said?

16 A. Yes, that's true.

17 Q. Okay. Did that strike you as odd
18 that a child would want to play on a cell
19 phone?

20 A. In this day and age, not
21 necessarily. I mean, they all like video
22 games and stuff like that.

23 Q. And you have children?

24 A. I have a stepchild.

25 Q. How old ---

1 A. And there is ---

2 Q. --- is your stepchild?

3 A. Seven.

4 Q. Seven?

5 A. (Affirmative nod).

6 Q. She is seven currently?

7 A. Yes.

8 Q. So did [REDACTED] come over
9 specifically to play with your stepchild or
10 did they just come over for no particular
11 reason?

12 A. I'm sorry, I didn't hear the first
13 part of your question.

14 Q. Did [REDACTED] come over
15 specifically to play with your stepchild?

16 A. No, not at that time. At that time
17 the stepchild was not in my life. I have
18 been with my fiancée and stepchild for three
19 years, so this was ---

20 Q. This was in May of 2015?

21 A. We weren't together then.

22 Q. So you didn't have any children at
23 your house?

24 A. Well, the children that lived there,
25 (affirmative nod). My cousin's children.

1 Q. So you lived with other people?

2 A. Yes.

3 Q. How old were the children that lived
4 in your house in 2015?

5 A. Ten; seven, I believe; and then
6 there was a seventeen-year-old or he was
7 sixteen years old.

8 Q. Did the Ingram boys and those
9 children you just referenced, your cousin's
10 children, did they play together?

11 A. Occasionally, yeah.

12 SOLICITOR JONES: No further questions.

13 MR. CANTRELL: No further questions,
14 Your Honor.

15 THE COURT: Thank you. You may step
16 down.

17 (WITNESS STEPS DOWN)

18 THE COURT: Have a nice day. Call your
19 next witness.

20 MR. CANTRELL: I would ask that he be
21 excused, or he can remain if he chooses.

22 SOLICITOR JONES: No objection from the
23 State, Your Honor.

24 THE COURT: Thank you very much.

25 MR. CANTRELL: The Defense calls

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1 Matthew Chapman.

2 (WITNESS TAKES STAND)

3 MATTHEW CHAPMAN, having been sworn to
4 tell the truth, and nothing but the truth,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. CANTRELL:

8 Q. Matthew, how old are you?

9 A. I'm 22.

10 Q. Where do you live?

11 A. Easley, South Carolina.

12 Q. Where in Easley?

13 A. 304 Old Stagecoach Road.

14 Q. And do you know Brandon Cox?

15 A. Yes, sir.

16 Q. Do you know Daniel Ingram?

17 A. Yes, sir.

18 Q. Over the years, have you had a case
19 to visit the Ingram home?

20 A. Yes, sir.

21 Q. Do you remember when Matthew (sic)
22 lived in that home?

23 A. When Matthew did?

24 Q. I'm sorry. Do you remember when
25 Brandon lived in that home?

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1 A. Yes, sir.

2 Q. Did you visit in the home when
3 Brandon lived in the home?

4 A. Yes, sir.

5 Q. Now, when you would be in the home,
6 would there be other people in and out of the
7 home, or some people who would stay there
8 occasionally?

9 A. Yes, sir.

10 Q. Did you in fact go and stay there
11 occasionally?

12 A. Yes, sir.

13 Q. Also while you were in the home --
14 Brandon had a cell phone, didn't he?

15 A. Yes, sir.

16 Q. While you were there, did you ever
17 have occasion to see Daniel, Senior or
18 Junior, or any of the children using the
19 phone?

20 A. Yes, sir.

21 Q. Did they seem to have free use of
22 it?

23 A. Yes, sir.

24 Q. And did they appear to be able to
25 open it up using the password or whatever?

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1 A. Yes, sir.

2 Q. Do you remember the day that Brandon
3 Cox was arrested there at the Ingram
4 household?

5 A. Yes, sir.

6 Q. Where had you spent that night?

7 A. I had stayed at Daniel's.

8 Q. So you were there in the Ingram
9 household when all of this happened?

10 A. Yes, sir.

11 Q. And on the morning of the 26th --
12 well, let me back up to the night before.
13 Did you go to sleep?

14 A. Yes, sir.

15 Q. Where did you go to sleep?

16 A. I fell asleep on the couch upstairs.

17 Q. Upstairs, in the living room?

18 A. Yes, sir.

19 Q. Were you awake when Brandon came in
20 from work?

21 A. No, sir.

22 Q. What woke you up the next morning?

23 A. Daniel arguing with Brandon over
24 Brandon's phone, fighting with him.

25 Q. They woke you out of your sleep?

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1 A. Yeah.

2 Q. So did you know that Brandon was
3 subsequently arrested ---

4 A. Yes, sir.

5 Q. --- and taken to the law enforcement
6 center?

7 A. Yes, sir.

8 Q. The fact is that you were there?

9 A. Yes, sir.

10 Q. The additional fact is that you
11 don't know what happened, you were asleep
12 through everything until the fight?

13 A. Yes, sir.

14 Q. And are you aware of anyone else
15 that was there other than the family and you?

16 A. No, sir.

17 Q. But you had been there on occasions
18 when other people would be staying there?

19 A. Yes, sir.

20 Q. Now, you said that you've seen
21 Daniel's family using Brandon's phone. Have
22 you ever seen other people using his phone?

23 A. No, sir.

24 Q. Did he allow people to use it?

25 A. Not that I'm aware of. I'm not

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1 sure.

2 MR. CANTRELL: I don't have any
3 further questions, Matthew, but please answer
4 any that Mr. Jones may have.

5 CROSS EXAMINATION

6 BY SOLICITOR JONES:

7 Q. Mr. Chapman, you say that you
8 stayed at Daniel Ingram's house the night
9 before Brandon Cox got arrested; isn't that
10 right?

11 A. Yes, sir.

12 Q. So Brandon Cox was arrested around
13 11:00 a.m. on the 26th.

14 A. Yes, sir.

15 Q. That means that you stayed, spent
16 the night from the evening of the 25th on; is
17 that correct?

18 A. Yes, sir.

19 Q. Do you remember what time on the 25th
20 that you got to Daniel Ingram's house?

21 A. It was around dark, so I guess
22 around 7:00.

23 Q. Around dark, so around 7:00?

24 A. (Affirmative nod).

25 Q. And what month was this?

1 A. Uh, -- (pause).

2 Q. It was in May?

3 A. Yes, sir.

4 Q. So it could have been a little bit
5 later than 7:00, isn't that right?

6 A. I guess so, yeah.

7 Q. So on May 25th, the day that you came
8 to spend the night, you said it was in the
9 evening?

10 A. Yes, sir.

11 Q. So 8:00 a.m. to 10:00 a.m. on May
12 25th, you were not at Daniel Ingram's house;
13 isn't that correct?

14 A. I was not, no, sir.

15 Q. Mr. Chapman, in May of 2015, do you
16 know approximately how old the children were?
17 Daniel Ingram's children?

18 A. No, I am not sure, sir.

19 Q. But they were young, weren't they?

20 A. Yes, sir.

21 Q. Even the boys were young, isn't that
22 correct?

23 A. Yes, sir.

24 Q. They were children; isn't that
25 correct?

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1 A. Yes, sir.

2 SOLICITOR JONES: No further questions,
3 Your Honor.

4 MR. CANTRELL: No further questions.

5 THE COURT: Thank you very much. Any
6 objection to this witness being excused? By
7 the State?

8 SOLICITOR JONES: No, sir.

9 MR. CANTRELL: No, Your Honor. I
10 would ask that he be excused or allowed to
11 stay in the courtroom.

12 THE COURT: You may step down, Mr.
13 Chapman. Thank you very much.

14 (WITNESS STEPS DOWN)

15 THE COURT: You may call your next
16 witness.

17 MR. CANTRELL: Your Honor, I have one
18 more witness which may be a lengthy witness.

19 THE COURT: Then let's go ahead and
20 take our lunch break. I don't like to stop
21 a witness right in the middle of the
22 examinations.

23 It is 12:25, and we will start back at
24 2:00 o'clock -- well, let's start back at
25 1:45.

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1 Do not discuss the case with anyone in
2 any way, shape or form. Enjoy your lunch,
3 you have about an hour or so off.

4 Do not discuss the case.

5 Keep an open mind.

6 You have not heard all the evidence.

7 I still have not told you what the law is
8 in this case.

9 So do not discuss the case, keep an open
10 mind, be back at 1:45. Enjoy your lunch.

11 (JURY OUT @ 12:24 P.M.)

12 THE COURT: Before we break, do you
13 have your computer with you? Or, Mr.
14 Welborn, may I print this jury charge that
15 I have on my computer?

16 CLERK: Yes, Your Honor.

17 (OFF RECORD DISCUSSION RE: PRINTING)

18 THE COURT: Anything else before we
19 break?

20 SOLICITOR JONES: Not from the State.

21 THE COURT: All right, don't leave
22 until he gives you a copy to show you the
23 things that I normally say.

24 I give the new circumstantial evidence
25 charge. I charge *Victor v Nebraska*.

1 I have a part in there about multiple
2 charges.

3 Everything else is pretty much standard.
4 But the new circumstantial evidence charge is
5 in there.

6 I took the sexual exploitation of a minor
7 charge and just used the statute.

8 SOLICITOR JONES: Okay.

9 THE COURT: I say that "they have to
10 prove all these elements beyond a reasonable
11 doubt." I added that a minor means an
12 individual that was less than eighteen years
13 old. That is from 16-15-375(3). The section
14 right above that says that all this applies
15 to the sexual exploitation charge, so I added
16 that in.

17 All right, I will see you back at 1:45.
18 Thank you very much.

19 (LUNCH RECESS)

20 (DEFENDANT PRESENT)

21 THE COURT: Anything that we need to
22 take up before we start, Mr. Jones?

23 SOLICITOR JONES: Nothing from the
24 State, Your Honor.

25 THE COURT: Mr. Cantrell?

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1 MR. CANTRELL: Nothing, Your Honor.

2 THE COURT: Okay. Is he unshackled?

3 MR. CANTRELL: Yes, he is.

4 THE COURT: Okay. I didn't want the
5 jury to see him shackled, so you can walk up
6 here freely.

7 (JURY IN @ 1:45 P.M.)

8 THE COURT: We will continue now. Mr.
9 Cantrell, would you like to call another
10 witness.

11 MR. CANTRELL: Yes, Your Honor. I
12 would ask Brandon Cox to step up and be
13 sworn.

14 THE COURT: Please come forward, Mr.
15 Cox, and be sworn.

16 (WITNESS TAKES STAND)

17 BRANDON LEE COX, having been sworn to
18 tell the truth, and nothing but the truth,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CANTRELL:

22 Q. Make sure that the last person back
23 here can hear and be sure to speak up for the
24 court reporter. All right?

25 A. All right, (affirmative nod).

1 Q. Okay. Brandon, how old are you?

2 A. I'm 26.

3 Q. Where do you live, what county do
4 you live in?

5 A. Pickens.

6 Q. Have you lived in Pickens County
7 most of your life?

8 A. Part of my life.

9 Q. Where did you live the other part?

10 A. West Virginia.

11 Q. And did you go to school in Pickens
12 County?

13 A. Yes.

14 Q. Where did you go to school?

15 A. I went to Landmark Christian
16 Academy. Before that I went to Amboy
17 Elementary in Pickens.

18 THE COURT: Can we turn the volume up
19 on him at all?

20 WITNESS: I can sit closer. Is this
21 better?

22 THE COURT: Yeah, that's better.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. CANTRELL:

25 Q. Sit like that.

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1 A. Sorry.

2 Q. No problem. Your adult life, since
3 you were eighteen where have you lived?

4 A. With my dad.

5 Q. Anywhere else during that period of
6 time up until now?

7 A. I was living with Daniel Ingram.

8 Q. All right. Let's back up. Where
9 did you live with your dad?

10 A. 313 Sharon Lane in Easley.

11 Q. Were you working at that time?

12 A. Yes.

13 Q. Where did you work?

14 A. With my father.

15 Q. What type of work was that?

16 A. Landscaping.

17 Q. In 2015 or about then, did you come
18 to live anywhere else?

19 A. Yes.

20 Q. Where was that?

21 A. At Daniel's.

22 Q. All right. What brought that about?

23 A. I was using drugs and my dad kicked
24 me because of that.

25 Q. What was your drug?

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1 A. I was smoking pot, I was using meth,
2 I was using pills.

3 Q. Let me back up, something that I
4 should have asked you and I need to ask. Do
5 you have any type of criminal convictions in
6 your past?

7 A. I was convicted of shoplifting when
8 I was nineteen.

9 Q. That's it?

10 A. That's it.

11 Q. Back up to 2015, you were using
12 meth, pills and marijuana.

13 A. (Affirmative nod).

14 Q. And that's what caused you to not be
15 living with your father?

16 A. Yes.

17 Q. Do you remember about when you went
18 to live in the Ingram household?

19 A. The first time, I think was 2014.

20 Q. The second time?

21 A. It was 2015.

22 Q. That is the last time that you lived
23 there, was 2015?

24 A. Yes.

25 Q. Okay. When you went to live there,

1 what were the arrangements? Where would you
2 stay, where would you sleep?

3 A. I would sleep downstairs in the
4 boys' room.

5 Q. Is that the room shared with the
6 Ingrams' two sons?

7 A. Yeah, (affirmative nod).

8 Q. Where did the other people there
9 stay or sleep, where were their bedrooms?

10 A. Downstairs was the kids' rooms and
11 opposite, uh, -- the opposite side of the
12 house was Daniel's and Rosie's room, but most
13 of the time they slept upstairs.

14 Q. Most of the time who slept upstairs?

15 A. Daniel, the kids, Rosie.

16 Q. Where would they sleep upstairs?

17 A. On the couches and the floor.

18 Q. Would that be the couches that we
19 have seen in these pictures?

20 A. It is, (affirmative nod).

21 Q. They did not stay in the master
22 bedroom upstairs?

23 A. No.

24 Q. What was that used for?

25 A. Storage.

1 Q. Downstairs there was the boys' room
2 and was there in fact a room for [REDACTED]

3 A. There was but she didn't use it.

4 Q. Why was that?

5 A. Because of the feces in the room.

6 Q. Does that mean that there was a dog?

7 A. Yeah.

8 Q. Where did the dog stay?

9 A. Anywhere.

10 Q. He would stay in her room and mess
11 it up?

12 A. Yeah, that's where he'd normally,
13 you know, use the bathroom at.

14 Q. Where would she normally sleep?

15 A. Upstairs.

16 Q. Which room?

17 A. The living room.

18 Q. Okay. On what?

19 A. The couch or the floor.

20 Q. Was that a fairly common occurrence?

21 A. Almost every time.

22 Q. After you moved in at the Ingrams
23 in 2015, how was your relationship with the
24 children?

25 A. It was fine, we got along fine. I

1 was a caretaker.

2 Q. Did you help look after the
3 children?

4 A. Yes.

5 Q. By helping to look after them, what
6 kind of things did you do?

7 A. I washed their clothes, helped them
8 with their homework, I cooked, I cleaned.

9 Q. Was that a way of helping out in the
10 home?

11 A. Yes.

12 Q. Were you close to all three of the
13 children?

14 A. Yes.

15 Q. And did you get along with everybody
16 in the household, Rosie, children and all?

17 A. Yeah, it was fine.

18 Q. After you were living there, did you
19 get a job?

20 A. Yeah.

21 Q. Where did you work?

22 A. I started working at Subway.

23 Q. Was this in Easley?

24 A. Yeah.

25 Q. Which Subway would that have been?

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1 A. I'm not sure of the road but where
2 there is now a Sam's Club, right there in
3 front of it.

4 Q. There where the old WalMart was?

5 A. Yes, right beside Coyote Coffee and
6 Skins.

7 Q. Is that on Pendleton Street,
8 possibly?

9 A. I am not sure.

10 Q. How did you get back and forth from
11 the house to the job?

12 A. I walked.

13 Q. Would you occasionally get rides?

14 A. Yes.

15 Q. When you moved in with the Ingrams,
16 did you have your own cell phone?

17 A. Yes.

18 Q. Once you got there or when you got
19 there, who had cell phones?

20 A. Just me and Daniel.

21 Q. Was Daniel's connected to Wifi or
22 anything like that?

23 A. Yeah.

24 Q. Was anything else connected to Wifi?

25 A. The kids' tablets was.

1 Q. Anything else that would communicate
2 with e-mails or use text messaging, that sort
3 of thing?

4 A. No. The tablets was a text.

5 Q. Okay. Once you got there, was there
6 any sort of common practice about the use of
7 your phone?

8 A. Mainly whenever they needed to use
9 it, I would have to let them use it.

10 Q. Use it for what purposes?

11 A. Anything. To call him while he was
12 at work or just to call his sister about
13 things.

14 Q. Did that require you to let anyone
15 know your password? Passcode?

16 A. Yeah.

17 Q. Was there anyone in that household
18 that did not know your password?

19 A. No.

20 Q. Did the kids use it for games or
21 texting or any other type of social media?

22 A. Yeah.

23 Q. And while you were there also -- you
24 stayed there, you were essentially a
25 permanent or fulltime -- maybe you were there

1 temporarily but you were there fulltime; is
2 that right?

3 A. Yes, sir.

4 Q. Was anyone else there fulltime other
5 than the family?

6 A. No.

7 Q. Were other people coming in and out,
8 spending the night or visiting for periods of
9 time?

10 A. Yeah.

11 Q. Did that include overnight?

12 A. Yes, sir.

13 Q. Where would these people stay,
14 sleep?

15 A. On the couches, crashed on the
16 couches or on the floor.

17 Q. Did you know these people?

18 A. Some of them.

19 Q. Would there be any particular reason
20 for them to be there, that you know of?

21 A. For drugs.

22 Q. Up until May 25th, about how long
23 were you there?

24 A. Three months.

25 Q. Three months?

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1 A. (Affirmative nod).

2 Q. Taking you back to May 25th, which
3 would be the Sunday before Memorial Day. Did
4 you work that day?

5 A. Yes.

6 Q. Do you remember approximately what
7 time that you got home?

8 A. It was around 1:00.

9 Q. One in the morning?

10 A. Yes.

11 Q. Did you -- what shift did you
12 normally work at Subway?

13 A. From 4:00 to Close, normally.

14 Q. And by "close", does that mean that
15 you got out as soon as the doors were locked
16 or did you have to stay and do clean up?

17 A. I had to stay and do clean up.
18 Closing was at 11:00 and I didn't get done
19 until 12:00 or 12:30.

20 Q. I think you've already said, but how
21 did you normally get home?

22 A. I would walk to Matthew's to see if
23 I could get a ride from him, or I'd wait for
24 Daniel to pick me up at Matthew's.

25 Q. On that night, Sunday the 25th, do

1 you remember how you got home?

2 A. I believe that I had a coworker
3 bring me home.

4 Q. And you believe that you got there
5 about 1:00 o'clock?

6 A. Yes.

7 Q. When you got there, was anybody up?
8 Was anybody awake?

9 A. No.

10 Q. What did you do?

11 A. I went straight to bed. I worked a
12 double that day.

13 Q. Where did you sleep that night?

14 A. On the 25th?

15 Q. Yeah, on Sunday?

16 A. Sunday night I slept downstairs.

17 Q. By downstairs, what room was that?

18 A. In the boys' room.

19 Q. And we've already heard testimony
20 that the boys would sleep on the twin bed and
21 you'd sleep on the big bed. Is that the way
22 that it really worked?

23 A. No. Normally the boys would sleep
24 upstairs. Sometimes little Daniel would
25 sleep downstairs, in the same bed but we

1 would share different covers and stuff.

2 Q. But that night, Sunday night the
3 25th, you went and slept in your bed down-
4 stairs?

5 A. Yes.

6 Q. Do you remember seeing where any of
7 the others were that night?

8 A. They was upstairs asleep.

9 Q. Where would they have been?

10 A. On the couches or on the floor.

11 Q. And the next day was Memorial Day,
12 Monday. Is that right?

13 A. Yes.

14 Q. Do you remember on Memorial Day what
15 your work schedule was?

16 A. I believe that it was 4:00 to Close,
17 but I believe that I got called in.

18 Q. What time did you go in?

19 A. I think 12:00.

20 Q. Let me back up, you got home Sunday
21 night about 1:00 o'clock?

22 A. Yes.

23 Q. Once you went to bed, did you get
24 back up at all until the morning when you
25 woke up to get up and get everybody up?

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1 A. No.

2 Q. Do you remember when you woke up who
3 was already up or where everybody was?

4 A. I don't remember.

5 Q. Do you remember approximately what
6 time it was?

7 A. No, sir, I don't.

8 Q. When you got home, was it your
9 routine to put your phone in any particular
10 place?

11 A. I set it on charge. I just left it
12 there until it was charged.

13 Q. Would that normally have been the
14 next day?

15 A. Yeah.

16 Q. So is it your testimony that you
17 went ahead and went to work about noon on
18 Monday, Memorial Day?

19 A. Yeah.

20 Q. Does that mean that you had to work
21 a double shift that day?

22 A. Yes, sir.

23 Q. Approximately what time did you get
24 off?

25 A. Around the same time: 12:00, 1:00

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1 o'clock, 12:30.

2 Q. Do you remember who took you to work
3 that day?

4 A. I believe that I got a ride from a
5 coworker's mother, because I -- Daniel
6 wouldn't give me a ride. I think that he had
7 plans and I am not even sure that he was up
8 then. I'm not sure.

9 Q. You essentially worked twelve hours?

10 A. Yes.

11 Q. From 12:00 Noon to 12:00 Midnight?

12 A. Yeah.

13 Q. Do you remember how you got home
14 that night?

15 A. I think my boss gave me a ride home.

16 Q. And he took you to the Ingram
17 residence?

18 A. Yeah.

19 Q. About what time did you get there?

20 A. I think around midnight.

21 Q. That would be on the night of
22 Memorial Day; is that correct? Monday night?

23 A. The 25th?

24 Q. The 26th, that day that you worked
25 the double shift. That was Memorial Day.

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Testimony of Brandon Cox - Direct Examination

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1 A. Okay. I got home around 12:00.

2 Q. Okay. What did you do when you got
3 there?

4 A. I went straight to sleep.

5 Q. Where did you sleep that night?

6 A. Upstairs on the couch, on the
7 loveseat.

8 Q. Was there anyone else up there?

9 A. The kids.

10 Q. Were all of them in the living room?

11 A. Yes.

12 Q. Even though they had to go to school
13 the next day?

14 A. Yes.

15 Q. Was that a common occurrence?

16 A. No, they would stay up all hours of
17 the night watching TV and ---

18 Q. But sleeping in that room was a
19 common occurrence?

20 A. Yes.

21 Q. Going back to Sunday night, when you
22 got home, did you stop to change clothes or
23 anything or did you just go to your bed and
24 crash?

25 A. I changed into pjs. I normally

1 don't sleep in my work clothes.

2 Q. So you do have pajama pants?

3 A. Yeah.

4 Q. Do you remember what type or what
5 color.

6 A. I think they was red. Might have
7 been green. I had two pairs.

8 Q. Monday night you worked a double
9 shift, got home around midnight, and crashed
10 on the sofa, I guess. What did you do when
11 you did that?

12 A. I still had on my work clothes.

13 Q. What was your normal work attire?

14 A. I had to wear beige pants and my
15 Subway shirt and hat.

16 Q. The pants that we have seen in the
17 pictures taken at the law enforcement center,
18 were those your work pants?

19 A. Yes.

20 Q. And that is what you had on that
21 night.

22 A. Yes.

23 Q. And the day before you would have
24 worn work pants until you got home and
25 changed into your pjs?

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1 A. Yeah.

2 Q. After you went to bed Monday night,
3 what is the next thing that you remember?

4 A. Waking up, Daniel jumping on me.
5 The next thing I remember is waking up at the
6 Pickens County jail.

7 Q. So when you say that he was jumping
8 on you, what was he doing?

9 A. He was hitting me in the face.

10 Q. Did you hear him say why he was
11 doing that?

12 A. No. It was blurry.

13 Q. Just to be fair and candid, was this
14 at a point in time when you were still using
15 drugs?

16 A. Yes.

17 Q. Were you using those days?

18 A. Yes, meth.

19 Q. Could that have accounted for some
20 of your blurriness along with being asleep?

21 A. Yes.

22 Q. Now, you said that you remember him
23 beating you and what was the next thing that
24 you say that you remember?

25 A. Being in jail.

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1 Q. At the Sheriff's Department?

2 A. Yes, sir.

3 Q. Do you have any recollection of
4 being taken to the emergency room?

5 A. No.

6 Q. Do you remember being injured?

7 A. I remember waking up and my face
8 hurting, and the nurse she did a test on me
9 -- or the doctor did.

10 Q. Do you remember any details on that
11 or just portions?

12 A. About the ---

13 Q. Exam?

14 A. Oh, no.

15 Q. Did you suffer the consequences of
16 that for some period of time after that, for
17 days or more?

18 A. I had headaches, (affirmative nod).

19 Q. But as far as remembering what
20 Daniel was saying or talking to the police or
21 going to the emergency room, you have no real
22 recollection of that?

23 A. I don't remember anything of that.

24 Q. You heard statements made about a
25 bracelet, you heard statements made about a

1 statement that you made at the hospital. Do
2 you have any recollection, first of all, of
3 the statement it's said that you made at the
4 hospital?

5 A. No.

6 Q. Do you remember saying anything
7 there?

8 A. No.

9 Q. Do you have any idea why you would
10 have said something like that?

11 A. No.

12 Q. If you had been told that there was
13 a video, would you have responded or made any
14 comments about what had happened? Or what
15 you may have said?

16 A. I don't.

17 Q. Okay, let's talk about the bracelet.
18 It is State's Exhibit 26, let me hand this to
19 you. Did you have a bracelet like this?

20 A. Yes.

21 Q. How many did you have?

22 A. Two.

23 Q. Where did they come from, Brandon?

24 A. A friend of mine in West Virginia
25 gave it to me as a Christmas present.

1 Q. Would it have been the Christmas of
2 2014?

3 A. No, it 2013.

4 Q. And do you remember what happened to
5 the other bracelet?

6 A. I gave one to Little Daniel.

7 Q. Daniel Ingram, Little Daniel?

8 A. Yes.

9 Q. Do you remember when you did that?

10 A. About when I moved in. He liked
11 them, so I gave him one of them.

12 Q. Do you know where that bracelet is
13 now?

14 A. No, sir.

15 Q. Do you know where it was on the 25th
16 and 26th?

17 A. No.

18 Q. To your knowledge was it in the
19 house there somewhere?

20 A. Yes.

21 Q. Were you ever told that it was gone,
22 missing or no longer around?

23 A. No.

24 Q. Did you see it in the possession of
25 anyone in the household, Little Daniel or

1 anyone else during that period of time?

2 A. Little Daniel.

3 Q. Little Daniel?

4 A. Yeah.

5 Q. Now, we've seen pictures of the
6 household, would pieces of jewelry or
7 anything else like that, would that be laying
8 around in the house?

9 A. Yes.

10 Q. You kept up with yours?

11 A. Yes. Normally it was in a bag that
12 I took to work, because I couldn't wear it at
13 work.

14 Q. So you were not allowed to wear it
15 at work?

16 A. That's right.

17 Q. Did you put it on as you'd leave
18 work or anything, or did you just keep it in
19 your bag?

20 A. Most of the time I would forget.
21 When I did remember, I would put it on and
22 then have to take it right back off.

23 Q. On the night of the 25th/26th, 25th or
24 the 26th, do you remember specifically where
25 it was or what was going on with it?

1 A. I believe that it was still in my
2 bag.

3 Q. Now, if you had put it on at any
4 point, would it have been -- which wrist did
5 you wear it on?

6 A. On my right.

7 Q. If at some point you put it on -- do
8 you remember being cuffed by the police, or
9 do you remember that you were cuffed at any
10 point?

11 A. I remember coming to and they had
12 smelling salts in front of my nose, at the
13 front of the police car.

14 Q. Do you remember being cuffed at that
15 point?

16 A. I believe so.

17 Q. So you would have had the bracelet
18 and the cuffs on at the same time, if you'd
19 put the bracelet on?

20 A. Yeah.

21 Q. At any point did you do anything to
22 remove the bracelets, or the cuffs either for
23 that matter, from your wrists?

24 A. No.

25 Q. And to this day do you have any idea

1 where the other bracelet went?

2 A. I presume that it's still with
3 Little Daniel.

4 Q. While you were in the Ingram home,
5 do you feel that you had a good relationship
6 with the Ingram children?

7 A. Yeah.

8 Q. As a caretaker, taking care of them
9 or looking after them, helping out with them?

10 A. Yeah.

11 Q. Would you ever do anything to harm
12 or do anything that would be harmful to any
13 of those children?

14 A. Never.

15 Q. Would you certainly do anything that
16 would be harmful to [REDACTED]

17 A. No, sir.

18 Q. Did you anything like we've seen on
19 these videos?

20 A. No.

21 Q. Let's get something straight, there
22 was some allegation or reference to affairs
23 or relationships, did you have any type of
24 relationship with Rosie while you were kind
25 of a tenant in their home?

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1 A. No.

2 Q. You got along with her?

3 A. (Affirmative nod).

4 Q. You got along with the children?

5 A. (Affirmative nod), everybody.

6 Q. You got along with ---

7 A. Everybody.

8 MR. CANTRELL: Your Honor, if I could
9 have one second.

10 THE COURT: Yes, sir.

11 MR. CANTRELL: Thank you.

12 DIRECT EXAMINATION CONTINUED

13 BY MR. CANTRELL:

14 Q. Sometime after your arrest, you
15 consented to them taking a buccal swab?

16 A. Yes.

17 Q. Voluntarily?

18 A. Yes.

19 Q. Is that correct?

20 A. Yes, sir.

21 Q. When you were arrested, were you
22 advised that you were being arrested for one
23 charge of criminal sexual conduct; is that
24 correct?

25 A. Not when I was being arrested.

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Testimony of Brandon Cox - Cross Examination

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1 Q. But subsequently, is that the charge
2 that you were told you were being arrested
3 for?

4 A. Yes.

5 MR. CANTRELL: I don't have any further
6 questions, but answer any that the solicitor
7 has.

8 CROSS EXAMINATION

9 BY SOLICITOR JONES:

10 Q. Brandon, up until the day that you
11 were arrested, you were using methampheta-
12 mine; is that what you testified to?

13 A. (Affirmative nod).

14 Q. And you were taking pills?

15 A. (Affirmative nod).

16 Q. What kind of pills?

17 A. Pain pills, Xanies.

18 Q. And you said when Daniel woke you up
19 on May 26th, the day that you were arrested,
20 that you can't really remember all that; is
21 that correct?

22 A. Right, just bits and pieces.

23 Q. Are you saying that you were high
24 when Daniel woke you up?

25 A. Yeah.

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1 Q. You were high when Daniel woke you
2 up?

3 A. (Affirmative nod), I was still high.

4 Q. So when was the last time that you
5 used if Daniel woke you up and you were still
6 high?

7 A. That day.

8 Q. So sometimes you'd use methampheta-
9 mine or pills and you would forget what
10 happened, you would black out; isn't that
11 true?

12 A. Yes, sir.

13 Q. I think some of the dates got a
14 little confusing when Mr. Cantrell was
15 talking to you. You were arrested on May
16 26th, 2015, which was a Tuesday. Isn't that
17 correct?

18 A. To my knowledge, (affirmative nod).

19 Q. So May 25th, 2015, was a Monday;
20 isn't that correct?

21 A. Yes, sir.

22 Q. And that day, May 25th, was Memorial
23 Day; right?

24 A. Yeah.

25 Q. So the days that Mr. Cantrell was

1 asking you about when you had to essentially
2 work a double, what day was that?

3 A. The 25th.

4 Q. That was a Monday?

5 A. Yeah.

6 Q. So you testified that you went to
7 work around noon on the 25th; is that right?

8 A. Yes.

9 Q. So from around 8:00 a.m. to Noon
10 on the 25th, you were at Daniel Ingram's
11 residence; isn't that correct?

12 A. Yes.

13 Q. Showing you State's Exhibit 9,
14 State's Exhibit 26, would you take a look at
15 those for me?

16 A. That is the bracelet.

17 Q. Bracelet?

18 A. (Affirmative nod).

19 Q. Does that appear to be the same
20 bracelet?

21 A. Yes.

22 Q. You testified that [REDACTED]
23 slept on the couch in the living room the
24 majority of the time; isn't that right?

25 A. Yes.

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1 Q. And you testified that you don't
2 remember anything about the arrest, isn't
3 that right?

4 A. (Affirmative nod), no.

5 Q. So you don't remember wearing this
6 bracelet the day that you were arrested?

7 A. (Negative gesture).

8 Q. And you don't remember shoving that
9 bracelet into the crease of the seat of the
10 police officer's vehicle?

11 A. No.

12 Q. Handing you State's Exhibit 2 and
13 State's Exhibit 4, can you take a look at
14 those for me?

15 A. (Complies).

16 Q. What are State's Exhibit 2 and
17 State's Exhibit 4?

18 A. State's Exhibit 2 is me beat up at
19 the LEC and number four (State's Exhibit 4)
20 is a picture of my hands.

21 Q. Your hands?

22 A. (Affirmative nod).

23 Q. When were these photographs taken?

24 A. Taken on the 26th.

25 Q. On the 26th?

1 A. (Affirmative nod).

2 Q. In those particular photos, do you
3 see any tattoos on your hands?

4 A. No.

5 Q. Did you have tattoos on your hands?

6 A. No.

7 Q. Do you have tattoos on your hands
8 now?

9 A. Yes.

10 SOLICITOR JONES: Your Honor, I would
11 ask that the defendant show his hands to the
12 jury.

13 THE COURT: That's fine.

14 DEFENDANT: (Displaying hands).

15 CROSS EXAMINATION CONTINUED

16 BY SOLICITOR JONES:

17 Q. Can you hold them up so that people
18 on this end can see?

19 A. (Complies).

20 Q. Those are interesting places to put
21 tattoos. Aren't they, Brandon?

22 A. Yeah.

23 Q. Why did you put those tattoos there?

24 A. Because I wanted to ---

25 MR. CANTRELL: Objection, relevance.

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1 There is no basis for this testimony.

2 THE COURT: Overruled.

3 DEFENDANT: Because I seen someone else
4 have a similar tattoo and I wanted the same
5 one.

6 CROSS EXAMINATION

7 BY SOLICITOR JONES:

8 Q. When you got those tattoos, you knew
9 what was on those cell phone videos; didn't
10 you?

11 A. The?

12 Q. The cell phone videos that were
13 admitted into evidence today. You knew what
14 was on those videos, didn't you?

15 A. Yes.

16 Q. And you knew that the videos showed
17 your hands on the video, didn't they?

18 A. Presumably.

19 Q. Presumably?

20 A. (No verbal response).

21 Q. And you knew that if you put tattoos
22 on your hands that you could try to fool
23 somebody that these were not your hands;
24 didn't you? Isn't that true?

25 A. No.

1 Q. Isn't that true?

2 A. No, because you already had pictures
3 of my hands.

4 Q. Say that again.

5 A. You'd already took pictures of my
6 hands when I got arrested.

7 Q. Are you saying that when you got
8 those tattoos on your hands that you knew
9 that we had those pictures of your hands?

10 A. Yes.

11 Q. How did you know that?

12 A. Because David Cantrell ---

13 Q. David had already shown you those
14 pictures?

15 A. No, I mean -- I, uh, -- I seen, uh,
16 -- he showed me the video of the hands on the
17 video.

18 Q. He showed you the video, and it had
19 the hands with no tattoos.

20 A. Right.

21 Q. Right.

22 A. (No verbal response).

23 Q. And then you put tattoos on your
24 hands; is that not correct, Brandon?

25 A. Yes.

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1 Q. And the reason you put those tattoos
2 on your hands was an attempt to disguise your
3 hands; isn't that correct?

4 A. (No verbal response).

5 Q. The same reason that you tried to
6 hide this bracelet, because you knew that
7 this bracelet connected you to that video?

8 A. (No verbal response).

9 Q. Didn't you?

10 A. No.

11 Q. Brandon, you watched the video?

12 A. (No verbal response).

13 Q. The female in that video is [REDACTED]

14 [REDACTED] isn't it?

15 A. I believe so.

16 Q. You believe so?

17 A. (No verbal response).

18 Q. And these shorts, State's Exhibit
19 27, these are [REDACTED] shorts?

20 A. That were on the video.

21 Q. These are the shorts that were on
22 the video?

23 A. Yes.

24 SOLICITOR JONES: No further questions,
25 Your Honor.

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Testimony of Brandon Cox - Redirect Examination

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1 THE COURT: Redirect?

2 MR. CANTRELL: Yes, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. CANTRELL:

5 Q. Brandon, if you could give us a
6 guess, how many people at the LEC have
7 tattoos of the same kind?

8 A. Since I've been there, a good many.

9 Q. I'm assuming that this isn't a
10 licensed tattoo artist, that this is just
11 someone -- a jailhouse tattoo artist?

12 A. Yes.

13 Q. Does that appear to be a fairly
14 common practice, to get a tattoo?

15 A. Yes.

16 Q. Once you got into the LEC, no more
17 access to meth and no more access to pills,
18 did your head clear up fairly quickly?

19 A. Yeah.

20 Q. Once your head had cleared up, was
21 there any way in the world that you would
22 think that you could disguise your hands by
23 putting tattoos on them?

24 A. No.

25 Q. Is there any way in the world that

1 you could think that everybody in the world,
2 including every police officer that saw you
3 there that day, that checked you out, and in
4 the emergency -- and whether you can remember
5 it or not, you know that you were checked out
6 at the emergency room?

7 A. (Affirmative nod).

8 Q. Is there any way in the world that
9 you can conceive of the possibility that they
10 did not know that you did not have tattoos on
11 your hands when you were booked in?

12 A. Do what now?

13 Q. Is there any way in the world that
14 you believe that it was not noticed or that
15 everybody observed your hands when you were
16 booked and that there were no tattoos on
17 them?

18 A. Right.

19 Q. You've been there for some time,
20 haven't you?

21 A. Two years, three weeks and six days,
22 I believe.

23 Q. And the tattoos, for lack of a
24 better way of putting it, are a way of
25 fitting in there; aren't they?

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1 A. (No verbal response).

2 Q. Fitting in with the population at
3 the LEC?

4 A. No, some people just do for -- some
5 people do it for different reasons. I chose
6 the process because I believe in God.

7 Q. So there was a specific reason for
8 choosing and using those tattoos?

9 A. Yeah.

10 Q. It wasn't just random and it wasn't
11 just to fit in as I was suggesting, it's
12 because they had meaning to you?

13 A. Right.

14 MR. CANTRELL: That's all that I've
15 got. Thank you.

16 SOLICITOR JONES: Your Honor, may we
17 approach?

18 THE COURT: Y'all stand up.

19 (OFF RECORD BENCH CONFERENCE)

20 THE COURT: Mr. Jones.

21 RECROSS EXAMINATION

22 BY SOLICITOR JONES:

23 Q. Brandon?

24 A. Yes, sir?

25 Q. Isn't it true that while you were in

1 the detention center that you got a phone
2 call, you talked to your father on the
3 telephone several times; isn't that true?

4 A. Yes, sir.

5 MR. CANTRELL: Your Honor, I would
6 object.

7 THE COURT: The objection for the
8 record is overruled. I will let you proceed.

9 RECROSS EXAMINATION CONTINUED
10 BY SOLICITOR JONES:

11 Q. Brandon, isn't it true that on
12 occasion that you talked to your father and
13 that you told him that you watched the video
14 and that the person on the video did not have
15 tattoos on their hands, that you have tattoos
16 on your hands and once you show people that
17 that is your key? And your dad asked you did
18 you have the tattoos before you were in jail
19 and you said yes, that a man named Joe gave
20 them to you. Isn't that true?

21 A. Yes.

22 Q. That's what you told your father?

23 A. Yes.

24 Q. So you lied to your father?

25 A. I didn't want him to think less of

1 me.

2 Q. You didn't want him to think less
3 of you. You told your father that you had
4 those tattoos before you were in jail?

5 A. Yes.

6 Q. But you did not have those tattoos
7 before you were in jail?

8 A. No.

9 Q. So why did you even bring it up to
10 your father?

11 A. I don't know.

12 Q. Isn't it true that at that time you
13 had not seen the photographs that law
14 enforcement had took of your hands? That you
15 did not know that law enforcement had photo-
16 graphs of your hands?

17 A. I believe I did.

18 Q. At that time you did know that they
19 had photographs of your hands?

20 A. Yeah.

21 THE COURT: You may step down.

22 MR. CANTRELL: Your Honor, if I may
23 ask ---

24 THE COURT: No. Call your next
25 witness.

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1 MR. CANTRELL: Your Honor, if I may
2 be heard on that particular issue.

3 THE COURT: Do you have any other
4 witnesses?

5 MR. CANTRELL: No, I don't have any
6 further witnesses.

7 THE COURT: All right. The Defense has
8 rested its case, ladies and gentlemen. We
9 need to take a break.

10 You are still not allowed to discuss the
11 case. You are to still keep an open mind.
12 We will be back with you in a few minutes.

13 Do not discuss the case.

14 Keep an open mind.

15 (JURY OUT @ 2:26 p.m.)

16 THE COURT: If I may see the attorneys.

17 (OFF RECORD DISCUSSION)

18 THE COURT: Let's put your objection on
19 the record before we do anything else, Mr.
20 Cantrell.

21 MR. CANTRELL: Your Honor, I would
22 object to the reference to the phone call,
23 first and foremost, because we have no
24 verification of the phone call itself. A
25 copy of that has not been made available.

1 Candidly, I was told that there was such a
2 conversation but I've never received a copy
3 of it.

4 THE COURT: Okay.

5 MR. CANTRELL: Without that, it's
6 inadmissible.

7 THE COURT: Mr. Jones?

8 SOLICITOR JONES: Your Honor, I did not
9 intend to use that -- I did not use that in
10 my case in chief but I intended to use it --
11 I did make defense counsel aware of the phone
12 call, the nature of the phone call. Again, I
13 was not intending to use it; however, for
14 impeachment purposes I found it necessary to
15 use it, Your Honor. I don't think it's
16 necessary to prove the existence of the
17 phone. Just the fact that I asked about it
18 and he admitted it, that the phone call was
19 true.

20 THE COURT: All right. I am going to
21 overrule that objection. Again, the way that
22 I did it here in the testimony is that I let
23 Mr. Cantrell object. I knew that he was
24 going to object and that's why I decided to
25 take a break, to let him put all that on the

1 record. Rather than sending the jury in and
2 out, he could just object for the record.
3 His objection was made at the appropriate
4 time and it preserves the issue. I will let
5 him flesh out his argument here -- as opposed
6 to having to send the jury out for just that.

7 I overrule that objection. I find that
8 the State did put Mr. Cantrell on notice
9 about the phone call, although they did not
10 provide the actual call. Mr. Jones has
11 stated as an officer of the court that the
12 phone call does exist.

13 Frankly, at this point Mr. Cox has
14 admitted that the phone call took place, that
15 it existed and that what Mr. Jones' summary
16 of the phone call is an accurate summary of
17 what the phone call was.

18 The State did not have any record
19 custodian from the jail or the Sheriff's
20 Department, whoever maintains custody of
21 those records, on its witness list. They
22 did not intend to call it in their case in
23 chief.

24 They had no way of knowing, number one,
25 that the defendant was going to take the

1 stand. Number two, that he was going to take
2 the stand and say what significance that the
3 tattoos have or the significance that the
4 tattoos did not have.

5 The State actually asked before they
6 rested their case if I would make the
7 defendant show the jury the tattoos, and I
8 specifically refused that at a sidebar prior
9 to the State resting its case, because I
10 didn't think at that point in time that the
11 State had made enough of a causal link
12 between the tattoos on the hands and whether
13 or not that had any relevance as to the
14 matter. I denied it at that point in time.

15 But once the tattoos were shown, once the
16 defendant made himself available by taking
17 the witness stand and -- his own answers
18 about his reasoning for his getting the
19 tattoos, then that became directly relevant
20 as impeachment evidence and I find that it
21 was appropriate to be admitted.

22 Do you want to renew your directed
23 verdict, Mr. Cantrell?

24 MR. CANTRELL: Yes, Your Honor. I would
25 with the court's permission ask to be heard

1 on the ability to ask additional questions --
2 the line of questioning came up about a phone
3 call that had not been mentioned in any prior
4 direct, cross or ---

5 THE COURT: It hadn't been brought up.
6 Mr. Cox had been asked directly why he got
7 the tattoos and he said because he believed
8 in God. So at that point he opened himself
9 up to that brief conversation. That's why I
10 did not allow re-redirect. Redirect,
11 Recross and all those things are in the
12 discretion of the court under South Carolina
13 Rules of Evidence 611 and I did not find it
14 to be appropriate under those circumstances.
15 That was proper Recross examination. If I
16 had allowed you to come back up, there would
17 be no end to when we'd stop the examinations.
18 That's why I denied that Motion.

19 MR. CANTRELL: Thank you, Your Honor.

20 THE COURT: So do you want to renew
21 your directed verdict Motions?

22 MR. CANTRELL: I do, Your Honor.

23 THE COURT: Okay. Your directed
24 verdict Motions and all other Motions made
25 throughout this case, I find they have been

1 properly made, have been properly
2 preserved. They were made at the appropriate
3 times. You have protected the record and
4 done the things that you need to do to make
5 this court aware of your argument, your legal
6 arguments, your positions on directed verdict
7 and any other legal issues that you have
8 raised. I am aware of those and my rulings
9 on it are the same. I find that the evidence
10 at this point in time, taken in the light
11 most favorable to the nonmoving party is
12 sufficient for the case to go forward to a
13 jury trial.

14 MR. CANTRELL: Thank you, Your Honor.

15 THE COURT: Do you have any reply
16 witnesses?

17 SOLICITOR JONES: No, sir, Your Honor.

18 THE COURT: All right.

19 SOLICITOR JONES: I would ask that we
20 have about a ten- to fifteen-minute break?

21 THE COURT: Oh, I'm going to give you
22 a break but let's talk about -- did y'all get
23 the jury charge?

24 MR. CANTRELL: We did.

25 SOLICITOR JONES: Yes, sir.

1 THE COURT: Before we jump into that,
2 did y'all get the verdict form?

3 MR. CANTRELL: Yes, we did.

4 THE COURT: Okay. So there -- as part
5 of -- I am asking this more as a question. I
6 think that I know the answer, but I am just
7 double checking. Under 16-3-655, this is the
8 criminal sexual conduct with a minor statute,
9 in the sentencing part of that section, which
10 is (d)(1), what it says is that in the case
11 of a person convicted at trial for violation
12 of Section (a)(1), (a)(1) criminal sexual
13 conduct with a minor in the first degree,
14 which is sexual battery with a victim who is
15 less than the age of eleven, the judge or the
16 jury, whichever is applicable, must designate
17 as part of the verdict whether the conduct
18 that constituted the sexual battery involved
19 sexual or anal intercourse by a person or
20 intrusion by an object.

21 So my question to you -- and I may know
22 the answer, but I'm looking for your input.
23 I think that I have to add that to the
24 verdict form.

25 So what it says is that the jury who has

1 to make the determination must designate as
2 part of the verdict whether the conduct that
3 constituted the sexual battery was sexual or
4 anal or by a person or by an object.

5 I think the purpose of that is for -- if
6 he is convicted -- of course, I am not saying
7 that you're guilty at all, I have no clue
8 what the jury is going to do. But I think
9 the purpose of that is that if you were ever
10 charged with criminal sexual conduct with a
11 minor, first degree, again, he would be
12 eligible for the death penalty. That's why
13 you have to write that down.

14 So I think that the verdict form has to
15 change to say that, "We, the jury, find the
16 Defendant guilty or not guilty" and then
17 underneath it would say 'if you found the
18 defendant guilty of criminal sexual conduct
19 with a minor in the first degree, did the
20 conduct that constituted the sexual battery
21 involve sexual intercourse, anal intercourse,
22 by a person or intrusion by an object.'

23 Has anyone else dealt with this issue?

24 SOLICITOR JONES: Your Honor, honestly,
25 several CSC's that I have tried, I don't

1 believe that we've changed the ---

2 THE COURT: You don't make any changes
3 at all?

4 SOLICITOR JONES: (Negative gesture), in
5 my limited experience. Maybe Mr. Cantrell
6 can shed some light on that.

7 MR. CANTRELL: Less than three months
8 ago, had a trial with Judge Verdin and the
9 verdict form did contain that language.

10 THE COURT: It did?

11 MR. CANTRELL: It did.

12 THE COURT: All right. Yeah, I think
13 -- we are going to take a little break before
14 we do closing arguments, so y'all go back and
15 read it. The way that I read the statute, it
16 says judge or jury, which would mean a bench
17 trial or a jury trial, would have to make
18 that determination. So right now I'm going
19 to put it in here.

20 It's just going to say that 'if you find
21 the defendant guilty of criminal sexual
22 conduct with a minor, first degree, did the
23 conduct involving sexual battery involved:'
24 -- one or two.

25 SOLICITOR JONES: Does that encompass

1 -- CSC with a minor first encompasses
2 cunnilingus, fellatio?

3 THE COURT: Yeah.

4 SOLICITOR JONES: Does it encompass
5 that?

6 THE COURT: No.

7 SOLICITOR JONES: That would seem like
8 it would lead a jury to think that if it were
9 not cunnilingus or fellatio, then ---

10 THE COURT: I know. Y'all look at it
11 and -- basically it looks like what it says
12 is that they have to define what the sexual
13 battery was. Okay.

14 What else on the jury charges?

15 MR. CANTRELL: I would move to
16 include a lesser-included of assault and
17 battery of a high and aggravated nature.

18 THE COURT: Do you have any legal
19 authority for that, because I haven't found
20 any?

21 MR. CANTRELL: (No verbal response).

22 THE COURT: I spent about an hour
23 looking earlier. I can't find any case that
24 says ABHAN is a lesser-included offense of
25 criminal sexual conduct with a minor in the

1 first degree.

2 MR. CANTRELL: Your Honor, if I could
3 have a moment to do that. Quite honest, I
4 have it but it may be on my phone.

5 THE COURT: Anything else with respect
6 to the jury charge?

7 SOLICITOR JONES: The State is fine
8 with the jury charge, Your Honor.

9 MR. CANTRELL: Nothing, Your Honor.

10 THE COURT: Okay. How long do you want
11 to break?

12 Under the new *Beatty* case, since they've
13 put up evidence y'all have to open in full
14 and then you close and you're allowed to
15 reply.

16 MR. CANTRELL: Yes, sir.

17 THE COURT: Does everybody agree with
18 that?

19 SOLICITOR JONES: So I close in full?

20 THE COURT: You close in full. He
21 closes, and then you're allowed to reply to
22 something that they've raised. You're not
23 allowed to give a whole other closing
24 argument but you're allowed to reply to
25 anything that the defense raised. Is that

1 the way that y'all read *Beatty*?

2 MR. CANTRELL: That's, (affirmative
3 nod).

4 THE COURT: I've read it a hundred
5 times.

6 THE COURT: How long do y'all want?
7 It's 2:37.

8 MR. CANTRELL: Say 3:00 o'clock, just to
9 make it even.

10 THE COURT: All right, 3:00 o'clock.

11 (BRIEF RECESS)

12 (DEFENDANT PRESENT)

13 THE COURT: Anything on the lesser-
14 included, Mr. Cantrell?

15 MR. CANTRELL: Your Honor, what I
16 have is *State v Murphy*, 322 SC 321, ---

17 THE COURT: Hold on just a second.
18 Let me pull it up.

19 MR. CANTRELL: It appears -- it is
20 hard for me to tell you exactly where it
21 would be, but towards the end of the Opinion
22 that assault and battery of a high and
23 aggravated nature is a lesser-included
24 offense of CSC in the first degree. The
25 references are *State v Frazier*, and *State v*

1 Max.

2 THE COURT: What this case says that
3 a common law assault -- that assault and
4 battery of a high and aggravated nature is a
5 lesser-included offense of criminal sexual
6 conduct in the first degree. Therefore,
7 common law assault of a high and aggravated
8 nature is a lesser-included offense of
9 assault with the intent to commit criminal
10 sexual conduct.. Right?

11 MR. CANTRELL: I believe that's
12 correct.

13 THE COURT: Mr. Jones, do you take a
14 position?

15 SOLICITOR JONES: Your Honor, I don't
16 think that it is a lesser-included offense of
17 CSC first. Even if it was, there would have
18 be some sort of evidence presented in this
19 case that the jury could infer it was ABHAN.
20 I don't think that the defense has made that
21 argument at all.

22 THE COURT: Well, I mean -- okay. I am
23 going to deny the Motion to include it as a
24 lesser-included offense. Reason number one
25 is that ABHAN is now codified. Okay? Number

1 two, we're not dealing with criminal sexual
2 conduct, we're -- we're not dealing with an
3 assault with the intent to commit criminal
4 sexual conduct with a minor in the first
5 degree. We're dealing with criminal sexual
6 conduct with a minor in the first degree.
7 There are clearly elements of sexual battery
8 that have to be proven, which are different
9 from the element of assault and battery of a
10 high and aggravated nature. It's codified.
11 There are multiple Opinions that say it is
12 not a lesser-included offense, so I am not
13 going to -- I am going to deny the Motion to
14 include the lesser-included of ABHAN.

15 Where did y'all make it on the second
16 part of the verdict, 16-3-655(d)? Mr.
17 Cantrell?

18 MR. CANTRELL: Your Honor, what I
19 believe needs to be done, and this is to the
20 best of my recollection, there will be a case
21 filed downstairs that has that verdict form
22 previously described, but what I believe
23 needs to be done is that, uh, -- sorry.

24 I believe that it has to be a part of the
25 verdict form. That it has to say --

1 obviously based on a guilty verdict.

2 THE COURT: Right.

3 MR. CANTRELL: That 'as to the charge
4 of criminal sexual conduct with a minor, we
5 find the defendant' -- getting my wording
6 straight here -- guilty -- (pause).

7 THE COURT: Here is what I've typed
8 out: "If you unanimously find the Defendant,
9 Brandon Cox, guilty of criminal sexual
10 conduct with a minor, first degree, did the
11 conduct that constituted sexual battery
12 involve sexual or anal intercourse by a
13 person or intrusion by an object."

14 MR. CANTRELL: My concern with that
15 is that says that they find him guilty. Then
16 if they say no to that second clause, they've
17 contradicted themselves.

18 THE COURT: I understand that's an
19 issue.

20 MR. CANTRELL: What I would suggest
21 is that after the word "guilty" that it say
22 "by engaging in conduct constituting sexual
23 battery involving sexual or anal intercourse
24 by a person or intrusion by an object." That
25 ties it directly into the guilty portion.

1 THE COURT: Okay. Tell me what you
2 think that it should say.

3 MR. CANTRELL: I believe after the
4 word "guilty" on the verdict form, that it
5 should include the wording from the statute:
6 after the word "guilty" that it say "by
7 engaging in conduct constituting sexual
8 battery involving sexual or anal intercourse
9 by a person or intrusion by an object."

10 THE COURT: Okay. All right. What is
11 your opinion?

12 SOLICITOR JONES: One, I think that this
13 is going to confuse the jury.

14 SOLICITOR JONES: Well, I think that it
15 is too, but I don't know what to do about the
16 statute.

17 SOLICITOR JONES: The State would waive
18 that portion of the statute and, on the
19 record, we would not -- if the defendant has
20 a future conviction, we would not seek the
21 death penalty as we discussed earlier. I
22 believe that there are statutes that say that
23 the State cannot seek the death penalty for
24 criminal sexual conduct with a minor. So
25 that would render all this completely moot.

1 However, I do think that what the statute
2 is trying to say is that sexual battery as
3 defined in the statute is sexual intercourse,
4 anal intercourse, fellatio, cunnilingus, or
5 any intrusion however slight.

6 What they want the jury to say is, 'is he
7 guilty of CSC' and then 'was the sexual
8 battery sexual intercourse, anal intercourse,
9 fellatio, cunnilingus, or any intrusion
10 however slight.'

11 THE COURT: Right.

12 SOLICITOR JONES: I think there should
13 be another option, "none of the above",
14 because he could still be guilty of CSC first
15 but not have the anal intercourse or sexual
16 intercourse. The State contends in this case
17 it was digital penetration.

18 THE COURT: Right.

19 SOLICITOR JONES: So I think that extra
20 portion is going to cause the jury to believe
21 that if it is not sexual intercourse or anal
22 intercourse or the use of some object, then
23 it not CSC first, and that's not the case.
24 Does that make sense?

25 THE COURT: I understand.

1 MR. CANTRELL: And, Your Honor, I
2 don't think that we have the option of
3 waiving the statute. I think that the law
4 says "must", it doesn't say "may"; that this
5 must be done, so I don't think that it can be
6 waived.

7 Sadly, there have been statutes in the
8 past that have been confusing to jurors and
9 lawyers alike, but they are the statute.

10 I don't think that there is any way
11 around having that in there. I think the
12 only way to do it without running the risk of
13 error is to use the wording of the statute.

14 THE COURT: Follow what I -- I am not
15 saying that the jury is going to be able to
16 follow this, but y'all follow with me as
17 lawyers.

18 MR. CANTRELL: Okay.

19 THE COURT: "Sexual battery" means
20 sexual intercourse, cunnilingus, fellatio,
21 anal intercourse or any intrusion, however
22 slight, of any part of a person's body or any
23 object into the genital or anal openings of
24 another person's body except for medical
25 reasons. Right?

1 SOLICITOR JONES: Right. What that
2 statute wants to know is, was it specifically
3 sexual intercourse or anal intercourse or use
4 of an object. It wants to know ---

5 THE COURT: Of a person, a body or an
6 object?

7 SOLICITOR JONES: But the statute that
8 discusses the verdict form wants to know was
9 it three of the five options. Was it sexual
10 intercourse, anal intercourse or use of an
11 object? So that leaves out the fellatio,
12 cunnilingus and "any part of a person's body"
13 into the openings of another person. Does
14 that make sense?

15 THE COURT: I honestly don't see why it
16 matters. They have to find a sexual battery
17 to find him guilty. We define sexual
18 battery, so I don't know why we need to --
19 it's just confusing. Statute 655 doesn't
20 adequately define what 16-3-651 defines as
21 sexual battery.

22 I mean -- so under the allegations in
23 this case, based on the video, the jury could
24 find sexual intercourse by a person's body.

25 SOLICITOR JONES: Sexual battery.

1 THE COURT: Right, sexual battery means
2 -- under the allegations of this case, put
3 very bluntly, the allegations are that he
4 digitally penetrated this girl.

5 SOLICITOR JONES: Correct. That's
6 right.

7 THE COURT: Right?

8 SOLICITOR JONES: That's right.

9 THE COURT: That is the State's theory.

10 SOLICITOR JONES: Right.

11 THE COURT: The State's theory is that
12 part of his body entered part of her body for
13 nonmedically-recognized purposes.

14 SOLICITOR JONES: Right.

15 THE COURT: And that is sexual
16 intercourse.

17 SOLICITOR JONES: Well, the way that I
18 read the statute defining sexual battery is
19 the broad term.

20 THE COURT: Right.

21 SOLICITOR JONES: Then underneath that
22 is sexual intercourse, anal intercourse,
23 cunnilingus. It seems like sexual inter-
24 course would be ---

25 THE COURT: Right. I mean -- (pause).

1 /Okay.

2 SOLICITOR JONES: Do you see what I'm
3 saying?

4 THE COURT: I do see what you're
5 saying, yes. But I don't know that it --
6 "or any part of a person's body" or "any
7 intrusion, however slight."

8 SOLICITOR JONES: Right.

9 THE COURT: So how is any intrusion,
10 however slight, of any part of a person's
11 body, how does that not encompass cunnilingus
12 and fellatio?

13 SOLICITOR JONES: I think that it does
14 encompass that.

15 THE COURT: That's what I'm saying.
16 That's why it would also encompass digital
17 penetration. You see what I am saying?

18 SOLICITOR JONES: Yes, that would be
19 underneath the broad sexual battery,
20 underneath the broad sexual battery term or
21 sexual intercourse.

22 THE COURT: Right.

23 SOLICITOR JONES: And anal intercourse.
24 The statute has been penis/vaginal
25 intercourse and I think that's what Section

1 (d) wants the jury or the judge to find, was
2 this penis/vaginal intercourse, was it anal
3 intercourse or -- does that make sense?

4 THE COURT: Yes.

5 MR. CANTRELL: Your Honor, I have a
6 different thought on it after reading it
7 however many times that I've read it.

8 It would also appear that -- 'Okay,
9 you've reached a guilty verdict. Now you
10 need to tell us did it include these
11 categories, or did it not', meaning that it
12 was something else.

13 I wonder if the verdict form could say
14 guilty or not guilty and then if it is
15 guilty, there could be two options: the
16 conduct did or did not involve conduct
17 constituting sexual battery or sexual
18 intercourse. Give them the option of saying,
19 'yes, it was this category' or 'no, it did
20 not.'

21 THE COURT: You know what we could do
22 is, we could just list all the categories and
23 'put a check by', to mark which ones apply.

24 MR. CANTRELL: Or 'none of the
25 above.'

1 THE COURT: Well, they can't find 'none
2 of the above.'

3 MR. CANTRELL: That is what is
4 confusing.

5 THE COURT: Right. If they find him
6 not guilty, they do nothing to answer the
7 question. They can't find him not guilty and
8 believe that he committed a sexual battery.

9 If we put 'none of the above', that is
10 going to make it truly easy.

11 Why don't we list all the categories and
12 tell them to check which ones they believe
13 applies.

14 SOLICITOR JONES: I agree: sexual
15 intercourse, anal intercourse, cunnilingus,
16 fellatio, and then another one that says "any
17 intrusion however slight into any part of a
18 person's body" or "of an object into the
19 genital or anal openings of another."

20 THE COURT: Yeah.

21 MR. CANTRELL: If you do that --
22 we're talking the outrageous hypothetical of
23 another charge later on, they look at this
24 verdict form and it is says cunnilingus, that
25 means that the potential death penalty ---

1 THE COURT: I think there's a case that
2 says that it doesn't apply anyway. I think
3 that it's a Supreme Court case that says you
4 can't seek the death penalty on criminal
5 sexual conduct with a minor in the first
6 degree. I am not sure this statute is valid
7 long-term anyway.

8 He would be -- if convicted of another
9 most Serious offense, he would be at a
10 mandatory life without parole anyway
11 regardless of that statute, because this is
12 a Most Serious offense anyway.

13 SOLICITOR JONES: That's right.

14 THE COURT: So if he got one more Most
15 Serious convictions or two more Serious
16 convictions, he would be mandatory life
17 without parole regardless of what this form
18 says. Just based on the prior convictions.

19 SOLICITOR JONES: Yes, sir.

20 THE COURT: So any objection to listing
21 them all out?

22 SOLICITOR JONES: No, sir, Your Honor.

23 MR. CANTRELL: No.

24 THE COURT: Give me one second. I'll
25 let you look at this, (tendering to counsel).

1 So "If you find the defendant unanimously
2 guilty of criminal sexual conduct of a minor
3 first degree, what conduct constituted the
4 sexual battery?" Then it has:

- 5 1. Sexual intercourse
- 6 2. Cunnilingus
- 7 3. Fellatio
- 8 4. Anal intercourse
- 9 5. Any intrusion, however slight,
10 of any part of a person's body into the
11 genital or anal openings of another person's
12 body.
- 13 6. Any intrusion, however slight,
14 by any object into the genital or anal
15 openings of another person's body.

16 And then sexual exploitation goes like it
17 was before.

18 Anything else on that?

19 SOLICITOR JONES: Nothing from the
20 State, Your Honor.

21 MR. CANTRELL: Nothing from the
22 defense.

23 THE COURT: I took out the defendant's
24 failure to testify, since he did testify.

25 MR. CANTRELL: Thank you.

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

3 SOLICITOR JONES: Yes, sir.

4 THE COURT: Defense ready?

5 MR. CANTRELL: Yes, sir.

6 THE COURT: Before we start this, I
7 need to tell you, if you're going to be in
8 here, be in here. This is the attorneys'
9 last opportunity to give the jury their
10 closing argument, so I want the jury to have
11 their undivided attention.

12 Once the attorneys stop arguing, before
13 I give my jury charge -- and my jury charge
14 is not the most exciting thing in the world,
15 so if you want to leave then, leave. If not,
16 when the jury charge starts the back door
17 will be locked.

18 You can leave after the closing argu-
19 ments. Just don't get up and leave during
20 the closing arguments. I want the attorneys
21 to have the undivided attention of the jury
22 instead of people coming in and going out.
23 Okay? Respect both sides. Okay? Thank you.

24 Bring in the jury.

25 (JURY IN @ 3:27 P.M.)

1 THE COURT: Welcome back, ladies and
2 gentlemen. Thank you for your patience.

3 We are now at the point of the trial that
4 is the closing arguments. This is the
5 attorneys' opportunity to come before you
6 and summarize the case from their respective
7 points of view.

8 As with everything else that happens here
9 in these trials, there are rules that govern
10 the order in which the attorneys go. So the
11 State will make their closing argument first,
12 the Defense will make their closing argument
13 second, then the State may make a reply
14 argument if they wish to after the Defense's
15 closing argument.

16 Now, I don't hold lawyers to time limits.
17 Sometimes I wish that I did. But I do not
18 have -- I've never yet. So just depending on
19 how long they go, we may or may not take a
20 break before I tell you what the law is.
21 Okay? We may just stand up and stretch, make
22 sure that everybody is with me. Jury charges
23 are not the most exciting things in the
24 world, so I want to make sure that you're
25 ready to go before I tell you what the law

1 is. Okay?

2 That will be the order that we will
3 proceed in. Mr. Jones, are closing for the
4 State?

5 SOLICITOR JONES: Yes, sir, Your Honor.

6 THE COURT: The floor is yours, sir.

7 SOLICITOR JONES: Thank you, Your Honor.
8 Mr. Cantrell.

9 Why do people lie? People lie to avoid
10 punishment or to gain some reward. That's
11 true from children on up to adults.

12 You ask a little kid, 'did you make up
13 your bed' or 'did you clean your room', they
14 might say 'yes, I did' when they really
15 didn't. They want to avoid punishment.

16 Or an adult might lie about their resume.
17 They want to get the job they don't really
18 deserve.

19 As you watched all the witnesses and you
20 discuss what they testified to, think about
21 'why would this person lie?' 'What punish-
22 ment do they want to avoid or how do they
23 want to be rewarded?'

24 There were three particular times this
25 defendant tried to hide the truth:

1 The first time he tried to hide the truth
2 was when he took that bracelet off and shoved
3 it down in the back of that officer's patrol
4 car. Remember that?

5 Deputy Bishop said that when he arrested
6 him, he was wearing the bracelet. The
7 defendant was standing right there when he
8 saw the officers discussing the video and the
9 bracelet.

10 Then when Deputy Bishop got the defendant
11 to the detention center, he noticed that he
12 was not wearing the bracelet.

13 'Where's that bracelet?', Deputy Bishop
14 asked. The defendant said, 'I don't know,
15 must have lost it.'

16 Deputy Bishop went back out to his car
17 and he didn't find it just on top of the
18 seat. He didn't find it just in the
19 floorboard. He found it shoved underneath
20 the seats where the seats meet.

21 That is the first time that the defendant
22 tried to hide the truth.

23 The second time that he attempted to hide
24 the truth was when he was at the hospital.
25 An hour or two or several hours after the

1 defendant was arrested, Deputy Bishop brought
2 him to the jail and they said to take him to
3 the hospital to get him medically cleared
4 because he had been assaulted.

5 While he was at the hospital, unprovoked
6 from Deputy Bishop, the defendant said, 'The
7 reason I have those videos on my phone was
8 because I was going to take them to the
9 police.' Really? The reason that he had
10 those videos on his phone was because he was
11 going to take them to the police? That's
12 ridiculous. Child pornography found on his
13 phone and that's all that the defendant could
14 think to say?

15 The next time that he attempted to hide
16 the truth is when he put those tattoos on his
17 hands. He watched the videos and he knew
18 when he was arrested that he didn't have any
19 tattoos on his hands. He didn't realize, he
20 didn't remember that they took photographs of
21 his hands when he was arrested. He thought
22 to himself, 'If I get these tattoos on my
23 hands, I can show the jury that they have
24 tattoos and the person in the video doesn't
25 have tattoos. That's my ticket.' He even

1 testified that he told his father that.

2 But we have pictures of his hands when
3 he was arrested and he did not have those
4 tattoos. He lied to his father because he
5 couldn't admit to his father that he did
6 this.

7 To believe that this defendant was not
8 the person in that video abusing that child
9 you'd have to believe that some other person
10 took this defendant's cell phone; that
11 another person found the five-year-old,
12 [REDACTED] asleep on the couch alone;
13 that another person had a bracelet identical
14 to the one that the defendant was wearing;
15 another person had fingers that were
16 identical to the defendant's, had a mark on
17 his hand that was identical to the defendant;
18 had feet and toes that were identical to the
19 defendant. You'd have to believe all that to
20 think that someone else was on that video.

21 That it was just really, really bad luck
22 that the defendant tried to hide the
23 bracelet; that the defendant gave law
24 enforcement some absurd statement; that it
25 was really just a poor decision on his part

1 to get those tattoos on his hands.

2 Or you can believe the truth, that the
3 person on that video is Brandon Cox, he
4 filmed himself inserting his finger into the
5 vagina of a five-year-old girl and that he
6 kept it on his phone. That Daniel Ingram
7 found the video, and began beating him up --
8 like any father would.

9 You're going to have -- I know that we
10 moved a lot of photographs into evidence.
11 You're going to have these photographs to
12 look at in the jury room, and I encourage you
13 to look at them.

14 I encourage you to look at the bracelet
15 that the defendant admitted that he was
16 wearing when he was arrested, the same
17 bracelet that Deputy Bishop said he found
18 stuffed underneath the back of the seat.
19 Compare it with this bracelet from the still
20 shot from the video. Again, this is the
21 photograph of the bracelet that law
22 enforcement took in the detention center.

23 Then I want you to take a look at the
24 defendant's hands. There are several photos
25 that we moved into evidence, zoomed in

1 photographs of the defendant's hands. I want
2 you to look and I want you to notice the mark
3 right here. That's the mark that Deputy
4 Bishop noticed along with the bracelet. You
5 can see on the left hand, where his thumb is
6 (indicating), that's his left index
7 (indicating). Then I want you to look at
8 State's Exhibit 10. This is also a picture
9 of the video, a still shot. This is a
10 picture of the defendant's left hand, the
11 hand in this shape. That would be his left
12 index finger (indicating), and that's the
13 same mark.

14 Again, I want you to take a look at these
15 other pictures; here's another one of the
16 same hand, same mark.

17 You're going to have the video back in
18 the jury room to look at. State's Exhibit 13
19 is a picture of the defendant's fingernail
20 from the video. It's difficult to see, when
21 you pause a video to take a still photograph
22 it makes it a little blurry. But as the
23 video is actually playing it's very clear
24 what this person's fingers looked like. It's
25 very clear what the fingernails looked like,

1 looks exactly like the defendant's finger-
2 nails, because they are of the defendant's
3 fingernails. The fingernails are extremely
4 short and that's exactly what you see in the
5 video.

6 State's Exhibit 3 is a zoomed-in picture
7 of the defendant when he was in the booking
8 area. Those are his feet. The defendant's
9 left foot, I want you to take a look at the
10 defendant's toes, the distinctive
11 characteristics. Take a look at those toes
12 and then take a look at this video, the still
13 photo, of the left foot, the exact same toes
14 that you see in the picture of the
15 defendant's foot taken in the booking area.

16 Take a look at these for yourself when
17 you're in the jury room.

18 Defense counsel made a big deal about the
19 pants seen in the video. A person can change
20 their pants. I'm sure that Mr. Cox had more
21 than one pair of pants.

22 I briefly want to show you the video --
23 dim the lights, please. (Video playing).

24 Ladies and gentlemen, I did not want to
25 pause it at such a grotesque scene but

1 towards the end of that video is when this
2 defendant inserted his finger into the vagina
3 of that child. I didn't want to pause it,
4 but that's what you saw. "Any intrusion,
5 however slight."

6 I will go over the elements of the
7 crime/offense shortly and then the judge is
8 going to go over the elements as well. All
9 that is required is that he inserted his
10 finger, however slight, into the vagina of
11 that child.

12 (Video playing) -- That, ladies and
13 gentlemen, is the left hand of the defendant.
14 You can see the marking on his left hand.
15 Those are the zoomed-in photographs that I
16 showed you earlier.

17 (Video playing) -- That was a five-year-
18 old child almost waking up. She just
19 flinched. She's been asleep. Once she
20 flinched, the defendant moved the camera to
21 make sure that she stayed asleep.

22 (Video playing) -- That of course is the
23 bracelet that the defendant was wearing when
24 he was arrested. That is the bracelet that
25 the defendant shoved in between the seats in

1 the police car.

2 (Video playing) -- That is, of course,
3 the foot of the defendant. That is another
4 still photograph that you'll have in
5 evidence.

6 (Video playing) -- Those are the toes and
7 the feet that I want you to compare with the
8 other photographs of the defendant when he
9 was booked into the jail.

10 (Video playing) -- That is the chair that
11 you also see in the photographs that law
12 enforcement took of the house. There is no
13 question that this video took place in was
14 the house where the defendant lived with
15 [REDACTED] and with Daniel Ingram. You
16 can see the chair that law enforcement took
17 pictures of that also had the same video game
18 controller.

19 Again, the video and the photographs will
20 be available for you to observe and to
21 discuss as you're deliberating, and I
22 encourage you to do so.

23 I want to briefly talk about the DNA that
24 Ms. Leisey discussed. Through law enforce-
25 ment investigation they did a vaginal swab on

1 the victim. Remember that it was stipulated
2 that the vaginal swab was taken around 10:00
3 p.m. on May 26th from [REDACTED] Remember that
4 Detective Hendricks testified that the time
5 stamps on the phone, the phone extraction,
6 showed that when the video was taken was
7 between 8:00 and 10:00 a.m. on May 25th. I
8 encourage you to do the math, figure out how
9 many hours that is -- it's approximately
10 thirty-six hours. Thirty-six hours from when
11 the sexual abuse occurred to when the
12 hospital took the vaginal swab from the
13 victim. Okay?

14 And what did Catherine Leisey, the DNA
15 expert from SLED, say about time from skin to
16 skin contact to when a swab is taken? The
17 longer from when contact is made, the less
18 likely you're going to find DNA. Why is
19 that? What else do we know about DNA? It is
20 easily wiped off. There were some examples
21 that she gave: if someone touches another
22 person and they take a rag and wipe off where
23 they were touched; if you bathe, no more DNA.

24 Also remember that Daniel Ingram
25 testified that on the 25th, Memorial Day,

1 [REDACTED] went hiking with her family,
2 played in the waterfalls. We can assume that
3 she urinated several times, and wiped. So
4 she's played in a waterfall, urinating and
5 wiping throughout the day, bathing. Why
6 would we expect to find Brandon Cox's DNA
7 from thirty-six hours previously? You
8 wouldn't expect to find it.

9 The issue of DNA is a distraction. The
10 expert gave multiple possibilities as to how
11 it got there. She talked about secondary
12 transfer. Remember she told the story of how
13 scientists discovered secondary transfer.
14 She said that there was a female scientist
15 merely trying to figure out if she could put
16 her touch DNA on an object, that the object
17 was completely clean, they knew no one else
18 had touched it. This female scientist
19 touched the object, they tested it and found
20 male DNA. Over and over again they found
21 male DNA and they couldn't figure out why,
22 then they determined that this woman was
23 driving her husband's or her boyfriend's car.
24 From her touching the steering wheel and then
25 touching the object, she was putting her

1 husband's DNA on the object he'd never
2 touched.

3 She had two brothers in the home, other
4 men may have been in the home, washed their
5 hands and used a towel. Maybe the child used
6 that same towel to dry off with. Or the
7 child may have touched an object, she may
8 have touched the controller of the video game
9 then touched herself, wiped, or scratched and
10 put the DNA on herself.

11 DNA does not change the video. It does
12 not change the fact that the defendant tried
13 to hide the bracelet. It does not change the
14 fact that the defendant made some absurd
15 statement as to why he had the videos on the
16 phone to show law enforcement. And it does
17 not change the fact that the defendant put
18 tattoos on his hand to try and trick you.

19 Let's talk about the element of each
20 offense. I mentioned them earlier in my
21 opening.

22 The defendant is charged with criminal
23 sexual conduct with a minor in the first
24 degree. The State has to show that the
25 defendant committed a sexual battery on the

1 victim and the victim was under the age of
2 eleven years.

3 You heard testimony on how old [REDACTED]
4 [REDACTED] was, that her birth date is [REDACTED], and
5 that at the time of this incident that she
6 was five years old.

7 The statute also defines sexual battery.
8 Sexual battery is sexual intercourse, anal
9 intercourse, fellatio, cunnilingus or any
10 intrusion, however slight, of a person's body
11 into the anal or genital openings of another
12 person. That is what the State is alleging
13 that Brandon Cox did.

14 I'll briefly read from the statute,
15 (reading): "Sexual battery means sexual
16 intercourse, anal intercourse, fellatio,
17 cunnilingus or any intrusion, however slight,
18 of any part of a person's body or any object
19 into the anal or genital openings of another
20 person's body."

21 What we are alleging is the last part of
22 the statute, "any intrusion, however slight,
23 of any part of a person's body or any object
24 into the anal or genital openings of another
25 person's body." What he did is he inserted

1 his finger into the vagina of [REDACTED]
2 and that's why what he did fits this
3 particular statute.

4 He is also charged with sexual exploita-
5 tion of a minor, third degree. For that
6 charge the State has to show that the
7 defendant knowingly possessed material that
8 contained a minor in a state of sexually-
9 explicit nudity.

10 The judge is going to talk to you a
11 little bit about what inferences you can make
12 as to what is sexually-explicit nudity. I
13 also want to remind you that is pretty much
14 common sense. You can look at that video and
15 you can tell that the defendant had that
16 video, had that material for his own sick
17 sexual arousal.

18 The judge is going to talk to you about
19 reasonable doubt. He is going to define
20 reasonable doubt for you. It is a very
21 important part of a jury's consideration.
22 You took an oath before you started. You
23 didn't take an oath to look for reasonable
24 doubt. You took an oath to tell the truth.
25 If reasonable doubt was here you wouldn't

1 have to look for it, you'd see it. You won't
2 see it, because it's not here.

3 The judge will tell you that there are
4 few things in life that we know beyond all
5 possible doubt. This case is not something
6 that you have to know beyond all doubt, just
7 beyond a reasonable doubt. For that, you
8 have to use your good common sense.

9 I also want to point out that when the
10 defendant testified that he admitted that he
11 used drugs. He admitted that he used meth,
12 that he used pills and that from time to time
13 that he would black out or pass out.

14 He also testified that he doesn't really
15 remember Daniel Ingram waking him up.

16 He doesn't remember saying any statements
17 to law enforcement.

18 He doesn't remember anything about the
19 bracelet.

20 But he does remember other things, but he
21 carefully picks and chooses what he wants to
22 remember and what he doesn't remember.

23 Normally in criminal cases we can find
24 some sort of motive, whether it's a jealous
25 lover involved or someone needed some money,

1 something like that to kind of help explain
2 to the jury why something happened. But in
3 this particular case, I don't know. I don't
4 know a motive.

5 But I do know that there is evil in the
6 world, and that on May 25th Brandon Cox was
7 pure evil. What he did was horrific and the
8 only way that justice can be reached is for
9 you to find this monster guilty.

10 Thank you for your time.

11 THE COURT: Thank you very much, Mr.
12 Jones. Mr. Cantrell, the floor is yours.

13 MR. CANTRELL: Thank you, Your Honor.

14 You've heard and you'll hear again how
15 defendants are presumed innocent. And you
16 also know that the State is required to prove
17 a case, to construct a case beyond a
18 reasonable doubt. Proof beyond a reasonable
19 doubt has got to be proven before you can
20 convict someone of this offense.

21 Reasonable doubt means that you have to
22 be firmly convinced that there is no
23 reasonable possibility that the defendant is
24 not guilty. Frankly, so far all you've heard
25 is that this monster is guilty and you don't

1 even have to think about this. 'He's guilty,
2 let's go home.'

3 Well, that's not what we are here for.
4 We are here for you to deliberate, for you to
5 consider all the testimony, all and every bit
6 of the testimony, all and every bit of the
7 evidence before you reach a verdict that you
8 believe to be truthful and that you believe
9 to be within the requirements of our judicial
10 system. You do have to find that or you have
11 to return a verdict of not guilty.

12 It's not easy. But you came in and heard.
13 'oh, you're going to see a video that is
14 going to show what happened and there is no
15 doubt of who did what, when.' You would have
16 thought that you'd be out of there in ten or
17 fifteen minutes. That happens only on TV
18 shows.

19 You're not out of here in ten or fifteen
20 minutes and there's a good reason for that.
21 It is not that simple. Few cases are but
22 this one certainly is not, even though it may
23 appear to the State that it should be.

24 Let's recount the testimony, and I don't
25 want to insult you by recounting everything

1 in detail. You heard the testimony, you can
2 make your own evaluation of the testimony,
3 individually and together, when you get back
4 in the jury room.

5 Deputy Bishop was the first one to report
6 to the home and he did say that the defendant
7 did appear that he could have been under the
8 influence.

9 The defendant told you that he used
10 drugs, that he'd gotten kicked out of his
11 father's home for using drugs. He was not
12 proud of that. It created such a bad
13 relationship at home that he was kicked out.

14 I might jump ahead and say that, yeah,
15 Brandon sat in jail and he came up with
16 something to tell his father, with whom he
17 was only communicating infrequently, to make
18 his dad feel better about him. He said he
19 didn't want his dad to think badly of him, to
20 be disappointed in him. He admitted he lied
21 to him. There was nothing that he could do,
22 that he could say, he'd already denied doing
23 this. He lied to his dad to try to get his
24 dad to feel better about him.

25 But he didn't get the tattoos on his

1 hands by some jailhouse tattoo artist to come
2 in here and convince you of that. That would
3 be foolish because by that time he'd seen the
4 video, seen the photographs. That would be
5 silly. He got the tattoos, he said, for a
6 particular reason and I'm satisfied that he
7 means that. He didn't come in here to tell
8 you twelve people that 'they didn't have any
9 evidence of me not having tattoos before.'
10 Of course they did. Everybody saw his hands
11 without tattoos. To say otherwise is just
12 trying to say that he was a young man who was
13 not thinking clearly, who wanted to trick
14 you.

15 Here's another reason you can believe,
16 after all the stuff that we've been through,
17 everything -- going back to Deputy Bishop,
18 everything that we've seen came from Mr.
19 Ingram. He told him what happened, he told
20 him what he believed, showed him the video.

21 He was the one that mentioned the
22 bracelet, said it was the only one. But
23 Brandon told you that there were two, that he
24 gave one to Daniel Junior, so there is a
25 second bracelet somewhere. Nobody told the

1 police that.

2 The bracelet was on Brandon's hands when
3 he was arrested but later was found in the
4 backseat of the police cruiser. He was
5 cuffed with his hands behind his back, had
6 been sitting there for an hour or so, a
7 while, and he was kinda out of it anyway.
8 He could have fidgeted and the bracelet
9 fallen off. He'd been roughed up by Daniel
10 and the bracelet could have been broken free
11 in the scuffle. There's no reason that could
12 not have happened. Certainly it was not a
13 wonderful coincidence for Brandon but, yeah,
14 the fact is that there is a logical
15 explanation for what happened to the
16 bracelet.

17 And there is a logical explanation there
18 was a video with the bracelet, because there
19 was another bracelet in that household. I
20 cannot tell you who may or may not have been
21 wearing it, but there was another bracelet
22 there.

23 Detective Hendricks comes and takes up
24 the investigation. He went through the steps
25 of getting the warrants and then used the

1 videos -- apparently the only incriminating
2 videos that were found. Nothing else was
3 found or presented to him.

4 Then he secured a warrant, an arrest
5 warrant, for Brandon Cox. He secured a
6 warrant on May 26th, 2015, for criminal sexual
7 conduct with a minor in the first degree.
8 That is the charge that we're about for
9 today.

10 There is another charge that we've heard
11 about but both officers have said that they
12 didn't have anything to do with that, that he
13 wasn't charged with that at that point.

14 They said that they took every bit of
15 evidence the detective had, put it together,
16 presented it to a magistrate and got a
17 warrant for the criminal offense they
18 believed to have happened: criminal sexual
19 conduct in the first degree. There was no
20 discussion of sexual exploitation.

21 Yet we're here on two charges.

22 You've heard Dr. Crosswell testify. She
23 is the expert, so we have to assume that she
24 knows what she is talking about. Her
25 testimony was there before she checked out

1 this young lady and her testimony is that she
2 found no signs of sexual assault.

3 Then you heard from Ms. Leisey, of SLED.
4 I am going to suggest that you not skim over
5 everything that she said. Do not presume
6 that DNA had been washed off 'here' but not
7 washed off 'there.' I don't think that you
8 can assume what might have gotten washed off.
9 How are you going to pick and choose what had
10 been washed off or what may have not been
11 washed off?

12 All I can tell you is that the one
13 definitive things that she told you is that
14 they found unidentified male DNA from the
15 vaginal swab taken from [REDACTED] It
16 was not Brandon Cox.

17 How in the world can you explain that?
18 You can't. They can't. It was there. It
19 didn't brush off, it didn't wash off. I wish
20 that I knew. I wish that that unidentified
21 male could be prosecuted because we do know
22 that somebody in that video was touching
23 [REDACTED] and there was male DNA on her
24 vaginal swab.

25 How do you explain that? How do you get

1 around that? Not with 'maybe she washed
2 here', 'maybe she touched a towel there',
3 'maybe.' It was there. They aren't able to
4 get around that or that it was not Brandon
5 Cox's DNA.

6 Other explanations, other reasonable
7 explanations, other real possibilities that
8 it was someone else who was in the video is
9 that there were other people in and out of
10 the household. You heard the detective, or
11 one of the officers, say that they were told
12 that no one else came in and out of the
13 household. They didn't tell these officers
14 that people were in and out of the home all
15 the time, though they did eventually recall
16 one other person who'd been in the home.
17 They didn't tell the officers that Matthew
18 Chapman was there on that Monday. I think he
19 said on the witness stand that the way that
20 he remembered it was that there was nobody
21 there.

22 Matthew Chapman was there. He said so.
23 And we've heard from three people --
24 including Brandon, Matthew and Anthony --
25 that people came in and out all the time.

1 Why would he not have told the officer or
2 why would he have led them to believe that
3 nobody was ever there, I don't know. You
4 don't know. You will have to figure that out
5 for yourselves.

6 We have video on the phone of Brandon
7 Cox. That's a given. He's never denied
8 that. We don't deny that, sadly, that it
9 appears to be of [REDACTED]

10 Brandon had developed a good relationship
11 with all three of these children. He doesn't
12 want that to be of [REDACTED] He
13 doesn't want any of those children to be
14 victimized. But that happened.

15 It happened on a cell phone that various
16 people used and everybody had access to. No
17 one ever denied that they had access to
18 Brandon's phone. Nobody ever denied that
19 they had his password in a household where
20 there was a second bracelet just like the one
21 that Brandon wore, and people were in and
22 out.

23 To what extent that you decide this is
24 relevant, you decide it is relevant. I don't
25 know. I'm not sure that I've figured it out.

1 But of all days, Tuesday May the 26th, Daniel
2 Ingram decided to get a "gut feeling", got
3 angry with his wife, possibly with Brandon,
4 entered Brandon's password and checked his
5 phone. I don't know why it happened that
6 day. There's a lot of questions about what
7 happened at the time and why he felt the need
8 to do that, that day. He couldn't even
9 explain it to you. He had an argument with
10 his wife and -- there's some anger there, for
11 whatever reason. I don't know what it was.

12 But why did it happen that day? Of all
13 times, why then was there a "gut feeling"?
14 Of all times the day after Memorial Day when,
15 by Daniel's testimony, they'd had a family
16 trip to the waterfalls. I don't know. I
17 don't have a clue. I don't know if you do or
18 not.

19 Brandon had a job. He'd come in from
20 work and go to bed. He worked second shift
21 so, presumably, he -- presumably he worked at
22 Subway and ate there, so he didn't have to
23 eat after he got home. But he went home and
24 went straight to bed, both nights.

25 And he slept. He slept, passed out,

1 whatever you want to call it. On Sunday
2 night he went to bed in the bedroom and,
3 remember, that supposedly it was the next
4 morning when this event took place but he
5 went to bed in the downstairs bedroom when he
6 got home from work and slept there that
7 night. [REDACTED] was upstairs and the other
8 children and family members were upstairs.
9 So Brandon went to bed, went to sleep.

10 He got up the next morning when sometime
11 between 8:00 and 10:00 somebody used his
12 phone, if the date and time stamp is correct.
13 But it was not him. He got up sometime that
14 morning and everyone was still there. He got
15 called in to go to work, so goes in and works
16 a double shift.

17 Brandon gets home again late that night
18 and that's the time that he went and slept on
19 the sofa. The next thing that he remembers
20 is -- the next thing that he remembers is he
21 was being assaulted, a vicious assault by
22 Daniel Ingram.

23 That doesn't mean that he got up the
24 night before and did anything. How could he
25 have gotten up when he was asleep, tired, and

1 had the ability to do what you see in that
2 video? That just defies logic. It would
3 take dexterity for someone who is tired,
4 who'd worked all day.

5 The quality of the video is not as clear
6 as I think you've been led to believe. Yeah,
7 there is a hand there, there's fingers there
8 but you can't really see what is happening.

9 I urge you to look at the video, to
10 review the photographs. Yeah, there might be
11 some similarities but there are dis-
12 similarities also. The mark on the hand
13 shows nothing. In the photograph he does
14 have injuries on his hands, because he had
15 just been beaten up that morning, but that
16 happened after the video. What is in the
17 video is not marks that were on his hands.
18 To be honest with you, I'm not even sure some
19 of them are marks at all. And the feet in
20 the video, (negative gesture), all of that is
21 hard to discern.

22 I don't believe that you are going to
23 find somebody guilty based on a grainy, hard
24 to see video. That is not proof beyond a
25 reasonable doubt.

1 After all is said and done, the State has
2 to prove -- they haven't given you proof
3 beyond a reasonable doubt. They have a video
4 and they believe that gets them home free.
5 'We have a video and we're sure in our
6 minds', that's what Daniel Ingram and the
7 police all said from day one, 'that's
8 Brandon's hands' but they didn't have to
9 think about it the way that you do. They
10 didn't have to evaluate all the evidence the
11 way that you do. They started out with a
12 presumption of guilt, 'because we've got
13 everything that we need, Daniel Ingram told
14 us and we're satisfied. Job done.'

15 But along the way there was a DNA test
16 and Brandon Cox's DNA was not there. An
17 unidentified male was there. So it's not as
18 easy as they want you to believe.

19 And three months ago they put another
20 charge on Brandon, sexual exploitation of a
21 minor. Not a single shred of evidence has
22 come in since May of 2015 other than the DNA
23 test, which eliminated Brandon. So all of a
24 sudden you've got another charge? I'm not
25 sure why.

1 I believe as you hear the law as the
2 judge tells you that he's not guilty of that,
3 like the person that created this video is
4 not guilty of that. But it is another charge
5 that was brought against Brandon at this late
6 date. This video, no evidence, supports that
7 charge. It doesn't prove that anybody,
8 certainly not Brandon Cox, is guilty of
9 sexual exploitation of a minor.

10 I do believe that when you evaluate and
11 review everything in this case, not just the
12 simple stuff that might make some people rush
13 to judgment and say 'you got it, case closed'
14 but that when you review everything in this
15 case: as minor as blue jeans versus brown
16 pants, with no DNA, a lot of small things
17 that add up. I believe that when you
18 diligently and carefully, deliberately
19 consider what has been presented to you that
20 you will find Brandon Cox not guilty of
21 either charge. Thank you.

22 THE COURT: Thank you very much, Mr.
23 Cantrell. Mr. Jones, would the State like to
24 reply?

25 SOLICITOR JONES: Yes, Your Honor,

1 briefly.

2 THE COURT: Yes, sir.

3 SOLICITOR JONES: Mr. Cantrell mentioned
4 that he doesn't want you to find someone
5 guilty just based off of a video. I'm not
6 asking you to find him guilty just based off
7 the video.

8 I want you to watch the video, I want you
9 to compare the photographs and I want you to
10 keep in mind what the defendant did with the
11 bracelet. He tried to hide that evidence.
12 There's the statement that he made to law
13 enforcement, trying to explain away why he
14 had that on his cell phone. And I want you
15 to think about the tattoos that he has on his
16 hands. This isn't just the video.

17 This is not just the video. The video is
18 extremely damning evidence, that's for sure.
19 What happened after that is also damning.

20 When he hid that evidence, attempted to
21 hide the evidence, that's also evidence of
22 guilt.

23 He knew that he was caught. He knew that
24 the video pointed to him. He tried to squirm
25 his way out of these charges.

1 Mr. Cantrell mentioned that the officers
2 started with the presumption of guilt.
3 That's not true.

4 MR. CANTRELL: Your Honor, I would
5 have to object at this time. We're not
6 getting into any new information at all.

7 SOLICITOR JONES: I'm replying,
8 literally, to what he said.

9 THE COURT: I understand.

10 SOLICITOR JONES: The defense attorney
11 said that the deputies and officers started
12 from a place of assumption of guilt. That's
13 not true. You remember Deputy Bishop's
14 testimony that he arrived on scene to an
15 assault, that somebody had called 911 because
16 someone was in a fight.

17 He shows up and Daniel Ingram is saying
18 "arrest this guy." Deputy Bishop is thinking
19 to himself, 'Why would I arrest him? You're
20 the one that just beat him up.' He wanted
21 to arrest Daniel Ingram.

22 Then when he saw the video -- and let's
23 talk about that for a second. Deputy Bishop
24 shows up and Daniel Ingram is telling him
25 that -- this is pre-Miranda, Deputy Bishop is

1 investigating the case, trying to figure out
2 what is going on. What does Brandon Cox say?
3 This is pre-Miranda. What does he say? What
4 does an innocent person do in that situation,
5 'Hey, that's not me!' 'Wait a minute,
6 there's another bracelet.' 'Wait a minute,
7 everyone else uses my phone too!' He didn't
8 say any of that. He could have denied it,
9 but he didn't. He's guilty.

10 Defense counsel mentioned that the
11 defendant talked to his father on the phone
12 and felt that just saying 'I didn't do it'
13 wasn't enough for his father, so he told him
14 that had tattoos before he was arrested. The
15 only reason the defendant got those tattoos
16 was to try to fool you. They say that's
17 ridiculous, 'Why would he do that?'

18 'What kind of person would do that?'
19 The same kind of person who would try to hide
20 a bracelet in the back of a cop car. The
21 same kind of person that would tell a police
22 officer, 'the reason I had that pornography
23 on my phone was because I was about to take
24 it to the police station.' That's the kind
25 of person who would get tattoos on his hands

1 just to try to fool a jury.

2 I said before that there were three lies.
3 We now know that there were four lies. The
4 defendant tried to tell you that there was
5 another bracelet exactly the same that he
6 gave to a ten-year-old boy. That's absurd.
7 There is not another bracelet.

8 Defense counsel mentioned that the
9 defense witnesses -- they had absolutely
10 nothing. One of those men said that he lived
11 with his cousin across the street from the
12 Ingrams. He lived with his cousin across the
13 street from the Ingrams and that his cousin
14 had a couple of children, and that the Ingram
15 kids came over there and played with those
16 kids every now and then. That a five-year-
17 old, an eight-year-old and a nine-year-old
18 liked to play on a cell phone. What does
19 that have to do with Brandon Cox videotaping
20 himself sexually abusing [REDACTED]
21 Nothing.

22 The video, the lies and the hiding of
23 evidence all prove beyond a reasonable doubt
24 that this defendant is guilty of criminal
25 sexual conduct with a minor in the first

1 degree and is guilty of the sexual
2 exploitation of a minor in the third degree.

3 It doesn't matter when that sexual
4 exploitation was charged. You see the
5 evidence and the judge will tell you the
6 elements, and all of the evidence fits the
7 elements; he is guilty.

8 Thank you for your time.

9 THE COURT: Thank you very much, Mr.
10 Jones.

11 Ladies and gentlemen, now it is my
12 responsibility to tell you what the law is in
13 South Carolina as it applies to the issues
14 that have arisen in the case. So everybody
15 give me your undivided attention just as you
16 have done with the attorneys. I want to say
17 thank you to each of you for paying attention
18 throughout this trial. You've paid attention
19 to the attorneys, you've paid attention to
20 the witness, you've paid attention to me and
21 I want to say thank you very much. So give
22 me just a few moments to explain the law to
23 you and then I will give you further
24 instructions at that time.

25 Now, the indictments have charged the

1 defendant with criminal sexual conduct with
2 a minor in the first degree. Also, sexual
3 exploitation of a minor in the third degree.

4 I remind you that the fact that the
5 defendant was arrested, charged, indicted in
6 this case is not evidence in this case and it
7 cannot be considered by you as evidence of
8 his guilt. Nor does it create any
9 presumption or inference of guilt. These
10 documents, being the indictments, are simply
11 the formal written instruments which contain
12 the charges made against the defendant. They
13 are the formal documents by which this case
14 is brought to this court.

15 Now, you and I have had certain duties to
16 perform during this trial. As the trial
17 judge, it is my job to preside over the trial
18 of this case. I also have the duty to rule
19 on admissibility of the evidence that has
20 been offered during this trial.

21 You are to consider only the competent
22 evidence before you. If there was any
23 testimony ordered stricken from the record
24 in this case during the trial, you must
25 disregard that testimony. You are to

1 consider only the testimony which has been
2 presented from this witness stand, any
3 exhibits which have been made a part of the
4 record in this case, and the stipulations of
5 the parties.

6 I have the additional duty to charge you
7 the law that is applicable to this case. As
8 the presiding judge, I am the sole judge of
9 the law. It is your duty as jurors to accept
10 and apply the law as I now state it to you.
11 If you have an idea as to what the is or what
12 you think the law ought to be and it does not
13 agree with what I now tell you the law is,
14 you must abandon your own idea(s), because
15 you are sworn to accept the law and apply it
16 exactly as I give it to you.

17 In every case tried in this court before
18 a jury, the jury becomes the sole and
19 exclusive judge of the facts.

20 A trial judge cannot state the facts,
21 comment on the facts, or make any statement
22 to a trial jury about the facts in a case.
23 You are the sole judge of the facts.

24 You are not to infer from anything that
25 I've said here in the progress of this trial,

1 in ruling upon the admissibility of evidence
2 or otherwise; or anything that I say now
3 during this course of instruction to you,
4 that I have any opinion about the facts.
5 I do not. The law simply does not allow me
6 to have an opinion about the facts. This is
7 a matter for you to determine.

8 It is your duty to determine the effect,
9 the value, and the weight of the evidence
10 presented during this trial.

11 Now, to these charges the defendant has
12 pled not guilty. That plea puts the burden
13 upon the State to prove the defendant guilty.

14 A person charged with committing a
15 criminal offense in South Carolina is never
16 required to prove himself innocent. It is an
17 important rule of law that a defendant in a
18 criminal trial, no matter what the
19 seriousness of the charge may be, will always
20 be presumed to be innocent of the crime for
21 which the indictment was issued unless guilt
22 has been proven by evidence that satisfies
23 you of the defendant's guilt beyond a
24 reasonable doubt.

25 This presumption of innocence does not

1 end when you begin your deliberations but it
2 accompanies the defendant throughout the
3 trial until you reach a verdict of guilt
4 based upon evidence that satisfies you of
5 that guilt beyond a reasonable doubt..

6 The presumption of innocence is like a
7 robe of righteousness placed about the
8 shoulders of the defendant, which remains
9 with the defendant until it has been stripped
10 from the defendant by evidence that satisfies
11 you of the defendant's guilt beyond a
12 reasonable doubt.

13 The presumption of innocence is not a
14 mere legal theory. It is not just some legal
15 phrase that we say. This is a substantial
16 right to which every defendant is entitled
17 unless you are satisfied from the evidence of
18 the defendant's guilt beyond a reasonable
19 doubt.

20 So what is beyond a reasonable doubt?
21 The State has the burden of proving the
22 defendant guilty beyond a reasonable doubt.
23 Some of you may have served as jurors in
24 civil cases where you were told that it is
25 only necessary to prove that a fact is more

1 likely true than not true, such as by the
2 greater weight or the preponderance of the
3 evidence. In criminal cases the State's
4 proof must be more powerful than that, it
5 must be proof beyond a reasonable doubt.

6 Proof beyond a reasonable doubt is proof
7 that leaves you firmly convinced of a defen-
8 dant's guilt.

9 There are very few things that we know in
10 this world with absolute certainty. In
11 criminal cases the law does not require proof
12 that overcomes every possible doubt.

13 If based upon your consideration of the
14 evidence you are firmly convinced that the
15 defendant is guilty of the crime charged, you
16 must find the defendant guilty.

17 If, on the other hand, you think that
18 there is a real possibility that the
19 defendant is not guilty, you must give the
20 defendant the benefit of the doubt and find
21 him not guilty.

22 Now, some things that you have heard
23 during the course of this trial are not
24 evidence and you must not consider them as
25 evidence in deciding the facts of the case.

1 Number one, the statements and the
2 arguments of the attorneys are not evidence.

3 Number two, the questions and the
4 objections of the attorneys are not evidence.

5 Number three, anything that I told you to
6 disregard.

7 Now, while arguments of counsel are a
8 beneficial part of every trial you should
9 remember that the statements made by the
10 attorneys are not evidence. In presenting
11 their arguments they often refer to evidence,
12 however you should base your verdict on the
13 evidence as you remember it; therefore, if
14 there are any conflicts between what the
15 recollection of counsel is about the evidence
16 and your own recollection, you should rely
17 upon your own understanding of the evidence.

18 There are two types of evidence which we
19 generally see here in trial. Direct evidence
20 and circumstantial evidence.

21 Direct evidence directly proves the
22 existence of a fact and it does not require
23 any deduction.

24 Circumstantial evidence is proof by a
25 chain of facts and circumstances that

1 indicate the existence of a fact.

2 Crimes may be proven by circumstantial
3 evidence. The law makes no distinction to
4 the weight or value to be given to either
5 direct evidence or circumstantial evidence.

6 However, to the extent that the State
7 relies upon circumstantial evidence, all of
8 the circumstances must be consistent with
9 each other and, when taken together, point
10 conclusively to the guilt of the accused
11 beyond a reasonable doubt. If these
12 circumstances merely portray the defendant's
13 behavior as suspicious, the proof has failed.

14 The State has the burden of proving the
15 defendant guilty beyond a reasonable doubt.
16 This burden rests with the State regardless
17 of whether the State relies upon direct
18 evidence, circumstantial evidence or some
19 combination of the two.

20 Now, as I told you in the beginning of
21 the case, you must determine the credibility
22 of the witnesses who have testified.
23 Credibility simply means believability. It
24 is your duty to analyze and evaluate the
25 evidence and determine which evidence

1 convinces you of its truth.

2 In determining the believability of the
3 witnesses who have testified, you may believe
4 one witness over several or several over one.

5 You may believe part of the testimony of
6 a witness and reject the remaining part of
7 the testimony of the same witness.

8 You may believe the testimony of a
9 witness entirely or you may reject it
10 entirely.

11 You may consider whether the witness has
12 exhibited to you any interest or bias or
13 prejudice or other motive in the case.

14 You may also consider the appearance, the
15 manner or the demeanor of a witness while on
16 the witness stand.

17 As I told you before, use your common
18 sense.

19 Expert witnesses. Now, the rules of
20 evidence ordinarily do not permit witnesses
21 to testify to opinions or conclusions. An
22 exception to this Rule exists for what we
23 call "expert witnesses." An expert witness
24 is someone who by education and experience
25 has become an expert in some art, science,

1 profession or calling. That person is
2 allowed to give an opinion as to relevant and
3 material matters in which the witness claims
4 to be an expert. They can also state their
5 reasons for their opinion(s).

6 You should consider any expert opinion
7 received in evidence in this case and, like
8 any other evidence, give it the weight that
9 you believe that it deserves.

10 If you decide that the opinion of the
11 expert is not based upon sufficient education
12 and experience or if you conclude that the
13 reasons given in support of the opinion are
14 not sound, or that the opinion is outweighed
15 by other evidence, you may disregard it
16 entirely.

17 An expert witness' testimony is to be
18 given no greater weight than that of other
19 witnesses simply because the witness is an
20 expert. You are not required to accept an
21 expert's opinion even though it is not
22 contradicted.

23 Now, there is a statement that is alleged
24 to have been made by the defendant that has
25 been admitted into evidence in this case.

1 While the court has determined that the
2 statement is admissible, you make the
3 ultimate decision of whether or not the
4 defendant made the statement.

5 If the defendant did make the statement,
6 you must determine whether the statement was
7 made by the defendant voluntarily and of his
8 own free will. This means that the statement
9 was not caused by force, fear, threats,
10 coercion, intimidation, or the hope or
11 promise of leniency or reward or any kind.

12 In determining whether the statement was
13 voluntary, you should consider both the
14 characteristics of the defendant and the
15 detail of the questioning. Some of the
16 factors that you must consider are the age of
17 the defendant, the defendant's education or
18 lack of education, the defendant's mental
19 ability or capacity, the defendant's IQ or
20 intelligence, the defendant's background and
21 environment, the place and length of
22 detention, the nature of the questioning.
23 Also the advice or lack thereof to the
24 defendant of his Constitutional rights,
25 including but not limited to the right to

1 remain silent; that any statement could be
2 used against him in court; the right to have
3 a lawyer present; that if he could not afford
4 a lawyer, that a lawyer could be appointed to
5 represent him without any cost; and that he
6 could stop making the statement at any time.

7 You must carefully consider all the
8 circumstances before you give any weight to
9 an alleged statement.

10 The State has the burden of proving
11 beyond a reasonable doubt that the alleged
12 statement was voluntary. If you determine
13 that it was, you may give the statement any
14 further consideration that you deem proper.
15 You must decide what weight, if any, should
16 be given to the alleged statement.

17 If you determine that the alleged
18 statement was not the free and voluntary
19 statement of the defendant, you should not
20 consider the statement at all.

21 Now we're going to switch to talk about
22 the specific crimes alleged in the indict-
23 ments. Okay?

24 The first thing that we need to talk
25 about is intent. So in order to establish

1 criminal liability, criminal intent is
2 required. For example -- these are examples:

3 The mental state required to be proven by
4 the State for a particular crime might be
5 purpose, intent, knowledge, recklessness, or
6 criminal negligence.

7 Criminal intent must be proven by the
8 State beyond a reasonable doubt. Criminal
9 intent is always a matter that must be deter-
10 mined by the jury from the circumstances
11 surrounding the situation.

12 There is no way to prove intent to a
13 mathematical certainty. There is no way that
14 medical science can dissect a person's brain
15 and determine what that person had in mind.
16 So the law says that criminal intent may be
17 inferred from the circumstances shown to have
18 existed. This is how you make a determina-
19 tion of whether or not the element that
20 requires intent was present.

21 It is not necessary to establish intent
22 by direct and positive evidence, but intent
23 may be established by inference in the same
24 way as any other fact, by taking into
25 consideration the acts of the parties and all

1 the facts and circumstances of the case.

2 Criminal intent is a mental state. It is
3 a conscious wrongdoing. It is up to you to
4 determine what the defendant intended to do
5 based upon circumstances shown to have
6 existed.

7 Criminal intent can arise from an action
8 or a failure to act. It may arise from
9 negligence, recklessness or an indifference
10 to duty or to consequences considered by law
11 to be the equivalent of criminal intent.

12 Now, the indictment in this case alleges
13 two different charges. The charges are
14 criminal sexual conduct with a minor in the
15 first degree and sexual exploitation of a
16 minor in the third degree.

17 Each indictment charges a separate and
18 distinct offense. You must decide each
19 indictment separately on the evidence and the
20 law applicable to it, uninfluenced by your
21 decision on the other indictment.

22 The defendant may be convicted or
23 acquitted on any or all of the offenses.

24 You will be asked to write a separate
25 verdict of Guilty or Not Guilty for each

1 charge.

2 Now, so what is criminal sexual conduct
3 -- excuse me. What is first degree criminal
4 sexual conduct with a minor? The defendant
5 is charged with first degree criminal sexual
6 conduct with a minor. The State must prove
7 beyond a reasonable doubt that the defendant
8 engaged in a sexual battery with the victim.

9 So what is a sexual battery? Sexual
10 battery is sexual intercourse, cunnilingus,
11 fellatio, anal intercourse or any intrusion,
12 however slight, of any part of a person's
13 body or of any object into the genital or
14 anal openings of another person's body;
15 except when the intrusion is accomplished for
16 medically-recognized treatment or diagnostic
17 purposes.

18 The State must then also prove beyond a
19 reasonable doubt that the victim was less
20 than eleven years old at the time of the
21 sexual battery.

22 Consent, willingness, ignorance or
23 indifference on the part of a minor, if any,
24 as to what was taking place does not in any
25 way affect the charge of criminal sexual

1 conduct with a minor, because an unmarried
2 women under the age of fourteen cannot
3 legally consent to sexual intercourse.

4 Now, the second charge that is before you
5 is sexually exploitation of a minor in the
6 third degree. So an individual commits the
7 offense of third degree sexual exploitation
8 of a minor if, knowing the character or the
9 content of the material, he possesses
10 material that contains a visual
11 representation of a minor engaging in sexual
12 activity or appearing in a state of sexually-
13 explicit nudity when a reasonable person
14 would infer the purpose is for sexual
15 stimulation..

16 "Minor" means or is defined as an
17 individual who is less than eighteen years
18 of age.

19 The State must prove beyond a reasonable
20 doubt the elements of this offense.

21 You may infer that a participant in
22 sexually activity or a state of sexually-
23 explicit nudity depicted as a minor through
24 its title, text, visual representation or
25 otherwise is a minor.

1 Okay, almost done.

2 Let me say something to you about your
3 deliberations. Deliberation is defined as
4 the careful consideration weighing with a
5 view to decision.

6 The genius of this system is that it
7 allows twelve men and women from twelve
8 totally different backgrounds, life
9 experiences and perspectives to consider the
10 evidence, talk about it and reach a verdict.
11 We call it deliberations for a reason. You
12 are to consider the evidence in this case
13 carefully and deliberately and discuss it in
14 a calm, thorough and courteous manner.

15 Listen to the view of your fellow jurors.
16 Consider other people's points of view. Talk
17 through and discuss the evidence.

18 Remember, if you are doing something
19 deliberately, you're not in a big hurry. You
20 should not be in a hurry here. This case is
21 very important to both sides. This is their
22 only day in court.

23 When you retire to the jury room, you
24 should discuss the case with each other to
25 reach agreement if you can do so. Your

1 verdict must be unanimous. Each of you must
2 decide the case for yourself, but you should
3 do so only after you have impartially
4 considered all the evidence, discussed it
5 fully with each other and listened to the
6 views of your fellow jurors.

7 Do not be afraid to change your opinion
8 if the discussion persuades you that you
9 should, but do not come to a decision simply
10 because other jurors think it is right.

11 It is important that you attempt to reach
12 a unanimous verdict but, of course, only if
13 each of you can do so after having made your
14 own decision. Do not change an honest belief
15 about the weight and the effect of the
16 evidence simply to reach a verdict. In other
17 words, do not change your opinion simply --
18 solely for the sake of reaching an unanimous
19 verdict.

20 Okay. Now, I have a verdict form for you
21 -- I'm almost done. Here are some basic
22 rules other than the ones that I just gave
23 you for your jury deliberations:

24 One, I am about to send you back to your
25 jury room. You're still not allowed to

1 deliberate. Okay? I need to make sure with
2 the lawyers that I've said everything that I
3 need to say to you before you start to
4 deliberate. Okay? So when you go back to
5 the jury room, you're still not allowed to
6 talk.

7 The sign that you may begin deliberating
8 is when the evidence comes back. Okay? So
9 when the exhibits come back -- the bailiff
10 will bring in the exhibits, and they will
11 also bring in a computer for you to play the
12 video on if you want to play the video. When
13 those things come in the jury room, that is
14 the sign that you may begin deliberations.
15 The alternate will come out when the exhibits
16 come in, then you begin deliberations.

17 The verdict must be unanimous. That
18 means that all twelve of you must agree on
19 the verdict. Okay. You all have to be in
20 the room to deliberate. So if somebody needs
21 to go smoke, if somebody needs to go call
22 home, if somebody needs to go to the
23 restroom, deliberations stop unless all
24 twelve of you are in the room. Okay?

25 Next thing, don't tell me the count.

1 When I first became a judge, no one ever told
2 me to say that. I had all these juries that
3 would tell me the count and it just creates
4 confusion. Okay? Your count is your count
5 is your count, and you don't ever need to
6 tell me the count. Okay?

7 Last, I'll explain the verdict form to
8 you. The verdict form has the case caption
9 at the top and then it says, (reading):

10 *"We, the jury, by unanimous consent find*
11 *the Defendant, Brandon Cox, as to the charge*
12 *of criminal sexual conduct with a minor,*
13 *first degree..." -- Guilty or Not Guilty.*

14 You check whichever one applies. Okay?
15 Now, again it must be unanimous.

16 There is no meaning to be putting Guilty
17 or Not Guilty first or second. I had to put
18 one first and one second. Okay? I switch it
19 up every time.

20 Now, if you find him Guilty as to number
21 one, then you need to answer Question A. As
22 I explained to you with criminal sexual
23 conduct with a minor in the first degree, the
24 State has to prove a sexual battery on
25 someone under the age of eleven. Then I

1 define sexual battery for you. These are the
2 types of sexual battery that can occur and
3 you need to check if you find -- if you
4 unanimously find him guilty of the first
5 charge on here, you need to check which
6 element of sexual battery applies. Okay?

7 If you find him not guilty of number one,
8 then you just move on to number two. Okay.

9 Then as to number two, (reading):

10 "We unanimously find the Defendant,
11 Brandon Cox, as to the charge of sexual
12 exploitation of a minor, third degree,..." --
13 Guilty or Not Guilty.

14 Sign the form, date it. Then you knock
15 on the door and let us know. That is the
16 verdict form.

17 I'm sending you back to your jury room.
18 Do not discuss the case until you receive the
19 exhibits and the alternate has exited the
20 jury room.

21 Hold the alternate so that I can talk to
22 her before she leaves.

23 BAILIFF: Yes, sir.

24 (JURY OUT @ 4:48 P.M.)

25 THE COURT: Any exceptions to the

1 charge from the State?

2 SOLICITOR JONES: None, Your Honor.

3 THE COURT: Any exceptions to the
4 charge, Mr. Cantrell, from the defense other
5 than those previously stated?

6 MR. CANTRELL: None, Your Honor.

7 THE COURT: Make sure before this goes
8 back, I want the prosecution and the defense
9 to get with Ms. Garrison (court reporter) and
10 make sure that what's in evidence is what
11 goes back. Make sure that we have a computer
12 that goes back.

13 Make sure that Mr. Welborn (Clerk of
14 Court) knows how to get in touch with you if
15 you leave the area.

16 COURT REPORTER: State's Exhibits 1
17 through 27 are in with the exception of
18 State's Exhibit 23, which was voided.

19 SOLICITOR JONES: Right.

20 COURT REPORTER: No exhibits for the
21 defendant.

22 MR. CANTRELL: That's right.

23 COURT REPORTER: Thank you.

24 (COUNSEL APPROVAL OF EXHIBITS)

25 (JURY IN DELIBERATION @ 4:52)

1 (COURT AT-EASE AWAITING VERDICT)

2 (NOTIFIED OF VERDICT @ 6:15 P.M.)

3 (DEFENDANT PRESENT)

4 THE COURT: We're back on the record in
5 the case of the State of South Carolina
6 versus Brandon Cox.

7 The State is present and the defendant is
8 present along with his counsel.

9 It is my understanding that we have a
10 verdict. I want to say before we bring the
11 jury in, before we receive the verdict, that
12 I understand that this is a very emotional
13 case regardless of what side of the case
14 you're on.

15 If you cannot contain yourself and keep
16 your emotions in check, under control while
17 we take this verdict, then you need to step
18 out now. I understand people crying and, you
19 know, that this is an emotional case, an
20 emotional situation. But not much beyond
21 crying will I tolerate. Okay?

22 If anybody can't keep their composure,
23 exit now.

24 Bring in the jury.

25 (JURY IN @ 6:25 p.m.)

1 THE COURT: I understand that you have
2 reached a verdict. Please pass the verdict
3 form to Mr. Welborn.

4 FOREMAN: (Complies).

5 THE COURT: I find that the verdict is
6 in the proper format and may be published.

7 CLERK: The State of South Carolina
8 versus Brandon Cox, (reading):

9 "We, the jury, by unanimous consent, find
10 the Defendant, Brandon Cox, as to the charge
11 of criminal sexual conduct with a minor in
12 the first degree on Indictment 16-GS-39-1107,
13 Guilty.

14 If you find the Defendant, Brandon Cox,
15 guilty of criminal sexual conduct with a
16 minor in the first degree, what conduct
17 constituted sexual battery?"

18 They've check number five, (reading):
19 "Any intrusion, however slight, of any part
20 of a person's body into the genital or anal
21 openings of another person's body."

22 Number two, as to the charge of sexual
23 exploitation of a minor, third degree,
24 Indictment 16-GS-39-00701, (reading):

25 "We, the jury, by unanimous consent, find

1 the Defendant, Brandon Cox, as to the charge
2 of sexual exploitation with a minor in the
3 third degree, Guilty."

4 If these were your verdicts and are still
5 your verdicts, so say you all by raising your
6 right hand (unanimous response from jurors).

7 THE COURT: Does either side request
8 that the jury be polled?

9 SOLICITOR JONES: No, sir, Your Honor.

10 THE COURT: Mr. Cantrell?

11 MR. CANTRELL: No, Your Honor.

12 THE COURT: All right. Ladies and
13 gentlemen, this concludes your service on
14 this case.

15 I want to say thank you very much. You
16 all did a good job of paying attention and
17 following the attorneys and listening to me.

18 We are going to -- just for your own
19 edification as to what goes on in a court-
20 house, I will be starting a whole other trial
21 tomorrow, but I'm going to go ahead and
22 excuse all of you for the rest of the week.
23 So you do not need to come back, you do not
24 need to call in. You're done for the week.

25 You have a jury exemption for the rest of

1 this year and two years following. So if you
2 get called again for Circuit Court, just tell
3 them that you served here in June of 2017 and
4 they will excuse you from that term of court.

5 I want to say thank you very much.

6 The prohibition about speaking to anyone
7 about the case that I placed upon you in the
8 beginning is no longer upon you. If there is
9 anybody that you wish to discuss the case
10 with, you may do so.

11 Sometimes attorneys like to call on
12 jurors and ask 'what did we do right, what
13 did we do wrong' or 'what made sense, what
14 didn't?' If you want to speak with that
15 attorney, you may.

16 If you don't, just say 'I don't want to
17 speak with you.' If anybody doesn't honor
18 that, just call the Clerk's Office and your
19 local judge, Judge Gravely, will deal with
20 that quickly.

21 Okay. Thank you for your service. You
22 are excused.

23 (JURY EXCUSED)

24 THE COURT: Give me three to five
25 minutes and I'll be right back.

1 (BRIEF RECESS)

2 (DEFENDANT PRESENT)

3 THE COURT: All right, bring the
4 Defendant forward.

5 Okay. Is there any presentation on the
6 State on behalf of the victims, the State or
7 any other criminal history that I don't
8 already know about?

9 SOLICITOR JONES: No, sir, Your Honor.
10 The victims don't want to speak.

11 You've heard and seen all the evidence.
12 We'll leave it at that, Your Honor. That's
13 all from the State.

14 THE COURT: Okay. Do both of these
15 carry monitoring or just the criminal sexual
16 conduct.

17 SOLICITOR JONES: Just the criminal
18 sexual conduct with a minor is mandatory.
19 The exploitation is discretionary.

20 THE COURT: So the criminal sexual
21 conduct is a Violent offense; is that
22 correct?

23 SOLICITOR JONES: That's correct.

24 THE COURT: And it is a Most Serious
25 offense, is that correct?

1 SOLICITOR JONES: That's correct.

2 THE COURT: Okay. Do you have how many
3 days that he has been in jail?

4 SOLICITOR JONES: Since May 26th, 2015.

5 THE COURT: He has been in jail
6 continuously since that day?

7 MR. CANTRELL: Yes, sir.

8 SOLICITOR JONES: Yes, sir.

9 THE COURT: Mr. Cantrell, I will be
10 happy to hear from you.

11 MR. CANTRELL: Your Honor, we know
12 full well what the statute calls for. I've
13 discussed that with Brandon on a number of
14 occasions. I wish that it were otherwise.
15 So we understand what the court is required
16 to do as a minimum. I would ask the court to
17 consider doing just the minimum, I think that
18 is more than significant.

19 You've heard about Brandon: his age, his
20 family situation, work. He has certainly
21 been incarcerated for a considerable amount
22 of time.

23 The only thing that I would tell you --
24 well, not as a side issue but so that it
25 might help the court to understand a little

1 bit about Brandon himself just based on what
2 I've seen. That is that he's been a very
3 cooperative client under a very, very
4 difficult set of circumstances. I guess our
5 law enforcement center is as good as any, it
6 is run by great folks but it is not a place
7 for someone -- a young man to live for two
8 years as he has. He has continued to be
9 cooperative and basically a pleasant young
10 man to deal with when I've had dealings with
11 him.

12 One small thing that I will tell you that
13 I believe is an example of what he can do is
14 -- one time when I went there, I had another
15 client there that I already knew I was going
16 to be getting a mental evaluation on, who had
17 significant issues. He eventually was found
18 to be incompetent. He was also at the LEC.

19 I talked to Brandon about his case and it
20 was time for me to leave and he said, 'Well,
21 wait a minute, I need to ask you if you
22 represent so-and-so?' Well, I couldn't say
23 yes or not but I asked him, 'What do you need
24 to know?' He said, 'Well, these guys here --
25 some of the guys in the cellblock are taking

1 advantage of this guy. They take his food
2 and -- they're taking advantage of him, and
3 he can't help himself. Can you do something
4 about it? Can you tell somebody?'

5 I think that's significant. That tells
6 you something about the Brandon Cox that we
7 don't hear about in the trial. So there is a
8 lot more to Brandon than what you heard, and
9 I'd ask that you take that into account.

10 THE COURT: Okay. Mr. Cox, you don't
11 have to say anything if you don't want to.
12 But you're welcome to if you want to. Would
13 you like to say anything?

14 DEFENDANT: No, sir.

15 THE COURT: All right. Mr. Cantrell,
16 would you like to renew all your post-trial
17 Motions?

18 MR. CANTRELL: Yes, sir, I renew each
19 and every one of them.

20 THE COURT: Okay, your Motions are
21 renewed for the record. I understand what
22 they are and my rulings on all previous
23 Motions remain the same.

24 The one thing that I would like to know
25 from the mother, I think she goes by Rosie,

1 or Mr. Ingram is, how is [REDACTED] doing?

2 SOLICITOR JONES: Your Honor, [REDACTED]
3 did not make any disclosure when she was
4 questioned. She did -- again, she was
5 questioned and to her knowledge she didn't
6 know that she had been sexually abused.

7 THE COURT: Okay.

8 SOLICITOR JONES: That confirms what we
9 saw on the video, we suspected that she was
10 asleep the entire time.

11 THE COURT: Okay. So she is progress-
12 ing forward as a normal -- she's getting
13 ready to turn seven?

14 SOLICITOR JONES: Yes, sir.

15 THE COURT: She is progressing
16 normally, doing okay in school and getting
17 along with her -- I don't know that children
18 that age always get along with their
19 siblings, but she is getting along with
20 siblings?

21 SOLICITOR JONES: Yes, sir.

22 THE COURT: I want to say one thing to
23 you, Mr. Ingram and Mrs. Ingram -- I know
24 that y'all aren't legally married but you're
25 close enough. This is a very difficult

1 situation. Sometimes people think that
2 just the child is the victim. It's okay for
3 you two to go get counseling, to sit down and
4 talk with someone about these issues and
5 process what happened. That is perfectly
6 okay. That is not a sign of weakness, it's a
7 sign of you wanting to be a better parent, a
8 sign of you wanting to be a better spouse for
9 each other. So don't feel like that's not
10 available to you or that that is not some-
11 thing you shouldn't do, or that it wouldn't
12 help. It could help you be a better parent to
13 [REDACTED] and to your other children and to
14 help each other to get along. It's difficult
15 to go through something traumatic and a
16 relationship stay together. I've seen cases
17 like this, more than I care to remember.
18 It's okay for you two to participate in
19 something like that.

20 And, Mr. Cox's only conviction is a
21 shoplifting out of West Virginia. Is that
22 correct?

23 SOLICITOR JONES: Yes, sir.

24 THE COURT: Okay. Mr. Cox, the
25 sentence of the court is that you be

1 committed to the State Department of
2 Corrections for a determinate term of twenty-
3 five (25) years on the charge of criminal
4 sexual conduct with a minor in the first
5 degree.

6 The sentence on the exploitation of a
7 minor in the third degree is five (5) years.
8 That sentence will run concurrent.

9 You are to be given credit back to May
10 26th, 2015.

11 You are to have no contact with the
12 victim in this case, directly or indirectly.

13 I require that you register as a part of
14 the South Carolina Sex Offender Registry.

15 Thank you. Good luck to you, sir.

16 Appeal time is ten days from today's
17 date. If you want to file an appeal, you
18 just need to communicate that to your
19 attorney.

20 (TRIAL TRANSCRIPT CONCLUDED)

21

22

23

24

STATE OF SOUTH CAROLINA

COUNTY OF Pickens
STATE VS.
Brandon Cox

AKA:

Race: WHITE Sex: M Age: 26DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Easley, SCDL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Sex, Crim Sex Cond, 1st Deg W/Min <11 Yr

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS3901107A/W#: 2015A3910500183Date of Offense: 5/17/2015S.C. Code §: 16-03-0655(A)(1)CDR Code #: 0385**RECEIVE**

SENTENCE SHEET

JUL 03 2017

☒ CONVICTED OF or ☐ PLEADS**SC Court of App**in violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

78392

Jones, Christopher L.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 ~~days/months~~ years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. May 26, 2015☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$ 3.75

_____ days/hours Public Service/Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: NO Contact with VictimMandatory Sex Offender Registry☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

Presiding Judge Re HoodJudge Code: 2164Sentence Date: June 20, 2017

STATE OF SOUTH CAROLINA

COUNTY OF Pickens
STATE VS.Brandon Cox

AKA:

Race: WHITE Sex: M Age: 26DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Easley, SCDL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Sex / Sexual exploitation of a minor, Third degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS3900701A/W#: 2017GS3900701Date of Offense: 5/17/2015S.C. Code §: 16-15-0410CDR Code #: 0381**RECEIVED**

JUL 03 2017

SC Court of Appeals

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-15-0410 of the S.C. Code of Laws, bearing CDR Code # 0381☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

78892

Jones, Christopher L.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 ~~days/months~~ years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. May 26, 2015☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
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§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$ 3.75
TOTAL	\$	\$ 128.75

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: No contact with victimSex offender Registry☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

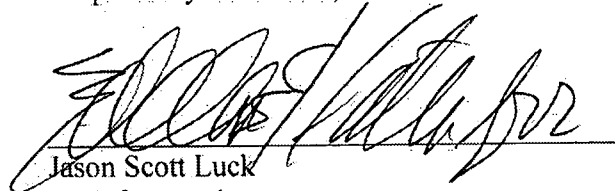
SCCA/217 (03/2011)

Presiding Judge Re HoodJudge Code: 2164Sentence Date: June 20, 2017

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the 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."

Respectfully Submitted,



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and

This 5th day of November, 2018.

Robert M. Dudek

rdudek@sccid.sc.gov

S.C. Comm'n on Indigent Defense

1330 Lady St., Suite 401

Columbia, SC 29201

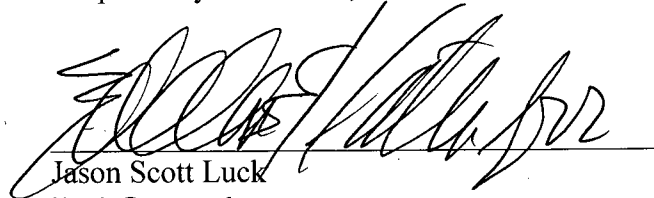
803.734.1330 (phone)

ATTORNEYS FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the 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."

Respectfully Submitted,



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and

This 5th day of November, 2018.

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ATTORNEYS FOR APPELLANT

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SC Court of Appeals